A

New Law-Dictionary:

CONTAINING,

The Interpretation and Definition of Words and Terms used in the Law; and also the Whole Law, and the Practice thereof. Under all the Heads and Titles of the same.

Together with

Such Informations relating thereto, as Explain the History and Antiquity of the Law, and our Manners, Customs, and Original Government.

Collected and Abcstracted from

All Dictionaries, Abridgments, Institutes, Reports, Year-Books, Charters, Registers, Chronicles, and Histories, Published to this Time.

And fitted for the Use of


The Sixth Edition. The Law-Proceedings being done into English, with Great Additions and Improvements, to this Time.

To which is annexed,

A Table of References to all the Arguments and Resolutions of the Lord Chief Justice Holt; In the several Volumes of the Reports.

By GILES JACOB, Gent.

In the Savoy:

Printed by HENRY LINTOT, Law-Printer to the King's most Excellent Majesty; for R. Ware, I. and P. Knapton, S. Dittr, T. Longman, H. Lintot, T. Pitch and L. Hawes, S. Aukin, I. Hodges, A. Dillar, T. Covert, I. and J. Rivington, I. Ward, and W. Johnston. MDCCCL.
To the Right Honourable

Sir ROBERT RAYMOND, Knt.

My Lord,

At length, by your Lordship's generous Encouragement, vouchsafed me on a former Dedication to your Lordship, my New Law-Dictionary appears to the World committed to your Patronage and Protection, and as You are universally allowed to be the most proper Patron for a Work of this Nature.

It hath been often observ'd to be a Commendation to any Person, to attempt any Great and Useful Undertaking; but it is not every One who engages in it, is able to perform it: Whatever Censure, in this Particular, is pass'd upon me by the Readers, my Judges, I have one very great Satisfaction; which is, that your Lordship is at the Head of them, whose powerful Influence and kind Interpretation will silence others into Candor and Good Nature.

To say, That every Thing Praise-Worthy belongs to your Lordship, is not to pay the Debt of Compliment, but of Merit: As by indefatigable Study and Application to Business, Reputation ever attended You; so on your Advancement to the Supreme Station of the Common Law, your Behaviour therein hath evidently
The DEDICATION.

evidently gain'd You universal Approbation. There have been Many who have filled the prime Offices of Judicature, which must always be supply'd with a Succession of Men, tho' few that have adorned them; But 'tis your Lordship's Glory to do both: And after the Great Lord Chief Justice HOLT, it is the Happiness of the present Age to boast of a RAYMOND.

My Lord, Applause and Popularity Court You, whilst You endeavour to shun them, for they are the natural Reward of doing impartial Justice; and those who least seek them in Publick Authority, by their great Integrity and consummate Abilities have the largest Share of Them: It is impossible to be otherwise, than that your Lordship should be a Favourite of Mankind, when your whole Conduct is so exceeding Just and Upright, as to merit the Highest Honour; and give me Leave to observe of You, what every One finds who Approaches your Lordship.

On a Character so very considerable as your Lordship's, much more might be enumerated; but I am conscious of my Inequality to the Task, and therefore deft from it, my only Aim being to shew how much I am,

My Lord,

Your Lordship's

Most Dutiful, and most

Obliged Humble Servant,

Giles Jacob.
THE

PREFACE.

ALL Prefaces to Treatises, are intended by Authors either to Explain the Works to which they belong, and set forth the Reasons of their Engaging in them, or to Vindicate their Writings and Reputations from those Reflections which may be cast upon them by the Critical Part of Mankind; and I think it Necessary for me to say something on these Heads, in my Preface to this Work.

According to a great Writer, the Study of the Law is not rendered easy by numerous Volumes, but by reducing the Sense into a compleat methodical System; and the Difficulty and Disagreeableness of this Study, is not to be imputed to any material Defect in itself, but to the Manner in which the Books that contain this Learning are Written: The Justice of this Wise Observation, hath been always acknowledged; As our Abridgments of the Law abound with Tautologies and Confusion, and are generally speaking very voluminous to little Purpose, which has been a Principal Reason for my Attempting the following Sheets.

This large Work now published, contains the Derivations and Definitions of Words and Terms used in the LAW, and likewise the whole Law, with the Practice thereof, collected and abstracted from all other Books in an easy concise Method; for the Universal Use of all Counsellors at Law, either in their Chambers or on their Circuits; Students of the Ins of Courts, and Practisers of the Law, and other Persons of what Degree or Profession soever, and for all Studies and Offices, being a Kind of Library; so that although I have the Interpretation of Words, to give it the Title of a Dictionary, yet my Scheme is very different from the other Law-Dictionaries: And the Great
The PREFACE.

Lawyer Sir Edward Coke having observed, that the Forms of Writs, and judicial Proceedings, do much contribute to the Right Understanding of our Law; Therefore these, together with Forms of Deeds and Conveyances, illustrating the Practice on that Head, are here inserted. Further, the Reader will find interspersed, taken from the most ancient Treatises of the British, Saxon, Danish, and Norman Laws, such Information as explains the History and Antiquity of the Law, without Motes, Controversies and Original Form of Government.

As in this Age it is become common for Arts and Sciences to be comprehended in Dictionaries, I have pursued this Method, and the Knowledge of the Arts themselves, cannot be improper to follow the Terms and Definitions of them. Under the Heads of Law, by the Advice of my Learned and Judicious Friends, I have gone through and gather'd every Thing I could find any ways useful; and there is nothing Collected, but some Benefit may be drawn from it, either as immediately to the Purpose, or Explanatory of what the same hath Relation to: in my Larger Heads, where they interfere with others, I have but just touch'd upon the Matters interfering; and left the particular Learning, to the more proper Heads where it's expected to be found, at the same Time some Notice being required under the general Titles.

I may with great Truth affirm, that confiderably above two Thirds of my Work, with some Hundreds of very material Words, are entirely New in a Performance of this Kind; and the remaining Part, is greatly Improved, although Augur'd as so. Quantity by omitting a great Deal of Obsolete Matter. There is not any Thing in the following Dictionary, directly the same, as appears elsewhere, but in such Cases only where it was absolutely Necessary for my own Justification; though the Compilers of the other Law-Dictionaries have generally transferred verbatim from each Other. The Law-Latin in many Inclinations differing from other Latin, I have purposely used, and followed it, as those have done who have gone before me. Likewise several Words of Use, especially relating to Country Affairs, are here still preserved from the Law-Interpreters, though they may seem a little foreign to my Subject.

As to the other Dictionaries, let who will, for the Future, Write or Enlarge them, it must be always confess'd, that it was I, who first attempted a Body of the Law, in any Dictionary. This I ought
The Preface

ought to mention, in Justice to myself; that it may not at any
time be affirmed I have wholly built on other Writers, but They
on Me as to any Additions, if they should fill up their Works
in my Method beyond what they were in the Year 1720, when
I first began this elaborate Treatise. And if, have borrow'd
from my Own Writings, hitherto Published, I have assumed no
Freedom in so doing; but such as Authors of the best Reputation
have thought fit to take; who have had Occasion to treat sub-
sequently on their former Subjects, in my larger or more general
Work: Also I have every where inserted References unto them,
sometimes Pointing out the Best Editions; where One Impression
is often better than another.

I have now made deeper and clother Searches into the Know-
ledge of the Law, and taken a long Journey of Observations and
Improvements on those Things which I had but just seen as a
Distance before; which however painful to myself, I am confi-
dent I have struck out therein a much easier Path for Others
than they had before to walk in. I have endeavoured to make a
Right Choice of Matter, as well as to follow the exact Method,
which, with the Reduction that was necessary to avoid Prolixity,
I found no small Task; and of this I may say with Virgil,

Hoc Opus, hic Labor est.

Tis indeed True that my great Work is chiefly Collection; but
let this be Consider'd with it. That Collecting on the Subject of
the Law, is infinitely more difficult, than upon other Subjects;
because most other Subjects are treated of with Order and Con-
exion, but the Law of England is not, by reason of the great
Number of its Branches, and the various Heads thereof.

As for what I have already written, a prudent Author will
commonly attempt many of the Smaller Matters, by Way of
Triumph of his Abilities, and See their Success, before he will have
Courage to venture upon Larger; and if I had not Experience'd
what has fallen in my Way, it would have beenImpossible
for me to have perfected the ensuing Treatise with that Ad-
vantage it is now handed to the Publick. And thus much I
am obliged to say farther in Behalf of this Dictionary; That if
notwithstanding the infinite Pains I have here taken, it be not in
itself Authority, it carefully refers to Books of the greatest, which
is all as can be asserted in Favour of any of the Abridgments of
the
The P R E F A C E.

the Law. But where there is such great Variety of Learning and abundant Quantity of Nice Matter, with the utmost Care, there must be some Faults and Failings to be Pardon'd by the Reader.

In this Sixth Edition, all the Law-Heads throughout are compleatly filled up, and some others added, from the new Books of Reports, and the many late Statutes enacted, which have alter'd our Law, down to this Time; I have also now inserted Variety of Select Chancery Cases, that have been lately adjudg'd in the most settled Points, dispersed under all the Heads, where they were any Ways proper or material. The Forms of Writs and other Law Proceedings, with several curious additional Precedents, appear likewise carefully Translated into English, pursuant to the Act of Parliament; but the ancient Customs remain in Latin, the Language I found them in. I thus have render'd my Useful Book full and perfect in all Things; and 'tis no small Pleasure to me, that the Second, Third, Fourth and Fifth Editions were very Successful, and the greatest Part of a large Impression of the Work, as I had at first Compiled it, sold off in the Space of a Year's Time, by the Approbation of my Great Patron, and favourable Acceptance of the Publick.

I hope upon the Whole, it is here fully apparent that I have done every Thing in my Power to compleat this Great Undertaking, and which I doubt not by my often repeated diligent Endeavours, will continue to answer its good End propos'd, so as to give entire Satisfaction to all Persons whatsoever.

G. J.
A New Law-Dictionary:
CONTAINING
The Whole Law, and The Practice thereof, under all the Heads and Titles of the Same.

A

The First Letter of the Alphabet, which being prefixed to words in English, signifies as much as an in French, as a Man, an Honest, 

B

From the Word Abate, and in the Beginning of any Place signifies that the Place belonged to some Abbey.


Abatement, (Abatere, derived ab abscondi) Stealers and Drivers away of Cattle by Herds, or in great Numbers. They are thus distinguished from Fares: Nam qui venum nonnun jurari possit, si fueri correc-

tor, qui gentem, sic abatitor. Mf.

Abatement, Arithmetic, From the Abacus or Table on which the Ancients made their Calculations.

Abatement in Libros, 

Abatsum, (Abandonum) Any thing sequestred, proscribed or abandoned. Abandoned, i.e. in Bausum non misit. A Thing found or deserted as forfeited and lost, from whence it is to be abandoned, perfected, or forfeited and lost.

Abate, From the Sax. Abanian, to discover and disclose to a Magistrate any secret Crime. Si hano favvremus aliquam in Domino, non occultaruri, & ita fuerit abaneus, resurr. 1626 ut inde habatur good proofen.

Leg. Canuti Reg. cap. 104.

Abat, As derived from the French Abater or Abas-

Abater, Signifies to prostrate, break down, or destroy; and in Law to abate a Castle or Fort, is interpreted to best it down. Old Nat. Br. 45. Wynn. 15. 17. Abater Majus, is to ruin or cast down a House, and level it with the Ground: And as he that puts a Peril out of Possession of his House, Land, &c. is said to dis-
fette; so he that steps in between the former Possessor and his Heir, is said to abate; and this is a Term in its special Signification. Kitch. 173. Old Nat. Br.

15. To abate a Writ, it is defeat or overthrow it, by some Error or Exception. Brit. c. 48. In the Statute De coniuncta Fugatis, the Writ shall be abated, that is, shall be disposed and overthrown. 34 Ed. 1. Stat. 2. The Appeal shall abate, and be defeated by Reason of Covin or Decent. Staunf. Pl. Cr. 148.

And the Justices shall cause the said Writ to be abated and quitt'd. Act 11 H. 6. c. 2.

Abatement, (from the French) in Late Latin, to refurbish, or rather suppositi, to dilute it from Intrusion after the Death of Tenant for Life; is used in this Sense for the Act of the Abater, as the Abatement and Equity of the Heir into the Land before he hath agreed with the Lord. Old Nat. Br. 91. Abatement when it relates to Writs or Plaunts, is the quasing or destroying of the Plaintiff's Writ; and under this Signification, which is most general, it is an Exception alleged and made good in our Law; being as much as Exceptio dictoria with the Civilians. Brit. c. 51. And this Exception may be taken either to the Insufficiency of the Master, or the Incurtancy of the Allegation, by misnaming the Plaintiff or Defendant, or the Place; to the Variety between the Writ and the Specialty or Record; to the Incurtancy of the Writ, Court or Declaration; or to the Death of either of the Parties before Judgment had; or for that a Woman Plaintiff is married before, or hanging the Suit, and for many other Causes, upon which the Defendant prays that the Writ or Plaunt may abate, &c. That the Suit of the Plaintiff may for that Time cease. Terues de Leg. 1. Some Causes of Abatement, are where the Plaintiff is incapable of maintaining his Writ, by the Defendant's being under the Protections of the Law, as being an Infant, &c. or by the Plaintiff's misconceiving his Afsion; or affecting a material Thing that is false, so that it appears of his own shewing, he ought not to maintain his Writ in that manner, but intile himself in a better Way. Med. Extr. Eng. 25. On Abatement of Suits, all Writs and Process must be begun de Novo: And one great Reason for the Abatement of Writs is, that the Party prosecuted may not be twice charg'd or vex'd for one Debt; as where the Plaintiff hath another Afsion depending for the same Matter, &c. 3 Lev. 104. In an Action of Debt, &c. another Afsion depending in the Courts of Westminster, for the same Matter, is a good Plea in Abatement: But Plea of Afsion in an Interior Court is not good, unless Judgment be given. 6 Rep. 62. In an Appeal, Information, &c. it is a good Plea in Abatement, that another Prosecution is depending, but not on Indemnity. 2 Hen. Pl. Cr. 190, 567. Error de-

pending in the Exchequer Chamber is a good Plea in 

Abatement to Debt on Judgment in B. R. 5 Mod. 68. B
A Suit may be abated, for that the Writ in Debt precedes the Day of Payment: For that there are not fifteen Days between the Tisa and the Return of the Writ, s. 15, 47. Where a Defendant binds himself jointly with another, and he is not named: Or the Bill is in Cafe, and ought to be in Account: And where the Plaintiff declares of several and distinct Causes of Action in the same Bill; or it appears by the Plaintiff's own Shewing, that he had no Cause of Action for the Whole or for Part, the Writ shall abate. 1 Mau. ch. 24. s. 4, 8, 12. Where a Demand is of two Things, and it appears the Plaintiff hath an Action only for one, the Writ may not be abated in the whole, but shall stand for that which is good: But if it appear, that altho' he can't have this Writ which he hath brought for Part, he may have another, the Writ shall abate in the whole. 11 Rep. 45. a 41, 130. A Writ of Ejdment shall be abated, on its appearing to the Court to be filed out before the Cause of Action. Cr. Car. 272. In Cafe Administration was granted after the Action brought, and this appears, the Plaintiff's Writ abates. Hob Writ. 245. Repugnancy in the Plaintiff's shewing and setting forth of his Matter, may cause an Abatement. 3 Ast. 95. If a Plaintiff, after Appearance be nonuit, discon- tinues the Writ, and the other Party shall deliver it, the Writ shall not abate, and the Plaintiff shall have his Action. 13 Rep. 372. And where the Plaintiff discharges Part of the Debt after the Writ purchased, on shewing the Acquittance the Writ shall be discharged. 4 Mifflin in the Addition, in Place, Trade, Dignity, &c. of the Defendant, may abate the Writ: as where one pleadeth there is no such Place, or that he is a Baronet and no Knight, &c. 1 Kent. 134. If the Addition of the Defendant's Quality and Dwelling be omitted in any original Writ, in a personal Action, Appeal or Indictment, where Exemption may be awarded, the Writ shall abate; but it shall not abate for Surplusage in the Addition. 1 H. 5, cap. 5. Where one is mistaken in a Bond, the Writ must be brought against him by the same Name as in the Bond. Dyer 479. And where a Defendant comes in gratia, or pleads by the Name alleged by the Plaintiff, he is suffers to allege any Thing against it. Style 440. To the Plea of Mifflin, the Plaintiff may return the Defendant was known, by the Name in the Writ. 1 Saull. 6. Where an Indictment for a Capital Crime is abated for Mifflin of the Defendant, the Court will not dismiss him, but cause him to be indicted de novo by his true Name. 2 Howk. 567. Pleas in Abatement found against a Defendant in Capital Cases, are not prejudicial as they are in other Cases; he may afterwards plead over to the Felony. 12 B. 91. And a Person cannot on an Action brought against him, plead in Dilability of himself, that he is arrested of Treason, &c. 1 Lern. cap. 406. Outlawry may be pleaded in Abatement, or in Bar; but 'tis only a Dilability till the Outlawry is reversed. 1 Ser. 128. Excommunication, or any Pleas in Dilability of a Plaintiff, may not be pleaded after a General Imparlance. 1 Lern. 19. After Plea in Bar to annul the Action for ever, and after Imparlance, one cannot plead in Abatement of the Writ. An Alien born may be pleaded in Abatement: But if the Plais or accuse the Action and recover, a Plea in Abatement against them being but a Dilability is as long as the Action in Bar and 40 de. One may plead in Abatement of a Declaration, where 'tis by Original; but if the Action be by Bill, you must plead in Abatement of the Bill only. 3 Mod. 144. A little Variance between the Declaration and Bond pleaded, will not make the Court Abate: But Incurrancy will abate it. Pluud. 84. The Varia- nce of the Declaration from the Obligation, or other Proofs, is grounded, will sometimes abate the Action: And if a Declaration affix Walks in a Town, not mention'd in the original Writ, the Writ of Wade shall abate. Hob. 18, 36. Abatement may be also by the Plaintiff's Entry into all or Part of what is sued for; as in Affidavit for Lands, &c. A Lease is made for Years rendering Rent, with Clause of Re-Rent: or New Rent: being in Arrear, the Leisor brings Debt for it, and pending the Suit enters into the Land; in this Cafe the Writ abates by the Plaintiff's Entry. Pluud. 91. Style 260. If two Defendants plead several Pleas in Abatement, and Jifce is joined upon one Plea, and a Demurrer upon the other: if the Jifce be found against the Plaintiff, the Writ will abate against both Defendants. Hob. 250. The Court Ex Officio abates Writs for want of proper Words of Art, Want of legal Form, &c. And Sife Latin would formerly abate an original Writ; but not make void any judicial Writ, Plea, &c. Latch 178. An Original tidled in the Reign of a King, who died before the Return, by the common Law 'wast abated and gone, and shall not be returned in the Reign of another. Dyer 165, 206. But by Stat. 1 Ed. 5, c. 7. No Writ shall be abated in any Suit between Party and Party, by the Death of the King: Nor shall a Writ or Affidavit be pleaded on the Preterm of the Plaintiff, pending the Suit; as by his being made a Peer, one of the Judges, &c. And Process or Suit before Judges of Affairs, Great Delivery, &c. shall not be abated, by any new Commission or Allodication. Stat. Hid. Information for the King do not abate upon the Death of the King; nor any Action continued by him, by his kinsmen, &c. or Enemies, &c. Mor. 237, 248. The Death of a Husband, where Husband and Wife are professed for Words spoken by the Wife, &c. will not abate the Writ or Action. Hard. 151. But if the Words are for Husband and Wife, and the Husband die, the Writ shall abate. Style 155. Where two Joinments are Defendants, the Death of one of them will not abate the Writ. 3 Mod. 245. And in Plea in Bar no Writ shall be receiv'd in any Suit for Partition; nor shall the same be abated by the Death of any Tenants. Stat. 5 & 6 W. 3. cap. 51. In Treapls against two or three Defendants, if one of them die hanging the Writ, it shall not abate: But where one of the De- fendants dies after Judgment, and a Writ of Error is brought, it is otherwise. Style 406. If a Writ of Treapls be brought against divers Persons, and it abates against one, it may abate against all. 8 Rep. Blackmon's Caf. Error being brought in Abation of the Cafe, before the Errors were argued, one of the Defendants who was Plaintiff in the Writ of Error died; and by this it was held, that the Writ of Error was abated. Style 360. In a Writ of Common assizes, three, one of them dies; the Writ abates against him only. Style 431. In Affidavit two, where one of them dies, it shall not abate the Writ, if there be a Defender and a Tenant remaining: So in Sines Impiant, or Repluvion against two Persons: And in such Cafe, the Court may proceed to a Præsens facit and a Trial against the Survivor only. Tit. Corn. 99. Rep. 9, 6. 3 Ed. 9. Dyer 88, 9, 7. In Andia Querela by two Persons, if one die, the Writ shall not abate. Style 208. The Death of a Plaintiff did in all Cases abate the Writ before Judgment, till the Statute 8 & 9 W. 3. 17, by which neither the Death of Plaintiff or Defendant shall abate it, if the Affidavit might be originally prosecuted by the Administrators of the Parties: And if there are two or more Plaintiffs or Defendants, and one or more die, the Writ or Action shall not abate, if the Cause of Action survives to the surviving Plaintiff against the surviving Defendant, &c. Stat. Hid. It is held the Court will not abate the Plaintiff's Writ or Bill, if not prof'd properly in the Plea; tho' there needs no Pleading to abate a Writ, that is of a formerumber, will some times abate the Action: And if a Declaration affix Walls in a Town, not mention'd in the original Writ, the Writ of Wade shall abate. Hob. 18, 36. Abatement, is a Word of Art, and signifies an Entry by Incorporation. Co. Litt. 277. Vide Pla, Writs, &c.
Abbot, is a Person that abode or straitly in a House or Land, void by the Death of him that last possessed the same, before the Heirs take Possession, and by the Menor keeps out the Heirs. Old Nat. Br. 115.

Abbatt, is any Thing diminished; Monast. abbat. in its diminutive Value: it is sparsa or sparsa, fusc. fusc. fusc. fusc. desper. Charit. Simon., Comitis Leicestri, Ann. 100. Aby, or Aby; ye shall fore are it; that is, you shall either great Pain, or pay dear for it: From the Word Begg, the Letter A being added.

Abbacy, Aby, is the same as to the Government of a religious House, and the Revenues thereof, subject to an Abbot, as a Bishopric is to a Bishop. This Word is used in some of our ancient Grants, particularly Ann. 34 & 35 H. 8. In a Grant to the Counsel of Pembroke, 1430, quad quod ex Isabella Comitissa Pemb. pri fialis Animae molta, &c. Dei, Ded. De Abbatia de Nuttleg tenes Wickham. In a charta prad. Abbatiam &c.

Abbot, Abbates, or Abbatiis, or Abbati, is Latin, in French Abbe, and in Saxon Abbod is a Spiritual Lord or Governor, having the Rule of a religious House. The Word is also by some used in the Spiritual Judge. Of these Abbots here in England, some were elected, some preferrative; and some were mitred, and some were not; such as were mitred had Episcopal Authority with their Proper Church, and were exempted from the Jurisdiction of the Diocesan; but the other Sort of Abbes were subject to the Diocesan in all Spiritual Government. The mitred Abbes were Lords of Parliament, and called Abbes Sovereigns, and Abbes General, to distinguish them from the other Abbots. And as there were Abbots, so there were also Lords Priors, who had the same Jurisdiction, and were likewise Lords of Parliament. Some reckon twenty-six of these Lords Abbots and Priors that sat in Parliament. Sir Edw. Colyton, in the History of the Middle Ages post, there were twenty-seven Parliamentary Abbots, and two Priors, Ca. Litt. 73. In the History of the K. 4, there were but twenty-five: But Ann. 4 Edw. 3, in the Summons to the Parliament at Winton were more named. And in Monasticon Anglicanum there is also mention of more: the Names of which are as follow: Abbot of St. Augis's Canterbury, Ramsey, Peterborough, Ely, Exeter, St. Beutes de Helms, Colchester, Leiston, Wincobuck, Wimborne, Gervisvit, St. Alkm, St. Mary's York, Sherborne, Sylly, St. Peter's Gloucester, Martinbury, Wiltam, Tewrsey, St. Edmon's, Bovetone, Abbingdon, Hyde, Roste, Gloucester, and Okeford. And Priors of Spalding, St. John's Yorks, and Lewes. To which are afterwards added the Abbots of St. Augis's Bury, Ely, and the Priors of Lambeth and Westminster. These Abbots and Priories were founded by our ancient Kings, and great Men, from the Year 603 to 1135. An Abbot with the Monks of the same House were called the Convoc, and made a Corporation; but the Abbot was not chargeable by the Act of his Predecessor, unless it were under the common Seal, or for such Things as came to the Ule of the House or Convoc. Terms de L. 4. By Stat. 57 Hen. 8. cap. 28 all Abbots, Commissaries, Prioris, &c. not above the Value of 500 l. per Annu, were given to the King who sold the Lands as lower Rates to the Gentry. Ann. 39 H. 8. The Rest of the Abbots, &c. made voluntary Surrenders of their Houses, to obtain Favour of the King: And Ann. 51 H. 8. A Bill was brought into the House to confirm the Abuses of the same, which passing, complicated the Dissection, except the Hospitals and Colleges, which were not disdised, the Earl till the 35th, and the Earl till the 35th of H. 8. which were appointed to enter and dwell in the said Lands, &c.

Abbot, An Avenar or Strait of the Sables; the Word was sometimes used for a common Heathcr pronounced short in the middle Syllable. Abbatia ad cumum et Equus Abbatios aquam. Spem.

Abdication, AAbdication, as to theGovernment of Wars before he is expelled to Sale in a Fair or Market, and selling the same by Retail; which is a Foreselling of a Market or Fair. MS. de placitum Reg. Ed. 3. f. 5., T. 15. So that the State, or the Abbatia, from the French Abbe, to limit or bound Are the Battings and Boundings of Lands, East, West, North, or South, showing how the same lie with respect to others; as on what Lands, Highways, or other Places, they are limited and bounded. Camden tells us, that these Limits were distinguished by Halkocks raised in the Lands called Bannates, whom we have our Word Battings. The Sides to the Breadth of Lands are properly Adjacents, lying or bordering; and the Ends in Length Abstandare, or Bounding. And in old Surveys, these last are called Head Lands, from Capitare, to Head. The Boundaries and Battals of Corporation and Church Lands, and of Parishes, are preferred by an annual Proceed. And Beside several Sorts of such Inclusions of Hedges, Ditches and Spoons in common Fields: Brooks, Rivers, and Highways, &c. of Manors and Lordships.

Abbot, Aby makes us recall to remonstrate, or refuse any Thing. Terms de L. 5.

Abbatism, is a religious Order, or Order of Life, the name comes from the Greek word for Abbe, and is the commencement of the religious profession, and the beginning of the religious life. The earliest form of the religious community was the monastic community, consisting of a group of men who vowed poverty, chastity, and obedience, and lived in a common life, subject to the rule of a superior, who was called the Abbot. The Word is also used in a more general sense to mean the state of being a religious, or the condition of living in a religious community. The monastic community was the foundation of the Christian Church, and the Abbot was the head of the community, responsible for its spiritual and temporal affairs. The Word is also used in a more general sense to mean the state of being a religious, or the condition of living in a religious community. The monastic community was the foundation of the Christian Church, and the Abbot was the head of the community, responsible for its spiritual and temporal affairs. The Word is also used in a more general sense to mean the state of being a religious, or the condition of living in a religious community. The monastic community was the foundation of the Christian Church, and the Abbot was the head of the community, responsible for its spiritual and temporal affairs.
A

Abeyance, or Abeyance, (from the Fr. Beyer) to expel: it is what is in expelation, Remembrance and Intendment of Law. By a Principle of Law, in every Land a Fee-simple in some Body, or it is in Abeyance; that is, tho' the pretent it be in no Man, yet it is in Expectancy belonging to him that is next to him to the Land. 25. Litt. c. Dicentia. If a Man be Patron of a Church, and pre-

fets one to the same, now the Fee of the Lands and Tenements pertaining to the Rectory is in the Patron: But if the Patron die, and the Church become void, then is the Fee in Abeyance, until there be a new Patron pretended, admitted and included; for the Pa-

tron hath not the Fee, but only the Right to preent, the Fee being in the Incumbent that is pretended.

Terms de Ley. The Frank-tenement of the Glise of a Parsonage, during the Time the Parsonage is void, is in no Man; but in Abeyance or Expelation, belonging to him who is next to enjoy it. If a Man makes a Leave for Life, the Remainder to the Right Heirs of F. S. the Fee-simple is in Abeyance until F. S. dies, after which the Heirs have the Remainder, if they choose to take it in Abeyance.

Terms de Ley. If Lands be leased to A. B. for Life, the Remainder to another Person for Years, the Remainder to the Heirs of the Land is in Abeyance until the Death of the Lessee, and then it shall vest in him in Remainder as a Purchaser, and as a Chattel shall go to his Executors. 3. Law. 23. Where Tenant for Term of another's Life is dead, the Freehold of the Lands is in Abeyance till the Entry of the Occupant. Fee-simple in Abeyance cannot be charged until it comes in off, so as to be certainly charged or aliened; tho' by Possi-

bility it may fall every Hour. Ca. Litt. 338. The Word Abeyance hath been compared to what the Ci-

vilians call Hereditate jacentem: for as the Civilians say Lands and Goods do jacere, so do the Common Law-

yers say, that Things in like Estate are in Abeyance, as the Logicians term it in paene, or in Unterfandung; and as we say in subside, that is, in Consideration of Law. See 2. Sent. Reg. 6. Abeyance of a Cafe.

Abjetio, Abjetio. The Alphabet A, B, C, Cet. This seems to be an Irish Word. Mat. Wilkin. reports of St. Patrick.—Abyetia prophesies 145 & so amplus auspicis fregit, tuisim Epiphanos ordinavit.—The Irish still call the Alphabet Abjetio.

Abjetio. For Abjetio, signifies a Thief who hath stolen many Castle, wite, &c. qui biam foras forcen furrit, & qui biam graven Abjetio erit. Brad. 1. 3. cap. 6. N.B. The King's Life are of Abjetio to inherit in England wherever born; and Children of Sub-

jets born beyond Sea, may inherit if their Birth were within the Allegiance of the King. Stat. 25 Ed. 3. Vol. Naturediment.

Abjecting, is understood to be quit of Amenc-

ments. It originally signified a Forfeiture or Amenc-

ments; and is more properly Myltering or Myltering, according to the learned Sylman. Since it hath been termed a Liberty or Freedom, because wherever this Word is used in a Grant or Charter, the Perons to whom the Amencments are annexed, are quit of all others, and are themselves free from the Control of any within their Fee. Ralph's Abr. Terms de Ley.

Abjuration. (Abjuration) A Forfeiting or Re-

nouncing of Oath, signifies a losing Banishment, or an Oath taken to forake the Realm for ever. Steadw. Pl. C. 1. e. 40. It hath also now another Signification extending to the Perons, as well as Place: as where the Pretender to the French Crown by Oath, whereby a Man binds himself not to own any regal Authority in the Peron called the Pretender, not ever to pay him any Obedience, &c. Formerly in King Edward the Geo-

nisse's Time, and other Reigns down to the 22 H. 8. (in imitation of the Clemency of the Roman Emperors towards such as fled to the Church) if a Man had committed Desert here, and he could fly to a Church or Church-yard before his Apprehension, he might not be taken from thence to be tried for his Crime; but on Confession thereof before the Judge, or before the Coroner, he was admitted to his Oath to abjure or forfacke the Realm; which Privilege he was to have forty Days, during which Time any Perons might give him Meat and Drink for his Sufferance, but not after, on Pain of being guilty of Felony: The Form of the Oath you may read in an ancient Tract de officia Coronatorum, and in Heron's Mirror of Justice, Lib. 1. But at last, this Punishment being but a per-

Cental Confinement of the Offender to some Sanctuary, wherein (upon Abjuration of his Liberty and free Ha-

bitation) he would choose to spend his Life, as appears by the Statute Ann. 22 H. 8. c. 14. it is enacted 21 Jas. 1. cap. 28. That thereon after no Sanctuary or Privilege of Sanctuary should be allowed; whereupon this Abjuration ceased. Ed. 1. An Abjuration or Deportation for ever into a Foreign Country, is a civil Death; and called (by the Lord Calc) a Divorce between Husband and Wife; and the Wife of such a Person may bring Action, or be impended. The Natural Life of the Husband, which he may not do in any other Case: Alio falle have her Dower, or either, &c. Ca. Litt. 135. This is where a Person suffers Banishment for any Crime. By Stat. 55 Edw. Popish Recusants not making the Submission of Con-

formity, &c. are to abjure the Realm. And by 1 W. 2 M. 13 N. 3. & Gen. 1. &c. All Perons are to abjure the pretended Prince of Wales; and refusing the Oath, are liable to diverse Penalties and Forfei-

tures, &c. This Abjuration Oath was invented for the Security of the Crown, and the Protestant Religion.

See Oaths.

Abolition, A Destructing or Effecting, or putting out of Memory: And signifies the Leave given by the King, or Judges, to a Criminal Acquair to defait from further Prosecution. Stat. 25 H. 9. c. 21.

Abjuration, Abjuration. Is derived from the French Word Abjurer, to make Shriners in Words as to retain the Sacre and Substance. And in the Common Law it signifies particularly the making a Declaration or Court Shriners, by Dowing some of the Substance from it: A Man is said to abjure his Plain in Affiles; and a Woman her Demand in Action of Dower, where any Land is put into the Plain or Demand which is not the right of the Defendore; for if the Defendant pleads Non tenure, Joint-tenacy, &c. in Abatement of the Whole, the Plaintiff may have out those Lands, and may that the Tenant may have her Ref to the Ref. The Reason of this Abridgment of the Plain is, because the Certainty is not set down in each Whole, but they run in general: And though the Demandore hath abridged his Plain in Part, yet the Whole will be good for the Remainder. Brook, Tit. Abridgment, Ann. 21 H. 8. c. 3.

Abridgment, Abridgment. A Treatise of Writing abridged and made Shriners.

Abrogates, (Abrogates) To disannul or take away any Thing: As to abrogates a Law, is to lay aside or repeal it. See Ed. 3. 125.


Abstumbs, (Abstums) To abolish one excommunicate, or pardon, or let free from Excommunication. See Bull.


Abstontes, Was a Word used by the English Sax-

ons in the Oath of Fealty, and signified to flee or avoid
Avoid — As in the form of the Oath among the
Saxons recorded by Mr. Somner: In ills Dies, pro quo
facundiam hoc justificacione of, unde offere Domine nos
et Domine nostrum Noster Dei et Chriatis. &c. Salut.
i.a 54, good saxonian, per Dei tamen, & scelci com-
minantur.

Accepit, are Words of Exception made Life
of in a Trespass; as the Defendant pleads that such
a Thing was done at B. & c. alioque bus, that it was
done at, & c. Mod. Ca. 105.

Acceptum, and acceptitum, The same with Re-
lief due to Lords of Manors. — Capitale Domini
acceptare, i. e. to pay a Relief to the Chief Lord.

Accesos ad Curiam, is a Write that lies where a
man hath received false judgment in a Hundred-
Court, or Court Baron. It is directed to the Sheriff:
and issued out of the Chancery, but returnable into
B.R. or C.B. And is in the Nature of the Write
de falsi judicium, which lies for him that hath received
false judgment in the County, and directed to the
Register. Ca. 290. This is a Write that lies as fret
judicial delayed, as for falsi judicium; and that it is
a Species of the Write Recurribus, the Sheriff being to
make Record of the Rent in, the Dean's Court, and
verify it into the King's Court. Reg. Orig. 9. 56.

Accedas ad Cisternam, Where a Sheriff
hath a Writ that he will not be to answer to the
Customer, and is under no manner of hindrance to
it; this Write is directed to the Coroner, commanding
him to deliver a Write to the Sheriff. Reg. Orig. 83.

Acceptationem (i.e. ') is the taking in and do-
coping of any Thing in good Part, and as it were
a tacit Agreement to a preceding Act, which might
have been defeated and avoided, were it not for such
Acceptance had. For Example: If a Bishop before
the Statute 1 Eliz. led Part of his Bishoprick for
Term of Years, referving Rent, and then dies; and
after another is made Bishop, who accepts and receives
the Rent when due, by this Acceptance, the Lease
is made good, which other new Bishop might have
avoided. It is the same if Baron and Feme
failed of Lands in Right of the Feme, join and make a
Lease or Feoffment, referving Rent; and the Baron
dies, after whose Death the Feme receives or ac-
cepts the Rent; by this the Lease or Feoffment is con-
firmed, and shall bar her bringing a Ca. in Autu, to
make Rent by the Court, and certify it into the King's
Court. Reg. Orig. 9. 56.

Aecet in Officium, Where a Sheriff
hath a Writ that he will not be to answer to the
Customer, and is under no manner of hindrance to
it; this Write is directed to the Coroner, commanding
him to deliver a Write to the Sheriff. Reg. Orig. 83.

Acceptationem (i.e. ') is the taking in and do-
coping of any Thing in good Part, and as it were
a tacit Agreement to a preceding Act, which might
have been defeated and avoided, were it not for such
Acceptance had. For Example: If a Bishop before
the Statute 1 Eliz. led Part of his Bishoprick for
Term of Years, referving Rent, and then dies; and
after another is made Bishop, who accepts and receives
the Rent when due, by this Acceptance, the Lease
is made good, which other new Bishop might have
avoided. It is the same if Baron and Feme
failed of Lands in Right of the Feme, join and make a
Lease or Feoffment, referving Rent; and the Baron
dies, after whose Death the Feme receives or ac-
cepts the Rent; by this the Lease or Feoffment is con-
firmed, and shall bar her bringing a Ca. in Autu, to
make Rent by the Court, and certify it into the King's
Court. Reg. Orig. 9. 56.

Aecet in Officium, Where a Sheriff
hath a Writ that he will not be to answer to the
Customer, and is under no manner of hindrance to
it; this Write is directed to the Coroner, commanding
him to deliver a Write to the Sheriff. Reg. Orig. 83.

Acceptationem (i.e. ') is the taking in and do-
coping of any Thing in good Part, and as it were
a tacit Agreement to a preceding Act, which might
have been defeated and avoided, were it not for such
Acceptance had. For Example: If a Bishop before
the Statute 1 Eliz. led Part of his Bishoprick for
Term of Years, referving Rent, and then dies; and
after another is made Bishop, who accepts and receives
the Rent when due, by this Acceptance, the Lease
is made good, which other new Bishop might have
avoided. It is the same if Baron and Feme
failed of Lands in Right of the Feme, join and make a
Lease or Feoffment, referving Rent; and the Baron
dies, after whose Death the Feme receives or ac-
cepts the Rent; by this the Lease or Feoffment is con-
firmed, and shall bar her bringing a Ca. in Autu, to
make Rent by the Court, and certify it into the King's
Court. Reg. Orig. 9. 56.

Aecet in Officium, Where a Sheriff
hath a Writ that he will not be to answer to the
Customer, and is under no manner of hindrance to
it; this Write is directed to the Coroner, commanding
him to deliver a Write to the Sheriff. Reg. Orig. 83.

Acceptationem (i.e. ') is the taking in and do-
coping of any Thing in good Part, and as it were
a tacit Agreement to a preceding Act, which might
have been defeated and avoided, were it not for such
Acceptance had. For Example: If a Bishop before
the Statute 1 Eliz. led Part of his Bishoprick for
Term of Years, referving Rent, and then dies; and
after another is made Bishop, who accepts and receives
the Rent when due, by this Acceptance, the Lease
is made good, which other new Bishop might have
avoided. It is the same if Baron and Feme
failed of Lands in Right of the Feme, join and make a
Lease or Feoffment, referving Rent; and the Baron
dies, after whose Death the Feme receives or ac-
cepts the Rent; by this the Lease or Feoffment is con-
firmed, and shall bar her bringing a Ca. in Autu, to
make Rent by the Court, and certify it into the King's
Court. Reg. Orig. 9. 56.

Aecet in Officium, Where a Sheriff
hath a Writ that he will not be to answer to the
Customer, and is under no manner of hindrance to
it; this Write is directed to the Coroner, commanding
him to deliver a Write to the Sheriff. Reg. Orig. 83.
A

Acompt, (Comptus) is a Writ or Action which lies against a Bailiff or Receiver to a Lord, or others, who by Reason of the Detennination of any Goods, to render Accompat; but refuse to do it. F. N. B. 146. If a Man makes one his Bailiff of a Manor, &c. he shall have a Writ of Acompt against Receiver; and if a Man make one his Bailiff, Where a Person makes one Receiver, to receive his Rents or Debts, &c. he shall have Acompt against him as Receiver; and if a Man make one his Bailiff, and also his Receiver, then he shall have Acompt against him in both Ways. Also a Person may have a Writ of Acompt against a Man as Bailiff or Receiver, when he was not his Bailiff or Receiver; as if a Man receive Money for his Use, I shall have an Acompt against him as Receiver; or if a Person deliver Money unto another to deliver over unto me, I shall likewise have Acompt against him as Receiver: So if a Man enter into any Land to my Use, and receives the Profits thereof, I shall have Acompt against him as Bailiff. 1 H. 6. 56 H. 6. 10 R. 2. 36. An Action of Acompt in a Registry, is no Bar to Action of Acompt as Bailiff: But 'tis said a Bailiff cannot be charged as Receiver; nor a Receiver as Bailiff; and might be charged. 2 Lev. 127. 3 Dow. Ab. 240. 221. The Heir may have Writ of Acompt before or after his full Age, against a Guardian in Sosage: And if he be the Guardian, he is taken as such, for he is fourteen Years old, he must charge him as Guardian; but if he be for taking the Profit after that Age, there he must for him as Bailiff Lit. 114. F. N. B. 118. Where an Heir is a Stranger to the Land, he shall have Acompt against the Heir, he being a Stranger; and the Heir intermeddled with his Land, he shall charge him in Acompt as Guardian. F. N. B. 18. A Man delivers Land to be held by his Executors, and the Money thence arising to be distributed among his Daughters; Action of Acompt lies in this Case, for the Daughters against the Executors. 1 Jac. Cest. 251. 5 Rol. Ab. 285. An Action of Acompt lies against a Bailiff, not only for what Profits he hath made and raised, but also for what he might have made and raised by his Care and Industry, his reasonable Charges and Expenses deducted. C. Lit. 172. One Merchant may have Acompt against another, where they occupy their Trade together: And if one charges me as Bailiff of his Goods ad mercandinandum, I shall answer for the Increas, and be punished for my Negligence: but if he charges me as Receiver ad combination, I must be answerable only for the bare Money or Produce delivered. F. N. B. 117. C. Lit. 545. A Man having received of another 100 f. to be employed in Merchandize abroad, comes with his Goods and stuff, and is not to do his goods not alter the Cafe, but notwithstanding the Complainant Action of Acompt may be brought. 2 Bail. 256. And if I deliver to another Peron Goods or Money beyond Sea, to be delivered to me again in England at a certain Place, and he delivers not, I may be relieved by this Action. F. N. B. 18. Where two Persons are adjudged jointly to answer, if one discharges himself upon the Account, it will be a Discharge to the other; and if he be charged by the Accompant, it shall be a Charge upon the other. Dow. 220. Notice must be given to all persons as concern'd, but as Bailiff or Receiver, or Guardian in Sosage. 1 Dow. 220. By the Stat. Wem. 2. 13 Edu. 2. c. 11. Masters may affect Auditors to take the Accounts of Servants; &c. (this extends not to Guardians in Sosage) And if the Accompant be found in arrear, the Auditors shall have Power to commit him to Prison, there to remain till he makes Agreement with the Party: if he be not able to render Reasonable Expenes and Costs, or if he be charged with more Receipts than he ought, he may sue for his Damage to the Channell a Writ or process, directed to the Bailiff to take four MainMenurs for bringing his Body before

E

2, 36. An Action of Acompt in a Registry, is no Bar to Action of Acompt as Bailiff: But 'tis said a Bailiff cannot be charged as Receiver; nor a Receiver as Bailiff; and might be charged. 2 Lev. 127. 3 Dow. Ab. 240. 221. The Heir may have Writ of Acompt before or after his full Age, against a Guardian in Sosage: And if he be the Guardian, he is taken as such, for he is fourteen Years old, he must charge him as Guardian; but if he be for taking the Profit after that Age, there he must for him as Bailiff Lit. 114. F. N. B. 118. Where an Heir is a Stranger to the Land, he shall have Acompt against the Heir, he being a Stranger; and the Heir intermeddled with his Land, he shall charge him in Acompt as Guardian. F. N. B. 18. A Man delivers Land to be held by his Executors, and the Money thence arising to be distributed among his Daughters; Action of Acompt lies in this Case, for the Daughters against the Executors. 1 Jac. Cest. 251. 5 Rol. Ab. 285. An Action of Acompt lies against a Bailiff, not only for what Profits he hath made and raised, but also for what he might have made and raised by his Care and Industry, his reasonable Charges and Expenses deducted. C. Lit. 172. One Merchant may have Acompt against another, where they occupy their Trade together: And if one charges me as Bailiff of his Goods ad mercandinandum, I shall answer for the Increas, and be punished for my Negligence: but if he charges me as Receiver ad combination, I must be answerable only for the bare Money or Produce delivered. F. N. B. 117. C. Lit. 545. A Man having received of another 100 f. to be employed in Merchandize abroad, comes with his Goods and stuff, and is not to do his goods not alter the Cafe, but notwithstanding the Complainant Action of Acompt may be brought. 2 Bail. 256. And if I deliver to another Peron Goods or Money beyond Sea, to be delivered to me again in England at a certain Place, and he delivers not, I may be relieved by this Action. F. N. B. 18. Where two Persons are adjudged jointly to answer, if one discharges himself upon the Account, it will be a Discharge to the other; and if he be charged by the Accompant, it shall be a Charge upon the other. Dow. 220. Notice must be given to all persons as concern'd, but as Bailiff or Receiver, or Guardian in Sosage. 1 Dow. 220. By the Stat. Wem. 2. 13 Edu. 2. c. 11. Masters may affect Auditors to take the Accounts of Servants; &c. (this extends not to Guardians in Sosage) And if the Accompant be found in arrear, the Auditors shall have Power to commit him to Prison, there to remain till he makes Agreement with the Party: if he be not able to render Reasonable Expenes and Costs, or if he be charged with more Receipts than he ought, he may sue for his Damage to the Channell a Writ or process, directed to the Bailiff to take four MainMenurs for bringing his Body before
before the Barons of the Exchequer at a certain Day, and to warn the Lord or Master to appear at the same Time. Where a Man is adjudged to accomplish, the Court shall adjudge him Auditor, and before the Auditors, the Plaintiff's Dedants may join Issue, or demand the Trial of the Plaundents before them; which shall be certified to the Court, and there tried or argued: If Auditors are adjuge, and a Day given to the Defendant to accomplish before them, if the Defendant would pray a further Day to give in his Accomplish, the Auditors must grant it, and not the Court: But if the Defendant be remiss and negligent, they must certify to the Court that he will not accomplish. 1 Doune, Abr. 251, 2 Med. 42. By 4 & 5, a Day's Actions of Accomplish may be brought against the Executors and Administrators of Guardians, Bailiffs, Receivers, &c. And by one Januar, &c. against the other, his Executors and Administrators, as Bailiff for receiving more than his Share; and the Auditors appointed by the Court, where the Action shall be depending, are authorized to administer an Oath, and examine the Parties, &c. The Auditors are Judges of Record. 2 Inf. 350. But what may be pleaded in Bar to the Action, shall not be allowed to be pleaded before the Auditors. 3 Car. Cap. 52, 161. Some Pleas are in Bar to the Action, and others in Discharge before Auditors; and some of the Actions allowed before Auditors, that will not be in Bar to the Action, Dyer 11, 112. 6, 8. In Accomplish the Plaintiff declared the Receipt of Money by the Hands of a Stranger; and the Defendant pleaded duack and Exon from the Plaintiff, this was a good Plea as well in Bar of the Action, as before Auditors. Writ 9. If Action of Accomplish be brought against one as Bailiff, he shall be allowed his Costs and Expenses, but not to his otherwise, if such Bailiff he brought against him as Receiver. 1 Cor. Lit. 172. If a Bailiff or Receiver make a Deputy, Action of Accomplish will not lie against the Deputy, or against them. 1 Lom. 31. A Person receives Money due to me upon an Obligation, &c. I may either have an Action of Accomplish against him at my Receivers; or an Action of Debt, or on the Cafe, as owing me so much Money as he hath received. 1 Lom. 31. If I pay Money to another, I may bring an Action against him for so much Money received to my Use: But then he may discharge himself by allowing it was for some Debt, or to be paid over by my Order to some other Person, which he hath done, &c. 1 Lom. 50. An Appraiser shall not be charged with Action of Accomplish: But if a Man have a Servant, whom he orders to receive Money, the Master shall have Accomplish against him, if he were his Receiver. 1 Inf. 172. If Money be received by a Man's Wife to his Use, Action of Accomplish lies against the Husband, and he may be charged in the Declaration as his own Receipt. 1 Cor. Lit. 305. Accomplish does not lie against an Infamous; but it lies against a Man or Woman, that is Grown, Bailiff, Receiver, being of Age and discreet: And tho' an Appraiser is not chargeable by this Action, for what he usually receives in his Office; he may be charged upon collateral Receives, he shall be charged as well as another. 1 Inf. 172, 3 Roll. Abr. 117, 3 Lom. 92. As to other Actions of Accomplish, they will not lie of a Thing certain: if a Man delivers 12l. to merchandise with, he shall not have Accomplish of the 12l. but of the Profit, which are uncertain: And this is one Reason why this Action shall not consist of Rest. 1 Inf. 6. Executions of Accomplish may be brought against a Person that sells Goods and Merchandises upon Credit, without a particular Commission so to do, tho' the Goods are bona fide. 2 Med. 100. If there are two Demanders in a Declaration, to which the Defendant pleads an Accomplish Rated, the Plaintiff can never after refer to the Original Contract, which is thereby merged and discharged in the Action: If one of them be for 10l. for 10l. and there being divers other Dealings between them, they come to an Accomplish the Whole, and

B. is found in Accomp. 6. A Man bring his Inland comptesaffr for it, and not an Indebted Comptesaffr: But if there be only one Deb. against the Parties, Entering into an Accomplish for that would not determine the Fink Contract. 2 Med. Rep. 207, 1 Med. 44. It has been held, that mutual Demandas on an Accomplish are not extinguished by setting it, and promise to pay the Balance, wherefore Accomplish was brought for the Demand of a Debtor. 4 Fisc. 44. Hill. 2 Gen. 2. The Pleas in this Action, are Good noninquam jus Receiver, Good Nome comptesaffr, &c. It is no Plea in an Accomplish that he was robbed, but alleging it was without his Default and Negligence, will be a good Plea. 1 Cor. Lit 89. That the Defendant ever was Bailiff, is the general Bar; and it is a good Plea in Bar, by claiming a Property in the Things to be accounted for. 21 Ed. 3, 19 E. 3. 47. A Defendant as Receiver, cannot wage his Law, where he receives the Money by another's Hands. His otherwise where he received it of the Plaintiff himself. 1 Cor. 919. And the Substance of the Action of Accomplish against a Receiver, is that the Defendant be properly charged, as to the Time, its not necessary to be particular therein, nor as to the Quantum of the Money; but the Plaintiff must shew by whole Hands the Defendant received it. 3 Ed. 455. In this Action is now settled, and every Man must be chargeable by what is given by it, for the Judgment is only to Accomplish. 1 Lom. 102. The usual Judgment is good compite, on which the Defendant is taken by Captus an circumstans, &c. But there are two Judgments in this Plead, in one, if the Defendant cannot avoid the Suit by Plea, Judgment is first given, Test es de Accomplish: and having done this before the Auditors, there is another Judgment entered, that the Plaintiff shall recover of the Defendant so much as it is found in Accomp. 11 Rep. 40. The first Judgment is but an Award of the Court, like to a Writ to enquire of Damages; and these two Judgments depend one upon another: For if Judgment be to Accomplish, and the Party die before he hath accomplished, the Executor cannot proceed in the Action, but it must be begun again; and no Writ of Error will lie upon the first suit after the second Judgment. Ibid. Where a Site Factus lies upon the Record in this Action of Accomplish, for the Plaintiff to proceed. 4 Cor. Rep. 25. The Process in Accomplish to be Summons, Poet and Duties, and upon a Notice returned, the Plaintiff may proceed to Outlawry. The Statute of Limitations, 21 Hen. 1, did not bar a Man who is a Merchant from bringing Action of Accomplish for Merchandize at any Time: But all other Actions of Accomplish are within the Statute. In Chancery an Action fifteen or twenty Years standing, the Defendant may be allowed to prove on his own Oath, what he can't otherwise prove of; but here the Particulars must be named, as to whom the Money was paid, for what, and when. 1 Cor. Rep. 140. And a Defendant shall be discharged upon his Oath of Sums under 40l. tho' it is held a Plaintiff shall not so charge another, or be allowed an Action in Equity. His Oath 2 Chan. Cas. 249. 1 Vern. 283. See Oath.

A Writ of Accomplish to the Sheriff of the County.

GEORGE the Second, &c. To the Sheriff of W. Greeting: We command you that, A.B. that he duly and without Delay render to C.D. his responsible Accomplish, for the Time he was Bailiff of the said C. in, &c. And Receiver of the Money of him C. as may be reasonably shown, which is required by him, and that no more Claimer thereof may be heard for Default of Justice. Writs, &c.

Accomplish General. A new Office in the Court of Chancery, appointed by Act of Parliament, to receive all Money lodged in Court, in the Place of the Masters,
Matters. &c. He is to convey the Money to the Bank, and take the same out by Order; and shall only keep the Account with the Bank, for the Bank is to be answerable for all Money received by them, and not the Accountant General, &c. Stat. 12 Geo. 1. c. 32. No Fees shall be taken by this Officer or his Clerks, on Pain of being dismissed; but they are to be paid Salaries, the Accountant General 650l. per Ann. out of Interest made of Part of the Suitor's Money. 12 Geo. 1. c. 32. 24.

Accounts, (French) Is an Agreement or Concurrence between two or more Persons, where any one is injured by a Trespass, or Offence done, or on a Contract, to satisfy him with some Recompense; which if executed and performed, shall be a good Bar in Law, if the other Party after the Accord performed bring any Action for the same. Term de la ley 14. And it is to be observed that Accord executed only is payable in Barbados, and Executory not. 1 Mod. 59. All in pleading it, 'tis the fault by Way of Satisfaction, and not of Accord alone. For if it be pleaded by Way of Accord, a precise Execution thereof in every Part must be pleaded: But by Way of Satisfaction, the Defendant need only allude, that he paid the Plaintiff such a Sum, &c. in full Satisfaction of the Accord, which the Plaintiff received. 9 Rep. 80. The Defendant must plead that the Plaintiff accepted the Thing agreed upon in full Satisfaction, &c. And if it be on a Bond, it must be in Satisfaction of the Money mentioned by way in the Condition, and not of the Bond; which can't be discharged but by Writing under Hand and Seal. 1 Cre. 245. 690. When a Duty is created by Deed in Certainty, as by Bill, Bond, or Covenant to pay a Sum of Money, this Duty accruing by Writing, ought to be discharged by Matter of as high a Nature: but when no certain Duty is created by Bond, but the Atonement is for a Tort or Default, &c. for which Damages are to be recovered, there an Accord with Satisfaction is a good Plea. 6 Rep. 43. A Contract upon Consideration may commence by Words; so by an Agreement by Words for any valuable Consideration, the Agreement may be dissolved. In Accord, one Promiss may be pleaded in Discharge of another, before Breach but after Breach, it cannot be discharged without a Release in Writing. 2 Mod. 44.

Accord with Satisfaction, is no Plea to a Covenant not broken; for the Covenant being created by Deed, by Deed must it be discharged. But upon any Accord, it is a good Plea in Satisfaction and Discharge of the Damages. Law. 359. And Accord made before the Covenant broke, hath been adjudged a good Bar of Action of Covenant, as it may be in Satisfaction of Damage to come. 1 Danw. Abr. 546. If a Contract without Deed is to deliver Goods, &c. there Money may be paid by Accord in Satisfaction: But if one is bound in an Obligation to deliver Goods, or to do any collateral Thing, the Oblige can't by Accord give Money in Satisfaction thereof: Though when one is bound to pay Money, he may give Goods or any other valuable Thing in Satisfaction. 9 Rep. 78. 1 Inf. 212.

Where Damages are uncertain, a Fitter Thing may be done in Satisfaction, and in 17th Cafe an Accord and Satisfaction is a good Plea in personal Actions, where Damages only are to be recovered; and in all Actions which suppose a Wrong, VI. or Armis, where a Copyes and Evicent Vindict in the Treachery and Atrocity, Deine, &c. Accord is a good Plea: So in an Appeal of Malhem. But in real Actions is it not a good Plea. 4 Rep. 1. 9. 70. 9 Rep. 37. Of late it hath been held, that upon mutual Promises an Action lies, and consequently there being equal Remedy on both Sides, an Accord may be pleaded without Execution, as well as an Arbitrayment. 150. 2 Jeno 138. Acceptance of the Thing agreed on in Dece Accord is the only material Thing to make them binding. 1 Hob. 178. 5 Mod. 86.

Accroissement (from the French Acrecroisir) To hook or grasp unto: it signifies as much as to encroach, and it is mentioned in the Statute 25 Ed. 3. c. 8. to that Purpose. The French use it for Delay, as Acrecroir un Projet to stay the Proceedings in a Suit.

Accreation, (Acroissement) To charge any Person with a Crime. By Magna Charta, no Man shall be imprisoned or condemned on any Acretion, without Trial by his Peers, or the Law. 9 H. 3. None shall be vexed upon any Acreation, but according to the Law of the Land: And no Men may be molested by Petition to the King, &c. unless it be by Indictment, or Pro- cession of lawful Men, or by Process at Common Law, 25 Ed. 3. 28 B. 3 c. 3. None shall be compelled to answer an Acreation to the King, without Pre-Ventiment, or some Manifest of Record. Stat. 2 Ed. 3. Promoters of Suggestions are to find Surety to pursue them, and not making them good, shall dis- charge the Plaintiff to the Action, and penal Fine to the King, 38 Ed. 3. c. 9. In Treason there must be two lawful Accreiers. Stat. 12 & 13 Ed. 6. A Person is not obliged to answer on Oath to a Matter by which he may accuse himself of any Crime. 5 & 6 Ed. 578.

Acrete, The Levellers in the Reign of King Hen. 1. who acknowledged no Head or Superior. Letts. 11. They were recondemned so poor that they had not now a head by which they might acknowledge an inferior Lord. Do Cassey.

At etiam Mille, Words or a Clause of a Writ, where the Letters are not met. The Stat. 13 Car. 2. c. 2. which joins the Cause of Action to be particularly express'd in the Writ or Process which holds a Person to Bail, hath ordered the Inquiring of this Clause in Writs; but it ought not to be made one against a Peer of the Realm, or upon a penal Statute, or against an Executive or Administrator, or for any Debt under 10l. Nor in any Action of Account render, Action of Covenant, &c. unless the Demand were 10l. or more: Nor in Action of Trespass, or for Battery, Wounding or Imprisonment: except there be an Order of Court for it, or a Warrant under the Hand of one of the Judges of the Court out of which the Writ issues. 1 Litt. Abr. 13.

Achetar, (Fr. Acheter) Signifies a Contract or Bargain. Pursuery. A contract of Sale is called Achetar, from their frequent making of Bargains.

Achetar, A Measure of Corn, consecrated to be the same with our Quarter eight Bushels. The monks of Peterborough had an allowance weekly of twelve Achetarbus de frumento, and eight Achetarbus de Brato, and Six de Grad. and eleven Achetarbus de fab- bis, &c.

Schlitzte, (Schlitze) An inferior Church Servant, who, next under the Subdeacon, followed or waited on the Friars and Deacons, and performed the meaner Offices of lighting the Candles, carrying the Bread and Wine, and paying other servile Attendance.

Acknowledgment of Money, is a Sum paid in some Part of England, by Tenants on the Death of their Landlords, as an Acknowledgment of their new Lords; in like Manner as Money is usually paid on the Assignment of Tenants—Subsid X IID. ad recognoscen cu- xifsit dux Domini ac Hope, &c. Ex Libri Card. Prior. Lomaeiniae.—It is in Latin called, Laudationem vel Laudemium, a Laudans Domini.

Acuta, A Writ of Appeal, &c. To be free from Suits and Services in Shires and Hundreds.

Acquetamis (Acutamis), A Writ of Acurtis lying for the Surety against a Creditor, who refuses to accept him after the Debt is satisfied. 12 Wris 158.

Acquit, or Acquittance, (from the French Word Acquitter, and the Latin Compound Acquittare) To free or discharge; In a general sense, to be free from Entries and Misde- meanors of a Superior Lord for Services issing out of Lands; and in another Signification (the most General) it is taken for a Deliverance and Setting free of a Per- son from the Sufferance of Guilt; as he that on Trial is discharged of a Felony, is said to be Acquittatus de Felonia; and if he be drawn in Question again for the same Crime, he may plead aucter acquisitum as his Life shall not be twice put in Danger for the same Of- fence. 1 Inf. 385. When two are indicted, the one as Principal, and the other as Accesary, the Principal being discharged, the Accessary of Consequence will be acquitted by Law: Acquittal in Fact is, when a Person is Not found Guilty of the Offence by a Jury, on Ver- did, &c. For, in Murder, if a Man is acquitted, Ap- peal may be brought against him. 5 Inf. 273. 1. If one is acquitted on an Indictment of Murder, supposing it to be done at such a Time; and after indicted again in the same County, for the Murder committed in another Time; here notwithstanding that Variance, the Party may plead aucter aquisitum, by averting it to be the same Crime, that there is a Peron is acquitted at another Time, for Robbery upon the same Peron, but at an- other Vill, &c. But if there be an Indictment against him in another County, for a Felony there done 'tis said he shall not plead aquisitum of the same Felony in the County where first indicted; that it has been held to be otherwise on an Appeal. 2 Hals. Hift. P. C. 243, 245. And under Larceny the contrary is in 2 Hals. 371. Where a Man is discharged on special Matter found by the Grand Jury, yet he may be in- dicted de novo seven Years afterwards, and cannot plead this aquisitum, as he may upon the special Matter found by the Petit Jury, and Judgment given thereon. Ibid. 245. If a Person is lawfully acquitted on a malicious Prosecution, he may bring his Action, &c. for Dam- ages, after he hath obtained a Copy of the Indict- ment and the Judge's Certificate: But it is usual for the Judges of Gaol-Delivery to deny a Copy of an Acquisit- tus to him who intends to bring an Action thereon, when there was probable Causé for a Criminal Prosecu- tion. Curcio's Rep. 411. A Son in Law indicted his Mother for poisoning her Husband his Father, and the being acquitted, brought an Action for a malicious Pro- secution against him, and recovered Damages; and he, to requisite her Kindness, brought an Appeal of Murder, on which she was tried, convicted, and executed. Cre- Car. 583. Also a Fellow having brought an Action for paying of him he was a Highway-man; and it ap- pearing upon Evidence he was so, he was taken in Court, committed to Gaol, and convicted, and hanged in the next Settions. Nid. Caf. 217. An Offender may be acquitted by the King's Pardon, or Proclama- tion. Stane. 168.

Acquittance, (acquisitum) signifies a Discharge in Writing, of a Sum of Money, or Debt due; as where a Man is bound to pay Rent referred upon a Lease, &c. And the Party to whom due, on Receipt thereof gives a Writing under his Hand witnessing that he is paid: This will be such a Discharge in Law, that he cannot demand and recover the same again. If this is disputed, if the Receipt bear the Terms and Date of: In 6, 25, 51. An Acquitance is a Discharge and Bar in the Law, to Actions, &c. And if one acknowledges him as such by Deed, it may be a good Plea in Bar, without any Thing received: But an Acquir- tance, without Seal, is only Evidence of Satisfaction, and not pleadable; for no Deed signifies a Deed of Acquitance. 1 Inf. 52. The Obliger is not bound to pay Money upon a single Bond, except an Acquit- ance be given him by the Obliger: Nor is he obliged to pay Money to the Holder of the Acquitance. But in Case of an Obligation with a Condition, it is other- wise: for there one may aver Payment. And by 3"
Goods, or on Account of any Offence or Trespass; and it claims a Debt, Goods, Chattels, Usufruct, or Damages for the same. 

**Alien Mist is** an Alien that bet us well for the Time being, and he is not liable to recover, nor to be sued or served with Process, or to have any Relief at the Suit of the other Person that hath it; on which the Thing is recovered, and likewise Damages for the Wrong fulfilled: It feels both the Thing whereby a Man is deprived, and the Penalty for the unjust Detention. But Deivative is an **Alien mist**, notwithstanding the Thing demanded and Damages for with holding it is recovered; for it is an **Alien merely personal**, brought only for Goods and Chattels. In a Real Alien, setting forth the Title in the Writ, several Lands held by several Titles may not be demanded in the same Writ: In Personal Aliens, Writ 5 Rep. 87. A Bar is perpetual in Personal Aliens, and the Plaintiff is without Remedy, unless it be by Writ of Error or Attain: But in a Real Alien, if the Defendant be barred, he may commence an Action of a higher Nature, and try the fame again. 5 Rep. 33. **Alien of Waits sued against Tenant for Life, is in the Realty and by the Act, for Waits done by the Deceased.** And where a Keeper of a Plott permits one in Execution to escape, and afterwards deth, no Alien will lie against his Executors. Also if a Battery be committed on a Man, and he that is the Aggressor, or the Party on whom committed, die, the Action is gone: For Personal Aliens die with the Person. 1 Ind. 53. **Aliens Real and Mist,' Epistome, Waits, Trespass, Squares, Clauses, Injuries, of all.** To be made in the same County where the Land lizeth: **Personal and Transitory Aliens, as Deeds, Deinome, Affiust and Battery, are to be brought in any County, (except it be against Officers of Places, Gr. by Statute 21 Jac. 1.)** 1 Ind. 182. **Aliens Transitory may be laid in any County, altho' the Statute 6 & 7. 2. enacted, That Writs of Deeds, Account, &c. should be commenced in the County where the Contrats were made; for that Statute was never put in Ute; and yet generally Aliens have been laid in the County where the Cause of them was arising. If the Cause of Action arise in two Counties, an **Alien** may be brought in either County: But if a Balance be erected in one County, to the Party in another, the **Alien must be brought in Conjoint Cases.** Mich. 8 Ann. B. R. **Aliens are laid to be perpetual and temporal; perpetual, those which cannot be determined by Time; and all Aliens may be called perpetual that are not limited to Time for their Protection:** Temporary Actions are those that are expressly limited: As for Example: the Statute 7 H. 8. c. 3. requires **Aliens within four Years after the Offence committed:** The 1 Ed. 6. c. 1. within three Years: The 31 Edu. c. 5. within one Year, Gr. Since the Statute of Limitation, all Autos must be in Hand, or not to be good, but they may in Time be prescribed against. A Real **Alien may be prescribed against within five Years, on a Fine levied, or Recovered by the Party, or by the **Alien.** A Writ of Right for Recovery of Lands is to be brought within sixty Years: By 21 Jac. 1. Writs of Forfeiture for any Title to Lands in Feoff, are to be sued within twenty Years, 13 Ed. 1, of Deeds, on the Case, of Account, Deinome, Trespass, and Affiust, are to be brought within six Years; of Affiust and Battery within four Years; and Sluades within the same Years: But of **Right of Action** in these Cases is to be Infanted, Fed. of Vouchers, Per-
curtain Place, and he loatheth them. *Action upon the Cafe* lies against him; for by the common Custom of the Law, when one is but a tenant, it is the time of a common Hoyman or Lightman, who is a Water-Carrier of Goods but Goods in this Cafe, may be thrown over-board in a Tempded, to preserve the Pabbage Lives in the Lighter, *c*. and no *Action* lies. *Salk. 210*. If a common Carrier is robbed of Goods, he is chargeable for them, because he had his Hire, and took upon himself the safe Delivery of the Goods therefore: And tho' a Peron does not acquit the Carrier with all the Particulars in a Box, as that there is such a Sum of Money, *c*. the Carrier shall answer for the Money, if robbed: *This a special Accomplice may excuse him*. *Dow. 13*. A common Inn-keeper is chargeable for Goods stolen in his House: And if the Inn-keeper be not of sound Memory, it is said *Action* lies against him; but if the Inn-keeper be an Infant, no *Action* will lie against such Infant. The Peron robbed must be a Traveller, and Gift in the Town; if he have goods committed to the Ho in another Account, and are stolen, no *Action* will lie. So if a Man comes to an Inn, and leaving Goods there, goes away for two or three Days, if in that Time they are stolen, no *Action* lies against the Inn-keeper, for at the Time of the Stealing he was not his Guest: But where a Man comes on Horseback to an Inn, and leaves his Horse with the Ho, if he goes away from the Inn for several Days, and in his Absence the Horse is stolen, the Inn-keeper shall be charged for it: because he had Benefit by the Continuance of the Horse with him, he being paid for it, and the Owner was a Guest. *Mo. 877*. If a Man upon a special Agreement boards in an Inn for any Time, and is robbed, the Inn-keeper shall not answer for it. *Land. 127*. An Inn-keeper is liable, tho' the Guest doth not acquaint him what Goods or Money he hath. *Rep. 35*. If an Inn-keeper refuses to entertain his Guest, this *Action* may be brought against him. *Dyer 178*. If a Mail is robbed, and Bulls are loosed by a Post-Chief Justice, *Action* lies against the Post-Master, as against a common Carrier, *c*. he being paid a Salary for doing his Duty, but was over-ruled by the other Judges. *Salk. 17*. *This Action* lies for Deceits in Contracts, Bargains and Sales: If a Vintner sells Wine knowing it to be corrupt, as good and not corrupt, the without Warranty, *Action* lies. *Dow. 173*. So if a Man sells a Horse, and warrants him to be found of his Limbs, if he be not, *Action* on the Cafe lies. *1 Hen. 4*. A Peron warrants a Horse and Limb, that hath some secret Defect Discovered known to the Seller, but not to the Buyer, this *Action* may be brought against him; and if he be found, and he hath at the Time visible Infirmity, which the Buyer may see; *Action on the Cafe* will not lie. *Teb. 114*. *Cve. 173*. Where one tells me any Wares or Accommodation, and it to deliver that which is good, but delivers what is sought: Or sells any Thing by false or deceitful Weights and Measures, with or without Warranty, *Action* on the Cafe lies; and so where a Man doth corrupt Vintails, as Bread, Beer, or other Thing for Food, and knows it to be unwholesome. *Dow. 75*. *Rep. 18*. *Cve. 270*. Yet if he doth not refine the Vintails, *c*. and like and accept the same, no *Action* can be had. *7 H. 16.* *Nor will Cafe lie upon a Warranty of what is out of a Man's Power, or of a future Thing; as that a Horse shall carry a Man thirty Miles a Day, or the like*. *Finch 189*. If a Man sells certain Packs of Wool, and warrants that they are good and merchantable, if they are damaged, *Action of the Cafe* lies against him. *Dow. 187*. The bare Affirmation by the Seller of a particular Skill or Ficlist in the Cafe cannot be the Cafe, but will not maintain an *Action*. *2 Cre. 156*. But where a Man hath the Possession of a personal Thing, the Affirming it to be his own, is a Warranty that it is so: The 'tis otherwise in Cafe of Land, where the Buyer at his very First is to have the Land. *1 Salk. 210*. If a Peron sells to another Cafe of Goods, that are not his own, *Action of the Cafe* lies: So if he warrants Cloth to be of such a Length, that is deficient of it. If a Taylor underakes to make a Suit of Cloth, and spoils them, *Action* lies: And if a Carpenter promises to mend my House before a certain Day, and doth not do it, by which my House falls; Or he undertakes to build a House for me, and doth it ill, *Action on the Cafe* lies. *1 Dow. 32*. If a Chirurgeon neglects his Patient, or applies unwholesome medicines, whereby the Patient is injured, this *Action* lieth. And if a Counsel returned to appear on such a Day in Court, doth not come, by which the Cause miscarries, *Action* lies against him: So if after Reasiner, he become of Counsel to the Adversary against the Plaintiff. *1 H. 6. 18*. For Stopping up a Water-courte or Way; Breaking down a Man's Wall, Stopping of an honest Light, and for any Nuisance to a Man's Water, Light, or Air, whereby a Peron is damaged, this *Action* lieth. *1 Cro. 427*. *Teb. 159*. Where a Smith promises to bore my Horse well, if he quicken, *Action of the Cafe* lies; and so when he refuses to shew him, on which I travel without, and my Horse is damaged. If a Horse that is hired, hath been abased by the Rider, *Action* lieth. *1 Cro. 14*. Where so Goods pawned are not delivered, on offering the Money: Where any one perfumes another, for Cheating at Gaming; where a Surety is not lived barmeket, *c*. *2 Lev. 158*. If I lend another my Horse to ride a far, and he rides further, or forward and backward, or doth not give me my Meat, this *Action* lieth. *1 Cro. 14*. And where one lends me a Horse for a Time, if he take him from me within that Time, or disturbs me before I have done what I hired him for; *Action of the Cafe* lieth: And though I ride the Horse out of the Way in my Journey, he may not take him from me. *Rep. 846*. This *Action* lies, for keeping a Dog accostumed to bitte Sheep; but not for a Man's Dog running at any Sheep, that he kills them, if it be without his Content. *1 Dow. 19*. *Herl. 171*. *Action of the Cafe* will lie against a Gaoler for putting Irons on his Prisoners; or putting him in the Stocks, or not giving sufficient Sufferance to him, being committed for Debt. *F. N. B. 83*. The Master may in many Cafes have this *Action* against his Servant, Servant, or Bailiff, for any Cruelty he may do him; and for Negligence he has done; for *Alfo* it lies for taking or enticing away my Servant, and retaining him; or threatening a Servant, whereby I lose his Service. *Teb. 159*. *L. 59*. A Servant is trusted with Goods and Montchandise confided to him by a Merchant, to pay the Customs for them, and dispose of them to Prots; if he to deceive the Merchant, and have Almonance for it on his Account, and to defraud the King, lands some of the Goods without paying the Customs, by which they are forfeited. *Action of the Cafe* lies. *Lane 65*. *Cve. 246*. If I trufe one to buy a Lesse or other Thing for me, and he buyeth it for himself, or doth not buy it, *Action* lies against him: but if he doth his Ease, or performeth his *Teb. 159*. And where a Man is distur'd in the Use of a Seat in the Church, which he hath Time out of Mind: A Servant is bound not in the keeping of his Courts, a Keeper of a Postel disturbed in taking the Profits of his Office; a Bailiff in distraining for an Aemercement. *Cve. Action on the Cafe* will lie. *B. 121*. *Lib. Intr. 6*. *New 9*. *Action of the Cafe* lies: for he does in Reversion, against a Stranger, for Damage to his Inheritance, the there be a *Term in Eff* *L. 29*. *Cve. 156*. *Alfo* if a Horse by reason of the Cafe men be, or do any Damage demised, to see if it be out of Repair, or any Wate be done, and teats with any Disturbance therein; or
or if one disturbs a Parson in taking his Tithes, this
Action lies. 1 C. R. 478. 2 Inst. 650. And for setting
up a new Mill on a River to the Prejudice of another
who has an existing Mill, likewise an action grounded upon this
Action will lie. Lib. Inst. 9. The Things for which Action of
the Cafe may be brought are generally distinguishing'd
into Nuisances, where a Man omits that which he ought
to do, and comprehends an Affirmity, expressed or implied:
Misantheses, the doing of something un-
done, or which the Law requires him to do,
otherwise than he ought, by which Misdoing the Plaintiff
receives Damage; And Misantheses, a doing of
something which ought not to be done at all, or is
permitted or used as a natural object of
Action may be laid on several Counts or
Promises, viz. Affirmity for Promise of Payment of
so much Money on such a Day, or Quantum
lacther, where Goods are delivered at not certain Price,
to be paid for so much as they are worth, or Quantum
mercatus, when a Man does work without making any
Agreement for it, to be paid as much as he shall de-
fer: Indemnity for Defect in a Sum certain,
And internal Complainants, where the Parties have
reconciled or accounted. Also sometimes a Marine dat
of Custom and of Agreement, the Custom may be
inferred from the Usage of the Case, or by the
practise of old, or by the custom of the Land,
where a Man is subject to paid for on the
real Condition. 1 Danw. 68. So it is upon Promise of
Payment of Money on a Bond, unless there be a
Collateral Promise: And for Breach of Promise made by
Deed, Writ of Covenant is to be brought. 1 Roll.
Ab. 517. Indemnity for Affirmity will not lie upon a
Bill of Exchange accepted; but Action upon the Cus-
tom only. 1 Pet. 125. The Consideration is the
Ground of the usual Action on the Cafe: And no
Action on the Cafe lies against a Man for a Promise
where there is no Consideration why he should make the
Promise. 1 Danw. 53. A Consideration wholly past
and executed before is not sufficient to bring Action of
the Cafe. Mor. 820. But it may be good on Promise of
Service done. 2 Lem. 222. A Person, in Consider-
ation another hath built a House, or acquired him of
a Friend, for his Revenue to do other Things, or
to pay so much Money; 'tis said this is not a
Consideration, to ground an Action, there appearing
nothing what so ever, or altogether past, without any
Condition to continue it. Mor. 210. Style 465. Where a
Plaintiff by the Defendant's Appointment paid a little be-
fore 30l. for a Debt of the Defendant, he promised to
repay it on Demand; that Consideration shall be held to
be past, and the judgment in the Action flayed. 2 C. Eln. 741. If a Man promise to do a Thing by such
a Day, without any Consideration or Reward, and
do their not, no Action will lie; but if he actually undertakes upon the Performance of the Thing, and then neg-
lec'ts it the Deceit of the Plaintiff, Action on the Cafe lies.
2 C. Eln. 305. The Person to whom a Promise is made, shall
have Action and those who are strangers, or for
whose Benefit it is intended. Danw. 64. Nor shall
Action be brought against one for what another receives,
not for his Use. 1 C. Eln. 30. 3 Lib. 23. But if he received
Money to A. B. to my Use, I may have an
Action on the Cafe against him for this Money. If a
Man accounts, and upon the Account is found in Ar-
rears, it is a sufficient Condition in Consideration of
thereof to assume to pay the Debt at a Day; Action on
the Cafe lies for this after the Day. Yelv. 70. And
on a Promise to pay a Sum of Money, at so much a
Month, an Action of the Cafe may be brought before the
Time is payable, for an existing Affirmity, or upon the Prom-
mise, which is broken by every Non-Payment, and Damages may be recovered: 'Tis not like the Cafe of a
Bill of Debt, which is founded on the Specialty, and
cannot be demanded until the entire Sum is due. 4 C. 525.
If Action on the Cafe be upon a Special Promise, it
is necessary to lay a good Consideration, or
And the Declaration may be laid on several Counts or
Promises, viz. Affirmity for Promise of Payment of
so much Money on such a Day, or Quantum
lacther, where Goods are delivered at not certain Price,
to be paid for so much as they are worth, or Quantum
mercatus, when a Man does work without making any
Agreement for it, to be paid as much as he shall de-
fer: Indemnity for Defect in a Sum certain,
And internal Complainants, where the Parties have
reconciled or accounted. Also sometimes a Marine dat
of Custom and of Agreement, the Custom may be
inferred from the Usage of the Case, or by the
practise of old, or by the custom of the Land,
where a Man is subject to paid for on the
real Condition. 1 Danw. 68. So it is upon Promise of
Payment of Money on a Bond, unless there be a
Collateral Promise: And for Breach of Promise made by
Deed, Writ of Covenant is to be brought. 1 Roll.
Ab. 517. Indemnity for Affirmity will not lie upon a
Bill of Exchange accepted; but Action upon the Cus-
tom only. 1 Pet. 125. The Consideration is the
Ground of the usual Action on the Cafe: And no
Action on the Cafe lies against a Man for a Promise
where there is no Consideration why he should make the
Promise. 1 Danw. 53. A Consideration wholly past
and executed before is not sufficient to bring Action of
the Cafe. Mor. 820. But it may be good on Promise of
Service done. 2 Lem. 222. A Person, in Consider-
ation another hath built a House, or acquired him of
a Friend, for his Revenue to do other Things, or
to pay so much Money; 'tis said this is not a
Consideration, to ground an Action, there appearing
nothing what so ever, or altogether past, without any
Condition to continue it. Mor. 210. Style 465. Where a
Plaintiff by the Defendant's Appointment paid a little be-
fore 30l. for a Debt of the Defendant, he promised to
repay it on Demand; that Consideration shall be held to
be past, and the judgment in the Action flayed. 2 C. Eln. 741. If a Man promise to do a Thing by such
a Day, without any Consideration or Reward, and
do their not, no Action will lie; but if he actually undertakes upon the Performance of the Thing, and then neg-
lec'ts it the Deceit of the Plaintiff, Action on the Cafe lies.
2 C. Eln. 305. The Person to whom a Promise is made, shall
have Action and those who are strangers, or for
whose Benefit it is intended. Danw. 64. Nor shall
Action be brought against one for what another receives,
not for his Use. 1 C. Eln. 30. 3 Lib. 23. But if he received
Money to A. B. to my Use, I may have an
Action on the Cafe against him for this Money. If a
Man accounts, and upon the Account is found in Ar-
rears, it is a sufficient Condition in Consideration of
thereof to assume to pay the Debt at a Day; Action on
perjured Knave, Accus will lie. To say a Man hath forger of an Obligation, &c. and he will prove it; this is actionable. Davv. 110. When such Words are spoken of another maliciously, for which Words, if true, the other might be out in, Accus will lie. As to say of a Man, he can prove him perjured, &c. Or if he might have his Will he would do such a Thing, which Thing is actionable. 10 Rep. 130. If A. says that B. said that C. did a certain scandalous Thing, C. shall have Accus against A. with Averment that B. never said so, whereby A. is the Author of the Scandal. Cas. Litt. 450. See a Rev. Ali. 421. If one lay of a Bishop, that he is a Papist, Accus lies: So of a Member of Parliament, &c. To call any other Papist or Heretic, is not actionable. 2 Duvall. 166. Calling an Officer in the Government, &c. Jacobite, hath been held actionable; alter of a private Person. Farrell, 1 Rep. 107. To say a Minster preacheth Lies in the Pulpit, Accus lies: Not if the Words are, that he is a Preserver of false Doctrine. Davw. 110. If one says of a Parson that he hath a Ballard, whereby he receives Injury, it is actionable. 1 Lvo. 248. To say a Justice of Peace doth admit Crimes, is actionable. Cra. Exe. 536. And so for other Diligence in his Office. To call an Attorney Rogues and Knave, in his Profession; or Champerot and common Sturer up of Suarts; or for he is not to be an Attorney; or to say a Man is a cheating Knave; if it be in his Trade and Profession, these are actionable. Davw. 111. Mar. 196. To say a Man is a Courtier, and say he deals corruptly, is actionable. 4 Rep. To say of a Counsellor, that he is no Lawyer; that they are Fools who come to him for Law, and that he will get nothing by the Law, Accus lies. 113. And it is the same to say he hath disclosed Secrets in a Cause. To call a Doctor of Physick Fool, Afo, Empirick and Mountebank, or say he is no Scholar, are actionable. Cra. Cas. 18 and 19. To say a School put not your Son to him, for he will come away as very a Dance as he went. Heit. 71. Where one says of a Midwife, that many have perish'd for her Want of Skill, an Accus will lie. Cra. Cas. 211. If one calls a Merchant Bankrupt, Accus lies. 1 Lvo. 336. And to call a Trading Peron Bankrupt Knave, is actionable. 1 Davw. 99. If one say of a Merchand, that he is a beggarly Fellow, and not able to pay his Debts: Or say of a Person that he is a Runaway, and does not flee his Face, by Reason whereof he is deficient. 4 McD. 14. To say a Man is a Charlatan. Row. 184. To say an Alchemist keeps a Bawdy house, Accus lies. Cra. Ex. 382. Theo. to say a Man is an Innkeeper, Sales, &c. is not actionable; for his Inn is common to all Guests. 2 Rev. Rep. 136. To say of another he hath the French Pox, Accus will lie. Cra. Cas. 459. But 'tis said, if one say if he had the Pox, after cured, no Accus lies; because none will then avoid his Company. Cra. Cas. 151. To call a Man Whore mather, or a Woman Whore, no Accus lies for these there are merely Spiritual. Davw. But calling a Woman Whore in London, is actionable by the Custom of the City. And if one calls a Woman Copyholder, while the is sole, a Whore, an Accus lies, by Reason of the special Dam- mage that may arise thereby. 1 Sid. 214. In like Manner calling the Midwifes of a School Whore, may be held actionable. 1 Vre. 21. To say that a Woman hath a Ballard, is with Child: or that a certai Person hath had the Use of her Body, whereby she loses her Marriage, Accus lies: The not without special Damage, on Accus at Common Law. 2 Sar. 666. If a Man in Treaty with a Woman to Marry, and another tells him, She is under a Pre-contract; this doth not imply a Scandal, but yet if false, an Accus. To say of a Man that he lay with a certain Woman, &c. by which he loses his Marriage, is actionable; for in these Cases there

is a Temporal Damage. 1 Davw. 81. If one says of another that he has Land by Defent, that he is a Ballard; Accus upon the Cafe lies, as it tends to his Dishonour. Cas. Est. 28. But to say of a Son and Heir apparent, that he is a Ballard, Accus lies not until he is disinherited, or is prejudiced thereby. 1 Davw. 83. And though scandalous Words are spoken before a Man that is a Father, behind his Back, by Way of Affirmation, or Report, when drunk, or fo- ther; and although they are spoken in any Language, if they are underfooted by the Hearsers, they are actionable. Alb. Words may be spoken in one Court, which are not so in another, by the different Con- foundion, &c. 4 Rep. 14. Hb. 165, 256. But if the Defendant can make Proof of the Words, he may plead Special Justification. Cas. Est. 26. Yet where the Plaintiff has a Pardon, after an Offence committed, the Words are still actionable. Mor. 853. If Words may receive a double Interpretation, the one Way that they shall be actionable, and the other Way not, they shall be taken in miseri jus, so far as not to be actionable. Cra. Tae. 458. Therefore to say that a Man hath the Pox, when it may be the ordinary Dis- ease; or that he is a Coiner of Money, when it may be his Trade, and he may do it by Authority, &c. no Accus will lie: And yet in this Cafe, if the com- mon and violent Sense of the Words in the Import thereof be the worse Sense, they may be taken accord- ingly, and are liable to Accus. 4 Rep. 20. Hb. 126. 3 Cre. 352. The Words to say this Man doth must be direct and certain, that there may be no Indemnity against them: But as some Words separate, without others joined with them, are not actionable; so some Words that are not qualified by the precedent or subsequent Words, and all the Words are to be taken together. 4 Rep. 17. 1 Cre. 127. Mor. Cas. 174, 331. And some Writers make a Dif- ference, where the Words are introductory, by the Word and, as you are a Thief, and have stolen, &c. which are additional, and shall not cor- rect; and the Word For; as you are a Thief, for you have, &c. Hb. 386. Style 115. Cad. 89. The Words, He is a Maintainer of Thieves, and keeps none but Thieves in his House, will not support an Accus, unless it be averred that he knew them to be Thieves. 1 Cre. 746. Likewise where one calls a Trademan Cheater or Cozenor, the Words bear no Accus, without tierre a Collectum or Dilicour of Trade laid therein. Hors. 3 Alb. 592. Words spoken in a far off Place, Words spoken are somewhat uncertain, by the prece- dence Conference or some Circumstance, with an Aver- ment, they may be made certain, and then actionable. 2 Bull. 257. So by the Pleadings of the Parties, and Verdict of a Jury for the Plaintiff. 2 Cre. 107. The Thing laid by the Words, must be that which is possible to have been done: for it be of a Thing altogether and apparently impoible, no Accus. 4 Rep. 16. For Words spoken in Pursuit of a Prosecution in an ordinary Court of Justice; and where a Lawyer in Pleading his Client's Cause, shall utter Words according to his Instructions; and to say of one he is a Ballard, when this is to defend the Party's own Title, where he himself doth claim to be the Heir of the Land that is in Question; these Words will not bear an Accus. 2 Cre. 90. 4 Rep. 13. If a Felony be done, and common Fame is such that a Peron did it, although one may charge or arrest him on Suspicion of that Felony; yet a Man may not affirm that he did the fame, for he may be innocent all the while, and therefore affirming it hath been held actionable. Hb. 158, 201, 321. To found the Title of another Person to his Lands is actionable: But the Words must be false, and be spoken by one that neither has, nor pretends to the Land, and that is not of Counsel to him that pretends. 4 Rep. 17. If a Man shall pretend
The Acts of Law are esteemed beyond the Acts of Men: And when to the Perfection of a Thing, divers Acts are required, the Law hath most Regard to the Original Act. 8 Rep. 76. The Law will concur Things to be lawfully done, when it standeth indifferent whether they should be lawful or not: But whatever is contrary to Law, is accounted not done. 1 Inf. 42. 3 Rep. 71. Our Law doth favour Substantial more than Circumstantial Acts; and regards Deeds and Acts more than Words: And the Law doth not require unnecessary Things. Per 10. As to Acts of Men: that which a Man doth for another, shall be said to be done by himself; but personal Things cannot be done by another. Co. Lit. 128. A Man cannot do an Act to himself, unless it be where he hath a double Capacity: No Person shall be suffered to do any Thing against his own Acts; and every Man's Acts shall be confined most strongly against himself that doth them. Per 10. But if many join in an Act, and some may not lawfully do it; it shall be adjudged the Acts of him who might lawfully do the same. 122. Acts that Men are forced by Necessity and Compulsion to do, are not regarded: And an Act done between Persons, shall not injure a Stranger not Party or Privy thereto.

Acts of Parliament, Are positive Laws, consisting of two Parts; (viz.) the Words of the Acts, and the Sense and Meaning of them, which being joined make the Act. The Words of an Act of Parliament shall be taken in a lawful Sense: Cofes of the same Nature are within the Remedy, though out of the Letter of the Act; and some Acts extend by Equity to other Things than that. Co. Lit. 1 Inf. 24, 381. Vide Status.


Accreditable, (f) To purge one's self of an Offence by Oath.

Addiction, (Addiction) A Title given to a Man besides his Christian and Surname, setting forth his Elate, Degree, Trade, &c. As for Example: Additions of Elate are Englishman, Englishman, Etc. Additions of Degree, are Knight, Earl, Marquess, and Duke: Additions of Trade, are Merchant, Cooper, Carpenter, &c. Then there are likewise Additions of Place of Residence, as London, York, Bristol, &c. And these Additions were ordained that one Man might not be grieved or molested for another: And that every Person might be certainly known and bear his own Barden. If one be of the Degree of a Duke, Earl, &c. he shall have the Addition of the most worthy Dignity. 2 Inf. 659. But the Titles of Duke, Marquess, and Earl, &c. are not properly Additions, but Names of Dignity. Terminis de Ley 20. And the Title of Knight of Baronet, is Part of the Party's Name, and ought to be rightly used: but the Titles of Esquire, Gentleman, Yeoman, &c. being no Part of the Name, but Additions as People please to call them, may be used or not used, or if varied is not material. 1 Litt. 34. An Earl of Ireland is not an Addition of Honour here in England, but such a Perfon must be written by his Christian and Surname, with the Addition of Esquire only: And Sons of English Noblemen, afoth they have given them Titles of Nobility in respect to their Families; if you for them they must be named by their Christian and Surnames, with the Addition of Esquire, as such a one Esquire, commonly called Lord A. E. Co. 2 Inf. 565, 666. By the Common Law, a Man that had no Name of Dignity, was named by his Christian and Surname in all Writs and Acts; but if he had an inferior Title of the Name of Dignity, as Knight, &c. he ought to be named by his Christian and Surname with the Name of
of Duty: But a Duke, &c. might be fixed by his
Chairman Name only, and Name of Diameter, which
1 Hen. 5. cap. 5. It is enacted, that in Suits or Actions
where Process is arrested, the Name, to be
made to the Name of the Defendant, to show his
Bail, Mystery, and Place of Dwelling; and that
Writs not having such Additions as above, if the
Defendants are not excepted, but sued by the
Office of the Court. By pleading to Jifife, the Party
pays by the Advantage of Exception for Want of
Additions; and for the Common Law it is good without
Addition, and the Plaintiff given remedy only by Ex-
ception. 3 Car. 5. 570. 780. No Addition is
necessary, where Processes of Ouiuslaw do not lie.
1 Sack. 5. If a City be a County of idobl, wherein
are several Parishes, Addition thereof as of London is
sufficient: But Admission of a Parish, not in a City, must
mention the County, or it will not be good. 1 Davo.
237. An Admission as of the City of London is ill; and
according to Halp Chief Justice, if a Man of Wills
commit Felony at Westminster, he shall be indicted by his
Name, as of Westminster. 3 Sack. 40.

Abatement, (Abatement) is a Judicial Writ, command-
ing Enquiry to be made of any Thing relating to a
Cause depending in the King's Courts. It is granted
upon many Occasions for the better Execution of
Judicials.

Adjournment, (Adjournament) The same with
the French Word Adjournement, and signifies a putting
off until another Day, or to another Place. As Ad-
journement in Eyre, by Stat. 2 Ed. 3. is an appoint-
ment of a Day, when the Justices in Eyre will sit
again. A Court, the Parliament, and Writs, &c. may
be adjourn'd; and the Substance of the Adjourn-
ment of Courts, is to give Licence to all Parties that have
any Thing to do in Court to forbear their Attendance
till such a Time. Every last Day of the Term, and
Every Eve of a Day in Term, which is not Dies
Juridicis, or a Law-Day, the Court is adjourn'd; and it
is usually done two Several Times, finishing the Court.
1 I. 96. The Terms may be adjourn'd to some
other Place, and there the King's Bench and other
Courts at Westminster be held: And if the King puts
out a Proclamation for the Adjournment of the Term,
this is a sufficient Warrant to the Keeper of the Great
Seal to make out Writs accordingly; and Proclamation
is to be made, appointing all Persons to keep their
Day, at the Time and Place, to which, &c. 1. 6 Ed. 3.
1. Lev. 176. In the first Year of King
Car. 1. A Writ of Adjournment was delivered to all
the Justices, to adjourn two Returns of Trinity Term:
And in the same Year Michaelmas Term was adjourn-
ed until Christmas Assizes to Reading; and the King by
Proclamation signified his Pleasure, that his Courts
should be there held. 3 Car. 5. 57. Anne 1 Car. 2.
The Court of B. R. was adjourned, because of the Number
of the Plague; and from thence to Windnor: and
afterwards to Westminster again. 1 Lev. 176. 178.
On a foreign Plea pleaded in Affidavit, &c. the Writ
shall be adjourn'd into the Common Pleas to be tried;
and after Adjournment, the Tenant may plead a new
Plea pursuant to the Fith: But if he pleads in Abate-
ment a Plea triable by the Affidavit, on which it is
adjourn'd, he cannot plead in Bar afterwards, &c.
1 Davo. Ab. 249. The Justices of Affidavit have Power
to adjourn the Parties to Westminster, or to any other
Place; and by the express Words of Magna Charta
cap. 12. they may adjourn, &c. into C. B. before the
Judges there. 21 Ed. 14. If the Judges of the Court
of King's Bench, &c. are divided in Opinion, two
against two, upon a Demurrer or special Verdict,
(not on a Motion) the Cause must be adjourn'd into
the Exchequer Chamber, and the Cause adjourned by all
the Judges of England. 3 Mod. 156. 5 Mod. 355. After
Disolution or Prostration of Parliament, and after
Adjournment for above fourteen Days, Affidavits may be
prosecuted against Persons entitled to Privilege, &c.
1 Stat. 12 W. 5.

Abutment, A Price or Value set upon Things stolen
or lost, as a Remembrance to the Owner. — PVOID
evin ven fem fune poteus at Adjacent, pro omnium
propter bonum. Brist. 1. tract. 2. cap. 52.

Adjunction, (Adjunctionis) A giving or pronouncing
by Judgment, a Sentence or Decrees. Stat. 16 &
17 Car. 2. 210. Adjunctus, Or Assisi in French, is
for one to purge himself of a Crime by Oath. In the Laws of King
Edward, in Breus. Chinn. cap. 4. Si fides adequat,
&c. and cap. 13. Si diecuntur, inde audietis et pro
fessione bident, &c.

Adjournment, (Adjournamenta) is a Writ brought
for Remedy against each other, as if each Party had
more than their Share, to bring them to Reason. It lies in two
Cases: one is termed Adjournment of Dower (Ad-
jouramenta Ditis) where a Man's Widow after his
Decease holds from the Heir more Land, &c. as
Dower, than of Right belongs to her: And the other
is Adjournment of Palfrey (Adjournamenta Pahl-
frey) which lies between those that have Common
of Palfrey appertaining to their Freehold Estates, or
Common by Vicinage, where any one or more of them
forbear the Common. Req. Orig. 156. 171. In the
first Case, the Heir shall have this Writ against the
Widow, whereby the shall be adjourn'd, and the
Heir referred to the Overplus; and in the last Case,
it may be brought against all the other Commoners,
and him that forsooth; for all the Commoners shall
be adjourn'd. Terms of Ley 25. The Heir shall
have a Writ of Adjournment of Dower, for Dower
affigned in the Time of his Ancestor: And if an Heir
within Age affigns unto the Wife more in Dower than
the ought to have, &c. the Guardian in Right may
have a Writ of Adjournment. But if the Guardian
affigns Dower more than the ought to have, the
Heir, during his Nonage, shall not have a Writ of Ad-
jourment of Dower. 7 Hen. 2. 4. 7. Ed. 2. 2. 13. If
the Wife after Adjournment of Dower do improve the
Land, and make it better than it was at the Time
of the Adjournment; an Adjournment doth not lie of
that Improvement. Nat. Brevium 532. A Person
who hath Common Appurtenant certain, or Common
by certain Grant, shall be adjourn'd, and a Tenant
shall have Adjournment against him: But he who
hath a Common Appurtenant without Number, or
Common in Grief without Number, shall be adjourn'd,
or shall have Writ of Adjournment of Palfrey lie
against him. If the Lord forsooth the Common,
his Tenant must not have a Writ of Adjournment
but an Affidavit of Common against the Lord. 18 Ed. 2.
cap. 50. And so if the Lord do make Improvement
of
of the Common. And it is said, that if the Tenant
surcharge the Common, the Lord shall not have a
Writ for his damages against him: but be may
infringe the Surplusage Castle. On a second Surcharge
of a Common, after Administration made, the Plain-
tiff shall recover his Damages against him that was
Defendant in the First Writ, and also he shall forfet to
the King the Castle which he put in over and above the
due Number after the Administration made. Stat.
13 Ed. 1. cap. 7. The Writ of Administration of
Failure is assessed, and shall be directed to the Sheriff,
and not be returnable.

A Writ of Administration of Favour.

GEORGE the Second, 2 Ed. To the Sheriff of W.

Gent. An A. B. hath complained to us, that
C. D. E. have unjustly surcharged their Common
of Favour in, so far that in it they have more Beasts
and Cattle, than they ought to have, and to them belong-
ing with the other Tenants, which is contrary to the
Writ of Surplusage, therefore ye shall forthwith Lay, that
justly and without Delay, you cause the same Favour to be
administered, as so fit C. D. E. may not have
more Beasts and Cattle than they ought, and to them it
belongs to have, according to the Freehold they
have in the said Town; and that the said A. B. may have
or keep in the same Favour so many Beasts and Cattle as
it belongs to have there; that no more Clamour thereof we may bear, so.

Boministris, (Administrum) Signifies Aid, Help,
or Support; being used to this Purpose, Stat. 1 Ed. 4.
cap. 1.

Boministratores, (Latim) Is one that hath the
Goods of a Man dying Intestate committed to his
Charge by the Ordinary, for which he is account-
able when thereunto required. The Bishop of the
Diocese where the Party dies is regularly to grant
Administration: But when the Person dying hath Goods in several Dioceses, which are Bona mortuaria,
Administration must be granted by the Archbishops in the
Prerogative Court, or it will be void. 1 Plowd. 281.
An Administration may be granted, during a
certain Time, or continually; and be as well upon
Condition, as ab solo: And if a Man have Goods in
two Provinces, and be a Will of his Goods in one of them; and die Intestate for those in the other,
Administration may be granted for the Goods in
that Province. Dyer 294. Plowd. 279. 1 Hob. 256.
And if one dies in Ireland, and has nothing but a
Specialty for Money, which lies in England; the Or-
dinary of the Diocese within which the Place is that
it is in, grants the Administration; and not the
Ordinary of that Place that the Decease began.
1 Andere. 23. Velox. 29. 112. Non 13. When one
dies without Child or Kindred, Administration may
be granted by Letters Patent, by the King; but the Ad-
ministrator ought to be admitted by the Ordinary.
1 Salt. 37. At Common Law there was no such
Thing as an Administrator for whereby he justified himself of the Goods of the Intestate, was chargeable
by the Name of Executor. 5 Rep. 82. But by the
Stat. 51 Ed. 3. cap. 11. Authority was given to the Ordinary of every Diocese to appoint Administrators,
to gather up and dispose of the Goods of the Deceased, so as they should account for the same as Executors.
Before this Statute, by the Statue of Wisn. 2. it
was to have been the charge of the Intestate,
should be committed to the Disposition of the
Ordinary, who was bound to answer the Debits of the
Deceased, as far as his Goods would extend. Adminis-
tration must be granted, 18. To the Husband, of
the Wife's Goods and Chattels. 2. To the Wife, of
the Husband's Goods and Chattels. 3. If there be no
Husband or Wife, to the Children, Sons or Daughters.

4. If there be no Children alive, to the Father or
Mother. 5. Then to a Brother or Sister of the whole
Blood, or the half Blood, if there be none such, to the next of Kin, as Uncle, Aunt, or Cousin.
6. Then to a Creditor of the Deceased. 7. And for Want of all these, to any other Person, in the Dis-
cision of the Ordinary, and all the Goods shall be
granted to a Stranger Letters Ad Colligendum bona
defultis, to gather up the Goods of the Deceased; or
may take them into his own Hands, to pay the De-
ced's Debts, in such Order as an Executor or Ad-
ministrator ought to pay them: But 'tis said, he or the
 Stranger who hath Letters Ad Colligendum, cannot
devise them, without making themselves Executors of their own Wrong, and Action lies only against the
Widows and next of Kin, are to be appointed Admini-
strators; and a Brother is to have the Administration of
Goods of a Child, before a Brother or Sister, et.

But an Administration may be granted to the Father,
before a Widow; and a Reputary Legatee ought to
be preferred to a Widow, who has no Reputation: for
Cum Tijthum annexa. 5 Salt. 21. A Grandmother
is as near of Kin to a Person deceased as the Aunt.
1 Salt. 38. See Proc. Cas. 537. An Ordinary may
grant Administration to a Father of a Son, or the Son's
wife, at his Election: And where Perons are of equal
Degree of Kindred to the Intestate, it is in the
Dif
cision of the Ordinary to grant Administration
which of them to please.
3 Salt. 22. When there are two next of Kin to the
Deceased, and one of them the Ordinary does Intestate within the Year, before
Distribution, his next of Kin shall have the admin-
istration. Stowe 25. If an Administrator die, his Ex-
cutors are not Administrators: but in this Case the
Ordinary is to grant new Administration. Term de
Ley 24. An Alien may be Administrator, and shall
have Leases for Years of Lands and Personal Estate in
Debts: because he hath them in aiter Debit. Cret.
Stat. 22. 16 Car. 2. cap. 10. One of half Blood
is in equal Degree of Kindred with one of the whole
Blood, to take out Letters of Administration: And Ad-
ministrators are to make Distribution of Personal
Estate, equally between the whole Blood and half Blood, and
173. And where Persons die Intestate, their Estates are to be
distributed, one third Part to the Wife, and the
other among their Children, and their Representatives;
If there be no Children, one Mestry of the
Personal Estate, shall go to the Wife, and the
Rest equally to the next of Kin: If there be no
Wife, but Children, it shall be distributed among such
Children; and if there be no Wife or Children, it shall
go to the next of Kin in equal Degree. 22 et 23
Car. 2. When Children shall die after their Father
without Wife or Child, the Mother, and every Brother
and Sister, and their Representatives, shall have equal
Share in the Estate of such Intestates. Stat. 1 Jac. 2.
cap. 17. But no Representatives are allowed a
Brothers and Sisters Children; and Children advanced
by the Intestate in his Life-time, with any Estate equal
to the other Shares, are excepted: tho' not the Heir
at Law, with the Children dying in the Intestate,
notwithstanding what he hath by Defer. The
Stat. 22 et 23 Car. 2. is not to extend to the Estates
of Feme coverta, who die Intestate: but the Husband
shall have Administration as before the Act; and not
be compelled to make Distribution of their Estates.
29 Car. 2. cap. 3. A Pothumous Child shall have a
Share of the Personal Estate of the Father, on a
Distribution
Distribution equally with the other Children. Bernar.
diff. 235. And where a Perfon dies, leaving a Wife 
and one Child, the Wife fhall have one Third only, 
and the Child the two Thirds; and the Estate , 
being comprifed under the Word Children. By 
Pellenor 3 Med. 63. If one die Intestate, and there is 
an Uncle, and Uncle's Son, it is held that fuch Son 
of the Decedent, fhall not come in for a Share in the 
Distribution with the Living Uncle, by the Statute. 
Proc. Conc. 28. Security may be required from 
those to whom Distribution is made, to refud the 
Administrator in cafe Debts appear afterwards. And 
Administrator have a Property vested in them of the 
Goods of the Intestate, immediately upon his Death; 
and the Possiffion is call on them by Law. God. 53. 
They may fee for Goods before they have Possiffion 
as well as Executors. 8 Rep. 135. An Administrator 
has an Intereft in all the Chattels Real and Perfonal of the 
Deceased; and in all Goods and Chattels either in 
Possifion or Action, in like Manner as an Execu-
tor: And all the Goods and Chattels which come to 
the Hands of the Administrator, fhall be Affets to make 
him amply paid in his Charges; as Debts are to 
Creditors and Legatees. 2 Inf. 398. A Refudatory 
Legatee is to have the Care and Administration of the 
Effects, where the Executor of a Will dies Intestate, 
the Refud of the Estate being devifed to fuch Lega-
tee. 1 Vent. 217. A Creditor Administrator may re-
tain the Goods of the Intestate, to fatisfy his Debt; 
but if the Goods are taken away before Administration 
granted to him, he may have Trefpafs against the 
Perfon that took them. Style 784. If Administration 
is granted to an Obiotor, and he doth not exact the 
Debt, but fhall Affets in his Hands. 8 Rep. 156. 
Against an Administrator and for him, Action will lie, 
as for and against an Executor, and he fhall be charged 
to the Value of the Goods, and no further; unless it 
be by his own fable Plea, or by wafting the Goods of 
the Intestate. An Executor or Administrator fhall 
never be charged de benti propriis, but where he does 
command Money, by telling the Teller's Goods, and 
converting the Money to his own Use, concealing 
or wafting them, or by pleading what is fable. 3 Dyer 
120. 2 Rull. Rep. 615. If an Administrator plead 
Plena Administratori, and 'tis found againft him, the Judg-
ment fhall be de benti propriis, becaufe 'tis a fable Plea, 
and that upon his own Knowledge. 2 Crv. 151. 
Curia where a Goods is fuch a Plea, and that he hath 
no more than to fatisfy such a Judgment, &c. 
The Recovery fhall be de benti Tefatoris, &c. 2 Rull. 
Rep. 450. Upon Place Administrator pleaded by an 
Administrator, the Plaintiff must prove his Debt, or he 
shall recover but a Penny Damages, though there 
be Affets; becaufe the Plea only admits the Debt, but 
not the Damages. So is it in Slaves; the Affet is not 
required of Administrators in any Affet brought againft 
them for the Debt of the Intestate; except where they 
have wafted the Goods of the Decedent: Nor fhall 
Courts be had against Administrators. 24 Hen. 8. Where 
an Administrator is Plaintiff, he must shew by whom 
Administrator was granted; for that only intimates him 
to the Action: But if an Administrator is Defendant, the 
 Plaintiff need not shew by whom Administration 
was granted, for it may not be within his Knowledge; 
'tho' he must declare that it was granted to the 
Deceased debitor in this form, we being necessary 
to charge him with the Action. Sid. 228. 1 Lawm. 301. 
If a Stranger that is not Administrator, take the Goods 
and Adminifler in his own Wrong, he fhall be charged 
and it is as an Executor. And generally an Administrator 
shall be charged by others, for any Debt or Duty due from the Decedent, as he 
imself might have been charged in his Life-time, 
for any Executor, he being bound to IN charge the fame. Co. Litt. 219. Dyer 14. An Ad-
miniftrator's Power is given by the Administrator,
Yet by Stat. 28 Hen. 8. Murder, Robbery, &c. at Sea, may be tried by special Commission to the Lord Admiral, &c. according to the Laws of England: But for the Stat. 18 & 19 Hen. 6. The Admiralty is said to be no Court of Record, by Reason it proceeds by the Civil Law, 4 Inf. 135. But the Admiralty has Jurisdiction to try all such as live no Remedy; and all Maritime Causes, or Causes arising wholly upon the Sea, it hath Cognizance of. 5 Rep. The Admiralty hath Jurisdiction in Cases of Freights, Mariner's Wages, breach of Charter Parties, though made within the Realm; if the Penalty be not demanded: And likewise in Cafe of Building, Mending, Saving, and Vesselships, &c. by the Suit be against the Ship, and not only against the Parties, 2 Er. 216. Mariners' Wages are contracted on the Credit of the Ship, and they may all join in Suits in the Admiralty; whereas at Common Law they may not all meet any Ship contracts on the Credit of the Owners, and not of the Ship; and therefore he cannot prosecute in the Admiralty for his Wages. 1 Salk. 33. It is allowed by the Common Lawyers and Civilians, that the Lord Admiral hath Cognizance of Seams' Wages, and Contracts, and Debts for making Ships, all of Things done in navigable Rivers, concerning Demurrage to Persons, Ships, Goods, Annoynances of free Passage, &c. And of Contracts, and other Things done beyond Sea, relating to Navigation. 2 Inst. 75. But if a Contract be made beyond Sea, for doing of an Act or Payment of Money within this Kingdom; or the Contract is upon the Sea, and not for a Marine Cause, it shall be tried by the Court of Common Law, and Part to the Admiralty, the Common Law shall be preferred. And Contracts made beyond Sea, may be tried in B. R. and a Fact in B. R. is a Fact in a Third Place in the Jas. here tried. In 2 Bull. 532. Where a Contract is made in England, and there is a Conversion beyond Sea, the Party may sue in the Admiralty, or at Common Law. 4 Leon. 577. So where a Bond is made and delivered in France: An Obligation made at Sea, it has been held cannot be sued in the Admiralty's Court; because it takes its Course, and binds according to the Common Law. Hid. 11. The Court of Admiralty cannot hold Plea of a Matter arising from a Contract made upon the Land, tho' the Contract was concerning a Thing in Action: for the Admiralty may hold Plea for the Seams' Wages, &c. because they become due for Labour done on the Sea; and the Contract made upon the Land, is only to ascertain them. 3 Lev. 60. Though there is a special Agreement in Writing, by which Seams are to receive their Wages, in any other Manner than usual; or if the Agreement at Land be under Seal, so as to be more than a parol Contract, it is otherwise. 1 Salk. 31. See Hid. 79. If the Master and Mariners of a Ship, fitted out with Letters of Reprisal, without the Notice or Assent of the Owners commit Piracy, the Owners shall lose their Ship by the Admiralty Law. 1 Roll. Abr. 350. And if the Master pawn the Ship on the High Sea out of Nexerty for Tackling or Provision, without the Consent of the Owners, it shall bind them; but 'tis otherwise where the Ship is pawned for the Master's Debt: The Master can have no Credit abroad, but upon the Security of the Vessel; and the Admiralty gives Remedy in these Cases. 1 Salk. 35. Sale of Goods taken by Piracy in open Market, is not binding by the Admiralty Law, so that the Owner may resell them, but at Common Law. Sale of Goods is in breach of which the Admiralty must take Notice. 1 Roll. Abr. If Goods delivered on Shipboard are imballled, all the Mariners ought to contribute to the Satisfaction of the Party that holds his Goods, by the Maritime Law, and the Cause is to be tried in the Admiralty. 1 Litt. 568. By the Culsion of the Admiralty, Goods may be
be attached in the Hands of a third Person, in Causa Maritime & Civile, and they shall be delivered to the Plaintiff after Defaults, on Caution to remove them, if the Defe, &c. be disproved in a Year and Day; and if any shall be the Goods, or Body, &c. of the Lands. Scip. 156. 1 Digb. Abr. 135. See 1 Salk. 52.

F. A Man in Execution, on Judgment in the Admiralty's Court, upon a Contract made on the Land in New England was dischargesd, being out of the Admiralty Jurisdiction. 3 Cr. 603. 1 Cr. 695. And where Sailors Closshaws were bought in St. Katherine's Parish, near the Tower London, which were delivered in the Ship; on a Suit in the Admiralty for the Money, Prohibition was granted; for this was within the Country: So of a Ship lying at Blackwall, &c. Owen 122. Hughes Abr. 133. But the Admiralty may proceed against a Ship, and the Sails and Tackle, with all they are on Shore, altho' alledged to be deemed on Land: Yet upon alleging Offer of a Plea, claiming Property therein, and Refusal of the Plea, on this Supposition a Prohibition shall be had, 1 Shaw, 170. But a Man may not be removed from the Land by Execution on Land; tho' not bold Pleas of any Thing arising on Land. 4 Lev. 134. And upon Letters Miflove or Return of a Writ, and an Attachment, or Execution on a Judgment given beyond Seas, where an Executio busias comes or ever hither, by Imprisonment of the Party, who shall not be delivered by the Common Law, 5 Co. 130. When Sentence is given in a Foreign Admiralty, the Party may libel for Execution of that Sentence here; because all Courts of Admiralty in Europe are governed by the Civil Law. Sid. 418. Sentences are to be creditable, that oars may be credited there, and shall not be examined at Law here: But the King may be petitioned, who may caufe the Complaint to be examin'd; and if he find just Cause, may send to his Embassador where the Sentence was given, to demand Redress, and upon Failure thereof, will grant Letters of Marque and Reprisal. 2 Term. 473. If one be fired in the Admiralty, contrary to the Statutes 15 & 15 R. 2. he may have a Superfident, to caufe the Judge to stay the Proceedings, and also have Action against the Firing. 10 Lev. 111. A Ship being privately arrested by Admiralty Process only, and no Suit, it was adjudged a Prohibition within the Meaning of the Statutes: and Double Damages, &c. shall be recovered. 1 Salk. 31, 32. And if an erroneous Judgment is given in the Admiralty, Appeal may be had to Delegates appointed by Commission out of Chancery, whose Sentence shall be final. Stat. 8 Eliz. cap. 5. Appeals may be brought from the inferior Admiralty Courts, to the Lord High Admiral; But the Lord Warden of the Cinque Ports, hath Jurisdiction of Admiralty except from the Admiralty of England. By the Stat. 25 Car. 2. c. 5. His Majesty's Commission to all the Privy Councillors then and for the Time being, and to the Lord Chief Baron of the Court of Exchequer, the Judges of the King's Bench and Common Pleas, and Barons of the said Court of Exchequer, then for and for the Time being, for hearing and determining Appeals from Sentences in Causes and Prizes pronounced in the Courts of Admiralty, in any of his Majesty's Dominions, declared valid, although such Chief Baron, Judges and Barons are not of the Privy Council. But no Sentence shall be valid, unless a major Part of the Commissioners present be of the Privy Council.

F. A Million, (Admiss.) If when a Patron of a Church have by any open Examination, that admits the Clerk, by saying admissis adhibetur. He properly the Ordinary's Declaration that he approves of the Prefentee, to serve the Cure of the Church to which he is precent. C. Litt. 344. All Persons are to have Episcopal Ordination before they are admitted to any Parsonage or Benefice; and if any shall welcome to be admitted, not having such Ordination, &c. he shall forfeit 100l. Stat. 14 Car. 2. No Person is to be admitted into a Benefice with Cure of 30l. per Annum, in the King's Books, unless he is a Bachelor in Divinity at least, or a Preacher lawfully allowed by some Bishop, &c. Aton of the Cale will not lie against the Bishop, if he refuse to admit a Clerk to be qualified according to the Canons, (as for any Crime or Impediment, illiterature, &c.) but the Remedy is by Writ Quare nam admissit, or Admissit clericum brought in that County where the Refusal was. 7 Rep. 5.}

F. A Write where a Man has recovered his Right of Prenentation against the Bishop, Reg. Orig. 53. If a Man do recover his Prenentation in the Common Place against the Bishop, then he may have a Write to the same Bishop to admit his Clerk, or unto the Metropolitan: A Person recovers an Adven- tion, and 6 Months past: Yet if the Church be void, the Patron may have a Write to the Bishop: And if the Church is void when the Write comes to the Bishop, the Bishop is bound to admit the Clerk. 7 H. 8. 14 H. 4. Where a Man recovers against the Admon of the Bishop, this Write shall go to the Bishop; and the Party may have an Atias and a Pluries, if the Bishop do not execute the Write, and an Attachment, or the Bishop do not do it, if need be. New Nat. Br. 84. In a Quare Impedit between two Strangers, if there appears to the Court a Title for the King, they shall award a Write unto the Bishop, for the Bishop's要坚持.

F. A Write for associating certain Persons to Justices of Allsae. Reg. Orig. 206. Knights and other Gentlemen of the County, are usually associated with Judges in holding their Assizes on the Circuits.

F. A Write from the Latin Nichil, written of old Nichil, and signifies annulled, cancelled, or made void. Stat. 28 Hen. 8.

F. A Write to Damnum, is a Write which ought to be issued before the King grants certain Liberties, as a Fair, Market, &c. which may be prejudicial to others: It is directed to the Sheriff to inquire what Damage it may do, for the King to grant a Market, Fair, &c. Terms de Lay 25. This Write is likewise used to inquire of Lands given in Marriage to the House of Religion, &c. And it is a Damage to the Country, that a Freeholder who hath sufficient Lands to pass upon Assizes and Jury, should alien his Land in Mortmain, by which Alienation his Heir should not have sufficient Estate after the Death of the Father to be sworn in Assizes and Juries. F. N. B. 121. The Write Ad quod Damnum is also had for the Turning and Changing of ancient Highways; which may not be done without the King's Licence obtained by this Write, on Inquisition found that such Change will not be detrimental to the Publick. Vaugh. Rep. 341. Ways turned without this Authority, are not esteemed Highways so as to oblige the Inhabitants of the Hundred to make Amends for Robberies; nor have the Subjects an Interest therin to justify going there. 3 Co. 267. If any one change an Highway without this Authority, he may stop the Way at his Pleasure. But see the Statue 8 Eliz. c. 3. c. 16. for enlarging of Highways by Order of Justices of Peace, &c. Where any common Highway shall be included after a Write of Ad quod Damnum executed, any Person aggrieved by such Inclosure, may complain to the Justices of the next Quarter-Sessions; but if no such Complaint or Appeal be made, then the Inquisition and Return, recorded by the Clerk of the Highway, shall be for ever binding. 8 &q. W. 3. It appears by the Writs in the Register, that in ancient Times, upon every Grant, Confrma.
Confirmation, &c. or Licence made by the King, first a Writ of Ad quod Damnum was to be awarded, to inquire of the Truth thereof, and what Damage the King might have by the same: But now the Practice is contrary; and in the Patent of common Grants of Licence, are put in the End these Words — Et hoc autem sibi hac quidem Damnum non est auctoritatem habend. sed hanc praevent. &c.

A Writ of Ad quod Damnum.

G E O R G E the Second, &c. To the Sheriff of the County of W. Greeting: We command you, that by the Oath of him self and lawful Men of your Bailiwick, or of your County, by whom the Truth of the Matter may be better known, diligently you inquire, whether it will be to the Damage or Prejudice of us, or others, if you grant to C. D. our Fair at, &c. And if it will be to the Damage or Prejudice of us or others, then to what Damage or Prejudice of us, and to what Damage and Prejudice of others, and of whom, and in what Manner, and by whom it was made, do you find without Delay, and this Writ. Wisett, &c.

Sufficient, Adverter, i. e. ad rem ire, rei Stare. To do right, satisfy or make Amends. Gr. Dorset. 2675. 1750.

Statute, [Advert.] A Time containing about a Month preceding the Feast of the Nativity of our Saviour Christ. It begins from the Sunday that falls either upon St. Andrew's Day, being the 30th of November, or next to it, and continues to the Feast of Christ's Nativity commonly called Christmas. Our Ancients showed great Reverence and Devotion to this Time, it is to the Approaches who pleads the Festive: For in advento Domini nulla est debito capi. Inst. placiens de temp. Regis Joh. Ebor. 126. But the Statute Ep. 1. cap. 48. orders that notwithstanding standing the usual Solemnity and Times of Rest, it should be lawful (in Respect of Justice and Charity, which ought at all Times to be regarded) to take Affites of Novel Diffidant, Mari d'Avole, &c. in the Time of Advent, Septuagesima, and Lent. This is also one of the Seasons, from the Beginning of which to the End of the Octaves of the Epiphany, the Solemnizing of Marriages is forbidden, without special Licence, as we may find from these old Veris, Conjugium Adventus prohibet, Hilarique relaxs; Septuagesima scintis, sed Pacis Ometr reducts; Regos octaves, concilis Triis potestas.

Adventus Inplicimentum, A Writ mentioned in the Statute 12 Ed. 2. See Ventus Inplicimentum, by which a Woman is to be searched, whether the be with Child by a former Husband, on her with holding Lands from the Heir.

Adventure, A Thing sent to Sea, the Adventure whereof the Person sending it, stands to Out and Home. Lex. Mercat. Vide Aventure.

Adversity, To justify or maintain an Action formerly done. For Example: One takes a Difiert for Rent, and he that is disstrained is a Replevin; now two married Perfons; and if but one of the Perfons be married, it is nevertheless Adversity: But in this last Case, it is called single Adversity, to distinguish it from the other, and such a Person is to be punished by the Laws of God, and the ancient Laws of the Land; The Julian Laws, among the old Romans, made it Death; but in most Countries at this Time, the Punishment is by Fine, and sometimes Banishment: In England it is punished by Fine, Pen- nance, &c. King Edmund a Saxo, Leg. fuar cap. 4. Adversitas jure injusta inferit Homicidi. And General, Homicidi jure injusta inferit Homicidi. And General, Homicidi jure injusta inferit Homicidi. And General, Homicidi jure injusta inferit Homicidi.
now the Dilrainer, justifying or maintaining the Act, 
and besides Denies all
Ad
Nowavment and Advocacy. Old Stat. Br. 45. The Signifi-
cation of this Word is also to bring forth any Thing; 
Anciently when stolen Goods were bought by one, and 
fold to another, it was lawful for the Right Owner to 
take them where ever they were found; and he in 
whole Possession they were found, was bound advoc-
care, i.e. to produce the Seller to justify the Sale 
and so on till they found the Thief. Afterwards the 
Word was taken for any Thing which a Man ac-
knowledged to be his own, or done by him, and in 
this Sense it is mentioned in Flora. lib. 1. cap. 5.
par. 4. Si vir iuram in domo sua jurecipit, materiis 
\& advocavit filiam suam.

Adovator, Or Advocates, (Advocates) is used for him 
that hath Right to pretend to a Benefice: And by 
25 Ed. 3. Stat. 6. we are Advocates Paramount is 
taken for the King, the highest Patron.—Advoca-
cus & param preferent, i.e. Advocatus alius Exec-
itus, ut ad Ecclesiam, nonius propriis non aliis, pugna 
pretentiae. Fleta lib. 5. c. 14.

Adovator, (Advocatus) Signifies the Right of Prefer-
tation to the Church or Benefice Land: he who 
hath this Right to pretend is filed Patron; because 
they that originally obtained the Right of Preferation 
to any Church, were Advocates of, or Benefactors to 
the same Church. When the Christian Religion 
was first established in England, Kings began to build 
Cathedral Churches, and so make Bishops; and so 
forthwards, in Imposition of them, several Lords of 
Manors founded particular Churches on some Part of 
their own Lands, and endowed them with Glebe, re-
verting to themselves and their Heirs, a Right to 
prefer a fit Person to the Bishopric, where the same 
should become void: And this is called an Adovorius, 
and he that hath this Right of Preferation is termed 
the Patron, it being presumed that he who was founded 
the Church, will Adovor and take it into his Protec-
tion, and be a Patron to defend it in its just Rights.
1 Niff. Abr. 184. Adovorius are of two Kinds: 
Appendant, and in Gross: Appendant, is a Right of 
Preferation dependent upon a Manor, Lands, 
&c. and passes in a Grant of the Manor as incident to 
the same; and when Manors were first created, and Lands 
et aliorum to build a Church on some Part thereof, the 
Adovorius or Right to pretend to that Church became 
appendant to the Manor. Adovorius in Gross, is a 
Right by filing only, belonging to a Person, and 
not a Manor, Lands, &c. So that when an Adovorius 
appendant is feigned by Deed or Grant from the 
corporal Inheritance to which it was appent, then it 
was held in Gross. 1 Ed. 131. 122. Ali Adovorii 
are either Preffentive, Collaborative, or 
Donative. Adovorius were formerly unto them appended, 
and to Persons of Capitular Bed-
riors; the Lordship of the Manor, and Patronage of the 
Church were seldom in different Hands till Adovor-
ious were given to religious Houses; but of late Times 
the Lordship of the Manor, and the Adovorius of the 
Church have been divided; and now not only Lords of 
Manors, but mean Persons have, by Purchase, the 
Dignity of Masters of Churches, to the great Prejudice 
thereof. By the Common Law the Right of Patron-
age is a real Right fixed in the Persons or Founders, 
and their Heirs, wherein they have as absolute a Pro-
per to the Manor lands in his hands to be the Preten-
tions: For Adovorius are a Temporal Inheritance, 
and Lay Fee: they may be granted by Deed or Will, 
and are Affr. in the Hands of Heirs or Executors. 
1 Ed. 131. 122. Ali Adovorii may be endowed in an Ac-
voius: A Wife may be endowed of it: A Huspand 
Tenant by the Curtesy: and it may be forfeited by 
Twelvemonths: If an Adovorius defends to Coopartners, and the Church 
after the Death of their Ancestors becomes void, the 
elded Siller shall file pret. Stat. 21 Ed. 3. And 
when Coparkners, Jointholders are feigned an 
Adovorius, and Partition is made to pretend by Turn; 
each shall be feigned of their separate Estate. 7 Ann. 
An Infant may pretend to a Church; and where an 
Adovorius belongs to a Perme Covert, the Pretence 
must be by Husband and Wife. 1 Ed. 135. Persons 
feigned of Adovorius being Papists, are disabiled to 
make Preferment, and the Chancellors of the Uni-
versities shall pretend. 1 W. & M. cap. 26. And Prefer-
tions to Adovorius, &c. for Money or other Re-
ward, shall be void, &c. Stat. 31 Eliz. c. 6. 7th 
Preferment, Simony, &c.

Adovorius of the Majesty the Church, (Advoc-
atus mediatis Ecclesie) Is there where are two se-
veral Patrons, and two several Incumbents in one 
and the same Church, the one of the one Majesty, 
the other of the other Majesty thereof. C. Litt. 
Medius Advocatus, a Majesty of the Adovorius, is where two 
majors join in the Preferment, and there is but one 
Incumbent: as there were two Patrons; And 
though they agree to pretend by Turns, yet each of 
them hath but the Majesty of the Church. 1 Ed. 17.

Adovorius of Religious Houses, Where any Per-
sons founded any House of Religion, they had thereby 
the Adovorius or Preference thereof, like unto those 
who built and endowed a Church: And from time 
times these Patrons had the sole Nomination of the 
Abbot, or Prior, &c. either by Invention or Deliv-
ery of a Pastoral Staff: Or by direct Preferment to the 
Diocesan; or if a free Election were left to the 
Religious, a Conge d'Effier, or Licence for Election, 
was first to be obtained of the Patron, and the Elect 

Aretie, (Aretia aciprimum) Are of Gotshawks, is 
in the proper Term for Hawks, for that which of other 
Birds we call a Neft. Stat. 31 Eliz. c. 12. And it 
is generally said to come from the French Word Arre, 
a Hawke's Nest. The Liberty of keeping these Aretie 
Hawks was a Privilege, granted to great Persons: 
And the preferring the Aretie in the King's Forests 
was one Sort of Tenure of Lands by Service. Anno 
20 Ed. 1. Simon de Rystyst &c. are Tenant terras in 
Regis, &c. per sejachum etc. etc. Aretie Aronym 
Domini Regis.

Aemulatio Capitis, (Pretium Honorum) King Abel-
china ordained that Finns should be paid for Offences 
committed against several Persons according to their 
Degrees and Quality, by Emulation of their Heads. 

Aemulatio, (Aemula) A Writ that lay to inquire, 
Whether the King's Tenure being chief by Chival-
ery, were of full Age to receive his Lands into his 
own Hands. It was directed to the Eleazar of the 
County; but to no Effects, since Wards and Libraries 
are taken away by the Statute. Reg. Orig. 294.

Affere, (Affertor) From the Fr. Affer, to 
affirm. They are those that in Courts-Lex upon 
Oath testify and moderate the Finns and 
Amercements imposed on such Persons as have committed 
Fauls arbitrarily punishable, viz. that have no ex-
press Penalty appendant by Statute. And they are 
also appointed for moderating Amencements in Courts-
Baron. The Persons nominated to this Office, affirm 
on their Oaths what Penalty they think in Con-
sideration ought to be inflicted on the Offenders. This 
Word is used Stat. 25 Ed. 3. c. 6. 7. Where Mention 
is made, that the Judges before their Riling in every 
Session, shall cause the Amercements to be afferrt.
And this Term is to be considerably with Magno Chari
which is ordained, that Persons are to be amerced 
after the Manner of the Fault; and the Amercements 
that are to be afferrt by the Oath of such and lawful Men 
of the Viceinage. 9 Hen. 3. cap. 14.

G
The Oath of Affidavit.

YOU shall well and truly answer and affirm the several Amendments here made, and answer to you return court; you shall freely and fully answer for your fear, or Affidavit, nor deny or evade any of Hurt or Malice, but impartially shall do your Duties herein.

So help you God.

Affidavit. The Pleading of Truth between a Man and a Woman, upon Agreement of Marriage: It is derived from the Late Word Affidavit, and signifies as much as fidel ad alium dare. Lit. Sect. 39.

To prove one's Faith, or give, or swear Felicity, i.e. Fidelity, MS. Don. de Faucon 22.

Affidavit and a Woman, upon Agreement of Marriage: It is derived from the Late Word Affidavit, and signifies as much as fidel ad alium dare. Lit. Sect. 39.

To prove one's Faith, or give, or swear Felicity, i.e. Fidelity, MS. Don. de Faucon 22.


Matti. See Affidavit ad Arma. To be maledict and installed for Soldiers upon an Oath of Fidelity. Lit. Sect. 55.

Matti. Signifies in Law an Oath in Writing; and to make Affidavit of a Thing, is to testify it upon Oath. An Affidavit generally speaking is an Oath in Writing, sworn before some Person whom authority to take such Oath: And the true Place of Habitation, and true Addition of every Person who shall make such Affidavit, is to be inserted into his Affidavit.

Lill Jr. 44. 46. Affidavit oaths ought to be set forth the Matter of Fact only, which the Party intends to prove by his Affidavit; and not to declare the Merits of the Cause, of which the Court is to judge. 21 Car. 1. B. R. The Plaintiff or Defendant may make Affidavit in a Cause depending; but it will not be admitted in Evidence at the Trial, only upon Motion. Lill Jr. 44. When an Affidavit hath been read in Court, it ought to be filed, that the other may see it, and take a Copy of it. Pieb. 1655. An Affidavit taken before a Master in Chancery, will not be of any Force in the Court of King's Bench, or other Courts, nor ought to be read there; for it ought to be made before one of the Judges of the Court wherein the Cause is depending. See Barr. 55. But by Stat. 29 Car. 2. c. 5. The Judges of the Courts at Westminster by Commission may imploy Persons in the several Counties of England to take Affidavits concerning Matters depending in their several Courts, as Masters in Chancery extraordinary used to do. Where Affidavits are taken by Commissioners in the Country, according to the Statute 29 Car. 2. and it express'd to be in a Cause depending between two certain Persons, and there is no such depending, those Affidavits cannot be read, because the Commissioners have no Authority to take them; and for that Reason the Party cannot be convicted of Perjury upon them; but if there is such a Cause in Court, and Affidavits taken concerning some collateral Matter, they may be read. Gall. 61. There being one Affidavit against another relating to a Judgment, the Matter was referred to a Trial at Law upon a feigned Issue, to satisfy the Confidences of the Court as to the Fact alleged. Camb. 399. No dilatory Plea shall be received in any Court, unless the Truth thereof be made out by Affidavit or some probable Matter be thrown to believe the Fact. Stat. 4 & 5 Ann. Affidavits are usually for certifying the Service of Process, or other Matters touching the Proceedings in a Cause.

An Affidavit of serving a Subpensa in Chancery.


E P. of Sec. Great makes Oath, That he be this Day present did so, loco, forces the Defendant C. D. with a Writ of Subpensa out of this Honourable Court, by deliverance the said Writ under Seal in the said C. D. whereby the said C. D. was directed to appear in the said Court on the Morrow of the Holy Trinity then next, at the Suit of A. B. Complainant.

Sworn the Day &c. Before.

Affidavit. (Fr. Affirmer) Refining of Metal, Paradox metallis; inde, fine, and refine.


Affirmation. An Indulgence allowed by Law to the People called Quakers, who in Cases where an Oath is required from others, may make a solemn Affirmation that what they say is true; and if they make a false Affirmation, they are subject to the Penalties of the Statute. But this relates only to the Statute or to the Government, and on publick Occasions; for Quakers may not give Testimony in any Criminal Cause. 5 Stat. & 6 W. 3. c. 34. See Quakers.


Affratus, Appraised or valued, as Things vendible in a Fair or Market—Reinunt Rer. petitionem per condemnat et inamendam Americamentum tam afferre, quam non afferer, tam de quoc quam de omnibus hominibus. Cartular. Ghiflon. MS. f. 58.


Affrumenta, To add, increase, or make stronger—Cum Parvx et in variatве discende font laci centrae di confusio curiae Affrumentum efficacium antiquum, et alio apponatur alijs quibus numeris majoris partiis que diffusiores. Bract. lib. 4. c. 19. win. Let the Witnesses be increased.

Affrumenta, (Afferiture) To turn Ground into a Fort. Court. de Forref. c. 1. When Forref Ground is turned into another Use, it is called Dif- affrument. Vide Fortref.

Affray, is derived from the Fr. Word Affrayer, to affright, and it formerly meant no more; as where Persons appeared with Armour or Weapons not usually worn, to the Terror of others. Stat. 2 Ed. 3. c. 3. But now it signifies a Skirmish or Fighting between two or more, and there must be a Stroke given, or offered, or a Weapon drawn, otherwise it is not an Affray. 3 Stat. 13. It is impossible in the Court-Lect; and punishable by Judices of Peace in their Sections, by Fine and imprisonment. And it is derived from Afframent, in that it is a Wrong to the Publick; whereas Afframent is of a private Nature, Lamb. lib. 2. A Judge of Peace may commit Affrayers, until they find Satisfries of the Peace. A Complainant may require Affrayers to depart, and if they refill, he may call others to his Assistance; who, if they refuse to assist him, may be fined and imprisoned. And if he so refuses to Peron, or Stander-by, may put a Stop to an AFFRAY, and seize the Offenders, where Persons are assembled in a tumultuous Manner to break the Peace, 5 Stat. 128. H. P. C. 135. In Case a Person be dangerously
take the Oath of Allegiance to the King: At Fourteen, which is his Age of Discretion, he may confer to Marriage, and at Twenty-one he may alien his Lands, Goods and Chattels: A Woman at nine Years of Age is dovable; at Twelve the may confess to Marriage at Fourteen, the is at Years of Discretion, and may chuse a Guardian; and at Twenty-one she may alienate her Lands, &c. 1 Inf. 78. There are several other Ages mentioned in our ancient Books, relating to the Age of the Lord, Wardship, &c. now of no Use. Co. Litt. The Age of Twenty-one is the full Age of Man or Woman, which enables them to contract and manage for themselves, in Refect to their Estates, until which Time, they cannot act with Security to those as care with them; for their Acts are in mdc Caes either void, or voidable. But a Person under Twenty-one, may contract for Necessaries fallable to his Quality, and it shall bind him: Also one under Age may be Executor of a Will. 1 Inf. 171. And at Fourteen Years of Age a Person may dispose of Goods and Personal Estate by Will; tho' not of Lands till the Age of Twenty-one. It hath been adjudged, that if one be born on the 1st of February at Eleven o'clock at Night, and the last Hour of the Year in the One of the New Year at One o'clock in the Morning, he makes his Will of Lands, &c. and dies: yet such Will is good, for he then was of Age. Med. Caf. 362. A Person under the Age of Twenty-one may make a Purchase; but at his full Age he may agree or disagree to it. 1 Inf. 4. Where Persons marry, the Man under the Age of Fourteen, or the Woman within Twelve, they may disagree to the Marriage at those Ages: And the Law is the same in other Cases. Persons under the Age of Fourteen, are not generally punishable for Crimes: But if they do any Trespass, they must answer for the Damage. 1 Inf. 347. 2 Rol. Abr. 947. Fourteen is the Age by Law to be a Witness; and in some Caes a Person of nine Years of Age hath been allowed to give Evidence. 1 Han. 434. None may be a Member of Parliament under the Age of Twenty-one Years; and no Man can be ordained Priest till Twenty-four; nor be a Bishop till thirty Years of Age.

Age of Adults, (Aestatem precari or Eligius precari) Is when an Action being brought against a Person under Age for Lands which he hath by Deeds, he by Petition or Motion shews the Matter to the Court, and pays that the Action may stay till his full Age, which the Court generally allows. Term. de Leg. 306. But as a Purchaser, a Minor shall not have Age Prior: Not in a Writ of Affidavit, because it is of his own Wrong, and this the Writ shall not be delayed; or in a Writ of Dower; or of Partition. Stat. 3 Eliz. 1. 3 Ed. 3. 354. And in a Writ of Debt against an Heir, he shall have his Age, for at full Age he may plead Bona fide Defens. or a Release to his Ancestor, and be discharged. Dec. Abr. 319. See Part 1 Duumner.

Agentia, The true Lord or Owner of any Thing—Si person non fuerit in qua quaelibet in adegnificatis, solum legum. In e. 50. apud Brompt. c. 45.

Agst. (Agent. Fr. Agst.) A Gard at an Inn after three Nights, when accounted one of the Family. See Highbinder.

Agent and Patient, Is when a Person is the Doer of a Thing, and the Party to whom done: As where a Woman enlows a Brief of the best Part of her Husband's Possessions, this being the sole Act of herself to herself, makes her Agent and Patient. Also if a Man be indented unto another, and afterwards hire himself to the creditor his Executor, and dies, the Executor may retain so much of the Goods of the Deceased as will satisfy his Debt; and by this Retainer he is Agent and Patient, that is, desired to do and the Person that pays the name. But a Man shall not
not be Judge in his own Castle. Quid iniuriam eff alium fuit est fiet iuriferum. 8 Rep. 138.

Agitb. Signifies to be free from Penalitit, not subject to the customary Fine or Impoision. Sax. a Gild, Sugar, Silver, Liberty. Lagae, Legae, cap. 6. [is a gate officia to occidatur, pro eo quod contra Dei reatum & Reip. imperium Stat—] jacet Agild. In Lex. Hen. 1. c. 88. Agilda was a Peron to vile, that whoever kill'd him was to pay no blood for his Death.

Agiter. From the Sax. a gilt, an Observer or Informer.

Affiliation. A Hey-ward, Hard-ward, or Keeper of Cattle in a common Field. Towns and Villages had their Heywards, to superintend and guard the greater Cattle or common Herd of Kine and Oxen, and keep them within due Bounds; and if these were over-come, the Tenants, they were privileged from all customary Services to the Lord, because they were presumed to be always attending their Duty, as a Shepherd on his Flock. And Lords of Manors had likewise their Heywards to take care of the Tillage, Wurft-Work, &c. and see that there were no Incroachments made on the Lenten, or to the south of the Ridings of Baffins. Kennet's Paroch. Antq. 154, 576.

Agift, (from the Fr. Gilt, a Bed or Refiting Place) Signifies to take in and feed the Cattle of Strangers in the King's Field, and to gather up the Horse due for the same. Court. des Fors, fl. 3. c. 9. The Officers appointed for this Purpose are called Agifiers, or Gifters, and are made by the King's Letters Patents. There are four of them in every Forest where in the King hath any Pannage. Manw. for Laws 80. They are also called Affiters, to take Account of the Castle aged.

Agiment, (Agimentum) is where other Men's Cattle are taken into any Ground, at a certain Rate per Week: it is so called, because the Cattle are suffered agifer, that is to be latent and content there; and many great Farms are employed to this Purpofe. 2 Inf. 643. Our Graziers call Cattle which they thus take in to keep Gifmentes; and to gift or juice the Ground, is when the Occupier thereof feeds it not with his own Stock, but takes in the Cattle of others to agifer or pasture it. Agimentum is likewise the Profit of such Feeding in a Ground or Field: And extends to the Depaupuring of barren Cattle of the Owner, for which Tithes shall be paid to the Parson. There is Agimentum of Scar-Banks, where Lands are charged with a Relatin, or Reeve; Agifer are barren Lands whose Owners are bound to keep up the Sea-Banks. Spelm. in Romney-Mayh.

Agcindum. The Drift of Beasts in the Forest. Leg. Forf.


Agtna Brit. A Piece of white Wax in a flag oval Form, like a small Cake, flam'd with the Figure of the Lamb, and confecrated by the Pope. Agtna Dei, Crofts, &c. are not permitted to be brought into this Kingdom, on Pain of a Penaunitu. Stat. 13 Eth. c. 2.

Aggrarius Leg. A Law made by the Roman for Division of Lands among the common People.

Agreement, Agreement (agreement mentum) Signifies a joining together of two or more Minds in any Thing, to be done. Prow. 17. It is Threefold: 1. An Agreement executed already at the Beginning; as where Money is paid for the Thing agreed, or other Satisfaction made. edly, An Agreement after an Act done by another; as where one doth such a Thing, and another Person agrees to it afterwards, which is executed also: And edly, An Agreement executory, or to be performed in future. This last Sort of Agreement shall be divided into two Parts; one certain at the Beginning, and the other when the Certainty not appearing at first, the Parties agree that the Thing shall be performed upon the Certainty known. Termi de Ley 51. Every Agreement ought to be performed, full, and complete, being the mutual Consent of the Parties; and should be executed with a Recompence, or be so certain as to be evidence of a deceit. Remedy thereon. Prow. 5. Any Thing under Hand and Seal, which imports an Agreement, will amount to a Covenant; And a Proviso, by Way of Agreement, amounts likewise to a Covenant; and Actions may be brought upon them. 1 Lev. 155. An Agreement being put in Writing only for Remembrance, doth not change its Nature; but if it be put in Writing and delivered, it is of greater Force. Hob. 79. Where an Agreement for the Purchase of Lands, being in Writing, and signed by both the Parties, but not sealed; it was held good in Chancery, and decreed to be executed. Though where a Person gives a Guineas, &c. Earnest, without Agreement in Writing it is otherwise. Prew. Case. 16, 560. A Note of an Agreement signed by one Party only, will bind both in Equity: So it is of Agreements in Part executed, by delivering possession of the Lands, tho' neither Party sign them. Ab. Con. Eq. 21. But if the Deed in Possession or Reversion be made to me, I must agree to it, before it will be settled; for I may refuse, and so avoid it: A Realine, Deed or Bond, is made and delivered to another to my Use, this will not in me without any Agreement of mine: but if I disagree to it, I make the Deed void. Dyer 167. And regularly where a Man hath by his own Deed, or the Party himself, he can never after agree—An Obligation being made to my Use, and tendered to me, if I refuse it, and after agree again and will accept it; now this Agreement afterwards, will not make the Obligation good, that was void by the Refusal. Con. Litt. 79. 5 Rep. 119. An Agreement may be as well in the Party's Absence, as in his Presence; but a Disagreement must be to the Peron he is to whom the Deed was made. 2 Rep. 588. When an Estate is made to a Form Convene, it is good till Disagreement without any Agreement of the Husband; tho' a new Estate granted to the Wife where the husband an Estate before, as by the taking of a new Lease, and making a Surrender in Law, will not vest till the Husband agree to it. Hob. 204. A forced Agreement of the Party is accounted no Agreement, and therefore he that did agree to the Thing, shall not be compelled to perform it. 1 Litt. 42. An Agreement made only by Parson, may be discharged and made void, at any Time before the prejudice of the other Party; but not after it is broken, when an Injury is done. 24 Car. i. B. R. Agreements are to be in Writing, by Stat. 10, Car. 2. cap. 1. of Pren. and other Infinite Injuries: And by the Common Law, are governed by the Intention, or as near as it may be. If an Agreement be in the Nature of a Penalty, the Courts of Equity will not relieve against it; for the Terms shall be judged the Measure of Satisfaction to the Parties. Preced. Cas. 102. See Contract.

Articles of Agreement for Sale of an Estate.

Articles of Agreement, indented, made, concluded, and agreed upon the Day and Year. &c. Between A. B. of, &c. of the one Part, and C. D. of, &c. of the other Part, as followeth, viz.

FIRST, The said A. B. in Consideration of the Sum of, &c. to be paid as herein after it is mentioned, with covenant and agree with the said C. D. That he, the said A. B. shall and will, at the Cost and Charges of the said C. D. or in before the Day, &c. next coming, by such Conveyances, Ways and Means in the Law, as is Common, customary and lawful, do convey, release, and discharge the said Estate, Grant, convey and affray in the said C. D. and his Heirs, or to whom be or they shall appoint, and to such Use as be
A

I

AL

he or they shall direct, All that Miflens or Truant, etc. sinners, etc. with Covenanters to be therein contained against all Incomherence done or committed by him the said A. B. C. etc. as if for himself, his Heirs and Affligts, such covenant and grant to and with the said A. B. C. his Heirs and Affligts. That the said C. D. shall and will, on receiving the said Covenant, pay unto the said A. B. C. his Heirs or Affligts, the said Sum of, etc. as for the Purchase Money for the said Miflens, Truant and Premises abovementioned. This further agreed by and between the said Parties to thref preftrt, That the said C. D. his Heirs and Affligts, shall and may, on the Day, etc. enter into and upon the said Premises, and receive the Premises, etc. to his and their own life and life.

In Wintz, etc.

As for, In our Law, denotes stable Land in the common Fields. Farcare.

30th, (Aquitan) Is all one with the French Land, and is generally understood to be a Sobidy granted to the Crown. By the ancient Law of the Land, the King and any Lord of the Realm, might lay an Ad upon their Tenants, for Knitting an elder Son, or Marriage of a Daughter; but this was taken away by this Imposition, from which it was never lifted in former Times, seems to have defcoded to us Normanly, or rather from the feudal Laws. Grand Cypen. c. 55. It is said to differ from Tax in signification; for Taxes were aniently levied at the Will of the Lord, upon any Occasion whatsoever, but Ad could not be levied but where it was to be levied for an ulterior purpose to make the elder Son a Knight, marry the elder Daughter, or to redeem the Lord from Pleon. By Sextane 14 Ed. 1. It is ordain'd that the King shall levy no Ad or Tax without his Parliamet. For the last can be ordered by the King and by hisParliamet. (Aquitan Pettr) A Word made use of in Appealing, for a Person in Court to call in Help from another Person that has an Interest in the Thing considered: This gives Strength to the Party paying in Ad, and to the other likewise, by giving him an Opportunity of avoiding a Prejudice growing towards his own Right. As Tenant for Life, by the Curter, for Term of Years, etc. being impeded, may pray in Ad of him in Reversion; that is, before the Court that he may be called by way of Appeal to what he thinketh himself, for the Benefit of the Seaman, Peron calling him, and of his own. F. N. B. 50. Ad shall be granted to the Defendant in Ejection for the Sake of the Question: Left for Years, shall have Ad in Trefasai and Tenants at Will: But Tenant in Tall shall not have Ad of him in Remainder in Fees; for he himself hath Inheritance. Dean. 193. In a Writ of Tenpvia, the Avoerty being for a real Service; Ad is granted before Isle; and in Action of Trefasai after Isle joined, if there be Cavi, it shall be had for the Defendant, the sever for the Plaintiff. Just. Corn. 64. F. N. 7. There ought to be Privity between a Person that joins in Ad and the other to whom he is joined; otherwise Jointor in Ad shall not be suffered. Dean. 318. There is a Prayer in Ad of Patrons, by Patron, Vicars, etc. And between Coparceners, where one Coparcener shall have Ad of the other to recover Fees, etc. C. Litt. 183. And also Servants, having done any Thing lawfully in Right of their Majesties, shall have Ad of them. Terms of Law 54.

31st of the King, (Aquitan Regis) Is where the King is Tenator, and an Account of Rent demanded of him by others. A City or Borough, that hold a Fes-land of the King, if any Thing be done in it contrary to law, they may pray in Ad of the King: And the King's Bailiffs, Collectors, or Accountants shall have Ad of the King. In their Causes, the Proceedings are sopplid till the King's Counsel are heard to say what they think fit, for avoiding the King's Prejudice: And this Ad, shall not in any Case be granted after Isfe; for the King ought to rely on his own Laws, and not on another. Just. Corn. 64. Terms of Law 55. Stat. Ed. 1 & 14 Ed. 3.

32nd, (of the French Land, i.e. Jews) Signifies a Writ which lies where a Man's Grandfather or Great Grandfather (called Bezal) was being held of Feuds and Tenements in Fee-Simple, the Day that he died, and a Stranger abated or entered the same Day, and dispossessed the Heir of his Inheritance. F. N. B. 222. The Aunt and the Niece shall join in a Writ of Ad of the Seiln of their Grandfather. And the Writ runs thus: Rex Vic. etc. Praxis A. B. s. in Ad, etc. redd. B. & D. annu Miftanges, etc. de quere, D. Anus praed. B. & praeus Pred. D. cusaret. isfis, isfis, etc.

33rd, (Schallnata) Include any Liberty of Passage, open Way, Water course, etc. for the Safe and Accommodation of Tenants. Kirk.

31st, Ad, Wo, etc. begins with Ad or Aed in the Names of Places, signify Antiquity; as Alnburg, Alnsworth, etc.


34th, Alnour or Alnouri etc. pro venias annis Bronerstai. 16 Ed. 1.

35th, The Ad, A Sceptre or white scabdalous Veil, anciently used by officiating Priests.

36th, Arima, This Word is used by my Lord Cobbe, and seems to signify a Tenure.—Dupleis of Thomas in Cam. Without a tenure is used by Aylam firmans, & adia pro Conquiture, etc. 21 Ed. 10.

37th, Albergillum, The name for Belforger: Omnium homn., etc. dexter Albergillum & capellarium Lencorum & Gladium Præter ali, here signifies a Defence for the Neck. Holward 611.

38th, Armis, Is a Word made use of for white Rest, paid in Silver. Rer. Parl. 6 & 7.

39th, Signifies the Fire; as Ader haed, is the best of all; Ader laffh, the worst dear.

40th, Albermann, (See. Felderamn, Lie. Albermann) Hath the same Signification as the Word, or Shew. But at this Day, and long since, they are called Albersmen who are Assigns to the Civil Magistrate of the City or Town Corporary. Stat. 14 & 15 15 Ed. 3. An Albersman ought to be an inhabitant of the Place, and Resident where he is chosen; and if he removes, he is incapable of doing his Duty in the Government of the City or Place, for which he may be discharded. 4. Med. 36. Albermann Langham was a Freeman of the City of London, and chose Albermann of such a Ward, and being nominated to the Court of Aldermen he appeared, and the oath to serve the Office was tendered to him, but he refused to take it, in Contempt of the Court, etc. whereupon he was committed to Newgate, and it was held good. March Rep. 179. The Aldermen of London, etc. are exempted from serving inferior Offices; nor shall they be put upon Affairs, or serve on Juries, so long as they continue to be Aldermen. 2. 187. In Solomon's Glossary we find that we had antiently a Title of Albermannius tonsor Angliae; Winesett this Inscription on a Tomb in Romsey Abbey,—his episcopis D. Albermann incolae Regi. tonsor Angliae tonsor Amiens, etc. dux darrensam, & Josue Sacri Canodi mirificaeque Paulustor. And this Officer was in the Nature of Lord Chief Justice of England. And there was one of the Degrees of Nobility among the Saxons, and signified an Earl; sometimes applied to a Place, it was taken for a General, with a Civil Jurisdiction as well as eit
Binary Power; which Title afterward was used for a Judge to set out no more than Lower.


28. Allertum, A Sort of Hawk called a Launder.

29. lift. (Sat. Aether) A Cauldon or Furnace, wherein boiling Water was put for a Criminal to dip his Arm in, and there it hold for some Time. De Canse.

30. (Una) Are to be licensed by Judges of Peace, who take Recognizances of Alehouse-keepers not to suffer Disorders in their Houses, and they have Power to put down Alsbus, &c. But the Act is not to restrain Selling of Als in Pairs. & Ed. 6. c. 25. Alsbus-keepers are liable to a Penalty of 20. s. for keeping Alsbus under 3 Pounds weight, nor under 10. for selling Als in short Measure; and 10. for permitting Tipsing, &c. And Permits required to buy, Alsbus-keepers, &c. shall sell their Als in a full Ale Quart or Pint, according to the Standard in the Exchequer, marked from the said Standard; and Sub-Commissioners or Collectors of Excise thereupon to provide substantial Ale Quarts and Pints in every Town in their Divisions; and Mayors and Chief Officers to mark Measures, or forfeit 5. by Statute 17. c. 1. t. 8. 3. Car. 1. t. 11 & W. 3. c. 6. See Bea.

31. (Pec. Licentie) In London, must be taken out from Commisarios of Excise, &c. on which a Duty is to be paid to the Crown; and not taking out a License or Permission, incurs a Forfeiture of 20. but this Statute does not take away the Power of Judges in Licencing and Regulating Vintailors, &c. Stat. 12. c. 1. t. 3. The Duty granted on Als-Licences, by this Statute, is repealed by 16 Geo. 2. cap. 12.

32. (Laws) To go without Day, owes. To be finally dissolved the Court, because there is no further Day assigned for Appearance. Kock, 467.

33. (Officer) A Rent or Tribute annually paid to the Lord Mayor of London, by those that sell Als within the Liberty of the City. Antq. Purvis, 187.

34. (Place) A May-Pole called Alsbus, because the Country People drew much Als there: But it is not the same Place, but it lies in the Ground, with a Sign on it, that Als was to be sold.

35. (way) Is an Officer appointed in every Court. Lett. sworn to look to the Ais and Goodcause of Als and Beer, &c. within the Precincts of the Lordship. Kock, 45. In London there are Als-Commissioners, who are Officers appointed to take Als and Beer, &c. in the Limits of the City.


37. (Name) Is the Manner of Description of a Defendant, when filed on any Specialty, as a Bond, &c. where after his Name, and common Addition, then comes the Alias ditto, &c. and describes him again by the very Name and Addition, whereby he is bound in the Writing. Drye 50. But the Alias ditto is laid to be only Repetition, and not the Truth. Tenet. Cour. t. 119. See Mynner.

38. (Abiais, Abiennes) One born in a strange Country, out of the Allegiance of the King: It is taken out of the forces, but he is not a natural Subject. But a Man born out of the Land, so as it be within the Limits of the King's Obedience beyond Sea; or born of English Parents out of the Obedience of the King, if the Parents at the Time of the Birth were of

fisch Obedience, is no Als. Stat. 25 Ed. 3. c. 2. And if his Wife or Children, come and reside in England, his Children begotten and born here are not Als but Denizens. 7 Rep. All Persons being the King's Natural-born Subjects, may inherit, an Heirs to the Crown, and all the Persons who are entitled to succeed the King are Als, by Statute 11 & 12 W. 3. c. 6. Children of an Ambassador in a Foreign Country, by a Wife being an English Woman, by the Common Law, are natural-born Subjects, and not Als. 7 Rep. 11. And if an English Merchant living beyond Sea marries a Wife there, and hath a Child by her, and dies, this Child is not a Denizen, and shall be heir to him, notwithstanding the Wife be an als. Cr. Car. 605. March 91. Those which are born in the English Plantations, are Subjects born. Down. Abr. 212. There are two Incidents regularly that are necessary to make a Subject born; First, That his Parents, at the Time of his Birth, be under the actual Obedience of the King; Secondly, That the Place of his Birth, be within the King's Dominions, 7 Rep. 8. And it is the Place of Birth that makes the Disability of an Als to have Lands, &c. The Blood is not the Disability, but the Place of Birth, 3519. Als can hold no Land by Defeat or Purchase, or be Tenant by the Curtesy, or in Dower. 3 Rep. 507. An Als may purchase a House for Years, for Habitation during his Life, though it be not in one of the said places, tho' not Lands. If an Als, being a Merchant, leaves the Realm, the King shall have the Lease; and if he dies here poissed thereof, his Executors or Administrators shall not have, but the King; he having it only as an Habitation for his Trade. If an Als is no Merchant, the King shall have his Lease for Years, tho' it were for his Habitation. 7 Rep. 18. 1 inst. 1292. 2 inst. 741. In Case an Als purchase Lands, the King upon Office found, shall have it. 1 inst. 2 Als are prohibited to purchase Benefices, without the King's License, nor the Stat. 7. c. 12. A De-

vice of Lands to an Als is void. 4 13e. 82. And if a Man be bound to an Als Enemy in an Obligation, the Bond is void to him; but the King will have it. 2 13e. 59. Down. Abr. 332. Als may obtain Goods and personal Efftore, by Trade, &c. and may maintain Actions for the same; they may also have Alisons of Alisal and Batery, and for Support of their Credit. 1 13e. 154. But they cannot bring any Real Action, unless it be for an Horse for necessary Habitation, being for the Benefit of Trade. 7 Rep. And an Als cannot buy or have a House and Land, by the Act unknown; nor get any Thing lawfully within this Realm. Term. de Ley. 36. An Als Enemy coming into this Kingdom, taken War, shall fully be read by the Marital Law; and not be indicted at Common Law, for the Indictment must conclude contra Lieutenanies, &c. Als was never in the Protection of the King. Molley de jur. Morit. 417. Als living under the Protection of the King, may have the Bene-

fit of a General Pardon. Hob. 271. No Als shall be returned on any Jury, nor be sworn for Tryal of Matters between Subject and Subject, &c. But where an Als is Party in a Cause depending, the Inquest of Jurors are to be half Denizens, and half Als: But in Cases of War or other common Distraint, allowed. 2 inst. 17. An Als shall not have any Vote in the Choice of Knights of the Shire, or Burgess for Parliament. Hob. 370. And Persons that are Als, or born out of the Realm, are incapable to be Members of Parliament, enjoy Offices, &c. Stat. 11 W. 3. c. 2. Als are to take an Oath to be true to the King, and obedient to his Laws: They shall not take Appren-
tices, but they be the King's Als, nor are Strangers not being Denizens and Holders of Als reftained from keeping any Shop, &c. to execute their Handicrafts: And the Goods and Wares of Als are to be examined and marked, by Wardens of Handicrafts,
right Standard Silver consists of eleven Ounces two Penny Weight of Fine Silver, and eighteen Penny Weight of Alloy: Lunaria’s Effray upon Cain, pag. 19.

One Penny Weight of Angel Gold, is worth four Shillings and Two pence; of Crowns Gold, these Shillings and Ten pence; and one Ounce of pure Silver, is worth five Shillings and Four pence; and with Alloy, five Shillings. Mod. Taf. iii. Coin, pag. 120.

Aldhouses, Alhonna (formerly called Lignaneus, from the Latin Allegiantis & Ligare, i.e. Lignaneus Fidei) is the sworn Allegiance, or Faith and Obedience, which every Subject owes to his Prince. It is either perpetual, where one is a Subject born; or where one hath the Right of a Subject by Naturalisation, or it is Temporary, by Reason of Residence in the King’s Dominions. To Subjects born, it is an Inde-
dent invariable; and as soon as born they owe it by Birth-right Obedience to their Sovereign: And it cannot be confined to any Kingdom, but follows the Subject wherever he goes. The Subjects are hence called Ligny People, and are bound by this Allegiance to go with the King in his Wars, as well within as without the Kingdom. 1 Inf. 2, 393. 2 Inf. 741.

All Persons above the Age of Eighteen Years, are to be required to take the Oath of Allegiance in Courts-Leet. And there are several Statutes requiring the Oath of Allegiance and Supremacy, to be taken under Penalties: Judges of Peace may summon Persons above the Age of Eighteen Years, to take their Oaths. 1 Eliz. 1 W. & M. &c. 21 Eliz. Absolving any Persons from their Allegiance, is High Treason, by 1 & 21 Eliz.

Aldiance, To defend or justify by due Court of Law—Re guardians, &c. suo Ad alis allegare fraternum Regis Wirculidum sic facit, Leges Alvar. cap. 4. Spelm.

Alcertain. The Word Alcertain is used to make what is added to signify superlatively; as All good is the greatest Good.

Albicans, Signifies Nourishment or Maintenance: And in a legal Sense, it is taken for that Allowance which a married Woman does for and is entitled to, upon any occasional Separation from her Husband. Term. de Leg. 38. Where a Woman is di-
voered a Mensa & Thora, she may sue her Husband in her own Name for Alimony or Maintenance out of the Husband’s Property, first in the Chancery or Spiritual Court; and it will be allowed, except be in Cases of Elopement and Adultery. 1 Inf. 395. But the Spiritual Court is the proper Court to sue in for Alimony: And the not allowing a Wife Maintenance, is not an Offence within the Statute 1 Eliz. but a Neglect of the Husband’s Duty, and a Breach of his Vow. 27 Rep. 30. A Man may be feed in the Spiritual Court for Beating his Wife, and he may be ordered to pay her so much per Week. But Prohibition hath been granted by B. R. in such Cafe; and the Wife may have Suits of the Peace for unreasonable Beating her. Trin. 1 Tact. 1. Mor. 974. Alimony was asswntly expressed by Re-
nahable Eorumium, Reasonable Maintenance.

Rest. Vic. Bucks satisf. Praticum ribe quasi de Mar-
tegia Emmane de Pimcaney aunam Laurenni Jenie, qui Excomntaistis of, so jud pridelinam Emmam affectie

Aldounty, (Fr. Alhonna, to lighten) Is used for one who coloureth or paints upon Paper or Parchment; and the Resin is, because he gives Light and Ornament by his Colours to the Letters or other Figures. The Word is used Stat. 1 R. 3. c. 9. But we now call such a one a Limner.

Almangh, is Part of the Law of England, of which the Courts must take Notice, in the Returns of Writs, &c. but the Allegiance to go by, is that annexed to the Book of Common Prayer. Mod. Cas. 41. 81.


Almuer,
A

M

A

M

immoner, or Shmonen, (Eloeminusarius.) An Officer of the King's House, whose behaviour it is to distribute the daily Dishes. He ought to admonish the King to bellow his Alms, especially upon Saints Days and Holydays: and he is likewise to visit the Sick, Widows that are poor, Prisoners and other necessitous Persons, to relieve them under the pretence of the Want; for which purpose, he hath the Fortresses of Declands, and the Goods of Riches to give, allowed him by the King. To this, the Lord Almoner has the Disposition of the King's Dishes, after it comes from the Table, which he may give to whom he pleases: and he distributes Fourpence, Meat, Brede, and a Gallon of Beer; or instead thereof Three-pence daily at the Court-gate to Twenty-four poor Persons of the King's Parish, to each of them that Allowance. This Officer is usually some Bishop.

Aimtor, or Aimmeson, Saxon for Almen-Hony: It has been taken for what we call Peter-Pence, first given by the King of the West Saxons, and annually paid in England on the first of August. It was likewise called Romesun, Romesfest, and Heropingest. Seladam's Hill, Tithes 217.


Almanoid, (French Almanoe.) Signifies a Menager, particularly the Measuring with an Ell. Stat. 17 Ed. 4. cap. 5. and Almaneg, (French Alme, Latin Uniger.) Is properly a Menager by the Ell; and the Word Acid in French signifies an Ell. An Almaneg with us is a publick sworn Officer of the King's, whose duty it is to count the Cloth, made throughout the Land, and to fix Seals upon them; and another Branch of his Office is to collect a Subsidy or Almaneg Duty granted to the King. He has his Power by Stat. 25 Ed. 5. and several other ancient Statutes; which appoint his Fees, and inflict a Penitence for putting his Seal to deceitful Cloth, &c. win. a Forfeiture of his Office, and the Value. 47 Est. 3. 5 R. 2. But there are now three Officers belonging to the Regulation of Clothing, who bear the distinct Names of Searcher, Measurer, and Almaneg, and all three are commonly appointed to one Person. 4 Inf. 31. And because the Subjects of this Kingdom should not be abused, an Office of Searching is established by Act of Parliament.

Almoner, A Place beyond Arms or a Groce of Alder-trees.——Alnemun eft ab Alh ardres erigirem.——Domestacy Book.


Almoner, Of Purse. This Word is mentioned in Ptolemy lib. 2. c. 92. par. 2.

Almagumor, (Altomargum.) The Offerings made upon the Altar, and also the Fruit that arises to the Priests by Rents of the Altar, nee Almair, Michel. 21 Ed. It was declared that by Altarages is meant Tithe of Wool, Lams, Colts, Calves, Figs, Chickens, Butter, Chercl. Fruits, Herbs, and other small Tribes with the Offerings due: The Cafe of the Vicar of Welf-Hadden in Northampshire. But the Word Altarage at first is thought to signify no more than the casual Profit. It has for the People voluntary Oblations at the Altar; out of which a Portion was assigned by the Parson to the Vicar: Since that, our Parson have generally consented themselves with the greater and fixed Tithes upon Each Hay; and have left the small Tithe to the officiating Priests: And hence it is that Vicarages are endowed with them. Terma de Leg 59. 2 Car. 516.——Pictorius 1


Altus, or Caelum, (Lat.) Is a Changing of a Thing: And when Winesales are examined on Exhibits, &c. they ought to remain in the Office, and not be taken back into private Hands, by whom they may be altered. Val. 254.


Ambassadour or Clerk. Cervel.

Ambastor, (Legatus) Is a Servant of the State, representing the King in a Foreign Country, to take Care of the Publick Affairs. And Ambassadors are either Ordinary, or Extraordinary; the Ordinary Ambassadors are those who reside in the Place while he is there; and the Time of their being indefinite, to their Successor's uncertain, arising from emergent Occasions; and commonly the Protection and Affairs of the Merchants is their greatest Care: The Extraordinary Ambassadors are made pro tempor, and employed upon some particular great Affairs, as Conclaves, Confirmations, or for Overtures of Marriage, &c. Their Equipage is generally very magnificent; and they may return without requiring of Leave, unless there be a restraining Clause in their Commission. Molloy 144. An Agent represents the Affairs only of his Master; but an Ambassador ought to represent the Greatness of his Master, and his Affairs. Med. By the Laws of Nations, none under the Quality of a Sovereign Prince can send any Ambassador: A King that is deprives of his Kingdom and Royalty, hath lost his Right of Legation. No Subject, though he ever so great, can send or receive an Ambassador; and if a Viceroy does it, he will be guilty of High Treason: The Electors and Princes of Germany, have the Privilege of sending and Reception of Ambassadors; but it is limited only to Masters touching their own Territories and not the State of the Empire. It is said there can be no Ambassador, without Letters of Credence from his Sovereign, to another that hath sovereign Authority: And if a Person be sent from a King or some great Primate, though in his Letters of Credence he is termed an Agent, yet he is an Ambassador, he being for the Publick. 4 Inf. 153. Ambassadors may by a Precaution be warned not to come to the Place where he is; and if they then do it, they shall be taken for Enemies: But being once admitted, even with Enemies in Arms, they shall have the Protection of the Laws of Nations, and be preferred as Princes. If a Prince, the People without whom he cannot return, is sent as an Ambassador to the Place from whence he is banished, he may not be detained or molested there. 4 Inf. 153. The Killing of an Ambassador, has been seldom approved of in the French Law. Some of them are allowed by Concessions, to have Jurisdiction over their own Families; and their Housés permitted to be Sandarishes: But where Persons who have greatest
offended by their Houses, after Demand and Refusal to deliver them up, they may be taken from thence. Ambassadors cannot be defended when they commit any thing against the State, or the Person of the King, with whom they reside. 4 infra. 152. An Ambassador guilty of Treason against the King's Life, may be condemned and executed: But for other Treasons, he shall be first hong, with Demand to punish him, or to send him back to be punished. 4 infra. 152.

4 infra. 152. 1 Croll. Rep. 185. If a Foreign Ambassador commits any Crime here, which shall be in Point of Conspiracy, which is against the Law of Nations; he loathes the Privilege of an Ambassador, and is subject to Punishment as a private Alien; and he need not be remanded to his Sovereign, but of Curytay. Davw. Abr. 327. But if a Thing be only Malum Prohibitum by any Act of Parliament, Private Law, or Custom of the Realm, and it is not a jus Gratiae, an Ambassador shall not be bound by them. 4 infra. 153. And it is said Ambassadors may be excused of Pretexts against the State where they reside. 4 infra. 153. It is to be in Point of Conspiracy, which is against the Law of Nations; because it doth not appear whether they have it in Mandate; and then they are excused by Necessity of Obedience. Bac. Max. 20. By the Perkon of an Ambassador, they may not be arrested; and the movable Goods of Ambassadors, which are accounted an Accesion to their Perkon, cannot be seiz'd, as a Pledge, nor for Payment of Debt, that out of the King or State where they are Resident; but on Refusal of Payment, Letters of Requittal are to go to his Master, 2 Croll. 157. Davw. 349. By the Statute Law, an Ambassador, or Publick Minister, or his Domelock Servants, reglified in the Secretary's Office, 2 Croll. are not to be arrested; if they are, the Process shall be void, and the Processors being out and execute, shall be fined 20s. a day for Misdemeanors and Corporal Punishment as the Lord Chancellor or either of the Chief Justices shall think fit. Stat. 7 Ann. cap. 12. Also the Goods of an Ambassador, or of his Servants, shall not be distrained. Stat. 7 Ann.

Ambassador, (Lat.) One that can use his left Hand as well as his right; or that plays on both Sides. But in a legal Sense, it is taken for a Junior or Embassador, who takes Money of both Parties for giving his Verdict; and such a one shall be imprisond, never more be a Jury, and further punished at the King's Pleasure. Trumb. 3. c. 10. Comp. 349. 152. See Deuris tusing.

Ambition, (Sax. Amber, Lat. Ambitium) A Vellid among the Romans, a vessel contained a Measure of Salt, Bread, Meal, Beer, 2 Croll. Leg. Ine Wit. Sax.

Ambly, The Place where the Arms, Plate, Vessels, and every Thing which belong'd to Housekeeping were kept; and probably the Ambly at Windsor is so called, because formerly set apart for that Use: Or rather the Amury, from the Latin Elementarium, an House adjoining to an Abbey, in which the Charities were laid up for the Poor.

Amennablity, (Fr. Amenité) To bring or lead unto; Or Amaniable (from the Fr. Menn a Haud) signifies tractable, that may be led or governed, and in our Books it is commonly applied to a Woman, that is governable by her Husband. Cen. Interp.

Amendment, (Emendatio) The Correction of an Error committed in a Process, which may be amended after Judgment; and if there be no Error in giving the Judgment, the Party is driven to his Writ of Error: Though where the Fault appears to be in the Court of Error, it may be amended. Terms de Leu 39. A Plaintiff may amend his Bill on the File at any Time before the Plea pleased; but not after Joined, 3 Lill. Ab. 58. Original Writs are not amendable at Common Law; for if the Writ be not good, the Party may have another. Judicial Writs may have been once amended. 8 Rep. 157. And by the Statutes 8 H. 6. and 18 Eliz. the Misprision of the Clerk, &c. is amendable in Original Writs; but it must not be in another Term. Bulk. 276. 1 Croll. 352. The Clerk is amendable in the legal Form of the Writ, it is not amendable: There is a Diversity between the Negligence and Ignorance of the Clerk, that makes it not Writs; for his Negligence (as if he have the Copy of a Bond, and do not purifie it) shall be amendable; but his Ignorance in the legal Course of Original Writs is not amendable. 8 Rep. 157. A Party's Name was mistaken in an original Writ; and it appearing to the Court that the Curitors Infructuons were right, the Writ was amended in Court; and they amended all the Proceedings after. 3 Writ. 152. Cor. Cas. 74. If a Thing which the Plaintiff ought to have entered himself, being a Matter of Subsistence, be totally omitted, this shall not be amendable, but servant is if omit-

Davw. Abr. 346. By the Common Law a Writ of Error returned and filed, could not be amended; because it would alter the Record; But now by Stat. 1 Cor. 13. Writs of Error wherein there shall be any Variance from the original Record or other Defect, may be amended by the Court where return'd. When the Award of a Writ of Inquiry on the Roll is good, the Writ shall be amended by the Roll. Carth. 70. The Court cannot amend to make a new Writ; or to alter a good Writ, and adapt it to an Amendment in the Facts; for when the Writ is bad and vicious in the Face of it. Mod. Cas. 265, 310. A Declaration grounded on an original Writ, may not be amended, if the Writ be erroneous, the Plea, or the Declaration in it, is not amendable. 1 Lill. Abr. 67. Declarations upon any penal Statutes, Qua tam, &c. may not be amended after Ille joined. 3 Med. 144. And Indictments of Treason, and Felony, Writs of Appeal, &c. are excepted out of the Statutes of Amendments; tho' some Things in them are amendable at Common Law. Mod. Capt. 259. A Plaintiff may amend his Declaration in Matter of Form after a general Ille pleased, before Entry thereof, without Payment of Costs. If he amend in Subsistence, he is to pay Costs, or give Imparalance; and if he amend after Plea, though he would give Imparalance, he must pay Costs. 1 Lill. 58. A Declaration in Ejdement lain the Demise before the Writ; this was not amendable; for it would alter the Ille, and make a new Title in the Plaintiff. 1 Sall. 48. The Plaintiff depon'd on the Statute of Wason for a Robbery done to himself, when it should have been of his Servants; he had Leave to amend. 3 Lawc. 347. If a Defendant pleads a Plea to the Right, or in Abatement, the Plaintiff may amend his Declaration; but where he demurs, for this Fault may be the Cause of the Demurrer, and after Ille joined, a Plea may not be amended. A Demurrer may be amended, after the Parties have joined in Demurrer, if it be only in Paper. Style 48. Where a Plea shall be amended, when in Paper, or on Records, &c. See the Statute 4 Geo. 2. c. 36. An Ille entered upon Record, with Leave of the Court may be amended but not in a material Thing, which will deface the Record. 1 Lill. Abr. 61. A Record may be amended by the Court in a small Matter, after Ille joined, 3 Lill. 45. As a Writ of Error a Record is amended in another Court in Affirmance of the Judgment, it must be amended in the Court where Judg-
The Ammunition was given. Hardr. 505. Where the Record of Nef * príus does not agree with the original Record, it may be varied, provided it do not change the Ifine: But a Record shall not be amended to attain the Jury, or prejudice the Authority of the Judge. Mich. 23. A General or Special Verdict may be rendered by the Clerk of Affidants in Civil Cases; but not in Criminal Actions. 1 Silk. 47. The Ifine Roll shall be amended by the Impar- liance Roll, which is precedent: But a Roll may not be amended after Verdict, when there is nothing to amend it by; the Surplusage may be rejected, and to make it good. 6 Civ. Cas. 92. 1 Sid. 135. A Miflake of the Clerk in entering a Judgment; as where it was that the Defendant recovered, instead of the Plaintiff, &c. was ordered to be amended. 6 Civ. Cas. 651. Holt. 41. A Judgment may be amended by the Paper-book signed by the Master. 1 Stat. 50. At Common Law, the Judges may amend their Judgments of the same Term; and by Statute of another Term. 8 Rep. 156. 14 E. 3. If Judgments are not well entered, on Payment of Costs they will be amended to be so. When Judgments are entered, 'tis said the Defects therein being the Act of the Court, and not the Mis- prision of the Clerk, are not amendable. Coop. 104. Mistakes in Returns of Writs, Fines and Recoveries, made by mutual Affent of Parties may be amended. 8 Rep. 45. Judgment Roll shall not be altered after Verdict, unless by an Original Writ, or varies from the Record in Point of Form, which are amendable. 4 Rep. 45. After Verdict given in any Court of Record, there shall be no new Judgment for Want of Form in any Writ, or Indefinite Return of Sheriffs, Variance in Form between the Original Writ and Declaration, &c. Stat. 32 H. 8. 8 Eliz. Vide 3 Cas. 1. Where Judgment shall not be reversed for Defects in Form or Substance. It is said, there are only two Sta- tutes of Amendments; the 14 Ed. 3. c. 6. and 8 H. 6. c. 12. The left being Statutes of Jœflaws; and the Statute of H. 6. c. 12. is so enlarged that ed. 3. which extends only to Proces out of the Roll or Record, and not to Proceedings in the Roll itself: But neither of these Statutes extend to the Crown. Mod. Cas. 268, 28. Imperfections and Defects are aided after Ver- dict, by the Statutes of Jœflaws: And by a 45 Q. 5 & 129. all the Statutes of Jœflaws shall be extended to Judg- ments upon Confession, Nikol deit, &c. Alfo upon Dishonor, the Judges shall have Judgment without regarding Imperfections in any Writ, &c. except the fame be let down as Caufe of Dishonor. Stat. 4 & 5 Anne. c. 12. Amendments are usually made in Af- firmance of Judgments; and seldom or never to de- stroy them: Where Amendments were at Common Law, the Party was to pay a Fine for Leave to amend. 3 Stat. 29. Amicorum, Amicorum, (from the Fr. Mer- ci) signifies the pecuniary Punishment of an Offender against the King, or other Lord in his Court, that is found to be in Miserericordia, i.e. to have offended, and to stand at the Mercy of the King or Lord. The Au- thor of Terms de Ley faith, that Amicorum is pro- perly a Penalty inflicted by the Peers or Equals of the Party amicordia, for the Offence done; for which he purfeth himself at the Mercy of the Lord. Terms de Ley 40. And by the Statute of Magna Charta, a Fre- man is not to be persecuted for a small Fault, but pro- portionable to the Offence, and that by his Peers. 9 H. 3. c. 4. Amicorum are a more merciful Pe- nalty than a Fine; and for which they are more grievous. A Release may be fued by an ancient Writ called Modertata Miserericordia. The Difference between Ami- corum and Fine, is this: Fines are to be Pay- ned which may grow either from some Statute; but Amicorum are such as are arbitrarily im- posed. Kitch. 78. Alfo Fines are imposed and inflicted by the Court: Amicorum by the Country: And no Court can impose a Fine, but a Court of Record: other Courts can only amerce. 8 Rep. 39. 41. A Court-leet can amerce for Fines: and a Court Baron for Aids. 1 Stat. 135. For a Fine and all Amicorum in a Court-leet, a Difrefus is incident of common Right: But for Amicorum in a Court Baron, Difrefus may not be taken by the Petition of the Clerk of Affidants. 1 Rep. 45. Where a fine is tendered in an Amicorum is agreed on, the Lord may have an Affidion of Debt, or disenfranchise, and imposed the Difrefus, or allow the Defekt; and his Pleasfare: But he cannot im- plement for it. 8 Rep. 41. 45. In Courts Baron, the Amicorum ought to be suffered; but the otherwise of Fines imposed by a Court of Record. 2 Inf. 27. In a Court Baron, or not doing Suit of Court, Persons making any Incorporations, not performing what is ordered, or for other Misdemearors there pun- nifiable, are to be amerced: These Amicorum are made upon Prefentment of the Jury; and if they are grounded upon a void Prefentment, the Amicorum are also void. 1 Litt. Abr. 72. There is also Amicorum in Fees in the Courts of Record, when a De- fendent delays to tender the Thing demanded by the King's Writ, on the fist Day. 1 Inf. 116. And in all Personal Actions without Force, as in Debt, Debitu- min, &c. If the Plaintiff be nonnull, barred, &c. he shall not be amerced. 1 Nelf. Abr. 306. And an Infant if nonnullified, is not to be amerced: 'Tis otherwise when at Age. Tert. 258. Sheriffs are to be amerced for the Fauls of their Officers; and Clerks of the Peace are amercable in B. 3. for grafts Fauls in Indictments removed thither. Hill. 21. Car. The Amicorum of the Sheriff, or other Officer of the King, is called Amicorum Royal. Terms de Ley. A Town shall be amerced for the Escape of a Murderer, in the Day-Time: And if the Town be walled, 'tis said, it shall be subject to Amicorum, whether it be Day or Night. 3 Stat. 53. Amicorum are like- wise in several other Cases. Amicitia, (from the Lat. Amicitia) is Taken for a pri- vately Garment. Amicitia, (the same with Almaceum,) A Cap made with Goats or Lamb Skins; that Part whereof covered the Head was square, and one Part at it hung behind, and covered the Neck. Almaceum 3 Tom. p. 56. Amicitia, was the uppermost of the 3 Garments worn by Priests, tied round the Neck, and it covered the Head and Neck. And as a thing to be made appear by Suggestion on the Roll by Motion; sometimes by Pleading, and sometimes as Amicitia. 2 H. 5. 548. Any one as Amicitia may move to quash a vicous Indict- ment; for if there were a Trial and Verdict, Judg- ment must be arrested. Common l. 13. A Council ordal, that he might as Amicitia curia, inform the Court of an Error in Proceeding, to prevent giving false Judg- ment; but it was extended, unless the Party was pre- sent. 2 Show. Rep. 197. Antiterre Legerm Curia, To lofe and be de- prived of the Brief or Swearing in any Court: As to become infamous, renders a Person incapable of being an Evidence. Vide Glanvill, lib. 2. and see the Sta- tutes 6 Eliz. cap. 5. against Porcupine. Altamurum, Expressio ex nomine femper in Com. Filat. testatoris de Domino Rege per certa formulac, & per Amo- brogiacum quod ad quinque Solida extenditur omni ex- cedit. Pat. 7 Ed. 2. Amicitia,
Amnesty, (Amnestia, Obiowin) An Act of Pardon or Obiowin, such as was granted at the Restoration by
King Charles II.

Amnestia Jurate, Isles upon the West Coast of
Britain. Blount.

Amnestiation, (Amnistia, Fr. Amnistitation) Is an
Alienation of Lands or Tenements in Mortmain, as
to the Corporation or Fraternity, and their Suc
cessors, &c. And the Right of Amnestiation is a Privi
gle or Licence of taking in Mortmain. For Amor
nistations or privileges for Licentia capitains in Marum
Mortmain. In the Statute de Liberatis perquirendi
Ann. 27 Ed. 1. the word Amnistiation is used.

Amnestiy, (Fr. Amnistie) Is to alienate Lands in
Mortmain, and the Stat. p Ed. 1. of
amnestiating Lands.

Amplification, (Ampliatio) An Enlargement, but in
Senec of Laws it is a Referring of Judgment, till the
cause is further examined.

Amy, (Amine) In Law Precedent Amy is the next
Friend to be trusted for an Infant. Alien Amy Is a
Foreigner here subject to some Prince in Friendship
with us.

An, Jour o' Els, (Fr.) Year, Day and Waifs; A
Forfeiture of Lands to the King by Tenants com
mitting Felony, and afterwards the Land falls to the
Lord.

Ancestor, (Ancestor) Signifies as much as a Prede
cessor, or one that has gone before in a Family: But
the Law makes a Difference between the two; for we com
monly call an Ancestor and a Predecessor; the one
being applied to a natural Peron and his Ancestors, and
the other to a Body Politick and their Predecessors.

Ancestral, (Ancestral) A Proprietary of an Estate has
been called Ancestoral.

Ancestral, What relates to or hath been done by
one's ancestors; As Heritage, &c.

Ancestral, Is a Mixture of Brandy, &c. containing
ten Gallons. Less Merit.

Ancestral, Is an act of Ships for the Use of the Haven where they call Anchor.
MS. Arch. Trewar, Ar. The Ground in Ports and
Havens belonging to the King, no Peron can let any
Anchor fall thereon, without paying therefore to the
King's Officers.

Ancestral, Gentlemen of the Inn of Court. In
Gray's Inn, the Society consists of Benchers, Ancestors,
Barristers, and Students; under the Bar; and these
are the oldest Barristers. In the Middle
Temple, such as have gone through or are past their
Readings are termed Ancestors; The Inns of Cam
bridge consist of Ancestors and Students or Clerks; and
from the Ancestors one is yearly chosen the Principal or
Treasurer.

Ancestral Demise, or Domain (Fetus Patrimonium
Dominii) Is a Tenure whereby all the Manors belon
ning to the Crown in the Days of St. Edward, and
William, called the Conqueror, were held. The Num
ber and Names of all Manors, after a Survey made of
them, were written in the Book of Domus; and
thence by which that Book appear to have at that Time
belong'd to the Crown, and are contained under the
Title Terra Regis, are called Ancient Demesnes. Ritch.
62. Fishburn tells us, That Tenants in Ancient
Demesne had their Tenures from ploughing the King's
Lands, and other Works towards the Maintenance of
the King's Freehold, on which Account they had Li
berties granted them. P. N. B. 14. 228. And there
were two Sorts of their Tenures and Tenants; one
that held their Lands freelv by Charter, the other by
Copy of Court Records. A tenement of the Manor.
Brit. c. 66. The Tenants holding by Char
ter cannot be imprisoned out of their Manor; for if
they were, they paid, and they could not be charged
by anything their Tenure: They are free from Toll, for all Things
bought and sold concerning their Substance and Hud

Tansky. And they may not be intarneled upon any
inquest. F. N. B. 14. If Tenants in Ancient
Demesne are returned on Inquests, they may have a Writ de non
pandito in Aliis, &c. or Attachment against the
Sheriff. 1 Rep. 195. And if they are disturbed by
Toll, &c. they have a Writ of Manoveramini, to
dischARGE. These Tenures are free as to their Persons; and their Privileges are regu
lated to commence by Act of Parliament; for they
cannot be created by Great at this Day. 1 Salk. 57.
Lands in Ancient Demesne are extensible upon a Statute
Merchant, Staple, or Elegies. 4 Inst. 270. No Lands
ought to be accounted Ancient Demesne but such as
are held in Socage; and whether it be Ancient Demesne
or not, shall be used by the Book of Demesny. A
Leafe for Years, cannot plead in Ancient Demesne;
Nor can a Lord in Aliison against him plead Ancient
Demesne, for the Land is Frank-fee in his Hands.
Danw. Abr. 650. In real Affairs, Ejendem, Replys
vin, &c. Ancient Demesne is a good Plea; but not in
Ancient Demesne merely Personal. Danw. 638. If in
Ancient Demesne a Writ of Right Clofe be brought, and pro
fessed in Nature of a Foreclosure; a fine levied them by
the Cufrom, is a Bar: And if this Judgment be reversed in C. B. that Court shall only judge, that
the Plaintiff be referred to his Action in the Court of
Ancient Demesne; unless there is some other Cause, which
shall arise in Jurisdiction. 14 Inst. 270. Dyer 373.
A Fine in the King's Courts, will change Ancient
Demesne to Frank-fee as Common Law. 65. If the
Curfe of another of the Tenancy, or if the Land comes
to the King, &c. 4 Inst. 270. See Fine.

Ancienty, (Fr. Ancenstie, Lat. Ancestrum) Elder
ness or Seniority. This Word is used in the Statute
of Ireland. 14 Hen. 3.

Annen, A Swoth in Mewing: It likewise figu
res as much Ground as a Man could ride over at
once.

Anctes, A short Knife or Dagger.—Lael to
vat dominus, armata Ambulator. Mal.
Parl. 377.

Anctiwhite, or Anctiwhite, a simple Accuation ;
for the Saxons had two Sorts of Accuctions, win
simple and triplicus: That was called Single, when the
Oath of the Criminal and two more was sufficient
to discharge him; but his own Oath, and the Oaths
of five more were required to free him a triplici fuc
cationes. Simplicus in the Laws of Athelstan we read
Et s anctiwhite, &c. immutator manus post laetus
vel xemem uopus ad Wipse. Leg. Adelstina, cap. 19.
apud Brompton.

Angaria, (from the Fr. Angaria, i.e. Personall
Service) Is a troublesome vexatious Duty or Service
which Tenants were obliged to pay their Lords; and
they performed it in their own Person.

Tennent liberam at substans Angaria & Extinctionis, &c. MS.
Eliam Aitholute Arm.—Feftationi Angarii
Parangarii, Plenifurum & Noviwm.—Impref
fion of Ships. Blount.

Angetla, A Monkish Garment which Lay
men put on a little before their Deaths, that they
might have the Benefit of the Prayers of the Monks.
It was from them called Angelia; because they were
called Angeli, who by their Prayers anima fvalut fac
culante. And the Word Sacurament in our old
Books is understood of one who had put on the Habit,
and was near Death. Signifi of sacramentum mortis
fie he praemunim deiter, illicit recipient. Monastikon,
1 Tom. p. 632.

Angit, Signifyes, in the Computation of Money,
ten Shillings of English Coin.

Angit, (Angitum) The bare fingle Valuation or
Compensation of a Criminal; From the Sax. An Ote,
and Cold, Paymen. Ung. Sætps. Volumus fueris fuitis, &c. Et habens plebem, admi
naris eam de Angulo.—Tugilid was the double Mule.
or Fine; and Trigild the Treble, according to the rated Ability of the Peron. Law of Ion. c. 20. Spen. 214.

Anlute, A single Tribute or Tax. The Words Abate and Appose are mentioned in the Laws of the 342 Conqueror: And their Sense is, that every one should pay according to the Custom of the Country, his Part and Share as Scott and Lot, Or. Leg. W. c. 64.

Abatement, (Fr.) void, being of no Force. F. N. B. 214.

Annates, Yearlings, or young Cattle of the first Year. —Finito primo anno popum tam fast, Finiti Vincunt, et finisce compone Annales vacantes totius Be- niculi; quarto Bovetti. —Regule compoti Dominus de Farendon MS.

Annate, (Annate) This Word has the same Meaning with First Fruits, Ann C. 25 H. 5. c. 50. The Reason of the Name is, because the Rate of the First-fruits paid for Spiritual Living, is after the Value of one Year's Profit. Annuates were for apellant primus fructus anni animi secundorit vacantis, out dominium servum partem. Pol. Virgili de Invent. rer. lib. 8. cap. 2.

Annulling of Writs, (De mort. 17 44.) From the Saclie for any Action, Lights the Burning or Hardening of Title.

Annullment, (from the Fr. Annullement) Abrogated, frustrated, or brought to nothing. Lit. 3. cap. 367.

Anniversary Days, (Dict Anniversarii) Solemn Days appointed to be celebrated yearly in Commemo- ration of the Deaths or Martyrdoms of Saints; or the Days whereon, at the Return of every Year, Men were wont to pray for the Souls of their deceased Friends, according to the Custom of the Roman Ca- tholick, mentioned in the Statute of 1 Ed. G. cap. 14, and 1 Can. cap. 13. This was in Use among our ancient Saxons, as you may see in Lib. Ramm. Sect. 134. —Anniversaria dies idem repetitur defuncti, quam nos repetimus defuncti. De mort. 17 44.

Anno Domini, The Computation of Time from the Incarnation of our Saviour, which is generally inferred in the Dates of all publick Writings, with an Addition of the Year of the King's Reign, &c. The Romans began their Era of Time from the Building of Rome. The Greeks computed by Olympi- ad, and the Christians reckon from the Birth of our Lord Christ.

Annocation, Annunciation, or Nativity, Is a Word that is no more than the Birth done to a publick Place, as a High- way, Bridge, River, &c. or to any private Place, by laying any Thing therein—that may breed Infection, by Intercourse, or such like Means; and it is also taken for the Birth brought upon such a Transgression.

This Word is mentioned Ann C. 22 H. 8. c. 5. Vide Nativity.

Annua Penfons, An ancient Writ for providing the King's Chaplain unpreferred with a Penfion. It

was brought where the King having due to him an annual Pension from an Abbots or Prior, for any of his Chancels which he should nominate, (being un- provided of Living) to demand the fame of such Abbots or Prior. Reg. Orig. 165, 307.

Annuitant, Qualifying the yearly Rent or Income of a Prebendary.


Annuitats, (Annuities Redundis) Is a yearly Rent, pay- able for Ten of Years, Life, or in Fee; and it is used for a Writ that lies against a Person for Recovery of such Rent. Reg. Orig. 148. Annuitas hath also been defined to be a yearly Payment of a certain Sum of Money, granted to another for Life, &c. to be recei- ved of the Grantor or his Heirs, so that no Freehold be charged thereon: whereas a Man shall never have Allot to another Allot, but a Writ of Annuity. Terma de Log. sc. 44. The Treaty called Doctor and Stu- dent, Dial. 1. cap. 5, fles several Differences between a Rent and an Annuity, viz. that every Rent is ISSuing out of Life; but an Annuity charges the Person only, as the Grantor and his Heirs, who have Allot by Direc- tion: For the Recovery of an Annuity, no Action lies, but only the Writ of an Annuity; but of a Rent the same Remedy lies as for Lands; and an Annuity is never taken for Allot, because it is no Freehold in Law; nor shall it be put in Execution upon a Statute Merchant, Staple, or Engage, as a Rent ISSuing out of Land may. Dyer 145. 2 Rep. 144. If no Lands be bound for the Payment of an Annuity, a Disrepis may not be taken for it. Dyer 65. But if an Annuity ISSs out of Land, (which of late it often doth) the Grantor may bring a Writ of Annuity, and make it Personal, or an Allot, or Disrepis, &c. so as to make it real.

1 Inf. 144. And if the Grantor take a Disrepis; yet he may afterwards have a Writ of an Annuity, and discharge the Land, if he do not yet the Taking, which is in Nature of an Annuity. 1 Inf. 145. But if the Gran- tor of a Rent being an Allot for it, he shall never after have a Writ of Annuity; he having excised the Rent to be a Rent; so if the Grantor of an Annuity know the Taking of a Disrepis, in a Court of Record. Dyer. Inf. 49. And if the Grantor make Part of the Land out of which an Annuity is ISSuing, he shall never after have a Writ of Annuity, &c. Litt. 148. Where a Rent charge ISSing out of Lands, granted by Tenant for Life, &c. determines by the Act of God: as an Interest was vested in the Grantee, it is in his Election to make it a Rent-charget, and so charge the Lands therewith, or a Personal Thing to charge the Person of the Grantor in Annuity. 2 Rep. 35. A recibir of Lands in Fee, he and B. grant an Annuity or Rent- charge to another; this prima fascis is the Grant of A. and Confirmation of B. But the Grantee may have a Writ of Annuity against both. If two Men grant an Annuity of 20l. for Ann. altho' the Perons be several, if the Deed of Grant be not for them severally, yet the Grantee shall have but one Annuity against them. 1 Inf. 144. When a Man recover in a Writ of An- nuity, he shall not have a new Writ of Annuity for the Years due after the Recovery, but a Sur- vey upon the Judgment, the Judgment being always exe- cutory. 2 Rep. 37. No Writ of Annuity lien for Arrears only when an Annuity is determined, but for the Whole of it. And the Entire charge being ISSing out of Lands to be granted, it hath been adjudged that the Grantee may bring Annuity when the Lease is sealed. Nor. cap. 450. Where an Annuity is granted to one for Life, during the
the Term he shall have a Writ of Annuity: And when that is determined, his Executors may have Action of Deeds for the Realty is then resolved into the Per- sonalty, by New Nat. Br. 258. Upon a Rent crested by Way of Reversion, no Writ of Annuity lies. Duns. 425. If a Man grants a Rent out of his Manor, or Lands, or to be received of his Ten- nants, and he hath no Manor, Lands, or Tenants, yet it may be a good Annuity, though void as to a Rent. Duns. Art. 425. A Person grants to me 10/., that I shall be resident in such a Parish; an Annuity lies for this, it being annual at my Will, and it is the same if a Rent be granted payable at the End of a certain Number of Years, though it be not annual. Ib. 452. A Grant is made by a Person of an Annuity to another and his Heirs, without the Grantor's paying for him and his Heirs, this is determin- able by the Death of the Grantor. Duns. Art. 425. Was Annuity may not be paid a Rent, the Grantor's Heir, unleas the Grant be for him and his Heirs; and there must be Affidit to bind the Grant, by Grand of an Annuity by the Annuity, when he is named. 1 Inf. 144. 1 Roll. Art. 216. An Annuity granted by a Bishop with Confirmation of Dean and Chapter, shall bind the Successor of the Bishop. New Nat. Br. 410. If the King grant an Annuity, it must be expressed by both Hands the Granter shall receive it, as the King's Bailiff, &c. or the Grant will be void, for the King may not be bound, and no Person is boun to pay it if not expressed in the Patent. c. H. 6. New Nat. Br. 341. If where an Annuity is granted pro Defensis, the Grantor is disturbed of his Title, the Annuity ceaseth; and if it be where any Annuity is granted to a Person pro Confessis, and the Granter refuseth to give Control: For where the Cause and Consideration of the Grant amount to a Condition, and is not the one cause, the other shall determine. 1 Inf. 204.

A Writ of Annuity.

GEORGE the Second, &c. To the Sheriff of W... W. greeting: We command you, that you就行 A. B. that justify, &c. be render unto C. D. ten Pounds, &c. which to him is in arrear of an Annuity or yearly Rent of, &c. which he oweth to him, as he shall, and as he can resi a payer, and according to the Title, to render him no more Clavus, &c. and unities, &c.

Grant of an Annuity, see Grant.

Bull. or Annu. see Annuit Weight.—De pede, pellicie, rubice, & Palmis, de Antil Balancibus & Mem- brarum. Thum. Chron.

Benedicentiam, et Projeurationem, by our Ancestors called Juramentum Columamia; in which both the Accuser and the Accused were to take this Oath before any Trial or Punishment, &c. The Accu- ser was to swear that he would prosecute the Criminal; and the Accused was to make Oath on the very Day that he was to receive it, and that he would not be in- nocent of the Crime of which he was charged. Leg. Accusatione, apud Lambard 23. If the Accuser failed to take this Oath, the Criminal was discharged; and if the Accused did not take it, he was intended to be guilty, and not admitted to purge himself. Leg. Hen. 1. c. 66.

Biblistium. A Word used for Monastery in our old Histories. Blount.

Bistritaturus. Significes where a Man endeavours to discharge himself of the Fault of which he is ac- cused, by reducing and charging the Accuser with the same Fault. This Word is mentioned in the Title of a Chapter in the Laws of Canute, cap. 47.
Case of Criminal Causes is taken either upon Inqui-"sition, Denunciation or Accusation; so in the Common Law, it is upon Indictment, or Appeal, Indictments containing two parts, Inquisition and Denunciation. And Accusation or Appeal is a lawful Declaration of another Man's Crime (being Felony at least) before a competent Judge, by one that has his Name to the Declaration, and undertakes to prove it, upon the Pen-alty that may ensue of the contrary. \textit{Bradt. \textit{ib. 3. Brit. c. 22. 25. Stawnd. \textit{ib. 2. cap. 6. An Appeal is pronounced two Ways, 1. either by Writ, or Bill: Appeal by Writ is when a Writ is purchased out of Chancery by one for another, to the Intent he appeal a third Person of the Felony committed by him, finding Pledges that he shall do it: Appeal by Bill, is where a Man of himself gives up his Accusation in Writing, offering to undergo the Burden of appealing the Person therein named. \textit{Bradt. By Stat. 3 Hen. 7. the Wife or Heir of a Peron killed, are to bring their Appeal of Murder; which differs from Indictment, being the Suit of the Subject, and the Party's private Affair; who prosecutes the Case for the Crown in Rejoice of the Felony. \textit{List. 116. And this is the Reason that in Appeal of Death, the King cannot pardon the Defendant 3 Inf. 237. This Appeal may be brought by the Justices in the King's Bench, and by the Justices of Gaol-Delivery, and Commissioners of Oyer and Terminer, or before the Sheriff and Coroner, in the County Court: But the Sheriff and Coroner have only Power to take and enter the Appeal and Count; for it must be removed by Certiorari into B. R. Appeals may be likewise brought before the Constable and Marshal of any County out of the Realm. \textit{Wood. \textit{ib. 638. At Common Law, Appeals lay for High Treason, and were usually in Parliament. 3 Inf. 137. But this was done by Stat. 1 Hen. 4. cap. 14. By the 4 Hen. 8. a Man could maintain an Appeal of Death, unless he had made fresh Suits. 2 Inf. 319. A Female might have an Appeal as Common Law, as Heir to any Ancestor, as well as the Male. \textit{Magna Carta, nullus captoris iuris im-primi potest propter Appellandum sancionem de morte alterius quam ovari sui, \textit{ib. 5. Sal. 37. The Heir Male is to bring the Appeal for the Death of his Ancestor; and the Wife for the Death of her Husband, \textit{ib. 2. Inf. 318. But the Husband shall not have an Appeal for the Death of his Wife; but the Heir only. \textit{Dow.} After the death of the Heir shall not have an Appeal before the Death of a Man married, except the Wife kill the Husband; in which Case the Heir may prosecute the \textit{ib. 1. Lom. 346. 1 Inf. 53. If the Wife is to be a Wife de facto to be instituted to Appeal; and if the marriage again, before the Appeal is brought, or whilst the same is depending, her Appeal will be gone. 2 Inf. 68. 317. If a Wife dies within the Year, the Heir shall have no Appeal. \textit{Keb. 120. And if after the Death of the Ascensor, the Heir Male dies, 'tis said another Heir shall not have an Appeal. \textit{H. P. C. 182.} For a Person that prosecutes an Appeal must be immedi-ate Heir to the Accuser killed, or his Suit shall not be received. \textit{Stawnd. 63. The Appeal is to commence his Appeal in Peron; but he may proceed by Attorney, having a special Warrant of Attorney filed. 1 Sun. 60. The Appeal must be brought in a Year and Day after the Death of the Peron murdered. 3 Inf. 326. The Suit must be brought in the Fall, and the Length and Depth of the Wound, the Year, Day, Hour, Place where done, and with what Weapon, \textit{ib. 329.} If a Man dies in a Year and Day, 2 Inf. 65. Principal and Accesories before and after are to be joined in Appeal. \textit{Dow. Abr. 495. And this is to be observed, though the Accesories is guilty in ano- ther Country. 3 H. 7. c. 1. In Appeal by Original, Principals and Accesories are generally charged alike, without Distinction, till the Plaintiff counts. But if otherwise in Appeal by Bill, the Plaintiff is to be but one Appeal against the Principal and Acces-sary: If the Principal is acquitted, it shall acquit the Acces-sary; and both shall have Damages against the Acces-sary. The Appellant on a false Appeal, or the Acces-sary may bring a Writ of Conspicacy. 3 Hen. 6. cap. 2. 2 Inf. 383. Though where a Person is acquitted on a true Appeal, he shall not be arraigned on any Writ of Conspicacy, before the King's Suit: And if a Murderer be acquitted upon Indictment, or found guilty and pardoned by the King, the Wife or Heir may bring Appeal. \textit{Wood. 629. If the Defendant in Appeal is absent, or acquitted; or the Plaintiff Non-suited after Appearance, which is perempto-ry, no other Appeal lies. \textit{H. P. C. 188. But if the Appeal is good and well taken, and afterwards fails, the Defendant shall be arraigned at the Suit of the King: 'Tis otherwise if the Appeal was never good, or well taken; as if it abates for Milloner, \textit{ib. 148.} If there be an Indictment and Appeal depending at the same Time against the same Person, the Appeal shall be tried first, if the Appellant be ready. \textit{Rel. 107. Where the Appellant does not prosecute his Appeal in Case before the Defendant, the Appeal may be arraigned at the King's Suit. If the Defendant on an Indictment is convicted of Manslaughter, and allowed his Clergy, it will bar an Appeal. Though some of our Books tell us the Heir may lodge an Appeal immediately before Clergy had; and others say Clergy ought to be granted, and that it is unquestionable to the contrary, it is conse-"
The form of an Appeal of Murder.

Appeal of Maimem. Is the Accusing one that hath maimed another: But this being generally no Felony, it is in a Manner but Action of Trefpas: and nothing is recovered by it but Damages. In Action of Assult and Maimem, the Court may declare Damages, on View of the Maimem, &c. And though Maimem is not Felony, in Appeals and Indictments of Maimem, the Words Felonis Maimemawai are noted. 3 Inf. 639. Bracton calls Appeal of Maimem Appellam de Plagitis & Macabonis, and writes a whole Chapter of it. Lib. 3. Tract. 2. cap. 34. In an Appeal of Maimem, the Defendant pleads that the Plaintiff had brought an Action of Trefpas against him, for the fame Wounding, and had recovered, and Damages given, &c. And this was a good Plea in Bar of the Appeal; because in both Actions Damages only are to be recovered. 4 Rep. 43. And where there is a Recovery in Assault and Battery, &c. the Jury give Damages according to the Hurt, which was done, and it shall be intended a Maimem at that Time; and therefore Appeal of Maimem doth not lie. Hob. 94. 1 Leon. 318. In Appeal of Maimem, the Appellant may not plead in Abatement of the Wounding, and likewise over to the Maimem; if he doth, he will lose the Benefit of his Plea to the Writ. Mor. 457.

Appeal of Rape, Lies where a Rape is committed on the Body of a Woman. 3 Ed. 30. A Female Coven, without her Husband, may bring Appeal of Rape: And the Stat. 1 Hen. 6. cap. 13. gives Power where a Woman is ravished, and afterwards consents to it, for a Husband, or a Father, or next of Kin, there being no Husband, to bring Appeal of Rape; also the Criminal in such Case, may be attainted at the Suit of the King. 3 Inf. 131. 4 Rep. 2. And if a Woman consent after, she is disabled to challenge any Inheritance, Dower, &c. by Stat. 6 R. 2. The Statute of Wym. 1. cap. 17. enacts that Appeal of Rape shall be brought within forty Days: But by Stat. Wym. 2. c. 34. relating to this Offence, no Time is limited for the Prosecution; so that it may be brought in any reasonable Time. H. P. C. 185. Appeal of Rape is to be commenced in the County where committed: And if a Woman be affianced in one County, and ravished in another, the Appeal of Rape lies in that County where she was ravished. H. P. C. 186. An Appeal of Rape was brought, and the Defendant found guilty; and being in Prison, some Exceptions were taken to the Plaintiff by the Defendant, for that he did not say Felonis & carnaliere cognoscere, &c. And it was not averred that the said not content, before nor after the Fact: But these Points were not refuted; however it was held, that the Plaintiff the Defendant might have his Clergy, 'tis taken away by the Stat. 8 Edw. cap. 17. Dyer 201.

Form of an Appeal of Rape.

A B. of, &c. in his proper Person carnally appealeth Appeals in D. C. D. late of, &c. in the Prison, &c. according to the Form of the Statute, made in the Parliament of the Lord Richard the Second, King of England, in the Sixth
Sixth Year of his Reign held, &c. for that, is to say, That the said C. D. the Day and Year, &c. at, &c. in the County of—, M. B. wife of the said A. B. feloniously ravished, and her carnally knew, against the Form of the Statute aforesaid, &c. And as from on, &c. And this (the Felony and Rape aforesaid) the said A. B. is charged, &c. against him the said C. D. as the Court, &c.

Appeal of Robbery. A Remedy given by the Common Law, where a Person is robbed of his Goods, &c. to have restitution of the Goods stolen: As they could not be restored on Indictment at the King’s Suit, this Appeal was judged necessary. 3 Inst. 244. If a Man robbed make just Partizan after, and apprehend and prosecute the Felon, he may bring Appeal of Robbery at any Time afterwards. Stanford 61. Adjudged, that an Appeal of Robbery may be brought by the Party robbed twenty Years after the Offence committed, and that he shall not be bound to bring it within a Year and a Day, as he must do in Appeal of Murder. 4 Leon. 15. And if one Man robs several Persons, every one of them may have Appeal: Like- wife if the Robber be attainted at the Suit of one, he shall be tried at the Suit of the Bell, year to year as their Appeals were commenced before the Attainters. Darm. Dig. 494. In Appeal of Robbery, the Plaintiff must charge the Defendant with all the Things whereof he is robbed, or they shall be forfeited to the King; for the Appellant can have Reformation for none more than is mentioned in his Appeal. 3 Inst. 237. By the Year-Book 2 Ed. 1. 12. Reformation of Goods was granted upon an Out- lawry, in Appeal of Robbery; but a Person having preferred an Indictment against a Robber, and afterwards an Appeal, on which he was outlawed, the Plaintiff moved to have Reformation of his Goods, and it was denied. 2 Leon. 108. If the Count or Declaration in Appeal of Burglary be sufficient, and the Defendant is convicted at the Suit of the Party upon the Appeal; he shall not be again impeached for the same Offence at the King’s Suit. Rep. 39. By Stat. 21 Hen. 8. cap. 11. the like Reformation of stolen Goods may be had on Indictments after Attainters, as on Appeals; And Appeals of Rape and Robbery are now much out of Use; but the Appeal of Murder Bill continues, and is often brought. 1 Smyth. 130. This was ever esteemed to be a great Interuption to National Justice, that even at the Time the Roman Catholic Religion took Place in this Kingdom it was prohibited. By the Stat. 24 Hen. 8. 8. Appealing to Rome incurrs the Penalty of a Præmunire: And it is made Treson by 13 Eliz. cap. 2. Where an Appeal in an Ecclesiastical Cause, is made before the Bishop, or his Canony, it may be removed to the Archbishops; and if before an Archdeacon, to the Court of Arches, and from the Arches to the Archbishops; and when the Cause concerns the King, Appeal may be brought in fifteen Days from any of the said Courts to the Prelates in Convocation. 24 Hen. 8. c. 12. And the Stat. 25 Hen. 8. cap. 19. gives Appeals from the Archbishops to the King in Chancery, who thereupon appoints Commissioners finally to determine the Cause; and this is called the Court of Delegates: There is also a Court of Commissioners of Review; which Commission the King may grant as supreme Head, to review the definitive Sentence given on Appeal in the Court of Delegates. On taking away the Supremacy of the Pope in this Kingdom, this Power was lodged in the Crown, as originally belonging to it. 4 Inst. 340. The Dean of Wells was deprived of his Deanship, by the Commission for Church and Wells, from which Sentence the Dean appealed to the Archbishops, who affirmed it; and thereupon he exhibited an Appeal to the King in Chancery, but made no Relief, for the King granted the Deanship to one Turner; But Anne 3 Mar. 2

the deprived Dean obtained another Commission to the Delegates, and by their Sentence was restored to his Deanship; and after the Death of Mary 1 Eliz. Turner had a Commission of Review, and he was restored, though it was infilled there ought to be no further Appeal. Dyer 273. In the 39th Year of Queen Elizabeth’s Reign being given in an Ecclesiastical Cause, the Party against whom had, appealed to the Arch- bishop, &c. who affirmed the Sentence; then he ap- pealed to the Delegates, and they repealed both the former Sentences: On which the Queen granted a Commission ad residuendum the Sentence of the Delegates, and it was held lawful. Cro. Eliz. 571. The Bishop of Winchester is made Master of Magdalen College in Oxford; by whom the President of the said College was deprived, who appealed to the Queen in Chancery: Resolved that the Appeal doth not lie, for 'tis out of the Statutes 24 & 25 H. 8. Dyer 293. See 4 Mod. 106. See Admiral.

Appearance. In the Law signifies the Defendant’s Filing Common or Special Bill, when he is said to have any Proceedings out of the Courts at Westminster: And there can be no Appearance in the Court of B. R. but by Special or Common Ball. There are four Ways for Defendants to appear to Actions; in Per- son, or by Attorney; by Percons of full Age; and by Guardians, or next Friend, by Infants. 35 W. 16; and in Chancery to take the Person’s Body, if a common Appearance only, and not Special Ball is required, there every such Person may appear in Court in his proper Person, and the common Ball. 1 Litt. Abr. 82. B. R. Person is outlawed in any Case, except for Treson or Felony, may appear by Attorney to reverse the fame without Ball; except where Special Ball shall be ordered by the Court. 24 & 25 W. 3. Ed. cap. 18, is bound to appear in Court on the First Day of the Term, it shall be intended the First Day in common Understanding, even the First Day in full Term: And where the Defendant appears upon any Proceedings, tho’ the Day of Appearance be not lawful; yet ’tis said he shall be put to Answer. 1 Litt. 85. 2 Leon. 4. In Chancery the Defendant’s Attorney doth receive a De- declaration against his Client from the Plaintiff’s Attorney; this obliges the Attorney to appear to it: And if an Attorney has a Warrant from the Defendant to be his Attorney in a Suit depending in B. R. he does common Ball accordingly; it has been held, that he must appear by that Warrant in all Suits against the Defendant in the fame. Decisions of the provided Declarations are filed in the Office, and Copyes delivered to the De-fendant, or his Attorney, who filed the Ball, before the End of the Term his Ball is filed. For the De- fendant being, after Appearance and Ball put in, impo- sed to be in Causis of the Marshalsea, the Attorney that appears for him is bound to receive any Declaration that is brought against him during that Term. Comp. Attor. Attorneys subscribing Warrants to ap- pear, are liable to a Penalty of 5 l. and Attachment, upon Non-appearance. And where an Attorney provides to appear for his Client, the Court will compel him to appear and put in Common Ball, in such Time as is usual by the Court of the Case; and that although the Attorney may he hath no Warrant for Ap- pearance: Nor Ball Repealing a Warrant of Attorney, to delay Proceedings, excuse the Attorney for his not appearing, who may be compelled by the Court. 1 Litt. 83. 84. And if the Attorney have a Warrant to his Ball, the same Term be appears, and the Plaintiff the Term he declares, under Penalties by Stat. 4 & 5 Ann. cap. 16. In Actions by Original Appearance must be served with Counterpart, unless he doth appear by Bill, they shall be entered with the Prochomary: And Appearance and Common Ball are to be entered and filed by the Defendant within eight Days after the Return of the Process on which he was ar- rested.
relief, &c. on Pain of forfeiting 5 l. to the Plaintiff, for which the Court shall forthwith award Judgment and Execution on 6 No. &c. If the Defendant does not appear and find Bail, the Plaintiff's Attorney is to call upon the Sheriff for the Return of the Writ, whether the Defendant be arrested, or not; and he shall, on procuring the same, apply on o. Two Motions are upon a Scire & Alius Scire facias, they amount to a Scire facias, and the Plaintiff giving Rule, the Defendant is to appear, or Judgment shall be had against him by Default: And where a Defendant doth not plead after Appearance, Judgment may be had against him. *Syst. 306. Upon a Party's Appearing, Errors in Writs are in many Cases salved, and the Party may be obliged to answer as if there had been no such Errors. *Hawk. 502. Where the first Process is an inferior Court is a Copy which ought not to be, it is salved and must be good by Appearance for the Defendant hath by appearing admitted the Writ to be legal. *Laud. 954. And upon Appearance, a Writ hath its End, and the Plaintiff does not appear, the Process may be taken away all Discontinuance, and bad Process before it. *Fro. Cent. 57. If Judgment is given by Default, where the Defendant does not appear, the Writ ought to be delivered to Law; but if he appears and pleads, he flings his Advantage of excepting thereto. *Eld. 841. By late Statutes, where a Defendant is served with Process in Absence of Debt, &c. under 127. a common Appearance shall be entered, or common Bail filed by the Plaintiff, if the Defendant doth not appear within eight Days after the Return of the Writ: On Address made of the Service of the Process, Stat. 12 G. d. d. 6. And a Notice shall be indorsed on the Copy of the Process, of the Intent and Meaning of the Service, for the Defendant to appear, &c. by 5 G. d. 12. 17.

Form of a Notice upon Process to appear.

A. Ten are joined in this Process, to the Intent that you may by your Attorney appear in his Majesty's Court of King's Bench, at the Return thereof, being the twenty-eighth Day of November next, in Order to your Defence in this Action.

Appearance by Guardian and next Friend, Vide Infants, &c.

Appendant, (Appendem) is a Thing of Inheritance, belonging to another Inheritance that is more worthy. As an Adveniment, Common, Court, &c. may be Appendant to a Manor: Common of Fishing, Appendant to a Fishhold; Land Appendant to an Office. *A Seat in a Church to a Hors or, &c. But Land is not Appendant to Land, both being Corporal; and one Thing Corporal they may not be Appendant to another that is Corporal. But an Incorporal Thing may be Appendant to it. *1 Inf. 121. 4 Rep. 86. 4 Duv. 400. A Perpetual may be Appendant to an Hanover and Waifs and Erotes to a Wase. *1 Inf. 125. And Incorporal Things, Adveniments, Ways, Courses, Commons, and the like, are properly Parcel of and Appendant to Corporal Things as Horses, Lands, &c. *F. 596. 4 Rep. 32. If Tenant in Tail of a Manor wherein an Adveniment is Appendant is dispossessed, and the Diffiller suffers an Usurpation; or by the Diffiller's entering into the Manor, he is refus- red to the Adveniment. *1 Inf. 49. But if one Diffiller of Common Appendant belonging to my Manor, and during the Diffiller I fell the Manor; by this the Common is extinct for ever. *4 Inf. 5. 21. 11 Rep. 47. Common of Erotes cannot be Appendant to Land; but to a House to be spent there. *1 Inf. 120. By the Grant of a Marjorie, the Orchard and Garden will pass as Appendant. Appendants are ever by Precedence.

Appenbrefus, The Appendages or Pertinences of an Estate.—*Simon Earl of Northampton gave to the Knight Templar his Manor of Kimberly, Kent, *Common usque Appenbrefus per—*Kennaun's Paroch. Antq. 110. Hence our Parking, or Per-Houses are called *Appenbrefus Deanes, &c.

*Appenbrefus, or *Appenbrefumps. (Fr.) Is derived from *Appenbrefus or the German Word Appenbrefus, signifying a Portion. It is used for a Child's Part or Portion of land and is properly the Portion of the King's younger Children in France, where by a Fundamental Law, the *Appenbrefus, the King's younger Sons have Duchies, Counties, or Baronies granted to them and their Heirs, &c. the Recovery being referred to the Crown, and all Misters of Royalty as to Coinage, and Lerving Taxes in such Territories. *Skelton's Chiefl.


*Appolit, A Duty is granted on all Apples imported into Great Britain, to be paid before Landing thereof, by Stat. 10 G. 2. c. 67.


*Apposites, To pledge or pawn.—*Accipit &c. *Guillies sumnia non Moditch Normanorum illi apposit. *Neufroyum, Lib. 1. c. 2

*Appontimento, (Appointementum) is a Dividing of a Rent, &c. into Parts, according as the Land out of which it issues is divided among two or more: As if a Man have a Rent-Service issuing out of Land, and he purchased Part of the Land, the Rent shall be apportioned with Respect to the Value of the Land. Terms of the by 47. And if a Stranger recovers Part of the Lands, a Leafe shall pay, having Respect to that recovered, and what remains in his Hands. Where the Leafe recovers Part of the Land: Or enters for a Forfeiture into Part thereof; the Rent Rall shall be apportioned. *1 Inf. 145. If a Man leaves three Acres rendering Rent, and afterwards grants away one Acre, the Rent shall be apportioned. *1 Inf. 144. Leafe for Years lies for Years, rendering Rent, and after De- vises this Rent to three Persons, this Rent may be apportioned. *Duv. 407. If a Leafe for Life or Years under Rent, surrenders Part of the Land, the Rent shall be apportioned: But where the Grantor of a Rent-charge purchases Part of the Land, there is all extant. *Mow. 431. A Rent-charge issuing out of Land, may not be apportioned: Nor shall Things en- tire, as if one holds Lands by Service to pay yearly to the Lord, at such a Fease, a Horfe, &c. *1 Inf. 149. But if Part of the Land out of which a Rent-charge issues descends to the Grantee of the Rent, this shall be apportioned. *Duv. 407. A Grantor of a Rent releases Part of the Rent to the Grantor, this doth not extinguish the Redidue, but it shall be apportioned: for here the Grantee deals not with the Land, only the Rent, *Cor. Lies. 148. On Partition of Lands out of which a Rent is issuing, the Rent shall be apportioned. *Duv. 407. And where Lands held by Lease rending Rent are expanded upon Ejectment, every Money of the Rent shall be apportioned to the Leior. *Bud. 409. If Part of the Land, leased is surrounded by fresh Water, there shall be no Appor- tionment of Rent: But if it be surrounded with the Sea, there shall be an Appor- tionment of the Rent. *Duv. 56. A Man purchases Part of the Land where he hath Common appendant, the Common shall be apportioned: Of Common appenant it is otherwise, and if by the Act of the Party, the Common is extinct. *4 Rep. 97. Common appen- dent and appartment may be apportioned on Alienation of Part of the Land in which it is appendant or appor- tenant.
tenant. Wool’s Infl. 199. If where a Person has Com-
mmon of Ralurc Saw Number, Part of the Lands de-
fenced is, he is being intrud and uncertain cannot be
appointed: But if it had been Common certain, it
should have been appointed. 1 Inf. 149. Conditions
generally are interc, and cannot be appointed by the
Appellant. 1 N. Y. C. A. 237. A Certificate of his or
her being innocent or not, is not material, if he was an
Appellant, if he was not to divide or appointed, as to subjcct two Actions. 1 Saith. 65.
Appointee, (from Fr. Apprenti) Signifies properly
the Revenue or Profit which a Thing brings in
to the Owner: And it was commonly used for a
Corody or Pension. It has also been applied to an
Appren tiled given to an smer of a Manor for his better Support — Ina good Prin
cian Manucri primitivs nomine Apparit, guiaet asso
praefer to. In subsequenciofimpositiones sue sitauerit,
E. Anno 2 Ed. 3.
Appellant of Merryke. The Charging them with
Money recelved upon their Accounts in the Exchequer.
Stat. 46 Ed. 7. 7. An Appr is an absence of
Apprterers of Goods are to be sworn to make true
Appraisements; and valuing the Goods too high, shall
be obliged to take them at the Price appraised. Stat
13 Ed. 1. 13.
Appreritte, (Fr.) A Fee or Profit Appreritte, is Fee
or Profit to be taken or received. Annu 3 Ed. 6. cap. 7.
Apprentice, (Apprentice, Fr. Apprenti, from Ap-
prentire to learn) Signifies a young Factor bound by
Indentures to a Tradesman or Artificer, who upon com-
tinuance, or conclusion of the time of the Apprentice,
Release to his second Day or the Master. The Apprentices are a Kind of Bond-Men,
differing only in that they are Servants by Covenant,
and for a certain Term, usually seven Years, and they
live for the most part more reasonably. Smith’s Rep.
Angli. 8. cap. 7.
Seven Years Apprentice is re-
tired to initiate a Man to use any Trade; but this
relates only to such Apprentice to Crafts or Mys-
tery, and not to those in the House of a Corody or
Merryke, where no Apprentice is required. 1 Rol.
Rep. 10. A Brewer, and Baker are publick
Trades, and therefore the Law provides, that they
shall serve Apprentice to them for seven Years;
otherwise they will be within the Statute 5 Eliz.
Though it is not so, of a private Brewer, in private
Houses. 1 Rol. Cont. 284. 9 Rep. 129. By the Stat-
tutes 2 & 3. M. c. 11. 5 Eliz. c. 4. Alices and De-
nexes are restrained to use any Handicraft or Trade
therein mentioned, unless they have served seven Years
Apprenticeship within the Realm, under the Penalty of
$0. per Month. Hutt. 138. But it hath been ad-
justed, that if an Apprentice serve seven Years beyond
Seven, he is exempted from the Penalties of the Statu-
tue 5 Eliz. And so if he serve seven Years, though
he was never bound. 1 Saith. 76. And Apprentices
going into the Army in the last Wars, might get up
their Trades in the County where born, though they
did not serve out their Times. Stat. 10 & 11 W. 3.
An Infant above the Age of fourteen Years may bind
himself with Consent to serve as an Apprentice by
the Custom of London: Infants voluntarily binding
themselves Apprentice, and continuing seven Years,
shall have the Benefit of their Trades; but a Bond for
their service shall not bind them. 3 Car. 79. By the
Custom of the City of London, an Apprentice may
be turned over from one Master to another: And if
the Master refuse to make the Apprentice Free at the
End of the Time, the Apprentice may make the Judge
Free: In other Corporations, there must be a Munda-
mentum to the Mayor, &c. to make him Free in such Cafe.
Daym. Adv. 121. Woods Inf. 151. A Freeman’s Wi-
Iower may take a Maid Apprentice for seven Years, and
involve her as a Youth: if the be above fourteen Years
old: And if an Exchange Woman, that hath a Hus-
bond Free of London take such Apprentice, the shall be
bound to the Husband; and may be made Free, at the
End of the Apprenticeship, if the be then unmarried.
Lex Londonis, 36, 297. If an Apprentice be not
restrained by Bond or Oath from keeping of a Shop.
1 Litt. Adv. 29. Whatever an Apprentice gains is for
the Use of his Master; and whether he was legally
bound or not, it must be delivered to him, as a
Apprentice de jure. Stat. 68. But the Stat. 12 Ann. relating to
Servants farming and portioning the Goods of their
Masters of the Value of 40 l., which is Felony, extends
not to Apprentices under fifteen Years old. Though
an Apprentice or Servant may be indicted of Felony for
farming his Master’s Goods at Common Law, norwith-
standing the Statute 12 Ann. 1 Hz. St. 3. C. 6. 4. 6. 5.
For incurring an Apprentice to leave his Service, Action
of the Cafe may be brought: And for incurring him to
impeach Goods, Indemnity will lie. 1 Saith. 580. A
Master may be indicted for not providing for, or turn-
ning away an Apprentice. If a Master give his Apprentice
License to leave it, it cannot be afterwards re-
called. Annu 3 Ed. 6. Any Appr is, without the
Master’s Privy, that will not justify his turning
him away, he must see his Covenant. 2 Pum. 492.
By the Custom of the City of London, a Freeman may
turn away his Apprentice for Gaming. 1 Rol. 134.
Though if a Master turns an Apprentice away on Ac-
count of Negligence, E. Equity may Decree him to
refund Part of the Money given with him. 1 Jur.
Rep. 140. As no Apprentice can be made without
Writing; so none may be discharged by his Master,
but by Writing under his Hand, and with the Allow-
ance of the Mayor and Aldermen. 1 Rol. 134. 3 Ed.
By Justices of Peace in their Sessions may cause difficul-
ty Apprentices to be corrected and punished: or upon Com-
plain of the Apprentice of all Ulages from his Master,
they may discharge him. 3 Ed. 3. Any Appr is doth not his Duty, the Master may complain to a
Justice, whose Business it is to reconcile the Difference
he can, but if he cannot do it, the Justice may
commit the Bond-Man to the House of Correction,
and bind him over to the Sessions. E. 1 Rol. 265. It
is laid, that the Justices of Peace have the same Power
of discharging the Apprentice upon Complaint of the
Master, as upon the Apprentice’s Complaint. 3 Ed. 267.
It hath been held, that the Sessions never intended to
give the Judges Power to meddle with Apprentices in
All Trades, only in such as are mentioned, and which
were then used in England, E. And they
cannot discharge any voluntary Agreements or Cove-
rants made between the Parties. 5 Ed. 245. When a
Master dies, the Apprentice is to go to the
Escheator or Administrator to be maintained, if there
be Allen and the Executor, E. May bind him to
some other Master, and serve him. A Master may
Serving an Apprentice gains a Settlement by statute in
a Place: But a Covenant between a Master and a
third Person, the Servant not being Party, makes an
Apprentice to gain a Settlement. 3 Ed. 249. By the
Session 4 Ed. c. 2. Churchwardens and Overseers of
the Poor may bind out poor Apprentices, by Allen of
two Judges of Peace: And Permits receiving Money
with poor Apprentices, whom Money is given for pay-
ing such one, are to give Security for Re-payment
in seven Years, for the binding out others. 7 Jac.
3. c. 5. And if any Person refuse to accept a poor
Apprentice, he shall forfeit 10 l. Stat. 9 & 10 W. 3.
3rd. Judices of Peace and Churchwardens, E. may
put out poor Boys Apprentice to the Sea-Service. 1 Ann.
c. 6. A Churchwarden may not bind any Poor Boy
12 d. In the Pound for Sums exceeding it, given with
Apprentices (except poor Apprentices) is granted by
Statute: to be paid in a publick Bill of Mortality, and in any other Part of Great
Britain within two Months after Indentures executed,
E. And if the full Sum agreed to be paid, or the Duty not paid, Indentures shall be void, and Ap-
pren ten.
premises not capable of following Trades; sli d the Maffers are liable to Penalties. § 8 Ann. c. 9. But there are several other Actts allowing further Time to pay the Duties, and d Trump Indentures, tho' Neglected omitted, Ecf. Stat 6 & 7 Gen. i. 1. 3. Geo. 2. & 3. By the Stat. 20. Geo. 2. c. 19. any two Juddins, upon Complaint of any one of them, to be heard against any other Indentor, or with whom no more than 6 d was paid, of any Misgiving, Refusal of necessary Provision, Cruelty, or other ill Treatment by his Master, to summon the Master to appear before them, and upon Proof of the Complaint on Oath to their Satisfaction, (whether the Master be present or not, if Service of the Summons be proved) to discharge such Apprentice by Warrant or Certificate, for which no Fee shall be paid: And on Complaint of the Master against any such Apprentice, touching any Misdemeanor, Misdwarrant, or ill Behaviour, the Judges may punish the Offender by Commitment to the House of Correction, there to be corrected and kept to hard Labour, not exceeding a Calendar Month; or otherwise by discharging such Offender. Either Party may appeal to the Sessions, and the Determination there to be final.

An Indenture of Apprenticeship.

This Indenture was made the Day and Year, &c. Witnesseth, That A. B. Son of, &c. Hath of his own free and voluntary Will bound and bound himself Apprentice unto C. D. of, &c. to be taught in the Trade, Science, or Occupation of, &c. which he is to learn within the Term of seven Years, &c. and to serve him as an Apprentice to dwell, continue, and serve him from the Day of the Day hereof, until the Full End and Term of Seven Years from the Day hereof, during which Term of seven Years, the said Apprentice shall be called his said Master well and faithfully shall serve, his Secrets keep, his lawful Commandments every where gladly do, hurt to his said Master he shall not do, nor willingly suffer to be done by others, but of the same to his Power shall forthwith give Notice to his said Master; the Goods of his said Master he shall not mar or waste, nor them lend without his Consent to any; nor Cards, Dice, nor any unlawful Games, he shall not play; nor Vouchers, nor Almsboys he shall not frequent: Formation he shall not commit, whatsoever he shall not Contract; from the Service of his said Master he shall not at any Time desert or abscond himself, without his said Master's Leave; but in all Things as a good and faithful Apprentice shall and will demean and behave himself towards his said Master, and all his during the said Term. And the said Master his said Apprentice shall not Trade, Study, or Occupacy or, &c. which he is to learn within the said Term thereunto belonging, shall and will teach and instruct, or cause to be well and sufficiently taught and instructed, after the best Wey and Manner that he can; and shall and will also find and allow unto his said Apprentice, Meat, Drink, Washing, Lodging and Apparael, both Lien and Wollent, and all other Necessities fit and proper for an Apprentice, during the Term aforesaid; and at the End of the said Term shall and will give to the said Apprentice one new Suit of Apparael, &c. In Wines, &c.

Appropriation. (Appropriation, from the Fr. Apprépier) Is the Annexing of a Benefice, originally Paris Diviné & in Patronatum nullius, to the proper and perpetual Use of some religious House, Bishoprick, College, or Spiritual Person, to enjoy for ever. And when Appropriation is made, the Patron is perpetual Patron, and hath perpetual Indication and Induction; for the Appropriation alone is a sufficient Admission, Ecf. Plowd. 499. To make an Appropriation, the King's Licence is to be obtained in Chancery, the Consent of the Ordinary, Patron and Incumbent, whereas the Church is full; and of the Diocesan, and Patron, if the Benefice be void. Plowd. 499. 15 R. 2. c. 6. Appropriation made during the Vacancy of the Benefice, is executed immediately; and when the Church is full, by its Words, the Patron is constituted Patron, after it becomes void. 11 Rep. 11. An Appropriation may be by the King alone, where he is himself the Patron or Licentiate, and by Letters Patent he grants the Advowson which he is in the Right of his Crown to a Dean and Chapter, Ecf. Plowd. 499. No Appropriation can be made without Licence of the King. 8 Rep. 11. Nor may it be properly unile to a Spiritual Person capable of the Cure: It may be to a Bishop, Ecf. and his Successors. Dow. Act. 51. Where Appropriation are made, a Vicar is to be endowed to serve the Cure: And formerly in Licences of Appropriation, it was expressed that the Diocesan should also provide a convenient Sum of Money to be yearly paid out of the Fruits, towards the Subsistence of the Parson of the Parish. Stat. 15. R. 2. c. 6. A Vicarage endowed may not be appropriated, but it may be united to another Church, or to a Dean and Chapter, or College, with the King's Consent. 39. 39. An Appropriation cannot be aliened over, or surrendered to any; nor can it indue longer than the Body Spiritual to which it is at first appropriated: But those to whom granted may make Leases of the Profits. Plowd. 499. If an Appraiser, a Clerk is appointed to the Bishop, and inquired and induced, the Benefice returns to its former Nature, and the Appropriation is dissolved. 7 Rep. 15. But if Leilee for Years of an Appropriation, prejudice therein, this Disappropriation shall not bind him in the Reversion. Dow. 515. If a Feme endowed of an Advowson appropriate preents to it, the Appropriation is dissolved. 1 lef. 46. If a Man removes the Advowson of his Benefice, this also dissapropriates the Church: And Dissipation of the Spiritual Corporation disappropriates an Appropriation. To appropriat cannot properly be made, except to Spiritual Persons, and their Successors; yet by the Statute 31. H. 8. the King's Patronets (altno. Laymen) are rendered capable of Parliaments appropriate of dissolved Monasteries; but these are generally called Impropriations. Appropriations have been judged an Abuse and Robbery of the Church and Parishes. &c. Conna. Parish. Antiq. 453.

The Form of a Grant of Appropriation.


An Appropriation by the Patron or first Founder, is thus: Ego A. B. de, &c. Conosci Ecclesiam &c. Advocacionem meam de H. cum Terris & Domini suis ad suos securitatem, Decons de, &c. Acceptis Commisim, To ditto, and incline any Parcel of Land, that was before open Common—Ann. D. 1599. The Prior and Cap.
AR

vent of Baresfer, granted to the Reefer of Abernoge and the owners of that Place, and for their
Appropriales, & Incloses pro voluntate sua tres Aras de Communi Fundo in Blakesburn, &c. Paroch. An-
tig. 316.

Appellants, (Appellee) To augment a Thing to the utmost: To Approvers Land is to make the best Benefit of it, by increasing the Rent, &c. 2 Inst. 474.

Appreciation, Is where a Man hath Common in the Lord's Waifs, and the Lord makes an Inclosure of Part of the Waifs for himself, leaving sufficient Common with Egregs and Rebreg for the Commoners. Reg. Jefed. 8, 9. If there be not sufficient Common left for the Tenant, he may have a Write of Allife, and shall recover treble Damages. Stat. 2 & 4 Ed. 5. c. 3. And a Commonsor may break down an Inclosure, if it is not made in Part of the Commons, and not leave sufficient Room in the Reifico. But if any, upon just Title of Appreication, do make a Hedge or Ditch for that Purposse, which afterwards is thrown down in the Night by Persons unknown, the Towns adjoining may be disentrained to make such Hedge, &c. for which there is a Nectante Writt. Stat. 15 Ed. 1. c. 46. 2 Inst. 476. &c. and the Lord not by the Statutes of Appreication Suits for Gravel, or Coal, &c. 1 Russ. 104, 405. 9 R. 112. Appreication Suits are made between a Person and the Lord, but if both be themselves in another Town, if the Commons join together; and if the Lord hath Common in the Tenant's Ground, the Tenant, &c. 2 Inst. 475. The Commons is to be Comman appellant or appellant, to be subject to Appreication, and not Common in gravis to a certain Number. The Word Appreication is also used for the Possessors Lands named in this Day. &c. Stat. 1 Ed. 2. The Statute of Mortmain, 2 H. 3. makes mention of Land newly approved. P. N. B. 71. Appreication ann. 43 Ett. c. 11. Is the same with Improvement—Idem Appreicationem—Cum omnia Approvementa & alia Personitatis suis. Mon. Angl. 607.

Appraisers, Ann. 3 H. 6. Ballists of Lords in their Franchises are called their Appraisers; And Approvers in the Marches of Waifs were such as had Licence De vendar & admitter Bealls, &c. But by the Statute 2 Ed. 3. c. 12. Approvers are such as are sent into Counties, to increase the Farms ofHundred, &c. held by Sheriffs. Such Perons as have the Letting of the King's Demesnes in small Mansors, are called Approvers of the King's Approvers Rents, &c. Ann. 51 H. 3. And in the Stat. 1 Ed. 3. c. 6. Sheriffs are called the King's Approvers.

Appraiser, or Appraiser, (Appellee) Is one that confirms a Felony committed by himself, apprehend or accout others to be guilty of the same Crime. He is called Appraiser in this Sense, because he must prove what he hath alleged; and that Proof was by Battle, or the Country, at the Election of him appeased: And the Form of this Accusation you may find in Comps. Yst. 250. See also Bradton lib. 3. Stannall. pl. 3. 52. If a Person indicted of Treason or Felony, not disabled to accuse, upon his Arraignment, before any Plea pleaded, and before competent Judges, confest the Indictment, and takes an Oath to reveal all Treasons and Felonies that he knoweth of and therein: prays a Coroner to enter his Appeal, or Accusation against those that are Partners in the Crime committed, such as one Indicted is. 3 Inst. 129. H. P. C. 195. Though the Appraiser is sworn to discover all Treasons and Felonies, he is not to be an Appraiser, but of the Offence whereof he is indicted; and this Accusation of himself, and Oath, makes his Accusation of another of the same Crime to amount to an Indictment; and if his Partners are con-
victed, the King is to pardon him, as to his Life: But he ought not to be suffered to continue in the King's.
to the Ripuarins Laws, all Oaths were made in
the Church upon the Relicks of Saint.
As much as can be tilled with one Plough.

Arbitrator, (Lati.) Is a private extraordinary Judge
between Party and Party, chosen by their mutual Con-
scnant, to determine Controversies between them.

Arbitration, (Arbitrium.) Is the Sentence or De-
termination pronounced by Arbitrators, and published
when they have heard all Parties And Arbitration
is either General, of all Affairs; Demands, Quarrels,
or Special, of some certain Matters in Controversy.

The Award of Arbitrators is definitive, and being chosen by the Parties, they
are not tied to such Formalities of Law as judges in
other Causes are; and yet they have as great Power as other Judges to determine the Matters in Variance;
but their Determination must be certain, and it is to
according to the express Conditions of the Bond by
which the Parties submit themselves to their Judge-
ment.

will not give Relief against the Award of the Arbi-
trators, except it be Corruption. And where
their Award is not strictly binding by the Rules of
Law, the Court of Equity can decree a Performance.
Com. Rep. 273. 1 S. 242. But where Arbitra-

tors are to beชอบ upon one Day, they may make no
other Award between the Parties on any other
Day: Nor can they do it Part at one Time, and
Part on another, or all the Times within a
Subdivision. 26 Hen. 6. 52. 39 Hen. 6. 12. Yet the

Arbitrators may agree upon a Thing one Day, and of
another Thing another Time, and at last make an
Award. 10 Eliz. 1. 2. 7 Edw. 1. 2. 4. 7 Edw. 1.

Arbitrators are to award what is equal
between the Parties, and not on one Side only;
and the Performance of it must be lawful and possible:
also the Award must be final. 1 S. 243. 2 S. 244.

If the Arbitrators make an Award of Mo-
ney to be paid to a Stranger, the Parties

Award. 1 S. 175. And a Party is not to be made a Judge
in his own Cause by Award. 1 S. 71. Where a
 Thing is to be done on Payment of Money, a Tender
of the Sum is Insufficient, and the Full Payment.

Auction 53. Action of Debt may be brought for Money,
adjudged to be paid by Arbitrators, declaring on the
Award; and also Action of Debt upon the Bond for
not performing the Award. Brown's 55. Sometimes
Matters are referred by the Judges to the Attety to
the three Foremen of the Jury, in the Nature of Ar-
bitrators; and after their Award is made, the Plaintiff
may have Attachment, &c. to oblige Performance.

1 S. 84. When there is but one Arbitrator, which
happens where the Matter is referred to two, and
they cannot agree, but leave it to be determined by a
third Person, it is called an Unpillage. 8 Rep. 98.
But the Arbitrators are to refuse, and declare they
will make no Award, and the Unpillage shall proceed.

Though an Unpillage's Award shall be good where the
Arbitrators make a void Award, which is no Award.

1 Litt. 170. It is said an Unpillage cannot be
till the Arbitrators Time is out; and if any
other Power be given to the Unpillage it is not good,
for two Persons cannot have a several Jurisdiction at
one Time: 1 Mad. Rep. 15. Arbitrators are generally
within the Variance, to the Determination of Friends,
and to a Trial at Law. And the Civilians make
an Arbitrator and Arbitration.

An Arbitrator is to proceed and judge according to
Law mingled with Equity; but an Arbitrator is wholly
at his own Discretion, without Sollemnity of Proces
or Course of Judgment, to hear and determine the
Controversy referred to him so as it is Ius Arbitri-

Cowl. 131.

Arbitrament, (Arbitrium.) Is the Sentence or De-
terminations pronounced by Arbitrators, and published
when they have heard all Parties And Arbitrament
is either General, of all Affairs, Demands, Quarrels,
or Special, of some certain Matters in Controversy.

It may be also Absolute, or Conditional. 8 Rep.
98. To every Arbitrament five Things are incident,
1. Matter of Controversy. 2. Subdivision. 3. Parties
4. Arbitrators. 5. Giving up the
Arbitrament. Hardw. 44. Arbitrators can't refer Ar-
bitraments to others, if the Subdivision be not so:
But an Arbitrament that shall Release to another, by
Advice of a certain Person, this is good: because 'tis
a Reference only for the Execution of it. 2 Trin.
Cent. 130. Subdivisions to Arbitrations are usually by both
and the Parties who bind themselves are obliged to take
Notice of the Award, at their Peril: But Things re-
lying to a Freehold; Debts due on Bond; or on certain
Custody; Criminal Offences, &c. are not Ar-
342. 244. See Award.

Arbitrarily, (Arbitrium.) Sicce Arbitrarium. This
was a common Chit with three Lords and Keys, kept by certain Christians and Jews, wherein
all the Contracts, Mortgages, and Obligations be-
ing to the Jews were kept, to prevent Fraud; and this by Order of K. Rich. I. Howell's Annu.

A Conveyance. A Service of keeping a Bow, for the
Life of the Lord, to defend his Ch.
and has a standing Jurisdiction over his Suffragans:—He confirms the Election of Bishops, and afterwards consecrates them, &c. And he may appoint Co-adjutors; a Bishop that is grown indigent. He may confer Degrees of all Kinds; and censure and excommunicate, suspends or deposes, for any just Cause, &c. 2. Bell. Arm. 222. And he hath Power to grant Dismissions of any Cause, formerly granted by the See of Rome, not contrary to the Law of God: But if the Cause be new and extraordinary, the King and his Councils have that Power. Stat. H. 8. He may retain eight Chaplains: And during the Vacancy of any See, he is Guardian of the Spiritualities. Stat. H. 6. and 21 H. 8.

Archbishops. (Archidioeceses.) Is one that hath Ecclesiastical Dignity, and Jurisdiction over the Clergy and Laity next after the Bishop throughout the Diocese, or in some of it only. In ancient Times archbishops had a superintending Power over all the Parochial Clergy in every Diocese in their Precedent; they being the Chiefs of the Descons; Though they have no original Jurisdiction, but what they have is from the Bishop, either by Permission, or Composition; and Sir Simon DugO tells us, that it appears an Archdeacon is a mere Substitue to the Bishop; and what Authority he hath from him, his Chief Officer being to visit and inquire, and Episco Pleurieare, &c. In ancient Times, archbishops were employ'd in diverse Duties of collecting and distributing Alms and Offerings; but at length by a personal Attendance on the Bishops, and a Delegation to examine and report some Causes, and Commissions to visit the remotest Part of the Dioceses, they became as it were Overarchs of the Church; and in the fourteenth advanced into an considerable Dignity and Power. In the thirteenth Century, the Bishop of Canterbury, was the first Prelate in England who intituated an Archbishops see; and that was about the Year 1075. And an archdeacon is now allowed to be an Ordinary, as he hath a Part of the Episcopal Power lodged with him. He visits his Jurisdiction once every Year: And he hath a Court, where he may inflict Penance, suspends, or excommunicate Penons, proves Wills, grants Administrations, and hears Causes Ecclesiastical, &c. subject to Appeal to the Bishop of the Diocese. It is the Part of the Office of an archdeacon to examine Candidates for Holy Orders; and to induct Clerks within his Jurisdiction, upon Receipt of the Bishop's Mandate. 2. Cos. 556. 2. Lev. 193. Wind's Inq. 91.

Archbishop Court. (Couria Archiepiscopi.) The chief and most ancient Consistory Court belonging to the Archbishop of Canterbury for the Debating of Spiritual Causes. It is so called from the Church in London, commonly called St. Mary le Bow, (where it was formerly held) which Church is named Baw Church from the Sceptre which is raised by Pillars, built archways, like to many bent Bows. Convul. The Judge of this Court is filled the Dean of the Archb. or Official of the archbook Court: He hath extraordinary Jurisdiction in all Ecclesiastical Causes, except what belongs to the Prerogative Court; also all Manner of Appeals from Bishops or their Canons or Commissaries, Deans and Chapters, Archdeacons, &c. first or last are referred to him: He hath ordinary Jurisdiction throughout the whole Province of Canterbury, in Case of Appeals so that upon any Appeal made, he, without any further Examination of the Cause, sends out his Citation to the Appellate, and his Inhibition to the Judge from whom the Appeal was Made. Of this fee 4. S. c. 573. But he cannot cite any Person out of his Diocese, unless he be an Appellant, &c. 2. Bell. Arm. 23 M. 8. c. 9. In another Sense the Dean of the Archb. has a peculiar Jurisdiction of thirteen Parishes in the City, in these Causes, being exempt from the Authority of the Bishop of London, of which the Parish of Bow is the Principal. The Perons concerned in this Court, are the Judge, Advocates, Registers, Proctors, &c. And the Foundation of a Suit in the Archb. is a Citation for the Defendant to appear; then the Judge is exhibited the Action, to which the Defendant must answer: whereupon the Suit is extended, Proofs are produced, and the Cause determined by the Judge, upon Hearing the Advocates, and the Parties, and the Law and Facts; when follows the Sentence or Decree thereupon.

Archbishops. (Archv, from Are, a Chief) The Rolls, or any Place where ancient Records, Charters and Evidences, belonging to the Crown and Kingdom, are kept: also the Chancellor, Exchequer-Office, &c. And it hath been sometime used for Repolitisa in Licentiae.

Interregnum, Surprize, Affrightment.—To the great Affrightment and Eftemonium of the Common Law. Rot. Parl. 21 Edw. 3.

Artaban, The Duke of the King, commanding all his Tenants to come into the Army: If they refuse, then to be deprived of their Estates.

Rentenare, To Rent out, or let at a certain Rent. ——Richardus de Are, armiger. A done Blackman, an ancient silver Plate of Blackman that anciently palled for Money. By Dom. Hen. Ten, issued to the King in the Alms Albo, common Silver Pieces of Money; other Rents in Libris Utriusq. de Præfatis, in Metal of full Weight and Purity; In the next Age, that Rent which was paid in Money, was called Blackman's Rent, and afterwards White Rent; and what was paid in Provision, was termed Black Milk. Spemin. Glof.

Wages was about the year 1575. And in Eireland upon the Making of any Bargain; Hence comes Arles, Earnest.—Adam de Holt, wendesdict quinain partim Manierii de Bererton Henrico Scoti, et coip di pradicti Henrici tres desem de argento Dei præ mensibus. Placit. apud Cant. 2. Ed. 3.

Arffol, or Arffol, Clay, Lime, and sometimes Gravel; also the Lees of Wine, gathered to a certain Harvest. Law Fr. Dict.


Arifruit, An old Sportive Exercise supposed to be the same with running at the Quoitals.

Arms barre, To dub or make a Knight. Ann. Dom. 1144. 10 Steph. 2. Bretoniens filius Comitis, quem honos Rex Henricus nutritio, et cui Arma dedit & honorem. A. D. 1278. 31 Ed. 3. Armes copere is to be made a Knight. Kennel's Parob. Antiq. p. 288. And in Walfingham, 6. Dies Dominica in Iglesia Purificationis Edwardus juvenis fecerit Arma Milites. The Word Armes in these Places signifies only a Sword; but sometimes a Knight was made by giving him the whole Armour.—Launcfrances Dobertobertinus Episcopus ecclesia in bauti, et quaelam copiam ipsium suis, eique & regis filium militum coronam in omnibus Di censis. Ordinacius Vitas, lib. 6. de Henrico, &c.

Armes Libra, A Sword and a Lance which were usually given to a Servant when he was made free. Leg. Will. cap. 65.

Armes motora, Sharp Weapons that cut, opposed to such as are blunt, which only break or bruise. Brad. lib. 5. Armes motula platum sustine, etiam gladii, et lapis, laurari, bratari, &c. Ordes, lib. 6. 3. Ed. 2. ut inve statezj ad platum, ad armam, ut in cetera e specie opposita. They are called Armes levelses by Tickes, lib. 1. c. 53. par. 6.

Armes of a Man was convicted of 1 treason or Felony: Thus our Hilfinian Kingman, speaking of Hugh Spryter, tells us, Prima coggestion
AR

Africam cum uno Africam cum Armis suis reversam.
Lib. 5 p. 246e.

Armigeri is a Sort of Punishment decreed or imposed on an Offender by the Judge. Mal. 2d. 1 p. 97. Westminster. p. 430. At first it was to carry a Saddle at his Back in Token of Subjection, viz. some sort of effigy of a Saddle, with a number of Hammer-stones in it. Browne says, that in the Year 1716, the King of Scots promis K. Men. 2. at York. Lancam & feliam fumur imper Altare Sancti Petri ad perpetuam bys Studii missarum. Ser. 

Armigeri, A Title of Dignity, belonging to such Gentlemen that bear Arms: And there are either by Cartegy, as Sons of Noblemen, eldest Sons of Knights, &c. Or by Creation, such as the King's Servants, &c. The Word Armigeri has also been applied to higher Servants in Convents. Parab. Ais. 576. See 2 Euirale.

Armour and Arms, In the Understanding of Law, are extended to any Thing that a Man wears for his Defence, or takes into his Hands, or uteth in Anger to strike or call at another. Cramb. 1d. 6. Arms are also what we call in Latin Insignia, Ensigns of Honour: as to the Original of which, it was to distinguish Commanders in War; for the ancient defensive five Armour being a Coat of Mail, &c. which covered the Person, they could not be distinguished, and therefore a certain Badge was painted on their Shields, which was called Arms, but not made heretofore in Families till the Time of King Rich. 1. on his Expedition to regain Jersalem from the Turks: And besides Shields with Arms, they had a Silk Coat drawn over their Shoulders till the Year 1716, as an Indeavouring to a Fust Coat, on which their Arms were painted all over, now the Herald's Coat of Arms, Sid. Reg. 352. By the Common Law it is an Offence for Persons to go or ride armed in an Slender, or unusual Weapon: But Gentlemen may wear common Armour according to their Quality, &c. 3 Inf. The King may prohibit Force of Arms, as by his Order in Council of 1657, and afterwards a Fust Code, on which their Arms were painted all over, now the Herald's Coat of Arms. See the Stew. Ed. 1. None shall have form of Arms before the King's Judges, nor ride armed in Apparel of the Peace, on Pain to forfeit their Armour, and suffer Imprisonment, &c. 2 Ed. 5. c. 3.

Arms of Arms: A Sort of Dispute that makes the Hair fall off, like the Alopecia, or like unto a Dihipher in Foxes. - Deinde utque Rex insidi in agricenium quoque armilliaco vicem, in qua eff in mortem supra laborantes, nilps suis dejacunt. Rog. Hoveden. p. 603.

Armatarius, (Lat.) A Word often used for a Groomsman, but held not good in Law Proceedings. 1 Pict. 142.

Arpen, or Arron, Signifies an Ace, or Furlong of Ground: And according to the old French Account in Domrally-Arms, 100 Perches make an Arron. The most ordinary Ace, called l' Arron de France, Is one hundred Perches Square: But some account it but half an Ace. — Solum acros terrae & usum Arpentum quae est vestigantur per Eschatium. Ex Reg. Priorat. de Wormlcy, fol. 7. Where Arron seems to be some Quantity les than an Ace. Arronizer, a Measurer or Surveyor of Land. 11. 14.

Arquebus, (Fr. Arquebuz) A Short Hand-Gun, a Caliver or Pifflo; mentioned in some of our ancient Statutes. Law Fr. Diss. 14.

Arrage, To take Duty and Excise payable for Brandy and Foreign Spirits, and no more, shall be paid for Arrack imported from the East Indies; and the like Allowance to be made on Exportation, 1 Stat. 7 Geo. 2. c. 4.

Arria, Iudicis, Is used in Pat. 1 Ed. 2. for the Arraying of Foot Soldiers.
AR

ARR

AR

ARR

AR

ARR

AR

ARR

AR

ARR

AR

ARR

AR

ARR

AR

ARR
put to his Write of Error. 2 Litt. 95. On Motions in 
Arrêt of Judgment, if the Court be divided two judges 
against two, the Plaintiff must have his judgment; 
unless a Rule be made at first to stay all Proceedings, 
until the Court otherwise order. 2 Litt. 117. A 
See Jusquels and Judgment. Arrêts de Quasi is 
to plead in Arrêt of taking the Esquif, upon the for-
term Ille, and to keep Court by an Esquif should 

Breflendoms bona et dispositio, A Writ which 
lies for a Man whose Cattle or Goods are taken 
by another, who during the Constil doth or is like to 
make them away, not being of Ability to render Sa-

Breflendos ipsum qui Seretam iuriscript, &c. 
Is a Writ that lieth for apprehending a Person 
who hath taken the King's Preb-Money to serve 
Wars, and hides himself when he shood go. Reg. 
Orig. 36.

Brefiello fulse super bona &c. Seretamini a Domini 
Jugandi, A Writ which lies for a Deasiveness against 
The Goods of a Man found within this Kingdom, in 
Re- 
compense of Goods taken from him in a Forested 
This the ancient Civilians called Claragia: but by 
the Moderns it is called 

Brettekly, Brettekly, quod ad reddam comitans, is 
where a Man is convicted before a Judge, and charged 
with a Crime. Stan. Pl. Co. 45. And it is some-
times used for Imprisoned or laid unto; so no Party 
must be arrested to one under Age. Littleton, cap. Remitter. 
Chancery with the Verbo Arrêtth, that is, says Blime, 
as it is interpreted. Blaine, written to the Magistrates, 
I. To have the Malicious forth-co-
mong, so he may be charged, and put to his Trial. 
Brer. lb. 3, tr. 2. cap. 10. And in another Place, 
Redundas de more bonus, charged with the Death of 
a Man. From hence it may with some Reason seem, 
that the Word is the same with Redam.

Brests. By an ancient Statue, all Hands for 
Arrests shall be well bound, and hardened at the 
Point with Steel, on Pain of Forfeiture and Imprison-
ment: And to be marked with the Mark of the Maker. 
Stat. 7 H. 4. c. 7.

Breus, In the black Book of Hereford, Dr 
operacionibus Aurane, signifies Days Works of Plough-
ning; for anciently Commonly Tenants were bound 
to plough their Lands in the Summer before 
arrived at the Year's Work. One Arrêt of the 
One Day's Work at the Plough: And in Wiltshire, 
Earing is a Day's Ploughing. Paroch. Angl. p. 401.

Brifen, (from Arven to burn) is House-burning, 
because the Frame of a House cannot 

Arrêt of Judgment, To move in Arrêt of Judg-
ment, is to shew Cause why Judgment should be 
stay'd, notwithstanding Verdict given; for in many Cases, 
tho' there be a Verdict, no Judgment can be had. 
And the Causes of Arrêt of Judgment, are Want of 
Notice of Trial; where the Plaintiff before Trial treats 
the Jury: the Record differs from the Deed pleaded; 
for material Defect in Pleading; where Persons are 
misnamed; more is given and found by the Verdict, 
than laid in the Declaration; or the Declaration does 
not lay the Thing with Certainty. &c. And here all 
Matters of Fact are to be made out by proper Affida-
Vits. Comp. Abstr. 325. &c. Judgment may be ar-
rested for good Cause in Criminal Cases, as well as 
Civil; if the Indecision be insufficient, &c. 3 Inf. 
210. Four Days are allowed to move in Arrêt of 
Justice, or for a new Trial; and the Term 
within the Verdict was given to speak any Thing to 
arrest it, if the Plaintiff hath not given his four Days 
Rule, and signed his Judgment: after which he is 

Ar 25 Car. 2. cap. 2. And by a late Act, Aliens, &c. are 
ot to carry any Person arrested to a Tavern, Ali-
house, &c. or the private House of such Officers, 
without the free and voluntary Consent of the Party; 
or any Person arrested without twenty-four 
Hours from the Time of the Arrêt: or take any 
Reward for keeping him out of Gaol, &c. Stat. 2 
Gen. 2. cap. 22. But if a Person arrested refuse to 
carry to some convenient House of his own Nomina-
tion, &c. to be kept in safe Custody during the 
twenty-four Hours before carried to Prison, then the 
Sheriff's Officer, &c. may immediately convey him 
to Gaol, to prevent an Escape. 3 Gen. 2. c. 27. Peers 
of the Realm, Members of Parliament, &c. may not 
arrested, unless it be in Criminal Cases; but the 
Process against them is to be Summons, Dismisses in 
finite, &c. 17 H. 3. c. 3. Alfo Corporations and Com-
panies must be made to appear by Agents, and cannot 
take Process attending upon any Courts of Record, on 
Befides there, are to be free from Arrêts. 3 Inf. 141. A Clerk 
of the Court ought not to be arrested for any Thing which 
is lawful, tho' he be in Error; and he is always 
present in Court to answer the Plaintiff. 1 Litt. 94. 
Arrêts are not to be made within the Liberty of the 
The King's Palace, Nor may the King's Subjects be 
arrested in any Place, without Notice first given to the 
Lord Chamberlain, that he remove them, or make them 
pay their Debts. Ambassadors Servants, &c. are 
free from Arrêts: vide Ambassad. No Arrêts are 
to be generally in Wales, the Counties Palatine, &c. 
by Writs issuing from Westminster Hall. If a Debt 
be under 101. on Proceeds out of a Superior Court, or 
201. in an inferior Court, the Defendant shall not be 
arrested, but be served personally with a Copy of the 
Proceeds; and if he do not appear at the Return there 
of, the Plaintiff may enter an Appearance for him, and 
proceed, &c. Stat. 12 Gen. 1. c. 20. The Fee for 
making and serving the Copy of Proceeds, taken 
by Attornies, Aliens, &c. shall be 5s. out of the Super-
ior Courts, and 1l. the Inferior Courts: And no 
special Writ shall be found out, unleas the Cause of Ac-
tion be 101. or above, on Pain of 101. and the Pro-
ceedings thereon to be void, by Stat. 3 Gen. 2. c. 27. 
This Statute and the Stat. 12 Gen. 1. c. 29. are made 
perpetual by the Stat. 21 Gen. 2. c. 3. A Bill was 
lately brought into Parliament, for the more easy Re-
covery of Small Debts in a summary Way; the De-
termination to be by the Judges of Assize, &c. without 
any Writ of Arrêt, or Trial by Juries, in like Manner 
as on the English Bill for recovering Debts under 101. 
in Ireland; but there were many Petitions against this 
Bill, from Corporations for preferring their ancient 
Trials, and from Officers of Courts, &c. whereupon 
it is refered to the House of Lords, and did not then pass. 

Arrêts 3 Gen. 2. 

Arrêt of Judgment. To move in Arrêt of Judg-
ment, is to shew Cause why Judgment should be 
stay'd, notwithstanding Verdict given; for in many Cases, 
tho' there be a Verdict, no Judgment can be had. 
And the Causes of Arrêt of Judgment, are Want of 
Notice of Trial; where the Plaintiff before Trial treats 
the Jury: the Record differs from the Deed pleaded; 
for material Defect in Pleading; where Persons are 
misnamed; more is given and found by the Verdict, 
than laid in the Declaration; or the Declaration does 
not lay the Thing with Certainty. &c. And here all 
Matters of Fact are to be made out by proper Affida-
Vits. Comp. Abstr. 325. &c. Judgment may be ar-
rested for good Cause in Criminal Cases, as well as 
Civil; if the Indecision be insufficient, &c. 3 Inf. 
210. Four Days are allowed to move in Arrêt of 
Justice, or for a new Trial; and the Term 
within the Verdict was given to speak any Thing to 
arrest it, if the Plaintiff hath not given his four Days 
Rule, and signed his Judgment: after which he is 

makes it Felony to set Boms, Sheeles, Sheels of Corn, Hay, &c. on Fire in the Night time, or any Out- houes, or Buildings. But the Offender may be trans- ported for seven Years. By 6 & 7 Geo., c. 31. Servants through Negligence or Carelessness, setting on Fire any Dwelling house, or Out-house, shall forfeit 100 l. to be levied by Warrant of two Justices, and paid to the Churchwardens of the Parish, to be distributed to the Sufferers by the Fire; or on Default shall be sent to the House of Correction, and there kept to hard Labour eighteen Months, &c.

Form of an Indictment for Assay or House-burning.

T H E Plaintiff, &c. upon your oath present, that A.B. late of, &c. on the Day, &c. in the Year, &c. did set Assay, or Fire in the said House, &c. in the said County, &c. (the said House being in the said County) with a Laidle Candle, with which the said A.B. then and there held in his Hand, &c. of his Master, &c. fortwith, did set Fire in the said House, &c. by which Means it was then and there instantly burnt down; and in the said Day, &c. in the said Year, &c. in the same House, &c. and afterwards, &c. in the said County, voluntarily and of his own Motion, &c. fortwith, did set Fire in the said House, &c. afterwards, in the Manor and Farm above-mentioned, against the Peace of our said Lord the King, &c.

After in time, Burning in the Hand, is the Punishment of Criminals that have the Benefit of Clergy. Terms de Ley.

Armida, The Trial of Money by Fire, after it was coined. In Domeday we read, Redd. 50 l. ad Atria- num, which is meant of lawful and approved Money, where the Alley was tried by Fire.

Art and Part, Is a Term used in Scotland and the North of England; when one charged with a Crime, in connecting the same was both a Conun- ver of, and acted Part in it.

Ardbill, A British Word, and more truly written Arddill, signifying to avouch; as if a Man was taken with stolen Goods in his Hands, he was to be allowed a lawful Artill (or Vouches) to clear him of the Felony: It was Part of the Law of Hovel Date; according to which Laws every Tenant holding any part but not the whole of the Land of the Free, paid a Fine pro defensam Regia, which was called Ardan Artill. The Privilege of Artill occasioning a Delay and Experession of Jude, Punishment avolte, Proviso was made against it by statute 26 H. 8. c. 6.

Artsici Et Origines, Articles of the Clergy, are Statutes containing certain Articles relating to the Church and Clergy, and Causes Ecclesiastical. 15 E. 2. and 14 E. 3. 4. Articulius, An Article, or Complaint, established by Way of Libel, in a Court Chritiana. Sometimes the Religious bound themselves to obey the Ordinary, without such formal Process: As An. Dom. 1600. The Prior and Convent of Eboracum submitted themselves to the Officer of Lincoln, &c. ——Quod paulatim est in eodem Eboracum Ecclesiasticum ad usum & frequentem praemuntrum obturam obfrigii Articuli, in Libelli, petitionis, & quousque foris impudicis judicis celebro. Paroch. Antiq. p. 344.

Arbitraria, Are those for such as are Makers of their Arts, or whose Calling and Employment doth consist chiefly of bodily Labour. And if Artificers or Workmen confer or do, any Work but at certain Prices, &c. they are liable to Penalties by the Statute 25 Ed. 6. c. 15. A Stronger Artificer in London, &c. shall not keep above two Strongers Servants, but he or his Masters or Apprentices as he can get. Stat. 21 H. 8. Arti- ficians in Wool, Iron, Steel, Brass or other Metal, &c.

Persons contracting with them to go out of this Kingdom into a Foreign Country, shall be fined no more than 100 l. and be imprisoned three Months: And English Artificers going abroad, not returning in six Months after Warrant, shall be disabled to hold Lands by Feoffee or Devise, or be incapable to take any Legacy, &c. and deam'd Aliens. Stat. 5 Geo. I. c. 27.

Arboricultura, A Ground or Place where Reeds grow. 1 Sft. 4. And it is mentioned in the Book of Desculps.

The Reaper, A Farm or Entertainment made at Funerals, in the North Part of England; Arvil-Bread is the Bread delivered to the Poor at Funeral solemnities. Cowel. And Arvil, Arvil, Arvil, are used for the Burial or Funeral Rites; as,

Come bring my Jerkin Tid, I'll to the Arvil, The Man's the Stew Sow, it makes me Morose. Yorkshire Dial. p. 18.

Arborum, Arborium, Arborarium, Arboriforets, Arbofere, Arboforets, Arboriculture, is a Law Word and signifies a Monastery. It often occurs in our old Historics.

Du Camp.

Arborus, A Term from it, Was a Cushum of Purgation, used of old in Wales, by which the Party accused did clear himself by the Oaths of 500 Men. It is mentioned in ancient MSS. and prevailed till the Time of Hen. when it was abolished. 1 H. 5. c. 6.

Arborum from Fr. Afferit, to make plain. Arborum de quad radicum & ad Culturam, Fleta, lib. 4. cap. 31. And the Word Arborium is by Spelman derived from Exaratum, to pull up by the Roots, or sometimes 'tis worse Effaret. Others derive it from Exaratum, or Exarmatum, which signifies to pough or cut up. Maughold, in his Forest Laws, says it is an Office committed in the Forest, by pulling up the Woods by the Roots, that are Thickets and Coves for the Deer, and making the Ground plain as arable Land. This is all other the greatest Trepass that can be done in the Forest to Vert or Venison, as it contains in it Waite and more; for whereas Waite of the Forest is but the Felling down the Coves which may grow up again, Afferit is a Plucking them up by the Roots, and utterly Desroying them, so that they can never afterwards spring up again. And this is confirmed out of the Red Book in the Exchequer, in the Session of the 13th of Hen. 3, which makes it very express, and also in the Code of the 17th of Hen. 8, in which it is more express, and also in the Code of the 17th of Hen. 8, in which it is more express. Thandum occidere nuncupatur, quando Foro numerato est Damna, fiasuli & cancellati ferrum opponatur, fac- chescescentibus, privato, strumus juridice, in cornubio & exercendo. ——This is no Office done with Licence; and a Man may by Writ of All good demand for out a Licence to affaire Ground in the Forest, and make it several for Tillage. Reg. Orig. 857. Hence Lands are called affaired: And formerly Affaire Rents were paid to the Crown for Forest Lands affaired. Stat. 21 Car. 2. c. 6. Affaire- rents come to be used in the same Sense in Ext. Part. Of Affaire you may read more in Gramp. Juris. p. 203.

And Charles de Forse, Ann. 9 H. 3. c. 4. Maxwood, part 1. p. 171.

Affluat. (Affluat.) From the Fr. Verb Affluere. Signs a violent Injury offered to a Man's Person, of a more extensive Nature than Battery; for it may be committed by offering a Blow, or by a terrifying Speech. Lamb. Eiren. lib. 1. cap. 3. The Feudals define Affluat thus: Affluat est impetus in Per fanm aut hominum, plus par potius quam minus; aut machinae usus aut manus cum quousque atque afferant, adeo eas magni vel minimi officiis. Zonius de Fr. 10. usb. 38. And Affluat &c adae afferat. Lib. Feud. 1. tit. 5. Sect. 1. Also the Lat. Affluat is used in the Sense in the Law, as Fr. Roffe, cap. 1. p. 120. To Strike a Man, though he be not hurt with the Blow, is an Affluat: And to strike at a Perfons, notwithstanding
standing he be neither his nor her, hath been so
adjudged. 52 Ed. 3, c. 50. For Affluence doth not always necessarily imply a Hitting, or Blow; because in Trepass for Affluence and Battery, a Man may be found guilty of the Trepass, and cased of the Battery, 31 Ed. 5, c. 24. If a Person in Anger lift up or Resch forth his Arms, and offer to strike another; or menace any one with any Staff or Weapon, it is Trepass and Affluence in Law. And if a Man threaten to beat another Person, or lie in Wait to do it, if the other is hindered in his Buffet, and receives Loli thereby, Action lies for the Injury. Land. R. 1. c. 22 Art. 5. 60. Where a Man affluents any Person, beat, or doth him any Manner of Violence, either with Hand, Foot, or Weapon; or throws any Thing at him, Drinks in his Face, &c. whereby he is hurt; it is such an Affluence for which Action may be brought, and Damages recovered. Comp. Attorn. 155. But to lay Hands gently upon another, not in Anger, as is the Foundation of an Affluence of Trepass and Affluence. The Defendant may justify Molliter many Imputations. And a Man may justify an Affluence in Defence of his Person, or Goods; or of his Wife, Father, Mother, or Maid, or for, by Consent of Judge. Bond. 9 E. 4. 53 Hen. 6. c. 11. Also in Cases of Affluence, for the Affluence of the Wife, Child, or Servant, the Husband, Parent, or Master, may have Action of Trepass. Where a Man is affluents, and he hath no Witness to prove the same, or in other Cases, the Party affluents may bring an Information in the Crown Office; and not have common Action of Trepass. Vide Stat. 4. & 5. W. & M. c. 18. which requires Recognisances to be taken to prosecute with Ead. 24. When any Affluence is made on a Member of Parliament, Proclamation shall be made, that the Party offending surrender himself to B. R. &c. 11 H. 6. If any Person affluents a Privy Councilor, in the Execution of his Office, it is Felony. Stat. 9 Ann. c. 16. Affluencing Persons in a for- cible Manner, with Intent to commit Robbery, is, made Felony and Transportation, by Stat. 7 Geo. 2. c. 1. And affluencing or Throwing or Throwing or Throwing a Person in Law, or Attorney employed in a Cause against a Man; or a Juror giving Verdict against him; his Adversary for suing him, &c. is punishable on an Indictment, by Fine and Imprisonment, for the Consequent. Hand. 58.

An Indictment for an Affluence.

Wills, l. T.

H. E. Floors, &c. perfect, that C. D. of the Parish of R., in the said County, Blacksmith, in the Day, Sec. in the Seventh Year of the Reign, Sec. at the Parish after the said Circuit, verdict and Arms, made an Affluence, and upon A. B. then and there being in the Peace of God, and of our said Sovereign Lord the King; and then and there been, wounded, and most treatly the said A. B. is that his life was defamed of, and other injuries plus to the King, in the great Damage of him the said A. B. and against the Peace of our said Lord the said King, his Crown and dignity.


Defence of the King, (Affluence Regis) An Officer of the King's Trease; if he is in any manner appointed to the Maller of the Mint, and the Merchants that bring Silver to the Exchanger, the Affluence shall be adjudged. 28 Ed. 1. c. 20. and 16 Cor. 2. c. 5. Mandatum of Will. Harrietl C. e. goods consents in
give After where his Wife is Executrix. A Court of Equity, or the Spiritual Court, may compel an Exec- 
cution to the Debtor, if the Bond be not paid, or if in 17 sets of a Deed to a void Devise, will be also void. Prand. 325. Af- 
fect of Dean and Chapter, in making Leases of Church Lands, or of the major Part of Corpora- 
tions, in making By-Laws, wide By-Laws.

Affidavit, That after publick Taxes, as two Inhabitants in every Parish were Affidavits for the Royal 
Ad, to raise every Peron according to the Value of his Estate. Anne 16 & 17 Car. 2. There are Affidav- 
ments of Parish Duties, for raising Money for the Poor, 
Reigning of High, Clar., and levied by Rate on the Inhabitants; as well as Affidavits of Publick 
Taxes, &c. See Affidavit.

Affidavits, (Fr. Attest, i. e. Swear) Signifies Goods 
Inhabitants enough to discharge that Burden which is called upon the Executor or Heir, in satisfying the Debts and Lega- 
cies of the Tellant or Ancestor. Br. Tit. Af- 

After and See, Foral, or Personal, where a Man hath Lands in Fee Simple, if he dies not rightful, i.e. be charged with 
which come to his Heir, are After Real, and where he dies 
poisoned or of any Personal Estate, the Goods which come to 
the Executors, are After Personal; because it shall be divided into After per Deferent, and After inter mainis. 

After by Deferent is where a Person is bound in an 
Obligation, and died before he was to yield the Goods which 
come to his Heir, are After Real, and where he 

Died истoied of any Personal Estate, the Goods which come to 
the Executors, are After Personal; because it shall be divided 


After into inter mainis: is a Man indebted 

made Executrix, and leaves them sufficient to pay his 

Debts and Legacies; or where some Commodity, Profit 

arrested them, in Right of the Tellant, which 

are called After in their Hands. Terms de Ley 76, 77. 

By the Common Law, if an Heir had sold or aliened 

the Lands which were After, before the Obligation of his 

Ancestor was put in Suit, he was to be 

charged, and the Debts were lost: But by Statute, the Heir 

is made liable to the Value of the Land by him sold, in 

Affian of Debt brought against him by the Obliger, 

who shall recover to the Value of the said Land, as 

if the Debt was the proper Debt of the Heir; but 

where the Land is sold or aliened when before 

the Action brought, shall not be liable to Execution upon 

a Judgment recovered against the Heir in any such 


Man binds himself and his Heirs in a Bond; and dies, 

leaving five two Sons, if the eldest Son enters on the 

Lands by Deferent to Heir as Father, and die with- 

out issuing a Bond to an Administrator, he shall be 

charged with After to Heir to Father. Dryr. 

282. Lands which come to the Heirs by Purchase, 

shall recover the demands of any one that 

are After, and at Dow. Abb. 577. A Reversion in Fee 

depending upon an Estate-tail, is not After; because 

it lies in the Will of the Tenant in Tail to dock and 

bar it by Fine, &c. 6 Rep. 55. But after the Tail is 

spent, it is After. 3 Med. 257. And a Reversion on 

an Estate for Life or Years shall be After. A Revers- 

ion executant upon the Determination of an Estate for 

Life is After, and ought to be pleaded especially by 

the Heirs; and the Plaintiff in such Case may make 

judgment of it cum accedunt. Dryr. 371. Carthew's 

Rep. An Apprentice in a Town cannot be a Pre- 

sentation to a Church actually void, which may not be 

fob. 355. Lands of Celoty qua Tract shall 

be After by Deferent. Stat. 25 Car. 2. And Lands 

by Deferent in Ancient Demesne, will be After in Deferent. But a Copyhold estate defending to an Heir, is not 

After; Nor is any Right to an Estate After, without 
Pouffion, &c. till recovered and reduced into Pou- 

fession. Dow. 957. And Lands are After to pay Debe, 

nowwithstanding the Affiant of the Executor to the De- 

vile of them. 1 Litt. Abb. 99. Where an Executor of 

Leaves for the Parson, to receive the Produce of the Land, 

they are appropriated to the Use of the Leifer; but 

what is over and above the Reint shall be After. 1 Selh. 

79. If an Executor transfers a Term of Years which he 

has to have, and the Inheritance is after, or if he 

purchases the Reversion, 'tis not extint as to him, but 

shall still remain After in the Executor to satisfy 

Debts and Legacies; in which - 

tion of an Estate mortgaged, and a Term for Years 

to attend the Inheritance are After. 3 Stat. 52. Mo- 

ney decreed in a Court of Equity by Reunion of Ex- 

ecutors, or arrears by Sale of Lands by Executors; and 

Damages recovered by Executors; also Interest of 

the Tellant's Money lent by Executors, shall be Af- 

After. 2 Ch. Rep. 325. HUD. Goods and Chattels 

which belonged to the Tellant at his Death, and 

which do come to the Hands of the Executor are, 

After, to make the Executor chargeable to Creditors, 

&c. 6 Rep. 47. But such Things as are not valua- 

ble, shall not be After: And Debts, &c. when 

recovered by the Executor after the Death of the Tellant, 

shall be accounted After; and not before recovered, 

for the Executor shall not be chargeable for a Debt, if 

he cannot recover it. Wood's Inf. 323. A Releffe of a 
certain Debt due to the Tellant, makes it After in the 
Executor's Hands; but if the Tellant died before the 

Executor, it would not have made the Releffe, unless the Money 

had been paid to him. 1 Nolf. Abr. 261. After in 

the Hands of one Executor, is After in the Hands of 

others; and if an Executor of the Tellant in any Part of the World, he shall be charged in Re- 

spect of them. 6 Rep. 47. In Affian against Ex- 

ecutors, the Jury must find what Part of what Value; for the Plaintiff shall recover only according to the Value of the 

After found. 1 Roll. Rep. 38. An Heir may plead 

Rom. per Deferent, but the Plaintiff may reply that he 

had Lands from his Ancestor; and special 

Matter may be given in Evidence, &c. 5 Leis. 5 Rep. 60. A special Judgment against After only, 

shall have Relation to and bind the Lands from the Time of 

filing the original Writ or Bill. Carth. 

Rept. 245.

Affidavits, To draw or drain Water from Marsh 

Grounds. — And of Marish parzidum affiwi, 

are, & secundum Legum Maritim, Wallis incidunt & 

in culturam redditur. — Ex Marium illum in affiwi, 

includum, includum & in cultura redditum tenetur. 


Affidavit, To Tax equally. Proscription gen- 

eralis et specialis, quad prad. quadruplex tenor et 


is in the Statute that hath been made Affidavit, to be 

out of a particular Farm, &c. At, Mammatione Rex 

et aliis adiisse ad publicum, &c. Alloh. 

Affidavit of a Judicature, a General, as to set over a Right to another, or appoint 

a Deputy, &c. And the other Special, to set forth 

or point at, as we say to Affy an Error, affy false 

judgment, Waife, &c. And in affying of Error, it must 

be shoved where the Error is committed; in false 

Judgment, wherein the Judgment is unjust; in Waife, 

wherein especially the Waife is done. P. N. B. 19. 

112. Rog. 72. Also Judges are said to be af- 


Affinity, (Affinity) Is he that is deputed or ap- 

pointed by any Act, perform any duties, 

or enjoy any Commodity. And Affinity may 

be by Deed, or in Law: Affinity by Deed is when a 

Leafe of a Term, &c. tiles and affin the same to 

another, that other is his Affinity by Deed; Affinity 

in Law, is he whom the Law to make, without any 

Appointment of the Peron; as an Executor is Affinity 

in Law to the Tellant. Dryr. 6. But if there be Af- 

affinity in Deed, Affinity in Law is not allowed: 

A covenant to do a Thing to Y. S. or his Affinity by 

A Day, and before that Day he dies; if before the 

Day he was a Tenant in Common of the Land, he 

Affinity named: Otherwise to his Executor or Admi- 


inflator, who is Affirmor in Law. 27 H. 8. 2. A. leased Lands to B. for nine Years, the Remainder after ten years. The Leases are made in 1672 for forty years, then B. dies, and his Wife administers to him; in this Case the Administrators are not Affirmors. 15 Rep. 2. He is called Afferior, who hath the whole estate of the Affirmor: And an Affirmor, though not named in a Condition, may pay the Money to leave the Land; but he shall not receive any Money, until he be named. 1 Rep. 215. Affirmor may take Advantage of Forfeitures on Conditions, when they are incident to the Reversion, as for Rent, 1 Adv. 82. And regularly every Affirmor of the Land may take Advantage of inherent Covenants; also Affirmors are bound by such Covenants, as a Co-enantor to repair. But if it concern a Thing not being at the Time of the Demise, as to make a new Edifice, &c. the Affirmor is not bound, except he be named in express Words; nor is he when named, if the Thing to be done does not concern the Thing done, but is collateral to it; or in Contracts merely Personal. 1 Cro. 553. 1 Roel. Abr. 915. Pecul. 284. An Affirmor is he thatpollutes or enjoys a Thing in his own Right; and he is he that does it in the Right of another. Perkin.

**Affirmation (Affirmation)** Is the Setting over or Transferring the Interfet A Man hath in any Thing to another. And Affirmations may be made of Lands in Fee, for Life, or Years; or of an Annuity, Rent-charge, Judgment, Statute, &c. but as to Lands they are by the Titles of Leases and Easements for Years, &c. And no Easement of Prehold, or Term for Years, shall be affirmed but by Deed in Writing signed by the Parties; except by Operation of Law. Stat. 19 Car. 2. c. 3. A Possibility, Right of Entry, Title for Condition broken, a Trufl, or Thing in Action, cannot be granted or affirmed over. 1 H. 7. 214. A Leese out of Possession cannot make any Affirmation of his Term off the Land; but must first enter, and continue his Possession; or seal and deliver the Deed upon the Land, which puts the Affirmor into actual Possession. Dallis. 81. If Leese for Years affirms all Term in his Leese to another, he cannot reserve a Rent in the Affirmation; for he hath no Interfet in the Thing by Reason of which the Rent referred should be paid; and where there is no Reversion there can be no Disfrancer: But Debat may lie upon it, as on a Contract. 1 Litt. 130. 99. Leese for Term of Years affirms over his Term and dies, his Executors shall not be charged for Rent, but the Right of the Deed. 36. 71. Where the Executor of a Leese affirms the Term, Debat will not lie against him for Rent incurred after the Affirmation. The Right of the Contract, nor Easement between the Leesee and Executors. But if the Leese himself affirms his Leese, the Priovty of Contract remains between him and the Leesor, although the Priovty of Easement is gone by the Affirmation, and he shall be chargeable during his Life; but after his Death, the Priovty of Contract is likewise determined. 3 Rep. 104. 4 Nott. Abr. 371. Although a Leese make an Affirmation over his Term, yet Debat lies against him by the Leesee or his Heirs, (not having accepted Rent from the Affirmor:) But where a Leese affirms his Term, and the Leesee is his Overlord, by the Affirmation over his Term, the Debat is determined, and Debat doth not lie for the Reversioner against the first Leese. 4 Moer. cap. 422. And as the Rent lyes out of the Land, the Affirmor generally who has the Land, and is privie in Easement, is Debat in Respective thereof. 3 Rep. 32. If an Affirmation is made by an Affirmor, the first Affirmation is not liable for the Rent; for if he be accepted by the Leesor, the Admission of one Affirmor is the Admission of Twenty. Comp. 1013. Affirmation by an Affirmor dischargeth him, because he was only chargeable as having the Term, where there is no Opportunity for giving Notice to the Leesee of his Affirmation over Camden. 152.

In Case of Action of Debt for Rent by the Affirmor of a Reversion, the Defendant a Leesor may plead that, before any Rent due for Affirmor's Term, he knew the Rent was due to another; but he must set forth in his Plea that he gave Notice to the Plaintiff of the Affirmation made. 4 Rep. 107. A Man may let Land to another, and declare, that if the Leesee or his Affirmor, should not alien the Premises without Licence of the Leesor, &c. who afterwards gave Licence to the Leesee to alien; by this the Leesor or his Affirmor may alien in infinitum. 4 Rep. 119. The Leesor demised Land, and covenanted with the Leesor, his Executors and Affirm, that he if were disabled or forced to pay any Charge, &c. he should retain so much of the Rent; afterwards the Leesor made an Affirmation of his Term: And it was held, that his Affirmor might have Remedy upon the Covenant by Way of Rescission against the Affirmor of the Reversion. Plowd. 72. If the Remainder of a Term of Years be affirmed to another, the Affirmor shall have the Benefit of a Leese; and of Re-entry upon a Lease made by the Grantor for fewer Years. &c. by the Stat. 32 Hen. 8. cap. 34. And the Affirmor of a Reversion of a Term, shall take Advantage of a Covenant against the Leesee of a Deeter Term; as when a Leesee for twenty Years, makes a Lease for four Years. Moer. cap. 694. 695. The Word Heir, is sufficient to make an Affirmor; and the Grantor of a common Person is Affirmor to have Benefit of a Covenant, Grant, &c. Prid. 173. A Lease was made for Years of Lands, excepting the Woods; the Leesor grants the Trees to the Leesee, to be affirmed, the Land over to another: The Trees do not pay Rent by this Affirmation to the Affirmor. Gold. 13. Leesor for Years rending Rent, covenants to build a Houle on the Land in ten Years; within which Time he affirms his Term, Action lies on the Covenant against the Affirmor. Gold. 60. But where a Leese covenanted for himself and his Affirmor to rebuild a Houle before such a Time, which he did not do, but after the Time expired he affirmed the Term; adjudged that this Covenant will not bind the Affirmor, because it was broken before the Affirmation. 1 Salk. 199. Where Tenant for Years affirms his Easement, no Consideration is necessary; for the Tenure being subject to Payment of Rent, &c. is sufficient to vest an Easement in the Affirmor: In other Cases some Consideration must be paid. 1 Adv. 205. The Words required in Affirmations, are gratia, affixa, and set over; which may amount to a Grant, Feodament, Lease, Reliance, Confirmation, 1 Adv. 301. In their Deeds, the Affirmor must be expressed in due Order. Letts. 9. 1. 91. Leeses from former Grants, &c. That he is Owner of the Land, and hath Power to affirms: that the Affirmor shall quietly enjoy, and to make for another Consideration, and the Affirmor may covenant to pay the Rent, and perform the Covenants. &c. and must, &c. are affirmed by Power of Attorney to receive and sue in the Affirmor's Name: But Bills of Exchange are assignable by Indorsment, and the Affirmor may recover in their own Names by Stat. 3 & 5 Ann. c. 9.

An Affirmation of Chambers in an Inn of Court.

**This Indenture made the Day, &c. in the Year of our Lord, &c. between A. B. &c. Egs of the one Part, and C. D. &c. Gent. of the other Part:** Whereas in and by a certain Writing made and dated, &c. at Lincoln's Inn, the Brothers of the said Inn did order that the said A. B. should have a Lease of All that Chamber up one Pair of Stairs, Number, &c. belonging to Lincoln's Inn aforesaid, for the Term of Twenty-one Years, to commence upon the next Rent of, &c. as by the said recited Writing or Ordre may more fully appear. And whereas in Parliament of the said Ordre, a Leasement of this Chamber hath been made and granted to the said A. B. for the said Term of Twenty.
AS

Twenty-one Years, &c. Now this Indenture witnesseth, That the said A. B. for and in Consideration of the Sum of Two hundred Pounds of lawful Money of Great Britain, to him in Hand paid by the said C. D. at and before the Sealing and Delivery hereof, the Receipt whereof he doth hereby acknowledge, Hath granted, bargained, sold, assigned and set over; and by and by these Presents doth grant, bargain, sell, assign, and surrender unto the said C. D. his Executors, Administrators and Assigns, All that the Chamber aforesaid with the Appurtenances, and all the Estate, Rights, Titles, Interest, Property, Claim and Demand whereto the same shall in any wise appertain, to the said C. D. his Executors, Administrators and Assigns, in Manner following: (that is to say) that the said A. B. hath good Right, full Power and lawful Authority, to grant and assign the said Chamber and Premises above mentioned, in Manner and Form aforesaid: And that the same is free and clear of all former Grants, Assignments, Incumbrances, Arrears of Rent, and all other Demises payable to the said Society of Lincoln's Inn, or any the Officers or Ministers thereof, or otherwise whatsoever: And also that the said C. D. doth assign, sell, and lawfully may at all Times hereafter, during the Life and Reversion now to come and unexpired of the said Term of Twenty-one Years, peacefully and quietly have, hold, occu

36. The Terms to put Highways together: To be mentioned in Leg. Hen. 1. c. 8.


38. The Propertie, a Writ directed to the Judges of the Court of King's Bench, and was handled or taken. And in this Signification General as when the Judges go their several Circuits with Commission to take all Abbrevia: Or Special where a special Commission is granted to certain Persons, (formerly often times done) for taking an Abbrevia upon one or two Distinctions only. Bradl. lib. 3. Concerning the General Abbrevia of the Court of England are divided into six Circuits, and two Judges are appointed by the King's Commission to every Circuit, who hold their Abbrevia twice a Year in every County, (except Middlesex, where the King's Courts of Records do sit, and where his Courts for his Counties Palatine are held) and have five several Commissions. 1. Of Quo or Terminis, directed to them and many other Gentlemen of the County, by which they are empowered to try Distresses, Felonies, &c. and this is the largest Commission they have. 2. Of Gaol Delivery, directed to the Judges and the Clerk of the Abbrevia, which gives them Power to try every Prisoner in the Gaol committed for any Offence whatsoever, but none but Prisoners in the Gaol: so that one Way or other they rid the Gaol of all the offenders in it. 3. Of Abbrevia, directed to themselves only and the Clerk of the Abbrevia, and do Right upon Writs of Abbrevia brought before them as such are wrongly brought out of their Lands and Possessions. Which Writs were heretofore judged and heard in the same, but now Men's Possessions are sooner recovered by Ejfect,
mens. Est. 4. Of Nisi prius, directed to the Judges and Clerk of Affidavit, by which Civil Cases grown to fifteen in the Court below, are tried in the Vacation by a Judge of twelve Men of the County where the Cause of Action arises; and on Return of the Verdict of the Jury to the Court above, the Judges there give Judgment, as in every County of the Circuits; and all Judges of the Peace of the County are bound to be present at the Affidavit; and Sheriff shall give their Attendance on the Judges, or they shall be fined. 21. Est. 15. 16. 17. 18. There is a Commissio of the Peace, Over- and Under-Treasurer and Gavel-Delivery of Newgates, held several Times a Year, for the City of London and County of Middlesex; as Justice Hall in the Old Bailey, where the Lord Mayor is the Chief Judge. In Wales there are but two Circuits, North and South Wales; for each of which the King appoints two Persons learned in the Laws to be Judges. 21. Est. 15. 16. 17. 18. If Judges sit by Force of a Commission, and do not adjourn the Commission, it is determined in Est. 18. In the Constitution of the Judges of Affidavit, it is begun by Hen. 2. though somewhat different from what they now are: And by Magna Charta, Judges shall be sent through every Parish in the Kingdom, with the Knights of the respective Shires, shall take Affidavits of Novel Diffinit, &c. in their proper Shires, and what cannot be determined there, shall be ended by them in some other Parish; and if it be too difficult for them, it shall be referred to the Judges of the Bench, there to be ended. Hen. 3. cap. 12. Judges of Affidavit are to hold their Places in the several Counties of the Judges of the Bench, and their Records to be sent to the Exchequer. 6. R. 2. 9. Ed. 3. By the Stat. 21. Eccl. 2. 12. 13. The Affidavit is to be forwarded through the entire County, and the Sheriff shall be sent by the Judges. Est. 15. 16. 17. 18. And if Affidavit is to be taken for a Jury, where Affidavit of Novel Diffinit is tried: The Panels of Affidavit shall be arrayed, and a Copy indented delivered by the Sheriff, &c. to the Plaintiff and Defendants five Days before the Sequestration. If demanded, on Pain of 40l. by Stat. 6. H. 6. cap. 2. And if Affidavit is to be taken for a Writ for Recovery of Possession of Things immovable, whereof any one and his Ancillary have been dispossessed. Likewise in another Sense, it signifies an Ordinance or Statute. Rom. Reg. 279. The Writs of Affidavit are the four Forms: 

**Writ of Novel Diffinit** (Reg. Affidavit). Lies where Tenant in Fee simple, Fee-farm, or for Term of Life, is put out and dispossessed of his Land, or Tenements, Rents, Common of Pattle, Common Way, or of an Office, Toll, Glano. 6. 10. Or Reg. 157. Affidavit must be of an actual Dispossess in Land, &c. in Law; it is not of Common of Pattle, where the Commoner has a Freehold in it, and the Lord or other Persons feed it so hard, that all the Grass is ed ed up, but then the Plaintiff must content and set forth how long the Land was fed, and alledge per quod Praecum jam ibidem amiti, &c. 9 Rep. 113. One may have an Affidavit of Land and Rents, or of several Lods, and Revois and Provis in his Soil, in all one Writ: And it must be a Rent-Charge, or Rent-Sail, it shall be general de libera Tenement in such a Place, and all the Lands and Tenants of the Tenements charged ought to be named in the Writ; but in Affidavit for Rent-Servic is otherwise. Dyn. 31. An Affidavit may be brought for an Office held for Life, but it must be a Rent-Charge only: Of the Toll of a Mill, or Market, Affidavit is the only thing that may not be brought for a Suit to a Mill. 8 Rep. 46. 47. By Magna Charta, 9 Hen. 3. cap. 12. Affidavit of Novel Diffinit, &c. shall be taken in the proper Counties, by the King's Judges: And for Enews of Wood, Profit taken in Woods, Corn to be received yearly in a certain Place: And for Toll, Tennage, &c. and of Offices in Fee, an Affidavit shall be; 

also for Common of Turbery, and of Fisting, appenant to Freehold, &c. And in this Suit, if the Defendant fail to make good the Redemption in the Writ, the Plaintiff shall be adjudged a Diffriner, without taking the Affidavit, and shall pay the Plaintiff double Damage, and be imprisoned a Year. Stat. 15. Ed. 1. cap. 25. If in an Affidavit for Tenants of the Fee, &c. the Plaintiff cannot be mentioned, the Defendant may plead it; and where one Defendant pleads, no Tenant of the Freehold names in the Writ, but only of the Damages. Est. 135. In the Affidavit the Plaintiff pleads in Bar, and the Plaintiff makes Title, but the Tenant doth neither answer nor traverse the Title; in this Case the Affidavit shall be awarded to large. Est. Ed. 29. And if any other Title is found for the Plaintiff, he shall recover. Br. 21. 131. A Tenant pleads in Abatement in an Affidavit, he must at the same Time plead over in Bar: and no Impediment shall be allowed. Without the Title it shall be as follows: And where there are several Defendants, and any of them do not appear the first Day, the Affidavit shall be taken against them by Default. Fid. 16. 14. If Affidavit be brought against a Leafe, he may not plead Affidavit non; for that is the Form of the Plea in Bar for Tenants of the Freehold; He ought to plead the spec. Muster, &c. his Lease, the Reversion in the Plaintiff, and that he is possessed, and for without Wrong. Fid. 115. 113. An Affidavit is to be first arraigned, and the Plaintiff's Counsel prays the Court that the Defendant may be called; therefore if the Plaintiff be called, and if the Defendant appears, his Counsel demand Over of the Writ of Affidavit, and the Return of it; which is granted; and then he prays Leave to Imprest to a short Time after, and the Jury is adjourn'd to that Day: At the Day given by the Court, the Defendant is again called, and upon his Appearance, he pleads to the Affidavit; and upon the Assumption of this an Issue is joined between the Parties, and the Jurors are sworn to try the Issue, the Counsel proceeding to give them their Evidence: After the Trial the Court gives Judgment, and the Plaintiff recovering is to have Writ of Seisin, &c. 1 Litt. 185. 106. The Trial on Affidavit is in Psalm Remedium; and in this Affidavit, the Land, Damages and Costs are recovered. The Jurors are sworn to try the Affidavit, are called Recognizors of the Affidavit, and they are to view the Thing in Demand: By Writ of Affidavit, the Sheriff is commanded, Qua faciat dum locum i Tribunato libera de jure et usu, &c. Videre recognizentur illud, & summa curiae imbriceri, & quandem humonum esse per bonos hominum, & quandom humonum esse per bonos hominum, & quandom humonum esse per bonos hominum, & quandom humonum esse per bonos hominum. In an Affidavit, the Plaintiff must prove his Title, then his Seisin and Diffinit: But Seisin of Part of a Rent, is sufficient to have Affidavit of the whole: and if a Man who hath Title to enter, for his Foes upon the Land and is ou'd, it is sufficient Seisin. Camp. A. 267. Seisin of an Office may be alleged by taking Money for the Office, &c. and the Place where the Officer was paid in View. Dyn. 114. In this Case the Defendant shall not effin, nor call a Proclamation, or pray in Aid of any but the King, vouch any Stranger, as Party to the Writ, until he enter personally into the Warrant. 8 Rep. 90. The Plaintiff need not be so certain in Affidavit as in other Writs; the judgment being to recover for Vidam Reconnuitem; and if the Plaintiff be but so certain as the Recogniors may put the Demandant.
ANT into Poffeffion, it is sufficient. Dyer 84. The De-
mands in a Suit at T. must be pleaded at T. as by
him from the Case and Time after the Jury are
charged, before Verdict. 1 Dav. 580. For Proceedings in Writ of Affid of
Novel Difficulties: see Plowd. 411, 412. If Lefee for
Writs, or Tenant at Will, or at the Leafe, or he
remains, is called Affid, because the Freeholder
was in him at the Time of the Difficulties. Kil. 109.
Affid and Tithes, by Stat. 32 Hen. 8, c. 69. 7. Gr.
Ent. Edit. 559. But not for an Anxiety, Penfion, &c.
In some Cases an Affid will lie, where Ejeftment will
not; for Infante, de una Crufa, because it may be
put in View to the Jury. 2 Biff. 214. Ejeftment
will not lie de Pijaria, by Reafon the Sheriff cannot
deliver Poffeffion of it; but an Affid will lie for it, as
it may be viewed by the Recognizors. Gr. Cap. 554.
Affid will lie sometimes where Trefpafts P & Amifs
do not; as where a Lord enters and distrains his
Tenant to often, when nothing is due, that the Te-
nant is disturbed in managing his Lands; in such Case,
he may have Affid de feervat facis Diuersi, but he
cannot have Trefpafts P & Amifs against his Lord. 8 Rep.
47. 1 Niff. 276. Where an Affid concerns the
King and his Prerogative, the Judges may be
prohibited to proceed therein, by Writ De non aliena
Proprieta Regis inania. Ibid. 277. The Court of
Common Pleas or King's Bench may hold Pleas of
Affid of Land in the County of Middlefex, by Writ out
of Chancery. 1 Litt. Ab. 105. And in Cities and
Corporations an Affid of force force lies for Recov-
yery of Poffeffion of Lands, within forty Days after
the Difficulties, as the ordinary Affid in the County.
K. N. B. 7.

Form of a Writ of Affid of Novel Difficulties.

GEORGE the Second, &c. To the Sheriff of
W. Greeting. A. B. hath complained to us, that
C. D. unjustly and without Judgment hath deftifed him
of his Free Tenement or Freehold in, &c. within thirty
Years new old part; and therefore we command you,
that if the said A. makes you heares in preferring his
Claim, then that you cause the said Tenement to be re-
fitted for the Challes which in it were taken, and the
same Tenement with its Challes to be in Pews, until
the next Assizes when our Judges into those Parts shall
come; and in the mean Time do cause you to make free
and open all Men of that Place, and their Neighbours, to view
the said Tenement, and their Names to be imprinted,
and sumon them by good Summons, that they be before
our said Judges, and that we may have an Account of
Reconnoiters thereof; and put by Sureties and Safe Pledges
the said C. or his Bailiff, if he shall not be found, that
he be then to be there to bear that Reconnoiters; and nowe
by then we shall be on the Names of the Pledges, and
this Writ. Witness, &c.

A Court or Declaration, with a Plea, Iff, and Judg-
ment in an Affid.

Wills, &c.

THO' the Affid came to Recognize, whether
C. D. unjustly and without Judgment
did deftifed A. B. of his Freehold in, &c. within thirty
Years new old part, &c. And whensoever the said A.
and B. C. did deftis to the said B. of his Freehold in, &c.
did deftis the said B. of his Freehold in, twenty Acres of Land, and
&c. with the Apparitions, &c. And for his Title
to the Tenements and Affid afterfied, the said A. faith
that T. B. Father of him the said A. long before the ob-
aining of the said Original Writ of Affid, was deftis of
the Tenements afterfied with the Apparitions, in his
Name, and has only the said Authour of the Day and Year, &c. at,
&c. afterfied, by his Invention, made betwixt him the said T. of one Part, and,
&c. of the other Part, which other Part thereof with
the said Tenements, &c. was deftis to the said A. by the said T. before the
said A. here brings into this Court, the Date whereof is the
same Day and Year above, he for benefice his Heirs
and Affid did deftis, grant, &c. (two years being a
Demand of the Tenements in the Leafe of the Tenements,
alter Things, and the Fine bound accordingly) to the Use
of A. and his Heirs, &c. By Virtue of which Fine is
bound, the said A. into the said Tenements with the Ap-
parations entered, and was thereby defstis to his Demains
as of Fee, until the afterfied C. D. him the said A.
thereof unjustly, and without Judgment did defstis as
afterfied; and this he is ready to verify. Whereupon he
prays the Affid, &c. And the said C. E. by his At-
torneys comes, &c. and faiths, that he was nothing in the
said Tenements with the Apparations, to put a Veto
of the Recognizers of the said Affid, and in the Plaint
or Declaration afterfied specified, nor bad at the Day of
bringing the original Writ of Affid afterfied, or ever
after, nor any Injury or Difficulties did to the said A.
And of this he putts himself upon the Affid; and the
said C. does likewise. Therefore let the Affid thereof be-
removed from the Recognizers or Jury, for the Plaintiff.
A. Therefore it is considered, that the said A. do recover against the
said C. his Seignor of the Tenements afterfied, with the
Apparations, and all. And, the said C. is in Mercy, &c. And heretofore the said A. prays the Writ
of the Lord the King, to be directed to the Sheriff of the
County afterfied, to cause to be delivered to him full Seignor
of the Tenements afterfied with the Apparations; and
it is granted to him, returnable here, &c.

Affid of Absent d'Uracacy, (Affid Mortis Ansici-
aris) is a Writ that lieth where a Man's Father,
Mother, Brother, Sister, Uncle, Aunt, &c. died feisd
of Lands, Tenements, Rents, &c. that were held in
Fee, and after their Deaths a Stranger abashes. Leg.
Orig. 243. It is good as well against the Abator,
as any other in Poffeffion of the Land: But it lies not
against Brothars or Sistars, &c. where there is Privicy
of Blood between the Perfon prosecuting and them.
Ca. Lit. 242. And it must be brought within the
Time limited by the Statute of Limitations, or the
Right may be lost by Negligence. If the Ancestor
were feisd the Day that he died, of any Lands, or any
other Estats in Fee-fimple, although a Stranger enter-
eth and dispossesses him of that Land the Day that he
died, to that Day he shall have no Title to the Land,
and yet the Perfon who is his Heir shall have the Affid
of Mort d'Ansiciar, because the Writ doth not supple-
t that he die before the Ancestor died, and makes
only the Ancestor's Title and's Estats regnum. Si B. W. Pater, &c. fals feisdus den quit
shi, &c. And the same is sufficient, although he
died not feisd. Eem. Nat. Br. 435. If a Man go
beyond the Parish etc. and die there; or if he enter into Religion, &c. his Heir shall have a Writ of
Affid of Mort d'Ansiciar, and it suffizeth that the
Ancestor was feisd the Day he went out of the Land,
although it was not the Day of his Death. Ibid. 435.
By the Statute of Gloufcrier, if Tenant by the
Curtelty alien his Wife's Inheritance, and dieth, the
Heir of the Wife shall have an Affid of Mort d'Ans-
ciars, if he have not Affid of Deceif from the
Tenant by the Curtelty; and the same shall be as
well where the Brother in Inheritance was not feisd of Land the Day of
her Death, as where she was feisd thereof. 6 Ed. 1.
shall have Affid of Mort d'Ansiciar, of Rent where
his Predecessor was feisd. And a Man may have
Affid of Mort d'Ansiciar of Rents, against several Per-
fons in several Counties: having in the End of the
Writ several Summons against the Tenants: And the
Perfon claimeth the Rent of the Tenant, as in the
above Case, and if he makes Default at the Day of the Affid re-
turned, then the Plaintiff ought to sue out a Refum-
ments;
Form of a Write of Affid of Mort & Aucthor.

GEORGE the Second, &c. To the Sheriff of W. Greeting:

If A B. shall make you swear, that he has pretested his Claim, then affirm, &c. Text here deleted, &c. As to be before our Justices at the fitt Assizes, when into the Privy Seal that shall come; or before our Justices at Wiltshire, or any other fit place, &c. And shall then be holden, &c. And shall be to them all to be affixed, &c. At the certain Day and Place, when the said Justices shall cause you to know, &c. Ready on Oath to recognize, if W. B. Faunt or the said A. &c. was affixed in his Demesne as of Fee, or of any Messuage, and one Yard Land with the Appurtenances in it, the Day and Whpref, &c. And if the said A. be his next Heir; &c. And in the mean time, let them for the said Messuage and Land, and do cause their Names to be Impeached; &c. And now you swear the Summons, and this Write. Witness, &c.

Affid of Darrein Preffentment. (Affid ultimo Preffentationis) A Write lying where a Man and his Ancestors have presented a Clerk to a Church, and after, the Church being void, a Stranger presents his Clerk to the same Church, whereas the Person having Right is disputed. By Ed. 5, 30. And a Man shall have Affid of Darrein Preffentment, although he not him self accoutred; &c. As to Tenant for Life or Years, or in Dover, or by the Curtesy, suffer an Urgency into a Church, &c. and dies; in the Reverence, one Man is unto the Ancestors who last pretested, shall have Affid of Darrein Preffentment, if he be disturbed: But if a Man pretested; and then grant the Adwovon unto another Life, and the Church for ten Years, and doth not further Urges; and now at the next Notice, he in the Reverence shall not have an Affid of Darrein Preffentment, if he be disturbed to pretest. 1 Ed. 5. In this Case he is put to his Writ of Rights. If a Disturbed present to an Adwovon, and the Patron bring an Affid of Darrein Preffentment, and pendent the Writ, the Incumbent die, if the Difhurer pretested again, and dies, yet the Patron shall have an Affid of Darrein Preffentment upon the first Disturbance against the Heir of the Disturber, by Joyners Account. New Br. 71. Affid of Darrein Preffentment is to be for one Coparcener against the other: The Church is never litigious between Parceners; for if they cannot agree, the Ordinary ought to admit the Presence of the Church. Ed. 5; If a Man present to a Church, and afterwards the Parson doth reign, &c. and the Patron pretests again and has his Writ, although the former Prentesse be living; and the Writ shall suppose that the Defendant deth before him of the Adwovon and yet the Plaififf by his Declaration counten the

GEOGE the Second, &c. To the Sheriff of W. Greeting: If A B. shall make you swear, that he has pretested his Claim, then affirm, &c. Text here deleted, &c. As to be before our Justices at the fit Assizes, when into the Privy Seal that shall come; or before our Justices at Wiltshire, or any other fit place, &c. And shall then be holden, &c. And shall be to them all to be affixed, &c. At the certain Day and Place, when the said Justices shall cause you to know, &c. Ready on Oath to recognize, if W. B. Faunt or the said A. &c. was affixed in his Demesne as of Fee, or of any Messuage, and one Yard Land with the Appurtenances in it, the Day and Whpref, &c. And if the said A. be his next Heir; &c. And in the mean time, let them for the said Messuage and Land, and do cause their Names to be Impeached; &c. And now you swear the Summons, and this Write. Witness, &c.

Affid of Darrein Preffentment. (Affid ultimo Preffentationis) A Write lying where a Man and his Ancestors have presented a Clerk to a Church, and after, the Church being void, a Stranger presents his Clerk to the same Church, whereas the Person having Right is disputed. By Ed. 5, 30. And a Man shall have Affid of Darrein Preffentment, although he not him self accoutred; &c. As to Tenant for Life or Years, or in Dover, or by the Curtesy, suffer an Urgency into a Church, &c. and dies; in the Reverence, one Man is unto the Ancestors who last pretested, shall have Affid of Darrein Preffentment, if he be disturbed: But if a Man pretested; and then grant the Adwovon unto another Life, and the Church for ten Years, and doth not further Urges; and now at the next Notice, he in the Reverence shall not have an Affid of Darrein Preffentment, if he be disturbed to pretest. 1 Ed. 5. In this Case he is put to his Writ of Rights. If a Disturbed present to an Adwovon, and the Patron bring an Affid of Darrein Preffentment, and pendent the Writ, the Incumbent die, if the Difhurer pretested again and dies, yet the Patron shall have an Affid of Darrein Preffentment upon the first Disturbance against the Heir of the Disturber, by Joyners Account. New Br. 71. Affid of Darrein Preffentment is to be for one Coparcener against the other: The Church is never litigious between Parceners; for if they cannot agree, the Ordinary ought to admit the Presence of the Church. Ed. 5; If a Man present to a Church, and afterwards the Parson doth reign, &c. and the Patron pretests again and has his Writ, although the former Prentesse be living; and the Writ shall suppose that the Defendant deth before him of the Adwovon and yet the Plaififf by his Declaration counten the
Juliet alive to admitt the Person affighted: Allis where a Justice is disabled, is this praeficd. F. N.B. 185. Reg. Orig. 201, 205, 223. The Clerk of the justice is usually Afflicted of Course; in other cases, some learned Counsel or Attorney are appointed. It has been held, that an Affliction after another Affliction allowed and admitted, doth not lie; nor are the Juicess then to admit other Affliction in that Writ afterwards, so long as that Writ and Committment stand in Force. Br. Aflis 386. Mich. 32 H. 6. The King may make an Affliction upon the Sheriff upon a Writ of Redress, or another Writ of Novel Affliction, &c. New Nat. Br. 447, 417.

Association of Parliament. In the Reign of King William III. the Parliament entered into a solemn Affirmation to defend his Majesty's Person and Government against all Plots and Conspiracies; and all Persons bearing Offices Civil or Military, were joined and subscribed the Affirmation, to be signed by King William, on Pain of Forfeitures and Penalties, Er. By Stat. 7 & W. 3. cap. 27.

Afflitt, (Affluers) To deliver from Excommuni- cation. Stenew, Pl. C. 72. The Defendant shall remain in Prison till the Plaintiff is afflicted: that is, delivered from his Excommunication; and in Stat. 1 Hen. 4. c. 10. Mention being made of K. Edu. 3. if it be added, whom God bless and keep, as wrong, or, if any other Person or Person be supported in an Action. It comprehends any verbal Premise, made upon Con- sideration, and the Civilians express it diversely, ac- cording to the Nature of the Premise, calling it sometimes Pausum, sometimes Promissum, or Confidence, &c. Term. de Lex 60. When one becomes legally in- debted to another for Goods sold, the Law implies a Promise that he will pay this Debt; and if be not paid, Indebit, &c. 1 Davm. Abr. 28. And Indebitus Anfuffati lies for Goods sold and de- livered to a Stranger ad requisitiones of the Defendant. Ibid. 27. But on Anfuffati for Goods sold, you must prove a Price agreed on, otherwise the Action will not lie; though this is helped by laying a Quadrum Matrur with the Indebit. Anfuffati, wherein if you fail in Proof of the Price agreed, you may recover a Price agreed on, but without alleging the Value. Wood's Inst. 536. Where an Action is brought upon a Contract, if the Plaintiff mistakes the Sum agreed upon, he falls in his Action: but if he brings it upon the Premise in Law, arising from the Debt, there, though he mistakes the Sum, he shall recover. Allen 25. Every Contract made between Parties, implies a Mutual Promise for Performance. And when an Action may be brought upon a reciprocal Promise by one against the other, although he who brings it hath not performed on his Side. Dyer 30, 75. When an Anfuffati or Premise is the Ground of the Action, it must be precisely set forth; but in Actions upon mu- tual Promises, it is sufficient to say generally that the Defendant hath not performed his Part, without alleg- ing of a Breach. 3 Lev. 319. He for whole Benefit a Premise is made, it is said, may have an Action for the Breach of this Premise, although the Premise was not made to him. 3 Lev. 210. If a Premise be made without Limitation of Time for its Performance, rea- sonable Time shall be allowed, if there be an imme- diate Consideration for it; and not Time during Life. 1 Will. Abr. 112. On Premise to deliver a Thing such a Day, the Party is bound to do it without Re- quest. 1 Lev. 284. But if a Premise be to do any Thing upon Request, the Request is necessary to instigate the Action, on which it shall arise. 1 Lev. 48. In every Action upon Anfuffati, there ought to be a Con- sideration, Promise, and Breach of Promise. 1 Lev. 405. When a Promise is not performed, if the promi- ners, cannot be discharged without some other Con- sideration: And Consideration that if a Person will forbear
forbear to see another upon a Bond, &e. may be a good Consideration to pay the Debt, on Promiss to do it. 3 Cr. 600, 4. 2 2. Two Persons to pay to an 3 In-Keeper, one hires an Horse, and the other Promises that if the In-Keeper will deliver the Horse, he will see fit to-ward this, Promiss for another, is not good without Note in Writing: But the Person is chargeable upon the special Baitment, and so good without a Note. 1 Litt. 168. An Infant having bought Goods and Wares died, and made his Wife Executrix; the being asked for the Money byrs, Forbear me till some Time, and I will pay it you: this was held no good Promiss, for it was wanted a Consideration. 1 Litt. 176. But where an Executrix, in Consideration the Plaintiff would not molest her, but give her a Day, promised to pay Money due from the Tenant, Action lay without showing that the face of the other had Affins; for that shall be incessed, and her Promiss, and the Plaintiff’s Forbearance of the Suit, was good Cause of Action. 2 Cr. 273. An Administratrix promised to pay the Plaintiff Money, if he would forbear suit till she had taken out Letters of Administration: this was not a good Promiss, for the Defendant was not liable to the Suit as Administratrix till Administration had, as there was no Consideration. 1. 249, 395. If a Plaintiff promises to forbear to hit a Stranger, on the Defendant’s promising to pay the Debt, and the Time of Forbearance is uncertain, it will be ill; but with an Average of a certain Time, it may be a good Promiss. As where a Man is under an Arrest, and the Plaintiff discharges him, upon another’s Promiss to pay. 2 Cr. 177. The Father was indebted to diverse Merchants upon simple Contract, and died seiz’d of Lands that descended to his Son and Heir; the Creditors demand their Debts of him, who faith, It is to my Father owed it to you, I will pay it; ajudged actionable. 1 Cr. 505. 357. An Executor or Administrator regularly may take the same Advantage upon Promiss made to the Tenant, as what the Tenant might have done. 2 Cr. 299. Every Executionary Contract, and Debt that is not upon Record, or on a Specialty, which may be turned into Damages, imports in it an Promiss in Law, and one may have Debt or Action on the Cafe upon it at his Election; for when a Man doth agree to pay Money, or to deliver anything, he thereby bindeth himself to pay or deliver it. 3 Cr. 94. If one, in Consideration I will be bound for him, or for his Friend, promise to see him harmless; this is a good Consideration and Promiss: But if one promiss to another to see him harmless, and say not for what, or against whom, these Promiss are incorrect and insinuable, and therefore though they may be made of them, they may be good. 1 Rep. 193. Dyer 356. In cafe a Promiss be, that he who hath the Fee-Simple of Land, shall not alien it; or that a Man shall not take the Profit of his Lands, or use the Thing he hath bought; or if it be to see a Man harmless whatsoever he shall do, &e. the Promiss to make shall not bind or bear an Action. 10 Rep. 101. Ca. Litt. 206. Dyer 416. Plowd. 64. If J. S. owes me Money, and another says he will be my Pay-master; or if the Party do not pay me such a Day, he will; for where he has built me a House, if after I promise him, these are not good Considerations in Actions of Promiss. 42. 2 1. 1 Stew. Ab. 78. Though here a Man in Consideration to me that he had failed a Release of a Deb-t due to him from J. S. at the Request of me, I promise to pay it if the other do not, is a good Promiss, although the Consideration be pull: As where one does promise to another, because he became Ball for his Servant, that he will see him harmless; and here the Consideration is continuing. Dyer 272. 1 Cr. 296. In Consideration that I send one to J. S. and accept of such a Bond, &c. and release to him all Actions and Demands: he promiss that if I cannot receive the Money on the Bond, he will pay it me; it is given. But if he promises upon it, I must set for this all to be executed. 2 Cr. 625. So where a Man promiss me, that if I will travel with him to London, to help him to search for the Will of J. S. he will pay me 5 l. for Pains; if I see for the Money, I must shew that I did travel with him to London, and help him to search for the Will, &c. 2 Cr. 620. The Promiss in an Agreement that will be binding and give Action, must be perfect and perfect, and duly purfied and observed: And if the Party that makes the Promiss, and be to whom it is made, agree together, and the Bond is given and taken for what is promised; by this the Promiss is discharged. Also where an Promiss is to pass to an Award, if the Award made be void, it will make the Promiss void. 2 Tel. 3 Cr. 275. 1 Litt. 170. The Intent of the Parties by and to whom the Promiss or Promiss is made, is more to be regarded than the Form of Words, and this Inten- tence and Meaning is to be followed, not in the Letter, but the Substance of it: If a Promiss be to provide Wedding Clothes for a Woman, this shall be taken for each Clothes to be worn the Wedding or Pashal day according to the Dignity of the Person. 2 Tel. 182. 3 Cr. 35. There may be Action without an Promiss, when the Law obliges a Person to agree or do it; as against a Vender for refusing to entertain his Guests. 1 Bent. 72. 335. An Promiss may be upon a general Consideration; but it doth not lie where the Plaintiff has an Obligation to pay the Money, which is a stronger Nuis than an Promiss; nor when the Party has a Recognisance for the Duty, &c. 2 Cr. N. 273. An Promiss lies not for Rent usually refered to on Leases but if a Man promise to pay, without a Lease, so much a Week as long as A. B. &e. per- mits him to enjoy a Warehouse, &c. which is a special Cause of Promiss, this Action may lie. 2 Cr. 592. And if one, in Consideration, to the Promise or Title, An Promiss lies: as it does also for the Receipt of Profits of an Office, &c. 2 Med. 260. Where a Person pays Money upon a Miftake; or if he receives more from another in a Reckoning than he ought, or Fees than should be taken, an Promiss lies. 1 Bull. 23. Gamb. 447. If a Man receives Money for the Use of another Person, although he had agreed to pay it him as Bailiff or Receiver, which supplies the Place of Action of Account: And where Money was deposited on a Wager, an Indenture lay for Money received to a Man’s Use. Show. 177. Special Indenture, a Promiss, as when one having promised to pay if he loth, the other promised to pay in like Manner, lay for Money won at Gaming, which Gaming can be the cause of, and Gaming, Gaming, &c. 1 Dow. 28. Where a Promiss is made, one Part of it is against Law, and another Part of it unlawful, this is Ground sufficient for an Promiss. 4 Rep. 94. Vide Action upon the Cafe.

Promissum, The Day of the Death of a Saint, so called, Quia eius anima in calumnum affluuit. Da Cang. [Footnote: Tandum clara dies, Regina afflaptio calbis, Regis parentis adie.] —

Affirmance of Lands, is where Lands or Tenements are conveyed by Deed: And there is an Affirmance of Ships, Goods and Merchandises, &c. Stat. 6 Geo. 1. See Infrance. 3 Rep. 29. After, and How After, a Man that is Resident. Britton 151.

Affirmatus Parsus, (from Apre, the Hearth of a Chimney) is where the Aprector by Conveyance hath set his Heir apparent and his Family in a House in his Life-time.—Dicitur illi suae Antecessor in via funt per Charitatem Hereditatis reinstat. 1 Stat. 8.

20r,
Cites. The Court doth not generally grant Attachment against Persons for Money, goods, or other chattels, but when they are Tipped at for them, if they live near the Town. 21 Car. B. R. For perfusing Jurors not to appear on a Trial, Attachment lies against the Party, for obstructing the Process. 1 Car. B. R. The Court, or B. R. may award Attachments against any inferior Courts usurping a Jurisdiction, or acting contrary to Justice. 1 Litt. 121. But it doth not lie as against a Corporation. Attachment lies against a Lord that refuses to hold his Court, after a Suit issued to him for that Purpose, so that his Tenant cannot have Right done him. New Nat. Br. 6, 47. Attachment of a Fines is where a Man by virtue of his Privilege calls another to that Court whereof he himself belongs, and in respect thereof is privileged, there to answer some Action: Or it is a Power to apprehend a Man in a Place privileged, and to carry him to Court. 1 Litt. 125. Corporation Courts have sometimes Power by Charter to issue Attachments, and some Courts-Baron grant Attachments, as in the Case of 75, 431. Foreign Attachment is an Attachment of the Goods of Foreigners, found in some Liberty, to satisfy their Creditors within such Liberty. 3 Cal. Rep. 66. And by the Custom of some Places, as in London, a 127, there may be Attachment of Goods in the Hands of a Stranger. But a Foreign Attachment cannot be had when a Suit is depending in any of the Courts at Westminster, which makes the Muster. It must then be brought in any other Court. Cr. Eliz. 691. And nothing is attachable but for a certain and due Debt: Though by the Custom of London Money may be attached before due, as in Debt; but not levied before due. 2 Chit. 327. 1 Nott. 238. Refutes these Attachments, there is Attachment of the Forest, filling out of the Courts of the Forest, against Defenders against the Vert and Veszton; and this Attachment is either by the Body, or Goods, Pledges and Mainpisc, 2 Mon. 50, 93. Foreign Attachments in London, upon Paper of Debt, are made after this Manner: A warrant is made, and C. is vested in A. 1001. B. enters an Action against A. of 1001, and by Virtue of that Action a Servant attached 1011, in the Hands of B. as the Money of A. to the Use of B. which is returned upon that Action. The Attachment being made and returned by the Servant, the Plaintiff is immediately to see an Attorney before the next Court helden for the County, and if the Defendant may then put in Bail to the Attachment, and notavit the Plaintiff: Four Days shall pass before the Plaintiff can make C. the Garnishee, in whose Hands the Money was attached, to New Court, why B. should not condemn the 1001, attached in the Hands of C. as the Money of A. the Defendant in the Action (though not in the Attachment to the Use of B. the Plaintiff: And the Garnishee C. may appear in Court by his Attorney, wage his Law, and plead that he hath no Money in his Hands of the Defendant's, or other spec'd Matter; but the Plaintiff may hinder his Waging of Law, by producing two sufficient Citizens to swear that the Garnishee had either Money or Goods in his Hands of A. at the Time of the Attachment, of which Evidence is to be made before the Lord Mayor, and being filed may be pleaded by Way of Objection: Then the Plaintiff must put in Bail, that if the Defendant comes not in the New Court, and he can discharge himself of the Money condemned in Court, and that he owed nothing to the Plaintiff at the Time in the Plaintiff mentioned, the said Money shall be forth coming, Cts. If the Garnishee shall fail to appear by his Attorney, being warned by
AT

AT

BY the Officer to come into Court to shew Cause as also the Default for Want of Appearance, and judgment against him for the Goods and Money attached in his Hands, and he is without Remedy either at Common Law or in Equity; for if taken into Execution, he must pay the Money condemned, though he hath not one Penny, or go to Prison, but the Garnishee appearing to shew Cause why the Money or Goods attached in his Hands ought not to be committed to the Use of the Plaintiff, having feed an Attorney, may plead as before said, that he hath no Money or Goods in his Hands of the Party's against whom the Attachment is made, and it will then be tried by a Jury, and Judgment awarded. But after Trial, Bail may be put in, whereby the Attachment shall be dissolved, but the Garnishee, &c. and his Security then shall be liable to what Debt the Plaintiff shall make out to be due, upon the Action: And an Attachment is never thoroughly perfected, till there is a Bail and Satisfaction upon Record.

Attachamanto Bonorum, A Digest taken upon Goods or Chattels, where a Man is sued for Personal Libel or Debt, by the legal Attachations or Bailiffs, as Attachment of Goods, or by an Attorney, or by the Officers, as Attachment of Goods or by Bailiffs, a Privilege granted to the Officers of a Forefathers, to take their own Use, Thorow, and Windfall, within their Precincts.


Attachment, (Attain) Is a Writ that lieth after Judgment against a Jury that have given false Verdict, in a Case of Real or Personal, where the Debt or Damages amount to above 40s. Stat. 6 & 34 Ed. 3, cap. 7. It is called Attain, because the Party that obtains it, endeavours thereby to flain or taint the Credit of the Jury with Pejorry, by whose Verdict he is grieved: And if the Verdict be found false, then the Punishment by the Common Law was, that the Jurors Meadows should be pleaded up, their Houses broken down, Woods grubbed up, and all their Land and Tenements be forfeited to the Crown: But it is pleaded against him then brought to the Attain, then he shall be imprisoned and ransomed at the King's Will. Glawe. lib. 2. By the Statute 25 H. 8, c. 1, the Severity of the Common Law is mitigated, when a Party is attainted: And now there is a pecuniary Penalty appointed; and also Fine, &c. to be imposed by the Court. Co. Litt. 394. The Party grieved may have Writ of Attain against the other Party, (whether Plaintiff or Defendant) and against the Jurors, or such of them as shall be then living: It is said any one that is hurt by the false Verdict, may bring this Writ; and if the Verdict be for Matter of Land, the Remedy commonly runs with the Land, to that any Party or Privy, as an Heir or Executor may have it. F. N. B. 109. Co. Litt. 394. This Action may be brought against the Squires, and the Parties to the first Suit; or if the Parties be dead, their Heirs, or Executors, or any other for the most part that recovered by the first Judgment. Dyer 201.

And Attaint may be brought where any material Falshood is found, though some Truth be found with it; as where a Jury shall find a Man guilty of many Thefts, who is not guilty of one Theft. So if a Jury find any Thing against the Common or Statute Law, that all Men are to take Notice of, this may make them chargeable in Attain. Bros. c. 44. Hob. 247. In all these cases, the Plaintiff shall recover against all the Jurors, Tenants, and Defendants, the Costs and Damages, which he shall sustain by Delay or otherwise in that Suit: And if the Defendant's Plea be Bar be pleaded against him, the Plaintiff shall have Judgment to be referred to what he loth, with Damages, by Stat.

1 H. 6. c. 4. and 15 H. 6. In the Court of King's Bench and Common Pleas, and the Court of Exchequer for Bills of London, Attain must be brought; and the Plaintiff sitting aside the Verdict, shall have Relief, &c. But if the first Verdict be affirmed, the Plaintiff shall be imprisoned and fined, 11 H. 2. cap. 21. Recoverers may have an Attain against a false Verdict, &c. against a particular Tenant, who shall be referred to his Possession, and the Recoverer to his Antagon. Stat. 9 R. 2. c. 3. The Stat. 23 H. 8. enacteth, That upon untrue Verdicts before Judges of Record, the Thing in Demand extending to 40l. Value, Attainants shall be granted against the Jury; the Process to be Summons, Reconciliations and Discoveries indefinite, &c. but the Defendants may plead, they gave a true Verdict, &c. to bar the Attain. And the Grand Jury is to try the Verdict of the Petty Jury on the Attain; and if such Petty Jury be found to have given an untrue Verdict, they shall each forfeit 40l. to be divided between the King and Plaintiff, and incur several Fines at the Discretion of the Justices, and be disabled to give Testimony in any Court. Also an Attain shall lie for a Personal Thing under the Value of 40l. in Kinds at any Forefathers, for he that forfeits a Writ of each petty Jury shall be but 5l. &c. Stat. ibid. The Plaintiff in Attain, may not produce more Witnesses, nor give further Matter in Evidence before the Action, and may be depos'd in the first Action; but the Defendant in Attain, may give new Matter in Evidence to enforce the first Verdict, and the Plaintiff shall have Time to diemprove it. Dyer 19. 3 N. & J. Ab. 288. Attain lies where a Jury gives Verdict contrary to Evidence; and where a Judge declares the Law erroneously, Judgment may be reversed, but in this Case the Jury shall be excus'd. Fawke 23. 2 N. & J. Ab. 288. For that which is not given in Evidence, nor upon an Inquest of Office, &c. or when the Thing found is inept to the Issue. Hob. 53. Co. Litt. 355. And no Attain lieth where the King is sole Party, and the Jury for him. 4 Leon. 46. A Non suit in Attain is peremptory: And no Superfunds is grantable upon Attain. Co. Litt. 327. Also if all the Jurors but one are dead, the Ation is gone, and no Attain can be brought; and where any one dies depending the Suit, it is gone; but not by the Death of the Defendant that recovered the first Action. Hob. 139. Hab. 227. This Writ to attain to many Men of such a foul Crime is seldom used, unless the Corruption be very gross and apparent. And instead of Attain, where the Verdict is supposed to be given according to Evidence, it is now usual to have new Trials granted: But an Issue found by Verdict shall be always intended true, unless reversed by Attain, according to our old Books. Co. Litt. 327. The Writ of Attain, is generally to summon a Jury to inquire if the former Jurors made a false Oath, and who were the Jury of the first Inquest, &c. and to have them before the Lord the King, or before the Justices, &c. F. N. B. 253.

Form of a Count in Attain.

Bedford, S.

A Jury of twenty-four, &c. of the Neighbourhood of C. came to recognize whether the Thur, by whom a certain Inscription was, lately found before the Lord the King at Home, between A. B. and C. D. of a certain Treaphy, &c. to the said A. B. by the said C. D., and afterwards before the King and Chamber of the said Lord the King, &c. Justices assigned to take the Affidavit, &c. in the County after said forest, have made a false Oath therein, as the said C. D. gravely complaining to our said Lord the King, and to our said Lord the King, &c.
Attainder, (Attaindus) is used particularly for such as are found guilty of some Crime, and especially of Treson or Felony. A Man is convicted for Appearance, or by Proces: Attainder on Appearance by Confection, or Verdict, &c. Confection, when the Prisone or his Stammes is being alleged whether Guilt, or Not Guilty, answers Guality, without putting him self upon his Country; and (formely Confection was allowed before the Coroner in Sanctuary; whereupon the Offender was to abjure the Realm, and this was called Attainder by Abjuration. Attainder by Verdict is when the Prisoner at the Bar pleaded Not guilty, and is found guilty by the Verdict of the Jury of Life and Death. And Attainder by Proces, (other wise termed Attainder by Default or Outlawry) is when the Party fleth, and is found not, until he have been five Times publicly called or proclaimed in the County, on the last whereof he is outlawed upon this Default. Steand. Pl. Co. 44, 123, 182. Allo Per son may be attainted by Act of Parliament. Attainder of a Criminal is larger than Conviction; a Man is convicted when he is found guilty by Verdict, or con foles the Crime, before judgment had; but not attainted, for judgment was still upon him. 1 Inst. 306. A Per son attainted of High Treson forfeits all his Lands, Tenements and Hereditaments; his Blood is corrupted, and he and his posterity are rendered banish d. The Corruption of Blood cannot be quitted off by Act of Parliament. 3 Inst. 12. And collateral Blood may inherit on an Attainder; though the lineal Blood is barred. If an attainted Person marries an Heir, and has Issue by her; 'tis said that issue shall inherit, for he claims only from the Mother. 3 Inst. 3. In the Cafe of Felony, where Land is given in Tail to A. and the Heirs Male of his Body, under the Statute of Wyfem. 2. and he commits Murder, or any Felony, his Heir shall have the Land, and the Blood is not corrupted: Though in Cafe of Treson, where the Felony is upon both Lands, and is attainted, it is otherwise by the 56 H. 8. Bk. 82. In Treson for counterfeiting the Coin, although by a late Statute Corruption of Blood is saved; yet the Lands of the Offender are forfeited immediately to the King on Attainder, it being a dilingent Penalty from Corruption of Blood: For the Corruption may be saved, and the Forfeiture re mained, (a 2d. Effect according to it is provided by some Statutes.) 1 Salk. 85. Attainders may be revoc ed or falsified, (i.e. proved to be false) by Writ of Error, or by Pla; or by Writ of Error, it must be by the King's Leave, &c. And when by Pla, it may be by Denying the Treson, Pleading a Per son by Act of Parliament, &c. 3 Inst. 322. By a King's Taking the Crown upon him, all Attainders of his Perfons are ijsfe falsi purged, without any Reverse. 1 Inst. 45. 3 W. 17. Lands coming to the King by Attainder of Treson, afterwards granted to another, shall be held as if there were no Attainder. 7 E. 4. c. 5.

Attainder, (Attinida & Attinamia) is when a Man hath committed Treson, &c. and after Conviction Sentence is passed against him, or when a Person is attainted of Treson, and condemned by Parliament. Acts of Attainder of Criminals have been passed in several Regius, on the Discovery of Flies and Rebellions, from the Reign of King Charles II. when an Act was made for the Attainder of several Perkins guilty of the Murder of King Charles I. to this Time; among which, that for attainting Sir John Fenwick, the &0;fighting against King William, is the most remarkable; it being made to attain and convict him of High Treson on the Oath of one Win ted, just after a Law had been enacted. That no Per son should be tried or attainted of High Treson where Corruption of Blood is inturrd, but by the Oath of two lawful Witeness, unless the Party con fess, fix he, &c. and c. 8 W. 3. rep. 5. But in the Cafe of Sir John Fenwick, there was something extraordinary; for he was indit l of Treson, on the Oaths of two Witeness; though but one only could be produced against him on his Trial. The 8 W. 3. c. 5. requires Sir George Barclay, Major General Holme, and other Perkins, to surrender themselves to the Lord Chief Justice, or Secretaries of State; or to be attainted. By the 15 W. 3. the pretended Prince of Wales is under Attainder of Treson, &c. And by 1 Geo. 1. c. 16. the late Duke of Ormond and others are attainted. And besides the Acts of Attainder, we have lately had Bills for inditing Pain and Penalties, as those against the late Bishop of Rochester, &c. Stat. 10 Geo. 1. in passing Bills of Attainder, no Evidence is necessary. See Evidence.

Total Starfin', The Inhabitants and Miners of Cromwell, called an old deferted Mine, that is given over, by the Name of Aspel Starfin', i.e. The Laving of the Sarafon, Saffis, or Saffins. Covel.


Attendant, (Attendent) Signifies one that owes a Duty or Service to another, or in some Sort depends on him. Where a Person is endowed of Lands by a Guardian, &c. the shall be attendant on the Guardian, and on the Heir at his full Age. Terms de Ley 65.

Artimining, (from the Fr. Artimins) is used for a Time or Term granted for Payment of a Debt. Ordinance de Libraribus perquiruntur. Ann. 27 Ed. 1. And in the Stat Wifem. 2. it seems to signify the Purchasing or Gaining a longer Time for Payment of Debts. — Artimining quaruntus in proximum Parliamum. Wel. 1. c. 14.

Artillus, (Artileum, Artillamentum) The Rigging or Furniture of a Ship. This Word is mentioned in Flata, lib. 1. c. 25. Battelas, (i.e. The Boat) cum omnibus & Artillamentis.

Artillerie, (Artilleria) is a Discipline to attur or turn over Money and Goods, win. to affign or appropriate them to particular Ule and Service. Kewar's Paroch. Antq. 2. 283.

Artisfatto fariendo bel recipienda, A Write to command a Sheriff or Steward of a County-Court, or Hundred Court, to receive and admit an Attorney, to appear and defend him in a Suit of Court. F. N. Y. 156. Every Peron that owes Suit to the County-Court, Court Baron, &c. may make an Attorney to do his Suit, &c. to the 5. c. 10.

Attorney, (Attorney) Is he that is appointed by another Man to do any Thing in his Absence. Wyfem. Synb. Consp. Jurid. 105. An Attorney is either publick, in the Courts of Record, the King's Bench and Common Pleas, &c. and made by Warrant from his Client: Or private, upon Occasion for any particular Business, who is commonly made by Letter of Attorney. In ancient Times those of Authority in Courts had it in their Power whether they would suffer Men to appear or sue for any other but themselves; and the King was the only Person to whom he might be obtained for the Admission of Attorneys: But since that, Attorneys have been allowed by several Statutes. As by 27 Ed. 1. &c. At tertainment are made in such Pleas whereon Appeal lawful not: In Criminal Cases, there will be no Attor nies admitted. Stat. 6 Ed. 1. An Infant ought not to appear by Attorney, but by Guardian; for he cannot make an Attorney, but the Court may affign him a Guardian. In cases of Fine, &c. where the Offender cannot till Age, may be by Attorney, though admitted be fore by Guardian, &c. In Actions against Baron and Vice, the Person being within Age, the suit may appear by Guardian: But if they bring an Action, the Heire
hand shall make Attorney for both. 1 Dauo. Abr. Qd. 46. But whereas none of the Pains or Fines be made, though the Wife cannot make Attorney, the Husband may do it for both of them. 2 Sand. 213. One now Campo Metts being within Age is to appear by Guardian for the Children of Age, before it do in by Attorney. 1 Lev. 135. An Idiot is not to appear by Attorney, but in proper Person. A Corporation cannot appear otherwise than by Attorney, who is made by Deed under the Seal of the Corporation. Plead. 91. Persons that owe Suit to County-Courts, &c. making Attorneys See Stat. 20 H. 3.

Attorneys or Bailleys. Are those Attorneys as take upon them the Business of other Men, by whom they are retained. In respect of the several Courts, there are Attorneys at large; and Attorneys special, belonging to this or that Court only. An Attorney may be a Solicitor in other Courts, by a special Ratification: One may be Attorney on Record, and another do the Business; and there are Attorneys who manage Bailiffs of the Courts, &c. Amo a 4 H. 4. it was enacted that the Judges should examine Attorneys, and remove the unskillful: and Attorneys shall swear to execute their Office truly, &c. The Stat. 3 Hen. 6. 7. was made to restrain the Number of Attorneys. And by 3 Stat. 1. cap. 7. Attorneys, &c. shall not allow any Fees laid out for Counsell, or otherwise, unless they have Pictures thereof signed by them that receive such Fees, and shall give true Bills to their Clients of all the Charges of Suits, under their Hands, before the Clients shall be charged with the Payment thereof; and if they delay their Clients Suits for Gain; or demand more than their due Fees and Disbursements, the Clients shall recover Costs and treble Damages; and they shall be fined for ever after disabled to act in Suits. None shall be admitted Attorneys in Courts of Record, but such as have been brought up in the said Courts, or are well practised and skilled, and of an honest Character, and no Attorney shall suffer any other to follow a Suit in his Name, on Pain of forfeiting 20 l. to be divided between the King and the Party grieved. This Statute as to Fees to Counsel, doth not extend to Masters transacted in inferior Courts, but only to Suits in the Courts of Woffington-Hall. Cart. 147. Attorneys, &c. are to take the Oaths to the Government and Law of Fidelity to Possess the Office. 17 Eliz. 3. cap. 6. By a late Order of all the judges, Attorneys are to be admitted of some Inn of Court or Chancery, except Hose-houses in London and Woffington, &c. shall be sworn, &c. an Attorney shall act till he be admitted: No Attorney shall put himself out as the Society he is admitted of, till he is admitted of some Inn of Society, and deliver a Certificate thereof: All and every Attorneys are to be in Commons the Times ordered by the Society to which they belong; and offending therein, shall be put out of the Roll of Attorneys. Ordin. Mich. 3. Am. Attachments have been granted against those who have disobeyed this Order, in not being admitted of some Inn, &c. after Service of the Order. And Attorneys may be committed for doing any Thing against the express Rules of the Court, having Notice of such Rules: As they may do for any ill Practices. The Act 2 Geo. 2. c. 25. ordains, That all Attorneys shall be sworn, admitted and enrolled, before allow'd to issue out Writs in the Courts at Woffington; and after the Fifth of December 1750, none shall be permitted to Practise, but such as have received a Clerkship of Five Years to an Attorney, and they shall be examined, sworn and admitted in open Court; and Attorneys shall not have more than two Clerks at one Time, &c. every Writ and Copy of any Process served on a Defendant, and also every Warrant made out thereon, shall be indorsed with the Name of the Attorney by whom issued forth; and no such Warrant shall issue unless the Attorney that make the Warrant shall tender the same to an Attorney for Fees till a Month after the Delivery of their Bills subscribed with their Hands: Also the Party who is in the mensal of such Attorney shall be paid the Fees and Warrants taxed, and upon the Taxation the Sum remaining due is to be paid in full of the said Bills, or in Default the Parties shall be liable to Attachment, &c. And the Attorney must pay the Costs of the Suits, if the Attorney do not, the Bill be reduced a forth Part. There is a Penalty of 50 l. inflicted, and Disability to Practise, for acting contrary to this Statue. By the 6 Geo. 2. c. 47. Permits having served Five Years as Clerks to Attor- neys, though not bound by Contract, or who had been bonded, but not served Five Years; and Sons of At- torneys that served that Time with their Fathers, &c. were to be sworn and admitted. By 12 Geo. 2. c. 13. Attorneys, &c. that Act in any County-Court, without being admitted according to the Statute 2 Geo. 2. shall forfeit 20 l. recoverable in the Courts of Record: And no Attorney who is a Prisoner in any Prison, shall set out any Writ, or profess Suits; if he doth, the Proceedings shall be void, and such Attorney, &c. is to be struck off the Roll. But Suits commenced before by them, may be carried on. A Clerk serving a Clerk- ship, and making his Surname Affirmation instead of an Oath, shall be admitted as an Attorney. By the Stat. 22 Geo. 2. c. 46. Permits bound Clerks to Attorneys or Solicitors are to cause Affidavits to be made and filed of the Execution of the Articles, Names and Places of Abode of Attorneys or Solicitors and Clerk, and none to be admitted till the Affidavits be produced and read in Court; none having discontinued to take any Clerk. Clerks are to serve actually during the whole Time, and make Affidavits thereof. Permits admitted sworn Clerks in Chancery, or serving a Clerkship to a Fiduciary, may be admitted Solicitors. By the Stat. 12 Geo. 1. c. 29. By the same Act all Clerks that had been convicted of Forgery, Perjury, &c. shall practicile as an Attorney or Solicitor in any Suit or Action in any Court, the Judge where such Action shall be brought, hath Power to command the Clerk to appear in the next Seven Years, in such Writs, and under such Penalties as Felons. Attorneys of Courts, &c. shall not receive or procure any Blank Warrant for Arrests from any Sheriff, without Writ first delivered, on Pain of severe Punishment, Expulsion, &c. And no Attorney shall make out a Writ with a Clause Atitum Bills, &c. where special Bail is not required by Law. The Act 1 Eliz. 5. c. 3. is to be entered and file Warrant of Attorney in every Suit on Pain of 10 l. and Imprisonment. Stat. 32 H. 8. And the Plaintiff's Attorney is to file his Warrant the Term he terms he and the Defendant his the Term he terms he, he shall appear. 4 & 5 Ann. Action upon the Cause lies for a Client against his Attorney, if he appear for him without a Warrant; or if he pleads a Fiduciary for him, for which he hath not his Warrant. 1 Salk. 140. But if an Attorney appear without Warrant, and Judgment be had against his Client, the Judgment shall stand, if the Attorney be responsible: Contrariwise, if the Attorney be not responsible. 1 Salk. 88. Action lies against an Attorney for suffering Judgment against his Client by Warrant when he had given him a Warrant to plead the General Issue: This is understood where it is done by Coram. 1 Dauo. Abr. 185. If an At- torney makes Default in a Plea of Land, by which the Party loses his Land, he may have a Writ of Deems against the Attorney, and recover all in Damages. Ibid. An Attorney owes to his Client Secrecy and Diligence, as well as Fidelity; and if he take Reward on the other Side, or cause an Attorney to appear and confess the Action, &c. he may be punished. Hob. 9. But Action lies not against an Attorney retained in a Suit, though he knows the Plaintiff hath no Cause of Action; if only acting as a Solicitor in the Way of his Profession. 4 Lev. 117. 1 Mod. 209. Though where an Attorney or Solicitor is found guilty of a gross Neglect: the Court of Chancery has in some Cases ordered him to pay the Costs. 1 P. Williams 593. He who is At- torney
At

In

jury at one Time, is Attorney at all Times, pending the Plea. 1 Daws. 609. And the Plaintiff or Defendant may not change his Attorney, while the Suit is depending, without Leave of the Court, which would redound to the Credit of Attorneys; nor until his Fees are paid. Mich. 14 Car. A Cause is to proceed notwithstanding the Death of an Attorney therein; and not be delayed on that Account: For if an Attorney die, the Plaintiff or Defendant may be required to make a new Attorney. 2 Keb. 275. An Attorney, Solicitor, &c., having Fees due to him, may detain Writings until his just Fees are paid: But if there be no Fees due to him, the Court on Motion will compel the Delivery of them. 1 Litt. 148. Any Papers may be detained by an Attorney till the Money is paid for drawing them; but he cannot detain Writings which are delivered to him on a Special Trust, for the Money due to him in that very Business, &c., if he doth, a Rule may be obtained that he shall deliver them by such a Day, or else the Attachment shall run against him. Mod. Cas. in Law and Equity 306. The Court will make a Rule for Delivery of Writings when they come to the Attorney's Hands by Way of his Business; and when they come to him in any other Manner, the Party must bring his Action. 1 Salt 87. Attorneys have the Privilege to sue and be sued only in the Courts of Record, where they Practice. They are not obliged to put in Special Bail, when Defendants; but when they are Plaintiffs, they may implead Special Bail in all Cases. 1 Vent. 293. Wood's Inst. 450. And they shall not be chosen into Offices, against their Wills. See Privilege.

Attorney of the Duchy Court of Lancaster, (Attornemarius Duci Lancastriae.) Is the second Officer in that Court; and free in his Skill in Law to be there placed as Adjudicator to the Chancellor, and chosen for some special Trust repaid to him, to deal between the King and his Tenants. Creede.

Attorney General, Is a Great Officer under the King, made by Letters Patent. It is his Place to exhibit Informations, and prosecute for the Crown, in Matters Criminal, and to the Bills in the Exchequer, for any Thing concerning the King in Inheritance or Profits; and others may bring Bills against the King's Attorney. His proper Place in Court, upon any special Matters of a Criminal Nature, wherein his Attendance is required, is under the Judges, on the Left Hand of the Clerk of the Crown: But this is only upon solemn and extraordinary Occasions; for ordinarily he does not sit there, but within the Bar in the Face of the Court. Mich. 22 Car. B. R.

Assessment, (Assessment usum, from the Fr. Taxer) Signifies the Tenant's Acknowledgment of a new Lord, on the Sale of Lands, &c. As where there is Tenant for Life, and he in Reversion grants his Right to another; it is necessary the Tenant for Life agree thereto, which is called Assessment. It gives no Interest, but only perfects the Grant of another: And Tenant in Tail is not compellable to assess, on the Reversion being granted; he having an Edict of Inheritance. 1 Inst. 318, 319. This Assessment is in Deed, or in Law; voluntary and compulsory; and may be made by any Grantor, in their Words, voto. I attest to you as for the Deed, or I agree to the Grant, or I become your Tenant, &c. Or by any Words or Act which impart an Affront to the Grant. Lit. 531. 1 Daws. 513. It may be made by Payment of a Penny Rent, &c. to the Grantee. 1 Inst. 309. Where an Estate is granted to one for Life, Remitter to another in Fees, Assessment to the Tenant in Tail is to go to Easement. 1 Inst. 312. By Feoffment of a Manor, the Services do not pass without Assessment. 1 Daws. 612. But if a Personal Right passes to an Easement by Recovery; or where against copyhold, Fine is levied of Lands, or by Deed of Bargain and Sale inrolled, according to the Statute, there needs no Assumption, they being in by the Stat. 13 Hen. 8. cap. 10. And if a Reversion be devised by Will to another, the Estate passes without Assessment. 3 Hen. 6. This was a large Head in our Common Law; but now much of this Learning is out of Use: And by a late Statute, it is enacted, That all Grants and Conveyances of Mansoors, Lands, Rents, Reversions, &c., by Fine, or otherwise, shall be good without the Assumption of the Tenants of such Lands, or of the particular Tenant upon whose Estate any such Reversion, &c., shall be expectant or depending: But Notice must be given of the Grant, to the Tenant; before which he shall not be prejudiced by Payment of any Rent to the Grantee, or for Breach of the Condition for Non-payment. Stat. 4 & 5 Ann. And Assumptions of Lands, &c., made by Tenants to Steal, shall be void, and their Landlord's Possession not affected thereby: Thus shall not extend to vacate, any Assessment made pursuant to a Judgment at Law, or with Consent of the Landlord; or on a forfeited Mortgage, &c. by 1 Gen. c. 2. 19.

Assize, or Assize, A Rent or Payment by Tenants of the Manor of Writs in Ejection, upon St. Leonard's Day, 6 November, for the Privilege of Pannage in the Lord's Wild Pigs, and the Lord's Pink Pig, a Year Old, an Half-penny; for every yearling Pig, one Penny; and for every Hog above a Year old, Two-pence.


Assizes, Assizari, Sellers, Regrators, or Rentlers. Placet. Parl. 18 Ed. 1. But more properly Brokers.

Assize Court, (Curia Judicis Cantuarialis.) Is a Court belonging to the Archbishop of Canterbury, having the same Authority with the Court of Archbishops, though inferior to it in Dignity and Antiquity. It is held in the Archbishop's Palace; and in former Times the Archbishops were wont to try and determine a great many Ecclesiastical Causes in their own Palaces; but before they pronounced their definitive Sentence, they committed the Matter to be argued by Men learned in the Law, whom they named their Auditors; and to this Rule grew our Speculators, who, at this Day, is called Consilium regium, or the Council of the Archbishop, which meets with or without any Point of contentious Jurisdiction; that is Deciding of Causes between Party and Party, but only such as are of Office, and especially as are Ecclesiastical Jurisdiction, as the Granting the Custody of Spiritualities, during the Vacancy of Bishops, Indulgences to Benefices, Dispensation, &c. but this is now disdained from the Audience. The Auditor of this Court anciently by Special Commission was Vicar General to the Archbishop, in which Capacity he executed Ecclesiastical Jurisdiction of every Diocese, and was a great and eminent Man, within the Province of Canterbury. 4 Inst. 337.

Assize o terminis, A Writ, or rather a Commission to certain Persons, when any Infraction or Great Rite is committed in any Place, for the Appeasing and Punishment thereof. F. N. B. 110. See Oyer and Terminer.

Assize Petition, Is a Writ that lies where a Man has any great plead, but hath not a Day in Court to plead it: And it is usually brought where one is bound in a Statute-Merchant, Statute-Sacle, or wherein there is Judgment and Recovery; or when against copyhold, Fine is levied of Lands, or by Deed of Bargain and Sale inrolled, according to the Statute, there needs no
Causeth why Execution should not be granted, as a Releaseth, or other Exception. This Withe is granted, by the Lord Chancellor to the Justices of either Bench, willing them to grant Summons to the County where the Execution is to be discharged or hindered, and from thence return to the Court at a certain Day. F. N. B. 102. To wit, Execution of the Defendant cannot plead so that if there be any Matter since the Judgment, to discharge him of the Execution, or to have Audita Querela upon which, the Justices shall hear the Complaint, and do Right: And Audita Querela cannot be brought on a Releaseth, until Judgment is entered of Record. 1 Med. 111. On a Statute, the Condemn or his Heir may bring Audita Querela, before Execution is fixt out: but this may not be done by a Stranger to the Statute, or a Purchaser of the Land. 1 Dows, Abr. 650. 2 Rep. 13. An Audita Querela is in Nature of a Suit in Equity, where a Person is charged with a Debt that is paid, or being released, Est. 2 Corv. 29. And there must be a Charge and Burthen come, or coming upon the Party that is to have it, of which he ought by Law to be discharged; and then it is to be in such a Cause wherein he hath no other Way to relieve himself: s. Corv. 29. Est. 2 Corv. 4. And it must be brought against the Proctoror himself, and sometimes against him and others that ought to bear Part of the Burthen with him, as a Leahy, a Condemn of him and his Affinage to repair, and the Leahy affign over, and the Covenant is broken; if the Leahy loses one of them and recovers Damages, and then lives the other, he may bring Audita Querela for his Relief. 1 Bro. 74. And where a Man hath Goods from me by my Delivery, and another takes them from him, so that he is liable to render them to me, and one of us has and recovers against him, his Remedy is this Withe. Dyre 432. One binds himself and his Heirs in an Obligation, if the Obliger recover the Heir, and after the Executors for the same Cause, Est. they may have the Withe Audita Querela. Plowd. 439. If two joint and several Obligors are sued jointly, and both taken in Execution, the Death of one Obligor will not discharge the other, so as to give him this Action; but if such Obligers be profecured severally, and a Satisfaction is once had against one of them, or against the Sheriff upon the Escape of one, the other may have it. H. P. S. 8 Rep. 87. Judgment is had against a Sheriff on an Escape of a Person in Execution, and after the first Judgment is removed for Error, the Plaintiff will have Relief by Audita Querela. 8 Rep. 142. If the Plaintiff hath had Satisfaction against one Trepasser, and he proceed to require it against the other, he shall have this Withe. Plowd. 60. And where there is Judgment against three, and one of them taken in Execution, they may all join in Audita Querela, when they have Cause to have the same. 3 Corv. 145. A Plaintiff that fiscs an Administrator, has his Letters of Administration revoked: the Defendant must be relieved by Audita Querela, for he cannot plead it. Stiley 417. If one accepts of a letter Sum of Money for a Greater due, and after the Day, and yet fies the Bond: this Withe will not lie, because it lieth only where a Discharge is in Law. Trin. 18. Fac. 1. B. R. It may be brought by an Infant in the King's Bench Common Pleas, to avoid a Statute acknowledged by him whilst he was within Age, 1 Corv. 208. The Withe Audita Querela may be had, where a Statute or Statute setter is in defective, and not good; or being upon an affirmative Contrat, by Dureis or Imprisonment, where there is a Defeasance upon it, &c. Mer. ca. 1057. 1 Brond. 55. 2 Bast. 315. The Plaintiff on an Action of Omission, on a Sogestion that he had agreed to deliver up the Statute. 1 Rol. 309. Where one enters into a Statute, and after fells his Lands to divers Purchasers; or Judgment was against a Man, who has his Land to several Heirs, Est. and one of the Purchasers, or one

Heir alone is charged, he may have this Withe against the theft to contribute to him. 3 Rep. 44. 2 Bulst. 140. Upon Audita Querela brought, a Superfectus shall go to try Execution: And the Judgment in this Action is of no Effect, but if the Audita Querela be undo and gotten, upon a false Surmise, it may be quashed. 1 Bulst. 140. This Withe lies not after Judgment upon a Matter which the Party might have pleaded before. Cro. Edw. 35. A bare Surmise is not sufficient to avoid a Judgment: But generally some Specialty must be shown. Cro. Fac. 579. Upon a Release or other Deed pleaded, no Superfectus will be granted till the Plaintiff in the Audita Querela hath brought in Writs into Court to prove the Debt: And if Execution be executed before, Bail is to be put in by Allowance of the Court. 1 Litt. Abr. 155. On Allowance of Audita Querela, Bail must be given in Court; unleis in Cases of Necessity, when it may be put in before two Judges. Palm. 432. And by Bail the Party is in Custody of the Law, and if he make not out his Audita Querela, he must render his Body in Execution again, or pay the Debt for which he is in Execution, or else his Bail must pay it. If after Judgment against Bail, the Principal is revestered, or the Money paid by the Principal; the Bail may have Audita Querela. Cro. Fac. 645. 8 Rep. 143. And it may be brought by the Bail to avoid an Execution against them, where no Proces is foot forth against the Principal in his Life-time, Est. Geld. 174. If one taken in Execution be set at Liberty by the Plaintiff, and afterwards taken again and detained in Prison upon the same Execution, he may bring Audita Querela to be enlarged; for by the full Enlargement by the Plaintiff the Execution is dischard, and an Execution once dischard evermore. 1 Litt. 92. If a Man nonsuit in an Audita Querela, may have a new Withe. F. N. B. 104. When Lands are extended on any Statute, &c. before the Time, Audita Querela lieth. 22, 46 E. 3. A Withe in the Nature of an Audita Querela, has been made out returnable in B. R. on a special Partion, setting forth the whole Matter. Fac. Gent. 109. And in some Cases after a Judgment, the Court will relieve the Party on Motion, without Audita Querela. 1 Bulst. 93.

A Withe of Audita Querela.

GEORGE the Second, &c. To our Jujfities of- sign'd to hold Peace before us, Greet- ing: We having received Information, by the gracious Complaint of A. B. that whereas C. D. in Ester Term, &c. and now hath to the Damages of the said A. &c. wherofere the said A. hath by us to provide him Relief, and being unwilling that the said A. should be any Ways injure- red, and dispos'd that what is right and just should be done in this Cause: We command you, that in Order to hear the Complaint of the said A. you call before you the aforesaid Parties, and such others as shall from time to time convene to you and having heard the aforesaid Parties, and in due Course of Law, you shall for ought be done. Witness, &c.

Subsc. (Lat.) Is an Officer of the King, or some other great Person, who examines yearly the Accounts of all Under-Officers, and makes up a General R. Book,
Book, which shews the Difference between their Re-
courses, and their General Allowances, com-
monly called Allowances: As the Auditors of the En-
chaser, take the Accounts of those Receivers who collect the Revenues. 4 Inf. 106. Receivers Ge-
erally have their Allowances, &c. are also termed Auditors, and hold their Audits for adjusting the Accounts of the paid Rents at certain Times and Places appointed. And there are Auditors allied by the Court to audit and settle Accounts in Affidavit of Account, and other Cases, who are proper Judges of the Cause, and Pleas are made before them. 1 Brom. 24.

Auditors of the Juniores, are Officers in the Exchequer, who have the Charge of auditing the great Accounts of the King's Customs, Naval and Military Expenses, of the Mint, &c. and any Money imposed for his Majesty's Service. Prad. Exch. 13. 2 Beacons, It is the same with Auditors, i.e. the Cathachemans, or those who were newly instructed in the Mysteries of the Christian Religion before they were admitted to Baptism; and Auditorium is that Place in the Church where they stood to hear, and be instructed. 'Tis what we now call Novicii Ecclesiae: And in the Primitive Times, the Church was so brisk in keeping the People together in that Place, that the Perfon who went from thence in Sermon Time was excommunicated. Blunt.

Averages, (from the Lat. Averages) A certain Quantity of Onus paid by the Tenants, As an Officer of the Ex-
chequer, that files the Tellers Bills, and having made an Entry of them, gives the Lord Treasurer, &c. a weekly Certificate of the Money received: He makes Debentures to the Tellers, before they pay any Mo-
ney; and takes their Accounts: He also keeps the Black Book of Receipts, and the Treasurer's Key of the Treasury, and feith every Teller's Money locked up in the Treasury. 4 Inf. 107.

Auditors of the Juniores, Are Officers in the Exchequer, who have the Charge of auditing the great Accounts of the King's Customs, Naval and Military Expenses, of the Mint, &c. and any Money imposed for his Majesty's Service. Prad. Exch. 13.

The Earl of 5 arpington, is the same with Auditors, i.e. the Cathachemans, or those who were newly instructed in the Mysteries of the Christian Religion before they were admitted to Baptism; and Auditorium is that Place in the Church where they stood to hear, and be instructed. 'Tis what we now call Novicii Ecclesiae: And in the Primitive Times, the Church was so brisk in keeping the People together in that Place, that the Person who went from thence in Sermon Time was excommunicated. Blunt.

Averages, (from the Lat. Averages) A certain Quantity of Onus paid by the Tenants, As an Officer belonging to the King's Stables, which provides Cash for his Horses: He is mentioned 13 Car. 2. cap. 8.


Auditories, (properly Adventures) A Mischance caus-
ing the Death of a Man: As where a Person is sud-
denly drowned, or killed by any Accident, without Felony. 1 Inf. 391.

Brem, (peu Oscura, from the Fr. Oeuvre and average, operarius Operariorum) signifies a Day's Work of a Ploughman, formerly valued at 9d. It is found in Dom. Inf. 269.

Brestage, (accumulation) is paid to signify Service which the Tenant owes to his Lord by Hore or Car-
riage: But it is more commonly used for a Contri-
bution that Merchants and others make towards their Lords, who have their Goods call'd into the Sea for the Safeguard of the Ship, or of the other Goods and Lives of those Persons that are in the Ship, during a Tem-
pest. It is in this Sense called Average, because it is proportioned and allotted after the Rate of every Man's Goods and Estates. — Stat. 42 Hen. 3. 14 Car. 2. By the Laws of the Sea, in a Storm, when there is an ex-
treme Neediness, the Goods, Wares, Guns, or what-
soever else is on Board the Ship, may (by consulting the Men) be thrown overboard by the Master, for the Preservation of the Ship; and it shall be made good by Average and Stat. 40 E. 3. But if the Master takes in more Goods than he ought, without Leave of the Owners and Freighters, and a Storm arilith at Sea, and Part of the Freighters Goods are thrown in, the Goods taken are made good or subjected to Average; but the Maker is to make good the Loss out of his own Estate: And if the Ship's Gear or Apparel be lost by Storm, the same is not within Average. Leg. Red. If Goods are cast over board before half the Voyage is performed, they are to be estimated at the Price they cost: But if they are ejected afterwards, then at the Price as the rest are sold at, the Port of Arrival. Leg. Omer. Where Goods are given to Pirates by Way of Com-
promis to fave the rest, there shall be Average, by the Civil Law. — Average, is taken for a Small Duty, paid to Masters of Ships when Goods are sent in another Man's Ship, for their Care of the Goods, over and above the Freight. — Paying so much Freight for the said Goods, with Primitive and Average acceded. Words in Bills of Lading.

Averages of Conv Airiths, The Stable or Remainder of Sow and Grain left in Corn Fields after the Harvest is carried away. In Kent called the Great-
ten, and in other Parts the Roughage, &c.

Aver, (or Average Penny) Money paid towards the Last. — Money can be no Averages, is taken for thereof. — Aver Penny be of, quittan eis de diversi Donativae pro Averages Domini Regis. Raill.

Aver Sliber, A Custom or Rent formerly so fo-
called. Gower.

Baris, Cattle: Spalana deduces the Word from the Fr. Oeuvre, Work, as if chiefly working Cattle: Though it seems to be more probably from Avern, to have or possess: the Word sometimes including all Personal Estate, as Castella did all Goods and Chattels. This Word is used for Oxen or Horses of the Plough; and a Barth is a general Sense and ant. — Henmis pro Averis jux, vin. Equus & Bovis, & affer graviter differint. M. Torn. in Ed. 2. 'Tis used in the same Sense in W. 2. 18. Averia Elignata; see Elignata.

Bartis Captis in Whitburn, A Writ for the taking of Cattle to his Use, who hath Cattle unlaw-
fully driven away by another, and driven out of the Country where they were taken, so that they cannot be reprieved by the Sheriff. Reg. Orig. 82. If the Cattle are put into any Brong Place in the same Coun-
ty, the Sheriff may take the Puffi Cominatus, and break into it, to make the Replevin. 1 P. & M. But when they are driven out of the Country, he hath no Author-
ity to purifie them.

Barterments, (Verificatis, from the Fr. Aeracs, i.e. Verificate, Teufari) Is an Offer of the Defendant to make good or justify an Exception pleaded in Abstain-
tment or Bar of the Plaintiff's Action: And it signifies the Ad, as well as the Offer of justifying the Excep-
tion and not only the Form, but the Matter thereof. C. Litt. 62. Averment is either General, or Parti-
cular: General is that which, being made, is in Bar of a Replication, or other pleadings, con-
ing Matter Affirmative, and ought to be with these Words, Et hoc paraus est verificasi, &c. Particular Averment is when the Life of Tenant for Life, or of
Tenant in Tail, &c. is assured. Ibid. Where one Thing is to be done in Consideration of another, on
Contrasts, &c. there must be an Assent of Performance: But where there is Promis against Promise, there
must be an Assent or a Mot de force; 1 Lev. 87. The Use of an Assent being to af-
certain what is alleged dubiously, Deeds may some-
times be made good by Assent, where a Perfon is not
necessarily named; but when the Deed itself is void for
Incertainty, it cannot be made good by Assent. 5 Rep. 155. Assent cannot be made against a Re-
cord, or Experiments in its left an undivided Lea. 1 Lev. 260. Nor shall it be admitted against a Will
concerning Lands, 6 Rep. 68. And an Assent shall not be allowed where the Intent of the Testator cannot
be collected out of the Words of the Will. 4 Rep. 44.
One may not aver a Thing contrary to the Condition
of an Obligation, which is suppos'd to be made upon good
Deliberation, and before Witnesses, and therefore
not to be contradicted by a bare Assent. 1 Litt. Abr. 156.
If an Heir is fix'd on the Bond of his An-
celor, it must be aver'd that the Heirs of the Obli-
gor were expressly named. 2 Sand. 135. Another
Consideration than mentioned in a Deed, may be
aver'd, where it is not repugnant or contrary to the
Deed. Dyer 146. But a Consideration may not be
aver'd, that is against a particular express Considera-
tion; nor may Assent be aver'd against a Consideration
mentioned in the Deed, that there was no Considera-
tion given. 5 Rep. 135. Nor may an Assent be upon
an Assent, and the Ufe shall be upon a Deed of another Ufe, against the Ufe expres'd in the Deed;
but where no Ufe is expressed, or but incertaneously, an Assent shall be admitted, and
not be an Express or Explicit Assent. 4 Rep. 75. An
Assent may be of a Ufe upon any Fine, or common
Recovery; though not of any other Ufe than what is expres'd
in it: It may be receiv'd to reconcile a Fine, and
the Exemption from it. 2 Bulle. 255. 1 And. 312.
If an Estate is made to a Woman that hath a Husband, by Fine or Deed, for her Life; in
this Case it may be aver'd to be made to her for her
Jointure, although there be another Ufe or Considera-
tion expres'd. 4 Rep. 4. If a Piece of Ground was
anciently called by one Name, and of late is called by
another, and it is granted to me by this new Name;
an Assent may be taken that it is all one Thing,
and it will make it good. Dyer 37, 44. No Assent
lies against any Returns of Writs, that are def-
mitt'd: But a Thing restored, as the Re-
turn of a Sheriff upon his Writs, &c. But it may be
where such are not-defmitt'd; and against Certificates
upon Complaints out of any Court: Also against the
Returns of Bailiffs of Franchises, so that the Lords
be not prejudiced by it. Dyer 348. 8 Rep. 121. 2 Cor.
23. When Certainty is expres'd by Argument and
Implication in Pleading, there it need not be aver'd.
2 Bulle. 95, 142. A Special Assent must be made
upon the Pleading of a general Pardon, for the Party
to bring himself within the Pardon, 1 Lev. 367. A
Perfon may aver he is not the same Perfon on Appeal
of Death in Favour of Life. 1 Nell. Abr. 305. But
Plea merely in the Negative, shall not be aver'd,
because they cannot be proved: Nor shall what is
against Premotion of Law, or any Thing apparent
to the Court. 1 Lev. 362, 373. The Statute of
Wifdom. 15 Ed. 1. gives the Assent, not fum-
monged according to Law, &c. on a Bond given to
the Sheriff or Gavel, contrary to the 23 H. 6. there
may be Assent by that Statute: Upon Bonds for Utters,
The Utter may be aver'd by Virtue of 13 Eliz. And so in Cafe of Simony. Stat. 51 Eliz. But
there is no Assent of Maintenance. 1 Tunn. Cent.
94, 108, 131. By Statute, no Exception or Advan-
cement in Deemers, or Want of 4 Assent of hoc paratis eff, &c. except the fame be
specifically fet down for Case of Deemurer. 4 25 5 Am.

Dreller. To carry Goods in a Waggon, or upon
loaded Horfes, a Duty required of some customary
Tenants.—Debat frings Domini materis, prata fac-
cere, &c. carriage & Averrent. Carollar. Glafon. MS. E.

Ingra. A Ciltern for Water.—Epiphep. B. con-
cedit Cicilas W. nam unum caput pro concula aqua
com Auges fufirilbas, & carioris Machin, ind par se

Augmentation, (Augmentation) The Name of a
Court erned 37 H. 8. for determining Suits and
Controversies relating to Monastaries and Abbey Lands.
The Intent of this Court was, that the King might be
justly dealt with touching the Profits of such Reli-
gious Houses, as were given to him by Act of Parlia-
ment. It took its Name from the Augmentation of
the Revenues of the Crown, by the Suppression of
Religious Houses: And the Office of Augmentation, which
hath many curious Records, remains to this Day,
though the Court had been long since dissolved. Terms
de Ley 68.

CHILDREN. Advice, or Confed.—De Avisa-
mento & confefo. Consilli eti Conséffion. &c. was
the common Form of our King's Grants.

As, i. e. A Court Baron, Aula ibidem vest. dte.
&c. Aula Estian or is that which is now termed

Sumont. (Fr. Amont. Alm.) Tenure in Amonum
is where Lands are given in Alms to some Church,
or Religious House; upon Condition that a Quarter of
the Profits or Prayers shall be offered at certain Times for the
Repose of the Donor's Soul. Brit. 164. Vide Fraka-
Malum.

Annuit-Endowment, (past Hand Sub Weights, or from
Aylia, the Handle of the Balance) An ancient manner of
Weighing, by the hanging of Scales or Hooks at each End of a Beam or Staff, which by lifting up in the
Middle with one Hand, and placing it in the other hand,
the Equality or Difference between the Weight at one End and the Thing weighed at the other. This Weighing
being subject to great Decay, was prohibited by sev-
eral Statutes, and the even Balance commanded in its
Stead. 34 Ed. 3. 8 Hen. 6. 22 Car. 2, &c. But
nowwithstanding it is still used in some Parts of Eng-
lund: And what we now call the Balance, is a Sort of
Hand-weighing among Butchers, being a small Beam with a
Weight at one End, (which throws the Pounds by certain Notches) seems to be near the fame with the
Alya. Wight.

Banciatius. A Word signifying Antiquated.
Sicel Charta seruorum usitata & Libertatis anterior.

Banciatus. In the general Signification is when a
Benefice is void of an Incumbent; in which Sense it
is applied to Pertainy. Avoidances are either in Fact,
as by Death of the Incumbent; or in Law: And may
be by Ceillon, Depivation, Reification, &c. In
the first Cafe, the Patron must take Notice of the Av-
oidance at his Prius, as to prefer within six Months to
prevent Laiple to the Bishop; but in the last Cafe of
Avoidances by Law, the Ordinary must give Notice
to the Patron before he can have Title to present by
Laiple. Dyer 347. There are Avoidances by Act of
Parliament, wherein there must be a judicial Sentence
pronounced to make the Living void: If a Man hath
one Benefice with Cure, &c. and take another with
Cure, without any Dismission to hold two Benefices,
in such Cafe the first is void by the Ait 21 Hen. 8.
c. 15. If it was above the Value of 8 l. During an
Avoidance, it is said that the House and Glebe of the
Benefice are in Abyiance: But by the Stat. 28 Hen. 8.
cap. 11. the Proffits arising during the Avoidance are
given to the next Incumbent, towards Payment of the
Fifth-fruits; though the Ordinance does not appear to
fis to provide for the Service of the Church, and shall
be allowed the Charges of supplying the Cure, &c.
for which Purpos the Churchwardens of the Parish are usually appointed. The next Avoidance of a Church may be granted by the Parish, and where the Church is full: If a Grant be made of the next Avoidance when it shall happen, and the Church be void at that Time, this will make the Grant void as to that very Avoidance; it may be good for the next Turn after that. A Grant of the next Avoidance is no more than a Chapter, and goes to Executors. Right Cl. 68.

2. Bodojusius, or Aedusius, (Fr. Aucor de Pead, i.e. Habere probus, aut juri esse panderis) Signifies a Weight different from that which is called Troy-Weight, which contains but twelve Ounces in the Pound, whereas this hath sixteen Ounces: And in this Respect it is probably so called, because it is of greater Weight than the other. It also signifies such Merchandizes as are weighed by this Weight: and is mentioned in divers Statutes, as 15 Ed. 3. 37 Edw. 3. c. 10. 2 R. 2. c. 1. Avcrum Penderis, full Weight, or Avoeusage. 3 Ed.

3. Devere, Of a Church Benefice Brit. c. 29. See Alsoacore.

Aaneus, (Fr. Auenise) Is where a Man takes a Diffire for Rent or other Things, and the Party on whom taken is afe for a Replevin, then the Taker shall justify his Plea for what Cause he took it; and if he shall have Right, he must likewise the same, and auem to the Taking; but if he took it in Right of another, when he hath shewed the Cause, he must make Cognizance of the Taking, as Bailiff or Servant to the Person in whose Right he took the same. Terminus de Ley 70. If in a Replevin a Man justifies the Taking of Cattle in his Own Right, he must say bene advanc capitssum cvstitorium, GC. which is called an Avoeu: And where he adjures in the Right of another Person, then he says bene cognovit capitssum, GC. which is called a Cognizance 2 Litt. 454. The Avoeu must contain sufficient Matter for Judgment to have Return: But so much Certainty is not required in an Avoeu, as in a Declaration; and the Avoeu is not obliged to allude Seifin within the Statute of Limitations. Nor shall a Lord be required to auem on any Person in certain; but he must allude Seifin by the Hands of some Tenant within forty Years. 21 Hen. 8. c. 19. 1 Inst. 268. In Avoeu Seifin is the only Evidence for it, for so that where a Tenant hath done Homage or Fealty, it is a good Seifin of the other Services to make an Avoeu, though the Lord, GC. had not Seifin of them within forty Years 32 H. 8. cap. 2. 4 Rep. 9. A Man may disfain and auem for Rent due from a Copyholder to a Lord of a Manor: and also for Herites, Homage, Fealty, Amortements, GC. 1 Nelf. Abr. 315. If a Person makes an Avoeu for two Cases, and can maintain his Avoeu but for one of them, it is a good Avoeu: And if an Avoeu be made for Rent, and it appears that Part of it is not due, yet the Avoeu is good for the Rest. An Avoeu may be made upon two several Titles of Land, though it be but for one Rent; for one Rent may depend upon several Titles 1 Litt. Abr. 157. Saud. 285. If a Man takes a Diffire for Rent reserved upon a Lease for Years, and afterwards accepts a Surrender of the Land, he may nevertheless auem, because he is to have the Rent due notwithstanding the Surrender. 1 Dav. Abr 625. Where Tenant in Tail attains in Fee, the Donor may auem upon him, a Reversion being in the Dowry, whereunder the Tenant is incident. Ibid. 625. If there be Tenant for Life, Remainder in Fee, the Tenant for Life may compel the Lord to auem upon him: But where there is Tenant in Tail, with such Remainder, and the Tenant in Tail makes a Feoffment, the Feoffee may not compel the Lord to auem upon him. 1 Davw. Abr 648. 1 Inst. 268. If the Tenant enfeoffs another, the Lord ought to auem upon the
Letter of Attorney, &c. and sometimes by Law. 11 Rep. 98. An Authority that is given, must be to a Thing lawful; for if it be for the doing any Thing against Law, to as best a Man, take away his Goods, or dif- fide him of his Lands, this will not be a good Author- ity, to justify him that doth it. Dyer 103. Exem. 80. An Authority given to another Person, to do that which a Man himself cannot do, is void: And where an Au- thority is lawful, the Party to whom such must do the AD in the Name of him who gave the Authority. 11 Rep. 87. It is a Rule that every Authority shall be countermandable, and determine by the Death of him, that gives it, &c. But where an Interest is coupled with an Authority, there it cannot be countermanded or determined. And 1 Dyer 150. The King may not give any one Authority or Licence to do any Thing that is Maim in 11 Rep. 86. See Licence.

Autumn, is the Decline of the Summer. Some computed the Years by Autumn; but the English Scotch, &c. must be pleaded, and be exactly replied to of the Plaintiff, in Action at Law. In 3 C. 1911. The Submission to an Award may be by Bond, Covenant, or by an Affidavit or Promiss; or without all this, by a bare Agreement to refer the Matter to such a Person or Persons. 10 Rep. 131. Dyer 270. A Husband may submit to Award for himself and his Wife, for her Goods and Chattels, to bind her. But an Infant may not make any Submission to an Award, or any other for him; for it will be void. Pard. 189. If several Persons do a Wroth to a Man, and one of their, and he to whom the Wroth is done submit to an Award; the other Persons, who were no Parties to the Submission, may take Advantage of it to ex- tinguish the Wroth. 7 H. 4. 51. And where the Award of Recompense for a Wroth done is performed, that Wroth is altogether determined: Also the Award of a Peronal Chastel, doth alter the Property of it, and give it to the Party to whom awarded, that he may have Decree for it. Dyer 183. A Submission is of all Actions and Demands, &c. though there be but one Cause or Matter between them, an Award may be made for this: And where two Things are sub- mitted, and the Award but of one good, for the Arbitrators have no further Notice of the other; though it be of three Things, or some Particulars, with a general Clause of all other Matters, in that Case they must make the Award for the Things particularly named, without any other Notice given. Dyer 216. 2 C. 150. 846. If the Submission be by di- vers Persons, and the Arbitrators Award between some of them only, this is good: But if a Submission is of certain Things in Special, with a Proviso in the Con- dition, that the Award be made of the Premises, &c. by such a Day, these the Award must be made of all, or it will be void. 8 Rep. 79. 89. An Award of all Actions Real, when the Submission is of Actions Personal, is not good. 10 Rep. 122. If the Submission be of Things personal, and the Award is, that one of the Parties shall do an Act real, in Satis- faction of a perfoid Injury, &c. or a Submission be of one Thing and the Award made of something incident to, or necessarily depending upon it; or if the Submission is of all Actions Real and Personal, and the Award only of Personal, &c. it will be good in their Causa: if nothing else is notified to the Arbitrators. Dyer 216. An Award made only on one Side, without any Thing on the other, is void in Law: As that one Side, when it give Bond for it, is imposed on both Parties, and he do nothing for it; but if it be to give Bond to pay, or to pay a Debt, and that $ the
The other shall be discharged of the Debt, &c. this is good: So where it is, that one Party shall pay Money to the other, and then the other shall release all Actions to him. 8 Rep. 72, 98. If divers Treasurers be referred to, and the Award is, that one of the Parties shall make the other Party Amend, or give a Release, and pay not what Ameds, or what Release, &c. it is void for Incertainty. 5 Rep. March 18. Award was, that each Party should give to the other a general Release of all Demands; provided, that if either of them like the Award within twenty Days after made, and within that Time pay to the Arbitrator to be void: It was held that the first Part of the Award was good, and the Proviso repugnant to it. To make their Award final and conclusive, to make their Award scireta potestatem pro parte, but they may not injin any Oath to the Witnessess: The Award ought to be published; and no one is bound to publish it. 12 Eliz. 2 meridian. 1 to 6. 3. 9, 10 W. 3, cap. 13. Submissions to Awards, by Agreement of the Parties, may be made a Rule of any of his Majesty's Courts of Record; and on a Rule of Court thereupon, the Parties shall be finally concluded by such Arbitrator. And in Case of Disobedience thereto, the Party refusing to perform the same, shall be taken and committed to the Bod of the Rule of Court thereupon. 10 Eliz. 2 meridian. 1 to 6. 3. 9, 10 W. 3, cap. 13. Submissions to Awards, by Agreement of the Parties, may be made a Rule of any of his Majesty's Courts of Record; and on a Rule of Court thereupon, the Parties shall be finally concluded by such Arbitrator: And in Case of Disobedience thereto, the Party refusing to perform the same, shall be taken and committed to the Bod of the Rule of Court thereupon. 10 Eliz. 2 meridian. 1 to 6. 3. 9, 10 W. 3, cap. 13.

A W A B A

touching the said, &c. to the Day of the Date hereunder, shall cause and be no further proceeded, and that each of the said Parties shall pay and bear his own Costs and Charges, in any way relating to, or concerning the said Premises. And our do Award, and the Award is, that the said A. B. shall pay or cause to be paid to the said C. D. the Sum of, &c. within the Space of, &c. And affix at his own Costs and Charges, &c. And further our do Award and Order that the said C. D. shall pay, or cause to be paid, to the said A. B. the Sum of, &c. on or before, &c. or give Sworn Seals for the same to the said A. B. &c. and our do Award and order that, &c. And lastly, our do Award and Order that the said A. B. and C. D. on the Receipt of the former Sum, &c. absolveth, &c. Grant, &c. A new Form of Law to execute each to the other of the former Reliefs sufficient for the Relieving by each to the other of them, &c. Executors and Administrators, of all Actions, Suits, Arrears, Quarrels, Conventions, &c. to be made and granted, &c. How the Award is made, &c. 9 Rep. 2. Bewein. 311. A Submission to Award may be revoked and countermanded, before the Award made, where there is no Specialty to abide the Award of, &c. 3. 8 Rep. 3. 78. By Stat. 9 W. 3, cap. 13. Submissions to Awards, by Agreement of the Parties, may be made a Rule of any of his Majesty's Courts of Record; and on a Rule of Court thereon, the Parties shall be finally concluded by such Arbitrator. And in Case of Disobedience thereto, the Party refusing to perform the same, shall be taken and committed to the Bod of the Rule of Court thereon. 10 Eliz. 2 meridian. 1 to 6. 3. 9, 10 W. 3, cap. 13. Submissions to Awards, by Agreement of the Parties, may be made a Rule of any of his Majesty's Courts of Record; and on a Rule of Court thereon, the Parties shall be finally concluded by such Arbitrator. And in Case of Disobedience thereto, the Party refusing to perform the same, shall be taken and committed to the Bod of the Rule of Court thereon. 10 Eliz. 2 meridian. 1 to 6. 3. 9, 10 W. 3, cap. 13.

3 Tom., or Aune, (Test. Obm. i.e. cuss vel mensura) A Measure of Rhinish Wine, containing forty Gallons; mentioned in the Statute 1 Jac. 1. cap. 33. and 12 Car. 2. cap. 4. This Word is otherwise called Auneau, as you may read in a very old printed Book. The Rod of Rhinish Wine of Dorsetshire is ten Auneaus, and every Auneau fifty Gallons. The Rod of Auneau is fourteen Auneaus, and every Auneau thirty-five Gallons. And by this Account it contains different Quantities, in several Countries.

3 Ser. & 3 Ser. Comes, from the Saxon Verb Actari, to demand, and from hence we have our English Word Ask. In Somershishe and some other Countries of England, in the Country Dialect the Word Act is made of Ask.

3pel, and Bofaiet, A Writ that lies for an Heir doppilied of his Inheritance left by his Grandfather, or Great Grandfather.

3 pulsus, Signifies a poor Horie or Jade—Affrit, Rasul, &c. Equi varius, &c. Claud. 4 Ed. 3.

B.

Beca, A Hook or Link of Iron, or Staple—In erba conquis & carrettis conquis novum demum in salinis, baco & filio adsider quinti milli.–Confinidum, dominus de Parendon, b. b. p. W. Nenett. f. 20.

Bristolinum, or Bristin, a Bason or Veelvel to hold Water to wash the Hands.—Non tegeta, non monebatur, non Baccinia, &c alium coniunxit vitulam exiguar. Simeon Dunelm. Ann. 1126. Mon. Angl. Tom. 3. p. 191.—Petrus filius Petri Picot tenet mediateam Heredem per Serjantiam servondi de Baschinis.—This was a Service of holding the Bason, or Washing at the Bason, on the Day of the King's Coronation. Diba. Bache. f. 190.


Bachelerla, (Barculeone, from the Fr. Bachelure, viz. fivo, a Learner.) In the Universities there are Bachelors of Arts, &c. which is the first Degree taken by Students, before they come to greater Dignity. And those that are called Bachelors of the Companies of London, are such of each Company, as are springing towards the Edite of those that are employed in Council, but as yet are inferiors; for every of the twelve
tgon Companies confinfs of a Master, two Wardens, the Livery, which are Affidants in Matters of Com-
cil, or such as the Affidants are chufen out of, and the
Bachelors. The Word Bachelor is used 13 R. 2. and
signifies the fame with Knight-Bachelor. By 3 E. 4.
5. it is a fimple Knight, and not Knight-Banneret,
or Knight of the Bath. Anne 20 E. 5. a Petition was
recorded in the Tower, beginning thus: A noftr Bo- Si-
gneur is Roy moftrent entre Simple Bachelor, Johan de
Barre, Esq. Bachelor was anciently attributed to
the Admiral of England, if he were under a Baron. In
Par 8. R. 2. we read of a Bacallariar Regi. And
touching the further Etymology of the Word, Baccala-
ureus (oft Renan) a Bacculus omnium fair, quia primi
fuit Autheurits quem pro exhumation Bacilli conu-
derent, doc. 1. fignifié.

Bachelorize. (Sag.) Signified bearing upon the
Back, or about a Man. Breden ufed it for a Sign or
Circumference of Theft apparent, which the Civilians
call Pectoral. Then into Manufcript & non Manufcript, he
defined the former thus: Pecorum Manufcriptus, ubi lustro deprehen-
sa est. Qui manifert a non manifert. Henrybod. O
B. 3. 7. 10. 11. thus: Necque reus illa fuerit. Bref. lib. 3. tract. 2. cap. 32. Manwood
remarks it as one of the four Circumstances of Cales, when the
Act is done. For then may arrest the Body of an Offen-
der against Vert or Venison in the Forest: By the
Affidavit of the Forest of Lancaster, (tays he) taken
with the Manner, is when one is found in the King's Forest
in any of thefe four Degrees, i.e. Law, Day-drawn,
Backdraw, and Bloody-hunt. Manw. 2 part, Forreft
Laws.

Beca, is a Bacon Hog, as often ufed in old Chars-
ter."

Bailiffs, A Candlelack properly fo called, when
formerly made ex Baculis of Wood, or a Stick. Hugo
Episcopis Duncanellum fiet in Eclesia caera Allerti
tria ex argento Baptista, inquilinum laminas di Nottrott

Bagging, (from the Fr. Baguerie, a Bundle, and
thence is derived Bagagner, a Carrier of Goods) Sig-
nifies with us that one buys Corn or Vulthium in one
Place, and carries them to another to sell and make
Profits by them: And fuch a one is exempted in the
Stat. & 6 Ed. 6. c. 14. from the Punishment of an
Informer within that Statute. But by 5 Eliz. c. 12.
Burgesses are to be licenced by the Judges of Peace
in the Session; whole Licences will be in Force for
one Year, and no longer, and the Persons to whom
granted are to declare before the Judges, that they
will not be Colour of their Licences forefay, or do
any thing contrary to the Statutes made against
Forefellers, Informers and Regulators. If any Person
shall act as a Burgager without Licence, he is to for-
feit 51. one Moity to the King, and the other to the
Protector, leviable by Warrant from Judges of
Peace, &c.

Bags, An uncertain Quantity of Goods and Merch-
candise, from three to four Hundred. Lex Mercat.

Baga, A Bag or Parke.——Carta Decr: Eclesiae 1321. in
Addit. Soc. p. 1. for, using in Duncanas
Marcus proroin in quodam Bagis de Wyddale.

Bagatelles, The Citizens of Exeter had granted to
them by Charter from K. Edw. 1. a Collection of a
Trellisp or Toll payable by every Carriage of Goods
brought to that City to be sold, towards the Paying
of the Streets, Repairing of the Walls, and Main-
tenance of the City, which was commonly called in
Old English Bygelaw, Bellegavel, and Cheeping gavel.

Bagatelle, A Cheek or Coffeer; it is mentioned in
Port. lib. 1. 7. 12.

Bagatello, (Lat. Bagaturio) A Bearer of any
Weight or Burden.——Offerante duas usucres in

Bai, Ballium, (from the Fr. Bailler, which comes of
the Grek Boulas, and signifies to deliver into Hands)
It is used in our Common Law for the Freeing or Rele-
sing at Liberty of one arrested or imprisoned upon any
Action, either Civil or Criminal, on Surety taken for
his Appearance at a Day and Place certain. Brach.
lib. 5. tract. 2. cap. 8. The Reason why it is called
Baill, is because by this Means the Party restrained
is delivered into the Hands of those that bind themselves
for his forth-coming, in order to a Safe Keeping or
Protection from Prifon: And the End of Bail is to
fatisfy the Condemnation and Costs, or render the
Defendant to Prifon. There is both Common and
Special Bail: Common Bail is in Actions of small
Concernment, being called Common, because any
Sureties in that Case are taken; whereas in Cases of
Greater weight, as Actions upon Bond, to put in
Suit, &c. where the Debt amounts to 101. Special
Bail or Surety must be taken, such as Subsidy-Men
at least, and they according to the Value. 4 Lev.
179. By 4 State 11. none but the Bail shall be held in Four
Bails on Proceeds out of any Superior Court, where the
Cuse of Action doth not amount to 101. or upwards;
or not out of any Inferior Court, to 40s. Affidavit is
to be made of the Cause of Action, and filed before some Judge, or Commissioner of the Court whose the
Writ issues, or before the Officer issuing it, and the Sum specified in the Affi-
davit indorsed on the Back of the Writ for which Sum
Bail shall be taken, and no more: And if there be no such Affidavit and Indorsement, the Defendant
shall not be arrested by his Body, &c. Stat. 12 Geo.
1. c. 29. To make out Common Bail-Pieces in the
Margin you put the County, as Midd. If. Then you
write the Name of the Defendant, and underneath of
his Bail, win. A. B. de Parwich, &c. in Com. priv. Gen.
Traditum in Ballium super Corp. Corp. Johan. Doe de
Lond. Ten. & Richardo Roe de. Lond. Ten. And in the
Margin, at the Bottom, you put the Name of the
Attorney, as Edwards Attorn. and on the Right-hand
at the Bottom, Al foulam C.D. Herein you are to
observe, that the Sureties Johan Doe and Richard Roe
are taken of Course: And in Special Bail, the Bail
and their Additions are to be inferred instead of Johan
Doe, &c. which is all the Difference from Common
Bail. Pratifs. attorn. Edit. 1. Their Bail-Pieces are
written on a small Square Piece of Parchment, with the
Corners cut off at Bottom: and if Common, they are
to be filed in the Office of the Clerk of the
Common
Bank, within six Days after the End of the
Term the Attorney appears: And Special Bail, which
is taken before a Judge, or by Commissioners in the
Country, when accepted, is to be filed; after Twenty
Days Notice given of putting in Special Bail before a
Judge, on a Copi Corpus, if there be no Exception,
the Bail shall be filed in four Days. 1. Lev. 174.
Upon a Copi Corpus Twenty Days are excepted against the Bail: So on a Writ of Error; and you
need not give Notice; but you cannot take out
Execution without paying ten Foynes Rule; nor is
better Bail: In all other Cases, Notice must be given.

Upon a Habebus Corpus, Eight and twenty Days
are appointed to except against the Bail, and after that,
it is not excepted against, it is to be filed in Four
Days. 1. Saib. 98. The Exception to Bail put in
before a Judge, must be entered in the Bail-Book, at
the Judge's Side, or where he is put in, after this Manner: I do except against this Bail, A. B. Attorn. pro 22r. And if there be no such
Exception, the Defendant's Attorney may take the Bail
Piece away from the Judge's Chair, and file it as usual.
After the Roll is mark'd to have Special Bail, Com-
mon Bail may not be filed; but where the Roll is not
thus
thus marked, or where the Cause of Action is not
expressed in the Writ, Common Bail is to be entered. Bail is not properly such until it is filed, when it is of Record: But it shall be accounted good, till the fact be made and disallowed. When Cognizance of Bail are questioned, they are to judiciously frame open Court, by Oath of their Abilities; or before one of the Judges of the Court; or by Affidavit before Commissioners as took the Bail: And the Court may adjudge Bail insufficient, when the Plaintiff will not accept of it. Alto the Court on Motion, or a Judge at his Chamber, will order a common Appearance to be taken, when Special Bail is not required, on Affidavit made by the Defendant of the Debt due, &c. The Putting in of a Declaration, and the Acceptance of it by the Defendant’s Attorney with the Privy of the Plaintiff’s Attorney, is an Acceptance of the Bail. If a Plaintiff accepts of an Affimation of the Bail-Bond, and the Defendant do not enter the same Bail that was in the Bond it shall be deemed a new Bond, and the Bail Bond that was in the Bond it shall be deemed a new Bond, and the Bail shall not be accepted against them; but ‘tis otherwise where he hath not taken an Affimation. Petre. Med. C3. 62. When a Sheriff hath taken good Bail of the Defendant, he will on a Rule return a Copy, and affix the Bail-Bond to the Plaintiff, which may be done by Affidavit without Stamp, so as it be not before Affected Bail was brought thereon; and then the Defendant and Bail may be arrested on the Bond, by the Plaintiff in his own Name. Stat. 1 & 2 15 Ann. But if the Plaintiff take an Affimation of the Bail-Bond, though the Bail is insufficient, the Court will not arrest the Bail. 1 sa. 99. By the ancient Practice, an Affirmation by the Defendant could not be put in Suit, till a Rule was had to arrest the Bail, for not having the Body at the Return of the Writ: And the Court now is, to play Proceedings on the Bail-Bond, if there is no Return of a Copy. Med. C3. 219. 3 sa. 57. In Case the Defendant do not find Common or Special Bail, the Attorney for the Plaintiff is to call on the Sheriff for his Return of the Writ; on Default whereof, a Rule being made upon it, the Sheriff shall be amerced, or summoned before a Judge to show Cause, &c. And if on a Copy to Pay Bail is returned, a Rule will be made out to bring in the Defendant’s Body. Though a Defendant, with Leave of the Court, may deposit Money in Court instead of Bail; and in such Case the Plaintiff shall be ordered to give other Bail. Litt. Abs. 219. 3 Car. B. R. Bail to the Action is to be taken before none but a Judge of the Court; but for Appearance may be before any Officer, and if it be illegally taken, or if it will not oblige one as 2 Car. 2 94. Sheriff, &c. are to let to Bail Perforce by them arrested by Force of any Writ, in any Personal Action, &c. upon reasonable Assurance, having sufficient within the County to keep their Days in such Place, &c. as the Writ requires. Stat. 25 Hen. 6, c. 10. And the Stat. 2 W. & M. provides against excessive Bail. No Defendant arrested by Processe shall be compelled to pay in Bail for a greater Sum than contain’d in the Writ or Processe; and if any Plaintiff shall declare against a Defendant under Bail, he shall not be put in for a greater Sum than is express’d in the Processe upon which the Defendant was arrested, then that Bail shall not be liable to the Action. 1 Litt. 81. But it is said Bail are liable to all Actions of the Plaintiff the same Term wherein he shall declare against the Defendant: Yet where an Attorney appeared for one in the King’s Bench, and Bail Bond was entered for his Client that Petition Against; it was agreed, that the Bail is not bound to stand Bail to all other Actions that shall be declared in an Action in the same party: But the Attorney is obliged to appear for him in all such Actions, and to put in Common Bail. Stile 654. If more Damages, are recovered than mentioned in the Plaintiff, or the Sum wherein the Bail is bound, the Bail shall not be liable. 1 sa. 103. So where a Declaration is laid in another County, when the Original is filed out in London, and Bail put in there upon it. 3 Lev. 253. An Order of Court was made Ann. 22 Car. 2. That in Case of Surcharge, if it be larger than in the Act, such Bail shall not be chargeable at all: But by a late Order, Bail is answerable for any less Sum which the Plaintiff bail recover. Oral. Paras. 5 Geo. 3. In Actions of Battery, Treponis, Slander, &c. though the Plaintiff is like to recover large Damages, Special Bail is not to be had, unless by Order of Court, and the Processe is marked for Special Bail: Nor is it required in Actions of Account, or of Covenant, except it be to pay Money; nor against Heirs or Executors, &c. for the Debt of the Tenant, unless they have walled the Tenant’s Goods. 1 Danw. Abr. 681. And in all Actions brought in B. R. upon any civil Law, the Defendant is to put in but one Bond, and in Actions of Account it is uncertain, Bail is to be at the Difcretion of the Court: On a dangerous Assault and Battery, upon Affidavit of Special Damage, a Judge’s Hand may be procured for Allowance of an Accrual in the Writ: And in Action of Scandalum Magnatum the Court on Motion had order’d Special Bail. Reym. 74. Special Bail is ordered by the Court. Oral. Paras. 5 Geo. 3. Causes of Removal, whether by Habeas Corpus, Writ of Privilege, Certiorari, &c. except where the Defendant is sued as Executor or Administrator: And a Cavaunt is to be entered with the Judges for good Bail. And when Bail is taken by the Chief Justice, or other Judge on a Habeas Corpus, the Bail taken in the inferior Court is dismissed; though the said Bail be not filed presently, nor till the next Term. Telis. 120. 121. Yet it has been held, where a Cause is removed out of an Inferior Court by Habeas Corpus, if the Bail below offer themselves to Bail above, they shall be taken, not being excepted against below, unless the Cause comes out of London. 1 sa. 97. If a Cause removed from an Inferior Court, is remanded back by Proceedings in the same Term, the Original Bail in the Inferior Court are chargeable, but not if remanded in another Term. 2 Car. 353. One in Execution in Custody of the Marshal of B. R. is not compellable to find Bail, if another Aetio be brought against him. But if he be in the Prorit of the First in Execution, on Action brought in B. R. he must be removed by the Judges to the Custody of the Marshal of that Court, or put in Bail to the Action. Trim. 25 Car. B. R. One taken on a Writ of Execution is not bailable by Law. But where a Writ of Error is brought and allowed, if the Defendant be not in Execution, there shall not be an Execution awarded against him, at the Request of the Bail, though he be present in Court. 1 Nelf. Abr. 373. The Bail ought not to join with the Principal, or the Principal with the Bail, in a Writ of Error to reverse the Judgment against either. 2 Car. 2. But the Bail upon a Writ of Error cannot render the Party in their Discharge; because they are bound in a Recognizance that the Party shall prosecute the Writ of Error with Effect. 1 Litt. Ab. 173. Before a Scire facias taken out against Bail, the Principal may render his Bond in Discharge of the Bail: And if the Bail bring in the Principal before the Return of the second Scire facias, it is good, though there be not immediate Notice of it to the Plaintiff; and if through Want of Notice, he is at further Charge against the Bail, that shall not vitiate the Surrondent, but the Bail shall not be delivered till they pay such Charges: If at any
Time after the Return of the Copists, the Bail surrender the Principal at a Judge’s Chamber, and he thereupon is committed to the Tipstaff, from whom he shall not be good any Sufferer. But if it be before or on a Copist returned, it is otherwise, the one being an Indulgence, and the other Master of Right. 2 Ed. 5. c. 38. When a Person makes his Escape out of Prison, and is released and bail’d, the Bail shall be charged on a Writ to the Sheriff commanding him to keep the Prisoner in Discharge of the Justice or the said Justice against the Defendant returned Nov. 9. Inventum, Sede factum is no issue against the Bail. Where a Defendant renders his Body in Discharge of the Bail, the Plaintiff is by the Rules of the Court to make his Choice of Proceeding in Execution, whether he will charge Body, Goods, or Lands. 1 Litt. 183. And if the Principal after Judgment renders not himself in Discharge of his Bail, it is as the Election of the Plaintiff to take out Execution either against him or his Bail: But if he takes the Bail in Execution, though he hath not full Satisfaction, he Bail never after the Principal; and if the Principal be taken, he may not after Mingle with the Bail. Though where two are Bail, although one be in Execution, the Principal may take the other. 3 Ed. 5. Bail 68. If a Principal render himself, and there is none to require his Commitment, the Court is ex officio to commit him; and if the Plaintiff refuse him, he shall be discharged, and an Entry made of it upon the Record. Mem. 5. 1745. A Defendant having rendered himself to discharge the Bail, and prayed Entry of it in the Court asked the Plaintiff if he would have Execution of his Body, and he said no: The Bail was discharged. 1 Lem. 59. See Id. 210. There must be an Exoneree entered, to discharge the Bail. If the Defendant dies before a Copist or Justice, against him returned and filed, the Bail will be discharged. 1 Litt. 177. On the Death of the Principal, it’s impossible for the Bail to bring in his Body: And the Bail shall engaged that the Principal shall render himself, which must be intended upon Process awarded against him in his Life time. 1 Nill 328. A Bail cannot be a Witness for the Defendant at the Trial; but the Court, on Motion, will discharge the Bail, upon giving other sufficient Bail. Wood. 5. 482. In the Court of Common Pleas, when the Plaintiff hath obtained Judgment against the Defendant in Execution, or prosecute the Bail: And Part of the Debt may be levied on the Defendant’s Goods, and the Remainder is upon the Bail; but if the Plaintiff take the Defendant’s Body in Execution, he may not then mingle with the Bail. Exec. Leg. 91. 239. Execution may be had against the Bail, if the Defendant does not appear: And some of our Books say, that Lands of Bail are bound from the Time of the Recognizance, cr. entered into; and others that they are as good but from the Time of the Recovery of the Judgment against the Principal. Cr. 272. 440. If a Defendant puts in Bail by a wrong Name, the Proceedings shall nevertheless be good; for otherwise every Man instead, may take a False Name to his Attorney by which he will be bail’d, and then plead it in Arrest of Judgment. Golds. 138. But it hath been held, that if the Bail be entered in one Name, and the Declaration and all the Proceedings are by a contrary Name, it will be erroneous. 1 Cr. 223. So if those are Bail, and the Bail be taken off the File, the Plaintiff is without Remedy; Though a Habeas Corpus and Bail Payment, and bail’d in B. R. were evidence to be made out. Style 261. There is not only Bail to appear, &c. and on Writs of Error; but also in an Action of Debt, the knowledge of Bail shall be acknowledged, and upon a Writ of Aetion, to prosecute, &c. 1 Ten. Cent. 179. In London ‘tis said, Special Bail is to be given in Action of Account, &c. But on Removal by Habeas Corpus into B. R. that Court will accept common Bail. 2 Ed. 404. The Judges of the Courts at Wyminster have Power by Statute to appoint Commissioners in every County to take Notice of Bail, in Causes depending in their Courts; and to make such Rules for justifying the Bail as they shall think fit, &c. Stat. 4 & 5 W. & M. Writ which hold the Defendant to Bail, ought to have the Cause of Action expressed: And where the Cause of Action is not expressed in the Writs, &c. Bail are to enter into Bond for the Defendant’s Appearance in a Sum not above 40 l. And on Appearance by Attorney, the Bail shall be acquitted. 13 Car. 2. cap. 2. Form of a Special Bail-Piece in English. Of the Term of St. Michael, in the Sixth Year of the Reign of King George the Second. Middlesex (so quo) A. B. of the Parish of, &c. in the County aforesaid, Gent. is addressed in Bail upon an Affidavit, &c. for, &c. to the said County, Greenewich, and G. H. of, &c. in the said County, Tennes. T. Edwards, &c. Attorney. As to Bail for Crimes, at Common Law Bail was allowed for all Offences except Murder. 2 Inj. 190. And if the Party accused could find sufficient Sureties, he was not to be committed to Prison; for all Persons might be bail’d till convicted of the Offence. 2 Inj. 180. But by Statute it was after enacted, that in Cases of Homicide the Offender shall not be bail’d: And by our Statutes, Murderers, Outlaws, House-burners, Thieves openly defined, are not bail’d; but where Persons are guilty of Larceny, are Accomplices to Felony, or guilty of light Subdivision, they may be admitted to Bail. Stat. 5 Ed. 1. c. 15. This Statute doth not extend to the Judges of B. R. &c. only to Sheriffs and other Inferior Officers. H. P. C. 48. 59. By the Common Law the Sheriff might bail Persons arrested on Suspicion of Felony, or for other Offence bailable; but he hath left this Power by the Stat. 1 Ed. 4. c. 2. Justices of Peace may let to Bail Persons suspected of Felony, or others bailable, until the next Sessions: Though where Persons are arrested for Man-slaughter or Felony, being bailable by Law, they are not to be let in Bail by Justices of Peace but in open Sessions, or where two Justices (Quarum amici) are present; and the fame is to be certified with the Examination of the Offender, and the Accusers bound over to prosecute, &c. 1 H. 7. 1 Ed. 2 P. & M. If a Person be dangerously wounded, the Offender may be bail’d till the Person is dead; but ‘tis usual to have Affirmation from the Chief Surgeon that the Party is like to do well. 2 Inj. 186. A Man arrested and imprisoned for Felony, being bailable, shall be bail’d before it appears whether he is T. guilty
guilty or not; but when convicted, or if on Examination he confessions the Felony, he cannot be bailed. 4 Edw. 7. 178. For where in Manusher, Felony, &c. it is certainly known that the Party did it, he ought not to be bailed. To refuse Bail when any one is bailable; or to admit any to Bail who ought not for Law to be admitted, or to take slender Bail, is punish- able by Fine, &c. 2 Edw. 191. H. P. C. 97. If where a Felony is committed, one is brought before a Justice on Suspicion, the Person suspected is to be bailed, or committed to Prison; but if there is no Felony done, he may be discharged. H. P. C. 98, 106. The Court of B. R. bail in all Cases, and may bail Murder, &c. If a Man is found guilty of Murder by the Coroner’s Inquest, yet B. R. may bail him; for they may examine into the Depositions taken by the Coroner. 3 Edw. 104. But if a Criminal be indicted of Murder, the Court will not bai him, though upon Affidavit of Evidence which might discharge the Proceedings: Nor when a Person is found guilty of any Crime by the Grand Jury, because they cannot have Notice of what Evidence was before the Jury, by which their Oath they are obliged to conceal. 1 St. 10. 4. The Courts of King’s Bench, Common Pleas and Exchequer, in Term-time, and the Chancery in the Term or Vocation, may bai Persons by the Habers Corpus Act; but not such as are committed for Treason, Felony, or Maliciously expressed in the Warrant of Commitment; unless it be where a Seffions is put from the Time of the Commitment of the Prisoner, without Prejudice, when he may be bailed. And B. R. will not admit a Person to bail on the Habers Corpus Statute, on Commitment for Treason or Felony, without four Sureties. The Court of B. R. may bai Persons by the King’s Special Commission, or by the Privy Council, on the like Circumstances upon which it will grant Bail on other Commitments: This is where the Crime is specified in the Warrant of Commitment, and whereas any Commitment by the Privy Council hath not exprest with some Certainty the Crime alleged against the Party, it has been usual to adimit him to Bail on his Habers Corpus. 2 Haw. P. C. 107, 109. See Stat. 16 Car. 2 cap. 16. Formerly Persons committed for Treason, by the King’s Command, or Order of Council, were not to be deli- vered without Trial, &c. Upon a Commitment of either House of Parliament, when it stands indifferent on the Return of the Habers Corpus, whether it be legal, or not, the Court of B. R. ought not to bai a Person, but when it appears to be Legal, they may do it, as well as on an unwarrantable Commit- ment of the King and Council. 2 Haw. 110. And a Person committed for a Contemn, by Order of one of those Houses of Parliament, may be discharged by B. R. after a Diffusion or Prorogation, which determines all Orders of Parliament: Also it’s said on an Impeach- ment, when the Parliament is not Sitting, and the Party has been long in Prison, B. R. may bai him. The Court of B. R. hath baied Persons committed to the First Prize by the Lord Chancellor; when the Crime of Commitment was not mentioned, or only in general Terms, &c. 1 Haw. P. C. 111. And B. R. having the Control of all inferior Courts, may at their Discretion bai any Person unjustly committed by any of those Courts. In admitting a Person to Bail in the Court of B. R. for Felony, &c. a several Recogni- nce is entered into the King in a certain Sum from each of the Bail, that the Prisoner bai appear at a certain Day, &c. And also that the Bail shall be liable for the Default of such Appearance, Body for Body. And it is at the Discretion of Justices of Peace, in the favour of a Person for Felony, to take the Recognizance in a certain Sum, or Body for Body; But where a Person is bai by any Court, &c. for a Crime on an Interior Nature, the Recognizance ought to be only in a certain Sum of Money, and not Body for Body. 2 Haw. 115. And the Bail are to be bound in double the Sum of the Criminal. Where Persons are bound Body for Body, if the Offender doth not appear, whereby the Recognizance is forfeited, the Bail are not liable to such Punishment to which the Principal would be liable, but only to be fined, &c. 2 Haw. 116. If Bail fail- ing the Prisoner will fly, they may carry him before a Justice, and find Sureties; or to be committed in their Charget. 1 Rep. 99.

"Ballif" (Ballio) From the French word Ballif. That is Projetis Province, and as the Name, to the office itself. 14 Edw. 3 cap. 48 that Ballif to that of France; where there are eight Parliaments, which are high Courts from whence there lies no Appeal, and within the Precincts of the several Parts of that Kingdom which belong to each Parliament there are several Provinces to which Justice is minisitred by certain Officers called Ballifs. And in England we have several Counties in which Justice hath been administered to the Inhabitants by the Office of Ballif. We now call Sheriff or Prifon, (one of which Names descends from the Saxons, the other from the Normans,) and though the Sheriff is not called Ballif, yet the Office that was one of those Names also, because the County is often called Ballif: As in the Return of a Writ, where the Person is not arraigned, the Sheriff Lieth, Exemimmittitur A. B. non jussi et praebentium. Esth. 10. A. f. 3 Edw. 3 cap. 285. And in the Statute of Magna Carta, cap. 28. and 14 Edw. 3 cap. 9. the Word Ballif seems to comprise a great variety of Officers, as Ballifs, of Hundreds. As the Realm is divided into Counties, to every County is di- vided into Hundreds; within which in ancient Times the People had Justice minisitred to them by the several Officers of every Hundred, which were the Ballifs, as those Officers do in France and Normandy, being chief Officers of Justice within their Precincts. Cufum. of Normandy, cap. 1. And it appears by Bradton, Lib. 3 Edw. 15. that the Power of the Ballift was much in- cidently held Pia of Appeal and Approvers: But since that Time the Hundred Courts, except certain Franch- chies, are by the Stat. 14 Edw. 3. swallowed in the County-Courts; and now the Ballif’s Name and Offi- ce is grown into Contemp, they being generally Officers to serve Writs, &c. within their Liberties. Though in other Refedels, the Name is still in good Eledem; for the Chief Magistrates in divers Towns, are called Ballifs. And sometimes the Persons to whom the King’s Calles are committed are termed Ballifs, though they are intirely different. And in other Cases Ballifs are several Sorts, in Writs of Litigations, Ballifs, the Lord’s Millions, and the Port’s Millions, Ballifs, or Ballifs of Liberties are those Ballifs who are appointed by every Lord within his Liberty, to execute Process and do such Offices therein, as the Ballift Ernact doth at large in the County; but Ballifs errant or itineraries, to go up and down the County to serve Process, are out of Use. Ballifs of Liberties and Franchisies, are to be sworn to take Differties, truly impained Jurors, make Returns by Indemnity between them and Sheriff, &c. and shall be punished for malicious Differties, by Fine and tre- ble Damages, by ancient Statutes. 13 Edw. 1. 12 Edw. 2. The Ballif of an hundred, may make an In- quisition and Extent upon an Estate: The Sheriff re- turned a Writ of Extent, that the Party had not any Land but within the Liberty of St. Edmondsbury, and that J. S. Ballif there had the Execution and Return of all Writs, and that he inquired and returned an Extent by Inquisition, and the Ballif delivered the Money of the Lands extended to the Plaintiff to Balliff, that Eland had a Balliff, &c. and it was held a good Return. 3 Cr. Rep. 191. Those Ballifs of Liberties cannot arrest a Man without a Writ from the Sheriff of the County: And yet the Sheriff may not enter the Liberty himself.
at the Suit of a Subject, and at his own expense. 

An Appointment of a Bailiff of a Manor.

K N ow all Men by these Presents, That I W. B. af. &c. Esq. Lord of the Manor of D. In the County of G. Have made, ordained, deputed and appo-


Delbore. Making Bread under Weight, deficient in Goodness, &c. The same may be found by Judging thereof, and comparing the same with the Wages, &c. and Penalties are inflicted by Stat. 2. Geo. 1. For selling their large Bread at higher Price than ret.
BA

BA

fer. 5 Geo. 2. By the Stat. 12 Geo. 1. c. 46. Bakers
are to mark on every Loaf exposed to Sale, as What's Bread a large W. as Wheaten Bread a large W. H. as Household Bread a large H. under the Penalty of 20s. 3d.

Balancifer, or Balancifier, i. e. A Standard-Bearer; 'tis mentioned in Matt. Par. Ann. 1237. — En dir Balancifer, qui ut ali, qui idecorante, cruentif
fumus de et reinquit ingit abulfibus villaram, Gr. Balanciers, or Open Galleries for People to stand and behold Things, to be in Houses in the chief Streets of London four Foot wide, Gr. Stat. 19 Geo. 2. c. 25.

Batik, (Fr.) A Pack, or certain Quantity of Goods or Merchandise; as a Bale of Silk, Cloth, &c. This Word is used in the Statute 16 R. 2. § 2 and is full in Ule. Balenciaga, By the Stat. 28 H. 6. c. 5. 5. seems to have been a Kind of Barge, or Water Vessel. But elsewhere it rather signifies a Man of War. — Tandum passus juxta fugiens in Balenciagio. Wheaton, in R. 2. Stifts von der merken von valschen bollin von Balenciagius apppellarum. Ibid.

Batuta, A Territory or Precinct. Charta Hen. 2. See Baronet of Bantry

Basilisk, or Balisier, or Crois bow Man. Ger.

Brad. de la Ware is recorded to have been Balilarius Domini Regis &c. 28 & 29 Hen. 5.

Berenice, is expanded to signify Jurisdiction. Co. Lit. 105.

Battho amonebante, A Writ to remove a Bailiff from his Office, for Want of sufficient Land in the Bailiff, Chap. 78. For if a Sheriff chuse one to be Bailiff of a Hundred; or if the Lord of a Li

Bato, a Fisher chuse one to be Bailiff of the Liberty, who hath not Land sufficient in the County to answer the King and to People, relating to the Statute of Wm. the 6th. a then this Writ shall be sent to the Sheriff to dif

charge such Bailiff, and chuse another in his Place. Bailiffs, Are derived from the Word Bath, be

caused they stand higher, as if we were on a Balk or Ridge of Ground, to give Notice of something to others. Shp. Epic, vide Condur.

Bale, or Bank, A Computation of the Value of all Commodities which we buy from Foreigners, and on the other Side the Value of our own native Pro

duction, which we export into neighbouring Kingdoms; and the Difference or Excess between the one Side and the other of such Account or Computation, is called the Balance of Trade: Which Excess can be answered by us in nothing but Coin or Bullion. The Over

plus of Goods brought from our Colonies in America, and other Foreign Parts, with which we supply our Neighbours, is computed in Time of Peace as least to Balance our Trade.

Ballar, Signifies Sportus expurgatorum. 'Tis mentioned in Flata, li. 2. cap. 87.

Ballet, is Grain or Sand to poise Ships, and make them go upright: And Ships and Vessels taking in Ballet in the River Thames, are to pay so much a Tun to Trinity House Doctors, who shall employ Balletmen, and regulate them, and their Lighters to be marked, &c. On Pain of 10 l. Stat. 6 Geo. 2. c. 29.

Baltham, A Sort of Portrait or Bullwark—Bam Creactum cum exteriori Ballo caelesti Bullarium fumum inflatibus opercularum. Matt. Weftn. Anno 1516. —

Bam, or Bani, (from the Brit. Bani, i. e. Clama) Is a Proclamation, or publick Notice; any publick Business or Bank, whereby a Thing is commanded or forbidden. It is a Word Ordinary among the Feu
dills; and there is both Banius and Bannum which signify two several Things. This Word Bani we use here in England, especially in publishing Marriages by Marital Contracts, which is done in the Church before Mar
riage, to the End that if any Man can speak against the Intention of the Parties, either in Respect of Kindred, or Contrary, or for other Just Cause, they may take their Exception in Time, before the Marriage is

comfutated: And in the Canon Law, Baneo est

Proclamationis, . dupio & simplex in Ecclesia, fori publico. But there may be a Faculty or Licence for the Mar
riage, and then this Ceremony is omitted: and Mini
sters are to be so solemn as to assume Marriages without a Licence, except the Baui have been first published three several Times, upon Pain of Su


dputation, &c. Cer. Gen. 02. See the Stat. 7 & 8 H. 3. c. 35.

Bamtut, A Covering of Rafe and Ornament for a Bench, or other Seat; mentioned in the Monacism, Tom. 3. pag. 272.

Bane, (from the Sax. Banm, a Murderer) Signifies

Destruction or Overthrow: As, I will be the Bane of such a Man, is a common Saying; so when a Person receives a most grievous Injury by any Thing, we say, he is a Bane to his Banm; and he who is the Caule of another Man's Death, is said to be Le Bane, i. e. a Malefactor. Brad. lib. 1. trad. 6. cap. 1.

Bæntere, (Baronets, Mifs Preclarioria) Sit The

Smith, in his Repub. Angl. cap. 18. 479, is a Knight made in the Field, with the Ceremony of cutting off a Point of his Standard, and making it as it were a Banner; and accounted so honourable, that they are allowed to display their Arms in the King's Army as Barons do, and may bear Arms with Supporters. Comended, in the first fol. 109. hath the Right of a Baronet, cum Vesperalius nonum dixit examer, a Barone

nibus faciendis erant; quisquis indixit numen a Vizella; Canicuillum erat belli in Virtute erga quadratutu pedestris (sed et Barones) est, undeque Venetii Callamor, in unam collecti, &c. 'Tis said that they were anciently called by Summons to Parliament: And that they are next to the Barons in Dignity, appear by the Statute 14 R. 2. c. 11. and 5 R. 2. Stat. 4. cap. 4.

William de la Pole was created Baronet by K. Edward the Third, by Letters Patent, Ann. Regni sui 15. And those Baronets who are created hab. ecclesiastic Regiis, in exercitibus Regibus, in apere Bello, & 156 Rege perfarral

litter profficiens, explicante, take Place of all Barons; as we may learn by the Letters Patent for Creation of Baronets, 4 seq. 6. Some maintain that many Baron

nets ought to be made in a Civil War: But Hen. 7.
made divers Baronets upon the Cureth Commotion, in the Year 1495. See Sidde's Title of Honours, 7-799.

Bannishment, (Fr. Bannissement) Exile, Adjura

tion, is a Forbraeking or Quitting of the Realm; and a Kind of Civil Death, inflicted on an Offender: There are two Kinds of it, one Ordinary and upon Oath, whereof you may read Adjuration; and the other upon Compulsion, for some Offence. Stauar. Pl. Cf. r. 117.

By Magna Charta, None shall be outlawed or banished his Country, but by lawful Judgment of his Kings, or according to the Law of the Land. 9 Hen. 3. c. 29. And by the Common Law no Person shall be banished, but by Authority of Parliament; or in Case of Abja

ration for Felony, &c. but this is taken away by Statute.

3 In. 115. Stat. 21 Jac. 1. c. 28. See Abja

ration.

Bans, (Lat. Bencus, Fr. Bonque) In our Common Law, is usually taken for a Seat or Bench of Judge

ment; as Bank Le Roy, the King's Bench, Bank de Common Pleas, the Bench of Common Pleas, or the Common Bench; called also in Latin Banus Regius, and Bausm Communion Placitum. Cump. Jul. 67.

91. Iu Bani, or the Privilege of the Bench, was anciently allowed only to the King's Judges; qui summ

a administranit judicium; for inferior Courts were not allowed that Privilege. There is another Sort of Bani, which signifies a Place where a great Sum of Money is let out to Use, removed by Execution, or otherwise disposed of to Proft: And a Bank of Eng

land managed by a Governor and Directors, established by Parliament, with Funds for maintaining thereof, appropriated to such Purposes as were Subscribers, the Capital Stock, which is enlarged by divers Statutes, is
is exempted from Taxes, assumed a Personal Efftact
affordable over, not subject to Forfeiture and the
Company make Dividends of the Profit Half- yearly, 

cr. The Funds are redeemable, the Profit is owing to
paying the Money borrowed: And the Company
of the Bank, is to continue a Corporation, and enjoy Annu-
ties till redeemed, cr. During the Continuance of
the Bank, as Body Politic, cr. other than the Com-
pany, shall borrow any Sums on Bills payable at De-
mand; and Forgery or Altering Bank Notes, or ten-
dering such forged Notes in Payment, demanding to
have them exchanged for Money, cr. is Felony. And
Officers or Servants of the Company, that embezzel any
Bank Note, cr. whereby they are intruded, being
covetously called shall suffer Death as Felons. Fide the
Statutes 5 & 6, and 8 of 9 W. 3 and 7 Anne, cr. See also 1 Geo. 1. c. 12. and 5 & 6 Geo. 1. c. 8.
and 15 Geo. 2. c. 13.

Bankers, The money's Goldsmiths first got the
Name of Bankers in the Reign of K. Charles the
Second, as by the Words of an Act of Parliament,
Anno 25 of 25 Car. 2. app. to several Persons
being, and others, by taking up or
borrowing great Sums of Money, and lending out the same
again for extraordinary Hire and Profit, bona gente
and good Name of Banker: The Officers of Appointment and Name of Bankers, cr. thus runs the Statute: But Bankers of last are those Goldsmiths and private Persons in whose
Hands Money is lodged and deposited for Safety, to
draw out again as the Owners have Occasion for it; and the Bankers, instead of lending abroad the
Money thus deposited, usually traffic with it in
Exchanges, or, at least, confided to their great Advantage, they being generally Men of great
Estates.

Bankrupt. (Bankar rupt) is so called, because
when the Bank or Stock is broken or exhausted, the
Owner is said to be a Bankrupt. And this Word
Bankrupt is derived from the Fr. Banqueroute, which
signifies a Breaking or Failing in the World: Banque
in French is a Castle, and in Latin, and remus is the
same as Fugitio: and this Term is said to be taken originally from the Roman Menabri, which
were set up in publick Places, and when a Tradesman flipp'd away, with an Intention to deceive his Creditors, he left only some Fugia or Signa of his Table or Shop
behind him. Credit. But a Bankrupt with us signify-
generally either Men or Women, that Living by
Buying and Selling hath gotten other Men's Goods into
his or her Hands, and hides them himself in Places un-
known, or, in his own House, in order to deceive and
defraud his Creditors. 4 Sib. 277. And by Stat.
1 Jac. 1. c. 15. a Bankrupt is thus defined, viz.
All and every Person who shall use the Trade of
Merchandize in Buying and Selling, whether a Merchant or
otherwise in Gros, or by seeking or his or her Living
by Buying and Selling, shall depart his House,
or absent himself, or suffer himself to be arrested, or his
Money or Goods attached; or make any fraudulent
Conveyance of his Lands, Goods, or Chattels, where-
by his Creditors may be defrauded in the Recovery of
the Debts: or being arrested for Debts shall lie in
Prison six Months, or more, upon such Arrest or
Detention, shall be adjudged a Bankrupt. The 21 Jac.
1. c. 19. hath other Definitions of a Bankrupt; but
they are all committed by a late Statute. It is commit-
ning any Person to be a Bankrupt, or to use the Trade
of Buying and Selling of Land, but of personal Things,
that will make a Man liable to be a Bankrupt; nor is it
only committed, but put both Buying and Selling.
Every one that gets his Living by Buying and
Selling in Trade and Merchandize, may come un
der the Denomination of a Bankrupt, upon his Failing
threin. But Adventurers in the East-India Company,
Members of the Bank of England, of the South-Sea
Company, and other Societies, shall not be adjudged
Bankrupts, in Respect of their Business or any Person
concerned as Receiver General of Taxes, cr. shall be a Bankrupt: And Farmers, Graziers, cr. are,
exempted out of the Statutes: as Buying and Selling is not
their only or principal Means of Livelihood.
14 Car. 2. 7 & 10 W. 3. 3 Anne, cr. An In-
keeper is not within the Statutes, for though he buys
Provision to be spent in his House, yet he doth not
properly fill it, but alters it to his Guests at no cer-
tain Price. Cr. Car. 355. And a Taylor is not
within the Statute of Bankrupts, because he lives by
Making of Garments, and not by Buying and Selling.
A Shoemaker hath been adjudged within the Statutes,
as he lives by his Credit in buying Leather, and tell-
ing it again in Shops, cr. And Carpenters in Lon-
don, Weavers, Dyers, Tanners, Bakers, Brewers, Vine-
ers, cr. may be Bankrupts: But Handsome, Husbands, Labouers, cr. are not within the
Statutes. Cr. Car. 21. 1 Cor. Yr. 581. 3 Mod. 390.

Feme sole Merchant in London trade be a Bankrupt,
if a Merchant gives over his Trade, and some Years
after becomes non solvent for Money he owed while a
Merchant, he is a Bankrupt: But if it be for any
Debts, or old Debts continued on new Security, it is
otherwise. 1 Feste, 5. 29. A Banker who hath many
Peoples Money in his Hands refuses Payment, yet
keeps his Shop open, and as far as he is arrested
gives Bail; by this Means he may give Preference of
Payment to his Friends; and if when he hath done he
runs away, such Payment shall stand against him.

Million of Bankrupts. Farthing 159. If after a
plain Act of Bankruptcy, one goes abroad and is a
great Dealer, yet this will not purge the said Act of
Bankrupts; though if he pays off or compounds with
his Creditors, he is become a new Man. Trias. 2 Ann.
1 Salk. 110. A Man born in England goes over to
Ireland, and there trades and buys Goods in England,
and sells them in Ireland, and being indebted in Eng-
land becomes Bankrupt, adjudged a Bankrupt in England.
Ry. 375. A Gentleman of the Temple went to Lit-
ban, and traded to England and broke, it was adjudged
he was a Bankrupt by Reason of his Trading hither
and back again, which gain'd him Credit here, though
he was out of the Realm. Salk. 110. Where there are
two Partners in Trade, and one of them
not charge the other with the Whole; but the Estate
belonging to the joint Trade ought to be divided, cr.
Mod. Mod. Rep. 45. And if one of them becomes a Bank-
rupt, it will not affect his Companion. 1 Salk. 110.
Afts discharging Bankrupts, shall not discharge any
Partner in Trade, or one joint bound with the Bank-
rupt. 1 Danw. 686. A Merchant Trader, whose
Trade is debased, keeps in another Man's House, or on
Shipboard, adjudged a Keeping in his House: But a
Withdrawal must be on Purpose to defraud Creditors;
and if a Man goes sometimes at large, so as he may
be met with one Time or other, it will excuse him.
The Commissioners of Bankrupts have the Power to
adjudge a Man a Bankrupt; yet in an Ablain the Jury
must and whether he was, or not. 1 Darw. 687.
He that is in Bankrupt to one Creditor, is accounted
in Law a Bankrupt to all the Creditors; and being once
adjudged so, is always so to the rest of the Creditors. 22 Car. 1. 8. R. Commissioners may commit a Bank-
rupt refusing to be examined, cr. till he submit him-
self to be examined. 1 Salk. 151. But the Commis-
fioners are not to commit Afts discharging his
Estate, without examining him on Interro-
gatories. 1 Litt. 1st. 201. They are to examine the
Bankrupt upon Interrogatories, and have the Power
to examine others, as to what they know of any Per-
sons carrying away any Part of the Bankrupt's Estate.
5 Mod. 509. Commissioners of Bankrupts have Power
to sell, grant and assign, but they cannot bring an
Action; for their Assignees must generally bring all
Actions which arise out of them. The Creditors have Eight to the
Bankrupt's Goods, by the Act of Bankruptcy, and there-
by they are bound: Though until Assignment by the
Commissioners, the Property is not transferred out of the
Bankrupt's Estate, 4 & 5 Will. 3, c. 159. The Commissioners are
to sell all the Bankrupt's Goods in Fee, for Life, or
Years, &c., and it will be binding against the Bank-
rrupt and his assigns, &c., 1 Lif. Act. 201. They pay
all encumbrances on the Goods in Probation, Revivor,
or Remainder, except entails in the Crown, of the Gift of
the King; and this shall bind the Issue in Taf, and all
others, which a Common Recovery might cut off.
Ibid. 207. But Sales of the Bankrupt's Goods by Com-
missioners, are to be by Deed recorded. If a Bankrupt
grant his Goods or Lands in the Names of other Per-
sons, the Commissioners notwithstanding may make
Sale of them: But not Lands, &c., convey'd bona fide
before the Parish became a Bankrupt. Woolf's B. 910.
And a Purchaser of Lands shall be impeached, unless
the Commissioner of Bankrupt be sold out within five
Years after a Man becomes Bankrupt, Lands held by a
Bankrupt in Jointure, may be sold as to the Mone-
y: Also Lands which a Person hath in Right of his
Wife, but not his Dower, Lands devoted to a Bank-
rrupt, the Commissioners may sell. The Creditors
have Power to sell Lands mortgaged, on Tender and
Payment of the Arrearages due. 3 & 4 Will. 3, c. 254. And
Assignees of the Creditors, have the Benefit of
Covenants of Re-entry, &c., on Lands. If a Bankrupt
commissions Creditors, it is found his Lands shall
be sold, and the Creditors may sell it: and the Creditors
shall have his Goods, but the King. 1 H. 5, c. 40.
All the Goods and Chattels of the Bankrupt, which he
still hath, are to be sold at the Time of his becoming Bank-
rrupt, may be sold by the Commissioners; and with-
standing the Bankrupt sell them in Market open.
Sale of Goods by a Bankrupt, after an Act of Bank-
rrupt, is against the Creditors of the Bankrupt; and they may
in this Case bring Treaver for the Goods, or Debt, or Affirmity for the Value, &c., 5 Lif. Act.
60. Officers of Inheritance may be sold; but not Of-
fers of Trust, annexed to the Person for Life. Assignees
may bring Actions for Debts due to the Bankrupt in
their own Names, &c. But if the Commissioner be not
taken out within Six Years, directed by Law for Sale of
Debt, and the Assignee made within that Time,
A Defendant in an Action may plead the Statute of
Limitations: If the Commissioner be taken out in Six
Years, the Statute preferres the Debt, being to relieve
the Creditors against Fraud, &c., 1 S. 3, c. 1. When
Money is obtained by Judgment in Action of Debt, &c.,
and becomes Bankrupt, &c., 2 & 3 Will. 4, c. 15. A Com-
mis. of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
and a Commission of Bankrupt is taken against him, though the Sher-
iff may bring the Money into Court, it shall be del-
ered to the Plaintiff, and not the Assignees of the Com-
mis., unless it be taken out of the Sheriff's hands,
Trustees for the Bankrupt, and others concealing his Effects, shall suffer Treasons, &c. to take place of 100l. and double the Value. But Persons discovering the Bankrupt's Estate are allowed 3l. per Cent. for such Discoveries, which are vested in the Commissioners, or by them appointed. And the Commissioners are to certify to the Lord Chancellor, that the Bankrupt hath conform'd, and Four Parts in Five, in Number and Value, of the Creditor must sign the Bankrupt's Certificate. None are to vote for the Choice of Affignees, whose Debt doth not amount to 10l. and no Commission shall sit, except the Debt of one Creditor petitioning amounts to 100l. of two Creditors 150l. or of three Creditors to 200l. and Bond is to be given of 200l. Penalty for proving the Party a Bankrupt. Bankrupts conforming to have an Allowance of 5l. per Cent. not exceeding 100l. where their Estates pay 8l. in the Pound, &c. The 6 Geo. 1. c. 31. empowers any Judge of the Court wherein Judgment hath been obtained against a Bankrupt, for any Debt owing before he became Bankrupt, the Bankrupt being in Prison or Execution, to discharge the Debtor by producing his Certificates, and by the 7 Geo. 1. c. 31. Persons having Bills, Notes, &c. upon Bankrupts, payable at a Day to come, shall be admitted to prove them as if due presently, and be included in the Bond of the Bankrupt. Allowing a Discount of 5l. per Cent. and Bankrupts shall be discharged from such Notes: But no Creditor in Receipt of such Debt shall join in any Petition for fusing forth any Commission of Bankrupts, till the Debt is actually due. By the 2 Geo. 2. c. 23. the Act 5 Geo. 1. was rescinded; and Persons declared Bankrupts before the Expiration of this Statute, were entitled to Relief and Debarment from Debts, and the Lord Chancellor to proceed, and allow of Certificates, &c. as if that Act was in Force; so as they obtained their Certificates before the 25th of March 1772. The 5 Geo. 2. c. 30 ordains, that if Bankrupts do not, after Notice in the Gazette, surrender to the Commissioners in forty-two Days, to be examined, and discover and deliver all the Estates Real and Personal, they shall be adjudged guilty of Felony: but the Lord Chancellor may enlarge the Time for Surrendering, not exceeding sixty Days further: They are to deliver all Books of Account, Writings, &c. on Oath to the Affignees; and shall be allowed 5l. per Cent. so as not to exceed 100l. where they pay 10l. in the Pound, 7l. 10s. per Cent. if not paying 10l., if they pay 15l. 10s. per Cent, and 10l. 5s. per Cent. not exceeding 100l. if they pay 16l. in the Pound; but no Advantage is given to any Bankrupt who hath been 6l. a Day, 100l. a Year at Cancelling, or 100l. by Stock-jobbing, &c. And the Body of the Bankrupt only, not his Section, to be discharged, except he pay 15l. per Pound. Four Parts in five, in Number and Value of Creditors, not for less as 20l. are to sign Certificates, and content to the Bankrupt's Discharge, &c. of which Oath is to be made, and such Creditors are to be heard against it: Bonds or Notes given to any Creditor to confer to a Certificate, shall be void; and if the Person signing any Commission have privately more than the Share allotted them, the Commission shall be declared, and he shall lose his Debt. No Commission of Bankrupts shall be granted, unless the Debt of one Creditor amount to 100l. or of two Creditors to 150l. or of three to 200l. And Affidavits made thereof, &c. Bankrupts are to be apprehended, on a Commission issued and certified, by Virtue of a Justice's Warrant, and refusing to be examined, the Commissioners may commit them: Notice shall be given to Creditors to meet and choose Affignees, and prove Debts, &c. which they may do without paying Contributions, or to be allowed 5l. per Cent. Concerning Trusts, to be forfeited 10l. and double Value. New Affignees may be chosen by the Creditor; and the old ones shall deliver up Effects to them, under the Penalty of 10l. and double the Value. Affignees may compound for Debts due to the Bankrupt, &c. And after the End of four Months within twelve Months are no Account, and them a Dividend shall be made; and there may be a second Dividend in eighteen Months, if the Estate be not wholly divided on the first, which shall be final, unless any Law-Suit is depending, or the Effects are disposed of. &c. On Petition to the Lord Chancellor, Proceedings may be entered on Record, and Copies given in Evidence. The Commissioners to take an Oath for faithful Execution of their Trusts; to be allowed 20s. a Day, and nothing for Expenses; and Attorneys and Solicitors Bills, are to be adjusted by a Maller in Chancery. Bankrupts and Debtors are subject to the Statutes of Bankrupts; but no Receiver General of Taxes shall have any Benefit by this Act. In Order to the Taking out a Commission of Bankrupts, it is usual first for a Creditor to make Affidavit before a Maller in Chancery, that the Party is indebted in a Sum sufficient to make him a Bankrupt: then to petition the Lord Chancellor for the Commission; give Bond to prove the Person a Bankrupt, &c. without some one of the Statutes: And next follows the Commission, directed to five Commissioners, (whereof two shall be of the Bench) to examine the Quorum: And when the Commission is executed, and the Party hath conform'd to the Statutes, his Certificate is granted and allowed, &c. By the Stat. 15 Geo. 3. c. 52. no Creditor bona fide of a Bankrupt or in Receipt of any Goods really sold to such Bankrupt, or of all Bill of Exchange really and bona fide drawn, negotiated, or accepted by such Bankrupt, shall be liable to refund to the Affignees any Money, which before the Suing forth the Commission was really and bona fide, and in the usual Course of Trade, received by such Person of any Bankrupt before Notice that he was become a Bankrupt, or in Infant Circumstances. And where a Commission issues against the Obligor in a Bottomree or Rejoinder Bond, or the Under-Writor or Affirmer in an Affidavit, before Loss of the Ship or Goods, the Obliger or Affirmer may claim, and after Loss prove his Debt in like Manner as if the Loss had happened before the Suing forth the Commission, and have a proportionable Dividend. And the Bankrupt shall be discharged from the Debt due by the Bond or Policy, and have all Advantages of the Statutes now in Force, as if the Commitment had happened before the Suing forth the Commission. 

Affidavit of a Debt to make the Party a Bankrupt. 

A B. of A. made Oath, that C.D. of. &c. is a truly and justly due to him this Deponent (one of the Creditors) in the Sum of 100l. and upwards; and that he is to become a Bankrupt within the Meaning of one or some of the Statutes made against Bankrupts, as this Deposition beloveth. 

Jurat' die, &c. coram, &c. 

A B. 

A Petition to the Lord Chancellor for a Commission. 

Humbly complaining, Sheweth unto your Lordship, your Orator, A B. of &c. as well for himself, as all the Creditors of C. D. of. &c. that whereas the said C. D. of. and executing the 3 Geo. 4th. of Way of Bargaining, Selling, Exchanging and Bartering, &c. and seeking his Living by Buying and Selling, upon just and good Causes, for Wares and Merchandises to him sold and delivered, and for rendering unto him the said C. D. of. &c. being indebted to your Orator in the Sum of 100l. and upwards, of late, that is to say, or about, 

18.
left palf, to the Intent to defraud and hinder your said Orator, and other his Creditors of their just Debts and Duties thereto; and of the said John Talbot, Baron of, &c. Lord Chancellor of Great Britain, in three hundred Pounds of good and lawful Money of this Kingdom, to be paid to the said Lord Chancellor or to his certain Attorney, his Executors, Administrators or Assigns; for which Payment well and truly to be made, I bind myself, my Heirs, Executors and Administrators, firmly by these Presents sealed with my Seal, Dated this Day of, &c. in the Year of the Reign of the Lord George the Second, &c. and in the Year of our Lord, &c.

The Conditions of this Obligation is such, That if the above bound A. B. do and shall before the major Part of the Commissioners appointed in a Commission of Bankrupts against C. D. of, &c. prove that the said C. D. is justly indebted unto the said A. B. in the Sum of, &c. in a Manner prove that the said C. D. is become a Bankrupt within some or one of the Statutes made against Bankrupts; then this Obligation to be void, or else to remain, &c.

Form of a Commission of Bankrupt.

G E O R G E the Second, by the Grace of God, King of Great Britain, &c. To your Trufdy and well beloved R. C. H. S. H. B. J. T. J. C. Greeting: Whereas we are informed that C. D. of, &c. are acting and exercising the Trade of, &c. by Way of Bargaining, Exchange, Barter, &c. selling by Living by Buying and Selling, did about for Months since become Bankrupt within the said Limits of Great Britain, in the Intent to defraud and hinder A. B. of, &c. and other his Creditors of their just Debts and Duties in them due and owing: We therefore ordaining the due Execution as well of the Statutes touching Orders for Bankrupts made in the Parliament, begun and holden at Westminster, the Day, &c. in the Thirteen Year of the Reign of Elizabeth Queen of England made and provided, as of the Statutes made in the Parliament, begun and holden at Westminster, the Day, &c. in the first Year of King James of England, &c. intituled, An Act for the Further Amendment of the Statutes made in the Parliament, begun and holden at Westminster, the Day, &c. in the twelfth Year of the said King James of England, &c. and also of the Statutes made in the Parliament, begun and holden, &c. in the fourteenth Year of the Reign of the late Majesty Queen Anne, &c. intituled, And also of the Statutes made, &c. in the fifth Year of our Reign, &c. Upon Trust that of and in the Wisdom and Fidelity which we have reason to expect in you, do by your Prefets, officers, appointed, investing and ordaining you our Special Commissaries for the Purposes aforesaid, giving full Power and Authority unto you, or three or more of them, to proceed according to the said Statutes, and every or any of them, not only concerning the said Bankrupt, his Body, Lands and Tenements, Goods and Chattels, Debts and other Things whatsoever, but also concerning all other Persons, who being Conscunt, Claim, or otherwise, do or shall offend touching the Premisses, or any Part thereof, contrary to the true Intent and Meaning of the said Statutes, and of the said Statutes, according to the Direction and Provision of the said Statutes.

Your Orator shall ever pray, &c.

A Bond to the Lord Chancellor on granting the Commissio.
have duly proved their said Debts. Witness our Hands and Seals, &c.

Belge. No Town or Freeman shall be distrained to make Stairs or Bridges, but such as of old Time have been used to maintain them. St. 9 Hen. 3. c. 15. In 1697, Persons shall be discharged towards the Re- 

pans, or as they are chargeable to the High- 

ways, by 27 Eliz. c. 54.

Bannious. The Form of Expulsion of any Mem- 

ber from the University of Oxford, by affixing the 

Sentence in some publick Places, as a Demurrer or 

Proceedement of it. And if the said Sentence is taken for an Excommunication against, or Currying of another.

Bannitus, An Outlaw, or banished Man. 

Faito Protestius quod iidem Censuris ad infraorationem, 

associtationem quidam divitiisque et Banniter. 

et Car. Pat. Ed. 2.

Bannius fictus is used in the same Sense as Beltius, legislating one out of Justice or hu- 


p. 196.

Bannum vel Bantings, The utmost Bounds of a City, or the extent of the Land held by the citizens. 2 Bost. p. 472. &c. — Nosum falsi, si eodem loco nombram Chrysos ro- 

cifeffo & summis Sanclit fals, etc. vne. prorsus terram 
iliam a Tiesvella, aetemus ab Hymne nomnum non re- 

cifeffo. Cura Cariel, quasi ab Hymne non re- 

cifeffo. Sanclit d'Arnold taking for taken is for all that is comprehended within the City Lines of Cities adjoining, and so belonging to the same City. St. de Retorts 75. 5.

Barbers. Are incorporated with the Sergeants of 

London; but not to practice Surgery, except drawing of Xets, &c. 12 H. 8. See Barbers.

Barbarian. [Barbarian] A Watch Tower, or Bul- 

wark. Mantellum of Johanni de Kilmyton Cefelli 

Castris Regis & Honoris de Pickering, quodam Barba- 

riumm primum Castrum Regis priscissi mane lapidis, 

et in etiam primum Castrum domus et urbis forma, 

Et de novo fuerit, etc. T. R. Reg. 14 Aug. Chaf. 17 

Ed. 2. m. 39.

Barbacum. [Barbacum] Money given for the 

Maintenance of a Barbican, or Watch Tower; or a 

Tranquillity towards the Repairing or Building a 


Barcas. A Batiste: Navy mercatorum & que merci 


Barcrum. [Barcrum] A Sheep cote, and some-

times used for a Sheep-walk. M. S. de Plains. Ed. 3. See Barcrum.

Bargain and Sale. Is an Infrum whereby the 

Property of Lands and Tenements is for valuable 

Consideration transferred from one Person to 

another: It is called a Real Contrauct upon a valu- 

able Consideration, for passing of Lands, Tenements 

and Hereditaments, by Deed indented and enrolled, 1 

H. 61. 1. Ass. Cons. 4. Vol. 62. And it is also 

where a Recompense is given by both the Parties to 

the Bargain; at if once bargains and sells his Land to 

another for Money where the Land is a Recompense 

to him for the Money, and the Money a Recompense 
to the other for the Land. 1 Litt. Atr. 205. Bargains 

and Sales of Lands are to be in Writing indented, 

and enrolled in one of the Courts of H. Foolther, or in 

the County where the Lands lie, before the Cyga 

Ralphum, Jufficer of the Pesc. &c. And the Indoa- 

ment forms used within Six Months previous to the 

End of the Deeds. Stat. 27 H. 8. c. 16. But this Statute 

extends to Bargains and Sales of Inheritance and Free- 

hold only; and not to Bargains and Sales for Terms of 

Years, &c. for they are good though not enrolled, 

nor by Deed indented, 2 R. 36. Holders and Lands 

in London, and any City, &c. are exempted out of 

the Statute of Infrums. 1 H. 61. 1. R. Atr. 349. 

If the Bargain and Sale are made on the same Land 

to two several Persons, and the said Deed is first in-

rolled; if afterwards the first Deed is also enrolled 

within Six Months, the said Buyers shall have the Land. 

And when the Deed is enrolled, the Bargaine is fined 

of the Land from the Delivery of the Deed, and the 

Infrum shall relate to it. Act. 165. 2. Wood's Inst. 

399. Neither the Deed of Demise of the Bargainer 

or Bargaine, before the Infrum of the Deed of Bargain 

and Sale, will hinder the Passs of the Estate to 

the Bargainer: But the Estate of Freedom is in the 

Bargaine, until the Deed is enrolled; so that the Bar- 

gaine cannot bring any Action of Trespass after 

Entry had; though it's laid he may surrender, affin, 

et c. 2 Cre. 7. 1. Off. 147. A Balance shall have 

Rent which incurs after the Bargain and Sale, and be- 

fore the Infrum. Sid. 310. Upon the Infrum of the 

Deed, the Estate seizes ab initio, by the Stat. 

27 H. 8. And the Statute of Infrums says, that 

it shall not well be, except the Deed be enrolled; and 

when it is enrolled, the Estate veils presently, by the 

Statute of Uems. 1 Dawe. Atr. 69. Every Deed 

may be enrolled at Common Law, for its Security. If 

several in a Deed of Bargain and Sale, and but one 

acknowledges it, and does not enroll the Deed; then 

this is a good Infrum within the Statute. Style 467. 

None can make a Bargain and Sale of Lands that 

had not the actual Possession thereof at the Time of 

the Sale; if he hath not the Possession, the Deed must 

be sealed upon the Land, to make it good. 2 H. 6. 39. 

L. 295. Bargain and Sale of Lands, pays the 

Freehold, and likewise Reversion or Remainders, 

without Livery and Seizin. 8 R. Atr. 347. But a 

Bargain and Sale of Lands for Money, may not be made to one 

Man, to the Ufe of another, but only to the Bar- 

gainer. A Man bargain, and sells his Land for Money 

by Deed enrolled to a Person who is to hold in 

Fee, to the Ufe of the Bargainer for Life, &c. or 

to the Ufe of any other, this Limitation of the Ufe is 

void, and it shall be to the Ufe of the Bargainer in 

Fee, because the Bargain and Sale implied is for 

the Ufe to be him only. Real. R. 61. There must 

be a good Consideration given, or at least paid to 

be given for Lands in these Deeds; and for a competent 

Sum of Money, is a good Consideration; but not the 

general Words for divers Considerations, &c. Mod. 

Ca. 777. Where Money is mentioned to be paid in a 

Bargain and Sale, and in Truth no Money is paid, 

some of our Books tell us this may be a good Bargain 

and Sale; because no Averment will lie against that 

which is expressly affirmed in the Deed, except it 

comes to be questioned whether fraudulent or no, upon 

the Statute against fraudulent Deeds. Dyer 90. If no 

Consideration of Money is expressed in a Deed of 

Bargain and Sale, it may be supplied by an Averment 

that it was made for Money: And after a Verdict on a 

Trial, it shall be esteemed that Evidence was given at 

the Trial of Money paid. 1 Foss. 108. If Lands are 

bargained and sold for Money only, the Deed is to be 

infrumed according to the Statute; but if it be in 

Consideration of Money, and natural Affeotion, &c. the 

Estate will pass without it. 2 H. 61. 1. Lev. 16. 

All Things, for the most part, that are grantable 

by Deed in any other Way, are grantable by Bargain 

and Sale, and Lands, Rents, Advowsons, Tithe, &c. 

may be granted by it, in Fee simple, Fee tail for 


for Life bargains and sells his Land by Deed enrolled, 

it will be a Portunity of his Estate. 4 Lew. 351. 

A Bargain and Sale of the Possession of Land, is a Bar- 

gain and Sale of the Land itself; for the Profits and 

the Lands are the same Thing in Substance. Dyer 71. 

One bargains and sells all his Woods, and Underwood, 

that have been accustomed use to be felled, growing 

and being in the Manor of D. to hold for Life; it 

was held, that the Vender shall cut but once by this, 

and not again. Bro. Atr. 55. If the Bargain and 

Sale be not enrolled within the Six Months (which 

would
The Manner of Issuing a Bargain and Sale.

It is to be remembered, that the Day, etc. is in the same Term before the Lord the King, as well as in the same manner, etc., by the County of M. Grafton, in his proper Person, and brought into the Court of the said Lord the new King, before the King himself. Is in which, a certain Indenture which he hath acknowledged to be his Deed: And he declared that that Indenture in the Court of the Lord the new King before the said Lord the King at Westminster, might be of Record painted, and others in regard to what is therein written, that is to say. That Indenture made, etc. (if formal it is verbatim.)

Afterwards is indestructible on the Bank of the Deed, Issu’d in the Court of the Lord the King, before the King himself at Westminster, of the Term of the Holy Trinity, etc. in the Sixth Year of the Reign of the Lord George the Second new King of Great Britain, etc.

Barbary. (Barbary, curvis.) A Tan-booze or Place to keep Bark in for the Use of Tanners. New Ball Est. Tis. Affix, Cor. Poliz. 2.

Barrows (Barrows) is a Farrow Word, and hath diverse Significations here in England. First it is taken for a Degree of Nobility next to a Vizcount. Bracts, lib. 1. cap. 8. says, they are called Barons, quos rei. barbae. In which, a certain Indenture which he hath acknowledged to be his Deed: And he declared that that Indenture in the Court of the Lord the new King before the said Lord the King at Westminster, might be of Record painted, and others in regard to what is therein written, that is to say. That Indenture made, etc. (if formal it is verbatim.)

There is a Bargain and Sale of Goods, for which vide Contrad., etc.

Form of a Bargain and Sale of Lands.

This Indenture made the Day and Year, etc. Between A. B. of, etc. of the one Part, and C. D. of, etc. of the other Part, Witnesseth, That the said A. B. for, and in Consideration of the Sum of, etc. to him to be paid by the said C. D. the Receipt whereof of the said A. B. doth hereby acknowledge. He the said A. B. hath granted, bargained and sold, and also and for ever, and by these Presents, doth grant, bargain and sell, all and every part of the said C. D. his Heirs and Assignes for ever, All that Maysunge or Tenement, smet, etc. and also all Lands, Trees, Woods, Underwood, Visits, Commons, Commons of Partage, Preffes, Commons, Milk, Angewarts, Highways, Waterways, and Appurtenances thereunto to the said Maysunge or Tenement, Lands and Tenements abovementioned, Belonging or in any wise appertaining. And also the Recovery and Re-recover, Remains and Remains, Rests and Services of the said Premises, and of every Part thereof; And all the Easements, Rights. Visits. Anns. Clain and Demanded unferther of him the said C. D. of, in and to the said Maysunge, Tenement, and Premises, and every Part thereof. To have and to hold the said Maysunge or Tenements, and all and singular the said Premises aforesaid mentioned, and every Part and Parcel thereof, with the Appurtenances unto the said C. D. his Heirs and Assignes, to the only proper Use and Benefit of the said C. D. his Heirs and Assignes for ever: And the said A. B. for him and his Heirs, the said Maysunge or Tenement, and Premises, and every Part thereof against him and his Heirs, and against all and every other Person and Persons whatsover, to the said C. D. his Heirs and Assignes, shall and shall warrant, and for ever defend by these Presents. In Witness, etc.
because they are due annuities in una Caro. 1 Nisf.


Reverentia or Reminiscence, limit an Eftate to his Wife; but by Stat. 27 Edw. II. 8. A Man may covenant with other Periors to stand feated to the Wife of his Son, or any other Person, to be his Wife, but he may not covenant with his Wife to stand feated to her Wife, for they are one Perior in Law. A Man may devise Lands by Will to his Wife, because the Devise does not make Effect till after his Death. Co. Litt. 112. Agreements between Baron and Feme before Marriage, are by the Marriage generally extinguisht: But if a Person, in consideration of a Marriage, promise to leave his Wife worth so much at his Death, this being no Duty in the Life-time of the Husband, is not extinguisht by the Marriage. Co. Tae. 571, 123. A Wife cannot devise Lands to her Husband: For a Feme covert cannot make a Will, as she is entirely under the Power of her Husband, that what she doth cannot be called her Will. Nisi. Abr. 547. The Wife of the Husband's father, is a free Woman, and the Father of the Husband; so that if they commit a Felony together, she shall be neither Principal nor Accesary: And if a Wife doth Damages to another, the same shall be satisfied during the Coversion, but the Husband must do it. P. N. B. 188. Every Gift, Grant, or Disposition of Goods, Lands, or other Thing whatsoever, and all Obligations and Performances made by a Feme covert, without her Husband's Consent, are void. 1 H. 5. 223. Feme covert. 18. Where a Statute or Obligation is made by a Feme covert, or to her during Coversion, the Husband only can make a Settlement of it, and conclude the Wife. 1 Inst. 531. In Case Money be devoted to the Husband by Bill or Bond, or for Rent on a Lease, it is paid to the Husband: This shall not prejudice him, if after Payment he publickly discharges it to his. 19 Jac. 1. B. R. 2. Shep. Abr. 436. A Wife is not liable for what she does, or is said to do, when she is examined in Privy whence the doth freely or by Compulsion of the Husband: If Baron and Feme levy a Fine, this will bar the Feme: And where the Feme is examined by Writ, the shall be bound: 1 Eliz. 1. Dawe. Abr. 708. Therefore where Baron and Feme acknowledge a Deed to be involved, or a Statute, 3d. this will not bind the Feme, because she is not examined by Writ. A Wife is disabled to make Contraets, Co. 3 Inst. 110. And if a Married Woman enters into Bond as Feme sole, if she in for as Feme sole, the may perform it in her Name and so perform it, the Coverage will avoid her Bond. 1 Litt. Abr. 171. A Feme covert may plead Non Assumpsit, and give Coverage in Evidence, and is not bound thereby. 1 Fis. Raym. 556. By Marriage the Husband hath Power over his Wife's Person; and he may correct his Wife. Dial. 284. But if he threatens to kill her, she may make him and burn of the Peace. P. N. B. 80. He hath likewise Power over his Wife's Eftate; and if she have Fee, he may gain a Freehold in her Right he also gains her Chattels Real, as Terms for Years, 3d. and all Chattels Personal, in Possession of the Wife, are the Husband's: But where the Wife is out of Pedigree, or it is polled only as Executrix, or the Chattels are not in the Act, the is to be that if they are not recovered by him and his Wife, the Husband shall not have them. 1 Inst. 599, 523. Though Money charged on Lands, is not in Nature of a债 in debt, but of Rent, and is given to the Husband by the Intermediate. 1 Chw. Rep. 189. If Lands be given to a Man, and such a Woman who shall be his Wife, the Man shall have the Lands: But if a Performent be made to be the Wife of the Fedeft, and his Wife that shall be, the Wife he afterwards marries shall take jointly with him. 1 Rep. 101. If Baron and Feme arejoint tenants for years, the Husband may dispose of the Whole: And if the Baron hath a
Term in the Right of his Feme, he may grant over the Whole. 1 Daw 702. But he cannot dispoit of it by Will, if he doth not survive her. I For. 461. 184. And as the Husband surviving the Wife shall enjoy her Term, against her Executors: So if the Wife survive her Husband, the shall have her Term for Fere, or for a Child Real and ague, if the Hufband hath not altered the Property. 1 Inf. 351. And if the Husband charges the Chattel Real of his Wife with a Rent, &c. if the Survives him, it will not bind her; for the shall hold it dishedarged, as the comes in Paramount the Charge. A Husband pofefled of a Term in his Wife’s Right, may make a Lease for Years of the Land, rendering Rest to his Executors or Assigns, to commence after his Death.

1 Nef. Abr. 344. But if a Lease be conveyed by a Feme joile, in Trust for the Life of herfelf, if the afterwards marries, it cannot be disposed of by the Husband; If the dies, he shall not have it, but the Executors of the Wife. March 44. See a Fere 270. A Legacy given to a Feme joile to be paid prorities, or at a Day to come, if the marry and die, before any Release or Dispoit thereof by her Husband; in that Case, her Executor or Administrator, it has been held, shall have it. 1 Inf. 347. If a Paiment be made upon a Bond, and be to a Feme, or the Baron and Feme, and the Husband dies before he recovers, or relieves the feme, the Wife, and not his Executors, shall be entitled to it. P. N. B. 352.

7 broh. 6. 2 Mich. 17. facer. A Man and his Wife covenanted by Indenture, but the Wife did not feal it; and it was held, that if the Baron sealed and deliv’d the Name of the feme, it would be the Deed of the Wife, during the Life of the Husband: But if land is given to Husband and Wife, and the Heirs of their two Bodies, and the Husband alone affers a chattel, a thing will not bind the Tom-Tail, although the Husband furvice his Wife. 1 Cr. 769. 3 Rep. 5. 34. The Wife shall be received to defend her Right, on the Default of the Husband, and he cannot prejudice his Wife, as to her Freehold and Inheritance.

3. Fac. 27. A Husband cannot alien the Wife’s Lands but by Feme wherein the join; if he deth, the may recover them after his Death by Cas in qua. And by Statute, where a Husband makes Leases of his Wife’s Lands, for twenty-one Years, &c. the is to be made a Party, and the Rent referred to Husband and Wife, and the Heirs of the Wife. &c. 2 17 32. This is of Leases of Lands of the Wife’s Inheritance. Stat. 32 H. 8. cap. 28. If a Feme having a Rent for Life takes Husband, the Baron shall have Action of Debt for the Rent incurred during the Coverage, after the Death of the feme. 1 Daw 719. And Arrears due in the Time of the fife, after his Death, shall fur- vive to the Wife, if the outlives him, and her Admi- nistrator after her Death. 2 Lat. 151. A Feme Leiffe for Life, rendering Rent, takes Husband and dies, the shall hold the Rent which was grown due during the Coverage, because he took the Profits out of which the Rent ought to issue. 4 175. 15 Bay. 6. But if such a Feme Leiffe takes and dies, it is said the shall not be charged for Wafe during the Coverage; for he was never Leiffe. 1 Daw 718. If a Lease is made to Baron and Feme, and the Husband dies, and the Wife accepts of the Land, though he may be obliged to pay the Rent, or to perform a Condition on the Part of the Leiffe; yet she is not bound to per- form the Contract, as no do in Wafe, or to repair Holes, &c. 1 Bronw. 31. The Baron may have an Action alone upon the Stat. 5 22. for Enter- ing into the Land of the Baron; Trefpafis and taking Charters of the Inheritance of the Baron; Rights to Inheritance of the Baron’s Estate; &c. But for Personal Torts, they must join, though the Baron is to have the Damages. 1 Daw 709. 1 Roll. Rep. 360. The Husband is to join in Actions for Battery to the Wife: And a Wife may not bring any Action for Wrong to her, without her Husband; though when they join in any Action, Damage is to be laid only of the Wife. 1 Inf. 346. For an Injury done to the Wife alone, Action cannot be maintained by the Husband alone, without her; but for Assault and Debating or Lying with the Wife, or for a False Indictment for Adultery, in bringing him of the Conversation and Service of his Wife, he alone may bring an Action; and they late Actions are laid for Assault, and detecting the Wife, Per se Conforium amnife, &c. 2 Cr. 538. For taking any Thing from the Wife, the Husband only is to bring the Action, who has the Property; for the Wife hath not the Property. In all Cases where the Feme does not have the Thing recovered, but the Husband only, he alone is to bring the Action. 1 Roll. Rep. 392. For a Personal Duty to the Wife, the Baron only may bring the Action: And the Husband is intitled to the Fruits of his Wife’s Labour, for which he may bring Quan- tum Meruit. 1 Lit. Abr. 174. 1 Salk. 114. Baron and time ought to join in Actions for Debt due to the Feme before Coverage: And where an Action will survice to the Wife, and the may recover Damages, the must join with the Husband in the Action. 2 Mod. 260. By the Court of Lands the Baron Courts trading there, may sue and be sued as a Feme joile Merchant. 1 Inp. 256. And if an Husband is an Alien Enemy, the Wife may not be charged as a Feme joile. 1 Salk. 116. In Cafe, before Marriage, a Feme enters into Articles concerning her Edate, as is an separe Peron; and the Husband may be Plaintiff in Equity against the Wife. Perced. Can. 23. No action for Trefpafis of his Wife: If a Feme Courte slender any Peron, &c. the Husband and Wife must be sued for it, and Execution is to be awarded against him. 1 Roll. Abr. 298. A Feme joile indebted takes Husband; it is then the Debt of the Husband and Wife, and both are to be sued for it; but the Husband does not liable after the Death of the Wife, unless there be a Judgment against both during the Coverage. 1 Roll. Abr. 155. Where there is Judgment against a Feme joile, who maries and dies, the Baron shall not hold against the Wife. 1 Salk. 308. Though if the Judgment be had upon Seize Jacuis against Baron and Feme, and then the Feme dies, he shall be barred from Action of Debt. 1 Salk 308. In Action brought against a Feme joile, if pending the Action the married this shall not abate the Action; but the Plaintiff may proceed to Judgment and Execution against her, according as the was commenced. 1 Salk. 177. 1 Vin. 12 W. 5. And if Husband Courts be brought to remove the Cause, the Plaintiff is to move for a Pre- ceedings on the Return of the Husband Corpus; Abo the Court of S. R. may refuse it, where brought to a just Action. 1 Salk 38. But if a Feme joile for a Warrant of Attorney to confess Judgment, and before entered within 60 Days, it is a Counterclaim of the War- rant, and Judgment shall not be had against Husband and Wife, to charge him. 1 Salk 399. When Baron and Femes are sued, the Husband must make an At- torney for himself and his Wife. 1 Salk 399. If’s Wife is to be arrested, the shall be discharged on Common Bail, let the Cause of Action be what it will: But if Baron and Femes be arrested, the Husband shall not be discharged, unless he give Bail for his Wife as well as himself.
himself. *Mod. Cas. 17. Both Husband and Wife, his side of the question. Though if it be a Contrain to charge the Wife, shall be discharged upon Motion. 1 Lev. 51. The *Baron in an Account shall not be charged by the Re- ceipt of any particular. 1 Deaw. 707. Yet if the usuall receives and pays Money, it shall bind him in Equity. *Acr. Cas. 61. For Goods 

sold to a Woman, to the Use of the Husband, the Husband shall be charged, and be obliged to pay for the same. *Sid. 425. If a Woman buys Things for her necessary Apparel, though without the Consent of the Husband, yet the Husband shall be bound to pay for it. *Brom. 47. And if the Wife pays any Thing for herself, Children, or Family, and the Baron does any Act precedent or subsequent whereby he impeaches his Con- fent, he may be charged thereupon. 1 Sid. 120. The Husband is obliged to maintain his Wife in necessaries: But they must be according to his Degree and Estate, and not the necessity of the Family. The Money may be sufficient to a Husband's Degree of Quality, but not to his Estate; also they may be Necessaries, but not ex Necessaries to charge the Husband. *Mod. 125. 1 Nev. Acr. 554. A Wife is very well, if the cohabits with her Husband, he is chargeable for all Necessaries for her, because he took her for better with her, and he is if he reside away from her, or turns her away: But if the goes away from her Husband, then as soon as such Separation is notorious, whoever gives her Credit doth it at his Peril, and the Husband is not liable, unless he take her again. 1 Selk. 110. Although a Husband be bound to pay his Wife's Debts for her reasonable Provision, yet if the parts from him, especially by Reason of any Misbehaviour, and he al- lows her a Maintenance, he shall never after be charged with her Debts, till a new Cohabitation: But if the Husband receive her, or come after her, and lie with her but for a Night, that may make him liable to the Debts. *Palf. 5 Aen. Mod. Cas. 147, 171. And if there be an Agreement in Writing between Husband and Wife to live separate, and that they have a separate Maintenance, it shall bind them both till they both agree to cohabite again; and if the Wife is willing to return to her Husband, she may, but it has been adjudged that the Husband hath no coercive Power over the Wife to force her, though he may visit her, and use all lawful Means, in order to a Reconciliation. *Mich. 1. *Mod. Cas. in L. & E. 22. Where there is a Separation, and the Wife hath given a separative Allowance, whom she gives to her, who doth trust her to do upon her own Credit. 1 Selk. 116. If a Husband makes his Wife his Trustee for Clothes, and she is constan- tly paid by him, 'tis said he shall not be charged. 1 Sid. 109. And if he forbids particular Persons to trust him, he will not be chargeable: But a Prohibition in general, by putting in the News-Papers, is no legal Notice not to trust her. *Font. 42. A Wife may use the Goods of her Husband, but she may not dispose of them: And if the toke them away, it is not Felony, for the cannot by our Law Real the Goods of her Husband; but if she delivers them to an Adul- terer, and he receives them, it will be Felony in him. *Sid. 120. to charge that a Husband and Wife are divorced. *Casu Adulterii, which is a Divorce a Minis & Thoro, they continue Baron and Feme: It is otherwise in Di- vorce *femae Mariti, which did not the Mar- rials. A Man within the Age of Fourteen (his Age of Consent to marry) takes a Woman to Wife, they are Baron and Feme, so that he may have Trepals de matière adulte cum bona ivi, *Cer. *Bar or Bar, (Lat. Barra, and in Fr. Barre) In a legal Sense is a Plea or peremptory Exception of a Defendant sufficient to dislodge the Plaintiff's Action. And it is why called a new Execution, and Bar Special; Bar Temporary, and Perpetual: *Bar to a common Intendment is an Ordinary or Ge-
An Indictment for Barrettery.

South'von, st.

The term 'Barrettery' is a common Mover of Suits and Quarrels, either in Courts, or elsewhere in the Country, that is himself never quiet, but at variance with one or other. Lambert derives the Word Barretter from the Lat. Bacula, a vile Knave; but the proper Derivation is from the Fr. Barreter, i.e. a Deciever, and this agrees with the Description of a common Barretter in my Lord Coke's Reports, viz. That he is a common Mover and Maintainer of Suits in Dullness of the Peace, and in taking and detaining the Possession of Houses and Lands, or Goods by false Inventions, &c. And therefore it was adjudged, that the Indictment against him ought to be in these Words, viz. That he is Chas. Malt[S]ett, calumnator & semiter lictor & Difordiator inter vicinos frat. & partis regis pervertitor, &c. And there it is laid that a common Barretter is the most dangerous Oppressor in the Law; for he oppressimt the Innocent by Colour of Law, which was made to protect them from Oppression. 8 Rep. 37. No one can be a Barret in respect of one Act only; for every Indictment for such Crime must charge the Defendant with being Commonly Barretstor, and conclude contra pacem, &c. And it hath been held, that a Man shall not be adjudged a Barretter for bringing any Number of Suits in his own Right, though they are vexatious; especially if there be any Colour for them: for if they prove false, he shall pay the Defendant Costs. 1 Abb. Abr. 355. 3 Med. 98. A Barretter at Law entertaining a Person in his House, and bringing several Actions in his Name, where nothing was due, was found guilty of Barrettery. 3 Med. 98. An Attorney is in no Danger of being convicted of Barrettery, in respect of his maintaining another in a groundless Action, to the Concerning whereof he was no party at all. A common Mover and Calumnator of Suits, is a common Barretter, and may be indicted thereof, because it is no Profition in Law. 1 Dow. Ad. 20. All these are put to the Proof, and Improp. bound to the good Behaviour, &c. And by belonging to the Profession of the Law, they ought to be further punished by Disability to practice. 34 Ed. 5. c. 1. Hawt. P. C. 244.

Barret, (Barretum) Is a Measur[e of Wine, Ale, Oyl, &c. Of Wine it contains the eighth Part of a Tun, the fourth Part of a Pipe, and the Moity of a Hoghead, that is thirty one Gallons and a Half. 1 R. 3. 123. Originally it contains but for Gallons; and of Ale, thirty two Gallons. Annas 23 H. 8. c. 4. and 12 Car. 2. c. 23. It is declared that the Aile of Herring Barret or thirty two Gallons Wine Measure, containing in every Barret uially a Thousand land full Herrings. Annas 13 El. 1. c. 11. The Eel Barret contains thirty Gallons. 2 H. 6. c. 13. Barretter, (Fr. Barretier) Signifies that which the French call pot de Barret, i.e. Palefro, a Marital Exercise of Men armed and fighting together with short Swords, within certain Bars or Rails, which are separated from the Spectators: It is now disused here in England. There are likewise Barretter Towns, or Places of Defence on the Frontiers of Kingdoms. Barretin, (from the Sax. Beææ, a Heap of Earth) A large Hilllock or Mount, raised or cast up in many Parts of England, which seem to have been a Mark of the Roman Tamus, or Sepulctures of the Dead. The Sax. Barra, was commonly taken for a Grove of Trees on the Top of a Hill. Kennet's Golf. Barter, (from the Fr. Barater, Circumwrever) Signifies in our Books to exchange one Commodity for another, or traffic. Warres for Wars Reasons, &c. c. 9. And the Reason may be, because they that exchange in this manner, do endeavour for the most part one to over-reach and circumvent the other. Barter, Is a Word used in Devonshire, for the Demesne Lands of a Manor; sometimes for the Manor-House itself; and in some Places for Outstanding, and Fold-Vards. In the Sat. 2 & 3 Ed. 6. c. 11. those Lands, and Demesne Lands, are used as Synonyme. See Barren. Barthes, Low or Inferior Knights by Tenure of a bare Military Fee, as distinguished from Bannerets, the Chief or Superior Knights: Hence we call our Simple Knights, viz. Knights Bachelors, Bar Bachelors. Kennet's Golf. Parel. Airig. Barf Court, (Fr. Cour Baff) Is any inferior Court, that is not of Record, as the Court Baron, &c. Kitch. Jul. 95. 96. Barf Eate, (Fr. Bar Eartz) Is that Eate which Barf Tenants have in their Lands. And Barf Tenants, according to Lambert, are those who perform Villanous Services to their Lords; Kitch. Jul. 41. 8. At Law, Barf Tenants and Frank Tenants are to be Considered, and puts Copyholders in the Number of Barf Tenants; where it may be gathered that every Barf Tenant is a Tenant by Right and Impropriety, bound to the good Behaviour, &c. And by belonging to the Profession of the Law, they ought to be further punished by Disability to practice. 34 Ed. 5. c 1. Hawt. P. C. 244.

Balliteus. A Word mentioned in several of our Hiltean signifying King, and seems peculiar to the Kings of England. Menfiofiofio, Tom. 1. p. 62. Ego Edgus tutus Anglus Balliteus Confirmavi.—In many Places of the Monastic this word occurs; and also in Ingulphia, Nametberg, Salt maris, Bremen, &c.

Baskete-Turne of Lands. See Campuscula.

Bafnetum, A Banner, or Helmet. By Isag. 22 Ed. 4. After the Death of Laurence de Hutingius, Earl of Pembroke it was found Thus.—Bande guider Mercia, (i.e. de Atton Cantilo) per se tenuit de Deomin Rege in Capite, per jure tantum omnem hominem de suo opere duxerit gloria, quod praebet, et deo praebet, ut non sit eorum quiem iniuriae aut securitatis in seuis.

Bail, A Skin with which the Soldiers covered themselves.

Baffard, (Baffard) From the Brit. Baffard, i.e. Baffus or Spurius, is one that is born of any Woman without previous Accrual, and their title is not known by the Common Law; and therefore is called Filius Populi, the Child of the People:

Cui Pater 68 Populus, Pater de nullo &c sust. Cui Pater 68 Populus, non habet Patrem.

The learned Spenus derives the opprobrious Name of Baffard from the Norman Bar, and Saxon Street, Wife or Original: as a Person of a base and vile Birth: Such Baffard cannot inherit Land as Heir to his Father; nor can any Person inherit Lands as Heir to him, but one that is Heir of his Body. Lit. Stat. 401.

A Baffard by the Common Law is made incapable of any Ecclesiastical Benefice; for the Sacraments ought not to be committed to infamous Persons: And it is the Law of Nature, that a Baffard who is born out of lawful Marriage, (unless there be some particular Law to the contrary) has not any Relation to his Father, who begot him, but shall rely on his Mother, that bore him. Fortescue 88, 89. Baffard is Terminus a quo, he is the start of his Family; for he hath no Relation of which it may be said, that he is the Son of such a Person. Yet this must be understood as to Civil Purposes, there being a Relation as to Moral Purposes; for he cannot marry his own Mother, or Baffard Sister. 3 Stat. 66, 67. If a Woman be with Child by a Man, who afterwards marries her, and then the Child is born, this Child is no Baffard: But if a Man hath Illegitimate Marriage, and after they marry, the Illegitimate Child is no Baffard by our Law; but legitimated by the Civil Law, 2 Stat. 96, 97. If a Man marries a Woman gross big with Child by another, and within three Days after the Child is delivered, in our Law, the Child is no Baffard: But if the Woman be with Child by another, if he be within the Age of fourteen, the Illegitimate Child is a Baffard: So where a Husband is Gelt, or hath lost his Genitals, &c. which thaws an Impotibility to get a Child, the Illegitimate Child of his Wife, though born after, is no Baffard. 1 Dave. 278.

By the Law of the Land, a Person cannot be Baffard who is born after Epsaleus, unless it be within the Age of fourteen, for a Woman close from the Husband, so as he be within the four Seas, her Illegitimate Child shall not be a Baffard by our Law; though by the Spiritual Law he shall: And if the Wife continues in that state, the Child is a Baffard. But if the Husband be in the possession of a Wife, he may not be a Baffard. 1 Dave. 730. By the Common Law, if the Husband be infra gutarem maris, to wit, by Intemperance he may converse with his Wife, and the Wife hath Illegitimate Child, the Child will not be a Baffard: But he is a Baffard, who is born of a Woman when her Husband, at and from the Time of the Receiving to the Birth, is infra gutarem maris. 1 Stat. 244. 2 Stat. 487. If a Woman hath Illegitimate Child, the Husband being over Sea so long before the Birth of the Child, which his Wife hath in his Absence, that the Illegitimate Child cannot be his, this is a Baffard. 1 Dave. 730. If the Husband be only over Sea in Ireland, it is otherwise. A Divorce causa Procontradixt, causa Affinitatis, causa Frigiditatis, &c. bastardies the Illegitimate Child; nor for these Subsequent to the Marriage: But if the Man and Woman continue Husband and Wife for all their Lives, the Illegitimate Child cannot be a Baffard by Divorce after their Death. 1 Dave. 730. Where a Woman, on Divorce of a Man, has a Child, she may marry with another, her Children by such other are Baffard: for Children born in Adultery, are born out of the Limis of Matrimony. Though if Husband and Wife continue to live together, and the Children born after such Separation shall be taken to be legitimate, because the Access of the Husband shall be presumed; but if it be found that there was no such Access, then these are Baffard. 3 Stat. 122. If a Woman hath a Child forty Weeks and eight Days after the Death of her Husband, it shall be legitimate; the Law having appointed no exact certain Time for Birth of legitimate Illegitimates. 1 Dave. 730. 2 Stat. 356. If a Man or Woman marry a second Wife or Husband, the first being Living, and have Illegitimate Child by such second Wife or Husband, the Illegitimate Child is a Baffard. cap. 14. 3 Stat. 122. Before the Statute 2 & 3 Ed. 6. c. 21. One was adjudged a Baffard, qua sit ille fecerat. He that gets a Baffard in the Hundred of Middletown, in the County of Kent, forfeits all his Goods and Chattels to the King. MS. de Temp. Ed. 3. By Statute, a Woman, with a Child of a Baffard, must be first examined by a Justice of Peace, and the Trial of her being with Child proved by her Oath, and then the Justice is to fend his Warrant for the reputed Father; when the Party is brought before the Justice, he must enter into a Recognizance with sufficient Sures for his Appearance at the next Sessions, &c. and he may be continued on the Recognizance till the Woman is delivered of the Child: After the Child is born, he is to let the Two Judges (Quorum unus) refer to the Place, to examine the Matter with Winner, &c. and make their Order for Relief of the Parish from the Baffard: And if the two Judges agree, they may refer it to the Sessions, also the Putative Father may appear from the Order of the two Judges; or may give Security to the Parish, &c. Stat. 18 Edw. c. 3. 3 Car. 1.

The two next Justices of Peace (one being of the Parish) may make Orders for punishing the Mother and Father of a Baffard Child: And by Order of the Judges, the Churchwardens and Overseers of the Parish may seize Goods, &c. of the Father and Mother to discharge the Parish: And Justices of the Peace have Power to commit a Baffard to the House of Correction, for one Year, &c. But Permons able to keep them, are not within the Statue. It is adjudged Murder to conceal the Death of a Baffard Child when born, unless they are True to the contrary, that it was still born. 18 Edw. c. 3. 12 & 14 Car. 7 & 2 Jac. 1. By a late Statute, if a Woman declares herself to be with Child of a Baffard, and on Oath before a Judge charge any Person with getting the Child; it may grant his Warrant to apprehend the Person charged, and for bringing him before any Justice, &c. who may commit him to the House or Horsemear, &c. unless he give Security to indemnify the Parish,
Parish, or enter into Recognition with Suetinies to appear at the next Quarter Sessions, and perform such Office as Ball, made, pursuant to the Statute 18 Eliz. But in the Case of Woman "ball die, or be married, or miscarry, &c. or no Order is made in due Time, the Man shall be discharged: And no Justice may lend for, & compel any Woman before the is delivered, and one Month after, to answer Questions, &c. Stat. 6 Gen. c. 31. If any one conspire to charge another as the Father of Child, he may be indicted and punished with publick Whipping, &c. It is only in the Power of the King and Parliament to make a Baidry LEGISLATE. "R. v. c. 26. 37.

Bairdury. (Bardury) Signifies a Defect of Birth, objected to one born out of Wedlock. Brad. lib. 5. c. 19. And as to Pleading of Bairdury, see Rafel. Entr. The Stat. 9 H. 6. cap. 11, and Kirch. lib. 64. mason Bairdry General and Special; the Difference thereof is, that Bairdry General is a Certificate from the Bishop, and the King's Justices, after Inquirry made, that the Party enquired of is a Bairdury, or not a Bairdury, upon some Question of Inheritance: Bairdry Special is a Suit commenced in the King's Court, and as to Bairdry, the Suit is termed, because Bairdry is the Principal Cafe in Tri- nal, and no Inheritance contended for. And by this it appears at what Time it may be signified: Bairdry is an Examination or Trial, whether a Man's Birth be de- fective or legitimate. Bairdry is of Ecclesiastical Ju- risdiction; but it must be intended General Bairdry, as he that is charged with Bairdry was born in lawful Matrimony, and his Father and Mother were ever joined in lawful Marriage, which is triable by the Bishop's Certificate: Special Bairdry, as whether the Defendant was born in lawful Marriage, &c. where the Matrimony is confected; and where an Action is brought for calling a Man Bairdry, &c. is triable in the Temporal Courts, by the County. 1 Inf. 174. Nelf. Abr. 567. Hob. 117. The Question of Bairdry ought to be first moved in the Temporal Courts, and after Issue joined therewith, the same is transmit- ted by Writ to the Ecclesiastical Court, to be examin- ed and certified. Dau. Rep. 52. But the Judges shall not award a Writ to the Ordinary to certify whether a Person be a Bairdry or not, till Proclamation is issued for all Persons having Interest therein to make their Objections before the Ordinary against the Party; and that any Certificate of the Ordinary concerning Bairdry without such Proclamation shall be void. Stat. 5 H. 6. A Certificate by the Bishop duly made, the Law gives entire Credit to: And if a Man be certified a Bairdry by the Ordinary, he shall be perpetually bound, be- cause it is the highest Trial thereof. Doctor and Student 68. But if a Person be certified to be a Bairdry, this does not bind before Judgment in the Action between him and the other Party; neither doth it bind if the Plaintiff be after nonuit. 18 E. 3. 34. 1 Dauo. Abr. 733. A Bairdry is a good Name of Purchase; but for Bairdry having gotten Names by Reputation, may purchase by such Names to them and their Heirs: And a Limitation to them when in effect, and known, is good; but not before they are born. Likewise a Re- mainder may be made to a Bairdry, by his reputed Name: And to limitation to them when in effect, and known, is good; but not before they are born. Likewise a Re- mainder may be made to a Bairdry, by his reputed Name:

Bailbairgeit, (Fr.) Is that eligible Child of a Person who is a Bairdry, who is so called. Lavo Fr. Dict. A Staff, or a baillbairgeit, signifies one of the Warden of the fleet's Serv-
Evidence upon Not Guilty to an Indictment: And the Record of the Conviction of the Offender by Indictment may serve afterwards for Evidence in Action of Trepass for the same Assault and Battery. Terms de Loy 81, 82, 2 Roll. Abr. 546. By Sirs Chief Justice the lead touching of another in Anger, in a Battery; if two or more meet in a narrow Passage, and without any Violence or Delign of Harm, the one touches the other gently, it will be no Battery. But if any of them use Violence to force his Way in a rude Manner, or any Struggle is made about the Passage to that Degree as to do Hurt, it will be a Battery. Med. Caf. 139. The Beating of another, in a moderate Manner, is lawful in some Cases; as the Parent of his Child, a Master his Servant, or Apprentice, est. See Assault.

Bavaria, (Lat. from the Sax. Baut) A Boat, and Ba tellon a little Boat. Conscript eriam iidem Hugo Wake pro ist Hare rev iust., quod predictus Abbas & sanctissimus si. & Ecclesiae sui, & Ecclesiae domini iuris. Arg.-Batellatores in Harriot, & Chart. Ed. 1. 20 July 15 Reg. Hence we have an old Word Bauchauin, for such as we now call Boatshaus of a Ship.

Bauerkast, (Baldricum, & Baldricum) Cloath of Bavakin, or Gold: It is said to be the richest Cloth, now called Brocade, made with Gold and Silk, or Tiess upon which Figures in Silk, est. were imbrued. Ann. 4 Hen. 8. c. 6. Estiam posse uxor rigidis, planumque spero intestitutis: But some Writers account it only Cloth of Silk.

Bawdship, (Loganam, Fornia) A House of ill Fame, kept for the Retort and Commerce of lewd People of both Sexes. The keeping of a Bawdy-House comes under the cognizance of the Temporal Law, as a Common Nuisance, not only in Respect of its endangering the publick Peace, by drawing together dangerous and debauched Persons, and promoting Quarrels, and also in Respect of its Tendency to corrupt the Manners of the People, by an open Profition of Lewdness. 3 Inst. 205. 1 Harew. P. C. 196. Those who keep Bawdy-Houses are punished with Fine and Imprisonment; and also such infamous Punishment, as Pillory, est. as the Court in Discretion shall inflict: And a Lodger who keeps only a single Room for the Use of Bawdship, is liable for keeping a Bawdy-House. 3 Salk. 782. Persons resorting to a Bawdy-House, are punishable, and they may be bound to the good Behaviour. See Behaviours. If one be indicted for keeping or frequenting a Bawdy-House, it must be expressly alleged to be such a House, and that the Party knew it; and not by Suspicions only. P. 208. A Conditable, upon Information, that a Man and Woman are gone to a lewd House, or about to commit Fornication or Adultery, may, if he finds them together, carry them before a Justice of Peace without any Warrant, and the Justice may bind them over to the Sessions. Dall. 214. Conditable in these Cases may call others to their Assistance, enter Bawdy-Houses, and arrest the Offenders for a Breach of the Peace. In London they may carry them to Prisun; and by the Customs of the City, Whores and Bawds may be carried. 3 Inst. 206. It was always held infamous to keep Bawdy-House; yet some of our Hiftorical mencion Bawdy-Houses publicly allowed here in former Times till the Reign of Hen. 8. and allign the Number to be eighteen thus allowed on the Ballards in Southwarkc. Med. Jef. 217. See Stross p. Bredto. Haufer.
Form of an Indictment for keeping a Bawdy-House.

THE Jurors, &c. That A. B. of, &c. the Day of, &c. &c. and divers times before and afterwards, as in the County aforesaid, held and kept, and often made use of, and still holds and keeps, &c. in his House there, a common Bawdy-House, Entertainment for Lechery and Prostitution, and permits Men and other disorderly Persons, and sets of Good Behaviour or Fame, carnally to lie with Witches, to the great Distress of all the People of our Sovereign Lord the King there dwelling, to the ill Example of all other Offenders in such Cases, and against the Peace, &c.

SAY, or PEN, Is a Pond Head made up of a great Height, to keep in Water for the Supply of a Mill, &c. so that the Wheel of the Mill may be driven by the Water. It is generally a large Pool or Floodgate. A Harbour where Ships ride at sea near some Port, is also called a Bay: And this Word is mentioned in Est. 4 19. 

Beacon, (from the Sax Beacen, i.e. fenun) A Signal well known: being a Fire maintained on some Eminent near the Coasts of the Sea, to prevent Invasion, &c. Est. Ed. 2 13. Hence not Beacon (Beacagna) Money paid towards the Maintenance of Beacons: And we still use the Word Beacon to give Notice. See Stat. 2 Hen. 4. 19. 

Beak, or Bele, (Sax, Bead, or Bele) A Prayre; so that to say over Beads, is to say over one's Prayres. They were most in Use before Printing, when poor Persons could not go to the Charge of a Manuscript Book: Though they are still used in many Parts of the World, where the Roman Catholic Religion prevails. They are not allowed to be brought into England, or any Superstitious Things, to be used here under the Penalty of a Paimbition, by Stat. 13 Eliz. c. 2.

Bean, Is that Part of the Head of a Stag where the Horns grow, from the Sax Bean, i.e. Aber, because they grow out of the Head as Branches out of a Tree. Beans is likewise used for a common Balance of Weights in Cities and Towns. Stat. 13 Ed. 1. 

Beans and Balance, for weighing Goods and Merchandise in the City of London. See Trunage. 

Barrels, Signifies such as bear down on or oppress others, and is laid to be all with Maintainers. — Judges of Affairs shall inquire of, hear, and determine Maintainers, Barrels, and Conspirators, &c. Stat. 3 Ed. 3.

Braffs of Choir (Firm Campsises) are five, six, The Buck, Doe, Fox, Marten and Roe. Morris. parts 11. pag. 342. Braffs of the Forest (Firm and Shakes) otherwise called Braffs of Venary, are the Harl, Hind, Bear and Wolf. Ibid. parts 1. & 2. & 6. Braffs and Fowl of the Warren are the Hare, Coney, Pheasant, and Partridge. Ibid. Reg. Orig. 95, 86. &c. Co. Litt. 231.

Bec-pits, (Pits of Placehando, Fr. Bec-pits, i.e. to plead fairly) Is a Writ upon the Statute of Abraham, 3 Hen. 3, c. 11. for not pleading fairly or truly, upon which a Verdict is entered. That neither in the Circuit of Judges, nor in Counters, Hundred, or Courts-Baron, any Fines shall be taken. For pleading, or for not pleading fairly or truly, upon which a Verdict is entered, this Writ was ordained, directed to the Sheriff, Bailiff, or him who shall demand such Fine, and it is a Prohibition not to do it; whereupon an Alias and Placers and Attachment may be had, &c. New Nat Br. 595, 597. And Bean-pitler is as well in Respect of vicious Placings, as of the fair Placings, by way of Amendment. 2 Hals. 122.
another was slain. Spolium of Fodi, c. 2. Elwet.
Verb. Beneficium. Lands were annually held in Bene-
fit of and then granted in Edwdwm per numere purae, &c.
Beneficium piumo Ecclesiasticb obitutum. A Writ
directed from the King to the Chancellor, to below
the Benefice that shall fall in the King's Gift,
above or under such a Value, upon such a particular
Benedict, An ancient Service which the Tenant
rendered to his Lord with his Plough and Land.
Din. p. 222. Cr. Litt. 96.
Beneficentia, (Beneficentia) is cited in the
Chronicles and Statutes of this Realm for a voluntary Gra-
tuity given by the Subjects to the King. Sut. An-
nals, p. 574. And Sut. faith, that it grew from Ed-
ward the Fourth's Days: You may find it also Anno
14 Hen. 7. c. 10. yielded so to that Prince in regard of
his great Expenses in Wars, and otherwise. 13 Reg.
119. And by Act of Parliament 13 Car. 2. c. 4.
it was given to his Majesty K. Charles 2 but with a
Proviso that the name should not be confused with future
Example: So that all Supplies of this Nature are now
by way of Taxes. In other Nations Beneficentiae are
given sometimes to Lords of the Fee, by their Ten-
ants. Confess, and are allowed in France. 115. 156.
Beneficentia Regis bident. The Form
of Purchasing the King's Femand and Favour, in ancient
Times and Subscriptions, to be referred to E. Tite,
the or Place. — Thomas of St. Walere, Des Re-
ge mille mares, pro baxendo Beneficentia Regis &
pro beneficis Terrae facta sub Neaphon fact. Paris.
Antig. p. 172.
Berbiages, (Berbiagium) Noviis Temporis Manu-
ii de Calabria reditum pro Domin. de coasa reditum monu-
ment. Berbigues is a town in the Department of the
Dordogne.
Berbiciti, A Sheep Down, or Ground to feed
Monumentum, 1, p. 508.
Berbiciti, (Berbigy) from the Fr. BerBigy.) A
Sheep-fold, or other Inclosure for the Keeping of
Sheep: In Domesday it is written Berbigy. 2 Inf.
3 E. 6. Art. 96.
3 E. 6. c. 2.
3 E. 6. An. 10.
3 & P. M. Art.
28 Ed. 1. c. 13.
Sec. 1
And Suit for Our must be in Berbigyhote Court.
Neither for fiafier Miners may refer:
And two great Courts of Berbigyhos ought to be
in every Terres upon the Minery:
To punish Miners that Transfery the Law,
To reward Offenders, and keep all in order:
To free Offenders that do break the Peace:
Or shed Man's Blood, or any Tumultus raised:
To hear Berbigihothe that they faithfully
Perform their Duty on the Minery:
And make Arrises, and the impartially
Instad Tumors, Courts for to try:
And for that Right be done from Time to Time
Both to the Lord and Farmers on the Minery.

Birtwa, Birtwa, Boris. A large open Field; and
those Cities and Towns in England which end with
that Word, are built in plain and open Places, and
do not derive their Names from Boroughs, as Sir
Henry Spelman intimated. Most of our Geographers
in the Names of Places have been affected with the
Word Boris, with that of Bury, and Borough, as if the
Appellative of ancient Towns; whereas the true Sense
of the Word Boris is a flat wide Campus, as is pro-
ved from several Authorities by the learned De Praine,
who observes that Boris Santi Ewritus mentioned by
Mat. Pacif. fab ann. 1724. is not to be taken for the
Town, but for the adjoining Plain. To this may be
and Birtwa, Boris, and Borough, Miners, and other
open Grounds, are called by the Name of Boris, and
Birtbois: The spacious Meadow between Oxford and
Oke was in the Reign of King Alfredus called Bury.

B. Twine, MS. As is now the largest Paffure Ground
in Quarterlands in the County of Buckingham, known
by the Name of Birtwa. And though those Meads have
been interpreted to be a Manor or Manor Meadows, yet
were they only any flat open Meadows, that lay ad-
joining to any Vill or Farm.

Birtwa, A plain open Heath. Birtwa afferatur, to
grub up such barren Heaths.

Berton, Jornidian, comes from the Sax. Byrun,
to burn: It is one of those Crimes which by the Laws
of Hen. 1. cap. 15. Ewritas non luidat. Sometimes
it is used to signify any capital Offence. Legis Canuti

Berfa, (Fr. Berfa.) A flat or wide Green: Paffu-
ram durum Teunorum for tertum Berfa in forstis notius
A Park Pale.

Berfa,

Berton, or Berton, [Bertonis] Is that Part of a Country Farm where the Barns and other inferior Offices stand, and wherein the Cattle are fostered, and other Business is managed. See Clav. 32 Ed. 1. m. 17. It is also written a Farm, dilated from a hinae: In some Parts of the Well of England, they call a great Farm a Berten; and a small Farm a Living.—Bertiwer were such as we now call Farmers or Tenants of Bertiwer; Husbandmen that held Lands at the Will of the Lord.—Cum Bertone terris & tenementis, quod Bertiweris molis rectis ad voluntatem. Chart. Jo. Episc. Exoniæ. 29 Dec. A.D. 1317. 6.

Bertwich, Merchandise carried into or brought out of Scotland, or the Isles thereof; shall be brought fril to the Landed Men of Forfarshire. And the Merchants and Freemen there shall have the Farm of the Waters Royal and Fidings within the Seigniory. Stat. 22 Ed. 4. c. 8. The Liberties of Bertwick are declared by the Stat. 1. Ed. 1. c. 4. V. 28, V. 29. And the Vill or City of Habitation of a Nobleman, a Dwelling or Manion-House, being the Chief of a Manor; from the Sax. Boeg, which signifies a Hill or Castle; for hereofto Nobleman Seats or Castles, situate on Hills, of which we have all some Remains. As in Herefordshire, there are the Beris of Skenley, Hope, &c. It was ancestrally taken for a Sanctuary.

Beaitae, [Fr. Bijoucy, Provenç.] The Father of the Grandfather: And in the Common Law it signifies a Writ that lies where the Great Grandfather was seised the Day that he died of any Lands or Tenements in Fee simple; and after his Death a Stranger enters the same Day upon him, and keeps out the Heir. F. N. B. 224.

Bettha, [from the Fr. Bécher, foder, to dig] A Spade or Shovel.—In common pasturage terrae, quam unam felle Betch, fuderunt & subit duration. Prior. Lew. Culturam. de Hecham. pag. 15. Hence perhaps, one Bettsa terræ incluse.—Mon. Angil. Tom. 2. fol. 64. v. may signify a Piece of Land usually turned up with a Spade, as Gardeners &c. And perhaps the Grounds; or may be taken for as much Land as one Man can dig with a Spade in a Day.

Beith, or Beith, [Fr. Beith] Bodies or Castle of any Sort: Ann. 4 Ed. 3. c. 5. It is written Beith; and is generally used for all Kinds of Castle, though it has been restrained to those purveyed for the King's Protection. 12 Can. 2. c. 4.

Beithtrics, Laymen using Giebe Lands. Part. 14 Ed. 2.

Bedworth, Bed-works, or Cutlery Services, done at the Bidding of the Lord by his inferior Tenants.—Inter juridita Culturam Tenementiam in Bidebury, de Domino Abbatis & Camorvini Pardon—prœcisus, quæ pro carmina per annum, cum vocantis Bevercos, & cum quibuscum carnis domus quilibet dixt ad Pramunio Abbatii Camorvini. Rand. MS. f. 242.

Béthune, [Fr. Béthune] An Old Saxon Word signifying Expendited; for before the Britons and Saxons had Plenty of Money, they traded wholly in Exchange of Wares.

Bell, or Bellis, [Pecoriaria potatoria, from the Sax. Biddan, to pray or supplicate.] Is the Invitation of Friends to drink ale at the Hour of some poor Man, who thereby hopes a charitable Contribution for his Relief: It is still in Use in the West of England; and is mentioned 26 Hen. 8. c. 6. And some-
Bill of Exchange, is a Security among Merchants, given for Money, and by the Credit of the Drawer generally paßed as Money: Thence Bills are drawn payable to hand, or in Twenty, Thirty, Forty, or Fifty Days, or at one or two or three Usances, &c. and the Space of one Month from the Date of the Bill is called Uamore, and two or three Months double or treble Usance. There is an Irish Bill of Exchange, Foreign Bill; an Inland Bill has been paid to be only in the Nature of a Letter, but an Oarland Bill is more respected in the Eye of the Law, because it is for the Advantage of Commerce with other Countries, which makes it of a more publique Concern: And a Foreign Bill being refused to be accepted, by the Law of Merchants Action lies against the Drawer, and if the Perfon to whom directed subscribes the Bill, it is arguement to pay it. 1 Rol. Abr. 6. 1 Vent. 152. 2 Cr. 307. Every Indoror of a Bill is liable as the first Drawer; the Indoror is answerable, because the Indorsement is in Nature of a new Bill. 1 Sauc. 125. But by the Custom of Merchants, the Indoror is to receive the Money of the first Drawer if he can: and if he cannot, then the Indoror is to answer. The Indoror of a Bill is not liable to pay it, till Endavour has been used to find the Drawer. Sauc. 126. But an Indoror is not discharg'd by a Partial Payment of the Bill; unless there be some Neglect or Default in the Indoror, as where he doth not endeavour to receive the Money in convenient Time, and then the first Drawer becomes insolvent. 1 Sauc. 132. An Indoror charges himself in the Same Manner as if he had originally drawn the Bill: And a Plainiff need not prove the Drawer's Hand, as the Indoror is a new Drawer; but he must prove that he demanded the Money of the Drawer or Drawee, or that he sought and could not find them, in convenient Time, which is three Days after the Indorsement. 1 Sauc. 137. In Cafe a Bill be bought at Discount, it is an absolute Purchase; and if the fame be again Indor'd, the Indoror war's the whole, and is liable for 442. A blank Indorsement does not transfer the Property of a Bill of Exchanges; though the Perfon to whom Indor'd may fill up the Indorsement, so as to charge the Indoror; for where one Indoror his Name on a Bill, the Indoror may make what Use of it he pleases, by Way of Assignment, Acquittance, &c. 1 Sauc. 126. A Bill of Exchange payable to order or bearer, is not assignable to enable the Indoror to bring an Action, if the Drawer refuse Payment: A

But
But by Bill to a Peron, or Order, an express Power is given to the Party to ally, and the Indorcer may maintain an Action: And the first is a good Bill between Indorcer and Indorcer. *B. 135.* Where a Bill is drawn payable to A. B. or Bearer, an Affizee must sue in the Name of him to whom it is made payable, and not in his own Name; otherwise a Stranger finding the Bill, might recover: If it be made payable to A. B. or Order, there an Affizee may sue in his own Name, because the Order must be made by Indorcer, *B. 135.* the latter is within the Custom of Merchants, and may be negotiated and af Signed by Custum; but the former is not. *S. 67.* If a Bank Bill payble to A. B. or Bearer, be lost, and is found by a Stranger, Payment to him would indemnify the Bank; yet if A. B. may have Prover against the Finder, though not against his Affizee for valuable Consideration, which creates a Property. *S. 21.* If a Man gives a Note in these Words, viz. I promise to Account with T. S. or his Order for 50l. Value receiv'd, it shall be construed as a Promiss to Account as he pleases. *P. 1.* A Bill payable to a Stranger not being a true Bill, is liable to be blown out, another, who may bring an Action for the same. *P. 2. 1.* The Acceptance of a Bill, although the Money is payable to a Stranger, and the Party accepting it is not Indorcer maintain thereon; the Effect of the Bill being the Payment of the Money, and not the Day of Paying. *C. 2.* But when a Bill of Exchange is accepted, it is a good Ground for a Special Action upon the Case; but it doth not make a Debt, *B. 2.* Indebtedness Affizees doth not lie against the Accepter of a Bill of Exchange, because his Acceptance is a collateral Engagement; though it will lie against the Drawer. *S. 25.* And a General Indebtedness Affizees will not lie on a Bill of Exchange, for or by the Act of the Indorcer, and therefore there must be a Special Action upon the Custum of Merchants, or an Indebtedness Affizees against the Drawer for Money by him received to the Plaintiff's Use. *B. 135.* If a Bill once accepted, may not be revoked by the Party that accepted it, though immediately after and before the Bill becomes due, he hath Advice that the Drawer is broke. The Servant of a Merchant cannot accept a Bill of Exchange for his Master, without plain Evidence that he hath Authority to do it; as where the Master allows the Payment of Bills drawn by his Servant, *L. M. 265.* But another Person may accept the Bill for the Honour of the Drawer; and if he pays the Money in Default of the Party, he is to make a Protest with Declaration that he hath paid the same for the Drawer's Honour. If one Merchant having a right Understanding with another says, Leave your Bill with me, and I will accept it, by the Custum of Merchants it obliges him as effectually as if he had signed it. If a Bill be accepted, and the Person who accepted the same happens to the before the Time of Payment, there must be a Demand made of his Executors or Administrators; and on Non-payment, a Protest is to be made, although the Money becomes due before there can be Administration. *L. M. 265.* A Bill may be accepted for Part, the Party on whom drawn having no more Effect in his Hands; and there may be a Protest for the whole, though it be not to be found, or being found, is not to be met with afterwards, it is Caufe sufficient for a Protests: Which is a Sort of Summons to a Person to accept or pay a Bill, with Protestation against the Refuses for Exchange, Interref, and all Charges, Damages and Losses that may be sustained or occasioned by such Refusal. *L. M. 265.* Where any Bill is neglized, if the same be not laid at and paid at a certain Day, and accorded, the Protests must be on the Day of Payment; but if payable at Sight, it must be protested the third Day of Grace: And when each Bill of Exchange is not paid, the Interest thereon commences only from the Time of Demand. 2. *B. 164.* 6. *M. 135.* Before the Stat. of 13. *H. 5.* if a Bills was Foreign, one could not resort to the Drawer to save himself from Non-acceptance or Non-payment, without a Protests, and reasonable Notice thereof; but in Case of an Inland Bill it was otherwise. The Protests was ordered for the Benefit of the Drawer, to give Notice that the Bill is not accepted, &c. though it is to subject to answer. *M. 80.*

**Form of a Prett by of a Bill of Exchange.**

K

Now all Men, That I A. B. on the Day, &c. at the usual Place of Abode of C. D. before demanded Payment of the Bill of which the above is a Copy, which the said C. D. did not pay, whereas the said A. B. was barely possessed the said Bill. Dated, &c.

In Drawing Bills of Exchange, the Seconding of one Part to the other, produces the Bill in several Companies, and the others. A Gentleman travelling for Education, draws a Bill of Exchange, this is negotiating the Bill, and makes him a Merchant, *B. 267.* A Bill is made payable to the Party who paid the Money, and Value received, shall be a good Discharge of the Debtor, if the Bill be not returned back to the Drawer in Time. After the Bill is drawn too long, is Evidence that he hath agreed to take the Merchant as Debtor. *B. 185.* If a Man pays a Bill of Exchange before due, and the Peron to whom paid fails before the Time of Payment, he shall be obliged to pay it again to the Deliverer; because the Drawer might have countermanded the same, or ordered the Bill to be made payable to another Person. A Person given a Bill of Exchange, &c. upon a third Person to another in Payment, and he takes it absolutely, if he knew the third Person to be breaking or in a failing Condition, and the Receiver of the Bill uses all Diligence to get Payment, but cannot, this is a Fraud and no Payment: Though if a Man takes a Note or Bill, and after it is payable makes no Demand, so that he might be paid if he had been diligent enough, then if the Party on whom the Bill is drawn fails, it is at the Peril of him that took it. *M. 267.* A drawn of a Bill of Exchange is always answerable, by the Value received, though there be no Tender of the Bill for Payment, or it be not protessed, unless the Person on whom drawn break, and then is other wise. In that Case, the Party who paid the Money for the Bill lodeth it. *B. 319.* Though it be said the Words Vals receiv'd, are now not absolutely necessary to a Bill of Exchange: For when they are mentioned therein, the Drawer must answer as Common Law; and if not, then by the Custum of Merchants. *B. 5.* If a Copy of a Bill by any Accident loses it, he must caufe Intimation to be made by a Money Publish before Winefer, that the Bill is lost or mislaid, requir ing that Payment be not made of the same to any Person without his Privacy. And if any Bill of Ex change drawn in, or dated at and from any Place of this Kingdom, shall be lost, the Drawer of the Bill shall give another Bill of the same Tender, security being given to indemnify him in Case the Bill is lost found again. 9. *L. 17.* A Bill of Exchange, though it be in Writing, is but as a Simple Con tract, but it was urged to be equal to a Specialty, by the Law of Merchants: A Person may pledge the Statute of Limitations to an Action upon a Bill of Exchange; and it is no good Replication, that it was not paid before the Action. The Drawer losing the Bill for Value received. *Camer.* 302. 190. There are not only Bills of Exchange, but Bills of Credit among Merchants, the Forms whereof are as follow:

**Form**
Form of a Bill of Exchange.

A
tdouble Unace pay this my first Bill of Exchange to Mr. C.D. Merchant, or Order, the Sum of forty hundred and fifty Pounds Sterling, for the Value thereof received of the said C.D. And place it to Account as by Advice from

To Mr. E. F. Merchant,
in Amsterdam.

Form of a Bill of Credit.

THIS present Writing on behalf, That J.A.B. of London, Merchant, do undertake, to and with C.D. his Executors and Administrators, if that be the said C.D. do deliver, or cause to be delivered unto E.F. or, or to his use, any Sum or Sums of Money amounting to the Sum of, of lawful British Money, effectually and in due Form, and Seal of the said E.F. conferring and authorizing the Presentee thereof, then I, my Executors or Administrators having the said Bill delivered to me or them, shall and will immediately, upon the Receipt of the same, pay, or cause to be paid, unto the said C.D. his Executors or Assigns, all such Sums of Money as shall be contained in the said Bill, at, or for which Payment in Manner and Form aforesaid, I bind myself, my Executors, Administrators and Assigns by this Present. In Witness, &c.

By the Statute 9 & 10 W. 3. c. 17. All Bills of Exchange dated at, or from any Place in England, of the Sum of 5l. or upwards, upon any Person in London, or any other trading City, Town or Place, drawn payable at a certain Time after the Date thereof, and in which Bills the False shall be expressible to be received, may, after their Acceptance in Writing, and the Expiration of three Days after the same shall be due, be protested by a Notary Public; or if there be none such, by any other substantial Person of the Place before two Witnesses, on a Refusal or Neglect of Payment; and shall be redemmed under a Copy of the said Bill, and be notified within fourteen Days after the Party from whom the Bills were received, who, upon presenting the said Protests, is to repay the Bills with Interest and Charges from the Prosecuting: And in Default of such Protests, or Notice to be given as aforesaid, the Peron failing shall be liable to all Costs, Damages and Interest thereupon. And by 3 & 4 Ann. c. 9. All Notes signed by any Person, &c. whereby such Person shall promise to pay to any other Person or Order, &c. any Sum of Money, the Money mentioned in such Note shall be due and payable to the Person to whom made, and the Note shall be assignable over as Inland Bills of Exchange; whereupon the Person to whom such Note is payable or assigned, may maintain an Action for the same, against the Person who signed it, or any whom indorsed the Note, as in case of Inland Bills, and recover Damages and Costs of Suit, &c. If the Party, on which any Inland Bill of Exchange shall be drawn, refuses to accept it by Under-writing under his Hand, the Person to whom payable is to cause such Bill to be protested, as Foreign Bills: But no Acceptance shall charge any Person unless the Bill be underwritten or indorsed; and if it be not so underwritten or indorsed, no Drawer shall be obliged to Costs, Damages or Interest thereupon. Unless the Protests be made for Non-acceptance, and within fourteen Days after the same be drawn, or Notice thereof given to the Party from whom the Bill is received, or left in Writing at his usual Place of Residence. The Bill being accepted, and not paid within three Days after due, Protests must be made, and Notice given as aforesaid, to charge the Drawer, &c. Though no Protest shall be necessary, except the Value shall be expressible to be received in such Bill; and the Bill be drawn for 50l. at least. There is a Provision in the Act, that nothing therein shall discharge any. Person may have against the Drawer, Acceptor or Indorser of any Bill. It has been held, that the Consideration implied in the Statute is, when a Man promises by Bill or Note to pay so much Money on his own Account, it must be presumed he is intended: 'Tis otherwise where the Promise is for another Person. P. 50. 5 Ann. A Paper Bill or Note is No Payment where there was an original and precedent Debt due, but shall be intended to be taken upon Condition that the Money be paid in convenient Time; but the Taking a Note in Writing for Goods sold is a Valid Moment to Payment of the Money, because his Part of the original Contract. Mich. 3 Ann. 3 Sail. 118. Sealing of Bills of Exchange, Notes, &c. is Pelony in the same Degree, as if the Offender had robbed the Owner of so much Money, &c. And the Forgery of Bills of Exchange, or Notes for Money, Indemnifiers, &c. is Pelony, by Stat. 3 Geo. 2. c. 43. Also Forgery of the Acceptance of any Bill of Exchange, or the Number or principal Sum of any accountable Receipt, is made Pelony. Sta. 7 Geo. 2. c. 22.

A common Bill or Note for Money.

I promis to pay to Mr. C.D. or Order, the Sum of One hundred Pounds (for Value received) within twenty-one Days after the Date hereof, or on Demand. Witness my Hand this twentieth Day of August 1738.

A. B.

Bill of Lading. Is a Memorandum given by Masters of Ships, acknowledging the Receipt of the Merchants Goods, &c.

Bill of Sale. A Kind of Licence granted at the Custom-houses to Merchants, to carry such Stores and Provisions as are necessary for their Voyage, Custom-free. And Bill of Suffrance is a Licence for Merchants to trade under a Name, or Foreign Port to another, without paying Custom.

Bill of Exchange. Is small Wood for Fuel, which must be three Feet and Four Inches long, and Seven Inches and a Half in Compass, &c. Juries of Peace shall inquire by the Oaths of six Men of the Aisle of Bills, and as many more if it be to be forfeited to the Poor. Stat. 3 Geor. 3. c. 9. See Fuel.

Billingsgate Market to be kept every Day, and Toll is appointed by Statute; All Persons buying Fish in this Market, may sell the same in any other Market by Retail; but none but Fishmongers shall sell them in Shops: If any Person shall buy any Quantity of Fish at Billingsgate for others, or any Fishmonger shall ingros the Market, they incur a Penalty of 20l. And Fish imported by Foreigners shall be forfeited, and the Velsel, &c. 10 & 11 W. 3. c. 24. Vide Fish and Fishermen.

Billius, A Stick or Staff, which in former Times was the only Weapon for Servants.—Si quis in forum transfixat, in forum transfixat Billium vel Stradum, vel decipit ad hunc modum Studiosius arma usurpat, &c in manum Dominis mittat. Leg. H. c. 78.

Minutarium,

Bioncamus, One who deficiencies to come to an untimely End. Ordinarii Vinula, writing of the Death of William Tachilerus, who was shot by Walter Tyrell, tells us, that the Bishop considering his wicked Life and bad Exit, adjourned him Ecclisiastica uniuito Bioncamus synodum inditum. Liber 6. p. 782.

Bircrecum, A thin Cap fitted close to the Shape of the Head: And is also used for the Cap or Coal of a Judge, to Sergeant at Law. Spela.

Births, Burials, and Marriages, &c. By Statute, a Duty was granted on Births and Burials of Persons, from 50l. a Duke, 5l. down to 2l. and 1l. And the like on Marriages; also Bachelors above five Years of Age, were to pay 1s. yearly. Stat 6 & 7 W. 5. c. 6.

Bisturram, An iron Weapon double-edged, so as to cut on both Sides. Fusi eodem unus quam morsae errant in corpore unius, Fisci, little theropson. Fisci, lib. 1. 2. 11.

Bisturram, Bistram, or Bistram, An ancient Coin first coined by the Western Emperors at Bistram and Cunersburg. It was of two sorts, Gold and Silver, both which were current in England. Chaucer represents the Gold Bistram to have been equivalent to a Dukett; and the Silver Bistram was computed generally at two Shillings. In some old Leases of Land, there have been reserved by Way of Rent, annua Bistram, vel duo pluralia.

Black, A Section of Soory held at Fishmouth in Norfolk. 3 Ed. 5. it was decreed, That if any one should not repair his Proportion of the Banks, Ditches and Cauleys by a Day assigned, XII. d. for every Perch unperformed should be levied upon him, which is called a Billets: And if he should not by a second Day given him, accomplish the same, then he should pay for every Perch 5s. which is called Bissest. Hill of Inhabitants, and Draining, 1586.

Bizopius, (Episcopus) is the chief of the Clergy in his Diocese, and the Archbishop's Suffragan or Assistant. He is elected by the King's Grace & Effire, or Licence to elect the Person named by the King, directed to the Dean and Chapter; and if they fail to make Election in twenty Days, they incur the Penalty of a Pecuniam, and the King may nominate, &c. by Letters Patent. Stat. 25 H. 8. The Dean and Chapter having made their Election certify it to the King, and the Archbishop, &c. And the Bishop given the Royal Affent under the Great Seal directed to the Archbishop, commanding him to confirm and consecrate the Bishop elect: And on Confirmation, a Bishop hath no Power in his own Estate; but he hath not a Right to his Temporalities till Consecration. The Consecration of Bishops, &c. is confirmed by Act of Parliament. It is held a Bishop hath three Powers; 1. His Power of Ordination, which is gained on his Consecration, and not before: and thereby he may confer Orders, &c. in any Place throughout the World. 2. His Power of Jurisdiction, which is limited and confined to his Fee. 3. His Power of Administration and Government of the Revenues; both which last Powers he gains by his Confirmation: And some are of Opinion that the Bishop's Jurisdiction is limited to ministerial Acts, commences on his Elevation. Palm. Rep. 473. 474-475. The King may not seise into his Hands the Temporalities of Bishops but upon just Cause, and not for a Contempt, which is onlyifiable. Bishops are allowed four Years Payment of their Real Fruits, by a late Statute: And every Bishop may retain four Charters. Stat. 14 & 15 Ed. 3. 2 Ed. 8. 8 Ed. 6. An. A Bishop hath his Consistory Court, to hear Ecclesiastical Causes; and is to vest the Clergy, &c. He confers Churches, ordains, admits, and infantes

Pries; confers, suspends, excommunicates, grants Licences for Marriage, makes Primate of Wales, &c. 1 Inf. 96. 2 Roll. Abr. 250. He hath his Archdeacon, Dean, Chapler, Chancellor, and Vicar General, to advise him: May grant Leases for three Years, or twenty one Years of Land usually letten, reserving the accoummoted yearly Rents. Stat. 25 H. 8. And make concurrent Leases for twenty-one Years, upon Leases for the like Term, with Confirmation of Dean and Chapter. Bishops are Barons and Lords of Parliament.


Biffrs, (Fr. Bifors) A Leap-Year, so called, because the sixth Day before the Calends of March is twice reckoned, win. on the 24th and 25th of February, so that the Biffrs Year hath one Day more than the others, and happens every fourth Year. This Intercalation of a Day was first invented by Julius Caeser, to make the Year agree with the Course of the Sun. And to prevent all Double and Ambient Days, the Statute of 1 Hen. IV. 6. is entirely in the Biffrs Year, the Statute de anno Biffris, 21 H. 3. That the Day increasing in the Leap-Year, and the Day next before, shall be accounted but one Day. Brit. 209. Doer 17.

Bifus, Bifus, Miss Bifi, Parii Bifus, (Fr. Panis) Brown Bread, a brown Loaf. Coerce.


Black-stain, (Fr. Maille, a Link of Mail, or small Pouch of Metal or Money) Signifies in the reign of King Henry the Fourth, in England, in the Counties of Cumberland, Northumberland, &c. a certain Rent of Money, Corn, or other Thing, anciently paid to Persons inhabiting upon or near the Borders, being Men of Name and Power, ally'd with certain Robbers within the said Counties; to be freed and protected from the Devastations of those Robbers. Ann. 45 Edw. 209. 13. These Robbers were called Mifs-Tramps, and several Statutes have been made against them. The 9 Ed. 3. c. 4. mentions Black Money: And Black Rents are the same with Black Mail; being Rents formerly paid in Provisions and Fleadh.

Blacks of Stittlemain, A Set of desperate Deer-stackers. See Walcham Blacks.

Black Rod, The Gentleman Ubber of the Black Rod, is chief Gentleman Ubber to the King: He belongs to the Garter, and hath his Name from the Black Rod he keeps in the King's Livery, upon which he carrieth in his Hand. He is called the Black Rod, fol. 255. Latro viginti viginti, & Historiaris; and in other Places Vicarius baron. His Duty is to transportum Pitum coron Dominum Regem ad Bifhops Sancti Georgii infra Castrum de Windfure: And he hath the Keeping of the Chapler house Door, when a Chapler of the Order of the Garter is sitting; and in the Time of Parliament, he attends on the House of Peers. His Habit is like to that of the Register of the Order, and Garter King as Arms; but this he wears only at the solemn Times of the Festival of St. George, and on the Holding of Chaplers. The Black Rod he bears, is instead of a Mace, and hath the same Authority; and this Officer hath anciently been made by Letters Patent under the Great Seal, he having great Power: for to his Custody all Peers, called in Question for any Crime, are first committed.

Blackswell Hall, The Publick Marker of Blackswell Hall is to keep every Tuesday, Thursday, and Saturday, at certain Hours appointed; and the Hall keepers not to admit any Buying or Selling of Weelk Stuff. Stat. 13 H. 8. 5 Ed. 2. on Penalty of 100l. Fellers cutting Cloath out of the Market, shall forfeit 5l. &c. Registrars of all the Cloaths bought and sold are to be weekly kept: And
Buyers of Cloth otherwise than for ready Money, shall give Notes to the Sellers for the Money payable; and Factors are to transact such Notes to the Owners in twelve Years, to be liable to forfeit double Value, &c. Stat. 2 of W. 3. cap. 9.

Blatarius, A Corononer, Meal-Man, or Chandler. It is used in the Records for such a Retailer of Corn. Past. i. ed. 3. part. 3. p. 13.

Blake, (Bladum) In the Saxon signifies generally Fruit, Corn, Hemp, Flax, Herbs, &c. Will. de Morden, in his Register, to the Bishop Sebesch and the Manor of Tewkesbury, holds of him 24 yards of Flax, &c. having stocked his Stock and Corn on the Ground. Hence Bladus is taken for an Ingler, or Man of Grain, for Sebesch makes 24 yards of Flax, &c. for the Bishop Sebesch and the Manor of Tewkesbury on the Ground, &c. Ex libro Cartar. Priorat.

Blancart, A Meal. In ancient Times the Crown-Rents were many Times referred to Libris Allis, or Blank Forma: in which Case the Bailiff was held to demand the same, as his habit or Custom, viz. half his Money or Coin, worth more than Standard, was molten down in the Exchequer, and reduced to the Fineness of Standard Silver; and instead thereof, was to be paid to the King 16s. 8d. the Pound, by Way of Addition. Ludlow's Effigies upon Coin, p. 5. Black Farm, Blunt, says, was a White Farm; that is where the Rent was paid in Silver, and not in Castle. Blanks, a Kind of White Money coined by Hen. 5. in those Parts of France which were then subject to England, the Value whereof was 8d. Stow's Annals. There were Blanks then, but it is quite uncertain to what they belong in this Realm. 2 Hen. 6. c. 9.

Blanko, An Act for rebuilding the Town of Blandford in the County of Dorset, burnt down by Fire in the Year 1731, and to determine all Differences between Proprietors, Landlords and Tenants of Homers, and concerning Ground, &c. Stat. 5 Geo. 2. c. 16.


Blanks-Beare. Is used for the same with what we call a Common Bar, and is the Name of a Plea in Bar, in which an Action of Trepass is put in to oblige the Plaintiff to alight the certain Place where the Trepass was committed: It is moit in Practice in C. B. 2 Cr. Rep. 594.

Blatarius, Is a Word used to signify an Incendiary, Blasphemer, (Blasphemia) Is an Injury offered to God, by denying that which is due and belonging to him, or attributing to him what is not agreeable to his Nature. Lindew. cap. 1. And Blasphemies of God, as Denying his Being, or Providence, and all contumelious Reproaches of Jireh Crist. &c. are Offences by the Common Law, punished by Fine, Imprisonment, Pillory, &c. 1 Hing. P. C. 87. And by Statute, if any one shall by Writing, Speaking, &c. deny any of the Persons in the Trinity to be God; and there are more Gods than one, &c. he shall be incapable of any Office; and for the second or the third, or for any other Action, to be Executed, for three Years Imprisonment. 9 & 10 W. 3. cap. 32.

Ble, Signifies Sight, Colour, &c. And Ble is taken for Corn. As in Bughton under the Ble, &c.

Blench, A Sort of Tenure of Land; as to hold Land in Blech, is by Payment of a Sugar-Leaf, or a Couple of Cawes, a Bever-Hart, &c. if the same be demanded in the Name of Blech, i.e. Nomen Alia forma.

Blenheim, A Noble and Princeely Housie erected in Honour of the Duke of Marlborough at Woodstock near Oxford, which with the Manor of Woodstock is settled on the Duke and his Heirs in consideration of the eminent Services he performed for the Publick and for building of which House the Sum of 300,000 l. was granted by Parliament, &c. Stat. 3 & 5 Ann. 12 Ann. cap. 11.

Blietis, (Fr. Blière) Peat, or combustible Earth dug up and dry'd for Burning.—Blietis de Flavescens, de Villes de France de Knoborough potent quoque & cetera Turbae & Blietum in Foreste de Knoborough, &c. F. Par. 55 Ed. 1.

Blimo, Booths broken down from Trees, and thrown in a Way where Deer are likely to pass.

Blium, Correctly called Blemum, is a Ram going to the Ewe, the Stag to the Hare, the Bowels, or from Blemum, to accommodate.

Bliptid, A Hill or Terrifying, Are those which are half dried. Anes 18 Car. 2. c. 2.

Blietis, or Bliten, Red Colour; from whence comes Blot and blotred, wix. Sanguina and high coloured, which in Kent is called a Bleting Colour; and in a Road there is a red-faid Wench. The Prior of Bures, in D. 1475, gave his Livelihood of this Colour. Parch. Ancy. 576.

Blium (Sanguis) Is regarded in Dissents of Lands for a Person is to be the next and most worthy to the Lord of the Beer to inherit his Acanthus's Ed. 1 Ed. 13. See Ten. Cent. 203.

Bloten, or Blot, compounded of the Sax. Bled, i.e. gyanis and wix, and an old English Word signifying Micericorius. Is often used in ancient Charters of Liberties for an Amortment for Bloodshed. Some writes it Blevitos, and says Fair in English is Injuria; and that Blevitos is an Amortment or Undow (as the Scotch call it) for Wrong or Injury, as Bloodshed is: For he that hath Bloten granted him, hath free Liberty to take all Amortments of Courts for Effusion of Blood. Bleten faith, length significat quissittistum Micericordis effusio fiantis sanguinis. Lib. 1. cap. 47. And according to some Writers, Bletenta was a customary Fine paid as a Composition and Attonnement for shedding or drawing of Blood; for which the Place was answerable, if the Party were not discovered. And therefore a Privilege or Exemption from this Fine or Penalty, was granted by the King, or supreme Lord, as a special Favour. So King Henry II. granted to all Tenants within the Honour of Willesfield, Ue quibus qui Hevus &c. Bedlowe, &c. Parch. Antig. 114.

Blythe-Bank, Is one of the four Kinds of Circumstances by which an Offender is supposed to have killed Deer in the King's Forest: And it is where a Trefpasser is apprehended in the Forest, with his Hands or other Part of his Body, though he be not found charging or hunting of the Deer. Marwood. In Scat, in such like Crimes, they say taken in the Fact, or with the Red Hand. See Backward.

Blubber, Is Whale Oil, made there is thoroughly boiled and brought to Perfection. It is mentioned Stat. 12 Car. 2. c. 18.

Bock-Cheese, or Bock-Board, (Librorum bennum) A Place where Books, &c. Writings are kept.

Bockland, (Sax. mogt Blanda) A Petition or Inheritance held by Evidence in Writing. Bockland vera so cognitum transquantum leges correrit, ut nee darit loci inscitis, sed rhetoribus, quam teneunt, in scriptis alteri pietatem accipit. Terra in Hidracitani municipia. LL. Aluredi, cap. 36. Bockland signifies Dred Land; and it is commonly carried with it, in a familiar Expression of the Substance of Property of the Land, wherefore it is preferred in Writing, and posseited by the Thanes or nobler Sort, as Pratium nobili, Librorum &ciam a corvocetibus et fueruntur &c. And when the same is called a Bockland, it is defendable unto all the Sons, according to the common Course of Nations and of Nature, and therefore called Good-will's defensible also by Will, and...
Bona Bastria. An Affile of Country-men or good Neighbours: It is sometimes called Affila bona Patriae, when used by more Men out of any Part of the Country to pay upon an Affile; otherwise called Juratares, because they are to swear judicially in the Presence of the Preff, &c. according to the Prifons of the Place.

Bona primitivis, Goods that are payable. The Stat. 13 E. I. c. 4. which enacts, That where any Thing escapes alive out of a Ship call out, the Ship shall not be adjudged Wreck, but the Cargo shall be saved and kept by the View of the Sheriff, &c. in the Hands of those of the Town where the same was found.

Bonri, A Bank. Is derived from the old Lat. Bonai or Bona, a rising Bank, for the Bounds of the Fields; or a rising Bank, for swelling or Rising up in a Bush or Tumour.

Bond, Is a Deed or obligatory Infrum in Writing, whereby one doth bind himself to another, to pay a Sum of Money, or do some other Act, as to make a Release, surrender an Estate, for quiet Enjoyment, to pay to an Award, have herein to perform, will do something, &c. It contains an Obligation, with a Penalty: And a Condition, which expressly mentions what Money is to be paid, or other Thing to be performed, and the Time for the Performance thereof; for which the Obligation is perpetually binding. It may be made upon Parchment or Paper, though it is usually on Paper; and be either in the first or third Person; and the Condition may either be in the same Deed, or in another, and sometimes is included within, and sometimes indorsed upon the Obligation: But it is commonly at the Face of the Obligation. 8th Oct. 67. A Memorandum on the back of a Bond may restrain the same, by Way of Exception. Nov. 675. A Bond may be made by any Wench, in a Writing sealed and delivered, whereas a Man doth declare himself to have another Man's Money, or to be indebted to him; but the whole Form of making it, is that which is most usual. 2 Sect. Ab. 657. If a Bond be thus: Know all Men by these Presents, that I W. R. am bound to Y. S. in the Sum of, &c. for Payment of which, I give full Power to him to levy the same upon the Profit of such Lands yearly till it be paid; in this Case, the Obliger may make a Bond for payment of the Obligation, or levy the Money according to the said Claude. 3 Sect. 659. Where a Bond is made in the Name of, &c. Executors & Administrators, this is good; and the Executors and Administrators shall be bound by it. Dec. 15. An Obligation made to one, to the Ule of Y. S. will be good for him in Equity. Dec. 692. The Condition of a Bond must be to do a Thing lawful; and Bonds not to be used for Trade, till or few Ground, &c. are unlawful, for they are against the Good of the Publick, and the Liberty of a Freeman; and therefore void: And a Condition of a Bond to do any Act Malum in jure, to kill a Person, &c. is void; so also made by Duties, by Inhabitants, &c. or under. 2 Sect 657. If a Bond be made by a Freeman, the Mayor may plead Non assumpsit, &c. and conclude Non assumpsit, &c. Her bond being void. 10 Sect. 119. If a Bond depends upon some other Deed, and the Deed becomes void, the Bond is also

Bona Bastria. An Affile of Country-men or good Neighbours: It is sometimes called Affilia bona Patriae, when used by more Men out of any Part of the Country to pay upon an Affile; otherwise called Juratares, because they are to swear judicially in the Presence of the Preff, &c. according to the Prifons of the Place.

Bona primitivis, Goods that are payable. The Stat. 13 E. I. c. 4. which enacts, That where any Thing escapes alive out of a Ship call out, the Ship shall not be adjudged Wreck, but the Cargo shall be saved and kept by the View of the Sheriff, &c. in the Hands of those of the Town where the same was found, so that if any one within a Year and a Day, the same

Bona Bastria. An Affile of Country-men or good Neighbours: It is sometimes called Affilia bona Patriae, when used by more Men out of any Part of the Country to pay upon an Affile; otherwise called Juratares, because they are to swear judicially in the Presence of the Preff, &c. according to the Prifons of the Place.

Bona primitivis, Goods that are payable. The Stat. 13 E. I. c. 4. which enacts, That where any Thing escapes alive out of a Ship call out, the Ship shall not be adjudged Wreck, but the Cargo shall be saved and kept by the View of the Sheriff, &c. in the Hands of those of the Town where the same was found, so that if any one within a Year and a Day, the same
A Bond made with Condition not to give Evidence against a Feoth, &c. is void; but the Defendant must plead the Special Matter. 1 Lem. Condition of a Bond to make a Person a Perjuror, or any legal Prosecution, is against Law, and void. 1 Larus. 667. And if a Sheriff takes a Bond as a Reward for doing of a Thing, it is void. 3 Salk. 75. Conditions of Bonds are not to be only lawful, but possible; and when the Matter or Thing to be done, or not to be done by a Condition, is unlawful or impossible, or the Condition itself repugnant, impossible or uncertain, the Condition is void, and in some Cases the Obligation annulled. 10 Rep. 120. But sometimes an Obligation may be 'ingle, to pay the Money, where the Condition is impossible, repugnant, &c. 2 Nut. 285. If a Thing be possible at the Time of entering into the Bond, and afterwards becomes impossible by the Act of God, the Act of the Law, or of the Obliger, it is become void; as if a Man be bound to appear next Term, and dies before the Obligation is saved. A Condition of a Bond that 7. S. should pay such a Sum upon the 29th of December, or appear in Hilary Term after the Conclusion of December, and before Hilary Term, and had paid Nothing; in this Case, the Condition was not broken for he could produce it at the other Part is become impossible by the Act of God. 1 Mad. Rep. 265. And when a Condition is doubtful, it is always taken most favourable to the Obliger, and against the Obligee; but so as reasonable Condition be made as near as can be according to the Intention of the Parties. Dyre 51. If no Time is limited in a Bond for Payment of the Money, it is payable at any Time, or else it is impossible on Demand, 4 Brow. 53. But the Judges have sometimes appointed a convenient Time for Payment, having Regard to the Distance of Place, and the Time wherein the Thing may be performed. And if a Condition be made impossible in Respect to Time, as to make Payment of Money on the 30th of February, &c. it shall be paid prefatory; and here the Obligation stands single. Tern. 140. Though if a Man be bound in a Bond with Condition to deliver so much Corn upon the 29th Day of February next following, and that Month hath then but twenty eight Days; it has been held, that the Obliger is not obliged to perform the Condition till there comes a Leap-Year. 1 Lem. 105. If the Condition of a Bond be, that the Obliger shall make a fuller Estate in Land by grants of such a Time, by the Advice of others; and they advise an insufficient Estate, which he makes accordingly, this 'in fait is a good Performance of the Condition; but if it is, that the Obliger do make a good and full Estate, and he by Advice of Counsell makes an Estate that is not good; this will be no Performance thereof. Park. 796. Robt. 95. A Bond made to enforce two Persons, if one dies before the Time is put, where in is done, the Obliger shall en- force the Survivor of them, or the Condition will be broken: And if it be that B and others shall enjoy Land, and the Obliger and B. the Obliger do disturb the rei; by this the Condition is broke. 4 Hen. 7. 1. 3 Eliz. 384. Where one is bound in an Ad to a Stranger by Ap- pointment of the Obliger, will not be a Performance of the Condition. 1 Rauch. 149. If the Ad be to be done in a certain Place, where the Ad is not to go to Rome, &c. and he is to do the sole Ad without Limitation of Time, he hath Term during Life to perform the same: If the Concurrency of the Obligee and Obliger, or any other Person, is necessary upon Re- quest of the Obliger. 6 Rep. 10. 1 Bell. Abt. 457. Where no Place is mentioned for Performance of a certain Obligation, is a sufficient Condition of the Performance of the Obliger, if he be in England, and tender the Money, otherwise the Bond will be forfeited: But when a Place is appointed, he need seek no farther.
be no Fraud used in obtaining the same, the Bond shall not be relieved against in Equity: But a voluntary Bond may not be paid in a course of Administration, or as a Take Place of real Debts, even by simple Contract; yet it shall be paid before Legacies. 1 Ch. Co. 157. An Heir is not bound, unless he be named expressly in the Bond; though the Executors and Administrators are. And if an Obligation be made to a Man, his Heirs or Successors, the Executors and Administrators shall have the Advantage of it, and not the Heir or Successor, by Reason it is a Chattel. Dyer 14. 271. A Declaration need not be according to the Letter of the Bond, where there is any Omisison, &c. but according to the Operation of Law upon it. Mod. Cap. 258. To Bonds to have harmfule, the Defendants being prosecuted is to plead Mem Demissurus, &c. A Bond may be from one to one, one to two, three, or more Persons; or from two or more Persons to one, two, three, &c. And the Name of the Obligor subscribed, 'tis said, is sufficient, though there is a Blank for his Christian Name in the Bond. 2 G. 261. But the Name of the other Christian Name in the Bond, and the Bond signed by the right Name, though the Jury find it to be his Deed, the Obligor cannot have a Judgment; for the Name subscribed is no Part of the Obligation. 2 G. 558. 1 Mod. 175. In their Caves, then there be a Verdict, there shall not be a Judgment. Where an Obligor's Name is omitted to be inserted in the Bond, and yet he figure and seals it; the Court of Chancery may make good such an Accident; and in Cafe a Person takes away a Bond fraudulently, and cancels it, the Obligee shall have as much Benefit thereby, as if it were cancelled. 3 Ch. Rep. 91, 184. If a Bond has no Date, or a false Date, if it be sealed and delivered, it is good. A Plaintiff may fogget a Date in a Bond, where there is none, or it is impo- sible, &c. where the Parties and Sum are sufficiently expressed. 5 Mod. 282. A Bond dated on the same Day on which a Release is made of all Things after Dism claims, &c. is not thereby discharged. 2 Roll. Rep. 255. And where a Bond is made to another's Use; it must be fol laid in the Obligation, or he cannot release it, &c. Ten. Cret. 222. A Person shall not be charged by a Bond, though figured and sealed, without Delivering, or Words, or other Thing, amounting to a Delivery. 1 Lea. 140. A Bond may be good, though it contains false Latin, or false English, if the Intent appears, for they do not make the Bond void. 2 Roll. Abs. 146. More 854. By the Condition of a Bond, the Intent of what Sum was in the Obligation, may be more easily known, and ex- plained. 2 Roll. 146. And the Condition of the Bond may be recorded, and then the Plaintiff demur, &c. 1 Leu. 428. Likewise the Conditions of Bonds may expose to whom an Obligor is bound to pay Money; as if A. binds himself to B. to be paid to A. whereas it should be to B. which Obligation is good, and theobur void. 1 Int. 109, 209. Interlineation in a Bond in a Place not material, will not make the Bond void; but if it be altered in a Part material, it shall be void. 1 Nef. Abs. 391. And a Bond may be void by Ruine, &c. As where the Date, &c. is rafed after Delivery; which goes through the Whole. 5 Rep. 23. Such Words whereby the Executors may appear, are suffi- cient to make the Condition of a Bond good, though they are not proper; and it shall not be construed against the express Words. 1 Sound. 66. If the Words in a Bond be the End of the Condition, That then this Obligation to be void, are omitted, the Con- dition will be void; but not the Obligation: But if the Words or fly shall found in Force be left out, it has no Effect to hurl either the Condition or the Obligation. The sealing of any Bond or Bill, &c. for Money, being the Property of any one, made Fe-
Poultry and Eggs, and other small Provisions for his Board or Entertainment. Some derive the Word Bordari from the old Gall. Burdi, the Limits or extreme Parts of any Extent; as the Borders of a Country, and the Borders Inhabitants in those Parts. —Decinular Bordari, vel quod in regibus (quis Cottigena excult) habi- tales, quod est limites, Bordes. Span. Bordari or Bordani.

Bosh-blaftpnr. Signifies a small Toll, by Custom paid to the Lord of the Town for sitting up Boards, Tables, Boasts, Gr. in Pains and Markets: It is derived from three Saxon Words, Broad, i.e. Board, locale, in Behalf of, and paying, a Toll; which in the Whole makes a Toll for, or in Behalf of Boss.

Burbains, The Demeans which Lords keep in their Hands for the Maintenance of their Board or Table. Et Dominicus quod quis habet ad mensam suam & propriis, sed non Bordania, i.e. a Dominicus ad mensam. Bret. lib. i. Tract. 3. c. 0.

Boswath. Was a Service required of Tenants to carry Timber out of the Woods of the Lord to his House: Or it is said to be the Quittance of Food or Food Provision, which the Bordary or Bordains paid for their Bordus Lands. The old Sects had the Term of Bord and Mere-burd for Vitals, and Provision; and then we have the Back, full of Provider: From whence it is probable comes our Bordens at first.

Burg-bartho, A Tenure of Bord-lands; by which for a Fee paid to the Tenant in Cash and Money, and thereof, are held of the Bishop of London, and the Tenants do now pay Six Pence per Acre in lieu of finding Provision, anciently for their Lord's Board or Table. Blount.

Burg-Breagh, Burg-breachy, or Burg-breachy, (Sax.) a Breach or Violation of Surety-ship, Pledge-brach, or of mutual Fiduciary. Bosworthgh, (Fr. Burg, Lat. Burgus, Sax. Barke) Signifies a Corporate Town, which is not a City; and also such a Town or Place as sends Burgelies to Parliament, the Number whereof you may find in Cramp, Jurid. f. 44. Vergeyfale, that Burg or Burg, whereof we take our Burgage, metaphorically signifies a Town having a Wall, or some Kind of In- clusion about it: And All Places that in old Time had among our Ancorists the Name of Burgage, were one Way or other fenced or fortified. Lit. Set. 168. But sometimes it is used for halls in Burgage, or a Countr- y-Town of more than ordinary Note, not Walled. Landesmoor upon the Provincial (at forges de foyence) lays to this Effect, Alquis interpresignis Burgas eff Cofanem, vel locum ubi sunt crebres castra, vel dictis Burgari ubi sunt per limites habitaculac per fami constitut: But be afterwards thus defines it; Burgas dicti pauci wilis parvocup, alias a Cores, a sparse Universitas appropinat. A Burgus is a Place of Safety, Protection and Privilege, according to Sommer; and in the Reign of King Hen. 2. Burgw had to great Privileges, that if a Bondman or Servant remained in a Burgage's Year and a Day, he was by that Reference made a Free- man. Glauville. And why theft were called Free- Burgers, and the Tradifan in them Free Burgagers, was from a Freedom to buy and sell, without Distur- bgment, exempt from Toll, &c. granted by Charter; And Parliament Burgages are paid to be either by Chiefly in the ancient Demesne. Brady. It is conjectured that Borsor or Bo- rough, was also formerly taken for those Companies consisting of ten Families, which were to be Pledges for one another; and we are told by some Writers that it is a Street or Row of Hous in close to one another. Bract. lib. 3. Tract. 2. cap. 10. Lamb. Duty of Cor. p. 3.

Boroughholders, or Boroughholders, such Borough- elders. Are the same Officers with Borough heads, or Head-Boroughs; who (according to Lamberti) were the Head Men, or chief Pridges of Boroughs, chosen by the reft to speak and act in their Names in those Things that concerned them. See Headborough.

Boroughghs, (Sax. Burgo Burgess) is a custom- ary Decay of Lands, in four or seven Boroughs, and Copyhold Manors, that Estates shall defer to the youngest Son; or if the Owner hath no issue, to his Younger Brother, as in Edmond, Gr. Kitch. 102. It has been observed, that the Original of this old Custom, proceeded from the Lords of certain Lands having the Privilege to lie with their Tenants Wives the first Night after Marriage; wherefore in Time the Tenants obtained this Custom, on purpose that their eldest Sons (who might be their Lord's Bailiffs) should be incapablc to inherit their Estates. Prosf. 3 Med. Rep. But the Rest of the Custom of Borough of Englefield (Littleton says) is because the Youngest is presumed in Law to be eldest able to provide for himself. Litt. 165. This Custom goes with the Land, and guides the De- ferent to the youngest Son, unless there be a Devise to the contrary. 2 Lev. 158. If a Man seid in Fee of Lands in Borough Englefield, make a Steadfast in the Use of himself and the Heirs Male of his Body, according to the Custom of the Common Law; and after- wards died issueless, having issue two Sons, the youngest Son shall have the Lands by Virtue of the Custom, because he was the eldest. Dyer 179. If a Copyhold in Borough Englefield be surrendered to the Use of a Penfion and his Heirs, the Right will descend to the youngest Son according to the Custom, Mer. 102. And a youngest Son shall inherit an Estate in Tail in Borough Englefield. Noy 106. But an Heir at Common Law shall take Advantage of a Condition annexed to Borough Englefield Land, i.e. the youngs Son shall be intituled to all Actions in Right of the Land, Gr. 1 Nolf. Abr. 356. And the eldest Son shall have Titles arising out of Land Borough Englefield for Titles of Common Right are not Inheritances defendable to an Heir, but come in Succeffion from one Clergyman to another. Ibid. 347. Borough Eng- lefield Land being defendable to the youngest Son, if a younger Son dies without Issue Male leaving a Daugh- ter, such Daughter shall inherit the Restatement: 1 Sal. 243. It has been adjudged, where a Man hath several Brothers, the youngest male is to be heir in inherit Lands in Borough Englefield: Yet it is laid where the Custom is that Land shall go to the youngest Son, it doth not give it to the youngest Uncle, for Customs shall be taken first; and those which fix and order the Decents of Inheritances, can be altered only by Parliament. Dyer 179. 4 Lev. 384. Jank. Cent. 230.

Borough Goods, decentable. As before the Statutes of 32 & 34 Hen. 8. no Lands were decentable at the Common Law, but in Boroughs; so at the making of the Statute of Alien Barons, 1 Ed. i. c. 1. it was doubted whether Goods were decentable but in ancient Boroughs; For by the Writ De Racionabilis partes baronii, anciently the Good of a Man were parcell to his Wife and Children: By the Common Law Lands could not be decented from the Heir; and here it seems as if Goods were also not decentable from the Wife and Children, before the Statute 1 Ed. i.

Bose-Toffs, i.e. Country People, from the Fr. Bour, fossus, because they covered their Heads with such Staffs. Blount.

Borrowing, A Man borrowes Money, Corn, or such Thing of another; he may not expect the same again, but the like, or so much: But if one lend me a Horse, Gr. he must have the same restored. If a Thing be used to any other End or Purpuse, than that for which it was borroved, the Party may have his Action of the Cafe for it, tho' the Thing be never the worse; and if what is borrowed is lost, altho' it be not by any Negligence of mine, as if I be robbed of it: or where the Thing is impaired or destroyed by my neg- lect, admitting I put it no more Service than that C.
for which borrowed, I must make it good: So where I borrow a Horse, and put him in an old rotten House ready to fall, which falls on and kills him, I must answer for the Horse. But if such Goods bor-
rowed perish by the Fault of God, in the right Use of them, as where I put the Horse, &c. in a strong House, and it falls and kill him, or it is dies by Disease, or by the Default of the Owner, I shall not be charged, Ca. Lit. 89. 29. 9. 28. 8. 4. 7. 11.

Bofcong. (Bifconig) is that Food which Wood and Trees yield to Cattle, as Malt, &c. from the Inl. Bifra. Silua: But Mowood-obtains, to be quit de Bofcong, is to be discharged of paying any Duty of Windfall Wood in the Forest.

Bofitra. Wood-Houses from Bifirjas or Ox-Hou-

Bofuras. An ancient Word used in our Law, fig-
imilying all manner of Words: The Bifuras makes use of Bifras in the same Sense; as the French do Bifirs. Bifiras is divided into High Wood or Timber, Hau-
bers, and Coppice or Under-Woods, Sub-bis: But the High Wood is properly called Cœfaus: and in Flata we read it Cœceso. - Cam una Carelia de morto Bifra. Pat. 10. 6. 10.

Boframun. A certain rudile Pipe, mentioned in an Article, by Inquisition after the Case of Lawrence Haffyng Earl of Pembroke, 22. E. 3. The Mayor of Aem Counsell in Com. Warwic. is returned to be held of the King in Capite by the Terme Words; Said comunic maritall per se tenure de Damas Regis in Cap-
te per foro morionem inanem unus hominem de Cœfae, cum quadam Arcu deus Cordas, cum una Bohmo fisco cappa. &c. Ex Record. Tur. Lond.


Boe. (Sex.) Signifies a Recompence, Satisfaction or Amendments: Hence comes Meawe, Compensation, or Amendments for a Man slain, &c. In King Ia. Laws is declared what Rate was ordained for Expiation of this Offence, according to the Quality of the Person slain. Lamb. cap. 69. From hence likewise we have our common Parale, To Beat, i. e. Compensatio gratia. There are these Beats, Plugh, Beets, &c. Privileges to Tenants in cutting of Wood, &c. Fine those Words, and Stene verb Beo.

Betref, feve remedia. In the Charter of H. 1. to the Bishop of York, it is said, that no Judg-
ment or Sum of Money shall acquit him that commits Sarcilege: but he is in English called Beuref, viz. with- out an Estam. Lib. Alb. p. 12. cap. de Suar. Scot. Plac. Trec. 14. Ed. 2. &c. 48. We retain the Word still in common Speech; as it is Beute to attempt such a Thing; that it is, in vain to attempt it.

Beve, i. e. a Barony or Cellar, in which the Beats and Bottles of Wine, and other Liquors are re-
puted. - Venit ad Pelatium Regis, & ibi in Beutellaria, et excutio unum vino in dicta Be-
tellaria invento, inivam quantam videtur necessarium per fe. futura unius pictoris claretii. Anno 31 Ed. 1.

Beuha. A Booth, Stil, or Standing in a Fair or Market, many menf整理 ad Bohus fantas facinatibus. Mon. Angl. 2. par. fol. 132.

Bothrian, Bothryae, or custumary Does paid to the Lord of the Manor or Soil, for the pitching and standing of Beoth, in Fairs on Markens. Po-

Bothus, a wood. It seems to be a Park where Cattle are inclosed and fed. Herol Butus, lib. 7. cap. 123. Bothes, also signifies a Barony, Lordship, &c. Here.

Boutier of the King, (Pierinae Regis) is an Of-
ficer that provides the King's Wines, who (record-
ing to Flata) may by Virtue of his Office take out of every Ship laden with Sale Wines, Unum delatum et alia novis ad opus Regis & alius in popu, et pro qualibet pecius redditis testamenti 20 solid. Mercator. Si hae donee placuerint ab eis,donee per trium ministrum fudigerum judicis pro Rege appravit. Flata lib. 2. cap. 21. This Officer shall not take more Wine than he is commanded, of which Notice shall be given by the Surveyor of the King's House, &c. on Pain of forfeiting double Damages to the Party grieved; and also to be imprisoned and ransomed at the Pleasure of the King. Sen. 25 Ed. cap. 21. 45 Ed. 24.

Boutumary. (Forunus Nauticus) is when the Master of a Ship borrows Money upon the Keel or Bottom of his Ship, and binds the Ship itself; that if the Money be not paid by the Day &c. after, the Credit of the Ship shall be lost. But it is generally when a Person lends Money to a Merchant, who wants it to Traders, and is to be paid a greater Sum at the Return of the Ship, standing to the Hazard of the Voyage; in Re-
gard to which, though the Interest be greater than five per Cent. or what is allowed by Law, it is not Usury. For Money lent to be allowed is a large Interrest than Money advanced on Land, by Reason 'tis furnish'd at the Hazard of the Lender, and if the Ship perishes, the Lender loses in the Loss; so that there is no real Hazard of the Lander. And the greater the Danger is, the greater may be the Profit reasonably required for the Money advanced. Lux Marc. 122. Money lent on Boutumary is either on the bare Ship, (the usual Way) or upon the Per-
fson of the Borrower, and sometimes upon both: The first is where a Man takes up Money, and obliges himself; that if such a Ship shall arrive at such a Port, then to repay perhaps in long Voyages near double the Sum lent; but if the Ship happens to miscarry, then nothing. But when Money is lent at Interest, it is delivered at the Peril of the Borrower, and the Profit of this is merely the Price of the Loan; whereas the Profit of the other, is a Reward for the Danger and Adventure of the Sea, which the Lender takes upon himself, and the Instant inaus-
f. Sea Lawes 206, 207. Then there is subre Nave-
ria, joining the advanced Money, and the Danger of the Sea together; and this is obligatory Sometimes to the Borrower's Ship, Goods and Perish. Where Bonds or Bills of Boutumary are seal'd, and the Money is paid, if the Ship receives Injury by Storm, Fire, &c. before the beginning of the Voyage, the Person borrowing only runs the Hazard, unless it be otherwise provided; as that if the Ship shall not ar-
rive at such a Place, at such a Time, &c. where the Con-
tract hath his Beginning from the Time of the Sealing: But if the Condition be, that if such a Ship should fail from London to any Port aboard, and shall not arrive at such a Place, at such a Time, &c. there the Contingency hath not its Beginning till the Departure. A Ma-
er of a Ship may not take up Money upon Boutumary, in Places where his Owners reside, except he be a Part-Owner, and then he may only take up so much as his Part will answer in the Ship; for he exceeds that, his own Estate is liable to make Satis-
faction. But when a Master is in a strange Country, where there are no Owners, nor any Goods of theirs, nor of his own; and for Want of Money he cannot perform his Voyage, there he may take up Money upon Boutumary, and all the Owners are chargeable therefor; but this is understood where Money can-
not be procured by Exchange, or any other Means: And in the first Case, the Owners are liable by their Verdict, and not in their Persons; but they give their Remedy against the Master of the Ship. Leg. Oblig. l. 4. Some Masters of Ships who had injured or taken up Money upon Boutumary to a greater Valu-
ble their Adventures, having made it a plea to call away and destroy the Ships under their
Charge, by Stat. 10 Car. 2. c. 6. it is made Felony, and the Offenders shall suffer Death. Vide 1 Ann. By the Stat. 19 Geo. 2. c. 37. every Sum lent on Bontomere or at Respondence upon any Subjects Ships to or from any East India Ships, shall be lent only on the Ship, or the Merchandise laden on board her, and so expressed in the Condition of the Bond, and the Benefit of Salvage shall be allowed to the Lender, who alone shall have Right to make Affiance on the Money lent. And no Borrower of Money, on Bontomere or at Respondence as aforesaid, shall recover more on any Affiance than the Value of his Interest, exclusive of the Money borrowed. And if the Value of the Interest do not amount to the Money borrowed, he shall be responsible to the Lender for the Surplus, notwithstanding the Ship and Merchandise be totally lost.

Form of a Bill of Bottomy.

T'o all People to whom these Presents shall come,
I A. B. and C. Officers and Majesty of the Ship called, &c. the Bandon of two hundred Tons, now riding at, &c. and bound for, &c. in the Well Indies, from the said A. B. am at this Time authorised to take upon the Adventure of the said Ship, called, &c. the Sum of 100 for fitting forth the said Ship to Sea, and furnishing her with Provisions for the Journey, &c. C.D. of, &c. Merchant, both as Regent lent unto me, and supplied me with the Rate of 201, for the said 100, during the said Voyage: Now know ye, that I the said A. B. do by these Presents, for me, my Executors and Administrators, covenant and grant to and with the said C.D. that the said Ship shall carry the first fair Wind after the Day, &c. depart from the River Thames, and shall, as Wind and Weather shall serve, proceed in her Voyage to, &c. in the Well Indies; and having there tarried until, &c. and the Opportunity of a convoy, or being forced dispatched (which shall best happen) shall return from thence, and shall as Wind and Weather shall serve, directly back to the River Thames in forth her said Voyage: And I the said A. B. do in Confirmation of the said Sum of 100, in me in hand paid by the said C.D. at and before the Seaing and Delivery of these Presents, do hereby bind myself, my Heirs, Executors and Administrators, &c. and particularly the said Ship, with the Freight, Tackle, and Apparatus of the same, to pay unto the said C.D. by his Executors, Administrators or Assigns, the Sum of 120 of lawful British Money, within two and twenty Days next after the Return and safe Arrival of the said Ship, in the said River of Thames, from the said intended Voyage: And I the said A. B. do for me, my Executors and Administrators, covenant and grant, to and with the said C.D. his Executors and Administrators by this Presents, That I the said A. B. at the Time of Seaing and Delivery of these Presents, am true and lawful Owner and Majesty of the said Ship, and have Power and Authority to charge and engage the said Ship as aforesaid; and that the said Ship shall at all Times after the said Voyage, be liable and chargeable for the Payment of the 120, according to the true Intent and Meaning of these Presents: And lastly, it is hereby declared and agreed, by and between the said Parties in this Presents, that in the Case the said Ship shall be lost, mislaid, or be cast away before her next Arrival in the said River of Thames, from the said intended Voyage, that then the said Payment of the said 120, shall not be demanded, or be recoverable by the said C.D. his Executors, Administrators or Assigns; but shall cease and determine, and the Loss thereby wholly born and sustained by his Executors and Administrators: And that then and thenceforth every All, Matter and Thing herein contained to the contrary notwithstanding. In Wintef, &c.

Bouto tra, As much Land as one Ox can plough, &c. Anglae Bovaeus, &c. oxyofigo acco terria. Mon. Angl. par. 3. fol. 91. See Oxyang.

Bouche of Court, Commonly, called a Judge of Court, was a certain Allowance of Provision from the King, to his Knights and Servants, that attended him in any military Expedition. The French Monque bouche a Court is to have an Allowance at Court, of Meat and Drink: From these, a Mouth. But sometimes it extended only to Bread, Beer, and Wine. And this was anciently in Ufe as well in the Houses of Noblemen, as in the King's Court, as appears by the following Indenture—Likewise Endures fair parente Lui Nine Homo Monque Tho. Beau champ, Comte de Warwick; d'une part, & Monque Johann. Puffel de Strengham Cholener, de autre part, refugio que le dit Johann. et. Et Acqua per la, &c. Bouche au Court par la moyne, &c. Donne a monier Châuget de Warwick le 29 jour des Maiys le Secondjus le Compend. &c.


Boettius, An Heifer, or young Cow; which in the East Riding of Yorkshire is called a Wiser, or Why.

Bound, or Boundary, (Bando.) The utmost Limits of Land, whereby the fame is known and ascertained—Situs, Bonda, & Marchia Fortiter. 15 Ed. 3. Sir J. Pick. fol. 6. See 4 Ind. 318.


Bowthraier, An under Officer of the Forth, whose Office is to oversee, and true Inquisition make, as well of other Men as Unborn in every Balliwick of the Forel: and of all Manner of Trepassus done, either to Vert or Venison, and causeth them to be preferred, without any Concession in the next Court of Attachment, &c. Crump. Jurif. fol. 201.

Bottysers, One of the ancient Companies of the City of London. A Berger dwelling in London, was to have always ready fifty Boves of Elm, Witch-Halle, or Afl, well made and wrought, in Pain of 10l. for every Bove wanting; and if sold them at certain Prices, under the Penalty of 40l. Stat. 8. Eliz. c. 10. And Parents and Malters were to provide for their Sons and Servants, a Bov and two Shaws, and causeth them to exercise Shooting, on Pain of 6s. and 8d. &c. by our ancient Statutes, 12 Ed. 4. 33 H. 8.

Bozartis, Hounds, or rather Beagles of the smaller and flower Kind.—See conflat. J. L. Magistram canam suarn unum hastatim Bracteis, &c. Pat. 1 Rich. 2. p. 2. m. 1.

Bozartarium, (Fr. Bracaniser.) A Huntman, or Maller of the Hounds.—See mander Baratius qui adiutum Rob. de Chadworth Vicem. Lincoln, hoc v. c. 2. cap. pro præmio Regis liberative Johann. de Bellentovo pro faculta septem Leporemonis ordine Falcimonum de Lanner. & pro undius unius Bracanarum a dir. &c. &c. &c. præs. ianuarius. utique dis computato, ut præs. ex parte capiendi Leporemonis & Falcimonis id. ob. &c. in præs. præt obitio Bracanari per diem 11. anno 16 Ed. 1. Rot. 10. in Dorfh.
Buccatius, A Hound: Bracken is in Fr. Brachet, and in old London, Leopram. Bracken has been properly the large fleet Hound; and Bracken, the smaller Hound; and Brachete the Bitch in that Kind. — See Concile eius duo Leporum & consulto Bracete & Leporem capite. Monarch. Ang. I. 2. 2. pag. 283.

Brazen, A Brewing: The whole Quantity of Ale brewed at one Time, for which Tafelwas was paid in some Manses. Brazen a Brew-bowls. M. pens Will. Dugdale, &c.

Brauyn, A Liquor made chiefly in France, and extracted from the Lees of Wine. In the Stat. 20 Car. 2. cap. 1. upon an Argument in the Exchequer June 1668, whether Brandy were a Strong-water or Spirit, it was resolved to be a Spirit. But in the Year 1669, by a Grand Committee of the whole House of Commons, it was voted to be a Strong-water perfectly made. See the Stat. 22 Car. 2. cap. 4. In lieu of Customs Duties, granted by 7 & 8 W. 3. on Brandy imported from France, there shall be paid by the Importer for every Gallon of single Proof 1/2. and double Proof 2/-. &c. By Stat. 6 Geo. 2. c. 37. See Lapham.

Brassif, Signifies Malt: In the ancient Statutes Brandewyn is taken for a Brewer, from the Fr. Brandewyn; and Malt in French is Maltex or Malme. Mow. 78. It was received 16 Ed. 2. and wendis Brandy now oft wendish vindawine, now debret peni cort vendis Patn, Pist. & Corvole & bygynmunt, contra formam Stat. To make Malt was a Service paid by some Tenants to their Lords. — In Manser's De Pidington guilb. virgatarii preparabit Domina unum quartum Brandewyni per annum, & Dominae terein Buxan ad florentiam Paroch. 266.

Braffes, Is to be sold in open Fairs and Markets, or in the Owners Houses, on Pain of 10 l. and to be worked according to the Goods' metal brought in London, or shall be forfeited: Also Searchers of Braff and Pewer are to be appointed in every City and Borough by Head Officers, and in Counties by Judges of Peace, &c. and in Default thereof, any other Person skillful in that Mystery, by Overight of the Head Officer, may take upon him the Search of defective Braffs, to be forfeited, &c. Stat. 19 H. 7. c. 6. Braff and Pewer, Belmetal, &c. Shall not be sent out of the Kingdom, on Pain of Forfeiture double Value, &c. 33 Hen. 8. c. 7. 2/3 of Ed. 6. c. 37.

Breach of Promiss, (Violato Trito) A Breaking or Violating a Man's Word. And Breach signifies where a Person commits any Breach of the Condition of a Bond, or his Covenant, &c. entered into, on Action upon which the Breach must be ascribed. In Debt on Bond, conditioned to give Account of Goods, &c. a Breach must be alleged, or the Plaintiff will have no Cause of Action. 1 Saund. 102. And when a Breach is ascribed it must not be general, but must be particular; as in Action of Covenant for not paying of Houser, the Breach ought to be ascribed particularly, what is the Want of Reparation. If one covenanters he was feathered, and Breach is ascribed that he was not feathered, it must be set forth who is feathered, &c. Cre. Tuc. 359. But on mutual Promiss for one to do an Act, and in Consideration thereof another to do some Act, as to sell Goods, &c. for so much Money, a general Breach that the Defendant hath not performed his Part, is well ascribed. 3 Lev. 359.

If the Condition of a Bond consists of several Parts, the Defendant in pleading is to shew that he hath performed the several Matters contained in the Condition, but where a Covenant consists of several Parts in the Affirmative, Performance generally is a good Plea. Sid. 241. In Case of a Bond for Performance of an Award, the Defendant pleads any Matters which he admits a Non-performance, and excuses it, the Plaintiff in his Replication must shew the Award, and affirm the Award, that the Court may try the Award was made, and judge whether it was good or not; for if it should be of a void Part thereof, it need not be performed. 1 Saull. 138. Breachs ascribed ought to be according to the very Words of the Conditional Covenant; when they may be well enough though too general. 1 Lec. 336. Where a Thing is to be done by a Peron or his Allies, the Breach is to be that it was done neither by the one or the other. 5 Med. 133.

If a Person is to render a Conveyance, &c. to another, his Heirs or Allies, Breach ascribed that the Defendant did not render a Conveyance to the Plaintiff, without the Words his Heirs or Allies, is good: But if the Tender be to be made by another Man, his Heirs, &c. and not to him, it is otherwise. 1 Saul. 139. Where a Leafe for Years is to lease all the Timber on the Land, which was growing there at the Time of the Lease, and he cuts down any Trees, though he leaves the Timber on the Land at the End of his Lease, this is a Breach of Covenant: For in Contraets the Intention of Parties is chiefly to be considered. 32. 464. If Lands are only excepted out of a Lease, and a Person is disturbed in enjoying them by the Leafe, this is no Breach of Covenant; though it is laid it might be otherwise if a Way were made. 5 Med. 53. If a Person brings an Action for a Covenant broken, he ought to assign the Breach of it in such a Manner, that the Defendant may take an Issue. 1 L. Lens. 249. If several Breaches, broken, and the Plaintiff demands upon the whole Declaration, the Plaintiff shall have Judgment for all that are well ascribed, for they are as several Actions. Stat. 15 W. 3. 557. Where a Declaration is made, for too particular Breach of Covenant, when it is cured by Verdict, though ill upon Demurrer. 1 Jess. 114. 126. Formerly a Plaintiff could assign but one Breach in Action of Debt upon a Bond, for Performance of Covenants, though several Things were broken, for one Breach being proved, was a Forfeiture of the Bond: But in Action of Covenant, as many Breaches might be alleged, as the Plaintiff would, because the Plaintiff might have a particular Damage upon each Covenant broken; and a several Issue must be taken upon every Breach. 1 Nis. Ab. 416. And now by Statute, in Action on Bond for Performance of Covenants, the Plaintiff may assign as many Breaches as he pleases, and the Jury shall decide which Damages and Costs for such Covenants as are proved to be broken. Stat. 8 & 9 W. 3. c. 30. And where Judgment shall be given for the Plaintiff in such Action on a Demurrer, Nil dicis, &c. he may tugger on the Roll as many Breaches as he thinks fit, for which upon a Writ of Enquiry shall go, &c. And if before Execution executed, the Defendant brings the Costs and Damages into Court, Execution shall be stayed; and the Plaintiff shall acknowledge Satisfication, if the Execution be executed: But the Judgment shall still stand as a Security to answer the future Breach of any Covenant in the Deed; for which the Plaintiff or his Executors, &c. may have a Seire facias upon such Judgment against the Defendant. Stat. 118.

Bread and Beer, The Article of Bread, Beer, and Ale, &c. is granted to the Lord Mayor of London and other Corporations: Bakers, &c. not obtaining the Article of Bread, &c. are guilty of Pilfering. Stat. 11 W. 3. 462.

Bread of Freight, or Criss, (Panis Trinorum) Is Bread mentioned in the Statute 51 Hen. 3. of Affix of Bread and Ale; wherein are particularized Yulet Bread, Cider Bread, and Bread, which is to be delivered to the three Sorts of Bread now in Use, called White, Wheaten, and Hoake hold Bread. In religious Houses they heretofore distinguished Bread by these several Names: Pani, Demerorum, Pani Costrivarii, Pani Pancretzarii, & Pani Familiarum. Ant. Not. 67.
BIBLIOGRAPHY

From the Fr. Breche A Breach or Decay. In some ancient Deeds there have been Corenants for repairing Marla of Breecas, Porta or Fagata, Gt. De Breche, Brem & G全流程se of G全流程se. Pat. 16 Ric. 1. A Duty of 5 d. per Ton on Shipping was granted for amend and Stopping of Deyagenum Breach, by Stat. 12 Ann. c. 17.

In many cases, the word Breche was used for Brandon; as too large and too Breche, is proverbially too long and too broad. Bact. lib. 3. 3. 2. c. 15. There is also a 3d Word Breche signifying Certain. Lev. Conset. c. 47.

In the Act of 1696, the word Breche and White was used. A Fine or Penalty imposed for Defaults in the Affile of Bread: To be excepted from which, was the Special Privilege granted to the Tenants of the Honour of Wellingford by King Hen. 2, 92 Paroch. Act. 114.

Breston. In Ireland the Judges and Lawyers were traditionally called Brestons; and thereupon the Irish Law called the Breston Laws. 4 Id. 532.


Brexiagum, A Payment in Bran, which Tenants annually made to feed their Lords Hounds. Blount.

Brexequence, or Brexiteres. The Law of the Marches of Wales, in Practice among the ancient Britons.

Brecon, Brecon. — Lucius Henricus de Penebrogge dedi omnibus liberis Borungham, his filio, Penebrogge creavit, liberae et liberis constituit caedium Legem de Brecon, Gt. Pat. see Des. Here Legem de Brecon is said to signify Legem Marcharium, the Penbrogge, now called Pembroke, is a Town in Herefordshire that borders upon Wales.

Breche, A Word by which a Man is summoned or answer to an Action, or where any Thing is contested, to be done in the King's Courts, in order to Justice, &c. It is called Breche from the Brevity of it; and is directed either to the Chancellor, Judges, Sheriffs, or other Officers, who are to furnish you with the Register. — Breche, quae breviter & paucis scriptoribus pretiosissimae et explodat. &c. Bred. lib. 5. Traut. c. 17. Voir Dictionnaire de Norm. Breche, Vide. Write Vide.

Breche perriquent, To purchase a Writ or Licence of Trial, in the King's Courts, by the Plaintiff, qui Breche perriquent: And hence comes the Usage of paying 6 s. 8 d. Fine to the King, where the Debt is 40 l. and of 10 s. where the Debt is 100 l. &c. in Suits and Trials for Money due upon Bond.

Breches de &c. A Writ of Right, or Licence for a Peron ejected out of an Estate, to sue for Possession of it when detained from him. Vide Rights.

Breches des tenets, A writ of Mandate to a Sheriff to deliver unto his successor the County, and the Appurtenances, with the Rolls, Brief, Remembrances, and all other Things belonging to that Office. Rex Orig. 139.

Breven, Are to put their Drink in Vessels mark'd by a Cooper, or forfeit 3 s. 4 d. a Barrel; and not selling it at reasonable Rates, appointed by Judges of Peace, incur a Forfeiture of 6 l. for every Barrel, Kil- derkin 3 s. 4 d. Gt. Stat. 23 H. 8. c. 4. And Bremers are to make an Entry at the Exchequer-office once a 3rd. of Licences brought, unless by Reason, Gt. 13 & 15 Car. 2. 7 & 8 W. 3. If Brewers mix any Sugar, Molasses, &c. in brewing Beer or Ale, they shall forfeit 20 l. Stat. 1. Ann. c. 3. See Excise.

Breveri, (from the Fr. Brker) to devour or eat greedily) is a high Offence, where a Peron in a judicial Place takes any Fee, Gift, Reward or Bocage, for any Thing out of the King only. 3 & 4. 145. But taken large, it signifies the Receiving, or Offering, any undue Reward, or to by any Person concerned in the Administration of publick Justice, whether Judge, Officer, &c. to add contrary to his Duty; and sometimes it signifies the Taking or Giving a Reward for a publick Office. 3 & 4. 149.

Bhek. A Breke of Money though small, the Fau is great; and Judges may be punished for receiving Breke. If a Judge refuseth a Breke offered him, the Offerer is punishable. Fortstau, cap. 51. Bribery in judicial or ministerial Officers is punished by Fine and imprisonment. Before the Statute 24 Ed. 3. Bribery in a Judge was looked upon as so heinous an Off

In the Reign of King James I, the Earl of M. Lord Treasurer of Eng.

land, being impeached by the Commons, for refusing to hear Petitions referred to him by the King, 'till he had received great Breke, &c. was by Sentence of the Lords, deprived of all his Offices, and disabled to hold any for the Future, or to sit in Parliament; also he was fined fifty thousand Pounds, and imprisoned during the King's Pleasure. 1 Hen. P. C. 170. In the ele

In the Reign of George I, the Lord Chancellor had a milder Policy. He was impeached by the Commons with great Zeal, for Bribery, in selling the Places of Maiers in Chancery for exorbitant Sums, and other corrupt Pratices, tending to the great Loss and Ruin of the Suinter of that Court; and the Charge being made good against him, being before de
defiled of his Office, he was contented by the Lords to pay a Fine of thirty thousand Pounds; and imprisoned till it was paid. Vidi the Trial. By Statute, the Chan

ellers, Treasurer, Judges of both Benches, Barons of the Exchequer, &c. shall be sworn not to ordain or nominate any Person in any Office for any Gift, Bro

cage, &c. 12 R. 2. c. 5. And the Sale of Offices concerning the Administration of publick Justice, &c. is prohibited on Pain of Disability and Disqualify, &c. by 5 & 6 Ed. 6. c. 16. In the Contrauction of the last mentioned Statute, it has been resolved that the Offices of the Ecclesiastical Courts are within the Meaning of that Act, as well as the Offices in the Courts of Common Law; and been adjudged, that one who contracts for an Office, contrary to the Purport of the said Statute 5 & 6. 6. is to be disqualified from the same, that he cannot be referred to a Capacity of holding it by any Grant or Dispensation whatsoever. 1st. 269. 356. Hen. P. C. 171. Officers of the Cu

Blunt, Taking any Bribe or Reward, whereby the Crown shall be defrauded, shall forfeit 100 l. and be rendered incapable of any Office. Stat. 14 Car. 2. c. 11. But there is a saving Clause for the first Offence, acknowledging it in two Months. No Peron setting up for Member of Parliament, shall after the Telle of the Writ of Election, or after any Place becomes vacant, give any Bribe of Money, nor shall he be Drawn, Drink, Gift, Reward, &c. in order to be elected, on Pain of Disability to serve in Parliament. 7 W. 3. c. 4. And Electors taking Bribes, are disabled to vote, and to hold any Offices of Trust, and shall also forfeit 500 l. &c. by Stat. 2 Geo. 2. c. 24. If Money is given to a Man to be dispossessed of in Bribe, the Giver may recover it back again in an Action; and who gave one gave a Bribe, a false House Officer, for expe

Blunt, (Fr. Brker) Seems to Signify in some of our old Statutes, that one pillers other Men's Goods. 28 Ed. 2. c. 1.

Blut, An Engine mentioned in Blount, by which Walls were beat down.

Bluris, Are to be made between the 1st Day of March and 20th of September, and shall be burnt near in Kilns, or distilled. Ce. 12 Place. Brussels, when burnt, must not be less than nine Inches long, two Inches and a half thick, and four and a Quarter wide, on Pain of forfeiting 20 l. a Thousand. &c.

Blunt, D D Searches
Searchers of Bribe and Titles shall be appointed by Justices of Peace in their Quarter-Sessions, who are to make the said searches, and may be fixed in and for the Districts in their Counties. Combinations to advance the Price of Bribe, Grogging them, &c. incurs a Penalty of 20l. And mixing Mule, Soil or Malt with Briack Earth, is liable to a Penalty. Stat. 12 Geo. 1. c. 32. 2 Geo. 2. c. 15.

But Bribe may be made of Briack Earth and Sea Coal. After sifted not exceeding a certain Quantity; and Cinders or Breeze may be sold with Coal in the Burning of Briack, and Stock Briacks and Place Briack burnt in the name Clamp, being set in distant Parchels, &c. by the 3 Geo. 2. c. 22.

Blyptons. (Per.) A Building of Stone or Wood erected a croft a River, for the common Eafe and Benefit of Travellers. At Common Law those who are bound to repair public bridges, must make them of such Height and Strength, as shall be answerable to the Courte of the Water; and they are not Trespassers if they enter on any Land adjoining to repair them, or lay down brinks, or make it necessary for the Repairs to be done thereon. Dalh. cap. 16.

Common Bridges being built for the common Eafe of the People, of common Right ought to be repaired by the County; but a particular Person, Tenant, &c. may be bound to repair them by Tenure, or Prescription. 6 Med. 307. And if a Man erects a Bridge over his Own Ule, and the People travel over it as a common Bridge, he shall notwithstanding repair it: Though a Person shall not be bound to repair a Bridge, built by himself for the common Good and public Convenience, but the County must repair it. 2 lef. 701. 3 Stat. 559. Where Inhabitants of a County are indicted for not repairing a Bridge, they must set forth who ought to repair the same, and traverse that they ought. 1 Foss. 236. A Vill may be indicted for a Neglect in not repairing a Bridge; and the Justices of Peace in their Sessions may impose a Fine for Defaults. And any particular Inhabitant of a County, or Tenant of Land charged to Repair a Bridge, may be made Defendants to an Indictment for not repairing it, and be liable to the Fine allowed by the Court for the Default of the Repairs; who are to have their Rights and Law for a Contribution from those who are bound to bear a proportionable Share of the Charge. 6 Med. 307. If a Manor is held by Tenure of repairing a Bridge, or Highway, which Manor afterwards comes into several Hands, in such Case every Tenant of any Parcel of the Demesnes and Services, is liable to the whole Charge, but shall have Contribution of the Publick for the Bridge or the Road through the Land may agree with the Purchasers to discharge them of such Repairs, which only binds the Lord, and does not ever reach to the Purchasers to the Publick hath. 1 Duno. Abr. 744. 3 Saul. 358.

Indictments for not repairing Bridges, will not lie but in Cafe of common Bridges on Highways; though it hath been adjudged they will lie for a Bridge on a common Footway. Med. Caf. 236. Not keeping up a Ferry, being a common Palage for all the King's People, is indictable, as well as not keeping up Bridges. 1 Duno. 12.

All Householders dwelling in any County or Town, whether they occupy Lands or not; and all Persons who have Land in their own Possession, whether they dwell in the same County or not, shall be liable to be taxed as Inhabitants towards the Repairs of a publick Bridge, by the Stat. 22 H. 8. c. 5. Where it cannot be discovered who ought to repair a Bridge, it must be preferred by the County Judges in the Quarter-Sessions; and after their Inquiry, and the Order of Sessions upon it, the Justices may fend for the Collectors of every Parish, to appear at a fixed Time and Place, to make a Tax upon every Inhabitant. &c. But it has been usual, in the levying of Money for Repairs of Bridges, to charge every Hundred with a Sum in Gros, and to send such Charge to the High Collectors of each Hundred, who find their Warrants to the Petty Collectors, to gather it, by Virtue whereof they afeit the Inhabitants of Parishes in particular Sums, according to a fixed Rate, and for the same purpose. This System has been observed from Jesus.

Bridgemen. There are Bridgemen of London, chosen by the Citizens, who have certain Fees and Privileges annex to their Office, and the Care of the said Bridge, Stat. 3 & 4 Edw. 5. c. 21.
Brief, (Brevis) An Abridgment of the Client's Case, made out for the Infraction of Counsel, on a Trial at Law; wherein the Case of the Plaintiff, 

Cr. is to be briefly but fully, and the Proofs must be placed in due Order, and proper Answers made to whatever may be objected against the Client's Cause, by the opposite Side; and herein great Care is requisite, that nothing be omitted to endanger the Cause. 

Form of a Brief, see Pray. Soc. p. 511.

Brief at Belfort, A Writ to the Bishop, which in 2. Impedis shall go to remove an Inconvenience, unless he recover or be preferred pending this, 1 Ed. 356.


Briga, (Fr. Brigue) Debate, or Contention.—

Et qui est terram illum in Brigham of intrinsecus terram,isset per divi/i fraudemse Præsidentes: Ideo committitur Muri / Ebor. Hill. 18 Ed. 5. Rot. 28.

Briegintaine, (Fr. in Lat. Livice) Is a Coat of Mail or ancient Armour, consisting of many jointed and interlaced plates of iron, and fastened by rings to the Body. This Word is mentioned in 5 & 5 P & M. cap. 1. and some confound it with Hlaubergens; and others with Blair, which is a long but low-built Veffel, swifl in falling, aded at Sea.


Brigbato, or Briggbot, Signifies to be freed from the Reparation of Bridges. It is compounded of the Suffix, a Bridge, and Bate, which is a Yielding of Almes, or Submitting a Defect: But this is more properly Briggot, from the Germ. Brukh, i.e. a Bridge, and Bate, a Compensation; and it is used for the Liberty or Exemption of being free from Tribute or Contribution towards the Mending or Rebuilding of Bridges. Fleta, ib. 1. c. 47. Selden's Titls of Honour, fol. 617.

Brielle, A Great City, famous for Trade: The Mayor, Burgesses and Commonalty of the City of Brielle, are Conventional of the River Amst from above the Bridge there to King's Road, and so down the Staws to the two Islands called Holms, and the Mayor and Justices of the said City, may make Rules and Orders for preserving the River, and regulating Flats, Matters of Ships, 

Etc. Also for the Government of their Markets: And the Streets are to be kept clean and paved; and Lamps or Lights hung out at Night. Stat. 11 & 12 W. 3. c. 23. 

No Person shall act as a Broker in the City of Brielle, till admitted and licensed by the Mayor and Aldermen, &c. on Pain of forfeiting 500l. and those who employ any such Broker shall forfeit 500l. &c. by Stat. 3 Geo. 2. c. 31.

By the Stat. 12 Geo. 2. c. 20. the Stat. 11 & 12 W. 3. is rendered more effectual to far as it relates to the Paving and Enlightening the Streets; and divers Regulations are made in relation to the Hackney Coachmen, Halliers, Denyers and Carriers, and the Markets and Sellers of Hay and Straw, within the said City and Liberties thereof.

Broachage, (Broacsum) The Wages or Hire of a Broker, which is also termed Brokerage. 12 R. 2. c. 2. and 1 H. 4. — Ex Broacgia, vel alia fiuntia fraus, by Stat. 1 Ed. 3.

Brocella. This Word, as interpreted by Dr. Tertium, signifies a Wood; and it is said to be a Thicket or Covern of Bushes and Brugh-wood, from the Greek, Brokh, Brach, Brocella. And hence is our Brook of Wood, and Broaching of a Castle. — Debr. E. Brocellio sive. E. Brachus, from G. Burgers., MS.

Brocha. (From the Fr. Bracha) An Aawl, or Large Packing Needle, the Use whereof is very well known. A Spite in some Parts of England is called a

Broche; and from this Word comes to pierce or 

break a Barrel. That it was an Iron Instrument, you may learn from the following Authority. — Henrikus, de Harveyng temp. Henrici IV. in Gen. de Serjendium incendendi usum hominum, cum usus, &c. &c. seu facio de cori, &c. &c. Brochanrias. Anno 13 Ed. 1.

Broochi, A Great Can or Pitcher. Bradb. ib. s. trad. 1. cap. 6. Where it seems that he intends Sacca to carry dry, and Brochi liquid Things. — See Bradh. or Bradb. See Bradh. or Bradb. See Bradh. or Bradb.

Brokers, (Brocatores, Brocarii &c. Accessorii) Are those that contrive, make and conclude Bargains and Contracts between Merchants and Tradesmen, in Matters of Money and Merchandize, for which they have a Fee or Reward. These are Exchange Brokers; and by the Statute 10 R. 2. cap. 1. they are called Broggers; and Broggers of Cash is used in a Perambulation of Queen Elizabeth for Badgers. Baker's Chron. fol. 411. The Original of the Word is from a Trader broken, and that from the Sax. Bres, which signifies Miser fortune, which is the true Rendow of a Man's Breaking; so that the Broker came from one who was a broken Trader by Misfortune, and none but such were formerly admitted to that Employment; and they were to be Fremen of the City of London, and allowed and approved by the Lord Mayor and Aldermen, for their Ability and Honesty. By the Stat. 5 & 6 W. 3. cap. 20. they are to be licensed in London, by the Lord Mayor, who gives them an Oath, and takes Bond for the faithful Execution of their Offices: If any Persons shall act as Brokers, without being thus licensed and admitted, they shall forfeit the Sum of 500l. And Persons employing them 50l. And Brokers are to register Contracts, &c. under the like Penalty: Also Brokers shall not deal for themselves, on Pain of forfeiting 500l. They are to carry about them a Silver Medal, having the King's Arms and the Arms of the City, &c. and pay 40s. a Year to the Chamber of the City. Stat. 6. Ed. 5. &c. A Penalty of 500l is inflicted on lawful Brokers selling Shares of Stock not authorized by Act of Parliament, by Stat. 6. Gen. 1. c. 18. Brokers negotiating or transacting Contracts, on Premiums to accept or refuse Stock, or in the Nature of Wagers, &c. relating to the Value, incur the like Penalty of 500l. and not recognizing Agreements knowingly for the Sale of Stock, where the Seller is not actually possessed of the same, &c. shall forfeit 100l. And Brokers shall keep a Book called the Broker's Book; in which they shall enter all Contracts and Agreements, with the Names of the Buyers and Sellers, and Day of making Contracts, &c. to be produced when required, on Pain of 500l. Stat. 7. Gen. 2. c. 8. There are likewise Pawns brokers, who commonly keep Shops, and let out Money to poor necessitous People upon Pawns, for the most part on Extortion; but there are more properly Pawn-takers, and are not of that Antiquity or Credit as the former; nor do the Statutes allow them to be Brokers, though now commonly so called. These Brokers often deal in Book Goods, as well to buy them cheap, and are a great Nuisance: Now, withal, there is a Law declaring that wrongful Sale of Goods by and to Brokers, shall not alter the Property; and if they do not recover such Goods as is sold by the Request of the Owner, they are to forfeit double Value. 1 Jac. 4. cap. 21. The Reason of exorbitant Interest being taken by these Brokers, is the Want of Skill in the commoner People to know where the Money taken but the Party's Own Evidence; but they may be punished for their Extortion on an Action, 22 Jac. 2. &c. See Book. 

Broca, An Old Sword or Dagger. — Jurati diuisae feje cortexamentum, quod Johannes de Monemnon Milis per Robertum Armigerum Jiam, periacti Adam Gulbert
Gilbert Capel, in his book, mentions that the Accrington Beggars, who were led by a woman named Bess, were notorious for their raids and thefts. The Beggars were known to carry weapons, including swords and daggers, and were feared by the local authorities.

Bess, a prominent figure among the Beggars, was said to have been a beautiful woman who was known for her bravery and courage. She was often seen leading the Beggars in raids and plundering the countryside.

The Beggars were also known for their attachment to their leader, Bess, and were fiercely loyal to her. They followed her orders religiously and were willing to do anything to protect her and their own interests.

In conclusion, the Beggars were a formidable group of outlaws who were feared by the authorities of that time. They were led by a beautiful woman named Bess and were known for their raids and thefts. They were a testament to the lawlessness of the time and the lack of control over the countryside.
Briant, (Fr. Bilbo) The Ore or Metal whereof Gold is made; and signified with as Gold or Silver in Billet, in the Mass before it is Coined. 3 Ann. Ed. 1. p. 2.

Bodleian, is the Nunnery of Repair of Meat after drest by the Butcher; also, it is a Person or a Place called a Bakar or other Baker. The Word is mentioned in the Statute de Offisa paras & corrupcion, 5 Hen. 3. Henen com beaked Bakar or Beaked-Bread, being the coarest Bread.

Bonáites, A Sort of Records of the Chancery lying in the Office of the Rolls; in which are contained, the Bills of Bills and Answerers, of Adm. Cor. cum Comis, Curiares, Attachments, Scire facis, Certificates of Statutes-Specles, Extents and Liberates, Superchant, Bails on Special Pardon, Bills from the Exchequer of the Names of Sheriff, Letters Patent for Rendered and Deeds cancelled, Inquisitions, Privy Seals for Grants, Bills signed by the King, Warrants of Ecclesiastics, Cullomiers, &c.

Borpettes, (Fr. le Borpet) A Kind of Gun used in Forests.

Burstier, Wearing, Purse-bearer, or Keeper of the King's Pais. 7 Hen. 3. 123.

Burke, To feel or strive.—Quod vultur aviet ad turriculam vel burcandum, sed ad alias parvasque auctores, 4 Mar. Paris. Addit. p. 149.

Burghage, The ancient Term proper to Burthies, whereby the Inhabitants by Custum hold their Lands or Tenements of the King, or other Lord of the Borough, at his will, and at sundry ancient Old Tenures. It is a Kind of Socage Tenure, and signified the Service whereby the Borough is holden; and the King hath nothing to do with Heirs of this Land, whether they be under fourteen, or above that Age, and under twenty-one. 1 Inst. 109. Fast. Cont. 127. Sumter burn ranks it inter egerius Tenures. And 37 Hen. 6. c. 10. Item vel urbanis facere facultatem vel serviciis foris circum Dominis foodrum per terras & tenementos suos, nisi tantummodo redditis suas de eadem terras eum censent, quis tenementa terrarum & tenementa sua per serviciis Burgagy, tunc quod nunquam medius inter nos & Dominus Regem. MS. Codex d. L. Statii & Consuetud. Burgi ville Montgomerie. A temp. Hen. 2. —Anciently a Dwelling house in a Borough-Town, was called a Burghage. Scant Quod Ego Edificare, &c. Doel. —In ib., parum f. jurisperium eotamen totem illud Burgagy cum adfinitat & partis, nisi quod iacet in Fili Locum. Ex ubi Charterum Prima. Low. A Borough, a Small walled Town, or Place of Privilege, &c. See Borough.

Burgers, from Burg, Caste, and from Bat, Compartment is a Tribe or Collection towards the Building or Repairing of Coffers, or Walls of a Borough or City: From which divers had Exemption by the ancient Kings, and had a Burg bequeath certain quatteriam Reparationis murorum Civitatis vel Burgi. Ith. 1. c. 47.

Burgers, (Burgarii & Burgifors) Are properly Men of Trade, or the Inhabitants of a Borough or walled Town; but we usually apply this Name to the Magistrates of such a Town, as the Bailiff and Burgifors of Lyminge, &c. In Germany, and other Countries, they conformed Burgers and Citizens but we distinguish them as appears by the Stat. 5 R. 2. c. 4. where the Citizens of the Commonwealth are thus enumerated, Count, Barons, Beameters, Chivalers, or Knights of the Realm, then comes the Burgifors de Burgi. See Co. Lit. 80. We now also call those Burgifors, who serve in Parliament, for any Borough or Corporation: And no Man is qualified to be such a Burgifor, unless he pay a Tax by the Borough Law, by the Command of the Chamber of the Town or City, to the Part of the House: Though it be a Borough out of Clergy by Statute; and if one break open a Counter or Cupboard, 'tis to the House it is Burgary. 1 H. Hist. P. C. c. 53. See 3 & 4 H. 4. M. The Intention to commit Burgary must be of such a Fact, as was Felony at Common Law; and not of
a Felony newly made by Act of Parliament: But the Offences of Burglary and Felony may be joined in the same Indictment, and where a Man comminis Burglary, and Burglar, and some Time steals Goods out of the House, if he be acquitted of the Burglary, he may notwithstanding be indicted of the Larceny, 2 Hals's Hilp. P. 245. Taking away Goods from a Dwelling-house in the Night or Day, where any Person is therein; and breaking any Shop, Ware-house, &c. and taking away Goods privately to the Value of 5s. though no Person be therein, is Burglary, by Stat. 5 E. 4. W. 9. M. c. 9, 10 & 11 W. 13, c. 23. And a Reward of 40L is given by the Statue for apprehending a Burglar, and prosecuting him to Conviction. 5 Ann. c. 31. See Stat. 12 Ann. c. 7.

An Indictment for Burglary.

Dorset, &c. THE 7E Year, &c. upon their Oaths present, that A. B. of, &c. in the said County, Lereham, and in the Year of, &c. in the Year of the Reign, &c. with Force and Arms, did feloniously break and enter the Manor-house of C. D. Esquire, at, &c. in the County aforesaid, in the Night-time, that is to say, between the Hours of Six and Twelve of the Clock in the Evening of the said Day, (see E. F. then being in the said House in the Peace of God and of our Sovereign Lord the King) and then and there feloniously and of the Value, take and carry away Twenty Pounds of lawful Money, and also, &c. of the Goods and Chattels of the said C. D. then and there found in the said House, against the Peace of our said Lord the King, his Crown and Dignity.


Burglaries, Persons dying are to be buried in Wood, on Pain of forfeiting 2L. And Affidavit is to be made of such Burying before a Justice, &c. under the like Penalty. Stat. 30 Car. 2. c. 5.

Burnett, Cloth made of dy'd Wool. A Burnt Colour must be dy'd but Burnt Color may be made with Wool without Dying, which we call Medley's or Raffens. Differentia inter Brunum Colorum & Burnetum: Brunus enim color potest fieri ex lana abiqua natura, vis. Rusticum: Burnetum vero reperiri statura & artificiosum feminis quod colorum. Lynwoodth. This much is mentioned because this Word is some-

Burning of Houses, Outhouses, &c. Vide Arson. Burrougham, A Burrock, or install Water over a River, where Wheels are laid for the taking of Fish.


Burrsacka, The Burrose, or Exchequer of Colle-
gate and Conventual Bodies; or the Place of Re-
ceiving and Paying, and accounting by the Burseari, or Burser, A. D. 1277. Comptorvare Patris Radul-
phus de Merion, &c. Stephanus de Oxon. de Bursearia Domus Benedicta coram Auditoribus. Parch. Antiq. pag. 288. But the Word Burrosa did not only sig-
nify the Burseari of a Convent or College; but for-
merly Stipendary Scholars were called by the Name of Burseari, as they lived on the Burse or Fund, or pub-
liek Stock of the University. At Paris, and among the Cofrers Moni, they were particularly termed by this Name: And — In Une Universitate (Pil. Oxon.) sunt clarum Collegia a Regibus, Regnant. Episcopis, & Principibus fundata, &c. et Stipendia coram Scholiis zeri pluriem atrocar, quo Paridis Burseari vocavano. Johan. Major, Geth. Scot. lib. 1. c. 5.

Buter, (Burra, Cambium, Robin) An Exchange or Place of Meeting of Merchants.

Butchers, See Boroughholders.

Butter, A commodity: They are mentioned in Bradford. — Tyfiliarium vocati & ad quaternem sollem, etc. Publ. mercurius omnes commiss, etc. dictur Bo-
rones Comitatis. & ad quaternum matrem dependens esta alibi-
rum, etc. Brach. lib. 3. trac. 2. c. 21. Mr. Rhud fays Bayons is used for Barrene.


Buffy, A Buffel; from Bone, Batta, Battus, a banding Measure: And hence Battella, Battilla, Battius, a less Measure. Some derive it from the old Fr. Boute, Leaver Continent of Wine, whereas comes our Leather B reddit and Bottle. Kennet's Gloss.

Butches, &c. The same with Fowes.


Butchers, Are to sell their Meat at reasonable Prices, or shall forfeit double the Value, to be levied by Warrant of two Judges of Peace, &c. And conform to sell their Meat at certain Rates; or del-
ing Fleth of Cattle dying of the Murrain, &c. are liable to divers Penalties by Statue 7 Ed. 2. 23 Ed. 3. 3 & 4 Ed. 4. Butchers are not to kill Meat in their Scalding Houses, or within the Walls of London, &c. Nor buy any fat Cattle to sell again, on Pain of forfeiting the Value; but this shall not extend to selling Calves, Lambs, or Sheep dead, from one Butcher to another. Stat. 4 Hen. 7. 3 & 4 Ed. 6. 5 & 7 Ed.

Butts, (Battiam) A Measure of Wine, &c. well known among Merchants, and containing 126 Gal-

Butter on Ecke. Judges of Peace in Suffolk may retain Retailing of Butter and Cheese; which is to be sold in open Shop, and not above a Barrel of Butter or Wey of Cheese at one Time, under Penali-
ties. 3 & 4 Ed. 6. c. 21. 21 Jan. 1. cap. 22. E-
very Kilderkin of Butter shall contain 112 Pounds, the Firkin 56, and Pot 14 Pounds of good Butter, besides the Cakes and Ponds; and old bad Butter shall not be mixed with good, nor shall Butter be repacked for Sale, which incurs Forfeiture of double Value, &c. And Sellers and Packers of Butter shall pack it in good Casks, and let their Names thereon, with the Wine and the Cakes and Butter, in Pain of 100. Stat. 13 & 14 Car. 2. cap. 26. Butter and Cheese may be transported: Buyers of Butter are to put Marks on Cakes and Ponds; and Butchers opening them afterwards, or putting in other Butter, &c. shall forfeit 20. 21 Car. 2. cap. 13. 4 & 5 W. M. c. 7.

Buttons, Made of Hair, or other Foreign Buttons, shall not be imported, on Pain of Forfeiture, &c. Alio Battiae are not to be made of Cloth, Stuff, or Wood, under Penalties. Stat. 4 & 5 W. M. 10 & 3. c. 2. 4 Gen. 1. Vide Taylors.

Butts, The Place where Archers meet with their Bows and Arrows to shoot at a Mark, which we call Shooting at the Butts. Alio Battes are the Ends or Short Pieces of Land in arable Ridges and Farrows: Buttom terror, a Butt of Land. — Ledi decem acras & numm Butiam terrae, &c. Cart. M. de Sibeberd, pessis sed Dejdala. Vide Alsacka.

Buttercress of table, Signifies that Impediment upon Wine brought into the Kingdom, which the King's Buter may take of every Ship, &c. for every Ton of Wine imported by Strangers. Pet. Parl. 11 Hen. 4. Ann. 1 H. 8. c. 5. See Butter, the King and Privilege.

Butycastle,
BY

C

Southcarle, Ruffrcarle, Robfrere, (Buccarii & Buchecarii) Swae qui perius nonius caudulum: Marinors or Seamen. Sedas Mare Clafum, fol. 184.


Next Words ending in By or Be, dignify a Dwelling Place or Habitation, from the Sax. Bye.

By-lawes, (Bylaws, from the Goth. By, pages, and Lega, Lex) Are Laws made oliver, or by the By, such as Orders and Constitutions of Corporations, for the Governing of their Members; of Courts-Lex, and Court-Baron; Commoners or Inhabitants in Villis, &c. made by Common Affent, for the Good of those that made them, in certain Cales whereunto the public Law doth not extend; so that they bind farther than the Common or Statute Law: Guilds and Fraternity of Trades, by Letters Patent of Incorporation, which might likewise make By-Laws, for the better Regulation of Trade among themselves, or with others. Kitch. 45, 72. 6 Rep. 63. In Scelond those Laws are called Laws of Birlaw or Burlaw; which are made by Neighbours elected by common Consent in the Birlaw-Court, wherein Knowledge is taken of Complaints betwixt Neighbour and Neighbour, which Men to choose are Judges and Arbitrators, and filled Burlaw men. And Burlaws, according to Stame, are Leges Rustorum, Laws made by Halspammed, or Townships, concerning Neighbourhood amongst them. Stone, pag. 33. The Inhabitants of a Town, without any Cullom, may make Ordinances or By-Laws, for repairing of a Church, or Highway, or any such Thing, which is for the general Good of the Publick; and in such Cales, the greatest Part shall bind all: Though if it be for their own private Profit, as for the well Ordering of their Common, or the like, they cannot make By-Laws without a Cullom to warrant it; and if there be a Cullom, the greatest Part shall not bind the Rest in those Cales, unless it be warranted by the Cullom.

3 Rep. 63. Every City and Town Corporate hath Power to make By-Laws, for the better Government of the Body Politick. Hob. 211. 5 Med. 410. But a Corporation cannot make a By-Law to bind Strangers which are not of their Body, or to extend to Places out of the Jurisdiction of the Makers: Nor may By-Law be made in the Form of Acts of Parliament. 1 Nelf. Abr. 351. Also By-Law may not be made to refrain a Perfon from setting up his Trade, it being against the Common Law to refrain Men from Trades: A Person who is not a Freeman of a Corporation shall not up a Trade, under a Penalty, hath been adjudged void and against Law: as it excludes those who have served Apprenticeships in the Corporations, by who Law may use trades. 1 Law. 562. By-Law ought to be for the common Good and Benefit of all those who live in the Place where made; and restraining Men from using Trades, cannot be for common Good, so that such Ode have been condemned: But such a By-Law warrant-ed by particular Cullom, as that no Grange Arti- ficer who is not free of that Place, may do any Art within the same, hath been held good. Nosl. Lawr. 175. A Cullom that no Foreign Trademan shall use or exercise a Trade in a Town, &c. will warrant that which a Grant cannot do, and where Cullom has refrained, a By-Law may be made that upon Composition Foreigners may exercise a Trade. Car- ter shall be the Ships Master, &c. if by a Corporation may, it shall be a Penalty, recoverable by Dillere, or Action of Debt, and be good. 1 Dowlv. Abr. 738. But 'tis said it cannot be made under any certain Penalty to be levied by Dillere, and Sale of the Offender's Goods.

2 Stat. 182. For a By-Law may not be made on Pain of Forfeiture of Goods: Nor may it in- fract Impression, being contrary to Magna Charta. Stat. 59. Where a By-Law is good, Notice of it is not necessary, because they are preferred for the better Government and Benefit of all Persons living in those particular Limits where made; and therefore all Persons therein are bound to take Notice of them. 1 Lawr. 404. The Freeholders in a Court Leet, may make By-Laws relating to the Publick Good, which shall bind every one within the Land. 1 Dowlv. 457. And a Court-Baron may make By-Laws, by Custum, and add a Penalty for the Non-performance of them. But all By-Laws are to be reasonable and ought to be for the common Bene- fit, and not private Advantage of any particular Per- sons; and must be consonant to the Publick Laws and Statutes, as subordinate to them. Gildh. 70. And by Stat. 19 Hen. 7, 17. By-Laws made by Corporations are to be approved by the Lord Chancellor, or Chief Justices, if against the Publick Good, &c. on Pain of 40 l. Fine the Statutes.

Cabal, (Cabala) A Junto or private Meeting; from a Doctrine in the Science practised by the Jews, in seeking out Mysteries from the Numbers that Letters of Words make.

Caballus, (from the Lat. Caballus) Belonging to a Horse. Dim. "Deym."".

Cabbitis, (Cabbitium) Signifies Bruchwood, according to the Writers of the Fore-Laws: But Sir Hen- ry Spelman thinks it more properly Windfall-wood, because it was written of old Cabbitium, from Ca- dets: Or if derived from the Fr. Cahotis, it also must be Windfall wood. — Item dianct, vaud Cepe- peg, & Cabatica vanus pretiosum, vulnus. &c. Inq. de an. 47 H. 5.

Cable, for Shipping; making them of old Materials, which shall contain seven Inches in Compass when made and tared, &c. is liable to a Forfeiture of four Times the Value, by Stat. 35 Eliz. c. 8.

Cachelopus or Cachellarius, an Inferior Bailiff, a Cachepot. — In Henredius Bailiff XI. W. D. in Henredius annis Cachepot lX. Thrid. d. per Ann. &c. — Condusit. Domus de Exondis MD. fol. 23. — And in Some, Cachellariis are mentioned, viz. Senec- chellarius & Cachepotus minster ad greater_capitam de Speto per Cachellariis Vescovitatis. &c.

Cafie, Of Herrings is 500, of Sprats 1000. Book of Rates, fol. 45. It is said Sir Robert Walpole made the Cafe of Herrings, and fix Score to the Hundred, which is called Magna Centum.

Cafet, The younger Son of a Gentleman; parti- cularly applied to a Volunteer in the Army, waiting for some Post.


Calmamus, A Cane, Reed, or Quill; comprised among Merchandise or Drugs to be gabelle. 1 Jac. 1. cap. 19.


Calcutum, Caltia, A Catey or common hard Way, maintained and repaired with Stones and Rubbish, from the Lat. Cale, Cale, &c. whence their Chiefes and our Cawney, or Path raised with Earth, and
and paved with Chalk-flakes, or Gravel. Colacatum operationes was the Work and Labour done by the several Landsmen; and Colacatum was the Tax on Contribution paid by the neighbouring Inhabitants towards the Making and Repairing of such common Roads; from which some Persons were especially exempted by Royal Charter. Kennet's Glos.


Calinda, (Calinda) Among the Romans was the first Day of each Month, being spoken of it by it fell, or the very Day of the New Moon, which usually happen together; And if Pridie, the Day before, be added to it, then it is the last Day of the foregoing Month; as Pridie Calend, Septemb. is the last Day of August. If any Number be placed with it, it signifies that Day in the former Month, which comes so much before the Month named; as the tenth Calends of October is the 20th Day of September; for if one reckon backwards, beginning at October, that 20th Day of September, makes the 10th Day before October. In March, May, July, and October, the Calends begin at the sixteenth Day, but in other Months at the Seventh Day which Calends, must ever bear the Name of the Month following, and be numbered backwards from the first Day of the said following Month. Stat. cap. 6. In the Deces of Deeds, the Day of the Month, by Nunc, Ides, or Calends, is sufficient. See Ides.

Caliburnus, The famous Sword of the great King Arthur: Havelock and Brooke in Vita R.

Catlina, No Perfon shall wear in Apparel any Printed or Dyed Callins, on Pain of forfeiting 5 l. And Drapers selling any such Callins, shall forfeit 10 l. But this does not extend to Callins dyed all Blue. Stat. 7 Geo. 1. c. 7. And Perfons may wear Stuff made of Linen Yarn and Cotton Wool, manufactured and printed with any Colours in Great Britain; so as the Warp be all Linen Yarn, without incurring any Penalty, by Stat. 9 Geo. 2. c. 4.


Cambriers. By the Stat. 12 Geo. 2. c. 16. and 21 Geo. 2. c. 26. No one shall wear in any Garment or Apparel, or vend, sell, offer to Sale, (except for Exportation) or for Hire make up for, or in upon any Garment or wearing Apparel, any Cambrieci or French Lawns, under the Penalty of 5 l. to the Informer Complaint before a Justice of Peace within three Days after the Offence committed; the Penalty to be levied by Dilectus on the Offender's Goods. The Wester exceeded on diluting and covering sufficient Powder against the Vendors, if told after the 24th of June 1748. The Importation of Cambrieci and French Lawns prohibited but on Security of exporting them within three Years.

Cambridge, The Statute 14 Hen. 8. cap. 2. to restrain All Artificers, and requiring more of them than Denizens, is not to be extended to Strangers dwelling in Cambridge. See Stat. 51 H. 8. c. 16.

Cameras, From the old Germin. Cam, Cammer, crooked; whence come our English Knebe, Arms in Kneble. But Camera at first signified any Windin or Sunken Place of Ground; as an Open Camera terre, i.e. A Nook of Land. De Febr. Afterwards the Word was applied to any vaulted or arched Building by Degrees more particularly retained to an upper Room or Chamber: And it is now often used in the Law, in the Business of a Judge, where Persons are to be brought before him and Camera from hence, in Sermon faciunt, &c. The present Irish use Cena for a Bed. See Kennet's Glos.

Camilla, A Garment belonging to Pridi, called the Atto or Induta Camilla linea que communi est heicquitur &c. See Camilla.

Camnca, A Word used to signify a Garment made of Silk, or something better: Unum veluntinum per secalibus diebus album de Camnca. Mon. Angl. Tem. 3. p. 81.


Camperobium, Any Part or Portion of a larger Field or Ground; which would otherwise be in Grains or common. Recus currum incideri de Cornia, &c. In perpetuum redactora decima de Campano sirv in cadem infula. Prince Hither. Collect. Vol. 3. p. 89.

Camperum, Is used for a Coro-Field. Petr. in Part. 50 Ed. 1.

Campeft, The Fighting for two Champions or Combatants in the Field. 3 Inf. 221. See Champion.

Campeza, or Mariti, Was an Affair of the People every Year upon May Day, where they considered together to defend the Country against the Enemy. See Casum in campo Marius coniunx, ubi illi qui Sacramenti inter illos passum commovescer, Regi omnem culum impune. Sim. Dunelm. Anno 1094.

Campeza, or Chambers. If any Chambers mix with their Wares any Thing decently, &c. the Chambers shall be forfeited. Stat. 25 Eliz. And a Tax or Duty is granted on Candles, at 4 d. per Pound for those made with Wax, and one Halfpenny a Pound for all other Candles, (besides a Duty upon Tallow) by 8 Ann. cap. 9. The Makers of Candles are not to use Melting-Houses without making a true Entry, on Pain of 100 l. and to give Notice of making Candles to the Excise Officer for the Duties, and of the Number, &c. or shall forfeit 50 l. Stat. 11 Geo. 1. cap. 30. See Wes Chambers.

Camplinmes-Day, The Feast of the Purification of the Blighted Virgin Mary, being the second Day of February instituted in Memory and Honour of the Purification of the said Virgin in the Temple of Jerusalem, the fortieth Day after her happy Child-birth, according to the Law of Moses, and the Prefentation of our blest Lord. It is called Campilmiss, or a Mafi of Candles, because before Mafi was said that Day, the Church consecrated and set apart for sacred Ue, Candle Day all the Whole Year, and made a Proceed with a bellowed Candle of the most Substantious Light, wherewith God had illuminated the whole Church at his Prefentation in the Temple, when by old Simons third, and in the glory of his Divine Priest, St. Luke, cap. 2. ver. 35. This Festival is no Day in Court, for the Judges sit not; and it is the Grand Day in that Term of all the Issues of Court, whereas the Judges usually carry, many ancient Ceremonies, and the Societies which seem to vie with each other, have Ruminous Entertainments, accommodated with Muzick, and almost all Kind of Diversions.

Cantae apertae, Dogs with whole Feet, nor lawed. - Et debeat habere Canes apertae con simul etiam apertis Canum et non imprimet. Anniq. Cumanos de Sutton Colfield.

Canetelletum, A Buffet. In the Inquisition of Serjeants-Diners of Knights Fees, Ann. 13 & 15 of King John, for Elys and Heriot, it appears that the John of Lijan held a Manor by the Service of Making the King's Bakers' taxes, &c. See Serjeants-Diners Canetelletum. &c. Ex Libro Rob. Societ. fol. 177.

Canfars,
Cantara, A Trial by hot Iron, formerly used in this Kingdom. Si mandatae for, et prius writs, et ad forum judicatus, cum casarum quod non salutem exit. See Ord. Canntus, This Word hath been taken for a short Swain, as it was a name given him by the Sire or the other, but rather correcting him. The Canntus Law, confineth partly of certain Rules taken out of the Scripture; partly of the Writings of the ancient Fathers of the Church, parts of the Decrees of General and Provincial Councils; and partly of the Decrees of the Popes in former Ages. And it is contained in two principal Parts, the Decretals and the Decretals of the Decrees of the Councils made by the Pope and Cardinals, and were first gathered by Jos Bishop of Carnt, who lived about the Year 1146, but after- wards by Joan, a Benedictine Monk, in the Year 1149, and allowed by Pope Eugene to be read in Schools, and alleged for Law. They are the most ancient, as having their Beginning from the Time of Confessione the Great, the first Christian Emperor of Rome. The Decretals are Canonical Epistles written by the Pope, or by the Pope and Cardinals, as the Suit of some or more Persons for the Ordering and Determining of some Matter of Controversy, and have the Authority of a Law: and of these there are three Volumes, the first whereof was compiled by Raymondus Barcinus, Chaplain to Gregory the Ninth, and as his Command, about the Year 1231. The second Volume is the Work of Rema the Eighth, collected in the Year 1258. And the third Volume, called the Code, was made by Pope Clement the Fifth, and published by him in the Council of Vienna, about the Year 1258. And to these may be added some new Decretals of the Council of Lyons the 22d, and some other Bishop of Rome. As the Decretals have not originated the Origin of the Canon Law, and the Rights, Dignities and Degrees of Ecclesiastical Persons with their Manner of Election, Ordination, Etc., the Decretals contain for Law to be used in the Ecclesiastical Courts; and the first Title in every of them, is the Title of the Illeded Trinity, and is so extensive, as it is connected with Confessions and Cullions, Judgments and Determinations in such Matters and Causes as are liable to Ecclesiastical Cognition, the Liver and Conversion of the Clergy, of Matrimony and Divorces, Inquisition of Criminal Matters, Purgation, Penance, Excumcommunication, Etc. But some of the Titles of the Canon Law are now out of Use, and others are introduced, such as Trials of Wills, Balladry, Defamation, Etc. Trials of Tches were anciently in all Cases had by the Ecclesiastical Law: there are an infinite number of particular Cuses. Much then for the Canon Law in General; and as to the Canon Laws of this Kingdom, by the Statute 25 Hen. 8 e. 19 it is declared, that all Causes are not admissible to the King's Prerogative, nor to the Laws, Statutes, and Custom of the Realm, shall be used and executed. By this Statute, Causes made in Convocation are to be confirmed by the King, and have the Royal Assent: And it has been adjudged that Causes made in Convocation, and confirmed by the King, do bind as firmly in all Ecclesiastical Causes, as Acts of Parliament do in other Causes by the Common Law, every Bishop in his Diocese, and each Archbishops in his Province, and the Convocation may make Causes, which shall be binding within their Jurisdictions. The Convocation for the Province of Canterbury was held at London, Anne 1603. in the first Year of the Reign of King James I. by the King's Writ, and they had a License under the Great Seal, to consult and agree to such Causes as they should think fit; whereupon they made several Causes concerning the Government of the Church, Religion, the Clergy, Etc. which had the Royal Assent, and were ratified and confirmed by that King, for his, his Heirs and Successors, pursuant to the Statute 25 H. 8. which Causes are thus warranted by Act of Parliament, are the Laws of the Land to this Day. See my Treatise of Laws, p. 401, &c. 1 Nelf. Ab. 416. The general Canon Law is no further in Force hence than it hath been received, and is sufficient with the Common or Statute Law.

Canon Religionem, A Book wherein the Religion of Converts had a fair Transcript of the Rules of their Order, which were spiritual in their Laws, and the same as their local Statutes; and this Book was therefore called Regel and Canon Law. The publick Books of the Religion were the four following: 1. Mepha, which contained all the Diseases of Devotion. 2. A Synopsis, a Register of their peculiar Saints and Martyrs, with the Place and Time of Passion. 3. Canon or Regula, the Institution and Orders of the Canon Law. 4. Neron or Obiurinum, in which they entered the Deaths of their Founders and Benefactors, to observe the Days of Commemoration of them. 

Canon, A Law or Ordinance of the Church; and the Greek Word Canon, from whence is derived the Canon Law, signifies a Rule, because it leads a Man to Right, neither drawing him towards the Side or the other, but rather correcting him. The Canon Law, confineth partly of certain Rules taken out of the Scripture; partly of the Writings of the ancient Fathers of the Church, parts of the Decrees of General and Provincial Councils; and partly of the Decrees of the Popes in former Ages. And it is contained in two principal Parts, the Decretals and the First Decretals of the Decrees. The Decretals are Ecclesiastical Laylaws written by the Pope, or by the Pope and Cardinals, as the Suit of some or more Persons for the Ordering and Determining of some Matter of Controversy, and have the Authority of a Law; and of these there are three Volumes, the first whereof was compiled by Raymondus Barcinus, Chaplain to Gregory the Ninth, and as his Command, about the Year 1231. The second Volume is the Work of Rema the Eighth, collected in the Year 1258. And the third Volume, called the Code, was made by Pope Clement the Fifth, and published by him in the Council of Vienna, about the Year 1258. And to these may be added some new Decretals of the Council of Lyons the 22d, and some other Bishop of Rome. As the Decretals have not originated the Origin of the Canon Law, and the Rights, Dignities and Degrees of Ecclesiastical Persons with their Manner of Election, Ordination, Etc., the Decretals contain for Law to be used in the Ecclesiastical Courts; and the first Title in every of them, is the Title of the Illeded Trinity, and is so extensive, as it is connected with Confessions and Cullions, Judgments and Determinations in such Matters and Causes as are liable to Ecclesiastical Cognition, the Liver and Conversion of the Clergy, of Matrimony and Divorces, Inquisition of Criminal Matters, Purgation, Penance, Excumcommunication, Etc. But some of the Titles of the Canon Law are now out of Use, and others are introduced, such as Trials of Wills, Balladry, Defamation, Etc. Trials of Tches were anciently in all Cases had by the Ecclesiastical Law: there are an infinite number of particular Cuses. Much then for the Canon Law in General; and as to the Canon Laws of this Kingdom, by the Statute 25 Hen. 8 e. 19 it is declared, that all Causes are not admissible to the King's Prerogative, nor to the Laws, Statutes, and Custom of the Realm, shall be used and executed. By this Statute, Causes made in Convocation are to be confirmed by the King, and have the Royal Assent: And it has been adjudged that Causes made in Convocation, and confirmed by the King, do bind as firmly in all Ecclesiastical Causes, as Acts of Parliament do in other Causes by the Common Law, every Bishop in his Diocese, and each Archbishops in his Province, and the Convocation may make Causes, which shall be binding within their Jurisdictions. The Convocation for the Province of Canterbury was held at London, Anne 1603. in the first Year of the Reign of King James I. by the King's Writ, and they had a License under the Great Seal, to consult and agree to such Causes as they should think fit; whereupon they made several Causes concerning the Government of the Church, Religion, the Clergy, Etc. which had the Royal Assent, and were ratified and confirmed by that King, for his, his Heirs and Successors, pursuant to the Statute 25 H. 8. which Causes are thus warranted by Act of Parliament, are the Laws of the Land to this Day. See my Treatise of Laws, p. 401, &c. 1 Nelf. Ab. 416. The general Canon Law is no further in Force hence than it hath been received, and is sufficient with the Common or Statute Law.

Canon Religionem, A Book wherein the Religion of Converts had a fair Transcript of the Rules of their Order, which were spiritual in their Laws, and the same as their local Statutes; and this Book was therefore called Regel and Canon Law. The publick Books of the Religion were the four following: 1. Mepha, which contained all the Diseases of Devotion. 2. A Synopsis, a Register of their peculiar Saints and Martyrs, with the Place and Time of Passion. 3. Canon or Regula, the Institution and Orders of the Canon Law. 4. Neron or Obiurinum, in which they entered the Deaths of their Founders and Benefactors, to observe the Days of Commemoration of them. 

Cantel, (Cantelum) Seems to signify the famous with what we now call Lumps, as to buy by Measure, or by the Lump: But according to Blouet it is that which is added above Measure. — Nullum plus bladi concedat per cumulum se Cantellum, dixit Acinam, Britann. & Sarissam. Stor. de Pyrr. cap. 9. Alla a Piece of any Thing, as a Cantel of Bread, and the like.

Cantreb, (Cantreb) A British Word from Cant, or Cane, which in the British Tongue signifies Cane, and Treb, a Town or Village, is in Wales an hundred Villages: For the Weft divide their Counties into Cantreb, as the Eifh do into Hundreds. This Word is used 28 H. 8. e. 3. 

Capacity, (Capacitas) An Ability, or Fitness to receive: And in Law it is where a Man or Body Politick, is able to give or take Lands, or other Things, or to do Actions. Our Law allows the King two Capacities, a Natural and a Politick: In the First, he may purchase Lands to him and his Heirs in the latter, he may buy and sell. Our Law allows the Alien born hath sufficiency Capacity to doe in any Personal Actions, and is capable of Personal Eftate; but he is not capable of Lands of Inheritance; and in a Real Action, it is a good Plea of the Defendant to say, the Plaintiff is an Alien born, and pray if he shall be answered. Dysr 3. Perous attained tis Tretion or Felony, Id had, Lestnoticks, Inne, Feme Coverds without their Husband's Consents, Etc. are not capable to make any Deed of Gift, Grant, or Conveyance, unless he be in some Special Cases. But all other Persons, void of Impediments, are capable of Grants and Conveyances, and to sue and be sued, being twenty-one Years of Age: and at fourteen, their Age of Discretion, they are capable by Law to marry, be a Witnes, Etc. of 1 Ind. 172. 

Cape, (Laur.) Is a Writ judicial, touching Pleas of Lands or Tenements; so termed, as most Writs of this Word in it, which carries the Chief Invention or End thereof: And this Writ is divided into Cape Magna and Cape Parum, of both which take hold of Things immoveable.

Cape Magna, or the Grand Cape, Is a Writ that lies before Appearance, to summon the Tenant to ant-
Author: George Cattermole
Title: A Case of the Right of a Sheriff to take a Writ and issue a Summons in Case of Service, and the Right of the Sheriff to issue a Writ of Attachment in Case of Non-payment of Debt.

The words in italics are from the original text and have been transcribed as accurately as possible. The text is from the period of George Cattermole, a prominent lawyer and legal scholar of the 17th century. The document discusses the right of a sheriff to take a writ and issue a summons in cases of default and the right of the sheriff to issue a writ of attachment in case of non-payment of debt. The text is in the form of a legal argument, with references to historical legal texts and precedents. The document is a valuable resource for understanding the legal principles of the time.
Form of a Capias ad Satisfaciendum.

GEORGE the Second, &c. To the Sheriff of W. Greeting. We command you, that you take A. B. if he shall be found within your Bailiwick, and shall keep him to that you have his bails before us at Westminster on this Day, &c. to make Satisfaction to C. D. of a Debt of thirty Pounds, which said Debt was recovered against him in our Court, before us, and also for Forty Shillings, which in our said Court before us were awarded to the said C. D. for his Damages which he hath sustained, as well by Occasion of the detaining the said Debt, as for his Expenses and Costs laid out by him in and about his Suit, in that Deed. Wherefore the said A. B. is convicted, as appears to us of Record. And because you then there this Write. Witness, &c.

Capias Ultiamatum, is a Writ that lies against a Person who is outlawed in any Action, by which the Sheriff apprehends the Party concluded for appearing upon the Exigent, and keeps him in safe Custody till the Day of Return, and then presents him to the Court there to be ordered for his Compen; who, in the Common Pleas, was in former Times to be committed to the Fleet, there to remain till he had paid the King's Pardon, and appeared to the Action. And by a special Capias Ultiamatum in the same Writ, the Sheriff is commanded, and may fine all the Defendant's Lands, Goods and Chancels, for the Compen to the King or the Plaintiff; after an Inquisition taken thereupon, and returned into the Exchequer; may have the Lands extended, and a Grant of the Goods, &c. whereby to compel the Defendant to appear; which when he shall so do, if he re- vert the Outlawry, the same shall be referred to him. Old Nat. B. R. 152. A Defendant may appear in Person, and receive an Outlawry; And in B. R. one may appear by Attorney. And when a Person is taken upon a Capias Ultiamatum, the Sheriff is to take an Attorney's Engagement to appear for him, where Special Bail is not required; and his Bond with Sure ties to appear, where 'tis required. Stat. 4 & 5. W. & M. c. 18. This Writ is either general, against the Body; &c, as I have before observed, it is Special, against the Body, Lands and Goods. See Outlawry.

Form of a Capias Ultiamatum.

GEORGE the Second, &c. To the Sheriff of W. Greeting: We command you, That you shall not, by any false pretences, or by any means, whatsoever, that you take C. D. Tute of, &c. Outlawed in London the Day, &c. last past, at the Suit of A. B. in a Plea of Treason on the Cape, if he shall be found in your Bailiwick, and him safely keep, so that you have his Body before us, on the Day, &c. wherefore you shall then be in England; to do and receive that which our Court before us shall determine of, in this Cause: And know you then there this Write. Witness, &c.

Capias pro Fine, is where one, who is fined to the King for some Office committed for and a Statute, does not discharge the Fine according to the Judgment: Whereupon his Body is to be taken by this Writ, and committed to Prison until he pay the Fine. It is used in other Cases, for not making out some Pleas in Civil Actions. 3 Rep. 12. By the Stat. 4 & 5. W. & M. Capias-Fines are taken away in several Actions for fines. Capias in Witternham, A Writ lying for Cattle in Witternham; which is, where a Dillett then driven out of the County, so that the Sheriff cannot make Delivery in Replev in, when the Writ
The Captains, in the execution of the provisions of the Act of 1757, endeavored to prevent the carrying on of the East India trade by non-licensed vessels, and to prevent the employment of non-licensed crews. The Act provided that no vessel should be licensed to trade to the East Indies unless it was fitted out by a licensed captain, and that the crews of such vessels should be drawn from the seamen of the British navy.

The Act also provided for the appointment of a Board of Commissioners to supervise the trade, and to ensure that the provisions of the Act were carried out.

The Act was intended to prevent the carrying on of the East India trade by privateers, and to ensure that the trade was carried on by licensed vessels and crews. The Act was successful in achieving its objectives, and it remained in force until it was repealed by the Act of 1817.
And where Goods are stolen from a Carrier, he may bring an Action for the Felon as well for his own Goods, though he has only the Poffifory, and not the absolute Property; and the Owner may likewise prefer an Indictment against the Felon. 

If a Carrier enrolls with Goods, opens the Pack, and takes away and disposes of Part of the Goods, this sighting an Intent of Stealing, they will make him guilty of Felony.

If a Carrier takes the Goods to some other Place, and carries them to some other Place, and not to the Place agreed. 1 Salk. 567. If a Carrier after he hath brought Goods to the Place appointed, take them away privately, he is guilty of Felony for the Poffifory which be received from the Owner being determined, his secund Taking is in all Reflexe the same as if he were a meer Stranger. 1 Hen. P. C. 50. See Carrey, Esq. By the Stat. 3 W. 3. c. 12. The Judges are to affeck the Price of Land Carriage of Goods to be brought into any Place within their Jurisdiction, by the Common Carriage which is to be taken more under the Penalty of 5 l. And by the Stat. 21 Geo. 3. c. 28. A Carrier is not to take less for carrying Goods from any Place to London, than is settled by the Judges for the Lands from London to such Place, under the same Penalty. And Carriers and Waggoners are to write or paint on their Waggon or Cart their Names and Places of Abode.

Carriages how drawn, Lies Cart, Waggon. Cart by the Stat. 3 W. 3. M. Stat. 2. c. 8. § 19. & 28 Geo. 3. c. 33. The Wheels of every Cart or Draw for the Carriage of any Thing from and to any Place where the Streets are paved, within the Bills of Mortality, Esq. shall contain six Inches in the Fel, not to be foid with Iron, nor be drawn with above two Horses, under the Penalty of 10 s. And by the Stat. 18 Geo. 2. c. 35. They may be drawn with three Horses and not more, and the Wheels being of six Inches Breadth, when worn may be foid with Iron, if the Iron be of full Breadth of six Inches, made flat, and not set on with rose-headed Nails: And no Person shall drive any Cart, Esq. within the Limits aforesaid, unleas the Name of the Owner and Number of such Cart, Esq. be placed in some conspicuous Place of the Cart, Esq. and his Name be entered with the Commissioners of Hackney Coaches, under the Penalty of 10 s, and every Person when so foid, and deman such Cart till the Penalty be paid. By the Stat. 1 Gen. 1. c. 57. The Driver of any such Cart, Esq. riding upon such Cart, Esq. and not having a Person on foot to guide the same, shall forfeit 10 s. And by the Stat. 6 Gen. 1. c. 6. in London, or within ten Miles, a Person shall carry in any Waggon or Cart, having the Wheels foid with Iron, more than twelve Sacks of Meal, containing five Bushells each, nor more than twelve Quarters of Malt, or seven Hundred and a half of Bricks, nor one Chaldron of Coals, under Penalty of forfiding one of the Horses to any Person who shall fale the fame, in manner as by Stat. 5 Geo. 1. c. 12. See Waggon.

Carreaux, (Fr. Charroiss) A Plough; from the old Gallic Carre, which is the present French Word for any Sort of wheel'd Carriage: Hence Charle, and Carl, a Ploughman or Hellock. Vide Xarle.

Carriage (Carrogament) is a Tribute imposed on every Plough, for the Publick Service: And as Hidge was a Taxation by Hides, so Carrogament was by Carrois of Land. Nov. Angl. Tom. 1. f. 294.

Carroon, (Carroux, Carrou) A Plough-Land; which in a Deed of Thomas de Arden, 15 Edw. 6, s. is declared to be One hundred Acres, by which the Subjects have sometimes been taxed: whereas the Tribut so levied was called Carrogament, or Carrogament. Bradl. lib. 2. cap. 26. But Stone lays, it is as great a Portion of Land as may be tilled in a Year and a Day by one Plough; which also is called Hilda, or Hilda terre, a Word used in the old Britifh Laws. And now by Statute 7 & 8 W. 3. a Plough-Land, which may contain also Hovels, Muits, Patkens, Meadow, Wood, Esq. is 50 l. per Annum. Littleton, in his Chapter of Tenures in Socage, faith, that Soca idem 200 good Carroes, a Soke or Plough-Land are all one. Stone lays, King Hen. 3. took Carroes, that is, two Marks of Silver of every Knight's Fee, towards the Marriage of his Sister Isabella to the Emperor. Ston's Annals, p. 271. And Regis, in his Exposition of Words, tells us, Carroes is to be quit, if the King shall tax all the Lands by Cartes; that is, a Privilege whereby a Man is exempted from Carriage. The Word Carroes is mentioned in the Stat. 28 Ed. 1. of Wards and Reliefs, and in Magna Chart. c. 5. And Ann. 1200. Feoffs of Fere inter Jo- hannam Regem Angliae & R. Regem Franciae, Esq. Et manus regis Franciae 50 Millia Marcarem, pro quiusbus collectionem de Carroinage in Anglia sibi 711. pro quod tertius arabo. Et Reg. Priorat. de Dunstable in Bibl. Cotton. See Col. Litt. De Carrois, &c. Phlegian. Caracterius, He that held Lands in Carriage, or Plough-Tenure. Paroch. Antig. p. 354.

Caffaro, and Cafflate, By the Saxons called Hildes; the Hildes, Familis, is a House with Land sufficient to maintain one Family; Res Ang. Ethedred, de 510. Cafflos, amun triumcr, Esq. Hoveden Anno 1008. And Hen. Huntingdon, mentionning the Same Thing, instead of Cafflos names Hilda.

Caffith, A Saxon Word signifying a Mult. Blotn. Caffithe, is a little Sack, Purse, or Pocket. Pertinus in Caffidini novum melatinum. Matt. Vclim. Cash, An uncertain Quantity of Goods; and of Sugar contains from eight to eleven hundred Weight. These are also Caffos, for Liquor, of divers Contents; and none shall transport any Wine, Caffos, Esq, except for virtualizing Ships under certain Penalty, by Stat. 35 Eliz. Caffo, or Caffila, A certain Garment belonging to the Priest, 20th minor Caffes. See Taffes. Caffor, or Caffes, (Caffites) Is well known to be a Forrester in a Town; and with us is a Principal Manon of a Nobleman. In the Time of H. 2, there were in England 1115 Caffoes; and every Caffo contained a Manor: But during the Civil Wars in this Kingdom, these Caffoes were done away, so that there is generally only the Ruins or Remains of them at this Day. 2 Infl. 31.

Caffellain, (Caffellumin) The Lord Owner or Cap- tain of a Caffo, and sometimes the Confidante of a Filled House. Bradl. 1. lib. 5. trib. 2. c. 16. 3 Ed. 1. cap. 7. It hath likewise been taken for him that hath the Custody of one of the King's Manions Hillyes, called by the Lombards Caffos, in English Cartis 1 though they are not Caffos or Places of Defence. 2 Infl. 31. And Macaroun in their Forre Laws, says there is an Officer of the Forest called Caffellan.


Caffelenin Dorset, Caffo, work, or Service and Labour done by inferior Tenants, for the Building and Upholding of Caffoes of Defence; toward which was gone their personal Affirmance, and others paid their Contribution. This was one of the three necess- ary Charges, to which all Lands among our Saxons Ascended were expressly subject.—Libret ab emin exer- cicio, excepta tributis, &d. pecunia, & expedientibus contra hẹnm.—And after the Conquest an Immunity from this Burden was some- times granted: As King Hen. 2. granted to the mens within the Honour of Wallingford—Ut font quasi

G g
quet de Operacionibus Castellorum. Paroch. Antiq. pag. 114. It was unlawful to build any Castle without Leave of the King, which was called Castellator. Here mention is made of a Register of Castles, in the Inference of the Inhabitants of the Castle itself, consecrated to Christ, Castle занят oj Licentia. Da Frein.

Castelmarb, (Decellodore, not Wardam Castel.) An Inheritance held by the Council itself, which is inhabited by the Church that is subject to this Service. Castle-guard Rents were paid by Persons dwelling within the limits of any Castle, for the Maintenance of Watch and Ward in the same. Stat. 35 Car. 2.

Caster, and Chelber: The Names of Places ending in these Words, are derived from the Lat. Caeca, for this Termination at the End, was given by the Romans to those Places where they built Castles.

Caste Contilitti, A Writ of Entry, granted when Tenant by the Crown, or Tenant for Life, alien in Fee or in Tail, or for another Life; And is brought by him in Reversion against the Party to whom such Tenant so alien to his Predecease, and in the Term of his Life Time. It takes its Name from this; that the Clerks of the Chancery did, by their common Affent, frame it to the Leases of the Writ called In caeca Prasag, according to the Authority given them by the Stat. W. 2. cap. 25. which Statute, as often as there happens a new Castle in Chancery something like a former, yet not specially fixed by any Writ, authorizes them to frame a new Writ, under the name of new Castle, and as like the former as they may. Rep. 4. See Fisc. Nat. Br. fol. 206.

Caste Epple, A Writ of Entry given by the Statute W. 2. cap. 46. where a Tenant in Dower aliens in Fee, or for Life, &c., and lies in Reversion against the Alienor. Fisc. N. B. 205. This Writ and the Writ of Castle Contilitti supports the Tenants' ALienor, though it be for Life only: And a Castle Prasag may be without making any Title in it, where a Lease is made by the Demandant himself to the Tenant that doth alien; but if an Ancestor lease for Life, and the Tenant alien in Fee, &c., the Heir in Reversion must have this Writ with the Title included therein. F. N. B. 206. 207.

Castle Duntinit, Is where any particular Thing is omitted out of, and not provided against by a Statute, &c.

Cats, Catsella, Goods and Chattels. See Chattels.

Catsellasa capitum nomine Distiferentia, A Writ that lies where a House is within a Borough, for Rent going out of the same; and warrants the Taking of Dooms, Windows, &c., by Way of Duties for the Rent. Old. Nat. Br. 65.


Cataphoros. This Word signifies an Archdeaconess; Adulta Heretocinclus Evellia Cataphoros. Du Cange.

Catheland. In Norfolk there are some Grounds which it is not known to what Parish they certainly belong, for that many Minster who hold them does, by that Right of Fe know, that their Name from Catheland, Cathal.
Canfi, a Town in Lombardy, where they first professed their Arts of Ulery and Exortion; from whence spreading thenceforth, they carried their cursed Trade through most Parts of Europe, and were a common Plague to every Nation where they came. The then Bishop of Aquitaine, nam’d King Hwayne, banished them from this Kingdom in the Year 1240. But being the Pope’s Solicitors and Money-Changers, they were permitted to return in the Year 1250; through in a very short Time after, they were driven out of the Kingdom again for their intolerable Exactions. Matt. Paris. p. 403.

Canvi. Matrimonii praelatanum, is a Writ which lies where a Woman gives Land to a Man in Freesimple, &c., to the Intent he shall marry her, and he refuses to do it in any reasonable Time, being thereof required. Reg. Gor. 66. If a Woman makes a Feoffment to a Stranger in Land in Fee, to the Intent to enfeoff her, and who shall be her Husband; if the Marriage shall not take Effect, the shall have the Writ of Canvi Matrimonii praelatanum against the Stranger, notwithstanding the Deed of Feoffment be absolute. New Nat. Br. 485. A Woman enfeoffed a Man upon Condition that he should take her to Wife, and she a Wife at the Time of the Feoffment; and afterwards the Woman for not performing the Condition, entered again into the Land, and her Entry was confirmed through upon a Bond of Protest. Lib. Aff. Anno 40 Ed. 3. The Husband and Wife may sue the Writ Canvi Matrimonii praelatanum against another who ought to have married her: But if a Man give Lands to a Woman to the Intent to marry her, although the Woman will not marry him, &c., he shall not have his Remedy by Writ Canvi Matrimonii praelatanum. New Nat. Br. 485.

Caustum natis significat, A Writ directed to a Mayor of a Town, &c., who was by the King’s Writ commanded to give Seisin of Lands to the King’s Grantee, on his delaying to do it, requiring him to shew Cause why he so delays the Performance of his Duty. 4 Rep.

Centis et Effici. In mort Caesei, or Beginning of a Thing, as the principal Part on which all other Things are founded: And herein the next, and not the remote Cause is most laid upon, except it be in Contious and Certain Things: This Writ is not good at first, will not be so afterwards; for such as is the Cause, such is the Effect, Plowd. 288, 286. If an Infant or a Person covert a Writ, and publish it, and after die of full Age, or Sole, the Cause is of no Force, by Reason of the original Cause of Inancy and Coveture. Finch 12. A Lord discharges his Tenant for Renunciation, or a Will, and publish it, and after die of full Age, or Sole, the Cause is of no Force, by Reason of the original Cause of Inancy and Coveture. Finch 12. A Lord discharges his Tenant for Renunciation, or a Will, and publish it, and after die of full Age, or Sole, the Cause is of no Force, by Reason of the original Cause of Inancy and Coveture. Finch 12.

Centum. A large Ship. The Word is mentioned in Malmsbury. Lib. t. c. 1.

Cepit Cypon, Is a Return made by the Sheriff, upon a Copy, or other Proceeds to the like Purpose, that he hath taken the Body of the Party. F. N.B. 26.

Cepsagginium, The Stumps or Roots of Trees which remain in the Ground after the Trees are felled. Qui forestarum eripit copiones, Cepagginum Et Efchatus quernque fimul aliarum arborum, &c. Flota, lib. 2o cap. 41.


Certainty, Is a plain, clear and distinct setting down of Things, so that they may be understood. 5 Rep. 121. A convenient Certainty is required in Writs, Declarations, Pleadings, &c. But if a Writ shew for want of it, the Plaintiff may have another Writ: ‘Tis otherwise if a Deed become void by Incertainty,
certainly, the Party may not have a new Deed at his Pleasure: But the Party must have, and may have, the
Certainty enough, that may be made certain: but not
like what is certain of itself. 4 Rep. 97. See In-
certainty.
[Drummado be recognoscite Stapule, Is a Writ
commanding the Mayor of the City to certify to the
Lord Chancellor a Statute Simple taken before him,
where the Party himself deposes, and it is sent to
bring in the same. Reg. 183. There is the like
Writ to certify a Statutes-Merchants; and in divers
other Cales. Ibid. 145, 151, &c.
Certificat, is a Writ, made in any Court, to give
Notice to another Court of any Thing done therein,
which is usually by way of Transcript, &c. And
sometimes it is made by an Officer of the same
Court, where Matters are referred to him, as a Rule
of Court is obtained for it; containing the Tenor and
Effect of what is done. The Clerks of the Crown,
Assize and Peace, and also the Marshals, are to make
Certificat, into B. R. of the Tenor of Indictments,
Conclusions, &c. under Penalties, by the Stat. 34 & 35 Hen. 8.
Certification of Bills of Beef Difficult, (Cert-
tificate on Bills of Beef Difficulty, &c.) Is a
Writ granted for the Re-examining of a Matter passed by Affidav-
it before Judges: And this is used where a Man appearing
by his Affidavit to an Affidavit brought by another
had left the Day and Place, and having something more to plead in
his own behalf, which the Affidavit did not, or might not plead for
him, deposes a fuller Examination of the Cauze, either before the same Judges, or others, and obtains
Letters Patent to them to do what the Effect of it was, whereupon,
he brings a Writ to the Sheriff to call both the Party for
whom the Affidavit passed, and the Jury that was impa-
nelled on the same, before the said Judges, at a certain
Day and Place, when the same is to be examined:
And it is called a Certificat, because therein Mention
is made to the Sheriff, that upon the Party's Com-
plaint of the defective Examination, as to the said Affidavit,
passed, the King hath directed his Letters Patent to the
Judges for the better Certificat of themselves, whether
all Points of the said Affidavit were duly examined.
Certissimari, A Writ calling out of the Chancery to
an inferior Court, to call up the Record of a Cauze
there depending, that Judge may be done therein,
upon Complaint that the Party who seeks the said
Writ hath received hard Usage, or is not like to have
an Exequatur of the Chancery. Exequatur in the said
Day and Place by N. B. 39. reg. 524. This Writ is either returnable in the King's Bench, and then hath these Words, Nobi misitatis; or
in the Common Law, and then hath Indicatio justissimae
sopra de Banco; or in the Chancery, and then hath in
Canellaria sopra, &c. A Certissimari issues some-
times out of Chancery, and sometimes out of the
King's Bench, and lies where the King would be cer-
tified of a Record, in any Court of Record, and the
King may send such Writ to any of the said Courts, to
certify such Record before him in Banco, or in the
Chancery, or before such other Judges, where he
pleases to have the same certified. F. N. B. 245.
Certissimari lies to the Courts of Wales; and the
C incon Peace, and the Court of the said
Certissimari, is heard by a Common Law, in the said
Day and Place, as herein above. Indictments from inferior Courts, and Proceedings of the
Quarter Sessions of the Peace, &c. may be re-
moved into B. R. by Certissimari: And this said Cer-
tissimari to remove an Indictment is good, although it
bear Date before the taking thereof: But on a Cer-
tissimari, the very Record must be returned, and not a
Transcript of it; for if so, then the Record will still
remain against the Court. In B. R. the very Record is the Indictment, is removed by
Certissimari; but usually in Chancery, if a Certissimari
be returnable there, it is removed only the Tenor of the
Record, and therefore if it be sent from hence to
the King's Bench, they cannot proceed either to J ud-
gement or Execution, because they must first return the
Record before them. 2 Hale's Hilip. P. C. 215.
And alio, on a Habatus Carpin to remove a Person,
the Court may bail or discharge the Prisoner; they
can give no Judgment upon the Record of the Indict-
ment against him, without a Certissimari to remove it,
but the same stands in Force as it did, and new Pro-
cesses may issue out: But it is presumed in Civil
Causes. Ibid. 211. If an Indictment be one, but the
offences several, where four Persons are indicted
together: a Certissimari to remove this Indictment
against two of them, it is to be made in one Writ,
but as to them the Record remains below. 2 Hale's
Hilip. 214. Where a Certissimari is by Law granted
for an Indictment, at the Suit of the King, the Court
is bound to award it, or it is the King's Prerogative
to sue in what Court he pleases: But it is at the Dis-
creeion of the Court to grant it or not, at the Prayer
of the Defendant; And the Court will not grant it
for the Removal of an Indictment before Judges of
Gazol Delivery, without some special Caule; or
where there is much Difficulty in the Cae: the Judge
defines it may be determined in B. R. &c. Also in-
dictments of Perjury, Forgery, or for heinous Mide-
meaunors, the Court will not grant a Certissimari to
remove the Indictments of the Defendant. 2 Hals.
P. C. v. 53. Where the Court allows this Writ be-
low, it is a good Objection against Granting a Cer-
tissimari: And if a Person doth not make sure of this
Writ till the Place where the Crown are sworn, he
loses the Benefit of it. Med. Ca. 16. Stat. 43 Eng. c. 5. After Conviction, a
Certissimari may be not be had to remove an Indictment,
&c. unless there be special Caule; as if the Judge be-
low the said Judges, and the Cauze is to be Judged there,
when it may: And after Conviction, it lies in
such Cales where Writ of Error will not lie. 1 Sa-
ith. 149. The Court on Motion in an extraordinary Cae
will give no Judgment, because they have no
Writ of Error. And where a Certissimari is to be
made in an inferior Court; but this is done where the or-
inal Way of taking out Execution is hindered in the
inferior Court. 1 Litt. Abr. 355. In common Cases a
Certissimari will not lie to remove a Cause out of an
inferior Court, after Verdict. It is never feed out
after a Writ of Error, but where Diminution is al-
lledged or discovered, because they have no
Writ of Error. And where a Certissimari shall exceed 5 l. a Certissimari shall not be had, but a Writ
of Error or Attaunt. Stat. 21 Jac. 1. cap. 23. A
Certissimari is to be granted on Matter of Law only:
and where it is the East of a new or altered Eyde, or
against the Statute, according to the Statute, it is not
so. 1 Stat. 43. Certissimari to remove Indictments,
&c. are to be signed by a Judge; And to remove
Orders, the Inst. for making out the Writ, must be
signed by some Judge. In Vacant Time, a Certissimari
may be granted by any of the Judges of B. R. and Security is to be found before it is
allowed. By Statute no Certissimari is to be granted
out of B. R. to remove an Indictment before Judges of
Peace at the Sessions, before Trial, unless Motion
be made in open Court, and the Party indicted find
Security by two Persons in 20 l. each to plead to the
Indictment in B. R. &c. And if the Defendant pro-
fessing the Certissimari be convicted, the Court of B. R.
shall order Certissimari to the Prosecutors. Stat.
5 & 6 W. 4. M. cap. 11. If on a Certissimari to
remove an Indictment the Party do not find Maulca-
pers in the Sum of 20 l. to plead to the Indictment,
and the Party indicted find Security by two Persons in 20 l. each to plead to the
Indictment in B. R. &c. And if the Defendant pro-
fessing the Certissimari be convicted, the Court of B. R.
shall order Certissimari to the Prosecutors. Stat.
5 & 6 W. 4. M. cap. 11. If on a Certissimari to
remove an Indictment the Party do not find Masnuc-
apers in the Sum of 20 l. to plead to the Indictment,
and the Party indicted find Security by two Persons in 20 l. each to plead to the
Indictment in B. R. &c. And if the Defendant pro-
fessing the Certissimari be convicted, the Court of B. R.
shall order Certissimari to the Prosecutors. Stat.
5 & 6 W. 4. M. cap. 11.
Certo-money, (proef certain Money) Is Head-Money, paid yearly by the Reants of several Manors to the Lords thereof, for the certain Keeping of the Leet, and sometimes to the Hundred: As the Master of Hode in Dunstable pays Certo-Money to the Hundred of Egerdon. In ancient Records this is called CERTON Leae. See Common Fine.

Cerstifieris. The Statute had a Duty called Drin-
clean, that is retributed Poot, payable by their Te-
nants; and such Tenants were in Domesday called
Cerstifaries, from Cerstif, Ale, their chief Drink: Tho' Cerstifaries vulgarly signifies a Beer or Ale Brewer.

Cerura, A Mound, Fence, or Inclosure—
Willelmus de Lucy Mile, edid Thomas S. Minifie
Thomas de Thelised, licentiam Domus Tenant: le-
ware, edicario, & cur Cerura & Maria includens, etc.
Cart. priorat. de Thelisedo MS.

Cert Exercitio. In Trepassis against two Per-
sons, if it be tried and found against one, and the
Plaintiff takes his Execution against him, the Writ
will abate as to the other; for there ought to be a
Certo Exercitio till it is tried against the other Den-
so Ed. 4. 11. See Cert.

Certabit, Is a Writ that lies in divers Cales, upon
this general Ground, that he against whom it is brought, hath for two Years neglected to perform
such Service, or to pay such a Rent, as he is tied
to by his Tenure, and hath not upon his Lands or Tenements sufficient Goods or Chattles to be
disposed of. F. N. B. 280. And if a Tenant for Years of Land at a certain Rent, sufferers the Rent to be
behind two Years, and there is no such Distatif to be
had upon the Land; then in the Land he shall recover
the Land: But if the Tenant come into Court before
Judgment given, and tender the Arrears and Da-
Amages, and find Securitie that he shall cease no more
in Payment of the Rent, then the Tenant shall not
lose his Land. Termes de Ley 107. By Statute, if a
Fee-Farmer cease to pay his Rent two Years, the Lei-
or may have a Caffoaur, and recover the Land: And
in this Case, the Heir of the Demissant may main-
tain a Caffoaur against the Heir or Affign of the Te-
nant. 6 Ed. 1. cap. 4. But in other Cases, the
Heir may not bring this Writ for Caffoaur in the Time
of his Ancestor: And it lies not but for annual Ser-
vice, Rent, and such like; not for Homage or Fes-
ity. If a Man cease to pay his Rent and services for two Years, and include the Land, if the Lord
cannot disain, if he lay not open the Gates or Hedges of the Land which make the Inclosure, the Lord
shall have a Caffoaur, although the Tenant hath sufficed in Cattle upon the Land to be disained for the Rent:
For the Land ought to be open, and Likewise there
should be sufficient to disain for the Rent, &c.

Form of a Ceruraru to certify the Record of a Judg-

George the Second, etc. to the Mayor and Sheriffs of our City of E., and to every of them, in our Court at the Guildhall there, Greeting: Whereas A. B. hath lately in our said Court in the said City, according to the Custom of the Same, the 27th day of October last past, in an Action of Debt, and in our said Action of Debt upon Demand of Thirty Pounds; and thereupon in our said Court before you, obtained Judgment against the said C. for the Recovery of the said Debt: And having been duly admitted as a Ceruraru, that the said Record should by you be certified to us, do Command you, that you und read under your Seal the Record of the said Recovery, with all Things touching the same, into our Court before us at Westminster, on the Day, etc. plainly and distinctly, and in as full and am-
ple Maner as it now remains before you, together with the said Part of the said Action of Debt, may be able to proceed to the Execution of the said Judgment, and do what shall appear to us of Right ought to be done. Witness, etc.
called in some Places a Drown. Way. In France and Flanders, as well, they be called a Chasse. By which they are intended to mean any kind of Sell, but the Fish, or Fishery, not excepted. The Fish is sold, and the Weekly. To hunt Hare or Fox—Lisier, G. Chasse and Loups, and vendre to MASURES de l'ESCHER. Cartular. GAUD. M. 85.

Chacrus, (from the Fr. Chacrus) A Horse for the Chase; or rather a Hound or Dog, a Courser. Rot. 7. Gnomon.

Chase, from the Fr. Chasse to hunt, whence our Chasing Dih.

Chesham, An Officer in Chancery, that was the Waste for the selling of the Waste, and was allowed as a perquisite in the former days as some made to be issued out: So in France, Chancellor's ferre faut, qui resellat litteras in cancellaria scriptum impinent. Coriolan.

Chaffers, being in no way Wares or Merchandises; and we yet use Chaffering for buying and selling, though I take it to be generally a kind of barrering of One thing for another; it is mentioned in the Stat. of 35. E. 3. c. 2.

Chaldon or Chalder of Coal, contain thirty-five Bushels heaped up, according to the Bashel sealed for that Place at Cnichill, London. Stat. 16. c. 37. Car. 2. c. 2.

Chalking, The Merchants of the Staple require to be enquired of divers new Importations, as Chalking, Ivory, Whiting in this, and the like. Am. 10.

Challenge, Colonnus (from the Fr. Chalengeur) is used in the Law for an Exception to Jurors, who are allowed to challenge any Juror. And the Challenge is made to the Jurors, or either made to the Array, or to the Polls. To the Array is, when Exception is taken to the whole Number impounded; and to the Polls is, when some one or more are excepted against, as not indifferent.

Challengers to Jurors is also divided into Challenge Principal or Peremptory; and Challenge per Plea, viz. upon Cause or Reason; Challenge Principal or Peremptory to the Plaintiff, causae, unless he all of a sudden, or during, the trial, challenge that he is not entitled to a new trial, or that the whole Cause is to be put out of his hands, and if the Plaintiff do not challenge that he is not entitled to a new trial, or that the whole Cause is to be put out of his hands, or if he does not challenge that he is not entitled to a new trial, or that the whole Cause is to be put out of his hands, the Plaintiff shall be allowed, but for Malice. If a Prisoner challenge peremptorily more than allowed, he is to be dealt with as one finding False. And some Statutes which take away the Exception from Felons, exclude those from their Clergy who peremptorily challenge more than twenty, whereby they are liable to Judgment of Death. 2 Hen. 4. c. 3. 4 W. & M. c. 9. But if the Offence be within the Benefit of the Clergy, the Challenge shall be over-ruled, and the Party put upon his Trial. The King cannot challenge peremptorily in Murder, &c. without their
ing cause. 3 Mo. 155. 3. And by Stat. 30 E, 1. if those who prosecute for the King challenge a Juror, they shall be ordered to show cause why they have not brought in a good Cause, the Inquest shall be taken. All Peremptory Challenges are to be taken by the Parrys himself; and when those Challenges are taken, they are taken all at once. But there can be no Challenge till the Jury is full; and then the Array is to be challenged before one of them is sworn. 3 H. 3. 2. Where the King is a Party, if the other side challenges a Juror above the Number allowed by Law, he ought to swear the Causer of his Challenge immediately. 3 B. 191. A Defendant shall swear all Causes of Challenge before the King shall swear any. 2 Hawe. 413. And the King ought not to swear the Cause of Challenge before all the Jurors are called over; for if there are enough before challenge challenged, there will be no occasion to swear any Cause why he challenged the Reft. But if there are not enough, then he must swear the Cause of his Challenge. 3 Ram. 473. There may be a Principal Cause of Chall. It is a Principal Cause of Challenge in respect of Partiality or Default of the Sheriff, &c. and not in respect of the Performers; and this Partiality in the Sheriff, may be on the part of the Sheriff himself, or a Plaintiff or Defendant; or if one of the Jury is returned at the Nomination of the Plaintiff or Defendant; or if either the Plaintiff or the Peer of the Party, &c. 1 H. 156. 157. Challenge to the Favour is where the Plaintiff or Defendant is Tenant to the Sheriff, or if the Sheriff's Son has married the Daughter of the Party, &c. and is so when either Party cannot take any Principal Challenge, but derives Cause of Favour; and Causes of Favour are infinite. But where the King is a Party, one shall not challenge the Array for Favour, though the Parties and their Relations, or the Juniorities, implying Maligns, be Cause of Challenge: And a Jury may be challenged for holding Lands by the same Title as the Defendant. 2 Lev. 60. If a Person owes Suit of Courts, &c. to a Lord of a Hundred who is Plainfair, it is a Principal Challenge, as he is within the Eldest of the Plainfair. 3 Dyer 176. But it is not to be no Challenge that a Person is in Debt to either Party. 1 Nef. Abr. 416. A Juror returned by a wrong Name may be challenged and withdrawn, so that the Jury shall not be taken, yet a Tally may be granted. 1 Little Ab. 326. And if a Juror declares the Right of either of the Parties, &c. it is a Cause of Challenge: Though it has been ruled that it is not a sufficient Cause of Challenge, that a Juror delivered his Opinion touching the Title of the Land in Question; because his Opinion may be altered on hearing the Evidence. 3 P. 23 Cor. R. If there are two Demandants in a real Action, or two Tenants, and one challenges a Juror, and the other will not, the Juror (the Challenge being allowed) shall be drawn against the Rest. 1 H. 5. 14. 1fo. 12. 1 fo. 14. To try a Person to be tried for any Crime, that he is Guilty, or will be hanged. &c. is good Cause of Challenge: But the Prisoner must prove it by Witness, and not out of the Mouth of the Jurymann, who may not be examined: And though a Jurymann may be asked upon a Voir dire whether he hath any Interest in the Cause; or whether he hath a Feehold, &c. yet a Jurymann may not be examined, whether he hath been convict of Felony, or guilty of any Crime, &c. which would make a Man discover that of himself which tends to make him infamous, and the Android might be brought him with a Misdemeanor. 1 Salk. 155. Default of Hundreders is Cause of Challenge by the Common Law; but by Stat. 4 & 5 W. & M. c. 24. In Corporation Towns from worth forty Pounds in Goods, are entitled to be Jurors for trying, or in behalf of the Body of the Person, &c. and in Cities, Towns, &c. for their neighbours, they have the Right, none having Lands or Goods of One Hundred Pounds Value, &c. by Stat.
with their Swords, or it will be good Cause of Challenge. More 67. If one challenge a Juror, and the Challenge is entered, he may not afterwards have him sworn on the Jury. And if the Defendant do not proceed in the Trial when called, the Inferences his Challenge is false, and the Plaintiff and Defendant to attend their Challenges, &c. See Jury.

Chamberlains, or Chamber-Demeen, were certain poor Irish Scholars, clothed in mean Habit, and living under no Rule; banished England by Stat. 1 Hen. 5. cap. 7. 8.

Chamberlain, (Cambrarius) is variously used in our Laws, Statutes and Chronicles: As first there is Lord Great Chamberlain of England, to whose Office belongs the Government of the Palace at Westminster, and upon all solemn Occasions the Keys of Westminster Hall, and the Court of Requests are delivered to him. He disposes of the Sword of State to be carried before the King when he comes to the Parliament, and goes on the Right Hand of the Sword next to the King's Perfon. He has the Care of providing all Things in the House of Lords in Time of Parliament; to him belongs Livery and Liveryage in the King's Court, &c. And the Gentleman Usher of the Black Rod, Yeoman Usher, &c. are under his Authority. The Lord Chamberlain of the Horsehold has the Oversight and Government of all Officers belonging to the King's Chamber, (except the Bed-Chamber, which is under the Groom of the Stole) and also of the Wardrobe; of Appliances retained in the King's Service; Meffengers, Commissars, Revells, Mufick, &c. The Serjeants at Arms are likewise under his Inspection; and the King's Chaplains, Physicians, Apothecaries, Surgeons, Barbers, &c. And he hath under him a Council of Chamberlains, both being always Privy Councilors. There were formerly Chamberlains of the King's Courts. 7 Ed. 6. cap. 1. And there are Chamberlains of the Exchequer, who keep a Controlment of the Bills of Receipts and Exits, and have in their Custody the Leagues and Treaties with foreign Princes, many ancient Records, the two famous Books of Antiquity called Domesday and the Black Book of the Exchequer; and the Standards of Money, and Weights, and Measures are kept by them. There are also Under-Chamberlains of the Exchequer, who make Searches for all Records in the Treasury; and are concerned in making out the Talents, &c. The Office of Chamberlain of the Exchequer is mentioned in the Stat. 34 & 35 H. 8. cap. 16, and the Refunds that are as a Cost of Chamberlains of North Wales, Stew. p. 641. A Chamberlain of Chester, to whom it belongs to receive the Rents and Revenues of that City, and when there is no Prince of Wales, and Earl of Chester, he hath the Receiving and Returning of all Writ coming thither out of any of the King's Courts. The Chamberlain of London, who is commonly the Receiver of the City Rates payable into the Chamber; and hath great Authority in making and determining Rights of Freemen, concerning Apprentices, Orphans, &c.

Chamberlains of the King. (Regio Concilia) The Haven and Posts of the Kingdom are called in our ancient Records. More Clas. 17. cap. 242. Chamber-brewer. Anciently Sir. Edward's, now called the Painted Chamber.

Champtoy, or Champtery, (from the Fr. Champ, a Field, and Parti divided, or the Lat. Campus, and Partitio, because the Parties in Champtery agree to divide the Thing in Question) Signifies a Bargain with the Plaintiff or Defendant in any Suit, to have Part of the Land, Debt, or other Thing found for, if the Party that ought to obtain it prevails in the Action. This seems to have been an ancient Grievance in our Nation; for notwithstanding the several Statutes of 3 Ed. 1. cap. 25. 3 Ed. 1. cap. 49. 28 Ed. 1. cap. 11. and 33 Ed. 1. cap. 9. and a Form of a Writ framed to them; yet whereas former Statutes provided Remedies for this Evil in the King's Bench, it should at least be lawful for Jurisdictions of the Common Pleas, Jurisdictions of Alience, and Jurisdictions of Peace in their Quarter- Sessions, to inquire, hear and determine this and such other Cases as well as the Suit of the King, as of the Party: And this Offence is punishable by Common Law and Statute, the Stat. 33 Ed. 1. makes the Offenders liable to three Years Imprisonment, and a Fine at the King's Pleasure. By the Stat. 28 Ed. 1. c. 11. it is ordained, that no Officer, nor any other, shall take upon him any Business, suit, or have Part of the Thing in Pleas; nor some upon any Covenant, shall give up his Right to another; and if any do, and be convicted thereof, the Taker shall forfeit to the King so much of his Lands and Goods as amounts to the Value of the Part perished, &c. for such Maintenance. In the Confusion of these Statutes, it hath been adjudged, that under the Word Covenant, all Kinds of Promises and Covenants are included, whether by Writing, or Parol: That Rent granted out of Land in Varrance, is within the Statutes of Champtery; And Grants of the Thing in Suit in the King's Court, in the Confusion of the Meaning of this Statute; but not such as are made in Consideration of a precedent honest Deed, which is agreed to be affected with the Thing in Deemah or Varrance. F. N. B. 172. 2 Inf. 209. 2 Roll. Abr. 113. It is said not to be material, whether he who brings a Writ of Champtery, did in Truth suffer any Damage by it; or whether the Plea wherein it is alleged be determined or not. 1 How. 257. A Conveyance executed hanging a Plea, in Purvance of a Bargain made before, is not within the Statutes against Champtery; And if a Man purchase Land of a Party, pending the Writ, if it be done falsely; and not to maintain, it is not Champtery. F. N. B. 287. 2 Roll. Abr. 113. But it hath been held, that the Purchase of Land while a Suit of Equity concerning it is depending, is within the Purview of the Statute 28 Ed. 1. cap. 255. A Lease for Life, or Years, or a voluntary Gift of Land, is within the Statutes of Champtery; but not a Surrander made by a Lessee to his Lessee; Or a Conveyance relating to Lands in Suit, made by a Father to his Son, &c. 1 How. 258. The Giving Part of the Lands in Suit, after the End of it, to a Councillor for his Wages, is not Champtery, if there be no precedent Bargain relating to that Gift: But if it had been agreed between the Councillor and his Client before the Action brought, that he should have Part for his Wages, then it would be Champtery. Bros. Champtery. 3. And it hath been held, that with any such Gift, since it carries with it a strong Presumption of Champtery, 2 Inf. 546. If any Attorney follow a Cause to be paid in gross, when the Thing in Suit is recovered, it hath been adjudged that this is Champtery. How. 117. Every Champtery implies Maintenance; but every Maintenance is not Champtery; for Champtery is but a Species of Maintenance. Crom. Fr. 39. 2 Inf. 208. 2 Inf.

Form of an Indictment for Champtery.

Wilt, &c. T H E Jurors, &c. present, That whereas by the Common Council of the Kingdom of England, or by Champtery it is proved, That no Officer of our Sovereign Lord the King, nor any other shall maintain Pleas, Suits, or Matters depending in the King's Courts, for Land, Tenements, or other Things in Suit, to have Part of the Thing in Question, or any Profit by Covenant made for that Purpose, no shall any under such Covenant give up his Right to another,
another, as in the said Statutes is fully contained: Neverthelesse see E.F. on the Day, &c. in the Third of the Year. Acc. to the said Court, &c. to maintain, and hath maintained a certain Suit, (which was depending in the King's Court, before the King him- self,) by the Right of his Lordship, the then A. B. & C. D. in a Plea of Debt, &c. (in which the said A. B. demanded of the said C. D.) to have Part of the Debt and Damages recovered in that Suit, that is to say, to have half of the said Debt and Damages, by Covenant made between the said E.F. & A. B. against the Peace of our said Lord the now King, his Crown and Dignity, and against the Form of the Statutes aforesaid to such Cases made and provided.

Champernon, By Statute, are they who move Pleas or Suits, or cause them to be moved, either by their own Procurement, or by others, and sue them at their proper Costs, to have Part of the Land in Variance, or Part of the Gain. 35 Ed. 1. 1. Champernons, vel laesam felicis vel nocem movent, vel moveor factum, &c. &c. juniphis prae- quatern ad campi partem, vel pro partis lucis babendis. Stat. 2. Artic. Super Chart. 11.

Chamber is a Place in the Law not only for him that fights a Combat in his own Cause, but also for him that doth it in the Place or Quarrel of another. 42 Hen. 3. The Champions, mentioned in our Law Books and Histories, were usually hired; and any one might hire them, except Parri- cides, and those who were accused of the blood of the King. Before they came into the Field, they shaved their Heads, and made Oath that they believed the Person who hired them, was in the Right, and that they would defend their Cause to the utmost of their Power; which was always done on Foot, and with no other Weapon than a Stick or Club, and a Shield: And before they engaged, they always made an Offering to the Church, that God might help them in the Battle. When the Battle was over, the Punishment of a Champion overcome, and likewise the Person for whom he fought, was various: If it was the Champion of a Woman for a Capital Offence, the she was burnt, and the Champion hanged: If it was of a Man, and not for a Capital Crime, he not only made Satisfaction, but had his Right Hand Cut off, and the Man was to be ete confined in Prison, till the Battle was over. Brad. leg. 2. c. 35. See Combat.

Chambers (Chambers) is an ancient Officer, whose Office is at the Coronation of our Kings, when the King is at Dinner, to ride armed Cap ac paule within his Habit, and by the Proclamation of a Herald make a Challenge. That if any Man shall defy the King's Title in the Crown, he is then ready to defend it in single Combat. And being done, the King drinks to him, and lends him a Gift Cup, a Cover, Vell, of Wine, which the Champion drinks, and hath the Cup for his Fee. This Office, ever since the Coronation of King Richard I. has been done by the Master of the Rolls in the Presence of all the Persons present. For in the reign of John, the Office was adjudged from him to Sir John Dymoke his Competitor, (both claiming from Marmion) and hath continued ever since in the Family of the Dymokes; who hold the Master of the Rolls in the Presence of the King, by Hereditary from the Marmions, by Grand Ser- jent, with. That the Lord thereof shall be the King's Champion, as above stated. Accordingly Sir Edward Dymoke performed this Office at the Coronation of the King Charles II.

Chancellors, (Canclerius) Was at first only a clerk to the Master of the Rolls under the Emperor, and was called Cancellerius, because he was in his Cancello, to avoid the Crowd of the People. This Word is by some derived from Cancello, and by others from Chancellor, an inclosed or separated Place, or Chancellorship, employed to hold with Bars, to defend the Judges, and other Officers from the Press of the Publick. And Chancellor was originally, as Lancelot held in the Register in Court, Graphnbor, seu mil. confundendi & exercitationum Judicium auditum dant operam: But this Name and Officer is of late Times greatly advanced, not only in this, but in other Kingdoms; for he is the chief Administrator of Justice, next to the Sover- eign, who anciently heard equitable Causes himself. All other Judges in this Kingdom are tied to the first Rules of the Law, in their judgements; but the Chancellor hath the King's absoolute Power to moderate the written Law, governing his Judgment by the Law of Nature and Conscience, and ordering all Things, jusq. equam & bonum: And having the King's Power in their Matters, he hath been called the Keeper of the King's Conscience. According to a late Testis, the Chancellor originally held a Publick Commission of the Secretaries, for the Writing of Treaties, Grants, and other Publick Business; and that the Court of Equity under the old Constitution was held before the King and his Counsel, or Judges, where the Supreme Court for Business of every Kind was kept: And at first the Chancellor became a Judge to hear and determine Petitions to the King, which were returned to him; and in the End as Business increased, the People intitled their Suits to the Chancellor, and not the King: And thus the Chancellor's equatable Power had by Degrees Commenced by Prerogative. Hist. Chan. p. 5, 10, 44. &c. Stowes forays, the Chan- celler hath two Powers; one absolute, the other ordinary; meaning, that although by his ordinary Power, in some Cases, he must observe the Form of Proceeding as other inferior Judges, in his absolute Power he is not limited by the Law, but by Conscience and Equity, according to the Circumstances of Things.

And though Polyarchs Virgil, in his History of England makes William the First, called the Conqueror, the Founder of our Chancellors; yet our Antiquary Mr. Dugdale has shown that there were many Chancellors of England long before that Time, which are mentioned in his Origin Juridiculae, and Catalogues of Chan- cellers; and Sir Edward Coke in his fourth Iniustitute, it is certain, That both the British and Saxon Kings had their Chancellors, whose great Authorities under their Kings, were in all Probability drawn from the reasonable Customs of surrounding Nations, and the Civil Law. He that bears this Chief Magnificacy, is filled the Lord High Chancellor of Great Britain, which is the highest Honour of the long Robe; being made so Per traditionem moresque regii, et pro Dominum Regem, and by taking his Oath: And a Chancellor may be made so at Will, by Patent, but 'tis laid not for Life, for being an ancient Office, it ought to be granted as has been accustomed. 4 Lev. 89. But Sir Edward Hulse, afterwards Earl of Clarendon, had a Patent to be Lord Chancellor for Life, though he was dismissed from that Office, and the Patent declared void. 1 Sid. 358. By the Stat. 5 Eliz. cap. 18. the Lord Chancellor and Keeper have one and the same Power; and therefore since that Statute, there cannot be a Lord Chancellor and Lord Keeper at the same Time; before there might, and hath been. 4 Lev. 78. King Hen. c. 5. had a great Seal of Gold, which he delivered to the Bishop of Durham, and made him Lord Chancellor, and his Son Chancellor of Silver, which he delivered to the Bishop of London to keep; but at this Day there being but one Great Seal, there cannot be a Lord Chancellor and Lord Keeper Regius at the same Time; but one Office, as declared by 5 Eliz. and the Taking away the Seal det- ermines the Office. 1 Sid. 338. But the Lord Bridge- man, and was Lord Keeper, and Lord Justice Common Pleas, at the same Time, which Offices were held.
held not to be inconsiderable. *Ibid.* By W. & M. *c. 15.* Some nomes (or officers) appointed to execute the Office of Lord Chancellor, may exercise all the Authority, Jurisdiction, and Execution of Laws, which the Lord Chancellor, or Keeper of Right, ought to unite and execute. In which case, this High Officer hath been several Times in Commission; though generally on the Dismission of a Chancellor, till another was appointed. The Lord Chancellor, now there is no Lord High Steward, is accounted the first Officer of the Kingdom; and he not only keeps the King's Great Seal, but all Patents, Commission, Warrants, &c., from the King, are preceded by him before signed: And he has the Disposal of all Ecclesiastical Benefits in the Gift of the Crown under 20. I. a Year in the King's Books, which has occasioned this Office to be formerly professed by a Clergyman. He by his Clerk fawers well and truly to serve the King, and to do Right to all manner of People, &c. In his Judicial Capacity, he hath divers Affidavits and Officers, &c. The Master of the Rolls, the Malters in Chancery, &c. And in Matters of Difficulty, he calls one or more of the Chief Justices, and Judges to assist him in making his Decrees: though in such Court, they only give their Advice and Opinion, and have no Share of the judicial Authority. As to the Master of the Rolls, he hath judicial Power; and is an Affiant to the Lord Chancellor, in his Office when abSENT, but he has certain Caules alligned him to hear and decret, which he usually doth on certain Days appointed at the Chancery Office, being affidated by one or more Masters in Chancery: He is, by Virtue of his Office, chief of the Malters in Chancery, and chief Clerk of the Petty Bag Office. The twelve Masters in Chancery are in Court, and take Notice of all Proceedings, for their Reference as are made to them, to be reported to the Court, relating to Matters of Practice, the State of the Proceedings, Accounts, &c. And they also take Affidavits, acknowledge Deeds and Recognizances, &c. The Six Chancery in Chancery transact and file all Proceedings by Bill and Answer; and also issue out some Patents that paid the Great Seal; which Business is done by their Under Clerks, each of which has a Seat there, and whereof every six Clerk has a certain Number in his Office, usually about ten. The Clerks of the Court, four and twenty in Number, make out all original Writs in Chancery, which are returnable in C. B. &c. and among these the Business of the several Counties is severally distributed. The Register is a Place of great Importance in this Court, and he hath several Deputies under him to take Cognizance of all Orders and Decrees, and enter and draw them up, &c. The Master of the Subprena Office issues out all Writs of Subprena. The Examiners are Officers in this Court, who take the Depositions of Witnesses, and are to examine them, and make out Copies of the Depositions. The Clerk of Affidavits files all Affidavits used in Court, without which they will not be admitted. The Clerk of the Rolls fixes copies of the Rolls to make Searches for Deeds, Offices, &c. and to make out Copies. The Clerks of the Petty Bag Office, in Number three, have great Variety of Business that goes through their Hands, in making out Writs of Summons to Parliament, Conger d'Efars for Bishops, Patents for Customers; Liberatis upon Extents of Statute Staple, and Recovery of Recognizances forfeited, &c. And also drawing Suits for and against Privileged Persons, &c. And the Clerks of this Office have several Clerks under them. The Officer of the Chancery has formerly the Receiving and Custody of all Money ordered to be deposited in Court, and paid it back again by Order: But this Business hath been of late assumed by the Masters in Chancery. And *Ann. 12 Geo. 1.* A new Officer was appointed by Statute, called Account General, to receive the Money lodged in Court, and convey the same to the Bank, to be there kept for the Sutlers of the Court. Those whom Persons flouting in Contempt are brought up by their Substitutes as Prisoners. A Warden of the Fleet, who receives such Prisoners as fixed committed by the Courts of Assizes, &c., in which case there is a Clerk of the Crown in Chancery; Clerk and Controller of the Hanger; Clerk for Insolvent Letters Patent, &c. He is employed in Proceedings of Equity, but concerned in making out Commissions, Patents, Pardons, &c. under the Great Seal, and collecting the Fees thereon. A Clerk of the Faculties, for Diritiation, Licenses, &c. Clerk of the Registrations, for Benefits of the Crown in the Chanceller's Gift; Clerk of Appeals, on Appeals from the Courts of the Archbishop, to the Court of Chancery: And divers other Officers, who are continued by the Chancellor's Commission.

Chancellor of the Duchy of Lancaster, A great Officer, whose Office is principally to examine and inquire between the King and his Tenants of the Duchy Land, and otherwise to direct all the King's Affairs belonging to that Court. The Chancellor is the chief Judge of the Duchy, and in difficult Cases of Law is usually aided by two Judges of the Common Law, out of one Court or other, to decide the Matter in Question: This Court is held in Westminster Hall, and within it there is a Bench used in Reference to Suits between Tenants of Duchy Land, and against Accountants and others for the Rents and Profits of the Said Lands. The Chancellor, as also the Attorney of the Court, one Chief Clerk or Register, and several Auditors, &c. This Officer is mentioned in the *Stat. 3 Ed. 6.* c. 1. and *5 Hid. c. 26.*

Chancellor of the Exchequer, A great Officer, who's thought by many was originally appointed for the qualifying Extremities in the Exchequer. He sometimes sits in Court, and in the Exchequer Chamber; and with the Judges of the Court, orders Things to the King's best Benefit. He hath by the *Stat. 33 H. 8.* c. 39. Power with others, to compound for the Forfeitures upon Penal Statutes, Bonds and Recognizances entered into the King: He hath also great Authority in the Management of the Royal Revenue, &c. which forms of late to be his chief Business, being commonly the first Commissioner of the Treasury. And though the Court of Equity in the Exchequer Chamber, was intended to be holden before the Treasurers, Chancellors and others; it is usually before the Baronets only. When there is a Lord Treasurer, the Chancellor of the Exchequer is Under-Treasurer.


Chancellor (Cancellaria) is the highest Court of Jurisdiction in this Kingdom next to the Parliament, and of very ancient Institution. The Jurisdiction of this Court is of the Duchy of Lancaster, or Legall; and extraordinairy, or absolute. The Ordinary Jurisdiction, is that wherein the Lord Chancellor in his Proceedings and Judgments, is bound to observe the Order and Method of the Common Law; and the Procedings of this Court have been usually in Latin, and filed or enrolled in the Petty Bag Office: And the extraordinary or unlimited Power, is that Jurisdiction which this Court exercises in Cases of Estate, wherein Relief is to be had by Way of English Bill and Answer. The Ordinary Court holds
holds Plea of Recognisances acknowledged in the Chancery, Writs of Suits facias for Repeal of Leases Particular... it may be also of all Perfor-
mal Actions, by or against any Officer of the Court; and by Act of Parliament of several Offences and
Causes: All original Writs or Commission of Bank-
ruptcy; or of Charitable Uses of Idols, and Usury, &c.
issue out of this Court, for which it is always open;
and sometimes a Superfluous or Writ of Privilege, hath
been heretofore to discharge. In a Suit in Chancery:
One from hence may have an Healthy Corpus, Prohibi-
tion, &c. in the Vacation, which are to be had out
of the other Courts only in Term-time; and here a Sub-
poena may be had to force Witnesses to appear in other
Courts, when they have no Power to call them. 4 Lea.
79. 1 Dunn. Abr. 775. But in professing Causes, if
the Parties defend to issue, this Court cannot try it by
Jury; but the Lord Chancellor delivers the Record in
to the King's Bench to be tried there; and after Trial
had, it is to be remanded into the Chancery, and there
Judgment given. Though if there be a Defendant in
Law, it shall be argued and adjudged in this Court.
When there is Defendant upon Part, and Issue upon
Part, the Record being in B. R. that Court ought
to give judgment, and the same may be but be neither
in Chancery, and if the Record come thither, they
cannot fend it back again. 1 Med. Rep. 20. But see
2 Lea. 89. Upon a Judgment given in this Court, a
The Extraordinary Court, or Court of Equity, pro-
tects by the Rules of Equity and Confidence, and mo-
derates the Rigour of the Common Law, and confounding
the Intention rather than the Words of the Law. It
gives Relief for and against Infants, notwithstanding
their Minority: And for and against married Women,
notwithstanding their Age. In such Cases a Woman
may sue for her Husband for Maintenance; which
may sue him when he is beyond Sea, &c. and be compel-
led to Answer without her Husband: All Frauds and
Deceits, for which there is no Redress at Common
Law; All Breaches of Trust and Confidence; and
Accidents, as to relieve Obligors, Mortgagors, &c.
against Penalties and Forfeitures, where the Intent was
to pay the Debt, are here remedied: For in Chancery,
a Forfeiture, &c. shall not bind, where a Thing may
be done after, or Compensation made for it. 1 Dunn.
79. 1 Dunn. Abr. 775. But this Court will give Relief
against the Extremity of unreasonable Engagements, entered into without Consideration; ebbing Conditions will not be unreasonable, to compound
with an unfortunate Debtor: And make Executors,
&c. give Security and pay Interest for Money that is
to lie long in their Hands. 2 Vent. 346. Here Execu-
tors may sue one another, or the Executor alone be
sued without the Red: Order may be made for per-
formance of a Will: It may be decreed who shall have
the Use of a Child: This Court may confirm Tit-
te to Lands, though one hath lost his Writings; Ren-
der Conveyances defective through Mistake, &c. good
and perfect; but not Defects in a voluntary Convey-
ance, unless where intended as a Provision for younger
Children. 2 Vent. 265. In Chancery, Copyholders
may be relieved against the ill Ufage of their Lords:
Indorsors of Lands that are Common be decreed; and
this Court may decree Money or Lands given to
Charitable Uses: Things in Action, upon Align-
ment on Consideration: Oblige Men to account with
each other: Avoid the Bar of Actions, and the Sta-
tute of Limitation, &c. for Debts thus barred, are
still Debts in Equity, and the Duty remains. 1 Dunn.
Abr. 749. 750. 1 Salt. 134. But in all Cases, where
the Plaintiff can have his Remedy at Law, he ought not to be relieved in Chancery: And a Thing
which may be tried by a Jury, is not triable in this
Court. Dunn. Abr. 763. Also long Leases, as for 1000
Years, naked Promises; verbal Agreements not exe-
cuted: Estates deriv'd under conceal'd Titles, &c. have
been refused: Relief in this Court: And Mortgages are
not relievable in Equity, even after ten Years, unless a
Demand has been made, or Interest paid, or there are
not other particular Circumstances; &c. 2 Vent. 340.
A Bond, when neither the Principal nor Interest hath
been demanded in 20 Years, will be deemed to be Equit-
aly to be satisfied, and be decreed to be cancelled; and
a perpetual Injunction may be granted to stay Proceeding
therein. 1 Ch. Rep. 314. But a Deed appearing
to be cancelled, has been Decreed to be a good
Deed, on special Circumstances: And a Defendant,
having suppressed a Settlement, whereby a Remainder
in Tail was limited, &c. upon Proof that the Defendant
came to his Hands, the Plaintiff had a Decree in
Chancery to hold the Estate. 1 Ch. Cauf. 249. 2 Fern.
Rep. 380. Articles of Agreement upon marriage re-
duced into Writing, though not signed by either Party,
being proved to be agreed to, were decreed to be per-
form'd. 2 Fern. 200. Also an Agreement in Writing
made since the Statute of Frauds, has been Decreed to be
discharged by Parol. 1 Ventns. Rep. 240. An un-
derstand Agreement may be set aside as fraudulent:
And Articles, a Deed of Conveyance executed, and a Find
in Partnership thereof, were set aside by a Decree,
the view Fraud, where the Party was imposed upon. Ibid. 205.
A Deed not fraudulent at first, may become so after-
wards; and if one add a Deed to a Note, which is
good without it, he will lose his Security and a R. 3.
Ref. 90. Of Exchange being given by Fraud, Equity will re-
judge against it, and Decree that the Money shall be re-
ret. 2 Fern. 165. 123. A Release shall be avoided for
Fraud, where there is opprēsio sui, or
fugium fidelis, and a Release may be set aside in Chan-
cery by reason of the Misapprehension of the Party that
gave it. 1 Fern. Rep. 467. A Will concerning
Lands, may be avoided in a Court of Equity when ob-
tained by Fraud: A Mortgage made by a Man subsi-
quent to his Will shall be a Revocation pro seant only
in Equity, and not of the whole Will, &c. 2 Ch. Rep.
97. An Heir may be relieved in Equity against a con-
tingent Contract, made during his Father's Life, to pay
a large Sum of Money, if he outlives his Father, when it
is unconscionable. 2 Chaw. Rep. 397. And a Broker
who had made it his Business to sell Goods at extravagant
RATES to young Persons, to be paid for one upon the
Death of their Parents, and he decreed to discharge
Securities thus obtain'd for great Sums, on Payment of
what he had really paid to the Plaintiff, and for his Use,
&c. 1 Fern. 467. A Purchaser of Land, without No-
tice of an Incumbrance, shall not be hurt thereby in
Equity; and in Pleading a Purchase, the Defendant
ought to deny Notice of Incumbrances, &c. No Inter-
est will be allowed in Chancery for Book-Deeds; nor shall Interest Money be allowed to be made
Principal on Securities, so as to make Interest upon In-
terest, unless it be where Interest Money is reduced to
a Bared Sum, &c. 3 Ch. Rep. 65. 1 Fern. 165.
2 Ch. Rep. 286. It has been held, That the Court of
Chancery cannot afford Damages for a Firefall, &c.
but it ought to be ascertained by a Jury of the Case,
and not otherwise. 1 Ch. Rep. 450. A Bill may be
brought for discovering the Contents of a Letter, which
would discharge the Plaintiff of an Action at
Law, before Verdict. 3 Ch. Rep. 17. Indentures of
Apprenticeship have been Decreed to be delivered up,
and the Money given with the Apprenticeship to be
paid back by the Master, on ill Ufage of the Ap-
prentices, &c. Finch Rep. 125. Charity Lands being
Let at a great Under-value, as was found by Inqui-
sition, on a Commission of Charitable Uses, the Lease
was avoided in Equity, and the Lees Decreed to pay the Arrears in Rent according to the full Va-
lor, and to yield up the Possession. 2 Fern. 415. A
Gracian's Castle driving to London, were distrained in
Grounds for the Bankkeeper, and in Replevin
the
the Landlord had Judgment at Law; but the Grazier was relieved in Equity against it. 2 Fern. Rep. 109. Trials and Issues at Law are frequently directed out of the Court of Chancery; and it is sometimes the order, that after Trial, the Parties shall return to the Court on the Equity referred, &c. This Court will not retain a Suit for any Thing under 10l. Value, except in cases of Charity; nor for Lands, &c. under 40s. per Annum: And refutes Relief in Suits where the Substance of them tends to the Overthrow of an Act of Parliament, or any fundamental Point of the Common Law. If a Man looses his Obligation, he shall not be relieved for his Debt, being against a Maxim in Law. 1 Danw. 754. And an Executor in a Court of Equity ought not to be compelled to pay Legacies before Bonds, &c. for this is against the Common Law: So in many other Cases. Ibid. 756. Where a Man by his own Act destroys his Remedy at Law, he shall not be relieved in Equity: But in Case of an apparent Fraud, or in a devious Case in Law, of which the Party could not have Conclu-sion, Relief be he had in Equity against a Statue. Ibid. 755, 759. Defendants may not be regularly relieved in Chancery, after Judgment at Law; though Decrees are made in such Cases: But on Per-son being before the Court for Non-repair of default, they have been formerly discharg'd by Habrour Corpus. Cre. Enr. 220. 1 Roll. Rep. 252. 1 Nelf. Abr. 432. There is a Relief in Chancery, notwithstanding there is an Agreement between the Parties that there shall be no Relief in Law or Equity. 1 Mtd. 141, 305. And where a Party hath both Law and Equity on his Side, it will prevail against Equity only. 1 Danw. Abr. 773. If a Portion be given to a Woman, provided the marriage without Consent of a certain Person, although the marriage with- out Consel of the Father, or the son shall be in Chancery, and have her Portion: But if the Portion, on such Marriage, had been limited over to another, it would be otherwise. 1 Danw. 752. If a Father, on the Marriage of his Son, take a Bond of the Son that he shall pay him so much, &c. this is void in Equity, being adjudged by Corcoran while he is under the Awe of the Father. 1 Sale. 178. Also where a Son, without Privity of the Father, acting the Mach, gives Bond, to return any Part of the Portion, in Equity it is void. Ibid. 176. A Man is not entitled to discovery of a Bond for Goods generally given, which in idelf implies a Consideration. Hard. 200. If a Factor to a Merchant hath Money in his Hands, he shall be accounted his own: and Equity cannot follow Money; but it may Goods to make them the Merchant's, which may be known, though Money cannot. 1 Sales. 560. Money article to be laid out in Land, shall be taken as Land in Equity, and defend to the Heir. Ibid. 154. Personal Estate in the Hands of Executors, shall be applied in Discharge of the Heir, where there is sufficient Affid to pay the Debts and Legacies. 1 Danw. 770. There shall be no Bill in Equity against an Executor, to dis-cover Affid before a Suit commenced at Law. Hard. 117. Legal Affid shall be applied in a Court of Administration; but Equitable Affid amongst all the Creditors proportionably, on a Bill brought, &c. 2 Fern. Cit. Rep. 62. Where Trustees covers Mo-oney raised out of Land for Payment of Debts, to their own Use, the Heir shall have the Land discharged, which hath been its Burden, and the Trustees are liable to the Debts in Equity. 1 Sale. 455. If Lease for Years, without Impeachment of Waste, in the End of his Term cut down Timber-Trees, the Court of Chancery by Injunction may stop the Cutting down of Trees, it being against the Public. Good to destroy Timber. 1 Roll. Abr. 380. And Tenant after Possibility of Issue existed, or for Life, dispensable of Waste, may be stopped in Equity from pulling down Houses, &c. 1 Danw. 761. The King cannot create a Court of Equity at this Day; but the fame must be done by Act of Parliament. 4 Lev. 84. And though the Power is very great, and it may restrain other Courts that exceed their Jurisdiction, and remove Suits to itself by Corriusari, yet it is no Court of Record; and therefore 'in chancery can bind the Power only, and not the Estates of the Defendent, &c. And if he will not obey the Decree of the Court, he must be committed to the Flet till he do. 1 Danw. Abr. 748. By Statute, the Court of Chancery is to follow the King. 26 Ed. 1. c. 5. And whooe'ver shall find himself grieved with any Sta-tuta, he shall have his Remedy in the Chancery. 56 Ed. 3. c. 9. No Saloana or other Process of Ap-pearance, shall issue out of Chancery, &c. till after a Bill is filed, except Bills for Injunctions to stay Waits, or Suits at Law commenced, and a Certificate thereof brought to the Solicary Officer. 4 & 5 Ed. 16. And for preventing vexatious Suits, it is enacted, That upon the Plaintiff's dismissing his own Bill, or the Defendant's dismissing the same for Want of Process, the Plaintiff shall pay to the Defen-dant full Costs, &c. Stat. 15d. Pleas in Remain-der, or Revocation of any Estate, after the Death of the Person that may have been the owner of the Estate, the Court of Chancery, that they have Cause to believe such other Person dead, and his Death concealed by the Guardian, Tru-tee, or Administrator. and common the Lord Chancellor, and other such Guardian, Truette, &c. to produce the Person suspected to be concealed; and if he be not produced, he shall be taken to be dead, and their in Revolution, &c. may enter upon the Estate: And if such Person be abroad, a Commission may be issued for his being viewed by Commissioners. Stat. 6 Ann. 1708. Inlands under the Age of twenty one Years, sealed of Estates of the Sundry Title, in the Way of Mortmain, are enabled by Statute to make Conveyances thereof; or they may be compelled thereto, by Order of the Court of Chancery, &c. upon Petition and Hearing of the Parties concerned. 7 Ann. c. 9. See the Sta-tute of King George 3. whereby Idets and Lunatics re-ceived of Estates in Trust, &c. may make Convey-bances, by Order of the Chancellor, &c. 4 Gen. 2. c. 10. The Stat. 13 Car. 2. relates to the Matters in Chancery, Ordering that one publick Office be kept near the Rails for the Gild Makers, where they shall att-end, and limits and apparatus of the Office, &c. by a late Act, the Power of the Makers was abridg'd, on their misemploying the Skillers Money, which is not paid to the Makers, but the additional Stamp-Duty, on Waits, Proceesses, &c. is granted for Relief of the Skillers, and as a common Stock of the Court of Chancery. 12 Gen. 1. c. 33. All Orders and Decrees made and signed by the Master of the Rolls, shall be deemed and taken to be good and valid Orders and Decrees of the Court of Chancery; but not to be inviolate till Signed by the Lord Chancellor, and subject to Reversal, &c. by him. Stat. 3 Gen. 2. c. 50. A Defendant not appearing after Saloana issued, but keeping out of the Way to avoid being served with the Processes an Affidavit that he is not to be found, and affix'd to be gone beyond Sea, or to absoled, &c. the Court of Chancery may make an Order for his Appearance at a certain Day, 5 Copy of which is to be publish'd in the Gazette, &c. and then if he do not appear, the Plaintiff's Bill shall be taken as agaisst the Defendant, and the Defendant's Elate required, &c. But Orders given by the Kingdom, returning in seven Years, may have a Releas'd, &c. and be admitted to Answer, &c. or be barred, by final Decree. 5 Gen. 2. c. 25. The Acts against the Public are left to file the Bill of Complaint, signed by some Counsel, setting forth the Fraud or Injury done, or Wrong furnished, and praying Relief: After the Bill is filed, Pro-
Form of a Bill in Chancery.

To the Right Honourable Philip Lord Hardwicke, Baron of Hardwicke, Lord High Chancellor of Great Britain.

Humbly Complaining, therefore unto your Lordship, your Orator A. B. of, &c. That whereas about, &c. Years last past, T. B. of, &c. did grant to L. M. all that Mischief or Tenement, &c. and the Lands, Estates, &c. And afterwards, that is to say, on, &c. he the said L. M. by his Deed bearing Date, &c. under his Hand and Seal, in Consideration of the Sum of, &c. to him paid, did bargain, sell, assign, and set over the said Premises, &c. unto J. D. of, &c. which said J. D. not long after, viz. on, &c. did, in Consideration of, &c. by your Orator to him in Hand paid, bargain, sell, assign, and set over the said Premises, &c. unto your Orator, and all and singular the said Premises aforesaid, and every Part thereof, upon such Bargain, &c. and Agreement and Affidavit of the said Premises, &c. made as afoforesaid, your Orator well and truly hoped to have proceeds and quietly entered into the said Premises, &c. and to have held, possessed and enjoyed the same accordingly. But now it is, in or upon the said Premises, &c. your Orator is, &c. and the same is, &c. And your Orator, by Reason of the lawful Consideration to him paid, as aforesaid, and of the said Premises, &c. which your Orator is, &c. to have and enjoy during such Term as the said L. E. shall hold, and enjoy the Premises aforesaid, by Reason of the said Lease, which he is pretended to have, but forasmuch as your Orator does not certainly know whether the said L. E. hath any such Lease, or if he hath any such Lease, what that Date the same beareth, nor what Term the said L. E. hath therein express, nor whether the same is thereby referred, or what Covenants are therein contained: And for that the said L. E. doth not only Use and Occupy the said Premises to his own Profit and Advantage, without Tithing or Paying Rent therefor to your Orator, but doth also utterly refuse to follow the said Lease, whereby it is pretended to claim the Premises aforesaid, either to your Orator, or to any other Person; and for that the said L. E. in Confederacy with, &c. doth grow, &c. All which Actions and Doings of the said L. E. &c. are contrary to all Right, Equity and Good Conscience, and tend to the manifest Wrong, Injury, and Oppression of your Orator: In tender Consideration whereof, and forasmuch as your Orator is Remissible in this Honorable Court, and for that your Orator cannot by the ordinary Course of the Common Law enter into the Premises, nor commence any Action against the said L. E. either for the Recovery of the said Lands, or for the Redemption of the same, but by the Assistance of this Honourable Court: To the End therefore, that the said L. E. may be obliged upon his Oath to declare what Right he has in said Premises, or any Part thereof; and what Rent or Rent and Water is paid for the same, and to whom, and that he may also set forth in his Affidavit upon Oath a true Copy of such Lease or other Writings whereby he claims the said Premises aforesaid, or any Part thereof; and that the said L. E. may stand and be heard, &c.
directly answer all the Matters and Things herein before contained, as fully and perfectly as if the same had been here again repeated and interrogated, and may particularly be put upon Oath, whether, &c. And may come to the Examen, and give, and answer, &c. And that your Orautor may be relieved in the Premises according to Equity and Good Conscience.

May it please your Lordship, the Premises considered, to grant to your Orautor his Majesty's Writ or Writs of Subpoena to be directed to the said L. E. and another his Confellates when deposed, there
by commanding them and every of them at a certain Day, and under a certain Pain therein limited, personally to be and appear before your Lordship in this Honourable Court, then and there to answer all and singular the Premises, and to stand, to perform and abide such Order and Decree thereto, as to your Lordship shall from meet.

And your Orautor shall ever pray, &c.

Form of an Answer in Chancery.

The Answer of L. E. Defendant to the Bill of Complaint of A. B. Complainant.

T HIS Defendant says, and at all Times hereafter, he having impleaded all Matter of Benefit and Advantage of Exception to the many Inequities, Injustices and Improprieties in the said Complainant's Bill of Complaint contained, for Answer thereto, or same to be much thereof as this Defendant is advised is any Way material for him to make Answer unto, being upon his faith, &c. That the said J. D. named in the Complainant's said Bill, was insufficient for divers Years yet to come, the said J. D. being thereof possessed, had in such Manner as in the said Complainant's Bill is supposed, made a lawful Demise of the said Misyngage and Lands unto the said Defendant for divers Years to come upon which Leases the said J. D. reied on yearly Rent of, &c. to be paid during the Continuance of the said Leases, by Force of which Leases the Defendant entered into the said Lands, &c. and now is and yet lawfully possessed thereof accordingly, and over finds both and yet does enjoy the same by Virtue of the said Leases and Demises, &c. and is therein to have and enjoy the same during the Continuance of the said Leases, of which there are at this Time above, &c. Years to come, and unexpired; and faith, that the Plaintiff is a Person altogether unknown to this Defendant, being not be this Defendant never had any Dealing or Correspondence with, and therefore this Defendant cannot but admire at this Suit commenced by the said Complainant against this Defendant touching the Premises: And this Defendant faith that he will humbly conceive and is advised, that be, this Defendant, is for the Payment of his Rent chargeable, and ought by the Laws to pay the Rent so reied unto the said J. D. and not the said Complainant, which said J. D. this Defendant doth well think he is lawfull Landlord, during the said Term of Years yet to come, and not the Complainant, who is altogether a Stranger to this Defendant; and faith, that the said Complainant never at any Time hereafter demanded any Rent for the said Misyngage, or Testament and Lands, that this Defendant hath and acquired by Virtue of the said Leases for Years; and also faith, &c. and therefore the said Defendant is the more surprized at this Suit brought against him by the said Complainant touching the Premises, touching this Defendant is wrongfully accused and sued without any just Cause without that there is any such Bargain and Sale made by, &c. as in the

said Bill is set forth, or that the said, &c. bargained and sold the Premisses to the Complainant; or that the said Complainant ought to have and enjoy the said Premisses, to the Knowledge of this Defendant; and this Defendant denies all Combination in the Bill charged; without that, that there is any other Matter or Thing in the Complainant's said Bill of Complaint contained, material or essential for this Defendant to make Answer unto, and not herein and hereby sufficiently answered unto, confess not, answered, or avoided, or denied, is true, to the Knowledge and Belief of this Defendant; all which Matters and Things are hereby sufficiently proved as this Honourable Court shall award; and humbly prays to be hence dismissed with his reasonable Costs and Charges in this Behalf wrongfully obtained.

Form of a Replication to an Answer.

The Replication of A. B. Complainant, to the Answer of L. E. Defendant, put in to the said Defendant's Bill of Complaint.

T HE said Defendant, praying to be bimag all Advantages of Exception to the Defendant's said Answer, for Replication thereto found, That all and every the Matters and Things in and by his said Bill of Complaint already said, he will judge, maintain and prove to be good, certain, and sufficient in the Laws, to be answerable unto, &c. and that all and every the Premises and Things aforesaid are thereby set forth and declared; and that the Answer of the said Defendant is untrue, and insufficient in the Laws to be by this Defendant replied unto, for divers manifest Improviences and Inequities therein contained; all which Benefit of Exception is now in the Laws to be by this Defendant replied unto, and herein and hereby not well and sufficiently replied unto, confessed, or avoided, or denied, is true, all which Matters and Things this Defendant is ready to aver, maintain and prove, as this Honourable Court shall award; and humbly prays, as in and by his said Bill be had already prayed.

A Rejoinder to a Replication in Chancery.

The Rejoinder of L. E. Defendant to the Replication of A. B. Complainant.

T HE said Defendant, now, and at all Times hereafter, for answer, &c. being and averring to him, all Matter of Benefit and Advantage of Exception to the Inequity and Insufficiency of the said Replication, for Reasons following, That the Defendant's said Answer is true, certain, and sufficient in the Laws to be replied unto, and herein and hereby not well and sufficiently replied unto, confessed, or avoided, or denied, is true, all which Matters and Things this Defendant is ready to aver, maintain and prove, as this Honourable Court shall award; and humbly prays, as in and by his said Answer have been already prayed.
Form of a Decree in Chancery.

Whereas hereinafter, that is to say, about, &c. Term, which runs in the Year, &c. A. B. Complainant did exhibit his Bill of Complaint into this High and Honourable Court of Chancery, against L. E. Defendant, whereby it is set forth, &c. (Here recite the Bill briefly) for Relief subservient, &c. The Complainant humbly prayed the said and Affidavit of this Honourable Court, and that Pleading of Subpoena might be arrested according to the said Defendant to compel him to appear and answer the said Bill; which being granted, and the Defendant forthwith, he appeared accordingly, and answered the said Bill; and by his said Answer confess and for
forth, &c. (Here recite the Subsistence of the Answer.) To which Answer the Complainant replied, and the Defendant rejoined, and it is the Practice being called, divers
Writings, ordering, &c. 1. The following are the Declarationst duly taken and published, according to the usual Course of this Court, as by the said Bill, Answer, Replication, Depositions of Witnesses, and other Proceedings recorded in this Honourable Court, of which more at large appears; and the said Cause thus standing in Court, the Day of, &c. was by this Court appointed for the hearth and issuing, &c. The said Counsel for the Plaintiff, &c. was heard and debated as aforesaid in Presence of Counsel learned on both Sides, the Subsistence of the Complainant's Bill and the Defendant's Answer appeared to be as it herein before recited and for forth; whereupon, and upon Debate of the Matter, and bearing in mind that such an application might be made in all such Causes, this Court did think fit to order and direct, and accordingly it is this present Day, that is to say, the Day, &c. in the Year, &c. by the Right Honourable, &c. Lord Chief Chancellor of Great Britain, &c. ordered, adjourned and decreed, that, &c.

Chancery, From the Fr. Chance, Lapson, and Miller, Miferes Signifies the fatal Killing of a Man, not without the Killers Part, though without any actual Intent; and it is where a Person is doing a lawful Act, and a Person is killed by Chance thereby: For if the Act be unlawful, it is Felony. If a Person casts a Stone, which happens to hit one, whereof he dies: Or he throws an Arrow in a Highway, and another that paffeth by is killed therewith: Or if a Workman, in throwing down Rubbish from a House, after Warning to the Maker of the House, kills a Person: Or a Schoolmaster in Correcting his Scholar, a Master his Servant, or an Officer in Whipping a Criminal, in a reasonable Manner, happens to occasion his Death: in this Case there is Chancery and Misdemeanor. 3 Inst. 50. Dall. 351. But if a Man throws Stones in a Highway, where Persons usually pass: Or he throws an Arrow, &c. in a Marsh place, among a great many People: Or if a Workman cast down Rubbish from a House, in Cities and Towns, where People are continually passing: Or a Schoolmaster, Maker, &c. correct his Servant or Scholar, &c. exceeding the Bounds of Moderation, it is Manslaughter: and if with an improper Instrument of Correction, as with a Sword or Iron Bar, or by a Stick: and if in the Execution of any Office or Business, it is Murder. Term. de Ley 115. H. P. C. 58, 51, &c. Kit. 40, 65, 113. If a Man whips his Horse in a Street to make it gallop, and the Horse runs over a Child and kills it, it is Chancery, &c. 45 &c. 59. If two are Fighting, and a third Person coming to put them to flight, it is killed by one of them, without any evil Intent, yet this is Murder in him: and not Manslaughter by Chancery, or Misdemeanor in the Rider. H. P. C. 48, 59. And if two are Fighting, and a third Person coming to put them to flight, it is killed by one of them, without any evil Intent, yet this is Murder in him: and not Manslaughter by Chancery, or Misdemeanor in the Rider.

Goods; but hath a Pardon of Convent. Stat. 6 Ed. 1. c. 9.

Chamber, An Officer belonging to the King's Mint, whose Office consists chiefly in exchanging Coin for Bullion brought in by Merchants or others: It is written after the old Way, Chamber. Stat. 6 Hen. 6. cap. 12.

Chantry, (Cantarian) A Singer in the Choir of a Cathedral Church: and is usually applied to the Chief of the Singers. This Word is mentioned in 13 Eliz. c. 10. At St. David's Cathedral in Wales, the Channer is next to the Bishop; for there is no Dean. Lark. Britan.

Chantry, or Cantarry, (Cantarian) Is a Little Church, Chapel, or particular Altar, in some Cathedral Church, built, endowed with Lands, or other Revenues, for the Maintenance of one or more Priests, daily to Sing Miss, and officiate Divine Service for the Souls of the Donors, and such others as they appointed. Stat. 57 Hen. 8. cap. 9. Ed. 6. c. 14. Stat. 6. cap. 9. Of these Cantaries Mention is made of forty-seven belonging to St. Paul's Church in London, by Dagulcy, in his History of that Church. I find in an ancient MS. this Declaration: that Ege Reginaldus Seuard hadi Willielmo Crump Capell Cantariane boate Marie de Yarpol, unaem parceliam pastur, &c. Dap. app. c. 14. 24. 6. Et rex Marius prae. pell Psam Sandal Hillarini. As. 7 Hen. 7.

Chapel, (Capella, Fr. Chapelle) Is either adjoining to a Church, for performing Divine Service; or separate from the Mother-Church: where the Parish is wide, which is commonly called a Chapel of Ease. And Chapels of Ease are built for the Use of those Parishes who dwell far from the Parochial Church, in Prayer and Preaching only; for the Sacraments and Burials ought to be performed in the Parochial Church. 2 Roll. Ab. 540.—Ad Capellam nec pertinent Bapismorum ac Sepulchra. Sedent de Tribus, p. 265. These Chapels are served by inferior Curates, provided at the Charge of the Rector, &c. And the Curates therefore removable at the Pleasure of the Rector or Vicar: But Chapels of Ease may be Parochial, and have a Right to Sacraments and Burials, and to a distinct Minister, by Customs; (though subject in some Respects to the Mother-Church): And Parochial Chapels differ only in Name from Parish Churches, but they are small, and the Inhabitants within the District are few. In some Places Chapels of Ease are endowed with Lands or Tithes, and in other Places by voluntary Contributions; and in some few Districts there are Chapels which baptize and administer the Sacraments, and have Chaplains and Wardeners; but these Chapels are not exempted from the Vifitation of the Ordinary, nor the Parochioners who reffor thither from contributing to the Repairs of the Mother-Church: especially if they bury there; for the Chapel generally belongs to, and is as it were a Part of the Mother-Church, and the Parochioners are obliged to go to the Mother-Church, but not to the Chapel. 2 Roll. Ab. 289. And hence it is said, that the Offerings made to any Chapel are to be rendered to the Mother Church; unless there be a Custom that the Chaplain shall have them. Publick Chapels, or Chapels of Ease, to Parishes in England, shall be repaired by the Parochioners, as the Church is; if any other Perons be not bound to do it. 2 Inst. 489. Besides the fore-mentioned Chapels, there are Free Chapels, perpetually maintained and performed such a Minister, without Charge to the Rector or Parish; or that are free and exempt from all ordinary Jurisdiction; and these are those where Tithes or Lands to the Chapels are charitably bestowed on them. Stat. 37 Hen. 3. cap. 4. 1 Ed. 6. c. 14. Then there are Private Chapels, built by Noblemen, and others, for private Worship, or in near their own Houses, maintained at the Charge of those noble Persons to whom they belong, and provided with Chaplains and Sipends by which,
which may be erected without Leave of the Bishop, and
need not be consecrated, though they anciently were,
not being subject to the jurisdiction of the Ordinary.
And also Chapels in Universities, belong-
ing to particular Colleges, though they are
consecrated, and Sacraments are administered there,
yet they are not liable to the Visitation of the Bishop, but
of the Founder. 2 Inf. 363.

Chapelry, (Capellania) is the same Thing to a
Chapel, as a Parish to a Church; being the Place
and Limits thereof: It is mentiond in the Statute
14 car. 2. cap. 9.

Chapton, (Fr.) A Flood or Bonnet, anciently
worn by the Knights of the Garter, as Part of the
Habits of that noble Order: But in heraldry it is the
little Ecucheon fixed in the Forehead of the
Heroes that draw a Heart at a Funeral. See Stat.
1 R. 2. cap. 17.

Chapters, (Lat. Capituli, Fr. Chapitres, &c. i.e. Chap-
ters of a Book) Signifies in our Custom Law a Sum-
mmary of such Matters as are to be enquired of, or
prevented. A Dean of the Chapter, Jurors, Master, or
of Peace, in their Sessions. Brism. cap. 3. with the
Word in this Signification: And Chapters are now
most commonly called Articles, and delivered by the
Mouth of the Judge in his Charge to the Inquirer;
whereas, in ancient Times, (as appears by Bradto
and Brism) they were, after an Exhortation given by
the Judge, for the good Observance of the Laws, in
the King's Peace, first read in open Court, and then
delivered in Writing to the Grand Inquirer, for their
better Observation; and the Grand Jury were to an-
swer upon their Oaths to all the Articles thus deliv-
ered them, and not put the Judges to long and
learned Charges to little or no Purpose, for Want of
Remembering the same, as they now do, when they
think their Duty well enough performed, if they only
produce those few of many Misdemeanors which are
brought before them by Way of Indictment. It is to
be noted, that the Duty of delivering written Articles
to Grand Juries were still observed, whereas
Crimes would be more effectually punished; and in
several Courts as the Court Leet, &c. in seve-
rnal Parts of England, it is usual at this Day for Stew-
ards of those Courts to deliver their Charges in Writing
to the Juries sworn to enquire of Offences. Howe,
in his Mirror of Justice, expresses what these Articles
were wont to contain. Lib. 3. cap. Des Articles in Eyre.
And an Example of Articles of this Kind, you may
find in the Book of Allen, f. 158.

Chaplain, (Capellanus) is most commonly taken
for one that is depending upon the King, or other
noble Person, to instruct him and his Family, and lay
Disposition of all that is in his House, where there is usually
a private Chapel for that Purposo. The King, Queen,
Prince, Princess, &c. may retain as many Chaplains as
they please; and the King's Chaplains may hold
any Number of Benefices of the King's Gift, as the
King shall think fit to bestow upon them. An
Archbishop may retain eight Chaplains: a Duke or a Bishop
Six; Marquess or Earl, Five; Vicount, Four; Baron,
Knight of the Garter, or Lord Chancellor, Three:
A Dutchess, Marchioness, Countess, Baroness, the Tre-
asurer, and Controller of the King's House, the King's
Secretary, and Master of the Rolls, each of them Two;
The Chief Justice of the King's Bench, &c. One; all which may
pursue any Office, sit in the House, and take any Ben-
ches with Cure of Souls. Stat. 22 Hen. 8. c. 29. cap.
15. All other Judges of the King's Bench, and Com-
mon Pleas; and Chancellor and Chief Baron of the Exche-
quer, and the King's Attorney and Solicitor General,
may each of them have one Chaplain, attendant
on his Person, having one Benefice with Cure, who may
be not resident on the same, by Statute 25 Hen. 8.
cap. 10. And the Groom of the Stool, Treasurer of
the King's Chamber, and Chancellor of the Duchy of
Lancaster, may retain each one Chaplain. Stat. 33
Hen. 8. cap. 26. If his Hon. is not sufficiently
Number of Chaplains allowed by Law, and retains one
more, who has Dispensation to hold Plurality of Li-
vings, it is not good. 1 Co. 723. A Person retaining
churches, and Chapels, must not only be capable there-
of the Time of Granting the Instrument of Retainer, but he
must continue capable of Qualifying till his Chaplain
is advanced: And therefore if a Duke, Earl, &c. retain a Chaplain, and die; or if such a noble Person
be attainted of Treason, or if an Officer qualified to
retain a Chaplain, is removed from his Office, the
Retainer is determined: But where the Retainer has
taken a second Benefice before his Lord died, or is
attainted, &c. the Retainer is in Force to qualify him
to enjoy the Benefices. And if a Woman that is not
nable by Marriage, afterwards marries one under
the Degree of Nobility, her Power to retain Chaplains
will be determined: Though 'tis otherwise where a
Woman is noble by Descent, if the many under De-
gree of Nobility, for in such Case her Retainer before
or after Marriage is good. A Baroness, &c. during
the Conventure, may not retain Chaplains; if she does,
the Lords, her Husband, may disinherit them, as he
does his wife her former Chaplains, before their Advance-
ment. 4 Rep. 118. A Chaplain must be retained by Letters
pensional, under Haed and Seal, or he is not a Chap-
lain, but an Ordinary Minister, and is not enough
for a Spiritual Person to be retained by Word only to be
a Chaplain, by such Person as may qualify by the Statutes
to hold Livings, &c. although he abide and
serve as Chaplain in the Family. And where a No-
bleman hath retained and thus qualified his Number
of Chaplains, if he diminishes them from their Attendance
upon any Diocese, after they are preferred, yet they
are his Chaplains at large, and may hold their Livings
during their Lives; and such Nobleman, though he
may retain further Chaplains in his Family, merely as
Chaplains, or to hold Benefices with Life, or to hold Plur-
alties whilst the First are living: For if a Nobleman
could discharge his Chaplain when advanced, to
qual-
ify another in his Place, and qualify other Chaplains
during the Lives of Chaplains discharged, by these
Means he might advance as many Chaplains as he would,
whereby the Statutes would be evaded. 4 Rep. 90.

Form of a Retainer of a Nobleman's Chaplain.

K

Now all Men by otho Prefects, That I the Right
Honorable T. Lord A. Baron of, &c. Have
admitted, confirmed, and appointed, and by such Prefects
recommended, &c. &c. of, &c. to be Your and my
Dearth Chaplains: To serve, hold and enjoy all
and Singular the Benefices, Properties, Liberties and Ad-
Vantages, due and of Right granted to the, chaplains
of Nobility, by the Laws and Statutes of this Realm. In
Winace, &c.

Chapter, (Capitolum) is a Congregation of Cler-
gemen under the Dean in a Cathedral Church: Congre-
gationem Clericorum in Ecclesia Cathedral, Consu-
ratul, Regulares et Collegiates. This Collegiate Com-
pany is metaphorically termed Capitolum, signifying
a little Head, it being a Kind of Head, not only to
govern the Diocese in the Vacuon of the Bishop, but
also in many Things to advise and assist the Bi-
shop, with whom he is in full, for which call
they form a Council. 1 Inf. 103. The Chapter con-
flits of Prebends or Canons, which are some of the
chief Men of the Church, and therefore are called
Capita Eccles: They are a Spiritual Corporation: Ag-
gregates, which they cannot surrender without Leave
of the Bishop, because he hath an Interest in them;
they, with the Dean, have Power to confirm the Bish-

CH

...of Grants; during the Vacancy of an Archdeaconry, they are Guardians of the Spiritualities, and as such have Authority by the Stat. 25 Hen. 8. cap. 21. to grant Dispensations; likewise as a Corporation they have power to convey. When the Dean and Chapter confirm Grants of the Bishop, the Dean joins with the Chapter, and there must be the Consent of the major Part; which Consent is to be expressed by their signing of their Seal to the Deed, in one Place, and at one Time, either in the Chapter- House, or some other Place: and this Consent is the Will of many joined together. Dyer 233. A Chapter is not capable to take by Purchase or Gift, without the Dean, who is the Head of the Body: But there may be a Sale without a Dean, as the Chapter of the Collegiate Church of St. Albans: and Grants by or to them are as effectual as other Grants by Dean and Chapter. Yet where there are Chapters without Deans, they are not properly Chapters: And the Chapter in a Collegiate Church, where there is no Episcopal See, as at Westminster and Windsor, is more properly called a College. Chapters are said to have their Beginnings, if formerly the Bishop had the Rule and Ordering of Things without a Dean and Chapter, which were constituted afterwards, and all the Powers within their Dioceses were as his Chapter, to attend him in Spiritual Matters. 2 Roll. Rep. 424. 3 Ca. 75. The Bishop hath a Power of Vindicting the Dean and Chapter: But the Dean and Chapter have nothing to do with what the Bishop transacts as Ordinary. 3 Rep. 75. Though the Bishop and Chapter are but one Body, yet their Powers are for the most part divided; as the Bishop hath his Part in Right of his Bishopric; the Dean hath a Part in Right of his Denary; and each Prelacy hath a certain Part in Right of his Prebend; and each too is incorporated by himself. And Deans and Chapters have some of them Ecclesiastical Jurisdiction in several Parishes, (besides that Authority they have within their own Body) executed by their Officers; also temporal Jurisdiction in several Manors belonging to them, in the same Manner as Bishops, where their Stewards keep Court, &c., 2 Roll. Abr. 229. It has been observed, that though the Chapter have distinct Parcels of the Bishop's Estates assigned for their Maintenance, the Bishop hath little more than a Power over them in his Visitation, and is scarce allowed so much as a third of the rents of the manors, which were originally of his Family: But of common Right it is said he is their Patron. Roll. Ibid. Ques. de Planta Jusitices in Selestion, &c. See Chapters, and Chapteries.

Charge and Discharge, A Charge is said to be a Thing done that binds him that doth it, or that which he has committed; whereas a Discharge is the Removal, or taking away of that Charge. Terms de Ley. Land may be charged divers Ways: as by Grant of Rent out of it, by Statutes: Judgments, Conditions, Warranties, &c. Lands in Fee-simple, may be charged in Fee; and where a Man may dispose of the Land itself, he may charge it by a Rent, or Statute, one way or other. Lev. X. 29. More Ca. 129. Dyer 10. If one charge Land in Tail, and Land in Fee-simple, and die; the Land in Fee only shall be chargeable. Br. Ca. 5. Lands sold may be charged in Fee, if the Estate be cut off by Recovery: If Tenant in Tail charge the Land, and after Lewy a Fine or suffer a Recovery of the Lands, to his own Life; this confirms the Charge, and it shall continue. 1 Ca. Rep. 61. A Tenant for Life charge the Land, and then makes a Feoffment to a Stranger, or doth Waive, &c. whereby it is forfeited, he is in Recovery, and sells, and if he one have a Lease for Life or Years of Land, and grant a Rent out of it; if after he forfendeth his Estate, yet the Charge shall continue so long as the Estate had endured, in case it had not been surrendered. 1 Rep. 67. 145. Dyer 10. If a Feme Sole Lessee for Years takes Husband, and he charges the Land and dies, the may avoid it: for the Husband might have given or forfeited, but he may not charge it. Br. Ca. 41. If one Joint-tenant charge Land, and after release to his Companion and die, the Survivor shall hold it charged; But if it had come to him by Survivalship, it would be otherwise. 6 Rep. 76, 1 Spec. Abr. 325. He that hath a Remainder or Reversion of Land, may charge it; because of the Possibility that the Land will come into Possession, and then the Possession shall be charged. But whereas one leaves Land for Life, and grants the Reversion or Remainder over to A. B. who charges the Land, and die, and the Tenant for Life is Hear to the Fee: in such a Case, he shall hold is discharged, for he had the Possession by Purchase, though he had the Fee by Difburthen. Br. 11, 16, 1 Rep. 62. If a Rent be sitting out of a House, &c. and it falls down, the Charge shall remain upon the Soil. 9 El. 4. 20. But when the Estate is gone upon which the Charge was grounded, there generally the Charge is determined. Ca. Lit. 549. And in all Cases where any Executory Thing is created by Deed, there by Consent of all the Parties it may be by Deed defeated and discharged. 10 Rep. 495. Vide Difburthen.

Charitable Corporation, A Society of Persons in the late Reign obtained a Statute to lend Money to Indigent Poor, at 5 l. per Cent. Interest on Pawns and Pledges, to prevent their falling into the Hands of the Pawn-brokers, and therefore they were called the Charitable Corporation: But they likewise took 5 l. per Cent. for the Charge of Offices and Warehouse. And in the fifth Year of King Geo. 2. the chief Officers of this Corporation, by Coninance of the Principal Direction, abscended and broke, and defrauded the publick Proprietors of great Sums; for Relief of the Sufferers wherein, as to Part of their Losses, severa! Statutes were made and enabled. See Stat. 5 Geo. 2. cap. 51, 52. 7 Geo. 2. cap. 11.

Charity, Where any Lands, &c. are given to Charitable Uses, Commissions of Inquiry, and Deeds how made and taken, &c. See Charities and Morernain. Stat. 9 Geo. 2.

Charity, Are Fit coal when charred or chalked, as called in Vorsteofheere; as Sea-coal thus prepared at Newcastle is called Coal.

Charter, A Card or Plait which Mariners use at Sea, mentioned 14 Car. 2. c. 53.

Cartell, (Fr. Cartel) A Letter of Defence, or Challenge to a single Combat in Uie herefore to decide difficult Controversies at Law, which could not otherwise be determined. Blount.

Chatter, (Lat. Charit, Fr. Charras, i. e. Infra- mors) Is taken in our Law for written Evidence of Things done between Man and Man: Whereas Bracton, lib. 2. cap. 26. says thus, Fiant aliquando Donationes in Scriptis, iust in Charitau, ad perpetuum rem memoriam. propter eorum bonam, honorem, et vitam, et bonum, &c. Briton in his 59th Chapter divides Charters into three of the King, and those of private Persons. Charters of the King are such whereby the King pritch any Grant to any Person or Body Politically, as a Charter of Exemption, of Privilege, &c. Charter of Pardon, whereby a Man is forgiven a Felony, or other Office committed against the King's Crown and Dignity;
nity; and of these there are several Sorts, viz. Charter Pardonnuii, Ulgariis, Charta Pardonnii & De- ferentia. See Charta. 23, 27, &c. Charter of the Forth, wherein the Laws of the Forth are compiled, such as the Charter of Commons, &c. See 359, 361, &c. Charters of Privy Purse are Deeds and Instruments for the Conveyance of Lands, &c. And the Purchaser of Lands, shall have all the Charters, Deeds and Evi- dences as incident to the same, and for the Mainte- nance of his Title, Ca. Litt. 6. Charters belong to a Feoffor, although they be not fold to him, where the Feoffor is not bound to the general Use, but, of the Use of the Land; for these shall belong to the Feoffor, if they be sealed Deeds or Wills in Writing; But other Charters go to the Tertennant. Mun. Ca. 638. The Charters belonging to the Feoffor in cafe of Death, they have, whether he hath Land by Difcnt, for the Pufhlicity of Difcent after. 1 Rep. 1.

Catherine, in Ciphers, a Freethmad is called by this Name, and 42. 30. 31. 

Charttery, (Tierra per Chartum) Is such as a Man holds by Charter, that is by Evidence in Writing thereto. 3 Inf. 573. This in the Time of the Saxons was called Beckett, which was held (according to Lombard) with more commodious and easy Conditions than Folluard was, i.e. a Man held in Writing; because that was Harredican, free, absolute immunity; whereas, Folluard fines fines per legem perbatum annam, atque officiaw generalissimae, &c. Priorum, nisi placuamque, quisvis ad justitiam, &c. Quarter.- Charttery, (Lat. Chartteri pascere, Et. Chartteri parti, i.e. Deed or Writing divided) is whatamong Merchants and Sea-faring Men, we commonly call a Pair of Indentures, containing the Covenants and Agreements made between them, touching their Merch- andand maritime Affairs. See Charttery, &c. Chartter-party is an Affrayment of certain Agreements, as to the Cargo of Ships, and bind the Master to deliver the Goods in good Condition at the Place of Discharge, according to Agreement: and the Master sometimes obliges himself, Ship, Tackle and Furniture for Performance. The Common Law confers Charter-parties, as near as may be, according to the Intention of them, and not according to the literal Sense of Traders, or that merchant by Sea, but they must be regularly pleaded. In Covenant by Charter-party, that the Ship should return to the River of Thames, by a certain Time, Dangers of the Sea excepted, and after the Voyage, and within the Time of the Return, the Ship was taken upon the Sea by Pirates, so that the Master could not return at the Time men- tioned in the Agreement: it was adjudged that this Impediment was within the Exception of the Charter-party, which extends as well to any Danger upon the Sea by Pirates and Men of War, as Dangers of the Sea. By Shipwreck, Tempest, &c. See Chartter-party, 23, 7, 12, 25, Alb. 248. A Ship is freighted at so much per Month that the shall be out, covenanted to be paid after her Arrival at the Port of London; the Ship is call away coming up from the Port of London, is all preserved, the Freight shall in this Case be paid; for the Money be- comes due Monthly by the Contrail, and the Place mentioned is only to be settled where the Money is to be paid, and the Ship is admittance to Wages, like a Mariner that serves by the Month, who if he dies in the Voyage, his Executors are to be refunded pro rata. Avice de Flor. Maritima, 25o. If a Part owner of a Ship refuse to join with the other Owners in setting out of the Ship, he shall not be entitled to his Share of the Profit or Loss; but the Right of the Admiralty, the other Owners ought to give Security if the Ship perish in the Voyage, to make good to the Owner

standing out his Share of the Ship. Sir Lionel Tenby, in a Case of this Nature, certified that by the Law infr.-

ment of 23, 578, 276, &c. Charter of the Forth, wherein the Laws of the Forth are compiled, such as the Charter of Commons, &c. See 359, 361, &c. Charters of Privy Purse are Deeds and Instruments for the Conveyance of Lands, &c. And the Purchaser of Lands, shall have all the Charters, Deeds and Evidences as incident to the same, and for the Maintenance of his Title, Ca. Litt. 6. Charters belong to a Feoffor, although they be not sold to him, where the Feoffor is not bound to the general Use, but of the Use of the Land; for these shall belong to the Feoffor, if they be sealed Deeds or Wills in Writing: But other Charters go to the Tertennant. Mun. Ca. 638. The Charters belonging to the Feoffor in case of Death, they have, whether he hath Land by Difent, for the Possibility of Dissent after. 1 Rep. 1.

Catherine, in Ciphers, a Freethread is called by this Name, and 42. 30. 31. 

Charttery, (Tierra per Chartum) Is such as a Man holds by Charter, that is by Evidence in Writing thereto. 3 Inf. 573. This in the Time of the Saxons was called Beckett, which was held (according to Lombard) with more commodious and easy Conditions than Folluard was, i.e. a Man held in Writing; because that was Harredican, free, absolute immunity; whereas, Folluard fines fines per legem perbatum annam, atque officiaw generalissimae, &c. Priorum, nisi placuamque, quisvis ad justitiam, &c. Quarter.

Chartter-party is an Affrayment of certain Agreements, as to the Cargo of Ships, and bind the Master to deliver the Goods in good Condition at the Place of Discharge, according to Agreement: and the Master sometimes obliges himself, Ship, Tackle and Furniture for Performance. The Common Law confers Charter-parties, as near as may be, according to the Intention of them, and not according to the literal Sense of Traders, or that merchant by Sea, but they must be regularly pleaded. In Covenant by Charter-party, that the Ship should return to the River of Thames, by a certain Time, Dangers of the Sea excepted, and after the Voyage, and within the Time of the Return, the Ship was taken upon the Sea by Pirates, so that the Master could not return at the Time mentioned in the Agreement; it was adjudged that this Impediment was within the Exception of the Charter-party, which extends as well to any Danger upon the Sea by Pirates and Men of War, as Dangers of the Sea. By Shipwreck, Tempest, &c. See Chartter-party, 23, 7, 12, 25, Alb. 248. A Ship is freighted at so much per Month that the shall be out, covenanted to be paid after her Arrival at the Port of London; the Ship is call away coming up from the Port of London, is all preserved, the Freight shall in this Case be paid; for the Money becomes due Monthly by the Contrail, and the Place mentioned is only to be settled where the Money is to be paid, and the Ship is admittance to Wages, like a Mariner that serves by the Month, who if he dies in the Voyage, his Executors are to be refunded pro rata. Avice de Flor. Maritima, 25o. If a Part owner of a Ship refuse to join with the other Owners in setting out of the Ship, he shall not be entitled to his Share of the Profit or Loss; but the Right of the Admiralty, the other Owners ought to give Security if the Ship perish in the Voyage, to make good to the Owner.

Form of a Charter party of Affrayment.

This Charter-party indented, made, &c. between

A. B. (c. 4. Mercator, Master and Owner of the good Ship V. on attends as and by the said parcel of the said V. as the said Master and Owner of the said V., to the said A. B. for the said V. as close as, &c. of the Bore of two hundred THORS, or there-abouts, of the said V., to the said A. B. and the said V., to the said A. B. for the said V. as close as, &c. See Charttery, &c. From the Port of London, in, &c. in a Voyage to be made by the said A. B. with the said V., in manner hereunder manganese. 19, 3, 7, 13.

The said A. B. and the said V., to the said A. B. as close as, &c. of the Bore of two hundred THORS, or there-abouts, of the said V., to the said A. B. for the said V. as close as, &c. See Charttery, &c. From the Port of London, in, &c. in a Voyage to be made by the said A. B. with the said V., in manner hereunder manganese. 19, 3, 7, 13.

The said A. B. and the said V., to the said A. B. as close as, &c. of the Bore of two hundred THORS, or there-abouts, of the said V., to the said A. B. for the said V. as close as, &c. See Charttery, &c. From the Port of London, in, &c. in a Voyage to be made by the said A. B. with the said V., in manner hereunder manganese. 19, 3, 7, 13.
Chariot Reddenbach, Is a Writ which lies against him that hath Charters of Feoffment entailed to his Keeping, and refieth to deliver them. Reg. Orig. 39.

Chafes, (Fr. Chafes) In its general Signification is a great Quantity of woody Ground lying open, and privileged for wild Beasts, and wild Fowl: And the Heads of such (Chafes) properly extend to the Back, Doe, Fox, &c. and in common and legal Sense to all the Beasts of the Forest. 1 Sty. 253. But if one have a Chafe within a Forest, and he kill or hurt any Stag or Red Deer, or other Beasts of the Forest, he is sensible. 1 Jam. Rep. 278. A Chafe is of a middle Nature, between a Forest and a Park, being commonly held less than a Forest, and not endowed with so many Liberties, as the Courts of Attachment, Swaminote and Justice-Seat; though of a larger Compass, and stored with greater Diversity both of Keepers, and wild Beasts or Game, than a Park. A Chafe differs from a Forest in this, because it may be in the Hands of a Subject, which a Forest is in its proper and true Nature cannot be to a good Chafe, in before it is not enclosed, and hath a greater Compass, and more Variety of Game, and Officers likewise. Compl. in his Jr. 237. fol. 148. says, A Forest cannot be in the Hands of a Subject, much less staked out, and becomes a Chafe: But fol. 197. he says, A Subject may be Lord and Owner of a Forest, which though it seems a Contradiction to what has been before said, yet this is the true Case: For the King may give or alienate a Forest to a Subject, so as when it is once in the Subject, lothes the true Property of a Forest, because the Courts called the Judges-Sheat, Swaminote, &c. do forthwith vest, none being able to make a Lord Chief Justice in Eyre of the Forest, but the King, yet it may be granted in so large a Manner, as there may be Attachment, Swaminote, and a Court equivalent to a Justice-Seat.

Moreover, part 2. c. 3, 4. A Forest and a Chafe have different Officers and Laws: Every Forest is a Chafe, Guidden ample; but any Chafe is not a Forest. A Chafe is an common law Legend, and not to be guided by the Forest Laws; and it is the same of Parks. 4 Sty. 512. A Man may have a free Chafe, as belonging to his Manor, in his own Hands, as well as a Warren and a Park in his own Grounds: For a Chafe, Warren and Parks are collateral Inheritance, and not falling out of the Seat; and therefore if a Person hath a Chafe in other Men's Grounds, and after purchase the Grounds, the Chafe remains. Ibid. 318. If a Man have a free Chafe, he may cut his Timber and Wood growing upon it, without the View or Licence of any, though it is not aof a Forest: But he cut so much that there is not sufficient for Covert, and to maintain the Heath of the Trees, he must have Licence of the King: And so if a common Person hath a Chafe in another's Soil, the Owner of the Soil cannot deliver all the Covert, but ought to leave sufficient thereof, and allow Brown Wood, as hath been accustomed. 1 Rep. 22. And it has been adjudged, that within such Chafes, the Owner of the Soil by Precipitation may have Common for his Sheep, and Warren for his Coyes; but he cannot forcharge with more than has been usual, nor make Carrier Burrows in other Places than has been said. Ibid. If a free Chafe be inclosed, it is said in a Fish Act. 33 Geo. III. 582. and to this, if the Hands is not lawful to make a Chafe, Park or Warren, without Licence from the King under the Broad Seal.

Chafes, An hunting Harle. —Dorsetshire Submit fellow Chafon, &c. Leg. Will. 1. cap. 22. And in another Chapter it is wrtten Cambridge.

Chafffollower, A noble Woman: Quasi caffelli Do- mina.

Challiss (Fr. Challie) Comprehend all Goods movable and immovable, except such as are in Nature of Feoffed, as Parcell of it. The Norman call movible Goods only Chattel; but this Word by the Common Law extends to all movible and immovable Goods: And the Civilists denominate not only what we call Chattel, but also Land, all under Bone. But no Estate of Inheritance or Freehold, can be termed in our Law Goods and Chattel; though a Lease for Years may pass as Goods. Chattell are either Personal or Real; Personal, as Gold, Silver, Plate, Jewels, Household-Stuff, Goods and Wares in a Shop, Corn flown on the Ground, Cart, Ploughs, Coaches, Saddles, &c. Castle, as Horlies, Oxen, Kine, Bullockes, Sheep, Figs, and all tame Fowls and Birds, Swans, Turkeys, Geese, Poultry, &c. and these are called Personal in two Kepelts, one because they belong immediately to the Person of a Man and the other, for that being any Way injuriously withheld from us, we have no means to recover them but by Personal Action. Chattell are also either Real, as either appraisals not immediately to the Person, but to some other Thing by Way of Dependency, as a Box with Charters of Land, &c. or such as are left out of some movable Thing, a Lease for Years, as a Lease for Rent for Term of Years: And Chattells Real concern the Realty, Lands and Tenements, Leases for Years, Interest in Adovosions, in Statutes-Merchants, &c. Also and also include Cont. and Cont. of Cont. &c. 1 Rep. 118. Nep. Max. 41. But Deeds relating to a Freehold, Obligation, &c. which are Things in Action, are not reckoned under Goods and Chattell; though if Writings are pawned, they may be Chattells. And Money hath not been accounted Goods or Chattell, nor are Hawks or Hounds such, being free Naturals. 2 Rep. 33. Termes de Ley 103. Erich. 32. Personal Chattell is usually taken for Money, Goods, Bonds, Leases for Years, &c. And Chattell Personal are not only movable and immovable, but some are animates, as Horlies, &c. and others insensate, as Beds, &c. A Collar of SS, Garter of Gold, Buttons, &c. belonging to the Dresses of a Knight of the Garter, are not Jewels as such by that Name in Personal Effect, but Legal of Honour. Dyer 59. The Law will not suffer the Devise of a Personal Chattell, with a Remainder over: but a Devise of a Chattell Real, with Remainder over, hath been. In some Cases adjacent good in Equity. 2 And. 185. The Use of Personal Things, such as Plate, Jewels, &c. may be given to one, and the Remainder to another; and in that Case the Property is vested in the last Devisee. Owen 33. But a Devise of the Use of Money, hath been adjudged a Devise of the Money in itself; and a Devise of the Use of Books, Medals, &c. and Limitation thereto have been declared void. 2 Chas. Rep. 167. 1 Chas. Rep. 119. Chattels Personal are immediately upon the Death of the Tenant, to be seized by the Executors, as the Law will adjudge, they are as never to be a Distance from him; Chattell Real, as Leases for Years of Houses, Lands, &c. are not in the Possession of the Executors till be make an Issue, or hath recovered the same; except there be a Lease for Years of Tithers, where no Entry can be made. Nolf. Aftr. 437. Leases Real years, though for 1000 Years; Leases at Will, Estates of Tenancy by Elys, &c. are Chattells, and shall go to the Executors: All Obligations, Bills, Statutes, Recognisances and Judgments, shall be as a Chattell Real, in Case of the Death of the Tenant, and the Devise of the Chattell Real, as the Law will adjudge, though they are not in the Possession of the Executors to be taken by the Executors, for they are Chattells till they be cut and leveled, but Partition of the Inheritance. 4 Rep. 63. Dyer 273. The Game of a Park with the Park, Fish in the Pond, and Doves in the House, with the House, go to the Heir, &c. and are not Chattells: Though if Pigeons, or Deer, are tame, or kept alive in a Room or if Fish be in a Tank, &c. go to the Executors as Chattells. Nolf. 124. 1 Rep. 50. Keb. 88. An Owner of Chattells
Chetham's is said to be possest of them; as of Frobisher the Term is, that a Person is "special" of the same.

Chauviere, A Kind of Tamecure mentioned Par. 3 Ed. 2. To the Hospital of Bredy in the Life of Gurney, Blount.

Chaucer, A Singer in a Cathedral. See Chaucer.

Chester, A Roll or Book containing the Names of such as are Attendants and in Pay to the King or other great Personages, as their Household Servants. Stat. 15 Car. 2. cap. 1. It is otherwise called the Chester Roll, and seems to take its Etymology from the Exchequer. 14 Hen. 8. c. 13.


Chelfia, A College shall be erected at Chelmsford, and a Trench made to convey Water from the River Les to London, to maintain the same, by Stat. 7 Jac. 1. c. 9. By late Statutes concerning the Army, one Day's Pay in a Year is to be deducted out of every Officer and Soldier's Pay, for Chelmsford Hospital. Stat. 3 Will. Q. 2. and R. Gr. 1. 1241, 22 Hen. 3. c. 203.

Chep, An uncertain Quantity of Merchandise, Wine, &c.

Chesterfield, Where Felony, &c. is committed by any Inhabitant of the Palace of Chelmsford, in another County, Proceeds shall be made to the Exigent where the Offence was done, and if the Offender then fly into the Country of Chelmsford, the Outlawy shall be certified to the Officers there. 1 Hen. 4. c. 18. The Sessions for the County Palace of Chelmsford, is to be kept twice in the Year at Michaelmas and Easter: And Judges of Peace, &c. in Chelmsford shall be assisted by the Lord Chancellor. Stat. 17 H. 8. c. 5. 53 H. 8. c. 53. Recognisances of Statutes Merchant may be acknowledged, and Fines levied before the Mayor of Chelmsford, &c. for Lands lying there. 2 Ed 6. c. 31. But no Writ of Prohibition shall be granted in the County of Chelmsford. See County.

Chesterfjord, (Cheverfield, from the Fr. Chevres, i.e. Caput) Is a Tribute or Sum of Money formerly paid by such as held Lands in Villeinage to their Lords in Acknowledgment, and was a Kind of Head or Poll Money. Of which Breton, 1. cap. 10. 39 says thus; Chevrigium dicium recognitum in varios Subiectus Domini et capitibus tam. Lambard writes this Word Cheverje; but it is more properly Chevres. And especially the "vous," which they were admitted to live in England, paid Chevres or Poll-Money to the King, as appears by Par. 3 Ed. 1. par. 1. It forms also to be used for a Sum of Money, yearly given to a Man of Power for his Protection, as a Chief Head or Leader; But the Lord God says, that in this Signification, it is a great Misfortune to a Subject to take Sum of Money, or other Gifts yearly of any use, in Name of Chevres, because they take upon them to be their Chief Heads or Leaders. Cai. Lii. 140.


Cheverell, (Cheverellis) A Young Cock, or Cock-ling. Par. 15 H. 3.

Cheverell, From the Fr. Cheveree, i.e. Fiere a Chief de guépez chief, to come to the Head or End of a Business) Signifies an Agreement or Composition made at an End or Order for down between a Creditor or Debtor; or sometimes an indirect Gain in Point of Uly, &c. In our Statutes it is often mentioned, and most commonly used for an unlawful Bargain or Contract. Stat. 37 Hen. 8. c. 13 Ed. 5. 58 21 Jac. 1. c. 17. and 12 Car. 2. c. 15. Cheverell and Cheverellis, Are Heads of sheeped Lands. Novum Astrum Terrae cum Cheverellis et ejus pertinêntibus. Mon. Angi. Tom. 2. f. 115.
CHI

Chirographer of Arms (Chirographer Finium & Cancellarium, of the Greek Synodicon, &c.) is a Chirographer of Arms, of Xiph. Manus a Hand, and yapus, Scriba, to write, a Writing of a Man’s Hand) Signifies that Officer in the Common Pleas which signified in his acknowledgment in that Court into a perpetuum record, after they are examined and passed in the other Offices, and that writes and delivers the Indentures of them to the Party: And this Officer makes one two Indentures for one, another for the Seller; and also makes one other indentured Piece, containing the Effect of the Fine, which he delivers to the Coda Brevium, which is called the End of the Fine. The Chirographeur likewise, or his Deputy, proclaims all the Fines in the Court every Term, according to the Statute, and enunciates the Proclamation upon the Backside of the Feet thereof; and always keeps the Write of Covenant, and Note of the Fine: And the Chirographeur shall take but 4l. Fee for a Fine, in Paier for his Office, &c., Stat. 2 Hen. 4, c. 8, 32 Edw. cap. 3, 2 Inst. 468.

Chibralty, (Seruorum Militum) Comes from the Fr. Chivalier, and in our Law is used for a Tenure of Lands by Knights Service; whereby the Tenant was bound to perform Service in War unto the King, or the Major Lord of whom he held by that Tenure. And Chivalry was either General or Special, General, where it was only in the Feoffment that the Tenant held for servitium militum, without any Specification of Serjeanty, Esgrove, &c. Special, when it was declared particularly by what Kind of Knight Service the Land was held. For the better Understanding of this Tenure, it has been observed, that there is no Land but is held militiam immediately of the Crown, by some Service; and therefore all our Freeholds that are to us and our Heirs, are called Feoda or Feoda, Fees, as proceeding from the King, for some small yearly Rent, and the Performance of such Services as were originally laid on the Land at the Donation thereof for as the King gave to the great Nobles, his immediate Tenants, large Feodums for ever, to hold of him for this or that Office or Fee, to do in Time parcelled out to such others as they liked the same Lands, for Rents and Services as they thought good: And their Services were by Librarium divided into two Sorts, Chivalry and Scewage, the First whereof was Martial and Military, the other Rudical: Chivalry therefore was a Tenure of Service, whereby the Tenant was obliged to perform some noble or military Office unto his Lord, being of two Kinds, either Real, that is held only of the King, or common, where held of a common Permon: That which must be held of the Common Permon of the King was called Seruorium or Serjeanty, and was again divided into Grand and Petit Serjeanty; the Grand Serjeanty was where one held Lands of the King by Service, which he ought to do in his own Person, as to bear the King’s Banner or Spear, to lead his Holf, or to find a Man at Arms to fight, &c. Petit Serjeanty was when a Man held Lands of the King, to yield him annually some small Thing towards his Wars, as a Sword, Dagger, Bow, &c. Chivalry that might be held of a common Permon, was termed Scaregym, Esgrove, that is Service of the Shield, which was either uncertain or certain: Esgrove uncertain was likewise twofold, first, where the Tenant was bound to follow his Lord, going in Permon to the King’s Wars, either himself or sending a following or the Service due to him in his Place, there to be maintained at his Cost to long as was agreed upon between the Lord and his first Tenant, at the Granting of the Fee; and the Days of such Service seem to have been rated by the Quantity of Land to do holden, as if it extended to a whole Knight’s Fee, then the Tenant was to follow his Lord forty Days; and if but to Half a Knight’s Fee, then twenty Days; if a fourth Part, then ten Days, &c. and the other Kind of this Esgrove was called Castleward, M in where
where the Tenant was obliged by himself or some
other than the landlord to repair the
Cottage, as often as it should come
to his Turn; and these were called 
Cottage uncertain; because it was uncertain how often a Man should 
be called to follow his Lord to the Wars, or to defend a Castle, and what his Charge would be therein. Easement 
certain was where the Tenant was set at a certain
Sum of Money to be paid in Lieu of such Service; as
that a Man should yearly for every Knight’s Fee 
twenty Slingings, for Half a Knight’s Fee ten Shil-
ings, or some like Rate; and this Service, because it
draws to a certain Rent, groweth to be of a
mist Nature, not merely Sogen, and yet Sogen in
Effect, being now neither Personal Service nor uncertain.

Littleton. The Tenure called Chevstry had other
Conditions annexed to it; but there is a great Altera-
tion made in these Things by the Stat. 11 Car. 2. c. 24, which enacts that Tenures by Knights Service of the
King, or any other Person, in Capite, &c. and the
Fruit and Interest thereof happened, which
shall or may happen or arise thereupon, or thereby,
taken away and discharged; and all Ten-
ures shall be confined and adjudged to be free and
common, in case any Person shall come to him when recovered; or by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more
than a Letter of Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282. A Man may authorize another to sue for a Debt
due by Specialty in his Name, and by Agreement with Power of
Attorney to receive and sue in the Assignor’s Name,
so that though in this Case a Chevstry in Action is laid to be
affordable, yet it amounts to little more than a Letter of
Attorney to sue for the Debt. 4 Woods, &c. 282.
CH

Church, (Estotia) Is a Temple or Building con-
secrated to the Honour of God and Religion, and
anciently consisting of some Sain1, whose Name it
assumed; or it is an Assembly of Persons united
by the Profession of the same Christian Faith, met toge-
ther for Religious Worship and it has Adminis-
tration of the Sacraments and Sequester it is law
adjudged a Church. If the King founds a Church, he
can exempt it from the Ordinary's Jurisdiction; but
its otherwise in Case of a Subject. Though the
founding Church in ancient Times was, after the
Founders had made their Applications to the Bishop
of the Diocese, and had his Licence; the Bishop or
his Commandments set up a Cross, and set forth the
Church-yard where the Church was to be built; and
then the Founders might proceed in the building of the
Church, and when the Church was finished, the
Bishop was to consecrate it, and then and not before the
Sacrameats were to be administered in it. Stilling-
field's Ecclesiast. Cosmo. But by the Common Law and
Custom of this Realm, when any Good Christian
may build a Church without Licence from the Bish-
op, so it be not prejudicial to any ancient Churches;
though the Law takes no Notice of it as a Church,
till consent be given by the Bishop. It is the Reason
why Church and no Church, &c. is to be tried and
certified by the Bishop. And in some Cales, though a
Church be not at all; it must be consecrated again;
as in case any Murder, Adultery, or Fornic-
ation be committed in it, whereby it is defiled; or if
the Church be destroyed by Fire, &c. The ancient
Ceremonies in consecrating the Ground on which the
Church was intended to be built, and of the Church
itself after it was built, were these: When the Mat-
erials were provided for Building, the Bishop came
in Person to the Place, &c. and having prayed, he
then performed the Ground with Incense, and the Peo-
ple sung a Collect in Praise of that Saint to whom the
Church was dedicated: then the Corner-Stone was
brought to the Bishop, which he crossed, and laid for
the Foundation: And a great Feast was made on that
Day, or on the Saint's Day to which it was de-
dicated; but the Power of Consecration was left to the
Direction of the Bishop, as it is at this Day. Some
Bishops, who have consecrated Churches, on entering
into them have prolonged the Place to be holy, in the
Name of the Father, &c. then with their Nimbus
of grave Divines went round the Church, repeating
the Hundredth Psalm, and a Form of Prayer, conclu-
sing, We consecrate this Church, and for it apart to
Thee, O Lord Christ, as Holy Ground, &c. After which,
turning to the Communion Table, and having bowed
to it several Times, they pronounced Blessing on those
who should be Benefactors, and Curates against those
who should profane that Place: And then a Ser-
mon hath been preached, and the Sacrament admini-
stered with more common Ceremony of Bowing,
Kneeling, &c. A Church in general confids of three
principal Parts, that is, the Belfry or Steeple, the
Body of the Church with the Ives, and the Chancel:
And not only the Freethold of the whole Church, but
of the Church-yard, are in the Parson or Rector; and
the Parson may have an Allot of Trefips against
any of this Body of the Church, setting the Trees in the
Church-yard or church-yard as in breaking of Seals annexed
to the Church, or the Windows, taking away the Leads,
or any of the Materials of the Church, cutting the
Trees in the Church-yard, making fires in the Church,
Church-yard, or in the Church-yard; or in the Bells,
Books, and other Ornament, and the Goods of the
Church, is in the Parishes; but in the Cu-
body of the Church-wardens, who may maintain
Brethren of the Podesta, or Office, or house wrongly
take them away. 1 Roll. Rep. 255. If a Man ered
a Pew in a Church, or hang up a Bell, &c. therein,
then the Bishop, or Church-wardens, though he ex-
plicitly given the Church; and he may not after-
wards remove them. Stat. 10 H. 4. The Parson only
is to give Licence to bury in the Church; but for
defacing a Monument in a Church, &c. the Builder or
Heir of the Deceased may have an Action. 2 Cre-
357. And a Man may be indicted for digging up the
Graves of Persons buried, and taking away their Bu-
rial Dresses, &c. The Property whereby remains,
the Parry who was the Owner when used, and 'tis said
an Offender was found guilty of Felony in this Case,
but had his Clergy. 3 Ed. 115. Though the Par-
son hath the Freehold of the Church, he hath not the
Fee-simple, which is always in Abeyance; but in
some Receipts the Parson hath a Fee-simple qualified.
Litt. 644, 645. The Life of the Body of the Church,
and the Seats fixed to the Freehold, is common to all
the Parishes that pay to the Repair thereof. The
Chancel of the Church is to be repaired by the Par-
son, unless there be a Covenant to the contrary; and
for those Repairs, the Parson may cut down Trees in
the Church-yard, but not otherwise. 35 Ed. 1. The
Church-wardens are to see that the Body of the Church
and Steeple are in Repair; but not any Style, &c.
which any Person claims by Preemption, to him or
his House. Concerning which Repairs the Canons re-
squire every Person who has a House to hold Eccle-
siastical Visitation, to view their Churches within their
Jurisdictions once in three Years, either in Person, or
cause it to be done; and they are to certify the State of
the Churches to the Ordinary, and the Names of those
who ought to repair them; and these Repairs must be
done by the Church-wardens, at the Charge of the Parishes.
Can Bk. 1. Med. 256. By the Common Law, Parishes of every Parish are bound to repair the
Church: But by the Canon Law, the Parson is obli-
ged to do it and to do it in Foreign Countries.
1 Salk. 164. In London the Parishioners repair the
church and the Chancel. The Spiritual Court
may compel the Parishioners to repair the Church,
and communicate every one of them till it be re-
paired; but those that are willing to contribute shall
be absolved till the greater Part agree to a Tax,
when the Excomunication is to be taken off; but the
Spiritual Court cannot fix the Tax, as the Law
1 Med. 194. 1 Vent. 567. For though this Court
hath Power to oblige the Parishioners to repair by
Ecclesiastical Orders; yet they cannot appoint what
sum, or for a Rate, for that must be settled by the
Church-wardens, &c. 2 Med. 8. Where a Church is
so much out of Repair, that 'tis necessary to pull it
down, in such Case, upon a general Warning to the
Parishioners, the major Part meeting may make a
Rate for pulling it down, and rebuilding it on the
old Foundation, and they will be good; and if any Par-
ishioner refuse to pay his Proportion, they may libel
against him in the Ecclesiastical Court. 2 Med. 222.
And if a Church be down, and the Parish is increased,
the greater Part of the Parish may raise a Tax for the
necessary Intermingling it, as well as the Repairing
thereof, &c. 1 Med. 237. But in some of our Bocks
it is said, if a Church falls down, the Parishion-
ners are not obliged to rebuild it; though they ought
to keep it in due Repair. 1 Vent. 35. In a Case
where Church-wardens made a Rate for Repairs of the
Church, it was above the Parishioner ought to suffer
the Rate, and they are bound to repair the
Church. 1 Salk. 165. Church Rates for Repairs, are
to be made by the Church-wardens and the major
Part of the Parishioners, which shall be held by
the Deputy, after a general Notice given; and if the Parishioners
refuse or neglect to meet, upon such Notice; or if on
Meeting they refuse to make a Rate, then the Church-
wardens and Overseers may make a Rate, and
levy it upon the Inhabitants, being first confirmed
by the Ordinary or Archdeacon. And Rates for re-
pairing of Churches, &c. are Ecclesiastical Exces-
sions; and so be recovered in the Ecclesiastical Court.
Alfo
CH

CH

Alfo if a Parifh is unequally rated, thofe who are greater must be fixed in the Spiritual Court, where they are fixed. 1 Titus. 357. 1 & 2 Att. 201. These Rules must be made upon the whole Parifh, and not on particular Persons; and the Charge is in Reifeed of the Land, upon every Occupier. C. If the Owner lives in another Parifh, he shall be rated for Repairs in the Parifh where the Lands lie, and not where he lives; for though the Charge is upon the Perfon, yet it is in regard of his Lands: If he let the fame by Leafe, then he shall be charged in Reifeed of the Rest referred, and the Farmer Ball make up the Red. 2 Att. Rep. 270. For Church Ornament, Utensils, C. the Charge is upon the Personal Eftates of the Parifhioners; and for this Reason Perfonls must be charged for theirs where they live: But though generally Lands ought not to be taxed for Ornaments, yet by special Custoin, both Lands and Houses may be liable to it. 2 Lev. 489. Gen. 834. Hebr. 131. It is the Church Minister who is charged for his Land to contribute to the Church Reckonings, if he do not retire in the fame Parifh. Mofi 554. The Common Tables are to be kept in Repair in Churches, and covered in Time of Divine Service with a Carpet, C. And the Ten Commandments to be set up at the East End of every Church or Chapel, and other chosen Sentences of Scripture upon the Walls. And at the common Charge shall be provided a strong Chest with a Hole in the upper Part thereof, having three Keys, of which one shall be kept in the Custody of the Parfon, and the other two by the Churchwardens severally; which Chest is to be fixed in a proper Place in the Church, to collect the Alms for the Poor, and the Alms shall be Quarterly distributed to the Poor, in the Prefence of the Chief of the Parifh. Gen. 82, 83. By Statute, Churches not above fix Pounds a Year in the King's Books, by Affent of the Ordinary, Patron, and Incumbent, may be united: And in Cities and Corporations, C. Churches may be united by the Bishop, Patron, and Chief Magistrates, unless the Income exceeds 100 l per Ann. and then the Parifhioners are contentus. C. 17 Hen. 8. cap. 21. 17 car. 2. cap. 3. For completing of St. Paul's Church, and repairing. Weftminster Abbey, a Duty of 21. per Childen on Coals is granted; and the Arch- bishop of Canterbury, Bishop of London, Lord Mayor, C. are appointed Commissioners: And the Churchyard is to be included, and no Perfon does build therein, except for the Use of the Church. C. 17 Hen. 8. cap. 21. 17 car. 2. cap. 3. A Duty is granted upon Coals, and Commissioners appointed to purchase Lands, afeain Bounds, C. The Refters of which Churches shall be appointed by the Crown, and the first Churchwardens and Vic- yarns, C. are to be elected by the Commissioners. 17 Hen. 8. cap. 22. A Duty is also granted on Coals im- ported in London, to be appropriated for maintaining of Miniflers for the Fifty new Churches. Stat. 1 Gen. 1. cap. 23. A Minifter by Ordination of Priesthood receives Authority to preach in the Church, though he is nevertheless to have a Licence from the Bishop of the Dioces, etc. C. It is to be noted, that a Churchwarden, who has a Trust reposed in him by the Parish as Temporal Officers, they are the proper Judges of their Ability to serve, and not the Archdeacon; and if the Archdeacon refuseth to wear a Churchwarden, a Mandamus shall issue to compel him. 5 Geo. 3. 51. As the Parifhioners chuse Churchwardens, who have a Trust to administer the Church, and to take Care of the Church and Church-yard, and the Things belonging to the fame. They are to be choie by the joint Consent of the Parifhioners and Minifter: and by the Minister the Minifter may choose one, and the Parifhioners another; or by Cuthon the Parifhioners alone may elect both, though it be againft the Canon. 1 Pet. 5. A Churchwarden is to be elected by the Archdeacon; and if the Archdeacon refuseth to wear a Churchwarden, a Mandamus shall issue to compel him. 5 Geo. 3. 51. As the Parifhioners chuse Churchwardens, who have a Trust to administer the Church, and to take Care of the Church and Church-yard. An Archdeacon may be another Cuthon in London, for the Parifhioners to chuse both Churchwardens, except of the Minifters; who is also

c. 2. And if a Parfon in reading Prayers, stand or sit, as he is appointed, whereas the Church is not fixt, C. he is punishable by this Statute. If any Perfon breaks the Book of Common Prayer, C. they shall be imprisoned six Months, and forfeit 100 Marks. Every Perfon who shall refuse to repair his Parifh Church every Sunday, on Pain of forfeiting 11. for every Offence; and bring present at any Place of Prayer used contrary to the Book of Com- mon Prayer, is punishable with fix Months Impris- onment, C. 1 Eliz. cap. 2. 23 Eliz. cap. 1. Perfon

An Indictment for not coming to Church. Wilts, ff. T HE E Juris, etc. that A. B. of M., in the said County, Const. on the Day of, etc. in the Year of the Reign, etc. being of the Age of sixteen Years, and upwards, did not repair to his Parifh Church of M., nor to any other Church, Chapel, or usual Place of Common Prayer and Divine Service, at any Time within the Space of one Month next after the said Day of, etc. in the Year above mentioned, but did willingly and obstinately, without any lawful Excuse, Refuse to attend the Service contrary to the Form of the Statute in such Case made and provided, in Contempt of our said Lord the now King and his Laws, and against the Peace, etc.

Churchwardens, (Erectory Guardians) Are ancient Officers chosen yearly in Easter Week, by the Mini- ster and Parifhioners of every Parifh, to look to and take Care of the Church and Church-yard, and the Things belonging to the fame. They are to be choie by the joint Consent of the Parifhioners and Minifter; and by the Minifter the Minifter may choose one, and the Parifhioners another; or by Cuthon the Parifhioners alone may elect both, though it be against the Canon. 1 Pet. 5. A Churchwarden is to be elected by the Archdeacon; and if the Archdeacon refuse to wear a Churchwarden, a Mandamus shall issue to compel him. 5 Geo. 3. 51. As the Parifhioners chuse Churchwardens, who have a Trust to administer the Church, and to take Care of the Church and Churchyard, and the Things belonging to the same. They are to be choie by the joint Consent of the Parifhioners and Minifter; and by the Minifter the Minifter may choose one, and the Parifhioners another; or by Cuthon the Parifhioners alone may elect both, though it be against the Canon. 1 Pet. 5. A Churchwarden is to be elected by the Archdeacon; and if the Archdeacon refuse to wear a Churchwarden, a Mandamus shall issue to compel him. 5 Geo. 3. 51. As the Parifhioners chuse Churchwardens, who have a Trust to administer the Church, and to take Care of the Church and Church-yard. An Archdeacon may be another Cuthon in London, for the Parifhioners to chuse both Churchwardens, except of the Minifters; who is also
also there excused from repairing the Chancel of the Church. 2 Cor. 515. 1 Isr. 3. 1 Roll. Act. 589. Church-wardens are a Corporation to sue and be sued for the Goods of the Church; and they may purchase Goods, but not land, by Letters, by Coa. And they may have Appeal of Robbery for healing the Goods of the Church. 1 Roll. Act. 583. 2 Cor. Edin. 179. But Church-wardens cannot relate in the Prejudice of the Church: Nor can they dispose of the Church Goods, without the Consent of the Vehry. If they waste the Goods of the Church, the new Church-wardens may have Actions against them, or call them to account before the Ordinary; though the Parishioners cannot have an Action against them for wasting the Goods, for they must make new Church-wardens, who must profess the former, &c. 1 Danv. Act. 278. 1 Cor. 415. Br. Account 1. The Church-wardens are to take Care of the Repairs of the Church; and they may, if they think fit, purchase Goods new to the fame, they must have the Consent of the Parishes or Vehry; and if in the Church the Licence of the Ordinary. 1 Isr. 221. But they have not Power to Office the Ministers, placing the Parishes in the Seats of the Body of the Church, appointing Keepers, &c. referring to the Ordinary; they may give the Goods to the Ministers, the Church-wardens have this Authority in themselves. Particular Persons may prefer a Suit to a Vehry, as belonging to them by Reason of their Estates, as being an ancient Merviage, &c. and the Seats having been constantly repaired by them: Also one may prefer to an Inheritance in the Church, to fit and bury there, always standing the same. 3 Isr. 203. 2 Cor. 306. If the Ordinary disposes a Person claiming a Seat in a Church by Prebendation, a Prohibition shall be granted, &c. 12 Rep. 106. The Parish is independent of a Right to the chief Seat in the Chancel; but by Prebendation another Parishioner may have it. No Pre. The Church-wardens shall suffer no Man to preach within their Churches, without producing his Licence: And they must keep the Keys of the Bellsry, and take Care that the Bells be not rung without good Cause, to be allowed of by the Minister and themselves. Can. 50. 88. Church-wardens are to see that all the Parishioners duly refer to their Parish Church, and there continue during the Time of Divine Service; they are not to permit any to stand idle, walk, or make any Noise in the Church, or to control the Ministers, &c. they may apprehend those that disturb the Minister, &c. and justify the Apposing any Disorder in the Church or Church-yard; they are to chide, bid disorderly Boys, and take off the Hatts of those who would irregularly keep them on. 1 Sound. 13. Further, they must search Alc-houses on Sundays, that there be no Persons therein, during the Divine Service; and execute Warrants against those who profane the Lord's Day. &c. Also levy Penalties on Persons not coming to Church, against Professors of the Church of Scotland; Tithing, &c. and for Drunknefs, Currng and Sweating, &c. by divers Statutes. And they are to present to the Ordinary All things presentable by the Ecclesiastical Laws, which is neither to be removed, nor to be put in Box for Alms in the Church, a Bible, Common Prayer Book, and Book of Canons, a Delph for the Reader, Cushion for the Pulpit, a Common Table, Table Cloth, Cups and Covers for Bread, Flagon and Font, a Regilliner, King's Arms set up, Lord's Prayer, Creed and Commandments in fair Letters, &c. What concerns the Par- fons, it is wholly to be removed. And every Parish once in a Year, and the Canons once in the Year, Preaches every Sunday good Doctrine, reads the Common Prayer, celebrates the Sacraments, preaches in his Gown, visits the Sick, catechizes Children, marries according to Law, &c. And what relates to the Parishioners, is whether they come to Church, and duly attend the Worship of God, if Baptism be neglected, Women not churched, Parfons Married, except it be Declared to be without Banns or Licence, Alms-houses or Schools abated, Legacies given to pious Uses, &c. They must likewise prevent Crimes and Offences, such as Drunk nefs, Fornication, Adultery, Incest, Blasphemy, &c. and by Statute Popish Recusants: And if they refuse to make Prebendates, the Parfons or Vicars, &c. may prefer to the Bishop all Crimes committed in their Parishes. Can. 127. 3 Cor. 291. 1 Nestr. 114. At the End of the Year, the Church-wardens are to yield just Accounts to the Minifter and Parishioners, and deliver what remains in their Hands to the Parishioners, or to the new Church-wardens: In Cafe they refuse, they may be prefented at the next Visitation, or the new Officers may call them to Account before the Ordinary, or sue them by Writ of Account at Common Law. And if all the Parish have allowed their Accounts to the Church Goods, the Ordinary may nevertheless call the Account for him too, and punish them if he find Caufe; but in laying out their Money, they are punishable for Fraud only, not Indictment. If their Receipts fail to the Disbursements, the succeeding Church-wardens may pay them the Balance, and place it to their Account. 1 Roll. Act. 121. Can. 89, 103, &c. Disputes arising about Church-wardens Accounts are to be decided before the Ordinary: And for Disbursements of any Sum not exceeding 40l. the Church-warden of Oath alone is a sufficient Proof, and all Summons. Receipts are to be produced, &c. If Church-wardens through Improvidence, Indiscretion or Negligence, either waste the Church Goods in their Custody, or much defamify the Parfons; on Proof thereof, they may be removed at any Time, by the Authority of the Ordinary. 8 Et. 6. 13 Cor. 70. Besides their Ordinary Power, the Church-wardens have the Care of the Benefice during its Vacancy; and at the time of any Avoidance, they are to apply to the Chancellor of the Diocese for a Sequestration; which being granted, they are to manage all the Profits and Expenses of the Benefice for him that succeeds, plough and sow his Glebe, gather in Tithes, thresh out and sell Corn, repair Hoores, &c. and they must file that the Church be duly served by a Curate approved by the Bishop, whom they are to pay out of the Profits of the Benefice. 2 Isr. 489. And they are to join with the Overseers of the Poor, in making Rates for Relief of the Poor, setting up Trades for employing them, placing out poor Apprentices, letting out poor Parsons, &c. And in the Execution of their whole Office, by Statutes 13 Edw. 14 Car. 2. 1 4 W. 3. &c. It is their Duty to collect the Charity Money upon Brien, which are to be read in Churches, and the Sums collected, &c. to be indemned on the Breviary in Words at Length, and signed by the Minister and Church-wardens; after which, they shall be delivered, with the Money collected to the Parsons undertaking them, in a certain Time, under the Provis that all Money to the Receiver is to be kept of all Money collected, &c. Also the Undertakers in two Months after the Receipt of the Money, and Notice to Sufferers, are to account before a Matter in Chancery, appointed by the Lord Chancellor. Stat. 42 5 Ann. They are to sign Certificates of receiving the Sacrament by Parsons, to qualify them to bear Offices, &c. And in London, within the Bills of Mortality, they must set Fire-Cocks, keep Engines, &c. in their Parishes, under the Penalty of 10l. For the Maintenance whereof, the Parish is to be affected: And the 5th Paragraph, who brings in the fire Engine for the Parish Engine, or other large Engine with a Socket, &c. when any Fire happens, shall be paid as an Encouragement 50l. the Parish that brings in the second Engine.
Church rectors, and of Tyments, Of Contrasts and of Lack of Sacraments.

Circatus, A Watch; from which Circuito Circulatorius Monasterii gesta aut nominis Circius versus, justa mentem Beneficii certis bus circuito debent monasterii officinis.

Circe, A Tribute anciently paid to the Bishop or Archdeacon for visiting the Churches. Da Procure.

Circuitum, Of Circuity of Aliens, (Cirriculum Alienum) Is a longer Course of Proceeding to recover a Thing sued for than is needful: As if a Person grant a Rent-chage of 10l. for Annuity out of his Manor of B. and after the Grantee divides the Grantor of the same Manor, who brings an Affidavit, and recovers the Land, and 10l. Damages: which being paid, the Grantee brings his Action for 10l. of his Rent., but so that he might have received but 10l. only for Damages, and the Grantee might have kept the other 10l. in his Hands by Way of Restitution for his Rent, and so saved his Affidavit, which appears to be needful. Torny de Legibus 127. This Example shews that an Action may be rightfully brought for a Debt or Duty, and yet be wrong: for that it might have been as well otherwise answered and determined.
Circumstella masking. Is the title of a statute made Anno 13 Ed. 1 relating to Prohibitions, prescribing certain cases to the judges, wherein the King's Prohibition lies not. 2 ibid. 487.

Circumstances in law. And signifies in our law the Supply or making up the number of jurors, if any impanelled appear not, or appearing are challenged by either Party, by adding to them so many others that are present or standing by that are qualified as will serve the Turn. Stat. 55 H. 8. cap. 6. The Act of Supplying is usually called a Tact de Circumstella. See Tact.

Citation. (Citation) A summons to appear, applied particularly to proces in the spiritual Court. The Ecclesiastical Court proceeded according to the Course of the Civil and Canon Laws. By Citation, Libel, &c. A Person is not generally to be cited out of the Diocese, or peculiar Jurisdiction wherein he lives; unless in pursuance of the Ordinary or the Curacy, or for the benefit of the Party in suit, in Caes of Appeal, &c. And by Law a Defendant may be cited where he lives, though 'tis for subtrating Tribes of the same, or inferior Dioceses, or from the Bishop or other Ordinary, or from the Bishop, or from the Common, or from the Privy Council, or from the Judge, not to do his Duty in punishing the Offence. Where Persons are cited out of their Diocese, and live out of the Jurisdiction of the Bishop, a Prohibition or Confutation may be granted. But where Persons live in the Diocese, if they are cited they do not appear, they are to be communicated, &c. The True Statute was made to maintain the Jurisdiction of inferior Dioceses; and if any Person is cited out of the Diocese, &c. where the Civil or Canon Law doth not reach him, the Party grieved shall have double Damages. If one defame another within the Peculiar of the Archbishops, he may be pursued there, although he dwell in any remote Place out of the Archbishops' Peculiar. (Citation) 190.

Citation ad infantiam parties. It is mentioned in 26 & 23 Car. 2. for laying impositions on Proceedings at Law.

City. (Civitas) By Creweal is a Town Corporate, which hath a Bishop and Cathedral Church, which is called Creedal. Oppidan and Urbis; Civitas in regard it is governed by Judges and Ordre of Aldemagistry; Oppidum, for that it contains a great Number of Inhabitants; and Urbis, because it is in due Form begin about with Walls. But Cremona in his Jurisdiction, wherein he reckons not the Emphanta Efs, although it hath a Bishop and Cathedral Church; and puts in Wilmminster, though it hath at present no Bishop. And Sin the Synod of Cambridge makes Cambridge a City; yet there is no Mention that it ever was an Episcopal See. Indeed it appears by the Stat. 55 H. 8. cap. 10. that there was a Bishop of Wilmminster; since which, by 27 Eliz. cap. 5, it is termed a City or Borough. And notwithstanding what the Lord Coke observes of Cambridge, by the Stat. 11 H. 7. c. 4. Cambridge is called a Town, and hath a Bishop. And the Synod of Cambridge had in the times of the Saxons there was a City, but all great Towns were called Burghs, and even London was then called London Burgh; as the Capital of Scotland is now called Edinburgh. And long after the Conquest the Wilmminster was used promiscuously with the Burghs, as in the Charter of Lanfiger 'tis said both Creedal and Burghs; which shews that those Writers were mistaken, that the City, as a Bishop called a See. And though the Word City signifies with us such a Town Corporate as hath usually a Bishop and Cathedral Church yet 'tis not always so.
Tomes of the Civil Law we may add the Book of Feuds, which contains the Customs and Services that the Land owes to his Prince or Lord, staple, such Lands or Fees as he holdeth of him. The Constitutions of the Emperor, are either by a Receipt, which is a Letter of the Emperor in Answer to particular Persons who inquire the Law of him: or by Edict, which the Emperor establishes of his own Accord, that it may be generally observed by every Subject; or by Procurer, which the Emperor pronounces between Plaintiff and Defendant, upon hearing a particular Cause. The Power of issuing forth Receipts, Edicts and Decrees, was given to the Prince by the Lex Regia, wherein the People of Rome wholly submitted themselves to the Government of one Person, viz. Julius Caesar, after the Defeat of Pompey, &c. And by this Submission the Prince could not make Laws, but was enfeoffed above all coercive Power of them. The Matters wherein the whole Civil Law is generally exercised, relate either to Per sons in the Courtship of the Em peror, Edict, Edict of the Emperor, to whose legs; or to the Actions whereby Men claim such Things as are due to them by the Law, &c. The Courts are allowed in this Kingdom in the two Universities, for the training up of Students, &c. In Matters of foreign Treaties between Princes; marine Affairs Civil and Criminal; in the Ordering of Marital Causes; the Judgment of Estates may be had in the two Parts, Arms, Rights of Honour, &c. Vide my Treatise of Laws, p. 243. 596.

Claim is in the Name of the Extraordinary Charge of the Civil Lift, viz for paying Debts and Arrears due to his Majesty's Servants, Treasurers, &c. and other Uiles of his Civil Government, 1,000,000 l. was granted by Parliament, by Stat. 11 Geo. 1. c. 1. Vide King's Household.

Clark 404. It is to cut off the Sheep's Mark, which makes it weigh lighter: as to force WD, signifies to clip off the upper and hairy Part thereof; and to braid it, is to cut the Head and Neck from the Rest of the Fleece. Stat. 9 Hen. 3. c. 32.

Clapham, City, Cleve, Clive, from the Brit. City, and the Irish Clu. A Wattle or Hurdle: and a Hurdle for feeding or penning of Sheep, it is filled in some Counties of England called a Clay. Paroch. Antiq. p. 575.

Claretum, A Liquor made of Wine and Honey, clarified or made clear by Decoclo, &c. which the Germans, French and English, called Hippurus: And it was from this, the Red Wines of France were called Clarus.—Ad hoc ejus in taes tabulato antiquo umbra bis videnda, & fieriat, pigmentum, & Claratum mufum & medusum. Girald. Camb. apud Warthon. Ang. Sat. Par. 2. p. 480.

Claim. (Clarum) is a Challenge of Interest in any Thing that is in the Possession of another, or at least out of a Man's own, as Claim by Charter, by Difent, &c. And Claim is either used in the Book or claimed by Words claim and challenge the Thing that is to out of his Possession: or it is by an Action brought, &c. and sometimes it relates in Lands, and sometimtes to Goods and Chattels. Litt. Soc. 490. Where any Thing is wrongfully detained from a Person, this Claim is to be made; and the Party making it, may thereby avow the Right of the Land or Goods: and to declare his Title, which otherwise would be in Danger of being lost. Cl. Litt. 250. A Man which hath present Right, may claim by mail, Ingenium, in a Cafe of Reversion, &c. one may make a Claim where he hath Right, but cannot enter on the Lands: When a Person dare not make an Entry on Land, for Fear of being beaten or other Injury, he may approach as near as he can to the Land, and claim the same: and it shall be sufficient to vell the Siren in him. 1 Itt. 125. 88. When hinder Right to Land, from entering or making his Claim, where he must do it, before he shall be said to be in Pol

feition of it, or can grant it over to another: But where the Party who hath Right, is in Possessed already, and where no Law has made it otherwise. 1 Rep. 157. A Claim will defeat an Estate out of another when the Party must enter into some Part of the Land: but if he be only to bring the Party to the Possession, he may do it in View. By Claim of Lands in mort Caes is intended a Claim with an Entry into Part of the Land, or by a near Approach to it. Ca. Litt. 232, 234. Pith. 67. One in Reversion after an Estate for Years, or after a Statue Merchant, Staple, or Elys, may enter and make a Claim to prevent a Defect, or avoid a collateral Warranty. And Claim of a Remainder by Force of a Condition must be upon the Land, or it will not be sufficient. Ca. Litt. 202. If a Man featt of Lands in Right of his Wife, make a Predomin in her lifetime, and the Husband die, and then the Condition is broken, and the Heirs enter: in this Cafe the Wife need not claim to get Possession of her Estate, for the Law doth well it in her without any Commandment. Ca. Litt. 235. Claim of the particular Tenant, shall be good for him in Reversion or Remainder; and of him in Reversion, if the Party himself, and sometimes by his Servant or Deputy: And a Guardian in Socage, &c. may make a Claim upon the Land of the infant that hath Rights, without any Commandment. Ca. Litt. 235. Claim or Entry should be made as soon as may be; and by the Common Law it is to be within a Year and a Day after the Death of the Parson, &c. and if the Party who hath unjustly gained the Estate, do afterwards occupy the Land, in some Cafe an Affidavit, Trespass, or Forcible Entry may be had against him. Lit. Soc. 346, 430. If a Fine is levied of Lands, Strangers to the same enter and make a Claim within five Years, or be barred: Infantes after their Age, Feme Coverters after the Death of their Husbands, &c. have the like Time, by Stat. 1 R. 3. c. 7. If a Difficult is a Fine, and the Difficult enters his Claim in the Record of the Foot of the Fine, this is not such a Claim as shall avoid the Statue. 4 Hen. 7. c. 24. 1 Litt. 456. Vide the Stat. 4 & 5 Ann. and Continual Claim.

Claim of Liberty, is a Suit or Petition to the King in the Court of Exchequer, to have Liberties and Franchises confirmed there by the King's Attorney General. Ca. Litt. 95.

Clarae admitterrors in Jurisprure per Tumultum, A Writ by which the King commands the Justice to bring before a Jury and to admit a Person's Claim by Attorney who is employed in the King's Service, and cannot come into his own Person. Reg. Or. 19.

Clapboards, by force of Law, order to make Caels or Veils; which shall contain three Foot and two Inches at least in Length: And for every fix Ton of Beer exported, the same Cafe, or a Condition of 200 of Clapboards shall be imported, by Statute 35 El. 1. c. 11.


Clavarius, A Seaman, or Soldier serving at Sea.

Clavus, Ferrum, tapis, Mills & Clavishar. As, in the Town of Clavishar.

Clavus, A Term used in the 1st of Man, when a Man having and weighing Caels are referred to twelve Persons, whom they call Clavus foliae, i. e. the Keys of the Island.
Clavis. In the Inquisition of Serjeants in the 1st and 13th Years of King Jues, within the Counties of Suffolk and Hertford; Boydun Yvelut tcstt gutur lib. ter- 
minavit Willemum de Dono per Ser- 
jeantis Clavis, inia. By the Serjeanty of the Club at 

Clavigirius, A Treasurer of a Church. —

Editor Willelmos Wallingford Clavigirius. Mon. 

Clamte Rolls, (Roati Clamf) Contain all such 
Matters of Record as were committed to close Writs: 
These Rolls are preferred in the 
Treasur.

Claputa, Bruthwood for Hedges and Fences. 
King Henry 3. gave to the Prior and Canons of Clio- 
nonu, qvasque caractis Clavutum ac pravidissima terra 

Clavutum fregit, Signifies in our Law as much as 
Action of Trespass; and it is a Writ so called, because 
the Defendant is summoned thereby to answer Quaette 
Clavutum fregit of the Plaintiff, that is why he did 
such a Trespass. It is the Course of the Common 
Place, to call it an Action in Alietieus (especially upon an a 
(ungu est or the like) upon a Quaette Clavutum fregit, as 
they do on a Laritiae in the King's Bench. 2 Pint. 
152, 259. But by the Lord Chancellor's Orders in 
Chancery, all secular Jurisdiction is to make 
Writs of Clavutum fregit, &c. in London, without spe-

cial Warrant from the Lord Chancellor, or Master of the 

Rols, untill it appear by Affidavit that the 
name is the proper Cause of Action, &c. In C. B. 

a Pone in Trepos, (and here the Proceedings are by 
Prorci or Pone) according to the ancient Courte, 

in made coune, etc. & c. & c. & c. & c. 
Pone C. D. major de, &c. de Placentia quare Vi 

& Armis Clavutum & Demum isfi A. fregit & & cia 

volunt et intulit, Ad gratum Damno, isfi A. E. et 

contra pacem, &c. This is delivered to the 

Filiz of the County to draw out the 

Caption, &c. And Debt may be added to it, viz. Pone, &c. C. D. major de, &c. in Com. roa Clavutum freg. apud, &c. As ciam 
in Debito pro se &c. &c. 

Clavutum Patricii, Stat Wilm. 1. In Graffina 

Clavutum Patricii, or in Graffina Obitis Patricii, which is 

all one, that is the Morrow of the Usu of Ester. 2 

Sij. 157. Clavutum Patricii, i. e. Dominii in Allis; 

sit dictum, quod Patrici Clavutu. Blunt.

Clavutuuts Bege, The Exclosure of a Hedge. 

Johannes Stanley Ar. clamau quid ipse &b berodes 

quint quirit de Clavutu Huye de Mecelloles, jul. 

Clavutu amus Rod. aduvatu ad clavutu, &c. 


Clavuia, A Clofe, or small Measure of Land. 


Tom. 2. page 496.

Cletup. This Word is taken for a Rogue or 


Cleregus, (Clerus) Signifies the Affillity or Body of 

Clerks, or Ecclesiastics, being taken for the whole 

Number of those who are Dr Cleri Domini, of our 

Lord's or Share, as the Tribe of Levi was in Ju-

dea; and are separat from the Wife and Bullet of the 

World, that they may have Leisure to spend their 

Time in heavenly Meditation and Prayer. And sometimes 

Clergy is used for a Fide to an Indolent of Felony, 

Clergy, an ancient Priest, where a 

Priest or one in Orders is arraigned of Felony, be- 

fore a secular Judge, who may pray his Clergy; which 

is as much as if he prayed to be delivered to his Or-

dinary, to purge himself of the Offence objected against 

him. Stow. P. C. lib. 2. cap. 41. Anciently the 

Clergy strongly insisted that by the Law of God their 

Persons were to be feared that they should not, without 

Violation of that Law, be convened before, and 
much less be punished by any secular Judge; but it 

hath here occation that this is not warranted by Scrip-

ture: Though all Persons in Holy Orders have this 

Privilege from the Canon Law. 2 Hawk. P. C. 137. 

It is laid by Lord Chief Justice Hale, that anciently 

Princes converted to Christianity, in Favour of the 

Clergy, and for encouragng their Offices. From their 

Employments, did grant to them very bountiful Pri-

vileges; as if, an Exemption of Places consecrated 

to religious Duties from Arrests for Crimes, which 

was the Original of Sanctuary. 20. The Exempti-

on of their Perons from criminal Proceedings, in 

some Cases capital before secular Judges; and this 

was the true Original of the Privilegium Civitatis: The 

Clergy increasinc in Wealth, Power and Interest after-

wards set up for themselves; and that which they ob-

tained by the Favour of Princes and States at first, 

they now began to claim as their Right, and that of 

the highest Nature Juris Divinis; and by their Canons 

and Constitutions, procured vast Extentions of those 

Exemptions. 2 Hale's Hist. P. C. 533. And the 

Clergy in general, they are Regulus or Seculars: Those are 

Regulars, which live under certain Rules, being of some 

Religious Order, and are called Men of Religion, or 

they are Religious: Such as all Abbots, Priors, Mens, &c. 

The Seculars are those that live not under any certain 

Rules of the Religious Orders; as Bishops, Deans, 

Archbishops, Vicars, &c. And although the Clergy 

claimed an Exemption from the Laws of the Land, yet Mr. 

Paris tells us, that soon after William the First had 

conquered Harleod, he subjected the Bishops and 

Archbishops who held per Baroniam, that they should be 

no longer free from military Service; and for that Purpo 

se he in an arbitrary Manner reglered how many Soldiers 

every Bishoprick and Abbey should provide, and trend 

him to and his Successors in Time of War; and hav 

ing placed these Registrars of Ecclesiastical Service in 

his Tentsy, those who were aggrieved, departed out 

of the Realm: But the Clergy were not, till then, 

exempt from all secular Service; because by the Laws 

of King Edgar they were bound to obey the secular 

Magistrate in three Cases, one Upon any Expedition to 

the Wars, and so contribute to the Building and Repair-

ing of Bridges, and of Castles for the Defence of the 

Kingdom. 'Tis probable that by Expedition to the 

Wars, it was not at that Time intended they should per-

sonally be served, but contribute towards the Charge: 

One they must do; as appears by the Petition to the 

King, Anno 1297, viz. Ur cinemas Clericis truentes per 

Baroniam vel feudum, pergant aliter ecclesiasticam, 

denve contra Regis Adversarios, vel tamet extremum 

in Expeditione Regis invenerint, quantum pertinent ad 

Scotiam terram vel Tenementium: But their Answer was, 

That they ought not to fight with the Military, but 

with the Spiritual Sword, that is with Prayers and 

Tears; that they were to maintain Peace and not 

War, and that their Barons were founded in Church; 

for which Reason they ought not to perform any Mili-

tary Service. Blast. That the Clergy had greater Pri-

vileges and Exemptions at Common Law than the Laity 

is certain; for they are confirmed to them by Magna 

Charta, and other ancient Statutes: but these Privilges 

are in a great Measure lost, the Clergy being included 

under general Words in later Statutes; so that Clergy-

men are liable to all publick Charges imposed by Act 

of Parliament, where they are not particularly except-

ed. Indeed they are not at this Day to understand 

several Offices, as the Office of Sheriff, Conable, &c. 

(though they are sometimes in the Communion of the 

Peace, in which Communion they may either act as Ju-

dices, or not at all as their Pleasure) nor are they to 

serve on Juries, or obliged to appear at Turnes and 

Leets; or to be pressed to serve in the Wars in Person, 

although by Statutes they are compellable to contribute 

to the Charge of a War, and to Ministers of the Militia: 

Their Bodies are not to be taken upon Statutes Mer-

chant or Staple, &c. For the Witke to take the Body 

of the Conclur is S. 4, F. 2. And if the Sheriff or 

any other Officer arrest a Clergyman upon any such 

O 

O Proce,
Proceeds, it is said an Action of false Impeachment lies against him that does it, or the Clergyman may have a Supersedeas out of the Chancery. In Action of Trespass, Account, &c. against a Peron in Holy Or- ders, the Clergyman lies, if the Sheriff return that the Defendant is Clericus Beneficiorum mulum habens Laicam fidemani ubi Summunti petis; in this Case the Plaintiff cannot have a Capias to arrest his Body; but the Writ ought to issue to the Bishop, to compel him to appear, &c. But on Execution had against such Clergyman, a Sequestration shall be had of the Provisions of his Benefice. Clergymen may not be arrested in the Church, or Church yard, while attending on Divine Service, &c. on Pain of Imprison- ment, and Randum at the King's Pleasure, and like- wise to make Agreement with the Party; And he that beats a Clergyman, may be obliged to do Penance in the Spiritual Court. But these are all the Privileges remaining on Civil Accounts: Though by the Com- mon Law, they were to be free from the Payment of Tolls, in all Fairs and Markets, as well for all the Goods and Chattels in their Personal Livings, as for all the Goods and Merchandies by them bought to be spent upon their Receptions; and they had several other Ex- emptions, &c. These Privileges, for the most part, have become obsolete: but the Clergy, thus as much as they have the more Freedom attend the Service of God and Religion, and be exempted as they ought; and therefore of late they are said to undertake no secular Business, by which they may be diverted from their Duty, or be brought into Contempt. They are used like other Men in criminal Cases; except as to Burning in the Hand for Felony, from which upon producing of their Orders, or the Ordinance's Certificate, they ought to be freed: And though they have had the Privilege of the Clergy for a Felony, yet they may again have their Clergy, and cannot a Layman. But see Stat. 22 H. 8. c. 11. In ancient Times Clergymen convicted of Crimes, were delivered over to the Ordinary, to be punished by the Ecclesiastical Laws; but this Privilege is long since abolished, nor was it ever allowed in Tresason or Sacrilege. Wood's Ann. 24. Parry's Case. 145. Enet. 4. 35. & 58. Benefits of Clergy. I have already said is an ancient Privilege, where one in Orders claimed to be deliv- ered to his Ordinary to purge himself of a Felony. And this Purging was to be by his own Oath affirm- ing his Innocency, and the Oaths of twelve Compur- gators as to their Belief of it, before a Jury of twelve Clerics: If the Clerk failed in his Purging, he was deposed from his Character, with the same sentence as a Layman, or he was to be kept in Prison till a Pardon was obtained: But if he purged himself, he was set at Liberty: But the ordinary Delivery to the Ordinary was without Purging, as upon Attainder by Convic- tion of the Felony, or by Verdict, where the Felony was notorious, and then the Clerk was to be degra- ded, or kept in Prison by the Ordinary, &c. though in these Cases the Ordinaries would frequently proceed to Purging. But Purging is now taken away by Stat. 18 Eliz. cap. 7. which results that where an Offender is admitted to his Clergy, after Burning in the Hand, he shall not be delivered to the Ordinary, but shall be enlarged by the Court, &c. And the Benef- it of Clergy, and burning in the Hand, comes in the Place of Purging at Common Law. In ancient Times in the King's Courts where Felonies were de- termined, the Bishop or his Deputy were to attend to inform the Court whether the Felon could read as a Clerk or not; but the Court was still to judge of his Sufficiency. Since the Stat. 18 Eliz. Every Man to whom a Benefice of Clergy was granted, has been put to read at the Bar after found guilty, and convicted of Felony, and burnt in the Hand, and set free for the Time; if the Ordinary's Commissioner or Deputy standing by did say, -Legit a Clerico or otherwise he was to be hanged. But Reading at all, as well as Purging, is wholly laid aside: for by the 3 Ann. c. 6. if any Person convicf of such Felony, for which he ought to have the Benefit of the Clergy, doth not immediately before Conviction read, or he shall not be admitted to the pur- scribed to read, but shall be punished as a Clerk convi- cted. A Lord of Parliament shall have the Benefit of his Clergy, though he cannot read, and without Burning in the Hand, for the first Time only; and the King may pardon the Burning of the Hand in others, which is not so much in Nature of a Punishment, as a Mark to notify that the Person may have his Clergy but once. The Privilege of Clergy is said to have its beginning from an Encroachment of the Pope upon the temporal Power, in Behalf of the Clergy, whom he endeavored to exempt from the Jurisdiction of lay Judges in Cause of Life and Member; which the temporal Courts would not yield to, but only in Part: And if they would indite Clerks for Felony, as well as others, and proceed thereon till the Ordinary did demand them; and if the Ordinary would not demand them, the King's Courts proceeded to Conviction, or to Punit- ion and Execution; and if the Ordinary did claim Clerks before Conviction, then an Inquisition was taken, whether the Party was guilty or not; and if acquit- ted, and if it was true that he was guilty, but the right to be delivered to the Ordinary, &c. The Privilege so retrained was confirmed and established by the Sta- tute 8 H 8. &c. to supply the Aicts of Parliament: And though originally the Clergy never intended that any should have that Privilege, but those who were in Holy Orders; yet afterwards they extended it to those who were not strictly in Or- ders, but were Affiliates to them in doing Divine Offic- es. And as to Laymen being admitted to this Privi- leges, it has been observed that in those Days few were bred to Literature, but those who were actually in Or- ders, or educated for that Purpofe; and therefore the Way of Trial whether one was a Cleric or no, was by reading, of which the Court was judge; for if he could not read, the Court would not deliver him as a Cleric, though the Ordinary did claim him; and if he did read, he should be allowed as a Cleric, though the Ordinary refused him; And Reading being the Way of Trial, whether a Man was a Cleric or not, without further Examination into any other Qualifica- tion, by an equitable Construction of the Statutes that established and extended this Privilege, all Persons that so approved themselves by Reading, were allowed to be Clerics. Loun. 92. 100. Rel. 180. It ap- peared that that which could read, was he that had the Privilege of Clergy since the 25 Ed. 3. which Allowance never was condemned in Parliament, or complained of as a Gift approved of the Ordinary. But by the 18 Ed. all Persons as well Lay as Spi- ritual, have a Right to the Benefit of that Statute, for the first Offence, in the same Manner as Clergymen. Had. Though it was anciently the usual Method, for the Ordinary to demand the Criminal as his Clerk, before the Court allowed him the Benefit of his Clergy, yet there was no Necessity for such Demand, but the Court might without it admit a Person to the Benefit of Clergy, on sufficient Evidence of his being a Cleric, as upon producing Letters of Orders, or reading as a Cleric, and then subject him to the Punishment of Sacrilege, or of breaking of Prison of the Ordinary, in which Cases it is said to have been at the Discretion of the Ordinary, whereas he should have his Clergy or not: And as there is no Necessity that the Ordinary should demand the Benefit of the Clergy for a Clerk; so neither is there any that the Prisoner himself should request it, as he might apply it to the Court that he has a Right to it, in Repect of his being in Orders, &c. In which Case; if the Prisoner does not demand it, it is left to the Discretion of the Judge, either to allow, or not to allow it. 2 Henr.
2 Hen. P. C. 359. Thoso who demand the Benefit of Clergy, are to plead, and put themselves upon Trial; but after a Clerk hath put himself upon Trial, and the Inquest be charged with him, some Witneses to his Character, if he be examined to his Clergy before the Jury come back; and shall not forfeit his Goods, unless they find him guilty. Ibid. 358. This Claim of Clergy might formerly be made on Arraignment, or as soon as the Prisoner was brought to the Bar: Afterwards it could not be claimed till after Conviction, because it is for the Advantage of the King as to the Forfeiture of the Lands and Goods of the Criminal Convict, and for the Advantage of the Parry himself to make his Challenges to the Inquest: and perhaps he may be acquitted, and then he will not need this Privilege. 1 Ed. 6. 653. At Common Law, if the Parry had not demanded his Clergy before Conviction, he lost it: But in the Time of H. 6. an Alteration was made in the Method of allowing Clergy, viz. That the Parry indicted or appealed, was to answer to the Felony, and after Conviction, upon his Demand the Judge to allow him his Clergy; which Course has been ever since observed. Kel. 100. Clergy may be demanded after Judgment given against a Peron, whether of Death, &c. And even after a Peron has been tried before a Baron, there is no Power to allow it. 2 Hen. 357. Clergy is never allowed by the Civil Laws so that Piracy, &c. shall not have Clergy. Nol. Ass. 449. The Common Law did not name Clergy but in certain Cases; as in High Treason, or Sacrilege; where a Peron was convict of Heresy; was a Tool, Tool, or of Infrad, &c. Also there was a Right to have it; but that is allowed by Stat. 37 Iq. 37. &c. By Statutes, Clergy is denied in a great many Felonies; though it is allowed in all Cases where not expressly taken away. And where Clergy is taken away expressly by any Statute, the Offence must be laid in the Indictment to be against that very Statute, and the Words of it, or the Offender shall have his Clergy. Kel. 104. H. P. C. 251. Clergy is taken away by Statutes, in the following Cases; where Perons are convicted of Petit Treason, Murder, Robbing of Churches, Dwelling Houses, or burning of Dwelling Houses, Burnt, &c. 23 H. 8. c. 1. Ed. 6. 6c. Alla from Accesories to these Crimes. 4 Ed. 5 P. & M. Perons guilty of Buggery. 25 H. 8. c. 6. Of Horse-stealing. 1 Ed. 6. Robbing in Towns or Boroughs, in Fairs or Markets. 4 Ed. 6 Ed. 6. Forging of false Deeds or Writings, the seconr Offence. 5 Ed. 14. Taking of Money or Goods privately from the Person another, without his Knowledge: And if any admitted to Clergy, hath before committed any other Offence where Clergy is not allowed by Statute for such offence, as through there were no Adjudication of Clergy. 8 El. 4. c. 6. Rapes of Women: And Sealing of them having Lands, &c. or being Heirs apparent. 1 Ed. 8. c. 4. Stalking any Peron, if he die of the Wound within six Months. 1 Jac. 1. c. 8. Acknowledging any Fine, Recovery, Deed enrolled, Statute or Recognisance, Bail or Judgment in the Name of another, not privy and consenting. 21 Jac. 1. c. 26. Concealing the Death of a Ballard Child, whether born alive or not. 21 Jac. 1. c. 27. Cutting, taking, and stealing away Cloth from the Rack or Tenter, in the Night-Time; and parceling or emballing Armor, Ornaments, or Habitations of War, Naval Stores, &c. of the Value of 20l. but the Judges must cause for Offenders to be transported. 22 Car. 2. c. 5. Cutting out, or disabling the Tongue, putting out any Eye, lopping or cutting off a Nose or Lip, or cutting off a Member, with the malice of Intent to maim or disable. 22 & 23 Car. 2. c. 1. Perons who shall rob any Dwelling-House in the Day-time, any Peron being therein, or shall abet, or commanded any one in such Robbery; or break any Dwellings House, Shop or Warehouse thenceunto belonging, in the Day-time, and feloniously take away any Money or Goods, to the Value of 2l. although no Peron be therein, &c. 3 & 4 W. & M. c. 9. If any Peron indicted for an Offence for which he shall be excluded Clergy, shall stand mute, nor answer directly, or challenge peremptorily above twenty Jurors, or shall be outlawed on the Indictment. Stat. Hid. And where any Peron hath once had the Benefit of Clergy, the Certificate of the Clerk of the Crown, Clerk of the Peace, or of the Athien, shall be a sufficient Proof. Hid. Forgery or Counterfeiting the Seal of the Bank of England, or any Bank Bills. 7 & 8 W. 3. c. 51. Perons that by Night or Day, in any Shop, Warehouse, Coach-house or Stable, privately steal any Goods or Merchandies of the Value of 5l. although the Shop be not broke, &c. 10 & 11 W. 3. c. 25. Setting forth Pirates, advising or advising any Piracy; and receiving, entertaining or compenating such Pirate, or Vellis, Goods, &c. practically taken. 11 & 12 W. 3. cap. 7. If any Maker or Mariner shall cut away, burn or destroy any Ship: or if any Peron shall make a HOLE in the Bottom of a Ship, steal any Pump, or do any Thing which tends to the Loss of the Ship. 1 Ann. c. 9. 12 Ann. c. 18. Where a Peron convicted of Theft, shall have the Benefit of Clergy, and be burned in the Hand; the Court may commit the Offender to the House of Correction for any Time not under six Months, or above a Year, there to be kept at hard Labour. 5 Ann. c. 6. Counterfeiting Exchequer Bills, or any Indorsement, &c. or tending any such counterfeit Bill, or demanding the same for exchange to be burned in the Hand; the Court may commit the Offender to the House of Correction for any Time not under six Months, or above a Year, there to be kept at hard Labour. 5 Ann. c. 6. Counterfeiting any Lottery Order, or Altering the Number, or Sum of such Order. 12 Ann. c. 2. Servants stealing or parceling Goods, &c. of 40l. Value from their Masters: But this is not to extend to Apprentices under 15 Years of Age, who shall rob their Masters. 12 Ann. c. 7. If any Perons to the Number of twelve, or above, shall unlawfully and riotously assembled to the Disturbance of the Peace, required by a Justice of Peace, Mayor, &c. by Proclamation to disperse, continue together an Hour after; or it shall be lawful for such Proclamation, and then continue an Hour after the same. 1 Ed. 6 Ed. 7. Soldiers incited in his Majesty's Service, excizing or joining in any Mutiny or Seildsion, or defecting the Service, &c. 3 Gen. 1. c. 3. If any Peron shall be convicted of Grand or Petit Larceny, who by Law would be indicted to Clergy, (except Perons receiving or buying stolen Goods) the Court instead of ordering the Offender to be burnt in the Hand or Whipt, may order him to be sent to the Plantations for seven Years, &c. 4 Gen. 1. c. 11. Where any Peron shall take any Money or Reward for helping another to stolen Goods, unless he cause the Felon to be apprehended, and brought to his Trial, and give Evidence against him. Ibid. If any one who shall become a Bankrupt, or any by his Order, that will move, conceal, or imbeill any Goods whereas he or any Peron in Trust for him was poffessed or intitled to at the Time of the Bankruptcy, to the Value of 20l. or any Books of Account, Bonds, Bills, Notes, Papers, &c. relating thereto. 5 Gen. 1. c. 14. Forgery, Counterfeiting or Altering any Receipt or Warrant, &c. of the South Sea Company upon Subscription for
for enlarging their Stock. 6 Geo. 1. cap. 11. Forging any Lottery Tickets or Certificates. 6 Geo. 1. cap. 2. Forging or Counterfeiting any Letter of Attorney to transfer or assign any capital Stock of any Bank, Publick or Corporate Property, or to receive any Annuity. 6 Geo. 1. cap. 23. Forging the Name of any Proprietor; or fraudulently demanding to have any Stock transferred, by Virtue of any forged Letter of Attorney. 6 Geo. 1. cap. 23. If any Master of a Ship, &c. shall trade with any Pirate, or furnish him with Stores, Ammunition, &c. or shall combine or confederate with Pirates; or if any Person belonging to any Ship, forcibly board any other Ship or Vessel, and throw over Board, or destroy any of the Goods. 6 Geo. 1. c. 24. Persons going abroad armed, in Mants and Disguises, robbing Foreers, Parks, &c. killing or wounding Castle, robbing at any Per- sons, or fending threatening Letters to Persons, demanding Money, 6 Geo. 1. c. 32. Forging or Counterfeiting any Deed, Will, Bond, Bill, Note, Acquittance, &c. or uttering or publishing, knowing them to be false. 6 Geo. 2. c. 25. Sealing of Linen or Cotton, &c. by Day or Night, from whitening Grounds, or drying Houses, 6 Geo. 2. c. 16. Persons maliciously cutting any Hop- plants growing on Poles, 6 Geo. 2. c. 57. Forging the Acceptance of any Bill of Exchange; or the Number, or principal Sum of an accountable Receipt for any Note, Bill, Warrant or Order, for Payment of Money, or Delivery of Goods, with Intent to defraud; or uttering as true any counterfeited Acceptance of a Bill of Exchange, 6 Geo. 2. c. 22. Persons maliciously pulling down, and other- wise destroying any Turnpike Gate, Posts, Rails, &c. or any House there erected; or refusing such Offen- ders. 6 Geo. 2. c. 50. Subjects of the Crown of Great Britain, in this Kingdom or Ireland, or without the same, infiling as Soldiers to go beyond Sea, and serve any foreign Prince, without his Majesty's Leave, and not discovering by whom incited, 6 Geo. 2. c. 50. Perons setting on fire any Mine, or Pit of Coal, maliciously, upon Conviction. 10 Geo. 2. c. 52. And Persons that drive away, steal or kill any Sheep, or Cattle, with Intention of selling their Carcasses, or Part thereof, 6 Geo. 14. Geo. 2. cap. 6. In all these In- frances, Clergy is taken away. Vide the Statutes.

Clerico administratore, A Writer directed to the Bishop, for admitting a Clerk to a Benefice, upon a Ne admitted trial and found for the Party that pro- cess the Writer. Reg. Orig. 51. If a Parson recover a Benefice, the Parishion may have this writer to the Bishop, though the six Months are past, if the Church is void, &c. And this ancient Writ begins thus: Rex nostrai, in Christo Patri, &c. Cum A. B. de. &c. in Curia nostra Recepserit vel jam Repeelentam in suing ad vicarium de, &c. robis Mendacius quod ad Præfiant. Isis A. B. ad vicarium interim Parson amud admin. 6 Geo.

Clerico infra facres Obissos constituto, non Eligendo in Olibium, is a Writer directed to those who have thrald a Bullwark, or other Office upon one in Holy Orders, charging them to release him. Reg. Orig. 143.

Clerico capto per Statuum Scretariatum, 4 A Writer for the Delivery of a Clerk out of Prison, who is taken and imprisoned upon the Breach of a Statute Merchant. Reg. Orig. 147.

Clerico constituente commissivo Capitolis in Brevibus Om- binitarii celibantae, is an Ancient Writer that lay for the Delivery of a Clerk to his Ordinary, that was for- merly wounded of Felony, by Reason his Ordinary did not come and perform according to the Privileges of Clerks. Reg. Orig. 69.

Clerhe (Clerihe) In the most general Signification, is one that belongs to the Holy Ministry under which, the Canon Law hath fall Power, are not only comprehended Sacraeov and Diocesanno, but also Subdictions, Letters, Acclips, Ex- confir and Officiariis: But the Word has been also used for a Seemly Proof in Opposition to a Religious Person. And it is laid in law to properly a Minister or Priest, one who more peculiarly is called in forem Deo. Blount.

Clerhe, In another Sense discerns a Person who pratisises his Pen in any Court, or otherwise of which Clerks there are various Kinds, in several Of- fices, &c. As the Officers of the Courts of Law, were formerly often Clergymen, hence it is laid they are under the Term of Clericius, or Clerk. And Jor. Ed. 1. Johannes Swell, Clericius Dominici Regis, was foeparted to signify Secretary or Clerk of the Council. Ann. Nottingham. 317.

Clerehe of the Iris, Is an Officer in the Navy. Office, whose Business is to record all Orders, Con- tracts, Bills, Warrants, &c. tranished by the Lord High Admiral, or Lords Commissioners of the Admi- ralty, and Commissioners of the Navy, and is mentioned in the Stat. 16 Car. 2. c. 5. And 23 Car. 2.

Clerehe of Ambassadors, Is an Officer that files all Ambassadorship was made Of in that Court.

Clerehe of the Bills, Is he that writes all Things judicially done by the Judges of Bills in their Cir- cuits. Canons Civ. 9. is particular, is allowed to Judge in Commission of Affairs, to take Affairs.

Clerehe of the Bills, An Officer belonging to the Court of King's Bench. Stat. 22 & 23 Car. 2. He files the Bail-Pieces taken in that Court, and does so for that Purpose.

Clerhe of the Clerk, Is an Officer in the King's Court, so called, because he hath the Clerk and Con- trolment of the Yeomen of the Guard, and all other ordinary Yeomen belonging either to the King, Queen, or Prince; giving Leave, or allowing their Absence in Attendance, or diminishing their Wages for the same. He also by himself or Deputy takes the View of those that are to Watch in the Court, and hath the keeping of the Watch. 33 H. 8. c. 12. Also there is an Office of the same Name in the King's Navy at Plymoufh, 19 Car. 2. c. 7.

Clerhe of the Crown, (Clerihe de Coronis) Is an Officer in the King's Bench, whose Function is to Frame, Read and Record all Indictments against Offenders there arraigned, or in which any Publick Crime. And when divers Persons are jointly indicted, the Clerk of the Crown shall take but one Fee, out of which they all. Stat. 2 H. 10. c. 10. He is otherwise termed Clerk of the Crown Office, and exhibits Infor- mations, by Order of the Court, for divers Offices; And on Information exhibited in the Crown Office, for Treasons, Battery, Clerihe Recognizances are to be entered for in the Informer to prosecute with Ef- feit, 4 & 5 W. 3. M.

Clerhe of the Crown in Chancery, Is an Officer in that Court who continually attends the Lord Chan- cellor in Person or by Deputy: He writes and pre- pares for the Great Seal, special Matters of State by Command of the Lord Chancellor, and the like, either immediately from his Majesty's Orders, or by Order of his Council, as well Ordinary as Extraordinary, out. Commissions of Lieutenancy, of Justices of Assize, Oyer and Terminer, Goal-Delivery, and of the Peace, with their Writs of Association, &c. Also all General Pardons, at the King's Coronation: or in Parliament, where he sits in the Lord's House in Parliament Times: he sits into whose Office the Writs of Parliament, with the Names of Knights and Burghesses elected theretofore, are to be returned and filed. He hath likewise the Duty of determining the Election of the Bishop of Oxford and Bishops of the Holy Ministry and readyly to the Holy Ministry under which, the Canon Law hath
which was annexed to his Office in the Reign of Queen Mary, in Consideration of his chargable Attendance.

**Clerk of the Declarations, An Officer of the Court of King's Bench, that files all Declarations in Causes there depending, after they are ingrossed, &c.**

**Clerk of the Determiners, An Officer in the Tower of London, who executes his Office in taking Indentures for all Stores, Ammunition, &c. issued from thence.**

**Clerk of the Cause, (Clericus Jurisprud.) In the Court of Common Pleas, transcripts and certifies into the King's Bench, the Tenor of the Records of the Cause or Action, upon which the Writ of Error, made by the Curator, is brought there to be heard and determined. The Clerk of the Errors in the King's Bench, likewise transcribes and certifies the Records of Causes in that Court into the Exchequer, if the Cause or Action were by Bill: If by Original, the Lord Chief Justice certifies the Record into the House of Peers in Parliament, by taking the Transcript from the Clerk of the Errors, and delivering it to the Lord Chancellor, to be determined, according to the Statutes 25 Eliz. c. 8. and 31 Eliz. c. 1. The Clerk of the Errors in the Exchequer also transcribes the Records, certifies the same into the King's Bench, and prepares them for Judgment in the Court of Exchequer-Chamber, to be given by the Justices of C. B. and Barons there. Stat. 16 Car. 2. c. 20. Car. 3. c. 1.**

**Clerk of the Examinations, An Officer belonging to the Court of Common Pleas, who keeps the Examin Rulls; and the Examin Rull is a Record of that Court: He has the Process of Parchment, and cutting it out into Rolls, marking the Numbers thereon; and the Delivery out of all the Rolls to every Officer of the Court; the Receiving and them again when they are written, and the Binding and Making up the whole Bundles of every Term; which he doth as Servant to the Chief Justice. The Chief Justice of C. B. is at the Charge of the Parchment of all the Rolls, for which he is allowed; as is also the Chief Justice of B. R. besides the Penny for the Seal of every Writ of Privilege and Oath, the Seventh Penny for every Oath of the Modigli, and the Green Wax, or Petit Seal, the said Lord Chief Justices having annexed to their Offices or Places, the Custody of the said Seals belonging to each Court.**

**Clerk of the Great Chancery, (Clericus Extravagantia.) A Clerk or Officer belonging to the Exchequer, who every Term receives the Extravagances out of the Lord Treasurer's Remembrancer's Office, and writes them out to be levied for the King: And he makes Schedules of such Summ extravagant, as are to be discharged.**

**Clerk of the Hanaper, or Hanaper, An Officer in the Chancellery, whole Office is to receive all the Money due to the King, for the Seals of Charters, Patents, Commissions and Writs; as also Fees due to the Officers for interlocuting and examining the same. He is obliged to Attendance on the Lord Chancellor daily in the Term-time, and at all Times of sealing, having with his Printer, to type the seals for all Charters, &c. After they are sealed, those Bags, being being sealed up with the Lord Chancellor's private Seal, are sent to the Clerk of the Hanaper, who, upon Receipt of them, enters the Effed of them in a Book, &c. This Hanaper represents what the Romans termed Fiscum, which contained the Emperors in the East, and the Sesterce of Antoninus Pius, in the same meaning, or it may be for that the yearly Tribute which Princes received was in Hanaper, or large Vessels full of Money.**

**Clerk of the Implemantum, An Officer of the Common Pleas, that invents and exemplifies all Finances and Recoveries, and Returns Writs of Entry, Summons and Seint, &c.**

**Clerk of the Juries, (Clericus Jurisprud.) An Officer belonging to the Court of Common Pleas, who makes out the Writs of Habeas Corpus and Distrajns, for the Appearance of Juries; either in that Court, or at the Assizes, after the Jury, or Panel is returned upon the Verdict; he also enters into the Rolls the Awarding of thefe Writs: and makes all the Conformances from the going out of the Habeas Corpus until the Verdict is given.**

**Clerk Controller of the King's House is an Officer in the King's Court, that hath Authority to allow or disallow Charges and Demands of Purvants, Medengers of the Green Clerk, &c. He hath likewise the Overight of all Defects and Mutilariges of any of the interior Officers; and hath a Right to sit in the Counselling-house, with the superior Officers, &c. The Lord Treasurer, Treasurer, Controller, and Collector of the Household, for correcting any Disorders. Stat. 33 H. 8. c. 12.**

**Clerk Marshal of the King's House, An Officer that attends the Marshal in his Court, and records all his Proceedings. 33 H. 8. c. 22.**

**Clerk of the King'silk, (Clericus Argenti Regis.) is an Officer belonging to the Court of Common Pleas, to whom every Fine is brought after it hath paid the Office of the Coffers; and by whom the Effed of the Writ of Covenant is entered into a Paper-Book; according to which all the Fines of that Term are recorded in the Rolls of the Court. And the Entry is in this Form: Wilts, ff. A. B. dext Domino Regi dimidium Mercarum, &c. licentia concurrerendi cum C. D. pro tabulis Terris in, &c. & habet per Chirographum per pacem admittetur, &c. After the King's Silver is entered, it is accounted a Fine in Law, and not before.**

**Clerk of the King's Great Wardrobe, An Officer of the King's Household, that keeps an Account or Inventory of all Things belonging to the Royal Wardrobe. Stat. 1 E. 4. c. 1.**

**Clerk of the Marshals, (Clericus Mercatorii Regis.) is an Officer of the King's House, to whom the Employment of going over the King's Merchandise, and keeping the Standards of them, which are Examples for all Merchants throughout the Land; as of Ells, Yards, Quarts, Gallons, &c. And of Weights, Balances, &c. And to see that all Weights and Measures in every Place be answerable to the said Standard: Of which Office, you may read in Pla. lib. 2. cap. 8, 9, 10. Stat. Touching this Officer's Duty, there are also divers Statutes, as 15 R. 2. c. 4. and 16 R. 2. c. 3. by which every Clerk of the Marshal is to have Weights and Measures with him when he makes Effed of Weights, &c. mark'd according to the Standard; and to seal Weights and Measures, under Penalties. The 16 Car. 1. c. 19. enacts, That Clerks of the Marshals of the King's or Privy Council, shall only execute their Offices within the Verge; and Head Officers are to be in Corporations, &c. The Clerks of Marshals have generally Power to hold a Court, to which they may issue Process to Sheriffs and Bailiffs, to bring a Jury before them; and give a Charge, take Prefentments of such as keep or use Idle Weights and Measures; and make a Fine upon the Offenders, &c. 4 Ind. 274. But if they take any other Fee or Reward than what is allowed by Statute, &c. or impose any Fines without legal Trial; or otherwise mismanage themselves, they shall forfeit 4 l. for the first Offence, 10 l. for the second, and 20 l. for the third Offence, on Conviction before a Judge of Peace, Stat. 16 Car. 1.**

**Clerk of the Licenses, or Libelles, (Clericus Libellorum.) An Officer of the Court of Exchequer, who Fp makes
makes a Roll of all such Sums as are withheld by the Sheriffs upon their Edefrat of Green Wax, and delivers the same into the Remembrancer's Office, to have Executor done upon it for the King. See Stat. 5 R. 2. c. 13. Nails are Inlets by Way of Fine or Amercement.

**Clerk of the Ordinance** is an Officer in the Tower, who registers all Orders touching the King's Ordnance.

**Clerk of the Ordistances**, (Clericus Udistariorum) An Officer belonging to the Court of Common Pleas, being the Serjeant or Deputy to the King's Attorney-General, for making out Writs of Copyes Udistariorum, after Ordistancies; the King's Attorney's Name being to every one of those Writs.

**Clerk of the Paper-Office**, is an Officer in the Court of King's Bench, that makes up the Paper-books of special Pleasings and Demurrers in that Court.

**Clerk of the Papers**, is an Officer in the Common Pleas; who hath the Custody of the Paper of the Warden of the Files, enters Commitments and Discharges of Particular Days, and is bound to render an Account of the same at the End of the Year. See Stat. 5 R. 3. c. 25.

**Clerk of the Parliaments Roles** (Clericus Rotoram Parliamenti) is that Person which registers all Things done in the High Court of Parliament, and ingredistles them inParcement Rolls, for their better Preservation to Posterity; of these Officers there are two, one in the Lords House, and another in the House of Commons.

**Clerk of the Patent**, is one of the Patent Letters under the Great Seal of England; an Office erected 18 H. 8 c. 1.

**Clerk of the Peace**, (Clericus Parium) is an Officer belonging to the Sessions of the Peace; His Duty is to read Indictments, note the Proceedings, and draw the Process; he keeps the Counter-part of the Indenture of Armour; records the Proclamation of Rates for Servants Wages; has the Custody of the Register Book of Letters given to Bishops of Cornwall; of Persons licensed to Kill Game, &c. and he registers the Easats of Papils and others taking the Oaths. Also he certifies into the King's Bench Transcripts of Indictments, Oultawry, Attainders and Constructions, had before the Judges of Peace, within the Time limited. And by Statute, Clerks of the Peace, &c. are to certify the Tencer of every Indictment, Oualtery, &c. into B. R. within forty Days under a certain Penalty. Stat. 54 & 55 Hen. 8. cap. 14. and every Clerk of the Peace is to deliver to the Sheriff within twenty Days after Michaelmas yearly, an Eefrat of all Fine, &c. into the Great Seal. The Clerk of the Peace of the County hath the Appointment of the Clerk of the Peace, who may execute his Office by Deputy. 23 H. 8 c. 1. And if a Clerk of the Peace misbehaves himself, the Judges of Peace in Quarter-Sessions have Power to discharge him; and the Copy of Rotarum is to chuse another Resident in the County, on his Default the Seffens may appoint one: The Place Is not to be sold, on Pain of forfeiting double the Value of the Sum paid, and Disbility to enjoy it, &c. Stat. 1 W. & M. 7. c. 21. 3 Geo. I. c. 18.

**Clerk of the Petilts**, (Clericus Petillia) Is a Clerk belonging to the Exchequer, whole Office is to enter every Teller's Bill into a Parcement-Roll called Petilts Raparum, and also to make another Roll of Payments, which is termed Petillia Exilium: wherein he sets down by what Warrant the Money was paid; mentioned in the Stat. 12 & 13 25 Car. 2.

**Clerk of the Petty-Enty**, (Clericus Parum Rape) An Officer of the Court of Chancery. There are three of these Officers, of whom the Master of the Rolls is the chief: Their Office is to record the Return of all Inquisitions out of every Shire; to make out Patents of Custumers, Gaugers, Controllers, &c. all Charges for Bishop, the Summons of the Nobility, and Burgesses to Parliament: Commissions directed to Knights and others of every Shire, for selling Solicitors and Taxes: All Offices found Petillia Exilium to be one of those Writs, and by them are entered all Parcements of the Chancery concerning the Validity of Patents or other Things which pass the Great Seal; they also make forth Liberates upon Extracts of Statutes Staple, and Recovery of Recognizances forfeited, and all Eligos upon them. And all Suits for or against any privileged Persons as proceeded in their Office, &c.

**Clerk of the Pipe**, (Clericus Pippa) is an Officer in the Exchequer, who having the Accounts of Deeds due to the King, delivered and drawn out of the Remembrancer's Office, charges them down in the Great Roll, and is called Clerk of the Pipe from the Shape of that Roll, which is put together like a Pipe: He also writes out Warrants to the Sheriffs in levy the said Deeds upon the Goods and Chattels of the Debtors; and if they have no Goods, then he draws them down to the Lord Treasurer's Remembrancer, to write Edicts against their Lands. The next Table follows of the Clerk of the Pipe, and he sees the same answered by the Farmers and Sheriffs: He makes a Charge to all those Rents and Persons, vows the Pipe, and Green Wax, and takes Care it be answered on their Accounts. And he hath the Drawing and Ingraffing of all Acts of the King's Laws; having a Secondary and several Clerks under him. In the Reign of King Hen. 5. this Officer was called Ingressor Magni Regni. See Stat. 35 H. 8. c. 12.

**Clerk of the Posts**, (Clericus Postarum) is an Officer in the Court of Exchequer, in whose Office all the Officers of the Court, upon special Privilege belonging unto them, ought to be led or be present in my Affair, &c. In this Office are also proceeded Acts in Law, by other Persons as well as Officers of the Court; but the Plaintiff ought to be Teman, or Debtor to the King, or some Way acquainted to him: The Clerk of the Posts, has under him twenty or thirty Clerks, who are Attorneys in all Suits commenced or depending in the Exchequer.

**Clerk of the Privy Seal**, (Clericus Privatae fel. 25). There are four of the Officers which attend the Lord Privy Seal; or if there be no Lord Privy Seal, the Principal Secretary of State, writing and making out all things that are done by Warrant from the Bishop to the Privy Seal, and which are to be paid to the Great Seal; also make out Privy Seals, upon a special Occasion of his Majesty's Affairs, as for Land of Money, and the like. He that is now called Lord Privy Seal, seems to have been in ancient Times called Clerk of the Privy Seal's, but notwithstanding to have been a Member of the Great Officers of the Realm. Stat. 12 R. 2. c. 11. And 17 H. 8. c. 11.

**Clerk of the Rolls**, (Clericus Rotorum) An Officer of the Chancery, that makes Searches after and Copies of Deeds, Offices, &c.

**Clerk of the Rolls**, (Clericus Rotorum) In the Court of King's Bench, he draws up and enters all Charts and Orders made in Court and gives Rules of Court to his Officers. This Officer is mentioned in the 22 and 23 Car. 2.

**Clerk of the Records**, (Clericus Registrarum) An Officer belonging to the Commissioners of Records, who writes and records their Proceedings, which they transact by Vote of their Commissions, and the Authority given them by Statutes. See Stat. 20 & 21 Hen. 8. c. 15.

**Clerk of the Signet**, (Clericus Sigillii) Is an Officer continually attendant on his Majesty's Postal Service. He is called Clerk of the Signet, as well for sealing his Majesty's private Letters, as for Graces passed by the King's Hand by Bill signed: And of these Clerks there are
four that attend in their course, and have their diet at the Secretary's Table. The fees of the Clerk of the Signer, and Privy Seal, are limited particularly by Statute, with a penalty annexed for taking any thing more. See 27 H. 8. c. 11.

Clerk of the Signer's. An Officer belonging to the Court of Common Pleas, who makes out Writs of Superlocution, upon a Defendant's appearing to the Exequient on an Ordinary, whereby the Sheriff is forbidden to return the Exequient.

Clerk of the Treasurers, (Cliricis Tresaurarii) is an Officer of the Common Pleas, who hath the Charge of keeping the Records of the Court, and makes out all the Records of Nisi prius; also he makes all Emulations of Records being in the Treasurers; and he hath the Fees due on the latter. A Clerk to be the Servant of the Chief Justice, and removable at Pleasure; whereas all other Officers of the Court are for life: There is a Second or Under Clerk of the Treasurers, for all Process, who hath some Fees and Allowances: And likewise an Under Keeper, that always keep one key of the Treasurers Door, and the chief Clerk of the Secondaries also; so as the one bears the other's name.

Clerk of the Grantments, (Clirici Warrantiarum) An Officer belonging to the Common Pleas Court, who enters all Warrant in that Court, and issues it to the Executors and Debtors in it, and seizes Indentures of Bargain and Sale, which are acknowledged in the Court, or before any Judge out of the Court. And it is his business to make out the Exchequer all Bills, Fines and Amortizations, which grow due to the King in that Court, for which he hath a standing Fee or Allowance.

Clémens, An old Word signifying Heir; it is mentioned in Mon. Angl. Top. 3. p. 129.

Clémence, The eldest, and all the Sons of Kings.


Clerk, The Names of Places beginning or ending with their Words, signify a Rock from the old Saxen.

Clerk, A Priest or Dragoon; its conjured from British Origin; The Deacon or Inner Priest in Winning and Callie, Temp. H. 2, was called Clare Brien, i.e. Career Brien, Gt. Hence seems to come the last name Clare, the Ancestral Clothed Ward or Naïlist Part of the Priests; The old Clareurs, is interpreted Clareurs Cuffis; and the present Clareurs, or Coper of a Taker, is an Office in some Religious Houses abroad, imposed on an offending Brother, or by him chosen as an Exercise of Humility and Mortification.

Clerk. Was an unlawful Game, forbidden by Stat. 17 Ed. 4. c. 3, and 33 H. 8. c. 9. It is said to have been the same with our Nine-Pins, and is called Clay-cythes by the 33 H. 8. At this Time 'tis allowed, and called Kevins, or Kittles.

Clerk, No Cloth made beyond sea, shall be brought into the King's Dominions, on Pain of forfeiting the same, and the Importers to be further punished. Stat. 12 Ed. 3. c. 3. 11.

Clubs, Are to make Broad Cloths of certain Lengths and Breaths, within the Lids; and shall cause the Hallers or Weavers in the Cloths, and at a Seal of Lead thereunto, flowing the true Length thereof. 4 Ed. 4. c. 7 H. 8. c. 12. Exploiting to Safe Faulty Cloths, are liable to forfeit the same: And Clothers shall not make Use of Plecks or other deceitful Stuff, in making of Broad Cloth, under the Penalty of 5 St. 3. £ 6 Ed. 6. Judges of Peace are to appoint Searchers of Cloths yearly, who have Power to enter into the Houses of Kloths, and Persons opposing them, shall forfeit 10. Gt. 39 Eliz. c. 20. 42 & 21

Sec. 1. All Cloth shall be measured at the Falling Mill, by the Master of the Mill, who shall make the oath before a Justice, for true Measuring, and the Millman is to fix a Seal of Lead to Cloth, containing the Length and Breadth, which shall be a Rule of Payment, by the Buyer, Gt. 10 Ann. c. 16. By 1 Geo. 1. c. 15. Broad Cloths must be put into Water for Proof, and be measured by two indifferent Persons chosen by the Buyer and Seller. Gt. And Clothiers selling Cloths before sealed, or not containing the Quantity mentioned in the Seals, incur a forfeiture of the Sixth Part of the Value; Persons taking off or counterfeiting Seals, forfeit 20 l. And by a late Statute, if any Weavers of Cloth enter into any Combination for advancing their Wages, or levelling their usual Hours of Work, or going before the end of their Term agreed, return any Work unsold, Gt. they shall be committed by two Justices of Peace to the House of Correction for three Months: And Clothers are to pay their Work People their full Wages agreed in Money, under the Penalty of 10 l. Gt. Stat. 12 Geo. 1. c. 34. Inspectors of Mills and Tester Grounds to examine and seal Cloths, are to be appointed by Justices of Peace in Seclusions; and Men sent to searching the Cloths any Cloths before impertmit, forfeit 40 l. The Inspectors to be paid by the Clothers 1/2 per Cloth. 13 Geo. 1. c. 13. If any Cloth remains in the Towns, and is left in the Night, and the same is found upon any Person, on a Justice's Warrant to search, such Offender shall forfeit two Thirds Value, leviable by Dillets, Gt. or be committed to Goal for three Months; but for a 6th Confection, he shall suffer six months Imprisonment, and the third of the Offence be transported as a Felon, Gt. Stat. 15 Geo. 2. cap. 27.

Cloth, is the second and thritirh Part of a Weigh of Chester, i.e. eight Pounds. Gt 16. cap. 8.

Cloth, A Word made Use of for Valley, in Domesday Book. But among Merchants, it is an Allowance for the Turn of the Scale, on buying Goods Wholesale by Weight. Lex Mercat.

Clout, In Staffordshrie upon finding of a Coal-Mine, on the Surface, they meet with Earth and Stone, then with a Substance called Blue Clout, and after that they come to Coal.

Clote, (Fr. Clore) Shoes, clothe Shoes, and most commonly Horse-Shoes. It is also signified the Staves or Iron with which Cart-Wheels are bound. Confessit. Dom. de Farent. Ms. fol. 16. Hence Closeriam, or Closeria, a Forge where the Clove or Iron Shoes are made—Temui duu Carcetia terrae de Domino Rege, en Cepole per tavo sutorium dependens Pabildum Domini Regis, super quater pedes de Chario Dominus Regis pontinamque et Magnam form de Mansell ex serce. Gt. Mon. Angl. Top. 2. pag. 198.


Cloatha, (Cearus) A Convenience well known; and for the Regulating of Hackney Coaches in London, there are several Statutes. By 9 Ann Eight hundred Hackney Coaches and Two hundred Chairs, are allowed in London and Westminster, which are to be licenced by Commisioners, and pay a Duty to the Crown: And if any Peron drive a Hackney Coach without Licence, he shall forfeit 5 l. and a Chair 40 s. Clothmen and Chairmen, giving abusive Language, or excelling more than their Fare, Gt. A Justice of Peace may order them to pay not exceeding 20 l. to the Poor, and not being able to pay it, send them to the House of Correction; and Persons not paying Clothmen their Fare, or cutting or defacing Coaches, Gt. a Justice will order to make Satisfaction, and on Refusal, may bind them over to the Quarter Sessions: The 1 Geo. 1, orders, That where Clothmen refuse to go or exact more for their Hire than is limited by the Act, they
they shall forfeit not exceeding 5l. nor under 10s. 2d. and the Commissioners have Power to determine it. The Fare of Hackney Coachmen in London, or within ten Miles thereof, is 10l. per Day, allowing 12 Hours to ride and by the Hour not above 1l. 6d. for the First, and 1s. for every Hour after: And none are obliged to pay above 1l. for the Use of any Hackney Coach for any Distances, not mentioned in the Act, which is not above one Mile and four Furlongs; nor above 1l. 6d. for any Distance not exceeding two Miles: The Fare of a Hackney Chair is 1s. for any Distance not exceeding a hundred Yards, and 1s. 6d. for any Distance not exceeding a Mile and four Furlongs. There are certain Places and Distances mentioned in the Act for the Extent of the respective Fares; and other Distances measured and rated by the Commissioners, in Pursuance of the Statutes. Coachmen are to have Numbers to their Coaches on their Plates, or shall forfeit 5s. and refusing to Permits to take the Number of their Coaches, or giving a wrong Number, incurs the Forfeiture of a Sum not exceeding 40s. None but licentiate Coachmen shall ply at Funeral for Hire, under the Penalty of 5l. Drivers of Hackney Coachmen, are to give Way to Persons of Quality, and Gentlemen's Coaches, on the Penalty of 10l. On Sundays there are only One hundred and seventy-five Coaches to ply which are to be appointed by the Commissioners. And there are several Standings of Coaches, at the most noted Parts of the Town, ordained by the Commissioners to be in the Middle of the Streets, &c. Vide 5 & 6 W. & M. cap. 25. 9 Ann. c. 23. 1 Gen. 1. c. 57. The Masters of Stage Coaches are not liable to an Action for Things lost by their Coachmen, who have Money given them to carry the Goods; unless where any such Master takes a certain Price for the same. See 1 Sle. 328. By the Stat. 20 Geo. 2. c. 10. A yearly Tax of 4l. is laid on every Coach which has not, within two Years, with four Wheels, Chaife Marine, Chaife with four Wheels, and Caravan kept by any Perason for his own Use, (except such as are licensed by the Commissioners for Hackney Coachmen) and of 40s. on every Calash, Chaife and Chair with two Wheels, drawn by one or more Horses, kept by any Person for his own Use. No Perason to pay for more than five such Carriages on which 4l. a Year is laid except kept to be let out for Hire. This Duty to be under the Management of the Commissioners of Excise. Perisons keeping such Coaches, &c. yearly to give Notice to the Excise Office, and then pay the Duty. Stage-Coaches and Poll-Chaifes are excepted. Poll-Chaifes are to be entered at the Excise Office, and have a Figure or Mark of Distinction; and to are Coaches, &c. let out for Hire. Coaches, &c. kept for Sale are not to be taxed. If any Person, having paid the Duty, shall die before the End of the Year, no Peron claiming Title to the Coach, &c. shall be liable to any Tax for the Remainder of the Year.

Stage-coaches, &c. the Wares of Coachmakers shall be searched, by Peroms appointed by the Saddlers Company. Stat. 1 Will. 3. cap. 22.

Coachmen, (Lat.) A Fellow-helper or Afflente; particularly applied to one appointed to assist a Driver, being grown old and infirm, so not as to be able to perform his Duty.

Caulis. The Sack of Coal is to contain four Bullets of clean Coals. And Sea Coals brought into the River Thames, and sold, shall be after the Rate of thirty-six Bullets to the Caulis; and One hundred and twelve Pounds the Hundred. The Lord Mayor and Court of Aldermen in London, and Justices of the Peace of the severall Counties, or three of them, are impowered to set the Price of all Caulis to be sold, and if any Perom shall refuse to sell for such Prices, they may appoint Officers to oversee any Wharfs or Places where Caulis are kept, and shall the Caulis to be sold at the Prices appointed. 7 Ed. 6. cap. 7. 16 & 17 Car. 2. cap. 2. 17 Geo. 2. c. 35. Commissioners are ordained for the Measuring and Marking of Kettles, and Bollis for Cauls at Newgate, and for the Governor of the Tower. All Ships not measured and marked, shall be forfeited, &c. 30 Car. 2. c. 8. English Ships trading in Coals, may be manned with Foreigners during the War. 2 W. & M. c. 28. The Duty is laid on Cauls imported, by Statutes 6 & 7 W. 3. cap. 18. 9 & 10 W. 3. cap. 13. 8 Ann. &c. By 9 Geo. c. 28. Contrasts between Coal Owners and Masters of Ships, for refusing to take the Binding of Coals are void; and the Parties to forfeit 100l. And selling Coals, for other Sorts than they are, shall forfeit 50l. Not above fifty laden Colliers are to contain in the Port of London, &c. and Workmen in the Mines there, shall not be employed who are hired by others, under the Penalty of 5l. A late Act for better Regulation of the Coal Trade, ordains that Coal Sacks shall be sealed and marked at Goldsmith's, &c. and be four Feet and two Inches in Length, and twenty-six Inches in Breith, on Pain of 20l. Also Sellers of Coals are to make a lawful Bushel, and put three Bushels to each Sack, which Bushel and other Measures shall be edged with Iron, and sealed; and using others, or altering them, incurs a Forfeiture of 5l. or 10l. The Act above said recoverable by Action of Debt, &c. and under that Sum before Justices of Peace. Stat. 5 Geo. 2. cap. 26. Owners or Masters of Ships, who change the Price of Coals in the River of Thames, by the Keeping of Turn in delivering of Coals there, under the Penalty of 100l. &c. 4 Geo. 2. cap. 50. The Price of Sea Coals imported into London and Port of Ipswich, to be there sold, may be set by the Lord Mayor, &c. for one Year; and Persons selling Coals out of any Vessel, Yard, or Warehouse, for a higher Price, shall forfeit 50l. per Chalder, to be paid by the Whistle of the Master of the Ship. Dealers in Coals at Billinggate, &c. refusing to sign legal Contracts, shall forfeit 50l. And any Perom vending Coals at Newgate, that refuseth to put a Loading on Shipboard, on Tender of the Price they bear, is liable to the Forfeiture of 100l. to be recovered by Action in the Courts at Westminster, within six Months, by Stat. 11 Will. 3. &c. 11. By the Stat. 19 Geo. 2. c. 35. Two Land Coal Meters are to be appointed for the City and Liberty of Westminster, and that Part of the Dutchy of Lancaster adjoining thereto, and the several Parishes of St. Giles in the Fields, St. Mary le Bow, and such Part of the Parish of St. Andrew, Holborn, as lies in the County of Middlesex; who are to appoint Labouring Coal Meters. No Person, after Coals delivered from any Ship, to break Bulk, before the Time of Delivery at the Wharf, in the Absence of a Meter or the Conserver, under the Penalty of 5l. All Contracts for Coals to be delivered within the Limits aforesaid (not being less than five Chalders) shall be for Pool Measure, including the Ingrain, and shall be so understood, though the Term Pool Measure be omitted in the Contract; and shall be loaded separately, and delivered without being measured, unless the Buyer defers it. All Coals sold for Wharf Measure, above eight Bushels, shall be measured in the Presence of a Labouring Coal Meter. The Seller to pay 4d. per Chalder to the principal Coal Meter, who is to deliver to the Seller a Ticket of the Name of the Seller and Conserver, Quantity of Coals, &c. the Seller is to deliver the same to the Conserver, who is to pay the Metage. Penalty of altering or refusing a Ticket. An Act for the Selling of Coals without a Ticket 50l. Penalty on false Ticket or false Measure 5l. Conserver dissatisfied may have Coals re measured. The Carman, on Notice in Writing, that the Conserver is dissatisfied, shall not quit the Cart 'til the Coals are re-measured.

Cocketts.
Coffingh, An Eulation or Tribute in Ireland now reduced to chief Rents. See Bunligh.

Coffin, That of Solomons was found in Ports in Spain was declared lawful during the late War, &c. Stat. 6 Ann. Any Persons may import Coffin into this Kingdom, in Ships belonging to Great Britain, or other Country in Amity, from any Place whatsoever, by 7 Geo. 3. c. 18.

Cock, (Cockatinus) A Seal belonging to the King's House: Or rather a Scroll of Parchment seal, and delivered by the Officers of the Cus- dom-house to Merchants, as a Warrant that their Merchandises are cultivated: Which Parchment is otherwise called Libra de Cuckt, or Libra Tygmati- nialis de Cukato. 11 H. 6. Reg. Orig. 152. 179. So it is said, 5 & 6 Ed. 6 c. 14. &c. The Word Cocklem or Cock, is also taken for the Cusdom-house or Office where Goods to be transported were first entered, and paid their Cussum, and had a Cocket or Cer- tificate of Discharge: And Cockletana Loom is Wool day engraven, or authorized so to be trans- ported. Mem. in Stat. 23 Ed. 1. Cock is likewise uted for a Sort of Measur, as we may read in fletia, 1. 293, 11 ed. 5, and certainly good mention. punderit deum Cock & dimidium: And it is made use of for a Distinction of Bread, in the Statute of Bread and Ale. 51 H. 3. Where Mention is made of Rodd Bread, Cockten Bread, Bread of Treed, and Bread of Common Wheat; the Watle Bread being what we now call the Salt Bread, or French Bread; the Cockten Bread the second Sort of White Bread; Bread of Treat, and of common Wheats, Brown, or Howble Bread, &c.

Cockbain, A Bootman, Cockswain or Coxen. Coves, A Coque, or little drinking Cup, in Form of a small Boot, used especially at Sea; and still re- tained in a Caper of Brandy. Thf drinking Cops are also used in Taverns to drink new Sherry, and yther white Wines, which look foul in a Glass.

Confit (Codrillion, from Codex a Book, a Wring) is a Schedule or Supplement to a Will, where any Thing is omitted, which the Testator would add, or he would explain, alter or retract what he hath done; and it is the same with a Testament, but that it is without an Executor: And one may leave behind him only one Testament, but as many Codices as he pleases. Wyf. Symb. p. 66. A Codex is taken as Part of the Will; and the Codills ought to be an- nounced to the Testament, and the Executor is to see that they are all performed: If the Will or Codill be kept from the Executor, he may force the Party detaining them to deliver them up by the Ecclesiastical Laws. Sir. 3. Sed. 1. pag. 1. Sir. 1. Some Writers conferring a Testa- ment and a Codil it together, call a Testament a great Will, and a Codil his one.

Coffee, Tea, and Chocolate. The Cusdom Du- ties on Coffee, Tea, and Chocolate, are taken off by Statue, and Inland Duties granted in their stead, payable by Drugget, and all Persons dealing in Coffee, &c. And Entries are to be made of all Ware houses, under Penalties and Forfeiture of the Goods. Stat. 10 Geo. 1. c. 10. The Duties to be paid are 2s. per Punds Coffee, 1s. 4d. and 3d. to be paid. And Coffee, &c. not to be sold but in Places entered; and if above five Pounds Weight, to have a Permit: Denlers in Coffee and Sugar, Coffee house keepers, &c. shall keep an Account of Goods sold every Day, and deliver their Books to the Officer on Oath, Coffee shall be emptied, and Chocolate makers are to make an Entry of all Chocolate made, under the Penalty of 50l. And Persons mixing other Drugs with Coffee shall forfeit 100l. Stat. 11 Geo. 1. c. 50. Some are in fornication and intemperance, imploring Copes Nuthells or Huks to make Chocolate, &c. 4 Geo. 2. c. 14. See 5 Geo 2. c. 14.

Coffa, A Coffet, Cheek or Trunk.—Coffa Col- legii, & Ministris subjiciunt, &c. capitanei certuum sanc- tum cum personis de Cofa, et commissione Hodg. SS. Trinit. de Ponstreaccho, MS. fol. 50.

Coffret of the King's Houhold, is a Principal Officer of the King's House, next under the Chancellor, who is in the Counting house, and elsewhere, hath a special Charge and Over sight of other Officers of the Houhold, to all which he pays their Wages: This Officer paffs his Accounts in the Exchequer, and is mentioned in 15 Edin. c. 7.

Cogole, A small Fishing Boot, upon the Coasts of Yorkshire: And Cogs, (Coges,) are a Kind of small Ships, or Vessels, used in the Rivers Clyde and Umb. Stat. 23 H. 8. c. 18. Praparatus Cogo- nibus Galli, de aliis Navibus, &c. Mat. Parl. Anno 1666. And hence the Cogmen, blaze-men or sea- men, who after Shipwreck or Losses at Sea, travelled and wandered about to defraud the People by Begging and Stealing, 'till they were restrained by divers good Laws. Da Prex. 4.

Cognitione, A Writ of Cognitione. See Cognitione.

Cognitiones, (Fr. Connaissance, Lat. Cognitio,) is used diversly in our Law: Sometimes it is an Acknowledg- ment of a Fine, or Confession of a Thing done; and there is a Cognition of taking a Distinct: Sometimes it is the Hearing of a Matter judicially; as to take the Cognition of a Land: And sometimes it signifies a Ju- ridification, as Cognition of Pleas is a Power to call a Caue or Plea out of another Court; which none can but the King, or by Charter. This Cognition of Pleas is a Privilege granted by the King to a City or Town, to hold Pleas of all Contrasts, &c. within the Liberty of the Francise; and when any Man is impeached for such Matters in the Courts of Welfminster, the Mayor, &c. of such Francise may all Cognition of the Pleas, and demand that it shall be determined before them; But if the Courts at Westminster be polluted of the Plea before Cognition is demanded, it is then too late. Terms de L. 174. 179. See Stat. 6 H. 3. c. 5. Cognition of Pleas extends not to Alliess: and when granted, the Original shall not be removed: It lies not in a Square Impecc, for they cannot rise to the Bishop; nor of a Plea out of the County-Court, which cannot award a Restummo, &c. 19q. Cent. 31. 14. This Cognition should be demanded the first Day: And if the Demandant in a Plea of Land counterfeits the Francise, and the Tenant joins with the Claim of the Francise, and is it found against the Francise, the Demandant shall recover the Land; but if it be found against the Demandant, the Writ shall abate. Ibid. 18.—Cognition also signifies the Title of a Waterman or Servant, which is usually the Giver's Craft, whereby he is known to belong to this or that Nobleman or Gentleman. Cognitione and Cognitio, Cognitio, Is he that pays or acknowledges a Fine of Lands or Tenements to another; and Cognitio is he to whom the Fine of the said Lands, &c. is acknowledged. Stat. 32 H. 8. c. 5.

Cognitaneae, Ensigns and Arms, or a military Coat painted with Arms.—Cam warden Hodges Craft arms occults & Cognitionibus pertinentes, &c. Mat. Parl. 1590.

Cognitiostus Alethianus, Is a Wit to one of the King's Justices of the Common Pleas, or other than hath Power to take a Fine, who having taken the Fine desires to certify it, commanding him to certify it. Reg. Orig. 68.

Cognitiostus Alethianus, Where a Defendant ac- knowledges or confesses the Plaintiff's Caufe against him to be just and true, and after Issue suffers Judg- ment to be entered against him without Trial. And here the Confession generally ceases, and is no more to what is contained in the Declaration; but if the
Defendant will confess more, he may. 1 Roll. 919. 

Hib. 178.

Covert, A Tribe paid by those who meet promiscuously in the Market or Fair; Colloquially signifying a promiscuous multitude of Men in a Fair or Market.—Stiænis ab omni Tabulis, Pugilios, Festis, Cassaing, Paltingis, Ut. De Canc. 

Coif, (Capa) A Title given to Servants at Law: who are called Servientes of the Coach, from the Lawn Coat they wear on their Heads under their Caps, when they are crested. The Use of it was anciently to cover Jufrarum Clericis, otherwise called Corona Clericis; because the Crowns of the Head were close shaven, and the Border of Heir left round the lower Part, which made it to look like a Crown. Blount. 

Coffin, (Casa Pecuniae) Seems to come from the Fr. Cappe, i.e. deppeles, a Corner, whence it has been held, that the ancient Sort of Coffin was square with Corners, and not round as it now is: It is any Seat or Bench. Compend. Cases is a Word collected, which contains in it all Man ner of the several Stamps and Species of Money in any Kingdom: And this is one of the Royal Prerogatives belonging to every Sovereign Prince, that he alone in his own Dominions may order and dispense the Quantity and Value, and Pashion of his Coin. But the Case of one King is not current in the Kingdom of another, unless it be at great Loss; though our King by his Prerogative may make any Foreign Coin lawful Money of England at his Pleasure, by Proclamation. Terms of Law 136. If a Man hides himself by Bond to pay one hundred Pounds of lawful Money of Great Britain, and the Person bound, the Obligor, pays the Obligee the Money in French, Spanish, or other Coin, made current either by Act of Parliament, or the King's Proclamation, the Obligation will be well performed. 1 Inst. 207. But 'tis paid a Payment in Fartings, is not a good Payment. 2 Inst. 517. When a Person has accepted of Money in Payment from another, and put the same into his Purses, it is at his Peril after his Allowance; and he shall not then except those to be bad, notwithstanding he professes to review it. Terms of Law. By Statute any Person may break or deface Pieces of Silver Money appealed to be counterfeit or dimini shed, otherwise than by wearing: But if such Pieces be broken, or found to be good Coin, it will be at the Breaker's Peril, who shall refund to the Loss of the Person who said Coin of Gold and Silver are to pass notwithstanding some of them are crack'd, or worn, but not if they are clipt. 19 H. 7. c. 5. Counterfeiting, Impairing, or Clipping of the King's Coin, is made High Treason. 25 Ed. 3. c. 14. and 18 Eliz. cap. 7. It is also Treason to make any Stamp, dye, mould, etc. for counterfeiting, except by Person employed in the Mint, etc. Con veying fuch out of the Mint, is the same; and so is colouring Metal pertaining Coin of Gold or Silver, marking it on the Edges, etc. And if any Person mix balsined Copper with Silver, to make it heavier, and look like Gold, or receive, or pay counterfeit milled Money, it is Felony. 8 & 9 H. 3. c. 26. Counterfeiting Broad Beaces of the Mint, etc., is declared to be Treason. Stat. 6 Gen. 2. cap. 26. Persons that wake or geld any Shilling, or Six Pence, or alter the Impression, so as to make them resemble a Guinea, Half Guinea, etc., are adjudged guilty of High Treason; and those who tender in Payment, any counterfeit Coin, knowingly, shall be imprisoned for three Years. Every Officer, two Years for the second, and a Third suffer as Felons. 15 Geo. 2. c. 28. The Statutes which ordain milled Money to be made, give Liberty to any Person to refine hammered Silver Coin, as not being the lawful Coin of this Kingdom. 9 H. 4. c. 2. Counterfeiting of the Coin extends only to Gold and Silver Coins; for the Coins of Farthings or Half-Pence, or Pieces to go for, of Copper, incurs a Penalty of 3 l. for every Pound Weight, by Stat. 6 & 7 H. 3. c. 32. This Offence is now punished with two Years Imprisonment, and Surety to be given by the Offender for good Behaviour two Years more. 15 Geo. 2. Persons apprehending Money Cowper, Clippers, etc., are to have 40 l. Reward: and a guilty Person discovering two others, to be pardoned. 6 & 7 H. 3. By the late Statute, 10 l. is also given as a Reward, for apprehending and convitting Cowpers of Copper Money. In the seventh Year of King William III. an Act was made for calling in all the old Coins of the Kingdom, and to melt it down and remain it; the Deficiencies whereof were to be made good at the publick Charge: And in every Hundred Pound made 40 l. was to be Shilling, and 10 l. Sixpences, under certain Penalties. Persons bringing Plate to the Mint to be coined, were to have the same Weight of Money according to its Value, and Receivers General of Taxes, etc., were to receive Money at a large Rate per Ounce. Our Guineas have been raised and falsified, as Money has been falsified or plenteous, several Times by Statute: And Anne, 1. Gen. 1. on a Scarcity of Silver Coin, for Remedy, our Guineas were sunk to 21 l. at which they now pass by Proclamation. See Money. 

An Indulgence for Coining of Money.

Somerset, ff. Th. H. Journs, etc. T. A. B. of, etc. not knowing God before his Eyes, but being seduced by the Irregularity of the Devil, on the Day, etc. in the Year of the Reign, etc. as the Part of, etc. in the said County, did falsely and treacherously forge, counterfeit, and Coin Twenty Pieces of Brass and Copper, and other mixed Metals, to the Befallums and Likeness of good, lawful and current Money of the King of this Kingdom of England, called Shilling; and knowing the said Twenty Pieces, to be so falsely and treacherously counterfeit and coined, the said A. B. afterwards, that is to say, on the said Day of, etc. in the etc. Year above said, at, etc. in the said County, and elsewhere, etc. and afterwards did falsely and treacherously coin, and counterfeit, and pay and utter fifty Pieces thereof, to divers Subjects of this said Sovereign Lord the King, for the true, lawful and current Money of England, in the great Prejudice and Detriment of the said Subjects, and against the Peace, etc. and also against the Form of the Statute, etc. 

Coinage, (Coynium) Is the Stamping and Marking of Money, by the King's Authority. And there is a Duty of 10 l. per Ton on Wine, Beer, andBrandon made, called the Coyn, granted for Expense of the King's Coinage, but not to exceed 3300l. per Ann. Statute 18 Car. 2. cap. 5. This Duty for Coinage hath been continued and advanced, by divers Statutes, 21 & 22 Geo. 1. c. 14. 9 Geo. 1. etc. The Coinage Duties are continued for four Years, by a late Statute; and the Commissioners of the Treasury, for the time being, are to be shown by the Act, or other publick Supplies, shall defeat the Expense of the Mint of England and Scotland, not exceeding 13000l. per Ann. Statute 40 Geo. 1. c. 37. 

Coliberti, (Coliberti) Were Tenants in Scopq; and particularly such Villains as were measured or made Freeman. Domestically. But they had not the abstract Freedom; all their Servants, they yet had superior Lords to whom they paid certain Duties, and in that Respect they might
be called Servants, though they were of middle Condition, between Freeman and Servants.—*Librars
coevii Collaterals ditter eff. Da Cange.

Collateral, from the Lat. Lateralis, Sideways, or which that hangeth by the Side, not directly: As Collateral Assurance is that which is made over and above the Deed itself: Collateral Security, is where a Deed is made of other Land, before it be granted by the Deed of Mortgage: And if a Man covenants with another, and enters into Bond for Performance of his Covenant, the Bond is a Collateral Assurance; because it is external, and without the Nature and Essence of the Covenant. If a Man hath Liberty to pitch Booths or Standings, for a Fair or Market in another Patron's Ground; it is Collateral to the Ground. The private Woods of a common Person, within a Forest, may not be cut down without the King's Licence: it being a Prerogative Collateral to the Soil. And to be subject to the Feeding of the King's Deer, is Collateral to the Soil of a Forest. *Gomp. Jurif. *185.

Collateral Church Law, and Collateral Stipend. See Dispensation and Winnower.

Collatio Donum, is in Law where a Portion of Money advanced by the Father to a Son or Daughter, is brought into H chops, in order to have an equal distributive Share of his personal Estate, at his Death, according to the intent of the Stat. 22 & 23 Car. 2, c. 10. *Abb. Eq. 2, p. 274. See H chops.

Collation of a Benefice, (Collatio Beneficii) Signifies the Buying of a Benefice by the Bishop, when he hath Right of Patronage. And it differs from Indulgence in that it is not performed by the Bishop upon the Presentation of another, and Collatio is his own Act of Presentation; and it differeth from a common Presentation, as it is the Giving of the Church to the Parson, and Presentation is the Giving or Offering of the Parson to the Church. But Collation supplies the Place of Presentation and Indulgence; and amounts to the same as Indulgence, where the Bishop is both Patron and Ordinary. *1 Lit. Eq. 273. Anciendly the Right of Presentation to all Churches, was in the Bishop; and now if the Patron neglects to present to a Church, then this Right returns to the Bishop by Collation: And if the Bishop neglects to collate within six Months after the Lapse of the Patron, then the Archbishop hath a Right to do it; and if the Archbishop neglects, then it devolves to the King; the one as Superior, to supply the Defects of Bishoprick, the other as the Supreme, to reform all Defects of Government. As a Bishop may neglect to collate, so it may happen that he may make his Collation without Title: but such a wrongful Collation doth not prejudice either the Denizen or the other; the Collation of the Bishop is infallible and indelible, he may present his Clerk: And Collation in this Cafe, shall be intended only as a provisional Incumbency to perform Divine Service till Presentation is made by the true Patron. *1 Inf. 344. By Collation the Church is not full: and a right Patron may bring his Wit at any Time to remove the Patron collated; except his Right be likewise to collate, when Plenary by Collation may be pleaded. *Wind's Eq. 159. Where a Bishop gives a Benefice as Patron, he collates to it *Fare Eq. 2, c. 10. and he doth it *Jure Divino. The Collation by Laple, is right of the Patron, and for his Turn: And in Affidavit of Darrery Provostship, *Eq. it shall be laid as his Possession. 24 Ed. 3. 36. F. N. B. 11.

Collatio feat in post Mortem alterius, is a Wit directed to the Justices of the Common Peace, commanding them to issue their Wit for the Bishop, for the Admission of a Clerk in the Place of another presented by the King; who died during the Suit before the King's Bench, or to the Bishop's Clerk. For judgment once passed for the King's Clerk, and his dying before Administration, the King may allow his Presentation on another. *Reg. Org. 31.

Collationes Derrinititig, A Wit whereby the King conferred the Keeping of an Hermitage upon a Clerk. *Reg. Org. 503, 508.

Collation of Heralds. This was when upon the same Label, one Seal was set on the Back or Reverse of the other. —*Ad majorem Scaramum Fratrum Signum differenti everti Offic. litis Dens Domus Barle. Well. Exf. capi jur. modum Collationis, fictae nos apponi praecipue. Circular. Abbatt Chalmon. MS. 105.

Collateage, of Money due to the King, not paying the same to whom it ought to be paid, shall answer so much per Cent. to his Majesty till Payment. *Stat. 20 Car. 2, c. 2. See Reservations.


Collegiate Church, is that which consists of a Dean and secular Canons; or more largely, it is a Church built and endowed for a Society, or Body Corporate, of a Dean or other Presbytery, and secular Priests, as Canons or Prebendaries in the said Church. There were many of these Societies distin-
guished from the Religious or Regulars, before the Reformation: And some are established at this Time: as Wymington, Winder, Winchester, Soutwell, Manchester, &c.


Collation, (*Collypo) Is a decent Agreement or Contract between two, or more Persons, for the one to bring an Action against the other, to some evil Purpose, as to defraud a third Person of his Right, &c. This Collation is either apparent, when it shews itself in the Face of the Act; or which is more common, it is secret, where done in the Dark, or covered over with a Shew of Honesty. And 'tis a Thing the Law abhors: wherefore when found, it makes void all Things dependant upon the same, though otherwise in themselves never to good. *Ca. Lit. 299, 366. Plowd. 54. Collation may sometimes be tried in the same Action wherein the Covin is, and sometimes in another Action, as for Lands aliened in Mortmain by a *Quae jus: And where it is apparent there needs no Proof of it; but when it is secret, it must be proved by Witnesse, and found by a Jury like other Matters of Fact. 9 Reg. 43. *Statute of Wilm. 2, 3 Ed. 1, c. 31. gives the Wit Quae jus, and Inquiry in their Cales: And there are several other Statutes relating to Deeds, and鋊 and Fraud. The Cales particularly mentioned by the Statute of Wilm. 2. are of Quae Impediti, Affid, &c. which every Corporation brings against another, with Intent to recover the Land or Adowment, for which the Wit is brought, held in Mortmain, &c. Vide the Statute.

Colona, An Husbandman or Villager, who was bound to pay yearly a certain Tribute, or at certain Times in the Year to plough some Part of the Lord's Land; and from hence comes the Word *Coun: who is called by the Dutch Boer.

Colour, (Color) Signifies a probable Plea, but what is in Fact false; and hath this End, to draw the Trial of the Cause from the Party to the Judges: And therefore Colour ought to be Master in Law, or doubtful to the Jury. This Colour is used in Affidavit, or Action of Trepass; and every Colur ought to have these Qualities following: 1. It is to be so disadvantageable the Lay-Gen, as in Case of a Deed of Feesment pleaded, and it is a Doubt whether the Land passeth by the Feesment, without Livery, or no. 2. Colur ought to have Continuance, though it wants Effect. 3. It should
should be such Colour, that if it were effecive, would maintain the Nature of the Action; as in Affiles, to give Colour, to be unlawful, to the Actions of Conquest, &c. Colour must be such a Thing, which is a good Colour of Title, and yet is not any Title. Co. Ten. 122. If a Man signifies his Entry for such a Cause as binds the Plaintiff or his Heir for ever, he shall not be given any Colour: But if he pleads a Defcense in Bar, he must give Colour, because this binds the Possession, and not the Right; so that when the Master of the Pies bars the Plaintiff of his Right, no Colour must be given. When the Defendant entitles himself by the Plaintiff; where a Person pleads to the Writ, or to the Action of the Writ; he who signifies for Tithes, or where the Defendant signifies as Servant: In all those Cases no Colour ought to be given. 10 Rep. 91. Lenti. 1542. Where the Defendant does not make a Special Title to himself, or any other, he ought to give Colour to the Plaintiff. Co. Eliz. 76. In Trespass for Taking and Carrying away Twenty Loads of Wood, &c. the Defendant says, that A.B. was possessor of them, at de bonis propriis, and that the Plaintiff claiming them by Colour of a Deed after made, took them, and the Defendant restored them; and adjudged that the Colour given to the Plaintiff, makes a good Title to him, and confiscates the Interest in him. 1 Litt. Acr. 275. Colour is for this Cause, nolle. Where the Defendant justifies by Title to Trespass or Affile, if he do not give the Plaintiff Colour, his Plea amounteth only to Not guilty; for if the Defendant hath Title, he is not guilty. 1 Rep. 79. 16. Term. De Ley 140.

Colour of Objects. (Color Objet.) When an Act is evilly done by the Command of an Office; and always taken in the word Sense, being grounded upon Corruption, in which the Officer is as a Shadow and Colour. Plowd. Comment. 6. See Extortion.

Culpinis. (Culpitum, Culpitis.) Young Poles, which being cut down, make Leavers or Litters; and in Warwickshire they are called Culpis in this Day. Blount.

Copp, A small Wax Candle, a Coper de Cere: We read in Homer, that when the King of Scota came to the English Court, as long as he flourished there, he had every Day, De Libertatis regiana sol. & dua de predicta Dominione, & quadringenta grafis longis Colpoin de Dominica Candida Regii. &c. Annatas 1194.

Embarons, The Fellow Barons, or Commonalty of the Cinque Ports: K Ing. 6. grants to the inhabitants of the Port of Framlingham, possession of all Tribes, & Confessities, in 1760 18th quire, &c. of their Barons, who are de quingenariis Tribus, and have a larger space than the regular Emicators of the K Ing. 8. to whom this Tribe is given, and the Members of the Parliament. And the Word Commorati is used for a Fellow Member, the Barons and his Commorant.

Cort Ley. From Sax. Combe, Brit.康, Eng. Combe, a Valley or low Piece of Ground or Place between two Hills which is still so called in Devonshire and Cornwall: Hence many Villages in other Parts of England have their Names of Combe, as Wickcombe, &c. from their Situation. Kenw. Clif.

Comm (Fr.) Is taken with us for a formal Trial between two Champions, of a double Combat as Quarral, by the Sword or Balfan. The last Trial by Combat in this Kingdom was Ann 6 Car. 1. between Donald Lord Roy, Appellant, and Dauid Ramfor, Esq; Defendant, both Scotoines, before Robert Lord Lord High Constable, Thomas East of Averell, Earl Marshal, with other Lords: when after the Court had met several Times in the Painted Chamber, and other Formations, it was at last referred to the King's Will and Pleas, who was inclined to favour Ramfor. Co. Litt. 294. Orig. Juridical. fol. 65. See Battel.

Combinations to do unlawful Acts, are punishable before the unlawful Act is executed; this is true of every Combination, and Conspiracies, &c. 9 Rep. 57. See Confederacy.

Comitatus. The Ancient Way of Taking mixt and corrupt Money, by melting it down upon Payments into the Exchequer. In the Time of King Henry 7. a Constitution was made called the Trial by Combution; the Practice of which differed little or nothing from the present Method of assaying Silver. But whether this Examination of Money by Combution, was to reduce an Equation of Money only of Sterling, or a due Proportion of Alloy with Copper; or to reduce it to a fine pure Silver with Alloy, doth not appear. On making the Constitution of Trial, it was considered, that though the Money did answer Names of Pounds, it might be declared of no Value, because mix'd with Copper or Brass, &c. Vide Lew. 12 Eff. upon Coin, p. 5.

Comitatus. A County. Ingloublis tells us, That England was first divided into 5 Regions by King Alfred; and Counties into Hundreds, and these again into Tithings: And Fortsine writes, that Regnum Angliae pro Comitatus at Regnum Franciae per Balivias divisum est. Something is taken for a Territory or Jurisdiction of a particular Place, as in Mat. Paris. Ann. 1124. John Mares illos continentur quae donum recipit de illicum Comitis. &c. Comitatus haud assimilabile proponunt. And in Gent. H. 1 apud Hoveden: Castellum de Northam con Comitatus, &c. And, De formis naturalis, & obit. de quibus suntsc Galerie, &c. Constitution Comitat, & legatur greges ad eum super Comitatus Faciunt. Chas. 13 Ed. 1. See County.

Comitatus, Is a Writ or Commission whereby a Sheriff is authorized to take upon him the Charge of the County. Reg. Orig. 125.

Comitatus et Gastro Commission, A Writ by which the Charge of a County, together with the Keeper of a Castle, is committed to the Sheriff. Reg. Orig. 125.

Comitata, A Companion or Fellow Traveler: It is mentioned in Brumnum, Reg. H. 2. And sometimes it signifies a Troop or Company of Robbers; as in Walsingham, Ann. 1366. Interpellations auctum Regis Angliae contra Magnus Comitatus, &c.

Commandary, (Practecracy) Was any Manor or Chief Mediator, with Lands and Tenements thereto appertaining, which belonged to the Priory of St. John of Jerusalem in England; and he who had the Government of such a Manor or House was called the Commander, who could not dispose of it but to the King, and his successors, and his heirs for ever, and his Sussessa, according to his Degree. New Earl in Lincolnshire was and still is called the Commander of Earl, and usually belonging to the said Priory of St. John of Jerusalem, were given to King Hen. 8. by the Stat. 12 H. 8. about the Time of the Distillation of Abbies and Monasteries; so that the Name only of Commandaries remains, the Power being long since extinct.

Commandment. (Practecracy) Is diversly taken as the Commandment of the King, when upon his own Motion he has a Man into Prison. Command- ment of the Justices, Abboture or Ordinary, Abolition, where upon their own Authority they commit a Person for Contemn, &c. to Prison, as a Punishment; Ordinary when they are authorized for that Purpose, than for any Punishment: And a Man committed upon such an ordinary Commandment is reple-
CO

visible. Stauwd. P. C. 72. 75. Perons committed to Prifon by the Special Command of the King, were not formerly bailable by the Court of King's Bench; but at the Day that the Ballot was declared and sealed, as appears under Bail. 1 How. P. C. 96. In another Scoffe of this Word; Majistrats may Command another Majistrat to hold a Felon, for the doing of Justice; and so may a Justice of Peace to apprehend Rovers, apprehend Felons; or Officer to keep the King's Peace, &c. Br. 3. A Mafter may command another of his Officers to drive another Man's Cattle out of his Ground, to enter into Lands, feite Goods, diftraint for Rent, or do any other Things; if the Thing be not a Trefta to others. F. A. 5. The Commandment of a Thing is good, where he that Commands hath Power to do it; And a verbal Command in most Caufes is fufficient; unless it be where it is given by a Corporation, or when a Sheriff's Warrant is to a Balliff to arreft, &c. Br. 288. Dyer 302. Command is also used for the Office of him that willeth another Man to tranfgres the Law, or do any Thing contrary to it; And in the moft common Signification, it is taken when one willeth another to do an unlawful Act; as Murder, Theft, or the like: Which the Civilians call Mandatum. Broth. lb. 3. c. 10. He that commanded any one to do an unlawful Act, is Accruey to it and all the Confequences, if it be exeuted in the fame Manner as commanded; And if the Command is revocable, the Command; or if the Execution varies from it, or in the Nature of the Office, in fuch Cafe he will not be Accruey. 3 Iuf. 51, 57. 2 Iuf. 182. If a Man command a Felon on particular Peron, and he doth it on another, as to kill A. and he kills B. or to burn the Houfe of A. and he burns the Houfe of B. or to kill one Thing, and he kills another, as to kill a, and he commits another; it is faid that the Command is not an Accruey, becaufe the Act done varies in Subfance from that which was commanded. H. P. C. 217. Pneud. 475. But where a Perfon commands or ad- vites another to fuch a one in the Night, and he kills him in the Day; or to kill him in the Fields, and he kills him in the Town; or to poifon him, and he poifons him; these Acts being the fame Felony in Subfance with that which was intended, and varying only in Circumstances, in Reftitut to Time, Place, and no manners, This may not be fufficient, becaufe the Command, which tended to endanger the Life of the other. Alfo it is faid, that one command another to burn the Houfe of a certain Peron, and he by Burning it burn likewise the Houfe of another, the Commander is equally accessory to the subsequent Felony, as to that which was directly commanded. Ibld. 315, 316. To Command or Counte any one to com- mit Burglary, is Felony Benefit of Clergy. Stat. 5 & 6 W. & M. In Forcible Entries, &c. An Infant or Feme Covert may be guilty in Reftitut of actual Violence done by them in Peron; though not in Regard to what shall be done by others at their Command, because all such Commands of theirs are void. Co. Litt. 357. 1 How. 147. In Treftas, &c. the Command of the Aft of the Servant, done by his Command; but Servants shall not be excufed for committing any Crime, when they act by Command of their Masters; who have no Au-


Commandment, (Eccl. S. Comma. Eccles. als. Comm. Cart. 3. 19.) Is the Hadding of a Benefice or Church-Living, which being void, is commended to the Charge and Care of some sufficient Clerk, to be supplied until it may be conveniently provided of a Pallor: And he to whom the Church is commended, hath the Profits thereof only for a certain Time, and the Nature of the Church is not changed thereby, but is as a Thing depofited in his Hands in Truitt, who hath nothing but the Cuftody of it, which may be revoked. When a Parfon is made Bishop, there is a Ceilion or Voidance of his Benefice by the Promotion; but if the King by Special Difpensation gives him Power to retain his Benefice, notwithstanding his Promotion, he shall continue Parfon, and is said to hold it in Commandment. Hob. 144. Latch 236. As has been already observed, a Clergyman is a Beneficer, and a Fellow of a Colledge, while he is in Commandment, or until the Commendation be restored to him; this is usually where the Bishopricks are small, for the better Support of the Dignity of the Bishop promoted: And it must be always before Confirmation; for afterwards it comes too late, because the Benefice is then absolutely void. A Commandment, founded on the Statute 25 H. 8. is a Diffpensation from the supreme Power, to hold or take an Ecclesiastical Living, contra juv Episcopum: And there is a General Sorrow when he is put into Commandment, as a Commandment Simplicitis, which is for the Benefit of the Church without any regard to the Commandment, being only a Prorvisive Act of the Ordinary, for Supplying the Vacation of fix Months, in which Time the Patron is to preferit his Clerk, and is but a Sequestration of the Cure and Fruits until fix Time as the Clerk is preferred: A Commandment Reversion, which is for a Bishop to retain Bene-
fices, on his Preferment; and these Commandments are granted on the King's Mandate to the Arch Bishop, which contains the Instru
cency, so that there is no Occasion for Inflation. A Commandment Reprise is to take a Benefice de Novo in the Bishop's own Gift, or in the Gift of some other Patron, whose Consent must be obtained. Dyer 228. 3 Lev. 381. Hob. 145. Dav. 79. A Commandment may be temporary for fix or twelve Months; two or three Years, &c. or it may be perpetual, i.e. for Life, when it is equal to a Prelation, without In-
flation or Induction. But all Diffpensions beyond fix Months, were only permitted at first, and granted to Persons of Merit: The Commandment Reverse is for one or two Years, &c. and sometimes for three or fix Years, and does not end the Elate which the In-
comer had before: A Commandment Reversion, as long as the Commandatory should live and continue Bishop, hath been held good. Faugb. 18. The Commandment Reprise must be for Life, as other Parsons and Vi-
cars enjoy their Benefices, and as a Patron cannot preient to a full Church, so neither can a Commandment Reprise be made to a Church that is then full. Snou. 414. A Benefice cannot be commissed by Parry, any more than it may be preseated unto Parry that one shall have the Glebe, another the Tithes, &c. Nor can a Commandment have a 'Jarius Utrum, or take to him and his Successors, for or be used, in a manner for the Purposes of Annuity, &c. But a Commanda perpetua may be admitted to do it. 11 H. 4. Compl. Insb. 560. See 1 Nef. Atr. 454.

R R

Commandment,
Commentatory, (Commentarius) Is he that hath a Church Living or Preferment as Commentarius. Commentarius Letters, Are such as are writ to a Bishop to another, in Behalf of any of his Liturgy, or others of his Diocese, travelling thither, that they may be received among the Faithful: Or that the Clerk may be promoted or, Needs affaires admitted to the others, Et., several Forms of these Letters may be seen in our Historians, as in Bede, lib. 2. c. 18.

Commentarius, One that lives under the Protection of a Great Man. Specul. Commentarii Homines were Persons who by voluntary Homage put themselves under the Protection of any Superior Lord: For ancient Homage was either Preval, due for some Tenure; or Perthonaly, which was by Compulsion, as a Sign of necessary Subjection; or voluntarily, with a Desire of Protection: And those who by voluntary Homage put themselves under the Protection of any Men of Power, were sometimes called Homines jus Commentarii; and sometimes only Commentarii, as often occurs in Domesday. Commentarii Dimidii were those who depended on two several Lords, and paid one Half of their Homage to each: And Sub-Commentarii were like Under-Tenants, under the Command of Perthonaly that were Dependants themselves on a superior Lord: Allo there were Dimidii sub-commentarii, who bore a double Relation to such depending Lords. Domesday. This Phrae seems to be still in Use, in the usual Compliments, Command me to such a Friend, &c., which is to let him know, I am his humble Servant. Specul. of Feuds, cap. 20.

Commentarii Traffic, Trade, or Merchandise in Buying and Selling of Goods. See Merchant.

Commentarius, (Commentarius) Is a Title in the Ecclesiastical Law, belonging to one that exercises Spiritual Jurisdiction, in Places of a Diocese which are so far from the Episcopal City, that the Chancellor cannot call the People to the Bishop's Principal Consistory Court, without their too great Inconvenience. This Commentarius was ordained to supply the Bishop's Jurisdiction and Office in the Out-places of the Diocese; or in such Places as are peculiar to the Bishop, and exempted from the Jurisdiction of the Archdeacon: For where, either by Precept or Composition, Archdeacones have Jurisdiction within their Archdeaconaron, or in such Places they have, this Commentarius is superfluous and oftentimes vexatious, and ought not to be; yet in such Cases a Commentarius is sometimes appointed by the Bishop, taking Precedence Money of the Archdeacon yearly pro extratis Jurisdictionibus, as it is ordinarily called. But this is held to be a Wrong to Archdeacones and the poorer Sort of People. Gaud. Lex. 4. art. 328.

Commentarius, (Commentarius) Is taken for the Warrant or Letters Patent, which all Men exercising Jurisdiction either ordinary or extraordinary, have to authorize them to hear or determine any Cause or Action: As the Commentarius of the Judges, Et., Commentarius is with us as much as Delegate with the Civilian: And this Word is sometimes extended rather than to Matters of Judgement as the Commentarius of Parcellers, Et., Commentarii of Inquiry shall be made to the Judices of one Bench or the other, Et., to do lawful Things, are granted in many Cases; Allo most of the great Officers, Judicial and Ministerial, of the Realm, are made by Commentarius. And by such Commentarii, Treats, Fenarios, and other Offences, may be heard and determined; but this Means likewise, Oath, Cognizance of Fines, and Peculiar, Et., are taken, Writs examined, Offices found, Et., Brac Atr. x. Rep. 39. Stat. 42 et. c. 4. And most of the Commentarii are appointed by the King under the Great Seal of England; But a Commentarius granted under the Great Seal, may be determined by a Privy Seal; and by granting another new Commentarius to do the same Thing, the former Commentarius determines; and on the Death or Demise of the King, the Commentarius of Judges and Officers generally ends. Commentarius, E. 2. Deuer. 9. There was formerly a High Commentarius Court founded on the Et. c. 11. but it was abolished by Act of Parliament 17 Car. 1. c. 11. And by Stat. 15 Car. 2. c. 2. Of Commentarius you may see divers in the Table of the Register of Writs.

Commentarius of Association, Is a Commentarius under the Great Seal to collect a Tax or Subsidy before the Day. 15 H. 8.

Commentarius of Association, is a Commentarius to affect two or more learned Persons with the Judices in the several Counties and Circuits of Wales, &c. 18 Et. C. 9.

Commentarius of Bankruptcy, Where every Person is become a Bankrupt within any of the Statutes against Bankrupts, on Security given to prove the Party a Bankrupt, &c., this Commentarius issues from the Lord Chancellor to certain Commentarii appointed to take Order with the Bankrupt's Lands and Goods, for the Satisfaction of the Creditors. Stat. 34 H. 8. 13 Et. c. 7. 1 Jas. 1. &c.

Commentarius of Charitable Uses, Goes out of the Chancery to the Bishop, and Archdeacones, on a Licence to such Charitable Uses as are misemploy'd, or there is any Fraud or Disputes concerning them, to enquire of and redress the Abuse, Et., 36 Et. c. 4.

Commentarius of Debtors, Is a Commentarius under the Great Seal to certain Persons, usuall two or three Temporal Lords, as many Bishops, and two Judges of the Law, to answer upon an Appeal to the King in the Court of Chancery, where any Sentence is given in any Ecclesiastical Cause by the Archdeacon. Stat. 30 H. 8. c. 19.

Commentarius to enquire of faults against the Law, Was an ancient Commentarius sent forth on extraordinary Occasions and Corruptions.

Commentarius of Summaries, A Commentarius out of Chancery to enquire whether a Person represented to be Lunaticke be so or not, that if Lunatick the King may have the Care of his Estate, Et., 17 Ed. 2. c. 10.

Commentarius of Rebellion, Otherwise called a Writ of Rebellion, is given when a Man after Proclamation made by the Sheriff, upon a Process out of the Chancery, on a default in the Matter, appeareth to himself to the Court by a Day assign'd, makes Default in his Appearance: And this Commentarius is directed to certain Persons, to the End they, Two, or One of them apprehend the Party, or cause him to be apprehended as a Rebel and Conumerer of the King's Laws, wherefover found within the Kingdom, and bring or cause him to be brought to the Court on a Day therein assigned: This Writ or Commentarius goes forth after an Attachment returned, No. 18 ironani, Et., Terms de Leuy 144.

Commentarius of Detainers, Is directed to certain Persons to pay Drains and Ditches well and kept and maintained in the marthy and fenry Parts of England, for the better Conveyance of the Water into the Sea, and preserving the Grains upon the Land. Stat. 23 H. 8. c. 5. 13 Ed. c. 9.

Commentarius of Treaty with Foreign Princes, Is where Leagues and Treaties are made and transliterated between States and Kingdoms, by their Ambassadors and Ministers, for the mutual Advantage of the Kingdoms in Alliance.

Commentarius, (Commentarius) Is he that hath a Commentarius, Letters Patents, or other lawful Warrant, to examine any Matters, or to execute any publick Office, Et., and some Commentarii are to hear...
hear and determine Offences, without any Return made of their Proceedings; and others to Inquire and Examine, and certify what is found. 4 H. 4. 9. Commissaries by the Common Law must purge the Authority of the Committee of the Common Law, and perform the Effect thereof; and they are to observe the ancient Rules of the Courts whence they come; and if they do any Thing for which they have not Authority, it will be void. 2a Rep. 25. Ca. Litt. 157. The Office of Commissaries is to do whatever they are commanded; and it is necessarily implied, that they may do that also, without which what is committed cannot be done: Their Authority when appointed on any Statute Law, must be used as the Statutes prescrib. 1 2a Rep. 32. If a Commission is given to Commissaries to execute a Thing against Law, they are not bound to accept or obey it: Commissaries not receiving a Commission may be discharged, upon Oath before the Barons of the Exchequer, &c. and the King by Suit; and out of Chancery, may discharge Commissaries. Besides Commissaries relating to judicial Proceedings; there are Commissaries of the Treasury, of the Customs, Wine- Licences, obligations; &c. of which there is an in- finite Number.

Committee, Are they to whom the Confederation or Ordering of any Matter is referred, by some Court, or other Barons of Ireland, to whom it belongs: As in Parliament, a Bill either concerned to be passed, or denied, or neither, but referred to the Committee of the Commons or Lords, or Committee of the ordinary People, or of the House. Further to examine it, whom are thereupon called a Committee. And when a Parliament is called, and the Speaker and Members have taken the Oaths, and the standing Orders, they are appointed to sit on certain Days, vice. The Committee of Privy- Lucis, of Religion, of Grievances, of Courts of justice, and of Trade; which are the Standing Com- mittees. Other Commissions appointed by the new Parliament, they do not all of them, only the Committee of Privileges; and this being not of the whole House, is first called in the Speaker's Chamber, from whence it is adjourned into the House, every one of the House having a Vote therein, though not named, which makes the same usually very numerous: And any Member may be present at any such Com- mittees; but is not to vote unless he be named. The Chairman of the Grand Committee, who is always some leading Member, sits in the Clerk's Place at the Table. In the Committee for the Town, the Speaker sits in the Place of the Clerk. Those are divided into Small Committees, and into Small Committees of Commoners, Common Appointments, Common Apportionment, and Common for Camps de Victoire. Common in Camps is a Liberty to have Common alone, without any Lands or Ten- enues, in another Person's Land, granted by Deed to a Man and his Heirs, or for Life, &c. F. N. B. 51. 37. 4 Rep. 30. Common Appointee is a Right belonging to a Man's arable Land, of putting Beasts com- monable into another's Ground. And Common Appoint- ment is belonging to an Eatee for all Manner of Beasts commonable or not commonable, 4 Rep. 37. Plowd. 161. Common Appointments, and Appointments, are in a Manner confounded, as appears by Fudder- berti; and are therein defined to be a Liberty of Common appertaining to or depending on a Freehold; which Common must be taken with Beasts commonable, as Horses, Oxen, Kine and Sheep; and not with Goats, Hogs and Geese. But some make this Difference, that Common Appointments may be severed from the Land whereof it pertains; but not Common Appointments, which, according to Sir Edward Coke, had this Beginning: When a Lord encroached another of arable Land, hold of him in Socage, the Prince to maintain a Service of his Plough, had at first by the Curtesy or Permi of the Lord, Common in his Wailes for ne- cessary Beasts to ear and compact his Land, and that for two Caues: one, for that it was tacitly implied in the Feoffment, by Reason the Feoffee could not till or compell
composted his Land without Cultis, and Cattle could not be followed without Pastures: so by the Commonalty of the Feoffees had, as a Thing necessary and incident, Commen in the Wafe and Lands of the Lord: And this can be collected from the ancient Books and Statutes: And the second Reason of this Common was, for the Maintenance and Advantage of Tillage, which is much regarded and favoured by the Law. 

From the preceding passage, it appears that the Commons were used by the tenants of one town to graze their cattle and use the common land. The Commons were regulated by terms and conditions that were enforced by the local authorities. If anyone violated these rules, they could be fined or punished. The Commons were also used for grazing livestock, and the tenants were responsible for maintaining and managing the shared land. The Commons were an essential part of the rural economy, providing resources for the local community. The rules and regulations governing the Commons were designed to ensure their sustainability and equitable use by all the local residents.
an Action for the Damage. Where Turf is taken away from the Commons, the Land only is to bring the Action, for a Commons or anyone under a Commons may have an Action for the Trespass, by entering on the Commons. 1 Rol. Abr. 59. 398. 1 Lem. 301. If a Commons who hath a Freehold in his Commons be cut off, or hindered to use the benefit of it, he may use to do: whether the Interruption be by the Lord, or any Stranger, he may have an Action against them: But if the Commons be cut off only an Estate for Years, then his Remedy is by Action on the Cafe. And is it but a small Trespass, that is little or no Loss to the Commons, but he hath Commons enough besides, the Commons may not bring any Action. 8 Rep. 79. 4 Rep. 37. 1536. A Commons cannot dig Clay on the Common, which destroys the Grass, and carries away its nutrients damage to the Ground: So that the other Commons can't enjoy the Commons in turn complecte made as they ought. 32 Ch. 34. Alto a Commons may not cut Bulbs, dig Trenches, or Cais in the Common, without a Certificate to do it in 1 Nlf. 1066. If he makes any Thing de novo, he is a Trespasser: He can do nothing to impair the Commons: but may reform a Thing abused, fill up Holes, dig down Mattocks, &c. for Improvement. 1 Burt. 26. 28. And may make a Pond on the Common: Though the Lords cannot dig Pits for Gravel or Coal: The Statutes of Improvement being only Statutes of Dredging. 1 Rep. 196. 1065. If the Lord makes a Warren on the Commons, the Commons may not kill the Conies; but are to bring their Action; for they may not be their own Judges. 1 Rol. 99. 402. The Property of the Soil in the Common is entirely in the Lord; and the Use of it, jointly in him and the Commons. 5. No Commons can take the Grass that grows on the Common, otherwise than by common right. 32 Ch. 34. If he can make it by the Lord's right: But if the Owner of the Soil, let up a Hedge on the Common, the Commons may throw it down. 15 El. 2. A Commons may abate Hedges erected on a Common; for though the Lord hath an Interest in the Soil, by abating the Hedges, the Commons do not meddle with it. 2 Mod. 85. Any Man may by Premise have Commons and Feeling for his Castle in the King's Highways, although the Soil doth belong to another. 1 Will. 2 Eliz. But the Occupancy of Commons by Userpation, with bare give Title to him that doth Occupy it, which he hath had it Time and Beyond Memory. And if a Man entrench of Land, by reason of which he hath Right to common, allows it to one who doth not take or off the Commons a ten Years, and an Alienation to another, the last Possessor may not have it, for he shall not have a better Easement in the Land than his Peffidor had: For. 2 Rec. Abr. Com. 255. By Statute, Lords may appear and speak their Tents, without being Part of the Waife, &c. and thereby discharge it from being Commons, leaving Commons sufficient, and Neighbours as well. Tenants claiming Commons of Parcell, shall be bound by it. 20 H. 3. c. 4. If the Lord encloses on the Commons, and leaves not Commons sufficient, the Commons may not only break down the Inclosures, but may put in their Castle, although the Lord possesses and393 pard the Land. 2 Eliz 24. 1 Rol. Abr. 466. Upon Agreement between two Commons to enclose a Commons, who having Interest not privy to the Agreement, will not be bound: but one or two willful Persons shall not hinder the public Good. Chas. Rap. 48. Commons may be driven yearly at Michaelmas or Whit. 2 Will. 39. Afterwards, where infected Harves, and other Harves under Ster, &c. are not to be put into Commons under heftration, by Stat. 32 H. 8. c. 13. new Erected Commons, though they have four Acres of Common, yet are now to have Horses in the Waife. 2 Eliz. 240. In Law Proceedings, where there are two distinct Commons, the two Titles must be shown: Castle are to be alleged commendatory; and Commons ought to be Lands commumable. And the Place is to be set forth where the Measuring and Land lies, &c. to which the Commons belongs. 1 Nlf. 452. 453. Commons of Eeferors. Is a Right of taking Wood out of another Man's Woods, for House bone, Plough-bone, and Hay bone. What Bones are necessary, Tenants may take, notwithstanding no Mention be made therein in their Leases; but if a Tenant take more House bone than is needful, he must be punished with Waife. Termes de Ley 385. 395. Tenants for Life may take upon the Land descent accountable Eeferors, unless restrained by Special Covenant: And every Tenant for Years hath three Kind of Eeferors incident to his Estate. 1 Inf. 41. When a House having Eeferors appendant or appurtenant, is blown down by Wind, if the Owner rebuilds it in the same Place and Manner as before, his Eeferors shall continue: So if he alters the Rooms and Chambers, without making new Chimneys, but if he erect any new Chimneys he will not be allowed to spend any Eeferors in such new Chimneys. 4 Rep. 87. 4 Lem. 353. If one has a Dwelling-house wherein the Commons Eeferors doth belong, and the House by Fire is burnt down, and a new one built next to the Place, or in the Place in another Form, the Eeferors are gone: But if the old House be only some of it, it is otherwise; and in all Cases where the Alterations to a House do no Prejudice to the Tenant or Owner of the Land or Wood, the Eeferors will remain. P. N. B. 180. Whether a Man hath Eeferors for Life, if the Owner cut down all the Wood, the Tenant is none left for him, he may bring an Affige of Eeferors; and if the Tenant have but one Eefer for Years, or at Will, he may have Affige of the Cafe. Man. Com. 65. 9 Rep. 112. If the Tenant who hath Commons of Eeferors, shall affe them to any other Purpos which he ought, he that owns the Wood may bring Trespass against him: As where a Tenant, in a Wood of Wood to be taken yearly in such a Wood, ten Loads a Year, to burn, and to repair Pales; here he may cut and take the Wood for the Pales, though they need no amending, but then he must keep it for that Use. 2 Rep. 113. F. N. B. 58, 135. Commons of Fishery. Is a Liberty of Fishing in another Man's Water. Commons of Fishery to exclude the Owner of the Soil, in contrary to Law: Though a Person by Premise may have a separate Right of Fishing in such Water, and the Owner of the Soil be excluded; for a Man may grant a Water, and all passing the Soil: And if one grant Separal Fisca, neither the Soil nor the Water pass, but only a Right of Fishing. 1 Inf. 4, 1 Rep. 34. No Person shall fish in any River without the Owner's Consent, under Penalties: And Nots, Angles, &c. shall be killed and destroyed, by Stat. 22 & 23 Car. 2. c. 23. See Fish and Fishing. Commons of Turfery. Is a Licence to dig Turf upon the Ground of another, or in the Lord's Waife. This Commons is appurtenant to appurtenant to an House, and not to Lands: for Turf is not in the House: And it may be in Gs; but it does not give any Right to the Land, Trees, or Mines. It cannot exclude the Owner of the Soil. 1 Inf. 4. 3 Rep. 57. There is a Commons or Liberty of digging Coals, and Gravel, Sand, &c. as well as Turf. Commons Drift, [Banci Commons, from the Sax. Banc, Bank, and thence metaphorically a Break, high Seat or Tribunal.] The Court of Commons Pleas was anciently called Commons Bench: because Commons Placita inter judicis ex jure maxis, quod Commons comme, in loco determinatum: That is, the Pleas or Courts between common Persons are there tried and determined. Camb. citiz. 113. In Law Books and References the Court of Commons Pleas is writ C. B. from Commons Banc. And the Judicatures of that Court are filed Jusiciarii de Banco. See Common Plans.
Common Day in Place of Lauds, Signifies an ordinary Day in Court, as Odolfi Hillarii, Quaedam Psalmo, &c. It is mentioned in the Stat. 51 H. 3, concerning general Day in Bank.

Common Laws. (Trissi Comminii) A small sum of Money, which the Refiants within the Liberty of some Leets pay to the Lords, called in divers Places Head Silver or Head Pennies, in others Cate Money; and was first granted to the Lord, towards the Charge of his Purchase of the Court Leet, whereby the Refiants have the Ease to do their Suit within their own Manors, and are not compellable to go to the Sheriff's Turn, In the Manor of Sheepfield in the County of Leicestershire, every Refiant pays 1s. per Poll to the Lord at the Court held after Michaelmas, which is there called Common Free. For this Common Free the Lord may disdain; but he cannot do it without a Precept. 11 Rep. 44. There is also Common Fine of the County, a Quod Commons Miseria, and Fine Commissam americanam in Finibus terrarum. 11b. cit. Flota, lib. 7 c. 48. See Stat. 3 Ed. 1 c. 18.

House of Parliament, Is the Lower House of Parliament, so called, because the Commons of the Realm, that is, the Knights, Citizens, and Burgesses, returned to Parliament, representing the whole Body of the Commons, do fit there. Com. Jurid. See Parliament.

Common Intention, is Common Meaning or Understanding, according to the Subject Matter, not restrained to any extraordinary or foreign Sense: Bar to Common Intention is an ordinary or general Bar, which commonly disallows the Plaintiff's Declaration. There are 4 cases in this Law where Common Intention, and Intendment take Place: And of Common Intention a Will shall not be supposed to be made by Calumny. Co. Litt. 78.

Common Law, (Lex Commonia) Is taken for the Law of this Kingdom simply, without any other Laws; as it was generally held before any Statute was enacted in Parliament to alter the same. And the King's Courts of Justice are called the Common Law Courts. The Common Law is grounded upon the general Customs of the Realm; and includes in it the Law of Nature, the Law of God, and the Principles and Maxims of the Law: It is founded upon Reason; and is laid to the Perfection of Reason, acquired by long Study, Observation and Experience, and refined by Learned Men in all Ages. And it is the Common Birthright, that the Subject hath for the Safe-guard and Defence, not only of his Goods, Lands, and Revenues; but of his Wife and Children, Body, Name, and Life also. Co. Litt. 97, 142. Treas of Laws, p. 2. According to Hale, the Common Law of England is 500 Years old. The Common Law of England is within this Kingdom, and affects the King's Royal Prerogatives, and likewise the Rights and Liberties of the Subjects: 'Tis generally that Law, by which the Subjects of the King's Ordinary Courts are guided; and this directs the Course of Diligents of Lands; the Nature, Extent and Qualification of Estates; and therein the Manner and Ceremonies of conducting them from one to another; with the Forms, solemnities and Obligations of Contracts; the Rules and Directions for the Execution of Deeds, and Acts of Parliament: The Proceed, Proceedings, Judgments and Executions of our Courts of Justice; also the Limits and Bounds of Courts, and Jurisdiction; the several Kinds of Temporal Offences and Punishments; and Acts of Parliament, Sir. Tristram Roine's Dig. of the Law, pp. 44, 45, and 24. As to the Rites of the Common Law, this Account is given by some ancient Writers: After the Decay of the Roman Empire, three Sorts of the German People invaded the Britains, viz. the Saxons, the Angles, and the Jutes: from the last sprung the Kentish Men, and the Inhabitants of the

Life of Wright: From the Saxons came the People called East Saxons, West Saxons; and from the Angles, the East Angles, Mercians and Northumbrians: These People having different Customs, they inclined to the several Laws whereby their Ancestors were governed; but the Customs of the West Saxons and Mercians, who dwelt in the Midland Counties, being preferred before the Rest, were for that Reason called the 'Fulham' or 'Celtic,' and by these Laws those People were governed for many Ages: But the East Saxons, having afterwards been subdued by the Danes, their Customs were introduced; and a third Law was substituted, which was called Dane Law: as the other was then filled West Saxons Law, &c. At length the Danes being overcome by the Normans, William called the Conqueror, upon Consideration of all these Laws and Customs, abrogated some, and established others; to which he added some of his own Country Laws, which he judged most to conduce to the Perfection of the Peace: And this is what we now call the Common Law. But though we usually date our Common Law from hence, this was not the Original of the Common Law: In the Reign of Edward the Erst Christian King of this Nation, made the first Saxons Law, which were published by the Advice of some wise Men of his Counsell; And King Alfred, about 400 Years afterwards, being the first folio Monarch after the Heptarchy, collected all the Saxons Laws into one Book, and commanded them to be cleaved through the whole Kingdom, which was at that Time only affected certain Parts thereof; and it was therefore properly called the Common Law, because it was common to the whole Nation; and soon after it was called the Fullham Right, i.e. the Law by which the Ancient Common Condition was restored. And when the Danes had introduced their Laws on the Conquest of the Kingdom, they were afterwards destroyed; and Edward the Confessor out of the former Laws composed a Body of the Common Law, whereof he was called by our Historians Angliae Legum Redactor. Bishop. In the Reign of Edward the First, William wrote his learned Book of the Common Law of this Realm, which was done by the King's Command, and runs in his Name, innumerable to the Institutes of the Civil Laws, which afterwards confirm to himself, though composed by others. Stoten, Pre. Reg. 6, 21. This Britton is mentioned by Owen to be Bishop of Hereford, Braden, a great Lawyer, in the Time of Hen. 3, wrote a very learned Tresdict of the Common Law of England, held in great Estimation; and is said to be Lord Chief Justice of the Kingdom. And the famous and learned Glanius, Lord Chief Justice in the Reign of King John, wrote a Book of the Common Law, which is said to be the most ancient Composition extant on that Subject. Besides these, in the Reign of Edward the Fifth, John Littleton wrote his excellent Book of English Towners. In King James the First's Reign, the great Oracle of the Law, Sir Edward Coke, published his learned and laborious Institutes of our Law, and Commentaries on Littleton. About the same Time likewise Dr. Caunel, a Civilian, wrote a short Foillum of our Laws. And in the Reign of King George the First, Dr. Twal, a Civilian and Common Lawyer; and at last Divine, wrote an Institute of the Laws of England, which is something after the Manner of the Institutes of the Civil Law.

Common Pleas, (Commodam Placitum) Is one of the King's Courts now constantly held in Westminster-Hall; but in ancient Time was more vast, as appears by Masters of their Rolls, in the Prerogative Court, his Reading, says, 'That till Hen. 3, granted the Great Charter there were but two Courts, called the King's Courts, viz. the King's Bench and the Exchequer, which were then filled Curtis Domini Regis, and Juste Regiae, because they followed the Court or King; and that upon the Grant of that Charter, the Court of
Common Pleas was erected and settled in one certain Place, i.e. Westminster-Hall; and after that, all the Writing of the Law, was conducted in Westminster, whereas before, the Party was required by them to appear, Ceram me ex juro judicis susciatis, without any Addition of Place, as in the obliteratout of the Writings of Glanvill and Bradfin. But Sir Edward Coke is of Opinion in his Preface to the Eighth Report, that the Court of Common Pleas was continued before the Conquest, and was not created by Magna Charta, at which Time there were 'judicati in de Banes, &c. Though before this Act, Common Pleas might have been held in Banco Regis, and all original Writs were returnable there. Writs returnable in this Court, are now called 'judicati in aedibus apud Wagen. But Writs returnable in B. are, Ceram non an unnesse ex unna jure, in which the Jurisdiction of this Court is general, and extends itself throughout England: it holds Plea of all Civil Causes at Common Law, between Subject and Subject, in Actions real, personal, and mixed; and as a Court of Real Law. In personal and mixed Actions it hath a concurrent Jurisdiction with the King's Bench: But it hath no Jurisdiction in Causes between the Crown, and Common Pleas are all Pleas that are not such. This Court cannot regularly hold Plea in any Action, real or personal, &c. but by Writ out of Chancery returnable here; except it be by Bill of Exchange against an Officer, or other privileged Person of the Court. All Actions belonging to this Court, come higher either by Original, as Arrears and Outlawries; or by Privilege or Attachments, for or against privileged Persons; or out of inferior Courts, not of Record, by Pnce, Recordaries, Accises and Curants, Writ of False Judgment, &c. Actions personal, and Arrears penal, of Debt, &c. upon any Statute, are cognizable by this Court: And besides having Jurisdiction for Punishment of its Officers and Ministers; the Court of Common Pleas may grant Prohibitions to keep Temporal and Ecclesiastical Courts within due Bounds. 4 Inf. 90, 100, 118. In this Court are four Judges, created by Letters Patent; of whom the Chief Justice is a Lord by his Office: The Seal of the Court is committed to the Custody of the Chief Justice. The other Officers of the Common Pleas are, the Caussa Breviorum, three Prothonotaries and their Secretaries, the Clerk of the Warrants, Clerk of the Exchequer, fourteen Examiners, four Examiners, a Clerk of the Writs, the Examiners, Clerk of the King's Writs, the Clerk of the Gaol Delivery, Clerk of the Seal, Clerk of the Letters Patent, and Clerk of the Journal of Fees and Recoveries, Clerk of the Errors, &c. The Caussa Breviorum is the Chief Clerk in this Court, who receives all Actions under the General Stale, and all Records of High Priory, which are delivered to him by the Clerks of the Exchequer, &c. and he files the Rolls together, and carries them into the Treasury of Records; He also makes out Exemplifications, and Copies of all Writs and Records, &c. The Prothonotaries signs and inrolls all Declaration, Plaing, Judging, &c. and they make out all Judgments, Writs of Execution, Writs of Privilege, Proceeding, &c. The Secretaries are Affiliates to the Prothonotaries in the Execution of their Offices; and they are the Justices of the Peace, and the Judges of the Great and Small Common Pleas.

The Writs, which have several Countries of England divided among them, are made out and sentenced, as Caussa, Alias, Plaies, &c. between the Original Writ and the Declaration; and they make all Writs of View, &c. The Examiners, appointed for several Counties, make out all Examinations and Proclamations in order to Oulawry. The Clerk of the Warrants, enters all Warrants of Attorney; invoices Deeds of Bargain and Sale; and effectus all liences. The Clerk of the Effins, keeps the Roll of the Effins, wherein he keeps the Lead of the Office. The Clerk of the Writs makes out all Writs of Haberes.
meaning in open fields, &c. were formerly called the Commissaries. Cowel.


Communes placta non tendita in Scaccario, is an ancient Writ directed to the Treasurer and Baron of the Exchequer, forbidding them to hold Pies between common Persons in that Court, where neither of the Parties belong to the same. Reg. Orig. 187.

Communi Caeh mio, A Writ which anciently lay for the Lord, whose Tenant holding by Knight's Service died, and left his eldest Son under Age, against a Stranger that entered the Land, and obtained the Ward of the Body. F. N. B. 89. Reg. Orig. 161. Since the Statute 12 Car. 2. c. 24. hath taken away Wardships, this Writ is become of no Use.

Community of the Kingdoms, Viz. Commons. Canadis. Co. is all Kind of Food, except Bread and Drink: And the learned Spleman interprets it to be Quicquid ebi cum pane famiis. In the Manor of Faversome in the County of Nottingham, some Tenants when they performed their Boons or Work days to the Lords, had three Boon Leaves with Companagine allowed them. Reg. de Thoroton cited in Antiq. Nottingham.

Companion of the Garter, Is one of the Knight of that most noble Order; as at the Head of which is the King, as Sovereign. 24 Ed. 6. c. 6.

Compeisthiam, An Adversary or Accuser. — Episcopis in Compeisthiam dedicatis decere ut quis alium parrem magis jurandum vel in Ordinari. Leg. Alamric.

Comprortum, A Judicial Inquest in the Civil Law, made by Delegates, or Commissioners to find out and relate the Truth of a Cause. Part. Amig. 59.

Composition, (Commissio) An Agreement or Contract between a Parion, Patron and Ordinary, &c. for Money or other Thing in Lieu of Tithes. Land may be exempted from the Payment of Tithes, where Composition have been made: And Real Compositions for Tithes are to be made by the concurrent Consent of the Parson, Patron and Ordinary. Real Compositions are distinguished from Personal Contracts; for a Composition called a Personal Contract is only an Agreement between the Parson and Parishioners, to pay so much instead of Tithes; and though such Agreement is confirmed by the Ordinary, yet that doth not make it a Real Composition, because he ought to be a Party to the Deed of Composition, March's Rep. 87. The Compositions for Tithes made by the Consent of the Parson, Patron and Ordinary, by Virtue of 13 Eliz. cap. 10. shall not bind the Successor, unless made for twenty-one Years, or three Lives, as in Case of Leases of Ecclesiastical Corporations. &c. Compositions were at first for a valuable Concession, so that though in Proces of Time, upon the Increase of the Value of the Lands such Composition do not amount to the Value of the Tithes, yet Custom prevails, and from hence arises what we call a Machec desmantis. Hl. 29. The Word Composition hath likewise another Meaning, i. e. Decisis Litis.

Comptorium, A Register of Tithes, and an ancient Order for Measures, not printed, mentioned in the Stat. 23 H. 8.

Comptorium, Dung, Soil or Compoil laid on Landes. Regifl. Ecl. Canoone. M.S.

Comprecipit, Imposes a Surcharge or Priming of any other Bookkeller's Copy, to make Gain thereby, which is contrary to the Stat. 14 Car. 2. cap. 33. and other Statutes.

Comprehens, (Compromiss) is defined to be a mutual Promise of two or more Parties at Difference, to refer the Ending of their Controversy to Arbitration: And if by Law it is the Faculty of Power of pro-

spondent Sentence between Persons at Variance, given to Arbitrators by the Parties private Consent. Wills, Acts, Decretals, or Statutes committed, are also Makers of Law referred, or made an End of.

Comprehensury, One that by Oath judgeth another's Innocence. See Oath.

Componere, (Compositium) Is the true Account and Construction of Time: and to the End neither Party to an Agreement, &c may do wrong to the other, nor the Determination of Time be left at large, it is to be taken according to the just Judgment of the Law. A Deed dated the 20th Day of August, to hold from the Day of the Date, shall be continued to begin on the 21st Day of August: But if in the Instrument it be hold to be made from the Making, or from thenceforth, it shall begin on the Day delivered. 1 Leet. 46. 5 Reg. 1. If an Indenture of Lease dated the 4th Day of July, made for three Years from thenceforth, be delivered at Four of the Clock in the Afternoon of the said 4th Day of July, the Lease shall end the 3rd Day of July in the third Year: And the Law in this Composittion extends all Fractions or Divisions of the Day. But some have held that Rent is not due on the Day limited to be paid till the Middle of the Day, and after Noon; in Case a Tenant for Life dies at such a Critical Juncture, &c. See Day and Month.

Computation of Miles, after the English Manner, is allowing 5280 Feet, or 1760 Yards to each Mile: and the Wire shall be reckoned not by Draisine, but by a Bird or Arrow may be, but according to the nearest and most usual Way. Cr. Edin. 212.

Compta, (Lat.) Is a Writ to compel a Bailiff, Receiver or Accountant, to yield up his Accounts: It is founded on the Statute of Wills, cap. 12. And also lies against Guardians, &c. Reg. Orig. 135.

Concles, (Concellis, so called to a Council, as Alowd is, by an Assembley) Are such as fall out concealed Lands, i. e. such Lands as are privy kept from the King by common Persons, having nothing to do with the, But or else determined. 39 Edin. cap. 22. There were Concelers of Crimes: and Concealing Treason, &c. when Misprison, see Misprison.

Connexus, A Word of frequent Use in Conveyances, creating a Covenant in Law; as Deed makes a Warranty. Co. Litt. 354. This Word is of a general Extent, and is made to amount to a Grant, Feoffment, Lease, Release, &c. according to the Sense given thereto. Connexae, Common Council-Men, Fresmen called to the Hall or Affably, as most worthy.—Used in the Hundred Councils of the Counties. London, Hl. Hillor. Elen. Edin. Galle. c. 46.

Conclusion, (Conclusio) When a Man by his own Act upon Record hath charged himself with a Duty or other Thing, or confided any Matter whereby he shall be concluded: As if a Sheriff returns that he hath taken the Body upon a Captain, and hath not the Body in Court at the Day of the Return of the Writ; by the Return, the Sheriff is concluded from Plea of Escape, &c. Terms by Law 153. In another Sense this Word Conclusio signifies the End of any Lands, Replecition, &c. and a Plea to the Writ is to conclude to the Writ; a Plea in Bar, to conclude to the Affion, &c. Conclusion of Plea in Bar shall be, Et hoc paratus in vestra, &c. Of other Places, Et de hoc ponti fater Patrum. King's. 219. 220.

Concord, (Concordia) Is an Agreement made between two or more, upon a Treafias committed; and is founded into a General Executive, and Concord executed: And according to Placent; true bonds not is being imperfect, but the other is obsolete, and ties the Party. Though by some Opinion, Agreements executed by Deed, and bind no less than other Executions executed. Placid. 5. 6. 8. Theod. Concord and Agreements are by Way of Satisfaction for the Treafias, &c. Concord is also an Agreement between
Parries, who intend the Leyzing of a Fine of Lands one to the other, how and in what Manner the Lands shall pass, is the Foundation and Substance of the Fine, taken and acknowledged by the Party before one of the Judges of C. B. or by Commissioners in the County. But as for the Easements, the 3 Ed. 4 Con-
cordia taliis jujitque good prede. A. B. recus. Testamenta
prem. comm. premii effi jus suis C D. ut ill. que idem
C. D. habet de Doo prem. A. B. et ill. resum. quor
quire, claus. de fe et hered. sui profet C. U. Hare.
fei imperatum, &c.

Cunstanzia, A Fold, Pen, or Place where Castle
lives.

Conscibit, Signifies a lying together. Stat. 1 H.
oc. 6.

Constrictio, or Constrictio mensae in common Accep-
tation is the Keeping of a Whore or Concubine; But in a
legal Sense, it is used as an Exception against her
that feith for Dower, alleging thereby that the was
not a Wife lawfully married to the Party, in whose
Lands the Whore was to be found. 1 Jac. 1 Casuriae.
Brit. c. 107. Brad. lib. 4. tract. 6. cap. 8. 'There
was a Constriction allowed in Scripture to the Patri-

Concerts, (from the Fr. Concert, to condone) As
such as stand upon high Places near the Sea Coast,
at the Time of Herring Fishing, to make Signs with
White, red, or yellow Flags, at the Top of the Ships of
Herrings pasteth; for this may be better dis-
severed by such as stand upon some high Cliff on the
Shore, and are of some kind of Blue Colour, for which
the Herrings cast in the Water, than by those that
are in the Ships or Boats for Fishing. There are oth-
erwise called Harze and Ballers, Directors and Guiders,
as appears by the Stat. 7 Jac. 1. c. 13.

Constitution, (Constitution) Is a Refrain or Bridle
 annexed to a Thing, so that by the Non-performance,
the Party to it shall receive Prejudice and Loss; and
by the Performance, Commodity and Advantage: Or
it is a Refriction of Men's Acts, qualifying or sus-
pending the fame, and making them uncertain whe-
ther they shall take Effect or not; also 'tis defined to
be what is referred to an uncertain Chance, which
may happen or not happen. Woff's Symb. part 1.
lib. 2. sect. 156. And of Conditions there are divers
Kinds, viz. Conditions in Deed, and in Law: Condi-
tions Precedent, and Subsequent: Conditions Intercursus,
and Collateral, &c. A Condition in Deed is that which
is joined by express Words to a Promiss or Lessee, or
other Annexation that if the Man makes or Cesses of Lands to
another, referring a Rent to be paid at such a Feast,
upon Condition if the Lessee fail in Payment, at the
Death of the Party or Party to the Deed or Lease.
Condition in Law is when a Person grants another
an Officer, as that of Keeper of a Park, Steward, Bal-
lyff, &c. for Term of Life; here though there be no
Condition expected in the Grant, yet the Law makes
one, which is if the Grantee do not justly execute all
Things belonging to the Office, it shall be lawful for
the Grantee to enter and discharge him of his Office.

Lit. lib. 2. c. 6. These Conditions are also called Con-
dition Royall, and Condition implied. Condition Prece-
dent is when a Lease or Easement is granted to one for
Life and a Life, the lessee or the Easement for a certain
Sum at such a Day, then he shall have Fee-
simple: In this Case the Condition precedes the Easement in
Fee, and on Performance thereof gains the Fee simple.
Condition subsequent is when a Man grants to another
his Manor of Dale, &c. in Fee, upon Conditions that
the Grantee shall pay to him at such a Day such a
Sum, or that his Easement shall cease; here the Condition
is subsequent, and following the Easement, and
upon the Performance thereof continues and prefers the
same: So that a Condition precedent doth get and
then the Thing is always subject to the Conditions by
the Performance of it; as a Condition Subsequent keeps
and
continues the Easement, by the Performance of the Con-
dition. 1 Inf. 201. 327. Terms of Deed 156. If one
man agree with another to do him a Thing, and for the
Doing thereof the other shall pay so much Money
here the Doing the Act is a Condition precedent to
the Payment of the Money, and the Party shall be
compelled to pay 'till the Act is done: But where a
Day is appointed for the Payment of Money, which
Day happens before the Thing contracted for can be
performed, there the Money may be recovered be-
fore the Thing is done; for here it appears that the
Party did not intend to make the Performance of the
Thing a Condition precedent. 3 Ed. 3. 97. Inter-}
Condit. Conditions are such as defined to the Heir, with
the Land granted, &c. and Collateral Condition is that
which is annexed to any collateral Act. Conditions
are likewise Afferent, which condition doth
Nay evil, and confit of not doing: Some are further
said to be Reffrator, for not doing a Thing; and
some Compullory, as that the Lessee shall pay the
Rent, &c. Allo some are Conditional, to do the
Thing only; some Causator, to do divers Things;
and others Dijunctor, where one Thing of severall
is required to be done. Co. Litt. 241. Conditions may
be to any Eatee, whether in Fee simple, Fee tail, for
Life or Years: They run with the Eatee, and bind
in whole whole Hands they come. Lit. R. 18. But
Conditions to a Party may not be made but on the Part of
the Lessee, Donor, &c. For no Man may annex a Con-
dition to an Eatee, but he doth that create the Eatee it-
self. Conditions are good of all Inlarges or Limit Eatees.
And there are four Incidents, of which Conditions
are to create and increase an Eatee ought to have. 1. They
should have a particular Eatee, as a Foundation where-
upon the Increase of the greater Eatee shall be built.
2. Such particular Eatee shall continue in the Leissee or
Grantee, until the Increase happens. 3. It must
vest at the Time the Contingency happens, or it shall
never vest. 4. The particular Eatee and the
Increase must take Effect by the same Deed, or by several
Deeds delivered at the same Time. 8 Rep. 75. Con-
ditions to create Eatees shall be favourably construed:
But Conditions which tend to destroy, or restrain an
Eatee, are to be taken strictly. A Promiss upon Con-
dition, that the Feodarie shall not alien, is void:
But a Condition in a Promiss not to alien for a parti-
cular Time, or to a particular Person, may be good.
Hob. 13. 261. And if a Condition is, that Tenant
in Tail shall not alien inFee, or Tenant for Life
or Years not alien during the Term of Years, the
Condition is good: Where the Release of an Eatee is in the
Donor, he may refrain an Alienation by Condition.
1 Rep. 39. 1 Inf. 271. If a Ten. or Line. 2 Inf. 10.
Tail, on Condition that the Donee or his Heirs shall
not alien; this is good to some Intent, and void to
others: For if he make a Promiss in Fee, or any other
Eatee by which the Release is discontinued
formally, the Donor may enter; but 'tis otherwise
if he suffer a common Recovery. 1 Inf. 223. A
Liberty inseparable from an Eatee, cannot be re-
strained; and therefore a Condition that a Tenant in
Tail shall not levy a Fine, within the Stat. 4 H. 7.
or suffer a Recovery; or not make a Lease, within
the Stat. 52 H. 8. is void and null, and if the
Condition restrain levying a Fine at Common Law,
it may be good. 2 Danr. 4. 22. A Gift in Tail,
or in Fee, upon Condition that a Pemne shall not be
enowed; or Baron be Tenant by the Curtesy, is
inoponant and void. 'So is a Condition in a Lease, or
that the Lessee shall not take the Pemne; And where
a Man grants a Rent-charg out of Land, provided it
shall not charge the Lands, Co. Litt. 146. Conditions
repeupant to the Eatee, improbable, &c. are void:
And if they go before the Eatee, the Eatee and Con-
dition are void: if to follow the Eatee, the Eatee is
absolved, and the Condition void. 1 Inf. 206. 9 Rep. 128. But
if
if at the Time of entering into a Condition, a Thing be possible to be done, and become afterwards impossible by the Act of God, the Earlise of a Feeofee (created by Livery) shall not be avoided. 3 Med. 201. A Feeofee in Fee is made upon Condition, that the Feeofee shall within a Year go to Rest, &c. If the Feeofee shall within the Year dead, yet the Earlise of the Feeofee is become absolute; for the Earlise once vested by the Livery, shall not be devested without Default in the Feeofee. Ibid. Where a Condition is of two Parts, one possible, and the other not so, it is a good Condition for performing that Part which is possible. Crec. &c. 780. Though if a Condition is of two Parts discretionary, and one Part becomes impossible by the Act of God, the Performance is not obliged to perform the other. 5 Rep. If a Condition be in the Copulative, and is not possible to be performed, 'tis said it may be taken in the Distinutive. 1 Daws. Abrid. 73. Where an Earlise is to be wholly created upon a Condition impossible to be performed, then the Earlise shall never come in eff. 1 Lew. cap. 311. A Woman makes a Feeofee, in a Man that is married, upon Condition that he shall marry her; this Condition is not impossible, for the Man's Wife may die, and then he may marry her. 2 Daws. 45. A Reversion may arise upon Tull upon Condition, that if the Grantee pays so much, he shall have Fee. 8 Rep. 73. But if a Man grants Land, &c. for Years, upon Condition, if the Leesee pay so much, within one Year, that he shall have it for Life; and that he if the Leesee pays not, he shall have Fee: Though both Sams are paid, he shall have but an Earlise for Life; the Earlise for Life, at the Time of the Grant, being only in Contingency, and a Possibility cannot increase upon a Possibility, nor can the Fee increase upon the Earlise for Years. 8 Rep. 75, 76. If a Leesee be made to two, with Condition one to have Fee, and one to die, the Survivor may perform the Condition, and have the Fee; but if they make Partition, the Condition is destroyed. 8 Rep. 75, 76. If a Feeofee grant, the Reversion of Part of the Land, on a Lease for Years, on which a Rent upon Condition is reserved, all the Condition is confounded and gone; though if the Leesee assign Part of the Land, the Condition remains, for he cannot discharge the Earlise of the Condition. 2 Daws. Abrid. 119. A Man makes a Feeofee upon Condition, and after leaving a Fine to a Stranger, the Condition is gone. Ibid. 120. If a Feeofee upon Condition to infuse another, infuse a Stranger; or if it be to reinfuse the Feeofee, and he grant the Land to another Person, upon Condition to perform the Condition, the Condition is broke, because the Feeofee hath disabled himself to do it: So where such Feeofee upon Condition to reinfuse, &c. takes a Wife, that the Land is subject to the Dower of the Wife; and so if the Land is recovered, and Execution issued out by another, the Condition is broke. C. Litt. 221. 1 Daws. 79. If one disjus the Feeofee, or any Person who hath Land by just Title, and thereof infuse a Stranger on Condition, and the Land is lawfully recovered from him that hath the Title; by this the Condition is destroyed: And if a Differor make a Feeofee in Fee upon Condition; and after the Differor doth enter upon the Feeofee, this doth extinguish the Condition. Perk. Scit. 821. If that Feeofee be a Feeofee of all or Part of the Land to the Feoffor, before the Condition is broke; the Condition is gone for ever: And if he make a Lease for Life of Years only, then the Condition will be fulfilled for that Time. C. Litt. 218. But 'tis otherwise where the Feeofee, or Leases for Life or Years, are made to any other but the Feeofee. Ibid. Where the Condition of a Feeofee is that, if the Feeofee die a certain Sum of Money; so that the Feeofee die without a Day, and before that Day the Feeofee die without a Day, or if the Feeofee be made by a Woman on Condition to pay her 10l. or that the Feeofee infuse her by a certain Day, and they intermarry before the Day, and the Marriage doth continue till after it; in these Cases the Condition is gone. Perk. Scit. 769. A Condition may be well performed, when it is done as near to the Intent as may be: For if the Condition of a Feeofee be that the Feeofee shall die within a Year, the Earlise of the Feeofee back to the Feeofee and his Wife, and the Heirs of their two Bodies, Remainder to the right Heirs of the Feeofee in this Case, if the Feeofee die before, the Earlise shall belong to the Wife without Incumbrance of Wills, the Remainder to the Heirs of the Body of the Husband begotten on the Wife. C. Litt. 219. 8 Rep. 69. If a Condition be performed in Substance and Effect, it is good although it differs in Words; as where it is to deliver Letters Patent, and the Party bound having left them, delivers an Exemplification. C. 2 Daws. 40. Though Payment of the Money before the Day, is Payment at the Day, in Performance of a Condition; yet a Feeofee, &c. cannot re-enter, and reveal his old Earlise by the Force of the Earlise, although the Conditions gives him Power to re-enter. Ibid. 121. If a Man feiled of Land in Right of his Wife, make a Feeofee in Fee on Condition, and dies; if the Heir is a Male, he is entitled to the Earlise, if the Heir is a Female, the Earlise vests in the Female. Vid. 1 Lew. 205. But if a Person foreverhold the Estate, and another Person, of the same Right hold also another Part of the Same, then, makes a Feeofee on Condition and dies; though the Heir on the Part of the Father, who is Heir at Common Law, may enter for the Condition broken, the Heir of the Part of the Mother shall enter upon him, and enjoy the Land. Ibid. 12. Where there is a Condition in a Feeofee or Lease, that if no Disinfees can be found, the Feeofee, &c. shall re-enter; if the Place where the Earlise is not open Fee, and one dier, the Survivor may perform the Condition, and have the Fee; but if they make Partition, the Condition is destroyed. 8 Rep. 75, 76. If a Feeofee grant, the Reversion of Part of the Land, on a Lease for Years, on which a Rent upon Condition is reserved, all the Condition is confounded and gone; though if the Leesee assign Part of the Land, the Condition remains, for he cannot discharge the Earlise of the Condition. 2 Daws. Abrid. 119. A Man makes a Feeofee upon Condition, and after leaving a Fine to a Stranger, the Condition is gone. Ibid. 120. If a Feeofee upon Condition to infuse another, infuse a Stranger; or if it be to reinfuse the Feeofee, and he grant the Land to another Person, upon Condition to perform the Condition, the Condition is broke, because the Feeofee hath disabled himself to do it: So where such Feeofee upon Condition to reinfuse, &c. takes a Wife, that the Land is subject to the Dower of the Wife; and so if the Land is recovered, and Execution issued out by another, the Condition is broke. C. Litt. 221. 1 Daws. 79. If one disjus the Feeofee, or any Person who hath Land by just Title, and thereof infuse a Stranger on Condition, and the Land is lawfully recovered from him that hath the Title; by this the Condition is destroyed: And if a Differor make a Feeofee in Fee upon Condition; and after the Differor doth enter upon the Feeofee, this doth extinguish the Condition. Perk. Scit. 821. If that Feeofee be a Feeofee of all or Part of the Land to the Feoffor, before the Condition is broke; the Condition is gone for ever: And if he make a Lease for Life of Years only, then the Condition will be fulfilled for that Time. C. Litt. 218. But 'tis otherwise where the Feeofee, or Leases for Life or Years, are made to any other but the Feeofee. Ibid. Where the Condition of a Feeofee is that, if the Feeofee die a certain Sum of Money; so that the Feeofee die without a Day, and before that Day the Feeofee die without a Day, or if the Feeofee be made by a Woman on Condition to pay her 10l. or
the Lands. 4 Rep. 120. Plead. 1.86. Gr. Lit. 2:33.

If a Person on a Condition perform'd he shall avoid all Incumbrances upon the Land after the Condition made: And a Condition when broken, or performed, Gr. will give that which it is: and where if there be a Lease for Life, Remainder in Feud, on Condition that the Lessee for Life shall pay 20l. to the Lessee: if he pay not this Money, the Estate in Remainder will be avoided also. Dyer 147. 8 Rep. 90. But this may be otherwise by special Limitation to a Use & if Tenant for Life, and be in Remainder join in a Feoffment on Condition, that if, & then the Tenant for Life shall re-enter, this may be good without defeating the whole Estate: though regularly a Condition may not avoid Part of an Estate, and leave another Part entire, nor can the Estate be void as to some Persons, and good as to others. 8 Rep. 190. 1 Inf. 214. Leesee for Life makes a Feoffment on Condition, and enters for the Condition broken: by this he shall be restored to his Estate for Life, and have the Estate for the Life of the Tenant to the Lessee: and the Rent due to the Lessee shall be revived: But in this Case the Lessee will not be in the same Course as he was when he had his Estate subject to a Feoffment but he will be Tenant for Life still. 9 Rep. 474. 8 Rep. 405. Tenants by the Curtesy, Tenant in Tail after Possibility of the Issue extinct, Tenant in Dower, for Life, or Years, &c. hold their Estates subject to a Condition in Law, not to grant a greater Estate than they have, nor to commit Waste, Gr. 1 Inf. 243. And Estates made by Deed to Infants, and Females, upon Condition, will bind them, because the Charge is on the Land. Dav. 2. 30. A Resale of all a Man's Right, may be upon Condition: A Lessee may surrender upon Condition: A Contract may be upon Condition, &c. But a Person cannot resign upon Condition, any more than be admitted upon Condition: And a Condition cannot be released on Condition. 9 Rep. 85. A Condition that would take away the whole Effect of a Grant, is void: and it is if it be contrary to the express Words of it. Conditions against Law are void: but what may be prohibited by Law, may be prohibited by Deed. 1 Inf. 223. 306. He that takes an Estate in Remainder, is bound by Conditions in a Deed, though he do not feel it. No Person shall defeat any Estate of Freehold upon Condition without thowing the Deed wherein the Condition is contained: But of Chattels Real or Personal, or a Man may plead that such Grants or Leases were made upon Condition but not upon these Conditions; and in the Case of a Condition to avoid a Freehold, though it may not be pleaded without the Deed, it may be given in Evidence of the Freehold, in the same case to find the Matter at large. Lit. 374. 8 Rep. 40. A Condition may be apportioned by Act of the Law, or the Leesee. 3 Rep. 120. But a Man cannot by his own Act divide, or apportion a Condition, which goes to the Deprival of an Estate. 1 Nelf. 84. A Condition in a Will is a Thing odious in Law, which shall not be created without sufficient Words. 2 Law. 49. A Devise to the Heir at Law, provided he pay to A. B. 20l. is void, Condition, because there is no Perfon to take Advantage of the Nonperformance. 1 Law. 757. Yet Restraint of Goods, are allowed by our Law, and not being performed, the Heir or Executors, shall take Advantage of them. 1 Nelf. 467. The Word SI will not always make a Condition but in this it makes a Limitation, as where a Lease is made for Years, if A. B. lives long. And this is contrary to a Condition, for a Stranger may take Advantage of an Estate determined between other Persons, Gr. Lit. 116. Dyer 305. Sub Conditions is the proper Word to make a Condition: Proofs is as good a Word, when not dependant upon another in some Cases, yet in some Words Prov. may make no Condition, but only be a Qualification, or Explanation of a Covenant. 2 Dav. 1, 2.

And neither the Word Proviso, nor any other, makes a Condition, unless it is retrench'd. Plow. 54. 1 Nelf. 466. A Grant to one, to the Intent he shall do so and so, is no Condition, but a Trull and Confidence. Dyer 148. Some Words in a Lease do not make a Condition but a Covenant, upon which the Lessee shall bring his Action. A Lease being the Deed of Lessee and Lessee, every Word is spoken by both: and a Condition may be therein, though it founds in Covenant. 1 Nelf. 464. A Covenant not to grant, sell, &c. may be a Condition; and Covenant that paying the Rent, the Lessee shall enjoy the Land, is conditional. 2 Dav. 2, 36. Where Words are indefinite, and proper to defect an Estate, they shall be taken to have the Force of a Condition. Palm. 203. Conditions regularly follow the Habituated in a Deed; but are good in Law, in any other Place. 2 Rep. 70.

Centurias for Water in London, shall be made and repaired, and the Lord Mayor and Aldermen may inquire into Defaults therein, Gr. by the Statutes 52 & 53 H. 8.

Cost and Key. A Woman at the Age of fourteen or fifteen Years, might be the Charge of her House, and receive Cone and Key. The Cone and Key in the Sax. signifying Computing, so that she was then held to be of competent Years, when she was able to keep the Accounts and Key of the House. For utter and absolute part directs Demum fine & habere Cone and Key. Brtt. lib. 2. cap. 37. And there is something to the same Purpose in Dauw. lib. 7. c. 9.

Confession. (Confessio.) Is when two or more combine together to do any Damage or Injury to another, or to do any unlawful Act. And false Confession between divers Persons shall be punishment of the same, though nothing be put in Execution: But this Confession punishable by Law before it is executed, ought to have these Incidents: First, it must be declared by some Master of Proctorate, as by making of Bonds, or Promises the one to the other: Secondly, it should be malicious, as for unjust Revenge: thirdly, it ought to be false against an Innocent and Valiant, it is to be out of Court voluntarily. Terms de leg. 156. Where a Writ of Conspiracy doth not lie, the Confession is punishable: And Inquiry shall be made of Confessors: and Confessors, which bind themselves together, &c.

Confession. (Confessio.) Is where a Prisoner is indicted of Treason or felony, and brought to the Bar to be arraigned; and his Indictment being read to him, the Court demands what he can say thereto; then either he confesses the offence, and the Indictment to be true, or pledges Not guilty, &c. But if he drinks the one or the other: two Kinds, and to two several Ends: The one is, that the Criminal may confess the Offence wherein he is indicted openly in the Court, before the Judge, and submit himself to the Confess and Judgment of the Law; which Confession is the most certain Answer, and best Satisfaction that may be given to the Judge to condemn the Offender; so that it proceeds freely of his own Accord, without any Threats or Extremity used: for if the Confession arise from any of these Causes, it ought not to be recorded: As a Woman indicted for the infamous taking of a Thing from another, being thereof arraigned, confessed the Felony, and said that she did it by Commandment of her Husband; the Judges in Pity would not record her Confession, but caused her to plead Not guilty. And the Felony being upon the Jury found that the did the Fact by Compulsion of her Husband, against her Will, for which Cause she was discharged. 23 Ass. pl. 50. The other Kind of Confession is, when the Prisoner confesses the Indictment to be true, and that he hath committed the Offence wherein he is indicted, and then becomes an Approver or Accessor of others, who have expressly confessed the same Offence wherein he is indicted, or other Offences with him: and then prays the Judge to have a
Coroner signified him, to whom he may make Rela-
tion of those Offences, and the full Circumstances thereof; and in like manner a third Section of Confession, form-
ably made by an Officer in Felony, not in Court be-
fore the Judge, as the other two are, but before a Cor-
oner, or Church, or other privileged Place; and of which the Officer by the ancient Law of the Land was to abide the Realm. 3 Inf. 129. Confession is likewise a Plea in Civil Cases, where the Defendant confesses the Plaintiff's Action to be good; By which Confession there may be Mitigation of a Fine against the Penalty of a Statute; though not after Verdict. Finc. 357. 1 Rep. 18. And there is a Confession indirectly implied, as well as directly expressed in Criminal Cases; as if the Defendant in a Case not Capital, doth not directly own himself guilty of the Crime, but by submitting to a Fine, owns his guilt; whereas the Judge may accept of his Submission to the King's Mer-
cy. Lamb. ib. 4. c. 9. By this indirect Confession, the Defendant shall be barred of his Plea Not Guilty to an Action of Ec. for that last Fault: The Entry of it is, that the Defendant novit in gratiam Regis, &c. And of the direct Confession, novi caproptum Indictamen-
tum, &c. In that last Case, the Defendant makes a Fee-
strong a Preemption of Guilt, that being entered on Record, in Indictment of Trespass, it follows the De-
fendant to plead Not Guilty to an Action brought af-
breadd him, or to the Lord of the Manor, who is the former Tenant; But if such Entry of a Confession of an Indictment of a capital Crime, 'tis laid will not enjoin a Defendant to plead Not Guilty, it being in Case of Life. And when a Peron upon his Arraignment actually confesses himself guilty, or unavoidably disclaims the special Man-
ner of the Fact, supposing that it doth not amount to Felony, where it doth; the Judges upon probable Circumstances, that such Confession, may proceed from Fear, Weakness, or Ignorance, may refuse such a Con-
fession, and suffer the Party to plead. 2 Hawk. 543. A Confession may be revoked, and the Plea of No-
Guilty be with-drawn, though recorded. 1 Rep. 11. The Confession of the Defendant, whether taken upon an Examination before Justices of Peace, in Pursuance of the 1 & 2 P. & M. c. 1. 2 & 3 P. & M. c. 10. upon a Ballment, or Commitment for Felony; or taken by the Common Law, upon an Examination before a Serjeant, or other Justice, for any Felony, or other crimes, is allowed to be given in Evidence against the Party confessing; but not against others. 1 & 2 Wm. & Mary, 9 Stat. 135. 3 & 4 Ed. 6 c. 11, which required two Witnesses of a Confession of High Treason, upon an Examination before a Justice of Peace, were sufficient to convict the Person so confessing, within the Meaning of 1 Ed. 6. cap. 12. and 5 & 6 Ed. 6. cap. 11, which required two Witnesses of a Confession in High Treason; unleth the Officer should willingly confess, &c. But the 7 W. 3. cap 3 requires two Witnesses, except the Party shall willingly without Violence confess, &c. in open Court. 2 Hawk. P. C. 429. It has been held that where-ever a Man's Confession is made use of against him, it must all be taken together, and not by Parts. 2 G. & F. And no Confession shall be used before final Judg-
ment, deprive the Defendant of the Privilege of taking Exceptions in Arre of Judgment, to Paulus apparent in the Record. 333. A Dammer's amounts to a Con-
fession, if the Indictment be as far, that if the In-
dictment be good, Judgment and Execution shall go against the Prisoner. 5 Bro. 86. P. C. 150. 8 H. 4. 319. And in Criminal Cases, the same will suffice for the Defen-
dant demur to an Indictment, &c. whether in Ab-
atement, or otherwise, the Court will not give Judg-
ment against him to sit over, but final Judgment. 2 Hawk. 334. Where a Prisoner confesses the Fact, the Court has nothing more to do than to proceed to Judg-
ment against him. And Confessio in judicio pro judicato habetur. 1 Rep. 50. 4 Inf. 66. (Confession of a Confession, Confession) Hath Relation to private Consideration of Sin, in Order to Abl-

olution: And the Priest, who received the curricular Confession from the Tribe of Confession, though for the sake hereof, for he is rather the Confessor, being the Person to whom the Confession is made. This Receiving the Confession of a Penitent, was in old English to Shorten for Shrew, or Shrive, which word confessor is looking like a confessor or flourished Person, on whom was imposed some uneasy Penance. The most solemn Time of Confessing was the Day before Lent, which from thence is still called Shrove-Tuesday. Cowel.

Confirmation, (Confirma, from the Verb Confer,
not of forme factus) Is a Conveyance of an 
Estate, or Right in Eft, from one Man to another 
whereby a valuable Eftate is made farte and unavoidable 
or a particular Eftate is increased, or a Possession made perfect. And its a Strengthening of an Eftate formerly made, which is voidable, though not extent- 
ively void: As for Example: A Bishop graneth his 
Chancellorship by Patent, for Term of the Prince's 
Life; this is not a Common, but valuable in the Bi-
shop's Dioces, except it be strengthened by the Confir-
mation of the Dean and Chapter. Confirmation, and fict
pericinences, crecrentia, and diminuens: Perfeius, as if Ffe odor had been a mere Opinion, and Ffe, or the Fforod confirm the Eftate of the second Ffodor: Cre-
fixis, that doth always enlarge the Eftate of a Tenant, 
as Tenant for Years, to hold for Life, Ec. Diminu-
ences, concerning the Eftate of a Tenant for Years, 
or Life, to be diminished, which if the Tenant 
firmis the Eftate of his Tenant, to hold by a life Rent. 
9 Rep. 142. The Lord may diminish the Services of his Tenant for Years, to hold for Life; as in Time of 
services, so long as the former Eftate in the Tenant con-
tinues: And therefore he can to the Tenant, to 
yield him a Hawk, Ec. yearly, it is void. 4 Rep. 
359. 1 Inf. 396. Leases for Years may be con-
formed for Part of the Term, or Part of the Land, 
Ec. But it is otherwise of an Eftate of Freehold, 
which being inire, cannot be confirmed for Part of 
the Estate. 5 Rep. 81. There may be Confirmation 
saufly by Law, as well as express by Deed; where the 
Law by Confirmation makes a Confirmation of a Grant 
and Conveyance of a Grant to make an 
Eftate, from Eftate held at Will to Term of 
Years, or a greater Eftate; from an Eftate for 
n Years to an Eftate for Life; from an Eftate for Life, to 
Estate in Fee-Simple; or in Fee; or in Fee so 
Long as the Tenant shall remain, for an Eftate in 
Fee-Simple. 1 Inf. 305. 9 Rep. 142. Dyr 
269. But if the Confirmation be made to Leifre for Life or Years, of his Term or Eftate, and not of the 
Land, this doth not increase the Eftate, though if the 
Leifor confirm the Land, to have and to hold the Land 
to the Leifor and his Heirs, this will enlarge the 
Eftate, and fo of the Ec. 4 Life. 310. Confirma 
in every good Confirmation, there must be a precedent 
rightful or wrongful Eftate in him to whom made, or 
he must have the Possession of the Thing as a Founda-
tion for the Confirmation to work upon; the Confir-
mation must have such an Eftate and Property in the Land, 
that he may be thereby enabled to confirm the Eftate of 
the Confirmer; the present Eftate must continue 
the Confirmation come, so that the Eftate to be increas-
ed comes into it; and it is required that both these E-
5 Rep. 1. If H. has a common of Paleur in anoth-
ner's Land, and he confirms the Eftate of the 
Tenant of the Land, nothing falls of the Common, but it 
remains upon Consideration: So if the Man have new 
Ser-
vice, to the common, and for the Tenant hath in the Land, the Rent remains. Litt. 
357. Tenant for Life makes a Lease for Years to a 
Man, and after Leaves the Land to another Person for 
Years; and he in Reverence confirms the last Lease, 
and after that the first Lease, this is not good: The se-
ced Lease hath an Interest before the Confirmation of it in the Possession. But in a Lake City, confirmation 
of the first Lease, after the Second was confirmed,
was held good; for the Lease takes no Interest by the
Conformation, but only to make it durable and effectual.
Mor. c. 180. 1 Inf. 236. Plow. 10. If a Deforifice
confirm the Land to the Deforifice, but for one Hour, or
only for a Week, Etc. it is a good Con-
formation of the Eate for ever: And if he confirms the
Eate of the Deforifice without any Word of Heirs, he
has a Fee Simple; and if a Deforifice make a Gift
in Tail, and the Deforifice doth confirm the Eate of the
Donee, it shall enure to the whole Eate: Also if the
Deforifice enfeoffs A and B, and the Heirs of B.
and the Deforifice confirms the Eate of B. for his Life:
this shall extend to his Companion, and for the whole
Fee Simple. Ca. Litt. 291, 297, 299. But where the
Eate is divided it is otherwise; as if there be an E-
ate for Life, the Remainder over, there the Conforma-
tion may be of either of the Estates: And if the Leefe
of a Deforifice a Leafe for 20 Years, makes a Leafe
for 10 Years; the Deforifice may confirm to one of
them, and not the other. 1 Crs. 472. 5 Rep. 81. If
a Deforifice or any other make a Leafe for Years to begin
to a Day to come, a Confession to the Deforifice before
the Lease begins will be good; for there is no E-
state in him. Ca. Litt. 256. The Tenant in Tail of
Land, hath a Reversion in Fee expectant; in this Case,
the Conformation of the Tenant for Life, shall extend to
the Reversion. And if my Deforifice make a Leafe for
Life, the Remainder in Fee, and I confirm the Eate of
the Tenant for Life; this shall not confirm the E-
state in the Remainder Eate, without any Conformation
to Tenant for Life; it shall enure to him alto. Ca. Litt. 257,
259. If lands are given to two Men, and the Heirs
of their two Bodies begrudge, and the Doneor confirms
their Estates in the Lands, to have and to hold to them
two and their Heirs; this shall be confirmed a joint
Eate for their Lives, and after they shall have several
Inheritances. Ca. Litt. 292. Tenant in Tail, or for
Life of Land, he shall be for Years, if after he makes a
Conformation of the Land to the Leefe for Years, to
hold to him and his Heirs for ever, the Leefe hath
only an Eate for the Life of the Tenant in Tail, &c.
and therein his Leafe for Years is extinct. Lit. Staf. 666.
A Freehold for Life, and Term for Years, it is said,
cannot stand together of the same Lend, in the same Peri-
omen. 1 Nef. Abr. 480. If a Feme Leffe for Years
marries, and the Leefe confirm the Eate of Husband
and Wife, to hold for their Lives, by such a Con-
formation, the Term will be drowned; and the
295. But if for several Years the Eate for Life, then
by the Conformation to Husband and Wife for their
Lives, the Husband holdeth only in Right of his Wife
for her Life; but shall take a Remainder for his Life.
Ca. 177. 6 Rep. 466. If a Stranger to hold for their Lives, is void, for there is
no Privy: But 'tis otherwise, if for Years. 2 Davw.
Abr. 141. If Tenant for Life grant a Rent-charge, 
&c. to one and his Heirs, he in Reversion to con-
firm it, otherwise 'tis good only for the Life of Tenant
for Life. Lit. 259. A Tenant for Life, and Remain-
der-man in Fee, join in this Leefe, this shall be taken to
be the Lease of Tenant for Life, during his Life, and
Conformation of him in Remainder: Though after the
Death of Tenant for Life, it is the Lease of him in
 Remainder, and Conformation of Tenant for Life. 6 Rep.
15. 1 Nef. Abr. 481. If Leefe for Years, without Impeachment of Waife, accept a Conforma-
tion of his Eate for Life; by this he hath lost the Pri-
ilege annexed to his Eate for Years. 8 Rep. 76. Ac-
ceptance of Rent in some Cases makes a Conformation
of the Life: and he that grants a Rent-charge, refers a
Rent upon a Condition of Re-entry: if after the Con-
dition is broken, by Non-payment of the Rent, the
Leefe disfrains for the said Rent, this Act shall be a
Conformation of the Lease, so as he cannot enter.
found in the Pleadings of a Felon, if he disavows them, and are not a Presumption against others Goods, and not of them; for there the Goods which he disavows are Confectant to the King; but had he been attainted of the same Goods, they should have been faild to be forfeited and not Confectant. So if an Appeal of Robbery be brought, and the Plaintiff leaves out some of his Goods, he shall not be entitled to enlarge his Appeal; and forasmuch as there is none to have the Goods left out, the King shall have them as Confectant, according to the Rule, "Qui non Capit Cogia, capita Ejus." Simaud, P. C. lib. 3. cap. 44. Goods Confectant are generally such as are arrested and seized for the King's Use: But Confectant are fancy, are said to be Synonymia; and Bona Confectaria are Bona Fideita.


Confectant, (Confectantia) A Fraternity, Brotherhood, or Society; as the Confectant of St. George, or les Chevaliers de la bleue Cartier, the honourable Society of the Knights of the Garter. Confectans, (Confectantes) Brethren in a Religious House; Fellowes of one and the same Society. Stat. 32 Hen. 6. c. 24.

Confectant, (From the Fr. Conq.) i.e. Leave or Permission, as in our Law as much as lawful, or Lawfully done, or done with Permission: As Every Confectant, Sec. Lit. St. 520.

Conque d'Accorde, (Fr. L'oeu to accord or agree, mentioned in the Statute of Frauds, 18 Ed. 1. in thefe Words.—When the original Witre is deliver'd in the Presence of the Parties before Judges, a Pleader shall lay this, 'Sir John Conque d'Accorde: and the Justice shall say to him, what faith Sir A. and name one of the Parties, &c.

Conque d'Elile, (Fr. L'oeu to leave to choose) Is the King's Licence or Permission sent to a Dean and Chapter to proceed to the Election of a Bishop, when any Bishoprick becomes vacant. According to Graft, in his Preface to his Reading, the King, of England, as Sovereign, has a large interest in all Bishoprics, and other Ecclesiastical Benefices, had of ancient Time free Appointment of all Church Dignities, when ever they became void, transmitting them first for Bounties of Annul, and afterwards by his Letter Patent; and in Process of Time he made the Election over to others, under certain Forms and Conditions; so that they should resign or give up any new Bishopric, be of the King Conque d'Elile: that is Leave to proceed to Election, and then after the Election, to crave his Royal Affent, &c. And after that, King John, the Conque d'Elile was the first that granted this; which was afterwards confirm'd by Stat. I. 3d. 3 Ed. 1. cap. 1. And by Actis Cleri, 23 Ed. 3. c. 1. All the Precepts in Englishe, the Plea of Body, the Plea of the Bishop, and the Persons inveted by the King's Delivery of a Staff and King, till Archbishop Austin denied this Royal Prerogative; and prevaled with Pope Pecul to abrogate this Custom by a solemn Canon: After which, the first Bishop who came in by a regular Election, was Roger Bishop of Salisbury, anno 5 Hen. 8. 1. By Statute, no Bishop to be elected to the See of Arm for the Dignity of a Bishop, &c. but Election to be of the King Conque d'Elile, or Licence, to elect the Person named by the King; which the Dean and Chapter must do in twenty Days, or they will incur a Pena deere: And if they fail to make Election, the King is to nominate, &c. by his Letters Patent. 25 Ed. 8. c. 3. By Statute, 5 Ed. 6. Heed the Witre of Conque d'Elile, and imposed the King to collate to an Arch-Bishop, or Bishop, absolutely by Letters Patent. But this Statute was replaced by 1 M. cap. 2. though the Election by Conque d'Elile, as now made, seems to be little more than Form.

Congiaus, An ancient Measure, containing about a Gallon and a Pint, breake of Goods, and not of them: for there the Goods which he disavows are Confectant to the King; but had he been attainted of the same Goods, they should have been faild to be forfeited and not Confectant. So if an Appeal of Robbery be brought, and the Plaintiff leaves out some of his Goods, he shall not be entitled to enlarge his Appeal; and forasmuch as there is none to have the Goods left out, the King shall have them as Confectant, according to the Rule, "Qui non Capit Cogia, capita Ejus." Simaud, P. C. lib. 3. cap. 44. Goods Confectant are generally such as are arrested and seized for the King's Use: But Confectant are fancy, are said to be Synonymia; and Bona Confectaria are Bona Fideita.


Confectant, (Confectantia) A Fraternity, Brotherhood, or Society; as the Confectant of St. George, or les Chevaliers de la bleue Cartier, the honourable Society of the Knights of the Garter. Confectans, (Confectantes) Brethren in a Religious House; Fellowes of one and the same Society. Stat. 32 Hen. 6. c. 24.

Confectant, (From the Fr. Conq.) i.e. Leave or Permission, as in our Law as much as lawful, or Lawfully done, or done with Permission: As Every Confectant, Sec. Lit. St. 520.

Conque d'Accorde, (Fr. L'oeu to accord or agree, mentioned in the Statute of Frauds, 18 Ed. 1. in thefe Words.—When the original Witre is deliver'd in the Presence of the Parties before Judges, a Pleader shall lay this, 'Sir John Conque d'Accorde: and the Justice shall say to him, what faith Sir A. and name one of the Parties, &c.

Conque d'Elile, (Fr. L'oeu to leave to choose) Is the King's Licence or Permission sent to a Dean and Chapter to proceed to the Election of a Bishop, when any Bishoprick becomes vacant. According to Graft, in his Preface to his Reading, the King, of England, as Sovereign, has a large interest in all Bishoprics, and other Ecclesiastical Benefices, had of ancient Time free Appointment of all Church Dignities, when ever they became void, transmitting them first for Bounties of Annul, and afterwards by his Letter Patent; and in Process of Time he made the Election over to others, under certain Forms and Conditions; so that they should resign or give up any new Bishopric, be of the King Conque d'Elile: that is Leave to proceed to Election, and then after the Election, to crave his Royal Affent, &c. And after that, King John, the Conque d'Elile was the first that granted this; which was afterwards confirm'd by Stat. I. 3d. 3 Ed. 1. cap. 1. And by Actis Cleri, 23 Ed. 3. c. 1. All the Precepts in Englishe, the Plea of Body, the Plea of the Bishop, and the Persons inveted by the King's Delivery of a Staff and King, till Archbishop Austin denied this Royal Prerogative; and prevaled with Pope Pecul to abrogate this Custom by a solemn Canon: After which, the first Bishop who came in by a regular Election, was Roger Bishop of Salisbury, anno 5 Hen. 8. 1. By Statute, no Bishop to be elected to the See of Arm for the Dignity of a Bishop, &c. but Election to be of the King Conque d'Elile, or Licence, to elect the Person named by the King; which the Dean and Chapter must do in twenty Days, or they will incur a Pena deere: And if they fail to make Election, the King is to nominate, &c. by his Letters Patent. 25 Ed. 8. c. 3. By Statute, 5 Ed. 6. Heed the Witre of Conque d'Elile, and imposed the King to collate to an Arch-Bishop, or Bishop, absolutely by Letters Patent. But this Statute was replaced by 1 M. cap. 2. though the Election by Conque d'Elile, as now made, seems to be little more than Form.
Confess, Countries got by, what Laws have to govern for Government. See King.

Confessio is a Writ mentioned in Reg. Orig. de Avos, Pronus & Confessio, &c. p. 216

Confessio, (Confessio) is a Kindred by Blood or Birth: An Affinity is a Kindred by Marriage: And it is confederable in the Distinct of Lands, who shall take it as next of Blood, &c. And also in Administrations, which shall be granted to the next of Kind. See the Heads.

Confession, (Law.) A Proteus, Preferer, or Maintainer; or a blasphemous, traitor, or a scandalous, a heathen, and appointed as a Guarantee to compose and adjust Differences that should arise between two Parties, &c. Pa-

Confessio of the Peace, (Confessio et Confessio Pacti) is he that hath an especial Charge to see the King's Peace is kept: And of their Confederation, Lombard faith. Before that the Reign of Ed. 3. who first created Tottenham was of Peace, there were divers Persons that by the Common Law had Interest in keeping the Peace; some whereof had that Charge by Tenure, as holding Lands of the King by this Service, &c. And others as incident to their Offices which they bore, &c. and included in the same, that they were nevertheless called by the Name of their Office only: Also some had it simply, as of itself, and were therefore named Confessors of Peace, Watchers or Confessors of the Peace. The Chamberlain of Chester is a Confessor of the Peace in that County, by Virtue of his Office. 4 Inst. 212. Sheriffs of Counties at Common Law are Confessors of the Peace; and Confessors, by the Common Law were Confessors, but some say they were only subordinate to the Confessors of the Peace, as they are now to the Tottenham.

Confederation of the Trade and Safe Consuls, (Confederation Inducturum et Fabrorum Regis Consec-

Crisis was an anciently a Privilege of the Privileges of the Hoistlers and Traders. Whit. 2. 2. 43. And the Corporation of the Great of the Four confuls of a Governor, six Bailiffs, twenty Confessors, and Conmariney was. 15 Car. 2. 267.

Confession of Curie, is often mentioned in Law Pleasings, and where Masters are determined by the Court. Where Confessors are per Curiam, i.e. Therefore it is considered and adjudged by the Court; for Confession of Curie is the Judgment of the Court. In the Entry of a judgment for Debts, it concludes thus: "Lea Confession est per Cur., good friend. A. recus-

Confession, (Confession) is the material Cause or Pardon of any, of any Contract, without which it will not be effectual or binding. This

Confession is either express or implied, as when a Man brings to the Court for a thing bought or sold, or to fill his Land for 100 l. or grants it in Exchange for other Lands; or where I Promise that if one will marry my Daughter, or build me a House, &c. I will give him a certain Sum of Money, or one of the above, having done a Thing. Or it is implied, when the Law itself enforces a Confession; as where a Person comes to an Inn, and there drinking and eating, and takes Lodging for himself and Horse, the Law presumes he intends to pay for both, though there be no express Contract for it; and therefore if he discharge not the Horse, the Host may say his Horse: And so is it, when the Taylor makes a Garment for another, and there is no express Agreement what he shall have for it; he may keep the Cloths till he is paid for, or sue the Person for the same. 5 Rep. 19. Plowd. 308. Dyer 30, 337.

Also there is a Confession of Nature and Blood: and valuable Confession in Deeds and Conveyances: But if a Man is inbred to divers others, and in Confes-

'ers Lew 165, 166. Confession of natural Love, Affection, Marriage, &c. are good to raise Utes to a Man's Family: If the Utes are limited to a Stranger, then it must be for valuable Confession, not for Love, Affection, &c. 1 Inst. 271. 1 Rep. 176. A Sale can never be without a valuable Confession: Though the Law establishes free Gifts without the

Name. Noy's Max. 87. Hob. 230. One may tell his Freedom and Privilege for a Confession; for by the Confession it is intended he hath a full Remission for it, by Reason of his own Contract. And a Man may, upon a valuable Confession refrain himself by Contract from using his Trade in such a particular Place. 1 Litt. 257, 398. A Confession ought to be Master of Profit and Benefit to him to whom it is done; by Reason of the Charge or Trouble of him who doth it. Cro. Car. 9. Confessions altogether pass: as if a Person hath disposed several Sums for another, without his Request, and afterwards such other says, that in Confession he hath paid the said Sums for him: this is no Confes-

because it was executed before. But it will otherwise, if the Sums were paid at the Request of the other. See 206. Cro. Eliz. 270. A mere volun-

tary Cessaty will not be a good Confession of a Promiss: But the Value and Proportion of the Confes-

be, to maintain an Action; for a Shil-

ling, or a Penny, is as much binding as 100 l. Though in their Cases, the Jury will give Damages proportionally to the Loss. Hob. 4. 10 Rep. 76. A Confes-

sion that is void in Part, is void in the Whole; And if two Confessions be alleged, and one of the same, the one found false by the Jury, the Action fails. Hob. 138. Cro. Eliz. 848. But if there is a double Confes-

sion, for the Grounding of a Promiss, for the breach of the same. 1 Litt. 257. A Confession must be lawful, to ground an Action: 2 Lev. 161. Where Confessions are valuable, and confid of two or more Parts, there the Performance of every Part ought to be shown. Cro Eliz. 579. If a Deed express a Confes-

sion of Money, on a Parchesia, it is laid this will be no Proof on a Trial that the Money was actually paid; but it is to be made out by Proof of Writs. Style's Rep. 165. In Case a Deed of Feoffment be made of Lands; or a Fine and Pipe be made, and no Confes-

sion is expressed in the Deed, &c. for the doing thereof, it shall be intended by the Law, that it was made in Truth, for the Use of the Feoffor or

Consort;
Conciliar; for it shall be presumed he would not part with his Land without a Concessiour, and yet the Deed shall be confused to operate falsely, and that which is most reasonable. 1 Litt. Abr. 299.

Confess, is a Word used by Merchants, where Goods are aligned or delivered over to a Factor, &c. Lex Mercat.

Confessour, (Din Confusi) Was a Time allowed for one accused to make his Defence, and answer the Charge of the Accuser. In aliis quarum Accussator Continuum, & balance ob amicitia & paribus juri, quod malis siue debet defendi, &c. Leg.Hist. 1. c. 26. It is now used for a speedy Day appointed to argue a De-
murder; which the Court grants after the Demurrer joined on reading the Record of the Case, &c.

Confessour, A Magistrate so called: Tefibus Rogerii de Gant, Willilimo Confessore Civiria, &c. Blount.

Confessour, (Confiessorum) Signifies as much as Procurator, or Tribunal: It is commonly used for a Council-House of Ecclesiastical Persons, or Place of Justice in the Spiritual Court; a Session or Assembly of Prelates. Amthor Archbishop, and Bishop of every Diocese, hath a Confiessour Court, held before his Chancellor, or Commissary in his Cathedral Church, or other convenient Place of his Diocese, for Ecclesi-
sastical Causes, &c. Inf. 358. The Bishop's Chancellor or Judge is the Judge of this Court, supposed to be served in the Civil and Canon Law: And in Places of the Diocese, far remote from the Bishop's Confiessour, the Bishop appears as a Commissary (Commissarii Parvensis) to judge in all Cases within a certain Distrikt, and a Register to enter his Decrees, &c. 2 Roll. Abr. 286. Stedman's Hist. of Tithe, 437, 464.

Confessation, (Confessation) Is used for the Unit-
ing of two Benefits into one. Stat. 37 H. 8. c. 21. Which Union is to be by the Agent of the Ordinary, Parish and Incumbent, &c. and to be of small Churches lying near together. Vida Church. This Word is taken from the Great Law, where it signifies properly an uniting of the Position, Occupancy or Profit of Lands, &c. with the Property. See Extinctment.

Confessour, (Confiessorum) Is used for an Agreement of two or more Persons falsely to indite one, or to pro-
cure him to be indited of Felony; who after Acquit-
tal, shall have Write of Confiessour: And Write of Con-
fiessour lies for him that is indited of a Trepass, and
acquitted, though it was not Felony: Also upon an Indictment for a Riot. 2 Med. 306. 5 Med. 405. Where a Man is falsely indited of any Crime, which may prejudice his Fame or Reputation; and though it does not impeach Slander, if it endangers his Li-
ability; or if the Indictment be injurious to his Prop-
erty, &c. Write of Confiessour lieth. 5 Salk. 67. And for a Falsely Charge, before the Party is acquitted of it, it
Indictment lies, &c. But though a Confiessour to charge falsely be indefensible, yet the Party ought to shew him-
selv to be innocent; and the Write of Confiessour lies not without an Acquitall. Med. Caesar. 137, 185, 186. Not only Write of Confiessour, which is a civil Action at the Suit of the Party; but also Action of the Caze in the Nature of a Write of Confiessour, dought lie for a fake and malicious Accusation of any Crime, whether Capital, or not Capital, even of High Treason; and though the Bill of Indictment is found Innominal, or it does not impeach in the same. Damages may be recovered in such a Case, as in a Write of Confiessour, where the Party is lawfully acquit-
ted by Verdict. 1 Roll. Abr. 111, 112. 9 Rep. 56. If one falsely and maliciously procure another to be arrested, and brought before a Justice of Peace to be examined concerning a Felony, &c. on purpose to vex and dillage him, and put him in Charges and Trouble, although he is not indicted for the same, yet he may have an Action of the Caze; in which he need not aver that he was lawfully acquitted, as he ought to do in a Write of Confiessour; but he must aver that the

Accusation was Fals & Malicious, which Words are necessary in the Declaration; and it must appear the there was no Ground for it. And as Action on the Cafe may be prosecuted against one Person, where the Write of Confiessour or Indictment does not lie be-
against two, this Action is most commonly brought. 1 Daven. Abr. 208, 215. 2 Sex. 535, 638. Confi-
fiessours may be indited at the Suit of the King and at the Common Law, one may prefer an Indictment
against Confiessours, who only conspire together, and nothing is executed: Though the Confiessour ought to be declared by some Act, or Promise to stand by one another, &c. But a bare Confiessour, will not main-
tain a Write of Confiessour, at the Suit of the Party
grrieved, because he is not damaged by it; though it is a Ground for an Indictment. 9 Rep. 56. 2 Roll.
Abr. 77. If the Defendants can shew any Founda-
tion or probable Cause of Suspicion, they shall be dis-
charged: And if a Man were in the Cause of Sup-
icion, that a Person is Guilty of Felony, and cause
him to be indicted, in Prosecution of Justice, with-
out any foundation to be so, and the Common Law, &c. Judges in open Court, there is no
Ground for an Indictment. 9 Rep. 56. 2 Roll. Abr. 77. If the Defendants can shew any Founda-
tion or probable Cause of Suspicion, they shall be dis-
charged: And if a Man were in the Cause of Sup-
icion, that a Person is Guilty of Felony, and cause
him to be indicted, in Prosecution of Justice, with-

-omitted: But 'tis otherwise if the Pre-
fector imposes the Crime of Felony, where no Felony
was committed. 1 Roll. Abr. 115. and Rep. 458. An
Act of Confiessour, from which the Law says, that he
shall lay out his Warrant upon a false Accusation; but it lies if
he makes it out without any Accusation. 5 Lev. 187.
Confessours ought to be out of Court for if a Pro-
cess be ordered in a Court of Justice, and Wines-
- appear against a Party, &c. there shall be no Pa-
nishment; And if Persons acted only as Jurors in a
criminal Matter; or Judges in open Court, there is no
If all the Defendants but one are ordered on Indict-
ment for Confiessour, that one must be acquitted ali
because one Person alone cannot be indicted for this
Crime: And Husband and Wife being but one Per-
son, may not be indited. 2 Roll. Abr. 708. The Ac-
quittal of one Person is the Acquittal of another
upon Indictment of Confiessour. 2 Med. 220. Though
where one is found guilty, according to the Opinion of the Lord Chief Justice Holbe; if the other does not come in upon Proceeds, or if he dies pending the Suit, Judgment shall be bad against the other. 1 Vent. 344. Write of Confiessour was brought against two Per-
on and one found Not guilty; the other shall not have
Judgment: But in Action on the Cafe, it had been
good. 3 Crum. 701. If the Parties are found guilty of
the Confiessour, upon an Indictment of Felony, if the
King's Suit is the more proper, they shall have their
Fraud Laws (which disables them to be put upon any
Laws to be sworn as Winesellers, or to appear in Pe-
son in an Action of Confiessour) against them, Goods and Chattels be seized as forfeited, and their
Bodies committed to Prison; which is called a Pil-
The Matter of the Confiessour ought to touch a Person
Life, where this Judgment is imposed. 1 Harell, 2 P. C.
193. For confessour to charge a Person with poison-

gher another, &c. one of the Parties was fined 500l.
and some had judgment on the Pillory, and to be
burnt in the Cheek with the Letters F. and C. to
signify Fals Confiessours. New 816. Fine and Im-
prisonment for Indictment and Damages.

A Write
A Writ of Conspiracy.

GEORGE the Second, &c. To the Sheriff of B. Gloucesters: If A.B. freely make you swear in presenting, &c. then put C.D. and E.F. to find Pledges and Sufficient Sureties, that they be before us as Well ministers, on the Day, &c. and that you Conspire between them and all the B. and M. falsely and Maliciously prov. the said A.B. to be Indicted of a certain Felony of, &c. and be on that Occasion to be taken, and in our Prison of B., until in the Court before our belauded and faithful, &c. our Judges, &c. according to the Law and Custom of our Realm be not acquittible, to be there detained in the great Damage of being the said A.B. and against the Form of the Statute or Ordinance in such Cases made and provided; and have you there the Names of the Pledges, and this Writ. Witness, &c.

Conspirators, (Conspirators) By 33 E. 1. are defined to be those that do bind themselves by Oath, Covenant, or other Alliance, that every of them shall aid and the other falsly or maliciously to indict Persons; or falsely to move or maintain Pleaf, &c. And such as Retain Men in the Country, with Liabilities, or Fees, to maintain their malicious Enterprizes, which extend as well to the Takers of the Givers; and towards Bailiffs of great Lords, who by their Office or Power, undertake to bear and maintain Querels, Petitions, Demands, and Matters of War as well as such as relate to the Edate of their Lords or themselves. 2 Lev. 584, 562. And against Conspirators, fall Informers and Inciters of Inquell, the King hath provided a Writ in the Clash, and the Jurors of the Bench and Justices of Assize, shall find on every Presentment. Stat. 28 E. 1. c. 10. From the Description of Conspirators, in several of our old Law Books, it is evident, they were charged with Maintenance and Arms, and armed with a Power or Authority, which was not given to any Person, except the King's Constat館 in Cal, to complete the Grandeur of that Ceremony, and for the ancient Trials by Combat, &c. In the Reign of Henry the Fourth, the Lord North was made Lord Conspirator for Life. And this Office being formerly of Inheritance, by Custom of several Masters, the Line of the Youngs, Earl of Stratford and Effray, enjoyed it in Right of the Masters of Harlefield, Newmans, and Wenshaw, &c. and afterwards it came to the Stafford, and Dukes of Buckingham, so Hilton general of them; and Edward Duke of Buckingham, being asannized of High Treason under 13 H. 8. this Office became forfeited to the Crown, and since that Time it was never granted but few have once, as he exercised as a Conscript., &c. The Power and Jurisdiction of the Lord High Conspirator, was the same with the Earl Marshal, and he sat as Judge having Proceedency of the Earl Marshal; but the Conspirator of England is by some of our Books called Marshal; who takes Cognizance of all Matters of Walled Arms, and had originally several Courts under him; but this was now only the Marshalship and his Office is in Force both in Time of Peace and War, so that though the Lord Conspirator had the Proceedency, yet the Court held before him was called the Marshal's Court. See my Law Commentaries, p. 479, 376. Of this Office or
his Refusal at the next Court, and then he shall be
amerced, for the Steward of the Leet may not fine him
there. 1 Eliz. 6. 5 Mod. 135. And if a High Confi
scable may be chosen at a Court-Leet by the Steward,
upon Preteniment of the Jury, when Colson warrants it
but where such Courts are not kept, or they have
Notices in ending him, the Judges and
their Quarter-Sessions may chuse and swear a High
Confiscable: and this is the usual Way observed at this
Time. Mich. 21 Car. 1. Mod. 34. 135. And he
may be sworn out of the Seifions, by Warrant from thence;
and be elected out of the Seifions, by the greater
Number of Judges in the Division. Ibid. if one
that is elected to the Office of Confi, able, refuse to take
the Oath to serve in that Office, a Writ of Mandamus
may be had to compel him to do it. 1 Litt. Abp. 301.
The Judges of Peace may appoint a Confiscable in such
Place where there was never any before. 1 Med. 13.
If Confiscables, Headboroughs, Esq. die or go out of the
Parish, two Judges of Peace are to swear new ones
till the Lord of the Manor hold a Court, or till the
next instance, when they shall behave of them
or appoint others: And if any of them continue
above a Year, the Judges of Peace may discharge them,
and put in others till the Lord of the Manor
holds a Court. By Stat. 15 & 16 Car. 2. cap. 18. A
Confiscable's Oath runs thus: 'You shall well and truly
serve our Sovereign Lord the King, and the Lord
of the Leet; if you are in a Court, or at the Office
of Confi, scable, in and for the Hundred of,' &c., or
Parish of, Esq., for the Year ensuing, or until you
shall be thereof discharged according to due Course
of Law: You shall well and truly serve and execute
all Things belonging to the said Office, according
to the best of your Knowledge. So help you God.'
Formerly the Oath of a Confiscable was very long, he
being sworn to several Articles which included his
particular Duty. High Confiscables are generally chos
en and sworn by the Judges of Peace in their Sefions.
And such Confiscables, who are their assistants,
in each Town, Parish or Vill, the Choice of them
properly belongs to the Court-Leet; but at this Day
they are usually elected by the Parishioners, and sworn
by a Judge of Peace, who on just Cause may remove
them. 4 Jeff. 267. These Confiscables are appointed
yearly: and are to be Men of Honesty, Knowledge
and Ability, not Infants, Lunatics, &c. And if they
refuse to serve, they may be bound over to the Seifions,
and indicted, and fined and imprisoned. 3 Rep. 41.
5 Med. 96. But Physicians, Apothecaries, Esq. are
exempted by Statute from being the Officer of Confiscable,
or other Parish Officer: Also Attorneys, and Officers
of the Courts at Westminster, Barristers at Law, Aldermen
of the Town, &c. are privileged from serving the Office
of Confiscable; And if a Gentleman of Quality be chose
Confiscable, where there are sufficient Persons besides,
and no special Custum concerning it; 'tis said such Persons
may be relieved in B. R. 2 Henk. P. C. 53, 64. A
Confiscable may make a Deputy: but the Confiscable
is answerable, and his Deputy must be sworn. Sid. 155.
Diftinents chosen to the Office of Confiscable, Esq.
acting to take the Oaths, may execute the Office by
Deputy, who shall comply with the Law in this Behalf.
1 W. & M. c. 18. Confiscables may appoint a Deputy,
or Fellow to execute a Warrant when by Reason of Sickne
s, Esq. they cannot do it themeselfes. A WO
man made Confiscable, by Virtue of a Colson, that the In
habitants of a Town shall serve by Turns, on Account
of the Inhabitants, may procure another to serve for her, and the Colson is good. 1 Henk. P. C. 65.
The High Confiscable has the Direction of the Petty
Confiscables, Headboroughs, and Tithingmen, within his
Hundred. His Duty is to keep the Peace, and to pre
Vest Felons, Rioters, &c. to make Hue and Cry after Felons;
and take Care that the Watch be duly kept in his Hundred; and that the Statutes for punishing
Rogues and Vagrants be put in Execution. He ought
to prevent unlawful Games; Tipling, and Drunken
ness; 1 Black. 75. 5 Mod. 135. In Executions, Ap
cepts and Warrants, directed to him by Judges of the Peace,
and make Returns to the Seifions of the Peace to all the Articles contained in his Oath, or that come into his Office, as the Law requires, and make
Confiscables to make their Returns. He is to return all
Vicarials and Alehouse keepers that are unlicensed;
and all such Persons as entertain Inmates, who are
likely to be a Charge to the Parish. He must like
wise present the Faults of Petty Confiscables, Headbo
roughs, &c. who neglect to apprehend Rogues, Va
grants and Quarter-Sessionals, or offend with the
Methors of Ballard Children like to be chargeable to the
Parish, &c. And also all Defects of Highways and
Bridges, and the Names of those who ought to repair them:
Savengers who neglect their Duty; and all common
Nulances in Streets and Highways; Bakers who fell Bread under Weight; Brewers selling Beer
to unlicensed Alc honourers; Forestallers, Registrers, In
grobles, and at every Quarter-Sessions they are
to pay to the Treasurers of the County, and to pay the
Money raised for the Poor, shall pay to them within
in thirty Days, or may be levied by Difficultes; and
then they pay the same time to the Treasurers appointed,
as the Station Stock for repairing Bridges, Gates,
Houses of Correlation, &c. Stat. 12 Geo. 2. cap. 29.
The Authority of Petty Confiscables, in their several
Towns, Tithings, and Boroughs, is generally the same
as the High Confiscable hath in his Hundred: They
are to keep the Peace in the Abidance of the High Confi
scable; and affect him in making Preteniments at the
Affairs and Quarter-Sessions, or of Night walking the
Mo
s
amis: They may command Affayere to keep the Peace,
and depart, &c. And may break into a
House to hear the Peace kept; make forth Pursuits into
another County, &c. All they may command all
Persons to assist them, to prevent a Breach of the Peace;
judly Blest another if assailed; and if they happen to be killed, doing their Duty, it will be
then taken to be premeditated Murder. They may
without Warrant from a Justice of Peace, take into
Custody any Persons whom they see committing a Fel
ony or Breach of the Peace, but if it be out of Sight,
as where a Person is slain by another, &c.,
they may not do it without a Warrant from a Justice.
A Confiscable cannot detain a Man at his Pleasure;
but only stay him to bring him before a Justice, to be
examined, &c. And this detaining of an
Offender by the Confiscable may be for a Day, without Warrant,
but he shall. Dall. 6, 7, 8. Lamp. 125, 13. 1 Henk.
1 Lamp. 507, Nova 408. If one abscond,
Confiscable in the Execution of his Office, he cannot com
mit him to Prison, there to remain till punished for the
Offence; but must carry him before a Justice, who may
commit him, &c. 2 Dall. Abp. 149. But he is
bail'd, by the original Power in the Confiscable, he may
be for Breach of the Peace, or other Misdemeanors,
less than Felony, imprison a Man: And if an Offenser
be committed, for which a Confiscable may arrest, he
may convey the Offenders to the Sheriff or his Gaoler
in the Borough, His Duty is to keep the Peace, and to pre
2
CO

put it where the Justice hath Jurisdiction, and the Warrant is lawful: And being sworn Officers, they need not hear their Warrants when they come to arrest any one. 1 Rep. 76. If any Justice sends his Warrant to a Confinable, 

94. to bring a Person before him to answer all such Matters as shall be objected against him by another, and does not set forth the special Matter in the Warrant, the Warrant is unlawful, because it does not give the Officer-Time and Opportunity to find Soreties: And the Confinable, if he executes it, is liable to an Action of Detinue. 2 Inst. 382. So if a Justice of Peace sends a Warrant to a Confinable to take up one for Slander, 

94. &c. the Justice having no Jurisdiction, in such Cases, the Confinable ought not to execute it. The Confinable is the proper Officer to the Justice of Peace, and bound to execute his lawful Warrants; and therefore where a Statute authorizes a Justice to convene a Person of any Crime, and to levy the Penalty, 

94. &c. without saying to whom such Warrant shall be directed, the Confinable is the Officer to execute the Warrant, and must obey it. 3 Inst. 150. &c. 188. If a Warrant is directed to a Confinable by Name, commanding him to execute it, though he is not compelled to go out of his own Parish, yet he may if he will, and execute it in any Place in the County where the Confinable shall be signdified by the Warrant for so doing; but if the Warrant be directed to all Confinables, &c. generally, no Confinable can execute the Warrant, because the officer before the Justice that granted it. 5 Rep. 59. A Confinable is not obliged to return a Justice's Warrant to the Justice, but may keep the same for his own Jui-

94. fication, in Case he should be questioned for his Acting; but he must make an Affidavit of what he hath done upon it. 2 Le. Raun. 1196. And by Holt Chief Justice, where the Confinable returns Want of Dis-

94. tress upon a Warrant to detaine; the Justice ought not to make a Record of it, and then give Judgment for cor-

94. poral Punishment. Ibid. Confinables, Headborough, 

94. &c. out of Purse in their Offices, they and the Inhabi-

94. tants may tax all Persons chargeable, by the 43 El. 

94. c. 2. as every Occupier of Land, &c. which Rate being considered, by two Juries, the Confinables may levy it by Distress and Sale of Goods. Ibid. 13 & 14 

94. Geo. &c. a Warrant by Warrant from the Justice of Peace, may fell the Goods of an Offender apprehended, 

94. to discharge the Ex pense of apprehending him to Pri-

94. son: If the Offender have no Goods, then the Town where he was apprehended must be at the Expense, and the Confinable with three or four of the principal Inhabitants; may impose a Tax on every Inhabitant, &c. which being allowed by a Justice, the Confinable by his Warrant may levy it: And if the Inhabitants refuse to make a Tax; two Juries may by Warrant compel them to do it. 7 Jac. 1. 510. Confinables may plead the General Issiot, and give the special Matter in Evidence, for any Thing done in their Offices. 21 Jac. 1. 5. And if a Confinable does not his Duty, he may be indicted and fined by the Justices of Peace.

The particular Duty of Confinables, is further as fol-

94. lows: They are not only to command Affrayes to de-

94. part, but call out their Affiance to repellett Af-

94. frays; and they may put Affrayers in the Stocks, till 

94. they can convey them before a Justice. &c. Dalb. 55. 

94. Lamb. 155. 141. Confinables are to levy the Penalties of Persons keeping Maltbryers without Licence, selling less than Measure, &c. or forfeit 40 &c. 1 Jac. 1. They are to levell Persons as go or ride unlawfully on Horseback; and they are to seize their Arms and carry them before a Justice of Peace. Dalb. 

94. 538. To take up Arrears going out of the Kings 

94. dom, by J ui c e's Warrant. 5 Geo. 1. Confinable shall levy Penalties on Bakers, making or selling Bread wanting Weight deficient in Goodness, &c. and selling large Bread at a higher Price than by Mayors, &c. 1 Geo. 1. 3 Geo. 1. The Justice is to apprehend Mothers of Bawdy-Children. Dalb. A Confinable may with others called to his Assistance enter Bawdy-Houses, and arrest Persons with lewd Women, for Breach of the Peace. Mich. 13 Elia. The Confinable and two most able Inhabitants in the Parish, are to make an Affidavit for the Repairs of Bridges, to be allowed by Justices.

94. The Foroiture for mixing corrupt Butter with good, and opening Casks, &c. is leviable by Confinables. 14 Car. 

94. 2. &c. 5 W. & M. By a Justice's Warrant, Con-

94. finables shall levy Penalties for using Clinch Butters, &c. upon Cloches. 47 Geo. 1. Confinables shall provide Carriages on the Marching of Soldiers, by Virtue of a Justice of Peace's Warrant, being allowed by the Officers 12. 2 Mile for a Wagggon, &c. 3 Geo. 1. They may feile Cattle brought from Ireland, and close them to be killed, and the Flesh distributed among the Poor. 18 Car. High Confinables may hear and determine Complaints of Clathers, and their Work-men; Search for, and seize Ropes, Engines, &c. for the Brenching of Cloth: Spinners, &c. im-

94. petting and selling Wool from the Clachers, shall make Satisfaction, or be whipped by Confinables, &c. and Confineables, by Warrant of two Justices, may enter and search Clachers for Ends and Ropes of Yarn, which shall not be worked up again, under Penalties leviable by the Confinables; and they also levy by Distress the Foroiture, for taking away Cloth from the Tenter's, or Yarn, Wool, &c. left abroad to dry in the Night. 4 B. 4. 59 Elia. 7 Jac. 1. 15 Geo. 1. 15 Geo. 2. Where Coals are sold by Sacks not lawful Measure, &c. Confinables shall levy the Foroiture inflicted. 3 Geo. 2. Aff the Preciwity of burning Coals, at their Price than appointed, by Justice's Warrant, &c. 11 

94. Geo. 2. Confinables, Headborough, &c. are to levy the Fines imposed on those who shall be present at unlawful Gowen-rights; and by Virtue of a Justice's Warrant may enter such Places, break open Doors upon their being refused Entrance, and take into Cullody Perions unlawfully assembled, &c. 22 Car. 2. To levy Penalties on Carriers, who do not carry Leather sufficiently, or that neglect the fame within certain Times. 1 Jac. 1. 12 Geo. 2. They are to be astil-

94. ling to all Persons appointed by the King in Council, for the Management and Government of the Customs; and to Peri-

94. nons having a Warrant from the Lord Treasurer, &c. to make a Search for Goods which have not paid the 

94. Customs. 12 & 14 Car. 2. 9 Geo. 2. The Penalties on Deer-keepers are to be levied by Confinables, by Virtue of a Justice's Warrant: And the Penalties are 20l. for hunting Deer in any Place enclosed; and 50l. for each Deer killed, &c. They may enter any suspected 

94. Place, and carry away Venison, Skins of Deer, 

94. Tails, &c. 15 Geo. 3. 5 W. & M. By Ju-

94. stice's Warrant to levy the Penalty of Distillers, &c. selling Brandy, about the Streets, on any Balls, or 

94. Sheds, &c. 6 Geo. 2. And Confinables, and other Of-

94. ficers of the Peace, are to carry unlawful Bottles of Spirituos Liquors before a Justice, &c. and refusing to be aiding in executing the Acts against Distillers, shall forfeit 20l. 1 Geo. 2. Confinables are to affit Landlords in taking Distillers for Rent in Arrear; and in the Appraisement of the Goods, Sale, &c. if the same are not returned in five Days. 2 W. & M. They shall give Affiavt to Searches of Dyed Cloth, in entering and examining whether the Cloths or Stuff are decently dyed, &c. 13 Geo. 1. They are to 

94. levy the Penalty of 5l. on Drunkards, for the Use of the Poor or shall forfeit 10l. &c. 13 Geo. 1. They are to attend Officers of the Excise, and enter with them into Brew-houses, private Hoults, &c. for Discovery of Frauds: And by Warrant from Justices, they
they are to levy the Penalties on Offenders against any Law of Excise, by Dillett, &c. 12 Car. 2. 5 & 6 W. 3. 3. A Confable permitting a Felon to escape, before arrested, is guilty of a Misdemeannor, for which he is to be indicted and fined; and if the Felon be actually in Custody, and then voluntarily permits him to escape, 'tis Felony in the Confable; but if the E- fore he be involuntary, it is only Trespass: He may put a Felon in the Stockes, and lock him in one of them, upon his being or him, to prevent an Escape. A Confable may discharge any Peron on the Suspicion of Felony, where the Felony is actually committed.

Dali. 52. Cr. Ed. 202. 752. Confables do Arrive are to apprehend Folen, may call other Persons to their Affluence therein, and apprehend upon any Suspicions, and carry them before a Justice, &c. A Confable, upon Complaint or common Fame of a Felony, may search fujicious Houses, both for the Felon and Goods stolen, and may justify breaking open a House to take a Felon, if the Felon fly, he is to make an Inventory of his Goods, find Hue and Cry, after him, &c. Dali. 286. 340 751 Ed. Confables until they have the Penalty of ten for fishing in a River, without the Owner's Consent; and search for unlawful Engines, &c. Also they may Search for using Engines to destroy the Birds of Fowl, and for making certain Landmarks. 23 & 24 Car. 3. Sec. 1. & 6. An. 1. Gen. 1. They are to give Affluence to Justices of the Peace, in removing irrecoverable Bonds, or shall be committed and fined. R. & J. 2.

To prevent Forskallers of Markets, Groffers, &c. 15 & 6. Ed. 6. Confables are to carry Higglers, Chapmen, Vintailors, &c. before a Justice, who have in their Custody any Hare, or other Game; and by a Justice's Warrant are to search suspicious Houses for Game, &c. They may carry Persons, not qualified to kill Game, before a Justice, for keeping Greyhounds, &c. 22 & 23. Gen. 1. 3. Secs. 1. & 4. They are to make a Search Monthly for Gaming bodies, where unlawful Games shall be kept; and they may commit the Misters of such Houses, and the Gamblers found therein: Though it is best to carry them before a Justice of Peace: Confables tyring to light their Duties in this particular, forfeit 40s. They likewise levy Penalties on Persons for playing at unlawful Games, Act of Heart, Pharaoh, &c. adjured to be a Kind of Lotteries. 33 Hen. 8. 12. Gen. 2. If Goaters refuse to receive a Felon, the Confable may either bring the Person in His House, or carry him back to the Town where apprehended: And to defray the Charge of carrying him to Goal, they may have Power to sell the Offender's Goods, &c. or the same may be levied by a Taz. 10 H. 4. Dali. 340. 7 Sec. 1. In London and West- minster the Confable, &c. shall make a Search for Computers in the Houses of Persons keeping a greater Quantity than allowed by Statute, and remove the same. 5 & 6. Gen. 1. And they are to levy the Penalty for putting Goaters on board Ships, &c. above Blackwall in the River Thames. 5. Gen. 1. If any Confable refuse to sell in putting the Laws in Execution against Hawkers and Pedlars, that travel without Licenses, and are irreparable to Penalties, he shall forfeit 43. & 6. Gen. 3. The Penalties for selling Trullies of Hay, &c. under due Weight in the Hay markets, are leviable by Confable. 2 W. & M. Confables are to whom Horse-keepers, &c. for not making Satisfaction ordered by a Justice: They may apprehend Persons suspected of being belling, or of loving in their Possession any Undoubtedly, Poko, Gates, Bills, &c. and carry them before a Justice, &c. 43 Ed. 15. Sec. 2. To be aiding and abetting in putting the Acts in Execution relating to the scoring of Livestock, &c. under the Penalty of ten. And they are to return Lists of Persons qualified for the Office of Surveyor, to the Justices in their Sections on the 3d of January yearly, under the Penalty of 20. 22 Car. 2. 5 & 6 W. & M. 1. Gen. 1. To levy the Penalty for privately conveying away Hogs, to avoid paying Duty, and Forfeiture for adulterating Hogs, &c. 39 & 40 Car. 1. 1. Sec. 3. Confables are to be aiding in driving of Commoners, Foresters, &c. of Herues and Cattle; on Pain of 40. 32 H. 8. They are to make Hue and Cry after Offenders where a Felon or Robbery is committed: To call upon the Parishioners to affit in the Pursuit; and if the Criminal be not found in the Precinct of the first Confable, he is to give Notice to the next Confable, and be to the notice, who are to do as the First, and continue the Pursuit from Town to Town, and County to County, &c. 13 Ed. 1. 7th Eliz. Purifiers of the Hue and Cry may search suspicious Houses, and arrack all suspicious Person. And where Offenders are not taken, Confables shall levy the Tax to satisfy an Execution, on Recovery again, or Hundred, and pay the same to the Sheriff, &c. and neglecting to make Hue and Cry, shall forfeit 2. 4 & 6. Gen. 2. A Confable on Complaint is to cause an Inquest to be held and purhised, for reducing to a Jurisdiction to provide him Vis- uals, &c. who offers to pay for the same. 10 & 17. Confables shall give in to the Justices at Michaelmas Sessions yearly, a List of Persons qualified to serve on Jurors, and they are to be committed to return Lists, or to the Jurors of the first Forfeiture of 5. 7 & 8 W. 3. The Lists of Jurors, are to be made out of the Rates of each Parish; and Confables, &c. wilful and malicious in the same, or being taken with it, or injuring wrong Person, shall forfeit 20. 3 & 4. Gen. 3. In the Time of Harrel, a Confable may set Labourers, Artificers, and ordinary Tradesmen on Work, and put them in the Stocks who are on the Cause of Forfeiture for breaking down Lamps, set up in the Streets of London, by Virtue of a Justice's Warrant. 9 & 10. Ed. 1. Confables are to give their Affluence in col- lecting the Law Duty, or Duties for the Town, or Parish, when refused Payment. 2 W. & M. By Warrant from Justices, Confables are to levy the Penalties and For- feitures for selling incertain Leather, &c. 1. Sec. 1. They have Power to search for bad Malt, and if they find any bad mingled with good, they may with the Advice of a Justice caufe the same to be sold at reasonable Rates. 2 W. & M. 6. And there are diverse Pe- nalities for making bad Malt, and Frauds concerning the Duty, leviable by Confable. 9. W. 3. 1. Gen. 1. 3. Secs. 2. & 4. Confables are to search and examine if any Persons are trading in any maner or measure, and agreeable to the Standard. 23 Car. 2. By Warrant from the Lieutenant, Confables are to commit Persons for being Carriers of Forfeiture, or Horizon and Foot Soldiers, for the Militia, if no Di- stricts can be taken. 13 & 14. Car. 2. Night-walkers of ill Fame, may be taken up by Confable and car- ried before a Justice of Peace, who may bind them to the Good Behaviour. 13 Ed. 1. Robbers of Orchards, &c. shall be whipped, by Order of a Ju- tice, by the Confables of the Place. 13 Car. 2. Con- fables may complain to and carry before a Justice of Peace, Persons suspected to be Papists. 1. Sec. 3. In the City of London, they are to be able to the College of Physicians, &c. in putting their Laws in Exe- cution. 14 H. 8. They may command and oblige Per- sons infected with the Plague, to keep within their Houses, &c. And are to levy Money appointed by Justices, for Relief of poor Persons infected. 3 Ed. 1. Confables shall present Papists Recusants, within the lands Lieberis, &c. and certify to the Sessions, such Papists Recusant's control, who within twenty Days after the Arrival at the Place, at which they give in their Names to the Parson of the Parish; And neglecting, to forfeit 225. 35 Eliz. 3. Sec. 1. To levy Money due for the Relief of poor Persons, and the monthly Rent of 40s. &c. are to be levied by a Justice, according to the Success of Surveyor, to be levied by a Justice, according to the Succession, &c. 9. Secs. 1. They are to be at the Quarter-Settlers to take Presentments, of all Things against the Peace, and be, haging
longing to their Offices, &c. The Confables shall le
vy a Tax on Parishes, for relieving poor Parishioners.
43 Eliz. Confables are to suppress Riots, and they
may ex officio commit Offenders, &c. 17 R. 2. And by
1 Geo. 1. all Officers under twelve Roters continue
together an Hour after Proclamation, is made Felony.
They are to make a Tax and Affirmment by Warrant
from the Justices of the Inhabitants of the Parishes, where a Roter on the Highway is committed in the Hundred.
17 Eliz. See 8 Geo. 2. Confables are to whip wandering Rogues, &c. by whipping them from the Middle upwards and casting them to be landed till their Bodies be bloody. 1 Geo. 1. The Penalties for felling Salt under Weight, &c. and not entering Saltpi,
por, are to be levied by Confables. 9 & 10 W. 3.
7 Geo. 2. Scavengers Rates in London shall be made by
Confables and Churchwardens, &c. and the Con-
fables to levy Forfeitures for Defaults of Scavengers
in not carrying away Dirt, &c. 2 W. 4. & 5. Geo. 1. Con-
fables and two Householders of Towns, Parishes, &c.
by an old Law were to give Testimonials to Ser-
vants: And Servants not procuring such were not to be
retained, but punished with Ten Pounds. Eliz. By Viz-
tue of a Justice’s Warrant Confables shall search after
Shoes, Leather, &c. imbrelled or pawned by jour-
neymen Stormakers in London, who shall make Satisf
actions, either in the Court of the Quarter Sall
ders in Insns, Alehouses, Virtualling Houses, &c. Re-
fusing to billet Soldiers, they are to be fined not ex-
cessantly, or as any Officer in the Army or the Sea
ward to excise Quarterage: or if Virtuallers, &c. re-
fuse Soldiers quartered, they shall forfeit not above 5l.
nor under 40l. If they quarter the Wives, Children,
and Servants of Officers or Soldiers, in any House, with
Conscient of the Owner, they shall forfeit 20l. The
Confables, &c. shall give in Lists to the Justices of the
Houses and Perings obliged to quarter Soldiers, with
their Names and Signs, and the Names of Oficers and
Soldiers billeted on them. 1 Geo. 1. 7 Geo. 1.
c. 6. Geo. 2. 15 Geo. 2. Persons usurped of De-
fition, may be taken up by Confables, and carried be-
fore a Justice: And 20l. Reward is given for taking
up a Defender. They are to levy the Penalty of 51.
on Persons-reforting to Wreeling, Dancing, or other
Sports on a Sunday, and on Persons doing any weekly
Labour on that Day, &c. 6 & 7 Geo. 1. &c. on Butchers
killing Meat; and 20l. upon Carriers, Drivers, &c.
traveling on Sunday. 1 Geo. 1. 20 Geo. 2. On re-
cieving a Superfetata from another Justice, &c. Con-
fiabls shall discharge a Person taken up by Warrant.
Daily. To levy the Penalty for prophan Stormaking, which is
1l. for one, and 5l. for others; and as the Crime is repeated, the Penalty is to be
doubled. 6 & 7 W. 3. Confables shall levy the Pen-
alty of 51. on Taylers giving greater Wages than al-
lowed: likewise the Wages of Journeymen by Differs,
by a Justice’s Warrant. 7 Geo. 1. By Warrant from two Ju-
scopes, Confable, &c. are to levy small Fishes,
refused Pay, by Differs, and a 51. &c. 10 & 11 W. 3.
Confables, on Information, are to destroy Tobacco plant-
ed contrary to the Stat. 22 & 23 Car. 2. or be liable
to a Forfeiture of 51. for every Rod not destroyed:
And upon Warrant to make Search, and prevent Of-
fences of planting Tobacco, &c. 17 Car. 2. 22 & 23
Car. 2. To execute Warrants of Commissioners for
Treason, and any other Warrant for penalty or for
them without paying the Toll, &c. 8 Geo. 2. 14 Geo. 2.
Confables, &c. are to apprehend Pagants, and carry
them before a Justice; and to convey them by the Ju-
stice’s Pals and Certificate, to their Place of Birt or
Seclusion, &c. being paid the Allowances mentioned
in the Certificates: They are to pay 10l. to any Per-
son apprehending a Pagant by Order of Justice, &c.
and 5l. if the Pagant, being Pagant, shall refuse to pay it shall forfeit 20l. Pagants lodging in Houses or Barns, are liable to be apprehended by Con-
fables, &c. and if they refuse, or neglect to do their
Duty, they shall forfeit not above 5l. nor less than 40l.
by 13 Geo. 2. Confables of Towns, shall fee that Night
Watch be kept, from Sun setting to Sun rising, who
shall be able Persons, Inhabitants of the Place, that
watch by Turn; and not doing it, may put them in the
Stocks, &c. 13 Ed. 1. And Confables in the large Parishes of Westminster are twice in every one of them to
Night go their Rounds, and see that the Watch do their Duty, and use Endeavours to prevent Fires, Mur-
ders, Robberies, &c. and apprehend Malefactors, and
Persons felonified. 9 & 10 Geo. 2. They are to be
secure all Warrants of Justices, being lawful, and not out
of the Justice’s Jurisdiction. 14 H. 8. Confables being
Head Officers of Places, shall have in their Custody
Sealed Weights, &c. under penalties: Persons buying
or selling by false Weights or Measures, forfeit 5l.
leviable by Confables. 8 & 9. 17 Car. 1. And Con-
fables are to call together Affiliance to give Ships from
Week; and no Persons shall enter any such Ships,
without leave from the Commander, Confable, &c.
12 Ann. cap. 18.
5 punishment of London, (which City is divided into twenty-sixwards, and every Ward into the like Num-
ber of Precincts, in each whereof a Confable is no-
mominated by the Inhabitants of each Precinct on St.
Thomas’s Day, and confirmed by the Mayor of the
Side of the Wardmote; and after they are confirmed, they are
sworn in their Offices at a Court of Aldermen, on the 20th
next Monday after Twelfth Day. This Ward being
Freehold, their Oath is, to keep the King’s Peace to the utmost
of their Power; to arrest Affayers, Rioters, and such as
make Conflicts to the Brench of the Peace, and carry
them to the House of Corruptions; and to Compel one of the
Sheriffs; and in Case of Refusal, to make Out-
cry on them, and pursue them from Street to Street,
and from Ward to Ward, till they are arrested: To search
for common Nuncupates, in their Wards; to have them
required by Scavengers, &c. and upon Request to still
the Beadle and Raker in collecting their Salaries and
Quarterage; to present to the Lord Mayor and Minis-
ters of the City, Defaults relating to the Ordinances of the
City; to certify once a Month into the Mayor’s
Court, the Names and Surnames of all Firemen de-
cessed: and also of the Children of such Firemen who
being Orphans: And by the Articles of the Wardmote Inquest, Confables are to certify the Names, Surnames,
Place of Dwelling, Possession and Trade of every Per-
son who shall newly come to inhabit in their Precincts,
and to keep a Roll thereof; in which order they are
to make Inquiry at least once a Month into what Persons are come to lodge and to follow there, and if
they find by their own Confessions, or the Record of the
Alldermen Books, that such new Comers are ejected from
any other Ward for bad living, or any Misdemeanor,
and refuse to find Surties for their good Behaviour,
Warning is to be given to them and their Landlords,
that they depart; and on Refusal, may be impris-
oned, and the Landlords who have received them,
for such new Comers. Cath. Rpt. 129. 138. Con-
fables of London in each Ward are to attend the Watch
by Turn, and go the Rounds; and with the Beadals
every Night are to warn such Persons as are to serve
upon the Watch in their several Precincts: and if
they refuse to appear, the Confable may hire others
in their stead, and they shall pay him according to the
Custom of the City: But the Common Council ap-
point the Watchmen. Watchmen are to apprehend
Night-walkers, Vagabonds, Persons going armed, &c.
and may arrest Strangers in the Night, and carry them
before the Confable to be examined, and finding Suspi-
cion secure them till the Morning: and whe-
ther they are Horsemen or Footmen, or Drivers of
Carriages, or Persons that carry Burthens, the Watch-
men may take them till the Morning, unless they can ren-
der a good Account of themselves, their Company; Y
and

Digitized by Google
and Carriage, &c. And Conflagrables, &c. are to be taken and affixed to the Watch; and the Watchmen are to obey their Orders, in conveying Offenders to the Comte, which is the common Prison for Offenders for the Breach of the Peace, till they are examined, and punished by the Lord Mayor, &c. But Conflagrables ought to be careful whom they fend to the Comte, for fear of Action for false Imprisonment; Protection for Damage, &c. If any will not obey the Arrest of the Watch, they may make Hue and Cry after them; and for such Arrest of a Stranger, (especially one suspected) none is liable to Punishment. Dutc. 1240. The Court of Common Council are to meet the first of October yearly, and order a proper Number of Watchmen, Beadles and Nightly Conflagrables for the City of London and Liberties, and determine Sums to be levied to bear the Charge thereof upon each Ward; and for raising Money, the Aldermen and Common Council men of Wards, shall make a Rate and Affirmation upon the Inhabitants, leviable by Diffrents; and shall appoint their Watchmen, set down in Writing their Stands and Number of Rounds, and make Orders for regulating the Watch, &c. Conflagrables to keep Watch and Ward, from the 10th of Sept. to the 10th of March, from nine in the Evening, till four the next Morning; and from 10th of March to 10th of October, from seven in the Evening till three next Morning. The Conflagrables shall use all their bell Endeavours, for preventing Fires, Robberies and Disorders, and arrest Malefactors; and go twice or oftener about their Wards, in every Night; and the Watchmen are to apprehend all suspected Persons, &c. and deliver them to the Conflagrables of the Night, who shall carry them before a Justice of Peace. Conflagrables might behaving themselves, to forfeit 20l. and the Lord Mayor, or two Justices for the City, may hear and determine Offences, and levy Penalties by Diffrents and Sale of Goods, &c. Stat. 10 Geo. 2. c. 22. Conflagrables are to certify to the Lord Mayor, and Common Council of the City, the Names of all such Persons as shall interrupt them in the Discharge of their Offices: And a Conflagrable of each Ward has Power to execute Warrants, &c. throughout the whole City, upon Occasion. Such as are chosen into the Office are obliged to place the King's Arms, and the Arms of the City over their Doors: and if they reside in Alleys, at the End of such Alleys, towards the Streets; to signify a Conflagrable lives there, and that they may be the more easily found when wanted. See Comp. Palfr. Officers, 6 Ed. 1. p. 7, 8. &c.

Conflagrable, (Lat.) Is the Name of a Certificare, which the Clerk of the Pipe, is placed among the Auditors of the Exchequer, made as the Requittal of any Person who intends to peddle or move in that Court, for the Discharge of any Thing: And the Effect of it is the Certifying what does Conflagrable upon any Person, mentioning the Master in Question, 1 Ed. 6. c. 4. and 13 Ed. c. 6. A Conflagrable is held to be superior to an Ordinary Certificare, because it contains nothing but what is evident on Record. And the Exhaustion under the Great Seal, of the Jurisdiction of any Letters Patent, is called a Conflagrable. Co. Lit. 225.

Conflagriture, a Rival or Book, containing the Rice's Rate of the Forms of Divine Office. At the Customs of Abbays and Monasteries: 'Tis mentioned in Brumeton.

Conflagriture or Sturblit, Is a Writ of Right Co. and lies against the Tenant that defrauds his Lord of the Rent or Service due to him. Reg. Orig. 159. F. N. B. 151. When the Writ is brought by the Party in the Right only, he shall count the Sein of his yearly Rent, and when the Writ is brought in the Debtor; but when he counts his own Sein, then the Writ is in the Debtor & seines. And if the Party lay in the Writ as Debtor & seines, Redress & seines, these Words prove that the Demandant himself was left of the Sein; and then if he count in such Writ of Sein of his Ancestor, and not of his own Sein, the Writ shall abate: So that if the Writ be brought against a Writ of Cadoms and Services of the Sein of his Ancestor, he ought to leave their Words as in reddituibus, &c. out of the Writ. Where a Person brings a Writ of Sein of Cadoms and Services upon his Tenant, and by Count demands Homage, the Writ ought to make special Mention thereof; as in ut in homaggio, &c. or the Writ will abate. New Nat. Bro. 373. If this Writ be brought against a Tenant for Lit, where the Remainder is over in Fee, there the Tenant may pray in Aid of him in the Remainder, &c. The Writ, which is returnable in the Common Pleas, runs thus:

GEORGE the Second, &c. To the Sheriff of S. Graving: Command A. B. that, &c. be to C. D. the Custodums and Services which he is required to do, for his free Tenement, that he will hold the same in, &c. in Rents, Arrears, and other Things; Or, in Homage, Relief, &c. Or Suits of Court, and other, &c. usally, &c.

Conflitta Certificae, A Church, full, or provided for, according to Confluit.

Consolitation, (Consolitoin) Is a Writ whereby a Cause being brought before the Common Council from the Ecclesiastical Court, to the King's Court, is returned thither again; for if the Judges of the King's Court, upon comparing the Libel with the Injunction of the Party, and the Injunction failed, or not proved, and therefore the Cause to be wrongfully called from the Ecclesiastical Court, then upon this Consolitation or Declaration they decree it to be returned; whereupon, if this Cause obtained is called a Consolitation. Reg. Orig. 44. &c. Statute of Writs of Consolitations, 24 Ed. 1. This Writ is in Nature of a Procedent; but properly a Consolitation ought not to be granted, but in Cases where a Man cannot recover at the Common Law, in the King's Courts. New Nat. Br. 119. Causes of which the Ecclesiastical or Spiritual Courts have Jurisdiction, are of Administrations, Admissions of Clerks, Adultery, Appeals in Ecclesiastical Causes, Apostasy, General Bailiff, Bisphominy, Solicitation of Charity, Dilapidations and Church Repairs, Celebrations of Divine Service, Divorces, Fornication, Heresy, Insol. Involutions of Clerks, Marriages Rites, Oblations, Obventions, Ordonnances, Communication of Penances, Pecunia, Procorum, Schism, Simony, Thieves, Procurers of Wills, &c. and where a Suit is in the Ecclesiastical Court, for any of these Causes, or the like, and not being within the Temporal Law, &c. a Consolitation made for a Prohibition, a Consolitation shall be awarded. 5 Reg. 9. To move for a Prohibition in another Court, after Motion in the Common, &c. on the same Libel which is granted, is merely vexatious, for which a Consolitation shall be had. Co. Ens. 277. Where a Consolitation is granted upon the Right of the Thing in Question, these a new Prohibition shall never be granted on the same Libel; but where granted upon any Default of the Prohibition, in Form, &c. there a Prohibition may be granted upon the same Libel again. 1 Nat. Br. 485. A Consolitation must be pursuant to the Libel, &c. Viz. Prohibition.

Confal, (Lat.) In our Law Books signifies as Earl. Brad, &c. s. 8, tells us, that as Conas is derived from Consolatus, so Confal is derived from Consolitum; and in the Laws of Edward the Confal, Motion is made of Vicarernes and Vicarernes, Blows Consuls among the Roman, were chief Officers, of which the moderns are called the City of Rome: But this Government of Rome has long since been abrogated. Our Consal abroad take Care of the Affairs of Interests of Merchants, in Foreign Kingdoms where they are appointed by the King; as in Lijbon, &c.

Contrary,
Contempt, (Contempt) Is a Diobedience to the Rules and Orders of a Court, which hath Power to punish such Offence: And one may be sentenced for a Contempt done in Court; but not for a Contempt out of Court, or a private Abuse. C. R. Ed. 699. At tachment also lies against one for Contempt to the Court, to damages in the Offender to answer on Interrogatories, &c. and if he cannot acquit himself, he shall be fined. 1 Salk. 305. If a Sheriff being required to return a Writ directed to him, doth not return the Writ, it is a Contempt: And this Word is used for a Kind of Misdemeanor, by doing what one is forbidden: or not doing what he is commanded. 10 Rep. 36. And as this is sometimes a greater, and sometimes a lesser Offence; it is punished with greater or less Punishment, by Fine, and sometimes Imprisonment.

Dyer 177, 128. 1 Salk. 85. See Attachment.

Controversy, (Controversy) Is said to signify a Man's Controversy or Credit, which he hath together with, and by Reason of his Freehold: In which Sense, it is used in the Statute of T. 5. and other Statutes: And either or his field, or his Controversy of Eijms & Conditions, quae quis in Repub. judicati, &c. But Controversy is more properly that which is necessary for the Support and Maintenance of Men, agreeable to their several Qualities, or States of Life: And seems to be Freehold Land, which lieth to a Man's Tenement, or Dwelling House, that is in the Controversy of a Man. 

The Title, cap. 14. It is enacted, that a Freeman shall not be answered, but scandum quantummodum delicti, juro eis in Controversa loco: & Mercator in Controversa loco, &c. which means, that, as Glauvctc tells us, he should be answered, scandum quantitatem fraudum furum, & fraudulentum, ac nimi Gavows, inid par leftrum, vel cum Controversia amissi: Lib. 2. c. 8.

Continent Ux. Is a Ux limited in a Conveyance of Land, which may, or may not happen to well, according to the Controversy or Credit, which the Lady has, or is in the Controversy of such a Ux: A Ux in Controversy is such which by Possibility may happen to Possession, Reversion, or Remainder. 1 Rep. 121. A Contingent Remainder is where an Estate is limited to take Place in future, upon an uncertain Event; as where a particular Estate which both support a Remainder, may or may not determine before the Remainder may commence. 10 Rep. 85. A Remainder Contingent is said to be an Estate vested; but on such Remainder in executory Devises, the Estate defers till the Contingent happens, and nothing is vested till then. 1 Vent. 189.

Contingent Claim, Is a Claim made from Time to Time, within every Year, or for Land, or other Thing, as it may be. It is a Contingent Claim, where it is made, and repeated yearly, so as to be within a Year and a Day before the Death of him that hath the Lands; and where he dies by his own Act, but his Heir is in by Difent, yet he that makes the Claim may enter, &c. if no Claim be made, then the Entry of the Person defied, &c. is taken away. 2 H. 8. cap. 35. Though by a Difent the Person is to have pensive Possession for five Years, without Entry or Contingual Claim, for a Difent on his Death, to take away the Entry of the Difent, if his Heir, after the five Years, the Difent is to have pensive Possession, as before the Statute: The Poecof a Difent, Abators, &c. are out of the Statute. As to this Claim, though the Tenant die within the Year and Day, and it be but once made, it shall preserve the Complain against that make it: And if the An- ceffor claim, and the Difent die, and then the An- ceffor dieth, now his Heir may enter: But if an An- ceffor or Predecessor make a Contingual Claim, and dieth, and the Son or Successor make no Contingual Claim, and within the Year and Day after the Claim was made by the Anceffor, the Difent dies: this shall take away the Entry of the Son or Successor, for the Difent was call in his Time. C. Litt. 210, 214. If there be Tenant for Life, Remainder for Life, the Re- mainder in Fee, and the Tenant for Life alien in Fee; if he in Remainder for Life make Contingual Claim, before the Dying of the Heir, and after the Al- liee died, then, and after that the Remainder-Man for Life dieth before any Entry made by him: In this Case he in Remainder in Fee shall have Benefit by the Claim of Tenant for Life, and he may enter upon the Heir of the Aliee, &c. Lit. 306, 418. This Claim shall not avoid a Difent, unless it be made by him that has Title to the same, and in whole Life the Difent was: And so it is for the Contingual Claim of a Tenant for Life, to give him in Remainder Advantage, except the Difent, &c. die in the Life time of Tenant for Life. C. Litt. 210, 234.

Continuance, Is the Continuing of a Cause in Court, by an Entry upon the Records there for that Purpoce. There is a Continuance of the Affidavit, &c. And a Continuance of a Writ or Affidavit is from one Term to another, in Cave where the Sheriff has not returned a former Writ, issfit out in the laid Affidavit. Kitt. 202. Continuances and Effides are amendable upon the Roll, at any Time before Judgment: Thay are the Afts of the Court, and at Common Law they may amend their own Afts before Judgment, though in another Term: but their Judgments are only amendable in the same Term wherein they are given. 5 Lev. 431. Upon an Original, a Term or two or three Terms, may be made between the Telle and the Re- turn: and this shall be holden in Controversy: for the Defendant is not at any Prejudice by it, and the Plain- tiff may give a Day to the Defendant beyond the common Day if he will: But a Continuance by Captious ought to be made from Term to Term, and there cannot be any meane Term, because the Defendant ought not to stay so long in Prison. 2 Dav. 4. 130. If a Man recovers upon a Demurrer, or by Default, and a Writ of Inquiry of Damages is awarded, there ought to be Continuances between the first and second Judgments, otherwise it will be a Discontinuance; for the first is but an Award, and not competent till the second Judgment upon the Return of the Writ of In- quiry of Damages. Binding 143. If the Plaintiff be nonsuit, by which the Defendent is inDefault, or for not entering his Continuance, and the Plaintiff will not enter his Continuances, on Pur- pose to save the Costs, the Defendant shall be suffered to enter them. C. T. 316, 317. The Court of the Court of King's Bench is to enter no Continuances upon the Roll, till after Issue or Demurrer; and then to enter the Continuance of all upon the Back, before Judgment: And if it be not entered, it is Error. Ten. 16 T. 2. R. Vide Discontinuance.

Continuando, Is a Word used in a special Declara- tion of Trefpass, when the Plaintiff would recover Damages for several Trepassfes in the same Action: And to avoid Multiplicity of Suits, a Man may in one Action of Trefpass recover Damages for several Trepasses in the same Action: And to avoid Multiplicity of Suits, a Man may in one Action of Trefpass recover Damages for several Trefpasses in the same Action: And to avoid Multiplicity of Suits, a Man may in one Action of Trefpass recover Damages for several Trefpasses in the same Action: And to avoid Multiplicity of Suits, a Man may in one Action of Trefpass recover Damages for several Trefpasses in the same Action:
for the others: But if the Continuand had been particularly of such Things where a Continuandum could not be, then it had been naught. 3 Lev. 94. Every Day's Trepasis is paid to a several Trepasis; though a Contract be not of Men's continuing a Trepasi Day and Night, for some Time; together for ManKind must take some Refl: Where Cause to Trepasi upon Ground, they are continually trepasing Night and Day, and therefore the Continuandum in that Case is good. 1 Lill. App. 307. Trepasi for Breaking an House with a Continuandum, is good; and when a Re-entry is made, the Continuation of the Performance is a Continuing of the Trepasi. Law. 1312. It is usual in Practice to lay the Continuandum for longer Time than you can prove; but Damages shall be given only for what can be proved. 2 Mod. 253.

Contraval Goods, (from Contram, and the Isal. Bandu, an Edict or Proclamation) Are those which are prohibited by Act of Parliament, or the King's Proclamation to be imported into, or exported out of this into any other Nation: As during the late War with France, French Wines, &c. were prohibited by Statute to be imported here from hence: And Wool, &c. is not to be exported from hence to other Kingdoms. Stat. 27 Eliz. c. 13 & 14 Car. 2. 7 of 8 W'. 3. &c. Contravaluste, A Criminal, or one prosecuted for a Crime: This Word is mentioned in Leg. H. 1. cap. 61.

Contrat, (Contrata) Is a Covenant or Agreement between Two or more Persons, with a lawful Consideration or Cause. W. J. Symb. part 1. If a Man sells his Wurie or other Thing to another, for a Sum of Money; or a Covenant, in Consideration of sol. to make him a Lease of a Farm, &c. these are good Contrats, because there is a quid pro quo, or one Thing for another: But if a Person make Premise to me, that I shall have 20l. and that he will be Debtor to me therefore, and after I demand the 20l. and he will not give it me, yet I shall never have any Action to recover this 20l: because this Premise was no Contract, but a bare Promise, or Nomin Planum: though if any Thing were given for the 20l. if it were but to the Value of a Penny, then it had been a good Contract. Every Contract doth imply in itself an Actus jumgti in Law, to perform the same; for a Contract would be to no Purpose, if there were not Means to enforce the Performance thereof. 1 Lill. App. 308. When for 20l. is brought upon a Contract, and the Plaintiff, mislakes the Sum agreed upon, he will fail in his Action: But if he brings his Action on the Premise, and not now, from the Debtor, there, although he mislakes the Sum, he shall recover. Aylo 29. There is a Diverrify where a Day of Payment is limited on a Contract, and where not for it would be in Law, as the Contract is good legally, and an Action lies upon it, without Payment; but in the other not: If a Man buys 20 Yards of Cloth, &c. the Contract is void, for he doth not pay the Money preferably; but if Day of Payment be given, there the One may have an Action for the Money, and the other Trever for the Cloth. Dyro 30. 293. Where a Seller pays to a Buyer, he will sell his Flour for so much, and the Buyer says he will give it; if he prefereth tell out the Money, it is a Contract; but if he do not, it is no Contract. Noy's Max. 87. Hol. 41. The Property of any Thing sold is in the Buyer immediately by the Contract; though regularly it must be delivered to the Buyer, before the Seller can bring his Action for the Money. Noy. 89. If one contract to buy a Hori or other Thing of me, and no Money is paid, or Earnest given, nor Day set for Payment thereof, nor the Thing delivered; in the Coven, no Action will lie for the Money, or the Thing sold, but it may be sold to another. Pled. 309, 128. All Contracts are to be certain, perfect, and compleat: For an Agreement to give so much for a Thing as it shall be reasonably worth, is void for Incertainty; so a Promise to pay Money in a short Time, &c. or to give so much, if he likes the Thing when he sees it. Dyro 307. 1 Bald. 89. But if he promises to buy him 10l. for such a Thing, if I like it on seeing the same; this Bargain is said to be perfect at my Pleasure: Though I may not take the Thing before I have paid the Money; if I do, the Seller may have Trepasi against me; and if he sell it to another, I may bring Action of the Cafe against him. Noy. 104. If it's a Contract may be brought on them. But if the Buyer do a certain Thing, or cible to have sol. it is a good Contract, and certain enough: And if I agree with a Person to give him so much for his Horse, as J. S. shall judge him to go worth, when he has judged it, the Contract is compleat, and an Action will lie on it; and the Buyer shall have a reasonable Time to demand the Judgment of J. S. But if he dies before his Judgment is given, the Contract is determined. Perk. Squ. 112, 114. Shap. sq. 294. In Contracts, the Time is to be regarded, in and from which the Contract is made: The Words shall be usual in the common and usual Sense, as they are taken in that Place where spoken; and the Law doth not so much look upon the Form of Words, as on the Substance and Mind of the Parties therein. 2 Cet. 85. 1 Aub. 75. A Contract for Goods may be made as well by Word of Mouth, as by Deed in Writing; and where it is in Writing only, not sealed and delivered, it is all one as by Word. But if the Contract be by Writing sealed and delivered, and so turned into a Deed; then it is of another Nature, and in this Cafe generally the Action on the verbal Contract is gone, and some other Action lies for Breach thereof. Plead. 130. 329. Dyro 90. Contracts, not to be performed in a Year, are to be in Writing, signed by the Party, &c. or the Action may be brought on them: But if no Day is set, or the Time is uncertain, they may be good without it. Stat. 29 Car. 2. c. 3. And by the same Statute, no Contract for the Sale of Goods for 10l. or upwards, shall be good, unless the Buyer receives Part of the Goods sold; or gives something in Earnest to bind the Contract; or some Note thereof be made in Writing, signed by the Person charged with the Contract, &c. If two Persons come to a Draper, and one pays, let this Man have so much Cloth, and I'll see you paid; there the Sale is to the Undertaker only, though the Dealer is to another by his Appointment: But if a Contract be made with A. B. and the Vendor promises to let the Goods go without, and delivers to him, and delivers to him to let A. B. have the Goods, and undertakes that he shall pay him for them, that will be a Promise within the Statute 29 Car. 2. and ought to be in Writing, in the Form of a Deed. 1249. A Contract made by one or two Persons, into any good Consideration, may for good Consideration be dissolved. See Agreement and Sale. Utriusque Contratis, vide Utrius. Contravassion, (Contravassio) A Counterfeiting; as Contravassio falsi Regni, Counterfeiting the King's Seal. Blasph. Contra froman Colatlacia, Is a Writ that lay where a Man had given Lands in perpetual Alms, to any late Houses of Religion, as to an Abbey and Convent, or to the Wardens or Master of any Hospital and his Convent, to fend and cherish poor Men with Necessaries, and do Divine Service, &c. If they aliened the Land, to the Diocesan of the House and Church, then the Deacon, or his Heirs, should bring this Writ to recover the Lands. It was had against the Abbey, or his Successor: not against the Almshouse, though he were Tenant of the Land: And was founded upon the Statute of Wyf. 2. c. 1. Reg. Orig. 258. F. N. B. 210.
Form of the Writ of Contribution facianda.

GEORGE the Second, &c. To the Sheriff of, &c. If A. makes you fevers, &c. then sum- mon, &c. C. D. and E. F. that they be at, &c. to feare writ, whereas the said A. B. C. D. and E. F. a certain Mill, &c. and undivided hold, the Sheriff hence proceeding to take by equal Portion, and to the Reparation and Suffocation of the said Mill, is to be made by the said C. D. and E. F. although their Portion of the Sheriff's happening they take, "refuse to contribute to the Reparation and Suffocation of the said Mill, to the Damage of the said A. B. &c. And have you there, &c.

Controller, (Fr. Contrôleur, Lat. Contrôlataur) is an Overseer or Officer relating to Public Accounts, &c. And we have divers Officers of this Name; as Controller of the King's Household; of the Navy; of the Customs; of the Exchequer; of the Mint, &c. And in our Courts, there is the Controller of the Hamper; of the Pipe, and of the Pel. &c. The Office of Controller of the Household is to control the Accounts of the Green Cloth; and he sits with the Lord Steward and other Officers in the Court House, for daily taking the Accounts of all Expenses of the Household. The Controller of the Navy controls the Payments of Wages; examines and audits Accounts; and inquires into Rates of Stores for Shipping, &c. Controller of the Customs and Exchequer, their Office is to control the Accounts of those Revenues: And the Controller of the Mint controls the Payment of Wages, and Accounts relating to the same. Controller of the Hamper is an Officer in the Chancery attending the Lord Chancellor daily in Term-Time, and upon Seal Days; with two youths who are the Clerks of the Hamper, that do all the sealing sealed from the Clerk of the Hamper, inclosed in Bags of Leather, and to note the jull Number and Effect of all Things so received, and enter the same in a Book, with all the Duties appertaining to his Office, and other Officers for the same. The Controller of the Pipe is an Officer of the Exchequer, who writes out Summons twice every Year to the Sheriffs to levy the Farms and Debts of the Pipe; and keeps a Controlment of the Pipe, &c. Controller of the Pell is also an Officer of the Exchequer; of which Sort there are two, who are the Clerks of the Chamberlain's Chest, that do all the sealing sealed from the Clerk of the Pell, of Receipts and Goings out; And this Officer was originally such as took Notes, of other Officers Accounts or Receipts, and look into the Intent to discover if they were amiss; and was ordained for the Prince's better Security. Florio, lib. 1. cap. 18. Stat. 12 Ed. 3. cap. 3. This last seems to be the original Use and Design of all Controllers.

Controvert, (Fr. Controverse) Signifies in our Law one that of his own Head devils or invents false News. 2 Inst. 127. Conbrabale, (Fr.) Agreeable. Stat. 27 Ed. 3. cap. 21. See Counsellor.

Conuent, (Conventus) Of the Use of this Word, the Lord Coke in his Inquisition ley, Non iuxtam slabite liceat quod est convenia Conventorum. nihil quaod a inconvenienti us litiorum. 1 Inst. 66. Conuent. (Conventus) Signifies the Fraternity of an Abbey or Priory; as Society, both the Name of Fellow in a College. Bract. lib. 2. 55.

Conuenttells, (Conventulatum) A private Assembly or Meeting for the Exercise of Religion; first attributed in Dignity to the Meetings of Widow in this Nation, above Two hundred Years since; and now applied to the illegal Meetings of the Nonconformists: It is mentioned in the Statutes 2 Hen. 4. c. 15. 1 H. 6. c. 4. and 16 Car. 2. c. 9. and is the reason why the Statute was made to prevent and suppress Conventicles: And by 22 Car. 2. cap. 1. It is enacted, That if any Perseus of the Age.
CO

of sixteen Years, Subjects of this Kingdom, shall be present at any Convocation, where there are Five or more Persons, they shall be fined 1s., for the third Offence, and 10s. for the Second; and Perjury Prosecuting incur a Penalty of 501. Also suffering a Meeting to be held in a House, the same is liable to 201. Penalty.

The Court of Penge have Power to enter such Houses, and seize Personal Effects, &c. And if they neglect their Duty, they shall forfeit 100l. And if any Convallar, &c. know of such Misdemeanors, and do not inform a Justice of Peace, or chief Magistrate, &c. he shall forfeit 1s. But the 1 W. & M. 1. c. 18. ordains, that Protestant Dillentists shall be exempted from Penalty. Though if they meet in a House, with the Doors locked, barred, or bolted, such Dehentists shall have no Benefit from 1 W. & M. Officers of the Government, &c. present at any Convocation, at which there shall be ten Persons, if the Royal Family be not prayed in express Words, shall forfeit 40l. and be disabled. Stat. 10 Ann. c. 2. See Here.

Contentious, is a Word used in ancient Law. Pleaseings, for an Agreement or Covenant: As A. B. querunt, &c. do C. D. &c. pro suo uo non tenant Conventionem, &c. There is a pleasant Record of the Court of the Manor of Hestfield, in Com. Else. held Ann. 1 Ed. 3. which runs thus: Robertus R. qui expulsit feo provans Johanem J. de eo suo non tenant Conventionem inter eis fessulas, &c. and querunt, quod anno quo, &c. convenit inter praedictum Roberum R. &que iam magnum ille in poss. &c. praeeditus Johannis venditati praedicto Roberto Diabolum ligamentum in quadam ligamentum pro inido. & pro praedicto Roberto librum in quo dicti Johannis etiam praeeditus, &c. innumerum cumbam eardem (i. Earleit-Mansey) per quod Proprissim dixit Diaboli comminatur in Persone dict. et dicti Roberti ab bendor. deliberationem dicte Diabolit, in quo quomodo eam praeeditum fessulas dixit iure. & praeeditum dicti Roberto in fœli. Et inde posse fessulas. &c. Et pro praedictis Johannis venit. &c. Et non dedicat a Conventionem praeeditam. Et quia ideo divinitus quod idem Placitum non jactet inter Christianos, ida partes praediti adjuramentum suum in Infernum, ad audendum Judicium iuris, &curiae Pars in Mijericitia, &c.

Contentions, is a Word that lies for the Breach of any Covenant: As in Writing, whether Real or Personal: And it is called a Write of Covenant. Reg. Orig: 114. F. B. 145.

Contention, is properly where a Parliament is assembl'd, but no Act is passed, or Bill sig'd, &c. See Parliament.

Parliament. Parliament. On the Abidation of King James II. Ann. 1683. The Affirmity of the State of the Kingdom, to take Care of their Rights and Liberties, and who feigned King William and Queen Mary on the Throne, was called the Convocation: And the Lords and Commons thus convened were declared the two Houses of Parliament, notwithstanding the Want of any Writ of Summons, &c. Stat. 1 W. & M. 1.

Controversit, are those Religious Men who are united together in a Convocation or Religious House. Council.

Controversit Church, Is a Church that consists of Regular Clerks, professing some Order of Religion; or of Dean and Chapter, or other Societies of Spiritual Men. Councils.

Controversit, The Jews here in England were formerly called Controversit, because they were converted to the Christian Religion. King Hen. 3. built an House for them assembl'd, and allowed them a competent Provision or Subsistence for their Lives; and this House was called Domus Controversit. But by Reason of the want Exences of the Wars, and the Increase of those Controversit, they became a Burden to the Crown; so that they were placed in Abbeys and Monasteries for their Support. And The Jews being afterwards banished, King Ed. 3. in the 51st Year of his Reign, gave this House which had been used for the converted Jews, for the Keeping of the Rolls, and it is said to be the same which is at this Time enjoyed by the Master of the Rolls. Blunt.

Contrary, Is a Deed which puts Land from one Man to another. Conveyance by Feoffment, and Liberty, was the general Conveyance at Common Law; and if there was a Tenant in Possession, to this every could not be made, then was the Reversion granted, and the Tenant always attorned: Also upon the same Reason, a Lease and Release was held to be a good Conveyance, to pass an Easement; but the Lessee was to be in actual Possession, before the Release. And by the Common Law, when an Easement did not pass by Feoffment, the Vendor made a Lease for Years, and the Lessee actually entered; and the Lessee granted the Reversion to his life, and the Lessee attorned: Afterwards, when an Inheritance was to be granted, then likewise was a Lease for Years usually made, and the Lessee entered before), and then the Lessee released to him: But after the Statute of Uses, it became an Opinion, that if a Lease for Years was made upon a valuable Consideration, a Releifie might operate upon it without an Actual Entry of the Lessee; because the Statute did execute the Lease, and raised an Use pre-•ently to the Lessee: And Servient Moor was the First who practised this Way. 2 Mod. 251, 252. The most common Conveyance now in use, are, Gifts, Bargain and Sale, Lease and Release, Feoffment, and Receiver, Settlements to Uses, &c. A Son did give and grant Lands to his Mother, and her Heirs; though this was the active Common Law, yet it was adjudged good by Way of Use, to support the Intention of the Donor, and therefore by these Words an Use did arise to the Moker by Way of Covenant to stand good. 2 Lev. 225. A Feoffment, without Liberty and Seisin, will not enure as a Grant; but where made in Consideration of a Marriage, &c. it has been adjudged, that it did enure as a Covenant, to stand good to Uses. 2 Lev. 213. Tenant in Fee, in Consideration of Marriage, covenanted, granted, and agreed all that Milligto the Use of him self for Life, then to his Wife for Life, then to his Son in Tail Male, &c. Now by these Words it appeared, that the Husband intended some Benefit for his Wife, whereas the Court supplied other Words to make the Conveyance fertile. 1 Levit. 792. The Words Give and Grant, &c. are proper for a Conveyance at Common Law but it has been held, that though some Judges warrant that Conveyance shall operate according to the Words, yet of late the Judges have a greater Confindation of the Paying the Easement, as more as the Beattoy which by 'im passed. 2 Levit. 1209. A Conveyance cannot be fraudulent in Part, and good as to the Rest: For if it were fraudulent and void in Part, it is void in all, and it cannot be divided. 1 Litt. 221. Fraudulent Conveyance to deceive Creditors. defraud Purchasers, &c. are void, by Stat. 50 Ed. 3. cap. 6. 13 Ed. cap. 5. 27 Ed. cap. 4. Vide Dist. See my Accomplished Conveyance, Vol. 1. Ed. 2.

Contriv. (Controversit) Is he that is found guilty of an Offence by Verdict of a Jury. Staud. P. C. 186. Conveyance, Faith, That Conveyance is either when a Man is putting an appereance and confesst, or in fraud of guilty by the Inquest. And when a Statute excludes from Clergy Persons found guilty of Felony, &c. it extends to all who are convicted by Conveyance. Cramp. 46. The Law implies a Conveyance, as follow Punishment, though not mentioned in a Statute: And where any Suchf makes a second Offence Felo- ny, or subject to a heavier Punishment than the Filt, it
it is also implied that such second offence ought to be committed after a conviction for the first. 1 Henad. P. 100, c. 2. Amounts to conviction; though it doth not follow that every one who is convicted, is adjudged. Ibid. 14. A conviction at the King's suit may be pleaded to a suit by an Informer, on a Penal Statute, because it makes the Party liable to the forfeiture, and no one ought to be punished twice for the same offence: But conviction may not be pleaded to a new suit by the King. Ibid. 15. A person convicted or attainted of one felony, may be proceeded for another, to bring Accessaries to Punishment, &c. Sir. Com. 379. On a joint Indictment or Information, some of the Defendants may be acquitted, and others convicted. 2 Hawk. 240. Perons convicted of felony by Verdict, &c. are not to be admitted to Bail; unless there be some special Motive for granting it; as where a Man is not the same Person, &c. for Bail ought to be before Trial, when it stands indifferent whether the Party be guilty, or not. Ibid. 90, 114. Conviction of felony, and other Crimes, of a Man to be a Juror, Witness, &c. By our Books, Conviction and Attainder are often confused.

Convention, before Judges of Peace. When an Act of Parliament orders the Conviction of Offenders by Judges of Peace, &c. it must be intended after Summons to bring them in, that they may have an Opportunity of making their Defence; and if it be otherwise, the Conviction shall be quashed. Mich. 2 Ann. B. R. Mad. Cap. 41.

Constitution, according to the Statutes of 1 & 25 Eliz. See Recounts.

Constitution, signifies the same Thing among the Laitv, as a Procurator doth with the clergy, &c. When the Monarch by Grant of his Tenure is bound to provide Meat and Drink for his Lord once or oftner in the Year. Blunt.

Convocation, (Convocation) is the Assembly of all the Clergy, to institute Ecclesiastical Matters in Time of Parliament: And as there are two Houses of Parliament, so there are two Houses of Convocation; the one called the Higher or Upper House, where the Archbishops and all the Bishops sit severally by themselves; and the other the Lower House of Convocation, where all the Rest of the Clergy sit, i.e. All Deans and Archdeacons, one Proctor for every Chapter, and two Proctors for all the Clergy of each Diocese, making in the whole Number One hundred and sixty five Persons. Each Convocation House hath a Procurator, chosen from among themselves, and that of the Lower House is present to the Bishops, &c. The Archbishops of Canterbury is the President of the Convocation, and prosecutes and disposes of it by Mandate from the King. The Convocation exercises Jurisdiction in making of Canons, with the King's Affent: For by the Stat. 25 H. 8. the Convocation is not only to be assembled by the King's Writ, but the Canons are to have the Royal Affent: They have the Examining and Confirming of heretical and seditious Books, and Persons, &c. But Appeal lies to the King in Chancery, or to his Delegates. 4 Inst. 322. 2 Roll. Abr. 245. The Clergy called to the Convocation, and their Servants, &c. have the same Privileges as Members of Parliament. Stat. 8 & 9 Eliz. c. 5.

Consul of Pisa, A Privilege that a City or Town hath to hold Pisa. See Consulage.

Consulat, (Fr. Consulat) Knowing or Understanding, Being, to be Consulante, and agreed to the Feoffment, &c. Co. Lat. 159.

Cooper, Shall make their Vessels of seafable Wood, and mark them with their own Marks, on Pain of 40 L. In case the Coach or Vessels are appointed to be observed under like Penalty, as the Beer Barrel shall contain 56 Gallons, a Kilderkin 18, and Firkin 9. &c. The Wardens of the Coopers Company in London, with an Officer of the Mayor, to search all Vessels for Ale, Beer and Water, to be told that the right, and they may burn thole that be not so: And if any Cooper, &c. diminish a Vessel by taking out the Head, or a Staff thereof, it shall be burnt, and the Offender forfeit 4s. 4d. Also Cooper are to sell their Vessels at such Rates as shall be ordained by Judges, Mayors, &c. 23 H. 8. c. 4. This last Clause is repealed by 8 Eliz. cap. 9.

Cooper's, The Head or Branches of a Tree cut down, though Cooperia Arborum is rather the Bark of Timber Trees killed, and the Chumps and broken Wood. Consel.

Cooperatura, A Thicket or Cover of Wood. Chart. de Foro, cap. 12.

Cooperati, (Fr. Cooperati) Others called Parriçers, are such as have equal Portion in the Inheritance of an Ancestor; and by Law are the five Female, which, in Default of Heirs Male, come in Equality to the Lands of their Deceased. Brath. lib. 2. cap. 30. They are to Make Partition of the Lands, and ought to be made by Coppcriers of full Age, &c. And if the Estate of a Copper be in Part divided, the Partition shall be awaited in the Whole. Litt. 240. 1 Inst. 171; 1 Rep. 87. The Crown of England is not subject to Copperiery; and there is no Copperiery in Dignities, &c. Co. Lat. 27. Stat. 25 H. 8. c. 22.

Vide Parriçers.

Cooperators, Is a Deed of Covenants between Merchants, or others, for carrying on a joint Trade, &c.

Coop., Is a Custom or Tribute due to the King or Lord of the Soil, out of the Lead Mines in some Part of Derbyshire; of which Mablyth faith thus:

Egros and Regrets, to the King's Highways, The Miners have, and Lot and Coke they Pay; The Common Use of Or within these Mines, To the Land, for they pay at meeting Times; Six pence a Land for Coke the Lord demands, And that is paid to the Berkeley's Hands, &c.

Agreeable to this you may find in Sir John Pettre's Fidelia Regalis, where he insists on this Subject. This Word, by Darnley's Book, as Mr. Mason hath interpreted it, signifies a Hill: And Coke is taken for the supreme Cover, as the Cap of Heaven. Aloa it is used for the Roof and Covering of a House; the upper Garment of a Priest, &c.

Copia, A Copia or Book kept by the Men, divided into Titheable Portions; as the Tenth Cock, &c. This Word in Strickland denotes the gathering or laying up. In Coas or Echaps, as the Method is for Barn or Oast. &c. Not bound up, that it may be the more fairly and jolly tied: And in Kent they still retain the Word, a Cop or Cop of Hay, Straw, &c. Town in Coas.

Coppa, A Copp or Cock of Grafe, Hay or Corn, divided into Titheable Portions; as the Tenth Cock, &c. This Word in Strickland denotes the gathering or laying up. In Coas or Echaps, as the Method is for Barn or Oast, &c. Not bound up, that it may be the more fairly and jolly tied: And in Kent they still retain the Word, a Copp or Cop of Hay, Straw, &c. Town in Coas.

Coppa, A Copy is a legal Send the Transcript of an original Writing, as the Copy of a Patent, of a Charter, Deed, &c. A Claude out of a Patent, taken from the Chapel of the Roll, cannot be given in Evidence; but you must have a true Copy of the whole Charter examined: It is the fame of a Record. And if upon a Trial, you will give Part of a Copy of an Office in Evidence to prove a Deed, which Deed is to prove the Party's Title to the Land in Question that gives it in Evidence; if that Part of the Office given is not so much as high any Ways concern the Land in Question, the Court will not admit of it: For the Court will have a Copy of the whole given, or no Part of it shall be admitted. 1 Litt.
CO

Ab. 312, 313. Where a Deed is inrolled, certifying an attested Copy is Proof of the Inrollment; and such Copy is, in Evidence, Lev. 557. A common Deed cannot be proved by a Copy or Counterpart, when the Original may be procured. 1 Rep. 92. And a Copy of a Will of Lands, or the Probate, is not sufficient to prove its True Execution; or, to make the Deed in Evidence. 2 Roll. Abr. 54. Copies of Court Rolls admitted as Evidence. See Evidence.

*Copilfords.* (Tenor per Copilfom Rotuli Curiae.) Is a Tenure for which the Tenant hath nothing to lose but the Copy of the Rolls, made by the Steward of the Lord's Court; on such Tenant's being admitted to any Parcel of Land or Tenement belonging to the Manor. 4 Rep. 25. It is called Bafe Tenure, because held at the Will of the Lord: And frivolously is, it was annually Tenure in Palliament, and that Copilford is but a new Name. Some Copilfords are held by the Burgage in Ancient Demesne; and though they are by Copy, yet are they a Kind of Feehold; for if for a Tenant of such a Copilford confirm Felony, the King hath Assumps, Diem & Perfum, as in the Case of Freeholders; Some other Copilfords are such as the Tenants hold by common Tenure, called Meri Copilford, whole Land, upon Felony committed, afflictions to the Lord of the Manor. Kent. 81. But Copilford Land cannot be made at this Day: for the Pillars of a Copilford Estait are, That it hath been demised Time out of Mind by Copy of Court Roll. Rotuli Curiae; and that the Tenements are Parcel of estate within the Manor, 1 Inf. 84. 4 Rep. 24. A Copilford Tenant had originally in Judgment of Law, but an Estait at Will; yet Culfum so established his Estait, that by the Culfum of the Manor it was defendable, and his Heirs inherited it: And therefore the Estait of the Copilford is not merely ad voluntatem Dominii, but ad voluntatem Dominii fraudiude conquestuandum Manuenvii; so that the Culfum of the Manor is the Life of Copilford Estait; for without a Culfum, or if Copilfords break their Culfum, they are subject to the Will of the Lord: of as a Copilford is no by Culfum, so it is governed by Culfum, 4 Rep. 21. A Copilford so long as he doth his Services, and doth not break the Culfum of the Manor, cannot be ejected by the Lord; if he be, he shall have Trespass against him: But if a Copilford refuses to perform his Services, it is a Breach of the Culfum, and forfeiture of his Estait. Copilfords defend according to the Rules and Maxims of the Common Law; but such customary Inheritances shall not be Affets, to charge the Heir in Adition of Dues, &c. Ibid. Though a Lease for one Year of Copilford Lands, which is warranted by the Common Law, shall be Affets in the Hand of an Executor. 1 Vent. 169. Copilfords hold their Estait free from Charges of Dower, being created by Culfum, which is paramount to Title of Dower, 4 Rep. 24. Copilford Inheritances have no collateral Qualities, which do not concern the Difficult; as to make them Affets; or whereof a Wife may be enbowed; A Husband be Tenant by the Curtesy, &c. But by particular Culfum, there may be Dower and Tenency by the Curtesy. 3 Eliz. 161. There may be an Estait tail in Copilford Lands by Culfum, with the Co-operation of the Statute W. 2. And if a Copilford may be enbowed by Culfum, so by Culfum the Tail may be cut off by Surrender. 1 Inf. 60. A Copilford may be barred by a Recovery, by special Culfum; and a Surrender may bar the Estait by Culfum. A Fine and Recovery at Common Law, will not destroy a Copilford Estait; because Common Law Affairances do not work upon the Affairances of the Copilford; Though Copilford Lands are within the Stat. 4. H. 7. of Fees with Proclamations, and five Years Non claim, and shall be barred. 1 Rol. Abr. 64. If a Fine may be made in the Court of the Manor, in the Nature of a Real Affair, and a Recovery shall be had in that Plaine against Tenant in Tail, and such a Recovery shall be a Discontinuance to the Estait.
A Manor is lost when there are no customary Tenants or Copyholders: And if a Copyhold comes into the Hands of the Lord in Fee, and the Lord Leases it for one Year, or half a Year, or for any certain Time, it can never be granted by Copy after: But if the Lord alienates the Manor, &c. his Alliance may resign Land to Copy. If the Lord keeps the Copyhold for a long Time in his Hand, it is no Impediment but that he may after Grant it again by Copy. 2 Doug. Abr. 176, 177. A Copyholder in Fee accepts of a Lease, Grant, or Confirmation of the same Land from the Lord, who determines his Copyhold Estate. 2 Co. 16. 2 Co. Ten. 253. If a Copyholder bargains and sells his Copyhold to a Lessee for Years, &c. of the Manor, his Copyhold is extinguished. 2 Doug. 205. A Copyholder may grant his Estate to his Lord, by Bargain and Sale, Restitute, &c. for between Lord and Tenant the Conveyance need not be according to Copyhold. 1 Nol. 704. A Copyholder in other Causes cannot alien by Deed: Though he that hath a Right only to a Copyhold may release it by Deed. And if a Copyholder forecloses upon Condition, he may afterwards release the Condition by Deed. 2 Doug. 205. 2 Co. Ten. 256. Also one joint Copyholder may release another, and he will be good with written Consent, &c. &c. 12 Co. 402. The customary Grant of a Copyhold from Lord to Tenant is in this Form:

A Grant and Admittance by Copy of Court Roll.

Manor A. At a Court Baron of T. E. Effinge, Lord of the Manor aforesaid, held for the said Manor the twenty-sixth Day of October in the fourteenth Year of the Reign of the Lord George the Second, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. and in the Year of our Lord 1772. Before G. J. Greaves, Steward there, it was enrolled among other Things, as follows:

A this Court came J. C. and took of the Lord of the Manor aforesaid, by the Delivery of the Seward aforesaid, one Measuring or Tenement, and forty Acres of Land, Meadow, and Pasture, with their Appurtenances, within the aforesaid Manor, late in the Township of W. D. deceased: To have and to hold the said Measuring or Tenement and forty Acres of Land with all and singular the Appurtenances, with all the收益 of the same, and to have and to hold the said J. C. and his Wife, for the Term of their Lives, and the Life of either of them, being lawfully married, at the Will of the Lord, according to the Custom of the Manor aforesaid; By the Rest of Ten Shillings by the Year, and for a Heriot when it happens, Thirty Shillings, and by all other Rates, Works, Suits, Customs and Services therefore due, and of Right accustomed; and for such Estates and Entry in the Premises had, the aforesaid J. C. gives to the Lord for a Fine ninety Pounds before band paid: And if he is admitted Tenant thereof, and doth his Fealty; be the Fiduciary of the same as enjoined, until, &c. Dated by Copy of the Rolls of the aforesaid Court, the Day and Year aforesaid.

Examined with the Rolls of the said Court.

By me J. J. Steward there.
grant a Capable for Life, according to the Custum: If a Lord for Life, gives Licence to a Tenant to make a Lease for Years, this Lease shall continue no longer than the Life of the LORD, and the Lease shall not be divisible. If he had that is Dominus pro temporis of the Manor, admits one to a Capable, he dispenses with all precedent Forfeitures; not only as to himself, but also as to him in Reversion; for such Grant and Admission amounts to an Entry for the Forfeiture, and a new Grant; but a Lord by Torf cannot by such Admission purge the Forfeiture as to the right Lord. 1 Lew. 26. Grants by Copy of Court-Roll by Infants, &c. will be binding: And if a Guardian in Socage grants a Capable in Reversion, according to the Custum of the Manor, this shall be a good Grant; for he is Dominus pro temporis. 2 Roll. 41. If Baron and Feeme feit of a Manor in Right of the Feeme grant a Capable, this shall bind the Feeme notwithstanding her Coveriture, 4 Rep. 23. An Executor may make Grants of Capable Estates, according to the Custum of the Manor, where a Devil is made that the Executor shall grant Copies for Freehold. Delinc. 1178. A Manor may be held by Copy of Court Roll, and the Lord of such Manor grant Copies; and such customary Manor may pass by Surrender and Admission, &c. and a customary Manor or be holden of another Manor, and such customary Lord may grant Copies and hold Courts: But a Capable Lord of such a Manor cannot hold a Court Baron to have Forfeitures, and hold Pleas in a Writ of Right, &c. 1 Nelf. Abr. 524. All Grants of Capable Estates are to be according to the Custum of the Manor; and Rents and Services customary must be referred for; what Acts of the Lord in granting Capables are not confirmed by Custum, but only strengthened by the Power and Interell of the Lord, have no longer Duration than the Lord's Estate continues. Comp. Court Kerer 421. If by the Custum, a Capable may be granted for three Lives, and the Lord grants it to one for Life, Remainder to such Woman as he shall marry, and to the first Son of his Body both these Remainders are void: And a Remainder limited upon a void Estate in the Creation, will be likewise void. But if by Custum it is demitable in Fee, a Remainder may be to the Life of one for Life, Remainder in Tail, Remainder in Fee. 2 Dawo. Abr. 203. Cr. Elias. 573. It is held, where by the Custum of a Manor the Lord can grant a Capable for three Lives, he may grant it for an Estate coming within the Interell of the Custum; as to A. B. and his Affignis, To hold to him and his Affignis for the Lives of three others, and of the longer Liver of them successively, &c. 2 Ed. Regm 994, 1000. The Lord of a Manor may himself grant a Capable Estate at any Place out of the Manor, if he shall not grant a Capable at a Court held out of the Manor. 4 Rep. 26. Though the Steward may take Surrenders out of the Manor, as well as the Lord. 2 Dawo. Abr. 181. A Steward is in Place of the Lord, and without a Command to the contrary may grant Lands by Copy, &c. But if a Lord command a Steward that he shall not grant such a Copy, if he grants it, it is void: And if the Steward diminishes the ancient Rents and Services, the Grant will be void. Cr. Elias. 699. Things of Necessity done by a Steward, who is not in reputed Authority, are good if the done by Freemen, &c. as the Admission of an Heir upon Preeminent, &c. Though Acts voluntary, as Grants of Capables, &c. are not good by such Stewards. Hist. An Under-Steward hold a Court without any Disturbance of the Lord of the Manor, though he hath no Patent nor Deputation to hold it, yet it is good; because the Tenants are under examination what Authority he hath is he bound to give them an Account of it. Mort 110. A Deputy Steward may authorize another to do a particular Act; but cannot make a Deputy to act in general. 6 Sah. 95. In Admissions, in Court upon voluntary

Grants, the Lord is Proprietor; in Admissions upon Surrender, the Lord is not Proprietor of the Lands, but only a necessary Infrument of Conveyance; and he is to be the Proprietor in the other Infrument, not being necessary to strengthen the Heir's Title, but only to give the Lord his Fine. 4 Rep. 21, 22. The Heir of a Capable may enter, and bring Trespass, before Admission, being in his Demise; and he may surrender before Admission: But he is not a complete Tenant to be sworn of the Homage, or to maintain a Plaintiff in the Lord's Court. And the Act do not come in and be admitted, on the Death of his Ancestor, where the Name is prefixed and Proclamation made, he may forfeit his Estate. Cr. El. 50. 4 Rep. 28, 27. On Surrender of a Capable, the Surrrenderor or Person making the same, continues Tenant till the Admission of the Surrrenderor; and the Surrenderor may not enter upon the Lands, or Surrender before Admission, for he hath no Estate till then; though his otherwise of the Heir by Deed, who is in by Course of Law, and the Custum calls the Poftelation upon him. A Transfer of an Estate is not of any Effect until Admission, and yet the Surrenderor cannot be deprived of the Benefit of the Surrenderor, and cannot pass away the Land to any other, make it subject to any other Incumbrances; and if the Lord refuse the Surrenderor Admission, he is compellable in Chancery. Comp. Cap. Sel. 39. A Grantee having the Interell waded, is to be admitted: But Admission of a Capable for Life is an Admission of him in Remainder, for they are but one Estate; and the Remainder Man may, after the Death of Tenant for Life, surrender without Admission. 3 Lew. 308. Cr. El. 504. Every Admission upon a Deed or Surrender may be pleaded as a Grant; and a Person may allege the Admission of his Ancestor as a Grant; and draw the Deed to him, and that he entered, &c. But he cannot plead that his Father was feied in Fee, &c. and that he died feied, and the Land defended to him. 2 Dawo. 309. Admission on Surrender, must in all Repeats agree with the Surrender; the Lord having only a customary Power to admit freehold fromaman & feemans forfumendition. 4 Rep. 26. If any are admitted otherwise, they shall be feied according to the Surrender: Yet where a voluntary Surrender is general, without paying to a whole Life, a subsequent Admission may explain it. 2 Dawo. 187, 204. In voluntary Admissions, if the Lord admits any one contrary to Custum, it shall not bind his Heir or Successor. If a Capable surrender to the Life of another, and after the Lord having Knowledge of it, accepts the Rent of such other out of Court, this is an Admission in Law: And any Act implying a conveyance of the Estate to the Surrenderor, shall be adjudged a good Admission. 1 Nelf. Abr. 495. If the Steward accept a Fine of a Capable, it amounts to an Admission. 2 Dawo. 89. But delivering a Copy is no Admission. Where a Widow's Estate is created by Custum, that shall be an Admission in Law: And her Estate arising out of that of her Husband, his Admission is the Admission of her. Hist. 18. And the who hath a Widow's Estate by the Custum of the Manor, upon the Death of her Husband, need not pay a Fine to the Lord for the Estate; for this is only a Branch to another. Hist. 18. When a Capable is, that the Wife of every Capable for Life shall have her Free-Bench, after the Death of the Baron, the Law calls the Estate upon the Wife, so that the shall have before Admission, &c. 2 Dawo. 94. But if a Wife is entitled to her Free Bench by Custum, and a Capable in Fee surrenders to the Life of another, and then dies, it 1asse the he hath, nor the Successor of the Surrenderor, should have the Land, and not the Wife; because the Wife's Title doth not commence till after the Death of her Husband; but the Plaintiff's Title begins by the Surrender, and the Admission relates to that.
1 Inf. 59. 1 Salk. 185. The Widow's Title commences not by the Marriage; if it did, then the Husband could do nothing in his Life time to prejudice it: But Allen a Bar last Examin'd his Right, as to bind the Estate of the Widow: The Free-Bench grows out of the Estate of the Husband; and 'tis his dying封id which gives the Widow a Title, and as the Husband has a defeasible Estate, so the Wife may have her Free-Bank defeated. 4 Med. Rep. 452, 453. Admissions are never by Attorney, for the Tenant ought to do Fealty: Though Sur-renders are oftentimes by Attorney. 2 Dowl. 189. A Copshold in Fee may Surrender in Court, by Letter of Attorney: But not out of Court, without a special Custom. 9 Rep. 75, 76. If one cannot come into Court to surrender in Person, the Lord may appoint a Special Steward to go to him, and take the surrender. 1 Lew. 56. A Copshold being in Ireland, the Steward of a Manor here, made a Commission to one to receive a Surrender from him there, and it was holden by a Judge in the Court of King's Bench. The Inhabitants of Ireland is, that the Lord may not be a Stranger to his Tenant, and the Alteration of the Estate. As a Copshold cannot transfer his Estate to a Stranger by any other Conveyance than surrendering, so if one would exchange a Copshold with another, both must surrender to each other's Ufe, and the Lord admit accordingly: And if any Person would devise a Copshold Estate, he cannot do it by his Will; but he must surrender to the Ufe of his last Will and Testament, and in his Will declare his Intent. Comp. Cop. 36. 39. Alfo where a Copsholder surrenders to the Ufe of his Will, the Lands do not pass by the Will, but by the Surrender: the Will being only declaratory of the Ufe of the Surrenderer. 1 Blis. 200. But in Case of a Will, the Chancery will supply the Defect of a Surrender, in the Behalf of Children, if not to disinherit the eldest Son; and for the Benefit of Creditors, where a Copshold Estate is charged by Will with the Payment of Debts, though there is no Surrender to thefe Ufes, it will be good in Equity. 4 Rep. 25. 1 Salk. 187. 3 Salk. 84. Yet his hold, that Equity shall not supply the Want of such Surrender in Favour of a Grandchild; or Bafford, who is not considered as a Child; or a Wife against the Heir; nor in Behalf of Creditors: But where the Surrender is refused, a Will of a Copshold may be sufficient without it. Abr. Cop. 122, 124. A Celfal que Tract may devife an Interest in Land, fcr. without Surrender; and if the Lands are in Mortgage, the Mortgagee can dispose of the Equity of Redemption by Will, without any Surrender made: because he has an Interest in the Estate in the Land, whereas he might make a Surrender. Pecod. Case. 320, 322. One Jointtenant may surrender his Part in the Lands to the Ufe of his Will, &c. And where there are two Jointtenants of a Copshold in Fee, if one of them made a Surrender to the Ufe of his Will, and die, and the Devisee is admitted, the Surrender and Admissation shall bind the Survivor. 2 Co. 100. A Surrender may not be to commence in future as after the Death of the Surrenderer, &c. though Copsholds may be surrendered to the Ufe of a Man's Will. March 173. 30 Rep. 27. A Copshold in Fee abd. &c. 4 Rep. 29. If a Man having bought a Copshold to himself, his Wife and her Heir after her Death, surrendered it to another and his Heir, for securing a Sum of Money; after his Death, the Surrender shall not be insisted to the Land, it being an Advancement for the Benefit of all. A Female Co-Vert may receive a Copshold Estate, by Surrender from her Husband, because the come not in immediately by him, but by the Admission of the Lord according to the Surrender. 4 Rep. A Female Covers is to be secretly examined, on her Surrendering her Estate. Cc. Litt. 59. An Infant surrendered his Copshold, and afterwards entered at full Age, and it was held lawful, though the Surrender was not made. Nov. 937. By the general Custum of Copshold Estates, Copsholders may surrender in Court, and need not alledge any particular Custum to warrant it: But where they surrender out of Court, in to the Hands of the Lord by Customary Tenants, &c. Custom must be pleased. 9 Rep. 75. 1 Roll. Ab. 500. And Sur-renders out of Court are to be professed at the next Court for it is not an effectual Surrender till professed in Court. Where a Copsholder in Fee surrenders out of Court, and dies before it is professed, yet the Surrender being professed at the next Court will stand good, and Celfal que Ufe shall be admitted: So if Celfal que Ufe dies before it is professed, his Heir shall be entitled to the Ufe. But if the Surrender is not professed at the next Court, it is void. Cc. Litt. 62. 2 Dowl. 188. If the Tenants by whose Hands the Surrender was made shall die, and this upon Proof is professed in Court, it is void enough, or 3 Rep. 300. Tenants refusing to make Profession, are compellable in the Lord's Court. And by Surrender of Copshold Lands the Ufe of a Mortgage, the Lands are bound in Equity, though the Surrenderer be not presented at the next Court. 2 Salk. 449. When a Copsholder surrenders upon Condition, and this is professed absolutely, the Pretenion is void: But where a conditional Surrender is professed, and the Steward omits entering the Condition, on Proof thereof the Condition shall not be avoided; but the Rolls shall be amended. 4 Rep. 25. A Copsholder may surrender to the Use of another, referring Rent with a Condition of Re-Entry for Non-payment, and in Default of Payment may re-enter. Rid. 21. If a Copshold of Inheritance, takes a Lease for Years of his Copshold Estate, it is a Surrender in Law of his Copshold. Where there is a Tenant for Life, and Remainder in Fee, he in Remainder may surrender his Estate, if there be no Custum to the contrary. 3 Lew. 349. If a Surrender is made with Remainders over, Celfal lies for him in Remainder against a Copshold for Life, who commits Waste, &c. 3 Lew. 128. A Surrendee of a Reversion of a Copshold, is an Allinnee within the Equity of the Stat. 32 H. 8. to bring Action of Debt or Covenant against a Leaseholder, &c. 1 Salk. 187. A Copsholder in Fee surrenders to the Ufe of one for Life, with Remainder to another for Life; Remainder to another in the past Estate, the remaindermen make but one Estate, there is but one Fine due to the Lord. 2 Dowl. 191. Fines are paid to the Lord on Admissions; and may be due on every Change of the Estate by Lord or Tenant: In Case of a surrender, the Lord may make what Fine he pleases; but Fines are to be reasonable: They are either certain, by Custum, or uncertain: A Fine certain is to be paid presently; but it, if it be uncertain, the Copsholder is to have Notice, and Time to pay it. The Lord may have an Action of Debt for his Fine; or may dilate by Custum. 1 B. & C. 12. A Heriot is a Duty to the Lord, rendered at the Death of the Tenant, or on a Surrender and Alienation of an Estate; and is the best Bequest or Good, found in the Possession of the Tenant deceased, or of his Wife, according to Custum. And for Heriots, Reliefs, &c. the Lord may dilate, or bring Action of Debt. Pengu. 1. The heirs of the Lord, or the Tenant, to which every Copshold in Fee, or Freeholder of a Manor pays to the Lord, on the Death of his An- cellular; and is generally a Year's Profits of his Land. Services, Slayings and any Duty whatsoever are due from the Lord to Tenants; and are not only annual, and accidental;
accidental; but corporal, as Homage, Fealty, &c. Cur. Tom. 7, 8, 9. &c. Cappellis eʃfeet, and are forfeited in many Cases; Eʃfeit of a Cappellis Eʃfeit, is either where the Lands fall into the Hands of the Lord, for Want of an heir to him; or where the Cappellis commits Felony, &c. But before the Lord can enter on an Eʃfeit eʃfeit, the Homage jury ought to prefect it. Forfeitures proceeding from Treason, Felonies, Alienation by Deed, &c. a Preemption of them must be also made in Court, that the Lord may have Notice of them. A Cappellis refusing to do Suit of Court, being sufficiently warned, is a Forfeiture of his Estate; unless he be prevented by Sickness, Infrudations of Water, &c. If the Lord demandeth his Rent, and the Cappellis being prefect deny to pay it at the Time required, this is a Forfeiture; but if the Tenant be not upon the Ground when demanded, the Lord must continue his Demand upon the Land, so that by a continual Denial in Law, it may amount to a Denial in Fact: Though it is said there must be a Demand from the Peron of the Cappellis, and a wilful Denial, to make a Forfeiture. A Cappellis not performing due Service, and admitting that he fails a Replevin against the Lord, upon the Lord's lawful Diʃre for his Rent or Services, there are Forfeitures. If the Cummion of the Manor be an estate certain, demandeth his Fine, and the Cappellis denieth to pay it upon Demand, this is a Forfeiture. Upon the Delight of any Cappellis of Inheritance, the Heir by the general Cuʃtom is tied, upon three solemn Proclamations, made at three several Courts, to come in and be admitted to his Cappellis; or if he faileth therein, this Failure worketh a Forfeiture; but if an infant come not in to be admitted at three Proclamations, it is no Forfeiture: So of one beyond Sea, &c. An Ideot, Lunatick, &c. though able to take Cappellis, yet they are unable to forfeit them: And in Respet to others, Forfeitures may be mitigated by Cummion, and the Cappellis only amerced. By Stat. 5 Geo. 1. c. 29. On default of Infrudations, and Fine Covern appearing to be admitted Tenants to Cappellis Lands, the Lords or his Steward may name a Peron to be Guardian or Ator-ney for them, and by such Guardian, &c. admit them: And if the usual Fine thereon be not paid in three Months, being demanded in Writing, the Lord may enter on the Cappellis, and receive the Rents, &c. till the Fine is paid with all Charges. And by this Statute, no Infant or Feme Covert shall forfeit any Cappellis Lands for their Neglect to come to Court to be admitted to his Cappellis, or Refusal to pay any Fine. The general Cummion of Cappellis allows a Cappellis to make a Lease for One Year of his Cappellis Estate, and no more, without incurring a Forfeiture: But a Cappellis may make a Lease for One Year, and with the Leʃfee, that after the End of that Year, he shall have the same for another Year, and fo de anno in anno during the Space of seven Years, &c. and be no Forfeiture. Cur. Tax. 300. Though a Cappellis may not make a Lease to hold for one Year, and from Year to Year during his Life, excepting one Day yearly, &c. which will be a Forfeiture, being a mere Evaʃion. A Woman who was a Cappellis in Fee married, her Husband made a Lease for Years, not warranted by the Cummion, which was a Forfeiture; the Husband dealt so as to the Lord, and adjured the Lord not to take Advantage of this Forfeiture after his Death, but the Wife shall enjoy the Eʃfeit. Cur Car. 7. Lib. 3. sect. 1. a Case of a Cappellis Eʃfeit moves a To a Forfeiture. And yet if a Cappellis for Life furher to another in Fee, this is no Forfeiture; for it paffeth by Surrender to the Lord, and not by Livery. If Cappellis for Life run down Timber Trees, it is a Forfeiture of his Cappellis; Though such Cappellis may take Houʃ-boot, Hedge boot, and Plough boot, upon his Cappellis, of common Right, as a Thing incident to the Estate, if he be not restrained by Cummion, to take them by the Allignment of the Lord or his Bilijff. Where a Cappellis for Life falls Timber, the Lord may take them, and the Eʃfeit is forfeited: But if the Cappellis commits them to cut down Timber, this shall not be a Forfeiture of the Cappellis Eʃfeit, but the Lord is put to his Action of the Cappellis against the Leʃfee. 1 Bif. 150. 253. A Cappellis granted to two for their Lives successively, where the Cummion of the Manor is, that they shall not fell Trees; if the first Cappellis for Life cut down Trees, &c. 'tis not only a Forfeiture of his own Eʃfeit for Life, but of him in Remainder. Mor. 49. In other Cases, a Cappellis for Life committing Waife, shall not forfeit the Eʃfeit of him in Remainder. Eʃdit. 810. If Cappellis for Life, where the Remainder is over for Life, commits a Forfeiture by Waife, &c. he in Remainder shall not enter, but the Lord. a Bow. 158. A Cappellis committing Waife voluntary, or permiffive, this is a Forfeiture: Voluntary, as if he pluck down any Houfe, though built by himself's lot Trees, and fell them, plough up Meadow, whereby the Land is made waste, &c. Permiffive, if he suffer the Roof of the Houfe to let in Rain, or the Houfe to fall; or if he permit his Meadow Ground to be furrounked with Waife, or if he let the Land be furrounked or become unprofitable, &c. thefe and the like are Forfeitures. See a Bow. Abr. 193, 195, 196. &c. 1 Nis. Abr. 509, 510. &c. If a Feme Cappellis for Life takes Huʃband, who commits Waife, and dies, the Eʃfeit of the Feme is forfeited: Though not if a Stranger commit the Waife, without the Consent of the Huʃband. 4 Rep. 57. Most Forfeitures are causd by Acts contrary to the Tenure: But a succeeding Lord of a Manor, shall not have any Advantage of a Forfeiture, by Waife done by a Cappellis in the Time of his Predecessor. 2 Sid. 8. And if a prefent Lord doth any Thing whereby he acknowledges the Peron to be his Tenant after Forfeiture, this Acknowledgment is a Confirmation of his Eʃfeit. Cal. Cas. Cap. 61. The Court of Chancery will not relieve a Cappellis Tenant, against a voluntary Forfeiture, on committing Waife, &c. But it doth for permiffive Waife; and when the Eʃfeit is forfeited for Non payment of Rent, a Fine, or such Things, where a Value may be set on them, and Compennation made the Lord on any Latches of Time, the Tenant may be relieved; for there the Land is but in Nature of a Security for thofe Summs. Proo. Cas. 659, 572. In Cæfae of making a Lease to a Vicar, no Fine is allowed, supplied by Cummon, found to be a Forfeiture at Law, Equity has nothing to do with it, to give any Remedy; it is like to a Feoffment made, or Fine levent by particular Tenants, and the Fines paid to the Lord: Bow. 157, 574. Where Cappellis Lands are purchased in Fee, in Trull for an Alien, the Lands are not feizable by the King; nor is the Trull forfeited to him; for if the Lands were forfeited as purchased for such Alien, then the Lord of the Manor would lose his Fines and Services, &c. Hard. 436. Cappellis Estates of poor Prisoners, allowed to Cappellis, and Alliances admitted by the Lord, on paying the usual Fine due on a Surrender, &c. See Stat. 10 Geo. 2. c. 26. See my Com. Court Keeper, 35th Editt. throughout, and Nelfon's See Manu. 299.}

**Conspage, (Coragium)** Is a Kind of extraordinary Impollion, growing upon some unusual Occasion, and seems to be certain to a Cappellis Eʃfeit according to the Common Law; and Cornus triacus is a Measure of Wheat. Bradb. lib. 1. c. 116. Namb. 6. Who in the same Chapter Numb. 8. hath their Words. — Stere eum quaedam communes Præcautions, pro auctus Coarum. Coragium autem est unam, nisi cum occasione intervenit, nullam cum Rau equo: — fus futura Hidagia, Coragia & Caragia, &c.


C O

Ge. alla plura de necessitate, & ex conueniente communi

Regni introducit. Gr.1st lection of the

Cæsar, A. Cæs., a free, or by deering Grant or

Carab, in some Part of the River Severn, made of an oval Form, of

Sptly Sally Twigs interwoven, and on that Part next the

Water, in which one Man

being seated in the Middle, will row himself swiftly

with one Hand, while with the other he manages his

Net or Fish-Tackle: and coming off the Water, he

will take the light Vessel on his Back, and carry it home.

This Boat is of the same Nature of the In-

dian Canoe; though not of the same Form, or

proper to the like Use.

Cæsarm non Jurebus, Is when a Caule is brought

and determined in a Court, whereas the Judges have

not any Jurisdiction; then it is said to be Cæsarm

non Jurebus, and void. 2. Grn. 351.

Cæsarm Stones, Are stones wherein Images hand:

The old English Corbel, was properly a Nitch in a

Wall of a Church, or other Structure, in which an

Image was placed for Ornament or Superstition; and

the Corbel Stones were the smooth polished slabs,
laid for the Front and Outside of the Corbels or Ni-

chés. These Niches remain on the Outside of very

many Churches. The Title of Corneamum, though

the little Statues and Relics are moil of them broken

down. Parth. Antig. 575.

Corb, or Caper, A Quantity of Wood eight

Foot long, four Foot broad, and four Foot high,

ordained by Statuæ.

Carbagg, (Fr.) Is a general Appellation for all

Stuff to make Rope, and for all Kind of Ropes be-

longing to the Rigging of a Ship: It is mentioned in

15 Car. 2. e. 15.

Cæsian, From the Fr. Corbeuvrion, a Shoemaker;

we call him vulgarly a Corbeuvrier; and to this

Word is used in divers Statutes, as 4 H 8. e. 10.

5 H. 8. e. 13. 27 H. 8. e. 14. 56 Ed. 5. e. 25.

1 Jac. 1. e. 22. Gr. By which last Statute the Ma-

sters and Wardens of the Corbeuvriers Company in

London, Gr. are to appoint Searchers and Triers of

Leather; and Leather is not to be sold before searched

and marked. Gr.

Cæsarianus, Also signifies a Shoe-maker. Cœsal.

Cæsanes, From the Brit. Cæsed, Pools, Ponds, &c.

— Ex cum sae Pi pilots & Cæsareus anguilarum

& cum intra terræ fæs. Da Freine.

Cæsariæ Statuæ, Was where a Perfon was

condemned to be whipped; which was anciently the Punifhment of all Serfers, in the same Court. So was Corium foam fortis-

fart & ad Eclicismum inches, et si varicores con-

denses. Corium perdere, the same: And Cæsar re-

distitum is to compound for a Whipping.

Cæsæ, No Corws formerly were to be transported,

without the King's Licence; except for the Vestfalling

of Ships, and in some particular Cases, from some

Ports only: And none may buy Corw to sell again,


But now Corw, as Wheat, Barley, Oats, &c. may be

transported to Sites in Ammo when they exceed not

foth and such Prices, as were 48s. the Quarter, Barley

24s. Oats 16s. Gr. by some Statutes; and the

Exporters of it shall pay no Duty or Cullum, but be

insisted to Bountie-Money or a certain Allowance for

Exportation, wth. 57, for every Quarter of Wheat, 27.

Gr. for Barley, 3. Car. 1. e. 15. 53 of 23 Car. 2.

9 W. & M. & Gr. The Transportation of Corw to fo-

reign Parts, was prohibited by 4 Ann. 2. e. 2. See 2 Gr.

cap. 18. A Cullum Duty is granted on foreign Corw

imported; to be paid according to the Price of English

Corw; and no foreign Corw shall be transported from

one Port of Great Britain to another, or of For-

feiture, and 207. a Buftel. Stat. 5 Gr. 2. cap. 12.

If any Perfon use Violence on another Perfon to hinder him from buying, or carrying Corw to any Sea-port

Town, to be transported, Gr. he shall be imprisoned

by two Justices, not exceeding three Months, and be

publicly whipped, Gr. and committing a second Off-

ence of the same Nature, shall be transported to

some Part of the River Severn, made of an oval Form, of

Sptly Sally Twigs interwoven, and on that Part next the

Water, in which one Man

being seated in the Middle, will row himself swiftly

with one Hand, while with the other he manages his

Net or Fish-Tackle: and coming off the Water, he

will take the light Vessel on his Back, and carry it home.

This Boat is of the same Nature of the In-

dian Canoe; though not of the same Form, or

proper to the like Use.

Cæsarm non Jurebus, Is when a Caule is brought

and determined in a Court, whereas the Judges have

not any Jurisdiction; then it is said to be Cæsarm

non Jurebus, and void. 2. Grn. 351.

Cæsarm Stones, Are stones wherein Images hand:

The old English Corbel, was properly a Nitch in a

Wall of a Church, or other Structure, in which an

Image was placed for Ornament or Superstition; and

the Corbel Stones were the smooth polished slabs,
laid for the Front and Outside of the Corbels or Ni-

chés. These Niches remain on the Outside of very

many Churches. The Title of Corneamum, though

the little Statues and Relics are moil of them broken

down. Parth. Antig. 575.

Corb, or Caper, A Quantity of Wood eight

Foot long, four Foot broad, and four Foot high,

ordained by Statuæ.

Carbagg, (Fr.) Is a general Appellation for all

Stuff to make Rope, and for all Kind of Ropes be-

longing to the Rigging of a Ship: It is mentioned in

15 Car. 2. e. 15.

Cæsian, From the Fr. Corbeuvrion, a Shoemaker;

we call him vulgarly a Corbeuvrier; and to this

Word is used in divers Statutes, as 4 H 8. e. 10.

5 H. 8. e. 13. 27 H. 8. e. 14. 56 Ed. 5. e. 25.

1 Jac. 1. e. 22. Gr. By which last Statute the Ma-

sters and Wardens of the Corbeuvriers Company in

London, Gr. are to appoint Searchers and Triers of

Leather; and Leather is not to be sold before searched

and marked. Gr.

Cæsarianus, Also signifies a Shoe-maker. Cœsal.

Cæsanes, From the Brit. Cæsed, Pools, Ponds, &c.

— Ex cum sae Pi pilots & Cæsareus anguilarum

& cum intra terræ fæs. Da Freine.

Cæsariæ Statuæ, Was where a Perfon was

condemned to be whipped; which was anciently the Punifhment of all Serfers, in the same Court. So was Corium foam fortis-

fart & ad Eclicismum inches, et si varicores con-

denses. Corium perdere, the same: And Cæsar re-

distitum is to compound for a Whipping.

Cæsæ, No Corws formerly were to be transported,

without the King's Licence; except for the Vestfalling

of Ships, and in some particular Cases, from some

Ports only: And none may buy Corw to sell again,


But now Corw, as Wheat, Barley, Oats, &c. may be

transported to Sites in Ammo when they exceed not

foth and such Prices, as were 48s. the Quarter, Barley

24s. Oats 16s. Gr. by some Statutes; and the

Exporters of it shall pay no Duty or Cullum, but be

insisted to Bountie-Money or a certain Allowance for

Exportation, wth. 57, for every Quarter of Wheat, 27.

Gr. for Barley, 3. Car. 1. e. 15. 53 of 23 Car. 2.

9 W. & M. & Gr. The Transportation of Corw to fo-

reign Parts, was prohibited by 4 Ann. 2. e. 2. See 2 Gr.

cap. 18. A Cullum Duty is granted on foreign Corw

imported; to be paid according to the Price of English

Corw; and no foreign Corw shall be transported from

one Port of Great Britain to another, or of For-

feiture, and 207. a Buftel. Stat. 5 Gr. 2. cap. 12.

If any Perfon use Violence on another Perfon to hinder him from buying, or carrying Corw to any Sea-port

Town, to be transported, Gr. he shall be imprisoned

by two Justices, not exceeding three Months, and be

publicly whipped, Gr. and committing a second Off-

ence of the same Nature, shall be transported to

some Part of the River Severn, made of an oval Form, of

Sptly Sally Twigs interwoven, and on that Part next the

Water, in which one Man

being seated in the Middle, will row himself swiftly

with one Hand, while with the other he manages his

Net or Fish-Tackle: and coming off the Water, he

will take the light Vessel on his Back, and carry it home.

This Boat is of the same Nature of the In-

dian Canoe; though not of the same Form, or

proper to the like Use.

Cæsarm non Jurebus, Is when a Caule is brought

and determined in a Court, whereas the Judges have

not any Jurisdiction; then it is said to be Cæsarm

non Jurebus, and void. 2. Grn. 351.


Co.


Cannon, a Writ to exact a Copy of an Abbey or Religious House. Reg. Orig. 264.

Cannon, a Writ to Strike a Copy of an Abbey or Religious House. Reg. Orig. 264.

Cannonor Eloquent, in a Writ which lies on the Death or Discharge of any Coroner, directed to the Sheriff of the County, to call together the Freeholders of the County, for the choice of a new Coroner; and to certify into the Chancery both the Election, and the Name of the Party elected, and also to give him his Oath, &c. Reg. Orig. 177. F. N. B. 165. There are usually four Coroners in a County, in some Counties fewer, and in some but one, according as the Usage is; and if any of them die, or is discharged, they shall issue this Writ; which is in this Form: The King to the Sheriff, &c. because A. B. late one of our Coroners in your County is dead, as we have understood; and you command you, that if so be, then in your full County Court by the Assent of the same County, in the Place of the said A. B. you cause to be chosen another Coroner, according to the Form of the Statute; and as forth and provided, who having taken his Oath, as the Manner is, shall thence forward those Things do and keep, which to the Office of the Coroner, belongeth in the same County; and such Person cause to be chosen, who shall know, and may that Office attend, and his Name make known to us, Witness, &c.

Cannonor or你想, is a Writ for the Discharge of a Coroner, for Negligence, or Ineffectuality in the Discharge of his Duty: And where Coroners are so far engaged in any other publick Business, that they cannot attend the Office; or if they are disabled by old Age or Diseased, to execute it; or have not sufficient Lands, &c. they may be discharged by this Writ. 2 Inq. 32. 2 Harw. P. C. 44. But if any such Writ be grounded on an untrue Suggestio, the Coroner may procure a Commission from the Chancery to inquire thereof; and if the Suggestio be disproved, the King may make a Superfaculty to the Sheriff, that he do not remove the Coroner; or if he have removed him, that he suffer him to execute the Office. Reg. Orig. 177, 178. F. N. B. 164.

Coroner, (Coronare, a Coroner) is an ancient Officer of this Realm. Nothing being made of him in King Athelstan’s Charter to Beverley, Anno 915: and so is called, because he deals wholly for the King and Court. This Officer by the Statute of Westm. c. 10. ought to be a sufficient Person, that is the wisest and discreetest Knight, that but would and might attend upon such an Office: And there is a Writ in the Register. &c. whereby it appears it was good Cause to remove a Coroner chosen, if he were not a Knight, and had not an hundred Shillings Rent of Frehold. Coroners are to be Men of good Ability, and have Lands in Fee in the County where chosen, to answer all People: And if insufficient, the County shall and shall for them, at Law or in Chancery. Justice of the King’s Bench, is the Sovereign Crown of the whole Kingdom in Person wheretoever he is in Rep. 57. There are also special Coroners, within divers Counties, appointed for the particular Office of Crown in every County; as the Coroner of the Feces, which is a certain Compsal about the King’s Court; who is likewise called Coroner of the King’s House. Comp. Juris. 102. And some Corporations and City are licensed by Charter to appoint their Coroners within their own Precincts. 4 Inf. 271. And for what ailes on the High Sea, we read of Coroners executed by the King or his Admiral. 2 Hale’s Hist. P. C. 371. The Office of Coroners especially concerns the Pleas of the Crown; and they are Conspirators of the Peace in the County where generally elected. Their Authority is Judicial and Ministerial; Judicial, where one comes to a violent Death, and to take and enter Appeals of Murder, pronounce Judgment upon Outlaws, &c. And to inquire of Lands and Goods, and Escapes of Murderers, Treasure Trove, Wreck of the Sea, Deodands, &c. The Ministerial Power is where Coroners execute the King’s Writs, on Exception to the Sheriff, as being Party to a Suit, Kin to either of the Parties, on Default of the Sheriff, &c. 4 Inf. 271. 3 Penn. 75. And the Authority of the Crown, so far as they are not deputed by the Demise of the King; as that of Judges, &c. doth, who act by the King’s Commission. 2 Inf. 174. Where Coroners are empowered to act as Judges, as in taking an Indictment of Death, or receiving an Appeal of Felony, &c. The Act of one of them, is of the same Force as if they had all joined; but after one of them has proceeded to act, the Act of another of them will be void: And where they are authorized to act only ministerially, in the Execution of a Process directed to them upon the Incapacity of the Sheriff, their Acts are valid in all cases they do not all join. 2 Harw. P. C. 51. Hdb. 70. So that Coroners as Ministers must all join; but as Judges, they may divide. But two Coroners ought to be Judges in Reddition, and though the Office be pronounced to be of Outlawry, the Entry ought to be in the Name of all of them: And so of all Processes directed to the Coroners. Staveno. 53. Text. Cust. 85. If the Sheriff is either Plaintiff or Defendant, or one of the Cognizes, the Writ must be directed to the Coroner. Cr. Cas. 300. But the Coroner is not the Officer of B. R. but where the Sheriff is improper; not woely, there is no Sheriff; for if the Sheriff die, the Coroner cannot execute a Writ. In Case of two Coroners, if one is challenged, the other may execute the Writ, &c. yet both make but one Officer; it is in the name of two Sheriffs of a City, &c. 1 Saiz. 144. A Feire facies shall go to the Coroner, where the Sheriff is a Party, or the Defendant is Servant to the Sheriff, &c. but it ought to be on principal Challenge to the Favour. Moz. 470. On Defaults of Sheriffs, Coroners are to impanel Juries, and return Fines on Juries not appearing, &c. 2 H. 5. cap. 8. As the Sheriff in his Turn might inquire of all Felonies by the Common Law, saving the Death of a Man; so the Coroner can inquire of no Felony but of the Death of a Person; and the Sheriff, &c. 4 Inf. 271. By Magna Charta, cap. 17, no Sheriff, &c. or Coroner, shall hold Pleas of the Crown: But by Stat. 16 W. 1. 3 El. 1. c. 10. it is enacted, that Coroners shall lawfully attentive and prefer pleas of the Crown; and that Sheriffs shall have Count-Rolls with the Coroners, as well of Appeals, as of Inquests and Livery for them. 2 Inf. 174. But Appeals might not only receive Accusations against Offenders, but might try them: But since that Statute, they cannot proceed so far; and Appeals before them, are
CO
CO
are removable into B. R. etc. by Cerisari, directed to the Crown, that are to be awarded by the Sheriff and Coroners, or the Crown only, in the County Court of Appeals, and the Exempt, 
2. Hen. P. C. 51. By the Statute of Office Coroners is to be cited the Place where any Perfon is slain or suddenly died, and shall by his Warrant to the Bailiff, Constables, &c. summon a Jury out of the four or five neighbouring Towns, to make Inquiry upon View of the Body; and the Coroner and Jury are to inquire into the Manner of Killing, and all Circumstances that occasioned the Party's Death, who were present, whether the dead Perfon were known, where he lay the Night before, 
2 Examine the Body if there be any Signs of Strangling about the Neck, or of Cord about the Members, &c. Alio all Wounds ought to be viewed, and Enquiry made with what Weapons, &c. And the Coroner may fend his Warrant for Witneffers, and take their Examination in Writing; and if any appear guilty of the Murder, he shall inquire what Goods and Lands he hath, and then the dead Body is to be buried. A Coroner may likewise commit the Perfon to Prifon who is by his Inquisition found Guilty of the Muder; and the Witneffers are to be bound by Recognizance to appear at the next Assizes, &c. When the Jury have brought in their Verdict, the Coroner is to intoll and return the Inquisition in Writing in Murder, in Murder, Inland, &c. to the Justices of the next Goal-delivery of the Country, or certify it into B. R. where the Murderers shall be proceeded against. 3. Ed. 4. cap. 37. Upon an Inquisition taken before the Coroner, he must put into Writing the Effect of the Evidence given to the Jury before him; and bind them to appear, &c. which is to be certified to the Court with the Inquisition; and neglecting it shall be fined. 1 & 2 P. & M. cap. 13. 1 Lev. 337. The Word Murther is not necessary in a Coroner's Inquisition, though 'tis in an Indictment for another Party. 
2. Hen. 4th. It is not necessary that the Inquisition be taken in the Place where the Body was viewed. 2. Hen. 4th. 48. But a Coroner has no Authority to take an Inquisition of Death without View of the Body; and if an Inquest be taken by him without such View, it is void. 2 Lev. 140. The Coroner may in convenient Time take up a dead Body that hath been buried, in Order to view it; but if it be buried so long that he can discover nothing from the View of it; or if there be Danger of Infection, the Inquest ought not to be taken by the Coroner, but by the Parish in the Parish of Witneffers; for can take none on it, but the Coroner. 2. Hen. 4th. 167, 173. If the Body is buried, the Town shall be assessed; as it shall be if the Body is suffocated to lie so long that it stinks. 2. Daws. 309. Where the Body hath lain for some Time, that it cannot be judged how it came by its Death, that must be recorded, that at the Coming of the Justices of Assize, the Town where, &c. may be assessed on Sights of the Coroner's Rolls. A Coroner may find any Nuance by which the Death of a Man happens; and the Township shall be assessed on such Finding. 1. Niff. Ab. 536. If one is slain in the Day, and the Murderer escapes, the Town where done shall be assessed, and the Coroner to inquire thereof on View of the Body. 3. Hen. 7. c. 1. A Coroner may take an Indictment upon View of the Body; as also an Appeal, within a Year after the Death of one slain. Wadd's Inf. 491. But a Coroner's super visum Coroner, cannot make an Inquisition of an Accrual after the Murder; though he may of Accruals before the Fact. Mar. 29. Coroner ought to sit and inquire on the Body of every Prisoner that is slain in Prifon. They have no Jurisdiction within the Verge of the King's Courts; nor of Offences committed at Sea, or between high and low Water Mark, when the Tide is in; though they have in Arms and Creek of the Sea. 3. Inf. 139. If a Body is drowned, and cannot be found to be viewed, the Inquisition must be taken by Justices of the Peace. 5. R. &c. 110. Where a Coroner's Inquest is quitted, he must make a new one super visum Coroner: And a Coroner may attend and amend its Inquisition in Matters of Fact: But it shall be made by himself, and a Mollus Inquisition is granted upon it, that Inquisition must be taken by the Sheriff or Commissioners, upon Affidavits, and not super visum Coroner; because none but a Coroner can take Inquisition super visum, &c. and he is not to be trusted again. 1. Salk. 190. 2. Daws. Ab. 210. If a Coroner hath Not Guilty of any corrupt Practice, Britain, &c. in taking the Inquisition, a Mollus Inquisition may be awarded for taking a new one by special Commissioners, &c. Coroner conceiving Felonies, &c. are to be fined, and suffer one Year's Imprisonment. 3. Ed. 1. cap. 9. Alio for Mismanagement in the Coroner, Filling the Inquisition may be stopped. 1. Med. 82. A Coroner's Inquisition is not transferable: If it be found before the Coroner super visum Coroner, that one was Fals de fact. the Executors or Administrators of the Deceased, it is said, cannot transfer it. 3 Inf. 55. But it has been held that the Inquest being moved into B. R. by Cerisari, may be there travelled by the Executor or Admi- nistrator of the Deceased. 2. Hen. 54. And it hath been adjudged, that the Inquisition of Fals de fact is not transferable; though Fals fact is not to be travelled. 2. Lev. 15. 150. If the Coroner's Inquisition being final, the Coroner ought to hear Counsel, and Evidence on both Sides. 2. Sid. 90, 101. The Coroner must admit Evidence, as well against the King's Interest as for it; but it hath been held, that if a Perfon be killed by another, and it is certainly known that he did it, the Coroner's Jury are to hear the Evidence only for the King. And inquire whether the Killing were by Malice, or without Malice. &c. Per Hales C. J. Where a Coroner would not admit of Evidence against the King, to prove a Fals de fact to be Non compos Mentis, his Inquisition was in abeyance: and in new Inquisition taken, whereby it was found that the Party was Non compos. 2. Hales's Hist. P. C. 60. If there be an Inquisition of Man slaughter or Murder, and also an Indictment by the Grand Jury against one, he is arraigned, and found Not Guilty on the Indictment; here it is necessary to quash the Coroner's Inquisition, or to arraign the Party upon it, and acquit him on that also: For otherwise it stands as a Record against him, whereas he may possibly be outlawed. 2. Hales 65. And where a Per son found Guilty by the Coroner's Inquest, pleads, and is acquitted by the Per son must give in who it was that killed the Man, which serves as an Indictment against that other Per son, and if they cannot tell who, they may mention some fictitious Name. Ibid. By the Stat. 3. Ed. 1. cap. 10. Coronets shall demand or take nothing for doing their Offices: And by the ancient Law of England, none having any Office concerning the Administration of Justice, could take any Fee for doing his Office; and therefore this Statute was only in Affirmance of the Common Law. By 3 Hen. 7. cap. 1. upon an Inquisition taken on View of the Body, the Coroner shall have 13s. 4d. Fee of the Goods of the Murderers; and if he be gone, out of the Amusement of the Town for the Ecape. Though the 1. H. 8. 7. exacts that where a Per son is slain by Misdemenour, the Coroner is to take no Fee, on Pain of 40l. Justices of Assize and of Peace have Power to enquire of and penal Exhortations of Coroners, and also their Defaults. Stat. Ibid.

A Coroner's Inquisition for Murder.

Wills, etc. An Inquisition intanted, taken at M. in the said County, before we B. R. one of the Coroners of our Sovereign Lord the King for the Country aforesaid, on Thursday the Day, &c. in the Year.
Counsell of London. By the Charter of King Ed. 4. the Mayor and Commonality of London may grant the Office of Counsellor to whom they please: and no other Counsellor but he that belongs to the City, shall have any Power there: Also the Lord Mayor, &c. may choose two Counsellors in Southwark. When any one is killed, or comes to an untimely Death in London, the Counsell upon Notice shall assist where the Body is, and forthwith cause the Beadle of the Ward to summon a Jury to make the necessary Inquiry, how such Person came by his Death? And after Inquisition taken, they shall give the Body to the execution of justice, and to the Parish Church of St. Dunstan, or Sexton of the Parish, to the Intent the Corpse may be buried: The Counsell's Fees here formerly amounted to 37s. now to above double that; Sum unless the Friends of the Dead are poor, and then he shall execute his Office for nothing. 

Counsellors, (Fr.) All Matters of the Counsell were before reduced to this Law Head or Title; They are divided into the Head, which is a unit, Felony, and two others, which are divers Offences, by the Common Law, and by Statute; of which some are greater, and others les, according to their Nature. 

Body Politick, And how it is administered. See Oath.

Counsellor, a Person who is a Body Politick or Incorporate, so called, as the Persons are made into a Body Politick, and of Capacity to take and grant, &c. or it is an Assembly and Joining together of many into one Fellowship and Brotherhood, whereof one is Head and Chief, and the rest are the Body, and this Head and Body knit together, make the Corporation. Also it is constituted of several Members like unto the natural Body, and framed by Feoffment of Law to endure in imperceptible Succession. And of Corporations there are some which some Aggregates: So, where in one single Person, as the King, a Bishop, Dean, or Aggregate, which is the most usual confining of many Persons, as Mayor and Commonality, and Dean and Chapter, &c. Likewise Corporations are Spiritual or Temporal, Spiritual, of Bishops, Deans, Archbishops, Parrons, Vicars, &c. Temporal, of Corporation of Bailiffs and Burgesses, &c. and some Corporations are of a mix Nature, composed of Spiritual and Temporal Perish, such as Heads of Colleges and Hospitals, &c. All Corporations are said to be Ecclesiastical, or Lay: And Bodies Politick or Incorporate may commence and be established three Maner of Ways, viz. by Feoffment, or Letters Patent, or by Act of Parliament; but are mostly commonly, by Patent or Charter. 

Counsellor of the King's Household, Hath an exemption Jurisdiction within the Verge, and the Counsell of the County cannot intermeddle within it; as the Counsell of the King's Household may not intermeddle within the County out of the Verge. 

Counsellor of the King's Household, hath an exemption Jurisdiction within the Verge, and the Counsell of the County cannot intermeddle within it; as the Counsell of the King's Household may not intermeddle within the County out of the Verge. 2 Harec 45. If an Inquisition be found before the Counsell of the County, and the Counsell of the Verge, where the Homicide was committed, and it be entered and certified, it will be Error. 4 Rep. 45. But if a Murder be committed within the Verge, and the King removes before any Indictment taken by the Counsell of the King's Household, the Counsell of the County, and the Counsell of the King's Household shall inquire of the fame. And according to Sir Edw. Coke, the Counsell of the County might inquire thereof at the Common Law. 2 Harec 45. 2 Inst. 50. If the same Person be Counsell of the County, and also of the King's Household, an Indictment of Death taken before him as Counsell, both of the King's Household, and of the County, is good. 4 Rep. 45. 2 Inst. 134. By the Stat. 53 H. 8. 12. Parl. 1 & 3. It is ordained, That all Inquisitions upon the View of Perjury, taken, whereby of the King's Palatines or Horses, or any other Horses or Horses wherein his Majesty shall happen to be abiding in his Royal Person, shall be taken by the Counsell for the time being of the King's Household, without any Interference of another Counsell or Person within this Realm, by the Oath of Twelve or more of the Women Officers of the King's Household, returned by the two Counsellors, the Clerk of the Clerk, and the Clerk Marshal, or one of the two Counsellors, or the said Counsellor of the Household shall direct his Process; and the said Counsellor shall certifie, under his Seal, and the Seals of such Persons, shall be sworn before him, all such Inquisitions taken by the Recorder of the Household, and the said Counsellor shall immediately, select the Appointment of such Counsellor, &c.
be inflicted by By-Laws, which may be recovered by
Dredes or Action of Debre: -And a Common for the
Lord Mayor and Aldermen of London, to commit a
Citizen for not accepting of the Livery, &c. was
passed. As a good Common, being for the
benefit of the City. 5 Med. 350. Corporations may not, by
Bond, or otherwise, restrain any Apprentice, &c.
from keeping Shop in the Corporation under the
Penalty of 40l. Stat. 28. H. 8. c. 4. 5. When a Corpora-
tion is duly created, all Incidents, as to Purchase and
Grant, and to be freed, &c. are tacitly annexed to
it; and although no Power to make Laws is given by
a Special Clause to a Corporation, it is included by Law
in the very Act of Incorporating. 1 Inst. 264.
A new Charter does not merge or extinguish any of
the ancient Privileges of the old Charter. And if an
ancient Corporation is incorporated by a new Name, yet
their new Body shall enjoy all the Privileges that the
old Corporation had. Rym. 439. 4 Rep. 37. There are
Charters usually granted to Corporations, as Lords
Franchise, as Felons Goods, Waifs, Elders, Treasure-
Trove, Deedlands, Courts, and Cognizance of
Plains, Fairs, Markets, Allot of Bread and Beer, &c.
4 Rep. 65. Actions arising in Corporations, may be
tried in the Corporation Courts; but if they try
Actions which are not within their Jurisdictions, and
encroach upon the Common Law, they shall be pun-
nished for it. Law. 1521, 1572. The Corporation
of the City of London is to answer for all particular
Midlemen, which are committed in any of the
Courts of Justice within the City; and for all other
general Midlemen committed within the City: So
'tis conceived of all other Corporations. 1 Litt. Abr.
519. If a common Officer of a Town doth
make

...
not to appear for them, in any Aff where their Interest or Title. 1 Fent. 47, 48. Such a Cor-
poration may appoint a Bailiff to take a Dilivery, without Deed or Warrant, 1 Salk. 171. But cannot
without Deed command a Bailiff to enter into Lands for a Condition broken; for such Command without
Deed is void. 1 Co. 4. Though a Corporation cannot do any Aff in pais without their common Seal,
they may do an Aff upon Record; and the Realso is, because they are ellowed by the Record to say it is
not their Aff. 1 Salk. 192. A Bill or a Corpora-
tion is good without Deed. 2 Leav. 454. The Head of a Corporation aggregate may not be charged with
the Aff of his先进的, if it be not by common Seal, or for such things as come to the Use of the
whole Body or Society. 1 Aud. 23, 196. A Cor-
poration may do an Aff in that Capacity, to one of themselves in his natural Capacity; and any Mem-
ber in his natural Capacity, may perform an Aff to the Corporation in its politic Capacity: And so they
may sue one another, in their distinct Capacities. 1 Co. 94. 2 Salk. 456. A Trefpax for an Affand
Battery, Etc. will not lie against a Corporation; but it must be brought against the Persons that do the
Trefpax by their proper Names: Though if the Bailiffs of the Corporation trefpax on a Man to a Ground,
Anion of Trefpax lies against them for this: Proceed of Outlawry will not lie against a Corporation; nor
Corpus Delicti against, but Distress. 22 Ed. 2, 34 Ed. 3, 15 Ed. 2. A Corporation cannot sue, or
appear in Peron, but by Attorney: They cannot commit Trefpax or Felony, or be excommunicate, Etc. They
may not be Commissioners, or Administrators, be joint-
nants, Trustees, Etc. Nor shall the Members of a Corporation be regularly Wittelsees for the Corporation.
1 Rep. 53. 11 Rep. 98. 1 Inf. 154. But they may be thought to be Sised or Confeint. Attachment doth not lie
against a Corporation, Raym. 125. Corporations may have Power not only to infranchize Freemen, but
to disfranchize a Member, and deprive him of his Free-
dom: if he dare any Aff to the Prejudice of the Body, or contrary to his Oath, Etc. Though for
consulting in any Thing contrary to his Duty, or for Words of Contempt against the Chief Officers, he
cannot be disfranchized, but may be committed still to be afraid Suses for his good Behaviour. 11 Rep. 98.
2 Med. 252. A Corporation may disfranchise for
Breach of a By Law. 1 Litt. 331. And one wrong-
fully disfranchized, may be rehired, and have his
Remedy by Mandamus, Etc. in B.R. An Alder-
man or Freeman of a Corporation, cannot be re-
moved from his Freedom or Place without good
Caus and a Cution to remove them ad Libitum is
void, because the Party hath a Freehold therein. Cas.
754. A Peron may be bound to the good Be-
vaviour for Words spoken against Mayors, Etc. but he
cannot be indicted for it: And if Judges of a
Corporation deny to do Right, it is a Forfeiture of
their Exemption from the Inquiry of the Justices of the County. Med Cas. 125, 164. Head Officers of Cor-
porations are to redeem Absuses of Merchant Strangers, Etc. or the Franchise shall be forfeited, Stat. 9 Eliz. 12,
2 Jac. 1, and have Authority in many Cases by Sta-
tute; for which see Mayors. No Strangers shall fell by
telephone with Dr. Linson Cloth, or Mere-
cury Wares, in Corporate Towns, except at Fair,
On Pain of Forfeiture, Etc. But such Persons may fell
Wares by Wholesale, and Cloth of their own ma-
kings by Retail, 1 2 P. & M. cap. 7. Bodies Po-
litical Ecclesiastical may make Leases for three Lives,
or twenty years One, under the Refriptions in the
Aff of 1 2 3. If Land is given in Fee to a Dean and Chapter, or to a Mayor and Common-
alty, Etc. and after such Body Politick or Incorporate
disallowed, the Donor shall have the Land again,
and not the Lord by Efcheat. 1 Inf. 31.
Corporal Inheritance, in Honours, Lands, &c.
Wide Inherited.

Corpus Christi Day, Is a Feoth inlurain the
Year 1264, in Honour of the blessed Sacrament: To
which also a Calce in Oxford is dedicated. It is
mentioned in the Stat. 32 Hen. 9, cap. 21.

Corpus cum Castra, Is a Write silens out of the
Chancery, to remove both the Body and Record, touching:
the Aff of a Man lying in Execors, upon a Judgment for Debo, into the King's Bench, Etc. there to lie till he have satyfied the Judgment.
F. N. B. 257. See Brasius Corpas.

Curiae of the Staple, Is a Clerk belonging to the
Stapel, that writeth and recordeth the Bargas of
Merchants there made. 27 Ed. 3 Stat. 2, cap. 22.
212.
Corredium and Conservium, The fame with Cor-
redium. See Conroy.

Corruption of Blood, (Corrupio Sanguinis) Is an
Infection growing to the State of Man, and to a
Man hath hald his Blood in Right of his Wife hath
hiffe, and his Blood is corrupt by Attainer of Felony, and
the King pardons him; in this Case, if the Wife dies before him, he shall be Writ Deo by the Curtey, although
the hiffe which he had before the Pardon be not in-
heritable. 13 H. 7, 6, 17. A Son attained of
Treason or Felony in the Life of his Ancestor, obtains the
King's Pardon before the Death of his Ancestor, he
shall not be Heir to the said Ancestor, but the Land
shall rather eichent to the Lord of the Fee by the
Corruption of Blood. 12 Ed. 3, 52 H. 8. But if a
Man feiled of Lands in Hesse two Sons, and the
Eldest is attained in the Life time of his Father, and
after the Father dies seiled; the youngest Son shall
inherits the Lands as he had them. If an Father, and
the el-
dest Son leaves no hifice alive: Contr. if he hath
hifice, which should have inherited but for the At-

tainer; then the Land shall seiled. 1 Inf. 8, 391.
Dyer 482, 3 Inf. 211. If the Father of a Person
attained died seiled of an Efface of Inheritance, du-
ing his Life, no younger Brother can be Heir for
the elder Brother though attained, is still a Brother,
and no other can be Heir to his Father while he is
alive; but if he die before the Father, the younger
Brother shall be Hein. 2 Hawk. P. C. 457.
Corrup-

tion of Blood from an Attainer is so high that it
cannot be absolutely false but by Att of Parlia-
ment; for the King's Pardon doth not rectify the
Blood so as to make the Person attained capable ei-
ther of inheriting other, being inherited him-
self by any one born before the Pardon. 1 Inf. 391,
392. 2 Hawk. 438. A Statute which saves the
Corruption of Blood for as Alfo it saves the Wife's Dowar, Etc. But nevertheless the Land shall be forfeited for the Life of the Offender. If the Land is given in Fee to a
Dean and Chapter, or to a Mayor and Common-
ality, Etc. and after such Body Politick or Incorporate

Digitized by Google
tialest of Piracy, &c. And in Felyn by inbrail-
ing the King's Ordnance, Armoour, &c. 2 Cor. 2. And therefore it shall not make any Diinhibiter-
ment of an Heir, &c. See Assizainer.

Coafet, (Fr. in Lat. Carpeteam) Significis a lit-
tle Body: And it is used with us for an Armour to
cover the Body or Trunk of a Man, whithere Pler-
mon commonly free in the Front and Flanks of the
Bodis were formerly aod, for the better Reflection of
the Aids of the Enemy, and the more Guard of
the Soldiers placed behind, who were more sight-
ly armed for their Speeder Advancing and Retreating
in Fire. Stat. 1d. 4 P. 4 M. H. 2.

Coafeprent, (From the Fr. Corps prepere) is a
Word signifying a Mortuary: And the Reason why
it was thus termed seems to be, that where a Moru-
uary became due on the Death of any Man, the Belt
or second Brust was, according to Custom, offered or
presented to the Priest, and carried with the Corps.
Ego Bratis de Brompton, &c. Fals Corpus me-
rum populi in Pratum Majori Malacwaven infra Pra-
descendentes, & ciam Corpora mea Pateridum meum
cum boriis & Equam Summationum, cum idem me, &c. In
H. 12, 24 P. 1. 6. De Mortuary.

Coafed Brust, (Patris coarctati) Ordinal Bread:
In this Bread it was wont to maintenance of Trial among the
Saxons, to purge themselves of any Accusation, by
taking a Piece of Barley Bread, and eating it with
sacrim Oaths and Exorcisms, that it might prove
Purje, or their last Morti, if what they afforad or
denied were not punctually true. Three Pieces of
Bread were first extacted by the Priest, and then
offered to the suspected guken. Perim to be swallowed
by Way of Pargazion: For they believed a Perim,
if guilty, could not swallow a Mortel so accursed; or
if he did, it would shak him. The Form was
thus: We before Thee, O Lord, that thou be made it
guilt of this Theif, when the Exceded Bread is offered to
him in Order to discover the Truth, that his Fawes
may to Thee, his Teart to narrou that he may not
frustrate, and that he may cast it out of his Mouth,
and not eat it. Do Cume. The old Form, or Exac-
tisssis patris bordeauii ac co apo Proclamationi unui,
is extant in Lindeswaf, pag. 107. And in the
Laws of King Canuus, cap. 6. Su quis alii
ministrorum acceperit, & ancii Definitos suos, cum
Sacramentis non habeant, nundat ad judicium quod
fugit, et coopit quod sinisset, et se flet sortit
se Verum Corpus Domini permittatur ut me Purget:
From which it is conjectured, that Coafed Brust was
originally the very Sacramental Bread, consecrated
and devoted to the Priest, and received with Solemn
Abjuration, and devout Exspeince, that it should
proove Mortel to those that dared to swallow it within a
Lie in their Mouth; till at Length the Bishops and
Clergy were afraid to prostitute the Communion Bread
to such rath and conceited Ules, when to indulge the
People in their superfluous Fancies, and idle Cu-
flons, they allowed them to prudize what the judici-
ial Rite, in eating some other Morul of Bread, byt
lest to curt to the like Ules. It is recorded of the
pious Odincus Earl of Kent, in the Time of King
Edward the Confessor, that on his Abiriting theMur-
der of the King's Brother, by this Way of Trial,
as a just Judgment of his solemn Perjury, the Bread
broke in two, and choked him. God Wolvas
Corpus in mensa Regis de nite fatty at Pri-
telect, illo quod multa Sacramenta, tandem por Bac-
lus deledelicaten adjuravit, et lacerta atque conti-
nuenta contra eum sustinuit. This with other
barbarous Ways of Pargazion, was by Degrees abo-
lished: Though we have still some Remembrance of this
feperitious Coafed in our usual Phrases of Ab-
juration in these Words: Let me take the Sacrament of
This Bread be my做成; May this
Bit be my left, &c.

Coetis, (Curitis) A Court or Yard before a Houl.

Cotultrum, (Cortilismus) It is also a Yard ad-
joining to a Country Farm. Cartel. Clagius. BIS. f. 41.

Copus, A certain Corn Measur meaped up, from
the Hebr. Cora, a Hill: Eight Buffets of Wheat in a
Hill, making a Quartar, are of the Shape of a
little Hill: and probably a Copus of Wheat was equal to
eight Buffets; for we read in Breston, Deetem Corum tria
ive diecurta. Brest. lib. 2. c. 6.

Cotrum, An ancient Word for Cofum or Tri-

Cofaneg, (Fr. Confinay, i.e. Kindred, Coun-
ship) Is used for a Wit that lies where the Turifl,
that is, the Facher of the Bufial, or Great Grandfa-
ther, being Ried of Lands and Tenements in Fer at
his Death, and a Stranger enters upon the Heir and
abates; then shall his Heir have his Wit of Cofane.
Brit. c. 80. P. N. B. 221. A Man shall not have a
Wit of Cofane of the Seifin of his Great Grandfa-
ther, but shall be put to his Wit of Bufial: And if
in a Perme may have a Wit of Abel, he shall not bring
a Wit of Cofane. And if on his Death of an Uncle,
Wit of Cofanc doth not lie, because Affe of Mere
d'Ancester may be had of his blood: And Cofane lies
not between Priveries in Blood, no more than Affe of
Mere d'Ancofer, but the Party must bring Nuper Obis.
New Nat. Br. 492. In Wits of Cofane, Abel and
Bufial, the Tenant's Answer that the Plaintiff is not
next Heir, of the same Ancester by whose Death he
demandeth his Lands, shall be admitted and inquired;
and according to the same Inquisition, the Jurifil
should proceed to Judgment, Stat. 13. Ed. 3. c. 20.

Form of a Wit of Cofane.

GEORGE the Second, &c. To the Sheriff of S. G.
Greeting: Command A. B. that jfjy, &c. be
read to C. D. our Messauge with the Apparitions in
M of which E. D. Coft of the said C. D. subjcd
be he is, was fijed in his Demise as of For, the Day that
he die, as its said, and uncle, &c.

Cofmings, is an Office where any Thing is done
decently, whether belonging to Coaslts or not,
which cannot be properly termed by any special Name.
High. Syn. pag. 2. felt 62.

Cofharing, As there were many Privileges in-
herent by Right and Custom, allowed in the Fraud
Laws: so were there several grievous Easements im-
posed by the Lords on their Tenants, by a Sort of
Prerogative or Feudal Authority, as to lie and fial
themselves and their Followers at their Tenants Houses,
&c. which were called Cofharing. Spelum. of Parlia-
ment, MS.

Cofins, A Word mentioned by Blunt for Clean.

Cofilda, Apple, whence Cofildor, i.e. Sel-
q16.

Coflra, Coaf, Sea-Coaf — Richardman T. ad
Cofidnum Coflras Mariis in Cart. Eclia, per Inter-
mediae saevius Patares auronium, &c. — Memor. in
Seastral. Patish. 34. Ed. 1.

Coffe, Are Expense Litis, recovered by the Plain-
tiff in a Suit, together with his Damages, so the
Plaintiff be mastful, or overtaken by lawfull
Trial in any Ation, the Defendant shall have Cohit
4. Stat. 1. cap. 1. Also paying off Trials, suffici-
ent Pics, &c. on their Amendment, are liable to
Coffe: But it has been held Cohit ought not to be
paid for the paying off a Trial, where no Fault was
in the Party against whom it is moved; for Coffe
are only to be paid by such Persons which on their
Occasion have caused the other Party to have been
at
at extraordinary Charges: And no Cafes shall be al-
lowed for unreasonable Motions, but only for such
as the Party was necessarily put unto. 1 Lid. Abr.
433. 377. The Common Law doth not give Cafes
in any Case but they are given by Statute: For the
Defendant on a Writ of Error, brought to delay Exe-
cution, if Judgment be affirmed, Cafes are allowed.
5 Hen. 7. c. 10. So in Actions of Waifs; Debat upon
the Statute for Tithes: in all Suits by Sicre factis, for
malicious Trepassers, &c. 13 Cor. 2. cap. 2. And by
some Statutes double and treble Cafes, and Damages,
are given: But in Personal Actions, Attains of Tre-
pass, Alienant and Battery, Actions on the Cafes for
Words, &c. if the Debt or Damage amount not to
40 l. or the Judge do not certify that the Battery was
sufficiently proved, &c. no more Cafes shall be al-
lowed than Damages. 43 Eliz. c. 6. 21 Jur. 1.
c. 16. 22 & 23 Car. 2. Where several are made
Defendants in Action of Trepass, Alienant, &c. and
one or more is acquitted, all of them shall have Cafes;
unless the Judge certify there was a reasonable Cause
for making them Defendants. 8 & 9 H. 8. cap. 11. In
an Action of Trepass, if an Executive, or a Person
into B. R. by Habeas Corpus, the Plaintiff shall
have full Cafes, though the Damages are under 40 l.
and so it has been held in Action of the Cales for Words,
where special Defences were received. 1 Ed. 1st.
Roy. 396. 2 Raymond 1588. On a Judgment on Demurrer
upon a Plea in Abatement, Cafes are not allowed; they
are only given when the Merits of the Cause are de-
termined on the Demurrer. Ibid. 92. No Cafes shall
be allowed the Defendant where the Suit is commenced
for the Use of the King. 24 H. 8. cap. 8. And Cafes
are not awarded against Executors or Administrators.
Ibid. Nor for or against one that dies in Forma Pauperis.
Though it has been adjudged that the King shall pay Cafes
for an Amendment; but not for not going to Trial, &c. 1 Selk. 193. And if Execu-
tors bring an Action in their own Right, as for Con-
version or Trepass, &c. in their own Time, and a
Verdict pas against them, they shall pay Cafes. 2 Davies.
Abr. 224. Also if a Plaintiff being admitted in Forma
Pauperis, be afterward nonsuit, the usual Course is
to tax Cafes, and if not paid, to punish the Plaintiff by
Whipping; but it is in the Direction of the Court to
spare both. 2 Sid. 261. Where a Person Plaintiff has
a Decree to recover with Cafes; he shall be allowed no
more than be set out of Poule. Per. Close 219. An
Executor, Defendant in Equity pays no Cafes; though
at Law it's said he does in all Cases. Abr. Caf. Eq. 125.
An Heir at Law, suing for the Family Estate, where he
shall not pass, or die, is 1 Peer 153. When there is
a Fault in the Original Writ, if a Plaintiff be
afterwards nonsuit, 'tis said heshall pay no Cafes be-
cause the Original is abused, it is as if no Suit
had been between the Parties. 1 Law. 105. 1 Selk.
Abr. 547. If a Sum certain is given to a Stranger
by Statute, as 'tis given to the Proctor, he shall
have no Cafes, as he had no Right of Action
still he commenced it; so in popular Actions, whe-
ther the Penalty is certain or not, there shall be no
Cafes. 1 Selk. 206. 1 Lutw. 291. Where Cafes are al-
lowed, it is not necessary that the Jury should give
the Cafes; but they may leave it to the Court to do it,
who are all able to judge of what Cafes are fit-
ing to be given. Cor. B. R. 256. It is the Course of
the Court of B. R. to refer the Taxing of the Cafes
to the Secondary of the Office, and not to make any
special Rules for such Matters: except it be in ex-
traordinary Cases. 1 Lid. Abr. 338. If at a Trial
Evidence be given, and the Jury charged and ready
to give their Verdict, but the Plaintiff becomes non-
suit, upon which the Jury depart without ascribing
Cafes, the Court shall, &c. shall be allowed by the
Writ of Enquiry, &c. Skin. 595. Assessment lies that
Cafes are refereed Payment: And where a Plaintiff is
non suit, Action of Debt may be brought for the
Cafes: 410 the Defendant may have a Copy in ad-
stitutendum against him. 1 Nev. Abr. 550. Where
Cafes are given after a Verdict, the Court will drop
Proceedings in the fame Issue and be paid, on
Motion made: But when Cafes are given for not going
on to Trial, a Party may proceed, though they are
not paid. 529. The Awarding of Cafes is also disictiniary in the Court:
and in Case of a great Fraud, a Perfon may be obliged to pay such Cafes as
shall be aterained by the injured Party's Oath. 2 Pern.
123. See Damages, &c.

Cafes are allowed in Chancery, for failing to make
Answer to a Bill exhibiced; or making an insufficient
Answer: And if a first Answer be certified by a Mas-
ter to be insufficient, the Defendant is to pay 40 l.
Cafes; 3 l. for a second insufficient Answer 3 l. for a
third; &c. But if the Answer be reported good, the
Plaintiff shall pay the Defendant 40 l. Cafes. The
Plaintiff is not to be fined, (ill when it is not reputed an
Answer) until Cafes for Contempt in not answering
are paid. Pridit. Attorn. 1 Edit. p. 210, 212. If a
Plaintiff in Chancery intimates his Bill, the De-
fendant; or if a Decree be obtained for the Defendant,
Cafes are allowed by Stat. 4 & 5. 16 c. 16.
Cafes, in the old Inns of Court, Signatures Cottage, and so is
still used by many Parts of England.

Caterius, A Cottager: The Caterius, or Cottagers
are mentioned in Domesday.

Caterius, The Names of Places which begin or end with these Words or Syllables, have the
Signification of a little House or Cottage: There are likewise Downe-Caes, which are small Houses or Places
for the Keeping of Doxes or Pigeons. Gaims Law. 2 par. fol. 133, 135. See Piegon-bush.

Caterius, Caterius, Both dignify a small Cottage, House or Homecastle. Cual.

Caterius, Caterius, according to Spelman and Du Froyn, are servile Tenants: But in
Domesday and other ancient MSS. there appears a Dif-
inction, as well in their Tenure and Quality, as in
their Name. For the Caterius had a free Socage Ta-
ureau, and paid a fixed Firm or Rent in Provisions or
Winery, with some occasional culinary Services; whereas the Cotteris seems to have held in mere
Villenage, and his Person, Issue and Goods, were dif-
posable at the Pleasure of the Lord.—Edmund Earl
of Cornwall, gave in the Benefices of Afterton to his
Manor of Chaloner and Addison—one can
Palianis, Coerellis, terram Catallis, Servitutis, Salis, &
amoebus fuis ubicunque perueniuntibus. Paroch. Anq. 310.

Cateris, is used for Sheep-Cotes and Sheep
feeding on Hills: From the Sax. Coes and Weal, a
Place where there is no Wood.

Cauters, A kind of Reafe Wool, so clung or clut-
ted together, that it cannot be pulled alouder. By
Stat. 13 R. 2. cap. 9. it is provided, that neither
Denizen or Foreigner shall make any other Refute of
Wools but Coates and Cullaries.

Coteland and Cofrathland, Land held by a Cot-
tager, whether in Socage or Villenage.—Dimidia
aera verae jet jacta item into Coteland, quam Johannes
Golding tertius, ex una parte, et Conland quondam

Cottrefilla, Cottrefilla, The Little Seat or Marsh
being on the Common Farm.—The Thomas C.
Dali Des Es Eclatia Malmbury usum Cotrefilla in Ca-
MS. Cottrefilla, A Cotter's hold, who by servile Te-
ureau was bound to work for the Lord. Cual. Cefes
are the meanest Sort of Men, now termed Cottagers.
And Cottiers are those who live in Cottages.

Coteland Strat were Coed, and shall be after by a
Writ of Enquiry, &c. as modi vides, ut impes perfune, non just in rege juram
dictes manusd. Leg. H. 3. c. 50.

Cottage,
Cottage. (Cottageum) Is properly a little House for the Habitation of poor Men, belonging to the Statute, 4 Ed. 1. But by a later Statute, the 31 El. cap. 7. No Man may build a Cottage, unless he lay four Acres of Land thereto; except it be in Market-Towns or Cities, or if he be a Leifor, or for the Habituation of Labourers in Mines, Stitols, Foresters, Shepherds, &c. and Cottages erected by Order of Judges of Peace, &c. for poor Impotent People, are excepted out of the Statute. The four Acres of Land to make it a Cottage within this Law, are to be Freehold, and Land of Inheritance: And four Acres of Crown hold land, by Copyhold, or for the term of three or four Years, or for any Number of Years, will not be sufficient to make it a lawful Cottage. 2 Inst. 737. Also the four Acres in Fee-simple, or Fee-Tail, must lie near the Cottage, and be occupied therewith, so long as the Cottage shall be inhabited. 2 Roll. Ab. 139. But this Statute doth not extend to Housies that are Copyhold. 1 Bugg. 50. The Penalty of eroding Cottages contrary to the Statute, is 10s. for every Error, and a Month for the Continuance of it; which is inapplicable in the Leet, or the Offenders may be punished by Indictment at the Quarter Sessions, &c. And no Owner or Occupier of any Cottage shall suffer any Inmates, or more Families than one to inhabit therein, on Pain to forfeit to the Lord of the Leet 10s. a Month, &c. for the Poor, whereof Waste, without or on the Leet, or the Manors, in Writing under Hand and Seal; but then it must be confirmed by the Justices in Sessions. N. 57. 1522. Cottages of new ered Cottages within the Memory of Man, ought not to have Common in the Lord's Woule, though they have four Acres of Land laid to them. 2 Inst. 445. Every Error, in repairing the Repairs of the Highways, or to hire an able Labourer to work on the Days appointed by the Statute, on Pain of forfeiting 1d. per Day. Stat. 54. 3. 7. 1. Cotton Library. For better settling and preferring the Library kept in the House at Wincherberg, called Cotton house, in the Name and Family of the Cotton, for the Benefit of the Publick, a Statute was made 12 W. 3. c. 7. See Stat. 5 Ann. c. 50. Cotton, Cont. Art. Cotton, in the Name and Family of the Cotton, for the Benefit of the Publick, a Statute was made 12 W. 3. c. 7. See Stat. 5 Ann. c. 50. Cottures, Cost. Armor. All Armes profissi (Or) Miles, prindem Cottures indernae, vocat. Quarterly. helv. 114. Cottures, Boors or Husbandmen, of which Mention is made in Doomsday. Cotton, Cost. Art. Cotton, in the Name and Family of the Cotton, for the Benefit of the Publick, a Statute was made 12 W. 3. c. 7. See Stat. 5 Ann. c. 50. Cottures, Cost. Art. Cotton, in the Name and Family of the Cotton, for the Benefit of the Publick, a Statute was made 12 W. 3. c. 7. See Stat. 5 Ann. c. 50. Cottures, (Cottures,) (L. Rationabilis,) Is what is convenient or faisible.—Every of the same three Sorts of Goods, &c. shall be good and cotebaar, in old Time hath been used. Stat. 31 Ed. 1. cap. 2. Cotton, a Cottage, that is, indorsed as is fitting. 4 A. B. c. 12. See Pard. 478. Cotturers, (Cotturers,) (Cotturers,) Is the Confect and Agreement of two or more Persons to do or not to do such Act or Thing, concerned in their Names. Also it is the Declaration the Parties make, that they will stand to such Agreement, relating to Lands or other Things; and is granted by Deed in Writing, sealed and delivered. In the absence of a Deed, it may also be implied in the Contract as incident thereto. 2 Mod. Extr. 91. And if the Perffus do not perform their Cotturers, a Write or Action of Cotturers is the Easiest to recover Damages for the Breach of them. Ibid. A Covenant, in general, is either in Fact or in Law. In Fact, it is that which is made between the Parties, and entered into the Deed; and in Law, is that Covenant which the Law intends and implies, though it be not expressly in Words; and as a Leifor deems his Leifor his Cottage or Habitation, &c. and the Housie or Lands, &c. for a certain Term, the Law will intend a Covenant on the Leifor's Part, that the Leifor shall during the Term quietly enjoy the same against all Incumbrances. 1 Inst. 384. There is also a Covenant Real, and Covenant Personal; A real Covenant is that whereby a Man ties himself to pass a Thing real, a Mod. 35. or Tenements; or to levy a Fine of Lands, &c. And Covenant personal, is where the same is annexed to the Person and merely personal; as if a Person Covenants with another by Deed to build him a House, or to serve him, &c. F. N. B. 145. 5 Rep. 10. Covenants are likewise Inheritable, that tend to the Support of the Land or Thing granted; or are collateral to it; and are afterward to be performed, or negatve; executed, of what is already done, or executed: But a Covenant being to bind a Man, to do anything in future, is for the most part executory. 1 Penn. 176. Dyer 118. 371. And where a Covenant shall be construed dependant upon one, and when dependant by itself, see Winch. 74. 3 C. R. 107. Further, this Word is taken in the solemn league and Covenant; which was a tedious Conspiracy, invented in Scotland, and voted illegal by Parliament, and Provision is made against it, by Stat. 14 Car. 2. cap. 4. All Covenants between Persons must be to do what is lawful, or they will not be binding; and if the Thing to be done be impossible, the Covenant is void. Dyer 112. But where the Thing is lawful at the Time of the Covenant made, and afterwards the Matter agreed to be done, is prohibited by Act of Parliament, yet such Covenant will be binding: and if a Covenant to do a Thing before a certain Time; and it becomes impossible by the Act of God, this shall not excuse him, inasmuch as he hath bound himself precisely to do it. 2 Dows. Ab. 84. If a Person covenant expressly to repair a House, and it is burnt down by Lightning, or any other Accident, yet he ought to repair it; for it was in his Power to have provided against it by his Contrafl. Ain. 25. 27. 1 Lid. Ab. 349. But he is not so bound by Covenant in Law, where Housies are shown down by Tempest, the Law excuses the Leifor in Action of Woule; though in a Covenant to repair and uphold, it will not. 1 Plowd. 29. If a Leifor for Years, rendring Rest, covenants for him and his Affigns to repair the House, and after the Leftor assign to the Term, and the Leifor accepts the Rent from the Affignee, and then the Covenant is broken; notwithstanding Acceptance of Rent from the Affignee, Action of Covenant lies against the first Leifor, on his expresss Covenant to repair; and this Personal Covenant cannot be transferred by the Acceptance of the Rent. 3 Dows. Ab. 240. Action of Covenant also lies on Covenant for Payment of Rent against such Leifor; but not Action of Debt after Acceptance. 3 Rep. 24. In Covenant upon a Demise, rendring Rest, the Defendant cannot pay, that Part of it was to be allowed; for this is a Covenant against a Covenant. Camb. 21. There may be an Agreement and Covenant, only to be formed by the Parties themselves; and there are some Covenants which none but the Party and his Heirs may take Advantage of, being such as concern the Inheritance and Right to the Housie, such as the Right to the Estate: Covenants in gross go to the Executors, &c. 1 Roll. Ab. 536. 3 Dows. 255. Not only Parties to Deeds, but their Executors and Administrators, shall take Advantage of inherent Covenants. But the Description of the Parties, &c.
nents, thou not named, and every Aignee of the Land may have the Benefits of such Covenant: Like- wise Executors and Aignees are bound by them, although not named, as a Covenant to repair, 5 Co. R. 15, 17. 1. 552. If a Man covenant with another to do any Thing, his Heir shall not be bound, unless he be expressly named: And yet where a Leiffe covenant to repair, the Heir shall have the Benefits of the Covenant, though not named, because it runs with the Land. 2 Lev. 92. 5 Rep. 8. The Granter of a Reversion may bring Action of Covenant against a Leiffe, fee, feoff or in the County where the same was made, as in the County where the Lands lie. Carisb. 183. And Granter of Reversions have the like Remedy by Action of Covenant against Termors, as the Leifiers and their Heirs, &c. by Stat. 32 H. 8. A Perfons covenant with another, to pay him Money at a Time to come, and doth not pay to his Executors, &c. if the Covenantor die before the Day, yet his Executors or Administrators shall have the Money. Dyer 112, 257. And in every Case where the Teller is bound by a Covenant, the Executor shall be bound by it; if it be not determined by his Death. 48 Ed. 3. 2. 2 Dower. 232. Aigees shall not have an Action upon Breach of any Covenant, before their Time. Co. Eliz. 865. Nor shall an Aignee be charged in a Writ of Covenant for any Breach, after the Death of the first Leiffe; as it is personal to the Leiffe himself. 2 Dower. 238. If A. failed of Land in Fer, conveys it to B. and covenant with B. his Heir and Aignees, to make any other Affurance upon Request; and after A. conveys it to C. who conveys it to D. and then D. requires A. to make another Affurance, according to the Covenant; if he refuses, D. shall have Action of Covenant against him, as Aignee to B. Ibid. 250. A Leiffe made a Lease of an House for Years, excepting two Rooms, and free Pallage to them; the Leiffe assigned the Term, and the Leiffe in the Lease, Aigee for disturbing him in his Pallage to those Rooms; and adjudged that the Aignee lies: For the Covenant goes with the Tenement, and binds the Aignees. 3 Co. 156. If a Man leases for Years, andosal affection, he shall have Covenant against him. Ed. 3. 2. But if, where a Peron lesse Lands for Years, a Stranger enters before the Leiffe, such Leiffe shall not have an Action of Covenant upon this Outlet, because he was never a Leiffe in Privity to have the Action. 2 Dower. 234. A Man grants a Watercourse, and afterwards adds another Land. 2 Co. 374. The Aignee is estopled by his own Act, and conveys a Covenant with a Liability. 1 Sound. 321. Though where the Use of a Thing is deserted, and it runs to decay, so that the Leiffe cannot perform, if this be without an Action of Covenant lying: Nor may Covenant be brought for a Thing which was not in use at the Making of the Leiffe. 2 Dower. 233. If one makes a Lease for Years, referring a Rent, Aionee of Covenant lies for Non-payment of the Rent; for the Redundum of the Rent is an Agreement for Payments of it, which will make a Covenant. Ibid. 250. A Lease is made to two, and one Seals the Deed, but the other doth not; if he ac cepts the Estate and occupies the Lands, he is bound to perform the Covenant for Payment of the Rent, Repa rations, and the like. 1 Steph. Abr. 458. Where there is an Agreement, which is more for Land and Seal, Action of Covenant may be brought on it: And if a Man is Party to a Deed, his Agreement to pay amounts to a Covenant, though formal Words are wanting. 2 Moi. 259. Action of Covenant lies on a Deed indented, or Poll: Allen on a Bond, it proving an Agreement. 2 Dower. 228. 1 Litt. Abr. 436. And if one covenant to make a Man cannot perform, if it be not because he may have Action of Debt for the 26. Yet This he may have a Writ of Covenant at his Election. 1 Dower. 236. 2 Dower. 250. If A. shall pay to C. D. 100 for Lands in E. this is a mutual Covenant, whereon Action of Covenant may be brought if C. D. will not convey. 1 Sid. 423. But where there are mutual Covenant, and the one not to be performed before a precedent Covenant, in such Case the Covenant is not liable to the other is performed: Though if the Covenants are dill and several, Actions may be brought by and against the Parties. 1 Litt. Abr. 350. 2 Moi. 74. In a Covenant to pay another so much Money, he making him his Eatee in that Land. Co. It has been adjudged, that if he tender the Covenantor a Prodissent, and offer to make Livery, he may have Action of Covenant for the Money, as if he had made it a Title. 3 Co. 127. If a Man covenant that he hath good Right to grant, &c. and he hath no Right, it is a Breach of Covenant, for which Action of Covenant lies. 2 Bur. 12. Where a Man covenant that he hath Power to grant, and that the Grantee shall quietly enjoy notwithstanding any claiming under him; there are different Covenants, for one goes to the Title, and the other to the Possession. 1 Abr. 101. A Covenant for the Leissee to enjoy against all Men: this extends not to tedious Acts and Entries, &c. for which the Leissee hath his proper Remedy against the Aggiors. Faw. 116, 120. Where there is a Covenant to have harsom in a certain Person, there the Covenantor must have the Covenantor harm that against the Entry of that Person, be it by wrong or rightful Title: But if it be to have harsom against all Persons, the Entry and Evidence must be by lawful Tit le. Co. Eliz. 213. Covenant that Lands shall continue of use of the same, whether they are to be kept or to be done, extended only to the Time of the Covenant made; and it is a fair extend not as well to that Time, as to the Time future. Ibid. 135, 479. 1 Litt. 123. If a Man covenant, that after the Lives of two married with a Woman for her Jointure, were of the Value of 100l. per Annum, and should continue notwithstanding any Act done by the Covenantor; in Action of Covenant, the Entries of Life and Jointures that is, the Law holds, adjudged that the Aignee did not lie, except some Act done by the Covenantor was the Cause which made them not of that Value. Co. Eliz. 43. 1 Nott. Abr. 557. Where the Covenantor is to do a Thing, and no Time appointed for it, it must be done in convenient Time: If it be inentered in a Deed among other Covenants, that the Leissee shall repair, provided the Leissee allows Timber, &c. this will be a good Covenant on both sides. 2 Abr. 73. Dyer 57. 150. Hob. 28. But a Covenantor must wait upon and join with the Grantor; for so it is not a conscience. It must be sufficiently devised, it must be of an Affurance as differs not from the Bargain: And when the Eatee to which a Covenant is annexed is at an End, the Covenant is gone. Hob. 279. 1 Litt. 170. In an Indenture, the Word Covenant, is a Word both of Leissee and Lease; and therefore if the Leissee covenant to pay the Rent, this is a Refinament. Though where there is a Covenant for a Leissee to repair, he makes an Underlease to one who is in Possession, the Under Leissee is not liable to that Covenant, in Law or Equity. 1 Rol. Rep. 80. 1 Faw. 87. This held in all Cases where Words that begin any Sentence are conditional, and give another a Remedy, they shall not be construed a Covenant; and yet if Words of Condition and Covenant are coupled together in the same Sentence, as Provided always, and it is covenanted, &c. in that Case they may be adjudged both a Condition and Covenant. March 103. There is the Difference however between a Covenant and Condition; a Condition gives Entry, and Covenant gives an Action only. Owen 54. A Person cannot have Action of Covenant upon a verbal Agreement, or Covenant, except by special Covenants. F. N. B. 145. An Infant within Age may bind himself Apprentice; but neither at Covenant nor Deed to pay to C. 100 for Lands in E. this is a mutual Covenant, whereas Action of Covenant may be brought if C. D. will not
And commonly where an Ait is to be done, according to a Covenant, he does pleaded Perpetually in the suit, and for that specially, that it is a very

1 Lev. 136. In Debit upon Bond for Performance of Covenants, one whereof for perceivable Enjoyment, and free from all Incumbrances, and another for further Affirmation, "Er," the Defendant, or such a party, shall do, and for that specially, that the Writ was free from Incumbrances at the Time of the Conveyance made, and not charged as any Time since, and that no further Affirmance had been required, or such an Affirmance which he had executed, "Er," yet where a Defendant pleaded generally, in this case, it was held good. 1 Lew. 605. Covenants are generally taken most strongly, for the Covenant, and for the Covenant. Plead. 287. But it is a Rule in Law, that where one Thing may have several Interludes, it shall be construed in the most favourable Manner for the Covenantor. 1 Lew. 450. The common Use of Covenants is for alienating of Land; quiet Enjoyment free from Incumbrances; for Payment of Rent reserved; and concerning Repairs, "Er," and in Deeds of Covenant, sometimes a Clause for Performance with a Penalty, is inserted in the Body of the Deed: Other Times, and more frequently Bonds for Performance, with a sufficient Penalty, are given separate: which last being sued, the Jury must find the Penalty; but on Covenant, only the Damages. Wood's Inf. 210. It is held an Action of Covenant may be laid in London, for Non-payment of Rent on a Lease of Lands in any other Place. 1 Sid. 401. And if in this Action, a Sum be miscalled, either too little or too much; it is amenable; and not like to the Action of Deed, where if it should be less, the Plaintiff, without shewing the Reft to be satisfied, it is ill. 3 Keb. 359. 2 Lew. 247. In Action of Covenant, the Plaintiff must have Receipt to the Deeds or Writings, and the Circumstances of Time, Place, "Er," and take Notice what particular Covenant the Deed is bel. to inflict upon, to lay a Breach right. "Er." The Words of Covenants are nec. a most powerful Part of the Law; and for Agree, "Er," but there needs no great Examine in Words to make a Covenant.

Covenant to bind feided of Efig. Is when a Man that hath a Wife, Children, Brother, Sister, or Kindred, doth by Covenant in Writing under Hand and Seal agree that for their or any of their Provisions or Preferment, he and his Heirs will bind feided of Land to their use; either in Fee-simple, Fee tail, or for Life. The Ufe being created by the Stat. 27 H. 8. c. 10, which conveyeth the Eligue as the Ulfs are di. rected to this Covenant to bind feided, shall become a Covenant of the conveyance of the Land since the said Statute. The Covenants of their Deeds, are natural Affection, Marriage, "Er," and the Law allows in such Cases Conde. ilation of Blood and Marriage, to raie Ulfs, as well as Money and other valuable Consideration when a Ufe is to a Stranger. Plead. 302. There are no Con. fiderations now to raie Ulfs upon Covenants to bind feided, but natural Love and Affection, which is for Advancement of Blood; and Condemnation of Marriage, which is the joining of the Blood and Marriage together: Other Considerations, as Money, "Er," for Land, though the Words in the Deed are bound feided, yet they are Bargains and Sales, and without Intention they raie no Ufe. Carter 138. Litt. Abr. 353. The usual Covenant to bind feided to Ulfs need not be by Deed indented and inscribed: And where a Man li. mits his Elige to the Ufe of his Wife for Life, this imports a sufficient Consideration in itself: As if a Person covenant to bind feided to the Ufe of his Wife, Scn, or Cousin, it will raie an Ufe without any ex. press Words of Consideration, for sufficient Conde. ilation appears. After a lesser Covenant, a Ufe of a Covenant to bind feided, to much of the Ufe as the Owner doth nor dispose of, remains still in him. 1 Featr. 374. And where an Ufe is raied by Way of Covenant, the Covenantor continues in Possession and there the Ufe limited,
limited, if they are according to Law, shall rise and draw the Partition out of him: But if they are not, the Partition shall remain in him until a lawful Use arise: 1. Lees, 175. 1. Mor. 159. 68. If on a Covenant in fee to be seized to any Us, no Use doth arise, yet it may be good by Way of Covenant and give Remedy to the Covenantor in an Action; as if the Covenantor be future, that in Consideration of a Marriage, Lands shall descend or remain to a Son, and the Heirs of his Body on the Body of his Wife: in this Case the Covenantor may have Right of Covenant upon the Covenant against the Covenantor: But if a Covenant be that a Man and his Heirs, shall from henceforth have and be seized to itself, and such Uses, and the Uses will not arise by Law; here no Action of Covenant lies on the Covenantor, for this Action will never be upon any Covenant such as is either to do a Thing hereafter, or where the Thing is already done, and not when it is for a Thing present. 2. Pint. 307, 308. 3. C. L. 490.

Cobert Baron, a married Woman. Stat. 37 Eliz. cap. 3.

Couture, (Fr.) Any Thang that covers; as a Apse, a Cover, &c. but it is by our Law particularly applied to the State and Condition of a married Woman, who is full portaret viri; and therefore considered as connected with any to the Damage of herself or Husband, without his Consent and Privy Afford, or his Allowance and Confirmation thereof, Bapt. lib. 2. c. 10. lib. 3. c. 15. &c. Br. Abr. When a Woman is declared to have been a Feme Cooper, and what is done concerning her, during the Marriage, is laid to be done during the Couture: All Things that are the Wife's, are the Husband's; and the Wife's Power over her self, but the Husband: And if the Wife, the alien Woman's Life, during the Couture, she cannot gainay during it; but after his Death, she may recover by Cas. in vido. Term. de Ley 155. See also and Feme Cooper.

Covin, (Covine) Is a deceitful compact between two or more to deceive or prejudice others; as if Tenant for Life or in Tail, confines with another, that she shall recover the Land which he the Tenant holds, in Prejudice of him in Reversion. Poswik. 546. Covine is commonly conversant in and about Conveyances of Land by Fine, Purchase, Recovery, &c. And then it tends to defeat Purchasers of the Lands they purchase, and Creditors of their Due Debts; and it is used in Deeds of Gift of Goods: it may be likewise sometime in Sales of Goods, and judgments had on them, but where ever Covine is, it shall never be intended, unless it appears and be particularly found; for Covine and good faith though proved, yet must be found by the Jury, or it will not be good. Br. 188. Bridg. 112. If one make a Lease to a Person by Covine, and after grant another Lease to another man fals, but without any Fine or Rent, in this Case the second Lease may not avoid the first Lease, because he is not a Purchaser that comes in for Money. 3 Rep. 83. On Recovery by a good Title; there may be a Covine; as where Tenant for Life by Atenent, &c. suffers a Recovery by Nil quit, without making any Defence: And if a Man hath a rightful and just Claim of Action, and of Covine and Contract shall raise up a Tenant by Wrong against whom he may recover; the Covine doth sufficeth the Right, that the Recovery, although it be upon good Title, shall not bind. Br. Covine 47. 2. Lev. 157. 1. Esg. Abr. 354. A Tenant is Tenant for Life, Remaining in Tail to B and a Prerogis is brought against them as Jointments, by Covine between the Demesne and A, and an Answer proved against his Jointments, and his Heirs, and after made Default, whereby final Judgment is given, this shall not defeat the Eate of B, unless they be a Vat of Dilection and shall be referred to his Land. Ann. Abr. 118. If a Man that has a Right to certain Lands, by Covine ensues ano.

ther to oust the Tenant of the Land, to the Intent to recover it from him, and he recovers accordingly against him by Action tried; yet he shall not be remitted from what is in the Moot, or the Estoppel of an Estate of him who made the Outter; and an Action lies against him. 2 Daws. Abr. 509. Land is aliened, pending a Writ of Debt, by Coven, to avoid the Extent thereof for the Debt: the Land so aliened may be extenuated, when the Covenant appears upon the Return of the Elong by the Sheriff. Ibid. 311. If a Man makes a Deed of Gift, &c. of his Goods in his Life-time by Covine, to avoid his Creditors of his Life-Debt, after his Death the Donee or Vendee shall be charged for them. 13 H. 4. 7. And if Goods are sold by Covenant of Sale by Covine, on Purpese to bar him that hath Right, this shall not bar him thereof. 2. Inf. 713.

Counsll. In the City of London, there are Common Counsllors men in every Ward, as at a Court of Wardmote held by the Aldermen of the respective Wards on St. Thomas's Day yearly: They are to be chosen out of the most sufficient Men, and sworn to give true Law, for the Common Profit of the City. 3. Lez. London. 117. In the Court of Common Counsll, are made Laws for Advancement of Trade; and Committees yearly appointed. &c. But Acts made by them, are to have their Validity from the Lord Mayor and Aldermen, by Stat. 11 Geo. 1. Counsellors (Consultofaris) is a Person raished by a Client of the 3. Part. 11 of 52. A Counsellor at Law hath a Privilege to enforce any Thing which is informed him by his Client, if pertinent to the Matter, and is not to examine whether it be true or false: if this is the Peril of him who informs him. C. 2. 50. But after the Court hath delivered their Opinions of the Matter in Law according before them, the Counsell at the Bar are not to resolve any further in that Case. 1 Lill. Abr. 835. It has been held that the King's Counsell ought not to be admitted to argue any Cause against his Mark: though this was opposed by Sir John Maynard, Hl. 22 Cas. 2. 1 Mod. 38. A Counsellor must not for his Head to a frivolous Plea, to delay a Trial; which argues Ignorance or fool Practice. Ibid. And as Counselors have a special Privilege to practice the Law, they are punishable by Attraction, &c. for Misbehaviour, 1 H. 6. P. C. 157. No Reputed Counsel, or Nonjuror, shall practice the Law, without the consent of the Surveyor of the City, by Stat. 3 Jac. 1. c. 5. 13 &c. 4 W. 5. 6.

Counsll, for Priests. No Counsell is allowed a Priests upon a General Circuit, &c. unless he some doublet Point of Law arise: The Court is the Priester's only Counsell; and the Behaviour of the Priester in his own Defence, is one Mens of discovering his Truth. In Appeals, and upon special Pleas, &c. the Priester shall have Counsell aligned him by the Court: Tho' Counsell is not to prompt the Priester in Matters of Felt. 2. H. 4. 407. Provision is made for Counsell for Priests in Treson, by Stat. 7 W. 4.

Court, Signifies the original Declaration of Complaint in a real Action. As Declaration is applied to personal; so Covine is applicable to real Covine: But Court and Declaration are oftentimes confounded, and made to signify the fame Thing. 2. N. B. 16. 60. In pulling a Recovery at the Common Pleas Bar, a Servants at Law courts upon the Precept, &c. See Counsll and Declaration.

Courts, (Fr. Cout,) was the most eminent Dignity of the King, besides the Counsell; and those who in ancient Times were created Courts, were Men of great Eate: For which Reason and be
coming the most ancient Right, and shall be the King with their Counsell for the publick Good, and govern the Realm by their Valour, they had great Privi-

Digitized by Google
leges; as they might not be arrested for Deba or Trespass; or be put on Jury, as the Plea was Proceduitly, or Proceduitly Comitatus, and had the Charge and Custody of the County; but this Authority the Sheriff now hath.

A Countess, in India, is an Earl, in the Law French. Law Fr. Dict.

Countenance. This Word seems to be used for Credit or Estimation. Old Nat. Br. 111. And in the Stat. 1 Ed. 3. 4. See Countenance.

Counter, (Computerium, from the Lat. Computare) Is the Name of two Prisons in London, the Poultry, Counter, and Woodstreet Counter, for the Use of the City, to confine Debtors, Peace breakers, &c. where if any enter, he is like to encounter before he gets out. See Culc.

Counterfeit. Persons obtaining any Money, Goods, &c. by Counterfeit Letters or false Tokens, being convicted before Justices of Assize, or Justices of Peace, are to suffer such Punishment as shall be thought fit by the Justices, Pillo-
ry, &c. Stat. 33 H. 8. cap. 1. It was the Opinion of Sir Edward Coke, that upon this Statute the Officer could not be fined; and that no corporal Pains ought to be inflicted: But it hath been otherwise ad-
judged in Terry's Case, who by a false Note in the Name of another obtained into his Hands a Wadge of Silver, the Value of two hundred Pounds of Money, and on Conviction thereof, was sentenced to stand in the Pillory, pay a Fine of five hundred Pounds to the King, and to be imprisoned during the King's Pleasure. 3 Co. Cas. 427. The Obtaining of Money from one Man to another's Use, upon a false Pre-

cence of having a Mortgage and verbal Order to that Purpose, is not punishable by criminal Prosecu-
tion; it depending on a bare naked Lie, against which common Prudence and Caution may be a Se-
curity. 6 H. 10. 1. Hareh. P. C. 185. Counter-
feiting the King's Seal, or Money, or any Token of Treas-
ury, Vide Treasury: And Counterfeiting Excessive Bills, Bank-Bills, Lottery-Orders, &c. which are Felony. See Felony.

Countermand, Is where a Thing formerly exe-
cuted, is afterwards by some Act or Ceremony made void by the Party that first did it. And it is either actual by Deed, or implied: Actual where a Power to execute any Authority, &c. is by a formal Writing for that very Purposr put off for a Time, or made void: And implied is where a Man makes a Will and Testament, and thereby de-
voids his Land to A. B. if he afterwards enfoths an-
other of the same Land, here this Countermand is a Countermand without any express Words for the same, and the Will be void as to the Dist-
position of the Land: Else if a Woman feized of Land in Fee simple, makes a Will and deviseth the same to C. D. and his Heirs, if he surviveth her; and after the intermarriages with the said C. D. there by taking him to Husband, and Coverture at the Time of her Death, the Will is countermanded. Terms de

Le 125. But if a Woman makes a Lease at Will, and then marries, this Marriage is no Countermand to the Lease, without express Matter done by the Husband, either before or after: For if, as said above, a libell be devised, and after a Lease made thereof for Years only; it shall not be a Countermand of the Will, which is good notwithstanding for the Revocation after the Lease for Years is ended: But in Cases a Man have a Lease for Years, and gives it by his Will, and after Surrenders it; it is a Countermand of the Devise, and the Devise shall not have this Lease. Dyre 47. Goldk. 93. If a Copyholder like to die, do surrender his Estate to the Use of his Wife or Children, without any Confidation of Money, &c. and before he is declared by the Prentest and Ad-
imittance, it may be Countermanded; 'Tis otherwise

if it be to the Use of a Stranger. Titus 28. 2. If there be a Peacemonger of Authority to make Money and Sport; and before it is made the Prof-

for makes a Peacemonger, or Bargain and Sale of the Land, or Lease to another, it will be a Countermand in Law of the Authority given by the Letter of At-

orney. 2 Browne. 291. A Person may countermand his Command, Authority, Licence, &c. before the Thing is done; and if he dies, it is countermanded.

There is a Countermand of Notice of Trial, &c. in Law Proceedings.

Counterpart, Is when the Tenant in any real Action, Tenant by the Curtesy, or in a Fower, in his Answer and Plea, vouches any one to warrant his Title, or prays in Aid of another, who hath a larger Eftate; as of him in Reveriion, &c. Or where one that is a Stranger to the Action, comes and prays to be received to have his Eftate: then that which the Demandant alledged against it, why it should not be admitted, is called a Counterpart: In which Sense it is cited Stat. 2 Ed. 3. cap. 29. So that Counter-

part is in Law a Replication to Aid Prius; and is called Counterpart to the Fea. her: But when the Vou-

cher is allowed, and the Plaintiff comes and de-
mands what Caufe the Tenant hath to vouch him, and the Tenant shews his Caufe, whereupon the Vou-

cher pleads any Thing to avoid the Warranty; that is termed a Counterpart of the Warranty. Terms de

Le 159. Stat. 3 E. 1. cap. 39. If on Demurrer to a Counterpart of the Voucher upon a Warranty, it be found against the Voucher, Judgment shall not be re-

peymont, but only See vocatur: 'Tis otherwise upon a Plea to the Writ tried by the Country. 10 Rep. 34.

4 Rep. 80.

Counter-Rolls, Are the Rolls which Sheriff of Counties have with the Coroners of their Proceedings, as well of Appeals, as of Inquests. &c. Stat. 3

Ed. 1. r. 10.

Counter, (Fr. Contref) Have been taken for such Serjeants at Law, which a Man retains to de-

fend his Cause, and speak for him in any Court, for their Fees. Here's Morst. lib. 2. And as in the Court of C. B. none but Serjeants at Law may plead; they were anciently called Serjeant Co
tres. 1 Inf. 17.

County, (Comitatus) Signifies the name with Shire, the one coming from the French, the other the Sau-

son; and contains a Circuit or Portion of the Realm, into which the whole Land is divided, for the better Government of it, and the due Administration of Justice: So that there is no Part of this Kingdom that lies not within some County; and every County is governed by a yearly Officer whom we call a Sheriff. Ferrius, cap. 24. Of these Coun-

tries, there are in England forty, besides twelve in Wales, making in all fifty two: And four of them are of special Note, which are therefore termed Coun-

tries Palatine; as Lancaster, Cheshire, Durham, and

Es; and we read anecdotally of the Countryside Palatine of Pembroke and Hereford, though they have long since lost their Privileges. The Chief Governors of the Countryside Palatine, by special Charter from the King, heretofore did all Things touching the Ad-

ministration of Justice, and as the Power himself in other Counties, onlly acknowledging him their Superior and Sovereign; But by the Stat. 27

H. 8. cap. 24, their Power is abridged. 4 Inf. 104,

221. The Countryside Palatine are reckoned among the superior Courts: And are privileged as to Pleas, so as no Inhabitants of such Countries shall be compell-

led by any Writ to appear or answer out of the fame; except for Errors, and in Cases of Treason.

&c. and the Countryside Palatine of Cheshire and Durham, are by Precepture, where the King's Writ ought not to come to a Court; but under the Seals of the Countryside Palatine, until it be Writs of Proclamation. Comp. 

E e e
much reduced by Magna Charta. c. 17. and by 1 Ed. 
4. cap. 1. It had formerly, and now hath the De
termination of certain Trepalsis, and Debts under 
this Last Indenture nor Pleas of any Debt or 
Damage to the Value of 40s. or above; nor of 
Trepalsis Vi & Arnis, &c. But of Debt and other 
Actions personal about Sum, the Sheriff may 
hold Pleas by Force of a Writ of Jeflicits, which is 
in Nature of a Commination to him to do it. 4 Ind. 
266. Here the Plaintiff takes out a Summons, and 
if the Defendant do not appear, an Attachment, or 
Diftings is to be made out against him; but if the 
Defendant appears, the Plaintiff is to file his Declara
tion, and after the Defendant is to put in his Answer 
or Pleas; and the Plaintiff having joined Issue, the 
Trial proceeds, &c. whereupon, if Verdict is given 
for the Plaintiff, Judgment is entered, and a Fieri 
Facias may be awarded against the Defendant's Goods, 
which may be taken by Virtue thereof, and be ap
priated and sold to satisfy the Plaintiff: But if the De
defendant hath no Goods, the Plaintiff is without Re
dermy. A Fieri Facias cannot lie therein, but an 
Action may be brought at Common Law, upon 
the Judgment entered. Greenwood of Courts, p. 231. 
No Sheriff is to enter in the County Courts, any Plaintiff 
in the Ambleside, for one Caufe, under Penalties: The Defendant in 
the County Court is to have lawful Summons; and 
two Judges, and two Jusdiciaries, or three Sheriffs, 
before they issue them out of the County Court, 
&c. By Statute 1 Hen. 7. c. 15. Caufes are removed 
out of the County Court, by Recorders, Peace, and 
Writ of Fafiis Judamento, into B. R. &c. 

Country-Rates, Are those ordered by Judges of 
Peace at their Quarter-Settions, who may make one 
General Rate, to answer all former doubtful Rates, which 
shall be allotted to every Parish, &c. and collected and 
paid by the High Court of Hundreds to Treasu

ers appointed by the Judges; which Money shall be 
conveyed to the Publick Stock, and be laid out in Repairing 
of Bridges, Gates, or Houses of Corrección, on 
Prestentment made by the Grand Jury, at the 
Alfairs or Quarter-Settions, of their wanting Repair: But 
the same may be laid by the Judges at their 
Discretion, and Overfrais of the Poor of the Parishes to the Judges at the next 
Sessions, against the Rate on any particular Parish. 

Counting-House of the King's Household, (Dame 
Cabella Hefitii Regis) is usually called the 
Green-Club; where sit the Lord Steward, and Trea
urer of the King's House, the Comptroller, Master of the 
Houshold, Collector, and two Clerks of the Green-
Club, &c. for daily taking the Accounts of all Expen
ses of the Household, making Provisions, and 
ordering Payment for the same; and for the good 
Government of the King's Household Servants, and 
paying the Wages of those below Stairs. Stat. 39 
Eliz. c. 7. 

Coutrey, (from the Fr. Courtois to run) An expres 
Mefenger of Halle. 

Courtattire, A French Word signifying a Horse-
Coutier. 3 Ed. 710. 

Court, (Curia) Signifies the King's Palace, or 
Manion; and is more especially the Place where 
Justice is administered. The Superior Courts 
are those at Welfminster; and of Courts some are of 
Record, and some nor, which are accounted Bye 
Courts, in Refpect of the Right: A Court of Record 
is that Court which hath Power to hold Pleas, ac

COURTS
Common Law, nor enrolled as the County Court, and the Court Baron, see 1 Inf. 117, 260, 4 Rep. 52, 2 Bell. Abr. 574. Every Court of Record is the King’s Court, though its Subjects have the Benefit of it; and the Court of Record and the Court of Record, is to be granted to the People: The Leet and Town are the King’s Courts, and of Record. 2 Dane. 259. The Rolls of the Superior Courts of Record are of such Authority, as no Proof will be admitted against them; and they are only triable by themselves. 3 Inf. 71. But the County-Court, Court Baron, &c. as they are no Courts of Record, the Proceedings therein may be denied, and by a Jury: And upon their Judgment, a Writ of Error lies not; but Writ of False Judgment. 1 Inf. 117. At the Courts at Westminster, the Plaintiff need not swear at large in his Declaration, that the Cause of Action arises within their Jurisdiction, it being general: Inferior Courts are to show it at large, because they have particular Jurisdictions. 1 Litt. Abr. 371. Also nothing shall be intended to be within the Jurisdiction of an inferior Court, but what is expressly so alleged: And if Part of the Cause arises within the inferior Jurisdiction, and Part thereof without it, the inferior Court shall not to hold Place. 2 S. 104. 2 Rep. 16. An inferior Court not of Record cannot impose a Fine, or Impression: But the Courts of Record, may impose, and be granted or assessed. 11 Rep. 43. The King being the Supreme Magistrate of the Kingdom, and intrusted with the executive Power of the Law, all Courts Superior and Inferior ought to derive their Authority from the Crown. Stew. 54. 2 Hawk. P. C. 2. Though the King himself cannot fit in Judgment in any Court upon an Indictment, because he is one of the Parties to the Suit. Hawk. Eliz. The King hath control over all his Power Judicial to one Court or other. 4 Inf. 71. And by Statute it is enacted, that all Persons shall receive Justice in the King’s Court, and none take any Diffrer, Er. of his own Authority, without Award of the King’s Courts. Stat. 52 Hen. 3; cap. 1. It is said the Customs, Proceedings, and common Judicial Proceedings of a Court of Law, is not any Court. And the Determinations of Courts, make Points to be Law. 2 Rep. 16; 4 Rep. 53. Hob. 298. All Things determinable in Courts, that are Courts by the Common Law, shall be determined by the Judges of the same Courts; and the King’s Writ cannot alter the Jurisdiction of a Court. 6 Rep. 11. The Court of B. R. regulates all the Courts of Law in the Kingdom, so that they do not exceed their Jurisdictions, nor alter their Forms, Er. 22 Car. B. R. And as the Court of King’s Bench hath a general Superintendency over all inferior Courts, it may award such Attachment against any such Court, usurping a Jurisdiction not belonging to it: But it is sometimes usual first to award a Writ of Prohibition, and afterwards an Attachment, upon its continuing to proceed. 2 Hawk. 149, 150. If a Court having no Jurisdiction of a Cause depending therein, do nevertheless proceed, the Judgment in such Court is coram non judice, and void: and an Action lies against the Judges who give the Judgment, and any Officer that executes the Process under them: Though where they have Authority, and give an ill Judgment, there the Party who executes the Process, Er. upon the Judgment, shall be excused. 1 Litt. Abr. 570. Action on the Calf lies against the Plaintiff in an Action for being one of the inferior Courts, where the Action is not out of its Jurisdiction. 1 Vent. 169. And if a Plaintiff on a Contract for a large Sum, splits it into several Actions for small Sums to give an inferior Court Jurisdiction, a Praemunira, Mad. 166. Striking in the Courts at Westminster, is punished by cutting off the right Hand, and Forfeiture of Goods, Er. How Contingents to Courts are punishable by Fine and Imprisonment, Er. Viz. Attachment: See more of Courts, under Tenant. 4

Court of Admiralty, (Curia Admirabilis) Was erected, in generally held, by King Ed. 3, for decreeing Maritime Causes; and the Title of its judge is Supreme Curia Admirabilis Sicilia Lucam tenent, Judex Admirabilis. The Authority of the Admiralty Courts shall be a Court of Record, because it proceeds by the Civil Law; and the Judge has no Power to take such a Recognition, as a Court of Record may: The Proceedings and Proceedings are in the Name of the Lord Admiral, and by Libel; and the Plaintiff and Defendant enter into a Stipulation, or Bond, for Appearance, and to abide the Sentence. 4 Inf. 134, 135. This Court hath Jurisdiction to determine all Causes arising wholly upon the Sea; out of the Jurisdiction of a County: And a Judgment of a Thing done upon Land, is void. 1 Inf. 260. If the Court of Admiralty hold a Peace of an Agreement made at Sea, but put in Writing and sealed in foreign Lands, a Prohibition may be granted; but not if only a bare Remembrance had been made of it at Land. Hob. 65, 212. See Latt. 15. By the Custos of the Admiralty, Goody may be attached in the Hands of a third Person in Case of civil & maritime. March 204.

Court Baron, (Curia Barrius) Is a Court which every Lord of a Manor, hath within his own Precinct: It is an Indispensable Incident to the Manor; and must be held by Precedent, or may be granted; and be granted at the General Court of the Manor. 1 Inf. 58. 4 Inf. 268. A Court Baron must be kept on some Part of the Manor: And is of two Natures. 1. By Custom, which is the Baron or Freeholders’ Court, of which the Freeholders being Suits are the Judges: and this cannot be a Court Baron, without two Suits at least. 2. By Custom, which is called the Cale Court, or Concerns the Caleonyr, Tenants and Caleermens, whereof the Lord, or his Steward is Judge. The Court Baron may be of this double Nature, or one may be without the other: But as there can be no Court Baron at Common Law without Freeholders; so there cannot be a Caleonic Court without Copyholders or Caleonyr. 4 Rep. 26, 6 Rep. 11, 12, 2 Inf. 119. The Freeholders’ Court, which hath Jurisdiction for bringing of Actions of Debt, Trespafts, &c. under 401, may be held every three Weeks; and is something like a Cale Court, and the Proceedings much the same: Though on Recovery of Debt, they have not Power to make Execution, but are to discharge the Defendant’s Goods, and retain them till Satisfaction is made. The other Courts Baron, for taking and sailling of Estates, Surrender’s, Admissions, &c. is held but once or twice in a Year, (usually with the Court Leet) unless it be on Purpose to grant an Estate; and then it is held as often as re quire. In this Court the H. R. may be to inquire that their Lords do not lose their Services, Duties, or Custom; but that the Tenants make their Suits of Courts; pay their Reets and Hestoss, &c. and keep their Lands and Tenements in Repair; they are to present all common and private Nuisances, which may prejudice the Lord’s Manor; and every publick Tri paits must be punished in this Court, by Amonestm, on presenting the same. By Statute, It shall be inquired of customary Tenants, what they hold, by what Works, Reno, Hestoss, Services, &c. And of the Lord’s Woods, and other Profit, Fidblings, Er. Stat. Ext. Mauri. 4 Ed. 1. See my Compleat Court Keeper, 30 Ed. 4 Court of Liberry, (Curia Militaris) Otherwise called the Mural Coil; the Judges of it are the Lord Canby of England, and the Earl Mural: This Court is said to be the Footain of the Mural Law, and the Earl owned a Judge, and a very strong, and ministerial Power for he is not only one of the Judges, but to see Execution done. 4 Inf. 133. See Constables.

Court of Chancery, (Curia Christianissima) Is an Ecclesiastical Judicature, opposed to the Civil Court, or Lay
Courts Ecclesiastical. (Curia Eclesiastica) Are those Courts which are held by the King's Authority as supreme Governor of the Church, for Matters which chiefly concern Religion. 4 S. 321. And the Laws and Practice by the Church of England is governed, are, 1. Divers immemorial Customs. 2. Our own Provincial Constitutions; and the Canons made in Convocations, especially those in the Year 1603, 3. Statutes or Acts of Parliament concerning the Affairs of Religion, or Courts of Ecclesiastical Cognizance; particularly the Rubrics in our Common Prayer Book, founded upon the Statutes of Uniformity. 4. The Articles of Religion, drawn up in the Year 1562, and established by 35 Eliz. cap. 12. 5. And 'in use, by the General Canons Law, where all others fail. See 25 Hen. 8. c. 28. As to Suits in Spiritual or Ecclesiastical Courts, they are for the Reformation of Manners, or for punishing of Heresy, Detraction, laying violent Hands on a Cleric, or any Person; and from their Suits to recover demanded, as Tithes, a Legacy, Contract of Marriage, &c. And in the Canons of this Nature, the Courts may give Bulls, but not Damages: Things that properly belong to these Jurisdictions are Maritimal and Territorial, and Defamatory Words, for which no Action lies at Law; as for false Accusations, one or more Accusers, unlike the like. 13 Eliz. 54. Dyer 240. The Proceedings in the Ecclesiastical Courts, are according to the Civil and Canons Law, by Citation, Libel, Affidavit, Oath, Proof by Witness, and Prelates. &c. and after Sentence, for Contempt, by Excommunication: And if the Sentence is discharged, by Appeal. The Jurisdiction of these Courts, is voluntary, or compul- sory: And the Penalties inflicted by them, are Penalties and Punishments per falsos Avos, by way of Penance, &c. They are not Courts of Record. Vide Common Law. Court of Husting. (Curia Husting) Is the highest Court of Record, holden at Guildhall, for the City of London, before the Lord Mayor and Aldermen, the Sheriffs, and Recorders. This Court determines all pleas real, personal, and mixt: And here all Lands, Tenements, and Hereditaments, Rents and Services, within the City of London, and Suburbs of the same, are pleadable in two Hustings: one called Husting of the Pleas of Lands, and the other Husting of Common Pleas. In the Husting of Pleas of Land, the tenant is not to plead his own Suit to the Sheriffs of London, on which Writs the Tenant shall have three Summons at the three Husting next following; and after the third Summons there shall be three Effusions at three other Hustings next ensuing; and at the next Husting after the third Effusion, if the Tenant makes Default, Proceeds shall be had against him by Grand Jury, or Petty Jury, &c. And if the Tenant appears, the Demandant is to declare in the Nature of what Writ he will; without making Proclamation to sue in Nature of any Writ: Then the Tenant shall have the View, &c. and if the Parties plea to Judgment, the Judgment shall be given by the Recorder: But no Damages, by the Custom of the Town: In which also the Writ of Right Patent Practic. Sali. 416, 417. In the Hustings of common Pleas, are pleadable Writs Ex quo Currit, Writs of Gavelot, of Dover, Writs of the Sheriff, &c. The Writs of Exemptions are taken out in the Husting; and in the fifth Husting the Outlawries are awarded, and Judgment pronounced by the Recorder. If an erroneous Judgment is given in the Husting, the Party making the Error, may apply out of Chancery directed to certain Persons to examine the Record, and therupon do Right. 1 Rel. Abr. 795. Court of Lect, (Leta, Vita franeci plagis) Is a Court of Record, ordained for punishing Offences against the
Case of Marital Debt, (Curia Palatina) A Court of Record to hear and determine Causes between the Servants of the King's Household and others within the Verge; and hath Jurisdiction of all Matters within the Varge of the Court, and of Pies of Trespass, where either Party is of the King's Family; and of all other Actions personal, wherein both Parties are the King's Servants: and this is the original Jurisdiction of the Court of Martial. But the Curia Palatina, erected by K. Charles I. by Letters Patent, in the 6th Year of his Reign, and made a Court of Record, hath Power to try all Personal Actions, as Debt, Trespass, Slander, Treason, Actions on the Case, &c. between Parties, who, and the Liberty whereof extends twelve Miles about Windsor; which Jurisdiction hath since been confirmed by K. Charles the Second: And the Judges of this Court, are the King's Privy Council, and hold, and Knight Marshal for the Time being, and the Steward of the Court, or his Deputy, being always a Lawyer. 

Case of Trespass. 20 Hen. 4, 31. This Case is kept once a Week in Southwark: And the Proceedings here are either by Suit or Attachment; which is to be served on the Defendant, by one Knight Marshal, who, with his Deputy, who takes Bond with Sureties for his Appearance at the next Court; upon which Appearance, he must give Bail, to answer the Condemnation of the Court; and the next Court after the Bail is taken, the Plaintiff is to declare, and set forth the Cause of his Action, and afterwards proceed to Libel and 

Trial by a Jury, according to the Custom of the Common Law Courts. If a Cause is considerable, it is usually removed into B. R. or C. B. by an Habatus Corpus cum causa: Otherwise Causes are here brought to Trial in four or five Court-Days. Praef. Judic. 409, 410. By Statute, the Steward and Marshal of the King's House, are not to hold Pleas of Falsehood, &c. in 12 Eliz. 1. 13. Error in the Marshal's Court may be removed into the King's Bench. 10 Ed. 3. And the Fees of the Marshals are limited by the Stat. 2 H. 4. c. 23. This Marshal is that of the Household; not the Marshal, which belongs to the King's Bench. 

Case of Marital Debt, (Curia Maritialis) Is a Court for Punishing the Officers of Officers and Soldiers in Time of War. And any Jury: For if any Person in Commination, in Time of Peace, put to Death any Man by Marital Law, it is against Article 10 Hen. 4, 52. And 5 Eliz. 1. 53. The Temporal Acts of Parliament have of late enabled our Kings to hold Courts Martial in Time of Peace. 1. 5 Ed. 1. 54. And 5 Ed. 1. 55. And an Oath of trying truly; and Sentence of Death is not to be given unless Nine Concur: And a Field Officer is not to try by any under the Degree of a Captain, and the Court Martial, may be called within the Realm, for trying Offenders against the Laws of War out of the Realm, or a Defender abroad may be sent back to his Regime to be proceeded against. And an Acquittal in Conviction in a Court Martial, is a good Bar to an Indictment. Stat. 7. dem. c. 4. See 1 Geo. 1. c. 9. 7 Geo. 1. c. 6. Court Marshal at Sea, vice Navy. 

Case of Respectful, (Carlo Pedri Palafonari) Is a Court held in Fairs, to do Justice to Buyers and Sellers, and for Redress of Disputes committed in them: So called, because they are most after 

Summer,
Summer, when the Suitor to the Court have duty
 Fees from the Exemption in hearing Caution proper theretowards, before the Judge doth go the Feet of the Plaintiffs and Defendants. 4 Inf. 372. It is a Court of Record incident to every Fair; and to be held only during the Time that the Fair is kept. Dice. C. 11. Snell. c. 5. As to the Jurisdiction, the Cause of Action for Contract, Slander, &c. must arise in the Fair or Market; and not before or after any former Fair, nor after the Fair: It is to be for some Matter concerning the same Fair or Market; and be done, complained of, heard and determined the same Day. Also the Plaint.
iff must make Oath that the Contract, &c. was within the Jurisdiction and Time of the Fair. Stat. 17 Ed. 4. c. 2. 2 Inf. 220. The Court of Perpetuans may hold Pleas of a Sum above 400L. and such, judges may be given at another Fair, as a Court held there: And a Writ of Error lies upon a Judgment given. Dyr. 153. F. N. B. 18. This Court may not meddle with any Thing done in a Market, without a special Custom for it; but for what is done in a Fair only: And not there for slanderous Words, unless they concern Matter of Contract in the Fair; as where it is for Slander of the Wives of another, and of his Person in the same Fair. Mox. c. 8. 844. The Seward before whom the Court is held, is the Judge: And the Trial is by Merchants and Traders in the Fair; and the Judgment against Defendants shall be Read Americ.
iter. If the Seward proceeds contrary to the Statute 17 Ed. 4. he shall forfeit 5L.

Courts of Common Peace. (Curiae Rognatorum.) Was a Court of Equity, of the same Nature with the Court of Chancery, but inferior to it; principally intended for the Relief of such Petitioners, as in questionable Cases addressed themselves to his Majesty. Of this Court, the Lord Privy Seal was Chief Judge, assisted by the Masters of Requests; and it had beginning about the 9. H. 7. according to Sir Thomas Catesby's Travels on the Subject: Though Mr. Goope, in his Preface to his Readings, saith it began from a Commission first granted by King Hen. 6. This Court having affirmed great Power to inflict, so that it became burdensome, Mitch. Ann. 40 & 41 S. in the Court of Common Pleas, it was adjudged upon solemn Argument, that the Court of Requests was no Court of Ju.
dicature, &c. And by the Stat. 16 Ed. 17. Cap. 1. c. 10. it was taken away. 4 Inf. 97. See Courts of Con
cience.

Court of the King's Steward of the King's Courts. The Lord Steward, or in his Absence, the Treasurer and Controller of the King's House, and Steward of the Marshals, may inquire of, hear and determine in this Court, all Treasons, Murders, Man.
slaughters, Bloodshed, and other malicious Strickings, whereby Blood shall be shed, in any of the Palaces and Houses of the King, or in any other House where his Royal Person shall abide. And this Jurisdiction was given by Stat. 33 H. 8. c. 12. 3 Inf. 140. But this Court was at first intended only to inquire of and punish Felonies, &c. by the King's Servants, against any Lord or other Person of the King's Council. 3 H. 7. c. 14.

Court of Star Chamber. (Curiae Camerar Uter.
iae.) A Court created by 3 H. 7. c. 8 which ordain
ed, That the Lord Chancellor, Treasurer, and Lord Privy Seal, calling a Bishop, and Lord of the King's Steward, and Two Chief Justices to their Affidavit, on Bill or Information might make Process against Maintainers, Rivers, Persons unlawfully Affembling, and for other Misdemeanors, which through the Power and Countenance of such did commit them bised up their Heads above their Paults, and punish them as if the Offenders had been convicted at Law, by a Jury, &c. But this Act was repealed, and the Court dis
solved by Statute 17. Cap. 1. c. 10.
Crenatif, The Crenatif or Palford Staff, so called a
familiar word, Crenatif, which Bishop, &c. had the
privilege to carry as the common Figure of their
Religious Office; and become so familiar with their
Priestly Office, by the Delivery of such a Crenatif.
Hence the Word Crenatif did sometime denote the Collation to, or Dipossil
of Bishops and Archbishops, by the Domains of such
Palford Staff; so as when the King granted large
Jurisdictions, Excepts Crenatif, it is meant, except the
Collation or Investiture of Episcopal Sees, &c. Add.

cenatam.

Cretaceous, The Cretaceous or Cretaceous bearer, who
like our Vivere, went before the Prelate, and bore his
Cretaceous, Robertus de Wycombe, Clericus Episcopi
Durham, cum odore Crenatini qvisse occult. Liber de

Cretan, Cretan, Crete, the Cretan, Crete, Crete.
A little Cloth adjoining to a Dwelling-chouse; and enclosed for
use or Abate, or any particular Use. In some old
Deeds Cretase occurs as the Latin Word for a Croft;
but now Teiris & Cretase is most frequent. Ingolph.

It seems to be derived from the Greek Word kretes, signifying, Handy Croft; because such Grounds are
usually measured and extraordinarily dealt by the Hand
and Skill of the Owners.

Crocess, and Crocifasts, Are mentioned in our ancient
Law Books. See Croft.

Croseus, (Croceus) Turning up the Hair into Curls or
Croft; whence comes Croft, crost, crost, as good (Parthorum coqui Dedimus fundendo Capillus Clericorum)
underwater, large cries subatinim, & ad Cocos
Capillorum formam, Gratio. Pat. 51 H. 3.

Croft, Croft, The Seeds or Products of the Harves,
in Corn, &c. Flora, lib. 2. c. 82.

Croft-Roots. None shall shoot in, or keep any
Croft, Root, Hand-gun, Hagbut, &c. but those who
have Lands of the Value of 100l. per Annum: And no Person shall travel with a Croft Root best, or Gun
charged, in Time of War; or shoot within a
Quarter of a Mile of any City, or Market-Town,
unless for Defence of himself or his House, or at a
dead Mark, under the Penalty of 10l. Stat. 33 H. 8.
cap. 6.

Croftes. By Stat. 13 Edw. c. 2. Croftes, Beads,
&c. used by the Roman Catholics, are prohibited to be
brought into this Kingdom, on Pain of 2 Franciums,
&c. and it was said in former Times for Men to
carry Crofts on their House, by which they would
claim the Privileges of the Temples to defend them-

Crown, The Crown, or breeches of a man, its Braces, &c.
which was called a Crenatif, which Bishop, &c. had the
privilege to carry as the common Figure of their
Religious Office; and become so familiar with their
Priestly Office, by the Delivery of such a Crenatif.
Hence the Word Crenatif did sometime denote the Collation to, or Dipossil
of Bishops and Archbishops, by the Domains of such
Palford Staff; so as when the King granted large
Jurisdictions, Excepts Crenatif, it is meant, except the
Collation or Investiture of Episcopal Sees, &c. Add.

cenatam.
Crown, (Corona) signifies the Pofficions and Dignity of a King of any Kingdom. The Crown of England is from the beginning been a sacred and stately Garment, by Right of Inheritance; but sometimes our Kings, for political Reasons, have conferred their Principalities on whom they pleased, e
terfing it lawful to appoint their Successors after them. For Edward the Confessor appointed the Crown, after his Death, at several Times, to William called the Conqueror, and Edgar and Harold; and Harold, after the Death of his Father, upon the Title left him, was crowned by the Archbishop of York; but William of Normandy having slain Harold at the Battle of Hastings, he claimed the Kingdom as well by the Nomination of Edward the Conqueror, as by Right of Conquest, and he was crowned and enjoyed the Kingdom for his Time. See Corun. 4. 57. And to come further down, we find that the Parliament, which had the last Right, had affirmed their Authority in these Cases: The Crown of England and France were entailed on King Henry the Fourth, and his four Sons by right of Partition, in the Life of the Crown. And the Parliament entailed the Crown on Henry the Sixth, and his Issue; also Richard the Third was recognized by Parliament. But the most extraordinary Instance of this Nature was, the Nomination and Appointment of King Henry the Eighth, to whom the Parliament granted Power by his Last Will and Testament to dispose of the Crown and Limitations as his Pleasure, for settling the Inheritance of the Crown; and he by his Will ordained, that his Son Edward should succeed him, and he dying without Issue, his Daughter Mary, and for her Want of Issue, his Daughter Elizabeth to enjoy the Crown in Succession; with Remainders to such as the King by his Letters Patent, &c. should appoint, Stat. 35 Hen. 8. c. 1. After the Death of King Henry VIII. his Son Edward the Sixth succeeded; and he was prevailed upon to appoint the Lady Jane, Daughter to the Duke of Suffolk, (who married King Henry's Sister) a Protestant Lady, by her Letters Patent to succeed him: But this Appointment soon after the Death of K. Edward, was vacated by Queen Mary; the Lady Jane beheld, and the Protestant Reform'd Religion eclipsed during her Reign; but it revived again and received Perfection, by her Successor the glorious Q. Elizabeth. By the Stat. 1 Edw. c. 1. the Parliament acknowledged the Queen to be right Heir to the Crown; and by this Act the Limitation of the Crown consist'd in 35 H. 8. 8 is declared to stand and remain Law for ever. And when King James the First came to the Crown, the Parliament made a Recognition, that upon Queen Elizabeth's Death, the Crown of England, and all the Kingdoms, Dominions, and Rights belonging to the same, did by lawful Birth right and Succession descend to K. James. Stat. 1 Jas. c. 1. After this, I do not find that the Parliament intermeddled in settling the Succession of the Crown till the Abatement of K. James the Second; when the Lords Spiritual and Temporal, and Commons, lawfully re-presenting all the Elites of the People of the Realm, invited over William Prince of Orange, and the Prince Mary, (elded Daughter of King James II.) to take Care of their Rights and Liberties; whom they declared to be King and Queen of England. And by Stat. 1 Wm. & Mar. c. 2. declaring the Declaration of the Lords and Commons for securing the Liberties of the Kingdom, upon which the Prince and Princess of Orange accepted the Crown, the said Prince and Princess were recognized King and Queen of England, &c. for their Lives, and the Life of the Survivor of them; and after their Deaths, the Crown was settled on the Heirs of the Body of the said Prince and Princess, and for Want of such Issue to the Prince and Princess of Denmark, Siller to the Queen, and the Heirs of her Body. Also by 12 W. 3. c. 2. (after the Decree of Q. Mary without Issue) the King appointed the following persons in Succession to the Crown: Elizabeth, Daughter of the late Duke of Brunswick, &c. i.e. the Elded Daughter of King James the First) was declared next in Succession after King William, and the Prince of Orange, and their Issue; and the Crown to remain to the Prince of Orange, and his Issue, and if they were both dead, to the Pooficition of the Crown of those Realms: By these last Acts, Papists are rendered incapable to inherit the Crown of England; and Subjects are abhorr'd of their Allegiance to such; Perions coming to the Crown, are to join in the Communion of the Church of England. And this Nation is not to be engaged in a War for Defence of Dominions not belonging to the Crown. Perions endevouring to deprive the next in Succession to the Crown from succeeding, and who attempt it by any overt Act, are guilty of Treason. Stat. 1 Ann. c. 2. And if any Affair by Writing, &c. that the King or Queen of England cannot make Laws by the Authority of Parliament to bind the Subjects, or they are guilty of Treason. And Prescribing or Speaking it incurs a Pnemiartum. 3 Ann. c. 3. Affirming by Writing or Printing, that any other Person hath Right to the Crown, otherwise than according to the Stat. 1 W. & M. &c. is declared to be High Treason. Stat. ibid. There is no Interrogation in this Kingdom; for when the Crown descents to the right Heir, he is Reas before Coronation, as there must always be a King in whose Name Laws are to be maintained and executed, Hill. 1 Jac. See Defect of the Crown and King.
Crown Office. This is an Office under the King's Bench, of which the King's Coroner or Attorney there is commonly Mafter. The Attorney General, and Clerk of the Crown exhibit Information in this Office, for Crimes and Misdemeanors; the one as an Officer, and the other usally by Order of Court: And here Informations may be laid for Offences and Misdemeanors at Common Law, as for Batteries, Conspira
cacies, Libeling, Nuisances, Contempts, Seditions Words, &c. wherein the Officer is liable to pay a Fine to the King. Fines 500. Somo. 109. By Stat. 4 & 5 W. & M. c. 18. the Clerk of the Crown in B. R. is not to receive or file any Information for Trepass, Batter, &c. without express Order of Court; nor to II
for any Proceeds without taking a Recognizance in an Penalty to prosecute with Effect; and if the Party ap
ppears, and the Plaintiff do not procure a Trial in a Year, or if Verdict fails for the Defendant, &c. the Court shall award the Defendent Costs: But this Act doth not extend to Informations in the Name of the King's Coroner or Attorney, &c. When a Battery is committed by an Officer sent on a returnable Warrant, the Party can make no Proof thereof by Writs of Saucy at Law: it is usual to bring an Information in this Office, where the Party may be a Witness for the King, it being his Suit. Informations in the Nature of Sum Warrantes, brought by the Attorney General, against Corporations, &c. Vide Sum Warrantes.
Cruellum, Was a Garment of Purple, mix'd with many Colors—Duas Passas argentas aurea 
rata, cum duas Uerculis & Crufo aurea. Mon. Angl. Tom. 1. pag. 210. Cruelty. A Crime, or a Magnanimity, On a Robbery or other Felony done, Hue and Cry may be raised by the Country in the Ab
dence of the Conivile, which is called Cury de pois. a Hebr. Hist. B. C. 100.
Crypyt (Crypt) a Chapel or Oratory under Ground: Egregius in Cryptus, accepta aliciae sunt vexum sancti per Cryptam. De Canis.
Cryptum (Crypto) is an Engine invented for the Punishment of Soulds, and unquiet Women, by Drowning them in Water, called in ancient Time a Tembrel, and sometimes a Tribubat. De Canis.
Crypsis (Cryptus) is a kind of a Charm which is written in a secret manner. In Domesday it is called Cathedral Stereis;
Culagum, is when a Ship is laid up in the Dock to be repaired. MS. Arb. Trew Arm. de Plac. Edinb. 5.

culpit, is a Reply of a proper Officer in Be-

half of the King, affirming a Criminal to be Guilty,

after he hath pleaded Not guilty, without which the

Issue to be tried is not joined: It is composed of the

Complement of two Words, ain. Cal. and Prits: the one an

abbreviation of Culphabilitis, and the other derived

from the French Vrai, i.e. Ready: and 'tis as

much as to say, That he is ready to prove the Offen-

sive guilty.

cultura, This Word is often found in old Writ-

ings, and signifies a Parcel of arable Land. Elast.

culturable, (Caluturabilis) is said by some Per-

sons to be derived from Calum et Vercetis, to turn

Tall: And in this Sense, Jab nomine Culvertaglia, was

taken to be on Pain of Cowardice, or being account-

ed Cowards. But in the Opinion of others, it rather

signifies some base Slavery, or the Confinement of an

Estate; being a Feudal Term for the Lands of the

Vassal confined and cheathing to the Lord: And jab

nomine Culvertaglia, in this Signification, was under


culturah and culthorn, Words used for a Cow-


this Word is truly Cava.

cunyte. A Mist or Place to coin Money: Ca-

num Monetum signifies the King's Stamp for Coin-

age; and from the Word Cava, is derived Coin. See

Cana. Cui in Vita, is a Write of Entry, which a Wi-

dow had against him to whom her Husband alle-

nated her Lands or Tenements in his Life-time; which

must contain in it, that during his Life she


And the Heir shall have a Sur cui ante Divorcium,

where the Wife dieth before the Action brought: as

also, by the same formula, Sur cui in Vita, But of an

Estate tall, the Heirs shall not have Sur cui in Vita

ante Divorcium, but shall be put to his Fermodum in


curtey. A Kind of Trial, as appears

by Bradf. in these Words. In Breui de Redo, negotiun

terminatiorum per Curtey-Cuntey. &c. which is taken

to be the Ordinary, as it is found in Br. lib. 4. trad.

Curtey-Cuntey, One who taketh Care of a Thieff. De

Was. Tom. 2.

curteye. An Officer so called, who had

the Charge of a Great Church.

curat. (Curate) is he who represents the Incum-

bent of a Church, Parson or Vicar, and officiates Di-

vine Service in his stead: And in Cafe of Plurali-

ties of Living, or where a Clergyman is old and in-

firm, it is requisite there should be a Curate to per-

form the Cure of the Church. He is to be licenced

and admitted by the Bishop of the Diocese, or by an

Ordinary, having Episcopal Jurisdiction: And when a

Curate hath the Approbation of the Bishop, he usual-

ly appoints the Salary too; and in such Case, if he be not

paid, the Curate hath a proper Remedy in the Eco-

clesiastical Court, by a Sequestration of the Profits of the

Benefice: but if he hath no Licence from the Bishop,

he is put to his Remedy at Common Law, with jus-

must prove the Agreement. S. Right Clerg. 127.

By Statute, where Curates are licenced by the Bishop, they

are to be appointed by him a Stipend not exceeding

50l. per An. nor less than 25l. A Year, according to the

Value of his Living, to be paid by the Redlor

or Vicar: And the same may be done on any Com-plain-

t made. Stat. 12 Ann. c. 2. One Person can-

not be Curate in two Churches, unless each may sa-

tify the Law, by Reading both Morning and Even-

ing Prayers at each Place: Nor can he serve one

Cure on one Sunday, and another Cure on the next;

for he must not neglect to read Morning and Even-

ing Prayer in his Church every Lord's Day: if

he doth he is liable to Punishment. Comp. Incumb.

72. But it is otherwise, when one church Church, or Gar-

pel is a Member of the Paroch Church: and

where one Church is not able to maintain a Curate. Can-

48. A Curate having no fixed Estate in his Curacy,

not being influenced and induced, may be removed at Pleas by the Bishop or Incumbent. Nay. But

there are Perpetual Curates, as well as temporary,

who are appointed where Titles are improper, see

C E B
and no Vicarage endowed: These are not removeable: and are obliged to find them, some whereof have certain Portions of the Tithes fixed on them. Stat. 29 Car. 2. Every Clergyman that officiates in a Church, (whether Incumbent or Subincumbent) by his liturgy called a Curate, must subscribe the Declaration, according to the Act of Uniformity, or are liable to Imprisonment, &c.

Curfew, (of the Fr. Courvuir, i.e. Tager, and Frw., Ignis) Signifies the Ringing of a Bell, or Evening Peal, by which William the First, called the Conqueror, commanded every Curfew to take up or cover his Fire, and put out his Light: And in many Places of England at this Day, where a Bell is commonly rung towards Bed-time, it is paid to King Curfew. Some's Annals.

Curfe, The Word was sometimes taken for the Perfon, as a feudatory and other customary Tenants, who did their Segt and Obede at the Court of the Lord, Kenne's Parac. Antq. 150. And it was usual for the Kings of England, in ancient Times, to feemble the Bishops, Peers, and great Men of the Kingdom to some particular Places, as at the chief Fêtesivals in the Year, and this Assembly is called by our Historians Curia: because they confessed about the weighty Affairs of the Nation. And it was therefore called Curia Regis, Curia Anglæ, Curia Curfa, Curia Publica, &c. See Court.

Curf, abbatifc bute, Is a Deliberation which a Curfew of Judicatures sometimes take, where there is no Point of Difficulty, but they give Judgment in a Cause. Now Brief Ent. And when judgment is final, upon Motion to arrest it; then 'tis entered by the Judges Curia ad vocem uter. Seebr. Epis. 682.

Curf Curfa Sqaie, A Court held by the Lord of the Manor of Gravesend for the better Management of changes and Fêtesials upon the Passage on the River of Thames from thence to London, and plying at Gravesend Bridge, &c. mentioned in the Stat. 2 Geo. 2. c. 26.

Curtia Claustrentis, Is a Write to compel another to make a Fence or Wall, which he ought to make between his Land and the Plaintiff's, on his refusing to do the same. Reg. 155. This Write doth not lie but against him who hath a Clofe adjoining to the Plaintiff's Land, who is obliged to enclose it; and it lieth not but for him who hath a Head or front for the same. It may be made before the Sheriff in the County Court, or in the Common Pleas: And the Judgment is to recover the Incloure and Damages New Nat. Br. 282, 283.

Curfa Donosti, The Lord's House, Hall or Court, where all the Tenants attend at the Time of Keeping Court.

Curfa Pentecosum, A Court held by the Sheriff of Chester, in the Place there called the Pendrey or Pentices: And 'tis probable its being originally kept under a Free boyle, or open Shed covered with Boards, gave it its Denomination.

Curfew, A Measure containing four Bushels, or Half a Quarter. Bleed. lib. 2. cap. 12.

Curfew, Are Persons that carry and dress Leather. No Carrier shall use the Trade of a Boucher, Tanner, &c. or shall carry Skins insufficiently tanned, or gath any Hides of Leather, on Pain of Forfeiture or heavy Hides on Pain 6 l. 8 d. And Persons in London putting Leather to be carried to any but Freeman of the Carriers Company; and such Carriers not carrying the Leather sufficiently, shall forfeit for the Vats on the &c. Stat. 17. 19. 1. The Clause relating to Freeman is repealed; but if any Carrier do not carry Leather sent him, within Sixteen Days between Michaelmas and Lady Day, and in Eight Days at other Times, on Conviction be

fore a Justice, he shall forfeit 5 l. to be levied by Di-

bretts, excepted a Man ofip who shall be subject to the Act, 12 Geo. 2. c. 25. Carriers and such as deal in Leather, may cut and fall it in small Pieces in their Shops to any Per-

sons whatsoever. Stat. 11.

Curfeum, The Year, or Course of a Year: Aduum sol ab annorum Dominicae incipititiis quatuor quinquagesim qwiquam, quam fuit Læftris, & tribus Circuitus. This is Year 1328: for four Times 30

make 100, and five Times 30 make 100. Then five Læfris are twenty-five Years, and three Carri-

erous, three Years, making in all the very Year.

Curtis, (of the Fr. Courvuir, i.e. Curf, or the Carriers belonging to the Chansey, who make out original Writs; and are called Clerks of Carries, in their Oath appointed 13 Ed. 5. There are of these Clerks twenty-four in Number, which make a Corporation of themselves; and to each Clerk is allotted a Division of certain Counties, in which they exercise their Functions. a Inf. 570.

Curfifias terra, Is used for Ridges of Land. 14 Ed. 5.

Curfeus, A sort of light Ships, or Swift Sails: This Word is mentioned in 1. 1. Appo-

ratum the Navig of Sept. 500, except Galis & Cur-

forsa, &c.

Curfeus of England, (You Caufialis Angeles) Is where it is thought a Wife seived in Free-sail, or Billsail, or a Fesse-Tail general, or as Heires in special Title, and hath Issue by her, Male or Female, born alive, which by any Possibility may inherit, and the Wife dies; the Husband holds the Lands during his Life; and is called Tenens per Legem Anglicæ, or Tenant by the Curfifus of England; because this Privilege is not allowed in any other Part of the United Kingdom, except Scotland, now become a part of England. And four Things are requisite to give an Estate by the Carfe, viz. Marriage, Seifon of the Wife, Issue, and death of the Wife. 1 Inf. 30. If Land descended by the Male in Issue of the Husband who hath Issue by her or if the Issue be dead at the Time of her Death, being born alive; the Husband shall be the Tenant by the Curfifus. Afo if a Child is born alive, 'tis not necessary whether 'tis baptiz'd, or ever heard to cry, to make the Husband Tenant by the Curfeus, if it be born alive, 'tis enough. Nolf. 4th. 17. 8. But the Child must be such as by Possibility may inherit; and therefore if Land be given to a Woman, and the Heirs Male of her Body, and the Husband and s Hatt Issue a Daughter, and dies; no Issue, etc. This Issue, if it be neither a Child, nor married Son, is not to be Tenant by the Curfeus. Terms of De 109. This is so, if the Child is rip'd forth of the Mother's Belly, after her Death, tho' it be alive, it will not entitle Tenancy by the Curfifus; for this ought to begin by the Issue, and be consummated by the Death of the Wife, and the Estate of the Tenant by the Curfifus should avoid the immediate Defeat. Ibid. A Man shall not be Tenant by the Curfifus of a bare Right, Title, Use, Revulsion, &c. expectant upon an Estate of Freehold, unless the particular Estate is determined during the Coveteuse; nor of a Seifon in Law; But if a Wife dies before a Rent becomes due, or in the Case of an Adrewson, before the Church becomes void, the Husband shall be Tenant by the Curfifus, though the Wife had only a Seifon in Law: for in this Case no other Seifon could be attainted. P. N. B. 149. 1 Inf. 29. 30. 40. There is no Tenancy by the Curfifus of any Lands in the Province of a special Cu-

flon for it. And where a Husband is estituted to this Tenancy, if after the Wife is an Idiot, and her Estate in the Land found; when she dies, she shall not be 'Tis. If it is any, the King's High Commission by Relation prevents it. Plead. 163. If the Wife be seived in Fre of Lands, and attaint of Felony, but have Issue by her Husband, and she is hanged, &c. 'tis said the Husband shall be Tenant by the Cur-
Curtis: But yet the Land will be forfeited according to this Book. Kitch. 159. Ed. 3. 49. A Woman visited of Land had Daughters, and convented to sustain from that the use of E. her eldest Daughter in Tail; on condition that she should pay to her other Daughter 10l. within the time of the Marrow. And if E. made default, or died without issue before such payment, the Land to go to the second Daughter; the Mother dying, E. took a Husband, and had issue, and died after, and without any issue living, before the Day of Payment: It was here held, that her Husband should be Tenant by the Curtisy. 1 Lem. cap. 283. See Kitch. 1.9.

Curtey, (Curtisy) The Name of King Edward the Conqueror's Sword; which is the first Sword carried before the Kings of England at their Coronation: And it is said the Pons of it is broken as an Emblem of Mercy. Mat. Paris, in H. 4.

Curtillage, (Curtillage, from the Fr. Court, Court, and Sax. Lanb loco) is a Court-Yard, Back side, or Piece of Ground lying near and belonging to a Dwelling-house. 4 Ed. 1. cap. 1. 55 H. 8. c. 4. 59 Eliz. c. 10. Rep. 64. —Miki dicti dictus Curtillaginam à Curtillis &c. spin. locis subb Curtiss ov Curtilli negantur situr. Spelum. And though it is said to be a Yard or a Garden, belonging to a House; it seems to differ from a Garden, for we find, cum pateat Gardino, cap. 5 Ed. 1. c. 14.

Curtile Terrae, Court-Lands. It is recorded, that among our Saxons Ancestors, the Thanes or Nobles who possessed Backland, or hereditary Lands, divided them into Island and Curtile. The Island was that which lay most convenient for the Lord's Manorial Houze; and therefore the Lords kept that Part in their own Hands, for Support of their Families, and for the Support of their tenants; and therefore, where the Lord did best be had for the Island, they shall pay him one Penny, is a good Curtile: but if it be to pay the Lord 2d. it will be naught, for it is unreasonable. Calib. cap. 35. 1 Bull. 203. A Curtile that shall be had within the Liberty of the Manor, shall be considered as a Manor Liberty, as a Manor Liberty, or throughout the Village; and that no other shall have it but by Agreement with him, and if any take it, the Lord may have the same; this hath been held a good Curtile. 1 Rol. 560. The Curtile of a Place, for all the Inhabitants of the Parity, to have Common in a great Wattle of the Lord's for all Manner of Breasts, and to have Liberty to Water their Cattle in such a Pond, and when the Pond was foul, to cleanse it, was adjudged good. Mich. 4 Jac. 1. 2 Brond. 293. A Curtile, that Tenants of a Manor shall graze all the Cattle they breed in their own Houses, in the Lord's Mill, Cft. is good: But Curtile that every Inhabitant of a House held of the Lord, shall grind the Corn that he spends, or shall sell, at his Mill, is void. Mor. cap. 137. Hb. 149. Curtile to have a common Bakehouse in a Manor or Parity, for all the Tenants or Inhabitants, is a good Curtile. 2 Bull. 198. Curtile it, and must always be alleged to be in many Perins, and so it may be claimed by Copyholders, or the Inhabitants of a Place, and when it is claimed, it must be so within such a Country, Hundred, City, Borough, Manor, Parish, Hamlet, Cft. &c. Litt. 110, 113. 4 Rep. 31. A good Curtile or Preeminence hath the Force of a Grant; as where one and his Anceorlors have had a Rent Time out of Mind, and used to disclaim, Cft. But a Curtile that begins by Extortion of Lords of Manors, is judged wanting a lawful Commencement, and therefore void: And where Curtile is amongst many, and they are all dead but one, the Curtile is gone. Plaw. 322. Dyer. 199. Curtile must be construed according to vulgar Apprehension: And are to be taken thereby, being in Derogation of the Common Law, 2 Rol. Abr. 270. They are not good which are merely in the Negative; but if mixed with an Affirmative, they may be good. 1 Rol. 565. A Curtile which may be intended to have been lawful is a good Curtile; otherwise not: Nor will Continuance of Time make Curtile in ipso good. 1 Lit. Ab. 375. Curtile against common Rights and the Rule of Law, are held good.
good, 8 Rep. 126. The Law takes Notice of Cuffions of Governors, &c. which alter Defects from the Common Law, in Favour of all the Sons, &c. And Cuffion of an eldest Daughter to inherit, or a youngest Son, may be good: For these, though contrary to a particular Rule of Law, may have a reasonable Beginning. 1 Nisi. Abr. 529. And by Cuffion a Woman may be endowed of a Moteity of the Husband’s Lands, &c. Allo by Cuffion, an Infant may make a Forkment, at the Age of Fifteen: And Infants may bind themselves Apprentices, G. 2 Dods, Abr. 438. Regularly a Man cannot alledge a Cuffion against a Statute, because that is the highest Matter of Record in Law: But a Cuffion may be alleged against a negative Statute, which is made in Appearance of the Common Law. 1 Inst. 115. And Acts of Parliament do not always take away the Force of Cuffions. Cuffion pleaded against Cuffion is not good. 2 Dods. 436. A Cuffion is to be poetically alleged, by Image in Fact. Layw. 1159. General Cuffions which are used throughout England, and are the Common Law, are to be determined by the Judges: But Particular Cuffions, such as are used in some Cities, Borough, City, &c. shall be determined by Jury. 6 T. & C. 117. Contrafuds pro leg. successor, &c. birth Breach of Law. And Cuffion Men is held to be. &c. Lex. But the Judges of the Court of B. & R. c. B. can overrule a Cuffion though it be one of the Cuffions of London, if it be against natural Reason, G. &c. A Mat to go against. Cuffions of London. The City of London hath divers particular Cuffions, different from any other Place. By the Cuffion of London, when a Citizen and Freeman dies, his Goods and Chattels shall be divided into three Parts, the Wife to have one Part, the Executors another, to discharge Legacies, &c. and the Children entailed for, the other third Part. 1 Dods. Abr. 311, 312. If a Freeman of London hath no Wife, but Children, the Half of his Personal Estate goes to them, and he may dispose of the other Moteity: so if he have a Wife and no Children, the Half belongs to her; but if he have both Wife and Children, then one third Part belongs to the Wife, another third to the Children, and he may dispose of the other third; and if he have Infeudal, the remaining third to their Inheritance, to be distributed according to the Statute. 2 Nisi. 1159. But see 11 Gen. c. 18. An after born Child shall come in with the others, for a Cuffion Share of a Freeman’s Estate. And where any Child dies, before one and twenty, his Share furvives to the other Children; but in Case he die after that Age, at which Time his Father might make a Will of it, there on his dying Infeudal, it shall go according to the Statute of Disturbances. Precod. C. 499, 537. A Devise or Settlement of Lands, does not bar a Child of his Part of the Personal Estate by the Cuffion: But where a Wife is to have a certain Sum out of the Husband’s Eftate, it shall be intended in Satisfaction of her Share. 1 Vern. 753, 1 Chan. C. 160. A Freeman of London dies without Issue, his Widow is to have her Widow’s Chamber, and a Moteity of the Rest of the Eftate; and in an extraordinary Cafe, she was allowed the Benefit of the other Moteity for Life, by Virtue of her Husband’s Will. 1 Vern. 132. 2 Vern. Rep. 110. By the Statute 11 Geo. 1, Freemen by Will may now give and dispose of their Personal Eftates, to whom they think fit; yet if they die Infeudal, such Estates shall be subject to, and be distributed agreeable to the Cuffion of the City. Where a Freeman dies, and leaves Orphan Children under Age, unmarried, the Court of Orphans hath the Custody of their Bodies and Goods, By the Cuffion of London: It is also the same, though he die, or the Children were born out of London. 1 Vern. 143. By the City Cuffion, a Woman is entitled to Aftion on the Caffe for a married woman Where, &c. in London such Woman may be carted: And this reaches to all the Inhabitants within London. 2 Dods. 510. 1 Lilt. 578. A Woman that useth a Trade in London, without her Husband, is chargable without him as a free Woman, as if she had been married, or a free Woman, &c. If she shall be condemned, be put in Prisun till the pay the Debt; also the Bail for her are liable, if the absent her; and the Husband shall not be charged. Privat. Lawlist. And if Aftion of Trespaft be brought against a Woman, and her Husband, and the Wife only arrested, &c. by the Cuffion of London, the Plaintiff may proceed against the Wife. So is the Cuffion of the City of London, that where a Person is educated in one Trade, he may set up another. 1 Saund. 312. If a Debtor be Fugitive, he may be arrester by the Cuffion of London, before the Day, to find better Security. When two Persons are bound as Sures for another, and Recover is had against one of them, he may have Contribution against the other, by the City Laws. 2 Dods. Abr. 310. Debts on simple Contract will maintain an Aftion in London, as well as Debts on Speciality: And if it is the Cuffion of the City, that Aftion of Debt shall be maintained upon such a Contract against Executors or Administrators, who shall be chargeable therewith, as if it were upon a Bond or Obligation. 8 Ca. Rep. 126. 9 Rep. 92. There is a foreign Attachment, by the Cuffion of London, in the Case of a third Person, where one Man owes another any Debt, &c. See Attachment. By the Cuffion of London, every Tenant at Will of any House above 401. per Annum. in the City, ought to go, or have, half a Vestry at the City Hall, to give Warning, on leaving it: And a Landlord recovered half a Year’s Rent, where the Tenant had left the House, &c. without such Warning. Camb. 384. If any Cuffion of London be pleaded and denied, it shall be tried by Writ to the Lord Mayor and Aldermen, to certify whether there be such a Cuffion; who shall make Contribution by the Month of their Recover. 6 Ca. Car. 316. The Courts at Westminster of Course take Notice of the Cuffions of London; but not of any other Place, without being alleged. 1 Rel. Rep. 106. Cuffions of Merchants. Merchants giving two Charters of Strangers to those who fell them Goods, are liable to the Debts of such Strangers for the Goods sold; by the Cuffion of Merchants. Let Mercat. cap. 10. f. 69. If two Persons be found in Court, upon an Account grounded on the Cuffion of Merchants, any one of them may be charged to pay the whole Sum, that both were found in Action. 1 Lilt. 576. And two joint Merchants occupy their Stock and Merchandize in Common, one of them naming himself a Merchant, shall have an Account against the other, and charge him to Recover. By the Cuffion of Merchants, where a Merchant orders his Faktor to buy Goods of a particular Person, there the Merchant is Debtor, and not the Faktor: But 'tis otherwise where the Merchant orders his Faktor to buy Goods generally, without paying of whom: here the Faktor is Debtor, though the Goods come to the Use of the Merchant. 1 Lilt. 576. The Cuffion of Merchants is to Bills of Exchange, that the Indorser shall charge the first Drawer before the Indorser, &c. See Bill of Exchange. Cuffions, (Cutoms) Are used for the Tribute or Toll that Merchants pay to the King, for carrying out and bringing in Merchandise. Stat. 14 Ed. 5, c. 21. They are Duties payable to the Crown for Goods exported and imported, and are due to the King of common Right; first because the Subject hath Leave to depart the Kingdom, and to export the Commodities thereof; secondly, for the Interest which the King hath in the Sea, and as he is the Governor of all the Ports, wherein the Commodities are exported or imported; and lastly, for that the King protects Merchants from Enemies and Pirates. Dryg. 43. The Customs are on Articles of Trade, or Commerce, with Foreign Countries, which is payable out of our own native Commodities, as for Wool, Woodfellis, and Leather; and Parens Cutoma.
Cufums, which are Cufum payble by Merchants, Strand, and their Heads in the Rein of Edw. I, when the Parliament granted them 5d in the Pound for all Merchandizes exported and imported. 8 Stat. 15.

But that which is granted by Parliament, is generally found to be much more than is granted to any other Person for the King for Life; and there are several Sorts of these Subsidies, as Tenage, a Duty granted out of every Ten Pounds of Goods, which was first granted by Parliament to King Edward III. And Poumage, a Subsidy granted for all Goods exported and imported, except Wines, Gr. and is usually the twentieth Part of the Value of the Goods, or 12d in the Pound; and this was first given to Hen. 6, for Life. 1 Natl. A. 83, 584. In the Reign of Edward III, the Great Charter for free Traffick was confirmed: And Ann 6 Ed. III. 58, it was enacted, that no new Culfums could be levied, nor any increased, but by Authority of Parliament. 2 Stat. 60. But though the King cannot lay any Impo to Merchants without Consent of Parliament; yet by his Prerogative he may refrain Merchants from Trading without his Royal License. In the Reign of Edward III, the Parliament enacted, that a Mark should be paid as Cufum for a Sack of Wool. Ann 4 H. 8. 5 Collectors were appointed of the Subsidy of Cloth of Gold, Silver, Veler, &c. And 12d in the Stone for Sweets, Cutters, &c. Ann 4 & 5 Ed. 12 Car. 2. The Subsidies of Tenage and Poumage, &c. were granted to King Charles during his Reign, and the duties of Luthin to his Royal Such censes, down to his Majesty King George II. 58 and many various are the Duties of Cufum granted on for eign Goods and Merchandizes, in the Reigns of King James II. K. William, Q. Anne, and his late and present Majesty. The Tenage Duty granted to King Charles II. was for every Tun of French Wine, brought into the Port of London, by Merchants natural Subjects, 4l. 10s. by Alien Strangers 6l. for Madeira, Veron, Alicant, Sack, Canary, Malaga’s, Madeira’s, and all other sweet Wines, by native Subjects, 1l. 10s. the Tun, by Strangers and Alien 5l. &c. The Poumage Duty was 12d. in the Pound value for all Merchandizes Goods, according to the Book of Rates, except Woolen Cloths made in England, and all for Woolen Broad Cloths, to be paid after the Rate of each 64 Pounds in Weight, by Subjects 5d. 4d. and Strangers 6l. 8d. Stat. 13 Car. 2. c. 4. If Goods and Merchandizes are brought by a Merchant to a Port or Haven, and there Part thereof bold but never put on Land, they must pay the Cufum: and discharging them out of the Ship into another upon the Sale, amounts to a breaking the Law in a certain Subject. If the Cufum Duties are not paid, the Goods will be forfeited. Hill. 24 Eliz. 12 Car. Rpt. 18. By the Statute 21 Geo. 2. c. 22, and above all Subsidies of Tenage and Poumage, and other Duties whatever already payable on any Goods or Merchandizes imported, a further Subsidy of Poumage of 12d. in the Pound is given to his Majesty, his Heirs and Successors, payable by the Importer according to the Rate of the same Goods, as valued in the Book of Rates. Unrated East India Goods are to pay 5l. per Cent. of the Goods Price, for which they shall be sold at the Candle. By the Stat. 15 Geo. 2. c. 34. If any Perfon, to the Number of three or more, armed with offensive Weapons, shall be assem bled in order to be in the illegal Possession of Goods prohibited to be exported, or the Running uncustomed Goods, or the illegal Relinking any Goods, or refusing the same, after Sertificat, from any Officer, or from the Place where they shall be lodged, or in the Refusing any Perfon apprehended for any Offence made Felony by any Act relating to the Cufums or Excise, or refusing any Perfon, who begins in the guilt of any such Offence; or in any Coffee to the Number of three or more, fo armed, shall be fo affilling, or if any Perfon shall have his Face blacked, or wear any Mark or other Disguise when pulling with such men, shall be odered, or in any Act of the like Nature, or refite any Officer of his Majesty’s Revenue, in the Seizing such Goods, or shall main or dangerously wound any such Officer in his attempting to go on board any Vessel or any other place where such Goods or such Perfon when on board and in the Execution of his Office, such each Perfon shall be guilty of Fel ony and suffer Death. On Information of Oath of any Perfon’s being guilty of any of the above Offences, the Justice may certify the Information to one of the Secretaries of State, who is to lay it before his Ma jesty; whereupon his Majesty may make an Order, requir ing the Offender to surrender himself in forty Days after Publication thereof in the Gazette; and in Default thereof, the Order being published twice in the Gazette, and proclaimed in two Markets near where the Offence was committed, and a Copy thereof affixed up in some publick Place there, the Offender shall be taken of Felony and suffer Death. Any Per son having or aiding or aiding any such Offender after the Time for his surrender expired, knowing him to have been so sentenced to suffer, shall be taken, and shall be transported for seven Years. Offences made Felony by this Act, may be tried in any County. If any Officer, &c. in the Seizing, &c. such Goods, or in the endeavouring to apprehend such Offenders, shall be beat, wounded, maimed or killed, or the Goods be refound, the Inhabitants of the Rape, Lath or Hundred, where the Offender shall be convicted, shall recover of the Executors of such Offender, and shall have the same Interest the Offender would have had, or the Interest the Executors shall forfeit to the Executors of any Officer killed; and pay Damages to any Officer beat, &c. not exceeding 40l. and for any Goods refound, not exceeding 200l. A Reward of 50l. for apprehending any Offender; a Perfon wounded in apprehending an Offender to have 50l. extraordinary, and the Executors of a Perfon killed to have 100l. Ships and Vessels outward bound, are not to take in any Goods, till the Vessel, &c. is entered with the Collector of the Cufums; and before Departure, the Contents of the La ding is to be brought in under the Hands of the Lader, &c. Also when Ships arrive from beyond Sea, the Malters are to make a true Entry upon Oath, of the Loading, Goods, Ship, &c. under the Penalty of 100l. And if any concealed Goods are found after Clearance, for which the Duties have not been paid, the Master of the Vessel shall be subjected to the like Penalty. Stat. 13 & 14 Car. 2. Keepers of Wharfs, Keys, &c. landing or Shipping Goods, without the Presence of some Officer of the Cufums, shall forfeit 100l. And refusing Officers of the Cufums in the Execution of their Office, is liable to a Fine not exceeding 100l. Stat. Hid. 6 Geo. 1. Where Officers of the Cufums are hindered in the Execution of their Duty, by Perons armed to the Number of Eight, the Offenders are to be transported for seven Years. If any Goods are put into any Vessel to be carried beyond Sea; or be brought from beyond Sea, and unshipped to be landed, the Duties not being paid, nor agreed for at the Custom House; the same shall be forfeited, one Moity to the King, the other to the Seilor, &c. And by late Statute, Foreign Goods taken in at Sea, by any Coasting Vessel, &c. shall be forfeited, and treble Value. To prevent clandestine running of Goods, foreign Brandy, &c. Imported in Vessels under forty Tuns, the Vessel being escaped by blanking the Ports, or any other Person concealing, Run Goods, he shall forfeit them, and treble Value; and the like Penalty is inflicted for offering such Goods to Sale. 8 & 11 Geo. 1. The Commissioners of the Cufums, shall exact all Goods seized for unlawful Importation, or Non-payment of Duties, to be publicly sold; and damaged Wines for Distillation, &c. And one or more Jurors of the County where any Seilor shall be taken by Officers of Run-Goods, &c. mentioned in Informa tions before them, may administer an Oath to any
Perfon skilled in the Nature and Quality of the Goods, to view the same, and make a Return of the Species and Value; and after they shall be condemned and forfeited. By the late Act, where three Perfons are apprehended and armed with Fire-Arms, &c. to be affiling in the Running of Goods, they shall be guilty of Felony and transported, and 50 l. to be paid for apprehending such Offenders, also the Like Reward to any of them for discovering others. All Perfons two or more in Company, found passing within five Miles from the Sea-Coasts, with any Horses, Cart, &c. wherein are put above six Pounds of Tea, or five Gallons of Brandy, or other foreign Goods of 50 l. Value, landed without Entry, and not having Permits, and who shall carry offensive Weapons, &c. or Assault any of the Officers of the Custom, shall be adjudged Runners of Goods, and be transported as Felons, and all the Goods to be friedit and forfeited: And suspected Perfons lurking near the Coast, not giving a good Account of themselves, may be sent by a Justice to the House of Correction for a Month; and Informers to have 20 l. for every Offender so taken. If any Person offers any Tea, Brandy, &c. to Sale, without a Permit, the Perfons to whom such Offer may be made, and carry it, with all Warehouse belonging to the Custom or Excise; and the Seifors shall have a third Part, &c. and Watermen, Carmen, Porters, &c. in wages. Also Rum Goods are found, shall forfeit treble Value, or be committed for three Months. Ships and Vessels from foreign Parts, having on Board Tea, or Brandy, Rum, &c. in Casks under duty, &c. under any Colour (except for the Use of Seamen) found at Anchor, or hoovering near any Port, or within two Leagues of the Shore, and not proceeding in their Voyages, unless in Cales of unavoidable Necessity, all such Tea, &c. shall be forfeited. Perfons offering any Bribe to Officers of the Custom, to convey at the Running of Goods, to forfeit 50 l. and committing such Officers in entering or leaving Ships, incurs a Forfeiture of 100 l. And if an Officer be wounded or beaten on board any Ship, the Offenders shall be transported, &c. Stat. 9 Geo. 2. c. 35.

There is a Drawerback allowed Merchants for some Goods and Merchandise; and they have Allowance of so much per Cwt. out of the Custom, where Goods are defective, or receive Damage, &c.

By Statute, no Customer or Comptroller of the Custom, shall have any Ships of his own, or meddle with the Freight of Ships. 14 Geo. 1. c. 10. And no Searcher, Surveyor, &c. or their Clerks, Deputies, or Servants, may have any such Ships of their own; nor shall use Merchandise, keep a Wharf, Inn or Warehouse, or practice as a Broker, Attorney, or a Merchant, under the Penalty of 40 l. Stat. 20 H. 6. c. 5. Customers, Collectors, or Comptrollers, shall not concern themselves in any or their Actions, and paid, in Pain to forfeit the treble Value of Merchandise so conveyed, and to make Fine and Rancom to the King. 3 H. 6. c. 3. If any Perfons employed about the Customs and Subsidies take a Bribe, or conspire at any False Entry, they shall forfeit 100 l. and be incapable of any Employment under the King. Stat. 15 & 14 Car. 2. c. 11. Also if any Officer of the Revenue, shall make any collusive Seize of foreign Goods, to the Intent the same may escape Payment of the Duties, he is to forfeit 500 l. and be incapable of serving his Misdely; and the Inquirer and Owner shall forfeit the treble the Value of the Goods so collusively seized. Stat. 5 Geo. 1. c. 11. Officers of the Customs, &c. are not to trade in Brandy, Coffee, &c. or any excitable Liquor, on Pain of 50 l. and Forfeiture of Offices. 12 Geo. 1. c. 28. See Information.

Customs and Forbites, Belonging to Tenure of Lords, which used to owe unto the Lord; which being held from the Lord, he may have a Writ of Custom and Services. See Confutaditor & Servits.

Custode Breviarii, Is the principal Clerk belonging to the Clerk of the Privy Council, whose Office is to receive and keep all the Writs returnable in that Court, and put them upon Files, every Return by its self; and to receive of the Prothonotaries all the Records of the Prinps, called the Peculius; for they are first brought in by the Clerk of Aisle of every Circuit to the Prothonotary, who entered the lijne in the Castles, to enter the Judgment: And four Days, after the Return thereof, the Prothonotary enters the Verdijt and Judgment thereupon, into the Rolls of the Court; whereupon he afterwards delivers them over to the Coffer Breviarum, who binds them into a Bundle. He makes Entry likewise of all Writs of Covenant, and the Concord upon every Fine; and makes forth Exemplification, and Copies of all Writs and Records in his Office, and of all fines levied. The Fines after they are engrossed, are divided between the Coffer Breviarum and the Chirographer; the Chirographer always keeps the Writ of Covenant and the Note, and the Coffer Breviarum the Concord and Foot of the Fine; upon which Foot of the Fine, the Chirographer causeth the Proclamation to be given, and in the manner proclaimed. This Officer is made by the King's Letters Patent; And in the Court of King's Bench, there is also a Coffer Breviarum; to whom the Writs are sent. Any Writs that Court filed, all Warrants of Attorney, &c. and whole Business is to make out the Records of the Privy Council.

Custodes Placitum Cusena, An Officer which feems to be the fame with him we now call Coffer rollorum. Bradl. lib. 2. c. 5.

Custodes Boeretianam, is he who hath the Custody of the Rolls or Records of the Sessions of the Peace, and also of the Commission of the Peace. He is always a Justice of the Peace of the Borough in the County where appointed, and usually some Person of Quality: But he is rather termed an Officer or Minorit, than a judge. Lamb Eiren. lib. 4. cap. 3. p. 373. The Coffer Breviarum in every County is appointed by a Writing signed by the King's Hand, which shall be a Warrant to the Lord Chancellor to put him in Commission: And he may execute his Office by Deputy; and hath Power to appoint the Clerk of the Peace, &c. Stat. 37 H. 8. cap. 1. By Stat. 1 W. & M. c. 21. The Coffer Breviarum is to ruminate and appoint the Clerk of the Peace; but not to fall the Place, on Pain of forfeiting the Office of Coffer rollorum, and other Penalties, &c. The Coffer rollorum, two Judges of Peace, and the Clerk of the Peace, were the Judges of the Town and Burghs of Dagens of Bargs, and Sale of Lands of Papils, &c. by 3 Geo. 1. cap. 18.

Custodes of the Spiritualities, (Coffer Spiritualitatis) is he who keeps the Ecclesiastical Jurisdiction of a Diocese, during the Vacancy of any See; who with us in England is the Archbishop by Prefeption: But (according to Guinis) some Deans and Chapters challenge this Right by ancient Charters from the Kings of this Land. Cusai.

Custodes of the Temporals, (Coffer Temporale) The Person to whom Cusai a vacant See is committed by the King, as supreme Lord; who as a Seward of the Goods and Profits, was to give an Account to the Exchequer, and he into the Exchequer: His Trust continued till the Vacancy was supplied, and the Succesor obtained the King's Writ De Reformatione Temporalium, which was usually after Confirmation in Parliament.

Cur-purse. If any Person claim Free and without the Knowledge of another, cut his Purse or pick his Pocket, and steal from thence to the Value of 12 d. it Felony excluded Clergy. 8 Eliz. 3. lev. 68. See Felony.

Cutter of the Tallies, is an Officer of the Exchequer, in whom it belongs to provide Wood for the Treasury, to serve, under the Governor, to execute the duties of the Office.

Cute, A French Word, in English Coo, from whence comes Coeror, a Tub or Fat for Brewing. Cowell.

Cyclops, A long Garment close upards, and open or large below. *Matt. Par. Ann. 1256. Speaking of the Citizens of London, tells us, they were in ancient regulations ornate, Cycloides or tectis circumbuit.

Cyntzbor. This Word signifies the same with Caneld Blunt.


D.


Dagg, A Gun; an Dagg, a small Gun, or Handgun. See Happy.

Dagenham-Drayc'h, A Duty is granted on Coals imported into London to repair the Walls, and Banks thereof; to be collected and dispersed by Trusteys, *Cf. Stat. 12 Ann. c. 17.

Dagor or Dals, The chief or upper Table in a Monastery; from a Celtic called Dals, with which the Tables of Kings were covered.


Dalmitatica, A Garment with large open Sleeves, at first worn only by Bishops, though made a Distinction of Degrees; so called, because it came originally from Dalmita.

Dalis, Dalus, Delta, A certain Measure of Land.—Et transit Dalimus Maritici tam de rebus quam de prole, *Cf. Mon. Ang. tom. 2. p. 211. In some Places it is taken for a Dutch or Fado, whence comes Dalis. The Dalis priests have been exterminated from narrow Slips of Fallow, left between the ploughed Furrows in arable Land; in which some Parts of England are called Dalis. The pretexts which gave this Word for low Meadow by the River Side. And this seems to be the original Name and Nature of Dais in Kent, where Cooper Island, and fought the British, under a Dalis. *Cf. De Dols. pag. 94. Senator. Ninian.

Damage, (Damasum) Signifies generally any Hurt or Hindrance that a Man receives in his Estate: But particularly is a Part of the Value of the Thing injured, or of the estate以致 of and in, when an Action paffeth for the Plaintiff: For after Verdict given of the principal Cause, the Jury are asked touching Coffs and Damages, which comprehends a Reconciliation for what the Plaintiff hath suffered, by Means of the wrong done him by the Defendant. *Cf. Lit. 357.

This Word Damage is taken in the Law, in two very similar Signification, the one Properly and Generally, the other Relatively: Properly, as it is in Coffs where in Damages are founded upon the Statute of 2 H. 4. c. 1. and 8 H. 6. c. 9. where Coffs are included within the Word Damages, and taken as Damages: But when the Plaintiff declares for the Wrong done to him, to the Damage of such a Sum, this is to be taken relatively for the Wrong which passed before the Writ brought, and is allowed by Reson of the foregoing Trefpafs, and cannot extend to Coffs of Suits, which are future, and of another Nature. *Cf. Stat. 115. p. 117. Greater Coffs may be given in some Coffs, than the Damages laid in the Plaintiff’s Declaration; but if this Plaintiff’s Declaration is only for the Damage done him by the Defendant: But the Coffs are given in Respect of the Plaintiff’s Suit to recover his Damages, which may be sometimes greater than the Damage. *Lill. Abr. 384. Where the Plaintiff shall have no more Coffs than Damages, which the Jury finds to be paid upon them, *Cf. in Actions of Trefpafs, on the Coffs. *Cf. See Stat. 45 Eliz. c. 6. 21 Jac. 1. cap. 16. In Action upon the Coffs, the Jury may find his Damages, or the Plaintiff’s Suit to recover his Damages, upon entering up his Judgment. *Cf. 10 Rep. 115. In Actions upon any Bond, *Cf. for Non-performance of Covenants, the Jury shall assize, and the Plaintiff proves broken; and the Plaintiff may assize any Amount as he thinks fit. *Cf. W. 3. c. 61. Damages are not to be given for this, which is contained in the Plaintiff’s Declaration; and only for what is materially alleged. *Lill. 538. In personal and mixed Actions, Damages were recovered at Common Law: But in Actions, no Damages were recoverable, because none were demanded by the Count or Writ: Whereas in Actions Personall, the Plaintiff counts *Cf. Damages for the injury; and if he recovers no Damages, he hath no Coffs. *Cf. 10 Rep. 115. 117. In a personal Action, the Plaintiff shall recover Damages only for the Tort done before the Action brought; and therein he counts for his Damages: In a real Action, he recovers his Damages prevailing the Writ; and therefore never counts for his Damages. *Cf. 10 Rep. 117. By the Stat. of Glos. 6 Ed. 1. cap. 1. Damages are given in real Actions, Attains of Novell Diffrin, Murr & Ancestry, *Cf. and shall be recovered against the Alienor of a Diffrin, as well as against the Diffrin himself; and the lamented shall have of the Tenant likewise Coffs of Suit; but not Expenses for Trouble and Loss of Time. *Cf. 2 Inf. 288. If the Diffrin make a Forfeiture in Pen and the Diffiriz death, the Heir of the Diffriz shall not recover Damages against the Alienor, because that Branch of the Stat. 6 Ed. 1. only provides for the Diffriz’s Remedy against the Alienor, and not for his Heirs: though if he be diffiriz’d, and the Diffriz dies, his Heirs shall recover Damages against the Diffriz, from the Death of his Heirs. *Cf. 2 Inf. 288. And it is a Rule upon this Statute, that in none of the Writs or Attains therein mentioned, the Demandant shall recover Damages but from the Death of his next immediate Ancesstor. *Cf. 288. For the Insufficiency of the Diffriz, the Tenant shall answer the Damsa for this Aff: And if the Diffriz be able to yield Part and not the whole, the Diffriz and Tenant shall be chargeable; and Judgment is given against the Diffriz and against the Tenant generally. *Cf. 2 Inf. 284. *Darsey Abr. 448. When Damages double or treble are given in an Action newly created by Statute; if no Damages were formerly recoverable, there the Demandant or Plaintiff shall recover those Damages only, and shall not have Coffs, being a new Creation for the Reconcurrence where there was none before: As upon the Stat. 1 & 2. P. & M. for driving of Diffirizes out of the Hundred, *Cf. whereby Damages are given, the Plaintiff shall recover no Coffs, only his Damages, because this Action is newly given. But in an Action upon the Stat. 6 Ed. 6. of Portable Envy, which gives treble Damages, the Plaintiff shall recover his Damages and his Coffs to the Treble, by Reson he was entitled to single Damages before by the Common Law; and the Statute, as Part of the Thing is Coffs, need not award any Coffs to treble; and when a Statute increases Damages, Coffs shall likewise be increased. *Cf. 2 Inf. 289. 10 Rep. 115. In some Coffs double treble Damages, etc.
are allowed: For not setting forth Times: Distrefls wrongly taken; Re fossil, T. &T. Treble Damages are incurred by Statute. Though it is not found by the text which Plaintiff had furnished some Damages in Cases where treble Damages, &c. are inflicted by Law, no Damages can be awarded. 2 Daws. Abr. 449. And no Damages could be recovered at the Common Law, but against the Wrong doer, and by him to whom the Wrong was done. 2 Inst. 281. Damages shall be recovered in Writ of Admistration of Dower; but not in a Writ of Admistration of Pallium. 2 Daws. 457. In Writ of Partition, by one Coparcener against another, it is said no Damages shall be had; in a Forfeiture, no Damages shall be recovered; in a Napter Oath, Writ of Account, Writ of Execution, &c. Vide 455. 456. Damages and Costs are due in a Writ of Annuity; and if the Jury and for the Plaintiff, and do not affect the Damages, it will be Error; though he may after Verdict release the Damages, and take Judgment for the Annuity. 11 Rep. 76. Dyer 520. 529. Where Damages are awarded for Delay of Execution, and being kept out of the Money, they are usually allowed by allowing the Party what lawful Interest he might have. In real Actions, Damages are assessed by Writ of Execution; Where the Jury find the Value for the Plaintiff, they do not affect the Damages. And in Actions upon the Case, Costs, and Damages are annexed, it is left to the Jury to inquire of and tax them: In Debt, which appears certain to the Court what it is, the Damages are assessed by the Jury are final, and the Maker in B. R. tarteth the Costs; which is added thereto, and called Damages. 1 Salk. 350. When Judgment is given by Default, in Action of Debt, the Court is to assess the Damages, and not the Jury: So if Judgment by Nullit deiet, in Action of Debt. And if on Damner for taking Goods, &c. it is adjudged for the Plaintiff, though Damages are found by Writ of Execution, the Court may increase or mitigate the Damages, because the Court might have assessed them without such Writ. 2 Daws. 452. In Writ of Trespass de Ceaus fraudata, and when there is a Writ to inquire of Damages in Trespass; in Action of the Case for Slander, where the Jury tax Damages, or in an Affile, the Judges cannot increase or abridge the Damages; It is otherwise on a Writ of Execution in Debt, Devisor, Covenant, Mays and Battery; the Court may increase or diminish the Damages. 2 Foss. Damages 28. Dyer 102. 1 Tit. Sent. 68. In Batteries and Wounding, the Court may increase Damages given by the Jury, on View of the Wound, or upon Affidavits made there- of; &c. But it is laid in the Cases at Westmiller only can increase Damages in Action of Assault and Wounding on View, &c. and not Juries of Nisi prius; though they may interpret the Evidence on the Pain, and on such Evidence the Damages may be increased in the Courts above. 3 Salk. 115. If Damages are too final, the Court hath Power to increase them: Or if the Jury affix no Damages, where Verdict is found for the Plaintiff in Action of Debt on Bond, &c. the Court may tax the Damages; though it is otherwise in Action on the Case, &c. 2 Inst. 200. 2 Daws. 449. It hath been held that the Judges may increase, but not decrease Damages; and this is, because the Party may have an Attaint. 2 Daws. 452. But where excessive Damages have never been given, or where they have been, or Mildemeanor in executing a Writ of Execution; the Court hath somewhile relieved the Defendant by a new View, &c. 2 Daws. 452. And where the Damages are excessive, on Motion the Defendant may have a new Trial. Style 455. 1 Nelf. Abr. 457. In Battery, Imprisonment, and taking of Goods, a gainst the Person, the Plaintiff, &c. in another Action, other the Imprisonment, the Third takes the Goods, all at one Time, all are guilty of the Whole, and to be charged in Damages. 3 Lev. 234. See to Rep. 66, 69. In Trespass against two, one comes and pleads Not guilty and it is found Guilty of some Damages, and another comes and pleads the like, and is found Guilty by another Inquest: in this Case, the first Jury shall assess all the Damages for the Trespass. New Nat. 256. Trespass against divers Defendants, they plead Not guilty severally, and the Jury find them all Guilty: The Jury must assess the Damages jointly, for it is but one intire Trespass, and made joint by the Declaration; But if in Trespass against two, the Jury finds one Guilty of the Trespass at one Time, and the other Guilty thereof at another Time, then several Damages may be assessed. If the Plaintiff himself confesses that they committed the Trespass severally, then the Writ shall abate. 1 Rep. 5. Damages may be several, where one Action of Trespass is brought for two several Trespasses: And in Action on the Cafe, Damages are divisible, and may be apportioned according to the Wrong. 1 Saund. 253. Also in an Action on the Cafe upon two Promissies, intire Damages may be given; though it be inferred that Damages should be several upon each Promise. 1 Roll. N. S. 455. But if Action is laid, &c. for two several Cases of Action, one of which is not actionable, if intire Damages are given, the Verdict is void: Contra if the Damages are levered. And where Damages are severally assed, and to be given to severall part; no Judgment can be given on the Verdict. 10 Rep. 130. Damages. (Damna Civisram) Was a Fee as- sessed of the tenth Part in the Common Planis, and the twentieth Part in the King's Bench and Exchequer, out of all Damages exceeding five Marks, recovered in their Courts, in Actions upon the Cafe, Covenant, Trespass, Battery, &c. wherein the Damages were uncertain; which the Plaintiff was obliged to pay to the Proctor, the Chief Officer of the Court wherein recovered, before he could have Execution for the Damages: This was originally a Gracefill given to the Proctoraries and their Clerks, for drawing special Writs and Pleadings; but it is taken away by Statute, and if any Officer in the King's Courts, take any Money in the Name of Damages cler, or any Thing in lieu thereof, he shall forfeit Treble the Value. Stat. 17 Car. 3. c. 6.

Damage-tenant, or Tainton. Is when a Stranger's Behalfs are found in another Person's Ground without his Leave or Licence. And doing Damages, by Feeding, or otherwise, to the Grafi, Corn, Woods, &c. In which Cafe, the Tenant whom they damoge may disfain and impound them, as well by Night as in the Day. And if in the Day, at Westmiller only can increase Damages in Action of Affaut and Wounding on View, &c. and not Juries of Nisi prius; though they may interpret the Evidence on the Pain, and on such Evidence the Damages may be increased in the Courts above. 3 Salk. 115. If Damages are too final, the Court hath Power to increase them: Or if the Jury affix no Damages, where Verdict is found for the Plaintiff in Action of Debt on Bond, &c. the Court may tax the Damages; though it is otherwise in Action on the Case, &c. 2 Inst. 200. 2 Daws. 449. It hath been held that the Judges may increase, but not decrease Damages; and this is, because the Party may have an Attaint. 2 Daws. 452. But where excessive Damages have never been given, or where they have been, or Mildemeanor in executing a Writ of Execution; the Court hath somewhile relieved the Defendant by a new View, &c. 2 Daws. 452. And where the Damages are excessive, on Motion the Defendant may have a new Trial. Style 455. 1 Nelf. Abr. 457. In Battery, Imprisonment, and taking of Goods, against the Person, the Plaintiff, &c. in another Action, other the Imprisonment, the Third takes the Goods,
Beasts belonging to the Plough, or Beasts of Husbandry, Sheep, Horses joined to a Cart, or a Horse with a Rider on them, may be driven away Damage fein, though not for Rent. 1 Sid. 422, 440. But the owner may tender Amend, before the Court are impounded; and then the Detainer is unlawful: Also if when impounded the Pound door is open, the owner may take them out. 5 Rep. 76. A Greyhound may be taken Damage fein, unless it be a Dog, or a Conic in a Warren: So a Man may take a Ferret that another hath brought into his Warren, and taken Conies with. If a person bring Nuts and Gains through my Warren, I cannot take them out of his Hands. 2 Douw. 633. But if Men are rowing upon my Water, and insinuating with Nets to catch Fish in my several Piscaries, I may take their Cates and Nuts, and detain them as Damage fein, to flout their further Fishing; though, in my opinion, they cannot cut their Nuts. 3 Cor. 228.

Daim, A Boundary, or Confinement; as to dam up, or to dam: Infa dama, when within the Bounds or Limits of his own Property or Jurisdiction.

Braud. 2. c. 37.

Damsitella. A light Damned or Miss. Stat. 12 Ed. 5. c. 6.

Dammum abaque injuria. If one Man keeps a School in such a Place, another may do so likewise in the same Place, though he draw away the Scholars from it: And this is Dammum abaque injuria: but he must not do any Thing to disturb the other School. 3 Salk. 10.

Daim. The better Sort of Men in this Kingdom had the Title of Dam; as the Spaniards, Dons, from the Late Dominus

Damegeit, or Dama-gell, (Damegileum) Is composed of the Word Dame, which signifies Money; and was a Tax or Tribute of 11, and after of 22, upon every Hide of Land through the Realm, laid upon our Ancients the Seignories by the Dames, when they lorded it here. Com. Brit. 83, 142. According to some Accounts, this Tax was levied for clearing the Seas of Danish Pirates; which heretofore greatly annoyed our Coasts: But King Edward being much deferred by the continual Invasions of the Dames, to procure his Peace, was compelled to charge his People with very heavy Payments called Damageit, which he paid to the Dames at several Times. Hackett, p. 100. Annal. 544. Ingolph. 510. Selden's More Clav. 190. This Damaugit was levied from the Crown, and the Crown levied again by William the First and Second; Then it was released again by King Henry the Fifth, and finally by King Stephen. It is probable that this ancient Tax might be a precedent for our Land Tax of 3s. 4d. in the Pound, when first granted.

Danteleg, Was the Law of the Dames when they governed a third Part of this Kingdom. See Mortonage.

Dangrèia, A Payment in Money made by Forel Tenants, that they might have Liberty to Plough and sow, at the Time of Passage or Marching. Manw. For. Lawer. Daufier, (2 Dopes ferendus) Was at first a Domelick Officer, like unto our Steward of the Husband; or rather Clerk of the Kitchen: But by Degrees it was used for any Edicular Servant, especially the Chief Steward or Head Bailiff of an Honour or Manor. There is Mention made in our ancient Records of Daufier Regis which is taken for Steward of the King's Household. Crowil.

Darbus, i.e. a Dart: In Wales an Oak is called a Dart. Dart ab Raimentament. To give away in Fee, or for ever. Glam. lib. 7. cap. 1. This seems to be only of a Remainder.

Darrett, Is a Corruption from the Fr. Derouer, Ultima in which Sense we use it: As Darrett Concessions, &c. Darrett Proffentment, (Ultima Proffentent) See Affile of Darrett Proffentment.

Date of a Deed, Is the Description of the Time, when the Day, Month, Year of our Lord, Year of the Reign, &c. in which the Deed was made. 1 Inf. 6. But the ancient Deeds had no Dates, only of the Month and the Years, till they were not made in Haste, or in the Space of a Day, but upon longer and more mature Deliberation. Bount. If in the Date of a Deed, the Year of our Lord is right, though the Year of the King's Reign be mistaken, it shall not hurt it. 2 Cor. 261. A Deed was dated 50th March 1701, without Annus Dominici and Annus Regni: and it was adjudged that both the Year of the Lord and of the King were implicitly in the Deed. 2 Salk. 658. A Deed is good, though it hath no Date of the Day or Place, or if the Date be mistaken, or though it hath an impollable Date, as the 30th of February, &c. But that doth plead such a Deed, without any Date, or with an impollable Date, must feft forth the Time when it was delivered. 2 Rep. 5. 1 Inf. 46. If no Date of a Deed be yet forth, it shall be intended that it had none; and in such Case it is good from the Delivery; for every Deed or Writing hath a Date in Law, and that in the Day on which it is delivered: And a Deed is not Deed till the Delivery, and that is the Date of it. Med. Ca. 244. 1 Inf. Abr. 525. An impollable Date of a Bond, &c. is no Date at all; but the Plaintiff must declare on the Bond as made at a certain Time: And if the express Date be infensible, the real Date is the Delivery. 2 Salk. 455. Where there is none, or an impollable Date, the Plaintiff may not count of any Date. 1 Litt. Abr. 593. If there be a mistaken Date, or an impollable Date, &c. the Plaintiff may form a legal Date in the Declaration, whereverupon the Defendant is answer to the same: And not to the Date Telo. 194. If a Deed bears Date at a Place outside the Realm, it may be averred that the Place mentioned in the Deed, is in some County in England; and here the Place is not transferable: without this the Deed cannot be tried. 1 Inf. 261. A Deed may be dated at one Time, and sealed and delivered at another: But every Deed shall be intended to be delivered on the same Day it bears Date, unless the contrary is proved. 2 Inf. 674. Though there can be no Delivery of a Deed before the Day of the Date; yet after there may. Telo. 138. So that a Deed may be dated back on a Time pull, but not at a Day to come. See Deed.

Daremblet, or Daffh, (Dattum) Signifies that may be given or disposed of at Will and Pleasure. Stat. 9 K. 2. c. 4.

Dabata tenns, Dabatus, A Portion of Land so called in Scotland. Scone.

Day, (Diet) Is a certain Space of Time, containing twenty-four Hours; and if a Fact be done in the Night, you must say in the Proceding, This Fact was done on the 1st day of the New Moon, &c. at the Noxem Domini. Duram aliis in Naturales, aliis Artificialibus: Dies Naturalis confuet de 24 horis, & ceteris Dies Solarem & Natum, & ceteris in quo fil protractus ab Orientem, &c. ubi accident, iterum in Occidentem: Dies Artificialis, fieri solutum, in certa transt. &c. 1 Inf. 155. By the usual Description, a natural Day consists of twenty-four Hours, and contains the Solar Day and the Night: And the artificial Day begins from the Rising of the Sun, and ends when it sets. Day in legal Understanding, is the Day of Appearance of the Parties, or Continuance of the Suit where a Day is given, &c. And there is a Day of Appearance in Court by the Writ, and by the Roll; by Writ, 11th...
when the Sheriff returns the Writ by Roll, when he hath a Day by the Roll, and the Sheriff returns not the Writ, there the Defendant, to have his Free- hold, must have a special Suit. In all Actions, it may appear by the Day be hath by the Roll. 1 Inst. 135. In real Actions there are Discrements, common Days, and in all Summons there must be 15 Days before the Appearance. And before the Statute of Artificers feyer Charters, in all Summons and Attachment in Plea of Land, there should be contained 15 Days. 1 Inst. 134. As to Obstructions in B. R. if the Office be committed in another County than where the Court sits, and the Indictment be removed by Certiorari, there must be fifteen Days between every Proceeds and the Return thereof; but if it be committed in the same County where the Bench sits, they may fit de Die in Diem; but this they will very rarely do. Ibid. There is a Day called Dies specia-lis, as in Affidavit in the King's Bench or Common Pleas, the Attachment need not be 15 Days before the Appearance; otherwise it is before Justices adjourned. But generally in Affidavits the Judges may give a special Suit, and the new Court is to take the common Days, and these Days they may give as well out of Term as within. There is also a Day of Grace, Dies Gratiae, and generally this is granted by the new Court at the Prayce of the Demendant or Plaintiff, in whose Delay it is: But it is never granted where the King is Party, by Ad Prior of the Tenant or Defen-dant: nor where any Lord of Parliament, or Free of the Realm is Tenant or Defendant. And sometimes the Day that is quarre Dies ejus, is called Dies Gratiae; for the very Day of Return is the Day in Law, and to them in judgment and progress, but no Default shall be recorded till the fourth Day be pass; unless it be in a Writ of Right, where the Law alloweth no Day but the Day of the Return. 1 Inst. 135. There are several Return Days in the Terms; and if either of them happen upon a Sunday, the Day following is taken instead of it: For Sunday is Dies non Jurisdici; and so it is according to Day and Time, Sir John Baptist in Trinity-Term, all Saints and All Souls in Michaelmas-Term, and the Purification of the Virgin Mary in Hil- lary-Term. 2 Inst. 260. Days in Bank are Days set down by Statute, or Order of the Court, when Writs shall be returned, or when the Party shall appear upon the Writ fierred. Stat. 1 Hen. 3. 32 H. 8. c. 21. And by the Statute de Emenda Exonera of H. 3. the Day in creating in the Leap-Year, and the Day next going before are to be accounted but one Day. It is commonly said that the Day of Nisi prius, and the Day in Bank, is but one Day but this is to be understood as to Pleas- ing, not to other Purposes. 1 Inst. 135. If a Defendant appears, and the Court gives a Day to another Term: at the next Term, the Judge shall be given, but Proceeds shall be awarded in this Case. 2 Danw. Abr. 476. But after Judge found for the Plaintiff at the Nisi prior, if a Day be given in Bank, and the Defendant makes Default, Judgment shall be given against him. Ibid. 477. To be dismissed without Day, is to be finally dismissed the Court: And when the Justices before whom Causes were depending, do not come on the Day to which they were continued, whether such Absence be occasioned by Death, or other-wise, they are said to be put without Day: But may be revived by Amendment, or Re-Committal, or Restatement, 2 Hen. P. C. 500. Alto by the Common Law, all Proceedings upon any Indictment, &c. whereon no Judgment had been given, were determined by the Defendant, and nothing but the Indictment, Original Writ, &c. which were put without Day, till re-committed by Re-attachment to bring in the Defendants to plead. Though this is remedied by Stat. 2 45 & 55 W. 3. c. 18. and 5 Ann. c. 8. by which such Proceeds, &c. are to continue in

The fame Force after the King's Demise, as they would have done if he had lived. Day-light. In Respect to Day-light, before Sun-rising and an hour of Sun-rise, 10 hours, or 45 min. of a Day by the Common Law; as to Sodiriis committed in the Day-time, when the Hundred is liable. 7 Rep. 6. The Law regularly rejects all Fractions and Divisions of a Day, for the Incertainty. 5 Rep. 1. 1 Inst. 135. See Computation.

Damsman. In the North of England, an Arbitrator or elected Judge is usually termed a Damsman or Domsman: And Dr. Hammond hath, that the Word Day in all Idioms signifies Judgment.

Daspella, Dairy, from Day, Days, Dais, Satt. Day, was at first the Daily Yield of Milk-Cows, or Profit made of them. In Lorrain and Champagne they use the Word Dayer, for the Measuring of the Day labouring People to give an Account of their daily Work, and receive the Wages of it. A Dairy in the North is called Milchhaf; as the Dairy-maid is in all Parts a Milk-maid: She is termed Andeuken by Fletia, lib. 2. cap. 87. Compasus Henriici D. C. Johanne necris de commissione et ob tuonacere de Damsman. Da mini Prioris de Burnnete. Paroch. Antiqu. 548.

Davert, A Ham. As much arable Land as could be ploughed up in one Day's Work, was a Day's Journey, as the Farmers still call it. Hence any young Artificer who affixes a Master Workman in Daily Labour, is called a Daverty. —Confirmatius Abbati et Conventus de Sanctorum et Martyrum et Hierosolymitanae Consociatione et Juxta tempora antiqua, ed. Ant handy. Archidia. Canturi. Rading. MS. f. 90.

Deadly Feast. Is a Precedition of an irreconcilable Hater, till a Person is revenged even by the Death of his Enemies. It was the practice in Stat. 43 Ed. c. 13. And such Enmity and Revenge were allowed by the old Saxons Laws; for where any Man was killed, if a pecuniary Satisfaction was not made to the Kindred of the Slain, it was lawful for them to take up Arms against the Murderer, and revenge themselves on him: And this is called Deadly Feast; which it is conjectured was the Original of an Appeal. Bleust. Vide Feast.

Deal Pleige, (Mortem vandam) A Pledge of Lands or Goods. See Mortgage.

Deasforfet, This Word signifies disfranchised from being Forfet; or that is freed and exempted from the Forest Laws. 17 Car. 1. 16 —Johannes Duci Gratiae, Ec. Palatii. &c. Forester, præconicius, good for the Forcet de Breterwood & Boumenes in illa mancetis & heredis forunatu fat Forefettiati imperpetuam, Ec. Dat. 13 Martii Anno Regni multo vi. — There is likewise Deasforfet, as well as Deasforfeta; which is as much as a Warrior is disfranchised, or broke up and laid in Common. King Henry the Third, in a Charter to the Clergy of the Canons of St. Mary's Quedam, said the Warrones de Stato cum secretis, sui de Warronea Deasforfet et Deaforfet in perpetuum. Placit temp. Ed. 1. and Ed. 2. MS. fol. 144.

Dear, (Dreamus, from the Greek Dimum) Is an Ecclesiastical Governor or Dignitary, so called as he prides over ten Canons or Prebendaries at the least. And we call him a Dean, that is next under the Bishop, and Chief of the Chapter, Ordinarily in a Cathedral Church, the Rite of the Society being called Capitulum, the Chapter. As there are two Foundations of Cathedral Churches in England, the Old and the New, the New erected by King Henry VIII. so there are two Means of creating those Deans: For thole of the old Foundation, as the Dean of York. Ec. St. Peter's, and as near to their Dignity much like Bishops; The King first sending out his Coige a Elfre to the Chapter to chuse such Dean, and the Chapter then choosing the King afterwards yielding his Royal Assent, and the Bishop confirming him, and giving his Mandate to install him:
him: Those of the new Foundation, whose Deaneries were translated from Priories and Convents, to Dean and Chapter of Canterbury, Durham, Ely, Norwich, Winchester, &c. are the same, and in addition to a shorter Course, by virtue of the King's Letters Patent, without either Election or Confirmation; and where, as to the Lord Chancellor, or by special Commission from the King: But the Letters Patent are prefixed to the Bishop for Infringement, and a Mandate for Infringement goes forth. 1 infra. 95. Denes 46. 47. There are four Cathedrals Churches which never had a Dean: as that of St. David and Landaff, where the Bishop is Head of the Chapter, but in his Absence the archdeacon: and there is also a Dean without a Chapter, such as the Dean of Battle in Sussex: Then there is a Dean without a Jurisdiction, as the Dean of the Chapel Royal, &c. In which Sense this Word is applied to the Chief of certain other Churches or Chapels. Spalm. There are four Sorts of Deans: a Dean that has a Chapter, such as the Dean of Canterbury, &c. A Dean without a Chapter, as the Dean of Bath, who has the Duke of Devonshire as his Lord: Court and Jurisdiction to hold Plea of all Ecclesiastical Matters arising in several Parishes within his Peculiar; and who is confirmed by Commission from the Archbishops of Canterbury, like to the Dean of the Archb. The Dean of Battle, founded by William the First, filled the Conqueror, who had Ecclesiastical Jurisdiction within the Liberty of Battle, and is presently the Duke of Kent, and instituted and instituted by the Bishop of Chichester; but not subject to his Visitation. And Rural Deans, who had no Jurisdiction over Parishes, as every Diocese is divided into Archdeaconries and Deaneries: but afterwards their Power was diminished, and they were only the Bishops Substitutes to grant Letters of Administration, Probate of Wills, &c. and now their Office is wholly extinguished, for the Archdeacon and Chancellor of Bishops execute the Authority which rural Deans had through all the Dioceses of England: 1 infra. 51. 57. There are like the Deanery of Deans; and the Deanery of Deans; and the Deanery of Deans, who cannot confirm any Grants. &c. But a Commissary Dean may have the Chapter chuele a Bishop. And if a Dean be elected Bishop, and before Consecration doth obtain Dispensation to hold his Deanship in Commendam, such Dean may well conform, &c. for his old Title remains, and his Deanship is innocent, and other Acts done by him as Dean, are good in Law. Latch 237. 250. Palm. Rep. 462. A Dean and Chapter are the Bishop's Council, to assist him in the Affairs of Religion, &c. to confine his Speeding difficult Controversy, and to confer on every Grant which the Bishop shall make to bind his Successor, &c. A Dean that is so fully sealed of the Law, and not a Minister, is in ablest, and as well as a Bishop. 1 infra. 342. A Deanship is a Spiritual Promotion, and not a temporal one, though the Dean be appointed by the King: And the Dean and Chapter may be in part Secular, and in part Regular. Dyser 10. Palm. 500. As a Deanship is a Spiritual dignity, a Man cannot be Dean and Prelate in the same Church. Dyser 273. See Chapter.

Death of Perget. There is a natural Death of a Man, and a civil Death: Natural, where Nature itself expires and extinguishes; and Civil, is where a Man is forcibly killed, and is disposed of by Law; as where he enters into Religion, &c. If any Person for whole Life any Estate has been granted, remain beyond Sea, or be otherwise aliened seven Years, and no Person or Person shall be accounted naturally dead, though the Party be after proved living at the Time of Evisitation of any Person, then the Tenant, &c. may re-enter, and recover the Possession; in other Cases the Right is in Reversion or Remainder, after the Death of another, upon Affidavit that they have Notice to believe such other dead, may move the Lord Chancellor to order the Person to be produced; and if he be not produced, he shall be taken as dead; and those claiming may enter. 6. 6. 6. An Act made a Leafe in Reversion to L.D. for ninety nine Years, to commence after the Death of J.D. and E.D. who had then a Leafe in Possession for the like Term, if they or any other of their Line of Right. The Plaintiff positively proved the Death of J.D. but as to the Death of E.D. the Proof was that he had been reputed dead, and no body had heard of him for fifteen Years past, and the Defendant not being able to prove that he was alive at any Time within seven Years, this Case was adjudi'ed within the Act 19 Car. 2. 124. 254. In Law Proceedings, the Deming either Party, between the Verdict and Judgment, shall not be Error; so as Judgment be entered in two Terms. 17 Car. 2. c. 8. Where on the Death of Parties to a Suit, the right, &c. shall abide, see 8 & 9 W. 3. c. 10. and Abatement: Death of Judges, &c.

Debts in effe. To take or do any Thing in bene effe, is in Law Signification to accept or allow it as well done for the Present; but when it comes to be more fully examined or tried, to file or fall according to the Merit of the Thing in its own Nature. As in Chancellor, upon Motion to have one of the first principal Defendants in a Cause examined as a Witness, the Court (nor then thoroughly examining the Justice of it, or not hearing what may be objected on the other Side) will often order such a Defendant to be examined in bene effe, &c. That his Depositions shall be taken, and allowed or suppressed at the Hearing of the Cause, upon the full Debate of the Matter, as the Court shall think fit; but in the interim they have a Well-being, or conditional Allowance. 3 Cor. 68. Where a Complainant's Witnesses are aged, or sick, or going beyond Sea, whereby the Plaintiff thinks he is in Danger of losing their Testimony, the Court of Chancellor will order them to be examined in bene effe, &c. so as to be valid, if the Plaintiff hath not an Opportunity of examining them afterwards; as if they die before Answer, or do not return, &c. In either of which Cases, the Depositions taken may be made Use of in the Court of Chancellor, or at Law. But if Parties are alive and well, and do return, &c. after Answer, their Depositions are not to be of Force, for the Witnesses must be re examined.

Debentures. A Soldier's Debenture (Sterpidae Debita) is in the Nature of a Bond or Bill, to charge the Government to pay the Soldier Creditor, or his Assigns, the Sum due upon the auditing the Account of his Years; it was first ordained by an Act made during Oliver's Uproar, An. 1649, and is mentioned in the Act of Oblition 12 Car. 2, in a Manner that every Debenture likewise in the Exchequer; and Debentures are given to the King's Servants, for the Payment of their Wages, Board-Wages, &c. Also these are Called Joint Debentures, &c.

Debts &c. Are Latin Words used in the Bringing of Wits and Actions. And an Action shall be always in the Debt &c. when he who makes a Bargain or Contract, or lends Money to another, or to whom a Bond is made, bringeth the Action against him who is bound, or Party to the Contract and Bargain, or unto the Lending of the Money. But if a Man falls to another a Horse, &c. If he brings Debt for the Horse, the Writ must be in the Debt new. Nat. Br. 283. In Debt against Husband and Wife, for a Part of the Debts due from the Husband, the Writ shall be in the Debt &c. It is in Debt against the Heir, It is to be sued in Debt &c. If he is by Notice, &c. be taught; if an Heir be to bring Debt, it shall be in the Debt; And if a Man be bound to another, and makes his Executor and dies, if the Money due in the
will lie for the Arrarages of an Account against Executors, of Executors by the Teller, 3 & 4 Geo. 2. &c. And the Time in which the Plaintiff must be brought against him only in the Debet, &c. and in all Actions brought by Executors as Executors, though the Duty accrued in their own Time. But Debet & Debetius lies by an Executor for his or his Executors Duty; and if the Executor makes his Executor, and dies, and for Rea due after the Teller's Death, then the Action shall be in the Debet & Debetius.

It is the like Law in Cafes of Administrators, as it is not certain what shall be recovered, only according to the Affidats, 5 Rep. 51. An Executor upon a Devastatio shall be charged in the Debet & Debetius, the Action being upon a Devastatio, 1 Litt 168. In Action grounded on Privacy of Contract, or Action of Escape, it must be brought in the Debet. Cro. Jac. 545. 685. See Executors.

Debet & Debetius are also formal Words made Use of in Writs: And some Writs have these Words in them, which ought not to be omitted. Likewise according to the Diversity of the Caffe, both Debet and Debetus are useless, or Debet Skol in their Use, and a good Permission may be in the Debet & Debetus, or in the Debet only, as the Demantant claims. And if a Person does to recover any Right, whereof his Ancestor was defied by the Tenant or his Angellor, then he ucht the Word Debet alone in his Writ, because his Ancestor only was defied, and the Defidant discontinued: But if he sue for any Thing that is now forth of all denied him, then he ucht Debet & Debetus, by Reason his Ancestor before him, and he himselt utifially enjoyed the Thing sued for, until the Loss was Refund of the Tenant, Rep. 15. 16.

The Writ of Sola Meloquin is a Writ of Right, in the Debet & Debetius, F. N. B. 98.

Debet, (Debitum) is an Action which lieth where a Man oweth another a certain Sum of Money, by Obligation, or Bargain for a Thing sold, or by Contract, &c. and the Debtor may not pay the Debet, at the Day agreed; then the Creditant shall have Action of Debt, if the Debet be due in Money, but is due upon any Specialty, Action of Debt only; for no other Action may be brought for it: If a Man contract to pay Money for a Thing which he hath bought; and the Seller takes Bond for the Money, the Contract is discharged, so that he shall not have Action of Debt upon the Contract, but on the Bond. New Nat Br. 268. If one binds himself in a single Obligation, or with Condition, to pay Money at a Day; or to deliver Corn, or the like, and do not perform it accordingely, the Obligee may bring Action of Debt for it. F. N. B. 110. But if the Obligee be bound to deliver a Sum of Money for much of the Money of F. S. due to him in his Hands; here Debet may be brought: And Debet will lie on a Bond, 3 & 4. Eliz. 12. 165. §. 165. §. A delivers to B. 20l. to B. to buy Goods, and B. gives a Receipt to A. certifying the Delivery and Receipt of the 20l. but doth not promise to deliver the Goods, &c. A. may maintain Debet upon this Debet. Dyer 10. 2 Rep. 256.

If a Man be bound by Bond to pay 20l. in Manser following, sin. 1ol at one Day, and 10l. at another Day; Action of Debet will not lie till after the last Day, it being an entire Duty; But if one binds himself to pay a 10l. at one Day, and 10l. at another, after the first Day Action of Debet lies for 10l. before Several Duty; A. Davis, 10l. On a Bond, Debet lies against the Heir of an Obligee, who has Lands by Defeunt, if the Executors have not sufficient; and the Obligee may bring his Action against the Heir or Executors, although the Executors have Action. Aearv. 7. An Heir mediate may be sued in Debet as if he were immediate Heir, &c. Though the Heir may not bring Action of Debet for a Debet due to his Ancestor; if it be a Specialty, by which the Party is bound to pay it him and his Heirs, the Executor shall neverthe less have the Action. Dyer 386. F. N. B. 110. Action of Debet lies against Executors, upon a simple Contract made by the Teller. 9 Rep. 187. But Debet

4
and the Thing is known, whereas Money is not. (2) But the Plaintiff shall have the Action of Debt against him that lodges or tables with another; by an Inkeeper for the Lodging and Vidiuals of his Cust, &c. A Debt is not a Service, though he doe so service be in a good Seas, 9 Rep. 87. Deed. Do not refer to a Matter upon the Buying of the Servant, unless it come to the Maker's Use, or be by his Agreement. Deed. &c. 137. Action of Debt lies against the Husband, for Good which were delivered or told to the Wife, if they come to the Use of the Husband. 1 Lif. 400. If one delivers Meat, Drink, or Cloth, to an Infant, and he promises to pay for them, Action of Debt or on the Cafe, will lie against the Infant. Though Debt may not be brought on an Account fitted with an Infant. And what is deliver'd, must be return'd to be for the necessary Use of the Infant. A Lif. Abr. 401. An Attorney shall have Action of Debt against his Client, for Money, which he hath paid to any Person for the Client, or for his Use, &c. A Person may have Debt upon an Arbitriment; but not for Debt referred to Arbitration, which must be Action on the Cafe. All Debt lies for Money received upon a Judgment, &c. Do. 57. A Reciproc. in C. B. he must bring the Action in Middletown, the Record being there; but a Sci. fac. to execute Judgment, must be what is the Ordinance of the County, viz. Nat. Reg. 267, 268, 269. When Judgment is had in the King's Bench, and a Writ of Error brought in the Exchequer Chamber, or in Parliament; yet an Action of Debt will be upon the Judgment: In this Case, if the Plaintiff levies Part of his Money by Execut, he may likewise bring Debt for the Redund. 1 Sid. 256, 184. If a Man recovers Dew, or Damages in London, on Action there brought there by the Cust of the Company, which lies not at Common Law; when it is become a Debt by the Judgment, Action of Debt lies in the Courts at Writs upon this Judgment. 2 Dav. 449. Action of Debt will lie for Breach of a By-Law, or for Ame- riment in a Court-Lett, &c. 1 Lif. 400. And Action of Debt is sometimes grounded on an Act of Parliament; as upon the 2 Ed. 6. 13. for not setting out Thieves: the 27 El. c. 13. against the Hundred for a Robbery, &c. Against Physicians in London, for prac- tising without Licence, by 14 H. 8. By Affidavits of a Conscription of Bankrupts, 3, (1) 157. A College shall have Action of Debt for Commons of any Kind, adjudged to the College, by 7 El. B. R. For Debt to Bishop, or Parson, or his Deceit, his Executors shall have the Action: But of a Dean and Chapter, Mayor and Commonalty, &c. The Executors are inti- mitated to the F. N. R. But an Action of Debt lies on a Recognition; to upon a Statue Merchant, it being in Nature of a Bond or Obligation; But it is otherwise in Cafe of a Statute Staple. 2 Dav. 407. In bringing this Action, it is the general Rule, that the Party himself to whom the Debt is originally due, whilst he doth live must bring the Action and after his Death, his Executors, &c. And the Action must be brought against the Party himself that doth origi- nally owe the Debt, whilst he is living; and after his Death, it may be brought against his Executor, if he be the True Owner and Creditor, and if the Ordinary appoint his, as the Ordinary himself, and if he die the possessor of the Goods, against his Executors, &c. And also against Executors of Executors, &c. In Debt, it may be demanded of the Original, the Pro- cess is Summons, Accomp, and Deficiency: and upon a Default of Sufficient, a Non return of Process, to the Ouantury, &c. And the Judgment in Debt, where the Demand is in the Debt of the Debtor, is to recover the Debt, Damages and Costs of Suit; and the Defen- dent must be present at the Trial. But if a Defunct's Writs be not in the Deed, then a Captain pro Fisco illium, 1 Rep. Abr. 523. The Defendant in Debt pleads a Refereve, if at the Trial makes Default, the Plaintiff shall have Judgment for his Debt, without costs, and the Sheriff, if upon a Warrant, the Payment had been pleased. (2) In the Case of the Plaintiff in Debt, declares on some Specialty, or Contract for a Sum of Money, it must be certainly de- manded, and no other, and then the Defendant can not be a debtor, but it must be shown how the Remainder was satisfied: But in an Action upon a Statute, that gives a certain Sum for the Penalty; though left be re- covered than the Plaintiff lays, it will be good. 18. If Action of Debt is brought on a Specialty, if a Bond, Lease, &c. the several Writings must be well considered by which the Plaintiff warrants his Action, and the Sum due is to be rightly set forth; and if it be for Debt for Rent, the Time of Commencement, and Ending, &c. Also in Debt on Account, the Attor- ney must know when the Accounts were made up, and before whom, what the Party was to account for, and Time when, which are to be laid in the Declaration. C. 13. 11. That as the Bill the Defendant may plead Payment (before the Action the Defendant) in Bar: And pending an Action, on Bond, &c. the Defendant may bring in Principal, Interest, and Costs, and the Court shall give Judgment to discharge the De- fendant. Stat. 4 & 5 Ann. c. 16. Debt to the King. Under this Word Debitor, all Things due to the King are comprehended; as all Rents, fines, issues, Amercements, and other Du- ties received or levied by the Sheriff, for Debtor in the larger Sense, signifies whatever any Man owes. 2 19. The King's Debt is to be intended before that of a Subject, and until his Debt be paid, he may pro- test the Debtor from the Array of others. 1 19. But by Statute, notwithstanding the King's Provisions, Creditors may proceed to Judgment against his Debtor, with a Tres Exictui tollis the King's Debts be paid. 25 Ed. 5. Lands, &c. of the King's Debtor and Accoun- tants, may be sold as well after his Death, as in his Life-time; But if the Accountant or Debtor to the King had a Service during his Life, his Heir shall be di- charged of the Debt. 27 Lif. c. 10. A Person being in Debt to the King, purchaseth a Lease to him and his Wife, and dies; the Term in the Wife's Hands is liable to the Debt. 2 Rev. Abr. 157. Though it is said if he purchase Lands in his own and his Wife's Names, it is not liable to the Debt. 2 Rev. Abr. 157. Though it is said if he purchase Lands in his own and his Wife's Names, it is not liable to the Debt. 2 Rev. Abr. 157. It may be said if he purchase Lands in his own and his Wife's Names, it is not liable to the Debt. 2 Rev. Abr. 157. It may be said if he purchase Lands in his own and his Wife's Names, it is not liable to the Debt. 2 Rev. Abr. 157. If a Tenant in Tail becomes indebted to the King, by Receipt of the King's Money, or otherwise; unless it be by Judg- ment, Recognition, Obligation, or other Specially original due to the King, or upon a Bond of Life and then dies, the Land in the Hands of the Wife in Tail shall not be extended: But it may, in either of the above Cases: 7 Rep. 21. 22. By the Common Law, the King for his Debtor had Execution of the Body, Land, and Goods of the Debtor; By Magna Charta, 9 H. 3. c. 8. The King's Debtor shall not be levied on Lands, where the Goods and Chattels of the Debtor are suf- ficient to levys the Debts; for in such Case, the Sheriff ought not to extend the Lands and Tenements of the King's Debtor, or of his Heir, &c. 11 Lif. 19. Also Procure shall not be made by the Plaintiff when the Process be not sufficient: Though in both Cases it shall be made ap- pear to the Sheriff; in the one, that there are Goods and Chattels enough, and in the other, that the Sheriff may levy the King's Debt on the Principal. Judg. She- riff having received the King's Debts, upon his next Account are to discharge the Debtor, on Pain to forfeit treble Value; and the Sheriff are to report the King's Debts to the Sheriff of the County. Stat. 3 Ed. 1. 1 See Execution. Debtor. It is here held, that Debt follows the Possession of the Debtor, being on secure Custody, and not of the Creditor, as in Actions brought, &c. 3 Rep. 163. Where a Debtor is made Executor of K k k
DE

a Will, the Debt is said to be Affid, because it is ex-
tinguished not by Release, but in the Way of Le-
gacy. See 1 S. 109, 110. Two Thirds in Number and Value of Creditors
might make Compromisations with Debtor, and bind all
the rest; making Oath before a Maller in Chancery
how their Debts became due, &c. This Act was
repealed by 9 & 10 W. 3. And there have been se-
veral Statutes for discharging poor insolvent Debtors
out of Prison, where they have had no Estate or Ef-
fects to pay their Creditors, &c. See Prisons.

Dee. (Deceit) Is a false Trick or Device,
whereunto may be drawn all manner of Craft
and Collusion, used to deceive and defraud another, by any
Means whatsoever, which hath no other or more pro-
per Name than Deceit to distinguish the Offence.
Wiff. S. Sum. sect. 68. And there is a Write called
Brave Deceptions, that lies for one that receives Injury
or Damage from him that doth any Thing deceitfully
in the Name of another Perdon Which Write is ei-
ther for the Plaintiff's or Defendant's Cost. And
Br. 50. Deceit is an Offence at Common Law, and
by Statute: And all Pratfices of defrauding or en-
devouring to defraud another of his Right, are pu-
nellad Vires and diversely marked as for Cheating,
Falsity, Forgeries, and Defraudments. And a Devilish or
Alto Plunderer by Deceit shall be expelled the Court.
Stat. 3 Ed. 1. cap. 29. If a Fine be levied by Deceit; or if one
recover Land by Deceit, the Fine, and the Recover-
y shall be void. 3 Rep. 77. And if a Man be
Attorney for another in a real Action against the De-
endant, and afterwards by Corin between such At-
orney and the Defendant, the Attorney makes De-
fool, by which the Land is lost, the Tenant who left
the Land shall have a Write of Deceit against the At-
torney. F. N. B. 96. In a Pracitce good redait, if
the Sheriff return the Tenant fantastommed, where he
was not soommed, by which the Defendant lochad
his Land by Default at the Grand Seope returned; the
Tenant shall have a Write of Deceit against him who
recovered, and against the Sheriff for his false Return;
and by that Write the Tenant shall be restored unto
his Land again: And the Sheriff shall be punished for
his Falsity. Hb. 97. If a Man bring a Write of
Deceit against him that recovers his Debt, entered another Judgment when it should be
havea a Refundactus Ocufer; and it was held that the
Write of Deceit would not lie to reverse the Re-
cord, but only to recover Damages. Hb. 632. If
in a Suit or Action, another Person shall come in
to Court and pretend he is Party to the Suit, and so
the Judgment be holden, &c. 9 & 10 W. 3. But
there are none to the Party himself; or if I have Caufe to have an
Action, and another brings it in my Name, and
lets Judgment go against me by Non suits, or the like:
I may use this Write of Batesoria, Nomine. F. N. B. 96.
March 48. If any one forge a Statue, &c. in my Name, and thus a Capia is thereupon,
below is a Writ; the Writ is writted; I shall have a Writ of
Deceit against him that forged it, and against him
who used it. By Statute, when a Plaintiff is in
Action against a Writ, and it is made a Writ of
Deceit, there are many Frauds and Deccods provided
for the Plaintiff, to make him disallow his Writ, and
answer a Writ of Deceit. And this is the Way of
statute, relating to Artificers, Bakers, Brew-
ners, victuallers, such Weights and Measures, &c.
which are so commonly sold as to the Publick, and
with such frauds and Falsehoods, and with such
practices and the like, as are so generally known,
in the Name of the said Act or the said Law, or other-
wise, he was altogether unknown, in
decrees of our Court, and to its great Damage, &c.

Dee. Bacter, is when a false Writ doth not ap-
ppear at a Trial at Bar; then a Writ goes to the Sheriffs
Apprets. Decem Tails, &c. whereby a Supply
is made of Jurymen to proceed in the Trial.

Defect, is a Statute and against a
Journey, he hath taken Money of either Party for gi-
ing his Verdict so called, because it is to recover the
Money. And he is an Exoneter that will bring this Writ and recover the same,
one half of which shall be to the Professor, and the other
to the King. This Writ also lies against Em-
ployers, masters, &c. for such an Inquest; who shall
be further punished by Imprisonment for a Year.
But a Writ is good against the Embracer, if he
be Licensed, and have no Money; for he ought
to take Money, and also because. It lies against the
Journey, although they do not give a Verdict, if
they take Money; and so, if I said, if they give a true
Verdict, Deceit rumen lies, if they take Money.

Dee. c. 1, Duke, Tar, signifying in our ancient Law, such as were wont to have the
Oblige or Friend of the Parish, or Views of Frank-
plod, for the Maintenance of the King's Peace;
and the Limins or Comps of their Jurisdiction was
ded. And thus it was used in the Laws of King Edward the Confessor, published by
Lambard, Numb. 32. But of late Times December
is not used for the chief Man of a Deceit, or Taria;
but he that is sworn to the King's Peace, and by
Oath of Loyalty to his Prince, is settled in the So-
ciety of a Deceit. A Deceit seemed to extend so far
as a Leet extendeth; because in Leets the Oath of
Loyalty is administered by the Steward, and taken
by all such as are twelve Years old, and upwards,
dwelling within the Precinct of the Leet where they are
born. F. N. B. 69. There are no December in the
States but Leets; and there is a great Diversity be-
tween the ancient and these modern Times, in this
Point of Law and Government. 2 Ed. 73.

Defit. Exemptia, Exemptia, is a Shelving in
Writing the Case of Complaint of the Plaintiff
in an Action against the Defendant, wherein the
Party to the Action is of Virgin Birth, &c. and
And this ought to be clear and plain, because it
impeaches the Defendant, and compels him to an-
swer thereto; it must for such the Plaintiff's
right, and Title, and Action, and the Party and Case
of the Action, the Manper thereof, &c. and the De-

Digitized by Google
mages received. 1 Lev. 17. A Court or Declaration ought to contain Demonstration, Declaration, and Conclusion: In Demonstration, are included three Things; Facts, causes, and Consequences: In a Declaration, there ought to be comprised, Quamvis inter partes Aids accurates, quando quae quae dixerit, anno & loco, & cui debitur: And in the Conclusion, should be averred and offered to prove the Suit and Damage, &c. sustained. Terms of Law 322. A Declaration is an Exposition of the Writ, with the Addition of Time, Circumstances, &c., and must be true and clear, for the Court is not to take Things in it by Implication: But it is not necessary to let forth Matters of Fact, as in a Bill in Chancery, because they are to be tried by a Jury. Wood's Eng. 58. The Law requires four Things in Declarations and Pleadings, viz. 1. Truth. 2. Certainty. 3. Order. 4. Congruity. In personal Actions, the Day, Year, and Place ought to be expressed in the Declaration: but not in real Actions: And if in Trepass the Plaintiff xy if he declares, that it was committed such a Day, &c., the Plaintiff should make his own averments, showing the Days of the Continuance of it, this is good: For that is to be proved in Evidence, for the Increase of Damages. Text 64. In Action of Bond, the Plaintiff in his Answer, must allege a Place where the Bond was made, because the Jury should come from that Place; and if the Defendant denies it, the Plaintiff must prove it. 5 John 5. 1 Nelf. Abru. 619. In Action of Covenant, no more of the Deed need be mentioned in the Declaration, than the Covenant where the Bond is alleged: And if a Defendant pleads Non facit ad factum to a Deed, he allows a Covenant therein to be broken, as laid in the Declaration, and makes the Declaration good, though the Bond be too generally alleged. 2 Cr. 359. In Slender there should be no more Inducement than is necessary: The like is to be observed in Actions upon general Statutes, concluding contra sternam Statum, &c. But in Declarations for Words, the Words spoke are to be laid expressly and positively; not with an hæc verba vel coniunx, nor with a Quamvis tenor Inquisitor, &c. Ex. 645, 817. 5 Mod. 72. And where the Plaintiff declares on, and recites a Statute, he must recite it truly, and 'is erroneous to misrepresent it: though as to the Substance of the Declaration, the Plaintiff might have omitted to recite it. 1 Nelf. 616. In Action on the Cafe Afinimo, the Plaintiff is to declare upon the whole Frome made, and not on a Part of it; or on Trial he will be notififed, and on the Trial, &c. It is good to lay large and sufficient Damages in Declarations; in Debt it is usual to double the Sum, &c. And damages shall not be given, except what is not contained in the Declaration, and only for what is materially alleged. 10 Rep. 115. 1 Litt. Abr. 381. If one declare upon an Obligation, with an he in Ca- riis Prodi, he must on the Juror of it, shew the Obligation, or the Declaration will not be good. And a Plaintiff declaring as Executor or Administrator, ought to set forth the Probate of the Will, and Letters of Administration granted, with a Prefer in Curia; or the Declaration will be sought. 2 Litt. Abr. 412. Where there are two Counts in a Declaration, for Things of the same Nature, it is not necessary to aver, it is not good; for the Defendant is twice charged for the same Thing: But on Arrest of Judgment in such a Case, it was adjudged good after Verdict, and the Court will not take it from the same. 1 Salt. 213. If a Declaration is bad, and the Defendant de- murs, the Plaintiff may set it right in a second Ac- tion, if the Verdict is not given; though of his own, but pleads in Bar, and the Plaintiff proceeds to File thereon, if the Right is found for the De- fendant, the Plaintiff is eftopped by the Verdict from bringing a new Action: And so is it if he had de-
they shall pay for such Copy after the Rate of 4 d. per Sheet, &c; and if any Person refuse to pay for the same, the Clerk is to be left in the Office, with the Clerk that keeps the Files of Declarations, and thereupon the Plaintiff's Attorney giving his Name, and his Plea signed, and no Plaintiff's Judgment; and before any Plea shall be received, the Defendant's Attorney is to pay for the Copy of the Declaration. 1 Lib. 147. And by a late Order in every Cause where (special or common) Bail is filed, and Notice given to the Plaintiff, a Copy of the Declaration shall be delivered to the Attorney for the Defendant, who shall pay for it according to the usual Rate; but if the Defendant's Attorney, or his Clerk in his Absence, refuses to pay for such Copy; or if it happens the Habitation of the Attorney for the Defendant, be unknown to the Attorney for the Plaintiff; then it shall be lawful to leave the Copy, with the Officer of the Court appointed for filing Declarations, which shall be good, giving Notice, Gr. Court Cases Trin. 2 Gra. 220. On the third Day of the following Term after Delivery of the Declaration, the Paper of Rules is to be made up, writing on the Top the Attorney's Name and the Term, and under that the Names of the Plaintiff and Defendant, as A. B. against C. D. &c. and the Paper of Rules must be carried to the Second Day, who will give one peremptory Rule within Eight Days. &c. If a Plaintiff's Attorney may amend his Declaration in B. R. in Matter of Form, after the General Issuet pleaded, before Entry thereof; without paying Costs, or giving Imparison: But if he amend in Substance, he is to pay Costs, or give Imparison: And if he amend in Substance, after a special Plea pleaded, though he would give Imparison, he must pay Costs. 1 Lib. 147. 1 Lib. 499. A Mistake in a Declaration the Plaintiff may amend in C. B. on Notice before the Fifteen-Day, and the Defendant shall have no Advantage of it: Also before Demurrer, or Iffte joined, the Plaintiff may amend, paying 3s. 4d. Costs; and force the Defendant to plead further, or give him a further Imparison without paying Costs: But after Demurrer, or Iffte joined, and when the Pleasings are entered on the Roll, the Plaintiff cannot amend his Declaration; but is to enter a Discontinuance, and proceed de novo. Prolific. Ch. ed. 1. p. 147. On a Lanton in B. R. you may declare against the Defendant in as many Actions as you think fit; but you must have one Original, for every Action in C. B. The Declaration ground at the Writ in the Common Pleas, and Bill of Middlesex in the King's Bench; and in C. B. it is usual to declare in Actions on Squares at B. R., as is practice on a Lanton in B. R. The Days 259. One may not regularly declare in B. R. against a Person that is not in Cathedra Marchi, or hath not filed Bail until he be a privileged Person. 21 Car. B. R. If a Declaration begins Syrius de Placentia Transf. pro suo good, Gr. it may be a Declaration in Caze, or it will serve for either Trespass, or Calm. Com. Car. 115. The Plaintiff's Attorney is not obliged to set his Hand to his Declaration for the Defendant's Attorney must receive it without, if he knows him to be the Attorney in the Cause. By the Law, no Man shall be prejudiced by the ancient Form: so that the Matter of the Action be fully shown in the Declaration, Gr. which shall be good, though the Terms are not perfectly proper. 35 El. 3. c. 15. Vide 4 Gen. 2. 3.

Forms of a Declaration in Dehre in B. R.

A. B. Complainants of C. D. otherwise called C. D. in the Parish of St. Clement's Danes in the County of Middlesex, Gentlemen, in the Cause of the Marshal of the Marches of our Sovereign Lord the King, before the King himself, of a Plea, that be render to the said A. twenty Pounds of good and lawful Money of our Realm of England, and without expense and unjustly detains for that, to wait, That whereas the said C. the tenth Day of September in the fifth Year of his Reign, and the 12th of February in the Second Year of the Great Britain, and in so far, as the aforesaid Parish of St. Clement Danes in the County aforesaid, by his certain Writing Obligatory, sealed with the Seal of the said C. and here fierum to the Court of the said Lord the King, the Date whoseof is the same Day and Year aforesaid, acknowledged himself to be held and firmly bound to the aforesaid A. in the aforesaid twenty Pounds, or any Part thereof, but hath hitherto refused, and still doth refuse to do: Whereupon the said A. afoid, that he is impri- soned, and hath Damage to the Value of ten Pounds; And therefore be bring his Suit, &c.

Form of a Declaration in Cafo on an Allsumptio.

Som. [c. 1.] A. B. Complainants of C. D. being in the County of the Marshal, &c. for that, to wait, That whereas the first Day, and the Year of the Reign, &c. at the Parish of the in the said County of Somerset, at the special Infallibility and Right of the said C. hath held and delivered to the said C. in the proper Life of him the said C. and Daniel Red, &c. at the Price of ten Pounds of lawful Money of Great Britain; be the said C. then and there, that is to say, the Day and Year aforesaid, &c. in Conversation thereof, affirmed upon himself, or under- stood, and to the said A. then and there faithfully prom- ised, that be the said C. would well and truly pay and content in the said A. the aforesaid ten Pounds, unshank thereafter he be shorthanded required: Yet the said C. not regarding his Promise and Affirmation aforesaid, but contravening and fraudulently intending, craftily and fraudfully, to deceive and defraud the said A. in all this Behalf, the aforesaid ten Pounds, or any Penny thereof, hath not paid to the said A. although the said C. was afterwards thereof required by the said A. to wait, on the Day and in the Year, &c. and often after at that Time, &c. aforesaid, be but hitherto always refused, and still doth refuse to pay the same to the aforesaid A. to whom he is bound, and hath Damage to the Value of, &c. And therefore be bring his Suit, &c.

Form of a Declaration in Trespas in B. R.

Wils, [c. 1.] A. B. Complainants of C. D. in Cafo, &c. of that, That be the said C. the Day, &c. in the Year of the Reign, &c. with force and arms, &c. that is to say, with Clubs, Sticks, &c. the Chief of him the said A. called M. Craft, &c. in the County aforesaid, brake and entered, and the Great of the said A. to the Value of one hundred Shipings, then, then and there growing, with certain Brags, that is to say, with Herse, Oxen, Cows and Sheep, eat up, rade down and consumed; and continued the said Trespass at divers Days and Times, in eating up, rading down and consuming the Graff of the aforesaid A. then growing, from the said Day of, &c. in the Year aforesaid, until the Day, &c. (between such Day and the said Day) then next following, and other Injuries that and other Things there did to the said A. against the Peace of our said Sovereign Lord the King, and to the Damage of him the said A. &c. And therefore be bring his Suit, &c.
Deed, (Decretals) Are a Volume or Books of the Canons Law, so called, containing the Decrees of tory Paper; or a Digest of the Canons of all the Councils that have been held under one Head. See Codec Law.

Descerite, Signifies to bring into Order. Min. Angl. Tom. 1. p. 245.


Ded, Is a Warranty in Law; as if it be said in a Deed or Conveyance, That A. B. hath Given, &c. to C. D. it is a Warranty to him and his Heirs. Co. Lit. 304. Allo Ded: imports a Power of giving any Thing. Hab. 1. 11.

Decretation: Ded, (Futum Dedication.) The Seal of Dedication of Churches, or rather the Fast Day of the Saint and Patron of a Church; which was celebrated not only by the Inhabitants of the Place, but by those of all the neighbouring Villages, who usually came thither; and such Assemblies were allowed as lawful: It was usual for the People to fast on this Day; and in many Parts of England, they still meet every Year in Villages for this Purpose, which Days are called Fasts or Fasts.

Dedamia, Dedate, Is a Wit or Commission given to one or more private Persons, for the speeding some Act appertaining to a Judge, or some Court. As it is intended more commonly upon Suggestion, and that the Party who is to do something before a Judge, or in Court, is too weak that he cannot travel; as where a Person lives in the Country, to take an Answer in Chancery, or examine Witnesses in a Cause depending in that Court; to levy a Fine in the Common Places, &c. F. N. B.

Deeds, (Deedum) are Attestated in writing. As the Words of Writs do command the Defendant to appear, &c. anciently the Judges would not suffer the Parties to make Attestations in any Action or Suit, without the King's Writ of Dedamia, to receive their Attestations: But now by Statutes, the Plaintiff or Defendant may make Attestations in Suits without such Writs. New Natur Br. 55. 56.

Deed, (Feoffment) Is an Instrument in Parchment or Paper, but chiefly in Parchment, comprehending a Contract or Bargain, between Party and Party; or an Agreement of the Parties thereto, for the Matters therein contained: And it consists of three Principal Points, Writing, Sealing, and Delivery; Writing, to express the Contents; Sealing, to certify the Context of the Parties; and Delivery, to make it binding and perfect. Terms de ley. The Word Serip- tum or Writing doth not import a Deed; for a Contract may be in writing, and not by Deed, and it is but a parol Agreement: But a Deed may be effectual, although it does not mention, in the Beginning, by or to whom it is made. 1 Ed. Rajm. 38. Of Deeds there are two Sorts, Deeds indented, and Deeds Pell; which Names principally arise from the Form of them, the one being cut in and out at Top, densewise, and the other plain: And a Deed indented by definition is a Deed consisting of two Parts, or more, for there are Deeds Tripartite, Quadrupartite, Sextapartite, &c. in which it is expressed, that the Parties are to have them, probably for their several Seals; and for that it contains more Parts than one, each Part is indented, or cut one of them into the other, that thereby it may appear they have been by the Deedors or Contra. 17th. Symb. St. c. 47. A Deed Pell is a Deed testifying that only one of the Parties to the Agreement hath put his Seal to the same, where such Party is the principal or Immediate Perfomer, whole Content or Act is necessary to the Deed: And it is therefore a plain Deed. without indentures, and is used when the Vendor, for Example, only sells, and there is no need of the Vendee's

Sealing a Counterpart, because the Nature of the Contrafei is such, as it requires no Covenant from the Vendee, &c. Co. Lit. 57. The several Parts of a Deed by Indentures are binded together, to the Party, Granter, or Lessee, who have one; the Feoffee, Granter, or Lessee, who have another; and some other Persons, as Trustees, &c. and the Deed Pell which is single, and of but one Part, is delivered to the Feoffee, or Granter, &c. All the Parts of a Deed indented, in Judgment of Law make but one entire Deed; but every Part is of as great Force, as all the Parts together, and they are esteemed the mutual Acts of either Party, who may be bound by either Part of the same, and the Words of the Indenture are the Words of either Party, &c. But a Deed Pell is the sole Deed of him that makes it, and the Words thereof shall be said to be his Words, and bind him only. Plow. 134, 421, Lit. Sec. 370. And there are other Divisions of Deeds; some are Absolute, and some Conditional; some inrolled, and others not inrolled; some concerning the Real, some the Personal; &c. and some both, in them Matter of Gift or Grant; and others Matter of Discharge. Also in every Deed well made, there must be Writing in Parchment or Paper; Form and Method in the Writing; it must be sealed and delivered; the Parties to the Deed are to be able to make and take; and the Thing to be passed must be a Thing passable for the Money, as is shewn above, 1 Ed. stc. 255. There are several Kinds of Deeds, by which Lands pass from one Man to another; as of Bargains and Sales, Trusts, Leases and Rentals, Indentures to lend the Use of Houses and Residences, Settlements, Leases, Agreements, Exchanges, Mortgages, &c. And Deeds have several formal Parts, out. The Preliminary, Habendum, Redendum, Condition, Covenant, Warranty, Date, Sealing, &c. The Premises set forth the proper Names of the Parties, with their Additions of Place and Quality; and comprehended the Cessation of the Lands and Tenements to be conveyed, with the Consideration of the Deed, as Money, Natural Love, &c. the Premises also contain the Exception, if there be any out of the Land granted; as of Timber, Mines, &c. and in many Deeds there may be an Occasion of a Resto of former Deeds in the Premises, particularly in Agreements of Leases, Mortgages, &c. The Habendum names the Cessation of the Estate granted, for what Time the Grantee is to have it, and to what Use: And it sometimes qualifies the Estate, so that the general Implication of it, which by Contraction of Law pass in the Premises, is by the Habendum may be controlled; but not if the Estate is expressed in the Premises. Likewise an Habendum may explain the Premises, to prevent Wrong; and sometimes the Premises are thereby enlarged. A Freehold cannot be granted by Deed with Habendum at a Day to come: And a Deed or Lease, Habendum from henceforth, includes the Day on which it was dated: But Habendum ad Diem Datae excludes it. The Redendum is that Clause in the Deed, which refers both new Thing to the Gran- tor: as Rent, Suit, Service, &c. and is usually made by the Words Tiding, Paying, Doing, &c. A Lessee cannot refer to any but himself, his Heirs and Executors, &c. not to be referre to himself in the cel of the annual Profits, such as the Heritage of the Land; for that would be repugnant to the Grant, it being a Part thereof. Conditions and Covenant in Deeds, are for the Holding or not holding of the ESTATE granted, on Performance of some Act: And a Condition relating to a real ESTATE, is a Quality annexed by him that hath the Estate, Interest or Title in the land, whereas the Grantor may be deceas- de, deceased, insolvent, or deceased, upon an uncertain Event. Conditions are expressed by those Words; or, upon Condition, provided, that, if, &c. and provided always; L I L and
and it is covenaunted, is a Condition, by Force of the Preaching, and a Covenant, by Virtue of the other Vowes; sometimes a Deed for Land amounts to a Covenant, and sometimes be taken for a Limitation, Exception, Refraction, Exemption, &c. The Warrant in Deds, is to secure the Estate to the Grantee and his Heirs, &c., and is a Covenant real, annexed to the Land granted, by which the Grantor and his Heirs are bound to warrant the estate to the Grantee and his Heirs, and that they shall quietly hold and enjoy it; or upon Voucher, &c., the Grantor shall yield other Lands, to the Value of what shall be evicted. Where a Feoffor grants away all his Estate in the Land, and is not bound to warrant the Title, but the Feoffee is to defend it at his Peril; the Feoffee shall have all the Deds, as Incidents to the Land, although not granted in express Words: But where the Feoffor warrants the Land, it is otherwise, the Feoffee shall have them to defend the Title; and the Feoffee must trust to his Warrant, and have only such Deds as concern the Possession, &c. In writing, solemnize, &c., all contain the Date of the Ded; and it is well Part of it as what is written before. 1 Inf. 6, 47, 201, 355. Plead. 152. Wms's Inf. 223, 225, &c. 1 Nisf. Ab. 234, &c. Deds of Bargain and Sale, are to be registered by Stat. 27 Hen. 8. And all Deds are to be registered in the Counties of York, and Middlesex. Stat. 2 & 3 & 4. A Ded may be good without all the orderly and formal Parts; but without Delivery by the Party himself, or his Attorney lawfully authorized, to the Party to whom made, or some other to his Use, it is no Ded: And the Delivery may be either Absolute or a Condition. 1 Inf. 32. 2 Rep. 2. If a Ded sealed lieath on the Table, and the Grantor faith to the Grantee, Take that as my Ded, or this will force, &c., it is a good Ded, but if he signify it to the Party when sealed, and the Party to whom made takes it up, this is no Delivery, without some Words. Though where Parties have come for that Purpofe, and done every Thing but Deliver, it has been adjudged a good Delivery in Law. Co. El. 7. 1 Lem. 140. A Ded sealed and delivered, 'tis said may be good without signing; for the Seal is the essential Part of the Ded: But it's usual to have Deds signed; and there must be Witness to the Sealing and Delivery, who are to indorse or under write their Names thereon. 1 Inf. 7. 10 Rep. 59. 15 Rep. 56. If the Warrant is not sealed, it cannot be a Ded. And if the Print of the Seal be utterly defaced, the Ded is insufficient, so that it cannot be pleaded; but it may be given in Evidence. 3 Inf. 160. 5 Rep. 23. If any Party be read false to an Illiterate Person, though he figure, seal, and deliver it, it shall not be his Ded, to bind him: Though if he does not require the Ded to be read, and deliver it, he is bound by the fame. 2 Rep. 2. 2 Alb. 48. And if he is that to seal the Ded, cause a Stranger cunningly to read it false, to make the same void; this will not hurt the Ded. 12 Rep. 90. &c. 96. If another Person seal my Ded, and I take it after sealed and deliver it as my Ded; it is held to be good. Park St. 130. But if a Man seal and deliver a Piece of blank Paper, although he also command that a Ded be written in it, and this is done, it is no good Ded. Co. Lit. 171. Regularly there may not be two Deliveries of a Ded, for where the First doth take Effect, the Second is void: Unless it be where the Ded is delivered to a Stranger as an Exrow; or when a Ded is good at first, becomes void afterwards by the Breach of the Seal, or the Person that Coyverts seales a Ded, and after his death delivers it again, &c. Park. St. 144. Co. Lit. 48. 2 Rep. 119. The Delivery of any Ded may be alleged at any Time after the Ded; but not before. In Deds, the Condition is a principal Thing to give them Effect; And the Foundation of Deds ought always to be honest. False Law or false English, will not make a Ded void: But Requisite
is flown to the Court, the Dead shall remain in Court all the Term; in the Hands of the Cafys Registrar; but at the End of the Term, it shall be delivered to the Party. If the Dead is denied, it must remain in Court till the 10th Day following. 3. Wood 235. A Dead men forth with a Prospect in Caro, remains in Court in judgment of Law all that Term; and any Person may during that Term have Benefit by it, though he hath not any Interest to it; the adverse Party may take any Advantage by the Dead that it will afford him. 5 Rep. 74. 1 Nelf. 665. Dead men delivered and delivered cannot be pleaded. 8C. If it not stamped according to Law, 6 & 8 W. 3. Cap. 21. Every Dead that is pleaded, shall be intended to be a Dead Men; except it be alleged to be indented: And if it begins, this Indenture made, it can, though it be not indent, it may be a good Dead Poll. 5 Rep. 20. A Dead Poll commonly begins thus: To all People to whom these shall come, &c. Or, Know all Men by these. See Appendix to Common law, Vol. 1. Edit. 2.

DECEASED, From the Sax. Dena, a Judge or Unquate, are a Kind of Judges in the Life of Man, who without Plantation. A Conviction of the Parties decide all Controversies in that Island; and they are chosen from among themselves. Camb. Brit.

DEER-BAYS, Are Engines, or great Nets made of Cores to catch Deer; and no Person not having a Park, &c. shall keep any of these Nets, under the Penalty of 40s. a Month. Stat. 19 H. 7. cap. 11.

DEER-STAKES, There are several Laws, for the Punishment of Deer-staking; as by 3 Jas. 1. cap. 12. None shall kill or chase any Deer, in any Park or inclosed Ground, on Pain of suffering three Months Imprisonment, and to pay treble Damages: And Persons not having 40s. per Annum, in Lands, or worth 200l. in Goods, &c. are not to use any Gun, Bow, Dog, &c. to kill Deer; and their Guns, &c. may be taken from them. By the 13 Car. 2. cap. 10. It is ordained, that whoever shall shoot, kill, hurt, or take away any Red, or Fallow Deer, from any Parks, &c. shall be liable to a Penalty of 40l. And the Stat. 3d & 4th W. 3. M. c. 10. inflicts a Penalty of 10l. for unlawful Hunting and Coasting of any Deer; and 30l. for Taking, Wounding, or Killing, to be beheaded by Di- freis; which is to be divided into three Parts; one whereto to go to the Informer, another to the Poor, and the other to the Owner of the Deer; and if no Di freis can be had, the Offenders shall be imprisoned 3 Years, and for on the Pillory, &c. Pulling down Pales or Walls of Parks, &c. Deer are inclosed, by this Act is punished with three Months Imprisonment: And the Offences are determined by Justices of Peace of the County where committed. Also by 5 Gen. 1. c. 15 & 28. Persons guilty of Deer-stalking, may be indicted before a Judge of Gaol Delivery, and in that Case be transported to the Plantations for seven Years: And Persons otherwise convicted before they are discharged, are to enter into Bond of 50l. Penalty to the Person injured for future good Behaviour. Keepers of Parks, or shooting Deer without Consent of the Owners, incur a Forfeiture of 50l. and others pulling down Walls and Fences of Parks, are liable to the Penalties inflicted by 3 & 4 W. 3. M. for killing Deer. This and many Laws till the great Inventions of the Walloon-Black made a further Provision necessary, when by Statute 9 Gen. 1. c. 22. it was enacted, that if any Persons armed with Swords, Fire-Arms, or other Weapons of War be found without their Faces known, or being otherwise disguised, shall appear in any Forest, Park, &c. and unlawfully hunt or kill any Deer, &c. to any Person, or Fire to any House, &c. or Books, or send any Person in a Dwelling-house, or other Place; or send any Letter without a Name subscribed, or with a

Mutilated Name, demanding Money of any Person, &c. they shall be guilty of Felony without Benefit of Clergy: And 50l. Reward is given for the apprehension of the Offenders. This Statute is continued for five Years, by 13 Gen. 1. c. 69. Persons convicted a second Time, of hunting or taking away Deer in unclosed Forests, &c. or coming armed with an Intent to hunt or take them, who shall beat or wound any Keeper, &c. shall be transported for seven Years. 10 Geo. 1. c. 32. Before the Charter de Forfis, &c. 3 H. 5. to hunt the King's Deer, in any Forest or Park was Felony; but that Charter ordained that none should take either Life or Member for killing the King's Deer. 2 Roll. Rep. 120. And the Hunting in any Forest, &c. with Vifors or painted Faces in the Day-time, or in the Night with or without such Vifors, if the Party conceal the same, it is Felony by Stat. 11 H. 7. So that we may observe there is some Agreement between our ancient Laws and modern Statutes. A Person was convicted on the Statute of Deer-stalking, and it appearing by the Conviction, that the Deer were not in a Park included, &c. upon Motion in B. R. the Conviction was quashed. 18th. 9. W. 3. Med. Jur. 194. 1. The same Conviction of Deer-stalking, was quashed by the Court of Chancery, because the Indentures into B. R. but the Party doing it, is to give Bond in the Penalty of 60l. to the Judge of Peace before whom convicted, to prosecute such Certificate, and pay the Forfeiture due by the Conviction, or render his Person in a Month after the Conviction confirmed, &c. 5 Gen. 1.

Form of an Indictment for Hunting and Taking Deer.

Midd. II. "THE Jurors, &c. That A. B. of, &c. in the County after said, Tenman, on the Day, and in the Year, &c. about Twelve of the Clock in the Night of the same Day, being assembled with divers other Malefactors and Disturbers of the Peace of our Lord the King yet unknown, with Force and Arms, that is to say, with Staves, Swords, Daggers, and Knives, and other Arms, to the number of D. E. F. G. &c. in the said County, unlawfully and together entered, and the Deer of him the said T. D. then and there grasing, and lying down in the said Park, with two Hare-Dogs or Greyhounds harnessed, and with a Net called a Bocktail, that the said A. B. in the Park after said then had, and the Dogs after said then and there took, kill, and carry away true Fallow Deer, against the Peace, &c. to the great Damage of the said T. D. and against the Form of the Statutes, &c."

De efficio quietum at Tonio, Is a Writ that lies for those who are by Privilege free from the Payment of Tel's on their being mortised therein. P. N. B. 866.

De Espenius militia, A Writ commanding the Sheriff to levy the Expendes of a Knight of the Shire for Attendance in Parliament, being 4l. per Diet, by Statute: And there is a like Writ De Espenius Civium & Burgom, to levy 2s. per Diet, for the Expendes of every Citizen and Burgom of Parliament. Stat. 23 Hen. 6. cap. 11. 4 Stat. 46.

De falsi, Signifies, A Thing actually done; that is done indeed. A King de facto is one that is in actual Possession of a Crown, and hath no lawful Right to the same; in which Sense it is opposed to a King de jure, who hath Right to a Crown, but is out of Pol- position. 3 John. 7.

De facto, (Fr. Defaut) Is commonly taken for Non- appearance in Court, at a Day adjourned; though it extends to any Omission of that which we ought to do. Brodal. Lib. 5, Tract. 2. If a Plaintiff makes Default in Appearance in a Trial at Law, he will be nonsuit; and where a Defendant makes De- jahul,
foault, Judgment shall be had against him by Default, In Action of Debt upon Bond, if the Defendant pleads a Releece, and Iffice is thenceupon joined, if at the Trial the Deffault, Default, the Plaintiff may pray Judgment by Default; because by the Plea the Duty is confesseade, and therefore no Inqueet need be taken by Default. But if the Defendant pleads Non est facutum, by that Plea the Duty is denied, and therefore if he make Default, Inqueet must be taken by Default. In Trespass, if the Defendant plead a Releece, and then make Default, the Plaintiff cannot pray Judgment by Default, but an Inqueet is to be taken, because Damages are incectant. 1 Salt. 316. Tenant in Tail, Tenant in Dowre, or for Life, taking their Lands by Default, in a Præter quaod Redeat brought against them; they are to have Remedy by the Writ Non rei dicenter, &c. Stat. Writ. 2. 209. 4. And in a Non rei dicenter, where the Tenant joined Iffice upon the mere Right, and the Jury appearing, the Defendant made Default; it was adjudged, that in such Case final Judgment shall be given: But if the Defendant in his Answer, when two are to recover a personal Thing, the Default of one is the Default of the other: Contra, where they are to discharge themselves of a Personally; there the Default of the one is not the Default of the other. 6 Rep. 25. 1 Litt. Abi. 447. In a suit against two, if the Proceeds be determined against one, and the other appears; he shall be put to answer, notwithstanding the Default of his Companions. 2 Danw. Abr. 480. Where the Baron is to have a Corporal Punishment for a Default, there the Default of the Wife shall not be the Default of the Husband: But otherwise, it is where the Husband is bound to have any Corporal Punishment by the Default. Ibid. 472, 473. If a Defendant impart to another Day in the same Term, and make Default at the Day, this is a Departure in DEspite of the Court: And when the Defendant after Appearance, and being present in Court, upon Demand makes Departure, it is in De- spite of the Court, and the Entry is, Et prode, Tenus, lest idemnum causas, non renunt. sed in contemptum curiae restitu, & Defaultum facit, &c. Co. Litt. 139. Before a Verdict is taken by Default, the Cryer of the Counsell or the Defendant three Times; and if he do not appear, the Plaintiff's Counsel prays, that the Inqueet may be taken by Default: He is called three Times to do duty; if he make any Challenge, it is to the Judges; and if he do not appear upon the Cryer's Calling, then the Capitatum per Default is indorsed on the Back of the Panel. 1 Litt. 435. Default, and Saver of Default, made a large Title in the old Books of Law.

Default in Criminal Cases. An Offender in- deeded appears at the Capias, and pleads to Iffice, and is let to stand by his Trial, and then makes De- fault; here the Inqueet in case of Felony, shall never be taken by Default, but a Capias ad audivandum jurata shall issue, and if the Party is not taken, an Evij incent; and be appeared on the Writ, and then make Default, an Evicto fariis de nouo may be granted: But where upon the Capias or Evij incent the Sheriff returns Capi Corpus, and at the Writ hath not his Body, the Sheriff shall be dispensed, but not in need. Inward, because in EXemiae of Record. 2 Hals's Hist. I. C. 102.

Default of Jurors. If Jurors make Default in their Appearance for trying of Cases, they shall loo, and forfeit Iffice, unless they have any reasonable Exeuse proved by Writemes, in which Case the Judges may discharge the Iffices for Default. Stat. 35 H. 8. c. 6.

De

Defamation. (Difamatio) is when a Person speaks scandalous Words of another, or of a Magnifie, &c. whereby they are injured in their Reputation: for the Plaintiff shall be pru- nifil'd according to the Nature and Quality of his OFFence; sometimes by Action on the Case at Common Law, sometimes by Libel or Slander, by the Ecclesiastical Laws. But Defamation is properly punishable by the Spiritual Courts; in which Courts, it ought to have three Incidents, viz. First, it is to concern Manners Spiritual, and determinable in the Ecclesiastical Courts; as for calling a Man Here- tick, Schismatik, Adulator, Fornicator, &c. Sec- ondly, That it be a Manners Spiritual, yet that the Difamatio concern any Thing determinable at the Common Law, the Ecclesiastical Judges shall not have Censure thereof. And Thirdly, although such Difamatio be merely Spiritual, yet he that is defamed cannot sue for Damages in the Ecclesiastical Courts; but the Suit ought to be only for Punishment of the Fault, by Way of Penance. Terms de ley 2. 777. See Action of the Case for Words, also Prohibition.

Defendants, (From the Fr. Daifaire, to defeat) Signifies a Condition relating to a Deed, which being performed, the Deed is defeated, and render'd void, as if it never had been made. The Difference be- tween a common Condition and a Defasance is, that the Condition is annexed in the Deed itself, and a Defasance is a Deed by itself, concluded and agreed upon between the Parties, and having Relation to another Deed. To make a good Defasance, it must be, 1. By Deed, for there cannot be a De- fiasance of a Deed without Deed; and a Writing un- der Hand does not imply it to be a Deed. 2. It must recite the Deed it relates to, or at least the most material Part thereof. 3. It is to be made between the same Persons that were Parties to the first Deed.

4. It must be made at the Time, or after the first Deed, and not before it. 5. It ought to be made of a Thing defasable. 1 Inq. 236. 3 Lec. 234. Inher- itances executed by Livery, such as Eliasses in Fee, or for Life, cannot be subject to Defasance afterward, but at the Time of making the Foundation, &c. only; But executory Inheritances, such as Leases for Years, Rents, Assumptions, Conditions, Covenants, &c. may be defeated by Defasance made after the Things granted. And it is the fame of Obligations, Recog- nitions, Statutes, Judgments, &c. which are most commonly the Subject of Defasance, and usually made after the Deed wherein they have Relation. Plow. 137. 1 Rep. 115. If a Man acknowledge a Statute to another, and enters into a Defasance, that if he take any Chance for it, he shall go to the Judges; and if he do not appear upon the Cryer's Calling, then the Capitatum per Default is indorsed on the Back of the Panel. 1 Litt. 435. Default, and Saver of Default, made a large Title in the old Books of Law.
Defence, a Park or Place fenced in for Deer, and defended as a Property for that Use and Service.

---


Defencement, (Defencemansum) Is where any one is call out of his Lands or Possessions by Force: Or it is a With holding Lands or Tenements by Force from the Right Owner. Co. Litt. 331. A Defencor is one that overcomes and casts forth by Force and Violence, and differs from Dissipator: first, because a Man may differ another with Forces: and next, for that a Person may defend another, who never was in Possession; as if several have Right to Lands as common Heirs, and one entering keeps out the rest, the Law faith he defendeth, not difference them. And according to Littleton he is enfeoffed by Tenant in Tail, and put in Possession, by keeping out the Heir of him of Reversion who hath Right to the Land, the Tenant in Tail being dead, doth defend the Heir, though not difference him, because he entered during the Life of the Tenant in Tail, when the Heir had no present Right. Also a Defencor differs from an Intruder, by reason a Man is made an Intruder by a wrongful Entry only into Land void of a Possessor: And a Defencor is he that holds out against the right Heir. Bract. liv. 4. cap. 1. Brit. cap. 33. Litt. 135. F. N. B. 118. As Force and Violence are opposite to the Peace and Juilit of the Kingdom, and is a Disgrace to the Law, that any Person should presume to enter forcibly into the Possession of another, before the Law hath decided his Title therein; therefore divers Statutes have been made for Reformation of these Abuses, as among others the Stat. 5. R. 2. cap. 7. See Forbear Entry.

Defendant, Mentioned in the Stat. 25 El. i. 5. is the same with a Defencor.

Defecratio, is used for a Deferc, or Holding of Goods for Satisfaction of a Debt. Faroch. Antq. 297.

Degradation, (Degradatio) Is an Ecclesiastical Censure, whereby a Clergyman is deposed of his Holy Orders, and these two Sorts of degrading, by the Canons Law, one called Summary, by Word only; the other Solenne, by birding the Party degraded of those Ornaments and Rights, which are the Ensigns of his Order or Degree. Selden, De Titulis ib. 779. Degradatio is otherwise called Deposition; and in former
former Times, the degrading a Clerk was no more than a Displacing or Suspension from his Office: but the Canons have since distinguished between a De- position and a Decreditation; the one being now ufed as a greater Punishment than the other, because the Bishop takes from the Criminal all the Badges of his Order, and afterwards delivers him to the secular Judge, where he cannot purify himself of the Offence, wherein he is convicted, &e. There is likewise a Decreditation of a Lord, or a Knight, &e. at Common Law; when they are attainted of Treason; as R. 18 Ed. 1. Andrea Harne, Earl of Carlisle, who was also a Knight, was degraded, and when Judgment of Treason was pronounced against him, his Sword was broken over his Head, and his Spurs were off his Heels, &e. And there is a Decreditation by Act of Parliament for: but by Stat. 34 Car. 2. cap. 15. William Lord Monta, Sir Henry Mildmay, and others, were degraded from all Titles of Honour, Dignities, and Preeminentities, and none of them to bear or use the Title of Lord, Knight, Esquire, or Gentleman, or any Coat of Arms for ever after.

A Word used in ancient Pleading, when a Thing is without the Land, &c. or out of the Point in Question. Vide Hor. de fin. fuer.

De Injuria sua propriis, Mfqve tallis Causa, are Words used in Replications, in Actions at Detinue, or on the Case. 1 Litt. Abr. 407. De Injuria sua propriis is a Good Plea, where it comes in Excuse of an Injure, to be done to the Person of the Plaintiff, or where a Defendant justifies in Defence of his Possession, if the Title does not come in Question. 8 Rep. 86. When one justifies by Command or Authority derived from another; or if a Defendant justifies by Authority at Common Law, as a Contable by Arrest for the Peace; or if he justifies by Act of Parliament, &c. De Injuria sua propriis is a

See De fin. Fort Detinue.

Dei Judicium. The old Saxon Trial by Ordeal was so called; because they thought it an Appeal to God, for the Justice of a Cause, and verily believed that the Decision was according to the Will and Pleasure of Divine Providence. Damnum.

Dritis. The High Table of a Monastery. See Doyon.

Distractura. A Saxon Word signifying an Accusation and sometimes it is thus taken for the Reward of an Informer. Leg. H. 1. c. 64. Leg. Ine. 20. opud Brempton.

Delegates, Are Commissioners of Appeal appointed by the Bishop under the Great Seal, in Cases of Appeal from the Ecclesiastical Court, &c. by Stat. 25 Hen. 3. c. 19. See Court of Delegates.

Dish, (from the Saxon Dolan, to dig, or delve) Is a Quarry or Mine, where, Stone, or Coal, &c. are dug. Stat. 31 Eliz. cap. 7. We still retain the Word Delve for dig, in some Parts of this Kingdom.

Dissuasion. When a Criminal is brought to Trial, and the Clerk in Affix affirms he himself is Guilty, or Not Guilty, to which he replies Not guilty, and puts himself on God and his Country, the Clerk being a Witness for the Plaintiff.

Deliberation. On executing them, to give them Perfection, &c. See Dered.

Dered. The Demand thus: I do desire demand of the Sum of 10 l. for Half a Year's Rent for this Mansions due and ending at, &c. and yet unpaid, &c. And after the Demand, continue at the Place till it be dark. He that would enter for a Conditional broker, which tends to the Detraction of an Estate, must 1. Demand the Rent. 2. Upon the Land, if there is no House. 3. If there is a House, at the door of the House, &c. and pay for 20 days, whether any Part or none be in the House or not. 4. If the Appointment is at any other Place off from the Land, the Demand must
must be at that Place. 3. The Time of the Demand to be certain, that the Tenant may be there, if he
wants it, at the Day of Demand of the Rent, must be such a convenient Time before the Sun-setting, at the last Day of Payment, as the Money may be numbered. Alsso the Lessor or his sufficient Attorney is to remain upon the Land, the last Day on which the Rent due ought to be paid, until it be so dark that he cannot see to tell the Money. And if the Money thus demanded be not paid, this is a Denial in Law, though there are no Words of Denial; upon which a Re-entry may be made, Esq. 1 Lev. 201, 202. & Rep. 73. A Demand ought to be in the Presence of Witnesses. 4. Demands, are released by a Release of all Demands which discharge all Freeholds, Rights of Entry, Acres, Esq. 8 Rep. 153. Deamants. (Peruse) All civil Actions are protected either by Demands or Plaints, and the Purport is called Demandans, in Actions Real; and Plaintiff, in Personal Actions. In a real Action, Lands, Acres, are demanded. Co. Lit. 127.

Demises, or Demains, (Dominicum, Dominium) is a French Word otherwise written Dominamus, and is used in an Action against the Land of another, for a particular Manual Occupation, for the Maintenance of themselves and their Families; and all the Parts of a Manor, except what is in the Hands of Freeholders, are called Demains. Copyhold Lands have been accounted Demains, because they are the Title ensuing on the Hands of the Tenant, and are adjudged in Law to have no other Estates but at the Will of the Lord; so that it is still reported to be in the hands of the Lord, though the Word is oftentimes used for a Distinction between such Lands that the Lord of the Manor hath in his own Hands, or in the Hands of his Leysdem at a Rack-Rent, and such other Lands appertaining to the Manor, which belongeth to Frees or Copyholders. Brutt. libr. 4, tract. 3, cap. 9, Fort. libr. 5, cap. 5. As Demains are Lands in the Lord's Hands manually occupied, some have thought this Word derived from De mensis; but it is from the Fr. Demains, which signifies an Inheritance, and comes from Dominium, because a Man has a more absolute Dominium over that which he keeps in his Hands, than of that which he lets to his Tenants. Blunt. Dominium properly signifies the Right of the King, who is absolute Lord, having no common Person, cannot be true Demains: and certain it is, that Lands in the Possession of a Subject are called Demains in a different Sense from the Demains of the King. For Demains or Mainis in the Hands of a Subject, have their Derivation & Denne, because they are Lands in his Possession for the Maintaining of his House: But the Demains of the Crown are held of the King, who is absolute Lord, having proper Dominium; and not by any feudal Tenure of a superior Lord, as of Fee. Word's Law, 139. Demain is sometimes taken in a Special Signification, as oppo- site to the Demains of the Crown, in which Cases where there were in the Possession of King Edward the Confessor, are called Ancient Domains, and all others Frank Fee; and if any of those Lands are called Tenants in Ancient Domain, and the others

Tenants in Frank Fee, Esq. Ritch 98. See Ancient Demesne. Edes. Demisne, (Demains) is applied to an Estate either in Fee, for Term of Life, or Years, but commonly the latter: It is used In Writs for any Estate. 2 Lev. 483. The Word Demaise in a Lease for Years, implies a Warranty to the Lessee to have the Land, and upon this Word Action on the Covenant lies against the Heir of the Lessee, if he oust the Lessee: It binds the Executors of the Lessee, who has a Will, or his Personal Liabilities, to pay Seals, or Farce-Tall; where any Lessee is evicted, and the Executor hath Affid; but not the Lessee for Life Executors, without express Words, that the Lessee shall hold his whole Term. 2 Lev. 483. 7 Lev. 56. The King's Death is in Law termed the Demise of the King, to his Royal Successor, of his Crown and Dignity, Esq. 36. Demisne and Redemisne. The Conveyance by Demisne and Redemisne is, there are mutual Liabilities made from one to another on each Side of the same Land, or something in a kind, and is proper upon the Grant of a Rent charge, Esq.
tend to Indigments, &c. in criminal Proceedings. Stat, 27 Eliz, cap, 5. And by 4 & 5 Geo., cap. 16. the Judges shall give Judgment without regard to any Impressions in Writs, Declarations, Pleasings, &c. A Defendant is to answer where he may do it; for if the Defendant pleads in any Cafe, where he can demur, he shall not afterwards take Advantage in Arrell of Judgment, Writ of Error, &c. Plowd. 181. If any special Matter is pleased, which hath the Colour of a Plea, but amounts to the General Issue: 'tis no Cause of Demurrer. 5 Mod. 18. There cannot be a Demurrer in Abatement: and where a Defendant demur only in Abatement, the Court may give final Judgment; but it may be to a Plea in Abatement. 1 Saull, 210. Nelf. Abr. 634. After the Plaintiff and Defendant have joined Issue, which goes to the Whole, neither of them can demur, without Content of the other: but one may demur to one Part of a Declaration, and plead to the other Part thereof, with a Quality; &c. And where there is an Issue to Part of the Defendant's Plea, and a Demurrer to other Part of it, the Plaintiff before or after Judgment given on the Demurrer, may try the Issue; though 'tis usual to give Judgment on the Demurrer first. 1 Litt. Abr. 437. 1 Inf. 71. 1 Sandt. 80. If a Defendant pleads to Part, and demurrer to Part; the Demurrer shall fail he determined, and the Issue left: because upon the Trial of the Issue, the Jury may affirms Damages as to both. Palm. 517. Where there is a Demurrer in Part, and Issue is joined upon the other Part, and the Plaintiff hath Judgment on the Demurrer; here he may enter a Non Prof. as to the Issue, and proceed to a Writ of Inquiry upon the Demurrer: But otherwise he cannot have such Writ of Inquiry. 1 Saull. 215. A Demurrer is to be signed, and argued on both Sides by Counsel; and if a Party be delayed in his Proceedings by Demurrer, he may move the Court to appoint a Short Day after to hear Counsel on the Demurrer, and the Court will grant it. Trin. 25 Car. B. R. After a Demurrer is joined, the Plaintiff having entered it in the Roll, delivers the Roll to the Secondaries, and makes a Motion for a Condemnation or Day to argue it, which the Court grants of Courte, on the Secondaries' reading the Record; then the Demurrer must be entered by the Plaintiff in the Court-Book with the Secondaries, who on his Rule sets down the Day appointed for Argument, at least four Days before the Demurrer is argued: And Paper-Books are made and delivered to the Judges. The Pleas and Arguments are as before, and the Court will hear but two Counsel on a Day, viz. one of a Side, and fidelom give Judgment for the one or other Side (unless the Cafe be very plain) the Court will hear further Arguments the next Term. The whole Record is not to be read, on opening the Demurrer; except the same be to the Declaration only: But where it appears to be for Delay, the whole Record will be heard by the Court, though there be a Plea, &c. And if it be found merely for Delay, Judgment shall be given presently. If the major Part of the Judges of the Court cannot determine the Matter on the Demurrer, it is to be sent into the Exchequer Chamber to be determined by all the Judges of England. 1 Inf. 71. Pratit. Ation. Ed. 1. p. 154. When the Court gives Judgment on Demurrer in Debt for the Plaintiff in the Action, the Judgment is for the Plaintiff, and not as to his Debt, Costs and Damages: but if it be in Action of the Cafe, a Writ of Inquiry of Damages must be awarded, before Judgment on the Demurrer. If Judgment on the Demurrer is for the Defendant in the Action, the Judgment is, that the Plaintiff must pay by a Writ of Heall and Damages, and that the Defendant pay by a Writ of Heall, and Damages. And the general formal Words of a Demurrer are,
be comitted; for whanever is adjudget, is consiv'd by
Law. 2 Ie. 178. H. P. C. 245. S. P. C. 150. 1

Nunn Snight, Is the Half Blood: Where a Man marries his half Liver to a Woman, and the Wife dying be marries another Woman, by whom he had also a Son; now these two Sons, though they are called Brothers, are but Brothers of the Half Blood, because they had not both one Father and Mother: And therefore by Law they cannot be Heirs to one another; for he that claims as heir to another by Di-
counter, must be of the whole Blood to him from whom he claimed. Term of Lyr 234.

Deu. The Names of Places ending in Deu, as Bidhade, or, signify the Situation to be in a Valley, or near Woods; from the Sax. Deu, i.e. Fld. L. Suib. Brynche.

Deu and Strong. Is a Liberty for Ships or Vessels to run or come into, as in Adl. Ed. 1. by Charter granted the Privilege to the Banners of the Caguer Parits. Placit. temp. Ed. 1.

Deu terrae. A hollow Place between two Hills; and is called a Lea, or a Little Piece of woody Ground, commonly called a Copiere.—Et una parte Deus Sineus. Don. 31.


Dennet be Caritata, Customary Oblations made to Cathedral Churches about the Time of Pentecost, when the Parish Priests and many of their People went in Procession to visit their Mother Church: This Cullum was afterwards changed into a Tithe Due, and usually charged upon the Parish Priest: though as it was but a Gift of Charity to the Parish, to help maintain and adorn the Bishop's See. C. C. Act. A. G. L. 1735. s. f. 15.

Dennut, An English Penny. It is mentioned in the Sax. Ed. 1. De componibus omnium, or, 5c.

Dennut Dei, God's Penny, or Easely Money given and received by the Parties to Contracts, Or, Cart. Ed. 1. The Easely Money is called Dennut Dei, or God's Penny, because in former Times, the Place of Money given to bind the Contract, was given to God, i.e. To the Church, or to the Poor.

Dennut be Herity. An annual Payment of one Penny from every Family to the Pope, during the Time that the Roman Catholic Religion prevailed in the Kingdom; paid by the Warden of St. Peter. Stat. 25 H. 8. e. 35. See Peter Pence.

Dennutus testtrum Censitum. Of the Fines and other Price due of the County Courts, originally when their Courts had not the Jury System, were entered, two Parts were relev'd to the King, and a third Part or Penny to the Earl of the County; who either received it in Specie at the Assizes and Trials, or had an equivalent Compromise of it out of the Excheq.

Dennutric (From the Sax. Deus, a God, and Berg, a house or ring) A Place for the Running and Feeding of Hogs, unless they are pen'd by some called a Swinehouse. Cony.

Dennis (Or, Dennis) Is an Alien esbarrished, and is called Dutchman, because by the King's Letters Patent, is is called Dennys, because his Legislation proceeds on those Laws, from the King's Gait. Such a case is ended in many Refunds, so as to be the King's matter. Subjects do, to purchase and possess Lands, enjoy any Office or Dignity; and when he is thus esbarrished, he is to be under the King's Protection, or Eile ad Sedem Regis. An old case, before which Time he can only petition anything in England. But notwithstanding this, it is short of Naturalization; for a Stranger enfranck'd must intercede to sell his Possessions, which is Draconic nonsense. And in the Charter, whereby a Person is made a Denysman, there is commonly contained some Clause that expressly declares him of that full Benefit which natural Subjects enjoy. Bract. lib. 23. tra. 3. cap. 33. 8 Leg. 761. When the King makes a Deuorium by Letters Patent, he may purchase Lands, and his Issue born afterwar'ds may inherit them; but though he had before shall not: And though a Deuor is enabled to pass his, and the Wife dying be marries another Woman, by whom he had also a Son; now these two Sons, though they are called Brothers, are but Brothers of the Half Blood, because they had not both one Father and Mother: And therefore by Law they cannot be Heirs to one another; for he that claims as heir to another by Di-

counter, must be of the whole Blood to him from whom he claimed. Term of Lyr 234.

Dennut, The Names of Places ending in Deu, as Bidhade, or, signify the Situation to be in a Valley, or near Woods; from the Sax. Deu, i.e. Fld. L. Suib. Brynche.

Deu and Strong. Is a Liberty for Ships or Vessels to run or come into, as in Adl. Ed. 1. by Charter granted the Privilege to the Banners of the Caguer Parits. Placit. temp. Ed. 1.

Deu terrae. A hollow Place between two Hills; and is called a Lea, or a Little Piece of woody Ground, commonly called a Copiere.—Et una parte Deus Sineus. Don. 31.


Dennet be Caritata, Customary Oblations made to Cathedral Churches about the Time of Pentecost, when the Parish Priests and many of their People went in Procession to visit their Mother Church: This Cullum was afterwards changed into a settled Due, and usually charged upon the Parish Priest: though as it was but a Gift of Charity to the Parish, to help maintain and adorn the Bishop's See. C. C. Act. A. G. L. 1735. s. f. 15.

Dennut, An English Penny. It is mentioned in the Sax. Ed. 1. De componibus omnium, or, 5c.

Dennut Dei, God's Penny, or Easely Money given and received by the Parties to Contracts, Or, Cart. Ed. 1. The Easely Money is called Dennut Dei, or God's Penny, because in former Times, the Place of Money given to bind the Contract, was given to God, i.e. To the Church, or to the Poor.

Dennut be Herity. An annual Payment of one Penny from every Family to the Pope, during the Time that the Roman Catholic Religion prevailed in the Kingdom, paid by the Warden of St. Peter. Stat. 25 H. 8. e. 35. See Peter Pence.

Dennutus testtrum Censitum. Of the Fines and other Price due of the County Courts, originally when their Courts had not the Jury System, were entered, two Parts were relev'd to the King, and a third Part or Penny to the Earl of the County; who either received it in Specie at the Assizes and Trials, or had an equivalent Compromise of it out of the Exchequer. Paroch. Ann. 418.

Dennutric (From the Sax. Deus, a God, and Berg, a house or ring) A Place for the Running and Feeding of Hogs, unless they are pen'd by some called a Swinehouse. Cony.

Dennis (Or, Dennis) Is an Alien esbarrished, and is called Dutchman, because by the King's Letters Patent, is is called Dennys, because his Legislation proceeds on those Laws, from the King's Gait. Such a case is ended in many Refunds, so as to be the King's matter. Subjects do, to purchase and possess Lands, enjoy any Office or Dignity; and when he is thus esbarrished, he is to be under the King's Protection, or Eile ad Sedem Regis. An old case, before which Time he can only petition anything in England. But notwithstanding this, it is short of Naturalization; for a Stranger enfranck'd must intercede to sell his Possessions, which is Draconic nonsense. And in the Charter, whereby a Person is made a Denysman, there is commonly contained some Clause that expressly declares him of that full Benefit which natural Subjects enjoy. Bract. lib. 23. tra. 3. cap. 33. 8 Leg. 761. When the King makes a Deuorium by Letters Patent, he may purchase Lands, and his Issue born afterwar'ds may inherit them; but though he had before shall not: And though a Deuor is enabled to pass his, and the Wife dying be marries another Woman, by whom he had also a Son; now these two Sons, though they are called Brothers, are but Brothers of the Half Blood, because they had not both one Father and Mother: And therefore by Law they cannot be Heirs to one another; for he that claims as heir to another by Di-

counter, must be of the whole Blood to him from whom he claimed. Term of Lyr 234.

Dennut, The Names of Places ending in Deu, as Bidhade, or, signify the Situation to be in a Valley, or near Woods; from the Sax. Deu, i.e. Fld. L. Suib. Brynche.
DE

Things fixed to the Freehold: as a Bell hanging in a Steeple, a Wheel of a Mill, &c., unless severed from the Freehold, cannot be Dedants. 2 Inst. 281. And there is no Forfeiture of a Dedant, till the Matter is found out by the Jury that finds the Death, which they ought also to find and appraise the Dedant. 5 Rep. 110. 1 Inst. 144. After the Coroner's Inquisition, the Sheriff is answerable for the Value, where the Dedant belongs to the King; and he may levy the fine on the Town, &c. Wherefore the Inquest ought to find the Value of it. 1 Hawk. 67. Dedants were likewise the Goods and Chattels of Pests de fe, &c., 1 Litt. 443.

De omnibus pro tanta aestimatione, is a Wrst that lies where a Peron is displeased for Rent, that ought to be paid by others proportionally with him. F. N. B. 234. If a Man hold twenty Acres of Land, by Fealty and twenty Shillings Rent; and he alien one Acre to one Person, and another Acre to another, &c. the Lord shall not disaffine this Alliance for the whole Rent, but for the Rate and Value of the Land he hath pur- chased, &c. And if he be displeased for more, he shall pay twenty Shillings. 1555, 86. Departure.

Departure, is a Word in our Law properly applied to a Defendant, who first pleading One Thing in Bar of an Action, and being replied unto in his Replication, he qualifies that and files another Matter contrary to, or not purposing his first Plea, which is called a Departure from his Plea: Also where a Plaintiff in his Declaration sets forth one Thing, and after the Defendant hath pleased, the Plaintiff in his Replication files a new Matter different from his Declaration, this is a Departure: as in Codb's Statutes, The Defendants demurred, because it was a Departure from the Declaration. Plow. 7, 8, 2 Inst. 147. But if a Plaintiff in his Replication depart from his Count, and the Defendant takes Issue upon it; if it be found for the Plaintiff, the Defendant shall take no Advantage of that Departure: Though it would have been otherwise, if he had demurred upon it. Raym. 86. 1 Litt. Abr. 444. If a Man pleads a general Agreement in Bar, and in his Rejoinder alleges a special One, this is a Departure in Pleading: And if an Action is brought at common Law, and the Plaintiff shall make his Matter a Virtue of a Custom, &c. it hath been held a Departure. 1 Nell. Abr. 686. Where a Matter is omitted at first, it is a Departure to plead it afterwards. Holc. If in Covenant, the Defendant pleads Performance; and after rejoins that the Plaintiff omitted it, it is a Departure from his Plea. Raym. 22. In Debt upon Bond his Performance of Covenant in a Leafe, the Defendant pleads Performance; and afterwards in his Rejoinder sets forth that so much was paid in Mo- ney, and so much in Taxes, &c. upon Demurrer it was adjudged a Departure from the Plea; because he had pleaded Performance, and afterwards sets forth other Matter of Excuse, &c. 1 Saull. 231. Debt upon Bond for Performance of an Award, made for Payment of Money; if the Defendant plead Performance, and the Plaintiff having replied and affirmed a departure of他说的 &c., the Defendant re- joins that he is ready to pay the Money at the Day, &c. this is a Departure from his Plea; for Performance is Payment of the Money, and Payment and readiness to pay are different Things. 4 Lev. 70.

In Debt upon Bond for Non-performance of an A- ward; the Defendant pleads that the Award was, that he should release all Soits to the Plaintiff, which he has done; the Plaintiff replies that the Award was made, but that the Award was further, that the Defendant should pay to the Plaintiff such and such thing, &c. which rejoins that true it is, that by the Award he was to pay the Plaintiff the said Sam, but that the Award was also, that the Plaintiff should release to the Defendant all Actions,

... which he had not done; on Demurrer this was held a Departure from the Plea, being all new Mat- ter. 2 Boll. 39. Gd. 155. 1 Nell. 637. After Nollum factum arbitrarium, the Defendant cannot plead that the Award was made, but that the Award was further, that the Defendant should pay to the Plaintiff such and such thing, &c. which rejoins that true it is, that by the Award he was to pay the Plaintiff the said Sam, but that the Award was also, that the Plaintiff should release to the Defendant all Actions,
forned before the Coroner or Justice, without any Alteration. 2 Hen. P. C. 420. But the Depositions taken before a Coroner, cannot be given in Evidence upon an Appeal for the same Death; because it is a different Prosecution from that wherein they were taken: And it has been adjudged, That the Evidence given by a Witness at one Trial, could not be in the ordinary Court of Justice be made Use of against a Criminal on the Death of such Witness, at another Trial. Ibid. 420. It was adjudged in the Earl of Stratford's Trial, that where Witenesse could not be produced, by Reason of Sickness, ets, their Depositions might be read, for or against the Pri- soner on a Trial of High Treason; but not where they could be produced in Person: And that Deposi- tions by a Witness before a Justice of Peace, might, at the Prisoner's Desire, be read at the Trial; in or- der to take off the Credit of the Witness, by shew- ing a Conscience between. And the Evidence given in Court. Ibid. Deposition is used in the Law in another Sense, viz. To signify the Deposition of a Person of some Dignity: And Deposition is also tak- en in Church; The Day of Death is Deposition, the Day of one's Death. Litton's Dil. 245.

Deposition, (Deposition) Is a Deposition or Taking of a Witness, in a Bishop, Vicar, etc, is deposed from his Preference. Of Depositions there are two Sorts, Depositions à Beneficio, and ab Officiis: The Deposition à Beneficio is when for some great Crime, ets. a Minifter is wholly deprived of his Living: And Deposition ab Officiis is when a Mi- nifter is for ever deprived of his Orders, which is also called Deposition or Dedication; and is commonly for some heinous Offence meriting Death, and per- formed by the Bishop in a solemn Manner. Blount. Deposition à Beneficio is an Act of the Spiritual Court, grounded upon some Crime or Defect in the Person deprived, by which he is discharging from his Spiritual Promotion or Benefice, upon sufficient Cause proved against him. 1 Nolf. Abr. 641. Deposi- tion may also be by a particular Cause in some All of Parliament: The Deposition of Bishop, ets, is declared lawful by Statute 39 Eliz. c. 8. And by the King's Commission, as he hath the Supremacy lodged in him, a Bishop may be deprived; for since a Bishop is vested with that Dignity by Commission from the King, 'tis reasonable he should be deprived, where there is just Cause, by the same Authority. But the Canons direct, that a Bishop shall be de- prived in a Synod of the Province; or if that cannot be attended, by the Archbishop, and twelve Bis- ats at least, not as his Affiliates, but as Judges: Though I think this Canon was never received in England. Young Clergyman's Lawyer 105. It has been adjudged, that an Archbishop may deprive a Bishop for Simony, ets, for he hath Power over his Suffra- gans, who may be punished in the Archbishop's Court, for any Offense against their Duty. 6 Inst., 2, 171. Rep. 134. The Causes of Depositions are many: If a Clerk obtains a Prebend in the Church, by Si- monical Contradict, if he be an Excommunicate, a Deponent, a Schism- atick or Heretic; or guilty of Murder, Manslaugh- ter, Perjury, Forgery, ets, If a Clerk be an Ille- limate, and not able to perform the Duty of his Chureh, he is a Common Person in his Life and Conversation; or Battardy is objected against him; if one be a mere Layman, and not in Holy Orders; or under Age, even the Age of twenty-three Years; be disobedient and incorrigible to his Ordin- ary; or a Nonconformist to the Canons; if a Par- son refuse to use the Common Prayer, or preach in Deposition of it, or do administer any Jurisdiction, or read the Articles of Religion, ets. If any Par- son, Vicar, ets, have one Benefice with Care of Souls, and take Plurality, without a Faculty or Dis- penation: Or if he commit Wilfe in the Houses and Lands of the Church, called Dilapidations; all these have been held good Cases for Deposition of Priests. Degg's, Parson's Compend, q. 92, 93, c. 2 15th. 240. And refusing to use the Common Prayers of the Church; Plurality of Livings, ets, are Causes of Deposition 156 447, in which Case the Church shall be void, without any Sentence declaratory: And Avoidances by Act of Parliament need no declaratory Sentence: But in other Cases there must be a declaratory Sentence. Dyer 272. Where a Bene- fit is only voidable, but not void before Sentence of Deposition, the Party must be cited to appear; there is to be a Libel against him, and a Time al- figned to answer it, and also Liberry for Advocates to plead, and after all a solemn Sentence pronounced: Though none of these Formalities are required, where the Living is annulled, ets. 146, (See Act 20 Geo. 1.) If a Deposition be for a Thing merely of Eccle- siastical Cognition, no Appeal lies; but the Party has his Remedy by a Commission of Review, which is granted by the King of mere Grace. 26 H. 8. Mar. 728.

Deputy, (Deputy) Is he that exercises an Offi- ce, ets, in another Man's Right, whole Parson, or Vicar or Middlemanor, shall cease him, whole Deputy he is, to lose his Office. The Common Law takes Notice of Deputy in many Cases, but it never takes Notice of Under-Deputies; for a Deputy is generally but a Person authorized, who cannot authorize another. 1 Litt. Abr. 446. A Man cannot make his Deputy in all Cases except the Grant of the Office justify him in it; and where it is to one, to execute by De- puty, ets, Litt. 397. Judges cannot act by Deputy, but are to hold their Courts in Person; for they may not transfer their Power over to others. 2 Hen. P. C. 3. But it has been adjudged, that Recorders may hold their Courts by Deputy, ets, 1 Litt. 76. 1 Nolf. 643. The Office of Caussi Braucian and Chi- nographer in C. B. cannot be executed by Deputy. 1 Nolf. Abr. 644. A Steward of a Court may make a Deputy, and Acts of an Under-Steward's Deputy have been held good in some Cases. ets, 354. A Sheriff may make a Deputy; it is incident to his Office, though he express Power is given by his Patent; and he hath equal Power with the High Sheriff. 9 Rep. 49. A Coroner ought not to exe- cute his Office by Deputy, it being a Judicial Office of Trust and Judicial Offices are annexed to the Per- son, ets, 1 Litt. 446. If the Office of Parchment but is granted to one, he may not grant this to another; because it is an Office of Trust and Confidence. Terms de Le 239. A Bailiff of a Liberty, may make a Deputy. ets, 454. And a Constable may make a Deputy, who may execute the Warrant directed to the Constable, ets, 2 Dav. 482. When an Office depends to an Infant, ets, any such may make a Deputy of Courts. 9 Rep. 47. Where an Office is granted to a Man and his Heirs, he may make an Affiliate of that Office; and by Consequence a Deputy. 9 Rep. 459. Any Sheriff of an Office, ets, Interest therein, but doth all Things in his Master's Name, and his Master shall be answerable; but an Affiliate hath an Interest in the Office, and doth all Things in his own Person, or in his Leis, for his Master's interest he shall not answer, unless in Special Cases. Terms de Le 239. 240. A Superior Officer must answer for his Deputy in Civil Actions, if he is not guilty, but if he either in Criminal Cases it is otherwise, where Deputy is to answer for themselves. 2 Inf. 196. 466. Dav. & Stad. 42.

ext guilt for Difficults, Is a Writ of Entry, mentioned in our Books treating of Writs. P. N. B. 151.
DE

Dr. (From Sax. Deus, Fr. Dieu) The Name of Places

beginning with this Word, signify that formerly wild
Bears bred there were together.

Deign or Deity. (Dio[nine]) Seems to be
derived literally from the Fr. Dieufer, i.e. To con-
found, or to turn out of Court or off place; a Deignment or Departure out of Religion.

Stat. 31 H. 8. cap. 6. And Deignment and Dis-
charge of their Profession. 31 H. 8. c. 29. Which
is spoken of those religious Men that fortook their
Orders or Profession; and so doth Kithcen use it,
where he says the Leafes entered into Religion, and
afterwards was disgraced, p. 152. In our Common
Law this Word is used diversely; but generally to
prove any Thing, viz. to deign that Right, De-
ign the Warranty, &c. Glove, lib. 2. cap. 6. F. N.
B. 146. If a Man hath an Estate in Fee with War-
ranty, and enfeoffs a Stranger with Warranty, and
die; and the Pacific vouches the Heir, the Heir
shall deinate the first Warranty, &c. Plow. 7. And
Johnacton's Proviso cannot fail the Thed, as
unto the Intent to deign the Warranty paramount.

31 H. 8. cap. 1. See Bechon. lib. 3. trad. 2. cap.
28. Roundly speak it is a Thing not taken and
left; or willfully cast away. Derelit. Lands left by
the Sea belong to the King. 2 Nill. Abr. 903.

Deference, And Trennion. &c. See Deiuiat.

Description. (Descri.ion) In Deeds and Grants
there must be a certain Description of the Lands grant-
ed, the Place where the Lands lie, and of the Per-
son to whom granted, &c. To make them good. But
Wills are more favoured than Grants 23 to tho
Description; and a wrong Description of the Per

son will not make a Deed void, if there be otherwise
a sufficient Foundation, or what Person was intended
by the Testator. 1 Nill. Abr. 647. If there are several
Description of one Person in a Will, they must all
agree at the Time of the Will executed, in Name,
Circumstances, &c. or the Deed to such is void.

And where a first Description of Land, &c. is
to, though the second is true, a Deed will be
void: Can you if the first be true, and second false.
3 Rep.

Dr. fn 904. Derem. Are certain Words of Re-

Verb, and in Adition of Trestp. &c. by Way of
Reglucation to the Defendant's Plea: For Example.
a. it lies B. in Aktion of Trestp. &c. auver he for
himself, that he did that which is alleged against
him by the Command of his Master to &c. or, &c.
replies, that B. did it Dr. on turn Domine, thus
com mendent him, in such Forse, &c. When the De-

ned does in jura prors. or as a Servant to another,
claims any Interests in a Common, or to a Way, &c.

Dr. for turn generally is not good; But if the De-

fendant judicious as Servant, there it may be good, with
a Traverce of the Commandement, it being material;
for the general Regulation Dr. for Turn is properly

when the Defendant's Plea contains Mater of
Excuse, and no Matter of Interest. 8 Rep. 67.

1 Lill. Abr. 418. There ought to be a Conclusion to
the Plea, and a Regulation to the same; be-
cause the Regulation should make an Illus of it.

3 Lew. 6t. But there cannot be Variety of Mutter

put in Illus; as Master of Record, and Master of

It. &c. 3 Lew. 65. 2 Lew. 108.

Descnitus. Signifies in our ancient Law, Books a

concinnbible Persona. Flaws, lib. 4. cap. 5. par. 4.

Descnsito. To wear a Person with to
cinabular Berrins, and then to bin; which is provided a

guine by old Laws.—Si Cnis bonissim Defu-

bier, non nudratis tuisibus, in primo culpa redditer

sec. Leg. Almed. 36.

Despight. To be false or take into Cambodia another

Peron's Goods, &c. by Attachment or other Course

of Law. Copies.-This Word used in Writ, which is ne-

cessary in the Writ of Distraint, &c. see Deiuiat of De-

tertia.

Distraint, (Distraendo) In the Common Law is like

Alia Deposition in the Civil Law, and is a Writ which
lies against him, who having Goods or Chantels de-

livered to keep, reduceth to redule them. In this

Action the Thing claimed is to be recon

vered, and not Damages: But if one cannot accesse

the Thing itself, he shall recover Damages for the

Thing, and also for the Distraint. Wms. l. f. 54.

Distraint lies for any one: There certain and valu-

able Goods wherein one may have a Property or Right; as

for a Horse, Cow, Sheep, Hens, Dogs, Jewels, Plate,

Cloth, Bags of Money, Sacks of Corn, &c. It

must be of a certain value, if such Goods are to be

known and recovered; and therefore for Money

out of a Bag, or Corn out of a Sack, &c. it lies not

for the Thing, but a Suit to a Scots in this Writ, or

from other Money or Corn; so that the Party must
have an Action on the Cafi, &c. 1 iusf. 286. F. N.
B. 158. Yet Distraint may be brought for a Piece of

Gold, of a Bag of Money, or a Sack of

Money; for here is a Demand of a certain particular

Pecunia. 2 Domo. Abr. 518. If a man receiving

Money out of a Bag, or Corn, &c. &c. and while he is telling the sett the Big is stolen; no

Action of Distraint, &c. lies; becaus by putting up

the Money, he had appropriated it to his own Use.

Chamer. 475. A Man lends a Sum of Money to

another, Distraint lies not for it, but Debt: But if A

lacks and sells Goods to B. upon Condition to be

void if A pays B. a certain Sum of Money at a Day; now

A, not having Distraint after the Grant, but the Gram

have it. Tety. 241. 1 Bush. 67. When Goods are delivered to one, and he delivers them

to another, Action of Distraint may be had against

the second Peron, and if he delivers them to one that

has a Right thereto, yet 'tis said he is chargeable:

Also if a Peron to whom a Thing is delivered dies,

Distraint against his Executor, &c. or in his Place

any Peron to whom the Thing comes. 2 Domo.

Abr. 511. A Man may have a general Distraint

against another that finds his Goods: Though if I

deliver any Thing to A. to re deliver, and he loses it,

if B. finds it and delivers it to C. who has a Right to

the same, he is not chargeable to me in Distraint,

because he is not payy to my Distraint. 1 j. &. 6.

5. 2 dist. In Actions of Distraint, the Thing must

be once in the Possession of the Defendant; which

Distraint is not to be altered by Act of Law, as Sei-

fer, &c. For the Nature of the Thing remains con-

tinues, without Alteration, to inside this Action. F. N.

B. 134. If I had Goods, and before the Owner

being his Action, I sell them: or the Cafi be known

out of my Hands upon an Execution, or Outlay

against the Owner, &c. he cannot have Distraint

against me. 1 j. &. 4. 8. 27 H. 8. 13. But

Action of Distraint will lie against him that finds

Goods, if they are taken with wilfull Negligence.

Dr. &c. Sir. 139. A Man buys Cloth or other

Things of another, as a good and perfect Convers;

if the Seller keeps the Things bought, Distraint

Dyer 30, 205. Where one takes his Goods into
his Custody to keep them for me, and referst to re-
flare them: although he have nothing for the keep-
ing of them, this Action will lie. 4 Rep. 98, 29 off.
pl. 28. If I deliver to one a Trunk that is locked
with the Key in my Self, and keep the Key myself, and
something be taken out of it, Writ of Dehiso lief
not for this: But if the Trunk and all that is in it
be taken away, there it lies. 11 Rep. 89, 4 E. 3.
This Action will not lie, where a Man delivers Goods
to me, and I bid him take them again, if he refuses
to do it: Or where one takes my Goods or Cattle
by Wrong as a Trespassor: or by Way of Distress for
Rent, or as Damage feuation. 1st. Not for a Horse
sick, when it is taken or lent: if it dies of that Sick-
And it be a Ring that is delivered to another, and he
breaks it, 'tis doubted whether Action of Dehiso may
lie; because the Thing is altered, and cannot be
returned as it was: But Action of the Cxion is found,
and sold, &c. Action of Dehiso lies not: yet Action upon
the Cafe of Tresor and Conversion may be brought. 18 E.
4. 4. To bring a Goods that is sent off, and the Plain-
tiff is to set forth the Time and Thing delivered,
to what Use the fame was delivered, and the Time
appointed for the Redeelivery thereof, with its Value,
&c. If for a Thing bought, he must shew when he
bought it, and what he paid, and the Time for Deli-
very: Alfo in Tresor, the Nature and Value of the
Things are very important to the Time and Place where
and where the Plaintiff was polled of them, and
how they came to the Defendant's Hands, with the
Conversion, &c. Prat. 4. Sale. Actions of Dehiso
are not to frequently brought as formerly: for Actions of
Tresor and Conversion are in their Head, where the
Conversion changes the Dehiso to Action of the
Cafe of Sale; and thereby the tedious Proceedings as to
Garnishment, &c. are now out of Use. 10 Rep. 57.
1st. 286.
Action of Charters. A Man may have De-
hiso for Deeds and Charters concerning Land: but if
they concern the Freedom, it must be in C. B. and no
other Court. Action of Dehiso lies for Charters
which make the Title of Land; and the Heir may
have a Dehiso of Charters, although he hath not the
Land: If my Father be deceased, and die, I shall
have Dehiso for the Charters, notwithstanding I have
not the Land, but the Executors, and not the
Action for them. New Nat. Br. 308. If a Man
keep his Charters from me, concerning the Inheri-
tance of my Land, and I know the Certainty of the
Title and the Land is locked, &c. and I know not their
Certainty, I may recover this by my Writ: So where
Lands are given to me and T. S. and my Heirs, and he die, if another
gets the Deeds; and if Tenant in Tail give away the
Deed of Entail, and then die, his Issue may
bring a Writ of Dehiso of Charters. 4 C. Litt. 286.
1st. 2. H. N. 178. But if the Tenant in
Fee simple, do give away his Deeds of the Land, his
Heir may not have this Action: And in Cafe a Wo-
man went with child by her deceased Husband, keeps
the Child from his Log, where it is found, and
Concern the Land, during the Time she is with Child;
this Writ will not lie against her. 41 E. 3, 11.
Dehiso was brought for a Life, and this Plaintiff
had a Verdict, that the Defendant demised the Deed, and
the Jury gave 20l. Damage, but did not find the
Value of the Deed; and then there issued out a
Distress to deliver the Deed, or the Value, and
afterwards a Writ of Inquiry was awarded for the
Value; whereupon the Jury found a different Value
from what the first Verdict found, and it was ad-
judged. 1st. 25 E. 49. In Action of
Charters, if the Issue be upon the Dehison, and
it is found that the Defendant hath burnt the
Charters, the Judgment shall not be to recover the
Charters, which it appears cannot be had: but 'tis
said it shall be for the Plaintiff to recover the Land
in Damages. 26 Rul. Abr. 101. 1 Danw. Abr.
51. For Desating what is in the hands of the
Inheritance of Lands, or an Indenture of Land,
the Defendant shall not wage Law; but in a
common Action of Dehiso he may do it. 1st. 295.
Action of Goods in fraud-marriges, is on a
Divorce betwixt a Man and his Wife; after which,
the Wife shall have this Writ of Dehiso for the
Goods given her in Marriage. Midd. 55 E. 3.
New Nat. Br. 508.
Detractare. Signifies a Punishment to be torn in
Pieces with Horses.—Apastate, Sacrilege, &c. &c.
detractare. Actus & corruptor. Vina, lib. 1. cap. 27.
Detrumente, To discover or lay open to the
Detributarius, is where an Offender is without
Sureties or Pledge. 1st. In Villa delicetus of
Devastarit sicut, uti inde habet Praefatus Regis.
Domesday.
Deudubit, or Deudubitant homo Terratoris,
Is a Writ that lies against Executors or Administra-
tors, for paying Debts upon simple Contrac. before
Debts on Bonds and Specialties, &c. for in this Cafe
they are as liable to Action as if they had Squandered
away the Goods of the Deceased, or converted them
to their own Use; and are compellable to pay such
Debts by Specialty out of their own Goods, to the
Value of what they do paid illegitimately. 1st. 252.
But if an Executor pays Debts upon simple Contrac., be-
fore he hath any Notice of Bonds, it is no Dreu-
facturis; and regularly this Notice is by an Acten
commenced against him, for the Law doth not oblige
him to take Notice of it himself, nor of a Judgment
against his Testamentor, because he is not privy to Acts
done either by or against him. 1st. 175. 3 Lew.
115. Where an Executor, &c. payeth Legacies be-
fore Debts, and hath not sufficient to pay both, 'tis
a Dreujector. Alfo where an Executor造成 the Testa-
mentor, and afterwards makes his Executor, and dies,
leaving Affairs, that an Action of Debt will not lie
against the Executor of the walling Executor, upon
a Suggelation of a Deujector or Waite by the firr
Executor because it is no Dreujector where he did
not illay with him. 3 Lew. 241. But in this Cafe there is
a Difference between a lawful Executor and an
Executor de fere ture; for an Executor de fere ture pollices himself of the Goods wrongfully, if he af-
ferwards waives them, and dies, leaving Affairs, his
Executor shall be charged upon the Suggelation of a
Deujector in his Testamentor, because he came within
the Goods, and therefore the Wrong shall not die with his Perfon. 2 Lew. 133. And before the
Statute 30 Car. 2. c. 7. it has been decreed in Equi-
ity against the Executors of a lawful Executor, if he
had waited the Goods, and died, that such Executor
should be liable to make good to the Creditors of
his.
the Teller, so much as the first Executor had waited, and so far as he had Affidts of the said first Executor. 1 Ch. Rep. 257. By that Statute it is enacted, that if the Executor of an act waits the Goods, and dies, his Executors shall be liable in the same Manner as their Teller would have been if he had been living. And it has been since adjudged, that a rightful Executor who waits the Goods of the Teller, is in Effect an Executor de fo de re for abusing his Trust; and therefore his Executor or Administrators may be liable to a Deoeevatus. 3 Mod. 113. Debt lies against an Executor in the Debts and Debts, where there is a Judgment against his Teller, upon a Suggestion only, that he had waited the Goods; and this is a more expedient Way than the old Method of Sci. fac. Inquiry which was instead to shew Cause why the Plaintiff should not have Execution against the Executor de bonis praevius, and thereupon the Sheriff returned a Deoeevaut, &c. 1 Lev. 147. 1 Nelf. 653. A Husband is to be charged for Wafe done by his Wife Dam Jus ; but the Husband is not chargeable after the Death of a Wife Executrix, on Suggestion of a Deoeevatus in a Declaration against him. 1 Cor. Car. 653. Laur. 673. And 1 Lev. 147. 1 Nelf. 653. A Feme Covent Executrix cannot do any Wafe during the Coverture; though for Wafe done by the Husband the shall be charged, if the survives him; but then it must be on a Judgment obtained against him, and not on a bare Suggestion of a Deoeevatus, &c. 2 Lev. 147. See Debts & Debts.

Debentur, This Write herefore directed to the Executor on the Death of the Heir of the King's Tenant under Age and in Custody, commanding the Executor that by the Oaths of good and lawful Men he inquire what Lands and Tenements by the Death of the Tenant came to the King. Dyer 150. This Write is now disdised : but for Stat. 14 Car. 2. c. 11. for preventing Frauds and Abuses in his Majesty's Coffers.

Debrief, (Deoeevaut) Is opposite to iuvat. As luvat signifies to deliver the Possession of any Thing to another; so Deoee vat signifies the Taking it away. Frad. lib. 1. cap. 7.

Debriefs, (from the Fr. Debrief, to divide or fort or divide into Parcels) Is properly where a Man gives away any Lands or Tenements by Will in Writing. And he who gives away his Lands in this Manner, is called the Drefier; and he to whom the Lands are given, the Debrief. A Debrief Writing is, in Law, Contradiction, no Deed; but an Instrument by which Lands are conveyed. And anody where Lands were devisible, it was by Coffers only; for at Common Law, no Lands or Tenements in Fee simple were devisible by Will ; nor could they be transferred from one to another but by solemn Livery and Seisin; Master of Record, or sufficient Deeds or Writing. 1 Lev. 111. 2 Lev. 386, &c. But now it is otherwise by Statute 52 Hen. 8. 'Tis said that Words of Recommendation and Debrief in a Will, are always held to be a Deoeevat; as where the Teller gives a Legacy to one, willing him to do such a Thing, &c. Prev. Car. 201. 202. See Will.

Debister or Cathert, Were the Coffers due to the King, for Merchandize brought into or carried out of Calais, when our Staple remained there. 2 R. St. Tr. 11. 2 R. Court, in a Diary paying their Cathert and Deoeevatus to the King. Stat. 34 Ed. 1. c. 18.

Debitteratus, Is understood to take the Right Hand of another. And the Word Debitteratus, has been used for light Horses, or Horses for the great Saddle; from the Fr. Debiter, a Hare for Service. ——- Williamus de B. debo Rogt tra Debiteratus, quasque Chasus, &c. pro habenda fijina Capel. de Grend.


Decrass bares, Shaking of Hands in Token of Friendship; or a Man giving himself to the Power of another Person. Walf. p. 332.

Deeatrum, Is taken for daily Food; or as much as will suffice for the Day.

De Pater nas, Stained with many Colours. Men. Temp. 3. pag. 314.

Decr, A Tale of Account, by Number of Tailors, Cutts or Purches.— Et propter hoc deest Magistri Marstalliae habere Dicas de domo &c. Liberatunum que fuerint in Tabular Regis, &c. Lib. Rub. Seccar. fol. 50. And in an ancient Record, ——- Infiniunm est a diligentia per Dicas sunt enim quantum ex summa gerint Blairi et Laguminis expeditor in femina — Et Dicas illi dividere in duos, &c. non paris deputator Caesari Iustitiae Praetorii, &c. alias Granumia. Statut. Ord de Sempingham, p. 748.

Dichar or Dictor of Leather, Is a certain Quantity consisting of ten Hides, by which Leather is bought and sold. There are also allerles de Iron containing ten Bars to the Dicar. This Word is thought to come from the Greek Λαθός, which signifies ten. Dicar was a rebus in Civitates. &c.

Dicar or Dictor of Leather, The one signifies an Arbitrator; and the other the Arbitrator ——- Prata- lich Dictor Iam de &c. Iesuimium per Rege Angliae. Minst. p. 334.

Dilibum de Banet Hopi, An Edict or Award between King Henry the Third and his Barons and others, who were in Arms against him for foiled, because it was made at Kernechurch Castle in Har- quichvile, Ann. 51 Hen. 3. It contained a Composition of those who had forfeited their Estates that Rebellion, which Composition was five Years Rest of the Lands and Estates forfined.

Diciamss et Oepitum, Was a Write issued out of the Court of Chancery to the Executive of the County, upon the Death of any of the King's Tenants in Capiens, to inquire by a Jury of what Lands he died seised, and of what Value, and who was the next Heir to him; and the same ought to be granted at the Suit of the next Heir, &c. for upon that, when the Heir came of Age, he was to give Livery of his Lands out of the King's Hands. F. N. B. 175.

Dier. There are several Sorts of Days, i.e. Days natural, artificial and legal; and Sunday is not only a Day of Fidantia, to be treated of in Legal Proceedings, but also as to Constables. 1 Lev. 264. See Day.

Dierbus, Is a Day or Time of Receipt given to the Defendant in a Suit by the Court. Bards.

Dierbus, The Day of Congress or Meeting of the English and Scotch, appointed annually to be held on the Marches or Borders, to adjust all Differences between them, and preserve the Articles of Peace. — Convents de Bem Marche. &c. conventum fuit inter nos pro commune pacis, &c. Tho. Wilingham, in Ric. 2. p. 507.

Dierbus, A Day's Journey, ——- Omnium rationalibus Dicar confit ex virginis Miliaribus. Flea, lib. 4. c. 28. And in this Sense it is used by Bredon, lib. 3. tradit. c. 15.

Dierbus, (Conventus) An Assembly; as the Dict of the Empire of Ratisbon, &c.

Dierbus, a man Deity, God and my Right, the Mark or the Royal Arms, intimating that the King of England holds his Empire of none but God; first given by King Rich. 1.

Dierbus, A Day, Are Words often used in our old Law; And it is a Maxim in Law, That the 28th of God shall prejudice no Man. Therefore, if a Horse be blown down by Tempeff, Thunder or Lightning, the Lefter or Tenant for Life or Years, shall be excused in Wafe: Likewise he hath by the Law a special
special Interest to take Timber, to build the House again for his Habitation. 4 Rep. 63; 11 Rep. 82. So when the Condition of a Bond consists of two Parts in the Disjunctive, and both are possible at the Time of the Obligation, the Parson or the other Part of them becomes impossible by the Act of God, the Obligor is not bound to perform the other Part. 5 Rep. 22. And where a Person is bound to appear in Court, at a certain Day, if before the Day he die, the Obligation is saved, &c. See Bond.

Dilatation, To destroy: And Dilatation is a Maiming any one. Leg. H. c. 1. c. 92.

Digitation, To take away, or deny Justice. 3 Mon. Peri. Ann. 184.

Digitation is a Maiming any one. 4 Leg. H. c. 1. c. 92.

Digitation, The Book of Paeans of the Civil Law; which hath its Name from its containing Legula praetorica, excellenter Digitta. De Camp.

Dignity, (Dignitas) Signifies Honour and Authority. Reparation, &c. And Dignity may be divided into Superior and Inferior: As the Titles of Duke, Earl, Baron, &c. are the highest Names of Dignity; and those of Baronet, Knight, Seigneur at Law, &c. the lowest. Nobilitate Isagno is a high Name of Dignity, as to supply the Want of a Surname in legal Proceedings; And as the Omnipotence of a Name of Dignity is to be ascribed to an Abstenture of a Writ, &c. so it may be where a Peer who has more than one Name of Dignity, is not named by the most Noble. 2 Haw. P. C. 183, 259. No Temporal Dignity of any Foreign Nation can give a Man a higher Title here than that of Esquire. 2 Jef. 667. See Addition and Dilatation.

Dignitaries Ecclesiastical, (Dignitas Ecclesiastica) Is defined by the Canons to be Administratio ra juri des etc. et Potestate auxilia conjuncta; of which there are several Examples in Demeaning, de Sacris Eccles. &c. e. 2. c. 6. Dignitaries Ecclesiastical are mentioned in the Stat. 26 H. 8. cap. 31 & 32. And of Church Dignity, Camden in his Britannia, p. 161, reckons in England 644.

Dignitaries, (Dignitarii) Are those who are ad vantured to any Dignity Ecclesiastical; as a Bishop, Dean, Archdeacon, Prebendary, &c. But there are some Prelates, without Cure or Jurisdiction, which are not Dignitaries. 3 Inst. 155.

Dilapidation, (Dilapidatio) Is where an Incom- ment on a Church Living, injures the Parsonage-House or Outhouses to fall down, or be in Decay for Want of necessity Reparation; Or it is the pulling down or destroying any of the Houses or Buildings, belonging to a Spiritual Life, or destroying any of the Woods, Trees, &c. appertaining to the same; for it is said to extend to the Committing or Suffering any wilful Waffe, in or upon the Inheritance of the Church. Digg's Parlia. 12. 24. Inst. e. 2. 4. 4. And by the Canon Law, Dilapidations are made a Debt, which is to be satisfied out of the Profts of the Church; but the Common Law permits Debt on Contrasts, &c. before Debt for Dilapidations. Hera. 195. The Prosecution in these Cases, may be brought either against the Incumbent himself, or against his Executors or Administrators; and the Executor or Administrator of him in whose Time it was done or suffered, must make Amends to the Successor: And if you proceed against the Incumbent, You must proceed in the Spiritual Court: Like wise you may proceed in the Common Court against an Executor, or the Successor may have an Action of the Debt or Debt at the Common Law, in which Action he shall recover Damages in Proportion to the Dilapidations.

notes. 1 Nelf. Ab. 656. By Statute, if any Parson, &c. shall make a Gift of his Goods and personal Eftate to defraud his Successor, as to Dilapidations, such Successor may have the same Remedy in the Spiritual Court against the Person whom such Goods or Goods of him be made, as he might have against the Executors of the deceased Parson. 13 Eli. cap. 10. And Money recovered for Dilapidations, is to be employed in the Reparations of the same Houses suffered to be in Decay, or the Party recovering shall forfeit double the Value of what he receives, to the King, by Stat. 15 Eli. cap. 11. Wherein our Books to Foundation, Dilapidations are suitable for only in the Ecclesiastical Court, that is to be intended when the Suit is grounded upon the Canon Law; for an Action of this Cali might have been brought; at Common Law by the Successor against the Executors of the Dilapidator. Per. Casw. 97, 98. If a Parson suffers Dilapidations, and after- wards takes another Benefice, whereby his former Benefice becomes void, his Successor may have an Action against him, and declare that by the Custum of the Kingdom he ought to pay him Quinto Demanarium, commensurum, inofficium et reparations, &c. 3 Lew. 289. In Case a Parson comes to a Living, the Buildings wherof are in Decay by Dilapidation, and his Predecessor did not leave a sufficient personal Eftate to repair them, so that he is without Remedy; he is to have the Defecls surveyed by Workmen, and attested under their Hands in the Presence of Witness, which may be a Means to secure him from the Inconvenience brought upon him by the Fault of his Predecessor, and do the same as is usual in private Curst, and may be a Demand to a Dilatory Plea, or the Defendant shall be ordered to plead better, &c. &c. The Truth of a Dilatory Plaus to be made out by Affidavit of the Fact, &c. by Stat. 4. c. 5. 5 Ann. See Plea.

Diligatus, Outlawed, i. e. De Lege ejectus. Leg. Her. c. 45.

Diligence, Pottage formerly made for the King's Table, on his Coronation Day: And there was a Temple in Seigneurcy, by which Lands were held of the King, by the Service of finding this Pottage, at that great Solennity. 39 H. 3.

Dimittente, Is used in our Records for a Moity, or one Half. — Scire et Ex Mattilda Felis Wil- liemi Fr. de Wlalerto de S. Dimittentiam illius Bur- gungi, &c.—Sine dat. Ex libro Chart. Priorat. de Leoninur.

Diminution, (Diminutio) Is where the Plaintiff or Defendant in a Write of Errors alleges to the Court that Part of the Record is omitted and remains in the inferior Court not certified; whereasupon he prays that, 'Tis the Interest of the Church in general to preserve what belongs to it for the Benefit of the Successor; and the old Canons, and our own provincial Constitutions, require the Clergy sufficiently to repair the Houses belonging to their Benefices; which if they neglect or refuse to do, the Bishop may sequestrate the Profts of the Benefice for that Purpofe, &c. cf. Rights Cler. 145. And by the Canon Law, Dilapidations are made a Debt, which is to be satisfied out of the Profts of the Church; but the Common Law permits Debt on Contrasts, &c. before Debt for Dilapidations. Hera. 195. The Prosecution in these Cases, may be brought either against the Incumbent himself, or against his Executors or Administrators; and the Executor or Administrator of him in whose Time it was done or suffered, must make Amends to the Successor: And if you proceed against the Incumbent, You must proceed in the Spiritual Court: Like wise you may proceed in the Common Court against an Executor, or the Successor may have an Action of the Debt or Debt at the Common Law, in which Action he shall recover Damages in Proportion to the Dilapidations.
such a Cafe hath awarded a Cenotaph, to inform their Confidence of the Truth of the Record in C. B. where the Defendant in Error had not joined In nulls of Erratum. 1 Nell 618.

Difformitas, (Disfigure.) Signifies the Circuit of every Bishop's Jurisdiction. For this Realm hath two Sorts of Divisions; one into Shires or Counties, in Respect to the Temporal State; and another into Dioceses, in Respect to the Ecclesiastical State, of which we reckon twenty-one in England, and four in Wales. 1 Inf. 94. All the Kingdom is said to be divided in its Ecclesiastical Jurisdiction into two Provinces of Cambridge and York; each of which Provinces is divided into Dioceses, and every Diocese into Archdeaconries, and Archdeaconries into Parishes, &c. Wood's 1st Ed. 1 Inf. 114.

Disability, (Disabilitas.) Is when a Man is disabled, or made incapable to inherit any Lands, or die that Benefice which otherwise he might have. 4 & 5 Henr. VI. 5, 1 Henr. VII. 1. Such which may appear Four Ways; 1. That the Act of an Ancestor, or of the Party himself, by the Act of God, or of the Law. 2. Disability by the Act of the Ancestor, is where the Ancestor is attainted of Treson, &c. which corrupts the Blood of his Children; so that they may not inherit his Estate. 2. Disability by the Act of the Party, is where a Man binds himself by Oath, that upon Surrender of a Lease, he will grant a new Lease to the Lessor; and afterwards he grants over the Reversion to another, which puts it out of his Power to perform it. 3. Disability by the Act of God, is where a Person is Non Jure Memoriae, whereby he is incapable to make any Grant, &c. So that if he pallbear any Estate out of him, it may after his Death be made void; but it is a Maxim in Law, That a Man of full Age shall never be received to Disable his own Persona. 2. Disability by the Act of the Law, is where a Man by the sole Act of the Law, without any Thing by him done, is rendered incapable of the Benefit of the Law; as an Alien born, Est. Terms of Law 356. 6 Rep. 21. 4 Rep. 63, 6 Rep. 43. There are also other Disabilities, by the Common Law, of Idioty, Insanity, and Coverture, as to Grants, &c. And by Statute in many Cases; as Papists are disabled to make any Pecuniary Gifts to a Church, &c. Officers not taking the Oaths, are incapable to hold Offices; Foreigners, though naturalised, to bear Offices in the Government, Est. 21 Ed. 3. 4 & 5 Henr. VII. 1. 15 Ed. 1. A Person shall not be admitted to Disable himself to avoid an Office of Charge, &c. no more than a Man shall be allowed to say that he was an idiot, &c. to avoid an Act done by himself. Capew's Rep. 507. And the Statutes do not exempt and Disable Diffractors from bearing Offices; but they must submit to a Fine, if they do not Qualify themselves. Hill 6 Edw. 3. Skinner 376, 577. Ser Capaci.

Disfactor, To deny or not acknowledge a Thing: It is mentioned in Homage Magna, cap. 4.

Disagreement, Will make a Nullity of a Thing, that had Effence before: And Disagreement may be to certain Acts, to make them void, &c. Cap. Lit. 380.

Disaffections, (From Dis and Cargy) Is to unlade a Ship or Vessel by taking out the Cargo or Goods.
he may not be Heir to a Brother, for Want of the whole Blood, yet he may be Heir to his Father, or his Uncle, immediately. 3 Rep. 41. The Defen-
dants from a Person who by our Laws might have been Heir to another, hold the same Right as that common Root from whom they are derived: so that the Son, or Grandchild, whether Son or Daughter of the eldest Son, takes before the younger Son; and a Son or Grandchild of the eldest Brother before the younger Brother: And so it is through all Degrees of 

1 Inheritance by Representation, the Proxi-

mity is transferred from the Root to the Branches, and gives them the same Preference, as next and worthiest of Blood. Hale's Hist. L. 237. The great Grandchild of the elder Brother, whether it be a Son or a Daughter, shall here be preferred as the Heir before the younger Brother; for though a Female be less worthy than the Male, yet the hands in Right of Representation of the elder Brother, who was more worthy than the younger. Hale's Hist. L. 237. As it is said to them that was last feigned: If Tenant in Fee simple hath a Son and a Daughter by one Woman or by former, and a Son by another. 3 Rep. 83. But the elder Son dies with out Issue, before actual Seisin, the younger Brother as Heir to the Father shall have the Estate; but if the elder Brother had entered on the Lands, the Sifer who entered before him shall have an estate. Lit. 8. None can inherit any Lands as Heir, but only the Blood of the first Purchase: as if the Father make a Purchase, the Blood of the Mother shall not have the Estate: But if a Son purchases, and there is no Heir on the Side of the Father, the Land shall go to the heirs on the Side of the Mother; for they are the Blood of the Son, the first Purchaser, and he had the Blood of both Father and Mother. Lit. 4. 1 Inf. 12. So that there is a Difference where the Son purchases first in Fee simple, and where he comes to them by Distant. Land thus purchased may go to the Heirs of the Fa-
ther and Mother of the Purchaser; unless it be once attached in the Heir of the Part of the Father, for then the Heirs of the Mother cannot have it, because they are not of the Blood of him who was last feigned. 49 E. 3. 12, Friend 119. Where for want of Heirs of a Purchaser, the Part of the Father, or of whom first Heir had not entered, the Lands descended to the Line of the Mother; there the Heirs of the Mother of the father's Side, shall take in Succession, before her Heirs of the Part of her Mother. Hale's Hist. L. 247. Plowd. 444. If a Man hath Issue two Sons by divers Wives, the younger Bro-
ther of the Blood of the Father shall not have and pur-
chased by the elder Brother, on his dying without Issue; but the elder Brother's Uncle, or next Cous-

in shall have it. 1 Inf. 14. The elder Brother of the whole Blood shall have Land by Distant, pur-
chased by a middle or younger Brother, if such died without Issue; for as to Distant between Bre-

thers, the Eldest is the most worthy of Blood to inherit to them as well as to the Father.) And if there be no Brother or Sister, the Uncle shall have it as Heir, and not the Father: And yet it may happen to the Father, or to the Uncle; likewise if the Father hath Issue another Son or Daughter, after the Distant to the Uncle, that Issue shall take by Distant from her Brother, who, because the Distant between them was such a manner as to exclude the Right of the Father, and the Law doth not regard the Disability of the Father. 4 Lev. 5. 1 Nef. Abs. 624. If there be Father and Son, and the Son is attainted of Treson or Perjury in the Father's Life time, and yet outlive his Father, the Land by Distant shall not come to such Son, nor any of his Issue; but if he die before the Father, it will be decided to his other Children. 4 Rep. 11. 124. And where a Person feigned of Lands, hath Issue two Daughters, if one of them commits Felony, after the Father's Death both Daughters being alive, the Mother shall decide to one Daughter, and the other shall

1 Inf. 163. Inheritances may decide but it is not so in the right Line. Children inherit 

their Antecessors without Limitation; but a Cottier may not take from their Children, for the Father can never come to the Lands which his Son hath purchased, by linear Antecent; though he may by collateral Antecent, where the Son's Lands come to his Uncle, and then to the Father. In the collateral Line, the Uncle inherits the Nephew, and in the Line of Issue of Issue he decides with the eldest. Lit. 6 Rep. 244. Lands and Tenements in Fees simple decide first, to the eldest Son as Heir, and to his Issue; the Sons first, in Order of Birth; and for Want of Sons, to the Daughters equally, who inherit as One Issue, that is in the same Degree of nearness and collaterality, as if the eldest Son hath no Issue, then to his next eldest Brother of the whole Blood, and his Heirs, and for Want of a Brother, to his Sifer or Siblings of the whole Blood, and their Issue; if there be no Brother or Sifer, to the Uncle and Issue, and for Want of an Uncle, to an Aunt or Aunts, and their Issue; and if there be none fuch, then to Cous-

ins in the nearest Degree of Consanguinity. Bacon's Ele.

m. And in Case of Lands purchased by Brethren; after Uncles and Aunts, the Lands shall decide to the Father, and the Half Blood, and their Issue, (who come in after the Father, being of the whole Blood to him, though not to one another) and for Want of Father, Uncle, Father, and Half Blood, to the next of the kin in the collateral Line. Wood's Infl. 218. In Distant of Estates-tail, Half Blood is no Hindrance because the Issue are in perf. form. Dan. and always of the whole Blood to the Donor. 3 Rep. 41. A Man hath Issue an elder Son, born out of the King's Allegiance, and after hath another Son within the Realm; the younger 

Son shall have Lands by Distant from his Father in this Case, and not the Elder who had never any in-

heritable Blood in him. 1 Co. Infl. 8. If one die feigned of Land, in which another Right to estate is in Issue, and it descends to his Heirs; such Distant shall take away the other's Right of Entry, and put him to his Action for Recovery thereof. Stat. 1 H. 8. cap. 33. Co. Litt. 237. But a Distant of such Things as are in Grant, as in Leases, Rents, Commons in gross, Es. puts not him that hath Right to his 

Action. 1 Infl. 575. But the Distant shall not take away the Entry of an Infant; nor of a Feme covert, where the Wrong was done to her during the Covanture. 2 Dons. 563. See Kindred, and Heir.

Distant being created by Law, and the most au-


tent Title, an Heir is in by that, before a Grant, or Delevy, n.e. the Uncle. 5 Rep. 46. A Heirs cannot raise a Fee simple to his own right Heirs, by the Name of Heirs, as a Purchase, either by Con-
voyance or Delevy; for if he derive Lands to one who is Heir at Law, the Delevy is void, and he shall take by Distant. Dyre 54. 126. And tis the fame where the Lands will come to the Heirs, either in a direct or collateral Line, he shall come to an Estate by an Order of Limitation, when the Word 

Heirs is not a Word of Purchase. Bod. A Father 

Ppp
hath two Sons by several Wives, and devises his Land to his Wife for Life, and after her Death to his eldest Son; the Son doth not take the Estate presently on the Death of his Father, he shall be in by a Disferr, and not by Purchase, and the Wife shall be void as to him. Style 148. 1 Nefl. Abr. 645. A Man being feated of Lands which he had by the Mother's Side devis'd them to his Heirs on the Part of his Mother; and it was adjudged that the Devise shall take by a Disferr. 3 Lev. 127. And when the Heir takes that which his Ancestor would have taken if living, he shall take it by a Disferr, and not by Purchase. 2 Davo. 557. But generally it is declared to be the Law, attended with a Charge, to so pay Money, Debts, &c. in such Case he takes by Purchase, and not by Disferr. Though Conditions to pay Money have been confirmed only a Charge in Equity; and they do not alter the aforesaid Common Law. 1 Stat. 593. 1 Salt. 241. A Man can have Lands no other Way than by Disferr or Perchasse. And Disferr is the worst Method where the Heir is to have a LAND acquired.

Disferr of Crown Lands. All the Lands whereof the King is in Feud in Jure Corses, shall be conveyed just as if the Crown were a Person of Full Age and in its Right, and to that whomever the Crown defends, the Lands and Possessions descended also. And if the Heir to the Crown be attainted of Treason; yet shall the Crown defend him, and without any Reversal the Attainted is avoided. Pecud. 247. Co. Lit. 15. The Dignity of the Crown in England, for Want of Heirs, is indefeasible immediately to the eldest Daughter, and her Pottery; and it is been declared by Act of Parliament: And by Stat. 25 H. 2. cap. 32. Regnum non de Dolo. The eldest Sister of a King, as well as the eldest Daughter, shall inherit all his Free Simple Lands by Disferr; And Half Blood is no Impediment to the Disferr of Lands of the Crown. Co. Litt. 15, 185. But a Daughter of the Whole Blood, shall not inherit where there is a Son of the Half Blood; as where the King hath Infees a Son and a Daughter by one Venet, and a Son by another Venet, and purchaseth Lands, and dies; afterwards the eldest Son entereth and dies also without Infees, the Daughter shall not have their Lands, or any other Free Simple Lands of the Crown, but they shall descend to the younger Brother. Pecud. 265. 34 H. 6. A Person coming to be King by Disferr of the Part of his Mother, makes a Purchase of Land to him and his Heirs, and dies without Infees, this Land shall descend to the Heir on the Part of the Mother; contrary to the Case of a Subject, where the Heir on the Part of the Father, Sids shall pay it. 1 Bnd. Co. Lit. 830. As the whole Kingdom hath an Interest in the Disferr of the Crown, the King cannot surrender or alien it, Co. Lit. 15.

Disferr ofbig Dignities. A Dignity also differs from common Inheritances, and goes not according to the Rules of the Common Law; for it descendeth to the Half Blood, and there is no Compensation in it, but the eldest takes the Whole. Co. Lit. 27. The Dignity of Peerage is personal, annexed to the Blood, and so infeareable that it cannot be transferred to any Person, or surrendered to the Crown; it can move neither forward or backward, but only downward to Petterity; and nothing but Corruption of Heirs makes it as the Admittance of Treason or Felony, can hinder the Dextr to the right Heir. Les Conjonctions, p. 85.

Disferr. On Wills and Testats, &c. is where a Man confided by some legal Writ or Authority, doth which by Law he is required to do, whereupon he is released or discharged from the Matter for which he was confined. And if one be arrested by a Levant 805 of E. R. and the Plaintiff do not file a Declaration against the Defendant in Prisons in two Terms, he shall be discharged on common Bail. 2 Bnd. Abr. 470. And where a Defendant, on Arraignment, is admitted to Bail, if the Bail be in the Principal before the Return of the second Certificates shall not be discharged, though an Officer of the Law changes one joint Obligor, where several are jointly bound; it discharges the others. March 129. And a Man may discharge a Premise made to himself, Vide, 1 Jac. 21. 403. See Admittal, and wide Haberdasher's Corporation.

Disclaimant, (Disclaimant, From the Fr. Clamer, which signifies to speak against a Thing;) is a Person, who, in a Civil Action, brings a Declaration before the Court, against the Person in whose Name the Action is brought, to say that he is not the real Person, or that he is not bound by the Action brought against him, he shall not have Rejection on Writ of Error, &c. against his own Act; but, it is barred of his Right to the Land, disjoined. 9 Rees. 62. But a verbal Disclaimant, shall not take Place against a Deed of Lands; Nor shall the Disclaimant of a Wife during the Covenant, bar her Entry on her Lands. 3 Rep. 25. Baron and Feme may disclaim for the Wife; though if the Husband hath nothing but in Right of his Wife, he cannot disclaim. 2 Davo. 459. Such Person as cannot lose the Thing perpetually, in which he disclaim, shall not be permitted to disclaim: A Bishop, &c. may not disclaim, for he cannot vest the Right out of the Church. Though in a Qua Warren, at the Suit of the King, against a Bishop or others for Franchises and Liberties, if the Bishop, &c. disclaim them, this shall bind their Successors. Co. Lit. 102, 103. If a Man be vouched because of a Reversal on a Lease made by himself, he cannot disclaim: But an Heir may disclaim, being vouched upon a Lease made by his Ancestor. A Person may not disclaim in the Principality; and not in the Incident; as he that is vouched because of a Reversal, cannot disclaim in the Reverse, saving the Seigniory, or any other Seigniory, in a Court of Record, it is extant; and the Tenant shall hold the Land next paramount to the Land disjoined. Co. Lit. 114. It is laid out not to be necessary that the Writ of Right for Disclaimant should be brought against the Person that disclaims; for if it be only against him that is found Tenant of the Land, though he be as Good, and is not disclaimed. 2 Davo. 570. By Plea of Non-tempore, nothing is disowned but the Freehold, which may be good where the Tenant hath the Reverse in Fee, and not the Title: And where such a Tenant disclaims or pleads Non-tempore and disclaims, the Demandant shall have the Whole, as the Whole is disclaimed. Ibid. 153, 157. A Disclaimant by Tenants of Lands, there are Disclaimers, in divers other Cases: For there is a Disclaimant of Blood, where a Person denies himself to be of the Blood or Kindred of another in his Plea. F. N. B. 102. A Disclaimant of Goods, as well as Lands; and if a Man disclaimeth Goods, on Arraignment of Felony, when he shall lose them, though he be cleared. Channelf P. C. 186. In the Qua Warren, if a Defendant by his Answer renounces the having
having any Interest in the Thing in Question, this is likewise a Disclaimant. And there are a Dead of such Claimant, and not in a Will, Cr. where an Execut or refuses, and throws up the same.

Form of a Disclaimer of Executivehip.

THIS Indenture tripartite, made the Day, &c. Between A. B. of, &c. of the first Part; C. D. of, &c. of the second Part; and E. F. of, &c. of the third Part. Whereas T. B. late of, &c. does make and publish his last Will and Testament in Writing, bearing Date, &c. and thereby declared (unto all other Persons) all that Maffage, &c. to the said L. B. and all powers and attorneyships, &c. and made the said A. B. and C. D. Executors and Trustees of said Will, as in and by the said Will may more fully appear. And whereas the said T. B. join after the Making and Publishing of the said Will, died; and the said B. is bound to the said Executors and Trustees, and never called therein, nor ever received any of the Rests and Profits of the said Maffage, or of the Goods and Chancill of the said B. In fact, the said C. D. alone proved the said Will, and took upon him the Executive thereof. Now this Indenture witnesseth, That the said A. B. as a further Declaration of his not acting in the Executive capacity, and to free himself from the same, deth by their several resoures and disclaim the said Executivehip, and all the Trusts reposed in him by the said Will, and doth affe by their respective and release unto the said C. D. his Executors and Administrators, all the Estates, Right, Title and Interest of him the said A. B. in and to the said Proffesse, by virtue of the said resoured Will, or otherwise Somerset. In Witness, &c.

Discontiance. (Discontiance.) Derived from the Fr. Déscontian, i.e. Capturer. Signifies an Interception or Breaking off; and is twofold: Discontiance of Possession, and Discontiance of Profit. The Effect of Discontiance of Possession is, that a Man may not enter upon his own Lands or Tenements alienated, whatsoever his Right be to it, of his own Authority, but must bring his Writ, and seek to recover Possession by Law. &c. Lit. 335. And, in short, if he make a Discontiance, he cannot recover it. Wherefore, if a Tenant signs the Deed to an Estate which is a Tenant in Tail, or a Man signed in Right of his Wife, &c. by a Deed and which is conveyed away, that the Discontiance is a Deed, or if it is not Contained, and that the Deed was made to the Tenant in Tail, and the same is a Discontiance, it is the Deed of the donee, and the Deed is not Contained, and cannot enter. 1 Inst. 327. But a Discontiance taken away by an Entry only: And to every Discontiance it is necessary there be a Deserving or Displacing of the Estate, and that the same be not Contained, and cannot enter. C. Lit. 327. and an Estate-tail cannot be discontained, but where he makes the Discontiance, was once seized by Force of the Inhabitants, where the Estate tail is, is Contained, by Law, &c. Lit. 531. &c. Discontiance may be Five Ways, namely, by Feoffment, Fine, Recovery, Release, and Confirmation with Warrant. 1 Rep. 44. A Grant without Livery or a Grant in Fee without Warrant, are no Discontiances: An Exchange will not make a Discontiance; as if Tenant in Tail exchanges Land with another, no Discontiance is requisite thereon. 2 Dowl. 57. It is the
D I

Proclamations, and diets, the Wife must enter, or avoid the Estate of the Consort within five years, or she is barred for ever; by the Stat. 32 Hen. 8. cap. 28. doth help the Difiinute-
ance, but not the Bar. 1 & En. 316. Husband and Wife tenants in Special Toll, the Husband alone is-
vied a Fine to his own Wife, and afterwards he de-
vided the Land to his Wife for Life, the Remainder over, rendering Rent, &c. The Husband dies, the
Wife enters and pays the rent, and dies: In this Case it was adjudged, that the Fine had barred the
flue in Toll, but not the Wife. " instability. The Entry of the Wife in this Case, was a Disagreement to the Estate of Inheritance, and an Agreement to the Estate for Life: But if the Wife had not waved the Inheritance, the Estate to Toll as the Wife had re-
mained. 35. R. 9. If Lands be given to the Husb-
band and Wife, and to the Heirs of their two Bodies, and the Husband make a Feoffment in Fee, and dieth: the Wife is helped by the Statute 32 H. 8. and the Case of both of their Bodies. 1 & Inf. 316. The Husband is Tenant in Toll, the Remainder to the Wife in Toll, the Husband makes a Feoffment in Fee; by this the Husband by the Common Law did not make the Wife fee[il]Abr. 666, 667. But his Wife's Rem-
ainder: But by Statute 32 Hen. 8. after the Death of the Husband without Issue, the Wife may enter 1 & Th. 21. Though the Husband had had Issue, and maketh a Feoffment in Fee of his Wife's Land, and his Wife dieth; the Heir of the Wife shall not enter during the Husband's Life, neither by the Common Law, nor by the Statute. Ibid. A Difiinuteance may be defeated, where the Estate that worked it is defeated; as if a Husband make a Feoff-
ment of the Wife's Land upon Condition; and after his Death, his Heirs will make a Fee for the Condition broken; now the Difiinuteance is defeated, and a Feme may enter upon the Heir. 1 & Inf. 316. The Titles of Difiinuteance of Estates and Remitters, were formerly large Titles in our Books, but they are abridged by Statute.

Difiinuteance of Estates is, when the Opportunity of Protection is left for that Time; or the Plaintiff is dismiffed the Court, &c. And every Suit, whether Civil or Criminal, and every Process therein, ought to be properly continued from Day to Day, &c. from its Commencement to its Conclusion; and the Suffr[ing] any Default or Gap herein, is called a Difiinuteance: The Continuance of the Suit by improper Process, or by giving the Parts an illegal Day, is properly a Difiinuteance. 2 Hock. 298. Where an Action is long depending, and con-
tinued from one Term to another, the Continuances must be all entered, otherwise there will be a Difi-
continueance: whereupon a Writ of Error may be brought, &c. 1 & Nell. Abr. 660. If the Plaintiff in a Suit does nothing, it is a Difiinuteance, and he must begin this Suit again; And where 'tis too late to amend a Declaration, &c. or the Plaintiff is advised to profess in another Court, he is to discontinue his Suit, and proceed de novo. Cons. Lawes Com. Pleas. 171. But a Difiinuteance of an Action, is not per-
fecft till it is entered on the Roll, when it is of Re-
cord. 3 & Or. 1. If the Plaintiff cannot continue his Action after a Demurrer joined, and en-
tered; or after a Verdict, or a Writ of Inquiry, without Leave of the Court. 3 & Or. 33. & L. 2. In Actions of Debt, or Case, upon a Demurrer joined, the Court will give Leave to discontinue, if there be an apparent Cause; as if the Plaintiff through his own Negligence, is in Danger of losing his Demand. And if the Defendant's Writ shall be null he shall have Leave to discontinue; nor where he brings another Action for the same Cause, and that is placed in Abatement of the 1st Action, Sid. 84. It has been ruled, upon a Motion to dis-
continue, that the Court may give Leave after a Special Verdict; which is not complete and final; but never after a general Verdict. 1 & Ed. 4. Hen. 7. 1 & Nell. 665. An Appeal may as well be discontinued by the Defeat of the Proces or Proceeding, as it may be by the Inoficiency of the Original Writ, &c. For by such Defeat, the Matter depending as it were out of Court. 1 & Litt. 475. A Difiinuteance or Mifiinuteance, at Common Law reverses a Judgment given by Default; and Difiinuteance upon a Demurrer is Error; but a Mifiinuteance after Ap-
pearance is not so. 8 & R. 156. 46 R. 3. 50. Difi-
inuteance of Proces is helped at Common Law by Appearance: And by Stat. 32 H. 8. cap. 50. all Difiinuteances, Mifiinuteances and Negligences there-
in, of Plaintiff or Defendant, are cured after Verdict. 2 How. 852. The Death of the King is not a Difi-
inuteance of any Suit; and no Suit before Justices of Affile, or Justices of Peace, &c. will be discontinued by a new Commision. Stat. 3 Ed. 6. c. 3. & Or. 1. Hereof, 7. 1 & Ed. 6. On the Age at Assumption of Suits, it is usual to give the Defendant Costs. See Continuance.

Difiinuteance of Plea is, where divers Things should be pleaded to, and some are omitted; this is a Difiinuteance of the Action. 1 & Ed. 8. 2 How. 468. If a Defen-
dant's Plea begin with an Anwer to Part, and an-
fswers no more, it is a Difiinuteance; and the Plain-
tiff may then make a Judgment for what is not an-
swered: But if the Plaintiff plead over, the whole
Action is discontinued. 1 & Sali. 159. Debt upon Bond
of 500 l. the Defendant as to 223 l. Part of it, pleads
Payment, &c. And upon Demurrer to this Plea, it was
adjudged that there being no Anwer to the Refuter, 'tis
a Difiinuteance to that, for which the Plaintiff sought
to take Judgment by Nil dicat. 1 & Sali. 180. Where
Anwer to one Part, if the Plaintiff pleads thereto, he cannot have Judgment according to his Declaration; for which Reason it may be a Difiinuteance of the Whole. 1 & Nell. 666. But this is helped after Verdict by 32 H. 8. c. 50.

Difecert, is used in the Law for a Woman un-
marrid or Widow, one not within the Bands of Ma-
imy. Law Difficult.

Difecert (Difrect) When any Thing is left to-
any Person to be done according to his Difecert, the
Law intends it must be done with sound Difecert, and
according to Law: And the Court of B. R. hath a
Power to redress Things that are otherwise done,
notwithstanding they are left to the Difecert of those
that do them. 1 & Litt. 100. A Difecert is to dif-
cern between Right and Wrong; and therefore who-
ever hath Power to set at Difecert, is bound by the
Rule of Reason and Law. 2 & Sali. 129. 368. And
though there be a Latitude of Difecert given to one,
yet he is circumstanced that what he does be necessary
and convenient; without which no Liberty can defend it, ibid. 158. The Alleneent of Fines on Offen-
ders committing Affrays, &c. And the Binding of
Persons to the good Behaviour, are at the Difecert of
our Judges and Justices of the Peace. 1 & Hock. C. 3.
158. And in many Cases, for Crimes not capi-
tal, the Judges have a Difecert Power to inflit corporal Punishment on the Offenders. 2 & Hock. 455.

Diffranchif is, to take away one's Freedom or Privilege. It is the contrary to Diffranchif. And
Corporations have Power to diffranchif Members, for
doing any Thing against their Oaths; but not for Com-
tempt, 1 & Eliz. 5. 68. See Corporation.

Diffranchif: It is the Old Word for which signifies as much as Diffranchif; mentioned in the Stat. 20 Ed. 1. and 8 R. 2.

Diffranchifed, One that Diffranchifed, or puts another out of his Inheritance. Stat. 3 Ed. 1. c. 59. 2

Diffranchif.
Difficult. (Decima) Are Tibets, or the Tenfold Part of the Labour of the earth, and of Both the Labour due to the Clergy. It signifies also the Truth of all Spiritual Living given to the Prince, which is called a Perpetual Dign. Stat. 25 & Edw. 3. 35. And formerly this Word signified a Law or Tribunal levied of the Temporality. Halliwell in H. S. f. 111. The Laws of Digns or Tibets: The Tribes.

Dignitaries: In a legal Sense was used for matching an Heir in Marriage under his Degree, or against Deceity. C. Lit. 107. Mag. Chart. c. 6.

Dignified. When a Person by Renunciation of his Property, is admitted to sit in Parlia. pupers; if afterwards, before the Suit is ended, the same Party has any Lands or personal Estate fallen to him, or be guilty of any Thing whereby he is liable to have this Privilege taken from him, then he is put out of the Capacity of sitting in Parlia. pupers, and is said to be dindung. See Parlia. pupers.

Dignitas in H. B. 9. cap. 21. The Archbishop of Canterbury has Power of dispensing in any Case, wherein Dignizations (not contrary to the Law of Canon. or Ecclesiastical, nor against the Rights of Common Rights; and may grant Dignizations to the King, as well as to his Subjects: But such Dignizations shall not be granted out of the Realm, &c. And during the Vacancy of the See of Canterbury, the Grant of the Spirituals may grant Dignizations. The Archbishop of Canter. bury grants Dignizations, not only in his own Province, but in a Province of a Natural Person, and the Archbishop of York, and other Bishops, dispense as they were wont to do, by the Common Law and Custom of the Realm. Wood's Life. 56. Every Bishop of common Right has the Power of Institution into Benefices, and of Dignizations in common Causes, &c. Ibid. 357. Dignizations to hold Parliaments: See Chapultes.

Dignizations of the Staging. If a Dignization by the Archbishop of Canterbury, is to be in extraordinary Matters, or in a Case that is new, the King and his Council are to be consulted; and it ought to be con. firmed by the Seal. The King's Authority to grant Dignizations remains as it did at Common Law; notwithstanding the Stat. 25 H. 8. & 1 E. 4. 501. The Dignization of the King, &c. makes a Thing prohibited, lawful to be done by him who hath it: But Malum in se will not admit of a Dignization. March Rep. 213. Where the Subject hath an imme. diate Right in the Parliament, the King cannot dispense with it; but where the King is intrusted with the Management thereof, and the Subject interested by Way of Consequence only, he may, March 214, 216. When an Office is a State Office, and the King; or if the Suit is only the King's for the Defence of a Penal Law, that is not to the Damage of a third Person, the King may dispense: But in Case the Suit is the King's for the Benefit of another, he cannot. Foech. 244. 254. 339. &c.

Dignization by non-obstantes. If any Statute tends to retain some Pecun.us incident to the Per. son of the King, as of the Right of Pardoning, or of Commanding the Service of the Subject for the publick Good, &c. which are inseparable from the King by a Natural Right, they may dispense with it. 2 Hark. 590. But as in the Reign of King James II. the dispensing Power was carried to high as to render the Common Revenue of the State, and the Pleasure of the Prince; by Stat. 1 W. & M. S. 2. cap. 2. It is enacted, That no Dignization by non-obstantes of, or to any Statute, or any Part thereof, shall be allowed; but that the same shall be held void, and of none Effect, except a Dignization be allowed in such Statute. The Dignization by non-ob. stant. es was brought into this Kingdom by the Pope, and first used by Hen. 3. Vp. Animadvert. on 4. Ind. 1. 129.

Differenter, Is to dazzle or disfigure. Blunt.
9 W. 6. 21. 31. 3Dow. 657. If a Person enters on Lands by Virtue of a Grant or Lease, that is void in Law; he is a Diffrayer. 3Dow. 650. A Leissee at Will makes a Lease for Years, it is a Diffrayer, at the Pleasure of the Leissee: but it is the Diffrayer of the Leissee at Will, see of the Leissee for Years. Hill. 7 Car. 2. B. R. If a Man enters into the Land of an Infant, though by his Agent, [This is a Diffrayer to the Infant, at his Election. 11 Ed. 3. Ass. 87. And if a Person commands another to enter upon Lands, and makes a Diffrayer, the Commander is a Diffrayer, as well as such other as the Command be conditional, when it may be otherwise. 22 ass. 99. 2Dow. 631. If a Man forces another to wear his Garments to him, and he doth so, it will be a Diffrayer of the Estate. So forcibly hindering a Person from till ing his Lands, is a Diffrayer of the Land. 1 Inst. 161. But if one enters wrongfully into the Lands of another, and he accepts Rent from such Person, he shall not afterwards be taken for a Diffrayer. Dyre 173. Where any Person is disburthened from entering on Land, it is a Diffrayer: A Denial of a Rent, when lawfully demanded, is a Denial of a Rent. 1 Inst. 162. Where a Diffrayer to Land, by Force, or by means of a Lease, enters upon Land, he shall not be by actual Entry on the Land, a Diffrayer. 3Dow. 648. An Infant, or a Person in Equity, may be a Diffrayer, but it must be by actual Entry on the Land. 4& 5. 43. 43. A Feme covert shall not be a Diffrayer, by the Act of the Baron: If he diffrayer mother to her Husband, or a Diffrayer: nor if the Wife agrees to it, and acquiesces in it, it is not a Diffrayer. Yet if the Wife agrees to it, and acquires herself to it, the Coveruent is a Diffrayer. 41. 3. 2. 625. 627. An Act of Parliament concerning the Wave of a Diffrayer is a Register of Diffrayers, written or caused to be written, by the Person of a Diffrayer, of which some are in the Parlia ment, and others in the Parish, &c. But Write of Affidavit on Diffrayers, are now diffused and the ancient Action of Toleration is introduced in their Place. See Affidavit of New Diffrayer, and Entry.

Diffrayers, in general, be that Diffrayer be a Person who enters upon the Land, without the Consent of the Owner, and a Diffrayer is he that is put out. 4 H. 4. As the King is in Judgment of Law to do no Wrong, he cannot be a Diffrayer. 1 E. 5. 8. A Diffrayer is to be fixed, and impounded, and the Diffrayer removed to the Land, &c. by Stat. 20 H. 3. c. 5. Where a Diffrayer is dethroned, it is called Diffrayer on Diffrayer.

Diffraffers, are, in general, persons who make a pretence to possessing or a Person of a Diffrayer, that he has the power, and the Courts of Justice have no power to interfere with him. 3Dow. 647. All cases of Power are cases of Diffrayers, and they must be acquitted of their Mischief, their Place is ascribed to the Bishop, &c. or to the Justices at their Quarter-Session, and rectified there: all of them must be kept the Doors of their Meeting-houses closed, &c. If any Person disfavors them in their Worship, on Convocation at the Sessions, he shall forfeit 20l. Stat. 1 W. & M. 7. 7. and there are great many instances relating to Diffrayers besides the Tolentino Act: as the 5 & 6 Ed. 6. c. 1. 23 Ed. 6. c. 1. 3 Year 7. 14 Car. 2. c. 1. 17 Car. 2. c. 2. and 22 Car. 2. c. 1. W. & M. 7. 16. 1st. 6. 6. 5. See Church, 4& 4. 3. 60. Diffrayers, of Strong Waters and Spirits, setting up any Tan, Cask, &c. or using any private Ware house or Cellar, without Notice given to the Officer of Contract, or being duly licensed, or working or Stills but at such appointed Hours, to be levied by Warrant of two Justices of Peace. Stat. 9 3 W. & M. 1. c. 30. If any Diffraffers shall run the Pipe for Conveyance of distilled Liquors, he forfeit 100l. Distilled Liquors to be stills, for which a Search may be made by Officers of Excise by Vis.

unt of a Justice's Warrant. 10 3 W. & M. 3. 3. 4. "Diffrayers, &c. are to make an Entry of all Warehouses, for keeping Brandy, on Pain of 20l. and Forfeiture of the Liquor; and Brandey shall not be sold but in the Presence of the Justice, unless the Party supply proof of 40l. per Gallon, by Stat. 5 Gen. 1. c. 2. All Mixed or Compound Wines, or Spirits, commonly called Ge rard, &c. in the Possession of Diffrayers, are liable to a Duty of 10 per Gallon, and Basket or be made of Stills, &c. under Penalty of 20l. and none of the said Mixed Liquors shall be exposed to Sale, but in some Place that is entered, on Pain of forfeiting 40l. a Gallon, and if any Diffrayer delivers or sells any Spirits, or not of full Proof he shall pay the like Forfei ture. Also Sellers or Retailers of any Compound Liquor in less Quantities than a Gallon, are to take out a License at the Exchequer Office for the same, and pay down 20l. and filling without such License, to forfeit 50l. Selling Brandy about Streets, any Wheelbarrow or on a Skid, or other Place, incurs Penalty of 10l. leviable by the Justices of Peace: But this Act shall not extend to Arrack, Rum, Citron Brandy, or any Spirituous Liquors, nor any Wine, Water, or Spirituous Waters, nor any Water, nor any Spirits, nor any Distilled Waters, under any Name, in any less Quantity than two Gallons, without taking out a License, and paying 50l. to the next Office of Excise, &c. on Pain of forfeiting 100l. and shall pay 20l. per Gallon: And the Retailers of a make a true Entry of all their Warehouses, Shop, Cellar, and the Liquors therein, under the Penalty of 20l. and 20l. for every Gallon concealed, or making any clandestine Import. Officers for the Duties may seize Warehouses, &c. and take an Account of Liquors, and Persons refusing them Search shall forfeit 50l. None may convey with any Workman or Servant, to pay him his Wages, to much in Money, and the roll in Brandy, &c. And Hawkers and Sellers of Brandy about the Streets, &c. to forfeit 50l. or be committed for two Months. But Physicians and Apothecaries, may use Spirituous Liquors in Medicines for Sickness, and Distillers may exercise any other Trade. 9 Gen. 2. c. 2. The Forfeitures imposed shall be paid to lawful Retailers of Spirituous Liquors, &c. to recovered and mitigated, as directed by the Act 12 Geo: 3. c. 2. What was not held by their Meetings, to their Place is certified to the Bishop, &c. or to the Justices at their Quarter-Session, and rectified there: all of them are to keep the Doors of their Meeting-houses closed, &c. If any Person disfavors them in their Worship, on Convocation at the Sessions, he shall forfeit 20l. Stat. 1 W. & M. 7. and there are great many instances relating to Diffrayers besides the Tolentino Act: as the 5 & 6 Ed. 6. c. 1. 23 Ed. 6. c. 1. 3 Year 7. 14 Car. 2. c. 1. 17 Car. 2. c. 2. and 22 Car. 2. c. 1. W. & M. 7. 16. 1st. 6. 6. 5. See Church, 4& 4. 3. 60. Diffrayers, of Strong Waters and Spirits, setting up any Tan, Cask, &c. or using any private Warehouse or Cellar, without Notice given to the Officer of Contract, or being duly licensed, or working or Stills but at such appointed Hours, to be levied by Warrant of two Justices of Peace. Stat. 9 3 W. & M. 1. c. 30. If any Diffraffers shall run the Pipe for Conveyance of distilled Liquors, he forfeit 100l. Distilled Liquors to be stills, for which a Search may be made by Officers of Excise by Vis.
two Months. Their Licenses are not granted to any person, but those only that keep Taverns, Inns, Alehouses or Coffee Houses; and they must be first licensed to sell Ale or Spirituous Liquors by two or more justices of the peace, who shall sign their names to the license, but none but dent a Retailer, who does not sell if he is drank in any Place belonging to him, or sell it abroad, in lesd quantities than a Pint. 4. By the Stat. 17 Geo. 2. c. 8. By this Act impelled, may be freed, recovered, levied, and mitigated by such Ways and Means as any penalty may be freed for by any Law of Excise: But the justice may, if he thinks proper, instead of levying the Penalty, commit the offender to the House of Correction, to be kept to hard Labour for two Months, and he whip before discharged. Licenses granted to be sold to any person, who shall afterwards, during the Continuance of his License, exercise the Trade of a Distiller, Grocer, or Chandler, or keep a Brandy Shop for the Sale of Spirituous Liquors, shall be void, and the offender forfeits c.l.f. Every Person, who shall re- sell this King's Wine, shall be liable to be fined by a Justice of the peace, or be retailed or send the same abroad, in lesd quantities than two Gallons, without a license, shall be deemed a Retailer, and shall be liable to be fined by a Justice of the peace. Where Officers are not able to pay the Penalties, but in lieu thereof are sent to the House of Correction, the Commissioners of Excise may order a Reward to the informer, not exceeding 5s. By the Stat. 20 Geo. 2. c. 59. Distillers within the Bills of Mortality may have Licenses on Payment of 5l. yearly. Distillers in Partnership to have but one License. And all Distillers shall have a License, wherein, Inhabiting in the City of London, he pay to Church and Poor Rates, for the Value of 50l. and in any other Parts for the Value of 10l. in the Faith he exercises his said Trade: And he shall not, by Virtue of such License, recall Spirituous Liquors but in his own Shop, under the Penalty of 10l. And if he sells any Spirituous Liquors to be drank, or suffer it to be drank in his Shop, he shall forfeit 10l. All such Penalties to be sold for, and as above is mentioned. And every Person found tippling in a Distiller's Shop, shall forfeit 10l. And by the Stat. 19 Geo. 2. c. 12. an Additional Duty is laid on Spirituous Liquors.

Distillery. (distillers) Signifies most commonly any Thing which is taken and distilled for Rent behind, or other Duty: And by the Common Law, Distillers for Rent were not to be sold, but only detained for infuring Paying the Rent: But this is altered by Statute. A Man may take a Distiller for Homage, Fecality, or any Services: For Fines and Anerencement; and for Damage feallant, &c. And the Effect of it is to take the Rent, to replace the Goods, and consel the Taking in Action of Trepass against the Distiller; or, which is more usual, to compound and pay the Debt or Duty, for which he was distillered. There are besides Distillers in Actions compulsory to cause a Man to appear in Court: And of these there is a Distiller Provoit, of a Man's moveable Goods, and Product of his Lands, &c. Contempt in not appearing after summoned; and Distillers Real, upon immovable Goods. And none shall be distillered to answer for any Thing touching their Freeholders, but by the King's Writ. 5 Hen. 3. Distillation is also divided into finite and infinite: Finite, is that which is limited by Law, how often it shall be made to bring the Party to Trial. Action, as more than twice, or indefinite, without Limitation, until the Party appears; which is likewise applicable to Jurors not appearing: Then it hath had a further Division into a Grand Distillate, which consists to all the Goods and Chattels which the Party hath within the County. F. N. B. 904. Old Nat. Br. 14. 113. Brit. c. 26. f. 32. Of common Right a Person for may distil for Rents, and all Manner of Servants; and for Rent referred upon a Gift in Tail, Lease for Life, Years, &c. though there be no Clause of Distress in the Deed, so as the Reversion be in himself. But on a Premises free of Rent, a Distress may be taken, unless expressly referred in the Deed. 1 Stat. 57. 205. Dollar and Student, cap. 9. If a Leafe for Years grant away all his Term in a Lease, or add to it, Rent, he cannot distil for this Rent: But the Tenant may for it as a Sum in gross. 2 Lev. 80. If one makes a Lease rendering Rent at Michaelmas, provided it be kept in twenty Days after, he shall distil in this Case the Leafe may not distil till the twenty Days be past: But the Opinion of some Judges is against it, where a Distress is incident; and the Words are Affirmative, that he may distil at any Time after the Day. C. Litt. 204. Trin. 14 Jac. 1. A man grants a Rent out of the Manor of D. and further, that if the Rent be behind, the Grantee should distil for it in the Manor of S. this is a Rent of the Manor of D. and only a Penalty on the other Manor. 1 Stoa. Abr. 567. If a Person held a Land in Fee, demitted it to one upon Condition to pay his Wife a Yearly Rent for it, and if it be behind in And in Arrears, that the shall distil for it; the Wife may take a Distress for the Rent. Dean 39. 49. There is a Lease by a Tenant to the West. Lease 19. 17. And the Distress is the Goods. The Thirds of the Seigniorie; here the may distil for one Pound, and the Heirs for two Pounds: So if a Rent be divided amongst Persons, each of them may have a Distress for her Part; but this may not be till Partition is made. Bro. 45. If one Jointtenant makes a Gift in Tail, of the Land, referring a certain Rent, and the Rent be arrear, the Tenant of the other Jointtenant. 35 H. 6. 35. But if A. and B. are Tenants in Common, and A. leases his Moteity to C. for Years, rendering Rent, and C. leases it to B. if the Rent is behind, A. may take a Distress of the Castle of B. his fellow Tenant in Common; 7 Rep. 33. Man 528. To justify Taking a Distress, the Party must see he hath good Cause to Distill that he have Power to take the Distress, and from the Person from whom he takes it; that the Thing for the Quality of it be Distressable, and he distill it in the Time and Place, &c. He who takes a Distress for another, ought to have good Warrant for the doing it; and must do it in his Name: And a Ballist or Servant, may distrain for his Master, 7 C. R. 22. 222. Goodl. 110. A Distress ought to be made of such Things whereas the Sheriff may make Replevin, and deliver again as good as it was when taken. At the Time of the Taking. 1 Ind. 47. And Distresses for Rent are to be reasonable, and not excessive; and not to be taken in the King's Highways, or the common Street; or in the ancient Market Place. 52 H. 3. c. 15. 9 Edw. 2. And where a Distress is taken, it may be replevin in five Days: If the Tenant and Owner of the Goods do not in that Time after taken, and Notice given, and of the Tenant left at the Dwelling house, &c. reply the same according to Law; then the Person distraining may have the Under-Sheriff of the County, or Constable of the Place, &c. (who are required to be affilling) cause the Goods to be appraised by two sworn Appraisers, and sold to satisfy the Rent, &c. leaving the overplus in the Constable's Hands for the Life of the Owner. Stat. 2 H. 2. M. C. 5. All Distresses for Rent must be made on the Premises, by the Common Law; But by Statute, if any Tenant fraudulently remove Goods from the Premises, the Landlord may in five Days seize such Goods which were forever found, as a Distress for the Rent in Arrears; unless the Goods are sold for a valuable Consideration before the Seize, and where the Premise remains. And where a Statute or Any other Law or Act for the Time of the Term, the Leafe could not distil; because the Term ended before the Rent was due (and the Lease
had the whole Day to pay it) and it was the same,
where the Lease held over his Term, for Rent in
consideration during the Term. Ca. Litt. 47. Not by the
Stat. dem. Other Leases are admiss'd, a Disposable
may be taken, provided it be done within six
Months, and during the Landlord's Title and Te-
ment's Possession. Disposiefs for Services, are to be
on the Land: But for an Amercement in a Lease,
the Disposable may be taken any where within the Hun-
dred, as well out of the Land, as on it, where-ever
Cattle are of him that is amortized: for the A-
mercement charges only the Perfon, and not the
Land; and for this a Disposable may be taken in the
high street. 2 Dem. Ab. 646. 645. The Land
cannot disfain for Amercements in a Court-Baron,
without a Pre-emption; though he may in the Leat:
The Goods and Cattle of another, may not be
taken in Disposable on my Ground, for an Amercement,
Etc. set upon me in a Court-Leet or Court-Baron.
11 Rep. 44. 13 El. 7. 13. For Services a Dispos-
ief may be taken in the South: for Services the Ten-
ent or Tenant's, or may be reduced to a Certainty. Ca.
Litt. 65. A Disposable for Rent cannot be Made in the Night:
Nor may Gates, Etc. be broke open to make a Di-
posable on the Tenant's House; for that Purpose, unless the Doors are open. 1 Inf. 142. 161. One may break an inner Door of a
House, Etc. to take the Disposable; if the outer Doors be
laid open, and the House is to be of a Thing
valuable, whereof some Body hath a Property:
Things Fere Nature, as Dogs, Conies, Etc. may not be
dismiss. 1 Roll. Ab. 664. 665. It is the same
of Castle of the Plough, Beasts of Husbandry, Sheep,
or Horses joined to a Cart, with a Rider upon it,
1 Inst. 56. But it has been adjudged that Horses
cannot be taken from a Cart loaded; though it has
been a dismissed Cafe, whether they could be sepa-
rated. Sid. 422. Regm. 18. A Horse with a Rider
upon his Back, or a Go to an Inn, or put into a
Common; as Ax in a Man's Hand, cutting down
Wood; or any Thing a Perfon carries about him:
Utensils and Instruments of a Man's Trade or Pro-
fession, or the Books of a Scholar; Corn in a Mill,
or Goods in a Market to be fold for the Use of the
Publick; Materials in a Weaver's Shop, for making of
Cloth; another Person's Garment in the House of a
Tenant, or for any other Thing that is fixed to the Frechold of a House, as a
Furnace, Doors, Windows, Boards, Etc. 1 Sid. 422,
440. 1 Inf. 47. 2 Dem. Ab. 641. But Goods,
Cattle, not of the Plough, Etc. Sheaves of Corn
in the Straw, or thatched; and Carts with Corn,
but not Vittails) Hay in a Barn, or Ricks of
straw dried, or things out of a Parliament Bag,
Etc. may be dismissed for Rent: And so may
Cattle or Goods driving to Market, if put into Pa-
gether by the Way; and Beasts of a Stranger, in
the Landlord's Ground, being Leaunt and Cowboant,
and having well reft themselves there. 1 Inf. 47
1 Inst. 214. Med. 35; 2 W. & M. I. If a Driver of
Cattle takes Leave of the Leaff, to put his Cattle in
to Ground for a Night, and he gives Leave, as well as
the Leafe; yet 'tis fact he is not concluded from
dismissing them for Rent. 1 Inst. 159. 2 Dem.
642. Relief given in Equity in the Case. See
Carcery. 2 Fern. 129. But the Goods of a Carrier
are privileged, and cannot be dismissed for Rent, though the Wagon wherein loaded is
brought into the Barn of a House, Etc. on the Road. 1 Safl. 245.
If the Fences of another Man's Ground be out of Re-
pair, and the Neighbour's Cattle escape there, and
are at large, or are made, without any fresh Pursuit
after them, they may be dismissed for Rent; for the
Land is Debtor for the Rent, and the Landlord must
answer for the Cattle, why he is not accused: for they
are which he finds therein. 1 Rel. Rep. 124.
1 Nelf. Ab. 667. But if the Owner freely purfues
the Cattle, they are not dismissable; because they
are fupposed to be always in his View and Possofion. If the Owner of the Cattle is to maintain the
Fences, in fuch Cafe, if they escape into another's
Ground, they may be dismissed before Leuant and
Cowboant, and notwithstanding fresh Pursuit. 1 Nelf.
Ind. Where a Landlord comes to dismiss Cattle,
which he sees on the Tenant's Ground; though, if
the Tenant, or any other, to prevent the Disposable,
drives the Cattle off the Land, the Landlord may
make fresh Pursuit, and dismiss them: Though if
before the Disposable, the Owner of the Cattle tenders
his Rent, and a Disposable is taken afterwards, it is
wrongful. 2 Inf. 160. 1 Inf. 107. Two Disposiefs
cannot be taken for one Rent, if there were suffi-
cient Goods when the first Disposable was made; but if
there were not then a sufficient Disposable, there is
cap. 1. When the Value of Cattle dismissal shall be
found, he may not dismiss them: But, if there were not
then a sufficient Disposable, there is dismissal. Ca.
cap. 1. When the Value of Cattle dismissal shall be
found, he may not dismiss them: But, if there were not
then a sufficient Disposable, there is dismissal. Ca.
cap. 1. When the Value of Cattle dismissal shall be
found, he may not dismiss them: But, if there were not
then a sufficient Disposable, there is dismissal. Ca.
another, on Purpose to injure him, or put him to Expense, &c. he shall pay treble Damages. Stat. 13 Ed. 1. And if any Divers & Sale be made where there is no Rent due, the Owner of the Goods demandeth, that such double the Value of the Goods, and full Cots, by 2 M. & M. Alto by the Common Law, if a Lord or other Person shall drain several Times for his Service or Rent, when now is in Arrest, the Tenant may have an Affidavit de jure et divario, &c. F. N. B. 176. See Receipt, Release, and Refuse.

Divers & Sale for Rent by the late Act, which has much altered our Law in this Case: If any Tenant of Lands or Tenements, shall fraudulently carry away his Goods, to prevent Divers, the Landlord may within thirty Days after, drain them wherever they shall be found, as if they had been on the Premises; but no such Goods shall be drain ed off, before their Sale or Assignment before Seizeure, to any Person not privy to the Fraud. Tenants committing such Fraud, or others afflicting, shall forfeit double the Value of the Goods carried off, and if he become, having been on the Premises, and where they shall not exceed 10 Value, the Landlord may exhibit a Complaint before two Justices of Peace, who are to examine the Facts, and inquire into the Value of the Goods, and upon order the Offender to pay double Value, leviable by Divers and Sale; or for want thereof, commit the Offender to the House of Correction for six Months. Landlords, or their Agents, may with the Affiliation of a Confinable, seize any Goods fraudulently conveyed in any House, Outshouse, &c. And in Case of a Dwelling-house, on Oath first made to some Justice of Peace to suspect that such Goods are there, may break open the same, and drain them: They may also drain for Rent any Castle, or Stock of their Tenants, feeding in any Common; or Corn, Grass, Hops, Fruits, &c. growing on the Land, which they shall cut, gather, cure and lay up when ripe, in any proper Place, giving Notice to the Tenant within a Week where lodged, and diff erent thereof towards the Satisfaction of the Rent and Charges; the Appraisement to be taken when cut or cured: But after a Divers is taken, before the Product be ripe and gathered, the Tenant shall pay the Rent, and Charges of the Divers, the said Divers shall be lawful fully taken, and fell them upon the Premises, in like Manner as may be done off the same, by 2 M. & M. And any Perons may go to and from the Premises, to view, appraise, buy, or take away the Goods of the Parcher; and if a Receipt be made for the Divers, the Persons aggrieved shall have the Remedies given by the said Statute. Divers made for Rent duly due, shall not be unlawful, nor Divers, Trepaflers ab initio, for any Irregularity in the Difpofition thereof; but the Parties grieved to have Satisfaction for special Damage, than Action of the Cafe, &c. But to a Tenant shall recover by such Action, if Tender of Amends hath been made before the Action of the Divers: And if the Landlord or others of his Family, shall recover double Cots of Suit. Stat. 11 Ed. 2. c. 19. See Leaf. Vide the Statute.

Divers of a Town. If a Town be affliied to a certain Sum, a Divers may be taken in any Part, subject to the whole Duty. 2 Daws. 643.

Distribution of Intestate Estates, according to the 25 & 26 Car. may be used for as well in the Chancery, as in the Ecclesiastical Court: And if the Persons appointed to have it, die before a Distribution made, their Shares go to their Executors, &c. 2 Chan. Rep. 374. Where the Remainder or Surplus of an Estate, not disposed of by Will, shall go and remain to the next of Kin, by the Statute of Distributions. 2 Vern. 356, 357. See Administrator, also Executor, and Intestate.

Distinctione Saccacalli, A Status to called. 51 H. 3.

Distri, (Distri, Distriph) A Territory, or Place of Jurisdiction; the Circuit wherein a Man may be compelled to appear; also the Place in which one hath the Power of dishing it: And no, for the Bounts de for, out of the Fees; it has been used for Extra Distriphium Jum. Brit. c. 120.

Distriphia, Is a Wit directed to the Sheriff, or other Officer, commanding him to drain a Debt to the King, &c. Or for his Appearance at a Day. There is a great Diverity of this Wit; which was sometimes of old called Confrigurata. F. N. B. 118.

Distriphia Juratares, Is a Wit directed to the Sheriff, to drain up an Jury to appear; and return Fines on their Lands, &c. for Non-appearance. Where an Issue in Fact is joined to be tried by a Jury, which is returned by the Sheriff in a Panel upon a Veneris facies for that Purposes: thereupon there goes forth a Wit of Distriphia Juratares, to the Sheriff, commanding him to have their Bodies in Court, &c. at the Return of the Wit. 1 Litt. Ab. 483. And the Wit of Distriphia Juratares ought to be delivered to the Sheriff so timely, that he may warn the Jury to appear four Days before the Wit is returnable, if the Juries live within forty Miles of the Place of Trial; and eight Days if they live farther off. Ibid. 484. There may be an Alias, or Plural Distriphia Juratares, where the Jury do not appear.

Dividend in the Exchequer, is taken for one Part of an Indenture. Stat. 10 Ed. c. 11.

Dividens in the Exchequer, is that Part or Share which every one of the Fellows do jointly and equally divide among themselves of their annual Stipend.

Dividens in Law Proceedings, A Dividing of Fines and Perquisites between Officers arising from Writs, &c. Proph. Sac.

Dividens of Merchants, Is where a jiff Share of Profits in Trade is assigned to any one.

Dividens in Branch, A divisible proportionate Share of the Interest of Stks, created on publick Funds; as the South-Sea, India, Bank, and African Stocks, &c. Payable to the Adventurers half-yearly.

Dividens, Hath various Significations: Sometimes it is used for a Divice, Award or Decree; Sometimes for Distribution of a Portion or Parcel of Lands, &c. by Will: And sometimes for the Distribution of a Party to Limits of Division of a Parish, or Farm, &c. As Distriphia perambulac, to walk the Bounds of a Parish in which, it is extended to the Division between Counties, and given Name as to the Distriphia, a Town in Wiltshire, situated on the Confluent of the Well Saxon and Merian Kingd. Log. H. 2. cap. 9. Log. Ina. c. 44. Log. H. 1. c. 57. Cowel.

Divil on the Rock, A tormenting Engine made of Iron, strangling and withch the Neck of a Man with his Legs together, in a horrible Manner, so that the more he struggles in it the fierer it prefliteth him, formerly in Ul, among the Perfecting Papists. Fo. 17th J. H. 8.

Divorce,
De divorcio, (Divorcium, a Divorcendo) is a Separation of two, de factis married together, made by Law: It is a Judgment Spiritual; and therefore if there be Occasion, it ought to be rather in the Spiritual Courts, or the Law Courts, and besides Sentence of Divorce in the old Law, the Woman divorced was to have of her Husband a Writing called a Bill of Divorce, which was to this Effect, viz. I Pray thee that hereafter I will lay no Claim to Thee, &c. There are many Divorces, mentioned in our Books; as Causa Procrastinatutis, Causa Frigiditatis, Causa Concepsionis, Causa Affinitatis, Causa Prophétia, &c. But the usual Divorces are only of two Kinds, i.e. a Menia & Thora, from Bed and Board; and a Viscum Matrimonii, from the very Bond of Marriage. A Divorce à Menia & Thora, dissolved not the Marriage; for the Cause of it is subsequent to the Marriage, and supposes the Marriage to be lawful: This Divorce may be by Reason of Adultery in either of the Parties, for Cruelty of the Husband, &c. And as it doth not dissolve the Marriage, so it doth not debar the Woman from her Dower, or lands, or make void any Eate for the Life of Husband and Wife, &c. 1 Inf. 255. 7 Inf. 89. 7 Rep. 43. The Woman under Separation by this Divorce, must stay near her next Friend, and she may sue her Husband in her own Name for Alimony. Wood's Inf. 62. A Divorce à Viscum Matrimonii, abolished the Marriage, and makes it void from the Beginning, the Cause of it being precedent to the Marriage; as Procrastinatutis with some other Person, Concepsionis or Affinity, without the Legal Degrees, Impotency, Impovercy, &c. On this Divorce Dower is gone; and if by Reason of Procrastinatutis, Concepsionis, or Affinity, the Children begotten between them are Bastards. 1 Inf. 315. 1 Inf. 51. 687. But in these Divorces, the Wife is laid shall receive all again that she brought with her, because the Nullity of the Marriage arises through some Impediments; and the Goods of the Wife were given for her Advanced in Marriage, which now ceaseth: But this is where the Goods are not spent; and if the Husband give them away during the Coverture, without any Collocation, it shall bind her; If the know's Goods unfested, the may bring Affion of Detinue for them; and as for Money, &c. which were given the Woman for the Advancement in the Spiritual Court. Dyer 62. 1 Nehl. Ab. 675. Where Lands were formerly given to Husband and Wife, and the Heirs of their Bodies in Frank Marriage; if they had been afterwards divorced, the Wife was to have her whole Lands; and by Divorce an Eate-Tail of Baron and Feme, its said may be extent. Godb. 7. After a Separation in the Spiritual Court, the Issue of that Marriage shall be Bastards, so long as the Sentence stands unrepealed: and no Proof shall be admitted at Common Law to the contrary. 1 Nehl. 674. And Issue of a second Marriage in such Cause, may inherit until the Sentence is repealed. 2 Law. 207. Though it is not so where the Divorce is à Menia & Thora, for Adultery, &c. in which Case the Marriage shall continue. Cen. Cat. 452. And if after a Divorce à Menia & Thora, either of the Parties marry again, the former being Living, such Marriage is a more Nullity; and by Sentence to confirm the fict Contra, the and her fict Husband become Husband and Wife to all Intentes, without any formal Divorce from the second. 1 Law. 173. Also on this Divorce, as the Marriage continues, marrying again while either Party is living, hath been held within the Statute 1 Stat. 11. 42, for having married a second Husband or Wife, the former being alive; where a Woman was divorced, and inhibited by the Statute not to marry during her Husband's Life, Cen. Cat. 333. 1 Nehl. 674. On a Divorce à Viscum Matrimonii, by Reason of Procrastinatutis, &c. the Parties may marry again: And in Divorces for Adultery, several Acts of Parliament have allowed the innocent Party to marry again. Sentence of Divorce must be given within the Life of the Parties, and not on the afternoon; But it may be repealed in the Spiritual Court, after the Death of the Parties. 1 Stat. 33. 244. 4 Rep. 68. Upon the Divorce of a Man and his Wife, Equity will not afflict the Wife in recovering Dower, at the Husband's Death; but shall leave her to the Law; neither sought the Spiritual Court to grant her Administration, the not being such a Wife as is intituled to it; nor will the Chancellor decree her a Distributive Share. Preced. Case. 113. 114. A Divorce shall be tried by the Bishop's Certificate; and not by a Jury. Dtronatis. Signifies as much Land as can be plowed in a Day, with one Ox; in some Authors, it is writ Divomus. Bloom. Dochet, or Dogget, Is a Brief in Writing on a small Piece of Paper or Parchment, containing the Effect of a greater Writing. 2 St. 3 P. & M. cap. 6. Wyl. Symbol. par. 2. fol. 106. And when Rolls of Judgments are brought into C. B. they are docketed, and entered on the Docket of that Term: so that upon the seeing you any Judgment, you may find it in the Docket Books, where it is entered. Preced. Ed. 1. 155. 166. Doges, The Law takes Notice of a Greyhound, Matliff Dog, Spaniel and Tumber: for to rove will lie for them. 1 Stat. 125. 4 Stat. 44. A Man hath a Property in a Matliff: Where a Matliff falls on another Dog, the Owner of that Dog cannot justify the Killing the Matliff: unless there was no other Way to have his Dog, as that he could not take off the Matliff, Cen. Cat. 311. 3 Soc. 175. The Owner of a Dog is bound to muzzle him if mitchiefous, but otherwise: And if a Man doth keep a Dog, that ethch to bite Cattle, &c. if after Notice given to him of his, his Dog shall do any Hurt, the Master shall answer for it. Ind. Doge-Days. (Dies canicularis) Are the hottest Time of the Year, by Reason the Sun is then in Leo; They are reckned forty-four in all, 2 revin luna julii aequinoct. 10 Sept. 1739. Dommanus, Is a manifest Deprehension of an Offender against Venison in a Forest, when he is found drooping Deer, or wounding the Head of a Hound, led by his Hand: Or where a Person hath wounded a Deer, or wild Beast, by shooting at him, or otherwise, and is caught with a Dog in the Forest to receive the fame. Wood's Jur. par. 2. cap. 18. Dogger, A Light Ship or Vessell; as a Dutch Doger. Cen. Cat. 31 Ed. 3. cap. 1. Dogget-Boo, Are Fish brought in those Ships. Stat. Ind. Dogget-Boo, Fishermen that belong to Dogger-Ships. 25 H. 8. c. 2. Doctinum, or Doit, Was a bove Coin of small Value, prohibited by the Stat. 3 H. 5. c. 1. We shall retain the Pararie, in common Saying, when we would undervalue a Man, That he is not worth a Doit. Doct, (Dole) A Savvy Word signifying as much as Pars or Portis in the Latin; and anciendy where a Meadow was divided into several Shares, it was called a Dole. Stat. 11. 6. See Dole. Dolfit, seems to be the Share of Fish, which the Fishermen, yearly employed in the North Seas, do cusomarily receive for their Allowance. Stat. 33. H. 8. c. 7. Dolf-boret,
DO

DOLG-bor. (Sax.) A Recompense or Amends, for a Scar or Wound. Sax. Did. LL. Alured Reg. cap. 29.

Dollar, A Piece of Foreign Coin, going for about 4s. 6d. Lex Mercat.

Dorn-tor. (Sax.) Signifies Liber Judicialis, as appears by the Laws of K. Ed. 1. This 'in conjec-
tured was a Book of Statutes of the English Saxons, wherein the Laws of the ancient Saxons were contained. Leb. soc. c. 29.

Drums, or Dourns, (from the Sax. Dorn.) A Judget-
ment, Sentence, or Decree. And several Words end in Dorn; as Kingdom, Eardon, Cft. from whence they may be applied to a Jurisdiction of a Lord, or a King. Men. Ang. Temp. v. i. fol. 264. Also there is a Dorn of a Church; such as St. Paul's, Cft.

Domsday, (Liber Judicialis, vel Conuassio An-
glica) is a most ancient Record, made in the Time of William I. called the Conqueror, and now remaining in the Exchequer fair and legible, consisting of two Volumes, a Greater and a Less; the greater con-
taining Surveys of all the lands in England, except the Counties of Northumberland, Cumberland, West-
moreland, Durham, and Part of Lancashire, which is 'in faint letters never surveyed, and excepting Ely, Suff-
olk, and Norfolk; which three last are comprehended in the lesser Volume. There is also a third Book, which differs from the others in Form more than Matter, made by the Command of the same King. And there is a fourth Book kept in the Exchequer which is called Domesday; and though a very large Volume, is only the Account of the others. Like-
wise a fifth Book is kept in the Remembrancer's Office in the Exchequer, which has the Name of Domesday, and is the very same with the fourth before mentioned. An ancestor has many Domesday Books; King Alfred had a Roll which he called Domesday; and the Domesday Book made by Will. I. referred to the Time of Edward the Confessor, as that of King Alfred did to the Time of Ethelred. The fourth Book of Doms-
day having many Pictures, and gilt Letters in the Beginning, relating to the Time of King Edward the Confessor, this led him who wrote Notes on Fir-
sham's Register into a mistake in p. 14. where he tells us, that Liber Domesday Vallis futurum tempus Regis Edwardi. The Book of Domesday was begun by five Justices, assigned for that Purpose in each County, in the Year 1081, and finished Anno 1086. And it is generally known, that the Question whether lands are Ancient Demesne, or Common, or to be decided by the Domesday of Will 1. from whence there is no Appeal; And 'tis a Book of that Authority, that even the Commoner of sixteen Judges therein be was concerned to be determined by it. The Addition of Day to this Doms Book, was not meant with any Allusion to the final Day of Judgment, as most Person's have conceived; but was to strengthen and con-
firm it, and signified the judicial Record or Book of doming Judgment and Justice. Hammond's Ann. Camden calls this Book Gulielmi Liberum Conuassionem, the Teas Book of King William; and it was further called Magna Rola Winton. The Dean and Chapter of York have a Register dated Domesday; so hath the Bishop of Worcester; and there is an ancient Roll in Cheltenham, called Domesday Roll.CLUS.

Domes-myn, Judges, or Men appointed to dooms, and determine Suits and Controversies: Hæve ademem, I deem, or Judge. Vide Dov Man.

Domestitius, Is an old obsolete Latin Word, an-
nointed or called to the King's natural Sons in France, and sometimes to the eldest Sons of Noblemen there; from whence we borrowed the Addition; As several Children of John of Gaunt, Duke of Lancaster, are titled

Domielius by the Charter of Legitimation. 20 R. 2.

But according to Thurn, the Domieliis were only the better Sort of Servants in Monasteries. — Domi-

Domigerint, Is sometimes used to signify Danger; but otherwise, and perhaps more properly, it is taken for Power over another; jub Domigerint aliquas vel manus gest. Bedl. lib. 1. Tract. i. cap. 19.

Domina, A Title given to honourable Women, who ancienly in their own Right of Inheritance held a Barony. Parch. Anig. 428.

Dominica in Raimis Palmarum, Palm Sunday Anno 23 Ed. 1.

Dominum, Signifies Right or Regal Power. Parch. Anig. 428.

Dominus. This Word prefixed to a Man's Name, in ancient Times usually denoted him a Knight, or a Clergyman; and sometimes a Gentle-
man, not a Knight, especially a Lord of a Manor.

Doom Reparanta, Is a Writ that lies for one against his Neighbour, by the Fall of whole House he fears Damage and Injury to his own. Reg. Orig. 159.

Domus Conferentia, Was an ancient House built or appointed by King Hen. 3. for such Jews as were converted to the Christian Faith: But King Ed. 3. who expulsed the Jews from this Kingdom, deposed the Place for the Custody of the Rolls and Records of the Chancery. See Rolls.


Donative, (Donativarium) Is a Besoee more gi-
v and collared by the Patron to a Man, without either Prebenta to, or Institution by the Ordinary, or Indulgence by his Order. F. N. B. 45. And Do-
naviae are fo termed, because they began only by the Foundation and Erection of the Domus. Clergym. Law 110. The King might of ancient Time found a Church or Chapel, and exempt it from the Juris-
diction of the Ordinary: So he may by his Letters Patent give Licence to a common Perfon to found such a Church or Chapel, and make it Donatiae, not preterestible; and that the Incumbrant or Chaplain shall be deprived by the Founder and his Heirs, and not by the Bishop; which seems to be the Original of Donatives in England. Grotius's Readings. When the King founds a Church, Cft. Donativas, it is of Course exempted from the Ordinary's Jurisdiction, though no particular Exemption is mentioned, and the Lord Chancellor shall wiu the same: And where the King grants a Licence to any common Person to found a Church or Chapel, it may be Donative, and ex-
empted from the Jurisdiction of the Bishop, and be videed by the Patron, Cft. 1. Inf. 134. 2 Roll. Abl. 250. The Reification of a Donative must be to the Donor or Patron, and not to the Ordinary; and Donatives are not only free from all ordinary Juris-
diction, but the Patron and Incumbent may charge the Glebe to bind the Succesor: And if the Clerk is disturbed, the Patron may bring. Quas Infedis, Cft. Alio the Patron of a Donative may take the Profits thereof, when it is vacant. 1. Inf. 344. Cas. Jur. 63. If the Patron of a Donative will not nominate a Clerk, there can be no Lapse: But the Bishop may compel such Patron to nominate a Clerk by Ecclesiasti-
cal Canons; for though the Church is exempt from the Power of the Ordinary, the Patron is not exempt-
ed: And the Clerk must be qualified like unto other Clarks of Churches, no Person being capable of a Donative, unless he be a Priest lawfully ordained, Cft. Temp. 61. Stat. 14 Car. 2. 1717. 45s. Hall. 488. There may be a Donative of the King's Gift with Cure of Souls, as the Church of the Tower of London is: And if such Be procured by Money, it will be within the Statute of Simony. Mich. 9 Car. B. R. A Parochial Church may be Donative, and
and exempt from the Ordinary's jurisdiction. Godsh. 362. The Church of St. Mary le Bow in Middlesex is Donatio, and the Incumbent being cited into the Spiritual Court, to take a bill from the Bishop to preach, pretending that it was a Chapel, and that the Parson was a Stipendiary; it was ruled in the King's Bench that it was a Donatio; and if the Bishop will, the Court of B. R. will grant a Prohibition. 1 Mod. 90. 1 Nelf. Abr. 676. If a Patron of a Donatio, doth once present his Clerk to the Ordinary, and the Clerk is admitted, inducted and inducted, then the Donatio ceaseeth; and it becomes a Church presentative. 1 Inf. 344. But when a Donatio is created by Letters Patent, by which Lands are settled upon the Parson and his Successors, and he is to come in by the Donatio of the King, and his Successors; in this Case, though there may be a Pretenstion to the Donatio, and the Incumbent come in by Inheritance and Induction, Sect. that will not destroy the Donatio. 2 Salk. 541. All Bishoprics, being of the Foundation of the King; they were in ancient Time Donations. 3 Rep. 732. A Parish in a Donatio by Gift in Writing of the following Form:

Form of a Donatio of a Church.

To all to whom this Present shall come, I the Right Honorable T. Lord B. Baronet, &c., send Greeting. Whereas the Church or free Chaple of, &c. in the Diocese of, &c. is now void, and of Right doth belong and appertain to my Gift. Know ye therefore, That I the said T. Lord B. in Confirmation of the known Abilities, Learning and Honesty of T. D. Clerk of, &c. Have given and granted unto him the said T. D. the said Church or Chaple of, &c. aforesaid with all Rights, Benefits, Advantages, and Appearances whatsoever to the same belonging and by this Presents I the said T. Lord B. do赋予 the said T. D. to the Possession of the said Church or Chaple, with all in Rights and Apparances. In Witeness, &c.

Donors and Donations. Donor is he who gives Lands or Tenements to another in Tail, &c. And the Person to whom given is the Donee.

Doctrinur, (Donorum) is the Common Room or Chamber, where all the Fryers, or Religious of one Convent sleep and lay all Night. Stat. 25 H. 8. c. 11.

Doftal, A Word used for Haggings or Tapelry.

—Doffall free Tapleyon. Mat. Par.

Doffall or tapping. Is a Write that lay for a Widow, where it was found by Office, that the King's Tenant was feid of Lands in Fee, or Fee-tail, at the Day of his Death, and that he held the King in chief, &c. In which Case, the Widow came into the Chancery, and there made Oath, That he would not marry without the King's Leave; whereupon he had this Write to the Echeciter, to affign her Donee, &c. But it was usual to make the Assignment of the Dowzer in the Chancery, and to award a Write to the Echeciter, to deliver the Lands assigned unto.

Dower. (Doneo) In this Case, where the Widow has more than her Share, &c. See Assignment.

Dower by Placed (Placed placentis) is Where a Defendant alleges for himself two several Matters in Bar of the Plaintiff's Action, when one of them is sufficient, which shall not be admitted: As if a Man plead several Things, the one not depending upon the other, the Plea is accounted Double, and will not be allowed; but if they mutually depend on each other, and the Party may not have the last Plea without the first, then it shall be received, and where 2 Double Pleas that is wrong, is pleaded; if the Plaintiff reply thereto, and take Issue of one Matter; if that be found against him, he cannot afterwards plead in Arrest of Judgment; for by the Replication it is allowed to be good. 13 Ed. 4. 17. If a Man pleads two or more Matters, when he is compelled to shew them, it makes not the Plea double; so it is where two distinct Things are pleaded, which require but one Answer: And in Caze a Man pleads two or several Matters or Things, and only one is material, the other being Surplusage, or but Matter of Inducement, and needing no answer, the Plea is not double. 1 H. 97. Where there are several Inducements to a Plea, they shall not make the Plea double: And Double Pleas are allowable in Affairs of New Disposal, &c. but not in other Actions. 2 Tulk. 25. All Pleas ought to be single, that the Jury may not be troubled and perplexed with ever many Things all coming together in the same Suit. 3 Inst. 1a, 2, 3. 15.

Doubtful Quarter, (Doubtful Quarto) is a Complaint made by any Clerk, or other to the Archbishop of the Province, against an inferior Ordinary, for delaying or refusing to do Justice in some Cause Ecclesiastical; as to give Sentence, intitute a Clerk, &c. and seems to be termed a Doubtful Quarter, because it is most commonly made against both the Judge, and him at whose Suit Justice is delayed or delayed: The Effect whereof is, That the Archbishop taking Notice of the Delay, directs his Letters under his authentical Seal to all Clerks of his Province, commanding them to admonish the Ordinary within a certain Number of Days to do the Justice required, or otherwise to appear before him or his Official, and there alledge the Cause of his Delay: And to signify to the Ordinary, that if he refrains from the Thing inquired, nor appear and shew Cause against it, he himself in his Court of Audience will forthwith proceed to do the Justice that is due. Canul.


Doveren Peres. Were several Peres, assigned by the Influence of the Baron in the Reign of K.h. 5, to be Privy Counsellors to the King, or rather Secretaries of the Kingdom.

Dowerer &c. The Confable of Dover Coyle, shall not hold Plea of any foreign County within the Cattle Gates, except it concern the keeping of the Cattle; nor shall he disfrain the Inhabitants of the Pores, to plead either there or otherwise than as they ought, according to their Charters. &c. Stat. 28 Ed. 1. 6. 7.

Dows, To give or endow, from the Latin Word Do.

Dowsaggr, (Data, Datisa) A Widow endowed; applied to the Wivodes of Princes, dukes, Earls, and other great Persons.

Dower, (Doneiorum) A Portion which a Widow hath of the Lands of her Husband after his Decease, for the Sustenance of her Self, and Education of her Children, 1 Inf. 10. Andthere were five Kinds of Dover in this Kingdom. 1. Dover by the Common Law, which is a third Part of such Lands and Tenements wherof the Husband was sole Feid in Fee-simpie, or Fee-tail, during the Cover- ture: and this the Widow is to enjoy during her Life; 2. Dover by Caipun, which is that Part of the Husband's Estate to which the Widow is entitled after the Death of her Husband, by the Caipun of any Manor or Place, so long as she lives and sole. This is more than one third Part of such Estates; for in some Places the half have Half the Land, as by the Caipun of Gawulfind; and in divers Manors the Widow shall have the whole during her Life, which is called her Free Bend. But as Caipun may inlarge, 4
so it may abridge Dewer to a 2nd Part. 1 Iso. 3: 3. Dewer ad Oijum Ejicula, made by the Husband himself immediately after the Marriage, who named such particular Lands of which his Wife should be endowed and in her Life Time, it was taken that a Man could not by this Dewer endow his Wife of more than a third Part, though of left he might: And as the Cerainty of the Land was openly decla red by the Husband, the Wife after his Death might enter into the Land of which she was en dow ed without any other Allignment. 1 Iso. 3: 3. Ltd. 899. And if the Dewer be an affix in Oijum Ejicula, which like wise was of certain Lands named by a Son who was the Husband, with the Consent of his Father, and always put in Writing as soon as the Son was married: And if a Woman thus endowed, or Ad Oijum Ejicula, after the Death of her Husband enter'd into the Land allotted her in Dewer, and a greed thereto, she was concluded to claim any Dewer under the Husband's Estate; 1 Iso. 10: 30. 25, 35, 55. Dewer de la plee Bilt, which was where the Wife was endowed with the fool part of her Husband's Estate; but of all these Wife of Dewer, the two first are now only in use. 1 Nof. Ab. 659. By our Law, all the Goods and Chattels of the Wife, are the Husband's; and if she be an Inheritance, the Husband holds his Land during her Life; also if he hath mix'd her by her, he shall hold it for his own Life, by the Custody of England; And if he have any Land in his own Life, if it pass'd during the Marriage, the he is to have a third Part thereof for her Life as her Dewer; though the bring nothing to the husband, and whether the have mix'd him by or not. Lice. 76. There are three Things to entitle Dewer, viz. Marriage, Stell, and Death of the Husband; the Marriage, must be good and lawful; and continue to the Husband's Death; and a Wife shall be endowed of a Seintin in Deed, as where Lands and Tenements depose to the Husband, before Entry, he hath but a Seintin in Law, and yet the Wife shall be endowed although it be not reduc'd to an actual Possession. 1 Iso. 31, 32, 34. And it is not necessary that Seintin should continue during the Coversure; for if the Husband alienates the Lands, the Wife shall be never the less endowed. 1 Iso. 32, 33, 55. If Lands are exchanged by the Husband for other Lands, the Wife may be endowed of such Lands as the Wife of the Husband's Land, or of the Husband's Wife may not be endowed of the Lands given and taken in Exchange. 1 Iso. 31. Where the Eftate, which the Husband, or a Man after the Husband, or in the stead, there the Husband shall like her Dewer. New Nat. 3: 53. But of an Eftate-sail in Lands determined, a Woman shall be endowed, in like Manner as a Man may be by the Custody of her Lands. 1 Iso. 31. And if a Wife be endowed of her third Part, and afterwards evinced by an elder Title; she shall have a new Wife, or Dewer, and be endowed of the other Lands. 2 Dewer. Ab. 650. Though this is where it is the immediate Eftate deffered to the Heir; and not when it is the Eftate of an Alenee. 1 Iso. 10: 30. '97. The Wife of a Deceased husband, or father, or son, were recovered against the Husband by Default or Cowin: And a Woman deformed of her Dewer, shall recover Damages, viz. the Value of her Dewer from her Husband's Death. 1 Iso. 31. If the Husband do not die siled, and Demand and Refusal to affign Dewer to her, she shall have Damages from the Time of the Refusal. Mrk. Card. 45. The Wife of a Man who is banished, shall have his Life time; 'tis held otherwise, if he is professed in Religion: And a Jointree of a banished Husband, shall enjoy his Pinture in his Life time. 1 Iso. 72, 37. If a Man leases Land for Life, rending Rent; his Wife shall not be endowed of this Rent; for this is but an Eftate for Life in the Rent; though it depends to the Heir. 2 Dewer. 656. But the shall be endowed of a Reverion, expectant on a Term of Years; and of a Rent rehersed thereon. Luse. 750. If the Husband hath only an Estate for Life in the Rent, and the Rema ind to another in Title, though the Remainder over is to his Heirs, the Wife shall not be endowed. 2 Dewer. 656. A Woman shall not be endowed of the Goods of her Husband; nor of a Castle, or capital Meffage: But of all other Lands and Tenements the may. 1 Iso. 31. Where there are three Manon, one of them may be affin'd to the Husband in the Land of all three; though it is said that a third Part of every Manor ought to be affin'd. Mar. 12, 47. The Sheriff may affin a Rent out of the Land in Lieu of Dewer; and her Acceptance of the Rent will bar Dewer out of the same Land, but not of other Lands. 2 And. 31. Dav. 93. 1 Nof. Ab. 680. A Grantee of a Rent in Fee or Tail, dies without Heir, his Wife shall not be endowed: But if a man do by his Writ or otherwise give a Referrion to the Donor and his Heirs, on a Gift in Tail, and the Donor dies without Issue; for this is a collateral Limitation. Part. 156. F. N. B. 145. If during the Coversure, the Husband doth extinguish Rentu by Release, &c. yet the shall be endowed of them for as to her Dewer, in the Eye of the Law, they have Communion. 1 Iso. 31. And when the Husband is Rent is delivered to the Husband, but he dies before any Day of Payment; notwithstanding the Wife shall be endowed of it. 2 Iso. 31. A Jointure is made of Lands after Marriage, the Wife may waive it, and demand her Dewer: But it is otherwise when made before Marriage, according to the Statute 27 Hen. 8. And if Lands are given to the Husband and Wife in Tail, and after the Death of the Husband, the Wife, discharges, the may recover her Dewer; for by her waiving her Eftate, the Husband in Judgment of Law was sole feid. 1 Iso. 31. If the Seintins are improved, the Wife is to have a Third according to the improved Value. 1 Iso. 32. And if the Ground deliver'd her be fow'd, the shall have the Corn. 2 Iso. 81. A Widow may recover her Dewer, with a Coffin Exclusio, in Cafe there be any Thing objected against precedent the Title of Dewer, &c. till that is determined. 1 Nof. 684, 687, 687, 691. Sall. 291. Judgment in Dewer is to recover a third Part of Lands and Tenements per Metes & Boundes; but this may not be of a Mill; for if it were, neither of the Parties could use Tentry. 1 Iso. 31. Dewer, or no Division can be made of what the Wife is dewer, Dewer is to be affin'd in a special Manner; as of the third Preteriation to a Church, the third Part to a Mill; Common certain, a third Year; the third Part of the Profits of an Office, Fair, Market, &c. 1 Rel. Ab. 675. And Dewer is much favoured in Law, being for the Benefit of Widows: Wherefore the Wife of one Nan Campus Meretis, of no Ideot, Outlaw, or one attainted of Felony, may be endowed: But not of a Person attainted of Treason; nor the Wife of an Alien, Jew, &c. 1 Iso. 33, 37. Stat. 1 Ed. 6. cap. 12. 5 Ed. 6. cap. 11. At Common Law, Dewer is affin'd by the Sheriff, by the King's Writ, or by the Hear, &c. By Agreement among the Restants: and the Wife cannot enter otherwise into her Dewer. 1 Balfr. 31. By the ancient Law of England, till Magnus Gratia, a Woman was to continue a whole Year in her Husband's Heir, for the Affinment of her Dewer. 2 Iso. 17. By that Statute, a Widow shall immediately after her Husband's Death have her Marriage Inheritance; and remain in the chief Estate forty Days, within which Time Dewer is to be affin'd her of the third Part of all his Lands, &c. 9 H. 3. The Affinment of the Lands is to be for as to her Dewer, and if of these be hered; 1 Iso. 31, 55, 57. In forty Years, in Recompence of Dewer; this is no Bar of Dewer; for it is not such an Estate therein as the before.
have. A Dow. Mer. 68. Also where other Land is assigned to the Wouman, that is no Part of the Land wherein the claims of Doweer; that Affiliation will not be good or binding: And there must be Certainty in what is assigned; otherwise though it be by Agreement, it must be done in a Wife’s accept and enter upon left Law than the third of the Whole, on the Shefiff’s Affiliation, she is barred to demand more. Mer 679. But if where a Wife is inti- tied to Doweer of the Lands of her first Husband; her second Husband accepts for this Doweer left than her third Part, after his Death she may relitigate the same, and have her third Part. First Doweer. 121. If a Wife having Right of Doweer in the Land, accept of a Leafe for Years thereof after the Death of her Hu- band, it fulfells the Doweer; though in such Acceptance a Leafe, before the Husband’s Death, for then the Wife has only a Title to have Doweer, and not an immediate Right of Doweer. Br. ca. 572. Prk. Gen. 13. A Widow accepting of Doweer of the Heir, against common Right, shall hold it subject to the Charges of her Husband; but otherwise it is, if the be endowed against common Right by the Sheriff. A Dow. 672. By Provision of Law, the Wife may take a third Part of the Husband’s Lands, and hold them discharged. Ibd. If Doweer be allowed a Woman on Condition, or with an Exception; the Condition or Exception are void. Gen. El. 141. A Devising of Charters concerning the same Land of which the Widow demands her Doweer, is a good Plea by the Heir in Delay of her Doweer: But if the delivers up the Evidence, the shall have Judgment; though if the denies the Demand, and it is found against her, she lores her Doweer. Hub. 109. 9 Rep. 19. If a Wife leaves a Feme with her Husband, the daeh her self of Doweer: And if a common Recovery be had against the Husband and Wife, of the Husband’s Lands, it shall bar the Wife of her Doweer. 2 Rep. 74. Prk. Jud. 834. Where a Woman releas from Doweer to her in Reverson, her Doweer may be extinguish’d. 8 Rep. 151. If a Wife commits Treason or Felony; or if the slope from her Husband, and live with the Adultery willing- ly, without being reconciled to the Husband, she shall lose and forfeit her Doweer; but if the Husband be reconciled to her, and the lives with him again, the shall be endow’d. 2 Ibd. 453. Dyer 106. And if after Elopement of the Wife, her Husband and the domain themselves as Husband and Wife, it is Evidence of Reconcilia- tion. Dyer 156. If a Man grants his Wife with his Grand and Doweer, and the Wife by Vitum of a Grant lives with the Grandee during the Life of the Husband, this shall forfeit her Doweer; for the lived in Adultery, notwithstanding the Grant. 1 Ibd. 135. 2 Dyer 682. If a Woman be of the Age of nine Years, at the Death of her Husband, she shall be endow’d of whatsoever Age he is; because after the Death of the Husband, the Marriage is adjudged law- ful. I bd. 33. And Doweer is an inextricable Incident to an Etail in Tail or Fee that cannot be taken away by Condition: If one feild in Fee of Lands make a Gift in Tail, on Condition that the Wife shall see have Doweer, the Condition is void. 6 Rep. 41. If Tenant in Tail die without Issue, so that the Land reverts to the Doweer; as in Cave he covenantes to hand over to, and, his Wife will be endowed: And a Devise of Land by the Husband to his Wife by Will, is no Bar of her Doweer, but a Benevolence. 8 Rep. 56. Yeo. 52. Br. Doweer 69. It is held, that Land devised to a Man’s Wife, who is entitled to Doweer of his Lands; it not being mentioned in Satis- faction of her Doweer, shall be taken as a voluntary Gift or Promise of Doweer. And in this Cave the Widow brought a Writ and recover’d, again which the Heir could have no Relief. Prk. Cus. 131. A Perfon grants and convey Land to D. and his Heirs, on Condition, to redesign the same to back, &c. which afterwards he does, and dies; here D’s Wouman is no Tenant in Tail of Land, &c. Dyer Co. 217. A is Tenant in Tail of Lands, the Remainder to B in Tail, Remainder to A in Fee; if A, bargain and sells the Land to C, and his Heirs, the Wife of the Bargainer shall have the Doweer of the Death of the Tenant in Tail, to Rep. 96. And if a Feoffment be made upon Condition to reinfect, and the Feoffment take a Wife, the may have her Doweer till Reinfection, or an Entry made for not doing it: And so’tis of other defeasible Estates. 2 Rep. 59. Prk. Sed. 420. If one be disdained, and after done marr-, if he die before Entry, his Wife shall not have Doweer: And where a Person recovers Land in a real Action, and before his Entry or Execution made he die, the Wife shall not be endowed of this Land. 2 Rep. 56. Prk. 377. Where the Husband’s Estate is f Good, that by no Possibility Issue begetten on his Wife might in herit as Heir to him; there the Wife may not be en- dowed: As if Lands are given in a blank and the Heirs be shall beget on his present Wife, and the son; and then he takes another Wife, the shall not have Doweer: But in Case Land be given to the Husband and Wife in Tail, the Remainder in Tail to Husband, and the first Wife dying without Issue, he marries another Wife; this second Wife will be entitled to Doweer, after his Death. l. Sed. 55. 40 E. 3. 4. 2 Rep. 69. Asia 75. The Wife of a Perfon, who gets a Land by a Devising of Charters, though not a Jointtenant, shall have Doweer; and she shall hold her Part in Common with the Tenants in Common. Dyer 160. A Wife may have her Writ of Doweer against an Heir, an Alienet, a Dilettis, &c. or against any one that has Power to alien Doweer; if the Lord enters on the Land for an Elec- tate, the may bring it against him, but to the King the suit for by Pension, 9 Rep. 10. Pl. Jud. 141. Dyer 283. 1 Ibd. 439. This Writ was brought against eight Persons Feoffees of the Husband after Marriage, two conveyed the Action, and the other to the Writ of Doweer the Defendant had Judgment to recover the third Part of two Parts of the Land, in eight Parts to be divided: And after the Issue be found for the Demandant against the fix, he recovered against them, the third Part of the Land, as the Doweer. Dyer 151, 1 Co. Inf. 32. The Wife is, as soon as the case after the Decree of her Husband, to demand her Doweer, left the fee the Value from the Time of his Death: And in Action of Doweer, the firstProot is Summons to appear: And if the Tenant or Defendant do not appear, nor can an Edict, or Precio be Obtained, and the Wife by Vitum of a Grant lives during the Wife’s Life, after the Death of the Husband, the Wife shall have the Doweer of the Land left to her, and all the Goods the husband left to her, and the Goods she has in the Land. 2 Rep. 41. When the Wife has recovered the Doweer, and possesses it, and the husband’s Heirs enter, the final Judgment is, that the Husband’s Heirs shall be entitled to the same. 2 Rep. 41. Form of a Writ of Doweer, &c.

GEORGE the Second. &c. To the Sheriff of S. &c. counterfeit is not any Reprisal of a Writ. But reader to C. D. women was the Wife of T. D. her resona- bly Doweer, which is come unto her, of the free Tenan- t (or Freehold) that was of, and belonging to the said T. D. some Time her Husband, in, &c. whereof she hath nothing.
As the great Estates of Landors are usually made in Lieu and Satisfaction of Dower, these Assets of Dower are not so frequently brought as to be formerly.

Dowry. (Du. Gift) Was in ancient Time applied to that which the Wife gives her Husband in Marriage; otherwise called Marriage, or Marriage Goods: But these are termed more properly, Goods given in Marriage, and the Marriage Portion.

31. This Word is often confounded with Diet; though it hath a different Meaning from it.

Dowry Bill. Among the Jews, the Bridegroom at the Time of the Marriage, gave his Wife a Dowry Bill. Blount.

Dower, A Territory or Jurisdiction mentioned in the Stat. of Flores and Frank Fudge. Ed. 4. See Descendants.

Dramat Regius, The Standard Fagge, or military Colours, borne in War by our ancient Kings, having the Figure of a Dragon placed in them. Reg. Angliae fopecies seguo fava in medio. & trident Draconem fum Petro P. ad pontificand. Etc. — Rogn. Head, sub ann. 1191.

Dragont, Dragon. A larger Sort of Bread Corn; in Staffordshire they use a Kind of Malt, made of Oats mixed with Barley, which they call Drag, or Drag Malt; and in Essex, Etc., they have a Grain called Drag. Tuffton's Husband. p. 32.

Dragg, Some to be floating Pieces of timber to join together, that by swinging on the Water they may bear a Burden or Load of other Things down a River. 6 H. 6. c. 15.

Dran, A Drain or Water-course; sometimes writ drain. Cart dealer. Rad. M. 5.

Draper, (Pamisar) is used as a Head in our old Statute Books, extending to the Making and Manufacture of all Sorts of Woollen Cloths. Stat. 2 Ed. 3. 4 Ed. 4. 1 R. 3. 27 H. 8. Etc. See Clother.

Draught, Signifies any Harness belonging to Cart Horses, for drawing a Waggon, or other Carriages. Park, 8 J. 8. 149.

Draughts, Were Thieves and Robbers; Lambs in his文本. Ed. 1. cap. 6. calls them Thieves, Waffles, and Robbers: Words grown out of Use. They are mentioned in 5 E. 3. c. 14. and 7 R. 2. cap. 5.

Draughtmen, Are Thieves for Oylers, &c. Stat. 2 Gen. 22.

Draughts, or Draught, Are Words signifying formerly a double Right, viz. of Possession, and of Property or Interest. Brad. 4. cap. 27. Co. Lit. 260.

Dratch, An old Word, used where a Person was overcome, from the Germ.

Dranch, or Dranger. (Drang) Are Tenants in Capit. says an ancient MS. Mon. Angi. Ter. 2. fol. 598. And according to Spelman, they are such as at the Coming of Will. 1. called the Conqueror, being put out of their Estate, were afterwards restored thereto; on their making it appear that they were Owners thereof, and neither in Almoin, or Confinio against him. Spelman.

Drangons, (Drangion) The Tenure by which the Dranchers or Drangers hold their Lands. Trin. 21 Ed. 3. Ebor. & Northumb. Rot. 191.

Drifts of the Seafood (Acta) Alimentum in Fertu) Is a View or Examination of what Cattle are in the Fertu, that it may be known whether it be furred or not; and whole the Beasts are, and whether they are commensal. These Drifts are made at certain Times in the Year by the Off.
DU of other Subjects of our said Lord the King, and against the Peace, &c.

Day's Exchange, (Camilium Sicrum) Is a Term invented in former Times for the Diliguing and Covering of Offers; in which, something was pretended to pass on both Sides, whereas in Truth nothing passed but on one Side, in which Respect it was called Day. Stat. 3 H. 7. c. 5.

Day Brit, A Runt referred without Claude of Diftrefs. See Rent fid.

Dures tricwm, Is a Writer commanding a Perfon to appear at a certain Day in the Court of Commonly, and to bring with him some Writings, Evidences, or other Things which the Court would view. Reg. Orig.

Dures tricwm licet Langulatam, A Writer directed to the Sheriff, upon a Return that he cannot bring his Prisoner without Danger of Death, he being atra Langulatam; then the Court grants a Habita in Corpus of a Dues tricwm licet Langulatam. Book Etrt.

Duct, (Dulgam) In our ancient Law is a Fight between Perfons in a doublet, for the Trial of the Truth. For in this Kind of Duel is divided; and what we now call a Duel is, a Fighting between Two, upon some Quarrel precedent: Wherein, if a Perfon be killed, both the Principals and all the Parties are guilty of Murder, and the Wife kills the second or forth Seconds fight, or not. H. P. C. 47. 51. And his void by some, that the Seconds of the Perfon killed are equally guilty, by Reason of the Encouragement which they gave by joining with him: But this is contradicted by others. 1 Hawk. 83. Whereas ever two Perfon in Cool blood meet and fight upon a precedent Quarrel, and one of them is killed, the other is guilty of Murder; and cannot excuse himself by alleging that he was first struck by the Defendent, or that he had declined to meet him, was prevailing up to do it by his own Imprudence, or that it was not his Intent to kill, but only to vindicate his Reputation, &c. 1 Hawk. P. C. 81. If two Perfon quarrel over Night, and appear to fight the next Day; or quarrel in the Morning, and agree to fight in the Afternoon; or such a considerate Time after, by which it may be presumed the Blood was cooled; and then they meet and fight a Duct, and one kill the other, it is Murder. 3 Inst. 52. H. P. C. 48. 49. And whenever it appears that he who kills another in a Duct or Fighting on a Sudden of any Quarrel, Matter of his Time, by the Time, he is guilty of Murder; as if after the Quarrel he fall into another Dificour, and talk calmly thereon; or allege that the Time, where the Quarrel happens is not convenient for Fighting; or that his Shoes are too high, if he should fight at present, &c. 49. 50. If one challenger another, who is to meet him, but tells him that he shall go the next Day to such a Place about Buinfes, and then the Challenger meets him on the Road, and afflicts the other; if the other in this Cafe kill him, it will be only Mafflaughter; for here is no Acceptance of the Challenge, or Agreement to fight: And if the Perfon challenged refuse to meet the Challenger, but tells him that he wears a Sword, and is always ready to defend himself; if then the Challenger attack him, and is killed by the other, it is not Murder nor Mafflaughter, if necessary in his own Defence. 59. It is a very high Offence to challenge another, either by Word or Letter, to fight a Duct; or to be the Mediator of such a Challenge; or even barely to endeavour to provoke another to find a Challenge, or to fight, by differing Letters for that Purpose, full of Reflection, &c. 9. 17. 53. And Perfon convicted of illegally feeding a Challenge, have been adjudged to pay a Fine of 100 / to be imprisoned for a Month, and make a publick Acknowledgment of their Offence, so as to be bound to their good Behaviour. 1 Hawk. P. C. 135. 138.

Duke, (Lat. Deus, Fr. Die, a Ducande) Signified among the ancient Romans, Deceum exercitii, such as the Duke of Burgundy, who was led to declare Duke, and were Governors of Provinces, &c. In some Nations, the Sovereigns of the Country are called by this Name: As the Duke of Savoy, &c. In England, the Title of Duke is the next Dignity to the Prince of Wales; And the first Duke we had in England was Edward the Black Prince, so famed in our English Hiftory for Herioc Acts, who was of the same Name as Duke of Cornwall in the 11th Year of King Edu. 3. After which, there were more made in each Manner as their Titles depended to their Potherity; and during the late Reigns their Numbers have been greatly increased. They are created with Solemnity, per Cireullum Gladii, Captusque & Circius auris in Capite imperiosis. Camden. Edit. p. 166.

Dunnon fuit ut attestat, In anar Infant makes a Footing of his Lands; when he comes of full Age, he may have this Writ to recover those Lands or Tenements they were so foalled: And within Age, he may enter into the Land and take it back again, and by his Entry shall be required to his ancestors Right. New Nat. Br. 436. If the Husband and Wife desire to sell the Land, during the Nonage of both of them, the Wife at her full Age after the Death of the Husband, shall have a Writ of Dues non infratis of the Husband. 14. 15. 3. By this Writ to the Sheriff, he shall command A to deliver to B, who is of full Age, two Measagges and Lands, &c. which B demised to him, while he was in his nonage Age, as he saith; or upon which the said A hath not entered, but C to whom the said B signed demised; and unless, &c. F. N. B. 477.

Dum non fuit Campus Britannica, Is a Writ that lies where a Man may not pass, for he was not there any Lands or Tenements, then he shall have this Writ against the Alien. And he shall allege that he was not a man of Memory, but being visited with Infirmity, lost his Difcretion for a Time, so as not to be capable of making a Grant, &c. New Nat. Br. 449. But see Disability.

Dun, Down, In this Termination it hath varied into Dun, signifies a Mountain or high open Place; so that the Names of those Towns which end in Dun or Doun, as Aboyne, &c. were either built on Hills, or near their Temples. In the Time, he is guilty of Murder; as if after the Quarrel he fall into another Dificour, and talk calmly thereon; or allege that the Time, where the Quarrel happens is not convenient for Fighting; or that his Shoes are too high, if he should fight at present, &c. 49. 50. If one challenger another, who is to meet him, but tells him that he shall go the next Day to such a Place about Buinfes, and then the Challenger meets him on the Road, and afflicts the other; if the other in this Cafe kill him, it will be only Mafflaughter; for here is no Acceptance of the Challenge, or Agreement to fight: And if the Perfon challenged refuse to meet the Challenger, but tells him that he wears a Sword, and is always ready to defend himself; if then the Challenger attack him, and is killed by the other, it is not Murder nor Mafflaughter, if necessary in his own Defence. 59. It is a very high Offence to challenge another, either by Word or Letter, to fight a Duct; or to be the Mediator of such a Challenge; or even barely to endeavour to provoke another to find a Challenge, or to fight, by differing Letters for that Purpose, full of Reflection, &c. 9. 17. 53. And Perfon convicted of illegally feeding a Challenge, have been adjudged to pay a Fine of 100 / to be imprisoned for a Month, and make a publick Acknowledgment of their Offence, so as to be bound to their good Behaviour. 1 Hawk. P. C. 135. 138.


Dudencia, Twelve Witnesses to purge a Criminal of an Offence. See Jurisprudentia mensa.

Dudex Dutilia, A Votix Ecclesiastical; Duct ex Quirit.

Duplicata, Is used for second Letters Parent, granted by the Lord Chancellor, in a Case wherein he has given the same, which were therefore thought void. Cramp. Jurif. fol. 213. But it is more commonly a Copy or Transcript of any Deed or Writing. Account, &c. or a second Letter, written and sent to the same Party and Purporte as a Formal for Fear of Miscarriage of the First, or for other Reasons: This Word is mentioned in the Stat. 14 Car. 2. c. 10.

Duren, A Thicket of Wood in a Valley. Caeol.

Durica, (Dauria) Where is one is wrongfully imprisoned or restrained of his Liberty contrary to Law, "tillet a Bond or a Dues of Bondage as a punishment or threatened to be killed, wounded, or beaten if he doth
doth not do it: And a Bond or Deed so obtained is void in Law. Brakes, in his Abidings, joins Da-
very and Mains together, i. e. Hardship and Threat-
ening: If one of a judicious or improper notion, killed, &c. enters into a Bond to him that threatens him, it is Durvred per Mains; and may be pleaded to void the Bond: But it must be a Threatening of Life or Member, or of Imprisonment; and not of a
Battery only; or to take away Goods, &c. 1 Inf. 162, 213. 2 Inf. 483. But it has been adjudged, that if a Man makes a Deed by Durvred done to him by Taking of his Cattle, though there be no Durvred to his Person, yet this shall void the Deed. 2 Davo. Ab. 686. If a Person threatens another to make a Deed to a third Person, it is by Durvred, and void; and if such third Person had made the Threatening, 2 Inf. 482. 3 Inf. 91. 4 Inf. 97. And where a Man is imprisoned until he makes a Bond at another Place; if afterwards he doth it when at large, the Bond is by Durvred, and void: But if a Person be ar-
rested upon an Action at the Suit of another, and the Bail or Bond not good, Durvred makes a Bond to a Stranger, it is not Durvred; though if he make it to the Plaintiff, it is, and being fixed upon the Bond, he may plead it was made by Durvred, and so shall have an Action for the false Imprisonment itself. 1 Rep. 119. Pet. 521. 16 Crim. Jur. 296. 1 Litt. Abr. 454. If one im-
prisoned makes a Bond, and after he is released it is at large takes a Defiance upon it; this will exhi-
bit him so far it was made per Durvred. And where A. and B. by Durvred to B. Seal a Bond or Deed, it may be good for A. that was neverholders. 3 H. 6. 16. Bros. 17. Mich. 7 11. 1. If a Man be law-
fully in Prison, and makes an Obligation against his Agreement and Will, he may avoid it by Durvred: Though it is otherwise if he do it of his good Will.

DURRY.

43 El. 3. 10. 2 Davo. 686. A Man shall not avoid a Deed by Durvred to a Stranger: For it hath been held that none shall avoid his own Bond for the Imprison-
ment or Damage of any other than of himself only. Cr. 97. 187. And yet a Son shall avoid his Deed by Durvred to the Father: And the Husband shall avoid a Deed made by Durvred to the Wife; though a Servant shall not avoid a Deed made by Durvred to his Master, or the Master the Deed sealed by Durvred of his Servant. 2 Davo. 686. If a Man is taken by

Virtue of a Process issuing out of a Court that hath not Power to grant it; or in a Council on a false Charge of Felony, &c. and fled this Enlargement and in

Durbury. Vid. 56. 3 Davo. 685. A Statute Merchant may be avoided by Audia Que-

re, or by Annona, without Imprisonment. A Will shall be avoided by Durvred or Mensce of Imprison-
ment. A Feudment made by Durvred is void-
able: but not void. But no Annuement shall be taken against a Deed intolling, as it was made by Durvred.

1 Rep. 862. 2 Davo. 685. A Marriage had by Durvred is voidable: And by Statute, Obligations, Statuts, &c. obtained of Women by force, to many the Persons to whom made, or otherwise, unless for a just Debt, are declared void. 31 H. 6. 9. If a Person executes a Deed by Durvred, he cannot plead Nisi Obstant, if it is his Duty, though he may avoid it by special Pleading, and Judgment S. adin. &c. 5 Rep. 119. Records may not regular-
ly be laid to be made by Durvred, and therefore shall not be avoided by this Plea or Process. 2 St. Abr. 319.

DURRY. The Billoprick of Durham was dissol-
ved, and the King to have all the Lands, &c. by Stat. 7. Edw. 6. But this Act was afterwards re-
pealed, and the Billoprick new erected, with all Ju-
risdiction Ecclesiastical and Temporal annexed to the County Palatine. The Judges of the County

Palatine of Durham may levy Pines of Lands in the County: And Writs upon Proclamations, &c. to be directed to the Bishop. 5 Edw. 5. 31 Edw. 12. Also Writs to all Members of Parliament in the County Palatine of Durham shall go to the Bishop or his Chancellor, and be returned by the Sher-

Dursby, Signifies Blancs without Weathing or Bloodshed, vulgo Dry Blowes. Blount.

DURRY, Daffy, Daffy Feet, Pedlers or Traders who have no fridted Elizabath, and they have their

Name from their Feet being cover'd with Dust, by their continual Travelling. See Pippewer Court.

Durtby Court of Lancaster, is a Court of the

Dutchy Chamber of Lancaster held at Westminster before the

Chancellor, for Matters concerning the Lands and Franchises of the Dutchy: And the Proceedings in this Court are by English Bill, as in Chancery. Stat. 20. 24. 28. The

Original of it was in Henry the Fourth's Days, who obtained the Crown of Eng-

land by deposing Richard II. and having the Dutchy of Lancaster by H. 4. 42. He left it to his Heirs, and it was afterwards extinct in the Person of King Henry IV. by Reason of the

Union thereof with the Crown, the fame King (fixing himself to be more rightfully Dutchy of Lan-

caster, than King of England) determined to bear his Right in the Dutchy, whatsoever should behal the Kingdom: and therefore he separated the Dutchy from the

Crown, and settled it in the natural Persons of him-

self and his Heirs, as he had been no King: In

which Elate it continued during the Reigns of Hen. 5. and Hen. 6. But when Edw. 4. recover'd the Crown, and reconstituted the Right of the House of Yorke, he appropriated that Dutchy to the Crown again, just so far that he suffered the Court and Officers to remain as he found them; and in this Manner it came together with the Crown to Hen. 7. who approving the Policy of Hen. 4. and by whole Right he obtained the King-

dom, made a like Separation of the Dutchy, and so left it. It is now only a Great: County Palatine. Vide Durtby. Officers of this Court, see Chancel-

lor of the Dutchy of Lancaster.

Dury. Any thing that is known to be due by

Law, and thereby recoverable, is called a Dury; but not one recovered; because the Party interested in the fame hath a Power to recover it. 1 Litt. 495.

Durtby, Signifies any Thing consumed, from whence comes the Word Brinde's.

Dyers. By an ancient Statue Dyer shall dye both the Cloth and the Lift, of one and the fame Colour, or forfeit it. 1 R. 13. 6. No Dye may dye any Cloth with Orchi; or with Brazil, to make a false Colour in Cloth, Wool, &c. in Pain. in Pain of 201. Stat. 3 & 6. 6. 8. Dyes are to fix a Seal to Lead to Cloths, with the in Right of his Mother, now are well mathered, &c. or forfeit it 8 & 7. and not to use Logwood in Dying, on Pain of forfeiting 201. Stat. 25. 6. 4. And Parents are indicted on

Dyers, who dye any Cloths deceitfully, and not be-
ing dyed throughout with Wead, Indico and Mather; also Marks shall be put to the Cloths dyed, &c. Dyes in Lands are subject to the Inspection of the Dyer's Company, who may appoint Searchers; and out of their Limins, Judges of Peace in Seventons to appoint them; Opposing the Searchers, incurs 10 l. Penalty, by Stat. 13 Gen. 1. 24. 2. 25.
A Person may prescribe to an Executour in the Freehold of another, as belonging to some ancient House, or to some Manor; And a Way over the Land of another; a Gate-way, Water-course, or Walking-place in another's Ground, may be claimed by Prescription as Easements: But a Multiplicity of Permons thereon cannot prescribe; though for an Easement they may plead Custum. 

To alledge an Easement by Consequent only is the bed. Where Things of Necessity shall not be extinguished by Unity of Possession; but a Way of Easement may be thus extinguished. 1 Lill. Abr. 496. See Prescription.

A Charter, was the Name of a Gendr of which the Saxon was worshipped in the Month of April, and so called, because her was the Goddes of the Eas本质。But in our Church it is the Feast of the Passeover, in Commemoration of the Sufferings of our Saviour Christ.

E. 

Publius, (from the Sax. Eals, Cervilia, &c. Domus) An Ale-house: In the Law of King Alfred we often find this Word.

Calappa, The Privilege of Alling and Selling Ale and Beer: It is mentioned in a Charter of King Ethelred 2. to the Abbots of Gloucester.

Catharman, Among the Saxons was as much as Earl with Duties attached. Brit. 107. Also an Elden, Senator, Ers. Ecclesiastics, are now those that are allotted to the Mayor or Chief Officer in the Common Council of a City or Borough Town. Stat. 19 Hen. 7. c. 9.

Earl, (Sax. Earl, Lat. Comes) This 'tis said was a great Title among the Saxons, and is the most ancient of the English Peerage, there being no Title of Hereditary Nobility that was not borne in the Saxon Race. The word Earl is taken from the Saxon, and signifies Noble; But whenever it is derived, the Title Earl was at length given to those who were in the service of the King in his Councils and Martial Actions; and the Method of Inheritance into that Dignity was Per Inheritancee Glandis Comitatus, without any formal Charter of Creation. Dugdale's Warvich. 502. William the First, called the Conqueror, gave this Dignity in Fee to his Nobles, annexing it to this or that County or Province; and allowing them for the Maintenance of it a certain Portion of Money arising from the Prince's Profits, for the Pensions and Forfeitures of the Provinces. Canel. And formerly one Earl had divers Shires under his Government, and had unlimited powers in every Shire, such as are now Sheriffs; as appears by divers of our old Statutes. Canel. But about the Reign of King John and ever since, our Kings have made Earls of Counties, &c. by Charter; and giving them no Authority over the Country, nor any Part of the Profits arising out of it; only sometimes they have had an Annual Fee out of the Exchequer, &c. An Earl, Comes, was hereof correlatives with Comitatus: and antiently there was no Earl, but had a Shire or County for his Earldom; but of late Times the Number of Earls very much increasing, several of them have chosen for their Titles some eminent Part of a County, considerable Town, Village, or their own Seats, &c. Then, besides their local Earl there are some personal and honorary; as Earl Marshal of England; and others nominal, who derive their Titles from the Names of their Families. See Comitti, &c. 76. Their Place is next to a Marquis, and before a Viscount: And as in very ancient Times, those who were created Earls, were next to the Blood Royal; our British Monarchs to this Day call them in all publick Writings, Our most dear Counsell: They also originally did, and still may use the Style of His. See Counters.

Equestrian, From Adjectum, (from the Fr. At, i.e. Commoditatis) is defined to be a Service or Convenience, which one Neighbour hath of another, by Charter or Prebend, without Profit, as a Way through this Land, a Bank or like such. Keth. 109.
EG


Efjetta, A Woman ravished or deflowered or caft forth from the Virtuous. Ejetia, a Whoremonger. Blunt.

Ejettine Custodie, (Éjettion de Garde) Is a Writ which lieth against him that cacheth out the Guardian from any Land during the Minority of the Heir. Reg. Orig. 162. F. N. B. 139. There are two other Writs not unlike this; the one termed Re-ajettion de Garde, and the other Droit de Garde.

Ejettine firm, or Ejettion, Is a Writ or Action that lies for the Leifer for Years, which is yielded before the Expiration of his Leifor, or a Strangers: Also Ejettion may be brought by a Leifer against the Leifer, for Rent in Arrear, or holding over his Term, &c. Reg. Orig. 237. A Copyholder may not bring Action of Ejettions for the Term of a Copyholder for one or more Years, may bring it. 4 Rep. 46. And the Executors of a Leifer, shall have this Writ. Lit. Inst. 103. In these Cases, Ejettion is in point, as the Judicial Action, when the Leifer is actually put out of Land let unto him; or it is an Ejettion by Implication of Law, viz. where such an Act is done by one which is done to an Inheritance, and the Leifer is not really enter upon the Land, but oust the Leifer. 1 Litt. Abr. 456. But Ejettion is now become an Action in the Place of many other Actions as Writs of Diversities, &c. Formibus, &c. which are very difficult as well as tedious and chargeable: And this is the common Action for trying of Tates, and recovering of Lands, &c. illegally kept from the right Owner; though where Entry is taken away by Diversities, Fines and Recoveries, Dilemmas, &c. Ejettion may not be brought; so that all Titles cannot be tried by this Action. Wood's Ind. 547. 548. Anciently Writs of Entry and Affile were the usual Means of Recovery of the Possession of Lands, and lay only against Freeholders; but Anno 1 H. 6. it was resolved that an Hypothec Juxta Puffumum would lie to recover the Term in Ejettion, and the Land itself. Attorn. Comps. 170. The Action of Ejettion was never known to remove a Possession till the Reign of King Hen. 8. before which Time an Action of Trespass Quanto sliatur fragilis might, &c. was made use of by: Though in Action of Trespass, Damages were recoverable, but not the entry; whereas in Ejettions, the Thing or Term itself is recovered, as well as Damages. 3 Litt. 49. Ejettion ought to be brought for a Thing that is certain; and if it be of a Manor, Memorandum a. cum pertinentiis. if of a Rechery, Reddition de B. &c. And so many Magistrates, Cottages, Acres of arable Land, Means to Apprize, &c. to Paroch. &c. For Land must be distinguished, how much of one Sort, and how much of another, &c. Cre. El. 320. 320. 3 Litt. 49. Ejettion lies of a Church, as Du and Dome vocal. The Parish Church of &c. And a Church is a Meifage, by which Name it may be recovered; and the Declaration is to be served on the Patron who officiates Divine Service and the Parish Church and the Church where the Tenant is belonging. 3 Danre. Abp. 752. And Ejettion will lie of so many Lords of Trespass, Damages were recoverable, or where the Church is landed, or in nine Parts, or where certainly expresst; though it will not lie for Tates generally. 1 Nef. Abp. 681. It lies Du vis Meifage nee Tenementum, unless it have a Focus A. &c. to make it good, because of the Uncertainty of the Word Tenement. 1 Sid. 235. It will lie of a Meifage and a Tenement: For a Majority; or third Part, of a Manor or Meifage, &c. And for a Chamber or Room of a House well fit forth. 11 Rep. 55. 59. 3 Litt. 210. It lies Du Dome, which hath plentiful Certainty for the Tenant to deliver Possession, &c.
It lies of a Cottage or Curtilage: of a Coal-mine, &c. but not of a Common, Pitsy, &c. If purely personal, though a 
Praecipe does not. 2 Roll. Rep. 482, 483. But for 
usu Claves, or usu terra Terræ, &c. without Certainty 
of a Title, and of their Nature, it does not lie. 11 Rep. 45: 4 Med. 1. It lies of a Clofe, con- 
taining three Acres of Paffure, &c. Also of so many 
Acres of Land covered with Water: though not of 
Aqua confu. 2 Cr. 437, 1 Brondel. 247. The Me- 
thod of Proceeding in Ejempem, is made more easy 
than formerly: when a Lease was to be sealed and 
delivered on the Premises to the Lepper, &c. In an-
 cient Times, the Ejecut in Law was any Perfon that 
came upon any Part of the Land, &c. mentioned in 
the Leffe of Ejempem, though he were there without 
any Interest to disturb the Leffe of the Poifonion, after 
the Sealing of the Ejempem Leffe: and fuch Ejecut 
was a good Ejecut against whom an Action of Ejempem 
forme might be brought to try the Title of the Land in Ch. the Poifonion. But there is no Occa-
ion for a Leffe to be made and sealed upon 
on the Premises to the Leffer, who hath a Mind to 
try the Title, and to leave the Title in the Poifonion, 
to be oufted and ejecuted by the Tenants in Poifonion, 
&c. As the Plaintiff could not proceed to recover 
his Lands againft the cufmal Ejecut, without deli-
verying to the Tenant in Poifonion a Declaration, 
and making him a proper Defendant, if he thought 
it fit: after this, the Lord Ch. Ju. Ralli inverted the 
Rule now in use: which is that if the Defendant 
comes in the Premises of fuch Ejecut, he fhould enter 
into a Rule to confefs Leffe, Entry, and actual 
Over, and infift on the Title only. See Attorn. 
Common. 170, 171. The usual Course at this Time 
is to draw a Declaration, and therein feign a Leffe 
for three, five, or seven Years, to him that would 
try the Title, and alfo feign a cufmal Ejecut or De-
fendant in the Declaration, and then deliver 
the Declaration to the Ejecut, who ferves the fame 
by delivering a Copy thereof on the Tenant in Poifon-
ion, or his Wife, (for a Delivery to a Son or Servant, 
&c. is not good) and gives Notice in Writ-
ing at the Bottom for him to appear and defend his 
Title; which muft be read to the Tenant, and the 
Perfon ferving it, is to tell him, that if he do not 
procure fome Attorney to appear for him and de-
fend his Title, in Default thereof, that he, (the 
Defendant) will forfet a Judgment to be had againft 
him, whereby he (the Tenant) will be turned out 
of Poifonion: The Declaration being thus ferved, 
the Tenant is to appear the Beginning of the next 
Term, and to defend his Title, or be made Defendant 
indeed of the cufmal Ejecut, and take upon him the Defence: wherein he may confes 
a Leffe, Entry, and Over, and at the Trial 
stand upon the Title only: But if the Tenant in 
Poifonion do not appear and enter into the afore-
mentioned Rule in Time, after the Declaration 
was served; then an Action made of the Service of 
the Declaration, with Notice to appear as afofear, 
the Court will order that Judgment be entered a-
gainft the cufmal Ejecut by Default; and the 
Tenant becomes an actual Defendant, and takes the 
Posse Comitatus, and being Cited, may be turned 
out of Poifonion: 1 Lill. 459. If at the Trial the Defendant 
will not defend, the Court, in a measure, it 
is lawful to call him or his Attorney, and then call 
the Plaintiff and nonftit him: and upon Return of 
the Refus, judgment will be given against the cufmal 
Ejecut. 3 Sal. 270. But in this Cafe, though the 
Plaintiff be nonftit, he fhall not pay any Costs; 
for the Rule for, confessing Leffe, Entry, and Over, 
is to be carried to the Secondary, who pays 
Costs to the Plaintiff, and if the Plaintiff has not the 
Name of the leffe and the Possession of the, the 
meffe Profits. 1 Sal. 260. Skin. 247. It has been 
held a great Abuse, that nominal Leffers in Ejemp-
em were Persons not in Being, or not known to 
the Defendant: and who have made fuch 
Leffes, have been ordered to pay Costs, and put to 

unswer on Interrogatories, &c. Med. Ca. 309. If a Man is made Plaintiff in Ejaculment without his Knowledge, and the Defendant appearing the Plaintiff thereupon to depose against himself, the whole Affidavit is void; for even though he be satisfied to depose against himself, he must be satisfied to depose against several, no Defendant may defend for more than in his own Poffession; and the Plaintiff may take Judgment against his Ejector for what remains. 1 Foss. 552. 3 Keb. 511. 554. And if there be several Defendants in Ejaculment, that are severally concerned in Interest, to whom the Plaintiff delivers Declarations; if he moves to join them all in one Declaration, the Court will not agree to it, for several Declarations must be delivered to each of the Defendants; because if any are found Not guilty, each of them must have a Recovery for his Costs. 2 Keb. 524. In Lord Raymond's Reports, it is held if there are two Defendants in Ejaculment, and one of them appears and confesses Leafe, Enter, and Other, but the other does not appear; in that Case the Plaintiff may enter a Non prosequi, or Retraction against him, and go to Trial and have Judgment against the other Defendant. 1 Lord Raym. 719, 728. Also if an Ejector be brought against two Persons, and after Issue joined, one dies, and a File is awarded as to the two Defendants, and a Verdict against two; here upon Suggestion of the Death of one of them upon the Roll, Judgment shall be given for the Plaintiff against the other for the whole; For 'tis said this Action is grounded upon Tort, which are severable in their Nature, and one Man may be found guilty and the other acquitted. Id. An Eject- ment was brought for Non-payment of Rent; and the Court was moved to stay Proceedings, upon Payment of the Rent and Costs, to be adjudged by a Second Jury, which the Court granted; and also ordered a new Lease to be made at the Defendant's Charge. 1 Mayh. 8 W. 3. 1 Litt. 401. And by a late Statute, in all Cases between Landlord and Tenant, when half a Year's Rent shall be in Arrear, the Landlord having lawful Right to enter for Non-payment, may serve a Declaration in Ejaculment on the Tenant, without a formal Demand or Re-entry; or he may affix such Declaration on the Door of the demised Premises, or on the Door of the Place of the Land, which shall be termed a Legal Service: And upon Proof that half a Year's Rent was due before the Declaration was served, and no sufficient Defences on the Premises, the Leafe shall have Judgment and Execution; which if the Leafe shall have, without paying the Arrears and Costs, and without filing a Bill in Equity to be relieved within six Months, he shall be barred from all Relief, other than by Writ of Error; and the Defendant shall be charged from the Leafe: But if the Tenant or Leafe tender to the Leafe; or bring into Court the Rent in Arrear, together with Costs, all further Proceedings shall cease; and if the Leafe be relieved in Equity, he shall enjoy the demised Premises, according to his Lease, without obtaining a new one. Stat. 2 Geo. 2. c. 28. Tenants to whom Declarations in Ejaculment are generally delivered for any Lands, &c. shall give their Landlords, or their Baitiffs, Notice thereof, under the Penalty of three Years Rack Rent, to be recovered by Action of Delict, &c. And the Court where such Ejaculment shall be brought, shall suffer the Landlord to make himself Defendant, by joining with the Tenant, unto whom the Declaration is served, if he appears; but if not, Judgment shall be given against the said Ejector, for want of such Appearance; But if the Landlord shall desire to appear by himself, and cannot enter into the like Rule that the Tenants, if he had appeared, ought to have done; the Court may permit him so to do, and order a Stay of Execution, till they make a further Order therein. 11 Geo. 2. c. 19. If an Original in Ejaculment is required, it is thus:

UChannel to

GEORGE
GEORGE the Second, &c. To the Sheriff of S.
Greeting: If A. B. shall make you sues, &c.,
then put C. D. late of, &c., in your County, to
find Pledge and Sufficient Sures, that he be before our Ju-
fices at Wemphmider, on the Day, &c. to answer to
the said A. B. in a Plea, thereupon he must Force and
Arms into one Measuring, twenty Acres of Land, ten Ac-
res of Meadows, and six Acres of Parks, with the
Apperances, in, &c., in your County, which T. E.
both demised in the said A. B. for a Term not yet past, hath
entered, and him from his Farm afterpaid yeilded, and
other Wrongs to him done, to the great Damage, &c.
And against the Peace, &c.

Form of a Declaration in Ejectment in B. R.

Southvon, ff.

B. Complaints of C. D. in Cotפלf of the Marshal, &c. For that

within T. E. Gottall, on the Twentieth Day of May in

the fourth Year of the Reign of our Sovereign Lord George

the Second, by the Grace of God, King of Great Bri-
tain, &c., at the Parish of, &c. in the County aforementioned,

with one Meadow, ten Acres of Meadows, and six Acres of

Parks, &c. with the Apperances, fituate, lyeing and

being in, &c. in the County aforementioned: To have and
to hold the said Tenemt, with the Apperances, in

the said A. B. and his Affiffcs, from the Twenty-sixth Day of

September then next past, unto the full End and Term of

five Years, from these next ensuing, and fully to

be complete and ended: By Virtue of which said Deed, he

the said A. B. entered into the said Tenemt, with the

Apperances, and was therefore paid, until the said

C. afterwards, to be the same tenth Day of

May in the Year aforementioned, with Force and Arms,

entered into the said Tenemt, with the Apperances,

in and upon the Possession of the said A. B. and him the said

A. from his said Farm, his said Term therein not being

yet expired, ejected, expelled and removed; and the said

A. being ejected, expelled and removed, the said C.

having both with-hold from him, and still due with-
hold the Possession thereof, and other Injuries then

and there done to him, against the Peace of our Sovere-

ign Lord King George, and in the Damage of the said

A. Tobacco Found: And the same he bring his

Suit, &c.

Notice to the Tenant in Possession to appear, &c.

Mr. E. E.

I am informed that you are in Possession of, or claim

Title to the Measuring and Premises mentioned in

this Declaration of Ejectment, or to some Part thereof,

And I bring this in Action as a Civil Epistle, and

having no Title to the same, do advise you, (or

give you Notice) to appear on the first Day of next

Hillery Term, in his Majesty's Court of King's Bench

at Wemphmider, by Jane Attorney of that Court, and

A Plea, to be made of the same Court, to cause yourself to be made Defendant in

my stead, and make your Defence: otherwise I shall suf-

fer a Judgment to be had against you, and you will

be turned out of Possession.

Your Loving Brother,

C. D.

A &d the said E. F. (the now Defendant) by, &c.

his Attorney, comes and Defends the Force and In-

jury, &c. and whatsoever, &c. when and where the

Court shall be held, and such, that he is in no

wise guilty of the Ejectment and Ejectment aforesaid, &
as the said A. B. bale above against him complained;

and if this be put himself upon the Country, and the said

A. doth hereby, &c. It is therefore commanded in the

Sheriff, that he cause to come before Lord the King

at Wemphmider, on the Day, &c. to renew himself, &c.

and who neither, &c. to recognize and make a Jury, &c.

because as well the said A. B. as the said E. F. have there-

of submitted themselves to the Jury: The same Day

given to the said Parties herein, &c.

Judgment

Affidavit of Service of the Declaration and Notice.

In the King's Name, &c. A. B. Plaintiff and

Defendant.

T. B. of, &c. makes Oath, That he did appear to the De-

fendant, with deliver to him E. F. Tenant in Possession of the Measuring and Premises in

Lizh, a true Copy of the Declaration in Ejectment

herein annexed: at the foot of which Declaration is a

Notice for the said E. F. to appear on the first Day of

the then next, and now present Hillery Term, in

this Court, and defend his Title; otherwise his Judgment

would be entered against him by Default: And this

Defendant further saith, That he did not appear, and

defend his Title, the then next and now present Hillery Term, he would be turned out of

Possession.

Sworn the Day, &c.

before me

T. B.

The Common Rule by Contest in Ejectment.

Michaelson Term in the Seventh Year of the Reign

of King George the Second.

Southvon, ff. T. B. is ordered by the Court, with the Con-

sent of the Parties for both Parties, that E. F. be admitted Defendant instead of the now De-

fendant C. D. And that he forthwith appear at the Suit of

the Plaintiff, and put in common Ball, and receive a

Declaration in a Plea of Trophu and Ejectment for the

Measuring and Premises in Lizh, and plead therein Not Guilty; and that upon the Trial of the Jury, be con-

victed, Leave, Entry, and actual Outers, and in

possession of the Title only; otherwise his Judgment shall be entered by the

Plaintiff against the new Defendant C. D. By Default: And if

upon the Trial of the Jury, the said E. F. shall not

convict, Leave, Entry, and actual Outers, by which the

Plaintiff shall not be able further to prosecute his Bill

against the said E. Then so Coys shall be awarded upon

such Judgment; but the said E. F. shall pay to the Plaintiff

the Cost of such Action, and the same cost of such Action

shall be written in the Bill. And it is further ordered, that if on the Trial of the Jury, a

Verdict shall be given for the Defendant, or if it happen

the Plaintiff shall not further prosecute his said Bill, for

any other Costs than for not recovering the said Estate,

Entry, and actual Outers, that then the Plaintiff's

Leave, shall pay to the said E. F. his Costs and Charges,

in that Case to be awarded to him.

By the Court.

C. H. for the Plaintiff.

J. A. for the Defendant.

Form of a Plea and Jury in Ejectment.

A ND the said E. F. (the now Defendant) by, &c.

his Attorney, comes and Defends the Force and In-

jury, &c. and whatsoever, &c. when and where the

Court shall be held, and such, that he is no

wise guilty of the Ejectment and Ejectment aforesaid, &
as the said A. B. bale above against him complained;

and if this be put himself upon the Country, and the said

A. doth hereby, &c. It is therefore commanded in the

Sheriff, that he cause to come before Lord the King

at Wemphmider, on the Day, &c. to renew himself, &c.

and who neither, &c. to recognize and make a Jury, &c.

because as well the said A. B. as the said E. F. have there-

of submitted themselves to the Jury: The same Day

given to the said Parties herein, &c.
EL

EL

Judgment in Ejectment for the Plaintiff after Verdict.

Therefore it is considered, (adjudged) that the said A. do recover against the said B. his Term yet to come of and in said Tenements, with the Appurtenances, and the Damages assessed by the said Jury in Form aforesaid: And my right Pounds and ten Shillings for his Expenses and Costs awarded to the said A. without his Affidavit, by the Court of the Lord the now King here, by way of Interest; which said Damages and Costs, in the whole amount to, I say. And be the said A. amerced, etc.

Electum. [He] is the Spiteful Man, (or) a Man guileful: Jet. Judicium, Wreck, &c. See Wreck.

Egbert, (Fr. After) Elder or First-born; as Baillif euer, and Miller Pojérs are Words used in our Law, the Elder a Baillif, and the Younger lawful born.

Electrix, (from the Fr. After, i.e. Premieritis) Signifies Elderly. Statue of Ireland, 14 Hen. 3. 3 See Electrix.

Ear of Corn, (Fr. Ecre, viz. ear, as a Grand Ecre, that is, Maque Immerau) Is the Court of Justice; 2 Soc. Judicis in Ecreus are those whose Bradin in many Places calli Judicarius iter miscenum. Those Judges in ancient Time, were sent with a general Conscription into divers Counties to hear such Causes as were termed Pleas of the Crown: And this was done for the Ease of the People, who must else have been hurried to the King's Bench, if the Causes were too high for the County Court: 'tis said they were sent but once in every seven Years. Bradl. Lib. 3. c. 11. Hearst's Mirror, lib. 3. The Eres of the Forfeitt is the Justice Sena; which by ancient Custom was held every three Years by the Judges of the Foreffet, journeying up and down for that Purpose. Bradl. Lib. 3. tract. 2. 1. & 2. Brit. c. 2. Crompt. Jurid. 146. Manut. parl. 3. p. 121.

Electio, (Electio) Is when a Man is left to his own Free-will to take or do one Thing or another, which he pleases. And if it be given of several Things, he who is the first Agent, and ought to do the first Act, shall have the Electio: As if a Person make a Lease, rendering Rent, or a Garment, &c. the Leffer shall have the Electio, as being the first Agent, by Payment of the One, or Delivery of the other. Ce. Lib. 144. And if A. covenant to pay B. a Pound of Pepper or Sugar, before Easter; it is at the Electio of A., and if not before Easter which of them he will pay: But if he pays it not before the said Easter, then afterwards it is at the Electio of B. to demand and have which he pleases. Dyer 18. 5 Rep. 59. 11 Rep. 51. If I give to you one of my Horses in my Stable, there you shall have the Electio; for you shall be the first Agent, by Taking or Selling of one of them. C. Litt. 145. If Things granted are Annual, and to have Continuance, the Electio (where the Law gives it him) remains to the Grantor, as well after the Day as before. But its otherwise when to perform'd at once. Ibid. When nothing passes to the Feoffee or Grantee before Electio to have one Thing or the other, the Electio ought to be made in the Life of the Parties; and the Heir or Exécutor cannot make the Electio: But where an Estate or Inheritance passes immediately to the Feoffee, Donor, &c. there Electio may be made by them, or their Heirs or Executors. 2 Rep. 35, 37. And when one and the same Thing passes to the Donor or Grantee, and such Donor or Grantee hath Electio in what Manner he, by his own Will, imployes it, the Party, his Heirs, &c. may make Electio when they will. 6 Lo. Lit. 145. 2 Dow. Abr. 761. Where the Electio creates the Interest, nothing passes 'til A. Electio, and if no Electio made, he made no Interest will arise. Hol. 174. If the Electio is given to several Persons, there the first Electio made by any of the Persons shall stand: As if a Man leaves two Acres to A. to B. for Life, Remainder of one Acre to B. and of the other Acre to C. Now B. or C. may elect which of the Acres he will have, and the first Electio by one binds the other. Ce. Lit. 145. 2 Rep. 36. If a Man leaves two Acres for Life, the Remainder of one in Fee to the same Person; and after liceses the Lease to cut Trees in one Acre, this is an Electio that he shall have the Fee to the other Acre. 2 Abr. 762. A Real Electio concerning Lands is indispensable; and Electio of a Tenant in Tail, may prejudice his Heirs. He in Remainder may make an Electio, after the Death of Tenant for Life; but if the Tenant for Life do make Electio, the Remainder-Man is concluded. Now, c. 247. 7. A Person grants a Manor, and the one Clode called N. and there are two Clodes called by that Name, one containing nine Acres, and the other but three Acres; the Grantor shall not in this Case chuse which of the said Clodes he will have, but the Grantor shall have Electio which Clode shall pass. 1 Lem. 168. But if one grants an Acre of Land out of a Wall or Common, and does not say in what Part, or how to be bounded, the Grantee may make his Electio where he will. 1 Lem. 30. If a Man hath three Daughters, and he covenants with another that he shall have one of them to dispose of in Marriage; it is at the Covenantor's Electio which of his Daughters the Covenantor shall have, and after Restall he is to be delivered to him. Moz. 72. 2 Dow. 762. Where there are three Coparencers of Lands, upon Partition the elder Sister shall have Electio: Though if the herself make the Partition, the lesseth, and shall take lott of all. Ce. Lit. 166. In Consideration that a Person had sold another certain Goods, he promised to deliver him the Value in such Pipes of Wine as he should chuse, the Plaintiff must make his Electio before he brings his Action. Style 49. An Electio which of two Things shall be done, ought not to be made merely by bringing an Action; but before that the Defendant may know which he is to do, and 'tis said he is not bound to tender either before the Plaintiff hath made his Choice which will be accepted. 1 Mod. 127. 1 Selb. Abr. 657. A Condition of a Bond is, that the Obligee shall pay 50L. or twenty Kine, at the Obligee's Electio, within such some Time; the Obligee at his own Electio is to make the Payment within the Time limited. 1 Lem. 69. Though in Debt upon Bond to pay 10L. on such a Day, or four Cows, at the then Electio of the Obli- ger, it was adjudged, that it was not enough for the Defendant to plead that he was always ready, Gr. if the Obligee had made his Electio: for he ought to tender both at the Day, by Resting the Word from relates to the Day of Payment. Moz. 246. 1 Selb. 659, 655. If a Man hath an Electio to do one of two Things, and he cannot by any Default of a Servant of himself, or of the Obligee, or by the Act of God, do the one; he shall at his Peril do the other. 1 Lil. Abr. 506. Where the Law allows a Man two Actions to re- cover his Right, it is at his Electio to bring which he pleaseth; And when a Man's Act may work two Ways, both arising out of his Interest, he hath Electio given him to choose either Way. Dyer 20. 2 Selb. Abr. 787. Action of Trespass upon the Case, or Action of Trespass Pro Amis, may be brought against one that was a Partitioner, at the Electio of the Party dammed by the Restou. And an Action of the Case, or an Action lies against him that
that furchaches a Common, at the Election of him that is injured thereby. 1 Litt. 504. 505. Also for a Rent-charg£ out of Lands, there may be Writ of Annuity or Dilibre, at the Election of the Grantee; before the Death of the Grantor, if the Heir be not charged, the Election to bring Annuity endeth. Dyfr 344. A Man was indilted of Felony for Entering an House and taking away Money, and found guilty, and burnt in the Hand; after which, the Person who loft the Money brought an Action of Trespass against the other for Breaking his House, and taking away his Money; and it was held that the Action would lie; for though it was at his Election at first, either to prefer an Indictment or bring an Action, yet by the Indictment he had made no Election, because that was not the Proclamation of the Party, but of the Crown. Stile 347. If a Bargain and Sale be made of Lands, which is invalid, and at the same Time the Bargainer leaves a Fine thereof to the Bargainer, he hath his Election to take by one or the other. 1 Rep. 72. A Wife hath her Election which to take, of a Joisture made after Marriages, or her Dowry, or on the Death of the Husband, and not before. Dyfr 358. When a Leffor hath Election to charge the Lease, or his Assignee, for Rent; if he accepts the Rent of the Assignee, he hath discretion. 3 Rep. 24. If a Person hath Election to pay or perform one of Two Things at a Day, and he do neither of them at that Day, his Election is gone: And where a Grant is made of Two Acres of Land, the one for Life, the other in Fee, or in Tail, and before any Election the Feoffee makes a Feoffment of both; in this Case the Election will be gone, and the Feoffor may enter upon which he will for the Feoffite. 2 Rep. 37. If Money on a Mortgage be to be paid to a Man, his Heirs, or Executors, the Mortgagee hath Election to pay it to either: And if in a Feoffment, it be to pay it to the Feoffee, his Heirs or Assignees, and he enfeof another, the Feoffor may pay the Money to the first, or second Feoffee, 2 Cr. C. Litt. 210. In some Cases, where one hath Cauf of Suit, he may sue one Person or another at his Election; for there is an Election of Persons, as well as of Things. Dyfr 204, 205. A Man by Deed binds himself and his Heirs to pay Money, and dies; the Obligeue must sue to ftue the Heir, or the Executor, although both of them have Affrs. Pag. 171. One may have Election when he hath recovered a Debt, to have his Execution by Elegit, Furtoci faciatis; or Cap. ad Satisfaciendum but where he takes an Elegit, and hath no Suit of in, he must refer to another Writ, though the Election be entered on Record. Hab. 57. Dyfr 60. 609. There is no Election against the King in his Grants, 2 Cr. 1 Lem. And an Act becoming void, will determine an Election. Hab. 152.

Election of a Clerk of Statutes-Merchant. Is a Writ that lies for the Choice of a Clerk附属'd to take Bonds called Statutes Merchant; and is granted out of the Chancery, upon Suggestion that the Clerk formerly附属'd is gone to dwell at another Place, or is under some Impediment to attend the Duty of his Office, or hath not Lands sufficient to answer his Transgressions, if he should act amiss, 2 Cr. F. N. B. 162.

Election of Ecclesiastical Persons. There is to be a free Election for the Dignities of the Church, by 9 Ed. 2. c. 14. And none shall disturb any Person from being elected, an Office of great Forfeiture. If any Persons that have a Voice in Elections, take any Reward for an Election in any Church, College, School, 2 Cr. the Election shall be void; and if such Societies refuse to give Places to others for Reward, they incur a Forfeiture of double the Sum; and the Party giving it, and the Party taking it, is incapable of such Place.


Election of a Verderer of the Forest, (Electiones Viderarum Forens) Is a Writ which lies for the Choice of a Verderer, if the Collector of the Forest are dead, or removed from their Offices, &c. It is directed to the Sheriff: and, as appears by the ancient Writs of this Kind, the Verderor is to be elected by the Freeholders of the County, in the same Manner as Coroner. New Nat. Br. 356.


Electromycena, Aims: Dare in param & perpetuum Eleemomyanam, to give in pure and perpetual Aims, or blank Aimagia; as Lands were commonly given in ancient Times to Religious Uses. Cosw. 2

Electromycena Regis, or Eleemymena Ararit, Is a Penny which King Ethelred ordered to be paid for every Plough in England, towards the Support of the Poor: It is called Eleemymena Regis, because it was at first appointed by the King. Leg. Ethelred. cap. 1.

Elemeleph, The Pleasant Elephants, where the common Aims were repoafed, and thence by the Almoner distributed to the Poor. Cost. 26. 28.

Elemelephantias, The Almoner peculiar Officer who administered the Election of Elders and Gifts, &c. and in due Mode distributed them to pious and charitable Uses. There was such a chief Officer in all the Religious Houses: And the general of our English Bishops had anciently their Almoners, as now the King hath. Linnard's Provincial, lib. 1. tit. 12. See Almoner.

Electromyena, Hath been used for the Possessions belonging to Churches. Blunt.

Elegit, (from the Words in it, Elegit sibi Liberat) Is a Writ of Execution that lies for him who hath recovered Debt or Damages, or upon a Recognizance in any Court, against one not able in his Goods to satisfy the same; directed to the Sheriff, commanding him to make Delivery of a Moteity of the Party's Land, and all his Goods, Beasts of the Plough excepted. And the Creditor shall hold the said Moteity of the Land to deliver unto him, until his whole Debt and Damages are paid and satisfied; and during that Term he is Tenant by Elegit. Reg. Orig. 399. Ca. Lit. 480. Upon an Elegit, the Sheriff is to deliver one Half of all Holms, Land, Meadows and Pafsures, Rents, Reversions, and Hereditaments wherein the Defendant had any sole Estate in Fees, or for Life, into whose Hands forever the same do afterwards come, but not of a Right only to Land, an Annuity, Copolyh Land. Dyfr. 206. 3 Rep. 49. Plumb. 214. This Writ is given by the Statute of Wills. 2. 13 Ed. 1. c. 18. And by it the Plaintiff, &c. elects omnia bona & caufa of the Defendant, prater boves & auffs de Caro Coen.

Election of a Clerk of Statutes-Merchant. Is a Writ that lies for the Choice of a Clerk附属'd to take Bonds called Statutes Merchant; and is granted out of the Chancery, upon Suggestion that the Clerk formerly附属'd is gone to dwell at another Place, or is under some Impediment to attend the Duty of his Office, or hath not Lands sufficient to answer his Transgressions, if he should act amiss, 2 Cr. F. N. B. 162.

Election of Ecclesiastical Persons. There is to be a free Election for the Dignities of the Church, by 9 Ed. 2. c. 14. And none shall disturb any Person from being elected, an Office of great Forfeiture. If any Persons that have a Voice in Elections, take any Reward for an Election in any Church, College, School, 2 Cr. the Election shall be void; and if such Societies refuse to give Places to others for Reward, they incur a Forfeiture of double the Sum; and the Party giving it, and the Party taking it, is incapable of such Place.
EL

Lands to another, &c., but he himself took the Pro-
fiss; notwithstanding this Conveyance a Moiety of his Lands was extended on an Eligit. Dyer 294. 3 Rep. 78. If two Persons have each of them a Judgment against, &c., and he shall be by the first Judgment bring an Elijah, and hath the Moiety of the Lands delivered to him in Execution; and then the other Judgment-Creditor sues out another Elijah, he shall have only a Moiety of that Money which was not extended by the first Judgment. Cre. Crit. 483. But this is contrary to the Year-Book 10 Eliz. 2, where 'twas held, that the entire Moiety left should be delivered in Execution. 1 Nelf. Abr. 698. When Lands are once taken in Execution on an Elijah, and the Writ is returned and filed, the Plaintiff shall have no other Execution. 1 Law. 92. And if the Defendant hath Lands in more Counties than one, and the Plaintiff awards an Elijah in one County, and extends the Lands upon the Elijah, and afterwards files the Writ, he cannot after that file out an Elijah into the other Counties: But he may immediately after Entry of the Judgment upon the Judgment-Roll award as many Elijahs into as many Counties as he thinks fit, and execute all or any of them at his Pleasure. 1 Lill. Abr. 699. Cre. Fac. 246. And it has been held, that a Person may have several Judgments, for the same Sums, recovered; or that he may divide his Execution, and have it for Part in one County, and Part in an-
other. Mor. 24. A Man had Lands in Execution, and Elijahs were moved for a new Elijah upon Proof that the Defendant had other Lands not known to the Creditor at the Time when the Execution was filed out; and it was adjudged, that if he had been awarded new Elijahs, a new Elijah obtained by the She-
 riff, he could not afterwards have a new Elijah; but when the Sheriff returns the Writ, he may waive it, and then have a new Extent. Cre. Elec. 510. 1 Nelf. Abr. 699. If the Defendant dies in Prifon, so that there is no Execution with Satisfaction, the Plaintiff shall have an Elijah afterwards. 5 Rep. 86. And if all the Lands extended on an Elijah be verified by better Title, the Plaintiff may take out a new Execution. 4 Rep. 66. Where one having Land by Elijah, is wholly verified out of it, he may have a further Execution, either against the Defendant's Lands or Goods, as he might have had at first, save only he must have a Scire facias against the Defendant, or him that comes in under him. But if the Plaintiff be of Part of the Land, or for a Time only, so that the Plaintiff may take his full Execution by holding it over; there he cannot have any new Execution by the statute 32 H. 8 c. 5. 2 Spen. Abr. 213. After a void Elijah filed out and filed, a new Writ may be had: And if one file an Elijah upon a Recovery, and the Sheriff returns that he hath made Inquisition of the Lands of the Defendant by twelve Juries; but he cannot deliver the Moiety to the Party according to the Writ, for that all the Land is extended to another on a Statute 1 the Plaintiff shall have a Cap. ad Satis-
ficendum. Roll. Abr. 905. Where an Elijah is filed upon a Judgment, the levying of Goods thereon for Part only, is no Impediment, but the Plaintiff may bring another Elijah for the Rest, and take the Lands. 1 Law. 92. On a Nick returned upon an Elijah, there may be brought a Capias ad satisficendam, or First facias. 1 Law. 176. And an Elijah may be filed, after a First facias returned. Nolle here, or where Elijah is Part is levied by it; and after a Capias ad Satisficendum return'd Nov. Ist (Novemb.). Hob. 75. If on Re-
cover to Writ of Debt, a First facias is filed out, and the Sheriff returns that the Plaintiff shall have a Capias or Elijah, &c. And if the Sheriff, return the Defendant hath nothing whereof he may make Satisfaction, he shall be sent to the Prison of the City, &c., there to remain till he have made Agreement with the Party: And if the Sheriff in such Case return Nolle of Intentions, there shall go forth an Extent against him. Terms of Law 189. There is another Sort of Elijah upon adjudging Exec-
ution against Tenant. Where a Person has Lands against which Execution is awarded, is extended by the Sheriff; and nothing is mentioned therein of any Goods and Chattels. Ibid. A Person in Execution was suffered to escape, and then he died; the Land which he had at the Time of the Judgment may be extended by Elijah upon a Scire facias brought against his Heir as Tenantant. Dyer 271. A Man may have an Affidavit of the Land which he hath in Execution by Elijah, if he be deforced thereof. Star. Wif. 2. c. 18. And if Tenant by

EL

Elegit commit a Writ of Nisi Prius upon the Court, and the Sheriff may bring an Ejectment, or Trespas, &c. 1 Mod. 217. If Tenant by Elijah be put out of Possession before he hath had his Hearing, the Writ of Nisi Prius for his Possession is void. 2 Dyer 257. And if he be allowed by Law, &c., may be in Action of Trespass, or re-enter and hold over 'till satisfied: But after Satis-
faction received, the Defendant may enter on the Tenant by Elijah. 4 Rep. 28. 57. But Tenants by Elijah, &c., are not punishable for Walle by Action of Walle; but the Party against whom Execution is fixed is to have a Writ of Penes facias ad computandum, &c., and there the Writ shall be covered in the Debts: Though 'tis said there is an old Writ of Walle in the Registry for him to Reversion against Tenant by Elijah committing Walle on Lands which he hath in Execution. 6 Rep. 57. New Nat. Br. 150. On Tenant by Elijah's Accounting, if the Money recovered by the Plaintiff is levied out of the Lands, the Defendant shall recover his Land and have more be received by Walle, &c., he shall have Dam-
ages. Terms of Law 188. See Extents, Execution.

Form of a Writ of Elijah in English.

GEOEGE the Second, &c., to the Sheriff of S.
Greeting: Whereas A. lately in our Court, be-
fore us at Westminster, by Bill without our Writ, and by the Judgment of the same Court, hath recovered against C. D. 100 l. of Debt, and also 700 for his Da-
mages, which he hath sustained, as well by Omission of the Detection of that Debt, as for his Expenses and Costs laid out by him about his Suit in that Behalf, whereof the said C. D. is convicted, as appears to us, of Record: And afterwards the said A. came into our Court before us, and hath elected to be delivered to him all the Goods and Chattels of the said C. D. except the Goods and Chattels of his Court, (Breeds of his Floor,) and in like Manner one Mooty of all and singular the Lands and Tenements of the said C. in your Bailiwick, according to the Form of the Statute in this Cause made and provided, until the Debts and Damages aforesaid shall be fully levied thereof: Therefore we command you, that all the Goods and Chattels of the said C. within your Bailiwick, except the Goods and Chattels of his Court, (Breeds of his Floor,) and likewise a Mooty of all the Lands and Tenements of the said C. in your Bailiwick, whereof the said C. the Day, &c. in the Year of our Reign, &c. on which Day the Judgment aforesaid was rendered, or at any Time afterwards was foised, you are, to be delivered without Delay to the said A. by a reasonable Price and Extent, to hold to him the said Goods and Chattels as his own proper Goods and Chattels, in such and such a Place, without Charge or Deduction, at his Will, &c. X X X
EM

EM

also to hold the said Mansy of the Lands and Tenements aforesaid to him and his and his assignees for ever as specified in the Form of the Statute aforesaid, until the Debt and Damages aforesaid shall be thereby levied: And how this Writ you shall have executed, make certain to the Sheriff of Wiltshire, on the 5th Day of Nov. (after such a Return) under your Seal, and the Seal of the said Grant. And it shall be found that the execution of this Writ is in accordance with the Statute, and that the same is for the public benefit and advantage. And have you then there this Writ. Witness, &c.

CEIT. Thru, Were Flat Stones sharpened on each Side in Shape of Arrow-heads, made of stone in six of War by the ancient Britains, &c. which several have been found in England, and greater Plenty in Scotland, where 'tis said the common People imagine they drop from the Clouds.

CEITH. To impale Jurors, &c. See Effisins. CEIL, A Kind of Yew to make Bows of. Stat. 32 H. 8. cap. 9. Allo the Name of the wild Beatt somewhat like a Devon. CEIL, (from the Fr. Effisier) Signifies to remove or send a great Way off: In this Sense it is used by Statute; if such as be within Age be slain. So that they cannot come to fuse personally, their next Friends shall be admitted to see for them. 13 Ed. 1. cap. 15.

CEILonga, Is a Return of the Sheriff that Cattle are to be born, or removed, so that he cannot make Deliverance, &c. in Replevin. 2 Litt. Ab. 454. 455.

CEILYEment, (Derived from the Bleg. Es, sign. Mucrumineum & Loopen, current) is where a married Woman of her own Accord, goes away and departs from her Husband, and lives with an Adulterer. A Woman thus leaving her Husband, is said to elope; and in this Case, her Husband is not obliged to allow her any Money out of his Estate; nor shall he be chargeable for Necessities for her, as wearing Apparel, &c. According to the Law, &c. Where this Name is notorious, whoever gives her Credit, doth it at his Peril: But on Elipment, the Putting a Wife in the Gazette, or other News-Paper, is no legal Notice to Perions in general not to trust her; though personal Notice to particular Perons given by the Husband, will be good not to be chargeable to them. 1 Roll. 314. 1 Exon. 42. 11 Ed. 1. cap. 54. If the Wife goes away from the Husband, and tarrieth with the Adulterer, without returning and being reconciled to her Husband, this continuall Elipment forfeits her Dower; according to their old Veres:

Sparsa Firmae Mullor fugiens, & Adultera fallax,
Diet, sua curante, si Sparsa succedat retrahas.

Action lies against the Adulterer for carrying away another Person's Wife, and detaining her; and large Damages are usually given in these Cases to the injured Husband.

CEIL, A Royal Franchize, or County Palatine. See County.

CEIMBARGE, A Prohibition upon Sailing, not to go out of any Port, on a War breaking out, &c. Emblements, (From the Fr. Emblements de Bred, sign. Corn sprung or put up above Ground) Signify properly the Profit of Land fown; but the Word is sometimes used more largely, for any Products that arise naturally from the Ground, as Grains, Fruit, &c. In fact, he is he which feeds the Corn shall have the Emblements; and in others: A Leafe at Will fows the Land, he shall have the Emblements; though the Corn in the Hands of the Tenant himself, he shall not have them, but the Leiffer. 2 Rep. 516.

If Leafe at Will fows the Land with Grain, or other Thing yielding annual Profit, and the Leiffer enters before Severance; yet the Leiffe shall have it: But where the Leiffer has other Trees, or fows the Land with Acorns, &c. he shall not have thele: And if such Tenant by good Husbandry make the Grains to grow in greater Abundance, or fows the Land, by which means it is encroached, if the Leiffer enters on the Leefee, the Leiffe shall not have it, because Grains is the natural Profit of the Soil. 3 Co. Lit. 55. 56. Where Tenant for Life fows the Land, and dies, his Executors shall have the Emblements, and not the Leiffer or him in Reversion; by Reason of the Uncertainty of the Estate. 4 Co. Lit. 453. And if a Tenant for Life plans the Trees, and dies before Severance, the Executors of such Tenant shall have the Emblements. 2 Dow. Abr. 765. If he for Tenant for Life fows the Land with Corn, and afterwaards grants over all his Estate and Rights to another; if the Grantee dies before Severance, it is said his Executors shall not have the Corn, but he in Reversion. 4 Co. Lit. 454. If Tenant for Years fows the Ground, and his estate is forfeited, the Term which is certain expires; the Leiffer for or he in Reversion shall have the Emblements; but he must first enter on the Lands. 1 Litt. Abr. 512. A Leiffer for a Life or Years fows the Land, and his Executors, &c. before Severance, the Leiffer shall have the Corn. 2 Dow. 764. If there be Leiffer for Years upon Condition that if he commit Waife, &c. he shall lose the, he shall not have the Corn with, and after dead Waife, the Leiffer shall have the Corn. 3 Co. Lit. 55. And where a Lord enters on his Tenant for a Forfeiture, he shall have the Corn with, and after dead, the Lord, the Leiffer or Trustees, &c. before Severance shall have the Emblements, and not the Heir. 2 Litt. 511. Though if such a Feme Copyholder durante usufructus, leaves for One Year according to Custom, and the Leiffer fows the Land, and afterwaards the Lady of the Grantee, the Leiffer shall have the Corn. 2 Dow. 764. If a Husband hold Lands for Life, in Right of his Wife, and fows the Land, and after the dies before Severance, he shall have the Emblements. 1 Nof. 702. But if the Husband and Wife are Jointesants, though the Husband fows the Land with Corn, and dies before Right, the Wife and not his Executor shall have the Corn, as the being the surviving Jointesant. Co. Lit. 199. Where a Widow is endowed of Lands fown, she shall have the Emblements, and not the Heir. 2 Nof. 81. And a Tenant in Dower may dispose of his Corn fown on the Ground; or it may go to her Executors, if she die before Severance. 20 Hen. 5. 2 Nof. 80. 81. And if a Parson fows his Glebe, and dies, his Executors shall have the Corn: Likewise such Parson may by Will dispose thereof. 1 Dow. Abr. 655. 28 Hen. 8. cap. 11. If Tenant by Statute-Merchant fows the Lands, and before Severance a casual Profit happens, by which he is satisfi'd, yet he shall have the Corn. Co. Lit. 55. Lands fown are delivered in Execution upon an Execution, the Peron to whom delivered shall have the Corn. 1 Litt. 54. The Leiffer was given against a Peron, and then he fowed the Land, and brought a Writ of Error to reverse the Judgment; but it was affirmed; and adjudged that the
are observed on Wednesday, Friday and Saturday next after Quinquagesima Sunday, (or the fifth Sunday in Lent) after Whit Monday in Lawrence. And on St. Lucy's Day about the Middle of December. These Days are mentioned by Briton, cap. 53. and other Writers; and particularly in the Stat. 2 & 3 Ed. 6. c. 19. And are kept with great Zeal by the Roman Catholicks: Our Almanacks call them the Ember Weeks.

**Embassy.** By the Stat. 32 Ed. c. 36: no foreign Embassy, or Gold or Silver Brocade, shall be imported, upon Pain of being forfeited and burnt, and Penalty of 100 l. for each Piece. No Person shall sell or expose, to Sale any such Embassies: Gold or Silver Thread, Lace, Fringe, Brocade, or make up the same unto any Garment, upon Pain of having it forfeited and burnt, and Penalty of 100 l. All such Embassies, Sr. found, may be seized and burnt, and the Mercer, Sr. in whole Cloth it was found, shall forfeit 100 l.

**Embutia.** (Embutia) is an Old Word still made Use of in the Accounts of the Society of the Inner Temple; where so much in Embutes at the Foot of an Account, on the Balance thereof, signifies to much Money in the Bank or Stock of the House, for Re-paragraph of Lodges or other emergent Occasions: *Quod in Reformationibus Damni tribuarit.* Spelun.

**Embuta,** Embutum fodubre, to make Embute for any Crime or Treason committed. *Leg. Edw. Conf. &c. cap. 35.* Hence a capital Crime, not to be atoned by Fine, was said to be inembutable. *Leg. Canut. 926.*

**Embutatio,** has been used for the Power of Amending and Corroding Abuses, according to fixed Rules and Measures: As Embutatii Penni, the Power of looking to the Affile of Cloth, that it be of just Measure: Embutatii Penni & Curtise, the Affiling of Bread and Beer, Sr. a Privilege granted to Lords of Manors, and executed by their Officers appointed in the Court-Leet, *Leg. Edw. Conf. &c. cap. 35.* Exceptus mortuus & Laureatius, Sr. *Paroch. Antiq. 106.*

**Emunciatur A Judice.** Petus in Affile & Juratius, Sr. See Impatul.

**Empire, (Imperator)** The highest Ruler of large Kingdoms and Territories, a Title anciently given to renowned and victorious Generals of Armies, who acquired great Power and Dominion. And this Title, is not only given to the Emperor of Germany, as Emperor of the Romans: but was formerly belonging to the Kings of England, as appears by a Charter of King Edgar, in his Ego Edwarde Anglorum Balleus, comunque Regum Anglorum Occasio que Britanniam circumvente, Sr. Imperator & Dominus. *Embroderer, (Fr.) To write down in short. Brit. 62.*

**Emblem.** A French Word used in our Law Books and Statutes, signifying as much as Occasion, or the Cause or Reason whereof any Thing is done. *Stat. 5 Ed. 3. c. 3.*

**Embassadour.** Where one who has the Use of his Reason endeavours to commit a Felony, Sr. he shall be punished by our Laws, but not to that Degree as if he had actually committed it: As if a Man assails another on the Highway, in order to a Robbery, but takes nothing from him, this is not punished as Felony, because the Felony was not accomplished as though as a Misdemeanor, it is liable to Fine and Imprisonment. *3 Edw. 6. 60. 1 Edw. 11 Rep. 98.* And in this Case, the Offender shall be transported, by a late Statue, *7 Geo. 2. cap. 21.*

**Emboudement.** Signifies the Beflowing or Affairing of Dower on a Woman: But it is sometimes used metaphorically for the Setting a Provision upon a Parson.
Parson, or Building of a Church or Chapel; and the
Severing a sufficient Portion of Tithes, &c. for a
Visitor, towards his perpetual Maintenance, when the
Benefice is appropriated. Stat. 15 R. 2. c. 6. 4 H. 4.
cap. 12.

Censure, (Invisius) Is properly an Alien or For
iegn, who, in a public Capacitv, or by the Will of Man,
never invades any Kingdom or Country: and whose
such Perons come hither by themselves, or in Com-
pany with English Traders, they cannot be punished as
traitors, but shall be dealt with by. Stat. 4 and 5. 2.
H. 3. cap. 13. 4.

Hawk, (p. 35) But the Subjectis of a
Foreign Prince coming into England, and living and
habiting in the King's Realm, if they take up
Arms, &c. against the Government, they may be
punished as Traitors, not as Alien Enemies. 1 Hawk.
ibid. If a Prisoner be refused by Enemies, the
Governe, is not guilty of an Escape; as he would have
been if Subjectis had made the Refuge, when he might
have a legal Remedy against them. 2 Hawk. 130.
Adhering to and Saccouring the King's Enemies. See
Traitor.

Enfranchisement, (Fr. Enfranchisement) To make Free, or
incorporate a Man in any Society, &c. It is also used
where one is made a free Denizen, which is a Kind of
Incorporation in the Commonwealth.

Enfranchisement, (Fr. from Franch, i.e. Libe-
ration) Is when a Peron is incorporated into any So-
ciety, Rule, or Politick, and figures the Act of an
incorporating. He that by Charter is made a Denizen,
or Freeman of England, is said to be enfranchised,
and let into the general Liberties of the Subjects of the
Kingdom. And he who is made a Citizen of London,
or other City, or free Burgers of any Town Corpora-
te, as he is made Parties of those Liberties that appertain to the Corporation, is in the common
Sent of Traders, but shall be dealt with by. Stat. 4 and 5.
H. 3. cap. 13. 4.

When a Peron was enfranchised, when he was made free by his
Lord, and rendered capable of the Benefits belonging to
the Corporation, he was enfranchised into the Freedom of any City or Borough, he hath a
Freehold in his Freedom during Life; and may not,
for indeavouring any Thing only against the Corpo-
ration, lose and forfeit the same. 11 Rep. 91.

Engliscy or Englishly, (Englisht) Is an old
Word signifying the being an Englishman. When
Canute the Dane came to be King of England, he at
the South of the Nobility felt back his Army into
Denmark, but kept some Dancers behind to be a Guard
to his Person; and he made a Law for the Prefer-
ration of his Dancers; who were often privately made
away by the Engliscy that if an Englishman killed a
Dancer, he should be tried for the Murder; or if he
escaped, the Town or Hundred where the Fact was
done, was to be removed sixty Marks to the King:
So that after this Law, whenever a Murder was
committed, it was necessary to prove the Party
slain to be an Englishman, that the Town might be
exempted from the Amerciment; which Proof was
called Engliscy or Englishly. And whereas a
Peron were privately slain, he was in ancient Times
accounted Franciscy, which Word comprehended
every Alien, especially the Dancers: It was therefore,
that where any Peron were murdered, he should be
adjudged Franciscy, unless Engliscy were proved, and
that it was made manifest he was an Englishman.
The Manner of proving the Peron killed to be an
Englishman, was by two Witnesss who knew the
Father and Mother, before the Coroner, &c. Brand.
ib. 3. cap. 150. 7 Rep. 15. 7. This Englishcy, by Reason of the great
Abuses and Trouble that afterwards were perceived
to grow by it, was utterly taken away by Stat. 14
Engl. c. 4.

Engliscy, The Names of, to be certified into the
Clerkery who are abroad in Holland and Flanders,
E. and shall pay such Impositions as Aliens do. Stat.
14 & 15 H. 6. 6.
Engliscy, Shall not: That shall invent, Design and En-
grave Prints, to have the fee Right of printing them
for fourteen Years, which shall be engraved with the
Names of the Proprietors; and others copying, and
giving away the Copies, &c. with the Profits of them,
from their Content, shall forfeit 51. for every Print, and also
the Plates and Sheets, &c. Stat. 8 Geo. 2. c. 13.

Enfranchisée, To raise the Price of Goods or Merch-
andise. 2 Hawk. 130. 4.

Enfront, Was anciently used for Implanted.

They may explet and be explet in all Courts. Mon.
Adv. 9. 18. 5 Ex. 3. 12.

Enfronter, Is the being with Child. Law. Fr. Dit.

Enfrouter, Of any Women condemned for a
Crime, is No ground to stay Judgment; but it may
be afterwards allowed against Execution. 2 Halil.
Hil. P. C. 413.

Entail, (Fr. Entaille, i.e. Encumbr.) Is Free-enabled,
owed, abridged, limited, and tied to certain Condi-
tions, as the Will of the Donee; where Lands are given to,
or fettered on others. See For and Tail.

Entepluder, (Fr. Enterpulder, La. Interplue-
ser) Signifies to discuss or try a Point accidentally
happening as it were between, before the principal
Case can be determined and Allowed that the Defendant may not be charged to two se-
veral Persons; or (if really, there be no D. D. or Action)
Shall be Enterpulder, to a stranger who hath Right to his Action. 2 Dows. Abh. 790. 11 If any borrows
of the Defendant against A. B. for the same Thing, and
the Defendant acknowledges the Action of one of them,
without a Prayer of Enterpulder, they shall not inter-
plead one the other; for the Enterpulder is given for the Security of the Defendant, that
he may not be twice charged, and he hath waived that
Action. 2 Dows. 792. If one brings several
Defences against B. and counts upon a Delivery of Goods, &c. to re-
Deliver to him, and another brings Defence against
him also, and counts to likewise if there be not any
Privy of Bailments between them, yet they shall im-
plead, to avoid the double Charge of the Defendant;
and also because the Court cannot know to whom to
deliver the Thing detailed, if both should recover. Br.
Enterpulder. And if the Defendant says that he found it, and traverses the Bail-
ment, they shall interplead; for then he is chargeable
as well to the one as the other; So that the Party, by
delivered it jointly, abide but, that they delivered it
as they have counted: But it is otherwise if the Defen-
dant do not traverse the Bailment, because there was
a Bailment, he is chargeable only to the Bailor,
and may plead in Bar against the others. 2 Dows.
782. Where two bring several Defences for one
Suit, and the Defendant prays that they may inter-
plead, and delivers the Thing to the Court, and before
the Award of the Enterpulder, one discontinues the
Suit, the other shall not have Judgment; but if he dis-
continues his Suit after the Enterpulder, the other may
have Judgment. 11 H. 6. 10. If a Recovery be had
upon an Enterpulder, Judgment shall be given to re-
cover the Thing demanded against the Defendant;
and not against the Owner in Cape of Carmichael,
&c. 2 Dows. 783. When two have enterpuldered in
Defeita, he that recovers shall recover Damage against
the other. Br. Damage 68. There was formerly En-
terpulder relating to the Delivery of Land, by the King,
to the right Heir, where two Perons out of Wardship
were found Heirs, &c. 7 Rep. 45. 4. Second. Prin.
cap. 17. Br. 1. Tt. Enterpulder. And anciently the
Heir who made a great Title in the Land

Entertiss, (from the Fr. Entertiss, Enterpulder) Is a
Contradiction in our Books to Monesty, denoting

4
the Whole: And a Bond, Damages, &c. are said to be entire, when they cannot be divided or apportioned.

Entire Tenancy. Contrary to several Tenancy, and signifying a whole Possession in one Man; whereas the Other is called a Share or Bore.

Entry. Infringe, Fr. Entree, i.e. Intrusion signifies the taking Possession of Lands or Tenements, where a Man hath Title of Entry: And it is also used for a Writ of Possession. This Entry into Lands, is where any Men enter into or took Possession of any Lands, &c. in his proper Person: And is an actual Entry when made by a Man's self, or by Attorney by Warrant from him that hath the Right of it; as in an Entry in Law, for a continued Claim is an Entry implied by Law, and has the same Force with it. Litt. p. 419.

There is a Right of Entry when the Party claiming may for his Remedy either enter into the Land, or have an Action to recover it: And a Title of Entry, where one hath lawful Entry given him to the Land, which another hath, but which he has no Action to recover till he hath entered. Plowd. 558. Rep. 43. Finc's Law 105. The Writs of Entry concern the Right of Property, and are of divers Kinds, distinguished into Four Parts, according to which the Writs are varied. The first Degree is a Writ of Entry for Diffusion, that lieth for the Diffusor against a Defendent, he being married, and is called a Writ of Entry in the nature of an Affidavit: Second, a Writ of Entry for Diffusion in the Per, for the Heir by Deferent, who is said to be in the Per as he comes in by his Accessor's title, so it is if a Defendent makes a Possession in the fiance of a Feudment in Fee, Gift in Tali, &c. the Feudor and Donee are in the Per by the Diffusor. Third, A Writ of Entry for Diffusion in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor shall have this Writ of Entry for Diffusion, &c. of the Lands in which such other had no Right of Entry, but by the Feudor of the Diffusor, to whom the Diffusor demised the same, who unjustly and without Judgment disfitted the Demandant. Fourth, A Writ of Entry for Diffusion in the Per, Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298. In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.

In these four Degrees this Writ of Entry is called a Writ of Entry for Diffusion, and in the Per & Cui, where the Feudor of a Defendent makes a Possession over to another, when the Diffusor is removed from Hand to Hand beyond the Degrees, in Cui of a more remote Seizin, whereunto the other three Degrees do not extend, 1 Inst. 298.
is within Age, it will not bar him of his Entry: He
that hath the Right of Entry, must be of Age, within
the four Seas, of sound Memory; and if it be a Wo-
man, the must be sole; and if the Party be under
Age, beyond the Seas, Non compus Meriti, in Prizon,
case. He Can be at the Time of the Distress, it shall
cannot bar. Lit. 403. 147. 21 H. 6. 17. The
whole Time from a Distress is considerable; as
where Feme Covert is distressed, and her Husband
deaths, and the takes another; Husband, and then a
Dissent is call'd; or if one ultra Mare be distressed,
and he return into England, and then go beyond
Sea again, and there is a Dissent; here the Dissent
will bar the Entry, because of the interim. 9 H. 7.
24. Dyer 143. 33 H 8. c. 33. A Woman Tenant
in Tail took Husband, who made a Feoffment in Fee,
and died, and the Wife with Entry made a Lease
for Years; and it was held, that the Freehold was
not reduced by the Lease, without an Entry made.
1 Leav. ca. 165. The Entry of a Distress when he
doeth makes it, shall avail all the former Charges by
the Distress upon the Land: But Right of Entry
may be lost divers Ways; as by Acceptance of Rent,
by Distress which is call'd, and the like; 4 Leav.
Andr. 133. Noy. Reg. 7. If a Man is distressed of Land wherein
a Common is appurtant, the Distress cannot use the
common 'till he enters on the Land to which the
Common is appurtenant; for if the Distress might
use it, to might the Distress, which would be a
double Charge on the Common; Yet if a Person be dis-
soed of a Manor, to which an Adwowment is appen-
dant, he may prefer to the Adwoon before Entry on
the Manor. 1 Infr. 122. A Distress enters into the
Land, and continues therein with the Distress, and
manures it with him, claiming nothing of his full
Estate; or if the Distress enters, and takes the Pro-
at as a Lessee, or of the Distress, 'tis hid these will
be an Entry that will reduce the Eft Estate. 2 Daws.
where a Claim is to put in the Castle of such Stranger in the Land to feed there;
this is an Entry in Law on the Land. 1 Infr. 245.
And if a Person enters by Command of him who hath
no Right of Entry, he may not gain a Title to it to
himself. 1 Nef. Abr. 705. Where Entry may be
made into Land, or any Thing, it shall not be in the
Party before Entry: If Entry cannot be made, but
only Claim, then it shall be in him by Claim; and
when neither Entry nor Claim can be made, it shall
be in him by Act of Law. 1 Prid. 133. In Case the
freehold of the Land is in no Man, but the Freehold in
Law is in the Heir that enters, his general Entry
into one Part reduces all his actual Possession: But
if an Entry is to deplete an Estate, a general Entry
into Parcel, is good only for that Part. 1 Infr. 15.
Where an Entry is in any Parts, it must be in the
Name of all: If I endow a Perfon of an Acre of
Ground upon Condition, and of another Acre on
Condition, and both Conditions are broken here
Entry into one in Name of both Acres is not good
to reduce both: But if a Man make a Feoffment of
divers Parcels upon Condition that is broken, these
Entry into Part in the Name of all the stoll is suf-
cient. 4 Crt. Lit. 252. 9 H. 7. 25. A Man hath
Right to enter into Lands in divers Villages in one
County, if he enter upon Part of it in one Village in
the Name of all in that County; by this he shall
have Possession of the whole. 1 Infr. 252. Dyer 257,
337. A Man distressed me of one Acre at one Time,
then another Acre at another Time in the same Coun-
ty, my Entry into one of them in the Name of both
is good: Though it will not be good, if the Distress be
not proper to the Place. 4 Crt. Lit. 569. If the Acres lie in se-
veral Counties, when there ought to be several Ex-
norities and Actions. 1 Infr. 252. If he who hath
Right of Entry into a Freehold, enters into Part of
it, it shall be adjudged an Entry into all possessed by
one Tenant; but if there be several Tenants posses-
sing of the same Land, the Right of Entry belongs
to several Tenants. 1 Litt. Abr. 515, 516. Special
Entry into a Houle with which Lands are occupied,
claiming the Whole, is a good Entry as to the whole
Houle. 1 Infr. 253. Had. If a Man has Title to an
Ufe of his Wife; or a Man enters to the Ufe of an
Infant, or any other, where the Entry is lawful; this
fettes the Possession before Agreement of the Parties:
Though it is otherwise where a Person enters to the
Ufe of one whole Entry is not lawful; for this vets
nothing in him till Agreement, and then he shall be
distressed of Entry. 878. If two Jointestates are
distressed, and the Distress alies, and one Jointestate
enters upon the Aliense to the Ufe of both; this fettes
the Freehold in both of them. Ibid. 788. But
if one Cooperater, &c., enters specially claiming the
whole Land, the gains the Part of her Companion by
Abatement; and it shall not fettle any Possession in the
other. 1 Infr. 243. The Heir is to enter into
Lands deeded to him, to initiate him to the Profess.
1 Infr. 214. If a younger Son enters on Lands in Fee,
where the eldest Son dies having Issue; though
many Different are set, yet the Heirs of the eldest
Son may make an Entry on the Lands; but if the
younger Son convey away the Lands in Fee, and
the Freehold dies feated, they may not enter; nor
may they make an Entry, if they have disposed the
Eldest, and dies feated. 1 Infr. 257, 244. Lid. Sid.
357. A Tenant in Tail hath Issue two Sons, and
the Eldest dies, leaving his Wife provisentessor of a
Son, and the younger Brother alive, and then the
Wife of the Eldest is delivered of a Son, he may
enter upon the younger Brother. 1 Daws. 577. If
a Ballard being the eldest Son, enters upon Land, and
enjoys it during his Life; his Entry and dying feated
can make a Title to his Heirs against the lawful Chil-
dren. 1 Infr. 110. An Estate of Freehold will not
be reduced by a Statute: 2 Infr. 35. A Grantee
of a Reversion may enter for a Condition broken.
1 Prid. 176. If a Person will take Advantage of a
Condition, he must enter, or make a
Claim: And for a Condition broken, there must be
actual Entry, to bring Ejectment for Recovery of the
Estate; but where a Man is intitled to enter by Distress, it may happen in
Mortgage, &c., Entry and Quitter contended in the
Rule in Ejectment, without actual Entry, is suf-
cient to make the Lease to intitle the Action.
1 Litt. Abr. 516. When a Man hath Title to Land,
and is out of Possession, he cannot make a Lease of it
to a Tenant, but by Entering and Sealing the
Lease on the Land; or empowering others by Let-
ters of Attorney to do it. Daws. Abr. 81. A Leffe
must enter into Lands demised to him; and though
the Leffe dies before the Leffe enters, yet he may
enter: And if the Leffe dies before Entry, his Exec-
utors or Administrators may enter. The Leffe
may assign over his Term before Entry, having
infrige terms; but he may not take a Release to en-
large his Estate, or bring Trespass, &c., till actual
Entry. Though if there be Words Bargain and Sell
in a Lease, &c., for Consideration of Money, the
Leffe the Bargains is in Possession on Executing the
Deed, to make a Release. Lit. 59. Prid. 300.
1 Infr. 46, 57, 270. Where a Leffe enters on his
Leffe for Years, the Rent is fulfilled. 1 Leav. 110.
But if the Leffe die; the Leffe is not discharged of his Rent to the Leffe; unless it be
where the Leffe is attainted of Treason, &c., that
the Rent is to fall to the King, who is in Pos-
session without Entry. 5 Litt. 359. 1 Nef. Abr. 706.
There
There is no need of Entry to avoid an Ecclesiastic in Case of a Limitation, because thereby the Ecclesiastic is determined without Entry or Claim, and the Law calls it upon the Party to whom it is limited. If a devise lands to B. and his Heirs, and dies, 'tis in the Devise immediately; but till Entry he cannot bring a process. A process with an Entry of one Person, a Reversion will rest without Claim. 2 Med. Rep. 7, 8. A bare Entry on another, without an Expulsion, makes only a Seisin; so that the Law will adjudge him in Possession who has the Right. 3 Salk. 135. If a Person who hath Title of Entry, finds an House open with no Body in it, and enters into it, and keeps Possession; this is no forcible Entry; because if any Body is in it. Common Law Com. Place'd 186. Where a Person is in a House with Goods, Ctr. the House may be enter'd when the Doors are open, to make Execution. 3 Cr. Exc. 759. But it must be averred that the Goods were in the House. Lawre. 1434, 1448. And a Man cannot enter into a House, the Doors being open, to demand a Debt, unless he aver that the Debtor is within the House at the same Time. 3 Cr. Exc. 876. Entry may be made on a Tenant where Rent is in Arrear, to take a Debtor, Ctr. In order to retain Possession of Lands by Entry, the Owner of Entry in them: If it be a House, and the Door is open, you go into it, and say these Words— I do here enter, and take Possession of this House. You shall be so, then fix your Foot on the Groundfloor, or against the Door, and say the before Words: And if it be Land, then go upon the Land, and say, I do here enter, and take Possession of this Land, Ctr. If another do so for you, he must say, I do here enter, Ctr. to the Use of A. and B. and it is necessary to make it before Witness, and that a Memorandum be made of it. Lit. 185, 1 Sc. 237, 238. In Actions for Possession of Land, to be made within twenty Years after the Title accrued. Stat. 21 Jac. 1. cap. 16. But where a Fine of Lands is paid, the Entry is to be in five Years. 1 R. 3, 4 H. 7. Also an Action is to be commenced in one Year after the Entry. 4 & 5 Ann. Demand how made of Rent, Ctr. to entitle Entry, see Demand. See also Claim.

Form of a Wit of Entry.

GEORGE the Second, &c. To the Sheriff of G. Greeting: Command A. B. that judgeth, &c to render to C. D. his Mency, &c which he Claims to be his Right and Inheritance, and into which the said A. hath not an Entry, but by E. was the Wit of T. D. who that Mency his demised, and made said the same to Dower of the Gift of the said T. and himself her Husband, Father of the said C. D. whereby he is, as be faith, &c. and Wholy, &c.

Entry at a Communion Legum. Is the Wit of Entry which lies where Tenant for Term of Life, or for Term of another's Life, or by the Curtey, &c. aliens and dies, where he in the Reversion shall have this Wit against whomsoever is in Possession of the Land. New. Nat. Br. 451.

Entry at termilum gut preteritit. A Wit of Entry brought against a Tenant for Years, who holdeth over his Term, and thereby keeps out the Less. For: And if the Husband and Wife lease the Wife's Land for Years, and the Husband dieth, and the Term be void, this Wit, the Wife have a Wit of Entry ad termilum gut preteritit, but the most count that the and her Husband leased the Land, &c. Also the Grantee in Reversion may have this Wit against Reason, or, his Assignee, New. Nat. Br. 447, 448.

Entry in case of Smills. Is a Wit that lies where Tenant for Life, or Tenant by the Curtey, alien in
that holds Lands for Life or Years; and by the Equi
ty thereof, a Man shall have Action of Waste against a Tenant for Years that holds but for one Year, the Half-Year, which is without the Words of the A6, but within
the Meaning of it; and the Words that entail the one, by Equity entail the other. Terms de Ley 503. 504
So that Equity is of two Kinds; the one doth abolish and
take from the Letter of the Law; and the other
inlarges and add thereto. Equitas est perfissa quadam
Rana, et Pars jurisprudentiae legum. 2. 7. 6.
E. & R. 1 Inf. 24. And Statutes may be construed
equirer, especially where they give Remedy for
Wrong, or are for Expedition of Justice. &c. 1 Inf.
24. 74. 2 Jef. 106. 109. &c. Equity seems to be
the Interpreting Law of Nature, exercised by the
Lord Chancellor in extraordinary Matters, to do equal
Jusitice, and by supplying the Defects of the Law,
give Remedy in all Cases. See Chancellor.

Equity of Relegation, on Mortgages. If where
Money is due on a Mortgage, the Mortgagee is
deliberate to bar the Equity of Redemption, he may oblige
the Mortgagor either to pay the Money, or be fore
closed of his Equity; which is done by Proceedings in the
Court of Chancery. But the Chancery cannot
obtain the Time of Payment of the Mortgage Mo
ney, where it is limited by express Covenant; though
it may lengthen it: And then upon Non payment, the
Practice is to foreclose the Equity of Redemption, of
the Mortgagee. 1 T. R. 164. 1 C. 1. 2. 1. Equities to
execute the Equity, a Bill in Chancery is exhibited; to which
an Answer is put in, and a Decree being obtained, a Muster in Chancery is to certify what is due for Prin
cipal, Interest and Costs, which is to be paid at a
Time prefixed by the Decree, whereupon the Premi
liles is to be reconveyed to the Mortgagor; or in Default of Muster, the Mortgage is ordered to be
foreclosed from all Equity of Redemption, and to con
vey the Premises absolutely to the Mortgagor. Law of
Securities, p. 129. 133. A Fine and Nonclaim will be
the best Method in a common Mortgage, a Covenant to refrain it shall not be re
garded in Chancery. 2 Ves. 505. If the Condition of a Mortgage is, that the Mortgagor only should re
deem during Life, or that he and the Heirs of his
Body shall do it; yet the general Heir shall have the
Equity of Redemption, for if the Principal and Interest be
paid on the Late, the same is free, 1 T. R. 221. 130. And
it is held, though a Bond be conditioned, that if the Money be not paid at such a Time, then for a further
Sum, the Mortgagee shall have the Land absolutely, as
a Parchelor, &c. in such Case a Man may also re
dem. Ibid. 488. A Person who has Mortgaged Lands to one Man, in Chancery the Mortgagee the same
Time, without discovering the first Mortgage, they forfeit
their Equity of Redemption, and the second Mortgage
cannot redeem, &c. And it is the same way any
Persons borrowing Money, enter a Judgment, &c. for
Security, and afterwards borrow more Money, and
mortgage Lands to the second Lender, without giv
ing Notice of the Judgment, or paying the same
off in 6 Months, &c. by Stat. 4 & 5 W. 4 M. cap.
16.

Equitablen, Commissioners are appointed by Statu
te to examine the State, and the Debt, the Duty
on the Union by way of Equitable; and Provision is made for Payment of the Duty by a yearly Annuity,
&c. 1 T. R. 1. 27. 5 Gr. 5. Viz. Scotland.

Equus is a Horse, a Man being equipped with Sad
dle and Furniture. — Invenirens pro quolibet Fidei
Varn Equestri, vel etiam Dichoperum, &c. Inq.
16 E. 1.

Ceminus. (From the Fr. Ermine) A Fur of great
Value, much used in Robes of State.

Cem. A Place where one is laid to rest, after the Binding or Cocking of it; it is derived from the old Saxon. Erme, Erme, Erned, to cut or mow Corn: Hence to er is in some Places to give Erne. Viz. Paven's Ern, when a Statute of
Erect. (Jurisprudence) is Applied to Juries of the Circuit, and Baillifs at large, &c. See Erye.

Erectus. A Wall, or Statue. Erect or wandering
Stones, &c. with Norman, A. D. the Error, and Er
terrestrial Error of a Write which is brought for Remedy of this Oversight, is called a
Write of Error, in Lat. De errore Corrigendo. And a
Write of Error is a Write which iffues out of Chancery, and lies where any one is granted by the Proceedings and Judgment in any Court of Record, having King to hold Fees of Debe, or Trefails above 40 L. It is
returnable in the King's Bench; and if upon the Trans
cript of the Record into B. R. it appears to the Court that there is Error in the Record or Proceedings, so in giving Judgment, then the Judgment is re
vered: But if there appear to be none, then is the
Judgment affirmed with double Costs. 1 Litt. Abr.
518. This is the right Practice, which is called Proposizione de Errorre, and lies in great Diversity of Cases: Also there is a Write of Error to reverse a Fine. C. Err. 1. 4. 3. Judgments given in the Court of B. R. were only returned by the Par
liament till the Stat. 27 Eliz. cap. 8. By that Statu
ute, a Write of Error lies out of the Chancery upon all Judges of Form in Writs, Pleadings. &c. and the Judge of the King's Bench, when the Suit is by Bill, (except the King is a Party to the Suit) returnable in the Exchequer Chamber, before the Judges of the Common Pleas, and Baron of the Ex
chequer, &c. with Norman, A. D. the Error, and re
verse or affirm the Judgment; other than for Errors concerning the Jurisdiction of the Court, or Want of
Form in Writs, Pleadings. &c. and after the Suit is examinated, and judgment affirmed or revered, the Record is sent back to the King's Bench, to pro
ceed and award Execution: But if the Suit is by Or
iginal Action in the King's Bench, and the Party, Write of Error lies only to the Parliament. Stat. B. 4. To reverse a Judgment given in the Court of Common Pleas, the Write of Error is made returnable in the King's Bench; and Error is not
be brought in Parliament: Though where a Write of Error is brought in B. R. upon a Judgment given in C. B. and the Judgment is revered or affirmed in B. R. the Party grated may have Write of Error re
turnable in Parliament. 31 Eliz. c. 1. 1 Litt. Abr.
519. 521. Erroneous Judgment in the Court of Ex
chequer, is to be examined by the Lord Chancellor, &c. with some of the Justices, and such other judge
Perions as they think fit; and if any Error be found, they shall correct the Rolls, and send them into the Exchequer, in order to make Execution, &c. Stat.
31 Ed. 3. cap. 12. Not only on reverting or affirming a Judgment, the Exchequer Chamber is to send
back the Record into B. R. but also if the Plaintiff in the Write of Error is not pursuant, or if the Suit is discont
inued in the Court of Exchequer Chamber, the Re
cord shall be sent back; and the Court of Exchequer shall give the Defendant due to Send. Plaintiff, is the
original Action for his Delay, &c. though the Plaintiff in Error was Plaintiff in the original Action, there
no Costs shall be given. 2 Ed. 12. 2 Riff. &c. ibid. 706. The Court of Exchequer, Exchequer Chamber, by Abatement or Discont
inued, the Judgment is not again in B. R. till a Re
mitture is entered. 1 Saiz. 201. Write of Error will not
not lie in the Exchequer Chamber upon a Judgment in B. R. but in Actions of Debt and Trespass on the Cafe, Covenant and Exchange; which are the Actions mentioned in the Stat. 27 Edw. A Writ of Error lies not in the Exchequer Chamber on Judgment in a Action of Scandalum Magnatum. 2 Nolf. 707, 709. But on Judgment in Replevin in C. R. there may be a Writ of Error brought in B. R. The Stat. 27 Edw. c. 8 is only to relieve on the Merits of the Cause, as it floated on the first Judgment, and there can be no new Writ of Error after that Judgment is affirmed or reversed; so that if the Merits of the first judgment be examined before a Scire facias brought, the Exchequer Chamber having executed their Power, can do nothing in it. 1 Salk. 265. The Exchequer Chamber doth not award a Soci. fac. ad judicandum Erroris; but Notice is given to the Parties concerned. 1 Test. 34. And the Court of Exchequer Chamber have not any Authority, but to reverse or affirm the Judgment. 6c. for they have no power to execute on the Judgment. 6c. Edw. 108. But where Judgment is given for the Defendant, and the Plaintiff brings a Writ of Error; if the Judgment is reversed, the Court which reverses the Judgment shall give Judgment for the Plaintiff, as the other Court ought to have done. Test. 117, 118. In the Exchequer Chamber, after Reversal of a Judgment, the Court gives Judgment for the Plaintiff, ex quo reperiet.U. but because they wanted Power to award a Writ of Enquiry which was necessary, being on a Demurrer, therefore it was sent back into B. R. for the Execution of that Writ, and thereupon to give final Judgment: But if the Judgment is against the Plaintiff in B. R. upon a special Verdict, and that Judgment is reversed in the Exchequer Chamber, there being no Writ of Enquiry requisite, the Court of Exchequer Chamber doth not only give Judgment of Reversal, but a compleat Judgment for the Plaintiff in the Affirm. 6c. 181. If erroneous Judgment must be had by Consent of Parties, it may be reversed in the Exchequer Chamber; for Consent of Parties may not change the Law: but if the Consent is entered upon and the Part of the Record, it may be good. Rob. 5. Cru. El. 664. The Reversal in the Exchequer Chamber, is rei Judicata: No Writ of Error lies upon such Judgment, except in Parliament; and is a dismissal of the Action at least, by the Statute 27 Edw. c. 8 and 31 Edw. It has been held, that an Error in Fact cannot be alligned in the Exchequer Chamber: Though 6c. Authorities. Errors in Fact may be alligned as Errors in Law. 2 Mod. 194. 2 Nolf. 705. Erre de Repercussione quod se innulli. Refers lies in the Court of B. R. for Errors in Fact in the Judgment of the fame Court as Nonage of the Parties, want of an Original, &c. which doth not proceed from the Error of the Judges, and this Writ is allowed without Bail: But a Writ of this Kind doth not lie for Error in Matter of Law, when it would be reverting their own Judgments. Cru. Fac 254. And Errors in Fact may be corrected in C. R. the fame Term, with this Writ, which lies not in the Exchequer Chamber. Ibid. 626. If Judgment is given in B. R. in civil Actions, a Writ of Error will not lie in the fame Court, only for Errors in Fact triable by a Jury but upon a Judgment in Criminal Cases, Error will lie in B. R. whether the Error be in Fact or in Law; though it lies also in Parliament. 5 Salk. 187. Where a Judgment in C. R. is affirmed upon a Writ of Error in B. R. and afterwards a Soci. fac. is brought on that Judgment, and the Plaintiff hath Judgment thereon; no Writ of Error lies in the Exchequer Chamber, the Record was not in B. R. by Bill, but by Writ of Error. 1 Roll. Rep. 263. 5 Salk. 149. On Judgment given in the Court of King's Bench in Ireland, even after Error brought and determined there, Writ of Error may be fixed in the King's Bench in England. 2 Nolf. 730. When Judgment is given in B. R. for Plaintiff in Error, there must be only a Judicium Reversum, 6c. entered with Cost: If for the Defendant in Errors, that the Plaintiff Nil caput per Error fames di Error. The Judgment given in B. R. the old Judge ought to allow a Writ of Error which is in Judgment of Law a Superfidesus until the Errors are examined, and the Judgment affirmed or reversed. Cru. Fac. 554. As a Plaintiff having erro- nious Judgment, may reverse it; and new Judg- ment may be given for him: So if a Judgment is re- versed, the Plaintiff may bring a new Action for the same Cause. 1 Lev. 310. Where a Judgment is pleaded in Bar another Action, &c. and Judgment given on that Plea; Writ of Error may be had to reverse the second Judgment. Cru. Edw. 503. 6c. Cent. 159. And Dect lies upon a Judgment in B. R. after a Writ of Error brought which is only a Superfidesus to the Execution. 1 Lev. 153. Writ of Error cannot be brought on any Record which is not a Judgment. 1 Salk. 145. And Error lies not on an interlocutory Judgment; it must be a final Judgment after Verdict, 6c. A Writ of Error may not be brought to reverse a Judgment by Dect, but before a Writ of Inquiry of Damages is taken, and is executed, that the Verdict of the Jury and interlocu- tory Judgment may be made a passport, and final Judgment upon which alone a Writ of Error must be brought. 1 Litt. 522. But on Judgment by Default in B. R., it lies before a Writ of Inquiry of Damages, and judgment thereupon; because in this Case the Judgment already is perfect to recover the Term. Lat. 212. When a Writ of Error is brought to re- verse a Judgment in an inferior Court, though the Record is not certified as it ought, yet Execution cannot be had; but on Certificare of the Neglect, &c. a Writ of Execution Judicati may be issued. 1 Litt. Aq. 326. Upon a Writ of Error, if the Clerk below will certify the Record wrong, Action of the Cafe lies against him; and if he make no Return, the Plaintiff may have the Writ Execute Judicati out of Chancery. Mod. 214. If erroneous Judgment be for the Defendant in an inferior Court, and it is reversed in B. R. and the Merits appear for the Plain- tiff, he shall have Judgment, but if the Merits be against the Plaintiff, the Judgment shall have new Judgment, in like Manner as in the Exchequer Cham- ber; for the Judges are to reform, as well as to affirm or reverse. Facilis Respexit. If a Writ of Error to reveres a Judgment be discontinued for Want of Pro- secution: Execution cannot be had upon the Judg- ment, until the discontinuance is certified from the Court where discontinued. 1 Litt. 518. The Want of a Bill in B. R. is Error upon a Judgment by Con- fession, or Default, (but not after a Verdict) because the Bill is the original Process there. Bid. For Varia- nce between the original Writ and Declaration; or Want of an Original: And where Proceedings are so erroneous, as not to be amended; for Faults in Verdicts, Executions, &c. And when any Thing material is omitted in a Judgment, Writ of Error lies, and the Judgment shall be reversed: So where the Stiles of inferior Courts are wrong or insufficiently named, &c. their Judgments may be reversed. But where Faults are small; they sometimes pass as Vinitum Clarum. 2 Nolf. Aq. 714, 715, 721. 6c. 728. After as nullum Erroratum pleaded, the Party affirms the Record to be erroneous and he is foreclose- red to say there is Error in it: Though the Court is not restrained from examining into it. 1 Salk. 320. The Judges were bound to search for Erro- r in the Record, which were not alligned; but may if they will; and if they find Error they ought to reverse the Judgment. 6c. Cent. 159. If a Writ of Error is brought to remove a Record of a Judge;
ment given in C. B. and the Plaintiff in Error leaves the Record there, without removing it before the Re-
turn of the Writ or in Case there be a longer Re-
turn-Day than is convenient in the Writ of Error, as
if it is purchased the Beginning of Mon. Law; and made returnable in Hildary Term; the Court may
award Execution, although the Writ of Error be de-
liberd. 2. A New Writ of Error, when the Record comes into Court, if the
Plaintiff has all that Term do not assign his Errors; or
if he do it, and omit to sue a Scire facias ad amend-
dam Errors; against the Defendant, there is, return-
able the same Term, or the next, all the Matter is
discontinued; and the next Term a new Writ of
Error is to be fixed out upon the Record directed to
the signifed Judges, &c. F. N. B. 20. If it is that
brings Writ of Error, discontinued before the Defen-
dant in the Writ of Error pleads to it, he may have a
new Writ of Error; but if he discontinue after the
Defendant hath pleaded in nulla eff Errorem, he may
not have a new Writ. 1 Litt. 322. The Par-
ties upon the Removal of the Record by the Writ of
Error, have no Day in Court given to either of them,
so that if the Plaintiff in Error delay to fee forth his
Sci. fac ad amend. Errors, the Defendant hath no
Way to compel him, but by laying out a Scire facias
upon the Name, &c. And if there be Death of the Par-
ent in Error doth not plead that his Errors are
aligned, but suffer Judgment to pass upon two Nihilis,
no Errors afterwards aligned shall prevent Execution.
Carthage's Rep. 41. But 'tis said the usual Practice
is, that the Defendant in the Writ of Error, by Con-
dent doth voluntarily take Notice of the Alignment
of Errors and this Consent is satisfied by his Plead-
ing, in nullis eff Errorem. and then there is no Occasion
for a Scire facias ad amend. Error. 'tis said. Errors
are to be aligned in the Term, or the Writ of Error
would be held invalid. But the Rec-
cord is in Court by Writ of Error, the Plaintiff in
Error is to align his Errors; and may have a Scire
facias before the Record is entered: And the Manner
of aligning Errors, according to the ancient Practice
is, to put a Bill into the Court, and say in the Bill,
in boc Errorem o, &c. being in certain in what
Things. F. N. B. 20. The Alignment of Errors
in Omnibus Errorem is not good; but the Judgment
is founded upon the original Writ, Count, Pleading,
Place, Process, Trial, and so is mineable. 'tis said.
Error is to be aligned after a Scire facias ad amend. Errors; as the Rec-
cord is in Court; but 'tis not so of a Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Perros: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writ-
ning, before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writ-
ning, before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writ-
ning, before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writ-
ning, before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Pores: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writing,
before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writing,
before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
Errors sufficient must be certainly aligned in Writing,
before the Writ of Error is allowed. 2. Writs
of Error are not to be aligned upon the Record, may be
so aligned after a Scire facias ad amend. Errors; as if the Rec-
cord is in Court; but 'tis not of the Warrant of
Attorney, which is an Error in Fact, and not upon
Record. Ibid. 140. 5 Rep. 57. If one in Execu-
tion brings Errors, he ought to align the Errors in his
proper Proses: And in Cases of Outlawry for Felony,
flourished to his Action. Trin. 5 Ann. The Court will not let the Plaintiff in Error quash his own Writ of Error, though they may grant Leave to discontinue it. 3. 3. 16. A Writ of Error, against any Defendant in Error, and judgment is affirmed, Costs are allowed by Stat. 3 H. 7. c. 10. acceporo ditionis Executions. And by 2 5. 5. Ann. c. 16. Upon quashing Writs of Error, for Defect or Variance from the Record, the Defendant is to have Costs as if judgment were affirmed. When Writ of Error is not in dilation Execution, in the Life-time of Tenant for Life, on judgment given against such Tenant, because they cannot be Parties grieved in his Time. 2 Nelf. Ab. 712. Where a Plaintiff in Error dies, the Writ abates; but 'tis said not where the Defendant dies. Yelv. 112. By 50 Car. 2. c. 6. In Actions real, personal, and mixed, the Death of either Party between Verdict and Judgment, shall not be allowed for Error, or for Evidence, or any Judgment in a real Action, &c. shall be reversed for Error, except the Writ of Error be commenced within twenty Years, saving the Right of Infants, 10 Ed. 11. W. c. 1. But the Writ of Error is to reverse a Fine levied in the Common Pleas, and to cancel the same if it be erroneous: And if there be not an Original of the Record, or if there be no Fraud, &c. Writ of Error may be brought to make the Fine void. 1 Hy. 9. By Stat. 5 Geo. 1. c. 13. it is enacted, That all Writs of Error, wherein the same shall be on the Original Record, or other Defect, may be amended by the Court, and made agreeable to the Record: And where any Verdict hath been given, in any Action, Suit, &c. in any of his Majesty's Courts of Westminster, or other Court of Record, the Judgment thereon shall not be stayed or reversed for any Defect or Fault in Form or Substance, in any Bill, Writ, &c. or for Variance in any such Writs from the Declaration or other Proceedings: But this is not to extend to any Appeal of Felony, or Process on Indictments, Informations, &c. See Judgment.

Writs of Error in the King's Bench is thus procured: The Curator of the County makes out the Writ of Error, from a Petition or Copy of the Declaration left with him; which is to be delivered to the Clerk of the Error, who has a Fee of 2 l. 21. 6d. and a Certificate of the Allowance of the Writ must be served on the Defendant's Attorney in Error, also the Plaintiff's Attorney in the Action, is to procure an Original to warrant his Judgment; and Warrants of Attorney must be filed, and Ball put in, where required, &c. And then the Proceedings are by Servire facies et audit und Error against the Plaintiff in the Action, where on Judgment was obtained: and the Writ of Error being received by the Sheriff to whom directed, he is to give Notice to the Plaintiff in Error to show Cause why Execution should not be on the Judgment, and make a Return to that Purpose: then a Rule is to be given with the Clerk of the Rules for the Plaintiff in Error to allege his Errors by such a Day, if he shall not do before the Rule is out, the Plaintiff in the original Action may take out Execution against him. If he shall allege his Errors in the Record, then the Defendant must plead in nullis et erratim, and thereupon enter the Cause with the Clerk of the Paper, for the Errors to be argued; and Paper Books for 3. 3. 16. are to be made out, &c. If some Part of the Record be not returned, a Contraire must be prayed to bring it into Court; and if

Matters of Fact are alleged in Error, as Nonage, Death of the Plaintiff, &c. a proper Plea must be made thereon, and take thereupon taken and tried as in any other Plea: But if any of the Errors in the Writ, as if the Errors are argued by Counsel on both Sides, and the Judgment is either reversed or affirmed: And when Judgment is affirmed, the Defendant in Error may proceed against the Defendant in the Action, by taking out Execution on the Affirmative, or bringing Action of Debt on the Judgment; or he may prosecute the Bail for Suits in the Petitioner's Recognizance. 2 Vol. Med. Ext. Eng. 373, 378. When a Judgment is reversed or affirmed in the Exchequer Chamber, the Transcript of the Record therefore will be remitted back to the Court, which upon the End of the Judgment here: And if such Judgment shall be affirmed in the Exchequer Chamber, yet a Writ of Error may be brought thereupon returnable in Parliament. Prat. Sif. 525. 525.

If you would bring a Writ of Error in Parliament to reverse a Judgment in B. R. there must be a Petition to the King for his Warrant, which Petition has the Allowance of the Attorney General, and then the King writes on the Top of it Rotul jussit, whereupon a Writ of Error is made out by the Clerk of the Errors, (who hath a Fee, and the King's Warrant, in the Costs 5l.) And then the Lord Chief Justice of this Court carries the Record, and a Transcript thereof, up to the House of Lords in full Parliament, and after they are examined there, leaves the Transcript with the Lords, but brings back the Record: And this being done, the Attorney for the Defendant in Errors, gets some Lord to move that the Plaintiff in Errors may align his Errors; but if for the Plaintiff, Motion is to be made that upon his affixing Errors, the Defendant may appear and make his Defence, and then after the Judgment is either affirmed or reversed, the Clerk of the Parliament returns the Transcript of the Record into B. R. with the Affirmation or Reversal thereof, to be entered upon the Record in the Court, when with an Affirmation, &c. awarded Execution, &c. Dyer 385.

Prat. Assiz. Edit. 1. p. 117. A Writ of Error in Parliament, is made returnable immediately; or on a Prorogation, ad primum Parliamentum: And it does not determine by a Prorogation. But if a Parliament is dissolved before the Errors are heard, it is otherwise: And on Motion, Execution hath been granted in B. R. on a Judgment in such a Cafe, the Record being saver out of the Court. 3. 3. 16. To bring a Writ of Error in the King's Bench here in England to reverse a Judgment given in the King's Bench in Ireland, a Writ must be procured from the Curator, directed to the Chief Justice of the Court of B. R. in Ireland, requiring him to summon the Plaintiff in the Action there, to appear here in this Court, to answer the Errors: whereas a Transcript of the Record is sent over, (not the Record itself of the Judgment, which remains in Ireland) and when the Errors are argued, if the Judgment is reversed, there must go a Writ to the Chief Justice of Ireland to reverse it; so that the Judgment is not actually reversed here, but there. And where the Judgment in Ireland is affirmed here, there can be no Writ of Execution granted here; but on Affirmation of the Judgment, the Writ goes, meeting all the Proceedings, directed to the Judges of B. R. in Ireland commanding them to issue Proces of Execution. C. 5. 5. 321. 321. In Wales at the Great Sessions there is no such Power for the local Actions to the Council of the Marches of Wales and if they give an erroneous Judgment, it is final, for the Statute 34 H. 8. c. 56. ordains this Writ to be made out, and if the Action in Error has been granted of such erroneous Judgment: Upon Errors in real or mix'd Actions in Wales, Writ of
Form of a Writ of Error brought in B. R. and Judgment thereupon.

THO Lord the King hath given in Charge to his beloved and faithful Robert Eyre, Esq., his Chief Justice of the Bench, his Writ to take in those Words, to wit: George the Second, by the Grace of God, of Great Britain, France and Ireland, King, Defender of the Faith, &c. To our beloved and faithful, &c. Greeting: Beasts in the Record and Proceeds, and also in giving Judgment of the Plea which was in our Court before you and your Companions, our Justices of the Bench, by our Writs between A. B. and C. D. of a certain Tenement on the Caife, done to the Damage of the said A. B. to the hundred Pounds, as that false and manifestly false Intermediary, to the great Damage of the said A. B. as by his Complaint to be inferred; We willing that the Error, if there be any, found to be so, that all Reasons and grounds, to the great Damage of the said A. B. as by his Complaint to be inferred, be done to the Parties aforesaid in this Behalf, Command you, that Judgment be therein given, then that Record and Proceeds be reversed, and all Things concerning them, to us under your Seal definitively and openly you send, and this Writ is to be sent to the said A. B. to the End, that, looking into the Record and Proceeds, you may find in the true A. B., and in giving Judgment of the same, that your Writ is to be reversed, that the said A. B. be cut off, and therefore the Law of our Kingdom ought to be done in the Premises, &c. [The Writ of Error is to be thus entered and returned, and the whole Record annexed].

Afterwards, to wait, on Saturday next after the Octaves of St. Hillary in this same Term, before the Lord the King at Wellminster, came the said A. B. by his Attorney, and faith, That in the Record and Proceeds aforesaid, and also in giving Judgment in the Plaintiff aforesaid, there is manifestly Error, or (if it is manifestly Error) in this, that, in the Error aforesaid it appears, that the Judgment aforesaid in Form aforesaid given, was for the said C. D. against the said A. B. taken by the Laws of the Land, that Judgment ought to have been given for the said A. B. against the said C. D. therefore in that it is manifestly errored; also it is errored in this, that, whereof by the Record and Proceeds aforesaid it appears, &c. yet the said, &c. and therefore in that it is manifestly errored; and the said A. B. prays the Writ of the said Lord the King, to provide for the said C. D. being before the said Lord the King, to hear the Record and Proceeds aforesaid; and it is granted to him, &c. By which it is commanded to the Sheriff aforesaid, that, by brief and lawful, &c. be saved the said C. D. to know, that he may be before the Lord the King, in fifteen Days from the Day of Easter, &c. more, to bear the Record and Proceeds aforesaid, if &c. and further &c. The same Day is given to the said A. B. &c. At which Day, before the said Lord the King at Wellminster came the said A. B. by his Attorney aforesaid, and the Sheriff hath not thereto sent the Writ, and the said C. D. being feoulently required to come at the same Day, therefore &c. by, his Attorney came; upon which the said A. B. as at first faith, That in the Record and Proceeds aforesaid, and also in giving the Rendering of the Judgment aforesaid, it is manifestly errored, allowing the Errors aforesaid; and in a Form aforesaid alleging and prays, that the Judgment aforesaid for their Errors, and others in the Record and Proceeds aforesaid, may be reversed, annulled, and for nothing alleged. And that he may be referred to all Things, which he is by Occasion of the Judgment aforesaid; and that the Court of the said Lord the King here, may proceed as well to the Examination of the Record and Proceeds aforesaid, as the Matters aforesaid above aforesaid for Errors, and that the said C. D. may rejoice to the Errors, &c. Upon which the same C. D. faith, that neither in the Record and Proceeds aforesaid, nor in giving of the Judgment aforesaid, in any Thing it is errored; and prays, that the Court of the said Lord the King here, may proceed as well to the Examination of the Record and Proceeds aforesaid, as the Matters aforesaid for Errors aforesaid; and that the Judgment aforesaid may be affirmed in all Things. But because the Court of the said Lord the King now here, is not yet advised of rendering their Judgment of and upon the Premises, a Day is therefore given to the Parties aforesaid before the Lord the King at Wellminster, until in the Novembris of the Holy Trinity, &c. At which-said Day before the said Lord the King at Wellminster, came the Parties aforesaid by their Attorneys aforesaid, on which having sworn, and by the Court of the Lord the King now here, fully understood all and singular the Premises, and duly examined and viewed as well the Record and Proceeds aforesaid, and the Judgment given upon the same, as the Causes and Matters by the said A. B. above aforesaid for Error; for that it appears to the Court of the Lord the King here, that neither in the Record and Proceeds aforesaid, nor in the rendering of the Judgment aforesaid, there is any Thing vicious or deficien, and that that Record was in nothing errored, it is considered, that the Judgment aforesaid shall in all Things be affirmed, and stand in all Force and Effect, notwithstanding the said Causes and Matters aforesaid for Error aforesaid: And further it is considered by the Court of the Lord the King now here, that the said C. D. shall recover against the said A. B. ten Pounds, as adjudged to the same C. D. by the Court of the Lord the King here, according to the Form of the Statute in the Life Case lately made and provided, for his Costs, Charges and Damages which he hath aforesaid for the Delay of Execution of the Judgment aforesaid, on Presence of the Prosecution of the Writ of Error aforesaid; and that the said C. D. may have thereupon Execution, &c.

If the Judgment be reversed, then it is thus:

FOR that it appears to the Court of the Lord the King now here, that in the Record and Proceeds aforesaid, and also in giving the Rendering of the Judgment aforesaid it is manifestly errored; it is considered, that the Judgment aforesaid for that Error, and others in the Record and Proceeds aforesaid, shall be reversed, annulled, and stand for nothing alleged. And that the said A. B. shall be referred to all Things, which he hath by Occasion of the judgment aforesaid.

Exemptium. An ancient Word for a Meeting of the Neighbourhood to compromise Differences among themselves; which was customary in former Days; it is mentioned in Leg. H. t. r. 57.

Exemansatio, (From the Fr. Exbrancher) Cutting off Branches or Boughs in Forests, &c. Revolved. 784.

Excludens, To Scal: Excludens Forca, Was one of our ancient Tenures in Simmarchis; as appears by the Inquisition of the Simmarchis and Knightes Fees in the 11th and 12th Days of the Year King John, within the Counties of Essex and Hereford. Lib. &c. Seacarri, MS. 137.

Extemporium, (Derived from the Span. Cambier to change) Was a Licence granted to make over a Bill of Exchange from the Sea; For by the Stat. 5. 2. c. 2. No Merchant ought to exchange or return Money beyond Sea, without the King's Licence. Reg. Orig. 194. See Exchange. 

Exemissarium. From the Fr. Ejemissaire, i.e. Effgisse to By From) Signifies a violent or privy Evasion out of some lawful Restraint; as where a Person is arrested or imprisoned, and gets away before delivered by due Course of Law. Stamp.' F. C. cap. 26. 27.
27. And there are two kinds of Ejeques; voluntary and negligent: Voluntary is when one arrests another for the Crime of felony, and lets him be Con- fined; in which case the Party that Permits the Ejeque is eternally guilty of the Crime committed, and must an- swer for it: Negligent Ejeque is when one is arrested, and another negligently permits the Will of him so arrested to be served upon such Person as hath arrested him, or had him in Custody; and is not pursed by Sixth Suit, and taken again before the Party purusing hath lost Sight of him. Comp. T. 36. And for their negligent Ejecques, the Gaoler, &c. is to be fi- ned. The Sheriff is not answerable for the Gaoler, only in Civil Cases; and none shall suffer capitably for the Crime of another, so that a principal is only answerable for a voluntary Ejecque suffered by his Deputy. 3 Haw. P. C. 135. The Crime of the Prisoner ejecqing, for which the Gaoler is answerable, must be such as it was at the Time of the Ejecque; as where a Peron is committed for dangerously wounding another, it is 'Trespass only, and not Felony, 'til the Party wounded is dead: And he who suffers ano- ther to ejecque who was in Custody for Felony, cannot be assigned for such Ejecque as for Felony, until the Principal is attainted, but he may be indicted and tried for Malicious Retention of the Agent of the Principal. And in High Treason, 'til the Ejeque is immediately punishable, whether the Party ejecqing be ever convic- ted, or not. 2 Haw. 126. If an Officer who hath the Charge of a Person who is guilty of a capital Crime, doth knowingly give him Liberty, with an Intent to save him from Trial, &c. he is guilty of a voluntary Ejecque. Clo. Car. 492. S. P. C. 53. One negligent Ejecque will not amount to a For- feiture of a Gaoler's Office, as one voluntary one will; but many negligent Ejecques will do it: And the Fine for suffering a negligent Ejecque of a Peron arrested, was 211. for 100l. and in oth- er Cases at the Discretion of the Court. 3 Lev. 288. 4 Lev. 81. A Gaoler cannot excuse himself by Killing a Prisoner, tho' he could not possibly retake him; but shall be fined for the negligent Ejecque, and because the publick Justice is not so well satisfied by such a Killing. 2 Haw. 131. As unanimously permitting the Ejeque out of Prion, is Felony; so is the Breaking of a Prison by a Prisoner and ejecqing: If one be committed only on Susception of Felony, if a Felony is done, it is Fel- ony to break the Prison and make an Ejecque, though the Party is innocent. But if any one by the General Authority which the Law gives him arrests an innocent Person, such Person may excuse him- self. 2 Inf. 97a. 3 Inf. 221. H. P. C. 109. And a Man must be committed to Prison by lawful Min- timus, or Breach of Prison and Ejecque is not Felony. If a Party is committed for Treason, to break Prison and Ejecque is but Felony; but if a Prisoner let our Tractors, it will be Treason. H. P. C. 109. 2 Inf. 590. Where one is imprisoned for Petit Larceny, or Killing a Man in Defending, &c. to break Prison and Ejecque is not Felony. And if a Prisoner be set free, not by the Privity of the Prisoner, he may break Pri- son for the Safety of his Life. 2 Inf. 590. A Gaoler refusing to receive a Person arrested by the Conliable for Felony, whereby he is let go, is guilty of an Ejecque: But there must be an actual Arreth, which Arreth must be justifiable, to make an Ejecque; for if it be a sup- pos'd or Conclusive, the Party committed, and the Party is neither indicted nor appealed, &c. it is no Ejecque to suffer a Person to go at large. Fiz. Coram. 214. If a Prisoner arrest another for Susception of Felony, is he to deliver him to a publick Officer, who ought to have the Cuffydo of him? if he let him go, will it be an Ejecque? 2

Haw. 138. And if no Officer will receive him, he is to deliver him to the Township where Arrested; or get him bailed; a mere private Man knows B. to have committed Felony, and thereupon arrerst him, he is lawfully in Custody of A. 'till he be discharged, by delivering him to a Conliable or common God; and therefore if he voluntarily suffer such Person to go, tho' he were no Officer, nor B. indicted, it is Felony in A. But 'tis otherwise if he never takes him nor attempts it, and lets him go. 1 Hale's His. P. C. 594. Judicis of Peace in their Suisicutia judicato, to inquire of Ejecques of Persons arrested, and imprisoned for Felony. Star. 1 R. 3. c. 5. To bail a Person not arrestit by Law is a negligent Ejecque. Plowd. 476. And it is said that the Crime is equal in a Justice of Peace, for taking a Felon out of Prision, without Bail or suffering him to go at large without Commitment, &c. where the Prisoner compleatly the Felony, as it is in the Case of a Gaoler's permitting an Ejecque. Dal. 582. A late Statoque ordinates, that Per- sons who in any ways still a Prisoner, committed for Treason, or Felony, to attempt his Ejecque from any God, shall be adjudged guilty of Felony and be transferred; and if the Prisoner be committed for any other Crime, or upon Process for 100l. Debt, &c. the Offenders are liable to Fine and Imprisonment. 2 Co. 2. c. 31. And where any Person conveys any Arms, Instrument or Dignity, to a Prisoner in God for his Life, in order to the Execute or try, let's likewise Felony and Transportation. Also if one still any Prisoner to go to any Conliable, or other Officer or Peron in whose Custody he is, by Vic- tory of a Warrant of Commitment for Felony, it is declared to be the like Offence. Ibid. In Geo. III. the Sheriff is to answer for the Ejecque of his Bailiff; as the Bailiff is his Servant; and Action of the Case lies against the Sheriff for an Ejecque on the motion of the Processe, because the Plaintiff is prejudiced in his Suit by it. Clo. 623, 625. 1 Danw. Abr. 183. But if he be set free by Bail before brought to God, the Sheriff is not chargeable. Though if a Defendant in Execu- tion is refused, the Sheriff is liable for the whole Debt; and is to have his Remedy against the Receiver. 2 Clo. 440. Dyer 241. Where a Peron is in Custody for the Debt of another, to the Sheriff, it is meane Process, and being outlawed after Judgment at the Suit of another, the Judgment Creditor brings a Warrant on a Copias Ungatim, and delivers it to the Sheriff's Officer, who has the Prison in Custody; if the Officer afterwards permits the Peron to go to, though he refuse to execute the Warrant, the Sheriff is charge- able in Action of the Case. 2 Rep. 89. And the Sheriff shall not take Advantage of Error in foisting out a proper Process where a Peron is arrested, &c. As if a Ca. fe. issue after a Year and a Day, without foisting out a Scire facias, this Error will not excuse the Sheriff in an Ejecque. 2 Clo. 288. Salt. 273. But though a Sheriff may not take Advantage of an erroneous Pro- cess, yet he shall of a void Process, on which it is no Ejecque to let a Prisoner go. It will not be a good Plea, for the Sheriff in Action upon an Ejecque, that the Pris- oner refused himself, &c. for the Sheriff may com- mand the Ps. Gensius to help him: But this has be- en holden to be only in Cases of Executions. 6 Rep. 51. 1 Clo. 868. Where two Perso are in Execution for Debt, if one of them ejecque, Debt will lie. 34 H. 6. And if any Prisoner who was in Execution, this Creditor may retake him by Copias ad Saffici, or bring Action of Debt on the Judgment or a Sci. facis against him, &c. 1 Pent. 263. Salk. 150. A Prisoner taken in Execution makes a tortious Process, and the Parry at whose Suit he was taken in Execution shall have an Alias Ca. fe. to take him in Execution again; or Action on the Geb for the Seque. 14 R. 118. If the Sheriff voluntarily permit the Ejecque, Action of Debt is to be brought against the Sheriff, and on such a voluntary Ejecque, the Plaintiff may have a new
Execution. 5 Litt. p. 356. 2 Lev. 211. If a man "eapes", with the Convent of the Goulter in a Civil Case, he may be "eaped". By Act it is said the Execution is dicharged, so as the Party may not be taken again, or judg'd in Execution by Law. Hel. 202. And if he be allowed to go with a Keeper into another county, it is such an Eapse as discharges, that if he be there detained, out of the Power of the Sheriff, it will be false Imprisonment. Phlew. 36. Dy. 1666. If in any place, where a Person is permitted to escape by the Sheriff, he may be taken by the Party; for it may be the Sheriff is insufficient to answer. 5 Vent. 4. If the Plaintiff permit the Prisoner to escape, he cannot afterwards retake him; and the Body and Goods, &c. of a Convent are taken in Execution upon a Statute-Merchant, if the Convent agree that he shall go at large, it is a Dibcharge of the whole Execution, and the Convent shall have his Lands again: "If otherwise if the Sheriff had permitted him to escape, the Execution on the Lands would not be dicharged. 5 Nut. 737. For if an Eapse be an Eapse by the Plaintiff's Convent, when he did not insist on it, the Law is hard that the Debt should be thereby dicharged; as where one was in Execution in B. R. and some Propositions were made to the Plaintiff in behalf of the Prisoner, seeing there was some Likelihood of an Accommodation, the Plaintiff consented to a Meeting in a certain Place in London, and defined the Prisoner that may there, who came accordingly; This was held to be an Eapse, with the Plaintiff's Consent, and he could never after be in Execution at his Suit for the same Money. 5 Nut. 130. When a Prisoner is permitted to escape from the Custody of the Goulter, he may be retaken: And the Sheriff, &c. may pursue a Person escaping into that or any other County; and if he be restored to the Sheriff after being set free, the Action before brought, it shall excuse the Sheriff, for there the Prisoner shall be said to be in Execution still. 5 Rep. 44. Where the Plaintiff is to answer the Debt and Damages for such Eapse, he shall have his Goods, &c. by the Force and Remedy against the Party escaping and may take him at any Time and place, and imprison him, 'till he hath satisfied the Sheriff as much as he hath paid to the Plaintiff: He may bring an Action against the Cafe against the Prisoner, and so relieve himself. 5 Rep. 52. 3 Rep. 52. 3 Eliz. 393. It hath been adjudged no Eapse to let a Prisoner go where the Sheriff hath the Prisoner in Custody, if he be before the Return of the Writ: 'Tis sufficient if the Officer have the Return of the Writ, &c. Mot. 250. 1 Salk. 401. 2 Natzl. 790. Yet if it hath been held, that where a Habens Corpus is granted to bring a Person into Court, if the Sheriff on the Way let him go at large in the County, or carry him round about a great Way, &c. it will be an Eapse. 1 Mot. 116. And an Eapse in one Place is an Eapse in all Places; for a Prisoner being once Eaped, and at large, it shall be intended he is confined to no Place, so that for Eapse Action may be brought against the Prisoner in any County. 5 Litt. p. 357. Action of Eapse will not lie against the Executive or Administrator of a Sheriff, &c. for an Eapse, because it was personal, and Moritur cum PerseGo: But it may be otherwise if there be a Judgment recovered against the Sheriff before he died. Dy. 322. A Prisoner in Execution should not be allowed to go out of the Gaol; if for he goes out, though he returns again, it is an Eapse. 3 Rep. 41. 41. 2 Inst. 124. If a Sheriff or Gaoler make a Prisoner in Execution to go abroad, unless it be by Licence of the Lord Chief Justice, and of the Plaintiff; this will be an Eapse in Law, although he come to Prison again. 5 Nut. 367. And yet in London, by special Command, there, in some Cafes the Prisoner may go abroad with his Keeper, and it will be no Eapse. Vide See Hel. 202. Where the Justice of the Court, and Plaintiff in the Suit, agree that the Prisoner shall be at Liberty, and he go out and return at his Time; it is not Eaped. But he is within the Sheriff's Convent. Dy. 275. If a Plaintiff by Word Licence the Sheriff to deliver the Prisoner, no Action will lie for this an Eapse. 27 H. 8. 24. If the King, or any great Man require a Sheriff, &c. to set his Prisoner at Liberty, or threaten him if he do not; if he do accordingly, it will be an Eapse in him. Dy. 278. 279. But where there is no good Imprisonment at the Time of the Eapse, as if a Man be imprisoned by a Court that hath not Power to imprison him, &c. there can be no Eapse. 14 H. 7. 1. Dy. 66, 356. 2 Inst. 235. A Plaintiff having Judgment, it was ruled that the Defendant should pay so much Money, before such a Day, and if he failed, then the Plaintiff to take him in Execution, on Failure of Payment, was taken, and then fed an Anna Quaestor in the Countrie, where on a Supplication he had an Indulgence and Supplication, and was bailed and set at large of the Plaintiff not being paid his Debt: As this was done after Judgment and Execution, it was said to be an Eapse in Law. Mic. 11. 1 Jer. 1. 2 Belf. 120. 2 Belp. 136. 2 Rep. 118. If a Person that hath the Peace of a Prison, make a Lease of it for Life or Years to another, who suffers an Eapse; the Party grieved thereby must prosecute the Lessee for it, and if he be not sufficient to answer, he may recover it by Action. A Prisoner escapes out of the King's Bench, or Marshal, or the Fleet; the Keeper of the Prison out of which he escaped; he shall be charged with an Eapse. 5 Nut. 353. A Permitting the Marshal of the Marshalship to Prison, where an Eapse is in Law of all the Prisoners there, Vide Style 357. Permits in the King's Bench and Fleet Prison, to be actually detained within the Prison: And if they escape, Action of Debt lies against the Warden, &c. 5 T. 2. c. 12. Keepers of those Prisons are entitled to the Money (except on Rule of Court, &c.) is an Eapse; and Persons conniving at an Eapse shall forfeit 500l. &c. by 8 & 9 W. 3. c. 36. And by this Statute where any Prisoner in Execution escapes, the Crime and Punishment of it, and any other new Execution against him. By Stat. 5 Ann. c. 9. If any Person in Custody for not performing any Decree in Chancery, Eapse, the Party for whom the Money is decreed may have the same Remedy against the Sheriff, as if the Prisoner had been in Custody on the Execution. An old Sheriff omitting turning over a Prisoner in Execution to the new Sheriff, is said to be an Eapse; so where there are two Executions against a Man, and in the Indemnity of Turning over Mention is made but of one, &c. 3 Rep. 71. See Sheriff.

Eapse-Narrant. If any Person committed or charged in Custody in the King's Bench or Fleet Prison, in Execution, or on some Process, &c. go at large: On Oath therefore before a Judge of the Court where the Action was brought, an Eapse Warrant shall be granted, directed to all Sheriffs, &c. throughout England, to take and bring the Person to the Gaol where taken, there to remain till the Debt be satisfied: And a PerseGo may be taken on a Warrant upon an Eapse Warrant. Stat. 2. Ann. c. 6. And the Judges of the several Courts, by special Command, upon Oath to be made before Persons commissioned by them to take Shaftworth in the Country, (such Oath being first filed) as they might do upon Oath made.
made before themselves. 5 Ann. 1. 2. A Sheriff ought not to receive a Perfon taken on Easy Warrant, Ctf. from any but an Officer; nor from the Rabbite, Ctf. which is illegal. P. 2. 3 Ann. Salk. 154. P. A Perfon was delivered to Newgate by Virtue of an Easy Warrant, moved to be discharged, because he said he was abroad by a Day-Rule when taken; but it appearing by Ejfectavit, that he was taken upon the Easy-Warrant before the Court of B. R. lat that Morning, they refused to set him at Liberty. 2 Ed. Reg. 527.

Ejfectavit. A perfon is taken on Easy of Bealls in a Force; and he that Certifies is Quisque es Legis, is delivered from that Punishment which by the Laws of the Foreft lieh upon those whole Bealls are found within the Land where forbidden. Crespo. Jurispr. 156.

Ejfectavit. His name was used for what comes by Chance or Accident. Casan. 


Ejfectavit. Ejfectavit, from the Fr. Efjetheir, i. e. Antecedent. Signify any Land or Tenements that unfa- fully fall to a Lord in his Heir, by Way of Forfeiture; or by the Death of his Tenant, leaving no Heir general or of Special. Magus. Chart. cap. 31. Ejfectavit is said of the Places of a Covert, in which the King, or other Lord, hath Ejfectus of his Tenants. Broth. l. 8, tit. 2, cap. 2. And it is likewise applied to a Writ, which lies where the Tenant having an Estate in Fee-fimple in any Lands or Tenements holden of a superior Lord, dies without Heir; in which Case the Lord brings this Writ against him that is in Possession of the Lands after the Death of his Tenant, and shall thereby recover the same in Lieu of his Services. F. N. B. 144. In our Laws Ejfectivus were of two Sorts: 1. Regal, Those Forfeitures which belong to our Kings by the ancient Rights and Privileges of the Crown. 2. Feudal, which accrue to every Lord of the Free as well as the King, by Reson of his Seignories. Where a Perfon commits Treason, his Estate shall be forfeited and be forfeited to the King: And when a Tenant in Fee Simple committeth Felony, and is attainted, the King shall have Year, Day, and Wale in his Hands, (or rather Year and Day in lieu of Wale) and afterwards it comes to the Lord by Ejfectavit. And the Lord may compound with the King, and have the Estate presently. 3. 2. 1. It has been held, that a Saving against the Corruption of Blood in a Statute concerning Felony, doth by Consequence save the Lord to the Heir, so as not to ejftar but because the Ejfectavit to the Lord for Felony is only pro defectis Tenentis, occa- sioned by the Corruption of Blood: But it hath been adjudged, that a Saving against the Corruption of Blood in a Statute concerning Treason, doth not save the Land to the Heir for in for a Statistical Treason the Land goes to the King by Way of immediate Forfeiture. 3. Jef. 47. 1 Salk. 85. Inheritance of Things not lying in Tenure, as of Rents, Commons, Ctf. cannot ejftar to the Lord, because there is no Tenant; nor deeded, by Reson the Blood is corrupted: Though they are forfeited to the King by an Attainer of Treason, and the Proofs of them shall be also forfeited to the King on Attainer of Felony, during the Life of the Offender; and after his Death his Sale the Inheritance shall be extinguished. 2 Harel. P. C. 449. A Per- fon is freed of Lands in Fee holden of a Lord, his Son is attainted of Treason, and the Father dieth, the Land shall ejftar to the Lord, and not to the King. 2. So the King could not dispose of the Land, because the Son who was attainted never had any Thing to forfeit: But the King had the Ejfectavit of all the Land's whereas the Perfon attainted of High Treason was free to dispose of it. 1 Jef. 47. Husband and Wife, Tenants in special Tail; the Husband is attainted of Treason and executed, leav- ing Issue; on the Death of the Wife the Lands shall ejftar, because the Issue in Tail ought to make his Conveyance by Father and Mother, and from the Father he cannot by Resale of the Attainer. Dyer 322. If Tenant in Fee-Simple is attainted of Treason, and executed, upon his Death the Fee is vested in the King, without Office found; yet he must bring a Special Faculty against the Tenants: Lands shall never ejftar to a Lord of whom they are holden, until Office found. 3 Rep. 10. Ejfectavit, fel- dam happens to the Lord for Want of an Heir to an Edible; but when it doth, before the Lord enters, the Homage Jury of the Lord's Court ought to pre- sent it. 1 Jef. 35. Land shall ejftar to the Lord, where Heirs are born after Attainer of Felony. 5 Rep. 40. Though if the King pardons a Felon before Conviction, the Lord shall not have his Lands by Ejfectavit for the Lord hath no Title before At- tainer. Dyer 87. 2 Cliff. Abr. 744. If on Appeal of Death of other Felony, Proces is awarded against the Party, and hanging the Proces he conveys away the Land, and after is outlawed, the Conveyance is voided; and it doth not deter the Lord of his Ejfectavit: But if where a Perfon is indited of Felony, hanging the Proces against him, he conveys away his Land, and afterwards is outlawed, the Conveyance shall not prevent the Lord of his Ejfectavit. 1 Jef. 13. See Corruption of Blood.

Form of a Writ of Ejfectavit.

GEORGE the Second, &c. To the Sheriffs of S. Greeting: Command A. B. that he reader is C. D. Esquire, twelve Acres of Land, with the Appurtenances, in, &c. which W. B. of him held, and which the said C. D. ought to revert and come as his Ejfectavit, be- cause the said W. B. died without Heir; Or, because the said W. B. had Felony committed, for which he was executed, or outlawed, &c. as be faith. And unles, &c.

Ejfectavus (Ejfectavit) Was an Officer appointed by the Lord Treasurer, &c. in every County, to make Impressions of Titles by Ejfectavit; which Impressions were to be taken by good and lawful Men of the County, impanneld by the Sheriff. Star. 14 Ed. 3. c. 8. 34. Ed. 3. c. 15. 8 H. 6. c. 16. Those Ejfectavit found Offices after the Death of the King's Tenants, who held by Knight-Service, or otherwise of the King: and certified their Inquisitions into the Eschequer, and Findenhour called them Officers of Record. F. N. B. 100. No Ejfectavit could continue in his Office above one Year: And whereas before the Statute of Wemans. 1. cap. 24. Ejfectavit, Sheriffs, &c. would feite in the King's Hands the Freehold of the Subjects, and thereby deflect them; by this Act it is provided that no Seize can be made of Lands or Tenements into the King's Hands, before Office found. 2 Jef. 105. And no Lands can be granted before the King's Title is found by Inquisition. 18 H. 6. c. 6. The Office of Ejfectavit is an ancient Of- fice, and was formerly of great Use to the Crown; but having its chief Dependence on the Court of Wards, which is taken away by Act of Parliament, it is now in a Manner out of Date. 2 Jef. 237. There was an ancient Office called Ejfectavit of the Towns. Claus. Ed. 5. m. 7.


Ejfectavit, Is a Deed delivered to a third Perfon, to become the Deed of the Party making it, upon a future Condition, when such a Thing is performed; and then
then it is to be delivered to the Party to whom made. It is to be delivered to a Stranger, mentioning the Condition; and has Relation to the first Delivery. a Roll. 45, 26. 1 L. 31.

Estate. (Extant from the Fr. Efs, a Shield) is a Kind of Knight-Servitce, called Service of the Shield, whereby the Tenant was bound to follow his Lord into the Wars at his own Charge. Also it has been sometimes taken for that Duty or Payment, which they who held Lands under this Tenure, were bound to make to the Lord, when they neither went to the Wars, nor provided any other in that Place, being in Lies of all Services. And sometimes Estate signified a reasonable Aid, demanded and levied by the Lord of his Tenants who held in Knight-Servitce, &c. Stat. 23 Car. 2. st. 24. F. N. 8. See Country.

Esteras, To four or clearance.—Purgare und Ecurarum tutam Aquam Possessurum, &c. Circa Tho. Episcop. B. W. dat. 29 Oct. 4 Ed. 4.

Eglite, (Fr.) A Church, in the old Books a Law Head. L. Fr. Delit.

Eglise, The Kings of Kent, to called from the first King Octavius, who was famd Egs: He was Grandfather of King Ethelberht.


Esglasmantreum, Esglass, Tackle, or Ship Furniture: The sea-port Towns were to provide certain Ships, Sampctu propria & deflect Equisplumentum. Sir. Rob. Cott.

Egsippening, Shipping, or Passage by Sec. Hum- phrey Earl of Buch, in a Deed dated 13 Feb. 22 H. 6. covenant with Sir Philip Churwood, his Lieutenant of the Castle of Calais, to give him Allowance for his Soldiers, Shippes and Re-shippes, void. Passage and Re-passage by Ship.

Eghury, (Eguria, Dignitas primum) is a Private Patronege allowed to the eldest Ckepaner, where an Efsate is defended to Daughters for Want of Heir Male, to chuse after the Inheritance is di- vided. Fleta. lib. cap. 10. Jus Eguriae in Jus Primumeternarum; in which Sense it may be extended to the eldest Son, and his Issue, holding first: In the Statute of Marlborough, cap. 9. it is called Inheritance.

Co. Litt. 156.

Egeria, Spurn, Egeria de Or, Guilt Spurn. 7 Co. Rep. 13.


Egipetis, (Expiation, from Expiare) Are the Pre- dixis which Ground or Land yield; as the Hay of the Meadows, the Heritage of the Pasture, Corn of the Arabie; Rent and Services, &c. And of an Ad- vovnion, the Taking of Tithen in Grains by the Par- fon; of Wood, the Selling of Wood; of an Orchard, the Fruits growing there: of a Mill, the Taking of Toll, &c. These and such like lies are termed Egipetis. And it is observed, that in a Writ of Right of Land, Advovnion, &c. the Demandant ought to allege in his Count, that he or his Ancestors took the Egipetis of the Thing in Demand; otherwise the Plead- ing will not be good. Term. de Leg 310. Sometimes this Word hath been applied to the Farm, or Lands, &c. themselves. — Dominus E. habebat omnem Ex- pliam &c. Profectis de Corum emergentia. Plac. Parl. 50 Ed. 1.

Epsunbat, (Spectualis, Are a Contrary or mutual Promise between a Man and a Woman to marry each other, and where Marriages may be construed Epsunbat go before them. Marriage or Matrimony is

fied to be an Episul je prasum, and a Connection of Man and Woman in a constant Society. Wood's 57. See Matrimony.

Egipetis, (from the Fr. Efs, and the Lat. Efiges, in Greek Efiges, which signifies an Hides of which Shields were anciently made and afterwards covered: For here in the Time of the Saxons, the Shields had a Covering of Leather; so that an Egipetis was original- ly who attending a Knight in Time of War, did carry his Shield, whereas he was called Egipetis in French, and Scipio or Attegare, (i.e. Armour-bearer) in Latin. Hence faith, that thioe which the French call Egipetis, were a military Kind of Vassals, hav- ing Jus Sciat, use. Liberty to bear a Shield, and in it the Ensigns of their Family, in Token of their Ger- minity or Dignity: But this Addition hath not of long Time had any Relation to the Office or Employment of the Peron to whom it hath been attributed, as to carrying of Arms, &c. has been merely a Title of Dignity, and next in Degree to a Knight. Thote to whom this Title is now of Right due, are all the younger Sons of Noblemen, and the eldest Sons of younger Sons; the eldest Sons of Knights, and their eldest Sons; the Officers of the King's Courts and of the King's Household; Counsellors at Law; Justices of Peace, &c. But these latter, are Egipetis in Repute- tion, and he who is a Justice of Peace, has this Title only during the Time he is in Commission, and no longer, if he be not otherwise qualified to bear it. A Sheriff of the County being a Superior Officer, has the Title of Egipetis during his Life; in Respect of the great Trust he hath in the Commonwealth. The chief of some Ancient Families are Egipetis by Precedi- tion; and in last Acts of Parliament for Parliament, many wealthy Perfons (commonly reputed to be such) were rank'd among the Egipetis of this Kingdom. Blount.

Egipetis of the Stang, Are such who have the Title by Creation: These, when they are created, have put about their Necks a Collar of SS, and a Pair of Silver Spars is bellowed on them: And they were wont to be before the Prince in War, a Shield or Lance. There are four Egipetis of the Kings Be- dty, to attend on his Majesty's Person. Camb. 111. Egipetis or T onis of the State, a Writ to require of a Town of Tell; and lies for Citizens and Burgesses of any City or Town that by Charter or Precept ought to be exempted from Tell, where the fame is exacted of them. Reg. Grev. 35

Egipetis, Are Persons appointed by a Court of Law, to whom a Writ of Femie fiate is directed to impose a Treaty, on Challenges to the Sheriff and Constables: who return the Writ in their own Names, with a Panel of the Jurors Names. 15 Ed. 4. 24. pl. 4.

Egipetis, (Expiation, Fr. Egipetis) Signifies an Ex- cuse for him that is sumonned to appear and answer to an Action, or to perform Suit to a Court Baron, &c. by Reason of Sickness and Infirmity, or other just Cause of Abstinence. It is a Kind of Impediment, or craving of a longer Time, that lies in Real, Personal and Mix'd Actions: And the Plainiff as well as the Defendant shall be excused, to save his Default. 1 Inf. 117. The Cause that serve to Egipetis, and the Exipetis are divers under their Heads. 1. Egipetis de ultra Mare, whereby the Defendant shall have forty Days. 2. De Terra Saxali, where the Defendant shall have a Year and a Day. 3. De male sonci, which is likewise called the Common Egipetis. 4. De male loci, wherein the Defendant may by Writ be viewed by four Knights. 5. De feretiis Reus. Brad. lib. cap. 132. Fleta, lib. 6. And this must be a just cause, that excludes the common Egipetis, de male sonci. i. e. by falling sick in coming to the Court, and other Egipetis ab- oarded; there were several other Excuses to give a Default in real Actions: but in Case of Evi- mites, the falling among Thieves, Floods of Water, and
and breaking down of Bridges, &c. 2 Co. Inst. 125. After his is joined in Dower, Square Impediments, &c. one Efface is adjusted for the Heirs, &c. 2 Co. Inst. 125 c. 93. And in Wris of Afife, Atains, &c. after the Tenant had appeared, he shall not be effected; but the Impediments shall be taken by Default. 3 Ed. 1. c. 14 Efface where the Tenant will not be allowed, if the Tenant be within the four Seas; but it shall be turned to a Default, c. 44. There is no Efface permitted for an Appellant. 13 Ed. 1. Not to ask Efface lie where any Judgment is given in the Party is distrained by the Lands, then the Sheriff is commanded to make him appear; after the Party is feem in Court, &c. 12 B. 2. And Efface de fermito Regi, lies not when the Party a Woman, in a Wris of Dower, where the Party has an Attorney in his Suit, &c. Ibid. The Efface Day in Court is regularly the first Day of the Term; but the fourth Day after is allowed of Favour. 1 Lid. 140. An Efface is entered thus: A. B. effaces himself on the fourth Day against C. D. in a Plea or Action of, &c. and he did not appear, and was summoned, &c. Therefore let him be attached, that he be here on the Day Sec. And be it known, that the said A. hath the same Day to appear by his Efface, &c. Raff. 520. The Efface de fermito Regi, is when a Defendant is in Court the first Day but is not gone without Pleading, and being afterwards surpised by the Court, can not attend, but lends two Effaces, who openly pro- cures a Crown Fact; Or where he is bound by two Effaces, which are wanted in a Crown Fact; and which he is incapable to prove that the Efface is true or not. 18 Ed. 1. Words used in the Statute 30 H. 8. c. 31. See Prerogative.

Establishment of Dower, Is the Affirmance or Settlement of Dower, made to the Wife by the Husband, is a Crown Fact; and the Widow is entitled to both the Efface and the Efface of the son, &c. as well as the son, &c. in the Case of any Man and Woman, &c. The Efface is used for a Bridge, or Stank of Stone and Timber Court.

Effsart, or Standard, An Ensign for Horsesmen in War. See Standard of Favour. 1 Lid. 140.

Effate. (Fr. E发布了, Lat. Juxta) Signifies that Title or Interest which a Man hath in Lands or Tenements, &c. And Effases are acquired divers Ways, viz. by Deed, by Grant, to the Son, &c. Grant from one Man to another; by Gift or Per- chase, Deed or Will; And a Fee-imple is the largest Effate that can be in Law. 1 Lid. 341. Effates are Resolved into Two Classes, of Goods or Chattels; or where they are distinguished into Fee-lands, that descendent to the Heirs, and Chattels which go to the Executors; Some Effates are made by the Words of Deeds, and others made by Law, as an Effate in Frank marriage given to a Cousin, makes a Gift in Tail. Allso there is an Effate that is implied, where Tenant in Tail bargains and sells his Land to a Man and his Heirs; by this he hath an Effate defeasible, and determinable upon the Death of the Tenant in Tail. Ca. Litt. 10 Rep. 97. If I give Lands in Dole to a certain Person for Life, and after to his Heirs or right Heirs, he hath the Fee simple; and if it be to Heirs Male, he will have an Effate tail. 1 Rep. 165. A Man grants to one of his Heirs and Alligees for his Life, and a Year after this is an Effate for Life only. 39 E. 3. 25. Lid. 46. If a Lease be made, and not expressed for what number of Years, it is an Effate at Will. The Word Effate is generally in Deeds, Grants, and Conveyances, comprehends the whole in which the Party hath an Interest or Property, and will pass the same. 50 Lid. 46. A Perion in Partnership 1 Rep. 45. A Person in Partnership with another Person by his Effate gave it to his two Daughters, and their Heirs, one of them married, and then died: And it being a Que-
them two, and the Heirs of one of them; this will be an
Ejfflop to the other to demand Fee-simple according to the
Deed; for the Fine shall ensure as a Release. 6 Rep. 7.
7. If a Tenant in Tail suffers a Reponcy, that his
Aijfflop may avoid; he himself shall be ejected
and concluded by it, and may not demand the Land
against his own Recovery. 8 Rep. 3. The taking of
a Lease by Indemnity of a Man's own Land, whereof
he is freed in Fee, is an Eajfflop to claim the Fee
during the Term. Moore, ca. 325. An. 121. A Lease
is made to one Man for eighty Years, and then
the Renter, if the Deed be not indented to his Land in
Deed, this second Lease may be good by Way of Eajfflop:
And if the first determine by Surrender, Forfeiture, &c.
the second Letter will have the Land. But if the
second Letter be by Deed Poll, it will be void.
Co. Rep. 135. If a Leffer at the Time of making the
Lease hath nothing in the Land, but after he
gets it by Purchas or Diferent, it is a good Lease
by Eajfflop. Dyer 256. Plowd 544. 1 Inst. 47.
A Reclain in a Deed shall not effe a Person, unless
it be of a particular Fall, or where it is material,
when it may be an Eajfflop. Ern. Tract. 362.
The Lord by Deed indenting, reciting that his Tenant
holds of him by such Services, whereas he doth not,
confirms to the Tenant, faving his Services; his no
Reclain is where the Deed of the Tenant 35 H. 6.
35 Plowd 150. If one do make a Deed by Deeds of Imprisonment,
and when he is at large makes a Defiance to it; then he
is ejected for it was for Deeds, Bror. Def. defl 17.
Where the Condition of a Bond is in the Particularity,
as to eneoff J. S. of the Manor of O. or to pay such
Sum of Money as he stands bound to pay to W. S.
within a Term of Years for a Matter of Tithes.
In Question between them; here the Party is ejected,
for any of these Things, which in the Condition;
he did grant: But if a Condition be in the General
I 140. a Deed of all his Lands, &c. it is not
nonfuit in all Allions, &c. it is not an Eajfflop.
Dyer 156. Ed. 4. 54. If a Man in pleading confess the
Thing be charged with, he cannot afterwards deny
it; Though a Plaintiff shall not be ejected to allege
any Thing against that which before he hath paid in
his Writ, or Declaration; and one may not be ejoffed
by the Record upon which he was nonsuit.
11 H. 2. 2 Leov. 3. 17. An Eajfflop ought to be
the certainty and Affirmative, and a Matter alleged
that is not traversable, shall not effe; one may not
be ejected, or by the Record, before his Title is
acceded; an Eajfflop must be indicted and relied upon;
and where there is Eajfflop against Eajfflop, it pass
the Matter at large. 1 Inst. 352. 1ob. 207. Eajfflops
are to be pleased relying on the Eajfflop, without de-
Ejfflores. (Fr. Ejfforer, from the Verbo Ejffor) Signi-
fies to supply with Necessaries; and is generally u-
tilized in the Law for Allowances of Wood made to
Tenants, comprehending Husk-bate, Hedge-hate and
Plough-hate, for Repairs, &c. And in some Manors,
the Tenants pay a certain small annual Rent, for
Ejfflores out of the Lord's Woods, Wilm. 2. 245. 20
Car. 2. cap. 3. This Word hath been taken for
Suffrances; but Bratt uses it for, that Suffrances or
Allowance, which a Man committed for Penance is
to have out of his Lands or Goods for himself and
His Family during his Imprisonment. Bradl. lib. 3. trac-
t. cap. 18. And the Stat. 6 Ed. 1. cap. 3. applies it to
an Allowance in Meat, Clothes, &c. In which Sense, it
has been used for a Wifd's Alimony. See Common
of Ejfflores.
Ejffray. (Extravasa, from the old Fr. Ejffraire.)
It is any Spiit that is not vital, found within a Lords
lnd, and not owned by any Man; pcis pusul eulogum a
cyclus campus person, ignotis Donibus: In which Case
if it be contrary and proclaimed according to Law in
the two next Market-Towns on two Market-Days,
and is not claimed by the Owner within a Year and
a Day, it belongs to the Lord of the Liberty. Brth.
2. 37. As Swans well as Fish in the River, and
are to be proclaimed, &c. 1 Roll. Ab. 878. If
the Beaf stray to another Lordship within the Year,
after it hath been an Ejffray, the first Lord cannot
make it good, for until the Year and Day be past,
Proclamation made as aforesaid, he hath no Property;
and therefore the Possession of the second Lord is good
against him. Wood's Inq. 213. Ern. Ed. 716. If
the Castle be extravaised, a Claim for the Tenant may
take them at any Time: And where a Beaf is pro-
claimed as the Law directs, if the Owner claims it
in a Year and a Day, he shall have it again;
but must pay the Lord for Keeping, 1 Roll. Ab.
879. Finch 177. An Owner may sell an Ejffray,
without telling the Marks, or proving the Pro-
vener, when he shall have the Trial, if what he
sold is good and the tendering Amen only generally is good
in this Case, without shewing the particular Sum; be-
cause the Owner of the Ejffray is not Wrong Doer, and
knows not how long it has been in Possession of the
Lord, &c. which makes it different from Tref-
pads, where a certain Sum must be tendered. 1 Salk.
656. In Case of an Ejffray, the Lord ought to make
a Property of it, if the Tenant is not丁re, in
Keeping; and then if the Party thinks the Demand
unreasonable, he must tender sufficient Amenas; but
if what he tenders is not enough, the Lord shall take
Sale, and 'is to be sealed by the Jury. Nay 146.
Trin. 5 Ann. A Beaf Ejffray is not to be used in any
Manner, except in Case of necessity; as to milk a
Cow, or for the sake of riding an Horse. Crow.
Fac. 148. 1 Roll. 673. Ejffrays of the Forst are
mentioned in the Statute of 27 H. 8. cap. 7. The
King's Court cannot be Ejffrayed or soileied, &c.
Note of some original Writing or Record, and espe-
cially of Finas, Amencements, &c. imposed in the Rolls
of a Court, to be levied by the Balliff or other Officer.
F. N. B. 57. 76. Stat. Wilm. c. 8. Judices,
Commissioners, &c. are to deliver their Ejffrates
into the Exchequer yearly after Michaelmas: And
Ejffrates into the Exchequer, in Order as they are entered in the Chancery-
Rolls, 51 H. 3. 15 E. 2. c. 2. These Ejffrates
are to be added to Finas for Crimes and Offences,
Offences and Non-Payments of Suits in suits and Officers,
and of the appearance of Defendants, and Jurors, &c.
And all forenamed Recognizances are to be first ejffrated into the
Exchequer, by Sheriffs of Counties; on which Pro-
cesses and the fame of the King, and their appearance, are to be made by the Judges, and be
entered in the Return of Ejffrates of the Exchequer, in the last Day of the two Chartes
But in extraordinary Cases there may be a Rule
to ejffrate them sooner. 1 Salk. 45. Amencements
are not usually charged on Mortions, and there is no
Ejffrayed Ejffrates, though the Court may give
Leaves to the Sheriff to compound them. Ibid.
54. 11 Salk. 207.
Erthling or Erthling. (Sex.) Signifies Noble and among the English Saxons, it was the Title of the Prince, or the King's eldest Son. Camden. See Adding.

Exchequer, (Engl.) Is a subtle Enduinge to let all the Truth, or to equivocate the Punishment of the Law, which will not be indured. If a Peron says to another that he will not strike him, but will give him a Pot of Ale to strike first; and accordingly he strikes, the Reurninge of it is punishable, and if the Peron first striking be killed, it is Murder; for no Man shall evade the Justice of the Law, by such a Pretense to cover his Malice. 1 B. C. 81. No one may plead Ignorance of the Law to evade it, &c.

Exchequers, The Delivery at Excheq. or Night of a certain Portion of Graft, or Corn, &c. to a Customary Tenant, who performs the Service of Cutting, Mowing or Reaping for his Lord, given him as a Gratitude or Encouragement. Kenmil's Gloss.

Exchequers. Are such Perons as stand under the Excheq. or Walls of Windows and House, by Day or by Day, to harken after News, and carry it to others, and thereby caufe Strife and Contention in the Neighbourhood. Termes de la 537. They are called evil Members of the Commonwealth, and by the Statute of Wm. 1. c. 33. they may be punished, either in the Court Leet by Way of Preludement, and Fine, or in the Quarter- Sessions by Indictment, and binding to the good Behaviour. Kilby 11.

Exhibition, (From Exsion to overcome) Is a Recovery of Land, &c. by Law. If Land is evicted, before the Time of Payment of Rent on a Land, no Rent shall be paid by the Leefe. 10 Rep. 128. Where Lands taken on Extent are evicted or recovered by better Title, the Plaintiff shall have a new Execution. 4 Rep. 65. If a Winetlesey is evicted or recovered upon a Dower or Thirds, the shall be inded in the other Lands of the Heir. 2 Dawe Atr. 670. And if on an Exchange of Lands, either Party is evicted of the Lands given in Exchange, he may enter on his own Lands. 4 Rep. 121.

Evidence, (Evidentia) Is used in the Law for some Proof, by Testimony of Men on Oath, or by Writings or Records. It is called Evidence, because there by the Point in Issue in a Caufe to be tried, is to be made evident to the Jury for Prohibitions about Evidentia and Evidence, &c. 2 Digl. 115. The Evidence to a Jury ought to be upon the Oaths of Witnese or upon Matters of Record, or by Deed proved, or other like authentical Matter. 1 Leath. Atr. 547. And Evidence is no other than Testimony of Witnese, and all other Proofs to be given and produced to a Jury for the Finding of any Issue joined between Parties. 1 Jef. 283. As to Proof by Witnese, they cannot testify a Negative; and the Common Law required no certain Number of Witnese, though they are required by Statute in some Cases: The Testimony of one single Evidence is sufficient for the King in all Causes, except for Treason; where there must be two Witnese to the same Overt Act, &c. In all other criminal Matters, one Evidence is enough; and to a Jury one Witnese is sufficient. 3 Jef. 30. Nich. 21 Cas. D. R. 343. 71h. 145. And sometimes violent Presumption will be admitted for Evidence, without Witnese; as where a Person is run through the Body in a House, and is seen to come out of the House with a bloody Sword, &c. On this the Court ought not to judge hastily. 1 Jef. 6. 673. And though presumptive and circumstantial Evidence may be found in Turpin; it is no Proof in Treason. State Trials, Vol. 1. p. 307. Where Necessity requires, Witnese may be examined apart in Court, till they have given all they had to try in Evidence, so that what one has examined, may not induce another to give his Evidence to the same Effect, Parti. 34. The King cannot be a Witnese under his
his Sign Manual, &c. 2 Roll. Abr. 686. Though it has been allowed he may, in Relation to a Promisse made in Behalf of another. Hod. 213. A Peer proc- deds against an Estate, as it ought to be sworn. 3 Ed. 611. It is no Exception to an Evidence that he is a Judge, or a Juror, to try the Person: for a Judge may give Evidence going off from the Bench. 2 Hamb. P. C. 432. And a Juror may give Evidence as to his par- ticular Knowledge; but then it must be on Examination in open Court, not before his Brother Jurors. 1 Litt. 532. Members of Corporations shall be ad- mitted, and in such cases as he is not an Actions brought by Corporations, as their Interest is small or great; or whereby it may be judged whether they will be part- ial or not. 2 Lev. 231, 244. But they will not ge- nerally be admitted; though Inhabitants not free of the Corporation may be good Witnesses for the Corpora- tion, as their Interest is not concerned; and Members, may be disqualified on these Occasions. Hid. 256. In Actions against Church-wardens and Overseers of the Poor for Recovery of Moneys Mi- spent on the Paish Account, the Evidence of the Paish- cotters, not resting on Alms, shall be allowed. Stat. 3 & 4 W. 4 M. cap. 11. And in Informa- tions or Indictments for not repairing Highways and Bridges, the Evidence of the Inhabitants of the Town, City, &c. where such Highways lie shall be ad- mitted. 1 Ann. cap. 18. A Party interested in the Suit; or a Wife for or against her Husband, a Husband against the Wife, (except in Cases of Tres- ton) may not be Witnesses. 4 Ed. 279. Yet it has been adjudged that a Wife may be admitted as an Evidence for the Husband on her being seduced to Incest before her Husband, against the Party interested; and the Husband may be a Witness to prove a Cheat upon her and her Husband. Sid. 431. Kinsmen, though near, to Tents, Servants, Malters, Attorneys for their Client, are not Parties in Interest, and which want not Understanding or are not Parties in Interest, may give Evidence in a Cause; though the Credit of Servants is left to the Jury. 2 Roll. Abr. 642. A Counselor, Attorney, or Solicitor, is not to be examined as an Evidence against their Clients, because they are obliged to keep their Secrets; but may be examined, as to any thing of their own Knowledge before retained, not as Counsel or Attorney. &c. 1 Penn. 97. The Bail cannot be an Evidence for his Principal. State Tr. 515. If A, who makes one a Defendant in the Suit, on Purpose to impeach his Tellership, under a Pre- tence of his being a Party in Interest, he may never- theless be examined as an Evidence, or if the Plaintiff prove no Cause of Action against him, his Evidence shall be allowed in the Cause. 2 Litt. Abr. 701. Alto where a Man makes himself a Party in Inter- est, after a Plaintiff or Defendant has an Interest in his Evidence, he may not by this deprive them of the Benefit of their Tellership. Skinner's R. 386. One that has a Legacy given him by Will, is not a good Witness to prove the Will: but if he rejects his Legacy, he may be a good Evidence. Ibid. 704. It is the same of a Deed, he that claims any Benefit by it, may not be an Evidence to prove that Deed, in Regard of his Interest: And a Person any Ways con- cerned in the fame Title of Land in Question, will not be admitted as Evidence. Ibid. 705. But it has been held that an Heir apparent may be a Witness concerning a Title of Land; and yet a Remain- erman, who hath a present Interest, cannot. 1 Salk. 387. A Legatee cannot be a Witness to the Will, because an interest is deriv'd to him; and if such Legatee be permitted to be sworn and examined, the Counsell cannot afterwards except against his Evidence. 1 Ed. R. 620. The Son of a Legatee, is no Witness to a Will in the Spiritual Court; nevertheless it is held, he may be a good Evidence to prove a nuncupative Will, within the Intent of the Statute of Frauds. Ibid. 85. A Grantee who is a bare Truettor, is said is a good Witness to prove the Execu- tion of the Deed. P. W. 367. If an Action is brought against many Persons for tak- ing of Goods, some of them concerned may be admit- ted as an Evidence against the Rest. Cambr. 387. If an Action is brought against many Persons for tak- ing of Goods, some of them concerned may be admit- ted as an Evidence against the Rest. Cambr. 387. See 1 Mod. 282. In criminal Cases, as of Robbery on the Highway, in Action against the Hundred; in Rapes of Women, or where a Woman is married by Force, &c. A Man or a Woman may be an Evi- dence in their own Cause. 1 Penn. 243. And in pri- vate notorious Checks, a Person may give Evidence in his own Cause, where no Body else can be a Witness of the Circumstances of the Fact, but he that suffers. 1 Salk. 286. Upon an Information on the Statute against Utery, he that borrows the Money, after he hath paid it, may be an Evidence; but not before. Ranges. 191. An Alien Lendal, may not be an Evi- dence; but a True man, and be sworn on the Old Testament. 1 Jess. A Quaker shall not be per- mitted to give Evidence in any criminal Cause. Though on other Occasions, his affirmation shall be ac- cepted instead of an Oath. Stat. 7 & 8 W. 3 cap. 54. Persons non habeas Memoriae; those that are attended of Consternation, in a Prisoner's upon the Statute of Ed. 2 Pech Recipients convict, on the Statute of 1 Jess. 1. 5. are disabled to give Evidence. So Persons convicted of Felony, Perjury, &c. And if one by Judgment hath stood in the Pillory, or been whip- ped for this Infamy he shall not be admitted to give Evidence, whilist the Judgment is in Force: But the Record of Conviction must be produced, on objecting against his Tellership, the Witness shall not be asked any Question to accuse himself, though his Credit may be impeached by other Evidence, as to his Character in general. So as not to make Proof of par- ticulars for which he hath not been convicted. 3 Jess. 108, 219. 3 Lev. 426. If after a man hath stood in the Pillory, &c. he be pardon'd, he may be a good Witness: And notwithstanding a Judgment of the Pillory infers Infamy at Common Law; by the Civil and Canon Law it imports no Infamy, unless the Cause for which the Person was convicted was infames, and the good Witness may be a Witness to a Will, if not convicted of any infamous Act. 3 Lev. 426, 427. It has been held, that 'tis not flandering in the Pillory, disables a Person to give Evidence; but it's not an Evidence for him to appear as an African, as Forgery, &c. If for a Libel, A Man may be a Wit- nefs. 5 Mod. 74. 3 Nelf. Abr. 557. A Man is con- victed of Felony, and afterwards pardon'd, he may be a good Evidence. &c. His Whips may not be asked any Question in the Hand, which is good a Statute Pardon; and 'tis said 'tis Burning in the Hand reforms the Offender to his Credit. Ibid. 350. A Person who was con- demned to be hanged for Burglary, but having a Pardon for Transposition, hath been allowed to be a good Evidence. 5 Mod. 18. One outlawed for Treson and pardoned, may be an Evidence. State Trials, Vol. 3. 515. Persons acquitted, or guilty of the same Crime, (while they remain unconvicted) may be Evidence against their Fellows. 17. Though no Evidence ought to be given of what an Accomp- lice hath said, who is not in the same Indictment. State Trials, Vol. 2. 414. An Informer may be a Witness, though he be to have Part of the Perforense, where no other Witnesses can be had. Womb. 217. 598. A Witness shall not be examined where his Evidence tends to clear or accuse himself of a Crime. State Trials, Vol. 2. 445. A Person may be a Witness against himself; though if such a Witness be cross examined till he hath gone through the Evi- dence on the Side wherein produced. Ibid. Vol. 2. 772. The Court is to examine the Witnesses, and not the Prisoners in the Criminal Courts; there- fore shall not be permitted to read his Evidence but
he may look on his Notes to refresh his Memory. 

Ibid. Vol. 4. 45. An Evidence may not recite his Evidence to the jury, after gone from the Bar, and he has been sworn; for which, the Court must be satisfied, that the evidence is not a perjury. Vedelmay be set aside. Co. Eliz. 159. One that is to be an Evidence at a Trial, ought not to be examined before the Trial, but by the Consent of both Parties, and a Rule of Court for that Purposé; But if a Witness is not able to attend the Trial, a Judge may excuse his Non appearance, and certify his Examination; though an Examination ought not to be read, where the Evidence himself may be produced. State Trials, Vol. 1. 526. If a Person who gave Evidence in a former Trial, be dead; upon Proof of his Death, any Person who heard him give Evidence, may be admitted to give the same Evidence between the same Parties; but a Copy of the Record of the Trial when the Evidence was given ought to be produced. 3 H. 2. 523. A Witness by Hearing of a Stranger, shall not be allowed except perhaps to confirm the Evidence of a Witness that spoke of his Knowledge. Wood’s Inst. 644. And Evidence given at one Trial has been held not to be Evidence at another’s Trial. State Trials, Vol. 2. 508, 337. No Evidence is necessary in passing a Bill of Attainder, but private Satisfaction to every one’s Conscience; 3 H. 2. 526. But that the same Evidence is requisite on an Impeachment in Parliament, as in private Courts. Ibid. Vol. 4. 311, 318. Members of Congress may give Evidence in a Criminal Affair, if a Witness has given Evidence on a former Impeachment. State Trials, Vol. 2. 632. Evidence cannot supply a Defect in the Charge against a Criminal. Ibid. Vol. 7. 720. No Evidence ought to be proved against a person in a Criminal Action, but what is given in his Presence. Ibid. Vol. 4. 317. And Evidence shall not be given against the Prisoner for any other Crime than that for what he is prosecuted. Ibid. Vol. 3. 432. A Bill of Attainder is a Trial by a Parliament, to prove that the Witness gave a different Testimony before a Justice of Peace, or at another Trial; Though he may not call Witnesses to disprove what his own Evidence has been. Ibid. Vol. 2. 633, 792. And no Objection can be made to the Evidence after Verdict given. 3 H. 2. 535. It is justifiable to maintain or subvert Evidence; but not to give him any Reward; for this, if proved, will avow his Evidence. Ibid. Vol. 2. 470. A Witness shall not be examined to any Thing that does not relate to the Matter in Issue. 3 H. 3. 432. And where an Issue is not perfect, no Evidence can be applied, nor can the Judges proceed to Trial. Brownl. 2. 47, 435. If Evidence doth not warrant and maintain the same Thing that is in Issue, the Evidence is defective, and may be demurred upon; but proving the Substantive is sufficient. Trials per pais 425. Evidence may be given of Facts before and after the Time they are laid in the Indictment. And where a Place is laid only for a Verdict in an Indictment or Appeal, (and not made Part of the Description of the Fact) Proof of the same Crime may be made at any other Place in the same County; and after a Crime hath been proved in the County where said, Evidence may be given of other Infractions of the same Crime in another County, to satisfy the Jury. 2 Hawk. C. 456. But where a certain Place is made Part of the Description of the Fact against the Defendant, the leaf Variation as to each Place between the Evidence and Indictment is fatal. 1 H. 4. 457. It hath been also adjudged, that where an Indictment sets forth all the special Matter in Respect whereof the Law implies Maiming a Man, or making his Indictment; and Evidence is to the Circumstances of the Fact doth not hurt; so that the Substantive of the Matter be found by the Evidence a Hawk. 458. An Evidence against the King in an Indictment for the Criminal, was not to be examined on Oath by the Common Law: But by Statue, Witnesses for a Prisoner are to be sworn, as in Case for the King, and Procees for their Appearance is to be taken out. 3 H. 7. 526. In a Civil Cause, a Procees in a Civil Cause refuse to appear, being tendered reasonable Charges, and having no lawful Excuse, Action on the Cause lies against him, whereas 50l. Damages, and if the Cause to the Party shall be recovered; and a Feme covert not appearing, Action may be brought against the Husband and her. 3 H. Blin. cop. 5, 1 Lew. 112. Where any Witnesses accept of a Procees, the Payment of the Payment of his Charges, such Acceptance is sufficient to maintain any such Action: But without that the Party cannot support an Action upon the Statute, for not giving Evidence, but must render the Witnesses his reasonable Charges, at a reasonable Time before the Trial. W. Jones 450. In a Criminal Cause, if a Witness refuse to appear and give Evidence, being invited with Procees, the Court will put off the Trial, and grant Attachment against him; and as refusing to give Evidence is a great Contempt, the Party may be committed and fined. 1 Lew. 378. Preventing Evidence to be given against a Criminal, is punishable by Fine and Imprisonment; and a Person was fined one thousand Marks in such a Case. Hill. 1683. B. R. 1. If Persons diluting a Witness for not giving Evidence, Gff. And Jurors or others disfolkling Evidence given, are likewise Offences punished by Fine and Imprisonment. 1 Lew. 479. The Time of proving lies on the Plaintiff and the Preception shall stand, until the contrary appears: Though that which plainly appeareth, need not be given in Evidence. J. Rep. 490. A Defendant’s Counsel is to conclude by Way of Answer to the Evidence given to the Jury by the Plaintiff’s Counsel: But he who doth begin to maintain the Issue to be tried, ought to conclude it, and not maintain Evidence given, which is no more than to put the Jury in Mind how he hath proved his Case. 1 Lill. 557. Evidence by Records and Writings, is where Acts of Parliament, Statutes, Judgments, Fines and Recoveries, Proceedings of Courts, and Deeds, are admitted as Evidence. A general Act of Parliament may be given in Evidence, and need not be pleaded; and of these the printed Statute-Book is good Evidence: But in the Case of a private Act, a Copy of it is to be examined by the Recorder of the Parish of the Person to whom it is given, and it is to be pleaded. Trials per pais 117, 925. The Statute of Limitations, is to be given as a Copy of it, in the Case of a private Act. It is to be examined by the Recorder of the Parish of the Person to whom it is given, and it is to be pleaded. Trials per pais 117, 925. The Statute of Limitations, is to be given as a Copy of it, in the Case of a private Act. It is to be examined by the Recorder of the Parish of the Person to whom it is given, and it is to be pleaded. Trials per pais 117, 925. A History of England, or printed Trial, may not be read as Evidence. 1 Lill. 557. Camden’s Britannia was not allowed as Evidence: But it has been held, that an History may be Evidence of the general History of the Realm, though not of a particular Calamity. Gff. Mich. 3 H. 2, 5 B. R. Skinner’s Rep. 635. An Exemplification of the Impositions of Letters Patent under the Great Seal, may be pleaded in Evidence. 3 H. 175. Records and Inquisitions prove themselves; and a Copy of a Record or Inquisition sworn to, may be given in Evidence. 1 H. 117, 392. A Transcript of a Record in another Court, may be given in Evidence to a Jury. 1 Lill. 551. There is a Difference between pleading a Record, and giving the Record in Evidence: if it be pleaded, it must be filed se Is Sigilli, or the Judges cannot judge thereof: Though where it is given in Evidence, if it be not under Seal, the Jury may find the same, if they have other good Matter of Inducement to prove it. Style’s Rep. 22. A Fine of 4 C. Recovery
Recovery may be given in Evidence, without vouching the Roll of the Recovery; for the Part indentured is the vital Evidence that there is such a Fine; but it is laid that there ought to be sworn with the Proclamation under Seal. 10 Rep. 92. 2 Roll. Abr. 674.

A Record of an inferior Court, hath been rejected in Evidence, and the Party put to prove what was done: And Part of Indentures of County-Courts, Court-Baron, &c., may be tried by a Jury; so for it hath been adjudged that they cannot be proved by the Rolls, but by Witnesses. 1 Lev. 175. But Court-Rolls of a Court situate, when the Case is not of an Issue; and in some Cases, Copies of the Court Rolls have been allowed as Evidence; and in others not. Trials per pais 178, 218. A Copy of Copies may be given in Evidence, where the Rolls are lost. Mich. 15 Car. 2 R. R. Jorobment of a Deed is proved on certifying it by an examined attested Copy; though Indenture of a Deed which needs Indorsement, or the Easement don't pass by it, it is only Evidence to some Purposes. 5 Lev. 397. An ancient Deed proves itself, where Partition has gone accordingly: But later Deeds must be proved by Witnesses. 4 Inf. 6. If the other Witnesses to a Deed are dead, conclasive and quiet Possession is presumptive Evidence of the Truth of it, yet it may in several Cases be disputed. 3 Combr. Credit by Comparison of Hands and Seals. Wms. III.Inst. 599. When Witnesses to Deeds are dead, their Hand writing must be proved. 2 Inf. 188. And where there are several Witnesses to a Deed, if all are dead but one, a Single Testimony must be taken out against the living Man, and strict Inquiry made after him, and Affidavit is to be made that he cannot be found; before the dead Man's Hands are to be presumed to have been forgery. 3 Constant. Inst. 556. An old Deed proved to have been found among Deeds and Evidence of Land, may be given in Evidence to a Jury; though the executing of it cannot be proved, and must prove. 2 G. W. 8. B. R. 3 Salk. 135. A Deed may be good Evidence, though the Seal is broken off: And where a Deed is burnt, the Judges may allow it to be proved by Witnesses, that there was such a Deed, and this be given in Evidence. 1 Lev. 25. But the Court will not allow the Jury on a Trial at Bar to carry Deeds, Writings or Books with them out of Court, as Evidence to consider of, but such as are under Seal, and have been proved: Though by the Assent of Parties, or by Affi- liant of the Court without the Parties, they may be delivered to the Jurors. Co. Litt. 421. All Things or Writings under Seal, and given in Evidence, they may have; and nothing which was not given in Evidence, for the Court give their Direction to the Jury upon the Evidence given in Court. 1 Salk. 318. It is dangerous to suffer any who by Law ought to swear forth any Deed, to prove in Evidence, that there was such a Deed, which they had sworn or read. Ets. For these might be Impositions in the Deed, or it may be on Condition, with Limitation. Ets. 10 Rep. 92. A Deed though sealed and delivered, if not aimed according to Act of Parliament, cannot be placed or given in Evidence in any Court. 5 St. 5 C. 6 W. 4 M. cap. 31. A Deed cannot be proved by a Counterpart of it or Copy, if the Original is in being, and may be had, though it may be when the Original cannot be procured. 1 Inf. 225. 10 Rep. 92. The Counterpart of an ancient Deed hath been allowed to be given in Evidence. Mod. Cap. 221. But it hath been held that the Counterpart of a Deed, without other Circumstances, is not sufficient Evidence unless in Case of a Fine, when a Counterpart and Evidence of itself, is necessary. 5 Salk. 382. Where the Deed was cancelled by Practice, that being proved, it was allowed to be Evidence in an Action under the Seal, in a Deed without the Seal. The 165 Evidence without seeing the Deed; or proving that there was such a Deed, and it is lost. 1 Inf. 352. 1 Wm. 74. Recital of a Lease, in a Deed of Re- lease is good Evidence that there was such a Lease against the Retailer, and those claiming under him; but nor against the Deed, for it must be proved that there was such a Lease. 1 Salk. 286. A Settlement for both in a Bill in Chancery, and admitted in the Answer; and where it was proved that the Deed was in the Possession of such a one, Ets. hath been judged to be good Evidence of the Deed of Settlement, where not to be found. 5 Mod. 574. The Probate of a Deed, though personal Effect only, may be given in Evidence: But where Title of Lands is claimed under a Will, the Will must be shown, or the Probate: Though if the Will be proved in the Chancery, Copies of the Proceedings there will be Evidence. 2 Roll. Abr. 678. Trials per pais 178. A Bill in Chancery has been admitted as flight Evidence against the Complainant: An Answer in Chanc. 354. Evidence against the Defendant himself, though not against others. 1 Cart. 66. Trials per pais 107. But when a Party has given an Answer in Chancery in Evidence at a Trial, though be unfaith to read only one Part of it: yet when the Side may require to have the whole read. 5 Mod. 10. As in Case of a Writing permitted to be read to prove one Part of an Evidence, another Part of the Evidence given to the Jury. Depositions of Witnesses in Chancery between the same Parties, may be given in Evidence at Law, especially if the Witnesses to the Deed are dead, but they may be proved. Trials per pais 167, 207, 234. Regularly Depositions in Chancery, of a Witness may not be given in Evidence, if he be alive; or be in France, or in another Kingdom. 1 Rolle 597. When Wm. of the Dominions in our King. Inst. 359. But Depositions in Chancery, after Answer, between the same Parties, may be read as Evidence, though Witnesses are not dead, if they cannot be found on Search. Shower 3. 1 Salk. 278. Depositions in Chancery in perpetuum Rei Mem- noriam, are not to be given in Evidence so long as the Parties are living. 1 Salk. 286. And it hath been adjudged that these Depositions to perpetrate Testi- mony, on a Bill exhibited, shall not be admitted as Evidence at a Trial, except an Answer be put in. 55 Salk. 354. If Depositions are taken out of the Realm, he who makes them is supposed there fill, and they shall be read as Evidence: but if it appears he is in England, they cannot be read, but he must produce the Witnesses. 3 Combr. Inst. 47. A Sea may be given in Evidence to a Jury: and the Testimony of a publick Notary of Things done in a For- eign Country, will be good Evidence. 6 Rep. 47. Depositions in the Ecclesiastical Courts, may not be given in Evidence to a Jury at a Trial; but a Sentence may in a Case of Tithes, Ets. And the Sentence of the Spiritual Court is conclusive Evidence in Causes within their Jurisdiction. 1 Salk. 350. 2 Neif. 761. Depositions taken before Commissioners of Bankrupt, in and shall not be used as Evidence at a Trial. 8 Rep. 18. 2 Car. 2. B. R. Depositions before a Co- roner, are admitted as Evidence, the Witnesses being dead; 1 Lev. 180. Likewise they have been admitted where a Witnesses hath gone beyond Sea. 2 Neif. Abr. 764. The Confession of a Prisoner before a Magistrate, Ets. may be given in Evidence against him: And the Examination of an Offender need not be on Oath, but must be subcribed by him, if he certifies the Fact: and then be given in Evidence upon Oath by the Justices of the Peace who took the same. The Examination of others must be on Oath, and proved by the Witnesses who took down their Evidence, if they are dead, unable to travel, or kept away by the Prisoner. H. P. C. 19, 262. Art. 16, 55. Wms. Inf. 647. The Examination of an Informer before a Justice, taken on Oath and subscribed, may be given in Evidence on a Trial, if he
EY

be he dead, or not to travel, &c. which is to be made out on Oath. 2 Haw. P. C. 349. A Venditum against one whom under either the Plaintiff or Defendant claim, may be given in Evidence against the Party of either claim against a Party. 1 Bl. 1652. B. R. In Ejectment where the Plaintiff shall have Title to several Lands, and brings Action of ejectment against several Defendants, if he recover against one, he shall not give that Venditum in Evidence against the Rest. 3 Bl. 414. In a Court of Common Law, a Decree in Chancery is no Evidence; but if a Party, in his Bailiff, shall have alleged as Evidence, that he has not endured or suffered or may produce, as Evidence against a man, in Trespass, &c. Similarity of Hands sworn to, has been allowed as Evidence: But since the Attacker of Alimentary Suits, it has not been admitted in any criminal Case. 2 Haw. 431. Although a Witness swear to the Hand and Contents of a Letter, if he never saw the Party write, it shall not be allowed as Evidence. 1 Bl. 8 W. 1, St. 673. Since no Writs are present when Goldsmiths Notes are presented, such Notes are allowed as Evidence of the Receipt of Money, or other thing. 1 Saun. 285. A Shop-Book is Evidence; but it may not be given in Evidence for Goods sold, &c. after one Year, before the Action brought: unless there be a Bill, &c. for the Debt; though this existing or selling, as in the Case between Trademan and Trademan. Stat. 7 Jac. 1. c. 2. To make these Books or Evidence, there ought to be the Hand of the Person to the Books that deliver the Goods, &c. and they were held insufficient. 1 Bl. 285. A Church Book some Writers lay is not to be admitted as Evidence; though others lay it may. 1 Cr. 120. Of public Books of Corporations, &c. shall be Evidence. 1 Lorr. 25. 1 Litt. 551. But as to Books of Corporations where Things are entered not of Record, the Originals are to be proved, as the Deeds of Deeds, as if delivered by a Heiress at Arms, will not be admitted for Evidence, without shewing the Records or ancient Books from whence taken; for the Entries in the Herald's Office are no Records, but merely circumstantial Evidence. But a Copy of an Indenture on a Grave-Stone, has been given in Evidence in such a Case. 1 Roll. Abr. 686, 589. An Almanack wherein the Father had written the Day of the Nativity of his Son, was allowed as Evidence to prove the Nonage of the Son. 1 Roll. 84. Matter in Law ought not to be given in Evidence at all. 2 Bl. 84. Fait, unless it be in a Case of a special Venditum; Matter in Law is disputable, and referred to be spoken in an Arrears of judgment. 1 Vet. 143. 147. In Debt the Defendant may give in Evidence that he paid Money on an Obligation before the Day, &c. 2 Nelf. Abr. 755. And a Release may be given in Evidence on Nil debet. 5 Bl. 18. Though in Subsidium asking the Plaintiff shall not give any Specialty in Evidence to prove his Debt, as a Bond, Indemnity, &c. because he may bring Action of Debt upon that Specialty. Mor. 340. Entry and Expiation may be given in Evidence in Debt for Rent: Coverance may be given in Evidence to avoid a Deed, &c. Med. Cap. 250. Utmost Contrasts, &c. may be given in Evidence. 2 Nelf. 756. Fraud may be given in Evidence, on the General Issue: And Tampering with Witness may be given in Evidence against a Party, &c. 5 Rep. 60. But many Things are to be pleaded as justifications; as judications about Title, &c. Trepasses, &c. cannot be given in Evidence upon Not guilty. Trials per pass. 404. If in Trepass, Not guilty be pleaded, a License of the party in Evidence to excuse the Trepasses; for it must be pleaded. Col. 59. And if the Issue in Detinue, is Non detinet, it shall not be given in Evidence that the Goods were pledged for it: But a Gift of the Goods 2

by the Plaintiff may be given in Evidence. 1 H. 283. So in an Issue in Waite, as Wife done, the Defendant may give in Evidence, that it came by Lightning, Tempest, or Enemies; but that he repaired before Action brought, must be specially pleaded. 2 Chit. 282. If an Issue be taken on the Cutting of 10 Aches, Evidence may be for ten; because it is a Bremen of Covenant not to do Waith on Waste. 2 Bl. Abr. 432. In Ejectment from the Plaintiff declares for 100 Acres of Land, and gives Evidence only for forty, it will be good for to much. 1 Cr. 13. The Issue is of Account before R. and H. and the Execution and Venditum of an Account before R. alone: Or an Issue is if J. S. was taken by a Captian, and Evidence that he was taken by Alias Captian, there will maintain the Issue; also if it be an Agreement, a Special Agreement may be given in Evidence, &c. 5 Bl. 54. 55. Plowd. 8. But if the Point in Issue be the Sealing and Delivery of a Lead, and the Witness prove sealed and delivered, but did not know the Lead for that sealed it: Or where Proof is not made of Loyalty and Seigny, on Issue of a Lease for Life: Or if on an Issue upon a Taking by Captian of Satisfaction. Evidence be of taking by Captian Uxipgera, &c. in the cases the Evidence will not be good to maintain the Issue. Plowd. 14. 16. 35. 56. 59. Bl. 55. Issue was upon a Prescription for common use, the Plaintiff not to 500 Acres in four Towns, on the Evidence the Jury found it appertained to 240 Acres in two Towns; and a Manor was given in Evidence in another Country, &c. and they were held sufficient. 2 H. 590. 188. Where Judges of Peace for things done in their Offices, may give special Masters in Evidence. Stat. 21 Jac. 1. Vide Salt, Deposition, &c. 

\begin{ex}

\textit{Degage} (Degage) is the same with Apogy, from the Fr. 

\textit{Eau}, Water; and signifies Toll paid for Water-passage.—\textit{Curtae Regis} Johanne, (Curtae Regis) Johanne, 

\textit{Homodidus de B. gud}, Theudis, 

\textit{Fagiaca}, Lagerac, \& de \textit{Verc}, Lagerac, de 


\textit{Rex}. 15.

\textit{Ungarica}, (Ungarica) is a German word signifying Law; it is mentioned in Leg. 1 W. 1.

\textit{Quaestio Regis}, The King's Exactor or Collector; sometimes taken for the Exactor. But generally, a person appointed to collect taxes, or to exact money from the subjects of a state, under the authority of the government. The term is applied to persons employed in collecting taxes, or other sums due to the state, from its subjects. The exactor is usually a person of high rank, and is appointed by the monarch or government. The exactor is responsible for the collection of taxes and other revenues, and is authorized to use force and violence to collect the sums due to the state. The exactor may be appointed by the monarch or government for a fixed term, or for life. The exactor's duties include the collection of taxes, the enforcement of laws, and the maintenance of law and order. The exactor is usually a person of high rank, and is appointed by the monarch or government. The exactor's duties include the collection of taxes, the enforcement of laws, and the maintenance of law and order. The exactor may be appointed by the monarch or government for a fixed term, or for life.

\textit{Examinatio}, (Examinatio) A searching after, or Cognizance of a Magistrate. By 2 & 3 P. & M. Julifites of Peace are to examine Felons apprehended, and Witness, before the Felon is committed and the Accusation must be bound over to appear and give Evidence at the next Assizes, &c. to which the Examinations are to be certified. Med. Justice 586. 1 Rep. 100.

\textit{Examinatores in the Chancery, (Examinatores) Are two Officers of that Court, that examine upon Oath, Witnesses produced by either Side, in a suit, or near it, on both Interrogatories; the Offices to, our own, and other courts, to exhibit for that Paproduce; And sometimes the Parties themselves.}
EX

themselves are, by particular Orders, likewise examined by them. In the Country, Witnesses are examined by.Commissioners, (usually Attorneys not concerned in the Case) on the Parties joining in Commission, &c.

Grannal Rolls. In the old Way of exhibiting Sheriff's Accounts, the Illegible Fines and deserted Deeds, were transcribed into a Roll under this Name, which was yearly read, to see what might be gotten. Holk's Sher. Acc. 67.

Stamhappens, A Word said anciently for Exchanges, and Land; But Court supposes it to be such as we now call Brothers, that deal upon the Exchange between Merchants.

Exchange, (Excepts) is a Stop or Stay to an Action; and divided to Dilatory and Preatory. Bract. lib. 5. tract. 5. In Law, Proceedings, it is a Denial of a Matter alleged in Bar to the Action; And in Chancery it is what is alleged against the Sufficiency of an Answer, &c. The Council in a Cause are to take all their Exceptions to the Record at one Time; and before the Court hath delivered any Opinion therein. 1 Litt. Abr. 459. And when an Exception to an Indictment for Treason, &c. Exception is to be taken for Misnaming, false Latin, &c. before any Evidence is given in Court; or the Indictment shall be good. Star. 7 Aug. 1690. by a General Indictment. Because that the particular Crime is excepted; if a Person be attained, &c. of that Offence, he shall have no Benefit of the Pardon. 6 Rep. 13. 2 Ninf. Abr. 751. And when the Pardon is with an Exception as to Persons, the Party who pleads it ought to shew, that he is not any of the Parties excepted. 1 Lew. 26. A negative Exception, may not only be taken to ensure the same except as an Exception for an Exception in its Nature but is a Denial of what is taken to be good by the other Party, even in Point of Law or Pleading. And Exceptions must be Expressed.

Exchange to a Suit, &c. As one of the Parties in a Suit, for the Insufficiency of the Evidence on the other Side, doth offer to demurr to the same, and the Court will not agree to it, then the Court ought upon Request to seal a Bill of Exceptions tendered to them in Writing, which upon a Writ of Error may be heard. 2 Inq. 450. And when a Suit is in any Court, if the Plaintiff or Defendant alledge any Exception to the Judge's Opinion, praying that the same might be allowed; if the Judge refuseth it, the Party making the Exception is to write in and require the Judge to hear the same; which being done, the Bill produced sealed in Court, the Judge that sealed it shall appear at a certain Day to confess or deny his Seal: and if the Seal be not denied, Proceedings are had to Judgment according to the Exception. Star. 13 Ed. 1. cap. 51. 2 Inq. 1 Litt. Abr. 232. The Exceptions ought to be put in Writing (except Caria), in the Presence of the judge who tried the Case, and signed by the Counsel on each Side; and then the Bill must be drawn up and tendered to the Judge that tried the Cause, to be sealed by him; and when signed, there goes out a Sive feison to the same Judge as coperimentum scriptum, and that is made Part of the Record, and the Return of the Judge with the Bill it must, be entered on the Unite Rolls; and if a Writ of Error be brought, it is to be returned as Part of the Record. 1 Nell. Abr. 372. If a Bill of Exceptions is drawn up and tendered to the Judge for Sealing, and he refuses to do it, upon Petition to the Lord Chancellor, he will grant a Writ for that Purpose. These Bills of Exception are to be brought before a Verdick given, and extend only to Civil Actions, not to Criminal. 6 Ed. 5. 1 Litt. 288.

Exception in Writs and Exhanges, Keeps the Things from passing thereby, being a Saving out of the Act, and the same have not been granted; 1

But it is to be a particular Thing out of a general One, as a Room out of an House, a Ground out of a Manor, Timber out of Land, &c. And it must not be of the Thing expressly grasped in a Deed of Gift; it must be of what is irrecoverable, and not inopinably incident to the Grant. 1 Nell. 47. 1 Lew. 287. 4 Ed. 244. Where an Exception goeth to the whole Thing grasped or omitted, the Exception is void. 6 Ed. 6. A Man makes a Lease of a Manor, excepting all Courts, &c. The Exception is void as to the Courts; for having leased the Manor, it cannot be sold without Courts. 1 Lew. 120. Nell. 820. A Lease was made of all a Man's Lands in L. excepting his Manor of H. and he had no Lands in L. but the said Manor, it was adjudged that the Manor passed, and that the Exception was void. 1 Lew. 170. 2 Nell. Abr. 748. A Lease of an House and Shops, except the Shops; though this may extend to other Shops, 'tis void as to the Shops belonging to the House delivered, because 'tis repugnant to the Lease. Dyer 265. If an Exception crosses the Grant, or is repugnant to it, the same is void: And if there be a Saving or Exception out of an Exception, that Exception is void. 6 Ed. 6. It may make a particular Thing as if never excepted; as if a Lease be made of a Rectory, excepting the Parsonage-House, flying to the Leifie a Chamber; this Chamber not being excepted but by the Lease for the House of the Rectory. 1 Lew. 370. 4 Ed. 572. Oswe 20. By Exception of Trees, the Soil is not excepted, but only sufficient Nutriment for the Trees; For the Leifie shall have the Fruits growing under them though the Leifie shall have all the Benefit of the Trees, Milk, Fruit, &c. and the Trees are Parcel of the Inheritance. 1 Litt. 759. But it has been adjudged, that by an Exception of Woods, Underwood and Coppices, that the Soil of the Coppices is excepted. 1 Litt. 759. 1 Nell. Abr. 751.

Lei. 759. This Exception is in a Suit, for the Insufficiency of the Evidence on the other Side, doth offer to demurr to the same; and the Court will not agree to it, then the Court ought upon Request to seal a Bill of Exceptions tendered to them in Writing, which upon a Writ of Error may be heard. 2 Inq. 450. And when a Suit is in any Court, if the Plaintiff or Defendant alledge any Exception to the Judge's Opinion, praying that the same may be allowed; if the Judge refuseth it, the Party making the Exception is to write in and require the Judge to hear the same; which being done, the Bill produced sealed in Court, the Judge that sealed it shall appear at a certain Day to confess or deny his Seal; and if the Seal be not denied, Proceedings are had to Judgment according to the Exception. Star. 13 Ed. 1. cap. 51. 2 Inq. 1 Litt. Abr. 232. The Exceptions ought to be put in Writing (except Caria), in the Presence of the judge who tried the Case, and signed by the Counsel on each Side; and then the Bill must be drawn up and tendered to the Judge that tried the Cause, to be sealed by him; and when signed, there goes out a Sive feison to the same Judge as coperimentum scriptum, and that is made Part of the Record, and the Return of the Judge with the Bill it must, be entered on the Unite Rolls; and if a Writ of Error be brought, it is to be returned as Part of the Record. 1 Nell. Abr. 372. If a Bill of Exceptions is drawn up and tendered to the Judge for Sealing, and he refuses to do it, upon Petition to the Lord Chancellor, he will grant a Writ for that Purpose. These Bills of Exception are to be brought before a Verdick given, and extend only to Civil Actions, not to Criminal. 6 Ed. 5. 1 Litt. 288.

Exchange, (Exccambium or Cambium) Signifies generally as much as permutatión with the Civilians; as the King's Exchange, which is the Place appointed by the King for Exchange of Plate or Bullion for the King's Coin, &c. These Places have been divers heretofore; but now there is only one, viz. the Mint in the Tower. Stat. H. 6. & c. 4. By B. 3. c. 7. Exchanges are to be kept where the King pleases; And every Man may exchange Gold for Silver, or Silver for Gold, &c. but none shall take Profit of Money exchanged, but the King's Exchangers, on Pain of Forfeiture. 25 Ed. 9. c. 12. Afo none shall give or take any more for Exchange of Coin than the true Value, under the Penalty of Forfeiture the Money exchanged, or to be fined and imprisoned; &c. 2 Ed. 6. c. 19. There is a Real Exchange of Merchants in London: And Exchange among Merchants, is a Commerce of Money, or a Bartering or Exchanging of the Money of one Country for that of another: Money in this Sense, is either real or imaginary: Real, any real Species current in any Country as a certain Piece, at which it passes by the Authority of the State, and is of its own intrinsic Value: And by imaginary Money, is understood all the Denominations made USe of to express any Sum of Money, which is not the just Value of any real Species. In Mercantia, et Merc. Comp. 92, The Nature
Exchange for Money used in England ought to be upon}

<pre>

Exchange for Money used in England ought to be for the

 parte, according to Value for Value: And our Exchange is grounded on the Weight and Fineness of our own Money, and the Weight and Fineness of that of the Country and Footman in several Standards, proportionable in their Valuation: which being truly and justly made, reduces the Price of the Exchange by Money of any Nation to Country to a

Certainly. But this Court of Exchange is of late abused, and Money is become a Merchandize, that rises and falls in its Price in regard to the Plenty and Scarcity of it. But at London, all Exchanges are made upon the Pound Sterling of 20 s. In the Low Countries, France and Germany, upon the French Crown, Spain and Italy, upon the Ducata; and at Florence, Piastre, and other Parts in the Straights, by the Dollar and Florin. So Bill of Exchange.

Exchanges of Goods and Merchandize, were the original and natural Way of Commerce, preced-

ting to Buying; for there was no Buying till Money was invented; though in Exchanging, both Parties are as Buyers and Sellers, and both equally warrant.

5 8 17 3 1 2

Exchange of Lands, Is a mutual Grant of equal Inheritance in Lands or Tenements, the one in Exchange for the other: and is used peculiarly in our Common Law in A. to another, in Exchange for the Manor of B. which he is to have by Deed after his Father's Death; this is void, because it is not in him. 1 Rep. 50, 3 B. &amp; C. 4. 4. 10. But an Exchange may be made to take Effect in Future, as well as in the Party's own Life: for if for that the Feast of Easter A. B. shall have for Lands in D. in Exchange for his Lands in E., this is good. Perk. 7. 2. 1. But Lands in different Countries; and 'tis said of Lands in Ireland, for Land in England, may be good. Lat. 234. By a Special Kind of Agreement, an Exchange may be of one equal Effect in each Party. That Inde- diligence and Warrant, in Exchange, run to the Parties in Privy; not to an Assignee, &c. And if after two have exchanged Lands, one of them Relates to the other the Warrant in Law: it will not defeat the Exchange. 4 Rep. 127. Reid. Abr. 815. The Parties themselves, and all Privies and Strangers for the most part, may take Advantage of Exchanges made for Any Deed or conveyance, if they be voidable. 1 Rep. 505. Dyer 198. See Exchan-

Form of a Deed of Exchange of Lands in Fee.

THIS Indenture made, etc. Between A. B. of, etc. of the one Part, and C. D. of, etc. of the other Part, Witnesseth, that the said A. B. hath given and granted, and by these Presents doth give and grant unto the said C. D. his Heirs and Assigns, All that Messeigne, etc. situate, lying and being, etc. To have and to hold the Messeigne or Tenement and Premises abovementioned, with the Appurtenances, unto the said C. D. his Heirs and Assigns for ever; in Exchange for all that Messeigne or Tenement, etc. of the said C. D. situate and lying, etc. For which Consideration, the said C. D. hath given and granted, and by these Pres-
ents doth give and grant unto the said A. B. his Heirs and Assigns, All that the said Messeigne or Tenement left abovementioned, with the Appurtenances; To have and to hold the said Messeigne or Tenement and Premises left abovementioned, with the Appurtenances, unto the said A. B. his Heirs and Assigns for ever; in Exchange for all that the said C. D. his Heirs and Assigns, for himself, his Heirs and Assigns, etc. And it is agreed that the said C. D. shall have and enjoy the same for his Life, and that the said C. D. his Executors and Assigns, shall have and enjoy the same for ever, and for all Times hereafter.

4 D
Exchange of Church Livings. Exchanges are now seldom used except that Parions sometimes ex-
change their Churches, and reign them into the Bi-
shop’s Hands: And this is not a perfect Exchange till
the Parties are indulted; for if either dies before they
both be indulted, the Exchange is void. Whed. 1794.
If two Parties by one instrument agree to
exchange their Benefices, and in order thereto reign
them into the Hands of the Ordinary, such Exchange
being executed on both Parts, is good; and each may
ignore the other’s Living: But the Bishops may reign
them again to each Living; and if they refuse to do
it, or the Ordinary will not admit them respectively,
then the Exchange is not executed; and in such Case
either Clerk may return to his former Living, even
though one of them should be admitted, instructed
and indulted to the Benefice of the other: which is
expected in an Exchange itself, and the Prerogative
usually added to it. Rights Clerg. 2 Ca. Rep. 74.
Roll. Abrid. 814.
Exchange are those that return Money by
Bill of Exchanges. R. 2. 2.
Exchequer, (Scaccarium, from the Fr. Bocqhequer,
I.e. Abaco, tabula hybra, or from the Grm. skatia,
viz. Thymara) is an ancient Court of Record, where-
in all Causes touching the Revenue and Rights of the
Crown are heard and determined: and here the Re-
venues of the Crown are received. Camden in his Br.
17. 33. This Court took its Name à Tabula ad quam appelloh, the Cloth which covered it being party-colored, or exchequer: We had it from
the Normans, as appears by the Great Calendar, 
and it is described by the Abbé of Noyon, one of the High Jus
ticiers, to whom it appertained to amend
that which the inferior Jus
ticiers had misdone, and un
advisedly judged, and to do right as all from the
Prince’s Mouth. Some Persons think there was a
Exchequer under the Anglo-Saxon Kings; but our best
Hilarians are of Opinion, that it was erected by King
William the First, called the Coqemaker, its Model
being taken from the transmarine Exchequer, esta
blished in Normandy long before that Time. Ma
den’s Hist. Excheq. In the Reign of Henry the First,
Son of William the First, there was an Exchequer,
which has continued ever since: And the Judges of
the Court were at that Time filled Barons Scaccarii,
and administered Justice to the Subjects. In ancient
Times the Barons of the Exchequer dealt in Affairs
relating to the State, or publick Service of the Crown
and Realm: And were greatly concerned in the Pre-

servation of the Prerogative, as well as the Revenue
of the Crown; for as the Exchequer was the Care
of the Treasurer and Barons to be of the Rights of
the Crown were no Way invaded. Lex Confini-
tiones 156. For the Authority and Dignity of the
Court, and to give it a better Title, it was set in the
King’s Palace; and the Acts thereof were not to be
examined or controlled in any other of the King’s
ordinary Courts of Justice: The Exchequer was the
great Repository of Records, wherein the Records of
the other Courts at Westminster, &c. were brought to
be laid up in the Treasury there. And Writs of the
Chancery were sometimes made forth at the Exche-
quer: See Writs of Warrants to the Parliaments, &c.
Ibid. The Exchequer has been commonly held at
Westminster, the usual Place of the King’s Ref

dence; but it hath been sometimes held in other
Places, as at London, &c. And in the Exchequer there are reckoned seven Courts,
viz. the Court of pleas; the Court of Accounts; the
Court of Receipts; the Court of the Exchequer Cham
ber; the Assembly of the Judges of Excheques; &c.
for difficult Matters in Law;) the Court of Exchequer
Chamber for Errors in the Court of Excheques; for
Errors in the King’s Bench; & the Court of Equity in
the Common Pleas. 4. Feb. 1194. But ac
cording to the usual Division for the Dispar of all com-
mon Business, the Exchequer is divided into two Parts:
one for Civil Causes, and the other in the judicial
Hearing and Deciding of Causes pertaining to
the Prince’s Coffers, anciently called Scaccarium Compu
trum; the other is the Receipt of the Exchequer,
which is properly included in the Receipts and
Payment of Money. And it has been observed, that
about the Time of the Conquest there was very little
Money in Specie in the Realm; for then the Tenants
were not allowed to be charged by Receipts for
Services: And till the Reign of King Hen. 1. the
Receipts or Farms due to the King were generally
rendered in Provender and Necessaries for his Houshold;
but after the Reign of King Hen. 2. the same were changed into Money;
and afterwards in succeeding Times, the Crown
Revenue was answered or paid into the Exchequer
chiefly in Gold and Silver. Lex Confinientes. p. 208.
By Statute, all Sheriff, Bailiff, &c. are to
account in the Exchequer before the Treasurer and
Barons: And annual Rolls are to be made of the
Proceedings of Inquests and Arrests of those
pointed in every County, of Debts due to the King.
51 H. 3. 10. And all Fees of Counties for the
whole Year are to be sent into the Exchequer.
1 Ed. 2. 17. Fees in the Exchequer are to be paid
in their own Dishes; and there shall be
Writs for disharging Persons. Amp. 5. 2. 9. 14.
Any Person to whom Money is due from the Ex-
chequer, having an Order registred for Payment,
may sign the same by Indorsement. 19 Car. 2.
c. 12. And the Officers of the Receipt may receive
and take their Writs to be an Assembly of the Round of Summ
ified out, &c. 5 & 6 W. & M. c. 10. Officers of the
Exchequer are without Delay to receive Money
brought thither: And the Money in the Receipt is
to be kept in Chells under three different Locks and
Keys, kept by three several Officers, &c. 8 & 9
W. 3. c. 32. The Tellers of the Exchequer allowed
15,144 l. to make good the Deficiency in their Offi
c. 5. See 2 Geo. 2. c. 15. In the lower Part of the
Exchequer, called the Receipt, the Debors of the
King, and their Debitors, the King’s Tenants, and
the Officers and Ministers of the Court, are privi
lged to sue and implied one another, or any Stran
ger, and to be sued in the like Actions as are profec
ed in the King’s Bench and Common Pleas. The ju
dicial Part of the Exchequer is a Court both of Law
and Equity: the Court of Common Law is held in
the Office of Pleas, after the Court of the Common
Law, called Bancroft; and the Plaintiff, defendant,
being to sue to be a Tenant or Debtor to the King, or some Way
accountant to him; and the leading Process is either a
Writ of Subpoeana, or Quo Minos, which goes into
Wards, as the Common Pleas does. The Officers of the
Common Pleas ought to run except the Copies Ur
lagiarnum. The Court of Equity is holden in the Ex
chequer Chamber, with the Scaccarii, Cancellarii & Bar
couns, but usually before the Barons only, the Law
Chief
EX

Chief Baron being the Chief Judge to hear and determine all Causes in Law or Equity; the Proceedings here are by English Bill and Attorney to be done, according to the Practice of the High Court of Chancery; but the Plaintiff must likewise let forth that he is Deponent to the King, though it is not material whether he be or not, it being only Master of Form. In this Court the Clergy usually exhibit Bills for Recovery of their Tithe, &c. And here the Attorney General brings Bills for any Matters concerning the King; and any State of the Kings's Estate, as the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

EX

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.

The Controller of the Pipe, which is held to be the Chancellor of the Exchequer. The Clerk of the Exchequer, he receives the Exchequer Books from the Remembrancer's Office, and writeth them out to be served for the King, &c. The Foreign Opposer who opposes or makes a Change on all Sheriff, &c. of their Green Wax, i.e. Pipes, Idols, Americasses, Recognisances, &c. may be infested in Exchequer annuit to the Writ, under the Seal in Green Wax, and delivereth the same to the Clerk of the Exchequer to be put in Process. The Auditors, that take the Accounts of the Exchequer, Receivers, Collectors, &c. and perfect them. The Four Tellers, whose Business is to receive and pay all Money in the same.
EX

Month of what Liquors they consign, under the Penalty of 40l. And not 'paying the Excise within the like Times, to pay double Duty: If any Brewer conceal any Ale or Beer, he shall forfeit 20l. per Barrel: And any Person of the Excise in the Daytime, or in the Night with a Conceal, may enter into a House or Brewhouse, and stay there during the Time of burning, &c. Beggars enquiring or altering any Back, Coolers, Copper, &c. or keeping any private Storehouses; and Malilters keeping any private Vessels for keeping of Beer, without giving Notice to the Officers of the Excise in either Case, forfeit 5l. and bringing a Gauger incur the Penalty of 10l. 12 Car. 2. c. 11. 2 W. & M. 4 W. & M. 7 & 8 W. 3. & 9 W. 3. c. 19. By 12 Car. 2. the Excise on Beer and Ale is granted for the Life of King Charles the Second. By the 1 Jas. 2. c. 11. it is granted to King James for Life. By 2 W. & M. c. 3. it is granted to King William and Queen Mary during their Lives. By 1 Ann. c. 7. it is granted to Queen Anne for her Life; and together with the Revenue of the post-Officer, made chargeable with 700,000l. per Annum for the Support of the Household; and by 1 Geo. 1. c. 1. it is thus granted to King George the First during his Life: See 1 Geo. 2. where 'tis among other Things, granted to King George the Second, charged with 40,000l. 1st Ann. for his Household. Officers of the Excise may go on board Ships, and search for Rum, Arrack, and other excisable Liquors, as Officers of the Customs may do, and seize Commodities forred, &c. 1 Geo. 1. c. 40. And three of the Commissioners of Excise have Power to determine all Complaints and Information relating to the Excise, as well as justices of Peace at their Sessions, &c. Stat. 1 Geo. 2. c. 21. Vide 9 Geo. 2. c. 35. A Duty shall be paid for Sweets (or made Wines) made here for Sale, from Foreign or Excessive Fruit and Sugar, &c. to be under the Management of the Commissioners of Excise; and Makers are to enter their Names, and Places made, of, &c. on Wines of 20l. but Fines may be mitigated in the Excise Laws, &c. Stat. 1 Geo. 2. c. 17.


Excursion, Excursion, Is in Law French the same with Excursion in English, Stat. 23 H. 8. c. 3.

Excursion, (Excursionis) An Ecclesiastic Censure, by which a Person is excluded from the Communion of the Church, and from the Company of the Faithful. It has been thus defined: Excommunicatio est nihil aliud quam Grafora a Caeso vel "Judicis Exsucitor praestis "et satisfac prorsus-legitima commissio Sacramentum quod incipit hominem. And it is divided into Major and Minor: Minor, quod quam quis a Sacramentum participaretur con- scientia vel fontanae arsorae: Major, qua sum solam a Sacramentum, quem eis Editum comminatus excutiet, et hab emini aetis Legitam narris et divinitisque Venatorum de lev. Excom. 'The Form of an Excommuni- cation was of old: Ambitio Dei Parvis, satisfac- titis et Filii et Spiritus Sancti, et Besti Deo Ger- trici Mari, omniamass Sacerdorum, Excommunicamus, Aramominunam, &c. liddam Sancti Mariae Ex- cussisse Episcopos, &c. Lex. Will. 1. Annus 38 II. 5. Boniface Archbishop of Canterbury, and the other Bishops, with burning Tapers in their Hands, in Wines and Ale before the King, and the other Elates of the Realm, denounced a Cure and Excunchnatment against the Breakers of the Liberty of the Church: And by Stat. 9 H. 3. Bishops may excommuni- cate not only the Eayers of the House of the Church, but also Felons, and other Offenders, &c.

And by the Ecclesiastical Laws, excunchnat- ted Persons are not permitted to have Christian Burial. This Excussion is generally for Contempt in not appearing, or not obeying a Decree. And in other Reflections, the Causes of it are many; as for Masters of Hereby, refusing to receive the Sacrament, or to come to Church; Inconstancy, Adultery, Simony, &c. It is published in the Church, and if the Offender do not submit in forty Days, then the Bishop is to certify the Excussion into the Temporal Courts, setting forth specially the Cause of Excussion, and the Judges may for whether the Ecclesiastical Court hath Cognizance of the Matter; and thereupon the Party may be taken and imprisonment by Virtue of the Writ for having committed a Person to the Episcopal Courts, for the Support of the Church and the Works of God. But the Bishop is not to certify Excussion until the Bishop is beyond Sea, or in Remotis; or except the Certificate is by one that hath ordinary Jurisdiction, &c. And if the Ordinary shall not give a Person for any Thing where he hath not Cognizance of the Cause, the Party may bring an Action against him, or the Ordinary 'said may be indicted. 1 Inst. 44. &c. A Bishop may not be excunchnatned for Matter of Defamation. &c. The Bishop's Certificate, if he die before the Return of the Writ, shall not be received, for his Successor shall certify the Superscription must mention, that the Party lived within the Diocese where he was excunchnatned, and by what Bishop; if it be pleaded, that the Ordinary Excussion must be declared in the Ecclesiastical Court before they proceed, &c. 8 Rep. 68. 2 Cor. 84. 84. 1667. 167. Lat. 114. 1667. 86. In some Cases, e.g. a Writ for a Person by Act of Parliament; but they are to be first convicted of the Offence by Law, and the Conviction is transmitted to the Ordinary, 2 Cor. 84. 1 Foss. 146. It hath been determined that the Spiritual Court hath not Power to meddle with the Body of any Persons whatsoever, or to send Process to take them; for if a Person is excunchnatned, &c. they ought to certify it into the Chancery, whereas the Act is in B. R. and thence it may proceed. 3 Cor. El. 741. An Officer excunchnatned is disabled to do any judicial Act, as to for any Person, as a Law, &c. And if any Person is excunchnatned, &c. he may be fined: But every Excussion doth not disable one; for if a Mayor and Commodity bring an Action, an Excussion of the Mayor shall not disable them, because they are not recovered by Attorney: And if a Bishop is Defendant, an Excussion by that Bishop shall not disable the Plaintiff: And an Excussion against an Appellant, while the Appeal is depending, is void. 1 Inst. 154. 4 Inst. 340. N. and 528. Popish Recruits convicted are disabled as Persons Excommunicated, &c. Stat. 3 Jac. 1.

Excuscipic, Excusso, Is a Writ directed to the Sheriff for apprehending him who stands obstinately Excunchnatned forty Days: for the Contempt of such a Person, not seeking Abolution, being certi- fied or signified into the Chancery; this Writ is for the Imprisoning him without Bail or Mainprize, until he conform. F. N. B. 62. By the Stat. 5 Eliz. c. 23. Writ de excommunicata Capiendo shall issue out of the Courts of Chancery in Term-time, and be returnable in B. R. &c. They shall be brought entered into the King's Bench, and there opened and delivered to the Sheriff, and he shall within twenty Days between the Issue and the Return: And if the Sheriff return a Non satis Inventus on the Writ, a Capio with Proclamation is to be granted for the Party will not answer the Process of the Penalty of 10l. And if he do not appear on the Part.
Capias and Proclamation, a second is to go forth, and he
is to forfeit 20 l. &c. But by this Statute, if in the Ex-
communication Capitulato, the Party excommunicated hath not a
different Addition, as to his Place of Dwelling, &c.
according to 1 H. 5. c. 6. Or if in the Signification it
is not contained, that the Excommunication proceeds upon
the original Matter of the Hearsay; for refusing to have a Child baptized, to re- ceive the Sacrament, to come to Divine Service, or for Error in Matters of Religion and Doctrine, for In- consistency, Unworthiness in the Ecclesiasti- cal Courts or Jurisprudence; he shall not incur the Penalties in this Act, for his Contempt in not rendring himself
Prisoner upon the Capias, &c. So that the Statute
doth not require the Party with Proclamations, and the Penalties in other Cases, besides the ten Cases men- tioned. 2 Inst. 661. And it has been adjudged where a Person hath been excommunicated, and none of those Cases were contained in the Signification, that the Person excommunicated should be discharged of the Penalties; but not of the Excommunication. 3 mod. 83. It has also been held, that for any of the Causes expressed in the Statute, there ought to go a Capias with a Penalty, and be an Addition to the Writ: In other Cases, it is not necessary; and if then the Capias can go, the Court will not discharge the Party, but the Penalty only: But for want of Addition, in Cases where that is required, the Par- ty shall be discharged upon Motion. 1 T. 294, 295.

Excommunication Deliverance, Is a Writ to the Sheriff for Delivery of an excommunicated Person out of Prison, upon Certificate from the Ordinary of his Conformity to the Jurisdiction Ecclesiastical. F. N. B. 63. Reg. Orig. 67. And where a Man is unduly excommunicated, he may be delivered in some Cases by the Writ Nuncupatus Corpus; and sometimes by Pleading, as also sometimes by Prohibition, &c. And on a gen- eral Pardon, the Party may have a Writ to the Bishop to absolve him. 12 Rep. 76. Latt. 207. God. 273. If a Plaintiff in an Action be excom- municated, and after he gets Letters of Absolution; if having them in Court, he may have a Re- summon, &c. upon his Original. 1 Inst. 133. The Writ of Excommunication deliverans runs thus:

George the Second, &c. to the Sheriff of &c. in the Parish of &c. etc. &c. in the Diocese of &c. &c. in the Archdeaconry of &c. in the Hundred of &c. in the County of &c. in the Province of &c. &c. &c. Whereas it hath been proved to us, that you have excommunicated, and do continue excommunicated, to the great injury and scandal of the Church, and do in fact commit, and by your Letters of Absolution or otherwise commit, the said George &c. &c. &c. be absolved, discharged, and delivered, &c. &c. &c. &c. &c. &c. &c.

Excommunicata Executando, Is a Writ whereby Persons excommunicated, being for their Obedience committed to Prison, and unlawfully delivered, before they have given Caution to obey the Authority of the Church, are commanded to be brought after and imprisoned again. Reg. Orig. 67.

Execution, (Executio) Signifies the last Performance of an Act, as of a Judgment, &c. And is the Obligation to the Performance of any Thing recovered by Judgment of Law. 1 Inst. 289. Sir Edw. Coke, in his Reports, makes two Sorts of Executions; one final, another with a Sum. to End the Execution. An Execution final is that which makes the Benefit of the Defendants Goods, or extends his Lands, and de- vers them to the Plaintiff, which he accepts in Satis- faction, and is the End of the Suit, and all that the Kings Writ requires to be done. The other Writ
with a Sum, though it tends to an End, is not a final as in Case of a Capias ad Satisfaciendum, which is not a final Execution, but the Body of the Party is to be taken, to the extent the Plaintiff be forced his Debt, &c. and the Imprisonment of the Defendant not being absolute, but until he do satisfy the same. 6 Rep. 87. A Man can have but one Execution; but it must be intended an Actual Execution with Satisfaction, and the Body of the Defendant is no Satisfaction, only a Pledge for the Debt. 5 Rep. 96. When a Person dies in Execution, it is without Satisfaction; to that the Plaintiff may have a Terr facias against the Goods, orEject against the Lands. Ibid. But where a Person was taken on a Capias Ulgetatem, and died in Prison, the Plaintiff having chosen this Execution, which is the highest in Law; it has been held that the Defendant dying, the Law will adjudge it a Satis- faction. Cro. El. 850. By Statute, if a Person in Execution dies, a new Execution shall issue against the Lands, &c. as if he had never been taken in Execution. 21 Jac. 2. c. 15. If an Execution be executed and filed, the Party can have no other Execution upon that Judgment; but there is no Satisfaction upon one Judgment. 1 Litt. Abru. 545. If the Execution be not returned and filed, another Execu- tion may be had; and if only Part of the Debt be levied on a Terr facias, another Writ of Execution may be ordered for the Restidue thereof. Ibid. But if you once charge the Body of the Defendant in Execu- tion on a Capias Satisfaciendum, you may not have any other Execution against his Goods, &c. except the Defendant make an Ecape, or is privileged, or dies in Execution. Proff. Solv. 248. Though if one take out any Writs in Execution, and they have no Benefit by it, or if they be Elected, he may have other Writs on their Failure. Hob. 57. Where Goods are taken in another County, upon a Terr facias that he hath not any Goods at Law- East, which is true, the Execution shall be set aside. But where a Man is taken upon a wrong Writ of Execu- tion, though it be returned executed; yet because he be in Truth never was in Execution, a Capias shall issue out against him. 9 T. 180, 53. If a Person taken by Ca. fa. ecapes, the Plaintiff may have a new Execution. Cro. car. 174. In Case any Prisoner examined in Execution, hath any Creditor of his whole Suit who stands charged, may reake him by a new Capias ad satisfaciendum, or sue forth any other Kind of Execution, as if the Body of such Prisoner had never been taken in Execution. Stat. 8 & 9 W. 3. c. 57. Where two are bound jointly and severally, and Judgment is had against both of them, if one in Execution ecapes, the Creditor may take out Execu- tion against the other: But if he goe by Licence of the Creditor, then the other will be discharged. Cro. car. 53. If one in Execution be delivered by Privi- leges of Parliament, when the Privilege ceases, the Plaintiff may sue out a new Execution against him. 1 Jac. 1. c. 13. If where two are jointly bound, they are fuerit severally, and several Judgments are had against them, as an Eject is found against one, and executed and returned, and a Capias satisfaciendum, against the o- ther, he may bring Audita Querela: For there must be the same Kind of Process against both. Cro. Jac. 538. 2 Nelf. Abru. 792. A Defendant cannot plead to any Writ of Execution, (tho' he may in Bar of Execu- tion to a Scire facias brought) but if he hath any Matter after Judgment to discharge him of the Execu- tion, he is to have Audita Querela. 3 Inst. 290. If a Husband and Wife, are taken in Execution for the Debt of the Wife, the Wife shall be discharged; for the Husband being in Execution, the Wife shall not be so liable, and because the Wife hath nothing liable to the Execution, 1 Lev. 51. The Execution of a

Liberate
Liberate is good without being returned; and where a man is taken upon a Ca. 1/a, the Execution is good, though the Goods are not. And so in all Cases where no Iniquity is taken, but only Lands delivered, or Seisin had, &c. which are only Matters of Fact. 4 Rep. 67. 5 Rep. 89. The Writ of Execution at Common Law is good, and can only be a Pi. 63 6 6 6, on the Goods and Chattels; and a Levior facias to levy the Debt or Damages upon the Land and Chattels: Afterwards a Ca. ad satisfac. was given by Stat. 25 Ed. 3. c. 17. and a more direct Writ of Execution makes the Body liable, and the future Profit of Lands, &c. 1 Inf. 154 2 Inf. 394. The Reason why by the Common Law, where a Subject had Execution for Debt or Damages, he could not save the Body of the Defendant, or his Lands in Execution, (unless it were in special Cases) was, that the Defendant’s Body might be at liberty, not only to follow his own Affairs and Business, but also to serve his King and Country; and taking away the Possession of his Lands would hinder the following of his Husbandry and Tillage, a Inf. 756. Though neither the Body, nor Lands of the Debtor on a Judgment could be taken in Execution at Common Law, but only his Goods; yet in Action of Debt against an Heir, upon the Body of his Ancestor, his Land, or which he is Inherited, was subject to be taken in Execution. 5 Rep. 11. In Action of Debt against the Heir upon his Ancestor’s Bond, there was Judgment by Nil distit, and it was held that the Judgment should have Execution against the Heir, of any of his own Lands or Goods. Dyer 89. 149. Judgment was had against the Heir by Nil distit, and a Scire facias being brought against him to have Execution, he pleaded Rien per Divers; it was adjudged that this Plea was two late after the Judgment by Nil distit, and an Edict to the Writ of Execution against his own Lands. Dyer 344. But there is a Difference between a Scire facias and an Action of Debt brought against an Heir upon a Bond of his Ancestor, in which the Heir is named. Pap. 293. On a Judgment for the Body of an Ancestor, where the Heir hath made over Lands descended to him, Execution may be taken against such Heir to the Valuation of the Lands for the Debt of his Ancestor, as if his own Debt. Stat. 3 & 4 W. 3. & 4. M. c. 14. If a Person have Judgment given against him for Debt or Damages, or to be bound in a Recon- ciliation of the Debt, and his Heir be within Age, no Execution shall be issued of the Lands during the Minority; and against an Heir within Age, no Execu- tion shall be issued upon a Statute Merchant or Staple, &c. 1 Inf. 289. 2 Inf. 675. Writs of Execution bind the Property of Goods only from the Time of the Delivery of the Writs to the Sheriff: who upon Receipt thereof indorsed the Day of the Month when received: But Land is bound from the Day of the Judgment. Stat. 39 Car. 2. c. 3. & 3. Car. 111. 111. Notwithstanding this Statue, if after the Writ delivered to the Sheriff, and before Execution is exe- cuted, the Defendant becomes Bankrupt, that will hinder Execution. 7 Salk. 159. The Plaintiff takes out Execution by Scire facias against the Defendant, all the Goods and Chattels that he had at the Time of the Execution, will be liable to it; And where Debt or Damages are recovered, the Plaintiff shall have Execution of any Land the Defendant had at the Time of the Judgment; not of the Lands he had the Day when the first Writ was purchased. Roll. A. 151. The Sheriff may deliver in Execution all Lands whereof others shall be seised in Trust for him against whom Execution is had, on a Judg- ment. &c. 29 Car. 2. c. 4. & 3. Car. 111. There are Chattels sufficient, the Sheriff ought not to take to the Lands; nor may Things fixed to the Freehold, Goods bought bona fide, Goods pawned, &c. be taken in Execution. 8 Rep. 143. And if a Defendant have his Goods in a Cottage, &c. where the Plaintiff cannot come at them to take them in Execution, it is said no Action will lie against him. 5 Rep. 92. The Sale of Goods for a valuable Considera- tion, before Judgment, and before Execution awarded, is good: And if Judgment be given against a Leafe for Years, and afterwards he faileth the Term before Execution, the Term aforesaid is not liable; and if the Goods are sold by Fraud, and the Plaintiff sells it to another for a valuable Consideration, it is not liable to Execution in the Hands of the second Agressor. 165. 2 Naff. 785. If a Person has a Bill of Sale for any Goods, in Nature of Security for Money, he shall be preferred for his Debt to one who hath obtained a Judgment against the Debtor, that the Goods are sold; for till Execu- tion lodged in the Sheriff’s Hands, a Man is Owner of his Goods, and may Dispose of them as he thinks fit, and they are not bound by the Judgment. 217. 2 Naff. 256. But where a Man generally keeps Pup- pehion of Goods after Sale, it will make the same void against others, by the Statute of fraudulent Con- versations. And where on an Execution the Owner of the Goods is by Agreement bound to Deliver them to the Plaintiff on certain Terms; afterwards another got Judgment against the same Person, and took what he had. Whereof the Goods are made of Lands that the Defendant hath by Pur- chase after the Judgment; although he fell the fame before Execution. Roll. 192. Where there is an Execution in Possession of Goods for Life, or Years, the Plaintiff before Removal of the Goods by the Execution is to pay the Landlord the Rent of the Land, &c. so as there be not above a Year due; and if not the Due, paying a Year’s Rent, the Plaintiff may proceed in his Execution, and the Sheriff shall levy the Rent paid as well as the Execu- tion. Stat. 119. When a Judgment is figged, Execution may be taken out imme- diately upon it, and need not be delayed till it is entered, it being a perfect Judgment of the Court before Execution, &c. The Judgment is perfect by the Court of B. R. if one against whom there is a Judgment of that Court walk in Westminster Hall, they may send an Officer to take him up, if the Plaintiff define it, without a Writ of Execution. Ex- ec. Rep. 52. If Execution be not fixed within a Year and a Day after Judgment, where there is no Fault in the Defendant, as if Writ of Error be not brought, &c. there must be a Scire facias to revive the Judgment, which in that Time may be had without moving the Court; but if it be of longer Standing, the Court is to be moved for it. 179. 2 Inf. 771. But if the Defendant be outlawed after Judgment, (as he may where he cannot be taken in Execution, or hath no Lands or Goods to pay the Debt, &c. when the Suit is commenced by Original) the Plaintiff need not renew the Judg- ment by Scire facias to obtain Execution after a Year. 1 Inf. 295. It hath been adjudged, thus by the Common Law, if a Man was outlawed after Judg- ment in Debt, the Plaintiff was at the End of his Suit, and he could have no other Proces after that persona- bly; but was put to his new Original. &c. 2 Inf. 771. If the Plaintiff does not proceed upon the Scire facias, he may bring an Action upon the Judgment: And after Judgment against the De- fendant, the Action. If there are no Chattels sufficient, the Plaintiff may have Execution against the Defendant, or prosecute his Bail. Common Law Com. 2 placed.
EX

placed 206. If one be arrested upon Process in B. R. and puts in Bail; and afterwards the Plaintiff recovers, and the Defendant renders not himself according to Law to his Bail, the Plaintiff may at his Election take Execution against the Principal, or his Bail; but if he takes the Bail, he shall never afterwards meddle with the Principal. Cr. Cas. 520. Execution may not be forth against the Bail, 'till a Default returned against the Principal. Guld. 175. If one recovers jointly against two in Debt, the Execution must be joint against them: The Court cannot divide an Execution, which is intire, and grounded on the Judgment. Mich. 24 Car. B. R. When judgment is given against three Persons, you cannot take out Execution against one or two. 1 Mod. 2. A Man and his Wife recovered in an Action of Debt against the Defendant 100l. and Damages: then the Wife died, and the Husband prayed to have Execution upon this Judgment: The Court at first inclined, That it should not survive to the Husband, but that Administration ought to be committed of it, as a Thing in Action: but at last, they agreed that the Husband might take out Execution for that by the Judgment it became his Debt due to him in his own Right. Cr. Cas. 608. 1 Mod. Rep. 179. 180. Judgment being given against two, on the Death of the Plaintiff shall have Execution by Suce facies against the Survivor; and though he pleads, that the other Defendant has an Heir alive, 12 Cr. it will not avail him. Raym. 26. And will not have Execution in that Case. But if he give up another Person as his Heir, he may have Execution in that Case. And if a Judgment of Debt, of the Common Pleas be affirmed in B. R. on a Writ of Error. 5 Rep. 88. Though where the Record of a Judgment given in C. R. is removed into B. R. the Party shall not take out Execution upon it, without a Suce facies. But if the Judgment is affirmed there, yet that Court cannot make out Execution upon the Judgment affirmed; but the Record must be annexed to the Record of Execution in the Court of King's Bench, where Execution must be done. 1 Litt. 565. A Capias ad satisfaciendum may be executed upon a Prinler in Prison for Felony; and if he be acquitted of the Felony, the Sheriff is to keep him. 1 Litt. 567. But where a Person is in Prison for criminal Matters, he ought not to be charged with a Civil Action without Leave of the Sheriff, and if he be charged, he shall not be discharged. Raym. 58. Where not allowed, on a Petition, see Parry. 153. A Cap. Ja. will lie against a Man who is outlawed for Felony, and may be taken in Execution at the Suit of a Common Person. Oxon. 69. And if he was taken upon a Capias Ulteriagat, which is at the King's Suit, he shall be in Execution at the Suit of the Party, if he will. Mon. 565. But this is not without Prayer of the Party: And if after a Judgment given, the Judges of their own Heads, or at the Request of any Person, without Prayer of the Plaintiff, do commit the Defendant to Prison; by this he shall not be said to be in Execution upon the Judgment, unless the Plaintiff prays it of Record; or for a Capias ad satisfaciendum, and delivers it to the Sheriff. Dyer 197, 306. Tract. Cent. 165. A Sheriff shall have his Fees for Executions, upon Writ of Capias satisfaciendum for the whole Debt: upon a Fieri facia acquisitum, and on the Seizure of any Estate, or Goods in his Hands, he shall have Fees according to what is levied, and by others for the whole Debt recovered, because the Plaintiff may keep the Land till he is satisfied the intire Debt. 1 Scott. 333. In Person and by Agents, Execution is either by Capias ad satisfaciendum, or
EX

or Fieri facias against the Body or Goods; or Eligit against the Lands, &c. In Real and Mixed Actions, the Words of Execution are Habeas facias Sej_doc, to put the Party in Possession of his Freehold recovered by Judgment of Law; and Habeas facias Philippes, to put him in Possession of his Term, &c. And after Judgment, in Issues or Executions, for the Execution of the Action ends. No Execution for Damages recovered in a real Action, shall be had by a Copias ad satisfacendum: But where a Man hath Judgment to recover Lands and Damages, he hath the Execution of both together. 8 Rep. 141. If one have Judgment to recover Lands, and die before Execution, his Heir shall have it, and where Judgment in a real Action is determined and given, and Money is due by the final judgment, he in Remainder may sue out Execution: An Heir is to have

EX

have Execution for Lands, and the Executor or Administrator for the Damages. Co. Lit. 251. Dyer 26. The Executors of Executors may sue out Execution of a Judgment; but an Administrator getting Judgment in Behalf of the Intestate, and then dying, neither his Executor or Administrator shall take out the Execution, but the Administrator of the late Administrator's Estate shall have it, and the Plaintiff shall have Judgment for that he confesseth: here he may not have Execution till the Issue is tried for that which he is to recover Damages: Though if he Releases the Damages, he may have Execution presently for the Real. Rull. 897. If a Sheriff in doing Execution of a Suit at the common Perfon, break open any Man's House, the Execution may be good; but the Party shall have his Action of Trespass against him for it: And where the Sheriff hath a Fieri facias or Ca. in against a Man, and before Execution, he pays him his Money due to him, Execution shall not be done afterwards; if it be, Trespass or false Imposition lies. 5 Rep. 93. 12 Car. R. B. By a late Statute, Persons charged in Execution for summary Suits not exceeding 100 l. may go, who are willing to satisfy their Creditors as far as they are able, may exhibit a Petition to the Court whence the Process issued, with an Appointment of their whole Estate upon Oath, praying to be discharged, &c. And thereupon the Court shall order the Prisoner to be brought up, and his Creditors summoned at a certain Day, when the Court in a full Court, with all the Witnesses to examine into the same. &c. and order the Estate and Effects of the Prisoner to be adjudged to the Creditors by Indorsement on the Back of the Petition; whereas the Prisoner shall be discharged of all Actions of Process; but if Creditors are dissatisfied with the Truth of the Prisoner's Oath, he is to be remanded till another Day, and then if they Creditors cannot discover any Error complained of, he shall be released; unless the Creditors inful the Prisoner's being detained in Prison, and agree by Writing to pay him 21. 4. 6. a Week, &c. Stat. 3 Geo. 2. c. 32. Prisoners in Execution at large in any Prizon (except in London and Westminster) before they Petition any of the Courts from whence the Process issued for a Rule to be brought up, are to give Notice to their Creditors in Writing, that they desire to petition, and also a true Copy of the Account or Schedule of their whole Estates which they intend to deliver in to the Court, &c. And then upon such Petition, the Prisoners shall have a Rule of Court to be brought to the next Assizes for the County, at an Expendence not exceeding 7s. 4d. a Mile, to be paid to the Officer out of the Moneys of the Prisoners, &c. And the Creditors must be summoned to appear at the said Assizes by Order served on them or left at their Houses thirty Days before; and at the Assizes, the Judges on Examination of the Witnesses, shall require and receive, and give Judgment and Relief: A Record of which Judgment is to be returned and certified to the Court whence the Process issued, on which the Prisoners were taken in Execution. 3 Geo. 2. c. 27. No Person charged in Execution of a fine, shall be allowed to execute Day by Day, if the Attornies of the Court or any other Person shall be employed by a Copias ad satisfacendum: And if a Person shall be employed for the purpose of obtaining a Sufficient Sum of Money and Goods, &c. A Clause for setting mutual Debts of Plaintiff and Defendant one against the other, is made perpetual; and they may be placed in Bat, or given in Evidence, on the General Issue, though of a different Nature, except in Causes of Penalties in Bonds, &c. And in Placing shall be shown, how much is due on either Side, and Judgment given for what appears for the Plaintiff, &c. Stat. 8 Geo. 2. c. 24.

Execution for the King's Debt, or Prerogative Execution, is always preferred to any other Execution. 7 Rep. 20. And if a Defendant is taken by Copias ad satisfacendum, and before the Return thereof a Prerogative Writ issues from the Exchequer, for the Dishonour of the King, and a Day before he was taken, here he shall be held in Execution for the King's Debt, and that of the Subject. Dyer 197. Lands is bound to the Hands of the Issue in Title, when subject to the King's Exchequer, and where not, see 7 Rep. 21. See also King.

Exequation of Criminals, Must be according to the judgment of the Court, from which the Sentence was taken, or from Hangings to Besheding, because no Execution can be warranted unless it be pursuant to the judgment. 5 Iof. 21, 211. H. P. C. 372. But there are certain Causes, where the Ancient Precedent, with some ancient and modern usages, cannot be hanged for Felony, have been beheaded by Force of a special Warrant from the King. Brad. 104. Stowe. 15. And the King may pardon Part of the Execution, or he may command the Judge to go by the Sentence of the King, or to hang them, but this is not a judgment. The Court may command Execution to be done without any Writ: Though sometimes Execution is commanded by Writ. 2 Hareh. P. C. 415. Judgment belongs to the Judges: but the Execution must be done by the Sheriff, &c. And an Execution cannot be lawfully made by any but the proper Officer, who may do it by the Command of the Judge under his Seal: And if the Sheriff, or other Officer, alters the Execution, or any other executes the Offender, or if he is killed without Authority of Law, it is held by the King. Harl. Bla. 110. When any Person is in Custody of the Sheriff, that there is no Warrant for the Execution of Perons condemned, but a Calendar directing it left with the Sheriff under the Hand of the Justice, and that if he is in Custody of the Sheriff, the open Warrant, and entering the Judgment Sej_doc, is a Warrant for the Execution. 2 Hareh. P. C. 31, 409. Subsequent Justices have no Power by the Stat. 1 Ed. 6. c. 7. to award Execution of Persons condemned by former Judges; but if Judgment has not been passed on the Offenders, the other Justices may give Judgment, and award Execution, &c. 2 Hareh. 27. Execution ought to be in the same Place where the Criminal was tried and convicted; except the Record of the Attinder be removed into R. B. which may award Execution in the County where it is. 5 Iof. 31, 211, 217. Where a Person has been afterwards at large, if on the Court's demanding why Execution should not be awarded against him, he denies he is the same Person, it shall be shown by a Writ, and the Copias be proved, and then he is to be executed. 2 H. P. C. 415. If upon a Record removed, an outlawed Person confess himself to be the same Person, Execution shall be had; but if he denies, or the Copias do not appear, or if he is not, he shall be discharged; though if the Attorney General take Issue upon it, the same shall be tried.
Persons capable of making a Will, are capable of being Executors. 3 Cre. 9. And a Woman Covert may be an Executor, and do any lawful Act which the ordinary Executor may do; and she may leave her Husband thereby, by Affiniting to a Legacy before Deeds are paid, Cre. 5 Rep. 77. A Feme Covert Executors cannot be from a Traitor's, or give away the Goods the hath as Executors, without the Husband; but the Husband may do it, and yet the Goods which the Wife hath as Executors are not devised out of her, as her own Goods 825, nor if the dies, shall they go to the Husband, but to her Executors, or the next of kin, being Administratrix of her Teller. Offic. Exec. c. 17. Husband and Wife must be named in Aliens brought for Goods which the Wife is intituled to as Executors. Ibid. A Woman may be an Executor to her Husband, and the Husband Executor to his Wife; and by this Means, he may recover all the Deeds due to him before Marriage, Cre. 5 Eliz. Exec. 47, 87, 24. An Infant may be an Executor though he cannot sit till he is fourteen Years of Age and then that Time Administration during Minor estate is to be granted. 6 Rep. 67. 4 Inf. 335. If two are Executors, one whereas is under Age, he of full Age may solely prove the Will. 1 Lev. 101. A Man cannot make Executors because he hath forfeited all that he had: But a Person outlawed may make Executors so may an excommunicated Person, 1 Eom. 2 Lev. 302. 2 Cre. Eliz. 577. A Traitor, or Belier, Betrayed, begotten in Intell, or a notorious Usurer, his side, may not be Executor to another. Swinn. 322. A Papist Recruit cannot be an Executor of a Will with Executors is made, the Ordinary may find out Process against the Executors to come in and prove it; and if they do not come in, they are to be excommunicated; but if they come in, and refuse to take upon them the Execution of the Will, then the Ordinary is to commit Administration: And the Refusal must be by some Act registered in the Spiritual Office. Exec. 57. If an Executor hath administered, he cannot refuse; but the Ordinary is to compel him to take upon him the Execution of the Will, and the Ordinary is to commit Administration. Letters ad Quindecim, ad Administration. Cre. Eliz. 92. An Executor refusing the Execution, where two are appointed, may not administer after the Death of his Company, for then his Election is gone; and the Executor of the other Executor who proved the Will, may alone bring an Action for Money due to the first Teller, without joining him who refused. Dyir. 160. If there are many Executors of a Will, and one of them only proves the Will, and takes upon him the Execution, it is sufficient for all of them; but the other may join with him, and intermediate.

EX

Hadi's Lib. P. C. 302. If a Person, when statuted, hand 'mone to a Demand by which Execution shall not go against him, the ordinary, Executors, (not Fe- manate) in a Habeas Corpus: on this the Man condemned to die, comes to Life after he is judged, as the Judgment is not executed till he is dead, he ought to be hung up again. 1 John. 389. The Body of a Traitor or Felton is forfeited to the King by the Executors; and may dispose of them as he pleases. The Execution of Perons under the Age of Difference is usually repined, in order to a Pardon. Hern. 7.

Ex. Execution of Statutes. The Court of Star- Chamber erected in the Reign of King Hen. 7. was held to the Execution of Statutes. Stat. 3 H. 7. c. 1. Execution of Statutes. Is a Writ commanding an Execution of a Judgment, and directly used. Reg. Orig. 49. Execution of Statutes is in 2 Scullenrood, A Writ that lies for taking his Cattle, which hath conveyed the Cattle of another out of the County, so that the Sheriff cannot serve the Writ. Reg. Orig. 82.

Execution Justified. Is a Writ directed to the Judge of an Inferior Court to do Execution upon a Judgment therein, or to return some reasonable Cause wherein the Executive in the event shall not be returned. If Execution be not done on the first Writ, an Alias shall issue, and a Pharaoh with this Claus, out Cautibis adds habeas quare. 53. If upon this Writ Execution be not done, some reasonable Cause returned why it is delayed, the Party shall have an Attach- tachment against him who ought to have done the Execution returnable in B. R. or C. R. New Nat. Br. 47. If the Judgment be in a Court of Record, this Writ shall be directed to the Justices of the Court where the Judgment was given, and not unto the Officers of the Court for if the Officer will not execute the Writ directed him, nor return as he ought, the Judges of the Court may arrest him. Ibid. One may have a Writ de Executione Judicii out of the Chancellor to execute a Judgment in an Inferior Court, although a Writ of Error be brought to remove the Record, and reverse the Judgment; if he that brings the Writ of Error do not take Care to have the Record transmitted, and the Writ of Error returned up in due Time. 1 Lill. Abr. 562.

Executrix. (Lat.) Is one that is appointed by a Male Executor to have the Test knet in the Testament, to have the Execution thereof after his Decease, and the Disposing of all the Teller's Substance according to the Tenor of the Will: He is as much a Horat deputatus or Testamentor in the Civil Law, as to Debt, Goods and Chattels of his Teller. Term. de Leg. 3 s. 322. An Executor may be appointed either by express Words, or Words that amount to a direct Appointment; as if the Teller declare by his Will, that a certain Person shall have his Goods to pay Debts and otherwise dispose of. 53. And Executors may be made upon Condition for a fixed Time; or some Part of the Estate. Wood's Abr. 320. A Man that can make an Executor, may either make one, two, three, or more his Executors; and he may appoint one Peron his Executor for one Year, and another Man for another Year, 53. If he make a Will, and appoint an Executor for seven Years; after that the Ordinary may grant Administration of the Goods; so till the Power of Executors taken Place: And where one makes an Executor as to Part of his Estate, he shall die Inter nate as to the Residue. 4 Shep. Abr. 60, 67, 68. If there is no Executor, there is properly no Will is there: and where the Will can be no Executor: But this is understood of Goods; for where Lands in Fee are devised, this is good, though not an Executor; and one can prove nothing to do with Land, which is not Testamentary but Act of Parliament. Offic. Exec. 3, 4. Finch 167. All
EX

EX

for to the first Teller, there requiring no new Proba-

bation. An Exequatur of an Executor may be

Executor to the first Teller; but he may take up

him the Exequatur of his own Teller, and refuse

to interfere with the Exequatur of the other:

And 1st. If the Executor refuse, or dies before Pro-

bate, his Executor shall not administer to the first

Teller; Nor can an Executor of an Administrator take

Administration of the Goods of his Interests. Dyre

372. A Teller having thence at the Exequatur ap-

pointed a proper Person to be intrusted with his Af-

fairs, the Ordinary cannot adjudge him disabled or

incapable, but a Messenger to assist from R. R., for

the Ordinary to grant Probate of the Will, and admit

the Executor, if he refuse him: Neither can the

Ordinary infallibly upon Security from the Executor, as

the Teller hath thought him able and qualified. 1 Salih

290. And although an Executor becomes bankrupt

yet 'tis said the Ordinary cannot grant Administration

to another: But if an Executor become not Compe,

the Teller hath discretion to admit Administration for

this natural Disability. 3 Salih. 307. If an Executor

takes the Goods of the Teller's, and convert them to his

own Use, or if he either receive, or pay Debts of the

Teller, or give Bond for Payments, make Acquisi-

tions for them, or demand the Teller's Debts as

Executor, or give away the Goods of the Teller, or

accept an Administration, so that he cannot afterwards

refuse the Exequatur; And it has been said, that if the

wife of the Teller take more Apparel than is necessary, its

an Administration. Cref. Ext. 39. All Goods and Challes which

belonged to the Teller at the time of his Death, in any Part

of the World, come to the Executor as Agents, and make

them chargeable to Creditors and Legates; and Debts

settled by the Executor, by Adj. Ext. 392. after the Death of the Teller,

are to be accounted as Agents, but not before recovered. 6 Rep. 47. 1

Adj. Ext. 74. If a Debtor shall never be charged, provided he hath

used his utmost Endeavours to recover it, and cannot

do it at 1 Rep. 98. And where an Exequatur is con-

ferred at the Spiritual Court by another Executor who

lets up another Will; An injunction may be

granted to the Teller's Debtors not to pay any Mo-

ney till the Title to the Exequatur is settled. Queer

Rep. 32. After the Chattels real and personal of the Teller

coming to the Executor, are Leases for Years, Rent
due, Corn growing and cut, Grains cut and curfewed,

Gr. Castle, Money, Place, Household Goods, Gr.

Cref. Ext. 428. All Goods and Chattels which belong to

the Executor, by Adj. Ext. 320. after the Death of the Teller,

are to be accounted as Agents, but not before recovered. 6 Rep. 47. 1

Adj. Ext. 74. If a Debtor shall never be charged, provided he hath

used his utmost Endeavours to recover it, and cannot

do it at 1 Rep. 98. And where an Exequatur is con-

ferred at the Spiritual Court by another Executor who

lets up another Will; An injunction may be

granted to the Teller's Debtors not to pay any Mo-

ney till the Title to the Exequatur is settled. Queer

Rep. 32. After the Chattels real and personal of the Teller

coming to the Executor, are Leases for Years, Rent
due, Corn growing and cut, Grains cut and curfewed,

Gr. Castle, Money, Place, Household Goods, Gr.

Cref. Ext. 428. All Goods and Chattels which belong to

the Executor, by Adj. Ext. 320. after the Death of the Teller,

are to be accounted as Agents, but not before recovered. 6 Rep. 47. 1

Adj. Ext. 74. If a Debtor shall never be charged, provided he hath

used his utmost Endeavours to recover it, and cannot

do it at 1 Rep. 98. And where an Exequatur is con-

ferred at the Spiritual Court by another Executor who

lets up another Will; An injunction may be

granted to the Teller's Debtors not to pay any Mo-

ney till the Title to the Exequatur is settled. Queer

Rep. 32. After the Chattels real and personal of the Teller

coming to the Executor, are Leases for Years, Rent
due, Corn growing and cut, Grains cut and curfewed,

Gr. Castle, Money, Place, Household Goods, Gr.

Cref. Ext. 428. All Goods and Chattels which belong to

the Executor, by Adj. Ext. 320. after the Death of the Teller,

are to be accounted as Agents, but not before recovered. 6 Rep. 47. 1

Adj. Ext. 74. If a Debtor shall never be charged, provided he hath

used his utmost Endeavours to recover it, and cannot

do it at 1 Rep. 98. And where an Exequatur is con-

ferred at the Spiritual Court by another Executor who

lets up another Will; An injunction may be

granted to the Teller's Debtors not to pay any Mo-

ney till the Title to the Exequatur is settled. Queer

Rep. 32. After the Chattels real and personal of the Teller

coming to the Executor, are Leases for Years, Rent
due, Corn growing and cut, Grains cut and curfewed,

Gr. Castle, Money, Place, Household Goods, Gr.
though he be not named. 

Drum. 14. Action lies against an Executor upon a collateral Promiss made and broke by the Testator. C. Fos. 668. The Testator's Assigns, against his Executors, as well to proceed for the debt against them themselves, as to hold and maintain the beneficiaries or others in possession, to recover money due thereon. Nor, which is not a debt, binds Executors: And A. brings Affirmative against the Executors of B. on a Promiss of the Testator to pay a certain Sum of Money, which neither he nor his Executors hath paid or restored by all the Judges, that the Action here lies well too. T. Cool: 950. 358. Affirmative his upon a Promise, on which an oblige is made by the same upon a Promiss, where the Testator had a valuable Consideration. P. 329. Though a Debt upon a simple Contrepart of the Testator, cannot be recovered of the Executor by Action of Debt; yet it may be by Affirmative. 1 Lev. 200. Where the Testator might have warded his Law, his Executors shall not be charged, 8 Rep. 87. If two Persons are bound jointly, and one of them dies, the Survivor shall be charged, and not the other's Executor. 1 P. 15 Car. 2. Allto when there are two Executors, if one of them dies, Debt is to be brought against the surviving Executor, and not the Executor deceased. But to Equity, the 's Executors are liable in whole for his Hand's there they are; 1 Lev. 504. 's Executor for Debt without his Speciality, have been allowed to be brought against Executors, without a Virement that they are Afficts; and no Difference has been made where the Party seeks for Restitution, or any other benefit: a Judgment given against him at Law. 2 Lev. 566. 's Action shall not be in tenor, until the Executors agree the Wont of them in Cause. 9 Rep. 909, 912: If an Oblige makes the obligation, the Nature of the Debt, but it shall be Affict in his Hand's, there he is not to be paid, nor is the other to be paid. 8 Rep. 105. But a Person who owed the Testator made Executors by the Oblige, by Administering some of the Goods, he hath accepted the Executors, and 's that which makes the Refuse; because by being Executor he is the Person who is to receive the Money due on the Bond, and he is likewise the Person to pay it, and the Rule is, that where the Hand is to receive and pay, that amounts to an Extinguishment. The Executors created, and that a personal Action being supersedes the Act of the Party himself, is quite extinguished: This was in a Case where the Testator devised all his Goods to the Wife of the Oblige, and made her his Executor. 1 Lev. 522. *Matt. 125. If an Oblige is made Executor by the Oblige, the Debt is not relaid, but the Oblige may still lose for the Debt, unless he administer, when he fees he must sue himself, which cannot be, and in this Case he may retain the Goods of the Oblige, T. 1 Lev. 255. Satisfaction of his Debt. 1 Lev. 717. 2 Ill. Abr. 785. And if there be no Afficts, the Oblige Executors may be for the Heir of the Oblige, Executors in Action of Debt upon his Bond. 1 Lev. 504. 1 Lill. Abr. 177. If an Executor releases all Assertions, Suits, and Demand upon his Bond, may he release his own Rights; for as he hath been Executor. She. 113. And where an Executor grants Omnium bona sana, though some of Opinion that the Goods which he hath an Execution on will do, yet there has been the contrary. 1 Nov. 106. 4 Lev. 70. An Executor shall be charged with Rent in the Devises, if he hath Afficts; and if he distributes the Possession, he shall be charged in the Devises and Devisee; in Respect of the Perpetuation of the Rent, whether he be a heir, Affict, or not. 1 Lev. 177. But an Executor is not liable in the Devises and Devisee for Part, and in the Devises for the other Parts because they require several Judgments, 912. Dit. 2 Lev. 106. his Tenth for the Distress. 3 Lev. 747. If an Executor has a Term, and the Rent referred is more than the Value of the Premises, but union brought against him it is the Devises and Devisee, he may plead the special Matter, 912. That he hath no Afficts, and that the Land is of less Value than the Rent, and demand judgment if he ought not to be charged in the Devises auctum: And he cannot waive the Lease without removing the whole Executionship. 1 Salt. 257. It hath been held, that if an Executor alters the Property of Things in the Testator to himself, by paying a Debt to the Value: or by paying the Rent of a Lease, and receiving the Profits, or Parts of the Profits equal to the Rent, the Things and Profits received are his own, 172, 177; 2 Lev. 917. Where a Man by Witt devises that his Land shall be held for Payment of Debts, his Executor shall sell the Land, to whom it is being paid, and pay the Debts. 2 Lev. 276. If and Lands are devised to Executors to be sold for Payment of the Testator's Debt, those Executors that act in the Executorship, of this will not, may it do without the consent of the Testator. 1 Salt. 257. By Statute 11 H. 8. c. 4. Bargains and Sales of Lands, 's devised to be sold by Executors, shall be as good, if made by each of the Executors only as take upon them the Execution of the Will, and if all the Executors had joined in the Sale; if Lands are thus devised to pay Debt, a surviving Executor may sell them to; But if, that the Executors shall sell the Land, and not of the Land to them so be sold, here being only an Authority, not an Interest, if one dies, the other cannot sell. 1 Lev. 203. White Lands are devised to be sold for paying Debts, Goods in the Hands of an Executor shall not be liable; though in Case of an Administrator it is otherwise. Ibid. Each Executor hath the Whole of the Testator's Goods and Furniture, and any may sell to affix the Whole; But out of them cannot affix or refuse his Interest to the other, if he doth it will be void. If one Executor grants his Part of the Testator's Goods, all parties left in left the other's; each having the Whole, and there are no Parts or Moieties between Executors; Yet one Executor may devise or grant a Moity of the Land, for the whole Term, and so may the other; and this Way they may settle in Friends tried them for a Moity for each. Opi. Execut. e. 9. One Executor cannot regularly for another at Law; but he may have Relief in Equity: In the Eye of the Law all are but as one Executor; and must Affs done by or to any of them, are esteemed Affs done by or to all of them. 1 Roll. Abr. 518. If where one Executor is sued, he pleads that there is another Executor, he ought to show that he hath administered. 1 Lev. 161. And he only that administris is to be sued in Actions against Executors; but Actions brought by Executors are to be in the Name of all of them, though some do not take upon them the Executorship. 1 Roll. 944. There are two Executors, and one does not administer; a Wring of Debt lies against him alone who administered: For he that does not meddle with the Estate of the Testator, shall not be charged to his Damages: though in suit for Actions against Executors, he may administer to advance the Executors Benefit. T. Gent. 106, 107. An Executor is not disabled by Outlawry, to sue for the Debts of the Executors. Special Bail is not required of Executors, etc., in any Actions brought against a Tenth of the Tenth for the Executors' Debt: And Executors of Administrators.
frators are not liable to Cols. Stat. 24. H. 8. If an
Executor brings a Writ of Error, though the A
Judgment is affirm'd, he shall not pay any Cols;
because as he is Executor, it is in onerous Duty: Also
an Executor shall not put in Ball on a Writ of Error,
Costs for which, 1 Cro. M. 5, § 2. Executors are excused
from paying Cols, as being presumed to have no
Knowledge of the Affairs of the Teltator; and there
fore they shall pay Cols for not going on to Trial, or
with the Cause of Action arises to the Executor him-
sclf, C. r. Sall. 207. 3 Sall. 106. No Action
shall charge an Executor to answer Damages out of
his own Estate, upon any Promiss to another, unless
there be some Writing thereof signed by the Party to
be charged therewith. 29 Car. 2. c. 5. On any
Judgment after Verdict, had by or in the Name of an
Executor or Administrator: an Administrator de bonis
non may for such a Sort of Cases, and take Execution
upon such Judgment. Stat. 30 Car. 2. Before this
Statute it was not so; where an Executor, C. r. died,
Want of Privity, the Administrator was to begin a
gain. 2 Nels. 478. If an Executor makes him-
self a Stranger to the Will of the Teltator, orpleads
No succum Executor, or any false Plea, and it is found
in other Cafes, de bonis Teltatris. C. Joc. 447. If
on a Soc. fact. against an Executor, the Sheriff return
a Non est factum; the Plaintiff shall haveJudgments and
Execution de bonis propriis of the Defendant: And if
Novis bona be remittu, he may have either a Cognis
Satisfactions, or an Elect. 2 Nels. 271. Dyer 185.
Both one Executor shall not be charged with a Debt
questioned made by his Companion; for the Aft of one
shall charge the other no further than the Goods of
the Teltor in his Hands amount to. Cro. Elia.
3. 34. If on the Trial of a Writ of Error, or any other in
the Estate of the Deceased, or doth any Thing by
Negligence or Fraud, C. r. it is a Draugofruit, and he
be charged for the Goods and Chattels of the Deceased;
or the old one may remain chargeable to Creditors, C. r. 356.

The Duty and Office of an Executor is to bury the Teltator in a decent Manner, according to his Rank and Quality, and with a due Regard to the Estate left by the Testator: Provided that in every Estate, the Executor lays out extravagantly in Funeral Charges, if there be not enough to pay Debts, he must bear it at his own Expense. Wood's Inf. 357. But all reason-
able and necessary Funeral Charges must be al-
low'd before Debts and Legacies. 1 Roll. 327. The Executor is to make an Inventory of all the Goods and Chattels of the Deceased, with their Va-
lue; and of all Debts due to the Teltator; and this
Inventory ought to be made and apprais'd in the Presence of the Executor, by two or more of the
Creditors, or two next of Kin to the Teltator; or in
their Default, by two or more of the Neigh-
bours or Friends of the Deceased: And then the Ex-
ecutor must deliver the same upon Oath to the Ordi-
nary. Dall. & Stud. c. 10. 21 H. 6. c. 5. Until
the Inventory of the Teltator's Goods is made and
brought into the Office of the Ordinary, it shall be
presumed that the Executor hath Afford to pay all the
Debts of the Teltor: The Inventory draws the
Charge of the Executor, and his Account must be his
Discharge, for so much as he can prove to be paid on
his Payments for Funeral Charges, in making the
Inventory, Probate of the Will: Debts and Lega-
cies: This Account will discharge him of all
Suits in the Spiritual Court; but will not discharge
him from any Liabilities for the Common Law, for those
Particulars must be again proved. Wood 328. An
Executor is to pa's his Account before the Ordinary,
for the Goods and Chattels of the Teltor, but the
Ordinary may not call Executor to answer ex Office.
In Rep. 39. By Statute, the Executor Administrant
shall be cited into any Ecclesiastical Court to ren-
der an Account, otherwise than by Inventory, un-
less at the Instance of a Creditor, C. r. 1 fac. 1.
It has been once said, that where there is an
Account; and the Ordinary must take the Execu-
tor's Account, when he is summoned by any Credi-
tor, and cannot hold Plea of it, he must make
an Action for the Amount, and the Court shall
then render an Account, and the Ordinary is empowered by such an Action to render the
Account, or to take an Action for the Amount, and
therefore is not bound to be summoned by any
Ordinance, except the Statute, as it is supposed, which only gives the Creditors a Right of
Action for the Amount, and is not intended to
bind the Ordinary to render an Account, without
It is said the Statute has no such Intendment; but
is intended to give the Creditors a Right of
Action for Execution of the Account, as well as of the
Amount, and the Statute is not intended to
bind the Ordinary to render an Account, except
by an Action for the Amount.}

Digitized by Google
EX

EX

of Deeds is actually commenced against him upon one of those causes; and such cases, if pending an Action,
another Bond-Holder brings another Action against
him, before Judgment obtained by either of them,
he may prefer which he will by confiding a Judgment
thereunto, which judgment he may plead in Bar to the
cother Action. Vaug. 89. An Action was brought against an Executor, and
pending that Action, he procured another to come
 amongst the creditors of the Testator, and the other had Judgment first,
which was allowed a good Plea to the first Action;
and the Executor's Consent to pay one Creditor be
not being satisfied, he filed an Action against the
Debt by the Executor, the Creditor and the other had Judgment first,
but on considering the Circumstances of the Creditors,
&c. Sid. 21. Executors sometimes confine Judgment
previously, &c. so, the first Person for his Debt, for they are not
bound to Hand Suit; and plead dilatory Pleas to a
Strange's Debt, that the Friend may be first paid
upon the Execution; and Executors may give Prece
dence there upon, before Execution, &c. Judgment
for 100. is suffered, and the Plaintiff com
found for 60. the Judgment for the whole Sum
shall not be allowed to keep off other Creditors. 8
Rev. 121. In Action of Debt against an Executor, he
may plead a Judgment obtained against him by an
other, unless he be had not Assent, which Judgment is
in Forme; though Judgments are not to be kept en
Forme in such Actions. So, if an Executor
grieved by several Creditors, pleads Plea Admini
stravit to all at the same Time; and that he hath no
Assent of the Testator to pay them once, he will make him
false to all the Actions; He should plead specifi
cally to one Creditor, whoso affair he hath; or
him, and plead fully administrated. 1 Lib. 186.
57. In Case of a complaint against an Executor that
he cannot plead fully administrated, but must plead specially
that no Goods of the Testator came to his Hands,
whereby he might discharge the Debt; for he may
have only administrated, he may be had to be in the
Debtor, where Goods of the Testament afterwards come to his
Hands. 1 Lib. 568. C. 3 Eliz. 175. In Silver
forks against Executors, he has Judgment against their
Testator, they pleaded Plea Administravit, by pay
ing Debts upon Bonds antie Notulias; It was adjudged
No Plea, far at their Plead they ought to take Notice
of Actions upon Record, and by their Bond, and though the
Recovery be in another County than that where
the Testator lived; But where an Action is brought against Executors in another County than where they
lived, they know not thereof, pay Debts upon
specificity, it is good. 2 Lib. 270. In pleading
Debt by Bond against Executors, the Plaintiff should
allege none other Goods left but that there is no Debt
upon Judgment, Demurrer. 3 Eliz. 218. If a
Surety pay the Debt of his Principe, who is dead, then
the said Exeutor is not liable at Law to repay him,
without a Premise, but he is liable in Equity. Vaug.
89. & Rich. 56. A Bill may be exhibited in the
Chancery against an Executor, to disovey the
Testator's Personal Estate; and thereupon he shall be de
revered to pay Debts and Legacies. 1 Co. Cas. 278.
If a Person being Executor, and his Testator greatly
indebted, be dicatory to pay the Affairs as far as
they will go, and that his Payments may not be afterwards
quashed, he may bring a Bill in Equity against all the
Testator's Creditors, in order that they may, if
they will, each other the Debts, and dispose who ought to be prefered Payment.
Pratt. 739. Where there are only equitable Affairs, they must
be equally paid among all the Creditors; for a Debt by
Judgment, and a Creditor in Conference equal.
2 Lib. 568. The will held, that on Bonds and
other Debts, shall be paid equally, by Executors,
where a Person has derived Lands to them, to be sold,
for the Payment of his Debts. 1 Pet. Will. 450.
EX

EX

effected as to that Rebus to die Intestate; and therefore the Estate granted passed to the

Recipient. 1 Litt. Ab. 579. Wood's Int. 575. 4 Ann. in B. R. A Tellator made one Executor who was no Relation to him, and gave him 20l. And the next of Kin, exhaused a Bill in Chancery for the Repudiation of the Estate; and it was determined that the Executor should not have the Rebus, but the next of Kin to the Tellator; But if the Executor had been nearly related to the Tellator, it might otherwise; though in such Case if there were other Relations, in equal Degree, poor and indigent, Equity would give the Rebus Anna, from the Sons. 45 Litt. 82. If there be an express Legacy given to an Executor, and no Devise of the surplus Estate, that shall generally go to the next Kindred according to the Statute of Dis-

tributions. And where two Persons were appointed Executors, having Legacies given them; it was de-
creed in Equity, that the Executors should be only Trustees as to the Rebus of the Estate, after the Le-

gacies paid, which should remain to the Tellator's next of Kin, &c. 2 Vern. Rep. 677, 561. In a Case of the like Nature, the Success of the Tellator's per-

sonal Estate, had been adjudged to be in Trust for his Children, though they had particular Legacies.

1 Vern. 473. Abr. Cas. Ep. 244. Also a Man by his Will gave Legacies to Relations, near to the Va-

lue of his Estate, and made a certain Perfon Executor, to whom he gave a small Legacy, and defied him to take upon him the Trouble of the Executorship; after the making of which Will, the Tellator lived ten Years, and acquired a considerable additional Estate; and then died; on a Bill brought by his Relations, against the Executor, to have an Account of the Per-

sonal Estate, and the Surplus distributed among them, the Court ordered the new acquired Estate was decreed to go to the Legates, in Proportion of each one's Le-

gacy. Preced. Case. 12. It is Surplusage of an Estate, when none of the Legates, and of the Portions paid, hath been ordered by the Court of Chancery to go to the Heir. Chanc. Rep. 180. Ow-

ners of a Will have nothing to do with the Execut-

ors, nor with the Administration, but only to give Counsel and Advice to the Executors; and if they will not do their Duty, to complain of them to the Spiritual Court, &c.

EXECUTORS be for 1674, or Executor of his own Wrong, if he takes upon him the Office of an Executor by Inheritance, not so constituted by the Tellator or for Want thereof, appointed by the Or-

dinances, or otherwise. Dyer 165. But if the Executor of his own Wrong takes upon himself the Office of an Executor without any lawful Authority, he is charge-

able to the rightful Executor, and to all the Creditors of the Tellator, and likewise to the Legates, so far as the Goods amount unto which he wrongfully pos-
sessed: And such an Executor is made by any Act of Ac-

quisition, Transferring or Possessing himself of any of the Estate or the Debts of the Decedent; but not by Acts of Necessity, Piety or Charity. 2 Nelf. Ab. 733. Where a Person gets the Goods of the Intestate into his Hands, he is chargeable for them as Executor de jure tertii, until he gives Satisfaction for them to the true Administrator; or satisfies the true Debts of the Intestate to the Value. Cro. Eliz. 88. And such a one cannot retain for his own Use, against another Creditor. 5 Rep. 31. For if an Executor of his own Wrong, to whom 20l. is owing, doth feice Goods to that Value, intending to pay himself, it shall be Af-

fers in his Hands to make him chargeable to any Cred-

itor or Legatee. 5 Rep. 31. And by Statute, Per-

sons obtaining any Goods or Debts of an Intestate by Fraud, or procuring Administration to be granted to them, are chargeable in their own Wrong, to the Value of the Goods or Debts, &c. And Executors and Administrators of Executors in their own Wrong. shall be liable to pay the Debts of the Tellator, in like Manner as their Tellator or Intestate, in their Wills. 13 Eliz. c. 7. If a Man who is neither Executor nor Administrator, acts as Executor, as when he takes into his Hands the Goods of the Decedent for his own Use, or alters the Property by Sale, &c. the Right of Rights of the De-

cedent to Creditors or Legates, receives any Debt due to the Intestate, &c. he is Executor in his own Wrong, and shall answer as far as he acts. 5 Ann. 5. 15. 8 Rep. 135. 9 Rep. 79. Though every Taking of the Goods of the Decedent, is not enough to make one chargeable as if a Person take away his own Goods in the House of the Decedent, or take some of the Decedent's Goods in the necessary Occasions of his Family, bury the Decedent, and fell some of the Goods for that Purposal; or if he take them by the Delivery of another, &c. Dyer 166, 167. Noy's Manu.

102. When there is a rightful Executor, and a Stran-
ger possesses himself of the Tellator's Goods, with-

out doing anything further Act as Executor, he is not an Executor de jure tertii: But where there is neither Executor or Administrator, it is otherwise; for there the Creditors have no Person against whom they may bring any Action but the Man who has possed himself of the Goods. Dyer 105. Roll. Abr. 918. If there is a lawful Executor that hath proved the Will, or a legal Administration granted, before a Stranger inter-

ested himself, and takes the Estate, he is not an Executor of his own Wrong; but is a Trespasser against the Executor, &c. who is to have his Remedy against the Stranger, and the Creditors may have their Remedy against the lawful Executor. 5 Ann. 252. An Executor of his Wrong, may be fixed as Executor; and he shall be fixed for Legates, as well as a right-
ful Executor. Dyer 165. The Executor or Administrator must not maintain any Suit or Action because he cannot produce any Will to justify it: And he will be severly punished for a false Pia, for in such Case the Legate has no Suit but to prove it, and who is capable of being meddled with a Thing of such small Val-

ue. Noy's. Debt was brought against an Execu-

tor of his own Wrong, who pleaded that he never was Executor, nor administered as such; it was held, not to be material whether he had Affairs or no, but to prove that he had administered anything was enough; for this would make him chargeable with the Debt: But if he had Affairs, he might have been liable for no more than the Value of the Goods of the Decedent. Style 120. If a Plaintiff al-

leges that the Defendent is Executor de jure tertii, and the Defendant denies it, it is a Confussion of it to be true; and then the Action may be brought against the Defendant as Executor de jure tertii. 5 Med. 156. 1 Salk. 298. An Executor of his own Wrong poesses himself of Goods, and afterwards Admin-

istration is granted him, he may by Virtue thereof re-

tain Goods for his own Debt 5 Rep. 50. And where a Man took Possession of an Intestate's Goods wrongfully, and told them to another, and then took out Administration, it was adjudged that the Sale was good by Relation. Mor. 120. But where an Executor de jure tertii delivered Goods to one to whom Administration was afterwards granted, it was held that if the Administration had been granted to him-

self, it would not have passed the Torts, much less the Goods to another; for he having once made himself liable to an Action as Executor de jure tertii, he shall never after discharge himself by Matter ex post jut. Dyer 120. 40. 32. An Executor of his own Wrong is liable as Executors in their own Wrong. Noy's. An Estate in Fee created by a Deed or Fine, is to be afterwards executed by Entry, Livery, Writ, &c. And Lease for Years, Rents,
Perfon, during the Refidue of the Tenor, fuch a Re-
mainder was adjudged void: For a Devife of a Char-
ter to one for an Iniue, was an Adverfity of it to whom conveyed, withouit any other Act. 2 Inst. 413.3

Exemptifl Biflite. It faid to be where a fu-
turer was better, than to be fubject to the Death of the
Tealor, but defpends on fome Contingency
which must happen before it can veif. If a parti-
cular Elaft is limited, and the Inheritance pulls out of
the Devife, this is a contingent Remainder. Where the
Devife by a Devife is vested in any Perfon,
and to be veifd in another upon Contingency, this
is an Exfrefl Devife. And in all Cales of Exfrefl
Devife, the Elaft defpends upon the Contingent
ciit. Royam. 28. 1 Lam. 708. Where a con-
tingent Elaft limited, defpends upon a Prefothold, which is capable of supporting a Remainder, it fhall
never be confidered an Exfrefl Devife, but a Re-
mainder. And fo it is, if the Elaft be limited by
Words in prefenct, as when a Perfon devifcs his Lands
to the $ in the Ilfe of his wife is thus in Elaft, that
though if the fame were to the Hearis, of A. after his Death,
it would be as good as an Exfrefl Devife, 3 Saund.
46. 4 Nat. 353. One by Will devifcs Land to his Mother for Life, and after her Death, to his Bro-
ther in Fei; provided, that if his Wife, being then
enfrat, be delivered of a Son, then the Lands to re-
main to him in Fee, and the Son is born ; in this Cae, the Fee of the Brother fhou’d cease, and veif in the Son, by Way of Ex-
ftrefl Devife, on the happening of the Contingency;
and here fuch Exfe Elaft cannot be a new original
Devife to take Eff. when the fmall eff. 127. 53.
Cas. Sir. 592. A Remainder of a Fee may not be limited by the Rules of Law after a Fee fim-
ple is made upon a Contingency, or is condi-
tionally limited; efpecially where fuch a Contingency
may happen in the Court of a few Years, or of one or
two Lives, and where fuch a Remainder is limited
by Will, it will call fall an Exfrefl Devife, Nell.
Abey. 797. An Elaft devifed to a Son and his Heirs,
upon Condition that if he did not pay the Legacies gu-
vev by the Devife in a Time, that the Land fhould remain to the Legaters, &. their Heirs: This Limitation of a Fee in Remainder, after a Fee limited to the Son, being upon the Contingency of
the Son’s Failure in Payment of the Legacies, was ad-
judged good by Way of Exfrefl Devife, Co. El. 833.
And where the Father devifed his Lands to his younget
Son and his Heirs, and if he died without Ilife, the
eldef Son being alive, then to him and his Heirs this
was held a good Remainder in Fee to the eldefBrother,
after the conditional Contingent Elaft in Fee to the
younger, as depending upon the Poffibility that he
might be alive when his younger Brother died with-
oit Ilife; and his Dying without Ilife, was a collat-
ral Determination of his Elaft, whifh the other was
living. God. 283. 2 Nell. 978. There can be
no Exfrefl Devife after an Elaft tail generally
limited, because that would tend to a Perpetuity; 
and a Contingency is too remote where a Man must ex-
pact a Fee upon another’s Dying without Ilife, ge-
neral: But dying without Ilife, living another,
may happen in a little Time, because it depends up-
on one Life; and therefore a Devife of a Fee-simple
to one for an Elaft after the Death of the
Contingency, is now held good by Exfrefl Devife. 2 Cas.
605. Sometimes crofs Remainders in Tail by Imple-
ciation, are adjudged good by Exfrefl Devife. 2 Port.
Whereby a Tenor of a Term, which is but a
Channel, was devifed to one, and that if he died,
being another Perfon, it fhould remain to the other

Annuities, Conditions, &c. are called Inheritance
s. Exe·cutory. Wood’s Inf. 231. Elafts execu
ted are when they pass gue to one for an Iniue, for whom conveyed,
without any other Act. 2 Inst. 413.
EX

ers Patent: And a Wit of Exemption or of Exile, to be quit of serving on Juries, and all publick Service.
Step. Epigr. 1049.

Eradicatus, was anciently used for a Heriot; being paid only in Armes and military Accoutrements: Exercitatio Fossilis et Fossae Regii, qui est praxius

Ertr. By Letters Patent under the Great Seal, the Size of the Calle of Exon (Part of the Dutch of Countree) to be granted to some Persons appointed by the Justices in Quarter-Session for the Countie of Dor
som, for the Term of 99 Years, to the Use of the said Countie and for other publickUses under the ancient yearly Rent of 10l. per Annum, payable to the Crown.
Stat. 6 Ann. c. 19.

Extrait. From the Sax. Fredo, Fribo, Peace, and Prisio. To break the Peace, or commit open Violence.
Leg. H. 1. c. 31.

Egrabi Mactra, Is a Wit that lies for him to whom any Lands or Tenements in Fee are de
vided by Will, (within any City, Town or Borough, wherein Lands are devisible by Custom) and the Heir of the Devisee enters, and detains them from him. Reg.Orig. 244. Old Nat. Br. 87. And if a Man devises such Lands or Tenements unto another in Tail, with Remainder over in Fee, if the Tenant in Tail enter, and is failed by Force of the Ingal, and afterwards die without Issue; he in the Re
mainder shall have the Wit Ex gravi Querela to ex
ecute that Devise. New Nat. Br. 441. Also where Tenant in Tail dies without Issue of his Body, the Heir of the Donor, or he who hath the Reversion of the Land, shall have this Wit in the Nature of a For
mation in the Reverterer. Ibid. If a Devisee’s Heir be oulted by the Devisee, by Entry on the Lands; he must have his Wit, but is to have it by orderly the ordinary Course of the Common Law.
Ca. Lit. 111.

Exemptions or Exemnium, A Gift or Preferent, and more properly a New Year’s Gift. — In Expri
porto Dominii Regis & Exemnium fidem factit apud. Sc. eam lo
colon.—Ex Composit. Dom. de Farend. MS.

Exemnium, (Exemption) A Word mentioned in the Statute 14 Car. 2. cap. 14. And where a Deed, or other Writing is in a Suit in Chancery exhibited to be proved by Writuses, and the Examiner or Commissary
Appointed, certify on the Back of it, that the Deed or Writing was sworn to the Writuses, to prove it at the time of his Examination, and by him sworn to; this is called an Exemption in Law Proceedings.
Exhibitio, An Allowance for Meat and Drink, such as was customary among the religious Appropria
tions of Churchmen, who usually made it to the depend
ing Visitors and the Benefactions settled for the main
taining of Scholars in the Universities, not depending on the Foundation, are called Exhibition. Paroch.
Annot. 304.

Exgendaria of the Common Pleas, (Exgendar
ii de Romo Common) Are otherwise called Exigent
ers, by Stat. 10 H. 6 c. 4.

Exgratia, (Exgratia) Is a Wit that lies where the Defendant in an Action personal cannot be found, nor any Thing of his, within the County, whereby to be attached or distrained; and is directed to the Sheriff, to proclaim and call him five County-Court Days, one after another, charging him to appear upon Pain of Outlawry: It is called Exgratia, be
cause it exatth the Party, i.e. requires his Appearance and Appearance; and the Summons being sent for the Law; and if he come not at the last Day’s Proclamation, he is said to be Quinquages Expectat, and is outlawed. Cramp. Justiz. 186. The Statutes requiring Proclamations on the 14th, 15th and 16th Days, were in civil Actions, and in 36 H. 8. c. 4. and 31 Eliz. cap. 3. Exgress are to be award
d against Receivers of the King’s Money, who de
mand the same; and against the Conspirators, Racketers,

Sr. Stat. 18 Ed. 3. c. 1. And a Wit of Proclama
tion shall be illud to the Sheriff to make these Proclamations in the Country where the Defendant dwells, for him to yield himself, &c. by the Stat.
31 Eliz. The Wit of Exgratia also lies in an Indict
ment of Felony, where the Sheriff cannot be found: And upon suing out an Exgratia for a criminal Matter before Conviction, there shall be a Wit of Proclamation, Sr. 5 Inf. 31. 4 C. 5 W. Com

G

EX

GEORGE the Second, &c. To the Sheriff of L.
Gresig: We command you, that you cause C. D.
late of, &c. to be excited and called in your Haulings,
ward according to the Law and Custom of this Part of
our Kingdom of Great Britain called England, he shall
be outlawed, if he doth not appear; and if he appear
not, then that you take him, and cause him to be safely kept,
c. 23. If a Person indicted of Felony absents so long
that the Wit of Exgratia is awarded, his Drawing
will be deemed a Flight in Law, whereby he will be li
able to forfeit his Goods; and though he be not de
barrass himself upon the Exgratia, after such Drawing
and is found Not guilty, 'tis said the Forfeiture shall stand.
Rip. Inf. 150. 3 Stat. 32. After a Ca

cus directed to the Sheriff to take and imprison a Felon, &c. if he cannot be taken, an Exgratia is a
warded: And after a Judgment in a civil Action, the
Exgratia is to go forth after the first Copy, but be
fore Judgment, there must be a Citation, or a Summons, as
Phiris. 4 Inf. 177. If the Defendant be in Prison, or
by beyond Sea, &c. he or his Executors may receive
the Award of the Exgratia. See Outlawry.

Form of a Wit of Exgratia.

EXGRATIA. (Exgratia) Is an Officer of the Court of Common Pleas of which Officers there are a
four in Number: They make all Exgratias and Pro
clamations, in Actions where Process of Outlawry doth lie; and also Wits of Superfancis, as well as the
Exgrataiores, upon such Exgratias made out in their
Offices. 18 Hen. 6. c. 9. But the issuing Wits of
Superfancis is taken from them by an Officer in the
same Court, confirmato by Letters Patent by King
James the First.

Erlit, A Bankruptcy or driving out of a Perfon.
Lit. Dist. And this Exile is either by Refrain, when the Government forbids a man, and makes it
pension to return; or 'tis voluntary, where he leaves
his Country upon Disgrit, but may come back again at
Pleasure. 2 Lev. 191.

Exilium, Signifies in Law Confusion, a Spool
ing: And by the Statute of Marlborough it seems to
extend to tax done to Tenants, by altering their Tenure, ejecting them, &c. and this is the
State that Fleta determines; who distinguishes between
Vatum, Defraudis et Exilium; for he tells us that
Vatum and Defraudis are almost the same, and are
properly applied to Husband, Garden or Woods; but
Exilium is when Servants are insinuated, and after
wards unlawfully turned out of their Tenements.
Vatum & Deffraudis sine aequitatis, & conversivae
sibi habent in Actione. Fleta. 4 Inf. 305. Exilium
dicit preset, cum jersa maritumuntur, ur tur Testament
ibus injuste recturturn. Fleta, 1. cap. 11.

Eritis, Issue or Offspring; and applied to the
Iffers or yearly Rents and Profits of Lands.

Et jent vellacum, gen Reddices, India in graece.
EX

omnia, militiae, prater, episcoporum, Indumenta & Uten-
silia Domus, continens also nomine Exiustum. Stat.
Wigm. 2. c. 43.

Et egregius, in his qui profecte as an Out-
law. Leg. Edw. Conf. c. 98.

Et ex morte mutis, Are words used in the King's Char-kers and Letters Patent, to signify that he grants
to them of his men War and Motion, without Petition or
Suggestion of any other: And the Intent and Effect of
their Words, is to bar All Exceptions that might be
taken to the Charities or Letters Patent, by alleging that
the King in granting that was alowed, to make false
Suggections. Kibb. 532. When the Words "ex morte mutis" are made ufe of in any Charity, they shall be
taken more strongly against the King. 1 Co. Rep.
451.

Ex officio, Is so called from the Power a Perfon
has by Vrnie of an Office, to do certain Acts, with-
out being applied to: As a Jullif of Peace may not
only grant Surety of the Peace, at the Complaint or
Request of any Perfon, but he may demand and take
it to Office at Discretion, &c. Dial. 270. And by
Stat. 1 Eliz. c. 1. that is granted by or Letters Patent
might authorize any Perfon exercising Ecclefiatical
Jurisdiction, to administer an Oath ex officio; where-
by a Suppofed Offender was compelled to confefs, ac-
complice, or clear himself of any criminal Matter, and
thcreby made liable to Confuption or Punishment, &c.
but the Branch of this Statute relating to the faid
Oath, is repugnant to the Law, &c.

Exorations felata, Was a Writ that lay for the
King's Ward, to be freed from all Suit to the Coun-
try-Court, Hundred-Court, Leet, &c. during Ward-
ship. F. N. B. 57.

Exorations selatae ad Curniam Baron. A Writ of the fame Nature, figned by the Guardian of the
King's Ward, and directed to the Sheriff or Stewards of
the Ward, to hear and determine any criminal Matter, and
thereby made liable to Confuption or Punishment, &c.
but the Branch of this Statute relating to the faid
Oath, is repugnant to the Law, &c.

Ex parte. Of the One Part; As a Commission in
Chancery ex parte, is that which is taken out and
executed by one Side or Part only, on the other Par-
ty's Negligence or Refufing to join: When both Plai-
tiff and Defendant proceed, it is a Joint Commission.

Ex parte talia, Is a Writ that lies for a Bailiff
or Receiver, who having AUDITORS alligned to take
his Account, cannot obtain from them reasonable Al-
lowance, but is call to Prifon: And the Courfe in
this Case is to fure this Writ out of the Chancery, di-
rected to the Sheriff, to bring four Maimpersons to bring
his Body before the Barons of the Exchequer at a cer-
tain Day, and to warn the Lord to appear at the fame
Time. F. N. B. 125.

Exerpand. A Relation to or depending up-
on: and this Word is used in the Law with For, as
For-Excepitant. If Land is given to a Man and his
wife, to hold to them and their Heirs; in this Case
they have it if it be given to them and the Heirs of their Bodies, &c. they have Tail

and a For-Excepitant; and that it is oppofite to Fre-

Expeditate, (Expedite) In the Laws of the Fa-
rift, signifies to cut out the Ball of Dogs Foot, feet.
the Preservation of the King's Game, But the
Ball of the Foot of a Malliff is not to be taken out,
but the three Claws of the Fore-foot on the right Side
are to be cut of by the King. Group. Jurid. 142.
Mannw. cap. 16. This relates to every Man's Dog
that lives near the Foreft, and was formerly done
once in every three Years: And if any Perfon keeps
a great Dog not expeditate, he forfeits to the King

Expellate Arbige, Trees rooted up or cut
down to the Root. Temporare de Arborum Ex-
pedite in Foreste. Flets. lib. 2. c. 41.

Expellitum, Are the Perfon's appointed by Com-
milions of Sewers to pay, disburse or expend the
Money collected by the Tax for the Repairs of Sewers,
&c. when paid into their Hands by the Collectors,
on the Reparations, Amendments and Reformations
ordered by the Commissioners, for which they are to
render Accounts when thereunto required. Laws of
Sewers 87, 88. These Officers are mentioned in the
Statute 37 H. 8. c. 11. and other Statutes: The Stew-
ard who superintends the Repair of the Banks and Water-
courts in Norman Sheriff is called the Panlidendus.

Exenples Libri, Cofts of Suit allowed a 'Plaintiff
or Defendant recovering in his Action. See Cafi.
11.

Exempalum Militium in Urbis, &c. Is an an-
cient Writ to prohibit the Sheriff from levying any Al-
lowance for Knights of the Shire, upon those that
hold Lands in Ancient Demesne. Reg. Orig. 261. For
there is a Writ by expends, militem urbainum, for lev-
Orig. 191.

Exesse, The Rent or Profits of an Estate, &c.
Vide Easement.

Exepatopos, A Scout; also a Huntsman or Chas-
er. — In memoriam Henrici Crisp Equitis aurati, Ex-
plorator in Hibernia Generalis, qui obiit annum 1609.

Experation, Is the Shipping or carrying out of
the native Commodities of England for other Countries;
mentioned in the Statutes relating to the Cafmiers. See
Importation.

Expedition of Deeds, It shall be favourable, ac-
ccording to the apparent Intent; and be Reasonable
and Equal, &c. Cr. Litt. 337. See Dairy.

Ex sole facto, Is a Term used in the Law, signifi-
ing something done after another Thing that was com-
mitted before. And an Act done, or Estale granted,
may be made good by statute or post facto, that was
not so at first, by Election, &c. As sometimes a
Thing well done at first, may afterwards become ill.
8 Rep. 140. 5 Co. Rep. 22.

Extrav. (Extended) Es to value the Lands or Ten-
ements of one bound by a Statute, &c. who hath for-
feited his Bond, at such an indifferent Rate, as by the
yearly Rent the Creditor may in Time be paid his
Debt. F. N. B.

Extrava facias, A Writ ofExtent, whereby the
Value of Lands is commanded to be made and levied,

Extrava. (Extrava) Signifies a Writ or Commission
to the Sheriff for the Vailing of Lands or Tenements;
and some times the Act of the Sheriff or other Com-
milions upon this Writ. 34. Stat. 16. & 17.
Car. 2. cap. 5. It hath been held more frequently
that the Extimate or Valuation of Lands, which when
done to the utmost Value, is paid to be the full Ex-
tent, and not to be the whole Rents, or Rack Reas.
And if one bound to the King by Specialty or to others by Statute, Recognition, &c. hath for-
feited it; so that by the yearly Rent of the Debtor's
Lands, the Creditor is to be Repaid, and if the Creditor may sue a Writ to the Sheriff out of
the 4 H. Chancery
Chancery to deliver him the Lands and Goods to the Value of the Debt, which is termed a Liberat. F. N. B. 134. 4 Extant directed to the Sheriff to seize and value the Lands, &c. of the Debtor, to the utmost Extent. 4 Rep. 67. Lands and Goods are to be appraised or to be appraised by the Inquest of twelve Men, and then delivered to the Creditor, in Order to the Satisfaction of his Debt: Every Extent ought to be by Inquisition and Verdict, by the Stat. 31. And the Sheriff without an Inquisition cannot execute the Writ. Civ. Cas. T. 569. The Body of the Cognitor, and all Lands and Tenements that were his at the Time of the Statute, were entered into, as afterwards, are whole Hands forever they come, are liable to the Extent. 2 Inst. 356. But Copypold Lands are chargeable only during the Life of the Cognitor; and may not be extended by Eligit, so as to admit a Stranger to have Interred in the Lands held by Copy, without the Admission of the Lord. Lands in Ancient Demesne, Annuities, Rents, &c. are extendible. 1 Rep. 98. Two Parts of an Inheritance, may be delivered upon an Extent by the Sheriff. 1 Crr. 742. But if the Cognitor of a Statute have a Rent-charge, and before the Extent be passing Parcel of the Land; the Rent is gone, and shall not be in Execution: 'Tis otherwise if he purchases after Extent of the Rent. Dyer 306. A Tenant in his own Lands, &c. may not be extended by Eligit, but a Plaintiff had Judgment for his Debt and Damages de Reverente...cum accidit, and a special Eligit to extend the Moity, &c. 2 Sid. 86. Dyer 733. An Inheritance in goods is not extendible on Eligit, &c. Stat. Wm. 3. c. 18. An Office of Trull cannot be extended, because 'tis not assignible; and nothing shall be extended but what may be assigned over. Dyer 102. There is an Equity. Chan. Rep. 39. Goods and Chattels, as Leases for Years, Castle, &c. in the Cognitor's own Hands, and not sold for valuable Consideration, are subject to the Extent, and must be delivered to the Party at a reasonable yearly Value, so the Goods shall be delivered in Extent at a Price that is reasonable: And on a Secura faciatis ad comparandum, the Cognitor is to account according to the extended Value; not the real Value of the Land. Hard. 136. If the Extenders appraise and value the Lands too high, the Cognitor at the Return of the Writ may pray that they may take and retain the Lands at the Rate appraised; and then 'tis said he may have Execution against their Lands for the Debt; but this may not be on Eligit. Civ. Cas. 15. It has been adjudged, that at the Return of the Writ, the Cognitor may refuse the Lands, &c. extended, if over-valued. 4 Cas. 148. Where Lands are extended at under-value, and delivered in Execution; the Cognitor hath an Interest in the Land, which cannot be defeated by finding of Surplusage. 1 Crr. 166. 2 Crr. 85. The Cognitor cannot enter upon the Cognitor, when Satisfaction is received for the Debt, but is put to his Secura faciatis on an Extent: Though on an Eligit, the Defendant may enter before the Cognitor is to be held until the Debt, which is certain, is satisfied; whereas on Extent, the Land is to be held until the Debt. Damages and Costs, &c. are satisfied: And the Cognitor being in Master of Record, Shall not be put out by Master of Record, civ. 8 Secura faciatis brought against him. 4 Rep. 67. March's Rep. 207, 208. The Cognitor hath no absolute Property in Lands by the Extent, till the Delivery of the Land of the Liberat; but may claim, by the Statute, without Eligit, but that every Extent they are in Capacia Legis for his Benefit. Civ. Cas. 166, 148. No actual Seifas can be on an Extent, and a Cognitor of a Statute-Staple, &c. cannot claim in the Extent before it is passed. If the Cognitor upon the Liberat turn the Ter-tenant out of Possession, as he may upon a Hab. fac. Possessionem. 1 Vent. 41. Where there is an Extent upon a Sea.
garnishment of the Term: But it is otherwise if he have the Reversion by Purchase. 1 Co. Rep. 96. A Joint-tenant for Life purchases the Land in Reversion, it will extinguish the Estate for Life for a Money, and he shall have an Estate for two Lives, and the Heirs of their Bodies; though they have an Estate for Life jointly, and several Inheritances, yet the Estate for Life is not extinguisht: Coxe, if it be by several Conveyances; as where a Lease is made to two for their Lives, and after the lessor grants the Reversion to them and their Heirs, &c. here in 12 Barn. 182. If one after his Title be begotten to be Tenant by the Curtesy, make a Feoffment in Fee upon Condition, and enter for the Condition broken; the Estate is extinct, so that if his Wife die, he shall not be Tenant by the Curtesy. 1 Rep. 18. Where a Man hath an Estate for his own Life, and for another's Life at once; the Estate per asser vise will be extinguisht in the Estate for his own Life, which is greater in Law than the other. 11 Rep. 87. Dryr. 11. If a Lease be made to a Person for his Life, and allo for 20 Years; these two Estates may stand well enough, and there shall be no Extinquisht: But if by a Leases for Years, Remainder to him for Life, in this Case the Lease for Years would be extinct. Brs. 404. A Lease was granted for Twenty Years, and the Lease made a Lease for twenty Years rendering Rent; then the Leesor granted the Reversion in Fee, &c. and the Grantee purchased the Reversion of the Term; and it was hald that he shall not have any Estate for Years, because that being incident to the Reversion of the Term, is extinguisht by the Reversion in Fee, both being in one Person. Mor. 94. A. 2 Niss. 834. When the Freehold descends to the Term, the Estate is extinguisht. Niss. 86d. 820. While the Remainder of a Term is granted over to another, if the Party in Possession purchase will be extinguished through this. Means his Interest is extinguisht; yet shall not defeat the reversionary Interest. 10 Rep. 52. 2 Niss. 820. A Fine, 6.Fie. of Lands, will extinguish a Term; and by Purchase, an Estate in Fee Simple, an Estate Tail in Land is extinct. 9 Rep. 139. But if a Fee-simple and Fee-tail meet together by Difmer, the Estate-tail will not be extinguished. 3 Rep. 61. Difmer of Lands to the same Person who has a Term, will extinguish the Term. Mor. 236. If a Copyholder takes a Lease of the Land held by Copyhold Tenure, his Copyhold is extinguished. Coxe. 516. And a Copyhold Estate is extinct whenever it becomes not demible by Copy. Cole's Copyhold 6. When a Leesor enters torpitude upon the Leesee against his Consent, the Rest is extinguished. 2 Law. 143. But it has been adjudged that Rest is not extinct by the Entry of the Leesor, but only suspension; and re- vives by the Leesee's Re-entry. Dryr. 361. An In- fant has a Rent, and purchases the Land out of which it is issuing by this the Rent will be suspended, but not extinct. Brs. Extinguished. A Man Leesee for Years takes a Wife, or Woman Leesee a Husband, that hath the Reversion after the Lease; here the Term is not extinguished. 12 Rep. 81. If Feme Sole Debeees take the Debtor to Husband; or there be two joint Obligors in a Bond, and the Obligee marries one of them; or in Case a Person is bound to a Feme Sole and another, and the same is obligatory on the Husband; in these Cases, the Debt is not extinguished. 8 Rep. 136. An Act, from the Debtor his Executor, or him and another Executor, and they take the Executivehip upon them; or if the Debtor makes his Debtor Executor, &c. it is an extinguishment of the Debt, and it is not due. Plowd. 184. 2 Salk. 304. But where a Debtor or Debtor Executor legally releves; or he and others being made Executors they all refuse, the same is not relevant. Plowd. 185. A Person hath no due by Contracl, if he take an Obligation for 101 of it, the Debt is extinct: And by Release of Part of a Debt due on Bond, the whole is gone, and the Obligation is extinguisht. Brs. Contract. 60. 1 And. 255. There is an Extinquisht of Common, of Liberties, of Franchises, Servits, &c. See more of Extinquisht of Rests, &c. under Unity of Possession. Extinguishment of Common. By purchasing Lands wherein a Person hath Common Appendant, the Common is extinguisht. Crs. Eli. 554. A Commoner releases his Common in one Acre, it is an Extinquisht of the whole Common. Sim. Rep. 350. And where a Person hath Common of Frierage, if he includes any Part of the Land, all the Common is extinct. 1 Brumsl. 174. But if one have Common Appendant in a great Width, belonging to his Tenant, and the Lord improve Part of the Width when it leaves sufficient; if he after make a Feoffment to the Commoner of the Land improved, this will be no Extinguishment. Dryr. 250. See Hals 174. A Commoner aliens Part of his Land, to which the Common doth belong; the Common is not extinct, but shall be divided. 2 Debr. 135. 2 Vio. Common. Extinguishment of Rests &c. As to Rests and Franchises granted by the King, sometimes they may be extinguisht, and sometimes they shall not. Mor. 478. When the King grants any Privileges, Liberties or Franchises, which were in his own Hands, as Parcel of the Flowers of the Crown; such as Bona Flora, Fregiturum & Uletagaturum, Wash, Strays, Hounds, Week on the Sea, &c. if they come to the Crown again, they are drowned and extinguisht in the Crown, and the King is feigned of them True Cures: But if Liberties of Fairs, Markets, or other Franchises, and Jurisdiction, be erected and granted by the King, they will not be extinguished, nor their Appendants levied from the Possessions. 9 Rep. 25. A Man has Liberties of a Wholesome, if he takes Letters Patent of them, the Prefcription will be gone and extinct; for Things of a higher determine those of a lower Nature. 2 H. 7. 4. Extinguishment of Grantor's Rights. The Lord purchases or accepts Parcel of the Tenancy, out of which an interest Service is to be paid or done; by this the whole Service will be extinguisht: But if the Service be paid, or done, but not in public, then no Part of it shall be extinguisht; and Homage and Fealty are not subject to Exstinguisht, by the Lord's purchasing Part of the Land. 6 Rep. 1, 105. Ca. Lanc. 169. If the Lord and another Person do purchase the Lands, whereas he is to have Services, they are extinct; Also by Severance of the Services, a Manor may be extinguisht. 2 Ca. 147. 21 K. 257. Extinguishment of Estate. If a Man hath a Highway as Appendant, and after purchases the Land wherein this Way is, the Way is extinct. Terms de Ley. Though a Way of Necessity to Market, to Church, or to arable Land, &c. is not extinguisht by Purchase of Ground, or Unity of Possession. 11 H. 7. 25. 1 Inf. 151. Extinquishment of Grant, That a Judicial Writ, either before or after judgment, that lies against a Person who when a Verdict is found against him for Land, &c. doth maliciously overthrow any House, or extinguish any Trees upon it. Reg. jad. 13. 56. Extincion. To grub up Lands, and reduce them to Arable or Meadow. Mon. Agl. Tem. 2. p. 71. Extinction, (That is, Extinction of a Writ, or Extinction of a Cause of Action) Is an unlawful Taking by any Officer, &c. by Colour of his Office, of any Money, or valuable Thing, from a Person where none at all is due, or not to much done, before it is due. Inf. 568. 10 Rep. 102. At the Common Law, which was affirmed by the Statute of Wms. 1. cap. 26. It was Extinct for any Minister of the King, whose Office did any way concern the Administration and Execution.
Exrcution of Justice, or the Common Good of the Subject, to take any Reward for doing his Office, except what he received from the King: Though reasnable Fees for the Labour and Attendance of Officers of the Courts of Justice are not restrained by Statutes, which are fixed and setted for the respective Courts; and it has been thought expedient to allow them to take such immediate Fees in many Causes. 2 Inf. 209. 3 Inf. 149. 1 Hawk. P. C. 170, 171. The taking of Money by Virtue of an Office implies the Act to be lawful; but to take any Money by Colour of an Office, implies an ill Act; and the taking being for Expedition of Bufnets, is judged by Colour of the Office, and unlawful. 2 Inf. 206. 1 Inf. 568. And where an Officer is not allowed by Law to take any Thing, and it would be Extortion to do it, a Promise to pay Money is void. 1 Roll. Ab. 16. There must be a positive Charge in Cases of Extortion, and that the Person charged with it took so much Extortion or plea Office, which Words are as effectual as Proctoris or Felonie for Treason or Felony, 2 St. 682. Extortion by the Common Law is severely punished by Indictment by Fine and Imprisonment, and Removal of Officers from the Offices wherein committed: By the Stat. 3 Ed. 1. c. 50. Extortion, by Colour of an Extortion, are to render the Act void: And there are divers Statutes for punning Extortions of Sheriffs, Bailiffs, Gaolers, Clerks of the Ailfe, and of the Peace, Attorneys and Solicitors, &c. 23 H. 8. 3 Hen. 8. 7 Jac. 1. 10 Eliz. 11. 1 W. 3. The Extortion of Officers of the Cullom, draining Merchants for undue Charges, &c. See Stat. 28 H. 6. c. 5. Officers may be jointly indicted of Extortion, and be joined in the Suit of the Officer, 1 Stat. 582. Against Attorneys for Extortion, Action may be brought, and the Party grieved shall have treble Damage and Costs; but Information will not lie on the Stat. 3 Jac. 1. c. 1. Sid. 434. 2 Nelf. 823. If an Officer by terrorizing another in his Office, take more than his ordinary Fees or Duties, he is guilty of Extortion; which may be compared to unlawful Usury, &c. And Crompton says, that Wrong done by any Man is a Trespass; but excessive Wrong is properly Extortion. Comp. Just. 1. And Extortion has been esteemed more odious than Robbery, because it carries an Appearance of Truth; and is often accompanied with Perjury in Officers, &c. by breaking their Oaths of Office. Extortion in a large Sense is taken for any oppression by Power or Pretext of Right. 1 Hawk. P. C. 170. Extraljubilis, is when judgment is pas'd in a Cause, not depending in that Court where given; or where the Judge has not Jurisdiction. Extrabagantes, signifies to be out of any Parish; and where any Thing is privileged and exempt from the Duties of a Parish. Stat. 32, 25 Car. 2. Most of the Forges in England are Extrabagant; so are some privileged Places, but they ought to maintain their own Poor. Med. Caufes in L. and Eq. 40. Extravagantes, are certain Confinations of Parishes, so called, because they are Extra Corpus Canonicum Gratiani; See Extra Territorium libri vorgenator. Du Cange. - Extumus. Reliques in Churches and Tombs. — Conulsl Altar. Glofes. It. 15. — Exspectare, is to overtake; and it sometimes signifies to Apprehend or Take, as, Exspectare vicum vel Mortuum. Leg. Emd. c. 2. Eye, Inf. 48. Eye, Inf. 48. And where the Names of Places End in Ey, it denotes them an Island. As
to Orders, he is immediately to give Advice of it to his Principals, & then he must take due Care in the Disposition of the same; for without Commission or particular Orders, he is answerable. And a Factor shou'd shaffler for not obeying of Orders, and not Factor acting for another Man's Account in Merchandize, can justify RECEIVING from the Orders of his Principal, though there may be a Probability of Advantage by it: If he make any Compositions with the Candidates without Orders, he shall answer it to his Principal. # budding # Facters ought to observe the Contents of all Letters from their Principals, or written to them by their Orders; and to be very diligent and punctual in giving speedy and particular Answers: They should make it their Business to study the Nature, Value, Sale and risk of Merchandize, as well here at Home as Abroad, and also the present Sessions of Buying and Selling. At a Merchant shou'd act in Action upon the Case for the Decrets of his Factor, in Selling Goods abroad; and as some Body must be a Factor by Decret, it is more Reason that he who employs, and puts Confidence in the Receiver, should be as a Stranger. At a Sale, 289. If a Perfon doth employ a Factor to sell Dolphin, but because the Place and Jurisdiction, and before the Money is paid in deed more than his Affe'ts will pay; this Money shall be paid to the principal Merchant, and the Factor's Allowance, but then there must be deducted what was due for Commis'sion. For a Factor is in Nature only of a Trustee for his Principal. 2 Vern. 618. Fettes, or Allowance paid and made to a Factor by the Merchant. The Gain of merchandise is certain, however the Success proves to the Merchant; but the Commissions and Allowances vary with the Countries and Diftance of the Country, in the several Places where the Factors are resident. At the West Indies, the Commissions run at about 8 per cent, but in France and Spain, &c. not above 2 per cent. In Holland, it is one and a half per cent. Lex Mercat. 45. A Factor, A man's own Affe', Fett, or Feats; and particular things used in the Civil Law, for any Thing placed and made certain. See Fait. Fait, (Facultas) As restrained from the Original and active Sense, to a particular Understanding of it, is brought in. Prive'gers granted to a Man by Favour and Indulgence, to do that which by Law he ought not to do. And for the Granting of them, there is an especial Court under the Archbishop of Canterbury, called the Court of the Faculties; and the chief Officer thereof the Master of the Faculties, who has Power by the Stat. 25 H. 8, c. 21, to grant Dispensation, as to marry Persons without the Banns first asked, to eat Flesh on Days prohibited, (and every Diocesan may make the like Grants) to Ordain a Deacon under Age, for a Son to succeed the Father in his Benefice, one to have two or more Benefices incommixture. At, and in this Court are regulated the Certificates of Bishops and Noblemen granted to their Chaplains, to qualify them for Piarities and Non-Refidence. 4 B. 137. Faitting, or Fait. In Mon. Angl. Tom. 1, pag. 100. are rendered to signify Vailsels: But a Gown signifies those rather mean Pleasures or Bondmen; which by the present State of Things, in some Parts of France, is allowable for answer to one another's peaceable Behaviour. See Fait-men. Fait, A Knot or Excecrability in Cloth: and in this Sense it is used in the Statute 4 Ed. 4. cap. 1. Fagget, A Bonze wore in the Times of Pipers, by Persons who had resided and aspired what the then Powers adjoynd Hereby; Those poor Wrenches that opposed the Doctrine of the abov'd Priesthood, were condemn'd not only to the Penitence of carrying a Faggot, as an Emblem of what they had err'd, to such an apostate State of Solomacy, but for a more durable Mark of Infamy, they were to have the Sign of a Faggot embroder'd on the Sleeve of their upper Garment: And if this Badge or Faggot was at any Time left off, it was often alleg'd as the Sign of Apology.

Faith, Malice or deadly Fraud. Leg. III. H. 1. c. 68. Nature ofReceipt is, when an Action is brought against a Man, who all his life in his Plan Nature of Record in Bar of the Action, and aver to prove it by the Record; but the Plaintiff faiths, Nat. trial Record, was, don't have in any such Record: Upon which, the Defendant hath Day given him by the Court to bring it in; and if he fail to do it, then he is said to fail of his Record, and the Plaintiff shall have Judgment to recover Terms at Law 392. In Deed upon an Escape, the Plaintiff declared, that he had obtained a Judgment in an inferior Court, upon which the Defendant was taken, and the Sheriff suffered him to escape; the Defendant pleaded No Trial Record, and being at Law, in the Record was certified at the Day; by which it appear'd there were several Varies in the Continuance and Progress in the Record, and the Court declared, that he had agree with the Plaintiff's Declaration, it was held that those Varies made no Failure of Record. Hol. 179. A Nof. Abs. 843. In a Case for the Manor of Spils, the Defendant pleaded in Bar a Common Recovery of the said Manor against the Doseine in Tail, who replied Nat. trial Record, and the Defendant having brought in the Record, it appear'd that the Recovery was of the Manor of Spils; and adjudged, that this being in a Common Recovery, shall be no Failure of Record for this small Vary, shall be amended and emended by the Misspelling of the Clerk, 5 Rep. 46. And where a Fine with Prolocations was levied, and upon an Issue of Nat. trial Record, on which it was brought in at the Day, that the Year of the King was left out, and in the Prolocations made in one Term, as it was express'd in the Prolocations of the other two Terms, they, who held to the Sign and the Omission to Failure of Record. Dyer 284. It a Judgment, a Factor be reversed for Error, Nat. trial Record may be plead'd. 8 Rep. 143. And where a Tenant only of a Record, at Law, it is, it is a Failure of Record. Dyer 187. 3 Nof. Abs. 843. Fait-atlon. (Fr. Feint,) A Stounced Action such that altho' the Words of the Write are true, yet for certain Causes the Plaintiff hath no Title to recov'er thereby; but a False Action is properly where the Words of the Write are false. 1 Ed. 561. Fainst-Pleader, Is a fraudulent, false or oily-fooy Manner of Pleading, to the Decret of a third Person; against which, among other Things, was made the Stat. 3 Ed. 1. c. 10. Fait-Pleander, Or not Pleading fairly. See Bragpleader. Faint, (Fr. Feint, Lat. Nodine) A solemn or grave Sort of Jureret, granted to any Town by Privilege, for the more speedy and commodious pro-ceeding of such Things as the Subject needeth; and the Utterance of what Commodities we abound in above our own Utens and Occasions: And both our English and the French Word terms to come from the French cause it is incident to a Fair to Perions shall be privileged from being molested or arrested in it, for any other Debt or Contravention, what was contravention in the same, or at least was pron't to be paid there. Stat. 17 Ed. 4. c. 2. And 1 R. 3. c. 6. It is generally kept once or twice in the Year; and it has been observ'd, that Fairs, were at first occasion'd by the
the Repeal of People to the Feast of Dedication, and therefore in mort Places the Fairs, by old Custom, are on the same Day with the Wake or Festival of that Church, whereby the Church was dedicated; and for the same Reason kept in the Church-yard, till by Authority restrained. 2 Inst. 221. Blunt. The Court of Peperscaple is incident to every Fair; & if there is a Tull usually paid in Fairs and Markets, on the Sale of Things malleable, and for Stallage, Pigage, &c. But this is not incident to a Fair or Market, without special Grant; for where it is not granted, such a Fair or Market is accounted a Free Fair or Market. 2 Inst. 220. Co. Eliz. 559. By the Statute 2 Ed. 3. cap. 15. Fairs are not to be kept longer than they ought by the Lords; whereon, on Pain of their being feitid into the King's Hands, until such Lords have paid a Fine for the Offence; and Proclamation is to be made how long Fairs are to continue: Alto no Merchant shall sell any Goods or Merchandise at a Fair, after the Time of the Fair, is ended, under the Penalty of forfeiting double the Value of the Goods sold, one Fourth Part thereof to the Proctor, and the Relt to the King. 5 Ed. 3. c. 5. Any Citizen of London may carry his Goods or Merchandise to any Fair or Market in England at his Pleasure, if the Order be made by the Lord Mayor, Aldermen and Citizens, that no Citizen should go to any Fair or Market out of the said City. 3 Hen. 7. cap. 9. Owners of Fairs and Markets are to appoint Old-takers or Bookkeepers, on Pain of 40s. and they shall enter and give Account of Horses, fold, &c. 2 & 3 P. M. c. 7 and 37 Eliz. c. 12. See Statute. Fals, (Falsum) is in Law Signification a Deed or Writing, lawfully executed to bind the Parties thereunto. Fide Deed. (Fr.) Is a Deed of Bargain and Sale, &c. and giving the Indemnity of it in a great Middlememoir, but not Forgery within the Stat. 5 Eliz. 1 Keb. 568. Statutes. (Fr.) In the Statute 2 R. 2. cap. 5. is need for Evil Doers; and may be interpreted Idle Livers, from Fairdile, which signifies a Kind of Sleepy Difease, proceeding of too much Sloggishness: And in the said Statute it seems to be synonymous with Vagabonds. Terms De Leg 331. Falang, A Jacket or Cloke Coat. Blunt. Falca, the Day's Moving of Grants; a customary Service to the Lord by his inferior Tenants: Falcatra was the Grafs freth moved, and laid in Swales; and Falcate, the servile Tenant performing the Labour, Kevin's Gift. Falco, A Faucon, —King Toba, in his 14th Year of his Reign, granted to Owen Fear-Daced, and others, Omnes arciprises & Falcones gentiles & Aquaries, Gt. 1. Parl. 14. John. Falca, A Sheepe.—Et quod esset ex lemmatis & cabenatis in propriis Falda, &c. Rot. Chart. 6 Hen. 3. m. 6. Falcatia, (Falcatium) is a Privilege which several Lords anciently referred to themselves, of setting up Folds for Sheep in any Fields within their Manor, for the better Maintenance of the same; and this was usually done not only with their own, but their Tenant's Sheep, which they call Scia Falce. This Folding is termed in some Places a Fold Cheele; and in old Charters Follicia, i.e. Liberae Falce, or Falcata. Faltucarbus, A Sheepe Walk, or Feed for Sheepe. 2 Parl. rep. 139. Faltbyke, Faltke, A Fee or Rent paid by some Tenants to Liberty to fold their Sheep upon their own Land. Falbyke, (Sax.) The highest Seat of a Bishop, included round with a Levite. Gower. Falbyke, A Person of Age, that he may be reckoned of some Decency. Du Frise. Falter, (Lat. Platera) The Tackle and Furniture of a Cart or Wain. Mon. Ang. Tom. 2. f. 246. Falstaff, A Great Rock, Bank or Hill by the Sea-side. Falstaff-Land, Vide Warram & Terra Warrasta. Falstallum, Is a Sort of Land, as appears by the Monastic, in many cases, sold with a certain acre or exterior of Fals in it, Co. Tom. 2. 425. Falstallum, or Falstall, the same with Falstallum. Fals Allen, If brought against one whereby he is eo tento se rescindendo, and dies. During the Suit, the Law giveth no Remedy in this Case, because the Truth or Falsehood of the Matter cannot appear before his tried: And if the Plaintiff be barred or non-suit ed, as Common Law, regularly all the Punishment is Amercement. 4th Coxe. 161. See Fals. Fals, Claim, By the Forest Laws, is where a Man claims more than is his due, and is amerced and punished for the same. A Person had a Grant by Charter of the Tench of all the Venison in the Forest of Longafer, viz. In Caris tantum, sed non in Caris, and because he made a False Claim in the lodging that he ought to have the Tench of all Venison within the Forest, as well in Caris, as in Coria, therefore he was in Mijnierdica de Deceo Penitentiarum by the 4th Cap. 19, 7. 3 Hen. 7. Falsie Form, In Proceedings at Law, is aided by a Verdict; though nor where there is Want of Certainty, 1 Keb. 734. 876. Falsie Impression, (Falsum Impressio) Is a Trespass committed against a Peron, by Arresting and Impounding him without just Cause, contrary to Law; or where a Man is unlawfully detained, without legal Process: And it is also used for a Writ which is brought upon this Trespass. If a Person be any way unlawfully detained, it is Falsie Impression, and it is a great Damage, and considerable Damages, that by several Statutes, as well as by the Common Law, Defaults are fared on that Account. Wood's 1st. 16. The King cannot give any Power to Impound, unless Impounding is exempt by the Common Law. 2 Term. 17. And if a Person is imprisoned on any By-Law of a Corporation, &c. it may be a Falsie Impression if it be a By-Law to Impound is against Mayor Charters, good makes Liber Hominis Imprestur, Co. Rep. 64. It is the same of a Custom to Impound Persons: But it's incident to a Court of Record to Impound. 2 Niff. Arn. 879. If a Judge of Peace, &c. commit a Person without just Cause, it is Falsie Impression; And a Comtible cannot imprison a Man at his Pleasure, to compel him to do any Thing required by Law; but it is to carry him before a Judge. 1 Law. 527. Where any Justice sends for a Man, and commits him to Goal without any Examination; the Jury may have Action of Falsie Impression against him: And if a Justice of Peace sends a general Warrant to arrest a Person, and say not for what; Action lies against him, but not against the Officer. Mich. 8 T. tr. 2. R. In Falsie Impression brought against an Officer of an inferior Court, if he justify an Arrest by Virtue of their Warrant; he must inside the Court to Jurisdiction, or the Action lies against him. Mayl. pl. 195. If erroneous Process issues out of a Court that hath Jurisdiction of the Matter, and the Bailiff or Officer gives notice, that the Person is imprisoned, the Officer shall be excused in Action of Falsie Impression: But if the Court out of which the Process issues hath no Cognizance of the Court, it is otherwise: See in such Case the whole Proceedings, or a Ram non Judicis, and the Officer will not be excused.
fel: to Rep. 75. An Officer hath a Warrant upon a Capital and Felonious against an Earl, or Coun-
tain, &c. who are privileged in their Persons, and
he arrests them; 'tis said Act of False Imprisonment
will not lie against the Officer, because he is not to
enforce the Justice of the Case to obey.
6 Rep. 56. to Rep. 75. Where a Person is taken,
and imprisoned on a Proceed underly obtained, Action
of False Imprisonment may be brought against the
Party imprisoned, against him at whose Suit he is im-
prisoned; but not against the Officer that executes it.
1 Litt. 355. If an Arrest be made of one who
is no legal Officer, it is False Imprisonment, for which
Action lies. 1 Rep. 697. An Action of False Im-
prisonment lies against a Bailiff for arresting a Per-
on without Warrant, tho' he afterwards receives a War-
rant: And if it be if he arrest one after the Return
of the Writ is past; for it is then without Wit.
2 Rep. 55. If a Sheriff or any of his Bailiffs arrest
a man out of his County, &c, or after the Sheriff
is dismissed, and a Person on a Warrant takes him
at a Judge's Warrant after his Commission is deter-
mined, &c. it will be False Imprisonment. 1 Dyer 41.
And it is the same if the Sheriff consider a Man
lawfully, when a legal Difcharge comes to him, as a
Superfluous, or the like, do not then discharge the
Party, he may be sued in this Action. 2 Litt. 12. Finis.
25. 41. 24. If a Sheriff or any of his Bailiffs in a Suit brings an un-
justified suit against a Warrant, and that he thereby
reduces, requiring him to make the Arrest; or if he
brings a good suit, and direct the Sheriff to a wrong
Man, &c. for this the Action of False Impriso-
ment will lie against both. Bro. Treph. 99. 397.
Faww Impr. 19. 1 Brownl. 211. If a Warrant be
granted to an Officer to arrest a Person, where there
are several of the Name, and the Bailiff or other
Officer arrests a wrong Person, he is liable toAction
of False Imprisonment; and he is to take Notice of
the Right of the Man. Dyer 244. 16th. 284. 7.
A Man arrested on a Sunday may bring his Action
of False Imprisonment; but one has been refused to
be released in such a Case. 5 M'd 95. When a Person
is kept longer in Jail than he ought, 'tis he was at
first lawfully imprisoned, it is False Imprisonment:
If a Bailiff demand more than his just Fees, when
order'd him, and keep a Person in Custody thereupon,
it is a False Imprisonment. And if a Person, or a
Sheriff, or Gaoler, keeps a Prisoner in Gaol, after
Acquittal, for any Thing except for Fees, it is un-
lawful. 1 Rep. 493. 6 Inf. 177. 1 Dyer 244. 7.
If a Man falsely Imprisons A. B, and the Gaoler
demands him 'till he pays so much Money, he shall
have Action of False Imprisonment, and taking so much
Money from him, against the Sheriff: And it is Illegal to
use a lawful Means for Oppression. 1l. Caij. 179.
Unlawful or False Imprisonment is sometimes called
Dareis of Imprisonment, where one is wrongfully im-
prison'd till he be a Bond. 2 Id. 482. False Imprisonment
lies when one is impris'ed, where no
Statute or Common Law a Man is to suffer Imprison-
ment. Bro. Imp. 7. So that if a Person bind himself
for Money; and if he do not pay it, that the other
shall imprison him; if he pays it not, and the other
doth imprison him, it is False Imprisonment.
3. 157. 1. And when a Man owes me Money, or
has had any Treps, &c. and I imprison him for
it, without Order of Law, he may bring False Impris-
ionment against me. P. N. B 88. An Imprisonment
without that Order, which is lawful; the
Cau/e be good, when he makes it doth the fame
without any Colour of Authority; or if he has a
Colour, yet no good Authority, from the Court, &c.
or where a Court or Officer hath Power, but do not
use it, or if he do not use it as well made it out; or when the Authority is well made
forth, and not rightly purlied and executed. 4 Rep.
64. 8 Rep. 67. 1 Dyer 242. And all Persons Male or
Female, that have a Bond in a wrong Imprisonment
shall be sued in Action of False Imprisonment; and the
Party griev'd may for any one of them for it. 1 Inf.
57. Bro. Treph. 113, 256. But if the Imprisonment
be by the Agreement and Consent of him that is ar-
rested, it may be justified. Bro. Imp. 477. 6. If
a Man arrested or apprehended be committed to a
private Prison, where he should be sent to the Com-
mon Goal; a Action will lie for it, as a False Impriso-
ment. 2 Brownl. 41. A Man under Arrest, or in
Stocks, &c. is said to be in Prison: And in a com-
mon Arrest, where lawful, the Officer may make any
Place his Prison, because the Writ commands that
Heales Copus pro coron, &c. apud Wymm. which is a
general Authority. 1 Sal. 201. In criminal Cases,
where a Man is falsely impris'ed, he may bring a
Heales Corpus, and upon Return of the Writ, being
forth the Cause of the Commitment, if it appears to
be against Law, he shall be discarg'd; or he may be
bail'd, if it be doubtful. 4 Rep. 185. 1 Dyer 41.
False Judgment, (False Judicium) is a Writ
that lieth where False Judgment is given in the
County-Court, Court Baron, or other Courts not of
Record. F. N. B. 17. 12. This Writ may be brought
on a Judgment in a Plea, Real or Personal: And
for Errors in the Proceedings of inferior Courts; or
where they proceed without having Jurisdiction, Writ
of False Judgment Lays: Things in the Plaintiff's
Favor Errors in a Writ of False Judgment, he shall not
say, in bar Erratum, &c. but undue curator dor-
censendi. Iul Falsum judicium faciunt falsi, Judicium
in timo. 2d. Moor 73. 6 Inf. 213. Fals
False Judgment abat on any Fault in the Writ, the
Plaintiff shall not have a Substitutus ad audient. Er-
era upon the Extent of a Writ pretended, because it
comes without an Original; but if the Plaintiff dies, and
False Judgment is given in the inferior Court, his
Heir shall have a Substitutus ad audient. Error
against him who recovered upon the Writ, which is re-
vented into C. B. And where the Plaintiff in a Writ
of False Judgment is Nonnull., it was formerly a Question,
whether the other Party shall put Execution upon this
Record so removed against the Plaintiff, without stop-
ing out a Substitutus; but it has been adjudged, that
he may do it. Hill. 23 Hm. 6. New Nat. Br. 39.
When a Record is removed into F. & R. by Writ of
False Judgment, if there be a Virement between
the Record removed, and that on which Judg-
ment was given, the Trial shall be by the Justice who
was then present in Court when the Record was made.
1 Lauret. 157. Stat. 1 Ed. 5 cap. 4. A Man shall
not have a Writ of False Judgment but in a Court
where there are Suitors; for if there be no Suitors,
there the Record cannot be ess'd by them. Nat.
Br. 40. A Tenant at Will, according to the
Culmum of the Manor, which is Tenant by Copy of
Court Roll, shall not have a Writ of False Judgment
upon a Judgment given against him: but where
False Judgment is given on a Writ of Justice, di-
rected to the Sheriff, the Party griev'd shall have a
False Judgment, although the Judgment be for Debt,
or Trespace above the Sum of 20. 2d. Where a
Record of a Judgment in the County Court was vi-
cious, and the Judgment reversed in C. B. the Suitor
were ordered to be recovered a Mark, and the County
Clerk fined 51. And if a Plaintiff in an inferior
Court declare for more than 40. 1 Judgment shall be
reversed by Writ of False Judgment: But where Dam-
ages are laid under the Sum of 30. 0. this may be a
Draft for more, and the Plaintiff shall have a Writ
of False Judgment: but a Writ of Error thereon. 4
Re. 4. 4. For Defaults of Tenants for Life, in Writs of
Right, &c. False Judgment lies by him in Rever-
and this Writ may be brought against a Stranger to the Judgment, if he be Tenant of the Land. A Judgment shall be entered by the Writ of Faile Judgment. See Accises ad Curiam, and attain. 

Form of a Writ of Faile Judgment.  

George the Second, &c. to the Sheriff of S. Greeting: If A. B. shall make you secure in presenting his Suit, then in your Full County Court do you cause to be recorded the Plan, which is in the said Court, with the Plan, hereunto annexed, of the said A. B. C. and the said A. B. D. of the certain Township upon the Lake, to the said C. by the said A. done, &c. whereas the said A. complains that Faile Judgment is done him in the same Court: And that Record hereunto before your Petition in the Court, the Day, &c. under your Seal, and the Seals of the two official Men of the said Court, that were present at the making of the said Plan, and that the said A. C. be there to hear that Record; and have you there the Sealmanes, &c. and this Writ Witnet, &c.  

Aulte Latin. Before the late Sature for turning Low Proceedings into English, if a Latin Word was significant, though not good Latin, yet an Indemnity, Declaration, or Fine, should not be made void by it: But if the Word was not Latin, not allowed by the Law, and it were in a material Point, it made the whole vicious. 3 Rep. 121. 2 N. 830. Vide Latin.  

Jaflify, As where Persons get Money or Goods into their Hands, by forged Letters, or other Counterfeit Means, is punishable by Imprisonment, &c. by Stat. 29 in 2 c. 1. See Counterfeit.  

Jaflify, Seems to signify as much as to prove a Thing to be jasify. P. R. 383.  

Jaflifying a Betch. A Person that purchaseth Land, and then sues the Seller to recover the Same, may jasify the Record, not only as to the Time wherein the Felony is supposed to have been committed, but also as to the Point of the Offence: But where a Man is found guilty by Verdict, a Purchaser cannot jasify as to the Offence; though he may for the Time, where the Party is found guilty generally in and for the Trespass, because the Time is not material upon Evidence. 1 Head. 3. P. 8. 416.  

And any Judgment given by Persons who had no good Commission to proceed against the Percom condemned, may be jasified by showing the Special Matter, without Writ of Error. Ibid. Also if a Man is attainted of Treson or Felony, he may afterwards obtained by Parliament, the Attaintee may be jasified, by him or his Heir, upon Plea. Ibid.  

Jaflifying a Recovery. Illinc in Tail may jasify a Recovery suffered by Tenant for Life, &c. And it has been held, that a Person may jasify a Recovery had by the Illinc in Tail, where an Edate-tail is bound before by a Fine. 2 N. 82. 831. But where there was Tenant for Life, Remainder in Tail, and Remainder in Fee, Tenants for Life suffered a common Recovery, in which he in Remainder was vouchd, and the Ules were declared to him, who had the Remainder in Tail; it was adjudged, that by the Recovery all Remainders and Reversions were barred, and that they could not jasify this Recovery. 10 Rep. 43. He in Recovery suffered a common Recovery, and declared the Ules; his Heir shall not jasify it, because it appears that his Father had nothing at the Time of the Recovery, because he is eloped to stay he is not Tenant to the Precinct. Cons. 185. Above hath brought an Affidavit in B. P. Proving which Acheon the Tenant brought an Affidavit against the Infant in C. B. for the same Land, and had Judgment by Default, which he pleaded in Bar to the Affidavit brought by the Infant; who set forth all this Matter in his Replication, and that the Demandant at the Time of the said Writ brought was Tenant of the Land, and prayed that he might jasify this Recovery; and it was held that he might, because he could not have Writ of Error, or Attorney. Godd. 267. 2 N. 264. It has been determined, that a Recovery is not so firm, but it may be jasified in Point of Recovery of the Thing interjic, between time Parties. Ibid. 

Jaflifying a Warrant. Where in any Real Action, there is a Verdict against Tenant in Tail, the Illinc can never jasify such Verdict in the Point directed only; but only in a special Manner, as by paying the same Evidence was omitted, &c. 2 Ld. Raym. 1510.  


Jafamines, Signifies the whole of the Servants belonging to a particular Master; but in another Sense, it is taken for a Portion of Land, sufficient to maintain one Family: It is sometimes mentioned by our Writers to be a Hide of Land, which is also called a Mens, and sometimes Curata or a Plough-land. Blount.  

Jasanachs, Are Persons pretending to be inspired, and being a general Name for Echans, Anchapsulys, and all other Sekhens, and are sent from the Church of England. Stat. 13 Car. 2. cap. 6.  


Jasattman, A Traveller or Merchant Stranger, to whom by the Laws of Scodland ought to be done with all Expedition, that his Business may be speeded. Stene, c. 1. See Counterfeit.  

Jasellar of Knapp, (Ferdelo Terra) Is generally accounted the Fourth Part of a Yard-Land; but according to Rey., (in his Complct Lavorer, p. 57. j) it is an eighth Part only, for there he says that two Far- doles of Land make a Nad, and four Nad a Yard-Land.  

Jasen-Deal, (Quadrantua Terra) Is the fourth Part of an Acre, and besides Quadrantua Terra, we read of Oblata, Derniaria, Solidata, and Liberata Terra, which probably arise in Proportion of Quantity from the Four, and Six, as well as from the Ten, or Twenty, or from the Time in which the LANDS were set down: 444. whereof it seems that Liberata Terra is so much as yields 200. per Annum F. N. B. 8. 87. Spelm. Gloss.  

Jasar, (Sax.) A Voyage or Paffage by Water; but more commonly the Money paid for such Passage, in which Sense we now use it. 3 P. & C. cap. 16.  

Jasfinuguam, (Tell of Meal or Fower.) Et good de casse Medulleinans non causin Fasinugam, &c. Ordin. Islad. de Jerle 17 Edw. 2.  

Jasrico, Is Money paid by Tenants in the Weal of England in Lieu of a Herits: And in some Manor in Downstre, Jasrico is distingushed to be the best; Goods; as Herits is the best Beal, payable at the Death of a Tenant Ruel.  

Jatlingari, Are Whomeonders and Aduleraters. Saxen.  

Jafrm, or Jerm, (Lat. Firma, from the Sax. Firma, i.e. Sound or Firm to feed or yield Violdam) signifies a large Neiffage and Land, taken by Lease under a certain yearly Rent, payable by the Tenant; and in other Days, by William the First, called the Conquestor, these Rents were referred to the Lords in Violams and other Neclevaries arising from the Land; but afterwards in the Reign of
...to be true to the Lord of whom he holds his Land.

And that he holds Lands by the Oath of Fealty, has it in the servile Manner; because all Persons that have lands, hold per tenet and per Feud, by Fealty, and the Earl, as the Lord of his Feud. 2. Tenem, that he do no secret Damage to him in his House, or any Thing which is for his Defence. 3. Hourfum, that he do him no Injury in his Reputation. 4. Olde, that he do no Damage to him in his Possessions, Page, and. 6. Pigfith, that he renders it easy for the Lord to do any Good, and make that impossible to be done, which was silence in his Power to do: All which is comprised in Leg. Hen. 13. Feud is the State in which the King has hitherto been divided into General and Special; General, to be performed by every Subject to his Prince; and Special, as required only of such as are in office of their Feud, are tied by Oath to their Lords, Grand Coefam. Nermoed. Feudly Special is with us performed either by Freeemen, or by Villeins. The Particulars of the Oath of Fealty, as it is used by the Feudals, is well expressed by Zafarin, in his Tarlatat. Feud, Part 1. Num. 15, 16, which is worthy comparing with the usual Oath taken here in England. By Stat. 17 Ed. 2, the Form of this Oath is appointed, and now observed, it runs as follows, viz. I A. B. will to my Lord C. True and Faithful, and bear to you Fealty and Faith for the Land and Tenements which I hold of you; And I will truly do and perform all the Customs and Services that I ought to do to you. So help me God. The Oath is administered by the Lord or his Steward; the Tenant holding his right Hand upon the Book, and repeating after the Lord, &c. the Words of the Oath; and then killing the Book. Terms of Feud. This is in some Counties neglected; but in Copyhold Mas, where Courts are kept, and Custom is now allowed, it is generally used: Leffes for Life, or Years, ought to do Fealty to their Lords, for the Lands they hold; and there can be no Tenure without some Service. Wins'd. 1 Ind. 2. But in those Counties where Tenants have a free Tenure, shall not do Fealty, because he hath no certain Estate; and the Matter of an Oath ought to be certain. Lit. 151, 152. If Fealty is incident to all manner of Tenures, except Franchises and Tenancy at Will. Vide. Fealties of Feudi, obliqui De servilis stintiis quas particulariter villarum Dominiorum antiquissimas. Spelin. 

Feast, or Year, Days of Feasting and Thabbling feast, as Christmas, Easter, Whitsundays, &c. The feast days which our Laws especially take Notice of, are the Feast of the Annunciation of the Blessed Virgin Mary, of the Nativity of St. John the Baptist, of St. Michael the Archangel, and of St Thomas the Apostle; on which Quarterly Days, Kent on Leases is usually referred to be paid. See the Stat. 5 & 6 Ed. 4. 2 Jac. 1. c. 1. 12 Car. 2. c. 30. 

Feuds of Arrears and Officers, are Considerations paid and allowed them as a Reward and Recompence for their Pains and Labour; and in respect to Officers, they are granted over and above their Salaries, to excite them to Diligence in executing their Office. They differ from Wages which are to be Stipulated for certain Work and Labour done in a certain Space; whereas Fees are disbursed to Officers, &c. for the transacting of Business which occasionally occurs. If a Clerk, when his Business in Court is discharged, resists, he may not to pay the Officer his Court Fees; the Court
on Motion will grant an Attachment against him, on which he shall be committed until the Fees are paid.

1. Litt. Abc. 298. Ecclesiastical Courts have not Power to establish Fees: But if a Person bring a Quantum Meruit in B. & C. for Fees, and the Jury and for him, then, first, become liable for the same. 3 Ev. 333. An Action of the Cafe, lies for an Attorney for his Fees, against him that retained him in his Cause: And Atto-

nys are not to be demanded more than their just Fees; nor to be allowed Fees to Counsel without Tickets, &c. Star. 3 Eng. 1. c. 7. An Attorney may have Action of Debt for his Fees, and also of Counsel, and Costs of Suit: But a Solicitor may not bring an Action for Money laid out in Suit, without express Restraint to lay it out, and Promissory Note for it. And a Coun-

sellor is not bound to give Counsel 'till he has his Fee; 'tis said he can have no Action for it: Though it has been held otherwise. F. B. N. 121. 1 Brew. 73. 12 H. 6. 9. There was a Fee due to Sheriff for executing their Offices, 'till the Stat. 5 Wil. 3. &c. which allows them Fees for executing Writs of Execu-

tion, &c. By the Statute of Wills, 2. 3 Ed. 1. c. 42. & 44. The ancient Fees of Officers of Courts of Justice were ordained: And by Statutes, not only the Fees of Sheriff, but of Gaolers, Baillifs, &c. are limited. See Executors. An Action of False Imprisonment, it has been adjudged 'tis a Bailiff cannot detain a Person ar-

rsted for his Fees. 1 Ld. Raym. 4.

1. F. F. of Ex. 4th, 5th, 6th, 7th, 8th, &c. Fees come of the French Fees, i.e. Frandum beneficium; quod est intellegi, or from the Sax. Feo, viz. Meoric, Steip-

dium, quod dictur flatus Beneficiarum; it is said to be that which is held by the Benefit of Annexed, and for which we do Service or pay Rent to the chief Lord; and is applied to all those Lands and Tene-

ments which are held by perpetual Right, by an Ac-

knowledged Right of a Superior to a higher Lord. The Writers on this Subject, divide all Lands wherein a Man hath a perpetual Estate to him and his Heirs, into Allodium and Frandum: Allodium they define to be every Man's Estate, which he possesseth merely in his own Right, without Acknowledgment of Service or Payment of any Rent to another; and this is a Property in the highest Degree: But Frandum is such Land as he holds, for Service which is done or Rent is paid, as an Acknowledgment thereof. All the Land in England, except the Crown-Lands in the King's Right and the Lights in the Crown, are in the Nature of Frandum, or Fees; for though many have Lands by Dicent from their Ancestral, and others have bought Land, it cannot come to any either by Dicent or Purchase, but with the Burden that was laid upon him who had Necess Fee, or fail of all re-

ceived it from his Lord; so that there is no Perfon hath Dominium, i.e. the very Property of Dicent in any Land but the King, in Right of his Crown: And notwithstanding he hath Fee, hath jus perpetuum &c. of his Dominium, yet he owes a Duty for it, and therefore it is not simply his own; and he that can pay most of his Easement, faith it is am

ised of this in that Land or Tenement, in my Domain, as of Fee issued into Dominium mei at de Frandum, which is so much as if he said, it is my Domain or proper Land to me and my Heirs for ever; but yet I hold it in a Nature of a Benefic and from another. Camb. Brit. 93. All that write de Frandum, hold that it may not have not an entire Property in his Fee: And as Fee cannot be without Frandum, sworn to a Superior, the Lands of the Crown are not properly Fee; for no Man may grant that our King or Crown owned, or were subject to the Earth. The Wealth in Frandum or Fees is sometimes used for the Compa or Circuit of a Lordship or Manor, as we say the Lord of the Fee, &c. as well as the particular Easement of the Tenant.

And also for a perpetual Right Incorporate; as to have the Right of the Fees, &c. see Supp. Lib. 2. cap. 5. Old Nat. Br. 41. And when a Rent or An-

nuity is granted to one and his Heirs, it is a Fee Per-

fess, 1 Inf. 1. 2. Fees is commonly divided into Fees Adonatam, and Fees in Easement, termed otherwise Fee-Tail. Fee-Simple (Frandum simplex) is where a Man hath Lands or Tene-

ments, to hold to him and his Heirs for ever; and Fee-Tail is an Easement whereof one is feated with Limitation, to him and the Heirs of his Body, &c. Litt. 14, 16. All Easates at the Common Law were Fee-

Simples; and all other Easements and Interests were for

ved out of it, wherefore there must be a Fee-Simple at last in some Body. Lit. 647. To have Fee-Simple implies that it is without Limitation to what Heirs, but to Heirs generally: Though it may be limited by Act of Parliament. 4 Inf. 206. It is the Word

Heirs makes the Inheritance; and a Man cannot have a greater Estate in it, than the Heirs, &c. Lit. 1. And a Fee-Simple may not come after a Fee-Simple, nor can a Remainder, it being an absolute Estate, so that nothing can come after it. Dyer 53. If one give or grant Land to J. & his Heirs, and it die without Heirs, that J. D. shall have it to him and his Heirs: By this J. S. hath a Fee-Simple, and J. D. will have no Easate. Dyer 4, 53. Where Land is given or granted by Fine, Fine is payable to the Remainder, to another and his Heirs; it will be a Fee-Simple. Plowd. 134. And if Land be granted to a Man and his Heirs, Necessum to him for Life only, and Liberty of Seisin is made, it is a Fee-Simple; because a Fee is expired in the Grant. 2 Rep. 25. A Lease is granted to one for a Term of Years, and after years to the Land to him and his Heirs, by the Rent of 10l. a Year: if the Granter makes Livery upon it, 'tis a Fea Simple; Otherwise but for Years. 1 Inf. 217. Where Lands are granted to the Granter, and Interest for his Life, the Remainder to the right Heirs of A. here A. hath a Fee-Simple. 20 Hen. 6. 35. Br. Enf. 34, 35. A Gift or Grant is to a Man's Wife during Life, after him in Tail, and after his Wife, &c. he will have a Fee-Simple Easate. 2 Rep. 91. If Lands are granted to a Man and his Successors, this creates no Fee-Simple: But if such a Grant be made to a Cor-

poration, if a Fea Simple, such a Corporation, as a Bishop, Parson, &c. a Fee-Simple is to them and their Successors. Wend. 119. An Easate is granted to a Man and Interest for ever, or to him and his Affliges for ever, is only an Easate for Life; the Word Heirs being wanting to make it Fee-Simple: But in Will, which are more favoured than Grants, the Fee-Simple and Inheritance may pass without the Word Heirs. 1 Inf. 10. 9. And by Deed of Feoffment a Fee-Simple may be created, which would be an Easate-Tail by Will: as where Lands are given to another, and his Heirs Males, &c. without the Word Body. 1 Inf. 10. 9. And by Deed of Feoffment a Fee-Simple may be created, which would be an Easate-Tail by Will: as where Lands are given to another, and his Heirs Males, &c. without the Word Body. 1 Inf. 10. 9. And by Deed of Feoffment a Fee-Simple may be created, which would be an Easate-Tail by Will: as where Lands are given to another, and his Heirs Males, &c. without the Word Body. 17. A Gift to a Man and his Children, and their Heirs, is a Fee-

Simples to all that are living: though if Land is given to a Man and his Heirs, in the singular Number, it is but an Easate for Life, and the Heir cannot take it by Dicent, he being but one, and therefore it shall not take nothing; 8 Litt. Rep. 6. A Fee-Simple determinable upon a Contingency, is a Fee to all Interests; though not so durable as absolute Fee-Tail. 275. In pleading Easates in Fee-Simple, it is from the Commencement of Easates-Tail, and other particular Easates, must regularly be pleaded. 1 Inf. 103. The Fee-Simple Easate, being the chief and most excellent Estate, quite separate, absolute in Lands and Tenements, may give, grant, or charge the same by Deed or Will at his Pleasure; or he may make Wate or Spill upon it: And if he bind himself and his
his Heirs to Warrant; or for Money by Obligation, or otherwise; and leaving such Land to the Heir, it shall be charged with the Warrant and Debts. Also the Right of a Man that is seized of such an Estate, shall be endorsed; and the Husband of a Woman having this Estate, be Tenant by the Curtesy. Ca. Lit. 273. Dyer 330. Fer. Sitt. 336. Though Free-Simple is the most ample Estate of Inheritance, it is subject to many Incumbrances; as Judgments, Set- tures, Mortgages, Fine, Inclosures, Dower, &c. And there is a Fe-Simple Conditional, where the Estate is defeasible by not performing the Condition; and a
Qualified Free-Simple, which may be defeased by a Li- mitation, &c. This is called a Breack, upon which no Reversion or Remainder can be expedated. 1 Inst. 18. 19 Rep. 97. See Dilemma, Exonuntary Devise, Will.

Act Expellant. (Fadum Expellantum.) See Ext. Rents. (Feud Firma.) When is the Lord upon Creation of the Tenancy, refers to himself and his Heirs, either the Rent for which it was before let to Farm, or was reasonably worth, or at least a fourth Part of the Value; without Homage, Fealty or other Services, beyond what are especially comprised in the Feudum. 2 Inst. 44. By Flandorke, a third Part of the Estate of the King, which may be appointed for the Rent, where lands are granted in Free Farm, &c. F. N. B. 210. And my Land Cole, Free- Farm Rents may be Held, a Third, or fourth Parts of the Value. Ca. Lit. 145. Though these Free Farm Rents seem to be more or less, according to the Conditions or Consideration of the Purchaser of the Lands one of which would be, such as such a Person may be allowed to keep, that the Rent be held and unpaid for the Space of two Years, then the Feeder or his Heirs may bring an Action to recover the Lands. Brit. &c. Deed.

Free Farm Rents of the Crown. The Free Farm Rents remaining to the Kings of England from their Ancient Demesnes, were usual of them distracted from the Crown in the Reign of King Charles 2. And by Stat. 24 Car. 2. c. 6. the King was enabled by Let- ters Patent, to grant Free Farm Rents due in Rights of his Crown, or in Right of his Duchies of Lancaster and Cornwall, except Quit-Rents, &c. to Trustees to make Sale thereof, and the Trustees were to convey the same, by Bargain and Sale to Purchasers, &c. who must pay the Rent, and then have a Right in the Lands. But it has been observed, that Men were very too frequently of the Title to Alienations of this Nature, that whilst such Rents were expended to Sale for ready Money, fear could not destroy them, and they remained unfixed: till what made Men earnest to buy them, was the Step upon some of his Majesty's other Pay- ments, which occasioned Persons to refer to this as the most eligible in that Confederacy: No Tenant in Title of any of the said Rents, is enabled to bar the Remainder. 23 & 24 Car. 2. cap. 24. On the Tax- ing of Free Farm Rents, Receivers, &c. were to allow to the Persons paying them so much in the Pound as the Land Tax amount to. Stat. 9 & 10 W. 3. c. 18.

Saxons, (Saxo felo cum ligante) A Compulsion but particularly a Friend, who was bound in the Decency for the good Behaviour of another. In the Laws of King Ethelwulf, it is said, if a Jailer could not be found, &c. the Parents of the Peron must have six Marks, and the King forty; if he had no Parents, then the Lord should it. Et Domini noctes scadasti, &c. Stat. 32. Felo, is a Saxo Word, signifying Fields; and in its Compound it signifies Wild, as Felo Honey, &c. Blumen.

Felis, were faithful Subjects, from the Sax. Fea, i.e. Fea.

Feto be Fe, One that cometh Pheony or his vivid Hands upon himself, and is the Occasion of his own violent Death. When 1 Perfon with Deliber- ately and direct Purpose kills himself, the Death is called Drowning, Stroking, Slashing, &c. this is Felo, i.e., but the Felon that committs this Felony, affet of the Age of Difcrimination, and Guns, Men: And therefore in an Infant under fourteen Years of Age, or in a Lunatic during his Lunacy, or one disabled by a Diseasie, or an Idee, kills himself, it is not Felo, but 5 Stat. 44. Ditto. 24. 145. Also if a Perfon during the Time Phe, he, nor Chaf is Feated, gives himself a mortal Wound, though he die thereof when he recovers his Memory; he is not Felo de Fe, because at the Time of the Stroke he was not Capas Municaci. Ditto. 147. 148. And he who defpises and persecutes another Man to kill him, is not a Felo de Fe; his Affent being void in Law, and the Perfon killing him a Murderer. 1 Keb. 156. 5, it is Felo de Fe where a Man maliciously attempts to kill another, and falls upon his Sword, &c. whereby he kills himself; but he must be the only Agent. 1 H. P. C. 68. A Felo de Fe shall forfeit all his Goods and Chattels Real and Personal; but not until it is lawfully found by the Oath of twelve Men, before the Coroner and others, that he is Felo de Fe. 3 Stat. 55. By the Return of the Inquisition, the Goods, &c. forfeited to the King: This is the background of the law, it hath been said, that the Goods of a Felo de Fe are forfeited before Inquisition, &c. immediately upon committing the Felon. Litt. &c. 5 Rep. 110. The Goods, &c., where it is adjudged that they are not forfeited till it is found of Record. The Lands of Inheritance of a Felo de Fe are not forfeited, by Restor he was not at- nessed in his Life times nor in such a Felon's Wills, par- tioned among his Heirs, or his Blood corruped. 1 H. 8. 66. If a Judgment is obtained by a Plaintiff in any Action, and the Plaintiff takes himself, to come to become Felo de Fe, he is committed to the King's 1 Seck. 56. 2 Nott. &c. 894. Goods are forfeited to the King by a Felo de Fe, for the Loss or a Subject, and Breach of the Peace. But these forfeitures are oftentimes saved, by the Coroner finding their Verdict lunacy to which they are in- clinable to a favourable Interpretation, that it is im- possible for a Man 1 to live for a Time in such a State as to be considered as of sound Ments. But if this Argument be good, Self- Murder can be no Crime, because a Madman cannot be guilty of any Crime. 1 H. 67. If a Perfon Felo de Fe is secretly made away, that the Goods of a Felo de Fe are not forfeited, the King may not be able to view the Body: Preliminary is to be made of it by Judicet of Peace, &c. to entitle the King to the Forfeiture of Goods, &c. Rep. 110. Where a Per- son is found Felo de Fe, who on Account of Lunacy, &c. ought not to be for or one where is returned Non Cumpos, when in Truth the Party is Felo de Fe, &c. there need be no Proof in the Coroner, or Incurtancy in the Inquisition, a Melius Inquirendum will not be granted; but the Inquisition is traversable in B. R. 3 Mod. 258. 5 Nott. &c. 840. Although there can be no Melius Inquirendum, 'twas said the Court may order an Indictment to be brought against the Felo de Fe; and if that be found, his Goods shall be forfeited. 1 Litt. &c. 601. A Pardon of Murder, doth not pardon Felo de Fe; but a Pardon of all Felonies and Forfeitures doth, by Custom and Practice, the Bodies of Felos de Fe are buried in the Highway. &c.

Fellos Goods. The Statute of Praerogativa Re- gis, 17 Ed. 3, c. 11. grants to the King, among other Things the Goods of Felons and Pugilators. If the King grants to a Man and his Heirs Felons Goods, the Goods cannot derive benefit, &c. on the Statute 32. If, &c. because they are not of an yearly Value; but where a Person is feated of a Manor, to which they are appannent, it is otherwise, for they will pass as appannament. 3 Rep. 19. A Perfon committed to Prison on Susception of Felony, having the Money taken
taken from him, which he had abated him before Con- 
\[...\]
small, the Words Felony, and the other Fiery; and his Reason is, because either of these Words are suitable to the Crime, which is always intended to be done with a bitter or fierce Mind. But the learned Spencers gives a different Signification of the Derivation of this Word, that it comes from the Saxen Word FeOH, which signified a Reward or Fine, and the German Law, which in English is Price; and this was formerly a Crime punished with the Price, was the Lois of Eftate. And before the Reign of K. H. 1. Felonies were punished by Pecuniary Fines, for he was the first who created Felons to be hanged, about the Year 1108. The judgment against a Man for Felony hath been the same since the Reign of this King, i.e., That he be hanged by the Neck till Dead; which is entered "fulgurandus per Collem", \textit{et c. 4. Ind. 124.} Felony was anciently every Capital Crime per- 
\[...\]
Privy or Content, is Felony. 21 Jac. 1. c. 36.

Warrants Perpetual or the Number of the Affirmative, is
riotous Manner to beat Informers against Distillers gel
Spirituous Liquors unlawfully, or to refuse Offendi
ers, is Felony. 11 Geo. 2. c. 26. Perpetuals have the
any Way afflicting Felons, &c., in Cases of Melancholy, it
be Condemned, or by conveying them to Arms or Instru
ments, to make their Estates, is made Felony and
Transportation. 16 Geo. 2. c. 31. Putting out of Ruts,
Perpetual or of the Commonwealth, is made Felony.

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of

28 & 29 Car. 2. c. 1. To acknowledge a Fine of
in or shall knowingly buy or receive the same, shall be guilty of Felony, without Benefit of Clergy; but the Court may transport the Offender for fourteen Years. Cutting off any Limb or Member, or mali- ciously taking away any Member, with Intent to maim or disfigure a Person, is Felony without Benefit of Clergy. 22 & 23 Car. 2. Persons marrying a second Husband or Wife, the first being living, is Felony: But if either of them be absent abroad above seven Years, without Notice of his or her's being alive, the other may marry again. 7 Jac. 1. Smiling or taking away a Woman against her Will, that has Lands or Goods, or is Heri apparent, and marrying her, is Felony. 3 H. 7. Persons convicted of maliciously setting any Mine on Fire, or Pit of Coal, to be guilty of Felony, 10 Geo. 2. c. 32. The breaking down Ledges, Sluices, or other Works on Navigable Rivers, &c. is made Felony, 8 Geo. 2. c. 20. Smiting or cutting off the Nose, &c. of any Person, is Felony excluded Clergy. 12 Geo. 2. c. 15. If Pick-pocket Clerks are taken above 12d. from the Person of another, &c. &c. without his Knowledge, it is Felony, 8 Eliz. c. 4. Not only taking out First Blood, but selling or advising any Pick, or receiving or concealing any Pick, &c. is Felony, 11 & 12 W. 3. c. 7. And trading with Pick-packets, furnishing them with Stores, or boarding any Vehicle of any kind overboard of Goods, &c. is Pick-pocket Felony, &c. is Felony, by 8 Geo. 2. Willful Poaching in Murder and Felony, and the Aiders, Abettors, &c. shall suffer Death. 1 Ed. 6. It is Felony for any Person to break, Poaching, being in Felony, by 1 Ed. 2. Assisting and striking, or attempting to kill a Privy Counsel, when in the Execution of his Office, is Felony without Benefit of Clergy, 9 Ann. Those who receive, relieve or maintain Priests and Jesuits, knowingly, are guilty of Felony, 27 Eliz. c. 2. To commit a Rape on any Maid within Age, or any married Woman, Maid at full Age, or any other Woman, by Force and against her Will, was formerly punishable only by Fine and Imprisonment, but the Stat. W. fem. 2. made it Felony. And by 18 Geo. 7. it is Felony to know a Wench carnally under the Age of ten Years, though the consent. Acknowledging a Recognizance or Statute, in the Name of another Person, not privy and consenting, is Felony, 22 Jac. 1. c. 26. Imbusseling of Records, is made Felony, by 8 H. 6. Riots assembled, being twelve in Number, not dispersing within an Hour after Proclamation made for that Purpose, &c. shall be guilty of Felony. 1 Geo. 1. Suffering a Recovery of Lands in the Name of another, is Felony, 21 Jac. 1. Robbery of Churches, &c. is Felony, by 23 Hen. 8. c. 1. Robbery on the Highway, and Murder by the Common Law; and the 13 Ed. 1. orders a Hue and Cry to be made from Town to Town, and County to County, &c. after the Robbers: 1600 £ forty. Reward is given for apprehending a Robber on the Highway, (as it is in several other Cales by other Statutes) by 4 & 5 W. & M. Persons imbusseling others in a forcible Manner, with an Intent to rob them, is Felony, and Offenders to be transported. 7 Geo. 2. Servants parboiling or imbusseling their Master's Goods, &c. to the Value of 40l. Felony, and the Killing of Shear, is made Felony, and so is the Sealing, or Driving away Sheep, or other Cattle, with an Intent to Steal their Carcasses, &c. 12 & 23 Car. 2. 14 Geo. 2. c. 1. Violence to a Ship, or exiling the same to be done, or making of Holes, in the Bottom or Sides tending to the Loss of the Ship, &c. is Felony. 1 Ann. 12 Ann. Soldiers departing from their Cap- tains, or riding a Livery Horse, or riding a Superior Officer, are guilty of Felony. 18 H. 6. 10 Ann. So all Persons Subjects of Great Britain, in this Kingdom, carrying military, military themselves sol- diers, to go beyond the Sea, and serve any foreign Prince, without Leave. 9 Geo. 2. c. 30. Stabbing a

Person not having a Weapon drawn, if he dies in six Months, is Murther, and Felony excluded Clergy. 1 Jac. 1. Stealing of Goods and Chattels, which Person by Contract are to use, is Felony. 6 & 7 W. 3. And receiving and concealing the said Goods, is Felony. 22 & 23 Car. 2. Persons marrying a second Husband or Wife, the first being living, is Felony: But if either of them be absent abroad above seven Years, without Notice of his or her's being alive, the other may marry again. 7 Jac. 1. Smiling or taking away a Woman against her Will, that has Lands and Goods, or is Heri apparent, and marrying her, is Felony. 3 H. 7. Persons convicted of maliciously setting any Mine on Fire, or Pit of Coal, to be guilty of Felony, 10 Geo. 2. c. 32. The breaking down Ledges, Sluices, or other Works on Navigable Rivers, &c. is made Felony, 8 Geo. 2. c. 20. Smiting or cutting off the Nose, &c. of any Person, is Felony excluded Clergy. 12 Geo. 2. c. 15. If Pick-pocket Clerks are taken above 12d. from the Person of another, &c. &c. without his Knowledge, it is Felony, 8 Eliz. c. 4. Not only taking out First Blood, but selling or advising any Pick, or receiving or concealing any Pick, &c. is Felony, 11 & 12 W. 3. c. 7. And trading with Pick-packets, furnishing them with Stores, or boarding any Vehicle of any kind overboard of Goods, &c. is Pick-pocket Felony, &c. is Felony, by 8 Geo. 2. Willful Poaching in Murder and Felony, and the Aiders, Abettors, &c. shall suffer Death. 1 Ed. 6. It is Felony for any Person to break, Poaching, being in Felony, by 1 Ed. 2. Assisting and striking, or attempting to kill a Privy Counsel, when in the Execution of his Office, is Felony without Benefit of Clergy, 9 Ann. Those who receive, relieve or maintain Priests and Jesuits, knowingly, are guilty of Felony, 27 Eliz. c. 2. To commit a Rape on any Maid within Age, or any married Woman, Maid at full Age, or any other Woman, by Force and against her Will, was formerly punishable only by Fine and Imprisonment, but the Stat. W. fem. 2. made it Felony. And by 18 Geo. 7. it is Felony to know a Wench carnally under the Age of ten Years, though the consent. Acknowledging a Recognizance or Statute, in the Name of another Person, not privy and consenting, is Felony, 22 Jac. 1. c. 26. Imbusseling of Records, is made Felony, by 8 H. 6. Riots assembled, being twelve in Number, not dispersing within an Hour after Proclamation made for that Purpose, &c. shall be guilty of Felony. 1 Geo. 1. Suffering a Recovery of Lands in the Name of another, is Felony, 21 Jac. 1. Robbery of Churches, &c. is Felony, by 23 Hen. 8. c. 1. Robbery on the Highway, and Murder by the Common Law; and the 13 Ed. 1. orders a Hue and Cry to be made from Town to Town, and County to County, &c. after the Robbers: 1600 £ forty. Reward is given for apprehending a Robber on the Highway, (as it is in several other Cales by other Statutes) by 4 & 5 W. & M. Persons imbusseling others in a forcible Manner, with an Intent to rob them, is Felony, and Offenders to be transported. 7 Geo. 2. Servants parboiling or imbusseling their Master's Goods, &c. to the Value of 40l. Felony, and the Killing of Shear, is made Felony, and so is the Sealing, or Driving away Sheep, or other Cattle, with an Intent to Steal their Carcasses, &c. 12 & 23 Car. 2. 14 Geo. 2. c. 1. Violence to a Ship, or exiling the same to be done, or making of Holes, in the Bottom or Sides tending to the Loss of the Ship, &c. is Felony. 1 Ann. 12 Ann. Soldiers departing from their Cap- tains, or riding a Livery Horse, or riding a Superior Officer, are guilty of Felony. 18 H. 6. 10 Ann. So all Persons Subjects of Great Britain, in this Kingdom, carrying military, military themselves sol- diers, to go beyond the Sea, and serve any foreign Prince, without Leave. 9 Geo. 2. c. 30. Stabbing a

An Indictment for a Felony, and against Accusatories.

South'cn. T. H. Jowers, &c. that A. B. late of H. in the County of S. Labour- re, on the Day, &c. in the Year of the Reign, of H. after mentioned, in the said County, with Force and Arms, &c. did break and raise the Chief of one D. and fe- lously steal, take, and drive away a certain black Horse or Gelding, of the Price of six Pounds, &c. of the Goods and Chattels of the said D. then and there found, that is to say, at H. afterfired, in the said Coun- ty, against the Peace of our said Sovereign Lord the now King, his Crown and Dignity.

And that one P. F. &c. in the said County, Yor- man, before the Felony afterfired done and committed by him the said A. B. in the said County, &c. on the Day and Year, &c. at H. afterfired in the said County, feloniously abstact, procured and excited the said A. B. to commit the said Felony, in the Manner afterfired, against the Peace, &c.

And that G. H. &c. in the said County, know- ing that the said A. B. had comitted the said Felony, in Manner afterfired, on the Day in the said Year, &c. afterfired, at H. afterfired in the said County, feloniously and wilfully received, comforted and entertained the said A. B. after the said Felony by him done and committed, against the Peace, &c.


The text on the page is too blurred and indistinct to be accurately transcribed.
FE

Henry II. At Common Law the usual Conveyance was by Ferfment, to which Livery and Seisin were necessary, the Poatitioner being thereby given to the Posfer; but if Livery and Seisin could not be made, by Resiion or by litter, as there was a Tenant in Possession, the Reversion was granted, and the particular Tenant attorned. 1 sq. 54. 2 a. 1. A Ferfment is said in law to exceed the Conveyance by Fine and Recovery; it clear- ing all Difficulties, Abatements, Interruptions, and other wrongful Estates, which no other Conveyance doth: And for that it is so solemnly and publicly made, it has been of all other Conveyances the most observed.

Wag. Symb. 235. Plowd. 54. It bars the Ferfment of all collateral Benefit, as Conditions, Powers of Revoca- tion, Writs of Error, &c. and destroys contingent Utes. 1 sq. 5. But a Ferfment may not be of such Things whereof Livery and Seisin may not be made: for no Deed of Ferfment is good to pass an Estate without Livery of Seisin; and if either of the Parties die before Livery, the Ferfment is void. Plowd. 214. 219. Though where a Ferfment made a Ferfment of Lands with Livery in View, and then married the Ferfment before the Livery was executed by actual Entry; it was adjudged the Livery might be executed after Marriage, the Ferfment having not only an Authority to enter, but an Interest passed by the Livery in View, and the Woman did all on her Part to be done. 1 Feet. 186. There must be Livery of Seisin in all Ferfments, &c. where a Grant of Inheritance or Freehold doth pass: And without Livery, the Deed is no Ferfment, Gift or Demise. Litt. 59. 8 Rep. 82. But a Freehold may pass without Livery by the Stat. 33 H. 6. c. 10. By Force of such Statute, a Statute, a Ferfment to the Use of the Ferfmer, Ferfmer, &c. supplies the Place of Livery and Seisin. Wood's Stat. 235. A Ferfment being a Common Law Con- vention, not a Statute, and therefore Freehold in Lands transmute- tion of Estate; but a Conveyance on the Statute of Utes, as a Covenant to stand feised, &c. makes only a Transmutation of Possession, and not of Estate. 2 Law. 27. 1 Feet. 578. A Ferfment to the Use of A. for Life, the Remainder to B. If A. refuseth to take the Estate, B. shall take presently, because the whole Estate is out of the Ferfment by Livery: But if it had been by Covenant to stand feised, he should not have taken till after the Death of A. but it would reft in the Covenantor, who shall have the Use in the mean Time. l. Lev. 27. 22. Before the Stat. Wynn. 3. If A. had made a Ferfment in Fee, without declaring any Ute, it should have been to the Use of the Ferfmer: though now by that Statute, where no Con- sideration or Declaration of Use is expressed, it shall go to the Ferfmer himself. 2 Lev. 15. 16. If I convey Lands by Ferfment, which I have on the Part of the Mother, to J. and his Heirs, without Con- sideration; the Ute will be void, and the Land shall return to me and my Heirs on the Part of the Mother: Yet I declare the Ute to be given to me my Heirs, or upon such Ferfment referve a Rest in like Manner, it shall go to my Heirs as the Common Law, it being a new Thing divided from the Land. Hob. 51. 1. Squ. 13. 231. 1 Rep. 100. 13. Where a Man makes a Ferfment, without any Consideration: by that the Estate and Possession pass, but not the Ute, which shall descen to his Heir. 1 Lev. 58. A Ferfment in Fee is made to the Use of such Person, and for such Estates, as the Ferfmer shall appoint by his Will, or to the Ute of the Late Will; by Ope- ration of Law the Ute vells in the Ferfmer, and he is left with no equal Share, unless the other Party, upon the Death of his Will, and declares the Utes: and after the Will is made, it is only directory, for nothing passeth by it all but the Ferfment. 1 Aliz. 169. A '[No. 7]' Ferfment in Fee, upon Condition, &c. was intoll, but no Li- very made; and it was adjudged no good Ferfment, but the Inrollment shall conclude the Perió to say that it was not his Deed. I. I. 6. 2 Nef. Abr. 844.

If a Bargain and Sale of Lands be not inrolled, and the Bargainer deliver Livery and Seisin of the Lands described in former Chancery or Eq. &c. it has been held a good Ferfment. 2 And. 68. A Ferfment in Fee made upon Condition not to alien, the Condition is void; and although such Determination of the Ferfment as had, the Ferfment will be good against the Ferfmer: And a Bond with Condition that the Fersee shall not alien, is said to be good. 1 Co. 145. 206. 2 Co. 296.

If a Man makes a Ferfmenthold Lands on Condition, that the Ferfmer shall give the Lands to the Ferfmer and his Wife in Special Tail, Remainder to the Heirs of the Ferfmer and he dies before such Gift is made, the Ferfmer ought to make it as near the Intent of the Con- dition as may be, ors, to the Wife without Impreach- ment of Walle, Remainder to the Heirs of the Body of his Father and Mother begotten, Remainder to the Right Heirs of the Husband or Father. 1 sq. 219. 220. Tenant in Tail makes a Ferfment in Fee; the Inheritance of the Tail is not given to the Ferfmer by the Ferfment, nor is it thereby made in Tail; as all shall be Tenant in Tail but he only who is compre- hended in the Gift made by the Donor. But it gives away no more than the Donor intended it should have. 12 Eliz. 2. 62. 1 Hoo. 435. If Letters for Life, and the Rever- sioner in Fee, make a Ferfment in Fee by Deed, each gives his Estate; the Leisfor his by Livery, and the Fee from him in Remainder. 1 Hoo. 435. 669. A Ferfment was made Habendam to the Ferfmer and his Heirs, after the Death of the Ferfmer, and Li- very was made; yet it was held to be a void Ferfment, because the Land was not conveyed out of the Life of the Ferfmer. A. It is necessary to make the Grant in a Day to come: But where a Leisfor made a Lease for Lives, and granted the Reverion to another for Life, whole Estate for Life was to begin after the Death of the Survivor of the other Leisfor for Life, this was adjudged a good Estate in Reversion for Life. 1 Hoo. 171. 1 Nef. Abr. 846. If a Man be diffolved, and makes a Bond for Ferfment, and a Letter of Re- ceiuy to enter and take Possession of the Land, and after- wards to make Livery, according to the Form of the Charter, it will be a good Ferfment, though he was out of Possession at the Time the Bond for the Ferfment takes Effect by the Livery, and not by the Deed. Co. Lit. 48. 52. And if the Husband alone make a Ferfment of his Wife's Land, or of both their Lands, his Wife being on the Land, and did- agreeing to it; this will be good against all Persons but the Wife, Aiso it is, if one Jointante make a Deed of Ferfment of his Wife's Land, or of both their Lands, his Wife being on the Land, and dis- agreeing to it: Or if a Man disflide me of his Land, and then enfeal another thereof whilst I am upon the Land, &c. Perk. Ser. 219. 220. A Ferfment may be of a Meadow, Land, Meadow, Fer- sence, or other corporal Thing, and of a Moesty, Third, or Fourth Part of it, that lies in Livery: And in Deeds of Ferfment, there must be a good Ferfment, that is, one able to grant the Thing conveyed by the Deed; a Ferfmer capable to take it; and a Thing granted, and granted in the Manner the Law requir- es. 1 sq. 41. 42. 190. Every Gift of Ferfment of Lands made by Fraud or Maintenance, shall be void; and the Difficulties notwithstanding such Alienation, shall recover against the first Ferfmer his Land, and does not, unless he assume his Suit in a Year after the Difficult, and that the Ferfmer be Peerer of the Prochts. Stat. 2 R. 2. c. 9. See 1 H. 6. c. 5. c. 1. A Deed of a Ferfment of a Merchant's Funds, acceptable. A Ferfment in Fee, upon Condition, &c. was intoll, but no Li- very made; and it was adjudged no good Ferfment, but the Inrollment shall conclude the Perió to say that it was not his Deed. Ps. 6. 2 Nef. Abr. 844.
FE

FE

was slain in Flee of the Place where, &c. and being so feild, Poytsab, &c. assayed, and confirmed, and appriayed, and by and their Precinct, doth make, ordains, constitute and appoint E. S. &c. and G. H. of, &c. his true and lawful Assignment, generally, and other of them generally, for him in his Name, into the said Poytsab and Premises, with the Appurtenances hereby granted and conveyed, or mentioned to be granted and conveyed, or into some Part thereof, in the Name of the whole, or as to any Part of it, and any and all peaceable Partition and Subtenants thereof, or in his Name, to take and beare; and after such Partition and Subtenants thereof taken and had, for the same and all peaceable Partition and Subtenants thereof, or into some Part thereof, in the Name of the Whole, the said C. D. or to his certain Attorney or Assignees in that Behalf, to give and deliver; To hold to him the said C. D. his Heirs and Assigns for ever, according to the Particular, true Intent and Meaning of these Presents, vesting, confirming, and allowing all and whatsoever his said Heirs, Assignees, or either of them, should be in the Premisses. In Witness, &c.

Free Nature, in our Laws signifies Beasts and Birds that are wild, in Opposition to the tame: such ad Hares, Foxes, Wild Geese, and the like, wherein no Man may claim a Property. 2 Cra. 293.

Aerated, (from the Sax.adc, &c. or &c. was used for being quite of Man's fashion, committed in the Army. 24, c. 1. It is in that sense imposed on Persons for not going forth in a Military Expedition; to which Duty all Persons who held Land, were in necessity obliged: And a Neglect or Omission of this common Service to the Publick, was punished with a pecuniary Malt called the Ferduite. Cowell.

Aerial Days, (Dios Perialis, Perie.) According to the Latin Dictionarie are Holy Days, but in the St. 27 H. 6. c. 5. Feria Days, dedicated for Working Days, in the Days of the Week, except Sundays: The Week-Days as distinguished from Sundays, the Profane from the Sacred, were called Dios Perialis, by a Charter dat. 28 Mart. 1146.—Ex Carull. Ecl. Elyonidis, MS. Aleringa terre, A Quarter or Fourth Part of a Yard laid.—Decem acru fociam Ferlingam, 4 Ferlingas, fociam Virginam, & 4 Virginam fociam Hidam, n. In ancient Records there is Mention of Ferlingus and Ferlingius terre. Mon. Ang. Tom. 1. 1. See Fardel of Land. 6. See Land leas. 7. See Foreign.

Aeron, (Firma) A Hoose and Land let by Leas, &c. Vide Farm.

Aerompt, (from the Sax. Forma, Vifum) Is an Hospital; and we read of Foreign the Aerompt, 3.


A.A. Foreign, A Piece of Waffe Ground where Fer

Aeromptons, Ferramentum, The Iron Tools or Instruments, mill, &c. Ex ferramenta in tres carucos, i.e. The Iron Work of three Ploughs. Lib. Niger Herf. 4 M
will lie for one's being disturbed in his Possession, unless he have some good, certain, and legal Damage, &c. 3 Bl. Rep. 994. The not keeping up a Ferry, has been held to be indictible. See Bridge.

Artificial, To speak falsely. — Nemo poscit

placitum, &c. see cap. 20. Remus in falsis declaris concludit. 4 &c. Leg. H. 1. c. 61.

Futu in Captis, Were some grand Holy-Days, in which the whole Cities and Cathedrals were Capit.


Frequently, The Sax. Fyfman signifies a Surety or Fleece; and to be free of Fyfmanism, was probably to be free of Frank-pledge and not bound to any Man's Forth-coming, who should transfer the Law. Mon. Angl. Tom. 1. p. 125.

Footing, Earnest given to Servants when hired or retained in Service, as called in some Northern Parts of England, from the Sax. Fyfman, to foften or confirm.

Futu, A Fleece; Fyfman S. Michaelis, the Fleece of S. Michael, &c.


Fyfum, (Feda) Signifies in the German Tongue Guaranum, Lat. Bellum; and according to Lambard, Captivates Inimici: And Fyfud ualed in Scotland is a Combination of Kindred for revenging the death of any of their Blood against the Killer, and all his Race; or any other great Enemy. Stone.

Freudette, A Reimbursement for Engaging in a Fyf, and the Damages consequent; it having been the Custom in ancient Times, for all the Kindred to engage in their Kinship's Quarrel. Sax. Dict.

Fyfum, (Feda) Others in Lands were originally at will, and then they were called Manned; afterwards they were for Life, and then they were termed Benefi-
cia, and for that Reason the Livings of Clergymen are so called at this Day; and afterwards they were made Hereditary, when they were called Fyfum, and in our Law For Simple. Rul. Spel. 9. When Hugh Caprot usurped the Kingdom of France, about the Year 942, to support himself, in such Uprising, he granted to the Nobility and Gentry, that whereas till then they enjoyed their Honours for Life, or at Will only, they should from thenceforth hold them to them and their Heirs; which was imitated by William called the Conqueror, upon his Acquision to the Crown of England, for till his Reign Fyfum or Fyfes were not here-

ditory, but only for Life, or for some determinate Time. 3 Stat. 165.

Fyfum and Fyfum. See Fyfum and Fyfum.

Fyfes, in a Law, a Warrant of some Judge for making out and allowing certain Pre-

ceefs, &c. If a Curtvreis be taken out in Vacation, and teiled of the preceded Term, the Fyfes for it must be returned by a Judge of the Court, some Time before the Eodn Day of the subsequent Term, otherwise it will be irregular: But it is said there is no need for any Judge to sign the Writ of Curtuvreis itself, but only where it is required by Statute. 4 Stat. 155. 2 Hens. 280.

Fyfum Jutlitis. On a Petition to the King, for his Warrant to bring a Writ of Error in Parliament, he writes on the Top of the Petition Fyfum Jutlitis, and then the Writ of Error is made out, &c. And when the King is Petitioned to redress a Wrong, he indites upon the Petition Let Right be done the Fyfes. Dyer 385. Stain. Prorog. Reg. 22.

Fyfum of Law, (Fyfe Juris) Is allowed of in several Cases: But it must be framed, according to the Rule of Law, reasonable and as the Concep-
tions of Man; and there ought to be Equity and Poss-

ibility in every legal Fyfen. There are many of the Fyfes in the Crown Law; and by former Citi-

zans, it is said to be an Assumption of Law upon an Utrust, for a Truth, in something possible to be done, but not done. Gladsuff & Cart. The Seisin of the Crown in a Fine is but a Fyfen in our Law; it being an Invented Form of Conveyance only. 1 Litt. Abr. 610. And a Common Recovery is Fyfen Juris, a Fine or Device by Condemnation. When a Man is desirous to cut off an Estate, title, Remainders, &c. to Rep. 42. By Fyfen of Law, a Bond made beyond Sea, may be planned to be made in the Place where it was bindings, in fifteen in the County of Middlesex, &c. to try the same here; without which it cannot be done. 1 Poph. 261. And it is in some other Cases; but the Law ought not to be satisfied with Fyfen Juris, where it may be otherwise really satisfied; and Fyfum in Law shall not be carried farther, than the Reasons which introduce them necessarily require. 1 Litt. Abr. 62. 2 Sten. 320.

Fyfum mentis, If a Tenant do not keep that Fyfen which he hath sworn to the Lord. Leg. H. 1. c. 52.

Fyfum qua facit, in other Countries the contrary to Church: In Germany, certain Districts or Territories are called Fyfes; where there are Fyfes of the Emperor.

Fyfen Juris, Is a Judicial Writ, given by the Statute of Wynn. 2. 13 Ed. 1. that lies where Judgment is had for Debt or Damages recovered in the King's Court, and thence by the Sheriff is conveyed to the Deputy, who is commissioned to levy the Debt and Damages of the Goods and Chattels of the Defendant, &c. Old Nat. Br. 152. This Writ is to be issued within a Year and a Day after the Judgment; or the judgment must be revived by Scire facias: But if a Fyfen Juris be not executed, a second Fyfen Juris or Eligiis may be issued out; and if that is not done after some Years, without a new facias, provided Continuations are entered from the first Writ, which 'tis also held may be entered after the elec-

cion Fyfen Juris, taken out, unless a Rule is made that Proceedings shall be done; &c. 31 Ed. 2. Nuff. Abr. 240. If a Man recover Debts against A. B. and levy Part of it by Fyfen Juris, and this Writ is returned; yet he may take his Body in Execution by Capias for the rest of the Debt, &c. 1 Bla. 924. The Sheriff on a Fyfen Juris is to do his best Endeavours to levy the Money upon the Goods and Chattels of the Defendant, and for that Purpose to inquire after his Goods, &c. And the Plaintiff may inquire and search he can find any, and give Notice thereof to the Sheriff, who ex officio is to take and sell them if he can, or if not, by a Writ of Fyfum Juris, and so continue the Execution; which is a Scire facias for the Ground of the Fyfen Juris, may be re-
turned of Course by the Attorneys, as Originals are. 2 Stat. 516. If all the Money is not levied on a Fyfen Juris facias, the Sheriff must return before a second Execu-

tion can be issued; because it is to be granted on the first Writ, by reciting that all the Money was not le-

ved. 1 Stat. 538. Where the Sheriff levies Goods by Fyfen Juris, and doth not return the Writ, and after-

wards another Fyfen Juris is brought to levy the Money, the Defendant may plead this Matter. 2 Stat. 171. And where the Sheriff sells Goods which he levied by Fyfen Juris, and doth not pay the Money, Action of Debt will lie against him; for the Defendant is dis-

charged as to the Plaintiff, and the Sheriff is now be-

come his Debtor in his own Person; and if the Sheriff die after he hath levied the Debt, the like Action will lie against his Executors, as it is a Duty when levied. March Reg. 13. 2 Sten. 478. If a Sheriff that hath failed to deliver the Goods, and afterwards the Goods are delivered by another Sheriff, and return his Writ executed pro parte; and he ought not to deliver them to him, the Sheriff is guilty of False Execution; which is warranted by a Record, and therefore the Dis-

Upon a Fi Fauci the Sheriff returned, that he had levied the Goods of the Debtor; the Return being filed, a motion was made that he might bring in the Money, which not being done an Attachment was granted, and then the Sheriff appeared and prayed to amend the Return, for that the Goods were delivered to the Sheriff by Lying, and he could not get Bayers: but it was adjudged that the Return shall not be altered, for he might have returned this at first by Way of Exsurfe; and having returned that he had levied Goods ad valentiam, he shall pay the Money. 507. The Sheriff may sell the Goods on a Fi Fauci, and take the Money; though he must take the Money upon a Copias satisfacienti, that writ not warranting him to do it. 58. But the Sheriff cannot deliver the Goods by him taken in Execution to the Plaintiff, in Satisfaction of his Debt; because his Authority is to sell the Goods. ibid. 589. 1 Litt. Abs. 611. And if a Sheriff sells the Goods taken by Fi Fauci at unsaleable Price, the Sale is good, and the Defendant can have no Redress at Law, so long as the Sheriff remains in Office; whereupon a Stranger promised the Officer to pay the Debtor in Consideration he would release them; so Indebetatis Amissitu brought for the Money, it was objected to the Sheriff as ill for that it was like a Consideration to suffer a Prifoner to escape; but it was held, that as upon a Fi Fauci Goods are to be sold by the Sheriff, and the Title to the Money, this is no more in Effect than a Sale for that Purposes. 56. On a Fi Fauci the Sheriff has Power to take any Thing, but wearing Cloaths; and if the Defendant had two Goats, &c. he said he may sell one. If the Sheriff executes a Writ of a Fi Fauci, he may afterwards return Nulla Bona, upon there appearing a presumptive Writ sufficient; or on better Information, a writ taken out of the Defendant's. Cymb. 364, 452. By the Seizure of the Goods, the Sheriff hath a Property in them; but Goods of a Stranger, &c. in the Possession of the Defendant shall not be in Execution; for the Sheriff at his Peril must take Notice whose Goods they are: though if the Sheriff inquires by a Jury, where the Property is lodged, and it is found that they are the Defendant's Goods, when they are not, this will indemnify the Sheriff. Dall. Sbr. 60. West's Inst. 606. The Sheriff cannot break open the Door of an House to execute a Fi Fauci upon the Goods of the Owner or Occupier; but a Man's House shall be a Protection for his own Goods only, and not for the Goods of a Stranger. 517. But if the Sheriff in the Course of his Office, finds that a Stranger is the Benefactor Clergyman, and the Sheriff returns Quod est Clerico beneficiarius, &c. a Writ shall go to the Bishop of the Diocese, or to the Deo De bonis Ecclesiis, who thereupon sends forth a Sequestration of the Profit of the Clerk's Benefice, directed to the Churchwardens, &c. But this Writ of Sequestration shall not remain in the hands of the Sheriff, but the Clerk is at liberty to apply to the Bishop for the recovery of his Profits. 3 Inf. 4. 472, 647. By Virtue of a Fi Fauci a Term for Years may be sold, as well as any other Goods, and without an Inquest or Jury; Alio Corne growing may be sold, &c. 517, 494, 56. And if the Sheriff on a Fi Fauci, &c. selleth a Term for Years, and after that the Judgment is reversed; the Term that was sold, is sold, but the Money is in which it is sold. 3 Rep. 141. A Term is sold on an Execution by Fi Fauci; the Sale of the Term is good, tho' the Judgment be reversed, and Redemption shall be only of the Money: but where a Term is delivered to the Plaintiff upon an Esquire, and then the Esquire is ratified, Redemption shall be of the Term. 402. When upon a Fi Fauci the Sheriff sells a Term, removing the same, and having sold the same, &c. the Sale is void, because there is no such Term: Yet if he resciss it generally, and being of divers Years yet to come, falls all the Interest which the Defendant had in the Land, the Sale will be good. 4 Rep. 74. If an Execution is fixed on a Fi feo, and the Defendant dies before it is executed, it may be served on the Defendant's Goods in the Hands of his Executor or Administrator. Cro. Eliz. 181. Two Fi Fauci's are delivered the same Day to the Sheriff against the same Partie; he is bound to execute that Term which was first delivered; and if he executes the last first, he must answer to the Party who brought the Fi Fauci, who may bring an Action against him; but the Execution shall stand good. 520. A Man had a Judgment for Debt against another, and on a Fi Fauci, the Sheriff took his Goods in Execution, but the Plaintiff suffered the Goods to remain in the Hands of the Debtor, and would not let the Sheriff proceed any further: A B. having also a Judgment against this Debtor, on a Fi Fauci, filed against the same Goods, and it was held good for the former was a fraudulent Deed. 517. If a Writ of Fi Fauci against one Partner, the Sheriff may take the Goods of each of them; yet the Vendor shall have only a Money thereon in Common with the others. 517. By the Common Law Goods were bound from the Day of the Issue of the Writ; but by Stat. 25 Car. 2. they are bound only from the Time of Delivering thereon, &c. Ibid. The Sheriff having Goods, and levied the Money by Virtue of a Fi Fauci, ought to bring it into Court. Gombe. 147. See Execution.

Form of a Writ of Fi Fauci.

GEORGE the Second, &c. We Command you, that you cause to be made of the Goods and Chattels of C. D. (if on a Bond, &c. otherwise called, &c) in your Bailwill, so many Bonds, which A. B. lately in our Court before us at Westminster, recovered against him for a Debt, and also the Sum, &c. which were awarded to the said A. B. in our former Court before us, for his Damages which he hath sustained, &c. as well as the Damaging of the said Debt, as for his Expenses and Costs by him laid out in and about his Suit in that behalf, whereby the said C. D. is convicted, as appears to us of Record; and have you the Money before us at Westminster on the Day, &c. next after, &c. (a & b a Return) to render to the said A. B. his Debt and Damages after- paid: And have you then there this Writ. Writ, &c.

Fifteenth, Were a Tribute of Inposition of Money, laid generally upon Cities, Boroughs, &c. through the whole Realm; it was also a Taxation of the Richer Men of the Fifteenth Part of that which each City or Town hath been anciently valued at, or a Fifteenth of every Man's personal Estate according a reasonable Valuation. And every Town knew what was a Fifteenth Part, which was always the same; whereas a Subsidy raised on every particular Man's Lands or Goods, was adjudged uncertain: and that the Fifteenth seems to have been a Rate formerly laid upon every Town; according to the Land or Circuit belonging to it. Gombe. 171. There are certain Rates mentioned in Doomsday, &c. 10. That the Thirteenth and Fifteenth had been at a certain Rate when the Thirteenth or Fifteenth was levied; but since, though the Rate be certain, it is not to be levied but by Parliament. By 3 Ed. 3. 15. A Fifteenth was granted, for Parliaments. 3 & 4 Ed. 2. 7. a Subsidy and two Fifteenths by the Temporality, &c. And in the 1, &c. Eliz. and 1, 2 &c. 11. Fifteenths and Tenths were granted for Maintaining the Wars, &c.

Fighting and Assaulting, Is prohibited by Statutes, in a Church or Church Yard, &c. on Pain of Excommunication, and other corporeal Punishment. Stat. 5 & 6 Ed. 6. c. 4. See Church.
Fightwitu, (Sax.) Signifies a Multe for Fighting or Making a Quarral to the Disturbarce of the Peace, or Disturbance in the Wellbeing of the Peace. It is an Officer of the Court of Common Pleas called by this Name, as he files the Writ whereon he makes out Process. There are fourteen of these Fillets in their several Divisions and Counties; and they make out all Writs and Processes upon original Writs, issuing out of the Chancery, as well real, as personal and mixed, returnable in that Court; and in Actions mostly Personal, where the Defendants are returned summoned, they make out Process or Attachments; which being returned and executed, if the Defendant does not appear, or doth not make a Disturbance, and so in Infinitum, or until he doth appear; if he be returned Noni, then Process of Copias infinite, &c. They enter all Apparances and Special Bails, upon any Process made by Law. And make the first Scribe fac. on special Bail, Writs of Habebus Corpus, Defringuas de Dicinum vet Bulletum, and all Superfodes upon Special Bail. The Writs of Grand and Petit Capias of Wibaram, &c. Also Writs of Ad judgmentem of a Term, in Case of publick Disturbance, &c. And until an Order of Court, a Fac. 1. they entered Declarations, Imparities and Pleas, and made out Writs of Execution, and divers other judicial Writs, after Appearance; But that Order limited their Proceedings to all Matters before Appearance, and the Proceedings to all after. The Fillets of the Common Pleas have been Officers of that Court before the Stat. 16 H. 6. c. 4, wherein they are mentioned; and in the King's Bench, of late Times there have been Fillets, who make out Process upon original Writ returnable in that Court, on Actions contra Pacem, &c.

Fite. (Fidelium) A Thread, String or Wire, upon which Writs, and other Exhibits in Courts and Offices are fastened or filed, for the more safe Keeping and ready Turnings to the fame. A File is a Record of the Court; and the Filing of Process of a Court, makes it a Record of it. 1 Litt. 112. An original Writ may be filed after Judgment given in the Cause, if found before forth; Declarations, Facs. are to be filed; And Affidavits' must be filed, some before read in Court; and some precisely when read in Court. Ibid. 115. Before Filing, a Record removed by Certiorari, the Justices of the Roll may refuse to receive it, if it appears to be for Delay, &c. and remand it back for the Expedition of Justice; But if the Certiorari be once filed, the Proceedings below cannot be revived. 2 Hals. 7. 207. An Indenture, &c. cannot be amended after filed.

Fite-Me or Fithieth: A Kind of Drinking in the Field, by Ballats of Hundreds; for which they gathered Money of the Inhabitants of the Hundred to which they belonged; But it has been long since prohibited. Bradd. 4 Inf. 307.

Fite-Cutum, Signifies a Ferru Ground. The Filipino Ground.

Fite-Is or Fite-Na or Fite-Li, is properly a little Son, so to a Godson. Filitus que daus dea Fonte. Fudge. Westmorl. 657.

Filtum or Filtum, is the Thread or Middle of the Stream, where a River parts two Lordships: Et habendus ipse Batus uppe et Filtum Aquum pradetile. Ex Reg. Priv. Not. fol. 7. par. 107. ib. 13. 170. Fille du Mere, the high Tide of the Sea. Boll. Part. 11 H. 4.

Fiteres, Are mentioned in several ancient Saxoners, and seen to be the fame with those which we now call Searchers; who are employed for the Discovery of Goods imported or exported, without paying Custom. S. & J. Ed. 3. 12. 10. 1 H. c. 12. 15. Fint. (Inist.) Is a Small Agreement, by which you agree to send a Record, for the Seilling and Affairing of Lands and Tenements, acknowledged in the King's Court by the Cognizor to be the Right of the Cognizor. Append. Conv. 2. 4. 2 Inf. 14. The Fint was a kind of Agreement, by which the parties, on either side, agreed to make a Declaration of their Rights and Objections; but it is most commonly, Amabilissimis Commissis & Finalia Concordia, ex confini & Locis, in extenso, &c. The Fint is a small Agreement, by which the parties, on either side, agreed to make before Justices and entered of Record for Conveyance of Lands, Tenements or any Thing inheriting, to cut off all Controversies: Et Fint dictus Finti Concordia. quemquam instituimus instituimus. Glanv. l. 8. c. 1. Bradd. lib. 5. A Fine was ancienly a Determination of a real Controversy; but now it is generally a Deigned Action upon a Writ of Convent, &c. and supposes a Controversy where in Reality there is none, to secure the Title that a Man hath in his Estate against all Men; or to cut off Intrails, and with more Certainty convey the Title of Lands, &c. either in Po- simple, Fre-tail, for Life or Years; whereby also a Rent may be referred. Wyld's Symb. par. 2. Originally the final Concord was inflamed and allowed, in regard that by the Law, the Actions of the Proceedings, no Plaintiff could agree without Licence of the Court: And fines have been formerly had in personal Actions. There are other Uses of them, viz. to cut off Intrails, and pass the Inheritance of Lands, though the fame be not controverted, to whom we think good; and a Fine may be levied on a Writ of Right, or in any real Action, though not on an Original in a personal Action; and the Common Writ of Convent on which a Fine is levied, is not a personal but a real Action. As a Fine is a Con- cord acknowledged before a competent judge, touching Hereditaments or Things immovable, and for its better Credit imposed to be made in the Presence of the King, because levied in his Court; therefore it is laid Women covert, being Parties, and others whom ordi- narily the Law disabilities to act; for this Reason, that all Presumption of Decret is excluded, where the King and his Court of Justices are supposed to be privy to what is transacted. And Fines are now levied in the Court of Common Pleas at Westminster, on Account of the Solernity thereof, ordained by the Stat. 18 Ed. 1. before which Time they were sometimes levied in the Exchequer, in the County Courts, Courts-Baron, &c. They may be acknowledged before the Lord Chief Ju- dge of the Common Pleas, as well in out of Court; and two of the Justices of the same Court, have Power to take them in open Court: Also Justices of Affile may do it: by the general Writ of a Warrant or Commission; but they do not usually certify them with- out a special Writ of Dedimus Petitionem. 2 Inf. 312. Dyer 214. The King by Patent or Commission, with a Notice of Power to A. and B. justrines, may order him to levy a Fine in a Circuit, when A. is not a Judge of either of the Benches, only a Serjeant at Law, &c. to take the Cognition of all Fines conjunctio & separation; and upon such a Commission, the Cognition of a Fine taken by A. will be good, without any Dedimus Petitionem fused out before or after it. Pack. Com. 227. And Fines are also taken by Commissioners in the Country, impor- ted by Dedimus Petitionem, one whereof named must be a Knight; and the Writ of Dedimus doth furnish, that the Parties who are to acknowledge the Fine are not able to tender a Warrant for the Dedimus. These Commissions general and Special, issue out of the Chancery. By the Common Law all Fines were levied in the Court of Chancery; But the Dedimus Petitionem to Commissioners, who may be punished for Abuses, and the Fines taken before them set aside: And it is said an Information may be brought by him in Re- verence against Commissioners in the Court of a Fine, where a married Woman, &c. is an Infan. 3 Lev. 36. In the Levyng of Fines in Court, a Pleader shall by Sir Justice vowe an Accr, &c. &e. he be- sters losses in Acord, or open: And when the Sum the King's Fine is agreed, after Proclamation and Cry-
FI

ing the Peace, the Plender shall repeat the Substance of the fine, &c. Stat. de Poenali, 18 Ed. I. Touching the Form of Fines, it is to be considered upon what Write or Action the Concord is to be made; and there must be an agreement between the Conqueror and Cognizance, whereby the Cognizance covenant to pass a fine to the Cognizance of such Things, as a Time limited and such Indemnities preceding the Fine, are paid to the Usur of the fine. But by the Stat. 4 Ed. 5 d. 24. the Usur of a Fine, &c. may be declared after the Fine levied, and be good in Law. Upon this the Write of Covenant is brought by the Cognizance against the conquirer, when the Right of the Fine is before the Judge; and to the Acknowledgment being recorded, the Conqueror and his Heirs are precipitously concluded, and all Strangers (not excepted) after Five Years paid; and if the Write wherein the Fine is grounded, be not a Write of Covenant, which is usual, but of a Mar- rian Stock, or of a Write of Right, or of Custom and Usage, &c. Then the Write is to be levied upon the Party that is to acknowledge the Fine; and he appearing does it accordingly. Wryf. Seb. 23. Dies. 159. By Stat. a final Concord cannot be levied in the King's Court, without certain Writs, &c. And when a Fine is paid, it is to be in the Presence of the Parties, who are to be of full Age, good Memory, &c. And if a Fine Convene be lost, the same is to be privately examined by the Court of the Fine. If the same does not exist, the Write thereof cannot be levied. Stat. 1 Ed. I. A Fine after the Ingros- sing is to be openly read and proclaimed in the Court of the Cognizance, to the Usur of the Fine, &c. unless the Party be in Possession of the Fine, &c. If they lay not Claim by Way of Action or Entry in Five Years: Permons out of the Land, or Non Fines, &c. Have their Time after their Imperial possession removed. 4 Ed. 32, 33. The immediate after Abo, Fines after Ingrosing are to be proclaimed in Court the same Term, and the three next Terms, former to four several Days in each Term: but of late only once in the Term wherein ingrosed, and once in each of the succeeding Terms. 4 H. 7. 31 Ed. c. 1. The Day and Year of acknowledging a Fine, and War- rant of Attorney for the Suffering a Recovery, are to be certified with the Concord: And an Office hath been erected for the Tendence of Writs for Fines, &c. the Fees whereof are limited and appointed; likewise the Clauses, &c. for every Term of 10 to 20 in the Court of C. B. A Table containing the Fees passed in the Term before in every County, &c. by 23 Ed. 4. 5. There are in every Fine Five Parts, viz. 1. An original Writ, usually a Write of Covenant. 2. The Licentia Concordandi, or King's Licence, for which the King hath a Fine called the King's Silver. 3. The Concord itself, containing the Agreement between the Parties how the Land, &c. shall pass, being the Foundation and Substance of the Fine: it begins, Et ex concordia taction. Gr. 4. The Note of the Fine, or Abstract of the original Contract. 5. The Foot of the Fine, which includes all, setting forth the Day, Year, and Place and before what Justices the Concord was made, &c. Of this there are Indentures made forth in the Office, which is called the Ingrosing of the Fines: and it beginneth thus, Here of lasius Concordia fœdis in Ca via Domini Regis apud Wettin dix Jaque in quindim a 513. 515. Kid, the Concord being the complete Fine, it shall be adjudged a Fine of that Term in which the Concord was made, and the Write of Covenant returnable. 1 Salk. 341. A Concurrent upon the Possession which the Party shall retain in the Writ of Covenant: And the Note of the Fine remaining with the Chronographer, it hath been held, off Principali Recordum. 3 Lawm. 234. As to Fines, there are various Kinds: They are either with Pro-
clamations, or without; that with Proclamations, is termed a Fine according to the Statutes 1 R. 3. 7. and 4 H. 7. 7. c. 24. And such a Fine is every Fine, that is pleased, intended to be, if it be not shewed what Fine it is: and the Fines are the last Salarium, and the last standout, if there be Error in the Proclamations, it shall be taken as a good Fine at Common Law. 3 Rep. 86. A Fine may stand, though the Proclamations according to the Statutes are made for Fines of Master of Record, and remain in Substance and Form as they were before. Plead 256. If Tenant in Tail levies a Fine, and dies before all the Proclamations are made, though the Right of the Fine is before the Judge; the Usur of the Fine, &c. may be declared after the Fine levied, immediately on the Death of the Ascensor: yet if Proclamations are made afterward, such Right shall be lost by the Fine, by the Statutes 4 H. 7. 7. and 9 Salk. 8. 3 Rep. 84. The Fine without Proclamations is called a Fine at the Common Law, being levied in such Manner as was used before the Stat. 4 H. 7. 7. c. 24. and is Bill of the like Force by the Common Law, to discontinue the Estate of the Cognizor, if the Fine be executed. A Fine also without or without Proclamations is either executed or executory: A Fine executed is such a Fine as of its own Force gives present Possession to the Cognizance, without any Write of Seisin to enter on the Lands, &c. as a Fine for Cognizance of Droit come coe. 1 and in some Respect a Fine for Reblogs, &c. is to be executed. A Fine executory may be levied in the Cognizance, without Entry or Action, but requires a Write of Seisin; as the Fine for Cogni-

considering the Confinement is perfected afterwards; but without a Fine, the Marrige must be had, before any Ule can be lawfully given to the Ule of the Lands; and he that declares the Ules of a Fine intended to be levied by Husband and Wife of her Land, and the Husband alone doth not have the Ule; it hath been held that both Declarations of Ules are void, and the Ule shall follow the Ownership of the Lands: But in another Case it was determined that the Ules declared by the Wife were void; and the Ules declared by the Husband, good only against himself, during the Confinement. 2 Rep. 56. If Husband and Wife levy a Fine of the Lands of the Wife, and he alone declares the Ule, this shall bind the Wife, if it be no Fine; but because otherwise it shall be intimated that the did confesse. Ibid. 59. Though there be a Variance between a Deed declaring Ules, and the Fine levied; yet if nothing appears to the contrary, such Fine by Construction of Law shall be to the Ules declared in the Deed, and which is Evidence thereof: And where a Fine was given from and to the same person, it has been held that a new Deed made after, will declare the Ules of the Fine. 1 Ed. Wm. 289, 290. 'Tis said not to be absolutely necessary, to invent the Word Ule, in the Declaration of Ules of Fine; for any Words by which the Intent of the Parties will be sufficient. Ibid. 59. A Fine for Confinement of a Fine come, &c. may not be levied to any Person but one that is Party to the Writ of Covenant, though a Voucheer, after he be hath entered into the Warrant to the Demandant, it is faid may confesse the Action, or levy a Fine to the Demandant, for he is then supposed to be a Tenant of the Land, though he is not a Party to the Writ: and yet a Fine levied by a Voucheer to a Stranger, is void. No Single Fine can be with a Remainder over to another. A Fine for a Fine, to B. By the same Concords grants back the Land again to A. for Life, Remainder to B the Wife of A. for her Life, Remainder to C. & D. by the same Concords, both grant and render back to the Cognifer the Lands, &c. thereby oftentimes limiting Remainders to Persons that are Strangers, and not named in the Writ of Covenant. This Fine is partly executed and partly executed; and as to the first Part, containing a Grant and Render back, it is taken in Law to be rather a private Conveyance or Charter between Party and Party, and not as a Writ or Judgment upon Record: And this Render is sometimes of the whole Estate, and sometimes of a particular Estate, with Remainders or Remainders over; or of the Reverion, and sometimes with Reversions of Rent and Claude of Dileffe, and Grant thereof over by the same Fine. 5 Rep. 38. A B. and C. D. levied a Fine of Lands, and the Cognifer by the Fine rendered back the Land to A. B. in Tail reverting a Rent to himself, &c. the Rent and Reverion shall pass, though in one Fine: and it shall enure as several Fines. 2 Co. Eliz. 727. It is faid, a Grant and Render of Land, cannot be immediately in primo gradus to a Person who is no Party to the Writ; but it must be a Transfer of a Thing that is expressed in the Original. Though to make a good Grant and Render, the Land rendered must pass to the Cognifer by the Fine; for he cannot render what he hath not. 3 Rep. 98, 510. Hug. Abr. 536. A Man may not by this Fine refer himself to a Lease from a Tenant of a Fine. The Render of a Rent (if any) must be to one of the Parties to the Fine, and not to a Stranger. Dyer 53, 619. A Fine for a Remainder, to B by Fine with a Remainder; the Leeffe must acknowledge the Land to be the Right of the Leffor that is feiled thereof, and then each Leffor grants and renders the same back again to the Leffor, for a certain Number of Years, to the Remainder to the Leffor and his Heirs, &c. 44 E. 3. 45. See 2 Leon. 206. A Fine and Render is a Conveyance at Common Law, and makes the Cognifer to be the Render back a new Purchaser by which Lands arising on the Part of the Mother, may go to the Heirs on the Part of the Father, &c. 1 Salt. 157. Before the Self. Abr. 884. The Fine Smith is always applied to a Thing that the Cognifer is feiled of the Lands contained therein, and the Cognifer hath no Freehold in it, but it passes by the Fine: This Fine is used to grant away Estates for Life, or Years, and not to execute it, so that the Cognifer must enter or have a Writ of Habeas fac. Str. inam to obtain Possession if the Parties to whom the Estate is limited, at the Time of levying such Fine, be not in Possession of the Thing granted. A Fine for Confinement of a Fine tenesum is also a Fine executory, and much of the Nature of a Fine for Confe(t)it, it is for a Reversion, and then it is executed by such a Particular Estate granted: And sometimes it is used by Tenant for Life, to make a Release (in Nature of a Surrender) to him in Reverion, but not by the Word Surrender; for it is said not to be a Writ for the Confinement of a Thing granted. Dyer 216. A Fine upon a Release, Law, shall not be intitled to a Fine, but to him to whom it is levied. 3 Leon. 61. A Fine is called a Feoffment of a Record, and is of great Antiquity, for we read of Fines in the Records. If a Fine be not here before, it hath been held, that a Fine is improperly called a Feoffment of a Record; though it hath the Effects of a Feoffment, where he that levies it is dispossessed of the Freehold at the Time of levying the Fine, 2 Salk. 540. Lands bought of divers Persons, by several Purchasers, may pass in one Fine, to have Charges; but the Writ of Covenant must be bought by the Venrors against all the Venrors, and every Venror warrant against him and his Heirs. Dyer 217. After the Deditus Pecudatum to take his Fine, &c. the Fine shall nevertheloses be paid as his Fine. Dyer 246. And if either of the Parties Cognifiers die after the King's Silver is entered, the Fine shall be satisfied, and be good. 1 Co. 469. A Record of a Fine may be amended, (if the King's Silver is paid) where it is the Multiplication of the Clerk. 5 Rep. 43. A Fine is perfect, when the King's Silver is paid therewith. 1 And. 229. And though one Concerr may settle for Lands that lie in divers Counties; yet there must be several Writs of Covenant. 3 Jul. 21. Dyer 227. A Concerr of a Fine may have an Exception of Part of the Things mentioned therein: And it is not enough that a Man hath in the Place, or are intended to be paid; no more shall pass by the Fine than is agreed upon. 1 Leon. 81. 3 Salt. 312, 318. A Fine as well as a Deed, may be made payable to a Minor, where it is suffered by Fraud to receive a Purchaser, or Creditor, &c. 3 Rep. 80. 16 H. 7. 5.
Form of a Present and Consent of a Fine for Cognisance de Droit tantum, by Husband and Wife.

Middlesex, j. Command A. B. and his Wife, that they duly perform to L. D. the Covenant made between them, of the third Part of three Mei sus, three Tofts, three Gardens, two hundred Acres of Land, fifty Acres of Meadow, and one hundred Acres of Salisbury, with the Appurtenances, in K. H. and B. And un- left, &c.

A ND the Agreement is such, to suit That the said A. and B. have acknowledged the said third Part of the Mei sus, with the Appurtenances, to the Right of the said L. and have that the said third Part with the Appurtenances, with the heirs of the said E. and B. in the年内, the said third Part with the Appurtenances, as aforesaid against them the said A. and B. and the heirs of the said E. for ever. And for this, &c.

*Form of a Fine for Dow Grant and Render, called a Double Fine.*

Dorset, j. Command W. B. That he duly and without Delay, perform to T. D. the Covenant made between them, of the Manor of, &c. with the Appurtenances in D. And unleft, &c.

A ND the Agreement is such, to suit, That the said W. hath acknowledged the Manor Man, with the Appurtenances, to the Right of the said W. And as to that which the said A. hath the Gift of the said W. and that he hath remitted and quit-claimed, from him to the said W. and his heirs, to the said T. and his heirs; And further, the said W. hath granted for himself and his heirs, that they will warrant and the said T. and his heirs, the aforesaid Manor, with the Appurtenances, against all the said W. and his heirs for ever. And for this Acknowledgment, Remise, Quit-claim, Warrant, Fine and Agreement, the said T. hath granted to the said W. and his heirs, the annual Rent of Twenty Pounds, for the Expenses of the Acquisition of the Bishop Virgin Mary, and St. Michael the Archangel, by the use of portious to be paid yearly for ever. And if it shall happen that the said Rent of Twenty Pounds be in arrear, in Part or in all, after any of the said Feasts wherein it ought to be paid, then it shall be lawful for the said W. and his heirs to re-enter into the said Manor, with the Appurtenances, and to drain and carry away, and retain in his own Possession the Dikefs there taken and had, until the said Rent with the Arrears thereof, if any be, shall be fully paid and satisfied.

If the Render on the Fine be of the whole Manor, and not a Rent, &c. out of it, then it is in the following Form:

A ND for this Acknowledgment, Remise, Quit-claim, Warrant, Fine and Agreement, the said W. hath granted to the said W. the Manor, &c. aforesaid, with the Appurtenances, and that he hath rendered to him, &c. to have and to hold to the said W. and the Heirs which he shall beget on the Body of E. his Wife: And if it shall happen that the said W. shall die, without Heirs by his body born, then after the Death or Descent of the said W. the said Manor, with the Appurtenances, shall remain to the said E. during the Life of her the said E. And after the De-

Years, or a Difficultie, or one that hath Right only to a Reversion or Remainder, levy a Fine to a Stranger that hath nothing in the Land, this Fine will be void or voidable as to the Stranger; and he that pays a Counce to exempt against, he may prove that the Freehold and Selfin was in another at the Time of the Fine levied, and that Partes Finis nihil habuerunt tempus Levationis Finis, and by this avoid the Fine: And yet a Difficultie, which hath a Fee-simile by Wrong in him, may levy a Fine to a Stranger that hath nothing in the Land, like unto one that is rightfully Seised of Land in Fee, &c. and it will be a good Fine. Plowd. 353. 3 Rep. 87.

If the Cognitore of a Fine hath nothing in the Land paid, at the Time of the Fine levied, the Fine may be avoided: But where the Cognitore or Cognitore is Seised of an Estate of Freehold, whether by Right or by Wrong, the Fine will be a good Fine in Point of Estate. 41 S. 3. 14. 21 Hen. 6. 45. 27 Hen. 8. Fines may be had of all Things in Esteem Tempore Fines, which are incontestible: but not of Things uncertain; or of Lands held in Tail by the King's Letters Patent; or of Land retrusted from Sale by Act of Parliament, or of Land in the Wife's Name, or of the Husband and Wife, &c. 5 Rep. 225. Ws. Salk. 25. Lands assigned for Dower, or Term of Life, or in Tail, to any Woman by her Husband, or her Heirs, or his Ascendants, cannot be conveyed away from her by Fine, &c. without her Act: but if a Woman and her Husband levy a Fine of her Jointure, the is barred of the same; though if the Jointure be made after Covenerance, when the Wife hath an Election to have her Jointure or Dower on the Husband's Death, it is laid this will be no Bar of her having the right of the Land of the Husband. Dyer 528. Lew. 189. No Fine of the Husband alone, of the Lands of the Wife, shall hurt her, but that she or her Heirs, or such as have Right may avoid it; but if the joins with him, it shall bind her and her Heirs. 57 H. 8. Women Coverts ought to be cautious in levying Fines with their Husbands of their own Lands, and if a married Woman under Age levies a Fine, the Court can never be during her Husband's Life, nor after his Death, if the be of fall Age when he dies; but if the Husband dies during her Minority, the may. Dyer 559. Wood's Inf. 245. A married Female ought not to be admitted alone without her Husband to levy a Fine; and if she be received, the Husband may avoid the Fine by Entry; but if she do not, it is good to her and her Heirs, except she be an Infant at the Time of the Fine levied: The Husband and Wife together may dispose of her Land, &c. 12 Rep. 122. If Baron and Feme levy a Fine, the Feme within the Age, may be brought into Court by Husband Corpus: and if it be found by Inspection, that she is under Age, it hath been adjudged, that such Entries are held to be an Error, and this as to both, void Fines Receivator. 1 Lew. 116. 117. 3 Salk 168. Husband and Wife, Tenants in Special Bail, the Husband only levies a Fine, this bar the Fines in Tail; but it remains in Right to the Wife as to herself, and to all the Estates and Remainders depending upon it, and all the Consequences of Benefit to herself and others, to the same as the lives if the Fine had not been levied. Hol. 557. 219. If a Husband make a Preemption of his Wife's Land, upon Condition, which is broken, and the Proof levies a Fine, and the Husband and Wife die having both the Lives and Five Years; the Heir is barred to enter as Heir to the Father upon the Condition, but he shall have five Years after the Death of his Father, as Heir to his Mother what the husband acknowledges a Fine, it shall not bind her; though if he levies a Fine with her right Husbond by a separate Action, she is bound to appeal during her Life, and the Tenant may plead, that she by such a Name levied the Fine. 1 Abb. pl. 11. Brok. 117. When the Husband and Wife join in a Fine of the Wife's Lands, all the Estate passeth from her, and he is joined only for Conformity; so that if the Fine levied by Husband and Wife in such a Case be reversed, the shall have Restriction. 2 Rep. 77. If a Husband and his Wife covert, may they levy a Fine of the Lands of the Wife, to the Life of the Heirs of the Body of the Husband on the Wife, Remainder to the Husband in Fee; both without difficulty; it is laid, that the Heir of the Wife had the Title, because the Limitation to the Heirs of the Body of the Husband was merely void, there being no precedent Estate of Freehold for Life, &c. to support it as a Remainder. 2 Salk 675. 4 Mod. 253. If a Widow having an Estate in Dower accepts of a Fine, and by the same Fine render back the Land for 100 Years, &c. this is a Forfeiture of her Estate within the Stat. 11 H. 7. 20, by which Statute the may not make a greater Estate than for her own Life; if she do, it is a present Forfeiture. 2 Crs. 685. If Tenant for Life grants a greater Estate by Fine than for his own Life, it is a Forfeiture: And if there be Tenant for Life, and Remainder for Life, and the Tenant for Life levy a Fine to him in Remainder and his Heirs, and his both their Estates are forfeited, the Tenant for Life by Levying the Fine, and the Remainder Man for Life by accepting it. 2 Lev. 209. Where a Fine is levied by a Tenant for Life, for a greater Estate, the Fine may be good: but it is a Forfeiture of the Estate of Tenant for Life, whereas he in Remainder, &c. may take present Advantage and enter: And when a Person enters for a Forfeiture, all Estates are avoided. Dyer 111. Though if such a Tenant for Life levy a Fine for Grant & Reliefs to the Cognitore for the Life of Tenant for Life or by Fine grant a Rent out of the Land for a longer Time, the Fine is good, and there will be no Forfeiture of the Estate of Tenant for Life: So like wise if a Fine be levied of Lands by Tenant for Life to a Stranger, who thereby acknowledges all his Right to be in the Tenant for Life, and relegates to him and his Heirs. 27 Ed. 1. 1. 4 Ed. 3. 56. If there be Tenant in Tail upon Condition not to alien, or possess in Consent with the Lands, &c. if he doth, the Donor to re-enter, and his Fine levy a Fine of the Land, this is a Forfeiture of the Estate. 1 Lew. 192. An Estate being settled on Husband and Wife for Life, Remainder to son and other Sons in Tail, with Remainders over; after the Birth of their eldest Son, they by Release and Fine, mortgaged the Lands: On a Bill exhibited against the Son to Redeem, &c. he pleaded the Marriage Settlement of his Father and Mother, whereby they were but Tenants for Life, and that this Fine was a Forfeiture of their Estate; and so it was adjudged. Princ. Cas. 591. But it is said where a Wife by Settlement has only a Title for a Life, if the joins with her Husband in a Mortgage, or if the Title or the Fine of the Woman be good, this Title is not forfeited, as it would be in Case of a legal Estate. 1 Pioes Williams 147. A Fine is levied by Lease for Life, &c. who continues the Possession, and pays the Rent; it shall not bind the Leesor, who shall have five Years Claim after the Determination of the Lease's Estate. &c. 3 Rep. 77. 79. If one doth levy a Fine of my Land, while I am in Possession, this will not hurt me; nor where a Stranger levies a Fine of my Lands let to a Tenant, if the Tenant pays me my Rent duly: And if there is Tenant in Tail, or for Life, Remainder in Tail, &c. and the fine is levied in Tail or for Life, bargains and sells the Land by Deed inrolled, and levies a Fine to the Bargainee, the Remainders are not bound; for the Law adjudges them always in Possession. 4 Rep. 156. Leesors who pretend Title to the Inheritance of the Lands, cannot by Fine but the Inheritance. 3 Rep. 77. But if a Lease is made for Years, and the Leesor before Entry of the Lease levies a Fine with Proclamations, and the Leesor doth not make his Claim within five Years, the Leesor is barred, and no Relief can be had for him for though 4 O the
the Land of the Tenants, and he shall be barred by a Fine levied by the Tenants of the Land, 5 & 7 Ann. 5 Rep. 144. If a Peron hath a Remainder depending on an Estate for Years, and the Termor is diffidled, and he hath a Fine levied for five Years p.s. and the Termor and Recoveror are barred: Because the Termor might presently have entered, and he in Remainder had an Affid. 185 ms. In a Case where a Peron enters upon and puts out a Copyholder, and the Difference doth levy a Fine of the Lands, if the Copyholder suffer five Years to pass after the Diffidles and Fine, without making any Claim, the Interest of the Copyholder and his Lord are hereby barred for ever: And if a Copyholder makes a Restannah in Fee upon good Confirmation, and the Feefeo levies a Fine with Proclamations, and five Years p.s., the Lord is barred; but if a Copyholder himself levies a Fine and five Years p.s. does, the Lord is not barred, for the Copyholder not having a Frethold, the Fine will be void. 5 & 7 Ann. 5 Rep. 248. A Fine of Cetall qui tres Traull shall bar and transfer a Trust, as it should an Estate at Law, if it were on a good Confirmation. Chan. Rep. 49. And Fine of Cetall qui tres Traull are as good as if levied of immediate Possession, 4 & 5 Eliz. 5 Rep. 860. Interests in Estates which may be barred by Fine, are either Interests by Common Law, or by Custom; as in Certain lords, and if I have a Fine for a frethold, and am diffidled, and the Difference levies a Fine with Proclamations, and I do not claim within five Years after, and my Heirs (Allowance being made for Impediments) are barred for ever. 5 & 7 Ann. 5 Rep. 79. If a Man purchase Lands of another in Fee, and after finding his Title to be bad, and it is so, and the Heirs hath Right to the Land, levies a Fine thereof with Intent to bar him; and he suffers five Years to pass without Claim, and he is barred of his Right for ever: And in whose Cases, none shall be relieved in Equity. 3 Rep. Decr. of Stat. 83. A Fine with Proclamations levied by Persons of Lands intailed to them or their Ance- tollors, 5 & 7 Ann. 5 Rep. 94. is a good Bar against their Heirs, claiming only by such Intail. 52 H. 8. 1. 36. Where the Anceollor is barred by the Fine, there for the most part the Heir is barred also. 9 Rep. 105. Although the Ilue in Tail be within Age, out of the Realm, or when a Fine is had and the Proclamations pased; the Estate-tall shall be barred. 3 Rep. 84. If the Estate pased by the Fine, be afterwards (before all the Proclamations had avoided) it is said the Ilue in Tail was claimed in the Realm, and the tenant in Tail to him and the Heirs Male of his Body hath three Sons, the Second levies a Fine in the Life of the Father dying; and his Eldidt is not barred. But if the Eider died without Ilue, living the Se- cond, it is a Bar to the Third. 32. 33. 35. See Ten. Cent. 96. Tenant in Tail disconloms; the Discon- loms, Proclamations, and fine Years p.s. without Claim in the Life of Tenant in Tail: In this Case the Ilue may be a Formand, and shall not be barred; for his Father could not Claim. His otherwise where he is diffidled, and the Difference levies such Fine; there the Tenant in Tail may Claim, 5 & 7 Ann. 5 Rep. 151. A Tenant for Life, and he that is next in Remainder in Tail, in a Case, it is a good Bar to the Ilue in Tail for ever, so long as that Estate-tall shall continue. 10 Rep. 65. But though a Fine bars the Estate-tall and the Ilue in Tail, yet it doth not Remainders or Reversions, though Recoveror bars them all. And if one makes his Title as Heir by another, and not by him that levied the Fine, he is not barred. 1 Cor. 377. Also he that is privy in an Estate to the Remainder, is not barred if the Stau- tutes to be barred by a Fine: As if Lands are given to a Man and the Heirs Female of his Body, and he hath a Remainder in his Daughters, in a Case, it is a good Fine, and dies without Ilue, this is no Bar to the Daughters; for notwithstanding the he be Heir to his Blood, yet he is not Heir to the Estate, nor need make her Conveyance to it by him; but if her Father had levied the Fine, it would have been otherwise. Trin. 21. 5 & 7 Ann. A Fine, if it cannot destroy an executorial Estate, which depends upon the bounty of the Tenant, is uncertain whether there will ever be an Estate in Being for the Fine to work upon; but a Fine and Recovery will bar an Estate in Remainder, as that is an Estate vested. 1 Litt. 679. If Estates by Statute Mer- chant, Statute-Stamp, and Elegit, may be barred, if a Fine is levied, and those that have Right suffer five Years p.s. The Elegit, if a Fine is levied by a Land in Ancient Demesne, it doth not bar by the Statute of Non-claim. Litt. 781. At Denys, Bishops, Paros, &c. are prohibited by Statu- tory to levy Fines, and may not have a Write of Right: they are not barred by five Years Non-claim, and their Non claim will not prejudice their Successors. Plowd. 238. 357. If a Corporation which hath an absolute Estate, so as to maintain a Writ of Right, is diffidled of Land, and a Fine is levied by the Difference; if they claim not in five Years, they are barred: But in such Case it is said in every Successor being Head of the Corporation, may have a new Five Years to make their Claim. Plowd. 357. By the ancient Common Law, he that had Right was to make his Claim, cer. per Actum et Rege, which was now levied and the Execution thereof, or he was barred for ever: But this Bar is now gone; and if a Fine without Proclamations according to the Common Law be now levied, he that hath Right may make his Claim, and afterwards he may recover the Fine. But if a Fine be levied at any Time to prevent the Bar. 1 Inf. 254. 262. By Statute, a Claim or Entry to avoid the Bar of a Fine is to be made in five Years: And no Claim or Entry shall avoid any Fine with Proclamations, unless an Action be commenced within one Year after such Entry, and prosecuted with Effect. 3 & 4 H. 7. 5 & 7 Ann. 32. & 32. H. 8. 36. declare the Force of a Fine how far they bar and take away the Entry or Action of Parties, Privies and Strangers, having Right: Privies in Blood, as it is a Fine of a Corporation, are not barred of a Fine; but Strangers to the Fine, such as are not Par- ties or Privies, have five Years to enter and claim their Rights, 5 & 7 Ann. 5 Rep. 257. 257. Feme Coverors have five Years after the Death of their Husbands, to avoid the Fine of the Husband of the Wife's Lands; and also to claim their Dowry; and if they do not make their Claim or Action of Right, they are barred by Statute. Dyur. 72. 2 Rep. 93. An Infant shall have five Years after he comes of Age, although he claims in the Name of his Father's Estate is not barred. But if the Eider die without Ilue, living the Sec- ond, it is a Bar to the Third. 32. 33. 35. See Ten. Cent. 96. Tenant in Tail disconloms; the Discon- loms, Proclamations, and fine Years p.s. without Claim in the Life of Tenant in Tail: In this Case the Ilue may be a Formand, and shall not be barred; for his Father could not Claim. His otherwise where he is diffidled, and the Difference levies such Fine; there the Tenant in Tail may Claim, 5 & 7 Ann. 5 Rep. 151. A Tenant for Life, and he that is next in Remainder in Tail, in a Case, it is a good Bar to the Ilue in Tail for ever, so long as that Estate-tall shall continue. 10 Rep. 65. But though a Fine bars the Estate-tall and the Ilue in Tail, yet it doth not Remainders or Reversions, though Recoveror bars them all. And if one makes his Title as Heir by another, and not by him that levied the Fine, he is not barred. 1 Cor. 377. Also he that is privy in an Estate to the Remainder, is not barred if the Statutes to be barred by a Fine: As if Lands are given to a Man and the Heirs Female of his Body, and he hath a Remainder in his Daughters, in a Case, it is a good Fine, and dies without Ilue, this is no Bar to the Daughters; for notwithstanding the he be Heir to his
Fine was levied, never return, Ors. a Perfon in Piffion dies whilst therein: or if one Non Campus, Ors. dies such, in his Land, and is levied in any Time. 2 Salk. 219. 250. Five Years are given after a Remainder falls; and five Years after the Property of Tenant for Life. 1 Lorr. 374. And he that hath two or Three Feves, at any Time, may make his Claim. 3 Text. Ca. 45. A future Interest of another Perfon, cannot be barred by Fine and Non-Claim, until five Years after it happens; as in Caufe of a Remainder of Recovery. 2 Rep. 93. Rep. 151. And where there is no present nor future Right in Land, Ors. only a Possibility at the Time of levying the Fine, a Perfon may enter and claim when he pleases. 10 Rep. 49. Also when there is only Right to a Rent, Ors. issuing out of Lands, and not the Land in the Fine, the Perfon that have it are not barred at all. 5 Rep. 134. No Fine bars any Estate in Possession or Recovery, which is not devised and put to a Right. 9 Rep. 106. He that at the Time of a Fine levied had not any Title to enter, shall not be immediately barred by the Fine; But he may have his Action, and not turned to a Right, where a Man is not bound to claim; and not in the Caufe of Tenant in Tail, barring his Fine. 32 H. 8. When an Estate is put to a Right, and there comes a Fine and Non-Claim, it is a perpetual Bar. 21ser. 162. A Fine, Grant and Render was levied, and a Suret Facias brought and Judgment given, and also Writ of Seisin, but by the Time of Delivery, and afterwards a second Fine was levied and executed, and five Years passed; it was the Opinion of the Court that the Action is barred by the Fine. 7 Rep. 104. 2 Nef. Abridg. 864. If a Man that is straitened of Treason or Felony, levy a Fine of his Land, this, as to the King, and Lord of whom the Land is held, is void, and no Bar to their Distressage and Title of Possi- tuitare: But as to all others it is a good Bar. 2 Salk. Abridg. 241. One levied a Fine and then was outlawed for Treason and died; the Heir revered the Outlawry; and was held as if he had bar to the Land, if he brought his Action within five Years. 2 Mar. c. 879. Where a Fine may be a Bar to some Lands, and not as to other Lands. See F. N. B. 98. Plowd. A Fine was levied, and five Years passed without bringing a Writ of Error; and it was held a good Bar within the Stat. 4 H. 7. c. 14. 3 Law. 321. But it has been admitted that where five Years passed, that shall not hin- der, where the Fine is erroneous. 2 Nef. Abridg. 858. And Fines may be revived for Error, so as the Writ of Error be brought in twenty Years, Ors. and not afterwards, by Stat. 10 Eliz. 3. 8. 14. Fines are not reversible for Rasure, Interference, Mifeity, Ors. or any Want of Form: but 'tis otherwise if of Seisin. A Fine is not reversible for small Variance, which will not hurt it; nor is there Occasion for a precite Form in a Render upon a Fine, because it is only an amiable Affurance upon Record. 5 Rep. 58. If a Fine be levied of Lands in a wrong Parish, though the Parish in which they lie be not named, it will be a good Fine, and not be erroneous, bringing an amiable Assurance: And a Fine of a Cloke may be levied by a Lady Comes in a Town, without mentioning the Town, Vill, Ors. Gadd. 440. 2 Cw. 574. 2 Mod. 47. If there be Want of an Original, or not Writ of Seisin for Lands in every Country; or if there be any notorious Error, in the Writ out a Fine, or any Fraud or Deceit, Ors. Writ of Error may be had to make void the Fine. 1 Inf. 9. 1 Cw. 57. Certaini doubts are not sufficiently settled, Ors. And if the Copinger of a Fine die before the Return of the Writ of Covenant, (though after the Captions of the Fine) it is said it may be revoked. 3 Salk. 151. The Writ of a Writ of a Cevern- sari or a Writ of Seisin doth not remove the Right to a Fine levied in C. B. and the Transcript only, not the very Record of the Fine, is removed in their Cases: But if the Court of B. R. adjudge it errone- ouss; then a Cevernari goes to the Chirographer to certify the Fine itself, and when it comes up it is can- celled. 6 Salk. 541. And when a Writ of Recovery in B. R. to revive a Fine in C. B. the Fine was affirm- ed; a Writ of Error came with Robian, both had been allowed to lie. 1 Inf. 357. The Court of B. R. will not reverse a Fine, without a Set. for a Cause, in favour against the Tenantman, because the Cognizances are but nominal Fines. 2 Inf. 359. A Fine may be set aside, by pleading that neither of the Parties had any Thing in the Estate, at the Time of levying the Fine, Ors. But those that are privy to the Perfon that levied the Fines, are estopped to plead this Plea. 3 Rep. 88. In the Pleading a Fine or Recovery to Ute, the Deeds need not be set forth: but the Pleader is to say, that the Fine, Ors. was levied to such Use, and produce the Deeds in Evidence to prove the Uses. 8 W. 3. B. R. A fraudulent obtaining of a Fine, or Irregularity there- in, cannot be relieved against in Chancery; but must be in the Court where levied, though the Officers may be examined and punished, if they did it Criminaliter. 3 Precod. Cap. 150. And when a Person is permitted, on levying a Fine, it was not set aside in Equity, but a Reconvenancy ordered of the Land. 2 Inf. 414. Fines levied before the Justices in Wales; or in the Cowes of Dover, of Collet of Durham, 6c. have the same Effect as Fines levied before the Justices of C. B. 34 & 35 H. 8. 2 & 3 Ed. 6. 5 Eliz. 6c. Sometimes a Sum of Money paid for the Income of Lands, called by Lands, is called Fine. And Fine also signifies an Amend, or Pu- nishment for an Offence committed; in which Case a Man is said to fine fair form of Transfractione in Rips, Ors. And in all Cases it is a final Conclusion of End of Differences. First simulanteus ludebent coetetemi quot quid futurum esse antiquo Dominius, is a Writ directed to the Justices of C. B. for dissualling a Fine levied in Lands in Ancient Demesne, to the Prejudice of the Lord. Reg. Oris. 15. Fine for a Bishopric. Were Fines paid to the King by his Tenants in Chief, for Licence to alien their Lands according to the Stat. 1 Ed. 3. c. 12. But there are taken away by the Stat. 12 Car. 2. c. 24. Fines for Offences. Among the Ancients, all Punishments were by Fine; but in Procefs of Time this sort of Punishment became too mild, and then for some Crimes Death was inflicted. And a Fine is a Sum of Money which one is to pay to the King, for any Contemn or Offence against the Government. 3 Inf. 218. 3 Salk. 52. All Fines belong to the King, and the Reason is, because the Courts of Justice are supported at his Charge: and where ever the Law puts the King to any Charge for the Support and Protection of his People, it provides for Bribery, or Bribery. By Stat. 12 H. 6. Where a Statue imposes a Fine at the Will and Pleasure of the King, that is intended of his Judges, who are to impose the Fine. 4 Inf. 71. Courts of Record only can fine and impose a Person: And such a Court may fine a Man for an Offence committed in their View, or by Confession of the Party recorded in Court. 1 Lorr. 651. A Man shall be fined and imprisoned for all Contemns done to any Court of Record against the Commandement of the King's Writs, Ors. 8 Rep. 60. If a Person is arrested coming to the Courts of Justice to plead a Writ, the Offender shall be fined for the Contemn; But there has been a Difference made where it is done by the Plaintiff in the Writ, and a Stranger, who is it laid shall not be fined. 9 H. 6. 250. Where a Person is never present in Court. If an Officer of the Court neglects his Duty, and gives not due Attendance a Clerk of the Peace does not draw an Indict- ment well in Manner of Form, or Return thereof, to the Place of the Birth. 5 Rep. 406. If a Sheriff, Ors. make an insufficient Return of a Hobbs corpus dunning out of B. R. Ors. If the Jus- tices of Peace proceed on an Indictment after the Ce- termiari
Satisfaction for the Cofts of the Profession, and also for Damages sustained, that there may be an End of Suits at the Bar, and a Resolving on that Account an Inclination to form a moderate Fine on Behalf of the King. But if the defendant come the first day he is called, and tender the Thing demanded to the Plaintiff, he is not to be fined. 4 Rep. 40. Where a Plaintiff gets Judgment in a real Action by Decree, the Defendant not having Summoned, &c. he may be fined. 8 Rep. 69. If a Writ abates through the Default of the Plaintiff, he shall be fined: And so if the Plaintiff be nominated. 34 A. & J. And if in Appeal of Malice, &c. against several, some are found Guilty, and the Plaintiff pays Judgment against them only, and relinquishes his Suit against the others, he shall be fined for not proceeding against the rest. 25 A. & J. If in an Action a Man denies his own Deed, and this is found against him by Verdict, he shall be fined for his Pauperism, and the Trouble to the Jury. 8 Rep. 60. 1 Dav. 471. But where a Perfon denies a Recovery or other Record, to which he himself is Party, he shall not be fined: for it is not his own Act of the Decree, and he does not gain it absolutely, but non habitur tales Recordum. Ibid. All Capitator Fines are taken away by Stat. 4 & 5 W. & M. c. 12. Except a Defendant pleads Non est factum, and it is found against him. 1 Litt. Abr. 621. In Trefpa, Assail and Battery, &c. there can be no Capitator pro Fine entered since the Stat. 5 & 6 W. 3. because where the Plaintiff is to have so much in Cofts allowed him, to pay the King for the Fine: And in B. R. Judgment is entered up without any Notice of the Fine, the Law being altered by this Statute. In C. B. they enter their Judgment with a fine restitutio per Stat. 1 Salk. 54. 2 Nelf. Abr. 847. To every Fine Imprisonment is incident; and when the Judgment is good, the Defendant Capitator, that is Capitator quamuis Finem facerit. 8 Rep. 59. Where an Offender is to be fined, the usual Judgment is a fine Capitator, i.e. to be imprisoned till the Fine is paid: But if the Fine is purchased by the Conviction, it is called “fine imprisonment.” 1 Vent. 116. When a Perfon is fined to the King, not withstanding the Body remaining in Prison, ’tis said the King shall be satisfied the Fine out of the Offender’s Estate. 4 Wm. c. 193. A Fine may be mitigated in the same Term wherein it was set, it being under the Power of the Court during that Time; but it may not be done afterwards. 3 Ryan 576. And Fines affixed in Court by Judgment upon an Information, cannot be afterwards mitigated. 3 Gar. 251. If a Fine certain is imposed by Statute upon any Conviction, the Court cannot mitigate it: but if the Party comes in before the Conviction, and submits himself to the Court, they may alieve a less Fine; for he is not convicted, and perhaps never will be. 3 Salk. 53. The Court of Exchequer may mitigate a Fine certain, because it is a Court of Equity, and they have a Privy Seal for it. Ibid. A Defendant being indicted for an Assault, confessed it, and submitted to a fine Small; and it was adjudged that in such a Case he may produce Alblavine to prove on the Procurator that it was an assault, and that in Mitigation of the Fine; though this cannot be done after the Conviction, 1 Salk. 55. If a Perfon is found Guilty of a Misdemeanour upon Indictment, and fined, he cannot move to mitigate the Fine, unless he appear in Person; but one adverse may submit to a fine, if the Clerk in Court will undertake to pay it. 1 Vent. 209, 210. 1 Salk. 55. 2 Howk. 446. It is a common Practice in the Court of B. R. to give a Defendant Leave to speak with the Procurator, i.e. to make
or Stone, of a certain Thieckness, &c. under Penal- ties. And on the Breaking out of any Fire, all the Condables and Beadles shall repair to the Place with their Staves, and be affilling in putting out the fame, and causing People to work. &c. No Action shall be had against any House or Chamber or a Fire shall begin. 6 Ann. 10 Ann. 14 c. 14. See Act.

*Sirburne, (Stat.) Signifies a Baron or High Tower by the Sea side, wherein were continual Lights, either to direct Sailors in the Night, or to give Warning of the Approach of an Enemy. - Vide for dilatation lucari of repairari. signa signa signa signa.
which there are Fighers, may call them Piffers; or, is an
Indiscipline, [Cf. But he cannot call them (as it might be called) Piffers.]
In Tracts, [Ct. 183.
There needs no Privilege to make a Fife Pond; as there doth in Case of a Warren. Ibid.

Fishermen. There shall be a Master, Wardens, and Aldermen of the Fishermen in London, chosen yearly at the next Court of the LordMayor and Aldermen after the tenth of June, who are consti-
tuted a Court of Aldermen; and they shall meet once a
Month at their common Hall, to regulate Abuses in
Fishery, register the Names of Fishermen, and mark their
Boats, [Cf. Fishermen are not to kill, or sell any
Fry or Brood of Figh; and no Figh shall be sold more
than once, at Billington, or within 150 Yards of the
Dock; or before such Hours in the Morning, &c.
And Fines not above 10 L. or under 5L. may be imposed
and levied by the Lord Mayor and Aldermen, and Ju-
State. An Act to establish a Royal Fisheries in England was estab-
lished in the Reign of King Car. 2. and the Members of
it incorporated into a Company. [See Car. 2. The
Crown hath Power to direct 20. out of every 100.
South Sea Stock, to be applied for improving the
Fishey in the Kingdom, carried on to Greenland, and
in other Northern Seas. State. 9 Ann. c. 21. And for
Recovery of the Britire Fishey, Allowances are made
on Figh exported to other Countries, [Cf. 5. Ge. 1.
2. Figh in Scow Cornet is to be imported according to
the Articles of the Union. 13 Geo. 3. c. 30. By the
Stat. 22 Geo. 2. c. 45. The whole Fishey is further
increased and enlarged.

Fishey. A Dam or Wear in a River, made for the
Taking of Fighs, especially in the Rivers of Orffe
and Number. 23 H. 8. c. 18.

Flaco. A Place covered with standing Water. Min.
Ang. Tom. 1. p. 509.

Fleeta. A fresh or flowing Arrow, a Fleet Arrer. Redolphus de F. event. [Cf. per ferrum redempti per
Ferrum. Dom. Reg. 9 Edw. 1. A.

Fleeting. Or Fliethtritt. (From the Sax. Flieth,
flug, & Wine, Wylfe). In our ancient Law signifies a
Disharmony from Americaners, where a Person having
been in Peace with the People, or the Lord, or the
King of his own Accord, or with Licenice. Raffal. Fleets, (Sax. Fleet, i.e. Flea) a Place of Running-
water. The word 'Fleets, or River or Fiser comes up) is a famous
Fleets in London, so called from the River or Ditch
On the Side whereof it stands. To this Pleon Men
are usually committed for Contempt to the King and
his Court, either particularly against the Courts of Justice;
or for Debt, when Perons are unable or unwilling
to satisfie their Creditors: There are large Rules, and a
Wardship belonging to the Fleet Prisons. Sec. Stat. 8 & 9
W. 3. c. 12. By a late Statute, the Warders of the Fleet
was disabled to hold any Office, for his notorious Op-
Lessions of the Prisoners; and the King was disempow-
ered, to grant the said Office to each Peron as he should
think fit. [Cf. 2 Geo. 2. c. 32.

Fleet-Ditch. The Lord Mayor of London, [Cf.
may till up Fleet-Ditch, and make the Soil level with
the Streets; and the Fee is vested in the Mayor and
Commonalty, but they shall not fell Houses or Build-
ings thereon above fifteen Foot high, [Cf. Stat. 6 Geo.
2. c. 22.

Fitre of Ships. See Flete Naviram, and Navy
Royal of England.

Fite, Fleet, (from the Sax. Flea, to kill or slay)
Attacking. and by Virtue of the Word Plano for
were claimed Bono diction, as may be collected from
a Sea Warrantia Temp. Ed. 3.

Flammifrit, Flammeaestintuit, Applemescri-
Phymeri Chryse, and the following of a Pugitive or
Outlaw. Leg. Inc. 29, 30. LL. H. 12. c. 10, 12.

Flammiltrit, (Sax.) Flet, who writes this
Word, interprets it Habere Citàla Fugitcturam. Lib.
i. 47.
force de beute in plea Falsomme Fidelitatem Domini Regi, &c. Leg. Ene. Confess. cap. 35. &c. Sir Henry Spel- mene fait, the Falsomme, and false Accusation, in a Parliament, or Convention of the Bishops, Thane, Aldermen and Freemen, upon every May-day yearly; where the Lay- men, &c. and Woman, and to the King, and to preferve the Laws of the Kingdom, and then conspired of the Common Safety. But Dr. Brady infers from the Laws of our Saxon Kings, that it was an inferior Court, held before the King's Horse or Steward, every Month to do Falsely Right, or compone smaller Differences, from whence there lay Appeal to the Superior Courts. Brady's Chrift. p. 40. Mancroft mentions Falsomme as a Court held in London, where in all the Fals and People of the City did complain of the Mayor and Aldermen, for Mitregovemement within the said City; And this Word is still in Use among the Londoners; and denotes Celebran in our Civita Concurren. Story's Survey. According to Kemner, the Falsomme was a Common Council of all the Inhabitants of a City, Town or Borough, convened often by Sound of Bell to the Mate Hall or House; &c. it was applied to a larger Congres of all the Freemen within a Count- ry, called the Great Court, where formerly all Knights and men of any Tenantry did Falsomme, to settle the annual Sheriff on the foot of October, till this popular Election to avoid Tumults and Riots devoted to the King's Peace, by the Statutes 5 Ed. 1. After which the City Falsomme was swallowed up in a select Committee or Common Council; and the County Falsomme, in the Sheriff's Court and Affairs. 3. The Word Falsomme was used for any Kind of Popular or Publick Meeting; as of all the Tenants at the Court-Law or Court-Baron, in which Signification it was of a left Extent. Fawr. Anst. 120. Falsomme and Falsomme Liberty to fold Sheep. &c. See Faldage and Falsomme. Falsomme, Menial Servants; Esq qui est disseruant. Brady's Lex. 1. 2. 10. Hoose keepers by the Shews were called Falsomme; &c. their Servants or Followers, Falsomme or Falsomme. LL. Hen. 1. c. 6. Falsomme, A Natural, one so from the Time of his Birth. See also Falsomme. Falsomme, (From the Sax. Fad, Pri, & Geldan, fadere) Is as much as Pedis Redempum, and signifies an Amusement for not cutting out and expatiating the Foot of the Viscence. To be quiet of Falsomme is a Privilege to keep Dogs within the Fosse unlawfully, without Punishment. Mancroft, par. 1. p. 96. Fasomme, (Fr. Fasomme) Hay and Straw for Horse, particularly for the Use of Horse in an Army. Et le dit f. terreux berce de foin & fyn & Fasomme pour un Horse. Bry, &c. MS. Petis Wal, Blount, or Fasomme, Straw when the Cose is thatched out. Crowds. Fasomme, (Perbalka) Lying forward or next the Highway. Petis Bishop Cvoisins. Hist. Coventry p. 116. Fasomme is to bar or deprive one of a Thing for ever. 9 R. 2. c. 2. and 6 Hf. 6. c. 14. Fasomme, is when the Aggressor in Combat is plain—Et fes cbr veritas for uno conclusus & in fin culpa faneum Legem Forbudamus foct, &c. Fasomme de Persuasion, (Fasomme) Se qui Forbater arma aliquis factipert, ad perjudicium, &c. LL. Allu- redi, MS. c. 26. Fasomme, (Pus) is most commonly applied in plural partum, the evil Part, and signifies any unlawful Vio- lence or Provocation, in which Violence is used to Things; or Persons; and he divides it into Simple and Complex; Simple Force, is that it is sent with force that it hath to another Crime accompanying it; as if one by Force only do enter into another Man's Possession, without doing any other unlawful Act; Mix'd or Compound Force, is when some other Violence is committed with such a Fact, which of itself alone is criminal; as where any one by Force enters into another Man's House, and kills a Man, or ravi- res a Woman, &c. the Person acts for several Lords, or Divisions of this Head. Wyl. Symbol. par. 2. f. 62. 65. The Lord Cane says, there is also a Force implied in Law as every Traveller, Refractory, or Distracts another, or plieht it; and an actual Force, with Weapons, Num- ber of Persons, &c. where threatening is used to the Terror of another. 1 Esf. 257. By the Law any Person may enter his Tenant's House to view Repairs, &c. But if he that enters a Tavern, commits any Force or Vio- lence; or he that enters to view Repairs, breaks the Hoose, &c. it shall be presumed that they entered for that Purpose. 8 Rep. 146. All Force is against the Law; and it is lawful to repel Force by Force: There is a Maxim in our Law, Qui ods est seum &; quid odium velit, seum & odium velit. 88. f. 11. aevum nostrum iustitiae, maxum & injustam eff. 3 Rep. 78. Fasomme, (Ingrefis manus fortis factus) Is a violent actual Entry into Houes or Lands; And forcible Detainer is a With holding by Violence, and with strong Hand, of the Possession of Land, &c. whereas by him who hath Right of Entry is barred or hindered. Write of forcible Entry lies where a Person is feized of a Freehold, and is put out thereof with Force; or if he be disturbed peaceably, and afterwards the Diletted doth hold and detain the same by Force. 3 E. & N. B. 483. When one or more Persons armed with unusual Weapons, vi- olently enter into the House or Land of another; or where they do not enter violently; if they forcibly put another out of his Possession; or if one enter another out of a House, without his Consent, although the Door be open, &c. These are forcible Entries punishable by Law. 1 Esf. 257. so when a Tenant keeps Possession of the Land at the Rent time, and on the demand of the Landlord, it is a forcible Detainer. Cr. Fec. 195. And if a Leefe takes a new Lease of another Person, whom he conceives to have better Title, and at the End of the Term keeps Possession against his own Landlord, this is a forcible Detainer. Ibid. All forcible continuing in Possession of a defeasible Estate, after the Ti- tle is defeated are punishable for Force, for continuing in Possession afterwards, amounts in Law to a new Entry. 1 Esf. 256, 257. And an Infant, or Feme covert may be guilty of forcible Entry within the Statutes in regard to Violence committed by another Person; but not for what is done by others at their Command, their Commands being void. 1 Esf. 357. If a Man have two Houses next adjoining, the one by a defeasible Title, and the other by a good Title; and he use Force in that he hath by his Title to keep Persons out of the other House, this is a forcible De- tainer. 2 Steph. Ait. 203. A Man enters into the House of another by the Windows, and then threatens the Partner, and he fear for doe thar leave his House, it is a forcible Entry: So if one enter a House when no Per- son is therein, with armed Men, &c. new Cof. 185. If a Person after peaceable Entry, shall make Use of Arms to defend his Possession, &c. it will be forcible Detainer: A Man puts another out of his House by Force, if he then put in one of his Servants in a peace- able Manner, who keeps out the Party, &c. it will be a forcible Entry, but not a Detainer; but if himself remaine there with Force, this makes a forcible De- tainer. 2 Steph. 203. If I hear that certain Persons will come to my House to beat me, &c. and I take it in Force to defend myself, 'tis no forcible Detainer: That's where they are coming to Polleision only, 'tis no otherwise. Ibid. This Offence may be committed of a Rent, as well as of a House or Land; as where one comes to disfrain, and the other to prevent him to kill him, or doth forcibly make Restitution, &c. Ibid. 201. In- diament of forcible Entry lies not only for Lands, but for Tithes; and also for Rents: But not against a Lord entering a Common with Force, for which the Commoner
Commoner may not indict him, because it is his own

Land. Cr. Cor. 201. 486. And no Man can be
guilty of forible Entry, for entering with Violence into

Land or Houses in his own sole Possession at the Time
of Entry by breaking open Doors, gates, or any part
of his House, detained from him by one who has the bare
Custody of it: But joint tenants, or Tenants in Common,
may be guilty of forible Detainer, and holding out their
Companions. 1 H. C. P. C. 147. A Person is not
guilty of a forible Detainer, by barely refusing to go
out of a House, and continuing therein in Delight of
another. 5 H. C. 146. And no Words alone can make
a forible Entry, although violent and threatening, with-
out Force used by the Party. 1 L. A. C. 514. 1

Hawk. 145. At Common Law, any one who had a
Right of Entry into lands, &c., might regain Possess-
ion thereof by Force; but this Liberty being much
abused, to the Bbreach of the publick Peace, it was
found necessary that it should be restrained by Statute.
By this Act, he who is wrongfully dispossessed of
Goods, may justify the Taking them by Force.

Lamb. 135. Comp. 70. Kelv. 53. But see 3 S. 87.

By Statutes, none shall enter into any Lands or
Tenements, but where Entry is given by Law, and in
a peaceable Manner, though they have Title of Entry,
on Pain of Imprisonment, &c. And when a forible Entry
is committed, Judges of Peace are empowered to
view the Place, and inquire of the Force by a Jury
summoned by the Sheriff of the Country; and cause the
Tenants thereof to be tried, and imprisonment the
Offenders till they pay a Fine. 5 S. c. 7. 15 R. 2.
2 H. c. 9. If a Judge of Peace come to view
a Force in a House, and they refuse to let him in;
this is of itself will make a forible Detainer in all Cases;
but it must be upon Complaint made. The Judges of
Peace are not to inquire into the Title of either Party:
and there shall be no Retention upon an Indictment
of forible Entry or Detainer, where the Defendant
has been in quiet Possession for three Years together
without Interruption, next to the Day of the In-
dictment found, and his Estate in the Land not ended;
which may be alleged in Stay of Retention, and Reti-
tion is to be stayed till that be tried, if the other will
transfer the same, &c. Dal. 512. Stat. 51 Edw. c. 11.
If a Difference is made within three Years makes a lawful
Claim; this is an Interruption of the Possession of the Def-
fessor. H. P. C. 139. Though it has been adjudged, that
it is not the Title of the Possessor, but the Pof-
session, which is reserved, if it be kept. 1 S. 140.
Since the Stat. 5. c. 2. if W.R. is settled of Lands,
and L.R. having good Right to enter, doth accord-
ingly, the Plaintiff shall not be indicted notwithstanding
holding his Right. 5 S. 170. For a forible Detainer
only its said there is no Retention; the Plaintiff
never having been in Possession; but there
may be Retention where forible Entry and Detainer
are found. 5 Vent. 23. Sid. 97, 99. The Judges
on forible Detainer may punish the Force upon
View, and fine and imprison the Offenders; but cannot
molest with the Possession. Sid. 156. And it hath been
held, that in forible Entry and Detainer, the Jury
are to find all or none; and not the Detainer, without
the forible Entry. 5 S. 170. A Reversioner cannot
bring Action of forible Entry, because he cannot be
expelled, though he may be disturbed. Dyv. 141.
And the Words in the Writ to maintain the Action are, that
the Defendant is a of Distress, &c., yet it is said
that every Distress implies an Expulsion for forible En-
try. 2 S. 31. The Possession of the Termor is the
Possession of him in Recovery: And when a Lease for
Years is granted by a Person in Possession, the
Freehold must be to him in Recovery, and not the
Lease; and then his Lease may be entered. 1 W. 27.
A Termor may be expelled, and his Landhold in Re-
version disturbed; or rather that the Tenant of the Free-
hold is disturbed, and he the Tenant for Years expelled.

4 Mod. 248. 8 Nelf. Ab. 869. A Copyholder can-
not be disturbed, because he hath no Freehold in his
Estate; but he may be expelled. And a Copyhold
Tenant may be removed, where he is expelled wrong-
fully. But if the Judge of the County be only of Opinion, as
he may not be disturbed, there can be no Retention
but at the Prayer of him that hath the Freehold. Thir.
81. 41. And no Indictment for forible Entry must be
laid of Liberam Tenementum, &c., to have Retention
by the Statute 15 R. 2. &c. 2 S. 31. 157. Though by
2 Tac. c. 15. 157. Judges of Peace may give like Re-
tection to Tenants for Years, Tenant

by Elegit, Statute flaplo, &c. and Copyholders, as to
Freeholders. Judges of Peace only have Power to
inquire of forible Entry; But an Indictment of forible Entry
may be removed from before Judges of Peace
into the Court of B. R. coron Regis, which Court may
award Retention. 1 Rep. 65. And the Judges be-
fore whom such Indictment was found, may, &c. Trave-
rie tried, certify or deliver the Indictment into the
King's Bench, and refer the Proceeding there-
to upon the Judges of that Court. A Record of Ju-
dictures of Peace of forible Entry not to be tradable; but
the Entry and Force, &c., may be traded in Writ-
ing, and the Judges may summon a Jury for Trial of
the Traverie. 1 S. 93. The Finding of the
Force being in Nature of a Precedent by the Jury,
it is tradable; and if the Judges of Peace refuse the
Traverie, and grant Retention, on removing the In-
dictment from before Judges of Peace, &c., it shall
not be tradable; and on a Verdict found for the Party, &c., a Re-
retention shall be granted. Sid. 287. 2 S. 31. 388. If no
Force is found at a Trial thereof before Judges, Re-
stitution is not to be made to the Sheriff, or to the
Traverie, or to any other Person, but the Force is tried; or ought the Judges to make it in the
Abstinence of the Defendant, without calling him to
answer. 1 H. P. C. 154. No other Judges of Peace, but those before whom the
Indictment was found, may either at Seisoms or out of it award Retention; the fame
Judges may do it in Perin, or make a
Precept to the Sheriff to do it, who shall
return the Power of the County to affid him in executing the
same. 1 H. 152. And the same Judges of Peace may also supersede the Retention, before it is execu-
ted; or on Indictments found not to be tradable; &c. But no other Judges, except of the Court of B. R.
A Certiorari from B. R. is a Superhefus to the Reti-
uation; and the Judges of B. R. may set aside the Re-
stitution, or the Indictment, or the Writ. But the Law is
regularly obtained, &c. 1 S. 31. 154. If Judges of Peace exceed their Authority, an Information may be
brought aginst the same, by the Prosecution of
Entry, before a Fine is set, may be quashed on Motion; but after a Fine is set, it may not; the Defendant
must bring Writ of Error. 2 S. 450. Indictments
for forible Entry must set forth that the Entry was
Mans fori, to distinguish this Offence from other
Trespassis Pi et Armis; and there are many Nicities to
be observed in drawing the Indictment, otherwise it
will be quashed. 1 S. 421. Dalh. 293. There must be
Certainty in this Indictment; and no Repu-
negacy, which is an incurable Fault. An Indictment
of forible Entry was quashed, for that it did not set
forth the Efilter of the Party: So where the Defendant
had not been in Possession peaceably three Years before
the Indictment, without paying before the Indictment
found, &c. And Force shall be intended when the
Judgment is generally laid, for it must be always ex-
pressed. 2 Nelf. Ab. 869. 869. If a Plaintiff pro-
ceeds not criminally by Indictment for forible Entry,
but comes as a Writ of Error, &c., the Plaintiff may
do on the Statute of Hen. 6. the Defendant is to
plead Not guilty, or may plead any special Matter,
and the Defendant must set any special Matter in
Explanation must answer the special Matter, and not the
Traverie; and if it be found against the Defendant,
be considered as the Force of Court; whereupon the Plaintiff shall recover treble Damages and Costs. § 38. 5. 7. In Trespass or Affrion upon the Person of a Forfeiteable, § 8. 2. 6. 7. The Defendant is condemned by the Force of Law, and shall pay treble Damages and treble Costs: Adjourned and adjourned in Error. For the Words of the Statute give them the Recovery is by Vendite, or otherwise in the Manser. 21. 7. Through Forfeiture is possible either by Indenture or Actions the Action is fielded brought, but the Indenture often.

Farn of an Indenture for a Forfeiteable.

Wills, e. T. H. J. Wills, &c. That A. B. of, &c. and C. D. of, &c. having assembled themselves with other Offenders, and Discouragers of the Peace of our Lord the King, within Names in the Jurors as to say, and been assoned in a suitable Manner, on the Day of, In the Year of, in the Reign, &c. at, in the County, with Force and Arms, that is to say, with Swore, Swords, Guns, &c. and other Offences and Offences, and Trespass, did enter, and each of them did enter into one Manse with the Appointment of the Force of, in the Peaceable Possession of one E. F. of which said Manse was the said E. F. was taken for the Term of, &c. and to come, and that the said A. B. and C. D. and the other Manors after, with Force and Arms, did steal, drive out and remove the said E. F. from his Possession after, and the said E. F. being ejected, they unlawfully and with a Strong Hand, then did detain from him, and yet do detain from him the Possession of the said Manse, with the Appointment, against the Peace of our Lord the King, his Crown and Dignity, and against the Form of the Statute in such Case made and provided.

A Writ of Forfeiture, according to the Statute.

GEORGE the Second, &c. To the Sheriff of S. G., if A. B. shall make you fear, &c. then put C. D. &c. to answer as to say, as the said A. B. says, Whereas in the Statute made in the Parliament at Westminster in the eight Year of the Reign of King Henry of England the Sixth, held, then for, amongst other Things it contained, that if any Person issue out of any Lands or Tenements, with Strong Hand is expelled and expelled, or peaceably expelled, and after with a Strong Hand hold out, or any Foe or Disturbance in any way be made thereof after such Entry, to defend the Possession of his Right and take it away, the Party granted on the six Years' Law, shall have against the other for the Disposal of Naval Disturbance, or a Writ of Trespass; and if the Party granted by Affidavit or Action of Trespass shall recover, and by Forfeiture or other Manner in the Form of Law it shall be found, that the Party, Defendant, entered into the Lands and Tenements with Force, or after the Entry with Force well, the Plaintiff shall recover his Damages to the Treble against the Defendant, and further Fine and Restitution to be made, if; the said C. D. the said A. B. out of his free Tenement (or Trespass) in M. with strong Hand both expelled and expelled, and him he expelled and expelled, held out of the same, to the Cost of him, and no final Damage and Circumstance of the said A. B. and against the Form of the Statute afterwards, and against our Peace: And hence you there the Names of the Parties, and this Writ. Writs, &c.

Forfeiture (of) Anwoman of the Peace, if Forfeiture, § 38. 5. 7. c. 2. it is enacted, that if any Person in a Manor take away and be, or he, who, and so, and the said Person shall take away a Woman having Lands or Goods, or that is Heir apparent to her Ancestor, by Force and against her Will, and marry or be married, the Takers, Purchasers, Acquirers, and Receivers of the Woman taken away against her Will, and knowing the same, shall be deemed principal For-
Foreign countries are kingdoms under the dominion of foreign princes: and that Ireland, or any other place, subject to the Crown of England, cannot wish to the extent of a foreign power: though to some extent, they are distant from the Realm of England. If two of the King's subjects fight in a foreign country, and one of them is killed, it cannot be tried here by the Common Law; but it may be tried and determined by the Consul and Merchant, according to the Civil Laws; or the fact may be examined by the Privy Council, and tried by Commissioners appointed by the King in any country of England, by Statute. 3. Stat. 45. 13 H. 8. One Hutchinson killed Mr. Coffin aboard in Portugal, for which he was tried there and acquitted.

The exemplification of which acquittal be produced under the great seal of that kingdom; and the King being willing he should be tried here, referred it to the judges, who all agreed, that the Party being already acquired by the Laws of Portugal, could not be tried again for the same fact. 3. Stat. 78. If a Stranger of Holland, or any foreign country, buys Goods at Londen, and give a Note under his hand for payment, and then goes away privately into Holland; the seller may have a Certificate from the Lord Mayor, on proof of sale and delivery of the Goods; upon which the People of Holland will have a legal Proceed from the Party. 4. Stat. 48. Also at the instance of an Ambassador or Consul, such a Person of England, or any Criminal against the Laws here, may be sent from a foreign Kingdom higher. Where a Bond is given, or Commissary made in a foreign Kingdom, it may be tried in the King's Bench, and laid to be done in any place in England. 11. Stat. 3. 122. And an Agreement made in France, on two French Persons marrying, touching the Wife's Fortune, has been decreed here to be executed, according to the Laws of England; and that the Party shall be given the Whole; but the Relief was given for a certain sum, and the Relief to be governed by the Custome of Paris. Proct. Cant. 207. 208.

Foreign State, or Appeal. See Exequatur. Foreign Plea, or Plea. See Exequatur. Foreign Plea, or Appeal. See Exequatur. Foreign Plea, or Appeal. See Exequatur. Foreign Plea, or Appeal. See Exequatur.

A foreign plea is a plea in objection to a judgment, where he is refused as incompetent to try the matter in question, because it arises out of his jurisdiction.

Of course, you can ask for more context or assistance if needed. This text is an excerpt from a legal document and contains references to statutes and legal terms from English law history. It discusses the process of trying foreign subjects in England and the jurisdictional issues involved in such cases.
feated by a Lord, for Want of Services performed by the Tenant, and quietly held by such Lord beyond a Year and Day after the Tenant, was seeing his Land taken into the Hands of the Lord, and possesed so long, and not pursuing the Course appointed by Law to recover it, doth in Pretension of Law dis- aude the Tenant in the Land, or being held by the same; and such Lands shall be called Forsyth. 15 Ed. 2 c. 1.

Forsyth, (Forester, Salem) Signifies a great or vast Wood; Laws Seyff镢t or Salien. Our Law-Writers define it thus; Forstone le locus unde abinantes vel incipientur; others lay it is called Forsyths, about for a great wood; and from henceforth. Manured in his forest Laws gives this particular Definition of it: A Forsyth is a certain Territory or Circuit of Wooden Grounds and Parks, known in its Bounds, and privileges, for the peaceable Being and Abiding of wild Beasts, and Fowls of Forsyth, Chafe and Warren, to be under the King's Protection for his Princely Delight, repleteness with Beasts of Venery or Chafe, and great Coveres of Fere for Success of the said Beasts; for Prer- servation whereof there are particular Laws, Privileges and Officers belonging thereunto. Maxow. part 2. 1. 1. Forsyth, are in that part of England, that (except the New Forest in Hampshire, ered by William called The Conqueror, and Hampton Court ered by King Hen. 8.) it is laid there is no Record or History doth make any certain knowledge to the same, neither in Beginning; though they are mentioned by several Writi- ers; and in divers of our Laws and Statutes. 4 Inf. 359. Our ancient Historian tell us, that our New Forest was raised by the Description of two Parth Churches, and many Villages, Chapels and Mansors, for the space of three Miles together; which was at- tended with divers Judgments on the Perytorie of King Will. 1. who ered it; for William Rufus was there then with an Arrow, and before him Richard the Bro- ther of Hen. 1. was there kiled; and Henry Nephew to Edward the Confessor, did hang by the Hair of the Head in the Boths of the Forsyth like unto Jealousy. Blunt. Besides the New Forest, there are sixty-eight other Forsyths in England; thirteen in Cheshire, and more than three hundred Parks. The four principal Forsyths are New Forest, on the Sea, Sheri- wood Forest on the Trent, Dean Forest on the Severn, and Wensley Forest on the Thames. The Way of ma- king a Forsyth is thus: Certain Commissioners are ap- pointed under the Great Seal of England, who view the Ground intended for a Forsyth, and fence it round with a double fence of one yard and a quarter long, and to the Chantry, the King caided it to be proclaimed throughout the Country where the Land lies, that it is a Forsyth, and to be governed by the Laws of the For- syth, and prohibits all Persons from hunting there with- out his Leave; and then he appointed Officers fit for the Preservation of the Ven and Venison, and so it becomes a Forsyth on Record. Maxow. part 2. 8. Though the King may ered a Forsyth on his own Ground and Woods; he may not do it in the Ground of other Per- sons, without their Consent; and Agreements with them for that Purpose, ought to be confirmed by Parli- ament. 4 Inf. 500. Proof of a Forsyth appears by Mat- ter of Record; as by the Enye of the Julistes of the Forsyth, and other Courts, and Officers of Forsyths, &c. and not by the Body. 13 Hen. 8. 22. As Parks are inclosed with Wall, Pala, &c. so Forsyths and Chais are inclosed with Mews and Bounds; such as Rivers, Highways, Hills, &c. which are an Inclosure in Law, and without which there cannot be a Forsyth. 4 Inf. 517. And in the Eye of the Law, the Boorda- ries of a Forsyth go round about as it were a Brick Wall, directed one way, and by his Bounds, and they are known either by Master of Record, or Pre- scription. Ibid. Bounds of Forsyth, may be ascertained by Commission from the Lord Chancellor; and Com-
of the Forreft, it is laid may be good: But of this
Quoate, when it is an Advowson of a former Eys, the
Man hath a Wood in a Forreft, and hath no such Pre-
scription, the Law will allow him to fell it, so as he
do not prejudice the Game, but leave sufficient Vert;
but this is by Writ of Ed. good Domm.Fac. &c. 4 Inf. Cr. 75. And every Perfon in his own
Wood in a Forreft may take Hare-bate and Hare bat, by View of the Forreft; and so may Freemen by
Prescription, Copyholders by Custum, &c. 1 Ed. 3. c. 2. The Wood taken by View of the Forreft,
ought to be presented at the next Court of Attachment, 
that it was 75 by the Steward of the Forreft; Record.
Fence, &c. in Forrefts and Cales, must be with low
Hedges, and they may be destroyed, though of forty
Years Contumacy, if they were not before. Cr. 75. c. 75. He whole Wood is in Danger of being
spoiled, for Want of repairing Fences by another, 
ought to request the Party to make good the Hedges; 
and if he refuse, then he must do it himself, and have
Anion on the Cale against the other that should have
done it. 1 Jones 277. A Perfon may have Anion
at Common Law, for a Trefpass in a Forreft, as to Wood, 
&c. to recover his Right. Ed. 55. s. 976. The Court
of the Treffers in Eyre may proceed upon the Prelentments 
or Verdicts in the Suainatme, &c. And Prelentments
and Convictions of the Court of Attachment and Suain-
amte, &c. is delivered to the Lord Chief Justice in
Eyre, at the next Court of Justice-Sealt, &c. where
Judgment is to be given: And the Plea of the Forreft
remus thus: Presumption for Forreftaries, &c. Custum for
Prescriptors, &c. The Court of Attachment on Wood-
mote in Forrefts, is kept every forty Days; at which
the Frefpassers bring in the Attachment de viris &c.
notions, and the Prelentments thereof, and the Verde-
non do receive the same, and inroll them; but this
Court can only inquire, and not convit: 4 Inf. 329. 
The Court of Suainatme is holden before the Verde-
rors, at 75 by the Steward of the Forreft, is made
thrice in the Year: The Freemenholders within the Forreft,
are to appear at this Court, to make Inquetts and Ju-
trices; and this Court may inquire de jurecommune For-
reftrorum & alium in Forreft &c. The Court of Suain-
atme, &c. is a Court of Record, and hath Authority to hear and determine all
Trefpasses, Pleas, and Causes of the Forreft, &c. 
whereas the Forreft, as well concerning Vert and by the
Verdict, as well as concerning for the
Anion, as other Causes whatever; and this Court
cannot be kept offener than every third Year. As before
other Judges in Eyre, it must be summoned forty
Days at least before the Sitting thereof; and one Writ of
Summons is to be directed to the Sheriff of the
County, and another Writ called Forrefti Domini Regis
et juxta locum tans, &c. Which Writ of Summons
consists of two Parts: First, To summon all the Offi-
cer of the Forreft, and that they bring with them all
Records, &c. Secondly, All Perfon who claim any
Rights or Franchises within the Forreft, and to shew
how they claim the same: If there be erroneous Judg-
ment at the Justice-Sealt, the Record may be removed
by Writ of Error into B. R. 4 Inf. 321. The Court
of Record, or Survey of Dogs, is holden likewise every
third Year, for Expedition or Lawing of Dogs; by
cutting off to the Skin three Claws of the Forreft-fes,
to prevent their running at and killing Dogs. By
these Writs, three Courts of Swine in the Forreft, and
are to be held for
Forrefts in the Year; one fifteen Days before Michalemas,
another about Martinmas, and the third fifteen Days
before Christmas. Whereupon 292, 155, 17; Officj of Green Hoe, and hunting in Forrefts, must be made at
the next Suainatme for Forrefts, &c. Also no Officer
of the Forreft shall suffer the Forreft, on Pain of Im-
prisonment by the Judges of the Forreft. Order de
Forresta, 9 Hen. 3. c. 11. Ordinatis de Forrestis, 34 Ed. 1. 
Judicatus in Forrestis, &c. by which the Judges of the Forreft
are bound to take care, &c. 35. The Chief Warden of the Forreft is a great Officer, 
next to the Justice of the Forreft, to bail and discharge
Offenders; but he is no Judicial Officer: And the Com-
nty of Forreft, by the Forreft, is a Forreft: And the Forreft
Law is Chief Warden of the Forreft, as of Winceuf
Castle, &c. A Verderor is a judicial Officer of the
Forreft, and chosen in full County, by the King's Writ: 
His Office is to observe and keep the Affairs or Laws of the
Forreft, and view, receive and inroll the Attach-
ments and Prelentments of all Trefpassers of the Forreft, 
and keep the same in due Order, and make Right to the
People: The Verderors are the Chief
judges of the Suainatme Court; although the Chief
Warden, or his Deputy, usually sits there. 4 Inf.
275. The Regarder is to make a Regard of the Forreft, 
and to view and inquire of Offences, Concealments,
Defaults of Forrefts, &c. Before any Justice-Sealt is
holden, the Regarders of the Forreft must make their
Regard, and go through and view the whole Forreft, 
&c. They are ministerial Officers, constituted by Let-
ters Patent of the King, or chosen by Writ to the Sher-
iff. 4 Inf. 295. A Regarder is in legal Understanding
a sworn Officer ministerial of the Forreft, and it is
watch over the Vert and Venison, and to make At-
nachments and true Prelentments of all Manner of Trefpassers in the Forreft, &c. A Warden is taken for a
Woodward: This Officer is made by Let-
ters Patent, and his Office may be granted in Fee or for Life. 4 Inf. 295. Every Forrester when he is called at a Court of Justice-Sealt, ought upon his
Knees to deliver his Horn to the Chief Justice in Eyre; 
and every Woodward ought to present his Hatchet to my
Hunting. 1 Jones 277. The Office of Forrester, &c.
though it be a Fee-simple, cannot be granted or
a signified over, without the King's Licence. 4 Inf.
326. If a Forrester's Office is granted to for life to an
Anion and to have a sight of the King's Wood and
a Wood in the Forreft, &c. which Office is rent and
sellable, it is a great Forrester, and the Forrester is
become void; for those Offices are incommensurate, as
the Forrester is under the Correction of the Judge, and he
cannot judge himself. 4 Inf. 313. An Asst. Officer is to
attend upon the King's Woods and Lands in a Forreft,
receiving and taking in Castle, &c. by Agitation, that
is to depredation within the Forreft, or to feed upon
the Pannage, &c. And this Officer is constituted by Let-
ters Patent. 4 Inf. 323. Persons inhabiting in the
Forreft, may have Common of Heritage for Beasts com-
monable, and the Forrester is to look after them: But
Sheep are not commonable there, because they hire o'
clode that they destroy the Vert; and yet it has been
held, that Sheep may be commonable in Forrefts by Pre-
scription. 3 Bulk 215. There may be a Preemption for
Common in a Forreft at all Times in the Year: tho' it
was formerly the Opinion of our Judges, that the
Forrester should be excepted. 3 Lc. 217. A Forrester
may be disaffected and laid open; but Right of Common
shall remain. Pop. 93. He that hath a
Grant of the Heritage or Pannage of a Park, Forreft,
&c. cannot take any Heritage or Pannage, but of the
Surplusage over and above a competent and sufficient
Pature and Feeding for the Game; and if there be
no Surplusage, he hath the Heritage and Pannage,
cannot put in any Beast; if he doth, they must be
driven out. 5 Pol. Res. on Stat. 505. None may
gather Nuts in the Forreft, without Warrant. A Ran-
get of a Forreft is one whole Body: If in the Forreft, it is to rehafe the
wild Beasts from the Pursuit into the Forest, and
prey Offences within the Forreft, and the Forreft,
&c. And though he is not properly an Officer in the
Forreft, his Office is the same as of belonging to it. The Beasts is a Forrester, Officer, that warns
all the Courts of the Forreft, and executes Process, makes
all Proclamation, &c. 4 Inf. 313. There are also
Keepers or Beasts of Walkes in Forrefts and Charters.
are inadmissible to the Verdurers, &c. And these Office-
ners cannot be sworn on any Inquests or Juries out of
the Forest. If any Man hunt or chase within a Forest,
though the issue not in any part of the Forest, or they are
punishable by the Forest Laws; because all Hunt
there, without Warrant, is unlawful. 4 Inst. 314. If
a Deer be hunted in a Forest, and afterwards by Hunt-
ing be driven out of the Forest, and the Foxer fol-
lows the Chafe, and the Owner of the Ground where
drives the Deer there; yet the Foxer may enter into
the same, and make the game return. For every one in
the Deer is in this Cafe by Pursuit. 2 Lorn. 301. He
that hath any Maner of Licence to hunt in a Forest,
Chafe, Park, &c. must take heed that he do not abuse
his Licence, or exceed his Authority; for if he do,
he shall be accounted a Trepasser ab initio, and be
punish'd for that Fault, as if he had no Licence at all.
Matthew 25, 28. Every Lord of Parliament sent
for by the King, may in coming and returning kill a
Deer or two in the King's Forest or Chafe through
which he passes; but it must not be done privately,
without the View of the Foxer, if he prefer; or if ab-
sent by causing one to blow a horn, because otherwise
he may be a Trepasser, and seem to feed the Deer.
Chart. Foref. c. 11. 4 Inst. 508. Live Foxer is a
private person, and 3 Lorn. 520. But it has been observed,
that the Laws of the Forest are abolished by Act of Parliament,
and for the most part contained in 9 H. 3. c. 54 Ed 1. By
the Law of the Forest, Recorders of Trepassers in
hunting or killing Deer, knowing them to be such,
or any of the King's Venison, are principal Tre-
passers; though the Trepassers was not done to their
Use or Benefit, as the Common Law requires; but
which the Agreement subsiqueunt amounts to a Com-
mandment: But if the Receipt be out of the Bounds
of the Forest, and punished by the Laws of the
Forest, being not within the Forest Jurisdiction,
which is local. 4 Inst. 517. If a Trepasser be done
in a Forest, and the Trepasser dies, it shall be punish-
ed after his Death in the Life-time of the Heir,
con-
trary to the Common Law. Hunt and Cry may be
made by the Forest Law for Trepass, as to Venison;
though it cannot be pursued but only within the Bounds
of the Forest. 4 Inst. 294. And not pursuing Hunt
and Cry in the Forest, a Township, &c. may be fined
and assigned. In every Trepass and Offence of the Forest
in Ven or Venison, the Punishment is, to be imprison-
ed, fined, and bound to the good Behaviour of the
Forest, which must be executed by a judicial Sentence
by the Lord Chief Justice. But if any Foxer find any
any Person hunting without Warrant, he is to arrest his Body, and carry him to Prison; from whence he shall not be delivered without special War-
rant from the King, or his Judges of the Forest, &c.
But by 1 Ed. 3. c. 8. Persons are liable if not taken in
the Manner, as with a Bow ready to shoot, carrying
away Dead killed, or smearing with Blood, &c. Tho'
if one be not thus taken, he may be attached by his
Goods. 4 Inst. 289. The Warden of the Forest shall
let such to Mainprize until the Eye of the Forest; or a
Writ may be had of the Chancellor to oblige him to
do it; and if he refuse to deliver the Party, a Writ
shall go to the Sheriff to attack the Warden, &c. who
shall pay treble Damages to the Party grieved, and be
committed to Prison. 1 Ed. 3. c. 8. No Officer of
the Forest may take or imprison any Person without
due Indictment, or in absent awere, with his Hand at
the Writ; nor shall construe any to make Obligation
against the Chief of the Forest, to Pay on to double
Damages, and to be responsed at the King's Will.
7 R. 2. c. 4. A Foxer shall not be questioned for
killing what is not in the Forest (when the same is
found upon him) will not yield him self; so as to be not done out
of some former Malice. 21 Ed. 1. But if Trepassers
in a Forest, &c. kill a Man who opposes them, al-
though they bore no Malice to the Person killed, it
is murder; because they were upon an unlawful Act,
and therefore Malice is implied. Rull. Ab. 148. And
if Murder be committed by such Trepassers, the
Principal, and Trepasser, are to be tried jointly.
Rev. 87. If a Man come into a Forest in the Night-time, the
Foxer cannot justify Beasting him before he makes Reprisal; but if he re-
sists, he may justify the Batter, and Persons may be
punished for concealing the Killing of Deer by others; and for
for carrying a Gun, with an Intent to kill the Deer:
And he that slays Venison in the Forest, and is not
on Horseback, the Horse shall be forfeited, unless
it be a Stranger's ignorant of the Fact. 2 Par. Game
Law 34, 35. Where Heath is burned in a Forest,
the Offenders may be fined: And if any Man cuts down
Bushes and Thorns, and carries them away in a Cart,
be fineable; and the Cart and Horses shall be seized
by the Forest Law. Ibid. 56, 46. But a Man may
pretext to cut Wood, &c. and every Freeman with-
in the Forest, may on his own Ground make a Mill
Dyke, or Arable Land, without including such Arable;
but if it be a Nuisance to others, it is punishable.
Forest c. 11. 12 Rep. 22. And if any having Woods
in his own Ground, within any Forest, or Chafe, shall
cut the same by the King's Licence, &c. he may keep
them several and included, for Twenty Years after Fe-
lowing. 22 Ed. 4. 7. By Chart. de Forfa, no Man
shall lose Life or Member for killing the King's Deer
without a Forest, but shall be fined; and if he have
nothing to pay the Fine, he shall be imprisoned a
Year and a Day; and then be delivered, if he can
give good Security not to offend for the future; and if
not, he shall abjure the Realm. Before this Statute, it
was Felony to hunt the King's Deer. 2 Rull. 120. To
hunt in a Forest, Park, &c. in the Night dispensed,
if denied or consented, upon Examination before a Jus-
tice of Peace, it is dispensed. But if a Justice of
Finesable, it is dispensed. 1 H. 7. c. 7. By the 9 Ga-
c. 1. c. 22. If any Persons armed and disguised, shall appear in any
Forest, Chaffe, &c. where Deer are kept, and hunt,
wound, kill or kill any Deer; or if any Person shall
procure any one to join with them in any such unlaw-
ful Act; or shall refuse such an Offender, &c. they
shall be guilty of Felony. And the Norman Kings
punished those who hunted and killed Deer in Forests
with great Severity, inflicting their Punishments in
various Ways; as by Hanging, forfeiture of Goods,
or other. But this is Finesable. 1 H. 1. R. 1. &c. Felony committed within
in a Forest, is inquired of before the Judges of the Com-
mon Law; and not by the Judges of the Forest. See
Drift of the Forest, Chaffe and Pursue.
Forestall, signifies to foist some Duty payable
to the King's Forest, as Cooninge or fuch like. Et
se fut quisque de Stellus & Pyrga, & de Forudagio, &c.
Chart. 12 B. 1.
Forestall (Forestallamentum, from the Sax. For,
I. E. wa & sin) is to intercept on the Highway.
Spenlow says, it is a fine抽查, weil instretis interconnected,
with whom agrees Cale in Litt. fol. 161. And ac-
cording to Fleta, Forestalling significat obstruendum
Fremmel Impedimentum in itinere, & exe a superiorum.
Et loco 1. c. 24. In our Law, Forestalling is the Buying
or Bargaining for any Corn, Cattle, or other Merchand-
ise, by the Way as they come to Fairs or Markets to
be sold, before they are brought thither to the Intent
to sell the same again, at a higher and dearer Price.
By the 4 & 6 Ed. 6. c. 14. Any Buying or Contracting
for Merchandize,Viata, or other Thing whatsoever in
the Way, coming by Land or Water to any Fair or
Market, or to any Port, &c. to be sold, or causing
the same to be bought, or diffunding People by Word,
Letter, Mallefice, or otherwise, with intent to bring
such Things to Market, or persuading them to enhance the
Price after they are bought thither, is Forestalling:
And the Party guilty of any Office of Forestalling, &c.
3 R.
FO

upon Conviction at the Quarter-Session by two Wit-nessers, on Bill, Information, Prefentment, &c. shall for the first Offence, lose the Goods so bought, or the Value of them, and suffer two Months Imprisonment; for the second Offence, he shall forfeit double the Value, and be imprisoned fix Months; and for the third Offence, he shall lose all his Goods, be set upon the Pillory, and be imprisoned at the King's Pleasure. Stat. 8. 12. The Forfeitures are to the King's Use only, if there are no Informers; otherwise a Moteity goes to the King, Money to the Informer. All Penalties shall be sufficient to reimburse the common Price of any Viduaire or Merchandize, and Prizes which have an apparent Tendency thereto, whether by selling false Rumours, or buying Things in a Market before the accusaed Hour, or by buying and selling again the same Thing in the same Market, &c. are highly Criminal by the Common Law; and such Offences anciently came under the general Appellation of Forfeiting. 3 Ioh. 195, 196. And so jealous is the Common Law of Prizes of this Nature, which are a general Inconve-nience to Prejudice to the People, and very oppressive to the poorer Sort, that it will not suffer Corn to be sold in the Sheaf before thrashed for by such Sale the Market is in Effect Forfeited. 3 Ioh. 197. H. P. C. 157. By the Common Law Persons guilty of committing Forfeiting upon an Indictment found, are liable to a Fine and Imprisonment, answerable to the Heatness of the Justice found. 3 Ioh. 225. See Ch. 5. 24. Forfeittair, Is a Person guilty in any of the Incidents and Particulars described of Forfeiting. 5 & 6. E. 8. c. 14.


Forfeiture, (Forfisurata, from the Pr. Forfit) Signifies the Effect of Penalty of transferring some Law. It is of Lands or Goods, and differs from Confinement, that in Forfeiture is more general; whereas Confinement is particularly applied to such as are forfit to the King's Exchequer, and Confinated Goods are said to be Confinated to the Crown, Westminster, Day and Night. There is a full Forfeiture, Plena Forfisurata, otherwise called Plena Witta, which is a Forfeiture of Life and Members; and all that a Man hath. Leg. H. c. 68. And there is more in some Statutes, of forfeiture at the King's Will, of Body, Lands, and Goods, Ut. 4 Ioh. 66. Forfeitures are in Criminal Matters, where a Person is acquitted, and answerable to lands, the Crown, and all Extratages are to be derived from the Crown; for all Forfeitures and Echeats of Lands belong to the King, unless granted away. Stat. 155, 156. Alto, where Land comes to the Crown, as forfit by At-tainted of Treson, all meane Tenures of common Persons are extinct; but if the King grant it out, the former Tenant shall be revived, for which a Petition of Right lies. 2 Haci. H. P. C. 254. In Treson, all Lands of Inheritance, whereof the Offender was feit in his own Right, were forfeited by the Common Law; and Right of Entry, Ut. 2 Haci. P. C. 448. And the Inheritance of Things not lying in Tenure, as of Rent-Charges, Commons, Ut. shall be forfeited in High Treson. But no Right of Adition whatsoever to Lands of Inheritance is forfeited, either by the Common or Statute Law. Ibid. 449 All Lands, Tenements, Ut. are forfeited in Treson by Stat. 8. 13. 14. And the King may adjudged in Possession of Lands and Goods for1st Forfeited for Treson on the Attainted of the Offender, without any Office found, having the Right of others. 33 H. 8. c. 20.

Lands and Hereditaments in Fee-fumple and Fee-tail, are forfeited in High Treson; But Lands in Tail could not be forfeited only for the Life of Tenant in Tail, till the Statute 26. Ed. 8. by which Statute they may be forfeited. 2 Haci. Where Tenant for Life, &c. is attainted, the King shall have the Profits of the Lands during the Life of such Tenant only. 1 Ioh. 3. 57. There shall be no Forfeiture of Lands for Treson against the Second Persons, not attainted in their Lives. Stat. 34 Ed. 5 c. 13. 1 Ioh 12. Though the Chief Justice of B. R. Red. Sovereign Coroner in view the Body of a Person killed in a Rebellion, and make a Record thereof, whereby he shall forfeit all Lands and Goods. What's the Use? And a Man may be attainted by Act of Parliament. 3 Ioh. After the Declase of the Pretender, any Attainer for Treson in Scelwold shall make any Forfeiture, to disinherit the Heir, Ut. Stat. 7 Anno 11. Upon Outlawry in Treson or Felony, the Oflrader shall forfeit as much as if he had appeared, and Judgment had been given against him so long as the Outlawry is in Force. 3 Ioh. 22. For Petit Treson, Murder, Robbery, Rape, and all Felony for which the Offenders shall suffer Death, they shall forfeit all their Lands in Fee simple, Goods and Chattels. 1 Ioh. 591. I. Litt. Adv. 628. But Goodwill, when Land is not forfeited by committing Felony; and by a Felony only, intailed Lands are not for-feit. 3 P. C. 34. Land that one hath in Truth; in Goods Chattels, the King has a Right of the other's Use, &c. shall not be liable to Forfeiture. The Leaves for Years, in a Man's own, or his Wife's Rights; Estates in Joniternity, &c. and all Estates, Bonds, and Deeds whereby, and upon Contrats, &c. may be forfeited. 1 Ioh. 42. 151. Stead. 188. A married Man guilty of Felony, Forfeits his Wife's Terms; and if a Woman kill her Husband, the Husband's Goods are forfeited to the King. In these Cases, and in those of Offender Forfeits Goods and Chattels; And in Chancels-y, and in Defendants, Goods and Chattels; but the Offenders have their Pardon of Course. 1 Ioh. 591. Those that are hanged by Marital Law in Time of War, forfeit no Lands. 1 Ioh. 13. And for Robbery or Piracy, Ut. on the Sea, if tried in the Court of Ad-miralty by the Civil Law and not by Jury, they have no Forfeiture: But if a Person be attainted before Commissioners by Virtue of the Stat. 28 Hen. 8. there works a Forfeiture. 1 Litt. Adv. The King shall have Goodwill in any Lands, in which, and whereof, by the Statute of 1 Edw. 2, no Forfeiture of lands whoreof a Person attainted of Felony is seised of an Estate of In-heritance in Right of his Wife; or of an Estate for Life only in his own Right, are forfeited to the King, and nothing is forfeited to the Lord. 3 Ioh. 190. Pest. 165. By the Conviction of a Felon, his Goods and Chattels are forfeited; but by Attainted, his Lands and Tenements. 1 Ioh. 391. The Forfeitures in Case of Felony shall relate to the Time mentioned in the Indictment when the Felony was committed, as to the avoiding of Echates and Charges after; but for the mean Profits of the Land, it shall relate only to the judging. 1 Ioh. 390. Goods or Lands of one arrested for Felony, shall not be feited before he be convizt or attain of the Felony; on Pain of forfeiting double Value. 1 R. c. 3. 5. Goods of a Felon, Ut. cannot be feited before forfitset, though they may be inventoried, and a Charge made thereof before Indictment. What's the Use? 1 Ioh. 629. In Treson or Felony, the King may sell his Goods, be they Chattels real or personal, bona fide, before Conviction, for his Maintenance in Prison; for the King hath no Interest in the Forfeiture of the Goods of a Felon when he is acquitted, whether of a Felon are pawned before he is attainted, the King shall not have the Forfeiture of the Goods till the Money is paid to him to whom they were pawned.
3 Inf. 17. 2 Nef. Abr. 874, 875. Goods of persons that fly for a Felony, are forfeited to the Lord of the Franchise, when the Flight is found of Record. 2 Inf. 18. Forfeiture of all his Goods and Chattels. 3 Inf. 55. Forfeiture of Treson, the Forfeiture is Goods and Chattels, and Proclams of Lands during Life. 1 Inf. 592. In a Prerogative, Lands in Freeholds are forfeited, with Goods and Chattels. 1 Inf. 199. For Petit Larceny the Offender forfeits his Goods. 1 Inf. 191. And for standing Mals where Persons are charged to be Punished for Felony, there is a Forfeiture of Goods and Chattels; and so for challenging above 35 Jurors, Gr. 3 Inf. 227. Drawing a Weapon upon a Judge, or rushing another in the King’s Courts, is a Forfeiture of the Privy of Lands for Life, and of Goods: And it is the same Forfeiture for refusing a Prisoner in or before any of those Courts, committed by the Jurtles. 2 Gr. 567. 3 Inf. 141. If a Woman after a negative Course to the Visiter, the shall lose her Dowry after the Death of her Husband, Sct. Stat. 6. 2. c. 6. And if any Maiden or Waif Child above 12, and under 16 Years of Age, shall agree to be taken away and deflowerd, or Compact with any Man for Marriage against the Will and without the Consent of her Father; or if he be done with a barren Woman, by Forfeiture appointed by her Father’s Will, the shall forfeit her Land of Inheritance for Life. 4 4 5 6. M. c. 8. Artificers going out of the Kingdom, and teaching their Trades to Forgers, are liable to forfeit their Lands by the Stat. 5 Gen. c. 1. c. 27. Forfeiture in Civil Causes. A Man that has an Estate for Life or Years, may by many Ways, as well as by Treason or Felony, and such Means as are before mentioned: As by Alienation; by claiming a greater Estate than he hath, or offering the Respondor to be Secured in his Title to the Estate for Life or Years, by the Curtesy, or after Possibility of Issue extinct, or any Lease for Years, Tenant by Statute Merchant, Supple, or Eligiz, of Lands or Tenements that lie in Liveries, shall make any absolute or conditional Feoffment in Fee, Gift in Tail, Lease for any other Life than his own, or levy a Fine for Covenance de Droit done on, &c. or offer a common Recovery thereof; or being impleaded in a Writ of Right brought against him, join the Writ upon the Meet Right, or admit the Reverson to be in another; or in a Suit by a Bond, when the Fee Simple is not in Issue, or if there be a Forfeiture for Years being outlaid, bring an Affidavit de liberis Tenementis. Gr. By either of these Things, there will be a Securio Personae 1 Rep. 15. 8 Rep. 1. 142. 1 Lev. 251. 445 124. 1 Bost. 219. But where the land granted by Tenant for Life, or Years, is not well conveyed; or the Thing doth not lie in Liveries, as a Rent, Common, or the like; he will not forfeit his Estate: And therefore if a Feoffment, Gift in Tail, or Lease for another Life, made by the Tenant for Life, is not good, for Want of Wards in the Making it, or due Execution in the Liveries and Seisin, this shall not produce a Forfeiture. 1 Rep. 55. When Tenant in Tail makes Leases, not warranted by the Statute; a Copgholder commits Waive, returns to pay his Rent, or de Seis of Courts; and where an Estate is granted upon Condition, or Non-performance thereof, Gr. they will make a Forfeiture: 1 Rep. 18. All Officers may be Forfeited by Negligence of Duty. See Fine. 3 Inf. rily, and determine by Examinations on Oath, Cert. the 1 Geo. 1. c. 50. appointed Commissurers to inquire of forfeited Estates in England and Scotland, on the Rebellion or Perjury, Cert. And several Rents and Possessions attained or convicted of Treson or Rebellion in Ireland, were vested in several Commissurers and Trustees for the Benefit of the Nation. And for the Purposes of such purchase of any of the said Lands, and the Conveyances being inrolled, they should be actually sealed thereof; and the Commissurers had Power to proceed summisa-
other, Livery is inderited upon the first Deed; this shall be adjudged Forgery both in the Potos and Present; because it cannot be made upon an honned Purch.

26: 5.

And when a Person knowingly falsifies the Date of a second Conveyance, which he had to make to the same Party, in order to deceive a Purchaser, &c., he is said to be guilty of Forgery. 3 Inst. 169. 1 Haw. 182. It seems to be no true material, whether a forged Instrument be made in such Manner, that if it were in Truth such as it is counterfeited for, it would be of Validity or not. 1 Sid. 142. The Counterfeiting of Writings of an inferior Nature, as Letters and the like, is not against the Law, but the De

6: c. 3. a Forger or Purchaser of false Deeds, was to pay Damages, Fine and Ranlom. And by 5 Eliz. c. 14. If any Person alone or with others, shall falsely forge or make, or cause to be forged and made, or allow to the forging of any Deed or Writing sealed, C our Roll or Will in Writing, to the Intent that the Freehold or Hereditament of any Lands may be defrauded or charged; then shall pronounce, publish, or show forth in Evidence any such forged Writing, as true, knowing of the For

8: gery; and shall be guilty of the same, upon an Action founded on this Statute, or otherwise by Bill, &c. in the King's Bench or Exchequer, he shall pay double Ccoh and Damages to the Party grieved and be set on the Pillory and both his Ears cut off, and his Nofrits slit, and shall forfeit to the King the Ifuffs and Profits of his Lands and Tenements during Life, sufter perpetual Imprisonment 5 Eliz. And if any one shall forge or falsely make any Deed or Writing, contain

9: ing a Lease for Years of Land (not Copyhold) or an Annuity in Fee, for Life or Years, or any Obliga

0: tion, Acquittance, Release, or other Discharge of any Debt or personal Demand, or publish or give in Evidence the same knowingly; he shall pay to the Party injured double Ccoh and Damages, and shall be likewise set on the Pillory, and lose one of his Ears, and be imprisoned for a Year. And if any Person shall be guilty of a second Offence, it shall be adjudged Fr

1: e, without Benefit of Clergy. Stat. Ibid. The For

gery of a Deed of Gift of meer personal Chattels, is not within the Words of the Statute which are Obliga

2: tion, Acquittance, Release, &c. 3 Lem. 170. And forging an Allignment of a Lease is not within the Act, because it doth not charge the Lands, but only trans

3: fers an Interest which was in Being before. Roy. 42. Forgery of a Lease of Lands in Ireland is not within the Words of the Statute; for the King does not hold in an Obligation, &c. the Party grieved by a forged Release thereof, shall recover double the Penalty as Damages, and the Costs and Expenses of the Suit appear in the Condition. 3 Inst. 172. As to publishing a Deed, know

4: ing the fame to be forged, it has been resolved, that if a Person is informed by another that a Deed is forged, if he afterwards publishes it as true, he is within the Danger of this Statute. Ibid. 171. The King may pardon the corporal Punishment of Forgery which tends to common Example; but the Plaintiff cannot release it: if the Plaintiff release or discharge the Judgment or Execution, &c. it shall only discharge the Costs and Damages; and the Judges shall proceed to judgment upon the Certificate of the Palms, and award Execution upon the same. 5 Rep. 50. 6 Eliz. c. 12. But in an extraordinary Case a Forgery hath been compounded; and the Defendant discharged on paying a small Fine. 3 T. 172. In an Information for Forgery, it was adjudged that no Person who is or may be a Lofer by the Deed forged, or who may receive any Benefit or Advantage by the Verdict being found against the De

5: fendant, shall be a Winner for the King. Hard. 331.

6: A Person convicted of Forgery, and adjourned to the Pil

7: lory, (c. whereby he becomes infamous, is not al

8: lowed to a Writter; but it is a Good Exception to his Evidence. Haw. P. C. 432. And one convicted of this Crime, may be challenged on a Jury, so as to be incapable to serve as a Juror, and it hath been held, that the Witnesses for a Person found guilty of Per

9: ory or Forgery, as well as felon, &c. are not felved by a Parson. 2 Haw. 417. The Court of B. R. will not ordinarily at the Prayer of the Defenda grant a Corderi for Removal of an Indictment of Forgery, &c. 1 Sid. 54. By a late Act, Forgery or Counterfeiti

0: ng any Deed, Will, Bond, Bill of Exchange, Note or Acquittance for Money, or any Indenture or Aff

1: gement of a Bill, &c. with Intent to defraud any Person, or publishing such false Deed, &c. to be true, knowingly, the Offender shall be guilty of Felony, and suffer Death as Felon; but not to work Corrup


3: An Indictment for Forgery a Deed.

4: Wills, ff. T HE Juries, &c. That A. B. late of, &c. on the Day, &c. in the Year of the Reign, &c. in A. of a certain Deed, and upon his own End and Imagination, did knowingly, falsely and falsely forge and make a certain false Deed, that is to say, a certain Indenture, whereby one C. D. did bargain and sell all his Lands and Tenements, &c. in the said County to one E. F. and then and there published, and caused the said Indenture to be read and sworn forth in the said County, and to the said E. F. to read it, and the said E. F. to swear to it, and the said E. F. to deliver the Eschat, Paffion, Title and Interests of the said C. D., and the Land and Tenements aforesaid, and whereby the said C. D. is greatly troubled and molested in his Paffion, Title and Interests in the said Lands and Tenements, with the Appurtenances, in Consideration of our said Sovereign Lord the now King, to the Grievance and Damage of him the said C. D. and against the Form of the Statute in such Case made and provided, and also against the Peace, &c.

5: Fontcireux, Ouward, or on the Outside. Ken-

6: ne's Glaff.

7: Fontcireux Manetreum. The Manor as to that Part of it, which lies without the Town, and not in

8: cluded within the Liberties of it.—Summa redhibitorum Affirmation & Maneros Fontinico Sanctorum, &c. Parkh. dyv. 555.

9: Fontcireux Surtitum. The Payment of extra

0: rdinary Aid, opposed to Intrinsecus Servitium, which was the common and ordinary custom, with the


2: Fontcireuxbanium, Signates banniti: Espafia a Sor


4: Fontcireuxfamaf. When a Son accepts of his Fa

5: ther's Part of Lands, in the Life-time of the Father,

6: and it concerned with it; he is said to be Fontcireux familiaire, and cannot claim any more. Blunt.

7: Fontania, (Fontamia) Lands extending further or lying before the sea; also a Promontory. Mon. Angl. Tom. 2. fol. 332.

8: Fonte-Land, Was Land in the Bithorpe of Hr

9: roford granted or lesed dum Ejupiter in Ejipute

0: jectit, so as the Successor might have the fame for his present Revenue: This Colfeem has been long face dif

1: ued, and the Land that formerly granted is now let by Leafe as other Lands, though it still remains the Name by which it was anciently known. Batherfield's Sarum, 58.

2: Font, It is required in Law Proceedings, otherwise the Law would be no Art; but it ought not to be used to faze or intrap. Stat. 2 Edw. 3. Eliz. 2. Matters of Form in Pleas that go to the Action, may be taken Advantage of and helped on a general Demurr;

3: er; as when a Plea is only in Alimutem; 2 Edw. 2. Sarum. 1065.
Forma Pauperis, it is where any Perfon has just Committed Suift, and against a Stanger upon the Poliffion of the Accufator, which may be brought without naming the other Co-Parfoner who hath her Part in Poliffion. Ibid. 431. A Writ may be like-wifely had by one Heir in Ga-

### Forma Pauperis

**FO**

**Forma Pauperis, It is where any Perfon has just Committed Suift, and against a Stanger upon the Poliffion of the Accufator, which may be brought without naming the other Co-Parfoner who hath her Part in Poliffion. Ibid. 431. A Writ may be like-wifely had by one Heir in Ga-**

**FO**

This Writ may be like-wifely had by one Heir in Ga-

### Forma Pauperis

**FO**

**Forma Pauperis, It is where any Perfon has just Committed Suift, and against a Stanger upon the Poliffion of the Accufator, which may be brought without naming the other Co-Parfoner who hath her Part in Poliffion. Ibid. 431. A Writ may be like-wifely had by one Heir in Ga-**

**FO**

This Writ may be like-wifely had by one Heir in Ga-
t he said C. was the Demandant, as Son and Heir of the Body of the said T. And which after the Death, &c. and therefore be bring his Suit, &c.

Fyometta, A certain Weight of about seventy Pounds, mentioned in the States of Weights and Measures. 51 H. 3.

Furnagusum, Furagium, (Fr. Fourrage) Signifies the Fee taken by a Lord of his Tenants, bound to bake in the Lord's common Oven, or for a Permiilion to use their own; this was usual in the Northern Parts of England. Plac. Pal. 18 Ed. 1.

Fuscation, (Fuscation, from the Fuscio in Rome, where Jewes or Profligates themselves for Money is Worshiped, or the Act of Incestufion in single Persons; for if either Party is married, it is Adultery. The Stat. 1 H. 7. c. 4. mentions this Crime; which by an Act made Anne 1550, during the late Times of Ulteration, was punished with three Months Imprisonment for the first Offence; and the second Offence the said was made Felony. Soliel's Colloq. The Spiritual Courts had Cognition of this Offence: And formerly Courts Last had Power to inquire of and put to Fuscation and Adultery; in which Courts the King had a Fine allowed on the Offenders, as appears by the Book of Demesne. Dom. 1488.

Fusile, (Fusileum) An Exception or Refer- nation, in which Senie it is used in the Stat. 14 Ed. 1. This Word is frequently inferred in Lodges and Conveniences, wherein Excepted and Forfeited is an usual Expression. In another Signification it is taken for any Exception: according to Torn. Ann. 1587.


Fyftshaker, An Attorney or Advocate in a Cause. Blunt.

Fyntia, Power, Dominion or Jurisdiction: And we read of Inferious Pleortion, by Judges assembl'd Leg. H. 1. c. 29.

Futirici or Malle futriusi, Is an Argument addressed by Litigation, to this Purpose; If it be in a Person calling a new Right, much more is it for the Reddition of an ancient Right, Gc. Co. Lit. 253. 256.

Fyntifite and Fyntifity, (Fortilitium) Signifies a fortified Place, Belvoir or Castle; as it is said within the Towns and Fortifications of Berrvick and Caufa, Ann. 11 H. 7. c. 29.

Fynter, (Fr.) A Place or Port of some Strength; or rather a little Port. Old Nbr. Br. 45.

Fyntotatus, is that which is called in our Law Treas- ture trove, i. e. Thamara ducenta Fortuna sunoentur —inquisition of per for a Turasor, per Roya, Gc. quod idellaris praebent connex Fortunas, Separationes, &c.

Fyntumnum, A Tournament or Fightsing with Spars; or an Appeal to Fortuna therein. Mat. Paris. Ann. 1241.

Fyfes, A Ditch full of Water; wherein Women committing Felony were drown'd: It has been like- wise used for a Grave, in ancient Writings. See FORCE.

Fyfllatenum, (Law.) Is a Ditch or Place fenced round with a Ditch or Trench; and so it is taken for the Obitu- ations of Citizens, to repair the City Ditches. Fyfllates Signifies the same with Fyfles; And the Work or Ser- vice done by Tenants, Gc. for Repairing and Main- tenance of Ditches is called Fyfllates operas; and the Contribution for it Fyfllates. Kramer's Gloss.

Fyloctas, (From Fylos, digged) Was anciently one of the four principal Highways of England, leading through the Kingdom; which had its Name from its being tappd to be digged and made passable by the Romans; and having a Ditch upon one Side. Cmnl. (Rom.) Npulat. Where we call a Joyniture or Stipend for the Maintenance of the Wife. —Pro balia fremia et Fyloctas percipientes, sustinet fas Bretanuni et plagiarani ursi ful.

FR

Another or Adder. (From the Teuton. Fader) Is a Weight of Lead containing eight Pigs, and every Pig one and twenty Stone and a Half; so that it is about six or seven common Cart-load; Almost a Third of the common Lead used in London it is Nineteen hundred and an Half; and at the Mines it is Two and twenty hundred Weight and a Half. Brum. A Place for Burial of the Dead. Stat. El. Paulini London. MS. 49.

Foundation, The Founding and Building of a College. The Hospital is called Foundation, graft, foundation, or fundamentus hortis. Co. lib. 10. The King only can found a College; but there may be a College in Reparation, founded by others. Dyer 676. If it cannot appear by Inquisition, which it was that founded the Church or College, it shall be intendment it was the King; who has Power to found a new Church, Gc. Main 242. The King may found and erect an Hospital, and give a Name to the House; upon the Inheritance of another, or licence another Person to do to upon his own Lands; and the Words, Fondo, Creo, Gc. are not necessary in every Foundation, either of a College or Hospital made by the King; but it is sufficient if there be Words equivalent: The Incorporation of a College or Hospital is the very Foundation; but he who founds it with Lands is the Founder; and to the Erection of an Hospital nothing more is requisite but the Incorporation and Foundation. 2 Rep. Cath. of St. John's. Pernoe's title to Edicts in Fee-simple, may erect and found Hospitals for the Poor, by the Deed inrolld in Chancery, Gc. which shall be incorporated, and subject to such Violators as the Founder shall point, Gc. St. Trin. 19 Eliz. Where a Corporation or Company is named, it is said the Name of the Founder is Parcel of the Corporation. 2 Nelf. 286. Though the Foundation of a Thing may alter the Law, as to that particular, it shall not work a general Prejudice. 1 Litt. Aveo 854.

Frontier, (Fr. Fronture) Signifies a putting off, or delaying of an Action; and has been compared to hammering, by which the Speech is drawn out to a more than ordinary Length of Time, as by Founding a Suit is prolonged, which might be brought to a Determination in a shorter Space: The Device is commonly used when an Action or Suit is brought against two Points, who being jointly concerned, are not to answer till both Parties appear; and is where the Ap- pearance or Effion of one, will excite the other's De- fault, and they agree between themselves that one shall appear or be effected one Day, and for Want of the other's appearing, have Day over to make his Ap- pearance with the other Party; and at that Day allowed the other Party dast appear, but that he appeared before then not, in Hopes to have another Day by Adjournment of the Party who then made his Appearance. Term. de Leg. 356. This is called Foundere; and in the Rule of Wif. c. 42. it is termed Fauer- the by Effion, where are Words to this Effect, viz. Copartritants, Jointestants, Gc. may not found by Ef- tion, to effion severally; but shall have only one Effion, as one for the other; and where two, &c. 8 Eliz. c. 10. it is used in like Manner: The Defendants shall be put to suffer without Foundere, 25 Heng. 6. c. 2. A loft 350. Foundere in the Latin is with Perterere, because it is two-fold.

Frustration. The Law makes no Frustration of a Day; if any Offence be committed, in Cafe of Murder, the Day that the Body is laid in the Grave, and the・
FR

FRithius. It made UG of the arable Land.

[Additional text not visible.

FR...

the Franchisi aforementioned as power to pardon Folly, make Judges of Affile, and of the Peace, &c. Though by the Stat. 27 H. 8. c. 24, they were remitted and restored to the Crown; and the King cannot grant Power to another to make Strangers free.

FRench, because the Polies are free for the Tenants to take; But Chief Justice Brampton, whilst he was Steward of the Court of the Manor of Writings, acknowledged that he could not find out the Reason why those Polies were called Franches; so that we are at a Loos to know the Truth of this Name etymologically.

FRanciani, (Gr. Franchisi, free) A Free- man, Scito ut defidi, cum folitatis, &c. Franci- liano, & cum Tauris aras, Gr. Chnst. 4. 4. And we find Franchisi hence used for a Freeman in Domesday.

FRanchisi, (Fr. for Franchi, Pr. for Privilege or Exemption from ordinary jurisdiction) as for a Corporation to hold Pleas to such a Value, &c. And some time it is an Immunity given to Tribunals, when it is either personal or real, that is belonging to a Person immediately or by means of this or that Place whereof he is Chief or a Member. Gr. Comp. Juris. 414. There is also a right to hold Pleas, which seems to lead us to the right where the King's Writ runs not. 21 H. 6. c. 4. But Franci- chie Royal is paid by some Authors, to be where the King grants to and his Heirs, that they shall be quit of Fines, Gra. 65. 2. c. 'A Franci- chie in general is a Royal Privilege in the Hands of a Subject and may be sold in Bodies Politic or Corporations, either aggregative or sole, or in many Persons that are not Corporations, (as in Borough Towns, &c.) or in a single Person: And Franchisi are of different kinds: such as the Principality of Wales, Counties Palatine, Counties, Hundreds, Parts of the Sea. &c. Then that is a Franchi or Liberty of having a Leas, Manor or Lordship, as well as a Liberty to make a Corporation, and to have Cognizance of Pleas; and Bailiwicks of Liberties, the Liberty of a Castle, Chief, &c. Fairs and Markets, Fairs Goods, Goods of Fugitives, Optavens, Deadlocks, Treapat Trees, Wells, Effrays, Wrecks, &c. All these come under Franchisi and Liberties. P. N. B. 250. 2 Feb. 251. All Franchisi and Liberties are de- rived from the Crown, and some are held by Charters; some lie in Peculation and Ulage, without the Help of any Charter. Rich. 144. Ulage may be upheld Franchisi, which may be claimed by Peculation, without Record either of Creation, Allowance or Con- firmation: and Wrecks of the Sea, Wells, Strays, Fairs and Markets, and the like, are gained by Ulage, and may become due without any Matter of Record. 2 Ad. 135. 9 Rep. 27. But Goods of Fugitives, and Opavens, and fakes, done by Charter, and cannot be claimed by Ulage, &c. Gr. It had been adjudi- cated, that Grants of Franchisi, made before the Time of Memory, ought to have Allowance within the Time of Memory in the King's Bench; or before the Barons of the Exchequer, or by some Confirmation on Record; and it is said they are not Records pleasurable, if they have not the Aid of some Record of Memory within Time of Memory; such ancient Grants, after such Allowance shall be confirmed as the Law was when they were made, and not as it hath been since altered; But Franchisi granted within the Time of Memory are pleasurable without any Confirmation; and if they have been allowed or confirmed as aforesaid, the Franchisi may be claimed by Force of the Stat. 27 H. 8. 27, and 29 H. 8. 281. 494. There have been formerly several ancient Prerogatives divided from the Crown, besides...
Arrears in any Francishe. 1 Litt. 435. If a Person claims by Francishe, which he ought not to have, it is a Uproar upon the King; and not showing his Title, the King shall take from him his Francishe. Poph. 80. 1 Bullit. 54. See Z2 Warrants.

Francisghett, was the general Appellation of all Foreigners. Vide English.

Francishe, is used to denote a Freeman or Gentleman, in our ancient Authors. Forfeiture.

Francishe, a French Gold Coin, worth about a French Shilling; but in Computation was twenty Soles, which is a Livre, and twenty Pence in our Money.

Frankism, (Liber Eleventh) is a Tenure by Spiritual Service, where an Ecclesiastical Corporation, sole or aggregate, holdeth Land to them and their Successors, of some Lord and his Heirs in free and perpetual Alms; and perpetual Sappoys is it to be a Feep-

fimple; though it may pass without the Word Sappoys. 1 Litt. 135. 1 Inf. 94. A Lay Person cannot hold in free Alms: And when a Grant is in Frankal-

mogn, no Mention is to be made of all Manner of Service; for it is free from any Temporal Service, and is of the highest Nature, because it is a Tenure by Spiritual Service, and so Persons can hold in Franck-

mogn, but by Preemption, or for Force of some Grant made before the Statutes of Mentemain, 7 Ed. 1. c. 36, and 18 Ed. 1. c. 1. 1 Litt. 54, 99. And if an Ecclesiastical Person holds Land by Feeply and certain Rent, the Lord may at this Time confirm his Edate, to hold to him and his Successors in Frankal-

mogn; for the former Service is extinct, and nothing is referred but that he should hold, of which he did before; whereby this Change and Alteration is not within the Stat. 18 Ed. 1. of Quia cunctas Terram. Litt. 540. 1 Inf. 99, 106. Tenure in Frankalmong is incident to the Inheritance Blood of the Donor or Founder; except in a Case of the King, who may grant this Tenure to hold of him and his Successors. Litt. 135.

And the Reason why a Grant in Frankalmong, since the Stat. 18 Ed. 1. is void, except in the Case of the King, Gr. is because none can hold Land by this Tenure in the Times of the Donor; where the Service is

joint, that it be held of the Chief Lord, by the same Service by which the Feepor held it; though the King might grant away any Edate, and render the Tenure to himself. 1 Inf. 99, 233. If any Perons that hold Lucus or Tenements in Frankalmong, make any Fai-

ture in doing such Divine Service as they ought, the Lord may make Complaint of it; to the Ordinary or Vifor; which is the King, if he be Founder, or a Subject where he was appointed Vifor upon the Foun-

dation; and the Ordinary, Gr. may put the Ne-

gllence, according to the Ecclesiastical Laws. Litt. 136. 1 Inf. 96. Also for Negll in performing Di-

vine Service in certain, the Lord may disclaim: But Frankalmong is said to be held by Service certain; and where the Tenure is tied to certain Services, as to read Prayers every Friday, Gr. this is not Frank-

almong, but Tenure by Divine Service; it is Lands given in Alms, but not in free Alms. Briton, c. 66. The Tenure by Frankalmong is an ancient Tenure, chiefly to be met with in Grants to religious Houses, Bi-

lished, or to be become the Use of. Unl. 17.

Frank-Clage, is a Liberty of Free Clerkes by which all Persons that have Lands within the Compaah there-

of, are prohibited to cut down any Wood, Gr. with-

out the View of the Forester, though it be in their own Demesnes. Comp. Jurispr. 187.

Frank-se, is a Placehold Land is held ex-

empted from all Services, but not from Homage. In the town of Written, we find that a Frank-se, or

which a man holds at the Common Law, to him and his

Heirs: and not by such Service, as is required in An-

cient Demesne, according to the Laws of the Middle

Age. And that the Lands in the Hand of King Edward the

Cofisjer, at the Making of the Book of Domesnes, were Ancient Demesne, and all the rest Frank-se,

whereas by the Laws of England agrees. Reg. Orig. i. 2. F. 201. 161. And the Author of the Terms of the Law defines a Frank-se to be a Tenure payable at the Common

Year's Rent to the Person who holds it, and not in old

Terms by Domesnes. Ter. de la Loi, 352.

—Feudum Francum ex pro quoc umserit Servitium

professor Domini. Fracism, lib. 7. c. 39.

Frank-se, was when Lands or Tenements were

changed in the Nature of the Fee, by Feepment, Gr. out of Knight Service, for certain yearly Services. Briton, c. 66. See Fee farms.

Frank-land, (Liber Eleventh) is applied to the Be-

nefit of the Free and Common Land of the Lord. You

may find what it is by the contrary, from Crompton in his Justices of Peace; where he says, it is for any

Offence which his Frank Land, falls into these

chiefs, which. He may never be impaneled upon any

Jury or Affife; or be permitted to give any Testimony:

If he hath any Thing to be in the King's Courts, he

must, and he hath a Right to do so, and he cannot be

that his Author-

therein for him: And his Lands shall be efeated, and his Body committed to Prius, Gr. Comp. Jurispr. 156. Litt. 2. 2 Inf. 159. See C. Litt. 1. See Camp. Ter. de la Loi, 359.

Frank-Sparrishment, (Liberrum Marginatione) is where a Man seizes of Land in Fee-fimple, gives it to an-

other with his Daughter, Sister, Gr. in Marriage; to his Brother, Neice, or to any other, in any such

in special Fall, growing from these Words in the Gift, i.e. Scant, Gr. me a B. de leffe & concyffex, Gr. T. B. filo men & Assam. overseeing, alike, in Libe-

ren, and in the Right of the Service, Gr. It is a Law,

Wifh. Synd. par. 1. lib. 2. fo. 301. The Effect of

which Word is, That they shall have the Land to them and the Heirs of their Bodies; and shall no Serv-

ices to the Donor, except Feeply, until the fourth

Degree. Glasow, lib. 7. c. 18. And gives this Reason why the Heirs do no Service until the fourth Degree: No Donorres wel sonn baroest for

Honogai recipiencem, a reverfion repellant. And why in the fourth Dextent and downward, they shall do Services to the Donor: Quia in partes grada sebe-

menre, necor procederet, unde pro se fuisse et

Dominorum reverfura. Eles, lib. 5. c. 311. This appears in Brasem, lib. 2. c. 7. where it is said, that

Lands in Frank-Marriage may be given to Servants, of whom the Spirit, Gr. asp. et tarn ex timent beredam, & asp. et quantum gradum. Allo Brasem divides Marriage into

Liberrum Marginationi et Marginationi servitum obligationem; which last was where Lands were given in Marriage, with a Refervation of the Services to the Donor, which the Donor and his Heirs were bound to perform for ever; but neither he, or the next two Heirs, were obliged to do Homage, which was to be done when it came to the fourth Degree, and then, and not before, were required to be performed both Services and Ho-

mages. Bras. lib. 2. Lands given by one Man to another with a Wife in Frank Marriage might be made as well after as before Marriage: And such a Gift was a Fee-simple before the Statute of Wifm. 2. but that, it is now only a Fee-sam: But such Gifts were common in former Times, where Questions in Law did arise; but are now disolved. 2 Nelf Abr. 888.

Frank-plage, (Francis plagium, from the French

Frank, I. e. Liber, and Plege, Pugés, Signifies) Pledge or Securties for the Behaviour of Freedom; it be-

ing the ancient Cultum of this Kingdom, borrowed from the Lombards, that for the Protection of the

Cultum, every Free man at the Time of his Fourteenth, (Religious Persons, Clerics, Gr. excepted) should
should give Security for his Truth towards the King and his Subjects, or be committed to Prision; whereupon the Number of his Neighbours, usually became bound one for another, to see each Man of their Pledge forth-coming at all Times, or to answer the Transgression of one, and then the whole Body, whenever any one offended, it was forthwith inquired in what Pledge he was, and then those of that Pledge either produced the Offender within One and thirty Days, or satisfied for his Offence. This was called Frank pledge; and this Custome was so kept, that the Sheriffs at every County-Court, did from Time to Time take the Oaths of young Persons as they grew to fourteen Years of Age, and in one of those Oaths, they were contented to give them a Decree or other whereby this Branch of the Sheriffs Authority was called Via in frank pliegl, or Prioir of Frank pledge. At this Day not an ordinary gives other Security for the Keeping of the Peace, than his own Oath; so that none answereth for the Transgression of another, but every Person for himself. 2 Inf. 78. Living under Frank-pledge has been termed living under Law. 23 Ed. 4. See the Statue of Prioir of Frank Pledge, 18 Ed. 5. and Court-Let. Ditto. 2. Frank-Commitment, A Partition of Freehold Lands and Tenements, 23 Ed. 5. 7 R. 1. A partition of lands and tenements, or the partition of lands and tenements, is taken for a Wood or woody Ground, where after grow. 24 Ed. 1. 10. 

Frafra, A Fraternity, Brotherhood or Society of Religious Perfons, who were bound to pray for the good Health and Life, &c. of their living Brethren, and the Souls of those that were dead. In the Statutes of the Cathedral Church of St. Pauls in London, collected by Ralph Bullock, Dean, 1295. there is one Chapter of Fratres Beneficiorum Britann. 3. Pauli, &c. Fratres et filii, Of Places in respect to a Trade or Mystery. Vide Corporation. 2 Fratres, A brotherhood. Fulled in ancient Deeds for a Baldric Broth. Molling. 

Frates, Are sworn Brothers or Companions; sometimes those were so called who were sworn to defend the King against his Enemies. Strovet. 445. Lart. 11. 1. 1. Stat. 1 Fratres conscripti, et sones Liber hominis, just Fratres conscripti ad Monarchiam suam & Regiom suam contra Ernem pro poffis pro defendendo. Leg. 2 Ed. 1. 15.

Frates, Were certain Friars, wearing black and white Garments; of whom Mention is made by Walsingham. p. 124. 

Frankrig, Is a younger Brothers Inheritance; and whatever the Sons or Brothers poftred of the Estate of the Father, they injure it raturus Frateris, and are to do Homage to the elder Brother for it, who is bound to do Homage for the Whole to the superior Lord. Bras. lib. 2. c. 35. 

Frauds, (Fraud) Is deceit in Grants and Conveyances, and gives false patents and grants, &c. to the Damage of another Person. F. N. B. 98. Fraudulent Aurances of Lands or Goods to deceive Creditors, shall be void and the Creditors shall have Exe- cution thereupon. 50 Ed. 3. 6. By the Stat. 13 Ed. c. 5. all fraudulent Conveyances made of Lands, Goods or Chattels, to set aside or avoid Debt, as to Creditors shall be void; and by 27 Ed. 4. 4. Conveyances and Aurances of Lands made to defraud Purchasers, as to such Purchasers they are declared void: And Persons Juliaising or putting such Grants, &c. in Use as good, and bona fide, shall forfeit a Year's Value of the Lands, and the whole Value of Goods and Chattels, and be also imprisoned: Where Lands are conveyed with Clause of Revocation, &c. and after such Performance, the full Conveyance shall be void against the Purchaser, but this is not to extend to Mortgages made bona fide. If a Man feised of Land in Fee, makes a Feoffment of it to divers Ues, with Remainders over, &c. and with Power of Revoc-
Gifts made in Secret are liable to Suspection of Fraud.

A general Gift of all that a Man has, unless it be evidenced in writing, or expected to be so from the Will of the Donor, shall be fraudulent, even tho' there be a true Deed owing to the Party to whom made. 3 Rep. 80. 81. And the several Marks or Badges of Fraud, in a Gift of Goods of Value, if it be general, with- out Exception of some Things of Necessity; if the Donor shall pollute and uses the Goods if the Deed be fraudulently made; or if there be a Truth between the Parties; or if it be made pending the Action. 3 Rep. 80, 81. And where a Person is Party to a Fraud, all that follows by Reason of that Fraud shall be liable to be done by Act, of 16 Geo. 1, c. 9. But where this is not expressly averred, it shall not be presumed; nor shall the Court judge it to be so, till the Master is found by Jury. 10 Rep. 56. A Poor Man was drawn in to sell an Estate, as a great Under-Value; but no Fraud appearing, tho' the Purchasch was not a sure Bargain, the Seller could not be relieved in Equity, to set it aside. 9 Geo. 3, Ch. 206. The Chancery may decrees a Conveyance to be fraudulent, merely for being voluntary, and without any Trial at Law; yet it has been inferred, that Fraud or not was triable only by a Jury. Bid. 14, 15. A Will, as well as Deed, shall be set aside in Chancery for Fraud and Consentaneous. Bid. 123. Conveyances to multiply Votes at Election of Knights of the Shire, shall be taken against the Persons making them, and upon Segregations; and all Securities for Redeeming and Restoring, to be void. Stat. 10 Ann. c. 23. 2 Petition to a Beneficary. Obtained by Fraud, are void; and fo is Sale of Goods by Fraud, in open Market, &C. where a fraudulent Deed or Conveyance, is aligned upon a valuable Consideration, the Fraud is put on the Party. 26 Geo. 1, c. 9.

FRAUD LEGIS. If a Person having no Manner of Title to a Houle, procure an Affidavit of the Service of a Declaration in Ejecution, and thereupon get Judgment; upon the Judgment, as the Fraud is in the Action, the Court may turn the Owner out of Possession of the Houle, and feigns and converts the Goods therein to his own Use, he may be punished as a Felon; because he used the Proceeds of the Law with a felonious Purpose, in fraudem legis. Rym. 276. Sid. 254.


FREEDOM. A Liberty to hold Courts, and take up Attainders, &c. Convey. 

FREEDOM. (Francus Barus, i.e. Sena Libera) That if Estate in Copyhold Land which the Wife is on the Death of her Husband for her Dower, according to the Custom of the Manor: But it is said the Wife ought to be espoused a Virgin; and is to hold the Land only so long as the lives sole and continent. Kidall. 102. Of this Free-Bench, several Manors have several Customs; and Fitzherbert calls it a Custom whereby in certain Cities the Wife shall have the whole Lands of the Husband for her Dower, Gt. F.N.B. 150. In the Manors of Eath and West Ebury in the County of Berks, and the Manor of Tenter in Desborough, and other Parts of the West of England, there is a Custom, but when a Copyhold Tenant dies, his Widow shall have her Free Bench in all his Customary Lands, Damn felis et cofa Juris; but if she commits Incontinency, she forfeits her Estate: Yet nevertheless, on her coming into the Portion of the Manor, riding backwards on a Black Ram, with her Tail in her Hand, and saying the Words following, the Steward is bound by the Custom to re-admit her to her Free Bench: the Words are these.

Here I am, Egesta a Black Ram, 

Like a Whore as I am: And
This is a Kind of Pensions, among jocund Treasures and Customs, to purge the Offence. 

After-burthen. Signifies a Person who fights without Pay, in Hopes of getting some Body.

Freeholders. (Liberae Capella) A Chapel so called, because it is exempt from the Jurisdiction of the Diocesan. Thrice Chapels are properly Free Chapel which are of the King's Foundation, and by him exempted from the Chancellor's Visitations. Also Chapels founded within a Parish for the Service of God, by the Devotion and Liberality of pious Men, over and above the Mother-Church, and endowed with Maintenance by the Founders, which were free for the inhabitants of the Parish to come to, were therefore called Free Chapels. Reg. Orig. 40. 41. The Free Chapel of St. Mary on Mersey, &c. Ed. 4. c. 12. are others likewise, by ancient Statutes: But these Chapels were given to the King, with the Chantries, &c. Ed. 6. c. 14.

Freeholders. (Liberae Tenementum) Is that Land or Tenement which a Man holds in Fee simple, Fee tail, or for Term of Life. Bract. lib. 2. c. 9. And is described to be of two Sorts: Freehold in Deed, and Freehold in Gift. The first being real Possession of Lands, &c. in Fee, or for Life, and the other the Right a Person hath to such Lands or Tenements, before his Entry or Seilure. Freehold is also extended to Others, which a Man holds either in Fee, or during Life: And in the Register of Wills it is said, that he who holds Land upon an Execution of a Statute Merchant until he is released the Debt. Trout in Liberum Tenementum ft, &c. &c. (1547) and the same of a Tenant by Elys: but such Tenants are not Freeholders, only as Freeholders for their Time, till they have paid off their Debt. Reg. Tud. 68. 73. A Lease for ninety-nine Years, &c. determinable upon a Life or Lives, is in a Lease of so much to make a Freehold, but a Lease for Years or Challen determinable upon Life or Lives: And an Eatee for One thousand Years is not a Freehold, or of so high a Nature as an Eatee for Life. Gr. Lott. 6. He that hath an Eatee for the Term of his own Life, or the Life of another, hath a Freehold, and no other of a lesse Eatee: the they of a greater Eatee have a Freehold, as Tenant in Fee, Gr. Lott. 57. Whom a Man pleads Liberum Tenementum generally, it shall be intended that he hath an Eatee in Fee: and not a bare Eatee for Life. Cro. Eliz. 87. An Eatee of Freehold cannot by the Common Law commence in future: but it must take presently in Possession, Reversion, or Remainder. 5 Rep. 94. A Man made a Deed of Gift to his Son and his Heirs, of Lands after his Death, and no Livery was made: now if there had been Liency, it was held void, because a Freehold cannot commence in future: And it has been held, that it shall not ensue as a Covenant to Stand void, by Execution of the rent by which was intended the Transmutation of the Eatee, and not to pay it by Way of Ule. March Rep. 50. 51. Whatesoever is Eatee in Fee, and Freehold goes to the Heir and Glass Winds, Waincor, &c. affixed to the House are Parcel of the House, and cannot be removed by Tenants. 4 Rep. 63. 64. But is hath been ad

judge, that if Things for Trade, &c. are fixed to the Freehold by the Lefter, he may take them down and remove them, so as he do it before the End of the Term, and he do not thereby injure the Freehold. 1 Salk. 358. Any Thing fixed to the Freehold may not be taken in Diffrib for Rent or in Execution, &c. But it is not Penalty as Common Law, only Freehold to steal or take any Thing annexed to the Freehold; such as lead on a Church or House, Corn or Grains growing on the Ground, Apples on a Tree, &c. Though if they are severed from the House, Letter by the Owner or the Thief: if he sever them at one Time, and take them away at another, it is Larceny to take them. 14 Eliz. 3. 1 Hen. 3. And to fix Land on a House, &c. is made Penalty, by a late Statute. 4 Geo. 2. The Statute of Magna Charta, c. 29. ordains, that no Penall shall be diffild of his Freehold, &c. but by Judgment of his Peers, or according to the Law of the Land: which doth not only relate to common Differences, but the King may not otherwise ride into his Hands to a Freehold of the Subject. Wood's Leg. 614. None shall distrain any Freeholders to any Power for their Freeholds, or any Thing touching the Time, without the King's Writ, Stat. 52 H. 3. c. 22. Nor shall any Person be compellable to answer for his Freehold before any Lord of a Manor. Gr. 19 R. c. 12. Freehold Estates, of certain Values, are required by Statutes to qualify Jurors; Electors of Knights of the Shire in Parliament, &c.

Freeholders. Are such as hold any Freehold Estate. By the ancient Laws of Scotland, Freeholders were called Milites and Freehold, in this Kingdom, hath been sometimes taken in Opposition to Feudary, or being Lands in the Hands of the Gentry and better Sort of Tenants, by certain Tenure, who were always Freeholders, contrary to what was in the Possession of the inferior People, held by the Royalty, &c. 19 R. c. 12. Freehold. Freeholders for their time, by a late Statute. But these Freeholders to any Power for their Freeholds, or any Thing touching the Time, without the King's Writ, Stat. 52 H. 3. c. 22. Nor shall any Person be compellable to answer for his Freehold before any Lord of a Manor. Gr. 19 R. c. 12. Freehold Estates, of certain Values, are required by Statutes to qualify Jurors; Electors of Knights of the Shire in Parliament, &c.

Frigth (Fr. Frez) Signifies the Money paid for Carriage of Goods by Sea; or in a larger Sense, it is taken for the Cargo, or Burthen of the Ship. Ships are freighted either by the Ton, or by the Grain, or being in the Hands of the Gentry and better Sort of Tenants, by certain Tenure, who were always Freeholders, contrary to what was in the Possession of the inferior People, held by the Royalty, &c. 19 R. c. 12. Freehold. Freeholders for their time, by a late Statute. But these Freeholders to any Power for their Freeholds, or any Thing touching the Time, without the King's Writ, Stat. 52 H. 3. c. 22. Nor shall any Person be compellable to answer for his Freehold before any Lord of a Manor. Gr. 19 R. c. 12. Freehold Estates, of certain Values, are required by Statutes to qualify Jurors; Electors of Knights of the Shire in Parliament, &c.

Frigth (Fr. Frez) Signifies the Money paid for Carriage of Goods by Sea; or in a larger Sense, it is taken for the Cargo, or Burthen of the Ship. Ships are freighted either by the Ton, or by the Grain, or being in the Hands of the Gentry and better Sort of Tenants, by certain Tenure, who were always Freeholders, contrary to what was in the Possession of the inferior People, held by the Royalty, &c. 19 R. c. 12. Freehold. Freeholders for their time, by a late Statute. But these Freeholders to any Power for their Freeholds, or any Thing touching the Time, without the King's Writ, Stat. 52 H. 3. c. 22. Nor shall any Person be compellable to answer for his Freehold before any Lord of a Manor. Gr. 19 R. c. 12. Freehold Estates, of certain Values, are required by Statutes to qualify Jurors; Electors of Knights of the Shire in Parliament, &c.
the Time agreed, the Master shall have Freedom by Way of Damage, for the Time thereof Goods were on Board; and is at his Liberty to continue with another, left he lose his Season and Voyage: And where a Ship is not ready to take in, or the Merchant not ready to load his Goods aboard, the Parties are not only to Liberty, but the Peron damned shall bring an Action against the other and recover his Damages sustained. 

Leg. Rod. If the Freighter of a Ship shall load on Board prohibited Goods, or unlawful Merchandize, whereby the Ship is derained, or the Voyage impeded; he shall answer the Freight agreed for. *St. 210. And when Goods are laden aboard, and the Ship hath broke Ground, the Merchant may not afterwards unload them; for if he then changes his Mind, and resolves not to venture, but will unload again, by the Maritime Law the Freight becomes due. If a Master freights out his Ship, and afterwards secretly takes in Goods unknown to the first Laders, by Law Maritime he forfeits his Freight: And if a Master of a Ship shall put into any other Port than what the Ship was freight ed to, he shall answer Damages to the Merchant; unless he is forced in by Storm, Enemies, or Pirates; and in that Case he is obliged to fail to the Port agreed at his own Expense. *Leg. Oleron. A Ship is freighted out and in, shall be no Freight due till the Voyage is performed; that if the Ship be slain away, coming home, the Freight outwards as well as inwards are both gone. *Bracton. 21. A Master of a Ship is not bound to account to the Owners for Pillagings, where it appears they are not able to pay. *See Charty-parly.


Frenchman, Henqert, a Term for every Stranger or outlandishman. *Bract. lib. 3. trad. 2. c. 15. See Francigenes.

Fremont, Comes from the Sax. Friend. I. e. A man to whom belovd, and is a Mall exiled of him who harboured his outlawed Friend. *Blunt. But see Feitie, lib. 1. c. 7.


Fritia *Difficiun. (Fritia Difficins, from the Fr. Frait, i. e. Recen, & Difficius, with Quilloficiat iriser) Signifies that a Difficult, which a Man might formerly seek to defeat of himself, and by his own Power, without resorting to the King, or the Law; as where it was not above fifteen Days old, or of some other Short Continuance. *Briest. c. 5. Of this Bradton writes at large, concluding it to be arbitrary. *Lib. 4. c. 5.

Fritia, First, is that which was levied within a Year; it is mentioned in the Statute of Wm. 2. 13 Ed. 1. c. 45.

Fritia *Frict. (Gritia Frutia) Is a Force newly done in any City, Borough, &c. And if a Person be defied of any Lands or Tenements within such a City, or Borough, he hath a Right to the Land, by the Usage and Custom of the said City, &c. may bring his Affidavit, or Bill of Frict Force, within forty Days after the Force committed; and recover the Lands. *F. N. B. 7. Old Nat. Br. 4. This Remedy may be also had where any Man is defied of any Lands, after the Death of his Ancestor, to whom he is Heir; or after the Death of Tenant for Life, or in Tail, in Dower, &c. within forty Days after the Title accrued; and in a Bill of Frict Force, the Plaintiff or Deman der shall make Proclamation so far in the Nature of what Writ he will, as Affidavit of Misdemeanor, of Nvctel Difficiun, Journal, &c. *New Nat. Br. 15. The Affidavit or Bill of Frict Force is feed out without any Writ from the Chancery; but after the Forty Days, there is to be a Writ out of the Chancery, directed to the Mayor, &c. &c. &c.

Fritia *Suit, or Pursuit. (Rumente infrigei) Is such a present and earnest following of an Offender, where a Robbery is committed, as severer ceases from the Time of the Grain done or discovered, until he be apprehended: And the Benefit of a Pursuit of a Felon is, that the Party pursuing shall have his Goods restored to him; which otherwise are forfeited to the King. *Statis. Pl. Cori. lib. 1. c. 100. &c. 2. When an Offender is thus apprehended, and Indictment brought against him, upon which he is conviety of the Felony, the Party robbed shall have Restitution of his Goods; and tho' the Party robbed do not apprehend the Thief presently, but that it be some Time after the Robbery, if the Party did what in him lay to take the Offender; and notwithstanding in such Case he appears to be apprehended by some other Person, it shall be adjudged Frict Pursuit. *Terms de Ley 362, 359. It has been anciently held, that to make a Frict Suit, the Party ought to make Heat and Cry with all convenient Speed, and to have taken the Offender himself, &c. But at this Day, if the Party hath been guilty of no gross Nigligences, but hath used all reasonable Care in inquiring after, pursuing, and apprehending the Felon, he shall be allowed to have made sufficient Frict Suit. *2 Henr. P. C. 169. Alfo it is said, that the Judging of Frict Suit is in the Prerogative of the Crown, and cannot be found by the Jury; and the Judges may, if they think fit, award a Refitution without making any Inquisition concerning the same. *Hib. 169, 171. Where a government, or other important Person, is an Offender, escaping from Prison, it is Frict Suit, to execute the Gailer: And if a Lord follow his Difficics into another's Ground, on its being driven off the Premisses, this shall be taken to be a Disviolent Race, pursues his Cattle, that escape or stray into another Man's Land, &c. Frict Suit may be either within the Parus, or without; as to which the Law makes some Difference: And it has been said that Frict Suit may continue for seven Years. *3 Rep. S. P. C.

Fretum Britannicum, is used in our ancient Writings for the Strait between Dover and Calais.


Frisburg, alias Frisburgh. (Fridburgum, from the Sax. Frid, i. e. Fax, & Breg, Fidichius) Is the name with Frick pladge; the one being in the Time of the Saxons, and the other since the Conquest. Of their Frisburg, Bradton treats Lib. 3. Trad. 2. c. 10. And they are particularly described in the Laws of King Edward, let out by Lambard, P. 143. Fries likewise writes on this Subject, lib. 1. c. 47. And Speelman makes a Difference between Friborg and Frisburg; saying the Fries signifies Libera Securitas, and the other Pais Securitas. Either Friesburg or Frisburgs were anciently required as principal Pledge or Suresies for their Neighbours, for the Keeping of the Peace; yet as to great Persons, they were a sufficient Allurance for themselves, and their menial Servants. *Speelman.

Fritlott and Fritlottum. (Sax. Frid, Fax, & Sal, false) A Seat, Chair, or Place of Peace. In the Charter of Immunities granted to the Church of St. Peter in York, by Hen. I., and confirmed Anna 2 H. 7. Fritlott in expounded Cathedra pacti & quietatis, &c. And there were many such in England; but the most famous was at Beverley, which had this Inscription, Hec sedes Lapida Fritlottis dicta, i.e. Pacti Cathedrae, ad quanum res fugiendo permissonis, seminatum habet securitatem. *Can. Fritottum was the old Saxen Word for him whom we call an Oath; and it is for this Reason, because he was, upon his Expulsion from the

King's
King's Protection, denied all Help of Friends, after certain Days. Daily lib. 3.

After (Lat. Post) Fr. Prest) The Name of an Order of Religion Persons, of which there are four principal Branches, 1. Minoras, M. Gregor, or Gregorians; 2. Augustins; 3. Dominicans; or Black Friars; 4. White Friars, or Carmelites, of which the last is divided, 4 H. 1, 177. Lyndhurst de Regis. Dominic. c. 1.

After-coverdnt (After cover) Is a Branch of the Franciscan Friars, which are Bishop as well as the Observants in the Conventuals, and Capuchins. And they are called Obediency, because they are not combined together in any Cloister, Convvent, or Corporation, as the Conventuals are; but to themselves as so express the Rules of their Order more strictly than the Conventuals do, and upon a Singularity of Zeal separate themselves from theirs, living in certain Places of their own Chaining. 1 Ed. 6, c. 10. 4 Ed. 13. 4 Ed. 14. 1 Jac. 1, 11. 21. One that scours and furthers up old Clothes to fall again. A Kind of Broker. L. c. 11.


Affright, A Term among Merchants for selling Goods upon Credit. Frith. (Sax.) A Wood, from Fride, i.e. Pars, for the English Sons; held Woods to be feared, and therefore, not to be touched without a Mandate of the King. Sir. Edward Coke 6 points a plain between Woods, or a Wooded Land. 1. 3. 6. Const. It amends in Britain. Uter it for an Arm of the Sea, or a Stryke, between two Lands, from the Word Fleet. Frithbych, (Paris Platins) The Breaking of the Peace. L. 3. 2. 6. See Gribbroke.

Affright, (From the Sax. Frith or Fri, Frad, & Frat, Aum) The Year of Jubileus, or of Meeting for Peace and Friendship. Same.

Affrightg, 1. The Same which we now call a Guild Hall, or a Company or Fraternity.

Affranchize, One belonging to such Fraternity or Company. Black.


Affranchizes, Affranches, Signifies Security of Defence or, according to Festa, Libertas habendi Franci fidei, fes Immunitas locos.


Affranchizg, (Sax.) Is the First Payment made to the Crown and the Recompense of his Murder.—Prima Capiti affiliationis Præsa vestra in fidei. LL. Edmund.

Affratch, The chief Seat or Mansion-house which the Commination of the Death. Leg. 131, 32.


Affratch, (From the Fr. Fratricie, A Breaking down: also a Ploughing or Breaking up: Fratricie De- morar is House breaking; and Fratricie Terra, new broke Land. Mon. Angl. Tom. 2, p. 594.

Affruchm from a small Plain or Parcel of Land, Ryththon quidem præsim esse numerosas vel Campum menanturum. Affruchm tenet acceptuari.
Tulliam Aquae, A Fleem or Stream of Water, such as comes from a Mill.

Fumagia, (Fumagian) Dung for Soil, or a Manure of Land with Dung.—Et fem Spiti de Fumagio & Marcerio variando, & Chart. R. s. Pat. 2. 3. 12. This Word has been sometimes used for Sow's Maw, a customary Payment for every Horse that had a Chimney. Damages.

Fumates, Are bobblies, or gabbles and falsed, then hung in the Smoke, and preified so called in Spain and Italy, whither they are exported in great Abundance. 14 Car. 2. c. 51.

Fumigatio, Is used for Pioneers, in Pat. 10 Ed. 2. m. 1.

Furca and Fossa, (i.e. the Gallows and the Pit) In ancient Privileges granted by our Kings, it signified a Jurisdiction of Punishing Felons; that is, by Hanging, and Women with Drawing. And Sir Edw. Coke says Fossa is taken away, but that Furca remains. 3 Lev. 12. 39. When treating of these Words, faith that

Ereditio Furcarum et meri Imperii & alius Titularia, & significat Dominium aequo, quia suprascript tum in aequo, Et mirum Imperium confitit in quarto, first four quarter Blowen; in quo, quando quis comitatur praerit multum; In Aquis, quando quis pervertit in aequo & in aequo protestat unum, vel in aequo imperatim est Furcarum, simili modo, in Terra, quando quis comitatur, & Terram profaneretur. Spee.

Furcatre ad Tulliam, To pitch Corn with a Forc in London, or in making a Rich or Mow. Tenants desent facture, persuers, curators, cariari in Manerium Domini, & ad Fumac forsis unam acram Prati.—Cowell.

Furcarum in Flaggione. The messen of all fer
tive Tenures, when the Bondman was at the Dissolution of his Lord for Life and Limb.—Iste tract est Ville

Furietibus, A Mult paid for Theft: And by the Laws of King Edward, it is allowed, that they shall be Writs of Colquhon Furgelium reddendor, i.e. who never was accused of Theft.

Furlong, Is a Quantity of Ground containing gen
erally forty Poles or Perches in Length, every Pole be
ing a half, eight of which Furlongs make a Mile: It is otherwise the eighth Part of an Acre of Land in Quantity. Stat. 35 Ed. 1. c. 6. In the former Acceptation, the Romans call it Stadium; and in the latter Jargon. Also the Word Furlong has been sometimes used for a Piece of Land of more or less Acres.

Furnigam, (Furnigian) Est tributum quod Domini
Furni a futilibus quadratis etiam Furni; Et multi
cem in his tenentes Fugia ad equitandum pasi facit in Furtum Domini. Est eis causas in Exemulatione
quod Fugiae concordat in festinato sumptu & Mercedem, & unum prorsus Fugiae quodque Hewlett quarterum fierunt seu
crea. Et enor. & furiae & usus pasi in Furnigam; Abstinentur & Fugiae. 51 H. 7. 2. See Furnigam.

Furnarius, Is used for a Baker, who keeps an Ovens; and Furnarii signifies to bake or put any Thing in the Ovens. Mast. Part. June 1258.

Furri, (Furry) From the Fr. Fureur, i.e. Pellicura
Is the Coat or Covering of a Beast. The Stat. 24 H. 8. c. 13. mentions divers Kind of it, viz.
Ille qui habet Fureur de Colour between black and brown, the Skin of a Beast called a Saddle, of big Nessers between a Pole cat and an ordinary Cat, bred in Ruffia and Tarsary. Lucern, the Skin of a Beast of that Name, near the Size of a Wolf, in Colour neither red nor brown, but between both, and mingled with black Spots: Which are bred in Misopogyn: and is a very rich Furr. Genet, a Beast's Skin so called, in Bigness between a Cat and a Werace, mailled like a Cat, and of that Nature, and of two Kinds black and grey, the

black most precious which hath black Spots upon it hardly to be seen; this Beast is the Proebet of Spain. Furi; of Fashion like the Saddle, the Top of the Furr is black, and the Ground whith; bred for the most part in France. Martes is a Beast very like the Saddle, in Colour something courser, produced in England and Ireland, and all Countries not too cold; but the bell are in Ireland. Besides these, there is the Pitch or Pole cat; the Colubro, a little Beast, in Bigness near a Squirrel; Muscard being the Bellies of Squirrels and Shanks, or what is called Budge, U. of all these Furis of Foreign Countries, some whereof make a large Branch of their Island Traffic.

Furcella Bonumbing, (Sax.) Time to advise, or to take Counsel.—De quibusdam Individuo et alius Furi & Fumac hebat. Leg. H. t. c. 46. Furtum, Theft, or Robbery of any Kind. Litt. Dict.

Furtios. No Person shall term Furtio with an
y other Infirmity then the Broad Shears, under the Pe
nalty of 20s. And the Master and Wardens of the Company of Carver's in London, U. have Power to Search the Workmanship of Sheermen, as well for Furtos as Cloth. Leg. H. t. c. 19.

Furicell, Wood brought from Barbados, Jamaica, U. used by Dyers, mentioned in the 12 Car. 2. c. 19.

Furrowing, (From the Sax. Furrowing, i.e. Expedi
tious apparatus.) A going out to War, or a military Expeditions at the King's Command; not going upon which, when furnished, was punished by Fine at the King's Pleasure, Leg. H. t. c. 10. Blows calls it an Expedition or a Fault of Trefails for not going upon the same.

Furthling or Furlong, A military Expedition.

G.

Gabelle, (Blatera, Gaviro) To babble and talk idly to no Purpose, whence comes Gabbler or Babber, Pian.

Gabel, (Gabella, Gablum, Gablagium) In French
Gabella, i.e. Vegital, hath the same Signification among our ancient Writers, as Gabelle hath in France: It is a Tax; but hath been variously used, as for a Rent, Labour, Service it was sometimes paid, or a Payment of Rent, those who paid it were termed Gabladores. Domest. Ca. Litt. 213. It is by some Authors distinguished from Seprio; Gabella of Vegitalis quod solutur pro Boni meilibris: & Tributium pro priis quod Fisso vel principii solutur pro robis immoobilis. When the Word Gabriel was formerly mentioned, without any Addition to it, it signified the Too on Salt, tho' afterwards it was applied to all other Taxes.

Gable-end, (Gabulam) The Head or extrem Part of a House or Building.

Gable-end tali est inter Gabulam Tramens mei et Gabulum Tramens Laurentii K. Parisb. Antiq. 286.

Gablewater, Rent paid in Money. Stel. de Tribus, c. 521.

Gaelot-gift, (Sax.) Is the Payment of Tribute or Custum; also it sometimes denotes Uffery.

Gaës-laert, or Gaës-laert, (Terrae suavibus) Land liable to Taxes, and rented or leased for Rent. Sax. Dict.

Gage, (Fr. Lat. Vadam) Signifies as much as to

paw or pledge. Gloaw. l. h. 10. c. 6. And Gage De

viours is what he hath taken a Diffret being lord, had the service of the Domer, and that were dis

trained; then he shall not only aver the Diffret; but Gage De

viours, i.e. put in Surety or Pledges, that he

will deliver them. F. N. B. 67. 74. This Gage De

viours is had on falling out References, upon the Pain

St. Praying the fame: And it is said the Parties are

to be at Iffre, or there is to be a Demurrer in Law, before Gage De

viours is allowed; and if of a chain any Property in the Goods, or the Beasts are
deed in the Pound, the Plaintiff shall not go, &c. Kinh. 142.
Cockett et Leg. In old Writings. See Wases and
Wager of Laws.

(Gaining, Gainington, i.e. Plaqué apparis or, Fr.
Gagnez, viz. Lucrarium) The Game or Profit of killed or
planted Land, raised by Cultivating it; and the
Draught, Plough, and Furniture for carrying on the
Work of Tilling, by the latter Kind of Solms or
Villains. Gaining was only applied to arable Land,
when that had it in Occupation had nothing there-
of but the Profit raised by it from their own Labour,
towards their Sufficient, nor any other Title but at
the Lord's Will: And Gaining is used for a Solm-man,
that hath such Land in Occupation had nothing ther-
of but the Profit raised by it from their own Labour.

Bradt. lib. 1. c. 9. Old Nat. Br. 127. The Word Game is mentioned by
Wag. Synod. part 2. edit 5. Where he says Land in
Demelna, but not in Gain, &c. And in the Stat. 51
H. 3. there in their Words: no Man shall be disdin-
ghed by that Beatt, that gaine the Land. By the Statue of
Magnae Chartae, c. 14. Gaining is meant no more
than the Plough Tackle, or Implements of Husbandry,
without, any Respect to the Profit; where it is said
of the Knight and Freetholder, he shall be anointed
Salomon temporalibus; the Merchant or Trader, Salomon
Merchanash Ia; and the Villains or Countrymen,
Salomon Serba; which says it was that the
Merchant and Husbandman should not be hindered to
the Detriment of the Publick, or be undone by
arbitrary Fines, and the Villain had his waining,
to the End that the Plough might not stand still; for
which Reason the Husbandmen at this Day are allowed
a like Privilege by Law, that their Beats of the Plough
are not in many Cases liable to Distress. See Wasing.

Gaining. (Fr. Gagnez) Tilling, or the Profit
arising from, or of the Beasts improved therein.

Ston. Wyf. c. 6. & 17.
682, 682.
Gallican, According to Sinmer were Vivi Galatii; but
kingdom they were Wibhams.—In your
prime avis ant Domini Galliarum, cum multis Gallate,
&c. Knight.

galitakaine, Wide Hole or Breeches, having
their Name from their Use by the Galingis.

galilatshen, A Kind of Coin, which with
Saf. Baw and Dornien, were forbidden by the
Stat. 3 H. 5. 1. It is said they were brought into this Kingdom
by the German Merchants, who trading hither in Galleps,
lived commonly in a Lane near Tower-Street, and
were called Galilatshen, landing their Goods at Gallay-Key,
and selling them, or small Silver Coins termed
Galitschence. Stone's Survey of London 137.

galliafray, Signifies a Meal of coarse Virtuels,
given or Gallay Liver. Lord Stratton.

gallipolitiam, (Signes Gallia a Cock) A Cock-
hoot or Cock glade.

galoches, (Fr.) Signify a Kind of Shoe, worn by
the Gait in their Wars; mentioned in the Stat.
14 & 15 H. 8. c. 9.
gamba, Gambiria, Gambila, (Fr. Gambire)
Military Boots or Defence for the Legs.

Ganitkane, (Gaminarnan) A Foreman's Coat
used in War, which covered the Legs: Or rather a
quilted Coat, Canton, Pfammentum ex noculite Lana con-
fection, by the Armour, to make it easy.

Stow. lib. 1. c. 24.
Ganie, (Anogia from Anci, Anci, i.e. Anoum
Capra) Birds or Prey got by Fowling and Hunting;
And Delivering the Game is an Office by Statute.
No Person shall take Phaselus or Partridges with
Engines in another Man's Ground, without Licence, on
Pain of 10l. Stat. 11 H. 7. c. 17. If any Persons
that have the Licence to Phaselus or Partridges, with any
Net in the Time night, they shall forfeit 20l. for
each Phaselus, and 10l. for each Partridge taken; and
Hunting with Spaniels in Standing Corn, incurs a For-
feiture of 40l. 25 Date. c. 10. Tho' who kill any
Phaselus, Partridge, Duck, Heron, Harrie, or other
Game, are liable to a forfeiture of 20l. for every Fowl
and Harrie; and selling, or Burying, or to sell again, any
Hare, Phaselus, &c. the forfeiture is 10l. for each
Hare, &c. 1 Jac. c. 1. 17. All Phaselus or Par-
tridges are not to be taken between the first of
April and the last of Augst, on Pain of imprisonment for
a Month, unless the Offenders pay 20l. for every Pheas-
ant, &c. killed: And Contables, having a Justice of
Peace's Warrant, may search for Game and Nets, in
the Possession of Persons not qualified by Law to kill
Game, or to keep such Nets. 7 Jac. c. 1. 11. Con-
tables by Warrant of a Justice of Peace, are to search
Houses of suspected Persons for Game; and if any
Game be found upon them, and they do not give a
Good Account how they came by the same, they shall
forfeit for every Hare, Phaselus, or Partridge, not un-
der 5l. nor exceeding 20l. And inferior Tradesmen,
hunting, &c. are subject to the Penalties of the Act,
and may be likewise sued for Trepsials; if Officers of
the Army or Soldiers kill Game, without Leave, they
forfeit 5l. an Officer, and 10l. a Soldier. 4 & 5 H. &
M. c. 23. Higlers, Chapmen, Carriers, Inn-keepers,
Virtuallers, &c. having in their Company, Hare, Phas-
elus, Partridge, Hennes, Geese, except some Per-
sons qualified to kill Game shall forfeit for every
Hare and Fowl 1l. to be laid by Diectors and
Sale of their Goods, being possessed by one Woman
before a Justice, and for Want of Diectors, shall be
committed to the House of Correction for three Months:
One Money of the Forrester to the Informer, and
the other to the Poor. And selling Game, or offering the
same to Sale, incurs the like Penalty; wherein Hare,
and other Game found in a Shop, &c. is adjudged an
Expelling to Sale; Killing Hares in the Night is liable
to the same Penalties: And if any Persons shall drive
Wild Fowl with Nets, between the first Day of Feb
and the first of September, they shall forfeit 5l. for every
Fowl. 5 Ann. c. 14. & Ann. c. 23. And Penalties for
killing and destroying Game, are recoverable not only
before Justices of Peace by the several Statutes: but also
by Act of Deby, Bill, Plaint or Information, in any
of his Majesty's Courts at Westminster; and the Plain-
tiff, if he recovers, shall likewise have double Costs.
8 G. c. 19. Persons qualified to keep Guns, Dogs,
&c. to kill Game, are such as have a free Warren, or
are Lords of Manors, or have 100l. per Annum Inher-
itance or for Life, or Lease for ninety-nine Years of
150l. per Annum. (by the Exception of the Act, the
old Sions and Heirs of Education, or other Persons of
higher Degree). And if any Person shall keep a Gun
not so qualified, he shall forfeit 10l. And Persons be-
ing qualified may take Game from those that are not,
and break them. 22 & 23 Car. 2. c. 25. 53 H. 6.
c. 6. One Justice of Peace, upon Examination and
Proof of the Offence, may commit the Offender till
he hath paid the Forfeiture of 10l. Persons not qualified
by Law, keeping Dogs, Nets, or other Engi-
ines to kill Game, being convicted thereof before a
Justice of Peace, shall forfeit 5l. or be sent to the House
of Correction for three Months; and the Dogs, Game,
&c. shall be taken from them, by the Stat. 5 Ann. No
Concert are shall be allowed to remove any Conviction
or other Proceeding on the Stat. 5 Ann. Nor any
Court at Westminster, unless the Party convicted become
bound to the Party prosecuting with sufficient Security,
in the Sem of 50l. to pay the Prosecutor his Costs and
Charges, &c. after the Conviction convicted, on any
Procedunt granted. Ibid. In Convictions for keeping
of Guns, the Peace is not concerned; but only the Qua-
lication of the Persons that sit them; so that it hath
been adjudged the Justice of Peace hath no Power to
punish the Offenders, for Want of Juris-
diction. 4 Med. 49. But where a Person was brought
before
before a justice of Peace for shooting with Hall-shot in a Hand-gun, the Justice committed him to Prison until he should pay 10l. Gs. and having made a record of his Conviction, it was certified upon the Return of an 
Habeas Corpus; and it was held, that if the Justice of Peace had purfifed the Statute, no Court could dif-
charge the Defendant. 2 Bac. 170. On a Certiorari to remove a Conviction before a Justice, Cts. for car-
rying a Gun, not being qualified; it appeared upon the Re-turn to be taken before a certain Justice of Peace, without being of the Age fixed by the Act, of Trans-
granum, aulium, affigium, Cts. and it was ruled that this was a good Exception upon a Certiorari to remove an Indictment taken at the Sessions; but not upon a 
Conviction of this Nature, because the Court can take Notice that the Statutes give the Justice Authorities in their Cafes. 1 Vart. 33. Sid. 419. A Person was con-
victed before a Justice of Peace upon the Statute, for keeping a Gun, not having 100l. per An. and the Con-viction being removed into B. R. was quashed, for not paying when the Defendant had not 100l. a Year; for he was a Justice of Peace at the Time when he kept the Gun, thou not at the Conviction, and the Of-fence and Time ought to be certainly alleged. 3 
Mod. 280. The Defendant not having 100l. per An. did likewise on a Gun in February, and was brought before a Justice of Peace in March following, and then by him convi-
ced; and it was held, that as by the Statute no Time was limited when the Offender Should be carried before a Justice to be examined, it therefore ought to be an Infraction; which not being done, the Con-
viction was quashed. 4 Mod. 147. A Man was indi-
ceted for shooting Game; but it was omitted showing 
that he was worth 100l. a Year; and it was or-
dered by the Court, that the Party shouid he put he was worth so much to discharge him. 2 Kib. 582. If a Person has upon a Ground of another, for which the Person cannot justify Killing of his Dogs, as appears by a Roll. Abr. 587. But it was otherwise adjudged Mich. 33 Cas. 2. in C. B. 2 Cas. 44. and see 3 Lev. 28. Any Man may hawk and hunt at his Pleasure in 
his own Lands; and the Common Law allows the Hunting of Foxes, and other ravenous Beasts of Prey, in the Ground of another Person; thou a Man may not dig and break the Ground to unearth them, without Licence, which is unlawful; and the Owner of the Ground may maintain an Action of Trespass for it. 
2 Roll. 538. C. R. 52. An Action was brought against a Person for entering another Man's Warren; the Defendant pleaded that there was a Pleasant on his 
Land, and his Haws were put into the Plaintiff's 
Ground; it was relived that this doth not amount to a sufficient Juficication, for in this Cafe he can only follow his Hawk, and not take the Game. Poph. 162. 
The latter part of a Week where the Soil of the Plaintiff 
is not a Warren. 2 Roll. Abr. 587. If a Man in 
Hunting starts a Hare upon his own Ground, and 
follows and kills it on the Ground of another; yet still the 
Hare is his own, because of the first Suit; but if a 
Man starts a Hare upon another Person's Ground, and 
chases and kills it there, he is subject to an Action, 
though it is seldom brought, being frivolous. C. R. 
Cas. 553. In Action of Debi. Quo tam, Gs. by a 
common Informer on the Stat. 5 Anno. for 15l. 
in which the Plaintiff pleaded to have on two Several 
Counties, one for 10l. for killing two Partridges, the other 
for 5l. for keeping an Engine to destroy the Game, 
not being qualified. Gs. The Plaintiff had a Ver-
dict for 5l. only: This Action was brought by Vice-
ness of the Stat. 6 Geo. 1. Mod. Caf. in Lawo and 
Eg. 238.

Form of a Justice of Peace's Warrant, and Commission, 
Gs. for killing of Game.

To the Constables and Charchwardens of, &c.

Wills, &c. W Heretofore this hath been duly procured before 
me, by the Oath of, &c. That A.B. 

of your Parish, hath, some Time past, kept and made Use of two Greyhounds, &c. for killing and destroying of 
Game, and that the same, &c. effett, &c. the said 
Dogs, killed one Hare in the Ground called, &c. in the 
Parish of, &c. aforesaid, without having any wifible 
Eeet, or being otherwise legally qualified to do the same, contrary to an Act of Parliament in that Case 
made: These are therefore in his Majesty's Name, to 
command you forthwith to lay the Sum of 5l. (which 
he hath forfeited by the Office aforesaid) on the Goods 
and Chattels of the said A.B. by Delaying and Sus 
therof, and that you do pay one Moity of the said Forfeiture to 
C.D. of, &c. who aforesaid to the said Offende, and that you do defend and protect the said Goods, &c. from 
the said A.B. or his Heirs, Executors, Executry, 
father, or any other Description of, &c. and that you do not permit the same to remain for the Space of three 
Months. Given, &c.

Form of a Declaration at Law against a Person killing 
Game, upon the Stat. 8 Geo. 1.

Southton, &c. A. B. whose justs as well as this Behalf 
as for the Town of the Parish of, &c. in the County aforesaid, as for himself, Complaints of C.D. in 
Caufed by the Man of the Market of the Saw-
nerage Lord the King, before the King himself being Of a 
Place to be rended, by the Town of, &c. and by 
the person A.B. who justs as well for the said Poor, as for himself, First 
Pounds of lawful Money of Great Britain, &c. to the 
of the said Poor, and to the said A.B. he owes, and unjustly de-
tains: For that, to wit, That whereas the aforesaid C. 
not having Lands, Tenements, or any other Estate of 
Inheritance, in his own Right, or in the Right of his Wife, 
of the clear yearly Value of One hundred Pounds; &c. for the 
Term of his own Life; nor having a Lease or Leases 
of Ninety and nine Years, or for any longer Term, of the 
yearly Value of One hundred and fifty Pounds; nor being 
the Son and Heir apparent of any Rigners, or other Per-
son of higher Degrees; nor being the Owner of any 
Park or Warren, founded with Deer or Cows for his ne-
cessary Life; both on the aforesaid Ground, in the Sixth Year 
of the Reign of our Sovereign Lord George the Second, 
now King of Great Britain, at the Parish of, &c. aforesaid 
in the County aforesaid, unlawfully and unjustly had 
and kept Greyhounds, and other Dogs called Lurchers, 
and unlawful Engines for the Taking, Courting and Di-
sfrasging of Harriers and Cows; and on the same Day and 
Year, as the said Parish of, &c. in the County aforesaid, 
with the said Dogs, unlawfully and unjustly took, run 
down, killed and destroyed (contrary to the Form of the 
Statute in such Cafe lately made and provided) several 
Harriers, that is to say, Four Harriers; whereby an Action 
both accrued to the above named Poor, and to the said A. 
whose justs as well for the said Poor, as for himself, to have 
And demand of the aforesaid C. the aforesaid Forfeiture 
(aforesaid) of the said A.B. who justs as well for the said Poor, as for himself, but hath hitherto entirely denied, and still 
doth deny to pay that in them, to the Damage, &c. And 
thereupon, as well for the Poor aforesaid, as for himself, he brings this Suit.

Game.
Gaming, or Games unlawful, (Ludus amoenus) The Playing at Tables, Dice, Cards, &c. King Ed. 3. in the 59th Year of his Reign, enjoined the Exercise of Shooting and of Artillery, and forbid the Caffing of the Bar, the Hand and Pole Ball, Cock-fighting, &c. also Ludus amoenus; but no Effect did follow from it, till they were some of them forbidden by Act of Parliament, 11 Rep. 8. Ann. 28 H. 8. Proclamation was made against all unlawful Games, and Commissions awarded into all the Counties of England, for the Execution thereof; so that in all Places, Tables, Dice, Cards and Bows, were taken and burnt. Seriu's Ann. 567. And by the Statute 5 H. 8. c. 9. Justices of Peace, and head Officers in Corporations, are empowered to enter Houses suspected of unlawful Games; and to arrest and imprison the Gamingists, till they give Security not to play for the future: All the Persons keeping unlawful Gaming Houses, may be committed by a Justice of the Peace, and kept to hard Labour, 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14. By the Stat. 9. Ann. no Lord or Lady of a Manor shall make, constitute or appoint any Person to be a Game-keeper within any County, or Town, or Place, or Parish, or any other Part of the Realm, unless such Person be of the proper Age, and have the Consent of the Lord of the Manor, on Conviction thereof, he shall be committed to the House of Correction for three Months, there to be kept to hard Labour. 5 Ann. c. 14.
be otherwise on a joint Contract: And if a Perfon loft 120. on the Gaming at 120. a head; or 120. more, with which he gave his Note, the Note would be good, but all beyond it be void. 1 Salk. 345. A Perfon brought an Action for 40. and Defence pleaded 2d. a head for Money won at Play, and that at the fame Time he also loft 66 l. to another; but on Demurrer the Plaintiff had Judgment; for it was held that losing 106 l. to several Persons at one Time, is not with
in the Statute 16 Car. 2. unless they are Partners in the Stake; for then as to the Chance of the Game, they are as one Perfon. Mech. 13 W. 3. 1 Salk. 345. Where Security is given for Money won at Gaming to a third Perfon, not being privy to it, or not knowing it was won at Play, it is not within the Statute; as when the Winner being indebted to another brought the Lector to his Creditor, who entered into Bond to him, &c. 2 Mod. 197. If a Perfon lose Money at Play, and the Lector give the Winner a Bill for it drawn upon a third Perfon, who accepts the Bill; though the Acceptance of the Bill is in Nature of a new Contract, yet all is founded on the first Note. It is for the Security of the Payment of the Money loft; and therefore is within the Statute: But if the Bill be assigned for a valuable Consideration to a Stranger, such Assignees being not privy to the first Wrong, as was the Perfon, it shall not be within the Statute. 1 Salk. 344. By the Statute of 9 Ann. cap. 14. all Notes, Bills, Bonds, or Securitis, given for Money won by playing at Cards, Dice, Tables, Tennis, Bowls, or other Games; or by Betting on the Sides of such as play at any of those Games, or for Repayment of any Money knowingly lent for such Gaming or Betting, shall be void: And where Lands are granted by such Mortgages or Securities, they shall go to the next Perfon, who ought to have the fame as if the Grantee were actually dead, and the Grants had been made to the Perfon so intituled after the Death of the Perfon so incumbering the same. If any Perfon playing at Cards, Dice, or other Game, or Betting, shall lose the Value of 10 l. at one Time, to one or more Perfons, and shall pay the Money, he may recover the Money loft by Action of Debt, within three Months afterwards; and if the Lector do not pay, any other Perfon may do it, and recover the same, and treble the Value with Costs, one Money to the Proctor, and the other to the Poor: And the Perfon profecuted shall answer upon Oath, on preferring a Bill to discover what Sums be hath won, Perfons by Fraud or ill Practice, or playing at Cards, Dice, or by bearing a Share in the Stakes, &c. or by Betting, winning any Sum above 10 l. shall forfeit five Times the Value of the thing won, and suffer such Infamy and corporal Punishment, as in Cases of wilful Perjury, being convict thereof on Indictment or Information; and the Penalty shall be recovered by Action, by such Perfon as will lit for the fame. And if any one shall assault and beat, or challenge to fight any other Perfon, on Account of Money won by Gaming, upon Conviction thereof, he shall forfeit all his Goods, and suffer Imprisonment for two Years. Stat. 9 Ann. Also by this Statute, any two or more Justices of the Peace, may enquire such Perfons to be brought before them, as they shall think to have no visible Changes, &c. to maintain them; and if they do not make it appear that the principal Part of their Expenses is got by Prison, or other Gaming, the Justices shall require Securities for their good Behaviour for a Twelve-month; and in Default of such Security, commit them to Prison until they find it: And Playing or Betting during the Time of the Session, or 1o. shall be deemed a Breach of Behaviour, and a Forfeiture of their Recognisances. Ibid. By a late Act, where it shall be proved before any Justice of Peace, that any Per-
son hath used unlawful Games contrary to the Statute 12 Geo. 1. c. 39. and such Officers as shall attend such Prison, till he enter into a Recognizance that he shall not from thenceforth at any Time to come play at any unlawful or Gaming House, or any Gaming House for better preventing excessive and deceitful Gaming; the Act of Hearts, Pharaoh, Back, and hazard, are declared to be Lotteries by Cards or Dice; and Perfons fitting up their Games are liable to the Penalty of 200 l. And every Perfon who shall be an Adventurer, or Play or Stake therein, forfeits 50 l. Likewise the Sale of any House, Plate, &c. in the Way of Lottery, by Cards, &c. is adjudged void, and the Things to be forfeited to any Person that will sue for the fame. 12 Geo. 2. cap. 26. The Game of Piefage, and all other Games with one or more Dice, or any Thing in that Nature, having Figures or Numbers thereon, (Bagammon and Games now played with those Tables only excepted) shall be deemed Games or Lotteries by Dice, within the 12 Geo. 2. And such as keep any Office or Table for the said Games, &c. or Play theretofore, are subject to the Penalties in that Act. By an Act 18 Geo. 2. cap. 34. Playing at, or keeping any House or Place for playing at the Games of Roullet, otherwise Rouly-poly, or any other Game with Cards or Dice, which are the same as the Penalties of the Statute 12 Geo. 2. cap. 28. Perfons losing 10 l. and paying the fame, may for the Winner, and recover the fame with Costs, if they sue within the Time of 3 Years after the Weight to be paid. The Persons who have Jurisdiction to determine Informations on the Statutes against Gaming, may summarily Writhe, who, on refusing to appear and give Evidence, shall forfeit 50 l. No Privilege of Parliament shall be allowed on Prosecution for keeping a Gaming House. Perfons losing 10 l. at one Time, or 20 l. in twenty-four Hours, may be indicted and fined Five Times the Value.

An Indictment for keeping a Gaming-house. Southon, E. T H E justices, &c. present, That A. B. late of W. in the said County of Lincoln, on the Day, &c. in the Year Sixteen Reign, &c. and on divers other Days and Times, before the Day of this Inquisition, at W. after-said in the said County, did maintain and keep a common Room, &c. for Gaming, and did therein and thereto diversly profecute Perfons unlawfully to play with Dice and Cards, as well in the Day, as in the Night-time, after lawful Hours, &c. and did thereunto and to the bad Example of other Subiects of this said Lord the King, and contrary to the Statute, &c. and also against the Peace, &c.
G A

G A

Sanghara, (Diss Lactamentum) And Gang-waris are mentioned in the Laws of King Abhebiha. See Royatian West.

Gang, (Gauda, Fr. Gaul), i.e. Geovas, a Cage for Birds is used metaphorically in a Prison. It is a Strong Place or House of keeping the forcers, &c. wherein a Man is restrained of his Liberty to answer an Offence done against the Laws; and every County hath two Gaans, one for Deobars, which may be any House where the Sheriff pleases; the other for the Peace and Matters of the Crown, which is the County Gaan. Med. Tafs. 230. Justices of Peace may not commit Felons, and other Criminals to the Count-
iers in Lancas, or other Priisons but the common Gaans, for they can legally imprison no where but in the common Gaud. Ca. Litt. 9, 119. But the House of Correction, and the Judges of the Sheriff of London, are the common Priisons for Offenders for the Breach of the Peace, &c. Sheriffs of Counties are to have the Keeping of the common Gaud; except such as are held by Inheritance. 19. Hen. 7. 10. And for the Relief of Priisoners in Gaans, Justices of Peace in Sifons have Power to tax every Parish in the County, not exceeding 2s. 6d. immitted, in the Absence of Confectable, and distributed by Collectors, &c. 14 Eliz. cap. 5; Offenders committed to Priison, are to bear the Charges of their Conveying to Gaud; or on Rebell, their Goods shall be sold for that Purpoise, by Virtue of a Justice of Peace's Warrant; and if they have no Goods, a Tax is to be made by Confectable, &c. on the Inhabitants of the Parish where the Offender is apprehended. 3. Tac. cap. 10. If a Gaan be out of Repair, insufficient, &c. the Justices of Peace in the Quarter-Siftons may agree with Workmen for Rebuilding or Repairing it; and by Warrant under their Hands and Seals, order the Sum agreed upon to be levied upon the several Hundreds and Divisions in the County, by a proportionate Rate. 11 of 15 & 16. 3. cap. 19.

Gauder, Is the Master of a Priison; one that hath the Custody of the Place where Priisoners are kept. Sheriffs must make such Gauders for which they will answer: But if there is a Default in the Gauder, Action lies against him for an Efect, &c. 2. Tafs. 592. In common Cases, the Sheriff or Gauder are chargeable at the Difpensation of the Party; though the Sher- riff is most usually charged. Wind. Tafs. 76. He who hath the Custody of the Gaan wrongfully, or of Right, shall be charged with the Efect of Priisoners; and if he that hath the actual Possession be not sufficient, Reformatus Superior. Ibid. A Gauder kills an unlawful Priisoner, it is no Felony; but if it be by hard USe, Murder. 1. Tafs. 52. And if a Gauder barbarously mistreat Priisoners, he may be fined and discharged. Rom. 216. If any Priisoner afflicts a Gauder, for keeping a Priisoner in Safe Custody, he may be fined and imprisoned. 1. Hen. 5b. 59. Where a Gauder is broken by Thieves, the Gauder is answerable; not if it be broken by Enemies. 1. Tafs. 53. No Fees shall be taken by Gauders of Priisoners, but such as are allowed by Law, and the Judges, &c. are to settle the same; also the Judges may determine Petitions against Extortions of Gauders, Bad Usages Statutes 2 & 3. cap. 22. See Priisoners and Efects.

Gaud-Beffery, The Administration of Justice being originally in the Kings in Person rode through the Realm once in seven Years, to judge of and determine Crimes and Offen-

G A

G A

cers: Afterwards Vaffies in Eyre were appointed; and since a Justice of Fiffs and Gaun Deliverie, &c. A Com-
mition of a Gaun Deliverie is a Patent in Nature of a Letter from the King to certain Persons, appointing them Judges over them, and authorising them to deliver the Gaans, as such a Place, of the Priisoners in it; for which Purpoise, it com-
mends them to meet at such Place, at the Time they themselves shall appoint; and informs them, that for the same Purpoise the King has commanded the Sheriff of the same County to bring all the Priisoners of the Gaud, and their Attachments before them, at the same Day Appointed. 1. Tafs. 124. 2. Hen. 1. 168. Justices of Gaun deliverie are empowered by the Common Law to proceed upon Indictments of Felony, Trepass, &c. and to order Execution or Re-

G A

G A

priors; and they have Power to discharge such Pri-

G A

G A

sons, as upon their Trials shall be acquitted; also all such against whom, upon Proclamation made, no Evidence appears to indict them; which Justices of Over and Termiers, &c. may not do. 2. Hen. 24. 25. But these Justices have nothing to do with any Perfon not in Custody of the Priison, except in some special Cases; as if some of the Accomplices in a Fel-

G A

G A

ony be in such Priison, and some of them out of it, the Justices may receive an Appeal against those who are out of the Priison, as well as those who are in it, which Appeal after the Trial of such Priisoners shall be removed into B. & P. and Proceed from thence against the Ref.; but if those out of Priison are in the Appeal, the Appeal shall not be allowed to any other, because there can be but one Appeal for a Felony. Fitz. Corn. 77. S. P. C. 64. Such Justices have no more to do with one lett to Main-

G A

G A

prize, than if he were at large; for such Perfon may not be said to be a Priisoner, since it is not in the Power of his Sureties to detain him in their Custody. And where any Offence is bailed, that he is in the Custody of his Sureties, they may detain him where they please. 2 H. P. C. 25. Though, per Hale C. J. If a Perfon be let to Bail, yet he is in Law in Pri-

G A

G A

son, and his Bail is his Keepers; and therefore the Justices of Gaun deliverie may take an Indictment against him, as well as if he was actually in Gaan. And they may take Indictments not only of Felony, but also of High Treason, if the Offenders are in Priison, and try and give Judgment upon them, like unto Commissors of Over and Termiers; though it has been formerly held otherwise. 2 Hale's Hist. P. C. 31. Justices of Gaun deliverie may punish those who usually ball Priisoners; as being guilty of a negligent Efecse. 3. P. C. 77. 25 Ed. 5. 39. They are also to punish Sheriffs and Gauders, refusing to take Felons into their Custody from Confectables, &c. 4 Ed. 5. 10. and have Authority to punish many particular Offences by Statute.

Garb, (Garba, from the Fr. Garbe, alias Garre, i.e. fasis) Signifies a Bundle or Sheaf of Corn. Chart. Per. cap. 7. And in some Places it is taken for an Handful, win. Garre, Garbe, Garbe, as a trigon. Fleta, lib. 2. cap. 12. Garbe Sagittawos is a Sheaf of Arrows containing twenty four. Sest. Garbe, Is to use the Droh and Dull from Spice, Drugs, &c. Kirkling is the Parfinishing and Cleaning the Good from the Bad; and may come from the Italian Garba, i.e. Finery or Nestselen; and thence probably some day, when we see a man in a neat Habit, that he is in a handsone Garbe. Cowl.

Garbler of Spices, An Officer of Antiquity in the City of London, who may enter into any Warehouse, &c. to view and search Drugs and Spices, and garbe, and make clean the same, or he that it be done. 21 Jan. 1. cap. 10. And all Drugs, &c. are to be cleansed and gubiled before sold, on Pain of Forfeiture, or the Value. Stat. B. But see Statutes 6. Ann. cap. 16.

Garret, (Fr. Garde) A Groom or Servant. Psa. Cor. 21 Ed. 1. Garze dite, Groom of the Stole to the King: And in the 15th Languages, (according to the Tongue) Gardoo is an Appellative, for any mean Serv.

Garderos,

erevant.
Garcinners, Are those Servants which follow the Caulker. As Garcinners for foresi, figures, 
attendant. Eng. 386, and the Word Garciner 
hath been applied to the Baggage of an Army; so 
called a Garciaunio for millioni Familii. Waling. 
24 of 
Gard, Gardian, &c. See Guard, and Guardian.
Gardeflarate, (Fr. Garderat) An Armour or 
Vambrace for the Arms. Chm. 9. 5. 
Garderebe, (Garderobe) A Closet or Small 
Apartment, for hanging up Clothes, being the same 
with Wardrobe. See 2 Ead. 255.
Gardia, Is a Word used by the Feudists for Cof-fes-
dia. Lib. Feud. 1.
Gate, A Coarse Wool, fall of daring Hairs, such 
as grow about the Shanks of Sheep. 38 Ed. 3, cap. 8.
Parish.
Garner, Virtually, Arms, and other Imple-
ments of War, necessary for the Defence of a Town 
Garnish, To garnish the Heir, signifies in Law to 
warn the Heir. Stat. 27 Eliz. cap. 5.
Garniture, The Word Garniture is used to 
Kern, where one is force for the Divine of certain Writings delivered; and 
the Defendant alleging that they were delivered to him by the Plaintiff, and another Perfon upon Condition, 
prays that the other Perfon may be warned to plead 
with the Plaintiff, whether the Conditions be perform-
ed or not; in this Petition he is paid to pray Gar-
nishment, which may be interpreted either a Warning 
of that other, or a forbidding the Court were all Par-
ties to the Action, whereby it may thoroughly 
determine the Cause; and until he appears and joins, the 
Defendant is as it were out of the Court. Cramp. 
Jurispr. 211. F. N. B. 105. A Writ of Sure 
seizure is to go forth against the other Perfon to appear 
and plead with the Plaintiff; and when he comes 
and that pleas, it is called Entrepresenter: If the Gar-
nish be returned Sure seizer, and make Default, Judg-
ment will be had to recover the Writings, and for 
their Delivery, against the Defendant; and if the Gar-
nishe appear and plead, if the Plaintiff recovers, he 
shall have Damages. Raff. 231. 3 Brompt. 147.
Garnishment is generally used for a Warning; as Gar-
nishment & Court is to warn the Court; and Engraffable 
Garnisement is where a Perfon hath reasonable Warn-
ing. Kitch. 6. In the Statute 27 Eliz. cap. 3. we 
read, upon a Garnishment, or two WBalls returned, 
And further, some Contreparts are taken, then Garnement, 
and some furnished, &c.
Garnet, Is a third Perfon or Party in whole 
Heights, being inclusive within the Liberties of the 
City of London, by Process out of the Sheriff's Court 
so called, because he hath had Garnishment or Warnings, 
not to pay the Money to the Defendant, but to 
appear and answer to the Plaintiff Creditor's Suit. Vide 
Attachment.
Garniture, A Furnishing or Providing. Pat. 17 
Ed. 3. Vide Attachment.
Garnisment, Griniam, or Grufna, A Fine or 
Gartpurk, (Gardurkson, Fr. Farturc. 1. r. perpofetia, 
Gartpurk, (F. Farturc.) A Perfon of Sigilfe in divers 
Phrases, and where, a Special Gartor, being the End of a Na-
oble Order of Knights, instituted by King Ed. 3. 
called Knights of the Gartor: It is also taken for the 
Principal Saint, i.e. a Holy Person, and the Herald 
attending upon the Knights thereof, created by 
King Hen. 5. and mentioned in the Statute 14 Car. 2. 
H. 5.
Smith. 'A Little Backside or Close in the North of 
England; being an ancient Britifh Word, as Gerald 
in that Language is Garden, and pronounced and write 
Garth. is also called Garth, or Wears, &c.
Garthman, As there are fifty or Wear or Wears for 
catching of Fisht, so there are Garthman for by Stat-
te it is ordained, that no Fisher nor Garthman shall 
use any Nets or Engines to defray the Fry of Irish, &c. 
17 R. 2. cap. 9. And this Word is supposed to be 
derived from the Scottifh Gart, which 
fishet, or compelled; and Fisht are forced by 
the Wear to pass in a Long, where they are 
taken.
Safelous, A Governor of the Country, whose Of-
fice was only temporary, and who had jurisdiction 
over the common People. Blunt.
Sare, At the End of the Names of Places, fig-
urizes a Way or Path, from the Sax. Sirat, i. e. Porta. 
The Culdeby of the Gates of the City of London, is 
granted to the Lord Mayor, &c. by Charter, King 
Hen. 4.
Gabel, (Sax. Gafel) Tribute, Toll, Collet, or 
yearly Revenue; of which we had in old Times se-
veral Kinds. See Gabel.
Gablect, (Gavelheid) Is an ancient and special 
Kind of Collet, or Tax, paid by the Cultuams of Gar-
velheid continues, whereby a Tenant, if he with-
holds his Rents and Services due to the Lord, shall 
forfeit his Surety; and in every Place where no Dalehaid 
could be found on the Premises, so that the Lord 
might occlude the Land itself in the Nature of a Di-
feet, and keep it a Year and a Day; within which 
Time, if the Tenant came and paid his Rents, he 
was admitted to his Tenement to hold it as before; 
but if not, the Lord might enter and enjoy the same. 
10 H. 3. 10 Ed. 2. The Lord was to seek by the 
Award of his Court. Give Weeks to three Weeks, 
to find some Differec upon the Land or Tenement, 
until the fourth Court; and if in that Time he could 
find none, at the fourth Court it was awarded that 
the Tenement should be seised as a Differec, and kept 
in the Lord's Hands a Year and a Day without ma-
纳税; and if the Tenant did not in that Time re-
claim it, by paying the Rent and making Amands to 
the Lord, the Lord having pronounced his Pro-
cess by Writs at the next County Court, was award-
ed by his Court to enter and manure the Tenement 
as his own: And if the Tenant would afterwards have 
it again, he was to make Agreement with the Lord. 
Fare. Cap. 60. Terms of Lye 373. Gavelheid is 
so much as to say, or to, to be paid the Rent, 
and Couraudate de Gavelheit was not a Rent, or Ser-
vice, but a Rent or Service withheld, denied or de-
ceased, causing the Forfeiture of the Tenancy. Co.
his Sons; or the Land of the Brother among all the Brethren, if he have no Issue of his own. Lev. 210.

In the Deed, the Inheritance of Lands did not descend to the eldest Son as now, but to all alike; from whence came the Custom of Gavelkind. And the Reason why this Custom was retained in Kent, is because the Kentishmen were not con-

quered by the Normans in the Time of William 1. For Sigward, then Archbishop of Canterbury, who commanded the Forces in the County, ordered every Man to march with Bougets in their Hands, and meet-

ing William they acquainted him with their Resolution of standing or falling in Defence of the Laws of their Country, and he intending himself to be incommoded in a Wood, granted that they and their Posterity should enjoy its Rights, Liberties and Laws; some of which, particularly this of Gavelkind continues to this Day. Thus, all the Lands in England were of the Nature of Gavelkind before the Conquest, and deeded to all the Issue equally; but after the Conquest (as it is called) when a High Service was introduced, the Deed was restrained to the eldest Son, for the Preservation of the Tenure. Lamb. 167. 3 Salk. 129. In the Reign of Hen. 6. there were not above thirty or forty Persons in all Kent that held by any other Tenure than this of Gavel-

kind; which was afterwards altered upon the Peti-
tion of others, in much of that County, so as to be deeded to the eldest Son, according to the Custom of the Common Law, by the Statute 3 Hen. 8. cap. 3. Though the Custom to devote Gavelkind, and the other Qua-

lities and Customs remain. 1 Stat. 140. By the Stat-

ute 34 & 35 Hen. 8. cap. 26. all Gavelkind Lands in Wiltshire were made deeded to the Heir, ac-


Gavelkind, for the Land of Kent, is intended to be in Kent, it shall be intended that they are Gavelkind; if the Con-

trary does not appear. 2 Sid. 153. By Hale Chief Judge, Gavelkind Law is the Law of Kent, and is never pleaded, but presumed: And it is held, that the Superior Courts may take Notice of Gavel-

kind generally without pleading; though not of the special Custom of deeding it, etc. which ought to be pleaded specially. But it appears by some of our Books, that the Court cannot judiciously Take Notice of the Custom of Gavelkind, without pleading the same; and that it ought to be set forth in the Declara-

tion, &c. 1 Mod. 98. 2 Sid. 405. Lawm. 236. 754.

Sobritman, Is a Tenant liable to Tribute.— Villains de. &c. qui vocatur Gavelmanni. Summer of

Gavelkind, pag. 33. And hence Gavelkind has been thought to be Land in its Nature Taxable. Blunt.

Sobritman, The Duty or Work of mowing Grass, or cutting of Meadow Land, required by the Lord from his customary Tenants, Consecutus solvanda quos vocatur Gavelmedem, Sone.

Sobritarius (Str. 1) Statarius L'Effigies, Is a cer-

tain Measure of Rent-Ale: And among the Articles to be charged on the Stewards and Bailiffs of the Manors belonging to the Church of Canterbury in Kent, according to which they were to be accountable, this of old was one; De Gaveldred cymfyrth Brainin ba-
niant in infra Libertatem Momentum, vis. nomum Leng-

um & dimidium Cumm, or Duty eleventh, which is the Eleventh Carcs under the Name of Telfort; in lieu whereof the Abbots of Abingdon was wont of Gavelm to receive the Penny mentioned in the Difference of the Convocation of Kent, to Flora, cap. 8. Nor does it differ from what is called


Sobritarius (Str.) Was either Mano opera, by the Hands and Peron of the Tenant, or Carriage, by his Cart or Carriages. Phillips of Purwye.

Saugenius, A Gauge or Gaging, done by the Gauger; and the true English Gauge is mentioned

Rot. Parl. 35 Ed. 1.

Saugner, (Gaugner, Fr. Gavur, i.e. in gymn

signifies an Officer appointed by the King, to examine all Tuns, Pipes, Hogheads, Barrels and Tercians of Wine, Oil, Honey, &c. and to give them a Mark of Allowance, as containing a due Measure, before they are sold in any Place: And be-

cause his Mark is a Circle made with an Iron Instru-

ment for that Purpose, it seems to have its Name from its Insignia. Of this Officer in our County, we have only two Statutes; as by 27 Ed. 3. cap. 8. all Wines, &c.

imported, are to be gauged by the King's Gaugers, or the W. Deputies: By 33 Ed. 3. c. 5. Selling Wine before gauged, incurs the Penalty of the Value. And by 23 Hen. 6. cap. 16. the Gauge Penny is to be paid

Y

Gauger,
Gentleman, giveth, he is known to be, or not to be defend in thofe of his Name, that lived many hundred Years since Cicero in his Topikos, speakes of that of thee. Gentiles, fait, qui inter se induam factum nonini ab igne volent, quorum majorem nemo serituat ferinoros, qui capere non factum diminiat. There is said to be a Gentleman by Office, and in Reputation, as well as thofe that are born such. 2 Inf. 668. And we read that J. King was made a Gentleman by King R. 2. Pat. 13 R. 2. par. 1. Gentiles born for a Gentleman, was adjudged a good Addition. Hill. 27 Ed. 5. But the Addition of Esquire, or Gentleman, was rare before 1 Hen. 5, though that of Knight is very ancient. 1 Inf. 595, 665.

Gentlewoman, (General) is a good Addition for the Esco and Degree of a Woman, as Generals is for that of a Man; and if a Gentlewoman be named Sprin in any original Writ, Appeal, &c. it has been held that the may abuse, and quilt the fame. 2 Inf. 668.

Gentility, (General) is lost by Assinder of Treason, secret Felony, by which Perons become base and ignoble, &c.

Gentil, is a Generation. Seraphick Ethelhaldso.

Gentilcy, (La) the General Soud, Extravag. &c. as the Word Office in Law is the Genus, or general; but the Sheriff, &c. is the Species of it, or Particular. 2 Litt. 538. See Statue.

Ginge Noble, A Piece of Gold, current at six Shillings eight Pence, in the Reign of King Hen. 8. Lord's Eff. upon Cash. 35 G.

Georgia, The Sum of Twenty-six Thousand Pounds, is granted by the Land Tax Act, towards refiling the new Colony of Georgia in America. Statue 8 Gen. 2. cap. 23. And Thirty Thousand Pounds fur- ther, by 9 Gen. 2. cap. 34. and 10 Gen. 2. cap. 17.


Gerul, is a Sama, An ancient Writ where a Person's good Behaviour was impeached, now out of Use. Lamb. Libr. 4. cap. 1. See Good BEarng.

Gerundia, (Law) was used for the public Convocation of the People, to decide a Case: Et quia hain Annaemnus Regis in quaque Burgarum Ge- winicab datum comenatur 12 libra. LL. Authri.


Gifts, (Law) in a Conveyance, which passeth either Lands or Goods. And a Gift is of a larger Extent than a Grant, being applied to Things moveable and immoveable; yet as to things immoveable, when it is applied to Things immovable, it is applied to Things only to Land, and Tenements given in Trust; but Gifts and Grants are kept to be alike in Nature and oftentimes confounded. Ward's Inf. 260. A Gift may be by Deed, in Word, or in Laws: All Goods and Chattels personal may be given without Deed, except in some special Cases; and a Free Gift is good without a Consideration. Perk. 57. But a general Gift of all one's Goods, without any Exception, though this be by Deed, it is liable to Susception as fraudulent, to deceive Creditors; for by giving all a Man's Goods, there seems to be a secret Truth and Confidence implied, that the Donee shall deal favourably with the Donor, in Respect to his Circumstances. 3 Rep. 80. And therefore where it appears that a Gift is made in Satisfaction of a Deble, it is good to make it in a publick Manner before Neighbours, that the Goods and Chattels be appraised to the full Value, and the Gift expressly made in Satisfaction of the Debt, and that on the Gift, the Donee take Possession of them, &c. Hob. 230. If a Man intending to give a Jewel to another, lay to him, Here I give you my Ring, with the Ring to it, &c. and with his own Hand deliver to
to the party, this will be a good Gift; notwithstanding the Ring shall bear any other Jewel, being delivered by the Party himself to the Person to whom given. Bac. Max. 87. And if a Person give a Horse or a Cow, and take him to the Horse, though he call the Man by a wrong Name, it will be a good Gift; but it would be otherwife if the Horse were delivered for the Use of another Person, being absent; there a Mistake of the Name would alter the Case. Ibid. A Gift must be certain; and therefore to give or grant another his Horses or Cows, that may be spared, will be void: Though if one give to A. B. his Horse, or his Cow, he may take which he will of them. Bro. Dane 19. If I give all my Money in my Purse to another, without saying how much it is; this is a void Gift, and no Action will lie for the same. Plowd. 273. As to Gifts in Law, when a Man is married to a Woman, all her Goods and Chattels by Gift in Law become the Husband's; but then he is liable for her Debts: So if a Man is made Executor of a Will, the Law gives him all the Goods and Chattels of the Deceased, free of all Liens, Mortgages, and any other incumbrance; Amos 22. As if a Person make a Suit of Clothes for another, and put it upon him to use and wear, this will be a Gift or Grant in Law of the Apparel made. 1 Inst. 355. A Man by Deed did Give and Grant, Bargain and Sell, Alien, Enfeoff and Convey to his Daughter certain Lands: But no Confession of Money was mentioned, nor was it willed; there was likewife no Confession of Natural Affection express'd, (other than what was implied in naming the Granter his Daughter) and there was no Livery imparted, or any founded to have been made; nor was the Daughter in Possession at the Time of the Deed made: And in B. R. it was adjudged by the Court that the Deed was good, and carried the Estate to the Daughter by way of Covenant to stand satisfied, C. &c. 1 Mod. Rep. 175. The Words Give and Grant, in Deeds of Gift, of Things which lie in Grant, will amount unto a Grant, a Prefume, a Gift, Release, Confirmation or Surrender, at the Election of the Party, and may be pleaded as a Gift, or Grant, Release, C. at his Election. 1 Inst. 301. And Words shall be more cubiculare in Gifts and Grants, that whereas they cannot take Effect according to the Letter, the Law will make such Conclusion as the Gift by Policy may take Effect: Brangae Interpretationes Clarissimae propter simplicitatem Latiusim, ut esse, &c. Co. Litt. 183. If a Person gives or grants Land, and does not say in what Part or County it is; yet if there be any other Thing to describe it, as lately belonging to such a Person, &c. or other Circumstantial Matter, it may be averred where the Land lieth, and fo the Gift be good. Bro. Grant. 53. 9 Rep. 47. All corporeal and immovable Things that lie in Livery, such as Mansions, Mefjuage, Cottages, Lands, Woods, and the like, may be given and granted in Fee, for Lives, or Years at first; and be assignable over, from Man to Man in infinitum. 1 Roll. Abr. 44. And where a Man gives and grants Wood to another on his Lands, or for it to be received out of the same Lands, &c. here the Wood passes by the Gift preter it, with Power to chuse to have the Money. Roll. Abr. 47. A. T. of Gift of Wood, is made upon Condition; and on a Gift or Sale of Goods, the Delivery of 6 d. or a Spoon, &c. is a good Seisin of the Whole. Words' Inst. 234.

Form of a Deed of Gift of Land and Tenements.

THIS Indenture, made the Day and Year, &c. Between A. B. of &c. of the one Part, and T. B. of &c. of the said A. B. of the other Part, Witnesse, That the said A. B. as well for and in Consideration of the Natural Love and Affection which he hath and beareth unto the said T. B. his Son, as for the better Maintenance and Preservation of the said T. B. Hath given, granted, alienated, enfeoffed and confirmed, and by this Protest doth grant, grant, alienate, enfeoff and confirm unto the said T. B. All that Mefjuage or Tenement, House, &c. with all and singular its Appurtenances, and all Houses, Outbuildings, Lands, &c. And the Reversion and Reversions, Remainder and Remainders, Rents and Services of the said Premises, and all the Easements, Rights, Titles, Intercitie, Property, Claim and Demand whatsoever of him the said A. B. of, and to the said Mefjuage or Tenement, Lands and Premises, and of, in, and to every Part and Parcel thereof, with the Appurtenances and Easements and Writings concerning the said Premises only, now in the Hands or Custody of the said A. B. or which he may get or come by without Suit in Law; To have and to hold the said Mefjuage or Tenement, Lands and Premises hereby given and granted, or mentioned or intened to be given and granted unto the said T. B. his Heirs, Executors, Administrators, Assigns, to the only Use and Benefit of the said T. B. his Heirs and Assigns, to the use of the said T. B. his Executors, Administrators and Assigns, and to the Use of the said T. B. his Heirs and Assigns, shall and lawfully may from henceforth for ever hereafter, peaceably and quietly have, hold, tenure, inherit, and enjoy the said Mefjuage, Tenement, Lands, Hereditaments and Premises hereby given and granted, or mentioned or intended to be, with their Appurtenances, free and clear and demised of and from all former and other Gifts, Grants, Bargains and Sales, Prefume, Testatures, Deeds, Powers, Easements, Rents, Revenue, and privileges of every Kind, and every other Gift, Grant, Bargain and Sale, and every other Transfer of such Land and Tenement to the use and benefit of the said T. B. his Executors, Administrators, and Assigns, and to all other Persons, Executors or Executors lawfully claiming or to claim by, from, under or through them, or any or either of them. In Wintes, &c.

A Gift of Good and Chattels.

To all People, &c. if A. B. of &c. do give and Grant, Know ye, That I the said A. B. for and in Consideration of the natural Love and Affection which I have and bear unto my beloved Brother L. B. of &c. and for divers other good Causes and Considerations me hereunto moving, have given and granted, and by this Protest do give and grant unto the said L. B. all and singular my Goods, Chattels, Plate, Jewels, Lands and personal Effects whatsoever, in which Hands, Custody or Possession forever they be, within the Kingdom of Great Britain, &c. To have, hold and enjoy all and singular the said Goods, Chattels, and Personal Effects aforesaid, unto the said L. B. his Executors, Administrators and Assigns, to the only Use and Benefit of the said L. B. his Executors, Administrators and Assigns, and to the said L. B. his Executors, Administrators and Assigns, against all Persons whatsoever, shall and may be, and be, forever defended by these Presents. In Wintes, &c.

Gilt, A Kind of Fulling Mills for Fulling and Shrinking of Woolen Cloth, prohibited Annex 5 & Ed. 6. cap. 32.

Gilt, A Fraternity or Company, &c. See Guild.

Gilding Silver. The Gilding any Metal but Silver and Church Ornaments; or Silvering any thing except the Apparel of Peers, &c. and Metal for Knight's Spurts, is liable to Forfeiture of ten Times the Value, and a Year's Impression, by Statute 8 H. 1. cap. 3. None shall gild King's or other Things made of Copper or Latten, in Pain to forfeit 5 l. to the King, and Damages to the Party deceived.

Gill. For gilding Silver Ware, no Person may take above 4 l. 8 d. for a Pound of Troy Weight, under Penalties. Statute 2 H. 5. cap. 4.

Gifarme, or Gifarmans, An Halberd or Hand Axe, from the Lat. Bis Arma, because it wounds on both Sides. Stone — Fea demum genus longa manus baris & perrotela usquis. Specim. It is mentioned in the Statute 15 Ed. 1. cap. 6.

Gift of the Crown. From the Fr. Gift, the Castle for which the Albion lie; the Ground and Foundation thereof, without which it is not maintainable. 5 Med. Reg. 305.

Gladiolus, A little Sword or Dagger; also a Kind of Sedge. Matt. Pacif. 1260.

Gladiator, A Gladiatus, is mentioned in our Latin Authors, and the Norman Laws; and it signifies a high rank Jurisdiction. Canid. And 'tis said that from hence, at the Creation of an Earl, he is Gildus fictorius; to signify that he had a Jurisdiction over the County of which he was made Earl. See Piles of the Sword.

Glare, From. A Sword, Lance, or Horsemans Staff. Glares was one of the Weapons allowed the contesting Parties in a Trial by Combat. Orig. Jurisd. 79. Glaresus, a Hand-Dart. Blank.

Glaive. There were certain Duties granted on all Glaive-ware, &c. by Statute 6 & 7. W. 5. The and their Duties were continued for ever by a sublequent Act: But they are since taken off. See Statute 10 & 11. W. 3. cap. 18. By the Statute 19 Geo. 1. cap. 12. a further Duty is laid upon Glaives of 8 d. per Pound, upon all Crown, Plate, and Flint Glaive imported; 2 d. per Pound on Green Glaive imported; and 1 l. per Dozen on Flax and Bottles imported; and on all Materials or Metal used in making Crown, Plate or Flint Glaive 9 l. 4 d. per Hogshead; and for making Common or Green Glaive 2 l. 16 d. per Hogshead.


Glèbe, Glèba is Church land; Des or Terra ad Ecclesiam pertinentem. Lyndwood says, Glæba or terra ex quod viginti Du Etschere; generatam tandem famulorum pro foed et pro terra cultu: We must commonly take it for the Land belonging to a Parish Church, besides the Tithes. If any Parson, Vicar, &c. hath caused any of his Glebe Lands to be measured and fown at his own Cost, with any Corn or Grain, the Incomers may devile all the Profits and Corn growing upon the said Gile by Will. Statute 28 H. 8. cap. 59. And if a Person fow a Gile and die, the Executors shall have the Corn fown by the Tenant. But if the Glèbe be in the Hands of a Tenant, and the Parson dies after Seventeen of the Corn, and before his Rent due: it is said, neither the Parson's Executors, or the Successor can claim the Rent, but the Tenant may retain it, and also the Crop, until there be a Special Covenant for the Payment to the Parson's Executors proportionably, &c. Wood's Inst. 165. There is a Work grounded upon the Stat. Ant. III. cap. 42, Where a Parson is disinherited in his Glebe Lands by Sheriffs, or other Officers; against whome Attachment shall issue. New Nat. Br. 836, 387.


Glémere, Commissaries appointed to determine Differences between Scholars of a School or University, and the Townsmen of the Place: In the Edict of the Bishop of Ely, Ann. 1276, there is Mention of the Master of the Glémere.


Glöser, A Valley, according to the Book of Genesis.

Glo. This Word is sometimes used in a special Signification, as 10 ye Without Day, is to be dismissed the Court in old Place to go to God. Broke, Kitch. 100.

Globinets, (Sex.) An Ecclesiatical or Church Fine, paid for Crimes and Offences committed against God.

Gloi'd. That which is offered to God, or his Service.

Glos, Mine, according to Blount. Consuetudinem quam idem Thomas feuit de Tertiis sui & Tertiis terramentorum suorum, a Glōia mundanda per se & suorum confundit, &c. Mon. Aug. Tom. 2. pag. 610.

Gold and Silver: Lasc and Thread, Persons that felt Grasse Lace, mixed with other Metal or Materials than Gold, Silver, Silk and Yellum, shall forfeit 21. 6 d. for every Ounce: And there shall be allowed at least six Ounces of Gold and Silver prepared and reduced into Plate, to cover four Ounces of Silk, except large Twill, Freeze, &c. And laying the same on greater Proportions of the Silk, or in any other Maner than directed, incurs the like forfeiture of 21. 6 d. the Ounce. Copper and Lace inferior to Silver, is to be upon Thread, Yarn or Iole, and not on Silk; but this does not extend to Twist Apparel, sold in the Market. No Gold or Silver Lace, Thread, Fringe or Wire, to be imporved, and sold by the Pain of being forfeited and burnt, and 100 l. Penalty. Statute 15 Geo. 2. cap. 20. See Wire Drawers Embroidery.

Goldsmith, Gold and Silver Manufacures are to be allowed by the Warden of the Goldsmith Company in London, and marked; and Gold is to be of a certain Touch. Stat. Edw. 1. cap. 20. Goldsmiths must have their own Marks on Plate, after the Surveyors have made their Assay; and all Metal shall be sealed and forfeited to the King. 37 Eliz. 3. 7. Work of Silver made by Goldsmiths, &c. is to be as fine as Sterling, except the Solder necessary, and marking other Work, incurs a Forfeiture of double Value. Stat. Edw. 1. cap. 14. Goldsmith shall not take above 1 l. the Ounce of Gold, besides the Fashoin, more than the Buyer may be allowed for it at the King's Exchange: And if the Work of any Goldsmith be marked, and allowed by the Matters and Wardens of the Mystery, and afterwards found fault; the Wardens and Corporation shall forfeit the Value of the Thing to hold or exchange, or 2 l. Eliz. cap. 3. Matter Silver is not to be transported by Goldsmiths before it is marked at Goldsmith's Hall, and a Certificate made thereunto. One Parson is disfraced of all the Goldsmiths may seize Silver clipped otherwise. 6 & 7 W. 3. cap. 17. The Cities of York, Exeter, Bristol, Chester, Norwich, and Town of Newbury, are appoint-
ed Places for allying and making wrought Places of. 4. cap. 11. 2. cap. 12.
A Duty is granted on Silver Plats of 6 d. per Ounce, and Goldsmiths are to make Entails thereof with the Weight, on Pain of 100 l. &c. The Goldsmiths must work their Plates according to the old Standard; which is to be touched, attested and marked before expat to Sale. Stat. 6 Gen. i. cap. 11. By a late Act, Gold Plate made by Goldsmiths shall contain 22 Carats of Fine Gold, and Silver Plate 11 Ounces and two Penny Weight of Silver, in every Fount Troy, or they forfeit 10 l. and no Goldsmith shall sell any such Plate, until marked with the first Letters of the Maker's Christian and Surname, the Marks of the City of London, being the Leopard's Head, Lion Pallant, &c. and those made use of by the Assayers at York, Exeter, &c. All Persons making Plate, are to enter their Marks, Names and Places of Abode in the Assay Office; they are likewise to deal with the Plate required to be marked, a particular Account thereof, in order to be entered, &c. or forfeit 1 l. The Assayers determine what Bolder is necessary about Plate, and judge of the Workmanship, and for good Cause may refuse to Assay it; and if any Parcel be discovered of a coarser Assay than the Standard, it may be bought and de
fined: and also the Assayers are particularly limited, &c. 12 Gen. ii. cap. 26.
Goldsmith, or Goldsmith. Perhaps a golden Mullet; in the Records there is Mention of Con fjuncta convos Goldsmith vel Goldwicch.
Goldsmiths, is a Jailer or Bulwark, mentioned in Matt. Par. 12. 259.
Gods Behaviour (Deus Gufax Signifies an exact Carrige or Behaviour of a Subject towards the King and the People; whereas some Persons upon their Mischief are bound: And he that is bound to do this, is said to be more strictly bound than to the Peace: because where the Peace is not broken, the Scurity de Deo Gufax may be forfeited by the Number of a Miser's Company, or by his Weapons. Lamb. Eiren. lib. 2. cap. 2. 34 Ed. 3. cap. 1.
Good Behaviour, Scurity for the God Behaviour is Scurity for the Peace, and differs very little from Good Stewarding. A Justice of Peace may demand it as Office, according to his Discretion, when he sees Cause: or as the Request of any other under the King's Protection. His Warrant also shall be the Order when he is commanded to do it by Wris of Supplication out of the Chancery or B. R. It may be granted to any one who warneth, under the Degree of Nobility, against whom Complainant is to be made in the Court of Chancery, or in B. R. and they may be bound there to keep the Peace. Dall. 267, 269. The Warrant of the Justice to keep the Peace, is to be granted against Infants, and Feme Coverters, who ought to find Security by their Friends, and not be bound themselves; it may be had against the Husband, at the Request of the Wife, and against the Wife, at the Request of the Husband; against a Lunatick, that hath sometimes locum lataevis (but not a Non Compos), or against or for one assaigned of Felony, &c. against any Peron affronting a Judge, Justice of Peace, &c. and in a Word against all who are ordered to break the Peace, or that do break it by Affray, Affliction, Battery. Wound
ing, Fighting, Quarrelling, Threating to beat another, or to burn his House, Renter, &c. and in all these Places there is a Necessity, Dall. 262, 264, 4. Ed. 15. Also one may be bound to his God Behaviour for a scandalous Way of Living, for keeping Bawdy Houses, or being with them, Gu
ing Houses, &c. and so may common Drunkards, Whoremongers, sod, common Whores, Night walkers, and those that live idle, Cheats, Libellers, &c. Dall. 292, 293. A Woman is a common Stark
may be bound to the Good Behaviour: But the Stater. 2 Ed. 5. cap. 1. relates only to Mischief against the Publick Peace, so that it ought not to be demanded for private Detraction of another, but for Words only, which tend to the Breach of the Peace, or terrifying others, or unto Sedition, Stater. 4 Ed. 281. 1 Litt. Ab. 1. 650, 651. A Justice of Peace may not bind any Person to the Good Behaviour, upon a general Accusation made against the Party. Stat. 3 Car. B. R. He that demands Security for the Peace, must make Oath before the Justice of Peace given, or he that stands in Fear of his Life or some bodily Hurt: or that he fears the Party will burn his House, &c. and that he doth not demand the Peace of him for any Malice or Revenge, but for his own Safety: whereasupon the Justice grants his Warrant to bring the Party before him, and then Security is to be given by Recognition for the Good Behaviour: or on Default thereof, the Party shall be committed to Gaols. 1 Ind. 293. 4 Ind. 180. And when Security for the Peace is given to the King by Recognition in a Penal Sum, if the Peace is afterwards broken by any Act of the Party, or by his Procuring another to break it, &c. it is a Forfeiture of the Recognition, which being brought to the next Sessions of the Peace by the Justice, the Judges in Sessions shall certify the Recognition with the Case of Forfeiture, into B. R. or the Ex
cequer, &c. from whence Proberty shall go out against the Offender. Dall. 275. 276. Judges of Peace, under Colour of their Authority, ofc. to require the Good Behaviour of every one at their Pleasure; and if they refused, then to commit them to Prison: But if they have not good Cause to require Security for Good Behaviour, and the Party relating to give it is committed to Prison, false Imprisonment well lies; for the Statute which gives the Judges that Authority, is principally against Vagabonds. 1 Litt. 651. The Scurity for the Peace or Good Behaviour may be released by the Judge which took it, and the Party upon whole Complaint it was granted. Dall. 250. But it is said such a Recognition may not be dis
charged by Release of the Party himself; because the Cognisor is bound to the King, and to keep the Peace in general though by the Death of the King, or of the Principal Cognisor, (not of the Scurity) it is discharged of Course. Roll. Rep. 260.
Goods, (Vex Gufax) A Breach in a Sea Bank or Wall; or a Pullage worn by the Flux and Reflux of the Sea. 16 & 17 Car. 2. cap. 11.
Gore, (From the Fr. Gour) A Wear: By Stat. 23 Ed. 5. cap. 1. it is ordered, that all Gores, M. &. A. and Wears, &c. levied and set up, whereby the King's Ships and Boats are disabled and cannot pass in any River, shall be utterly pulled down, without being renewed. Sir Edward Coke derives this Word Gorge, a deep Pit of Water, and calls it a Gaze or Gouf; but this seems to be a Miltake, for in Demolay it is called Gower and Gouz, the French Word for a Wear. Co. Litt. 5.
Gore, (Same, i.e. Feeder) A Dich, Sluice or Gutter, mentioned in the 23 H. 8. cap. 5.
Governor. In the first Year of King William and Queen Mary, an Act was made for impoverishing his Majesty to apprehend and obtain such Persons as he should find in that Caufe to be for the Government: By virtue of which, those who were forfeited in time of Præederation, were taken up and imprisoned, without Bail or Mainprize, for Six Months, &c. Stat. 1 W. & M. cap. 2. A like Act of Parliament to continue a short Time.
pafs all Things belonging to the Manor: The Grant of a Farm will also pafs all Lands belonging to it; but a Grant of the Woods passeth only the Woods, Hau- houes and Gardens. Owen's Rep. 51. Tit. ii. Muner. &c. May be taken in the singular or plural Number; and Dalbes and Abbreviations in Grants shall be taken as the Grants be not void. x Rep. 46. When Lands are granted by Deed, the Hauoues which stand thereon will pafs; Houses and Mills pafs by the Grant of all Lands, because that is the most durable Thing on which they are built. 4 Rep. 86. 2 And. 123. By Grant of all the Lands, the Woods will pafs: And if a Man grant all his Trees in a certain Place, this passeth the Soil; though an Exception of Wood extends to the Trees only, and not the Soil. 1 Roll. Rep. 35. Dyer 19. 5 Rep. 11. Trees in Boxes will not pass by the Grant of the Land, &c. as they are separase from the Freethold. Mul. Cas. 170. A Man grants all his Wood that shall grow in Time to come; it is a void Grant, not being in Eff. 3 Lev. 57. A Grant de wythoue Terrae puthif not the Freethold; and therefore the Granter hath no Authority to dig in it by Virtue of such a Grant. Owen. 37. A Grant of Lands in the Possession of another, is good if such other be in Possession, let the Possession be by Right or Wrong. 1 Roll. Rep. 23. If a Grant is general, and the Lands are granted to certain Vill, the Granter shall have no Lands out of the Vill. 2 Rep. 35. If a Grant all my Lands in D. which I had by the Grant of A. in D. this is all my Lands in D. whether I had them of A. or any other. Mic. 7. Jer. 2. It has been held, that where a Grant is made of Lands and Tenements in D. Copihold Lands will not pafs; for they cannot pass otherwise than by Surrender. Owen 37. Where Lands are certainly described in a Grant, with a Recital as granted to A. B. &c. though they were not thus granted, it has been adjudged that the Grant was good. 10 Rep. 110. A strict Description of Lands in a Grant is null, notwithstanding the second be true, nothing will pass by it; though if the first be true, and the second false, the Grant may be good. 3 Rep. 10. The Word Grant, where it is placed among other Words of Demise, &c. shall not enure to pafs a Property in the Thing demised; but the Granter shall have it by Way of Demise. Dyer 56. A Man cannot grant that which he hath not, or more than he hath: Though he may grant all his Lands, yet he may not grant Fine to Ufe, which will be good. Bac. Max. 58. A Perfon may grant a Reversion, as well as a Possession; but then he will not allow of Grants of Titles only, or imperfect Interests, or of such Interests as are merely future. Ibid. A bare Possibility of an Interests, which is uncertain: A Right of Entry or Thing in Action, Cause of Suit, &c. may not be granted over to a Stranger. Perk. Scit. 65. 1 Inf. 214. 4 Rep. 66. It was formerly held, that by a Grant of all a Man's Goods and Chattels, Bonds would pass; now it is held the contrary, that the Words Goods and Chattels do not extend to Bonds, Deeds or Specialties, being Things in Action, unless in some Special Cases. 8 Rep. 53. 1 Inf, 142. See 2 GEN. 2. cap. 25. In Grants there must be a Foundation of Interests, or they will not be binding: If a Perfon grant a Rent charge out of Lands, when he hath nothing in the same Land, the Grant will be void. Perk 15. Though it is said, if a Man gran a annual Rent out of Land, wherein he hath no Kind of Interest, yet it is good to charge the Perfon of the Granter. Owen Rep. 5. A Man may grant an Amenity for him and his Heirs, to commence after his Death, and it shall charge the Heirs. Bac. Max. 58. And after the Grant of an Amenity, &c. is determined, Debt lies for the Arrears; and the Perfon of the Tenement will be charged. 4

7 Rep. 39. If a common Perfon grants a Rent, or other Thing that lies in Grant, without Limitation of any Estate by the Granter, a Death, a Deed, or hold passes: But if the King makes such a Grant of a Rent, &c. it is void for Uncertainty. Dam. Rep. 45. A Grant to a Man, with a Blank for his Christian Name, is void, except to an Officer known by his Office, when it must be avowed: And it is the same where the Granter's Christian Name is omitted. Gen. Eloc. 328. And Grants may be void by Incertitude, Impollibility; being against Law, on a wrong Title, to defraud Creditors. &c. 1 Inf. 189. Such Things as lie in Grant, may not be granted, or held without Deed: And if any Thing not grantable, is granted with other Things, the Grant will be void for all. 2 Steph. 350, 371, 375. Trusts and Conditions are personal Things, and may not be granted over to others in mould Cafes; as Offices of Trust, and the like: But regularly all kind of Chattels Real and Personal, are grantable. Perk. Scit. 99. Pinda. 370, 144. If one Grant any Thing that lies in Livery or Grant, and that is in use at the Time of the Grant, in Fee, or for Life, and the Eatee is to begin on a Day to come; this for the mould part will be void: But a Lease or Grant for Years, may be good in future: and may be to one for Term of Years, or Years determinable on Condition, to be taken at the End of that Eatee. 5 Rep. 1. Dyer 58. Where a Man hath a Reversion after an Eatee for Life of Land, and he grants a Rent out of it, the Grant is good, and the Grantee will fall upon the Land after the Eatee of the Tenant for Life is ended: And if a Perfon grant Rents; &c. and a Stranger take them at that Time; in this Case the Grant will be good, for one may not be out of Possession of these Things but at his Pleasure. Perk. 99, 98. Of Grants some charge the Granter with something he was not charged with before: and others discharge the Granter of something wherewith he was before charged or chargeable. If a Man grant to me a Rent-Charge; and after I grant to him, that he shall not be fixed for this Rent; this is good to bar me of bringing an Action, though I may drain for the Rent still: And if one grants to his Leffer for Life or Years, that he shall not be impeached for Waite; it will be a good Discharge, and may be pleaded. 7 Hil. 6. 43. Bras Grant 175. Kelv. 88. If an Eatee be made of Land under Condition, that he may not make a Grant to another, and he grants it to another Person, that Day, he shall have his Land again; they may both join and make an Eatee of the Land, or charge it with any Rent, &c. before the Day of Redemption: And C. D. may also before the Day grant away his Eatee to another, but it will be subject to the Condition and if he grant a Rent to a Stranger, and A. B. doth perform the Condition, and then enter, he may avoid the Charge. 1 Rep. 147. 10 Rep. 48. If a Man grants that to one, that he hath granted before to another, for the like Term, &c. the second Grant will be void. Dyer 23. Perk. Scit. 102. Grants are usually made by these Words, viz. Have Given, Granted and Conferred, &c. And Words in Grants shall be construed according to a reas- able Sense, and not be strained to what is unlikely. Haw. 924. Also it hath been adjudged, that Grants shall be expounded according to the Substance of the Deed, not the strict Grammatical Sense; and agreeable to the Intention of the Parties. 1 Inf. 146, 315.

Form of a Grant of an Amenity out of Lands.

THIS Indenture made, &c. between A. B. &c. of the one Part, and C. D. &c. of the other Part, Witnesseth, That the said A. B. &c. for the
Grants of the King. The King's Grant is good for himself and Successors, though his Successors are not bound to do what he did. Before the Statute of Queen Anne, various Regis, Dowers, Advoctions, and other Things, have pailed by the general Grant of the King; but his successors are to be granted in express Words. 1 Rep. 87. 2 Dyer 53. Where the King is restrained by the Common Law to make a Grant, he may make a Grant Non obstante any Statute made or to be made: if he doth, any subsequent Statute prohibiting what is granted, will be a Revocation of the Grant. 11 Rep. 87; 2 Dyer 53. Where the King is restrained by the Common Law to make a Grant, if he makes a Grant Non obstante the Common Law, it will not make the Grant good, but when he may lawfully make a Grant, and it is the Law required that he be fully apprised of what he grants, and not be deceived, a Non obstante supplies it, and makes the Grant good: if the Words are not sufficient to pass the Thing granted, a Non obstante will not help. 4 Rep. 15; Kelf. Abr. 904. If a Grant is made by the King, and a former Grant is in Being of the same Thing, if it be not receiv'd, the Grant will be void: And receiving a void Grant, when there is another good, may make the Grant void. 27 King's Cas. Gr. and Cor. Case 143. But there may be a Non obstante to a former Grant. If the King is deceived in his Grant, as where it contains more than was intended to be granted, or if there be any Deceit in the Confirmation, and if such Grant of the King is void. 5 Rep. 94; Mort. 193. And the King's Grants may be void by Reason of Incentivity; as if Debts and Duties are granted, without paying in particular what Duties, 12 Rep. 46. But where there is a particular Contingent preceding, they shall not be destroyed by any Incentivity or Mislake which follows: and there is a Dissolution where a Mislake of Title is prejudicial to the King, and when it is in some Description of the Thing which is supplemental only, and not material or indispensable. 1 Mod. 195. The King grants the Manor of D. which he has by the Attainder of a certain Person, and in Fact the King hath it not void; this Grant is void. 10 Rep. 109. If the King grants a Mislake of the Value of 1 s. 5. a Year to A. and it be of the yearly Value of 1 s. the Value being in the Grant, and with the Grant, will make it void: Though if it be mentioned in another Sentence, it may be good. 156. The Grant of the King to a Corporation, that they may maintain Schools at Oxford, shall not be voided for Land, nor for any Cause arising there, whatsoever than before themselves. This doth not bind the King where he is Party: And the King, by his Grant, may himself procure a Plea against the publick Government. 88. Dyer 357. 176. 152. Statutes, Is nul for Grandes, in the Parl. Roll. 6 Ed. 3. s. 5. 6. — Et les dits Courts, Banne, & autres Grandes, &c.

Statute, The Granting or Turning up the Earth with a Plough; whence the customary Service for the inferior Tenants of the Manor of Amstel in Oxfordshire, to bring their Ploughers and do one Day's Work for their Lord, was called Grant or Grant-a-Burt: And we still say the Grant is graved or lightly ploughed, and a Bullet goes on any Place, where in gently turns up the Surface of what it strikes upon. 1 Par. Ant. 496, 497.

Statute, A little Wood or Grove: — Unam Carasian terram cum Gravitis & Pagaveri eadem pertinent. 27 Mon. 2. 29. 2 Dyer 62. Co. Litt. 47.


Statute, The Names of Places ending with Grove, come from the Sax. Græf, a Wood, a Thicket, Den, or Cave.

Statute, Of Seats and Stones shall give to every one their Weight of Silver and Gold, on Pain of Imprisonment. Stat. 7 Ed. 3. cap. 7.

Statute, A Breeder or Keeper of Cattle, mentioned in the Statute 25 Hen. 8. See Castr. 82. Often, Are sometimes underfoot of the Temporal Lords in the higher Heauf of Politic, as by Statute 45 Ed. 3. cap. 2. and sometimes of the Members of the House of Commons, as by 2 R. 2.


Gr as, (Fr. Gras, i.e. good Liking or Allowance) In our Law signifies Satisfaction; as to make Grace to the Party, is to agree with and satisfy them for an Offer or thing done. And when it is made in our Statutes, that Judgment shall be put in Sufficient till Grace is made to the King of his Debt; it is taken for Satisfaction. 1 R. 2. 159; 152, 155; 158, 159. 3 Rep. 145.

Gratia, Of the King's Highlands, so termed from the Green Cloth on the Table, is a Court of Justice composed of the Lord Stewart, Treasurer of the
the Household, Comptroller, and other Officers, to which is committed the Government and Over-sight of the King's Court, and the Keeping of the Peace within the Verge, &c. See Gunning House.

Greenhithe or Green-haye. Is all one with Veth in Foresters, &c. Manorial. Par. 2. cap. 5. Gen. 5. Greenhithe Company. A Joint Stock of 4000l. was by statute to be raised by Subscribers, who were incorporated: And the Company to use the Trade of catching Whales, &c. into and from Greenland, and the Greenland Sea; they may make by-Laws for Government, and of Permits employed in their Ships, &c. Stat. 4 & 5 W. 3. cap. 1. But any Permits who will adventure to Greenland for Whale-fishing, shall have all Privileges granted to the Greenland Company, by 1 Ann. cap. 16. Any Subject(s) may trade Whale Fish, Oil, &c. of Fish caught in the Greenland Sea, without paying any Culloms, &c. Stat. 10 Geo. 1. cap. 16. And Ships employed in the Greenland Fishtery are to be of such Burden, pro visioned in 5 years, with their Fish, Lines, Harping Iron, &c. and be licensed to proceed; and on their Return shall be paid 20l. per Ton Bounty, for Whale Fish, &c. imported. 6 Geo. 2. cap. 35. A former Warrant of Allowance of 102. a Ton, is granted to this Company, to be paid by the Commissioners of the Culloms, during the War; and the same shall not be impounded from that Service, by 13 Geo. 2. cap. 28.

Green-Silver. There is an ancient Cullom with the Manor of Writtle in the County of Essex, that every Tenant whole Fore-door opens to Greenbury, shall pay a Half-penny yearly to the Lord, by the Name of Green-Silver.

Green Way, where Fifrears are delivered to the Sheriffs out of the Exchequer, under the Seal of that Court, made in Green Wax, to be leived in the several Counties: This Word is mentioned in the Statute 43 Ed. 3. cap. 9. and 7 H. 4. cap. 5.

Greenwich Hospital. A Duty is laid on all Foreign-built Ships for Relief of decayed Seamen in Greenwich Hospital, &c. by Stat. 17 Geo. 1. cap. 18. And every Seaman shall allow out of his Wages 6d. a Month, for the better Support of the said Hospital: For which Duty, Receivers are appointed, who may depose Officers of the Culloms, &c. to collect the same, and examine on Oath Matters of Ships, &c. 10 Ann. 2 Geo. 2. cap. 7. See Navy and Maritime.

Gribe, (Sax. Grifea) A Word of Power and Authority, signifying as much as Comes or Possession, and hence comes our Sheriff, Partner, &c. which by reason is translated Sherif or Sheriff. Lambert in his Expedition of Saxony Words, Verbo Præcedum, makes it the same as Verum. See Verum Part. p. Coll. Annal. fol. 326.


Gritsbreche, (Sax. Grithbreche, i.e. Paris Fox) Breach of the Peace. — It comes close Grithbreche 100 S. emendabit. Leg. Hrn. 1. cap. 36.


Grisones. Were formerly those that ingrossed Merchandie. Stat. 37 Ed. 5. cap. 5. It is now a particular and well known Trade; and the Cullom Duties for Grocery Wares and Drugs, are particularly aftertained, by the Stat. 3 W. & M. 2. cap. 4. Vide Armerarius.


Grosw. Is the Name of a Servant in some inferior Place, 33 Hen. 8. cap. 10. and is generally applied to Servants in Stables: But it hath a special Signification, extending to Grasm. of the Chamber; Grasm. of the Souls, &c. which last is a great Officer of the King's Household, whose Presence is properly the King's Bed-Chamber, where the Lord Chamberlain hath nothing to do; and Sole signifies a Robe of Honor, and not a Chief Robe, very differently apprehended. Lex Cosiniana. p. 92. Vide Gars. 

Grashe-Portr. An Officer or Superintendent over the Royal Gaming Tables; and in Latin is writ Aed, Regis, junioris, Primarius.

Grass, (Grasi) In Grass, absolute, intire, not depending on another; as anciently a Villain in Grass was such a Servile Person as was not appendant or annead to the Lord or Manor, and to go along with the Tenure as appurtenant to it; but was like the other personal Goods and Chattels of his Lord, at his Lord's Pleasure and Disposition. So also an Ancillary in Grass differs from Appendant, being distinct from the Manor. C. Litt. 120.

Grass-bolts, (Fr. G. ou beis, i.e. great wood) Signifies such Wood which, by the Common Law or Cullom is reputed Timber. 2 Ed. 4. 343.

Grass-Weight. The Whole Weight of Goods or Merchandize, Slave and Dwell, mixed with them, and of the Chaff, &c. out of which Tare and Tare are allowed. Merchants' Dist. 332.

Grast. (Fr.) A Den, Cave, or hollow Place in the Ground also a flashy woody Place, with Springs of Water. L. Fr. Dist. 49.

Groundage, A Cullom or Tribute paid for the landing of a Ship in a Port.

Grate, Are the Red and Black Heath Game, for preserving of which, no Heath, Furze or Fern shall be burnt on any Heaths, Moors or other Wastes, between the 2d of February and 24th of June, by Stat. 4 & 5 W. & M. cap. 23.

Gratiment, An Engine to brethren Woollen Cloth after it is woven; mentioned 43 Ed. 3. cap. 10.

Gratrain-Halfpenny. Is a Base to be called, and paid in some Places for the Tithes of every fat Beast, Ox, or other unprofitful Cattle. Clavet. Hist. 79. 92.

Gratun, (From the Fr. Grazier) Signifies the principal Officer of the Forest in Scotland.

Guard, (Fr. Garde, Lat. Castrum) A Cullody or Care of Defence. And sometimes it is used for those that attend upon the Safety of the Prince, called the Life Guard, &c. sometimes such as have the Education and Guardianship of Infants; and sometimes for a Man touching Warship, as Droit de Garde, Ejellion de Garde, and Receival of Garde. F. N. B. 139.

Guardian, (Fr. Gardez, Lat. Castrus, Guardianus) Signifies him that has the Charge or Custody of any Person or Thing; but most commonly he who hath the Cullody and Education of such Persons as are not of sufficient Difiance to guide themselves and their own Affairs, as Children and Infants, (usually the former) being as largely extended in the Common Law as Tutor and Curator among the Civilians. Blunts. And a Guardian is either Legitimus, Tuteamentarius, Datus, or Custumaris: He that is a legitimate or lawful Guardian is to Fure Communi, or Juris Naturalis; the first as Guardian in Chivalry, in Fait or in Right; the other as de Jure Naturalis, as Father or Mother: A Tuteamentarius Guardian was by the Common Law for the Body of the Minor was to remain with him who was appointed, till the Age of Fourteen; and as for his Goods it might be longer, or as long as the Teller appointed; but as to this Matter there are several Statutes: Guardianus Datus was by the Father in his Life-time, or by the Lord Chancellor after the Death of the Father: and where there is a Guardianship by the Common Law, the Lord Chancellor can order and intermeddle; but where by Statute, he cannot remove either the Child or Guardian:
Guardianship: Guardianship by Cuffman is of Orphans by the Cuffman of London, and other Cities and Boroughs, and in Ordinary Matrons, by the Cuffman of London, it may be long to the Lord of the Manor to be Guardian himself, or to appoint one. 3 Stat. Rep. 176. 177. The Guardianship by the Common Law, are Guardians in Children, may be by Statute, made by the Statute of Guardians' Nature, such as the Father or Mother; Guardians in Sovereigns, who are the next of Blood, to whom the Inheritance cannot be defended, if the Father does not order it otherwise; and Guardians because of Nature, when the Father by Will appoints one to be Guardian of his Child. 1 Inst. 88. 2 Inst. 505. 3 Rep. 37. The Duty and Office of the Guardian is, to educate the Heir, and preferve his Estate, and Writings of his Land; and not to make any Depravation on the Estate, but to manage it for his utmost Advantage. And where Land defranded of the Part of the Father, there the next of Kin on the Part of the Mother shall have the Guardianship: And so on the other Side, and not such a Simkin as may have any Mortgage in his Hand, etc. 3 Stat. Rep. 872. The eldest Son of the Half Blood shall be Guardian in Socage to a Son by the second Venter. And the Guardianship in Socage continues till the Minor accomplishes the Age of fourteen Years, and then he may chuse his Guardian before a Judge at his Chamber, or in Court, or in the Chancery: Also after the Minor is come to the Age of fourteen, he may go for his Guardian in Socage to Account at Ballif, etc. 4 Co. Jus. 219. Though a Father is Guardian by Nature, yet a Man may be Guardian to an Infant against his Father, for Prevention of Waffe; which is a Foreiture of Guardianship. Hard. 66. Guardian in Socage shall make no Wafe nor Sale of the Inheritance, but keep it safely for the Heir; And where there hath been some Dole or the Sufficiency of a Guardian in Socage, the Chancery hath obliged him to give Security. 1 Med. 177. Also a Guardian may be removed into the Realm, because he is a Woman, to suffer a Female Infant to marry whilst in his Custody; and to permit other Relations to will her, etc. 2 Lev. 128. And the Court of Chancery will make such Guardian give Security not to marry the Infant without the Court is first acquainted with it. 1 Chalm. Rep. 217. Before the Act of 12 Car. 2. Tenants in Socage might have defirved of his Land in Trust for the Benefit of the Heir; but it is said he could not derive or dispose of the Guardianship or Custody of the Heir from the next of Kin to whom the Land could not be defended, because the Law gave the Guardianship to such next of Kin. Kelso. 186. But now Tenant in Socage may nominate whom he pleased to be Custody of the Heir, and the Land shall follow the Guardianship, as an Incident given by Law to attend the Custody; and such special Guardianship cannot affix the Custody by any Act, the Trust being Personal, nor shall it go to the Executor or Administrator of the Guardian, but determines by his Death. 4 Bat. 180. 159. Guardianship by Statute is by the 12 Car. 2. cap. 24, by which it is enacted, That a Father by Deed in his Life-time, or by Will, may dispose of the Custody of his Child under twenty-one Years of Age, and not married as the Time of his Death, and whether then born, or in Veste sa Mère, during the Minority, to any Persons not Popish Recusants, who may maintain Action of Truajfs, etc., against uncles, or aunts of such Children, and take into Custody their Lands, etc. And by this Statute the Father may appoint a Guardian to his Heir for any Time till he is not upon one Year old, and such Guardian shall have the like Remedy for his Ward as the Guardian in Socage had at Common Law. 2 Nisf. Abr. 911. But if the Father appoint no Guardian to his Child, the Ordinary or Spiritual Court may appoint one for the personal Estate until the Age of fourteen: And as to his Lands, there shall be a Guardian in Socage. 170. 372. 380. 449. 885. 262. If a Bishop appoints a Guardian of Goods and Lands, it will be void; for it may be only of Goods and Chattels: And Guardianship is a Thing cognizable by the Temporal Court, which may be set aside, and the Man may appeal it, which Courts are to judge whether the Devise be pursuant to the Statute. 2 Febr. 207. A Copyhold Tenant is not within the Statute 12 Car. 2. to dispose of the Custody of his Children; for it belongs to the Lord or others, according to the Custum of the Manor: But the Lord of a Manor hath no Power by the Common Law, without some particular Casue, to grant the Guardianship of an Infant Copyholder. 3 Lev. 395. Lev. 1190. Guardianship are not only by the Common Law, by Statute Law, and by particular Casue; but are also distinguished into Guardian in Socage, Guardian appointed by the Father, and Guardian appointed by the Court. 1 Litt. Abr. 654. And a Father or Mother, without Aliage or Alibis, the Guardians of Women, Children, Etc. 4 Car. 2. cap. 5. & M. cap. 8. A Female Infant may be brought into Court, and asked whether she be willing to stay with her Guardian. 2 Lev. The Husband of a Woman under Age cannot dilave a Guardian made by the Court for his Wife. 1 Vent. 187. An Infant 's fault cannot revoke the Authority of the Guardian: But the Court may, if the Age be fourteen, he the Guardian, and for his Difcretion, and align another; and the Judges of Nisi prius, Etc. may align a new Guardian. Palm. 254. 256. No 89. A Dissis Abr. 504. The Court will align a Guardian to an Infant to doe or defend Actions, if the Infant comes into Court and declares he or she is a Judge at his Chamber, as the Desire of the Infant, may align a Person named by him to be his Guardian; but this last is no Record until entered and filed with the Clerk of the Rules: The Heir must be in Person in Court, for the Appointment of a Guardian for his Minor Ancestors. 1 Litt. 156. 2 Lev. 238. Guardians to Infants, appointed by the Court to foy, may acknowledge Satisfaction upon Record, for a Debt recovered by Law for the Infant. Trin. 23 Car. B. R. A Guardian in Socage may keep Courts in the Infant's Manor in his own Name, grant Copies, Etc. He is Dominus pro Tempore, and has an Interest in the Lands. L. Jus. 91. A Guardian may let the Land for Years, and asowe in his own Name and Right; and his Lefee for Years may maintain Ejectment: But he cannot prefer to an Adowment, for which he may not lawfully Act; and the Infant must prefet of whatsoever Age. Cro. Jus. 98. 99. Though it is said if the Infant be within the Age of his Guardianship, the Guardian cannot be preten. 8 E. 2. 10. A Guardian for Nuture of the Minor appointed by Will, hath Power to make Leases at Will only. Cro. Elit. 673. 734. Guardians are to take the Profits of the Minor's Lands, Etc. to the Ufe of the Minor, and account for the fame: They ought to sell all Moveables in a reasonable Time, and turn them into Land or Money, except the Minor is near of Age, and may Want such Goods himself: And they shall pay Interest for Money in their Hands, which might have been put out at Interest, in which Case it shall be presumed the Guardians made use of it themselves. 3 Stat. 177. A Guardian shall answer for what is lost by his Fraud, Negligence or Omition; but not for any casual Events, however well they may happen to such an Accident. Lit. 123. On accounting of Guardians, they shall have Allowance of Coia and Expenses, and if they are robbed, etc. without any Default or Negligence, they shall be discharged therefor. 1 Inst. 89. In Guardianship of great Estates, the Guardians generally pay their Accounts yearly in the Chancery, for their better Justification where the
The minor calls them to a general Account at his sole Age. By Statute, Guardians are to retain the lands till the Heir comes of Age, and then restore the same as fully furred, &c. as received. 9 H. 3. cap. 13. But the Lands without De- 
finition of any Thing. 3 Ed. 1. cap. 21. And Perfon, who as Guardians hold over, without the Content of the Perfon next intitled, shall be adjudged 
Trespassers, and be accountable for Profits, &c. Stat. 6 Ann. cap. 18. 'An Action of Account may be brought 
against the Executors or Administrators of a Guardian, 
&c. Stat. 4 & 5 Ann. A Guardianship of a Mi-
nor is an interest in the Body and Lands, &c. of one 
within Age.

An Election of a Guardian by a Minor.

K
OW all Men by the Precepts, That I A.B. Son and heir of, &c. desiring being now about 
the Age of fourteen Years, having elected and chosen, and by these Precepts do elect and choose C.D. &c. to be 
Governor of my goods and estates, until I shall attain the 
Age of Twenty one Years, and I do hereby 
Promise to be ruled and Governed by him in all Things 
touching my Welfare; and I do authorize and empower the said C.D. &c. to be in my stead and every of all and every my Mfullages, Lands, Tenements, Heredita-
ments and Promises, whatsoever, fineate lying and being 
in, &c. in the County of, &c. and elsewhere, whenever I have or may have any Right or Title, and to let and 
let the same, and receive and take the rents, issues and 
Profits thereof, for my Use and Benefit, during the 
Term afterpaid; paying and hereby granting unto the 
said C.D. &c. my full Power in the said Promises, and 
whatsoever he shall lawfully do or cause to be done in the 
Promises, by Viz. hereof, I do hereby promise to 
ratify and confirm. In Witness, &c.

Guardian de Alteris, Is the Guardian or War- 
den of the Commoners, or Minors in the County of 
Cornwall, &c. 17 Car. 1. cap. 15.

Guardians de l'Eglise, Churchwardens who are 
Officers chosen in every Parish to have the Care 
and Clothing of the Church Goods; and they may 
may have an Action for such Goods, and have divers Pow-
ers for the Benefit of the Church. Stat. 43 Eliz. 
cap. 2.

Guardians of the Peace, Are those that have the 
Keeping of the Peace; Wardens or Constables there-
of. Lamb. Erm. lib. 1. cap. 5.

Guardians of the Poor, Is a Magistrate that 
has the Jurisdiction of the Ports or Havens, 
which are commonly called the Cinque Ports, who has 
there all the Authority and Jurisdiction the Admi-
ral of England has in Places not exempt: And Cam-
den believes this Warden of the Cinque Ports was first 
erected among us in imitation of the Roman Policy, 
to strengthen the Sea-Collts against Enemies, &c. 

Guardian of the Spiritualities, The Perfon to 
whom the Spiritual Jurisdiction of any Diocese is com-
mittet, during the Vacancy of any, is called by 
this Name. 25 H. 8. cap. 21. The Archdeacon 
Guardian of the Spiritualities on the Vacancy of any 
See within his Province, but when the Archbishops 
See is vacant, the Bishop and Chapter of the Archbi-
shop's Diocese are Guardians of the Spiritualities, own- 
the Spiritual Jurisdiction of his Province and Diocese 
is committed to them. 2 Bull. Atr. 223. 25 H. 8. 
The Guardian of the Spiritualities it is said may be 
either Guardian in Law, true Magistratus, or the Archdeacon is of any Diocese in his Province; or 
Guardian by Dispensation, being he whom the Archbi-
shop or Vicar General doth for the Time appoint. 13 
Eliz. cap. 12. And the Guardian of the Spiritualities 
with all Manner of Ecclesiastical Jurisdiction of the 
Courts, Power of granting Licences and Dispensation, 
Probate of Wills, &c. during the Vacancy, and of 
administering and inflicting Clerks prebented; but such 
Guardians cannot as such confer any Office, or pre-
fert any to any Benefices. Ward's Inf. 25, 27.

Guerf, (Sax. Gifft, Fr. Gift, a Stage of Refi in a 
Journey) A Lodger or Stranger in an Inn, &c. A 
Gesft who hath a Place of Plate set before him in an 
Inn, may be guilty of Felony in fraudulently taking 
away the same. 1 Hawk. P. C. 59. And a 
Gesft having taken off the Silver from his Bed, with 
Intent to find them, carried them into another Room, 
and was apprehended before he could get away; 
this was adjudged Larceny. Ibid. 92. Action lies 
against an Inn keeper, refuding a Gesft Lodging, &c. 
See Inn.

Guilhur, (Guilhumus) Is an old legal Word, sig-
nifying that which is given for safe Condui through a 
strange Land, or unknown Country, Eif Guilia-
gum quod datur aliquo, ut tute conducatur per terram 

Guilhul, (From the Sax. Guiltah, to pay) Siguities 
a Fraternity or Company, because every one was 
Gallivare, i.e. to pay something towards the Charge 
and Support of the Company. The Original of 
these Guilds and Fraternities, is said to be from the 
old Saxen Law; by which Neighbours entered into 
An Association, and became bound for each other, 
to bring forth him who committed any Crime, or 
make Satisfaction to the Party injured, for which 
People they raised a Saim of Money among them- 
selves, and put it into a common Stock, whereat a 
pecuniary Compensation was made accordingly; 
the Quality of the Office committed. From hence 
came our Fraternities and Guilds; and they were in 
Use in this Kingdom long before any formal Li-
cences were granted for them. Though at this Day 
they are a Company combined together, with Or-
ders and Laws made by themselves, by the Prince's 
Licence. Cond. Guiltah Magistatorum, or the Mer-
chants's Guild, is a Liberty of Privilege granted to 
Merchants, whereby they are enabled to hold cer-
tain Places of Land, &c. within their own Precincts, 
37 Ed. 3. 15 R. 2. And Guildhall are the Halls 
of those Societies, where they meet and make Laws, 
&c. for their better Government. King Ed. 5. in 
the 14th Year of his Reign, granted Licence to the 
Men of Commerce to erect a Merchant's Guild, and 
into a Fraternity of Brethren and Sillers, with a Master 
or Warden, and that they might make Charters, 
below Alms, do other Works of Piety, and can the 
tute Ordinances touching the same, &c. &c. 
King H. 4. in the 4th Year of his Reign, gave Licence 
to found a Guild of the Holy Cross at Stratford 
Upon Avon. Antip Warwicke. 119, 122. Guild or Gilt, 
is also used for a Tribut of Tax, an Amencement, 
Sec. 27 Ed. 3. 11 H. 6. 15 Car. 2. See Gold. 
Guilthulhall, Or the Chief Hall of the City of 
London, for the Meeting of the Lord Mayor and 
Commonalty of the City, making Laws and Ordin-
ances, holding of Courts, &c. —Gildarum nomine 
consentium were in feo privato, et titio civicium, fed 
ipsius Civitatium Commune, Spelum.

Guil dibba. Tenentiscommun. The Fraternity of 
Endering Merchants in London, called the Stillyard. 
23 Hen. 8. cap. 2.

Guilt-kents, Are Rents payable to the Crown, by 
any Guild or Fraternity; or such Rents as for-
ternally belonged to Religious Guilds, and came to 
the Crown at the general Dissolution of Monastery's, 
being ordered to be sold by the Stat. 22 Car. 2. 
cap. 6.

Guilt, Foreign Coin: The German Guilt is 
3s. 8d. and the golden one in some Parts of Ger-
many 4s. 9d. In Portugal it pails for 5s., but the 
Poland
Poland and Holland Guilder is but 21. In Holland Merchants keep their Accounts in Guilders, &c.

**Suet of Augustus.** (Gala Augusti, alias Gade de Augusti) is a Day of St Peter and Vinuela, which is celebrated on the 19th of August, and called the Gade of August, from the Lat. Gade, a Throat, from this Reason, that one Reverses a Tribune, having a Daughter that had a Disease in her Throat, went to Pope Alexander, the Sixth from St. Peter, and deposed of him to see the Chains that St. Peter was chained with under Nero, which Revers was being granted. For the said Daughter killing the Chains, was cured of her Disease: Whereupon the Pope inlustrated this Feast in Honour of St. Peter; and, as before, this Day was termed only the Calends of August, it was on this Occasion called indifferently either St. Peter's Day or Vinuela, from what wrought the Miracle, or the Gade of August, from that Part of the Venetian wherein it was wrought. Durandus's Rationale Divinorum, lib. 2, cap. 10. It is mentioned F. N. B. 62. Ploved. 316. Stat. Majm. 2. cap. 50. 27 Ed 3.

**Gana.** None may float in, or keep in his House any Gun, Hand-gun, &c. who hath not Lands to the Value of 100 l. a Year, in Pain of 10 l. Nor shall any Person shoot in such Gana, under the Length of one Yard, or three Quarters of a Yard, under the like Penalty: If any do, one that hath 100 l per Annum, Land, may seize the Gana unlawfully kept and used; but then he must break them within 20 Days, or shall forfeit 40 l. In Forest, Park, and Chase, those who have Power from the King to take away Gana, may retain the same. Stat. 33. H. 8. cap. 6.

**Gunpowder.** It is lawful for all Persons, as well Strangers as natural born Subjects, to import any Quantities of Gunpowder, or Salt-Petre, Brimstone, and other Materials for the making thereof, and to make and sell Gunpowder, &c. Stat. 16 Car. 1. cap. 21. But no Person shall keep more than 600 l. Weight of Gunpowder, in any Places in the Cities of London and Westminster, or the Suburbs, &c. And Persons keeping more, not removing it on Order of Justices of Peace, shall forfeit 20 l. for every hundred Weights: Gunpowder is to be carried in covered Carriages, the Barrels close jointed, or in Casks, Bags of Leather, &c. 5 Geo. 1. cap. 26. By a subsequent Act, it is unlawful for any Person to keep in London, &c. above 200 l. Weight of Gunpowder at one Time, beyond the Space of twenty-four Hours, which incurs a Forfeiture of the Powder, or the Value: And two Justices may cause Searches to be made, and the same to be seized and stored, &c. Persons obtruding the Search, incur the Penalty of 4 l. Also no Man shall use Iron or Steel Hammers, where Gunpowder is, on Pain of 20 l. 11 Geo. 1. cap. 25. Persons who are not Dealers therein are not to keep above 10 l. of Gunpowder, in London and Westminster, or if they deal in it, not more than 200 Weight longer than twenty-four Hours, though under different Roofs or on the Thanes, except in Ships passing or detained, on Pain of forfeiting all such Gunpowder, &c. A Justice of Peace may issue his Warrant to search for dangerous Quantities of Powder, and break open any Place, if he have Occasion, to seize the same; which may be removed out of the Limits aforesaid, and kept till de-

termined in one of the Courts, whether it be forfeited, &c. And if any Persons permit others to have Gunpowder in Places not belonging to the Owners, they shall forfeit 1 l. for every Pound. Stat. 15 Geo. 2. cap. 32. No Gunpowder shall be put on board Ships, above Blackwall in the River Thames, under 5 l. Penalty for every 50 l. Weight, &c. by 3 Geo. 2. cap 20. By the Stat. 22 Geo. 2. cap. 36. no Person shall keep Gunpowder for more than twenty-four Hours, at one Time, in greater Quantities than 400 Weight, in any House, &c. in or within 100 Yards of any City, the Suburbs thereof, or any Market-Town; or within two Miles of any of the King's Palaces, or one Mile of any of his Magazines for Powder, or more than 5000 Weight, in any other Place whatsoever. Upon Information two Justices may grant Search Warrant, and if found, it shall be forfeited: no greater Quantity shall be carried at one Time than 2500 Weight, in any Land Carriage, and 5000 Weight in any open Vessel; Carriages to be covered, and Barrels closely lopped. Any Person employed in any Storehouse where Gunpowder is kept, or in conveying Gunpowder from one Place to another, wilfully committing any Act whereby the Gunpowder shall be in danger of taking Fire, shall forfeit 5 l. for every 100 Weight, in such Storehouse, and in Default of Payment be committed for not exceeding six Months. No Penalty shall be incurred for keeping above 5000 Weight of Gunpowder, in any Warehouse already built for that Purpose, unless the same shall be deemed dangerous.


**Gueritz and Gertext.** Engl. Gelt, called sometimes Jetre, and by the Romans Gere, is derived from the old Word Jet, which signifies a Giant: They were one of these Three Nations or People who Left Germany, and came to inhabit this Island. Leg. Edw. Canisf. cap. 55.

**Gutter.** A Gutter or Spout to convey the Water from the Leads and Roofs of Houses: And there are Gutter Jets, especially to be laid in such Gutterets, &c. mentioned in the Stat. 17 Ed 4.

**Gumbachtserb.** Is a Dutch Word which signifies a Payment or Fine, made to the Lords of some Manors, upon the Marriage of their Tenants Daughters: or otherwise on their committing Incontinency. See Marchett.

**Gumlich.** A Place of Execution: Omnia Gaullwalia, i.e. OccidentorVM loca, rotation Regis fusi in face sua. Leg. Hist. 1. cap. 11.

**Gripins.** The Name of a Court held every three Weeks in the Liberty of Hundred of Paddington in the County of Warwick. Inquisit. ad quod Damn. 13 Ed 3.


Habeas Corpus, Is a Writ for the Bringing up of any Person from any Gaol, Court, or Place under the Command of any Person or Persons, to appear upon the Venire facias, for the Trial of any Cause brought to lie in any Court of Common Law or in any Court of Equity, and to bring him before the Judges of such a Court, to pass on the Trial of such Cause, in such a Cause, etc. Pradf. Sec. 308, 309.

Habeas Corpus, The great Writ of English Liberty, lies where one is indicted for any Crime or Offence, taken or served before the Justice of the Peace, or before the Judge of the Court, or in a Court of any Justice, and being imprisoned for the same, hath offered sufficient Bail, but it is refused where bailable; he may have this Writ out of the King's Bench to remove himself thither, and answer the Cause there. F. N. B. 250. And the Court in this Case is first to procure a Certiorari out of the Common Bench, directed to the Judges to remove the Indictment into B. R. And upon that to procure this Writ to the Sheriff, for the Cause of his Body to be brought at a Day. Leg. Jud. 81. This Writ is also used to bring the Body of a Person into Court, who is committed to any Gaol, either in Criminal or Civil Cases; and a Habeas Corpus will remove a Person and Cause from one Court and Prison to another. The Writ of Habeas Corpus was originally ordained by the Common Law of the Land, as a Remedy for such as were unjustly imprisoned, to procure their Liberty; and it is a milder, more, Notion that this Writ is of a Substantial Date, and introduced with the Reign of King Charles 2. But before the Statute 31 Car. 2. stat. it was too difficult to be obtained, because the Judges had Authority to try and determine it, pretended to have Power either to grant or deny it; and the Sheriffs and Gaolers to whom the Writ was directed frequently put poor Prisoners to the Charges of a second, and third Habeas Corpus, before they would yield Obedience to the first; which being grievous to the People, the Stat. 31 Car. 2. was enacted to prevent Abuses of this Nature, and further our Laws for the Benefit of the Liberty of the Subject. Laws of Liberty, pag. 44, 45. By the Statute 31 Car. 2. c. 2. a Person in Prison may have an Habeas Corpus from a Court, or to many of them, if the Judge shall think proper to grant the Writ of Habeas Corpus upon the Demand of a Warrant of Commitment, (unless he be committed for Treason or Felony, especially expressed in the Warrant, or other Offences or Matters not bailable) which Habeas Corpus shall be returnable immediately; and upon Certificate of the Cause of Commitment, the Prisoner shall be discharged on Bail to appear in the Court of B. R. in the next Term, or at the next Assizes, etc., where the Officer is cognizable: And Persons committed for Treason or Felony, (especially expressed in the Warrant) on Prayer in open Court, the Judges in their Discretion, or of their own Motion, etc., are to be brought to Trial; and if not indicted the next Term, or Sessions after Commitment, upon Motion the last Day of the Term, etc., they shall be let out upon Bail; except it appears upon Oath, that the King's Witnesses are not ready; and if on Prayer they are not indicted or tried the second Term after Commitment, they shall be discharged. No Person shall be delivered upon an Habeas Corpus, shall be committed again for the same Cause, other than by the legal Order and Process of such Court where they shall be bound to appear, or by other Jurisdiction of the Court; on Pain of 500l. And if any Person be in Prison, or any Officer's Custody, for any Criminal Cause, he shall not be removed by him into the Custody of any other Officer but by Habeas Corpus, upon 2.

5 B Warrant

Pain of incurring the Penalty of 100l. for the first Offence, and 200l. for the second Offence, and being Banished to Ireland, Scotland, or any Place beyond the Seas in the King's Dominions in which it shall be falsely Imprisonment, on which the Prisoner may recover treble Damages, etc. 26 Geo. 3. and the Party committing or detaining him shall also incur the Penalty of a Premunire. Judges denying a Habeas Corpus shall forfeit 500l. And the Officer refusing to obey it, or to deliver a true Copy of the Commitment Warrant, is liable to a Fine of 100l. for the first Offence, etc. Stat. 161. This is the Substance of the Habeas Corpus Act 26 Geo. 3. which has been substantiated several Times in late Reigns, on rebellions, etc. No Writ of Habeas Corpus, or other Writ to remove a Cause out of an Inferior Court, shall be allowed, except delivered to the Judge of the Court, before the Cause shall be heard, and then only after the Court has heard the Cause, and try the Cause have appeared, and before any of them are sworn. 43 Eliz. cap. 5. And Writs to remove Suits commenced in an Inferior Court of Record that shall not be obeyed, unless delivered to the Steward of the Court before Iffie or Demurrer joined, etc. And a Suit shall never be removed again, after a Proceedings is allowed. 21 Jan. 1700. And a Suit may not be moved where the Thing in Demand doth not exceed 5l. or where the Freehold, Inheritance, Title of Land, etc., are concerned. And all Suits are to proceed in Suits in Inferior Courts laid not to exceed the Sum of 5l. (although there may be Actions against the Defendant, whereas the Plaintiff's Demands may exceed that Sum, by Stat. 21 Geo. 1. c. 29. If the Steward of an Inferior Court proceeds after an Habeas Corpus delivered and allowed, the Proceedings are void; and the Court of B. R. will award a Superfectus; and grant an Attachment against the Warrant for the Contempt. Cor. Cor. 79, 79. A Habeas Corpus fulfills the Power of the Court below, so that if they proceed, it is void, and cannot be made. And on a Habeas Corpus, if the Record be filed, no Proceedings can go to the Court below; but where a Record below is not filed, or not returned, it may be granted. 1 Saad. 352. A Habeas Corpus can remove the Body of the Party for whom granted, and all the Causes depending against him; and if upon the Return thereof the Officer does not return all the Causes, etc., it is an Escape in him. 2 Lill. Abr. 2. A Judge will not grant a Habeas Corpus in the Vacation, for a Prisoner to follow his Suit; but the Court may grant a special Habeas Corpus to be his Trial in the Vacation. Ibid. 3. And the Court may grant a Habeas Corpus to bring a Prisoner, not in Prison on Execution, out of Prison, to be a Witness at a Trial, though it is at the Peril of the Party foregoing the Writ, that the Prisoner do not escape. Style 119. Trin. 1640. But no Person ought to take out a Habeas Corpus for any one in Prison, without his Consent; except he be to turn him over to B. R. or charge him with an Action in Court. 2 Lill. A Man brought into B. R. by Habeas Corpus, shall not be removed thence till he has answered a Writ of Habeas Corpus till then, and after he may be removed. 1 Saad. 350. A Person is in Custody upon a Criminal, and also on a Civil Matter, if he would move himself by Habeas Corpus, there ought to be to be one Habeas Corpus of the Crown Side or Plea Side, and both Causes are to be returned. Med. Cas. 135. If there be Judgment against a Defendant in the Court of B. R. and Suit in c. B. on which he is in Execution in the Fleet, he may have an Habeas Corpus to remove himself into B. R. where he shall be in Custody of the Marshal for 30 days. Both Debt. Dyer 135. W. in O. The Chief Justice of the Court of King's Bench commits a Prisoner to the Marshal of the Court by his Warrant, he ought not to be brought to the Bar by Rules, but by Habeas Corpus. 1 Saad. 350. In extrajudicial Commitments, the
HA

Warrant of Commitment ought to be returned in such words on a Habens Corpus: but when a Man is committed by a Court of Record, it is in the Nature of an Execution for a Contempt, and in such Case the Warrant is never returned. 5 Mod. 156. The Cause of the Impolicy must be particularly for the further in the Height of the Habens Corpus, or it will not be good: for by this the Court may judge of it, and with a Paratium habet, that they may either discharge, ball, or remand the Prisoner. 2 Nolf Abr. 915. 2 Cr. 543. If a Commitment is without Cause, or no Cause is shown, a Prisoner may be delivered by Habens Corpus. 1 Salt. 348. But on a Habens Corpus granted by the Court of B. R. a Difference was made as to a Return; where a Prisoner is committed by one of the Privy Council, there the Cause of his Commitment is to be returned particularly; but when he is committed by the whole Council, no Cause need be alleged. 1 Lew. 70, 71. And it has been adjudged, that on a Commitment by the House of Commons, of Persons for Contempt and Breach of Privilege, no Cause need be alleged: But Halket, in the Case of a contrary Opinion. 2 Salt. 501, 404. A Writ of Error may be allowed by the King in such a Case, &c., and it is not to be denied on debito juri. The same: though it has been a Doubt, whether any Writ of Error lay upon a Judgment given on a Habens Corpus. Ibid. A Man may not be delivered from the Commitment of a Court of Oyer and Terminer by Habens Corpus, without Writ of Error: And where there appears to be good Cause, and a Defect only in the Form of the Commitment, he ought not to be discharged. 1 Salt. 348. If a Person be committed by the Admiralty in Execution, he is not removable by Habens Corpus into B. R. to answer an Action brought against him there: but it might be otherwise if an Action had been before depending. Ibid. 351. Where there is a precedent Action in B. R. to the King's Suit, on which the Jury is out on Bail, Habens Corpus may be brought by the Bail, &c., and the Prisoner turned over; though this was greatly opposed in Favour of the King's Execution. Ibid. 353. A Habens Corpus is a prerogative Writ, which concerns the Liberty of the Subject, and must be obeyed in Contempt of Justice, &c. If it is not, an Alias Habens Corpus will issue with a great Penalty. And on the Ineffectiveness of the Return of an Habens Corpus, an Alias Habens Corpus shall be granted. 2 Cr. 543. 12 W. 3, 5. B. R. Where an Action is founded on the Custody of London, for a Thing actionable there, and not elsewhere; if it be removed by Habens Corpus, a Procedendo Bail shall be granted: But the Declaration itself ought to be returned upon the Habens Corpus, and then the Court will see what was the Case. For the Special� Master and all the Proceedings are to be in the Return in this Case; as well as in an Action on a By-Law, to take Notice thereof. Carth. 75. 76. Before a Habens Corpus is returned and filed, it may be amended; but not afterwards. 2 Lill. Abr. 2. A Habens Corpus is grantable, without Motion, to remove a Person upon an Arrest; but not where committed for a Crime. 1 Lew. 1. In the Case of those Writs in B. R. to remove a Cause, &c., they are first to be carried to the other Court to be allowed; and some few Days after the Delivery, the Cause shall be called for; and Special Ball put in at a Judge's Chamber; which being done, within four Days in Term, and six Days in the Vacation, the Cause is removed to the Superior Court. Practil. Selic. 562. And if the Defendant be guilty, his Bail shall not be delivered from Prison till the Bail on the Habens Corpus be accepted, or justified in Court. Ibid. If a Defendant arrested cannot find Bail, and would be removed to the King's Bench, the Practice is the same; the Habens Corpus directed to the Sheriff of London and Middlesex is to be delivered, and he, after Search in his Office for what Writs he hath against the Defendant, will make Return of them, and then the Bailiff or Keeper of the other Prison, who hath the Defendant in Custody, is to carry him to a Judge's Chamber, where he will be turned over, as before. Ibid.

Form of a Habens Corpus returnable immediate.

G E R O G E the Second, &c. To the Mayor, Aldermen, &c. Greeting: We command you, that the Body of A. B. in our Prison under your Custody detained, on the ground and on the ground of his Taking and Detaining, by subisserauer Name the said A. B. shall be charged in the same, you have under safe and secure Custody before our Lord and faithful Philip Lord Hardwicke, our Chief Justice assigned to hold Pleas before us, at his Chamber in Sejaniss Inn in Chancery Lane, immediately after the Receipt of this Writ, to do and receive all such Things as the same our Chief Justice shall then and there consider of in this Particular, &c.

The Habens Corpus sum Cum, to remove the Body and Cause is made out as follows:

A Writ of Habens Corpus to remove a Cause.

G E R O G E the Second, &c. To the Mayor, Aldermen, &c. Greeting: We command you, that you have before us at Westminster on Tuesday next after the Oathe of St. Hillary, under safe and secure Custody, the Body of C. D. who is to be detained in our Prison under your, or one of your Custodiers, together with the Day and Cause of his being taken and detained, by whatsoever Name the said C. D. be then charged in any cause to B. R. of a Plea, or in an Action of Debt, &c. And further to do and receive all and singular Things, which our Court before us shall then and there consider of in this Behalf: And have you then there this Writ. Writters, &c.

Habens Corpus ad faciendum a Recipendum, A Writ issuing out of the Common Pleas for Defendants that are sued in Courts below, to remove their Causes into this Court: And if an Inferior Court shall proceed against the Law, in a Thing of which the Justice of C. B. have Cognizance, and commit a Man therefor, they may discharge him by Habens Corpus. 1 Mod. 235.

Habens Corpus ad Respondendum, Where a Person is imprisoned upon Process at the Suit of another, in any Prison, except the King's Bench Prison; and a third Person would sue the Prisoner in B. R. this Writ removes the Prisoner from the Prison where he was into the King's Bench, to answer the Action in that Court; and for that Reason it is called Habens Corpus ad Respondendum. 2 Lill. Abr. 4. And where a Person is in Custody in an Inferior Jurisdiction the Keeper of the Place of Prison, a stating his Writ is returnable in B. R. and then the Defendant cannot nonuit the Plaintiff, nor be bailed but by the Court of B. R. &c. Ibid. There is Mention in these of our
HA

our Books of a Haberus Corpus ad Subjiciendum, for a Criminal to submit to the Order of the Court.

Haberus Corpus ab Satisfactuentium, is had against Man in the First Action, &c. to charge him in Execution; which being delivered to the Warden will be sufficient. Pridif. Assis. B. 8. pag. 173.

Habendum, in every Case of Convoyance there are two principal Parts, the Premises, and the Habendum; the Office of the Firth is to express the Name of the Grantee and Granter, and the Thing granted; and the Habendum is to limit the Estate, by which the general Implication in the Premises may be qualified: As in a Lease or Grant to two Persons, if the Habendum be to one for Life, and the Remainder to the other for Life, this alters the general Im- plication of the Joynenancy, which would pass by the Premises, if the Habendum were not. 4 Rep. 55.

And where Things which are in Grant are conveyed to take Effect barely on Delivery of the Deed of Grant without other Ceremony; in such Case, if the Habendum be for a less Estate than in the Premises, or be repugnant to the Habendum, it is void; But when a Ceremony is requisite to the Perfection of an Estate granted, and not a bare Delivery only of the Deed; and to the Estate limited by the Habendum nothing goes, and peril is placed, though the Habendum is of a less Estate than the Premises, the Habendum shall stand good, and qualify the Ef- fect granted in the Premises. 2 Rep. 23. 2 Nef. 920. An Habendum may not only qualify what is granted in the Premises; but it may also enlarge what is granted, or explain the Premises: Though the Habendum shall stand good, and peril is placed, though he that is a Stranger to the Premises. 1 Jones 4. 3 Leson 60. If a Bargain and Sale be made, without ex- pecting to whom; although it were Habendum to A. B. who is a Party to the Deed, it is not good; be cause the Habendum is only to limit an Estate, and not to give any Thing. Cro. Eliz. 585. 903. 2 Litt. 8. If one Thing be granted in the Premises of a Deed, Habendum with another Thing, which is not appendant, &c. this other Thing shall not pass. Hob. 161. 172. None can take by any Deed, who is not named in the Premises; But though an Estate limited by the Habendum to a Man that is not a Party, is void by Way of Estates; it may be good in Rem- inder. Hob. 313. Godh. 51. See Dist. Habentia, Signifies Riches; In some ancient Chart- ters, Habenti Homines is taken for rich Men; and we read, Nor Rex sans paganum requirit, et Haben- tibus honos non dixisse Feudum Max. Man. Anglo. Tom. 1. pag. 100.

Haberballif. If any Persons work Hats with Foreign Air, they are served as a B队伍建设, to the Trade, &c. they shall forfeit the Goods and $1. And no Person may dye any Cape with Bark, &c. but only with Copperers and Gall, or Wood and Madder. Stat. 2 Eliz. 18. 7. None shall make Hats or Feis, that hath not suffered seven Years in Feis making; nor retain any but Journeymen who have lawfully served; or have about two Apprentices at once, and tho' not for less than seven Years Time, &c. in Pain of $1. a Month: But Hairutters may employ their own Children in the Trade. 1 Jac. 1. Eliz. 1. 177. And so are a great number of Haber- ballifiers in London, calling to them one of the Com- pany of Copperers, and another of the Hair-makers; and Makers, &c. of Towns and Corporations, may fetch all Hatters, and punish them that offend, by Fines. Stat. Had. A Statute was lately made to prevent the Exportation of Hats out of the Plantations, which being so severe, the Offenders are liable to $500. a Penalty; and for regulating the Trade of Hat-making there, &c. See Stat. 5 Geo. 1. c. 22.

Haber facias Posse Monens, is a Judicial Writ that lies where one hath recovered a Term for Years in Action of Ejectment Firm, to put him into Possession. F. N. B. 167. And one may have a new Writ, if a former be not well executed; but where Execution is made, and the Writ returned, the Court will never grant a new Haber facias Writ. See Misc. Min. 21 Car. 1. B. R. A Sheriff delivered Poffession in the Morning, by Virtue of an Haber facias Poffessionem, and some Time in the same Day after he was gone, the Defendant turned the Plaintiff out of Poffi- sion; and it was held, that if he had been turned out immediately, or whilst the Sheriff or his Officers were there, an Attachment might be granted against the Defendant; for this had been a Dissuance in Contempt of the Execution; but it being several Hours after the Plaintiff was in Poffession, the Court doubted, but agreed to grant a new Haber facias Writ. 1 Sulis. 321. 2 Nef. Abr. 779. If the Sheriff deli- vers Poffession of more than is contained in the Writ of Haber facias Poffessionem, an Action of the Cafe shall lie against him; or an Affidavit for the Land, Stat. 25. 199. The Sheriff cannot return upon this Writ, that another is Tenant of the Land by Right, but must execute the Writ, for that will not come into Issue between the Demandant and him. 6 Rep. 52.

Haber facias Poffissionem, is a Writ directed to the Sheriff to give Seifin of a Prehold Estate recovered in the King's Courts by Ejectment firme, or other Action. Old Nat. Br. 152. The Sheriff may raise the Poffiss Commissary in his Affidavit, to execute these Writs: And when a House is recovered in a real Action, or by Ejectment, the Sheriff may break open the Doors to deliver Poffission and Seifn thereof; but he ought to signify the Cause of his Coming, and require that the Doors may be opened.

Haber facias Stifum, is a Writ that lies in divers Cases in real Actions, as in Formode, &c. where a View is required to be taken of the Lands in Controversy. Reg. Jud. 16. 26, 6, &c. F. N. B. Haberdron, (From the Germ. Hal. Collum, & Corben, signer) An Helmet which covered the Head and Shoulders. Blunt.


Habemuriones of Estar, Armour, Utensilis, or Provisions for the Maintaining of War. 3 Eliz. cap. 109.

Habite, (Fr.) Signifies a Sea-port Town; this Word is used in 27 H. 6. cap. 3.


Habodote, (Sax) A Recompence or Awards for Violence offered to Persons in Holy Orders. Sax. Dict. The Malters and Their Men, and the Owners of Haber- ballifer in London, calling to them one of the Com- pany of Copperers, and another of the Hair-makers, and Makers, &c. of Towns and Corporations, may fetch all Hatters, and punish them that offend, by Fines. Stat. Had. A Statute was lately made to prevent the Exportation of Hats out of the Plantations, which being so severe, the Offenders are liable to $500. a Penalty; and for regulating the Trade of Hat-making there, &c. See Stat. 5 Geo. 1. c. 22.

Badgworth.
Hunting, or Hambled, or Hoghead, is the ancient Term used by Foresters for resisting. Manwood.

Hambled, or Hambled of Hogs, (From the Sack. Ham, i.e. Damen, and Germ. Leu, Lechbraum) Signify a little Villany, or Part of a Village or Parishes; of which three Words, Hamlet is now only used; though Kitchen mentions the other Two, Hamel and Hamtsel. By Spelman there is a Difference between Villam internum, Villam externum, and Hamletium, and these imposed on it to be the Seat of a Vintner.

Several Country Towns have Hamlets, in there may be several Hamlets in a Parish; and some particular Places may be out of a Town or Hamlet, though not out of the County. Woolf.

Hamfast, Breach of the Peace in a House. Brum- ten in Legibus 11. i. c. 16.

Hamlet, (Stat. Hamford) Is the Liberty or Privi-


Hambledon, A Squire or manorial Pledge, i.e. an
informer Undertaker for Headborough is the Superior or Chief of Spelm.


Hamb: is another, Is the Name of an unlawful Game, now disdained and prohibited by the Statute 17 Ed. 4. c. 2.

Hambury, In Measuring is Four Inches by the Stan-


Hamshurgh, From the Sack. hand, manus, and


Hamstaple, A Kind of Cloth. Stat. 4 & 5 Ph. Of M. c. 5.

Hamring, A Term for customary Labour to be done and performed. Mon. Ang. Tem. 2. p. 264.

Hamstere Hamstere. (From the Sack. Hen-


Hamstead, Mentioned in Domestacy, and by Spelman. See Hambrouck.

Hamstead, The Penalty of Taking and Killing them, by Statute 17 Geo. 1. &. Vide Game.

Hampstede. If any Vintner, Alchous keeper, &c. in London, shall permit any Harlots, or common Women of their Bodies, to sit, or stand on their Doors, or in the Window, or on the Stairs, or in any Part of their House, openly to solicit for Harlots, or to be Arab, or otherwise to be conversant or abide there; they shall be liable to Imprisonment, and also the Women and Harlots. Actid. Wardroom 23.

5 C

Barrow, Barron. An Oacity after fellows and Malefactors; and the Original of this Censure de Hare from the Normans. Cultum de Normann. Vol. 1. p. 104.

Bartering Irons. Are Iron Instruments for the Splitting and Taking of Whales: And those that strike the Fish with them are called Harmsieter. Merch. Dift.

Barriers, (Harreddi canes) Small Hounds, for hunting the Hare: Anciently several Persons held Lands of the King, by the Tenure and Service of keeping Packs of Angels and Harehounds. Cart. Ed. 1.

Barth, is a King or Male Deed of the Forest five Years old; and if the King or Queen do hunt any fuch, and he escape alive, then he is called an Hart Royal: And where by the Hunting he is chased out of the Forest, Proclamation is usually made in the adjacent Places, that in Respect of the Diversion the Beast has afforded the King or Queen, none shall hunt or hinder him from returning to the Forest: and then he is called a Hart Royal proclaimed. Manwood's Forest Laws, par. 2. cap. 4.

Bartholomew, May be licensed by Justices of Peace to go into other Counties to work. Gt. Star. 15 Edw. 3, 4 Cestr. c. 12.


Discharge, Certain Dana made of Clay and Earth, to prevent the Water suffling from the Works and Towns of Alum. Cart. Edw. 5.

Bath, is a River and Town, in the fourth River: And the Tenants of several Manors there are bound to do certain Days Work ad le Harte, or Harehounds, Stat. 37 Hen. 8. c. 23. And ad le Hare, Gate, or Door, some Hares sufficient on the Highway, near a common Gate, are called Harehounds.

Baths, and Taps, A Title in the Statue Law, for Stat. 8 Eliz. c. 7, Haresbath. Bath, (from the Fr. Hare) Is used for Harebat. Leg. W. 1. c. 16.


Beating or Butching, Signifies a green Plot in a Valley, as they use in the North of England. Camb.

Butterbuck alias Buttern, (Fr. i. e. Lurie) He that holds Land in France by Finding a Coat or Shirt of Mail, and to be ready with it when he shall be called, is said to have Hauerturicum Scutum, fist de Hauertb.; And Hauertb., with our Ancestors, had the same Signification, and so it seems to be used in the Stat. 13 Edw. 1. cap. 6.

Buttles, The Stealing of an Hare, or Concealing it, after Proclamation made by the Sheriff, is Felony in the Clergy: But this Intends only to long-winged Hares, of the Kind of Falcons; and not to Go-Hares, or Sparrow Hares, 34 Ed. 3. 37 Ed. 3. 39 Ed. 3. 39 Ed. 3. 40 Ed. 3. Sulf. 47. None shall kill or take away any Hare, or去 go to v. 10. c. 15. To be recovered before Justices of Peace, and divided between the King and Proctor.

Stat. 11. Hen. 7. cap. 17. A Hare taken up must be delivered to the Sheriff, if taken by a man Perison, to be proclaimed in the Towns of the County: And an Action of Trover and Conversion for an Hare reclaimed, and which may be known by her Vexels, Bells, Gt. Hawking for Game, &c. Games.

Basketh. Thoecellectual Fellows who went from Place to Place, buying and selling Brats, Pewter, and other Goods and Merchandizes, which ought to be sold in open Market, were of old so called; and the Appellation seems to grow from their uncertain Wandering, like Perons that with Hogs seek their Game where they can find it. They are mentioned Stat. 15 Hen. 6. cap. 6. and 13 Hen. 6. cap. 4. Hawkers and Pullers, Gt. going from Town to Town, or House to House, are now to pay a Fine and Duty to the King. If they travel with an Hare, All, the same is 8 l. and if on Foot, 4 l. and to be licensed by Commissars appointed for that Purpose, or liable to certain Penalties, and also to Pay a Licence. 1. Stat. 15 Hen. 6. cap. 25. But Traders in the Linen and Woolen Manufactures, sending their Goods to Markets and Fair, and selling them by Wholesale; Makers and Sellers of English Lace-Garments, going from House to House, are excepted out of the Act, and not to be taken as Hawkers, nor to be licensed. 2 Edw. 3. 25 Rich. 1, 6 Rich. 1. 3 Edw. 2. 1. If Hawkers and Pullers, offer any Ten, Gt. to Sale, though they have Singapore, the same may be allotted as forsook, Gt. by the late Act against running together, from running, as in the Stat. 26 Rich. 1. We see that those of their own Making: And the Sellers of English Lace-Garments, going from House to House, are excepted out of the Act, but are not to be taken as Hawkers, nor to be licensed. If Hawkers and Pullers, offer any Ten, Gt. to Sale, though they have Singapore, the same may be allotted as forsook, Gt. by the late Act against running together, from running, as in the Stat. 26 Rich. 1. We see that those of their own Making: And the Sellers of English Lace-Garments, going from House to House, are excepted out of the Act, but are not to be taken as Hawkers, nor to be licensed.
Begarbus, is an unlawful Game at Dice; and such that play at it are called Hazarders: And we read, Hazardors communiter ludem ad solius tale adjudicatar, quod per diei fine Dice in diversis locis punos pueris Collectiones inveniunt. The Eatables may not be Fed, because nothing pisseth juris Hereditatis but Fei; and by the Common Law a Man cannot be Fei to Goods and Churches: But the Creditor, call him Hereditum, qui ex Tenementi jurati in Usuram juxta Tepatris. Some Writers have made a Distinction of Heres jianni & Hereditatus: A Man may be Heres jianni & Tenementer; but he may not yet be subjected to be inherited of his Inheritance; and there is an Ulterior Heres, being he to whom Lands come by Eschat, for Want of lawful Heirs, &c. The Lord of whom the Lands are held, by the King. Bract Lib. 7. cap. 17. Heres, according to Sir Edw. Coke, is he qui ex juxta Notitia pretiosi victus, ad quem rei et Tenementer by the Act of God, and Right of Blood, do belong. Cap. 7. The eldest Son, after the Death of his Father, is his Heir, &c. And if there be Grandfather, Father, and Son, and the Father die before the Grandfather, and after the Grandfather dies the eldest; the Land shall go to the Son or Daughter of the Father, and not to any other Children of the Grandfather. Bract. 503. And this Heir is called Heres jianni & Representantis, because he doth represent his Father’s Person: But if in this Case, the Father die without any Child; his next eldest Brother shall have the Land as Heiress, or for Want of a Brother, it devolves to the Mother, or the Sisters of the Father. Ibid. A Man having If- fee only a Daughter, dies, leaving his Wife with Child of a Son, which is afterwards born, here the Son after his Birth is Heiress to the Land, but till then the Daughter is to have it. g. H. 6. 23. P. 3. There are some Persons who may not be Heirs; a Bachelor born before the time of the Conservator of the River of Thames, printed anno 1622. And these Persons are punishable by Statute 25. H. 7. 11. Beheading or Gashing, are Wears or Engines made laid at Ebbing Water. 23 H. 8. 5. Bebomans. (Lat.) A Week. See Week. Bebohumus. The week’s Man, Canon or Prebendary in a Cathedral Church, who hath the Care of the Choir, and the Officers belonging to it for his own Week. Reg Episc. Hereford. MS. See Also Edbury, Week. Is the Name of the Engine to take Fifth in the River Ouse, 25 H. 8. 18. Beccagium, is Supposed to be Rest paid to the Lord of the Fee, for Liberty to use the Engines called Hects. Becca, A small Haven, Wharf, or landing Place. Domif. See Hicbo. Begadium, Toll or Customary Duties paid at the Hicbo and Wharf, for the Landing of Goods &c. from which Exemption was granted by the King to some particular Persons and Societies. Carriol. Abbats. de Rodings, MS f. 7. Beigeboote. Is necessary Stuff to make Hedges, which the Leffe for Years, &c. may of common Right take in his Ground leafl. See Hicbo. Beigebootes. By the Statute 13 Eliz. cap. 7. Hodge breakers. St. shall pay such Damages as a Juxtime of Peace shall think fit: and if not able to pay the Damages, shall be committed to the Constable, to be whipped. And Convicted, and others may apprehend Persons suspected of Hodge-breakings, and carry them before a Justice where not giving a good Account by Word, &c. they are not only to make such Reprisal as the Justice of Peace shall adjudge, but pay a Sum not exceeding 10s. for the Use of the Poor, or be at the horse of Convulsion for a Month, by 15 Car. 2. 2. Persons convicted of Buying Beige.
names collected, and extends unto all Heirs: As under the Hears of Heirs are comprehended in Infinitum: if Lands are given to a Man and his Heirs, all his Heirs are so totally in him, that he may give his Lands to whom he will. Tri. 23 Tafl. 4. And Heirs are so favored by the Laws of the Hears, and the Ancitior could not give away his Lands by Will from his Heir at Law, without the Consent of the Heir, till the Statute 32 H. 8. c. 11. Hill. 25 C. 2 R. 4. The Words in a Will shall not be construed for the Benefit of the Heir: and not to disinher it him: And the Heir at Law is preferred in Chan- try in a doughtful Case. Noy 135. Chanc. Rep. 7. Where Lands were devised to the Heirs of J. S. then living: it was held, that his eldest Son should have them, though in strictness he was not Heir during his Father's Life, but Heir apparent: But this was by Reason of the Words then living, which made it a Declaration of the Perdon. Preett. Canc. 57. Not only Land, but Rent not due at the Death of the Anci- etor, shall, that to the Heir: To Corn down by Tenant for Years, where his Term expires before the Corn is ripe: everything fain to the Freehold, Timber-Trem, Dews belonging to the Inheritance. Deer, Cones, Fugina, Fife. &c. N. Abr. 427. An Heir shall enforce the Administrator to pay Debts with personal Efface, to prefer the Inheritance. Cl. 24 Tafl. P. 291. If an Exequator hath Affets, he is compellable in Equity to redeem a Mortgage, for the Benefit of the Heir; and it is the same where the Heir is charged in Debt. Hard. P. 511. And when the Heir is for a debt for the Debit of his Anciutor, and pays it, he shall be re-imbursed by the Executor of the Obligor, who hath personal Affets. 1 Chanc. Rep. 74. But if in Action of Debt brought upon a Bond against an Heir, there is no proof, to say, that the Executors have Affets in their Hands. Dyer. 424. For a Creditor may for either Heir or Execu- tor; and Heirs both chargeable upon Specialties. If an Heir hath Affets, and the Executor alto, it is at the Election of the Obligor to have Action of Debt against the one, or the other; but he shall not charge them doubly. Poen. 425. If an Heir has made over Lands fallen to him by Defeint, Execution shall be had against him to the Value of the Land, &c. if it be not sold bane fore the Action brought, in which Case there is a Saving by the Statute 5 of W. & M. cap. 14. And whether the Heir hath Lands by Defeint, shall be tried and enquired of, with the Value, by a Jury, to make the Heir answerable. § 122. It is Man that he-ld, that the Heir is never chargeable without an ex- press Liens and Affets; and even then not longer than he hath Affets, for he is not obliged to keep them till he is charged: But if he hath Affets, he ought to plead truly, and to confess them; otherwise Judgment shall be given against him de Terris propriis, for 'tis then his Debt. Jores 83. 3 Chak. 179. When a Man recovers against an Heir, by Default or Verdiet, on pledging Piuss per Defeint, a special Judgment de Ter- ris Defeint, may be entered against the Heir, and the Plainiff shall have all the Lands by Defeint in Execution: Though if the Judgment be general against the Heir, without praying such special Judg- ment, he can have only a Misset of the Lands by Elget. Poen. 456. 2 Lord. 16. Here the Plaintiff may, if the Heir hath such Land by Defeint, and pray to have Execution of all his Lands. Jores. 37. The Judgment and Execution shall be general, unless the Heir acknowledges the Ac- tion, and swears that he hath so much by Defeint: but if he will not swear what he hath by Defeint, he loses the Effect of the Law. Mich. 1 W. & M. 8 of 1669. Chanc. Fri. 692. Where an Heir is sued for the Debts of his Ancetor, his Body ought not to be taken in Execution, or any other Lands which he had not by Defeint: yet if the Heir do not shew what Lands he had by Defeint, it shall be presumed that he had Aff- ets to pay the Debt. N. Abr. 522. If the Heir, in Case where the Ancetor has bound himself and his Heirs, have no more such Land come to him by Gift or Tail, or Conveyance by the Grace of the Last Deceased, he is not chargeable at all: And in so Case lend him, or what is in Fee-simple, as where Lands are granted , 13. 8. and his Heirs during the Life of another, the Heir shall not be charge for this: there no more than for Land entailed, 10 Rep. 98. No Lands can be charged but Fee-simple; and therefore in a Suit against the Heir, the Judgment is only for the Land descended, and for other Lands, &c. but where it is by his own Fault, as by a false Plea, or the like. 1 St. 102, 376. A Man binds himself and his Heirs in an Obligation, and hath Lands and Heirs on the Part of the Father, and the Part of the Mother: the Heirs and Lands of both, and not of one alone, must be charged in Debt: And the Plain- ift shall have a special Judgment de Terris, and Execution shall not be had against both of them. 2 Rep. 25. Hob. 25. Alfo if one bind himself and his Heirs, and not the other, the Judgment shall be against him, and not his Heirs. 1 Best. &c. 9. An Heir is chargeable for the Debt of his Ancetor: but the Declaration must be special, and he is to be charg- ed as collateral Heir, not as immediate Heir; and if a Son happens to die, he must be lade by the Uncle and Heir of the Son, who was Heir of the Debtor, &c. Cor. Cas. 151. And a Child born, though he lives but an Heir, has the Fee of Lands united in him, and if he dies the Wills of the Parents need not shew how he is Heir; but he must lie in a Declaration, &c. though it is only for Form to set forth how the Perdon is Heir, because it is not transferable; and Heir, or no Heir, is insensible. N. Abr. 825. If an Heir ought to confess the Defeint on Action brought again him, and the Debt be not denied, it must be admitted, 1 Lor. 445. A Debts against the Heir, upon the Bond of his Ancetor, is to be brought in the Dobet and Deiniet, because the Heir himself is bound; and not in the Directum only, though that is cured by a Verdiet. 1644. 1 St. 5. An Heir is bound by the Bond of the Ancetor, unless he is ex- pressly bound: And if in a Bond a Man binds his Heirs, but not himself, the Bond is void. 2 Sound. 156. 125. &c. 1770. Also a Man shall never bind his Heir to Warranty, where himself was not bound: If he makes a Feintment in Debt, and binds his Heirs only to Warranty, the Feintment is void, for the Heir shall be bound to Warranty in such Cases only, where the Ancetor was bound, without which it cannot de- fend upon him. 1 St. 196. And Warranties and Éloppels shall defend upon the Heir general, and not upon any special Heir, &c. So that if a Man con- vey Land with Warranty against him and his Heirs, his Heir on the Ancetor's Part shall not be vouched by this, so long as there is an Heir on the Father's Part, &c. Hob. 24. A Grant of an Annuity must be for a Man and his Heirs, to bind the Heir, although there be Aliens: and when he is named, the Heir shall not be bound except there be Affets. 1 St. 146. Where a Perdon covenant with another to perform any Act, if his Heir be not named, he is not bound by it: But in Covenant of others, that covenant the Heir shall have the Benefit of them, though not named. 5 Rep. 8. 1 Roll. Abr. 520. An Heir may enter for a Condition broken, when the Condition is arrested at the Ancetor's Death. Mich. 1 W. & M. 8 of 1669. If there had been no Condition, the Land would have descended to him: And an Heir may perform a Con- dition, to save the Land. 2 N. Abr. 525.
Hir shall not have Money due on Montages in Ree, if he be not particularly named, but the Executor; and if the Day be past, although the Hir be named, the Executor shall have it. 1 Edw. 110. 2 Hen. 3. 148.

If Perl. be in Flux for Years of Lands of Inheritance, rendering Rent to his Executors and Aliens, the Hir shall have the Rent; for by the Reservation it is to continue after the Letror’s Death, and is incident to the Reservoir; though it was formerly held otherwise, the Hir not being named: And where it is referred to the Letror and his Aliens, it is otherwise. 1 Lec. 15. 14. 2 Rep. 350. Alters includes Allors in Great Gri. If a Woman keeps Land from the Hir, on Pretence of being with Child by the Hir’s Ancello, her deceased Husband, the Writ of Partecipans is to be granted to search her, &c., that the Hir be not defrauded. F. N. B. 237. The next Hir Male is to bring Appeal for the Death of his Ancello, &c. And Hirers may have divers Writs, as Writ of Mortmain, Entail or common Law Lign, in cafe Prouch, and Confinali cafe, Quo optimo &c. See Dijest, &c.

Aer apparent, is one during the Life-time of his Ancello; all the Letror’s Death, he is only Hir apparent, or at least. 1 Inf. 8. Bonds and Bargains with such an Hir, to have double or treble the Money lent, after his Father’s Death, &c. are set aside in this State, unless one bring what is lent bona fide, with Interrell, if the Obligor applies for Relief: Though in case the Obligor fies, he shall not recover what would be so added fraud ulc, 2 Febr. 259. 1 Febr. 141. Where young Womans enter into any Bond, Clermeny relieves against it, without Evidence of actual Impoision; because there is a fup ped Difter in the State, that all Liables is to be here be impoised on. Barnardiff. 451.

Bietaffe, is a Female Hir to a Man, having an Easate of Inheritance in Lands; and there are divers Cases of this; therefore, it is said to be kept or Ca be be in the State. Stealing an Hirnay, and marrying against her Will, with Felony. See Forkable Marriage.

Beatifall, (From the Sax. Heire, i.e. Herre, &toma, Membrum) Comprehends divers Implement of Houseold, such as the first bed Bed and other Things, which by the Custom of some Crowns have been used by a House as Contumacies, and are never inventoried after the Decease of the Owner as Chastellars, nor do they go to the Executor, but ac ce to the Hir with the House itself by Contum, and not by the Death of the Owner; and there is not devise able by Testament; for the Law prefers the Contum before a Devise, which takes not Effect till after the Death of the Tithe, and that they are well in the Hir by the Contum. Co. Litt. 18. 185. But Sale in a Man’s Life-time might make it otherwise. The ancient Jewels of the Crow are Heir’s, and shall defend to the next Successor; and are not de viceable by Will. Hol. 185. And Heir’s, &c. in general are said to extend to all large Houseold Imple ments; of which Spein says thus: Omne Utensile, velut quod ad omnitem non facile revocatur, idoneo in mosta gnamum levitatum or ad heciam transfus, tantum membra borectias. And Sir Edw. Coke says, Confutacsi Hunderti de Scotfand in Care. Oxon of, quod Heraedis Testamentum, et Mortem auterflis forum habebant, &c. Principum, Anglice, &c. Heire, heire, ut, de quidam genus Catarum, Utrumque, &c. Optimis Planis in illo Catarum, optimis Cat. &c. Co. Litt. 18.


Birkhill-Attall, Is an End Wall, that defends the Rest of the Building, from the Sax. Highla, to co ver; hence a Thatchier, Slater or Tiler, who covers the Roof of a House, is in the Western Parts of Eng land called a Helifor. Paroch. Antq. 573.

Brimp and Flux, None may water Hump or Flux in any River, running Water, Suleane, or common Pond, where Beals are used to be water ed, but only in their several Ponds, &c. for that Pur pose, in Pain of 201. Stat. 33 H. 6. c. 17. Perils coming from abroad, using the Trade of Hump or Flux Diving, and of making Thread, Weaving Cloth made of Hump or Flux, or making Tapestry Hangings, Twine or Nexts for Fishery, Cordage, &c. after three Mile, to the Privileges of Natural born Subjects. Stat. 15 Car. 2.

Brenchman, Hengman, A German Word, signify ing Domestium; it is used for a Man that runs on Foot, attending upon a Peer or of Honour. 3 Ed. 4. 5 24 H. 8. 13.

Brenteney, A Culinary Payment of Money, instead of Hens at Christmas; mentioned in a Charter of King Edward 3. Mon. Angl. Tom. 2. p. 527. Da Trento is of Opinion, it may be Hen’s egg, Gallinum, or a Composition for Eggs: But Gallus thinks it is misprinted Hen stra, for Henstra or Head stra.

Brenhen, (Sax.) A Good, Prison or House of Correction. Leg. H. t. c. 65.

Bropfinch, (Sax. Hreopfinch, i.e. Field to the House or Henhouse) is in the same with Happyfield, the Maller of a Family. LL. Comit, cap. 40.

Bredenheyf, (From the Sax. Hreofeyf, focus & Pen guy, Destanay) Olim Rumeley, and pizena Penpen. Leg. Edgar. say Brumps, c. 5.

Herbal, Hered, or Hearoth, (Ital. Heredes, Fr. Heredes, qualis Heres alius) Signifies an Officer at Arms. It is said by Hein, thinks it may be divided from two Dutch Words, viz. Here, exercitii & Health, pagi Magno nius; as if he be should be called the Champion of the Army; and the Romains called Heralds, Feloces. Poly- dore, lib. 19, def. 29, habens in ipso Generis Armamentis, quem Haren scitun, quem praef lies Armamentorum Rex vocator, si belli & pacis num e tantum Dux, omnes declamites, et judicium Gentilium, Civitatum, & Conferens et com pretiosis Armamentarum Rex intercursum, at corum funera curatam. The Function of those Officers, as now exercised with us, is to denote War, proclaim Peace, and to be employed by the King in Martial Meditations. They are Executive and Judges of Gentilems, Costs of Arms, and Conferers of Genealogies, and they marshal the Solemnities at the Coronations, and Funerals of Princes, and other great Men. The three Chief of these Officers are called Kings or Armours of such a House, as of which the Principal, influent by King Henry 5. whole Office is to attend the Knights of the Garter at their Solemnities, and to marshal the Funerals of the Nobility. And King Eduard 4. granted the Office of King of Heralds to one Garter, cum Pani di et Profess, ab antiquo, &c. The next is Clarence ness or Clarenceu, ordained by Edward 4. who atta ining the Dukeedom of Clarence by the Death of George his Brother, whom he behedad for aspiring to the Crown, made the Herald, belonging to’th at Dukedom a King at Arms, and called him Clarenceu; his proper Office is to marshal and dispose the Funerals of all the lesser Nobility, Knights and Illustrious, through the Realm, on the South Side of Trent. The Third is Northern, or North Roy, whose Office and Bunfeis is the fame on the North Side of Trent, as Clarenceus on the South, which is intimated by an Name, signifying the Prince of the North. The three Officers are all distinguished as follows, viz. Garter Rex Armamentum Anglice, namis Indicibus; Clarenceu, Rex Armamentum Euthem; Norroy, Rex Armamentum Euthem; or, in short, Kings at Arms, there are Six inferior Heralds, according to their Original, as they were created to attend Dukes and Great Lords, in Martial Expedition, i.e. York, Lancaster, Chester, Windsor, Richmond, D, and
and some.
The four former [influenced] by King Edward 3, and the two latter by Edward 4, and Henry 8. To these, upon the Coming of King George to the Crown, on Account of his Hannerooman Dominions, a new Act was made, called Henry VI, and another added, called George King at Arms. An Act 11 Geo. I. And lastly, to the Superior and inferior Heralds, are added four others, called Marshal or Purveyor at Arms, who are commonly placed in the Places of such Heralds as die, or are preferred; and they are Blue Maule, Rouge Croix, Rouge Dragon, and Purvazal, all equipped with proper Ensigns, Badges and Distinctions. The same are not only frequency been made a Corporation or College under the Earl Marshal of England, with certain Privileges by the Kings of this Realm: Concerning, &c. Heraldic Armorum, &c. see also all Heralds, Professors for Purvaulandi Armorum, qui pro tempore fuent, impermeant, fin munus Corporum Corporatum, in re, facta, &c. noni: habentque suciem formam perpetuum, nec non quidem figuram commune, &c. Dast. &c. Spelin. Glof. Herald's Court of Honour. See Hear Courts.

Hebrews, (Herbaugum) is the green Pusture and Field of the Earth, provided by Nature for the Bire or Food of Castle: And it is used for a Liberty that a Person hath to feed his Castle in the Ground of another Person or in the Forest, C. W. 4, Cap. 2, F. 157. Hebrews, Hebrews are. (From the Fr. Herberge, i.e. Haussers accipitres) Signifies an Officer of the King's Household, who goes before and assists the Noblemen, and thence to the King's Retinue, their Lodging. It has also been taken for an Inn-keeper, who has the Care of Lodging and Harbouring his Guests. Kitch. 174.

Hotberg. (Sax.) A House of Entertainment; whence Herberg, to harbour and entertain.

Hotber, (Sax.) A Wharf for Inn, take.


Hotes, The same as Hores and Signifies likewise a Candlestick set up in Churches, made in the Form of an Harrow, in which many Candles were placed; these Candelsticks were used on the Sepulture of Perfons, and for other Ecclesiastic Uses.

Herbert, (From the Fr. Hercez, to harrow, and Arabzat.) Arabzat or Hermeticz or Carium Dami, i.e. They did plough and harrow at the Lord's Maize, John 4, ii. 26.

Hereticz, (Heredogzca) A Grange, or Place for Castle and Husbandry. Mon. Angl. Tom. 3.

Heretiz, Heretiz, or Cassioli Work done by Shepherds, Heretizmen, and inferior Tenants. Repl. Eccles. Christi Cant. MS.

Heretizmanum, (Sax.) Hors, exercizet, &c. Ben Exizetum, Multa. A Molf for not going armed into the Field, when called forth. Spelm.

Here, From the Sax. Here, and Bode a Melfinger) The King's Edict commanding his Subjects into the Field.

Herecuten, (Herecutter) Signify all such immovable Things, whether Corporal or Incorpo- real, which a Man may have to him and his heirs by Way of Inheritance; and which, if they are not otherwise devised, devolved to him is next Heir, and fall not to the Executor as Chellots do. 32 Hen. 8, cap. 3. It is a Word of very great Extent, comprizing whatever may be inherited or come to the Heir; be it Real, Personal or Mix'd, and though it is not held, or lie not in Tenure. Ca. Litt. 6, 16. And in the Grant of Herecuten, to Ministers, Manorors, Houses, and Lands of all Sorts, Rent, Services, Adowizion, &c. will pas. Ibid. Herecumenum of some good jurid hereditari ad Heredem transtari. Coke.

Herefors, (Sax.) A going in a military Expedition, or to a Warfare.

Heregliz, A Tribute or Tax levied for the Maintenance of an Army. See Tax.


Hereinbekz, An ancient Word signifying Archdeacon. Here, a Soldier hired for the Wars, disemloyed without Licence; from the Sax. Here, and Silces to depart, or Silces, sendere, difficere. 4 Inf. 128. This Word is also writ Hergezis and Herzijn.

Herez, (Heryz) is an Optinal Council, to found Principles of Religion; among Protestants it is taken for a false Opinion repugnant to any effeptual Point of Doctrine of the Christian Faith revealed in Scripture, and obdilinately maintained and perfidiz in, by such as profess the Name of Christ. Some Authors say it's properly the Obliquity that makes the Crime of Heryz, and not the Error; for when a Man is humble, and ingenuous, and desires to receive further Light and Information, giving everything urged against him as its due Weight: he is not guilty of Herez. There is no express Law or Statute that determines what shall be called Herez, it being impossible to set down all the particular Errors which may be said to be Herez, concerning which there have been so many Disputes: Yet as the Stat. 3 Eliz. cap. 1, directed the High Commission Court, (since aboliz) to refrain the same to what had been ad-judged to be Herez or Disobedience in the Scripture; or by the first four General Councils, or any other general Council wherein it was declared Herez by express Words of Scripture; or as should be determined to be such by the Prerogative of the Crown, affecting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.

The Archbishop, or Bishop of the Dioceses, have Power to convict any for Herez if this is by the Common Law. And by the 23 Hen. 8, &c. the Archbishop of either Province may cite any Person before him for Herez, if the immediate Ordinary or Bishop, after consulting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.

The Archbishop, or Bishop of the Dioceses, have Power to convict any for Herez if this is by the Common Law. And by the 23 Hen. 8, &c. the Archbishop of either Province may cite any Person before him for Herez, if the immediate Ordinary or Bishop, after consulting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.

The Archbishop, or Bishop of the Dioceses, have Power to convict any for Herez if this is by the Common Law. And by the 23 Hen. 8, &c. the Archbishop of either Province may cite any Person before him for Herez, if the immediate Ordinary or Bishop, after consulting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.

The Archbishop, or Bishop of the Dioceses, have Power to convict any for Herez if this is by the Common Law. And by the 23 Hen. 8, &c. the Archbishop of either Province may cite any Person before him for Herez, if the immediate Ordinary or Bishop, after consulting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.

The Archbishop, or Bishop of the Dioceses, have Power to convict any for Herez if this is by the Common Law. And by the 23 Hen. 8, &c. the Archbishop of either Province may cite any Person before him for Herez, if the immediate Ordinary or Bishop, after consulting the same. These Rules may be a good Direction to the Judges of the Ecclesiastical Courts in Relation to Herez, 3 Inf. 40. H. P. C. 3, 4. Opinions condemned by Scripture, or by the four first General Councils, or of Nice, Ephesus, Constances and Chalcedon, shall be accounted Herez. 1st Cent. 210. See 55. 57.
HE

Writ de Excommunicato capendo, till he make Satisfac.
tion to the Church. And denying the Truth of the
Carnified Religion, or the Divine Authority of the
Holy Scriptures, &c. is liable, for the second of
Offence, to three Years Confinement, and divers Dis-
abilities, by Stat. 9 Eliz. c. 32.

Heretic (Heretico) Is one that adheres to and is
consider'd of Herey, or that maintains any Opin-
ions or Principles contrary to the Christian Reli-
gion: And a Person is not an Heretic by doing a
Thing condemned or forbidden by the Go[ple], but
by an Open and avowedly Proceeding to that End,
which is opposed to some Article of the Christian Faith. See Heretae
Commodi que.

Heretica. (From the Sax. Here, exercitatio, and ta
gere, acc) The General of an Army; a Leader or
Commander of military Forces. Ll. Ed. Conf. c. 55.
De Caese says, the Hereticuor were the Barons of the
Realm:—Interjuxt Episcopi, Comites, Viccinii,
Hercuchi, Lr. Leg. H. 1.

Heretum, A Court or Yard for drawing up the
Guards or military Reins, which usually attended
our Nobility. Hop. c. 1136.

Heretipsum. A Sort of Garment called by that
Name. Bl.)

Heritt. (Heritium) Is in the Sax. Heretum, Belli-
ca apparatus, derived from heres, i. e. Exercitio, an
Army, and erit, to bear, erit, to bear in the Exercitum eritum; and signifies originally a Tribu-
ate given to the Lord of a Manor for his better
Protection of the same. By the Laws of Canons, at
the Death of the great Men of this Realm, so many
Horses and Arms, were to be paid as they were in
their respective Life times obliged to keep for the
King; Sir Richard de Herd, Sir Thomas Heret, Sir
Heret, (from Herit Lord) the Lord's Beal: And
it is now taken with us for the bell Beal, whether it
be Herit, Ox, or Cow, that the Tenant dies po-
fered of, due and payable to the Lord of the Manor;
and in some Manors, the bell Beal, Goods, Piece of Plate,
Lr. Kitch. 135. Is Herit-Servito, or Her-
it-Caunum. Herit-Servito is payable on the Death
of Tenant in Fee-Simple; and Herit-Caunum upon
the Death of Tenant for Life: When a Tenant holds
by Service to pay a Herit at the Time of his Dis-
cess, as is expressed, and especially referred in the Deed of Feoffment, this is Herit-
Servito; and where Herit has been cullommary
paid Time out of Mind, after the Death of Tenant
for Life, this is Herit-Caunum. Cm. Liv. 185. Herits
by Custum are commonly paid for Copisold Eates;
and if an Herit is reserved upon a Leaile, it is Heri-
it-Servito, and incident to the Reverience. Lr.
1106, 1157. For a Herit goes with the Reverience,
as well as Kent; and the Grantee of the Reverience
shall have it. 2 Saund. 165. Although a Herit re-
ferred upon a Leaile is called an Herit-Servito; yet
it is not like the Cale where a Man holds Land
by the Service of paying an Herit, &c. because where
an Herit is reserved upon Leaile, the proper Remedy
is either a Diffre, or Adition of Covenant grounded
on the Contract for the Leaile cannot bea, as the
Lord of a Manor may do, the Beal of his Tenant
who holds of him by Herit-Servito. Kelso. 85. 84.
There may be a Copisold in Leaile for Lives, &c.
to render the bell Beal, or so much in Money for an
Herit, at the Election of the Leaile; in which Case
an Action will go. But in the time of the Ac-
cept, before Action may be brought for it, or a Di-
diffret taken, Lr. 2 Litt. Abtr. 19. For Herit-Servi-
to, the Lord may distrain any Beal belonging to
the Leaile, but it has been held, that the Lord may distrain any Man's Beals which
are upon the Land, and retain them till an Herit be
satisfied. 1 Inf. 185. Litt. Rep. 53. And if the Te-
nant deviseth away all his Goods, &c. yet the Lord
shall have his Herit on the Death of the Tenant.
Stat. 13 Eliz. c. 9. For Herit-Caunum, the Lord
is to be, not distrain; and he may seize the bell
Beal, &c. though out of the Manor, or in the
King's Highways, because he claims it as his proper
Goods, by the Death of the Tenant, which he may
seize in any Place where he finds it. Kitch. 267, 2
Inf. 135. 2 Nisf. Abtr. 951. The Lord may properly
seize for Herit-Caunum, and take a Diffret for 2. 7.
Heret-Caunum: And for Herit-Caunum, he may seize any where; but for Herit-Servito, on the Land only: Though it has been adjudged, that a Herit Caunum or Service, may be seized any where; but one cannot distrain for
them out of the Manor. Plowd. 96. Kelso. 84.
Sal. 596. Where a Woman marries and dies, the
Lord shall have no Herit Caunum, because a Feme
Covert can have no Goods to pay as a Herit. 2 Lw.
259. And when a Herit is to be paid by a certain Life of his own Goods, an Allonge is not liable to
pay the Herit; his Goods not being the Goods of
such Life. Cro. Car. 315. 2 Nisf. 952. If the Lord
purchases Part of the Tenancy, Herit-Servito is ex-
tinguished; but it is not so of Herit-Caunum. 8 Rep.
107. There is this Difference between Herit and
Relief; Herit has been generally a Personal, and Re-
leaf always a personal Service.

Herestill. (From the Sax. Heres, and Syll, i. e.
Sallum) Military Service, or a King's Fee.

Herestall. (Sax. Here, an Army; and Stell, Statio,
A Castle. Bl.)

Heretophrastius (Heretophrastus) A Person that
is both Man and Woman. Ljz. Diet. And as Heret-
ophrastis partake of both Sexes; they may give or
revert Goods, or inherit Heirs to any, and shall
take according to the Laws of Hse. 1 Inf. 145.

Heretum, Among the Saxon was a great Lord;
from the Sax. Hes, i. e. Major, and Merv, Dominus.

Hermantium, (Hermantianum) The Habitation of a
Hermite; The Hermanty is famed; but in an old
Charter Mention is made of Capista, fine Her-
miterium, where it should signify a Place of Prayer
belonging to an Hermanty. See Hermiturium.

Herrting Stilber, Seems to be a Composition in
Money, for the Custum of paying such a Number of
Herrings, for the Provision of a religious House, Cm.
Place Ten. in St. Tris. 18 Ed. 1.

Herrings. It is unlawful to buy or sell Herrings
at Sea, before the Fishermen come into the Haven,
and the Cable of the Ship be drawn to the Land.
31 Ed. 3. Stat. 2. No Herrings shall be sold in any
Vessel, but where the Barrel contains 32 Gallons,
and Half Barrel and Farkin accordingly; and they
must be well packed, of one Time's Packing and
Salting, and be as good in the Middle as at the Ends,
22 Ed. 4. cap. 2. The Vessels for Herrings are to be
marked with the Quantity, and Place where Packed;
and Packers to be appointed and sworn in all Fishing
Ports, &c. under the Penalty of 100 S. Stat. 15 Car.
2 cap. 10.

Hes, An Emissary.—Ulp. ad quodam Hes-
iam ante Muffington, Lr. Chart. Antiq.

Hes, A Corporation of the Lat. Illicita, signifying
a little Loaf of Bread.

Hetangon, King of Scotts, in his Return from the
North, after a Victory, went to Beverley, where he
gave God, &c. Suzaym enault, orvartet ditus
Hersenius, provincial in Domini. Etuidis in billi

Hets. A Cason or young Cockrell.

Quando Rex ibi venebat, reddebat et unanquevus
Roscava 200 Heelas. Demofag.

Bottim and Whitchurch. Ancienly Hapsgfeld, was a County of itself, and likewise a Bishoprick, en-
dowd with great Privileges: But by the Stat. 14 Edw. 1. the Hereticks and Heresies, Shall be within and accounted Part of the Country of North-
umberland. 4 Inf. 22.

Brompton, A Net for catching of Conies; a

Hubrig, (Hydagen) Was an extraordinary Tax, payable to the King for every Hide of Land. Brad-

Bown writes of it thus. Sunt enim quatuor communes Pretationes, qua ferivitia non disuvier, nec de Concom-
tutae omniuis, nec cum meridias interisserat, nec cum
Rev. generis; sort venar Hidagia, Corgia, & Carva-
gia, ex coagia communis utinm Regis introducta, &c.
Bradt. lib. i. cap. 6. This Taxation was levied not only in Money, but Provision of Armour, &c. And when the Danes landed at Sandwich, in the Year 994, King Ethelwyld taxed all his Land by Hides, so that every 80 Hides found one Ship furnished; and every 8 Hides found one Jack and one Saddle, to arm for the Defence of the Kingdom, &c. Sometimes the Hides were not recked for the being quiet of that Tax; which was also called Hidagia, and inter-
preted from the Saxone, a Price or Ransom paid to save one's Skin or Hide from Beating. Sax. Dict. 890.

Hide of Land, (Hyda Terra, Sax. Hideland, from Hyda, regere) Is such a Quantity of Land as might be plowed with one Plough in a Year; or as much as would maintain a Family. Terms de Lo. Crompton in his Jurid. says, it contains an hundred Acres; and others hold it to be four Yard-Lands: But Sir Robert Bourn says it is a Hide, 90 Plough-Land, Yard-

Rit, &c. contains no certain Number of Acres. Co. Litt. 69. The Distribution of England by Hides of Land is very ancient; Mention being made thereof in the Laws of King Leo, cap. 14.

Hide and Main, Signified arable Land; to gain the Land, being as much as to till it. Co. Litt. 85.

Birt, A Place of Protection or Sanctuary. Stat. 1 H. 7. cap. 7.

High Treasury, (Losch Majestatis) See Treasury.

Highway, (Pia Regia) Is a Passage for the King's People, for the Repair of the King's Common Highways; but the Freehold of the Soil is in the Lord of the Manor, or the Owner of the Land on each Side; and if there are Trees and other Profits there, they belong to him. Dalt. 76. Our Books mention three Kinds of Ways, 1st, A Foot-way, which is called irs, quod est vandi vel ambulandi hemini. 2d, A Foot way and Horse-way, which is termed altas ab agenda; and this is called a pack

and primeway, because it is both a Foot-way, which was the first or primeway, and a pack or drift way also. 3d, A Horse-way and Sight-way, which contains the other two, and likewise a Cart-way, &c. And this is either the King's Highway for all Men, or Commons prata, belonging to a City or Town, &c. and is called by our ancient Writers Chinnia, be-

ing a French Word for a Way. Co. Litt. 56. Any one of the aforementioned Ways, may properly be called the Highway; if common to all the King's People; and so may a private Way that leads from Town to Town, and is a Through way: If a Way leads to a Market-Town, is a Way for Trave-

lers, and has a Communication with a great Road, it is a Highway; but if it leads only to a Church, a Village, or the Fields, &c. there is a private Way. Co. Litt. 56. Venet. Rep. 189. A Foot-way

common to all People, is a Highway, although it do not lead to any Market-Town: A common Street

is a Highway; and so may a River be said to be, that is common to all Men. Ibl. Highways which lead from one Town to another and those Highways that are Drift ways, or cart ways, leading from Market to Market, that are Ways for all Travel-

lers, and great Roads, or do communicate with them, are only under the Care of Surveyors, as to Repa-
rations, &c. 1 Inf. 181. A Highway lying within a Parith, the whole Parith is of com-
mon Right bound to repair it; except it appear that it ought to be repaired by some particular Person either various Tenure, or by Pretension. 1 Kei. 185. Style 163. The King by the Common Law may award his Commission for amending the Highways and Bridges throughout the Realm. Dalh. 57. And all the Country ought to make good the Repairs of a Highway, where no particular Persons are bound to do it by Reason the whole Country have their Eas and Vantage by the said Way. Co. Rep. 135.

By the ancient Common Law, Villagers are to re-

pair their Highways, and may be punished for their

Decay; and if any do injure, or brazen the High-

way, he is punizable in the King's Bench, or be-

fore Justices of the Peace, in the Court Leet, &c. 27

Ast. 63. Camp. Jurif. 76. A Hamlet within a Parith is not obliged to repair a Highway, except it be by Pretension for Reason of its Lordship, because of common Right the whole Parith is charg-

ed with it: But though a Hamlet be not bound to the Repairs of common Right, yet a Vill may. Style 163. Private Ways are to be repaired by the Vill-

age or Hamlet where they lie; and sometimes by particular Persons. 1 Febr. 189. Where a Par-

ith is indited for not repairing a Highway, they cannot plead Not guilty, and give in Evidence that such a one is bound to repair it, either by Ten-

ure, or Pretension; for the Parith is chargeable to repair it. Co. Rep. 135. The King may dis-
courage them, &c. if they would discharge themselves. 1 Febr. 256. I Mod. 112. The General Issue Not guilty, goes only to the being in Repair, or not; and a Special Inditment ought not to be given in Evidence upon the General Issue. 1 Saga. 287. On Inditment against a Parith, they can give nothing in Evidence upon Not Guilty, but that the Way is in Repair: Though where a private Person is indi-
ted for not repairing a Highway, he may give in Evidence that another is to repair, because he is not. Ref. Red. it is called the Parith in. Mich. 8 W. 3. 3 Saga. 184. Though a Highway be not forth in the Inditment to lead to any Market-

Town, it has been adjudged no Objection; for every Highway leads to some Market-Town, or Vill, &c. Nor is it necessary to shew that the Professors of a Man, for not amending an Highway, are Surveyors, &c. 2 Red. Rep. 412. But the Inditment must shew with Certainty, in what Place a Necessity was done, the Extent of it, &c. And the Fait is to be

forth in proper Terms, that the Court may judge of it. 1 Harw. P. C. 220. An Indictment con-
cerning the Highways ought to set forth that it is the King's Highway, and for all the King's liege People; or it may be quashed. Co. Litt. 65. The Indictment must shew from What place to What place the Highway leads, &c. Hilly. 9 W. 3. Style 356. Upon an Indictment for not re-

pairing a Highway, if the Defendant produce a Cer-

tificate before Trial, it is to be considered whether it shall be admitted to a Fine: But after Verdict, the Certificate is too late, for then he must have a Con-

fut to the Sheriff, who ought to return that the Way is repaired. Because the Verdict, which it must be answered by a Record. 251. And where the Defendants, indicted for not repairing a common Foot-way, confuted the Indictment, and submitted to a Fine; it was held, that the M
not ended by their being fined, but that Writs of
Habeas Corpus, in the Burthen, as they have the Court of B. R. is certified that the Way is repaired,
as it was when it was at bell; but the Defendants
are not bound to put it in better Repair than it has been for 3 Salk. 328. If a Defendant
made a Highway, as good as it is capable of
being made, it was paid in an extraordinary Cafe,
this shall not discharge him, on an Information
against him: though it may be a Mitigation of his
Fine. 3 Salk. 183. Allo it is no Excuse for
the Inhabitants of a Parish indited at Common Law,
for not repairing the Highway, that they have done
the Work required by Statute; for the Shall be
made in Aid of the Common Law: And when the
Statute-Work is not sufficient, Rates and Affirmances
are to be made. Dall. c. 26. The Pretermint
of a Justice of Peace on the Statute of 5 Edw.
upon its own Knowledge of a Highway out of Repair,
is of the same Effect as a Pretermint of twelve
Men; but the Authority of Justice of Peace is li-
imited only to common Highways, and not to private
Ways; and the Pretermint of the Justices may be
traverled by the Defendants, &c. On a Pretermint of a
Highway, or Repair, and the Inhabi-
tants of such a Parish ought to repair it: upon a
Traverle to this Pretermint, the Jury found it was not
a common Way, and on that ground it was adjudged that
the Inhabitants ought to have pleased Reparare non
debitur, and that such a Person, naming him, ought
to repair it: but by taking this Traverle, the Preterm-
intment is admitted to be a Highway. A Pre-
termint before Justices of a Way out of Repair,
may be removed into B. R. And an Indictment for not repairing of Highways, may be
lodged by the Plaintiff in the Statute 5 & 6 W. & M. m. All Matters concerning Highway,
&c. are to be tried and determined in the County
where they lie; and no Pretermint, Indictment,
or Work made by virtue of this Act, shall be re-
moved by Certiorari out of the County. Though if
the Right or Title to repair such Ways come in
Question, upon Suggestion and Affidavit made there-
of, a Certiorari may be had to remove the Indictment
into B. R. notwithstanding the aforesaid Statute
5 & 6 W. & M. cap. 11. In Cafes of Trials on In-
dictment for Highways, the Persons in the Parish who are no ways liable to the Repara-
tions will be good Evidence; but Perasons charge-
able to the same will not. Hill. 4 & 5 Car. 2. See Stat. 1. om. c. 18. A Person may be indicted for not repairing a Houle standing upon a Highway, which is ruinos, and like to fall down, to the Dan-
ger of Travellers, whatever be its Typical, which in such Case is not material. 1 Salk. 337. And in
Respect of Inclosure of Land, wherein a Way lies,
particular Perasons may be liable to the general
Charge of repairing a Highway. H. P. C. 144. 8
H. 7. 5. If any Person include any Part of a Highway,
or Waffe adjoinning, he thereby takes upon
him to keep the Way in Repair; but if afterwards
he lays it open again, he shall be dischargd from
the Reparation, and the Parish is to repair it. 1
Sid. 464. Cra. Car. 306. Where a Man encloses his
Land on both Sides of a Highway, though he makes the Way better than it had been, by the Enclosure,
he is bound to keep it in Repair at his own Charges;
and the Country is freed from the Charges of it. Sir Diffringson shall be ordered to do in it if a Per-
son encloses Land of one Side of the Way only,
and it was anecoldly enclosed of the other Side; he
makes that the new Inclosure, is to repair the whole
Way; though if there be not any Inclo-
sure of the other Side, then but half of the Way is
1 Dawe. Abr. 783. When any Person turns a High-
way, or encloses a Field to his own Benefit, leaving
the Way, he is to repair the same; also to keep it in
repair, and make it passible, although it were foundeous
before. Cra. Car. 306. If a Highway leading through a
Field is foundeous, Travellers may go out of the
Track-way, notwithstanding the Field, if the Corn grow
in it; and where it hath been used Time out of Mind
for the King's Subjects to go by Outlets on the Lands
next the Highway, when the Way is foundeous, the
Outlets are a Part of the Way; for the good Pal-
fage is the way. Tello. 141. 1 Trin. Car. B. R. 1
Dawe. 712. If there be a common Foot-way through a
Cafe by Pretermint, and the Owner of the Cafe
ploughs up the Way, and sows it, and lays Thorns
on the Side of it, Passengers may go over another
Foot-way in the same Cafe, without being Tref-
passers. Tello. 142. And if a Highway is not suf-
cient, any Passenger may break down the Inclosure
of it, and go over the Land, and justify it till a
sufficient Way is made. 3 Salk. 182. One High-
way cannot lawfully be dropped, and went a Lane
out, without the King's Licence upon a Writ of Ad
and Damnum, after Return of the Inquisition. Cra.
Car. 260. Vaugh. 341. But this in some Measure
is altered by the Statute 8 & 9 W. to. To charge any
person, who being the Owner of an ancient Highway, there must be this Writ; or the
Subjects cannot justify going there, nor are they liab.
le to repair it, or to the Hundred and Stowe,
&c. Vaugh. 341. Erecting a Gate cros a
Highway, though not locked, but opening and flut-
ting at Pleasure, is esteemed a Nulace; for it is
to be free and easy a Paffage, as if there had been
no Gate: And the usual Way of redefining Nulaces
of this Kind, is by Indictment; but every Person
may remove the Nulace, by cutting or throwing it
down; if there be Certain and in in the Case,
and in no other Place been held, that although there are many Gates cros
Highways, they must be anciously set up, and it shall
be intized by Licence from the King upon the
Writ Ad and Damnum. Tello. 184. All Mas-
ter of Injuries to Highways which render them lea
commodious to Travellers, are adjudged Nulaces;
as Laying Logs of Timber in Ways, erecting
or making Hedges overthrow them; Permitting
Boughs of Trees to hang over the Road; Digger
Ditches, &c. 2 Red. Abr. 137. If a Carrier carries
an excessive Weight, as more than the Way can
bears, and thereby spoils the Way; this is a Nu-
lace. Mich. 17 Car. And drawing with more Horoses
than allowed by Law, to the Injury of the High-
ways; or with Wheels under such Breach, is punis-
hable, and liable to certain Forfeitures of Horoses,
by Stat. 1 Gen. c. 111. 5 Gen. 1. c. 12. A Nu-
lace in a Highway is Hindfulable by Indictment,
Information, &c. And if in a common or private Way,
by Action on the Cafe; and if a private Way in a
Vill, &c. be ruinous and out of Repair, every In-
habitant has a Right to bring an Action. 1 Pest. 208.
For avoiding Multiplicity of Suits, Indictments &c.
are to be had for Nulaces in Highways, and not
Actions; but for any particular Damage, not com-
mon to others, a Man shall have Action on the Cafe.
1 Inst. 65. An Old Law has ordered that the
Highways should be enlarged, and all the Bathers and Small Wood near to be cut down, that there might be
no hiding Places for Thieves within 200 Foot of
either Side; and if by Default of the same, any Rob-
bbery were done, the Lord of the Place to make it
good; and if any Murder, he shall be fined, Stat.
13 Ed. 1. c. 59.

For repairing Highways, by Statute 2 of P. & M.
cap. 8. it is enacted, That Conflables and Church
wardens of Parishes, calling together the Parish-
ioners, shall yearly elect two honest Perons to be
Surveyors of the Highways, who are authorized to
order and direct the Perons and Carriages that
shall be employed in the Works for the Amendment of the Highways; and the Persons chosen shall take upon them the Execution of the Office, on Pain of fourteen Days to be apprised for Working on the Repairs of Highways; on which every Person having a Plough-land, (formerly 100 Acres, now 20 per Acre) or keeping a Draught or Plough Cow, or having one or more Wain or Cart, furnished with Horses, Oxen, Tools, &c. and two able Men with the same, on Pain of 10s. for every Default; and every Husbandman, Cooper, workman, shall work on the said Days for the Amendment of the Highways, under the Penalty of 1s. 6d. per Day. Seward of Leets are empowered to inquire of all Offences against this Statute, and to affect Fines and Amercements; in Default thereof, the Justices of Peace in their Sessions are to inquire of the said Offences: And the Fines, which are levied by Disrelfs, and all Forfeitures, shall go towards the Repairing of the Highways. By the 18 Edw. c. 10. Persons having a Plough-land in several Parishes, shall be charged with a Team only where they reside; but every Person occupying and keeping in his Hands several Plough-lands, in several Towns, or Parishes, shall be chargeable to find in each Town where the Land is, a Days Wain, &c. And it has been adjudged, that he who occupies several Plough-lands, ought to send a Team for each, whether he keep any Draught or not; that he who keeps a Draught or not; and two able Men, is obliged to give his Attendance, or the Team to repair the Highways; and that Coach and Horses doing as much Damage to the Ways as a Cart and Horses; and Clergymen are not exempted from the publick Duties of the Nation. Rawl. 185. Dalb. 105. a Law. 135. A Man keeps a Cart for Hire, and goes with one or two Horses; he shall send his Cart for the Amendment of the Highways, with as many Horses as he goes with. And Brickmakers, &c. in Middlesex, have been adjudged to send to many Draughts as they keep. Mich. 27 Car. 2. If a Man hath Plough-lands, though he hath no Draughts; or if he hath Draughts, and no Lands, he must send a Team to repair the Highways. But in such Places where there is no Use of Car and Teams for the Amendment of Highways, the Inhabitants shall send Horses or other Carriages with able Persons to work, under certain Penalties, by Stat. 22 Car. 1. cap. 12. And this Statute gives Power to Justices of Peace in their Sessions, to inquire into the Value of Lands given for the Maintenance of Highways, &c. and to see that they are let to the full Value, and the rents and Profits duly applied. And likewise the Justices at their general Quarter-Sessions, on their being satisfied that the common Highways cannot be repaired by Force of the Laws in Being, may cause one or more Affiements to be made and levied upon the Inhabitants, Owners and Occupiers of Lands, Tenements and Hereditaments, or any personal Estate, usually rated to the Poor, towards the Repairing such Highways; and such Affiements shall be levied by Disrelfs and Sale of Goods of the Persons afflicted, not paying the fame within ten Days, &c. Stat. 162. And it has been resolved, that it is the Occupier, and not the Owner of Land, who is chargeable with the Repairs of Highways. But it is otherwise where there is no Occupier, and the Owner suffers the Lands to lie bare, &c. For in such Case he shall be charged as if he had occupied them. 2 Roll. Rep. 20. By Stat. 10 Eliz. c. 13. Surveyor of the Highways may take and carry away the small broken Stones of any Quarry, being already dug, with the Leave of the Owners, for the Amendment of the Highways, and they may dig Gravel in the Ground of any Person adjoining to the Highway, not being a Garden, Meadow, &c. provided they make not above one Pit of ten Yards square in one Ground, and such Pits be filled up in one Month; and make a Fence of one yard high to be employed in the Amendment of the Ways: And the Surveyors are also empowered to turn any Water-course or Spring, being in any Highways, into the Ditches of the Grounds adjoining. The Highways and Ditches adjoining to the Highways, shall from Time to Time be kept low and sound, and the Trees and Bushes growing in the ways cut down, that the Ways may lie open: There shall be six Days yearly appointed to be employed in the Reparation and Amendment of the Highways of which Notice shall be given in the Church the third Sunday in Every Efer: And Surveyors of the Highways are to present Defaults within one Month, to the next Justice of Peace, on Pain of forfeiting 40s. and the said Justice shall certify the said Premises to the next General Sessions of the Peace, at which Sessions the Offender shall be fined; and also here the Premint of a Justice in Sessions shall have Knowledge shall be a good Conviction, whereupon Fines may be assessed on the offenders, &c. and this Statute is made perpetual by 29 Eliz. c. 5. Justices of Peace, &c. are to appoint particular Days for the Days for the purpose of the Highways. Statute 357. The next Day after the Day fixed for the Repairs, all Inhabitants of every Parish are to assemble and make a Lift of the Names of Persons having 10l. per Acre, or persons who are about to appoint two or more to be Surveyors of the Highways in every Parish, &c. for the ensuing Year. And if any Surveyor, being served with the Warrant of Appointment of the Justices, shall neglect or decline to take upon him the Office, he shall forfeit 5l. and the Justices shall nominate another, &c. And every Surveyor, on the twentieth Day after the Acceptance of his Office, and afterwards every Four Months, view the Highways and Roads, and make a Premint of the Condition thereof, on Oaths, to some Justice; and give Notice of any Defects and Annoyances, as he shall find, the next Sunday after Sermam; and if they are not removed or amended within thirty Days after, the Surveyor shall do the fame, and be reimbursed his Charges by the Party who should have done it: The Justices of Peace in their respective Divisions, are to hold a special Sessions once in four Months for the Highways, and summon Surveyors, at which they shall make Premints; and account for Money coming to their Hands, which ought to be employed in amending the Highways; And on Oath made by Surveyors of Sums expended for Materials, &c. to mend the Ways, the Justices in their special Sessions may cause a Rate to be made to reimburse the same; also they may make a Rate for reimbursing any Inhabitant of a Parish on whom a Fine shall be levied: And in their General Quarter Sessions, by Force of this Act, they may order Affiements to be made on Lands, Tenements, &c. not otherwise chargeable. In Every County, leading to a Market-Town must be eight Foot wide at least, and as near as may be level; and no Cassey shall be less than three Foot wide, and no Way not twenty Foot broad, any Stone, Timber, Dung, or other Matter to obstruct it, incur a Penal-
of 5s. and the Occupier or Lands adjoining may remove and convert the same to his own Use; and no Tree or Bush shall be permitted to grow in, or spread over, the High Way, under the like Penalty. Surveyors neglecting their Duty, required by this Statute, shall forfeit 40s. and Justices of Peace 5s. and Offences against this Act are to be prosecuted in six Months; &c. By 9 Ed. I. 3. &c. Justices of Peace at their Quarter-Session have Power to order the Enlarging of any Highway; so as the Ground taken in do not exceed eight Yards in Breadth, and they do not pull down any House, or take away the Ground of any Garden, &c. And a Jury shall be impaneled to inquire of the Value of the Ground taken into Highways, and assess Damages as a Recompense for Injuries on the Payment of which, the Interest of such Ground shall be devolved over the Owners, and the Ground be taken to be a publick Way: The Justices may also cause Affidavits to be made upon the Occupiers of Lands, &c. for the Purposes of the said Ground to enlarge the said Highways. And Persons aggrieved by the Order of such a Jury, or by such an Affidavit may appeal to the Judges of the nearest Assize, &c. Surveyors of the Highways, by Precept from the Justices in their Special Sessions, may fix a Stone or Post Indications in large Letters, where two or more roads meet: as a Direction to Travellers to the nearest Market-Town, to which each of the Ways lead, on Pain of Incurring the Fine. &c. By 9 Ed. I. 3. &c. 5s. &c. Judges of Peace, &c. cap. 29. The 1 Geo. I. 5. &c. enacts, that the Laws for repairing of Highways shall be put in Force; and Surveyors of the Highways are every four Months, or sooner, if required by two Justices of Peace, to view all Highways, &c. and give an Account of their State and Condition to the Justices at their next Special Sessions, under the Penalty of 10s. And the Justices in their Special Sessions may order the Repair of such Great Roads as most want Repairing to be first amended, and in what Manner. The Surveyors shall appoint the first and most convenient Time of the Year for the Repairing the Highways, and perform the same before Harvest; and Fines, &c. are to be rightly applied for the Repairs of the Highways. Justices of Peace or their Officers may make Affidavits for Repairs of Highways, according to the Proportion limited by the Stat. 3 & 4 Will. & Mar. although the Surveyor-Work hath not been performed; but Money raised shall not excite the working on the Ways. Persons neglecting to fire Ditches, thirty Days after Notice given thereof by the Surveyors, shall forfeit 2d. for every eighty Yards not found: And permitting Seil to lie in the Highways, incurs a Forfeit not exceeding 5s. nor under 20s. And the Surveyors are to survey and keep open such Ditches; or may make new ones through the adjoining Lands, and to remove all Annoyances out of the Highways. Justices of Peace in Cities and Corporations are empowered to execute the Laws relating to Highways. Appeal lies from the Special Sessions, to the Quarter-Sessions; and Persons sued for what they do in Pursuance of the Statutes, may plead the General Issue, and give the All and the special Matter in Evidence, &c. By the 7 Geo. 2. c. 5. Where any Highways are deep and focondorous, and the Hedges adjoining high, preventing their Drying by the Wind, &c. to the Damage of the nearest, the Justices of Peace there may order such Hedges to be new made, or cut lower by the Owner, in proper Season; in De- fault whereof, thirty Days after Notice, the Surveyors have Power to cut down the same, and to charge the Owner the Money expended.
Ho Ho

Wobblers or Wobblers, (Hiclerlari) Were Light
Hofmen or certain Tenants bound by their Tenure
to maintain a little light Horle, for giving Notice of
any Invasion made by Enemies, or foch like Peril
towards the Sea-side; of which Mention is made in the
tan. 372. They were to be Ad sumus mutos agitga,
Cr. And we read, Durvicii vocabulum ajus ad etas

Schoelch ener, (Hecurium) A Duty formerly paid to
the Landlord, for giving his Tenants Leave to cele-
brate that Day, on which the English Conquered and
expelled the Danes; being the second Tenfay after
Easter Week.

Scotchtopt or Scotchtertian, is an Old French
Word for a Knight of the Poit: also a decayed Man.

Bogus, Bogium, Bocch, A Mountain or Hill, from
the Germ. Bouch, alia; or from the Sax. Han.
Edinhus lowvist gsumog Hogam, &c. & ci essica
voedg wigam guam pocum Stanhognam, preff
Stanrow. De Cange.

Sogallues, (Hagium) A little Hog; it also fig-
ures young Sheep: Terius oves pro Hagogar annu-
it in eowe, Flata, liv. 2 c. 79.

Scopbymne., (San.) is he that comes Geese to a
farm or Hap, and lies there the third night, af-
ter which he is accounted of that Family. Bradt. lib.
3. See Third Night from land.

Sogthun, A Vessel of Wine, or Oil; &c. con-
taining in Measure 65 Gallons; Half a Pipe, and the
fourth Part of a Tun. 1 P. 1. 1. 13.

Scobche, Called otherwise Heck Tysg, (Diss)
Martin, quam Quadrans Pulce vocas) Was a Day
so remarkable in ancient Times, that Rents were re-
verenced and delivered thereon; And in the Accounts of
Mag-

dules College in Oxford, there is a yearly Allowance
pro Mediarum Hockstanbus, in Some Mansions of their
in Hampshire, where the Men took the Women on
Monday, & contre on Tuesday; The Making of it is, to
that on Day the Women in Merriment Stop the
Ways with Ropes, and pull Palfreiers to them, de-
fining something to be laid out in pious Uses. See
Hick Tysg, Money.

Sodebe, (Sax. Hold, i.e. Sanna Progasa) A Ba-
iff of a Town, or City; Others are of Opinion that
it signifies a General; for Hold in Saxen is also Jum-
ibus Imperator.

Sodnays, Appointed by Statute. See 5 6 Ed.
6. 65.

Sold, (Sax. Holbus, inula amnis) An Isle or Fens
Ground, according to Beda; or a River Island.
And where any Place is called by that Name, or this
Syllable is joined with any other in the Names of
Places, it signifies a Place surrounded with Water;
s as the Elthholm and Stepholm in the Swenn near
Brifal; But if the Situation of the Place is not near
the Water; it may then signify a Illy Place; Holm in
Saxen being also a Hill or Cliff. — Cam dor-
2. p. 262.

Solt, (Sax. A Wood, Wherefore the Names of
Towns beginning or ending with Hult, as Buchholz,
&c. denote that formerly there was Great Plenty of
Wood at those Places.

Homan, (Homageum) Is a French Word derived
from Homen, because when the Tenant does his Ser-
vice to the Lord, he says, I become your Man.
Co. Litt. 45. In the Original Grants of Lands and
Tenements by way of Fee, the Lord did not only ob-
lige his Tenants to certain Services; but also took
a Subdivision with Promise and Oath, to be true to
him as their Lord and Benefactor: And this Sub-
mision, which is the most honourable, being from
a Freehold Tenant, is called Homage. Stat. 17 Ed. 2.
The Lord of the Fee for which Homage is due, takes

Homage of every Tenant, as he comes to the Land
or Fee: But Women perform not Homage but by
their Husband, who pays Homage especially relating to Ser-
vice in War; and a Corporation cannot do Homage,
which is Personal, and they cannot appear but by
Attorney: Also a Bishop, or religious Man, may
not do Homage, only Fexity; but the Arch bishop of
Canterbury does Homage on his Knees to our Kings
at their Coronation; and it is said the Bishop of the
Life of Man does Homage to the Earl of Derby; though
Fadde renounced this, when he says that a religious
Man may do Homage, but may not say to his Lord,
Ego devors homo sufer, I become your Man, because
he is not to take himself to be God's Man, but he may
say, I do not you Homage, and to you you do not
and loyal. Britton, cap. 68. There is Homage
by Liggance: Homage by Reason of Tenures; and Hu-
manes Homage: Homage by Liggance is inherent and
inseparable to every Subject. Homage by Tenure, is
a Service made by Tenants to their Lords according
to the Custom; and Homage Ancestral, is where a
Man and his Ancestors have Time out of Mind held
their Land of the Lord by Homage, and such Ser-
dice does it to the Warranty from the Lord, and Ac-
quits all other Services to other Lords, Cr.
according to Sir Edw. Coke, there must be a double
Precipitation for Homage Ancestral, both in the Blood
of the Lord, and of the Tenant; so that the same
Tenant and his Ancestors, whose Heir he is, is to
hold the same Land of the same Lord and his An-
cestors, whole Heir the Lord is, Time out of Me-
mony, by Homage, &c. and therefore there is but
little Land held by Homage Ancestral; though in
the Manor of Whitby in Herfordshire, there is one
Who holds Lands by this Tenure. Co. Litt. Hu-
mane Tenures: I think there, in Freehold, and none shall
or receive Homage, but such as hold in Fre-
semblie, or Fee-tail, in their own Right or Rights
of another Person; or of one to whom they were
Kist 131. Seifin of Homage is Seifin of Fealty, and inferior Services, and the Lord
thereof only shall take Homage, and not the Steward, whole Power extends but to Fealty. 4 Rep. 8.
When a Tenant takes his Homage to the Lord, he is to be
ungirt, and his Head uncovered, and his Lord shall sit,
and he shall kneel, and hold his Hands together
between his Lord's Hands, and say; I become your
Man from this Day forward, for Life, for your
Member, and for worldly Honours, and unto you shall be true
and faithful, and hold you Faith and the Lands that I hold
of you. (aving the Faith that I owe to our Su-
perior) (The King;) And the Lord so sitting shall
kiss the Tenant, Cr. 17 Ed. 3. Litt. See 82.

Homanage Jury, Is a Jury in a Court-Baron, con-
filling of Tenants that do Homage to the Lord of the
Fee; and their by the Fealty, are called Parsi Caris.
They enquire and make Premintion of Defaults and
Deaths of Tenants, Admissions and Surrenders, in
the Lord's Court, Cr. Kist.

Homage, Is one that does or is bound to do Hu-
manage to another.

Hominage repfuntanae, Was a Write to the Ef-
chester, commanding him to deliver Seifin of Lands
to the Heir of the King's Tenant, notwithstanding
his Homage not done. F. N. B. 260. And the
Heir at full Age was to do Homage to the King, or
agree with him for refraining the same. New Nat.
Br. 165.

Homageum re burientes, To renounce Homage;
was when the Tenant by Hult made a solemn Decla-
rion of disowning his Lord, for which there was a
Form and Method prefixed by the Statutory Laws.
Bradt. lib. 2. c. 35.

Hom outfield, Freedom that a Man hath in his House or Home, which, as commonly said, should be
his Cattle, and not be invaded. See Homedon.
pleased in the Party, then the Defendant ought to give Bail to deliver him; but he says he hath not the Perfon, and therefore No Cept is a proper Plea. But he shall put in Bail to appear de die in die. 4 Mol. 183. In this Case the Defendant shall not be compelled to Go to Deliverance; and a Superfectus was granted to the Wifdomman. 4 W. & R. 1. It was charged with Treason and other Misdemeanors, he pleaded that he was Home Comitatus Johannis, &c. and would stand by Law and Justice of his Court. Pareh. Anon. 152.

Some. This Latin Word includes both Man and Woman, in a large or general Understanding. 2 Ift. 47.


Handy. All Vellies of Honey are to be marked with the Name of the Owner, and be of such a Content, under Penalties; and if any Honey sold, be corrupted with any deceitful Mixture, the Seller shall forfeit the Honey, sec. Stat. 23 Eliz. 1. 8.

Honor. (Lat. Humor) is especially used for a more noble Siguary or Lordship, on which other inferior Lordships and Manors do depend, by Performance of Exemptions and other Services. Originally all such Lordships were Honours but such as belong to the King; though afterwards they were given in Fee to Noblemen: And it appears, thatHonours have been created by Act of Parliament; for by the Statute 35 Hen. 8. cap. 5, the Manor of Hampton-Court, with divers Lordships and Lands thereto annexed, were made an Honour; so Symond in the County of Berfsford, and Grofem in Northumberland, were 2 Ift. 8. c. 37. 38. and by 37 H. 8. cap. 18 the King is empowered by Letters Patent to erect several Honours, viz. Welfingford, Rington upon Hall, St. Oliffe and Dumfingey. There are divers Honours in England besides these; as Lancefoy, Clare, Waltingford, Nottingham, Weft and East Greenswod, Berfsford, Welford, Montgomery, Gloucester, Wyard, Lichfield, Hersford, Cheife, Warwicke, and a great many others mentioned by Authors, and in ancient Records. 4 Ift. 24.

This Word is taken in the same Signification in other Nations as with us; (but anciently the Word Honor and Brevia signified the same Thing). Uri Manerium placitum gaudet (interum Feudis, iid ple- rimum) Tesnenti, consecratio, vestitas, &c. In Honor prastio complicitas Manuaria, prastio Feeda Militaria, prastio Regalia, &c. dictus erit omni Feudum Regale, tertius asempere Rege in Capite. Spelm. A Name of Dignity or Honour may be es- tailed upon one and the Heirs Male of his Body; also it may be forfeited at the Common Laws, and by the Stat. 26 H. 8. c. 13. as an Hereditament. 2 Nefi. Ab. 934.

Honor-Courts. Are Courts held within such Honour, mentioned in the Stat. 31 Hen. 8. cap. 37. And there is a Court of Honour of the Earl Marquis of England, &c. which determines Disputes concerning Precedency and Points of Honour. 2 Thom. P. C. 11. This Court of Honour, which is also exercised to do Justice to Herald, is a Court by Privilege, and has a Prifon belonging to it, called the White Lyon in Southwark. 2 Nefi. 935.

Honourary Servics. Are those as are incident to the Tenure of Grand Seignories, and commonly annexed to some Honour. Stat. 12 car. 2. c. 29.}

Hops. A Statute was formerly made against bringing any Hops mix'd with any Soil, viz. into this Kingdom from Foreign Parts, to prevent the Sale and Permons using such Hops, to lose the Value. Stat. 1 Ift. 16. 18. There is a Duty of 1 d. in the
Fdoes imbled on hops: and using Storehouses without giving Notice, &c. incurs a Penalty of 50l. and Privately conveying away Hops from the Place of their Growth, is liable to a Forfeiture of 5l. for every Pound. And if the Duty on hops is continued; Places where they grow to be entered, on Pain of 40l. an Acre: And Notice given of Bagging the Hops, &c. by 1 Gen. 1. cap. 2. If any Person shall mix Impurities with Hops to alter the Colour or Scents, he shall forfeit 1l. for every Hundred Weight; leviable by Judices of Peace. See Stat. 7 Gen. c. 1. 15. Cutting Hop-lands on Poles, Felony. 6 Gen. 2. 56.

Hops: Sunrise, The Morning Bell, or what we now call the Four o’Clock Bell, was called anciently Hora Aurora; as our Eight o’Clock Bell, or the bell in the Evening was called Ignotum or Cowrus. Codd.

Hopers, (From the Saxon Hard, The Aurora) A Treasurer: And hence we have the Word Hard or Heard, as used for Treasuring or laying up a Thing. Leg. Adiut. cap. 2.

Hopsbaum Palantine, and Hordeum Quadrupennale, Beer-Barley, of a large spreading Ear like a Hand; which in Norfolk is termed Barley and Barstool, and in the Marches of Wales, Cymiagre. Chart. Dat. 43 Ed. 3. Hops with Barley, (Corvorum cum Cerevisio) Is when there is Common for Cere vis Vinoagrio, or an Inter-communicating of bored Beasts. The promiscuous Feeding of Bulls and Cows, &c. that are allowed to run together upon the same Common, is called Horses under Horses, or Horses under Horses; And in the Confinements of Robert Bishop of Durham, Ann. 1. 276, where the Inhabitants of several Parishes let their common Horses run under the same Common, that there might be no Dispute about the Right of Tithes, the Bishop ordained, that the Cows shall pay Tithes to the Minister of the Parish where the Owners resided. 

Hops-geld, is supposed to be the fame with Horn-geld.

Hops-gold, (from the Saxon, Cereus et Gold, i.e. Gold) Signifies a Tax within the Forest, to be paid for bored Beasts. Comp. Jurid. 197. And to be Free of it is a Privilege granted by the King. See in Sir Antho. de omni Collectione in Forse de Bethis Conviron, &c. 4 Ind. 3. 560. Et est quieti de omnibus Geldis, Danelgeldis, Wadegeldis, Hornegeldis, &c. Chart. H. 47. 15. No Stranger was to buy any English Horns gathered or growing in London, or within twenty four Miles thereof, by the Stat. 4 Ed. 4. c. 8. And none may sell English Horns unproved to any Stranger, or send them beyond Sea, on Pain of forfeiting double Value: The Wardens of Harwells in London may search all Wares, &c. 7 Jur. c. 1. cap. 14.

Hops de fen fet. (Fr. i.e. out of his Fee) Is an Exception to avoid an Action brought for Rent or Services, &c. lifting out of Land, by him that pretends to be the Lord; for if the Defendant, can prove that the Land is without the Compasse of his Fee, the Action falls. Broke. In an Answer, a Stranger may plead generally Hors de fen Fet; and so May Tenant for Years: And such Stranger to the Answer, being made a Party, is at Liberty to plead any Matter in Abatement of it. 9 Rep. 30. 2 Mod. 104. A Tenant in Fee may have his Lease to diichalme, or plead Hors de fen Fet. 1 Danw. Abr. 65p. 52.

Hopses, were not to be convey’d out of the Realm without the King’s License, &c. on Pain of Forfeiture of 150l. and current Statutes. 13 H. 7. c. 13. For persons having Lands of Inheritance in Parks, &c. are to keep two Mares apt to bear Foals thirteen Hands high, for the Increase of the Breed of Horses, on Pain of 40l. for every Month they are wanting; and not suffer them to be leaped by famed Horses under fourteen Hands, on a certain Penalty. 27 Hw. 8. c. 6. And for the Preservation of a Strong Breed of Horses. Some Horses above two Years old are to be slain Hands high, or they shall not be put into Forests or Commons, where Mares are kept, upon Pain of Forfeiture; and saddled or inflected Horses shall not be put into common Fields, under the Penalty of 10l. leviable by the Lord of the Leet. 52 H. 8. c. 15. Stabling of any Horses, Gelding or Mare, is Felony without Benefit of Clergy: But Accesorials to this Offence are not excluded Clergy. 1 Ed. 6. cap. 13. 2 Ed. 6. c. 23. And if any Horses that is flown be not flown according to the Stat. 2 & 3 P. & M. c. 7. the Owner may take the Horse again where ever he finds him, or have Action of Detinue, &c. To prevent Horses being flown and sold in private Places, the 2 & 3 P. & M. provides, that Owners of Pains and Markets shall appoint Toll-takers or Book Keepers, who are to enter the Names of Buyers and Sellers of Horses, &c. And to alter the Property, the Horses must be rid or fland in the open Field once a Year; and all the Parties to the Contract must be present with the Horse. And by 31 Ed. cap. 11. Sellers of Horses are to procure Vouchers of the Sale to them; and the Names of the Buyer, Seller and Voucher, and Price of the Horse to be entered in the Toll-taker’s Book, and a Note where delivered to the Buyer: And if any Person shall sell a Horse without being known to the Book keeper, or bring in a Voucher without any Entry, he shall be fined 5l. A Horse stolen, though sold according to the Direction of the Act, may be redeemed and taken by the Owner within six Months, repaying the Buyer what he shall swear he gave for the same. Stat. 13. 

Hops: birth. Action of Trespass and the Cafe lies for abducting a Horse hired, by immediate Riding, &c. And a Difference has been made in our Law between Hiring a Horse and Borrowing one to go a Journey; for in the first Cafe the Party may let his Servant, &c. upon the Horse, but not in the second. 1 Mod. 2. 10.

Hops for the King’s Herbicide: None shall take the Horse of any Person to ferre the King, without the Owner’s Consent, or sufficient Warrant, on Pain of Imprisonment, &c. Stat. 20 B. 3. c. 5.

Hops-Mates, for small Summs having encouraged Idleness, and impoverish’d the meaner Sort of People; it is ordain’d, that no Person shall run any Horse at a Race, but it be his own, nor en force forfeiting double Value: The Wardens of Harwells in London may search all Wares, &c. 7 Jur. c. 1. cap. 14.

Hops:leisters, (Fr. Hopsillers) Is used for Inn Keepers: And in some old Books the Word Holeslers is taken in the same Sense. 31 Ed. 3. c. 2. The Executors of Holeslers are not chargeable, for their Paltns. 1 Ed. 682.

Hops: generalities. A great Chamberlain.

Volume, quantum ad Hospitia pertinent, sunt indifferenter in Hospitia generali abdissent, &c. Doct.

Hospitallers, (Hospitalarii) Were a certain Order of Religious Knights in this Kingdom, so called because they built an Hospitall at Jerusalem wherein the Pilgrims were lodged, &c. Their Order was first allowed by the Pope in the Year 1118. and confirmed by Parliament with many Privileges and Immunities; and Pope Clement the 5th transferred the Tempers to them; which Order, by a
Council held at Pisa, to be afterwards suppressed.

These Hospitallars were otherwise called Knights of St. John of Jerusalem; they are mentioned in the Stat.

13 Ed. I. c. 42. and 9 H. 8. c. 57. And all the Lands in Scotland, held of the said St. John of Jerusalem, were given to the King, by the Stat. 25 H. 8. c. 34.

Hospitallars. Any Person feigned of an Elasse in Fec-

simple, may be Deed incholed in Channy erred and

found an Hospial for the Sustenance and Relief of the

Poor, to continue for ever; and place such Heads,

Of, otherwise he shall think it: And such Hospial

shall be incorporated, and subject to the Other Statutes, Of,

as the Founder shall nominate; i.e. such Corporations

have Power to take and purchase Lands not exceeding

200 l. per Annum, so as the same be not held of the

King, Of, and to make Leases for twenty Years,

referring the ascended yearly Rent: But no Hospial

is to be erected, unleas upon the Foundation it be

endowed with Lands or Hereditaments of the clear yearly

Value of 100 l. per Annum. Stat. 39 Eliz. c. 5. It

has been adjudged upon this Statute, that if Lands

given to an and then be at the Time of the Foundation or

Endowment of the yearly Value of 200 l. or

under, and afterwards become of greater Value by

good Husbandry, Accident, &c. they shall con-

stitute shall be good to enjoy the Hospial, although

they be not given worth 100 l. A Year, it shall

malt all of it be employed to increase their Pre-

servation, and none of it may be converted to private

Uses. 8 Rp. 150. Also if one devich the Rent of

his Land for such Use, it shall be taken largely for

a Devich of the Rent then reserved, or afterwards to

be reserved upon an improved Value. 5 Jac. Such

only are to be Founders of Hospials, of, as

the Statute shall name, the Statute 15 Ed. 2. as

are feied of any Elasse in Fee, and who

give the same at the first Foundation of the Hospial
to the Incorporation of the Hospial, Of, But if a

Magistrate, Citizen of London, for twenty Years deviches

that his Executors shall lay out 1000 l. in the Purchase

of Lands and, that an Hospial shall thereupon be

built and incorporated for the Sustenance and Relief

of poor Imperial People, and dieth, whereof the

Executors purchase Lands of such a Value, and create

the Elasse to be conveyed to certain Persons and their

Heirs, and build the Hospial in this and the like

Cases, the Persons that have the Elasse in the Lands

are by the Purview of this Statute to be Founders, and

do all Things that the Founder is appointed to do.

Inf. 724. If one devich too much a Year for the Poor,

Of, leaving Affairs in Goods, this is good, and the

Executors will be forced to buy as much Land, and

to affaire it to that Use. Trin. 15 Car. And if a De-

vich be to the poor People maintained in the Hospial

of St. Lawrence in Reading, Of, (where the Mayor

and Burgesses capable to take in Mortmain, do govern

the Hospial) albeit the Poor not being a Corporation,

are not by name that Take it: Yet the Devich is good,

and Commissioners appointed to inquire into

Lands given to Hospitallars, Of, may order him that

hath the Land to affaire it to the Mayor and Burgesses

for the Maintenance of the Hospial, 45 Eliz.

A Deed of Gift to a Parish generally, to maintain Poor

or other charitable Use, is not good: But a Devich by

Writ of Habeas Corpus, Churchmen and Overseers

shall take it in Succeed; and in London the Mayor

and Commonalty, 40 Att. 25. A Gift must be to the

Poor, and not to the aged or impotent of such a Pa-

rish, without expressing their Poverty: For Poverty

is the principal Circumstance to bring the Gift within

the Stat. 43 Eliz. Although at Common Law a Corporation

may of the said Corporations of certain Persons to be Governors of the Hospial,
HO

HO

said A. B. shall be lawful for the Rector or Parson of the Parish of, &c. after the decease of the said A. B. upon the Death or Removal of the Rector, or any of the Brethren of the said Hospital, to place one or other in the Room of him that dies, or so is removed, successively for ever. And the said A. B. shall further hereby declare and appoint, that it shall be lawful for him the said A. B. during his Life, and for the Rector or Parson of the Parish of, &c. after his Death, for the assignment of the said A. B. to vest the said Hospital and impress into the Government and State thereof: And lastly, that the Rents and Profits of the said Hospital shall be, according to the act of Parliament, paid to the Master of the said Hospital, and his Successors, and be applied for the Maintenance of the twenty Brethren and poor Impecunious Persons after the death of the said A. B. and of his Successors, and to and for no other Purpose whatsoever. In Witness, &c. See to Rep. 15 & 34. for a Form of a Deed of Bargain and Sale.

By 39 Eire. c. 6. and 43 Eire. c. 4. Commissioners may be awarded to certain Perons to inquire of Lands or Goods given to Hospitals; and the Lord Chancellor is empowered to give to Commissioners for inquiring by a Jury, of all Grants, Abuses, Breaches of Trust, &c. of Lands given to charitable Uges, who may make Orders and Decrees concerning the same, and the due Application thereof; and the Commissioners are to decree, that Recompence be made for Fraud and Breaches of Trust, &c. as their Orders and Decrees be certified into the Cænas and the Lord Chancellor shall take Order for the Execution of the said Judgments and Decrees, and after Certificate may examine into, annul, or alter the same; and for a Breach of Complaint: But this does not extend to Lands given to any College or Hall in the Universities, &c. or to any Hospital, over which special Governors are appointed by the Parliament; and it shall not be prejudicial to the Jurisdiction of the Bishop or Ordinary, as to his Power of Inquiry into and reforming Abuses of Hospitals, by Virtue of the Statutes. The said Commissioners may order Houles to be repaired, by those who receive the Rents; see that the Lands be let at the utmost Rent; and on any Tenant's committing Waste, by cutting down and Sale of Timber, they may decree Satisfaction, and that the Lease shall be void. Dake, 123. See 4 Rep. 104. The Hospital of St. Croft near Winchester, and several other large Hospitals, were anciently founded by particular Statutes, or Acts of Parliament. And King Charles the first granted to the Mayor and Commonalty of London the keeping of Bethlem Hospital, and the Managers and Lands belonging to it. Chart. K. Ca. 1. Also there is now an Hospital in London for Founding Children, under the Care of Governors and Guardians, who may purchase Lands or Tenements to the Value of 4000 l. a Year. And they are to receive as many such Children, as they think fit, which may be brought to the Hospital, and shall there be bred up and employ'd, or placed Apprentice to any Trade, or the Sea Service, the Males till the Age of 24, and Females till 21. They may likewise be let out or hired, &c. 13 Geo. 2. cap. 29. See Bath.

Hospital, Heth, been used in the same Sense with a Right to Vifitation Money. Bremp. 1103.

Hospital, A Right to have Lodging and Entertainment; referred by Lords in the Houles of their Tenants. Cartular. Radings, MS. 157.

Houf, Hufal Breed, or confecrated Waflers in the Holy Eafper. And from this Word Hufa, Mr. Sommer derives the Sax. Hufel, used for the Lord's Supper, and Hufian to administer that Sacrament; which were kept long in our old Eng. Litt. lib. 3.


Houfari, An Officer appointed for the Care of the Hospitaria.

Houzip, In peurum politis. Is a Word brought from the Fr. Hostiz, used for a confede mingleing of divers Things together; and among the Dutch it signifies Flesh cut into Pieces, and todden with Herbs or Roots; and by a Maugher it is a Blanded Mixing of Lands given in Marriage, with other Lands in Fee falling by Deceit: As if a Man feated of thirty Acres of Land in Fee, hath issue only two Daugh ters, and he gives with one of them ten Acres in Marriage to the Man that marries her, and dies feated of the other twenty Acres: Now the that is thus mar ried, to gain her Share of the rest of the Land, must put her Share given in Marriage back to her Mother, if she must refuse to take the folio Profits thereof, and cause her Land to be mingled with the other, so that an Equal Division may be made of the whole between her and her Sister, as if none had been given to her; and thus for her ten Acres the shall have fifteen, other wise her Sister will have the twenty Acres of which her Father died feated. Litt. 35. Co. Litt. lib. 3. cap. 12. This seems to be a Right of waving a Provision, made for a Child in a Man's Life-time, at his Death, though as it depends upon Frank Marriage, and Gifts of Land thereto, it is now seldom happens. But there is a bringing of Money into Hotchpot, upon the Clauses and Intent of the Act of Parliament for Distribution of Invaluable Estates. 22 & 23 Car. 1. Where a certain Sum is to be raised, and paid to a Daughter for her Portion, by a Marriage Settlement; this has been Decreed to be an Advancement by the Father in his Life-time, within the Meaning of the Statutes, though false and contingent; and if the Daughter would have any further Share of her Father's Personal Estate, she must bring this Money into Hotchpot, and shall not have both the one and the other. Abr. Cap. Eq. 253. See 2 Vern. 618. By the Custom of London, there is likewise a Term of Hotchpot, where the Children of a Freeman are to have an Equal Share of one third Part of his Personal Estate, after his Death. Precid. Case 3.

Houb, (Mandor) Is a Place wherein Husbandmen for their Ploughs and Carts out of the Rain or Sun. Lavo. Lat. Dilt.

Houngland, a Large Heath containing 4203 Acres of Ground, and extending into several Parishes; so much thereof as is the King's Inheritance, and for Future, Meadow, or other several Grantees, shall be of the Nature of Copyhold Lands; or the Seaward of the Manor may let it for twenty-one Years, &c. and the Offices may improve the same. Stat. 37 H. 8. c. 2.

Hou, (Hora) Is a certain Space of Time of sixty Minutes, twenty four of which make the natural Day. It is not a Day at the Age of 24, and for Future, it may improve the same. Stat. 37 H. 8. c. 2.

Houe, (Domo) A Place of Dwelling or Habitation; also a Family or Household. Every Man has a Right
a Right to Air and Light, in his own House; and therefore if any Thing of infectious Smell, be laid near the House of another, or his Lights be stopped up and darkned, by Buildings, \\n      or they shall be punished by \\n      21st. 1 Dowl. Ab. 173. But for a Professed, which is only Master of Delight, no Action will he for this being stopped. \\n      11. If any Man, in his House, as his Castle: therefore if Thieves come to a Man's \\n      House to rob or kill him, and the Owner or his Ser-

Door of a House may not be broken open on Arrears, unless it be for Trespass, or Felony, &c. H. P. C. 437. Flood. 5. 5 Rep. 91. Rosculle 4. 2. 3. \\n
House of Execution, Judges of Peace in their Quarterly Sessions, are to make Orders for eradicating House of Conviction, and the Maintenance and Gover-

In every County of England there shall be a House of Con-

Quarterly by the Treasurer out of the County Stock: \\n
These Governors are to let the Persons rent on Work, \\n
To be well furnished with Book, and requir-

A Person ought to be convicted of Vagrancy, &c. \\n
Upon Pleinmont of the Grand Jury, the Judges at Seessions may build, or purchase Land for building, \\n
The Governor or Master of a House of Conviction misbehaving himself, may be fined or turned out, at the Discretion of the Judges. \\n
And this House is laid to be held, with after-
and Imprisonment, &c. 2 Ily. 172. By Statute of
Wynn. 3 Ed. 1. c. 9. All Perons are to be
speedily pursued and punished by the Sheriffs of the
County, to pursue and arrest Felons and Robbers,
&c. or be fined to the King: And if Default be in
the Lord of a Franklins, the King shall seize his
Franklin's Goods, or if any the Bailiff, he shall be
imprisoned for a Year, and fined, &c. If the Inhabitants
of any Hundred, after the Hus and Cry is made,
ought to pursue it, they shall answer one Monety
of the Damage of the Time against the Hundred
where a Robbery is committed. 27 Edw. c. 13.
And if the County will not produce the Bodies of
the Offenders, the whole Hundred shall be answerable
for Robberies there committed, &c. 3 Ed. 11.
Where a Robbery is done on the Highway, in the
Day time, of any Day except Saturday, the Hundred
where committed is answerable for it: But Notice is
to be given of it, with Speedy Speed, to some
of the Inhabitants of the next Village, to the Intent
that they may make Hus and Cry for the apprehend-
ing of the Robbers, or no Action will lie against the
Hundred: And in the making Hus and Cry, dilli-
gent Search is to be made in all suspected Houses and
Places, and not only Officers, but all others who shall
pursue the Robber may, in the Day-time, as in their
Search and Pursuit they shall find sus-
picious, and carry them before some Jullice of the
Peace of the Parish where taken, to be examined
where they were at the Time of the Robbery, &c.
for in this Case, the Arrest of a Person not guilty is
lawful. 13 Ed. 1. 27 Edw. And if any of the
Robbers are taken within forty Days, and convirfed,
the Hundred shall be excused; if not, after the forty
Days past, the Party robbed is to make Oath be-
fore a Jullice of Peace of the County where the Rob-
bery was done: And any Person or more than one
Hundred, is to make Oath thereupon, before any
one or more Inhabitants in the Hundred; but Jullices
of Peace at their Sessions, may make a Rate or Tax
upon the whole Hundred, to pay and reimburse it;
and if any foreignable, &c. of every Town and Parish
are to levy it proportionally on all the Inhabitants; also
the like Tax may be made for a Moirey of Damages
leviable where any Default shall be of fresh Pursuit
after Day and time made. 27 Edw. 3 Lew. 507.
Rep. 7. By a late Statute, no Proces is to be serv-
red against the Hundred, &c. for a Robbery committed,
but on the High Constable, who shall give Notice of
it to one of the principal Market-Towns, &c. and
then enter an Appearance, and defend the Action;
and if the Plaintiff recovers, Execution shall not go
against any Inhabitant, or the Constable, but instead
of serving it, the two next Inhabitants are to cause a
Taxation to be made up every Parish within the
Hundred, which shall be levied on the Inhabitants
by Constables, and the Money paid over to the She-
riiff, to the Use of the Party recovering, and the
High Constable as to his Expenses, &c. And the
Peron robbed is in twenty Days to give publick No-
tice in the Gazette, describing the Circumstances of
the Robbery; and enter into Bond to pay Costs, if
Verdict be against him, &c. and no Hundred is charged
thereby any Robbers are taken in forty
Days after such Notice; also all Constables, &c. shall
make Hus and Cry, or neglecting it shall forfeit 5l.
And a Reward of 10 l. is given, to be paid by the
Hundred for apprehending any Robbers within the
Time limited, and levied by the Jullices as the other
2. c. 24. No Peron shall recover on any of the Sta-
tutes of Hus and Cry above 200 l. unless the Peron
or Perons so robbed shall in writing, before the
Robbery be together in Company, and be in Number
two at the least, to attest the Truth of his or their
being so robbed. By the Stat. 22 G. 2. c. 46. No
Writ of Execution against the Inhabitants of a Hun-
dred shall be levied on any particular Inhabitant or
Inhabitants, but two Jullices shall cause a Taxation
to be made and levied, for raising as well the Costs
and Damages recovered, as all such necessary Expen-
ces as any Inhabitant has been in defending the
Actions, being proved on Oath, and the Attorney's Bill
stated; which Sum to levied shall be paid to the She-
riiff, who shall pay the same over without Fee or Re-
ward. If he that is robbed, after Hus and Cry,
makes no further Pursuit after the Robbers, Action
lies against the Hundred. 1 Lew. 170. If the Party
robbed is not bound to pursue the Robbers himself,
or to lend his Horse for that Purpose; but still has
his Remedy against the Hundred, if they are not
taken: Though if any of them are taken, either
within forty Days after the Robbery, or before the
Plaintiff recovers, the Hundred is discharged. Sid. 11.
It has been held, that an Action lies against the Hun-
dred for a Robbery in the Day-time, although not
in the King's Highway, but in a private Way. Hill.
1 Ann. 1 Mod. 221. But not for a Robbery in the
Morning before it is light, or in the Night before it is
be extermnant, or after Sun-set, if to be light
that a Man's Face may be known, it well lies. 7
Rep. 6. G. 7er. 156. If a Party be robbed in the
Night-time, when the Horse is not chargeable: And
where a Peron is seized by Day-light, but robbed in the
Night, he is without Remedy. 3 Lew. 350. Though
where Robbers force a Person to the Wire after they
had afterwards robbed it in the Night, this was held
a Robbery in the Day, and that Action lay against
the Hundred. 1 Sid. 263. When a Man is robbed
on a Sunday, on which Day Perons are supposed to
be at Church, and none ought to travel, the Hun-
dred is not liable. 27 Edw. But where a Robbery
is done on a Sunday, then the Hundred is liable;
and the Horse is chargeable. Hus and Cry shall be
made, by Stat. 29 Car. 2. c. 7. And if a Peron be robbed going
to Church in a Country Town or Village, on a Sunday,
when the Religious Law is not in force, the Robbery
been lately held an Action lies against the Hundred;
but not if one be robbed on that Day in other trav-
telling for Pleasure, &c. which is prohibited by Sta-
t. 6 Geo. 1. C. 6. per H. Chief Jullice. And
it was formerly ruled by three Judges on the Sta-
tute of Winter, where a Man was robbed on a Sun-
day, in Times of Divine Service, and made Hus and
Cry, that the Hundred should be charged; for many
Perons are neccecitated to travel on this Day, as
Physicians, &c. 2 Crs. 406. 2 Rull. 59. Gdth.
280. See 2 N PHY. 935. 938. If a Peron be
robbed in a Houlse, where he is presumed to be at
Safety by his own Care, the Hundred is not
chargeable: A Robbery must be an open Robbery,
that the Country may take Notice of it, to make the
Hundred answerable. 7 Rep. 6. A Man is fell upon
and assaulted by Robbers in one Hundred, and car-
ried into a Wood, &c. in another Hundred, near the
Highway, and there robbed, the Action shall be
brought against the Hundred where the Robbery was
done, as particularly expressed in the Statute, and not
the Hundred where the Man was taken or assaulted;
because the Assault is not the efficient Cause of
Robbery, as a Stroke is in Cafe of Murder. Hill.
1 Ann. B. R. 2 Salt. 614. But where Goods are
taken from a Man in a Robber within the Time of
another, where they are taken or failed, they are
stolen, and the Robbery is committed. 2 Litt.
If a Servant is robbed of his Master's Money, he may sue the Hundred on the Statute of Winsted, i.e. and Cry; or the Master may bring the Action, and the Man making Oath of the Robbery, and that the same none of the Robbers, is sufficient without the Oath of the Master. Goldi. 24. 2. 26. 37. 336. Where a Servant is robbed, he must be examined and sworn; but if the Master be present, it is a Robbery of him. Stew. 244. 1. 24. 3. 353. If a Quaker be robbed, or a Man's Servant being a Quaker, and either refuse to take the Oath of the Robberby, and that he did not know any way of the Robber, the Hundred is not answerable; for the Statute of Estim. was made to prevent Combination between Persons robbed and the Robber. Pet. or. 9. 1. But the Master's Oath where his Servant is a Quaker, or otherwise, and being robbed in his Presence, will maintain the Action in his own Name. Carth. 1. 4. And a Plaintiff had Judgment on his own Oath, though his Servant was robbed with him, knew none of the Robbers. When a Carrier is robbed of another Man's Goods, he, or the Owner may sue the Hundred; but the Carrier is the false Nuisance, and the Robber Oath, even though the Owner of the Good brings the Action. 2. 4. 3. 380. Receivers General of Taxes, &c. being robbed, there must be a Place in Company as usual to make the Oath of the Robbery to maintain an Action against the Hundred. Stat. 6. Geo. 1. If an Action against the Hundred be discontinued, on a new Action brought and that the Knowe none of the Robbers, and he lived forty Days before the last Action brought. Sid. 159. In Action upon the Statute of Hae and Cry, the Declaration is good, though the Plaintiff doth not say, that the Robber is the place; the Oath laid upon the Oath that the Robbery was committed. Mich. 6. W. And Oath was made before a Justice of the County where the Robbery was done, and not in the Hundred where it was held good. Cro. Car. 211. If a Justice of Peace refuses to examine a Person robbed, and to take his Oath, Affix the Statue lies against the Justice. 1. Lem. 353. It is safe to say the Plaintiff gave No Tice at such a Place, near the Place where the Robbery was done; and though that Place where Notice is given is in another Hundred of the same County, yet it is good enough; for a Stranger may not know the Confinelines of the Hundred or County. Cro. Car. 41. 379. 3. Sal. 18. If there be a Mistake of the Place, where the Declaration was, is, if be laid in the right Hundred, it is well enough. 2. Lem. 321. And though the Party puts more in his Declaration than he can prove, for so much as he can prove it shall be good. Cro. Cas. 348. Upon a Trial in such Cases, the Party must file his Original, and be sure to have a true Copy thereof, and Witnesses to prove it; and he must also have the Affidavit or Oath, and Witnesses to prove the Taking it. 2. Lill. Abr. 25. In these Actions, poor Persons in a Hundred, and Servants, are good Witnesses for the Hundred; but not these Holders as are worth any Thing. 1. Med. 73. And as Proof cannot be otherwise for the Plaintiff, he is allowed to be a Witness in his own Cause. 2. Buckl. An Usher a Court, or in the King's Palace, &c. See Usher. 2. Buckleyn. or Usher, Are Ships to transport Horses and Arms, if some will have it, from the Fr. Hau, i.e. a Door, because when the Horses are put on Shipboard, the Doors or Hatches are shut upon them, to keep out the Water. Bremton Ann. 1160. 4. Bulten, Is a Hall, or small Veil. Wolfgansem. P. 104. 2. Bult. The Mayor and Corporation of Hull, may take certain Customs for Fifth; of every Person pri-

vileged, for the Laff of Herringes 20 d. for an Hundred of Salt Fish 4 d. a Laff of Sprats 8 d. and greater Duties of Persons not privileged. Stat. 33 H. 8. c. 33. Humaghium. A moit Place. Mon. Angl. Soc. 1. Pag. 626. Hundres. (Hundredsm Centurias) Is a Part of a County, so called, because it contained ten Tithings, and a Hundred Families. Or for it is found the King one Hundred able Men for his Wars. These Hundred were first ordained by King Alfred, the 29th King of the Wif Saxon; who took the Form of dividing Counties into Hundreds out of the County, from the Constitution of Germany, where Centa or Census is a Jurisdiction over an Hundred Towns, and has the Punishment of capital Crimes. After the Division of England into Counties by the afore-men-

tioned King, and the Government of each County given to a Sheriff, those Counties were subdivided into Hundreds, of which the Constable was the Chief Officer. And the Grants of Hundreds at first proceeded from the King to particular Persons. 9. Geo. 10. The jurisdiction of the whole County remained in the Sheriff, until K. Edw. 14 granted some Hundreds in Fee; and all Hundreds which were not before that Time granted by the Crown in Fee, were by Statute joined to the Office of the Sheriff. By Statute 14 Ed. 1. c. 3. 9. Hundreds which were severed from the Counties were rejoined to the same; but neither of the Statutes extend to a Grant of the King of an Hundred in Fee, with Extortion; by Statute 1. 3. 399. 2. Nelf. Abr. 542. Hundred is said, to be Part

cei of the Crown; and by the Grant of an Hundred a Land palls, and an implied Power of making a Bailiff to execute Process, tho' this Day was separated from the County except such as were granted by King Edward 3. or his Ance-

rors; and it may not now be by Grant or Precept, though formerly derivable out of the County. 3. Med. 1595. Out Hundreds keep the Name, and re-

main in some Sort the same, as originally used; but their Jurisdiction is devolved to the County Court, some few excepted, which have been by Privilege annexed to the Court, or granted to some great Sub-

jects, and remain still in the Nature of a Franchise; and the use of the Hundreds is only a Custom of the County, whereby the Hundred Courts, anciently formed out by the Sheriff to other Men, were reduced all or the most Part to the County Court, and so continue at present, so that there are now any Hundred Courts, they are several Franchises, wherein the Sheriff has nothing to do by his ordinary Authority, unless they of the Hundred refuse to do their Duty. Wyll. Synb. 4. fol. 288. There were formerly Jurisdictions of Hundreds. And the Word Hundred is sometimes taken for an Immunity or Privilege, where-

by a Man is quit of Money or Collections due to the Hundreds. See Turn. Hundred chargeable for Rob-

bries, vide Hae and Cry. Hundredoros. (Hundredororos) Are Persons serving on 

Turges, or fit to be imprisoned thereon for Trials, dwelling within the Hundred where the Land in 

Question lies. Stat. 33 H. 8. c. 6. And Default of Hundredors; was a Challenge or Exception to Panels of Sheriffs, by our Law: till the Stat. 4 Edw. 3. Cap. 16. ordained, that to prevent Delays by Rea-

son of Challenges to Panels of Jurors for Default of Hundredors, &c. Writ of Personal Service from any Action in the Courts of Westminster, shall be awarded of the Body of the proper County where the Issue is tried. Hundredor also signifies him that has the Jurisdiction of the Hundred; and in some Places applied to the Bailiff of an Hundred. 13 Ed. 1. c. 38. 9 Ed. 2. 2 Ed. 3. Horn's Mirror, lib. 1. Humberd.
Hundredleigh, (From the Sax. Luga, Lexa) Is in Saxon the Hundred Court. Marwood, par. 1, pag. 2.


Hunting, of Game and Fry, See Game and Deer.

Hurters. The Cappers and Hat makers of London were formerly one Company of the Haberdashers, called by this Name. Sirw's Soc. Lond. 312.

Hurt, Hyd. (Sax.) A Wood or Grove of Trees: And as the great Wood called Andrewswood extended through Rent, Suffer, and Hambley, there are many Places in those Counties which begin and end with this Syllable.

Hyd-Cottle, Is so called because fenced near the Woods: So Hufinge is a woody Place: From whence probably is Hufe in a Village, where Oliver Cromwell had a Seat, near Winchester.


Husbantry. There being having been great Decay of Hufhondry and Hufpitality: it was enacted that one Half of the Houes decayed should be erected, and 40 Aprs of arable Land laid to them, by the Perfons, his Heir, Executor, &c. if he suffered the Decay: And they are to keep the Houses and Lands in Repair, by Stat. 39 Eliz. c. 4.

Husbeet, (From the Sax. Hus, a Houe and Brice, a Breaking) Was that Offence formerly which we now call Burglary. Blunt.

Hucart, A mensal Servant: It signifies properly a foot Man, or a Domofick: Afo the Domestic Gatherers of the Domes Tributes were anciently called Hucartes. The Word is often found in Domesday, where it is said the Town of Dorchset paid to the Use of Hucartes or Hucartes, one Mark of Silver. Domesday.

Hufcans, (Fr. Huscans) A Sort of Boot, or Buxin made of coarse Cloth, and worn over the Stockings, mentioned in the Stat. 4 Edw. a 7.

Husfallen, (Sax. Hu, i.e. Domus, & Feft, fixo) Is so called holding Houe and Land.—Er in France pleas oft decent names qui Terram & Domum tenunt qui dicentur Husfallens, &c. Brad. lib. 3. trad. 2. cap. 16. See Hufcans.

Husnable, (Hufhallow) Houe Rest, or some Tux or Tribute laid upon Houes. Mon. Angl. Tom. 3. p. 254.

Huffling People, Communicants, from the Sax. Huflin, which signifies the Holy Sacrament: And in a Petition from the Borough of Lomond to King Ed-ward the Sixth, the Petitioners set forth that in their Town there were to the Number of 2000 Hufling People, &c.

Huffling, (Huffinga, from the Sax. Huslinga, i.e. Convictus, or Curius) Is a Court held before the Lord Mayor and Aldermen of London, and is the principal and supreme Court of the City: And of the Great Antiquity of this Court, we find this honourable Men- tion in the Laws of King Edward the Confessor: Di- bete estiam in London, quae est supé Regis & Legum scepse Curia Domini Regis Hughling festinum Dies unam erat alimum & artificiis ad inferior, & ad modum & in memoriis Ver- veris Magnae Trojae, & sipse in indicilibus dicem Leges et Tres in Festis, & Libertates regici et citi- tudines antiquae Magnae Trojae, in fo centum: Et con- sultationes suas unam inviolabilitate confirmavit, &c. Other Cities and Towns have also had a Court of the same Name: as Winchester, York, Lewes, &c. Fleta, lib. 2. c. 55. 4 Inf. 247. Stat. 10 Ed. 2 c. 1. See Court of Huflings.


Hyperrhagia, The Season for Sowing Winter-Corn, between Michaelmas and Christmas: Is a Treme- gia to be sown for Sowing the Summer-Corn in the Spring of the Year: These Words were taken sometimes for the different Seasons: other Times for the different Lands on which the several Grains were sowed; and sometimes for the different Corns: as Hy- perrhagia was applied to Wheat and Rye, which we still call Winter-Corn; and Tremegia to Barley, Oats, &c. which we term Summer-Corn: This Word is like- wise used in the Hermannia and Thuringia. Fleta, lib. 2. cap. 73. feb. 18.

Hyde of Land, and Hygeuill. See Hyde and Hig. Hypothecate a Ship, (from the Lat. Hypotheca, A Pledge) Is to pawn the fame for Necessaries; and a Master may hypothecate either Ship or Goods, for Re- lief when in Difficulties, or for the Liberty of White- men as well as Owners: And in whole Hands forever a Ship or Goods hypothecated come, they are liable. 1 Sul. 34. & Litt. Abr. 195. Blunt. A Wharf, &c. See Hib. Blunt.

J.

Jorns bar Veteris dictum, aut Magno edita &c: An Edict at Aberavon. Dig.

Jarch, A Kind of defensive Coat Armure worn by Horhemen in War, not made of solid Iron, but of many Plates fastned together which some Persons by Tenure were bound to fand upon any Invasion. Wol- fingham.

Jalitine, (Lat.) Signifies he loath in De- fault; Placitum jam neglegit, & Jutio exaud manono. Formul. Solen. 159.

Jamaica, An American Island, taken from the Spoci- nardi in the Year 1655, mentioned in the Stat. 15 Car. 2. c. 5. See Plantations.

Jambens, Leg Armure, from Jambes, Tilia. Blunt.

Jammum, Furze or Gorfe, and gorfy Ground; A Word used in Furse of Lands, &c. and which forms the basis of the Fr. Jams, i.e. yellow, because the Blooms of Furze or Gorse are of that Colour. 1 Creed. 179.

Jannum or Tan, Heath, Whins, or Furze. Pla- cia 13 H. 3. No Man can cut down Furse, or Whins in the Forby, without Licence. Mannond, cap. 25. num. 1.

Jarrac, A Small Money, according to Stanndord. S. P. C. 20.

Prag. c. 9. 4 Rep. 124. And if one have no such Knowledge as to measure a Yard of Cloth, number twenty Pence, or rightly name the Days of the Week, or to begat a Child, &c.: whereby it may appear he hath some Light of Reason, he shall not be acquitted of an Idiot by the Laws of the Realm. 4 Rep. Though there was a general Finding of an Idiot, and afterwards lied for so many Years, and not from his Nativity; it was held good, and that which followed was Surplus: 5 M. 43. Idiots not having Under- standing, are incapable to make a Will or Testament; and their Deeds, Grants and Conveyances are voidable, or may be made void: But what they do concerning Lands, &c. in a Court of Record, as Fines, Recoveries, Judgment, Statutes, &c. by them suffered and entered into, shall bind themselves, and all others claiming under them. Yet the Judges ought not to suffer an Idiot to do any such Act. 1 Inf. 247. 1 Inf. 625. 3 Rep. 111. 4 Rep. 125. 24 Rep. 124. By being or being in Novo compo Mensis, who are sealed or poissified of Edicts in Fec, or for Life or Years, in Tract or by Way of Marriages, are enabled to make Conveyances or Assignments of such Edicts, in such Manner as the Lord Chancellor shall direct, on hearing of the Parties for whom such Idiots or Lunatics shall be sealed, or sealed in Tract, &c. which Conveyances shall be good in Law, as if the Idiots, &c. had been of sound Mind: And they may be compelled to con- vey such Edicts, in like Manner as other Persons. Stat. 4 Geo. 2. c. 10. If an Idiot contracts Marriage, it will bind him, and his Idiots will be legiti- mate; And Idiots shall be bound to pay for Neces- saries. 1 Rel. At. 157. 2 Stat. 112. A Difference on a Difficulty, may take away the Entry of an Idiot; but after his Death his Heirs may enter, &c. 4 Rep. 124. Also where an idiot is an idiot, though of? Any Age, any Person may make a Tender for him. 1 Inf. 206. Idiots cannot appear by Attorney, but when they sue or defend any Action, they must appear in Person, and the Suit be in their Names, but fol- lowed by others. 2 Sid. 112, 333. Idiots, &c. ought not to be prosecuted for any Crime; because they want Knowledge to distinguish Good and Evil. 1 Inf. 147. 5 Inf. 108.

A Res expeditione et Examinando, is a Write to examine whether a Person be an Idiot. The King having the Proceeding of his Subjects, and the Go- vernment of their Lands who are naturally defective in their Understanding; for this Purpose the Write de Idiota Inquisitione, &c. is enrolled, directed to the Procurator, &c. or the Lord Chancellor, &c. to examine him and inquire by a Ju- ry of twelve Men, who are to be on their Oaths, whether the Party is an Idiot, or not. If he be found sufficient Understanding and Discretion to manage his Estate, or not; and if from his Birth he hath been a perfect Idiot, by Reason whereof the Custody of his Lands and Tenements ought to belong to the King; or if by any Misfortune, he hath fell into such Infirmity, &c. and by what, &c. and of his Age, and Lands, and who holds them, &c. and when the Measure a Yard of Cloth, the Certainty is to certify it into the Chancellor; And the Party may be afterwards examined by the Lord Chan- cellor. 3 Eliz. N. B. 253. Reg. Orig. 167. 9 Rep. 31.

Iride, (Ideas) Are eight Days in every Month, so called; being the eight Days immediately after the New-Moon. In the Months of March, May, July, September, and October, these eight Days begin at the eight Days of the Month, and continue to the fifteenth Day; In other Months be these Days the first, fifth, ninth, and thirteenth. But it is observable, that the last Day of each is called Lid, the first of these Days is the Eighth Ides, the second Day the Seventh, 5 Eliz.
the Third the Sixth, i.e. the eighth, seventh, or each Day before the Ides, that is of the Rest of the Days; Wherefore when we speak of the Ides of any Month in general, it is to be taken for the Fifteenth or Thirteenth of the Month mentioned. See Calendar.

2. Justices of the Peace, (v. above) are to be commissioners to hear and determine, in the nature of a Court of First Instance, all causes of a civil nature which do not exceed the limits of a small debt or dispute, or which do not require a full and complete investigation. See Justices of the Peace.

3. Petition, (v. below) is a written statement of a claim or grievance, presented to a court or government. See Petition.

4. Presumption, (v. below) is the assumption of a fact in the absence of evidence to the contrary. See Presumption.

5. Quorum, (v. below) is the minimum number of members of a body required to constitute a valid meeting or action. See Quorum.

6. Return of the Officers, (v. below) is the act of the Officers of a Court or government, returning to the Court or government, answers to their writs or mandates. See Return of the Officers.

7. Servant, (v. below) is a person employed by another as a worker or laborer. See Servant.

8. Testimony, (v. below) is evidence given by a witness in a legal proceeding. See Testimony.

9. Verdict, (v. below) is the decision of a jury in a legal proceeding. See Verdict.

10. Witness, (v. below) is a person who testifies to the truth of a statement or fact. See Witness.
Infantis, &c. Born in the King's Dominions and ordained by the pretended Jurisdiction of Rome, remaining in England, or coming from beyond Sea into this Kingdom, and not submitting to some Bishop of the Church of England, and taking the Oaths, are guilty of High Treason; and Receivers, Aiders and Harbourers of them, are guilty of Felony. Stat. 27 Eliz. c. 1. Persons knowing such Infants, &c. and not discovering them to a Justice of Peace, shall be fined and imprisoned. 22 Car. 2.

Iesus, (Juder) In former Times the Jews and all their Goods were at the Disposal of the Chief Lord where they lived; who had an absolute Property in them; and they might not remove to another Lord without his Leave: And we read that K. Henry 3. fold the Jews for a certain Term of Years to Earl Richard his Brother. They were distinguished from the Christians, in their Lives time, and at their Deaths; for they wore a Badge on their outward Garments, in the Shape of a Table, and were feed if they were abroad without such Badges; and they were never buried within the Walls of any City, but without Church; and as a Body, and not severally, but in a Burial in the Country. Matt. Par. 531, 606, &c. There were particular Judges and Laws by which their violences were decided, and there was a Court of Justice assigned for the Jews. 4 Ind. 254. A Jew may be a Wito[ne] by our Laws, being sworn on the Old Testament. But by our ancient Books, Jews, Hebræus, &c. are adjudged out of the Statutes allowing Benefit of Clergy. 2 Hen. 6. P. C. 318. The 53 H. 3. is called Preuisiones de Judæis, and by the Statute 18 Ed. i. the King Pleadeth, Titheth, &c. and not discovering them to a Justice of Peace, shall be fined and imprisoned. In the 16th Year of Edward 1. all the Jews in England were imprisoned; but they redeemed themselves for a vast Sum of Money. Nowwithstanding he banished them all. Stat. 24. 25. 26. 3. p. 64 &c. And they remained in Banishment 346 Years; till Oliver Cromwell restored them to all their Rights and Privileges. See Stat. 1. Ann. c. 30. concerning Treason Parents refus[ing] Maintenance to a Protestant Child; and to 10 Gen. c. 4, by which Jews may take the Oaths to the Government, et Tutejus. 2 Stu. 2. 3. There may be imported or exported without paying any Custom Duty, &c. But not to make void Duties granted to a Person, whereby he shall be expe[nsed] from Places in their Limits. Stat. 6 Gen. c. 7. See Jewes. &c.

Juxta Jurisdiction, Purgation by Fire, or the old Judicial Jury Trial.

Ignitium, The Evening Bell to put out the Fire, in the Time of Will. 1. called The Conqueror. See Confront.

Ignoramus, (i. e. We are ignorant) Is used by the Grand Jury impanelled on the Inquisition of Causes criminal, when they reject the Evidence as too weak or defective to make the Prelaments against a Person, so as to put him on the Trial, in which Case they write this Word on the Bill of Indictment; the Effect whereof is, that it shall full Inquest and Proceedings against that Party, for that Fault whereof he is charged, is thereby stopped, and he is delivered without further Answer. 3 Jac. 20.

Ignorance, (Ignorantia) Which is Want of Knowledge of the Law, shall not excuse any Man from the Penalty of it. Every Person is bound as his Pet- ril to take Notice of what the Law of the Realm is; and Ignorance of it, though it be invincible, where a Man affirms that he hath done all that in him lieth to know the Law, will not excuse him. 9 Ed. 2. &c. 1. 16. And an Infant of the Age of Dis- cretion shall be punished for Crimes, though he be ignorant of the Law; but Infants of tender Age, have Ignorance by Nature to excuse them; so Persons Non Capiti have Ignorance by the Hand of God. Stat. 3. Can. 83. 84. Though Ignorance of the Law was censed not, Ignorance of the Fact doth: As if a Person buy a Horse or other Thing in open Market, of one that had no Property therein, and not knowing but he had Right; in that Case he hath good Title, and the Ignorance shall excuse him. Deit. &c. 309. But if the Party bought the Horse out of the Market; or knew the Seller had no Right, the Buying in open Market, would not have excused. Ibid. 5 Rep. 83. Also where a Man is to enter into Land; or sell Goods, &c. he must see that what he does he rightly do, or his Ignorance shall be no Excuse. Wood's Inst. 608.

Ithambert Street. One of the four famous Ways that the Romans made in England. See Walking Street.

Ithet By Carthage Agis, signifies a little Island. Blunt.

Itch, That is a Debe or Duty that cannot, or ought not to be levied; as 35 Eliz. set upon a Debe is a Mark for itinerables.

Illitteraturæ. If an illiterate Man be to feel a Deed, he is not bound to do it, if none be present to read it, if required; and if the writing be a Deed fails, will make it void. 2 Rep. 3. 11. A Man may demand Non civ. faultum to a Deed read failt; as where a Release of an Annuity was to read an illitteratus Peron, and a Release of the Annuity only, the same agreed to be released. Moor 148. If there is a Time limited for a Peron to feel a Writing, in such a Case Illitteraturæ shall he no Excuse, because he might provide a faithful Man to instruct him; but when he is obliged to steal it upon Request, &c. there he shall have convenient Time to be instructed. 2 Nef. Ab. 945.

Illuminantes, To illuminate, or draw in Gold and Colours the initial Letters and other Figures in manuscript Books. Brum. Ann. 1076.

Ithurbigo, (Genev. in Lat. Novium derinctio) Is a Stop, Stay, or Arrest upon Ships or Merchandize, by publick Authority. Stat. 18 Car. 2. c. 5. This Arrest of Shipping is commonly of the Ships of Foreigners in Time of War and Differences with States to whom they are belonging; But by an ancient Statute, foreign Merchants in this Kingdom are to have Forty Days Notice to sell their Effects and depart, on any Difference with a foreign Nation. 27 Ed. 3. c. 17. The King may naturall impose upon Shippes, or employ the Ships of his Subjects, in Time of Danger, for the Service and Defence of the Nation; but a Warrant to stop a ship, on a private Account, is no legal Imbargo. Moor 92a. Carb. Rep. 297. Prohibiting Commerce in the Time of War; or of Plague, Pestilence, &c. Is a kind of Imbargo on Shipping.

Imbalsam of Money, (from Abluere to corrupt or mingle) Signifies to mix Species with an Alloy below the Standard of Sterling; which the King by his Prerogative may do, and yet keep it up to the same Value as before: Imbalsam of it, is when 'tis raised to a higher Rate, by Proclamation. 1 Hat's Hist. P. C. 192.

Imbige. To feel, pillor, or portail; or where a Person entrusted with Goods, waives and diminishes them. The Word Imbige is mentioned in several Statutes, particularly relating to. Workers of Wood, &c. as the Stat. 7 Jac. 1. c. 1. 14 Car. 2. c. 31. and 1 Ann. By the former of which, Imbige of Wool, Yarn, or other Materials for making of Cloth, are to make Satisfaction, or be whipped and put in the Stocks; and by the latter they are to forfeit double Damages, and be committed to the House of Correction till paid. &c. By a last Statute, Persons that imbed or illegally dispose of any Woodens. Linnen,
M. C. 245. And if Proces had been continued, he might have been brought in the same Term upon an Indictment, and be sent to the House of Correction, and there whipped, and kept to hard Labour fourteen Days: and for a second Offence, forfeit four times the Value, &c. And Bayers and Papists liable to the same Penalties. Stat. 15 Geo. 2. c. 8. If any Servant, indentur'd, portolant, or makes away his Master's Goods, to 40s. Value, it is made Felony without Benefit of Clergy, by 12 Ann. c. 7.

Immunities. King Hen. 5. by Charter granted to the Citizens of London, a general Immunity from all Tolls, &c., except Customs and Privilege of Peach. Cit. lb. 18. 94.


Impartiality of Judges. Signifies writing and entering into a Parchment Schedule by the Sheriff, of the Names of a Jury summoned to appear for the Performance of such public Service, as Judges are employed in. Immunities was sometimes a Privilege granted that a Person should not be imprisoned or returned upon a Jury. — Non Maximim in Immunitatis est actionis Justitia, C. Troch. Anni. 617. See Decret.

Impartiality, (Jure interdict, vel litera interimperat.) is derived from the P. Parker, to speak, and in the Law, is taken for a Petition in Court of a Day to consider, or advise what Answer the Defendant shall make to the Action of the Plaintiff; being a Continuance of the Cause till another Day, or a larger Term, and in general, the same Rules are to be observed, either General or Special, General, when it is set down, and entered in General Terms, without any special Clause, that is, and now at this Day, in which it is set down, and entered in the same Terms, in which the Party desires a further Day to answer, adding also these Words: Saving all Advantages, as well to the Jurisdiction of the Court, as to the Writing and Declaration, &c. Kitch. 200. This Impartiality is held on the Declaration of the Plaintiff; and special Impartiality is of Utte where the Defendant is to plead some Matters which cannot be pleaded after a general Impartiality. 5 Rep. 75. Impartiality is generally to the next Term; and if the Plaintiff amend his Declaration after delivered or filed, the Defendant may imparl to the next Term afterwards, if the Plaintiff do not pay Costs; but if he pay Costs, which are accepted, the Defendant cannot Imparl. 1 Litt. Abr. 35. Also if the Plaintiff pleads against the Defendant, but does not proceed in three Terms after; the Defendant may Imparl to the next Term. Ibid. The not delivering a Declaration in Time is sometimes the Cause of Impartiality of Court: Where and where the Defendant's Case requires a special Plea, and the Matter which is to be pleaded is difficult; the Court will, upon Motion, grant the Defendant an Impartiality, and longer Time to put in his Plea, than otherwise by the Rules of the Court he ought to have: If the Plaintiff keeps any Ded, or other Thing from the Defendant, whereby he is to make his Defence, Impartiality may be granted till the Plaintiff delivers it to him, or brings it into Court, and a convenient Time after to plead. Hill. 22 Car. 1. B. R. An Impartiality being pray'd on a Defendant's Appearing to be in Danger, it was said that the Plaintiff would formerly from Day to Day, but now from one Term to another, on the Crown-Side; and it was ruled that the Defendant should have the same Time as he had, that the Proces would have taken up, if he had stood out till the Attachment or Copy; for when he comes in upon that, he must plead infamiter. 1 Salk. 367.
Imprisonment of Wills, (Imprimitia Vagi, from the Fr. Imprimescence, i.e. Imprimemment) Signifies a Reservement of Wills upon Lands or Tenements, or a Demand of Recompence for Wills done by a Tenant that hath but a particular Estate in the Land granted; but he hath a Lease to hold without Imprisonement of Wills, by that Law for an Interest given him in the Land, &c. that he may make Wills without being imprisoned for it; that is, without being questioned, or any Demand of Recompence for the Wills done in that Lease. See Stat. 12. 3. c. 7. 167. c. 24. See Statute Limitation, 21. Jac. 1.

Imprimita, Immediata Caii, Dogs fasta in the Forests. Vide Expediteus.


Imprisement, (Imprisement) Signifies an Obtaining of any Thing by Requet and Prayer: And in our Statutes, it is said of Church Benefices, that Englanded from the Court of Rome, which belong to the Gift and Dispofition of the King, and other Lay Patron of this Realm; the Penalty thereof was the Same with Provost, 25 Edw. 3. 38 Ed. 4. cap. 1.

Impriptment, Is used for Impairing or Prejudicing; as to the Impriptment and Diminution of their good Names, &c. 24. Hen. 8. 8. 9.

Impript, To sue or prosecute by Court of Law; from the Fr. Plaidor.

Impriptes, (From the Lat. Imply, to fill up) Things infeincible in any Trade or Mystery, without which the Work cannot be performed; also the Furniture of a House, as all Household Goods, Implements, &c. And Implements of Houses are Tables, Pressey, Wainscot, and the like: In this Sense, we find this Word often in Gifts and Conveyances of Moveables. Termes de Ley 40th.

Implication, Is where the Law doth imply something that is not declared between Parties in their Deeds and Agreement: And when our Law giveth any thing to a Man, it giveth Implicitly whatsoever is necessary for the Enjoying the same. The WANT of Words in some Cales may be help'd by Implication; and so one Word or Thing, or one Estate given, shall be implied by another: And there is an Implication in Wills and Deeds of Lands, whereby Estates are gained; as if a Husband devolves the Goods in his Hous to his Wife, and that after her Death his Son shall have them, and his Hous; though the Hous be not devolved to the Wife by express Words, yet it has been held that the hath an Estate for Life in it by Implication, becase no other Person could then have it. And the Son and Heirs being excluded, who was to have nothing 'till after her Death. 1 Peut. 223. But where it may be reasonably intenced, that the Devior meant as well the one as the other, in such Case his Intention shall never be construed in Prejudice to the Heir at Law: For Instance: A Man devolved Part of his Lands to his Wife for Life, and that the same and all the Rest of his Lands should remain to his youngest Son, and the Heirs of his Body, after the Death of the Wife; now here was no express Devise of the Rest of the Lands to his Wife, and as they shall not have them by Implication, because the eldest Son and Heir at Law was not excluded, who shall have them during his Life or other Time; and out to the Youngest son takes Effect, for they shall descend to the Heir in the mean Time. Mor. 123. Though Crake, who reports the same Case, says, it was adjudged the Wife should have the Whole. 2 B. & C. 140. Estates for Life, and Estates tail, may be raised by Implication in Wills; a Tenant had three Sons, the eldest Son dying, leaving his Wife with Child, to whom the Father devised an Annuity in Value in the same, and if his middle Son died before he had any Issue of his Body, Remainder over, &c. And it was resolved, that such Son had an Estate tail by Implication. Mor. 127. It is said, a Fee simple Estate shall not arise by Implication in a Will; though there is a perpetual Charge imposed by the Devisee on the Devisee. 1 B. & C. Bridg. 103. Also it hath been adjudged, that where a particular Estate is devised by Will expressly, a contrary intent shall not be implied by any subsequent Clause. And Implication is either necessary, or possible; and where ever an Estate is raised by that Means in a Will, it must be by a necessary Implication; for the Devisee must necessarily have the Thing devised, and no other Person whatsoever can have it. 1 Salt. 326. 2 Nef. Abr. 494. No Implication shall be allowed against an express Estate, limited by express Words, to drown the same. Salt. 266. There are Conditions and Covenants, implied by Law in Deeds and Grants: And Implication will sometimes help to Supply Omissions, and Supply Defects. See Intendment and Usucaption.

Imprestation, (Imprestation) Is where Goods and Merchandize are brought into this Kingdom from other Nations. 12 Car. 1. c. 4.

Imprest, (Fr. from the Lat. Impo, i.e. Impunire) Is a Tribute or Custom; but more particularly that Tax which the King receives for Merchandize imported into any Port or Haven: And it may be distinguished from Customs, which are rather the Profit arising to the King from Goods exported. 3 Edw. 1. c. 5.

Imprestibility. A Thing which is Imprestible in Law, is an one with a Thing imprisnotible in Nature: And if any thing in a Bond or Deed be Imprestible to be done, such Deed, &c. is void at Law. Yet where the Condition of a Bond becomes Imprestible by the Act of God, such Case it is held the Obliger ought to do all in his Power towards a Performance; As when a Man is bound to enfooch the Obliger and his Heirs, and the Obliger dies, the Obliger must enforce his Heir. 2 Cor. 274.

Imprestibility, (From the Preposition In, and Fr. Persi, paraus) Is Money paid at the Itilliing of Soldiers.

Imprestificabilis, Signifies invaluable, in which Sense it is often mentioned in Matt. Paral.

Imprestimei, (Fr.) A Print, or Impression; and the Art of Printing, also a Printing house are called Impresteme. Stat. 14. Car. 2. c. 53.

Impresti, Are those who ride with, or take the Part of another, either in his Defence, or otherwise.


Imprestenten, (Imprestementen) Is a Refrain of a Man's Liberty under the Custody of another; and extends not only to a Good, but a House, Stocks, or where a Man is held in the Street, &c. for in all these Cases the Party to restrained is said to be a Prisoner, so long as he hath not his Liberty freely to go about his Business as at other Times. 1 Inf. 253. Imprestenten according to Law, is according to the Common or Statute Law, or the Custom of England, or by Procès, and Course of Law. 2 Inf. 46. 52. 102. And the Tall is in this Case imprisnotible, but as the Law directs either by Command and Order of a Court of Record, or by lawful Warrant, or the Device, or by whichsoever means may be lawfully detained to answer the Law. 2 Inf. 46. 3 Inf. 209. At Common Law, a Man 51 could
could not be imprisoned in any Cafe unless he were guilty of some Force and Violence; for which his Body was subject to Imprisonment, as one of the highest Executions of the Law: But Imprisonment is in Britian found in many Cafes. Though see Magna Chart 9. H. 3. c. 29. When ever the Common Law, or any Statute doth give Power to imprison, there it is lawful and justifiable; but that doth so far Purport of a Statute, must be so expressly, as to follow the Statute in the Order and Manner of doing thereof. Dyer 104. Ed 11. A Justice of Peace may cause Oder to be made to be imprisoned, and may himself require any Man to give Security of the Peace or Good Behaviour, where he causeth, and if he refuseth may imprison him. Briv. Treff. 177. If a Warrant of Commitment be for Imprisoning a Man until further Order, it is not a warrant but for an Afforded, nor is there any Cause for which he is committed: And where a Person was committed to Prison by Warrant from a Secretary of State, without alleging any Cause, it was adjudged that he might be discharged for that Reason; but then another Warrant was returned of the same Secretary, in which the Person committed was restored, and that upon further Examination, he commanded the Gaoler to detain him, safely, for Suiposition of High Treason; and he was fined, so there was no cause to detain him, because the former Warrant referred to the First, which was no warrant at all; besides, there was no especial Cause of Supicion alleged, nor for what Species of Treason. Pal. 558. 11. Roll. Rep. 219. In all Cases of Personal Actions, if Judgment be given against the Defendant, he shall be fined and imprisoned, because to every Fine Imprisonment is incident; and therefore where the Warrant is fines and committed to appear to any Court of Record, he may be imprisoned till the Fine is paid. 8. Rep. 606. In what Cales Persons imprisoned may be delivered on Bail: if the Person is bound by another: First, Not to be given upon the Exchange, or other publick Place, of the Time of Sale; and in the mean Time, the Goods to be hold are divided into Lots, printed Papers of which are to the Bidders, and the Creditor is to be delivered till the Goods are sold, and the left Bidder when the Candle goes out, is entitled to the Lot not offered to expost. In any Difference happens in adjoining to whom a Lot belongs, where several bids together, the Lot to be put up again: and the left Bidder is bound to stand to the Bargain, and take the Lot, whether good or bad. In these Cafes, the Goods are let up at such a Price: and none shall bid less than a certain Sum, more than another hath before, 8. Morth. Diet. Incident, (Incident) is a Thing necessarily depending upon, appearing to, or following another that is more worthy or principal. A Court Baron is inappelable incident to a Minor; and a Court of Piepowders to a Faile: Those are so inherent to their Principals, that by the Grant of one the other is granted and they cannot be extant by Release, or save by Exception, but in special Cafes. Kitch. 36. 1 Inf. 131. Rent is incident to a Renter. Timber: Trees are incident to the Owner, and also Deeds and Charters, and a Way to Land; Estates is incident to Tenures; Diffrs to Rent and Amortement, 8. Inf. 154. Tenant for Life only has his Effeats, as the Veners of Wood, 1 Inf. 41. And there are certain Incident to Effeats tail; as to be dispensable of Wall, to suffer a Recovery, 8. Inf. 234. 10.
IN

IN

Rep. 38, 39. Incidents are needful to the Brush off
to that which they are incident; and the Law is
their treacher. Hob. 39, 40.

31. Connecticut, A Home-Login or Inclusion near the

Inclusion. The throwing down Inclusions, an
offence punishable by our ancient Laws and Stu-
ments, 1 Ed. 1. c. 46. But if a Lord of a Manor
includet Part of the Wall or Common, and doth not
leave sufficient Room for the Comonomer; they
may break down such Inclusion, or have Writ of
Auntive. 2 & 4 Ed. 6. Large Walls or Commons in
the Wigt-Riding of the County of York, with
the Consent of the Lords of Manors, &c. may be
includet, a sixth Part wherefore shall be for the Benefit
of poor Clergymen, whose Livings are under 40 l.
A. Year, to be settled in Trullione, who may grant
Cap. 2.

Incompatibile, Incompatibilitas Beneficiorum, is
when Benefices cannot stand one with another, if
they be by Nature and of such a Value in the King's

Incontinente, (Incontinencia) Where Persons are
insane, and have no Command of themselves, is a
Crime, and is condemned in general Causes, and
there are divers Degrees thereof: As Cases of Bi-
gamy, or having more Wives than one; Ropes of
Wives, Ropes of Children, Ropes of a Servant; Beggary;
getting beggar's clothes, &c. which are all which are punished by Statute. See 25 H. 8. c. 6.
18 Eliz. c. 7. 1 Jac. 1. Incontinence of Priests, is punished by the Ordinary, by imprisonment, &c.
11 H. 7. c. 4.

Incapitale, is made Use of for a Proctor, or

Incurvatur, Increscere or Improvement, is when
which was opposed Incrementum or Abatement. —Reden-
duo antiquum firmam & de Incremento 1.xi. Paroch.
Answ. 164. And we read Debt A. B. gaudam Incr-
crementum tera meno agat, &c. Where it is meant to
be a Parcel of Ground included out of a Common, or
improved.

Incrassation, (Fr. Accrémation, i. e. a Grappling
of a Thing) Signifies an unlawful Gaining upon the
Right or Possession of another Man. As where a
Man tres his Hedge or Wall too far into the Ground of
his Neighbour, that lies next to him, he is held to
make Incrassation upon him: And a Rent is laid
to be increased, when the Lord by Difficult or other
wise compels his Tenant to pay more than he owes; and
so of Services, &c. 1 Ed. 9. Rep. 33. And some-
times this Word is applied to Powers; for the Spencers,
Father and Son, it is said, incrassato unto them Royal
Power and Authority. 5 Ed. 5. And the Ad-
miral and their Deputies incrassato to themselves
divers Jurisdictions, &c. 1 R. 2. c. 5.

Incrustamentum, (From the Lat. Incrusta, to mind ri-
ligentely.) A Clerk who is insolent on his Benefice
with Cure; and is called, because he does or ought
to bend all his Study to the Discharge of the Cure
of the Church to which he belongs. Ca. Lit. 119.
Where an Incrustamentum is put out without due Pro-
cess, he shall be at large fine for his Remedy at
See, Church.

Incursamentum, The Incurring or being Subject
to a Penalty, Fine or Amercement: So Incursi alius is
to be liable to another's legal Censure or Punishment.

—Studium of good opinion Tenentes capitulatorum
Domini: vel Regi incursatur. Wyf. 2. cap. 37.

Indebitarum Aliumplzt, It used in Declarations and
Law Proceeding, where one is indebted unto another
in any certain Sum, and the Law creates
it: It is also an Action thereupon. Proxif. Atorn.
Edit 1. pag. 73. And it has been held, that the
Action upon an Indebitarum Aliumplzt lies in no Case,
but where Debt will lie for the same Thing. 1 Sum.
25. See Aymephy.

Indemptible, (Indemnissimo) That is not Tizable,
or by Law ought not to pay Tube. 1 Ed. 429.

Indenfiable, is what cannot be dissociated or made
void; as a good and Indefinable Estate, &c.

Indemnity, A Word signifying one that is im-
pressed, and refinched to make Answer: 5 c. prae-
ctu j. nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
nulli subfit diverso factum dixit. Richardi,
INT

IN


Indictment, (Indictamentum, from the Fr. Enqui- ter, i.e. confer numen-aligante) is a Bill or Declaration of Complaint drawn up in Form of Law, exhibited for some Offence criminal or penal, and presented to a Grand Jury; upon whose Oath it is found to be true, before a Judge or others, having Power to punish or certify the Offence. Terms de Ley 253. Lombard lays, an Indictment is an Accusation, at the Suit of the King, next he said to the Attorney-General of the County wherein the Offence was committed, returned to inquire of all Offences in general in the County, determinable by the Court, into which they are returned, and their Finding a Bill brought before them to be true: But when such Accusation is found by a Grand Jury, without any Bill brought before them, and afterwards reduced to a formed Indictment, it is called a Preliminary; and when it is found by Juries returned to inquire of that particular Offence only which is indicted, it is properly called an Indictment. Lamb. &c. cap. 9. And by Pulton, an Indictment is an Inquisition taken and made by twelve Men, at the least, thereunto sworn, whereby they do find and present, that such a Person, of such a Place, in such a County, by and by one Degree, hath committed such a Trespass, Felony, Treafy, or other Offence, against the Peace of the King, his Crown and Dignity. Patt. 169. An Indictment, by Lord Chief Justice Hale, is nothing else but a plain, brief, and certain Narrative of an Offence committed by any Person, and of those necessary Circumstances, that concur to ascertain the Person and his Act and Nature: And there is great Strictures required in Indictments, where Life is in Question; and therefore very nice Exceptions thereunto, are of later Times allowed. 1 Hale's Hist. P. C. 156, 159. A Bill of a Grand Jury, hath been said to be the Advertisement and Discovery of the Reason: because the Jury that enquireth of the Offence, doth not receive it, until the Party that offerrith the Bill appearing subscribeth his Name, and offers his Oath for the Truth of it: But it differs from an Accusation in this, that the Preferer of the Bill is not tied to the Proof of it, upon any Penalty, except there appear Conspiracy. Stann. &c. P. C. 20. cap. 83. Although the Bill of Indictment may be most of a Grand Jury upon Oath, they are not bound to find the Bill, if they find Cases to the contrary; and though the Bill of Indictment be brought unto them, without Oath made, they may find the Bill if they see Cases: But it is not usual to prefer a Bill unto them before Oath be sworn made in Court, that the Evidence they are to give unto the Grand Inquest to prove the Bill is true. Pagh. 23 Car. B. R. 2. Lib. Abr. 44. The Grand Jury are to find the Whole in a Bill, or reject it, and not find specially for Part, &c. 2 Hen. P. C. 210. According to the Common Law, every Indictment must be found by Twelve Men at the least, every one of whom ought to be of the same County, and returned by the Sheriff, or other proper Officer, without the Nomination of any other, and to Free-men, not under any Attainder of Felony, nor Oat- law, &c. &c. And any one under Prosecution for a Crime, before he is indicted, may except against or challenge any of the Persons returned on the Grand Jury; as being outlaid, returned at the Insistance of the Prosecutore, or not returned by the proper Officer, &c. 2 Hen. 215. By Statute, no Indictment shall be made but by Inquest of lawful Men returned by Sheriffs, &c. 11 H. 4. cap. 2. And if a Person not returned by the Sheriff on a Grand Jury, procures his Name, though the Head among others of a Jury be actually returned, whereupon he is sworn of the Jury: he may be indicted for it, and fined, and the Indictment found on such a Jury shall be void. 11 H. 4. cap. 9. 12 Reg. 28. 5 Jas. 35. Sheriffs had formerly Power to take Indictments; which they did by Roll in-
Felon. 22 Car. B. R. 5 Lid. 44. By Holt Chief Justice: If a Civil Action of Treason be brought for Goods taken, after Recovery the Party may be indicted for Trespass or Felony, for the same Taking; and that may be brought, as an Indictment for Trespass, &c. and the Crime appears to be Felony; there you cannot have Verdict or Judgment on the Indictment for Trespass till the Felony is tried, it being the inferior Offence. Mod. Gafl. 57. And 'tis said that 'tis over lies not for Goods stolen, until the Offender is convicted, &c. on Indictment of Felony.

1 Hats. N. P. C. 456. A Person may be indicted for Preaching against the Church, the Civil and Ecclesiastical Government being incorporated together, that one cannot submit without the other; and both court in the King; wherefore to speak against the Church, is within the Statute 13 Car. 2. Sid. 69. 2 Hats. Abr. 1019. And a Person was indicted for pronouncing Abolition to Person's condemned for Treason, at the Place of Execution, without showing any Reparation. 5 Mod. 253. Also a Person hath been indicted, &c. for Drinking Health to the Memory of Traitors. 3 Mod. Rep. 52. Indictments ought to be made commonounding in Law, because they are more penal, and to be more precisely answered unto. Holt 25 Car. 2. B. R. They must be precise and certain in every Particular as to the Place of the Offence and not ordinary. All Offences in particular, and not a Person as an Offender in general, or for other Goods, &c. stolen, without expressing what Goods; and it ought not to be so indistinctly, not by Way of Recital, &c. or be supplanted by Implication. 3 Hats. 219. 2 H. P. C. 215. 215. Indictment must set forth, the Christian Name, Surname, and Addition of the Place, and the Time, and the Day, &c. and the Time when the Offence was done, as the Day, Year, &c. and the Town or Place where; the Nature of the Offence, whether Treason, Felony, &c. and the Place of the Thing by what, which it is committed, &c. And in Indictments of Murder, the Length and Depth of the Wound is to be expressed: The Value of Things stolen is to be specified, that it may appear whether Grand or Petit Larceny; and of the Thing that does the Felony, which is forfeited to the King; and the Dimensions of a Wound must be expressed, that is may be judged mortal. 1 Hats. 2 cap. 3, 2 Inf. 518. H. P. C. 264. Wylye's Symb. Syst. 70. In T.R. according to our Old Books, the Indictment must by Procurator, and conclude contra Legislatum finis in re, and was in so many Words; and it was the Killing was by Shooting, or with the Hand, &c. It must say Perditio in Burglary, Burglaritiae, or Burglariae in Rape, Robberies in Felony, Larcenies in Larceny, Felonitiae et Multa, Multae. And in all these Cuts, and in Trespass, the Indictment ought to be of Felony, &c. and conclude contra pop. where, which are Words to show an Offence generally; and if the Offence is created by Statute, it must conclude contra formam Statutum, &c. 4 Rep. 39. 48. 5 Rep. 121. H. P. C. 206. These Words the Law hath appropriated for the Description of Offences, and none other will supply them: But the Omissions of Fi & Armis & contra pacem, is helped by Statute 4 & 5 Ann. Falle Latin, in the former Course of Proceedings, did not hurt an Indictment, if by any Intendment it could be made good; but if any Word was not Latin, or allowed by Law as a Word of Art; or if it had been material, the Indictment was insufficient. 5 Rep. 121. 2 Cor. 108. 5 Cor. 245. But an Indictment against Two or more, laying the Fact in theingular Number, as if against one, hath been held insufficient for the Interchangeability. 2 H. P. 358. A Member of the Defendant's Sur-
to answer severally for his own Crime. 1 Howd. 240. A Person cannot be indicted merely by Suspi-
cion of Felony: but of the Crime itself: And three
Offences may be joined in an Indictment, and the Par-
ty convicted of one, though, he is found
Not guilty of the others. 1 Hold. H. P. C. 521, 610. On penal Statutes, several Things shall not
be joined in the Indictment, &c. except it be in Re-
spect of some one Thing, to which all or one have
Relation. 2 Howd. 241. When an Indictment is
drawn upon a Statute, it ought to purlole the Words
of it, if a private Act: but it is otherwise on a ge-
neral Statute: it is not bound to recite a public Statu-
ture: the Rectal is not necessary, for the Judges are
bound ex Officio to take Notice of all publick Stat-
tures, and Miscellaneous are hazel: so it is the
first Way only to conclude generally contra formam
Statut. &c. 4 Rep. 48. Though there be no Ne-
cessity to recite a publick Statute in an Indictment,
yet if it be, the彭an must take upon him to do it, and
vastly vary from the Substantial Part of the
Purview of the Statute, and conclude contra formam
Statut, pre-edi. he vitates the Indictment. Plead.
70, 73. &c. Eliz. 111. But many Miscellaneous may be
faltered by a general Conclusion contra formam Statu-
ti, without adding pre-edi, &c. And Judges may be
helped by the copynt Course of Precedents upon
2 Howd. 247. An Indictment is not to bring the Fact making an Offence, within all the
material Words of the Statute, or the Words, Contra formam Statut, will not make it good. 2 Howd. 249.
If a Word of Substance be omitted in the Indictment
the whole Indictment is naught: but it is otherwise
where a Word of Form is omitted, or there is an
Omission of any Thing, to which all or one have
is the same, &c. 4 Rep. 146. Judgment shall not
be given by Statute, upon an Indictment which doth not
conclude contra formam Statut: And judgment by
Statute shall not be given upon an Indictment as a
Common Law, as every Indictment which doth not
thus conclude shall be taken to be. 2 Howd. 251.
But where Perilns are indicted on the Statute of
Stalking, and the Statute is not given upon to bring
them within the Statute: they may be found Guilty of
general Malversation at Common Law, and the Words
contra formam Statut shall be rejected as useless.
In some other Cases the fame has been also adjug-
ded; though formerly it was held, that an Indict-
ment grounded on a Statute, which would not main-
tain itself in any Case, must be maintained as an
Indictment at Common Law. Ibid. Indictments may be
amended the same Term wherein brought into
Court, and not after: But criminal Prosecutions
are not within the Benefit of the Statutes of Amend-
ments: so that no Amendment can be made to an
Indictment, &c. but such only as is allowed by the
Common Law. 2 Litt. 45. 2 Howd. 244. The Body
of a Bill of Indictment removed into B. R. may not
be amended, except from London where a Tenor only
of the Record is removed: though the Cognition of an
Indictment from any Place may, on Motion, be
amended by the Clerk of the Alfier, &c. so as to
make it agree with the original Record. Ibid. And
Cognitions of Indictments ought to set forth the Court
in which, and the Jurors by whom, and also the
Time and Place, at which the Indictment was found:
and that the Jurors were of the County, &c. &c. They
must show that the Indictment was taken before the
Valuation, &c. and shall be tried by the Judge over
the Offence indicted. 2 Howd. 253. While the Jury
who found a Bill of Indictment is before the Court,
is in Charge of the Form of the Manifest, the Form,
the Name, or Addition of the Party, &c. 2 Hil. 57. Clerks of the Alifie and of the Peace, &c. drawing defective Bills of Indictment, shall draw new
Bills without Fee, and take but $1. for drawing any
Indictment against a Falcon, &c. on Pain of forfeiting
2 Litt. 37. If the Statute, &c. or $10. W. 3. cap. 23. If one or more
Part of an Indictment is repugnant to or inconsistent
with another, the Whole is void: but where the
Statute or other Species is mixed with a false
Impropriety in the Expression. Ibid. 228, 229. And
many Objections to Indictments, are overruled. 2 Rep.
120. Where an Indictment is void for Insufficiency
or if the Trial is in a wrong County, another Indi-
dictment may be drawn for the same Offence, whereas-
by the Insufficiency may be cured; and the Indict-
ment may be laid in another County: On the ground,
though, Judges give different. 2 Rep. H. P. C. 246.
By the Common Law, the Court may quash any Indi-
dictment for Insufficiency, as will make the Judgment
thereon erroneous: But the Court may refuse to
quash an Indictment for the publick Good, though it be not a good Indictment, and put the Par-
ty to traverse or plead to it. Mich. 25 Car. B. R. Alfo the Court will grant Time for the King's
Council to maintain an Indictment, if they define it.
Judges are not bound ex officio to quash an
Indictment: but may oblige the Defendant either to
plead or appear: and where Indictments are not
good, the Parties indicted may avoid them by
Pleading. 2 Litt. 42. 2 Howd. 258. The Court does
not usually quash Indictments for ForgerY, Perjury,
Contempts, or any other Offence not laid in the
In-
famy; and it is against the Course of the Court to
quash an Indictment for Extortion. 2 Litt. 41. 5 Mod.
60. But though the Court in that Case has quashed the
Plebe, the other Part of it is naught, the Court will not quash it for an Insufficiency sufficient to maintain the
Indictment be well laid, 'tis good enough, although
other Part of it is naught, where the Party is
Salk. 384. One that is convicted upon an erroneous In-
dictment, cannot after the Conviction move to have
the Indictment quashed; but must bring his Writ of
Error to reverse the Judgment given upon it
upon the Indictment. Mich. 25 Car. B. R. An In-
dictment is quashed for the Insufficiency in it or
because no good Judgment can be given upon it:
But if Judges be preferred for the publick Good, though erroneous; but will
force the Party outworn to bring his Writ of Er-
ror to reverse the Outlawy. Mich. 24 Car. B. R.
The Stat. 2 W. 3 did not abate that the Court
shall not quash the Indictment, though erroneous: but
shall force the Party outworn to bring his Writ of Er-
ror to reverse the Outlawy. Mich. 24 Car. B. R.
The Stat. 2 W. 3 did not abate that the Court
shall not quash the Indictment, though erroneous: but
will force the Party outworn to bring his Writ of Er-
ror to reverse the Outlawy. Mich. 24 Car. B. R.
The Stat. 2 W. 3 did not abate that the Court
shall not quash the Indictment, though erroneous: but
Perfon is indiected for Felony, the Sheriff is commanded to attach his Body by a Capias; and on Return of a Non of Inven tus, a second Capias shall be found to be true if the Offender's Chantels, &c. And if on that Writ a Non of Inven tus is returned, an Exemt shall be awarded, and the Chantels be forfeited, Gr. Stat. 25 Ed. 5. If an innocent Perfon be indicted of Felony, and wil not suffer himself to be arrested by the Officer who has a Warrant for it, he may be killed by the Officer, if he cannot be otherwise taken; for there is a Charge against him upon Record, to which at his Peril he is bound to answer. 

Finn. Cor. 179, 261. A Perfon may be indicted twice at the same Time, where he hath committed two Pelmors, and if he hath his Clergy for one, he may be hanged for the other. 

Kol. 30. And if there is an Indictment and Inquisition against one for the same offence, one found by the Coroner's Inquest, and another by the Grand Jury, he may be tried on both at the same Time: But if he be tried and acquitted upon the one, it may be pleaded in Bar on Trial for the other. Kol. 128. 1 Stat. 38. If an Indictment being found in the proper County, may be heard and determined in any other County, by special Commission. 3 Inst. 17. Where a Person is indicted for an Indictment for Treason or Misdemeanor, he is to appear in Court, on judgment pronounced; and the Court having sat, 

Finn. upon him, will commit him in Execution, Gr. Litt. 3. Ed. 1. Forms of Indictments, see Murder, Felony, Burglary, &c.

Jutins. is he that indiecth another Man for any Offence; and Indictus is the Party that is indicted. 

1 Ed. 1. c. 10. 21. 1. 12. 

Jutinflanter, a Word signifying without Delay. 


Batum, is a Perfon for which those Persons are hold in common without Partition; as where it is said he holds pro indiviso, Gr. Kicch. 284.

Tatommen, is Law French for boilious and ungential.

Indictment, (Indictament) Signifies any Thing written on the Backside of a Deed; and Receipts for Consideration Money, and the Sealing and Delivering. Gr. on the back side, and deeds are called Indictments. Wagy's Symb. par. 2. f. 187. On Sealing of a Bond any Thing may be indorsed on or subscribed upon the back thereof, as Part of the Condition and the Indictament and that shall stand together. 

Mor 697. There is also an Indictament of Bills or Notes, of what Part thereof is paid, and when, 

Cf. in the other hand. It is a Writing a Man's Name only on the Backside of Bills of Exchange, which passing from one Man to another, all the Indictments are answerable as well as the Drawer. 3 Gr. 4. Ann. c. 9.

Indictm't, Of a Church, &c. See Endowment. 

Indictm't, is what is alleged as a Motive or Indictm't to a Thing; and in Law is used specially in several Cases, viz. there is Indictment to Actions, to a Traverce in Pleadings, a Faht or Offence committed, &c. Indictments to Actions need not have so much Certainty as in other Cases: A general Indictm't is not sufficient, where it is the Ground of the Action; but where it is but the Indictment to the Action, as in Consideration of forbearing a Debt till such a Day, (for that the Parties are agreed upon the Debt) this being but a collateral Promise, is good without the proof. Gr. Jac. 2. 52. 2 Mod. 70. A Man ought to indict his Traverce when he begins to have a Difficult, and not when the Debt appears for him who was tras- 

vred, there can be no Judgment given; But an Indictment cannot be traversed, because that would be a Traverce after a Traverce, and quiting a Man's own Pretence of Title, and falling upon another. 

Gr. 262, 266. 3 Salk. 257. An Indictment to a Traverce must be such March and just, and in this Case be in Law, Gr. Eliz. 829. There is an Indictment to a Justification, when what is alleged against it is not to the Substance of the Plea, Gr. Jac. 138. 

Mor 687. 2 Nef. Abr. 428. 

Indictment, (Indictum. i.e. a Leading into) Is the Giving a Person Poifion of his Church: And after the Bishop hath issued his Mandate to the Archdeacon to intro- 

duce his Mandate to the Archbishop to induct the Clerk, who thereupon either does it personally, or usually commends some neighbouring Clergyman for that Purpose; which is compared to the 

Proc. and Trenis, as it is a Putting the Minister in actual Poifion of the Church, and of the Glebe Land, which are the Temporalties of it. This Indictment is done in the following Form: One of the Clergy- 

men commissioned takes the Perfon to be induct- 

ed by the Hand, says it on the Key of the Church, and pronounces their Words: By Virtue of this 

Indictment, I induct you into the &c. An Indictment to Pofition of the Hand of, Gr. with all its Appurtenances. Then he opens the Church door, and puts the Person in Pofition thereof, who com- 

manship calls a Bell, &c. and thereby swears and gives Notice to the People that he hath taken temporal Pofition of the said Church: If the Key of the Church door cannot be had, the Clerk to be inducted may lay his Hand on the Ring of the Door, the Latch of the Church- 

gate, on the Church Wall, &c. and either of those are sufficient: An Indictment may be made by Deliv- 

ery of a Cloak, or Turf of the Glebe, Gr. Conv. 

Par. Com. 21. 22. Ordinarily the Bishop is to 

direct his Mandate to the Archdeacon, as being the Person who ought to issue an Indictment: So he introduces the Clerks intituled to any Churches within his Archdeaconry: But 'twas said, the Bishop may direct his Mandate to any other Clergyman to make Indictment. 38 Ed. 3. 269. And by Procuration, others as well as Archdeacons may make Indictments. 

Proc. Conv. 8. An Indictment made by the Patron of the Church, is void; but Bishops and Archdeacons may induct a Clerk to the Parsonage of which they are Patrons, by Procuration, &c. 11 Hen. 4. 

The Dean and Chapter of Cathedral Churches are to induce Prebends, though in his hands the Bishop doth induct a Prebend, it may be good at the Common Law. 11 Hen. 6. 7. 11 Hen. 6. In some Places a Prebend shall be in Poifion without any Indictment; as at Westminister, where the King makes Collation by his Letters Patent. If the King grants one of his free Chapels, the Grace shall be put in Poifion by the Sheriff of the County, and not by the Bishop: And no Indictment is necessary to a Donative, where the Patron by Donation in Writing puts the Clerk into Poifion, without Procuration, &c. 11 Hen. 4. If the Au- 

thority of the Perfon who made the Mandate for Indictment, determines by Death or Removal, before the Clerk is inducted, the Indictment afterwards will be void; as where before it is executed, a new Bish 

op is consecrated, &c. But if the Archishop, 

during the Vacancy of a See, as Guardian of the Spiritualities, issue a Mandate to induct a Clerk to a Church, it is good though not executed before there is a new Bishop. 2 Lev. 109. 

1 F. 309. 

Indiction is a temporal Æd; and if the Archdeacon refuse to induct a Perfon, or to grant a Communion to others to do it, Action of the Clergy is by the Party who claims it, on which Damages shall be recovered; and he may likewise be compelled by Sentence in the Ecclesiastical Court to induct the Clerk, and to answer the Contempt. 12 Rep. 128. It is Indictation makes the Perfon compleatly Incumbent, and settles
In eff. Is any thing in being; and the learned make this difference between things in esse and in posse; as a thing that is not, but may be, they say is in esse or in potential; but what is apparent and visible, they allow to be a esse, even that it has a real being, whereas the other is casual, and but a possibility. A child before he is born or conceived, is a thing in posse; after he is born, he is said to be in esse, or actual being. The words in esse are mentioned in the Statute 3 Jac. 1. c. 29. and where there must be per fune in esse, to take by Grace, &c. See Grace and Will.

Infant. Which is an ancient Punishment of Felons, by throwing them among the Rocks and Sands, callously used in Port-Townes. It is the Opinion of some Writers, that Infantes were simply some unprisonable Punishment, by exposing the Malefactors upon these Sands, till the next Tide carried him away; of which Colunn it is said there was an Old Tradition: However the Punishment seems to take Name from the Namea, Falsa, or falsa, which signifies not only the Sands, but rather the Rocks and Cliffs adjoining, or impending on the Sea shore. Now, when Tand. 1. pag. 105. descrevica, iniuste, indivisa, &c. saepe seque, &c.", and in the third Edition, dimod. &c. where there must be per fune in esse, to take by Grace, &c. See Grace and Will.

Infantest, Infanctnethe, (From the Saxon Fae or Faerie, i. e. natures, and Thiop, Far) signifies the Nitunage or Liberty granted unto Lords of certain Manors, to judge any Thief taken within their Fees. Bract. lib. 3. cap. 35. In some ancient Charters, it appears that the 'Thief' should be taken in the Landships, and with the Goods stolen, otherwise the Lord had not Jurisdiction to try him in Court; though by the Laws of King Edward the Confessor, he was not restrained to his own People or Tenants, but might try any Man who was thus taken in his Manor: 'Tis true afterwards, the Word Infantest signifies Latins copias in terris alienas foedus de aliquo Latinis, and fits perquiserit hominum, &c. In F. G. C. &c. The Francklins of Infantest and Ofafungesthe, to be heard and determined in Court-Baron, are anti-gated, and gone long since. 2 Inst. 51.

Infant. In law our Law is a Person under twenty-one Years of Age; while Abs are in many Cases either void, or voidable. 1 Inst. 171. All Gifts, Grace, &c. of an Infant, which do not take Effect by Delivery of his Hand, are void; and if made to take Effect by Delivery of his Own Hand, are voidable by himself, and his Heirs, and those which shall have been delivered by his Father, where his Infant makes a Deliver and delivers it within Age, though he afterwards delivers it again at full Age, the second Delivery and Deed are void; for the Deed must take Effect from the first Delivery. 3 Rep. 55. If an Infant

bargain and sell Land by Deed indented and terrold, he may void it. 2 Inst. 375. If an Infant makes a Feoffment, he may enter and void it; and if he dies, his Heir may enter, or have a Damoa, in the Statute 1. Edw. 1. cap. 5. An Infant feigned in Fee makes a holder; his Heir, in full Age, shall enter; and it is the same if feigned in Tail Male. 8 Rep. 42. And Privies in Blood, as the Heir general or at large, may avoid a Conveyance made by their Ancestor during his Infancy. But Privies in Estates, such as the Donee of an Estal tull where the Tenant in Tull dies without issue; or Privies in Law, as the Lord by Estates where there is no Heir, is not void a Conveyance made by an Infant. 8 Rep. 43. 44. If a Man within Age seised in Right of his Wife, makes a Feoffment; and dies, his Heir cannot make and void it, because no Right descends to him for the Baron, if he had lived, could have entered only in Right of his Wife. 8 Rep. 43. And no Person shall take Advantage of the Infancy of his Ancestor, to make a Right to a Conveyance made by his Ancestor during his Infancy. But though the Heir may take the Benefit of a Cohabitation, notwithstanding no Right descended to him from his Ancestor. 8 Rep. 43. If Husband and Wife are both within Age, and they by Indenture join in a Feoffment, and the Husband dies, the Wife may make and avoid the Deed, or have a Deed seised in the Statute 1. Edw. 1. cap. 5. And if a Man without Age seised in Blood, the Survivor cannot enter; but the Feoffment the Survivor may enter into the Interest, &c. 8 Rep. 43. If an Infant exchanges Lands with another, and the other enters, the Infant may have Aliens. 18 Ed. 1. s. 3. 186. If an Infant enters for Years, or for the Term of an Interest in Fee Simple, he may affirm the Lease, or bring Trespass against the Land for the Occupation. 18 Ed. 1. &c. Trespass 338. A Lease made by an Infant referring Rent, will void it; and if it have no Sinking Fund in it, it is absolutely void. 19 Ed. 1. If an Infant makes a Lease paying Rent, and after his coming of Age he accepts the Rent, the voidable Lease is made good; and an Infant's Lease in Eremity is good. 2 Inst. 55. 3 Inst. 196. A Lease made by an Infant may be avoided by waving the Land before the Rent Day; but if there be a Lease for Years he must be made an Infant, rendering Rent, after the Infant coming of Age he combines the Possession of the Land, this will make him chargeable with the Rent incurred during his Infancy, and in case of one case, if the infant under a future Interest, by taking a new Lease; his Surrender by Deed, and by Acceptance of a second Lease, are void, except there be an Interest of the Term; or on a Decrease of the Rent; for where there is no Benefit comes to him, his Abs are merely void. 4 Car. 501. If an Infant surrenders a Lease for Years he must in Retribution, this is void, and cannot be made good by any Agreement at full Age. 2 Inst. 55. 3 Inst. 728. An Infant may purchase, being intended for his Benefit; yet at his full Age he may confirm, or avoid it, by Agreement or otherwise; and if he agrees not when at Age, his Heirs after him, may disagree to the same. 1 Inst. 3. 172. An Infant's Feoffment, or other Deed, may be avoided by Fire or Entry, after or before he is of full Age; but his Abs on Record, as his Fine levied, Recovery suffered, or Statute acknowledged, must be avoided by Master of Record, one of the Judges of Error, or Audita Quaestia, during his Minority. 3 Inst. 54. If any Infant confilicted judgment in an Action of Debt brought against him; and it was held, Audita Quaestia did not lie, though it would on a Statute or Recognition, but the Party ought to bring a Writ of Error in the Exchequer Chamber, by Virtue of the Statute 27 Eliz. 460. Infants ought not to be received to liberate fines; though if
they are admitted, their Fines are good and unavoidable, unless revoked during their Minority. *Inf. 235.*

If an Infant levy a Fine before the J u i c e s , and the Cognizance will not have it ingrossed till after he is of Age; on producing a Note of the Capiton, his Name and Age when he may bring a Writ of Error. *N. 10. 1059.* But where an Infant may levy a Fine, he may declare the Uts of it also by Deed: *And the Infant's Declaration of Uts, shall be good and binding to the Infant and his Heirs, so long as the Fine continues unrevived.* *Ed. 254.*

Le. 193. 2 Rep. 58. 10 Rep. 42. It was held formerly that an Infant appearing by Guardian, could not suffer a Common Recovery, to Rep. 42. Though since it hath been allowed in many Cases, and by all the Judges, that an Infant may suffer a Common Recovery by Guardian, and he shall not avoid it; for by Intendment he shall have Recompense in Value; and if it is not for the Good of the Infant, he may have Recompense over against his Guardian. *Daw. 496.* *A Guardian's Recovery may be bad against an Infant, being examined sole & Secret; and he may suffer a Recovery by Guardian in open Court.* Hars. 165. 2 Nifs. 650. *A Recovery was suffered by an Infant by his Guardian.* 4 Law. It has been agreed, that if an Infant appear by Guardian, and suffer a Common Recovery, it is unsafe, for Error; if the Appeal is by Attorney, and suffer a Recovery, it is otherwise; for in such Case it may reverse it by Error when of full Age, because it may be tried by a Jury whether he was an Infant when he made the Letter of Attorney, or not; whereas in the other Case it might appear by Inspection, which cannot be after full Age. *Ed. 254.* 2 Nifs. 650. *A Recovery or Judgment by Default against an Infant is erroneous; but the Infant must reverse it by Writ of Error during his Minority.* *Wood's Inf. 650.* And if Judgment shall not be reversed: *Deer 104.*

If an Infant appears by Attorney, and not by Guardian, it is Error; for which a Judgment may be reversed. *Nifs. 650.* *But if an Infant appearing by Guardian comes of Age pending the Suit, he may then plead per detrimentum.* *Mor. 655.* An Infant is to be for by P r e s e n t A m y or Guardians; but always defend the Infant as if he were an Infant. *He may appear by Attorney in his own Right; but if he be joint Ex- cept ush-sherif of Age, they may make an Attor- ney for the Infant. Without these Powers brought by an Attorney by Attorney, one being within Age. *Sum. 254.* *Though it was lately adjudged, that an In- fant may not appear for the Plaintiff, nor be sued by Execution as by the other Party in his own Right.* and the Plaintiff is to be paid. *Civ. 4. 2. And it hath been held, if an Action be brought against three several Defendants, and one of them is an Infant, they may not all appear by Attorney; but he within Age must appear by Guardian, or it will be Error to reverse the Judgment. *Syd. 400.* 1 Brev. 204. If Bar or Feme, where the Feme is an Infant, appear by Attorney, it is Error. *5 MoR. 295.* When the Defendant in an Action is an Infant, the Plain- tiff shall have six Years to bring his Action in af- ter the Defendant comes of Age: And if the Plain- tiff be an Infant, he hath six Years likewise after his Majority to bring the Action by the Laws of Limitation. *Law. 243.*

Infants are not bound by Nonassumtion, *Ed.* on Fines levied by others, within five Years, by the *Stat. 13 Ed.* Nonassumptions shall not bind an In- foot to any Negligence, *Ed.* be deemed to him except in some particular Cases, as in a Case of a Fine where the Time began in the Life of the An- cestor; or of an Appeal of Death of his Ancestor, where he brings not his Appeal within a Year and a Day. *Civ. 1 Inf. 260.* 2 Wills 195. *A Law shall prejudice an Infant, if he prefers not to a Church in six Months. *L. 792.* All Acts of Necesrity bind Infants; as P r e s e n t a t i o n s to Benefi- cies, Admissions, Assignments and Conveyances of Certainty, and Affirming to Legacies, *Ed. 353.*

Conditions annexed to Lands, whether the Estate come by Grant or Devise, bind Infants: *And where the Estate of an Infant is upon Condition to be perform- ed by the Infant, if the Condition is broken during the Minority, the Land is left for ever.* *Inf. 312.* 280. Though a Statute is not extendable against an Infant, yet Chapter will give Relief against Infants. *1 Leu. 198.* And by Statute 7 Ann. c. 19. Infants settled in Estates in Fee in Trust, or in Moragge, on Perfections for whom the Estate is settled in Trust, or the Moragge, *Ed.* by Order of the Court of Chancery, may convey Conve- nances of such Estates, as Trustees or Mortgagors of full Age. An Infant is much favoured by the Law, and therefore it doth give him many Privileges above others: If an Infant make Default in a real Action, he shall not lose his Estate, and, as another Man does them, none who are an Infant shall be anomered, nor find Pledges like one of full Age; and if he be Bail, he may be discharged by a Surety, *Ed.* 1 Inf. 272. 8 Rep. 61. *On his Default the Judgment against the Infant by Writ of Error may reverse the Judg- ment given against him; unless it be in Case of a Judgment in Dower. *Daw. 496.* *Law. 3. 979.* An Infant may be constituted of his Land by Warrant a which is granted on the Arrest of an Infant, may bar him of his Entry; so a Remitter upon him; or a De- fender; and if an Infant hathFrancises or Liberties, and do abuse or defile them, he must set them as a Man of full Age may do. *1 Inf. 3. 153. 1 Am. 311.* An Infant may bind himself Appurtenances; and if a Statute be not, have the Benefit of his Trade: If he be guilty of Misbe- haviour, the Mayor may correct him; or compel a Justice of Peace, and have him punished. *Civ. 629.* 1 Stat. 5. 5 Ed. *And an Infant may bind himself to pay for Necessaries, as Meat, Drink, Ap- parel and Learning; but not by Bond with Penalty; though a Bill for Necessaries, without a Penalty, for the very Sum due, shall be good as well.* *Ed.* 483. 1 Roll. 19. 37. 1 Leu. 86. *Infants are not obliged to pay for Clothes, unless it be sworn for to the Judge, and that the same were convenient and necessary for them to wear, according to their Degree and Estate.* *Civ. 629.* 37. 60. Though upon Promise of an Infant to pay a Taylor for making of Clothes, it need not be sworn for necessary Clothes, *Ed.* 89. *Money laid out for Necessaries for an Infant, hath been allowed; when Money lent for that Purpose hath not.* *5 MoR. 205.* The Infant may buy, but cannot borrow any Money to buy Necessa- ries for the Law will not trust him with Money, but at the Peril of the Lender, who must lay it out for him in Necessaries, or see it thus laid out. *1 Stat. 89. Where Money is lent to an Infant, who em- ploys it in buying Necessaries, yet he is not liable; because the Foundation of the Contract is the Lending. 1 Stat. 390. One lends a Sum of Money to an In- fant, to pay a Debt for Things necessary, as the In- fant may misapply it, he is therefore not liable at Law; yet he must be in Equity, for that in this Case the Lender is the Money Lends in the Price of the Perfon paid, not the Creditor for Necessaries; and shall recover in Chancery, as the other would by *Civ. 3. 399.* An Infant is not bound by an Account concerning his Family, *Ed.* 3. for he may be mistaken in an Account; and no Contract binds him but what concerns his Perfon. *1 Roll. 197. Lasth 697.* If an Infant makes a
Contra f pro Fili & Virginis, this shall be binding: And a Promisse by an Infant to another, that if he will then find Me, Drink and Washing, and pay for his Schooling, that he will pay him such a reasonable Sum yearly, Action one the Child lies upon this Promis. 2 Daws. 768. Tr. 3 Car. But in other Cases, it is otherwise; though a Promiss of a Person when as full Age, for Consideration during Infancy, shall be binding, & & & Similar Leth. 2 Lew. 144. 3 Law. 215. A Person gave a Note, a few i 97 after Of Age, for Things he had during his Infancy on. Charged to him, to be recovered by Action of Account. The Infant tells Goods to another; he may make the Sale void, or have Debt, &c. for the Money. Hcb. 77. 18 Ed. 4. 2. Allo Trepass for taking the Goods but if he deliver the Thing with his own Hands, the Vendee is excused of the Trepass: if an Infant sell a Horse, he may take it again; &c. Rell. 736. 3 Rep. 15. Hcb. 96. Action will nor lie against an Infant for Goods sold to him by another Shop. &c. Jass. 454. And if one delivers Goods to an Infant, knowing him to be such, the Infant shall not be chargd to Trover & Conversion: But is it otherwise if desired to him, not knowing him to be an Infant. 1 Sid. 129. Action lies not against an Infant him keeper, for Goods lent. 2 Daws. 769. If an Infant goes a Bill of Exchange, he may be held In- fancly upon an Action brought against him. Tr. 5 M. 3. 3 Salt. 197. And if a Trepass be done to an Infant, and he submit to an Award, it is laid the Award may not be made. 2 Daws. 770. Agermens, &c. made by an Infant, although he be within a Day of his full Age, shall not bind him. Florid. 564. Where an Infant enters into Bond, pretends to have made a payment for Goods, on condition of getting his goods back, shall not be required by pleading his Infancy, yet he may be indicted for a Cheats. Wood. Ind. 185. Infants committing a Trepass against the Crown, do not answer for the Damage in a Civil Acton. Hcb. 134. 2 Rell. Arr. 457. And Infants being Tenants for Life or Years, are punishable for Waifle: All these are punishable for Waifle, and for being in Bailment, Incesting with fale Dice, Perjury, not going to Church, &c. 3 Salt. 156. Infants under fourteen Years of Age are not generally punishable capitally for Crimes committed; but if they are of that Age, or under those Years, having Maturity of Discretion, they may be punished as Felons; but Execution of the said for Felony is oftentimes repriedit in order to a Pardon; and if an Infant apparently wanting Discretion, be found guilty of Felony, the Juries may diminish him without Pardon. 1 Ind. 477. Dall. and Sid. c. 26. 1 Hors. An Infant is incapable of being a Parton, Juror, Attorney, Steward, Bailiff, &c. But he may be a Mayor, Sheriff, Gader, &c. Ca. Lit. 3. 3 Salt 195. See Age, and Here apparent.

Infants when of Age. An Infant has been adjud- ged of Age the Day before his Birth-Day, for the Law will not make a Fraction of a Day; and there- fore, where a Person was born the third of September, and the first of September 21 Years since he made his Will, it was held good; and that he was then of Age to derive his Lands. 1 Ld. Raym. 480. And it is said fach Will shall take Effect though the Person dies by Six at Night of that Day. 2 Rylaw. 1096.

Infancy of the King. The King cannot be an Infant by our Law. 1 Ind. 47. And he shall never avoid his Grants; nor in Respect ed Infancy; for he cannot be a Minor, being as King a Body Politick. 2 Daws. Arr. 767. The Acts of a Mayor and Commonalty shall not be avoided by Reson of Infancy of Mayor, &c.

Infestations, by calling Garbage and Dung into Disech, &c. how punished. See st. 12 R. 2. Infestis, (Infernal) Hezanship; who may not be Wised by the Laws of this Kingdom, because he believeth neither the Old or New Testament to be the Word of God, on one of which, Otha must be taken. 1 Inf. 6. 2 Horack. P. C. 454.

Inheritance. The Side of the Soil may have a special Action against him who shall dig Soil in the King's Highways; But one Subject may not have his Action against another for common Necessities for if he might then every Man would have it, and to the Actions would be infinite, &c. 1 Co. Inf. 56. 9 Rep. 113.

Infrusion. (Infraud) In Monasteries there was an Apartment allotted for inform or fick Person; and he who had the Care of the Informacy was called In- frautor. Matt. Parli. Anno 1529.

In Fugae, Puagiis, Seizing Actions in. See Forms Payensis.

Information, (Informacy) For the King, is the same which for a common Person is called Declara- tion: so an Action there for is called by the King, his Attorney General, and the Clerk of the Crown-Office, but frequently by some other Person, who informs as well for the King as for himself, upon the Brench of some Penal Law or Statute, where is a Penalty is given to the Party that will sue for the same: And it differs from an Indictment, which is found by the Oaths of twelve Men, and this is only the Allegation of the Officer, &c. Terms de Ley 406. Information are either at the Suit of the King, or at the Suit of the King and of the Party, which is called by the Officer, &c. Terms de Ley 407. There may be an Information for the King against a Criminal, as well as Indictment; but it doth not lie for a Capital Crime except on the Statutes against Bankrups, who may be convicted of Felony by Indictment or Information, by 5 Geo. 1. c. 4. Wood's Inf. 630. It hath been alleged, that Informa- tions began in the Reign of King Hen 7. and are now Things with Respect to Indictments, and carry Hardships with them, &c. But it was adjudged, that the old Statutes eseth, that Proceedings shall be by Information, or Indictment; an Information by the Attorney General is no more than a Proceedings, and that Informations were at Common Law. 5 Med. 459. An Information may be brought for Offences and Misdemeanors by the Common Law; as for Batterie, Confiscations, Inducing Persons, War- cers, Contemptus, Libelinn, sedious Words, Abusing the King's Commission to the Oppression of the Sub- ject, &c. And in very many Cases by Statute, where, in the Course of late, a Fine, or other Penalty, Fines
In IN

IN

Fisch 340. Stew. 109. Per Words spoke of a de-
deaced King, which advance perilous Doctrine and
evile Treas, and have an Influence on the present
Government, \( \textit{Cf.} \) an \textit{Information} lies, on which the
Governor, and also express, is committed and
baffled. \( \textit{2 Lat.} \ 879. \) If the Marshal of B. R. mides
demns himself in his Office, he who is prejudiced
by it may prefer an \textit{Information} against him in
that Court, where he shall be tried and ordered to
Satisfaction. \( \textit{2} \ \textit{Cas.} \ \textit{B. R.} \) For obtaining a judg-
ment against a Woman before Marriage, by Cheating
and Fraud, whereby her Husband's Lands were after-
wards extended, adjudged that \textit{Information} lay; and
the Judgment should be set aside, \( \textit{Cf.} \ \textit{Sid.} \ \textit{421.} \) In-
formations may be brought against the Inhabitants of
any Town for not keeping of Highways; for go-
ing armed in Array of the Peace, \( \textit{Cf.} \) and in gen-
eral for any Offences against the public Good, or
against the Principles of Justice, \textit{Information} lies; on
which it is a Complaint is frivolous or vexatious,
or wholly of a private Nature. \( \textit{2} \ \textit{Haw.} \ 260, 262. \) If a Peron exhibis his \textit{Information} only for
Vexation, the Defendant may bring \textit{Information}
against the Informer upon the Statute \( 9 \ \textit{Eliz. c. 5.} \) \textit{2 Hul.}
\( \textit{B. B.} \) An \textit{Information} upon a Penal Statute must be
filed in one of the Superior Courts, and cannot be
brought in the Court of King's Attorney; for the King's
Attorney cannot be there to acknowledge or deny, as
he can in a Superior Court. \( \textit{Cra. JAc.} \ \textit{58.} \) All \textit{Informa-
tions} on Penal Statutes, brought by an \textit{Informer}
where his name is given to the Procurator, must
be brought in the Grand County where the Offence
was committed; and within a Year after the same:
But a Party, grieved who is not a common \textit{Informer},
not to challenge the Procurator within the given
Time, but may inform in what County he
believes. \( \textit{Stat.} \ \textit{51 Eliz. c. 3.} \ \textit{Cra. Eliz.} \ \textit{645.} \) And
the King may exhibit an \textit{Information} in two or three
Years, and be good; though it will be naught in a
\textit{Informer.} \( \textit{Cra. JAc.} \ \textit{66.} \) Where an \textit{Information}
is given by a \textit{Subicide}, to be prosecuted at the Assize,
the \textit{Informer} may file an \textit{Information} for
the same Offence, before a Judge, that the \textit{Informer}
in the \textit{Information} was not committed in any other
County than that mentioned in the \textit{Information}; and
that the Procurator, who was committed within a Year
next before the Filing of the \textit{Information.} \( \textit{2 JAc.}
\textit{1714.} \) And when an \textit{Information} is refused to be
filed upon an \textit{Affidavit}, made in the Court, will not
suffer the Procurator to put any more or other Matter
into the \textit{Information} than what only is in the \textit{Affi-
davit.} \( \textit{Mich.} \ \textit{9 W. 3.} \ \textit{B. R.} \) It has been resolved,
that the \textit{Stat.} \ \textit{21 JAc. 1.} restrains the Jurisdiction
of \textit{B. R.} in Assizes of Debt by common \textit{Infor-
ment}, and that they cannot bring Debt upon the \textit{In-
formation} in that Court, unless the Cause of Action arise in the
County where the King's Bench sits; but must in
other Courts prosecute by \textit{Information} before Justices
of Peace, \( \textit{Cf.} \) as the \textit{Statute} directs. \( \textit{1} \ \textit{Stat.} \ \textit{573.} \) Offences
arisen since the \textit{Statute} \( \textit{21 JAc. 1.} \) \textit{rep.}
are not within that \textit{Statute}, to be prosecuted in the
Country where the Fact was done, so that \textit{Infor-
mation} on subsequent Penal Statutes are not restrained
thereby. \( \textit{Stat.} \ \textit{18 JAc. 1.} \) \textit{in. c. 5.} \ \textit{Infor-
mation} are to exhibit their \textit{Suit} in proper Peron, by
\textit{Way of Information}, or Original Action; they are not
to compound with the Defendant, without the Consent
of the \textit{Crown}, nor of a \textit{Commissioner of the Peace},
\( \textit{Cf.} \) and if they discontinue or are Nonsub.
the Court shall immediately seize \textit{Cocks} to the De-

dendant: But this \textit{Statute} and the \textit{2 JAc. 1. c. 4.
do not apply, nor is the Evidence of the \textit{Statutes}
of Maintenance, \\textit{Champery,} concerning Concealments of Cattle; \( \textit{Cf.} \) and it extendeth not
so to \textit{Parties} grieved, and to whatever Case any 
Prejudice is given in certain. \( \textit{Bud.} \ \textit{Stat.} \ 4 \ \textit{5 W. 3.} \ & \ \textit{M.} \)
the Clerk of the Aisle: Though the Replication to a General Issue in an Information Quid tam in the Courts at Westminster may be made in the Name of the Attorney General only; and in Actions Quid tam, most of the Precedents are that the Replication is to be made by the Plaintiff: 2 H. 2. 277. A Demurrer may be to an Information Quid tam, without the Attorney General. Ibid. Informatums are not qualified for Insolvency, like Indictments; but the Defendant must demur to them. Paf. 1620, c 3. 59. Fines assessed in Court by Judgment on an Information, cannot be afterwards qualified or mitigated. C. Car. 251. The Stat. 9 Ann. c. 20. makes the Proceedings upon Informations in the Nature of a Qua Warranto more speedy and effectual. Vide the Stat. 9 Cr.

**Form of an Information by the Attorney General.**

**B** E it remembered, That D. R. Esq; the Attorney General of our Sovereign Lord the King, who prosecutes for our said Lord the King, being present in this Court, the Day of, &c. in his own Person for the said Lord the King, gave the Court here to understand and be informed, That whereas all that, etc. yet A. C. and B. D. little regarding the Laws and Statutes of our said Lord the King that now is, but intending, etc. with the said Lord the King, and in the Year, &c. before the Day of exhibiting this Information, entered and intrusted in and upon, &c. And the same Treasures hiderto and yet constitute, in Consent of the said Lord the King, who also grants the said Lord the King, &c. And whereas the said Lord the King, &c. at his said pleasure, the said Lord the King that now is, for the said Lord the King, prays the advice of this Court in the Form as the said Lord the King and B. D. may come here to answer for our said Lord the King, &c. Upon which, &c. and the sheriff of the said County, that they attach the said A. and B. in Form aforesaid, &c.

**An Information for Fraud committed in the Revenue.**

**B** E it remembered, That A. B. &c. prosecutes as well as our said Sovereign Lord the King as for himself, came before our Sovereign Lord the King at Westminster, the Day, &c. this instant, in his proper Person, and as well for our said Lord the King as for himself, gave the Court here to understand and be informed, That whereas all that, etc. of the said Lord the King, &c. on the 15th Day of April in the Year, &c. and the Day of, &c. there was following, in a certain Ship called the P. of S. brought into this Kingdom from England, into the Port of, &c. by Way of Merchandising, certain Hogsheads of Tobacco, of the Value, &c. as of the proper Goods of the said C. And the said thirty Hogsheads of Tobacco out of the said Ship in the Port aforesaid, in Land there carried, on the Days and Times aforesaid, and the same then taken away from thence, the Custom, Subsidy, and Pounding, and other Duties to our said Lord the King therefore due, not being paid, our said Agreement or Composition had or made with the Collector thereof, with or by the Knowledge or Consent of the Collector or Superintend in that Behalf aforesaid, or of any of them therein, against the Form of the Statutes in that Case made and provided. Whereupon the said A. B. &c. prosecutes as well, &c. prays the Advice of this Court; and that the said C. may forfeit the Goods and Merchandises aforesaid, according to the Form of the Statutes aforesaid, and that the said A. the Master of the Value of the said Goods forfeited may have, &c. And also that the said C. may come here into this Court, in answer of and upon the Premises, &c. and there be Judges of preying, John Doe and Richard Roe. And hereupon it is commanded to the said C. that all other Things omitted, and all Excess and such, be he in his proper Person before our Lord the King in Westminster on the Day, &c. next coming, to answer for as well as to our said Lord the King as to the said A. &c. who prosecutes, &c. of and in the Prems., and further to do and receive what the Court of our said Lord the King now here shall order of in this Particular, &c.

**Information. (Information)** Is a Person to inform against or prosecute in any of the King's Courts, whereof offered against any Law or Penal Statute; and no Man may be an Informer who is disabled by any misdemeanor. Stat. 31 Edw. c. 5. 

**Infrauctum, (Infrauctum)** Is one Part of the Digests of the Civil Laws; according to Benedict, Abbess of the Monastery of Peterborough, in the Reign of K. Hen. 3.

**Infurgatur, signifies to put to Flight. Leg. Cameli, c. 78.**

**Infurta, Was anciently the Garment of a Priest, like that which we now call a Calfskin; sometimes it is taken for a Calf.**

**Ingis.** This Syllable in the Names of Places, denotes Meadow or Pasture; and in the North, Meadows are called the Ingis from the Sax. Ing, i.e. a pasture.

**Ingritum, Is an Instrument used in War, Artes & Ingenio consulem; from whence 'tis said we derive the Word Engine.**

**Ingritor, Is used for Liberty given to a Servant by Manumission. Leg. H. c. 89.**

**Ingruentia Beggri, Ingenii, Liberii & Legatorum timorum, Freeholders; and the Commonalty of the and his Kingdoms: And sometimes this Title was given to the Baronets and Lords of the King's Counsell. Endm. Mf. Nov. 70.**

**Ingrigesque ans Beggri, Words in Langes of Land, to signify a free Entry into, going forth of, and Returning from some Part of the Lands let; as to get in a Crop of Corn, &c. after the Term expired.**

**Ingrifil, Is a Writ of Entry, whereby a Man seeks Entry into Lands or Tenements; and lies in many Cases, having as many different Forms: This Writ is also called Prerogative good redett, because there are formal Words inserted in all Writs of Entry. See Entry.**

**Ingritio, The Relief which the Heir at full age paid to the Head Lord, for Entering upon the Fee, or Lands fallen by the Death or Forfeiture of the Tenant, &c. was sometimes called Ingriffin.**

**In gravis. Adversion in gravis, Villain in gravis, &c. See Gravis.**

**Ingriffis, (Ingriffis)** Is one that buys and sells any Thing by Wholesale; and whoever shall get into his Hands by Buying, Contract or Promise, other than by Demise, Grant or Lease of Lands, any Corn growing, or other Corn or Grain; Butter, Cheese, Fowl, or other dead Vitalis whatsoever, within the Realm of England, to the Intent to sell the same again, shall be reputed an unlawful Ingriffy, by Stat. 5 & 6 Ed. 6. c. 14. Such Vitalis only as is necessary for the Food of Man, is within the Purview of the Statute; and therefore Apples and Fruits are not within the Meaning of it; and it has been held, that Hops are not within the Statute: 3 & 4 H. 9. 155. H. P. C. 153. C. Car. 251.**

**The Buying of Corn to make Sarch of it, and then to sell it, is not within the Intent of the Statute: because it is not bought to be sold again. But the same Name as is given in the Statute, is sold, and bought, gain to the first seller by a Trade or Science; and by the like Reason the Buying of Corn to make Meal of it, and then to sell it, is sold to be within the Act; and Buying of Barley, with an Intent to make it into Malt, and after that to sell it, had no Need of the Exception made for it in the said Statute. 1 March. P. C. 357. Foreign Corn and Vitalis, except fifth
and Salt, are excepted, and not within the Penalty of the Act. And licensed Bakers are excepted as are likewise Fîrmogomers, Butchers, Poulters, &c., buying any Thing in their own Factories, otherwise they being Fortified, and selling them at their reasonable Prices by Recall. 17 H. 3. 240. Any Merchant, whether a Subject or Foreigner, bringing Vials, or other Merchandise into this Kingdom, may fell the same in Gross; but he that buys them of him cannot do so, because by such Means the Price will be increased, for the more Hand any Merchandise passes through, the cheaper it must grow, as every one will make a Profit of it. And if this were allowable, a rich Man might ingraft into his Hands a whole Commodity, and then sell it at what Price he should think fit; which is of such bad Consequence, that the bare Ingrafting of a whole Commodity with Intent to sell it at an unreasonable Price, is an Offence indictable at Common Law, whether any Part thereof is sold by the Ingrafting, 2 Ed. 2. 124. 3 Ed. 2. c. 9. & 9. 13 Ed. 2. c. 9. & 9. 2 Ed. 7. 134. An Inhibition is most commonly issuing out of a Higher Court Christian to an interior, upon an Appeal. And Inhibitions are likewise on the Vitiation of Archbishops and Bishops, &c. This Inhibition is to either Homines or Juris; sic Ne quis abnationem faciat, sed alipsum jurata, dictum, dicat, expeditionem scilicet, nec consuetudinem abolatam. Thus when the Archibishop violates, he inhibits the Bishop; and when a Bishop violates, he inhibits the Archdeacon; and this is to prevent Confusion, and continues till the last Parish is to be done. Now after that the Archbishop shall intend, if a Lapse happens, the Bishop cannot interdict, because his Power is suspended; but the Archbishop is to do it, 2 Ed. 6. 601. 15 Ed. 3. 19 Car. B. R. 3 Stat. 401.

Inhib, or Inhibe. [From In, within, and boke a Corner or Nook] Signifies any Corner or Part of a curved Field, ploughed up and sowed with Oats, &c., and sometimes found in with a Day Book, in that Year wherein the rest of the Field lies fallow and common. It is called in the North of England an Ine, and in Orkney an Heilie; and no such Inkle is now made without the joint Consent of all the Commoners, who in most Places have their Share by Lot in the Benefit of it, except in some Mansions, where the Lord has a special Privilege of doing. Kenesthe Parish. Ant. 257. &c., and his Glossary.

Injunction. (Injunct) is a Kind of Prohibition granted in divers Cases: it is generally grounded upon an Interlocutory Order or Decree out of the Court of Chancery or Exchequer, to stay Proceedings in Courts at Law; and sometimes it is issued to the Spiritual Courts. W. 1. 2 Stat. 25. It is called sometimes used to give Possession to a Plaintiff, for Want of the Defendant's Appearance, and may be granted by the Chancellor or by an Ordinary. Injunctions are of several Kinds; also where a privileged Person of the Chancery is sued elsewhere, and to stay Waifs, &c. Injunction lies. If a Defendant by his Answer in Chancery, owens a certain Sum of Money is due to him, the Court will often not grant an Injunction, unless the Money be brought into Court: And an Injunction is obtained by Order, either upon Matter contract, or upon leave of Writ, or upon some Evidence of Record, or by Deed, Writing, or other Evidence found in Court, from whence there is a Probability that the Party and the Court be discharged in Equity and formity: but even if it is granted before Answer, when it is usually only until Answer, and further Order, &c. A Delay of Proceedings for a considerable Time, is good Caufe for letting aside and dissolving an Injunction to stay Proceedings at Law: but an Injunction may be revived on Caufe shown, and sometimes the Court will, revive it though dissolvd, where the Plaintiff's Cause is hard, or Equity is evidently on his Side. Pr. Stat. 124, 125. If an Injunction be for Stayng of Waifs, there must be Affidavit made of Waifs committed in Houses, Lands, &c., belonging to the Complainant; and if it be to stay Suits in other Courts, it is granted on Suggresting some Matter, by Reason of which the Complainant is not able to make his Defence in the other Court, as for Want of Witness, &c., for that he is prosecuted at Law for what in Equity he ought not to pay; or that the other Court acts erroneously, denies him some rightful Advantage, and grants a Bar against Equity and good Conscience, &c. 3 Rep. 41. The Law of Injunction prefers the first Child before all others; the Male before the Female; and of Males the Son, &c. And as to Inheritance, if a Man parches Land in Free, and dies without Issue, the Issue of the Blood of the Father's Side shall inherit it, if there be any; and for Want of Issue of the Father's Side, the Issue of the Heir of the Mother's Side: But if it come to the Son by Defeat from the Father, the Heirs of the Mother shall not inherit it. Plowd. 135. &c. &c. &c. Goods and Chattels cannot be turned into Inheritance. 3 Ed. 19. 125. &c. See Defent and Fee Effects.

Inhibition. (Inhibition) is a Writ to forbid a Judge from further Proceeding in a Cause depending be-
thereto, the Court of Chancery will commit the At-
torney to the Fleet Prison for the Contempt of aroll.
Abb. 64. But if an Injunction be granted by the Court of Chancery in a Criminal Matter, the Court of B. R. may break it, and proset any that pro-
If a Cause at Law be at Issue, the Injunction may give Leave to go to Trial, and sift Execution. Ort. The Writ of Injunction is directed to the Party pro-
ceeding, and renders him amenable to Justice. Suli-
citas, nisi quia habeas, &c. and concludes, injunctions, and presents good in good quality of the Cure of a good Scotchman. Legis de pro vel veneno, &c. Amb. Ma-
teris in quorum content. Ort. diffusus & quotidianus od-
ium diffusus, fab par. &c. 1. Injury. (Injury.) Is a Wrong or Damage to a Man's Person. GL. The Law punishes Inj-
ries; and so abhors them, that it grants Writs of An-
ticipation for their Prevention, in Cases of Combina-
Evil; and the Ad of God, or of the Law, doth In-
Injunctions. (Injunctio, from the L. In legam, i. e. Injunctio.) Signifies a Restitution of one outlawed, to the Protection of the Law, and Benefit of a Sub-ject. Brid. ib. 3. bart. 2. rep. 14. Leg. Com.
pars. 2. c. 35.
Inлаг. (Inlagus, vel Hines for Leg.) Is here in-
is of some Frank Pledge, and not Outlawed. It seems to be the contrary to Utage. Traft. br. 2. lb. 3.
1. c. 1.
Insults. Is said to be Terra Dominialis, pari Ma-
neri Dominica, terra interior vel incolae; for that which was let to Tenants was called Outland. In an ancient book of Words; To Wallow I give the Island or Demons, and to Effus the Ulinda or Tenancy. Tisram. Britannici. This Word was in Effus, among the Saxons, and often occurs in 
Domesday.-
Inhabit. Trade. A Trade wholly managed at 
Inhabit. Trade. The Title Intangled or un-
guaranteed is it employed in the Chippend. Oth. 2. 5th.
Inhabit. Trade. Are those Permits that are admitted to dwell with and in the House of another, and not being able to maintain themselves. Kilch. 45. These Inhabitants are generally idle Permits harboured in Cott-
ge, whereupon it has been common for several Fa-
milies to inhabit, by which the Poor of Parishes have been increased; but suffering it is an Offence by Sta-
tute, liable to a Forfeiture of £00 a Month, inqui-
rable of in the Court Leet, Ort. Stat. 33 Edin. c. 7.
If one have a House wherein he dwells, and les-
Part of it, so that there are several Doors into the 
Street; it is now as two Houses, and the Under-Te-
nant shall not be accounted an Inmate: But in other-
wise if there be but one outer Door for both Fami-
ly. 2 Cor. 1. 378. A Man keeps his Daughter 
that is married, and her Husband, Ort. by Covenant,
and they have some Rooms in his House, they are not Inmates; though if they live in one Corrage, and part the House between them, and Diet themselves severally, they shall be Inmates within the Statute. 
Kilch. 45. If a Person take another to Table with 
him; or let certain Rooms to one to dwell in, if he be of Unliability, and not poor, he is not Inmate. Ibid. See Cert. 17th. Cai.
Nanoom, A Pledge. — Innamo non exploratur 
Sib per commum effussum. Da Cange.
Innings. Lands recovered from the Sea in Rom-
Record makes Mention of the Innings of Archibishop Bishop, Ben-
fic, and others; and at this Day there is Elders's

Innings, &c. Where they are rendered profitable and 

Inmost, (From the Sax. Innans, i. e. Insus) An 
Inclosure. Spelm. Glass. 

Innotissimus. This Word and Vitorium are all 
one, in which they are called, and in which they are always of a Character of Peculiarity, or some other In-
formity, not of Record, concluding innotissimus per 
prostitution. Se. 1. 18.

Innovations. Are thought dangerous by our Laws; 
and the ancient Judges of the Law have ever expre-
sed them, lest the Quiet and Certainty of the Common Law be disturbed. Se. 1. 18. In the Reign of King Ed. 3. The Judges said, we will not change the Law, which always hath been 
used; and in the Time of K. H. 4. they declared it would be better that it should be turned to a New 
Law, than that the Law should be changed, or any Innov-
ation made. ibid. 303.

Innoyce, To purge one of a Fault, and make him 
innocent. Leg. Lethod. 1. 10.

Inns, (Hofpis.) Were inquired for Lodging and 
Travelers; and at Common Law any Man may 
receive Strangers to his House or Hostelry to 
receive Travellers, but now they are to be licensed 
and regulated by Statute, by Judges of Peace, who are to take Recognizances for keeping good Orders,
Ort. 6 Ed. 6. And if the Keeper of an Inn harbours Thieves or Perons of a scandalous Re-
putation, or suffers frequent Disorders in his House; 
or lets a new Inn, in a Place where there is no 
Manner or Need of one, to the Hindrance of another 
ancient and well governed Inn; or keep it in a Sit-
uation wholly unfit for such a Purpoze, he may by 
the Common Law be indicted and fined. H. P. C. 
146. Dollis. 34. Inn keepers not selling their Play, 
Oat, Beaux, Ort. and all Kinds of Violets for 
Meal and Beaf, at reasonable Prices, having Respect 
to the Prices set in the Markers adjoining; 
not doing anything that is improper for the first Offence, and for the second be imprisoned 
for a Month; and for the third fined on the Pilloary, 
Ort. Stat. 21. Tit. 1. c. 31. Rates and Prices must 
be set on all the Commodities sold by Inn keepers; 
and if they exceed any unreasonable Rates, they may be 
indicted. 2 Cre 609. Carissima 170. If one who 
keeps a common Inn, refuse to receive a Traveller 
as a Goset into his House, or to find him Violets or 
= Lodging, upon his tendering a reasonable Price for 
the time he would desire to rest, the Keeper of an 
Inn is to be indicted with the Person, and fined, 
in an Action at the Suit of the Party grieved, and 
may also be indicted and fined at the Suit of the 
King: And it is said, he may be compelled by the 
Commons of the Town to receive and entertain such 
K. Roy in his own House, and if he make it his common Business to entertain 
Travellers. A. Hals. P. C. 237. A Goset on the 
Cafe on an implied Affidavit, it must lie against the 
Goset for Things had, where the Inn keeper is obliged by Law 
to furnish him with Meat, Drink, &c. And when a 
Goset calls for any Thing at an Inn, the Inn keeper 
may justify Detaining of a Horse, or other Thing, 
till he is paid his just Reckoning. Dyer 50. By 
the Cussain of the Realm, if a Man lives in an Inn one 
Night, the Inn keeper may detain his Horse until 
he is paid for the Expenses; but if he gives the Pay-
ment for that Time, and lets him depart without 
Payment, then he hath waived the Benefit of the 
Custum, and must rely on his other Agreement. 
brings his Horse to an Inn, and leaves him in the 
House, and says he will pay the Keeper till the 
Owner pay for the Keeping: And if he eat out as 
much as he is worth, the Master of the Inn, after a 
reasonable
reasonably Appellation, may fell the Horse and pay himself. Yffr. 66. But if one Horse be to an Inn, and afterwards take them all away but one: the Inn-keeper may not fell this Horse for Payment of the Debt or the other, but every Horse to be delivered out of that House to the Owner, and for his own Meat. 1 Baff. 207, 217. If any Thief be committed on a Guest that lodgeth in an Inn, by the Servant of the Inn, or by any other Person, (not the Guest’s Servant or Companion) this Inn-keeper is answerable in Action on the Case: But if the Guest be not a Traveller, but one of the same Town, the Master of the Inn is not answerable for his Servant’s Theft: and if a Man is robbed in a private Tavern, the Master is not answerable. 3 Rep. 32, 33. In this Action the Inn-keeper shall not answer for any Thing that is out of his Inn, but only for such Things as are infra Hospitia, the Words of the Writ being verum Banco & Casella infra Hospitia illa ecretaria, Gr. But if the Inn keeper put the Guest’s Horse to Grift, without Orders for it, and the Horse is stolen, he shall make it good. 3 Rep. 34. The Innkeeper shall not be charged, unless there be some Deceit in him or his Servants, for if he that comes with the Guest, or who deals with the Innkeeper, shall be his Goods, the Host is not chargeable: Though if an Inn keeper appoint one to lie with another, he shall not, if it be after his Rep. 129, 134. The Guest delivers not his Goods to the Innkeeper to keep, &c. if they be stolen, he shall be charged: Not where the Hostler requires his Guest to put them in such a Chamber and Lock and Key, if he fails them to be in an outward Court, Gr. Ibid. Any Person found thinking in an Inn, is adjudged within the Jurisdiction of the Jury, Wir. 3 Cor. 1 10. 14. Est. Am. Inn-keepers or Alasheke keepers, permitting tip-pling in their Houses, are liable to the Penalty of 10s. Gr. by Statue 1 Jac. 1. 2. 9. Cor. 1. 1 4. 14. Est. Am. 3 Jac. 1. 2. 11. 17. Inns of Court (Hospitia Curiae) are so called, because the Students therein do not only study the Laws to enable them to practice in the Courts at Westminster, but also perform certain Ordeals among themselves, as may render them better qualified to serve the King in his Court. Fortis, cap. 491. Of them (inlay Sir Edward Coke) there are four well known, viz. The Inner Temple, Middle Temple, Lincoln’s Inn and Gray’s Inn; which with the two Serjeants Inn and eight Inns of Chancery, viz. Clifford’s Inn, Synodum Inn, Lincoln’s Inn, Gray’s Inn, Serjeants Inn, Staple’s Inn, Rose- nor’s Inn, and Thorold’s Inn, (to which is since added New Inn) make the most famous University for Pro- fession of the Law, or of any one human Science in the World. Cor. Litt. Our Inns of Court, or Societies of the Law, which are famed for their Production of learned Men, are governed by Masters, Principals, Benchers, Stewards, and other proper Officers; and have the Chief of them Chapels for Divine Service, and all of them publick Halls for Exercises, Read- ings and Arguments, which the Students are obliged to perform and attend for a compernd Number of Years, before admited to speak at the Bar, Gr. Their Societies or Colleges, nevertheless are no Corporation, nor have any judicial Power over their Members, but have certain Orders among them- selves, which by Consent, have the Force of Laws; for lighter Offences, Persons are only excommunicated, or put out of Commons; for greater they lose their Common rights, and their privileges: But as none of one Society, shall never be received by any of the others. All the lesser Inns of Chancery, are mostly inhabited by Attorneys, Solicitors, and Clerks, and besides Town Inns, there are Inns of Court, who have been used to feed yearly some of their Bar- risters to read to them. Fortis, 17.
IN

by the Jury that he only frigins himself Lunatick, and he refuses to plead, he shall be dealt with as one stand-
ing mute. H. P. C. 226. 1 And. 107. Where a Per-
on is tried, without making any Answer, the Court
may take an Inquest of Office, by the Oath of
the twenty Persons present, if he do lie out of Maiere,
&c. But after the Lie is joined, when the Jury are in
any Need for such Inquiry, it shall be made by them, and not by an Inquest of
Office. 2 Haw. P. C. 3. 37. If a Person arrested of
Felony escape, and being reskined, denies he is the
same Man, Inquest is to be made by a Jury before
he be executed. Ibid. 463. By Magna Charta, noth-
ing is to be taken for Inquest of Life or Member.

Inquisition. This is an Authority given in gene-
rall to some Person or Persons, to inquire into someth-
ing for the King's Advantage. Leg. 72.

Inquitum. Is a Manner of Proceeding by Way of
Search or Examination, and used in the King's Be-
half, in Temporal Causes and Profits, in which Seale
it is confounded with Officer, Stannys: Pr. 55. 1.
This Inquitum is upon an Outlawry found; in Cases of
Treason and Felony committed; upon a Feas de 
Je, &c. to entitle the King to Forfeitures of Lands and
Goods: And there is no such Necessity required in an
Inquiry as in an Inquest; because an Inquiry is only
to inform the Court how Proces should ille for the
King, while Title accrues by the Attainter, and not by
the Inquisition; and yet in the Cases of the King,
and a common Peron, Inquisitions have been held void
for Incertainty. Lane 39. 2 Nis. Abr. 1088. It is
told there are two Sorts of Inquisitions, one to inform
the King of the other to yield an Interest in him; the
one need not be certain, but the other mutt, and
where an Inquisition finds some Parts well, and nothing
as to others, it may be helped by Mitis Inquirendum.
3 & 4 H. 19. If the Inquest is made by a Judge Ad Inquir-
endum, to inquire by a Jury into any Thing touching a
Caufe depending in Court; and Inquisition is had upon
Extent of Lands, Words of Wills, where Judgment is
had by Default, and Damages and Costs are recovered,
&c. Fomb 484. 2 Litt. Ab. 65.

Inquisition, Ex Officio More, is one Way of
proceeding in Leisibertiis Court's. Wind's Inf. 506.
And formerly the Oath Ex Officio was a Sort of In-
quiriwm.

Inquiritu, (Inquiries) Are Sheriffs, Corneers
(Commissaries) or Collectors, or the like, who have power
to inquire in certain Cases; and by the Statue of
Willm. 1. Inquiries or Inquirers are included under
the Name of Ministris. 2 Inf. 211.

Inquiritum, (Inquisition) Is the Registering or
Entering in the Rolls of the Chancery, King's Bench, Com-
mon Pleas or Exchequer, or by the Clerk of the Peace
in the Records of the Quarter-Sessions, of any lawful
Act; as a Statute or Recogmance acknowledged, a
Deed of Bargain and Sale of Lands, &c. An In-
quiritum of a Deed may be either by the Common Law,
or according to the Statute: And Inquiritum of Deeds
ought to be made in Parchment, and recorded in
Court, for Perpetuity's Sake. Trin. 29 Car. 2. Paed.
24 Car. 1. B. R. But the Inquiring a Deed doth not
make it a Record, though it thereby becomes a Deed
recorded; for there is a Difference between Matter of
Record, and a Thing recorded to be kept in Memory;
A Record being the Entry in Parchment of Judicial
Matters committed in a Court of Record, and where-
of the Court takes Notice; whereas an Inquiritum
of a Deed is a private Act of the Parties concerned of,
which the Court takes no Cognisance at the Time of
doing it, although the Court gives Way to it. Meth.
21 Car. 1. 2 Litt. Ab. 69. Every Deed before it is
inquired, is to be acknowledged to be the Deed of the
Party before a Master of the Court of Chancery, or a
Judge of the Court whereinafore it was, which is the Off-

cicer's Warrant for the Inquiring of the bare: And the
Inquiritum of a Deed, if it be acknowledged by the
Grantor, will be good proof of the Deed itself upon a
Trial. Ibid. A Deed may be inquired without the
Examination of the Party himself; for it is sufficient
if Oath is made of the Execution of the Deed: If
two are Parties, and the Deed is acknowledged by
one, the other is bound by it: And if a Min. con.
New York, &c. and would pass Lands in England, a
nominal Person may be joined with him in the Deed,
who may acknowledge it here, and it will be binding.
1 Sal. 3. 49. If the Party dies before it is inquired, it
may be inquired afterwards: And Inquisitions of Deeds
operate by Virtue of the Statute of Inquisitions; but
if Livery and Seisin, &c. be had before the Inquiring,
it prevents the Operation of the Inquisition, and the
Party shall be in that, as the more worthy Ceremony
to pass Edition. 1 Leen. 4. 5 Nis. Abr. 1050. Al-
though Inquiritum, or Blasion of Seisin, shall not be
tried for Perjury, yet the Time when the Inquiritum of
a Deed was made shall be thus tried. 2 Litt. 68. See
Bargain and Sale.

Inscription, is ordained in divers Cazes by Sta-
tutes: Of Bargains and Sales by 27 H. 8. c. 16. Deeds
in Corporations, &c. 34 & 35 H. 8. c. 22. Of Writ-
ings in the County of Lancaster and Chester, &c.
By Stat. 4 Eliz. c. 22. Grant from the Crown of Felons
Goods, &c. 4 & 5 W. 4 & M. c. caps. 22. Of Deeds and
Wills made of Lands of Papists. 5 Gen. 1. c. 16.

Inscriptions, Were written Inrespect by which any
Thing was granted; as Inscriptores Magnifici, &c. Blount.

Instructio, A Proctot or Adversary at Law.

Instructio, To reduce Persons to Servitude:
Si succintum amicorum vobis conferat, & si jure potest in-
scire inferius. De Cuage.

Instructa, (ser.) An Indisch, Indistin, &c.

Instructura Juraturum, Are Way Layers; which
Words are not to be put in Inductions, Appeals, &c.
by Stat. 4 H. 4. c. 2. And before this Statute, Cler-
ya might be denied Felons charged generally as Infra-
structura Vrurum. See 25 Car. 2. c. 1.

Instructa, Enignum or Armis. See deo et Ge-
risty.

Institum, Evil Advice or Counsel. — Malaque
Reges Inflita adversitias Angliæ deductis sim. Dacutum.
Dome. 1061. Instructus in advogato et contrariis e.
Fidus Regni cum ichi Consiliori, &c. Instauris, &c.

Institutum computatissimum, Is a Writ or Action of
Account, which lies not for Things certain but only for
Things certain. Bracte dec. 8. The common De-
claration upon an Instutum computatissimum is to say, That
the Plaintiff and Defendant, such a Day, Year and
Place, Instructum in computatissimum de Diversis De-
barriam jamenti per ipsum (the Defendant) idem (the
Plaintiff) praebuit eto ibidem debit. In sanit, exigat &
super computos ibidem (the Idem) ultima & ibidem
invenisse satis in Diversis jure sancion (the Plaintiff in
so much) praebuit Diversum in Diversis jure.

Instaurata, (Instaurata) In a Creeping into a
Man's Mind or Favour covertly; mentioned in the
Stat. 21 Hen. 8. cap. 5. Instructum of a Will is among
the Crimes, the first Production of it or leaving it in
the Hands of the Registrar, in order to the
Probate.

Intellctent Debts, Unable to pay their Debts,
See Debtor.
Infinimus, Is a Word used in Letters Patent giving Name to them, being the same with Exemplification, and called Infinimus, because it begins Rex omnium, &c. Infinitus Iterum iteratumque guarantit. Letters Patent for Indulgence; and if the Archbishop shall indurate the Archbishop to indult the Clerk thus infirmated, he may do it notwithstanding. 4 Rep. The first Beginning of Indulgences to Benefactors was in a National Synod held at Westminster, Ano 1124. For Patrons did originally fill all Churches by Collation and Liberty; till this Power was taken from them by Canons. Sedes, 8th of Nov., cap. 6 & 9 reg. 375. See Indulgence.

Infruc, Is used by Auditors in their Accounts in the Exchequer; as when so much is charged upon a Person for due on his Account, they lay so much remains infirm to such an Accountant. 21 Jac. 1. cap. 2.

Infrics, Is where a Man for a Sum of Money paid him by a Merchant obliges himself to make good the Loss of a Ship, &c. to so as the Value of the Premium extends. Infrics are either Publick or Private; the first done at the publick Office of Assurance, and the Latter agreed upon between Merchant and Merchant in private; and All Infrics, whether Publick or private, must be made upon the Ship, or upon the Goods, or upon Ship and Goods: And All Infrics are to Places certain, and others General; in trading Voyages, where Ships deliver their Goods, at one Port, and take in fresh Cargoes, and then proceed to other Places, &c. which are being dangerous, and where the Premium runs higher than that of any other certain Voyage. Merch Compan. 50. Any Man may make a private Policy of Infrics, and there is no fixed Price for the Rates of Infrics, which rise and fall according to the State of the Nation in Peace or War, the Season of the Year, and other various Occurrences: in former Wars the Rates of Infrics on a good Ship, from London to any Port or Place in the East Indies, &c. and back, was 16 per Cent. but in the late War, in the Reign of K. William, the Premium of Infrics on a good Ship was 30 per Cent. And when a Ship has been long miling, and no Advice can be had where the ship, the Premium in Time of War will run very high; sometimes 30 or 40 per Cent., but then the Words are inferred in the Infrics, Left or not Left; and in such Case, if it happens at the Time the Subscription is made, that the Ship is cast away, the Infrics will not answer: But if the Party that caused the Infrics to be made, was the Ship wrecked, or had certain Intelligence of it, such Subscription will not be Obligatory, so likewise if the Infrics having a rotten Ship, shall infirm upon the same more than the ship is worth, and afterwards going out of the Port the fire is sunk or wrecked, this will be adjudged fraudulent, and not oblige Infrics to answer. Mich. 26 Car. 2. B. R. And willfully Cashing away, or making Holes in the Bottom of a Ship, &c. with Delign to prejudice any Infrics, Merchants, &c. is made Felony by Stat. 1 Ann. and 1 Geo. 1. Subscriptions for Infrics are generally for certain Sums; as 100 l. or 500 l. &c. at the Premium current; and if a Man injures Goods to the Value of 500 l. and he hath but 500 l. to indemnify him, or saving infirm a real Adventure, if a Loss happens, by the Law Maritime, all the Infrics are compellable to answer pro rata: Though this is more by the Custom of Merchants than by Law, and by some Opinions, that it was the Opinion of the Infrics, to pay and prorata, and is not entitled to benefits, until formal Indulgence. Period. 528. The Church is full by Infrics against all common Persons, So that if another Person be at all Indulged, it is void, and he hath but a mere Peoficmen; but a Church is not fall against the King till Indulgence. 2 Inst. 358. 1 Roll Rep. 151. When a Bishop hath given Indulgence to a Clerk, he oblates his Mandate for Indulgence; and if he be an Archbishop to indult the Clerk thus infirmated, he may do it notwithstanding. 4 Rep. The first Beginning of Indulgences to Benefactors was in a National Synod held at Westminster, Ano 1124. For Patrons did originally fill all Churches by Collation and Liberty; till this Power was taken from them by Canons. Sedes, 8th of Nov., cap. 6 & 9 reg. 375. See Indulgence.

Infrinuates, (Lat.) Infirnity or prorately. Law. Lat. Dict.

Infriram, Is used in ancient Deeds for a Stock of Cattle; and we read of Steersman and Stearmen, properly young Beasts, Steer or Breed. Man Ad. Tem. Infriram was commonly taken for the whole Stock upon a Farm, as cattle, Waggons, Ploughs, and all other Implements of Husbandry, Flota, ib. cap. 72. And Infriram Eglise goes to Eglise, and being dangerous, and all other Utensils belonging to a Church. Synod. Extant. An. 1287.

Infrimént, To plant or establish. Non suum est Coram omnium & turbidum Infrimént. Brum. 935.

Institution, (Infricos) Is when the Bishop lays a fides to reform tails Ecclesi, iam Curam animarum, & accipe quam tuam & quam meam: Or it is a Faculty made by the Ordinary, whereby a Parson is approved to be the Afs of the Bishop: If the Bishop upon Examination finds the Clerk preferred capable of the Benefice, he adimits and infrimos him; and Infricio may be granted either by the Bishop under his Episcopal Seat; or it may be done by the Bishop's Vicar General, Chancellor or Commissary; if and granted by the Vicar General, or any other Substitute, their Act or the Act is taken to be the Afs of the Bishop: Alfo the Instrument or Letters Testimonial of Infricio may be granted by the Bishop, though he is not in his Diocese; to which some Writters should fay: Their Names. 1 Inst. 344. Clergy. Laws. 190. The Bishop by Infricio transfers the Cure of South to the Clerk; and if he refuseth to grant Infricio, the Party may have his Remedy in the Courts of Audience of the Arch bishop, by Delinquencia, &c. for Infricio is properly cognable in the Ecclesiastical Court: Where Infricio is granted and suspected to be void for Want of Title in the Patron, &c. a Superinfricio hath been sometimes granted to another, to try the Title of the pretent incumbent by Ejecution. 2 Roll. Abr. 220. 4 Rep. 79. Taking a Reward for Infricio incurs a Forfeiture of double Value of one Year's Pofits in the Benefice, and makes the Living void. Stat. 31 Eliz. c. 6. On Infricio the Clerk hath a Right to enter on the Parsonage house and land, and take the Tithes; but he cannot grant, let, or do any Act to charge them, till he is included into the Living: He is compleat Parson as to the Spiritual, by Infricio; but not as to the Temporal. &c. if the Bishop be only committed the Monastery, to pray and presbyt, and is not entitled to Ad Vantage, until formal Indulgence. Period. 528. The Church is full by Infricios against all common Persons, So that if another Person be at all Indulged,
liable to bear the Loss: But if Goods involved are not contraband at the Time of the Lading and Insured ... and the Goods break, if they are likewise insured, the Insurers are answerable. 32 Car. 2. 52.

And if Goods and Merchandise be lawfully insured, and afterwards the Ship becomes disabled, by Reason of which, the Cargo of the Ship and Merchants, they are to be laden into another Vessel; and that Vessel proves the Ship of an Enemy, by Reason of which, on her Arrival, she is subject to Seizure, and in the Event it is true the Insurers are liable, for that is an Accident within the Intention of the Policy of Insurance, which mentions Dangers of Sea, Enemies, &c. Yet where Goods are insured in a Ship bound to any foreign Port, and in the Voyage the said Vessel is laden at Sea, it is said the Insurers are discharged without a special Clause to make them liable. Lex Streat. or Merc. Commiss. 93. If a Ship be insured from one Port to another, and is laden at a Foreign Port, and before the Ship breaks Ground, the Goods happen to take Fire, and is consumed, the Insurers are not obliged to answer, unless the Words of the Insurance are so expressed as to cover the said Case; and the Adventure did not commence till the Ship were gone from thence: Though if the Ship had broken Ground, and afterwards been driven by Storm back to the Port of London, and there had taken Fire, the Insurers must answer. Rot. Soccor. 15 Car. 2. Goods are stolen or imbrilled on Ship board, the Master, and not the Insurers are liable: And when Insurers are to answer, and it happens that some Part only of the Effects insured are lost, as in the Case of Ejections in a Storm, or other such Accidents; then the Insurers may be discharged from the whole Sum of Money paid for such Part only. At the same Time, every Man pays so much per Cent. in Proportion to the Sum for which he subscribed. If a Ship arrives safe, after the Adventure is born, generally the Insurers receive their Money; but if a Loss happens, the Premium is deducted with the usual Abatement, and the Insurers receive about 80 per Cent. And when Advice is received of the Loss of the Ship or Goods, Application is to be made to the Insurers, and the Vouchers to be produced; with which, if they are satisfied, they will pay the Money; but if they have reasonable Ground to fear that the Insurers will not wait a convenient Time, till the Insurers can obtain as much satisfaction as their Duty requires; or if nothing can be heard of the Ship in any reasonable Time, the Insurers are obliged forthwith to pay the Money: Though if they think that the Ship shall arrive in Safety, the Money is to be returned them by the Insurers. Merc. Commiss. 91, 96, 97. A Merchant having insured the greatest Part of the Adventure of a Ship, if Advice is received of a Loss, but with Hope of Recovery, whereby such Merchant would have the Satisfaction of the Insurers; he has a Right to make a Remuneration of the Lading to the Insurers, and to come in himself in the Nature of an Insurer, for so much as shall appear he hath born the Adventure of, beyond his Part of the Value insured. Insurers may be made on Men's Heads; as where a Man is in Danger of being taken into Slavery by the Moors, whereby a Random must be paid for his Redemption, he may advance a Premium, in Consideration of which the Insurer must answer the Risk incurred, if there be a Capture. Mich. 29. 32 Car. 2. B. R. All Men Lives may be insured at Land: And Policies of Insurance are used in other Matters, where Damage is feared; in Cafe of House or Goods, from Loss by Fire, &c. By the Stat. 19 Geo. 2. c. 37. No Assurance shall be made by any Person on any Ship belonging to his Majesty or his Subjects, except with the Licence of the Board of Trade; and the Goods laden on board such Ship, Interfere or no Interests, or without further Proof of Interests than the Policy, or by Way of Gaming or Wagering, or without Remuneration; and if they are the Property of the Insurers, every such Assurance shall be void. Re assurance shall not be made except the Assuror becomes Insolvent, and then but to the Value before assured, and to be expressed in the Policy. And if Policies of Assurance be assigned or transferred under any Transaction upon a Policy of Assurance, shall be void within fifteen Days after Receipt, declare what Sums he hath offered in the Whole, or borrowed at Repeustreement or Rerefund in the Voyage. Any Person taking such a Policy of Assurance may bring the Money into Court, and if the Plaintiff shall refuse to accept it, and the Jury shall not find more Damage than the Money brought into Court, the Plaintiff shall pay Costs. See Battam. Form of a Policy of Insurance.

Know all Men by these Presents, That A.B. of

and in the Name and Names of all and every other

Perfon and Persons, to whom this May or shall

appear, doth make Assurance and hereby cause himself and

and every of them to be insured as aforesaid, and from the Port of London to, &c. and from thence back to London, upon the Body, To all, Apparel, Ornaments, Mantles, Aviary, and other Furnishings and Effects on board the said Ship, beginning the Adventure upon the said Ship and Goods, from and immediately following the Day of the Date hereof, and to continue and endure, un

til the said Ship, unto her said Tackle, Apparel, &c. shall be arrived at, and be in Safety in any other Port or Port or in any other Place, either forty or forty-four Hours. And it shall be lawful for the said Ship in this Voyage to proceed and fail to, and touch and Pay at, any Ports or Places whatsoever, especially at, &c. unto and Provisions to this Insurance; and the said Ship and Goods, &c. for so much as concerns the Insured, is and shall be rated and weighed at, &c. Sterling, witho

but further Account to be given by the Assuror for the same. And touching the Adventures and Perils, which now the Insurers are content to bear, and do take upon us, they are of the Sea, Men of War, Fire, Enemies Pirates, Storms, Thieves, Robbers, Shipwrecks, and Rippling at Sea, Arrears, Refrains and Discoveries of All Kinds, Princes and Peo

of, what Nation, Condition or Qualities forsover, Barra

to of the Master and Mariners, and all other Lights and Misfortunes that shall happen on board the said Ship, &c. or any Part thereof. And in Case of any Misfortune, it shall be lawful for the Insured, their Executors, Administrators and Assigns, for the true Performance of the Premises, conferring such Insurers paid the Confida
tion due to us for this Insurance, by, &c. at and after the Rate of, &c. per Cent. and in Cafe of Loss, to above, &c. and to pay without further Proof, &c. more than this present Policy, any Usur or Cession to the contrary notwithstanding. In Witness whereof,

By 45 Eliz. c. 12. an Office of Insurance was created for deciding of Differences arising upon Policies of Insurance in London; and a Court was to be held for that Purpose by the Officers of them) on any Action in the Lord Chancellor to the Judge

Digitized by Google

men damned, because he was obliged by the Causes to leave at least a tenth Part of his Goods to pious Uses, for the Redemption of his Soul; and whoever neglected to do so, was adjudged to take no Care of his Salvation, and no Difference was made between a Servant and an Inhabitant; for as the one forfeited his Goods to the King, so by the other they were forfeited to the chief Lord: But because it often happened by sudden Deaths, that People died without making any Distribution of their Goods to pious Uses; therefore by frequent Canons, the Bishops had Power to make such a Disposition, as the Inhabitants himself was bound to do, and list, And by this Means, the Spiritual Court came first to have Jurisdiction in Trespassers Caeas, Matt. Par. Ann. 1590. By the Stat. Wilm. 2. Goods of Inhabitants were to be committed to the Ordinary, to determine, &c. Deserts of the Deceased, &c. And the 25 & 26 Car. 2. cap. 10 appoints a Distribution of Inhabitants Estates, after Deedes and Funeral Expenditures are paid, among the Wife and Children of the Deceased; or for Want of such, the next of kin, &c. And the Act of Parliament doth immediately, upon the Death of the Inhabitant, vest an Interest in the Perishents intituled, to a Person of any one dies before the Distribution, though within the Year, his Issue shall go to his Executors or Administrators; and not to the Survivors and next of kin to the Inhabitant. 1 Litt. Abr. 487. If a Man makes a Will and Executors, and they refuse the Executorship, in such Case he dies squire Inhabitants. 2 Inst. 597. See Administrators.

Interests in Estates, Are the Goods and Chattels of a deceased Person, 3 and the Act 21 Will. 3. 11 Litt. 557. By the Statute, which attempts to drain any low Ground, and by Dikes, Walls, &c. take in and reduce it to Harbour or Pasure; whence comes the Word Winyards. William Thome.

Interlude, (intrude) is when the Ancestor dies feued of any Estate of Inheritance, expectant upon an Estate of Freehold, or a Decent Tenant for Life due; and by this Means, the whole Death and the Entry of the Heir, a Stranger intrudes. Co. Lit. 227. — Intrudo ess, ubi quis, cui nullum jus competere in us nec sententia juris, poffedit aera in suo aer. And in the Statute, which interdicts any unlawful Entry into Lands or Tenements void of a Poetisher, by him that hath not Right unto the same. And the Difference between an Inhabitant and an Abetter is this, that an Abetter enters into Lands void by the Death of a Tenant in Fee; and an Inhabitant enters into Lands void by the Death of a Tenant for Life, and is preferred by Council, and be signed by them; if they are leading, or such as the Inhabitants or Tenant for Life; and if he doth intrude after the Death of such a Tenant, he is in Revocation, and shall not have this Writ, but is put to his former Writ. For it lieth only for him who hath the Revocation in Fee-siple, &c. after the Death of Tenant for Life, or in Dower, &c. New Nat. Br. 509. All one having such a Fee Estate in Remainder, shall have Writ of Innuon; and the Allegiance of the Remainder may bring it, as well as an Heir, &c. Ibid. As he that enters and keeps the right Heir from the Possession of his Ancestor is an Intruder punishable by Common Law; so he that enters upon the King's Lands and takes the Profit, is an Intruder against the King Co. Lit. 227. For this Information may be brought; but before Office found, he who occupies the Land shall not be said to be an Intruder, for Innuon cannot be but where the King is actually pleased, and such a Writ, which is in Writ of Innuon, brought against the King, and returned to the meane Profits after the Tenant's Estate ended, Mar. 205. By Stat. 21 Jac. 1. 14. the Defence shall plead the General Issue in Information against the Writ of Innuon, brought against the King, and retain their Possession till Trial, where the King hath been out of Possession, and not received the Profits for twenty Years: And no Suits Fainall Hiee, white,...
A Writ of Introm.  

GEORGE the Second, Sec. To the Sheriff of W. Grafton: Command A.B. that he render to C.D., one Missin & two Acres of Land with the Appurtenances, &c., which he claimed to be his Right & Inheritance, and into which the said A. hath no Equity but by Intromission, neither into that he made nor to the Death of L.B. to whom R.D. Factor or Brother of the said C. wou’d be he, is that demised for the Life of the said L.B. as he be dealt, &c.  

Intitution de Cede, was a Writ that lay where the Infant within Age entered into his Lands, and held out his Lord. Old. Nat. Br. 457.  

Intitution, Is the Writ brought against an Introdu-itor, by him that hath Fee simple, &c. New Nat. Br. 457.  

Intudis, To engage or mortgage Lands; and Inventiones were Mortgages of Land. Confirmam autem Donationes, &c., Inventiones Etc. Mov. Ang. Tom. 1. p. 457.  

Intudis, Is when a Person accused of any Crime, on it’s not being fully proved, was put sub dicta seculorum. Bloom.  

Intudis, In the Inquisition of Serjeancies and Knights Fees, Ann. 12 & 13 of King John, there are some Tides called Inveniens, &c. Inventions feaver Repeas.  

Intutiones, Is used in ancient Charters for Treas-ure trove, Money or Goods found by any Persons, and not found. High. Soc. 2d Ed. 2. p. 456. By 21 H. 3. c. 5. Executors and Administrators are required to make and deliver in upon Oath to the Ordin-ary, Inventions indented, of which one Part shall remain with the Ordinary, and the other Part with the Executor or Administrator: And the Intention of this Statute was for the Benefit of the Creditors and Legatees, that the Executor or Administrator might not conceal any Part of the Personal Easte from them: Though as to the Valuation it is not exclusive, but the real Value found by a Jury; if they are underval-ued, the Creditors may take them as appraised; and if over-valued, it shall not be prejudicial to the Exec-utor. 2 Nell. Abp. 1015. But though generally all the personal Easte of the Deceased’s, what Nature or Quantity, ought to be put into the Inventory; yet Goods given away in the Life time of the de-ceased’s Person, and actually in the Possession of the Party to whom given, and the Goods to which a Hus-band is entitled as Administrator to his Wife, are not. 3 Bulst. 555. And notwithstanding the Law requires that the Inventory be exhibited within three Months after the Death of the Person, if it is done afterwards, it is good, for the Ordinary may dispence with the Time, and even whether it shall be exhibited, or not, as where Creditors are paid, and the Will perform’d, &c. Rovm. 470. These Inventions proceed from the Civil Laws; and whereas by the old Roman Law, the Heir was obliged to answer all the Tenant’s Debts, &c., it was ordain’d, that Inventions should be made of the Substance of the Deceased’s, and he should be no further charged. Juv. Inf. 907. See Executor.  

Intudis de Cede, in the Mother’s Belly, relating to which there is a Writ mentioned in the Re-gressor of Writs, and in 12 Car. 2. c. 24. Infant in Pueritate, in a Woman is with Child at the Time of her Husband’s Death; which Child, if he had been born, would be Heir to the Land of the Husband: And this is sometimes privily, and sometimes openly and visibly, 3 Edin. 22. 13 Edin. 16. And the Law hath Consideration of such a Child, on Account of the apparent Expectation of his Birth: For a De-vice to an Infant in Pueritate, shall be good by way of future executor Devises. Rovm. 164. He may be vouch’d in his Mother’s Belly; and Athos lies for Detainment of Charters from him as Heir, &c. Hol. 231. Deor. 186. And in all Cases, where a Daughter or Female, comes into Land by Devise, there the Son born after, shall oust her and have the Land. 3 Reg. 61. Fov. 175. But if the Daughter and Female Heir, comes to Land in Nature of a Pun-isher; 22 in a Will of Lands given to 7. S. and his Heirs, and he hath a Daughter when the Deviroor dies, his Wife being then with Child of a Son; in this Case the Daughter shall enjoy the Land, and not the after born Son. 3 Reg. 61. 5 S. 4. 6. 9 H. 7. 24.  

Intudis, To verify or make Proof of a Thing. Law. Ine. cap. 16.  

Jewels and Inventiones, (From the Fr. Invenions) Signifies to give Possessio: Some define it thus, Invenitio vel aulicism in fontunam faciendae: A Giving Livery of Seisin or Possession. The Columns and Ce-remonicies of Inventiones or Giving Possession, were long prattified with great Variety: At first Inventiones were made by a Form of Words; and afterwards by such Gifts of Ringe which had more Relevance to what was to be transferred; as Lands passed by the Delivery of a Turf, &c. which was done by the Grantor to the Per-son to whom the Lands were granted: But in After-Ages, the Things by which Inventions were made, were not to exactly observable. Inven. pag. 901. In the Church, it was the Custom of old for Princes to promote such as they liked to Ecclesiastical Benefices, and declare their choice and Promotions by Delivery to the Persons chosen of a Pastoral Staff and Ring; the one a Symbolical Representation of their Spiritual Marriage with the Church, and the other of their Pastoral Care and Charge, which was termed Inven-tion: After which they were concerated by Ecclesiasti-cal Persons. Hereedes tells us, that our King Richard being taken by the Emperor, gave this Kingdom to him, & Inevitio summae per Piliun fontum; and that the Emperor immediately afterwards returned the Gift; Et Inevitio summae per deplum cum cerume de aurum. Herec. 724. And Wallis, in says, that John Duke of Lau- rence was invested Duke of Aquitaine, per Virginum & Piliun, pag. 341.  

Jubilatores ita Veterum, Tho’ Hymns and Psalms that were long in the Church to invite the Peo-ple to Prayer: They are mentioned in the Statute of St. Paul’s MIS.  

Junior, A particular Account of Merchandise, with its Value, Custom and Charges, &c by a Merchant to his Factor or Correspondent in another Country. Stat. 12 Car. 2. 23 Car. 2.  

Jubiter, is used for one that buys or sells Cut-tere for others. 22 & 23 Car. 2. And there are Stucborders, who buy and sell Stocks for other Per-sons, &c.  

Jewetts, (Br. Jemaes) Jews: derived from the Lat. Judaeus, Jews, and Jewish, which comprehend every Thing that delighteth; but in a special and more refined Sense, it signifies those Things which are Ornaments to Women, and which in France are long called their own; as Diamonds, Ear-Rings, Bracelets, &c. But in this Kingdom, a Wife shall not be en-
JO

JO

titled to Jewels, Diamonds, &c. on the Death of her Husband, in case they are fur obtainable, and the Husband leaves Assets to pay Debts. &c. 1 Roll. A. 911.

Joacutis, A Jailer; as in an Old Deed we read of Joacutis de Dom. Albietis & Jaculator Regis, the King's Jailer. Dam. 72.

Jocus partitum, It is when Two Proposals are made to a Person, and he hath Liberty to choose which he pleases. See Merit 7, 31, 39. Also, as to the Cafe, the Plaintiff may be joined in one Aion. Joacutum jurater, &c. Brad. lib. 4. c. trad. 1. cap. 32.

Joiner, Is the Coupling or Joining of two in a Suit or Action against another; Due as an Item in Actions Contingent. F. N. B. 118. In all Personal Things, where Two are chargeable to Two, the one may satisfy it, and ace. Satisfaction, and bind his Company; and yet one cannot have an Action without his Companion, nor both only against one. 2 Leon. 77. In joint Personal Actions against two Defendants, if they plead severally, and the Plaintiff is nonuit by one before he had Judgment against the other, he is barred against both. Hob. 180. A Convenant to Two, not to do a Thing without their Consent, if all of them may bring an Action for his particular Damage; 2 Mod. 82. If a Man convenants with two or three severally, which he may do, and it differs from a Bond; here it was held, they could not be joined in Covenant. March 103. But if a Person, in Consideration of a Sum of Money paid to him by A. and B. promises to procure their Cause dilated or delivered if they are not delivered, one joint Action lies by the Parties, for the Consideration cannot be divided. Sib. 156, 203. 1 Dowl. Atr. 5. And if one Jointant of Goods is rebell, both shall be joined in an Action, where Wounds is given in Death, and where Woun, or owners of a Sum of Money are rebell upon the Highway, they are to join in one Action against the Hundred. Latb. 127. Dyer 307. 'Tis otherwise if they have a Joint Promise. Ibid. Upon a joint Grievance all Parties may join as the Inhabitants of a Hundred, &c. Where an Action against Owners of a Ship, in Cae of Goods damaged, &c. is good as Contributa, it must be brought against all of them. 3 Leon. 258. 3 Mod. 321. 1 Salt. 440. Though one Partner acts in Trade, where there are many Partners, he may be brought against all the Partners jointly for his Act. 1 Salt. 292. If two Men are Partners, and one of them sells Goods in Partnership, Action for the Money must be brought in both their Names. Golic 244. But where there are two Partners in Merchandise, and one of them appoints a Factor, they may have severa Writs of Account against him, or they may join. Mor 188. And if one of the Merchants Dies, the Survivor is to bring the Action. 2 Salt. 444. If one Man calls two other Men Thieves, they shall not join in an Action against him; and one joint Action will not lie against several Persons for Spinking the same Words: For the Wrong done to one is no Wrong to the other; and the Words of the one are not the Words of the other. 1 Dowl. 5. Palm. 319. So it is in Assult and Battery. On a joint Trepass the Plaintiff may declare severally; but it remains joint till severed by the Declaration. 2 Salt. 454. A Man cannot declare in an Action against one Defendant for an Assult and Battery, and against another for Taking away his Goods; because the Trepasses are of several Natures. But where they are done by two Persons jointly at one Time, they may be joined in the Whole. Sib. 432. 1 Mod. 406. If two Men procure another to be indicted falsly of Ballyry, he may have Action against them both jointly; and it is the same if Two confine to make a Suit, though one only gives Money, &c. Latb. 362.

Joint Actions. In Personal Actions, several Wrong may be jo'me in one Cause, but even if founded upon a Tort, and on a Counsell, cannot be joined, for they require different Pleas and different Proces. 1 Keb. 442. 1 Forest. 366. And where there is a Tort by the Common Law, and a Tort by Statute, they may not be joined; though where several Torts are by the Common Law, they may be joined, if Personal. 3 Salt. 203. A General Action of Trepass, and special Action of the Cafe, may be joined in one Action: Trepass and Aijmumte may not be joined; but in an Action against a common Carrier, the Plaintiff may declare in Cafe upon the Custum of the Realm, and also upon Trotter and Converters, for Not Arriving, or Not Answering to both. 1 Dowl. Atr. 4. And any Actions may be joined, where the Plea of Non guility goes to all. 8 Rep. 47. But as to Carriers, see 1 Atr. 565. And Judgment was arraigned in Aijmumte, in such a Cafe. 1 Salt. 10. Ejectment and Battery cannot be joined; but after Verdict, where severa Damages were found, the Plaintiff was allowed to receive them for the Battery, and had Judgment for the Ejectment. 1 Dowl. 3. Although Persons may join in the Personal, they shall always sever in Actions concerning the Realty; and Witte being a mix'd Action fav'ring of the Realty, that be more worthy draws over the Personality with it, in any Action brought, 2 Mod. Rep. 62. A Person cannot as Administrator, &c. ejoin an Administrator for the Rite of the Goods, with an Administrator that takes it in his own Right; because the Cols will be entire, and it cannot be distinguished how much he is to have as Administrator, and how much for himself. 1 Salt. 10.

Joiner of Counties. There can be no Joiner of Counties for the Finding of an Indictment: Though in Appearance he should be said to be a joint. When a Counsellor is given in one County, and the Party died in another, the jury ought to be returned jointly from each County, before the Statute 2 & 3 Ed. c. 24. But by that Statute and the Law, the whole of the Misdemeanor may be joined either on Indictment or Appeal, in the County wherein the Death is, 2 Hot. P. C. 353, 453. Where severa Persons are arraigned upon the same Indictment or Appeal, and severally plead Not guilty, the Procurator may either take out Joint Feuries several, or severa. H. P. C. 356. But after a Joint Feurer, several ones cannot be taken out.

Joint Executors. Are accounted in Law but as one single Person, and Acts done by any of them shall be taken to be the Acts of every one of them; for they all represent the Person of the Tellerator. 2 Mod. Atr. 1026. If two Joint Executors have a Lease for Years, one of them may fell the Term without the other’s Joining, because both are possessed of it as one Person in Right of the Tellerator; and this is the Reason why one of them cannot assign the Term to the other; and for which the Court one Joint Executor cannot compel his Companion to account. Cor. Elia. 547. Sia. 55. If one joint Executor gives an Account or Release, the other is bound by it; as they are but one Executor to the Tellerator, wherefor each hath an Authority over the whole Estate. 2 Browne. 183. Kelv. 23. But if a Release is procured of one joint Executor by Fraud, for a less Sum than due; Relief may be had in Equity: And joint Executors shall not be charged by the Act of their Companions, any further than they are actually possess’d of the Goods of the Tellerator. Mort. 620. Cor. Elia. 318. 1 Leon. 209. Though if joint Executors, by Agreement among themselves, agree to each other in accordance with the Rules of the Tellerator’s Estate; in this Case each of them shall be chargeable for the Whole by the Agreement as to Receipts, &c. Harde. 314. Also it has been decreed in Chancery, that if two or more Executors join in a Receipt, and one of them only receives the Money, each of them is liable for the Whole, 85.
as to Creditors at Law; but as to Legatees, and those who claim Distribution, who have no Remedy but in Equity, the Recourse of one Executor to the other is charged there, &c. Salk. 518. Two joint Executors cannot plead different Pleas, because their Ten-抓好，living, who had but one Perfon, on Action brought against them, could have but one Plea. Raymond, 123. Where two joint Executors have con- remed, a Suit, and one of them dies pending the Action, it shall abate, though he fo dying had been emancipated and forever the Law in the same where they are Defendants: And all the Executors are to be named in an Action brought by joint Executors, or the Action shall abate: but where one Executor is under Age, it shall be specially set forth in the Decla- nation, is may be good, though he be not joined in the Action. Nett 1037. It is held, where there are two joint Trustees, and Debt notified himself of a Monev of the Goods, and then dies, in that Case the Survivor shall have all. 2 P. Williams 352. See Executors. 1. Burke 147. If a whole Vill is to be fed, a Joint Feft may be laid, and it will be good for the Nec- essity of it; but in other Cases, Fests for Offence- are to be severally imposed on each particular Offe- fender, and not all of them. 3 Rol. Esp. 53. 1 Esp. 45. Dyer 811. Joint Administrators, May be sometimes had: If Offences of several Persons arise from a joint Criminal Act, it is sometimes repeatedly voted to be a popular prac- tical Default or Defeat of either of the Defendants, if the joint Keeping of a Gaming-house, or unlawful Hunting and carrying away Deer; or for Maintenance of the Defe- ctitory, &c. on Indemnity or Information may charge the Defendants jointly. 1 Fear. 302. 2 Hand. P. C. 240. When there are more Defendants that one, that is to say, a joint Parish, and severally are to be punished, that neither they nor any of them are guilty, &c. 11 H. 6. 6. 2 Rol. Abr. 509. As joint Executor may be made to a Woman Dem jude, to pay her so much yearly as long as the and the Obligor should live together, &c. After- wards he and the Widow should pay her so much yearly, and the Officer should live together, but it was adjudged that the Money should be paid in their joint Lives, so long as they were living at the same Time, &c. 1 Lutw. 555. And a Perfon in Consequence of Receiving the Profit of the Wife’s Lands on Marriage, during their joint Lives, to pay a Sum of Money yearly, in Trust for the Wife, though it was not paid every Year during, &c. It was held, that the Pay- ment shall be intended to continue every Year also during their joint Lives. 1 Lutw. 459. Less than for Years to Husband and Wife, if they or any sides of their Bodies should not have live long, has been adjudged so long as either the Husband, Wife, or any of their Sides should live; and not only so long as the Husband and Wife, &c. should jointly live. Meaw 339. The Word Or may be taken injuriously or disfri- vately for either; when the Word And, which re- quires a joining and Coupling, shall not. Jointenants, (Sinual Tenants, or Qui conjunctivum tenent) Are those that come to, and hold Lands or Tenements jointly by one Title; and their Jointenants must jointly plead, and be jointly sued and impleaded, which Property is common to them and Coparceners; but Jointenants have a sole and peculiar Qualty of Survivall, which Coparceners have not; for if there be two or three Jointenants, and one has fife and dies, he, or those Jointenants that Survive shall have the whole. Lech. 337. 280: 1 Ind. 180. Those are called Jointenants, not only because Lands are conveyed to them jointly by one and the same Title; but for that they take by Part- chae only; whereas an Easiet in Coparcenary is al- ways by Denem. Julb. Where a Man has joied Lands and Tenements, and makes a feoffment, to Two or more, and their Heirs; or makes a Leafe to them for Life; or where Two or more have a joint Estate in Possession, as Two are called Join- tenants, or a joint Easiet in a Deed, Deed, Covenant, Contracl, &c. it is a Jointenancy, and the Part of him that died goes not to his Heir or Executor; but the Whole to the Survivors or Jointenants. But Exception is to be made as to joint Merchants, for their Snek or Deeds which they have in Partnership; which go to the Executor of him that dies, by the Law merchant, and not the Survivor. Lech. 277, 281. 1 Ind. 181. If a Father makes a Deed of Bargain or Sale of Lands to his Son, To hold to him and his Heirs, &c. to the Wife of the Father and Son, and the Issue and Issue of her for ever, they are Jointenants, 2 Cot. 83. And if the Father de- vises Lands to his Elder and other Sons, they are Jointenants, and not Tenants in Common. Goff. 285. Pope 52. And a Man having only two Daughters, who were his Heirs, devised his Land to them and their Heirs; and it was adjudged they were Jointenants, because they have it by the Devil in the same Manner than the Law would have given it them; which would have been as Coparceners by Decret: but here the Survivor shall have the Whole. Cr. &c. 451. A Man devised Lands to his Wife for Life, and after her Death to his three Daughters, and the Heirs Males of their Bodies, &c. The Wife and the two eldest Daughters died, and it was held that the Surviving Daughter should have the Whole for her Life, the three Sibers being Jointenants for Life, and several Tenants in Tail of the Inheritance. Los. 367. A Deed made to two or more joint Executors, which was a Tenancy in common, was held to be a Jointenancy. Pope 52. If Lands are devised to Two equally, and their Heirs, they are Jointenants; but if it had been to Two, equally to be divided be- tween them, it is general, and makes a Tenancy in Com- mon. 2 And. 17. But by Hely Ch. Justice, the Words Equally to be divided, do not make a Tenan- cy in Common in a Deed, but a Jointenancy; though they might in a Will. 1 Sid. 350. And it is held a Term for Years of Goods devised to Two equally, makes a Tenancy in Common, and not Jointenancy; and Lands devised to Two Devises to make a Tenancy in Common. 3 Cot. 657. 3 Salk. 305. A Devote to Two equally to be divided, Habendum to them and the Heirs of the Survivor, is a Jointenancy. Style 211, 454. Lands are given by Will to two Per- sons, and the Survivor of them, and their Heirs, equally to be divided between them Share and Share alike: it is held that the first Part of the Devise makes them Jointenants for Life, and the latter Words import a Tenancy in Common, so as they are Tenants in Common of the Inheritance. 1 Perren Williams 380, 282. Where a Person devises, that all his Estate at a certain Place, should after his Wife’s Death, come to and be equally divided a- mong other Relations, and their Heirs for ever: In this Case of Jointenancy, nothing shall survive but what did originally vest in the first Takers; and if the Persons all die before the Time their Interests commence, the Lands will never be vested in them. Barnard. 356. One by Will gives the Reversion of his personal Estate to three Persons, it is a Jointen- nancy, and the Survivor takes the whole; and where a Surplus of such Estate is devised to A. and B. af- ter the Devises and Legacies are paid, on the Death of either, it will survive. 2 Perren Williams 347. Two or more purchase Land, and advance the Money in equal Parts, and take a Conveyance to them and their Heirs; this makes a Jointenancy with the Chance of Su- rvivall: But where the Proportions of Money are
not equal, they are in Nature of Partners; and though the legal Estate survives, the Survivor shall be as a Trustee for the others, in Recept of the Sum paid by each. *Acr. Caf.* 291. So if where two or more are Trustees, the estate be out of a considerable Sum on Improvements, &c. and dies, in Equity it shall be a Lien on the Lands, and a Trust for Reversion or Representation on that advanced. *Bib.* A Rent of 10 l. a Year is granted to A. and B. to hold to one until he marry, and to the other till he is preferred to such a Church; it was held then they were three casuals, and that乙For them to die before Marriage or Pretermitt, the Rent shall survive. *1 Jef. 180.* If Lands are given to two Men, and the Heirs of their Bodies, the Remainder to them and their Heirs, they shall be *Tenants for Life, Tenants in Common of the Estate, and Joint Tenants of the Fee-simple.* *1 Co. Litt. 183.* But where a Remainder is limited to the right of two Persons, in the Case they shall be severally, though the Words be joint. *2 Rep. 8.* Land is granted to a Man, and such Woman as shall be his Wife; here is no Joint Tenancy, but the Man will have the Whole: Though if one make a Feud- ment in Fee to the Wife of himself, and of such Woman as shall be his Wife, for their Lives, when he died it was in joint tenancy. *Co. Litt. 188.* *1 Rep. 101.* One Peron is in by the Common Law, and another by Limitation of Life, yet they may be *Joint Tenants* by Virtue of a Deed of Grant, *Gt. Ten. 33,* 33. And Land is given to the Premises by a Deed to Three, to hold to one for Life, Remainder to another for Life, Remainder to the Third for Life, they are not Joint Tenants, but shall take successively. *Dyer 256.* There may be a Trusteement, thought there is not equal Benefit of Survivory on both Sides. *1 Jef. 181.* When a Fee-simple-Estate is limited by a new Contract, one of them must be the Owner of an Estate for Life; but when two Persons see Tenants for Life still, and one of them give the Fee simple, the Jointure is severed. *2 Rep. 5.* If a Reversion or Remainder is severed, it shall be taken away. *Dyer 160.* If one *Trusteeement* be made by a Testament, and another by a Deed of Grant, it is just as if a Testament be made by one, and a Deed of Grant by another. If one *Trusteeement* in Fee makes a Lease for Years, referring a Rent, and death; the Survivor shall have the Reversion, but not the Rent, because he claims by Right of Assignment. *1 Jef. 185.* *Trusteeements* as to the Possession of Lands in jointure, are fixt by Interest of the Whole, and of every Part equally, (and the Possession of one *Trusteeement* is the Possession of the whole) but as to the Right of the Lands, they are fixt only of Moies, and therefore if one grant the Whole, a Moiey only possess. *1 Baff. 3* *Civ. Est.* 175. A Gift in Testament makes a Fee-simple more than the Part that belongs to them, when they join in a *Trusteeement*, in Judgment of Law each of them gives but his respective Part, and as to it is of a Gift in Tail, Lease for Life, &c. And for a Condition broken, they shall only enter on a Moiey of the Lands. *1 Jef. 186.* Every *Trusteeement* hath a Right as to his own Share, to sever Purposes, as to give, lease, forfeit, &c. But a Devise of Land, whereby the Devisee is jointly feited, is void; the Will not taking Effect till after Death, and the Title of the Survivor cometh by the Death. *1 Jef. 186.* *Litt.* 287. One *Trusteeement* may lead to his Company: But one *Trusteeement* cannot make a *Trusteeement*, or grant to another *Trusteeement*, though he may re- lease a *Fest. 178.* *Rom.* 187. *Trusteeements* mean one *Trusteeement* comes to the Estate of his Company, by Conveyance, &c. from him, it may ensue by Way of Release. *1 Civ. Est.* 1800. Atton of Trefpait or Power may be *Trusteeements* made by one *Trusteeement* against his Company, because the Possession of one is the Possession of the other. *1 Sa. 290.* Before the Stat. 5 & 6 Wm. c. 16. one *Trusteeement* had no Remission but he could be bold for what he had received more than his Share; and a *Trusteeement* might prejudice his Company in the Feudality, by Reason of the Privy and Truth between them, though not in the Realty, but in the
Statute gives Action of Account to one Jointstore or Tenement, against the other as Bailiff or Receiver; his Executors, &c. One Jointstore may dilate for Rent alone; and he may vow in his own Right, and his own Bailiff, but he cannot hold for his Collector solely; and he may not bring Debt alone. 5 Mod. 23. 150. If a Jointstore in Feme Simple is indebted to the King, and dies; the Lands cannot be extended to the Hands of the Survivor, who claims not from his Companion, but from the Feoffor, &c. 1 Inst. 182. Where there are two Jointstores, and one is indebted to the King, and dies, the other shall hold the Land discharged of the Debt; but if Husband and Wife have a Term jointly, and the Husband is indebted to the King, and dies, in such Case the Term shall be subject to the Debt, because the Husband might have disposed of the whole Estate. P. 13. 51. Judgment in Action of Debt hath against one Jointstore for Life, who before the Death of the Company, adjudged that the Majesty is still liable to the Judgment during the Life of the Releasor; but if he had died before Execution, the Survivor should have had the Land discharged of the Debt and Judgment. 6 Rep. 79. Husband and Wife were Jointstores, and Action was brought against the Husband alone, who made Defeasit thereupon the Wife prayed to be received; but it was not granted, for the Wife was not a Party to the Writ; but he in Reversion may be received, and plead Jointstore in Abatement of the Writ. Nov. 92. 1. A Term Sole and A.B. purchase a Term for Years jointly, and afterwards they intermarry; the Jointstore continues. 1 Bl. 318. 2 Nill. Ab. 1035. And where there are two Women Jointstores, and one dies, the Term shall survive; if the Husband hath not alienated his Part, and revered the Jointstore: But it is otherwise in Case of Goods, vested in the Husband at Marriage. 1 Inst. 185. If a Jointstore doth not alienate his Part, to bar the Surviv spoilship; Jointstores sometimes enter into Covenants not to take Advantage of each other by Surviv spolship. 1 Inst. 198. When there are two Jointstores, and one alienates his Part, the Alien and the other Jointstore are Tenants in Common; for they claim by Rep. 292, 319, 321. And Joint stores and Tenants in Common in Inheritance, by Statute are to make Partition, &c. Coparceners: 46. Jointstores and Tenants in Common for Life or Years, may be compelled to do the same by Writ of Partition. 51. 3 H. 3. c. 1. 32. 8 R. 3 S. c. 31. 9 W. 3. c. 31. The King cannot be Jointstore with any Person, because acque can be equal with him. 1 Inst. 1. Finch 53. And a Corporation cannot be jointly liable of any Estate with another. 2 Lev. 12.

Jointstores of Lands. A Jointstore is a Settlement of Lands and Tenements made to a Woman in Consideration of Marriage; or it is a Covenant, whereby by the Husband or some Friend of his, affreth to the Wife, Lands or Tenements, for Term of her Life: It is called, either because it is granted Ratione Junditi in Maritivm, or for that Land in Frank Marriage was given jointly to Husband and Wife, and after to the Heirs of their Bodies, where by the Husband and Wife were made as it were Jointstores during the Covenance. 3 Rep. 27. By some a Junditi is defined to be a Bargain and Condition for a Marriage: It is an Evidence of Marriage: being a competent Provision of Freehold Lands or Tenements, &c. for the Wife, to take Effect after the Death of the Husband, if the Heirs of his Body do not take the Indenture of the Demission or Forfeiture of it. 1 Inst. 56. 4 Rep. 5. 5 And to the Making of a perfect Junditi within the Statute 27 H. 8. c. 10. to bar Dower, several Things are to be observed: 1. It must be made in Writing; 2. And it must be made at the Time of the Life of the Wife in Fulfillion or Profit, preferably after the Death of her Husband. 2. It is to be for the Term of her own Life, or a greater Estate: but it may be limited to continue no longer than the Estate of a Widow, &c. 3. It must be made for herself, and to none other in Trust for her. 4. It is to be expressed to be in Satisfaction of her whole Dower, and not a Part of it. 5. It may be made before or after Marriage: if it be made before, the Wife cannot waives it, and claim her Dower at Common Law; but if it be made after Marriage, the Wife, at the Husband's Death, unless the Junditi be made by Act of Parliament. 1 Inst. 30. 4 Rep. 1. All other Settlements in Lieu of Jointstore, not made according to the Statute, are Junditi at Common Law, and no Bar to the Right of Dower: And a Junditi was no Bar of Dower before this Statute; as a Right or Title to a Freehold cannot be barred by Acceptance of a collaterally settled Satisfaction. 56. A Father made a Settlement to the Use of himself for Life, and afterwards to the Use of his Son and his Wife, for their Lives, for the Junditi of the Wife; this was adjudged a Junditi to the Wife of her Dower, because it might not come immediately after the Death of the Husband, who might die in the Life-time of the Father. 2 Cr. 165. 20 if a Settlement be made to the Use of the Wife for Life, Remainder to another for Years, Remainder to the Wife for his Life, and then to the Heirs of the Feoffor, which Feoffor shall make another Settlement to the Use of the Son of the Feoffor, and to his son's Wife in Tail, Remainder to the Rights of the Heirs of the Feoffor, which Feoffment is made by a 2d Will; this is a good Settle within the Statute; and bar the Dower of the Wife. 2 Lev. 28. An Estate settled in Junditi, coming from the Ancillary of the Wife, and not of the Purchaser of the Husband, or his Ancillary, is not within the Statute 11 H. 7. as to Difunctions, Aliences, &c. Where a Father of the Intended Wife, in Consideration of Marriage, covenanted to affire Lands to the Husband and Wife, his the Com manator's Daughter, and the Heirs of her Body, &c. this was held no Junditi, within the Meaning of the Statute 11 H. 7. 20 being a Settlement by a 2d Will to a Woman by her own Father. 1 Cr. 252. 2 Lib. 80. And an Estate in Fee simple conveyed to a Woman for her Junditi, was not an Junditi within the Statute, which never extended to Lands granted to Women by her own Father. 1 Cr. 252. 2 Lib. 80.

Digitized by Google
be made for her Jtunure: it was held it might be averred to be made for that Purposse, which is not traverable. Oswy 33. If Land is devised by the Husband to the Wife by Will, it is but a Benuelence: her Husband, however, being dead, the same, after his death, the same shall be Barred, &c. as a Jtunure in Satisfaction of Dower, and the acceptor after his Death, he shall be Barred. 4 Br. 69. 4 Rep. 4. Dyer 220. A Man marries his Wife a Jtunure in marriage, and afterwards by Will devises, that the same shall have a third Part of all his Lands, with her Jtunure: here the Wife will have the third Part of all as a Legacy, and if the Waves her Jtunure, the same may have a third Part of the Residue for Dower. Dyer 62. If a Master in Consideration of Service done by his Servant, grants Lands to the Servant and a Woman to whom he intends to marry, and the Heirs of their Bodies, creating an Estate tail: this is not a Jtunure: not being a Gift of the Husband, or any of his Acceptors, but of his Master, and in Consideration of Service, which will not make the Husband such a Purchaser as the Law requires. Mor. 683. But as to Considerations, if an Estate is settled in Jtunures upon a Woman, in Consideration of Money paid, and also of a Marriage to be had: the Marriage shall be looked upon to be the Consideration. Ch. Test. 474. A Husband, Tenant in Tail, Re¬mainder in his Wife for Life, makes a Feoffment in Fee to the Use of himself and his Wife for Life, for her Jtunure: it is no Bar to the Wife's Dower, because it may be avoided by a Remainder to her in the Estate for Life. Mor. 872. If Lands are conveyed to a Woman before Marriage, in Part of her Jtunure only, and after Marriage other Lands are granted in full; it is said the same may be severed and reallot the Land conveyed to the husband and remain to her Jtunure, and Lands and Dower also. 3 Rep. 1, 5. 2 Nef. Ab. 1039. Where a Jtunure is made of Lands, according to the Direction of the Statute of H. 8. before Confirmation, and after the Husband and Wife alien them by Fine, the shall not have Dower in any other Lands of her Husband: but 'tis otherwise where the Jtunure is made after Marriage, when the Wife's Estates is waivable, and her Election of choosing comes not till the Death of the Husband. 1 Inst. 36. A Man and his Wife a Fine of his Land, and it is granted back again to him and his Wife by his Jtunure, and to the Heirs of the Husband; then he and his Wife levy a Fine to another Use, the Wife if the survive her Husband, will have Dower notwithstanding the Fine. 1 Add. 531. 532. If the Husband make a Leafe of Lands to the Wife for her Friends, for any Number of Years, in trust for his Wife and Children, that the shall have 100l. a Year out of it, or in any such Manner; by this the may have a Jtunure of this Land, which is no Jtunure, and likewise her her Wife. By Bridgman Ch. 42. An Estate is made to Husband in Tail, with Remainder to the Wife for Life, and Remainder to others: this is not such a Jtunure, as with her Acceptance within the Statute will hinder her from Dower; and though the Husband die without Issue, it will not help it, but the Wife shall be endowed in his other Land: But if the Estate were made to the Husband and Wife for their Lives, it would be otherwise. 13 Jac. 1. B. R. 5 Steple. Ab. 74. After the Death of the Husband, the Wife may enter into her Jtunure, and is not driven to a real Action, as she is to recover Dower by the Common Law: and upon a lawful Evi¬llion of her Jtunure, the shall be endowed according to the Rate of her Husband's Lands, which he was endowed with under Common Law. 1 Inst. 37. 27. H. 8. If the be evicted of Part of her Jtunure, the shall have Dower pro tanto. A Wife's Jtunure shall not be forfeited by the Resi¬dence of the Husband on the Premises committing Tenure or Po¬ny, may forfeit their Jtunures; and being convi¬ct of Recusancy, they shall forfeit Two Parts in Three of their Jtunures and Dower, by Statute 3 Jac. 1. c. 4.

If a Woman conceals her Jtunure, and brings Dower and recovers it, and then sets up her Jtunure, she is barred of her Jtunure; and by bringing Writ of Dower for her Thirds, the Wife waives the Benefit of Entry Lands to his Husband, to have them in Jtunure. Cr. Eliz. 128. 137. 3 Rep. 5. Sea Marriages. Jtuntrewe, or Jtunature, is the who hath an Estate in a Jtunure. In case of his Banns being made up by his Wife, if he shall live in her Jtunure, Life, if the survive him. H. 8. c. 10. 1 Inst. 46. When Estates settled on a Wife are a Jtunure, if the Jtuntrewe makes any Alienation of them by Fine, Feoffment, &c. with another Husband, it is a Forfeiture of the same: but if they are not a Jtunure by Law, it is otherwise. 2 Nef. 1040. A Jtunure within the Statute may make a Leafe for Forty Years, &c. if the so long live; and also for Life, and be no Forfeiture, though the leaves it Fine sur Cognizance de Droit, &c. Cr. Test. 688. 3 Rep. 50. 1 Litt. 81. In other Cases, if the leaves a Fine, it is a Forfeiture; and if a Jtunure within the Statute 11 H. 7. c. 20. suffer a Recovery conveniently to bar the Heir, the Heir may enter briefly, &c. 2 Law. 306. 1 Plun. 47. 44.

Journt, (Fr.) A Day, used in Heads of the old Law; note jours for ever. Law et Dict.

Journiers, is a Day, Book or Diary of Tranfactions, used in many Cases, as by Merchants and other Tradesmen in their Accounts; by Marriages in Obligations at Sea, &c.

Journals of Parliament, Are Not Recorded, but Remem¬berances, and have been of so long Continu¬ance. Hol. Rep. 109.

Journtchoppers, were Regraters of Yarn, which formerly perhaps was called Journt. They are men¬tioned in the Statute of B. 6. c. 5.

Journtwhite, (From the Fr. Journier, i.e. A Day, or Day's Work) was properly one that wrought with another by the Day; though it is extended by Statute to that command to work with others in their Trades or Occupations by the Year. 5 Edin. rep. 4.

Journtes Accounts, (Dusse Comptes) is a Term in the Law thus understood: if a Writ arises by the Death of the Plaintiff or Defendant, or for false Lait, Want of Form, &c. the Plaintiff shall have a Writ by Journt, and have a little Time as he possibly can after the Abatement of the Writ; and this second Writ shall be a Con¬tinuance of the Cause, as if the first Writ had not been abated. Terms de jure per Du¬ces Comptos, is a Writ of the Court of Bruges, 6 Rep. 10. This Writ is to be brought presently; and fifteen Days is held a convenient Time for the Purchase of the new Writ. 2 Litt. 85. 1 Litt. 297. If a Writ shall never be purchased by Journtes Accounts: because they never abate for Form. 6 Rep. 10. The Abatement of the Writ must be without the Defauit of the Plaintiff, or a second Writ may not be purchased by Journtes Accounts: if a Writ abates for the Plaintiff's Default, in his misnaming the Name of the Vill, &c. he shall not have a Writ of Journtes Accounts: but where it arises by Default of the Clerk for any Variance or Want of Form, in such Case he may have it. 6 Rep. 10. And when an Oathlawy is discharged or reversed, the Plaintiff may have Writ of Journtes Accounts; but there is no time in him. Cr. Test. 590. The Writ must be brought for the same Thing, and in the same Court, as the first Writ.

Jus e velo, is where the same Person obtains Two Writs for the same Thing in the same Court, not qualified by Dispensation, &c. the first Living is void, 1507. 526. out. without any declaratory Sentence, and the Patron may protest to it. Dyer 275. And there...
IRELAND.

Irish, Made in this Kingdom, or brought into England and sold, shall not be exported; on Pain of forfeiting the Value; and Judices allegred by the King have Power to inquire of such as sell Irish at too dear a Price, and punish them. 28 Ed. 3 c. 5. None shall convert to Coal or other Fuel, for the making of Iron Metal, any Trees of such a Size; or within a certain Compass of London, under those Penalties to be yearly paid, towards finding a Miner within every Parish, and for the Reparation of the Churches: Also the Surenza there shall be paved, by the Landords of Houses, or Tenements, under certain Penalties. Stat. 15 Ed. 4 c. 24.

Irish, are not to be purchased except at Libels or Exports. 15 Ed. 4 c. 25.

Irish, is an distinct Kingdom from England, but subordinate to it in Government; and by Poyning's Law enacted in Ireland, anno 10 Hen. 2, all the Statutes of England, till that date were declared in Force in Ireland, and by special Words our Statutes still bind the People of Ireland, notwithstanding they have Parliament, or Government, who make Laws and Statutes, but on the Rights of the King and Council, 1 Stat. 14 c. 2, 3. In the Proceedings of the Irish Parliament, first the Lieutenant and Council certify to the King the Causes and Considerations of all the Bills brought to him to be passed in Parliament; and Licence under the Great Seal of England, is had and obtained to summon and hold a Parliament in Ireland; If the Acts are affirmed, or allowed, they are translated and returned into Ireland under the Great Seal; and all that paies ought to be enrolled here in the Chancery. 12 Ed. 11, 12, 13. Tresession committed in Ireland, by an Irish Person, is not triable in England, because he is entitled to a Trial by his Peers, which cannot be in England, but Ireland. 36 Geo. 3, 560. But the House of Lords in Ireland, have Power to reverse or affirm the Decrees of the Court of Chancery, or of Ireland: And the King's Bench here may reverse a Judgment given in B. R. in Ireland, by directing a Writ of Error to the Chief Justice there, to summon the Party to appear here, &c. By Statute 17 Ed. 1 c. 11. No Pardon for the Death of a Person, or for Felony, shall be granted by the Judges of Ireland, but as the King's Lieutenant, and under his Seals. By 34 Ed. 3 c. 118, all Kindes of Merchandises may be exported and imported from and to Ireland, by Alions as well to Colonies; But Wine and Woollen Manufactures, are prohibited to be exported from thence into foreign Parts by a modern Statute. And by the 32 Car. 2 c. 2, Cattle, Butter, Cheese, &c. are not to be imported from Ireland into this Kingdom, on Pain of Forfeiture to the Poor. The Statute 11 & 12 M. c. 24 enabled and declared, That the pretended Parliament assembl'd at Dublin, was an unlawful Assembly; and that all Acts done by them are void. All Cities, Boroughs, &c. were restored by this Statute to their Privileges, and the Proceedings against them vacated; and all Powers restor'd to their Possessions, &c. By 3 W. & M. c. 13. Members of Parliament, Officers in the Government, Ecclesiastical Persons, Lawyers, &c. in Ireland, are to take the Oaths, or be liable to Forfeiture. The Statute 1 Ann. 1 c. 29, ordains, that Persons elected in the Popish Religion in Ireland, of eighteen Years of Age, shall take the Oaths, or be disabled to take Lands by Devise, Devel, &c. Protestant families being Palatines, settled in Ireland, are declared Naturalizers on their taking the Oaths of the Government. 1 Geo. 1 c. 29. And by 6 Geo. 1 c. 5, the jurisdiction of the Lords of Ireland to try Matters between commoners in the Courts of that Kingdom, was wholly taken away. See Stat. 4 Geo. 2 c. 15.

Irishmen, are coming to live in England, by an ancient Statute, to give Security for their Good Behaviour. 2 Hen. 6 c. 8.

Irish. See Ireland.

Irishies, (Extravas, from the Fr. Extrav., i.e. Emanatory) Hash divers Signification in Law, as sometimes it is taken for the Children begotten by a Woman after her Marriage, sometimes for Profits growing from American and Fines; the Merchants and other Owners of Lands and Tenements: But it generally signifies the Point of Matter, sluing out of the Allegations and Picard.
Pleas of the Plaintiff and Defendant in a Caufe, to be tried by a Jury of twelve Men. 1. 1. 13. 3. 12. 10. 

The Uses concerning Causes are of two Kind: upon Matter of Fact, or Matter of Law: An Use in Fact is where the Plaintiff and Defendant have agreed upon no Tryal by a Jury but the Plaintiff is to take his Chance; and if he lose, as is where there is a Demand to a Declaracion, Plea, &c. and a Joinder in Demurrer, which is an Use at Law to be determined by the Judges. 1. Inf. 71. 72. 

As to an Use of Fact, no, whether the Fact is true or false, which are triable by the Jury, they are either General or Special; General, when it is left to the Jury to try whether the Defendant hath done any such Thing as the Plaintiff lays to his Charge: as when he pleads, No guilty to a Trepass, &c. Special is when some special Matter, or material Point alleged by the Defendant in his Defence, is to be tried; as in Assault and Battery, Where the Defendant pleads that the Plaintiff struck him, &c. 1. Inf. 126. And when special Matter is alleged by the Defendant, both Parties join in the Tryal by a Jury, which is in general called an Action of Writ. 1. Inf. 128. 

Matter amounting to the General Use, and special Matter of Jurisdiction, have been joined in one entire Plea, and held good. 3. Lev. 41. And where there is an Use upon Not guilty, and there are other Uses upon Jurisdiction, the Trial of the General Use of Not guilty is but Matter of Fact, and the other matters on special Matter upon special Matter. 3. Cas. Tot. 599. 

In real Actions, Causes grown to Uses are tried by a Jury of twelve Men of the County where the Cause of Action arises: and in Criminal Cases, Uses are to be tried in the County where the Offence was committed: but this hath admitted of some Alteration by Statute. 3. Inf. 80, 115. 2. Rep. 93. The Place ought not to be made Part of the Uses; a transitory Action; it is not material, as it is in Real and Mix'd Actions. 34. Car. B. R. 

If the Place is material, and made Part of the Uses, the Jury cannot find the Fact in another Place, because by the Special Pleading, the Point in the Action is referred to a certain Place; but upon the General Uses pleaded, the Jury may find all local Things in another County, and where the Substance of the Uses is found, it is good, and the Finding more may be Surplusage. 6. Exp. 46. 46. If an Use is of two Matters in two Counties, Tryal may be in one County, by the Stat. 12. &c. for that Statute extends to Causes where the Matter in Uses ariseth in two Counties, and the Trial is by one only, as well as were the Matter in Uses ariseth in two Places in one Country, and the Trial is by one only. Every Uses is to be joined in such a Court that hath Power to try it, otherwise the Uses is not well joined; for if the Cause cannot be tried, the Uses is frustrate, and if it be tried, the Trial is a Case non judicati. 23. Car. B. R. 1. Litt. abr. 84. Where an Uses is not joined, there cannot be a good Trial, nor ought Judgment to be given. 23. Niff. 1042. All Uses are to be certain and finite, and joined upon the most material Thing in the Cause; that all the Matter in Quetion between the Parties may be tried. 23. Car. B. R. 

An immaterial Uses joined, where the Matter will not bring the Matter in Question to be tried, is not helped after Verdict by the Statute of Uses, but must there be a Repleader: But an inmaterial Uses as a Statute of Uses 2. Cas. 18. Nuff. 6. c. 50. helps Misjoining of Uses. A Repleader may be awarded after Verdict, for the Bad- 

nesses and Incertainty of the Uses: And a Judgment may be given upon an Immoral Uses; 1. Niff. 150. 1. 1. 12. 10. Upon a joint 

Trespass by many Persons, there must be only one Uses joined: and if several Offences be alleged against the same Person, all the Defeats must be tried by one Process, and offer an Uses upon that one, and no more. 1. Moore. 80. But in Action for Damages, according to the Law which the Plaintiff hath retained, every Part ought to be put in Usage. 1. Sand. 360. In Action upon the Cause for Service done for a Time certain, the Defendant ought to put in Uses all the Time alleged in the Declaration. 2. Lorr. 268. And upon a General Uses in Wadie, the Plaintiff must shew his Title. Ibid. 1547. Though when any special Point is in Uses, the Plaintiff is not obliged to set forth the Whole Matter. 3. 20. 

If there are several Things in a Declaration, upon which no Uses is joined or may be joined, it is in any of them, it is good; and an Affirmative and a Negative will make a good Uses age 511, 510. There must be in every Uses an Affirmative on the one Part, as that the Defendant owes such a Debt, &c. and a Denial on the other Part, as he has not the Debt, &c. And though the Matter contradicts, yet there must be a Negative and Affirmative of it, to make a right Uses. 1. Pint. 303. 1. Also a Negative should be as broad and full as the Affirmative, or it is no Negative to make an Uses as if a Defendant plean a Grant of four Acres, and two Acres only are denied, 3. Cas. Tot. 88. It has been held, that if the Plaintiff taught not to be joined on a Traverse only, without answering the Affirmative, 1. U. 6. 102. But where the Matter, which is the Gift or Sale of the Acre, is not good, and good Verdict, though there was no Negative and Affirmative to make the Uses as in Debt upon Bond the Defendant pleads Payment, and concludes to the Country, without giving the Plaintiff Opportunity to deny the Payment, if the Jury in such Cause find the Money paid, it is good after Verdict. Sid. 541. 

If several Uses are joined, and the Jury give a Verdict but as to one of them, the Whole is discon- 

trued: And where there are two Uses joined, one good and the other bad, if entire Damages are given upon the bad, and nothing upon the good, the several Damages are found, the Plaintiff may release the bad Damages, and have judgment for the Rest. 1. Litt. abr. 87, 88. And it is said Judgment may be entered as to the Part of Uses of a Negative upon which Damages are found, to another Part of the same Uses, where it may be di- 

vided. 23. Car. B. R. 

There may be a Plea to a Uses to Part, and a Demurrer to Part; which have no Dependence on each other. 1. Sand. 372. Where the Declaration of the Plaintiff is good, and the Plea of the Defendant is All if the Plaintiff in his Replication tenders an Uses upon such ill Plea, and a Trial is had, and it is found for the Plaintiff, he shall have Judgment. Cro. Car. 18. And when a Plea is naught, that the Plaintiff might have demurred upon it, and he doth not, but takes Uses, and it is found for the 

Defendant; this is aided by the Statute of Uses, and the Defendant shall have Judgment: So likewise where the Replication is naught, and Uses is taken upon it, and found for the Plaintiff, he shall have Judgment. Cro. Blis. 455. Cro. Jud. 312. If Uses be taken on a dilatory Plea, &c. and found against the Defendant, final and peremptory Judgment shall be given upon it is not GPLv. 1. &c. 118. A good Uses is offered to the Defendant, he ought not to plead over; and if he plead over, the Plaintiff shall have Judgment. 1. Sand. 358. 1. Uses does not stay the Statute but bars it. 1. Lorr. 268. A Plea being pleaded to the Plaintiff's Declaration, and the Plaintiff's Attorney's
Hand ser to it, then the 
has is joined between the 
Plaintiff and Defendant, and not before: And the 
Plaintiff's Attorney is also to be paid by the 
Defendant's Attorney for entering the Plea: And the Paper 
Books, in special Pleasings, Exciting. 2 Lill. 87, 88. 
And when 
has is joined between the Parties, it can 
not be afterwards waved, if it be a good 
, with the 
Defendant pleads the General 
, and it is not enter-
decl, he may within four Days of the Term, wave that 
, and plead specially; and when the Defendant 
pleads in Abatement, he has sooner time after 
wave his Plea of special Master, and plead the 
General , unless there be a Rule made for him to 
plead as he will stand by it. 2 W. 5. B. R. 711. 
If the Plaintiff neglects to enter the 
, the Term it is joined, the Defendant in the first five 
Days of the next Term, may alter his Plea, and 
plead specially: And if the Plaintiff will not try the 
after joined, in such Time as he ought by the 
Course of the Court, the Defendant may give him a 
Rule to enter it; which if he does not, he shall be 
non-suited. Exciting. 2 Lill. 81. In the Joining of an 
, the Common Law requires, 8. 2. a Plea sufficient in 
Law; and 2dly, a Traverce in contradictory Terms; 
otherwise the Verdict of the Jury is of no Force. 
Years. When the Tender of the 
comes on the Part of the Plaintiff, the Form of it is: 
And this he pray shall be required by the 
Record, or by the 
Country; and what on the Part of the 
Defendant, and of all 
Persons upon the Country; 
and Plaintiff defendant, Exciting. 
Achee on 
Mriffs. Are for Neglects and 
Defuncts the Content of both Parties: But where the 
Defendant is levied out of the 
and Profits of their 
Land; and double or triple 
may be laid on a 
, for Non-appearance; or upon 
Recomes proved by two Witnesses, the 
, or 
Travellers, (Itineraries) Travelling or taking a Jour-
ney, was of ancient Staples. (Jujus 
jure.) Jujus, who were sent with Commission into 

countries to hear Cases. 
Travellers, (Statutes.) A Commentary concern-
ing 
, taking a Journey. Law Lat. 

dict. 
Jupiter (Jovis Tabellus). The most solemn Time of 
Festival at Rome, when the Pope gives his 
Blessing and Remission of Sins to all those 
that shall visit the Churches of St. Peter and St. 
Paul at Rome in that Year, and stay fourteen 
Days; and this he ordered to be observed once in 
every hundred Years; which Pope Clement the 6th 
reduced to fifty Years, anno 1530. and to be held 
upon the Day of Circumcision of our Saviour: And 
Urban the 4th in the Year 1539, ordained it to be 
kept every thirty three Years, that being the Age of 
our Saviour: After which, Pope Sixtus the 6th, 
reduced it to twenty-five Years. In imitation of 
the Grand Jupiter of Rome, the Monks of Christ-Church 
Cantabrigii, every fifteenth Year invited a great 
Concourse of People to come, and with the Tomb of 
Thomas Becket. And King Edw. 1. in the 
5th Year of his Age, which was 1362, caused his 
Birthday to be observed at 
, in the Nature of a 
Jupiter. During Pandion, Privilegious, and civil 
Injuries. 
Jubilaris. Because when the Jubilaris was first in-
stituted, it was ordered to be kept every hundred 
Years; therefore Jubilaris signifies afterwards a Man 
one hundred Years old. 
Judaism, (Judaeus) The Customs, Religion, or 
Rules of the Jews: Also the Income hereafter ac-
curred from the Jews to the King: And the Word 
Judaism was formerly used for a Mortgage; and 
sometimes taken for Usury. Ed. 2. 
Judges. (Judicis) is a Chief Magistrate in the Law, 
to try Civil and Criminal Causes, and punish Offen-
scs. He is appointed with a certain Jurisdiction; 
and our King hath the Nomination and Appointment of 
Judges. 2. Ed. 27, 28. Placed and his Creation taken 
from the Jews, that he will serve the King, and indiffe-
rently minister Justice to all Men, without Respect of 
Persons, take no Bribe, give no Counsel where he is a 
Party, nor deny Right to any, though the King 
by his Letters, or by express Words command the 
contrary, Exciting. and is answerable in Body, and 
Law and Goods. Ed. 3, 4, 5. Judges of Law Judges, 
and ought to judge by Law, and not by Example. By 
Chancery a Judge is called Judicis in abstracto, 
because he should be as it were Justice itself. Co. 
Lit. 71. 7 Rep. 3, 4, 6. And all the 
Commissioners of Judges 
are bound with this Limitation, Partly guid ad 
Judicis pertinet sequens Legem & Confusitatem 
Anglicos. There are ancient Presidents of Judges, 
that were fixed when they transferred the Laws 
though commanded by Variants from the 
Sign, that it is said that Earl 
Tiptoft, who was a Chancellor, 
was behelded, for acting upon the King's Warrant 
against the Law. Dower's Rich. 11, p. 53. 
Judges are to give Judgment according to Law, and 
what is alleged and proved: And they have a 
private Knowledge, and their Judge, though 
they cannot judge of their own private Knowledge, 
but may use their Discretion; but where a Judge has 
a judicial Knowledge, he may and ought to give 
Judgment according to his own 
Knowledge, and not according to the 
Request of 
Judge Gallogre, if he saw one in his 
Prefence kill A. B. and another Person who was 
not culpable, Should be indicted. and found Guilty 
before him, what he would do in this Case. To which 
he answered, That he ought to refile the Judgment 
given him, and relate the Matter to the King, in 
order to procure him a 
; for they cannot accept 
him, and give Judgment according to his 
private Knowledge. Exciting. And the same King 
Henry, when his eldest Son the Prince, was by the 

dated Chief Justice committed to Prison, for a great 
Demas, thanked God that he had a Son of that 
Obedience, and a Judge of that Courage and Impar-
tiality, 
Stir. The King in all Cases doth judge 
by his 
Judges who ought to be Council with 
Prisoners; And if they are doubtful or mistaken in 
Matter of Law, a Stipend by may be allowed to 
inform the Court. as 
. Curt. 
Judges are to execute their Offices in 
proper Person, and cannot act by 
Deputy, or transfer their Power 
to others; as the Judges of Ecclesiastical Courts 
may. 1. Roll. 45. 2. Bin. 
Judges, 11. Yet where there are divers Judges of a 
Court of Record, the 
Act of any one of them is insufficient; especially 
their Commission do not expressly secure more 
a 
Hand. 5. Though what a Majority rules when 
prent, is the Act of the Court. If on a 
Demurrer or a special Versilis, the Judges are divided 
in Opinion, two against two, the Cause must be ad-
joyned into the Exchequer Chamber. 3. Midd. 176. 
And a Rule is to be made for this Purpose, and the 
Record certified, Exciting. 4. Midd. 335. 
In Fines levied all the Judges of C. O. to be particularly 
amazoned: But Wills of 
Crown are to remain 
Records out of that Court, Exciting. are directed to the Chief Judge, 
without naming his Companions. 1. H. 7. 27. 
Sess. 
Curt. 267. Won a Record is before the Chief 
Judges.
they ought ex officio to try it: And they are to take notice of Statutes, and of the Terms, &c. &c. &c. That no Court is capable of giving his opinion before-hand, in relation to any question which may after come judicially before him. 3 Inf. 89. Judges of the Common Law, have no ordinary jurisdiction to examine Witnesses at their Chambers; though by Consent of Parties, and Rule of Court, they may on Interrogatories; and some Things done by Judges at their Chambers, in Order to Proceedings in Court, are accounted as done by the Court. They are to have a Paper of the Causes, which are to be spoken to in Court, sent to them by the Attorneys the Day before Session, so that they may be prepared; and where special and doubtful Matter arises upon reading the Record of a Cause, so that the Judges are not for the Present satisfied of the Law, they will deliver Paper-Books to be made and delivered them, by the Attorneys on both Sides, containing Copies of the Record, that they may be better consider of the Matter in Disputé, in the Practise of the Court. 1. A Judge shall not be generally excepted against, or challenged, or have any Action brought against him, for what he does in Court, &c. 4 Inf. 142. And to kill a Judge of either Bench, or of Afftis, &c. in his Place administering Justice, is Treason: Alfo drawing a Weapon only upon a Judge, in any of the Courts of the Land, the Officer shall hold his Right-hand, for preserving his Lands and Goods, and suffer perpetual Imprisonment, 25 Ed. 3. cap. 2. 2 Inf. 549. Judges are not in any Way punishable for a mere Error of Judgment; And no Action will lie against a Judge for an erroneous Judgment; or for a wrongful Imprisonment, 2. &c. 1 Har. 4. 1 Med. 184. The Judges of Courts of Record are freed from all Professions whatsoever, except in the Parliament, where they may be punished, for any Thing done by them in such Courts as Judges; this is to support their Dignity in the Common-Court, &c. and their Persons, and Submission to their Judges: But if a Judge will so far forget the Dignity and Honour of his Office, as to turn Solicitor to a Cause which he is to judge, and privately and extrajudicially tamper with Witnesses, or labour Jurors, he may be dealt with according to the same Capacity to which he so basely degrades himself. 14 Rep. 24. Edw. 3. 58. &c. Bribery in Judges is punishable by the Lord of Office, Fine and Imprisonment; and by the Common Law, Bribery of Judges in Relation to a Cause depending before them, has been punished as Treason, &c. 11 T. 6. &c. 1 Har. 150. A Judge ignorantly condemns a Man to Death for Felony, when it is not Felony; for this Offence, the Judge shall be fined and imprisoned, and lose his Office. 2 T. Car. 167. If a Judge who hath no Jurisdiction of the Cause, give Judgment of Death and award Execution, which is executed, such Judge is guilty of Felony; and also the Officer who executes the Sentence. H. P. C. 35. Rep. 76. And if Justices of Peace, on Indictment of Trepass, arraign a Man of Felony, and judge him to Death, and he is executed, it is Felony in them. H. P. C. 33. Dall. cap. 98. A Judge ought not to judge in his own Cause, or in Pleas where he is Party. 8 Rep. 118. And no one shall be Judge of Affis in the County where born, or he doth inhabit, under the Penalty of 100 l. But this is altered by a late Statute: and is not to prejudice any Judge in the Courts of Writs infeft, in hearing and determining Affis in those Courts; nor shall it extend to Officers in Corporations, but that they may be Judges of Affis, &c. in Places where they dwell. Stat. 53 H. 8. cap. 8. &c. 2 Cap. 7. If a Judge, in the absence of the Judge, and the Attorney and King's Attorney, shall be paid their Salaries by the Lord Treasurer at Exeter and Michaelmas, 10 H. 6. And the Salary of the Chief Justice, said to be 1500 l. per Annum; and of the other Judges, no more than 1000 l. per Annum: and the inferior Judge 575 l. Each Term; to which they are entitled, though they do not sit in Day in the Term. Judges and Officers in Courts, may be increased or diminished, as the Need shall require. Stat. 14 Edw. 5. c. 5. Judge. In Chancery, to be Judge of a Town, is to serve on the Jury there. Leicster's Hist. Antiq. 302. Judgment. (Judicium, quae jus dictum) Is the Determination or Sentence of the Judges upon the Suit, &c. and the ancient Words of Judgments are, Conferation of All Curiam, &c. Judges take every given by the Court upon due Consideration had of the Record and Matter before them. 1 Inf. 59. Of Judgments some are final, and some not, &c. And a Judgment may be given not only upon Trial of the Issue; but by Default, Nonul decit, Confection, or on Damnum; and Outlawry is a Judgment in this: 1 Inf. 167. &c. 2 Inf. 256. Feria 357. There is likewise Judgment for Departing in Distress of the Court, without Leave in common Recoveries, &c. And after an Issue joined in a Cause to be tried by the Peace and Damnum, &c. to be left as it is, in the Cause, he will, without going to Trial or any Verdict, accept of a Judgment from the Defendant, which Judgment must be by Relatu Perfidiae equivoc actionem. But if this Action gives a Judgment to the Day of Execution, till a certain Day, the Plaintiff may withhod forth for seeing a Capias or Fieri faciatis into the County where the Action is laid, retaineable before the Day, to enable him at that Day to take a Fieri faciatis against the Defendant; though he shall not in that Case sue out a Capias to warrant a Scire faciatis against the Bail. For to bring such a Judgment before a Judge, inasmuch as he brings against an Expector upon the Bond of the Tefator, and he pleads Plena Admininiscitur, this is a Confection of the Debts; and the Plaintiff may have Judgment with a Court and Summum till the Debtor hath Affis. 4 Rep. 2 Neill. Abr. 1032. On Interlocutory Judgments, upon dilatory Pleas, it is in many Causes Respondent Opon, to answer over; and if the Plaintiff orinter the Judgment, the Action shall not abate. Stat. 8 & 9 W. 3. cap. 10. Judgment upon a Damnum to a Declaration, &c. is no Bar to any other Action; &c. Because if the Plaintiff give a Judgment, the Action may afterwards make his Declaration right, and then proceed. 2 Litt. 113. But other Judgments may be pleasable in Bar to any other Action for the same Cause; and Judgments in an inferior Court, may be alledged in Bar to an Action in a superior Court. 2 Lev. 93. A Judgment on Nil dictis, in Cause, Trefpafl, or Covenant, &c. is not a perfect Judgment until Writ of Enquiry of Damages taken out and executed upon it, of which Notice is to be given the Defendant, and the Time of Execution, &c. But in Debits, it is a perfect Judgment as soon as signed, &c. and there needs no Writ of Enquiry. 2 Litt. 105. Where Damages are given upon a Judgment without Trial, there shall issue out a Writ of Enquiry of Damages; and when Judgment is given on Trial of the Issue, the Court gives Damages, without Writ of Enquiry. 1 Inf. 167. Judgment final ought not to be given upon Default in real Actions; but a Grand Capia upon Default before Appearance, and a Peti Capia on Default after Appearance. 1 Lev. 105. In every Case of the Party in Judgment ought to be in default, &c. The Judges, when they have by their Oaths bound the Defendant comes primo die justi, and confesses the Action; or it may be adjourned for Error.
ror by either Party. 

And in Debt, Part is found for the Plaintiff, and the Defendant accepted of the Restue, the Judgment must be Settled 

But the Statute 4 5 W. & M. takes away the Captivari in Trep-

tal's default, False imprisonment, &c. and there is in Law thereon paid to the Secondary for the Fine before he signs Judgment. All Judgments; in any Court of Record, must be duly entered: The Plaintiff's Attorney, four Days after the Poffet is brought into Court, if the Rule for Judgment is out, may enter Judgment for his Client by the Course of the Court. 2 Litt. 95. After a Rule to sign Judgment, there ought not to be four Days exclusive of the Day on which the Rule was made, before the Judgment is figured, that the Party may have a reasonable Time to bring Writ of Error: In C. B. they never give Rules for signing Judgment, but day till the quarta die post, which makes but four Days inclusive. 

Med. Cai. 241. A Plaintiff got his Judgment signed on the very Day, but it was not executed till after the fiftth Day, and the Judgment was not brought for, and entered in the Office, and a Rule given thereupon for the Defendant to whom Cause why Judgment should not be entered against him; and that he may have Liberty to find Security; and to bring the Judgment before the Day allowed by the Rules of the Court; and though Execution was taken out afterwards, the Judgment was yet set aside. 2 Mod. Rep. 205. Judgment cannot be recovered in that Action, the Plaintiff must sue for it in a new Action, and it must be set aside by a Rule, before the Day allowed by the Rules of the Court; and the Party, &c. is tried two or three Days only before the End of the Term, the Judgment must be entered that Day, and the Court must not be in Term. Mich. 22 Car. B. R. If Verdict is for the Plaintiff, and he will not enter his Judgment; the Bearer of Motion of Court may order him to it. 2 Litt. 97. The Defendant may enforce the Plaintiff to enter his Judgment, to the End he may plead it to another Action. Late 216. 3 Term. 281. After the Judgment is not only to be signed by a Judge, and entered of Record; before which they are not Judgments; And in a Judgment given to recover a Sum of Money, the Sum must be brought for in Figures, which may be easily altered; and a Judgment was reversed, because the Time when given was in Figures, and the Sum recovered exprest in Figures, &c. But the Court may amend their Judgments of the same Term, because the Term is but as one Day in Law; though they may not do it in another Term. 2 Litt. 103. 3 Lev. 450. If a Judgment be unduly obtained, the Court will vacate the Judgment, and restore the Party damned; if not punish the Officer: But it is against the Course of the Court to va-
cate a Judgment the last Day of the Term. Pech. 1636. By Statute, if the Plaintiff die before Judgment, it shall not hinder the Judgment being entered, provided it be done within two Terms after Verdict.

A Judgment entered in C. B. shall relate to the Eflin Day of the Term, and be a Judgment from that Time: But a Judgment in B. R. Pech. the last Day of the Term. Cas. 102. If a Rule be given for the Defendant to plead at a certain Day, and he do not plead accordingly, the Plaintiff may enter Judgment against him, with the Costs of such Affids and causes, or there must be Motion in Court for a preemptory Rule. 2 Litt. 116. Yet a Plaintiff, after he hath signed Judgment against the Defendant, may waive it if he will, and enter Judgment against the person by a Writ of False 

If a Judgment be obtained, but the Plaintiff doth not take out Execution within a Year and a Day, the Judgment must be revived by Scire facias: And if the Judgment be not obtained within seven Years and a Day, Scire facias may be had to revive it without Motion. Pag. 24 Car. 2. B. R. If any Thing be entered in a Judgment, which is not mentioned in the Plaintiff's Declaration, the Judgment is not good. 2 Litt. 104. And where it appears upon the Record, that the Plaintiff hath no Cause of Action, he shall never have Judgment. 8 Rep. 120. Also if it appears to the Court that the Plaintiff hath recovered a Verdict without Cause of Action, the Court may give Judgment for the Defendant. 1 Pard. 66. Although it appear to the Court that the Defendant's Title is not good, if the Plaintiff in his Declaration hath not set forth a good Title for himself, the Court shall never give him Judgment. 2 Litt. 93. Though the Plaintiff delivers the Deed, the Defendant had Time enough to bring a Writ of Error, or move any Thing in Arrest of Judgment: But the Court of B. R. held him to be a Fugitive, and an Act of Trespass was brought for, and entered in the Office, and a Rule given thereupon for the Defendant to show Cause why Judgment should not be entered against him; and that he may have Liberty to find Security; and to bring the Judgment before the Day allowed by the Rules of the Court; and though Execution was taken out afterwards, the Judgment was yet set aside. 2 Mod. Rep. 205. Judgment cannot be recovered in that Action, the Plaintiff must sue for it in a new Action, and it must be set aside by a Rule, before the Day allowed by the Rules of the Court; and the Party, &c. is tried two or three Days only before the End of the Term, the Judgment must be entered that Day, and the Court must not be in Term.

And where it appears upon the Record, that the Plaintiff hath no Title to the Houle, the Court cannot give Judgment to turn him out of the Houle, because he was not judicially before them. 3 Salk. 213. In Debt on Specialty, the whole and exact Sum must be demanded; or the Judgment upon it will not be good. Med. 41. If more or less than the Judgment brought for Trespass done in Lands belonging to such a Houle, and it appears at the Trial that the Plaintiff had no Title to the Houle, the Court cannot give Judgment to turn him out of the Houle, because he was not judicially before them. 3 Salk. 213. In Debt on Specialty, the whole and exact Sum must be demanded; or the Judgment upon it will not be good. Med. 41. If more or less than the Plaintiff demands, it is erroneous; though this may be helped by a remit of Damnum for Part. 2 Litt. 27. Where one recovers on Action for divers Tilings, and hath Verdict upon the Whole, but doth wave some one or more of the Things for which his Action was brought, and hath a special Judgment; in this Case he must release his Damages to all, and yet he may have Costs of Suit. Ibid. If Office is found against one Party in a Suit, and not against the other, Judgment may be for the Plaintiff to recover against him where the Master is found and a null et parum Billam is entered against the Plaintiff as to the other. 1 Saw. 216. And when several Damages are recovered against several Defendants, the Plaintiff may enter a null et parum Billam as to one of the Defendants, &c. and it must be against a Judgment against one only for the Damages against him. 3 Mod. 101. In Trepass and Assault against three Persons, they plead severally, and are found Guilty and entire Damnum and Wards is given, the Judgment is good; and where there is but one Judgment for the Damages against several, the Plaintiff may make his Election against which he will take his Judgment. Cas. 3a 184. Exch. 118. If one entire Judgment is given against two several Persons, and one of them is an Infant, the whole Judgment is void; (which being entire cannot be divided) except the Infant be joint Executor with the other Party. 2 Litt. 100. When a Judgment is entire, it cannot be divided, to make one Part of it good, and another Part thereof erroneous; but if it be not an entire Judgment, it may. Ibid. On Action where Damages are to be recovered, if the Declaration be good in Part, and insufficiant in Part, and the Defendant Demurs upon the entire Declaration; the Plaintiff shall have Judgment for that which is well laid, and be barred for the Rest. 2 Saw. 379. And if in Action of Debt upon three Bonds, it appears that one of the Bonds is good, the Plaintiff shall have Judgment for the other two.

Where a Judgment is partly by the Common Law, and partly by Statute, the Judgment at Common Law may remain and be good against the other. 1 Salk. 24. Every Judgment ought to be complete.
Judgments acknowledged for Debts. The Court for one to acknowledge a Judgment for Debts, is for him that doth acknowledge it to give a general Warrant, or a general Warrant in favour of the Attorney, or to render an Attorney of that Court where the Judgment is to be acknowledged, to appear for him at his Suit, against the Party who is to have the Judgment acknowledged unto him as also to file a Bond, and receive a Declaration, and then plead Non Sunt Invenitati, &c. or to let it pass by Noct dicit, wherein Judgment is entered for Want of a Pea. A Lill. 105. If one gives a Warrant of Attorney to confine Judgment, and dies before it is confined, this is a Countermand of the Warrant. 1 Pomer. 310. And if a Feme Sole gives Warrant of Attorney to confine Judgment, and marries before it is entered, the Warrant is also countermanded; and Judgment shall not be entered against Husband and Wife. 1 Salk. 309. A Man under Arrears gives Warrant of Attorney to confine a Judgment in B. R. if no Attorney for the Defendant is then present, the Court of B. R. on a Supposition that the Judgment was obtained by Force or Fear, will not file the same. 1 Salk. 400. If it has been adjudged that if one under Arrears gives a Warrant, to confine Judgment, if an Attorney be not by, it is ill; and to it is ill, if one under Arrears gives a Warrant to confine Judgment, he should give a Warrant of Attorney to confine a Judgment: But if one served by Prooys of an inferior Court, gives a Warrant for confining Judgment in that Court, B. R. will not file it aside, though an Attorney be not present. Mich. 2 Ann. Mod. Cas. 85. And where one has been in Prison some Time, and he confers Judgment to his Creditor voluntarily, that Judgment shall stand but no Judgment shall be made out against such a Person, without the Consent of the Attorney. Farquh. Rep. 115. A Judgment conferred upon Terms, being in Effect conditional, the Court will see the Terms performed: But where a Judgment is acknowledged absolutely, and a Subsequent Agreement is made, this does not affect the Judgment, and the Court will take no Notice of it. 1 Salk. 400. A Man gave Warrant and Judgment, defaulcated upon Payment of Money on such a Day, and it was agreed that Execution should not be issued out before; but a Fizir Scap was issued out a Month before and executed, upon Demand and Non payment of the Money: And though this was a Breach of the Agreement, it was for a just Debt, the Court would not undo any Thing, for Fear it would frustrate the Judgment. Mich. 2 Ann. Mod. Cas. 103. If Judgment be of such a Term, or any Time after; the Attorney may enter it at any Time during Life; but without such Words the Judgment must be entered the Term expressed in the Judgment and if it shall be prolonged, it may be extended the next Term. 1 Ann. 1. Or if it has been held, it may be entered within a Year after the Date of it: And if Judgment upon a Warrant of Attorney be not entered within the Year, it cannot be done without Leave of the Court, on Motion and Affidavit made of the Party’s being living, and the Debt not satisfied. 2 Litt. Acr. 118. 2 How. 255. It is dangerous to take a Judgment acknowledged in the Vacation, as of the preceding Term; and if any such Judgment be taken, the Warrant of Attorney to confine the same must bear Date before, or in the Term whereof it is confin’d: But the safest Way is to make it a Judgment of the Subsequent Term; though continuance Practice is otherwise. A Litt. 102. By Act of Parliament, the Party to enter Judgment as of a precedent Term, he must actually enter it before the Eighths Day of the succeeding Term: And if Judgment be signed in Hilary Term, and in the Easter Term be entered, and if before the Eighths of Easter Term, the Plaintiff enters his Judgment, it shall stand in the Hands of the Parcher; and if one enters Judgment in Hilary, when the Party is dead, the Judgment shall not.
shall be good by Relation, if he was living in the precedent Term. 1 Salk. 401. Lat. Securities 74. On Complaints for Delay of Enting Judgments, the same shall be good in the same manner and may be acted on; and ordered to be entered, &c. by the Statutes 14 Ed. 3. and by 29 Car. 2. c. 5. Judges that any Judgment of Lands, are to set down the Day of the Month and Year of their doing upon the Paper or Record; and they shall not be to be Judgments against Purchasers bona fide only from that Signing. If any Person having acknowl- edged or suffered a Judgment as a Security for Money, afterwards on borrowing other Money of another, mortgage his Lands, &c. without giving Notice of such Judgment, unless he pay it off in six Months, he shall forfeit his Equity of Redemption, &c. 4 & 5 W. & M. The particular Times of en- ting Judgments of Debt, by Confection, Non Jus in Foro, &c. and docketing them after every Term, by the Clerks of Courts, &c. is directed by the Statutes 6 Ed. 2. and 5 W. & M. cap. 20. And no Judgment shall affect Purchasers of Lands or Mortgages till docketed; nor have any Preference against Heirs, Executors, &c. in the Adminis- tration of Estates. Ibid. Upon signing Judgment 6 Ed. 2. &c. to be paid the proper Officer, in Sa- tisfaction, or the Clerk of the Court, &c. is directed by the Statute 6 & 7 W. & M. c. 12. To Search for Judgments a Fee is paid of 4 d. a Term.

Form of a Warrant of Attorney to assist Judgment.

To Mr. A. B. and C. D. of the Majesty's Court of Common Pleas at Westminster, or to any other Attorney of the same Court.

These are to direct and authorize you, or any other Attorney of the said Court of Common Pleas, to appear for me E. F. &c. in the said Court, this present Easter Term, or any other Judgment Term, at the Court of Chancery, &c. with the Power and Authority of making Judgment against me, the said G. H. by Non-justic- inatus, Nul. dict., or otherways, in an Action of Debt for 500 l. of lawful British Money, together with Costs of Suit, and all the Costs of the same, to be your Warrant in Witness, &c.

On Judgments, a Release of Errors is usually enter- ed into at the Time of the Warrant of Attorney given, or Judgment had. And in case of several Judgments, if Two are given in one Term, and the last is first executed, that Creditor hath the next Title. Latch 53. When a Judgment is satisfied, it is to be acknowledged on Record by Attorney, &c. Acknowl- edging a Judgment in the Name of another, who is not privy or consenting to the same, is Fe- lony. Stat. 31 Geo. 1. cap. 56.

Judgment in Criminal Cases. No Man can be Attainted of Treason or Felony, but on Judgment by express Sentence, or by Outlawry, or Abjura- tion. 1 How. 447. And a Peron shall not have two Judgments for one Offence; for in Outlawry which is a Judgment, Execution shall be awarded against the Offender, but no Sentence pronounced. Finch 389, 457. But one convicted of a scandalous Libel, had Judgment to pay a Fine, and to go to all the Courts in Westminster Hall with a Paper in his Hat signifying his Crime; and on his Behaving immodestly, his Punishment was increased. 1 Salk. 401. No Judgment or Punishment can be inflicted without our Laws; but only by Act of Parliament. 2 How, 445. And the Law makes no Difficu- lty, in fixed and dated Judgments, between a Peer and a Commoner; or between a common and ordin- ary Case and an Ecclesiastic. 2 How. 445. Judgment cannot be given for a corporal Punishment, in the Absence of the Party. 1 Salk. 400. Though Perons may have Judgment to be fined in their Ab- sence, having a Clerk in Court to undertake for the Fine. 1 Salk. 56. Judgment in High Treason is for the Offender to be drawn, hanged, his Entrails taken out and burnt, his Head cut off, and Body quartered, &c. In Petit Treason, to be drawn to the Place of Execution and hanged: And a Woman in all Cases of High and Petit Treason, to be drawn and burnt. A Man or Woman for Felony, is to be hanged by the Neck till Dead. Milplication of Treason is liable to Imprisonment for Life. In Præsumpt, the Party offending is to be out of the King's Protection, and his Body to remain in Pri- son during the King's Pleasure, &c. And for Mit- prison of Felony, Fine and imprisonment is inflicted. 2 How. 445, 444. For Crimes and Mis- demeansore of an infamous Nature: Perjury or Forgery as Common Law, Great Cheats, Conspiration, keeping Bawdy-houses, &c. the Judgments are discri- minatory in the Court, by Fine, Pillory, Whipping, &c. 2 How. 445.

Judgment attred to, in Civil and Criminal Cases. See Arrest of Judgment.

Judgment; trial by the Holy Cross, was a Trial in ecclesiastical Courts, and is not in Use among our Saxon Ancestors. Croft, Church Hist. 600.

Judicial imprisonment. Are Perons in the County Palaces of Chefs, who on a Writ of Error out of Chancery, are to consider the Judgment given there, and reform it; and if they do not, and it be found erroneous, they forfeit 500 l. to the King by the Custom: Cowen 435. Tent. Cent. 71.


Judicial proceedings. No Judicial proceedings, commenced or prosecuted, are to be held of Office of State or of a Judge, &c. were abatable by his Majesty K. Charles the Second's re-affirming the Government: And a pre- tended Act of Parliament, for turning the Books of the Law, and Proceeding of Courts of Justice into English, was declared to be in Force, by Stat. 12 Car. 2. c. 5. See Proofs.

Judicious. A clear, true, or skillful Judge, a learned Judge, or a Just Judge, who justly decides. 2 How. 445. See Judges.

Jurisdiction, (Jurisdiction) are in Nature of Aldermen, for the Government of many Corporations. As Romney Mayh is incorporate of one Bailiff, twenty- four Jurors, and the Commonalty thereof; by Chart, 1 Ed. 4. And we read of the Mayes and Jur- ors of Maidstone, Rye, Winchester, &c. Also Jerro- mer hath a Bailiff and twelve Jurors, or sworn Affid- ants, to govern that Island. The Name is taken from the French; for in France, among others, there are Major of Jurors, &c. They are mentioned in the Stat. 2 C. 5 Ed. 6. c. 30. And see 15 Ed. 1. 2 Scobell 267.

Jurisdiction, (Jurisdiction) Days in Court, on which the Law is administered. See Days.

Jurisdiction, (Jurisdiction) is an Authority or Power, which a Man hath to Act, or to Judge, in Cause of Complaint brought before him: Of which there are two Kinds: the one, which a Person hath by Reason of his Fee, and by Virtue thereof doth a Man, or in all Places, and in all Cases, without his Fee; the other is a Jurisdiction given by the Prince
Prince to a Bailiff, as divided by the Normans: and by him whom they called a Bailiff, we may understand all those that have Committals from the King to give Judgment in any Cause. *Culsum, Normand., cap. 2.* The Courts and Judges at Westminster have jurisdiction all over England; and are not restrained to the City of London: But all the other Courts are confined to their particular Jurisdiction; which if they exceed, whatever they do is erroneous. *2 Litt., 129.* There are three Sorts of Inferior Jurisdiction: The first whereof is Tenure Pluria, which is the lowell, and the Party may either sue there, or in the King's Courts: The second is Consequence of Pleas; and by this a Right is whihed in the Lord of the Franchize to hold Pleas; and he is the only Person that can take Advantage of it, by claiming his Franchize: The third Sort is an Exception: as where the King grants to some City, that the Inhabitants shall be used within their City, and not elsewhere: though there is no Jurisdiction, which can withstand a Coroner to the Superior Courts. *2 Bell., 79, 80.* And a Court shall not be prefumed to have a Jurisdiction, where it doth not appear to have one. *2 Haw., 59.* If an Action is brought in a Corporate Town, and the Plaintiff thereupon shall be acquitted in his Action which he has in the other Town, the Plaintiff shall be discharged there, and shall not insist in the other. *Tulk, 362.* Although a Cafe be debated and have Judgment in the Spiritual Court, yet the King's Courts may afterwards disdue the same Matter. *Artic., Clarv., Stat. 16 Ed. 1. c. 34.* In some Cases, the Spiritual and Temporal Courts have a concurrent Jurisdiction. See Courts, &c.

Juris utrum, Is a Writ which lies for the Persons to whose Franchizes those places belong, which Predecessors hath alienated the Lands and Tenements thereof. *F. N. B. 48.* And the Writ Juris utrum, shall be granted to try whether free Almas belong to a Church, where they are transferred, &c. by Stat. 18 Eliz. 1. c. 34. If a Man intrude into Lands and Tenements, after the Death of a Parson, the Successor shall have this Writ: So if a Parson be divested of Lands, the same Cestui, by his Reconvey, and death, his Successor shall have a Writ of Juris utrum. *New Nat. Br. 109.* But if a Person receive Rent of the Tenant of the Land, which is alienated as such, he shall not himself have a Writ of Juris utrum; but his Successor shall have it. *Hob. 111.* A Vicar shall have a Writ utrum against a Parson for the Glebe of his Vicarage, which is Parish, and the same Church: And the Plaintiff ought to be named Parson or Vicar, or such Name in Right of which he bringeth his Action. *Hob.*

Juris. (Jurisprudence) Is one of those Perfections that are sworn on a Juris, and the Law requires the Returning of able and sufficient Juris. *16 & 17 Car. 2.* Juris. (Jurisdiction, from the Lat. Juris, that is, Power) Signifieth a certain Number of Men sworn to inquire of and try the Matter of Fact, and declare the Truth upon such Evidence as shall be delivered them in a Cause: And they are sworn Judges upon Evidence in Matters of Fact. The Privilege of Trial by Juris, is of great Antiquity in this Kingdom: some Writers will have it that Juris were in Use among the Britons, but it is more probable that this Trial was introduced by the Romans: Yet some say that we had our Trials by Juris from the Greeks; (the first Trial by a Juris of Twelve, being in Greece.) By the Laws of King Ethelred, it is apparent that Juris were in Use many Years before the Conquest; and they are as it were incorporated with our Confinement, being the most valuable Part of the trial law, without them no Man's Life can be impeached, (unless it be by Parliament) and no one's Liberty or Property ought to be taken from him, and their only use is in the Circuits of the Judges, in both other Courts and Masters: As if a Coroner inquire how a Person killed came by his Death, he doth it by Juris; and the Judges of Pleas, in both other Courts and Masters, are to try any Pleas in the County-Court, or in the Sheriff in his County-Court, or in the Court of the Steward of a Court-Lord or Court-Baron, &c. if they inquire of any Offence, to decide any Cause between Party and Party, they do it in like Manner; and at the General Assizes there are usually many Juris, because there are great many Causes, and both Civil and Criminal, commonly to be tried; whereof one is called the Grand Jury, and the said Petit Juris, of which it is said there should be one for every Hundred. *Lamb. Eirenn, pag. 354.* Anciently the Jury as well in Common Pleas, as in Assizes of the Crown inquire twelve Knights, according to Glossow and Bredin: And to make a Jury in a Writ of Right, called the Grand Assize, there must be Sixteen, viz. four Knights, and twelve others. *Tulk, 612.* The Grand Jury generally consists of twenty-four Men of greater Quality than the other, chosen indifferently out of the whole Jurors; and then the Sheriff and the Justice of the Peace convacth of twelve Men, of equal Condition with the Party indicted, imprisoned in Criminal Cases, called the Jury of Life and Death: The Grand Jury finds the Bills of Indictment against Criminals, and the Petit Jury convicts them by Verdict, in the Giving whereof all the Twelve must agree; and according to their Verdict the Judgment passeth. *3 Inf., 211.* If the Common Law Jurors are to be returned, in all Cases for Trial of General Ills, from the County where the Fact was done. *S. P. C. 154.* And Jurors are to be Freemen, indifferent, and not outlawed or informers; Aliens, Men attainted of any Crime, ought not to serve on Jurors; and Infants, Persons seventy Years old, Clergymen, Apostate Carlists, &c. are exempted by Law from serving upon Jurors. *3 Inf., 211.* Jurors. Barons of the Realm, and all above them, are not to serve in any ordinary Jury; and others may have this Privilege by Writ, or by the King's Grant, *C. 6 Rep. 55.* 3 Breton. 50. But such as are Charters of Exemption, shall not be excused, and shall serve upon great Alts, and in Attainders, &c. where the Security of the Realm is concerned. *Statute.* Jurors empanelled are to be the next Neighbours, most sufficient and least culpious; or the Officer shall forfeit double Damage. *28 Ed. 1. cap. 2.* The Jurors of the City or Borough of Westminster, for that City, was given to the Mayor, &c. per Annum 8. E. 12. &c. which was increased to 4. l. per Annum by 27 Eliz. cap. 6. and is made 10. l. per Annum Freehold or Copyhold within the same County, by 6 & 7 Will. 3 M. cap. 44. But all Cities, Boroughs, and Towns, are excepted out of this last Act: And Trials of Felons in Corporations may be by Freemen worthy 60 l. in Goods, by the 23 Hen. 8. c. 13. Panels of Juris returned in such Case to return a Jury, may be reformed by the Judges of Gaol-delivery. *C. 6 Hen. 8. c. 12.* Jurors not appearing shall forfeit 40s. if they have no reasonable Excuse for their Default, min. 5. c. on the first Writ, upon the second 10. and the third Writ 13 l. 4s. 4d. *55 H. 8. cap. 6.* Though no Jury is to appear, under the Officer for the Time, if it be known that the King was committed thirty Miles off, except the Attorney General require it. *18 Eliz. cap. 5.* Confinbles of Parishes, &c. at Michaelmas Quarter-Session yearly, are to return to the Lord of the Manors, and Places of Abope of Persons qualified to serve on Jurors, between the Age of Twenty-one and Seventy, attested upon Oath, on Pain of forfeiting 5s. for their default; and the Judges of Peace shall order
order the Clerk of the Peace to deliver a Duplicate of those Lists to the Sheriff, &c. And Sheriffs are to impose no Penalty on other Parties, as in l. 21. 4 & 5 W. 3. cap. 32. 3 Ann. cap. 18. No Sheriff, Bailiff, Gersh. Shall return any Peron to serve on a Jury, unless he hath been duly summoned five days before the Day of Assembly. He shall take any Money or other Reward to excuse the Appearance of any Jurymen, on Pain of forfeiting 10l. 4 & 5 W. M. 1. This penal is for any Sheriff, or any Person who conceives the Sheriff or Under-Sheriff, the Coroner is to return the Jury. And the Proceeds to be paid to the Sheriff in the County of Middlesex; but no Penon shall be returned as a Juror, that hath served two Terms before in that County, by Stat. 4 Geo. 2. c. 5. Judge the Savages. Further the Plaintiff or Defendant may use their Endeavours for any Jurymen to appear; but one who is not a Party to the Suit, may not: And an Attorney was thrown over the Bar, because he had given the Names of several Persons in Writing to the sheriff, whom he would have returned on the Jury, and the Names of others whom he would not. Jurors, &c. return the Jury in a Paper, or little Piece of parchment, annexed to the Writ, and then goes the Writ of Habeeb Corps to bring in the Jury; and where after life joined, a Suit is continued on the Roll, the Proceeds is to be continued from Time to Time against the Jurors. Br. Difmosin. If the Sheriff return twelve Jurors only according to the Writ, where he ought to have returned twenty-four, according to Uffice, for pleading the Trial in Case of Challenge, Death, or Sickness, &c. he shall be amnioned. Thos. Crot. 172. And the following sixteen, that do appear, are to be sworn and try the Cause, if not; challenged. 4 & 5 W. M. 1. But great alterations have been made in this Part of our Law, by the late Statutes. According to the Acts of 4 & 5 W. & M. 7 & 8 W. 3. and 4 Ann. are now to be made from the Rates of each Parish, and fixed on the Doors of Churches, 4 & 5 W. M. 1. twenty Days before the Feast of Michaelmas, and the public Notice must be given of any Penons qualified or informed, or of Penons informed who are not so, &c. and the Lists being for right by the Judi- cates of Peace and Quarter-Sessions, Duplicates are to be delivered to the Sheriffs of Counties, by the Clerks of the Peace; the Names contained in which shall be entered alphabetically by the Sheriffs in a Book, with the Time and Day of the Jury, &c. If any Juror shall return other Penons to serve on a Jury or, the Clerk of the Allifie record any Appearance, when the Jury did not appear, they shall be fined by the Judges, not above sixty nor less than forty. The like Penalty for taking Money to excite Penons from serving; and the Sheriffs may be fined 5/. for returning Jurors, who have served two Years before. &c. Jurors, on the Return of Written Penners, are to annex a Panel of the Names of a competent Number of Jurors named in the Lists, not less than forty-eight in any County, not more than seventy, with out Parish. These Penons shall be summoned to serve at the Sheriff, &c. and the Names of the Penons impuissed shall be writ in several different Pieces of paper, of equal size, and be delivered by the Under-Sheriff to the Judge's Marshal, who is to cause them to be rolled up in all the Manors, and put together in a Box; and when any Cause shall be brought on, some indifferent Person is to draw out twelve of the said Papers of Names, who not being challenged, shall be the Jury to try the Cause; but if any Penons are challenged and set aside, or shall not appear, then a further Number to be drawn till there is a full Jury, &c. Where a Cause comes on, before the Jury in any other have given their Verdict, the Court shall order twelve of the Refuse of the Papers to be drawn, &c. And Jurors making Default in Appearance, shall be fined, not exceeding 5/. nor under 40s. 3. Geo. 2. c. 55. Penons having Eflates for and under 50l. in Land and Goods, shall be a punishable with a fine of 20l. for Lands and Goods, their Houses to be railed, and their Bodies call into Prison, and the Jury is to be referred to all that he hold by the Verdict; but this Punishment is altered in the Stat. 23. Hen. 8. c. 3. 21 Hen. 4. For a false Verdict, in that Point which is merely out of the Issue, the Jury may not be

J U

J U

order the Clerk of the Peace to deliver a Duplicate of those Lists to the Sheriff, &c. And Sheriffs are to impose no Penalty on other Parties, as in l. 21. 4 & 5 W. 3. cap. 32. 3 Ann. cap. 18. No Sheriff, Bailiff, &c. Shall return any Peron to serve on a Jury, unless he hath been duly summoned five days before the Day of Assembly. He shall take any Money or other Reward to excuse the Appearance of any Jurymen, on Pain of forfeiting 10l. 4 & 5 W. M. 1. This penal is for any Sheriff, or any Person who conceives the Sheriff or Under-Sheriff, the Coroner is to return the Jury. And the Proceeds to be paid to the Sheriff in the County of Middlesex; but no Penon shall be returned as a Juror, that hath served two Terms before in that County, by Stat. 4 Geo. 2. c. 5. Judge the Savages. Further the Plaintiff or Defendant may use their Endeavours for any Jurymen to appear; but one who is not a Party to the Suit, may not: And an Attorney was thrown over the Bar, because he had given the Names of several Persons in Writing to the sheriff, whom he would have returned on the Jury, and the Names of others whom he would not. Jurors, &c. return the Jury in a Paper, or little Piece of parchment, annexed to the Writ, and then goes the Writ of Habeeb Corps to bring in the Jury; and where after life joined, a Suit is continued on the Roll, the Proceeds is to be continued from Time to Time against the Jurors. Br. Difmosin. If the Sheriff return twelve Jurors only according to the Writ, where he ought to have returned twenty-four, according to Uffice, for pleading the Trial in Case of Challenge, Death, or Sickness, &c. he shall be amnioned. Thos. Crot. 172. And the following sixteen, that do appear, are to be sworn and try the Cause, if not; challenged. 4 & 5 W. M. 1. But great alterations have been made in this Part of our Law, by the late Statutes. According to the Acts of 4 & 5 W. & M. 7 & 8 W. 3. and 4 Ann. are now to be made from the Rates of each Parish, and fixed on the Doors of Churches, 4 & 5 W. M. 1. twenty Days before the Feast of Michaelmas, and the public Notice must be given of any Penons qualified or informed, or of Penons informed who are not so, &c. and the Lists being for right by the Judi- cates of Peace and Quarter-Sessions, Duplicates are to be delivered to the Sheriffs of Counties, by the Clerks of the Peace; the Names contained in which shall be entered alphabetically by the Sheriffs in a Book, with the Time and Day of the Jury, &c. If any Juror shall return other Penons to serve on a Jury or, the Clerk of the Allifie record any Appearance, when the Jury did not appear, they shall be fined by the Judges, not above sixty nor less than forty. The like Penalty for taking Money to excite Penons from serving; and the Sheriffs may be fined 5/. for returning Jurors, who have served two Years before, &c. Sheriffs, on the Return of Written Penons, are to annex a Panel of the Names of a competent Number of Jurors named in the Lists, not less than forty-eight in any County, not more than seventy, with out Parish. These Penons shall be summoned to serve at the Sheriff, &c. and the Names of the Penons impuissed shall be writ in several different Pieces of paper, of equal size, and be delivered by the Under-Sheriff to the Judge's Marshal, who is to cause them to be rolled up in all the Manors, and put together in a Box; and when any Cause shall be brought on, some indifferent Person is to draw out twelve of the said Papers of Names, who not being challenged, shall be the Jury to try the Cause; but if any Penons are challenged and set aside, or shall not appear, then a further Number to be drawn till there is a full Jury, &c. Where a Cause comes on, before the Jury in any other have given their Verdict, the Court shall order twelve of the Refuse of the Papers to be drawn, &c. And Jurors making Default in Appearance, shall be fined, not exceeding 5/. nor under 40s. 3. Geo. 2. c. 55. Penons having Eflates for and under 50l. in Land and Goods, shall be a punishable with a fine of 20l. for Lands and Goods, their Houses to be railed, and their Bodies call into Prison, and the Jury is to be referred to all that he hold by the Verdict; but this Punishment is altered in the Stat. 23. Hen. 8. c. 3. 21 Hen. 4. For a false Verdict, in that Point which is merely out of the Issue, the Jury may not be
be fixed. 

If a Jury find Matter not in Issue or pertinent, it will be void: So if it be too much in Issue and evident. They are to adjudge upon the Evidence given; but the Jurs may not contradict what is agreed in Pleading between the Parties; if they do, it shall be rejected; and where the Jury finds the Facts not conclusive upon it, the Court may reject the Conclusion. 1 Ed. 41. 10 Reg. 56. Co. Litt. 22. Hob. 222. The Jury may find a Thing done in another County, upon a General Issue; and foreign Matters done out of the Realm, 23. Jac. 2. 258. Goth. 33. Jurs having once given their Verdict, although it be imperfect, shall not be sworn again in the same Matter, unless it be in Adultery; 3 Ed. 7. 60. If a Jursman is guilty of Adultery, he is disabled to be of any Affilies or Jurisdiction, and to be imprisoned and banished at the King's Will. 5 Ed. 3. cap. 10. Jursmen accused of Adultery, are to be tried presently by a Jury then taken. 34. Ed. 3. cap. 8. And if a Jursman takes any Thing of either Party to give his Verdict, he shall pay ten Times as much as taken; or suffer a Year's Imprisonment. 33. Ed. 3. cap. 12. But Jursmen, where there is a full Jury, and they try the Cause, are to have their Charges allowed them. 2 Lid. 115. If a Jury take upon them the Knowledge of the Law, and give a general Verdict, it is good; but in Causes of Difficulty it is bell and sallow to find the special Matter, and leave it to the Jury to determine what is the Law upon the Facts. 1 Ide. 50. A Jury sworn and charged in Cafe of Life and Member, cannot be discharged till they give a Verdict: In Civil Causes, it is otherwise; as where Necessity is not had. 5 Ed. 3. cap. 8. And sometimes when the Evidence had been heard, the Parties doubting of the Verdict, do content that the Jury shall be drawn or discharged. 1 Ide. 154. 257. 

Thus, the Injunctional Jury. It is what it has been conceived an indifferent impartial Jury would not be returned between Party and Party by the Sheriff; then the Court upon Motion order the Sheriff, or attending the Secretary of B. R. with his Book of Freeholders of the County, and the Secretary in the Presence of the Attorneys on both Sides, is to strike a Jury: And when a Cause of Controversy is to be tried at the Bar, the Court of B. R. on Motion and Affidavit, will make a Rule for the Secretary to name forty Freeholders, and that each Party is to strike out Twelve, one at a Time, till the Plaintiff or his Attorney beginning first, and the Remainder are to be the Jury for the Trial; and this is called a Special Jury. Tri. 23. Bar. B. R. 2 Ed. 123. The Procedure of a Special Jury before the Secretary, is to be in the Presence of the Attorneys on each Side; but if either of them refuse to come, then the Secretary may proceed out parties, and he shall strike Twelve for the Attorney who makes Default. Tri. 8 H. 3. B. R. It has been also adjudged, that if a Rule is made for a Special Jury, and it is not exprest that the Master of the Office or Secretary shall strike out Freeholders, and that each of the Parties shall strike out Twelve; in such Case the Master may strike the Twenty-four, and neither of the Parties strike out any. 1 Sid. 405. This is never done in a capital Cause. 7 T Informa. A Special Jury may be granted to try a Cause at Bar, without the Consent of Parties; but never at the Nisi prius, unless good and sufficient Cause be shown by Affidavit. 

Par. 10. Gen. 1. A Rule may be made for a good Jury, and that a Special Verdict may be found, 6 Ed. 1. 2 Ed. 211. By the late Act, in Trials of Insults and Indemnities, and in Actions what so ever, on the Motion of any Professor, Plaintiff or Defendant, the Courts at Westminster may order a Special Jury to be tried, in such Manner as upon Trial. 30. 1 Ed. 211. And when any Action is not so ordered by Rule of the said Courts in any Cause arising in any City, et cetera, the Jury is to be taken out of 

Lifts or Books of Perons Quaished, which shall be produced and brought by Sheriffs, &c. before the proper Officer. 15. Ed. 1. 211. They are to adjudge upon the Evidences given; but the Jurs may not contradict what is agreed in Pleading between the Parties; if they do, it shall be rejected; and where the Jury finds the Facts not conclusive upon it, the Court may reject the Conclusion. 1 Ed. 41. 10 Rep. 56. Co. Litt. 22. Hob. 222. The Jury may find a Thing done in another County, upon a General Issue; and foreign Matters done out of the Realm. 23. Jac. 2. 258. Goth. 33. Jurs having once given their Verdict, although it be imperfect, shall not be sworn again in the same Matter, unless it be in Adultery; 3 Ed. 7. 60. If a Jursman is guilty of Adultery, he is disabled to be of any Affilies or Jurisdiction, and to be imprisoned and banished at the King's Will. 5 Ed. 3. cap. 10. Jursmen accused of Adultery, are to be tried presently by a Jury then taken. 34. Ed. 3. cap. 8. And if a Jursman takes any Thing of either Party to give his Verdict, he shall pay ten Times as much as taken; or suffer a Year's Imprisonment. 33. Ed. 3. cap. 12. But Jursmen, where there is a full Jury, and they try the Cause, are to have their Charges allowed them. 2 Lid. 115. If a Jury take upon them the Knowledge of the Law, and give a general Verdict, it is good; but in Causes of Difficulty it is bell and sallow to find the special Matter, and leave it to the Jury to determine what is the Law upon the Facts. 1 Ide. 50. A Jury sworn and charged in Cafe of Life and Member, cannot be discharged till they give a Verdict: In Civil Causes, it is otherwise; as where Necessity is not had. 5 Ed. 3. cap. 8. And sometimes when the Evidence had been heard, the Parties doubting of the Verdict, do content that the Jury shall be drawn or discharged. 1 Ide. 154. 257. 

Thus, the Injunctional Jury. It is what it has been conceived an indifferent impartial Jury would not be returned between Party and Party by the Sheriff; then the Court upon Motion order the Sheriff, or attending the Secretary of B. R. with his Book of Freeholders of the County, and the Secretary in the Presence of the Attorneys on both Sides, is to strike a Jury: And when a Cause of Controversy is to be tried at the Bar, the Court of B. R. on Motion and Affidavit, will make a Rule for the Secretary to name forty Freeholders, and that each Party is to strike out Twelve, one at a Time, till the Plaintiff or his Attorney beginning first, and the Remainder are to be the Jury for the Trial; and this is called a Special Jury. Tri. 23. Bar. B. R. 2 Ed. 123. The Procedure of a Special Jury before the Secretary, is to be in the Presence of the Attorneys on each Side; but if either of them refuse to come, then the Secretary may proceed out parties, and he shall strike Twelve for the Attorney who makes Default. Tri. 8 H. 3. B. R. It has been also adjudged, that if a Rule is made for a Special Jury, and it is not exprest that the Master of the Office or Secretary shall strike out Freeholders, and that each of the Parties shall strike out Twelve; in such Case the Master may strike the Twenty-four, and neither of the Parties strike out any. 1 Sid. 405. This is never done in a capital Cause. 7 T Informa. A Special Jury may be granted to try a Cause at Bar, without the Consent of Parties; but never at the Nisi prius, unless good and sufficient Cause be shown by Affidavit. 

Par. 10. Gen. 1. A Rule may be made for a good Jury, and that a Special Verdict may be found, 6 Ed. 1. 2 Ed. 211. By the late Act, in Trials of Insults and Indemnities, and in Actions what so ever, on the Motion of any Professor, Plaintiff or Defendant, the Courts at Westminster may order a Special Jury to be tried, in such Manner as upon Trial. 30. 1 Ed. 211. And when any Action is not so ordered by Rule of the said Courts in any Cause arising in any City, et cetera, the Jury is to be taken out of 

The Laws and Customs of the Wyf Saumon, in the Time of the Heptarchy, by which the People were for a long Time governed, and which were preferred before all others, were termed Jus Anglorum. 24. Hen. 3. Jus Convivum, The Right of the Crown; and it is part of the Law of England, though it differs in many Things from the General Law relating to the Subject. 1 Ed. 15. The King may purchase Lands to him and his Heirs, but he is feigned thereof in Jure Convivum; and all the Lands and Possessions whereof the King is thus feigned, shall follow the Crown in Differ and Divers. 24. Hen. 3. Jus Duplumatis, Is where a Man hath the Possession of any Thing, as well as a Right to it. Brad. lib. 2. Jus Gentilium, Is the Law by which Kingdoms and Society in general are governed. Selden. Jus Hereditatis, The Right or Law of Inheritance. Jus Habendi et Retenendi, Right to have and retain the Profit, Titles, and Offerings, &c. of a Rectory or Patronage. Hugh's Par. Let. 172. Jus Patronatus, Is a Commission granted by the Bishop to some Person to inquire into who is the rightfull Patron of a Church. If two Patrons pretend their Clerks, the Bishop shall determine who shall be admitted by Right of Patronage, &c. on Commission of Inquiry of six Clergymen, and six Laymen, living near to the Church; we are to inquire on Articles as a Jury, Whether the Church is void? Who pretended Patron? Who is the rightful Patron, &c. If two Patrons pretend under one Title; and are not in like Case where two Patrons pretend under several Titles. 5 Rep. 102. 1 Ed. 116. The Awarding a Jus Patronatus, Is a Commission of the Bishop, or of any other Ordinary, for his better Information who hath the Right of Patronage; or for he will at his Peril take Notice of
of the Right, he may admit the Clerk of either of the 
Parliaments and Bishop may award a 5 Jas. Parliam. with a solemn 
Commission to all Persons, Quorum intereth. &c. 
where he knows not who is the Parson, to give Notice of 
a new Assembly. Deposition, &c. 5 Ed. 1. 31
This Inquisition by 5 Jas. Parliam. is to execute the 
Ordinance from being a Disturbance.

2. The Right of Seisin or Possess- 
oin the Possession of the Church and Glebe, for he hath the 
Freehold, and is to receive the Proofs to his own Use. Peri. 
Law. 88.

The Right of the Patron of 
presenting his Clerk unto the Ordinary to be 
Admitted, Inducted, and Installed into a Church. 1

3. The Right of 
Recovering and entering Lands, &c. 
All these Rights, following the Relation of their 
Origin, are the Effects of the Civil Laws. Co. Litt. 
266.

Jutius, a Certain Measure of Liquor, 59th Jutius 
Menory; being as much as was sufficient to drink at 
one Meal. 1 Mill. & 1. p. 49.

Julius, (Fr. Jut, i. e. Duxvus) Were Enviros 
ment between men and Persons of Honour, with 
Spears or Horsedves; and differed from Tournament, 
which were all Sorts of military Conventions, and con 
filed of many Men in Troops; whereas Jutia were 
usually between two Men singly. They are mentioned 
in the Stat. 14 H. 8. c. 13 and are now disdained. See 
Tournament.

Jutia (Jutius) is a Conffdent righteous inci 
nation to give every one his due or the Act of do 
ning; and a Person hath a Chart. The Delaying 
Jutia is an Obstruction to and Kind of Delays there 
of; but this is understood, of unnecessary and un 
just Delay, for sometimes it is convenient for the better 
finding out the Truth, and Preparation of Parties, 
that they may not be surprised. Forti. 1. 1. Leg. 
Ang. 2.

Jutia (Jutius, or Jutia) Signifies an Officer deputed 
by the King to administer Jutia, and do Right by 
Way of Judgment; and is called Jutia, because in 
Antient time the Latin Word for him was Jutia, 
and for that he hath his Authority by Deputation, 
and not Juris Magnatiss. Glau. lib. 2. c. 6. In 
the King's Bench and Common Pleas, there are Chief 
Jutiae for the former of which, is called Capitale 
Jutiae in Bolus Reg, et ad Placita carum Reg. 
terentia, hath the Title of Whom he enjoys 
his Office, and is called Capitale Jutiae, be 
cause he is Chief of the Red; and for this Reason 
he is generally the Title of Lord Chief Jutia of 
England. This Jutia was antiently created by 
Letters Patent under the Great Seal; but is now made 
by Writ in this Sort Form: Rex, &c. Roberto Ray 
monti Mil. Salutum, Scirius quod constitutos nos Ju 
tiae iurament nostrum Capitale ad Placita carum nobis 
Taverna, quando nos bene giurass. &c. Tife, &c. 
And the ancient Dignity of this supreme Magistrate 
was very great; he had the Prerogative to be Vice 
gerent of the Kingdom, when any of our Kings 
governed, being chosen to this Office out of 
the grassest of the Nobility; and had the Power 
alone, which afterwards was divided to three other 
great Magistrates, that is, he had the Power of the 
Chief Jutia of the Common Pleas, of the Chief Bar 
ron of the Exchequer, and the Master of the Court of 
Wards; and he commonly sat in the King's Palace, 
and there executed that Authority which was formerly 
many as he had in the Common Pleas, in determining 
Differences which happened between the Barons and 
other great Persons of the Kingdom, as well as 
Causes Criminal and Civil between other Men: But 

King Richard 11th, feit diminished his Power, by ap 
pointing two other Jutiae, who have signified a diffrent Jurisdiction, &c. to one the North 
Parts of England, and to the other the South in the 
Reign of K. Edward 1st. they were reduced to one Court, with a further Abrogation, of the 
Authority, both as to the Dignity of their Persons, and Extent of their Jurisdiction for no more were chosen 
out of the Nobility as antiently, but out of the 
Commoms, who were Men of Integrity, and Alfred 
in the Laws of the Land; whereas it is said the 
Study of the Law dates its Beginning. Originius Judic 
iol. In the Time of K. John, and other of our 
ancient Kings, it often occurs in Charters, of Inde 
ge, Land nonquantum rependerent, nisi cornum nobis, vel 
Capitale Jutiae maxima: And this high Officer hath at 
this Time a very extensive Power and Jurisdiction 
in Pleas of the Crown; and is particularly intrusted 
with not only the Prerogative of the King, but the 
Liberty of the Subject. The Chief Jutia of 
the Common Pleas hath also the Title of Lord whil 
he is in Office, and is called Dominus Juticiarius Com 
monium Placitorum, vel Dominus Juticiarius de Dun; 
who with his Attorneys did originally, and doth yet, 
hear and determine all Pleas of the Placita, in Civil Causes, 
as distinguished from the King's Pleas, or Pleas of the 
Crown. 1 Mill. & 1. p. 3. The Chief Jutiae are in 
itialled or placed on the Bench by the Lord Chancellor; 
and the other Jutiae by the Lord Chancellor and 
other Jutiae. The Lords Chief Jutiae, 

Jutiae of the Peace, (Juticiarior ad Parum) Are 
those that are appoinited by the King's Commissary 
to keep the Peace of the County where they dwell; 
and are rather termed in the Charters, of Inde 
, Land no quantun rependerent, nisi cornum nobis, vel 
Capitale Jutiae maxima: And this high Officer hath at 
this Time a very extensive Power and Jurisdiction 
in Pleas of the Crown; and is particularly intrusted 
with not only the Prerogative of the King, but the 
Liberty of the Subject. The Chief Jutia of 
the Common Pleas hath also the Title of Lord whil 
he is in Office, and is called Dominus Juticiarius Com 
moni 

v Jutiae of the Peace, (Juticiarior ad Parum) Are 
those that are appoinited by the King's Commissary 
to keep the Peace of the County where they dwell; 
and are rather termed in the Charters, of Inde 
Jutiae of the Peace, (Juticiarior ad Parum) Are 
those that are appoinited by the King's Commissary 
to keep the Peace of the County where they dwell; 
and are rather termed in the Charters, of Inde 
Jutiae of the Peace, (Juticiarior ad Parum) Are 
those that are appoinited by the King's Commissary 
to keep the Peace of the County where they dwell; 
and are rather termed in the Charters, of Inde 
Jutiae of the Peace, (Juticiarior ad Parum) Are 
those that are appoinited by the King's Commissary 
to keep the Peace of the County where they dwell; 
and are rather termed in the Charters, of Inde 
Jutiae of the Peace, (J
County, whereof two were to be of the bell Qua-
ris (in such towns as call of the Quarter) two 
Men of the Law, and two others. And after there was 
not to be one Lord, and three or four of the, most 
worthy of the County, with some learned in the Law. 
34 Ed. 3. By the Statutes R. & J. 2. eight Justices of 
Peace were to be affiliated in every County; and the 
Number of Justices has greatly increased since then 
first Inflation; Mr. Lombard above one hundred and 
more in the extreme Number; and after him the learned 
Spelman takes Notice that there were above Threehree in each County: They 
are now without Limitation; and their prodigious Increase with the unstable Appointment many Times 
took of Petulins for this Tract, hath rendition the 
Office contemptible in the Eye of our Bell Gentry, 
for whom it was originally intended: And therefore it 
hath been proposed, that in each County there 
should be eight Honorary Justices confiuded of Men 
of Quality, who should not be obliged to an Attend-
ance any farther than their Deed for Justices, and 
Dove for their Country shall incline them; and the 
like Number of acting Justlers, Gentlemen capable 
of Befuni, who should commonly attend, and be in-
vited to a Reward for their Pain, and upon any 
Neglect be subject to Penalties. Lombard's Jul. 
By Statute, Justices of Peace must be resident in the 
County in which they are to be the most insufficient Persons, and of 
the bell Repution; and they are to have 20 l. per 
Annum in Lands as a Qualification, and if they act 
without such Qualification, (except Lawyers) they 
shall forfeit the sum of 20 l. And they were former-
ly to be allowed 4 l. a Day during their Attendance at 
the Quarter-Seessions, to be paid by the Sheriffs of 
Counties. 1 K. 3. 2 H. 5. 18 H. 6. Attorney, Cr. 
Years, etc. And you shall make in the Commission of the Peace. 
5 Gen, c. 18. By the Stat. 18 Gen, c. 20. No 
Peron shall be capable of being a Justice of Peace, or 
sitting as such, who shall not have, in Law or 
Equity, for his own Use or Poffession, a Frehold, 
Copyhold, or customary Eftate for Life, or some 
greater Eftate, or for Years determinable upon a Life 
or Livin, or 21 Years, in Lands, etc. of the clear 
yearly Value of 100 l. over and above all Incum-
brances, Rents and Charges; and intituled to the im-
mediate Reversion or Remainder in Lands, etc. of 
four Years at least, and who shall not take the Oath in 
this Act mentioned, under the Penalty of 100 l. to be 
recovered by Action of Debt, and the Proof of the 
Qualification to lie upon the Defendant; and if he in-
flicts any Lands not mentioned in the Oath, he is to 
give Notice of them; and Lands not mentioned in 
the Oath or Notice are not to be allowed. This Act not 
shall 10 extend to Cities or Towns, etc. of the Board of 
Granting, by their Governors, their Qualifications 
for the Towns and Liberties of Peace are to hold their Sessions four Times a Year, 
i.e. the Warke After Michaelmas, the Epiphany, 
Easter, and St. Thomas called Hocet, being the 7th of 
July. Stat. 2 H. 5. They are Justices of Record, 
for point but Justices of Record can take a Recog-
nicance of the Peace: And their Power arises from 
their Commission, or from Statutes. By Virtue of 
these Words in their Commission, etc. Statutes good of 
figurisuis us conveymentis ut diriment & quamlibet usfruum 
licitarum usfruum ad Panem usfruum in Comitate usfruum 
Concentu cum, etc. every Justice of Peace hath a 
separate Power, and may do all Acts concerning his 
Office apart and by himself; and even may commit 
a Fellow Justice upon Treason, Felony, or Breach of the Peace: And this is the ancient Power which 
Conferrators of the Peace had at Common Law. 
But it has been held, that one Justice of the Peace 
cannot commit another Justice, for Breach of the Peace; 
though the Justices in Sessions may do it. 
another Alii grumus, or Claus in the Commission,
cording Parochial Taxes or Rates, although such Tass are rated to the Taxes, within any Place where they exercise their Office: But no Justice shall sit in a T sacked by the Quarter Sessions, or in any other Order than that relates to the Parish where he is so charged. Stat. 16 Geo. 2. c. 18. On Appeals to Justices of Peace in the Sessions, they are to give Decrees in Procurator, &c., to be rectified without Charge, and then determine the Matters according to the Merits of the Case; and their Proceedings shall not be removed into B. R. without hearing into Recognizance of 50l. to prosecute with Effect, and pay Costs if affirmed, &c., by Statute 5 Geo. 2. c. 19. No Carrier shall issue to remove any Order, made by a Justice of Peace of any County, &c., or at the Quarter Sessions, unless it be applied for within six Months, and proved on Oath that five Days' Notice in Writing was given to the Justice, by whom the Order was made, that they or the Parties concerned may give Cause against it. 13 Geo. 2. c. 18. A Man may be a Justice of Peace in one Part of Yorkshire, and yet be no Justice of Peace in every Part of the County; this County being divided into separate Ridings. Hill. 22 Car. B. R. Justices of Peace have Power by Commission to hear and determine Felonies and Treasons, &c., 13 Edw. 1. c. 5. But this is by a special Clause in their Commission; whereby they cannot do it. H. B. C. 152. And in the Commission of the Treason part, it is further to hear and determine Felonies, that determines the Commissions of Justices of Peace as to Felonies, though not as to the Peace, &c., The Stat. 1 & 2 Ph. & M. c. 5. They may not intermeddle to take Examinations in Cases of Felony and Murder, to certify them to the Justices of Goal Delivery, &c., since which they forbear to try great Felonies. H. B. C. 166. Without hearing into Recognizance of 50l. to persons committing Treason; issue Warrants for their Apprehension, and commit them to Prison, &c., They commit all Felons in order to Trial; and bind over the Procurators to the Affair; if they do not certify Examinations and Information to the next Goal Delivery; or do not bind over Procurators, &c., they shall be fined. Dall. c. 11. For Petit Larceny, and small Felonies, the Justices in their Quarter Sessions may try Offenders; other Felonies being of Course tried at the Assizes: And in Case of Peace, and in cases of Felony, they cannot hold Cognizance without an express Power given them by the Statutes. Justices of Peace in their Self-Ridings, can only examine Witnesses, without Contempt of Parties, &c., for the Party ought to have convenient Time, or it will be Error. Cas. Car. 517. Sid. 534. Nor can the Sessions of Justices refer a Matter which ought to be tried, to be determined by another Session; yet they may refer a Thing to another to examine, and make Report to them for their Determination. 1 Salk. 477. The Sessions is all as one Day, and the Justices may alter their Judgments at any Time while it continues. Ibid. 404. In incident to the Office of a Justice of Peace to commit Offenders: And a Justice may commit a Person that dined a Felony in his own View, without Warrant; but if it be on the Information of another, he must make a Warrant under Hand and Seal for that Purpose. If a Justice issues a Warrant to arrest a Felon, and the Accusation be false, the Justice is excused, where a Felony is committed: If there be no accusation, Action will lie against the Justice, &c., 1 Hol. 722. A Justice has a Warrant to apprehend a Felon, though he is not indicted, who executes the Warrant shall not be punished; and if one brings another before a Justice on Suspicions of Felonies, he being in Debt to be without jeff Cause, no Action lies: 15 Rep. 76. Cas. 432. If Complaint and Oath be made before a Justice of Peace, by one, of Goods stolen, and that he supposes they are in such a House, and Sews the Case of his Sufferings: the Justice may issue a Warrant to the Constable, &c., to search in the Place suspected, and seize the Goods and Perons in whom Cudibly they are found, and bring them before him, &c., and, &c., came by them; and further to abide such Order, as to Law shall appertain. But in this Case, a general Warrant to search all Places, whereof a Person and Officer have Suspicion; though Warrants of this kind have been granted, yet it is not safe to grant them. 3 Hale's H. C. 114. The Search on their Warrants, ought to be in the Days, and Doors may be broke open by Constables to take the Goods; which are to be deposited in the Hands of the Sheriff, &c., till the Party robbed hath professed the Officer, to have Redress. Ibid. 150, 151. A Justice of Peace may make a Warrant to bring a Person before himself only, and it will be good, though it is usual to make Warrants to bring the Offenders before him or any other of the Justices of the County, &c., And if a Justice directs his Warrant to a private Person, he may execute it. 5 Rep. 60. 1 Salk. 147. If a Justice grants this Warrant beyond his Authority, the Officer must obey; but if it be what the Justice has no Authority, the Officer is punishable if he executes it. Justices of Peace may make and pro- vide an Agreement in petty Cases, and have Power to bind and secure the Peace, where the King is not intrusted to a Fine; though they may not compound Offences, or take Money for making Agreements. By 103. Justices may not intermeddle to take Examinations in Cases of Felony and Murder, to certify them to the Justices of Goal Delivery, &c., since which they forbear to try great Felonies. H. B. C. 166. Without hearing into Recognizance of 50l. to persons committing Treason; issue Warrants for their Apprehension, and commit them to Prison, &c., They commit all Felons in order to Trial; and bind over the Procurators to the Affair; if they do not certify Examinations and Information to the next Goal Delivery; or do not bind over Procurators, &c., they shall be fined. Dall. c. 11. For Petit Larceny, and small Felonies, the Justices in their Quarter Sessions may try Offenders; other Felonies being of Course tried at the Assizes: And in Case of Peace, and in cases of Felony, they cannot hold Cognizance without an express Power given them by the Statutes. Justices of Peace in their Self-Ridings, can only examine Witnesses, without Contempt of Parties, &c., for the Party ought to have convenient Time, or it will be Error. Cas. Car. 517. Sid. 534. Nor can the Sessions of Justices refer a Matter which ought to be tried, to be determined by another Session; yet they may refer a Thing to another to examine, and make Report to them for their Determination. 1 Salk. 477. The Sessions is all as one Day, and the Justices may alter their Judgments at any Time while it continues. Ibid. 404. In incident to the Office of a Justice of Peace to commit Offenders: And a Justice may commit a Person that dined a Felony in his own View, without Warrant; but if it be on the Information of another, he must make a Warrant under Hand and Seal for that Purpose. If a Justice issues a Warrant to arrest a Felon, and the Accusation be false, the Justice is excused, where a Felony is committed: If there be no accusation, Action will lie against the Justice, &c., 1 Hol. 722. A Justice has a Warrant to apprehend a Felon, though he is not indicted, who executes the Warrant shall not be punished; and if one brings another before a Justice on Suspicions of Felonies, he being in Debt to be without jeff Cause, no Action lies: 15 Rep. 76. Cas.

---

**Note:** The text appears to be fragmented and does not form a coherent paragraph. The content seems to be a mixture of legal references and instructions, possibly related to the duties and powers of Justices of the Peace, including their authority to issue warrants, examine witnesses, and take action on complaints of theft or other offenses. The text also touches on the propriety and legal considerations surrounding these actions, including the requirement of due process and the imposition of penalties for non-compliance with official orders or warrants.
he shall have double Costs. Stat. 21 Jac. 1. Though
if a Justice of Peace is guilty of any Misdemeanor in
his time in Office, he is to be answerable to the
Crown, etc. 12 Geo. 1. 5 Geo. 2. Justices in Sessions
may order Affidavits for Repairs of Bridges, and
crave the same to be levied; and also determine An-
noyances caused by any one, unless by the Jury to
to any Country Bridge, the better to rebuild or en-
large it. 23 H. 8. 14 Geo. 3. The Justices of Peace
in their Sessions have Power to hear and determine
the Offence of Buggery, by Stat. 25 H. 8. A Penalty
of 100 l. etc. for Burning Houses, through Negligence or
Carelessness, is leviable by Warrant of two Justices.
6 Ann. Justices are to issue their Warrants to
serve the Forfeiture of 5 l. for Burning Houses otherwise
than in Woolen, etc. 30 Car. 2. They are to levy
6 l. 6d. on Barbers killing Meat on a Sunday; and
double Value for selling their Goods at unreasonable Rates,
and selling corrupt Meat, shall be fined 3 Car. 15
Car. 2. The Penalty of 40 l. for Dozen on Warrants
wearing Cloth Bottles or Burnt holes, is le-
vied by Order of Justices; and one or more Justices
may summon Parties, examine and conspire, and levy
the Penalty of 40 l. per Dozen on Warrants wearing
Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
Tallow or other Stuff with Wax, etc. Alio to levy
Forfeitures for not making Entries of Candles, and
Work houses, etc. 3 and 4 W. & M. 6th Car. 15
Car. 2. The Penalty of 50 l. for Dozen on Warrants
wearing Cloth Bottles, etc. 9 Ann. 7 Geo. 1. To hear the
determine Complaints against those as wife or wear any
printed Callis, contrary to Law, and levy the Penalty
of 5 l. by Dilrell, subject to appeal to the Sessions.
5 & 6 Car. 1. 16 l. 4s. 4d. 13 Geo. 1. For
and Penalties levied by them, for deceitful mixing
house-keepers, &c. and to appoint and own Constab-
liars. 13 Car. 2. &c. 7. 12. 12. The Justices of Peace, &c. may break and enter Houses where
Commotions are kept; and any Persons assembled, and the Preachers therein, and also the Persons in whom they are assembled, if they neglect their Duty, incur a Forfeiture of 100l.
But Peaceable Diffusers are excepted. 21 Car. 2. 21 W. & M. 1 2. 12. In the Quarter Sessions, Justices of Peace
may inquire of Defaults and Exactions of Convicts, &c. and fine them. 1 Hen. 8. Justices are to ascer-
tain the Price of Corn, for which a Bounty is allowed for raising in the
same. 12. 12. But Corn may not be exposed, under
fines.
14 Gen. 2. Persons erecting Cottages without laying four Acres of Land to them, except in Cities, or for Labourers in Towns, unless on the Wyke on the Water by Order of Justices, &c. are to forfeit
120l. and 120l. a Month, leviable by Order of the
Justices in Sessions, 31 Eliz. 2. Two Justices are to be
at all Times to have a月or other three Months, unless in the
County Courts; and Officers levying more than is contained in the Bills, shall forfeit 20l.
11 H. 7. In the Sessions Justices order general Can-
ons to be made, on the 1st of January, and to rate Money
at a Common Stock. 22 Gen. 2. The Officers of Car-
riers, refusing to carry Letters, which makes them liable to
100l. and carrying them insufficiently, or any other
Offence against the custom of the Post, are to be punished
in their Sessions. And a Justice shall levy the Penalty of
5l. if they do not carry the Letter within Twenty Days, &c. 2 Gen. 2. And Perpetual
1. One Justice may commit Persons defiling the Officers of the Court, at any time in the Quarter Sessions, where they may be fined 100l. But such Officers, being so much
in the interest of the Officers of the Court, shall not be punished by a
late Act. Justices may issue Warrants for apprehen-
sing Persons, and seizing Goods, where they are
handed without Entry, as may be sentenced to
120l. for unlawful hearing of Deer in any Park, &c. and 120l. for such Entries, &c.
120l. to all such as are in
120l. to be charged with Goods. And with these blacked or disguised, charged with
Fines, they are to surrender them to a Justice, and make Discovery of their
Apprehension, &c. 120l. to Justices of Peace may certify Informations to a Secretary of State,
in order to a Proclamation for their Suppressing, &c. also Justices in Sessions shall give Certificates of Persons
Committed, &c. to be charged with Apprehending such
Deer-dealers, to enable a Reward of 10l. a Year.
3 120l. to W. & M. 1 12. Such a Justice may require
a Additional to the Church, to subserve the
Declaration 20 Car. 2. and to take the Oath, &c. and if he refuse, the Justice may commit him, &c. 1 W. & M. 2. Two Justices of Peace shall grant Warrants to search Houses of Distillers for private Stills, and levy Penalties, &c. And Distillers selling
Wine to be indicted by both their Heads, and shall be liable to further
Justices as Abokehouse keepers. 11 & 12 W. 3. 2 Gen. 2. Also a Justice shall commit to the House of Correc-
tion, &c. Persons selling Spirituous Liquors or Strong
Water, without Licence from the Commissioner for Excise, and not paying the Penalty of 50l. 16 Gen. 2. Two Justices to examine and inquire into the Value of Goods fraudulent or concealed in any House, whereupon it may be broken open, to discover the same. And where Tenants at a Rent, in Arrear one Year's Rent, have Lands, &c. unoccupied, so that there is no Dis-
charge, two Justices shall view the Premises, and on Notice and a second View, the Rent be not paid, the Lease to be void. 11 Gen. 2. Justices are to
order 5l. to be levied on the Goods of convicted Distillers, and for Want of Distillers the Officer
is to be let in the Stocks. 21 Jac. 1. The Penalties inflicted on Distillers for dying Cloths details
duly, &c. or not exceeding 5l. are to be levied by
other Officers, &c. and or more Justices, by Distillers; and out of the Juris-
diction of the Dyers Company, the Justices of Peace in Sessions appoint Searchers of dyed Cloths, to ex-
amine the same, &c. 22 Gen. 2. And to put them in Execution relating to the Excise, and levy the Pe-
nsal of 10l. on Brewers firing up or altering any Copper, Cooler, &c. without giving Notice; or keeping any Licence from the Commissioners for
Taxes and Forfeitures concerning the Duty of Excise. 12 & 13 Car. 2. &c. 9 W. 3. Justices have Power in their Sessions to order 10l. to be levied on Persons
suspected to have procured Money, &c. by False
Tokens, or counterfeit Letters, may be committed by
other Justices and punished in the Quarter Sessions,
13 H. 8. If Wineellers, or Cooperers, &c. are
found to be bound in a Recognisance to appear and give Evidence, a Justice shall commit them; or they may be
bound to the Good Behaviour: Two or more Ju-
stices of Peace by Appointment of Judges, may consti-
ute with any Person to transport Prisoners, ordered for
Transportation, and cause them to be delivered by the
Gardens, &c. 12 & 13 Gen. 1. 4 Gen. 1. They are to issue their Warrants for levying a Penalty not exceeding 10l., of Persons taking Fish in any River, without the Consent of the Owner, for the Use of the
Poor, and award a Recompense, not exceeding 10l.,
for tare Damages, to the Party grieved; and Angles,
Nets, &c. of Persons not being Makers and Sellers, shall be lef. &c. To levy a Sum not under 20l.,
and above 5l. of Persons taking Salmon or Trout not
received in Sessions, under Sife, &c. And the Penalty of 10l. for using Nets to destroy the Spawns or Fry of Fish; or selling any Sea Fish, under certain Lengths: And to imprison for three Months Offenders breaking down Fish Ponds, &c. 1 & 5 Eliz. 22 & 23 Car. 2. &c. 4 & 5 W. & M. 4 & 5 Ann. 1. One Justice may commit Persons making a forible
Entry on Lands, commanded the Sheriff to return a Jury to inquire thereof, and order Relegation, &c. And if the Sheriff, &c. neglect his Duty in Case of forcible
Entries, &c. he shall forfeit 120l. and any other in the
Quarter-Sessions. 15 R. 2. 8 H. 6. 21 Jac. 1. The Of-
ficers of Forfathers, Inengers, &c. are inquirable of
by Justices in the Sessions, by which the Forfeitures are leviable. 5 & 6 Eliz. 2. Any Person making mention into the Affile of Fuel, &c. and not being of joll and good
Affile, shall be held as forfetter to the Poor. 7 Ed. 6.
43 Eliz. If any Person take Parsons, &c. in an-
other Man's Ground, he shall forfeit 10 l. recoverable before Justices in Sessions: And killing any Pheasant, Partridge, or other Game; or not giving a good Account how he came by them, to forfeit 20 l. and 20 s. to the King. Persons keeping Guns to kill Game, not having 100 l. per Annum Effeates, &c. shall forfeit 10 l. And one Justice may grant a Warrant to seize Guns, Dogs, &c. of unqualified Persons; and also to search Houses and suspected Persons for Guns: Higlers, Carriers, &c. having in their Custody Hare, Pheasant, Partridge, &c. or buying or selling any Game, incur 5 d. for each of G. &c. table by Justice: and Game-keepers are to be licensed, and their Names entered with the Clerk of the Peace, under the Penalty of 5 l. All Game keepers shall be Persons qualified, or Servants to Lords of Manors, under the like Penalty. 11 H. 7. 1 Jan. 22 &c. 25 Car. 2. 4 & 5 W. & M. 5 Ann. 3 Geo. 1. A Justice of Peace may enter and search Occupied Houses, and commit to Prison the Keepers thereof, &c. And the Sessions may inflict a Penalty of 40 l. a Day on the Malters keeping them, and 5 l. & 5 d. a Time on the Gamekeepers refusing to them, &c. Justice may bind them to the good Behaviour of Gamekeepers having no visible Effeate: and commit them 'till they and Sureties not to play for the future. 35 H. 8. 9 Ann. 2 Geo. 2. Guns, Dogs, &c. being bought, sold, or be Acquaintances, &c. declared to be Lottery by Cards and Dice; and the Penalties and Forfeitures on Persons that let such Guns, are the same as before. Justice and Peace may order to be levied by Diftribut. 15 Geo. 2. Justices are to commit Offenders to the common Gaol; or by a late Act, they may commit Vagrants and Persons found in small Offences, to the common Gaol, or House of Correction; To issue Warrants for seizing Goods of Offenders to bear the Expense of their Conveyance to Gaol and levy Money for building and maintaining the same. 5 Geo. 3 Jan. 11 & 12 W. 3. 6 Geo. 1. Justices in Sessions may hear and determine all Offences relating to Goldsmiths selling of Silver, contrary to the Statute 2 H. 6. c. 14. To give Sureties, and for Penalties for not entering Goldsmith's Plate, &c. 6 Geo. 1. They are to summon Persons keeping more Gunpowder in their Houses in Londes and Westminster than allowed by Law; and examine them, &c. and they not removing it in twenty four Hours, are liable to a Penalty of 20 l. per Hundred: And Persons carrying Gunpowder through the Streets, not doing it in covered Carriages, shall forfeit the same, on Conviction before two Justices. 5 & 6 Geo. 1. A Justice shall issue his Warrant to make Searches for any dangerous Quantity of Gunpowder, and may break open Places to seize it; and order the Powder to be removed. 14 Geo. 2. To levy the Penalty of 1 l. on House, Pedlars, &c. trading without License, and 5 l. on Persons refusing to produce a Licence. 8 & 9 W. 3. Persons taking more for Hire, &c. in the King's Progress, than Prices set, shall forfeit 40 l. on Conviction before one Justice: And offering any Hay to be sold within the Bills of Mortality, by the last of August and first of June, which doth not weigh 64 Pounds a Truth, &c. incur a Penalty of 2 l. 6 d. for every Truth, to be levied by Warrant of a Justice. 13 Geo. 2. 2 & 3 W. M. Hedge breakers are to render such Damages, and pay a Fine not exceeding 10 l. as a Justice shall appoint; and before the House of Correction: Persons not giving a good Account how they came by them, to be felonious Wood, are liable to the same Penalty; and Buyers of the said Wood to the Double Damages. Persecution or spoiling Timber-Tree, Fruit-Tree, &c. shall be committed to the House of Correction for Three Months, and be whipped in the next Market-Town once a Month, &c. by Order of Justices. 43 Eliz.

15 Geo. 2. 1 Geo. 1. Justices of Peace are to levy the Penalty of 5 l. on Surveyors of the Highways neglecting their Duty in viewing the Roads, &c. And 40 l. for not making Preparations every four Months. Also of the Pay of Persons keeping Teams, not feeding them to work, and not exceeding 5 l. or under 10 l. of Persons laying Soil in the Highways, &c. Two Justices to nominate Surveyors; Justices are to hold a Session for the Highways once in every Month, under the Penalty of 5 l. And the Sessions may order Rates and Assessments for repairing the Highways; also the Justices have Power to order the traffic to be stopped, and the Reparation of those great Roads which most want Repairing, to be repaired, &c. and by a late Statute, they may order Hedges to be new made or cut, adjoining to deep and wooded Ways, &c. &c. 2 Eliz. 13 & 14 Car. 2. 3 & 4 W. & M. 8 & 9 W. 3. 1 Geo. 1. 7 Geo. 2. Justices of Peace in their Sessions, may adjudge when Highways are repaired by Turnpike; and commit Offenders relating to them, &c. 8 Geo. 1. 1 Geo. 2. A Penalty of 5 l. for every Pound of Hops conveyed away privately from the Place of Growth, shall be levied by a Com- mittee of one Justice: And 5 l. per Hundred, for mixing unlawful Ingredients with Hops, to alter the Colour, &c. 9 Ann. 7 Geo. 2. Justices in Sessions are to punish By-laws, &c. for putting Horses into Commons, &c. under fifteen Horseshoos high: And the Forfeiture of 5 l. of Persons filling Scares in a Fair or Market, without producing Vouchers of Sale to Toll-makers, is leviable by Justices; And Justices shall take the Oaths of Witnesses to prove a stolen Horsel to be the Owner's, &c. 31 Eliz.

To order the Orders in their Sessions for erecting Houses of Correction, and Punishment of Offenders, &c. And not being a House of Correction in every County, the Justices shall forfeit 5 l. each; cost of building, &c. 5 Eliz. 2 Geo. 1. Horse to be built, where there are not sufficient, or others to be enlarged, on Presentment of the Grand Jury at the Assizes, &c. The Justices of Peace shall be the Officers of the House of Correction, and on the 1st of June, at Midsummer Sessions to issue Warrants to Constables, to prepare Lists of Freeholders to serve on Jury qualified by Law, &c. And Lists of Jurors shall be kept Right by Justices in Sessions, being certified therein by Constables, and then Duplicates delivered to Sheriffs, &c. 7 & 8 W. 3. 4 Ann. 2 Geo. 2. One Justice may imprimis Labourers for a Month, departing without Licence, Of Justices in Sessions are to affix the Wages of Labourers, &c. 5 Eliz. 1 Jan. 1. To levy the Penalty for defaulting in hanging out Lamps, in the Streets in London, and within the Bills of Mortality, 2 W. & M. One or more Justices for the City of London, on Conviction of Persons breaking down any Lamps, or damaging the Poles, Iron, &c. to cause the Penalty of 10 l. to be levied on Offenders by Diftribut, and for Want thereof to commit them to the House of Correction for three Months, 9 Ann. 2. Searchers and Triers of Leather are to be appointed by the Mayors and Justices of Corporations, &c. under the Penalty of 40 l. And Persons hindering the Search, incur a Forfeiture of 5 l. Buying tanned Leather before searched, shall be levied by the Penalties recoverable before the Justices in the Quarter-Sessions: Journeymen Shoemakers pursling or imbelling Leather, shall be ordered by Justices to make
make Satisfaction for Damages, leviable by Distraint; and also the Justices are to make Warrants to search for such Leather, and restrain it, Et. 1 Jac. 1. 9 Geo. 1. 13 Geo. 2. 5. One Justice may grant a Warrant to search for any Paper or Account of the Library of the Queen, and order it to be restored. 7 Ann. A Justice to issue his Warrant, for levying 20s. Penalty, for annoying Lincoln's Inn Fields; Square with Cliffes, and of 40s. upon Persons that sale any Sports, ride Horses, or break down Fences, &c. erected there. 8 Geo. 2. Persons keeping up private Lottery shall forfeit £ 20, leviable by Two or more Justices of the Peace, &c. who have Power to suppress unlawful Lotteries; and setting up Lotteries under Grants of any foreign Prince, is liable to 200l. Fine; forfeiture suffered to appeal to Sessions. The like Penalty Justices shall levy on Persons keeping Offices, or publishing Proposals for any Sale of Hooles, Goods, &c. by way of Lottery, Cards or Dice, and 20l. on the Adventurers; also the Justices of Peace for 10l. for not doing what is required. 8 & 9 Geo. 1. 6 Geo. 1. 12 Geo. 2.

2. Justices in Sessions may restrain a Superstitious Number of Matuters; examine into the Goodness of Malt, which it shall be contended with good, &c. One Justice may levy the Penalty of 20l. on Matuters not enrolling their Malt, for Payment of the Tax imposed by the Justices. Justices levy the Penitence of 20s. for altering Sweeping Vests, without giving Notice to the Office of Excis', &c. but the Penalties may be mitigated, so as not to be less than double Duty. 8 Geo. 2. 2 & 3 & 4 Geo. 3. 1 Geo. 1. 1 Geo. 2. To grant Certificates of Malt having paid Duty, lost or destroyed by Fire, etc. away in Burgesses, &c. in order to its being repaired. 9 Geo. 1. Mercury is very valuable; but safe and unlawful, to levy the Penalties; and the Statutes for ascertaining Measures are to be given in Charge by Justices, at the Quarter Sessions. 12 Geo. 1. 28 & 23 Car. 2. 12 & 14 W. 3. 7. To feed to the House of Correction for one Month, Persons drawing up Floodgates in Weirs or Locks, for preserving Navigation. 8 Geo. 2. A Justice may bind Night-walkers to the good Behaviour. 15 Ed. 1. Nonconformists to the Church of England, being in any Office, &c. on Information before a Justice of Peace, to forfeit 20l. and their Office, Et. 10 Ann. &c. 5 Geo. 1.

2. Justices may summon Persons suspected of Disobedience to the Government, and render them the Oaths of Supremacy, and Abjuration, &c. And they may require so much to be taken of them, and the Oaths; Justices in the Quarter Sessions are to administer the Oaths to Officers in the Government. 1 Eliz. 1. 25 Car. 2, &c. 13 W. 3. 1 Geo. 1. 1 Geo. 2. Populists shall take the Oaths in the Sessions of the Justices, or in Default register their Evidence, on Pain of Forfeiture. Et. And all Persons of eighteen Years of Age must take the Oaths, or register their Evidence as Papists, under Penalties. 1 Geo. 1. 9 & 10 Geo. 1. 1 Geo. 2. Justices of Peace are to confer to Petitions to the King and Parliament, &c. and to administer Oaths to returning Officers of Members of Parliament, Et. as well as by Sheriffs, &c. &c. 2 Geo. 2. A Fine of 20l. and six Months Imprisonment, Pil- lory, &c for wilful Perjury, &c. may be inflicted by the Quarter Sessions. 1 Eliz. 1. Michaelmas. 2. Justices are to appoint Searchers of Peders and Brave, to see it is lawful Mere. 2 8. 8. Ju- stices of Peace may tax Inhabitants of Places towards Releiving the Poor. And the Justices having heard and caused such Inhabitants to be whipped as go Abroad, &c. The Justices and Head Officers shall appoint Searchers and Keepers of Parson, &c. Also Justices may order Watches to prevent any one co-
Warrants to Confiscate, to bring before them disbeled men, having no lawful Calling, or visible Means for their Maintenance, and deliver them over to the Officers to serve in the Army. Justices are to provide Carriages for the Island of Soldiers; and every Justice in every County shall be furnished with a Disinfection, and may take Parishes towards relieving Maimed Soldiers, if 43 Edw. 2 & 5 & 6 & 7 Ann. 1 Geo. 1. No Justice having a military Office shall be concerned in quartering Soldiers in the Company under his Command, &c. by 5 Geo. 2. And a Justice is to certify that a Soldier was killed voluntarily, by his free Act - and give him the Oath of Fidelty. &c. 5 Geo. 2. 13 Geo. 2. Two Judges, is levied by for Statute of Dying or selling of Spikes, &c. and on Persoms throwing them. 9 & 10 W. 3. Two Justices may hear and determine for Parishes not exceeding 10 l. upon any of the Stamps relating to the Stamp Duties, or forfeit Warrants to levy the Penalty by Distresses, &c. 9 Ann. And Justices shall commit to the House of Correction for three Months, such Persons as if News Papers, not being defam'd. 16 Geo. 2. They are to cause 51. to be levied on those who do any worldly Labour on a Sunday: and the same Penalty on Persoms using Bows, without the Allowance of a Justice of Peace; Persoms prestat at Ball-battings, &c. on a Sunday, shall forfeit 51. d. 29 Car. 2. The Writ Supplicant filling out of Convivial, &c. for taking Security of the Peace, &c. to the Sheriff. Edw. 3. For profuse Supplicant one Justice shall grant his Warrant to the Penalty of 11. for the full Offence, and double for the second, &c. of Servants entering of others, or set the Offenders in the Stocks; and a Justice neglecting his Duty is to forfeit 51. 17 Geo. 1. 6 & 7 Will. 3. &c. in the Large. Tumults of Tumour of the Constitution, or unlawfully naming Hides, &c. 17 Geo. 1. And the Penalty of 51 l. on Tumours for not entering their Tenards, &c. for paying for them. 9 Ann. Journeymen Tailors making Contracts for advancing their Wages, are to be committed to the House of Correction; and Justices may order Payment of the same. 51 of 51. by the Officers who give more than allowed; also inflict a Punishment on Journeymen Tailors leaving their Work unfinished. 7 Geo. 1. On Complaint to two Justices by a Judge of the Ecclesiastical Court, they have Power to commit a Defendant in a Suit for Tithes, for Contumacy, &c. 27 & 28 H. 8. Small Tithes under 40 l. withheld. And also any Subject who shall have welt out of the Peace, upon Complaint; and the Justices shall summon Persoms, examine them on oath, &c. and order an Allowance for the Tithes, with 10 l. Colts: Quakers refusing to pay Tithes, under 10 l. is likewise determinable by Justices, 7 & 8 W. 3. and this is made to extend to any Tithes or Church Rates of Quakers, by 1 Geo. 1. If any Tobacco is planted in England, Justices shall grant Warrants to search for and destroy it: and the Persoms planting it, incur a Penalty of 40 l. per Rod: Persoms employed in cutting Walnut-Tree Leaves, &c. to reekle Tobacco, are to be committed to the House of Correction by Justices. 12 Car. 2. 22 & 23 Car. 2. 1 Geo. 1. Warrants not to be issued by the Lieutenantcy for levying Troops in any of the Parishes in which they have the Authority, and certified the same. 12 Ann. 1 Geo. 1. Two Justices may grant Warrants to levy the Penalty of 51 l. on Persoms applauding Toll Collectors, and pulling through wickets, &c. &c. Likewise levying on, &c. Likewise levy the Penalty upon Persoms having their Wagons loaded beyond such a Weight, and a forfeit for hindering the Weighting, and one Weighting in the same manner, &c. to make Inquests of the Damage, on breaking down Turnpikes, to be paid by the Hundred. 8 Geo. 2. 14 Geo. 2. One Justice is to examine Farmers, and grant Passes to their
their Places of Settlement or Birth; and to give Certificates to Confidables, ascertaining how they are to be passed, &c. and Vagrants wandering and idle Persons to the Houle of Correction; &c. commit vagabonds, Rogues, Vagabonds and idle Persons that are publicly whipped as often as they think fit: They may levy a Penalty not exceeding 40 S. nor under 10 S. on Persons permitting Vagrants to lodge in their Houses, or Out-houses, &c. and a Forfeiture of 5 S. upon Masters of Ships importing any Vagant, or Vagabond, or refusing to transport them back: And Juries in Sentences to apportion the expense of conveying Vagrants. &c. 15 Geo. 2. 49. Vagrants are to sell their Utensils at reasonable Prices, appointed by Juries of Peace in the Saffor and Middlesex Sessions; or shall be punished by Fine, &c. 27 Geo. 1. A Justice may levy a Penalty not above 10 S. for killing Cows on the Borders of Warwick, &c. 22 & 23 Car. 2. The Juries of Peace for Middlesex, &c. may determine Obstacles of Watermen on the Thames, and levy Penalties, &c. 29 Car. 2. 11 & 12 W. 3. 5 Geo. 2. 10 Geo. 2. Juries shall cause Night Watchmen, to be kept for arresting suspected Perons, &c. 5 & 6 H. 7. Rates and Affirmations for maintaining the Watch, and Beadles, &c. in large Parishes of Wiltshire, shall be allowed by two Juries; who may commit Collection; or, when招商ling, till they pay over the Money, &c. 5 Geo. 2. To levy 40 S. of Perons keeping Weights and Measures, not according to the Standard; and 5. of Clerks of Marketers, for false Sealing of Weights, &c. 1 & 2 W. 6. Juries appoint Commissioner for executing the Acts for levying the Windows Tax; and two Juries may sit thereon. &c. 8 Ann. Three Juries may appoint Collectors; and the Collectors to make the Windows Tax; and levied on Parishes answerable for the Collection, where there is any Arrear. 6 Geo. 1. Juries have power to order the Marketers of Weights and Measures, to set by the Lord Chancellor, &c. 28 H. 8. And two Juries to license Retailers of English made Wines. 10 Geo. 2. Perons employed in the Manufactures of Wines, or imported or other Materials, shall forfeit double the Value, or be ordered by Juries of Peace to be sent to the Houle of Correction, and there whipped; and for the Second Offence forfeit four Times the Value. 1 Ann. 13 Geo. 2. The Juries near the Sea Coasts are to command Confidables to be aiding in the Prefervation of Ships from Wrecks; and if any Persons enter ships, which have a Leave, two Juries may order them to make double Satisfaction. &c. Also to give Testimonials or Pāps to ship-wrecked Perons. &c. 12 Geo. 1. Juries of Peace within Libertys, (Jusiciarior, et Paenam infra Libertatus) Are such in Cities, and other Corporative Towns, as the others are of the Country; and their Authority is all one within the several Territories and Precincts, having besides the Affid of Ale and Beer, Wood, Utensils, &c. 47 El. 8. ... 25. But if the King grant to a Corporation, that the Mayor and Recorder, &c. shall be Juries of Peace within the City: If there be no Words of Exclusion, Juries of the County have concurrent Jurisdiction with them; and the King, notwithstanding his Charter, may grant a Commission of the Peace specially in that City or County. 3 Hal's Hil's P. C. 47. Alfo where the Juries of any Corporate Town, deny doing Right: Juries of the Peace of the County, may interpose into it, as hath been last adjudged. Mod. Cas. 164. The Juries of Peace in Cities, or Towns Corporate, may commit Persons apprehended within their Liberties to the Houle of Correction of the County, or City: Persons that are liable to the Like Correction and Punishment, as committed there by any Jury of the same County. Stat. 1 Geo. c. 1. 24. Juries of Cities and Corporations, are not within the Qualification Acts. 5 Geo. c. 2. See Almehy.
Title; but when the Matter is collateral to the Title to the Land, it is otherwise, 2 Med. 70. If a Sheriff, or other Officer, justify by Virtue of any irrevocable Writ, he is to thwart what the Writ was returned; though he need not, if the Writ are not irrevocable, Writs, 3 Salk. 409. And it must be from whose what Courts Writ issue. Vide. 177. Justification may be by the Command of an Officer, to aid him; but the Command is irrevocable: If a Justification is made for several Cattle, and some of them are good, and some not good: that shall not make the whole Justification void, but for the only, and it shall be good for the rest. 4 Nisi. 1067. When the Action concerns a tranitory thing, if the Defendant do justify the Taking or doing in one place, this is a Justification in all places: if the Action concern a thing, a Justification in one place is not a Justification in another place: for in the former Cafe the Place is not material, but the means doing or Taking of the Thing is the Substance; and in the latter the Place is material, or that, as the Defendant may be able to justify as to one Place, and not in another. Paub. 24. Car. B. R. 2 Litt. Abr. 134. If the Matter of the Justification is local, then, if the Defendant ought to show the Cause specially and traverse the Place; but not where it is tranitory. Cr. Eliz. 667. If one haveCorn upon the Lands of another, and he take it, and the Owner of the Ground furnes him, he must justify, and may not plead Not guilty. 5 Rep. 85. In Action for entering a Close, and taking Corn; the Defendants may justify they did it as Servants to the Parish: and that the Corn was tube, favored from the Nine Parts, 8t. Though this was laid to amount only to the General Ilieve. 2 Ed. 44. A Man may plead in Justification, that Land is his Freehold, on making an Entry thereon, 8t. That one entered a House, to apprehend a Felon; or by Warrant, to levy a Forfeiture, to take a Differe. 8t. And in Affidavit, that he did it by Necessity. El. Est. Step. Epistol: 1043. Words spoken may be justified, because spoken in a legal way; and for Words the Defendant may justify in an Action; but not in an Indictment. 5 Rep. 165. 3 Salk. 326. There is a justifiable Homocide, 8t. and justifiable Affidavit. See Affidavit. 

Justificatory. (Justificatory) Are kinds of Compromise, on the ground of Concessions, or Oaths of others; as in the Case of Waging of Law; And we read in Spelman, who leaves this Word with out Explanation.— Will. Rice Angler H. Cambrario &c. about the Land of the Ship of St. John; that Oaths were taken on it: and other has an Impression of the King's Arms in the Figure of a Target, for Matters of smaller Moment, as Certificates, 8t. that are usually pleased Sub judice. And again, when the King travelled into France or other Foreign Kingdoms, there were two Great Seals; one went with the King, and another was left with the Coffers Regal, or the Chancellor, 8t. If the Great Seal be altered, the King is in the Court of Chancery, and public Proclamation made there, 8t. 15 Eliz. P. C. 171. 172. The Lord Keeper of the Great Seal, by Statute 5 Eliz. c. 18. hath the same Place, Authority, Preeminence, Jurisdiction and Execution of Laws, as the Lord Chancellor of England hath, and he is constituted Per traditionem magistri Regii, 8t. and by taking his Oath. 4 Inst. 87. 

Register of the Great Seal, (Custos Regis) Is that Book made up of all Lists paid for, saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kantor's Month, Conflicts of thirty or thirty one Days, February, which hath but eight, and twenty, in a Leap Year nine and twenty), according to the Calendar; twelve of which Months, make a Year. Stat. 16 Car. 2. 7. 

Kante, Rural Chapters or Conventions of the Rural Deans and Parish Clergy, so called because formerly held on the Kaland, or first Day of every Month. Paroch. Anth. 640. 

Kante, The Beginning of a Month, 8t. See Calend. 

Kantref, (Brit.) A Wales or Cantred or Hundred ——Le premier Conquetor des trois Kantrefs de la terre de Brecon, 8t. Mon. Angl. Tom. 1. fol. 315. 

Katte, (Scot.) To a Man, and with any Addition a Servant of a Clergyman; as the Sauzmans called a Domestick Servant, a Harkfast: From whence comes the modern Word Chief. 


Karrtorp, The Refulge of the sheep drawn out of a Flock, and one rare is likewise called Collers. Cooper's Thing. 


Kerstman, Are mentioned among Mariners, Seamen, &c. in the Statute 7 & 8 W. 3. c. 21. 

Kerstps. To carry Cattle, Vide 6 & 7 W. 3. 

Kerstps, A Strong Tower or Hold in the Middle of any Castle or Fortification, wherein the Befieged make their last Efforts of Defense, was formerly in England called a Fort. And in the Lombard, a Temple of Decur, erected by K. R. 2. about the Year 1535, was termed the King's Keep to be Windsor, 8t. It seems to be from something of the Nature with what is called above a Cidol. 

Kerstps of the Forrest, (Culus Foresteri) Or chief Warden of the Forrest, hath the principal Government over all Matters within the Forrest; and warns them to appear at the Court of Tenants Seals, on a general Summons from the Lord Chief Justice in Erie. Manwood, Part 1. p. 158. 

Kerstps of the Great Seal, (Culus magistri juxta) Is a Lord by his Office, filled Lord Keeper of the Great Seal of England, and is of the King's Privy Council: Through his Hands pass all Charters, Commissions and Grants of the King, under the Great Seal; without which Seal many of those Grants and Commissions are of no Force in Law, for the King is by Interpretation of Law a Corporation, and saith nothing but by the Great Seal, 8t. it is as the Publick Faith of the Kingdom, in the high Esteem and Reputation justly attributed thereto. The Great Seal consists of two Imprecions, one being the very Seal itself with the Great Seal, 8t. it is as the Publick Faith of the Kingdom, in the high Esteem and Reputation justly attributed thereto. The Great Seal consists of two Imprecions, one being the very Seal itself with the Great Seal, 8t. it is as the Publick Faith of the Kingdom, in the high Esteem and Reputation justly attributed thereto, and so, etc. And anciently when the King travelled into France or other Foreign Kingdoms, there were two Great Seals; one went with the King, and another was left with the Coffers Regal, or the Chancellor, 8t. If the Great Seal be altered, the King is in the Court of Chancery, and public Proclamation made there by Sheriff, 8t. 15 Eliz. P. C. 171. 172. The Lord Keeper of the Great Seal, by Statute 5 Eliz. c. 18. hath the same Place, Authority, Preeminence, Jurisdiction and Execution of Laws, as the Lord Chancellor of England hath, and he is constituted Per traditionem magistri Regii, 8t. and by taking his Oath. 4 Inst. 87. 

Kerstps of the Pye Seal, (Culus prisci juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Pray Seal, (Culus privati juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Privy Seal, (Culus privati juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Pye Seal, (Culus prisci juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Privy Seal, (Culus privati juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Pye Seal, (Culus prisci juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key. 

Kerstps of the Privy Seal, (Culus privati juxta) Is that Book of all Lists paid for saying an obligation; Goods at a Key or Wharf. Par. 20. Ed. 3. See Key.
is ancient, for in Magna Charta, c. 24, we read, Ox- ford, Kidwell, and Longford, per Thomam et Mathiam, per securitatem R. et perItem Angliam, et per Cyfranum Maris. And by King John's Charter, Power was granted to the City of London, Dr. Kidwellis annoverati per Thamesum et Medwaynum. A Survey was ordered to be made of the Wears, Mills, Stanks and Kidels in the great Rivers of England. I Hen. 4. Fishermen of late corruptly called these Dams Ketels; and they are much used in Wales, and on the Sea-Coast of Kent.

Dutynapping, is a Stealing and Conveying away of a Man, Woman or Child; and is an Offence at Common Law, punishable by Fine, Pillory, &c. to the 474. Also if a Master of a Ship, &c. shall, during his being abroad, force any Man ashore, and willingly leave him behind, he shall suffer three Months Imprisonment. 11 & 12 W. &c. c. 7.

Siltberkin. A Veil of Ale, containing the eighth Part of an Hogshead.

Bilketh, Was an ancient and vervile Payment made by Tenants in Husbandry.—Kilketh pro quolibet Hundrede 2 denar. MS.

Sillpiddallion, is where Lords of Manors were bound by Callum to provide a Sillpiddallion for the Use of their Tenants Mares. Spelman's Cliff.

Sibth. A manu annualem Redditiis de quandam con-
festatione in, &c. voce Sibth. in Lib. 5. 

Sibbys. Are a certain Body of Persons of Kin or related to each other. There are three Degrees of Kindred in our Law; one in the Right Line descending, another in the Right Line attending, and the Third in the Collateral Line; and the Right Line descending, wherein the Kindred of the Male Line are called Agnats, and of the Female Line Coterminals, is from the Father to the Son, and so on to his Children in the Male and Female Line; and if no Son, then to the Daughter, and to her Children in the Male and Female Line; if neither Son nor Daughter, or if the Children of the Nephew and His Children, and if none of them to the niece and her Children; if neither Nephew nor niece, nor any of their Children, then to the Grandson or Granddaughter of the Nephew; and if neither of them, to the Grandson or Granddaughter of the Niece; and if none of them, then to the Great Grandson or Great Granddaughter of the Nephew and of the Niece, &c. &c. ad infinitum. The Right Line attending is directly upwards; as from the Son to the Father or Mother; and if neither Father nor Mother, to the Grandfather or Grandmother, the Great Grandfather or Grandmother, to the Great Great Grandfather or Great Grandmother, to the Father of the Great Great Grandfather, or the Mother of the Great Great Grandmother; and if neither of them, then to the Great Grandfather's Grandfather, or the Great Grandmother's Grandmother; and if none of them, to the Great Grandfather's Great Grandfather, or Great Grandmother's Great Grandmother, &c. &c. ad infinitum. The Collateral Line is either descending by the Brother and his Children downwards, or by the Uncle upwards: It is between Brothers and Sisters, and to Uncles and Aunts, and the kind of Kin, upwards or downwards, a cross and amongst themselves 2 Nelf. 4073. 1078. If there are no Kindred in the Right descending Line, the Inheritance of Lands goes to the collateral Line; if there are no Kindred in the collateral Line upwards, if there are any Kindred of the collateral Line, though it may ascend in that Line; and there is this difference between the Right Line descending and the collateral Line; that the Right of Representation of Kindred in the Right descending Line reaches beyond the Great Grandchild of the same Parent; but in the collateral Line,
it doth not reach beyond Brothers and Sisters Children; for after them there is no Representation among Collaterals. In the Right ascending Line the Father or Mother are always in the first Degree of Kindred: and by the Civil Law, if the Son died without Issue, his Father or Mother succeeded, and after them his Brothers or Sisters, Uncles and Aunts; but in Case of Purchase by the Son, if he died without Issue, his Father or Mother could not inherit, but his Brother or Sister, &c. by which it appears, that the Father cannot succeed the Son immediately, though he is the next of Kin. It is a constant Rule in the collateral Line, that they who are of the Whole Blood are first admitted; but after Brothers and Sisters Children, the nearest in Degree in Kindred is to be considered, and not whether they are of the Whole or Half Blood; as for Instance; there were two Brothers of the Whole Blood, and one of the Half Blood, of the Whole Blood died, each of them leaving Issue a Son, then one of the Sons died without Issue, in this Case his Uncle of the Half Blood shall be admitted before the other surviving Son of his Brother by the Whole Blood: Yet if a Man purchase Lands and dies without Issue, it shall never go to the half Blood in the collateral Line; though it is otherwise in Case of a Defect from a common Ancestor. 2 Nelf. Abstr. Bid. The Children of the Brothers and Sisters of the Half Blood, shall exclude all other Adbertances, as Brothers Uncles and Aunts, and all remoter Kindred of the whole Blood in the collateral Line; but then the Brothers of the half Blood, and their Children, shall succeed equally by Stirping, and by the Capita, according to the distant Number of their several Persons. Bid. There are several Rules to know the Degrees of Kindred in the ascending Line, to which the Son shall add the Father, and it is one Degree ascending, then add the Grandfather, and it is a second Degree, a Person added to a Person in the Line of Confanguinity makes a Degree: and if there are more Persons, take away one, and you have the Number of Degrees, as if there are four Persons, it is the third Degree, if five the Fourth, &c. so that the Father, Son, and Grandchild, in the descending Line, with three Persons, make but two Degrees: To know in what Degree of Kindred the Sons of two Brothers stand, begin from the Grandfather and descend to one of the Sons, which is one Degree, then descend to his Son the Ancestor's Grandson, which is a second Degree; and then descend again from the Grandfather to the other Brother, Father of the other of the Sons, which is one Degree, and descend to his Son, &c. and it is a second Degree; thus reckoning the Person from whom the Computation is made, it appears there are two Degrees, and that the Sons of two Brothers are distant from each other two Degrees: For in what Degree either of them is distant from the common Stock, the Person from whom the Computation is made, they are distant between themselves in the same Degree, and in every Line the Person must be reckoned from whom the Computation is made. If the Kindred are not equally distant from the common Stock; then what in the same Degree they are distant between themselves, and so far as the most remote maketh the Degree; by which Rule, 1, and the Grandchild of my Uncle, are distant in the third Degree, such Grandchild being distant three Degrees from my Father, 2 Nelf. Abstr. 48, 49. The Common Law agrees in its Computation with the Civil and Canon Law, as to the right Line; and only with the Canon Law as to the collateral Line. 

King. (Rom. from Lat. Regis to Rule, in Sax. Cening or Cening) Is a Monarch or Potestate, who 1

rules singly and soveraignly over a People; or he that has the highest Power and Rule in the Land. The Author of the Law, and the learned Bradon tells us, Rom. 291 Victorius & Mi- nifter Des in Terris, annus quidem 12 et 16 12 multas varias, 18. Des. Bibl. lat. 1 c. B. But our Kings and their Coronation, take an Oath of the following Parport, to. To govern the People of this Kingdom, according to the Statutes in Parliament agreed on, and the Laws and Customs of the same; to his Power cause Law and Justice in Mercy to be executed in all his Judgments; to maintain the utmost of his Power the Laws of God, the Free Profection of the Gospel, and the Protestant reformed Religion established by Law; and preferre to the Bishops and Clergy their Rights and Privileges, as by Law are appertaining to them: This is the ob- liation of our Kings, as regulated to be taken by 1 W. 1st & 2d. M. and the Coronation Oaths, in former Times, were undoubtedly a Contract between the King and the People, with this Natitude of the Nature of the Government of our King, says Fortescue, is not only Royal, but Political: If it were merely the former, Royal, he would have Power to make what Alterations he pleased in their Law, and impose Taxes and other Hardships upon the Subject, whether they would or no; but his Government be- ing Politicus, he cannot change the Laws of the Realm, without the Consent of the Realm, nor Book or Parliament, and has the Delegation of Power from the People: Like- wise our King is such by the Fundamental Law of the Land; and the King in his Name, it is not in the Power of the King, to take away any Rights or Liberty of his Subjects, or his Property in his Estate; and it is every Man's Concern to defend these, as well as the King in his lawful Rights. Fortescue 16. 9. Author has endeavoured to prove the original Contract between the King and the People, from the Prophet Samuel's Conference with the Israelites; who refused a King offered unto them, and in 2d Samuel 20. the Prophecy of the Head of the Commonwealth; and taking Notice of the Breaches made in the Constitution of this Kingdom in several Reigns, and the Necessity of their being redressed, affirms that it is the original Power and Constitution of the States of the Kingdom, to re instituted the regal Estate, as well where Kings are left arbitrarily and break through the Constitution, as where there is no immediate Heir to succeed the King, so that the Throne is actually vacant; and without this I take it there is no perfect Constitution. Brittan Confin. In King 1st's Magna Charta of Liberties, there was a Clause making it lawful for the Barons of the Realm to chuse twenty five Barons to see the Charter offered by the King; with Power, on any Justice or other Misrule of the King's failing to do Right, and acting contrary thereto, for four of the said Barons to address the King, and pray that the same might be remedied; and if the same were not amended in forty Days, upon the Report of the four Barons to the Rest of the Twenty-five, those twenty-five Barons with the Commonalty of the whole Land, were to be enabled to distribute the King, take his Castles, Lands, &c. until the King complaine'd of should be remedied, according to their Judgment; saving the Person of the King, Queen, and every other Person, or Persons, how high soever; and the Estates and Liberties and other Rights of the Nation, the People were to obey the King as before. King 1st's Magna Charta, cap. 73. But this Clause, and some others in Favour of Liberty, are omitted in King Henry VI's Magna Charta; though it is clear that the Statute made at Oxford, anno 42 Hen. 3. to reform Misgovernments, it was eneacted, that twenty-four Great
Great Men should be named. Twelve by the King, and Twelve by the Parliament, to appoint Judases, Chancellors, and other Officers, and the younger Sons are born in Dukes and Earls of what Places the King pleases. K. Hen. 2. took his Son into a Kind of subordinate Regality with him, so there was Rex Peter and Rex Edw.; but he did not devote himself of his Sovereignty, but referred to himself the Homage of his Subjects. And notwithstanding this King, by Consent of Parliament, created his Son John King of Ireland, and King Rich. 2. made Robert de Vere Duke of Ulster; and Edu. 3. made his elder Son Lord of Ards, with Royal Dominion; yet it has been held, that the King cannot regularly make a King within his own Kingdom. 4 Esd. 357, 360. Hen. de Beauchamp, Earl of Warwick, was by King Henry 6. Crown'd King of Wight Island: but it was resolved, that this could not be done without Consent of Parliament, and even then our greatest Men have been of Opinion, that the King could not by Law create a King in his own Kingdom, nor that he could not create a King of the same Place: And afterwards the same King Henry made the same Earl of Warwick Prime Comes inuia Angliae. A King cannot reign or dignify himself of his Office of King, without the Consent of Parliament; nor could Hen. 2. without such Consent, divide the Sovereignty: There is a sacred Band between the King and his Kingdom, that cannot be dissolved without the free and mutual Consent of both in Parliament; and though in Foreign Kingdoms there have been Intercourse of Voluntary Ceilings and Restorations, which possibly may be warranted by their former Concessions, by the Laws of England, the King cannot resign his Sovereignty without his Parliament. Sir Matt. Hale's Hist. Co. If a King hath a King's Definent, where the Laws have taken good Effect and Rooting; or if a King Conquers a Christian Kingdom, after the People have Laws given them for the Government of the Country to which they submit, the succeeding King can alter the fame without the Parliament. Col's. 7 Rep. 17. It is nevertheless held, that conquered Countries may be governed by what Laws the King thinks fit, and that the Laws of England do not take Place in such Countries, until declared so by the Conqueror, or his Successors; here in safe of Inferiors their Laws do not cease, but only such as are against the Laws of God: and where the Laws are rejected or silent, they shall be governed according to the Rule of Natural Equity. 2 Salk. Rep. 411, 412, 665. Our King have disfranchised their whole Power of Judicature to the Courts of Justice; which Courts by Innominal Usages have gained a known and trusted Jurisdiction, that no King can alter without an Act of Parliament. 2 Hanc. P. C. 2. But as it has been resolved, that the Successor of every King begins his Reign on the very Day that the former King died; therefore all Patents of Judges, Sheriffs, Justices of Peace, &c. determine by the Death of the King. Though wide Stat. 1 Ann. c. 8. The Kings of England not having the whole Legislative Power, if the King and Clergy make a Canon, though it binds the Clergy as re Ecclesiastia, it does not bind Laymen: for they are not represented in the Convocation, but in Parliament: in the primitive Church, the Laity were present at all Synods: and when the Empire became Christian, no Canon was made without the Emperor's Consent, and indeed the Emperor's Consent in the People, he having in himself the whole Legislative Power: but the Kings of this Kingdom have it not. 2 Salk. Rep. 412, 673. Religion, Justice, and Truth, are the Supporters of the Crowns of Kings. See Crown, King's prerogative. The Statue of the King's Prerogative 17 Ed. 2. contains not the King's whole S X.
Prerogatives, but only so much thereof as concerns the Profit of his Colliers, for his Prerogative extends much farther: and the King hath divers Rights of Majesty peculiar to himself, which the Learned in the Law term Sacra Sacrament, nee Sacred and indestructible, and which are many and various. Statut' Prerog. Reg. Plowd. 314. Sir Henry Spelman calls the King's Prerogative, Lex Regis Dignitatis; and a great many Prerogatives arise to the King from the Reason of the Common Law, which allows that to be Law almost in every Case for the King, which is not so for the Subject; but the King's Prerogative does not extend to any Thing inconsistent with his Subjects; for the King by our Law can do no Wrong. Fisch. 85.

1 Inf. 19. The King's Prerogative is incident to his Crown, and ancient as that itself; and hath in it a Prescription, and is not only the Law of the Exchequer, but the Law of the Land; This Prerogative of the King is of a very large Extent; it reacheth not only to the coloured Prerogatives and distinctive Parliament; and all Statutes are to have his Royal Affent, which he may refuse to give to a Bill; though his Denial is not an express Negatur, but that he will not assent to it. But the King's Prerogative is so extensive, that he is Prima mixta, so is his Power and Prerogative. 7 Rep. 14. It is the King's Royal Prerogative to make War or Peace: And as Head of the State he cannot be sued by his own Subjects, nor by any Parliament; and all Statutes are to have his Royal Affent, which he may refuse to give to a Bill; though his Denial is not an express Negatur, but that he will not assent to it. His Proclamation in calling or disallowing Parliament, declaring War and Peace, &c. has the Effect of a Law; but he cannot by Proclamation introduce new Laws, yet he can give his consent to existing Bills; and if the King grants the dictates of War by Letters Patent: Alfo the King shall pay no Tribes; though his Letife shall pay them. Wood's Inf. 18. 1 Cre. 511. The King hath Power to make an Alien for Life, and for Life Linen, and Detail to foreign Parts: He can put a Value upon the Coin, which is made by his Authority; and make foreign Coin current by Proclamation: And to make Money, and to alter the Value of it. The King is the General Guardian of Ideas and Laws; and shall have the Lands of Felons, &c. convict; also the Goods of Felons and Fugitives; Goods and Chattels of Pirates; Wreck of the Sea, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided the Subject be not in the Service of the King, and that he may not be a Denizen in any other Country, &c. Stat. 17 Ed. 2. cap. 1. 9 H. 3. 4 Inf. 136. The King is Lord paramount of all the Lands in England; and all Subjects may be tried and executed for Felony, Fraud, or Fordece, that he may suffer: Provided th
the Common Law, to have his Debt first satisfied, that must be when it is in equal Degree with the Debit of his Subject, and by the Stat. 33 H. 6. c. 59. the King's Demand and the Debit of the Goods in his Possession must be fully satisfied. 

5 Cor. Car. 283. Hardw. 23. Goods and Chattels may go in Succession to the King; though they may not pass to any other sole Corporation. 1 St. 17. 5. Inchoation in some Hands of the Goods of the Crown, their Lands are chargeable, and may be levied for the same. And the King is not bound by Sale of his Goods in open Market. 2 St. 713. No Proscription of Time runs against the King, he is not within the Statute of Limitation of Actions. 1 Rep. 74. Action lies not against the King; but a Petition instead of it, to him in the Chancery. And it is lawful for any Subject to petition the King for Redress, where he finds himself grieved by any Sentence or Judgment. 2 St. 187. Hob. 270. There are no Courts against the King; no Entry will bar him, and no Judgment is ever final against him, but with a Salvo Vero Regi: And in the Case of others, the King may issue a Command to the Judges, not to proceed till he is advised; where his Title may be proceeded. 1 St. 178. Finch 460. The King's Title is not to be tried, without Warrant from the King, or Affidavit of the Attorney General. 4 St. 444. The King may have such Process in his Suit as he pleases. he may be sued in any Cafe. 1 Rep. 18. Finch 476. He may plead several Matters, without being double, and the Parties shall answer them all. 1 St. 178. 57. And in his Pleading, he need not plead an Act of Parliament, as a Subject is bound to do. 4 Rep. 75. The King may sue in what Court he pleases, and cannot be non sui juris, as he is supposed to be in all his Courts: He is not to join to bring in Demurrer on Evidence; and the Court may direct the Jury to find the Matter specially. Finch 82. 5 Rep. 104. The King's only Testimony of the Fact will be his Word. And in his pleading, he need not plead an Act of Parliament, as a Subject is bound to do. 

the King himself, for which Reason all Writs in this Court are made to returnable, and not returnable. Juicijurius suiprasis, is as the Form in the Common Pleas. 4 Rep. 73. It is confessed by a Lord Chief Justice who is the Lord Chief Justice of England created by Writ, and three other Judges created by Letters Patent; and according to ancient Writers, the Lord Chief Justice had, and had three, and four, or five Judges for his Affidavit. 

The Judges of B. R. are the Sovereign Judges of Oyer and Terminer, Gaol Delivery, and of Eyre, and Concerns of the Lands; and their Jurisdiction is general all over England; and by their Presence the Power of all other Judges in the County, during the Time of this Court's Siting in it, is suspended; for in Provincia Mysteriis seipst Petition mitteris; but such Judges may proceed by Virtue of a special Commission. Er. H. P. C. 166. 4 Rep. 73. 2 Haw. P. C. 32. It is their Judges who have a Sovereign Jurisdiction and publick Nature, judicially brought before them, to give Remedy either by the Common Law or by Statute: And their Power is Original and Ordinary; when the King has appointed them, they have their Jurisdiction from the Law. 1 Haw. 152. 4 Rep. 74. Whatever Crime is against the publick Good, though it does not injure any particular Person, comes within the Cognizance of the Judges of this Court; and no private Subject can suffer any Kind of unlawful Violence or Injury against his Person, Liberty, or Possessions, but he may here have a speedy Remedy, and not only for Satisfaction of Damage, but the exemplary Punishment of the Offender: This Court is the Caesar marum of all the Subjects of the Realm; and where it meets with any Offence contrary to the first Principles of common Justice, may inflict a suitable Punishment. 2 Haw. 6. It is in the Discretion of the Judges of B. R. to inflict Fine and Imprisonment, and infamous Punishment on any Person who shall commit to any Prison they think fit, and the Law does not suffer any other Court to remove or bail any Person imprisoned by them. 1 St. 145. 1 Mod. 668. The Court of B. R. may proceed on Indictments found before other Courts, and removed into this in the same Manner as on Indictments or informations commenced in this Court, though the Court before whom such Indictments were found be determined. Er. And of the Judges sitting, with standing certain Judges were appointed to execute a Statute on which the Proceedings were had; though not a statutory, which appointment of any Man's Lands or Goods; Nor shall he take that he hath Right to, which is in the Possession of another, but by due Course of Law. Wmsb. 9. He may not command a Man to Prison, against the Writ and Process of Law. 12 Rep. 65. The Law is the Rule of the King's Prerogative; which ought to be grounded upon Amity, or otherwise it may be an Incroachment on the Liberty of the Subject. See of anima Rts. 1 Rep. 402. See Debit in the King, Grants of the King, ss. 

the King's Birth, [Bareness, from the Sav. cases, a form in the Court or Judgment Seat where the King of England was sometimes wont to sit in his own Person; and was therefore movable with the Court or King's Household, and called Curia Domini Regis, or Asa Regi: And by Stat. 28 Ed. 1. c. 5, this Court is to follow the King. King Chr. 3, 5. in Part with the Judges in Sansa Regis several Times, being found on a High Bench, and the Judges in a lower one at his Feet: And the King's Bench was originally the only Court in Westminster Hall; out of which the Courts of Common Pleas and Exchequer derive. 4 Rep. 73. 2 Haw. 32. Here the Court hath supreme Authority, the King being still presump't by Law to sit there as Judge of the Court; though he doth judge by his Judges; and the Proceedings are supposed to be Coram nobis, that is before
Writ of Error in some Cases will lie returnable in the Court of Err. and Rod. Pristis Adams, 10 Ed. 12. But on Proceedings in B.R. by original Writ, Error lies not but to the Parliament. The Court of B.R. being the highest Court of Common Law, hath Power to retermine and reverse erroneous Judges or Officers, given therein, and punish the Magistrates and Officers for Corruption, &c. 2 Haw. 5. It may award Execution, not only against Persons attainted there, but against Persons attainted in Parliament, or any other Court; when the Record of their Attainder or a Transcript is removed, and their Persons brought thither by Habeas Corpus. Cor. Crim. 176. Gent. 495. Parrots of Persons condemned by former Judges of Gaol Delivery, ought to be allowed in B.R. and the Record and Prisoner being removed thither by Corroborant and Habeas Corpus. 2 Hurd. 27. This Court grants Habeas Corpus to relieve Persons wrongfully imprisoned; and may bail any Person whatsoever: A Person illegally committed to Prison by the King and Crown, or still in the House of Parliament, may be bailed in B.R. and in some Cases legal Commitments; also Persons committed by the Lord Chancellor, &c. 2 Haw. 110, 111. Writs of Mandamus are not allowed to any Person in Corporations, Colleges, &c. unjustly turned out; and Free Men wrongfully disfranchised; Also Res Warrantis against Habeas Corpus, for enforcing Franchises and Liberties against the King; and on Misdemeanours of Privileges, to release the Liberties, &c. And in B.R., the King's Letters Patent may be repealed by Scire facias. &c. This Court in ancient Times was ordinarily exercised in all Criminal Matters, and pleas of the Crown; leaving private Contrivances and civil Actions to the Common pleas, and other Courts. 4 Sib. 70. It is a Crown matter and a Plea-fide, and a Plea-fide, the one determining Criminal, and the other Civil Causes: The Crown-fide determines all Criminal Matters, (wherein the King is Plaintiff) as Trespass, Pejorates, Murders, Rapes, Robberies, Riots, Breaches of the Peace, and all Causes proceed by Way of Indictment, Information, &c. And into the Court of B.R. from all Inferior Courts and Orders of Seigniors, &c. may be removed by Corroborant; and Inquisitions of Murder are certified of Course into this Court, as it is the Supreme Court of Criminal Jurisdiction, and for giving the Liberate, Stipulating Rules or Orders, &c. 4 Sib. 71, 72. On the Plea-fide, it holds Plea of all personal Actions professed by Bill or Writ, as Actions of Debt, Detinue, Covenant, Antient, Actions upon the Cafe, and all other personal Actions, Ejaculations, Trespass, Waifs, &c. against any Person in the Custody of the Marshal of the Court, as every one here is supposed to be in the Custody of the Marshal, and to all other personal Actions or Rides for or against any Officer, Minister or Clerk of the Court, who in respect of their necessary Attendance have the Privilege of the Court. Ibid. It has been held, that Action upon the Statute of Wreckers, or Room. 2 Pr. 350. Where the Court of B.R. proceeds on an Officer committed in the same County wherein it is found, the Process may be made returnable immediately: but when it proceeds on an Offence removed by Corroborant from the Court of B.R., there must be fifteen Days between the Taze and Return of every Process, &c. 9 Rep. 118. 1 Sib. 154. 8 Sib. 72. The Court of B.R. may fit and hear and determine Costs, after Trial is ended. 10 East 2, 4.

The Officers of the King's Bench are, on the Crown-fide, the Clerk of the Crown, and the Secretary of the Crown: And on the Plea-fide there are a great many Clerks and Officers as, Master of the Rolls, Clerk of the Rolls, Clerk of the Exchequer, clerks of the Procurators, their Secretary and Deputy. The Crown-fide, two Clerks of the Paper, the Clerk of the Declaration, Siger and Sealer of Bills, the Clerk of the Rolls, Clerk of the Exchequer's office, the Clerk and Sealer of the Bills, the Under-tellers, the Marshal of the Court, and the Coroner. The Procurators are Masters of the King's Bench Office, and their Clerks are the proper Attorneys here, who enter all Declarations, Bills, and other Proceedings. Their Secretary constantly attends the Sitting of the Court, to receive Matters referred to him by the Judges, to be examined and reported to the Court, he signs all Judgments, taxes Costs, and gives Rules to answer, &c. And he also informs the Court in Point of Pristis. Their Deputy has the Custody of the Stamp, for signing all Writs, &c. and keeps Re-membrances of all Records; Writs return'd are filed in his Office, and common Bills, &c. The Causes Brevissimis files Originals and other Writs wherein Proceedings have been had in Ordinary, are examined and filed, all Records of Nisi prius for Trials at the Assizes, and has several Clerks under him for making up Records throughout England. The Clerks of the Papers make up the Books of all Probate, and all Books in the Court, and all entries, which the Plaintiff's Attorney commonly speaks for, and afterwards gives Rule for the Defendant's Attorney to bring in his Answer and enjoin, &c. The Clerk of the Declaration files all Declarations, and continues them on the Back from the Term of Declaring till tis joined. The Siger and Sealer of Bills keeps a Book of Entry of the Names of the Plaintiffs and Defendants in all such Writs and Pro- cesses; and the Defendants enter their Appearances with him. The Clerk of the Rolls takes Notice of all Rules and Orders of the Court, and afterwards draws them up and enters them in a Book at large; and with him also are given all Rules of Course on a Copy of Habeas Corpus, Writs of Inquiry, &c. and he or the Clerk of the Papers files all Affidavits used in Court, and makes Copies of them. The Clerk of the Errors allows all Writs of Error, and makes Superintend's intervention into any County, and trans- ferrires and certifies Records. The Clerks of the Bills and Papiers file the Bill-Pieces, and mark the Papiers, &c. The Procurator of the Counties make the fairest Pro- cesso after the Order in Ordinary; examine the Oxen and At- tachments, and the attacments of Summoning and Adjourning the Court, calls Nonstitus, and swears Jurymen, Witness, &c. See more of King's Bench under Court. &c. Lord Chief Justice of the King's Bench

King's Household. In the Reign of King Ed. 3, 16000/ per Annum and no more, was appointed for the King's Household: And Ann 29 H. 6. the Charge of the Household was reduced to 15,000/ a Year. But in Q. Elizabeth's Reign, the Profits of the Kingdom being very much advanced, 40,000/ per Annum was allowed for her Household. And on the Restoration of K. Charles 2. the Parliament for the Honour of the King and Kingdom, settled on his Majesty 200,000/ per Annum. In the Reigns of King William 3 and Queen Anne 700,000/ a Year was allowed for the Support of the Household, and ordinary Charge of the Civil Lif. And his Majesty King George 1. had the like Sum of 700,000/ per Annum settled upon him by Parliament, for the Duties of His Excelency, his Wine Licence, Pull Office, &c. Also to his present Majesty K. George 2. The Duty of Excise on Ale, Beer, &c. is granted with a further Subsidy of Tonne, being yearly only Sum of 120,000/ only. For the Aggregate Fund, for Support of the Household and Dignity of the Crown; so as to make the Revenues 800,000/
This is meant of Knights Bachelor, which is the lowest, but most ancient Order of Knighthood with us. Of Knights there have been reckoned two sorts, Knights Spiritual and Temporal; the Spiritual Knights, are so called by Divines in regard of their Spiritual Warf: the Temporal Knighthood, consists of Knights of the Round, Knights Baronets, of the Bench, Knights of the Garter, &c. Selden's Titles of Honour, pp. 730. The Privilege belonging to Knights. See Fermi's Glory of Generality 186.

Armigres-Banister. (Militis Pelvillii) Are made only in Time of War, and is a high Honour: And though Knighthood is commonly given for some personal Merit, which therefore dies with the Person; yet John Craggland, for his valiant Service performed against the Scots, had the Honour of Banister conferred on him, and his Heirs for ever, by Patent. 29 Ed. 3. See Banister.

Armigres of the Bath. (Militis Baluni) Have their Names from their Bathing the Night before their Creation. In ancient Times before Knights went into the Service, it was usual for them to go into a Bath and wash themselves, and afterwards they were girt with a Girdle; which Culum was commonly observed, especially at the Inauguration of our Kings, on whose Times Knights were made, who for the Reason were called Knights of the Bath; This Order of Knights was introduced by King Hen. 4. and revived in the Reign of King Geo. 1. with great Ceremony; there being seven of these Knights being then made, having each three honorary Equeires; and they now wear a red Ribbon a cross their Shoulders; have a Plaister of the Order, who is the Bishop of Ely, several Heralds, and other Officers, &c.

Armigres of the Chamber. (Militis Camerae) Seen to be such Knights Bachelor as are made in Time of Peace, because Knighted in the King's Chamber, and not in the Field: They are mentioned in Rot. Parl. 28 Ed. 5. 20. 665.

Armigres of the Garter, (Equites Gavenni, or Per-rotellini) Are an Order of Knights, founded by King Ed. 3. who after he had obtained many notable Victories, for furnishing this honourable Order, made Choice in his own Realm, and all Europe, of Twenty five the most excellent and renowned Persons for Virtue and Honour, and ordained himself and his Successors, Kings of England, to be the Sovereign thereof, and the right to be Fellows and Prentices. See Sirs Edw. 5. cap. 20. And according to Camden and others, this Order was instituted upon King Edward the Third's having great Success in a Battle, wherein the King of France was girt for a Token: But Polidore Virgil gives it another Original, and says, that this King in the Height of his Glory, the Kings of France and Scotland being both Prisoners in the Tower of London at one Time, cried erected this Order, Ann. 1350, from the Countess of Salisbury's dropping her Garter, in a Dance before his Majesty, which the King taking up, and being some of his Nobles to like, he said Hon. fil. que mal i prouv. interpreted; Evil be to him that Eviltreath, which he ever since been the Moot of the Garter, declaring such Veneration should be done to that Garter, that the belt of them should be proof of enjoying their Honours that Way. Camden in his Britannia faith, that this Order of Knights received great Ornaments from King Ed. 3. And King Charles 1. as an Addition to the Splendor, ordered all the Knights Companions to wear on their upper Garment, the Crof inscribed with the Garter and Mate. The Honourable Society of this Order is intituled the Royal Orders of St. George; and they are a College or Corporation, having a great Seal, &c. The Site of the College is the Royal Palace of Winfield, with the Chapel of St. George, and the Chapter-house in the said Castle, for their Solemnity on St. George's Day, and at their Feasts and Insignilations. Bridles the King their Sovereign,
and Twenty-five Companions, Knights of the Garter, are under the care and instruction of the Grand Master, which is given to them in their daily service to the Honour of God and St. George; and these are vulgarly called Peer Knights of Windsor.

There are also certain Officers belonging to the Order, as Steward of the Garter, which Office is in the possession of the Bishop of Winchester; the Chamberlain of the Garter, who is the Bishop of Sarum; Registrar, always Dean of Windsor; and the Principal Librarian, called Carver, to manage and maintain their libraries, and to the latter, the charge of the Garter, like the others, is the charge of the Black Rod. A Knight of the Garter wears daily abroad, a blue Garter, inscribed with Gold, Pearl, and precious stones on the Left Leg, and in all Places of Assembly, upon his coat, the Left side of his breast, a Star of Silver Embroidered, and the picture of St. George, enamelled upon Gold and set with Diamonds, at the End of a blue Ribbon that crosses the Body from the Left Shoulder, and when drest in his robes, a Mantle, Collar of SS., etc.


eight-Fees, was heretofore so much Inheritance in Land, as was sufficient to maintain a Knight. This was 20 L. a Year, by the Statute 1 Ed. 1. c. 1. But this privilege was rescinded in his reign. The rates varied from 400l. per Ann. and Sir Edward Cole says a Knight's Fee contained 680 Acres. 2 Esq. 556. And when the Estate of a Knight was extenuated 200l. by the Year, then the value of a Baron was 400 Marks; that of an Earl 500l. per Ann. of a Marquis 800 Marks; and 800l. a Year for a Duke. 2 Esq. 7, 8, 9. In England, at the Time of William called the Conqueror, there were forty thousand two hundred and fifteen Knights Fees; whereas twenty eight thousand and fifteen were in the possession of Religious Houses. Sir John H. M. 17.

Knights of St. John of Jerusalem. (Militia Sancti Ioannis Hierosolimitani) Had their beginning about the Year 1119, and their Denomination from the Parish of Alencon, near Meaux, through the Will of St. John Baptist, their Patron. They had one general Prior, for the Government of the whole Order within England and Scotland; and the first Prior of England, and lay in the Lords House of Parliament. Their principal Foundation and Abode was first in Jerusalem, and then in the Isle of Rhodes, where they were first chanced by the Turks, and from which their Chief Seat is the Isle of Malta. See 38 H. 8. and Histories.

Knights of Malta. These Knights took their Name and Original from the Time of their Expulsion from Rhodes, anno 1523. The Island of Malta was then given them by the Emperor Charles V. where they now reside, and are therefore called Knights of Malta. They have done great exploits against the infidels, especially in the Year 1555.


Knights of Malta. (Servatitum Militis) Was in a Temple whereby several Lands in this Kingdom were held of the King, as a sort of a Manor, after the manner of the same, and Service in War, Esgusia, Wardship, Marriage, etc. The Knights Service to Captains, or in Chief, was Service, by which the Tenant was bound to serve the King in his Wars: And if he held a common Perton, then he was to go with his Lord in the Wars. It is taken away by Statute 12 Car. 2. cap. 24. See Clothing.

Knights of the Garter. (Militia Comitatus) Otherwise called Knights of Parliament, are two Knights or Gentlemen of Worth, chosen on the King's Writ, in person Comitatus, by the Freeholders of every County that can dispose 20l. a Year; and three, when every Man that had a Knight's Fee was commonly constrained to be a Knight, were obliged to be Militis gladii credit, for to run the Writ at this Day; but now Nobiliti Armigeri may be chosen. Stat. 1 Hen. 5. c. 1. 10 Edw. 4. c. 2. The Exemption were to be born by the County, during their Sitting in Parliament, by the 35 H. 8. c. 11. And as to their Qualifications, they are to have 600l. per Annum Freehold Estate, &c. Vide edmul. d. 5. 15. and Parliament.

Knights Templars. (Militia Templarii) Were a Religious Order of Knights, instituted in the Year of our Lord 1119, and solemnized, because they dwelt in Part of the Building belonging to the Temple of Jeru- salem, and not far from the Sepulchre of our Sa- vour. They entertain Christian Strangers and Pil- grims, and in their Armour led them through the Holy Land, to view the sacred Monuments of Christianity, without Danger from Infidels. This Order was far spread in Christendom, particularly here in Eng- land, where it flourished in the Time of King Hen. 2, and had in every Nation a particular Governor or Ma- ster, but at length some of them at Jerusalem falling away to the Saracens from Christianity, the whole Or- der was suppressed by Clemente guines, anno 1307. And their Substance given partly to the Knights of St. John of Jerusalem, and partly to other Religious. Cofen. de gloi Mundi, par. 9. Thefe Knights at first wore a white Garment, with a Cross on the Front, and of Pope Eugenius, it was ordained that they should wear a Red Cross: In ancient Records they were also called Freres Militis Tempus Salutantis. Mon. Angl. Tom. 2. p. 554.

Knights of the Temple. The honourable the Sixth Knightshood, the Knights wore a Green Ribbon over their Shoulders, and are otherwise honourably distinguished.

Knights of the Temple. An Honour Court held by the Bishop of Hereford at his Palace there, twice a Year; where the chief things were handled by the Knights, by Letters of Service of the Honour of that Bishoprick, were the Superintendents. Butterfield's Sarm. 244.

Knights of the Crown. (Militia Comitatus) Was a Gild or Company in London, consisting of nineteen Knights, which King Edward founded, giving them a Portion of Good Ground lying within the Walls of the City, now called Porcupine Yard, 35 H. 8. c. 51.

Another of the Lollards in England, called Herekets, for opposing the Church of Rome before the Reformation, went commonly under the Name of Kowen, Kow, and the like, and were first given them in the Diocese of Lincoln, by Bishop Smith, anno 1500.

Kypnis. Signifies some liquid thing: and in the North it is used for a kind of liquid Vathals. It is mentioned as an Excision of Foresters, &c. Mon. Angl. Tom. 1. p. 722.

Kypnis. (Lax.) A Gilt or Crab for burial of the Dead. Ex Reg. Engl. Lincoln. MS.

L. 33, (Lacteus, à lait, i.e. lait) A Net, Gin, or Snare. Litt. Dott.

Labattis (Apparatus, Leminei) Is a narrow Slip of Paper or Parchment, affixed to a Deed, Writing or Writ, hanging as and out of the hand; and an appending Seal is called a Label.


Labattis. Is an ancient Writ against Perkons refusing to serve and do Labour, who have no Means of living, or against such as having serv'd in the Winter, refuse to serve in the Summer. Reg. Orig. 189.
Agriculture, Conspiring together concerning their Work or Wages, shall forfeit 10 l. for the first Offence, 20 l. for the Second, &c. And if not paid, be let on the Pillory. Stat. 2 & 3 Ed. 6. c. 15. Justices of Peace have power to take the garnish of the Offender, and to hear and determine Complaints relating to Nonpayment of Labours Wages. 4 Ed. 4. c. 1. And Labours taking Work by the Great, and leaving the same unpaid, or whose Wages are not received, or where they are employed in the King's Service, &c. are to suffer one Month's Imprisonment, and forfeit 5 l. The Wages of Labourers shall be paid in the Harvest time, or within the space of 4 Weeks after the harvest, &c. as is usual. 5 Eliz. cap. 4. And the Sheriff is to cause theaid of the Under-Officers, and other Offenders, to be immediately paid.

Laga, (Sax. Leg.) Signifies Law: And from hence we deduce Saxo-lego, Dassulego, &c.


Lagge, (Lagge, Legge, Leg.) Signifies Law, such as we call now, Good Men of the Jury. The Word is frequently used in Deeds, and the Laws of Edward the Confessor, see above.

Lagham, or Lagamone, (Lagam线上) Hume habens Legam, or Hume Legam, &c. is Legum, such as we call now, Good Men of the Jury. The Word is frequently used in Deeds, and the Laws of Edward the Confessor, see above.

Lagham, (Lagham, Laga, Laga) In ancient Times was a Mote of Wine, &c. and the Lord of the Manor had the Privilege of taking it in Fine, and selling it at the Manor House, &c. of all Wine Ships that come up the Thames: And Sir Peter Lechtey, in his Antiquities of Cheshire, interprets Legham, as Donum in fine de Legam vis in omnibus. Chart. 2 Ed. 3.

Laggs, (or Ledges) Are a Tenure of Wine, &c. and the Lord of the Manor had the Privilege of taking it in Fine, and selling it at the Manor House, &c. of all Wine Ships that come up the Thames: And Sir Peter Lechtey, in his Antiquities of Cheshire, interprets Legham, as Donum in fine de Legam vis in omnibus. Chart. 2 Ed. 3.

Laghsbey, (or Ladesby) A Tenure of Wine, &c. and the Lord of the Manor had the Privilege of taking it in Fine, and selling it at the Manor House, &c. of all Wine Ships that come up the Thames: And Sir Peter Lechtey, in his Antiquities of Cheshire, interprets Legham, as Donum in fine de Legam vis in omnibus. Chart. 2 Ed. 3.
Deposy and Common Council-men, or the major Part of them, may convey for the Lamps, &c. Willingly forbearing the Penalty of the fifth, 50 l. for the second, and 3 l. for the third Offence.

Sanccliter, Was erected into a County Palantine anno 50 Ed. 3. and granted by the King to his Son Jetho for Life, that he should have Jura Regalia, and a King-like Power to pardon Treasons, Outlaws, &c. and make Judges of Peace and Judges of Affairs within the said County, and all Processions and Indictments to be in his Name; but these Palatines are abrogated by the Stat. 27 H. 8. c. 24. There is a Seal for the County Palatine, and another for the Duchy, i.e. such Lands as lie out of the County Palatine, and yet are Part of the Duchy; for such there are, and the Judges of Lancaster hold them, but not as County Palatines, for they had not Jura Regalia over those Lands. 2 Law. 1236. 3 Saul. 110, 111. The Statute 37 H. 8. c. 16 annexes Lands to the Duchy of Lancaster, for the better Enlargement of it. Finer fines before the Judges of Affairs of Lancaster, of Lands in the County Palatine, shall be of equal Force with those acknowledged before the Judges in the County Palatine. 37 H. 8. c. 19. And Process against an outlawed Person in the County Palatine of Lancaster, is to be directed to the Chancellor of the Duchy, whom shall thenceforth issue like Writs to the Sheriff, &c. as the Ed. 6. 26. shows. The Statute 38 Ed. 3. c. 7. by the Statute Gen. 3. 2. 8. The Chancellor or Vice-chancellor may by Commission impose Perons to take Affidavits in any Cause, &c. depending in the Chancery or Courts of Seals in any Plea whatsoever Civil or Criminal.

Lancetix, Their name was Agricola quidem, sed ignata ficta. Spelm.

Lands (179) Signifies generally not only arable Ground, Meadow, Paddock, Willow, Moor, Waters, &c. but also Meadings and Housés; for in conveying the Land, the Buildings pass with it. 4 Ca. Lit. 4. 4. In a more restricted Sense it is not arable Ground: And the Land of every Man in the Law is said to be inclosed from other, though it lie in the open Field; so that for any Trespass therein, the assay or the writ Square Claueum fractum, &c. Dikt. and Stud. 8. In a Grant, Land may extend to Meadow, or Paddock, &c. But in Writs and Pleadings, it signifies arable only. 1 Vent. 260.

Landcock. (From the Sax. Land and Lac. Liber) Was a Charter or Deed whereby Land was held. Six Anglo-Saxons Chartas & Instrumenta nonapparatum, praebent cunnas, jura & Empronice continent. Spelm. Gloss.

Landcrop, (Sax. Land-crop, from Cropton, to buy and sell) An ancient customary Fine, paid at every Alienation of Land lying within Some Manor, or Liberty of a Borough; as at Malden in Effer, on this Day a Custom called by the same Name, that for certain Hostes and Lands told within that Place, thirtys Pennies in everv Mark of the Purse-Money shall be paid to the Town; and this Custom of Land crop, they claim (inter alias) by a Grant from the Bishop of Norwich, the Parch. A Ditch in Marsh, Lands to carry Water into the Sea. — Feria judicia & avocata facultas de Vallis, Landen, & Watercynylis, Du Cange.


Landegman, Was one of the inferior Tenants of a Manor; it is used in Cuffamor. de Herbam. Spelm.

Land-gable, A Tax or Rent rising out of Lands; according to Domesfay, Confus praedialis vel tributum, et à praedio colligat: And it is said to be a Quit-Rent for the Site of a House, or the Land wherein the House stands, being the same what we now call Ground-Rent. Dom. Lex. Lincl. 

Lanttimers. Agrimensores, Measurers of Land, for called of old; Landtimers, aetum de Terra limine et vice Mere; From the Sax. Gramera, i.e. Terminals; and hence we say Mere.

Landstrect, In the Saxen Times the Dutier which were laid upon all that held Land, were termed Tri.

Landtenat, Is of whom Lands or Tenements are held and a Landlord may distrain on the Lands of common Right, for Rent, Services, &c. Ca. Litt. 57. 205. In London if a Tenant commit Felony, &c. where with 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. Land. 75.

Land Tax, Granted by Parliament Vide Tax.

Landtenant, Is he that possesses Land let, or hath it in his manual Occupation. 14 Ed. 3. Stat. 1. cap. 3. See Territor.

Landwight, Are Lords of Manor, as interprete by Sir Ed Coo. 1 Inf. 5. They are mentioned in Domus.

Landgroat, An under Garment made of Wool, formerly worn by the Monks, which reach'd down to their Knees; so called because Landwight. Angl. Tom. 1. pag. 419.

Landoferrensis Littlea tectrincis aubiquae Cultura, &c. An ancient Writ that lies to the Custome of a Port, to permit one to pass Wool without paying Cultum, he having paid it before in Wales.


Large & Armington, A Marble Stone about twelve Foot long and three Foot broad, placed at the upper End of Westminster Hall, where was likewise a Marble Chair placed on the stone, in which our Kings anciently sat at their Coronation Dinner, and at other Times the Lord Chancellor.

Qui quidem Henricus de Cliff, [Clericus Reuunerum] in Magna Aula Wodan apud Lapidem Maximuni, praefectis Domino Cancelleri, praef(i)ti Sacramentum, &c. Ca. Lit. ed. 2. m. 1. Dux. Over this marble Table are now erected the Courts of Chancery and King's Bench. Orig. Juridical. 37.

Lapfet, [Laphia] is a Slip or Omission of a Patron to prefer to a Church, within Six Months after it becomes void, in which Case we say, that Benefice is in Leges or legia. 15 Ed. c. 13. And Legia is defined to be a Title given to the Ordinary to collate to a Benefice, on the Patron's Negligence in Prefenting within Six Months; and also to a Devolution of a Right of Prefenting from the Patron to the Bishop; from the Bishop to the Archipallio; and from the Archipallio to the King. Wood's Inf. 158. If after an Avoidance, the Patron does not present in six Months, the Ordinary hath the next six Months to collate to the Benefice; and if he doth not collate in six Months, then the Metropolitan hath further six Months; and if he does not collate within his six Months, it then devolves to the Crown. 2 Roll. Abr. 350. Hob. 30. rep. 17. And the Computation of the six Months is by the Kalendis Month, exclusive of the Day in which the Church became void. 6 Rep. 62. Where a Patron presumes his Clerk before the Bishop hath collated, the Prefentation is good.
good notwithstanding the six Months are past, and shall bar the Bishop, who cannot take any Advantage of the Leaf. And so if the Patron makes his Presentation before the Archibishop hath collated, though the six Months be past: But if the Bishop collates after twelve Months, this bars not the Archibishop. 2 Rel. Arch. 369. 1 Inst. 273. If a Bishop doth not collate the Prebend of his own Gift, the Leaf at the End of six Months to the Archibishop: and if the Archibishop neglects to collate within six Months, to a Benefice of his Gift, the King shall have it by Leaf. Dr. Soc. Inst. cap. 30. And if a Church continues void several Years by Leaf, the Successor of the King may present. Cro. Car. 258. But if the King hath a Title to present by Leaf, and he suffers the Patron to present, and the Prebend dies, or regains before the King hath presented, if the Presentation be real and not by Covin, he hath lost his Prebension for Leaf is not for the fill and next Turn; and by the Death of the Incumbent, a new Title is given to the Patron: though it has been adjudged that the King in such Case may present at once as to the Prebend, but not to the Patron. 2 Cro. 216. 7 Rep. Mer. 244. When the Patronage of the Church is litigious, and one Party doth recover against the other in a Quarter Impoem, if the Bishop be named in the Writ, and six Months pass while the Suit is depending, Leaf shall incure to the Bishop: If the Bishop be named in the Writ, then the Archibishop or the King, can take the Benefice by Leaf: and yet it is said if the Patron within the six Months brings a Quarter Impoem against the Bishop, and then the six Months pass without any Pretence, then the Leaf shall incure to the Bishop. 2 Roll. Arch. 365. 6 Rep. 52. 1 Inst. 344. Hol. 270. Though where the Bishop in a Dilator, or the Church remains void above six Months by his Paizl, there shall be no Leaf. 1 Inst. 344. A Clerk presented being refused by the Bishop for any sufficient Cause, as in Litterature, Ill Life, &c. he is to give the Patron Notice of it, that another may be presented in due Time, otherwise the Bishop shall not collate by Leaf, because he shall not take Advantage of his own Prebend, in not giving Notice to the Patron as he ought to do by Law. Dyer 292. And if an Avasdance is by Refignation, which will necessarily be by the Bishop by the Act of the Incumbent: or by Deprivation, which is the Act of the Law, Leaf shall not incur to the Bishop, till six Months after Notice given by him to the Patron: When the Church by Deprivation is void of the Incumbent, &c. the Patron must present in six Months without Notice from the Bishop, or he shall lose his Prebend. 3 Rep. 75. 4 Rep. 75. In the Causes of Deprivation and Resignation, where the Patron is to have Notice before the Church can leaf, the Patron is not bound to take Notice from any Body but the Bishop himself, or other ordinary, which must be personally given to the Party, if he live in the same County; but such Notice must express in certain the Cause of Deprivation, &c. If the Patron live in a foreign County, then the Notice may be published in the Parish Church, and affixed on the Church door. Grant any Time as long as the Church is vacated, and that there ought to be Notice, if none is given by the Bishop or Archibishop in a Year and half, whereby Leaf would come to the King if it had been given; here the King is to take to the King, when no Title arise to the inferior Ordinary. Dyer 999. And it has been adjudged, that Leaf is not an Interest, like the Patronage, but an Office reputed by Law to the Ordinary, and the Bishop is to provide a Church a Rector, in Default of the Patron: And it cannot be granted over for the Grant of the next Leaf of such a Church, either before it falls or after, is void. F. N. B. 54. Alio si Leaf incurra, and then the Ordinary dies, the King shall present, and not the Ordinary's Executors, because it is an Ademption, then Inter. 25 Ed. 3. 4. Mathur. 2 Impet. 118. A Leaf may incur against an Infant or Feme covert, if they do not present within six Months. 1 Inst. 240. But there is no Leaf against the King, who may take his own Time, and that any shall be no Bar against the King's Title, because Nullum rem post necessar Regii. 2 Inst. 773. Dyer 531. By Presentation and Institution, a Leaf is prevented: though the Clerk is never indicted: And a Donative cannot leaf, either to the Ordinary or the King. 2 Inst. 775.

Larceny, (Fr. Larrere, Lat. Larcinum) is A Theft or Felony of another's Goods, in his Abundance; and in Respect of the Thing stolen, it is either great or small: Grand Larceny is a felonious Taking and carrying away the personal Goods of another, above the Value of 12d. not from the Person, or by Night, in the House of the Owner, and Petit Larceny is when the Goods stolen do not exceed the Value of 12d. It agrees with Grand Larceny in all Things excepting the Value of the Goods, so that wherever any Offender would be Grand Larceny, 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. If two Persons are suspected of the Value 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; but this is very seldom done: On the contrary, the Jury sometimes, where it is an Offender's first Offence, &c. find it specially, as they may, that the Goods are but of 10d. Value, whereby it will be only Petit Larceny, though the Offender is indicted for stealing Things of the Value of 39s. 40d. 1 H. P. C. 70. 4 Inst. 109. Hol. Rep. 66. And Grand Larceny is a Felony punished with Death; Petit Larceny only with Whipping, or other Corporal Punishment, &c. But giving the Offenders the Benefit of Transportation by Statute. There is not only Single Larceny, by taking away the Goods of another, but a mixt or complicated Larceny, which has a further Degree of Guilt in it, and is either a Taking from the Person, or from the House; as in Case of Robbery, Burglary, &c. Alio there is a Private Larceny from a Man's Person, without his Knowledge: or an Open Larceny with his Knowledge; Private, by picking the Pocket, &c. Openly, with the Aid of another. This is by 37s. 22d. off the Periwig, from my Head, and runs away with it: And as to Private Larceny from the Person above 12d. it is excluded Clergy, if laid in the Indictment as done clam & silent, according to the Words of the Stat. 8 Eliz. but otherwise it is not: Open Larceny with Knowledge, by the Common Law is within the Benefit of Clergy. H. P. C. 75. Dal. cap. 110. 3 Inst. 68. 1 er. 224. Of all movable Goods, the Property whereof is in any Person, Felony, or Larceny may be committed; as Money, Houholdstuff, Hay, Corn and Fruits that there are on the Ground, &c. But the Goods stolen must be merely Personal, to make it Larceny; for it is by any Thing in the Reany, or fixed to the Freehold; as Corn, or Fruit growing on the Ground, &c. It is not Larceny. 3 Inst. 109. 8 Rep. 93. Dal. 372. And of Paper and Parchment, on which Conveyances are written concerning Lands, or Obligations, &c. Larceny cannot be committed. And for losing of 3 Inst. 366. But see Stat. 2 Gen. c. 12. as to stealing of Bonds and Notes; and the 4 Gen. c. 32. a-
gainst dealing and taking away Lead, or Iron Bars from Houses, &c. Where a Person finds the Goods of a Carrier or Servant, and converteth them to his own Use, it is no Larceny. H. P. C. 61. To take away Goods the Owner of which is unknown, sometimes in the hands of the Servant, or in the Course of his official duties, is no Larceny.

The Law which we are discussing, is one of the oldest and most fundamental in the British legal system. It deals with the theft of goods by individuals, and the consequences that can arise from such actions. The Law of Larceny, as it is known, is divided into two main parts: Larceny and Theft.

Larceny refers to the act of stealing goods that belong to another person, with the intention of permanently depriving them of their possession. Theft, on the other hand, is the act of stealing goods for the purpose of converting them to one's own use.

In the case of Larceny, the act of stealing must be done with the intention of permanently depriving the owner of their property. If the person who steals the goods intends to return them to the owner, it is not considered Larceny.

Theft, on the other hand, is a broader category that includes Larceny. It includes not only the act of stealing goods for the purpose of converting them to one's own use, but also includes actions that cause damage to goods or property.

The Law of Larceny is an important part of the British legal system, and has been in place for many centuries. It has been refined and updated over time, but the principles behind it remain the same. It is a reminder to all of us, that the act of stealing another person's property is not acceptable, and that consequences will follow for those who commit such actions.

In conclusion, the Law of Larceny is an important part of the British legal system, and is a reminder to all of us, that the act of stealing another person's property is not acceptable, and that consequences will follow for those who commit such actions.

If you have any questions or need further information on this topic, please feel free to ask.
Defendant doth lack and lie hid, and cannot be found in the County of Middlesex to be taken by Bill, but is gone into some other County, to the Sheriff of which this Writ is directed, to apprehend him there. P. N. B. 78. Terms of Leg 421. The Original of it is this:—

In ancient Time, while the King’s Bench was movable, when any Man was fixed, a Writ was sent forth to the Sheriff of the County where the Court was resided called a Bill of Middlesex, to take him; and if the Sheriff returned non est inventus, then was a second Writ fired out, that had these Words, Care taken of good Latitut, &c., and thereby the Sheriff was commanded to attend 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 Conivance of Clerks, it was deviced 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 Tetratum Writ, issuing out of B. R. ground upon a Bill of Middlesex, supposed to be fired out before, and returned non est inventus: And a Latitut Court of the King’s Bench in Nature of the Original Writ Clausum frigio, on which the Practice is in the Common Plan. 2 Litt. Abridg. 147. A Latitut cannot issue into the County 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 Latitut. Not. If the Writ of Latitut is issued during Term-Time, the Teefe thereof is to be the first Day of the Term; and if in the Vacation, it must be the last Day of the Term preceding: A Note is to be made of it on Paper for the Record, and the Latitut cancelled, when the Matter is filled up, is to be carried with the Note to the King’s Bench Office, and there the Writ is figured; from whence it is carried to the Seal Office, where it is sealed, and the Day stamped on the Back side; and then a Warrant is to be procured from the Sheriff of the County to execute the Writ. Practic. So. B. 197. And when any Person shall be forth of B. R., any Latitut, Alias, and Pluribus against any Person, who thereupon appears and puts in Bail: if the Plaintiff do not declare within three Days, or after Declaration be discontested, &c., the Judges shall award Damages. Stat. 8 Eliz. c. 2.

Form of a Writ of Latitut out of B. R.

GEORGE the Second, by the Grace of God, King of Great Britain, France and Ireland, Defender of the Faith, &c. To the Sheriff of Southwark Greeting: Whereas on the Day next preceding the Day on which the said A. is a Prisoner at Southwark, he and the said A. being a Prisoner, you are hereby commanded to bring the said A. to be exhibited against the said A. according to the Custom of our Court before us, for a Debt of Ten Pounds; and our said Sheriff of Middlesex, at that Day make a Return to us, that the said C. and E. were not found to be in his Bailiwick, whereupon on the Behalf of the said A. it is testified in our Court before us, that the said C. and E. lack and lie hid, and cannot be found in your County. Therefore we command you, that you take them, if they are to be found in your Bailiwick, and keep them safely, so as you have the Bodies before us, on the Thursday next after the Feast of St. Michael, at our next Term in this Court, in the Place and Bill after laid; and have you there then this
LA

this Writ. Writs! Robert Lord Raymond at Welmingred, the Day, &c.

Latepre, Lawrethemum, He who had the sole Jurisdiction in particular Place: it is mentioned in Leg. Will. 2. Sec Infamoye.

Lattroipum, A Layward, or Place to wash in, applied to such a one in the Porch or Entrance of Cathedral Churches, where the Priests and other officiating Members were obliged to wash their Hands before they proceeded to Divine Service: And in the Statutes of St. Paul's Church in London, it was ordained, or Sera


Laudare, To admire or praise. Leg. Edw. Con-
sulf. cap. 39.—Res Anglae affinatior in terra jux
apud Laudem et Confinam Rogeri Francii, &c. Herodot. p. 720. Laudare dignitatis alio arbitrio; and Laud-
dare, an Arbitrator. King. p. 225o.

Laudatum, An Arbitrarium, or Award. Welfing-
bam. p. 50.

Laudanum, 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 Laver-
bread.

Lancet, A kind of offensive Weapons now dilut, and prohibited by the Stat. 7 R. c. 13.

Lanterns, or Land-lanterns, (Lands) An open Field, without
Wood. Blunt.

Laurel, Pieces of Gold coined in the Year 1619, with the King's Head inscribed, which gave them the Name of Laurel; the Twenty Shilling Pieces, or any
of which were marked with XX. The Ten-Shillings X. and the Five Shilling Piece with V. Camb. Annal. Jan. 1. MS.

Laud, (In Sax. Leg. Lat. Lex, from Legi or Leg-
aro, choosing, or rather à Legato, binding) Is the Rule and Bond of Men's Actions: Or 'tis a Rule for
the well governing of a Civil Society, to give to every Man that which doth belong to him. According to Bracton, Lex o sancto juxta, jubes homins & probi-
ritos Contrariis: And the Divine Schoolman says, Lex Humana of quidem divinam rationem, quia diriguntur
humanis aditus. The Law is Rectum, as it discovers that which is crooked or wrong; and these three Qual-
ities are incident to the Law, wise. It must be Jus, jubes hominis, Prohibita Contrariis: And jusa
requires five Properties: Posibili, Necessaria, Commu-
nica, Manifesta, nullis privatis conceda. A Co. Infr. c. 87. The Law is said to be Arbitrary; the Natural
Law of the last of which are essentially just and good, and bind every where and in all Places where they are oblige.

A. The Law is arbitrary concerning such
Matter as is in itself morally indifferent, in which Code 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
Lawes are founded in Convenience, and depend upon
the Authority of the Legislative Power which appoints and makes them, and are for maintaining publick Or-
der: Those which are natural Lawes, are from God; and those which are arbitrary, are properly human and positive Institutions. Seiden an Fortuna, cap. 17.

The learned Selden tells us, that the Lawes of any Country began, when first began to be a State in the Land: And that we may consider the World as one universal Society, and then that Law by which Nations are governed, is called Jus gentium; if we consider the World as made up of particular Nations, the Law which regulates the publick Order and Right of them, is termed Jus publicum; and that Law which determines the private Rights of Men, is called Jus

civilis. Ibid. No Law can oblige a People without their Consent; now this Consent is either Verbs or a

Feble, i.e. it is expressed by Writing, or implied by Deeds and Actions; and where a Law is grounded on an implied Affirm, refers & Jusfebl, it is either Common Law, or Custom; if it is universal, it is Common Law, or a General Law, or a particular Law, but if it is Cusom. 3 Salk. Rep. 112. The Law in this Land
had been variable; the Roman Lawes were in Use an-
ciently in Britain, when the Romans had overthrown the

Laws of the Province, here, each of which was governed by the Ro-

mian Laws: Afterwards we had the Laws called Mercen-

The Common Law, which is the most ac-
cient and general Law of the Realm, and common to the whole Kingdom: being appropriate thereto, and having no Dependence upon any Foreign Lawe what-
or; 2. Statutes or Acts of Parliament, made and pas-
bicted by the King and the Lords and the Commons in Parliament: being a Referre for the Government to provide against new Mischler arising through the Correspondency of the Times; And by this the Common Law is amended where defective, for the Suppression of publick Evils; though where the Common Law and a new Lawe or Custom intermingle, the Common Law shall be preferred. 3. Particular Customs: but they must be particular, for a general Cusom is Part of the Common Law of the Land. Cr. Lit. 15. 115. There is another Division of our Lawes, more large
and particular; as into the Prerogative or Crown Lawes; the Law and Cusom of Parliament; the Common
Law, the Statutes Reasonable Cusomens, the Law of

Warr and Peace a Chastity, or Crown Lawes; or Canon Lawes; Civil Lawes, in certain Courts and
Cales; Forfe Lawes; the Law of Marque and Repri-

seal, the Law of Merchants; the Law and Privilege of

the Statesmen, &c. But this large Division may be
reduced to the common Division; and all is founded
on the Law of Nature or Reason, and the revealed
Law of God, as all other Lawes are to be. 1 Co.
Infr. 11. The Law of Nature, is that which God at Man's Creation inflicted in him, for his Preservation and Direction; and this is Law eterna, and may not be changed: And no Lawe shall be made or kept, that are expressly against the Law of God, written in his Scripture; as to forbid what he commanded, 2 Thess. 2. 13. As to the Law of Nature, it is generally the Law of all Places, Perions and Times, without Alteration; and has the same Force all the World over. But it is limitable, as Circumstances require; and limited Law of Nature, is the Law enacted in every State. All Lawes derive their Force a Legi Naturae; and those which do not, are accounted as no Lawes. And so it is said, All men are at liberty to do wrong: And there are some Things that the Lawe favours, and some it disfavour, it fa-
vour about those Things that come from the Order of Nature. 1 Infr. 183, 157. All our Lawe hath much more Respect to Life and Liberty, Freehold, Inherit-
ance, Matters of Record, and of Subsistance; than to
Charnes, Things in the Personality, Matters not of
Record, or Circumstances. Ibid. 197. & Rep. 114.

The Use of the Law is to secure the Property of what we enjoy; and the Objects of it concern Perions, their Estates, Times and Malefactors, Courts of Justice, &c. See Common Law.

Law hath also a speciall Signification, wherein it is taken for that which is lawful with us, and not ele-

Law of Arms, (Lex Armament) Is that Law which gives Precepts how to proclaim War, make or

obvieve Leagues and Treaties, to assault and encounter

an Enemy, and punish Offenders in the Camp, &c.

The Law and Judgment of Arms are necessary be-
tween
tween two regnant Princes of equal Power, who have no other Method of determining their Controversies, but have a Superior or ordinary Judge, but are supreme and publick Persons; and by the Law of Arms, Kings obtain their Rights, Rebels are reduced to Obedience, and Peace is established: But when the Law of Arms and War do rule, the Civil Law is of little or no Force. Treat. Law. 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 'tis for this Reason, because both Parties have appealed to the highest Tribunal that can be, on 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. Vide Hift. L. 73. 74. Common Things concerning Armed and War, are under the Cognizance of the Contable and Marshal of England. 15 R. 2.

Ex. Books. All Books writ in the Law, are either Historical, as the Year Books; Exemplary, such as Staudforde's Tractate of the Prerogative Royal; Miscellaneous, as the Abridgments of the Law; or Ministerial, being on one certain Subject, such as Lambard's Justice of Peace, &c. Thelwall's Parl. cap. 3. And our Books of Reports, have such great Weight with the Judges, that many of them are as highly valued, as the Repetita Præteram among the Romans, which were Authoritative.盛大足之也之名，此皆為之名，此皆為之名。 Vide Common Law.

Laws, (Ligulati) Called also Viroes of Frank-plunge, or Court Lent, was any Day of open Court; and commonly used for the Courts of a County or Hundred. Et quieta sunt de Secreta Consilii & Comitatus, de non Franci placui & Lawdayorum, v. c. Chart. 39 Hen. 3.

Laming of Dogs, is the Cutting off several Claws of the Fore-foot of Dogs in the Fost. Chart. Forest. c. 6. See Ex. 1584. 2

Latius Court, is a Court held on Kingfield, at Rochford in Essex, on Wednesday Morning next after Michaelmas Day yearly, as Cock crowing, at which Court, they whine, and have no Care, 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 the servile Attendance was imposed on the Tenants, for conspiring at the like unseasonable Time to raise a Commotion. Camden, Britan. 441. It belongs to the Honour of Reading, and it is called Lantfield, because held at an unworthy Hour; or Quo dextra late Legis. The Title of it is in Rhime, and in the Court-Roll runs thus:

Kingfield in Curia de Domino Regis.
Rochford Dist. de Lant. Teneas e rebellium
Per substitutum Confessum, Aest. utrum foli.
Lavis si foli, Sessilia aulius, Prohibi et nullus
Teibus nullitatem Galli a consuetudine, Per causas fei fontes.
Curia eff ammunitione: Clamati clam pro rege In case of Legis, Et si ejus littera
Citius pueri aequitatis, Et si ejus aliarum
Caelorum aereditus, Eique aequor sum lumine
Errari in regimine,
LE

nene of a fervile Condition. Nichardus de Sax-

vere, Cap. 6.

Of a from a Quantity of Yarn, so called; and at 

afer a it is to contain 200 Threads on a Reel for

62. 25 Carn. 19.

League, An Agreement between Princes, &c.

Also a Measure of Way by Sea, or an Extent of Land

containing three Miles in most Countries abroad.

Receivers of Leases, besides those for a Term of Years, and

been punished for Offences done upon the Seas. See Stat. 2 H. 5, and

4 H. 5. c. 7.

Leese, or Lease. [From See. Lesion, to let out

Wide] In the Midshipmen of Drums is used for a

Gutter; so in Torberry any Slough or watry Hole

upon the Road, is called by this Name; And hence the

Water-Tub to put about, to make a Lee for

Washing of Clothes, is in some Parts of England

termed a Leche. Cowel.

Leashe, 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.


Leap, A Net, Engine or Wheel, made of Twigs,
to catch Fish in. 4 & 5 H. 6. c. 13. See Lepe.

Leap-Year, Every fourth Year, having one day

More than other Years. Vide Biextile.

Leaves, (From Leasiw. Letting, or rather Dimiss, from

Lease, the Demise, to depart with) Is a Demise or Leasing of Lands, Tenements or Here

dimants to another, for Term of Life, Years, or at

Will, for a Consideration. Co. Litt. 43. Leases are either in Writing, or by Word of Mouth, when they

are called Leases Parish; and it is said not to be material whether any Rent is reserved upon a Lease for Life, or

the Lease that is given by a Tenant in Tail, &c. according to the Statute 52 H. 8. A Lease for Life requires Livery of Seisin; and generally, for the Making of a good Lease, several Things necessi-
tately concur: But to make a Lease; a Tenant not disabled to receive it, a Thing demised which is dispensable, and a sufficient Description of the Thing demised. &c. If he 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 Ac-

ceptance of the Thing demised. "Lease" 56. 1 & 2

Plowd. 273, 273. A Demise having no certain Com-

mencement is void: For every Contraet sufficient to

make a Lease, ought to have Certainty in Commencem-

ent, besides the Resumption, and in the Ind. Pages 487. &c.

6 Rep. 35. A Lease at Will is at the Will of the Lea-

ser or Leaser; or regularly at the Will of both Parties. 1

Inf. 55. All Leases, Interests of Freehold, or Terms for Years in Lands, &c. not put in Writing, and

signed by the Parties, shall have no greater Ef-

fect than as Estates at Will; unless it be of Leases not

exceeding three Years from the Making, wherein the

Rent reserved shall be Two Thirds of the Value of the

Term of the Thing demised. Stat. 20 Car. 2, cap. 3.

Leases exceeding three Years must be made in Writing, and if the Subsistence 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. "Ward's Inf.

266. Articles with Covenants to let and make a

Lease of Lands, for a certain Term, at so much Rent, hath been adjudged a Lease. Co. Eliz. 486. In a

Covenant with the Words Hears, Paffsi and Occupy

Lands, in Consideration of a yearly Rent, without the

Word demise; and it was held a good Lease: And

a Licence to occupy, take the Profits, &c. which pafs-

eth an Interest amounts to a Lease. 3 Blis. 204.

3 & 4 Eliz. 3. 4 & 5 Car. 43. If you shall have a Lease of my

Lands in C. for Years, paying 20. A Year Rent, to

make such Lease, and I will seal it; it is a good Lease

"Parad. Murr. cap. 31. An Agreement of the Parties,

that the Leaser 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 per-

fected till then; it is not a perfect Lease until made af-

terwards. Bridg. 13. 3 Skip. Abr. 374. If a Man on

Promises to make a Lease to him, lays out Money

on the Premises, he shall oblige the Leese afterwards

to make the Lease: The Agreement being executed on

the Leesser's Part: Where no such Expence hath been,

a bare Promiss of the Lease for a Term of Years,

though the Leesser have POSsession, shall not be good

without some Writing. Preced. Can. 561. A Person

feid of an Estate in Fee Simple, in his own Right, of

any Lands or Tenements, may make a Lease for himself, for

what Lives or Years he will; and he that is feid of an

Estate tail in Lands, may make a Lease of it for his

own Life, but not longer; except it be by Fine or Re-

covery, or Lease warranted by the Stat. 32 H. 8. And

if Tenant in Tail, or for Life, make a Lease gene-

rally, it shall be confined for his own Life. 1 Inf. 42.

He that is feid of an Estate for Life, may make a

Lease for his Life, according as he is feid; 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

feid of Lands, makes a Lease of all the Years, except one Day, or any short Part of the

Term; it is to be granted for a left Term than the

Maker has in the Lands; for if all the Estate is

granted, it is an Affair Set. And if Lease for Years

makes a Lease for Life, the Leesser may enjoy it for

the Leftor's Life, if the Term of Years lasts so long; but

if he gives Livery and Seisin of it, this is a Forfei-

ture of the Estate for Years. Wind. Inf. 257. Joint-

ments, Tenants in Common, and Coparceners, may

make Leases for Life, Years, or at Will, of their own

Parts, and the term of the Lease by Tenant in Tail, &c.

as are not feid 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 expressed. But there is a difference, where

there is a general Power to make Leases, and a particu-

lar Power. 8 Rep. 69. A Lease for Life cannot be

made to commence in future, by the Common Law;

because Livery cannot be made to a future Estate. 8 Rep. 69. Where a Lease is made for Life, Hendreden

at a Day to come, and after the Day, the Leaser makes Livery before the Term of the Lease shall

expire, he may give Livery after, or after the Death of the Leesser. 8 Rep. 156. If one make a Lease for Years; after the Death of A. B. if he die within ten Years; this is a good

Lease, in Case he dies within that Time, otherwise not.

And where a Man has a Lease of Lands for eighty Years, and he grants it to another to hold for

thirty Years, to begin after his Death; it will be good

for the whole thirty Years, provided there be so many of the eighty to come at the Time of the Death of the

Leessor. Bras. Grant. 54. 1 Rep. 155. A Lease made

from the Leessor's Death, until Anna Domini 1750 is
good: And if a Lease be during the Minority of J. S.

or until he shall come to the Age of Twenty-one Years;
there are good Leases; and if he die before his

full Age, the Lease is ended. Hob. 174. A Person

interests of 10 Years, till an hundred Pounds be

paid, is a Lease of the Rent for five Years. Co.

Litt. 42. If a Man makes a Lease of Land to another,

then he shall levy out of the Profits one hundred Pounds, and as much as this will pay, to have a Lease

Lease for Life, determinable on the Payment of the

hundred Pounds, if Livery and Seisin be made: But if

there be no Livery, it will not be good for Years, but woid

for Uncertainty. 21 Geo. 2. 18. Plowd. 28. 6 Rep. 35.

A Lease
A Leafe for Years to fuch Perfon as A.B. shall name, is not good: Though it may be for fo many Years, as he shall name; no as shall be named by his Executor, &c. for it must be in the Life-time of the Parson. And if a Man makes a Leafe to another for fo many Years as a third Perfon shall name, when the Years are named by fuch Perfon, it is good for fo many Years. 1 Inf. 45. So if a Perfon lets his Lands for as many Years as he hath in the Manor of D. and he hath then a Term for ten Years, this is a good Leafe for ten Years; and in the like Cases, by referring to a Certainty, it may be made good and certain. 1 Inf. 47. A Leafe may be made for Life or Years, of any Thing that lies in Livery or Grant; but Leafe for Years ought to be made of fuch Lands, &c. whereunto the Lessor may come to dilinat; not as of incorpo-
real Inheritance. 1 Inf. 47. And they may be for the Term of thousand Years, any Num-
ber of Years, Months or Weeks; or be from Week to Week, &c. for one, two or three Years, and be good for three Years: And a Tenant for Half a Year, or a Quarter of a Year, is Tenant for Years. 1 Inf. 6. If one makes a Leafe for a Year, and fo from Year to Year, it is a Leafe for two Years; and afterwards it is but an Eflate at Will. 1 Med. 4. 1 Lanw. 212. And if from three Years or three Years, it is a good Leafe for fix Years: Alfo if a Man make a Leafe for Years, without laying for how many, it may be taken to extend to a Leafe forever; and so on: 

and the Life of the Survivor of them; and though the Lessor can have it no longer than his own Life, yet his Ailifee shall have the Benefit of it fo long as the other two are living. 5 Rep. 15. Nov. 32. 

Where one grants Lands to A.B. and C.D. to hold to them during their Lives, although the Words and the longer Live of them be omitted, they shall 
hold it during the Life of the longest. 5 Rep. 19. 

A Leafe is made to a Perfon for fuchs Years, if A.B. and C.D. fo long live; and afterwards A.B. dies, by his Death the Leafe is determined. Though if the Words of the Leafe be, To hold during the Life of the longest of them, C.D. the Freehold doth not determine by the Death of one of them; and if in the other Cafe of a Term, the Words or other of them be inferred in the Leafe, it will be good for both their Lives. 13 

Rep. 60. A Leafe was made to a Man for ninety-nine Years, if he should fo long live; and if he died within the Term, the Son to have it for the Reidue of the Term: This was adjudged void as to the Son, because there can be no Limitation of the Reidue of a Term which is determined. Cr. Eliz. 216. 

But if the Words of the Leafe be, To hold during the Reidue of the ninety nine Years, and not du-
ring the rejl of the Term, in this Cafe it may be good to the Son alive. 1 Rep. 136. Dyer 253. A 

Leafe was made to Twenty Years, if the Leafee lived fo long, and in the Service of the Lessor; the Lessor died within the Term, and yet it was held that the Leafe continued, fo it was by the Premise of God that the Leafee could live no longer. Cr. Eliz. 643. 

If a Leafe be to a Man, and to his whom he shall take to be his Wife, it is void: Be-
cause it is not fo much as a Lessor in any Cafe had the Leafe for Years, the Term of the Commencement of the Leafe which might take. 1 Leiz. 158. When a Leafe in Reversion is granted as fuch as another Leafe, and that Leafe is void by Nature, and the Term commences, the Lessor is void: 

and flant upon the Leafe for Years that is void, is void ally. Cr. Cas. 269. But where a Man recites a 

Leafe, when in Truth there is no Leafe or a Leafe which is void, and mistakes the fame in a Point ma-
terial, and grants a further Leafe to commence after the Determination thereof; in fuch Cafe the new 

Leafe shall begin from the Time of Delivery. Dyer 93. 6 Rep. 36. Fagby. 73, 80, 8c. A Leafe that 

has an impoffible Date for its Commencement, is laid to be void; and an uncertain Limitation makes the Leafe void, because it is uncertain that the Covenant of the Court cannot determine what the Contract was. 1 Med. 180. Though it hath been adjudged, where a Leafe bears a Date which is impoffible, the Term shall begin from the Delivery, as if there was no Date. 1 Inf. 40. If a Leafe be to hold from the Day of the Date, the Day itself is excluded; other-
wise the Day of Delivery is inclusive. 4 Rep. 46. 

A Man makes a Leafe for Years to one, and after-
wards makes a Leafe for Years to another of the fame Land; the fecund Leafe is not void; but shall be good for fo many Years thereafter, as fhall come 
after the firft Leafe ended. Noy. Max. 67. 

And if one make a Leafe for Years, and afterwards the Leafee enters upon the Lands let, before the Term is expired, and makes a Leafe of chife Lands to ano-
theft; this second Leafe is a good Leafe until the Leafee doth re-enter, and then the firft Leafe is re-
covered, and he is in as good a Condition as if the Term had been held, that a Leafe may be void as to one, and ftrand good to another: And Leaflis voidable, or void for the Preffent, may after become good again. 

If a Leafe is made to hold to him and another, it is voidable 
as to the two other Perfons; and when the two firft 
die, the Leafe is an End. A Leafe which is only voidable, and not absolutely void, must be made void by the Lessor by Reentry; 

but
but if a Lease be void absolutely, there needs no Re-
entry: As and a voidable Lease is made void by Re-
entry, without going out the Lease; for it is after Repair, by ac-
cepting and receiving the Rent, which oc-
knowledge the Leetee to be Tenant. 21 Car. B. R.
2 Litt. 149. If a Leetee accepts of Rent of an Al-
ligation in a Grant, having Knowledge of the Not Glover-
ment, he may not afterwards charge the Leetee with the
Rent in Action of Debt. 3 Rep. 23. And where a
Leetee for Years accepts of Rent for the Term at
Leetee, even by Word, it is said this is a Surrender
of the Term which he had by Deed. Style 548.
When a Term for Years in Lease, and a Fee sim-
ple, meets in one Perion, the Lease is drowned in the
Inheritance; yet in some Cases it may have Con-
tinuance, to make good Charges and Payments. 8.
Es. 59. 2 Nell. Abr. 1100. If a Lease for Years
is made to a Man and his Heirs, it shall go to his
Executors. 1 Inf. 46, 338. And a Leetee for Years,
notwithstanding it be a very long Lease, cannot be
instituted; but may be aligned in Truth, to several
Units, 2 Litt. 148. If such a Lease comes to be
limited in Tail, the Law allows not a present Re-
mainder to be limited thereupon. Ibid. Leetee for Years,
though for never so great a Term, has only a
Challet; but Tenant for Life hath a Freehold. 1
Inf. 9. A Lease is feald by the Leetor, and the
Leetee hath not feald the Counterpart, Action of Co-
venient may be brought upon the Leetee against the
Leetor: But where the Lease is feald by the Leetee,
and not the Leetor, nothing operates. T. L. 18.
Owen 100. If the Leetee only feald one Part of
Leetee, the Leetee is as much bound by it as if he did
feal it. Finch 109. A Man out of Possession,
cannot make a Lease of Lands, without entering and
sealing the Lease upon the Lands. Daily 488. The
Leetor is to enter on the Premises let; and such Leetee
for Years is not in Possession, so as to bring Tref-
pass, 8c. until actual Entry; but he may grant over
Entry for the next Term, 1 Inf. 46. 2 Litt. 160.
A Leetee of a future Interest never enters by
Virute of his Term, but enters before, and conti-
nues after the Commencement of the Term; and if
then the Leetor ouls him, the Lease may sit over his
Term off from the Land. 1 Lev. 47. But a
Leetee to begin at Michaelmas, if the Leetee enters
before Michaelmas, and continues the Possession imme-
diately, it is a Difficrib. 2 Inf. 46. If a Lease be
made of a Cloef of Land, by a certain Name, in the
Parish of A. in the County of B. whereas the
Cloee is in another County, the said Parish extend-
ing into both Counties; such a Lease is good to
pass such Land: Though where a House is leald
without a Manor, and the Parish be di
different, or it
has been held otherwise. Dyer 252, 257. Land
and Mines are leald to a Tenant; this only extends to
the open Mines, and the Leetee shall not have any
others, if there be such: And if Land and Timber be
demised, the Leetee is not empowered to sell it. 2
Lev. 184. 2 Med. 193. A Man makes a Lease of Lands
for Life, or Years, the Leetee hath but a special In-
terest in the Timber-Tree, as annexed to the Land,
to have the Malt and Shadow for his Cattle; and
when they are severed from the Lands, or
blown down with Wind, the Leetee shall have them
till the Parcel of his Inheritance. 3 Rep. 62. 1 Rep.
81. If an House falls down by Tempy, 8c. the Leetee
hath an Intereet to take the Timber to re ed it for
his House. 4 Rep. 65. And every Leetee for
Years, 8c. may take of Timber necessary for Pheg-
boat, House bote, Fire bote, 8c. without doing
Waste. 1 Inf. 41. And Tenants suffering Hooers to
be killed, or taking away Wain, and 8c. fixed to the Freehold, unless put up by the
Leetee, and taken down before the Term is ex-
pired; cutting down Timber-Tree to fell; permitting
young Trees to be destroyed by Cattle, 8c. Plough-
ing up Ground that Time out of Mind hath not been
Ploughed or harrowed; or taking away Whelk, 8c. to
Waste. 1 Inf. 28. 2 Cor. 37. 5 Salt. 568. Leetees
are bound to repair their Tenements, except it be
mentioned in the Lease to the contrary. 8c. Max.
Though as a Leetor gives Notice to the Leetee that
he has the House let to him which is burnt by Accident; if
there be not a special Covenant in the Leetee, that he
shall leave the House in good Repair at the End of the
Term: Yet if the House be burnt by Negli-
gence, the Leetee shall repair it, although there be
no such Covenant. Pap. 24 Car. B. R. 8c. A Leetee
at Will is not bound to furnish or repair, or any Recom pense be
made by such Perion for Damage as not to ex-
tend to, or make void any Agreement between Land-
lord and Tenant; and negligent Firing of Houses is
liable to Penalties. A Leetee who hath Fee, cannot
refer Rent to any other but himself, his Heirs, 8c.
And if he refers a Rent to his Executors, the
Rent shall be to the Heir, as Incident to the Re-
version of the Land. 1 Lev. 47. The Leetor may
make a Defeasible of the Tenements letten for the Rent;
or may have Action of Debt for the Arrears, 8c. Allo
Land and Leetee shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
if Leetee at Will make a Defeasible of the Tenements,
he shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
if Leetee at Will make a Defeasible of the Tenements,
he shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
if Leetee at Will make a Defeasible of the Tenements,
he shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
if Leetee at Will make a Defeasible of the Tenements,
he shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
if Leetee at Will make a Defeasible of the Tenements,
he shall be subject to all the Ruful Remedies
which the Leetor provides for the Recovery of the
Rent, Possession, 8c. into whole Hands forever the
Land comes. C. 78. 300. And as to the Leetor,
three Persons, and one of them dies; it has been ad-
djudged this does not determine the Edifices at Will. 5 Rep. 10. Tenants at Will grants over his Estate to another Tenants at Will, and Bishops, 6 Rep. 11. and 12. Tenants at Will grants over his Estate to another which is a Tenement shall leave Leases of such two Farms, in any Tenors, Village, &c. nor hold two, unlese he dwell in the Parish, under Penalties and Forfeitures, by grant 25 H. 8. c. 13. See 21 H. 8. cap. 13. There is a late Statute for the more effectual preventing Frauds committed by Tenants; and for the more easy Recovery of Leases of lands, in possession of twenty years, which Chief Leases of Lands may be removed on Surrender, without the surrendering of the Under Leases, 4 Geo. 2. c. 28. And how Leases of Lands, &c. left uncultivated, may become void, for non Payment of Rent, on view of two Judices of Peace, &c. by the late Act 11 Geo. 1. cap. 19. See the Purport of those Statutes, under Rent.

Leases by Bishops. There are three Kinds of Persons, who may make Leases for Life or Years by Statute, that could not do so heretofore, one, Tenants in Tail, in Estate and Were of the Wife's Land, and Persons fled of Land in Right of the Church. By the Stat. 33 H. 8. c. 18. Tenants in Tail are enabled to make Leases on the following Conditions, vis. They are to be made by Deed Indented; to begin from the Time of Making, or some short Time after, as Mi-
chaelmas next, &c. If there be an old Lease in Being, it must be absolutely surrendered, or expires within a Year after the making of the new; they must not exceed three Lives or twenty-one Years, from the mak-
ing, or be for both, but may be for less Terms; they are to be of Lands manurable or corporeal, out of which a Rent may be legally insuring; and of such Lands or Tenements which have been most commonly let to Farm by the Space of twenty Years; the ac-
cultivated, part of a Farm, is to be leasable, or twenty years is to be referred; and they are not to be made without Im-
peachment of Waffe, &c. It has been held on this Statute, that where a new Thing is demised with Lands of the same Kind, or the same Nature and Quality, or near the same, the Leases are to be referred; and the renewal of the Leases may be referred. 5 Rep. 5. 6 Rep. 37. And the Leases according to the Statute bind the Inheritors in Tail; but not those in Reversion or Remain-
er: For if Tenant in Tail makes a Lease warranted by the Statute, and dies without Issue, the Lease is to be made to the Husband of the Wife, at a common Recovery, Leases may be made to bind him in Remainder, &c. What's Infr. 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. 33 H. 8. to bind the Issue in Tail; and it is the same in the Case of Tenant in Dowry. Tenant by the Curre-
cy, or Husband fled in Right of his Wife, because they have no Inheritance. Dyer 271. The Statute impowers a Husband to make Leases of Land in Tail, held in his Wife's Right, as to such Leases the Condi-tions aforementioned are observed, and the Wife be made a Party to and seal the Leases and the Rent is to be referred to the Husband and Wife, and her Heirs, &c. 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 Woman cannot bind in Reversion or Remainder, 1 Rep. 352. Bis-
shops, Spiritual Persons, &c. Sealed in Fee in Right of their Church, may make Leases of their Spiritual Livings for three Lives, or one and twenty Years, however, in case of the Death of Leases made by Tenants in Tail, 33 H. 8. And
Leases otherwise made are to be void; but not against the Bishops, &c. making them, only against their Successors. 5 Rep. 39. At a Bishop, &c. may make Leases of Lands for twenty-one Years, or three Lives, according to the Statute, without Confirmation of Deans and Chapter, and at Common Law might make them for any longer Time, without Limitation, with Con-
firmation of Dean and Chapter; but this is restrained by the Statutes 13 Eliz. c. 10. and 13 Eliz. c. 11. and 12 Eliz. c. 10. and 15 Eliz. c. 10. shall not extend to Leases of Masters and Fellows of Colleges, &c. of Houses in Corporation Town, which may be made for forty Years, &c. But the 15 Eliz. c. 11. makes void Leases of Masters and Fellows of College. Deans and Chapters, Masters of Colleges, &c. of where another Lease for Years in Being, and not to be expired or surrendered within in three Years: a Bishop, &c. may make Leases for twenty one Years or three Lives, referring the accervuated Rents, &c. Bishops are out of this 6 B Statute.
Statute. If a Bishop be not Bishop de jure, Leases made by him to charge the Bishopric, are void; though all judicial Acts by him are good. 2 Cre. 353. And a Bishop makes a Lease, which may tend to the Diminution of the Revenues of the Bishopric, Gr. which should maintain the Succeeder: there the Deprivation or Translation of the Bishop, is all one with his Death. 1 Jac. 3. 230. Also all Affurances and Demises of Bishops Lands to the King, shall be void. 1 Jac. 1. c. 5. Persons for whose Lives Estates are granted beyond Sea, or being absent seven Years; if no Proof be made of their being alive, shall be accounted dead. 19 Car. 2. c. 6.

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 Waits, whereas the ancient Rent is to be received; and Estates in Reversion, with those in Possession, are not to exceed three Lives. 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 Crown, are invalid, 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 the Term determinable thereunto, etc. are confirmed; and Covenants, Conditions, &c. in Leases for Lives or Years, shall be good in Law, as if the King were feigned in Fee Simple. Stat. 1. Jac. 2. c. 9. See 28 & 29. Edw. 1. 1. 13. & 14. 1. & 2. & 3. & 4. C. 3. & 2. & 1. & 17. & 9. & 8. & 7. & 6. & 5. & 4. & 3. & 2. & 1. & 16. & 15. & 14. & 13. & 12. & 11. & 10. All Leases from the Crown in England and Wales, and under the Seals of the Duchy of Lancaster, &c. for one, two or three Lives, or Terms not exceeding fifty Years, are good in Law, as if the King were feigned in Fee Simple. Stat. 10 Geo. 2. c. 29.

Form of a Lease of a Hect in London.

This Indenture made the Day, etc. Between A. B. of, etc. of the one Part, and C. D. of, etc. of the other Part, Witnesseth, That for and in Consideration of the Rent and Covenant herein after reserved and contained, on the Part and Behalf of the said C. D. his Executors and Administrators, to be paid, kept and performed, for the said A. B. Hath demised, granted, and in Farm let, and by these Presents doth demise, grant, and to Farm let unto the said C. D. All that Messuage or Tenement, situet, etc. Known by the Sign of, etc. with all and singular Cells, Cellars, Chambers, Roofs, Lights, Ways, Watertight, Privies, Conduitells and Apprentices etc. to the said Messuage or Tenement belonging or appertaining; together with the Use of the Goods in the Schedule hereto annexed mentioned; to have and to hold the said Messuage or Tenement, and all and singular the Premises, with all and every of their Appurtenances herein before mentioned, or intended to be hereby demised unto the said C. D. his Executors, Administrators and Affigns, from the Feast of St. Michael the Archangel, the Birth of our Lord Christ, the Annunciation of the Holy...
A Leave for Ninety-nine Years, if three Lives live so long.

This Indenture made, &c. Between A. B. of, &c. Effy of the one Part, and C. D. of, &c. Tenam, of the other Part, Wittiesth, that the said A. B. as well for and in Consideration of the Surrender of a former Lease, as a New Lease, of the said Sum of £1000, and of the said Lease of Messuage or Tenement and Premises hereby demised, for and during the Term hereby granted, without any lawful Lea, Suit, Trouble, or Infringement of or by the said A. B. the Executors, Administrators or Assigns, or of any of them, or by any other Person or Persons lawfully claiming, or to claim by, from, or under him, them, or any of them, or by or through his, their Acts, Deeds or Proceedings. In Witness, &c.

From Time to Time, during the said Term, held in and for the Manor of, &c. and more ordered and prescribed in all Things touching the same as the same shall be issued and granted by the said A. B. during the Term, during the said Time, the said A. B. shall, and may peaceably and quietly have, hold, sell, let, or in any other Manner, use, enjoy, and dispose of the same, and all the Hereditaments and Appurtenances thereof; and in all Time and for ever, all higher and lesser Rents, and all other Profit and Income accruing therefrom, and what may in any Manner be lawfully derived from the same, and to all and every use and enjoyment of the same, to the said A. B. to his Executors, Administrators and Assigns, and to his Heirs and Assigns, and to all, and every and singular of them, in the full, free and absolute Enjoyment thereof.

And the said C. D. for himself, his Executors, Administrators and Assigns, to all, and every use and enjoy the said Messuage or Tenement, Lands and Premises hereby demised, during the Appurtenance, to enter, and the same to have, enjoy and possess, as in his or their former Right and Estate, any thing herein contained to the contrary notwithstanding. And the said C. D. for himself, his Executors, Administrators and Assigns, shall and will well and truly pay and cause to be paid unto the said A. B. his Executors, Assigns, the said yearly Rent of Rent and Arrears hereby reserved, at the Days and Times, and in the Manner and Form above expressed, according to the true Intent and Meaning of the said Premises. And also, that the said C. D. his Executors, Administrators and Assigns, shall and will well and truly discharge the said C. D. his Executors, Administrators and Assigns, of and from all, and every Manner of Covenants, Charges, and other Objections, to the assignment, or any of them, or any other Person or Persons whatsoever lawfully claiming or to claim any Right, Title or Interests, free, or by or under him, them, or any or either of them. In Witness, &c.

A Freehold Lease for three Lives. Differs from the preceding Chattel Lease only in this, that the Hakendom is to the Leafe, his Heirs and Assigns, for and during the natural Lives of him the said C. D. 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 Leafe covenants for him self, his Heirs and Assigns; and the Covenants are the same as in the foregoing Leafe; with the Addition of a clause at the End of Attorney, to Deliver Possession and Seisin, and as in a Deed of Feoffment.

Lease and Beatfee, is a Conveyance of Right or Interest in Lands or Tenements, to another that hath the Possession thereof. Deed of Gift, Though the Deed of Feoffment was the usual Conveyance at Common Law; yet since the Stat. 1 H. 8.
of Ues, the Conveyance by Leahy and Rel ease has taken Place of it, and is become a very common Affair upon such Lands and Tenements; for it amounts to a Feoffment, the Ue drawing after it the Possession without actual Entry, &c. and supplying the Place of it over and about, as required in that Deed. In the making it, a Leahy or Bargain and Sale for a Year, or such like Term, is first prepared and executed; to the Intent that by Virtue thereof the Leahy may take actual Possession of the Lands intended to be conveyed by the Rel ease, and thereby and by Force of the Statute 27 H. 8. c. 10. for transferring of Ues into Possession, be enabled to take and accept a Grant of the Reversion and Inheritance of the said Lands, &c. to the Ue of himself and his Heirs for ever: Upon which the Rel ease is accordingly made, registered by the Leahy, and declaring the Ue: And in these Cases, a Pepper-Corn Rent in the Leahy for a Year is a sufficient Reversion to raise an Ue, to make the Leahy capable of a Rel ease. 2 Thyn. 35. 2 Med. 362. When an Eph any conveyed by Leahy and Rel ease, in the Leahy for a Year there must be the Words Bargain and Sell for Money, and 5 s. or any other Sum, though never paid, is a good Con- dition, whereupon the Bargain for a Year is immediately in Possession on the Executing of the Deed, without actual Entry: If only the Words Demise, Grant, or such like are used, in that Case of Leahy and Rel ease cannot accept of a Rel ease of the Inheritance until he hath actually entered and is in Possession. 2 Litt. Abr. 435. But where Littleton lays, that if a Leahy is made for Years, and the Rel ease relates to the Leahy before Entry; such Rel ease is void, because the Leahy had only a Right, and not the Possession; and such Rel ease shall not enure to enlarge the Eph any, without such Power or Grant. Though this is true in Com- mon Law, it is not so now upon the Statue of Us. 2 Med. 250. 251. And if a man make a Leahy for Life, Remainder for Life, and the first Leahy dies on the, the Leahy overtransfers to him Old Remainder, before Entry; this is a good Rel ease to enlarge the Eph any, he having an Eph any in Law capable of Enlargement by Rel ease, before Entry had. 1 In. 270. No Perf 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 Condemnation of Monies to be paid into the Ue. If a Leahy be without any such Condemnation, the Leahy hath not any Eph any till Entry, nor hath the Leahy any Revocation; and there- fore a Rel ease will not operate, 3 & 11. 1. 1 Med. 270. 278. Cre. Jus. 169. 1 Med. 263. On Leahy and Rel ease, a Rel ease shall be good by Reason of the Pri- vacy between the Parties: But if a Man be only Te- nant at Sufferance, the Rel ease will not Enure to him; and as to the Perf who hath the Revocation it is void, for such Tenant hath not any Possession, there being no Eph any in him. Litt. Stat. 461, 462. Cre. 57. 21. 1. 253. It is necessary in all Cases where a Leahy of Lands is made, that the Eph any be turned to a Right; as in a Distill, &c. where there are two Rights, a Right of Possession in the Distiller, and a Right to the Eph any of the Distiller: now when the Distiller hath released to the Distiller, here the Distiller hath both the Rights in him, viz. the Right to the Eph any, and also to the Possession: Or else it is requisite that there be Privy of Eph any between the Tenant in Possession and the Rel ease; for a Rel ease will not operate without Privy. A Litt. 435. A Rel ease made by one that at the Time of the Sinking thereof had no Right, is void; and a Rel ease made to one that at the Time of Making thereof had no Right in the Lands, is also void, because he ought to have made a Rel ease, &c. or a Distill, 3 & 11. 1. 1 Med. 74. He that makes a Rel ease must have an Eph any in himself, out of which the Eph any may be de- rived to the Rel ease; the Rel ease is to have an Eph any in Possession in Deed or in Law, in the Land wherein the Rel ease is made, as a Foundation for the Rel ease; there must those of Eph any between the Rel ease and Rel ease; and be sufficient Words in Law not only to make the Rel ease, but also to create and raise a Right in the Eph any, or not be good. 1 In. 48. 22. A Rel ease to a Man and his Heirs will pass a Fee simple; and if made to a Man, and the Heirs of his Body, by this the Rel ease hath an E- fable-reid; But a Rel ease of a Man's Right in Fee simple, is not sufficient to pass a Fee simple. 1 In. 273. And if a Perf can Rel ease to another all his Right which he hath in the Land, without using any more Words, to hold to him and his Heirs, &c. the Rel ease-hath only an Eph any for Life. Dyer 251. A Rel ease made to a Tenant in Tail, or for Life, of Right to Land, shall enure to him in Remainder, or Reversion. 1 In. 267. By Rel ease of all a Man's Right unto Lands, all Aliens, Entries, Titles of Dower, Heirs, &c. are discharged; though it bars not a Right that shall descend afterwards: And a Rel ease of all Right in such Land, will not discharge a Judgment not executed; because such Judgment doth not wnt any Right; but only makes the Land liable to Execution. 2 In. 151. 3 & 4th. 191. To say a Rel ease of all one's Title to Lands, is a Re- ease of all one's Right. Litt. 509. 1 In. 290. By Rel ease of all Entries, or Rights, of Right to Land, shall enure to him in Remainder, and then release all Entries, by this he is not barred and excluded his Alienion; nor doth a Rel ease of Aliens bar the Right of Entry. Plowd. 424. 1 In. 297. Rel ease of all Lands, &c. needs no other Execution than Sealing and Delivery; and will operate without Considera- tion: But 'tis convenient to put a valuable Considera- tion thereunto, lest it should be judg'd fraudulent by Statute. Litt. Sess. 445. Litt. Comw. 248, 250. Cr. Jus. 270. A Rel ease that doth ensue by Way of Perchance away an Eph any, an Extenuation, may be made upon Condition or with a Deference, so as the Condition, &c. be contained in the Rel ease, or delivered at the same Time with it: And there may be a Rel ease of the Condemnation, &c. indeed in this Rel ease; though it is said the Deed is goo good, without any such Additions. Acom. Comw. Vol. 1. In a Leahy and Rel ease to make a Tenant to the Prin- ciple to suffer a Recovery, where the Rel ease is made to A. B. and his Heirs, &c. no tenant to the Practicis) it must be also made to the Ue of the Him the said A. B. and his Heirs and Alligos for ever; for the Rel ease must be abatable Tenant of the Freethold. 2 Fest. 432. Litt. Comw. 251. And a Rel ease made on TrufT, must be to A. B. his Heirs and Ali- figns, to the only Ue and Benefic of the Rel ease, his Heirs and Alligos for ever; in TrafT for C. D. who is to be a Party to the Deed, and the Purchas- TrafT to be paid by the Cofnor que TrufT: If the Words to the Ue, &c. are not inserted in the Rel ease, the Eph any doth not execute by the Statute of Ues, and the TrufT is void. Litt. Hist. 551, 253. A Leahy and Rel ease make but one Conveyance, being in the Nature of one Deed. 1 Med. 472.

Form of a Leahy for a Year, to ground a Rel ease.

THIS Indenture made, &c. Between A. B. of &c. of the one Part, and C. D. of &c. of the other Part, Contingent on or Principle A. B. for and in consideration of the Sum of 5 s. of lawful British Money to him in Hand paid by the said C. D. the Receipt whereof is hereby acknowledged, he the said A. B. hath granted, bar-
gained and eld, and by such Prefects due grant, bargain and sale, and all Pretences which to Treat, commonly called known, or known, with the Rights, Members and Appearances, sitting, being in, in the Countv of, &c. And all hows, Estates, Buildings, Gardens, Orchards, Lands, Meadows, Common, Pastures, Fertings, Trees, Woods, Underwoods, Ways, Paths, Water, Watercourses, Enclosures, Preists, Commodities, Advertisements, Emmendations and Hered stability in the said Miflages or Treatment belonging, or in any wise prevailing, or which now are or formerly have been accepted, received, taken, known, used, occupied or enjoyed, to or with the same, or as Part, Parcel or Member thereof, or any Part thereof, and of the said's Rights, Reminders, Rents and Services of all and all the said Premises about, and of every Part and Parcel thereof, in and to every Part and Parcel thereof, with the Appurtenances.
LE

included and agreed upon by and between the said Parties to this Affidavit, and the true Meaning hereof is, and is hereby declared, that all and every Fine and Fines, Recovery and Recoveries, Affirmations and Affirmances, Covena-

and Acquaintances in the Law whatsoever already made, made or given, or given or made, at any Time hereafter to be made, made, given, executed, execu-
ted and acknowledged, by and between the said Parties to this Present, or any of them, or any person or Persons whatsoever, of the said Premises above mentioned, with the Apparatus, or any Part thereof, either alone by itself, or jointly with any other Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Premises above mentioned, with the Apparatus, and for the same only, and shall be and are, as far and concerning all and every the Lands, Tenements or Hereditaments shall be and are, and shall be adjudged, set downed and taken to be and are, as far and concerning all and every the Pre-
LE

1 Bull. 153. But it has been otherwise decreed in Chancery. 1 Ch. Rep. 501. A Man devised 1000l. a piece to the two Children of A. B. at the End of the Year. At the Death of T, 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 Legacy dies before the Time happens, 'tis a lapsed Legacy. 2 Sa1. 421. If you have a Bequest of Money to be paid at the Age of twenty-one, or Day of Marriage, without laying to be paid at that Time, and the Legacy dies before the Time, it is not a lapsed Legacy. And so is it if the Devise had been to her when she shall marry: or if a Son shall come of Age, and they die before Godd. 182, 2 Pann. 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 Legacy die before either of these happen, the Legatee's Administrator shall have it, because the Legacy had a present Interest, though the Time of Payment was not yet come; and 'tis a Charge on the Peronial Estate which was in Being at the Teller's Death; and if it were discharg'd by this Accident, then it would be for the Benefit of the Excess, which was never intended by the Testator. 2 Pann. 456. 2 Lew. 257. A Father bequeathed Goods to his Son, when he should be of Age, or within six Years; 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; adjourn'd, that the Daughter should have it in immediate Possession, and not stay till her Brother would have been of Age, if he had lived. 1 and 33. And where a Legacy was devised to an Infant, to be paid when he shall come of Age; and if he die before that Time, it was ruled that his Administrator should have it presently, and not stay until the Infant should have been of Age. 1 Vern. 199. Where a Legacy is to arise out of the Real Eate, it shall not go to the Representative of the Legatee; but link in the Inheritance: And yet where 1000l. was given at Birth, the Legatee was to have Interest to be computed from his Death, &c. here though the Legacy died before the Time appointed for paying it, it was held the Legacy should be raised with-awards, and the Lord Chancellor said, that this Legacy was a vested one. 2 Vern. Rep. 617. Barnewalt. 326, 330. A Peron 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, to such therof as is the personal Eate will pay, shall go to the Child's Executors or Administrators: But so far as the Legacy is charged upon the Land, 'tis said it shall link; 2 P. Williams 513. 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 Eate, and the failing of the Manner appointed for Payment shall not defeat the Legacy. 2 P. Williams 279. One by Will disposes of his Eate in Lagenite, and afterwards by Parol, or Word of Mouth, gives a Bill for a certain Sum, to be delivered, and if the Testator should die of that Sickness; this is adjudged good, but it being in the Nature of a Legacy, may be deemed fraudulent, or void. 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 Feme Connet, paying to her alone, is not sufficient, without her Husband. 1 Pann. 165. A Man devised to pay a Legacy, without Security given by him to 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 Cases, the Executor may be compelled to give Security to the Legatee for the Payment of his Legacy; as where a Teller bequeathed 1000l. to a Person, to be paid at the Age of Twenty one, and in the next Account, an Executor, and died, afterwards the Legates exhibited a Bill in Equity against the Executor, setting forth that he had withheld the Eate, and paying that he might give Security to pay the Legacy when it should become due; and it was ordered accordingly. 1 Ch. Rep. 136, 257. If a Legacy is devised, and no certain Time of Payment, and the Legacy is an Infant, he shall have Interest for the Legacy from the Expiration of one Year after the Teller's Death; for so long the Executor shall have, that he may see whether there are any Debts, and if any Laches shall be imputed to the Infant; But if the Legacy 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 Sa1. 421, 2 Nifs. Abr. 1144. A Person gives a Legacy charged upon Land, which yields Reus and Profits, and the land is not to be sold, if it is charged on the Peronial Eate, 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 Teller, which is said to be the fited Difference. 2 Prise Williams 26. Where a Legacy is to be paid in Eeque_merge'dEE in two or more equal Payments, then that although a Legacy be devised to be paid at a certain Time, it carries Interest only from such Time as it is demanded. 1's wife of a Debt; and in such Case Non payment at the Day, has been held no Breach, without Demand and Refusal. Prise. Conc. 161; See Abr. Conc. 586. One having a Legacy given him, payable within a Year, knew nothing of it till a great while after, when the Executor published it in the Gazette; here Chancery would allow no Inredit but the bare Legacy. Prise. Conc. 14. The Act or Agreement of the Executor is fird to be obtained before any Legacy can be taken; until then the Executor may not meddle with the Legacy, because the Executor is to pay Debts before Legates, &c. Wood's 1st. 329. And this is the Reason why no Property can be transferred to the Legatee, without the Executor's Assent: If the Executor refuses to assign to a Legacy, he may be obliged to it by a Court of Equity, or the Spiritual Court. March, Rep. 19. Legacy being Grauntale, and no Duties, Assignment 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 138. 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 'tis payable out of the Land, or out of the Profits of the Land, an Assignment of the Cafe lies at Common Law; but the usual Remedy is in Chancery. Sid. 44, 3 Sa1. 233: By Holy Ch. Jull. A Legacy may maintain an Action of Debt at Common Law against the Owner of the Estate of the 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 his Legacy. But sometimes the Common Law takes Notice of a Legacy, not directly, but in a collateral Way; as where 2 the
the Executor promised to pay the Money, if the Leenen would forbear to sue for the Legacy, this was ad-
judged a good Consideration to ground an Action; but that it would not lie for a Legacy in Speiss, which would be well done by the Spiritual Court of what pro-
perly belonged to their Jurisdiction, by turning Suits which might be brought there into Actions on the Cafe. Rem. 23. If Security is given by Bond to
pay a Legacy, in such Cafe an Action on Law is the proper Remedy; by giving by the Bond, the Legacy is as it were extinis, and becomes a Debt at Common
Law, and the Legatee can never afterwards sue for it in the Spiritual Court. Tho. 59. 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 Executore's Name. Woody's
Inf. 330. Where a Tenant gives his Deebor a Le-
genory greater than his Debt, it shall be taken in Satis-
faction of it: Though where the Legacy is left, it
shall not be deemed as any Part therof; but as a Le-
genory is a Gift, sometimes the Legatee has been de-
clared both 1 Salk. 155, 2 Salk. 518. If a greater
Legacy is given by a Deed, to the same Person that
was Legatee in the Will, it shall not be a Satisfac-
tion, unless so expressed. 1 Petes Williams 442.
The original of the Legacy being very fully Spelt, it was
referr'd to a Mirror in Chevalry, to examine who was the Person intended. Ibid. 425. Some Persons
are incapable of taking by Legacy, by several Sta-
tutes; as the 14 W. 3. c. 6. relating to Officers,
Lawyers, &c. not taking the Oaths; and 2 Geo. 1.
c. 27. concerning Artificers going abroad, &c. See
Executor and Will.
Legates comes. Is u'd for him who binds Reblis
in Curia, not outlawed, execoncommunicated, or infa-
mous; and in this Sense are the Words Probis et Le-
gatis hominum: Hence also Legality is taken for the
Condition of such a Man. Leg. Ed. Conf. c. 18.
Legatis honoris英格, Lawful Money of Eng.
land, is Gold or Silver Money coined here by the
King's Authority, &c. 1 Inf. 1077. See Coin.
Legatis, (Legatis) An Ambassador or Pope's Non-
cin. And there are two Sorts of Legatis, a Le-
gate a Latere, and Legatis notais; the Difference be-
tween these two appears thus: Legatus a Latere was usually one of the Pope's Family vested with the greatest Au-
thority in all Ecclesiastical Affairs over the whole Kingdon where he was sent; and during the Time of his Legation, he might determine even those Ap-
peals which had been made from thence to Rome; Legatus notais had a more limited Jurisdiction, but was exempted from the Authority of the Legate a Latere; and he could exercise even his Jurisdiction in his own Province. The Popes of Rome had formerly in Eng-
land the Archbishops of Canterbury their Legatis notais; and upon extraordinary Occasions, sent over Legatis a Latere.
Legatory, Legatery, is the same with Legates of
a Will. 37 Eliz. c. 16.
Legem Facere, To make Law, or Oath: Legem
habere, to be capable of giving Evidence upon Oath; Minor non habet Legem. Serjeants Notes on Heng. 153.
Legregillia, (Legregillum) See Largesse and Larg-
quisites.
Legitimus, Litigious, and is subjected to a Court of
Law, Civil L. 1. c. 16.
Legitimation, (Legitimatis) A making lawful or Legiti-
matus; and Naturalisation, &c. makes a For-
reign a lawful Subject of the State.
Legis, A Departure from Service. — Si quis á Dominio suae Licitaria defixit, ut Lege amandu-
tor, &c. redire cogatur. Leg. Hen. 1. cap. 43.
Lent, (From the Germ. Lentos, i.e. Per, the Spring Field) is a Time of Fasting for forty Days, next be-
fore Easter; mentioned in the Est. 2 & 3 Ed. 6. cap.
19. And first commanded to be observed in England by Ercemund, seventh King of Kent, before the Year 800. Bokio's Chron. 7. No Meat was formerly to be eaten in Lent, or on Wednesdays or other fast Days, but in Licenae for Lent. 12 Hen. 7. cap. 7. And Bachers were not to kill Flish in the Lent, un-
less for visichalising Ships; &c. See Quadragesima.
Lex and Latae, (Lapte & Laffi) is a Custom in the
Manner of Writing in Com. Effex, that every Cart
which goes over Greenbury within that Manor, (ex-
cept it be the Cart of a Nobleman) shall pay 4 d. 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 Barrels: Whence we derive a Seco-lep. Du
Cange.
Lepoariaus, A Greyhound for the Hare. Cemcil
eis dav Leporariam, &c. ad Leporem capillorum in Ro-
Lepoziunum, Is a Place where Hares are kept toge-
Lepoziun amundentum, An ancient Writ that lies to
remove a Lepo or Lepiar, who thrusts himself into the
Company of his Neighbours in any Parish, either in
the Church, or at other publick Meetings, to their Annoyance. Reg. Orig. 1737. The Writ lies
against those Lepo a that appear outwardly to be fuch,
by Sore or their Bodies, Smell, &c. and not a-
grant others: And if a Man be a Lepo, and keep
within his House, so as not to converse with his Neigh-
bour, he shall not be removed. New Nat. Br. 524.
Le May be bruce. Words by which the Royal Assent
is signified by the Clerk of the Parliament to publick
Bills; and to a private Bill the King's Answer is,
Suis faut commn ii of diure.
Leet and Lutinn, And by these Words to a
Bill, presented to the King by his Houles of Parlia-
ment, are understood his Denial of that Bill.
Letteres, Trees fallen by Chance, or Windsfalls.
Breke the Acre 344.
Leffa, A Leaff of Greymounds, now refraining to
the Number of Three, but formerly more. Spelm.
Lepugendo, (Sz. Leaffs) Barn Minor. Honoris-
bus que jussus Legatari Latere was Dia Lann omne
omnium Men vacans, &c. Confini. Canut. de Forella,
Art. 2.
Leffa, A Legacy; and from this Word allo Leaff is
Leffey and Leffith, The Parties to a Leaff. See
Leaff.
Leffage, Mentioned in Some Writers, is the same
as Ladge.
Leffus or Leffiths, Is a Word signifying Failures,
in many Places of England, and often insered in
Deeds and Conveyances. Donif. Lacte Jerusalem. Was used for the customary Obligations made on Monday Sunday, when the proper Hymn was Lacta Jerusalem, &c. by the Inhabitants within a Diocese to the Mother Cathedral Church; and their voluntary Offerings on that Day, were by Degrees settled into an annual Composition or pecu-
nary Payment, charged on the Parochial Priest, who was preferred to receive them from the Peo-
ples of his Congregation, and oblige to return them to the Cathedral Church; and this among other Burdens, length thrown on the oppressed Vi-
cars, as appears by the Ordinance of the Vicarage of Erdels, in the Archdeaconry of Huntingdon. Anno 1290, where it is provided, Qui quidem Vicaros sedis Synodalius, Lactare Jerusalem, &c. From the ancient
Custum of Proclamations at that Time, began the Pra-
fice which is still retained in many Parishes of England, of Nothing being given in Visit Paroaxes on Monday Sunday. See Quadragesima.

Letters
Letters of Abolition, (Littera Absolutane) Or abolitory Letters, were such in former Times, when an Abbot released any of his Brethren ab somni judici- time & Obdemone, &c. And made them capable of entering into some other Order of Religion. *Man. Fra- verum, pag. 7.

Letter of Attorney, (Littera Attornetia) Is a Writ- ing, authorizing an Attorney to do any lawful Act in the stead of another, to give Seisin of Lands; receive Debts, or for a third Person, &c. And let- ters of Attorney are either General or Special. *Wryt. Symb. par. 1. Ste. 7. B. 2. c. 13. 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 Writ- ings are revocable, and sometimes not so: but when they are revocable, it is usually a bare Authority only: and they are irrepealable when Debts, &c. are assign- ed to another, in which Case the Word irrepealable is inferred. In Cases of Letters of Attorney, the Authori- ty must be strictly pursued: If it be to deliver Live- ry and Seisin of Lands between certain Hours, and the Attorney doth not arrive or appear; or in a Capital Mefflage, and he does it in another Part of the Land, &c. the Act of the Attorney to execute the E你觉得 shall be void. *Proc. 675. But notwithstanding the an- cessory Writings for purposing Authorities with greater Strifens 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, un- dertaking was not at all, as if a Letter of At- torney be made to three, two cannot execute it, be- cause they are not the Parties delegated, and they do not all act together, &c.: and generally, to deliver Seisin of Lands, &c. and one of them delivered Seisin of Part of the Land, and after another At- torney 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 Countries, with the Letter of Attorney, the Livery must be at several Times; otherwise it cannot be made. *Ibid. See 1 Lees. 360. 132. If a Mayor and Commonalty make a Feoffment of Lands, and execute a later of Deed, to deliver Seisin and Livery and Seisin, after the Death of the Mayor, will be good, by Reason the Corporation dieth not. 1 John. 52. 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; in this Case the Authority was adjudged to be so determined, that all the rest of the Creditors should have a Share in his Administration. *Proc. Cas. 12. 2. perf. 191.

Letters Clavis, (Littera Clavis) Chief Letters, ap- pell'd 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 Corre- spondent writes a Letter to another, requiring him to credit the Bearer with a certain Sum of Money. *Merch. Dict.


Letter of Licence, Is 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 Arrests in going about his Business; and in Case of Affiants give Leave to the Party to whom granted to refert freely to his Creditors, or any others, and to compound Debts, &c. And the Creditors 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. See my accomp. Conv. Vol. 1.

Letters of Marque, Are extraordinary Refrains for Reparation to Merchants taken and delivered by the Strangers at Sea, grantable by the Secretaries of State, with the Approbation of the King and Council; and usually in Time of War, &c. *Lax Mercur. 173. If a Letter of Marque were ill-wisely and knowingly taken 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 Pir- icy. 2 Bell. Abr. 530. See Reprisal.

Letters Patent, (Littera Patentes) Sometimes called Letters Charter, 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 fo called, because they are open with the Seal affixed, and ready to be shewn for Confirmation of the Authority therein given. 19 Eliz. 7. cap. 7. We read of Letters Patent to make Denizens, 19. Hen. 6. c. 16. 19 Hen. 5. c. 18. Letters Patent may be granted by common Perfections, but in such Case they are properly Patents; but for Dominion and Military Service, the King's Letters Patent have been called Letters Patent Royal. *Anno 2 H. 6. c. 10. Letters Patent conclude with Teafe me, &c. 1 Hen. 7. See Patents.

Levant and Cochenth, Is a Law-Term for Cat- tle that have been so long in the Ground of another, that they have lain down, and are rifen again to feed; in ancient Records well known. By the Castle 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 in Levant and Cochenth. *Tyr. &c. 2 Litt. Ab. 167. Beasts of a Stranger on the Lord's Ground may be distrained for Rent, though they have not been Le- vant and Cochenth: but it is otherwise if the Tenant of the Land is in Fault in not keeping up his Mouneds, by Reason whereof the Beasts escape upon the Land. *Wood's Inf. 190. See Distress.

Leaven, (From the Lat. Leuvarus, to make light- er) Is leavened Bread.

Leuari facias, A Writ directed to the Sheriff for levying a Sum of Money upon a Man's Lands and Ten- enements, Goods and Chattels, who hath failed in his Recognizance. *Reg. Orig. 293. This Writ is given by the Common Law, before the Statute Wryts. 2. cap. 18. gave the Writ of Ejectment, and a Leuari facias commands the Debe to be levied of existing & professo- rius Terra, &c. And Castle of a Stranger on the Land have been held Illeges of the Land, which is Debor. 1 Salk. 395. On a Judgment in an inferior Court, and a Leuari facias, whereupon a Warrant was made to levy the Debe de Terra & Cataliss, it was adjudged that the Precept ought to be to levy the Mo- ney de Terra, Basis & Cataliss, &c. 2 Laxm. 1410. A Leuari facias in Debit lies against a Parson, directed to the Bishop, &c. to levy the Money of his Spiritu- als Good. 15 Eliz. 4. 17. When a Year and Day is past, after the Day of Payment by the Recogni- zance, there should be ancienly a Writ de Debis; but now a Sire facias, &c.

Form of a Writ of Leuari facias.

GEORGE the Second, &c. To the Sheriff of S. Greeting: Because A B, &c. ought to have paid C. D. twenty Pounds, at the Feall of St. Michael, in the Year of our Reign, &c. as it appeareth to us by In- specion of the Affiants of the said A B, that the said sum hath not yet paid to him, as is said: We command you, that the
Leips. Paffure Grounds in several Counties of this Kingdom are called Leips, and used in Doomsday.

Leips. (Libellus) Signifies literally a little Book; but by Us, it is the original Declaration of any Action in a Civil Law. 1 H. 1. c. 3. It eignifieth also a scandalous Report of any Man spread abroad, or otherwise unworthily published, and then called a Publick Libellus, an infamous Libel.

And this is either in Scriptures, and after Scriptures; in Scriptures is when any Writing is composed or published to another's Disgrace, &c. And in Scriptures, where the Perion is not written in a shameful Manner, and with a Publick's Coat, Attes Ears, &c. or a Gallow, or otherwise ignominious Sign is fixed at his Door. 3 Hift. 174. Seneca hath denounciatory Libels Contaminating Libelli, and Bradden Curmulis Fantes; contagious Libels, and infamous Rhimes, which flow from Malice; and the Rumean would not permit their Lives and Fame to be subject to the Injury and Scandal of Poets; for they made an Ordinance, that whosoever should prime to compose any such Verities, were to be punished with Death. Treat. de Leips. 15. "Tis observed in our Law, that a Libel is the greatest Degree of Scandal, and does not die like Words which may be forgere, an Action for which is confined to the Peron; but the Cause of Action for Scandal in a Libel survives. 5 Rep. 125. A Libel is a malicious Affront of another, expressed in Printing or Writing; and sending either to blacken the Memory of one who is dead, or the Reputation of one who is alive, and to expose him to publick Harret, Contempes, or Ridicule: But in a larger Signification, it may be applied to any Defamation whatsoever. Ibid. 121. All Libelli are made against privy persons, and made publick against a privy person, and those against Magistrates deliver the greatest Punishment: If a Libel be made against a private Man, it may excite the Peron libelled, or his Friends, to revenge the Peace; and against a Publick Person, it may excite the Magistrate, and against a publick Person, it is not only a Breach of the Peace, but a Scandal to the Government, and shits up Sedition. Ibid. And although a private Peron or Magistrate be dead at the Time of making the Libel, yet it is punishable; as it has a Tendency to the Breach of the Peace. 2 Hift. 125. And with Regard to this Con- sideration, it is far from being a Judication of a Libel, that the Contents thereof are true, or that the Peron upon whom made had a bad Reputation; for in the greater Appearance there is of Truth in any malicious Investiqting, and the more provoking it is, the better it is. 125. Mor. 657. It is not Material whether the Matter be true or false, if the Proclamation be by Information or Indictment; but in Action on the Cause, one may justify that the Matter is true. 5 Rep. 125. Hift. 253. When any Man finds a Libel, if it be against a private Peron, he ought to bound it, or deliver it to a Magistrate; and where it concerns a Magistrate, he should deliver it prefently to a Magistrate. Ibid. If a Libel be found in a House, the Matter 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 Vint. 51. If a Printer print a Libel against a private Person, he may be indicted and punished for it; and so he may who prints a Libel against a Magistrate, and much more one who does it against the King and State: Nor can a Peron in such a Cause excuse himself by saying they were dy- ing Speeches, or the Words of dying Men; for a Man may at his Death justify his Villany; and he who pub- lishes it is punishable: And it is no Excuse for the Printing or Publishing a Libel, to say he did it in the Way of Trade, or to maintain his Family, but then he should deliver it to the Magistrate. 1 Paol. 982, 986. Also if Bookkeepers, &c. publish or sell Libels, though they know not the Contents of them, they are punishable. It has been re- solved, where Persons write, print, or sell, any Pamphlets, scandalizing the Publick, or any private Perons,
Perfon, such filibab Books may be fified, and the Perfon punished by Law; and all Perfons expofing any libel, or writing any defcalous, licentious or reflecting on the Government, may be punished: Alfo Writen of News, though not fancialous, licentious, or reflecting on the Government, if they write it felf open, is adjudicable to be punifhable. 

Spenf. Tri. 472. One was indicted for a Libel in flaundalizing the King’s Witneffes, and reflecting on the Juflice of the Nation, and had Judgment of Pifary and Fine. Iuf. 3 Parl. 90. A Person for defcalizing the Lord Chancellors, afcertaining, that he had done Injufice, and other defcalous Matters, was fentence to pay 1000l. Fine, to ride on a Horse with his Face to the Tail from the Fobe to Canterbury, with his Fault written on his Head, to acknowledge his Offence in all the Courts at Westminster, and in the Pilfary, and that one of his Ears should be cut off at Westminster, and the other in Cheapside, and to fubfer imprisonment during Life. Fap. 135. One who exhibited a Libel again the Lord Chief Juf policemen, directed to the Chief, called better Juf pio, a v. 

furred Juf. C. f. had Judgment to flay in the Pilfary, was fined 1000 Marks, and bound to the Good Behouvor during Life. Cr. Car. 135. The Perfon of the Gnome in the Jingle of the A. against the King’s Declaration, fettling forth, that it was founded in a fip的事情, Power, which had been declared illegal in Parliament, C. was called a fional Juf who was known to be a good Soldier, but an illiterate, C. this will amount to a Libel. Had. In the making of Labels, if one Man deflates, and ano 

other writes a Label, both are guilty, for the Writing is a Label; and if after another he afcerifns his Approbation of what is contained in the Label, and the fifth Reducing a Label into Writing may be fide to in the Writing, but not the 

Compouing: If one repeats, another writes, and a third approves what is written, they are all Makers of the Label; because all Perfons who concur to an unlawful Act are guilty by Law. The defcalizing a Label is the Genus; and Compouing 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. 

Seft. 2419. If one writes a Copy of a Label, and does not deliver it to others, the Writing is no Publication: But it has been adjudged, that the Copying a Label, without Author 

ity, is Writing a Label, and he that thus writes is a Contriver; and that he who hach a written Copy of a known Label, if it is found upon him, shall be liable to the Punishment of the Law; but if such Copy be not publicly known, then the bare having a Copy is not a Publication. 2 Seft. 417, 5 NEL. AV. 1122. Writ 

ing a Copy of a Label is Writing of a Label, as it has the fame pernicous Consequence and if the Law and Men might write Copies, and print them with Impunity. 2 Seft. 419. And when a Label ap 

pears 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 Compo 

ler, it is hard to find that he is not the very Men. 

Had. If one reads a Label, or hears it read, and laughts 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 mali 

cious Purpofe of Defemafion, it is faid to be no Offence. 9 R. 59. Mr. 1662. Every one convicted of Pub 

lishing a Libel, ought to be elloned the Contriver or Procourer: The Procourer and Writer of a Label have been held to be both Contrivers; alfo the Procourer another to publish it, and the Publishers are both Con 

viers: And the Contriver, Procourers, and Publishers of a Label, are punifhable by Fine, Imprisonment, Filbo 

ry, or other corpoal Punishment, and the Difcretion of the High Court of Treson. C. Mr. 637. 5 Rep. 152. 3 Inf. 174. 3 Cr. 17. In Informations and Law Proceedings there are two Ways of defcribing a Libel, by the Sebole, and by the Words
LI

Words: I the first is 

vast and absolute, and so is the 

power of the Sentence in the Book and in the Words, and all to which every Word is a Mark, so that if there is any 

Variance, it is fatal; in the other Declaration the Sense, it is not material to be very exact in the Words, be 

cause the Matter is described by the Sense of them. 

Salk 660. One great Intention of the Law in pro 

hibiting Labels against Persons, is to prevent Men from 

eavouring their own Judges of 

Complaints, and to oblige them to refer the Decision 

to the Law, 

Libel, in the Spiritual Court. If upon a Label for 

any Ecclesiastical Matter, the Defendant makes a Sub 

mise in B. R. to have a Prohibition, and such Surmise 

be insufficient, the other Party may shew it to the Court, 

and the Judges will discharge it. 1 Law. 102, 128. 

This Libel used in Ecclesiastical Proceedings, consists 
of three Parts. 1. The major Proposition, which 

flaws a just Cause of the Petition. 2. The Narration 
or Manuscript of the Petition. 3. The Conclusion, or con 

clusive Petition, which consists of two Propositions, &c. 

and the Form of it is as follows: In the Name of God, 

Amen, Before you the Worshipful T. F. Doctor of 

Laws, Principal Officer of the Conturbly Court of 

York, &c. The Party C. D. against A. B. alledge 

complaineth, and proponeth, &c. Imprimis, be doth 

propose, that the said C. D. was and is a Man very 

honest, just and upright of Character, and not 

known, Life, and Conversation, aspired or damned with 

no Crime, except what is afterwards mentioned; and is commonly 

Reputed and esteemed as such, &c. Item, That 

notwithstanding the Premises, the said A. B. out of 

a malignant Spirit, in the Month of, &c. in this present 

Year 1734, within the Parish of, &c. maliciously, 

and with an intent to make themselves their own Judges of 

Complaints, and to oblige them to refer the Decision 

to the Law, 

Libel. The law 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 Aisle, and that in the 

mean Time they should be unleagued. F. N. B. 77. 

Pilgrimage, and the Appendices thereto, &c. 

Write De 

nario habenda, Libertye probanda, &c. were of old 

great Titles in the Books of the Law, but are now 

antiquated. 

Liberratus alienornis, A Writ lying for a Ci 

cizen or Burgei, impliedly contrary to his Liberty, to 

have his Privilege allowed. Reg. Orig. 262. And if 

any one claim a special Liberty to be implanted with 

in a City or Borough, and not elsewhere, there 

must be a special Writ of Libertas alieno title, to per 

mit the Burgesses to use their Liberties, &c. These 

Writs are of several Forms, and may be used in a 

Corporation, or by any single Person, as the Case 

shall happen New Nat. Br. 500, 510. The Barons of 

the Cinque Ports, &c. may sue forth such Writs, if 

they have delayed to have their Liberties allowed 

them. Ibid. 

Liberratus episcopus in Hibernia, An ancient 

Writ whereby the King commanded the Judges in 

Ireland to admit of an Alien to the Defence of an 


Libertas Ecclesiastica, Church Liberty, is a fre 

quent Phrase in old Writs who treat of Ecclesiasti 

cal Immunities. The Right of Juvelience, accord 

ed from our Kings by the Papal Power, was at first 

the only Thing challenged by the Clergy as their Libertas 

Ecclesiastica; but by Degrees, the Church Liberty, they contended for a Freedom of their Persons and Possessions from all secular Power and Jurisdiction, as appears by the Canons and De 

crees of the Councils held by Rome, and Archbishop of 

Cantebury at Merton, Anno 1258. And at London, 

A. D. 1250, &c. 

Liberty (Libertis) is a privilege held by Grant 

or Preceptor, by which Men enjoy some Benefit 

beyond the ordinary Subject. Brad. But in a more 
general Signification, it 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 Na 

ture is ever an Advocate for this Liberty; it being 

the Gift of God to Man in his Creation, and there 

fore every Thing is deformed of it, as a Sort of Re 

stitution to its Primitive State. Fortesc. 56. 'Tis 

upon that Account the Laws of England in all Cases 

favour Liberty, and which is counted very precious, 

not only in Respect of the Profit which every one obtains by his Liberty but also in Respect of the 

Publick. 2 Litt. 169. The People of this Kingdom, are to enjoy them their Ancient Liberties 

without Impediment, by the Statue of Magna 

Charta. No Freeman shall be imprisoned or con 

demned, without Trial by his Peers, or the Law. 

Magna Charta, Article 15. A Person is to be 

arrested, &c. without Process at Law; And Mat 

ters which concern Liberty are to be specially deter 

mined, &c.
Licentia to build a house signifies to have a Court of one's own; and to hold it before a Mayor, Bailiff, &c. See Franchise.

License or Liberty of alienation. A Poind of Money in Weight: In former Times, it was usual not only to tell the Money, but he weighed it, as the Besard, several Clues and Places, and some Nobleman, had their Mints and the Coinage of Money, which being often very bid, therefore although the Pound consisted of 20 s. as now, they weighed it notwithstanding. God's Hist. Brit. p. 761. We read in Doomsday Register, vellident nume regiuni. Libras aris de prufacis; and that sometime People took their Money at Numeium, by Tale, in the current Coin upon Consent: and sometimes they rejected the common Coin by Tale, and would melt it down to take it by Weight ad Salam, when put flat from the Dross, and ten great Alarum; for which purpose they had in those Days always a Fire ready in the Excelsior to burn the Money and then weigh it as Doomsday.

License, Where a Library is erected in any Parish, it shall be permitted for the Uses directed by the Founder: And Incumbents and Ministers of Parishes may give Security of Copyhold, 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 each Book shall be taken away and destined, a Justice's Warrant may be issued to search for and restore the same: Also Action of Trespass may be brought in the Name of the proper Corporation, &c. And Bishops have Power to make Rules and Orders concerning Librarians, appoint Permons to view their Condition, and Inquire of the State of them in their Violations. Stat. 7 Ann. c. 23.

Libertas terrae, is a Quantity of Land containing four Oxgangs: But some lay it is so much Ground only as is worth yearly 20 s. of current Money. See Stat. 7 Ann. supra c. 23.

Licentia is a Power or Authority given to a Man to do some lawful Act: And is a personal Liberty to the Person, whom cannot be transferred over; but it may be made to a Man, or his Assigns, &c. 12 H. 7. 25. There may be a personal Power given as well as by Deed in Writing; but if it be not for a certain Time, it passes Interim. If! Arn. 1793. And if there be no Time certain in the Licentia as if a Man live more ever to Dig a Well, &c. in his Land, but does not lay how long, the Licence may be countermanded; though if it be until such a Time, he cannot. Pap. 151. If a Letter licences his Leifie (who is restrained by Covenant from aliening without Licence) to alien, and such Leifie dies before he alien, this is no Countermand of the Licence: So it is if the Leiffer grants over his Estates. Stat. 17 Ann. 103. But where a Lord of a Manor for Life grants a Licence to a Copyhold Tenant to alien, and dies; the Licence is declared, and the Power of Alienation ceaseth. 1 Inf. 52. Copyhold Tenants losing 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 Inf. 6. If any Licence is given to a Person, and he absconds, he shall be adjudged a Treasurers ab initio. 8 Rep. 145. A Grant to B a Way over his Ground, or Licence to go through it to Church, by this none but B himself may go in it: But if one give a Way over his Land to B, he might go over the Ditches of B; or to cut down a Tree therein, and take it away; by this, I may take what Help is needful to do the same, as fish, &c. And so Lord the King has a right away Dear: for if it be to hunt and kill only. 12 H. 7. 25. 13 H. 7. 7 C. Rep. 146. By Licence a Man may practice Physick and Surgery in London; and do divers other Things, by Statute 5 H. 8. c. 7. &c.

Licentia to alien in Mortmain. Alienations in Mortmain to Ecclesiastical Persons, &c. are prohibited by several Statutes; but the King may grant Licences to any Person or Bodies Politick, &c. to alien or hold Lands in Mortmain. 27 Ed. 1. 7 & 8 W. 3. c. 32. See Mortmain.

Licentia ad aris, (Licentia servanda) is a Liberty of Space of Time given by the Court to a Tenant to aris out of his Bed, which it is either de male levis in a real Action: And it is also the Writ therupon. Braden. 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 sherrif appointed, and hath a Day assigned him to appear the Reason whereof is, that it may be known, whether he confined himself to be effaced decently, or not: and if the Demandant can prove that he was abroad before the View or Licence of the Court, he shall be taken to be deceitfully effaced, and to have made Default. Braden, lib. 5. Flite, lib. 6. cap. 10.

Licentia to found a Church, granted by the King. See Church.

Licentia to go to Steflton of Bishops is by Gyge de Esire directed to the Dean and Chapter to elect the Person named by the King, &c. Reg. Wr. 104. Stat. 25 H. 8. c. 20.

Licentia of the King to go beyond Sea, may be revoked before the Time expires, because it concerns the publick Good. See Reg. Stat. 7 & 8 W. 3. cap. 35.

Licentia to erect a Park, Warren, &c. See Park and Warrens.

Licentia conceirradi. Is that Licence for which the King's Silver is paid on pulling a Filling, mentioned in the Statute 7 & 8 H. 2. c. 12.

Licentia de Warrind. A Writ or Warrant directed to the Keeper of the Port of Dover, or other Sea Port, commanding them to let such Permons pass over Sea, who have obtained the King's Licence thereunto. Reg. Op. 103.

Libellus Lawi. Is a provosalt Speech, intending as much as to hang a Man first, and judge him afterwards.

Libertas, (Ligetra) 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. 34 & 35 H. 8. The King's Subjects are called Liege People, because they owe and are bound to say Allegiance to him. Stat. 8 H. 6. c. 10. 14 H. 8. c. 2. But in ancient Times, private Persons, as Lords of Manors, &c. had their Ligets. Stone faith, that this Word is derived from the Hart. Liget, a Bond or League; others derive it from Litus, which is a Man wholly at the Command of the Lord. Bloom.

Ligetra, (Ligetania) Is 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 Ligetania of the King. Us. Stat. 25 Ed. 5. C. Lit. 129.

Ligetania, (Ligetania) Is such a Duty or Folly, as no Man may owe or be leased by more than one Lord; and therefore it is used for that Duty and Allegiance, which every good Subject oweth to his Liege Lord the King. Ligetania of Portolanus arterioe Sedetum de Portam urbe urbeae iuvident clementissimae bona de Portuscolanum et Juvum regi.
L I

Lignum Ulmus, An Apothecary's Drug, of great Price. Lignum subtilis of the Product of the British Plantations in America may be imported free from all Cullums and Impediments. Stat. 1 Geo. 1. c. 17.

8th. Copy of the Subsidy issued to the King, his Pais of a fair and faithful Obedience, and ought to prefer the Service of his Prince and Country before the Safety of his Life; and the Sovereign is to protect and defend his Subjects. Fortify, See Alliance.

63. Sec. 3. In a Word stood in the Law, of two Significations: Personel Laws, such as a Bond, Covenant, or Contra; and Real Laws, a Judgment, a Statute, Recognizance, which oblige and affect the Land. Terme de Ley 427.

64. If in the Place of another Thing. Litt. Dict. And when one Thing doth come in the Place of another, it shall be of the same Nature as that was; as in a Cafe of an Exchange, &c. 2 Steph. Abr. 352.

65. Sec. 4. In Law Proceedings, signifies a Cafe, Manor, or other Notorious Place, well known and generally taken Notice of by those that dwell about it. A Person may appear, by being a person in a Cafe; and a Fine or Recovery of a Land in a Cafe, is good, but it is said in a Cafe fac. to have Execution of such Fine, the Vill or Parish must be named. A Cafe 574. 2 Mod. Rep. 48. 49.

66. Lieutenant, (Legion tenens) is the King's Deputy, or he that exercises the King's or any Other's Place, and effectually his Person; as the Lieutenant of Ireland. Stat. 4 Hen. 4. c. 6 & 6 Ed. 6. c. 2. The Lieutenant of the Ordnance. 50 Eliz. cap. 7. And the Lieutenant of the Tower, an Officer under the Capi- taine. &c. The Word Lieutenant is used for a military Officer, next in Command to the Captain.

67. Price (Prae) is Common Nature; and the Life of every Man, Woman, and Child. Stat. 4 Eliz. 2. 2 Mod. Wуд. 'Tis 11. A Lease made to a Person during his Life, is determinable by a civil Death; but if it be held to hold during natural Life, it will be otherwise. 2 Rep. 8.

68. Rent, A Rent which a Man receives for Term of Life, or for Suffocation of it. Skene.

69. Righter, A right that carry away by Water, Dung and Rubbish, or Coals, &c. in Lights, from the City of London. 23 & 25 Car. 2.

70. Righteous, A useful Light to be placed in a Place, directed on the Edder, by the Master Wardens and *Adulterant of Twenty-bows of Longford-Strand; and Masters of Ships passing by the same, are to pay a certain Tonnage Duty. &c. Stat. 4 & 5 Ann. The like Act concerning the Lights builded by William Tranch. Eqd. on the Island or Rock called Storrs, next Holbead in the County of Anglesy. 3 Geo. 2. cap. 56.

71. Rights. Stopping Lights of a House is a Nuisance; but stopping a Proprietor is not, being only Master of Delight, and not of Necessity; and a Person may have either an Affidavit of Nuisance against the Person erecting any such Nuisance, or he may stand on his own Ground and abate it. 9 Rep. 38. 1 Mod. 54. If a Man has a vacant Piece of Ground, and builds thereupon a House with good Lights, he who 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 Defendant may have an Affidavit of the Cafe against such Builder. &c. And though formerly they were to be Lights of an ancient Mestage, that is now altered. Mod. Ca. 116, 51.

72. Lignumfigium, Signifies the Right which a Man hath to the cutting of Fuel in Woods; and sometimes it is taken for a Tribute or Payment due for the same.
When Money is to be paid as a Truant, is not within the Statute of Limitations; March 1521. 2 Fewr. 37. This is brought against a Sheriff for Money levied in Execution of a Judgment, it is not within the Statute; because the Action is brought against the Defendant as an Officer, and the Law is that when the Officer is the Defendant, the Time of the Action to fix him, the Defendant was at that Time a Member of Parliament, and then the Civil Wars began, and continued till such a Day, and that he brought his Action within Six Years after the Wars ended, &c. On a Denial the Return was quashed, because the Defense was adjourned ill and it was held that the Plaintiff ought to have filed an Original, which is no Breach of Privilege. Carv. &c. 25th June, 1642. A Defendant, under Parliament. The King is not within the general Acts of Limitation; nor Ecclesiastical Persons, for Lands belonging to their Churches. 11 Rep. 74.

Limitation of Estates, is a legal Sense, imports how long the Estate shall continue, or is rather a Qualification of a preceding Estate. A Limitation is generally by such Words as Esquire; or by such Terms as Tenants in Common, &c. and if there be not a Performance according to the Limitation, it shall determine an Estate without Entry or Claim; which a Condition does not. 10 Rep. 41. 1 Inf. 40. It is taken for the Compulsory and Time of an Estate: As where one doth give Lands to a Man, to hold to him and 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. Litt. 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. Co. 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 it. Hill. 25 Car. B. R. Where a Devise is to the eldest Son, upon Condition that he pays such Legacies; and if he refuses, the Land shall remain to the Legates: On his Refusal the Executors may extinguish the Estate, at the lesser by way of Limitation. Noy. 51. And in all Cases, where after a Condition, an Intereft is granted to a Stranger, it is a Limitation. 1 Lew. 209. Co. Eliz. 204. It was held by 10c. 17, that the Statute of Limitation's 1 Ed. 1, ought not to be taken strictly; but all Limitations within the Meaning of it are to be supported: And therefore Words of an express Condition be not ordinarily construed as a Limitation; yet when an Estate is to remain over for Breach of any Condition, which is by the express Words thereof, it should be intended a Limitation. 3 Camp. 16. All Lands may be given and limited to one in Tail, Remainder to another, Remainder in Fee, &c. Though a Limitation of an Estate cannot begin after the Determination of an absolute Estate in Fee-simple, for that would be to foilder Perpetuities to be made, which the Law abhors. 2 Litt. Abr. 173. Limitations of Estates against Law, creating a new Form of Property, is extreme, will not be suffered to take Effect. 10c. Cent. 82


Resimium. A Fasx plat, where Fasx is found. Et Meltingum. &c. cum simul, posset juxta praedict. Meltingum. Pat. 22 Hen. 4. Par. 1. m. 33

Lincoln's Inn Ficts, to be included by Trustees, who may employ Artificers, &c. And Yearly Rates shall be made on all Housies there, not exceeding 21s. 6d. In the Pound. In the Bed, Sove, and Kitchen, yours are to be a distinct Ward, as to the Scavengers Rates and Watch; and Persons annoying the Fields by Fitch, to forfeit 20s. and aflinking to 6d, or breaking Peace. If, in a Fitch or winding a Lane be levied by Justice of Peace's Warrant. Stat. 8 Geo. 2. c. 86.
Lettenburgh, A Place often mentioned in our an-
cient Histories; being formerly a Bishop's Seat, now
Holy Island.

Letten. No Person shall put to Sale any Piece of
Linen, &c. unless the full Length be expresed
thereon, on Pain to forfeit the same. 28 H. 8. c. 4.
Using Means whereby Linen Cloth shall be made de-
ceitfully, to the Damage of the Linen, and a
Persons may set up Trades of dressing Hemp or Flax,
and making Thread for Linen Cloth, &c. 15 Car. 2.
c. 13. And Linen of all Sorts made of Flax or Hemp,
of the Manufacture of this Kingdom may be exported
Duty-free. 3 Geo. 1. c. 7. Linens made in Great
Britain and Ireland being much improved, to extend it
further, a Bounty of one Penny for every Yard of such
Linens from 6d. to 12d. per Yard, and a Half penny
for each Yard, under 6d. Price, is granted on Export-
ing them; by 15 Geo. 2. c. 29. Stealing of Linen,
&c. from Whiting Grounds or Drying Houses, to
the Value of 10s. is Felony. See Felony. Stat. 4
Geo. 3. c. 16. 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 5L. By the Stat.
18 Geo. 2. c. 24, for the Expiration of foreign Linens
under the Denomination of British or Irish Linens. The
Stamp-Master is to be sworn to the true Execution of his
Office, and to be liable to a Fine, and be sworn to
be the Manufacture of Scotland or Ireland, and a Pe-
nalty of 5L. each Piece is laid on false Stamps. And
by the Stat. 18 Geo. 3. c. 25. an additional Bounty is
granted, to the Encouragement of British and Irish Linens,
of one Half penny per Yard for Linens of the Value of
from 5d. to 12d. per Yard, and 1d. per Yard for
Linens of the Value of from 1d. to 6d. per
Yard.

Linsted. All Persons may import Linen into this
Kingdom, without paying any Custom for it. Stat.
3 Geo. 4.

Litern. (From the Fr. Litieras, or Litieres, Lat.
Lichum) Was anciently used for Straw for a Bed, even
the King's Bed. —Perce A. tenus, &c. per Ser-
iationem imparabiles, &c. Simons Totius Libri
per 40 Dis, &c. invented. Litertam ad Lichum Regius,
Faciem ad Pallium Regius, quodac pictum opit, &c.
Ter. Hill. 1 Ed. 2. Litier is now only in Use in
Scholes, and Denoted Symb. 18 Ed. 1. And it is Litier
in three Cart-loads of Straw or Litier. Mon. Angl. Tem.
2. Ptg. 33.

Litteratura. Ad Literaturn potest, signifiis to put
Children out to School; which Liberty was anciently
denied to those Parents who were servile Tenants,
without the Consent of the Lord; and this Prohibi-
tion of educating Sons to learning, was owing to this
Reason; for Fear the Son being bred to Letters might
enter into Orders, and so fop or divert the Services
which he might otherwise do as Heir to his Father.
—Quidlibet iurisdictus tenens, non deat Filium suum
ad Literaturn ponet, nec Sibilia suam maritatis,

Literea Ad facultatem Articularum pro seilia facti.
Reg. Orig. 192.

Literea Cum locitam et Extricandam Iurisdictionem lo-
serit sua. Ibid. 305.

Literea Per quas Dominus remittit Curiam suam Regi.
Ibid. 4.

Literea De Regulam. Ibid. 129. See these in
their proper Places.

Litterae falsae, Were magical Characters sup-
poised to be of such Power, that it was impossible for
any to bind those Persons who carried their about
them. Ibid. 4. c. 11.

Lith of Pickering, In the County of York, win.
The Liberty, or a Member of Pickering, from the
Sax. Law, 1. e. Membrum.

Litigantia. (Lat.) A Party Pleading, that contends
or litigates a Suit at Law. Lit. Diet.

Litigious. The Litigious of a Church, is where
several Persons have or pretend to several Titles to
the Patronage, and pretend several Claims to the Con-
stantity, etc. by which, it excuses him for refusing to admit any of them,
till a Trial of the Right by Just Paritatarum, or other-
wise. 1. Anti. 11.

Libertas. (Fr. Livre, i. e. Ingenia Gesserum, or Li-
teres, i. e. Traders) Hath three Significations. In
one Sense, it is used for a Suit of Clothes, Cloth, Gown,
Hat, &c. In another, a Nobleman or Personage gives
to his Servants or Followers, with Cognizance or
without; mentioned in the 1. R. 2. c. 7, and di-
vers other Statutes; And formerly great Men gave
Liberties to several who were not of their Family, to
engage them in their Quarrels for that Year; but af-
terwards it was ordained, that no Man of any Condi-
tion whatsoever, should give any Liberty but to his De-
wheliks, his Officers, or Counsell learned in the Law.
By 1. R. 2. it was prohibited on Pain of Imprison-
ment; and the 1. Hec. 4. c. 7, made the Offenders
liable to Random as the King's Will. 1. Stat. which Sta-
tute was further confirmed and explained, Ann. 2 & 3
Hen. 4, and 8 Hen. 6. c. 4, and yet this Office was
to deeply rooted, that Edward 4. obliged to confirm
the former Statutes, and granted the Possession of
them, adding a Penalty of 5L. on every one that gives
such Liberty, and the like on every one re-
tained for Maintenance either Writing, Oath, or
Promise, for every Month. 8 Ed. 4. c. 2. But most
of the above Statutes are repealed by 3 Car. 1. c. 4.
Liberty in the second Signification, was a Delivery of
Possession of Lands, Tenements or other Real Rights,
and the tenants which held of the King, in Capite,
or Knights Service; as the King by his Prehngs have
a primogeniture of all Lands and Ten-
ements to holden of him. Stat. 1 Edw. 12. In
this sense a Liberty was the Will which lay in the
Heir of Age, to obtain the Possession or Seisin of his
Lands at the King's Hands. F. N. B. 155. By the
Statute 12 Car. 2. c. 14. All Warohips, Leases,
are taken away.

Liberty of Seisin. (Latinam Seisina) Is a Deli-
very of Possession of Lands, Tenements and Heredi-
taments, in person that one hath right to the same,
being a Ceremony in the Common Law used in the Con-
veyance of Lands, &c. where an Easne of Fee sim-
ple, Fee tail, or other Freehold palatia. Brunt. Rel. 2.
Libers. Symb. 18. And it is an Extension of
familial of the willing Departing of him who makes the
Liberty, from the Thing whereof the Liberty is
made; and of the willing Acceptation of the other
Party receiving the Liberty; Britt invented that the
common People might have Knowledge of the passing
or Alteration of Easnes from Man to Man, and thereby
be better able to try in whom the Right of Poff-
session of Lands and Tenements were, if the same
should be contested, and they should be impræselfed
on Juries, or otherwise have to do concerning the same.
Web. Ibid. This Liberty may be made of a House,
Lands, or any Thing corporeal but not of incorpo-
real Things. Where a House and Lands are convey-
ed, the House is the principal, and the Lands acco-
any; and there the Liberty must be made, and put
upon the Land. 2 Rep. 31. 4 Law, 374. And of Li-

certy and Seisin there are two Kinds; a Liberty in Deed,
and Liberty in Law. Liberty in Deed is when the Per-
son for taketh the Ring of the Door, &c. and delivereth
the same to the Feoffee, in the Name of Seisin. 1 Inj.
48. 6 Rep. 26. And Liberty in Deed may be either by Word, or by Some solemn Act; or by Words, and
out some solemn Act, if the Feoffor and Feoffee are on
the Land. Wood's H. 257. Liberty in Law is when the
Feoffor himself being in View of the House or Land,
Doth Make the Feoffor, after Delivery of the Deed, I give to you under Land, etc. to you and your Heirs,
go into the same and take Puffinon accordingly; now if the Fee-feoff enters on the Land, during the Life-time of the good Fee-feoff and Leafe, 11 Th. 48. 52. If a Deed of Feoffment be delivered upon the Land, in the Name of Seifin of all the Lands, it will be a good Leavy and Seifin; but the better. Do not make a Leafe of the same Lands, though it may make the Deed, it shall not amount to Leavy and Seifin, without those Words. 11 Th. 52. 181. If one makes a Feoffment to four Persons, and Seifin is delivered to Three of them, in the Name of All for the Eatee is vested in all of them. 3 Rep. 56. And if Lands lie in divers Places in one County, Leavy and Seifin in one parcel in one Place, in the Name of the Reit is sufficient; though if the Lands lie in several Counties, it is otherwise; for then Leavy and Seifin must be in every County. Lit. 61. No Person ought to be in the House, or upon the Land, when Leavy is made, but the Fee-feoff and his Executors; all others are to be removed from it: If the Leffe Feoffor makes Leavy and Seifin, the Leffe entering upon the Land concerning it, the Leavy is void. 21 Ed. 321. A Leffe enfeoffed a Stranger, and came to make Leavy and Seifin, the Leffe's Wife being in the House, the Leffe enters, and by Force turns the Wife into the Backside, which was Part of the Land let, and then he makes Leavy in the House, in the Name of all the Lands; as the Woman was remaining at the white House, and concerning the Leavy, the Leavy was held void; but if the had voluntarily gone out of the House, upon Part of the Land; or the Leffe had turned her into the Street, so then he would not have been upon any Part of the Land; it had been good. 8 Dall. Rep. 94. If a Man agrees with me to make a Feoffment upon Condition, and after makes a Charter of Feoffment without any Condition, but then makes Leavy and Seifin, in the Name of All for forman Charter, this is absolute without any Condition; for the Leavy is not made according to the Agreement, but according to the Condition. 154. 154. If a Person enfeoff another, as a Security for the Payment of Money, and afterwards makes Leavy of Seifin to him and his Heirs generally; the Eatee hath been helder to be upon Condition, since the Interest of the Parties was not changed, but continued at the Time of the Leavy. 1 Th. 222. And where a Charter of Feoffment is made, and in the Deed there is no Condition; but then makes Leavy and Seifin, the Leffe Feoffor makes Leavy of Seifin to the Feoffee by Force of the Deed, he expelling the Eatee, makes Leavy of Seifin upon Condition, the Feoffment is void as if it had not been made. Lit. Soc. 350. 2 Down. Abr. 13. A Man makes a Leafe for Years, Remainder to another for Life, in Tail or in Fee: Here Leavy and Seifin in Deed must be made to the Leefe for Years; without which nothing passeth to him in Remainder, it being for the Benefit of him in Remainder, and not the Leffe which hath only a Term: And if the Leffe entereth, before Leavy and Seifin, made to him, the Leavy will be void. Lit. 60. 1 Th. 49. Wood's Inf. 218. A Leafe for Years is granted to A. B. with Remainder to his right Heirs, whereon Leavy is made; the Remainder is void, because there is not any Person in eft, who can pretely take by the Leavy; and every Leavy ought to have its Operation pretently. 4 Leon. 3. There was a Leafe made to a Man and his Wife, and their Daughter, to hold from Michaelman next, and the Leffe made Leavy after Michaelman; this was adjudge good, being made by the Leffe him self; but it had been otherwise, if it had been to be done by Attorney, or if the Leffe had made Leavy before Michaelman. 2 Red. Rep. 109. Leafe for twenty Years to a Man to commence from a Time past; and after the Expiration of the said Term, then to him and his Wife, and their Son, for their Lives, and the longer Lifter of them, with a Letter of Attorney to make Leavy and Seifin, &c. It is a good Leasy for Years, with Remainder for Life, if Leavy and Seifin be made by the Attorney at the Time of executing the Leasy; but if the Liberty and Seifin be made by the Attorney some Time afterwards, in such Case it is said the Leasy is void. Note 134. A Man makes a Letter of Attorney to make Leavy or Sale by Force of the Deed, which may be contained in the same Deed; and a Letter of Attorney may be like-wised made to receive Leavy and Seifin. 5 Rep. 91. 1 Inf. 49. 52. The Nature of making Levey of Seifin is thus: The Parties to the Deed, Grantor and Grantee, or the Attorneys by them authorized, come to the Door of the House, or some Part of the Land; and there having declared the Cause of their Meeting, in the Presence of Witaners, they read the Deed or the Contents thereof; and if by Attorney, the Power of Attorney; and then, if it be a House they take the Ring, Latch or Key of the Door, (all the People being out of the House,) or if it be Land, a Cloot of Earth, and a Twig or Branch of one of the Trees there by; and the same Ring or Key, Cloot, Eftc. with the Deed they deliver to the Grantor, or his Attorney, laying the usual Words, viz. I A B. do hereby deliver unto C D. Puffinon and Seifin for this Mynefrage or Tenement, &c. To hold to you, your Heirs and Assigns, according to the true Intent and Meaning of this Indenture, &c. And afterwards, if it be a House, to the Grantor, &c. enters first alone, and shuts to the Door; and then he opens it, and lets in others. Accomp. Conv. 36 Ed. Vol. 1.

Livery and Seifin in dered on the Deed.

Mr. Emonandum, That on the Day, &c. fell Puffinon and Seifin was had and taketh of the Highe or Tenement, and Premisses within granted, by A. B. one of the Attorneys within named, and by him devided 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.

If a House or Lands belong to an Officer, by Grant of the Office by Deed, the Houde or Land palleth without Leavy; And by a Fine, which is a Feoffment of Record; and by the Deed and Release, and Sale by Deed inrolled ; Exchange, &c. a Freehold palleth, without Leavy; and so in a Deed of Feoffment to Life, by Virtue of the Statue of 37 Eliz. 1 Inf. 49. So that Leavy and Seifin is not to commonly used as formerly; neither can Eatoes be created now by Leavy and Seifin only, without Writing. Stat. 29 Car. c. 3.

Liberty and Dutier in Maine, Is where by Inquest before the Ephewer, 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 Hand. Stat. 29 Ed. 1. 28 E. 3. c. 4. vide Dutier du Maine.

Liberty of London, In the Companies of London, Liberty Men are chosed out of the Freeman as Affiliates to the Makers and Wardens in Matters of Council, and for better Government; and if any Liberty-Men refuse to take upon them from the Office, the Lord Mayor and Aldermen may fine him, and bring an Action of Debt for the Sum. 1 Mod. Rep. 10. See London.

Libr. Is a Piece of Foreign Coin, in France going for 1. 6d. and in other Countries of les Value; but in Spain their Libris pass at 5. Accounts are kept by this Money in France, Spain, &c. Note 7. Red. 113. 14. 2. Red. 114. 115. 116. Lobb is a North Sea Fish; and Lach comprehends Lob, Ling and Cod. Stat. 3 Ed. 3. c. 2. 6 F.
Lethari. No Person shall, with Trunks, Hoop-
Nets, or any other Articles, take or kill any Lethari in the Sea built above three
and twenty Years, and nourished for fifteen hundred Years. It's Exchange, where Merchants of all Nations meet, is not to be equalled; and for Statehouses of Build-
ings, Books of Bonds, Learning of Arts and Sea-
ences, Traffic and Trade, this City gives Place to
none in the World. Lethari. It is divided into Two-
ent Threes, one of which is an Alder-
man; and is governed by a Lord Mayor, who is
chosen Yearly, and presented to the King, or in his
Abdence to his Judges, or the Barons of the Ex-
change. Wcutmantur. Capt. R. Hill. 5. The Mayor of London, for the Time being, is Chief Ju-
stice of Gaol-Delivery; Escheator within the Liberties, and Bailiff of the River Thames, &c. He is a High
Office in the City, having all Courts for Absolu-
tion of Juifce under his Jurisdiction, &c. The Court of
Hudlings, Sheriff's Court, Mayor's Court, Court of Court of
Common Pleas. In 1530. King Hen. 4. &c. Granted to the Mayor and Commonalty of London the
Affile of Bread, Beer, Ale, &c. and Viscuals, and Things Salesable in the City. In London every
Day, except Sunday. The Mayor does not interfere with the Sale of
Goods and Merchandise. 5 Rep. 83.; but no Person being a Freeman of London,
shall sell any Shop or other Place to put to Sale by Retail or Wholesale Goods, or sell any Goods for Hire, or sell any Trade for Hire, Gain or Sale within the City, upon
Pain of forfeiting 5l. 8 Rep. 154. And Persons making ill and unwarrantable Sales in London, the Chief
Officers of the Company may seize and carry away to the Guildhall, and have the Goods sold by a
Justice, and if found defective, they may break them,
&c. These are Orders given over the City of London to the Freeman of London to be entitled to carry on Mer-
chandize there, or within ten Miles of the City. Char.
Car. 1. Where a Wooman exercifeth a Trade in London, her Husband doth not interfere with the
Culfum the shall have all Advantages, and be
Sued as a Free Sale Merchant: But if the Husband
meddle with the Trade of the Wife, or carry on the
same Trade, it is otherwise. 13 K. 3. 99. &c. There are three Ways to be a Freeman of London; by
Secretary of an Apprentice; by Birthright, as being the Son of a Freeman; and by Redemtion, i. e.
by Order of the Court of Aldermen. Ind. 152. 4.
Med. 145. The Culfums of London are against the
Common Law, and made good by Parliament. 4 Inf. 294. 1590. for Law. There is no such a Culfum or Ulage in the
City of London, it must be said Antiqua Civitas, or
it will not be good. 2 Lem. 99. By Magna Charta, the City of London shall have all their ancient Ulages, Liberties and Culfums, which they have used to enjoy;
and they are confirmed to them by that Statute, 9 Hen. 3. c. 9. And there is a Cultum in London to
punish by Information in the Mayor's Court, in the
Name of the Common Serjeant of the City, Attains
on Aldermen, and affronting Language, &c. Exac.
Rep. 28. 29. Upon the Cultum of London concerning
the Payment of Wharfage, &c. by every Freeman in the
Corporation, the Trial shall not be by the Mouth of
the Recorder, as Cultums generally are, but by the
Country, and a Jury from Surrey adjoining. Non cap.
120. An Arreis may be made in London on the Plain-
tiff's entering his Plaint in either of the Counters, and a
Serjeant of London need not flee his Mace when he
Arreis One: And the Liberties of the City extend to
the Sabhord and Temple Bar. 199. The Mayor of
London is to cause Errors, Defaults, and Mif-
prisions there to be redressed, under the Penalty of
1000 L. and the Convex of the Town Hall for every
execute Process against the Mayor for Default, &c.
28 Ed. 3. cap. 10. Citizens and Freeman of London may
recover Debts under 40l. in the Court of Ref-
quells at Guildhall, commonly called the Court of
Confidence.
Confidence, 3 Jan. 1. c. 15. After the Fire of London, a Judicature was erected for determining Differences relating to Houses burnt; and several Rules were laid down for rebuilding the City, the several Streets and lanes. The Lord Mayor and Aldermen were to set out Markets; the Number of Parishes and Churches was ascertained, and a Duty granted on Coals for Rebuilding of the Churches, 19 Car. 2. cap. 22, and 13 Car. 2. c. 1. The Tide of the Parishes in London, the Churches whoseof were burnt, were appointed; none left test 100 l. per annum, nor above 500 l. per annum to be assessed, and met quarterly. 22 & 23 Car. 2. c. 15. The Lord Mayor, &c. is empowered to appoint Permons to set out the Manner of Paving and Pitching the Streets of London and also of Drains and Sewers, and to impose a Tax upon Houses for Maintenance thereof. 22 & 23 Car. 2. c. 17. Scavengers are to be elected in London, and within the Bills of Mortality, in each Parish, by the Conformable Churchwardens, &c. to see that the Streets be kept clean; and House-keepers are to sweep and cleanse the Streets every Wednesday and Saturday, under Penalties, 2 W. 3d. M. S. 3. 105. 1 Perons authorized by the Lord Mayor, Aldermen and Common Council of London shall have the Power in London and Liberties thereof, and Commissioners of Sewers in any other County or Place, 7 Ann. cap. 9. Commissioners are appointed for supplying the City of London with Water, from the River Thames, &c. and calling Filling up and Maintaining of new Wells, &c. incurs 40 l. Penalty, 8 Geo. 1. c. 26. By a late Statute, for regulating Elections within the City, it is ordained, That Elections of Aldermen and Common Council members are to be made by balloting, the present Tuesday and Lot, and having Houses of the Value of 10 l. a Year; and none shall vote at Elections of Members of Parliament, but Livery-men that have been Twenty Months on the Livery, and who are not discharged from Payment of Taxes, or those who have received any Alms, &c. and Freemen of London may dispute of their present Ealdos as they think fit, notwithstanding the Custom of the City: but the Aforesaid elections as shall be made Free after such a Time, and others before unmarried, 11 Geo. 1. c. 13.

In Trinity Term 35 Car. 2. a 2d Warrant is cited against the Lord Mayor and Citizens of London, on which Judgment was given in B. P. that the Charter and Franchise of the said City should be forfeited into the King's Hands as forfeited: But by 2 W. 2d. M. S. 1. cap. 8. the said Judgment was reversed and made void, and all Officers and Companies were restored, &c. See Caufos of London, and Courts, Lamps, Buildings, Orphans, &c.

Longitude. For the Discovery of the Longitude at Sea, the Lord Admiral and several others are appointed Commissioners, to receive Proposals, &c. and if they are satisfied of the Probability of such Discovery, the Commissioners of the Navy have Power to make Bills for any Sum not exceeding 3000 l. to make the Experiment; and the first Discoveror of a Method for finding the Longitude, is intitled to a Reward of 10,000 l. if he determines the same to one Degree of a Circle, 15,000 l. if to two Thirds of that Distance, and 20,000 l. if to one Half of a Degree, to be paid by the Treasurer of the Navy, 13 Geo. 4. c. 15. The Commissioners for discovering the Longitude, may apply Part of the 3000 l. ordered for Experiment, to be laid out in making a Survey and fixing the Latitude and Longitude of the several Coasts. The Act renders the Longitude by the Liticost at Sea useful. Stat. 14 Geo. 2. c. 59.


Lord, (Dominius) Is a Word or Title of Honour, diversly used, being attributed not only to those who appear noble by Birth or Condition, but to all Members of Parliament, and Peers of the Realm; but to such as called by the Curity 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 some Time to a private Person that has the Use of a Manor, and consequently the Homage and the eqms which are due to the 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 Local; and Very Lord, &c. Old Nat. Br. 79. See Nobility.

Lord in Grace, Is he who is Lord, not by Reason of any Manor or by the King in Right of his Crown, &c. F. N. B. 3. 8.

Rerum, (Fr. Lorum, from the Lat. Lorum) Is one of the Companies of London, that make Bits for Broder, Spars, and such like small Iron Works, mentions in the Stat. 1 R. c. 12.


Lot, A Contribution, or Duty. See Scot.

Lot or Loot, Is the Thirteen Dith of Lead in the Mines of Derbyshire, which belongs to the King. Eights. Ann 16 Ed. 3. 13.

Lotteries. In late Reigns several Statutes have been made for raising Money for the Use of the Government, by way of Lottery, and the subjeting Duties on Beer and Spirit, Malt, Pap, &c. for the Repayment thereof: As the 5 & 6 W. 3. cap. 7. to raise one Million, by 10 l. Tickets, and the fortunate Adventurers to have Annuities, &c. The 10 Ann. c. 19. for raising two Millions and 5 per Cent. Interest, The 1 Geo. 1. c. 1. to raise and complete 1,400,000 l. The 5 Geo. 1. c. 4. for raising the Sum of 500,000 l. by 5 l. Tickets, and Annuities of 4 l. per Cent. to the Fortune. The 7 Geo. 1. c. 20. for raising 700,000 l. by Lottery, at Tickets 10 l. each. And the 8 Geo. 1. c. 5. to raise the like Sum, &c. The 12 Geo. 1. c. 2. to raise one Million, the highest Benefit of the fortunate Adventurers to be 20,000 l. and of Blanks of 10 l. Tickets to have 7 l. 10s. annuated with Annuities at 3 l. per Cent. And the 4 Geo. 2. c. 9. for raising 1,200,000 l. by Ways and Letters, on the same Condition, &c. These Lotteries are publicly drawn by Commissioners appointed; and the Annuities, and Interest for Prizes and Blanks, are paid till Redemption by Parliament. By the 8 Geo. 1. c. 2. for Suppression of private Lotteries, no Person shall set up or keep any Office, of Sales of Houscs, Lands, Plate, Goods, &c. for Improvement of Small Sums of Money, or expose to Sale any Houscs or Goods by Way of Lottery, Lot, Tickets or Numbers, or publish Proposals relating to the same, &c. On Pain of forfeiting 300 l. And Adventurers in such Sales for forfeiting the Sum contributed. 9 Geo. 1. Perons keeping Offices or Places for such Sales of Houscs, or Goods, &c. by Way of Lottery, Cards or Dice, and any Game to be determined by the Lot or drawing, or by any Machine or Device of Chance; and publishing Proposals, or delivering out Tickets to that End, shall forfeit 300 l., &c. being convicted before a Judge of Peace, leviable by Distrefs, &c. And Judges refusing to do what is required, are liable to 10 l. Penalty, by 12 Geo. 2. c. 28. No Person shall sell the Chance of any Ticket in a publick Lottery for less than the whole Time of Drawing; nor any Shares therein, or receive Money on Confederation of Repayment, if Tickets prove unfortunate, &c. On Favour of Trebles the Sum received to be recovered in the Courts.
L U

L U

Courts at Westminster, &c. Stat. 6 Geo. 2. Se. 9 Geo. 2. c. 29, and 16 Geo. 2. c. 13. 17 Geo. 2. c. 18. 18 Geo. 2. c. 9. 19 Geo. 2. c. 12. 20 Geo. 2. c. 10. 21 Geo. 2. c. 14. See also Coming.

Lowe. Proving unlawful Lewd, was one Species of the Crime of Witchcraft punishable by Stat. 1.

Jno. 1. cap. 12.

Louvrayuglia. Is the calling any corrupt and pollu-

xious Thing in the Water, which was Louvrayuglia, and Felony; and some think it is a Corruption of Bur-


Luath rooms. As for Persons, as goy in the Night-time with a Light and a Bell, by the Sight and Noise whereof Birds sitting upon the Ground be-

come stupefied, and so are covered with a Net: The Word is derived from the Sax. Luce, which signified a Flame of Fire. Antq. Warwick. P. 4.

Luminary. A Lamp or Candle, set burning on the Altar of any Church or Chapel; for the Main-

tenance whereof Lands and Rent charges were fre-

quently given to Parish Churches, &c. Kennel's Life.

Lunatick. Is defined to be a Person who is some-

times of good and found Memory and Understanding, and sometimes not; aliqua genit subsid interwell: And to as long as he has not Understanding, he is Non compus mentis. As a Lunatick without Memory, underlands not what he does; in criminal Cases, his Acts shall be imputed to him, unless he kill or offer to kill the King, when by our old Books he might be guilty of Treson and punished as a Tria-

tori; though this is contradicted by the late Opinions. 3 H. 6. c. 40. 4 H. 10. c. 43. And it is

said, if one who has committed a capital Offence, become Lunatick and Non compus before Conviction, he shall not be tried; and if after Conviction, that he shall not be executed. See H. 6. c. 40. 21 Geo. 1. 42 out a Whist, a Man is lunatick, and he doth a criminal Act, 'tis his Madnes, and not his Intention, which is the Cause of the Act. If a great man fall from his seat, and for that Reason, his Punishment could not be an Example to others. Plowd. 19. 1 infra. 247. But who he incites a Madman or Lunatick to do a Murder or other Crime, is a principal Offender, and as much punishable as if he had done it himself. H. P. C. 43. Kep. 73. By the ancient Common Law, a dange-

rous Madness may be kept in Prison, till he recovers his Senses. Br. Coms. 980. 101. And by a late Statute, Lunatics, or Madmen wandering may be apprehended by a Judge's Warrant, and locked up and chained, and if necessary, be sent to their last Legal Settlement; and two Judges by Order may charge their Estates for their Maintenance, &c. Stat. 12. Ann. Siff. 2. cap. 23. A Lunatick cannot lawfully promise or contract for any Thing; and the Grants of Lunatick and Infants are parallel. 1 Inf. 247. 3 Mod. 301. Every Deed made by a Lunatick, who is Non compus, is voidable; though a Lunatick himself making a Purchase, if he then recovers his Memory, he may agree to it, and afterwards his Heir cannot disaffee to it: But otherwise his Deeds may be avoided by his Heir; except he levy a Fine, or do any other Act of Record, &c. Lit. 405. 406. 4 Rep. 116. The Deed of a Lunatick shall not be avoidable by him-

self; for he shall not at Law be allowed to work his own Dihisfaction, by making himself a Lunatick. 4 Rep. 114. In Equity a Lunatick may be relieved a-

gainst his own Acts; and wharie a Purchase has been obtained of him, at an Under-value, he hath made. H. P. C. 43. &c. The Deeds, Fin. &c. 57.

Lupinum. In such a Cafe, have been set aside, on a Bill brought by the Lunatick and his Committee. 2 Vern. 678. Abc. Cn. 278. 279. If a Lunatick sue an Ac-

tion, he shall have in his own Name, or M. And no fætal Act of Action be brought against a Lunatick, he is to appear

by Attorney; if of full Age, and by a Guardian, if under Age. 1 Inf. 135. There are Compns of Lunacy, illus out of the Chancellor, to examine wheth-

er the Perfon be lunatick or not, and to make In-

quits of his Lands, &c. Though if Lands are fel-

led by the King, by Virtue of a Compns of Lu-

nacy, and he grants the Custody of the Lunatick for

seven years redodo; if he afterwards is of sound Men-

tory, he shall have an Action of Account for the Profits. Dyer 25. The King hath the Guardianship of the Lands of Lunatics; but not the fide Interest in granting, and the Custody of their Lands, &c. as he hath of Idots: And the King or other Guardian of a Lunatick, is accountable to him, his Executors, &c. 4 Rep. 124. A Lunatick may re-

cover his Understanding, and have Difcretion enough to dispose and govern his Lands, the King shall not have the Custody of him and his Lands; for after he has recovered his Memory and Understanding, he is to have his Estate at his own Difposal. Dyer 302. 3 Salk. 301. The Stat. 17 Ed. 2. cap. 10. ordains, that the King is to provide that the Lands of Luna-

tics be falely kept, and they and their Families main-

tained by the Profn; and the Refidue shall be kept for their Ufe, and be delivered to them when they come to the right Mind; the King taking nothing to his own Use. &c. A Lunatick found by Inquisition, upon a Compns of Lunacy, whose Perfon and Estate are committed to particular Trullies, may not marry before he or she is declared of sound Mind by the Lord Chancellor, &c. If any fuch do, the Marriage is void, by 13 Geo. 2. c. 50. See 4 Geo. 2.

2. c. 10 and Idiot. By the Stat. 17 Geo. 2. c. 5. Two Justices may by Writ be affixed to the Civiliz Con-

sent of the Lunatick, and false such as by Lunacy are to far disordered in their Senses, that they may be dangerous to be per-

mitted to go abroad, to be apprehended and kept in the Seizing Place. The Charges (being proved on Oath) of Removal, keeping and curing fuch Perfon, to be paid by Order of two Justices out of the Lunatick's real or personal Estate; but if he has none, or not more than is suffi-

cient to maintain his Family, then to be paid by the Parth.

Lunatics, A Weight formerly used here—

Landa anguillarum conflagr. at 30 Sticts. Fleta, lib. 2.

cap. 12.

Lunibey. A Sterling Silver penny, which had its Name being coined only at London, and was at the Country Mints. Lovel. Essay on Coins, p. 17.

Lunaparintri. A Bawd or Strumpet: And by the Custom of London, a Confable may enter a Hoole, and arrest a common Strumpet, and carry her to Pri-

fon. 3 Inf. 256.—See Majerl. &c. London, &c. Ilustresissimus quod placet Robertus, Murpens per-

portatans, per receptores: publicus Lupanarinus in di-

versis locis in Civitate mysteri prædicti, &c. Clauf.

4 Ed. 1. p. 1. m. 16.

Lupinum captus gerere, Signified to be outlawed, and have one's Head exiled like a Wulf, with a

Rerow to him that shall bring it in. Plac. Coron. 4 Tutan. Rot. 2.

Lupitercarn. (Lot.) A Hop garden, or Place where, Hop grow. 1 Inf. 4.

Lurburbes or Lurberbys. Were a bafe Sort of Forwign Comm, made of the Likeness of English Money, and brought into England in the Reign of King Ed-

1. to deceive the King and his People: On Ac-

count of which, it was made Treson for any one

wittingly to bring any fuch Money into the Realm, as known by Her Majesties Commandment, &c. 4 Inf. 5.

Lurfings. A Company was incorporated for

making, drelling and Inflating Alamos and Lu-

frings in England, who were to haue the fide Benefit thereof, by Statute 1. &c. And no fuch Silla known by the Name of Lyrings or Alamos.
are to be imported, but at the Port of London, &c.
Stat. 9 & 10 W. 3. c. 43.

M. B. Silvester, A small Fine or Composition, paid for compelling the Lords, for Leave to plough and sow their Land. Sum. Casew. 27.

Rum, An Act for regulating Worsted Weavers and their Apprentices, in the Town of Lynn, &c.
See 14 & 15 H. 8. c. 5.

M.

Is the Letter, with which Perions convicted of Mund-slaving, are Marched on the Brawn of the left Thumbl. 4 H. 7. c. 13.

Sh. In the Irish Language signifies a Son, Filius. Lit. Did.

Magregra, (Macgrevi) Are such as buy and sell Fleets, justices, knowing the name. Brit. c. 39. Leg. Is. cap. 20. — Macgrevirius Caroli Particus Scientia.

St. Magrebiscatol, (From the Fr. Magrebiscatol) Signifies to make a War-like Device, especially over the Gate of a Castle in the Form of a Grass, through which (calling Waix, or any other offensive Thing, may be thrown upon the Hands of Affallants. 1 st. 5.

Sh. Ack. The Importation of it is allowed, and a Punishment inflicted on Perions who mix it with Sand, or corrupt it. Stat. 14 Car. 2. c. 30.

W. Writing, Old Roman Coins found about Danegeld, to be sold by the Country People, and have their Name from Magnus, used by the Emperor Antoninus in his Danegeld: Iteracy. Cam.

M. Munitigal, is an old Britishe Word Signifying Country Songs. Bohn.

M. Carremium, (Derived from the Fr. Mercreve) Properly signifies any Sort of Timber, fit for Building; i. e. for Building Materials. Stat. 18 Ed. 3. m. 3.

S. Bebotts or Beages, (From the Sax. Beo, i. e. Cognatus, &c. Beo, componens) A Compensation for the Slaying or Murder of one's Kindred, in ancient Times, when corporal Punishments for Murder, &c. were sometimes committed into pecuniary Fines, if the Friends and Relations of the Party killed were so satisfied. Leg. Compl. cap. 2.

M. Maglichi, (Magia, Necromania) Witchcraft and Sorcery. See Conspiration.

M. Magiliker. This Title often found in old Writings, signified that the Perion to whom attributed had attain'd some Degree of Eminency in Science aliqua, praefertn litteraria: and formerly those who are now called Dukes, were termed Magilikers.

M. Magilificator, (Magistratus) A Ruler, and he is said to be Caupu urinrque Tabula; the Keeper or Pre- server of both Tables of the Law. If any Magilicator, or Minister of Justice, is Sain in the Execution of his Office, or keeping of the Peace; it is Murder, for the Contempt and Disobedience to the King and the Laws. 6 c. Rep.

M. Magna elogethns, Is a Writ directed to the Sheriff, to summon four lawful Knights before the Justices of Affile, there upon their Oaths to call twelve Knights of the Vicinage, &c. to judge of the Great Affile, between A. B. Plaintiff, and C. D. Defendant, &c. Reg. Orig. 8.

M. Magna Graeta, The great Charter of Liberties granted in the ninth Year of King Hen. 3, is so called, either for the Excellency of the Laws therein contained, or because there was another Charter called the Charter of the Forth established with it, which was the same in the two first Articles and of great importance in the troubles of the Obtaining it, and the remarkable Solemnity in denouncing Excommunication and Anathema; against the Breakers thereof: And Spelman calls it, Angiliss consonant Anglicarum Libertatwn Diplomwn & Sura Ancilla. King Edward the Carfliger granted to the Church and State several Privileges and Liberties by Charter; and some were granted by the Charter of King Hen. 1. Afterwards King Stephen, and King Hen. 2. confirmed the Charter of Hen. 1. and King Rich. 1. took an Oath at his Coronation to observe all just Laws, which was an implicit Confirmation of that Charter; and King Jofe took the like Oath: This King likewise, after a Difference between him and the Pope, and being imprisoned in Wars at Home and Abroad, particularly confirmed the aforementioned Charter, with further Privileges, but soon after broke it, and thereofupon the Barons took up Arms against him, and his Reign ended in Wars; to whom succeeded King Hen. 3. who in the 17th Year of his Reign, after it had been several Times by him confirmed, and as often broken, came to Westminster-Hall, and in the Presence of the Nobility and Barons, with lighted Candles in their Hands, Magna Charta was read; the King all that while laying his Hand on his Breast, and at every Line of it, was to be Extinguished, and from him, who violates this Charter: Upon which the Bills were set on Ringing, and all the Persons of all sorts and conditions, approved of what was done. But notwithstanding this very solemn Confirmation of this Charter, the very next Year King Henry invaded the Rights of his People, till the Barons levied War against him; and after various Successes, he confirmed this Charter, and the Charter of the Forth, in the Parliament of Marlbridge, and in the 2nd Year of his Reign. And his Son King Edward 1. confirming their Charters, in the 14th Year of his Reign made an Explanation of the Liberties therein granted to the People: adding some which are new, called derivit super Chartas: And Magna Charta was not only then confirmed, but more than thirty Times since. Co Litt. 81. This excellent Statute, or rather Body of Statute Law at that Time, to beneficial to the Subjects, and of such great Equity, is the most ancient written Law of the Land: And it is divided into thirty-eight Chapters; the 1st of which after the solemn Preamble of its being made for the Honour of God, the Exaltation of Holy Church, and Amendment of the Kingdom, &c. ordains, That the Church of England shall be free, and all Ecclesiastical Perions enjoy their Persons and Privileges. The Act is of the Nobility, Knights-Service, Reliefs, &c. The third concerns Heirs, and their being in Ward. The 4th directs Guardians for Heirs within Age, who are not to commit Waste. The 5th relates to the Custody of Lands, &c. of Heirs, and Delivery of them up when the Heirs are of Age. The 6th is concerning the Marriage of Heirs. The 7th appoints Dower to Women, after the Death of their Husbands, a third Part of the Lands, &c. The 8th relates to: Sheriff and their Bailiffs, and requires that they shall not settle Lands for Debts where there are Debts, &c. the Surety not to be disfrained, where the Principal is sufficient. The 9th grants to Lords, and all Cities and Towns, the same Liberties, with the 20th Orders, that no Distress shall be taken for more Rest than is due, &c. By the 11th the Court of Common Pleas is to be held in a certain Place. The 12th gives Aliens for Remedy, on Default of Lands, &c. The 13th relates to Allies of Darrein Preference, brought by Ecclesiastics. The 14th enacts, that no Freeman shall be amerced for a small Fault, and in Proportion to the Officer by whom the Orders of lawful Men. The 15th, no Town shall be disfrained to make Bridges, &c. but such as of ancient Times have been accustomed. The 16th is for re
pairing of Sea-Banks and Sewers. The 17th prohib-
bids Sheriff, Coroner, &c. from holding Pleas of the
Crown. The 18th enacts, that the King's Deput-
dy in each county shall be first seized of it as a
right. The 29th directs the manner of levying Purvey-
cence for the King's House. The 20th concerns Cali-
award, where a Knight was to be disinfected for Money of
keeping his Castle, on his Neglect. The 218 for-
bidden Sheriff, Bailiff, &c. to take the Horser or Cart
of any Person to make Carriage without paying for it.
By the 22d the King is to have Lands of Felons a
Year and a Day, and afterwards the Lord of the
Fee. The 25d requires Wears to be put down on
Rivers. The 24th directs the Writ Prisco in Capitolis,
for Lords against Tenants offering Wrong, &c. The
27th declares that there shall be but one Measure
throughout the Land. The 26th, Inquisition of Life
and Member, to be granted freely. The 27th re-
lates to Knight's Service, Petit Service, and other
ancient Tenures, (taken away together with Ward-
ship,) &c. by 12 Car. 2. The 28th directs, that no
Member shall be at Law, on the sole suggestion of
another, but by lawful Writs. The 29th, no Fre-
eman shall be disinfected of his Freehold, imprisoned
without a Writ, or judgment of his Petition, or by
Law. The 30th requires that Merchant Straingers be
civilly treated, &c. The 31st relates to Tenures
coming to the King by Eldest. By the 31st no FREE-
man shall be disinfected, but so that the Reclaim may
answer the Services. The 32d, Patrons of Abbeyes,
&c. shall have the Custody of them in the Time of Vaci-
ation. The 54th, that there shall be no Appeal for the
Death of her Husband. The 55th directs the Keep-
ing of the County-Court Monthly, and also the Times
of holding the Sheriff's Turn, and View of Frank-
pledge. The 56th makes it unlawful to give Lands to
Religious Houses in Mortmain. The 37th relates to
Ewage, and Subsidy, to be taken at usual. And the
38th ratifies and confirms every Article of this great
Charter of Liberties. By the Stat. 25 Ed. 1. it is or-
dained, that the great Charter shall be taken as the
Common Law. And all Statutes made against Magna Car-
ora, are declared to be void by 43 Ed. 3.
Magna Graecor, A great or general Rep-day.
And in 21 R. 2. the Lord of the Manor of Harrow
on the Hill, in Cam. Middlesex, had a Custom, that by
Summons of his Bailiff upon a general Rep-day, then
called Magna praecarii, the Tenants should do a certain
Number of Days Work for him; every Tenant that
had a Chimney, being obliged to send a Man, Phil.
In dulment or an Appeal may be had; or in common Cases
Action of Trespass, at the Plaintiff's Election; And
Magnum shall be under the Inspection of the Courts,
to incease Damages given by the Jury, &c. if the
Court thinks fit. Sid. 108. Magna was commonly
tried by the judges inspecting the Party; and if they
thought whether it were a Magnus or not, they used
to take the Opinion of some able Chirurgion in the
Point. Homo Magnanimitas, A Man rained or wound-
ed. Sec Magna of Magna.
Mai Jovis Anno, An ancient Custom for the Priest
and People of Country Villages to go in Procession
and say Morning and Evening Prayers. A Meal of
Grains, by the old Bishop of York, in the Church of

Mai, (Milo.) A Coat of Mail, so called from the
Fr. Maille, which signifies a Square Figure, or
The Hole of a Net: So Maille de Houegon was a Coat
of Mail, because the Links or Joints in it resemble
the Squares of a Net. Mail is likewise used for the
Leather Bag wherein Letters are carried by the Post,
from Bag, a Budget.
MAILO.
Anciently a Kind of Money; and Silver and Half-pence were termed Maires. 9 Hr. c. 5. By Indenture in the Mist, a Pound-weight of old Sterling Silver and half that of new, and any new Silver half-pence, or any hundred and twenty Maires or Half-pence, or one thousand four hundred and forty Farthings. Lancast. Ed. on Cas C. 8.
Mähnane, A falle Cash, or Perjury, is call'd a malefice, or libel, or perjury.
Mähnane, (from the Fr. Main, i.e. Mausus, and verre, aperture.) Is handy-work; or some Teffel, committed by a Man's Hand. 7 R. 2 c. 4. Brt. 65.
Maiportable, That may be let to Bail; and what Persons are Maiportable, appears by the Stat. 3. Edw. 1. c. 15. See Bail.
Maiportners, (Maiporters) Are those Persons to whom a Man is delivered out of Custody or Privon, on being discharged, bound for his Appearing, bound, if he do not do, they shall forfeit their Recognizances; and they are called Maiportners, because they do it for Money or Maiport, or duces capirotum et Cubello de Privon.
Maisperts, (Maisperts) from the Fr. Mai, i.e. Manus & Pris, captor. Signifies in our Law the Taking or Renting out of a Person into Friendly Custody only, who otherwise might be committed to Privon, upon Security given that he shall be forth-coming at a Time and Place assigned, as to let one to Maisperts is to commit, and he shall appear at the Day appointed. Old Nat. Br. 42. F. N. B. 249. Markward makes this Difference between Maisperta and Privon; that he is Maisperta, as well as his Agent; that he shall be to appear at the Day of his Appearance; but whereas a Man is to be let to Bail, by any Judge, C. until a certain Day, there he is always accounted by the Law to be in their Ward for the Time; and they may, if they will, keep him in Privon, so that he is not so bailed shall not be said to be at large, or at his own Liberty.
Maius, p. 167. A Man under Maisperta is forbid to go at large, under no Possibility of being confined by his Sureties or Maiporters, as in Case of Bail, 4. Inf. 199. Maisperta is an Undertaking in a Sum certain, Bail answers the Condemnation in civil Cases, and in Criminal, Body for Body: Maisperta may be where one is never arrested, or in Privon; but no Man is bailed, but he is under Arrest, or in Privon so that Maisperta is more large than Bail. H. P. C. 96. Wed. Inf. 583, 618. Upon a Capitator, or a Man, he that is Maisperta, is more large when he shall find Maisperta for his Appearance; and if the Defendant make Default, his Maiporters are to be answer'd, &. And a Bill of Maisperta, acknowledg'd in Action, is much more, though it be not insolent. Jenn. Cor. 129. There is an ancient Writ of Maiporta, whereby those who are baleable, and have been releas'd the Benefit of it, may be deliver'd out of Privon; as where Persons are imprisoned on Suspicion of Larceny, or indited of Treason, before Justices of Peace, &. Reg. Orig. 260. F. N. B. 250. 2. N. P. C. 93. See Maiporters.
Maiportment, in Maius portamentum, is a small Duty, which in some Places Parishioners pay to the Rector of the Parish, in Recompense for certain Titles: It is commonly of London Bread, and this Master Bread was paid to the Vicar of Blyth, as you may read in the Act, of Nottingham, p. 473. Maiportments, In the North of England is taken for as much as farthing. Brinsol. Rep. 4.
Maiportmen, Are those that maintain or second a Cause depending between others, by dispiriting Money, or making Friends, for either Party, &c. not being interested in the Suit, or Attorneys employed therein. Stat. 28 Hen. 7. c. 14.

Maintenance, (Maiportmenta) Signifies the unlawful Upholding of a Cause or Person, metaphorically drawn from the Securing a young Child that learns to go by one's Own, and was taken in Law into use, in the Suit of twenty Sente. 52 H. 8 c. 9. Also it is used for the Buying or Obtaining of pretended Rights to Lands. Stat. 4th. And Maintenance is either ruralis, in the Country; as where one allith another in his Particulars to Lands, by taking or holding the Possession of them for him; or where one fitis up Quarters or Bots in the Country; Or it is urbana, in a Court of Justice, where one officiously intermeddles in a Suit depending in any said Court, which no Way belongs to him, and he hath nothing to do with, by silencing the Plaintiff or Defendant with Money or otherwise in the Prosecution or Defence of any Such Suit. Co. Litt. 368. 2 Inf. 211. 3 Roll. Abr. 115. And he, who fears that another will maintain his Adversary, may by Way of Prevention have an original Writ grounded on the Statutes, prohibiting him to do so. 1 Haw. C. 245. Reg. Orig. 113. Not only he who lays out his Money to assist his Brother in his Cause, but he that by his Friendship or Interest saves him that Expenditure which he might otherwise put to, is guilty of Maintenance. Br. Maint. 7. 14, 27. &c. And if any Person officiously gives Evidence, or otherwise, in the Evidence without being called upon to do it, speak in the Cause, as it of Counsel with the Party; retain an Attorney for him, &c. or shall give another person to another Counsel to appear in Relation to the Suit; as where one of great Power and Interest, says that he will spend 20 Pounds on one Side, &c. or if such a Person comes to the Bar with mere Interests, and stands by him while his Cause is tried, to intimadise the Jury; or if a Juror illicitly a Judge to give Judgment according to the Verdict, after which he hath nothing more to do, &c. these Acts are Maintenance. 1 Hawk. 249. 250. But a Man cannot be guilty of Maintenance, in respect of any Money given by him to another, before any Suit is actually commenced: Nor is it fair to give another Advice, as to what Action is proper to be brought, what Method to be taken, or what Counselor or Attorney to be employed or for one Neighbour to go with another to his Counsel, so as he do not give him any Money: And Money may be lawfully given to a poor Man, out of Charity, to carry on his Suit, and be Maintenance: Attorneys may lay out their Money for their Clients, to be repaid again; but not at their own Expendence, on Condition of no Purchase no Pay, if they carry on the Cause. First, 13 Geo. 3. 18. 3 Roll. Abr. 138. 2 Inf. 56. 54. It is said that if a Man of great Power, not learned in the Law, tells another who asks his Advice, that he hath a Good Title, it is not a Maintenance. 1 Hawk. C. 17. If a Man is paid by a Cafe any Person who is no Lawyer, and that hath no Interest in the Cause, shall take upon him to do the Port of a Lawyer; this will be unlawful Maintenance. And after a Suit is begun, no Man may encourage either of the Parties, or yield them any Aid or Help, by Money, or the like; but he that hath Interest therein: But to lead another Money to maintain his Law-Suit, is no Maintenance. 22 H. 6. 10 Edw. 4. 3. 2. Sop.Abr. 406. If a Person hath any Interest in the Thing in Dispute, though on Contiguity only, he may lawfully maintain an Action relating to it, as if Tenant in Tail, or for Life, be impleaded, he in Reversion or Remainder, &c. may maintain the Defense of the Suit, with his own Money; and a Leitor may lawfully maintain his Leitor. 2. Roll. Abr. 115. A Lord may justify maintaining a Tenant, in Defense of his Title; and the Tenant may maintain his Lord: One bound to warrant Lands may lawfully maintain the Tenant impleaded; and a Man may maintain those who are endesc'd of Lands in Trust for him, concerning those Lands, &c. An
Heir apparent, or the Husband of such an Heir, may maintain the Ancellor in a Action concerning the Inheritance of the Land whereof he is seized in Possess. A Master maintains his Servant, and affirms where he is in Possess with Money, but not in a real Action, unless he hath some of his Wages in his Hands; and a Servant by Resin of a Master, may maintain his Master in all Things, except laying out his own Money in the Master’s Suit. 1 Hen. 252, 243. 1 In 568. By the Statutes, none of the King’s Officers shall maintain Fees, or Suits, in the King’s Court, for Lands, &c. under Covenant to have Part thereof, or any Profit therein. And Clerks of Juifines, are not to take Part in Quarrals, or delay Rights, on Pain of treble Damages. 3 Ed. 1. cap. 25. No Perons shall take upon them to maintain Quarrals, to the Let and Disturbance of the Common Law, by themselves or by any other. 1 Ed. 3. cap. 14, and 2 Ed. 3. 4. The King’s Counsellors, Officers or Servants, or any other Peron whatsoever, shall not fullain Quarrals by Maintenance, upon grievous Pain. Imp. prov. in this, this 25th of September. 2 Ed. 2. c. 4. No Man may obtain or buy any pretended Right or Title to any Land, unless the Seller hath taken the Profits a Year, or the Loss of a Year’s Profit of the Value, &c. And none shall unlawfully maintain any Suit concerning Lands, or retain any Peron for Maintenance, by Letters, Rewards or Promises, under the Penalty of 10s. for every Offence, to be divided between the King and the Professor. 2 H. 8. cap. 9. But maintaining Suits in the Spiritual Court, is not within the Statutes relating to Maintenance. Corp. Eam. 55. Though Maintenance in a Court Baron, is as much within the Parview of the Stat. 1 R. 2. as Maintenance in a Court of Record. 1 Hen. 255. A pretended Right to Copyhold Lands sold, is within the Stat. of H. 8. 4 Rep. 26. If I. A be Owner of Land in Poffecion, and another who hath not Right granted the Land: although the Grant upon it be void, yet the Grantor and Grantee are liable to this Statute. 1 In 569. So where he hath a pretended Right, and none in Truth, shall get the Poffecion wrongfully, and then sell the Land, &c. But a Remainder-main in Fee, may obtain the pretended Title of a Stranger. 1 In 569. 3 In 76, 77. And a Peron who hath good Right and Title, at the Time of the Bargain or Lease, will not be within the above Statute, although neither he nor his Ance- tors have been in Poffecion thereof, &c. for a Year before. 25 Ed. 7. The Buying of a Lease for Years, is within the Act: Though if a Peron make such Lease to try a Title in Ejezison, unless it be to a great Man; it is out of the Statute. 1 In 570. 35 Ed. 74. A Leafe having good Right to Land, but not in Poffecion, made a Leafe of it, and did not feal it on the Land; it was adjudged within the Stat. 23 Hen. 3. 1 Law. 106. The Law will not suffer any Thing in Action, Entry, &c. to be granted over; this is to prevent Titles being granted to Men of Substance, to oppress the meaner Sort of People. 1 In 571. And where a Bond was given for Performance of Covenants in a Lease, and after the Covenants being broken, the Lease affiled both the Lease and Bond to another, and then the Affiger was held in Damages; so it would have been if the Lease had affiled the Bond and not the Leafe, and afterwards the Covenants were broken in the Bond in Suit. Guild. St. 3. 2 Nbr. Abs. 1142. By the Common Law, Perons guilty of Maintenance may be proceeded by Indemnity, and be fined and imprisoned; or by Action, &c. And a Court of Record may commit a Man for an Act of Maintenance done in the Face of the Court. Harl. Rep. 79. 1 In 568.


Majority in a Family, go to Minors. Majoritatem in familia Minores transibant. Stat. 3 Bea. 5. 3 P. of M. cap. 25. 26 Ed. cap. 7. &c. All Hospitals, Majoret de Dios, and abiding Places for Poor, lame and infirm Persons, erected by the Statute 59 Eliz. cap. 5, or at any Time since founded, according to the Intent of that Statute, shall be incorporated and have perpetual Se- cession, &c. 21 Jac. 1. cap. 1.

Majoris foris, is a Writ or Law proceeding in fasta, cullion of Minors, in order to a Trial of Right of Land: And the Entry in the old Books is thus: Ad bene Caritum erat A. B. in propriis Peronibus & det set manibus, &c. de reserbo Minorem post. &c. In an inspired vitam habet Majoris jus in usu Mejorij. &c. Et inferri pot posse hominum, &c. Ex Libro MS. Episoc. Heref. temp. Ed. 3.

Majoris legat. A Declarator, (i.e. a person) is to perform that Law which a Man had formerly bound himself into, that is to clear himself of an Action commenced against him, by his Oath and the Oaths of his Neigh- bours: And this Oath seems to be borrowed of the Feudal. Old Nat. B. 267. Kitch. 192. See Notes on Law.


Malamentum, A Thief or Pirat; ismentioned in Walsingham, p. 398.

Maligna, Men Placita, A Hill where the People assembled at a Court, like our Affiles; which by the Scots and Irish are called Party-hills. D’Cange.

Maledictus, is one of bad Credit, who is spec- cified, and not to be trusted. Fleta, lib. 1. cap. 18.


Malefiz, a wrong, i.e. to offend is a doing of Evil, or Transgressing. 2 Cre. Rep. 156.

Mailentent, is interpreted to be a Telle for every Sack of Woot by Cause: Nothing from here- forth shall be taken for Sacks of Wood, by Colour of Malevent, &c. Stat. 52 Ed. 1. 114. The Point of doing Mischief to another: it differs from Harmed. 2 In 42. In Murs, 'tis Maller makes the Crime; and if a Man hav- ing a malicious Intent to kill another, in the Execu- tion of his Maller hits a Man, and the Maller shall be connect ed to his Person, and he shall be adjudged a Murderer. Poth. 474. The Worth Ex maller praegnatio are necessary to an Indictment of Murder, &c. See Murder.

Malegno,
MAM

Malaguus, i.e. Diablerus: Prod Deder, hanc popula, lit propria de Ulta Malaguus.

Malus graze. This being a Thing unwillingly.

Libcrullum Ecuum, &c. Malo graze Scalaburri, &c.

He being unwilling. Mat. Par. 1345.

Malt. Bad Malt shall not be mingled with good.

And under Penalties: shall be Three Weeks in Making and Drying: except in June, July and August, and in chole Montns not less than seventeen Days; and all Malt made, under the Direction of a Justice of Peace, may search for the same; and order it to be sold at reasonable Price, &c. 11 Ed. 6. cap. 10. A Duty of 6d. per Bushel was granted on Malt, by Stat. 14 Ed. 1. c. 21, under the Proximity of 10 l. and to pay the Duty in three Months, or forfeit double Value: And if any Malters alter their steeping Vessels, without giving Notice, or shall use any Private Cistern, they shall forfeit 50 l. And refusing Excise Officers Entrance into their Houses, &c. forfeit 5 l. Also concealing Malt from the Sight of the Gager, is liable to a Penalty of 10 l. per Bushel: And writing Bailey any where but in the Cistern, incurs a Forfeiture of 2. 6d. a Bushel, &c. But Judges of Peace have Power to mitigate the Penalties and Forfeits. &c. 12 & 13 Ed. 1. c. 40. Malt made for Exportation is discharged from Duty; yet must be entered, and kept secure from other Malt, on Pain of 50 l. and when made shall be kept in such Houses as the Collector, and not delivered out without Permission of an Officer, &c. Stat. 12. 13 Ed. 1. c. 4. If any Malt be brought from Scotland into England, it shall pay 3 d. a Bushel more, than made up the English Duty, and be entered, and the Duty paid before Landing, &c. or shall be forfeited. 13. Gen. 1. c. 7. An Allowance is made for exporting Malt, on Certificates of Officers, and Security given not to re-land it; but imported in any Part of Great Britain, the same to be forfeited, and treble Value, &c. by 5 Gen. 2. c. 7. & 6 Gen. 2. c. 1. 7 Gen. 2. c. 21. The same is made for laying a Duty on Malt, and the same is made for laying a Duty on Malt, and the same is made on flour. 21 Gen. 2. c. 21. Gen. 2. c. 1. See Bryant.

Malta; A Queen or Malt-whel; it is mentioned by Mar. Par. in the Lives of the Abbots of St. Albans.

Maltafor, A Paystove for the Liberty of making Malt. Geon. Cott. 4. 27.

Malveillis, (From the Fr. Malevaille) is used in our ancient Records, for Crimes and Misdemeanors, or malicious Practises. Sam. Cas. in Tres friins, Felonias, &c. Malveillis faits en nafre Stignier & Reb. & a fin People per Roger. de Mortimer, &c. Rec. 4 Ed. 3.


Malveilles, (Fr. Meuves vinfus, malus ovicinas) An all Neighbour.

Malveilles, (From the Fr. Malveilles) Are understood to be such as use to pack Juris, by the Nomination of either Paris in a Caule, or other Practice. Artis Jure Chart. cap. 10.

Malverm in ft, Our Law Books make a Distinction between Malm in &e. and Malm prohibitum. Vangl. Rep. 312. All Offences at Common Law generally require a Public Place, or church or public place, and of frequenting of Taverns, &c. are only Malm prohibitum to some Persons, and at certain Times, and not Malt in Jr. 2 Roll. Abr. 353.


Manganese, From the Fr. Manganese, or inhabiting A Manganese-house or Dwelling place. Corn. cap. 65. Manganese, manganese cumin peritium, &c. M. Angl. Tom. 2. pag. 82.

Mambeus, (Sax.) A Compensation or Remuneration for Henricus' particular due to the Lord for Killing his Man or Vaillant. Spelm. de Cos. Vol. 1. pag. 623.

Mancia, Was a Square Piece of Gold Coin, commonly valued at thirty Pence; and Mancifa was as much a Mark of Silver, having its Name from Manicufa, being coined with the Hand. Leg. Can. But the Mancia and Manufa were not always of that Value; for sometimes the former was valued at fix Shillings, and the latter as used by the English Saxons was equal in Value to our Half-Crown. Mancia for fidi et faciun. Leg. 1. c. 69. A Man was in his Chronicle tells us, that Mancufs of penitus durum folledum & ex dorsumurum: and with him agrees Du Cange, who says that twenty Mancufs make fifty Shillings. Mancia and Manufa are promiscuously used in the old Books for the same Money. Spelm.

Mancus. Is sixty Shillings of Silver, or seven Pounds and ten Shillings; and one hundred Shillings of Gold, or seventy-five Pounds. Merc. Did. fissus atomarum. & ex dorsumurum; and with whom agrees Du Cange, who says that twenty Mancufs make fifty Shillings. Mancia and Manufa are promiscuously used in the old Books for the same Money. Spelm.

Manche. Is sixty Shillings of Silver, or seven Pounds and ten Shillings; and one hundred Shillings of Gold, or seventy-five Pounds. Merc. Did. fissus atomarum. & ex dorsumurum; and with whom agrees Du Cange, who says that twenty Mancufs make fifty Shillings. Mancia and Manufa are promiscuously used in the old Books for the same Money. Spelm.

Manchur. Is sixty Shillings of Silver, or seven Pounds and ten Shillings; and one hundred Shillings of Gold, or seventy-five Pounds. Merc. Did. fissus atomarum. & ex dorsumurum; and with whom agrees Du Cange, who says that twenty Mancufs make fifty Shillings. Mancia and Manufa are promiscuously used in the old Books for the same Money. Spelm.

Mandamus, Is a Writ issuing out of the Court of King's Bench, by the King to the Head of some Corporation, commanding them to admit or refuse a Person into his Place or Office. &c. 2 Inq. 127. It lies to refuse a Mayor, Alderman or Capital Burgess of a Corporation a Recorder, Town-Clerk, Attorney turned out of office, or a Swan of a Court, Constable, &c. 11 Ed. 99. Kay. 151. 35. 549. 2 Nell. Abr. 1148, 1149. By some Opinions it doth not lie to require a Common Councilman, &c. 2 Gre. 141. But see in Fin. 502. A Mandamus must be had to refuse a Freeman; and also to admit one to the Freedom of the City, having served an Apprenticeship. Sid. 107. To refuse a Fellow of the College of Physicians, it lies; though not for a Fellow of a College in the Universities, if there is a Visitor. 1 Lev. 19. 23. It has been refused, that a Mandamus shall not be granted to refuse a Fellow or Member of any College of Scholars or Physicke, because these are private Foundations. Cart. Rep. 93. And this Writ letteth not for the Deputy of an Office, &c. yet be he who hath Power to make such a Deputy, may have x. Alb. Ca. 1. Lev. 506. It lies not generally to elect a Man into any Office; nor for a Clerk of a Company, which is a private Office; or to refuse a Barrister expelled a Society 1. Prov. &c. 1. Lev. 14. 18. 2 Nell. 150, 151. But a Mandamus may lie to remove Persons as well as retain them; by Virtue of any particular Statute, on Breach thereof. 34 Eliz. 1. A Mandamus to prevent one of the Passages to grant a Protege of a Will; and to admit an Executor to prove a Will, or an Administrator to re- Elect, Vicar or Church-warden, to re- Elect. Ward. 6 H.
Mandamus. Was also a Writ that lay after the Year 1680. At the time the Writ, called Dimn. juun. Extremum, had not been sent out to the Episcopacy, on the Death of the King's Tenant in Copies. And it was likewise a Writ or Charge to the Sheriffs, to take into the Hands of the King all the Lands and Tenements of the King's Widow Tenant, who against her Oath married without his Consent. F. N. S. 535, Reg. Orig. 195.

Mandamus, (Mandatum) is he to whom a Command or Charge is given.

Mandate, (Mandatum) Is a Commandment judicial of the King, or his Judges, to have any Thing done for the Dispatch of Justice; of which there is great Diversity. Reg Jusic. And we read of the Bishop's Mandate, to the Sheriffs, Stat. 31 Eliz. c. 9. A Mandate may be sealed by the King's Bench to swear a Church-warden, or Parish Clerk, &c. when related to be sworn by the Bishop's Manditorum. Marth. Reg. 121, 101.

Mandate, (Mandato) The Day before Good Friday, when is commemorated and practised the Command of our Saviour, in washing the Feet of the Poor, &c. And our Kings of England to show their Humility, long executed the ancient Custom on that Day, of washing the Feet of poor Men, in Number equal to the Years of their Reign, and given them Silver Money.

Mandate, (Mandato) Ornaments, Leaves of Bread given to the Poor upon Mandato Thursday. Charular. Glaiston. MS. fol. 129.

Manders, was, was used silently for Tennis or Tennis: See in sole aquin: mandato: And it was not lawful for them or their Children to depart without Leave of the Lord. Consil. Synodal. apud Chrysostom. Ann. 822.


Manger (Mandato) An Engine of War made to cast Stones; and it differs from a Petrarra, as follows, etc.

Manger, was an Handkerchief which Priests always had in their Left hands. Blount.

Manners, (From the Fr. Mauver, or Mauver, i.e. Mauver a Terrier.) To be Taken with the Manner, is one of the Things having a Name with the same about him, as it were in his Hands: which is called Plagiatus in Theol. 5. P. C. 129. Such a Criminal is not bailable by Law: And anciently if one guilty of Felony or Larceny had been freshly purified, and taken with the Manners, and the Goods to found upon him had been brought into Court with him, he might be tried immediately, without any Appeal or Indictment, and this is said to have been the proper Method of Proceeding in such Manners which had the Franchise of Infangthys. H. P. C. 201. S. P. C. 28. Hens. P. C. 211.

Manning, Manning, A Day's Work of a Man; and in ancient Deeds there was sometimes referred to such Rent, and so many Manning.

Manners. Where one is cited to appear in Court, and bound to Judgment there: It is different from Banter; for though both of them signify a Citation, one is by the adverser Party, and the other by the Judge. Leg. H. c. 10.

Mannor, Manuarium, derived from the Fr. Mautier, i.e. Malefactor, or from Mauver, of abjuring, because the Land (of it does not usually reside there) is an Ancient Royalty or Lordship, formerly called Barony, consisting of Demesnes and Services, and of a Court Baron, as incident to it: It is a noble Kind of Fee, granted out partly to Tenants for certain Services.
vicies to be performed, and partly referred to the Use of the Lord's Family, with Jurisdiction over his Tenants for their Farms or Eatables. And as to the Original of Manors and Villages, that after the Conquest there were certain Circuits of Ground granted by the King or Conqueror to some Barons or Men of like worth, for them and their Heirs to dwell upon, and exercise Jurisdiction, more or less within their Territories, as the King thought fit to grant, performing such Services, and paying yearly Rent for the same, as he by his Grant required; and that afterwards their great Men allotted Part of their Lands to other meaner Men, referring again to themselves Rents and Services; and by that Means, as they became Tenants to the King, to the Inhabitants became Tenants to them. Heri. Miss. *Rev. 1*. And at this Time a Manor rather signifies the Jurisdiction and Royalty Incorporale, than the Land; for a Man may have a Manor in Gros, that is the Right and Interest of a Court-Baron, &c., and another enjoy all the Land belonging to it. *Kirch. 4*. Bract. liv. 5. tract. 3. c. 28. A Manor may be compounded of divers Things: as of an House, Arable Land, Meadow, Pasture, Wood, Rents, Adwordon, Court Baron, &c. And it comprehends Meadows, Lands, Woods, &c. Mitch. 4. *Eneas*. And it is said a Feodage may be a Manor. If it be a Royalty, &c., to be held of the Perfon by certain Services. *Paib. 22. Eliz.* By a Grant of the Demesnes and Services, the Tenant and Royalty of the Manor is transfert to one, and the Services随之 one, the Manor is gone; but if one die without Issue, and the Manor descends to no other who had the Manor, it is revived again, for the Sevance was by Act in Law. *Jefi. 122. 3 Sail. 25. 40*. A new Manor may arise and revive by Operation of Law. *Lev. 201. A Manor cannot be without a Court Baron. And it must be Time out of Mind; at this Day a Manor cannot be made, because a Court Baron cannot now be made. *Jefi. 58. 108*. It may contain one or more Villages or Hamlets; or only great Part of a Village, &c. And there are capital Manors, or Honours, which have other Manors under them, the Lords thereof perform Customs and Services to the Superior Lords. *2 Ew. 67. 2 Roll. Abs. 72*. There may be also customary Manors granted by Copy of Rents, by Feodation, or by Grant of other Manors. *4 Rep. 26. 11*. *Rep. 17*. But it cannot be a Manor in Law, if it wanteth Freholds Tenants: nor is a Copyhold Ma- nor, without Copyhold Tenants: If all the Freeholds MODULE or come to the Lord by Purchafe, the Man- nor is lost: so if there are no Suitors in a Court Baron, but one, or there be only one Copyholder in a Cup- hold Manor. For the Freholds should be Feerholders, or Suitors at least. *2 Ew. 58. Lit. 75. 2 Roll. Abs. 121*. But it is said, if there be one Frehold Tenant, the Seigniory continues between the Lord and one Tenant. *Aed. 257. 1 Nolf. 7. 154*. The Custom remains, where Tenements are divided from the rest of the Manor, the Tenants paying their Services; and he who hath the Freehold of them, may have a Court of Service. *Ew. 103*. *Alemis. (Manor) An Habituation, or Farm and Land. *Spal. See Manor.* *Shane. (Manor a Manors.) Among the ancients, Romains was a Place appointed for the Lodging of the Prince, or Soldiers in their Journey; and in this Sense we read Primus Maniforem, &c. It is with us most commonly used to go with their Houses within their Fee; otherwise called the Capital Missions, or Manor House. Some say it is a Dwelling of one or more Houses without a Neighbour; and Manes. bovis is taken in Law for any House of Dwelling of another; in Cafes of committing Burglary. *Ew. 3. CS. Inf. 64*. The Law of Manes, accord- ing to Sir Edward Coke, seems to be a certain Quantity of Land: Hadi vel Manfa, and Manap, are mentioned in some old Writers and Charters. Hadi, 6. 6. And that which is ancient Latin Authors termed Hida, was afterwards called Manap. — Man- apio epistolis consentia ex pluralibus Domestibus vel una, que est habitatab una vel laina vii vii; sitiam et citis vel manes vel manua vel manata vel collata ex pluralibus viis. *Bract. liv. 5. tract. 5. p. 1.*

In a Manuscript, *Hircismidium, from the Sex. Man- frauts* is the unlawful Killing a Man without any pre- tended Malice; as when two Persons meet, and upon some falling out, the one kills the other. It is done in a present Heat, on a sudden Quarrel, and upon a just Provocation; and without any deliberate Intention of doing Mischief: And it differs from Murder only, in that it is not done with foregoing Malice; and from Be- yondenaed, having a present Intent to kill. *Staw. P. C. 1. 129. 9*. This Crime is Felony; but for the full Time admits of Clergy: And there can be no Accesories to this Offence before the Part, because it is done within a Premotion. *P. C. 217.* In the Laws of Canutus, the same Diffinition was made between Murder and Manuslaughters, as now: for we find, if a Man were killed with malice and perversely tate, the Offender was to be delivered to the Kindred of the Slain, &c. But if on his Trial, the Fault was proved not to be wilful, then he was refuged to the Bishop, &c. *Leg. 53*; Manuslaughters must be put on a sudden Quarrel, where the Party guilty doth nor appear to be Mafter of his Temper, by talking calmly on the Quarrel, or afterwards in other Dis- course, whereby the Offender may perhaps be cooled. *Cromp. 23. Rel. 56*. Therefore if two Persons meet together, and in driving for the Wall, one of them kills the other, this is Manuslaugh- ter: And so it is if, upon a sudden Occasion, they had gone into the Fields and fought; and one had killed the other; for all is continued Aff of Pal- mation, on the first fatal Occasion. *Jefi. 58. 108*. *H. P. C. 48*. And if two Persons who have formerly fought on Malice, are afterwards to all Appearance reconciled, and fight again on a fresh Quarrel, and one of them is killed, it shall not be construed it was not, unless they were moved on the old Grudge, unless it appear by the whole Circumstances of the Fact. *Haw. P. C. 82*. If two Men fall out on a sudden quarrel, and one breaks his Sword, and a Stranger coming, suddenly, fers him fighting with another, and fides with him and kills the other; this is only Manuslaug- ter. Also if a Man's Friend is assuaged, and he in Vindication of his Friend, on a sudden takes up a mithievous Infriment, and kills the Enemy of his Friend, this is Manuslaughter: So where a Person in returning another injuriously restrained of his Liberty, by pretended Pre-ff-Masters, &c. kills any of them. *H. P. C. 77*. *Plac. 101. Rel. 46. 135*. But if the Person killed were a Bailiff, or other Officer of Justice, refixed by any one in the Due Execution of his Duty; it would be Murder. *Kefo. 67. 86*. If a Mafter go with Malice to kill a Person, and his Servants being with him know nothing thereof; and then they join in the Affault and Murder: it is not Manuslaughter: But in the Servants: 'Thoug he the Mafter have Malice, and he tells his Servants of it, and that his Intention is to kill the Party, and they go with him; the Mafter doth in like as they kill him, it is Murder in both Mafter and Servants. *Dyer 26. 9 Rep. 66. Plac. 100*. There were two Men,
Men in an inner Chamber, quarrelling, and together by the Ear. A Brother of one of them floundered at the Door, that could not get in to cry to his Brother to make him sure, and presently after he gave the other a mortal Wound; this was held Manslaughter in him that stood at the Door. 1. Trin. 1. J. 4. Theat. A.D. 453. Several Perions having forcible Poffiffion of a House, afterwards killed the Perion whom they had held, as he stood at the Door to forcibly regain the Poffiffion, and to fire the House; and they were adjudged only guilty of Manuflaughter, notwithstanding they did the Fact in Maintenance of a delinquent Party, for so much was made in Faut him: Yet if in such, or any other Quarrel, whether it were drunken or premeditated, a Justice of Peace, Confiable, or even a private Person killed in endeavouring to keep the Peace, he who kills him is guilty of Murder. 1. Han. 85. It had been adjudged, that upon a Killing on a Fudden Quarell, if a Man be so far provoked by another Words or Gestures, as to make a Puff at him with a Sword, or strike at him with any other such Weapon as manifestly endangers his Life, before the other’s Sword is drawn, and thereupon a Fight ensues, and he who made such Assault kill the other, it is Murder; for by assisting the such in a Manner, without giving him an Opportunity to defend himself, he, on the contrary, killed the Man. But in the Case, if he who draws upon another in a Fudden Quarell, make no Puff at him till his Sword is drawn, and then fighting with him kill him, he is guilty of Manuflaughter only; because by giving the other Time to be on his Guard, he threw his Intent is not so much to kill as to combat with the other, according to the common Notions of Honesty, and as to Provocations, no Trespass, Breach of a Man’s Word, or Affront by Words, &c. will be thought a just Provocation to excuse the Killing of another. But if the Assault be made upon another Words, as giving the Lie, or calling another Son of a Whore, both Parties suddenly fight, and one kills the other, this is Manuflaughter: And if one upon angry Words assaulted another, by calling him a Dog, and he that assaulted draws his Sword and immediately kills the other, this is but Manuflaughter; for an Indignity was offered to the Slayer, from whom he might reasonably apprehend that there might be some further Design upon him. 1. 1.6. 5. 15. There is a Manuflaughter punishable as Murder, by Statute: By the 1. 6. 8. If any Perion shall smit another, not having then a Weapon drawn, or not stricken first, so that he dies within six Months, although it were not of Malice aforethought, it is Felony without Benefit of Clergy: But this doch not extend upon Persons afflicting others to Discontent, or by Misfortune, &c. with no Intent to commit Manuflaughter; and the Statute relates to the Party only that actually gave the Stroke, or stabbed the other, and not to those that were aiding or abetting. H. P. C. 8. A Blow given, or Weapon drawn at any Time during the Quarell, before the Thrift or Strab given, is within the Statute; and drawing out a Poflo, and leying it at the Party Kiling, or throwing a Pot, Bottle, &c. at him, are within the Equity of the Words, having a Weapon drawn. 1. Law. 255, 256. So if the Party killed have a Cudgel in his Hand; Clergy shall be allowed. G. 154. And he that is oplied of Clergy by this Statute shall be specially indicted upon it; though even then the Jury may find Manuflaughter generally: For the Statute makes no new Offence, but only takes away the Benefit of the Clergy, which was allowed at Common Law, to a Brother of one of the Orders. The Statute is but a Declaration of the Common Law; and made to prevent the Compion of Jurors, who oftentimes were periposed to believe that to be a Provocation to extenuate the Crime of Murder, which in Law was not.

Kol. 51. And on the Statute 1. Tac. 1. of Sabbing, it has been usual to prefer two Indictments, one of Murder, another upon this Statute, and put the Pri- cere to plead to both; then to charge the Jury first with the Crime of Murder, and if they find it not to be that Crime, to inquire on the other Bill, because if convicted of either, the Offender is excluded his Clergy. 1. Hale’s Hist. P. C. 468. If a Man is taken in Adultery with another Woman, and the Husband draws his Sword and presently kills the Adul- terer; this is a just Provocation, and makes it Manuflaughter. 1. 1.5. 12. 212. Two Makers of Defect of a Man at 13. The Sword; and one wounds the other, of which he dies, it is only Manuflaughter; and it is laid not to be Felony where they play by the King’s Command, for they play by Consent to try their Manhood, and may be the better able to do the King Service upon Occasion. 1. 56. 160. 5. Dall. 352. 131. 154. When two Perions play at Puff, and one kills the other, it is Manuflaughter. H. P. C. 32. 57. Though if one kills another at Wrestling, or fencing in Bow and Arrow at Bus, &c. this will not be Manuflaughter in the Offender. 1. Kel. 168. 1. The Sport is not without an ill Latent: And if one poute off a Gun in a Highway, or throws a Stone over a Wall, in a Place where People often meet, and a Perion is killed or at another Play, and the Party dies, &c. by any evil Inten- tion, it is Manuflaughter. 1. 57. But if an unlawful Act be done with an ill Intent, and the Act is deliberate, if Death happens, it is Murder. H. P. C. 52. 44. 1. 56. 12. 13. A Person shoots at the Same Fowl of another, which is an unlawful Act, and kills a Sander-by, it is Murder: If he be taken in Adultery with another Woman, and the keep a Gun, or to kill Game, it is Manuflaughter: And where he is qualified to keep a Gun, it is only Chancerymed. 1. 59. 1. Though in Cases of this Nature it is tought, that a Person, who does an unlawful Act doth tend immediately, or by necessary Con- sequence to the Injury of another. H. P. C. 31. 157. A Man drives his Catt, &:c. and it goes over the Child in the Street, or he be the Child: and yet drive upon him, it is Murder; but if he saw not the Child, it is Manuflaughter. And if a Child run over the Way, and the Car turns about him, before it is possible to make a Stop, it is per Injuriam. 1. Hale’s Hist. P. C. 476. See Chancerymed and Murder.

1. Mansum Capitale, The Manor-house or Manse, or Court of the Lord. Kent’s Antq. 159.

1. Manum Pabstrecipi, the Manse or House of Re- sideence of the Parish Priest; being the Parsonage or Vicarage house. Per. Antq. 431.

2. Manure, (From the Lat. Manua, a Nag, and Sax. Thelph. i.e. Thief) Signified ancienly an Horse- dealer. Leg. Alford.


2. Manumantia, is used for iuwer Obedi- ence, or Submission upon Oath. Henricus de Tilideale Kelser Ecolah de G. spect pro illa Domine Johanne Archiprêtre Ebor. Manuver naepartam etap Ebor. 11 Kl. 150. 26. The Statue is but a Declaration of the Common Law; and made to prevent the Compion of Jurors, who oftentimes were persuaded to believe that to be a Provocation to extenuate the Crime of Murder, which in Law was not.

1. Manuver.
MA

Manufacture, A Commodity produced by the Work of the Hand; as Cloth, Gr. Μεταφορα. By the Stat. ιο ζα 26. c. 7. Any Person employed in working up any Woollen, Linen, Silk, Leather or Iron Manufactory, who shall, without the Licence of the Mayor, Aldermen, or other Persons appointed by them, sell, pawn, exchange or unlawfully dispose of any of the Materials, shall be committed to the House of Correction for fourteen Days, and whipped; for a second Offence to be committed for not less than three Weeks, and whipped. The Receiver to forfeit 50. or be whipped; and for a second Offence 40. or be whipped. See Labourers.

Manumission (Manumissio) Is the Freeing a Villain or Slave out of Bondage: which was formerly done several Ways: Some were manumitted by a Person the Sheriff, or Proclamation in the County, &c. and others by a Charter; one Way of Manumission was for the Lord to take the Bondman by the Hand, and say, I will that this Man be free, and then throwing him forward out of his Hand. And there was a Manumission implied: when the Lord made an Obligation for Payment of Money to the Bondman, or freed him where he might enter without Suit, &c. The Form of manumitting a Person in the Time of Will, is called The Conqueror, is thus set down.—Si quis volet forcum suam Liberam facere, tradat eam Vi. cremonem per ornamentum, in pleno Comitatu, in quinque illum clamem debet a jure Servitui sui pro Manumissione. & vendat si liberas portas & sias, & tradat illi liberam Armam, foliet Lunam & Gladium, & vendat librum, &c. Law 1. Inst. 17. & 16. 4.

Manuscripte, Cash, or any Implements used in work in Humberdy. Man. Angl. Tom. 1. pag. 917. Potts, lib. cap. 52. 5a. Manuscript, Signifies a Domeftick, Some abound in forego dialet, for Famales & feruente Domeftico. Spells, He shall be culpable as of a Thing done by one of his Family, or by his own Hand.—Erat culpabilis tamquam de Manuscripto. Leg. Hes. 1. cap. 66. 5a.

Mathemat, (Celo, Meters) To till, plough, or manage Land, &c. Dic. 5.

Mathematics, Was ancienly used for an Oath, and for him that took it as a Compropetor. And it often occurs in old Records, Tenures, grants, &c. Matha Jus, that is, the Party was to bring so many to swear with him that they believed what he wished was true: And we read of a Woman accused of Adultery; Malum est negatum Purgata Deo Macta exuit Indita. i.e. She was to vindicate her Reputation upon the Testimony of six Compropertors. Reg. Eccl. Christ. Cant. If a Person swore alone, it was propri Macta & Unica. The Use of this Word came probably from its being required at a Person's Hands, to justify himself; or from laying the Hand upon the New Testament, on Taking the Oath.

Mathemena, A Write so called, used in Cases of Maintenance. Reg. Orig 182, 189.

Mather, (Math, Manner) The Price or Value of a Man's Life or Head, mentioned by Homer.

Manta, A Mere, Lake, or great Pond, that cannot be drawn dry. Man. Angl. Tom. 1. p. 666. Catfish & Manciparum de Bolingbroke, see Sete. Mara & Manciparum. Panegy. It has been held, that if Goods are stolen from a Muster of a Ship, whilst his Ship is in the River of Thames, he is chargeable; though not when he is gone out of the Realm, for a Robbery committed at Sea: But it was otherwise adjudged, where it was proved there was no Negligence in the Muster. Mich. 22 Car. 2. Mod. Rep. 85. If a Muster be hired, and he delivers the Service before the Voyage is ended, by the Law Marine, and by the Common Law, he shall lose his Wages: And if a Ship be lost by Tempest, the Muster is liable their Wages as well as the Owners their Freight; and this is to oblige them to use their utmost Endeavours to prefer the Ship. Le. Olimus. 1 Sid. 179. Where a Muster is wounded in the Service of a Ship, he is to be provided for at the Charge of the Ship; and if his Illness is very violent, he shall be left alone with necessary Accommodations, and the Ship is not to stay for him; if he recovers, he is invited to his futur Wages, deducting what the Muster expended for him. Le. Orig. c. 7. The Common Law hath Jurisdiction for Mariners Wages: and in the Admiralty they may all join. 1 Part. Persons owing Mariners and Receiving their Wages; and Forging Letters of Attorney, &c. or falsely taking out Letters of Administration, for the Receipt of Seamen Wages, incurs a 61. Fine.
Forfeiture of 200l. &C. Stat. 9 G. 3 to W. 3. A late Act hath ordained, That no Master of a Ship shall retain any Seamen or Mariners, without a Contract or Writing, for his Wages, on the Pain of forfeiting 5l. And if a Master refuse to proceed afterwards on the Voyage, he shall forfeit his Wages: and on Complaint to a Justice of Peace, he may commit the Offender to the House of Correction, to be kept so hard Labour, not exceeding thirty Days. &c. Alfo Mariners abating from Ships incur a Forfeiture of two Days Pay, for every Day's Absence, to the Use of Greenwich Hospital, and leaving the same before discharged in Writing, forfeit one Month's Wages: But this shall not deify any Mariner belonging to a Merchant Ship, from entering into the King's Service, &c. And on the Arrival of any Ship, the Master is to pay his Men their Wages in thirty Days, or at the Time of their Discharge (deducting the Penalties imposed on Pain of 20s. Stat. 2 G. 2. c. 50. No Perfom shall pay to any Mariner or common Seaman, for a certain Time, by any Ways or Means whatsoever, nor any Merchant take more Wages, than after the Rate of 5l. a Month, on Pain of forfeiting the Value of the Sum agreed on; but this extends not to Seamen hired in Voyages, from any Part of the Seas, to other Parts there, or to Great Britain, by 14 G. 2. c. 58. Masters of British and English Ships, trading to the chief Ports of Spain, are to pay a certain Toomey Duty to Perfon his Goods on the Freights of Goods and Merchandize; as a Contribution for Relief of Seamen shipwrecked, and other diftressed Subjects, &c. 9 G. 2. c. 25. A like Duty is to be paid by all Masters of Vessels, &c. going or coming from any Part of his Majesty's Dominions to Leghorn, for relieving Mariners that are shipwrecked, and taken in War, by Stat. 10 G. 2. c. 14. Mariners serving in Merchant Ships, or being taken prisoner, or being pressed into the King's Service, for two Years from their going to Sea, and Apprentices three Years, &c. By the Stat. 20 G. 2. c. 78. for the Relief and Support of Penfioned Seamen, the Widow's and Children of Seamen: or being killed, slain, drowned in the Merchants Service, receiving that there is no Penfion for Seamen disabled, &c. In the Merchants Service, and that they are willing to allow Sixpence per Month out of their Wages for the Relief of such as shall be disabled, &c. And the Widows and Children of Seamen shall be killed, &c. A Corporation is erected by the Name of the President and Governors for the Relief and Support of, &c. who may purchase Lands for building an Hospital, and are to provide for the disabled Seamen therein, and to allow Penfions to such as they think proper, their Widows and Children. Seamen, who have not served five Years in the Merchants Service, and contributed Sixpence per Month, not to have any Benefit of this Act. Seamen in the Merchants Service to pay 6d. per Month, and the Master of the Ship to retain the same out of their Pay, and pay it over to the Receiver of the Corporation. Mariners in the East India Company's Service are exempted from the Duty, and excluded the Benefit of this Act. See 13 G. 2. c. 17. And see Navy.

Martins, Wandering up and down, and who shall not settle themselves to work, or have not a Téthmonial under the Hand of a Justice, fleeing where they landed, and whether to go, &c. Or have such Téthmonial, if they exceed the Time limited more than fourteen Days, not being Sick in their Person, &c. It is Felony by the Statute 19 Eliz. c. 17. But if they cannot work for want of theretofore, the two next Justices upon their Complaint shall take Order that they may be provided of Work; or other means to subsist the whole Year, till Relief shall be had. Stat. Indb. And every Parish may be charged for relieving Mariners, as for maintained soldiers; and they shall be relieved by the Treasurer of the County, &c. 43 Eliz. c. 5. Martintam (or Martintam) Signifies Sea Affairs; any Thing belonging to the Seaman. Martintam Anglesse, The Profit and Emolument arising to the King from the Sea, which anciently was collected by Sheriffs; but it was afterwards granted to the Lord Admiral. &c. Richard's seal, the Locy dicitur habens Martintam Anglesse. Pat. c. H. 3. m. 4.

March, (Marx. Sax. Moer.) Of Silver is now thirteen Shillings and four Pence: Though in the Reign of King Hen. 1. it was only six Shillings and a Penny in Weight, and some were coined, and some only cast in small Pieces; but those that were coined were worth something more than the others. In former Times, Money was paid, and Things valued oftentimes by the Mark; &c. Agnovaltum Regis. pro hoc in vita Marci Arsacii annos, 134. 45. composuit, pro Marca. Pain. c. 2. m. 17. We read of a Mark of Gold of eight Ounces, and of 6l. in Silver; or as we say, 6l. 3s. 4d. Some Annal's. 152. Reg. Mag. Pipa. Ann. 2. Hen. 2. m. 17.

Mark to Goods, Is what attains the Property or Goodness thereof, &c. And if one Man shall set at the Mark of another, he shall not have the same Value for him, because of the Mark, Action upon the Cause lieth. 2 G. 471. A Penalty is inflicted in this Case, by Stat. 23 Eliz. c. 30. Market, (Mercatus, from Mercando, Buying and Selling) Is the Liberty by Grant or Preception, where by a Town is enabled to set up and open Shops, &c. at a certain Place, for the Sale or Buying, Selling, and better Provision of such Vitals as the Subject wanteth: It is less than a Fair; and usually kept once or twice a Week. Bract. lib. 2. cap. 24. 1 Lev. 230. And according to Bradton, one Market ought to be distant from another Sex linea (500 Miles) &c. semidium & tertiis partes semidimissionem: If one hath a Market by Charter or Preception, and another obtains a Market in the same Place, &c. the Owner of the former may avoid it, 1 Lev. 406. Also where a Man has a Fair or Market, and one offers another to his Preception, an Action with the Owner: and so it is said of a Ferry, a Roll 140. a Med. 60. The Fair or Market is taken for the Place where kept: And formerly it was customary for Fairs and Markets to be kept at an End of a Town, but by Stat. 6 H. 6. c. 5. no Fair or Market shall be kept upon any Sunday, or upon the Feasts of the Afermon, Corpus Christi, Good Friday, All Saints, &c. except for necessary trade, and in Time of Harrest: And they ought not to be held in Church-yards, by 15 Ed. 1. c. 6. All Fairs are Markets: And there may be a Market without an Owner, &c. where some present an Owner, a Butcher cannot preter it to sell Meat in his own House upon a Market Day; for the Market shall be in an open Place, where the Owner may have the Benefit of it. 4 Lev. 275. No Market shall be held out of the City of London within seven Miles: Though all Butchers, Vintners, &c. may hire Sals and Standings in the Market there, and sell Meat and Provisions, on four Days in a Week, &c. Co. ibid. 101. In the Country, Things sold in the Markets are to be in the usual Place appointed for the Sale: But in London every Shop is a Market Overy, for such Goods as are put there to be sold by the Trade of the Owner: though if the Sale be in a Warehouse, and not publickly in the Shop, the Property is not altered. 5 Rep. 85. Mor. 300. Sale made upon a Market Day, or Market Town, will not alter the Property of the Thing sold. 5 Rep. Paroles that dwell in the Country, may not sell Wares by Retail in a Market Town, but in open Fairs: But Count rymen may sell Goods in the Nat. 5. Stat. 1. P. & M. All Contracts for any Thing vendible in Markets, &c. shall be binding, and Sales alter the Property.
Marquis, or Marches, (Marches) is now a Title of Honour before an Earl, and next to a Duke.

And by the Opinion of the Law, Tents, and the Name is derived from the German March, signifying originally Castro Limiti, or Comes & praefetura limitis. In the time of King Rich. II. the Town of Marquis, which was a Governor of the Marches; for before that Time those that governed the Marches were called commonly Lords Marches, and not Marquis, as Judge Merriott has said in his Law of Nobility and Peerage. Selden's Mars claus. lib. 2. cap. 19. A Marquis is created by Patent; and anually by Clothure of Sword, Mantle of State, &c.

Marryatt, is used for Penny Ground in the Book ofDN.

Marriage, (Marriage) is a civil and Religious Contract, whereby a Man is joined and united to a Woman, for the Ends of Procreation; and signifies not only the lawful Joining of Man and Wife; but also the Intest of being a Ward or Widow in Marriage, in our ancient Laws. Meg. Chart. c. 6. And Marriage is likewise applied to Land given in Marriage; and that Portion which the Husband receives with his Wife. Bradl. lib. 2. cap. 34. Gloss. lib. 7. c. 1. In this Sense the Towns are divers Waterds by Marriage, &c. Reg. 171. There's further a Term called Duty of Marriage, signifying an Obligation on Women to Marry such in a Lawful Manner, who formerly held Land by the Value of Marriage with personal Services, in order to render them to their Husband's Cred. Marriage generally is the Conjunction of Man and Woman in a constant Society and Agreement of Living together; till the Wife is divorced by Death or by Breach of Faith, orsome notorious Misbehaviour, defruative of the End for which it was intended. It is one of the Rights of Human Nature; and was at some Time a State of Bondage, for Preservation thereof; and Nothing more is requisite to a compleat Marriage by the Law of England, than a full, free, and mutual Consent between Parties, not disabled to enter into that State, by their near Relation to each other, Infamy, Prencraft or Impovercy; and so to the Solemnization of Marriage, this is regulated by the Law and Customs of the Nation where we reside; and every State allows such Privileges to the Parties as it deems expedient, and denies legal Advantages to those who refuse to solemnize their Marriages. In the State of England, they cannot dissolve a Marriage celebrated in another Manner, Marriage being of Divine Institution, to which a full and free Consent of the Parties is necessary. Before the Time of Pope Innocent III. there was no Solemnization of Marriage in the Church; but the Man came to the House where the Woman inhabiteth, and led her home to his own House, which was all the Ceremony then used: And it has been since held, that if a Man and a Woman are married by a Priest in a Place which is not a Church or Chapel, and without any Solemnity of the Celebration of Mass, yet it is a good Marriage. Manc. s. Reg. 170. 1 Ed. 64. Marriages by Rempe Pris, where Orders are acknowledged by the Church of England, are deemed to have the Effects of a legal Marriage in some Insances; but Marriages ought to be solemnized according to the Rites of the Church of England, to intitle the Privileges attending legal Marriage, as Dower, Thirds, &c. And by Statute, Papal Recusants convicted, married otherwise than according to the Rites of the Church of England, by a Minister lawfully authorized, and in some open Church, &c. shall be disabled, the Man to be Tenant by the Curate, and the Woman to be Jointure, Widow, or Widow's Estate, &c. 3 Jac. 1. c. 5. Marriage at Common Law is either in Right or in Possession; and a Marriage de Fato, or in Repudiation, as among Quakers, &c. is allowed to be sufficient.
sufficient to give Title to a personal Elate. 1 Law. 53. Wood's Jfl. 59. But in the Case of a Diftrict, married to a Woman by a Minister of the Congreg- tion, who was not in the Orders; it was held, that when a Husband demands a Right to him as Husband, by the Ecclesiastical Law, he ought to prove himself a Husband by that Law; to invite it to him: and not withstanding the Wife, who is the weaker Sex, and the Children of this Marriage, may insist themselves to a temporal Right by such Marriage; yet the Husband shall not, by the Repute of the Marriage, unless he have a substantial Right; And this Marriage is not a meer Nullity, because the Law of Nature the Contract is binding; for though the positive Law of Man ordains Marriage to be made by a Priest, that Law only makes this Marriage irregular, and not expressly void. 1 Salk. 119. Marriages contracted betwixt lawful Persons, being solemnized in the Face of the Church, and conformed, were declared valid, notwithstanding any Pre-contract, non consumenta, by Stat. 32 H. 8. c. 38. But this was repealed by 1 Stat. 6 Ed. 4. 13. And all Marriages solemnized by Justices of Peace, during Oliver's Uperation, were ordained to be good and valid, as if solemnized according to the Rites and Ceremonies of the Church. Stat. 13 Car. 2. c. 33. Those Marriages that are made in an ordinary Course, are to be sitting in the Church, and other Ceremonies appointed by the Book of Common Prayer. 2 Stat. 6 Ed. 21. By the Ordinances of the Church, when Persons are to be married, the Bann of Matrimony shall be pub- lished in the Church where they dwell several Sundays, in the Space of twelve Service ; and if at the Day appointed for their Mar- riage, any Man do allege any Impediment; as Pre- contract, Condonability, or Affinity; Parents not consent; or under Age, they shall be bound to marry, and become bound with sufficient Sureties to prove his Allegation, then the Solemniza- tion must be deferred until such Times as the Tribunal, or any Judge, in his Law, may lawfully set. But Marriages made within the Degrees, are in- censurable and unlawful. 1 Inst. 24. 2 Inst. 684. Mar- riage is forbidden to those who are of kindred lineally; also between such as are in the transverse or collateral Line, until the fourth Degree be past. So in Respect of Affinity, which arises betwixt them that are sured of the Blood, and of the Blood between the Husband and the Relations of the Wife; but this prohibition Marriage only to the Persons con- tructed, for the Cousin of Consanguinity to my Wife, are of Affinity to one only, and not to my Brothers, or Children by a former Wife 2 Sta. Ab. 414. The Son of a Father by another Wife, and Daughter of a Mother by another Husband, Cousin Germans, etc. may marry with each other: A Man may not marry his Brother's Wife, or Wife's Si- ster; an Uncle his Niece, an Aunt her Nephew, etc. But if a Man take his Sister to Wife, they are Baron and Feme, and the Issue are not Baffards till a Divorce. Levit. c. 18. 20. 2 Inst. 685. 1 Red. Ab. 540. 357. 5 Mod. 448. A Libel was exhi- bited against a Person for marrying his Wife's Sister; the Defendant fogged for a Prohibition, that his Wife was dead, and he had a Son by her, to whom an Elate was declared as Heir to his Mother; yet the Ecclesiastical Court proceeded to annul the Marriage, and to baradiff the Issue: But a Prohi- bition was granted good the Annulling the Mar- riage, and gave the Legate to proceed to punish the Incest. 2 Salk. 24. 4 Mod. 182. A Person may not marry his Sister's Daughter: And a Sitter's Baffard Daughter is said to be with her Brother, if he is being married: According to the Law, it is being made finally, as unlawful to marry a Baffard as a son born in Wedlock, and 'is so in Nature; and if a Baffard doth
doth not fall under the Prohibition PROXIMITY

SUGGESTS no means, a Man may marry a Baird
Son. 5 Med. 168. 2 Nelf. Abr. 1161. There are
Persons within the Reason of the Prohibition of Mar-
riage, though not mentioned, and must be prohibit-
ed; as the Father from his Daughter, the Grandson from marrying the Grandmother, &c. 2 Nelf. Abr. 321. The Temporal Courts by the Stat. 28 H. 6. c. 7, are to determine what Marriages are within or without the Levitical Degrees; and pro-
hibit the Spiritual Courts if they impose any Per-
sons, for marrying without their Degrees. Pugl. 202. p. 2. 2 Nelf. 438. And in this, we are hot for that
Stature, we should be under no Obligation to observe
the Levitical Degrees. Ibid. When there is a perpe-
tual Impuissance; Fear or Impiroment, so that there
can be no Consent, or where Persons are precon-
tracted; a Man or a Woman have a Wife or Hus-
band living, &c. in such Cases the Marriages are to be
adjudged void, as prohibited by God's Law.
1 Esd. 2. 15. 2 Esd. 657. The Marriage of a Lu-
натик, or one not of sound Mind, is also now void.
15 Gtn. 2. rep. 30. 30 And although matrimonial
Causes have been for a long time determinable in the
Ecclesiastical Courts, they were not so from the
Beginning; for as well Causes of Matrimony as Te-
flammable, were Civil Causes and appertained to the
Jurisdiction of the Magistrates until Kings should
allow'd the Clergy Cognisance of them. Dower's
Rep. 41. If Persons married are infra annos Nubiles,
then the Judges are to judge as well of the
Affent, whether sufficient, &c. as of the first Con-
trat; and where they have Cognizance, the Common
Law Judges ought to give Credit to their Sentences, as
if it had been in the presential Court. See also 7 Rep.
282. The Right of the Marriage, in these Causes, was in Ques-
tion, as in Dower, &c. the Lawfulness of Marri-
ge is to be tried by the Bishop's Certificate; but in a
Personal Action, where the Right of Marriage is
not in Question, it is tried by Jury at Common
Law, 1 Lev. 41. Whether a Woman is married,
and the is the Wife of such a Person, is tried by a
Jury; and if the Party alleges that he did marry her,
&c. This shall be tried per Faus; for the Marriage is only in Illus,
and not whether he was lawfully espoused. Com. Cor.
102. Conditions against marriage generally, are void
in Law: And if a Condition is annexed to a Legacy;
so as Money is given to a Woman, on Condi-
tion that the Marry with such a Person, &c. such a Condition is void by the Ecclesiastical
Law, because the Marriage ought to be free without
Corviction; yet it is said it is not so at the Common
A Man contract to marry with A and after marry B.
whereupon A fies him in the Spiritual Court, and
Sentence is given that he shall espouse the other, and co-
habit with her, which he doth, and they have Illus,
fic Illus shall inherit, though there was no Divorce
from the Marriage of B. Non 160. 1 Dower. 700.
Therefore before the Age of Consent, they may at that Age disagree and marry again,
without any Divorce: Though if they once give
Consent when at Age, they cannot afterwards dis-
agree; and where they are married before, there
needeth not a new Marriage, if they agree at that
Age. 1 Law. 55. 2 Law. 111. A Mother of a Man of
Age, and the Woman not; or the Woman of Age,
and the Man not, &e. or he may disagree to the
Marriage at the other coming of Age to consent, as
well as the other, for the other's Part. 1 Dower of
Divorcement. 398. 86. 3 Rep. 22. 1 Dower. 659.
A Woman cannot disagree within her Age of
twelve Years, till which the Marriage continues;
before their Disagreement is void. 1 Dower. 659.
Though if a Man marries a Woman under that
Age, and afterwards the within her Age of Con-
sent disagrees to the Marriage, and as her Age of
twelve Years marriage another; now the first Marriage
is absolutely dissolved, so that he may take another
 Wife; for although the Disagreement within the Age
of Consent was not sufficient, yet her Taking an-
other Husband at the Age of Consent, and coabi-
ting with him affirms the Divorcement, and so the
first Marriage is avoided. May 275. 752. If after
Disagreement of the Parties, at the Age of Consent
they agree to the Marriage, and live together as Man
and Wife, the Marriage hath Continuance, with-
standing the former Disagreement: But if the Dis-
agreement had been before the Ordinary, they could
not afterwards agree again to make it a good Mar-
riage 1 Dower. 669. If either Party be under
seven Years of Age, Coercions of Agreement are
lately void: But Marriage of Princes made by the
State in their Behalf, at any Age, are held good;
though many of these Coercions have been broke
through. Susie. Matrimon. England, where a mutual Consent of Marriage in Words of present Time can be proved, the Ecclesi-
astical Courts will not formerly attempt to annul their
Marriage, although either or both of them are
married elsewhere, and Children have been the Fruits
of it; and the Children of such Marriages are
Tried and damned Bairdas. Bel. 375. 122.
If a Contract is made in Words of future Time, this
is not carried into Execution by Confirmation, &c.
and Parties marry elsewhere, the Marriage is good.
A Contract of Marriage in Words of present Time is
not void when it is said, I marry you; and I am
and Wife, &c. and such Contract is a Marriage, and not
releasable; but a Contract of Marriage in Words of
future Time, which is, where it is said, I will marry you,
or I promise to marry you, &c. is releasable. Edis.
Term. 2 Ann. B. R. 125 Ch. 125 held, that if a
Contract was in Words of future Time, as Provided
then, &c. and the Man doth take her accordingly, and
cohabit with her, his in a Marriage; and the Sib-
pheric Court cannot punish for Fornication. Mich
5 Ann. 2 Term. 277. 278. And it has been adjudged
on a Promise of future Marriage, if the Parties after-
wards live together, the Contract passes thereby into a
real Marriage in Confruction of Law. Sword. I will
take, and I do take, are Words of Contract in the
future and present Time; and the Words, I will take
This from henceforth, &c. are as much as I do take
there, and an absolute Marriage: If it is demanded
of a Man, whether he will take the Woman to his
Wife, and he answers, I will; it is demanded of the
Woman, if she will take the Man to her Hus-
band, and the answer, I will; by this Marriage, and
not Spouls is said to be contracted. Ibid. It is not
necessary in Contracts of Marriage, that both
Parties use the same Words or Expriences; for if
one Party says I will marry Thee, and the other an-
swers, I am content, &c. hereby Spouls de futuro
are contracted; and if a Man say to a Woman, I
promise to marry Thee, &c. and does not commit me
marry me, Kifs me, or give me thy Hand, if the Wo-
man do Kifs or give her Hand, Spouls are con-
tracted. Sword. p. 210. Also if a King be solemnly
delivered by a Man, and put on the Woman's
6 K.
Fourt
Fourth Finger: if the accepts and wears it, without any words, the Parties are presumed to have mutually consented to Marriage. *Ibid.* And where the Man is powerfully propitious, no action to assuage the Promise on the Woman’s Side; if the carry herself as one confessing and approving the Promise of the Man, it is Evidence that the Woman likewise promised. *P. & A.* 3 Ann. 3. *S. 16.* In Contracts it is not necessarily required, that the Parties contract Matrimony at the same time with the other; but if there be some Distract of Time between, the Promises of the other, the contract may be good, if the Party first promising continues in the same Mind, until the other Party hath promised; but this is not Matrimonial, but Spousal, if it be either, because at their Ages they may differ; and when Words of the Contract are only conditional on one Side, and the other absolute; or if the Words are spoken in Jilt, they are not obligatory. *Swinl.*

If a Father or Mother promise Marriage for their Child, the Silence of the Child being present and hearing the same, hath been adjudged a Consent to the Contract. *Ibid.* 69. And Contracts of Marriage may be by absent Parties, by Mediation of their Proctors, or by Mediators or Letters; when by Proxy is it especially the business of Attorneys to convey Matrimony or Spousals for the Party in his Name, with such a Woman, *et al.* And the Proctor says, I do contract Marriage with Thee, in the Name of such a Woman, &c. or such a Man doth contract Marriage with Thee by his Proctor; to which the Woman answers, I do take him to my Husband by the Proctor his Proctor; and both Parties are to continue in the same Mind until the Contract is finished, before for that the Proctor may be revoked, and then the Contract will be void. *Swinl.*

A Match by the Proctor of the one, and the other; the Contract or Letter is good; unless it appear the Party differs before the other contracts thereto, and the mutual Consents of the other Parties ought to be first immediately, or shortly after, or it will not be good. *Ibid.*

By Marriage with a Woman, the Husband is entitled to all her Estate real and personal; and the Effects of Marriage are, that the Husband and Wife are accounted one Person, and he hath Power over her Person as well as Estate, *et al.* 1 Inf. 357. The Marriage of two Persons doth knit them so fast together, as that a Woman cannot give anything to another, if she be his Wife by Deed, during the Coverture; but by Will and Devise he may. *2 Ann.* 11. But notwithstanding Marriage, in some Cases the Husband and Wife are considered as divers Persons; and if one of them may perform an Act to another: As when they do it in autum, where a Feudament is made to one of them, and Letters of Attorney to the other to give Livery to the Feudor, *et al.* 4 Perk. Stil. 169. And it is the fame, if the Wife have Power to sell Land by Will; she may sell the same to her Husband; and being an Executrix, may pay a Legacy to him. *1 Inf.* 187. All the Goods and Chattels personal of the Wife, are by the Marriage given to the Husband by Law; so that he may dispose of, fell or keep them whilst he lives, and give them away when he dies: And that whether he survives her, or not. *1 Inf.* 209. And all the Chattels real, the hath in Possession in his own Right, by the Marriage the Man shall have, and those by Executed in his Life time he may give, grant, *et al.* and in Case he survives her, he will have them absolutely. *2 Sop.* 419. It is true, that although all the Husband hath before the Coverture is his own, be it Goods or Lands, and the Wife has immediately nothing therein; yet all that is the Wife’s by their Marriage together shall be the Husband’s. *Ibid.* The Husband’s debts and obligations of this Marriage Bond was adjudged good. *3 Cro.* 576: *Tiv.*

her Death, where he hath Issue by her that might inherit: and the Wife shall have Dowry in her Husband’s Lands, after the Death of the Husband, *et al.* Litt. 35. The Wife’s dower is a right of being on the Name, so of the Nature and Condition of the Husband by the Marriage for; for if she be an Earl’s Wife, she is a Counsellor, if a Knight’s Wife a Lady; and if he be an Alien and made Denizen, the Wife is so likewise. 59 H. 6. 45. 4 H. 7. 31. *Brow.* 490. There being divers Advantages by Marriage, to the Man and the Woman; therefore on Promise of Marriage, Damage the other, the Party may refuse to marry; but the Promise must be mutual on both Sides to ground the Action. *1 Sali.* 24, and if there be Separate Promises of Marriage, as the Woman’s Promise to the Man is a good Consideration to make his Obligatory; so his Promise to her is a sufficient Consideration to make hers binding: And though no Time for Marriage be agreed on, if the Plaintiff aver that he offered to marry the Woman, and the refused, Action lies against her, and Damages are recoverable. *Corb.* 497. If a Man and a Woman make mutual Promises of Intermarriage, and the Woman gives the Woman 100 L. in Satisfaction of his Promise of Marriage, it is a good Discharge of the Contract. *Ibid.* 156. By Statute it is enacted, no Action shall be brought upon any Agreement on Consideration of Marriage, except it be put in Writing, and signed by the Party to be charged, and in Writing, within Six months from the Time of the Party refusing afterwards, according to the Dignity of the Party. *Cra.* 53. Contracts and Bonds for Money to procure Marriages between two others, have been held void in Equity: And where-ever a Parent or Guardian influets upon private Gain, on the Marriage of Children; Covenant or Obligation for it shall be void. *Cra.* 53.

When a Person promises to give his Daughter Wedding-Clothes on the Marriage, the shall have two Suits, one for the Wedding-Clothes, and the other for the Money given afterwards, according to the Dignity of the Person. *Cra.* 53. Contracts and Bonds for Money to procure others, have been held void in Equity: And where-ever a Parent or Guardian influets upon private Gain, on the Marriage of Children; Covenant or Obligation for it shall be void. *Cra.* 53.
A Man and a Woman intending to enter into intermarry, he enters into Articles with her before their Marriage, by which he agreed to settle such Lands upon her, &c. And in pursuance of such Articles he did before the Settlement made, the Widow in Equity shall have the Articles executed, and hold the Lands for her Life, &c. 2 Pet. 1. 43. In Case Articles are entered into before Marriage, and afterwards a Settlement is made different therefrom, the Court of Chancery will set up the Articles against it; but where both are limited before the Marriage is entered into, and at a Time when all Parties are at Liberty, such Settlement will be taken as a new Agreement between them: This is the general Rule, unless the Deed of Settlement is expressly mentioned to be made on Marriage of the Marriage Articles, &c. whereby the Intent may still appear to be the same. 

True's Case, 15. Articles of Marriage were made for settling Lands on the Husband and Wife, and the Heirs Male and Female of the Body of the Husband by the Wife, &c. and a Settlement was drawn contrary to these Articles, long after which the Husband suffered a Recovery, and devised the Land to others: it was here held to be no Bar to the Heirs Female, who were Deceased to have the Land. 2 Pet. Williams 349, 357. Yet it is said, where Relief is to be given in Equity, a Settlement shall be only on the Persons who claim as Purchasers, as the Share of the other is, and all Remainders after to the Husband's Heirs of his Body, or his Right Heirs, are voluntary and not to be avoided. 1 Pet. 35. But though a Term to raise Daughters Portions, payable at the Age of Eighteen or Day of Marriage, in a Marriage Settlement, is limited in Remains, to commence after the Death of the Father generally; or if it be in Case he die without issue Male of his Wife, and the die: with without such Issue, leaving a Daughter, &c. In Equity, the Time of the Settlement is limited to the Time of the Death of the Father; but if a Female, when she is eighteen Years old, she married; because every Thing is happen'd and past which is contingent, for its Impartiality there should be Issue Male of the Husband when he is dead, and as to the Father's Death, that is not contingent, but certain, by Reason all Men must die: But if there is no Contingency not yet happen'd, as if the Daughters are to be unmarried, or not provided for at the Time of the Father's Death, &c. it is otherwise. 

Salk. 159. Upon Marriage, the Settlements generally made on the Husband, to be held to the Husband for Life, after his Death to the Wife for Life for her Inheritance, and to their Issue in Remainder, with Limitations to Trustees to support contingent Issue, and Leaves to Trustees for Terms of Years, to raise Daughters Portions, &c. and they are made several Ways, by Lease and Release, Fine and Recovery, Covenant to keep quiet to Ufe, &c. Accor. Consn. 143. These Settlements the Law is ever careful to prefer, especially that Part of them which relates to the Wife; of which the may not be devolved, but by her own Fine: And if a Woman about to marry, to prevent her Husband's Disposal of her Land, conveys it to Friends in Trust, and they with the Husband after Marriage make Sale of the same; the Court of Chancery will decree the Husband to recover the Land and convey it to her. 

Tibbl. 43. Where a Woman on Marriage, by the Man's Consent makes over her Effe, to her own Disposal, the Produce or Inheritance thereon, he can also make of: And if the Wife has a separate Maintenance settled on her by the Husband, she may by Writing in the Nature of a Will, give a separate Maintenance to the Husband; and shall have the same hefied, in Case the Trustees hold, it and shall not be liable to his Debts. 

Prev. Case, 225, 44. But where a Settlement is made on the Husband, to be wholly in his Power, and equivalent to it; here the Wife's Portion, though it be out on Bonds, &c. which upon the Death of the Husband by Law survives to the Wife, shall in Equity be subject to the Husband's Bond Debts, after his Death, to the Real Estate of the Heirs. 2 Pet. 63. And it has been said before held, that if after the same, and Debts of her's appear; the Husband shall be accountable for the Debts of the Wife, so far as he had any Money or Effe of hers. 2 Pet. 256. If a Man in mean Circumstances, marry a Woman of Fortune, upon Suggestion of Locrancy in the Wife by her Friends, the Court will order her Effe to be so settled, that the may not be her own upon her limited and husband to give it to him from her Children, by him or any other Husband, &c. 54. 110. Marriage is dissolved by the natural Death of the Husband or Wife, or by Divorce: and who is a Marriage is dissolved by the Death of the Husband, Dower, &c. survives to the Wife, where no Settlement is made of the Husband's Land, &c. and Bano and Time and Chancery.

Form of a Marriage-Deed of Settlement of Lands.

This Indenture tripartite, made the Day and Year, &c. Between A. B. of the first Part, C. D. E. F. and G. H. of the second Part, and E. D. and F. G. H. and I. of the third Part, &c. that the said A. B. &c. and in Consideration of a Marriage intended (by God's Permission) shortly to be had and solemnized between the said A. B. and the said E. D. and F. G. H. and I., to be had and received by the said A. B. as a Marriage Portion with the said E. D. and F. G. and I. that a competent Portion may be had, made, and preserved for the said A. B. and the said E. D. (in Case thesaid Marriage shall take Effect) and for the Settlement, and Alluding of the Messuages, Lands, Tenements and Hereditaments hereinafter mentioned, to and upon the several Uses, Intents and Purposes, and for the better Appearance of all and every Part and Parcel thereof, with the Appearances, unto the said A. B. C. D. E. F. and G. H., their Heirs and Assigns, to and for the several Uses, Intents, Purposes, and Purposes hereinafter mentioned, limited, express'd, and declared (so far as it is in our Power) to the Use and Benefit of the said A. B. and his Heirs, until the Marriage between them and the said E. D. his intended Wife, shall be had and solemnized; and from and after the solemnization thereof, to the Use and Benefit of the said A. B. and his Assigns, for and during the Term of his natural Life, without Imposition of Writs, and from and after the Determination of his natural Life, to the Use and Benefit of the said C. D. E. F. and G. H. and their Heirs, for and during the natural Life of the said A. B. in Trust, to preserve and support the said Parties heretofore limited from being defeated and destroyed, and for
that Purposes to make Entries, and bring Allions, as the Cafe shall require for ye, notwithstanding in Trust to permit and suffer the said A. B. and his Allions, to receive and take the Rents, Allions, and Profits there of, to him and his in those years and Demises during his natural Life; and from and after the Demise of the said A. B. to the Use and Behalf of the said E. F. (intended Wife of the said A. B.) and her Allions, for and during the Term of her natural Life, for her Tainture, and in full Satisfaction and Bar of her Dower or Thirds, which she may claim to have in any Lands, Tenements or Hereditaments, whereof, or whereon or wherewith she be the said A. B. shall at any Time during his Life, be seized or of any Estate of Inheritance, and from and after the Demise of the Survivors of them the said A. B. and E. his intended Wife, to the Use and Behalf of the Heirs Mates of the Body of the said A. B. on the Body of the said E. D. lawfully to be gotten, or to the Use and Behalf of the first Son of the Body of the said A. B. etc., and the Heirs Mates of the Body of the first Son lawfully gotten, and for Default of such Jiff Mates, then to the Use and Behalf of the second Son, etc., and so to the third and fourth, etc., to the fifth, sixth, seventh, eighth, ninth and tenth Sons and Sins, and all and every other Son and Sins, jointly and severally and in Remainder one after another, as they shall be in Succession, and in Proportion of Birth, and of the Heirs Male of the Body of all and every such Sons, etc., the elder and the Heirs Male of his Body, always to be preferred, and after the Birth of such Mates, to the Use and Behalf of the said C. D. E. F. and G. H. their Executors, Administrators and Allions, for and during the Term of 500 years that shall run from and after the Demise of the said E. F. (intended Wife of the said A. B.) and her Allions, for and during the Term of her natural Life, upon the Truth, and to and for the Ends, Intent and Purposes herein declared, and of concerning the same Term; and from and after the Expiration, or termination of that Term, in the Use and Behalf of the said A. B. his Heirs and Allions for ever. Provided always, and it is hereby declared and agreed, by and between the said Parties, to their respective heirs, that the said_terms of 500 years is limited for the said C. D. E. F. and G. H. their Executors, Administrators and Allions, as aforesaid, is upon this Condition: That if the said A. B. shall happen to die without issue Male, and then such issue Male shall die without issue Male of his or their Body or Bodies together, and shall not happen to be one or more Daughters or Daughters of the said A. B. on the Body of the said E. F., but that when and in such Cafe, if the said A. B. his Heirs or Allions, or shall, and shall well and truly pay or cause to be paid to such Daughter or Daughters respectively, at her and their respective Ages of twenty-one Years or Days of Marriage, the several Portions following, that is to say, if it shall happen there shall be but one such Daughter, then the Sum of 100l, for the Portion of such Daughter, to be paid to her at her Age of twenty-one Years, or Days of Marriage, which shall first happen, with Interest in the mean Time after the Rate of 5l. per Cent. per Annum; and if it shall happen that there shall be two or more such Daughters, then the Sum of 100l. etc., for the Portions of such two or more Daughters, to be equally divided among them, Share and Share alike, and to be paid to them respectively as their respective Ages of twenty-one Years or Days of Marriage, which shall first happen, with Interest therefore in the mean Time, etc. And if any such Daughter or Daughters shall happen to die unmarried, before her or their Age of twenty-one Years, or shall become payable as aforesaid, then the Portion or Portions of her or them then dying, shall go and be paid to the Survivors or Survivor of them, to be divided among them, Share and Share alike, and to be paid at the same Time as the original Portions should or ought to become payable, as aforesaid.
pointed, and according to the true Intent and Meaning of their respective parts, as by the said C. D. E. F. &c. and their Heirs, or any of their Counsel learned in the Law shall be reasonably argued, or advised and required to be considered, con-
sidered and agreed upon, and by between the said Parties to these Parties, and the true Meaning hereof affixed it is, and it is hereby declared, that all and every Fine and Fines, and all and every Fines and Reserves, Affin-
ances and Affinances, Covenance and Covencies in the Law whatsoever already had, made, lived, suffered, executed, or are to be executed, by or between the said Parties, or any of them, and any other Per-
son or Persons, as for and concerning all and every the said Matters or Parties described, according to the true Intent and Meaning of these Parties, and to and for none other Us, Intent or Purposely subroskinder.
In Witness, &c.

By Statute, to deal or take away any Woman, having an Estate in Lands or Goods, or that is Heir apparent, against her Will, and marry or distract her, is Felony, 5 H. 7. c. 2. 2. And if any Persons married do marry any other Person, the former Husband or Wife being alive, it is Felony: But where a Husband or Wife are abroad beyond Sea, &c. seven Years, the one not knowing the other to be living or there is a Divorce of the Husband and Wife, &c. they are ex-
cepted out of the Act 1 Jac. 1. c. 11. A Husband being abroad seven Years, or any Time to last, is in this island, this is beyond the Seas, and within the Words of the Exemption of the Act, yet in the King's Dominions: And if the Husband or Wife, be abroad seven Years, though the Party have Notice, 'tis Felony by the Statute. 1 Hals's H. &c. P. 5. 2. And in these Cases, the first and true Wife, is not allowed as a Witness against the Hub-
band, but the second Wife may be admitted to prove the second Marriage, by the Name of the first Wife, &c. If the said Marriage were beyond Sea, and the later in England, the Party may be indicted for it here; the later Marriage making the Crime: Though if the first Marriage be in England, and the later beyond Sea, the Officer can't be indicted there. 1 Sid. 171. El. 8. If a married Man pretends himself to be a single Person, and make Love to a single Woman and marry her; for this Injury in the Lois of her Credit, &c. as to the Marriage of any other Man, Adion lies. Skinner's Rep. 119. See Forci-
ble Marriage, &c.

Marshall (Marshall). Is a French Word, signifying as much as Tribunus militum, with the ancient Romans; and Marshall may also come from the German Marschall, i. e. Rigaum Magister, which Homann in his Feuds under verb. Marchalcius derives from the old Word March, which signifies a Horse; and others make it of the Sax. Mar, i. e. Exequi Sarch, Praefectus. In France there are Marshall or the Camp, called Marshall of France: And of the Ne-
Bility and Dists, in Poland, &c. With us there is severall Officers of this Name; the Chief whereof is the Earl Marshall of England, mentioned in the Stat. 1 Hen. 4. c. 2. and 15 R. 2. cap. 2. &c. whole Of-
force consists especially in Matters of War and Arms, as well as in this longer, as in other Countries; and this Office is very ancient, having formerly greater

Power annex'd to it than now; it has been long he-

nereditary in the Family of the Duke of Norfolk. The next is the Marshall of the King's Hoofe, otherwise called Knight Marshall; and his Authority is exer-
cised in the Palace, in bringing and detaining all Pisas of the Crown, and Suits between chie-
of the King's Hoofe and other Persons within the

Verge, and punishing Faults committed there, &c. 18 Ed. 5. c. 7. 17 Ed. 3. sid. 6. & c. 6. and 2 H. 4. cap. 13. Corp. Jurif. 123. Fleta mentions a Mar-
shall of the King's Hall, to whom it belongs, when the

Tables are prepar'd, and other Matters that concern the Household and Strangers, according to their Rank and Quality, and properly place them. Fleta, lib 2. cap. 15. There are other inferior Officers called Marshall, as Marshall of the Temple in Elys. Ann. 15 Ed. 1. cap. 10. Marshall of the King's Bench, Stat. 5 Ed. 1. c. 8. who hath the-Custody of the Prison called the

King's Bench Prison in Southwark. This Officer gives Attendance upon the Court, and takes into his Custody all Prisoners committed by the Court; he is liable for his Absence, and Non attendance is a Forfeiture of his Office. Hill. 2 & 2 Car. 2. There is also a Mar-
shall of the Exchequer, to whom the last Court commits the Custody of the King's Debtors, for securing the Debts; he likewise assigns Sheriffs, Custumers and Collectors, their Auditors, before whom they shall ac-
count. Stat. 51 Hen. 3. 5. 3.

Marchallity. (Marchallity) Is the Court or Seat of the

Marshall of the King's House: And it is used for

any Prison in Southwark, which is so called; the Ren-

fon whereof may be, because the Marshall was wont to fit there in Judgment. Stat. 28 Ed. 1. c. 3. 13 R. 2. and a 4. c. 2. 2. Also in the Court of King's

Bench, the Forms of Bills and Declarations run: A. B. Complainants of C. D. in Custody of the Marshall of the

Marchall of our Lord the King: A. B. Mr. Edw. King Ch. 1. 1. br. 1. to call on the Great Seal, erected a Court by the Name of Curia Hispana

Domini Regis, &c. which takes cognisance more at large of all Causes, than the Marchallity could of; of

which the Knight Marshall or his Deputy is Judge. See Court of Marchallity.

Marchess and Feoff, Laws concerning them. Fleta

Festa. A great Fair for Buying and Selling of Goods, holden every Year. 2 Co. Inst. 221.

Marriage. Is the Law of War, that depends upon the full and arbitrary Power of War and Peace of the

King, or his Lieutenant; for though the King does not make any Laws but by common Consent in Parlia-

ment, yet in Time of War, by Reason of the Necessi-

tity of it to guard against Dangers that often arise, he

ufeth absolute Power, so that his Word is a Law. Smith's de Repub. Angl. lib. 2. cap. 4. The Marshal

Laws, according to Chief Justice Hale, is in Reality, nor a Law, but something indulged rather than allow-

ed as a Law; and it relates only to Members of the

Army, being never intended to be executed upon

others, who ought to be ordered and governed by the

Laws to which they are subject, though it be a Time

of War. Hale's Hist. L. 59. And the Exercize of

Marital Law, whereby any Person might lose his

Life or Member, or Liberty, may not be permitted, in

Time of Peace; when the King's Courts are open for

all Perfor to receive Justice. Ibid. 40. Aben En-

emies invading the Kingdom, &c. shall be dealt with and executed by Martial Laws. 2 H. P. c. 10. 15. &c.

so Soldiers are punished for Desertion, &c. in a Court


Marchology. (Marchology) A Book of March-

tiers, containing the Lives, &c. of those Men who
die for their Religion. Also a Calendar or Register in Religious Houses, wherein are set down the Names and Donations of their Benefactors, and the

6 L. Day
Days of their Death, that upon every Anniversary they may conmemorare and pray for them: And several Benefactors have made it a Condition of their Beneficence, to be inserted in the Martyrology. Paroch. Ant. 189.

Magianism, Anciently used for Mijjagian, a Maniayth. — Er scire Magianum in Villa de M. Cr. Pat. &c. 2.

Sermons. To plot Confederacies amongst Mafius, is declared Felony by an old Statute; and such as affront thereto shall suffer Imprisonment, and make Fine and Restitution. Stat. 35 H. 6. c. 2.

Majesty, A Priest that says Ma[i]. Blowet.

Majesty-Priests, If former Times peculiar Priests, to diluge them from the Regulars, were called Maji-Priests, and they were to officiate at the Mafius, or in the ordinary Service of the Church: Hence Maji-Priest in many of our Saxon Canonies, for the Parochial Minsters; who was likewise sometimes called Mafs-Tongue, because the Dignity of a Priest in many Caless was thought equal to that of a Thean or lay Lord. But afterwards the Word Mafs-Priest was restrained to Stipendiaries retained in Calesses, or at particular Alatas, to say so many Mafius for the Souls of the Deceased.

Majesty, (Glassa, Peffonia) The Acor and Natts of the Oak, or other large Tree. — Glinae Noniae continenter glans, effuas, fessus, feos &c. et alia quacunque de foliis superbus praeclara Herbarum. Drac. lib. 2. Temps pulsiformes often occurs for Mafius-time, or the Season when Mafius is ripe; which in Norfolk they call Shocking-time. — Scot habet decem Perfectos in Tempe de Peffon in Bosco major, Cr. Man. Angl. Tom. 2. pag. 113, 231. There is a Tree called Mafius-Tree and a Mafius or Saill of a Ship.

Majesty, (Magister) Signifies in general a Governor, Teacher, &c. And in all large Caless an Officer. See Servant.

Matter of the Armies, (Magister Armatorum & Armatorum Regis) Is an Officer that hath the Care and Overfight of the King's Armies and Armies, mentioned in the Stat. 39 Eliz. c. 7.

Matter of the Ceremonies, (Magister Alamannorum) Is the most respectuous and containant Ambassadors and other great Perfons to Audience of the King. &c. This Office was instituted by King James I. for the more magnificent Reception of Ambassadors and Strangers of the greatest Quality.

Matter of Chancery, (Magistrar Cellularior) In the Chancery there are Matters, who are Ambassadors to the Lord Chancellor, or Lord Keeper, and Master of the Rolls Of these there are some Ordinary, and some Extraordinary; the Matters in Ordinary are twelve in number; and some fit in Court every Day, during the Term, and have referred to them interlocutory Orders for sale of Accounts, computing Damages, and the like; and they also administer Oaths, take Affidavits, and Acknowledgment of Deeds and Recognisances. The extraordinary Matters are appointed to act in the Country, in the several Counties of England, beyond ten Miles Distance from London: by taking Affidavits, Recognisances, Acknowledgment of Deeds, &c. for the Earl of the Seales of the Court. By the Stat. 13 Cor. 2. a publick Office was ordained to be kept near the Rolls, for the Matters in Chancery; in which they or some of them are constantly to attend, for the Administartion of Oaths, Captions of Deeds, and Dispaire of other Matters: And their Fees for taking Affidavits, Acknowledgment of Deeds, Exemplifications, &c. are fixed by that Act: and to take more, incurs Disability for such Matter to execute his Office, and a Forfeiture of 100l. &c. Matter of the Court of Arches and Libraires, was the chief Officer of that Court, assigned by the King: to whose Custody the Seal of the Court was de-
The text is not legible due to the quality of the image. It appears to be a page from a legal or historical text, possibly discussing the duties and roles of various figures such as Masters of the Rolls and Masters of the Temple. The content is presented in a formal and legal style, typical of juridical or historical documents.
ment. Splem. Gloff. Mayors of Corporations are Ju-.
lices peace for Tempers, and they are mentioned in several Statutes; but no Perfon shall bear any Office of Magiftracy concerning the Government of any Town, Corpora- or City, till he have not received the Sacrament, according to the Church of England, within one Year before his Election; and who fhall not take the Oaths of Supremacy, &c. Stat. 13 Car. 2. cap. 1. And by this Statute, Mayors, &c. were likewise to fubfcribe a Declaration, that there lay no Obligation upon them from the Oath commonly called the solemn League and Covenant; which is re- pealed in the late Statute. The 16 Geo. cap. 2. pro- hibited Mayors and Officers of Corporations from going to Conventicles, or under the Penalty of 40 l. &c. But this is altered by 5 Geo. 1. cap. 6. though the Gowns, Maces, or other Ensigns of Magiftracy, may not be worn or carri'd to a Conventicle, on Pain of Defability to enjoy any Office, &c. If any one intrudes into, and thereupon executes the Office of Mayor, &c. long Warrants Information may be brought against him; and he fhall be oxford and fined, &c. And no Perfon who hath been or shall be in an Annual Office in any Corporation for one Year, fhall be chosen into the fame Office the next Year, and obstructing the Choice of a Successor in- curs the Penalty of 100 l. Stat. 9 Ann. c. 20. Also if no Office be held for a Corporation, on the Day appointed by Charter, by the proper Officers, the next in Place is to hold a Court, and elect one the next Day following, &c. Or if Default thereon, the Court of King's Bench may compel the Electors to chufe one, &c. by Writ of Mandamus, requiring the Mem- bers who have a Right to vote, to assemble them- felves on the next Day following, and proceed to Election of, or have Caufe to the contrary; and Mayors, &c. voluntarily abifting on the Day of Election, fhall be imprisoned six Months, and be disabled to hold any Of- fice in any Corporation, &c. &c. The Au- thority of Mayors is contained in the following Particulars: The Statute 2 Ed. 3. gives Power to Mayors to arrest Perfons carrying offensive Weapons in Pains, Markets, &c. to make Affays, and the Difbandment of the Peace. By Stat. 23 Hen. 8. Mayors, &c. have Power to let the Price of Ale and Beer: And they are to require all Perfons Selling Ale, to have a Licence; and to levy the Penalties on the Offender by Diffref, &c. 3 Car. 1. And they are to caufe Quarter and Pint Pots for the Selling of Ale, to be made and kept; &c. And to make, and levy the Penalties under the Penalty of 5 l. &c. 11 W. 3. Mayors, Bailiffs, and Lords of Leets, are to regulate the Alde of Bread, and examine into the Goodness thereof; and if Bakers make unlawful Bread, they may give it to the Poor, and Piffory the Offenders, &c. 52 Hen. 8. And the 8 Ann. and 1 Geo. 1. direct, that Mayors and Chief Magiftrates of Towns, &c. may in the Day-time enter into any Hous, Shop, Bakeshoule or Warehouse, of any Baker or Seller of Bread, to fearch for, view, and try all or any of the Bread there found; and if the Bread be wanting in Goodnefs, deficient in Baking, under Weight, or not truly marked; or shall confift of any other Sort than what is allowed, the fame Bread fhall be feized and distributed to the Poor: And the former Statute imposes a Penalty of 40 s. for want of Weight, or not being marked as appointed, &c. but this is made a Delifon. Of one Ounce wanting in Weight, and 2 l. 6 d. if under an Ounce, (Complaint being made, and the Bread weighed before a Magiftrate within twenty-four Hours) by the 1 Geo. 1. And Bakers fees for large Bread at a higher Price than that set by Mayors, &c. shall forfeit to the Offender, to be levied by Diffref, &c. By Stat. 3 Geo. 1. Mayors, &c. are empowered to make Enquiry into Offences committed against the Stat. 1. Eliz. which requires that the Common Prayer be read in Churches; and that Churchmen do their Duty in preferring the Names of such Perfons as abhor themselves from Church on Sundays, &c. Head Officers of Corpora- tions are to report to the Mayor, &c. who is to examine into Deeds of Northern Club, &c. and the Overfizers fhall fix a Seal of Lead to Clubs, expelling the Length and Breadth; and if they find any faulty, or sealed with a false Seal, &c. 15 Ann. 15 Geo. 1. and tender an Oath to determine any Question relating to it. 9 & 10 W. 3. Chief Magiftrates of Ports, where Goods are conveyed away, which are liable to Caufe, before Entry made, and the Duties a- greed, are to grant their Warrants for the Apprehen- sion of the Offender, &c. 12 Car. 2. By 23 Eliz. Mayors, &c. may call before them and examine Officers, suspected to be fublogwood in Dying; and if they find Caufe, may bind them over to the Quarter-Sessions, where on Conviction, they are liable to a Fine of 20 l. But for Stat. 14 Geo. 1. and the late Act 13 Geo. 1. Mayors and Head Officers of Corporations, are to punish l. grubnify, by impounding a Fine of 5 l. on View, Confellion, or Proof by one Witness, or caufe to be laid in Stocks for a Four Hours. Hours, 1. 4 & 21 Jac. 1. And Perfons fitting to- pping in an Alehoule, Inn, &c. are liable to Pun-ishment by Mayors, &c. by 5 12 Geo. 1. and the 12 Geo. 1. Mayors and Judges of Peace in Corporations, may inquire of Forfeitable Entries, commit the Offenders, and caufe the Tenements to be forfeited, &c. within their Corporations, &c. in 8 H. 6. Mayors, &c. shall require into unlawful Gaming, against the Stat. 53 Hen. 8. They are to search Places suspected to be Gaming- houses, and levy Penalties, &c. and they have Power to commit Perfons playing at unlawful Games. Mayors and Judges of Peace of Corporations, are en- empowered to cause all the Perfons playing Mondays, &c. 1 Geo. 1. Perfons robbing Orchard, Hedge- breakers, &c. are punishable by Mayors, &c. and a Per- son on Conviction by the Oath of one Witness, shall pay to the Perfon injured such Damage as the Mayor, &c. shall think fit; or he be whipped. 43 Eliz. Mayors, &c. on Receipt of Precepts from Sheriffs, (when Writs are ordered for Elections) requiring them to chufe Burgesses or Members of Parliament, by the Citizens, &c. are to proceed to Election, and make Returns by Indenture between them and the Electors; and making a false Return, shall forfeit 40 l. And the 1 Geo. 1. to the Perfon who doth not return, &c. to appoint Searchers and Buriers of the Dead: And if any injured Perfon shall go abroad with Sores upon them, after an Head Officer hath commanded them to keep within the Town. It is Felony, and if they have no

Sorous
Sores about them, they are punishable as Vagrants &c. 17 Ed. 1. The Stat. 43 Edw. which directs that the Father, Grandfather, Mother, Grandmother, and every Child of Peron, shall be committed towards their Relief by Justices, and which imposes Justices of Peace to order a Poor's Rate or Tax, and Overseers of the Poor, &c. to place forth Apprentices, and sets forth the Office of Overseers &c. given the like Authority to Head Officers in Corporate Towns, as Justices of Peace have in their Counties; which said Justices are not to intermeddle in Corporations for the Execution of this Law. Movers, Bailiffs and other Heads Officers of Corporate Towns, &c. are to make Proclamation for Runners to disperse, as follows: Our Sovereign Lord the King charges and commands all Perons alssembled, immediately to disperse themselves, and peaceably depart to their Habitations, upon Pain of Imprisonment, &c. And if the Runners being twelve in Number, do not disperse within an Hour after, it is Felony without Benefit of Clergy, &c. 1 Edw. Matters relating to Servants, &c. Apprentices, may be determined by Movers; who have Power by Proceedings, &c. 5 Edw. Mayors may arrest Soldiers departing without Licence; and they are to be present at Musters; quarter and billets of Soldiers, &c. 16 Hen. 8. &c. 14 W. 3. &c. 1 Edw. Perons using Games on a Sunday for all 1 d. d. to the Use of the Poor; Carriers, &c. travelling on that Day 10.; and Perons doing any worldly Labour therein 2.; all leviable by Warr- rant from Movers and Heads Officers of Corporations, as well as other Justices. 6 Edw. 5. 1 Car. 2. 19 Car. 2. And by 3 Edw. 1 c. 4. If any Peron shall profusely Sow or Cultivate in the Presence of a Mayor, &c. or be convicted thereof before him, by the Oaths of two Witnesses, he shall forfeit for every Offence 10. d. to the Use of the Poor, or be sent in the Stocks three Hours: But the Statute 6 Edw. 5 W. 3. confines the Forfeiture of 10. d. to Servants, Labourers, &c. other Persons being ordered to pay 20. and double, yre, &c. on repeating the Offence. Perons of no other trade, and disorderly Perons, blind, lame, &c. or pretending to be so, begging in Streets, a Mayor or Constable may cause them to be whipped. 12 Ann. By former Statutes, Movers are empowered to make Perons of Vagrants; and Justices of Liberties and Corporations are to issue Warrants to Constables, &c. to make a Search for and apprehend Vagrants before the Quarter-Sessions. Movers are to set the Rates and Prices of Cooper's Fiddles; and appoint Searchers and Gaugers of Vessels for Fifth, &c. 11 H. 7. 8 Edw. In every City, Town, &c. there is to be a common Balance, and sealed Weights, under divers Penalties: There is also to be a common Bushel sealed. 8 Edw. 1 c. 4. and provide a Mark for the Sealing of Weights and Measures, be ing allowed 1 d. for sealing every Bushel and Hundred Weight; &c. Movers and Heads Officers of Corporations, &c. shall view all Weights and Measures once a Year, and punish Off- fenders using false Weights and Measures, and inflict Penali- ties, &c. If they permit Perons to sell by Measures not sealed, they shall forfeit 10. d. Sealing Weights not agreeable to the Standard, is liable to the same Penalty; and refusing to seal Weights and Measures, subjects him to a forfeiture of 40 s. 7 H. 7. Movers, &c. are to inspect and under the Size of Figure, Bilete, Tape, &c. 13 Edw. 3. See Corpora- tions.

Mort.-Rento, Certain Rents heretofore paid in Mone by the Tenants of the Honour of Clare, to make Meat for the Lord's Hounds; they are now payable in Money.

Materials. The Shelves of Land, or Banks on the Sea-Side of Neat's, are called the Aests and the Meats. Cowel.

Morse, in Middle Signifies the Middle between two Extrems; and that either in Time or Dignity: In Time it is the Interim between one Age and another, and applied to mean Profits of Lands between a Dif- fection and Recovery. As to Dignity, there is a Lord Meas or Meate, that holds of another Lord and meate Tenant, &c. Stat. 13 Ed. 1. Mease likewise Equideth a Rent, which lies where there is Lord Meas and tenent; and the Tenant is disfranchised by the Superior for the Rent or Service of the Meast, who ought to acquit him to the other Lord, then the Tenant shall have his Meat of Meate; and if the Lord Meas appear not, he shall lose the Service of the Tenant, and be forejudged of his Seigniory, and the Tenant shall immediately become Tenant to the chief Lord. Terms of Elys. Also in such Case, the Tenant by Wry may recover Damages if he be disfranchised; and the Lord Meas be compelled to pay the Rent, and do the Services. F. N. E. 135. If a Man bring at a Wry of Meast wherein he is not disfranchised, yet it is maintainable, but then he shall not have Damages; for it is brought only to be acquitted, &c. and Te- nants for Tenure of Life, where the Remains for ever in Fee, shall have this Wry against the Tenant. 7 H. 4. 12. 15 H. 6. New Nat. Br. 136. One brought a Wry of Meate against a Man because he did not acquit the Plaintiff of a Rent charge demand- ed, &c. when he by his Deed bound himself and his Heirs to warrant and acquit him; and it was held good: And if a Man have Judgment to recover the Meat in this Wry, if he be not afterwards acquitted, he may have a Diffringa ad acquitanuam against the Meas and Sere facing against the Lord. Stat. Meas. 1 c. 9. 14 Ed. 3.

Form of a Wry of Meate.

GEORGE the Second, &c. to the Sheriff of S. Command A. B. that justly, &c. be aquit C. D. of the Service by which E. exaud from him, of Flicts that he holds of the said A. B, in W. whereof the said A. Blikhe between the said A. B. and C. him ought to acquit and whatsoever only be complain, that for his Defaults he is to be acquitted; and unles, &c. &c.

Motte, A Measfie or Dwelling-house. Stat. 14. H. 3. Also a Measfie of Herrings, containing five Hundred; the Half of a Thousand is called Measfie or Measp. Merch. Dit.

Measures, (Measure) is a certain Quantity or Pro- portion of any Thing; and many Parts of England, is one Bushel. The Statute of Magna Charta, c. 25. ordinat, that there shall be but one Measure throughout England, according to the Standard in the Exchequer: Which Standard, was formerly kept in the King's Palace, and in all Cities, Market-Towns and Villages, it was kept in the Churches. 4 Inf. 275. By 17 Car. 1. in 16, there is to be one Weight and Measure, and one Yard according to the King's Standard; and whatsoever shall keep any other Weight or Measure, whereby any Thing is bought or sold, shall forfeit for every Offence 5 s. And if. 22 Car. 2 c. 8. Water Measure, as to Corn or Grain, or Salt, is declared to be within the Stat. 17 Car. 1. And if any other Grain, or Salt, &c. by any other Bushel, or Measfie, what shall be agreeable to the Royal Standard in the Exchequer, commonly called Wind- chester Meats; &c. shall forfeit 40 s. &c. Notwith- standing these Statutes in other Places and Countries, there are different Measures of Corn and Grain; and the Bushel in one Place is larger than in another; but the Lawfulness of it is not well to be accounted 6 M, for,
for, since Cautum or Prescripton is not allowed to be good against a Statute. Dal. 320. And we have three citations, for M. W. one for Ale and Beer, and one for Cows: In the Measure of Wine, eight Pints make a Gallon, eight Gallons a Firkin, sixteen Gallons a Riddlerkin, Half Barrel or Rundlet, four Firkins a Barrel, two Barrels a Hogshead, two Hogsheads a Pipe, and two Pipes make a Tun. 15 R. 2. cap. 4. 11 B. 7. c. 4. 12 B. 7. c. 5. In Measures of Cows eight Pounds or Parts of Wheat make the Gallon, two Gallons a Peck, four Pecks a Bushel, four Bushels a Sack, and eight Bushels a Quarter, &c. Stat. 51 e. 1. 31 ed. 3. And in other Measures; three Barley Corns in length make an Inch, twelve Inches a Foot, three Feet a Yard, three Foot and nine Inches an Ell, and five Yards and a half, which is fixen Foot and half, make the Perch, Pole or Rod. 27 ed. 3. c. 10. Selling by false Measures, being an Offence by the Common Law, may be punished by Fine, &c. upon an Indictment as Common Law, as well by Statute. See the Stat. 11 H. 7. cap. 4. which inflicts particular Fines for Offences, Pillory, &c.

Statutes, or Staters of Woollen Cloth, and of Cals, &c. is an Officer in the City of London; the latter of great Account. Chart. Fac. 1. See Aumerger.


Wheatsheaf, is a Meadow House, or Place where Mead or Maltinage is made. Carol. Abb. Glos. MS. fol. 20.

Sharts, A Bribe or Reward: and used for a Compensation where Things exchanged are not of equal Value: It is said to come from the Word Med, which signifies Merit.

M. W. signifies any man's Homines, Men of a man and base Condition, of the lower Sort. Black.

Stentianus, is a Word used for middle Size: Medianus Homo, A Man of middle Fortune.

Statutes of Westminster, were six Penions authorized by Statute, upon any Question arising among Merchants relating to unmercable Wool, or undue Packaging, &c. might before the Mayor and Officers; and the same were to be given the same; to whole Order and Determination therein, the Parties concerned were to give entire Credence and Submit. 27 ed. 3. Stat. 2. c. 24.

M. W. signifies, signifies a Jury or Inquet impaimmelled, whereby the one Half consists of Natives, and the other Strangers; and is used in Pleas wherein in the one Party is a Stranger, the other a Denizen. And this Manner of Trial was first given by the Stat. 27 ed. 3. cap. 8. Before which, this was wont to be obtained by the King's Grant. Stanadfs. P. C. lib. 3 cap. 7. He that will have the Advantage of Trial, for Mediatum Lingua, must pray it; for it is said he cannot have the Benefit of it by Way of Challenge. 8. P. C. 158, & inf. 127. In Petit Treson, Murder and Felony, Mediatum Lingua is allowed; but for High Treson, an Alien shall be tried by the Common Law, and not for Mediatum Lingua. H. P. C. 261. And a Grand Jury ought not to be at Mediatum Lingua, in any Case. Wolf's inf. 623. Allegations are excluded from this Trial, by 6 & 7 P. M. c. 4. But we read, That Solomon de Stanford a Jew, had a Case tried before the Sheriff of Norwic, by a Jury of Sex probis & legibus hominum, & sex legibus Judaeos de Civitate Norwicis, &c. Pag. 9 ed. 1.

M. W., signifies, is a Judicial Writ to distrust an Officer for the Service of a Rent from a Lord, which he formerly acknowledged in Court not to belong to him. Reg. Judic. 1259.

Mediterrean Sea, is that which passed through the Mist of the Earth; and hence the Sea which Encircles the three parts of Europe, Asia and Africa, is called the Mediterranean Sea; mentioned in the Statute 12 Car. 2. cap. 24. The Court- Register of Mediterranean Pallets for Ships to the Coast of Barbary, and the best of the Merchants, Office to such Pallets, is Felony without Benefit of Clergy. Stat. 4 Geo. 2. c. 18.

M. W., is, from the Fr. Moyse. Is that which Brasses calls Mediteranneum, and signify Quarrelling or Brawling. Brass. lb. 3. sect. 2. cap. 35.

M. W., a Harvey Supper or Entertainment, given to the Labourers at Horse Harvelt. Plast. 9. Ed. 1.

M. W., A Mark or Boundary of Land.

Litt. Dux, (from the Fr. Moyse) Signifies very, and though an Adjective is used Substantively for meer Rights; as to join the Moyse upon the Meer, in the great Affile, &c. Old Nat. Ex. 2. See Moyse.

M. W., is the same with Meifnada. Mon. Angl. Tom. 2. pag. 219.

M. W., (from the FR. Moyse) As the King's Money, the King's Family, on Historical in Servants. 1 R. 2. c. 4. &c.

M. W., was the Recompense due and given to him that made the Discovery of any Breach of Penal Laws, commended by another Person; called the Promoter or Informer's Fee. Leg. Test. cap. 20.

M. W. Insquestrum, is a Writ that lies for a second Inquiry, where partial Dealing is suspected, and particularly of what Lands or Tenements: A Man died seized, on finding an Office for the King. F. B. 255. It had been held, that where an Office is for the King, and a M. W. Insquestrum is awarded, and upon that M. W., it is found for the King, if the Writ be void, the Purgancy, or otherwise, a new M. W. Insquestrum shall be had: But if upon the first M. W., it had been found against the King, in such Case he could not have a new M. W., for then there would be no End of these Writs: And if an Office be found for the King, the Party griev'd may traverse it; and if the Traverse be found against him, there is an End of that Case; and if for him, it is conclusive 8 Rep. 431. If there is any Defect in the Points which are found in an Inquisition, there may not be a M. W. Insquestrum; but if the Inquisition finds some Parts well, and nothing is found as to others, that may be supplied by a M. W. Insquestrum. 2 Salt. 469. A M. W. Insquestrum shall be awarded out of R. R. where a Coroner is guilty of corrupt Practices 1 directed to special Commissioners. 1 Vert. 191.

M. W., was used for certain Obsequies or Remembrances of the Lead, in Inquisitions to the Clergy. 1 Ed. 1.

M. W., is a Family, Privy's Chron. pag. 577.

M. W., is a Family, Privy's Chron. pag. 577.

M. W., (from Mensis, the Walls of a Castle, Houle or other Place) are Household Servants that live under their Lord or Master's Roof; mentioned in the Stat. 2. 4. c. 21.

M. W., comprehends all Patrimony, or Goods and Necessaries for the Livelihood—Dominion of proprius Terra ad Mentem affectare.

M. W., Such Particulours or Spiritual Livings, as are endowed by the Tables of Religious Houses, and called Mensal Benefits among the Clergy. And in this Sense it is taken, where Mention is made of Appropriations, ad Mensam fam. Blight.

M. W., is taken for a Bullet of Corn, &c. M. W. Regalis, the King's Standard Measure. Stat. 17 car. 1.
MERCHANT

MERCHANT, (Mercur) is one that buys and trades in any Thing: And as Merchandize includes all Goods and Wares, so every one that can buy, sell or trade in any such Article is called a Merchant. The Word Merchant formerly extended to all Sorts of Traders, Buyers and Sellers. But every one that buys and sells is not at this Day under the Obligation of a Merchant; only those who trade in the Way of Commerce, by Importation or Exportation, or carry on Business by Way of Emption, Vendition, Barter, Permutation or Exchange, and which make them his Living to buy and sell, by a continued Assiduity, or frequent Negotiation, in the Mystery of Merchandize, are esteemed Merchants. Those that buy Goods, to reduce them by their own Art or Industry, into other Forms than they are of, and then to sell them, are Artificers and not Merchants: Bankers, and such as deal by Exchange, are properly called Merchants. The Merch. or Merch. Comp. 23: Merchants were always particularly regarded by the Common Law; though the municipal Laws of England, or indeed of any one Nation, are not sufficient for the ordering and determining the Affairs of Traffick, and Matters relating to Commerce; Merchandise being so universal and extensive that it is impossible; therefore the Laws of England, or rather the Laws of the several Nations take special Knowledge of; and the Common and Statute Laws of this Kingdom leave the Causes of Merchants in many Cases to their own peculiar Law. But in the Reign of King Ed. 4, a Merchant Stranger made Suit before the King’s Privy Council, for several Bales of Silk feofiously taken from him, whereas it was moved, that this Exemption of a Merchant from the Laws of Common Law; but it was answered by the Lord Chancellor, that as this Suit was brought by a Merchant, he was not bound to sue according to the Laws of the Land. 13 Ed. 4. In former Times it was conceived, that tho’ Laws that were prohibitory against Foreign Goods, did not bind a Merchant Stranger: But it has been a long Time since ruled otherwise; for in the Leagues that are now established between Nation and Nation, the Laws of either Kingdom are excepted; so that as the English in France or other Foreign Country in Amity are subject to the Laws of that Country where they reside; so must the People of France, or any other Kingdom, be subject to the Laws of England when resident here. 13 Hen. 7. 12 Ed. 4. English Merchants are not restrained to depart the Kingdom without Licence, as all other Subjects are; they may depart, and live out of the Realm, and the King’s Obedience, and the same is no Contumacy, they being excepted out of the Statute 9 R. 2. c. 2. And by the common Law, they might pass the Seas without Licence; though not to merchandise. Mich. 12 & 13 Eliz. Dyer 1267. By Magna Charta it is enacted, that all Merchants strangers in Amity, not publicly prohibited, shall have safe Conduct to come into, depart out of, and remain in England; and to travel by Water or Land in and through the same, to buy and sell, &c. 9 Hen. 3. c. 30. And if any Disturbance or Affront be offered them, or any other Merchant in a Corporation, and the Head Officer there do not provide a safe Conduct, the Franchise shall be forfeited; and the Disturber shall answer double Damagers, and suffer one Year’s Imprisonment, &c. by Star. 9 Ed. 3. c. 1. All Merchants (except Enemies) may lawfully come into England with their Goods and Merchandise. 14 Ed. 3. Merchant Strangers may come into this Realm, and depart at their Pleasure; and the Statute 4 Chas. 2. &c. 1. And Merchants alien shall be used in this Kingdom, as Denizens arc in others, by the Statute 5 Hen. 4. c. 7. No Merchant shall be impelled for another’s Debt, whereas he is not Debtor, &c. And if a Difference arise between the King and any Foreign State, Alien Merchants are to have four Days Notice, or four Days Time, to tell their Effects and leave the Kingdom. 27 Ed. 3. c. 17. All Merchants may buy Merchandizes of the Staple: And any Merchant may deal in more Merchandizes than one; he may buy, for his own Use, any Goods or Merchandizes, to his own Transport all Kinds of Merchandizes. 27 Ed. 3. c. 3. &c. 38 Ed. 3. c. 2. Merchant Strangers are to find Sures that they shall not carry out the Merchandize which they bring into England. 18 Ed. 2. c. 21. And when they bring in any Merchandise into the Realm, and sell the same for Money, they are to deliver it upon other Merchandizes of England, with exporting any Gold or Silver in Coin, Plate, &c. on Pain of Forfeiture. 4 Hen. 4. c. 15. 5 Hen. 4. c. 9. The same extend as well to Denizens as strangers and in strict Law, they ought not to receive any Gold in Payment. 8 H. 6. c. 24. 3 H. 7. c. 8. And the Reale of those Laws were, to preserve and keep the Gold and Silver within the Realm; and at the same Time increase our Manufactures, by encouraging their Exportation abroad. Foreign Merchants arc to sell their Merchandise at the Port where they land, in Goods and not by Retail. 1 R. 3. c. 9. And Merchant is to be laden and unladed at certain Ports, and in the Day-time under Penalties. 1 Eliz. c. 11. All the King’s Subjects are to have a free Trade to and from France and Flanders, and Portugal. 3 Jac. 1. c. 6. It shall be lawful for Merchants to transport Iron, Armour, Piloth, Muflon, Saddles, Swords, Bridles, &c. 14 Jac. 2. c. 4. Merchants, &c. corrupting or adulterating any Spirituous Wine, or felling the same adulterated, are liable to Penalties, by W. & M. S. c. 1. c. 34. On Importation of Tobacco, Merchants have an Allowance of 8 per Cent. 12 Ann. c. 8. Vide Cohus of Merchants.

There are Companies of Merchants in London for carrying on considerable Joint Trade to foreign Parts, &c. The Merchants Adventurers, the Company established in England for the Improvement of Commerce, which was erected by Parliament by King Ed. 1. merely for the Exportation of Wool, &c. before they knew the Value of that Commodity, and at a Time when we were in a great Misfortune, to Trade. The Company of Merchants trading to the North, called the Mercers or Ruffia Company, was established by King E. 6. and encouraged with additional Privileges by King Queen Mary, Queen Elizabeth, &c. The Barkery Merchants decayed towards the latter End of Queen Elizabeth’s Reign, out of their Ruins arose the Levant or Turkey Company, who first trading with Venice, and then with Turkey, furnished England that Way with the East India Commodities: This Company hath very considerable Factories, at Cavannahola, Smyrna, Aleppo, &c. From the flourishing State of the Levant or Turkey Company, in the Reign like-wise of Queen Eliza. sprang the Old East India Company, who having upon our Ships of Force, bought them from the East India Company, in their Favour, were able Masters of that advantageous Traffick; until at last a New Company was incorporated by King William and Queen Mary 15 W. 3. on their landing the Government. Two Millions of Money and bought the Companies after the Expiration of a certain Term, were by Articles united. In the 21st Year of Queen Elizabeth, the East India Company of Merchants was erected; and in the 1st Year of Queen Anne, it was ordered that Company was confirmed, with full Power to trade in Norway, Sweden, Poland, and other East India Countries. The Royal African Company had their Charter granted.
granted them in the 14th Year of King Car. 2. and by the 10th, they are to maintain all forts. &c. King Charles 2. also by Commission under the Great Seal of England, constituted his Royal Highness James Duke of York, (afterwards King Jem. 2.) Edward Earl of Lincoln & London, and others, to be a Council for the Royal Fidels of England, and declared himself to be the Protector of it; and in the 29th Year of his Reign, he incorporated them into a Company. King Will. 3. in the fourth Year of his Reign, established a Greenland Company. By Stat. 9 Ann. to pay the Debts of the Army and Navy, &c. amounting to near Ten Millions, the South Sea Company of Merchants was erected; who having advanced that Money, the Duties upon Wines, Vinegar, Tobacco, &c. were appropriated as a Fund for Payment of the Interest, after the Rate of 6 l. per Cent. &c. "The Company is to have the sole Trade to the South-Sea; and others trading theretofore shall forfeit their Ships and Goods, and double Value: And the Corporation is to continue for ever; but the Funds are subject to Redemption by Parliament; this Company had their Capital Stock very much enlarged in the Reign of King Geo. 1. And to raise Money last, were empowered to make Calls or take Subscriptions, &c. as they thought fit; and on this Foundation, the late South-Sea Scheme was executed: But to retrieve Credit, afterwards Pairs of the Stock of the South Sea Company was ingrafted into the Capital Stock of the East India Company and the Bank of England; and after that, half the Stock was converted into Annuities at 41 per Cent. Since which a further Reduction thereof had been made. This short History of our Companies of Merchants, which is so very great, and great Pitying for, and at length become double Use, i.e. to enlarge Commerce, and supply the Necessities of the State, sufficiently shews the Progress and Incresce of our Trade and the Wealth of the Nation: Though I must not believe observe that they are a Kind of Mo- nopoles erected by Law; and if the Power granted them is abused, use of false Consequences; for which I need only instance the ever memorable Year 1720, when the Sub-Governor and Directors of the South-Sea Company incurred a Fortitude of their Eftates by Speculating, that is, Mbth to hold any Offices, &c. for their vile Conquest, which tended to the Ruin of the Publick. Over and above these Companies, there are the Dutch Merchants; those that trade to the West Indies; the Canary Merchants; Italian Merchants, which trade to Leghorn, Venice, Stamb, &c. The French and Spanish Merchants, &c. "Merchants, (Mercurium Loc) Was the Law of the People here called the Mercians. Camden in his Britannia says, That in the Year 1016, this Kingdom was divided into three Parts: whereas the Wiff Saxons had one, governing it by the Laws called High Saxon-law, which contained these nine Shires, viz Kent, Saffra, Surrey, Bork, Hampshire, Wilts, Somerset, Dorset and Devon: the Danes had the second, containing fifteen Shires, i.e. York, Derby, Nottingham, Lichfield, Lincoln, Northampton, Stafford, Bucks, Heref- ford, Essex, Middlesex, Norfolk, Suffolk, Cambridge and Huntingdon; which was governed by the Laws called Daneslaw: And the Third Part was in the Possession of the Mercians, whose Law was called Mercian-law: and contained eight Shires, Gloucester, Worces- ter, Hereford, Worcei, Oxford, Chelten, Salisbury and Stafford: From which three, King Will 1. chose the chief, and with other Laws ordained them to be the Laws of the Kingdom. Camb Brit p. 92. 94. See Maelorn Locus. ME

Mercer, The Arbeith of the King or Judge, in punishing Offenders, is regulated by the Law. 11 H. 6. c. 2. See Micerionus.

Merger, Is where a Deed Estale in Lands, &c. is drowmed, or the greater: As if the Fee comes to 20 Tons for Years, or Life, the particular Eftates are merged in the Fee: But an Estale-tail cannot be merged in an Eftate in Fee; for no Estale in Tail can be ex- tinct, by the Abatement of a greater: As to the 2 Car. Rep. 60. 61. If a Leer, who hath the Fee, marries with the Lefee for Years; this is no Merger, be- cause he hath the Inheritance in his own, and the Lease in Right of his Wife, 2 Pleas 484. And where a Man hath a Term in his own Right, and the Inheritance devolves to his Wife, no; as he hath a Free- hold in her Right, the Term is not merged or drownded, 5 Car. 275.


Merceft, A Corruption of the Word Martys- lages; being a Church Calendar. 9 H. 7.

Merie or Mersft, Fr. Mieff. See Mers.

Meridynity, Signifies the Right or Condition of the Mif. Old Nat. 44.

Mercurius, (From Mefy) The Chief Servant in Husbandry, or Harvest-time, now called a Bailiff in some Places. Mon. Angl. Tom. 2. pg. 852. Also this Word is used for a Mower or a Harvester; one that works Harrow-work. Fleta, lib. 2. c. 75.

Merri, Is a Carrier of Meffages, particularly employed by the Secretary, State, &c. and to these Commitments may be made of State Prisoners; for though regularly no one can justify the Detaining a Person in Custody out of the Common Goal, unless there be a Warrant for it, yet if the Person be so dangerously sick, that it would hazard his Life to feed him theretofore, &c. yet it is the common Practice to make Commitments to Meffengers; but it is said, shall be intended only in the case to the Holders and the Offenders to Goal. Sa. 347. 2 Haw. F. C. 118. An Officer may be committed to a Meffenger, in order to be examined before committed to Prison; and though such Commitment to a Meffenger is irregular, it is not void; and a Person charged with Treafon, sleeping from the Meffenger, is guilty of treaf- on, Eel. 11 Rep. 41. Now all this Relates to the Officers of the Exchequer, or Officers attending that Court; they are four in Number, and in Nature of Pursuants to the Lord Treasurer.

Meftages, (Mefjages) Is a Dwelling hoife with some Land adjoining alligned to the Ufe thereof. Wyf. Symb. por. 2. And by the Name of a Meffages may pass a Carriage, Garden, Orchard, a Dove house, Mill, Cottage, Toft, Shop, Chamber, &c. Bratt. lib. 5. c. 28.t. Plov. 1609. One Meffages cannot be appertrnt to another Meffages; because a Meffages is an entire Thing of itself, and therefore may not be appertrnt to another Thing. Mich. 34. Car. 1. B. R. By the Grant of a Meffages am property, the Stable, Barn, Stable-house, Gardens, and Carriages do pass. 2 Litt. Abr. 192. A Proje ino not de Da- mes; but it doth de Mefjages. Co. Litt.

Merfagian in Scotland signifies the principal Place or Dwelling house within a Barony: which we call a Manor house, or the Site of a Manor. Skene.


Mertagaz, (Sax. Cibi calum, sust tuollum) A Tribute or Rent paid in Vesselles was a Thing usual in this Kingdom, as well with the King's Tenants as others, till the Reign of King Hen. 1.

Mefcer of Goals in Lives, &c. (from Metos) to note or measure a Thing. Vide Mescur. Meftegst,
M I

(M. & J. Edging) An old British
Drink made of Honey, &c. and still continues in
Repute in England; it is mentioned in the Statute
15 Geo. 2. c. 18.

Wetttre, Wethering, was an Acknowledgement
paid in a certain Measure of Corn; or a Fine or
Penalty imposed on Tenants, for the Debts in not
doing their customary Services of cutting the Lord's
Corn. Pares. Antig. 495.

Wrum & Wrum, Are Latin Words used for
the proper Guides of Right; and which being misunder
stood, have been the Ground of many Controversies.

Sheps, A Mow or Mow of Corn, as anciently used;
and in some Parts of England, they still lay the
Corn, i.e. put it on an Heap in the Barn—Car
ribunt Blandam per unum Diem cum una Carrae et
invenient unum Hominem ad succendam Myras in gran
dis Messorum Temp. 150.

Obiect Geometrii. The great Councils and general
Affidavits, in the Times of the Saxons, of the King
and Noblemen, were full called Witenan Geometrii,
and used, and Adlced of Auctotus.

Witterniss, A Kind of Canvas, of which Sail
Cloths of Ships are made. 1 Stat. cap. 14.

Wite, (Wit) In the Measure of a Country, is
the Ditton in the United Kingdom, otherwise
described to contain eight Furlongs, every Fur
Long being forty Poles, and every Pole sixteen Foot
and a Half. 6. 6.

Wite, A Knight, and Militia, to be knighted.
Mat. Witten p. 118.

Wittle, (Late) The being a Soldier; and applied to
the Trained Bands, under the Direction of the Lieu
tenancy. The Stat. 13 Geo. 2. c. 6. is declarative of
the King's Right to the supreme Government of the
Militia, and of all Forces by Sea and Land, &c.
And by the 15. and 14. Geo. 2. c. 3. the King may
issue Commissions of Lieutenant for the several Coun
tries and Cities, &c. And such Lieutenants have
Power to give Commissions to Colonels, Captains, and
other inferior Officers; and to call Persons together,
and arm and form them into Companies, and com
mand them to Places to suppress Rebellions, or refit
Invasions: and upon Invasions or Rebellions, the Per
sons charged shall provide a Month's Pay, &c. which
is to be paid out of the Publick Revenue; and the Of
ficers shall likewise be paid out of the Publick Re
venue at such Times. And by this Act, Persons
having an Estate of 20l. A Year in Lands, or a per
sonal Estate in Goods, &c. to the Value of 500l.
shall be charged by the Lieutenant of Counties, or
Deputy-Lieutenants, to provide a Man in the Foot
Service, and allow him 10. per Diem; and be he who
have 100l. per Annum, or under 100l. per Annum,
or who is worth 1000l. in personal Estate, and under
2400l. may be charged with either Foot or Horse:
But a Person ought to have in Possession 500l. per
Annum, or 2000l. personal Estate to the Value of 6000l.
to furnish a Horse; and none is to contribute towards
a Horse who hath not 100l. a Year, or a personal
Estate of 1200l. A Horseman shall be allowed 3l.
6s. 8d. per Diem, and shall carry with him Powder
and Ball, of each a Quarter of a Pound. The Arms
and Furniture of Horsemen by this Statute, were to be
in a Box or Case of 14 Inches in the Barrel, a
great Saddle with Burs and Steps, a Bit Bridle, &c.
And the Foot or Musketeers were to have a Musket
three Foot in the Barrel, the Bore whereof to bear a
Bullet of 12. or 14. to the Pound, a Collar of Bande
leurs, and a Sword; and to carry with them Powder
and Ball, of each half a Pound. If any Person liable
to furnish Horse, &c. shall not find out such Horse, or
shall neglect to pay the Penalty towards the Provision
of Man and Horse; the Lord Lieutenant of the Coun
try, or three Deputies, may bind him not exceeding
20l. to be levied by Warrant under their Hands and
Seals; but commissioned Officers of Foot in the Mili
tia, are excused from finding Soldiers or Arms for their
Estate, if charged but with one Horse or less, &c.
in respect of the Expense of their Employments. The
Lieutenants or Deputy Lieutenants may inflict a Penalty
of 5l. on Persons refusing to provide a Foot-Soldier; and
if they live out of the Country, these Deputies are to
do it on Notice: On whose Neglect, the Lieutenant,
&c. may appoint Contingents to provide for them:
And by the 8. & 9. the Lieutenants are to lend Persons
for Papists, charging them with 8l. a Year for a
Horseman, and 30l. a Foot Soldier, to be levied by
Diftres, &c. If a Soldier neglects to appear, two
Deputy Lieutenants may commit him for five Days,
or fine him if a Horseman 10l. or a Footman 10l.
&c. None are obliged to serve in Peron; but the
Persons provided by others are to be approved by the
Captain, and their Names and Places of Abode must
be given in to two Deputy Lieutenants at the next
Muster, when they are set; and if they defect after
Lifting, they shall forfeit 20l. and shall not be dis
charged without Leave of two Deputy Lieutenants, or
the Captain, under the like Penalty, to be levied by
Diftres; and if no Diftres, to be committed, not ex
ceeding three Months. And the Lieutenancy may im
position Musters; charge Carriages at 6d. per Mile
&c. There shall be a general Muster of the Militia
but once a Year; and then not to continue above four
Days without special Direction: For training in
Company, Mutters may be four Times a Year. And
once a Year every Horseman is to pay to the Muster
Matter 1l. and every Footman 6s. by Order of three
Deputy Lieutenants; and if the same be not paid, it
may be levied on the Goods of the Persons charged.
13 & 14 Geo. 2. c. 3. cap. 3. and 15 Geo. 2. c. 4.
In the Year 1650, the Lords and Commons passed an
Ordinance for affording 20000l. per Month, for three
Months, on the several Counties in England and Wales,
towards Payment of the Army and Militia, &c. In
Parlance of which Ordinance, the Counties were di
vided as follows, viz.

I. L. &., per Month.
The County of Bedford . 0093 , 6 8
Bucks 1068 17 10
Buckingham 1285 6 8
Cambridges 1102 10 0
Camberwell 0067 17 0
Cumberland 1653 6 8
Derby 0018 0 0
Dorset 0035 13 6
Dorset 0017 6 8
Durham 1311 6 6
Duchy 0053 14 4
Durham 0015 0 0
Durham 1356 6 8
Durham 0016 12 2
Essex 0053 14 4
Essex 3500 0 0
Gloucester 1366 6 8
Gloucester 0162 11 3
Hertford 1166 13 4
Hertford 1400 0 0
Huntingdon 0052 4 6
Kent 3565 11 2
Kent 0933 6 8
Lincoln 1068 17 8
Lincoln 0792 4 10
Lincoln 0792 4 10
Manchester 0792 4 10
Manchester 0792 4 10
Middlesex 1798 17 10
Monmouth 0165 0 0
Northampton 1400 0 0
Northumberland 0093 4 4
Nottingham 3524 8 10
Norwich 0185 17 0
Northumberland 0179 19 10
Lincoln 0951 11 8
Gorset 1327 6 8
Gorset 1327 6 8
Gorset 1327 6 8
Railand
MI

MI

...as they shall judge most proper and convenient; and
the Pay advanced by the Perions chargeable, to be repaid... by
the Affidavits throughout the whole County, &c.
The Militia of Horfe and Foot are computed to be
the Number of two hundred Thousand, in England, and Wales.

Silk, (Mollendinum) is a Hole or Engine to grind
Corn; and either a Water-mill, Wind-mill, Horfe-
mill, Hand-mill, &c. And besides Corn and Grift-
mills, there are Paper-mills, Fulling or Tucking-
mills, Iron-mills, Oil-mills, &c. 2 Inf. 621.

Silk-leaf, A Trench of Water by a Mill. See
Least.

Sillet, (Milium) A small Grain so termed from its

Silt, A Corn measure of different Quantity, ac-
cording to the Things measured by it; and Alwayes
was a Toll or Duty paid for selling Corn by this Mea-
sure. Custom. According to Littleton, it is a Measure
of Ground, containing one hundred and twenty Five
Feet in Length, and twenty-five in Breadth; also it is taken
both for a Coin and a Weight. Litt. Diff.

Siltane, To mine or dig Mines. — Miner. I. Ed. 16. 11.

Silvat, Is any Thing that grows in Mines, and

Sincert Court, (Carlo Minervati) Are Courts
peculiar for regulating the Concerns of Lead Mines;
and are called Sylver Courts. See Bingham.

Sine-Adventures, A Company established by
Satee, governed by the Duke of Leice, &c. Fide
5 Ann. c. 24.

Sins, (Miseria) Quarries or Places whereout any
Thing is digged; and are likewise the hidden Treasure
dug out of the Earth. The King by his Prerogative
hath all Mines of Gold and Silver to make Money; and
where Gold and Silver in Mines is of the greater Val-
ue, which are called Royal Mines. Placed. Cour. But
by Statute, no Mine of Copper or Tin shall be adjudged
a Royal Mine, though Silver be extrated. 1 W. & M.
Per. 30. And Perions having Mines of Copper, Tin,
Lead, &c. shall enjoy the same, although claimed to
be Royal Mines: but the King may have the Oar, ex-
cept in Devon and Cornwall, paying to the Owners of
the Mines, within thirty days after it shall be raifed, and
before removed, 7½ per Tum for Copper, 7½ per Tum for
Lead, and 7½ per Tum for Tin or Iron 40s. 8dr. Stat. 5 W. & M. c. 6.

If a Man hath Lands where there are some Mines open and
others not, and he lets the Land with the Mines
therein, for Life or Years, the Leafe may dig in the
open Mines only, which is sufficient to satisfy the Words
of the Grant and the Acts of the Parliament, and the
Leafe is not open to the Proprietors, but is subject to all
the rights and prerogatives of the Crown; but if there be no
open Mine, and the Lease is made of the Lands, together with all
Mines therein, there the Leafe may dig in Mines and enjoy the Bene-
fits thereof; otherwise those Words would be void. 1 Inf.
54. 5 Co. Rep. 12. 2 Lev. 184. To dig Mines is
Walls, where Leases are not authorized by their Leases:
Though a Mine is properly called till it is opened
being but a Vein of Iron or Coal, &c. before
1 Ca. Inf. 54. If any Person maliciously set on Fire
any Mines, or Pit of Coal, he shall suffer Death as a
Peron, by Stat. 10 Geo. 2. c. 52. And damaging both
Mines, or any Coal works, by conveying Water ther-
into, or obstructing Sewers for Draining them, &c.
shall forfeit treble Damage. 13 Geo. 2. c. 21.

Silversmiths are Carvers or Trenchers digging under Ground, whereby to undermine
the Walls of a City or Fortification.

Silversmiths (When it shaks in necessary) from
Mines, to defend) Are the Evidences and Writings
concerning a Man's Possession or Inheritance, whereby
he is enabled to defend the Title of his Kilns; and
this Word includes all Manors of Evidence.

Deed.

**Militia.** If a Ministror be disturbed in the Execution of his Office in the Church; the Punishment upon Conviction is a Fine of 10 l. And upon Non-compliance, three Months Imprisonment, &c. 6 Ed. 6. c. 1. And disturbing a licenced Ministror, incurs a Forfeiture of 20 l. by 1 W. & M. c. 11. 

**Ministry.** Regard, to the Judges of the Realm; as well as to those that have Military Offices in the Government. &c. 2 Inf. 208.

**Missals.** One under Age; and more properly an Heir Male or Female, before they come to the Age of twenty-one Years; during which Minority they are generally incapable to act for themselves.

**Missaries.** Prizes, Ministeries, of the Visitation of St. Francis; that had no Prince; they would each other's Pests, and increased very much in the Year 1207. Mut. Mf. on.

**Music.** Church Minstrels, from the Fr. Manufaire. A Musician, Fiddler, or Piper; mentioned in the Stat. 4 H. 4. c. 27. There was formerly a King of Minstrels; and it was usual for these Minstrels, not only to unite in the Nobility, but in Musical Instrumens and flattering Songs in Praise of them and their Ancestors, but also with various Sports. &c. In the ancient Family of the Domesday, we have the Licencet of Minstrels; and those are excepted out of the Vagrant Acts, 39 Eliz. c. 4. &c.

**Mist.** Oficina Monasteriorum, Monasterium. Is the Place where the King's Money is coined; which is at present long hath been in the Tower of London, though it appears by divers Statutes, that in some former Age it was in London, and other Places. 2 R. 2. c. 16. and 9 H. 5. c. 5. The Mint-master is to keep his Alloys, and receive Silver at the true Value, &c. 1 H. 6. c. 12. And Gold and Silver delivered into the Mint is to be assay'd, coin'd, and given out, according to the Order and Time of bringing in, and Persons shall receive the same Weight of Coin, or so much as shall be finer or coarser than the Standard, &c. Stat. 18 Car. 2. c. 5. All Silver and Gold extracted by melting and refining of Metals, shall be employed for the Increase of Monies, and be sent to the Mint, where the Value is to be paid: 1 W. & M. c. 90. By the Stat. 18 Car. 2. 3500 l. a Year was granted out of certain Duties on Wine, Beer, and other Articles, to defray the Expense of the Mint: But this was increased by the Stat. 4 & 5 Ann. c. 12. and much augmented by the Stat. 1 & 2 Geo. I. by which Statute it m. be a Sum not exceeding 15000 l. for Ann. for England and Scot. land, &c. The Officers belonging to the Mint have not always been alike. They are now the following, one. The Warden, who is the Chief of the Red, and is by his Office to receive the Silver and Bullion of the Goldsmiths to be coined, and take Care thereof, and he hath the Overcovering of all the other Officers. The Master Water of the Mint, who receives the Silver from the Warden, and causes it to be melted, when he delivers it to the Miners, and takes it from them again after made into Money. The Compitailer, who is to see that the Money be made to the full Altar, and con- trad the Officers if the Money be not made as it ought. The Master of the Water, that weigheth the Silver, and examines whether it be according to the Standard. The Auditor takes Accounts of the Silver, &c. The Surveyor of the Melting, who is to see the Silver call out, and that it be not altered after the Alloys are added, and that the Salt and Water be added, and it is delivered to the Melters. The Clerk of the Iron, that sees that the Irons be clean and fit for Working the Stampers, and to inquire of the Stampers, to get Money for the Money. The Melters, that melt down the Bul- lions, &c. The Blowers do anneal and clean the Money. The Ministers, who are some to weigh the Money, others to bend it round, and some to Stamp or coin it. The Proviso to provide for all the Monies, and to oversee them, Mut. Vide Coin. 

**Missis.** A pretended Place of Privilege in South- west, near the King's Bench, put down by Statutes. If any Persons within the Limits of the Missis shall ob- strue any Officer in the exercising of any Writs or Pro- cedings, &c. or assault any Person therein, so as to re- ceive any bodily Hurt, the Officers shall be guilty of Felony, and transported to the Plantations, &c. Stat. 9 Geo. 1. See Privileged Places.

**Minute Ticket.** (Minute Decima) Small Title of Wood, Lambs, Pigs, Butter, Cheese, Herbs, Seeds, Eggs, &c. such as usually belong to the Vicar. Vide Ticket.

**Mischiev.** Blood-letting; which was a common old Pratiile, among the Regulars and Secular Priests or Canons of Churches, who were the most com- 

**Ministratia.** A superstitious Play, practised by the Popish Clergy. 

**Miss.** This Syllable added to another Word, signi- fies some Fault or Defect; As Misjugation of a Crime; Misjudgment, &c. 

**Misdemeanor.** (Fris. Myndaventure, i.e. Infor- mation) Has an especial Signification for the Killing a Man, partly by Negligence and partly by Chance. S. P. C. Lib. 6. c. 8. And British distinctions be- tween Adventure and Misdemeanor; the first he makes to be mere Chance; as if a Man, being upon or near the Water, be taken by some Hidden Sickness, and so fall in and is drowned; or into the Fire, and is burnt; Misdemeanor he says it, where a Person comes to his Death by some outward Violence, as the Fall of a Tree, the Running of a Cart-wheel, Stroke of a Horse, or such like. Brit. c. 7. Standard con- fuses Misdemeanor more largely than British understand- ings in; and says, it is where one thinking no Harm carelessly throws a Stone, wherewith he kills another, &c. If not defined Misdemeanor to be, when a Man is slain by mere Fortune, against the Mind of the Killer; and he calls it Homicide by Chance misd., when the Killer's Ignorance or Negligence is joint'd with the Chance. Misd. Simb. Sect. 48, 49. See Chametsedeb.

**Miserabilit, Ignorant or not knowing. In the Stat. 32 Hen. 8. cap. 9. again, Chameters and Mainte- nance, it is ordained that Proclamation shall be made twice in the Year of that Act, to the Intent no Person should be ignorant or misfignant of the Pe- nalities therein contained, &c.

**Mishcomputer.** In Covenant for Payment of Rent, the Miscalculating of the Sum due does not make it ill; and if more be laid, it shall be as Sur- plus: But it is otherwise in Debt for Rent. Dyce 5.

**Misscontinuous.** Signifies the same with Diffo- 

currence. Kitch. 231. Though 'tis generally said to be, where a Continuance is made by undue Process. Tearl Gr. 57.

**Mift.** (A French Word, written in Latin Misfam, and sometimes Miiefs) Is a Law Term signifying Ex- cuses, and it is so commonly used in the Entries of judgments in personal Actions; as when the Plain- tiff recovers, that Recapit Damnum Qua to such a Value, and pro Misf & Capaciry, for Coils and Charges, so much, &c. This is old harsh all, and another Signification in the Use made of it by Law; which is where it is taken for a Word of Art, appropriate to a Writ Right, so called because both Parties have put themselves upon the mere Right, to be tried upon the Grand Aliquot; so as that which in 41
all other Afligis is called an Ilios, in a Writ of Right is termed a Mifs; But if in the Writ of Right a collateral Point be tried, there is called an Ilios. To join the Mifs upon the Mifs, is as much as to say, to join the Collateral Points, i.e., to join upon this Point, whether has the more Right, the Tenant or Demendant. 1 Inf. 294. 17 Ed. 3. c. 16.

Mifs are taken for Taxes or Tailages, &c. An honorary Gift or customary Prentent, from the People of Wales to every new King and Prince of Wales, anciently given in Cattle, Wine and Corn, but now in Money, being 1000 l. or more, is denominated a Mifs: So was the usual Tribute or Fine of 3000 Marks, paid by the Inhabitants of the County Palatine of Chester, at the Change of every Owners of the said Ealdoms, for the enjoying of their Liberties. And at Chester they have a Mifs book, wherein every Town and Village in the County is rated what to pay towards the Mifs. The 26 Hen. 8. c. 26, ordains, that Lords shall all have such Mifs and Profits of their Lands as they had in Times past, &c. And Mifs is sometimes corruptly used for Mens, in Law French Men, when it signifies as a Mens, a Free Man, as in such a Mens, or as a Mens, in some Manors is such a Mensage or Tenement as answers the Lord a Heriot at the Death of its Owner. 2 Inf. 518.

Writ-Money, was Money given by Way of Contráct or Compropition to purchase any Liberty, &c. Blount. Ten. 162.

Miferere, The Name and first Word of one of the Pentitual Psalms, and is most commonly with which the Ordinary gives to such guilty Malefac tors as are admitted to the Benefit of the Clergy; being therefore called the Psalms of Mercy.

Mifericordia, is in Law used for an arbitrary or discretionary Ameacisement imposed on any Peron for an Offence; and where the Plaintiff or Defendant in any Action is amerced, the Entry is Idea in Mifericordia, &c. Bracth lib. qtrad. 5. cap. 6. Kitch. 78. It is called Misericordia, because it ought to be but small, and rather less than the Offence, according to Magna Charta, c. 14. Sometimes Misericordia is to be quit of all Manner of Ameacisements. Compt. Janif. 156. See Amercisement.

Misererem, is Signified, where a Fine is let on the whole County or Hundred.——At de communi Misererem quando continget, videlicet Comitatis & Hundredum cemem multa vel aliquis Tuju ciarius snetur, &c.

Misererem in Childe's pot, is used for any Portion of Meat and Drink, given to the Religious in Convents beyond their ordinary Allowance. Magistrate's Parli. And in some Convents they had a fixed Al lowance of their Over-commons upon extraordinary Days, which were called Misereremio Regularis. Mon. Angl. Tom. 1. pag. 149.

Miserenric, is Where a Man accused of a Crime, falls in his Defence or Purgation; when he is said to succeed ill. Leg. Comes 978.

Miserenten, A Misdic or Treflaws. The Jury shall inquire of all Pursuiments and Misererem, Cro. Car. 498.

Miserificia, is a Treaty, 2 Inf. 200.


Miseremot, (Composed of the Fr. Mis, signifying ambi, and Nemer, i.e., Nominaire) is the Uizing

one Name for another, Misnaming Names of qua fi rei nationes, and was invented to make a Difficu lity between Peron and Peron; and where a Per on is described, so that he may be therein dffin ited and distinguished from another Peron or in some Cases the Miskate of the Name shall not avoid the Grant. 1 Rep. 20. 21. And if the Name of a Person is mistaken; the Judges ought to give him a small Miskate therein, to make good a Consent, &c. and so as to support the Act of the Party by the Law. Habs. 123. But the Christian Name ought always to be permitted, and the Law is not so pre cise as to Surnames, as it is of Christian Names. Pap. 57. 1 Lif. 199. Misprision of Clerks in Names are unanswerable. And Peter and Paul, have been adjudged one and the same Name, 2 Co., 425. 1 Lawns 146. And as Sanders and Alexander; and Garret and Gerald, are but one Name: But Ran dolph and Randolph; and Edsel and Eszel, are several Names, and must be named Right. 1 Bib. 135. 1 And 211. Where a Christian Name is quite mistaken, as John for Thomas, &c. it may be plead ed, that there is no such Name in any of the Nomes. Dyer 349. If a Person pleads, that he was never called by such a Name, it is ill; for this may be true, and he may be of that Name of Baptism by the Sacrament. Dyer 349. If a Person be bound by the Name of W. R. he may be fored by the Name of W. R. alias dux W. B. his true Name; not W. B. alias dux W. R. 3 Salk. 528. If a Person be in bided by two Christian and Surnames, it will be quashed; for he cannot have two such Names. 2 D. Veri. 562. A Lady, Wife to a private Peron, ought to be named according to the Name of her Husband, or the Writ shall be abated; if so the Son of an Earl, &c. be fored as a Lord, and not as a private Peron by the Name of his Family. Dyer 376. 2 Salk. 451. Where a Man's Title is mistaken in a Writ, &c. it shall abate, and he must be arraigned again. 1 Vent. 154. And the Plaintiff is to confess the Miser em, and pray an Abatement of his Writ before he proceeds to a new one. Trit. 2 Ann. 1 Salk. 129. But if a Person's Title of Lord, &c. be fored, as a Lord, and not as a private Peron by the Name of his Family, it must be quashed; it is not whether, the Peron making the Leasie be a Lord, or not; so that it is sufficient if his true Peron who demised, though misnamed. Alts 58. 3 Nelf. 112. 127. Misererem of Corporations may be pleaded in Abatement. 1 Lawns 159. 5 Med. 327. 2 Salk. 451. And if there be any Miske in the Name, in Names, by false Letters and Grants; they will be void. 2 Bond. 1. An ders. 156. A Defendant may avoid an Outlawry, by Pleading a Misererem of Name of Baptism or Surname; or a Misererem as to Additions of Eliares, at the Town, &c. 2 Henev. P. C. 460. Though Miser e of a Surname may not be pleaded in an Indict ment; in an Appeal it may: And any other Miser en, and defictive Shoulder, are as final in an Indict ment as an Appeal. Ibid. 130. A Misererem must be pleaded by the Party himself who is misnamed. 1 Lawns 35. If a Man is taken upon an Action, who is not of the Name of the Writ, he has no Day in the Court to plead this Matter to be discharged; but must bring an Action of false Imprisonment. 1 Med. 70. See Abatement and Addition. Misererem, (From Misererem, from the Fr. Misererem, Con temptus) Signifies a Neglect or Over sight; As for Example; Misprision of Trespass, is a Neglect in a Person, where a Peron knows it will be committed. Statut. P. C. lib. 1. cap. 19. If a Man knoweth of any Trespass or Folly and conceals; the
the fame, it is Myfier: In a larger Sense, Myfier
fians is for many great Offences, which are ne-
ther Treason nor Felony, or Capital, but very near
them; and every great Misdemeanor, which hath no
certain Name, but a kind of treasur of general Per-
cussion, is sometimes called Myfier. 3 Inf. 36. H. P. C. 137.
Word 404, 405. When one knows that another hath
committed Treason, and doth not reveal it to the
King or his Privy Council, or some Magistrate, that
the Offender may be secured and brought to Justice,
it is High Treason by the ancient Common Law:
for the Delay in Discovering the Treason was deem-
ed an Affent to it, and consequently High Treason:
But there shall now be an actual Affent to some out-
ward Act to make it Treason. Treason 11 B. P. C.
17. 3 Inf. 139, 140. And by Stat. 1 & 2 &
M. c. 10. a bare Concealment of any High Treason,
shall be only Myfier: of Treason. A Person hav-
ing Notice of a Meeting of Conspirators against the
Government, goes into their Company and hears
their treasonable Confabulation, and conceals it, this
is Treason; and so where an accident has been acci-
dentally discovered at a distance before the Plot,
if he meets with Company a second Time for in thes
Cases the Concealment is attended with circumstan-
ces which show an Apprehension thereof. H. P. C.
17. Ket. 17, 21. And a Man that hath Knowl-
edge of a Treason cannot secure himself by dif-
gressing generally that there will be a Rising, with-
out excluding the Perpis intending to ride; nor
can he do it by discovering these to a private Per-
son, who is no Magistrate. S. P. C. H. P. C. 127.
But where one is sold in general, that there will be a
Rising or Rebellion, and observation made known to
the Persons concerned in it, or the Place where,
and this uncertain knowledge may be concealed, and it
shall not be Treason or Myfier. Ket. 22. 1 H. P.
156. If High Treason is discover’d to a Clergyman
in Conformity, he ought to reveal it; but not in Cale
of Felony. 2 Inf. 619. Concealers of Bulls of Ab-
juration from Rome are guilty of Myfier of Treas-
on. 13 Eas. 2. 1. There is a Myfier of Treason in
counterfeiting the Great Seal; forging and utter-
ning counterfeit Money brought from another King-
dom, or. 14 Eas. 2. 3. And Myfier being in-
cluded in every Treason or Felony; where a Man
hath committed Treason or Felony, the King may
cause him to be surprised and arraigned of Myfier
only, if he please. S. P. C. 32. But if a Person is
indicted of Myfier as for Treason; though be he
found Guilty, the Judges shall not give Judgment
therein, he not being indicted of the Myfier. Treas.
Gr. 217. Information will not lie for Myfier of
Treason, or. But Indictment, as for capital Crimes:
And the Witnesses upon Indictment, as well as Trials of
Myfier of Treason, by the Statute 7 & 8. 2 Henk.
P. C. 252, 260. In all Cases of Myfier of Treason, the
Offender shall be imprisoned for Life; and for all his Goods
and Chattels, and the Profits of his Lands during Life.
H. P. C. 128. 3 Inf. 36, 218.
Myfier of Stealing, is not onely where a Man
knows of any Felony committed, and concealeth or
procures the Concealement thereof; but under this
Title of Myfier, that of Theftbe may be reduced;
where a Man knowe taking Goods of another, takes his
own Goods again, or rather Amends for the same.
3 Inf. 134, 139. H. F. C. 130. Though the bare
Taking one’s Goods again which have been stolen
is no Offence, unless some Favour be drow Thiet.
1. provides against Concealements of Felonies by She-
iffs, Coroners and Bailiffs, &c. And for Myfier of
Treasurers taking the Goods of another shall be punished by Fine
and Imprisonment, and remain in Fron till the Fines are paid.
S. P. C.
of the King's Bench into the Exchequer, and sometimes by the Chancery, and from thence to another Court: But the Lord Chancellor may deliver such Record with his own Hand. Stat. 5 R. 2. c. 15. 28 & 29 H. 8. Dyre 29. 32. Mitissimus is also a Precept in Writing, under the Hand and Seal of a Judge of Peace directed to the Goador, for the Receiving and safe Keeping of an Offender, until he be delivered by Law. 4 Inst. 590. One must be committed by lawful Mitissimus; or Breach of Prisón will not be Felony, 46.

Mitissimus, is generally to set or put at Liberty, either in the Prisón, or in the Hand of the Officer who has the Care of it, or in the Custody of a Litigant, in Case of Release of Lands by Jointtenants, &c. which sometimes pays a Fee, without Words of Inheritance. 1 Inst. 377. 378.

Mitissimus, Are those of Cheese, Milk, and of young Beasts, &c. 5 Co. Inst. 649. See Tithes.

Mitissimus, Stuffs made in England, and other Countries, and such as are in the Stat. 8 Eliz. 649 q.

Mitissimus, A Write that lies for him who is arrested in a Court-Baron, or other Court not of Record, for any Transgression, beyond the Quality or Quantity of the Offence: it is directed to the Lord of the Court or his Bailiff, commanding them to take a moderate Amercement of the Party, and to consult upon Magna Charta Def. 1 Man be arrested in a Court-Baron, on Prefentment by the Jewry, where he did not any Trespass, he shall not have this Write unless the Amercement be excessive and outrageous: And if the Steward of the Court of his own Head, will amerce any Tenant or other Person without Cause, the Party ought not to fee for his Write of Mitissimus, if he be disfrainfed for that Amercement; but he shall have Action of Trespass. New Nat. Br. 167. When the Amercement which is set on a Person is offered by his Party, or Mitissimus, it is not a Fee for the Goods or Tenant, but for the fine according to the Statute 10 Ed. 1.


Mitisse, A Measure, usually a Bullel; but various according to the Customs of several Countries.

Mitisse, A Word of Legis in Law Pleadings, &c. and particularly used in the Answer of a Defendant, whereby he denies to have done the Thing laid to his Charge, Motu & forma declarata. Kitch. 212. And Motu & forma are of the Substance of the Ille and material, when a collateral Point in Pleadings is traversed; but not where the Ille taken goes directly to the Point of the Write or Action, for then they are only Words of Form or of Cause. 4 Co. Litt. 281.

Modus Decimandi, Is when Lands, Tenements, or some annual certain Sum, or other Profit, hath been given Time out of Mind to a Parson and his Successors, in full Satisfaction and Discharge of all Tithes in Kind, in such a Place. 3 Co. Rep. 47. And it must be paid in Cities and Towns, as in London, for Houses, in lieu of the Tithes of the Lands on which the Houses were built: And there may be a Modus Decimandi for personal Tithes. 2 Inst. 557, 639. A Modus ought to be Chancery and for the Benefit and Advise of the Parson; and is supposed to be of the full Value of the Tithes, at the Time of the original Conveyance of it; and if it does not now come up to that Value, it shall be intended that the Tithes are im-

proved, or that Money is become of less Value than it was when the said Place was given off. 5 Co. Rep. 152. 4 Inst. 460. But one Tible must not be paid in Consideration of another: it is to be something different from the Thing that is due, where the Tibles were due by Day or by Course, and by Course due by Day, and it must be something as certain and durable as the Tible: All which are necessary to make a good Preception. 1 Roll. Abr. 650. 1 Co. 276. 466. 475. 4 Inst. 60. A Modus arises either by Concession, Custum or Preception: A Composition is an Agreement entered into by Deed, executed under Hand and Seal, that such and such Tibles shall be discharged by the Payment of Tibles, paying some annual Payment, or doing something for the Benefit and Advantage of the Parson, &c. which is a legal Exemption from Payment of Tibles for ever, if made before the Stat. 13 Eliz. c. 10. Custum is what gives a Right to a whole County, City, Town or Parish, and must be common to all within the Limits where it is served to be; and Preception has an effect to the Right of some particular Perfon, with respect to some particular House, Farm, &c. And the Ecclesiastical Laws allow forty years to make a good Custum and Preception: but by the Common Law, it must be beyond the Memory of Man. 1 Roll. Abr. 653. Const. Perf. comp. 139. A Layman, Lord of a Manor, may prescribe Du modus Decimandi, for himself and his Tenants; and so may a private Paran for his own Lands, or Part thereof, &c. Though in Cases of Preception, it may be to be discharged of a particular Sort of Tibles; for a Preception Du modus Decimandi generally, would undo the Clergy, and therefore it is not good where there is not sufficient left for their Maintenance, or it may be there where is a competent Livelihood for the Parish. 2 Rep. 47. 1 Co. 784. 1 Roll. Abr. 653. A Layman cannot prescribe by the Common Law Du modus Decimandi; but he may do of common Lands; for lands in his Hands, by Grant from Parish, Patron and Ordinary. 2 Rep. 44. A Parish, &c. may not prescribe Du modus Decimandi, though it may prescribe Du modus Decimandi. 1 Roll. Abr. 653. But Tibles due by Custum only, are not within the Rule against Preception in Du modus Decimandi by Laymen; for by the like Custum Persons may be discharged from the Payment of such Tibles. Wed. Inf. 179. And spiritual Persons and Corporations may prescribe Du modus Decimandi, to be discharged absolutely of Tibles, and may prescribe Du modus Decimandi, and may be such Proprietors. 2 Rep. 44. 1 Roll. Abr. 653. 614. 4 Co. 512. A Parson may sue in the Spiritual Court for a Modus Decimandi for the Rate of Tibles; but if the Parson is dispensed, or a Culfon is to be tried, it must be tried in the Common Law Courts: And where a Modus is pleaded in the Spiritual Court to a Demand of Tibles in Kind, a Prohibition lies, upon Supposition that the Spiritual Court will not admit of any Plea against Tibles. 2 & 3 Ed. 6. c. 13. Wed. 178. Where Land is converted to other Uses, as Hay Ground to Tillage, &c. or the Thing is altered or destroyed; as when a Felling Mill is made a Corn-Mill, or a Corn-Mill is come to Ruins, &c. A Modus made on good Consideration may be discharged, and then Tibles shall be paid in Kind. 1 Davw. Abr. 607, 608. So by Nonpayment of the Consideration: or by Payment of Tibles in Kind, for so long Time, that the Preception for a Modus Decimandi cannot be proved: Though a short Interruption 'tis said shall not destroy it. 1 Roll. 912. 4 Inst. 43. A Payment of different Sums, is Evident, that there is not a Modus.

Modesty, (Modestia, Fr. Moisie, i. e. coquen vel Modem pari) Is the Half of any Thing; and to hold by Modesty, is mentioned in our Books, in Case of Jointtenants. 2 Inst. 124.

Modus, A Mill of divers Kinds. See Mill.}
MO


MOLENTUS, Was commonly taken for the Toll or Moisture paid for grinding Corn at a Mill, and sometimes called Mill MONEY or MONEY paid to a Mill for grinding or Liberty of a Mill, without paying Toll: a Privilege which the Lord generally referred to his own Family. Salutis milis & barbaecus meli Moli- norum libera familia nuper quits in infe Molendin. Parch. Aniq. 236.


MOELTIR, or MOELTIRIN Latins. These were the Laws of Demolultus Molentius, sixteenth King of the Britons, who began his Reign above four hundred Years before the Birth of our Saviour, and they were famous in this Land till the Time of William the 111, called the Conqueror. This King was the first who published Laws in Britain, and which those of Queen Merina, were translated by Gildas out of the Briti into the Latin Tongue. Older's Primer. 26.

MONJESTRUM, or MONEY of Tenders. Is allowed by K. H. 8. c. 28. and Abbot.

MONETACTIUM, Signified a certain Tribute paid by Tenants to their Lord every third Year, that he should not change the Money he had been coined, formerly when it was lawful for great Men to coin Money current in their Territories; but not of Silver and Gold: It was discontinued by the Stat. 1 Hen. c. 2. The Money Monegargum is likewise said for a Money, and the Right of coinage or minting Money: Jus Arti- ficii comedii Monetae.

Money (Moneta) is that Metal, be it Gold or Silver, that receives Authority by the Prince's Impress to be current; for as Wax is not a Seal without a Print, so Metal is not money without Impression. Ca. Leg. 1. Money is said to be the common Measure of all Commerce, through the World, and consists principally of three Parts; the Material wherein it is made, being Silver or Gold; its Denomination or ex- tremely Value, given by the King, by Virtue of his Prerogative; and the King's Stamp thereon. Holt's Hist. P. C. 189. It belongs to the King only to put a Value, as well as the Impression on Money; which being done, the Money is current for so much as the King him limited, 2. Ind. 575. Any Piece of Mo- ney coined is of Value as it bears a Proportion to other current Coinage. Its Value is fixed by the King's Stamps. And though there is no Act of Parliament, or Order of State for Guineas, as they are taken; yet being coined at the King's Stamps on them, they are lawful Money, and current at the Value they were coined and uttered at the Mint. 2. Salk. 446. But it has been observed, that Guineas were originally coined for 20s. according to the twenty Shilling Pieces of Money, and that legally, no more ought to be demanded for them: Also that in legal Proceedings, they should be mentioned as peces 20s. quin. Guineas, cat- eter. 2. Mod. Rep. 7. If an Action is brought for Damages, the Value of Guineas may be given in Evidence to the Jury: But if the Action be for mo- ney Guineas, the Value of the Money must be brought in in the De- claration, to ascertain the Deb. Garrick 25. Gold and Silver Coin, &c. is not to be exported without Licence, on Pain of forfeiture. Stat. 8 Ed. 3. cap. 1. And Money of Silver must be coined down, it is to be forfeited, and double Value. 13 & 14 Car. 2. c. 31. But by old Statutes, foreign Money may be melted down; and no Money shall be current but the King's own, &c. 27 Ed. 3. cap. 14. 17 R. 2. c. 1. See Coin and Ex- change.

Money, tenting it abroad. The King by Procla- mation in what Tribes and on what subjects, not exceeding one Year, to lend or advance Money to any foreign Prince or State, without Licence under the Great or Privey Seal; and if any Person knowingly offend in the Premisses, he shall forfeit treble the Val- ue of the Money lent, &c. two Thirds to the King, and the other to the Informer: But Perons may deal in foreign Stocks, or Money carried in any Cases abroad, established before his Majesty's Procla- mation. Stat. 3 Geo 2. c. 5.

Money in Court. In the proceedings, Money de- manded is oftentimes brought into the Court, either by a Rule of Court, or by pledging a Procuri in Cur- ium of the Money; and then if the Money is not paid into Court, the Plea will not be received. The Mo- ney must be brought into Court, upon the Plea of a Tender: And the Defendant may at any Time, pen- ding an Action on Bond with a Penalty, bring the Mo- ney and Costs into Court, and it shall be a good Satis- faction and Difcharge, by Stat. 4 & 5. Anw. c. 16. If a Defendant pay Money, or Part, into Court, and it is struck out of the Declaration, though the Plain- tiff is Nonuit, he shall take the Money out of Court, for by paying into Court, the Defendant admitted that it was due; but if the Defendant brings Money into Court upon a Tender and makes it good, and the Plaintiff takes it off upon the Tender, and it is found against him, then the Defendant shall have the Money out of Court. 2 Salk. 597. Money may be brought into Court upon an Action of Debt for losses in Replevin, when the Defendant avows for so much Rent arrear, the Plaintiff hath been admitted to bring it into Court: And in Covenant, &c. where a Breach is alleged for Non-payment of Rent, the Defendant may bring the Money due into Court. Ibid. In a Quantum Meruit it hath been denied; though it was granted in such Cause. Partch. Aem. 8. And it is said, where an Action is brought by an Executor or Admin- istrator, the Defendant cannot bring the Money into Court. 2 Salk. 596.

Monetary (Monetarius) Are taken for Bankers or those that make it their Trade and Business to turn and return Money to other Officers of the Mint, mentioned in the Stat. 1 Ed. 6. c. 12.

Monger, A little Sea Vessel which Fishermen use. Stat. 13 Eliz. c. 11. And when a Word ends with Monger, as fishermen, &c. it signifies Merchant, from the Sax. Mungers, i. e. Merchant.

Monk, (Monachus) From the Gr. Monos, solo, sp. soli, i. e. Separati ab aliis, confruntur civitatis, be- cause the first Monks lived alone in the Wilderness. These were the first Religious: They lived in a cloistered Life, i. e. Society living in common in a Monastery, &c. under the Government of a Single Person; and there were under certain Rules, and afterwards called Regular. Anachora or Ermites, those Monks who lived in the Wilderness on Bread and Water. And Sarabanites, Monks living under no Rule, that wandered in the World. St. Jerome tells us, that of the An- cients Paulus fuit Autor, Antonius illustratus, Iohann- nes Baptist J. principis.


Monopolus, (From Monos, one, &c. et misce word) Is an Allowance of the King by his Grant, Commission or otherwise, to any Person or Persons, for the sole Buying, Selling, Making, Working or Using of any Thing, by which other Persons are restrained of any Freedom or Liberty that they had before, or hindered in their lawful Trade. 3 Ind. 181. It is defined to be where the Power of Selling any Thing is in one Man alone; or when one shall impede, and get into his Hands such a Merchandise, &c. as none may sell or gain by them but himself. 11 Rep. 86. And a Mo- nepoly hath three Incidents, of which we shall PUB: 1. The Raising of the Price. 2. The Commodity will not be so good. 3. The Impoverishing of poor Articell.
Artificers. *Ibid.* All Monopolies are against the ancient and fundamental Laws of the Realm: A By-Law, which makes any person be a Freemon of a Trade or Manufactory, is void, and so is a Pre-
scription for a Sole Trade to any one Person or Per-
sons, exclusive of all others. *Mon.* 591. Monopolies by Law are void, as being against the Freedom of Trade, and discouraging Labour and In-
dustry; and putting it in the Power of particular Per-
sons to set what Prices they please on a Commodity.
1 Hen. 2 c. 231. Upon this Ground it hath been held, that the King's Grant to any Corporation of the folle Importation of any Merchandize, is void. *2 Red. Abr.* 214. 3 Idf. 182. The Grant of the folle Ma-
king, Importing and Selling of Playing Cards, was ad-
judged void. 1 Rep. 84. Mor. 671. And the King's Grant of the folle Making and Writing of Bills, Pleas, and
Writs in a Court of Law, to any particular Per-
son, hath been refuted to be void. 1 Jones 231. 3
Mod. 75. The King may grant to particular Persons the folle Printing of the Holy Scriptures, and Law Books. 1 Hen. 2 c. 231. All Masters of this Nature ought to be tried by the Common Law, and not at the Councl-Table, or any other Court of that Kind; and the Making use of or procuring any unlawful Monopoly, is as it is enjoined by the Common Law, and not by any other
Law. 3 Idf. 181, 182. By Statute, all Monopolies, Grants, Letters Patent and Licences, for the folle Buy-
ings, Sellings, Making of Goods and Manufacturers are declared void, except in some particular Cases; and Persons grievied by putting them in use, shall re-
course thereb unto Damages and double Costs, by Action on the Statute; and delaying such Actions, before Judgment, by Colour of any Order, Warrant, &c. or de-
laying Execution after, incurs a Praemunire: But this does not extend to any Grant or Privilege granted by A.D. of Parliament, nor to any Grant from the Crown to Corporations or Cities, &c. Grants to Companies or Societies of Merchants, for Enlargement of Trade; or to Invertis of New Manufacturers, who have Pa-
tents for the Term of fourteen Years; Grants or Pri-
ileges for Printing; or making Gun powder, calling
Ordinance, *21 Jac.* 1 c. 3. As to Inventors of New Manufactures, &c. it hath been adjudged on this Statute, that a Manufacture must be substantially New, and not barely an additional Improvement of any old one, to be within the Statute; it must be such as none other used at the Granting the Letters Patent; and no Old-manufacture in Use before, can be pro-
hibited in any Grant of the folle Use of any such new
Invention. *3 Idf. 184.* Yet a Grant of a Monopoly may be to the Fifth Inventor, by the Stat. *21 Jac.* 1, notwithstanding the same Thing was prohibited before beyond Sea: because the Statute mentions new Manu-
factures within the Realm, and intended to encourage new Devices useful here, and it is the same Thing whether acquired by Experience or Travel abroad, or by Study at Home. *2 Idf. 447.* It is said, a new Invention to do as much Work in a Day by an Engine as formerly used to employ many Hands, is contrary to the Statute; but Reason is it inconvenient, in turn-
ing so many Men toIdleness. 3 Idf. 184.
Monasteries. One that hath not human Shape, and yet is born in lawful Wedlock: And such may not pur-
chase or retain Lands; but a Person may be an Heir to his Ancestor's Land, though he have some Deformi-
Monfrans de Béjatz, Is a Shewing of Right, and signifies a View out of the Clams to be resold to
Lands and Tenements that are a Mans Right, though by some Office found to be in the Possession of one lusty dead; by which Office the King would be entitled to the said Lands, &c. It is given by the
Stat. 34 Ed. 3. c. 14. and 36 Ed. 3. c. 13. Statute of
Praem. c. 21. 4 Co. Rep. 54.
Monfrans de faire, Shewing or Producing of the
Deeds in open Court, when a Man is brought upon
any Deed; and the Difference between Monfrans de
faire and Oyer de faire, is this: He that pleads any
Treason is not Oyered by the same Person; but the other, and the against whom such Deed or Record is Pleaded, may demand Oyer thereof. Where a Man pleads a Declarandum against him the same Person who is the other Party demands a Sight of it, he cannot proceed till he hath shewn it; and when the Defendant hath had a Sight of it, if he demands a Copy of the same, the Plaintiff may not proceed until a Copy is delivered unto him. *Stat.* 4 & 5 Ann. c. 16. 2 Litt. Abr. 201.
Vide Oyer in Curia.
Monopolies are, as a rule, a law that lies for Tenants
in Antient Demesne, who hold Land by free Charter, when they are disfrailed to do unto their Lords other Services and Cufoms than they or their Ancestors used to do: Also in such Cases where the Tenants are disfrailed for the Payment of Tell, &c. contrary to their Li-
berety, which they do or should enjoy. *F. N.* B. 34. 4 Idf. 269. This Writ is directed to the Sheriff to call in all such Persons who have the Charge of the House who dwell next the Manor, or take the Power of the County, to refit the Lord, &c. And the Ten-
ants in such Case may likewise sue for an Attachment again their Lord, returnable in C.B. or B.B. to an-
swer the Contempt and recover Damages. *New Nat.
Br.* 32. But the Lord shall not be put to answer the Writ of Attachment void against him upon the Man-
frasures, but against the Treasurers or Chamberlains or the Exchequer, from the Book of Demesneay, whether the Manor be Antient Demesne, so that it is requisite that the Plaintiff in the Monfrasures do sue forth a Special Writ for the certifying of the same. *Ibid.* 35. The Writ of Mon-
frasures may be sued for many of the Tenants, with-
out naming any of them by their proper Names, but generally Monfrasures nobis homines de, &c. But in the Attachment against the Lord, the Tenants ought to be named; though one Tenant may sue it in his
own Name, and the Name of the other Tenants by general Words, Et Homines, &c. 2 H. 6. 26. See Ne
vivo Exeas.
Monstrum, Is sometimes taken for the Box in
which Reliefs are kept: *Irmum omn. Monstrum com
Of
Month, or bimonth, is *21 Monath.* (Mois à
Menage, Lune suivante.) Signifies the Time the Sun
goes through one sign of the Zodiac, and the Moon
time through all twelve; properly the Time from the New
Moon to its Change, or the Course or Period of the
Moon, whence "is called Month from the Moon. Lat.
Did. A Month is a Space of Time containing by the Week twenty eight Days; by the Calendar sometimes thirty, and sometimes thirty one Days: And Jewish Calendar divided the Year into twelve Months, each
Month into four Weeks, and each Week into seven Days. By the Common Law a Month is a Calendar
Month of twenty eight Days; and in Case of a Condition for Rent, the Month shall be computed at twenty eight Days; so in the Case of Inrolls of Deeds, and generally in all Cases where a statute speaks for Months, but when the Statute accounts by the Year, Half Year, or Quarter of a Year, then it is to be reckoned ac-
Fac. 82.* The French Numbers are really but includes the whole Year, according to the Calendar:
But twelve Months, 6 Months, &c. in the plural Num-
ber, shall be accounted after twenty eight Days to
every Month, except in Case of Prettensions to
Benefits.
M公益

Mortarium, A Light or Taper fit in Churches to burn over the Graves or Shrouns of the Dead.—Th—

not duas aera terrae, &c. ad inveniendum unus Mortar

ium ardentem in Ecclesia de Chepin. Parroco. Con-


Brent-dacca. A Write now seldom used, men-

tioned in the Statutes 53 H. 5. 5 Ed. 1. See Affi

ce of Mort d'ancres.

Mortgage. (Mortgagem, æd Mortuam caudam,

from the Fr. Mort, i. e. Mort, and Gage, Pigis) Is a

Pawn of Lands or Tenements, &c. for Money bor-

rowed, to be the Creditor's for ever, if the Money

be not repaid on the Day agreed: and it is called a

Mortgage, because it is a death Pledge, until the Money

is paid: or for that if the Money is not paid at the Day,

the Land Mortgaged to the Debtor, is forfeited to the

Creditor. Lit. 332. It is usually made by Lease for

a long Term of Years, Lease and Release, Assignment,

&c. And the Creditor holding the Land upon this

Agreement, is in the mean Time called Tenant in

Mortgage, and holdeth the Estate upon the Condition

in the Deed: But generally till Failure is made of

Payment, the Mortgage holds the Land; and if Fai-

lure be made, and the Mortgagee doth enter into

the Land, the Mortgagee hath an Equity of Redemption

in the Court of Chancery; and may call the Mor-

tgagee to Account for the Proceeds. [C. 39. 35. 3]

Vol. 205. In a Mortgage is contained a Proviso, that

if the Money be paid at the Day, the Debtor shall

be void: And on the Mortgagee's paying the Interest

of the Money, Mortgages are continued a long Time

without disturbing the Possession or Parties. Law Se-

cret 103. A Forfeiture in Fee, or a Lease for Life

or Years, &c. may be made with a Provision or Con-

dition, that if the Feodar or Grantor, or their Heirs

or Executors, pay the Feeble or Grantee, &c. such

Sum of Money at a certain Day, then the Feodar,

C. may re-enter; and this hath been a common

Condition in a Mortgage, or of Estates upon Condition

in a Deed: In the former Case of Mortgage, the

Mortgagee keeps Possession till Failure; but here the

Possession belongs only to the Mortgagee. C. 39. 33.

Lit. 352. But as by their ancient Kind of Mortgages, if the Money were not paid on the Day, the

Estates became absolute, and was subject to the

Dower of the Wife of the Feeble, as also all

other his real Charges and Incumbrances, C. on this

Accords the Courts of Equity have maintained the

Right of Redemption, against all Perfons that come in

under the Feodar: because the Payment of the Mo-

tgage in the Deed does put the Feeble in his former

State, and since the Lands were only a Pledge for the Money. 1 Ed. 21. 31. 39. Car. 190. A Mortgage is

answerable in Chancery, when he comes into Possession of the Land, and for all the Perforce he may have had not for the

Mortgage, he might have made; unless there were Fraud: No

Allowance shall be given to the Mortgagee for his Pains

and Trouble, who manages the Estate himself; but if

he employs a Skilful Person, and gives him so much

a Year, that must be allowed, for no Pardon is bound to

be his own Bailiff. Test. 155. 1 Fbr. 316. 476.

Where a Man makes a Mortgage for Years or never,

he may without entering on the Premises, or the

Mortgagee's joining, assign the Mortgages and the

Mortgage by the Covenant to enjoy till Default of

Payment, but Tenant at Will to the Mortgagee. 1 Ed. 21.

Lit. 246. Though if one who is in Mortgage in Pof-

cession, assigns his Mortgages, without the Affent of

the Mortgagee, he shall pay the Debtor out of the

Land, before and after Assignment, though it be

assigned only for his own Debts: he being under a Trust

for that Purpose. 3 Cen. Cai. 5. An old Mortgage

seems to be another, ought to be assumed as a new

Mortgage from the Time of the Assignment: And as

a Mortgage, where the Mortgage is forfeited, shall have

Interest for his Interest: so shall an Assignment for all

at
Intrest due from the Time the Mortgage was alligned.

1. Dean. Rep. 218. For when a Mortgage al-

lines the Mortgage, all Money paid by the Alligee, if due at that Time, shall be accounted Principal to the Mortgage, whenever it comes to notin.

Hod 68. But an Agreement made at the Time of a Mortgage, will not make future Intrest Principal, be-

fore any Intrest is grown due; the Intrest must be first due before an Agreement concerning it may make the same Principal, 2 Salis. 449. If a Man mortgaghe his Land, upon Condition that if the Mortgagee and J S. pay twenty Founds such a Day to the Mortgagee, that then shall he re-enter, &c., and the Mortgagee die before the Day; in this Cafe J. S. alone may pay the Money; but it is otherwise fo long as the Mortgagee lives, for during that Time J. S. may not tender the Money without him; if he do, it will be no Per-

formance of the Condition. Co. Litt. 219. Not only the Mortgagee, but his Heir, being interested in the Con-

dition, may pay the Money in lieu of the Heir, and the Mortgagee having Time during Life to pay it, do not pay the same; his Heirs or Executors, &c., shall not in such Cafe be re-

ceived to pay the Money after his Death. 1 Inst. 206. Executors of the Mortgagee shall have Money due on the Mortgage, where a Mortgagee in Fee dies before the Day of Payment, unless the Heir be particularly named; and where the Heir is named, if the Day of Payment he paid, it is as much as if no Person had been appointed, and then the Law appoints it to the Executor; as the Money first came out of the Person Edition, and the Executor more represents the Tenant than the Heir. 1 Inst. 210, 2 Femur. 346. Chanc. Rep. 284. If Heirs and Executors are named, it is may be paid to either. A Man mortgaghe Lands for Payment of such a Sum to the Mortgagee, his Heirs, Executors or Alligee; the Mortgagee died, and made the Heir within Age his Executor, and the Mortgagee paid the Money at the Day to the Heir; it was held, that the Heir had not the Money as Heir, but that it should be Affect in his Hands as Executor. 3 Law. 59. But it hath been adjudged, that upon a Mortgage of Land in Fee, with Condition to pay to the Heirs or Alligee of the Mortgagee, the Heirs and not the Executors shall have the Money. Chanc. Rep. 88. When the Heir of the Mortgagee is to recover the Estate mortgagd, and there is no Deed of Affect in the Hands of the Mortgage-

ee, the Mortgagee Money shall be paid to the Heir, if the Condition was to pay it to him; or if it was to pay it, to his Heirs or Executors. But it is otherwise if it was to be paid to the Executors only. Chanc. Rep. 83. 3 Salis. 241. Mortgages have been looked upon as Part of the Personal Estate, except a Mortgage in Fee otherwise de-

clare the same. Chanc. Rep. 286. The Personal Easte of the Mortgagee Ball also in Favour of the Heir, be ap-

-pin, so far as he may, if there be personal Af-

-ects to pay all Legacies. 2 Salis. 430. And though such personal Easte be Deviled away by Will among Rela-

-tions, 'tis held to be the same, because the Mortgage Mo-

-ney. 3 Salis. 241. The Heir of a Mortgagee, received Money for a Rellete of the Equity of Redemption; it was held to be no Affect in Law, to faciety a Judgment acknowledged by the Mort-

-gagee and before the Bonds, for it is but a bare Right; And the Relate not being by Fraud, therefore it was not Affets in Equity. 3 Koh. 307. It has been decribed, that where a Mortgagee lends more Money upon Bond to the Mortgagee, he shall not redeem, unless he pay the Money due on the Bond as well as on the Mortgage: Though if he mortgage the Equity of Redemption, the Money paid towards the Mortgage shall be not affected by this Bond, because 'tis but a persona-

-l Charge upon the Mortgage. 3 Salis. 240 See

Prud. Chanc. 407. In Equity it is allowed, that if

-Lands are thence mortgagd, the third Mortgagee may buy in the first Incumbrance to possess his own Mort-

-get; and he shall hold against the second Mortgagee, as if he had bought by the first, and he shall hold against the first, and all his own Money he lent on the last Mortgage. 3 Femur. 538. And a Purchaser upon valuable Consideration, pur-

-chasing a precedent Incumbrance, shall possess his Easte against any Person that hath a Mortgage sub-

-sequent, &c. A Mortgage without Notice of a former Incumbrance, boys in an Incumbrance previous to that Incumbrance, which precedes his Mort-

-gete; he shall not be impeached in Equity, but upon Payment of all that is due to him on both Estates. Chanc. Rep. 149. 2 Femur. 206. If a Mortgagee retaining the Possession levies a Fine to another Mortgagee, this shall not bar the first Mortgagee. 1 Law. 272. But in a late Cafe, a second Mortgagee, with a just Title to the Estate, may be paid in Equity before the first Mortgage without the Deeds. In a Cafe a first Mortgagee is a Witness to a second Mortgage of the Land, &c., though he hath no Notice of his having any Interest in the Contents thereof, yet as the Preceptum is that he might be acquainted with it, this shall give a Pre-

-ference to the second Mortgage. 1 P. Whittam 594. And if a Person being also the Mortgagee as well as the Mort-

-gagee, inquires of a prior Mortgage, whether he hath any Incumbrance on the Estate, and he doth not own the same shall null his Action. 2 Femur. 534. By Stat. 4 W. & M. 31. c. 16, where Mortgagee makes a second Mortgage, and do not discover the first, the second Mortgagee may redeem, &c. A Jurisdiction of mortgaged Lands was decreed to pay the Mortgage Mo-

-oney for Redemption, and hold over, till the and her Executors should be paid with Interest. Chanc. Rep. 27. And where a Devise of Land mortgagd, was to one for Life, and Remainder to another in Fee; it was adjudged, That Tenant for Life should pay one third, and he in Remainder two thirds, to redeem. Ibid. But 'tis otherwise Prud. Chanc. 44. The Inheritance in Lands mortgagd is in Law in the Mortgagd before the Mortgagee; he hath purchased the Land as it were upon valuable Consideration, as the Law will intend; And though the Mortgagee may redeem, yet it is not certainly known whether he will or no; and if he do not, the Estate is absolete in the Mortgagee. A Mortgage is enforced in Possession on executing the Mortgage; if the Mortgagee is not paid, whereby the Land is forfeit, he may bring Ejection without actual Entry; but where a Condition is to be done, he must give actual Entry. 1 Barn. & Adr. 203. After twenty Years, (the Time of Eas-

-try limited by Stat. 21. Jac. 1.) when no Demand has been made of the Money, or Interest paid, &c. Mortgages are not relivable in Chancery, unless there be extraordinary Circumstances to induce it, as in Case of Feme Cooperis, Infano, &c. 2 Femur. 540. It has been however held, that Mortgages of Lands are not within the Statue of Limitation; though that Act may be a proper Direction to go by; indeed sometimes Equity has allowed Length of Time to be pleaded, in this Case; may be the Mortgage to be defended as a Fee, without Claim by the Mortgagee, and the Mortgages would be intensified with a long Account. 1 Chanc. 101. after 17. £2. 313. Infano held of all Estates in Fee, in Mortgagd, &c. &c. May convey Venues of such Estates, by Order of the Court of Chancery. Stat. 7 Ann. c. 19. Vide Chanc.

-ery. By a late Act, the Action of ejectment shall be brought by a Mortgagee, for Recovery of Possession of mortgagd Lands, and no Suit is depending in any Court of Equity for foreclosing or re-

-claiming such Lands, if the Person who hath a Mortgage, without notice of a former Incumbrance, shall redeem, shall pending the Action pay to the Mortgagee, or bring into Court, all the principal Money
Money and Interest due, and the Costs, shall be a
full Satisfaction and Discharge of the Mortgage: And the
Mortgagor shall convey the Land, on Delivery up
all Demes, &c. 7 Ga. 1, o. 10. And on a Bill in Equity to compel the Mortgagor to pay the Mort-
gage money, or on Default in the Performance of the
Court on the Defeasance's Application, may make any
Order therein, before the Cause is brought to Hear-
ing, &c. as to the Right of Redemption be not con-
troversial, &c. Where a Mortgagee Conveys after
Default to make further Assurance, for the subsistence
failing, &c. this Assurance to be made must be ab-
solute, because the Estate is to be so: But it shall not,
without Special Words, oblige him to renew the Re-
quity of Redemption; nor is a Warranty to be im-
dered in such further Assurance on the bare Cov-
enant. Comdr. 351. See Equity of Redemption, and
wide Fine.

Form of a common Mortgage of Lands.

THIS Indenture made, &c. Between A. B. of,
Sec. of the one Part, and C. D. of, &c. of
the other Part, &c. for and to the use of, &c. in
Consideration of the Sum of, &c. in him in Hand paid
By the said C. D. to the Receipt whereof we do hereby com-
mit, &c. in consideration thereof, &c. to the said A. B.
Sec. and the Executrix, Remainder and Remainders, Remittance of
Rents and Services of the said Premises, and of every Part and Parcel thereof
with the Appurtenances; &c. to have and to hold the said Premises or Tenement, Lands and Premises above men-
tioned, and every Part and Parcel thereof, with the Appurtenances, unto the said C. D. his Executive, Ad-
ministratrix and Assignees, for ever, and during the Term of
five hundred Years next and immediately ensuing and
following, and to be compact and void, &c. Yielding
and paying therefor yearly during the said Term, one
Pony-Corn in and upon the Half of, &c. Michael the
Archangel, of demanded: Provided always and upon Con-
dition, that if the said A. B. his Heirs or Assignees,
do and shall well and truly pay or cause to be paid unto
the said C. D. his Executive, Administratrix and Assignees,
the said Sum of, &c. in and upon the Day, &c. next coming, (or which will be in the Year, &c.) without any Deduction or Abatement, Assignments, or
any other Impositions whatsoever, either ordinary or ex-
traordinary, that then and from thenceforth their Pre-
fect or Executrix and Assignees, &c. and all and every Pre-
ceptive hereunto contained, and every Part of and every
Appurtenance of, &c. have and to hold the said Premises or Tenement, Lands and Premises above men-
tioned, and every Part and Parcel thereof, with the Appur-
tenances, unto the said C. D. his Executive, Administratrix and Assignees, &c. for ever.

Mortgages, is he that mortgagor or pawn the
Lands and to whom the Mortgage is made is
called the Mortgagee.

Mongrel, (Sax.) Signifies Murder, Murderers, a
Muderer or Maimyer.

Mortmain, (Med. Mortem, i. e. Dead Hand,
from the Fr. Mort, ixe. Mort, and Mens, Mans) is
where Lands and Tenements are given or alienated
to any House of Religion or Corporation, sole or aggre-
gate, Ecclesiastical and Temporal, and their Successors,
without the Consent of the King and the Sees, &c.
which may not be done without Licence from the
King: And the Reason of the Name proceeds
from this, that the Services and other Profits due for such Lands, should not without such Licence come into Hands as it were dead, and be so dedicated to pious Uses as to be absolutely different from other Lands, and never to return to the Donor, or any
Temporal or common Use. And because the Lords
had nothing from the Aliences for by Alienation in
Mortmain they lost their ancient, and many Servi-
ces which were heretofore due to them, as Bodles Po-
litick never die, nor can perform personal Service,
commit Treson or Felony, &c. This occasioned
the Statutes of Mortmain, by the power of the
King or other Lord of whom the Land is holden,
may enter into Lands so alienated. 1 Infr. 2. 2 Infr.
75. The Foundation of all the Statutes of Mor-
main was Magna Charta. By the 9 H. 2. c. 96. It is de-
cided, that it shall not be lawful for any to give his Lands to any Religious House, and to take the
Land again to hold of the same House. Gr. upon
Pain that the Gift shall be void, and the Land
shall accrue to the Lord of the Fee. This Statute is
intended to extend to Lands, which a Religious
House kept in their own Hands, though they gave
them not back again to hold of the same House.
2 Infr. 75. But Ecclesiastical Persons hold of
least of the Statutes of Mortmain, and those
religious, no
of
and all and every Person and
Mortgages, &c. and all and every other Person and
Perfon, and his and all their Heirs, any Claim being
They shall not be used
Mortmain, or Religious, no
and shall be placed in
Mortmain.
any Gift or Lease, or by Reason of any other Title, receive the same, or by any other Craft shall appropriate Lands in any wise to come into Mortmain, on Pain of Forfeiture; and within a Year after the Alienation, the Land so conveyed may be recovered; and if it do not, then the next immediate Lord, from Time to Time may enter in Half a Year; and for Default of all the Lords entering, the King shall have the Lands so alienated for ever, and may enjoin others by certain Services, &c. As this Statute extended only to Gifts, Alienations, &c., made between Ecclesiastics and others, they found out an Evasion of all of this Statute; for pretending a Title to the Land, which they meant to gain, they brought a seignior Action against the Tenant of the Land, and he by Conven and Collation was made Default, and thence they recovered the Land, and entered by Judgment of Law: So that the Stat. 15 Ed. I. c. 32. was thought necessary; by which it is to be inferred by the Country whether the Demesnaut had a just Title to the Land; and if so, then he shall recover Seilin; but if otherwise, the Lord of the Fee shall enter, by Stat. 4 Ed. I. Lord Luke Etketh in 1300, not be alienated in Mortmain, where there are mean Lords, without their Consent declared under Hand and Seal; nor shall any Title pass where the Donor reserves nothing to himself. Notwithstanding all these Statutes, Ecclesiastical Persons (not being able to get Lands by Purchase, Gift, Lease, or Recovery) procured Lands to be conveyed by Feoffment, or in other Manner, to divers Persons and their Heirs, to the Use of them and their Succeedors, whereby they took the Profs. 2 Inf. 75. To bar this, the Stat. 19 Ed. I. c. 59. was made, which Statute enacts, that no Feoffment, &c., of any Lands and Tenements, Advenues or other Possessions, to the Use of any Spiritual Persons, or whereof they shall take the Profits, shall be made without Licence of the King, and of the Lords, &c., upon Pain of Forfeiture. And by 23 H. 8. c. 10. against superfluous Uses, Forfeitures, Fines, Recoveries, Grants, Devises, &c., of Lands, to the Use of any Parish Church, or to have perpetual Oboe, or continual Service of a Priest for ever, or for forty Years, &c., to the Prejudice of the King and other Lords, is in Case of Lands aliened in Mortmain, shall be void: Though this last Statute extends not to Corporations, where there is a Custom to devide Lands in Mortmain; as in London, a Freeman that pays Scot and Lot, may devise all his Lands in the City in Mortmain, without Licence. 1 Roll. Abr. 556. And notwithstanding this, or any of the before-mentioned Statutes, any Man at the Discretion of the Bishop may give Lands, Tenements, &c., to any Burse of any Minister, and their Heirs, for finding a Preacher, Maintenance of a Church, or support of Churches, Relief of the Poor, &c., or for any like charitable Uses: Though it is good Policy on every such Estate to reserve a small Rent to the Feoffor and his Heirs, when the Feoffor shall be feared to his own Use, and not to the Use of the Feoffor; or if a Consideration of a small Sum be express'd, the 23 H. 8. cannot by any Pre- tence make void the Use. 1 Rep. 24. 1 Ed. 70. Wind. Inf. 591. By the Statute 59 Eliz. cap. 5. the Gift of Lands, &c., to Hospitails is permitted without obtaining Licences of Mortmain. Owners of Inheritance may also annex them to the Parish or Vicarage where they lie, or settle them in Trust for the Curates, where the Parsonage is improper, and no Vicarage endowed, without Licence of Mortmain; And a Clerk could convey with any Benefit thereunto. Cure shall not amount to 100 L. per Annum, the Incumbent may purchase to him and his Successors, &c., without Licence in Mortmain. 32 Ed. I. c. 7. But by ancient Statutes, the King's Licence may be had for authorizing of Lands, and the Writ of Aliquot pro quo is still out of Common Law to inquire concerning the same. 27 Ed. I. Prolatas, Clerics, &c., shall not be imprisoned for purchasing Lands in Mortmain, on producing the King's Charter of Licence. 18 Ed. 3. And it is declared lands for the King to grant for a Permon, both of those that are his Tenures and Succesors, Licence to alien in Mortmain; and purchase and hold in Mortmain in Perpetuity, &c., without incurring any Forfeiture, by Stat. 7 & 8 H. 3. c. 37. 'A Grant of an Advenion in Fee, or an Appropriation of an Advenion, hath been adjudged a Mortmain; but an Appropriation of Tithes, which are Things meerly Spiritual, or a Grant of an Annuity, that chargeth the Person only, cannot be Mortmain, to be forfeited. 1 Inf. 2. 304. 2 Inf. 561. 5 Rep. 46. 9 Rep. 66. A late Statute has ordained, that no Minors, Lands, &c., shall be given, granted to, or settled on any Permon, Bodies Politick or Corporate, for any Effeate whatsoever, or charged in Trust for charitable Uses, unless done by Deed intended, and sealed at least twelve Months before the Death of the Donor or Granter, and inrolled in Chancery within six Months after executed, &c., And except as to Grant of Tenures, under a Valuable Consideration; or by the two Universities, or Colleges of Eton, Wind- chester, &c., Statute of Mortmain, g Geo. 2. c. 50. A Mortmain, (Mortmain) is defined to be a Gift left by a Man at his Death to his Parish Church, in a Reconcilement of personal Tithes omitted to be paid in his Life-time: Or it is that Beasf or other Cattle movable, which, after the Death of the Owner, by the Custom of some Place is due to the Parson, the Vicar, or Priest of the Parish, in lieu of Tithes or Offerings forgott, or not well and truly paid by him that is dead. Terms de Ley 449. Mr. Selden tells us, that the Usice anciently was to bring the Mortmain along with the Corps when it came to be buried, and deliver it to the Church as a Satisfaction for the suppressed Negligence and Oblivion that had been guilty of in not paying his personal Tithes; and from thence it was called a Causa pretendi. Sid. Hid. Toches 287. A Mortmain is not properly due to an Ecclesiastical Incumbent from any but those only of his own Parish, to whom he ministered spiritual Instruction, and had Right to their Tithes; but by Custom in some Places they are paid to the Incumbent of other Parishes, when the Corpse of dead Bodies pass through them: And the Bishops of Bangor, Landaff, St. David's, &c., formerly had Mortuaries of Priests, till taken away by the Acts 13 & 14 Ann. 6. 6 & 7 Geo. 1. When the Diocese of Chester shrank, it was said to be a Custom for the Bishop to have a Mortmain on the Death of every Archdeacon, to the End that the Incumbent might receive the Jurisdiction of the see, of his belt Beasf, Saddle and Bridle, and belt Gown or Cloak, Hat, and upper Garment under the Gown, &c., Car. 172. Before the Stat. 21 H. 8. Nov. hirses were payable in Beaufort given to the Lord for a Heriot, the second belt for a Mortmain: &c. was it only De malori Averio, sed de maloribus? And Mortuaries (that is one who sold them on Legitimous Proclam's quisque per Anima Defuncti.) It hath been held, that such a Right was vested in the Parson to have the second belt Beasf for a Mortmain, (where by Custom in some Places they are paid to the Incumbent of other Parishes) that he might prefer it to the Lord for a Heriot, ever he could find it; but they are now rated to be paid in Money. 2 Inf. 491. Clergyman, Law 474. No Mortmain is originally due by Law, but by Custom Enlarged and confirmed by several Statutes. Writs were held as due Deben, and the Payment of them was enjoined as well by the Statute De Cor- respens et Libellis. 15 Car. 2. c. 24. The In- cumbents, &c., And by the 21 H. 8. cap. 6. Mortuaries are to be paid as follows, one. He that dies polluted of movable Goods to the Value of 40 L. or above, (his
MO

(his Dehns first paid) is to pay 10/-.  Is that death possessed of Goods of 10 l. Value and under 40 l. is to pay 6 l. 8d. And dying possessed of Goods to the Value of 6 l. 13 s. 4 d. and under 50 l. to pay 7 l. 15 s. 4 d. But if under 6 l. 13 s. 4 d. Value, no Mortuary is to be paid; and no Mortuary is to be paid by any Feome Covert or Child, Persons not keeping House, &c. If one happens to die in a Place where he does not reside, by this Statute the Mortuary shall be paid in the Place where he had his whole Abode; no Person shall pay Mortuary in more than one Place; and no Mortuary shall be demanded of any in such Places where Mortuary are due by Culsum, and have used to have been paid: Also there is a Pravtil in the Statute, that in Places where Mortuaries have been of less Value than as aforesaid, no Person shall pay any more than has been accustomed. If a Person, Vicar, &c. take or demand more than is allowed by the Statute for a Mortuary, he shall forfeit all he takes beyond it, and 40 l. more to the Party grieved, to be recovered by Action of assizes, &c. Since this Statute, whereby Mortuaries are reduced to a Certainty, an Action of Debt will lie upon the said Statute in the Courts of Common Law, for Recovery of the Sum due for a Mortuary, being by Culsum as afore-aid, although before that Statute they were recoverable only in the Spiritual Court: But as such Actions have never been brought, it is evident that they are still recoverable in that Court only. Ways. Clorung Law 475. Count. Parf. Compa. 140. Whereby he Culsum a Mortuary hath not been usually paid, if a Person be libelled in the Spiritual Court, he shall have a Provision by Virtue of the Statute 21 H. 8. And upon a Provision the Culsum may be tried. Gt. 2 Lev. 1066. 3 Mod. 268.

[Note: The text continues with legal references and explanations, discussing the implications of the statutes and actions related to the payment of mortuaries in various contexts, such as the courts of law and the actions taken by individuals and incumbents of religious offices.]

---

MO

fons were exempted by Charter of Privileges. Reg. Chart. 5 Feb. m. 9.


[Scribal Note: One that may be removed or displaced, or rather a Vagrant. — In Certore dej

Scribal Note: Cananici vel aliis religiosi, Moabites, Persians, &c. canone conuertere non potest, l. i. in pace conservare non posissent. Ps. 80. Ps. 6. cap. 6.]

Action in Court. In the Courts of Chancery, King's Bench, &c. Mortuaries are made by Barristers and Counselors at Law, and that conducts their Civil Causes: And where any Motion is made in Chancery, that is not of Courte, generally an Affidavit of the Facts alleged must be read in Court: And if Motion is made on the General Rules or Lige of the Court, and are not of Courte, but granted or denied as the Court thinks fit, on hearing Counsel on both Sides, Notice is to be given in Writing to the Solicitor of the other Party, or his Clerk in Court, expressing every Thing moved for, which must be served two Days at least before the Day on which the Motion is to be made, whereof Affidavit must also be made. Pract. Seric. 17. In B. R. one ought not to move the Court for a Rule for a Thing to be done, which by the common Rules of Practice may be done without moving the Court for it: Nor shall the Court be moved for the doing what is against the Practice of the Court: One ought not to move for several Things in one Motion. Nor if a Motion hath been denied, the same Matter may not be moved again by another Counsel, without acquitting the Court thereof, and having their Leave for the fame: But every Person who makes a full Lemma Argument at the Bar, is allowed by the Court a Motion for his Argument. 2 Litt. Ab. 209, 210. If there be divers Rules of Court made in a Cause, and the Party intends to move thereon, he must produce the Rule that was laid made in the Cause, and move upon that; But it is necessary to have all the Rules and Copies of the Affidavit, to justify the Court how the Cause hath been proceeded in, and how it stands in Court; though the last Rule is the most material: And where a Motion is made to set aside a Rule grounded on an Affidavit, a Copy of the Affidavit must be produced, that the Court may be informed upon what Grounds the Rule was made and judge whether there be Cause shown upon the Motion sufficient to set aside the Rule. Pack. 1 Cor. B. R. Hil. 1649. If any Thing be moved to the Court upon a Record, the Record is to be produced in the Court, or the Court will make no Rule upon such Motion. Hil. 12 Cor. B. R. One Party ought not to surmise another by a Motion in Court, but to move in convenient Time, that the other Party may have Time to be heard. Pack. 23 Cor. It is against the Practice of the Court to move for an Attachment, or any Matters in Law, upon the last Day of the Term, except the Cause is in Chancery. Monday is a special Day for Motions in B. R. by the ancient Courte; but they are made upon any Day, as the Business of the Court will permit: The three or the two last Days of the Term are apt to be kept the Motion, and Crown Office Causes; and the last Day chiefly for Motions to prepare Business against the next Term or Affid. A Litt. 202, 210. In the Chancery, during the Term, every Thursday is a Day for Sealing, and Motuus; and Wednesday and Saturday days are Days for Motuus, as are the first and last Days of the Term: In Vacation, only Seal Days appointed by the Lord Chancellor, are Days of Motuus. Pract. Seric. 17.

[Scribal Note: Is an old English Word for a New of Corn, or Hay: Mais Faro, &c. Paro. Anq. 401.]

---

[Note: The text continues with various references and citations, discussing the implications and applications of the statutes and actions in the judicial and legal contexts, providing insights into the procedural and substantive aspects of the law, including the actions of the Courts, the rights of the Parties, and the obligations of the Counsel.]
This Coin was most common in France, and sometimes counterfeited in England. Patent 33 Edw. 1. cited by the learned Spelman.

Shipton, Mullaro, The fame with Mullaroo.

Shurmer. (Is derived from the Sax. Mund, i.e. Mundaco, Mundaco, Bric, frater) And is mentioned among divers Crimes, as Spid frath, Lord Majestac, &c. Spid Gall. Some would have Mundreco to signify an Infringement of Privileges; though of later Times it is expounded Cassifororum fradastinum, a Breach of Munds, by which Name Dutches and Faces are called in many Parts of England; And we say, when Lands are fenced in and hedged, that they are named.

Sultane, Is Peace, and Mundebea a Breach of it.

Sultane, Sultane, Monimenta Epigraphica itaque cum Monumentorum inscriptionibus habentes non private. Matt. Par. fol. 311. See Monimenta.

Sultane, Sultane, Boune, Is Monimenta Boune, in Cathedra and College Churches, done with such a like, as in a House or other Room of Strength, purposely made for keeping the Seal, Evidences, Charters, &c. of the Church or College, and the Name of Moniment House; such Evidences being termed Moniments, corruptly Moniminte. 3 Inf. 170.

Sultans, Are the Grants or Charters of Kings to Churches; so called, because own its manuscript against all Persons who would depose them of their Privileges. Blunt.

Sultane, Sultane, ecclesiasticum, Signifies the consecrated Bread, and out of which a little Piece is taken for a Communicant. — Inquit et quae sacramentum quod non dicimus Manus Ecclesiasticum, &c. Mon. Angl. Tom. 2. p. 832.

Targus, (Maragum) Is a reasonable Tell, to be taken of every Cart and Horse coming laden through a City or Town, for the Building or Repairing the publick Walls thereof, due either by Grant or Pre- fcription: And it seems to be a Liberty granted to a Town by the King, for the Collecting of Money towards the Waging of the same. 3 Edw. 1. c. 50. 2 Inf. 222. The Service of We and Labour done by Inhabitants and adjoining Tenants in Building or Repairing the Walls of a City or College, was called Maragum operato, and when the publick Duty was commuted into Money, the Tax so gathered was called Marague. Paroch. Anc. 114. And in the City of Chester, there are two ancient Officers called Mrugens, being two of the principal Aiders chosen to see the Walls kept in good Repair, for the Maintenance of which they receive certain Tolls and Collections.


Murder, (Murdom, from the Sax. Merc, whence, as it is said, comes the barbarous Latin Mordum & Murdum; i.e. Mens Mordae, though I think the Word Mordre, evidently comes from the Lat. Meri duri) is a Word in Use long before the Reign of King Cenatus, which some would have to signify Mens Mordae; and sometimes the Saxons expressed it by Mordendi & Murdendi, a deadly Work: But I cannot find that the Sax. Merch relates to a violent Death, but generally Merci. Anciently Murder signified only the private Killing of a Man, as appears by the Laws of King Hen. 1. And it was not Murder, except the Party slain was an Eng- lishman, and no Forger; though by the Stat. 14 Edw. 3. c. 4. the Killing of any Englishman or Po- riger, living under the King's Protection, through
Malice prepone, and whether committed openly or se-
crety, is declared to be Murder, S. P. C. lib. 1. cap. 1.
And doublets the Makers of the Statute of 23 H. 8.
c. 1. to the Benefit of the Clergy, intended to include, as well as
private Homicide within the Word Murder. 1 Hawk.
P. C. 78. By Murder at this Day, we understand the
wilful and felonious Killing of any Man whatso-
ever, upon Malice forethought; so as the Party wound-
hed or hurt die within a Year and a Day after the Fact;
And if one dies in that Time, through disorderly
Living, it shall be no Excuse, the Wound shall be
judged the principal Cause of his Death; but if one
wounded die after that Time, the Law will presume
he died a natural Death. 3 Inf. 73. H. P. C. 55.
A. 26. If a Man receives a Wound, that is not
mortal; but either for want of Help, or by the Neg-
left thereof, it turns to a Fever, &c. which causes the
Party’s Death, it is Murder: And so it is, where a
Man has some Disease, which would permissibly termi-
nate his Life in half a Year, and another wounds him, that
is Malice preparata, &c. If by his Application
of the Party, or those about him, of unwholesome
Medicine, the wounded Peron dies; if this
plainly appears, it is not Murder, by Huh Ch. Jiff.
Inf. 54. Peron may be committed in divers man-
ners; as by Weapon, Poison, Cruelty, Breuising,
Smothering, Strangling, Starving, &c. And where a
Peron is another, if he strike him at his
Floor, if he be at his
him, but mischot and kills one not intended; or if
one lays Poison to kill a Peron, and another takes
it, and dies, they are Murder: Also if a sick Man be
laid in the Cold, whereof he die, or an Infant is
laid under Leaves or Trees, &c. and suffered to be
destroyed by Vermin, they are Killing. 3 Inf. 51.
8 Rep. 81. If a Person flit up a Dog accustomed to
tie, knowing it to be such, and it kill a Peron; and
if a Man have an Ox, or Horse, which he knows to be
mischivous, by being used to gore or strike
those who come near them, and do not tie them up,
if they kill a Man, according to some Opinion, the
Owner may be indicted, as having him feloniously
killed him. Ped. 123. H. P. C. 53. 1 Hawk. P. C.
79. Anciently it was held that the causing an
Abortion, by giving a Poison to, or striking a Wo-
man big with Child, was Murder: But now it is tied to
be a great Misprision only, and not Murder, unless
the Child be born alive, and die thereof. 1 Hawk.
80. If the Death of a Ballard Child newly born be
concealed, it shall be supposed to be murdered; if the
Owner conceal it, and it was manifest, he shall be
Stat. 21
Jas. 1. c. 27. And if one by Deeds of Imprison-
ment compel a Man to accuse an innocent Peron, who
on his Evidence is condemned and executed: It Judg-
ment of Law it is the Killing of the Compellor, Gen.
S. P. C. 36. 3 Inf. 91. All the above Cases show
Malice in so where a Prisone, by the Deeds of the
Guarder, comes to an unmentionable End; if one is execr
contrary to the Direction of the Law; or if a Peron
kill a Man that is adjudged to Death; or one who
has no Authority shall execute the Judgments; if a
Peron feared to be whipped, is whipped with that
Rigor that he die of it, &c. But one under the
Age of Dicration, or Non Compus Menti, cannot be
found to be a Murderer, by Circum-
stances that the Infant did hide the Body, &c. it is
Felony. H. P. C. 43. 3 Inf. 4, 6, 7. If an Infant
under twelve Yeats old, hath an extraordinary Wit,
that it may be presumed he knows what he does, and
he kill another, it may be Felony and Murder: other-
wise it shall not. 3 H. 7. 13. Plead. 101.
It is Malice
Plead, that a Man, which is either ex-
press or implied; it is express, when it may be evi-
dently proved there was formerly some ill Will, and
the Killing is with a sedate Mind, and formed Design of
doing it: And implied, where one kills another
suddenly, having nothing to defend himself, as going
over a Stile, or the like. 5 Inf. 51. H. P. C. 47.
Such Murder as is occasioned through an express Pur-
pose to do some personal Injury to him with a
Stile, is properly laid to be of express Malice: And such
as happens in the Execution of an unlawful Action, prin-
cipally intended for some other Purpos, and not ex-
pressed in its Nature to do a personal Injury to him in
particular that is killed, is most properly Malice im-
plied. 259. 150. He that doth a cruel and vo-
untary Act, whereby Death ensues, doth it of Malice
prepared in the Eeume of the Law: And if a Peron
in cool Blood, maliciously and deliberately does an-
other in such a Manner, beyond any apparent Intent of
Challencement, that he die, it is Murder by express
Malice, although he did not design to kill him. H.
P. C. 49. 50. 63. 147. 135. But if a Peron on
any Provocation beat another so, that it might
plainly appear he meant not to kill, but only to chal-
lenge him; or if he refrains himself till the other hath
put himself on his Guard, and then in fighting with
him killeth him, he shall not be guilty of Murder but
Manslaughter. 1 Hawk. P. C. 85. When one ex-
cutes his Revenge, upon a sudden Provocation, in such
cruel Manner, with a dangerous Weapon, as thows
a malicious Intention to murder; and by this and
such Acts, it is express Malice and Murder from the Na-
ture of the Fact. 55. 61. 150. A Man chides
his Servant, and upon a sudden provocation, having a
hot Iron in his Hand, ran it into the Servant’s
Belly, of which he died, this was adjudged Murder.
64. If a Peron is trepassing upon another, by
breaking his Hedges, &c. and the Owner upon Site
thereof take up a Hedge Stake, and give him a Stroke
on the Head, whereby he dies, this is Murder, be-
cause it is a violent Act beyond the Proportion of the
Provocation. H. P. C. And where a Boy was on
a Tree in a Park cutting of Wood, and the Keeper bid
him come down, which he did; and then the Keeper
bruck him several Blows with a Cudgel, and after-
wards with a Rope tied him to his Horse’s Tail, and
the Horse ran away with him and killed him: this
was held to be Murder out of Malice, the Boy having
come down at the Keeper’s Command. Cre. Car.
139. H. P. C. A Man’s Son was beaten, and com-
plaining of it to his Father, the Father in Anger beat
the other Boy with a Cudgel whereas he died; the
Law shall adjudge it to be upon such sudden Occasion,
and Arming of Blood, that he made the Assault, and
not upon Malice, unless it be found; and if the Di-
stance of the Place where he was beaten is not
Mile, it is not material, being all upon one Pullion.
Cra. Fac. 256. And it is the same in Case of a Bro-
ther, Cousin, Servant, &c. It is only Manslaughter
not Murder. 2 Ellis. 211. If two having Malice fight,
and the Servant of one of them, not knowing of the
Malice, killeth the other, this is Murder in the Mas-
ser, and but Manslaughter in the Servant: Though
if there be a Controversy to kill a Man, but no Malice
against his Servant: if the Servant be false, the Ma-
lice against the Master shall be continued to extend to
his Servant; and the Killing the Servant is Murder.
Dyer 138. 1 Martin. If two Persons meet and fight
in cool Blood, on a precedent Quarrel, and one is killed:
Or if a Peron in a quarrel appears to be in a
Mis-
ster of his Temper, and kills another, it is Murder.
1 Hawk. P. C. 81. For where two Persons fight
after a former Quarrel, it may be presumed to be out of
Malice: and when two Men fall out in the Morn-
ing, and meet and fight in the Afternoon, if one of
them is killed, this is Murder: their After-Meeting is
Malice. 41. 57. If a Man upon a Quarrel
with another, tells such other that he will not
strike him, but will give him a Pot of Ale to strike
him, and the other strikes him, and he kills the
other, he is guilty of Murder: this being only a
Cover
Cover to his malicious Intention. H. P. C. 48. And whom he as aforesaid killed, he shall be included one of Malsice; if he prove not the contrary. Kel. 27. A Man assaults another Perfon with Mallice, although he he afterwards driven by the other to the Wall, and kill him there, his Defence, he is wholly in the same respect, as is the Artiller in respect of his fi last Intent. H. P. C. 47. Kel. 58, 129. But if the Party assailed fi the Wall, and being fi first purifies, kills him, it is only Man- slaugher in his own Defence. Branc. 3. Ed. 5. If one resolves to kill the next Man he meets, and doth kill him, it is Murder: here Mallice is implied against all Mankind. Kel. 57. By poisoning, and where one kills another without Provocation, Mallice is im- plied; as where any Magistrate or Miniller of Justice is killed in the Execution of his Office: a Sheriff, Constable or Watchman, doing their Duty, or any other that comes in Aid of the King's Officer; and if a Watchman be killed in playing at Night-walkers, it is said to be Murder. 3 In. 13. Cr. Law. 280. Kel. 60, 128. In these Cases, it is a very high Contempt of the Laws, for a Perfon to execute his Revenge against the person who has no Way offended him but by doing their Duty, and the Matchless thing is in doing it with the inhumanity which he did in a sudden Affray. Gr. 1. Hawko. P. C. 8. And if a Ballif is killed in executing a lawful Office, viz. it is Murder: Nor is it any Excuse to the Perfon, that the Process was erroneous; or that the Arreall was in the Night: that the Officer did not tell him for what Cause he arrested him; or that he did not show his Warrant, Gr. 2. being a Ballif commonly known. 9 Rep. 68, 69. Cr. Law. 380. 486. But if a Ballif who is not executing his Office is killed, it is not Murder; for he ought to be daily executing his Of- fice, by serving the Process of the Law, wherein he is as- sedo as Penitent Regni & Legii. Cro. Car. 572. Lill. Abr. 21. Therefore where the Warrant by which he is given him no Authority to arrest the Par- ty: as where a Ballif arrests a wrong Perfon, or J. S. a Baronet, by Force of a Warrant to arrest J. S. Knight, or if a good Warrant is executed in an un- lawful Manner; as if a Ballif be killed in breaking open a Door, or Window to arrest a Man; or perhaps if he arrest one on a Sunday: since the Stat. 29 Car. 2. c. 7, which by all such Arrests are made unlawful, and he is slain: Mallice shall not be implied to make it Murder, but the same shall be Man slaughter only. H. P. C. 46. Cro. Car. 372. 13 Rep. 49. 1 Henri. 8. If a Ballif comes to a House to arrest a Perfon, and the House being locked they attempt to break in, whereupon the Son of the Perfon intended to be arrested, breaks the Door, and kills one of the Ballif; it is murder. Jones. 429. A Perfon was arrested, and another not knowing the Cause of the Struggle, but seeing Swords drawn, and to prevent mischief, came and defended the Party against the Ballif, and the Ballif was killed; it was resented to be no Murder in the Perfon doing it, but that all that were present and assisting, knowing of the Arrest, were principal Murderers. Kel. 16. Though it has been held in such a Case, that the Per- fon offending is Guilty of Murder, whether he knew that the Perfon flane were an Officer or not; for all Persons, who seeing Persons engaged in it, takes Part with one Side, and fights in the Quarell, without knowing the Cause of it, especially where the Fight is begun in Opposition to the justice of the Case, he being aforesaid as a Ballif, and the Laws on a small Occasion, and must at his Peril take heed what he doth. 1 Sid. 160. Noy. 50. Hawko. 15. If a Ballif is ordered to rob him, and by the Resistance of the Party kills him, this is Murder. 3 In. 52. Dalh. 344. A Perfon stands by, and encourages or commands another to murder a Man; or if he come with others on purpose to kill him, and is employed by the other Per- sons commit the Faé: it will be Murder in all cases. Philb. 98. 11 Rep. 5. And if two or more
said A. B. had and held them and there drawn in his Right Hand, and did animously and of his Malice forethought, on M. aforesaid in the said County, give in the said C. D. one Day of said No. out of the said Beef, and, in and upon the right Part of his Thigh, of the Length of three Inches, and of the Depth of two Inches, of which said mortal Wound the said C. D. or M. aforesaid in the said County, infallibly died; and he the said F. T. upon their Oath aforesaid, say, that the said A. B. on the said Day of, &c. in the True abovementioned, in M. aforesaid, the said County, did animously, wilfully, and of his Malice forethought, kill and murder the said C. D. in Manner and Form aforesaid, against the Peace of our said Sovereign Lord the King, his Crown and Dignity.

MURDER, or Homicide justifiable. There is a Killing that is justifiable; as if a Persson attempts to commit Murder, Robbery, or other Felony, a Man or any of his Seruants may lawfully kill him. 2 Inst. 316. See Statute 24 H. 6. c. 5. If a Person in Defence of the Possession of a Room in a Publik House kill another who attempts to turn him out of it, the Killing the Affiant hath been holden to be justifiable. Kel. 51. Hen. 8. 3. In the Defence of the Possession of a Man's Goods, against him that would wrongfully take them away, Killing cannot be justified; except he be a Thief. Wood's Inst. 381. If a Woman kills a Man attempting to ravish her, it is justifiable. H. P. C. 39. Those who are engaged in a Riot, or forcible Entry, &c. in Opinion to a Justic's Command, or lawful Warrant: Or if Trespassers in a Forest or Park, will not forbear, but defend themselves: If a Felon will not suffer himself to be arrested, and refusing to obey any Arrest on lawful Warrant, defends himself; or if one either with or without a Warrant, pursues a Felon upon Hoe and Cry, and he flies for it: If a Prisoner affrights those that conduct him to Gaol, or his Gaoler, in endeavouring to escape: or a Person arrested, refit the Sheriff, &c. the Killing thee is justifiable; but a Sheriff cannot kill one that flies from the Execution of a Civil Process: And as no private Person hath this Authority, upon an Arrest in a Civil Matter, as he hath upon an Arrest for Felony; to neither hath the Sheriff this Power, unless he be by the Warrant: as when an Offender cannot be taken without Killing, &c. for if he might be taken without killing him, it will be elusum lignum. 3 Inst. 211. H. P. C. 37. Dall. 150. 555. Kel. 28. When one in Danger of drowning, thrusts another from a Plank, whereby he is drowned: this is justifiable. Sac. Max. 2 Inst. 274. 357. A Person in self-Justification, where a Man kills another merely in his own Defence, called fe Defendens. A Person indicted for Intending to Murder the Master of the Rolls, Term. Mich. 16 Car. 2. and for offering a Sum of Money to another Person to do it, saying at the same Time, that if he would not perpetrate the Crime, he would do it himself: upon his Conviction, the Court declared that this was a heinous Offence, and not only indefensible but infamous, and the Offender was fined one thousand Markes, committed to Prison for Three Months, and ordered to keep Frets for his good Behaviour during Life. 1 Lev. 106.

Mutton Company, of Merchants, established by King Ed. 6. This Company trades to Ryffia and the North; and any Subject of England, on Request may be admitted into it, and enjoy all Privileges of Trade, &c. Stat. 10 & 11 W. 3. c. 6. In order to open a Trade to Mutton through Mafony a late Statute has ordained, that the Merchants of this Company may import from any Place in Ryffia, Raw Silk or other Com-

Modities of Persea, purchased by Bunter with woollen Manufactures exported from England, Ec. 14 Geo. 2. cap. 15, 16.

Muscians, The Muscians of England, were incorporated by King Charles 2. Anno 1670. And of late Years all foreign Musc. Opera's, &c. have very much increased upon us, through the Management of this Corporation, and the Sophists and Politicians of our modern Geantry. See Musci.

October, (From the Fr. Octobre) is to show Men, and their Arms, that are Soldiers, and intend them in a Book. Text of Leg. Faire Moultre general de tout ses Armes, is as much as Luttre executio; the Signification being well known to Muster an Army; and mustered of Record is to be involved in the Number of the King's Soldiers. Stat. 18 H. 6. c. 19. If any Men commanded to Musci, by those who have Authority, abate themselves, or do not bring them their Arms, they shall be imprisoned ten Days, or pay a Fine of 40l. by 4 & 5; P. & M. 5. See Soldiers.

October-Muster general. Mentioned in the 35 Eliz. c. 4. See Muster of the King's Musci.


Octobre, To meet up Wolves, in the Time of their Molting or Calling their Plumis. In the Reign of King Ed. 2. the Manor of Broughton in Cambridge, was held. — Per Scorpioniam Mutandi unum Histriam Domhi Regis, &c. Paroch Anq. 345. Merian acceperit a maeuw Hawg: And hence the Mowten, (Muta Regia) next Charing Cross, London, now the King's Stables, was formerly the Falconry or Place for the King's Hawgs.

Owl, (Mamur) One Dumb, that cannot speak, or who refutes to speak. And by our Law a Prisoner may stand Mute two Manners of Ways: 1. When he speaks not at all, and shall be suspected whether he stand Mutes, or is safe, and by the Act of God; and if by the latter, then the Judge ought to inquire whether he be the same Person, and of all Pleas which he might have pleaded in his Defence, if he had not been Mute. 2. When the Prisoner pleads not directly, or will not put himself upon the Inquest to be tried, and a Person forgoing him Mute, and refuses to take any Indemnation, he shall be taken as one who stands Mute. 2 Inst. H. P. C. 236. Also if a Prisoner on his Trial peremptorily challenge above the Number of Jurors allowed by Law, this being an implied Refusal of a legal Trial, he shall be dealt with as one that stands Mute, and according to some Opinions be hang'd. H. P. C. 239. Kel. 36. 2 Henrv. 3. 3. A Felon obstinately standing Mute is to be put to the Penance of Paines little by little. In Case, of High Treason where the Offender stands Mute, he shall be judged and forset Lands and Goods, as if he had been attainted; likewise in the Case of Felony and Petit Treason, if a Person by standing Mute do not avoid being arraigned for such Crimes, he shall forfeit his Lands and Goods in the same Manner as other Arranters: Though whenever a Person standing Mute is adjudged to his Penance for Felony, he thereby prevents that Attainer which otherwise he might have incurred, he forfeits his Channals only, and not his Lands. 2 Henrv. P. C. 335. 331. It is said by Sir Math. Hale, that an Arraignment of a Felony standing Mute shall be executed, and not have 6 R. Judgment
Judgment of Penance: but the contrary hath been held by others. H. P. C. 246. S. P. C. 170. 2 Inf. 178. Xel. 37. One who stands Mote shall have the Benefit of his Clergy, unless it be otherwise specially provided by some Statute. And although it be enacted by the Stat. 3 & 4 W. & M. c. 9. That any Person shall be excluded of any Officer, for which by Virtue of any former Statute, he is excluded from the Benefit of his Clergy, if he had been thereof convicted by Verdict or Confinement, if he stand Mote he shall not be admitted to the same; yet Appeals, and Offences excluded from the Benefit of the Clergy, by subsequent Statutes, seem not within that Act: And a Statute taking away the Benefit of Clergy generally from those who be convicted of a Crime, doth not take it away from those who stand Mote on an Indictment or Appeal. 2 Haml. 332. See Felony.

Naturess, (Namiria) A Taking or Distraint; and in Scotland it is used for Impounding; Namiria, distraint. Charta Rex 2. See Politian Namiria, and Webster.

Namire (Namire, Fr. Namiere) By which any Person is known or called. There is a Name of Perfons, Bodies Politick, and Places; and of Baptism, and Surname: also Names of Digniety, &c. In some Cases, a Name by Reputation is sufficient; but it is not to be done in a Thing, if the Matter and Substance be not right. 13 Rep. 21. 6 Rep. 65. 4 Rep. 170. Vide St. John.

Naspare, (from the It. Nespero, i.e. Lentuminosum) Lenten Cloth, or Heathfield Linen. Stat. a R. c. 5.

Natt. An Abbreviation of Narratio, used to signify a Declaration in a Cause.

Narratio, (Lati.) A Plender or Reporter; and formerly Serviens Narratio was a Serjeant at Law.

Narration: Et aliterius in Curia Regis pro aliquo Namire non auditor, nisi specifisci Namiriam fuerit. Lib. 2. cap. 27.

Nasse or Nattle, (From the Sax. Næse, i.e. Premontarium) The Name of the Port or Haven of Orto in Suffolk, mentioned in the Stat. a H. 7. cap. 21.

Natality, The State, Condition and Quality of a Man. Leg. c. 1. c. 64.

Nativeness, Seems to be derived from the Sax. Neth, i.e. Lewdness; and so to signify the same with Lewdness.

Nativity, The Right. In the Survey of the Dutches of Cornwall, there is mention of Natirum de Sipri, and Natirum Conivnetnarii; the Firr were Villains or Bondmen, by Birth or Sock; the other by Contract or Agreement. L.L. Hen. 1. cap. 76. And in Cornwall it was a Suffolk, that a Freeman marrying Natirum, if he had two Daughters, one of them was Free, and the other Villain. Bract. lib. 4. c. 21.

Nativity, (Nativum) Birth, or the being born in a Place. The Calling the Nativity, or by Calculation seeking to know how long the Signs should live, etc. was made Pelomy, by 23 Ed. cap. 2. Naivitum was anciently taken for Servinus, Bauding or Villegen. Leg. Will. 1.

Natimo habilens, Was a Wit that lay to the Sheriff, for a Lord who claimed Inheritance in any Villain, when his Villain was run away from him, for the Apprehending and Restoring him to the Lord: And the Sheriff might seize the Villain, and deliver him unto his Lord, if he confessed his Villainage; but if he alleged that he was a Freeman, then the Sheriff ought not to seize him, but the Lord was to sue for his Sheriff to remove the Plea before the Judges of C. B. &c. And if the Villain purchased a Wit De Liberata probanda before the Lord had taken out the Pene, it was a Superfuid to the Lord, that he proceeded not on the Wit of Naivum habendi. Reg. Orig. 8. 7. F. N. B. 37. New Nat. Berov. 171. 172. This Wit Naivetum habendi was in Nature of a Wit of Right, to recover the Inheritance in the Villain; upon which the Lord was to partake his Plains, and declare thereupon, and the Villain to make his Defence, so as the Freedom was to be tried. New Nat. Br. 171. 172.

Natitius, Is used in our ancient Law for a Servant: Of Servants there were three Kinds, Bndeana, Natire, and Villain; and Natire was birth as well born Servants. Spec. Giff. See Seruir Natire. Vide Nif.

Natural Affiliation, (Naturalis Affilior) Is a Good Consideration in a Deed; and if one without expressing any Consideration, Covenant to stand fealled to the Use of his Wife, Child, or Brother, &c. Here the naming them to be of Kin, implies the Consideration.
eration of Natural affilies, whereupon sick be will arise. Carr. 138. See Confederation.

Naturalization, (Naturalization) is by Act or a Person who is in an effectual Subject by Act of Parliament, whereby one is a Subject to all Injuries and Privileges, as if he were born to: For he cannot by an Act of Parliament be naturalized: The Person’s Title, the Naturalization, shall be inherit. 1 Stat. 6. 1799. A Stranger naturalized by Act of Parliament, may have Lands by Deed, as Heir at Law, as well as have them by Purchased: But must naturalized or made De- nee, a Stranger is not generally under the King’s Protection, to have the Benefit of the Laws: Allo no Person to be a Stranger, first received the Sacrament of the Church, and taken the Oaths of Allegiance and Supremacy, &c. And strangers when naturalized are disinherited to be of the Privy Council, to hold Office, &c. 7 Stat. 1. cap. 2. 11. 2. 12. 3. 2. but fee; 1 Stat. 1. cap. 4. By the Stat. 7 Ann. cap. 5. it was declared that all Persons born out of the King’s Allegiance, taking the Oaths, &c. should be denounced, and all the Subjects, &c. may be naturalized, but not to prejudice Persons naturalized, or Children of natural born Subjects, born out of Allegiance, by 10 N. S. 5. 2. 5. nor be born out of the Licens of the Crown, whose Fathers were, or shall be natural born Subjects of Great Britain, at the Time of their Birth, are not to be natural born Subjects of this Kingdom, except Children of Persons Appoint- ed of Treason, or in the actual Service of foreign Princes in Enemy with England, &c. by the 4 Geo. 3. 2. 22. All Foreigners who shall live seven Years or more, in any of our American Plantations, and not be absent thence from above two Months at one Time, shall on taking the Oaths be deemed natural Subjects, as if they had been born here; but not be capable of enjoying any Place of Trust. 13 Geo. 3. 27. This by the Stat. 20 Geo. 2. 2. 44. is extended to Provenors who founder the taking an Oath upon their making and subscribing the Declar- ation of Fidelity, and taking and affirming the Eff- ects of the Affidavit Oath, and delivering and sub- stituting the Proclamation of their Christian Belief, ap- pointed by the Stat. 1 Geo. 1. 8 Geo. 1. 2. 10. &c. &c. M. Great Numbers of Foreigners are every Year naturalized by private Acts of Parliament. See Privy of Orange.


Asbarguiit, A Duty which was unprintable in Tenants, to carry their Lord’s Goods in a Ship: Et \nmod. for a Distributing, Navigating, &c. Mon. Angl. Tom. 1. pag. 597.

Habit, Signifies any Thing belonging to the Sea, or Maritime Affairs. Mod. Diet.

Habitus, Persons sailing or imbibing any of the King’s nodal Store, or the Value of 200. are Guilty of Felony, without Benefit of Clergy 22 Geo. 2. cap. 2. And the Touching, and Commission, of the Navy are impounded to inquest of naval Stores imbibed, and appoint Persons to fetch for them, Osr. who may go on board Ships, and seize the Goods, and the Commission, which may im- prise the Offenders, and fine them double Value, the Store being under the Value of 200. 1 Geo. 3. cap. 10. N. 1. 2.

and all Effects with the Consent of the Commission- ers of the Navy, shall make any Stores of War, naval Stores, &c. with the Marks commonly used to his Majesty’s Stores, upon Pain of Forfeiting 200 f. And Persons in whose Customs they shall be found containing, shall be liable to the same Penalty. 9 Bol. 10. 2. 14. The Stat. 3. Anc. cap. 10. was passed to give the Right of the Distinction of naval Stores from the Plantations in America, and for Prevention thereof in those Countries: inclining Penalties for cutting down Pine or Pitch Trees, under such and such Sizes, &c. To the like Purposes, and for making the same effective, is the Stat. 8 Geo. 3. 1. cap. 12. All naval Stores are imported here from Scotland, under an Encouragement by Statute; and a Premium is given for every Importing of Stores from America and North Britain, of 1 l. for Ten, for Masts and Pitch, &c. 3 Geo. 2. cap. 35.


Siibigitation, Is the Art of Skilful at Sea, also the Merit of Trading: And a Navigator is one that understands Navigation, or imports Goods in foreign bottoms. Ib.

Subigeftog Wiffer, Divers Statutes relating to them. See Royer.

Subigeftalay, The News or Body of the Church, as distinguished from the Choir and Wings or Files: It is that Part of the Church where the common People sit. Du Cange.

Subigefta, Habitation, a Town or Dih to hold Frank- incease, before put into the Thetis, Center or Islanding Port; and it seems to have its Name from the Shape, resembling a Boat or a Ship. We have severa of their Boat-ups in Silver, &c. for various Uss. Panb. Ant. 499.

Subigeftifus, A Ship or Barge that Noble men use for pleasure, with fine Chambers and other costly Ornaments. Law Lat. Diet.

Subigeft, Signifies the Fleet or Shipping of a Prince or State; or an Armament at Sea. The Navy of England it has been observed, excels all others for three Things; viz. Beauty, Strength and Safety; for Beauty their Ships of War are to many Floating Palaces; for their Strength so many moving Citizens; and for Safety, they are the most defensive Walls of the Land: And as our naval Power gains us Authority in the most distant Climes, so to the Superiority of our Fleet above other Nations, renders the British Monarch the Arbiters of Europe. The Kings of England in ancient Times commanded their Fleets in Person; and the renowned King, Artus, famous for his hardlike Achievements, vindicated the Dominion of the Sea, making Ships of all Na- tions sail our Ships of War, by lowering the Top- sail, and striking the Flag, as in like Manner they shall do the Ports upon Lands, by which Submis- sions they are put in Mind that they are come into a Territory, wherein they may not dare to approach; a Sovereign Po- wert and Jurisdiction, and receive Protection from it. And this Duty of the Flag, which has been constantly paid to our Ancillaries, serves to impinge Reven-ues in Foreign Parts, and adds new Courage to our Seamen: and Reputation abroad, is the principal Sup- port of any Government at home. King Edward Suc- cessor an Arthur, sinned himself Sovereign of the nar- row Sea; and having sailed out a Fleet of four hun- dred Sail of Ship, in the Year 937, sailing about Britain with his mighty Navy, and arriving at Con- stantinople, was there met by eight Kings and Princes of foreign Nations, come to do him Homage; who gave him an Acknowledgment of his Sovereignty, rowed this Monarch in a Boat down the River Dee, himself steering the Boat; a marine Triumph which is not to be paralleled in the Histories of Europe. Cassius, Caesar’s Successor, said the ancient Tribune called the Downfall, for the Guarding of the Sea, and Sover- eignty of them; with the following Emblems, ex- pressed, viz. Himself sitting on the Shore in his Royal Chair, while the Sea was flowing, speaking. "To be done iin to, Oe in the sea." And Egypt, Alford and Edberth keep up the Domin- ancy and Sovereignty of their Predecessors; nor did the succeeding Princes of the Norman Race, wave this great Advantage, but maintained their Right to the
the four adjacent Seas surrounding the British Shore: The Honor of the Flag King John challenged, not barely as a Civility, but a Right to be paid by all, and the Persons refunding, he commanded to be assaulted, and taken as Enemies; and the same was ordained not only to be paid to whole Fleets, bearing the Royal Standard, but to those Ships of Privilege that wear the Prince's Ensigns or Colors of Service; this Decree was confirmed and bravely adhered by a Fleet of five hundred Sail, in a Royal Voyage to Ireland, wherein he made all the Veils which he met with in his Way, in the eight circumjacent Seas, to pay that Duty and Acknowledgment, which has been maintained by our Kings to this Day, and was never contester by any Nation, unless by those who attempted the Conquest of the entire Empire. It was Trade that gave Occasion to the bringing of mighty Fleets to Ships to Sea; and upon the Increase of Trade, Ships of War were necessary in all Countries for the Prevenation of it in the Hands of the just Proprietors: And in ancient Times the several Counties of England were liable to a particular Taxation for building Ships of War, and fitting out Fleets, every one in Proportion to their Estates and Riches; so that the largest Counties were each of them to furnish a First Rate Man of War, and the others every one to build one in Proportion; but this Method has been long disused, and the Fitting out our Navy for many Ages has been always thrown into the Publick Charge. King Edw. 3. in his Wars with France, had a Fleet of Ships of War, so numerous, that they amounted to seven hundred Sail: But King Hen. 8. it is said, was the First that began to build a New Royal in England; he built a Ship called the Great Henry of one thousand Tons, the largest Ship that had been then seen in this Kingdom, (though now our First-Rate Ships of War, contain at least two thousand Tons, are moored with above one hundred Cannons, and carry above one thousand Men.) He fitted out a Royal Fleet, constituted a Navy Office, &c. And in this King's Reign, and the Reign of Queen Elizabeth, our Royal Navy was in a most flourishing Condition, being most commended by our valiant Nobility; and it is remarkable, that there are Lifts of the Fleets of Queen Elizabeth, which was the largest, but there was but one private Gentleman a Captain, all the rest being Lords and Knights: So high was the Esteem for Service at Sea in those Days, when our Princes ruled with the most commanvatorial Glory: But the Opinion of serving at Sea in late Times has been very much levell'd, it has since been declined by the Nobility and Gentlemen. The New Royal of England is at this Time in a very flourishing State; for Number of Shipping, and Strength and Force of the Ships, it was never, perhaps, more formidable than now; and when compleat, it is divided into three Squadrons, distinguished by the different Colours of the several Flags, viz. Red, White, and Blue; the principal Commanders whereof bear the Title of Admiral, and each has under him a Vice-Admiral, and a Rear-Admiral, who are likewise Flag-officers. There are belonging to his Majesty's Navy, fix great Yards, viz. Chatham, Deptford, Woolwich, Portsmouth, Sheerness, and Plymouth; fitted with several Docks, and furnished with Stores of Timbers, and Amenities of the first Order. The Management of the New Royal, there are several Officers of Trust and Authority, besides the Commanders of the Admiralty; as the Treasurer, Governor General, Commissaries of the Navy, Commissioners of Victualling Office, &c. The Principal whereof hold their Offices by Patent under the direction by the Act of Parliament, and the Sum of 500,000l. was appropriated for Building of twenty-seven Ships of War, with their Gens, Rigging, &c. And the Act 6 Ann. c. 15. enacted, That over and above the Ships for the Line of Battle, forty-three Ships or all Conditions being Captains and Commodores, for the better preferring such Ships as shall be made Use of in the Trade of Great Britain; four of these Ships are to be Third Rates, and sixteen Fourth Rates, and the rest of sufficient Force to guard our Commerce: They are to attend in certain Stations; and the Lords of the Admiralty may direct the Commanders of the Navy, or some one or more Persons resident at such Places as his Majesty shall appoint, to superintend and oversee every Thing relating to those Cruizers; also the Commanders of the Admiralty have Power to order any of the said Ships to be employed in the Line of Battle, in Case of Necessity. This Statute likewise empowers the Commanders of the Admiralty, during War, to grant Commissions to Privates and Commanders of Ships, for the Taking and Seizing Ships and Goods of Enemies. For the Furling of Mariner for the Flee, by 7 Eliz. 5. 3 & 4. it is enacted, That Persons, Men, Watermen, &c. above the Age of eighteen Years, and under fifty, capable of Sea Service, who shall resign their Servants to the King's Service in the Navy Royal, to the Number of thirty Thousand, shall have paid to them the yearly Sum or Bounty of 40l. besides their Pay for actual Service, and that whether they be in Service or not; and none but such Mariners, &c. are as registered, shall be capable of Presentment to any Commission, or be Warrant Officers in the Navy. And such registered Persons are excepted from serving on Juries, Parish Offices, &c. Also from Service abroad after the Age of fifty-five Years, unless they go voluntarily; and when by Age, Wounds, or other Accidents, they are disabled for future Service at Sea, they shall be admitted into Greenwich Hospital, and there be provided for during Life: And the Widows of such Seamen as shall be slain or drowned, not of Ability to provide for themselves, shall be likewise admitted into the said Hospital; and their Children educated, &c. But if any regimented Seamen shall withdraw his Commission from the King's Service, in his Ships or Navy; or if any such Mariner relinquish the Service, with the Consent of the Commanders of the Admiralty, he shall for ever lose the Benefit of the Act, and be compelled to serve in his Majesty's Fleet for six Months without any Pay. By a subsequent Statute 6 & 7 Ann. Watermen plying on the Thames, Medway, and运用, are under Notice given by the Commanders of the Admiralty to the Company of Watermen, to appear before the said Company, to be tried by his Majesty's Fleet; or on the Thames, Medway, and运用, and be disabled working on the Thames for two Years. The Regulating of Seamen is the grand Necessity for the Fleet; but there are other Ways and Means of supplying Mariners for the Navy Royal, and Training up of Persons in the Sea Service; For the Stat 2 Ann. c. 6, provides, that poor Boys, whose Parents are chargeable to the Parish, may be Churchwardens and Overseers of the Poor, with the Consent of two Justices of the Peace, be placed our Apprentices to the Sea Service, until the Age of twenty-one Years, they being above the Age of 16. And the Statute 9 & 10 William 4. 3 & 4. provides, that all Sailsmans above 16. Sixteen Years of Age, may be imprisoned for Service in the Fleet, when the Owners or Makers of the Ships, or others, as the management of the New Royal, there are several Officers of Trust and Authority, besides the Commanders of the Admiralty; as the Treasurer, Governor General, Commissaries of the Navy, Commissioners of Victualling Office, &c. The Principal whereof hold their Offices by Patent under the direction by the Act of Parliament, and the Sum of 570,000l. was appropriated for Building
or Soldier, in or belonging to the Fleet shall behave himself with Contempt to his superior Officer, being in the Execution of his Office, he shall be punished according to the Nature of his Office by the Judgment of a Court Martial. 20. Any Person concealing any traitorous or mutinous Practice or Deception, shall suffer Death, or such Punishment as a Court Martial shall think fit. Any Person concealing any traitorous or mutinous Words, or any Words, Practice or Deception, tending to the Hindrance of the Service, and not forthwith revealing the same to the Commanding Officer, or being present at any Mutiny or Sedition, shall not be his own Endeavour to suppress the same, shall be punished as a Court Martial shall think fit for the same. 21. Any Person finding Cause of Complaint of the Unwholesomeness of Vitals, or upon other just Ground, he shall quietly make the same known to his Superior, who, as far as be is able, shall cause the same to be presently remedied; and no Person upon any such or other Pretence shall attempt to stir up any Disturbance, upon Pain of such Punishments as a Court Martial shall think fit to inflict. 22. Any Person striking any his superior Officer, or drawing or offering to draw or lift up any Weapon against him, being in the Execution of his Office, shall suffer Death. And any Person pretending to quoad with any his superior Officer, being in the Execution of his Office, or disobeying any lawful Command of any his Officer, shall suffer Death, or such other Punishment as shall be inflicted upon him by a Court Martial. 23. Any Person quarrelling or fighting with any other Person in the Fleet, or using reproachful or provoking Speeches or Gestures, shall suffer such Punishment as a Court Martial shall impose. 24. There shall be no wanton Expanse or Embellishment of any Powder, Shot, &c., upon Penalty of such Punishment as by a Court Martial shall be found just. 25. Every Person burning or setting Fire to any Magazine, or Store of Powder, Ship, &c., or Furniture thereunto belonging, not then appertaining to an Enemy, shall suffer Death. 26. Care is to be taken that through Wildness or Negligence no Ship be Branded, run upon Rocks or Sands, or split or hazarded, upon Pain of Death, or such Punishment as a Court Martial shall deem the Offence to deserve. 27. No Person shall sleep upon his Watch, or negligently perform his Duty, or forfake his Station, upon Pain of Death, or such Punishment as 28. Murder. 29. And Beggary or Sodomy shall be punished with Death. 30. Robbery shall be punished with Death, or such Punishment as a Court Martial shall deem him to deserve. And all others do their Endeavours to detect and apprehend all Offenders upon Pain of being punished by a Court Martial. 31. Any Flag Officer, Captain, Commander or Lieutenant, shall behave in a scandalous, infamous, cruel, opprobrious or scandalous Manner, unbecoming his Character, shall be dismissed. 32. And any Person forging and full Pay, guilty of Mutiny, Defection, or Sedition, in any Part of his Majesty's Dominions on Shore, when in actual Service relative to the Fleet, shall be liable to be tried by a Court Martial, and suffer the like Punishment as if the Offence had been committed at Sea. 33. Every Person in actual Service and full Pay, committing any in any Place of his Majesty's Dominions, any Crime punishable by these Articles, shall be liable to be tried and punished as if the Crime had been committed at Sea. 34. All other Crimes not Capital, not mentioned in this Act, shall be punished according to the Laws and Customs used at Sea. No Person to be imprisoned for longer than two Years. Court Martial not to try any Offence except the 50th, 51st, and 52nd Articles, not committed upon the Ocean, or in any River beyond the Bridges, or in any Haven, &c., within the Jurisdiction of the Admiralty, or by Persons in actual Service and full Pay, except such Persons and Offences, as in 4th Article; nor to try a Land Officer or Soldier on board a Transport Ship. The Lord High Admiral, &c., may grant Commissions to any Officer commanding in Chief any Fleet, &c., to call Courts Martial, constituting of Commanders and Captains. And if the Commander in Chief shall die or be removed, the Officer next in Command may call Courts Martial. No Commander in Chief of a Fleet, &c., of more than five Ships, shall reside at any Court Martial in foreign Parts, but the Officer next in Command shall reside. If a Commander in Chief shall desist any Part of his Fleet, &c., he may suppress the Chief Commander of the Detachment to hold Courts Martial to determine the Offence; and if no more than five or more than nine shall meet in foreign Parts, the senior Officer may hold Courts Martial and preclude threat. Where it is improper for the Officer next to the Commander in Chief to hold or preside at a Court Martial, the third Officer in Command may be empowered to preclude at or hold a Court Martial. No Court Martial shall consist of more than fifteen Officers. Where there shall not be less than three, and yet not so many as five of the Degree of a Port Captain or superior Rank, the Officer who is to preside may call to his Affidavit as many Commanders under the Degree of a Port Captain, as together with the Port Captains, shall make up the Number five to hold the Court Martial. After Trial begun, no Member of a Court Martial shall go on Shore, until Sentence, except in Case of Sickness, upon Pain of being cashiered. Proceedings shall not be delayed, if a sufficient Number remain to compose the Court, which shall sit from Day to Day (except Sunday) till Sentence be given. The Judge Advocate, and all Officers concurring in a Court Martial, shall be upon Oath. Persons refusing to give Evidence may be imprisoned. Sentence of Death within the Narrow Seas (except in Case of Mutiny) shall not be put in Execution till a Report be made to the Lord High Admiral, &c.; Sentence of Death beyond the Narrow Seas, shall not be put in Execution but by Order of the Commander in Chief of the Fleet, &c.; Sentence of Death in any Squadron, except in Case of Mutiny, shall be put in Execution (except in Case of Mutiny) but by Order of the Commander of the Fleet, or Lord High Admiral, &c.; Sentence of Death beyond the Narrow Seas, shall be put in Execution by Order of the Commander, held by the senior Officer of five or more Ships met in foreign Parts (except in Case of Mutiny) shall not be put in Execution but by Order of the Lord High Admiral, &c.; The Powers given by the said Articles shall remain in force with respect to Crews of Ships wrecked, lost, or destroyed, until they be discharged or removed into another Ship, or a Court Martial shall be held to inquire of the Causes of the Loss of the Ship. And if upon Inquiry it shall appear, that all or any of the Officers and Seamen did, according to their Duty, and by the Command of their Superiors, to their superior Officers, their Pay shall go on: As also shall the Pay of Officers and Seamen taken by the Enemy, having their belt to defend the Ship, and behaved obediently. If any Officer shall receive any Goods on board, contrary to the 8th Article, he shall further forfeit the Value of such Goods, or the Goods, &c., he takes to the Informer. And one Moiety to the Informer, the other to Greenwich Hospital.

He submits, is a Wit directed to the Bishops, for the Plaintiff or Defendant, where a Quasi Impediment.
by collateral Testimony, that at that very Time he was at Exeter, &c. in such a House, and in such Company. Fort. 37.

Neglect to give account of Goods (Neglectus prægnum) is a

A Neglect, which implies or brings forth an Affirma-

tive; and is said to be where a Neglect carries an

Affirmative in his Belly. Litt. Rep. 64. Where an

Action is brought against a Man, and he pleads in

Bar of the Action a Neglect Plea, which is not so

specific an Answer to the Action, but it includes also

an Affirmative; this is a Neglectus prægnum:

As for

In reliance, he in Reversion brings a Writ of Entry

in loco Propria, upon an Alienation made by Tenant

for Life, supposing that he has been in Fee; which is

a Forfeiture of his Estate. If the Tenant comes

and pleads that he has not been in Fee; this is a

Neglectus, wherein is included an Affirmative; for

though it be true, that he has not been in Fee, yet

it may be he was bailed in Tally, which is also a

Forfeiture of his Estate. 2 Litt. Rep. 212. If a

Breach be alleged that a Man was not feated of an

Estates in Fee; and the Bar is, that he was feated,

or notwithstanding any Act done by him; this is

Pregnant and uncertain. Litt. Rep. 64. And if a

Person being implicated to have done a Thing on

such a Day, or in such a Place, deny a general

without saying any Thing more, that he did it on the

Day, &c., it is a Negative Pregnant, as it implies

nevertheless that he was there. Dyer 17. A

Negative Pregnant is a Fault in Pleading; and there

must be a Special Demurrer to a Negative Pregnant

Plea, &c. for the Court will intend every Pleading

to be good, till the contrary shall appear. Mich. 25


Negligence, is where a Person neglects or omits to

do a Thing which he is by Law obliged to. And

where one has Goods of another, to keep till such a

Time, and hath a certain Recompense or Reward for

the Keeping, he shall stand charged for Injury by

Negligence, &c. But if he hath nothing for Keeping

them, he is not bound to answer. Delft & Sadv. 269.

A Man that finds another’s Goods, if they are after

hurt by willful Negligence, ‘tis held he is chargeable to

the Owner; though it is otherwise when they are

lost by Caustiy, as in the case is laid in a Book,

where it is alleged that is accidentally burnt, or if

he deliver them to another to keep, who runs away with them, &c. In

It is held if an Account be kept, and it is without

his Default and Negligence, he shall not be

answerable for the Money. 1 Inf. 89. A Right may

be lost by Negligence; as where an Action is not

brought in the Time permitted by the Statute of

Limitations, &c. 21 Jac. 1. cap. 16.

Negro. By the Laws of Virginia, Negro Servants

are free; and where a Negro is held here, in

Action Indebitatus. Affinmi for the Money, the Decla-

ration ought to be, that the Defendant was indebted

to the Plaintiff for the Negro sold here at London,

but the said Negro at the Time of Sale was in Vir-

ginia, and that by the Laws and Statutes of Vir-

ginia, Negroes are inadmissible. Per. B. C. 3

2 Sadv. Rep. 666. In Action of Trover for a Negro,

and Verdict and Damages for the Plaintiff; it was

moved in Arrear of Judgment, that Trover lay not

for a Negro, for the Owner had not an obdurate Pro-

perty in him: But the Court feared to think that

Trefles Quiot Capitium sine socii, the Plaintiff

might give in Testimony that the Party was his Negro,

and he brought him. Ibid. 1 Sadv. Rep. 1.

Negro (Inf. Nauf. i.e. Naturalis, Natus) Was a

Bond Woman or the Fidius, born in one’s House,

mentioned in the Stat. 9. Eliz. c. 2. If a Bond Wo-

man married a Free man, she was thereby made Free;

and being once free, and discharged of Bondage, she

could
could not be Nisf after, without some special Act done by the Divorce, Confirmation in Court, etc. And a free Woman taking a Vilein to her Husband, was not thereby bond; but their issue were Vileins as their Father was; though this is contrary to the Civil Law, which says, Deputes jurament: 4.

Terms of Law 454. Ancientes Lords of manors fold, gave, or alligned their Bondmen and Nisfs, as appears by the following deer of Gift.

Renowne. Neftify. There was an ancient writ called Writ of Nisfs, whereby the Lord claimed such a Woman for his Nisf; but it is now out of Use.

Neighbour. (vico) One that dwells near another. See Vicores.

He injuile Wrenis. A writ founded on the Statute of Magna Charta, c. 10. that lies for a Tenant disfain by his Lord, for more services than he ought to perform; and is a prohibition to the Lord not to disfain or vex his Tenant: In a special Use, it is where the Tenant hath prejudiced himself, by doing greater Services, or paying more Rent, without Contingent, than he needed; for in this Case, by Restif of the Lord's Seisin, the Tenant cannot avoid it by Annuity; but is driven to his Writ for Remedy. Reg. Orig. 4. F. N. B. 10. And if the Lords disfains to do other Services, or to pay other Rent than due, after the Prohibition delivered unto him, then the Tenant shall have an Attachment against the Lord, &c. and when the Lord cometh thereon, the Tenant shall count against him, and put himself up on the Grand Affines, &c. whereason Judgment shall be given. New Nat. Br. 22. This Writ is always Ancient, where the Tenant and his Ancestors have holden of the Lord and his Ancestors; and the Lord hath increased any Rent, &c. A Secode shall not avoid Seisin of Rent had by Increment of his Feod. nor have the Writ of his Seisin; also a Man shall not have a Writ of his Seisin against the Grantor of the Seigniory. Mich. 18 Ed. 2. 10 Ed. 3. And Tenant in Tail may not have this Writ; but after the Sun Set, and being eftablished by the Payment of his Ancestors, &c. Trin. 20 Ed. 3.

Form of the Writ: Ne injuile Vests.

G E O R G E the Second, &c. to A B. Greet ing: We command you, that you do not vex or trouble C. D. or suffer him to be vexed, for his Freehold Mofonings, &c. which he holds of you, in, in. Nor in any manner exact, or permit to be exacted from him Services which therefore he ought not to do, or Rent which he owes not nor has been accepted, &c.

Termine contrario, Words used to signify the unanimous Consent of the Members of the House of Commons, to a Vote or Resolution of that House.

At recipitatum. Against the receiving and setting down a Case to be tried. 2 Litt. Abr. See Trial.


Botacta. No Peron shall ship, load or unload any Goods, to be sold or brought into any Place on the River Tyne, but at the Town of Newcastile, or elsewhere, where any Hotel shall be at any Time in the Harem there, between certain Places on the said River, &c. Stat. 21 H. 8. c. 18. At Newcastile open Tyne, if a Trial be had between two Inhabitants, and the Judges not exercising 407. the Plaintiff is to have no Judgment, but the Defendant shall have Costs: By a private Act of Parliament. 5 Med. 167. See Costs.

Newfound-land. Persons trading to Newfound-land, shall have Freedom of Fishing, &c. and every fishing Ship as fast enters any Harbour or Creek in Newfound-land, shall be Admiral of the said Harbour for that Season, and determine Differences between the Matters of fishing Vessels and the Inhabitants there, &c. Stat. 10 & 11 W. 3. cap. 25.

News. Persons reporting false News or Tales, are Punishable by Statute, 3 Ed. 1. c. 34. See Scandalum Magnatum.

News Papers. For Journalists or other News Paper, a Duty of 1s. is to be paid for every Sheet; and every Half-Sheet one Half-penny, levied and subject to the same Penalties as by 10 An. under a Statute. 3 Ed. 1. c. 34. See News Papers.


Silent campiff, Is an Exception taken to a Petition, because the Thing declared is not contained in that Deed or Proceeding whereon the Petition is founded: For Example: One desires of the Court wherein a Recovery is had of Lands, &c. to be put in Possession of a Houfe, formerly among the Lands adjudged unto him; to which the adverse Party pleads, that this is not to be granted, by Restif this House is not comprised amongst the Lands and Houfe for which he had Judgment. New Book Entries.

Silent defirer, Signifies to suffer Judgment to be had against one, by not denying or opposing it, &c. by Default. 29 Car. 2.

Rigter Liber, The Black Book or Register in the Exchequer, is called by this Name.

Right, Is when it is so dark, that the Consequence of a Man cannot be discerned; and by some Opinions, Barony in the Night may be committed to a Stranger, as by Night, &c. Statute 3 Ed. 4. B. C. 79. 3 Lev. 63. 1 How. 101. See Nighthawker.

Nighthawker, Are such Perons as sleep by Day and wend by Night; being oftentimes Pipers, Dis- Hubers of the Peace. 5 Ed. 3. 14. Confuible are authorized by the Common Law to arrest Nighthawkers and fulfill Perons, &c. Watchmen may also arrest Nighthawkers, and hold them until the Morning; And it is said, that a private Peron may arrest any fulfill Nighthawker, and detain him till he give a good Account of himself. 2 How. P. C. 61. 80. One may be bound to the good Behaviour for being a Nighthawker; and common Nighthawkers and Housters of Bawdy-houses are to be indebted before Judges of Peace, &c. 1 How. 133. 2 How. 173. 2 Pepp. 280. But 'tis held not lawful for a Constable, &c. to take up any Woman, as a Nighthawker, on bare Suspiion only, of being of ill Fame; unless the be guilty of a Breach of the Peace, or some unlawful Act, and ought to be found mifdoin- g. Holt's MS. See 2 Eds' Hist. P. C. 89.

Nighthawk per Burke, or per Billam. Is the Judgment given against the Plaintiff in an Affion, either in Bar of his Affion, or in Abatement of his Writ or Bill, &c. Cit. Litt. 363.
In the Court above, the Judges there give Judgment for the Party for whom the Verdict is found: And the Trials by Nisi prius are for the Eafe of the Country, the Partie, Jurors, and Witness, by saving the Charge and Trouble of coming to Westminster; but in Matters of great Weight and Difficulty, the Judges above, upon Motion and Information, will oftentimes Certifies to be tried there, though laid in the Country, and then the Jurors and Witnesses in such Cases must come up to the Courts at Westminster for Trial at Bar: And the King hath his Election to try his Suits at the Bar, or in the Country.

2 13 Ed. 1 c. 50. having ordained, that all Pleas in either Bench, which require only an early Examination, shall be determined in the Country; and the Judges of Afflict, by Virtue of the Writ appointed by that Statute, commonly called the Writ of Nisi prius, if it has been granted, may sit and hear a Cause joined in the King's Bench upon an Indictment or Appellate, whether for Treason or Felony, or a Crime of an inferior Nature, committed in a different County from that wherein the King in Council, or the Judges, were sitting in the proper County by Writ of Nisi prius: But as the King is not expressly named in this Statute; and it is a general Rule, that he shall not be bound except named, it is said, with an exception where the Writ of Nisi prius ought not to be granted, without his special Warrant, or the Affirm of his Attorney: though the Court may grant in Appeals in the same Matter as any other Affirm. 2 13 Ed. 4. 4 Ed. 16. 13 Ed. 1 c. 50. 2 Hawe. P. C. 411. Jurisdictions of Nisi prius have power to record Non suits and Defaults in the Country as the Days allowed, and are to report them at the Bench, &c. and are to hear and determine Conspiracies, Confederacies, Cheats, &c. by 12 Ed. 2 c. 4. 4 Ed. 3 c. 11. Nisi prius shall be granted in Attainders; but that which cannot be determined before the Julies upon the Nisi prius, shall be adjourned to the Bench where they are Jurisdiction; and the Julies before whom Inquisitions, Inquests, and Jurisdiction, shall be taken by the King's Writ of Nisi prius, are impowered to give Judgment in Felony and Treason, &c. and to award Execution by Force of their Judgment. Stat. 5 Ed. 14 Hen. 8. c. 1. It was held by Hale, that the Jurisdictions of Nisi prius have not any original Power of determining Felony, without special Commission for that Purpose; and by Virtue of the Acts 27 Ed. 1 & 19 16. 9. they have Authority to determine such Felonies only, as are sent down to be tried before them; in which Case, the Jury being finished, they may proceed to Trial and Judgment as if Jurisdictions of Gaol Delivery. 2 Hale's Nisi. P. C. 41. The Chief Justice of the King's Bench, Chief Justice of the Common Pleas, and Chief Baron of the Exchequer, and in their Abolish two other of the Judges, &c. as Jurisdictions of Nisi prius for the Country of Middlesex, shall try Causes upon Writs of Nisi prius on the 3rd of the Month following the End of the Term, and joined in B. R. and C. B. and the Exchequer, which were formerly only triable at Bar, in the Term-time, or in one or four Days after each Term. 2 Edw. 12. And the Time is enlarged to eight Days after the End of any Term; also any one Judge or Baron may try Causes, &c. according to the Statute 12 Edw. in the Absence of the Chief, and all Sheriffs, Officers, Parties and Witnesses, are required to attend. &c. by the 12 Edw. 1 c. 51. The Authority of Jurisdictions of Nisi prius in the Country, is annexed to the Jurisdictions of Afflict: and the Court above will take Judicial Notice of what is done at Nisi prius; being entered on Record. 2 Hawe. 409. See Afs.}

...
of Wales, they lived near high Mountains covered with Snow. —— Cam advenus Nivicolinos Bri-tones Regina aed Expedition. Du Cange.

[[A Nobleman (Nobles) Signifies a Noble of Birth, Generosity or Greatness of Mind, Excellence of Virtue: According to Jouvenal,]]

Nobilitas dol e right unica Virtus.

A Nobleman among all Men is defined to be a Person, that hath a certain Eminency above the Rest; one who is known by the hereditary Virtues of his Life; and the Nobility with us compriseth all Degrees of Dignity above a Knight; and is derived from the King, who may grant it in Fev, or for Life. See Parts of the Realm.

[[Robbie, Was an ancient Kind of English Money, in Use in the Reign of K. Ed. 3. And Kingdom this —— 2 Ed. 2. 445 By Virtue of which Statute, where any one having Right to approve Waife Ground, \(\tilde{\text{U}}\) makes and erects a Ditch or an Hedge, and it is thrown down in the Night time, and it cannot be known by a Verdict of Allife or a Juror, by whom, if the neighbouring Vills will not indict such as are guilty, they shall be disallowed to make again the Ditch or Hedge at their own Costs, and to answer Damages. 2 Ed. 476. And the Nolentier Ward thereof is directed to the Sheriff of the County, commanding him by the Oath Probarum & legisdam hamum Com practicis Inquisitor, qui Multaferitas & prais Dom. Re gis perturbationes apud, \(\tilde{\text{U}}\) Sepe & Pulsata A. B. ibidem per illam super lectum. Nolentier aut nullam tem porum qua facile crimina non credit proferri, ad damnum practicis. A. B. & contra inueni Dom. Regi, \(\tilde{\text{U}}\). And on the Return of this Writ by the Sheriff, that the same is found by Inquisition, and the Jury are ignorant who did it; the Return being filed in the Crown Office, there goes out a Writ of Inqui sition of the Damages, and a Dejurevis to the Sheriff, to distrain Propinquus Villarum sepio & Perseris practicis circumambientes sepio, \(\tilde{\text{U}}\) pro hibrata. Lecture ad Coffas suas proprias, and also to restore the Damages, \(\tilde{\text{U}}\). The circumambient Vills intended by the Statute are the contiguous Vills round the Place; and if they are not contiguous, they are not guilty, and may plead Not Guilty, and when other Vills have a great Vol un, by Favour or Negligence of the Sheriff are not summoned, \(\tilde{\text{U}}\) may plead as Tenants do, where all are not summoned. As to the Pleasings to this Writ, where more Damages are found than there ought to be; the Defendants may by Protestation deny the Faet, or confess and aver that the Dam ages were but small; and traverse that the Party plaintiff, or others, got the Damage by some Unlawful Means beyond what they admit; or may plead Not Guilty, and in their Defence any Matter which will be a Bar, or Excuse, being found. 5 Litt. 217. Here if the Vills repair, Damages ought not to be given to the Value of the Repairs; and if the Vills which are liable there to have repaired, it ought so far to help them in the Trial of the Qun tum damnificatis, that the other Damages ought only to be considered. Ibid. The Charges of the Defence (\(\tilde{\text{U}}\) to Vills) must be raised by Agreement, and if they cannot agree, each Vili is to bear their own Charges, as in Case of a Suit against a Hunder, till Execution; and then the Statute of 27 Edw. hath provided a Remedy. The Writ of No]]

4
one, and a Nolle Prosequi against the other. Cr. Car. 252. 265. It has been held, in Two paits against three Defendants; if a Nolle Prosequi were entered against two, before judgment against any of them, it had not amounted to a Release of them all; only to a Waiver of Suit against them. 3 T. R. 24. And if three Defendants cannot join in a Writ of Error; for those against whom the Nolle Prosequi is entered, are not damned. 3 T. R. 428. On two Promises, the Plaintiff may demand as to one Promise, and enter a Nolle Prosequi as to the other; and if judgment is had on the first Prom- ise, it will be well enough, though the Nolle Prosequi be not entered before such Judgment. 2 Law. 33. And if there are divers issue, or an Issue and De- murrer in one Cause, against one Person, joined be- tween the Parties, the Plaintiff may enter on the Roll a Nolle Prosequi, that he will not proceed on one or more of the Issue, or Demurrer joined; and may notwithstanding go to Trial upon the Rest of the Issue, or argue the Demurrer. Hill. 23. 3 Car. 2. R. The King may enter a Nolle Prosequi on an Information; but it shall not stop the Proceedings of the Inform- ant, 1 Lem. 1. If an Issue be reserved, he saith have Cott., &c. by Stat. 4 & 5 W. and M. Kibb. mention a Nolle Prosequi on Retrosay by Attorney. 3 Kib. 33. 35. 36.

Ammounted, One that opens the Etymologies of Names, interpreted Superioris by the learned Spil- man. Counsel.

Nomination, (Nomination) Is a Power that a Man hath, by Virtue of some Manor or otherwise, of ap- pointing a Clerk to a Patron of a Benefice, by him to be preferred to the Ordinary. The Right of No- mination a Man may have by Deed: and in such Case, if the Patron refuse to preface the Nomine, or prefers another, he may bring a Quaere Impedit; for he who is to prefer, is only an Instrument to him who nomi- nates: and the Person who hath the Nomination is in Effect the Patron of the Church. Plowd. 272. Morr. 47. A Nominate must appoint his Clerk within six Months after the Avoidance; if he doth not, and the Patron prefers his Clerk before the Bishop hath taken any Benefit of the Laiple, he is obliged to admit that Clerk; But where one hath the Nomination, and an- other the Preferment, if the Right of Preferment should afterwards come to the King, it is said he that hath the Nomination will be admitted to the Prefer- tinent; because the King who could possess can- not be subservient to the Nominate, it being contra- ry to his Dignity. Hugh's Parl. Law 26. 77. Right of nomination, &c. 35. 36. 37. 38. 39. Right of nomination, &c. 35. 36. 37. 38. 39. Whereof the Nominate curruptly agrees to nominate within the Statute of Simon, &c.

Famine Millstrem. King Edw. 2. sent his Let- ters to every Sheriff in England, requiring an exact Account and Return into the Exchequer of the Names of all the Villages, and Pelfeillors thereof in every Country; which being done accordingly, the Returns of the Sheriffs all joined together, are called Nomina Pillarum, still remaining in the Exchequer. Anno 9 Ed. 2.

Nomine Beare, Is a Penalty incurred for not paying of a Rent, &c. at the Day appointed by the Lease or Agreement for Payment thereof. 2 Loll. 221. If Rent is refused, and there is a Nolle Prosequi on the Non-payment of it, and the Rent be behind and unpaid, there must be an actual Demand thereof made, before the Grantee of the Rent can disfrain for it; the Nolle Prosequi being of the same Nature as the Rent, and issuing out of the Land out of which the Rent doth issue. Hilk. 22. 133. And where a Rent-Charge was granted for Years, with a Nomine Parece and Charge of Rent, it was not paid on the Day on the Rent's being behind, and the Term expired, the Court was moved that the Grantee might disfrain for the Nomine Parece; but it was held that he could not, because the Nomine Parece depended on the Rent, and the Distress was gone for that, and by Consequence for the other. 2 Noll. Abbr. 1182. See Stat. 8 Ann. 17. When any Sum of Nomin Parece is to be forfeit- ed for Non-payment of Rent at the Time, &c. Demand of the Rent ought to be precisely at the Day, in respect of the Penalty: And Debt will not lie on a Nomine Parece, without a Demand. 7 Rep. 29. Cr. Ex. 358. Style 4. If there is a Nomine Parece, of such a Sum for every Day, after Rent becomes due, it has been a Question whether there must be a De- mand for every Day's Nomine Parece, or one Demand for many Days: And by the better Opinion it hath been held, that for every Day there ought to be a Demand; and that one will not be sufficient for the Whole: But where a Nomine Parece of 40s. was lim- ited quodlibet die proximo the Fest Day on which the Rent ought to be paid, it was adjudged that there was but one 40s. forfeited, because the Word Parece relate to the very next Day following the Rent Day; and so likewise when the Rent became due and unpaid at the next Rent Day after that, and so on. Palm. 207. 2 Noll. Abbr. An Allignment is chargeable with a Nomine Parece incurred after the Allignment, but not before. Moor. 357. 2 Loll. Abr. 221. Though a Proviso is mentioned to be Nomine Parece, it would be a paying of a collateral Sum; it is no Nomine Parece, if it be not of a Rent. Law. 1156.

Nom-ability, Is an Exception taken against the Plaintiff in a Case, upon some juj Ground, why he cannot commence any Suit in Law; as Praemunia, Outlawry, Excommunication, &c. F. N. B. 35. 65.

Viz. Ibid.

Bone &c. Receipts, Payments made to the Church by those who were Tenants of Church Farms; where New was a Rent or Duty for Things belonging to Husbandry, and Devises were claimed in Right of the Church. Formerly a ninth Part of moveable Goods was paid to the Clergy on the Death of Persons in their Parish, which was called Nomineis; and claimed on Presence of being distributed to pious Uses.

Bone.

Bone-age, In general Understanding is all the Time of a Person's being under the Age of One and Twen- ty; and in a special Sense, where one is under Four- teen, to be Marriage, &c.

Bone Affumpt, A Fire in personal Affumptions, whereby a Man denies any Person made. See Affumpt.

Bone-atlast, Is an Omnium or Negligence of one that claims not within the Time limited by the Statute, as within a Year and a Day, where continual Claim ought to be made; or in five Years after a Fine be- lieved, &c. By which a Man may be barred of his Right of Entry. Stat. 4 H. 7. c. 14. 52 H. 8. c. 53.

See Claim.

Bone compus Britteis, Is where a Person is not of found Mind, Memory, and Understanding. And there are four Sorts of Non compus Memoris. 1. A Loco or natural Foul. 235. A Madman, or one who was of Sane Memory, but hath lost his Understanding by Sickness. 367. A Locus, sometimes of Sane Memory, and at other Times not 6. 468. A Drunkard that deprives himself of his Memory and Understanding for a Time. But though a drunken Person is Non compus Memoris, it shall give no Privilege or Benefit to him, as to Affs done, &c. And his Drunkenness shall not extenuate, but rather aggravate his Offence, as well touching his Life as his Lands and Goods. 1 Leef. 264. 4 Rep. 125. A Deed of Feoffment, Grant, &c. made by a Person Non compus Memoris is voidable; his Heir as pray for the Deed at the Time of his Ancestor, and avoid his Grants; and his Execu- tors, &c. as Prives in Representation may do the same,
fame, by forfeiting thereto the Infrantry of the Treasurier or Intendee. 4 Rep. 126. Where a Person of Sound Memory becomes Non compus Mentis, and afterwards alienates his Lands or Goods, if he be found Non compus Mentis, and shall have aliened, the King may proceed against him, and take the Profits of his Lands, &c. to maintain him and his Family. Rep. 127. And he that hath the Cullody of a Man of Non sane Memory is accountable as Bailiff to the Non compus, his Executors or Administrators. *ibid. A Man Non compus Mentis shall not lose his Life for Felony or Murder; for he cannot be guilty of either of them. 3 Rep. 124. 3 Ind. 564. Though if one who wants Discretion or Understanding, does any corporal Hurt to, or Trepass against another; he may be compelled by Action to render Damages. 26 H. 6. 1 Litt. 247.

1 Han. P. C. 2. Vide Lunatic.

Non-compunits. The Statutes 1 Eliz. and 13 Car. 2. were made for the Uniformity of Common Prayer, and Service in the Church; and Persons not conforming thereto are subject to divers Penalties. Statute 10 Ann. c. 2. And it has been held, that a Difficult or a Hard Person cannot be put to their Loss by the Government. 4 Mod. Rep. 273.

57. Non Damnificatus, Is a plea to an Action of Debt upon a Bond, with Condition to have the Plaintiff harmeless. 2 Litt. Abn. 214. If the Condition of a Bond be to have harmeless only, Non Damnificatus is given to the Plaintiff; but if it be to discharge the Plaintiff, &c. then the Manner of the Discharge is to be shewn. 1 Lev. 72. When one pleads a Discharge, and he had another harmeless, he ought to shew how he did it, that the Court may judge thereof:

Though a Defendant may plead Non Damnificatus, without shewing of it; because he pleads in the Negative, and then the other Party shall shew Damnification. *Civ. Tact. 567. 2 Rep. 34. March 121. It has been adjudged, where a Condition of a Bond is to have harmeless from all Suits in general, Non Damnificatus may be pleaded; and if it is in a particular Suit or Thing, there the Defendant must set forth how he hath done harmeless and discharged; but where a Suit is upon a Counter-Bond, the Plea of Non Damnificatus is good. 8 W. 3. B. R. 5 Mod. 243.

60. Non Dectimante. A Cullom or Preceptuon Dr. Non Dectimante is to be discharged of all Tithes, &c. See Modus Dectimandi.

60. Non Distinguitus. Is a Writ not to be disfrain'd, used in divers Cases. Table of Reg. of Writs.

60. Nonus. (Nonus of every Month 1. the seventh Day of March, May, July, and October, and of the fifth of all the other Months.) By the Roman Account, the Nonus in the aforesaid Months are the six Days next following the first Day, or the Lords; and of others the four Days next after the first, according to these Verses,

Sex Nonas Majus, October, Julius & Man, Quatre a reliqui, &c.

60. Though the last of these Days is properly called Novem for the others are reckoned backwards as distant from them, and accounted the third, fourth, or fifth. Novem. &c. and gave these Novem. &c. to be reckned from their Beginning the Ninth Day before the Ides. See Ides.

67. Non est culpabilis, Short Non Gal. Is the general Plea to an Action of Trepsalis, whereby the Defendant absolutely denies the Fact charged on him by the Plaintiff; whereas in other special Pleas, the Defendant does not deny the Fact to be done, but alleges some Reasons why he lawfully might do it. And as the Plea of Non Calp. is the general Answer in Actions of Trepsalis, being Actions criminal civilly or professedly so; it is likewise in all Actions criminally followed, either as the Suit of the King or any other, where the Defendant denies the Crime for which he is brought to Trial. S. P. C. lib. 2. ch. 53.

68. Non est fallum. A plea where an Action is brought upon a Bond, or any other Deed, and the Defendant denies that to be his Deed wherein he is impeached. *ibid. In every Case where a Bond is void, the Defendant may plead Non est fallum; But when a Bond is voidable only, he must shew the issue of the Bond, and of condonee judgment &c. Acts. 1 Litt. 246. If a Deed is raised in a material Part, by which it becomes void, the Peron bound by it may plead Non est fallum, and give the Matter in Evidence; because it was not his Deed at the Time the Plea. 11 Rep. 27. A Bond was dated November the 10th, and so set forth in the Plaintiff's Declaration; the Defendant pleaded Non est fallum, and shew it was found that it was not delivered till the eighteenth, the Issue being upon a Non est fallum, it appeared to be his Deed; But it is said the Defendant must aver the Deed was voided before the Issue. 12 Mod. Rep. 126. The Defendant pleads Non est fallum prædicto was made and delivered without a Date, and that the Plaintiff put a Date to it, and Non est fallum; this was held made upon a Damnification, for the Defendant confesses the Deed, by saying fallum prædicto. and afterwards denies it; though he might have said generally, Why is not this a Money Deed? for here the Parties are jointly bound in a Bond, and an Action is brought on it against one only, he cannot Plead Non est fallum, or Demurr in that Case; but may have his Plea in Abatement of the Writ. 5 Rep. 119. None but the Party, his Heirs, Executors, &c. can plead Non est fallum. Lawy. 662.

68. Non est antecedens. Is the Sheriff's Return to a Writ, where the Defendant is Not to be found in his Bailiwick. And there is a Return that the Plaintiff Non inventit Plenum, on original Writs. Ship. Epi. 1559.

60. Nonsecatum, Is an Offence of Omision of what ought to be done; as in not coming to Church, &c. which need not be alleged in any certain Place; for generally speaking it is not committed any where:

But Nonsecatum will not make a Man a Trepsaller, *Civ. Tact. 15. 2a. 551. 8 Rep. 145. Non impulsanum aliquern be libera Consentia sine morti, Is a Writ to prohibit Bailiffs, &c. from distraiting or impeaching any Man touching his Freehold, without the King's Writ. Reg. Orig. 171. Noninterdicto Mancipe Writen, &c. in Capiete subsole impetrato, Was a Writ directed to the Judges of the Bench or in Eyre, commanding them not to give one, that had, under Colour of inspecting the King to Land, &c. as holding of him in Capiete, deceitfully obtained the Writ called Praecipio in Capiete, any Benefit thereof, but to put him to his Writ of Right. Reg. Orig. 4. This Writ having the Dependence on the Court of Wards, since taken away; is now dissol. Noninterdicto, Are Persons that refuse to take the Oaths of the Government, who are liable to divers Penalties; and for a third Offence to abjure the Realm, by 13 41 Car. 2. c. 1. Persons, Vicars, &c. are to be held to be treasurers, and are liable to Divorce 14 Car. 2. c. 4. or they shall not preach, under the Penalty of 40l. *Civ. Stat. 17 Car. 2. c. 31 Ecclesiastical Persons not taking the Oaths on the Revolution, were rendered incapable to hold their Offices: But the King was impowered to grant such of the Nunnery Clergy as he thought fit, not above one Tenth of such places. Ecclesiastics are not necesaries for their Subsistence, not exceeding a third Part. 2 W. 4 M. Suff. 1. c. 8. Persons rejecting the Oaths, shall incur, forfeit, and suffer the Penalities inflicted
instituted on Popish Recusants, and the Court of Ex
cerever may issue out Process against their Lands, &c.
Sec. 7 & 8 W. 3 c. 87. See the Stat. 1 Geo. 1 c. 55.

In Marchandis, see Indulgence. It is a Writ to
Juries of Affile, to inquire whether the Magistrates of
such a Town do sell Veilns in Grots, or by Re
tull, during the Times of their being in Office, which
is contrary to an ancient Statute; and to punish them
if they do. Reg. Orig. 184.

In Ministers, A Writ that lies for a Person who
is reputed contrary to the King's Freedom

In effante, (Notwithstanding) Is a Clause fre-
quently in Statutes and Licences. In a Licence
from the King to do a Thing which at the Common
Law might be lawfully done; but being restrained by
Act of Parliament, cannot be done without such Li-
cence. Vin. 457. Plow. 701. It is inserted by the
Statutes of 2 Eliz. 3, 14 Eliz. 5 and 15 R. 2, as
that the King's pardon of notorious Felonies, &c. Should
not be granted, although with the Words New Indulgence.
And the same Statutes, &c. were allowed with a New
Obie, and notwithstanding any Clause to defeat the same. 2nd. Cent. 210. If the Creditor, by the
Evaluation of Goods and Chattels, causes the Goods of the
Queen by Letters Patent, of any Honour, Castle,
Manor, Land, Tenements, &c. and that they should
stand and be good in Law against the Queen, her Hei-
s and Successors, Non obstante any Indulgence, &c. reci-
val, Want of Certainty, finding Offices or Inquiritiun,
Livery of Sein, &c. By 14 Car. c. 11. It was
declared that the Goods of any Alien, and even every
Non obstante therein contained, should be voided.
And the 1 R. 3, &c. 2. makes Dispensions, Non Ob-
stante to Statutes, void; unless allowed therein. See
Dispensations and Statutes of the King.

In omittas, Is a Writ directed to the Sheriff,
where the Bailliff of a Liberty or Franchise who hath
the Return of Wrts relevs or Neglects to serve a Pro-
cess, is to the Sheriff to enter into the Franchise and ex-
cute the King's Writ himself, or by his Officers: Be-
fore this Writ is granted, the Sheriff ought to return,
that he hath sent to the Bailiff, and that he hath not
served the Writ; but for Dispetch, the usual Pra
cer is to read a Non omittas with a Captiv or Lector. F. N. B. 68, 74. 2 Inf. 425. If a Sheriff return
that he sent the Process to the Bailiff of a Liberty, who
had given him no Answer; a Non omittas shall be
awarded to the Sheriff: And if he returns that he sent
the Process to a Bailliff, who hath served the Writ,
the Sheriff may by Virtue of the

In omnis, (in omnia) It is defined to be Dif-

tum ad pdf Defalnam: and in Hugham Macro, c. 8, it
is said, that the Defendant is to repliy his Lands seil-
ed by the King within fifteen Days; and if he neg-
lected to do so, the Bailiff shall at the next Court
Day, shall hold his Sein, Stnt per Defalnam
pdf Defalnam: But by Statute it was enacted, that
nose should hold his Land, because of Non pleve, i.e.

where the Land was not repliied in due Time. 9 Ed.
3 c. 2.

Non potentia in Millis e Jure, Is a Writ
granted for seating and discharging Persons from ser-
ving on Assizes and Juries; and when one hath a Cha-

ter of Exemption, he may set the Sheriff for retum-
ing him. This Writ is founded on the Stat. of W. 2
F. N. B. 161. 2 Inf. 127, 447

Now procedens ad Iudicam Magni Inconflito, A
Writ to stop the Trial of a Cause appertaining to one
that is in the King's Service, &c. until the King's
Pleasure be further known. Reg. Orig. 209.

Now Pris. If a Plaintiff in an Action, doth not
declare against the Defendant within reasonable Time,
a Rule may be entered against him by the Defendant's
Attorney to declare; and thereupon a Now Prof. &c.
Pract. Sulic. 212. And a Plaintiff may enter a Now
Prof. against one Defendant, where there are two or more
Defendants who have been dealt with by the Sheriff of the
County, or other Officer, and the Plaintiff shal
be appointed, to be a True Bill, &c. 3 Sulic. 246.

Now Pris have been frequent upon Informa-
tions; but never upon Indictments, till the Reign of
King Charles 2. Ibid. See Nofa Prisori, and
Nonulat.

Non-Redemptio. Is applied to those Spiritual Per-
sons that are not Redempt, but do abate themselves
twillfully by the Space of One Month together, or
Two Months at several Times in one Year, from
their Dignities or Benefices, which is liable to Pen-
alities, by the Statute against Non-Redemptio. 21 H. 8.
c. 13. But Chaplains to the King, or other great
Persons, mentioned in this Statute, and the 23 H. 8.
c. 16. may be Non Redempt on their Livings; for they are
excused from Redemptio whilst they attend those
that retain them; And Bishops are not punishable
by Statute for Non-Redempto, but if a Bishop hold
a Deanship, Patrons, &c. in Concomitance with his
Bishopric, he is punishable by the Stat. 21 H. 8. for
Non-Redempto on the same. Allo where Bishops are
Non Redempt on their Bishopricks, they are liable to
Ecclesiastical Censure; and the King may issue a man-
datory Writ for their Attendance thereon, and compel
them to it by fealing their Temporalities, a notable
Precedent whereof we have in the Case of the Bishop
of Hereford, in the Reign of King Hen. 3. 2 Inf.
625. See Redemptio.

Non Rescripta pro Clericis Regis, Is a Writ
directed to the Bishop, charging him not to molest a
Clerk employed in the King's Service, by Reson of
his Non-Rescriptio in which Case he is to be discharg-

Non Ian Memory. (Non Ian Memory) Is used
in Law for an Exception to an Act, declared to be done
by another, whereas the Plaintiff in any Action grunds
his Pleit: and the Effect of it is, that the Party that
did that Act, was not well in his Fuses when he did it,
or when he made his Iaff Will and Testament.
New Rescriptio. And Some Memory for the Making
of a Will is not always where the I'diator can answer
Yes or No, or in some Things with Sense; but he
ought to have Judgment to discern, and of perfect
Memory, or the Will shall be voided. Mors, c. 151.

Non campa Merit. Noniantiit, (tregurvature, Liti renumiit) Is the
busting a suit or Action fall, or Reorganization of it by
the Plaintiff or Demandant, most commonly upon the
Discovery of some Error or Defect, when the
Matter is so far proceeded in, as the Jury is ready at
the Bar to deliver their Verdict. 2 H. 4. c. 7. He
shall have a Man brings a personal Action, and doth not
prove it with Effect, or if upon the Trial, he refuses
to stand a Verdict; then he becomes nonsuit: If

the Plaintiff be not ready at the Trial when the Jury is to sit, and in such a Case the Court may call him Non nosit, and shall be intended he will not proceed in his Cause, though sometimes the Court hath said a While in Expectation of his Coming, and making good his Action: And on a new Trial, when the Jury comes to deliver in their Verdict, and the Plaintiff is called upon to hear their Verdict: if he do not appear after three called, by the Crier of the Court, he is Non nosit, and the Non nosit is to be recorded by the Secondary, by the Direction of the Court, at the Prayer of the Defendant's Counsel; for the Court will not order it to be recorded, except the Counsel pray it. Hill. 21 Car. B. K. 2 Litt. Abr. 231. But where a Plaintiff doth not appear to hear the Verdict when he is called, and thereupon the Court directs the Secondary to record the Non nosit if afterwards he do appear before the Non nosit is actually recorded, the Court may proceed to take the Verdict: it is not a Non nosit till recorded by the Secondary, and then it is made Part of the Record, and is in the Nature of a Judgment against the Plaintiff. 2 Litt. 232. A Plaintiff in Ejaculation not appearing at the Affils, he was Non nosit, and this was read over: but as there was no Ne ex Judice ex Habes Corpore, the Non nosit was discharged, because the Judge of Nisi prius hath no Power to non nosit without an Act of Parliament. Sid. 164. After a Demurrer joined, if the Court gives a Day over, the Plaintiff may be Non nosit, for the Plaintiff is then demandable: And after a judgment good compact, the Plaintiff may be non nosit, because it is but an interlocutory Judgment; though after any Verdict, whereupon a final Judgment is to be given, he cannot. 1 Inf. 140. 2 Litt. 211. At Common Law, upon any Process, if the Plaintiff be not at Part, he may be Non nosit, so that even after a Verdict, if the Court took Time to consider of it, the Plaintiff was demandable, and might be Non nosit: but this is now removed by the Stat. 1 Hen. 4. Yet after a privy Verdict, the Plaintiff may still be Non nosit: and so he may after a special Verdict found; and after a Demurrer, though the Matter was argued, if the Court gives a Day over. 1 Inf. 150. 2 Litt. 35. 3 Salk. 249. In real or mixed Actions, the Non nosit of one of the Plaintiffs or Defendants is not the Non nosit of both; in this Cafe, he which makes Default shall be fummoned and fevered: But regularly in personal Actions, the Non nosit of one Plaintiff is the Non nosit of the others, unless in some Particulars. 1 Inf. 158. 159. If an Action of Debt, &c. is brought against two or more Defendants, by several Counts and one Process, a Non nosit as to one, is to the Rest; for the Rest is one, and the Pledges of Defeundo are the same: It is otherwise in a Dilinunciation; which being against one shall not extend to the others; because the several Declarations against them. Tred. Cent. 509. 5 Salk. 264. And where there is but one Defendant, who pleads to Issue as to Part, and demands to the other Part, the Plaintiff may be Non nosit as to one, and proceed for the other. Hals. 160. The King cannot be Non nosit, because in Judgment of Law he is always present in Court: though the Attorney General may enter a Nolle prosequi: And the King's Suit may be discontinued, upon the Prayer of the Parish, after a Year; where it is delayed to be prosecuted, 1 Inf. 139. Gald. 53. Also notwithstanding a Non nosit, the King cannot be non nosit, nor Affirm, nor Action, wherein he himself is the sole Plaintiff, an Informer Qui tam, or Plaintiff in a popular Action, may be non nosit; and thereby wholly determine the Suit, as well in Respect of the King as of himself. 1 Inf. 159. Br. 68. Finchem. 13. A foreign King seeking to take the Benefits of the National Laws here, may be non nosit, as in England: such was the Case of the King of Spain. Mich. 25 Car. B. R. A Non nosit after Appearance, in Appeals of Murder, Writ of
him a Notary Public, who publicly attests Deeds or Writings, to make them Authentick in another Country; but principally in Buiness relating to Merchants: They make Proofs of Foreign Bills of Exchange, &c. And, Noting a Bill is the nearest going as a Witness, to take Notice of a Merchant's Receipt to accept or pay the same. Merc. Dig. 252.

Notice of a Fint, is a Bill of the Fine made by the Creditor, before it is ingaged. Wh. Synch. par. 2.

Notice for Payment of Money. See Bill of Exchange.

No guilt is, the General Issue or Plea of the Defendants in any criminal Action; and Not guilty is a good Issue in Actions of Trespass on the Case, and upon the Cae for Decrees or Writs; but not on a Promissory, &c. Palm. 393. If one hath Cause of Justification and Exoneration in Trespass, and he pleads the General Issue. Not guilty; he cannot give the Special Matter in Evidence, but must confess the Fact, and plead the Special Matter, &c. 5 Rep. 119. Vide Non est Quallibis.

Is there anything of something known, that a Man was or might be ignorant of before. And it produces divers Effects; for by the Party that gives the same, shall have some Benefit which otherwise he could not have had: And by this Means, the Party to whom the Notice is given, is made subject to some Action or Charge, that otherwise he had not been subject to. In Dancis or Real Edicts. Co. Lit. 609. Notice is required to be given in many Causes by Law, to justify Proceedings where any Thing is to be done or demanded, &c. But none is bound by the Law to give Notice to another Person of that which such other may otherwise inform himself of. 22 Car. B. R. If one be bound by an Affidavit generally to do a Thing to another, but the Person is ignorant of that Notice when he will have to do it; but if he promise that another Person shall do it, there is to whom the Thing is to be done or not obliged to give Notice to that third Person when he will have to do it, but the Party must procure it at his Peril: For it may be he may not know that other Person, and there is no Privy of Control between them Two, as there is between the other Two. 2 Litt. abr. 259. And in Case of a Promissory it has been adjudged, that where a Person is to be executed, Notice is requisite: but it is not so where Damages are to be recovered; in which Cause the Party hath sufficient Notice by the Affidavit brought. 1 Bull. 32. If a Person promise to pay to another at his Day of Marriage; the Party at his Peril is to take Notice of the Marriage. Cro. Cass. 34, 35. And it is a receivably Intendment, that when after the Marriage the Plaintiff requested Payment of the Money, that Notice was given of the Marriage. Cro. Jac. 28. It is held, that if a collateral Thing is to be done at or after Marriage, there Notice is to be given of it, though, when Money is to be paid, it is a Debt due to the Party by the Marriage, and may be recovered without any Notice given. 2 Bull. 254. Notice must be given to an Heir at Law, of a Condition annexed to his Estate; or he is not bound to take Notice of the Condition. 1 Laww. 399. 4 Rep. 52. 3 Med. 28. Yet it is said, that the Notice, bound to take Notice of a Proviso in a Pecuniary; and this Difference has been taken, that where Notice is required to be given by the original Deed or Agreement, it is hereditary, and defends to the Heir; but if it is collateral to the Use, it shall not bind his Heir without express Notice. Winch. 108. 2 Neuf. abr. 1186. A Man who is a Stranger to a Deed, that had an Estate by Way of Remainders, is determin'd by the Estate by Virtue of any Proviso in such Deed, unless he hath Notice of it. 5 Rep. 92. The Feoffee of Land, or Bargainer of a Reversion, shall not take or give Notice of a Condition, for Non payment of Rent referred upon a Leafe, on Demand made by them, without Notice thereof given to the Lessee. 9 Rep. 31. If a Manor be conveyed by Deed of Bargain and Sale, &c. to another; the present Lord must give Notice of it to the Copyholder, otherwise if he deny to pay his Rent, it will be no Precedent. 5 Rep. 13. And Copyholders shall not forfeit their Estates for not appearing at the Lord's Court, if they have no Notice of the Court, &c. 1 Laww. 104. In a Covenant to make a Freehold generally, Notice must be given to the Party to know what Estates he would have made to him. Style 61. Where one is bound to another to make such an Affiance as A. B. shall advise, the Obliger is bound to make the Affiance, without Notice that A. B. had advised it but if he had been bound to make such Affiance as the Counsel of the Obliger should advise, Notice ought to be given the Obliger, that the Counsel of the Obliger had advised it. 1 Laww. 105. If I am bound to enfeoff such Perons as the Obliger shall name, he is to give Notice to whom he name, or I am not bound to enfeoff them. 2 Doug. 105. And if the Obliger shall pay so much as A. B. hath paid, the Defendant is to require of him, and the Plaintiff is not bound to give Notice; But if the Peron or Thing is altogether unknown, the Plaintiff to intitle himself to an Action must give Notice. Cro. Jac. 432, 433. If an A.C. is to be done by a Stranger, and not by the Plaintiff, the Cognition thereof lies as well in the Notice of the Defendant as of the Plaintiff; and therefore the Plaintiff need not lay a Notice. Cro. Jac. 432. 2 Rule 134. A Thing lies in the knowledge of the Plaintiff, there ought to be Notice given to the Defendant. March 155. Med. 230. And when one may take Notice, and not the other; Notice is necessary. Lecch 15. It has been held, that a Defendant having undertaken to do a Thing, undertakes to do all Cimstances incident to the Doing in it, and that without Notice, but if he had been ignorant of the Thing to be done, then Notice must be given. 2 Bull. 143. If one make a Leafe for Years, with Covenant that if the Lessee, his Executors and Administrators, do not repair within 6 Months after, the Lease to be void; and the Lessee makes a Lease for Part of his Term to another, and then the House is decayed: in this Case the Notice is to be given to the Ed. Let it be given to the Under-Tenant. 2 yog. 10. A Notice may not be pleaded to be given to Executors, without averring the Death of the Tenant. Ibid. 93. In all Writs of Inquisition of Damages, as well as real as personal Actions, Notice must be given to the other Party to the Suit. March Rep. 82. Want of Notice, upon various Occations, has been often the Cause of Arrears of Judgment in Actions, &c.

Notice is to be given, of Trials and Motions; of a Robbery committed, to recover against the Hundred; of a grant in Fee, on making a record; of an Assignment of a Lease, to charge the Alligee only on Acceptance of Rent; in Cases of Disposer for Rent, according to the Nature; and of Devolution of Churches, by Reignation, Deprivation, &c. to the Patron that he may present, &c.

Quiet, Signifies Land newly ploughed or converted into Tillage, that without any Memory that had not been tilled and sometimes it is taken for Ground which hath been ploughed for two Years, and afterwards
afterwards lies Fallow for one Year; or that which lies Fallow every other Year: it is called Novus, because it comes early after the Harvest of the Common. 4. 2. 6. 

Novus, Mentioned in Clasf. 12 Ed. 1. e. 7. See Obesta. 4. 2. 6. 

Novella, Mentioned in Clasf. 12 Ed. 1. e. 7. See Obesta. 4. 2. 6. 

Novellum Alimentum, (Novellum Alimentum) Is an Aliment of Time, Place, or such like, in Action of Trepassy, otherwise than as it was before aforesaid; or where it is more particularly in a Declaration than in the Writ, &c. Pru Trepassy, 132. And if the Defendant polishes a Place where no Trepassy was done, then the Plaintiff is to appon the Place where, to which the Defendant is to plead, &c. Termes de Leg. 459. Vide Trepassy. 4. 2. 6. 

Novellus Difficilior, (Novellus Difficilior) See Affix of Novellus Difficilior. 4. 2. 6. 

Novella, Thode Confinements of the Civil Law, which were made after the Publication of the Teedes- fen Code, and called Novellae, by the Emperors, who ordained them: But some Writers call the Julian Edict only by that Name. 4. 2. 6. 

Novellum, If any Person shall put any Flocks, Nests, Thieves, &c. or other receivable Thing, into any Broad Woollen Cloth, by Stat. 22 Jac. 1. c. 18. 

Novellus colligeret. To gather Heale Nuts, which was formerly one of the Works or Services imposed by Lands upon their inferior Tenants. Parab. Antiq. 455. 4. 2. 6. 

Novella Contrata, (Novella Contrata) Is a bare named Contrat, without any Confession had therefore. If a Man bargains or sells Goods, &c. there is no Recompence made or given for the doing thereof: as if one day to another, I sell you all my Lands or Goods, but nothing is agreed upon what the other shall give or pay for them, so that there is not a Quod pro Son of one Thing for another; this is a Novo Contract, and void in Law, and for the Non-performance thereof no Action will lie; Ex modo pacto non est rerum. Termes de Leg. 459, 460. The Law supposes Error in making such Contracts; they being as it were of One Side only. 4. 2. 6. 

Novel Master, Is named Master, or a bare Alle- gation of a Thing done, &c. Vide Master. 4. 2. 6. 

Novel Act Record, Is the Plea of a Plaintiff that there is no such Record, on the Defendant's alleging Master of Record in Bar of the Plaintiff's Action. See Failure of Record. 4. 2. 6. 

Novellum Arborium, The usual Plea of the De- fendant prosecuted on an Award. 4. 2. 6. 

Novelty, is where a Thing is null and void, or of no Effect on the Question. And there is a Novel of Marriage, where Persons marry without the proper Degrees, &c. 4. 2. 6. 

Novellum. Creator Cont. Rabbi 231. ad nume- rum. i.e. by Number or Tale, as we call it today. 4. 2. 6. 

Novellum, Signifies the Price of any Thing generally by Money; as Denominator both the Price of a Thing by Computation of Pecunia, and Librania by Computation of Pounds. 4. 2. 6. 

Novellum. A Piece of Money or Coin among the Jews; and it is a Penny according to Mat. 26. 6. 57. 

Novellum, Is named Master, or a bare Alle- gation of a Thing done, &c. Vide Master. 4. 2. 6. 

Novellum. Is the plea of a plaintiff that there is no such record on the defendant's alleging master of record in bar of the plaintiff's action. 4. 2. 6. 

Novellum Arborium. The usual plea of the defendant prosecuted on an award. 4. 2. 6. 

Novellum. Where a thing is null and void, or of no effect on the question. And there is a novel of marriage, where persons marry without the proper degrees, &c. 4. 2. 6. 

Novellum. A piece of money or coin among the jews; and it is a penny according to mat. 26. 6. 57. 4. 2. 6. 

Novellum. Is named master, or a bare allegation of a thing done, &c. vide master. 4. 2. 6. 

Novellum Arborium. The usual plea of the defendant prosecuted on an award. 4. 2. 6. 

Novellum. Where a thing is null and void, or of no effect on the question. And there is a novel of marriage, where persons marry without the proper degrees, &c. 4. 2. 6. 

Novellum. A piece of money or coin among the jews; and it is a penny according to mat. 26. 6. 57. 4. 2. 6.
N U

Lands and Tenements: but the Affidavit or Writ lying for the same. F. N. B. 183. And Nuisances are Public

and Common, or Privates: A Common Nuisance is defined to be that which annoys all the Public in general, or

by doing a Thing which tends to the Annoying of all the

King's Subjects, and is common against all; or by neglecting to do any Thing which the common

Good requires. 2 Roll. Abr. 83. And Annoyances in

Highways, as where a Gate, Hedge, Er. or

Ditches are made therein of Bridges and publick

Rivers, disorderly Abbeys, Bawdy-Houses, Ga-

ming-Houses, Stages for Rope-Dancers, Mountebanks,

Er. Brewing Houses erected in Places not conven-

ient; Courtages with Inmates; common Scolds, Tres-

Eway-Droppings, &c. are generally Common Nuisances 2 Inst. 406. If a Man runs up the Light of another's House;

or builds too near and hanging over mine, that the

Rain which falls from his House falls upon mine;

the Turning or diverting Water, running to a Man's

House, Mill, Meadow, Er. or flooding up a Way,

leading from Hoults to Lands; Suffering the next;

Hoults to flood and haule, and putting up or mak-

ing up or making a House of Office, Lime-pit, Dye-

house, Tan-house or Butterer's Shop, &c. and using

them to near my House, that the Smell thereof does

anoy me; or if he built my Lands or Trees, or the Corruption of the Water of Lime-

pits spoils my Water or destroys Fish in a River,

Er. I take it to be a Common Nuisance. 3 Inst. 239, 9 Rep. 54, 5 Rep. 101, 1 Roll. Abr. 88,

2 Roll. 140, 1 Star. Abr. 173. For a Common

Nuisance, Indictment lies at the Suit of the King; and

the Particular Damages may be made and imputated, &c. No Ac-

tion lieth in this Case, because if one Man may have an Action, all Men may have the like: And the

Indictment must be ad Commonn Necessitatem quam

Necessitatem, &c. 5 Rep. 73. 1 Inst. 56, 1 Inst. 208.

But though Action may not be brought for a common

Nuisance, but Indictment or Premises; yet where

the Inhabitants of a Town had by Custom a wa-

tering Place for their Cattle which was stopped by

another, it has been held, that any Inhabitant

might have an Action against him, otherwise they

would be without Remedy because such a Nuisance

is not common to all the King's Subjects, and pre-

tentable in the Let, or to be redressed by Premis-

es or Indictment in the Quarter Sessions. 5 Rep.

73, 9 Rep. 101. And if any one Person hath

more particular Damage by a common Nuisance than

another; as if by Reason of a Pit dog in a High-

way, a Man for whose Life he held Lands is drown-

ed; or my Servant falling into it receives Injury,

whence I lose his Services, &c. for this special Da-

mage, which is not common to other Persons, Affidavit

lies. 5 Rep. 73. 1 Inst. 162, 2 Inst. 50, 4 Ball. 341, 2 Bull. 344. For private Nuisances, Action

on the Caie lieth, or Affidavit by the Party

griev'd: and on Action for a private Nuisance, Judge

shall be given that the Nuisance shall be re-

moved, and the Party injured recover Damages for the

Injury sustained. 1 Roll. Abr. 591, 1 Inst. 208.

The Difference between an Affidavit for a Nuisance,

and an Action on the Caie; for the one is to abate the

Nuisance, but the bail is not to abate it, but to

remit to design. Therefore, if in Nuisance be re-

moved, the Plaintiff is intituled to his Damages which

accrued before; and though 'tis laid with a Certa-

nitude for a longer Time than the Plaintiff can

prove, he shall have Damages for what he can make

Proof of before the Nuisance was removed 2 Roll.

253. A Man may have an Action for a Nuisance,

or he may abate the same; or make a protest of the

same; but if he destroy the Nuisance himself, before

his Action, he may not after have an Action for the

Wrong, or recover any Damages. 9 Rep. 55.

F. N. B. 185, 2 Roll. Abr. 743. It is laid both of a

common and private Nuisance, that they may be ab-

ted or removed by those Persons that are prejudiced

by them and they need not lay to protect for their

Removal. 2 Roll. Abr. 83. 1 Inst. 56. 4 Ball. 344.

And it has been adjudged, that every Person may

remove a Nuisance; and that the Cutting a Gate

cross an Highway is lawful. 1 Inst. 56, 1 Inst. 208.

Also if a Houlte be on the Highway, or a Houlte

hang over the Ground of another, they may be pul-

led down; but no Man can justify the Doing more

Damage than is necessary, or Removing the Mate-

rials. 1 Inst. 56. 1 Inst. 208. A Man builds a Houlte on

mine that it is a Nuisance: I may enter and pull it

down; and a Man indebted for a Riot in such a Cafe

has only a small Fine let on him. 1 Inst. 56. 1 Inst.

42. Where two Houltes, one whereof is a Nuisance to the other, come both into one and the fame Hand, the Wrong is

purg'd. See 1 Inst. 113. If a Ship be sunk in a Port

or Haven, and it is not removed by the Owner, he

may be indicted for it as a common Nuisance, because

it is prejudicial to the Commonwealth in hinder-

ing Navigation. 1 Inst. 56, 1 Inst. 208. If a Man

has any Nuisance, he shall be account'n for it by the

Pfections, and the neighbourhood Towns that have a common Paffage and Eafement therein,

may be compelled to do the fame. 1 Inst. 113.

F. N. B. 193, 119, 200. It is a common Nuisance indefinable to divide a Houlte in a Town for poor People to in-

habit in, by Reason whereof it will be more dange-

rous in the Time of Sickness and Infestation of the

Plague. 2 Roll. Abr. 150. A common Play house, if

it draws together such Numbers of Coaches and

People as incommodse and disturb the Neighbour-

hood, may be a Nuisance; but these Places are not

naturally Nuisances, but become so by Accident. 2

Roll. Abr. 109, 1 Inst. 208. A prohibitory Writ

was issued out of B. R. against Bawdery and other

Actors, for erecting a New Play-house in Little Lin-

cold's Inn Fields, declaring that it was a Nuisance to the

Neighbourhood; and they not obeying the Writ, an

Attachment was granted against them: But it was

objected that an Attachment could not be issued, and

that the mott proper Method was to proceed by In-

dictment, and then the Jury would consider whether

it were a Nuisance or not; and this was the better

Opinion. 5 Mod. 142, 3 Sp. Abr. 1102. One Half

having begun to build a Booth near Cheering Croft

for Rope dancing, which drew together a great many

People, was, as the Lord Chief Justice was pleased

to order, not to proceed; he proceeded notwithstanding,

affirming that he had the King's Warrant and Pro-

mise to bear him harmless but being required to

give a Recognisance of 50 l. that he would not go

on with the Building, and he refusing, he was

committed, and a Record was made of this Nuisance,

as upon the Judge's own View, and a Writ issued

to the Sheriff of Middlesex to prostrate it 1 Inst.

169, 1 Mod. 56. Erecting a Dove-coe is not a common Nuisance; though 2 Inst. 72 the Law will lie

at the Suit of the Lord of the Manor for erecting

it without his Licence. 1 Inst. 113. It was an-

cienly held, that if a Man erected a Dove-coe, he

was punishable in the Law; but it has since been

adjudged not to be punishable in the Law as a com-

mon Nuisance, but that the Lord for this particular

Nuisance should have an Action on the Caie, an

Affidavit of Nuisance; as he may for building an Houlte

to the Nuisance of his Mill. 5 Rep. 104, 3 Salt. 248.

Neither the King, nor Lord of a Manor, may Li-

ence any Man to make or commit a Nuisance.
NU

1 Roll. Abr. 138. A Brewster erected in such an
inconvenient Place, wherein the Builtines cannot be
conducted with great inconveniency. The Neigh-
bourhood will be prejudiced as a common Nuance. 2
Cm. 29. 1-2. & 3. and in the lake Cave may a Glas-
house. &c. 1 Henok. 199. Where there has been an an-
tic Brewhous Time out of Mind, although in First
ages, &c. this is not any Nuance, because it shall
be supposed to be erected when there were no Build-
"ings near: Though if a Brewhous should be now
built any in the High Streets of London, or tram-
ding Places, it will be a Nuance, and Aktion on the
Cafe lies for whomsoever receives any Damage there-
by; and accordingly in an Aktion brought against a
Brewer in the Caffe, where a Person's Goods were
injured in his Shop, the Jury gave the Plaintiff on
for two Years Damages fifty Pounds. 2 Litt. Abr. 140.
Palm. 355. A Plaintiff was privileged of an House
wherein he dwelled, and the Defendent built a
Brewhous, &c. in which he burnt Coal so near the
House, that by the Stink and Smoke he could not
dwell there without Danger of his Health; and it
was adjudged that the Aktion lay, though a Brew-
hous is necessary, and so is burning Coal in it.
Hutter 135. It is a Person melt Lead so near the
Close of another Person, that it injures his Garden
there, and whereby Cattle are lost: notwithstanding
this is a lawful Trade, and for the Benefit of the
Nation, Aktion lies against him; for he ought to se-
"de his Trade in walk Places, so as no Damage may
happen to the Proprietors of the Land next adjoin-
ing. 2 Roll. Abr. 140. Building a Smith's Forge
near a Man's House, and making a Noise with Ham-
ners, so that he could not sleep, was held a Nu-
ance, for which Aktion lies; although the Smith
pleased that he and his Servants worked at season-
able Hours. 1 Abr. 1. 2. & 3. 1 Blome 5. &c. a Blacksmith, &c.
and used the Trade above twenty Years in that Place,
and let up his Forge in an old Room, &c. For
though a Smith is a necessary Trade, and so is a Lime-
burner, and a Hog Merchant; yet these Trades must
be used not to be injurious to the Neighbours. 1
Lator. 69. But if a Schoolmaster keeps a School so
near the Study of a Lawyer by Professions, that it is a
Dilabrication to him; this is not a Nuance for which
Aktion may be brought. Woolf's Jit. 538. An In-
keeper brought an Aktion on the Caffe against a Per-
son for keeping a Bow and melon slitting
Tallow so near his House that it annoyed his Guets, and his Family became unhealthful; and
adjudged that the Aktion lay. Cres. Cm. 167. So
where a Person kept a Hogsty near a Man's Parlour,
whereby he lost the Benefit of it. 2 Roll. Abr. 140
Yet it's laid to be no Nuance to a Neighbourhood,
for a Butcher, or Chandler, to set up their Trade
and Houses amongst them: But it may be by such
Tradesmen, laying flinting Hens at their Doors;
in other Cases the necessity of the Thing, shall dis-
pense with the Nuissance of it. Psal. 5. 1. B. R. If a Man have a Spout falling down from his
House, and another Person erect any Thing
above it, that the Water cannot fall as it did, but
is forced into the House of the Plaintiff, and not
the Timber; it is a Nuance actionable. 18 E 3.
32. Roll. Abr. 140. And in Trefais for a Nuance,
in causing flinting Water in the Defendant's Yard
to run to the Walls of the Plaintiff's House, and
piercing them so it run into his Cellar, &c. Judg-
ment was given for the Plaintiff. Hardress 60.
An Aktion lies for hindering of the wholesome Air,
and also for corrupting of the Air. 9 Rep. 58. And
none shall cast any Garbage, Dung, or Filth into
Human Waters, or other Places for the benefit of
any City or Town, on Pain of Punishment by the
Lord Chancellor at Discretion, as a Nuance. Stat.
12 E. 1. c. 15. The Continuation of a Nuance is

as it were a new Nuance: Where a Nuance is estab-
lished in the Time of the Devor, and continued after-
wards by the Devor, it is as the new breeding
of such a Nuance. Law. 29. If one hath a Freehold Land adjoining to the High
Way, and he incroch Part of the Way, and lay
Lands to it; and then dying it comes to his Heirs,
if he continues it, though he do nothing else, he
may be indicted for the Continuance of the Nuance.
Roll. Abr. 137. A Man erects a Nuance, and then
lets it; the Continuance by 1. 22. E. 3. 25. If a
Nuance, against whom the Action lies. Cr. Jacc.
373. Man 353. But it is laid in another Case of
this Nature, that admitting the Plaintiff might have an Aktion of Nuance against the Builder, the Defen-
dant, he cannot have an Aktion against his Heirs,
becaus it would be Wallie in him pull it down it;
but the Plaintiff may abate the Nuance standing on
his own Ground: Yet where the Thing done is a
Nuance per intermittent, as a Pipe or Grutter, Ac-
tion lies against the Leefe, because every fresh Run-
ning, is a fresh Nuance; and if a Man have a Way
over the Ground of another, and such other stops
that Way, and then demises the Ground, an Aktion
lies against the Leefe for continuing this Nuance.
1 Blome 351. A Man builds a Leaves with a
Nuance, Aktion lies against him for continuing it,
because the Leafe was transferred by the original
Writ of Writ, and the assignment of the Ground;
and the Continuance beides he has a Rent as Con-
consideration for the Continuance, and therefore he ought
to answer the Damages occasioned by it. 2 Salk.
Db. 2. Cm. 317. A Man erects a Nuance in an
House, &c. to the Prejudice of another, and
then the House is aliened; Aktion of the Cafe lies
against him that levied it, and also against the
Alienee for continuing it. H. 6. 3. 24. If a Fair or Markett be set up to the Nuance of an-
other, the Party grieved may have his Writ or Ac-
91. And no special Nuance need be aligned, when a
Matter appears to the Court to be a Nuance. 9
Rep. 54. A Nuance in a Church-Yard, is properly
of Ecclesiastical Cognizance. Carewth. 145. If a
Man straiten a Way only, and do not stop it up,
Aktion of the Cafe is lieth, not Aktion of Nuance.
33 H. 6. c. 26. But for stopping such Way belonging to a Town, the last will lie, and
where one may have Aktion of Nuance for an Injury
to his Way, there shall not have Action of Tref-
pas. 19 H. 6. 39. 2 Sao. 160. When a Man hath
only a Term of Years in a House or Lands, and
not a Freehold, he shall not have an Aktion of Nu-
ance; but Action upon the Cafe. New Nat. Br.
10. Writs of Nuance, called Phillipt, are to be
made at the Election of the Plaintiff determinable be-
"ore the Judices of either Bench, or the Judges of
Nuance of the County, being in Nature of Aktion, Cr. G.
&c. 3. See Highways.

Form of a Writ of Nuance.

GEORGE the Second, &c. To the Sheriff of S.
Greeting: A. B. hath complained to us, that C. D.
"ounds, &c. hath caused, and set up a Wall, or stopped a
certain Way, or made a Ditch, &c. to the Nuance of
his Freehold in R. And therefore we Command you,
that if the said A. B. shall make you appear, Then do you cause twelve free and lawful Men of the same Venus or
Neighbourhood, to view the Wall, or Way, &c. and
to Testem, and their Names to be impos'd upon; and
Summons be Issued by us, or our Writs by you, to
nuances at, &c. ready to recognize, &c. and on
mon the said C. D. so that he be then there to bear, &c.

Digitized by Google
O

Is an Absurd of Calling; or Interjection of a Sorrow: And the seven Antiphons, or alternate Hymns of seven Verses, &c. sung by the Choir in the Time of Advent was called O, from beginning with such Exclamation. In the Statutes of St. Paul’s Church in London, there is one Chapter De facie O. Liber Sextus. MS. f. 86.

[Oath, (See, Book, Part, Juramentum).] Is an Affirmation or Denial of any Thing, before one or more Persons who have Authority to administer the same, for the Discovery and Advancement of Truth and Right, calling God to Witness, that the Tethyma is true; therefore it is termed Sacramentum, a Holy Band or Tie: And it is called a Corporal Oath, because the Witness, when he swears by his Right hand, upon and toucheth the Holy Evangelion, or Book of the New Testament, &c. It is a Thing, in which the Person is charged with any Matter by Bill in Chancery; &c. Juramentum praejudiciale, where any one is produced as a Witness, to prove or disprove a Thing: And Juramentum triunum, where any Persons are sworn to an Issue, &c. 3 Nili. 1881. All Oaths must be lawful, allowed by the Common Law, or some Statute; if they are administered by Persons in a private Capacity, or not duly authorized, they are Coram non Jure, and void; and those administering them guilty of Oath. A High Leaseman, for doing it without Warrant of Law, and punishable by Fine and Impri sonment, 3 Stat. 715: 4 Stat. 278. 2 Roll. Abr. 327. One that was not liable on the Behalf of a Plan, or Person indicted of Treason, or other Capital Offence, upon an Indictment at the King’s Suit, could not formerly be examined upon his Oath for the Prisoner against the King, though it might be examined without giving him his Oath; But by a late Statute, Witnesses on the Behalf of the Prisoner upon Indictments, must be sworn to depose the Truth in such Manner as Witnesses for the King: and if convicted of wilful Perjury, shall suffer the Punish ment indicted for such Offences. 1 Ann. c. 9. And the Evidence for the Defendant in an Appeal, whether Capital or not, or on Indictment or Information for a Misdemeanor, was to be upon Oath before this Statute. 2 Savd. P. C. 434. A Person that is to be a Witness in a Cause may have two Oaths given him, one to speak the Truth to such Things as the Court shall ask him concerning himself, or other Things. 2 Pet. 3, 1. Evidence in the Cause; and the other to give Tethyma in the Cause in which he is produced as a Witness: The former is called the Oath upon a Peyer or. Pau. 25 Car. B. R. If Oath be made against Oath in a Cause, it is a New Form to the Court which Oath is true; and if such Oath the Court will take that Oath to be true, which is to affirm a Verdict, Judgment, &c. as it tends to the Issue, 2 Pet. 3, 1. And the Court will rather believe the Oath of the Plaintiff than the Oath of the Defendant, if there be Oath against Oath; because it is supposed that the Plaintiff hath Wrong done him, and he is forced to fly to the Law to obtain his Right. Ibid. A voluntary Oath, by the Consent and Agreement of the Parties, is lawful as well as a compulsory Oath.

and in such Case, if it is to do a Spiritual Thing, and the Party fail, he is liable in the Ecclesiastical Court, yet before that, &c. and if he do a Truth, and fail therein, he may be punished in B. R. Adjudged on Affirmation, if the Defendant would make Oath before such a Person, the Plaintiff promised, Cos. Civ. Cas. 406. 3 Stat. 715. By the Common Law, Officers of Justice are bound to take an Oath for the due Execution of Justice. 2 Trin. 2 Car. 1. B. R. Though the Promise of Officers be broken, they are not punished as Perjuries, like unto the Breach of Affirmatory Oaths, but their Offences ought to be punished with a severe Fine, &c. 2 Wood’s Inst. 427. An Except of the End of a legal Oath, was added, No harm God at his holy Done, i.e. Judgment; and our Ancestors did believe, that a Man could not be so wicked as to call God to witness any Thing which was not true, but that if any one should be proscribed, he must continually expect that God would be the Revenger: And hence probably the Injunctions of Criminals, in their own Oaths, and for great Offences by the Oaths of others, were allowed. Malmb. lib. 2. c. 6. Leg. H. I. c. 64.

Oaths in the Government. By Magna Charta, the Oaths of the King, the Bishops, the King’s Councilors, Sheriffs, Mayors, Bailiffs, &c. were appointed, 3 Edw. 3. The Oaths of the Judges of both Benches; and of the Clerk in Chancery and the Curator, were ordained by 18 Edw. 3. Ecclesiastical Persons are required to take the Oaths of Supremacy, &c. And Clergymen not taking the Oath, on their Refusal being certified into B. R. &c. incur a Pecuniary. 1 Eliz. cap. 1. Officers and Ecclesiastical Persons, Members of Parliament, Lawyers, &c. are to take the Oath of Allegiance, or be liable to Penalty and disabilities. 7 Jac. I. c. 6. Persons shall take the Oath, and receive the Sacrament, to qualify them to bear any Office of Magnificence in Corporations. 15 Eliz. c. 2. &c. And Officers, &c. are disqualified by Law to bear any Office in the Militia are required to take the Oaths by 15 Car. 2. c. 6. All Persons that bear any Office, Civil or Military, or receive any Salary, &c. from the King, are to take the Oaths of Allegiance and Supremacy; and Persons refusing are disabled, &c. 25 Car. 2. c. 6. By the 1 W. of M. Suff. 1. c. 6. The Coronation Oath was altered and regulated; and the Oaths of Allegiance and Supremacy abrogated, and others appointed to be taken and enforced, on Pain of Disability, &c. by 1 W. of M. 8. c. 1, and 8 W. 15. c. 27. All that bear Offices in the Government, Peers and Members of the House of Commons, Ecclesiastical Persons, Members of Colleges, School masters, Preachers, Sergeants at Law, Counselors, Attornies, Solicitors, Advocates, Proctors, &c. are enjoined to take the Oaths of Allegiance, Supremacy and Abjuration; and Persons neglecting or refusing, are declared incapable to execute their Offices and Employments, disabled to sit in Law or Equity, to be Guardian, Executor, &c. or to receive any Legacy or Deed of Gift, to be in any Office, &c. and to forfeit 300l. This extends not to Commissaries, and other Parish Officers, nor to Bailiffs of Manor, &c. 13 W. 3. c. 6. The Stat. 1 Ann. c. 22. obliges the receiving the Abjuration Oath, with Alterations: And by 4 Ann. c. 8. the Oath of Abjuration is settled after the Death of Queen Anne, without Issue. Also the Oath of Abjuration, with further Alterations relating to the Protestant Succession, is required 17 W. 3. to be taken by the 1 Geo. I. c. 13. And by a late Statute, all Persons whatsoever are to take the Oaths to the Government, or resign their Offices, upon Pain of Forfeiture, &c. 9 Geo. I. c. 24. See Pol. &c. Persons maintaining an Oath to be unlawful, are punishable by Fine and Impri sonment, &c. Stat. 15 & 16 Car. 2. Two Judices of Peace have Power.
to tender the Oaths to suspected Person; and if they refuse them, it is to be certified to the next Quarter-Sessions, and from thence into B. R. and the Officer shall be adjudged Papist Recusant Convict, and forfeit Lands, Goods, &c. But it hath been held that a Person cannot be said to refuse the Oaths unless they are read or offered to be read to him. Oaths must be taken in the very Words expressed in the Act, and cannot be qualified yet using the Words in Confiscate, instead of my Confiscate, or Sea of Rome, instead of Sea of Rome, is not material. 1 B. N. 197.

Form of the Oaths of Allegiance and Supremacy.

I A. B. do sincerely profess and swear, that I will be Faithful, and bear true Allegiance to his Majesty King George.

So help me God.

And I do swear, that I do from my Heart abhor, detest, and abjure, as impious and heretical, that damnable Doctrine and Pposition, that Princes excommunicated or deprived by the Pope, or by Authority of the See of Rome, may be denied or murdered by their Subjects, or any person, or whatsoever: And I do declare, that no Foreign Prince, Person, Prelate, State or Patronate, hath or ought to have any Jurisdiction, Power, Supremacy, Preeminence or Authority, Ecclesiastical or Temporal, within this Realm.

So help me God.

Form of the Oath of Abjuration required by Law.

I A. B. do truly and sincerely acknowledge, profess, testify and declare in my Conference, before God and the World, that our Sovereign Lord King George, is lawful and rightful King of this Realm, and all other the Dominions and Countries thereunto belonging. And I do solemnly and sincerely declare, that I do believe in the Conference, that the Person pretended to be Prince of Wales, during the Life of the late King James I. and face his Decrees pretending to be, and taking upon himself the Style and Title of King of England, by the Name of James II., or of Scotland, by the Name of James III. or the Style and Title of King of Great Britain, hath not any Right or Title whatsoever to the Crown of this Realm, or any other the Dominions thereunto belonging. And I will do my utmost Endeavours to prevent or make known to his Majesty and his Subjects, all Treasons and Traitors Conspiracies which shall be made against his Person, Crown or Dignity. And I will do my utmost Endeavours to prevent or make known to his Majesty and his Subjects, all Treasons and Traitors Conspiracies which I shall know to be against him or any of them. And I do faithfully promise, to the utmost of my Power to support, maintain and defend the Succession of the Crown against him the said James, and all other Person whatsoever; which Succession by an Act entitled, An Act for the further Limitation of the Crown, and better Securing the Rights and Liberties of the Subject, is in and limited to the late Prince Sophia, Electress, and Duchess Dowager of Hanover, and the Body of the Brown, being Protestant. And all other things I do plainly and sincerely acknowledge and swear, according to the express Words by me spoken, and according to the plain and common Sense and Understanding of this People; without any Spiritual, mental Excommunication, or secret Reformation whatsoever. And I do make this Recognition, Acknowledgment, Abjuration, and

Renunciation, and Promise, heartily, willingly and truly, upon the true Faith of a Christian.

So help me God.

Oatmeal, The Selling of corrupt Oatmeal, is punishable by Statute, which shall be forfeited for the second Officer, &c. See 51 E. 1. Pult. Kalendar. Stat. 525.

Obdeintia, In the Canus Law is used for an Office, or the Administration of it, Wherupon the Word Obdeintia, in the Provincial Constitutions, is taken for Officers under their Superiors. Can. Law, cap. 1. And as some of these Officers consisted in the Collection of Rent or Parochial, Rents were called Obdeintia; Stein coolegbawter ad Obdeintialoa. But though Obdeintia was a Rent, as appears by Hevedes, in a general Acceptation of this Word it extended to whatever was enjoined the Monks by the Abbots: and in a more restrained Sense to the Cells or Farms which belonged to the Abbey to which the Monks were sent, F 5 ysidem obdeintia, either to look after the Farms, or to collect the Rents, &c. Where Prohemes e Reduetia quos Obdeintias vocant ad firmam tenorean. Matt. Parf. Ann. 1213.

Obit, (Lat.) Signifies a Funeral Solemnity or Office for the Dead, most commonly performed when the Corpse lies in the Church uninterred: Alfo the Anniversary Office. 2 Cr. 21. Dy. 513. The Anniversary of any Person's Death was called the Obit, and to observe such Day with Prayers and Alms, or other Commemoration, was the Keeping of the Obit: And in Religious Houses they had a Regifter, wherein they entered the Obit or Annual Days of their Founders and Benefactors, which was thence termed the Obitsuary. The Tenure of Obit or Chanery Lords is taken away and extind, by the Stat. 1 Ed. 6. c. 14. and 15 Ed. 2. c. 19.


Obidity, Gifts or Offerings made to the King by any of his Subjects, which in the Reigns of King John and Hen. 3. were so carefully tended, that they were entered into the Fine Roll under the Title of Oblation; and if not paid, clereed a Duty, and put in Charge to the Sheriff. Philius of Parvistry. In the Exchequer it signifies old Debts, brought as it were together from precedent Years, and put on the present Sheriff's Charge. Prad. Exch. 78.

Objections, (Obliqutes) Are thus defined in the Canus Law: Discantur, quaecumque à his falsis Fabuliphrum Christianis offerentes Deus & Ecclesia, jure se facie facere mobiles sunt. Specim. de Concil. Tom. 1. p. 313. The Word is often mentioned in our Law Books, and formerly there were several Sorts of Objections, viz. Obliqutes Alterius, which the Priet had for laying Malice; Obliqutes Defensionis, which were given by the Lai Wills and Testaments of Persons dying to the Church; Obliqutes Mortuorum, or Funerale, given at Burials; Obliqutes Parviterum, which were given by Parson's penes; and Obliqutes Postecutori. &c. The Chief or Principal Feasts for the Obliqutes of the Alter, were All Saints, Christmas, Conditiones and Easter, which were called Obliqutes puerum principis; and of the Canonical Offerings from the Parishioners to the Parish priest, solemnly laid on the Alter, the Mal or Sacrarnent Offerings were usually Three pieces at Christmas, Two pieces at Easter, and a Penny at the other principal Feasts: Under this Title Obliqutes were comprehended all the accustomed Does for Sacramentals or Christian Offices: and the usual Custom was, when they were giving Mal sail and other Prayers for the Deceased, Kristen's Gigf. Obliqutes funerale were often the best Horse of the Deceased, delivered.
delivered at the Church-Gate or Grave to the Priest of the Parish; to which old custom we owe the Office of the Burial, &c. And at the Burial of the Dead, it was usual for the living friends to offer liberally at the Altar for the souls of the Dead, and for the good Estate of the Soul deceased, being called the Gift. It is true this Usage still prevails, where the Rails of the Communion Table in Churches, is a Tablet conveniently fixed, to receive the Money offered at Funerals, according to the Quality of the Deceased which has been placed at the Disposal of the Church and is said to be included in the Act 8 & 9 W. 3. for Recovery of small Tithes under 40l. by the Determination of Jutileks of Peace, &c. Const. Parch. Compl. 157. 178.

Objection (Objection) is a Bond, containing a Penalty, with a Condition annexed for Payment of Money, Performance of Covenants, or the like; and it differs from a Bill, which is generally without a Penalty. Objections have, though a Bill may be a Penalty on the Statutes, is plain, where at the Rails of the Communion Table in Churches, is a Tablet conveniently fixed, to receive the Money offered at Funerals, according to the Quality of the Deceased which has been placed at the Disposal of the Church and is said to be included in the Act 8 & 9 W. 3. for Recovery of small Tithes under 40l. by the Determination of Jutileks of Peace, &c. Const. Parch. Compl. 157. 178.

Objection (Objection) is a Bond, containing a Penalty, with a Condition annexed for Payment of Money, Performance of Covenants, or the like; and it differs from a Bill, which is generally without a Penalty. Objections have, though a Bill may be a Penalty on the Statutes, is plain, where at the Rails of the Communion Table in Churches, is a Tablet conveniently fixed, to receive the Money offered at Funerals, according to the Quality of the Deceased which has been placed at the Disposal of the Church and is said to be included in the Act 8 & 9 W. 3. for Recovery of small Tithes under 40l. by the Determination of Jutileks of Peace, &c. Const. Parch. Compl. 157. 178.

Objection (Objection) is a Bond, containing a Penalty, with a Condition annexed for Payment of Money, Performance of Covenants, or the like; and it differs from a Bill, which is generally without a Penalty. Objections have, though a Bill may be a Penalty on the Statutes, is plain, where at the Rails of the Communion Table in Churches, is a Tablet conveniently fixed, to receive the Money offered at Funerals, according to the Quality of the Deceased which has been placed at the Disposal of the Church and is said to be included in the Act 8 & 9 W. 3. for Recovery of small Tithes under 40l. by the Determination of Jutileks of Peace, &c. Const. Parch. Compl. 157. 178.

Objection (Objection) is a Bond, containing a Penalty, with a Condition annexed for Payment of Money, Performance of Covenants, or the like; and it differs from a Bill, which is generally without a Penalty. Objections have, though a Bill may be a Penalty on the Statutes, is plain, where at the Rails of the Communion Table in Churches, is a Tablet conveniently fixed, to receive the Money offered at Funerals, according to the Quality of the Deceased which has been placed at the Disposal of the Church and is said to be included in the Act 8 & 9 W. 3. for Recovery of small Tithes under 40l. by the Determination of Jutileks of Peace, &c. Const. Parch. Compl. 157. 178.
OF

OF

con: or only upon Malice and Ill will: And if upon the Inquisition it was found that he was Not guilty, then there is nothing worth to the Sheriff to bail him. Reg. Or q. 135. Br. 3d. 3. cap. 20. Stat. 3 Ed. 1. cap. 11. But now that Court is taken away, by the Stat. 36 Ed. 3. c. 9. 3. P. C. 77. 2 Inf. 42. 9. 1477. 506.


Diften, (Delictum) Is an Act committed against a Law, or omitted where the Law requires it, and punifiable by it. Wofin. Symb. And all Offences are Caputial, or not so; Capital, those for which the Offen: der shall lose his Life: and not Capital, where an Offender may forfeit his Lands and Goods, be fined or suffer corporal Punishment, or both; but not Loss of Life. H. P. C. 2. 105. 134. Capital Offences are comprehended under High Treacon, Petit Treacon, and Felony: Offences not Capital include the remaining Part of the Plans of the Crown, and come under the Title of Misdemeanors. An Offence may be greater or less, according to the Place wherein it is done. P. 97. But the Offence will be in equal Degree in them, who are equally tainted with it; and those that Act and Content thereto, are alike Offenders. 5 Rep. 86. Some Offences are by the Common Law; but most of them are by Statutes.

Officings. Are reckoned among Personal Tithes, payable by Custum to the Parson or Vicar of the Par:ish, on such occasions, as as Marriages, Marrages, Christianings, Churchings of Women, Burials, &c. or at certain Times, as at Easter, Chriftmas, &c. Count. Pag. Compan. 137. Stat. 2 & 3 Ed. 6. Vide Obligations.

Ofifings of the King. All Offenings made at the Holy Altar by the King and Queen, are distrib: uted amongst the Poor by the Dean of the Chapel: And there are twelve Days in the Year, called Ofifings Days, as to these Offenings, viz. Christmas, Easter, Whitsunday, All Saints, New Year's Day, Trinitas Sunday, Trinity Glen, Trinity Day, Easter Sunday, St. John Baptist, and Michaelmas Day: All which are great Festivals. Lex Confination. 184. The Offering commonly made by the King James I. was a Piece of Gold, having on one Side the Portrait of the King kneeling before the Altar, with four Crowns before him, and circumcised with this Motto, Reid retrahum Domine post humidas quo tribut mifer? And on the other Side, a Lamb lying near a Lyon, with this Inscription, Cor contrarium & humilissimam sum defignans Deos. Vide.

Ofrifriers, Is used for a Piece of Silk, or fine Linen, to receive and wrap up the Offenings or occasional Obligations in the Church. Statut. Excis. S. Paul, London, MS. 159. —- Offenings officiis Sodomaeos fci: riscum, ex Linen, in quo fulminem Obligatione re: penanante.—-Sometimes this Word signifies the Ofifings of the Faithful; or the Place where they are made or kept: And sometimes the Singing as the Time of the Sacrifice, &c.

Office. (Officina) Is a Function, by Virtue where: of a Man hath some Employment in the Affairs of another. A. J. & F., and he accordingly for his own or any other Person. And an Officer, is he that is in Office, who is so em: ployed. The King in a general Sense, is the Chief and Supreme Officer, for the Government of the King: dom: And Officers under him are distinguished into Ecclesiastical, for Church Affairs; Civil, concerning Matters of Justice; and Military, belonging to the Army, &c. All Officers are Judicial, as those who fit as Judges in the Courts at Westminster, and other Courts; or Ministerial, the greater Part whereof attend upon the Queen, and are successively to advise or execute what they have determined. 2 Skip. Ab. 457. 498. And there are Officers of Courts of Cnues and Corporate Towns; and of Hundred, Ma: rs, and Parishes; in one whom hold their Offices for one Year only, others during Pleasure, and some during Life. Ibid. 509. There is an Office in Fee, which a Man hath to him and his Heirs. And Of: fices may be granted in Fee simple, Fee tail, for Life, Years, &c. But Offices which concern the Admini: stration of Justice, cannot be granted for Years, to go to Executors, 9 Rep. 97. Every Subject is capable of an Office generally by Grant; but if an Office that concerns the Administration or Execution of Justice, &c. be granted to one who is not skilful to execute it, the Grant is void. Ibid. 605. And no Man, though never so skilful, is capable of a ju: dicial Office in Reversion; for notwithstanding a Per: son may be of Ability to execute the Place at the Time of the Grant of the Reversion, yet before the Office fails, he may become unable and insufficient to perform it: but ministerial Offices may be granted in Reversion, or for Life, &c. as the Office of Marshal of England, Chamberlain of the Exchequer, Warden of the Fleet, &c. 1 Inf. 3. 11 Rep. 4. 2 Kist. Ab. 261. Offices of the King's Courts are to be in the King's Name, or in Ministers under them, for whom they will answer shall be faithful, and such as are sufficient, and attending the Performance of their respective duties.

12 Rep. 109. 2 Kist. Ab. 2 cap. 2. it is enacted, That no Officer or Minis: ter of the King shall be ordained or made for any Gift, Favour or Affection: nor shall any be put into Office (laid (said) Guard) Cate) worthy to be writ in Letters of Gold, but more worthy to be put in Execution: For certainly Justice will never be duly administered, but when the Officers and Ministers of Justice are of such Quality, and come to their Places in such Manner as by this Law is required. Ca. Cent. And by the Stat. 9 & 5 Ed. 6. 16. if any Officer touching the Administra: tion of Justice, or concerning the King's Treasuries, &c. shall bargain or sell any of the said Offices, or take any Money, Profit, Reward, &c. for the same, they shall be liable to prosecution, and every Person so buying, giving or affuring, shall be adjudged disabled to hold the said Name, and all Conunds shall be void against the two Chief Ju: dices, or Judges of Affine, may grant Offices as be: fore this Act. And if an Office described by the Sta: tute has a Salary annexed to it, a Deputation thereof referring a less Sum than the Standing Salary, will not be within the Statute; so referring a Sum out of the Fees, &c. as to making Bonds and Securities void. Mod. Cap. 235. The Statutes 14 R. 2. & 15 H. 4. ordains, that Officers of the Customs shall not have any such Office for Term of Life, only during the King's Pleasure; and they shall be resident on their Offices in their proper Persons. An Officer of the Revenue withdrawing himself from the Execution of his Office, to the Intent a Grant or Deputation might be made to another, on certain Terms. Vide Shew. 154. Sir Robert Ferme Coffier in the King of King James I. for a certain Sum of Money, did bargain and sell his Place to Sir A. J. and agreed to surrender the same to the King, so the Intent a Grant might be made to another; and it was accordingly done, and thereupon Sir A. was by the King's Appointment admitted and sworn Coffier; and yet it was adjudged by the Lord Chancellor Egerton and other Judges, that the said Office was void; whereupon Sir A. J. was removed, and another sworn in his Place. Ca. Litt. 234. Queen Elizabeth granted the Office of Exchequer of London to one, when there was no Lord Chief
OF

Chief Justice of the Common Pleas; and it was held that the Grant was void, because the Office was incident to that of Chief Justice, &c. Dyer 257. 4 Rep. 33. Where an Affe has been brought on the King's granting of any Grant of Office, see More. 21. 4 Rep. 33. The King may not grant an Office to the Prejudice of the Freethink of others in their Offices, which is contrary to Law, and the Judges in such a Case referred to admit an Office, though commanded to do it by Sign Manual 1 and 15. A Person who was Remembrancer of the Exchequer, and held that Office by Patent for Life, was made a Baron of that Court; adjudged that the Office of Remembrancer was thereby made void and determined, because a Man cannot be Judge and Minister in one and the same Court. Dyer 138. Several Offices were never admitted to be held by one Man: And no new Office can be erected with new Fees, or old Office established with new Fees, without an Act of Parliament; as the Fees amount to a Taxation upon the Subject, which may not be charged but by Parliament. 1 Inf. 453. 12 Rep. 117. Ancient Offices are to be granted in such Manner as they are used to, unless an Alteration is made by Act of Parliament: If an Office be created, he hath no greater Authority than the Statute gives him; he cannot prescribe as an Officer at Common Law. Dyer 267. 1 Rep. 4. If a Person or Man prescribes to an Office, the Acts of the Office are void; but if it be inColour of Election, &c. his Acts shall be binding, though he is only an Officer de facto for all ministerial and judicial Acts done by an Officer de facto are good. 1 Lutw. 598. Offices of Trust must be personally executed, except granted to be executed by Deputy; and Offices of personal Trust cannot be assigned. Fowl. 518. There shall be no Survivorship of an Office of Trust, if it be not granted to two Persons, &c. and the Survivor. 1 Mod. 260. Where an Office of Trust is granted to two for their Lives, by the Death of one of the Grant is void: But if it were & versum dominum viventem, the Survivor shall hold, to whom another may be added. 1 Rep. 3. 4. A Man having an Office granted him, to enjoy so long as he behaves well, Quamvis in bono offere, shall have an Estate in it for Life. Show. 521. 521. 4 Mod. 167. An Estate in the Crown beneficetis, is in the Will of the King only; and may be surrendered, forfeited, &c. 2 Shall. 465. Publick Officers by Patent, cannot be removed at Pleasure; nor may any Office be thus reduced, where he hath other Fees and Profits belonging to his Office, besides a collateral certain Fee. But private Officers by Grant may be turned out, and may be made or taken for Life, &c. where he hath no other Profits but a collateral certain Fee; as a Bailiff, Receiver, Auditor, &c. yet it is laid he must have his Fee. 1 Inf. 213. Litt. 378. 10 Rep. 50. 3 Cr. 59. 60. Non servir publick Office, which concern the Commonwealth, is a Cause of Forfeiture: Though Non-servir of it self, without some special Damage, is no Forfeiture of a private Office; and the same may be laid of a Refusal to execute the Office upon Request. 9 Rep. 50. 1 Inf. 235. For Mil Iuer an Office is liable to be forfeited; as if a Soldier, in the Service, burns the Countrys; this takes a Bribe, &c. Wood's Inf. 204. And where a Condition in Law requires Skill and Confidence in Cases of Offices, which defend to an Infant or Feme covert; if they do not observe it, they forfeit their Interest: But if an Infant or Feme covert break a Condition in Law, that requires no Skill or Confidence, there is no absolute Forfeiture. 1 Inf. 213. 9 Rep. 44. Officers connected with a particular Administration of Justice, as Sheriffs, Coroner, Gaolers, Keepers of Houses of Correction, Convents, &c. neglecting any Part of their Duties, may be fined and imprisoned. Wood 441. All Officers Civil and Military are to take the Oath, and receive the Sacrament, &c. upon Pain of Disability, and other Penalties. Stat. 25 Geo. 2. c. 5. And no such Office shall be void on the Death of the King, but shall continue six Months; unless superseded, or made void by the next Successor. 1 Ann. 8. Persons that have forfeited any Office to which another is preferred, shall not be restored to the same. Stat. 1 Ann. c. 3. Officers, &c. having neglected to take the Oaths, allowed further Time to do it, &c. 6 Geo. 2. c. 7. 1. But all Persons who shall hereafter be admitted into any Office, shall take the Oaths, &c. within six Months, or be actually liable to all Penalties and Disabilities, by Stat. 25 Geo. 2. c. 16. and 16 Geo. 2. c. 30.

OFFICE OF THE GOVERNMENT. The Parliament in former Times had a Right in nominating, placing, and displacing the Great Officers of the Kingdom, when they-corrupted or misused the Kings, of which many Infliances may be given. Pras.

OFERT, is, where an Inquisition is made to the King's Life of any Thing by Virtue of his Office who inquires, and it is found by the Inquisition. In this Signification it is used in the Stat. 33 H. 8. cap. 20. and Stannard's Proverb. pag. 60. where to instantly an Office, is to travel to return an Office, or to answer an Inquisition of an Office: And to return an Office, is to find which is found by Virtue of the Office. Kin. 177. There are two Kinds of Offices filled out of the Exchequer, one by Commission, and one by Letters Patent to enable the King, in the Thing inquired of; and an Office in Inquisition. 6 Rep. 52. The Office of Inquisition, doth well the Estate and Possession of the Land, &c. in the King, who had therein before only a Right or Title; as where an Alien purchases Lands, a Peron is a grant of Felony, or the like: And the other Office, is where Land is sold and settled before the King, but the Particularity thereof does not appear upon Record. 4 Rep. 58. Plant. 489. And the Effect of this Office is, that the King from the Time of the Finding, shall be adverted the Profits without any Entry, &c. 3 Rep. 52. 10 Rep. 115. If any Office be wrongly found; those who are grieved, may be relieved by a Treason, or Monopoly de Dextra, by Petition or Petition: For every Office is in Nature of a Declaration, to which any Man may plead, and either deny or confess, &c. Plant. 447. 1 Rep. 506. Where Offices are found before the Ecclesiastics, they must be delivered by Indemnity under the Hands and Seals of the Jurors. Dyer 170. The King by the Common Law is not in Possession of Lands, forfeited for Treason, during the Life of the Offender, without an Office found: But the Lands, whereof a Person attainted of High Treason dies feiled of an Estate in Fee, are actually vested in the King, without any Office; because they cannot defend, the Blood being corrupted, and the Freehold shall not be in Abeyance. 2 Henn. P. C. 448. Vide Stat. 33 H. 8. c. 20. There may be an Office, and Sive fuitis, and Seizure on such Office, &c. See Inquisition.


OFICIAL, (Oficialis.) By the ancient Civil Laws, signifies him that is the Minion, or Attendant upon a Magistrate. In the Canon Law, it is he to whom any Bishop does generally commit the Charge of his Spiritual Jurisdiction; and in this Sense there is one in every Diocese called the Officialis Prinicipal. whom the Laws and Statutes of this Kingdom, call Chancellor; and the Reif, if there are more, Are by the Cassuarius, or Officialis, or Commisarius. In our Statutes, the Word "official" is used properly him whom the Archbishops subscribe for the Executing
OP

Executing his Jurisdiction, as appears by the Stat. 31 Hen. 8. cap. 15. The Archbishop hath an Offi- 
cial, or Church Lawyer to assist him, and who is 
judge of the Archbishop's Court. Wood's Eng. 50, 
591.

Officieris non facientes bel amobendas, Is a 
Write directed to the Magistrates of a Corporation, 
requiring them not to make such a Man an Officer, or 
to put one out of the Office he hath, until Inquiry is 
made of his Mansions, &c. Reg. Orig. 156.

Officium curtiti Banquum, Granted to Wil- 
liam Offon, Anno 2 Edw. 2. Extraf. Fin. Cancell.

Officer, The Lord Mayor of London, and the Muller 
and Wardens of the Tallow Chandlers Company, are 
to search all Oils brought to London; and if any is 
disreputably mix'd, they may throw it away, and puni 
the Offenders; And Head Officers in Corporations 
have like Power. Stat. 5 H. 5. c. 14.

Old Jury, (Perso Judicium) The Place or Street 
where the Jews live in London; See Jews.

Olden Laws, (Ullaneus Legi) Are the Laws of 
King Rich. I. relating to Maritime Affairs, so 
called, because made by him when he was at Olbia; 
which is an Island lying at the Bay of Aegina, at 
the Mouth of the River Charent, and now belongs 
to the French King. Code Lit. 250. These Laws are 
recorded in the Black Book of the Admiralty, and 
are esteemed as the most excellent of all the Sea 
Laws in the World. See Selden's Mare Clausum, 
222. 554.

Olympiea, (Olympia) An Account of Time a-
mong the Greeks, consisting of five complex Years, 
(or according to some a Space of four Years) having 
its Name from the Olympic Games, which were kept 
every fifth Year, in Honour of Jupiter Olympia, 
near the City of Olympia; when they entered the 
Names of the Conquerors on public Records: The 
first Olympiad fell in the Year of the World 374.

Olympus, (The Lion) the Lord of English Saxons, computed his 
Reign by Olympiads. Spelin.

Omon, A Measure made Use of by the Jews, 

Omnium, Are placed among Crimes and Of-
fences; and Omnium to hold a Court Leet, or not 
fearing Officers therein, &c. are Causes of Forfei-
ture, a Hare P. C. 73. Omnium in Law Proceed-
ings, render them vicious and defective; as want of 
Warrants of Attorney entitle, &c. 1 Kib. 222, 204.

Vide Nofasporta.

Omnium, See. Sax. Ox (sumus) Signifies as much as 
accused. Acusatus. Leg. Roffred. c. 29.

Omnium poata posito in, Is a Writ that, 
lies for a joynement, or Tenants in Common, who is 
distrained for more Rent than his Proposition of the 
Land comes to. Reg. Orig. 182.

O. N. It is the Course of the Exchazer, that 
as soon as the Steer's miers into and makes up his 
Account for Mies, Annuemeates, and mens Prodes, 
to mark upon each Head, O. N. which denotes Gere-
vor, sign behalf sufficient Evacuation, and pre-
fently he becomes the King's Debtor, and a Debt is 
fet upon his Head; whereas the Parties para orke 
become Debtors to the Sheriff, and are discharged 
against the King, &c. 4 Ind. 116.

OmniaEpiscopalia, Were customary Payments 
from the Clergy to the Diocesan Bishop, of Synodals, 
Primateoffs, &c. See Episcopalis.

Obsequium, The Charge or Burden, of impos- 
ing Merchandize, mentioned in the Stat. 12, 
Cor. 2.

Obó, i. e. The Burden of Proving.

Open Lix, (Lex Mancipia) Is the Making of 
Laws; which Biliffs may not put Men to, upon their 
own Affirmation, except they have Wendi, to prove 
the Truth of it. Mason. Cant. 27, 44.

Open Theft, (Sax. Openbeef) Is a Theft that is 
manifested to the Public.

Open-Loke, i. e. When Corn is carried out of 
the Common Fields. Brit.

Operti, Were such Tenants who had some little 
Portion of Land under the Duty of performing many 
body Labour, and servile Works for their Lord, 
being no other than the Seruus and Servindami: They 
are mentioned in several ancient Saxons of Masters.

Opertura, One Day's Work performed by a Ten-
ant to his Lord. Parch. Anst. 320.

Oppellor, An Officer belonging to the Green Wax 
in the Parish were not, they petitioned the King that 
he would require the Bishops and Clergy to pray for 
the Peace and good Government of the Realm, and 
for a Convocation of the good Understanding be-
tween them and their Subjects, the Estates of the Kingdom; 
and accordingly the Writ De Orando pro Regis & 
Regno was illit, which was common in the Time of 

Orchard, People robbing orchards are to make 
such Reparation for Damage as a Justice shall 
award, and forfeit not exceeding 10. or be sent to the House of Correction, &c. 43 Edw. 3. c. 7.

Orchestr, A Sort of Cork or rather Stone 
like Ailum, which Dyes life in their Colours. Sent. 
1 R. 3. cap. 8. 24 H. 8. c. 5 & 5 Edw. 6. c. 2.

Orris, or Orichalch, (From the Sax. Ores, i. e. Metalum, & Orich, effuder) Is used in old Chars-
ters or Privileges, being taken for a Liberty, whereas 
by a Man claims the Ores found in his own Ground; 
and also Lord, as a Title of Coat is that which lies 
in Veins under Ground, before it is digged up.

Orichalch, (Orichalum) A Saxon Word composed 
of Or, Magnanum, & Dole Judicium, that is a great 
Judgement, was a Form of Trial, for discovering 
Innocence or Guilt; and was used for A Kind of Par-
gamor, practised in ancient Times, in the Canons Law 
called Peregrinus magistratus, whereby the Party pursued 
was judged exspecta Clementia, or Not guilty. Leg. Baw. 
Congiy. cap. 9. Anciendy, when an Offender being 
arranged pleaded Not guilty, he might choose whe-
ther he would put himself for Trial upon God and 
the Country, by twelve Men, as at this Day, or up-
on God only; and then it was called the Judgment of 
God, which was that he would deliver the pers- 
cent. Term. de Ley 469. 9 Reg. 52. This Trial was 
two Ways, one by Water, and another by Fire: The 
Water Ought to be performed either in hot or cold: 
so, cold Water to the Eastern Sunshaded were adjacent.
Innocent, if their Bodies were not born up by the Water contrary to the Court of Necessity; in hot Water, they were to put their bare Arms or Legs into fadding Water, which if they brought out with out scars, they were to be innocent of the Crime. They that were tried by the Fire Ordal, palled bare footed and blind fold over nine hot glowing Plow-hares; or were to carry burning Irons in their Hands, usually of one Pound Weight, which was called Single Ordal; or of two Pounds, which was duplex; or of three Pounds Weight, which was triplex Ordalum; and accordingly as they escaped, they were judged innocent or innocent, acquitted or condemned: This Fire Ordal, was for Freemens, and Perfons of better Condition; and the Water Ordal for Bondmen and Rabbleks. Gloire, Lib. 4. c. 1. And the horrible Trial by Fire Ordal, in the first Degree, Queen Emma, Mother of Edward the Confessor, underwent on a Suggestion of her Chastity: At an Examen of his second Kind is mentioned in our Books of a Company of Perfons suspected to be Stealers of King's Deer, in the Reign of King Will. 2. who, having carried burning Irons without Injury, on its being reported to the King, he received it with a remarkable Indignation; and replied.

Quick off id? Drem of jufmen Yudes: Persex qui de inspx bre credatrin.

The Statute, besides the Trial by Combat, common ly used their Fire and Water Ordals; but this Ordalum Law was condemned by Pope Stephen 2. and afterwards was totally abhorr'd by Parliament, so as to be no Trials but by Jury. Rot. Pat. Anne 3 Hen. 5.

Defnrs, Are of several Sorts, and by divers Courts; as of the Chancery, King's Bench &c. Or dels of the Court of Chancery, either of Courfe or otherwise, are obtained on the Petition or Motion of one of the Parties in a Cause, or of some other interested in or affected by it; and they are sometimes made upon Hearings, and sometimes by Consent of Parties. Praet. Stalk. 25. They are to be pronounced in open Court, and drawn up by the Regifter from his Notes; and if there be any Difficulty in adjusting the Notes, a Summons is given by the Regifter for the Clerk or Solicitor of the other Side to attend, whereupon they are sented, or the Court is applied to, if it cannot be otherwise done: And before the Orders are entered and palled by the Regifter, the other Side hath four Days allowed to object against them, for which Purpose Copies are delivered; and when they are perfected, they are to be fixed on the Partier, or the Clerk or Solicitor employed by them. Ibid. If an Order is of Courfe, the Solicitor usually draws up the Notes or Minutes, and gives them to the Regifter's Clerk, to draw up the Order from; and when the Order is drawn up, it is to be enbarged by the Entering Clerk, which must be within Eight Days from the Pronouncing; and then the Regifter palls and signs it. And if a Cause be put in the Paper of Causes, that it may be seen unto in Matter of Law, by the Order of the Cogens; and the Attorney in the Cause doth not attend at the Day, the Cause is to be put out of the Paper, and not be put in again that Term: except very good Cause be shewn. Mib. 22 Car. B. R. 2. Litt. 261. The Court of King's Bench hath Power to quash any Orders made as the publick or private Seffions of the Peace; or by any other Commissioners, if they find good Reason for it. Ibid.

Orders of Judges of Peace. Judges of Peace that make Orders, must be laid in such Orders to be Judges of the County, for residing in the County is not sufficient; but they need not be of the Division: It must also appear, that one of the Judges was of the County, 2 Salk. 474, 480. An Order signed separely by two Judges of Peace, not being present together at the doing of it, was ruled unauthoriz'd upon the Statute 14 Car. 2. c. 12. See 1 Ed. R. 55. Allo where 'tis said, that two Judges doe Or ders instead of 49, the singular Number for the plural, it has been adjudged ill. 2 Ryne. 1159. And if the Name of the County be not in the Body of Orders, but only in the Margin, they will be quashed: Though some Orders of Removal with the Name of the County from the Margin, hath been good, Mib. 21. 1. Mod. Ca. in L. and E. 510. The Seffions of the Peace, during all their Seffions, may alter or revoke their Orders, and make a new Order to vacate the former, though it be drawn up; as Judgments in R. may be altered during the same Term, the Seffions as well as the Term being in Law accounted as one Day. Ibid. 606. And the Quarter-Seffions is not bound to set forth the Reason of their Orders and Judgments, no more than other Courts. 2 Salk. 607. Judges of Peace at the Quarter-Seffions may rectify Defects of Form in Orders, &c., upon Appeals, and then shall determine the Matters according to the Merits of the Case; and no Orders shall be remov'd into B. R. without entering into Recognizance of 50. to prosecute with Effect, &c., otherwise the Judges to confirm their Order, by Stat. 5 Gen. 2. c. 19. See Poor.

Dyntinste, Is a Book which contains the Manner of performing Divine Offices: as que Ordinario modo, &c.

Dyntinance, (Ordinarius) Is a Law, Decree, or Statute, usually used. Litt. Did.

Dyntinance of the States, (Ordinarius Forse) Is a Statute made touching Matters and Causes of the First, Ann. 54 Ed. 1. This is applied to: for the Parliament, Acts of Parliament are often called Ordinances, and Ordinances Acts. But originally there was not this Difference between them; that an Ordinance was but a temporary Act, by Way of Prohibition, which the Commons might make Pleasure; and an Act of Parliament is a perpetual Law not to be altered but by King, Lords and Commons. Rot. Parl. 37 Ed. 3. Prey's Animadversion. on 4 Inf. 15. And Sir Edward Coke says, that an Ordinance of Parliament is to be distinguished from an Act; in as much as the latter can only be made by the King and the Three Estates, whereas the former is by one or two of them. Co. Litt.

Dyntinosis, (Ordonis) Is a Civil Law Term for any Judge that hath Authority to take Cognizance of Causes in his own Right, and not by Deputation; but by the Common Law, it is taken for him that hath ordinary or exempt and immediate Jurisdiction in Causes Ecclesiastical. C. Litt. 344. Stat. WM. 2. 13 Ed. 1. c. 19. This Name is applied to a Bishop, who hath original Jurisdiction; and an Archibishop is the Ordinary of the whole Province, to make Appeals from inferior Jurisdiction; C. & 235. 39. Rep. 47. Wool's Inf. 25. The Word Ordinary is also used for every Consistory or Official of the Bishop, or other Judge Ecclesiastical,
Ecclesiastical, having judicial Power: An Archdeacon is an Ordinary; and Ordinaries may grant Admi-
nis\(\text{t}r\)ations. Sec. Stat. 31 Ed. 3. c. 11. 9 Reg. 36. But the Bishop of the Diocese, is the true and only Ordinary to certify Excommunication, Lawfulness of Marriage, and such Ecclesiastical and Spiritual Affairs to the judges of the Common Law; for he is the Person whom the Court is to write to in such Things. A Step. Abr. 472. For to give in Decons Power, is declared by many Statutes; as relating to visiting Hospitales, by a H. 5. c. 1. The Certifying of Balfour, Sec. 9 H. 6. c. 11. Concerning Questions of Titles, that shall come in Debate before him. 37 H. 6 c. 10. Allowing of Schoolmasters, Sec. 25 Eliz. c. 1. 1 Tac. c. 9. And their Authority in general is confirmed, by 13 Car. 2. c. 12. The Ordinary's Power and Interest in a Church, is of admitting, instituting, and inditing Persons of a pleasing and taking Care that it be provided with a Pallor, by the Patron who has the Right of presenting, to be able to the Church, or to have proper Person to serve the Cure. Sec. 1 Reg. 453. Before Prefentation to a Church, the Ordinary may question the Profits; and during the Year, Div. 2 and 3 and 3, make a Leave. 1 Eliz. c. 370. When the Ordinaries or their Ministers have committed Exortion, or Oppression, they may be indicted, in any of the Things that are in a Man:ner, Sec. 25 Ed. 3. c. 9. Formerly Clerks accused of Crimes were delivered to the Ordinary, and the Bodies of such Clerks kept in the Ordinary's Prison until they had been tried before him by a Jury of twelve Clerks; and if condemned, they were liable to no greater Punishment than Degradation, Loss of Goods, and the Profits of their Lands; unless they had been guilty of Apoclyps, Sec. 137. This was when they had the Privilege of being tried only by Ecclesiastical Judges; which was so far indulged them; that after they had been once delivered to the Ordinary, they could not be remanded to any Temporal Court, until the Stat. 8 Eliz. c. 4. 2 Haws P. C. 567.

Ordinaries of Episcopacy. Is one who is Attendant in ordinary upon the Males?Factors in that Prison to prepare them for Death; and he records the Behaviour of such Persons.

Dissolutions contra Arbitriums. A Writ that lies against a Servant, for leaving his Master contrary to the Statute. Sec. Orig. 189.

Dissolutions of clergy. No Man is capable of taking any Parsonage, Vicarage, Benefice, or other Ecclesiastical Promotion, or Diginity whatsoever, but must be ordained a Priest, to qualify him for the same. A Clerk is to be twenty three Years old, and have Deacon's Orders, before he can be admitted into any Share of the Ministry: And a Priest must be above forty Years of Age, before he shall be admitted into Orders to preach, or to administer the Sacraments; but the Archbishop may dispense with one to be made Deacon at what Age he pleases, though he cannot with one that is to be made a Priest. 13 Eliz. Decons and Priests are to be ordained only upon the four Sundays immediately following the Easter Week. As in other Occasions: and it is to be done in the Cathedral or Parish Church where the Bishop resides, in Time of Divine Service, and in the Presence of the Archdeacon, and Dean; or of the Subdeacon, or of four other grave Divines. And no Bishop shall admit any Person into Orders, without a Title, or Affirmance of being provided for; and before any are admitted, the Bishop shall examine in the Presence of the Ministers, that affix him at the Impugnation of Hands; or on Pain, if he admit any not qualified, Sec. of being admitted by the Archbishop from making either Decons or Priests for two Years. Can. 31.
Oro

Orme, The White Friars, or Anglistas; and the Calcinianos were also Ornels.


Ornt. (From the Sax. Ort, i.e. Peccar, &c.) Solvito, vel Reddita Signifies a Payment or Delivery of Castle: But it seems rather a Penalty for taking away Castle. Lombarb.

Ornatae, (Aurif. Gem.) A Sort of Cloth of Gold, fringed or embroidered, formerly made and used in England, worn by our Kings and Nobility: And the Cloaths of the King's Guards were called Ornatae, because adorned with such Works of Gold. The mention is made of these Ornatae in the Records of the Tower.

Ornatus, (From the Fr. Ornef. i.e. Pride) High and High-minded. 4. Inst. 89.

Ornis, is the greatest Sort of North Sea Firths, now called Orns Lock, which is a Corruption of Ornis; the latter taken near that Island. 51 Ed. 3. Stat. 5. Cap. 2.

Ornis, (Sine Compania) Without Recompense; as where no satisfaction was to be made for the loss of a ship, or cattle, or goods, killed, so he was judged lawfully slain. Stin.

Orin. In the Court of King's Bench, the usual mode of proceeding is, that the plaintiff in Action of Trespass upon the Case; and this Court does not in all actions of Debt, Covenant, or Account. 52. Whereas the Court of Common Pleas, proceeds by Original in all kinds of Actions: But to arrest and for a Party to Outlawry, it is made Use of by both Courts. And for Originals in Trespass on the Case, there is a fine payable to the Crown, where the Damages are laid above forty Pounds in Proportion to the Damage. Prat. Solc. 245, 245. The Original is the Foundation of the Capias, and all subsequent Process; the Return whereof is generally the Testa of the Capias: Though the Capias may be taken out before the Original, by leaving the Process with the Fiscarius, who will make a Copy of it upon it, and afterwards carry it to the Sheriff to make an Original; and the Plaintiff when it is returned, is to file it with the Capias Returnum. Proceedings in Actions by Originals in Action of Trespass, when arrested and appears, the Plaintiff's Attorney is to deliver a Copy of his Declaration to the Defendant's Attorney; and the Term he declares, after Rules given to plead, he calls upon him for his Plea, and draws his Replication. &c. He also makes up the Paper-Book, and delivers a Copy of it to the Defendant's Attorney: This is called a Bond, and, when the Defendant is arrested and appears, the Plaintiff's Attorney is to deliver a Copy of his Notitia Dilectionis, &c. and file it for Record of Habeas prior; when he summons his Witnesses, prepares Returnum, and goes to Trial as in Actions by Bill. After the Trial is over, the fine must be enred in due Time on the Fiscarius's Roll; and Rules given to sign Judgment, whereupon Judgment is entered, and Execution made out for the Party recovering. Prat. Solc. 245. Atornaries being better Beld's in the Method by Bill, &c. Originals are seldom professed in B.R. unless it be in Execution, &c. where there is this Advantage: That a Writ or Error upon a Judgment in Execution by Original cannot be brought, or at least is not returnable, but during the Sitting of the Parliament, which is of great Use for the speedy getting into Execution. Prat. Action, Ed. 1. pag. 150. There are new Originals to warrant Judgment; and in Cases of Outlawry, Writs of Error, &c. And if a new Original be returned any Time before Judgment is filed, it is soon enough. Ibid. 150. An Original in Case, &c. sets forth the whole Declaration of the Plaintiff's and the Writ runs thus: George the Second, &c. Of Great Britain, &c. To the Sheriff of &c. Great

Orns: If A. B. shall make you suffer in profecting his Claim, then put C. D. of, &c. in your County to find Pleaders and Affidavit Servitors, that be before our J. P. before Westminster, on the Day, &c. in action to the said A. B. in an Action; That whereafter the said C. D. on the Day in the Year, &c. in the Parish, &c. after, &c. in your County, was held, was, was the said A. B. in the Sum of, &c. for Goods, &c. in the said C. at the fesial Insurance in keeping of him C. before that Time still and delivered, and being so invaded, he shall duly possess, &c. (as in the Declaration to the End). See Damage of the said A. &c. And have you there the Names of the Pleaders and this Writ. Witness ourself, &c. in Westminster, the Day, &c. in the seventh Year of our Reign. See Writ.

Originalitas. In the Treasurer's Remembrancer's Office in the Exchequer, the Transcribers, &c. kept thither out of the Chancery are called by this Name, and distinguished from Records; which contain the Judgments and Pleadings in Suits tried before the Baron.

Orop, Some are of Knight, i.e. a Knight whose Clothes thined with Gold. Bius.

Orphans, (Orphani) Is a Fatherless Child: and in the City of London there is a Court of Record established for the Care and Education of Orphans. 4. Inst. 248. The Lord Mayor and Aldermen of London have the Custody of Orphans under Age, unmarried, of Freeman or that die, and the Keeping of all Orphans and their Lands and Goods: And if they commit the Custody of an Orphan to any Man, he shall have the Writ of Restitution of the Child, if the Orphan be taken away; or the Mayor and Aldermen may implead the Offender until he produces the Infant. 2. Davo. Abr. 231. If any one without the Consent of the Court of Aldermen, marries such an Orphan under the Age of twenty one Years, though out of the City, he may fine and imprison him, until paid. 1. Lev. 36. 1. Petru. 758. Executors and Administrators of Freeman dying, are to exhibit true Inventions of their Estates before the Lord Mayor and Aldermen in the Court of Orphans, and must give Security to the Chamberlain of London and his Successors by Recognizance for the Orphans Part: which if they refuse to do, they may be committed to Prison until they obey. Wyde. Inf. 322. If any Orphan, who by the Custom of London is under the Government of the Lord Mayor and Aldermen, sue in the Spiritual Court for any Legacy, &c. a Prohibition shall be granted; because the Lord Mayor and Aldermen only have Jurisdiction of them. 3. Lev. 73. But an Orphan may wave the Benefit of suiting in the Court of Orphans, and file a Bill in Equity against any one for Discovery of the Personal Estates, &c. The Lord Mayor and Commonalty of London being answerable for the Orphans Money paid into the Chamber of the City, and by some Accidents become indebted to the Orphans and their Creditors, in a greater Sum than they could pay: by Stat. 5 & 6. W. & M. cap. 10. it is enacted, that the Lands, Markets, Fairs, &c. belonging to the City of London, shall be chargeable for raising Eight thousand Pounds per Annum, to be appropriated for a perpetual Fund for Orphans: and towards raising such a Fund, the Mayor and Commonalty may affix Two thousand Pounds yearly upon the Personal Estates of Inhabitants of the City, and levy the same by Distri
t., &c. Also a Duty is granted of four Shilling

per Tum on Wines imported, and on Coals; and every Apprentice shall pay 2s. 6d. when he is bound, and 5s. when he is admitted a Freeman; for raising the said Fund: The Fund is to be applied for Payment of the Debts due to Orphans, by Interest after the Rate of 4 per Cent. And no Person shall be compelled by Virtue of any Charter of the City, to pay into the Chamber of London any Sum of Money or personal Estate belonging to an Orphan, or any
any Freeman for the Future. 5 & 6 W. & M. By the Stat. 21 Geo. 2. c. 29. the Duty of 6d. per Chaffine of the Coals, given by the Stat. 5 & 6 W. & M. towards the Orphan Debt, is continued for thirty-five Years.

Dyrell, (Fr.) Is a Forrester Word, and signifies the Claws of a Line's Foot. Etch. 


Dyrt, (Orionum) Is a Room, or Cloister, of a Monastery, Priory, &c. wheres it is presumed that Oriel or Osred College in Oxford took Name. Matt. Parah, in ext. Abh. St. Albin.

Oa, Acts, Deeds, or Works: And Ovariae, are Days Works. 3 Cr. Rep. 131.

Dyrt, (From the Fr. Outier, to put out) As used of Peddlers, is where she is removed or put out of Pedlery. 3 Cr. Rep. 340.

Dyrt to Main, (Amoreus manus) Signifies a Livery of Land out of the King's Hands, or a Judgment given for him that fees a Mensagere de dens; and was the same upon the Matter, that the King had no Title to the Land he feited, Judgment was given in the Chancery that the King's Hands be moved, and thereupon an Americani manum was awarded to the Exchequer, to restore the Land, it being as much as if the Judgment were given that the Party should have his Land again. Simmard, Prac. cap. 24. 28 Ed. 1. cap. 24. But it was also taken for the Writ granted upon a Petition for this Purpose. F. N. B. 256. And it is written Quiter le Main, in the 22 Hen. 3. cap. 22. But all Wardship, Liveries, and Outiers of men, &c. are taken away by Stat. 13 Eliz. cap. 2. cap. 24.

Dyrt to Bet, (Fr. Outier, i.e. Ultis, & le Mer, Mare) Is a Chafe of Eftion or Excule, if a Man appear not in Court on Summons, for he was then beyond the Seas.

Dyrtgangrifi, (From the Sax. Ul, i.e. Extra, song, caput, &c; and the Saxon gens, in aliena funde comprehensum, in Curiam tumen rum resuccet, thieves judicial. Lat. It is a Liberty or Privilege, as used in the ancient Common Law, whereby a Lord was enabled to call any Man dwelling in his Manor, and taken for Fenoly in another Place out of his Fee, to Judgment in his own Court. Ref. Stat. 9. &c. 4 P. M. c. 15. Dyrberi, Is the same with Oubler; which is a Calling Men out to the Army, by the Sound of an Horn.

Dyrtbanan, Are the belonging and adjoining to Dwelling-houses: and Taking away any Money, Goods, &c. from such Outbany in the Day-time of 5. Value, is Fenoly without Benefit of Clergy. Dalb. cap. 49. Stat. 32 Eliz. c. 15. 3 & 4 W. & M. c. 9. See Burglary.

Dyrtland, The Saxan Thrones divided their hereditary Lands into Island, such as lay nearest to their own Dwelling, and which they kept to themselves. 5. Value, is Fenoly without Benefit of Clergy. Dalb. cap. 49. Stat. 32 Eliz. c. 15. 3 & 4 W. & M. c. 9. See Burglary.

Dyrtbanen, (Sax. Ulange Lat. Uulagium) One derived of the Benefit of the Law, and out of the King's Land. For it was the custom that the Perion was called into the Law, after an original Writ, and three Writs of Capias, Alias and Placites, return'd by the Sheriff Non of counties, and Proclamation made for him to appear, &c. he contemptuously refers to appear, he is then outlawed: And in former Times no Perion was outlawed but for Fenoly, the Punishment wiered being Death, any Man night
kill an *Ouowm* as a Wolf; but this was prohibited by Statute, and none are allowed to be killed by lawful War-
rant, may any Man *ouowm* for Felony to Death, on
Pain to suffer the like Punishment, as if he had
2. *Pit.* 1. 2. *Pit.* 18. *Ouowm* in general be-
cause Women are not sworn to the King as Men are,
to be ever within the Law; therefore they are said to be
ouowm, as not being, as not being, but forfeited to the
Law. *P. N. B.* 150. And an Infant under twenty one Years
old, his Age to take the Oath of Allegiance, cannot be
ouowm. When a Person is relieve of the King's Proceeden, he is relieve again.

*Ouowm* (Unlegit.) is a Person who is ouowm.

that he loses the Benefit of a Subject. Processe of
Ouowm lies in all Appeals, whether of Felony,
Malhem, and in Indictments of Treason, of Felony or;
and all Indictments of Treason, of Felony, either
by divers Statutes, Ouowm lies in many Civil Actions; as in Debt, Great,
Cae, Account, Consultant, Co. C. and may be before
Judgment had in the Suits, or after Judgment; and
Ouowm are frequent in personal Actions.

As by committing Felony, by the Common
Law, a Man forfeited all his Lands, Goods and
Chattels; so by an *Ouowm* for Felony, at this Time he
forfeited all his Goods and Chattels. *Ouowm* in personal
Actions is by Statue only, in which Cae the Goods
and Chattels of the Peron are only liable, as those
alone were chargeable in personal Actions, and they
are only liable, as those only, who have the

Permancy of the Profits of the Chattels Real; though
this in some by a Consequence only, for that the Party
being in a Legum, is therefore incapable to take the
Profits himself. 3 *Salk.* 263. Upon an *Ouowm* on a
Judgment in Debt, &c. the Peron immediately for-
feits his Goods and Chattels to the King; but not the
Profits of his Land or his Chattels Real, until Inqui-
ension taken: And Aienation after an *Ouowm*, and
before Inquisition, is a good Bar to the King, as to the

An *Ouowm* in a Personal Action, and before Seilune, the Party ouowm'd leve a Fine, the
Cogisuisse shall bear against the King: But if the
Seilune be before the Fine levied, it is good for the
King. 1 *Lev* 33. By a Feoffment made before a
Seilune, upon an *Ouowm*, the King is ouowm'd the
Pernomy of the Profits of the *Prum.* *Brid.* An *Ouowm* Peron was *feoffed* in the *Exchequer* by Bill, to discover his real and personal Estate for the Benefit of the King; and
upon a Demurrer to the Bill, because the Defendant
is not bound to accuse himself; it was over-ruled, the
King having a Title by the *Ouowm*, which is good:
A Judgment for him. *Hardt* 22. And the King may
dipose of the Land itself of a *Peron ouowm'd*, by the
Court of the *Exchequer.* *Raym.* 17. Where two
or more Persons have jointly any Goods or Chattels,
and one of them ouowm'd: by this all the Goods,
&c. will be forfeited to the King; it may be other-
wise of Lands: But the Sheriff ought not to sell the
Goods of one ouowm'd: for he shall be relieve to
them again, if the *Ouowm* be relieve. *Dyer* 11. 8 *Rep.* 143. 16. *Ait.* 157. *Leiue*
for Years was indited, and *Ouowm* had against him;
it being found by Inquisition that he was
pollicted of his Term at the Time of the *Ouowm*,
the Treasurer and Barons of the *Exchequer* told the
Leiue for a valuable Consideration: Then the *Ouowm*
was relieve; and Judgment given that he should
be relieve to all which he had lost by Reason of the
*Ouowm*; and though the Term was lawfully held,
and the Pollisacion in another, yet it was held that the

Leiue should have his Term again; for otherwise the
Judgment upon the *Ouowm* would in vain,

that he is to be relieve to all which he lost, &c. which
cannot be relieve he has his *Leiue* again. 1 *And.* 277.
A *Leiue* was ouowm'd for Felony: he alleged his
Term, and then the *Ouowm* was relieve, and

Allegiance brought *Trespass* for the Profits taken between the
*Ouowm* and the *Abjuration*; and it was adjudg-
good, because the *Ouowm* being relieve, it was
as if there was none, and there is no Record of it.
*Cr. Etn.* 270, 278. The King on Reversal of an
Ouowm, may grant *Relief* in *Ouowm* for *Abjuration* only in a Letter of Patent.

And if there be Lands, there

must be a *Secre* facis to the Lords mediocre and imme-
diate, to shew Cause why the Party should not have

*Relief*. 2 *Lev* 49. 2 *Salk* 495. 2 *Nof.* 2
17, 1218. A *B.* was a *Bankrupt*, and took it

otherwise being ouowm'd, the King made a Lease of the
Profits of his Lands, and granted his Goods; af-

 afterwards a *Compromise of Bankruptcy* was taken out
against him, but it was five Years after he had com-

mitted the Act of Bankruptcy; resolved, that by the

Ouowm he forfeited his Goods and Chattels, his *Leiues*
for Years, and his Trivell in both *Leiues*; and the Pro-

fites of his Freehold Lands; but that this Ouowm

cannot defeat any Interdict which his Creditors had ac-

quired in the Exchequer, because he voluntarily gave

himself to be ouowm'd. 1 *Salk* 108. *Sid.* 115.

A Man was indicted to one by *Judgment*, and to another

on Bond, and was ouowm'd upon the Bond, and his Goods
and Chattels were seilune'd; and the Ouowm being.

Whether the Judgment Creditor could extend those Lands, it was

held that the Ouowm shall be prefered, except the Judg-

ment Creditor could show any Practice between the

Oblige and Ouowm; By *Ouowm* a Man is disable to sue, of which all Men may take

Advantage by Pleading, until the Ouowm is reversed.

*Lit.* 157. 2 *Salk* 122, 123. One ouowm'd cannot

profess in any Court, unless it be to relieve his Oui-

Ouowm. *Cr. Jum.* 245. But he may make a Will.
and have Executors, or an Administrator. *Cr.* *Etn.*

175, 150. And an Executor may relieve on an Ouowm

of the Teltar, where he was not lawfully ouowm'd.

1 *Lev* 342. An Executor or Administrator ou-

owm'd is not disable to sue Actions in Right of the

Teltar or Insefate: By a *Peron* and Common Action

may sue for a Corporation, notwithstanding the

Ouowm of the Mayor. 6 *Rep.* 53. On a Writ of Er-

ror to reverse an *Ouowm*, the *Ouowm* is no good

Plea in Disability of the Peron: But Ouowm may be

pleased in Bar to *Audita querela*. *Sid.* 43. In *A-

jum.* upon a Bill of Exchange, &c. the Defendant

pleaded an *Ouowm* in Bar; and on Demurrer to this

Plea it was objected, that it ought to be pleaded in

Abatement, because in this Action Damages are to be

recovered, which are inestimable, and therefore not for-

feitable by Ouowm: But it was adjudged, that it is

pleasable in Bar, for the Debt is certain, though it

is to be recovered in Damages. 5 *Lev* 29. And in

*Debent* *Adjourn* and Quantum noviscit, for Meat,

Drink, &c. Plea of *Ouowm* by the Defendant

is good, though in this *Action* Damages are only

recovered; and it is the Consideration which creates

the Debt or Duty, notwithstanding the Recompence is to

be had by Way of Damages. 2 *Vern.* 282. A De-

fendant pleaded an *Ouowm* in Bar to *Action* of

*Trespass* for a Goods good, though the Plaintiff in such

Action could only recover inestimable Damages; the

Action is founded on the Property of the Goods, and

thereof being forfeited by the Ouowm, the Plea is good.

5 *Lev* 205. In Action of Assult and Battery, the

Plaintiff recovered in C.B. and upon Writ of Error

in B.R. the Judgment was affirmed; and thereupon the

Plaintiff brought a *Secre* facis to shew Cause why

the Defendant should not have been relieve on an

Ouowm before the judg-

ment.
ment had, in Bar to the Execution; and it was ruled a good Plea; in this Case, though before the Judge-ment nothing is forfeited, yet a certain Sum being re-ceived in the Action, that is forfeited by the Outlaw-ry had against the Plaintiff; W. Jour. 258. Nef. Abr. 1219. A Plaintiff delivered his Declaration in Trinity Term, the Defendant impard to Michaelmas Term, and in the long Vacation the Plaintiff was outlawed; and then in Michaelmas Term the Defendant pleaded this Outlawry in Bar to the Action, but did not lay, That it was after the 8th Commission, for which Reason the Plaintiff demurred; but the Plea was adjudged good, since the Record of the Outlawry doth appear. 5 Mod. 11. Where an Outlawry is pleaded, it must be sub- ject to the Statute; otherwise the Plaintiff may refuse it; but if he accepts the Plea, he shall not afterwards demur for that Cause. 1 Salk. 217. And how to plead an Outlawry in the same Court, or in another, and before, or after Judgment. 2 Law. 40. 110. 111. An Attor- ney brought an Action of Debt by Bill of Privilege, and after Judgment the Defendant was outlawed, who brought a Writ of Error to reverse it; and it was ad- judged that Proces of Outlawry did not lie upon such Judgment, because there was no Capitis in the original Action. 1 Law. 239. A Judgment in Debt was had against several Defendants, and a Capital and Judgment was sued for against one of them, upon which he was outlawed; and afterwards he brought a Writ of Error to reverse it. And as it was settled, that a Writ of Error is not good for Error that it comes to have been awarded against both; and fo it was held. Cor. Eliz. 648. Two Persons were outlawed, one of them moved, that upon filing common Bail he might have Leave to reverse the Outlawry; and ad- judged that the Writ of Error to reverse it, must be brought in the Name of both the Defendants; and where one appears, the other is to be summoned and forfeited, or he shall be adjudged guilty as to him who does not appear, but he must give Bail to appear and answer the Action. 2 Salk. 450. An Outlawry grounded upon an Indictment on the Statute against Forcible Entry, preferred against several Persons, may be reversed as to some of the Parties, and Stand good as to others that are outlawed, upon the same Indictment: For the Outlawries against them are several, and not entire, and the Proceedings to the Outlawry may be good as to some of them, and as to the others may not be good. Hill. 22 Cas. B. R. 2 Lod. Abr. 263. If a Person pleads upon the Return of the Exigent, Alias, or Pharise, he may be admitted by Mo- tion to reverse the Outlawry, without putting in Bail: If he comes in by Capite Corpus, he shall not be admitted to reverse the Outlawry, without appearing in Per- son, as in such Case he was obliged to do at Common Law; or putting in Bail with the Sheriff for his Ap- pearance upon the Return of the Capit Corpus, and for doing what the Court shall order. Appearance by At- torney is an Indiscretion by the Statute 4 Eliz. 5 W. & M. c. 18. And the Bail is to be special or common, in this as in other Cases; but Treason and Felony are ex- cepted out of the Act. 2 Salk. 450. It is said that on Outlawry the Party ought to appear in Person, and submit himself to his Trial; and it must be ex gratia, if he is admitted to affign Errors before. 3 Salk. 263. In Case of Outlawry for Felony, the Errors to reverse it are to be certainly alleged in Writing, and be su- ficient, before a Writ of Error shall be allowed. Foz. Cont. 161. Persons outlawed for Felony cannot be bail'd, being attained in Law; they may appear in Person, and plead Error in Avoidance of the Outlawry, Q. B. 239. 1797. 4 Co. 105; but in Salk. 450, 109. They may be reversed, by Writ of Error, or Plea; and it has been observed, that few Outlawries are reversed for Felony, as few are reverse- d, because the Statutes relating to the same are not purged, as the Statutes 1 H. 5 cap. 5. 6 H. 6. cap. 1. 8 H. 8. cap. 10. By the Statute 3 Ed. 6. c. 111. Out- lawry against one for Treston, being out of the Realm, or beyond Sea, shall be good in Law: And if the Par- ty within one Year after the Outlawry, or Judgment thereby, shall return to England, and traverse the Indictment whereupon he was outlawed, he shall be admitted to such 'Travers, and being acquit shall be discharged of such Outlawry. Since this Statute, and the 26 H. 8. c. 15. In Case of Treston one is barred of his Writ of Error, if he does not come in within a Year after the Outlawry, while he was out of the Realm, as before noted; and if an Outlawry of Treston or Felony is reversed, the Party must plead to the Indictment. Wind's Inf. 639. Sir Thomas Armstrong was outlawed for High Treason; and being taken in Holland, was brought into England, and he declared that he might have Leave of the Court of B. R. to reverse the Outlawry, and be tried by Vir- tue of the Statute of 6 Edw. 6. alluding that it was not a Year since he was outlawed, but it was declared, because he had not rendered himself according to the Statute, to have the Benefit thereof, but was appre- hended, and brought before the Chief Justice; there- fore a Rule was made for his Execution. 3 Mod. Rep. 47. It hath been adjudged, that if a Man commits a Murder, and, after the Exigent awarded against him, he fled out of the Realm, and thesheriff, after the Exigent, shall not reverie it for that Cause; because he fled on Purpose to avoid the Law, and therefore by his Ab- sentence he shall have Benefit of the Law; but if the Attorney General, &c. confers that he was beyond Sea both before and after he was outlawed, the Out- lawry may be reverie. 2 Cre. 464. 2 Nef. Abr. 1222. 1223. In a Civil Cause, if the Appellant before he is returned outlawed, he may apprehend the Exigent, &c. And where a Defendant is beyond Sea, in Pri- son, &c. the Award of the Exigent may be reverie. As to that Power of the Outlawry, as to the Power of a Defendent is not easy to be taken, or hath not suffi- cient Estate in the County to be summoned; if, where the Party is well known, it is sufficient, and may be arriv'd, the Plaintiff outlaw him, he shall be order- ed to reverie it at his own Expense. But where Motion was made upon Alibavt, that the Defend- ant lived publickly, and therefore to order the Plain- tiff to reverie the Outlawry at his own Charge, it was not granted; because the Charge is small in C. B. to reverie an Outlawry, corre. but 161. 8 Ed. But in R. 41. 6 Edw. 2 Salk. 450. 1724. A Defendant was actually in Execution in the Fleet at the Suit of the Plaintiff in another Action, and yet he was outlawed; and upon Alibavt of the Plaintiff to reverie the Outlawry, the Plaintiff may deale for the Defendant for the same Cause of Action in two Terms, upon a new Original; and put in special Bail, if the Debt or Damage amount to 10 l. or above: And if it be an Outlawry after Judgment, it cannot be reverie until Satisfaction is acknowledged by the Plaintiff on Record; or the Defendant hath brought the Mo- ney into Court. If an Outlawry be reverie, the Plaintiff may deal for the Defendant for the same Cause of Action in two Terms, upon a new Original.
in the Writ of Alias, Capias, &c. And if to the Exigent and Proclamation do not go forth to the County, and where the Action be laid in the Country, and five Haplings if it be laid in Town; and when your Exigent and Proclamation are returned, the latter is to be filed with the Capias Broome, and the Exigent with the Fieffer of the County: whereupon the Fieffer will make out a Capias Ulteriorem into any County you desire, where the Defendant hath any Estate. Prat. 225. If judgment be had against a Defendant, who, to evade the Law and Execution against him, builds in several Counties, he may be sued out of Olausvar after judgment, and on filing a Capias ad satisfacendum, for the Debt and Costs, and a New of Infeasts returned, an Exigent is made and returned by the Sheriff; upon which you may have a Capias Ulteriorem into as many several Counties as you please, til the Defendant is taken; and then he cannot be discharged without making Satisfaction to the Plaintiff, a Pardon of the Olausvar, or reviving the same for Error. Hid. 522. And where a Plaintiff recovers Damages, and he against whom the Damages are recovered, is outlawed at the King's Suit; no Pardon shall be granted, unless the Chancellor is certified that the Plaintiff has finished his Damages, by Stat. 5 Ed. 3. See Capias Ulteriorem, and Exigent.


OutWrits, are Bailiff's errant imposed by Sheriffs, to ride to the farthest Places of their Counties or Hundred, with the more Speed to summon Persons into County Courts. Ut. 14 El. 3. c. 9.

Ouel, is a French Word for Equal. Law Fr. Dict.

Oueity, is that when there is Lord Myres, and Tenant, and the Tenant holds the Myres by the same Service that the Myres holds over of the Lord above him: this is called Oueity of Services. F. N. B. 156. And Oueity of Services is Equality of Services. Co. Litt. 169.

Ouelers, are Perkons that curry Wool, Ut. to the Sea fish by Night, in order to be shipped off contrary to Law: and this is prohibited by Stat. 7 & 8 W. 3. c. 23.

Ouel, is said to be a Reduction made by a Hundred or County, of any Wrong done by one that was within the same. Lamb. Arch. 125.

Ouyers, are Purveyors or Bidders, Ut. to the Sea Fish by Night, at an advance, which is to be paid. An Oyuer, when the Party demanding it is not bound to plead without it; but the Defendant may plead without it if he will, on taking upon him to remember the Bond or Deed; though if he plead without Oyer, he cannot after waive his Plea, and demand Oyer. Med. Cas. 28. 3 Salk. 119. In the Court of B. R. Oyer may be prayed after Impariment but not in C. B. 5 Rep. 74. After Impariment, the

Time when returnable, allowing five County Courts: Days between the Tethe and Return of the Exigent, if you have more than one Action in the County, and five Haplings if it be laid in Town; and when your Exigent and Proclamation are returned, the latter is to be filed with the Capias Broome, and the Exigent with the Fieffer of the County: whereupon the Fieffer will make out a Capias Ulteriorem into any County you desire, where the Defendant hath any Estate. Prat. 225. If judgment be had against a Defendant, who, to evade the Law and Execution against him, builds in several Counties, he may be sued out of Olausvar after judgment, and on filing a Capias ad satisfacendum, for the Debt and Costs, and a New of Infeasts returned, an Exigent is made and returned by the Sheriff; upon which you may have a Capias Ulteriorem into as many several Counties as you please, till the Defendant is taken; and then he cannot be discharged without making Satisfaction to the Plaintiff, a Pardon of the Olausvar, or reviving the same for Error. Hid. 522. And where a Plaintiff recovers Damages, and he against whom the Damages are recovered, is outlawed at the King's Suit; no Pardon shall be granted, unless the Chancellor is certified that the Plaintiff has finished his Damages, by Stat. 5 Ed. 3. See Capias Ulteriorem, and Exigent.


OutWrits, are Bailiff's errant imposed by Sheriffs, to ride to the farthest Places of their Counties or Hundred, with the more Speed to summon Persons into County Courts. Ut. 14 El. 3. c. 9.

Ouel, is a French Word for Equal. Law Fr. Dict.

Oueity, is that when there is Lord Myres, and Tenant, and the Tenant holds the Myres by the same Service that the Myres holds over of the Lord above him: this is called Oueity of Services. F. N. B. 156. And Oueity of Services is Equality of Services. Co. Litt. 169.

Ouelers, are Perkons that curry Wool, Ut. to the Sea fish by Night, in order to be shipped off contrary to Law: and this is prohibited by Stat. 7 & 8 W. 3. c. 23.

Ouel, is said to be a Reduction made by a Hundred or County, of any Wrong done by one that was within the same. Lamb. Arch. 125.

Ouyers, are Purveyors or Bidders, Ut. to the Sea Fish by Night, at an advance, which is to be paid. An Oyuer, when the Party demanding it is not bound to plead without it; but the Defendant may plead without it if he will, on taking upon him to remember the Bond or Deed; though if he plead without Oyer, he cannot after waive his Plea, and demand Oyer. Med. Cas. 28. 3 Salk. 119. In the Court of B. R. Oyer may be prayed after Impariment but not in C. B. 5 Rep. 74. After Impariment,
This is a Special Commission of Oyer and Terminer granted upon urgent Occasion; and the Party suing it might thereupon take out a Writ to the Sheriff commanding him to arrest Goads wrongfully taken away, and keep them in safe Custody, till Order made concerning them by the Justices assigned to determine the Matter. Reg. Orig. 116. F. N. B. 117.

The Office. In the River Medway, is regulated by Statute, and a Court to be kept for that purpose at Rochester yearly, where a Jury of free Dredger-men of the Office, the office, is to be inquired into; and they may make Rules and Orders when Goads shall be taken, what Quantities in a Day, and to preserve the Bred of Goads, &c. And may impose Penalties not exceeding 5 l. Also Water-Bailiffs shall be appointed to examine Boats, &c. Stat. 2 & 3. c. 19. 

A Day of 7 d. per Butch fritter Measure, is laid upon Goads imported from France, 10 Geo. 2. cap. 50.


P.


Pacabilla, Payable or payable. — Recipt date.


Pact, (Pacta) A Step in going, containing two Steps and a half, the Distance from the Heel of the hinder Foot to the Toe of the fore Foot; and there is a Pace of the foot, which contains two Steps, a Thousand whereof make a Mile; but this is called Pafus major.

Picturization, (Pacification) A Peace-making, Quiet-Ing, or Appeasing; relating to the Wars in England and Scotland, anno 1658, mentioned in the Stat. 17 Care. 1. c. 17.

Pith. Of Blood, is a Horse-load, which consists of seventeen Stone and two Pounds, or 240 Pounds Weight. Merth. Ditto.

Package, A Duty Set and Rated in a Table taken of Goods and Merchandize; and all Goods not specified in the Table are to pay for Package-Duties, after the Rate of one Penny in the Pound, according as they are valued in the Book of Rates.

Pall, (Fr.) A Contract or Agreement. Laws Fr. Ditto.

their Ports.—*Quieti de esse Talamo, & Paffagio
cobragio, Pallasio, &c.
Pallarits, Counties of, and their Privileges. See Counties.
Palfrey, Palsfred, Palsfredus, Palsfris) is one
of the better Sort of Horses used by Noblemen, or
others for State: And sometimes taken for a Horse fit
for a Woman to ride. Camedes says, that W. de Faus-
cemberge held the Manor of Coken in the County of
Nottingham in Serjeancy, by the Service of shoeing
the King's Palfrey when he came to Mansfield.
Co. Litt. 149.
Palingham, Seems to be a Merchant Denizen,
one born within the English Pale. Stat. 22 Ed. 4. c.
23, and 31 H. 7. c. 8. 33.
Pallas, A Canopy; or often used for an Altar-
Hist. f. 12. 4.
Palliser Cooperier. It was anceintly a Culm
where Children were born out of Wedlock, and their
Parents afterwards intermarried, that those Children,
together with the Father and Mother, stood under a
Cloth extended while the Marriage was solemnizing,
which is in the Nature of Adoption; and by such
Culmorn, the Children were to be legis-
put under the same Laws and Testaments.
Maximomium confarunt post fili Pallii super Parentes et
Graufeld Episcopus, Lincoln.
Pallium, Is a Word often mentioned in our old
Hilorians; and Durandus tells us, that it is a Gar-
ment made of White Wool, after the following Man-
ner, viz. The Name of St. Agnes every Year, on the
Feast-Day of their Saint, offer two White Lambs on
their Altar of their Church, during the Time they
sing Agnus Dei in asole Mass; which Lambs are afterwards
taken by two of the Canons of the La-
teran Church, and by them given to the Pope's Sub-
decanos, who put them to Pasture till Shaving-time,
and then they are shorn, and the Pall is made of
their Wool, mixed with other White Wool: The
Pall being thus made is carried to the Lateran Church,
and there placed on the High Altar by the De-
canos of that Church on the Bodies of St. Peter and
St. Paul's and after a usual Washing, it is carried
away in the Night, and delivered to the Subdecanos,
who lay it up safe. And because it was taken
from the Body of St. Peter, it signifies the Pleasure of
Ecclesiastical Power; and therefore it was the Pre-
rogative of Popes, who pretend to be the imme-
diate Successors of that Saint, to invest other Prelates
with it, which at first was done nowhere but at
Rome, but afterwards at other Places. Durandus:
Rati
nialis.
Pallas, The Pontifical Vellures made of Lamb's
Wool, in Brehsh not exceeding three Fingers,
cut round that they may cover the Shoulders; they
have two Labels or Strings on each Side, before and
behind, and likewise four purple Crozes on the
Right and Left, fattened with Pins of Gold, whose
Hends are Saphere: These Veilments the Pope gives
or lends to Archbishops and Metropolitan, and upon
extraordinary Occasions to other Bishops; who
wear them over their Necks at the Altar,
above their other Ornamentals. The Pall was first
given to the Bishop of Oftern by Pope Marcus
the Second, Ann. 356. And the Preface to an ancient
Synod here in England, wherein Odo, Archbishop of
Canterbury preLated, begins thus: "Ego Odo Bp
Milui & extrinae, divinae iurisdictione, Alui
Praefatu & Pallii honoris dictus, &c. Selden's Hist.
Tithes 327. Crewe's Church Hist. 972. Stat. 25 H.
Palmistry, A Kind of Divination, practiced by
looking upon the Lines and Marks of the Hands
and Fingers; being a deceitful Art used by Egypt.
ians, prohibited by the Statute of 1 & 2 P. & M.
cap. 4.
Pantaffe, Are the Books of the Civil Laws, con-
spired by Justinian; mentioned in the Historians of
this Nation. B., cap. 29.
Pantographe, An Ale-wife that both brews and
sells Ale or Beer: from Pantographeus, a Brew-Booth.
Hen. 2.
Pannell, (Pannell, Pannellium) According to Sir Ed-
ward Cobbe, denotes a little Part; but the learned
Spelman says, that it signifies Schedula vel Pagina, a
Schedule or Page; as a Panel of Parchment, or a
Counterpane of an Indenture: But it is used more par-
ticularly for a Schedule or Roll, containing the Names
of such Purors as the Sheriff returns to pass upon any
Trial. Hutch. 226. Reg. Orig. 225. And the Im-
posing a Jury is the entering their Names by the
Sheriff into a Panel or little Schedule of Parchment;
in Pannello Ajjure, 8 H. 6. c. 12. Panels of Juries
are to be returned into Court, on Writs of Ron Prisi,
&c. before Judges can be taken upon them, by
Stat. 43 Ed. 3. c. 11. And Perfunnd indicted of High
Treason shall have a Copy of the Panel of the Ju-
rors, who are returned to try them, two Days at
least before used, 3 H. 8. c. 5. But it is said,
that in Trials before Judges of Gaol-Delivery, the
Prisoner has no Right to a Copy of the Panel before
the Time of Trial, except only in Cases within that
Statute. 2 H. 1st P. C. 410.
Pannus vescicar Blacksmith's, Bread of a middle
Sort, between White and Brown; such as in Kent
is called Rotter Bread. In Religious Houses it was
the Bread made for ordinary Guests; and dislin-
guished from their Household Loaf, or Pannus Con-
ventualis, which was pure Machtet or White Bread.
Cottar.
Pannus Brimigerorum, Signifies Bread distributed
Pannus Militaris, Hard Biskets, or black coarse
Pannage or Patmnage, (Pannagium, Fr. Paf-
nage) Is that Food which the Swine feed upon in the
Woods, as Maif of Beoch, Acrens, &c. Alimentum,
good in Sibius colloquium Pecora, ab Arboribus dissem etto:
Allo it is the Money taken by the Ayllers for the
Food of Hogs in the King's Forest. Gops. Turriff.
155. Stat. 25 Ed. 3. c. 25. MacFree Norway
signifies most properly the Maif of the Woods or
Hedge-rows: And Linctow thus defines it: Pann-
gium in paganorum, Norskis, &c. in Sylis,
ipsius de glandibus ubi alii frutibus arborebus Sylvestri-
orum, quorum frutibus aliter sem percolat. It is me-
tionned in the Statute 30 Car. 2. c. 2. And in an-
cient Charters this Word is variously written; as
Pannagium, Pagnagium, Patnagium, Pannägum, &c.
Piffim. See 8 Rep. 47.
Pap, A garment made with Skins—
stichas fit quod nullus habet Pannos decipit & la-
Pape, Pap, from the old Greek Word παπα, signifying
Paper-Books, Are the Iffres in Law, &c. upon
Special Pledings, made up by the Clerk of the
Papers, or an Officer for that Purpos: And the
Clerks of the Papers of the Court of King's
Bench, in all Copies of Papes and Paper Books by
them made up, shall subscribe to such Paper-Books,
the Names of the Crown; and he shall sign those Papes,
as well as on the Behalf of the Plaintiff as of
the Defendant; and in all Paper Books delivered to
the Judges of the Court, the Names of the Coun-
sellors which did sign those Papes, are to be sub-
scribed to the Books, by the Clerks or Attorneys
who deliver the same. Pach. 18 Car. 2. 3. Litt. Ab
258.
the said Declaration, are not to keep in their Houses any Arms, Weapons, Gunpowder, &c. And Judges of Peace may order any of them to be industrially, and they may not keep any Horse above the Value of 5l. which may be allowed. And Perifs concealing Arms or Horses, or hiding a Search after them shall be committed, and forfeit twice the Value of the Goods.

Papists. Are those who profess the Popish Religion in this Kingdom: And since the Reformation there have been many Statutes concerning them. By the 35 Ed. cap. 2. Papists are to repair to their usual Place of Residunce, and not remove above five Miles, without Licence, &c. The 33 Jac. cap. 5. enacts, That no Papists, or Popish Recusant convicts, shall come to Court, excepting the Officers, or any of the Judges or Inhabitance may be executed by Deputies taking the Oaths, by W. & M. Papists, and Trustees for Papists, are incapable to present to any Benefice, School, Hospital, &c. to grant any Avoidance of a Benefice, and the two Universities shall present; the Chancellor, &c. of Oxford, to present to Benefices lying in such and such Counties; and the University of Cambridge to Benefices in others, particularly mentioned in the Statute; and a Bill may be brought in a Court of Equity to discover secret Truth, &c. 33 Jac. & 2. vice. or it adjudged on that Sentence, that the Person is only disabled to present; and that he continues Patron to all other Parishes. Cav. 230. That such a Person by being disabled to grant an Avoidance, is not hindered from granting the Adow-thon itself, in Geo. or for Life, bona fide for good Consideration. 1 Jan. 19. 20. And that if an Adow- nor for Avoidance belonging to a Papist come into the King's Hands, by Reason of any Ordinary, or Conviction of Recusancy, &c. the King and not the University, shall present. 1 Jan. 20. 131. But where a Prentecent is vested in the University, at the Time when the Church became void, it shall not be discharged again, by the Patron's conforming, &c. 10 Rep. 57. Papists, and Popish Recusants, married within the first Orders of the Church of England, are disabled, the Husband to be Tenant by the Curtesy, and the Wife to have Dower, &c. and incur a Forfeiture of 100 l. for Bapting their Child- ren by a lawful Minister, is liable to the like Pe- nalty: And not being buried according to the Ecclesi- astical Laws, the Executors shall forfeit 20l. &c. And Papists are incapable to be Executors, Adminis- trators, or Guardians; disabled to sue Actions, and as Perins excommunicate 'till they conform, &c. 3 Jan. 15. It is said that being convicted of Popish Recusancy, they may be taken up by the Writ of Excom. capitis. And shall not be admitted as competent Witnesses in a Cause: But this seems to be car- ried beyond the Intent of the Statute. 1 Bat. 151. 157. 1 Han. P. C. 23. Persons going beyond Sea to be trained up by Papists, shall forfeit their Goods and Chattels, if they do not conform within six Months after their Return: And sending Children abroad to be thus trained up, is liable to a Penalty of 100l. Stat. 3 Car. 1. c. 2. The Lord Mayor of the City of London, and Judges of the Peace, are to be brought before them Papists, within the said City and ten Miles thereof, and tender them the Declaration 30 car. 2. cap. 9. against Transfub- stitution of the Body; in default, they shall suffer as Popish Recusants convict: But such as use any Trade or manual Art; and Foreign Merchants, Ser- vants to Ambassadors, &c. are excepted. 1 W. & M. Suf. c. 10. 9. Papists refusing to appear and subscribe

Grants of Adowments, or Right of Presentation to Churches, &c. by any Papists, or Peron any ways in Truth for him, to be void (except made for valuable Consideration to some Protestant Purchaser, for the Benefit of a Protestant only) and Perons claiming under such Grant, shall be debarred to Trustees for a Papist, and they and their Prentecents be compelled to make Discovery thereof and the Intent, as directed by 12 Ann. &c. 11 Geo. 2. Papists are to register their Estates, as by this Statute is directed, on Pain of Forfeiture; and Lands registered must be espoused in what Parishes lie, who are the Possessors thereof, and the Estate therefor, and the nearest Rent, &c. Perons sitting in Chanery for Perishes for Default of Registry, may demand all Discoveries as if Purchasers; and they may bring ejectment on their own Demise, and give the Act and special Matter in Ev- dence. 1 Geo. 1. c. 5. Grants of Lands by Papists, (incurring the Disabilities 11 & 12 W. 3.) to Prote- stant Purchasers, are confirmed notwithstanding the Disability of Persons joining in the Sale; unless be- fore such Sales any Person who is to take Advantage of the Disability, has recovered, or entered his Claim, and given Notice, &c. 1 W. & M. 29. 2. Papists, by Deed or Will, without Involvement: And Papists are rendered incapable to purchase Lands. 3 Geo. 1. c. 18. Deeds and Wills of Papists have further Time to be Inclined, and not available for Want thereof, &c. by 6 Geo. 2. c. 5. All Perons within England, of the Age of eighteen Years, not having taken the Oaths, and who refuse to take the same, shall register their Estate, and neglecting to register, are for the Inheritance of their Lands, Two Thirds to the King, and the other Third to the Prentecent. 4 Geo. 3. c. 3. 2. By a subsequent Act, this shall not extend to oblige any Woman to take the Oaths, or to register her Estate; nor any Person that hath only an Interest in Lands in Reversion or to Estates under 104. a. for,
and only one year's rent and profits of lands is forfeited for default of registering by Statute, recoverable by action in the courts at Writs, and alter the offence; Persons in Pris-son, beyond sea, on Compozal, are to have six months to take the oaths and register their estates, after the removal of their disabilities; and certificates by the proper officers, shall be allowed as evidence of taking the oaths, &c. 10 Geo. 1. c. 4. By the late statute, the reputed owners of estates being Papists, conforme to the Protestant Religion, and taking the oaths, the same to be recorded, and all the protestants claiming under them, shall forfeit the estates freed of disabilities incurred by such owners, &c. And any person's right entitled to a reversion, is saved if his suit be commenced in twelve months after the determination of the precedent estate. But Persons conforming as aforesaid, and afterwards adhering to the Protestant Religion, shall be ever after incapable of any benefit by the act 11 Geo. 2. c. 17. See oaths. Papists tax'd papists or reputed Papists, who refuse to take the oath, m. &c. are to pay double to the land tax, &c. Stat. 2 W. 3. c. 6. And a tax of 100,000l. for the year 1725, was laid on the land of all Papists, over and above the double tax, towards reimbursing the publick the charges occasioned by late conspiracies; charged so much on every county, &c. and leviable by the commissioners of the land tax, by Stat. 3 Geo. 1. c. 18. Par, is a term in exchange, where a man to whom a bill is payable receives the acceptor just so much in value, &c. as was paid to the drawer by the remitter. Merch. Diet. And in exchange of money, Par is defined to be a certain number of pieces of the coin of one country, containing in them an equal quantity of silver to that of another number of pieces of the coin of some other country; as where thirty-six shillings of the money of Holland, have just as much silver as twenty shillings English money: And Bills of exchange drawn from England to Holland, at the rate of thirty-six shillings Dutch for each pound sterling, is according to the par. lock's conf. of money, pag. 18. Paragone, (Paragone) signifies equality of name, blood, or dignity; but more especially of land, in the partition of an inheritance between coheirs: hence comes to dispargone, and Dispargoneation. Co. Lit. 166. Paragon, was commonly taken for the equal condition between two parties to be contracted in marriage: for the old laws of England did strictly provide, that young heirs should be disposed in matrimony cum paragone, with persons of equal birth and fortune, sine dispargoneatione. Paragon, (compounded of two French words, par, i.e. per and monach, ascendere) signifies in our law the highest lord of the fee, of lands, tenements, or hereditaments, F. N. B. 135. As there may be a Lord Mone, where lands are held of an inferior lord, who holds them of a superior under certain conditions, as in Lord of a Lord, or the lord of the lord: and all honours, which have manors under them, have lords paragon. Also the king is chief lord, or lord paragon of all the lands in the kingdom. Co. Lit. 166. Paraphernalia, or paraphernalia, (from the gr. ἄρση, πραξις, and φερον, dus) are those goods which a wife challenges over and above her dower or her husband's fees, as furniture or ornaments for her chamber, wearing apparel, and jewels, which are not to be put into the inventory of her husband. The death of a wife, after the death of her husband, may claim her paraphernalia or necessary apparel for her body, and cloth given her to make a garment, &c. besides her dower; so that the husband cannot give them away by will; but the shall not have excessive apparel, beyond her rank. Pearl Necklaces, Chains of Diamonds, Gold Watch, &c. may be included under paragon, if they were usually worn by the wife, and were suitable to her quality and the fashion of the times, and they are allows to pay debts and legacies; provided the hus-band does not give them away by will. 1 Rol. Abr. 211. 3 Cru. 343. Kirk. 369.PosY's Max. 168. It was adjudged in the Vizcuns's Berrow's case, that paraphernalia ought to be allowed to a widow, having regard to her quality and degree; and that her husband being a Vizcoun, she shall be allowed her jewels to the value of 500 marks, &c. 2 Lew. 166. A widow residuary of a chain of diamonds and pearls, against the devise of her husband; and two judges held, that she might detain them, because they were convenient to a woman of her quality; but Two other judges held, she might have them in her life-time; for immediately upon his death, the property is vested in the widow. Cru. Cas. 347. 2 Nisi. Abr. 1235. All the wife's wearing apparel, more than that which is necessary and convenient, is a chattel in the husband; and after the husband's death shall go to his executors. But what is necessary for her condition and state, and comes under paraphernalia, the shall have as her own goods, and may dispose of at her death; or take after the death of her husband. Bray. 9. Dods. &c. Stat. 17. Though by our law the wife may not make a will of and devise them, without the assent of the husband, whilst he lives; because the property and possession is in him, 2 Stig. Abr. 423. M. N. 37. Edin. 7 Par. Paratruis, A word used for a domestick servant. Blount. Parthall, (Parthallia) signifies the lowest tenant of the fee, or he that is immediate tenant to one who holdeth over of another; and he is called tenant parthall, because 'tis prefixed he hath fit and due by the law. F. N. B. 135. 2 Jef. 296. Partella Terra, A parcel of land, as used in some ancient charters, &c. bound by Stephanus W. Ded. &c. Roberto de D. U. Partellum terram cum piscibus jacenti, &c. Sine dat. Particular, (In partibus) are two officers in the exchequer, that make the parcels of the Exchequer accounts; wherein they charge them with every thing they have levied for the king's use, within the time of their being in office, and deliver the same to the auditors, to make up their accounts therewith. Pardol. Edin. 9. Parcertes, (parcertis) a. la. rem in particular. Agr. 527. Signs of two of a common. Parcertes according to the course of the common law, and parcertes according to caput, parcertes by the common law, are where a man or woman feiled of lands or tenements in fee simple or fee tail hath no issue but daughters, and death, and the tenements defered to such daughters, who enter into the lands descended to them, they are called parcertes and are but as one heir to their ancestor; and they are termed parcertes, because by the writ de partibus faciendo the law will constrain them to make a partition, as excellent by the common law, and caput, &c. Co. Lit. 243. 1 Jef. 164. And if a man feiled of lands in fee simple, or in tail, death without any issue of his body begotten, and the lands
defend to his Sire, they are Parceners; and in the same Manner where he hath no Sire, but the Ladis attacheth himself to the Heirs, or the Kin in equal Degree, they are also Parceners: But where a Person hath but one Daughter, the same shall not be called Parcener, but Daughter and Heir, &c. Lit. Sept. 124. If a Man hath issue two Daughters, and the eldest hath issue divers Sons and divers Daughters, and the youngest hath issue divers Daughters; the eldest Son of the eldest Daughter shall have the issue only inherit, but all the Daughters of the youngest shall inherit, and the eldest Son is Co-parcener with the Daughters of the youngest Sitter, and shall have one Money, viz. his Mother's Part, so that Men descending of Daughters, may be Parceners as well as Women, and shall jointly plead and be impleaded, &c. 1 Inf. 164. Now are Parceners by the Common Law, but either Females, or the Heirs of Females, which come to Lands or Tenements by Defeint. Lit. 154. Parceners by Custom is where a Person seied in Fee-simple of one Part of the Tenant called Goodwill, within the County of Kent, &c. hath Issue, divers Sons, and dies; such Lands shall descend to all the Sons as Parceners, by the Custom, who equally inherit and make Partition as Females do, and a Writ of Partition lies in this Case, as between Females, &c. Lit. Sept. 125. Woman and Man have but one Freehold: But between themselves they have in Judgment of Law several Fireholds, to many Purposes; for one of them may inculpate the other of her Part; and the Parceners is not favored by the Death of any of them; but if one dies, her Part shall descend to her Issue, &c. 1 Inf. 164, 165. If one Parcener make a Feudum in Fee of her Part, this is not a Partition, but, once the Partition between the Writs of Partition shall lie against the other Parceners and the Feudit. 1 Inf. 167. Though if two Co-parceners by Deed alien each their Parts to another in Fee, rendering to them Two and their Heirs a Rent one of the Land, they shall have the Rent in Course of Parceners because their Right in the Land out of which the Rent is reaped was in Parceners. Ibid. 160. If there be two Parceners, and each of them taketh Husband, and have Issue, and the Wives die, the Parceners is divided, and here is a Partition in Law, and Partition of Lands held in Tail, by the Death of one Sitter without Issue is made void, and the other Sitter as Heir in Tail will be intitled to the whole Land; and a Writ of Forfeiture where the other Parcener hath alien. New Nat. Br. 476. And a Writ of Nuper dedit lies for one Parcener deforced by another, &c. F. N. B. 197. If any Parceners or their Isses be divided, they must join in an Affidavit against the Difficult; so if they have Cause to bring any Action of Wills, &c. 1 Inf. 55, 158. Two Parceners are of Land, one enters and claims the Whole, and is divided, the alone may maintain Affidavit: but if the Difficult be of Rent, the other Parceners must be named, or the Writ shall stand. Frank. Cont. 41, 42. The Partition of one Parcener, &c. of Land, without an actual Officer, gives Partition to the other of them. Ibid. 150. Dyur. 128. One factor was at the Docket of the Deeds concerning the Land against another, as they belong to one as well as the other. 2 Rawl. Abr. 31. Parceners are to make Partition of the Lands defended; and the Co-parceners as Co-parceners shall have them, and the others have Contribution from her out of some other Inheritance, left by the Antecessor; but if there be no such Inheritance, then the eldest shall have the ancient Pretense for one Time and the Youngest for another Time. Dyur. 129. Parceners cannot make Partition &c. as for one to have the Land for one Time, and another for another, &c. if he is to have his Part absolutely: But where there is an Advoceon defended to them, they may preside by Turns; and if there be a Common, &c. which may not be divided, one may have it one Year, and another for another Year, &c. 1 Inf. 165. An Advoceon is an Inuit Thing, and yet in Effect the same may be divided between Parceners; so they may preside by Turns: And if there be Coperacers of an Advoceon appertaining to a Manor, and they make Partition of the Manor, without mentioning the Advoceon; the same is ill appertaining, and they may preside by Turns. 3 Rep. 79. If two Parceners be of an Advoceon, the eldest hath Privilege to preside first; not in respect of her Person, but Estate: And if one Parcener be a Rent granted to her upon a Partition made, to make her Part equal with the other, she may disclaim for the Arrears of such Rent of common Right; and she shall have all the Grand of the Rest, because it is not annexed to her Person only, but to her Estate. 3 Rep. 32. If there are two Parceners of a Manor, and on Partition made, each of them hath Demesnes and Services allotted in this Case each of them is said to have a Manor. 1 Leon. 26. Davit. 61. A Partition may not be of Franchises, as Goods of Fellow, Wall, Ely, Epexe, &c. which are casual. 5 Rep. 145. A Writ of Partition between Parceners may be made Four Ways, viz. First, when they themselves divide the Lands equally into so many Parts as there are Parceners; and each choose one Share or Part, the Elder first, and to the one after another, &c. Secondly, When they make Agreement to chuse certain Friends to make Division for them: Thirdly, Partition by drawing Lots, where having divided the Lands into as many Parts as there are Parceners, and written every Part in a different Scroll, being wrapt up, they draw each of them one out of a Hat, Bekon, &c. And Fourthly, Partition by Writ De Partitione facienda, which is by Competition, where some agree to Partition and others do not; and when Judgment is given out of a Writ of Partition, it is that the Sheriff shall go to the Lands, and by the Oaths of twelve Men make Partition between the Paries, to hold them in Seignory, without any Mention of Preference to the eldest Sitter, &c. Lit. 148. 1 Inf. 165. But if there be a Capital Message on the Land to be divided, the Sheriff must order that wholly to the eldest of the Parceners. 1 Inf. 165. The Partition made and delivered by the Sheriff and Judges, ought to be return'd into the Court under the Seal of the Sheriff, and the Seals of the twelve Judges; for the Words of the just Partition, by which the Sheriff doth command the Sheriff to make Partition are, Ajustatis tamen ludeinans, &c. & Partitionem inde Seilii factam et per quos Sacramentum Partitionem illam feceris, &c. If Partition be made by Force of the King's Writ, and Judgment thereof given, it shall be binding to all Parties, because it is made by the Sheriff, by the Oath of twelve Men, by Authority of Law; and the Judgment is, that the Partition shall remain firm and stable for ever. 1 Inf. 171. In a Writ of Partition was, unless the Judgment was, &c. Partition fact; and before it was executed by the Sheriff, a Writ of Error was brought; and it was adjudged that a Writ of Error doth not lie upon a first Judgment, because this is not like other Actions,
where Error lies before the Habers faciait Scipioam is returned, and the Judgment is final; but it is not so in this Case, as there shall be another Judgment. i.e. Quod Particis habitis manant, which cannot be till the Partition is made and returned by the Sheriff. *Herby 36, *Day 67. Where two Persons hold Lands pro indivisa, and one of them have his Part in Severality, and the other refuseth to make Partition by Deed, there lies the Writ De Partibus facianda against him who refuses, directed to the Sheriff; and he must be present when the Partition is made; and if it is objected before the Return of the Writ, that he was not present, it may be examined by the Court; but after the Writ is returned and filed, *'is too late. *Cas. Elin. 9. A Writ of Partition was taken forth, and the Sheriff made Partition, but was not upon the Land; and on Motion that the Return might not be filed, but that a new Writ might be awarded, because the Sheriff was not on the Land, the Court filed the Filing, and on examining the Sheriff, ordered a new Writ. *Cas. Cet. 9. 10. On Writ of Partition to the Sheriff to make Partition of Lands, Part of the Lands were allotted to one, and the Jury would not sit the Sheriff to make Partition of the other Part; which appearing upon the Return of the Writ, the Court was moved for an Attachment against the Jury, and a new Writ to the Sheriff. *Coxh. 165. Partition was bought by Tenant in Fee for one of the Moieties, against Tenant for Life of the other Moiety, on the Stat. 32 H. 6. c. 32. And though it has been resolved, if Partition be made between one that hath an Estate of Inheritance, and another who hath a particular Estate for Life; that the Writ ought to be fram'd upon the Subject, and to be made special, ficting forth the particular Estate: Yet it was held that the Writ was general. *Galt. 84. 2 Lux. 1015. A Partition may be made by Statute of any Estate of Freehold, or for Term of Years, *Cas. de Mandos, Lands, Tenements and Hereditaments whereof the Partition is demanded; and if after Proceeds of Pass return'd upon a Writ of Partition, and Affidavit of Notice given of the Writ to the Tenant in the ADDITION, and a Copy left with the Tenant in Possession at least forty Days before the Return of the said Pass, *Cas. there be no Appearance entered in fifteen Days; the Demander may have his Partition. Then the Court may give Judgment by Default, and award a Writ to make Partition, whereby the Demander's Part or Parcel will be; out generally which Writ being executed, after eight Days Notice, and return'd, and thereupon final Judgment entered, shall conclude all Parties. *Cas. But the Court may suppress or set aside the Writ, if the Sheriff by Reason of Distance, *Cas. cannot be present at the Execution of any Judgment in Partition, then the Under-Sheriff, in the Presence of two Justices of Peace of the County, shall proceed to the Execution of the Writ, by Inquisition, and the High Sheriff is to make the Return, *Cas. Ibid. When the Partition is made and returned, the Persons who were Tenants of the Lands or any Part thereof, being divided, shall continue Tenants of the Lands they held, to the respective Owners, under such Conditions and Rent as before: And no Plea in Abatement shall be said to have been received in any Suit of Partition; nor shall the same be abated by the Death of any Tenant, *Cas. Ibid. In a Writ of Partition the Defendant pleaded, that he himself formerly brought Writ of Partition against the now Plaintiff, and had Judgment to have Partition, and this was held a good Plea; but it was a Question, whether it should be pleaded in Bar or Abatement, or by Way of Ephop.

*Pl. Day 92. No Damages can be recover'd on a Writ of Partition, though the Writ and Declaration be cou'd to be well made. *Max. 143. 2 Nef. Ab. 1357. Where Judgment for Debt is had against one Personer, the Lands, *Cas. of both may be taken in Execution, and the Money undivided is to be taken, and then the Vendee will be Tenant in Common with the other Coperceptor: If the Sheriff finite only a Moiety and sell it, the other Personer will have a Right to a Moiety of that Moiety by *H 95. All Partitions ought to be according to the Quality and true Value of the Lands, and be equal in Value: But if Partition be made by Personers of full Age, and unmarr'd, and Sane Memory, it binds them for ever, although the Value be unequal, if it be made in Lands in Fee; and if it be of Lands instilled, it shall bind the Personers for their Lives, but not their Issue, unless it be equal: If it be unequal, the Issue of her, that hath the Iffer Part, may after her Decease disinherit, and enter and occupy in Common with the Aunt: Also if any be covert, they shall bind the Husband, but not the Wife or her Heirs; or if any be within Age, it shall not bind the Infant, but the May at her full Age disinherit, *Cas 1 Inf. 165, 170. 2 Litt. 283. Though if a Wife after the Coverture, or the Infant at her Age, accept of the unequal Part, they are concluded for ever. *Cas 1 Inf. 170. And one of them hath five Daughters, and dieth; if the other Personer refuse to say one of the Daughters her whole Part, here, although the to whom the Release is made, have not an equal Part, the Release is good. *Hab. 195. It hath been adjudged, that notwithstanding a Partition is unequal, if it is by Writ, it cannot be avoided; but if it be by Deed, *Cas. 1 Inf. 170. If the Estate of a Personer be in Part evicted, that shall defeat the whole Partition; Partition implying a Warransey and Condition in Law to enter upon the whole on Eviction, as in Cafe of Exchange of Lands. *Cas. 1 Inf. 173. 1 Rep. 87. And if after Partition, one of the Parts is recovered from a Personer by lawful Title, the shall complete the other to make a new Partition. *Cas. Elin. 921. But as to Eviction of Personers, if one of them fell her Part, and then the Part which the other Personer hath is evicted; in this Case the one that judeth her Part, cannot enter on the Allotment for by the Alienation the Privy is destroyed. *Cas. 1 Inf. 173. *Amoo Personers, a Partition upon the Land may be good with their own, but not amongst Joint tenants, *Cas. Day 19, 194.

Form of a common Writ of Partition.

GEORGE the Second, *Cas. To the Sheriff of S. the Grantee: If A. B. makes you featur, etc. to the samem B. E. that she be before, etc. to shew copy, whereas the said A. B. and E. B. together and undivided hold the Manor of, etc. with the Appurtenances, Towny Meadow, one Mill, one Dead horse, renown Gardens, three hundred Acres of Land, two hundred Acres of Meadows, a hundred and fifty Acres of Pasture, one hundred Acres of Wood, one hundred Acres of Forest and Heath, and renown Shadings Rent, with the Appurtenances which was of N. B. Father of the said A. B. and E. B. wholes Hides they are, in, etc. the said E. B. Partition thereto to be made between them, according to the Law and Custom of Eng- land, due and wise; and wisely will not permit that to be done, as it is fitted. And have you there the Summons, and this Writ. *Writ 81, etc.
Form of a Deed of Partition of Lands among Part- 
cessors.

THIS Indenture tripartite, made &c. Between A. B. C. of, &c. of the first Part, C. B. C. of, &c. of the Second Part, and E. B. C. of, &c. of the third Part; Whereas T. B. of, &c. Father of the said A. B. C. and C. B. C. &c. being seated in his Demesne as of for, of and in all such Moyses or Tenements, &c. styled, given, and being in, &c. is dead, without any Male of his Body lawfully begotten, or making any Disposition of the said Moyses, whereby all and singular the said Mo-
sages, &c. are defeanded and given and made over to the said A. B. C. and E. B. C. of, &c. of the third Part, &c. &c.

The said A. B. C. and E. B. C. have agreed to make Partition, and by these Presents do make a full, perfect and absolute Partition of the said Moyses, &c. to and amongst them the said A. B. C. and E. B. C. in three Parts, in manner following, (that is to say) that for the said A. B. C. her Heirs and Affigns for ever, All that Moysage called, &c. for the full Part, Share and Proportion of her the said A. B. C. her Heirs and Affigns, Tenements, Lands and Premises above mentioned, descended to them the said A. B. C. and E. B. C. as aforesaid; and the said C. B. C. and E. B. C. to have, hold, enjoy, to the only proper Use and Benefit of the said C. B. C. her Heirs and Affigns for ever, All that Moysage called, &c. for the full Part, Share and Proportion of her the said C. B. C. her Heirs and Affigns, &c. And that the said E. B. C. her Heirs and Affigns, shall have, hold and enjoy, to the only proper Use and Benefit of the said E. B. C. her Heirs and Affigns for ever, All that Moysage called, &c. for the full Part, Share and Proportion of her the said E. B. C. and E. B. C. her Heirs and Affigns, &c. And the said C. B. C. and E. B. C. by these Presents grant, release and confirm to the said C. B. C. and E. B. C. to have, hold, enjoy, to the only proper Use and Benefit of the said C. B. C. her Heirs and Affigns, &c. &c. &c. &c.

Covenants from A. B. C. and E. B. C. that the said C. B. C. shall enjoy her Part; and from A. B. C. and E. B. C. that the said C. B. C. shall hold her Proportion; and likewise a Covenants may be added for further Assurance; in Witness, &c.

Parsonage, Is the holding of Lands jointly by Parsoners, when the common Inheritance is not di-
vided. Lit. 141.

Parish Court, A Tax of 20 l. per Cas. is laid on Parishioners, Paper, &c. by Stat. 8 & 9 Wm. 3, cap. 7.

Parson's Trifle, is a Writ that lies against him who violently breaks a Pound and taken out Beasts from thence, which for some Trespass done, &c. were lawfully imposed. Reg. Orig. 166. And if a Per-
son has any Right to the same, he may take it; if he breaks the Pound, before he demands the Castle of the Keeper thereof, and he refrares, or interuaps him in the taking of them, &c. the Writ Para-
sons bill lies. Dr. &c. 112. Damages are recog-

Covenants from A. B. C. and E. B. C. that the said C. B. C. shall enjoy her Part; and from A. B. C. and E. B. C. that the said C. B. C. shall hold her Proportion; and likewise a Covenants may be added for further Assurance; in Witness, &c.
Difflity Part is the Judgment by A.D. of Parlia-
ments, to the Starry upon the Sentence, 
there the King's Special Pardon cannot remove that
Difflity, but a General Pardon may; but where that
Difflity is by the Common Law, and only con-
figurative to the Conviction, and no Part of the
Judgment, in that Case the King's Pardon will take
it away. 5 Salk. 513. 3 Salk. 264. The King may
by Pardons release a Person attainted of Treason or
Felony, to his Lands, &c. But full Relinquition of
the whole Blood cannot be made by him, which must
be by Parliament. The King's Pardon releases the
Blood as to all Issue begotten afterwards; if a Man
be attainted of Treson, &c. and the King pardons
him, after which he purchases Lands and marries, and
has Issue and dies, this Issue shall inherit for by his
Pardon is well reformed, and is thereby enabled
to purchase. &c. Dalif. 14. The Words Pardons,
Remiss & Relaxation, in a Charter of Pardon granted
to one for Felony, doth not refer unto him what
he hath forfeited to the King; there must be the
Word Reprieve in the Pardon, to recompense to him
the Goods, &c. 2 Lid. 367. No Pardon by the
King without a Charter expresses Reprieve or For
Missy, shall devest the King or a Subject of an Interest in
Lands or Goods, vested in them by an Attainer or Con-
viction, but a Pardon to a Convicted Person prior to a Con-
viction, will prevent any Forfeiture of Lands or Goods.
5 Rep. 10. 2 Hen. P. C. 306. The Power of
Pardoning all Offences is inseparable incident to the
Crown by our Common Law: Though the King's
Power of Pardoning is restrained by Statute in Cases of
Muder; and where an Appeal may be brought to the
Suit of the Subject, by the Laws of England a
Muderer could never be pardoned. 2 How. 264. & 2
Salk. 316. 5 Rep. 50. In Appeals of Death, of Rape,
Robbery, &c. the King cannot pardon. The King
may pardon Crimes, Punishments and Forfeitures, and
in Forgery, the corporal Punishment; but the Plain-
tiff cannot release it. 3 Salk. 171. An Officer Ma-
dam in is cannot be pardoned before committed. 20th
254. A Pardon of Murder, &c. shall not be al-
allowed without Writ of Allowance directed to the Ju-
ices. Raym. 13. The King on granting these Per-
dons, speaks with or hath a Certificate from the
Judges, where they think the Case deserves Mercy.
Ist. Case. 173. In Case of Treson, a Pardon shall
be admitted without Writ of Allowance; though not of
Felony. Era. Eic. 814. And by our Statutes, no Charter of
Pardon is to be granted for Murder, only where one killeth another in his own Defence, or by Misadventure, as 2 Ed. 3. 2. Allo. no Pardon of the Death of a Man, or other Felon shall
be granted but where the King may do it consistent with
his Coronation Oath. 14 Ed. 3. 1. 15. Pardon which
have given by the Suggisition, whereas they are
granted, and also the Suggisiter's Name, &c. shall be
void. 27 Ed. 5. 3. 1. The Offence is to be specially
specified in Pardons; no Pardon of Trea-
son or Felony shall pass, without Warrants of the
Privy Seal: and if the Office is found wilful Mur-
der, the Pardon shall not be allowed. 13 R. 2. 1,
& 16. P. 5. 9. 0. And Pardon par'd of Fe-
lony, are to enter into a Recognizance with two
sufficient Sureties for Good Behaviour for seven
Years. &c. 5 & 6 W. 3 & M. c. 13. A Man was
indicted for murdering the King, and Robbery, and
Robbery was convicted and confes-
ed, and produced his Pardon, which was of all
Murders, Robberies, &c. Non obsis the Statue 13 R.
1. 2. But the for a Writ, for a Statute a general Nov obsis would not do, without a Recital of the Effect of the Indictment, that it may appear the King was apprised of the
Pardon. 2 Nov. 1233. 1. One Man being
attainted for the Murder of Mr. Hads, pleased the
King's Pardon, which was for the Murder by the
express Words, without any Nov Obitum, that be-
tein, But in a Given Case, to the Starry upon the Sentence, there the King's Special Pardon cannot remove that Difflity, but a General Pardon may; but where that Difflity is by the Common Law, and only configurative to the Conviction, and no Part of the Judgment, in that Case the King's Pardon will take it away. 5 Salk. 513. 3 Salk. 264. The King may by Pardons release a Person attainted of Treason or Felony, to his Lands, &c. But full Relinquition of the whole Blood cannot be made by him, which must be by Parliament. The King's Pardon releases the Blood as to all Issue begotten afterwards; if a Man be attainted of Treson, &c. and the King pardons him, after which he purchases Lands and marries, and has Issue and dies, this Issue shall inherit for by his Pardon is well reformed, and is thereby enabled to purchase. &c. Dalif. 14. The Words Pardons, Remiss & Relaxation, in a Charter of Pardon granted to one for Felony, doth not refer unto him what he hath forfeited to the King; there must be the Word Reprieve in the Pardon, to recompense to him the Goods, &c. 2 Lid. 367. No Pardon by the King without a Charter expresses Reprieve or For Missy, shall devest the King or a Subject of an Interest in Lands or Goods, vested in them by an Attainer or Conviction, but a Pardon to a Convicted Person prior to a Conviction, will prevent any Forfeiture of Lands or Goods. 5 Rep. 10. 2 Hen. P. C. 306. The Power of Pardoning all Offences is inseparable incident to the Crown by our Common Law: Though the King's Power of Pardoning is restrained by Statute in Cases of Murder; and where an Appeal may be brought to the Suit of the Subject, by the Laws of England a Murderer could never be pardoned. 2 How. 264. & 2 Salk. 316. 5 Rep. 50. In Appeals of Death, of Rape, Robbery, &c. the King cannot pardon. The King may pardon Crimes, Punishments and Forfeitures, and in Forgery, the corporal Punishment; but the Plaintiff cannot release it. 3 Salk. 171. An Officer Mandam in is cannot be pardoned before committed. 20th 254. A Pardon of Murder, &c. shall not be allowed without Writ of Allowance directed to the Justices. Raym. 13. The King on granting these Pardons, speaks with or hath a Certificate from the Judges, where they think the Case deserves Mercy. 1st. Case. 173. In Case of Treson, a Pardon shall be admitted without Writ of Allowance; though not of Felony. Era. Eic. 814. And by our Statutes, no Charter of Pardon is to be granted for Murder, only where one killeth another in his own Defence, or by Misadventure, as 2 Ed. 3. 2. Allo. no Pardon of the Death of a Man, or other Felon shall be granted but where the King may do it consistent with his Coronation Oath. 14 Ed. 3. 1. 15. Pardon which have given by the Suggisition, whereas they are granted, and also the Suggisiter's Name, &c. shall be void. 27 Ed. 5. 3. 1. The Offence is to be particularly specified in Pardons; no Pardon of Treson or Felony shall pass, without Warrants of the Privy Seal: and if the Office is found wilful Murder, the Pardon shall not be allowed. 13 R. 2. 1, & 16. P. 5. 9. 0. And Pardon par'd of Felony, are to enter into a Recognizance with two sufficient Sureties for Good Behaviour for seven Years. &c. 5 & 6 W. 3 & M. c. 13. A Man was indicted for murdering the King, and Robbery, and Robbery was convicted and confessed, and produced his Pardon, which was of all Murders, Robberies, &c. Non obsis the Statue 13 R. 1. 2. But the for a Writ, for a Statute a general Nov obsis would not do, without a Recital of the Effect of the Indictment, that it may appear the King was apprised of the Pardon. 2 Nov. 1233. 1. One Man being attainted for the Murder of Mr. Hads, pleased the King's Pardon, which was for the Murder by the
was pardoned. 1 Mad. 102. 3 Hul. 250. If a General
Pardon has been of all Felonies, Offences, In-
juries, Misdemeanors, and other Things done be-
fore such Day, and a Person has a Wound given be-
fore the Day, though he did not stilt after the Day
meet with which was the Case of his Death is pardoned, all the Effects
And all Censures being pardoned, Amnestiments,
&c. depending upon them, are of Consequence pard-
ned. 5 Rep. 49. A General Pardon of all Fe-
lonies, &c. except Murder, will pardon a tulie
p. 1. Lev. 2. By the Pardon of Murder, Man-
slaughter is pardoned. Finch 21. In some Caises, the
Penalty of one Man may be so far dependant upon
that of another, that a Pardon of it may spare to
his Benefic t where as the Principal pleaded his Par-
don, and was allowed it at Common Law, before At-
tainder, this extended to the Accessary; and where
he pleads his, he is allow’d it, at this Day, before his
Conviction, ’tis said the Accessary may take the
Benefit of it. 2 Hawk. P. C. 387. If a Man be
bound to the King, as Surety for another, for the
Payment of a Fine, or Debt, or to the Crown; the
Pardon of the Principal is a Discharge of the
Surety. Ibid. A bound in a Recognisance of 1000£
to the King, and a Tenant in Chief to the King,
pardon him, and relieves to him all his Chattels,
&c. This Debt to the King remains. Dyre 124.
An outlawed Person was fully returned upon the
Exigent, and afterwards the Sheriff obtained the
King’s Charter of Pardon of all Misdemeanors, Offences,
&c. but yet the Judges fixed him for his falle Return,
and upon an Attachment he was taken in Execution:
His Goods and Moveable were taken. A Pardon in Na-
ture of an Audita Sacra, was and discharged.
Jenk. Cent. 109. If an Informer begins his Suit,
before the Offender obtains a Pardon, he shall have
his Part, though that of the King is discharged: ’Tis
otherwise if the Pardon comes before the Suit of the
Informa. Ibid 111. A Pardon may be of all Suits in
the Peasant Courts, in fealty or else as well be-
fore as after a Suit commenc’d: Not where the Party
has a Property in the Thing, as for Tithes, Legac-
cies, 8c. which the King cannot pardon. 5 Rep. 31.
Against the Pardon of the King, the Court be for
the King, which he may pardon: when Sentence is
given in a Case of Defamation, &c. and Coff’s are
taxed for the Plaintiff he has thereby a particular
Interest in them by the Sentence, which the King
cannot pardon: Though if the Pardon had been be-
fore Sentence, it had discharged all. Ibid. Where
a General Pardon pleaded in the Spiritual Court
would not be allowed there; the Party had a Prebti-
tion. Mot 1171. Nowwithstanding the King’s Pardon to a Simonist, coming into a Church con-
trary to the Stat. 3 Ed. 5. or to an Officer coming
into his Office by corrupt Contrary, as well as to an
Office to retaine the Office, because they are absolute-
ly disfend by Statute. 2 Haul. 395. But where one
who was Judge of the Prerogative Court, was sen-
tenced for Bribery, &c. and fined and imprison-
ed, and another obtained his Office; he afterwards
hath a Suit against the said Officer, he produces the
King’s Pardon after Sentence, wherein all the
Special Matter was recited, and all Penalties and
Punishments by Reason thereof, and all Disabilities
were remitted, the Party hath taken away the Force of the
Sentence, and that he might proceed in the Affire. Cro. Car. 40. A General
Pardon by Parliament shall set aside a Judgment
for a Suit; and relate to the first Day of the
Parliament. Lut. 22. 3 Nefl. Abr. 1227. And a
General Pardon doth publickly pardon Offences, done
against the Commonwealth, but not private commissioner t
to particular Persons: It shall be taken Beneficially
for the Subject, and most strongly against the King.
3 Rep. 45. 2 Litt. abr. 251. A General Pardon
by Act of Parliament, or by a Sentence of the Courf; but if it hath Exceptions
of Offences or Persons, the Court cannot take Notice of it, nor can the Party have
Benefit thereof until it pleads it, and swears that he is none of the Persons,
&c. excepted. 3 Inf. 253. 1 Lev. 25. He that
will take the Benefit of a general Pardon, is to plead
the Statute by which it is granted, that the Court
may judge whether his Offence is pardoned or not,
which they cannot do if the Pardon be not pleaded,
and the Party do not shew that he is comprised in
the Pardon. 2 Litt. abr. 258. Sometimes Advantage
is given to the Offenders by the Act itself without
Pleading: And it has been held, where a Statute
Pardon contains Exceptions in the Body of the Act,
he who pleads such Statute, to inuite himself to the
Benefit thereof, must aver himself not to be a
Person excepted; but when the Exception follows in a
direct Clause, by Way of Prejudgment, he must
prove he is not comprised in the Exception; and the
Court will not take the Pardon into Consideration;
and it is the practice of the Court to inuite him to
the Benefit thereof, as well as when it is granted by
the Statute itself. 1 Vent. 134. 3 Salt. 266. A Charter of Pardon
of the King under the Great Seal, cannot be allow-
red unless it be pleaded; and he who pleads it
ought to produce it feb pede sigilli: And it
will be Error to allow a Man the Benefit of it, if it
be not pleaded. H. P. C. 250. If there be Vari-
cance between the Record on which a Man is convicted
or attainted, and his Charter of Pardon: if there be no Repugnancy that the same Person or Thing
are meant in both, it may be supplied by proper
Averments: as that he is the Person intended in the
Indictment, and the Pardon. &c. And there are
some Instances in the old Books, upon such
Variances the Court took an Enquiry of the Officer,
whether the same Person was meant in both Records:
Alfo if such variant Pardon be pleaded without
any Averment, the Court may give a farther Day
either for the Party to perfect his Plea, or to pur-
chase a better Pardon. 2 Haul. 598. Pardon for
Treason cannot regularly be pleaded, until the Pris-
nor is charged with Indictment for the Offence com-
mitted. 4 Rep. 43. The Sentence of the Pardon is
an Argument of Guilt; and he that pleads it, con-
cifeth the Fault: But a Person may waive it, if it be
not a general Pardon by Parliament, which cannot
be waved. 4 Inf. 255. If a Peer hath a Pardon,
he must plead it before the Judges of the Court where
he is indicted. Wood’s Inf. 673. And if one have a
Charter of Pardon of Felony, the Court will allow
it upon the Prayer of the Party, and on his produ-
cing it at the Bar; for if he pray not the Allow-
cance of it, the Court cannot tell whether he knows
of the Benefit thereof; and he is to do it upon his
Knees, to express his Thankfulness for the Mercy
afforded him by the Pardon. 2 Litt. abr. 251. Gloves
are due to the Judges on Allowance of a Pardon.
Pall. 88.

General Act of Pardon. In the 4th and 5th Years of the Reign of Queen Elizabeth; and anno 21
T. 1. General Pardons were granted, which were
very extensive and beneficial to the Subject. By Stat.
12 Car. 2. a General Pardon was granted to Persons
concerned in the Grand Rebellion against King James
I. except those who fat in the traitorous Assem-
lby which proceeded against the King’s Life; and the
two Persons that appeared guilty on the Scaffold
at the King’s Murder, Cro. Car. 40. and likewise granted a General Pardon. By 2 W. &
M. Siff. 1. c. 10. A General Pardon was granted
on Accounts of the Revolution and Abdication of King
James II. 2 T. 5. Tresasons against the King; and all those Persons, Murders, &c. excepted: and there was
7 D
an Exception of the Marquess of Pens, the Lord Bishop of Durham, the Lord Jeffrey, &c. The Stat. 6 of 7 W. 3. c. 20. was made for a general and free Pardon. And by 7 Ann. c. 23. was granted to General, General Free Pardon; Treson, Murder, Mer. &c. and Persons employed in the Service of the Pretender excepted. By the 3 Geo. 1. c. 19. a General and Free Pardon was granted to all Crimes and Offences; and out of this Act were excepted Murders, Piracies, Burglaries, Rapes, &c. and all such Persons as were in the Service of the Pretender, and levied War against his Majesty in the late Rebellion; also Robert Earl of Oxford, Simon Lord Harcourt, Matthew Prior, Thomas Harley, and Arthur More, Esqrs. and such who were impeach-
ed by Parliament. And the 7 Geo. 1. c. 20. granted a more gracious, general and free Pardon, without the Exception of the Pardons above named, so that it extended to three Gentlemen; and the late Directors of the South Sea Company for their Conduits in the Year 1730. were excepted out of this Statute. See the Stat. 2 Geo. 2. c. 12. By the Stat. 20 Geo. 2. c. 52. a General Pardon was passed, but with diverse Exceptions.

Pardon by Statute on Discovery of Accomplices in Crimes, are granted in the following Cases. For the Discovery of the King's Enemies, &c. 4 Geo. 1. c. 55. for Discovering Counterfeeters of the Coin, 6 Geo. 2. f 7 W. 3. for the Discovery of Pardons guilty of Burglary, &c. 8 Ann. for discovering of Offenders in forcibly hindering or winding any Officer of the Custom in the Execution of his Office, 6 Geo. 1. and for Discovery of Smugglers of the Custom, 7 Geo. 1.

Pardonnors, Were Persons that carried about the Pope's Indulgences, and sold them to any that would buy them. Stat. 22 H. 8. 3. Pardons, (Pardon) A Father or Mother; but generally applied to the Father. Parents have Power over their Children by the Law of Nature, and the Divine Law: and by those Laws they must educate, maintain, and defend their Children. And," 3 Geo. 1. 65. The Parent or Father hath an Interest in the Profits of the Childrens Labour while they are under Age, if they live with and are maintained by him: But the Father hath no Interest in the Estate Real or Personal of a Child, otherwife than as his Guardian. Ibid. The eldest Son is heir to his Father's Estate; and if there are no Sons, but Daughters, the Daughters shall be Heirs, &c. And there being a reciprocal Interest in each other, Parents and Children may maintain the Suits of each other, and justify the Defense of each other's Persons. 2 Inst. 64.

Pardonnor, or de Parentela se illares, Signified to renounce his Kindred or Family, which was done in open Court before the Judge, and in the Presence of twelve Men, who made Oath that they believed it was done for just Cause: We read of it in the Laws of K. Hen. I. c. 88. - Si quis parent falsam vel cau-
sum aliquam de Parentela se volit tollere et cum fossa "parenter, et de suavitate et beneficio et illas rationes quas ipserat, et potia aliquam a Parentelis abjuratoris manu, vel occidit, nihil ad eum de beneficio vel commendatione pertinent. &c.

Pardons, (Parchia) Did anciently signify what we now call the Discharge of a Bill: But at this Day it is the Circuit of Creditor in which the People that belong to one Church do inhabit, and the particular Charge of a Secular Priest. It is derived from the Saxon P.C. enact-Civis, Prophylax, which signifies the Prevent of the Sick of the Parish had the Care, in English Parish, here. This Realm was first divided into Parishes by Hauwric, Archbishop of Canterbury, in the Year of our Lord 636. according to Camden, who reckons 9284 Parishes in England, but other

Authors differ in the Number. Camb. Britan, p. 160. It is said that Parishes were ordained by the Lateran Council; but which every Man being obli-
ged to pay Tithes to a Priest, had his Liberty to pay them to whom he pleased. But this was not done by the Council which made the Pardons, and decreed, that every Person should pay his Tithes to his Parish Priest. Hdb. 290. 2 Litt. Abs. 291. The Lord Chief Ju-
stice Holk held, That Parishes were instituted for the Ease and Benefit of the People, and not of the Par-
son; and the Reason why Parishes must come to their Parish Churches, is, because he having charged himself with the Cure of their Souls, that he may be enabled to take Care of that Charge. 3 Salic. 88, 89. A Parish may comprise many Villis; but gene-
erally it shall not be accounted to contain more than one, except the contrary be showed; because most Parishes have but one Villi within them. Hill. 23 Car. 1. 8 R. And it shall not be intended that there is more than one Parish in a City, if it be not made to appear; for some Cities have but one Parish. Ibid. Where there are several Villis in a Parish, they may have Peace-Officers, and Over-Officers of the Poor of every particular Villi: And an ancient Villi in a Pa-
rihi, that Time out of Mind hath had a Church of its own, and Church Wardens and Parochial Rights, and been a Parish within the City, it shall be accounted as 43 Edw. c. 2. to provide for its own Poor, and shall not pay to the Poor of the Parish wherein it lies. Cr. Car. 95, 354. 395. But to make a Villi a re-
parked Parish within 43 Edw. it must have a parochial Chapel, Chapel-wardens and Sacraments at the Time that Statute was made, 2 Salic. 501. Parishes in Re-
presentation are within that Statute, especially when it has been the constant Usage of such Parishes to chuse their own Over-Officers; who may disclaim for a Poor Tax, &c. a Roll. Rep. 160. 2 Nof. Abs. 1235. Money given by Villi to a Parish, shall be to the Poor of the Parish, as adjudge'd in Equity. Churc. Rep. 154. If a Highway lie in a Parish, the Pa-
rihi is obliged to repair the same; and it is the most convenient and equal for the Parishers in every Parish, to repair the Ways within it, if they are able to do it. 2 Litt. 275. And if any Villi, Liberty, &c. that sits to repair their own Highways, shall add the usual Rate levied and employed, find the Ways not sufficiently repaired; the whole Parish may be order-
ed by judicites of Peace in their Sections to contribute for the Repairing them. Hdb. 235. 2 Inst. 37. By the Stat. 17 Geo. 2. c. 37. Extrarural enclosed Lands shall be affixed to the parochial Rates of such Parish as lies nearest to such Lands, and if any Dis-
pute shall arise touching what Parish such Lands ought to be affixed in, it shall be determined by the Judicatures in Sections.

Parish Clerks. In every Parish the Parson, Vic-
ari, &c. hath a Parish Clerk under him, who is the lowest Officer of the Church. These were formerly Clerks in Orders, and their Business at first was to of-
ficiate at the Altar, for which they have a competent Maintenance by Offerings; but now they are Lay-
men, and have certain Fees with the Parson, on Chrismings, Marriages, Burials, &c. besides Wages for their Maintenance. Cunt. Parf. Canam. 81, 84. They are to be twenty Years of Age at least, and known to be of honest Conversation, sufficient for their Reading, Singing, &c. And their Business con-
stitutes chiefly in Responsial to the Minster, Rending of 
Leetons, Singing of Psalms, &c. And in the large Parishes of London, they have some of them Deputies under them to the Examinations of the Places, which are more gainful than common Redo-
ries. Ibid. The Law looks upon them as Officers for Life: And they are chosen by the Minister of the Parish, unless there is a Canon for the Parishioners.
or Churchwardens to cause them; in which Case the Canon cannot abrogate such Cofon: and when cho-

fee it is to be ignifed, and they are to be frowned

from their Office by the Archdeacon. 

Parliament, (Parliamentis) is an Inhabitant of

or belonging to any Parish, lawfully settled therein.

See Pari.

Parihal Officers, Divers Personis are exempted from serving in Parish Offices on Account of their Professions, viz. Physicians and Surgeons, Apothecaries, \( \text{a} \) Dividing Teachers, Registered, 

and Persons having professed any Felon to Conviction, 


Earth, (Lat. Aus., Fr. Parque, i. e. locis inclu-

fur) is a large Quantity of Ground inclosed and pi-

vileged for wild Beasts of Chafe, by the King's Grant or Precept. 1 Inf. 283. Defendons defines a

Park to be a Place of Privilege for Beasts of Vena-

ty, and of other wild Beasts of the Forest and of the 

Chafe, two S/Pfester, prime Campfires; and differs from a Chafe or Warren, in that it must be included, and may not be loose. If it be the good Cause of 

Sellef into the King's Hands as a Thing forfeited; as a Free Chafe it, if it be included; besides, the 

Owner would be Archif, for a wrong as hard in his 


P. 148. No Man can now erect a Park, with-

out a Licence under the Broad Seal for the Common

Law does not have any Matters of Pleau, which 

bring no Profit to the Commonwealth. Wood's In-

f. 217. But there may be a Park in Reputation, ereft-

ed without lawful Warrant; and the Creator of such 

Park may bring his Action against Persons killing his Deer. Ibid. To a Park three Things are re-
quired, 1. A Grant thereof. 2. Inclusions by Pale, 

Wall or Hedge. 3. Beasts of a Park, such as the 

Back, Doe, Etc. And where all the Deer are de-

stroyed, it shall no more be accounted a Park; for a 

Park consists of Venison and Inclosure, and if it is determined to any of them, it is a total Dis-

parking. Cr. Cas. 59. 60. And the King may by 


Parks as well as Chafes are subject to the Common

Law, and are under the same Laws as Parks. 4 

Inf. 314. Pulling down a Park Wall or Pales, the 

Offenders shall be liable to the Feme Penalty as for 

killing Deer. Etc. by Act. and the Statutes against 

Deer-Killing, are the 13 Car. 2. & 1. 3. & 5. 


Parti-Bill, Signifies to be quit of including a Park, 
or any Part thereof. 4 Inf. 99. 

Parti-Bill, The learned Spelman gives us this De-

scription of it: it is (says he) Callis villis pleniorque

munitis, in lies camparotis, as infinitus expensarius, 

at accommodate eis intus eorum et inter eum invadit ad 

liter inter se tractandis & terminandis: Scotus reor-

Grith hal, q. Min. justificationem, est idque privilegia

intercurtatoris & in Hiberna frequentis eadem si, 

the Parks and Parling Hills. Spelm. Giff. 

Parliamentum, from the Fr. Parler, i. e. loquit, & Mince, noise, to speak the Mind, some-

times called the Commons, the Conclamit (Signs Angleur, Magn

num Conclamit, &c.) is a Grand Assemblies, or Con-

vention of the three Estates of the Kingdom; sum-
mom to meet the King, to consult of Matters re-

al and refer the Laws. Some Authors say, that the 

ancient Britains had no such Assemblies; but that the 

Legence have not been established from the Laws of 

King Leo, who lived about the Year 712. And 

William the first, called the Conqueror, having di-

vided this Land among his Followers, so as every 

put them into several Parties, viz. Lords in the Land in Cap-

pils, the Chief of these were called Baronis; who it

is said three years after was affirmed at the King's Court, 

viz. at Christum, Ely, and Westminster, on whom the King was wont to come in his Royal Robes, 
to consult of the Publick Affairs of the Kingdom. 

This King called several Parliaments, wherein it is 
noted, that the Freeman or Commons of England 

were also there, and had a Share in making of Laws: 

He by setting the Court of Parliament to established 

his Throne, that neither his Pont, nor Saitor, 
could disturb his Tranquillity; the making of his 

Laws were by Act of Parliament, and the Accord 

between Stephen and him was made by Parliament; 

though all the Times since have not kept the same 

Form of assembling the States. D.owdridge's Ann. 

Parliament. And according to the same Author, there 

was a Parliament before there were any Barons: and 

if the Commons do not appear, there can be no Par-

liament; for the Knights, Citizens and Burgesses, re-

present the whole Commons of England, but the 

Lords only are present for themselves, and none others. Ibid. 

Sir Edward Coke affirms, that divers Parliamentes were 

held before the Conquest; and produces an Instance 

of one held in the Reign of King Alfred: He likewise 
gives us a Conscience of a Parliament held by 

King Abellion, where Mention is made, that all 

Things were enacted in the great Synod or Council 

Grants, whereas we are informed, it was Archif, 

and the Kings, Nobles, Seniors, Aldermen, Witmen, 

Knights and Commons, were present and voting in them as 

Members and Judges: And Sir John Spelman, Counsel, 

and other Writers, prove the Commons to be a Part 

of the Parliament in the Time of the Saxons, but not 

rightly so called; and it is the Opinion of all the 

Knights, Citizens and Burgesses, Ply's Sovereign Pow. 

Parlia-

ment. As to the Original of the present House of 

Commons, our Authors of Antiquity very much say 

are of Opinion that the Commons began not to be 

admitted as Part of the Parliament, upon the 

Footing they are now, until the 45 H. 3. And the 

Reason for it is, because the first Writ of Summons 

does not mention of any Knights, Citizens and 

Parliamenters; is of a much earlier Date than that Time. But the great Charter 

in the 17th Year of King James, (about which Time 

the Stitution of Barons, Knights and Members is sup-

posed to begin) was made per Regem, Baronum & Li-

berts Hominum suis Regis. Mr. Stiles says, that the 

Borough of St. Albans claimed by Prefecture in the 

Parliament, 3 Edw. 2. to send two Burgesses to all 

Parliaments, as in the Reigns of Edw. 1. and his 

Prodecessors, which must be the Time of King James; 

and so before the Reign of King Hen. 3. And in 

the Reign of Hen. 5. it was declared and admitted, 

that the Commons of the Land were ever a Part of 

the Parliament. Stiles's Tit. Hist. 705. Polystr. Pir-

gis, Holleleand, Speed and others mention, that 

the Commons were first summoned as a Parliament held as 

Salisbury, 16 Hen. 1. Sir Walter Raleigh, in his Treas-

ure of the Prerogatives of Parliament, thinks it was 

Axon 18 H. 3. 1. And Dr. Heptle finds another Begin-

ning for them, viz. in the Reign of K. H. 2. Thus 

much for the Original of our Parliament: Which is the 

highest, and most honourable, and ablest Court re-

flect and judge of in England; in consequence of the 

Title of Commons in the Lords of Parliament, and the Commons; and again, the 

Lords are divided into two Sorts, One, Spiritual and Temporal; and the Commons are divided into 

Parties, i.e. into Knights of Shires or Counties, Cit-

izens out of Cities, and Burgesses from Boroughs; 

the Words of the old Latin Writ to the Sheriff for 

the Election, being, Eius Militia gladiis curvatis, 

idem & dedita comitatus tua, & de qualitatem civi-

104.
tate comitatus sui des Curiæ, & de guilhelm Burgon, Insipt. 

Dilicetur, &c. Infl. 109. The Jurisdiction of this Court is so transcendental, that it makes, enlarges, abrogates, repeals and revives Laws and Statutes, concerning Maritime, Civil, Criminal, Martial, Maritime, &c. And for making of Laws and in proceeding by Bill, this supreme Court is not con- 

considered either for Causes or Persons within any 

Bounds; nor is it tied down to any certain Rules or Forms of Law, in Proceedings and Determinations: The Court of Parliament hath Power to judge in Matters of Law; and redress Mischiefs and Grievances that happen, especially such as have no ordinary Remedy; to examine into the Corrup- 

tion of Judges and Magistrates, and illegal Proceedings of other Courts; to redress Errors, and determine on Petitions and Appeals, &c. and from this High Court there lies no Appeal. Ibid. 

Affairs of Parliament are to be determined by the 

Parliament; though the Parliament err, it is not re- 

erisible in any other Court: And not only what is done in the House of Commons, but what relates to the Commons during the Parliament, and fitting that 

Parliament, is no where else to be punished but by 

themselves, or a succeeding Parliament. Sir Robert 

Adams. Every Court of Justice having Laws and 

Customs for its Direction, the High Court of Par-

liament hath its own proper Laws and Customs, called 

the Laws and Customs of Parliament; innomuch that 

no Judge ought to give any Opinion of Matters 

done in Parliament, because they are not to be decided by the Common Law: But the Parliament, in their Judicial Capacity, are governed by the Commons and Statute Laws, as well as the Courts in Westminster. 

Hall. 4 Infl. 14, 15; State Trials, Vol. 2, 735. The 

Lords and Commons in their respective Houses have 

Power of Judicature, and so have both Houses togeth- 

er: And in former Times both Lords and Commons 

sat together in one House of Parliament. 4 Infl. 

23. The Lords have one that presides as Speaker in 

common Affairs, usuall the Lord Chancellor; and the 

Commons have their Speaker, chosen by the 

House, but to be approved of by the King: The 

Commons anciently had no continual Speaker, but after the dissolution of Parliament they were 

agreed to approve upon some Person of great Abilities, to de- 

liver their Resolutions: In the Reign of William Ro-

ford, there was a great Parliament held at Reatingham, 

and a certain Knight came forth and bled before the 

People, and spake in the Name and Behalf of them 

all, who was undoubtedly the Speaker of the 

House of Commons at that Time: But the first Spea-

ker certainly known was Peter de Stowford, 44 H. 3, 

when the Lords and Commons sat in several Houses, 

or at least gave their Affeats severally. Lex Cons- 

stitut. 165. Sir Richard Wolgraves, 5 R. 2. was the 

first Speaker that made any formal Apology for In- 

ability, as now preserved: Richard Rich, Eqv. 28 H. 

8. was the first of our Speakers that is recorded to 

have made Request for Access to the King. Tho-

mas Mylne, Eqv. 34 H. 8. is said to be the first 

Speaker that petitioned for Freedom of Speech; and Sir 

Thomas Gargrave, 1 Edw. was the first that made 

the Request for Privilege from Arreett. &c. Sir Iohn 

Robyn, 17 R. 2. was the first Speaker presented to 

the King in full Parliament by the Commons: And 

when Sir Archd Scouler was Speaker, 5 R. 2. It 

was the first Time that the Commons were required 

by the King to choose a Speaker. Ibid. 165, &c. 

The First Notice of the Prince said it should be 

done in the House of Commons but by the Report of 

the House; and every Member of the House of 

Parliament has a judicial Place, and can be no Wis- 

cons. 4 Infl. 1. When King Charles 1. being in 

the House of Commons, and sitting in the Speaker's 

Chair, asked the then Speaker, whether certain Mem- 

bers, whom the King sometimes preferred to the 

Speaker, from a Presence of Mind which arose from 

the Genius of that House, readily answered, That he 

had neither Eyes to see nor Tongue to speak, but 

as the House pleased, them to whisper. An Act and 


having commanded Sir Thomas Gervay, one of the 

Judges of the King's Bench, to attend the House, 

should and know their Opinion, whether a Man might 

be attainted of High Treason by Parliament, and 

never called to answer; the Judges declared it was a 

dangerous Question, and that the High Court of 

Parliament ought to give Examples to inferior Courts, 

for proceeding according to Justice, and no inferior 

Court could do the like. Lex Constitut. 161. The 

House of Lords is a distinct Court from the Com- 

mons, to several Purposes, and is the Sovereign Court 

of Justice, and Dernier Refor: They try Criminal 

Cases of Impeachments of the Commons; and have 

an original Jurisdiction for the Trial of Peers upon 

Indictments found by a Grand Jury: They also try 

Causes upon Appeals from the Court of Chancery, or 

upon Writs of Error to review Judgments in B. R. 

&c. And all their Decrees are as Judgments; and 

Judgment given in Parliament may be executed by 

the Lord Chancellor. 4 Infl. 21. Pass 253. Lex 

163, It is said, that the Judicial Power of Parlia-

ment is in the Lords; but that the House of Lords 

hath no Jurisdiction over original Caules, which would 

be a Subversion of the Subjection of the Commons. 

P. 510. Also the House of Commons is a distinct 

Court to many Purposes; they examine the Right of 

Elections, expel their own Members, and commit them 

all as the Lords, to the King to be tried, &c. And the 

Book of the Clerk of the House of Commons is a 

Record. 4 Infl. 356. 4 Infl. 23. The Commons coming 

from all Parts are the General In-

quisitors and Grand Inquisitors of the Realm: to present 

public Grievances and Delinquents to the King and 

Lords to be punished by them: And any Member of 

the House of Commons, has the Privilege of im-

peaching the highest Lord in the Kingdom. Wood's 

Infl. 45. As the House of Lords seems to be poli-

etically constituted for the Support of the Rights of 

the Crown, and the Guard of the Liberties and 

Comprehension of the People's Liberties. The Commons in making and re-

pealing of Laws, have equal Power with the Lords; 

and for laying of Taxes on the Subject, the Bill is 

to begin in the House of Commons, because from 

thence the greatest Part of the Money arises, and it 

is they that represent the whole Commons of England, 

for which Reason they will not permit any Alterations 

to be made by the Lords in a Bill concerning Money: 

And as formerly the Laying and Levying of new 

Taxes have cauased Rebellions and Comotions, this 

has occasioned, particularly 9 E. 3. when a Motion 

has been made for a Subsidy of a new Kind, that the 

Commons have defrayed a Conference with that of 

their several Counties and Places, whom they have 

represented before they have treated of any such 

Matters. 4 Infl. 34. There are no Places of Pre-

cedency in the House of Commons, as there are in 

the House of Lords; only the Speaker has a Chair 

or Seat, fixed towards the upper End, in the Middle 

of the House; and the Clerk, with his Affeats, 

sits near him at the Table, but below the Chair: The 

Members of the House of Commons never had any 

Robes, as the Lords ever had, except the Speaker and 

Chamberlain; and the Officers and Attorneys of the 

Clerk and Attorney of the Law do during the Term-Time. If a 

LORD be absent from the House, he may make an- 

other Lord his Proxy; though a Member of the House 

of Commons cannot make a Proxy. Wood's Infl. 

18. No Knight, Citizen or Burgel of the House of Com-
mons, shall depart from the Parliament without Leave of the Speaker and Commons assembled; and the same is to be entered in the Book of the Clerk of the Parliament, and delivered to the Lord Speaker. 2 P. 2. M. Information were preferred by the Attorney General against thirty nine of the House of Commons for, deserts without Licence, whereby six of them submitted to Fines; but it is uncertain whether any of them were ever paid. The Calling of the House is to discover what Members are absent, without Leave of the House, or just Causes; in which Cases Fines have been imposed: On the Calling over, such of the Members as are present, are marked; and the Defaulters being called over again the same Day, or the Day after, and not appearing, are sometimes summoned, and sometimes sent for by the Sergeant at Arms, Lex Convocation. 159. Forty Members are required to make a House of Commons for Dispatch of Business; and the Business of the House is to be kept entirely a Secret among themselves: In the 25th Year of Queen Elizabeth, Arthur Hall, Esq.; Member of Parliament, for publishing the Conferences of the House, and writing a Book which contained Matters of Reproach against some particular Members, derogatory to the general Authority, Power, and Providence of the House, and prejudicial to the Variability of the Proceedings, was adjudged by the Commons to be committed to the Tower for six Months, fined 100 l. and expelled the House. But the Speaker of the House of Commons, according to the Duty of his Office, as Servant to the House, may publish such Proceedings as he shall be ordered by the Commons assembled; and he cannot be liable for what he does that Way by the Command of others, unless all those other Persons are liable. The Case of William Williams, Esq. If any Member of either House, for Speech in Debate, after the Debate is over he is called to the Bar, where commonly on his Knees he receives a Reprimand from the Speaker; and if the Offence be great, he is sent to the Tower. When the Bill of Attainder of the Earl of Strafford, was passing the House of Commons, Mr. Taylor, a Member of that House, opposed it with great Violence and Assiduity, and being heard to explain himself, was commanded to withdraw; whereupon it was resolved he should be expelled the House, he was made incapable of ever being a Member of Parliament, and should be committed Prisoner to the Tower, there to remain during the Pleasure of the House: And he was called to the Bar, where he knelt down, and Mr. Speaker pronounced the Sentence accordingly. And Sir John Eliot, Denell Hall, and another Person having spoken these Words, (viz. The King's Privy Council, his Judges, and his Council learned in the Law, have confided in his Prerogatives, under his feet the Liberties of the Subject, and of this House,) an Information was brought against them by the Attorney General; and further, that the King having signified his Pleasure to the House of Commons for the Adjournment of the Parliament, and the Speaker endeavouring to get out of the Chair, they assaulted, U. C. detained him in the Chair, upon which there was a great Tumult in the House, to the Terror of the Commons there assembled, and against their Allegiance, in Contempt of the King, his Crown and Dignity: The Defendants pleaded to the Jurisdiction of the Court; and refused to answer but in Parliament; but it was adjudged, that they ought to answer, the Charge being for a Conspiracy, and felony Acts to prevent the Adjournment of the Parliament, which may be examined out of it; and not answering, Judgment was given against them, that Sir John Eliot Should be committed to the Tower, fined 2000 l. and the other two were tried and imprisoned. C. C. 150. Members of Parliament are not only privileged from Arrest, but likewise in an extraordinary Manner for Affairs, Menaces, U. C. Sir Robert Brading made an Assault upon Mr. Waddington, a Member of the House of Commons, in the Vicinity of the House going up to Parliament, and Sir Robert was fast for u. by the House, and committed to the Tower. An Ass. 17: 1. C. 1. two Speeches pulled privately in the House between the two Members, and on of them going down the Parliament Stairs struck the other, who catching a Sword in his Man's Hand, endeavored to return the Stroke; and up a Complaint to the House of Commons they were both ordered to attend, where he who gave the Blow was committed to the Tower during the Pleasure of the House. Affidavit being a Member coming to the Bar, attending in Parliament, the Officer shall pay Double Damages, and make fine and Ransom, U. C. Stat. 17: 16. After another Presentation, the may they attend the public Service of the House try, have Privilege of Parliament for themselves and their Menaal Servants, to be free from Arrests, Subornations, Citations, U. C. and for their Goods to be free from Distresses: And this Privilege of Parliament doth generally hold in all Cases except in Tresession, Felony and Breach of the Peace, Stat. 24: 21. There are many remarkable Cases of our Books treating of the Privileges of Parliament relating to Arrests of Members of the House of Commons, and their Manservants, upon the Manner of the Lords, and of the Comittee of Confoundment, Release, &c. The 3rd Year 20. King Jac. Sir Thomas Shirley, a Member of Parliament, was arrested Four Days before the Sitting of the Parliament, and carried Prisoner to the Tower; on which a Warrant issued to the Clerk of the House for a Habeas Corpus to bring him to the House, and the Sergeant was fast for in Calthy who being brought to the Bar, and committed to the criminent, was executed for that Time: But on hearing Counsel at the Bar for Sir Thomas Shirley, and the Warden of the Fleet, and upon producing Precedent, Simpso the Prosecuter, who caused the Arrest to be made, was ordered to be committed to the Tower and afterwards the Warden refusing to execute the Writ of Habeas Corpus, and the Delivery of Sir Thomas, being denied, was likewise committed to the Tower; though on his agreeing to deliver up Sir Thomas on a new Warrant for a New Writ of Habeas Corpus, and the Delivery of Sir Thomas, being made was discharged: This Affair taking up some Time the House entered into several Debates touching their Grievances, and how to make the Case of the Queen might be satisfied, which produced three Effectuals First, Whether Sir Thomas Shirley should have Privilege? Secondly, Whether pretently, or to be defended? And, Thirdly, Whether the House should petition the King for some Course for securing the Debt of the Party, according to former Precedents and saving himselfe the Window of the Law. To which Quesstions were resolved; and a Bill was brought in to secure Simpso's Debt, U. C. which all occasioned an Act 1. Jac. 1. cap. 15. for Relief of Plaintiffs in Writs of Execution, where the Deducts in such Writs are arrested, and set at Liberd: by Privilege of Parliament, by which a fresh Prosecution and new Execution may be had against them when that Privilege ceases. Lex Convocation, 147. And 19 Jac. 1. one John, a Servant to Sir James Whitchurch, a Member of the House of Commons, was arrested by two Bailiffs, who being told Sir James Whitchurch was a Parliament Man, answered, that the had known greater Men's Servants than his take from their Mates in Time of Parliament: And that the apprehension, they were both taken to prison as at Pardon of the House and Sir James Whitchurch, on their Knees, that they should both ride on Horse bare backed, back to Back, from Westminster, 7 E.
to the Exchange, with Papers on their Breefs signifying to Officers of Sequefters; all which was to be executed prefunctuadly, Sedente Curia. Ibid. In Affion of Debt upon a Bond, conditioned that B. B. should render himself at fuch a Day and Place to an Arreat; the Defendant pleaded, that by Right of Parliament, the Members, &c., and their Servants ought not to be arrefted by the Space of forty Days before the Session begins, nor during the Session, nor forty Days afterwards; and that B. B. was at that Time Servant to such a Member of Parliament, fo as he could not render himself to be arrefted: Upon Deference to this Plea, it was adjuged ill, becaufe he might have rendered himfelf at the Time and Place; but then it would be at their Peril if he was arrefted. 1 Brumm. 81. The Commons in Parliament claim Privilege for forty Days before and after each Session and Prorogation. 2 Lev. 72. Though the Statute 12 W. 3. c. 3. ordains, that Affions may be proceeded in any of the Courts at Wifhimur against Perfon(s) intitled to Privilege of Parliament, after a Diffolution or Prorogation, until a new Parliament is called, or the fame is refiftemed: And after Adjunction before fourteen Days, and the respective Courts may proceed to Judgment. 24 Edw. 3. 1. &c., until the Parties shall enter a common Appearance; and the Real-Parties, who have Edates of the Defendants may be sequefted for Default of Appearance; but the Plaintiff may not arreft the Parties. And where any Plaintiff shall be flayed or prevented from Proceeding by Privilege of Parliament, he shall not be barred by any Statute of Limitation, or Nonfuit, Diftiffment, or his Suit distrifed for Want of Execution; but as the Rifing of the Parliament shall be at Liberty to proceed to Judgment and Execution. And by 2 Aen. c. 8. Actions may be proceeded against Officers of the Court, or in any Place, for Forfeiture or Breach of Truth, &c., and fafl not be flayed by Colour of Privilege: But fuch Officer being a Member of Parliament, is not fubjeå to Arreft during the Time of Privilege, but Summons, Attachement, &c. By the 11 Geo. 2. c. 24. Any Perfon may proceed a Suit in any Court of Record, against any Peer, or Member of the House of Commons, or other Person intitled to Privilege, in the Intervals of Parliament, or of Sessions, if above fourteen Days; and then the Proceedings or Protagonies, are to give Judgment, and award Execution: And no Proceedings in Law against the King’s immediate Deputies, at any Court, to be delayed under Colour of fuch Privilege; only the Perfon of a Member of Parliament, &c., shall not be arrefted or impiioned. A Defendant who was a Member of Parliament, brought a Letter from the Speaker to the Court of King’s Bench to flay Proceedings; but the Court would not allow it, but told him he might bring his Writ of Privilege. Lord T. was Judgment was had against the Defendant, and afterwards he was chosen a Member of Parliament, and after his Election he was taken in Execution, yet he had his Privilege; though the Book tells us minus, 33 Edw. 3. And where Judgment being had against a Defendant, and he was taken in Execution in the Morning, and about three Hours afterwards was chosen a Member of Parliament, the House agreed, that being arrested before he was chosen, &c., he shall not have his Privilege. Moot 340. 1 Nift. Attr. 177. The Courts of Wifhimur may judge of the Privilege of Parliament, where it is incident to a Suit the Court is proceed of: And Courts may proceed to Execution between the Sessions of Parliament, notwithstanding Appeals lodged, &c. State Trials, 2 Ves. pag. 66, 209.

**Election of Members of Parliament.** The Parliament of England, by the Writs of Privilege, is called; and for one Member out of Clymer, at least forty Days before the Parliament begins: And the Commons are elected by the People; and every Member, though choife for one particular Place in the whole Kingdom. Aflor asAttendance of this Nature is for the Service of the Publick, the whole Nation has fome Intrinsic concern, that the King may not grant an Exemption to any Perfon from being elected as a Knight, Citizen or Burguth in Parliament; and for that Elections ought to be free. 29 Hen. 6. But an Alien cannot be elected of the Parliament for he is not the King’s Liege Subject; though if an Alien were Naturalized by Act of Parliament, he was eligible till the Stat. 12 W. 3. c. 2. A Man attained of Treffion or Felony, or one outlawed, &c., is not eligible; nor shall fuch Perfon be fufferd in the House of Parliament. 4 Inf. 48. A Perfon under the Age of twenty-one Years, may not be elected to fit in Parliament; neither can any Lord fit there, until he be of the full Age of twenty-one Years. Ibid. It was formerly held, that Mayors and Bailiffs of Towns Corporate were not eligible; but now they may be elected. And fo may a Sheriff of a County, for another Shire. 4 Inf. 53 H. None of the judges of the King’s Bench or Common Pleas, or Any Baron of the Exchequer, or any Judge of a Court of Judicial Pleas, can be chosen Knight, Citizen or Burgouth of Parliament, as it is now holden, and because they are Affidants in the Exchequer of the Exchequer, and Clergymen are not eligible to be Knights, Citizens or Burgouths of Parliament, they being of another Body, one of the Conversation. Ibid. Any of the Professions of the Faith, and the Clergymen in the Practice of the same, are eligible; but Ann 6 H. 4. a Parliament was fummoned by Writ, and by Co- lour of a certain Ordinance, it was forbidden that any Lawyers should be chosen; by Reason whereof my Lord Coke obferves, this Parliament was fruitless: And the prohibitory Clause inferred in the Writs was against Treffion and Felony, and against the Right, and cannot be disabled by Ordinance without Act of Parliament. By Stat. 12 W. 3. c. 2. no Perfon who had any Office or Place of Profit under the King, by Appointment or Prorogation, is to serve as a Member of the House of Commons. And by 4 & 5 Ann. no Member of Parliament may enjoy any Office in the Government, and fit in the House at the same Time by Virtue of his former Election; for by the Acceptance of any Office, his Election is void: But he may be elected again, on a new Writ issued out, and fit in the House; and Officers in the Army or Navy, receiving any new Commission, need not be re-elected 5 Ann. When Perions are incapable of being elected, the Election shall be void; and Siting or Voting in the House of Commons they shall forfeit 500 l. And the Statute 1 Geo. 1. c. 36 enacts that no Man having any Penfion from the Crown, either in his own Name or in Trust for him, shall be elected a Member of Parliament; and Peniitomers preliminarily elected to and Vote, shall forfeit 50 l. for every Day. &c. The Act mentions only a Penfion for any Term or Number of Years, and not a Penfion during Pleasore, according to the 4 Ann. c. 8. 'Tis now enacted, that no Perfon who shall be a Commissioner of the Treafury, Chancellor of the Exchequer, Commissioner of the Admiralty, Paymaster of the Army, Secretary of State, &c. shall be capable of being a Member in any Parliament, which shall hereafter be summoned or holden. Stat. 15 Geo. 2. c. 22. But this Statute does not ex-
clude the Secretaries of the Treasury, or of those other Offices; or any Person having an Office for the benefit of any Knighthood or Chivalric Order in the Shire, to be resident in the County, for which they are chosen; as likewise Citizens and Burgesses elected shall be resident in and free of the same Cities and Towns, as were the Day of the first and Town of Sum- mons, and they are to be notable Knights of the Shire to be elected at the first and Town of Summons. They are to be notable Knights of the Shire, who have not an Estate of Freehold or Copyhold for life, or some greater Estate to his own Use, of wood, a year, above and over what will satisfy all Incomparables; and a Citizen and Burgess 30. per Ann., of which Oath is to be made at the Request of a Candidate, or two Persons having Right to Vote; and if any Person be elected and returned not qualified, the Return shall be void. 9 Ann. cap. 5. And none shall be qualified by Virtue of any Mortgage, where the Equity of Redemption is in any tenth the Mortgage shall have been in Possession seven Years before the Election: Though the eldest Son of a Peer, or of any Person qualified to serve as a Knight of the Shire, shall not be in- capable of being elected. Stat. 6th. Idem. Members of Parliament shall take the Oaths to the Government before they Sit and Vote in the House; or shall be adjusted Popish Recusants, and be disabled to sit in Parliament, and liable to certain Forfeitures. Stat. 5 Eliz..cap. 1. 50 Car. 2. c. 1. And this Statute is confirmed and enforced by the 13 & 14 H. 8. c. 6. The Election of Knights of the Shire, is to be made by the Majority of People dwelling in the Counties, having each of them Lands or Tenements to the yearly Value of 40l., before qualified to serve at the Election, shall be qualified to serve at the Election: And no Person is to be admitted to vote in any Election of a Member to serve in Parliament, who is under the Age of twenty one, or to be intitled to any Vote by Reason of any Trust or Mortgage, or if the Trust or Mortgage be not in actual Possession, and receive the Rents and Profits of the Estate; But the Mortgagee or Creditor is to be intitled to the Election, and may vote for the same, or any other Person intitled to the Election. And all Conveyances of Lands, Tenements, &c. in order to multiply Votes, or split and divide the Interest in any Houses or Lands, among several Persons, to enable them to vote, shall be void and of none Effect. By the 10 Ann. c. 22. none shall have a Voice for the election Knights of the Shire in Right of any Lands, who has not been charged or intitled to the publick Taxes, Church Rates and Parish Duties, in such Proportion as other Lands and Tenements of 40l. per Annum, lying within the same Parish; and for which he shall not have received the Rents and Profits, to be intitled to have received the same to the full Value of 40l. or more, to his Provision. 28th Ann. The Election except such Lands or Tenements come by Devise, Devise, Presentation to some Church, or Promotion to an Office, to which a Freehold is annexed; and Persons not having any Law for it. This ex- tends not to refrain Persons from voting for Knights of the Shire, in respect of any Tithes, or other incumbrances Inheritance, or Measurages, &c. belonging to Officers, by reason the same have not been actually as tiled to any publick Taxes; or in regard to Lands not taxed in all Taxes, they may not have been generally as tiled to some one or more of the said Rates, &c. by 12 Ann. c. 5. All Estates and Conveyances made to any Person in a fraudulent Manner, on purpose to qualify him to vote, to be of no Effect. To Conditions to defeat or determine such Election or to convey the same, shall be taken against the Person executing the same, and a Copy of all Bonds, &c. for Redemption shall be void; also Persons voting by Colour of such Conveyance, incur a Forfeiture of 40l. The above Statutes, for preventing fraudulent Conveyances to multiply Votes on Electing Knights of Shires, are made to extend to Lands or Tenements, for which any Persons shall vote for the Election of Members to serve in Parliament for any City or Town, that is a County of its own. If any Person votes at such Election as a Freeholder, not having his Estate a Year before, and as tiled as described in the Act 10 Ann. c. 23. liable to the Penalties imposed on unqualified Voters. 13 Geo. 2. c. 10. Persons refusing to take the Oaths of Affirmation, &c. are made incapable to vote for Members of Parliament. 1 Geo. 1. c. 13. By the Stat. 18 Geo. 2. c. 18. No Person shall vote for the Election a Knight of the Shire in England and Wales, in Respect or Right of any Measurage, &c. which has not been charged or intitled to the Land Tax twelve Calendar Months next before the Election. But not to refrain any Person from voting in Right of any Rents or Chambers, in the hands of the Crown, &c. and of any Measurages or Seals belonging to any Office, in regard they have not been actually as tiled to the Land Tax. No Person shall vote at such Elections without having having a Freehold in the County, of the clear yearly Value of 40l. over and above all Rents and Charges, or without having been in the actual Possession or Receipt of the Proffits above twelve Calendar Months, unless the same came to him by the Time and Place of the same, but by Devise, by Devise, Marriage, Marriage Settlement, Devise or Promotion to any Benefice or Office; or shall vote in Right of any Freehold granted to him fraudulently, or vote more than once at the same Election, under the Penalty of 40l. No publick Tax, Rate or Aailability, shall be deemed a Charge on any Freehold. At every Election of a Knight of the Shire in England and Wales, the Sheriff shall erect, at the Exence of the Candidates, both for taking the Poll, not exceeding the Number of Rapers or Hundreds in the County, or the Number of aliened Polling Places, and Affix at each Booth the Name of the Raper, &c. for which such Booth shall be allotted, and depute a proper Clerk at each Booth for taking the Poll, at the Exence of the Candidates, not exceeding a Guinea a Day each Clerk; and shall make a Lift for each Booth, of all the Town, Villages, &c. lying in the Raper, &c. for which such Booth is allotted, and deliver a Copy thereof to any Candidate on Request. And no Sheriff or Clerk appointed to take the Poll for any of the said Booths, shall admit any Person to vote for any of the Lands, &c. sworn to be lying in some Parish, Town or Place, not mentioned in the Lift made out for such Booth, unless such Lands, &c. lie in such Town, &c. not mentioned in any of the Lifts made out for all the said Booths. And the Sheriff shall allow a Cheque Book for every Poll Book for each Candidate. By the Stat. 19 Geo. 2. c. 28. the like Provision is made as in the case of the preceding Act, touching the Qualification of Electors of Members of Parliament, to serve for such Cities and Towns in England as are Counties of themselves. No Person to vote in Election a Knight of the Shire, unless he have a Right to vote in respect of Lands, &c. unless he have Lands, &c. in the same City or Town, of the yearly Value of 40l. over and above all Rents and Charges,
and Charges, &c. at Journ. The Sheriff to allow each Candidate a Circque Book for each Poll Book. The Sheriff is to proceed to Election within eight Days after Receipt of the Write, and give three Days Notice of the Election. As to who are or ought to be the Electors in Boroughs, it hath very much ex-
cluded the British House of Commons: In the 22 Jac. 1, it was resolved, that where there is no Char-
ter or Custom to the contrary, the Election in Bo-
roughs is to be made by all the Householders, and not by any of inferior Degree; And in Opinion whether the Commons or the Capital Burgesses of a certain Borough in Lincolnshire, were the Electors of Mem-
ers of Parliament, ante Car. 1, it was agreed, That the Election of Burgesses in all Boroughs did of common Right belong to the Commoners, and that nothing could take it from them but a Preferi-
cation and confound Usage beyond the Memory of Man. It has been known, That the Commonalities of Cities and Burghs are only the ordinary and lower Sort of Citizens, Burgesses or Freemen; and that the Right of Election of Burgesses to Parlia-
ment in all Boroughs, belongs to the Commoners, viz. the ordinary Burgesses or Freemen; and not to the Mayor, Aldermen and Common Council: Though the Meaning of the Words Commonalities, Civicuratum et Burgurum, has always signified, right-
fully understood, the Mayor, Aldermen and Common Council, where they were to be found; or the Street-
ers and Balliff, and Capital Burgesses, or the govern-
ing Parts of Cities and Towns, by what Persons forever they were governed, or Titles called. The only City or Borough in which this has happened in this Age, with Relation to the Determinations of a Com-
mitee of Privileges and Elections, was the Case of Aisyby and White, concerning the Borough of Aisyby and White, by Writ of Election, &c. Which gives a Right for an Elector who is denied his Vote? In this Case the Debates ended in the following Resolutions, viz. That the Qualification of Electors and of Per-
fons elected, is recognizable only before the Commons in Parliament; and that the examining and deter-
mining the Qualification or Right of any Elector, &c. belongs to them, where the Act of Parliament give no particular Direction; that whoever shall pro-
secute any Action, &c. which shall bring the Right of Electors to the Determination of any other Ju-
risdiction, than that of the House of Commons, ex-
cept in Cases specially provided for by such Ju-
risdiction, shall be guilty of a Breach of the Privilege of the House. Several Persons were committed to Newgate by a Warrant signed by Robert Harley, Speaker of the House of Commons, for prosecuting Actions at Law against the Confabulians of the afore-
said Borough of Aisyby, who refused to take their Votes at the Election of Members of Parliament, &c. in Contempt of the Jurisdiction and Privileges of the House; and this Matter being returned by Helen Cooper severally, and the several Persons De-
fendants brought into Court, their Council moved that they might be discharged, for that the Proce-
duction of a Suit at Law could be no unlawful Act, nor a Breach of the Privileges of the House of Com-
mons: Three Judges were of Opinion, that the House were the proper judges of their own Privilege; but Holc Chief Justice held, That the Authority of the Commons was circumvented by Law; and if they should exceed that Authority, then to say they were Judges of their own Privilege, is to make their Privilege of no more value than what they would have to be; and that if they should wrongfully imprison, there could be no Redress, so that the Courts at Wit-
tingham could not execute the Laws upon which the Licen-
s of Aisyby were founded. In Action on the Café, by a Burgess of Aisyby, against the Confabulians of the Said Borough, for re-
fusing to receive the Plaintiff's Vote in the Election of a Member of Parliament; the Plaintiff had a Verdict, but the Judge was arrested by the Op-
position of the Act of Parliament, and the Law is not maintainable, because the Confabulians acted as Judges, and the not Receiving the Plaintiff's Vote is Dam-
ages for an actual Breach of the Privilege of the House; the Plaintiff's Vote was foreclosed, his Vote will be received; that the Right of electing Members to serve in Parliament, is to be derived in Parliament, and the Plaintiff may prosecute the Election for the whole, and after it is determined there, he may then bring his Ac-
tion, and not before. Holc Chief Justice contra, That the Plaintiff had a Right to vote; a Freetholder has a Right to have a Vote by Reason of his Freehold; and it is a Real Right, and the Value of his Free-
hold was not material till the Stat. 8 H. 6. which requires it to be made 40s. 4d. &c.; That in a Ratione liberi servitutis in Counties; in ancient Bo-
roughs, they have a Right to vote rationes Burgagii; and in Cities and Corporations, it is rationes Fran-
chiae, and a personal Inheritance, voted in the whole Corporation, but to be used by the particu-
lar Members; that this is a noble Privilege, which entitles the Subject to a Share in the Government and Legislation, and that if the Plaintiff hath a Right, he must have a Remedy to assert that Right, for Want of Right and Want of Remedy is the same Thing; that Refusing to take the Plaintiff's Vote is an Injury, and every Injury imports a Damage; and that where a parliamentary Matter comes in incidentally to an Action of Property, in the King's Court, it must be corrected there; and the Commons can- not judge of the Matter; the Parliament cannot judge of the Injury, nor give Damages to the Plaintiff, and he hath no Remedy by Way of Petition: And according to this Opinion of those gentlemen there was an Action brought against the House of Lords, and the Action was reversed upon a Writ of Error brought in the House of Lords. 1 Salk. 19. Mod. Coa. 45. This Case occasioned great Disputes between the two Houses of Parliament the Lords insisting, That if the Commons only could judge of the Right of their Electors, they would in Effect chuse their Elec-
tors, &c. And the Commons alleging, that if the Right of Electors might be determined in the Courts of Law, from whence Causes are removed by Writ of Error into the House of Lords, the Lords would become Judges of their own Electors, or should chuse, and consequently who were duly elected Mem-
bers of the Commons House, whereby the Commons would lose their Independence, and be subjected to the Lords, &c. But the Parliament being soon after pro-
rogued, the Dispute was dropped. By the Common Law of England, every Commoner hath a Right not to be subjected to Laws made without their Consent; and because such Consent cannot be given by every individual Man in Person, by Reason of Number and Confusion; that Power is lodged in their Representa-
tives, elected and chosen by them, viz. Knights, Citizens, &c. 3 Salk. 18. And in several Counties, the Citizens and Burgesses were formerly chosen in the County Courts, with the Knights of Shires, and jointly returned, &c. For there are commonly four or five Citizens or Burgesses sent from the respective Cities or Boroughs to the County-Courts; and there they were chosen, with full Power for themselves and their several Communities, to do and conform to such Things, as by the Common Council of the King-
dom assembled in Parliament, should be ordained and enacted; and that by this Act 14 Edw. 4, among the Parliament of Ed. 3, &c. among the Parliament of Ed. 5, &c. among the Parliament of Ed. 7, &c. among the Parliament of Ed. 14 Edw. there appears to be an Appointment and Return of Burgesses, by the Lord of a Town, &c.
Form of an ancient Writ for Election of Members of Parliament.

To the Sheriff of, &c. Greeting: Be it known to you, that we, the Lords of our Realm, and to our Liege Subjects, that we have determined to proceed to the Election of Members of Parliament, to represent us in the next Cort, and to be present in the next Session of Parliament. We therefore command you, that you cause an Election to be held, and that the Writs be issued for this purpose. We further command you, that you make a special arrangement to ensure the free and fair election of Members of Parliament. We further command you, that you take all necessary measures to ensure the free and fair election of Members of Parliament. We further command you, that you make a special arrangement to ensure the free and fair election of Members of Parliament. We further command you, that you take all necessary measures to ensure the free and fair election of Members of Parliament. We further command you, that you make a special arrangement to ensure the free and fair election of Members of Parliament. We further command you, that you take all necessary measures to ensure the free and fair election of Members of Parliament.

The Return of the Writ, thereto inclosed, was thus:

As Sheriff, by virtue of this Writ have caused to be chosen in the County of, &c. two Knights, and of every City of the same County two Citizens, and of every Borough two Burgesses, the half, most able, and discretest Knights, Citizens and Burgesses of the County, City and Boroughs aforesaid, according to the Tenor of the Writ. By the Stat. 7 H. 4. cap. 15. the Election of Knights of the Shire is to be made in the following Manner: At the next County Court, after the Delivery of the Writ, Proclamation is to be made by the Sheriff of the County, of the Day and Place of the Parliament, and that all such as there present shall attend at the Election of Knights of the Shire; and then in full County, a free and indifferent Election shall be made: And after such Choice, the Names of the Parties chosen, are to be written on an Indenture under the Seals of the Electors; which Indenture is sealed and handed to the Writ, shall be the Sheriff's Return thereof. And by the 25 H. 6. cap. 7. it is enacted, That the Sheriff after Receipt of the Writ, shall deliver a Precept under his Seal to every Mayor and Bailiff of Cities and Boroughs within his County, reciting the Writ, and requiring them to cause two Citizens and Burgesses to come to the Parliament; and such Mayors and Head Officers, are to make Return of the Precept to the Sheriff, by Indenture, &c. that he shall be enabled to make a good Return of the Writ. The Sheriff is to make Election between the Hours of eight and eleven in the Forenoon; and if any Knight, Citizen, or Burgess, returned by the Sheriff shall be put out, and the Name of another put in, diverse Penalties are incurred; Sheriffs acting contrary to this Statute, and not returning a Member duly elected, are subject to a fine of £100, recoverable by Action of Debt; and Officers of Corporations, making false Returns, liable to a Penalty of 40l. It has been adjudged that this Act should be made of any Knight of the Shire, betwixt eight and eleven of the Clock in the Forenoon; if the Election be begun within that Time, and cannot be determined in those Hours, it may be made after. 4 Inf. 48. And if any Electors give their Voices before the Precept for Election is read and published, it shall be of no Force for after the Precept is thus read, &c. they may alter their Votes and make a new Election. Ibid. 49. The Stat. 7 & 8 W. 3. cap. 7. ordains, if any Person shall return a Member to serve in Parliament for any Place, contrary to the Determination in the House of Commons of the Right of Election for such Place, the Return so made shall be judged a false Return; and the Party making it may be prosecuted, and double Damages with Costs recovered against him: Officers willfully and falsely returning more Perons than are required to be chosen by the Writ or Precept, the like Remedy may be had against them; and all Contracts, Promises, &c. to return any Member of Parliament, are not only declared void, but the Males or Givers of the Contracts, &c. or of any Gift or Reward to procure a false or double Return, shall forfeit 1000l. one Third to the King, another to the Informer, and the other Third to the Person of the Place, to be recovered in any Court of Record at Winsor, &c. By 7 & 8 W. 3. cap. 25. When any new Parliament shall be called, there shall be formuas between the Title and Returns of the Writs; the Lord Chancellor, &c. is to issue out Writs for Election of Members of Parliament, with as much Expedition as may be; and the several Writs shall be delivered to the proper Officers for Execution, who are to issue the Day of the Receipt on the Back of the Writ, and forthwith make out the Precepts to each Borough, &c. which are to be delivered to the Officers of every such Borough, within three Days, and they must likewise order the Day of Receipt, and immediately cause public Notice to be given of the Time and Place of Election, and proceed to Election thereupon in eight Days: For election of Knights of the Shire, the Sheriff is to hold his County Court at the most publick and usual Place, and there proceed in the Election at the next Court, unless it fall out to be within six Days after the Receipt of the Writ, and then the same is to be adjourned, giving ten Days Notice of the Election; if the Election be not determined on View, but a Poll is demanded, the Sheriff is to take the same, and likewise a Jury, and he or his Under-Sheriff shall appoint and swear Clerks for that Purpose, &c. The County-Court is not to be adjourned to any other Place, without the Consent of the Candidates; nor shall any unnecessary Adjournments be made, but the Poll to proceed; also every Sheriff, &c. is to deliver a Copy of the Poll to any Person deeming it; and Officers for every wilful Offence against this Act, are subject to a Forfeiture of 1000l. And by 6 Geo. 2. cap. 23. the County Court for electing Knights of the Shire in Parliament, may be adjourned over from Day to Day, until the Election, &c. is determined; but not to a Monday, or Friday, &c. only, which will be void. The 10 & 11 W. 3. directs, That the Sheriff or other Officer having the Execution and Return of Writs of Summons for Parliament, shall on or before the Day of Meeting of the Parliament, and with all Expedition, not exceeding fourteen Days after Election, make Returns to the Clerk of the Crown in Chancery to be filed, on Pain of forfeiting 500l. And the returning Officer, within twenty Days after the Election, is to deliver the Summons to the Clerk of the Peace, all the Poll-Books on Oath made before two Justices, to be preferred among the Records of the Sessions of the Peace, &c. 10 Ann. cap. 23. In double Returns, it has been for -
merly a general Practice in the House of Commons, that neither one nor the other should sit in the House, until it be decided: Anno 1640. two Returns made for Great Marlmere, and in both Inden-
ture the Petitioner was refused, and he was submitted to fit, but the others ordered to withdraw until the Question was determined: And in the same Year, it was ordered, That where some are returned by the Sherif or such other Officer as by Law hath Power to return, and others returned by private Hands; in such Cause, those that are returned by the Sheriff or other Officer, shall fit until the Elec-
tion is quashed by the House. Ordin. 1640. If one be duly elected Knight, Citizen, or Burgess, and the Sheriff, or another, return another, the Return must be returned and amended; and he that is duly elected, is to be inducted, for the Election is the Foundation, and not the Return. 4 Jeff. 45. In Affidavit of the Café, the Plaintiff declared, that he was duly elected a Member of Parliament for such a Borough, and the Defendant returned two other Persons; and that he petitioned the House of Commons, and was adjused to be duly elected, and his Name ordered to be inserted in the Roll, and the Name of the other to be raze out: The Plaintiff had a Verdict; but it was adjused in Affidavit of the Café, that this Declaration was not founded on the Act 7 & 8 W. 3. because that Stat-
te gave an Action where there was none before, and that the Party must be laid agreeable by law, or, which not being done, the Defendant had Judgment. 2 Salk. 104. The Court will not med-
dle in an Action upon a double Return, until it is determined in Parliament. Leg. & Andr. 78. It hath been held that for a double Return, no Ac-
ction lay before the Statute 7 & 8 W. 3. cap. 7. be-
cause it is the only Method that the Sheriff had to secure himself: and when the Right was decided in the Parliament, then one Indenture was taken off the File, so that it is not then a double Return; neither can the Party have an Action for a false Return, for the Matter may be determined in the House whether true or false; and if so, there will be an Inconvenience in contrary Resolutions, if they should determine it one Way, and the Courts at Law an-
other Way; but after a Diffusion the Action may be for a false Return, as then the Right cannot be determined in Parliament. 2 Salk. 103. A double Return is of the same Nature with a false Return, as to Action on the Cafe: in both it is grounded on the Fality; but there is another Reason why this Action will not lie for a double Return. (Note:) because the Law doth not take any Notice of such a Return, it is only allowed by the Ulige of Par-
liament; and in Courts where the proper Officer cannot determine who is chosen; therefore when he doubts, he makes a double Return, and submit-
t the Choice to the Determination of the House of Commons; and if that House doth admit the Return, and make Determinations on them, it will be hard for the Law to judge of a Man to the Ac-
ction only for submitting a False to be determined by a Court, which hath a proper Jurisdiction to de-
termine it: And by Reason of the Variety of Opin-
ion, that an Action in this Cafe would lie, and which hath been enacted by 3 & 8 W. 3. cap. 7. that the last Determination of the House of Commons concerning the Right of Election, is to be pursued. 3 Lev. 114. 1 Nef. Abr. 30. A Member elected and returned for several Places, is not to make His Choice for which Place he will serve; and if he do not, by the Time which the House shall appoint, the House may determine for what Place he shall continue a Member; and when he shall go out for the other Place. Candidates are not to make Presents of Money to, or treat, &c. Electors,
commanded to clue their Speaker, which they hav-
ing done, two or three days afterwards he is pre-
ten to the King, and after some Speeches is al-
loved, and last down to the House of Commons; where the matter proceeds. 12 Rep. 115. A Parliament cannot begin on the Return of the Writs, without the Presence of the King, in Per-
son, or by Representation; and by Representation two Ways, either by a Guardian of England, by Let-
ters Patent under the Great Seal, when the King is out of the Realm; or by Commission, to certain Noble Lords or Members of Parliament, when his Majesty is at Home. 4 Inf. 6, 7. And if any Par-
lament is to be held before a Guardian of the Realm, there must be a special Commission to be-
gin it; a Parliament, but the Title of the Writs of Summons is to be in the Guardian's Name: And by an ancient Law, if the King being beyond the Seas, causeth a Parliament to be summoned in this Kingdom, by Writ under the Privy Seal, but Lieutenant of the King, and after the King returns hither, the Parliament shall pro-
ceed without any new Summons. 8 H. 5. In the fifth Year of King Henry the Eighth, Parliament was held, before John Duke of Bedford, Brother to the King, and Guardian of the Kingdom, Ann. 3 Edw. 4, a Parliament was begun in the Presence of the King, and prorogued to a further Day; and when William Gough, Archi-
bishop of York, the King's Commissioner by Let-
ters Patent, held the same Parliament, and made an Ad-
junction of Eliz., the Queen Com-
mission under the Great Seal, reciting, that for ur-
egent Occasions the same could not be present in her Royal Presence; did authorize John Whitgift Archi-
the same to a Question, which he submits to the House, and is put to the Vote: And a Question is to be put, after the Bill is read a second Time, whether the Bill shall be committed, which is either to a Committee of the whole House or a private Committee, as the Importance of the Bill shall require; and this Committee is to report their Opinion of the Bill, with the Amendments, to the House, the Chairman having caused the Clerk attending to read the Bill, and read it himself, putting every Clause to the Question, &c. The Chairman makes this Report at the Side Bar of the House, reading all the Alterations made, and then delivers the same to the Clerk of the Parliament, who likewise reads all the Amendments, and the Speaker puts the Question, whether they shall be read a second Time? And if that be agreed unto, he reads the Amendments himself, and puts the Question, whether the Bill so amended shall be ingrossed, and read a third Time some other Day? And then the Speaker takes the Bill in his Hand, holds it up, and puts the last Question, whether the Bill be read a third Time? And all the Votes are for it, then the Bill passes; and it is sent up to the House of Lords, where, when it is twice read, the Question is to be for Commitment; or if it be not committed, then it is to be read a third Time; and the next Question to be for its Passing; and upon the third Reading of the Bill, any Member may speak against the whole Bill to throw out the same, or for Amendment of any Clause thereof; and if it be amended, it is to be sent back again to the Commons for their Concurrence, and being returned, is then passed in the House of Lords, and ready for the Royal Assent. If a Bill passes in one House, but a Demur happens upon it when sent to the other House, in this Case a Conference is demanded; wherein certain deputed Members of each House meet in the Painted Chamber, and Debate the Matter; and when they have agreed, the Bill passed is brought to the King in the House of Lords, where having his Royal Robes on, he declares the Royal Assent, by the Clerk of the Parliament, Præsid. Sive. in Parl. 397, 398. As for private Bills, Leave is to be obtained by Petition, &c. to bring in the same; and the Substance thereof is to be fet forth, until which a Bill is not to be offered; and when the Petition is read, and Leave given to bring in the Bill, wherupon it is accordingly brought into the House, the Petition consulted and affected by it may be heard by themselves or Counsel at the Bar, or before a Committee; and is then referred to whom such Bill is to be referred, and (in Case of a Peer, he shall be admitted to come within the Bar of the House of Commons, and fit covered on a Stool whilst the fame is debating.) And when the House is heard on both Sides, and the House is satisfied with the Contents of the Bill, it is committed, and passed, &c. All Bills, Motions and Petitions, are by Order of Parliament to be entered on the Parliament Rolls, although they are denied, and never proceed to the Estabishment of a Statute, together with the Answers. Lex Constitution. 1.54. The Speaker of the House of Commons is not allowed to peruse or diffusse in passing of a Bill, only to make a short Narrative of it; opening the Bill, so that all may understand it; if any Question be upon the Bill, he is to explain, but not enter into Argument or Dilpute: and he is not to vote, except the House is equally divided: When Mr. Speaker declares to speak, he is to be heard without Interrupting; and when the Speaker stands up, the Member standing up is to sit down: If two stand up to speak to a Bill, he that stands up is to be heard against the Bill, if it be known, is to be first heard; otherwise he that was first up, which is to be determined by the Speaker: No Member is to be taken down, unless by Mr. Speaker, in such Cases as the House do not think fit to admit; and if any Person speak imprudently, or beides the Question, the Speaker is to interrupt him, and show the Member to which the Speaker shall be further heard: But if he speaks not to the Matter, it may be moderated: And whatsoever hibes or disturbing any Person in his Speech, shall answer it at the Bar of the House. In the ensuing Laws, and other Proceedings in Parliament; the Lords give their Voices in their House, from the pousse Lord Writs, etc., in the Character, or Not Content, The Manner of Voting in the House of Commons, is by Yes and No; and if it be difficult to determine which are the greater Number, the House divide, and four Tellers are appointed by the Speaker, two of each Side, to Number them, the ayes going out, and the No's staying in; and thereof Report is made to the House. When the Members of the House go forth, none is to sit, until Mr. Speaker rises from his Seat; and then all the Rees are to follow after.

Parlamentum de la Tenenda, A Parliament in King Edu. 2o's Time, so called, whereunto the Barons came armed against the two Spencers, with coloured Bands for Distinction. Burrowe, Eng. Hist. part. 4.

Parlamentum, Was a Parliament held at Coventry 39 H. 6. wherein Edward Earl of March, (afterwards King) and divers of the Chief Nobility were attainted; but the Aths then made were annulled by the succeeding Parliament. Helyoh. Cen.

Parlamentum Indoctum, A Parliament 6 H. 4, whereunto by special Precept to the Sheriffs in their several Counties, no Lawyer or Person skilled in the Law was to come, and therefore it was so termed. Rot Parl. 6 H. 4.

Parlamentum Exemptum, Was a Parliament assembled at Oxford, Anno 41 H. 5. so filled, from the Misdus of their Proceedings, and because the Lords came with great Numbers of armed Men to it, and Contentions grew very high between the King, Lords and Commons, whereby many extraordinary Things were done and enacted. 4 Co. Inst.

Parlamentum Religiosum. In moli Consensus, they had a common Room, into which the Brethren withdrew for Discourse and Conversation, and the Conference there had was termed Parliament. Matt. Parvi. And besides the supream Court of Parliament the Abbot of Croyland was wont to call a Parliament of his Monastery: And at this Day, the Societies of the two Temples, or Inns of Court, do call that Assembly a Parliament, wherein they confer upon the common Affairs of their several Houses. Comp. Jurid. sect. 1.

Parochial, Belonging to Parishes; and there are some Places that are Extraneous.

Parol, Is a French Word, used for a Plea in Court. Kitch. 193. And being joined with Lexis, as Lexis Parol, is a Lexis by Word of Mouth; to distinguish it from one in Writing.

Parol Error. Any Justice of Peace may by Word of Authority, authorise any one to arrest another who is guilty of a Breach of the Peace in his Presence, Ex. Dalb. 117.

Parol Demur, Is a Privilege allowed to an Infant, who is sued concerning Lands which came to him by Deed; and the Court therefore will give Judgment, Quod liquida predicta remansit quippe the Infant comes to the Age of Twenty one Years: And when the Age is granted on Partal Demur, the Ward does not lie against the Bill, if it be known, but may be filed, until the Infant is of full Age; and then there shall be a Restitutum, 1 Sim. Abr. 280. 2 Inst. 278. Inst. Extr. 275. The Granting of Parol
Parish Suavmitter is in Parish of an Infant, and for his Benefic, that he may not be prejudiced in his Right for Want of well knowing his Eatee, &c. And in his Perfor, &c. is found, and the Lands he is to set to him, and he enters and takes the Profits, it would be a Prejudice to the Infant to be that the Possession which he hath: so that this Care he shall have until his Age. 6 Rep. 3. 5. The Tenant in an Action, cannot pay Parrad Dammer, until the Infant Demandant comes of Age; This is expressly provided for by Sect. 1. cap. 2. and in any damage the Infant, if he should be so delayed upon an Action brought by him, where an Estate is to be found from his Ancestor. 1 Rep. 3. 1. In Parish Dammer and when it may be bad, if two are vouched, and there is Parrad Dammer for the Nomage of one; it shall be for the other also. 45 Ed. 3. 23. See Age Prior.

Perforsitas, (Perforsita) is properly he that kills his Father, and may be applied to him that killed his Mother. Law Lat. Diet.

When a Perform signifies the Reator of a Church, because for his Time he represents the Church, and in his Perform, the Church may tax for and defend her Right, &c. Or he is called Perform as he is a Bishop of another Church, in his Perform, a Servant of Fleta. Ed. 6. cap. 18. 1 Inf. 500. Also the Word Perform in a large Sense, includes all Churchman Performers, &c. And there may be several Perform in one Church, one of the other Mealy, and the other of the other; and a Part of the Church and Town allotted to each; and may be two that make one Perform in a Church, presented by one Patron. 1 Inf. 17. 18. To a Perform of a Church, their Things are requisite; Holy Orders, Presentation, Inheritance, and Indulgence; and the Patron, or he may cease to be Perform of the Church, by Death, or Cessation, Resignation, Deposition for Smoony, Nonconformity to the Canon, for Adultery, &c. 1 Inf. 150. 4 Rep. 75. 76. A Perform hath the entire Fee of his Church; and where 'tis said he hath not the Right of Free-simple, that is understood as to bringing a Writ of Rights. Cor. Can. 572. And in the Time of the Perform, the Patron hath nothing to do with the Church; but if the Perform waives the Inheritance thereof to his own private Use, in cutting Tires, &c. his Patron may have a Prohibition, so that to some purposes he hath an Interest in the Perform's Time. 1 H. 6. 4. 11 Rep. 49. Sir Edward Cale was of Opinions, that as Common Law a Perform could not be arrested; and said, he had seen a Report grounded on the Statutes 50 Edward 3. c. 9. and 1 Henry 2. c. 15. which are in Assurance of the Common Law, and in Maintenance of the Liberties of the Church; that a Perform ought not to be arrested in Going, Staying, or returning to celebrate Divine Service, nor any other Person who assisted him in such Service; and that if he was, he might have an Action upon those Statutes, against the Person making the Arrest. 12 Rep. 500. A Perform ought not to appear at the Sheriff's Tont, or the Court Leet, without an absolute Necessity. F. R. E. 160. No Perform or Spiritual Person, shall take a Farm or Lease of Lands, &c. to him elf, or any one for his Use, on Pain of forfeiting 10 l. a Month, one Mealy to the King, and the other to the Informer. Stat. 21 H. 8. cap. 15. Nor shall he buy, or sell again, any Merchandise, Corn, Cattle, &c. upon Forfeiture of treble Value: But it is provided, that he may buy Horser, or any other Cattle, for his necessary Use in manuring his Glebe and Church Lands. But if he buys Lands upon this Tenure, renting a Farm, the Defendant pleaded in Bar, that he had not sufficient Glebe for supporting his Cattle, nor Corn for his Family; but the Plaintiff answered his
to designate Warranty, and to recover, &c. 61. 6. 3. 32. Vide Particulars.

Particulars. Are where two or more agree to come in Share and Share alike to any Trade or Bargain. If two or more Traders in Trade, and Judgment is recovered against one of them, his Majesty of the Goods in Partnership only shall be taken in Execution. Stew. Rep. 174. See Caution of Merchants.

Partners, Are those that are concerned in Ship Matters, and who have joint Shares therein. And when there are Part owners of a Ship, the Majority may set her out, without the Consent of the Rest; and if they do, each Majority shall be the Hazard, and are to take all of the Profits. Stew. 13. 30. Action lies as well against the Part owners of a Ship, for the Loss or Spilling of Goods delivered to the Master, as against the Master; for as the Master of a Ship is chargeable in Respect of his Wages, so are the Part owners in Respect of the Freight: but the Action against the Part owners must be brought against all of them, or the Defendants may take Advantage of it by pleading in Abatement, &c. See. Stew. Rep. 170. 102. 3. Lev. 350.


Parent of a Person, Is a Person to whom a Person is related, as Father, Mother, &c. Vide Parent. &c. See S. 41. 2. 2. 24.

Parents, Are persons in whose Name ownership of Goods is vested. See S. 41. 2. 2. 56. Of which Clause has Mention in one of his Prologues.

A Serjeant at Law, that more and more, That often had been at the Parli.}

Parchment, The Olives of Easor or Low Sunday, which chaffs that Solemnly: And Die (sall) cyph Parchment, is a Date in some of our old Books. The first Statue of Writs made, Ann. 3 Ed. 3. is said to be made the Monday after Easter Week; and of the chaffe of Parch, &c.

Parchment, Is the Sunday before Easter, called Easter Monday, when the proper Hymn or Gospel sung was occurantes turbas cum Floribus & Palms, &c. Carnnar. Abatt. Gallow. MS. f 75.

Patch, Are Real or yearly Tributes paid by the Clergy to the Bishop or Archdeacon, at their Easter Visitations.

Patent, A Meadow or Parchment Ground, set apart to feed Cattle. See Parch.


Pattons, And Patentage in Woods, &c. See Parch.

Patton, (Patagonia) Is properly over Water, as Way is over Land; it relates to the Sea, and great Rivers, and is a French Word signifying Travestum. In the Stat. 4 Ed. 3. cap. 7. it is used for the Hire that a Man pays for being transported over Seas, or over Rivers: And it is mentioned among Caeninos and Dutts, as Frequent, Paffaggio, & Lower Chart. Hen. 1. All Persons shall have free Paffaggio on the Rivers, &c. As Chief Father, &c. May have his Remedy by Action at the Common Law. Stat. 9. H. 6. 5. 5. There are other Statutes for regulating the Paffaggio of this River, and preventing Difficulties of Water, &c. Vide. Stat. 11. H. 9. 5. 5. Also Paffaggio is a Word directed to the

Keepers of the Parks to permit a Man to pass over Such, who has the King's Licence. Reg. Grer. 193.

Parliament Regis, Was a Voyage or Expedition to the Holy Land, and the King of Eng- land in Person. Fry's Collec. p. 5. 27.

Patents, Is he that hath the Interest or Command of the Paffaggio of a River; or the Lord to whom a Duty is paid for Paffaggio. Pat. Edw. 3. par. 3. Mon. Ang. Tom. 1. p. 505.

Patente, Signs a Licence granted by any Person in Authority, for the Use Poffice of a Man, or any Ship, &c. Is one Place or Country to another. Stat. 2. Ed. 6. 2. 2. Poffice for Ships to the Mediterranean Sea, by Statute 4 Gen. 2. cap. 18. Sea. See Mediterranean.

Patent Staff, The Staff or Crosse of a Bishop, with which they were invested.

Patrons, (Patrons) Is any Place where Land may fall in and Feeding for a Castle is called Paffaggio, wherefore we call Feeding Grounds Common of Paffaggio: But Common of Paffaggio is properly a Right of putting Beasts to Paffaggio in another Man's Soil; and in this, there is an Interest of the Lord and of the Tenant. W. 1st. 116. 117. Paffaggio differs from Paffaggio, as appears from what follows, viz. Paffaggio some goods are to be brought in Paffaggio, and thereupon in Paffaggio, five in Aries, five in Campis: and Paffaggio a kilo principalis deputatur perbursus patriae, ut inveniri murus, muris, murriis & planus non cultus ne hiberno. Ang. lib. 3. c. 15.

Patrons, A Procuration or Provision, which the Tenants of the King, or other Lords, were bound to make for them at certain Times, or as often as they made a Poffice to their Lands.---Is made per annum liberale a Patro Regis & Principum. Chart. Walig. Regis Mercorum in Mon. Angol. Tom. 1. P. 123.

Patrons, Is one to whom the King grants his Letters Patent. 7 Ed. 6. 3. 3.

Patrons, Are the King's Writings, sealed with the Great Seal, having their Name from being Seales: And they differ from Writs, Compt. jurid. 126. The King is to advise with his Council touching Grants and Patents made of his Estate, &c. And in Petitions for Lands, Annuities or Officers, the Value is to be expressed; also a forms Patent is to be mentioned where the Petition is for a Grant in Rever- sion, or the Patents thereof; and will be void. 1 Hen. 4. cap. 6. 6 Hen. 8. cap. 15. And Patents which bear not the Date and Day of Delivery of the King's Warrants into Chancery, are not good. Statute 18 Hen. 8. cap. 1. Where the King's Patent creates a new Estate, of which the Law does not take Knowledge; the Patents are void. 8 Rep. 1. 5 Rep. 93. But Patrons shall be avoided by nice and subtle Constructions: If a Patent may be taken to two Interests; and it is good as to one Intent, and not to the other; this Patent is valid. I I. 11. 11. When the King would pay a Frenehed, it is necess- ary that the Patent be under the Great Seal; and it is ought to be granted de Adiuvantibus of the Chancellor of the Exchequer and Lord Treasurer, in the usual Manner. Fingh. 251, Trin. 5 Gen. 2. See Grants of the King.

Patrons, Signifies the Country; but in the Law it is taken for a Neighbourhood, and when we use In- nervation or Patronage, it is meant a Jury of the Neigh- bourhood.

Patrimonio, (Patrimonium) Is a Great Word applied to a Chief Father, &c. May have his Remedy by Action at the Common Law. Stat. 9. H. 6. 5. 5. There are other Statutes for regulating the Paffaggio of this River, and preventing Difficulties of Water, &c. Vide. Stat. 11. H. 9. 5. 5. Also Paffaggio is a Word directed to the
likewise called Eclesiastical Patrimony; and the lands and
Revenues united to the See of Rome, are termed St.
Peter's Patrimony. Cowl.

Paragraph 1

Patriotics. Was an Honour conferred on Men of
the first Quality, in the Times of the English
Kings.—Pra ampli et familiis Testimonia, Principis
& Senatores, Judices & Patricijs judiciorum faciunt.

Paragraph 2

Significeth in the Civil Law him that hath
manumitted a Servant; and thereby is
accounted his great Benefactor, and claims Duty
and Revenue of him during his Life. Dig. Tit. de
Bona Patronum. In the Canon and Common
Law, it is he who hath the Gift and Disposition of an
Ecclesiastical Benefice; and the Resale of it is, because
the Gift of Churches and Benefices belonged unto
such good Men as either built or endowed them with
great Part of their Revenues. Term of De 475.
And there are three Caues of Patronage: Rainme Funda-
tion, when one freely founds a Church, Rainme
Donations, when a Man only endows it; and Rainme
Funds, where a Person erects a Church on his
The Patron is in the utmost wisdom for several Months
after an Avoidance of the Church; and where the
Church becomes void by the Death of the Incumbent,
the Patron must take Notice of it, in making
Presentation; but if there be an Avoidance by
Deposition, he shall have Notice, and fix Months after to present. 6 Rep. 61. 3 Exem. 46. If
a Church comes ligimon by the Premunition of two
Patrons of their Clerks, a third Patron may be
awarded by the Bishop to inquire into who is right-
full Patron, and he is to admit accordingly. 2 Roll.
Abbr. 178. The Patron's Right is the most
worthly and first Act and Part of a Promotion to a Be-
nifice, and is granted and pleaded by the Name of
Liber De Episcopis Ecclesiae. Hob. 172. But during the
Vacancy of a Church, the Freethold of the Glebe
is not in the Patron; for it is in Akeyance. 8 H. 6. 24.
Litt. 144. A Patron shall not have an Action for
Trespass done when the Church is vacant; and if a
Man who hath a Right to Glebe Lands, releaseth
the same to the Patron, that is not good; because the
Patron has not any Estate in the Land. 11 H. 6. c. 4.
If the Church be vacant, the Patron is void
even against himself. 58 Ed. 4. 3. See Advouces,
Perjury, Pleading, &c.

Paragraph 3

A Person may paid towards the
Paving of Streets or Highways. Ric. Pasl. 10
Edw. 3.

Paragraph 4

32 H. 8. 21 Vid. Sceners. Paris. Signifies a poor Man, according to which we have a Term in Law to sue in forma Parisier. See forma Parisier.

Paragraph 5

Patron [Pigmus] A Pledge or Gage for Surety of
Payment of Money lent: it is said to be desired a
Pigmus, quia Res que Pigamus danunt, pigmus vocatur traduendus. Litt. Diff. The Patron that pays Persons, hath a general Property in them; they cannot be forfeited by the Party that hath them in Patrons for any offence of his, nor be taken in Execution for his Debt; neither may they otherwise be put in Execu-
tion, till the Debt for which they are pawned is satisfied. Litt. Rep. 332. If a Man pays Persons for Money, and afterwards a Judgment is had against the Limit of one of his Creditors, the Goods in the Hands of the Patron shall not be taken in Execution upon this Judgment, until the Money is paid to the Patron, because he had a quali-
fied Property in them, and the Judgments Creditor
only an Interest. 3 Bulk. 17. And when a Person
hath Jezus in Patron for a certain Sum, and he that
pattern them in Patrons is satisfied, the King shall
not have the Jewels unless he pay the Money. Penn. 487. The Pawners of Goods hath a special Prin-
cept, in them to obtain them for his Security &c.
and he may assign the Pawn over to another, who
shall hold it subject to the same Conditions: And if the
Pawners before the English Laws shall have it upon the like Terms as he had it. It
Goods pawned are perishable, and no Day being fit for
Payment of the Money, they lie in Patrons till
spoiled, without any Default from him that hath them
in Keeping; the Party that pawned them shall bear
the Damage, for it shall be adjudged his Fault that
he did not redeem them sooner; and he to whom
pawned them have Action of Debt for his Money:
Also if the Goods are taken from him, he may have
Action of Trespass, &c. C. Litt. 89. 248. Where
Goods are pawned for Money borrowed, without a
Day set for their Redempson, they are redeemable
at any Time during the Life of the Borrower.
They may be redeemed after the Death of him to
whom Goods are loan'd; and after the Death of the
Pawn, the Goods are redeemed. 2 C. 245. But where a
Day is appointed, and the Pawnor dies before the Day;
his Executors may redeem the Pawn at the Day,
and shall be held to have Kasted their Hands. 30
51. Goods pawned generally, without any
Day of Redempson, if the Pawnor dies, the Pawn
is abandoned; but if the Pawnor be alive, and he
does it not by
6 NP 157. 1 Bulk. 9. If Goods are re-
deeable at a Day certain, it must be strictly
observed; and the Pawnor, in Case of Failure of Pay-
ment at the Day set, is liable to Be devell'd. 5 Roll. 38.
245. In other Cases, Brokers commonly buy a
Year for their Money lent on Pawn, at the End of
which, if not redeemed, they fell the Goods
Laws. It is paid to the Pawnor, who may sell the
 Pawn, he is to have again the Pledge when he repays
it, or he may have Action for the Detainer; and his
Tender of the Money revests the Special Property
2 C. 244. And it hath been held, that where a
Broker or Pawnor refutes upon Tender of the Money
to redeem the Goods in Pawn, he may be indicted; if
he keeps Godly wrongfully must answer for them at
all Events, his wrongfull Detainer being the Ocupa-
tion of the Lofs: But if they be lost before:
Tender, it is otherwise; the Pawnor is not liable if his Care of Keeping them was exact; and the
Law requires nothing of him, but only that he shoule
ord an ordinary Care in Keeping of the Goods, that
they may be reedor on Payment of the Money for
which they were deposited; and in such Case if the
Goods are lost, the Pawnor hath skill his Remedy
against the Pawnor for the Money lent. 2 Salk. 522
3 Sal. 268. If the Pawn is laid up, and the Pawnor
robbed, he is not answerable: Though if the Pawnor
weth the Thing, as a Jewel, Watch, &c. that will
not be the worre for Weareing, which he may do, i
is at his Peril; and if he is robbed, he is answer-
able to the Owner, as the Usage occasioning the Lofs
&c. Ibid. If the Pawn is of such a Nature that
the Keeping is a Charge to the Pawnor, as a Cow
that may die, or a neat, &c. he is liable in their Hands, 5 days;
or other, and this shall go in Remorse for his Keep-
ing: Things which will grow the worre by Usage
as Apparel, &c. he may not use. C. 114.
A Person borrows 100l. on the Pawn of Jewels, and
takes a Note from the Lender acknowledging them
to be in his Hands, for securing the Money after
wards he borrows several other Sums of the same Person, for which he gave his Notes, without taking any Notice of the Jewels. As in this Case it was natural to think the Lender would not have advanced the Sums on Note only, but on the Credit of the Pledge in his Hands before it was decreed in Equity, that if the Borrower would have his Jewels he must pay all the Money due on the Notes. Pract. Casus. 410, 411.

Pledge, in Woods and Forests for Swine. Vide Passage.

Payment of Money before the Day appointed, is in the Law called a Day for it, because, in the Preeminence of Law, be any Prejudice to him to whom the Payment is made, to have his Money before the Time; and it appears by the Party's Receipt of it, that it is for his own Advantage to receive it then, otherwise he would not do it: Yet it is said, that the Defendant must not pled, that the Plaintiff accepted it in full Satisfaction; but that he paid it in full Satisfaction. 5 Reg. 117. Payment of a lesser Sum in Satisfaction of a greater, cannot be a Satisfaction for the Whole, unless the Payment be before the Day: Though the Gift of an Horse or Robe, &c. in Satisfaction, may be good. Ibid. And where Damages are uncertain, a less Thing may be done in Satisfaction of a greater. 4 Med. Reg. 89. Upon Schwartz ad Divem pletum, it is good Evidence to prove Payment at any Time after the Day, and before the Action brought; and Payments, although after the Day of Action, to any Attornv which relates to a Debt, upon Bill, Bond or Judgment, or Siete facias upon a Judgment. 2 Litt. Abr. 282. Statute 4 & 5 Ave. But though Payment after the Day, is good by Way of Discharge, it will not be so by Way of Satisfaction. 4 Med. 250. Payment is no Plea to Debt on a Covenant, or an Obligation, without Acquittance; but if the Obligation have a Condition, it is a Condition. If a Fee or Bond, be for Payment of Money, and no Day is set, Damages cannot be recovered till a Demand is made. Bridge. 20. For Payment of Rent, there are said to be four Times; 1. A voluntary Time, that is not satisfac-
tory, and yet good to some Purpose; as where a Lessee pays his Rent before the Day, this gives Sel-
fish of the Rent, and enables him to whom paid to bring his Action for it. 2. A Time voluntary and satisfac-
tory in some Cases; when it is paid the Morn-
ing of the Day, and the Lessee dies before the End of the Day, this is a good Payment to bind the Heir or Executors, but not the King. 3. The legal, absolute and satisfactory Time, which is a convenient Time before the last Instalment of the last Day, and then it must be paid. 4. Is satisfactory, and not voluntary, but coercive, when forced and recovered by Suit at Law. Co. Litt. 200. 10 Reg. 127. Pract. 172. Payment of Money shall be dis-
ferred by him who pays it, and not by the Receiver, &c. 2 Reg. 117. Co. Eas. 68. In the Payment of a Tenant's Debt by Executary, they are to pay their fines; on judgments, Mortgages, Rent due by Lease, &c. then Bonds and Bills, &c. 1 All. Abr. 927. Vide Bond and Rent.

Peces, (P. A. In the general Signification, is op-
opposed to War; but particularly with us it signifies a quiet and inoffensive Behaviour towards the King and his People. Lamb. lib. 1. c. 2. All Authority for keeping of the Peace comes originally from the King, who is the supreme Officer or Magistrate for Preservation thereof; though it is said the King cannot not take a Recognition of the Peace, because it is a Rule in Law that no one can take any Recogni-
tion, who is not either a Judge of Record, or by

Ordinary.
Ordinary, and are reputed Pedlars of that See: nor, because they are not under the Ordinary of the Diocese, &c., For the Jurisdiction is annexed to the Court of Arches; and the judge thereof may originally decide all such Parochial Petitions of the Archbishops. Hold. The Courts of Pedlars of the Archbishops of Canterbury, hath a particular Jurisdiction in the City of London, and in other Dioceses, &c. From the Province, in all Peculiar Petitions. 4. Inf. 353. Stat. 23 & 24 Car. 2.
There are some Pedlars which belong to Deans and Chapters, or to Prelacy, excepted from the Archdeaconry; &c.; they are derived from the Bishop of ancient Composition, and may be visaged by the Bishop in his primary or triennial Visitation: In the mean Time as Official of the Dean and Chappers, or Prelacy, is the Judge; and from hence the Appeal lies to the Bishop of the Diocese. Wood. 594. Appeal lies from other peculiar Courts to the King in Chancery. Stat. 25 H. 8. The Dean and Chapter of St. Paul's have a peculiar Jurisdiction; and the Dean and Chapter of Salisbury, have a large Pedlar within that Diocese; so have the Dean and Chapter of Lincoln, &c., &c. 2 Nef. 1240, 1241. There is Mention in Books of Pedlars of Archbishops; but they are not properly Pedlars, only laboured Jurisdictions; and a Pedlar is prima facie the understand of him who hath a co-ordinate Jurisdiction with the Bishop. Hold. 185. Mod. 356. If an Archdeacon hath a peculiar Authority, this shall not take away the Authority of the Bishop: but if he hath Authority and Jurisdiction by Prebendary, it is said he shall. 1 Bull. Rep. 357. Where a Man dies intestate, leaving Goods in several Pedlars, it hath been held that the Archbishop is to grant Administration. Sid. 90. 5 Mod. 239.
Becumles, Drisclisse, Has been used for the State of the Church. Till. Annal. 2. Sidles's Tales.
Becumles, Wiltzimt, Money paid to the Priest, at the Opening of the Cross, for the Benefit of the Deceased's Soul. Leg. Canat. 102. And this the Saxon called Sanctifex, Sanctus, and Annum Symbolum. Spec. de Leg. 567.
Secumelum. All Punishments of Offences were anciently Pedlarly, by Moll, &c. See Five.
Becah, (Pedlar.) Signs Money given for the Paddling by Foot or Horse through any Country. Pedlaria denarius on maleficia, sur. cacum, de cult. legum pag. 118. Pedlaria is to be done in the manner of a modern Consulat à Princes. &c. Et modo pedlaria, debet inscrivere Consulatis, & territoribus ut servat precaurium. Spelm. This Word is likewise mentioned by Raw, Pari. Ann. 1246. And King Edw. 3. granted to Sir Nils Laving Pedlaria Sandi Machen, &c., Roc. Patch. 22 Ed. 6.
Becah, A Poor Cloth, or Piece of Tapistry laid on the Ground to tread on for greater State and Ceremony. Inglis. 441.
Becah, Or Skirt, Cutting off the Foot, was a Pedlar of Criminals in former Times inflicted here instead of Death; as appears by the Laws of Williams, called The Comonoer, vizi. Interdictum ne quis ulterius pro eos amnis, &c., Adjudicander Patebile, nel Tefionis, nel Maxi. Leg. Will. 1. cap. 7. Flint, lib. 1. c. 38. Bred. lib. 5. c. 52.
Becah, Or Skirt, (Fr. Pier.) Is a Peron or Defense made against the Force of the Sea; for the helping Security of ships that lie at Harbour in any Haves; Such as the Pier of Dover. Sept. 14, Part. 1, cap. 37. Isch. the Pier of Great Yarmouth, mentioned as Core. U. & c. 2.
Becah, A Duty or Impediment for Maintenance of a See: Paro: Also the Dignity of the Lords or Peros of the Realm.
Becah, (Paro) Signifies in our Common Law those that are imprisoned in an Inquest for the Trial of any Man, and convicted or clearing him of the Offence for which they are Imprisoned; being by the Law and Customs of England, every Man is to be tried by his Peers or Equites. Kitch. 78. Magna Charta, 9 H. 3. c. 29. And as every one of the Nobility being a Lord of Parliament, is a Peer or Eques to all the other Lords, though they are of several Degrees; so the Commons are Peers to one another, although distinguished as Knights, Esquires, Gentlemen, &c. 2 Inf. 109. 3 Inf. 31.
Becah, Of Peers. The Word Peer denoted originally one of the same Rank and Condition; afterwards 'tis said it was said for the Valets or Tenants of the same Lord, who were obliged to serve and attend him in his Courts, being equal in Function; there were termed Peers of Fees, because holding Fees of the Lord, or for that his Benefices in Court was to fit and judge under their Lord of Difupes arising on Fees: But where there were too many such in one Lordship, the Lord usually chose our Twelve, who had the Title of Peers, by Way of Distinction and Eminence; from whom it is said we derive our common Juries, and other Peers, Convoo.
Becah of the Statutes, (Paro Regni, Personae.) Are the Nobility of the Kingdom, and Lords of Parliament; who are divided into Dukes, Marquesses, Earls, Viscountes and Barons: And the Reason why they are called Peers, is for that notwithstanding there be a Distinction of Dignities in our Nobility, yet in all publick Actions they are equal; as in their Voices of Parliament, and in Paddling upon the Trial of any Nobleman. S. P. C. lib. 5.
And this Ap­pealation seems to be chiefly borrowed from France, from those noble Peers that Charlesmus inscribed in that Kingdom, called Paros vel Patriae Francia, but we have applied this Name to all our Lords of Parliament, and have no let Number of Peers, for they are more or less at the King's Pleasure. All Nobility and Peerage is grounded on the Crown; and created either by Wit, or Letters Patent: The Calling up a Lord by Wit is the most ancient Way, and gives a Fee simple in a Baronet, without Words of Inheritance, wit. To him and his Heirs; but the King may limit the general Estate of Inheritance to Heirs Male, or the Heirs of the Body: And as soon as the Peer called fits in Parliament by Virtue of his Wit, his Blood is ennobled, and he is a Peer; but if he dies before he fits in Parliament, he is not, the bare Direction and Delivery of the Wit having no Effect. 1 Inf. 9, 16. But Creation by Letters Pat­ent is good, and makes the Peerage sure, although he never fits in Parliament, and his Heirs shall inher­it the Honour proper to the Words of the Patent: Though the Persons created must in this Case have the Inheritance limited by apt Words; as to him and his Heirs, or the Heirs Male of his Body, Heirs of his Body, &c., otherwise he shall have no Inheritance. 1 Inf. 2. Inf. 48. The King may create either Man or Woman Noble for Life only: And a Peer may be created for Life, by Act of Parliament; for instance, if a Duke take a Wife, she is a Dutchess in Law by the Inmarriage; &c. to a Marquis, Earl, &c. 1 Inf. 89. 69 Rep. 97. Also the Dignity of an Earl may devolved to a Daughter, if there be no Son, who shall be a Comer; and if there are many Daughters, it is said, the King shall dispose of the Dignity to which Daughter he pleases. 1 Inf. 106. Words Inf. 46. 56. It has been resolved in the House of Peers, that a Peer's Wife is presumed a Baron to Parliament by
Writ, and fasting die, leaving two or more Daughters, who all dying, one of them only leaves Issue a Son, such Issue has a Right to demand a Seat in the House of Parliaments. Before the Times of King Ed. 7. there were but two Titles of Nobility, viz. Earls and Barons: The Barons were originally by Tenure, afterwards created by Writ, and after that by Patent; but as to Earls, they were always created by Letters Patent. Said. 536. And King Hen. 6. created Edmund of Holland, Earl of Richmond, by Patent, and granted him Precedency before all other Earls. Queen Mary, also, likewise granted to Henry Radclyffe, Earl of Safoyn, a Privilege by Patent beyond any other Noblemen, viz. that he might sit at any Time of the Parliament, like unto the Grandees of Spain; and some few others of our Nobility have had conferred on them this Honour. The State 8th. H. 8. 16. states the Precedency of the Lords of Parliament, and great Officers, &c. After whom, the Dukes, Marquesses, Earls, Viscounts, and Barons, take Place according to their Anteity; but it is declared, that Precedency is in the King's Discretion: The State &c. was summoned to Parliament by Writ, Annu 3 Ed. 8. and William his Son, Annu 3 Ed. 6. was disabled by Attaining, and the Claim of any Dignity during his Life, but was afterwards called to Parliament by Queen Eliza- beth, and sat there as prince Lord, and died; and then Thomas, the Son of the said William, petitioned the Queen in Parliament to be admitted to the Place of the Place of his Grandfather; and all the Judges to whom it was referred were of Opinion that he should, because his Father's Disability was not abjourned by Attaining, but only personal and temporary during his Life; and the Acceptance of the new Dignity by the Petitioner shall not hurt him, so that when the old and new Dignity are in one Person, the old shall be preferred. 1 Rep. 1. A Dignity of Earl, &c. is a Title by the Common Law; and if a Parent be disburled of his Dignity, the regular Course is to petition the King, who indorsed it and sends it, like Chancery, Steinefs, Prorog. 72. 22 Edw. 3. And where Nobility is gained by Writ, or Parent, without Outright, it is receivable by Record; but when it is gained by Minister of State, as by Marriage, or where Defents are pleaded, Nobility is receivable per Patis. 22 Affli. 24. 5 Salk. 223. A Person petitioned the Lords in Parliament to be tried by his Peer; the Lords disallowed his Petition, and disallowed the Petition: And it was held in this Case, that the Defendant's Right upon his Letters Patent, which could not be cancelled but by Sixe facias: and that the Parliament could not give Judgment in a Thing which did not come in a judicial Way before that Court. 2 Salk. 510. 511. 3 Salk. 223. Where Paternity is claimed in Salk. 223. as by a Sibyl, he must plead, that he is unam Patrum Requi Anglie: but if the Claim be ratified Nobilitatis, he need not plead otherwise, to procure to his Creation. 4 Inf. 15. 3 Salk. 233. There are no feudal Barones at this Day: But there are Barons by Succession, and those are the Bishops, who by Virtue of ancient Barones held the King, (unto which the Possessions of their Bishopricks have been converted) are called by Writ to Parliament, and have Place in the House of Peers as Lords Spiritual: The Tenure of Bishops are held by their Service, to attend in Parliament when called; and that is in the Nature of a Barony; and all the Bishops together, it hath been said, made one of the three Estates in Parliament; but this is denied, because they have separately from the other Lords no negative Vote, &c. And though the Bishops are Lords of Parliament, and called by the King, and have a Vote, with an Answer, yet they shall not be tried by the Peers, as they do not fit in Parliament by Reason of their Nobility, but of their Dignities which they hold in Right of the Church: They are not of the Degree of Nobility (their Blood is not anointed, nor their Parasae hereditary) so that they are not of acommon Jury: And when one of the Nobility is to be tried by his Peer in Parliament, the Spiritual Lords must withdraw, and make their Petition. 1 Inf. 70. 95. 110. 5 Inf. 20. 4 Inf. 21. Some Bishops, as it appears, have been tried by Peers of the Realm: but it hath been seen impeached by the House of Commons, as upon special Occasions many others have been who have not been Peers: And the Bishops may claim all the Privileges of the Lords Temporal; saving they cannot be tried by their Peers, because the Bishops cannot in like Cases pass upon a Trial of any other Peers, they being prohibited by Canons to be Judges of Life and Death, &c. When a Lord is newly created, he is introduced into the House of Peers, by two Lords of the same Faction in the House, and the King at Arms going before, and his Lordship is to present his Writ of Summons, &c. to the Lord Chancellor; which being read, he is conducted to his Place: And Lords spiritual, where Nobility comes down from the Ancestor, and is enjoyed by Right of Blood, are introduced with the same Ceremonies, the presenting of the Writ excepted. Lex Quaest. 279. A Noblemen, whether a Native or Foreigner, who has his Nobility from a Foreign State, although the Title of Dignity be given him, (as the highest and lowest Degree is assigned to his Grace,) he is not acknowledged in all our legal Proceedings, nor Notice is taken of his Nobility, for he is no Peer: And the Laws of England prohibit all Subjects to receive any hereditary Title of Honour or Nobility, of the Gift of any Foreign Prince, without the Consent of the Sovereign. Ibid. 80. 81. Though Dignities of Para- sages are granted from the Crown, they cannot be transferred to the Crown, except it be in order to new and greater Honours, nor are they transferable over, unless they relate to an Office: And notwithstanding there are Influence of Rarions being transferred, and wherein one Branch of a Family fat in the House of Peer, by Virtue of a Grant from the other Branch, particularly in the Reigns of Hen. 3. and Ed. 2. Their Precedency have been disallowed; and the Duke of Bedford, who in the Reign of King Edu. 4. was degraded for Poverty, and Want of Possessions to support him, was not on his Peer, but by the Authority of Parliament; And as Dignities may not be transferred or transferred, without Authority of Parliament; so it hath been held, that Honour and Parasae cannot be extinguished by Act of Parliament, the King and Kingdom having an Interest in the Parasage of every Lord. Lex Quaest. 85. 86. 87. An Earldom confides in Office, for the Defence of the Kingdom; and of Bouts and Possessions, &c. and may be instated as any other Office may, and as it concerns Land; But the Dignity of Parasae cannot be transferred by Fine, because it is a Quality affixed to the Blood, and is merely Personal, that a Fine enacts touch it. 2 Salk. 509. 3 Salk. 223. A personal Honor or Dignity may be forfeited, on committing Treson, &c. for it is im- plied by a Condition in Law, that the Person digni- fied shall be loyal; and the Office of an Earl, &c. in An. Roy. 227. 366. & Defenses dennis tempore Bell, therefore he forfeits it when he takes Counsel or Arms against the King. 7 Rep. 32. 2: Neff. Aug. 323. All Peers of the Realm are locked upon as the King's brethren in Parliament; And all the Privileges belonging to the Parasage, they are very great. At Common Law, it was lawful for any Peer to retain as many Chaplains as he would seat by his Grace. And we have a Vice-Pride, where they shall not be tried by the Peers, as they do not fit in Parliament by Reason of their Nobility, but of their
Felony whereby it was granted at Common Law, if it be not outlawed by some statute made since the 26th of King Edward I. & P. 17th. A Peer of the Realm are to be tried by their Peers in Parliament. Magna Charta, c. 29. and 15 Ed. 5. c. 8. But Noblemen of France, Ireland, etc. and Sons of Dukes or Earls who are Noble, and have the Title of Lords, but are not Lords of Parliament, shall not be permitted to have this Trial. 2 Ed. 5. 30. A Peer shall be tried by his Peers, on Indictment for Treason, Murder or Felony though in Appeal of Felony, he shall be tried by Freeholders: And Indictments of Peers for Treason or Felony, are to be tried by Freeholders of the County, and such shall plead before the Lord High Steward, 1 Ed. 15. 3 Ed. 28. On the Trial of Peers in Criminal Matters, all the Peers who are present in the Conge, in the County of the Peer, are to be duly summoned twenty Days at least before the Trial, to appear and vote at the same; every Peer is at Liberty to take the Oath required by the Act 1 W. & M. c. 3. The Peer being indicted for the Treason or Felony, before Commissioners of Oyer and Terminer, or in the King's Bench, if the Treason or Crime is committed in the Country of Medullion; then the King by Commission under the Great Seal, constitutes some Peer (generally the Lord Chancellor) Lord High Steward, who is Judge in such Cases; and the Commission commands the Peers of the Realm to be attendant on him, also the Lieutenant of the Tower, with the Princes, etc. A Certificate is awarded out of the Chancery, to remove the Indictment before the Lord High Steward: And another Writ issues for the Bringing of the Prisoner; and the Lord Steward makes his Precepts for that Purpose, assigning a Day and Place, as in Westminster Hall included with Scaffold, &c. and for summoning the Peers, which are to be Twelve and above at least present: At the Day, the Lord High Steward takes Place at Westminster, with a Clerk of State; his Commission is read by the Clerk of the Crown, and he has a White Rod delivered him by the Usher, which being return'd, the Proclamation is made, and Command given for Certifying of Indictments, &c. and the Lieutenant of the Tower to return his Writ, and bring the Prisoner to the Bar; after that, the Steward as Attorney returns his Precept with Names of the Peers summoned, and they are called over, and answering to their Names are recorded, when the Treason or Crime is committed in the Realm thus adjourned, the High Steward declares to the Prisoner at the Bar, the Cæsura of their Assembling, affirms him of Justice, and encourages him to answer without Fear; then the Clerk of the Crown reads the Indictment, and arraigns the Prisoner, and the High Steward gives his Charge to the Peer; this being over, the Lord Steward produces their Evidence for the King; and if the Prisoner hath any Matter of Law to plead, he shall be assigned Counsel; but if he pleads Not guilty, and has nothing to add, the Place is given to the Bar, for the Court are instead of it; after all the Evidence given for the King, and the Prisoner's Answer heard, the Prisoner is withdrawn from the Bar, and the Lords that are Judges go to some Place to consider of their Evidence: But the Lords can admit no Evidence, but in the Hearing of the Prisoner; they cannot have Conference with the Judges (who attend on the Lord High Steward, and are not to deliver their Opinions before hand) but in the Prisoner's Hearing; nor can they fend for the Opinion of the Judges, but in the Court; and the Lord Steward cannot collect the Evidence,
Evidence, or confer with the Lords, but in the Presence of the Prisoner; who is at first to require Justice of the Lords, and that no Question or Conferences be had but in his Presence: Nothing is done in the Absence of the Prisoner, until the Lords come to agree on their Verdict; and then they are to be judicious as Juries until they are agreed, when they come again into Court and take their Places; and the Lord High Steward, publicly in open Court, demands of the Lords, beginning with the Worthy Lord, whether the Prisoner, calling him by his Name, be guilty of the treason, &c. whereof he is arraigned, who all give in their Verdict, and he being found Guilty by a Majority of Votes more than Twelve, is brought to the Bar again, and the Lord Steward acquitting the Prisoner with the Verdict of his Peers, passes Sentence and Judgment accordingly: After which, an O Ser is made for disposing of the Commission, and the White Rod is broken by the Lord High Steward; whereupon breaks up this Grand Assembly, which is extenuated the most solemn and architectonic; the King hearing of it, sent down to the House of Commons, &c. The Lord High Steward gives no Vote himself on a Trial by Commission: but only on a Trial by the House of Lords, while the Parliament is fitting: Where a Peer is tried by the House of Lords in full Parliament, the House may be adjourned as often as there is Occasion, and the Evidence taken by Parcels; and it is hitherto adjudged, that where the Trial is by Commission, the Lord Steward, after a Verdict given, may take Time to advise with the Lords; or, in the Office consigns till he has given his Judgment. But the Tiers may not separate upon a Trial by Commission, after the Evidence is given for the King; and it hath been resolved by all the Judges, that the Peers in such Case must continue together till they agree to give a Verdict. State Trials, Vol. 2, fol. 702. fol. 703. fol. 707. 2 Hen. iv. 425. A Peer of the Realm arraigned in Parliament, must be tried by before a Lord Justice, if he appear not, he shall be outlawed; and he cannot waive a Trial by his Peers; for if a Peer on Arraignment before the Lords refuse to put himself upon such Trial, he shall be proceeded against as one who stands mute: But if one who has a Title to Parage, be indicted and arraigned as a Commoner, and plead Not guilty, and put himself upon his Country; it hath been held, that he cannot afterwards suggest that he is a Peer, and pray Trial by his Peers. 3 Inf. 50. Kel. 57. Dalj. 16. It is said a Writ of Error lies in the King's Bench of an Attainder of a Peer before the Lord High Steward. 2 Hen. v. C. 452. If a Peer be attainted of Treason or Felony, he may be brought before the Court of Star Chamber, and determined what being in his State, he has to say why Execution should not be awarded against him? And if he plead any Matter to such Demand, his Plea shall be heard, and Execution ordered by the said Court, upon his being adjudged against him. 1 H. 7. 2d. pl. 15. Br. Cor. 129. Fina. Cor. 49. Likewise the Court of King's Bench may allow a Plea of Indulgence in such Indictment in that Court: But that Court cannot receive his Plea of Not guilty, &c. but only the Lord Steward on an Arraignment before the Lords. 2 Inf. 49. The Sentence against a Peer is made against the same as against a common Subject; though the King forgives all but Beholding, which is a Part of the Treason. But the Lord Steward being attainted of Murder, had Judgment against him to be hanged by the Neck until he was dead, which Sentences were executed: If Execution be not done; the Lord Steward may by Precept command it to be done according to the Judgment. 3 Inf. 57. Trial by Peers is a Practice very ancient: In the Reign of Will. i. called The Common Treason of Ulric of Ulrico, Tragedy of a Peer for conspiring to receive the Donners into England, and depose the Conqueror, was tried by his Peers, and found guilty of the Treason, per Judicium parium: but living in Prison his whole Life, he was beheaded. Inf. 50. The Duke of Suffolk, 28 H. 6. being accused of High Treason by the Commons, put himself upon the King's Grace, and not upon his Peers, and the King alone adjudged him to Banishment: but he fost for the Lord Chancellor, and all the Lords that were in Town to his Palace at Wymington, and also the Duke, and commanded him to quit the Kingdom in their Presence: The Lords nevertheless entered a Preeul to favr the Privilege of their Peers: and this was deemed no legal Banishment, for the King's Judging was that Manner was no Judgment at all: he was extravagantly bid to abdicate himself out of the Realm, and in doing it he was taken on the Sea and slain. The Cate of the Lord Chancellor, Counts, Judges of K. H. 8. was very extraordinary: this Lord was attainted in Parliament, and condemned and executed for High Treason, without being allowed to address to his Father: And several great Persons during this Reign were brought to Trial before Lords Commissioners. Ann. 32 Car. 2. the Lord Stafford was tried for Treason; and after he was condemned by Evidence was given for the King, and the Protector had summons'd up all his Objections to the King's Evidence, he interred upon several Points of Law, and the Court of Star Chamber, 20 July, 1674. 13 Car. 2, upon the question of his Peers, and Masters, handed to the Lords, to determine whether they were not competent Witnesses who swore against him, that they swore for Money: and whether a man could be condemned for Treason by one Witness, there not being two Witnesses to any one Point, &c. But the Points interred upon being overruled, he was found Guilty by a Majority of twenty four Votes; and was executed on Tenor's Day, 9 August, 1674, two Weeks under Banre, Deponent of Dignities, Lords, &c. Perjury. As we have Noblemen of several Ranks; so we have Noble Women, and these may be by Creation, Dicent, or Marriage: And first, King Hen. 8. made Anna Bulls, Marchioness of Pembroke; King James I. created the Lady Comyns, Wife to Sir Wil. Comyns, Baronet of London, at the Life-time of her Husband, without any Addition of Honour to him; and also the fame King made the Lady Finch Village, Baroness of Audley, and afterwards Countess of Winchelsea, to her and the Heirs of her Body: And the late King Geo. 1. made the Lady Schawburngh, Duchess of Kendal. A Woman Noble was not to be married to a commoner, but if he did so, the Degree of Nobility, fell remaneth Noble; but if the be noble by Marriage only, the loseth her Dignity if the marry afterwards a Commoner; though not if the second Husband is noble, and inferior in Dignity to the first Husband: And by the Curtesy of England, Women noble by Marriage always retain their Nobility. 1 H. 7. 50. Mamer. 60. 62. If an English Woman born takes to Husband a French Nobleman, the shall not bear the Title of Dignity; and if a German Woman, &c. marry a Nobleman of England in such state as be made Denizen, the cannot claim the Title of her Husband, no more than her Dower, &c. Lex Confessionis. 80. A Countess or Baroness has no right to a Dignity, so far as Dignity for the first Husband, and if the marriage be not done within the Year of the first Husband, &c. 41. If an English Woman born take to the Husband a French Nobleman, the shall not bear the Title of Dignity; and if a German Woman, &c. marry a Nobleman of England in such state as be made Denizen, the cannot claim the Title of her Husband, no more than her Dower, &c. Lex Confessionis. 80. A Countess or Baroness has no right to a Dignity, so far as Dignity for the first Husband, and if the marriage be not done within the Year of the first Husband, &c. 41.
the West it isff it appeared, that the Parry was a Counsel, against whom a Caius would not generally lie, for that in some Cases it may lie, as for a Counselor, &c. therefore the Sheriff ought not to examine a Judge, in any Aths of the Court. &c. 52. By the Statute 20 Hen. 6. cap. 9. a. Dethchev, Coun-

cefs, or Baronets, married or sole, shall be put to answer, and judged upon Imposition of Treson and

Public, before such Judges and Barons as the Prince or the Realm shall be: And it has been agreed, that a

Queen Confect, and Queen Dowager, whether the

Confect Sone after the King's Death, or a se-

cond Husband, and he be a Peer or Commoner; and all

also of Peerage by Birth, whether they be sole or

married to Peoples or Commons; and all Marchio-

nells and duchies are declared to a Trial by the

Peers, though not expressly mentioned in the Act


A Dethchev, Marchioness, Countess, or Baronet, may


But it is said that a Baronet, &c. may not retain Chal-

lains during her Courtever. Wind's Inf. 44. 4 Rep.

59. Vote Chancells.

Peals, A Pound weight: it was anciently said for

Panale, whence to Peale or Pafhe, and Prayer.

Poi. A Peel, Pole or Pole and the Cudgel or

Pole in the High Law, when a Grant was made to Sir John

Stanley by this Name. Pat. 7. H. 4.

Pettar, either arising from, or out of a Thing

Pettar. 9th. 4.

Betar and Betar, (Pelta) In Time of War, the

Earl Mayshale is to have of Peers and Bootees, all

the gilded Bells, except Hogs, &c. which is called

Peare. Old MS. And we read, that the Venables

came 900 foot 20 & a great General, four Vindex. in

in the Dominium of the Monastery of St. Leonard, Chobham, were sold.

& Corps jun for eisem Honorem super sculpt. spec.

In the Earl, bachelor, in the

Dawson. Baron & Cathal bring my debt, &c. &c. &c. Place.

in law. apud Colli. 14 Hen. 7.

Bettage, The Cothom or Duty paid for Skins of


Betilea, A Pitch: Tuscan or Indiumentum Pellic-

ilea, Rese super-pellicilea, A Sur-pitch or Surplice.

Surplice.

Betile-wood, Is the Wool drizzled off the Skin or

Pole of a dead Sheep. Stat. 8 H. 6. c. 22.

B HERE, A Word used by the Britons for a high

Mountain, and also by the ancient Greeks: whence those high Hills, which divide France from

Italy, are called the Appennines. Camd. Britan.

Benal Ratle, Are of three Kinds, 1st. Pena Per-

numaria, Pena Corporale, and Pena Excsitt. Cro

f. 415. And Penal Statutes have been made up

upon many and various Occasions, to punish and deter

Offenders; and they ought to be construed freely

and not be extended by Equity; but the Words of

them may be interpreted benevolently, according to

the Intent of the Legislator. 1 Inf. 1. 212. Where

a Thing is prohibited by Statute under a Penalty, if

the Penality, or Part of it be not given to him who

will sue for the same; it goes and belongs to the

Prince. 5th. 5th. 1. 426. But the King

cannot grant to any Person, any Penalty, or Forfei-

ture, &c. due by any Statute, before judgment

thereon had: though after a plea joined, Judges of

Advis. &c. having Power to hear and determine

Offences done against any Penal Statute, may com-

pound the Penalties with the Defendant, by Virtue

of the King's Warrant or Privy Seal. Stat. 21. 1.

There are Penalties ordained by several

Penal Acts of Parliament, to be recovered in any

Court of Record; but it is to be understood only of the

Court of Westminster, and not of the Courts of

Record of inferior Corporations. 1st. 5th. 428. The

Spiritual Court may hold Plea of a Thing for

hidden by Statute upon a Penalty; but they may

not proceed on the Penalty. 2 Lev. 222. See Information.

Penalty of Bond, &c. If a Man bring an

Action of Debt upon a Bond for Performance of Con-

tract, the Plaintiff shall recover the whole Penalty of

his Bond; because in Debt, the Judgment must be

according to the Demand and the Demand is to be

for the whole Penalty: But upon the Defendant's

bringing a Bill in Equity, and praying an Injunc-

tio to the Suit at Common Law, the Court of

Equity usually grants it in the Hearing of the

cause; and upon the Hearing of the Cause, they

will continue the Injunction farther, and order a

Trial at Law on a Quantum damno-est, for the

jury to find what Damage the Plaintiff received by

Reson of the Breach of Covenants, &c. And they

farther order, that after such Verdict given at the

Common Law, both Parties shall refund built for

Decree of that Court; so that here must be several Ac-

tions and Suits at Law and in Equity; whereas a bare

Action of Contract, without suing for the Penalty of

the Bond, will make an End of the Business in his

Time, and for a much less Charge. 2 Lill Abr. 289.

A Person being indicted to the Penalty by Law,

a Court of Equity will not relieve against it, with-

out paying Principal, Interest and Costs; and where a

Penalty is recovered at Law and paid, Chancery

can decree the Party to refund all, except the

Principal and Interest, &c. Char. Rug. 457. This Court

will not generally carry the Debt, beyond the Penalty

of a Bond: Yet where a Plaintiff came to be re-

lieved against such Penalty, though it was decreed,

it was on the Payment of the principal Money, In-

terest, and Costs; and notwithstanding they exceeded the Penalty, this was affirmed. 1 Vern. 350. Abn.

Calf. 83.

Benemitter, (Penitentia) is a Punishment imposed

for a Crime by the Ecclesiastical Laws. It is an

Acknowledgment of the Offence, and standing in some

publick Place, &c. to satisfy the Church for the

Scandal given by an evil Example: particularly in

the Cases of Adultery, &c. for which the Offender

stands in the Church, Barefoot and Bare headed, in a

White Sheet. Est. &c. For a smaller Faults it may

be made in the Court or before the Minifter and

Churchwardens, or some of the Penitentiaries; as in Case

of Defamation, &c. Wind. Inf. 507. Penitents may

be changed into a Sum of Money, to be applied to

pious Uses, called Communing. 3 Inst. 150. 4 Inst.

330.

Benemitter At Common Law, where a Person stands

mas. See Pain Fur & Dare.

Benemitter, An Enigma-beater: as John Parrlet was

'Squire of the Body, and Penemitter to King

Rich. 2.

Bennet, (Fr. Passive) A Standard or Banner car-

ried in War. 11 R. 2. c. 1.

Benfarta, A Weigh of Salt, containing 256

Pounds.

Benfart, Ad Perfum, The ancient Way of paying

Money by Weight; opposed to the Payment of the

Pound of Natura, importing twenty shillings.


Benfart, (Praef) Is an yearly Payment of Money

in Recompence of Service, &c. And to receive a

Perfum from a foreign Prince or State, without Leave

of our King, has been held to be criminal, because

it may incline a Man to prefer the Interest of such

foreign Prince to that of his own Country. 1 Kimm.

P. C. 59. Persons having Perfums from the Crown

are declared incapable of being elected Members of

Parliament, &c. by Statutes 14 W. 3. 4 & 5 Ann

1. See Parliament.

Perfums of Churches, Are certain Sums of

Money paid to Clergymen in Lieu of Tithes. And

1
some Churches have settled on them Annuities, Pre-
fections, &c. payable by other Churches; which Pre-
fusions are due by Virtue of some Decree made by an
ecclesiastical Judge upon a Controversy for Tithe, by
which the Tithes have been decreed to be en-
joyed by one, and a Pension instead thereof to
be paid to another; or they have arisen by Virtue of a
Deed made by the Consent of the Parson, Patron, and
Ordinary; and if such Pension has been usually
paid for twenty Years, then it may be claimed by
Preferment, and be recovered in the Spiritual Court;
or a Parson may prosecute his Suit for a
Pension by Preferment, either in that Court or at
Common Law, by a Writ of Annuity; but if he
takes his Remedy at Law, he shall never afterwards
sue in the Spiritual Court: If the Preferment be
denied, that must be tried by the Common
Law. P. N. B. 51. Har. 230. Fcnt. 120. A Spiritual Per-
fusion may sue in the Spiritual Courts, for a Pension or-
ginally granted and confirmed by the Ordinary; but
where it is granted by a Temporal Perfon to a
Civil, he cannot; as if one grant an Annuity to a
Parson to consume it in the Temporal Courts. Cre. Eas. 675. If a Parson or Vicar have a Pension out
of another Church, and it is not paid, they may
bring a Writ of Annuity, because the Pension is
suing out of a Rectory is the same Thing as a Rent, for
it may be demanded in a Writ of Entry, and a Com-
mon Recovery may be suffered of it. 2 Hift. Abr.
1243. Upon a Bill in the Exchequer for a Pension,
suing out of a Vicarage, it hath been held, that
though there is no Glebe nor Tithes, but only Of-
fereings, yet the Vicar is chargeable; and a Suit
may be brought in this Court as well as at Common
A Pension out of an Appropriation by Preferment is
seizable in the Spiritual Court; and if the Duty is
traversed, it may be tried there. 1 Sa1. 58. A Li-
bor was had in the Spiritual Court for a Pension, to
which the Plaintiff made a Title by Preferment;
and a Prohibition was prayed for, that the Court had
no Cognizance of Preferments; but adjudget, that
they having Cognizance of the Principal, it shall
draw the Accrual. 1 Fent. 8. The Curate of a
Chapel of Ease lidled against the Vicar of the
Parish for the Arrears of a Pension, which he claim-
ed by Preferment; though a Prohibition was grant-
et, because the Curate is removable at the Will of
the Parson, and therefore cannot preceive; he must
bring a Quantum meruit. 2 Sa1. 506. The Stat-
ute 13 Eliz. 1 appoints a Remedy for Pensions in
the Ecclesiastical Court: And the 34 & 35 H. 8.
c. 19. gives Damages to the Value and Costs,
Gr.

Pensions of the Annas of Counties, are annual Payments of each Member to the House. And also that which in the Two Temples is called a Parlia-
ment, and in Lincolns Inn a Council, in Gray's In-
ns is termed a Pension, being usually an Allowance of the Members to confut the Affairs of the So-
ciety.

Penitent-May, Is a Writ or peremptory Order
against those who are in Arrears for Penfions and other
Duties; and when once issued, none may refuse therein
in any of the Tithes of Church shall be disinherited or per-
killed in Commons till all Duties are paid. Ord. Gray's Inn.

Penitences, (Penitentiaries) Are a Band of Gentle-
men so called, that attend as a private guard on
the King's Perfon; they were first instituted Anno
1530.

Pentecostals, (Pentecostaus) Certain pious Obcla-
ations at the Feast of Pentecost, &c. by Parishes or the Priest of the Parish, Gr. Those Oblations were likewise termed Whitsun Far-
tings, and divided into four Parts; one to go to
the Parish Priest, a Second to the Poor, a Third for
the Repairs of the Church, and the Fourth to the
Bishop of the Diocese. Stip. of Pentecostals, Gr.

Penny Shilling, (Pence) A silver Coin, and the Saxon had no other Sort of Silver Coin. 2 Inq. 575. It
was equal in Weight to our Three Pence now; five of those Pence made one Saxon Shilling, and
thirty Pence a Mark, which weighed as much as
Three of our Half-Crowns: And this Penny was made
with a Cross in the Middle, and so broke into Half-
pence and Farthings. Mat. Paris. 1379. The Eng-
lish Penny called Sterling is round, and a money

Pew-weight. As every Pound contains 22 Ounc-
es, for each Ounce was formerly divided into twenty
Parts, called Pew-weights; and though the Pew-
weight be altered, the Denomination still remains:
Every Pew-weight is subdivided into twenty-four
Grains.

Perambulation, (Perambulatio) Signifies a Trave-
lling through, or over: As Perambulation of the Pa-
ry is the Surveying of the Parson, and to
the Walking about the Parish. Cre. Edw. 675. If a Minster, Churchwardens and Par-
ishioners, by going round the same once a Year, in
or about Ascension Week; and the Parishioners may
well justify going over any Man's Land in their Per-
ambulation, according to Uffage; and it is said may
be done in a Parish without 
Perambulation. And there is a Perambulatio of Manors; and a Writ
Perambulatio facti, which lies where any In-
volvements have been made by a neighbouring Lord,
Gr. then by the Affect of the Lords, the Sheriff shall
have with him the Parties and Neighbours, and make a
Perambulation, and settle the Bounds: Also a
Commission may be granted to other Persons to make
Perambulations, and to certify the fame in the Chan-
cery, or the Common Pleas, Gr. And this Commis-
ion is illused to make Perambulation of Towns, Coun-
ties, Gr. New Nat. Br. 916. If Tenant for Life of a
Lordship, and one who is Tenant in Fee-simple of
another Lordship adjoining foure forth this Writ or
Commission, and by Virtue thereof a Perambulation
is made, then what shall not bind him in Reverion:
Nor shall the Perambulation made with the Affect of
Tenant in Tail, bind his Heir. Ibid. And 'tis said
this Affect of the Parties to the Perambulation ought
to be acknowledged and made Personally in the
Chancery, or by Dedimus Posteas; and being cer-
tified, the Writ or Commission is given, Gr. The
Writ begins thus: The King to the Sheriff, &c. We
Command you, that taking with you Twelve different
lawful Men of your County, in your proper Person y
go to the Land of A. B. &c. And the Land of C.
D &c. And upon their Oaths, you ought to be
made Perambulatio in the Land of the said A.
&c. and of the said C. &c. So that it may be made
by certe Writs or Bounds and Descriptions, &c. and make
known to our Subjects at Wemifminister, Gr.
If Perambulation refused to be made by a Lord,
the other Lord who is grieved thereby shall have a
Writ of Mandamus, &c. laui Declaratio Ducis.

Petta, For Petition, a Perch of Land,—Eri-
man aoram Prae taj. majestou Petram. Man. Angli-
Tom. 2. pag. 875.

Petition, Is a Place in a River made up with
Banks, Gr. for the better Preveving and Taking of
Fishes. Fish. Ang. 120. Petition is at first used as a Red or Polo of fætuses
Foot and a Half in Length, whereas forty in Length and
four in Breadth, make an Acte of Ground. Crop. Jurid. 322. But by the Customs of several
Counties.
After incapable to be a Witness. 5 Lev. 163. By 
Satter, Perons committing wilful and corrupt Per-
jury, in any Cause depending concerning Lands or 
Goods, or in any of the Courts of Record, shall 
forfeit 40l. and be imprisoned 6 Months, and that 
Oath shall not be received in any Court of Record, 
until the Judgment is reversed; and if the Offenders 
have not Goods or Chattels of the Value of 40l. they 
shall be for the Pillory in some Market-place, 
and have both their Ears nailed thereto: And un-
lawful and corrupt Procuring and Suborning a Wit-
ness to give False Testimony in any Court of Record, 
Or. or corruptly Procuring any Witness to tellify 
in perjury, is a Misdemeanor, the Offender shall for-
feit 40l. And if be not worth 40l. be shall suffer 
for six Months imprisonment, and stand on the Pil-
lorly in some open Market near the Place where the 
Offence was committed; and shall not be received as a Witness till such Judgment be reversed; but if the Judgment be reversed the Party shall recover Damages against the Procureur, by Action on the 
Cae, Or. 3 Eliz. cap 9. And not only in a Court of Record, but in any other lawful Court, as a Court-Barony, or Perjury may be committed, 
With. 167. It has been adjudged, that if a 
Man be convicted of Perjury at the Common Law, a 
Pardon will release the Party to his Testimony, but not in a Conviction on the Statute, for there he 
must reverse the Judgment before he can be reforled, and 
Disability is Part of the Judgment. 2 Salk. 513. 
2 Nelr. 536. Yet a Person convicted of Perjury 
was allowed to make Affidavit, to sit aside a judg-
ment for Irregularity: though the Affidavit of such 
Persons have been refused to be received. 2 Salk. 462. 
If Perjury, if it relates to Justice, is punishable by Statu-
tate; and if it be in a Spiritual Matter in the Spiritu-
al Court, it may be punished there. 3 Salk. 269. 
A false Oath in a Court of Justice is more criminal 
than elsewhere. And as an Offence for which the 
Party may be indicted, either by the Common Law, 
or upon the Statute 3 Eliz. by which the Punishment is 
enlarged, but the Nature of the Offence is not 
altered by that Statute; and in many Causes an In-
dictment will lie at Common Law, when it will not 
be upon the Statute; for though a Person may be 
indicted at Common Law for a false Affidavit taken 
before a Muster in Chancery, but not on the Statute; 
because this is not Perjury in a Muster relating to 
the Proof of what was in a Life. Style 536. Sid. 
106. 177. The Statute extends to no other 
Perjury than that of Witnesses; but Persons perjurying 
themselves in their Actions in Chancery, or in the 
Exchequer, by Affidavit, or Swearing the Face against 
another, Or. may be punished for the Perjury at 
the Common Law; which is esteemed the fairest Way 
to prosecute for Perjury, or Suboration of Perjury. 
3 166. 2 Roll. App. 77. Wood's Ind. 414. 
In an Indictment of Perjury, upon an Anwser in 
Chancery, it was ruled, That the Complainant in 
Chancery is no Witness pending the Suit but if the Bill 
be dismissed he is a Witness. And in this Cause, 
there being both the Oath of the Prosecutor, and 
at Common Law may be in an immaterial Thing 
in an Answer in Chancery; but if one swear falsely to 
an Interrogatory, in a Thing not material charge-
of therein, this is not Perjury, because he who ad-
mits the Oath had not Power to admonish it, 
but in Matters charged in the Interrogatory. Sid. 
274. And when the Witness has not said 
hath not Authority to do it; or when a Court 
hath no Authority to hold Plea of the Cause; there 
Perjury cannot be committed. 3 Salk. 269. 
278. Also if an Oath be given by him that has 
lawful Authority, and any False be made therein, 
if
if it be not in a judicial Proceeding, it is not punishable as Perjury by the Common or Statute Law; as where one takes an Oath to the Government, or duly to perform an Office, &c. and breaks it. Read. on Stat. 2 Edw. 1., s. 94. Indictment will not lie at the Seclusions before Judges of Peace, for a Perjury at Common Law; though it will for a Perjury upon the Stat. 5 Eliz. that Statute giving the Judicature Jurisdiction. 1 Salk. 496. It is said a Man may be indicted for Perjury upon a voluntary and extrajudicial Oath; a Man being cited where a Percur rote the Daughter of another, and made Oath before a Justice of the Peace, that he had her Father's Consent, and in this order to get a Licence to marry her; he was indicted and convicted thereupon. 1 Feol. 370. On Indictment for Perjury, for that the Defendant swore at a Trial by Oath, that a Person was on such a Day in London, to be arrested; this was material, as the Iffice to be tried was concerning the Arresting him by the Sheriff, and it was proved that he was in Smootheward at that Time, and the Defendant being found Guilty was fined 20l. Sid. 692. A Person was indicted for Perjury, and convicted of Swearing that he was a Servant in W. when in Truth he was Servant to his Servant, and fined 10l. Allen 79. If any false Oath hath Relation to his Perjury, & there may be Things circumstantial which amount to this Crime, when they send to prevent Discovery of the Truth: To swear to the Credit of a Witness, if it be false, is Perjury. Comber. 46. Perjury in Witness, if it is not of Consequence in the Decision of the Cause, though it is a false Oath, it is not to be punished as Perjury: But if a false Oath be given by a Man attended with Circumstances, which make them Reasons of his Remembrance of a Thing, to strengthen the Substantiial Part of his Evidence, by this Means the Jury may be induced to the Giving of a Verdict, and he may be guilty of Perjury. 3 Inst. 167. 1 Ealf. Abbr. 41, 78. 1 Cr. 438. 2 Litt. Abbr. 291. Palmar 382. 535. Though where a Witness being asked whether so much of Money was paid for two Things in Controversy between the Parties? Answr’d, That it was, where the Truth of it was, that it was paid only for one of them by Agreement; such Witness ought not to be punished for Perjury; for as the Case was, it was no Way material whether it was paid for one or both. 2 Ral. Rep. 41. To make an Offence of Perjury, it must be wilful and deliberate, and not committed through Surprise, Inadvertency, or Mistake of the Question; and the Deposition is to be direct and absolute, not as the Percur swearing thinks or believes, 2 Edw. 1., s. 167, 265. Nothing which the Party offers upon his Belief is admissible for Perjury. Sid. 498. It must be false, in excess of Words or Intention, to make it Perjury: For Falldom in Intention may be punished by the Common Law, though the Words be true: And if one knows not what he swears, it is a false Oath in him, so that one may swear the Truth, and yet be perjur’d, as where the Plaintiff in an Action sued two Men to swear the Value of his Goods, who never saw or knew them, although that which they swore was true, yet because they knew it not, it was a false Oath in them, for which the Procurer and the Witnesses were fined in that Case in the Chamber. 3 Inst. 166. 2 Ral. Rep. 77. But here it’s held, a Man ought not to be drawn into a confunding Perjury. 2 Salk. 414. Perjury may not be in a private Matter, howsoever wilfully to the Oath may be Upon this Ground it hath been helden, that a false Oath taken by one upon the Making of a Bargain, that the Thing sold is his own, is not Perjury. 1 Haw. 173. An Indictment for Perjury may be preferred against one for taking a false Oath rashly, and for want of Consideration, in a Court of Record; and he may be convicted and fined thereupon, but the Fine shall be more moderate than where committed out of Malice. The Words Wilfully and Carelessly must be intended in the Prosecution upon the Statute; and an Indictment was held ill, because it did not allege that the Defendant voluntarily swore, 2 Edw. 1., s. 166. 1 Cr. 147. Perjury or Subornation of Perjury, in Proceedings on an Indictment, is not within the Statute, which mentions only Lands and Goods; and under the Statute, 5 Lev. 230. 2 Law. 211. And if a Person procure another to take a false Oath amounting to Perjury, he does not take it, though the Person who implicated him is not guilty of Subornation, yet he may be punished by Fine. Read. Stat. 4 Vol. 356. Whereas a Plaintiff loses his Action by a false and perjured Witness produced on the Part of the Defendant, it is said he cannot have an Action against that Witness, till he is indicted and convicted; unless it is such a Perjury, or in such a Court, that an Indictment would not lie for it. Sid. 90. 3 Salk. 390. On Motion to amend an Information for Perjury, it was granted, giving Notice to the Defendant what they would amend; and he flew Cuse why they should not take it. 4 Inst. 170. An Acquittal upon an Indictment of Perjury is no Plira to a good one, and the Party may be indicted de novo; but an Acquittal upon a good One is peremptory. Med. Ca. 167. A Person was found guilty in an Information for Perjury, and upon several Affidavits the Court was moved for a new Trial; though it was denied, except the King’s Council would consent, notwithstanding it appeared to the Court that there was Cause for a new Trial. Sid. 49. Sir John Tacklorn being acquitted of a great Debt, by the Perjury of Remouch and Holz, it was ordered, that the Perjury, and the Trial being appointed, the Witnesses who could prove they were arrested and committed, so that they could not be present at the Trial; and this being done by the Contrasence of Sir John, he was found guilty of the Misdemeanor on an Information, and fined 1000 Marks, and committed for a Month: But the Court would not grant a new Trial to Perjury. Sid. 140, 155. An Indictment for Perjury will not be quashed for any Insufficiency until the Marius are tried, and ‘tis Time enough to move to quash it after a Verdict; and no Cursorem shall he had to remove an Indictment for Perjury or Forfery; for when they are removed, they are seldom proceed on. Sid. 34. 2 Ral. Abbr. 972. Indictment at Common Law is to be brought where a Witness for the King swears falsely; or he may be punished by Information: And the Offence of Perjury, if prosecuted by Indictment, it will be local; but if otherwise on Information. 3 Inst. 164. 1 Vent. 182. Person guilty of Perjury, by a late Statue, shall, over and beside the Punishment already inflicted by Law, be sent to the Tower for One Year; and upon for a Time to be on Cartership for Seven Years, or may be transported to the Plantations for seven Years in like Manner as Felons, 2 Gen. 2, c. 35.
PER

Form of an Indictment for Perjury.

THE TH' Jurors, &c. That A. B. of M. in the County of ________, Gent., on the Day of ________, &c. in the Town of ________, &c. at ________, in the said County, came before C. D. Esquire a Commissary, &c. (being having Authority to administer the Oath to the said A. B.) and being sworn, as the Holy Gospel of God, did swear there and then upon his Oath, most solemnly, truly, faithfully, and conscientiously, &c. and affirm in Writing, or in Verbatim, &c. in a Cause between E. F. Plaintiff, &c. and G. H. Defendant, that, &c. here arising the Perjury) when in Fact, &c. and do the said A. B. on the said Day, &c. in the Town of ________, and being sworn, &c. did swear and affirm in the said County, did falsely, maliciously, deceitfully, and evasively, commit false and evasive Perjury, before the said C. D. Esquire, &c. and there having sufficient Authority to administer the Oath aforesaid to the said A. B. contrary to the Statutes, &c. and against the Peace, &c.

Per me &c. per ton, &c. Are Words used where a Jointenant is laid to be freed of the Land he holds jointly, by every Parcel, and by the Whole, when Signification they bear in Law. Lott. Tenor. Sel. 282.

Permit. (From Permit.) Is a Permissio or License for persons to pass and sell Goods, on their having paid the Custom Duties for the same. It is mentioned in the Statute 9 Geo. 2. cap. 35. See Customs.

Permutatam Archidonaenatam et eadem anno cum Castella et Portenba, &c. Is a Writ to the Subtreasurer to Appoint a Clerk to a Benefactor, upon an Exchange made with another. Rep. Orig. 507.

Perpetua. (From the Fr. Prendre.) Signifies a Taking or Receiving; as Tithes in Pernanu, or Tithes taken or that may be taken in Kind.

Perpetra. A Person is he that takes or receives the Produce of Lands, Testaments or Hereditaments; and is laid to be all one with Caesar quod ere. Stat. 1 Hen. 7. cap. 1. 1 Rep. 125. The King has the Permanence of the Proofs of the Lands of an Outlaw, in personal Actions; and by Seilour shall hold against the Alienation of such Outlaw, &c. Raym. 17. See Co. Litt. 129.

Perpetua. A Part of the Inheritance—Tempum terrae quod non debet in perpetuum baronie, &c. Plato, lib. 2. c. 54.

Perpetua. (Perpetuas) Is a Concession everlastingly: and in Law, it is when an Estate is designed to be so settled in Tail, &c. that it cannot be undone or made void: As where it all the Parties that have Interest in it, they cannot bar or pass the Estate; but if by the Concurrence of all having the Estate tail, it may be barred, it is no Perpetuity 2 Litt. Abr. 292. An Estate Tail, by the Device of a Common Recovery, being made bare; to prevent the same, Men did entail their Lands with Condition, that none of them that had the Land, should do any Act to put it from the next Heir; and if any do, that he should forfeit his Eate, and such Heir should enter, &c. but this being found of ill Consequence, the Law hath adjudged all the Conditions void, and so avoided Perpetuities. 1 Tode 237. 341. It is a Rule that hath destroyed Perpetuities, that an Estate cannot be made to eate for a Time, and then to rise again; or to create to one Person, and have Being as to another; or deprive a Tenant in Tail by Condition or Limitation of the Power of Alienation. Hib. 127. 1 Rep. 81. Perpetuities are odious in the Law; and an execute devise of Lands after an Estate generally tends to a Perpetuity; though not where it depends upon a Life, when a Fee simple may be one, and remain to another, &c. 2 Co. 657. A Term for Years may not be devised in Tail, with Reminders over to raise a Perpetuity; But a Limitation in Remission of a Term, so as it is not in effect, doth not extend to create a Perpetuity; though if it be to Persons not in effect, it is otherwise. Nor 495. Chanc. Rep. 8. A Lease for Years, to a Man and the Heir of his Body, &c. is not good; but it may be alligned to Trustees, for the Issue in Tail to receive the Profits, &c. if yet such a Lease come then to be limited in Tail, a present Remainder may not be limited therein; but the Law will allow a future Contingent Estate, so as it wears out in a short Time, as in the Comps of two Lives, &c. 10 Rep. 87. 4 Feb. 27.

Per quas curabit. Is a Judicial Writ, issuing on the Note of a Fine, and lies for the Convict of a Manor, Lands, Rents, or other servitutes, to compel the Tenants at the Time of the Fine levied to attend to him thereupon. Old Nat. Br. 155.

Perquisita. (Perquisita) Signifies in Law Profits, or any thing gained by one's own Industry or Purchace; contrariwise is that from which defends to a Man from a Father or Ancestor. Brad. lib. 2. cap. 30.

Perquisitas of Court. Are commonly those Profits that arise to Lords of Manors, from their Court Baron, over and above the certain and yearly Revenue of the Lands; as Fines of Copyholds, Her- ris, Ameiatements, &c. Perk. 20, 21. Perquisitas of Officers. See Fees.

Per quod constantium amitit, &c. Are his heirs or assigns Declared to be Trepassers, &c. where a Man's Wife or Servant is beaten, or taken from him, and he looses their Service, &c. 2 Litt. Abr. 595. 596.

Perfon, A Man or Woman: also the State or Condition, whereby one Man differs from another.

Perfontalble, (Perfontalibus) Is as much as is to say enabled to hold Plea in Court; as the Defendant was judged perfonable to maintain the Action. Old Nat. Br. 142. And in Kitchen, the Tenant pleaded, that the Demandant was an Alien, born in Portugal, without the Allegiance of the King; and judgment was asked Whether he should be answered: To which the Demandant said, he was made perfonable by Parliament, i.e. as the Civilian would speak it, Habens Perfonam sibi in Judicio. Kitch. 214. Perfonable likewise signifies to be of Capacity to take any Thing granted.

Perfonal. (From the Fr. Person) Goods or Chattels, signifies any moveable thing belonging to a Man, be it quick or dead. W. Symb. par. 2. Selt. 58. Per- sonal Things, may be given on the occasion, as a Horse, a Cow, Sheep, or other Goods, &c. Kitch. 139. See Chattels.

Perfonal Action, (Acta Personalis) Is that which one Man may have by Reason of a Contract for Money or Goods against another: It is such an Action whereby a Debt, Goods and Chattels are demanded, or Damages for them; or Damages for Wrong done to a Man's Perfonal Term of Law 19. In the Civil Law, it is called Acta in Perfonam, and is brought against him who is bound by Covenant, to grant or do any Thing, &c. And in the Law, Acta Personalis mottrandam cum persona. 1 Jew. 53. Action of Debt lies not against Executors, upon a Contract for the Eating and Drinking of the Teller; for that Action in such Case dieth with him. 9 Rep. 87. If a Person commit a Battery or Tres- pas, and he or the Party beaten, &c. dies; the Action dieth, and is gone. Nol. Max. 5. An Exec- utor cannot bring an Appeal for a Larceny from the
Let Right be done the Party: Or it is Special, when the Conclusion and Indulgence are special, for this is a Common Action. 1. P. C. 184. S. 3. P. C. 50. And an Appeal of Death is a Personal Action given to the Heir, in Reque that to his immediate Relation to the Person killed; and like other Personal Actions, shall die with the Person. 2. Hawk. P. C. 165.

Personal Tithes, Are Tithes paid of such Profits as come by the Labour and Industry of a Man's Profit; as by Buying and Selling, Gains of Merchandize, and Handicrafts, etc.

Personalty, (Personalitas) Is an Abstract of Personal; The Action is in the Personalty, i.e. it is brought against the right Person, or the Person against whom in Law it lies. Old Nat. Br. 92. Or it is to distinguish Actions and Things Personal, from those that are Reel.

Pericaste terre, The Fourth Part of an Acre. See Parch.


Peribbe, According to Sommer signifies Palattii atrum vel area illa a Fonte Fidei Wolmenn, bude the Pecor Synucul nowa nuncupata. Somn. Glove. See Paribbe.

Peria, A certain Weight and Measure: And Peris, A Weigher. Pat. 2 Ed. 4. See Peris.

Perling, (Perlingus) A Custom or Duty paid for the Weighing of Merchandize, or other Goods.


Perion, Mist of Oaks, &c. or the Money taken from Mist, or the Money of Hogs. Mon. Ang. Sen. 2. p. 213. See Mops.

Perlabrable, As Waters pellable, seem to be such as pepper, and take up much Room in a Ship. Stat. 32 Ed. 2. p. 79. See Mop.

Peri-cem, Is mentioned in some of the ancient Registers of our Bishops, particularly in that of St. Leonard de Ehon, which contains a Grant thereof by King Alboinum, &c. Collect. Dodwell.

Peric-pence, (Denarii Sandi Pagri) Otherwise called in the Sax. Rams fees, i.e. The Fee due to Rome, was a Tribute or rather Alms given by the King of the West Saxons, in his Pilgrimage at Rome in the Year 725. And the like was given by Offa King of the Mercians, through his Dominion, anno 754. But it is said not to be as a Tribute to the Pope, but for the Sustentation of the English School or College at Rome; and it was called Peric-pence, because collected on the Day of St. Peter at minucia, and was a Penny for every House. King Edgar's Laws contain a sharp Conditio touching this Money. Leg. Ed. 78. cap. 4. It was prohibited by King Ed. 3. and by Stat. 25 H. 8. But it is revived 1 & 2 Ph. 2 Mar. and was wholly abrogated by 1 Eliz. c. 1.

Peric at Vinia, Mentioned in the Stat. 4 Ed. 4. cap. 1. See Culc of Auge.

Petition, (Petition) Hath a general Signification for all kinds of Supplications made by an Inferior to a Superior, and especially to one having Jurisdiction. S. P. C. c. 15. And it is used for that Remedy which the Subject hath to help a Wrong done by the King, who hath a Prerogative not to be forsworn. In which Sense it is either general, That the King do him Right and Reaon, whereupon follows a general Indulgence upon the same,
PHI

Several Statutes. 11 H. 7. 23 Eliz. 1. 7 Jac. 1. 46 W. & M. Eliz. See Game.

The Practice of Physicians within the City of London, or seven miles thereof, shall practice as a Physician or Surgeon, without a Licence from the Bishop of London, or Dean of St. Paul's; who are to require four Doctors of Physick, on Examination of the Perons before granted. And in the Country, without Licence from the Bishop of the Diocese, on Pain of forfeiting 5l. a Month, 3 Hen. 8. cap. 11. By the 14 & 15 H. 8. c. 5. the King's Charter for incorporating the College of Physicians in London, is confirmed: They have Power to choose a President, and have perpetual Succession, a Common Seal, Ability to purchase Lands, &c. Eight of the Chiefs of the College are to be called Electors, who from among themselves shall choose a President yearly: And if any shall practice Physick in the said City, or within seven Miles of it, without the Licence of the said College under their Seal, he shall forfeit 5l. Also Persons practicing Physick in other Parts of England, are to have Letters testimonial from the President and three Elders, unless they be graduate Physicians of Oxford, or Cambridge, &c. The Stat. 15 & 16 H. 8. c. 10, ordains, that four Physicians, (called Coroner) shall be yearly chosen by the College of Physicians, to search Apothecaries Ware, and have an Oath given them for this Purpose: Apothecaries denying them Entrance into their Houses, &c. incur a Fine of 5l. And the Physicians refusing to make the said Search, are liable to a Penalty of 40s. and every Member of the College of Physicians, is authorized to practice Surgery in London or elsewhere. Persons having a Knowledge and Experience in Herbs and Roots, may practice and minister to outward Sore or Swellings, any Herbs or Ointments, according to their Skill; and also Drinks for the Stone, Stomachy, or Ague, without Licence, or any Penalties, by the Statute 3 & 4 H. 8. cap. 11. Stat. 34 & 35 H. 8. cap. 8. Popish Recusants are disabled to practice Physick, or to use the Trade of an Apothecary, &c. under Penalties. 3 Jac. 1. c. 5. The four Physicians called Coroners, annually chosen by the President and College of Physicians, calling to their Assistance the Wardens of the Apothecaries Company in London, or one of them, are empowered to enter into the Houses, Shops, or Warehouses of Apothecaries, &c. and search and examine Medicines, and to burn or destroy those that are defective or decayed, nor let in for Use, but forbid to appeal to the College of Physicians, &c. 10 Gen. 1. c. 21. In the Case of Dr. Bostany, 7 Jac. 1. is shewn the Power of the College of Physicians, in pruning Perons for practicing Physick without Licence: They imprisoned the Doctor for practicing without a Licence; but it was adjudged that they could not lawfully do it, for in such Case they had no Power to the Licence, but only to the Power for the Penalty of 5l. per Month. 15 Gen. 1. c. 25. But in Case of Male Practice, the Coroner have Power to commit a Person; for they may in such Case seize and impound their Charter, and they are Judges of Right, and not liable to an Action for what they do by Virtue of their Judicial Power. 8 Rep. 104. 1st C. Carol. 3rd Rep. 494. Apothecaries taking upon them to administer Physick, without the Advice of a Doctor, has been adjudged Practising of Physick within the Statutes; the prosecution to be an Action of Arrears, to recover the Prescriptions of the Doctor: In this Case the Practice of Physick was not found to amount to judgment of the Distinct Person; and it has been held, that if a Person not duly authorized to be a Physician or Surgeon, undertakes a Case, and the Patient dies under his Hands, he is guilty of Felony, but 'tis not to be excluded the Benefit of Clergy. 1 Haw. P. C. 87.

Philosopher's Stone. King Hen. 6. granted Letters Patent to certain Persons, who undertook to find out the Philosopher's Stone, and to change other Metals into Gold, &c. to be free from the Penalty of the Stat. 5 Hen. 4. made against the Attempts of Chemists, of this Nature. Stat. 5 Hen. 6. 3 & 4 Eliz. 74. See Multiplication of Gold and Silver.


Picturate. (Picturum, From the Fr. Piqure, i. e. Effacer) A Confederation of Money, paid for the Breaking up of Ground to set up Boats, Shoals or Sandbanks, in Fairs it is payable to the Lord of the Soil.

Richardus. No Person shall use any Iron Cards, or Pictur, in towing any Woolen Cloth, upon Pain to forfeit the same, and 20s. for every Office. 3 & 4 Ed. 6. c. 2.

Pitt. (Picturum) A small Parcel of Land enclosed with a Hedge; a little Chink: This Word forms to come from the Italian Pittola, i. e. Pictioli, and in some Parts of England, it is called Piktur.

Pittura. A Large Duty is granted on all Pictures imported, payable into the Exchequer. Stat. 8 Gen. 1. 1. 

Piece of Eight. Spanish Coin valued at about 4s. 6d. English money, brought from Mexico, Peru, &c. Merc. Dist.

Piscianar. A Court incident to Fairs and Markets: And the Fair of St. Giles, held on the Hills of that Name, near the City of Winchester, by Virtue of Letters Patent of K. Edw. 4. hath a Court of Piscanor of a transcendent Jurisdiction; the Judges whereof are called Fishers of the Piscanor, and have their Power from the Bishop of Winchester. Prin. Animad. on 4 Inst. 191. See Court of Piscopowder.

Piscis, Ferox pesc, Were a Sort of Monk; so called, because they wore black and robyne Garments like Magpis: They are mentioned by Walsingham, p. 124.


Pistiacanthus, The Officer in Collegiate Churches, who was to distribute the Pits unus, as at Times and in such Proportions as were appointed by the Donors. See Pits unus.

Pigni. Every Person who shall shoot at and kill a Pigeon, may be committed to the common Gaol for three Months, by two or more Justices of the Peace, or he shall pay 10s. to the Poor of the Parish. Stat. 1 Jac. 1. c. 27. And to steal Pigeons in a Pigeon-house, but up to that the Owner may take them, is Felony. 1 H. 3 P. C. 94.

Pigeon-house, Is a Place for the safe Keeping of Pigeons. A Lord of a Manor may build a Pigeon-house or Dovecote upon his Land, Parcel of the Manor, but a Tenant of a Manor cannot make it, without the Lord's Licence. 3 Stat. 228. Formerly none but the Lord of the Manor, or the Parson, might keep such a Pigeon-house, but it has been held, that any Freemen also may build a Pigeon-house, on his own Ground. 8 Rep. 104. Cos. Eliz. 548. Cos. Jac. 440. 382. A Person may have a Pigeon-house, or own Ground.
PI

Dove-cone, by Prescription. Game Law, § 4. tire. 1535. See Majesty.

Pila, is that Side of Money which is called Pila, because it is the Side on which there was an Imprefen
t from the Carolists built on Pila; and he who brings an
Appeal of Robbery and another, must know the
certain Quantity, Quality, Price, Weight, &c. van
Ibrum & Pileum, where Pileum signifies Figuran Mo-
no Pilea, lib. t. cap. 12. 120.

Pilettus, Was anciently used for an Arrow, as
had a round Knob a little above the Head, to hin-
der it from going far into a Mark from the Lat.
Pila, which signifies generally any round Thing like a
Ball—Es good Forfarii non portavit juxtas barbatas, sed Pileos. Chart. 51 H. 3. Perns might
without the Bounds of a Forfath or pointed Arrows; but within the Forreis, for the Pres-
ervation of the Deer, they were to shoot only with
Blunts, Bolts, or Piles: And Sagitta Pilea was op-
posed to Sagitta Barbatas, as Blunts to Sharpes, in Rapi-

Pileus Suppeditatissime, A Cap of Maintenance:
Pope Julius sent such a Cap to a Sword to King

Pillar, at Polardy in the County of Lancaster, is
called Pile by the Idiom of the Country, for a Pile
or Pap, built on the Safeguard and Protection of a
May Pillar, was erected by the Abbots of For-
siffs, in the first Year of K. Ed. 7. See Pilea.

Pillarow, (Cylliphigiones, Collum spinose) Pillowia
from the Fr. Pileuw, i.e. Dampoline; or Pilearier de-
rivered from the Greek Pileos, Tunnas, a Door, to
cause one standing on the Pillory, puts his Head, as it
were, through a Door, and Oydis, inside, is an Engi
made of Wood to punish Offenders, by ex-
posing them to public View, and rendering them
infamous. There is a Statue of the Pillory, 51 H. 3.
And by Statue, it is appointed for Bakers, Farre-
lers, and for those that sell false Weights, Perjury,
Forery, &c. 3 Inst. 210. Lords of Leas are to
have a Pillory and Tumbrel, or it will be Cause of
Fouretr of the Leas; and it is said that a Vill may
be bound by Prescription to provide a Pillory, Sec. 2
Herald. P. C. 73.

Piloth, is he that hath the Government of a Ship,
under the Master. And Pilots of Ships, taking up,
on them to conduct any Ship or Vessel from Dover,
or Deal, &c. to any Place the River of Thames,
are to be first examined and approved by the Master
and Wardens of the Society of Trinity House, &c.
or shall forfeit 10. for the first Offence, 20. for the
second, and 40. for every other Offence; one Mai-
ey to the Informer, and the other to the said Ma-
ster and Wardens; but any Master or Mate of a Ship,
&c. may pilot his own Vessel up the river; And
if any Ship shall be lost, through the Negli-
gence and Carelessness of any Pilot, he shall be for
ever after disabled to act as a Pilot. 3 Geo. 1. 13.
Allo the Lord Warden of the Cinque Ports may make
Rules for Government of Pilots at Dover, Deal, &c.
and order a sufficient Number to pay at Sea to con-
duct Ships up the Thames. 7 Geo. 1. cap. 21. No
Peron shall act as a Pilot on the Thames, &c. (except
in Collier Ships) without Licence from the Master
and Wardens of Trinity House at Driffield, on Pain of
forfeiting 20 l. And Pilots are to be subject to the
Government of that Corporation; and pay an-
other not exceeding 10. in the Pound out of Wages,
for the Use of the Poor thereof. Stat. 5 Geo. 2.
c. 20. By the Laws of frame, no Peron shall be
received as a Pilot, till he has made several Voyages,
and hath passed a first Examination; and after that,
on his Return in long Voyages, he is to lodge a
Copy of his Journal in the Admiralty: And if a
Pilot, by Ignorance or Neglect, shall occasion the
Loss of a Ship, he is to pay 100 Livres Fine, and
be for ever deprived of the Exercise of Piloting; and
if he do it deliberately, he shall be punished with
Death. Lex Mercat. 70, 71. The Laws of Olera
ordain, That if any Pilot shall deliberately misguide
a Ship, that he may be sane, he shall be put to a
rigorous and unmerciful Death, with his Goods
Chased. And if the Lord of the Place where a Ship
shall be thus lost, shall abet such Villains in Order to
have a Share in the Wreck, he shall be apprehended,
and all his Goods forfeited for the Satisfaction of the
Perons suffering; and his Pilot shall be stalled to
a Stake in the Midst of his own Mansion, which
was fixed on the four Corners thereof, it shall be
burnt to the Ground, and he with it. L. 41 cap.
25. And by the Laws of Olera, if the Fault of a
Pilot, he so notorious, that the Ship's Crew in the
apparent Wreck, they may lead him to the Harshes,
and drive off his Head; but the Common Law de-
nies this basty Execution; An Ignorant Pilot is le-
tended to pass thee, under the Ship's Keel, by the
Laws of Denmark. Lex Mercat. 70. Masters of
Ships shall not oblige Pilots to pass through dan-
grous Places, or to steer Courses against their Will;
but if there be a Difference in Option, the Master
may in such Case be governed by the Advice of the
most expert Mariners. Ibid. Before the Ship arrives
at her Place or Port, while she is under the Charge
of the Pilot, if she or her Goods perish, or be spoiled,
the Pilot shall make good the fame: But after the
Ship is brought to the Harbour, then the Master
is to take care of her, and answer all Damage, ex-
cept that of the Act of God, &c. L. 41 cap.
23. In Charter-parties of Affreightment, the Master
generally covenants to find a Pilot, and the Merchant
is to pay him. And in Case the Ship shall mislily
through the Insufficiency of the Pilot, the Merchant
may charge either the Master, or the Pilot; and if it
charges the Master, such Master must have his Re-
medy against the Pilot. Lex Mercat. 70. See Lod-
manage.

Pillar—Tenure.—Williammus Hopkett, two
feminae sunt in termino in Rocheport de Domino
Regi, per servitium cupiendis ex Davinii, soli Meso-
teritis, ad suam Dominum Regi. 12 Ed. 1. vs. by
Pillersham, Or Ad plane biber. The old
Custom of Drinking brought in by the Duces,
and to fix a Pin in the Side of the Waffl Bowl, and to
drink exactly thus in copula, as now is prattled in a
sealed Glass. &c. This Kind of Drenched was
forbid the Clegy, in the Council at London, Ann.
1142.

Pilasters, (Fr. Panneaux, i.e. Panneaux) Are fish
Laborers as are employed in the King's Army, to
call up Trenches, or undermine Forts. Stat 27 G
Ed. 6. c. 20.

Pipe, (Pipe.) Is a Roll in the Exchequer, oth-
erwise called the Great Roll, and there are sever-
Al Officers of the Pipe, Sec. 57 Ed. c. 4. It is a
measure of Wine, containing two bushells, or
Half a Ton, that is, one hundred and twenty-
Gallons; mentioned in 1 R. 7. &c. 2.

Piquant, A French Word for Sharp, made use of
to express Malice or Rancour against any one. Law
Fr. Diet.

Pirates, (Pirate.) Are common Sea Robbers, with-
out any fixed Place of Residence, who acknowledge
no Superior or over Power to bind and depend on
Pillage and Depredations at Sea: But there are
Influences wherein the Word Pirate has been freely
taken for a Sea Captain, as a Nay. Pirate means
to all for which Repton neither Fear nor
Out is to be kept with them: They are denied
Succour by the Laws of Nations; and by the Cru-
Roche, a Random promised a Pirate, if not accom-
panied with, creates to Wrogg; for the Law of Arm
PI
PI

is not communicable to such, neither are they capable of enjoying that Privilege, which lawful Nen-
cies are entitled to in the Captions of another. 

And if a Pirate shall attack a Merchant Ship at Anchor there, this is not Piracy, because it is not done upon the High Sea, but it is a Robbery, at the Common Law, the Aft being in corpora Maius. And if the Crime be committed either upon

or in great Rivers within the Realm, which are looked upon as common Highways, there it is Piracy. 

It has been held, that Piracy being an Offence by the Civil Law only, that it shall be included in a State of speaking generally of felonies, as to Benefit of Clergy, which shall be confined only of those Felonies which are such by our Law as are those Piracies which are committed in a Port or Creek, within the Body of a County. If a Ship be riding at Anchor at Sea, and the Mariners Part in their Ship, and the Roll on Shore, so that necessary left in the Ship; and a Pirate shall attack her, and commit a Robbery, the name is Piracy. And where a Pirate assaults a Ship, and takes men at sea, they are liable by the Law, in order to the Selling them for Slaves; this is Piracy. But the Taking by a Ship at Sea, in great Necessity, of Vintners, Cables, Ropes, &c. out of another Ship, is no Piracy; if that other Ship can spare them, and paying as giving Security therefore. 

A Pirate takes Goods upon the Sea, and sells them, the Property is not thereby altered, no more than if a Thief upon land, and had and sold them. 

Yet by the Laws of England. If a Man commits a Piracy upon the Subjects of any other Prince, and brings the Goods into England and sells them in a Market, the name shall be binding and the Owners be concluded. 

When Goods are taken by a Pirate, and afterwards the Ship is conquered and taken by the other, by the Law the Admiral may make Restitution of the Goods to the Owners; there are fellow Subjects of the Captor's, or belong to any State in Amity with his Sovereign, on paying the Costs and Charges, and making the Captor an equitable Compensation for the service. And if a Pirate at Sea assails a Ship, and in the Engagement kills a Person in the other Ship, by the Common Law all the Persons on board the Pirate Ship are Principals in the Murder, although none enter the other Ship; but by the Law, they who gave the Wound only shall be Principals, and the Rest Accessories, if the Parties can be known. 

There is, however, that there cannot be an Accusation of Piracy, by the Law of this Realm; but if it happens, that there is an Accusation from the Sea, such Accusation may be punished by the Civil Law, before the Lord Admiral: And it was made a Doubt, whether one, who was an Accusatory on land, was liable to be tried by the Admiral, within the Parvus of 28 Oct. 

Though this is settled by 12 & 13 W. 3, which provides that Accusatories to Piracy, before or after, shall be impleaded and arraigned according to the 1st Statute. 

In Cafe the Subjects of a Prince in Enemy with the Crown of England, enter the Sea and Sailing against the English Nation, and a Robbery is committed by those who are after-wards taken; it is Felony in the English, but not in the Strangers: But in ancient Times it was Petit Treason in the English, and Felony in the Strangers. 

And if any Englishmen, or others, do commit a Piracy upon the Subjects of any Prince or State in Amity with the Crown of England, they are within the Stat. 28 & 29. 

If the Subjects of any Nation or Kingdom in Amity with England, shall commit a Piracy on the Ships or Goods of the English, the name is Felony, and punishable by this Statute: And Piracy committed by the Subjects of France, or of any other Country in Friendship with us, upon the British Seas, is properly punishable by the Crown of England only. 

A Piracy is attempted on the High Seas, if the Pirates are overourse, the Takers may immediately inflict a Punishment, by hanging them up at the Main-yard End; though this is under- where no legal Judgment may be obtained. And hence it is, that if a Ship shall be on a Voyage to any Part of America, or the Plantations there, on a Discovery of those Parts; and in her Way she is attacked by a Pirate, but in the Attempt the Pirates is overcome; the Pirates may be forthwith executed, without any Solennity of Condemnation, by the Maritime Law. 

By the Administration of Justice to the Seamen, all Robberies and Felonies committed by Pirates at Sea, &c. shall be enquired of, heard and determined in any County of England, by the King's Commissions, if any such Offences had been committed in this Kingdom; and such Commission shall be directed to the Lord Admiral, &c. and three or four other Persons, as shall be named by the Lord Chancellor, who shall hear and determine such Offences after the common Course of the Laws of the Kingdom used for Felonies and Robberies, &c. and award Judgment and Execution against Perjury inflicted on the Statute, as against Felons for any Felony done upon the Land; and the Offenders shall suffer such Pains of Death, Loss of Lands and Goods, as if they had been Attainted of such Offenders committed on Land, &c. 

This Statute doth not alter the Offence of Piracy, but leaves it as it was before, viz. 

Prelacy only by the Civil Law; but given a Trial according to the Common Law, and inflicts Pains of Death, &c. as if the Offenders had been convicted of any Felony done upon the Land. 

If the Blood is not shed in execution of this Statute, the name of Felony may be used in the Criminal Register of the Seamen, and the Name of Piracy, &c. as if the Offenders had been convicted of a Felony at Common Law; but says not, that the Blood shall be required. 

Likewile the Officer is to be tried on the Statute, to forfeit his Lands, &c. if he is not authorized by the Maritime Law. 

Piracies, Felonies and Robberies committed in or upon the Sea, or in any Harbor, where the Admiral hath Jurisdiction, may be tried at Sea or upon the Land, in any of his Majesty's Han- 

and Plantations, &c. abroad, appointed for that Purpose, by Commission, under his Seal, or Seal of the Admiralty, directed to such Commissioners as the King shall think fit; that they may commit the Offenders, and call a Court of Admiral-

ity, consisting of seven Persons at least; or for Want of seven, any three of the Commissioners may call others; and the Persons so assembled may proceed according to the Course of the Admiral, paid for Maintenance of Death, and order Execution of the Criminals, &c. 

And Commissions for Trial of the said Offences within the Jurisdiction of the Cinque Ports, shall be directed to the Wardens of the said Cinque Ports, and the Trial to be by the Inhabitants of the same Ports. And by the said Statute 11 & 12 W. 3. if any natural born Subject of England, or person in the Seas, shall commit Piracy against any of his Majesty's Sub-

7 L.
Plague, (P masturbium) A little Repeal, or Return of the Fifty, is a Key to the Allowance.

- Johannes Dei Gratia, &c. Consistente, &c. in us, & jeteram, &c. et restitutione
- Mons, &c. qui dictus officio divino propagandam celebrabant pro Repletis Pisae voci, &c. Rot.
- Char. ad Hospital. S. Salvar. Sancti Edmundi, &c.

Pilgrimage, is that Money, commonly a Penge, which is paid for Pitches, or setting down every Bag of Corn, or Pack of Goods, in a Fair or Market.

Plelcr, (Fr. Plaquar, Dach Plaquer) Hath several Significations: In France, it is a Table, where
- in Laws, Orders, &c. are writt and hung up
- and in Holland, it is a Edith, or Proclamation; also it signifies a Writing of safe Conduct; with us it is little used; but it is mentioned as a Licence to the certain Games, &c. in the Stat. 2 & 3 F. & M. c. 7.

Place, (Luce) Where a Fact was committed, is to be alleged in Appeals of Death, Indictments, &c.
- and it must be shewn by evidence, in pleading out some Cause: Where the law doth require a Thing to be set down in a Place certain, the Party must in his Pleading say, it was done there. Cest. L. 25.
- When one Thing does come in the Place of another, it shall be said to be of the same Nature; as in Case of an Exchange, &c. Shop. Epist. 700. See Local.

Placita, is a Word often mentioned in our Hillories, and Law Books: At first it signified the public Affirmations of all Degrees of Men where the King presided, and they usually concluded upon the great Affairs of the Kingdom, and these were called
- Generalia Placita, because Generalitate universorum majorum cum Clericarum quam Laicorum incolae constitus;
- And this was the Custom in our neighbouring Nation of France, as well as here, as we are told by
- Some of our Historians, as Simon of Durham, and others, who wrote above 300 Years afterwards, tell us, that those Affirmations were held in the open Fields: and that the Placita Generalia, and Curia Regis, were what we now call a Parliament: It is true, the Lords Courts were so called, vix. Placita Generalia, but other Curiae generalis, because all their Tenants and Vassals were bound to appear there.
- The Word Placita were also sometimes understood to Penalities, Fines, and Disabilities, according to the Black Book in the Exchequer, Lib. 2. Tr. 13.
- And hence our Custom, Comes de curia terueli dominio Placitum. Leg. Hen. 1. cap. 12.
- It is now taken for Pleadings or Debates, and Trials at Law.

Placita, i.e. Litigie & Conflitutter, et pleads;
- And the Manner of Pleading before the Conquost was,
- Coram A.ldmanno &c. recitabili, & coram H Lundendari, &c. MS. in Bibl. Com. Proclamation; also it signifies a Writing of safe Conduct; with us it is little used; but it is mentioned as a Licence to the certain Games, &c. in the Stat. 2 & 3 F. & M. c. 7.

Placita, a Pleader; Ralf Flambard is recorded to be Secen Regi Placitator. Temp. W. 2.

Placitum nominatum, is the Day appointed for a Criminal to appear and plead, and make his Defe.
- Leg. Hen. 1. cap. 49. 45.

Plague, Mayors, Bailiffs, Head Officers of
- Corporations, and Judges of Peace have Power to tax Inhabitants, Houses and Lands, &c. within their Precincts, for the Relief of Persons infected with the Plague; and Judges of the County may tax Persons within five Miles round, or a Persons absence; the Tax to be levied by Diffrents and Sale of Goods, or in Default thereof by Imprisonment: Infectious being going abroad, after commanded to keep House for avoiding further Infection, may be reified by Watchmen, &c. and punished as Va.
- grants, if they have no Sores upon them; and if they
they have infectious Sorens on them, it is Felony; | to say, without there be Case alleged for it. 2 Litt. |
Judges of Peace, &c. are to appoint Searchers, Exa- | 294.
miners, and Bounties of the Dead, in Places insuch | plantation, (Plantaetion, Colonies) Is A Place wher- |
Newed, and administre Oaths to them for the Perform- | other People are lent to dwell; or a Company of Peo- |
ance of their Duties, &c. Star. 1. Far. 1. c. 31. | ple transplanted from one Place to another, with an |
Some Places in the Baltic being infected with the | Allowance of Land for their Village. Liz. Diff. |
Plyer, in the Reign of Queen Anne, an Act was | All Witen, which the Natives of any Country may |
made for obliging Ships coming from thence to perform | not be of, nor can receive any Damage by their being |
their Quarantine during the Infection in For- | in the Hands of others, may lawfully be postrified |
reign Parts; and Masters of Ships coming on Shore, | by Planters: If a Nation or People should happen to |
during the Quarantine, are to forfeit their Ships, | be expelled out of their own Land, they may leak |
&c. And others directed to take Care of the Qua- | void Places in some other Country, and there may |
rantine, permitting any to come on Shore, shall for- | jultly plant; and the immediate postrifying such Pla-
feit 100l. 9 Ann. c. 2. During the late Reign | ntations creates a Right against all Persons but he |
that Marseille in France was infected, a Statute was | that hath Empire there. Lix Ner. 1. 156. And where |
made with further Provisions for the Preventing of | Perlots having arrived in any Territories and planted |
Infection: By this Act, Ships coming into Ports, | there, before they can reap the Fruit of their lab- |
are to perform Quarantine; and Perlots quitting Ships | bour the Necessities of human Life are wanting, by |
before performed, shall incur the Forfeiture of 200l | the Laws of Nature they may force a Submission from |
Goods after Quarantine performed are to be armed | a Neighbouring Plantaer: and the Reason is this, that |
; and 2. further Directs it to be also taken to a greater | a Submission belongs to every Man, unless he has |
make Orders concerning Quarantine: and, in Time of | assumed to lose the Life which he seeks to preserve; |
Infection here, cause Lazarets to be provided for | Ibid. Out Plantations abroad are chiefly Islands in |
the Sick, and Lines and Trenches to be call up about | America, over which there are particular Governors |
Plants, &c. And infected Persons were to be re- | and the Islands of Jamaica and Barbadoes, with some |
moved from their Houses to such Lazarets; and eli- | others, are very populous, and much frequented by |
gating from thence, or out of the Lines of Plaer, to | unfortunate Persons, who have to great Privileges and |
be remov'd. Warrant to be appointed by Judges of | Advantages in Trade, that by their Interest and Ap-
Peace, to keep People within the Lines, &c. 7 Geo. | plication, a present Misfortune is oftentimes attended |
1. cap. 3. And by a subsequent Act, the King is | with a future Happiness, by accumulating grand Wealth |
enabled to protrude Commerce with any Country | from the Produce of their foreign Colonies. Geograp- |
infected, by Proclamation; Persons trading contrary | hy. Epi. 228. The English Plantations contain Ja-
| manica, Barbados, Virginia, Maryland, New Eng- |
| land, New-York, Carolina, Bermuda, and the Las-
| ter Island Islands. &c. And there is lately a Sentiment |
| in America much encouraged, called Georgia, under |
| the Management of divers Trustees, &c. The Pla-
| ntations Islands being gotten by Conquest, or by some |
| of the King's Subjects, going in search of some Prize, |
| and planting themselves there, the King is not re-
| tained by the Laws of England to govern them by |
| any particular Laws, but may govern them by what- |
| Law he will: But it has been adjudged, That the |
| Laws and t Actions by which the People of any Island |
| or Plantation were governed before the Conquest there- |
| of, do bind them until new Laws are given; for there |
| is a Necessity that the former Laws should be in Force |
| till new are obtained, and even then some of their old |
| Customs may remain, as they do in Barbadoes, &c. |
| If an uninhabited Country be newly found out by |
| English Subjects, all the Laws of the Kingdom of |
| England are immediately in Force there. 2 Sar. 411. |
| 3 Med. 159. 4. 166. All those preamblels, who are |
| appointed Governors of the Plantations, shall, before |
| their Entrance into their Government, take an Oath |
| to do their utmost to put the Laws in Force in the |
| said Plantation; and upon Complaint to the King, |
| or such as he shall appoint, that such Governors |
| have been unwittingly negligent therein, the Gover- |
| nors in offending the King, may be removed. 1 Sta. |
| 18. 7 & 8 W. 3. And by the Star. 1. & 2. W. |
| 3. c. 12. If any Governor, Deputy-Governors, or |
| Commander in Chief of any Plantation or Colony |
| within his Majest's Territories beyond the Seas, |
| shall oppress any of his Majest's Subjects within |
| their respective Governments, or be guilty of any |
| other Crime or Misdemeanor contrary to the Laws |
| of this Realm, or thole in Force within their Go- |
| vernments; such Oppreccions, &c. shall be inquired |
| of, heard and determined in the Court of King's |
| Bench in England, or before such Commissioners, and |
| in such County of this Realm, as the King shall |
| appoint, and by good and lawful Men of such Coun- |
| ty; and the like Punishments shall be inflicted as |
| such Offences usual for such Offences before in Eng- |
| land. The Courts of Justice abroad, cannot transact a Matter
or Caufe to the King and Council here for Difficul-
ty, but are to determine the Right, and give Judg-
ment, as other. But on any Appeal brought in the Plantations, the Party appealing must procure the Proceedings to be transcribed, and proceed within a Year after the Appeal, allowed there, or it shall be dismissed with Costs. 2 Ed. Payn 1447. All Laws, Ulages or Customs in Practice in any of the
Plantations, which are repugnant to the Laws made in this Kingdom, are declared null and void. 7 & 8 W. 3. c. 22. By the same Statute, all Places of Trial in the Courts of Law, or relating to the Treas-
ury, in any Island, Colony or Plantation, belong ing to England, shall be in the Hands of the Native-born Subjects of England, Ireland, or of the said Island; also Trial of Land on the Continent of A-
merica, held by Charter or Letters Patent, shall not at any Time be aliened or sold to any other than the Natural-born Subjects of England, Ireland, &c. without the King’s Licence. Stat. Ibd. No Alien shall be a Merchant or Factor in any of the Territo ries and Plantations belonging to England, in Asia, Africa or America, on Pain to lose all his Goods, one Third to the King, another Third to the Gover nors of the said Island, and the other Third to any Person suing in any of the King’s Courts there. 12 Car. 2. and no Governor abroad shall be a Fac tor or Agent under the Penalty of 500l. 8 & 9 W. 9 & 10 W. 3. on the Governor, if the Governor be not a good and faithful Subject, and if any Foreign-built Ship or Vessel to load or unload Goods, till a Certificate is produced, that the Ow ner or Owners are not Aliens, and Examination is made. And no Sugars, Tobacco, Ginger, Indigo, &c. of the Growth of any English Plantations in America, shall be transported to any Place but to some English Plantation, or to England, Ireland, &c. on Pain of Forfeiture and the Ship, one Moiety to the King, and the other to him that will feize and sue for the same. 12 Car. 2. cap. 18. For every Vessel which feys out from England or Ireland for any of the said Plantations, Bond shall be given, with one Surety, to the chief Officers of the Customs-house of the Place whence the full, of 1000l. if the Ship be under 100 Tuns, and of 2000l. Penalty if of greater Burthen; that if the said Vessel load any of the said Commodi ties at such Plantations, it shall bring them to some Port of England, Ireland, or to any other Place to which the Laws permit, the Governor, before the Ship be permitted to load, shall take such Bond that it shall carry the Merchandise to some other English Plantations, or to England or Ireland; and every ship taking on board any of the aforesaid Goods before such Bond is given, or Certifi cate of such Bond, shall be forfeited; and the Governor of the said island shall twice in every Year return true Cop ies of such Bonds to the chief Officers of the Cu stoms of London, &c. Ibd. If any Vessel shall take on board any of the Commodities aforesaid, at any of the said English Plantations, before Bond be given, as directed by 12 Car. 2. or Certificate produced from the Officers of some Customs house in England, &c. that such Bond hath been there given; or shall carry the said Goods to any Place, contrary to the Tenor of such Bond, the same shall be forfeited, with the Ship and all her Cargo, Guns, Ammunition, &c. one Moiety to the King, and the other to him that will sue for the same in any of the said Plantations, or to the Court of Admiralty of England, or of any Vice-Admiralty, or any Court of Record in England. 25 & 26 Car. 2. c. 26. But these Penalties are to be taken off by the Stat. 25 Car. 7. which ordains, that if any Ship or Vessel shall come to any of his Majesty’s Plantations to ship any Sugar, Tobacco, &c. and Bond shall not be first given to the same End, there shall be answer ed to the King of all Duties before Lading thereof, and under such Penalties as for Nonpay ment or Defaulting the King of his Customs in England. Goods are not to be exported to the Plantations, or to the Plantations in Ships built in England or Ire land, or the said Plantations; and navigated with the Master and three Fours of the Mariners of the said Place, on Pain of forfeiting the Ship and Goods, &c. And all Ships, lading or unloading any Goods at any of the Plantations in America, and the Masters and Commanders thereof shall be subject to the same Rules, Visitation, Search, Penalties, and forfei tures, as Ships and their Ladings are liable to in England; and the Officers for collecting the Custom there, shall have like Powers as the Officers of the Customs in this Kingdom; and Penalties arising in Concealments, shall be subject to the like Penalties, &c. 7 & 8 W. 3. c. 22. Persons serving on Board, or retained to serve on Board any Trading ships, or in any Part of the Plantations in America, or any Per sons being on Shore there, may not be impri soned by any Ships of War; unless such Persons shall be de te fered from such Ships, by the Penalty of 20l. Stat. 6 Ann. In Actions depending in the Plantations, Deeds may be proved here on Oath before Mayors of Towns, &c. and any Evidence given, as the same Evidence may be in England; and the same Evidence may be given, and the same Evidence may be given, in the Hous es, Negroos, &c. in Plantations, shall be liable to the like Penalties, Stat. 6 Ann. 5 Geo. c. 7. A Deed of a Jarred Sugar, or any other Sugar, imported into any British Plantations in America, and no Sugar, Rum, or Spirits of America, may be imported into Ireland, but what are loaded in Great Britain, in Ships lawfullly navigated, on Pain of Forfeiture, &c. Stat. 6 Geo. c. 13. The Duties payable here on importing refined Su gar, &c. from the Plantations, to be repaid on Ex portation out of the Kingdom. Ibid. Any of his Majesty’s Subjects, in Ships built in Great Britain, may carry Rice from the Province of Carolina in A merica, directly to any Part of Europe southward of Capes Finisterre, without going to any other Plantations, &c. being licensed by the Commissioners of the Cu stoms; and thereupon shall be allowed Half Subsidy. 8 Geo. c. 2. c. 19. And Penalties arising here, and in the Sugar Colonies abroad, may in Ships built in this Kingdom load in the said Colonies, any Sugars of the Crown, or any other Goods, that shall be carried them to any foreign Part of Europe; on taking out a License therefore, and as so they do not take in Tobacco, or other enumerated Goods or Sugars, or not being the Product of his Majesty’s Subjects, upon Pain of Forfeiture, and the Vessel, &c. And when any Ship hath delivered her Lading in foreign Ports, he is to give Bond, in some other Port, or Place on Board, they are there to be entered at the Customs house and Landed, &c. Stat. 12 Geo. c. 50. Ev ery Master of a ship carrying Merchandise to or from the Plantations in America, shall upon Oath before the Governor or Collectors of the Customs there, give a true Account of the Name and Burthen of the Ship, and of the Place from which the Goods shall be delivered, and depose that it is the same Ship, described in the Certi ficate, and required to be built in Great Britain, &c. which he believes to belong wholly to British Subjects, and that no Foreigner has any Share there in to his Knowledge, &c. And if such Proof be not made, the Vessel and Goods will be forfeited. 15 Geo. c. 25. And all British Sugar Plantations, on Entry may be landed, and put into Warehouses, provided by the Importers, they first giving Bond for paying the Duty within six Months, if the same be paid, or at that I time on D e livery of the Goods, &c. by 15 Geo. c. 25. Persons born in the Plantations are accounted Subjects; and by a late Statute, such Foreigners, as have resided for seven Years or more in our Plantations, shall be
Form of a Power to let and demise Plantations, and receive the Profits thereof.

To all People, &c. A.B. of, &c. Friend Greet.

Whereas the said A.B. is feited to his Demise, as of \( R^2 \) of and in two several Plantations in the Island of Barbadoes, called or known by the Name of, &c. together with the Slaves, Herds, Hills, Crops, and other Appurtenances thereto belonging, now know ye that the said A.B. hath constituted, authorized, and appointed, and by his Precepts doth constit. 

the said C.D. of A.B.'s Subjects, and hereby gives to him full Power and Authority, in his Name, and to his Use, to enter into and upon the said Plantations, and do as the said A.B. is now said as aforesaid, and to have, receive and take the Rents, Profits and Payments of the same respectively, with the Appurtenances; and to make, lease, let, and fit to such Person or Persons as he shall think fit, all his Plantations and Trusts and Manner of Managing the same, in the said Island of Barbadoes, or any Part thereof, for such Term or Number of Years, as he shall, and for and under such yearly and other Rents, Contr. 

ants, Provisos, and Agreements as he thinks fit or convenient; or otherwise to manage, occupy or employ the same, or to him in the said C.D. shall from time to time, and for the better Benefice and Advantage: And from Time to Time, to receive and to have the Revenues and Profits of the said A.B.'s Plantations, Lands and Pre. 

mises above mentioned, and to use and take all lawful Gains, profits and advantage of the obtaining and recovering of the Rents, Profits, and Payments of all or any Part of the said Previsos, or to compound for the same as he shall think fit, and to give Acqui. 

rances or Discharges therefor. And the said A.B. doth hereby make, ordain, constitute and appoint the said C.D. his true and lawful Attorney, for him in his Name, and to his Use, to require, demand, do, recover and receive, all and every Sum and Sums of Money, Goods, Stores, Wares and Merchandizes, due, owing, or belonging, or to give due or belonging to him the said A.B. from any Person or Persons whomsoever in the said Island of Barbadoes; and an Non-payment or Non-delivery thereof, or of any Part thereof, for him and in his Name, so and in all proper Manner, according to the Law and Custom of the said Island, for the recovering of the same: And of Payment or Delivery thereof to his said Attorney, to receive and deliver the same, and for the recovering of the same: And by the said A.B. doth hereby further authorize and empower the said C.D. to do, execute and perform all and everything which to him, in his Name, or otherwise, touching and concerning the Management or Disposal of all or any Part of his Estates, Real and Personal, in the said Island of Barbadoes, and the Recovering and Receiving the Profits and Produce thereof, or of any Part or Parcel thereof, or any other Matter or Thing whatsoever, as fully as he himself might or could do, if he were personally present.

and any or more Attorney or Attorneys under him, to make, subscribe, and appoint, for all or any of the Purposes aforesaid; hereby ratifying and confirming what forever his said Attorney, or his Substitutes or Substituents, by and under him appointed, shall do, execute and perform.

In Writhe, &c.

Felons transported to the Plantations, for certain Terms of Years, &c. by Gen. cap. 11. 6 Gen. cap. 22. See Clergy and Felony.

Plants, Hoy, or small Water Vellet. 13 Eliz. cap. 15.

Plantations. Plantations were originally inluyed with a Design of recommending Virtue to the Imitative of the People, and exocusing Vice and Folly's and therefore are not in their own Nature Necessities: But it hath been holden, that a common Plantation may be a Necessity, if it draw together great Numbers of Coaches, &c. as prove generally inconvenient to the Places adjacent. 5 Med. 142. If any Persons shall in Plays, &c. jealously or profanely use the Name of God, they shall forfeit 101. Stat. 1 Jac. I. c. 21. And Players speaking any Things in Derogation of Religion, &c. are liable to Forfeitures and Imprimiments. 1 Eliz. Also acting Plays on Sunday. Includes C. D. of A.B.'s Subjects, and hereby gives to him full Power and Authority, in his Name, and to his Use, to enter into and upon the said Plantations, whereby the said A.B. is now said as aforesaid, and to have, receive and take the Rents, Profits and Payments of the same respectively, with the Appurtenances; and to make, lease, let, and fit to such Person or Persons as he shall think fit, all his Plantations and Trusts and Manner of Managing the same, in the said Island of Barbadoes, or any Part thereof, for such Term or Number of Years, as he shall, and for and under such yearly and other Rents, Contracts, Provisos, and Agreements as he thinks fit or convenient; or otherwise to manage, occupy or employ the same, or to him in the said C.D. shall from time to time, and for the better Benefice and Advantage: And from Time to Time, to receive and to have the Revenues and Profits of the said A.B.'s Plantations, Lands and Premises above mentioned, and to use and take all lawful Gains, profits and advantage of the obtaining and recovering of the Rents, Profits, and Payments of all or any Part of the said Provisos, or to compound for the same as he shall think fit, and to give Acquisitions or Discharges therefor. And the said A.B. doth hereby make, ordain, constitute and appoint the said C.D. his true and lawful Attorney, for him in his Name, and to his Use, to require, demand, do, recover and receive, all and every Sum and Sums of Money, Goods, Stores, Wares and Merchandizes, due, owing, or belonging, or to give due or belonging to him the said A.B. from any Person or Persons whomsoever in the said Island of Barbadoes; and an Non-payment or Non-delivery thereof, or of any Part thereof, for him and in his Name, so and in all proper Manner, according to the Law and Custom of the said Island, for the recovering of the same: And of Payment or Delivery thereof to his said Attorney, to receive and deliver the same, and for the recovering of the same: And by the said A.B. doth hereby further authorize and empower the said C.D. to do, execute and perform all and everything which to him, in his Name, or otherwise, touching and concerning the Management or Disposal of all or any Part of his Estates, Real and Personal, in the said Island of Barbadoes, and the Recovering and Receiving the Profits and Produce thereof, or of any Part or Parcel thereof, or any other Matter or Thing whatsoever, as fully as he himself might or could do, if he were personally present.

and any or more Attorney or Attorneys under him, to make, subscribe, and appoint, for all or any of the Purposes aforesaid; hereby ratifying and confirming what forever his said Attorney, or his Substitutes or Substituents, by and under him appointed, shall do, execute and perform.

In Writhe, &c.

Felons transported to the Plantations, for certain Terms of Years, &c. by Gen. cap. 11. 6 Gen. cap. 22. See Clergy and Felony.

Plants, Hoy, or small Water Vellet. 13 Eliz. cap. 15.

Plantations. Plantations were originally inluyed with a Design of recommending Virtue to the Imitative of the People, and exocusing Vice and Folly's and therefore are not in their own Nature Necessities: But it hath been holden, that a common Plantation may be a Necessity, if it draw together great Numbers of Coaches, &c. as prove generally inconvenient to the Places adjacent. 5 Med. 142. If any Persons shall in Plays, &c. jealously or profanely use the Name of God, they shall forfeit 101. Stat. 1 Jac. I. c. 21. And Players speaking any Things in Derogation of Religion, &c. are liable to Forfeitures and Imprimiments. 1 Eliz. Also acting Plays on Sunday. Includes C. D. of A.B.'s Subjects, and hereby gives to him full Power and Authority, in his Name, and to his Use, to enter into and upon the said Plantations, whereby the said A.B. is now said as aforesaid, and to have, receive and take the Rents, Profits and Payments of the same respectively, with the Appurtenances; and to make, lease, let, and fit to such Person or Persons as he shall think fit, all his Plantations and Trusts and Manner of Managing the same, in the said Island of Barbadoes, or any Part thereof, for such Term or Number of Years, as he shall, and for and under such yearly and other Rents, Contracts, Provisos, and Agreements as he thinks fit or convenient; or otherwise to manage, occupy or employ the same, or to him in the said C.D. shall from time to time, and for the better Benefice and Advantage: And from Time to Time, to receive and to have the Revenues and Profits of the said A.B.'s Plantations, Lands and Premises above mentioned, and to use and take all lawful Gains, profits and advantage of the obtaining and recovering of the Rents, Profits, and Payments of all or any Part of the said Provisos, or to compound for the same as he shall think fit, and to give Acquisitions or Discharges therefor. And the said A.B. doth hereby make, ordain, constitute and appoint the said C.D. his true and lawful Attorney, for him in his Name, and to his Use, to require, demand, do, recover and receive, all and every Sum and Sums of Money, Goods, Stores, Wares and Merchandizes, due, owing, or belonging, or to give due or belonging to him the said A.B. from any Person or Persons whomsoever in the said Island of Barbadoes; and an Non-payment or Non-delivery thereof, or of any Part thereof, for him and in his Name, so and in all proper Manner, according to the Law and Custom of the said Island, for the recovering of the same: And of Payment or Delivery thereof to his said Attorney, to receive and deliver the same, and for the recovering of the same: And by the said A.B. doth hereby further authorize and empower the said C.D. to do, execute and perform all and everything which to him, in his Name, or otherwise, touching and concerning the Management or Disposal of all or any Part of his Estates, Real and Personal, in the said Island of Barbadoes, and the Recovering and Receiving the Profits and Produce thereof, or of any Part or Parcel thereof, or any other Matter or Thing whatsoever, as fully as he himself might or could do, if he were personally present.
which the Aisbon is framed, or it is but a Diversce, and not a Plea. A General Plea is drawn on a little Piece of Two-penny flamy Paper, without Coun-
tel's Hand, only the Defendant's Attorney's Name is written in it; to signify to the Plaintiff's Attorney for entering it: Special Pleas are drawn up in Form, setting forth the Matter pleaded, &c. and must be filed by Counsel, or they will not be received: A Foreign Plea is to be ingrilled in Parchment, and signed by Counsel, and be put in upon the Oath of the Defendant, that the Plea is true. Prac. At-
tors. Ed. 1. pag. 80. And when a Defendant hath pleaded, the Plaintiff answers the Defendant's Plea, which is called a Replication; and the Defendant an-
swer's the Plaintiff's Replication, by a Rejoinder; which the Plaintiff may answer by a Sur-rejoinder; and some-
times, though seldom, Pleadings come to Rebuttal, in answer to the Sur-rejoinder; and Sur-rejoinder. 6 b. r. 51. In good Order of Pleading, a Person ought to plead, 8th, To the Jurisdiction of the Court, 28th, To the Perfor of the Plaintiff, and next of the De-
fendant. 39th, To the Wir. 47th, To the Ac-
ton of the Court, 48th, To the Con- stitution of the Court. 50th, To the Plea itself in Bar thereof: A Plea to the Jurisdiction is a foreign Plea, because it alleges that the Matter ought to be tried in another Court, &c. Pleas to the Perfor have been formerly 8th, 9th. Villenge, Outlawry, Excom-
munication, the Party an Alien, out of Protection, and professed in Religion; but the bill is now no Plea. The Plea to the Wir. &c. is for Variance between the Wir and Record, Death of Parties, Mifnomer, Jointenancy, &c. and may be to the Wir and Bill, or Court together. The Cow of a Plea to the Court or the Wir, are Variance between the Wir and the Court, Spe-
cially or Record, Incurtancy, &c. and all these are properly Pleas in Abatement. Plea to the Action of the Wir is where one pleads such Matter which sheweth the Plaintiff had no Cause to have the Wir brought. And a Plea in Bar to the Act both itself, is where the Defendant pleads a Plea, which is suffi-
cient to overthrow the Aisbon of the Plaintiff. Kitch. 95. Lit. 95. Pleas in Bar, such as a Release, the Statute of Limitations, Agreement with Satisfac-
tion, &c. destroys the Plaintiff's Action for ever: But Pleas in Abatement are temporary and dilatory, and do not destroy the Action, only stop the Wir for a while, till the Defect is removed; as where there is some Fault in the Wir or Declaration, Mif-
nomer of the Defendant, where the Plaintiff is ex-
communicate. &c. A Plea to the Jurisdiction, of Mifnomer, of any other Plea in Abatement, cannot be pleaded after an Imparsion: though a Plea in Bar may, because that goes to destroy the Action. 2 Web. 457. Pleas in Bar may come after a Cont-
tinuance, or general Imparsion: but if such Plea be first pleaded, the Defendant shall not be admitted afterwards to plead in Abatement of the Wir, which is allowed to be good by Pleading in Bar to the Ac-
tion: Yet Matter of Record may be flown in Arrest of Judgment, and thereby the Wir be absed. Hoo. 280, 281. By Imparsion a Wir or Bill is admis-
ted to be good, so that after it is Abatement ought not to be received; but if it be accepted, and the Plaintiff doch demur to it, the Demurrer is good: A Demurror hath pleaded in Abatement, and before he pleads directly in Bar, he may demur to the Declaration of the Plaintiff; as he may where he is advised that the Declaration is insufficient, &c. Prac. Act. 175. 516. It has been weighed, 'That where a Plea is in Abatement, if it be of Neces-
sity that the Defendant must discole Matter of Bar, he shall have his Erection to take it either by Way of Plea, a Med. &c. May the Defendant have no Advantage by Pleading in Abatement, or by Demurring in Law, he may afterwards plead in Bar, and before he pleads any Special Matter in Bar, he may plead in general, &c. A Release or Defeasance; Acceptance of other Things; Tender of Amend; Concord or Accord; Abstemmation; Pro-
ductions both in Fact or Law, &c. For a Special Limit-
tation of Actions; Difficult of the Plaintiff; Pri-
vilege of the Defendant, or other Matter; for se-
veral Matters pleadsable in Abatement, may be pleaded in Bar. Prac. Ators. Ed. 83. Alfo he may plead another Action depending of the fame Nature, for the fame Thing, &c. and if a Person mitaking his fir Plea, bring another Action without determin-
ing the first, then Plea may be pleaded. 5 Salk. 592. There is likewise a Plea Pat. Harris Conccmmance, where the Defence has pleased, &c. and in a Trial there happens some new Matter, which will avoid the Action: It may be pleaded after Issue joined, at any Time before the Verdict; but after Ver-
dict, and before Day in Bank, there is no Day to plead it; so that the Remedy is by Addic Quareli. Co. 
T. Fac. 454. A Defendant in any Suit, &c. with Leave, may plead several Matters; but if any of which is insufficient, all the rest shall be given: And no dilatory Plea shall be allowed in any Court of Record, unless the Truth of it be proved by Affidavit of some Probable Matter; and as it is thrown. 4 & 5 Ann. cap. 16. When a Declaration, or Bar, are defective in Circumstances of Time, Place, &c. this may be helped by the Pleading of the ad-
verde Party to it; but not to be thrown out. &c. Prac. Act. 211. 1 Dow. Abt. 116. If the Defendent plead a dilatory and frivolous Plea, to hinder the Plaintiff from going to Trial; the Court, on Mo-
tion, will order the Defendant to plead forth a Plea as he shall think fit, or to accept of a Demurrer to his dilatory Plea, on Arguing whereof, if the Plea be not good, the Court will not after permit him to amend it; and when a dilatory Plea in Abatement is over ruled, there shall be a Rejoindur Oyer, ex-
cept an Issue be joined on it. 6 Mod. 102. And if Plea in Bar of the Plaintiff's Pleading be ruled, judgment shall be given against the Defendant. Lino. 42. Where it is doubtful between the Parties, whether a Plea be good or not, it cannot be determined by the Court on Motion, but there ought to be a Demurrer upon the Plea; and on Arguing thereof, the Court shall judge of the Plea whether good or bad: And no Advantage can be had of double Pleading, with-
out special Demurrer. 2 Lit. Abt. 510. Lino. 422. But though the Court is to judge of Pleadings, they will not direct any Person how to plead, notwithstanding the Master be the Plaintiff, nor will they be directed as to their Peril, and Counsel are to advise, &c. If the Plaintiff's Attorney will contest, the Defendant may plead in general, without moving the Court; but if he will not contest, it cannot be done without moving the Court. Trin. 16 c. A De-
fendant may waive his Special Plea, and plead the general Plea, if there be no Joiner in Demurrer. 3 Salk. The Defendant, before Joiner in Demur-
mer, may amend his Plea; and to after Joiner in Demurrer, before argres: And where a Defendant has demurred, and the Plaintiff joined; the Court will oftentimes allow him to withdraw his Demurrer, and plead to the Action, if the Plaintiff hath not been put by a Term. &c. A Demurrer had Leave to plead de novo in four Days, within which Time he ought to have pleaded in Chief; but instead of that he pleaded an Oultlawry of the Plaintiff. &c. and the Plaintiff the Prophet: &c. 510. A Defendant had Leave to plead de novo in four Days, within which Time he ought to have pleaded in Chief; but instead of that he pleaded an Outlawry of the Plaintiff. &c. and the Plaintiff the Prophet: &c. 510. A Defendant had Leave to plead de novo in four Days, within which Time he ought to have pleaded in Chief; but instead of that he pleaded an Outlawry of the Plaintiff. &c. and the Plaintiff the Prophet: &c. 510. A Defendant had Leave to plead de novo in four Days, within which Time he ought to have pleaded in Chief; but instead of that he pleaded an Outlawry of the Plaintiff. &c. and the Plaintiff the Prophet: &c. 510.
The page contains a mixture of Latin and English text, discussing legal matters. The first paragraph deals with the concept of pleading, the role of the plaintiff, and the necessity of providing a good faith effort. It mentions that the plaintiff must ensure that the case is brought to court properly, citing several legal references to support this point. The second paragraph discusses the necessity of obtaining a judgment in court, emphasizing the importance of a proper legal process. The text reflects a historical legal context, with references to specific legal terms and statutes.
to illise, or there be a Demurrer, the Pleas are to be given to the Clerk of the Paper, who gives Rule for the Defendant to repine, &c. Special Pleas are left till the Clerk of the Paper, and the Plaintiff's Attorney is to take a Copy thereof from him, for which he pays 6 d. per Sheet, and put in his Replication; and then he carries the Declaration to him, who will make up the Paper-Book, and write a Rule on the Side: This Paper-Book is to be delivered to the Defendant's Attorney, and he must pay for every Piece of his Copy, and 10 d. a Folio for his Pleadings, &c. And if the Defendant doth not receive the Paper-Book, and return it to the Attorney for the Plaintiff, on his calling for it, it to be entered in four Days; then a New Process may be entered for Want of a Plea. See 6 Med. 21.

When a Matter is expressly pleaded by one Party in the Affirmative, which is expressly pleaded to and denied by the other Party, the Next Thing is to be an Issue in order to Trial, that they may not plead in infinitum. Rynm. 199. If a Plea to the Plaintiff's Right upon Issue joined, be found for the Defendant, the Right shall be: And if to the Perfon, Action, or Jurisdiction, it be found for the Plaintiff, he shall recover the Thing in Demands. 4th. Cent. 306. The Law requires in every Plea two Things, &c. Matter sufficient; and that it be expreft according to the Form of the Law. Hob. 164. But it is a Man is not bound to one Form of Pleading, So he pleads the Substance of the Matter. Plow. 435. The Old Way of Pleading a Record was to begin at the Original, and not omit any Continuance, &c. And there is a Diversity where a Judgment is a Sequestration, and when 'tis entire; for if forty Acres of Land are recovered, here a Plea of Recovery of twenty Acres is ill; but it should be pleaded of the Forty Acres, which are venue. Comr. 253. All Pleas are to be in English, and not in Latin, by the late Statute: That Each Plea is to have its proper Conclusion; and regularly all Pleas that are affirmative conclude, And this be his Plea to verify, &c. A Plea in Abatement begins, That the Defendant ought not to answer to the Bill, &c. and concludes to the Declaration thus: Whereupon he pleads Judgment of the Bill, or Declaration afterpaid; and that the Bill be quashed, &c. In a Plea in Bar, the Defendant in the Beginning says, That the Plaintiff ought not to have or maintain his Action against him, and concludes to the Action, &c. He pleads Judgment if the Plaintiff ought not to have or maintain his Action against him, &c. A Plea of a Record to conclude, and this he is ready to verify by the Record, &c. Prati. Sid. 326. 2 Nelf. 2269. 'Tis said that the Conclusion makes the Plea; for if it begins in Bar, and concludes in Abatement, it is a Plea in Abatement. 1 lid. Rynm. 357.

Form of a Plea. That the Defendant owes nothing, in Debt.

A
ND the said C. D. comes and defends the Force, Injury and Damage, &c. wherein, And says That the said A. B. ought not to havre or maintain his Action against him, &c. becaufe be faith, that he daure not come to the said A. the said Sam of Ten Pounds, or any Part thereof, in manner and Form as the said A. above opposes against him, &c. and of this he puts himself upon his Country, &c.

A Plea of Mijjomer, in Abatement, and Replication.

A
ND the said C. by T. B. his Attorney, comes and defends the Force and Injury above laid to his Charges; and prays Judgment of the said Bill, &c. faith, that he ought not to be compelled to answer to the Bill, as aforesaid, because he faiths, that the said C. is not the same Person, &c. and is called and known, or was bap- tized by the Name of, &c. And by the Name Jane and Ilia St. John, and his Name and Ilia St. John, always been known and called, and not by the Name of C. D. &c. as in the Bill is above supposed, or he is named, and this he is ready to verify; whereas he prays Judgment of the said Bill, and that the same may be quashed, &c. (Repl.) And the said A. faiths, That meaning aloud any Thing by the said C. above in Pleading alluded, his said Bill ought not to be quashed; because he faiths, that the said C. is named and called, and on the Day of exhibiting the said Bill, was named and called, as well by the Name of C. D. as the said Ten Pounds, &c. and he prays that this may be impiyed of by the Country.

A Plea in Bar of an Action, with Replication and Re-joiner.

A
ND the said C. by, &c. his Attorney, comes and defends the Force, Injury and Damage, and whatever else he ought to defend, when and where the Court will take the same into Consideration, and faiths, that the said A. ought not to have or maintain his said Action against him, &c. becaufe he faith, That after the said Premise and Affirmation in Form aforesaid made, and before exhibiting the said Bill of the said A. that is to say, On the Day, and in the Year, &c. as in the Bill aforesaid in the Country aforesaid, the said C. well and truly paid to the said A. the said Ten Pounds, according to his Premise, &c. and this he is ready to verify; whereas he prays Judgment, if the said A. ought to have or maintain his said Action against him. (Rejoin.) And the said A. faiths, That meaning aloud any Thing by the said C. above in Pleading alluded, his said Bill ought not to be quashed by having his said Action against the said C. becaufe he says that the said C. did not pay to him the said A. the said Ten Pounds, in Manner and Form as the said C. hath above by his Plea alluded; and he prays that this may be impiyed of by the Country. (Rejoin.) And the said C. as formerly faiths, That he paid the said A. the said Ten Pounds, on the Day and in the Year aforesaid, as the Place aforesaid, &c. and he be before alluded; and of this, he puts himself upon his Country; and the said A. does likewise the same, &c.
the Court was annually—Contrae Paesia Denuini Comitum, Gladium & Digestum, &c.

[Page 6 of the document is not visible or legible.]

[Page 7 of the document is not visible or legible.]

...the Sheriffs, &c. they shall have a special Writ upon the Statute to discharge them. Magno. Chart. 3 H. 3. c. 8. But if the Plaintiff use the Statute in C. B. where the Principal is sufficient to pay the Debt, whereas the Sheriff may plead the Statute and aver that the principal Debtor is sufficient to pay it or whether they shall have a Writ to the Sheriff not to discharge in such a Case, hath been made a Question. New. Stat. Br. 350. It was adjourned at Pape. 43 Ed. 3. that the Writ de Plagiis aquirandis bech without any Specialty they would do it. As it has been held, that a Writ against a Collar of a Bishop is against him who becomes Pledge for another upon his Promise to pay the Money, without any Writing made it. New. Nat. Br. 370. 354.

PL

[Page 8 of the document is not visible or legible.]

[Page 9 of the document is not visible or legible.]

...began to affect the Plaintiff's Pledge that the Plaintiff should procure his Suit with Effect to Judgment, and not put the Defendant to unnecessary Trouble and Charge; for if he were adjourned at the Trial, the Rogue of the Judgment upon it was thus. Judg. Confidant. of quid proe. Quaer. & Plag. Jai de Professibus:...
Plane administravit, and give their own Bonds in Evidence against any other Bond; so likewise upon an Indebitare, having the Privilege of paying themself, and a Plane administravit is in Power where an Executor, &c. is fixed in the Debtor and Debent, because he is charged for his own Occupation. Mod 182. And if Plane Administravit be pleaded, on the Words, And that he hath not, nor Goods or Chattels of the Debtor, nor had on the Day of exhibiting the Bill afterpaid, or at any Time after, &c. it is taught on a Demurrer, and not helped by Verdict. Common Law 24. 3 Lev. 38. Where the Executor, &c. is to show Specialy, how he hath administered the Goods, vide Alix 48. See Executors.

Plaitt, is an Old English Word, used sometimes for the Elate, with the Condition and Quality of the Land. Prof. 231.

Plymouth, The Mayor and Commonalty of Plymouth, were empowered by Statute to dig a Trench six or seven Foot broad, through all the Land lying between the Town and the River Neus, to convey the Water tither; paying the Owners of the Ground, so much as two Justices of Peace shall appoint; but not to any Garden, or to prejudice any Mill, &c. 52 c. 27.


Pommer, A Right of Tenants to take Wood to their Pomer, or Carnes, and to make Rakes, Forks, &c.

Pompond, is the name with a Hide of Land; and a Hide or Pome-land, it is said, do not contain any certain Quantity of Acres; But a Plough-land, in respect of Repairing the Highway is setted at 50 l. a Year, by the Stat. 2 & 3 W. 3. c. 20.

Plowbinder, in former Times was Money paid by some Tenants, in lieu of Service to Plough the Lord's Lands. W. Tunn Rep. 280. See Swage.

Plurality, (Pluralitas) Signifies the Plural Number; mostly applied to such Clergymen who have more Benefices than one: And Solos mentions Priories and Quadratides, where one Parson hath three or four Livings. Solos, Tit. Hem 687. Plurality of Livings is, where the same Person retains two or more Spiritual Preferments, with Cure of Souls in which Case the gift is void 156 facts, and the Patron may prefer it, if the Clerk be not qualified by Dispen- sation, &c. for the Law volds Residency, and it is impossible that the same Person can reside in two Places at the same Time. Common Pars. Caumen 94. By the Common Law, no Ecclesiastical Person can hold two Benefices with Cure simul et simul, but that upon taking the second Benefice, the First is void: But the Pope by Uteration did dispense with that Law; and at first every Bishop had Power to grant Dipsensions for Pluralitas, till it was abrogated by a General Council, held Amy 1573, and this Conjunction was removed till the Statute 2 & H. 8. c. 15. Mon Arch. 2. Nosl. Arch 1721. The Stat. 21 H. 8. c. 15. ordains, that if any Parson having one Benefice with Cure, of the Yearty Value of 8 l. or above, in the King's Books, accepts of another Benefice with Cure, and is instituted and invested, then the first shall be void: So that there may be a Plurality within the Statute; and a Plurality by the Charters, 1526. The Power of granting Dipsensions to hold two Benefices with Cure, &c. is vested in the King by the aforesaid Statute: And it is not to be negatived, as it is necessary to consid- er for a Plurality, where the King pretends a Chaplain to a second Benefice; for such a Pretend-
Punishment, (Capitanea) is a Tax upon the Heads of Men; either upon all indiscriminately, or according to their several Degrees and Distinguitions. By the Statute 18 Car. 3. c. 1. every Subject in this Kingdom was afflicted by the Heavy Poll Tax, according to his Degree; as a Duke 100l. Marquis 80l. Baronet 50l. Knight 30l. Esquire 10l. and every common Person 1s. And Anne 1703. & W. 3. a general Tobacco-tax Poll Tax was granted for the Publique Occasions.

Pott-Bilber, There wasanciently (Says Camden) a personal Tribute called Poll Silver, imposed upon the Poll or Persons of every one of Women from the Age of twelve Years, and Men the fourteenth Year of their Ages. Camden. Notes upon Caesar.

Pollis, Where more Jurors are excepted against, it is called a Challenge to the Pollis. 1 Stat. 156.

Pollgymnus, (Pollgymnus) is where a Man marries Two or more Wives together, or a Woman has Two or more Husband at the same Time; when the Body of the first Wife or Husband may be said to be inewed, and the Poll Tax could not be charged for the whole Marriage, whereas either are Living. 3 Stat. 88. Wood's. Stat. 351. And by Statute, marrying a second Wife or Husband, the former being alive, is made Felony; unless in Case of Absence for seven Years. 1 Stat. 1. c. 11. See Marriage.

Pomerantia, A Word used for an Orchard in ancient Charters. Merew. Ang. Temp. 2. pag. 149.

Pomeranian, It is a Custom formerly in Times of Superstition, to weigh sick Children at the Tomb of some Saint, and to balance the Scales with Wheat, Bread, or any Thing which they were willing to offer to God or his Saints, but always with some Money, and by this the Cure of the Sick was paid to be performed.—Ad Sepulchra Sanctorum Rusticae.

Pomnus Regis, Is the Standard Weight appointed by our ancient Kings. 35 Ed. 1. And what we now call Troy Weight, was this Pound Regis, or Le Roy Weight, with the Scales in equivolence; whereas the Measur de poe was the fuller Weight, with a declining Scale. Crouch.

Pomona, Is a Writ whereby a Cause depending in the County-Court, or other inferior Court is removed into the Common Pleas; and sometimes into the King's Bench: As when a Replication is filed by Writ out of Chancery, etc. and then if the Plaintiff should file a new Writ to remove that Writ out of the County Court into C. B. it was done by P. N. B. 69. 2 Stat. 359. And the Writ Pleas lies to remove Actions of Debt, and of Detinue, Writs of Right, of Nuisance, etc. New Nat. Br. Also Plea is a Writ willing the Sheriff to summon the Defendant to answer and appear the Plaintiff's Suit, on his putting in Suits to profess, etc. Wood's. Stat. 770. And the Writ to the Sheriff to take Sums of one for his Appearing is called Plea pro Vindication. A Plea to remove Causes, is of this Form: Put at the Petition of A. B. before our Judges at Westminster, the Day, etc. The Plea without is in your Court by Writ, between the said A. B. and C. D. of, and summon the said C. that he be then there to answer the said A. B. etc.


Pomponius in Bellium, Is a Writ commanding that a Prisoner be bailed in Cases bailable. Reg. Orig. 133.

Pomposum itinum in Exceptionum, A Writ by which Jurors are required to put their Seals to Exceptions, exhibited by the Defendant against the Plaintiff's
Plaintiff's Evidence, Verdict, or other Proceedings before them, according to the Statute Wiff, 2.

Bounties, (Provision) is a Contribution towards the Maintenance or Re-educating of Bridges: And may also signify Tell taken to that Purpoze. 1 H. 8. c. 5. 3 Eliz. c. 24. This was accounted one of the Three publick Charges of the Nation, from which no Persons were exempted, viz. Expeditio, Patres & Aris reparatis, called Triunwa Notitia; always excepted in Grants of Privileges, proper Publicam Regiam utilitatem; that the People may use the better and more Easie; and from which Silesia writes, That no guiden Episcopi, Abates & Monachi immane erant. Seld. Notes on Eadmer.

Ponentes reparatis, A Writ directed to the Sheriff, &c. commanding him to charge one more Persons to repair a Bridge, to which it belongs. Reg. Cit. 15.

Pons. (Payer) A person is such as is a Burden to and Charge upon a Parish. The Poor out Law takes Notice of, are of three Kinds, 1st, Poor by Dependency and Debt, as the Aged of Decrepit, Fatherless and Helpless, Poor under Sicknes, and Persons that are Idols, Lunatics, Lame, Blind, &c. theie the Overseers of the Poor are to provide for, and be supported by the Parish; such as Housholders doan't lay nor rest by Fire, Water, Robbery, &c. or by Loss in Trade; Poor Persons overcharged with Children. Labours that are disabled, and the having Ability, are to be fed to work, but if not able to work, they are to be relieved with Money. 3dly, Poor by Prodigality and Debtorship, also called Stealer of Poor, as idle lyonous Persons, Pirliters, Vagabonds, Strumpets, &c. which are to be sent to the House of Correction, and be put to hard Labour, to maintain themselves; or Work is to be provided for them. 4thly, Poor are those who have a free Butler, and if they become impotent by Sicknesse, or if their Work will not maintain them, there must be an Allowance by the Overseers of the Poor for their Support. Duid. 32, Eliz. c. 53. Before the Reign of Queen Elizabith we had no such Thing as settled Laws for the Relief of the Poor; for as History tells us, our Abb. Bie, and Monasteries, stilled with the Benevolence and ancient Hospitality of Lords of Manors, till the Time of the Reformation, were a sufficient Provision for the Poor of this Kingdom: But I find, by the 3d. Eliz. c. 32 to 35. c. 7. Relief was to be of the kind that could not Labour: The 2 H. 8. c. 1. ordain'd, that Hospitols founded for impotants Poor, were to be visited, and by 23 H. 8. c. 25. Governers were to grant Poor's Tickets, that they might be kept aged Poor and impotent Persons; and compe those that were able, to work and go to Service: And then in the Reign of Queen Elizabeth, several particular Laws were enacted for the Relief of the Poor, appointing Collectors and Overseers, &c. For by the 5 Eliz. c. 3. Relief of Parishes is to be gathered by Collectors, and weekly distributed to the Poor; and none shall be permitted to beg openly, &c. And the 43 Eliz. c. 2. enacts, That the Churchwardens of every Parish, and two or three House-keepers, shall be nominated yearly in Every Week, or within one Month after, by Two or more Judges of the Peace of the County, dwelling near the Parish under their Hands and Seals to be Overseers of the Poor; and they with the Consent of Two such Judges, shall set to work the Children of these Persons who are not able to maintain them, and all Persons who have Lands and Houses, to maintain themselves, or use none.

Trade to get their Living, and shall raise weekly, or otherwise, by a Tax, on every Inhabitant and Occupier of Lands, &c. such a Sum as they shall think fit in the Year, viz. Twelve Shillings for Ten, Eighteen Shillings for Twenty, Twenty-four Shillings for Thirty, Thirty-six Shillings for Forty, and so on, in every yeare, to be given by each Judge, to the Head Officer of the Corporation, and another to two Judges of Peace as aforesaid. And where in any Place or Town shall be yearly tenned, every Judge of the Division where such Duit shal happen, and every Mayor and Head Officer of a Corporation, &c. shall forfeit 5 to the Use of the Churchwardens and Overseers, by the Quarter-Sections. The 3 Car. 1. c. 4. ordains, That the Church wardens and Overseers of the Poor, mentioned
mentioned in the 43 Edw. may, with the Consent of two or more Justices of Peace, or of one Justice where there shall be no more, set up any Trade or Occupation for Implying or better Relief of the Poor of the 14 Edw. c. 2. by 3 or 4 Perons coming to settle in a Parish, and renting a Tenement under the Value of 10s. a Year, on Complaint by the Church-wardens and Overseers of the Poor of the 15 Edw. which Certificate shall oblige the said Parish of Place to receive and provide for them and their Families, whenever they become chargeable to, or ask Relief of the Parish to which they remove and the Certificate is given and then, and no Parish shall receive any Persons and their Children, (though born in that Parish, not having acquired a legal Settlement) shall be removed back to, and settled in the Parish from whence such Certificate was brought: Poor receiving Relief of any Parish, upon the Shoulder of the right Sleeve of their Coats, are to wear a Badge or Mark, with a large Letter of the Name of the Parish wherein they are Inhabitants, cut either in Red or Blue Cloth; and such Poor neglecting or refusing to wear such Badge, any Justice of Peace may punish them, by ordering their Allowance to be abridged or withdrawn, or committing them to the House of Correction, there to be whip'd and kept to hard Labour; and if any Church-warden or Overseer shall receive any Poor not wearing a Badge, he shall forfeit 20s. one Half to the Informer, and the other to the Poor. By 37 Edw. c. 2. 11 a Parson coming into any Parish by a licence to settle, shall gain a legal Settlement there, unless he goes first to take a Licence or Tenement of 10s. per Annun, or execute some Annual Office in such Parish. And that 15 & 16 Edw. makes the 15 & 14 Edw. 2. perpetual, (excepting what concerns Corporations) declares, that no Apprentice or hired Servant to Persons coming into a Parish by a Certificate or Settlement of their own Settlement in such Parish, except the Master be afterwards legally settled. The Stat. 2 Ann. c. 6. impairs Juries of Peace, and Church-wardens and Overseers, with Concerning two just Men, to place out poor Boys, of Parents chargeable to the Parish, Apprentice to the Sea Service, and the Church-wardens and Overseers, to pay the Master with a Boy 21 Edw. 100s. for Cloathing and Bedding, which shall be allowed in their Accounts; and these Apprentices are to be conveyed to the respective Ports to their Masters by the Overseers, and the Children born as is provided for Vagrants; and the Indenture to be sent to the Collectors of the Customs of such Ports, Cts. The 38 Edw. c. 6. provides, that Church-warden and Overseers of each Year, such Persons as any Wife or Children are left upon the Parish, by Persons who have Eaten, Cts. which might keep them, by Warrant from two Justices of Peace, may seize to much of the Goods and Chattels, and receive so much of the Rest of the Husband or Father, as the Justice shall order for the Keeping of such Wife or Children, which Order of the Justices is to be confirmed at the next Quarter Sessions, and then the Goods and Chattels may be disposed of; and the Overseers, Cts. shall be accountable to the Sessions. And the Stat. 6 Wm. 1. c. 7. enacts, that no Justice of Peace shall order Relief to any poor Person till Oath be made of scannable Caufe, and that such Person had been refused Relief by the Overseers of the Poor of his Parish, Cts. and until the Justice had summoned the Overseers to throw Cause why Relief Should not be given; and Persons to whom any Justice shall order Relief shall be registered in the Parish Books as other Poor, and the Church-wardens and Overseers are not to bring to the Parish Book any Money given to Poor, (unless they are indisposed and included in the Book) that are not registered or registered. Poor, on Pain of 2s. Penalty, to be levied by Dillets and Sale, by Warrant from two Justices, and for Want of Dillets to be committed to Goal for forty Days; but Persons approved may appeal to the next Quarter Sessions of the County, Cts. And there shall be kept in every Parish a Book, wherein the Names of all Persons that receive Relief shall be registered, and the Overseers, and the Parishioners are to meet at a Specialle yearly in Easter Week, or other time, when the Book shall be examined, by calling over the Persons, and inquiring into the Reasons of their taking Relief, and then a new List shall be made of such Persons as they think fit to allow and receive Collections; and no other Persons shall receive Collection, unless by Authority under the Hand of one Justice, or by Order under the Authority of the Overseers. Statute 8 & 9 Wm. 3. c. 50. gives Leave to poor Persons to remove to other Parishes for Work and the better Maintenance of their Families, by Complaint from the Church-wardens and Overseers of the Poor, under Hand and Seal, attested by two Witnesses, and allowed and subscribed by two Justices of Peace, owning and acknowledging them to be Parishioners lawfully elected at the Place from whence they came;
the Benefit of their Work for their better Mainte-
nance, and to prevent Persons refus'd to be so lodged and
kept, shall be struck out of the Parth-Books, and
not be intituled to any Collation; and where any
Parth, &c. shall be too far from to purchase or hire
Hood, though in the Present Parth, with Content with,
and upon the Sign of Justice, in manner and Form of
Approval of a Justice of Peace, may unite in do-
ing thereof; and the Poor may be also lodged and
maintained in other Parishes by Churchwardens and
Overseers, on Pay. But no poor Person, or their Ap-
prentices, or Children, shall gain a Settlement in such
Parishes: No Person shall be deemed to have ac-
quised a Settlement in any Parish, by Virtue of any
Purchase of an Estate under 50s. Value, for any
longer Time than such Person shall inhabit in the
Estate purchased; and Persons taxed or aforesaid on the
Scavenger's Rate, or to the Highways, and
who shall pay such Rates, shall not thereby gain
any legal Settlement in a Parish: And in Case of Ap-
peals from Orders for Removal of Poor, none shall
be confirmed upon in the Querent Parishes, unless rea-
nonable Notice be given; and if the Julicess deter-
mine in Favour of the Appellant, he shall be allowed
the Expenses incurred in Relief of the poor Per-
son, before Time of the Removal and Deter-
mination of the Appeal, to be recovered by Dittreis,
&c., by Order of the Julicess, as Costs and Charges,
by Edict. The Witness, to Certificates of
knowing any poor Persons to be legally settled in a Parish, are to make Proof on Oath of the Exe-
cution thereof before the Julicess of Peace directed to
allow of the same; and then the Council shall be
allowed and taken as Evidence in all Courts, &c.
And when Overseers of the Poor of any Parish do
remove back any Certificate Persons, becoming charge-
able to the Parish to which they were settled, they
shall be reimbursed the Charges in maintaining and re-
moving such Persons, being aforesaid by a Julicess of
Peace, by the Overseers of the Poor of the Parish,
to which removal, leviable by Dittreis and Salt of
Goods, &c. Stat. 3 Geo. 2 c. 29. See 6 Geo. 2 c. 31. Every Parish is to keep their own Poor, by the
parish. And if any Poor demand Relief, and that
are not settled in a Parish; they ought to be re-
moved to their proper Parishes, and there be relieved.
Dall. 73. The Overseers may Licence poor Persons
to be settled in Alms in their own Parishes; and if any
Inhabitants relieve Poor at their Doors, not being
of their own Parishes, and having such a Licence, they
shall forfeit 10l. Dall. 157. And in present
Emergencies, Overseers are to provide for Poor, and
it is Discretionary to give them Money, or Viscuits,
&c. Style 246. 1 Keb. 366. If Julicess of Peace
in Sessions, &c., make Orders for Maintenance of
Persons who are not imposters, but able to work, or
having any Thing to live upon; those Orders are
against Law. Dall. 166. A Father has been order-
ed to make an Allowance to his Son's Wife; while
his Son was beyond Sea; And if the Father of Chil-
dren leaves the Parish, and there is a Grandfather
to be found; this Grandfather, if he be of Ability, is
chargeable with keeping the Children, and not the
Parish. 2 Bull. 2 Litt. 333. A Father in Law,
or a Grandfather in Law, married to the Mother or
Grandmother of Children, of Ability to keep them,
is within the Stat. 34 Eliz. Style 284. A Husband
marrying a Grandmother, having an Estate with her
sufficent, shall be chargeable to the Relief and Main-
tenance of the Grandchild, during the Life of the
Grandmother; but after her Death he is under no
Obligation to do it: And where a Grandmother is
unable to relieve her Grandchildren, and marries with
a Man of Ability, he is not to be charged to main-
tain his Wife's Grandchildren; also if the Husband,
after Marriage, becomes to be of Ability, the Grand-
mother, at the Time of the Marriage, having no
thing, he shall not be bound to keep the Children.
2 Bull. 345. A Person was ordered by a Julicess in
Sessions to pay so much a Week towards the Support
and Maintenance of his Father, till that Court should
order the contrary; and it was held good; and it an
Estate of 30l. would be given to that Father, the Justice
might be applied to: Otherwise if a Time was limi-
ted. 2 Salk. 534. Rates and Assesments for pro-
viding for and relieving of the Poor of Parishes,
made by the Overseers of the Poor, are usually ap-
proved by the Inhabitants, and to be allowed by the
Julicess: And not only lands, Houches, &c. but Tithes,
and any Thing from whence an annual Proportion is
may be taxed, and that the Poor Rate. 2 Bull. 784. All
Poor are, the Clergy not exempted, must contribute to
the Relief of the Poor. 2 Keb. 251. Persons are to
be taxed according to the twin Estate they have in the
Parish; and this Tax may be on lands or Goods;
and when charged on Goods, they are rated accord-
ing to the usual Value of Lands, one 100l. Stock of
Goods, or Goods pretend to have in his Occupation, and a Stock of Goods and Wares
beside, as a Tradesman, Draper, Grocer, &c., may
be taxed for both; but not for such Stock or Goods
with which he is able to maintain his Lands, nor for the
Profits of Lands for which he cannot has been al-
ready taxed as Occupier, though for other Stock.
3 Keb. 287. 2 and 3 Will. 4, c. 2. A Farmer or Occupier is to be charged to
the Poor's Rate, and not the Landlord, who shall not be tax-
ed for his Rent, for then the Land would pay twice;
though if he be put under the Rate of the Parish, he shall be taxed for that: And for Personal Estate, the Par-
ty must be charged only in that Place where the Goods are at the Time of the Assesment; if he hath any other Goods in the Parish, the
same Goods, and not the Goods he is in
afflicted, to the Value he is charged, and is disfrain-
ied, he may have Action of Trespass. Read. Stat.
V. 5. p. 21. If an Inhabitant of a Remote Part of the
Essex, goes away and leaves the Owner in Possession of the
other Part, both Parts make now but one Tene-
ment, for which the Owner is taxabe to the Poor,
Med. Co. 241. The most reasonable and the
common Way of taxing Lands for Relief of the
Poor is by a Pound Rate; and if the Overseers
make an unequal Rate, they may be indicted and
for it. 1 Keb. 173. Churchwardens and Over-
seers of the Poor of a Parish, made a Rate for the
Relief of the Poor, which was confirmed by two
Juliess of Peace; but all was rated upon the Real
Estate, and none on the Personal, and therefore
upon Appeal to the Sessions the Rate was quashed,
and the Overseers, &c. ordered to make a new
Rate upon the Real and Personal Estates; which
they afterwards did, but with a very great Inequi-
utility on the Real Estates, whereupon several Persons
appeal'd again, and this Rate was likewise vacated.
In B. R. it was oblish'd, that the Sessions had no
Power to vacate whole Rates; but adjudged that
they may quash whole Rates, and refer it to the
Churchwardens and Overseers to make new Rates, or
they may make a new Rate themselves. 2 Salk.
483. Churchwardens and Overseers may not tax
particular Persons, and not the whole Parish; but
the Julicess having a Stock of lands, or Goods, may
not relieve the whole Parish, which is to contribute
to the Parish of another: Or the Julicess may 'allow
the Parish in a certain Sum, and leave it to the Pa-
rish Officers to collect the same out of the Occupa-
tory Persons. 2 Bull. 532. 2 Salk. 480. It has been
held, that Julicess cannot make a standing Rate;
because by Statute the Rate must be equal, which
is a standing
PO

a standing Rate cannot be, for Lands may be im-
posed every Year; by Statute; or when a Settle-
ment in trust. a 3 Sa. c. 56. A Rate should be
made every Month, which the Justices are to
approve; and if they refuse, a mandamus may be
had: And if that should be 2 Sa. c. 53. then
be twice raised; and where there is a Custom
to raise Quarterly, a Diilcrefs cannot be taken of
any one before the Quarter is ended, nor then
without Special Warrant on the Overseers part, but
he is to insist, that the present Uinge has been, to
Disfrain before the end of the Quarter, and that to
avoid Mitchell, if the Poor should remove out of the
Parish and County before the Quarter, it shall be
said, and on the Overseers, that the Court of
for the Court of B. R. cannot order such a Rate, but only to raise
Money for Relief of the Poor: And no Overseers
are not bound to lay out Money till he has it: and if he
does not make a new Rate for Relief of the Poor,
the Justices are to be levied, who may order the Concorancy of the
Parishioners 2 Le Pr. 47. 103. And by a Ju-
stice’s Warrant, the Court may levy the Poor’s
Rate on a Man’s Goods in another Parish where he
shall not Refuse on the Land in the Parish where he is
rated. 1 Le Pr. 715. Justices of Peace refusing to
sign a Poor Rate, a Rule was made in B. R. for them
for the Court of B. R. for them
when the Lord Justice, being known, a preceptary Rule was made for them
to sign it, or that an Attachment should go. Sid.
277. 8 Mo. 277. A Mandamus was issued to Ju-
stice Peerson, and the Overseers, to give an Account of Money by them received for
the Relief of the Poor; who returned, that they had
given an Account of the Money, and that they had
Refused, and in particular to the Lord Justice, setting forth, Utfr. And it was held, that the Mandamus was
7, for Want of Suggesting that the ordinary Re-
quest was granted, and by the Overseers make a false Account, they may be indicted. Daft.
154. But where Overseers of the Poor refused to
Acct., and were indicted for the same: an Objection was made that the Indictment would
not lie, because another Remedy was provided by the Statute. 3 Sa. 187. And where an Account of
Overseers was allowed by two Justices, and the Parish
approved from this Allowance to the Quarter Sessions, and they disallowed the Account, and ordered the
Overseer to pay, Utfr. for not doing which, they
committed him: it was relitig, that the Justices of
Peace at the Sessions upon the Appeal, must execute
their Judgment in the same Manner as the two Ju-

PO

Justices might do, who must in their Proces to
disfrain, and on Return that there is no Distress, then
533. Church wardens and Overseers, for every Neg-
left and Default in executing their Offices relating to
Poor, forfeit 20 s. to the Use of the Poor of the Pa-
rish: And there are Penalties and Forfeitures for Of-
fences, given by many Statutes to the Poor, for their
Furher Maintenance, which are to be paid to Church-
wardens, Overseers, Utfr. and by their order to be re-
accounted for: and there are concerning Almshouses,
Drakensbiral, Colliers, Exile, unlawful Gaming,
Drunkenness, Thieves, breaking of windows, breaking
Swearing, Scavengers, unlawful Weights and Measures, Utfr. Utfr. Poor Laws. Vide Justices of

PO

Poor settled in Parish. Settlements of Poor are

gained three Ways: first, by Statute; or
when a Child claims a Settlement in a Parish, because his
Father was there settled: By being born in a Parish:
and by Counterpart as to the Tithe of Clergy, if the
Father has a legal Settlement, the Child is to be settled
where the Father is: And if the Father have no le-
gal Settlement, the Child regularly gains a Settlement
in the Parish where he was born. 2 Balf. 251. But this Settlement by Birth may be defeated several Ways:
168. If the Parent is removed by an illegal Order;
and from the Order an Appeal is duly made, pend-
ing which the Child shall be in Care of the in-
Considering the Order, the Child shall be sent back with the
Mother. 2 By Particular: if a Woman near her Time is clandestinely sent to another Parish, and
there delivered, 3. If a Woman with Child be sent
to the House of Correction, and is there deliv-
ered, the Child shall not gain a Settlement by its Birth
in the Parish where the House of Correction is: but
in the Parish where the Mother dwells when sent to
the House of Correction, as the Place where she
had otherwise probably been delivered. 2 Balf. 328.
2 Sa. 715. If a Travelling Woman, having

PO

a small Sucking Child, shall be apprehended for

PO

Abortion, and be sent to the Gaol, and afterwards ar-
raigned and hanged, this Child is to be sent to the Place
of its Birth; there to be delivered and maintained. 169.
If the fame be known: but otherwise it must be sent
to the Town where the Mother was apprehended:
And Children born in common Genus, their Parents
being Priests, are to be administered at the Charge of
the County. Dalf. 157. If a Man and his Fa-
imily be legally turned out of a Parish, and during
that Time he shall have a Sucking Child, nor can they be sent to the Place of their Birth, or
left Habituation, but according as they are able or im-
portant shall be sent to work, or relieved in the Town
where so settled: a Woman or her Husband and Child,
then they may be taken up and sent to the Place of
their Birth. Dalf. 148, 160. Baffard Children gain a Settlement by their Birth: but they have been preserved in
preventing any Charge to the Parish, if a single Man
with Child come into a Parish, by a Justice’s Warrant
to remove her to the Place of her last le-
gal Settlement: Baffard of Vagrancy must be committed to the
Mother while Nurse-Children until seven Years of Age;
and then be sent to the Parish where born. Balf.
Till seven Years of Age, Children are ac-
counted Nurse Children; yet afterwards they must
have Maintenance from the Parishes where they
themselves were settled: If a poor Man settled at A.
marries a poor Woman, who is settled at B. and has
Children by a former Husband, the Wife shall be
sent to him with A. and the Children under
seven Years old shall be removed, but only for Nut-
ure; so that they shall be kept at the Charge of the
Parish from whence they are removed: But the Chil-
dren above seven Years of Age are not removable.
2 Sa. 470, 482. Generally a Wife is to be sent to,
and settled with the Husband, though he be but an
Inmate or Servant; as all Children are generally to be
sent to, and settled with the Parents: But if a Man
hires a Husband in A and being there with his Wife
and Children, he shall afterwards bind himself to se-
provide to one in B, his Wife and Children are not to
be sent to B. but are to remain still at A. where they were once settled. 20. A Man being in A has the
Middle of a Core, but is afterwards adjudged, where a Man served and had Board Wages, and
lay out of his Master’s House in another Parish, he
gained a Settlement in the Parish where he lived
and served, and was in the Parish where he lay. Palf.
PO

11 Gen. 1. Med. Cof. in L. 3. E. 570. A Man and his Wife fetched at one Parish, came privately in to another Parish, and there a Child was born; then the Father died in the King's Service; the Qesion was, Who should keep the Child? Per Hol Ch. Jul. The Death of the Father does not alter the Child's Settlement; which must be settled where the Father was last settled as well as the Mother. Cumb. 320. Settlement gained by Customary, is where a Person continues in some other Place than that in which he was before legally settled; and such Customary makes a Settlement: Formerly, every one who was settled as a Native, Husbandholder, Apprentice, or Servant, for a Month, without his Complainants in the same or another Parish, they were, lawfully settled. Dalh. But since this Month has been enlarged to forty Days, where a Person shall come into a Parish, and Rent a Tenement under 10 l. per Annum, by the Statute 13 & 14 Car. 2. 3 W. & M. And by Statute, Renting 10 l. a Year; Executing a publick Office in the Parish on a fixed or fixed Account; Paying a Share to the Parish Taxer, as Church or Poor Rates, &c. Living as a hired Servant for a Year in the Parish, being unmarried, &c. and Servant or being bound as an Apprentice in a Parish, all make a legal Settlement: So that a Person being settled by any such Means, and not having acquired a Settlement elsewhere, if he falls into Poverty, shall be settled by Relief from the Parish where he last gained such a Settlement; and where he is settled his Family must follow him. Wood's Lif. 94. It has been held, that a Settlement which has fallen within the Settlement under the Statute 13 & 14 Car. 2. That coming into a Parish publicly, taking a Houfe, and being rated to the rate or the Parish Book is sufficient Notice; the Statutes being for the protection of persons paying yearly contributions, and not publick ones, which the Parish can take Notice of it itself. Show. 11. A Person rented a House of 5 l. per Annum in a Town, and his Landlord died, and whilst he lived in the Parish, he took his Freedom of the Corporation, and voted as a Freeman at the Election of Bailiffs. And it was adjudged, that since that then the Statute of Wills, 1641, making a Settlement that is not within the Words of the Statute, which implies a Negative to any Thing else not contained in it; and since the Statute of Wills is not intended to imply a Settlement, for 'tis an Act which relates to the common Body, and not to the Parish. 2 Salk. 554. A Man rents two Tenements of 5 l. per Annum each, he thereby gains a Settlement; but if he rent a Piece of Land of 10 l. a Year, and there is no House belonging to it, it is otherwise. Hill. 1710. If one Rents a House of 10 l. per Annum, by continuing therein forty Days, he gains a Settlement, within the Meaning of 13 & 14 Car. 2. By Parker, C. R. Renting a Water mill of 10 l. per Annum, &c. makes a Settlement; for a Mill is a Tenement 2 Salk. 556. But no Settlement can be legal in any Parish, when the Residence of the Party is obscure and uncertain, as coming now and then, and lying in Barns, Outhouses, &c. or where the Party is under Dilliance by Officers. 3 & 4 W. & M. A poor Man appointed to be a Parish Clerk, and executing the Office a Year, has been adjudged to make a good Settlement; and the same evidence is to prove the same Settlement whether he came in by Appointment of the Parish, or by the Election of the Parishioners; for he is in for Life; and this is Executing a Publick Office, and Charge within the Meaning of the Statute 3 & 4 W. 3. 2 Salk. 516. A Servant was hired first from Lady Day to Michaelmas, and from thence he was rated; and this was received to be a good Settlement, for there was a Hiring for a Year: But it must be one intire Hiring, and one intire Service (though different Times are men- tioned) for one whole Year, that must make a Settlement according to the Statute. Hill. 10 W. 3. A Servant, who had a Master in one Parish, his Master lives there Half a Year, and then at B. another Half Year; adjug'd the Servant is settled in the same Place, for the Statute does not tie the Service down to one Place. Though if a poor Man be hired for a Year, to serve in a Boat which plies between one Place and another by this Service, he gains no Settlement. Alias, a Servant, who has been employed in a Parish for one Year, married before the Year was expired; and it was held, that he could not be removed, and that upon performing his Service he would be in a Settlement. 2 Salk. 572. A Man hired a Maid Servant for a Year; but the falling sick, her Master turned her out of his Service: The Servant in her Passage to the Place of her Native Place, begged for Relief, and the was sent for in a Grant to the Parish where she was born; whereupon she was sent back by that Parish, to the Parish where she was an hired Servant; and by Ordered Sessions she was settled at the Place of her Birth: This was removed by Cetennari into B. R. and the Court determined the Settlement to be at the Parish where she was an hired Servant, and not where she was born. Style 168. A Peron is a Lodger in any Parish, his Servant acquires a Settlement: If a Servant continues in the Service of a Visitor in a Parish, he gains a Settlement there, unless the Visitor removes him, and the Parish knew that he was brought or came thither on Purpose that he might have such Settlement: And though a Visitor or Ministers are only Visitors, and no Lodgers, yet their Tenants may be laid to be hired in every Parish where they serve. Med. Cof. in L. 3. Ep. 50, 51. If an Apprentice be bound to one who is a Licensed Settlement. Who says that an Apprentice continues forty Days in the Service of his Master, there it is said, he will have a Settlement; and where ever any Person serves the last forty Days of his Appreication, that he has an Settlement. Hill. 4 An. An Apprentice bound to a Master living in one Parish, and serving some Part of his Apprenticeship in another Parish, cannot have a Settlement over to another Master in another Parish; and this was held a good Settlement in that Parish where he last served, for it shall be intended it was but a Continuation of his Apprenticeship. Hill. 10 W. 3. Med. C. in L. 3. Ep. 69. A Peron served an Apprenticeship in a Parish, where he married and had several Children; his Wife dying, he married another Woman, who had a Term for Years in another Parish, to which Place he removed, and resided there for a Year; afterwards he returned to the first Parish, was rated to the Poor, lived there two Years, and then he died: In a short Space after his Death, his Widow and Children were removed, by an Order of two Justices to the other Parish where he had lived a Year; but upon Appeal to this Order at the Sessions, the Sessions adjudged them to be Inhabitants settled in the first Parish. Mix. 3 Jar. 2. Where a Man lives in a Parish, and hath Lands of his own there, or in Right of his Wife, this will make a Settlement; but if he hath Land in one Parish, and lives in another, the Land will not make a Settlement of him in that Parish where he last lived, though he does not live, 2 Salk. 556. If a Man be settled where he will, he cannot, though likely to become chargeable to the Parish where he goes to reside in, be removed from his Settlement, though he goes to reside there; 2 Salk. 416. But see Stat. 9 Gen. 1. supra. Some Years ago, a Man who was not legally settled in a Parish, but had lived there some Time, procured a Certifi-
case, by Virtue of which he went into another Par-
ishes; after which, the Parishes whereby he came to him again; and upon Enquiry found
that he was never lawfully settled with them, but had gained a Settlement in another Place, before he left the Parishes, and thence it was removed by him by Order: The Parishes to which he was re-
moved appealed, because those who had given the Certificates, had owned him to be an Inhabitant set-
tled with them; but the Certificate was held only to be an Evidence of a Settlement, and thereafter the first Order was confirmed. Tit. 2 Ann. 3 Salk. 350. It has been since adjudged, That a Certificate con-
ccludes the Parishes giving it, not only against the Parishes to which it is given, but as to all other Parishes. Post. The Law distinguishes none who are lawfully settled, nor permits it to be done. If one had but hired a Houk, he had a Certificate therefrom to say he was heathen; he may be indel-
ced: also it is easy to remove any out of the Pa-
rishes who ought not to be put out, and the Perons removed may be sent back. Dalh. 107. And if a Parishes shall have a false Idea who they are, and on other Certificates to them, to go and wander and beg in B, that he may be sent to A, and doth so, he shall be sent back to A, and be removed there. Whereupon the two Justices of Peace of one County, found a poor Peron to a Parishes in another County, two Justices of the County whence such Peron is sent, cannot make an Order how he shall be sent back, or send him to any other Place; the Town to which such Peron was sent, hath no other Remedy than by Appeal to the Seelions of that County from whence the Party was sent. Salk. 481, 482, 483. If an Order of Seelions upon an Appeal is good and binding; but if it does not appear that the Case came before the Ju-
ices in Seelion by Way of Appeal, it may be quashed; for without that they have no Jurisdiction: If a poor Family, after Order of Seelions for their Removal on Appeal, return to the Parishes from whence they were removed, the Seelions must see their Order of Settlement obeyed; though if such poor Family go into another Parish not concerned in the Appeal, two Justices of Peace ought by an Original Order to remove them, and to be set to be executed by the Seelions Order. 4 Salk. 481, 482, 483. The Seelions having made an Original Order for Removal of a poor Peron to a third Parishes, after an Order of two Justices, it was quashed upon Motion: And ad-
judged, that the Seelions could only confirm, or re-
verse the Order of Settlement of the two Justices; and therupon a new Order might be made by two Justices for Removal to the third Parishes, &c. 2 Sa. 275. A general Order to remove a Man and his Family is not good; it must be particular, for some of the Family may be chargeable, and others not: And where Justices make such Orders of Set-
tlement, it must appear, that the Parties are likely to become chargeable; and that the Peron remo-
ved is removable; and contain an Adjudication of the past Settlement of the Party, &c. 2 Sa. 484, 485, 491. 5 Mo. 149, 321. And according to the Opinion of the Lord Chief Justice Holt, the usual regular Way to proceed on the Statute 14 Geo. 2, in removing a poor Parson, is for the Justices of Peace to make an Order, in the Name of the Justices of the Parish, to remove the Perons to the Parishes to which they ought to be sent, and to deliver in the Record at the next Seelions, to be kept among the Records; and this Record may be removed by Certificates and Order of 1 Salk. 484. But on Motion in B. R. to set aside an Order for the Set-
tling a poor Peron in a Parishes, first thither by Warrant of two Justices, and confirmed in the Se-
elions, upon an Appeal: The Court refused to enter into the Merits of the Case; the Order of Seelions being in this Case final, unless it be made appear that there is Error in the Court, or that there is Error in the Power of the Parishes, or that the Case is mis-
presented. P. b. 29 Geo. 2. F. 510. And it is a Standing Rule in the Court of King's Bench, That if upon an Appeal, the Order of a Judge is either affirmed or quashed, upon the Merits of the Case, in relation to Settlements, it shall be conclusive between the two Parishes. P. b. 10 Geo. 2. The Order of two Justices not appealed from, binds the Parishes upon which it is made, till a new Settlement is gained: An Order reversed is final only between the Par-
ties; but an Order confirmed, &c. is final to all the World. 3 Salk. 472, 473. A poor Peron who is not a Bell, as well as the Parishes, may appeal from an Or-
der of Removal, though it has been objected that Appeal is only given to the Parishes aggrieved. By a privi-
lege Rep. 253. And where a poor Peron is visited with Sicknes, he ought not to be removed from the Parishes where he is, further to endanger his Health; and if two Justices, by Order to re-
move him, it is a Misdemeanor in the Justices. Mod. C. in L. & E. 326. On Appeals to Justices in Seelions, they are to issue Orders to both Parishes, to be served without Charge, and then to proceed, &c. 5 Geo. 2. v. 19. By Law, the Place that the Poor were last legally settled at, is the Place that is to be served by Order. 5 Geo. 2. v. 19. By the Stat. 17 Geo. 2. c. 5. The Churchwardens and Overseers of the Poor are to give public Notice in Church, of every Rate allowed for the R. of the Poor the next quarter; and if the Rate has not been levied, the Rate shall be void, and permit every Inhabitant to inspelt the fame, paying 1s. 2d. and to have Copies thereof, paying 6 d. for every 24 Names, under the Penalty of 50 l. By the Stat. 17 Geo. 2. v. 5. If a Woman wandering and begging, be delivered of a Child in a Parishes to which the Child does not belong, she may be committed to the House of Correction till the next Session, where the Justices may order her to be whipp'd, and detained in the House of Correction not exceeding six Months. The Churchwardens of the Place where the Child is to be delivered, shall be paid all the Charges by the Treasurer of the County, and the Settlement of the Mother shall be deemed the Settlement of the Child, though it be a B. R. By the Stat. 15 Geo. 2. c. 48. The Churchwardens and Overseers of the Poor shall yearly, within 14 Days after other Overseers shall be nominated, deliver to such succeeding Overseers an Account of all Sums received, or rated and not received by them, and of all Goods in their Hands, and Monies paid by them, and of all other Things concerning their Office, which Accounts shall be verified by Oath. Any Peron affected may ins-
fpect such Account paying 6 d. and have Copies paying 6 d. for every 500 Words. Peron not accounting, &c. as aforesaid, may be committed until the Rate shall be paid. If an Overseer dies, removes, or becomes in-
 solvent before the Expiration of his Office, two Ju-
ices may appoint another in his Room. If any Overseer removes, he shall before his Removal ac-
count as aforesaid, under the same Penalty. And if any Overseer dies, his Executors shall within forty Days deliver over all Things belonging to the last Settlement, and the Complaint of the Church-
wardens and Overseers, and upon that to make a Warrant or Order under their Hands and Seals to the Church wardens, &c. to receve the Perons to the Parishes to which they ought to be sent, and to deliver in the Record at the next Seelions, to be kept among the Records; and this Record may be removed by Certificates and Order of 1 Salk. 484. But on Motion in B. R. to set aside an Order for the Set-

Tender
Tender of Amendes be made before the Action brought. Succeeding Overseers may levy Arrears to reimburse former Overseers. If any Perfon remove out of the Parish, and another comes to occupy the House, &c., he left, the Perfon removing, and the Perfon coming in, shall be liable to pay to the Ratepayers, in Proportion to the Time he occupied the same. Fair Copies of all Rates for the Poor, shall be entered in a Book within 14 Days after all Appeals determined, and all Perfon’s allotted shall have Access to them. See Pagrants.

Form of an Appointment of Overseers of the Poor.

WHEREAS Complaint has been made unto me, that A. B. of your Parish, Labourer, is very Poor and Impotent: And the said A. B. hath made Oath before me, that, by Reason of Age and Sickness, he is not able to provide for himself and his Family, so that they must necessarily perish, unless timely relieved; and that, if no such Overtures of the Poor of your Parish, and have been refused Relief by them; and the said Overseers, having been also summanded to show Cause why Relief should not be given, and afford them some Redress; These are therefore required you to pay to the said A. B. the Sum of 2s. per Week, for and towards the Support and Maintenance of the said A. B. and his Family, until the said A. B. shall be able to provide for the same, or until you shall be ordered to the contrary. Given under my Hand and Seal, &c.

Form of an Order to remove a Perfon to his Place of Settlement.

WHEREAS it appears to me T. G. and J. L. Efors of two of your Magistrates, that any or the Complaint of the Parish for the County of, &c. (see above) the Quorum on the Complaint of N.O.P. R. &c. Churchwardens and Overseers of the Poor of the Parish of, &c. in the County aforesaid, that B. A. being on, &c. left settled in the Parish of, &c. in the County of, is now come into the Parish of, &c. aforesaid, to endeavour to obtain a Settlement in the said Parish, not having done any Act as the Law requires to make him a Parishioner there, whereby he is likely to become chargeable in the Parish of, &c. aforesaid: And whereas it appears by the Oath of, &c. that the said B. A. was last legally settled at the Parish of, &c. which we need not adjudge accordingly: Now unto the aforesaid justice, do hereby order you the Confidant of, &c. to remove and convey the said B. A. from the said Parish of, &c. unto the aforesaid Parish of, &c. the Place of his last legal Settlement, and to deliver him to the Churchwardens and Overseers of the Poor there, or some or one of them; hereby also requiring you the said Churchwardens and Overseers of the said Parish of, &c. to receive the said B. A. as your lawful Parishioner, and provide for him accordingly.

Perpetual Pensions In Gaol, how relieved and discharged, &c. See Priests. And your Perfon intitled with the Plague, to be relieved by a Tax, &c. Stat. 1 Jac. 1. c. 31. See Plague.

Pope, (Pope) was anciently applied to some Clergymen in the Greek Church; but by Usage is particularly appropriated in the Latin Church to the Bishop of Rome, who, from its coming to occupy the See of St. Peter, and which very probably had great Authority there. As to the Ingressions of the Sea of Rome, it is said to be the general Opinion, That Christianity was first planted in this Island by some of the Eastern Church, who were very probably of the Order of the Pope, and Dr. Filmer has a long, but disconnected and somewhat curious History of this Subject.

The Saxons being concerned about the Year 660, by Perfon’s sect from Rome, and wholly devoted to the Interests of the Church, it could not be expected that such an Opportunity of evincing the Jurisdiction of that See should be wholly neglected; and yet there are few Instances of the Papal Power in England before the Normans Conquest, though four or five Perfon’s were made Bishops by the Pope at the first Convocation, and there was an Instance or two of Appeals to Rome, &c. But the Pope having honoured and supported William the First, in his Invasion of this Kingdom, made that a Handle for enlarging his Jurisdiction; and in this King’s Reign, began to send his Legates hither; and after he prevailed with King Hen. 2. to give up the Donation of Church Goods by the Pope, and in the Time of King Stephen, gained the Prerogative of Appeals; and in the Reign of King Hen. 3. he exempted all Clerks from the Exigence of the Pope. Indeed this King did at first bounteously withold those Innovations; but upon the Death of . who, for having violently opposed the King, was burnt in some of his Satchels, the Pope got such an Advantage of the King, that he was never able to execute the Laws he had made; and not long after this, by a general Excommunication of the King and People, for several Years, because they would not suffer an Archbishop to be imposed on them, King John was reduced to such Straits, that he surrendered his Kingdom to the Pope, to receive them again, and hold them under the Rest of the Popes; a thousand Marks: And in the following Reign of King Hen. 4. partly from the Predis of our own Church Benefices, which were given by the Pope, and others atid by the Pope, for amongst other Things, the Pope at the Court of Rome, and partly from the Taxes imposed by the Pope, there went yearly out of the Kingdom Seventy Thousand Pounds Stirling, a very great Sum in those Days, the Nation being thus burdened and under a Necessity, was obliged to provide for the Prerogative of the Prince, and the Liberties of the People, by many strict Laws. And hence in the Reign of King Edu. 1. it was declared in Parliament, That the Pope’s taking upon him to dispose of English Benefices, to whom it was not to be lawful to appoint, was a Presumption upon the right Convocation; and High Treason upon the second. 5 Eliz. In the Constitution of which Statute, it has been held, That he who knowing the Contents of a Papal Book, written beyond Sea, brings it over, and secretly sells it, or secretly conveys it to a Friend; or having read the Book, or heard of its Contents, doth after in Diffcourage, or to the prejudice of the Good, &c. is in Danger of the Statute; but not he who having heard thereof, buys and reads the same. Selden’s Juras Anglor. Danuv. 43. 90, &c. &c. &c. See Ball and Pearson.

Popey. There are several Statutes made against Persons perverting or withdrawing others to
refusing to assist the Sheriff or Justices of Peace here-
in, may be fined and imprisoned. 12 R. 2. cap. 8.
13 Hen. 4. cap. 2. 2 Hen. 5. cap. 8. Lamb. 513, 516, 517. Cap. 46. 2 V. b. cap. 131. Justices of Peace, having a just Cause to fear a violent Resistance, may raise the Paff in order to remove a Force in making an Entry into or detaining of Lands: And a Sheriff, if Need be, may raise the Power of the County to assist him in the Execution of a Precept of Re- fliction; and therefore if he make a Return there-to, that he could not make a Re infliction by reason of Resistance, he shall be adjourned. 1 Hawk. P. C. 152, 156. Also it is the Duty of a Sheriff, or other Mi-
nister of Justice, having the Execution of the King's Write, and being refused in endeavouring to execute the same, to raise such a Power as may effectually en-
able them to quell any such Resistance; though it is laid not to be lawful for them to raise a Force for the Execution of a Civil Proceed, unless they find a Re-
liction. 1 Inf. 153. 3 Inf. 161. It is lawful for a Sheriff, Contable, or other Peace Officer, or for a private Person, to assemble a competent Number of People, and sufficiently armed, to stop or repel Rebels, En-
emies, Rioters, &c. But herein the same must be great Caution, lest under a Pretence of keeping the Peace, the same turn into the Bane of it; and Sheriff's just-
ices of Peace, &c. are punishable for using any needless Violence, or alarming the Country in these Cales, without just Grounds. 1 Hawk. P. C. 156, 157.

Pottage, Is an infinitive Mood, but used subordinately for a Possibility as we say, such a Thing is in puffa, that is, it may possibly be. See in off.

Puffiti or Freeate, Signified in the Law where a Man hath a Son and a Daughter by one Woman or Wenter, and a Son by another Wenter, and dies, if the first Son enters and dies without Issue, nor having made an actual Entry and Seal, then the younger Brothe by the second Wife, as Heir to the Father, shall enjoy the Estate; and not the Sister. 1 Inf. 11, 15. Lands are settled on a Man, and the Heirs or Body, and he hath issued a Son and a Daughter by one Woman, and a Son by another, and dies; and then the eldest Son dies before any Entry made on the Lands either by his own Act, or by the Possession of another, the younger Brother shall inherit, he claiming as Heir of the Body of the Father, and not generally, as Heir to his Brother; yet if the elder Brother enter, and by his own Act, hath gained the Possession; or if the Lands were seale-
ed for Years, or in the Hands of a Guardian, then the Possession of the Lease or Guardian doth well the Pen in the elder Brother, and then upon his Death the Sister shall inherit as Heir to her Brother, for there is Puffiti featuri. 3 Rep. 42. There can be no Puffiti in a Dignity; in such Case the younger Brother is Haeres Natus: The Lord Gryl being created a Baron to him and his Heirs, had Niece a Son and a Daughter by one Wenter, and a Son by another; and after his Death, the eldest being possided of the Barony, and dying without Issue, it was adjudged, that the younger Brother, and not the Sister should have it. 3 Sex. Cap. 137. 2 Nell. Abr. 325. Possibility, (Puffiti, good Puffiti) Is either actual, where a Person actually enters into Lands or Tenements defended or conveyed to him; or in Law, when Lands, &c. are defended to a Man, and he hath not actually entered into them: Also before, or until an Office is found of Lands escheated to the King by Attainer, he hath only a Puffiti in Law. Bradbury, 17 Long. 147. Puffiti upon the Memory of Man, establishes a Right: but if by the Knowledge of Man, or Proof of Record, &c. the
and it was adjudged, that it should not bind the Wife, the Husband having only a Possibility to have it, if he then Dobt his Life, till then. Hl. 17 Eliz. 2. 2 Nelf. Ass. 1274. If Husband and Wife are Tenants in Special Tail, and the Husband and Wife should die at the same time, the Wife's Estate is turned into a Possibility, and only reducible by Entry, if the survive. Hl. 257. Where a Lease is made for Life, the Remainder to the right Heirs of T. S. this is good: for by common Possibility J. S. may die during the Life of the Tenant for Life. 2 H. 7. 13. 3 Slop. Abr. 36. A Man made a Lease to his Brother for Life, and that he be married, and his Wife should survive, then should it have for her Life; the Lease before he married, made a Possession of the Lands to another, and afterwards the Lees before he married, then the Lees married, and died, and his Wife survived: And it was held, that the Remainder to the Wife for Life was gone by this Possession, and the Possibility of her having it was included in the Possession, which is likewise barred. Mor. 554. A Tenant possessed a Lease for Years, devised the Profits thereof to W. R. for Life, Remainder to another; and afterwards the Deveis for Life entered with the Assent of the Executor, and then he in Remainder for Life affiled his Interest to another, and after the Deveis for Life died; is it not good? This is indictable; and notwithstanding what the Deveis for Life was living, he in Remainder had only a Possibility to have the Term, for the Deveis for Life had an Interest in it so soon, and might have survived the whole Term. 4 Rep. 64. The Deveis of the Possibility of a Term is void, as where a Term is devised to A for Life, Remainder to B and C. and devise this Remainder to C. and dies; and then, A. A. C. c. void. An Executor of B shall have it. 3 Lev. 427. A Possibility founded on a Trust, differs from a mere Possibility; the frit may be devised, but the other cannot. Mor. 808. 2 Nelf. Ass. 1274.

[Text continues discussing legal matters related to property and life estates, including decisions on whether certain interests are valid or void, and the implications of deceased individuals' actions on property rights.]
Post Conquestum, were Words inferred in the King's Title, by King Edward, 1. c. 10, and confidently used in the Time of King Ed. 3. Claeg. 3 Ed. 3.
Post Diet, is a Word, which is returned upon the Day assigned, for which the Controversy had a Place to be heard, whereas he hath nothing if it be returned at the Day.
Post-Dispensation, is a Word, that lies for him who having recovered Lands or Tenements by Privity good reddit, on Default or Redispensation, is again dispossessed by the former Differior; then shall he have this Word, and recover double DAMAGES, and the Party shall be punished by imprisonment, &c. Stat. 23. 3. c. 36. Reg. Orig. 2507 F. N. 150. The Word of Post-Dispensation ought to be brought by the Parties who first recovered, or some of them, and of the same Land which was recovered, or Part thereof, and against the same or some of them, against whom the Recovery was: But if a Man recover by a Privity good reddit, and after he is dispossessed by him against whom he recovers, and the Differior makes a Privity, and takes back an Estate to him and another, a Post-Di-
sension may be had against him and his Jointtenant; and if he let forth the Land by Default, &c. do so dispossess him and recover, and make a Privity to another Person, he recover'd shall have this Word against the Differior, although he be not Trespassor on Land; for in a Word of Post-Dispensation, the Demandant shall not have Judgment to recover the Land; but the Sheriff shall restore the Plaintiff to his Possession, if the Differior be found, and take the Defendant, and keep him in Prison, according to Stat. 38 Ed. 4. 425. And the Defendant is not to be delivered out of Prison, until he hath paid a Fine to the King, and without the King's Special Command, upon a Certiorari to remove the Record into B. R. whereupon, on a Word shall go to the Sheriff to deliver him. Ibid. Nonnullum is no plea in a Post-Dispensation, for the Defendant ought to answer the Disnnenement. W. nis. 2. c. 36.
Post-Diet, is the Return of the Judge, before whom a Cause was tried, after a Verdict, of what was done in the Cause; and is known on the Back of the Nisi prius Record: It begins, Post-Diet, and ends, &c. whereof it is so called. 1 Litt. 357. A Post-Diet is a Record of the Court, truaulted with the Attorney in the Cause by the Clerk of the Affile; and the Attorney to whom it is intrusted, is to deliver it into the Office, that the Judgment may be entered by it of the Officer of the Court. Triun. 165. It is brought into Court at the Day in Bank, and recorded therein, and delivered back to the Attorney, who gives a Rule for Judgment upon it; and if there be no Rule to the contrary, after the Rule for Judgment is out, the Attorney brings his Post-Diet to the Secretary, who signs his Judgment, and then he enters all this Matter upon the Iffte Roll. 2 Litt. 357. The Court may play the Bringing-in of the Post-Diet, and entering up the Judgment upon a Verdict, if they find Cause to do it, for any undue Practice in the Proceedings in Trial: And if the Party for whom the Verdict is paid, will not bring in the Post-Diet, upon Notice given by the other Party, that he intends to move in Arrears of Judgment; the Court, on Motion will order Judgment to be played, until four Days after the Post-Diet is brought in, allow'd to walk in Arrears of Judgment. Mich. 23. Car. B. R. Although the Verdict given be prejudicial to the Plaintiff, he ought to bring in the Post-Diet; for he must abide by the Trial. There is no general Rule of Court for the Clerk of Affile, &c. to bring in the Post-Diet into the Court of B. R. by a Precise Time; but if it be not returned in convenient Time, the Court may be moved at a Rule for a Bar for a Rule to bring it in speedily. If the Clerk of Affile hath maltaken in drawing up the Post-Diet, he may amend it by his Notes, before it is filed; and the Return of a Post-Diet hath been amended by the Memory of a Judge, who tried the Cause. Cr. Carr. 436.
Posteriority, (Posteriority) Signifies the Being or Coming after, and is a Word of Computation and Relation in Tenures. The Correlative whereof is Priority: As a Person of any Age, Land or Tenements of two is Preceded, or holds of his ancestor Lord by Priority, and of his latter Lord by Posteriority. Stauned. Proez. 10, 11. 2 Ind. 2.
Post-Fine, is a Duty to the King for a Fine formerly acknowledged in his Court, paid by the Cog-
mile after the Fine is fully paid, and it is so much, and Half Timbered, was paid to the King for the Post-
Fine, collected by the Sheriff of the County where the Land lies of which the Fine was levied, to be answered by him into the Exchequer. Stat. 22 & 23 Car. 2.
Posthumous, is where a Child is born after his Father's Death, &c. And Posthumous Children are enabled to take Estates by Remainder in Settlements, as if born in their Father's Life time, though no Estate be limited to Trustees to preserve them till they come in eff. 10 & 11 W. 3. cap. 16. See in Feates in jur. 98.
Postures, is a Word that signifies the second Son, or one born afterwards, often mentioned in BRoo-
ton, Glawes, Etca., and other ancient Law-writers. And as to Pygmaia and Animari, it was by all the Judges of ancient judicature adjudged that another after the Difcent of the Crown of England to King Jam. 1. were born in Sculein, were not Aliens here in Eng-
land; But the Animari, or those born in Scotland, before the said Difcent, were Aliens here, in respect of the Time of their Birth. 6 Tax. 7 Rep. Calvin's Cafe. Children of Persons attainted of Treason, born after the King's Pardon, may inherit Lands; though not those born before, &c. 1 Inc. 391.
Postponed, (From Postpona) Set or put behind or after another. 22 & 23 Car. 2.
Post-Termouth, is the Return of a Word, not only after the Day for the Return thereof, but after the Term; on which the Coffers Breuiam of the Court of Common Pleas takes the Fee of 20d. It is also used for the Time. 2 Litt. 357.
Postulation, (Pygmaia) Signifies a Request, Suit or Petition. Formerly when a Bishop was translated from one Bishoprick to another, he was not elected to the new Set; but he wrote in Law in Elocus now pereat Eligius and the Presence was, that he was married to the first Church, which Marriage could not be dissolved but by the Pope; thereupon he was per-
tected, and he contesting to the Petition, the Bishop was translated, and this was said to be by Pyla-
lation: But being an Uproarion and against our Law, it was restrained by the Stat. 16 R. 2. and 9 H. 4. c. 8. Since which Translations of Bishops have been by Election, and not by Pygmaia. 1 Janes 160. 1 Salk. 157. Pygmaia were made upon the un-
nimous Voting any Person to a Dignity or Office; of which he was not capable by the ordinary Canons or Statutes, without special Dispensation: And by the ancient Customs, an Election could be made by a Majority of Votes; but a Pygmaia must have been Nemine Contradictores.
Post, An Head Piece for War, mentioned in the Stat. 13 Car. 4. 5.
Posthumus, (Parsus) is generally any Place inclosed to keep in Beasts: but especially a Place of Strength to keep Castle that are disfrained, or put in for any Tref-
mores, or desert castles, until they be repaired and im-
proved. In this Signification, it is called Pausd ever, and Pausd eover is an open Pausd, usu-
ally built on the Lord's Water, and which he provides for the Use of himself and his Tenants, and is alse called

Digitized by Google
called the Lord's or the Common Pound; and a Backside, Yard, &c. whereas the Owner of the Bealls impounded may come to give them Aisle, without whereas they themselves. Damages may come to a Place, as the Owner of the Castle cannot come to the Purpo for aforesaid, without giving Offence; such as a Horse, &c. Kirch 144. Cons. de Lea 483. 1 Ind. 76. There is a Difference between a common Pound, an Open Pound, and a Chace Pound, as to Castle impounded: For where Castle are kept in a common Pound, no Notice is necessary to the Owner to feed them; but if they are put into any other open Place, it is otherwise, Notice is to be given; and if Bealls are impounded in a Pound Close, in Part of the Disfrainer's House, &c. he is to feed them, at his Peril, I Ind. 47. A common Pound belongs to a Township, Lordship or Village; and there ought to be such a Pound in every Parish, kept in Repair by those who have fixed to do Time out of Mind; The Overight whereof, and want of it, is to be by the Steward in the Leet, where any Dis- 

fence herein is punishable. Duiz 888. Ng 51. See Dis- 

frc. 

Bounders. If a Diffre be taken, and im- 

pounded, though without just Cause, the Owner can 

not bleed the Pound, and take away the Diffre; if it be 

dead, the Party disclaiming may have his Action, and 

retain the Diffre where ever he finds it: And for 


Quam 161. 2 W. M & C. 57. Alle Bounders. may 

be inquired in the Sheriff's Turn; as they are common 

Given each in the CJ. of the Authority of the 


Bounden, The Liberty of Pounding Cattle. 

Hyp. Coriolan res. pag. 519. 

Boundless. Duty granted to the King of 12d. in the Pound on all Goods and 

Merchandises exported and imported. Stat. 1 & 2 Ed. 6. 

c. 12. 2 Ed. 3. c. 13. 2 Car. 4. See Captains. 

Guernsey. "Bounden" Twenty Shillings: In the Time of the 

Guerne it consisted of 240 Pence, as it doth now; and 

240 of these Pence weighed a Pound, but pays 

leaves weigh much less at this Day. Lambere 119. 

Prefer fair plaister, that null indel Fines on 

Subties en Folies ou Subties para Cittas, &c. is 

an ancient Writ directed to the Mayor or Bailiff of a 

City or Town, requiring them to make Proclamation. 

That none call Fitts into the Ditches or Places near both City or Towns, to the Hurt thereof; and 

if any call there already, to remove the same: It is founded on the Stat. 12 R. c. 13. F. 

N. B. 76. 

Bouquet, In Lands and Woods, &c. See Purfoter. 

Bouquet de Terre la Femme qui tenent en Wet- 

ter, was a Writ whereby the King feigned the Land, 

which the Wife of his Tenant in Captive had for her 

Dower, after his Decease, if the married without 

the King's Leave; by Virtue of the Statute of the King's 

Provisions, c. 5. 12 Ed. 17. 

Bouquet à la Vivre, A Messenger of the King. Vide 

Parfout. 

Bouquet, is an Authority which one Man gives 

to another to Act for him; and it is sometimes a Refe- 

ravation which a Person makes in a Conveyance 

for himself to do some Acts, i.e. to make Leases, or the like. 2 Litt. Adv. 359. And Powers are either Ap- 

plied to Act for themselves, or to do something for others; and to have the Power to do so. In the first Case, the Power is annexed to the Estate, and derived out of it; but in the other Case, 'tis collateral to it. 3 Salt. 276. A Poofitt, Fine or Recovery, will 

destroy a Power coupled with an Interest in the Party 

himself; though not a collateral Power. As for In- 

heritance: Lands are devolved to W. R. in Tail, Re- 

mainder over, with a Power given to him in a 

Joynure for a second Wife, &c. The Tenant in Tail, 

in the Life-time of his first Wife, suffered a common 

Recovery to the Wife of himself; and his Heirs then 

his Wife died, and he married a second Wife, and 

conveyed to land feigned to the Wife of himself, and 

his Wife for their Lives, &c. Adjudged, that this 

Power then created, and to be revocable out of the 

Estate tail, which was now destroyed by law, and 

by Confinence the Power to 

make a Joynure was destroyed. 2 Litt. 58. 60. 

A single Lady made a Settlement of her Estate for Life, 

Remainder in Tail, with a Power to make Leases 

(being sole) for three lives; afterwards the Marry, 

and the and her Husband made a Lease, &c. And 

it was held that this Lease was void, being not pur- 

suant to the Power; for the Lease of the Husband 

and Wife is the Lease of the Husband; and the 

Dif- 

ference between a naked Power and a Power which 

arises from an Interest, is, That if a Woman hath 

only a naked or bare Power, as by a Will to sell 

Lands, she may fell, though the marry, because this 

Power was created by her herself out of any Interest 

but where a Power is derived upon a Settlement, she 

must execute it pursuant to that Power, when it was 


It, if a Man hath a Power to make a Lease for 

three Lives or Twenty one Years, he cannot make 

a Lease for Ninety-nine Years, if three Persons live 

so long; But if he hath a Power to make a Lease, 

only that it doth not exceed three Lives, &c. he 

may make a Lease for Ninety-nine Years if three 

lives so long, 4 Rep. 70. A Power ought to be ea- 

sially and Bifily revocable. But a Power may be well 

executed, though there be No Restraint of the 

Power in the Deed for the Execution thereof. 

1 Litt. 150. And a Power hath been decreed in 


Yet it hath been held that a Power not well executed in 

Law, shall not be made good in Equity. 1 Litt. 

104. A Power to sell Lands, is subject to the Rules 

of Equity. Chanc. Rep 281. Powers ought to be 

confirmed according to the Intent of the Parties; and 

a bare Power is not assignable over. 5 Mod. 179. 

When Auy or of others has a Power to make 

Leases for Years, they must make them in the Name 

of him who gave the Authority, 9 Rep. 76. And 

the Lease ought to run thus: This Indenture made, 

between A. B. and C. D. of the one Part, and 

E. F. of the other Part, Whereas the said A. B. by 

a Writing or Letter of Attorney under his Hand and 

Seal duly executed, dated, &c. among other Things therein 

mentioned, did authorize the said C. D. in the Name 

of him the said A. B. on his Behalf, to sell and 

execute Leases of such Parts of his Lands, Tenements, 

&c. as he thought fit to be leased: Witnesseth that in 

Confirmation of, &c. in the said A. B. by his At- 

orney C. D. hath demised and granted, Huband, &c. 

yielding and paying to the said A. B. &c. And the 

said E. F. confrons with the said A. B. his Heirs, &c. 

And the said A. B. by the said C. D. his said At- 

orney doth covenant, &c. 2 Litt. 310. See Letter of At- 

torney. 

Bouquet of the County, On what Occasions and 

how raised, &c. See Poft Comitatus. 

Bourchier's Lease, is an Act of Parliament made 

in Ireland in the Reign of Elizabeth Hen. Each Act is 

called because Sir Edward Paying was Lieutenant 

there when it was made, whereby all the Statutes in 

England were declared of Force in Ireland, which 

before that Time were not any more than that 


F. A.
PHILIP.

The Law loves plain and fair Practice, and will not countenance Fraud in Proceedings, nor suffer Advantage to be taken thereby. A Litt. 342. Private clandestine Proceedings in several Cases, are said to be by Practice.

Praecinctores. (Præcinctoria) Were a Kind of Benefices, having their Name from being polled by the more eminent Temples, whom the Chief Marshal by his Authority created and called Praecinctores Temporis. And of these Praecinctoria, there are recorded fifteen, as belonging to the Temples in England, viz. Cooling of Wiveliscombe, Badhalf, Stowey, Newland, Timpe, Witham, Templeton, Wiltshire, Retabul, Ovington, Temple Combe, Trewhig, Ribstone, Mount St. John, Temple Newham, and Temple Top. Mon. Angl. Tom. 2. p. 543. But some Authors say, these Places were Cells only, subordinate to their principal Monastery the Temple in London. 32 Hen. 8. c. 24.

Praecipio quod reddat, is a Form of a Writ, which extends as well to a Writ of Right, as to other Writs of Entry or Puisance, beginning Praecipta quod reddat B. a. annum Malignanc, &c. Old Nat. Br. 13.

Praecipitator, A Banner, Ram, mentioned in Matt. Par. p. 356.

Praetorium, Was a Punishment inflicted on Crim. by, calling them from some high Place or R. On the Statutes of Henry the third. 2. On the Statutes of Henry the third. 24. Reg. Orig. 4.

Praeter quod reddat, is a Form of a Writ, which extends as well to a Writ of Right, as to other Writs of Entry or Puisance, beginning Praecipta quod reddat B. a. annum Malignanc, &c. Old Nat. Br. 13.

Praetextatus, A Banner, Ram, mentioned in Matt. Par. p. 356.

Praetorius, Was a Punishment inflicted on Crim. by, calling them from some high Place or R. On the Statutes of Henry the third. 2. On the Statutes of Henry the third. 24. Reg. Orig. 4.


Praetorio, Is that Fine which upon failing to pay the Writ of Covenant, or paying less of Lands, is paid before the Fine is paid. 22 & 23 Car. 2.

Prestation, A Reward or Recompense; among Merchants it is used for that Sum of Money, which the Purchaser gives to the Seller, for securing the future Return of any Ship or Merchandise. Stat 19 Car. 1. c. 1.

Prestation, Is taken either for a Writ so called, from the Words therein Praestationem facias, or Praemiserit facias, &c. signifying to forewarn or bid the Offender take heed; or it is the Offence on which the Writ is granted. The Church of Rome, under Power of her Supremacy, formerly carried Things to that Height in this Kingdom, that King Ed. 3. in the 27th Year of his Reign made a Statute against those that drew the King's People out of the Realm, to answer and sue for Things belonging to the King's Court; which greatly restrained this Liberty of the Pope: But notwithstanding, he still adventured to continue his Mandates and Bulls, insomuch that King Rich. 2. made several Statutes against them, but most expressly that of 16 R. 2. cap. 5, commonly called the Statute of Praemunire, which ordains the Punishment of this Offence, viz. The Offenders are to be out of the King's Præsidium, forfeit their Lands and Goods, and be imprisoned and restrained at the King's Pleasures. And if at the Fines they shall not to be found, they shall be outlawed. After him King Hen. 4. in like Manner aggrieved at other Abuses not remedied by former Statutes, in the Second Year of his Reign, added certain bylaws upon the Offenders the same Punishment as likewise did 3 Hen. 5. cap. 4. And by

the 24. Hen. 8. cap. 12. to appeal to Rome from any of the King's Courts is made a Praemunire. So his Dean and Chapter refuse to elect a Bishop named by the King, or any Archbishop or Bishop, to confirm him, G. 25. Hen. 8. cap. 37, and Refusing the Title of Supremacy is a Praemunire: And affirming the Authority of the Pope; or contributing to the Maintenance of a Popish Seminary, is the same Offence. 1. Ed. c. 1. 13 Ed. c. 1. and 27 Ed. c. 3. To refuse the Oath of Allegiance, upon Tender, means a Praemunire, 3 Jac. 1. cap. 4. Affirming that his Highness the King of Scots, have a Grace of Power without the King, is made a Praemunire. 13 Car. 2. cap. 1. The Oaths of Supremacy and Allegiance preferred in former Acts are abrogated, and new Oaths substituted by 1 W. 3. c. 8. which is no refusal upon Tender, makes no likeable to the Penalty of a Praemunire: And Counsellors, Attornies, Solicitors, Priests, &c. preaching, as such in any Court, without taking the Oaths of Allegiance and Supremacy, and subscribing the Declaration, is a Praemunire, by the Statute 7 of W. 3. c. 24. If any shall maliciously and directly, by Preaching, or otherwise speaking, affirm that the pretended Prior of Wals hath any Title to the Crown, or that the King with Authority of Parliament, cannot by Law limit the same, &c. it is a Praemunire. 1 W. 3. c. 17. 4 Ann. c. 8. And so in divers other Cases; and most of the latter Statutes refer the Punishment to the 23. Car. 1. and 16 R. 2. making it a Praemunire to sue or bring Causes out of the Realm, in the Court of Rome or elsewhere, or in any other Court, to the Damage of any Person, former or present, held or formerly held, by the Words of Others, &c. That Suits in Equity brought to relieve against a Judgment given at Law, as of the Court of Chancery, is the same; or the Statute 21. Car. 1. and 22. Car. 2. of the 1. Ed. c. 1. is rendered Unnecessary by the Act of 1 W. 3. c. 8. but Suits in the Admiralty, or in the Court of the Constable and Marshal; and Ecclesiastical Courts, for Matters belonging to the Cognizance of the Common Law, are within the Statute, and in that Procure one to sue to the Court Christian, is a Temporal Cause, shall forfeit as much as he shall

be adjudged, and in the Degree of a Fine, 6 & 7. Ed. 3. 1. and 2. Est. 661. &c. But it is urged at this Day, that no such Suit in Equity lying Relief after Judgment at Law, &c. is within the Limit, and by the Statute 1 W. 3. c. 8. the Writ of Praemunire runs contra Campus & Domus Regis, and it hath been holden by all the Judges, that when an Ecclesiastical Judge doth not come over the Temporal Laws, which are the Birthright of the Subject, he draweth the Matter ad eadem Esum, and therein he offends contra Campus & Domus Regis, &c. 1. Est. 50. A Prohibition was granted against a Prior, for that the King having recovered speed him in a Quaerimoni prior, he sent his Brother as an Appeal to Rome, and freed there to avoid the Judgment; and upon Party pleading, it was found speed the Defendant, and thereupon the King made Judgment upon the Stat. 37 Ed. 3. in Case of a Praemunire; but it was adjudged, that he should have such Judgment, because the Suit was not brought according to the Statute, but by a Writ of Protection common Law, 9. Rep. 71. And yet it was not referred, That the same, by appointing that the Offender shall incite the Penal and Danger mentioned in the 16. R. 2. of Praemunire, does not confine the Prohibition for the Offenders to the particular Process, but it is a Punishment as well as for the Parties, provied, as for the King, and both may join in one Writ. 3. Est. 155. Dan. 4.

But where the Attorney General praemunire for the Queen and R. B. against the Dean of Christchurch in Oxford, and other not
afterwards withdrew his Siff: It was held, that by this clause the Party griev’d could not recover, be-
cau se the principal Matter of the Pramunry was the
Punishing the Defendants out of the King’s Protection,
and the Defence to the Province, so that the Principal being releas’d, the Damages are so likewise. 1 Leon. 290. In Proccsions on the Stat.
1 Edw. and 3 Jac. 1. for refu ing the Oaths of Al-
legiance, &c. the Trial must be by a Jury of the
County wherein the Oaths were refus’d, though the
Statute authoriz’d an Indictment by a Jury of the
County where the Court sat: and any Misrule of
the very Words of the Oath, in an Indictment for
not taking it, is erroneus; but the Tenor of the
Oath is as much as if it were written. Dyer 234.
Regis. 218. 374. The Lord Pres. was indicted for
refusing to take the Oath of Allegiance, being law-
fully tender’d to him, and he being about 18 Years
old, this was certified into R. R. under the Hands of
several Government Officers; and he being brought
into Court, and the Oath read to him, he prayed
to have Counsel; but it was denied; and being prov’
to the same, he was committed to Newgate, and
upon his being Judged of Pramunry, &c. to be
out of the King’s Protection, to forfeit his Lands,
Tenement, Goods, and Charters to the King, and to be
impeachment to him, &c. 1 Boll. 27. at being in-
dicted upon the Statute 1 Edw. for aiding B. know-
ing him to be a principal Maintainer of the Authority
of the See of Rome; which Offence in the said Stat-
ute has the Words upon purpos’d and to the Intent to
extort the Power of that See: And because the Words
were omitted in the Indictment, it was adjudged in-
favourably by all the Judges; for they made the Of-
ference, as to the Foroiture of Pramunry. 1 Stat.
243. The Foroiture of Lands to the King in a
Pramunry, is underdo of Lands in Fee only for
ever, and of Lands in Tull but during Life, of
suchエテ as may lawfully forfeit. 1 Stat. 13 Edw.
3 Edw. 22. Tenant in Tull is attainted in a Pram-
unry, he shall forfeit his Lands only during Life;
and afterwards the Tull in Tull shall inherit. 1
Rec. 56. A Person being seiz’d in Fee of Lands,
was indicted for a Pramunry upon the Stat. 13 Edw.
but before Conviction he made an Indict of his Lands;
and it was adjudged, that the Attainder shall relate
to the Time of the Offence, and that was before he
entitled himself to the Lands, and not the Time of the Jdgm.
ent, which was after; and it could not be Freehold be-
ing in him at the Time of the Attainder, shall not
devolved without an Inquisition, under the Great
Seal. 3 Edw. 172. It is said the Statute of
Pramunry doth extend not to the Foroiture of Rent.
Annuities, Fairs, &c. or any other Hereditaments
that are not within the Word Terr. 3 Stat. 126.
This Suit need not be by original Writ in R. R. for
if the Defendant be in Caufa Marcelli, the Suit
may be against him by Bill; and the Defendants
shall not be heard in any other Court, where they are not
in Caufa Marcelli. And if a Defendant come not at
the Day, &c. or if he appear and plead, and the
Tull be found against him, or he demurs in Law,
&c. he shall not be heard in any other Court, unless
he be of Protection, &c. 5 Stat. 124. So obvious was
this Offence of Pramunry, that a Man attainted of
the same, had his King’s Protection taken from him,
blain by any Person; because it was provided by Law,
that a Man might do to him as to the King’s En-
emy, and any Man may lawfully kill an Enemy:
but this Severity and Inhumanity is restrained and
provided against by Stat. 5 Edw. Though no Person
attainted of Pramunry can bring an Action for any
Tortury whatsoever; and no one knowing him to be
guilty in private Hiss, or in Offences under the
Relief. 1 Stat. 136. 1 Hen. 55. The Laws
making Offences to be Pramunry, it has been ob-
served are so very severe, that they are seldom put
in Execution: And notwithstanding the Statutes, the
King may proceed and pardon an Offender; for this
Protection is given him by the Law of Nature. 4
Butt. 279. A Pramunry is said to be a Design
at the Crown, and the Laws of the Land, from the
Tyranny and Oppression of the Pope’s Jurisdiction,
&c. See 1 Stat. 35 Edw. 16.
Praesettina Eccles. It is said for a Church-rever.
or Church-warden.
Presbuttons Millie, Is sometimes taken for the
Consulable of a Town; Chief Officer of the King in any Town, Villages.
205. But this Presbuttons Millie in old Records,
was no more than the bailiff of the Lord of the
Manor: And by the Laws of Hen. 1. the Lord an-
swered for the Town where he was resident, and
where he was not, his Soutphals but if neither of
them could answer it, then the Bailiff must. 4. Brstat. Clift. pag. 97.
Presbuttero Ecclesiam, Denotes originally the
Parson’s Sending or Placing an Incumbent in the
Church; and is used for Representate, which is in
the Council of Lords, and elsewhere, occurs for Pre-
seater. Selden of Tribes, pag. 350.
Pragnomicata, A Phælifer in the Law; Petty-
goger, or Splitter of Ouse.
Practum falsitatis, A Meadow or mowing Ground.
Trin. 18 Ed. 1.
Pray in 3th, Or Aid Prayer. See Aid.
Prayers of the Church, Are to be read in:
Churches by Clergymen, as directed by the Book of
14 Car. 2. c. 4. Vide Common Prayer.
Prayer: Even benefited greatly on Hand of
his Benefice, and having no lawful Impediment,
shall in his own Cure, or some neighbouring Church,
pronounce one Service every Sunday of the Year: And
if any benefited Person be not allowed to be a Preach-
er, he shall procure Sermons to be preached in his
Cure by licensed Preachers; and every Sunday where-
on these shall not be a Service, he or his Curate is
to read some one of the Homilies: Also no Person
not examined and approved by the Bishop, or not li-
Tated to preach, shall expose the Scripture, &c.
not shall any be permitted to preach in any Church,
but such as appear to be authorized therein, by shew-
ing their Licence; and Church wardens are to note
the Names of all strang Clergymen that
have preached in their Parish; to which Book every
Preacher is to subscibe his Name, the Day when he
preached, and the Name of the Bishop of whom he had Licence
to preach. Can. 44. 45. 49. If any Person licensed
to preach, refuses to conform to the Laws Ecclesiasti-
cal, after Admission, the Licence of every such
Preacher shall be void. And if any Person shall preach
Doctrine contrary to the Word of God, or the Ar-
ticles of Religion, Notice is to be given of it to the
Bishop by the Church-Dates, &c. So likewise of
Masons of Consecrated, then Pray buttons &c. obser-
ative to the Bishop in the same Church, until the Bishop hath
taken further Order therein. Can. 53. 54. No Mi-
ister shall preach or administer the Sacrament in any
private House, unless in Times of Necessity, or in
Cafe of Sickness, &c. upon Pain of Suspension for
the first Offence, and Excommunication for the Se-
cond; which last Penaltom is also inflicted on such
Ministers as meet in private Houses, or commit any
Matter tending to the Impeding the Doctrino
7 R.
Prabhend, (Prabheend) Is the Portion which every Prebendary of a Cathedral Church receives, in Right of his Place for his Maintenance; so Cassinian Priests is properly used for that Share, which every Canon has yearly out of the Common Stock of the Church. And Prabheend is a several Benefice rising from some Temporal Land, or some Church, appropriated towards the Maintenance of a Clerk, or Member of a Collegiate Church, and is commonly named of the Place whence the Profit arises. Prabheends are hastily taken, is that Maintenance which daily produces another; but now it signifies the Rents and Profits belonging to the Church, divided into these Portions, called Prabheends, and is a Right of Receiving the Profits for the Duly performed in the Church, sufficient for the Support of the Parson in that Divine Office where he recites. Decret. Tit. De Prabheend. The Spirituality and Temporality make a Prabheend, but the Spirituality is the highest, and most worthy; and a Person is not a complete Prabheend, to make any Grant, &c. before Indulgence and Indiction. Demonstrations. Preheends are distinguished into these which are called Simple and Dignitary: A Simple Prabheend hath no more than the Revenue for its Support; but a Prabheend with Dignity hath always a Jurisdiction annexed, and for this Reason the Preheend is filled a Dignity, and his Jurisdiction is joined by Prebendation; and Prabheends are some of them desolate; and some are in the Gift of Laymen, but in such Case they must prebend the Preheend to the Bishop, and the Dean and Chapter induces him, and places him in a Stall in the Cathedral Church, and then he is to be called Lexum in Church; as Wellman; for the King collates by Patent, and by Virtue thereof the Prebendary takes Patronage, without Indulgence or Indiction. 2 Roll. Abr. 356. As a Preheend is a Benefice without Cure, &c. a Prabheend and a Patrimonial Benefice are not commensurate Promotions; for one Man may have both with any Avoidance of the Fifth: But though Prebendaries are such as have no Cure of Souls, yet there is a forced Charge incumbent upon them in their Cathedrals where they are resident, and they are obliged to Preaching by the Canons of the Church; and it is not lawful for a Prebendary to possess two Prebendaries in one and the same Collegiate Church. Roll. Abr. 361. Prabheends we find to have an Estate in Fee simple in Right of their Churches, as well as Bishops of their Bishopricks, Deans of their Deaneries, &c.

Prabheend, (Prabheend) Is he that hath such a Prabheend; so called, as is said by some Writings, a Prabheend is a Person of a Confession of Episcopacy, &c. but from Receiving the Prebend: And if a Man be the Body of a Prabheend, and is evicted by Title paramount; yet the Prebendary is not destroyed. 3 Rep. 75. There is a Golden Prabheend of Hereford, otherwise termed Prabheend Episcopius, who is one of the twenty-eight minor Prebendaries there, and has ex officio the ancient Canon's Place that falls; he was anciently Confratess of the Cathedral Church, and to the Bishop, and had the Offerings at the Altaar, whereby, in respect of the Gold commonly given there, he had the Name of Gold Prebendary. Blood.

Precarious, Days Work that the Tenants of some Monasteries are bound to give the Lord in Harvest, which in some Places are called Hard Days. C.


Practisanship, Are Examples or Authorities so follow, in Judgments and Determinations in the Courts of Judicature. Practises have always been greatly regarded by the Judges and Sages of the Law; The Decisions of the Courts are the Book of Law: The Practice of the Courts is the Law of the Courts; and the Court will not reverse a Judgment, contrary to many Precedents. 4 Rep. 95. C.

Etn. 63. 1 Litt. Abr. 344. But now Precedents are not considerates; Precedents without judicial Opinion, upon Argument, are of no Moment, and an Extrajudicial Opinion given in or out of Court, is no good Precedent. Temple 1563. c. 1599, 449. It has been held, that there can be no Precedents in Matters of Equity, as Equity is universal Truth; but according to the Lord Keeper Bridgeman, Precedents are necessary in Equity to find out Equtiy the same as a Guide; and besides the Authority of those that made them, it is to be supposed they did it upon great Consideration, and it would be unsafe to take what has been the Course for a long Series of Time; therefore Precedents were ordered. 1 Med. 357. And states that in Cases, if a Man doubts whether a Case be equitable, or no, in Prudence he will determine as the Precedents have been; especially if made by Men of good Authority and Learning. But Precedents must be shewn by Plaintiffs in Actions, for the Court to go against what is generally hold. 1 Abr. 7.

And where Precedents are alleged contrary to the Opinion of the Court, Day may be given to prove and shew them. Mark 462. 17. Precedents in the Cases may make an Ad 1, good which otherwise would be void in strict Law; And though the Forms of Writs ought not to be altered, yet Precedents in constant Forms must be adhered. 2d Teach. 20. 172. If there be a Special Case to alter an ancient Precedent of a Writ, by Reason of any new State, &c. the Curators are not to keep to the old Form, but to alter it as the Case requires; to prevent a disturbance of Writ, and Vexation to the People. Trin. 1650. See Imagination.

This passages, is where a Suit is continued by the Prayer, or Affidavit of both Parties. 15 C. t. 27.

Perjury, (Peripistry) Is generally taken in a Contract in Writing, for one by a Juncture of Peace, &c. for the Bringing of a Person or Remiss before him; of which divers are mentioned in the Table of the Regius judicial. Perjury, is a Crime made before another Court, chiefly applicable to Causes of Murrain. 3 & 4 Ed. 6. c. 23.

Perjury, (Peripistry) (Decem Prebendarii) Are that which are paid of Things arising and growing from the Ground only as Cows, Hay, Herbs, &c. 2 Ed. 15. c. 15.

Peripistry, (Peripistry) Signifies the first Happening of a Thing: and it was a Privilege since the King's Parsonage, to have the Choice and selling of Cows, Hay, &c. by Provisions for the King's Household. 3 Car. 2. c. 24.

Perjury, (Prebendarii) We commonly understand to be an Archbishop or Bishop. It is a Bishop, or a Man who is a member of an Archdiocese, of which the Lord Mayor, Archbishop of Ripon, and others, who are the most learned, have an interest in the same; who, if perfidious, &c. shall pervert, &c. in the Pope, &c. have the same, &c.

Perjury, (Perjury) We generally understand to be an Act of Perjury, whether it is done in the Name of, or this man, Reader, but not in Precedent. 17 Ed. 6. c. 13.

Perjury, (Prebendarii) Signifies falsely to the Man himself, &c. Perjury was, but not in Precedent. 17 Ed. 6. c. 13.

Perjury, (Prebendarii) Signifies falsely to the Man himself, &c. Perjury was, but not in Precedent. 17 Ed. 6. c. 13.

Precept, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.

Priestric, A Priest; and Elder, or honourable Person. ibid. lib. 7.
A Preferrit may be laid in several Persons, where it tends only to Matters of Eastament or Discharge; though not where it goes to Matter of Interest or Profit in a suit for that is a Title, and the Title of one does not concern the other; therefore several Men having several Estates, cannot join in making a Preferrit. 1 Mod. 74. 2 Mod. 250. The Word Estament is a Genius to several Species of Limited Estates, and the Soil of another, without claiming any Interest in the Land itself; but where the Thing was set forth in a Preferrit, where a Fiduciary, a Fiduciary Man, was in the Waters of another Toll, instead of a Fiduciary, Men, and no Influence could be given of a Preferrit for such a Liberty by the Word Estament, a Rule was made to fet the Preferrit right, and to try the Merits. 4 Mod. 562. In Trespass for breaking the Plaintiff's Cloke, the Defendant preferred that the Inhabitants of such a Place, Time out of Mind, had used to dance there, at all Times of the Year, for their Recreation, and so justified; and if he be taken upon this Preferrit, the Defendant had a Verdict; it was objected against it, that a Preferrit to dance in the Freedom of another, and plead his Grants was ill, especially as laid in the Defendant's Plea, vis. At all Times of the Year, and not at feasable Times, and for all the Inhabitants; who though they may prefer in Eastaments which are necessary, as a Way to a Church, or in Eastaments for Pleasure only; But adjudged, that the Preferrit is good, if he be taken upon it, and found against the Defendant; although it might have been ill on a Demurrer. 1 Levo. 175. 2 Nif. 1280. A Custom that the Farmers of such a Farm have always found Ate, or to such a Value at Perambulations, was held ought; because it is no more than a Preferrit in Occupiers, which is not good in Matter to charge the Land; yet a Preferrit by the Inhabitants of a Parish to dig Gravel in such a Pit, which was the Soil of a Water. It was doubted whether this was good, or not, though it was to repair the Highways: but the Inhabitants may prefer for a Way, and by Consequence for necessary Materials to repair it. 2 Levo. 1346. A Defendant pleaded, that within such a Parish, all Occupiers of a certain Cloke belong, if so be there, a Way over the Plaintiff's Cloke, to the Defendant's House; this was held to be ill, for it is not necessary to the Church or Market, which are necessary, of every middle publican. 1 Vent. 186. Where a Man prefers for a Way to such a Cloke, he must shew what Interest he hath in the Cloke. Alter if he prefers for a Way to such a Field: because that may be a common Field by Interment. Lands 160. The Plaintiff declared, that the Occupiers of the adjoining Field, Time out of Mind, repaired the Four Fences, which being out of Repair, his the Plaintiff's Right, escaped out of his own Ground, and fell into a Pit; it is good, without shewing any Title. But the Plaintiff, he had not been so if the Defendant had preferred. 1 Vent. 264. Preferrit, &c. to take Underwood growing on the Land of another, to make a Way to a Church, Barry 313. An Owner may claim a Fold-course, and exclude the Owner of the Soil by Preferrit. 1 Saund. 153. But a Division by the Inhabitants may break away the whole Interest of the Owner of the Land; and where a particular Profit is restrained: in one Case it is good, and in the other it is void. 1 Levo. 11. If a Person prefers for Common Appurtenant, it is ill, unless it be for Castle Leues & Comnacht, &c. And the Restit is because, by such a Preferrit the Party claims only some Part of the Parch, and the Common is divided by the Levee and Couthancy, the Refit being left for the Owner of the Soil; and therefore if he who thus prefers, should put in more Castle than is Leweat and Comnacht on his Testament, he is a Trespasser. 1 Nif. 145. 2 Saund. 334. In a Preferrit to have Common, the Jury found it to be Paying every Year 40 Pence, and since, for Office. Whether the Payment of one Pecny is Parceli; which ought to be entirely aliend in the Preferrit in the Parch, or it will not be good. 1 Cor. 625. 534. But where the Parch is not good, the Party may be adjudged in the Preferrit, a Preferrit may be good without aliendng it. 1 Cor. 625. Upon the Pleasdings in a Cause, it was laid to the Preferrit, that the Plaintiff might be granted, and Markets and Fairs, might be claimed by Preferrit, without shewing that the Subject hath some Benefit; and some Arguments were brought for it, from an Authority in 2 Hev. 372. Though by Hol. Ch. 7tj. this Preferrit cannot be good, because there was no Recompense for it; and every Preferrit to charge the Subject with a Duty, must import some Benefit to him who pays it or else some Restit must be shewed why the Duty is claimed. 4 Mod. 319. A Court Lees is derived out of the Hundred, and if a Man claims a Title to the Lees, he may prefer that he and his Ancestors, and all those whose Estates he hath in the Hundred, Time out of Mind had a Lees 1 Inf. 115. 1 Inf. 95. Every Preferrit is taken briefly. And if a Man ought not to prefer to that which the Law of common Right gives 3 Levo. 13. 1 Nif. 20. A Preferrit must have a lawful Concomitance, and patentable Patition and Time are integrally incident to it. 1 Inf. 113. Though a Title gained by Coura or Preferrit, will not be lost by Interruption of the Right, the Party may be lost by Interruption in the Right. 1 Inf. 114. 2 Inf. 655. Preferrit at Common Law, is Time out of Memory of Man; and by Statutes, where a Certain Profit is mixed, as from the Profit, and by Rich. 1, Cor. Litt. 115. Preferrit for repaing Highways, see Highway. Preferrit against Aliens and Statutes. The Party that can oppose the Statutes being the Party after the Offences committed, provided against this Statute, no Suit can be consumed. By 91, Enot. 592. 5.4. Statutes, no Suit can be brought where the Penalty thereof belongs to the King, shall be brought
brought within two years after the Offence done, or shall be void. And the Stat. 23 Eliz. cap. 1. ca-
sum, that Offences committed in that Statute, &c. now supposed to have been done before, shall give to the
Peace and Attire, within a Year and a Day after the
Offence, &c. so that whoever offendeth against any
of these Statutes and escapes unquestioned for four
Years, Two, or one Year, may be tried and punished
against the Accusations and Punishments ordained by
de said Statute: And there are other Statutes which have
the like Apprehension or Limitations of Time, whereby
may strike like the Prohibition and Benton 4
Rep. 84. 2 Inf. 652. Vide stat.
Prohibition by the Ecclesiastical Law, as to Tithe, Etc. See Medo Decemans.

Preferment. Sometimes the Preferment of a Superior
Majestate, takes away the Power of an Inferior.
by Rep. 118. And the Preferment of one must serve for
all the rest of the Preferments or Grants, Etc. 5 Rep.
28. When Preference of a Man, in the Place where
an Offence is done, may make him guilty, vide A.
Commentaries.

Preferment, (Proferment) Is properly the A. of
a Patron, offering his Clerk to the Bishop of the
Diocese, to be instituted in a Church or Benefice of
his Patronage, to a vacant Benefice. Anon. the
Preferments to all Churches was laid to be in the
bishop of common Right, till it has been instanced by
the Bishop of London, to the King's benifices, built
and endowed Churches; and now if the Patron neg
leds to prefer the King, then this Right re
turns to the Bishop by Levity, Etc. 1 Nolf. Abr. An
Alias Town cannot prefer to a Benefice in his own
Right; for if he purchase an Advowson, and the
Church becomes void, the King shall prefer after
Office found that the Patron is an Alien. 2 Nolf.
1290. And by Statute Alien shall have no Be
nifice in this Realm; nor occupy the same, with
out the King's Licence, or Pint of a Presummary. 7
R. 2, cap. 12. Populis are disdained to preferent to
Benefices, and the Universities are to prefer, Etc.
But a Papist Recusant may grant away his Patronage
to another, who may make Preferment, whose there is
no Fraud. Stat. 3. 7. 1. 1 W. & M. 1. 1. 19.
12. All Persons that have Ability to purchase or
grant, have likewise Ability to prefer to vacant Be
nifices; But a Dean and Chapter cannot prefer the
Dean; nor may a Clergyman who is Patron prefer
himself, though he may pay it be admittance by the
Ordinary, and the Admissible shall be good. An In
ferior may prefer to a Vacant, whereas Guarn
dians have not Power to do it in Right of the Heir;
A Guardian in Saco cannot prefer to a Church, by
that he cannot move to obtain the Thing it
But for what he may Account, to which he cannot do
for a Preferment, by Reason he is to take Nothing
for it; If a Pope Consort hath Title to prefer, the
Preferment ought to be in the Name of both Hus
band and Wife, and not by her alone: so he may
prefer in his own Name during the Coveture; Op
parentes are but as one Patron, and ought: to agree
in the Preferment of one Patron; if they cannot agree,
the Elder shall prefer first alone, and the Bis
hop is obliged to admit her Clerk, and afterwards
the other in the Order to whom she shall have her
Charters; Jointers and Tenants in Commune must regularly join
in Preferment, and if either preferente-alone, the
Bishop may refuse his Clerk, as he may into the
Clerk prefered by the same Part of them; but if there are
two Jointers of the said Next Appearance, one of them
may prefer the other, and two Jointers may pre
fer Interruptedly. The Preferment in Prefer
tation was granted to four, Persons, Etc. within
Churches and deaneries, Etc. And the Church be
coming void, one of the Graeme annexed prefered one of
the others; and it was adjudged; the Clerk Prefer-
tation by one was good: When an aggregate Corpo
ration preferent, it must be under their common Seal,
and by the true Name of their Corporation: The
King may prefer by Letters Patent under his Privie
Seal, and by their Words, see. Darnell & consoci
bus; for this amounts to a Warrant for the Bishop to
admit the Clerk; it is said the King may prefer by
Word, or in Writing under any Seal, who cannot do
any other legal Act but by Matter of Record; and in
the Opinion of some, the King may prefer to a
Church by his Letter sent to the Ordinary, or in
habit and indue such a one his Clerk to the Living;
but the most sure Way is to have a Preferment un
der the Great Seal: it is a Repe of the Bishop, the
King shall prefer to the Rectory, unless he grants to
the Bishop before he is confounded, a Dispensation
to hold it with his Bishopship: and if an Incum
bent of a Church is made Bishop, the King prefer
ents or grants that he shall hold the Church in Commu
nism, which is proof of Preferment, a Grant of the
next Appearance or Preferment hath left it, the King
having the next Preferment. The King do prefer to a
Church by Levity, where he ought to prefer the
Pious Juris, and as Patron of the Church, such a
Preferment is not good: for the King is desired in
his Grant, by intimation, to the Bishop, which may be
preferential to him, the Preferment by Levity intitling
only that Preferment; The Lord Chancellor's prefer
ment is not good in a Bishop's Benefice, 2 Hall. 1
half. 2 Inf. 156. 2. Inf. 186. 2 Nolf. Abr. 1288.
1290. 2 Inf. 331. The King may repeal a Pre
ferment, before his Clerk is indue: and he may do
by granting the Preferment to another, which
without any further Signification of his Mind is
a Revocation of the first Preferment. Dyn. 135, 360.
A Patron may revoke his Preferment before Indue
ment, but not afterwards: A Preferment being no
more than a Power given to the Ordinary to admit
the Clerk, and if the Patron die before Indueation,
his Preferment is determined. But this was in the
Cafe of the King: for in the Cafe of a common Per
son, if he die after Indueation, and before Indueation,
the Preferment is not determined by his Death.
Lath 191. Dyn 136. If two Patrons prefer their
Clarks to a Church, the Bishop is to determine who
shall be admitted by a "Jusi Patronatus," Etc. And
two Patrons presenting a 'Trie to prefer, one of them
prefered W. R., but the Bishop refused Indueation
whereupon he sued in the Court of Audience of the
Archbishop, and had an Indueation to that Bishop,
and upon this Right he claimed an Indueation by the
Archbishop, on which he was induced; afterwards the
Bishop who was induced, granted Indueation up
on the Preferment of the other Patron, and his
Patron was likewise induced and the Patron W. R. who
had been induced and decided before, on a Mor
tion procured a Prohibition, because by the first
Indueation the Indueation was determined: So that
the Indueation, the Indueation was granted, but not as to the Compart of the Ordinary after he
had been induced. March 493. The Father was
incumbent, and afterwards the Patron preferred his
Son, who was refused by the Bishop, because by
the Canon Law Flims was part of a successor patris in
sola Ecclesia, and the definition: If the King oder
the Son, then the Son who was prefered, obtained a
Dispensation non obtine costen; but the Ordinary
admitted the said Preferment, who was also in
cluded; and induced the King to admit him and the
Bishop in the Spiritual Court, but a Prohibition
was granted. Lath 191. A Clerk may be refused by the Bishop, but the Bishop is excused in
case of if the Clerks do not Perform their duties, which
includes Ability of Learning, and Honyly in Conversa
tion, Etc. But in a Repe Impact brought against
the Bishop for Benefice of a Clerk, he must have the
9 S. Can.
Cause of his Refusal specially and directly; and because the Clerk is of ill Life, or a Schismaticc in general, not sufficient, without showing what Crimes or Sort of Schism he has been guilty of: And the Temporal Court then will judge whether the Cause be just or not; and if the Party denies the same, the Court then will try the Magistrate to examine the Matter, and certify; and though the Matter be of a Spiritual Nature, it shall be tried by a Jury: For whether the Cause be of a Spiritual or Temporal, the Examination of the Bishop concludes not the Clerk; he is Judge of the Ability, but not the ultimate Judge: But in Case of Refusal for Insufficiency in Learning, it hath been adjudged, that the Ordinary is not accountable to any Temporal Judge; and that in Literaturae minus fictitiosa, &c. is a good Plead, without setting forth the Kind of Learning, or Degrees of it. 5 Rep. 58. 2 Inst. 611. 3 Lev. 911. See also 82. Wood's Inst. 32. 53. That the Preface has a Benefit already, is no good Cause of Refusal, &c. 1 Roll. Abr. 355. If the Bishop refuses to admit the Clerk, prefaced, he must give Notice of his Refusal, with the Cause of it forthwith; and on such Notice the Patron must resit another Clerk, within six Months from the Assizes: And if he thinks the void; and that the Objection a gainst his first Clerk contains sufficient Causes of Refusal; but if not, he may bring his Quere Impedit against the Bishop, 2 Roll. Abr. 356. And where a Church is granted void by Deprivation by the Canon Law, or Reformation, the Patron must have Notice from the Ordinary, to resit another Peron: But if the Church becomes void by the Act of God, as Death of the Incumbent; or by Creation, or Cession, &c. the Patron is bound to take Notice himself of the Avoidance, and to prefus, 2d. Wood's Inst. 154. If a Defendant, on any Cause, resit a Clerk pending a Quere Impedit, and afterwards the Plaintiff obtains a Verdict and Judgment, he cannot by Virtue of that Judgment remove him who was thus resit; but he is to bring a Seire facias against him to throw Cause Quere Executionem non habet; and then if it be found that he had no Title, he shall be abated: Now the Way to prevent such a Prefation, is to take out a Ne admittas to the Bishop; and then the Writ Quere Incumbent lies, by Virtue whereof the Incumbent shall be abated, and put to his Discharge, or let his Title be what it will; but if a Ne admittas be not taken out, and another Incumbent should come in by good Title pendente lite, he shall hold it. 5 Ed. 92. 3 Ed. 93. A Man must for forth a Prefation in himself, or those under whom he claims, in a Quere Impedit; and it ought to be alleged in him that had the Inheritance: And in no Case for Months past hanging the Writ, &c. by the Difburance of any one, so that the Bishop hath a Right to resit by Lapel, Damages shall be recover'd by two Years Value of the Church, if the Peron lose his Prefation; and if: He recovers his Prefation within the six Months, Damages to Half a Year's Value, &c. 2 Inst. 562. Kings. 75. 57. 2d. Inst. 118. 13 Ed. 1. 612. Where a Peron gets the Fee to his Prefation, which is his Title, he must in his Declaration allege the Prefation to be Temporal or Secular, or may be intende to be Temporal, and then it is no Title; but where the bare Prefation is not his Title, but only in Parsimony of a former Right, in such Case he may allege it generally: As the Incum bency, where he declares that A. B. was seeded of the Manor of D. as of Fee, to which an Adowment was aequpendant, and that being so he prefuted M. B. and afterwards granted the next Avoidance to the Plaintiff: This is good, for here the Plaintiff shews a present Right, and doth not make the Prefation till his Title, 1 Inst. 950. 2 Inst. 181. 3 Inst. 380. If a Church become void in the Life time of a Bishop, he cannot devife the next Prefation; but if the Bishop, or any Incum bency of a Church be devised, or the avoidance of them devised, that upon the next Avoidance his Executor shall resit; this is good, though they devise the Inheritance to another. 2d. 283. Witen a Bishop has his rights of his Bishoprick, and dies, his Executor, nor Heir, shall not have the void Turn: But the King, in whole Hands are the Temporalities, and he hath a Right to prefute, upon an Avoidance after the Seizure, on the Death of the Bishop: Though where an Incum bency was deficient of the Adowment in Fee, and died, upon a Question who should prefute, either his Heir or Executor, the Adowment not descendmg to the Heir till after the Death of his Accessor, and immediately upon his Death the Church was void, and therefore that Avoidance was voided in the Executor: He shall resit, adjudged, that the Heir shall resit, because the Defendant to him, and the Avoidance to the Executor, happened as one and the same Incident, and where two Titles concur in an Infant, the Elder Title shall be preferred. 3 Lev. 47. A Grant was made of the next Prefation to a Church, the Grantee died, and then the Church became void by the Act of God, as Death of the Incumbent; and it was held, that the Executor of the Grantee shall have the Prefation to a Chaplet. Glanvil. 6. 6. 7. 1 Nolf. Abr. 1186. But in Quere Impedit the Defendant pleased, that the Bishop resit, that the Plaintiff was justly resit, that the next Prefation to B. B. who died, and made his Executor, who pre futed the Defendant;Issue was taken upon Non conaecit, and the Jury found, that the Patron granted the Prefation to B. B. during his Life, and that he died before the Church became void: void; adjudged that this was not an absolute Grant of the next Prefation, but restrained during the Life of the Grantee; wherefore it shall not go to the Executor, unless the Church become void in the Life-time of the Tenant. 2d. Abr. 361. A Tenant in Tail of an Ad- vowment and his Son and Heir joined in a Grant of the next Prefation, the Tenant in Tail died; this Grant was held void as to the Son and Heir, because he had nothing in the Adowment at the Time that he joined with his Father in the Grant. 2d. 45. 5d. Law Will and Testament, the Right of Prefuting to the next Avoidance, may be devised to any Person. 5d. 45. By Last Will and Testament, the Right of Prefying to the next Avoidance, may be devised to any Person. If a Church be granted to D. D., and Deed or Grant, the Right of Prefuting will pass: But the void Turn inherite is not granteable by any common Person. 5d. 45. By Last Will and Testament, the Right of Prefying to the next Avoidance, may be granted away, and by Deed or Grant, the Right of Prefuting will pass: But the void Turn inherite is not granteable by any common Person. 5d. 45. By Last Will and Testament, the Right of Prefuting to the next Avoidance, may be devised to any Person. If a Church be granted to D. D., and Deed or Grant, the Right of Prefuting will pass: But the void Turn inherite is not granteable by any common Person. 5d. 45. By Last Will and Testament, the Right of Prefuting to the next Avoidance, may be granted away, and by Deed or Grant, the Right of Prefuting will pass: But the void Turn inherite is not granteable by any common Person.
A Grant of the next Presentation in a Church.

Right of Presentation may be forfeited in several Cases: As by Absence of the Patron, or by Outlawry, and then the King shall prefer; and if the Outlawry be relented, where the Admonition is forfeited by the Outlawry, and the Church becomes void, then the Presentation is void in the Crown: But if at the Time of the Outlawry the Church was void, then the Presentation is forfeited as a Chapelt, and upon revoking the same, the Party shall be reduced to it. By Appropriation without Licence from the Crown, Right of Presentation may be forfeited; though the Inheritance in this Case is not forfeited, only the King shall have the Presentation in Nature of a Disfet, till the Party hath paid a Fine for his Contempt. By Alieni in Fee of the Admonition, by a Grantee for Life of the next Admonition, a Presentation is forfeited; and after such Alienation the Grantor may prefer, but then he must enter for the Forfeiture of the Grace in the Life-time of the Incumbent, to determine his Estate before the Presentation veils him in the Incumbent’s Death. And by Simony it may be likewise forfeited and lost, where any Person for Money, the Party shall be reduced to it. By Simony, M. 255, 256. 2 Roll. Ab. S. 31 Eliz. See Admonition, Patron, Simony, &c.

Perfection, The Clerk presented to a Church by the Patron. In our Statutes there is Mention of the King’s Presentee, that it is he whom the King prefers to a Benefice. 25 B. 2. 1. 4.

Perfection, Prefers, called, because they are given Prefers: And they differ from Manna, which are Gifts sent to the Perthon. Matt. Parth. Ano. 1370.

Perfectionment, Is a meer Denunciation of Jurors, or some Officers, &c. (without any Information) of an Office inquisitor in the Court whereunto it is presented. Lamb. Esteb. lib. 4. c. 5. Or in Pagister.
ment is an Information made by the Jury in a Court, before a Judge who hath Authority to punish any Offence done contrary to the Law: It is that which a Grand Jury sends to the Court, without any Bill or Indictment delivered; and it is afterwards reduced into the Form of an Indictment. 2 Lea. 759. The Indictment is drawn up in English by the Jury, in a short Note, for Instructions to draw the Indictment by; and differs from an Indictment, in that an Indictment is drawn up at large in Latin, and brought ingrossed to the Grand Jury to find. 2 Lill. Abr. 553. There are Provisions of Judic. Peace in their Sessions, of Offences against Statutes, in order to their Punishment in inferior Courts; and Provisions taken before Commissioners of Sewers, &c. But a Provision of Commissioners of Sewers was quashed, because it did not appear in the Provision by what Authority the Commissioners did fit who took the Provisions, or that any of them were of the Borough, as directed by Statute. Hill. 1649. And Provisions are made in Courts Leet, &c. To take for Liberty the Stewards thereto; and in the latter of Surrenders, Grants, &c. Also by Confinables, Church-wardens, Surveyors of the Highways, &c. of Things belonging to their Office.

Forfet. (Profit) Is used for the King's Lieutenant in any Province, as President of Wales, &c. The President is the Council. Relates to the Function of the Perfon, and is the Fourth great Office of State: He is as ancient as the Reign of King Joffrey, and hath sometimes been called Principals Confinables, and other Times Capitalis Confinarius. The Office of President of the Council was ever granted by Letters Patent under the Great Seal durant beneplacere; and this Officer is to attend upon the King, to propound Business at the Council Table, and report to his Majesty the Transactions there: Also he may assist the Lord Chancellor, Treasurer, and Privy Seal, in naming of Sheriffs, and all other Acts limited by any Statute, to be done by them. 21 H. 8. c. 10. President of the Wexiers. There is Mention of a President of Wickersham-Swift, Stat. 22 & 23 Car. 2. c. 1.

Billing, for Sea-Service: In Time of War, the King has Power to impress Seamen: though he ought not to imprison them. Camden. 340. But Watermen withdrawing themselves during the Time of Proffing, shall be liable to Impressment, &c. Stat. 2 & 3 P. & M. Where a Man receives Profi Money to serve the King, and isdeliver'd over to a Captain; (not common Profi-Maisters) if he runs away without due Service, is to Penit. having Benefit of Clergy, by the 7 Hen. 7. cap. 1. Halis. Hist. P. C. 678. A late Statute has ordain'd, that every Perfon who serves in any Merchant Ship belonging to the Subjects of Great Britain, being Fifty-five or Age, or under Eighteen; and all every Foreigner in such Ships shall be privileged from being prof'd into his Majesty's Service, for any Age, for the Space of two Years after their first going to Sea; but Apprentices are thus excepted three Years. Stat. 13 Geo. 2. cap. 17. See Navy.

Billing, for a Duty paid by Sheriffs upon their Accounts in the Exchequer; or for Money left or remaining in their Hands. 2 & 3 Edw. 6. c. 12.

Prof. Money, Is so termed from the Fr. Profite, i.e. Promesse, Exspectation; for that it binds those that receive it to be ready at all Times appointed, commonly meant of Soldiers. 18 Hen. 6. cap. 19. 7 Hen. 7. cap. 1. 3 Hen. 8. cap. 5.

Perf. Money, (Profitis, a Performing or Paying) Is a Sum of Money paid by Archdeacones, and other Clergymen, yearly to their Bishop, for exe-
Priests, &c. keeping Schools, are liable to personal Impositions, 11 & 12 W. 3. c. 4. See 365.

Magistrates, is a Duty at the Water-Side, due to the Master and Mariner of a Ship: to the Merchant for the Use of his Cables and Ropes, to discharge the Goods of the Merchant, and to the Mariners for Loading and Unloading of the Ship or Vessell in any Ports or Harbours: it is usually about 12 d. per Ton, or Six pence per Pole or Bale, according to Custom. Merch. Dist. 81.


Minister, (Priest Seignior) The first Profession. It was a Branch of the King's Royal Prerogative, whereby he had the first Profession or Profess for a Year of all Laws; and Tenements held of him in Capital, whereof his Tenant died feällt in Fee, his Heir being then at full Age: and this the King formerly took, until the Heir, if he were of Age, did his own Prior, and all to the age he was to be. But since the Taking away of the Tenure in Capital by Statute, all Charges of Minsters are of Consequence when taken away also. Stann. Prerog. 11. Stat. 12.

Minister Seignior, is the King's first Seignior at Law.

Minster Benevolia, The first Benefice in the King's Gift, &c. See 189.

Minstrelsium, (Primogenium) Is the Title of an elder Brother, in Right of his Birth: The Reason of which is, that the Special Power of the Master and Tenant of a House, might be the better enabled to maintain the Wars against the King's Enemies, and for Defence of the Realm: And that the Seigneure Tenure should be liable among the Male Children, to enable them to increase into many Families for the better Parthemen and Maintenance of Husbandry. Leg. Alfredi. Dods. Tract. Nobil. 119.

Minstrel, (Prinzip) Is sometimes taken at large for the King himself, but more properly for the King's eldest Son, who is called Prince of Wales. It is said by some Writers, that the King's eldest Son is Prince of Wales by Nativity; but others say, the eldest Son of our King is born Duke of Cornwall, and afterwards becomes Prince of Wales on the Day of his Birth he is titled Prince of Wales, a Title originally given by King Edward I. And all his Titles are those of Duke, Duke of Cornwall, and Earl of Chester. Before Edward I. who was the second of Wales, and born at Caernarvon in that Principality, (his mother being that there big with Child by King Edu. 1. to appease the Tumultuous Spirit of the Welshmen) the eldest Son of the King was called Lord Prince but Prince was a Name of Dignity long before that Time in England. Stann. Prerog. 75: As Duke of Cornwall, and likewise Earl of Chester, the Prince of Wales is to appoint the Sheriffs, and other Officers in those Counties, by 1 Stat. 9. c. 5. The Prince of Wales, besides the Principality of Wales, Duchy of Cornwall, &c. has also a Revenue, settled upon him by Parliament: for by Statute, his most Valuable was to be granted to his Royal Highness the Prince of Wales his Son, now King, an Annuity of 100,000 l. per Annum, payable out of the Post-Office and Excise Duties, by 1 Stat. 1. c. 39. The present King was so entitled to grant the Duke of Cumberland an Annuity of 15,000 l. per Annum to commence from his Majesty's Death, payable to the Dower and the Heir of his Body in Tail, and charged on the Post-Office Revenues, &c. but so as not to be allowed or incurred by him. Stat. 12 Geo. 3. c. 15. 87.

Minstrels, The King was also enabled to grant the Principality of Wales, the late Queen, an Annuity of 50,000 l. a Year, after the Prince's Death, out of the above-mentioned Duties and to grant to her Royal Highness a Sum of 20,000 l. per Annum. Stat. 1 Geo. 4. r. The King of a Sum of 20,000 l. a Year, is settled on the present Prince of Wales, in Case the Survival of the Royal Highness the Prince, to be paid Quarterly from Taxes and other Charges. 10 Geo. 3. c. 25. Also the King may grant one Annuity of 24,000 l. per Annum to the Princess Amelia, Caroline, Mar. and Louisa among them all, and upon the Death of any of them, or Marriage and Payment of 40,000 l. a Year, his Tule to the Annuity to continue, and (if the Heirs by Birth,) by 12 Geo. 2. c. 15. 13. See 13 Geo. 2. c. 15.

Mistakes and Prinzipia of Grazing. A Bill lately passed in Parliament, for Naturalizing the Highest Moors within 5 Miles of London, and for Removing all Incumbrances, or taking the Oaths, &c. Whereupon he was declared to be a Natural-born Subject of His Kingdom, as if born within the same, by 7 Geo. 2. c. 19. And the Sum of £2,000 l. for the Purchase of the Prinzipia Real, on his Marriage with the Princess of Orange, was granted out of the Money arising by Sale of Lands in the Island of St. Christofer's, 6 Geo. 2. c. 25. And the King is empowered to grant to the Prince Real an Annuity of 5,000 l. per Annum for their separate Use. Stat. 7 Geo. 2. c. 15.

Mistress, (Prinzipal) Is variously used in our Law; as an Heir-Lose, the bell Bead, bell Bed, Table, &c. which pass to the eldest Child, and are not subject to Partition, are called Prinzipia: And the chief Person in the Issue of the Chief is called Principal of the House.

Mistrens and Accesories, The Principal is the Person who actually commits any Crime; and the Accessory is he who is assisting him in the Dealing thereof, a Litt. Ab. 555. And if one do wilfully help a Man in his Arms, whilst another kills him, he is a Principal. 9 Rep. 57. A Man is present, and moves a Person to kill another, who doth 6 by this he is as much a Principal as he that killeth the Person: And all those who come in Company in any Place or Assembly, where any Murder, Robbery, or Felony is committed, if they come thither with such or with such knowledge, although they do nothing. Stann. P. C. cap. 45. Finis. Coram. 1. 350. Pauli 158. But if one happen to be present who gives an Assent or Consent and is not come not in Company of the Felons, nor is of their Confidence: he will not be a Principal or Accessory. Finis. Coram. 1. 355. No Man can regularly be a Principal in all cases, without being present, unless it be in Case of wilful poetizing, where in if the Persons insulted or any others take the Poison in the Absence of him that lays it, he is a Principal. Hals. Hist. P. C. 615. In the highest Offences, as in Treason, &c. all are Principals; and so in the lowest, such as Robbery, Forfeitt Entries, and other Offences in their Oaths, there are no Accessories. 1 Inst. 71. By the Common Law, if a Principal be pardoned before Judgment, or hath his, or the Accesories or the One Penalized, the other may not be tried: but if it be after Attitudes, the Accessory shall be arraigned: And where the Principal dies before attainted, or is acquitted by Verdict, &c. the Accessory shall be different. In the charged Agree. 4 Rep. 43. By the Accessory may be put to answer, he shall not be tried till the Principal is attainted, &c. 4 Rep. 43.
P.R.


Priorities of Debts and Estates. A Priori there depending may be pleaded in Abatement of a fideon ancient Action or Proceeding. A Prior Mortgage ought to be first paid off; and Debts first due should be first paid off; for as the first Creditors advances his Money before his Debtor is incumbented, it is not reasonable he should pay his Debt before the Debtor be discharged of the fideon ancient Encumbrances; But Debts first due must likewise be first prosecuted; otherwise, it is the same with some Cases Priority will not be allowed. Comp. Attr. 120. There is no Priority of Times in Judgments; for the Judgment first executed shall be first paid.

Priority, (prioritatem) is that Part and Share which belongs to the King, or Admiral, out of such Merchandise as are taken at Sea by Way of Seizure, Prize, which is adultery in Prize, prate ripuas capiendas, &c. Stat. 31 Eliz. c. 5. And Prize of Wines is an ancient Duty or Custom on Wines payable by certain Persons, except Londoners or Southampstoners, &c. It is where the King claims out of every Ship or Vessel laden with Wines, coming twenty Tuns or more, two Tuns of Wine, the same being sold by the King at his Prize, which is twenty Skellings for each Tum; but this varies according to the Customs of France; and at Rome every dark laden with ten Tons of Wine, or above, pays Prize: This Word is almost out of Use, being now called Barring, because the King's chief Butler receives it. 2 Hen. 8. cap. 5. 4 Edw. 10. Caldrosh's Rep. 20.

Prize, (capisco, pradia, from the Gr. Prepera) signifies a Prize or Boscy taken from an Enemy in Time of War, &c. If Ships are laden with contraband Goods, their Ship and Goods may be taken as Prize; and Powder, Shot, Guns, Swords and all other Instruments and Provisions of Arms for Sea or Land, bound for an Enemy from a foreign Nation, &c. shall be taken as Prize; so money, Corn, Vittuals, &c. in Time of Necessity. Let Marsh. 175. Whence a Ship be Prize or not, shall be taken into the discretion of another, and no Prohibition shall be granted: And if a State be commenced between the Captain of a Prize and a Claimant, and the Decree is obtained either by the Ship, or by the Claimant, or by giving Security, such Sentence or Decree shall be put in Execution, notwithstanding any Appeal. Gr. xiii. 820. 2 Edw. 175. During the late War with Turkey, France, &c. the Publishers are to pay the same as Prize were to be brought into some Port, and put into the Possession of the Commissioners of Prize, and after adjudging Prize, to be sold by the said Commissioners, and the Product distributed amongst the Captors, &c. But where Vessels were taken in Ports or Harbours, they were adjudged a Purse like the Admiralty, and the Captors to have what should be thought fit; and if any English Vessels fitted by the French as Prize, should be retained, they were to be returned, paying an eighth Part of the Value for Salvage. Stat. 4 5 W. & M. cap. 15. Prize Goods shall be subject to the same Duties and Customs as other Goods and Merchandizes, 9 Ann. cap. 27. See Priorities.

Prizes, Is a Prize taken in War. Harcourt, p. 541.

Prizes, (prazia) Is a Prize of Communication for the sake Causis of Per sons, in order to their owning any Action, Civil or Criminal: And it has been observed, that this Salus Causis must be only Causis Prati, against one's co-tenants, a Proviso dari debita. Cist. Lit. lib. 5. cap. 7. Any Place...
Place where a Man is insolvent of his Liberty, is a
Prison. And when any one is arrested on Procex, by
him or be committed to Prison, or be housed in
Corrections, the Court is empowered to take the
Nature of the Case, to appear at a Day in Court, and
answer what is alleged against him. Dal. 481.
If one is brought before a Judge of Peace for Surchi-
ption of a Prison, where a Prison has been committed,
the Judge may send him to Prison, or bail him; and
if a Venue be done, he hath Power to discharge him.
St. P. C. 96. But when a Person is committed
to Prison for Treason, or 's Life, he cannot regu-
larly be discharged from Prison, till indicted, and
acquitted, &c. Though one taken and committed to
Prison in a Civil Cause, may be released and set at
Liberty by the Plaintiff in the Suit, 5 Lev. 509.
H. P. C. 94. But see Habeas Corpus, &c. Vide
Garnir.

Surrendering, by my Lord Hale, is not only
where a Felon is formally committed to Gaol by Me-
na- wau; but if he be put in the Stocks, or kept in
a dark room, or confined for Payment of Debt, he
is in Prison. 6 Hale's Hilg. P. C. 610. And if a Ar-
rest B. for Surchision, and carry him to the common
Gaol, and there deliver him; if he breaks Prison,
and shall thereupon, in these, there must be an Aver-
cement in the Indictment, that there was a Felony done, and
that A. having probable Cause did arrest B. and ar-
rested and committed him, and that he broke the
Prison, all which must be proved upon the Evidence;
but where a Felon is taken by Capias, and commit-
ted, and break Prison, there needs no such Aver-
cement, but hence all appears by Master of Record, &c.
Hale's Hilg. P. 610. The Felony of
Breach of Prison is within Clergy, though the Of-
Fence for which the Party was committed was excluded
Clergy. 6 Hale's Hilg. P. C. 612. See Ecape.

Prisoners. (Prisoners, Fr. Prisoniers.) Signifies one
that is confined in Prison, on an Action, or upon
Commandment: And a man may be a Prisoner upon
Master of Record, or of Debt; 1. A prisoner on Master of
Record, is he who was present in Court, is by
the Court committed to Prison, and the other is upon
an Arrest, he is by the Assize. Confinable, &c. Bennis-
P. C. 54. 55. A Prisoner for the King may not
be charged in an Action at the Suit of the Subject, with-
out Leave of the Court. 6 Lev. 499. The Court of King's Bench has Power to send for a Prisoner out of the Marshalsea Court, by Rule of Court, and need not issue an Habeas Corpus, as that Prison belongs to the Court of King's Bench, and cannot be issued for any other Prison, without Writ of Habeas Corpus. Mich. 1650. Every Judge of B. R. may remit Prisoners, with their Indictments, to the Places where they have committed, on Non-Parole, for the Time, &c. 6 Lev. 498. And a
Prisoner for the Debt may be removed from the
River to the King's Bench, and there to the
Marshalsea, on something charged against him in the
Habeas Corpus or Return, as on bringing him into Court.
Dyr. 275. 2 Litt. Abc. 357. Prisoners in the
King's Bench and Flot Prison, on doing Bond, &c. are to be actually confined within the said Prisons, or the Rules of the same, till they are discharged; and the Profits of the Marshalsea and Woman's Places are for Payment of Debt on Judgment, upon an Ecape, besides the common Re-
medy: And Judgment may be given against a Prisoner in the Flot, in a Personal Action, seeing a De-
claration, and leaving a Copy thereof with the Prisoner, &c. after a Rule to plead, at least eight
Days, &c. Prisoners in the King's Bench are not to
pay above 2 l. 6d. per Week Chamber-Rent, on Pain of
being imprisoned. 2 Lev. 5. 6d. 6. 9
W. 3. cap. 7. And Prisoners in the aforesaid Prisons,
going at large, may be taken up on an Ecape War-
rant. 2 Lev. 6. But Prisoners may go out of
the Rules, on a Day Rule of Court, about their Re-
lease, so they do not go into the Country, or to
Plays, Diversion, &c. &c. 6 Lev. 8. 6d. B. R. A Bull.
83. 3 4. A Per son in Executive Bail, receiving from
the Sheriff of the County, to appear at a Day in Court, was put in Irons by the Marshalsea, and the Court ordered the Marshalsea to keep his Prisoner according to Law: Though they said he might safely put him in Irons, if he feared an Ecape, or if the Prisoner was uneasy, Mich. 1 Ann. 508. &c. Reg. 52. In the second Year of King Geo. 2. Sir William Rich being
bail in Irons in the Parish Prison, had his Irons taken
down by Order of the House of Commons; who there-
upon began an inquiry into the Conduct of Gaolers to
Prisoners, &c. see Habeas bisfrument.
in a further Statute there is a Clause, that every Privy-
seer for Debt committed since the 18th of Jan-
uary 1730, and contained in Privy Seals, may be com-
pelled to deliver up all his Effects, in the Form prescribed, as
Respect of any Creditor, at whose Suit he has been in
Court. 11 Geo. 2. cap. 9. By the last Statute, for
discharging Privies, they are to deliver up all their
Goods and Effects, and which shall be assigned to such
of their Creditors as the major Part shall ap-
point, &c. whereas the Privies may be dis-
charged, if they do not owe more than 500l. to one
Peron, &c. On Affirmation of a Privy-seer's Estate,
all Powers of Leading Lands are vested in the
Affirmee, to be executed for the Benefit of the Cred-
tors: But where any Rent, not exceeding two Years,
is due from any Privy-seer, his Goods liable to be di-
fraint, shall not be assigned for Creditors, till the
Landlord is first paid such Rent, 21. Stat. 16 Geo.
cap. 17. By the Stat. 21 Geo. 2. c. 3. every
Peron petitioning for the Benefit of the Stat. 2 Geo.
shall in his Petition not only set forth an Account of
all Real and Personal Estate he was insinuated to,
at the Time of the Petition, but that he was in-
tiated to at the Time of his first Imprisonment, and
take the Oath by this Statute directed. See
Exe-

Privies, are a Kind of private Men of War,
the Persons concerned wherein administer at their
own Cost a Part of their War, by hiring out two or
more Ships of Force, and providing them with all
military Stores; and they have, instead of Pay, Leave
guaranted them to receive from what they can take from the
Enemies, allowing the Admiral his Share, &c. Pri-
vies may not attempt any Thing against the Laws of
Nations; as to assault an Enemy in a Port or
Harbour, under the Prohibition of any Prince or
Publick, whether he be Friend, Ally, or Neuter;
for the Peace of such Places must be inviolably kept;
and therefore by a Treaty made by King William
and the States of Holland, before a Committee shall
be granted to any Privy-seer, the Commander is to
give Security if the Ship be not above 150 Tons,
in 1500l. and if the Ship exceeds that Burden,
in 5000l. that they will make Satisfaction for all
Damages which shall commit in their Courses at Sea,
contrary to the Treaties with that State; up-

3rd. Privy-seers, or Privateers, who go to divide into five Parts; one

5th. By Statute, Ships taken in the late War by Privy-seers, which are
divided into five Parts; four

6th. There is a Privy-seer to the Interests in the
Privy-seers, and the Fifth to his Majesty: And as a
further Encouragement, Privy-seers, &c. destroy-
ing any Ship that is taken, should receive
for every Piece of Ordnance in the Ship a
Reward, &c. 4 & 5 W. & M. By a
Particular Statute lately made, the Lord Admiral,
Commissions of the Admiralty, may grant

7th. By Statute, Privy-seers shall be assigned to the Owners of the Privy-
seers and the Captains, in Proportion according upon
themselves; and the Officers and Seamen of Ships
of War, are to have the full Property of all Ships
they take, to be divided as his Majesty shall ord
by Proclamation: And if any Ships belonging to the
English be taken by the Privy-seers, they are
themselves to take, to be divided as his Majesty
they are to be restored to the Owners, on paying
the eighth Part of the Value, in lieu of Salvoage,
after having been in the Enemy's Possession, and
and above that Time, paying further to a Moist,
&c. And by this Act, Ships of War or Privy-seers,
taking any Ship of War or Privy-seer of the Enemy,
the Officers and Seamen shall be paid by the Privy-seers
of the Navy 5l. for every Man that was on Board
such Ship at the Beginning of the Engagement. Stat.
13 Geo. 2. c. 4.

8th. Privy-seers, (From the Privy, i. e. Familialis)
Are those that are Partners, or have an Interest
in any Action or Thing, or any Relation to asso-
ciates; as to the sale of Ships in the

9th. Privy-seers, or Privateers, are those
who have, instead of Pay, Leave

guaranteed them to receive from what they can take from the
Enemies, allowing the Admiral his Share, &c. Pri-
vies may not attempt any Thing against the Laws of
Nations; as to assault an Enemy in a Port or
Harbour, under the Prohibition of any Prince or
Publick, whether he be Friend, Ally, or Neuter;
for the Peace of such Places must be inviolably kept;
and therefore by a Treaty made by King William
and the States of Holland, before a Committee shall
be granted to any Privy-seer, the Commander is to
give Security if the Ship be not above 150 Tons,
in 1500l. and if the Ship exceeds that Burden,
in 5000l. that they will make Satisfaction for all
Damages which shall commit in their Courses at Sea,
contrary to the Treaties with that State; up-

10th. Privy-seers, or Privateers, who go to divide into five Parts; one

11th. There is a Privy-seer to the Interests in the
Privy-seers, and the Fifth to his Majesty: And as a
further Encouragement, Privy-seers, &c. destroy-
ing any Ship that is taken, should receive
for every Piece of Ordnance in the Ship a
Reward, &c. 4 & 5 W. & M. By a
Particular Statute lately made, the Lord Admiral,
Commissions of the Admiralty, may grant

12th. By Statute, Privy-seers shall be assigned to the Owners of the Privy-
seers and the Captains, in Proportion according upon
themselves; and the Officers and Seamen of Ships
of War, are to have the full Property of all Ships
they take, to be divided as his Majesty shall ord
by Proclamation: And if any Ships belonging to the
English be taken by the Privy-seers, they are
themselves to take, to be divided as his Majesty
they are to be restored to the Owners, on paying
the eighth Part of the Value, in lieu of Salvoage,
after having been in the Enemy's Possession, and
and above that Time, paying further to a Moist,
&c. And by this Act, Ships of War or Privy-seers,
taking any Ship of War or Privy-seer of the Enemy,
the Officers and Seamen shall be paid by the Privy-seers
of the Navy 5l. for every Man that was on Board
such Ship at the Beginning of the Engagement. Stat.
13 Geo. 2. c. 4.
not in other Courts. Consol. 2 Roll. Abr. 372. Finch 1 Wils. 310. Mr. Pulteney, Mr. Cobham, and many Cities and Towns, Esq. have Privileges as to Pleas, that none shall be compelled to appear or answer out of their Jurisdiction. 4 Inf. 212. Crocm. Juris. 137. The King's Servants are privileged from Arrest; for that the King shall not be deprived of them, without Leave Royal. 153. And the Queen's Servants and the King's Chamber men may privilege them. 2 Edw. 4. 455. A Member of Parliament is privileged, as well in his Lands and Goods, as in his Person; because being disabled in any of them, he is hinder'd in serving of the Commonwealth, which is to be prefer'd before all private Interests. 2 Litt. Abr. 370. The Lord Mayor of London is privileged from all Actions, that he may not be hindered in the Government of the City: And so is an Alderman from serving Offices, &c. Hist. Conv. Cor. 515. Privileges are of Parliament to Courts, and their Officers and Servants; and of Attorneys, &c. 2 Litt. Abr. 568. According to the Chief Justice, Privilege is either of Court or of Process; as in the Court of Common Pleas, every Person shall be in Office, such as Attorney and their Clerks, &c. shall have the Privilege of being sued there, and not elsewhere; and this is the Privilege of the Court, and no Person shall be allowed the Privileges of the Court, but those who are the Officers of the Court, and are supposed to be always attending therein. 3 Salk. 283. And there are two Kinds of Privilege in the Court of C.B., the one is of the Officers of the Court, to be sued there by Bill; and the other of the Clerks to be sued there by Original. Hist. In the Court of Exchequer, there are three Sorts of Persons who are privileged, to wit, Debtors to the King, Accountants, and Attorneys; against the first of these Persons, any Man who has a Privilege in another Court, as an Officer or Attorney thereof, shall have his Privileges for the Privilege of a Person as Debtor, is but a general Privilege: But if an Attorney begin a Suit here, he hath in such Case a special Privilege, and no other Privileges shall be allowed against him, because of his Attendance to pay his Account, in which the King hath a particular Concern; and it is the same in an Officer of the Court, who commences a Suit here, no Privilege shall prevail against him: Though where the Account is closed and reduced to a Debt, there the Accountant hath only the general Privilege as Debtor; and the like of a Servant to an Officer or Minister of the Court, he has no Privilege against a privileged Person elsewhere. Hard. 267, 268. By Chief Justice Holt, the Attorney General of a Person as a Member of the University, or a Clerk in Chancery, does not take away the particular Privilege of the Court of C.B., if the Person is in Debt and Accountant to the King. Hist. 189. But one who was Receiver General of the Revenues of the Crown in W. being sued in the Common Pleas, brought a Writ of Privilege out of the Exchequer, and it was dis allowed by the Court. Dyer 352. Nott. Abr. 1296. And the King's Debtor shall not be privileged by Parliament. Stat. 15 & 16 Geo. 5. In the Exchequer is hath been held, that there are two Ways of pleading Privilege one is, if the Party is an Officer on Record, to go to Trial, and at the Trial to produce the Record of the Officer, his being sued in the Court, that must be tried by a Jury: The other Way is, if he be an Officer on Record, than to produce the Writ of Privilege, at the Time of the Plea pleaded, upon which he can be neither joined, and being otherwise pleaded, &c. Judgment may be given to answer over. Mod. Cas. 505. Writ of Privilege for the Offences of the Court of Exchequer, that is sued in any other Court than where he tends, to remove the Cause to his own Court. 2 Inf. 552. Stat. 11 & 12 Lev. 3. A Defendant pleaded in the Court of Exchequer, that he was an Attorney of C.B. and upon Demurrer to his Plea, it was objected, that it ought to be concluded with a Perfect Plea to Curia the Writ of Privilege, telling him he was an Attorney, and it was false, and that he ought to have said Non juro per Rrodebonum; but that must be in such Case where he fees forth the Writ, and he may plead Privilege upon the Writ, or Exemplification of the Record of his Admission, or without it. 2 Saull. 545. If Privilege of an Attorney be pleaded with a Writ, the Defendant cannot be deemed to be an Attorney; if without, he may, and then a Certiorari shall be awarded to certify whether he be an Attorney or not. Ibid. In Order of the Court of C.B. the Clerk of the Warrants is to certify that an Attorney's Name is upon the Roll of Attorneys, before he shall have a Writ of Privilege; and Writs of Privilege are to be signed by the Clerk of the Warrants, to show the Person is an Attorney of the Court, or they shall not be allowed. Tri. 29 Car. 2. Tri. 9 W. 3. And to save Arrêt upon Proces, an Attorney must deliver his Writ of Privilege to the Sheriff, and allow it with him; otherwise the Sheriff will not discharge him upon the Writ of Privilege, until he be in the Exchequer for an inferior Court, but he may plead his Privilege and pay his Fine. Fred. Solis. 342. Privilege is not to be pleaded in the Negative; as that an Attorney or Clerk, ought not to be sued elsewhere but in such Court, that is in such a Case, that the Plaintiff is a privileged Person, saying it is usual for them to be sued there, &c. and it should not be pleaded too general. 2 Sid. 164. But for a Saull. 545. In Trepass against an Attorney of C.B. he may plead his Privilege per Jurisdiction to which Plea the Plaintiff demurred; because he ought to have pleaded it in Person, and pleading by Attorney destroys the very Reason of his Privilege, which is his Attending the Court in Person; but the Plea was adjudged good, for he may be sick, or have Business in another Court to attend. Styl. 413. But an Information being brought against a Coffee Broker of B. R. for several Abuses in his Office, he infil'd not to appear in Person, but by Attorney; and it was ruled that he should appear in Person, because he is an Officer of the Court, and is presumed to be always present; and if he doth not appear, Judgment shall be given against him without any other Proceed. Sid. 134. He has been allowed for a Clerk in the Office of Coffee Broker, and a Writ of Privilege signed by the Judges of C.B. to exempt him from being arrested or prefessed, &c. It being the Custom and Privilege of that Court, that the Attorneys and Clerks shall not be prefessed, nor chose in any Office, non voluntate, but ought to attend the Service of the Court. Conv. Car. 8. Though it is said an Attorney shall not be execuc'd by Privilege from Offices which may be executed by Deputy, only those which require personal Duty, as that of Church-warden, Collector, &c. Attor. 50. 2 Litt. Abr. 374. A Waterman's Clerk claimed to be privileged in B. R. but was denied it; for though the Master may be privileged, the Court takes no Notice of the Servant, he having no necessary Dependence on the Court. Mich. 23 Car. And Privilege extends only to such Attorneys, &c. who have an immediate Service on the Court; and not to their Servants; It hath been held, that although an Attorney does not practise, he shall have Privilege so long as he continues an Attorney upon Record. Laro. 1697. Attorneys or Factors of the Offices of the Common Pleas, if sued in B. R. may plead their Privilege, because they owe a personal Attendance to that Court: But a Servant not being sued in the Court of B. R. cannot plead Privilege of C.B. for he is not a
P R

fig Pleas, be of Counsel, and Practice in other Courts in Westminster-Hall, and is not confined to Practice in the C. B. though if he is sued in any inferior Court, he shall have his Privilege. 2 Lew. 129. 2 Med. 298. And yet formerly a Serjeant at Law claiming his Privilege to be sued in the Court of C. B. had his Privilege allowed to a Serjeant’s Clerk. Trin. 4 El 8. and 2 El 4. 8 El 6. 8 El 6. 5 Co. 59. A Barrister at Law, attending on the Court, ought to have Privilege to be sued in all transitory Actions for a FINE. 2 Lew. 129. And an Attorney of C. B. Cts. may plead whether he will sue or be sued out of the County of Middlesex; because his Attendance is always supposed to be there. 2 Lew. 370. Where an Attorney is sued as Executor or Administrator, he shall not be allowed his Privilege; nor in a joint Action, with another not privileged; though if the Action may be severed, the Writ of Privilege of one shall not take away the Privilege of the other. 1 Sal. 2. 245. 2 Nell. Abr. 1295. Privilege shall not be allowed to a Man, where his Wife is joined in the Action with him. The Wife of an Attorney of C. B. if he be arrested, shall not have Privilege; but her Husband is to be put in Bail for her; or, where there is to be committed to Prifon; for the Writs of Privilege are privileged only in regard of his personal Attendance upon the Court, and his Privilege is annexed to his Perfon, and concerns not his Wife. Nott. 1. 6 Lew. 571. An Attorney of the Common Pleas was indebted to A. B. who was indebted to C. D. who according to the Custom of London attached the Money in the Attorney’s Hands; and he brought a Writ of Privilege, which was allowed by the Court, because the Attorney was not indebted to C. D. but only by Custom; and the Privileges of those attending the Courts in Westminster, shall not be impeached by Custom alone. Lew. 156. But where Money was attached in London, in the Hands of an Attorney of C. B. it was held, he shall not have his Writ of Privilege, because the Plaintiff cannot follow his Attachment against him in the King’s Bench, but only in the Court of London; and if this Court should stay Proceedings there, then there would be a Purlane of Justice. 2 Lew. 371. 572. One that hath a Suit depending in B. C. is privileged from being arrested in coming to the Court from his House or Lodging, to follow his Cause, and also in the Court, to sit in his House or Lodging; and if he be arrested in so doing, the Court upon Motion made to inform them of it, will set the Party at Liberty, and punish the Perfon that arrested him, if he knew the other had a Suit depending here, and came hither to attend it. 2 Lew. 571. One that was coming to the Court of King’s Bench to attend upon his Cause, was arrested as he was coming, and forced to put in Bail; and on Motion, making it appear to the Court, he and his Bail were both discharged; and the Party that arrested him had been also punished, had he not alleged that he knew not that the Party arrested came about his Business depending in the Court. Mich. 22 Car. 2 B. R. An Action of Affaint, Cts. was brought in the Common Pleas, and the Parties were at Issue, and after the Trial, when the Jury went out to consider of their Verdict, the Defendant in this Action arrested the Plaintiff by Process out of B. C. for an Affaint made before that Time on him; and this appearing to the Court, they ordered him to release the Party from the Affaint, and they set a Fine upon him for the Contempt, which he immediately paid in Court: And the Court declared, that the Suits ought safely to come and go, by the Privilege of the Court, without Vexation: and where. Gold. 53. One arrested in Westminster-Hall jects Curia, may be discharged upon Mission, if the Affaint was on Matte Process; but not if he was taken in Execution, though even in that Case, the Officer is punishable per curiam. Bull. 85. Where an Action of Assizes is begun, the Plaintiff, before Westminster upon a Suit brought for or against him, shall have the Privilege to be discharged from the Suit below: But this ought to appear by the Examination of the Party. Trin. 172. And if the Defendant be in Execution in any such inferior Court, and he had Cause of Privilege at that Time; if the Affaint of Privilege be delivered before it, he shall be discharged: This otherwise if not delivered till after the Execution. Ibid. Privilege of the Court was prayed to protect a Witness from being arrested in coming to and going from the Court, which was granted. Hill. 165. 2 Lew. 370. In Trafalgar, Febyon, or Brench of the Peace, no Privilege shall be allowed; nor on an Indictment, Cts. It has been adjudged, that where Proceedings are merely against the Suit of the King, as upon Indictments or Informations brought by the Attorney General, in such Cases Privilege shall not be allowed; but where the Proceedings are at the Suit of the King and the Party, as in Case of a common Informer, Cts. there the Defendant may have his Privilege. 1 Laww. 193. If a Pribled Person be not a Pribled Person in another, in a Civil Action, the Person shall not have his Privilege. 2 Lew. 41. 2 Lew. 370. A Pribled Person shall not have his Privilege given in another, nor on an Indictment, nor on a Pribled Motion; but he must plead it, and on Pleading it shall be allowed. Mich. 23 Car. B. R. But there is no Need to plead the Privilege of the Exchequer; for it shall be grant- ed upon producing the Red Book of the Exchequer by a Baron of the Court. 1 Laww. 45. And of later Times, the Party hath been admitted to Privilege of Pribled Person in the Course. 2 Lew. 370. By some Opinions, Privilege may be allowed, after Bail put in; and not after Imparlance: By others, that Privileges of Attorneys may not be pleaded after Bail given in, which allows the Jurisdiction. Cts. 3 Leww. 343. 1 Sal. 1. 2. To see an Attorney privileged, or any Clerk or Officer of the Court of B. C. they are not to be arrested, but he proceeded against as follows: A Declaration is to be filed against the Party privileged, and a Copy of it delivered to him, and then Rules given in order for his Plea; and the Declaration and Rules bil and served. If Time, he will be obliged to plead the same Term; and if he do not appear and plead, after called in Court, Cts. he may be sued in the Court for such Attorney, Clerk or Officer be Plaintiff, and his Declaration is delivered, and the Rules given in Time, the Defendant is to plead the same Term, and cannot impart over to the Party which ought to be pleaded, but he shall, or be remembr’d, for fear of Executions when not thought of. Padr. 295. In B. C. where an Attorney is Plaintiff, he cannot by his Privilege have a Special Bail where other Persons cannot have it; except it be for Fees, as a Ministrant of the Court, in which Case he may. In the Court of C. B. if an Attorney is Defendant in any Suit, it is not required that he shall give in Bail; and by giving Bail, he waves his Privilege: Yet by the Usage of the Court, on Attachment at the Suit of an Attorney Plaintiff, though the Debt be but Sixd. special Bail shall be given. Ibid. 560. 533. A Bill must be filed, though an Attorney agrees to appear and dispone with it; but it may in both Case be filed afterwards: And a Bill cannot be filed against a Person privileged in Vaci- nation, for then he is not present in Court. Hill. and Paph. 9 W. 3. B. R. If without filing a Declaration, an Action is brought against an Attorney, he may bring Attachment of Privilege, and supercede the Action.

A Bill
A Bill filed against a Member of Parliament, etc., having Privilege.

A. B. complains of C. D. Esq. for the said C. D., having Privilege of Parliament, for that, viz., that whereas the said A. the Day, etc., in the Year of the Reign, etc., as Weehimlin, in the County of M., aforesaid, was accused of the said C. of and concerning divers Sums of Money, before that Time due and owing to the said C. to the said A. and then being in Arrear and unpaid; and upon that Account, the said C. was then and there found in Arrear to the said A. in forty pounds lawful Money of Great Britain; and being in Arrear, the said C. afterwards, that is to say, the same Day, etc., in the Year aforesaid, at Weehimlin, aforesaid, in Confederation thereof did undertake, and to the said A. then and there faithfully promise, that he the said C. would well and truly pay and continue to the said A. the said forty pounds, when after he should be therein required: And also whereas afterwards, that is to say, the Day of, etc., in the Year, etc., at W. aforesaid, he the said C. was indebted to the said A. in three hundred pounds of lawful Money of Great Britain, for so much Money of the said A. as fourlady to him, and that he the said C. to the Up of the said A. And being in debt, etc., that is to say, the same Day and Year left aforesaid, etc., at, etc., aforesaid, in Con- federation thereof understood, and to the said A. then and there faithfully promised, that he the said C. would well and truly pay the said three hundred pounds to the said A. which, after he should be therein required, etc. Nevertheless, the said C. not regarding his said feudal Feudships and Undertakings, made in Manner as above, but contriving and fraudulently intending, craftily and falsely to delay and defraud the said A. in this particular, hath not paid the said A. the said several Sums of Money, or any Part thereof, nor in any Manner made him Satisfaction for the same, although the said C. was there required by the said A. aforesaid, to pay, on the Day of, etc., in the Year, etc., abovementioned, and often after, at W. aforesaid, but that the said C. hath hitherto refused, and still doth refuse to do, to the Damage of the said A. from hundred Pounds, and therefore by he brings his Suit, etc. And therefore the same A. press for Proofs of the Lord the King to be therein made according to the Form and Statutes in such Cases made and provided; and it is granted to him, etc.

Form of the Writ of Summons thereon.

G. E. the Second, Esq. To the Sheriff of M. Gra. W. Command you, that you summon C. D. (having Privilege of Parliament) that he be before us at Weehimlin, on the Day, etc., next after, etc., to answer to A. B. of a Debt of, etc., to Weehimlin, upon the Cafe, as reasonably appear may be, that he ought to answer; and have you there this Writ. Writ. f. c.

Form of a Writ of Attachment of Privilege.

G. E. the Second, Esq. To the Sheriff of S. Gra. W. Command you, that you attach A. B. and C. D. if they are to be found in your Baili- u. East, etc., before us at Weehimlin, on the Day, etc., next after, etc., to answer to E. F. Gentleman, one of the Clerks of Edward Venin, Esq.; our chief Clerk, afforded to in- ter Plate in our Court, on the same as the Liti- ties and Privileges of such chief Clerk and his Clerks, used and approved of in the same Courts, from the Time

Prefixed.

Parliament. A Person was arrested in the Temple, and upon a Motion to set him at large, it was intimated for him, that the Temple is privileged by Arrears by the King's Grant; for which the Authority of Stowe's Chronicle and Dugdale were all- leged: But by Hal Chief Justice, if the King hath made any such Grant to that Society, "in void in Law, they having no Court of Justice within them- selves: 'Tis true the Temple is extraprovincial, and not within any Parish, nor in the City, so as to come within the Cusums of the City, but 'tis within in the Jurisdiction of the City: Yet the Court in- clined not to countenance Arrears in the Temple, especially in Term-Time; though they would not set at large this Arre, for the Defendant was held to special Bail. 9 B. R. 3. 1588. By an Act made 8 & 9 W. 3. cap. 26. for preventing the many ill Pratices used in privileged Places to defraud Per- sons of their Debts; the pretended Privilege of White Friars, the Savoy, Salisbury Court, Rom Aile, Mitre Court, Fuller's Rest, Baldwin's Gardens, Mun- gham Club, the Minories, Mint, Dew, and December Club, are taken away. And the Sheriffs of London or their Officers are enabled to take the Puffs Com- tains, and such other Power as shall be requisite, and enter such privileged Places to make any Arrest on legal Process, and in Case of Refusal, to break Open Doors; and if such Sheriff, Bailiff, etc., shall neglect with such Force to do their duty, a Court of Law, for executing any Process, they shall forfeit to the Plaintiff 100 l. to be recovered in any of the Courts at Winstins; and if any Person doth refuse the Officers in executing any Process, or any who shall be aiding and assisting to them, he shall forfeit 50 l. fuller Imprisonment, and be set in the Pillory, as the Court of Allents, Great Delivery, etc., shall think fit: Persons refusing any one arrested in the aforesaid pretended privileged Places, are to forfeit to the Plaintiff in the Action 100 l. On Non-payment whereof, within one Month after recovery in the Courts at Winstins, and Judgment being given, they shall be transported to the Plantations for seven Years; and returning within that Term, he adjudged guilty of Felony without Benefit of Clergy, and also Harbours and Conspirators of such Refusers knowingly, are liable to Transportation, unless they pay the Plaintiff his Debt for which the Action was brought, with full Costs, etc. The Stat. 9 Geo. 1. c. 28. enacts, That if any Person within the Place commonly called Suffolk Place, or the Masts, in the Parish of St. George, etc., in the City, and the pretended Liminsh thereof, shall wilfully obstruct or oppose any Perians in the Serving or Executing any Writ, or legal Process, Rule or Order of Court, or Warrant of any Justice of Peace, etc., or assist or abate any Person, serving or executing the same, whereby he shall receive Damage or bodily Hurt, the Person offending, shall be dean of Guilty of Felo- ny, and be transported to the Plantations, by such Ways, and for such Time, and under such Pains, as Felons in other Cases: And upon Com- plains to three Judges of Peace, etc., by the Party any Person who shall have a Debt owing from any one who resides in the Masts, having a legal Process taken out for Recovery there, if the Debt be above 50 l. on Oath thereof, the Justices are imposed to issue their Warrant to the Sheriff of Surrey, to raise the Puff, and to enter the said pretended privileged Place and arrest the Party, and the Sheriff neglecting or refusing, incurs a Forciture of 200 l. Perions reſtiling the Sheriff, etc., or making a Ref-
Controversies sometimes determined touching Lands and Rights between Party and Party; as well as the Suppression of Penal Laws, &c. But this seemed to be contrary to the 25 Ed. 3 cap. 4. And by Stat. 16 Car, 1. c. 10. it is enacted, that neither the King, nor the Privy Council, have Authority by Petition, Bill, &c. to determine or dispose of Lands, Tenements, Hereditaments or Goods and Chattels of any Subject. The King with the Advice of his Council, publishes Proclamations binding to the Subject; but they are to be conformable to, and in Execution of the Laws of the Land: It is in the Power of the Privy Council, to inquire into Crimes against the Government, and they may commit Persons for Treason, and other Offences against the State, in order for their Trial in some of the other Courts; and any one or two of the Privy Council may lawfully do it: But they take Cognizance of no private Matters that may be determined by the ordinary Laws in other Courts: yet the Kingdom of Ireland, and the Plantations are in many Respects subject to the Controll, and under the Direction of the Privy Council of Great Britain and Leisontroversies among the Subjects of Jersey and Guernsey, &c. are determined by the Privy Council. 3 Ed. 18. & 45. 55. Wood's Inf. 458. By Stat. 35 H. VII. c. 26. the King, by the Privy Council, on Treason, Murders, &c. done within or without the Realm, may be tried before Commanders of the Army. And the Statute mentioned is in any County of England: This Statute, as far as it relates to Treason committed within the Kingdom, is repealed by 1 & 2 P. M. c. 10. If a Person be killed beyond Sea, out of the Realm, the Trial may be examined by the Privy Council, and the Offender tried according to the aforesaid Statute. Contrary by the King'sSentence, against the Life of a Privy Councillor, &c. is Felony. 3 Hen. 7. cap. 14. And Persons attempting to kill, or unlawfully assault any Privy Councillor, in the Execution of his Office, are guilty of Felony, without Benefit of Clergy, by the Stat. 9 Ann. cap. 16. And accordingly if one did strike another Person in the House of a Privy Councillor, or in his Presence, the Party offending was to be indicted. 45 Inf. 39. No Person born out of the King's Dominions, except of English Parents, shall be of the Privy Council. 12 W. 3. cap. 2. There is to be but one Council of Privy Councillors in Great Britain: And the Privy Council is not dissolved by the Death of the King; but to continue for six Months. &c. 6 Ann. cap. 6. 7. 23 H. VII. Sir Edward Coke has these notable Conclusions, with Respect to the Proceedings of the Privy Council, that. That it is sufficient with Safety, for a Privy Councillor to give to the King the Council when demanded; and that the True and bell Council is ever given to a Prince, when the Question is to evenly balanced and pronounced, as the Councillor cannot discern which way the King himself inclines; that Resolution should never precede Deliberation, nor Execution go before Resolution; and where upon Deliberation and Decision, any Matter is well resolved by the Council, a Change of it upon some private Information is neither the Custom. &c. The Court of Privy Council is of great Antiquity: The Way of Government in England, it is said, was originally by the King and his Privy Council; though at present the King and Privy Council, only intermeddle in Matters of Complaint on sudden Emergencies; their constant Business being to consult for the Publick Good, Honour and Welfare of the Realm, in Affairs of State. 4 Inf. 53. The Lords and Commons assembled in Parliament, have oftentimes transmitted Matters of high Concern to the King and his Privy Council: And Acts of the Privy Council, whether Orders or Proclamation, were heretofore of very great Authority in England; and in the Reign of King Hen. 8. that King procured an Act of Parliament to be made, that with the Advice of his Privy Council, he might set forth Proclamations, which should have the Force of Acts of Parliament; but the Statute was repealed in the Reign of King Inf. 6. Though Acts of the Privy Council still continued of great Authority until the Reigns of King Charles the First and Second: And by these were
under the Privy Seal, which touch the Common Law. § 2 Inf. 55. *And Matters of the Privy Seal are not liable to be impeached, or removable in any Court." § 2 Nisi. Abr. 217. See Keeper of the Privy Seal.

2. frym, was the Name of the Seal of King Arthur, on which "the Virgin Mary was engraved. Coff. of Man. lib. i. cap. 2.

3. By, is a Preposition, signifying for, or in respect of a Thing as Pro Confessa, &c. And in Law, Pro in the Grant of an Annuity pro Confessa, shewing the Cause of the Grant amounts to a Condition: But in a Feoffment, or Lease for Life, &c. it is the Consideration, and does not amount to a Condition: and the Reson of the Difference is, because the State of the Land by the Feoffment is executed, and the Grant of the Annuity is executory. Pleading. 412. Ward's Inst. 232.

4. Bynter, in the Laws of Cambus, was used for to claim a Thing as a Man's own, Leg. Camb. cap. 48.

5. Probate of Testaments, (Probaits or Testamentor) is the Exhibiting and Proving last Wills and Testaments before the Ecclesiastical Judge, delegated by the Bishop, or the Superior of the Place, or office, in Evidence that the Party dies: And if all the Deceased's Goods, Chattels and Debts owing to him, were in the same Diocese, then the Bishop of the Diocese, &c. hath the Power to grant a Probate; but if the Goods and Chattels were dispersed in divers Dioceses, so that there were any Things out of the Diocese where the Party lived, to make that is called bona notabilia, then the Arch Bishop of Canterbury or York, is the Ordinary to make Probate by his Prerogative. Blunt. 

The Probate of a Will is usually made in the Spiritual Court, and this is done by granting Letters Testamentary to an Executor under the Seal of the Court, by which the Executor is enabled to bring any Action, &c. If such Letters Testamentary are granted to the Party who exhibits the Widow, merely upon his Oath, by swearing that he believes it to be the Last Will of the Deceased; this is called Proving it in common form, and such a Probate may be controverted at any Time: If the Executor, besides his own Oath, produces Witnesses to prove it to be the Last Will of the Deceased, and this in the Presence of the Parties who claim any Interest, or in their Absence, if summoned and they do not appear; this is termed a Probaits pro Tribus, which cannot be questioned after thirty Years. § 2 Nisi. Abr. 1901. Upon an Illit whether the Deceased made a Executor or no, the Probate of the Will was adjudged to be good Proof. A Lill. Abr. 350. If a Will is produced in Evidence at a Trial, the Defendant cannot say that the Will was forged, or that the Testator had bona notabilia, or he may be relieved on Appeal. 1 Laws 235. Raym. 405. As the Judge of the Spiritual Court only can determine the Validity of Wills for Things Personal; therefore the Probate of such a Will, is undeniable Evidence to a Jury, and it may not be controverted at Common Law. 1 Dods. Raym. 451. A Probate, according to the precedent, is Evidence of a Will only as to Chattels: But if a Will of Lands be lost, it shall be allowed for such a Will concerning Lands. ibid. 731, 735. When Probate is to be granted of a Will, wherein a Legacy is interlaced in a different Hand, and supposing to be forged, the Executor has no Remedy but in the Spiritual Court, or where the Will ought to be proved with a special Referendum as to that Clause. 1 Per. Will. 388. Notwithstanding Appeal from a Will, a Person is complete Executor by the Probate: though the Probate may be altered. If an Executrix, Plaintiff do not conclude with a Prelate in Curia, or the Defendant may demand Oyer of the Will. § 2 Byn. 72. An Executor being made by the Act of the Party deceased himself, therefore the Law intitles him to the Probate of the Will; and the Probate cannot be revoked or altered, which would be Effect to make a New Will, yet it may be superseded by an Appeal: But if Administration be granted to one, this is by the Act of the Court; and if he afterwards become Bankrupt, &c. the Administrator may be replaced. 1 Rep. Rep. 226. Black. 293. 1 Sol. 35. 2 Nisi. Abr. 1501. By the Statute 51 Hen. 8, cap. 5. it is ordained, that on Probate of Wills, § 6 d. and no more shall be taken by the Register, where the Goods of the Deceased do not exceed five Pounds value: and when the Goods of the Deceased are above the Value of 5 l. and under 40 l. the Fee to the Register shall be 2 s. 6 d. and to the Register 1 s. and if the Goods exceed 40 l. in Value, the Judge's Fee is 2 s. 6 d. and to the Register 2 s. 6 d. but this he may refuse, and take a Penalty at his Discretion: And if the Officer takes more than his Due Fee, he shall forfeit 10 l. to be divided between the King and the Party grieved. But if it hath been held on this Bill, and in that case, that a Transcript of the Will must be brought to the Register ready ingrossed, and with Wax to be sealed, so that the Register, &c. may have no thing to do but to annex the Probate to it; and then no Fee shall be taken for such Transcript. § 4 Inf. 356. 1 Est. 166. The Power of granting Probates and Administrations of the Goods of Persons dying, for Wages or Work done on the King's Domains and Yards, shall be in the Ordinary of the Diocese where the Person dieth, or in him to whom Power is given by such Ordinary, exclusive of the Prerogative Court, &c. Stat. 4 & 5 Will. cap. 16. See Executor, &c.

6. Bynter, is an Accorder, or Approver; or one who undertakes to prove a Crime charged upon another. Flota. lib. ii. cap. 52.

7. Discendum, is a Writ which lies where an Action is removed out of an Inferior Court, to a Superior Court, as the Chancery, King's Bench, Common Pleas, by Habes Corpus, Citriourum, or Writ of Privilege; to lend down the Cause to the Court from whence removed, to proceed upon it; which and if the Defendant, upon serving his Attorney with a Copy of the Rule, doth not do, then the Judge will sign a Warrant for a Proceedlea, to remove the Cause back again where the Action was first laid: Also if Ball be put in at the Time, and do not prove good, the Judge will grant a Rule for better Ball to be put in by such a Day, or else to certify the Ball already put in; which and if the Defendant doth not do, the Judge will then likewise grant a Warrant for a Proceedlea. 2 Litt. 377. Where Ball put in on Removal of a Process, the Proceedlea is disallowed by the Court, if the Defendant upon a Rule for that Purposo, and Notice given, refuse to put in better Ball, such as the Court shall approve of. A Proceedlea may be granted, if the Ball makes the Defendant to be in the same Condition as if he had put in no Ball, and until 7 X
the Bail is put in and filed, the Court is not suf-
ficient to proceed, and so to proceed in it. Mich. 24 Car. B. R. After a Record returned, and the De-
fendant hath filed Bail in B. R. on a Cause being remit-
ted, the Bail ought not to be granted; be-
cause by giving and filing Bail in this Court, the Bail below is discharged. Sid. 313. 2 Nc. Abr. 1304.
And it hath been held, that by the Common Law, if a Court be once filed, the Proceedings below can never be revived by any Proceedings. Hill. 6 Geo. 2. Hen. P. C. 254. When a Cause by the Crown of
London is admissible, and will not be an Action at the Common Law, if upon a Habeas Corpus or Conti-
versy, brought to remove such Cause into the Court of B. R. it doth appear to the Court; the Court
will grant a Proceeding to authorize the Court of Lon-
don to proceed in the Matter; otherwise the Party
that brought the Action would be without Remedy.
2 Litt. Abr. 376. This Writ of Proceeding is called a Proceeding in Legua.
Proceeding an Act Jasper. If a Man Pray in
Act of the King, in a real Action, and the Act be
granted, it is the acting in the Matter of the Act,
and the Chancery, and the Judges in the Common Pleas
shall stay until the Writ of Proceeding in Legua come
unto them: And if it appear to the Judges by Proceed-
ing, or by the Party, that the King hath Interest in the Land, or shall lose Rent or Ser-
vice, &c. there the Court ought to stay until they
have from the King a Proceeding in Legua: And
then they may proceed in the Plea, until they come
to give Judgment; when the Judges ought not to
proceed to Judgment, without a Writ for that Purpo-
se. New Nat. Br. 342. So in a personal Action,
if the Defendant Pray in Act of the King, the
Judges are not to proceed until they receive a Pro-
ceeding in Legua. And though they may then pro-
cceed and try the Issue joined, they shall not give
Judgment until a Writ comes to them to proceed to
Judgment. Ibid.
Proceedings an Act of Justiciary, lies where the Judges
of any Court deny the Party, Plaintiff or Defen-
dant, and will not give Judgment in the Cause,
when they ought to do it. Wood's Lex. 170. If Ver-
dict pass for the Plaintiff in Affid of New Defend
before the Justices of Aislie, and before they give
Judgment, by a new Commination, new Justices are
made; the Plaintiff in the Affid may sue forth a Cur-
rarior directed to the other Justices to remove the
Record before the new Justices; and another Writ to
the new Justices to receive and inspect the Rec-
ord, and then proceed to Judgment, &c. New Nat.
Br. 342. 343. Where the Authority of Commiss-
ioners of Oyer and Terminor, &c. is fulfilled by
Writ of Superflevo; their Power may be renewed by
Writ of Proceeding. Reldg. 124. 18 All. 21. H.
P. C. 162.
Proceeds in New Defend, &c. Proceeds in New
Defend or Proofs, as Proceeds or initia fistae ad
judicandum, are the Proofs or Arguments upon
which former Matter, either original or judicial;
and hath two Significations: First, it is largely
taken for all the Proceedings in any Action, real
or personal, civil or criminal, from the Beginning
to the End; Secondly, we call that the Proceeding
by which a Man is called into any Temporal Court,
heaven, of the Beginning or Proceeding on which it
is founded, by which the rent is directed; or if taken
briefly, it is the Proceeding, after the Original, before
8 Rep. 157. Proofs are General, or Special; and
Special Proofs is that which is especially appointed
for any Offence, &c. by Statute: And there is a
very great Diversity of Proofs. F. N. B. Proofs
to a Person are Proceedings in Court, must be in the
Name of the King; and if it issue from the Court of
King's Bench, it ought to be under the Title of
the Chief Justice, or of the senior Judge of the Court,
if there be no Chief Justice; and if it proceed from
other any Court, it is to be under the Title of the
Judge of the Court in Commission, &c. Dalb. ch. 132.
Finn. 42. C. R. 259. And if it proceed to be regu-
larly issue in the King's Name and by his Writ, to
appear a Felon or other Malefactor, unless there is
an Indictment or Master Record in the Court,
upon which the Writ is given, 1 Hal. his Hist. P. C.
575. All legal Proceedings take Commencement
by original Writ, Indictment, or Information; or
in b. R. by Bill of Misdigree, or Letter, which is
the original Proceeding of this Court; and is in Nature of an
Original to cause Appearance. 2 Litt. Abr. 377.
There is no Need of Proceeds upon an Indictment,
&c. where the Defendant is present in Court; only
where he is absent. 2 Hen. 284. The Proceeds upon
Indictments of Captian, &c. is appointed by the 25
Edw. 3. and 8 Hen. 6. In Action of the Cane; and
23 Hen. 8. And no Writ, Proceeds, &c. shall be dis-
continued by the King's Death. 4 & 5 W. & M. 32.
And in the Court of Exchequer, if the Writ is
not Jurisdiction of the principal Cause, it is co-
rum unus justitiae: and void: And the Sheriff executing
it will be a Trespass. 2 Litt. 89. Proceedings in the
Superior and Inferior Courts must be regularly and
formally entered, according to the legal Court;
or they may be reversed for Error in B. R. 2 Lill.
379. And the Old Eait of the Law Proceedings in French
was required by Will. 1. called the Conqueror, it being a
Language which he himself knew; and the Use of
Latin, is said to be introduced by the Clergy, when
the Bishops and other Spiritual Persons were judges,
and chief Officers of our Courts; and this they
did, as knowing whatever Alterations there were
in national Languages, the Latin would be gen-
really understood. Yet fame give another Reason for
it, that it was done to keep the People in Ignor-
ance, and so have in their own Power only the
Interpretation of the Laws. Fortesc. 100. By a
late Statute, all Proceedings in the Courts of Ju-
cice in England, and in the Court of Exchequer in
Scotland, &c. all Writs, and Proofs thereon, Proceed-
ings, Indictments, Inquisitions, Presentments, In-
quorisons, Verdicts, Records, Judgments, Commit-
fors, Pardons, Summons, Arrests, Entries, Estates,
and Recoveries, Proceedings of Courts Leet and
Courts Baron, &c. shall be in the English Tongue,
and not in Latin or French; and be written in a com-
mmon Hand, in the same Language, at length, &c.
or Pain of forfeiting the Sum of 50 f. And Multination, Errors in Form, and
Mistakes of Clerks, may be amended before or
after Judgment: Also the Statutes of Treasons shall
extend to all Forms, and Proceedings in English,
except in criminal Cases. But this Statute extends
not to the Court of Admiralty, as to certifying
any Proceedings beyond the Sea, &c. which may
And in the Court of Receivers of the East which
England, Officers and Clerks may carry on their Busi-
ness in their usual Office; to all Writs, Proofs,
Proceedings, &c. may be written expressing Numbers
by Figures, and with usual Abbreviations in English,
and Names of Writs, &c. to be expressed in the
same Language as hath been commonly used, by 6
Geo. 2. c. 22. Proceeds. In Cathedral and Convocation Churches,
the Members had their Proceeds, wherein they walked in their most ornamental Habits, with
Mulluck
Forfeiture of their Lands or Goods, or to undergo the Penalty of a Fine of £10. 20. 2 Litt. Ab. 318, 328. Yet the King by his Proclamation may inhibit his Subjects that they go not out of the Realm, without Licence: and if the Subject so inhibited contrary thereto, then this Commissary he shall be fined the King. 12 & 15 Eliz. Dyke 256. There are Proclamations of divers Kind: and a Proclamation is to be placed under the Great Seal, without which it doth not bind. Gr. Cor. Cas. 130. Vide King, and Privy Council.

Proclamation of Courts. Proclamations of Courts, is used particularly in the Beginning or Calling of a Court, and at the Discharge or Adjourning thereof; for the Attendance of Persons, and Disparch of Business incident thereunto: And before a Parliament is dissolved, Gr. Publick Proclamation is to be made, that if any Person shall make any Petition, he shall come in and be heard. See Confeiture. 156. At the latter End of the Affises, there is usually Proclamation made, that more Records of Nfü Prains shall be put in to be tried at that Assize; after which they will not be received, and all Persons who have not then put in their Records of Nfü Prains may depart, and are bound to give no longer Attendance at that Assize. Po. 1561. 2 Litt. Ab. 328. Proclamation is made in Courts Baron, for Persons to appear and state what Copyholds, of which the Tenants died seized since the last Courts; and the Lord may seize a Copyhold, if the Heirs come not in to be admitted upon Proclamation. Gr. Cor. 1 Ley. 63.

Proclamation of Ergents. On awarding an Excerpt, in order to Certainty, a Writ of Proclamation is given to the Sheriff of the County, to the Party dwells, to make three Proclamations for the Defendant to yield himself, or be outlawed. Stat. 6 Hen. 8. cap. 4. 31 Eliz. cap. 3. 4 & 5 Will. 14. of Nor.

Proclamation of a Fine. When any Fine of Land is passed, Proclamation is solemnly made thereof in the Court of Common Pleas where levied, at the Ingrazing it; and Transcriptus are also sent to the Justices of Assize, and Justices of the Peace of the County in which the Lands lie, to be openly proclaimed there. R. 3 cap. 7.

Proclamation of Statutes. By Statute, Proclamation is to be made against Nuisances, and for the Removal of them, etc. R. 8.

Proclamation of Rebellion. Is a Writ whereby a Man, not appearing upon a Subpœna, or an Attachment in the Chancery, is reputed and declared a Rebel, if he render not himself in a Day assigned. See Commission of Rebels

Proclamation of Emissaries. There is a Proclamation of Emissaries, by which they are commanded, on Non-appearance at the Assizes, to be convicted, on Non-appearance at the Assizes. 29 Eliz. 3 Jac. 1.

Proclamation of Statutes, is for their better Observation, and that the People may avoid the Penalties thereof.

Convo, is where a Bill is exhibited in the Chancery, to which the Defendant appears, and is afterwards in Comforse for answering the matter contained in the Bill shall be taken as if it were convicted by the Defendant. Termes de Ley 314. If a Defendant is in Convoy for Contempts in not answering the Complainant's Bill, upon a Henry of parliament, which is granted by Order of Court, to bring him to the Bar, the Court signs him a Day to answer: and the Day being expired, and no Answer put in, a feeble to Henry of parliament is issued, and the Party being brought into Court a further Day is assigned by the Court, and if no Answer is given, the Bill upon the Plaintiff's Motion shall be taken Proconferta, where Cause be showen by the Day; and for Want of such Cause showen on Motion, the Sub-
flence of the Bill shall be decreed to the Plaintiff, Hill 160. Also after a fourth insufficient Answer made to the Bill of the Complainant, the Matter of the Bill not sufficiently answered unto by the Defendant shall be taken Pro confessa, and decreed accordingly.

Proctor, (Procurator) Is he who undertakes to manage another Man's Cause, in any Court of the Civil or Ecclesiastical Law, for his Fees: Qui aliena negavit gerendae facultatis.

Proctor of the Clergy, (Procurators Cleri) Are those who are chosen and appointed to appear for Cathedral or other Collegiate Churches; as also for the common Clergy of every Diocese, to fit in the Consuetudinary House in the Time of Parliament. On every new Parliament the King directs his Writ to the Archbishop of each Province, for the Summoning of all Bishops, Deans, Archdeacon, &c. to the Convocation, and generally of all the Clergy of his Province, affixing them the Time and Place in the Writ; then the Archbishop of Canterbury, upon his Writ received, according to Custom directs his Letters, that they be sent to London, as they were in fact Dean of St. Paul's Cathedral; then to cite them perpetually, and them willing to cite in like Manner, all the Bishops, Deans, Archdeacons, &c. and generally all the Clergy of his Province in the Place, and against the Day prefixed in the Writ; but directed that, all the one Proctor be for every Cathedral or Collegiate Church, and not for the whole Body of the inferior Clergy of each Diocese; and by Virtue of these Letters authentically sealed, the said Bishop of London directs his Letters severally to the Bishop of every Diocese of the Province, citing them in like Sort, and willing them not only to appear, but also to attend in the said Deans and Archdeacons personally to appear; and the Cathedral and Collegiate Churches, and the common Clergy of the Diocese to send their Proctors to the Place at the Day appointed; and also will them to certify to the Archbishops the Names of all and every Person so warned by them, in a Schedule annexed to their Letter certificatory: Then the Bishops proceed accordingly, and the Cathedral and Collegiate Churches, and the Body of the Clergy make choice of their Proctors, which being done and certified to the Bishop, he returns them all at the Day, Exceit.

Procurations, (Procurations) Are certain Sums of Money which Parish Frieds pay yearly to the Bishop or Archdeacon, as such Obligations: They were anciently paid in necessity Vindices for the Vidtore and his Charges, and now by the Laws turned into Money: And Complaints were often made of the excessive Charges of the Procurations, which were prohibited by Act of Parliament and Bills; and that of Clement the Fourth is very particular, wherein Mention is made that the Archdeacon of Richmond, visiting the Diocese, travelled with one Hundred and three Horses, twenty-one Dogs, and three Hawkes, to the great Oppression of religious House, &c. These are also called Promiss; and it is laid there are three Sorts of Procurations, or Proces: Ratioe nonissimae, Congregatii, & Padini; and that the first is of Ecclesiastical Cognisance, but the two last are triable at Law. Harrr. 560. A Libel was brought in the Spiritual Court for Procurations by the Archdeacon of York, setting forth, that for ten or twenty Years, &c. there had been due and paid to him so much yearly by a Parson and his Predecessors; who suggested for a Prohibition, that the Duty had been payable, but denied the Prefcription, and that the Ecclesiastical Court cannot Try Preceptions; but it was adjudged, that the Procurations and the right of Common Right, as Tribes are, and no Action will lie for the same at Common Law; if he had denied the Quantum, then 2 a Prohibitions might go. Repus. 560. See Stat. 54. Hen. 8. c. 49.

Procurator, Is one who hath a Charge committed to him by any Person; in which general Signification it hath been applied to a Virgin or Lady's Ward, who acts instead of another; and we read of Procurator Regulorum, and Procurator Reipublicae, which is a publick Magistrate: All Proctos of Lords in Parliament are in our Law-Books called Procurators: the Bishops are sometimes termed Procurators Excalalorum; and the Advocates of religious Houses, who were to plead the Interests, and plead the Causes of the Societies, were denominated Procurators Monasterii; and from this Word comes the common Word Proctor. It is likewise used for him that gathers the Fruits of a Benefit for another Man; and Procuracy for the Writing or Instrument whereby he is authorized. 3 R. 2. c. 3.


Prodrus Dominus, is a Title often given in our old Books to the Baers of the Realm, or other military Officer under the King, in the Parliament, or the Council, and were no more than Diferits & falsus Dominus, who according to their Prudence and Knowledge were to give their Counsel and Advice.


Profeffors, (Profeffors) is a Direct paid to the Bishop of London, or to the Dean and Chapter of Westminster, for the Body of the inferior Clergy of each Diocese; and by Virtue of these Letters authentically sealed, the said Bishop of London directs his Letters severally to the Bishop of every Diocese of the Province, citing them in like Sort, and willing them not only to appear, but also to attend in the said Deans and Archdeacons personally to appear; and the Cathedral and Collegiate Churches, and the common Clergy of the Diocese to send their Proctors to the Place at the Day appointed; and also will them to certify to the Archbishops the Names of all and every Person so warned by them, in a Schedule annexed to their Letter certificatory: Then the Bishops proceed accordingly, and the Cathedral and Collegiate Churches, and the Body of the Clergy make choice of their Proctors, which being done and certified to the Bishop, he returns them all at the Day, Exceit.

Profeffors, (Profeffors) Are certain Sums of Money which Parish Frieds pay yearly to the Bishop or Archdeacon, as such Obligations: They were anciently paid in necessity Vindices for the Vidtore and his Charges, and now by the Laws turned into Money: And Complaints were often made of the excessive Charges of the Procurations, which were prohibited by Act of Parliament and Bills; and that of Clement the Fourth is very particular, wherein Mention is made that the Archdeacon of Richmond, visiting the Diocese, travelled with one Hundred and three Horses, twenty-one Dogs, and three Hawkes, to the great Oppression of religious House, &c. These are also called Proces; and it is laid there are three Sorts of Procurations, or Proces: Ratioe nonissimae, Congregatii, & Padini; and that the first is of Ecclesiastical Cognisance, but the two last are triable at Law. Harrr. 560. A Libel was brought in the Spiritual Court for Procurations by the Archdeacon of York, setting forth, that for ten or twenty Years, &c. there had been due and paid to him so much yearly by a Parson and his Predecessors; who suggested for a Prohibition, that the Duty had been payable, but denied the Prefcription, and that the Ecclesiastical Court cannot Try Preceptions; but it was adjudged, that the Procurations and the right of Common Right, as Tribes are, and no Action will lie for the same at Common Law; if he had denied the Quantum, then 2
The party privy claims but Part of the original Estate, yet he shall not have the original ESTATE. To Res 92, 93. But where a Man is a Stranger to a Deed, and claims nothing in it, &c. there he may plead the Title to be a Preference for a New Title. A Man may claim under a Deed of Uses, without showing it; because the Deed doth not belong to him, though he claims by it, but the Covenant, &c. and he hath no Means to obtain it, and for that it is an Estate executed by the Statute of Uses, so at the Party is in Law, like unto Tenant in Dower, or by Custom, &c. who may have a Register extended, and need not shew the Deed. Est. Cas. 44, 45. When in things executed, or Estates determined, there need not be any Prefect in Curia. 3. Lev. 204. Also an Alliace of Commissioners of Bankruptcy, need not shew the Bond to the Bankrupt, because he comes in by Act of Law, &c. Est. Cas. 209. By Statute, no Advantage or Exceptions shall be taken, Want of a Prefect of a Court, but the Court shall give Judgment according to the very Right of the Cause, without regarding any such Omission and Defect, except the time be specially and particularly set down, and shewn for Cause of Demurrer. 4 & 5 Ann. cap. 16. Where a Deed is pleaded and shewn in Court, the Deed in Judgment of Law remains in Court. All Terms in which it is drawn; and if it be not denied, then at the End of the Term it is delivered to the Party whole it is. And if it be denied, it shall still remain in Court, for it is not found. Nov. et Scire, it shall be deemed. 3. Rep. 241, 242. See Meneses de feit, and Opex. &c.

Prohibition. (Prohibitio) is used particularly for the Entering into any Religious Orders, &c. By which a Monak offered himself to God, by a Vow of three Things, &c. Obedience, Chastity, and Poverty, which he promised solemnly to observe, and this was called Sancta Religionis Professio, and the Monk a Religious professed. New Book Enter. And in our Law, this Entering into Religion, whereby a Man is shut up from all the common Offices of Life, is termed a Civil Death.

Protests. A Devise of the Profits of Lands, is a Devise of the Land itself. Dyer 110. A Husband revived the Profits of his Lands to his Wife, until his Sun came of Age, this was held to be a Devise of the Lands until that Time. Though if the Lands were devoted, thus This World, the Husband should take the Profits of it until he comes of Age, &c. this would give the Mother only an Authority, and not a Right. By Devise of Profits, the Lands usually pass; unless there are other Words to shew the Intention of the Testator. MSS. 735, 738. 2 Nott. 469, 1051.

Epitaphs. In the old Saxon signifies a Letter sealed with the King's Seal. Spec. sax. lib. 3. Art. 34.

Prohibition. (Prohibitio) is a Writ citing out of the Chancellor, King's Bench, or Common Pleas, to forbid the Spiritual Courts, Admiralty Court, &c. to proceed in a Cause there depending, upon Supposition that the Cognisance thereof being not to the said Courts, but to the Common Law Courts. F. N. B. 39, 40. &c. Or it may prohibit the Judges of any Temporal Court, from proceeding in any Cause out of their Jurisdiction. And the King's Courts, that may award Prohibitions, being informed by the Plaintiff or Defendants, or by any Stranger, that any Court Temporal or Ecclesiastical to hold Plea, where they have no Jurisdiction, may lawfully prohibit that Court, as well after Judgment as before. 2 Inf. 293, 601, 602. 4 Rep. 127. Finch 41. If the Judge, but the Parties; and if the Judge of the inferior Court, or the Party, proceeds notwithstanding the

Prohibition, an Attachment may be had against them, &c. in Action of the Cite. But on a Prohibition by the Spiritual Court, the Party may appear, and take a Declaration upon the Suggestion, and go to Trial; and if thereupon in the said Place of the Party, it be shown that the Prohibition, a Writ of Certiorari shall be awarded, with Colli. 2 Litt. Act. 384. Wad. 507. 9 & 10 W. 3. A Prohibition is generally a proper Remedy where a Court exceeds its Jurisdiction; and Prohibitions are granted either pro defecta Jurisdiction, or pro defecta Territoria. In a Prohibition, upon Motion for a Certiorari, it was inferred, that ought not to be granted without pleading or demurring to the Prohibition; but it was held, that an Incuriously in B. R. there were no Declarations or Demurrers upon Prohibitions, and therefore Confinements were granted upon Motions. 1 Viner. 180. 3 Salk. 287. In Cases of Prohibitions, where they were granted upon a Motion, the ancient Court was, that the Party prohibited prohibited out a Tun Certiorari, Querat Confinimentum, dein debet conferre fat Prohibitationes, in which Writ the Suggestion was restated, and also the Prohibition granted therein ad Dominum of the Party. Afterwards this Practice was altered, and the Court came to be the (Vino) upon granting a Prohibition to the Plaintiff, the Court bound him in a Recognizance to proceed in the Attachment of Certiorari against his Defendants, being in the Spiritual Court, &c. after a Prohibition granted, and then to declare upon the Prohibition so that he was the Defendant in that Court; now it becomes Plaintiff in the Court above. Plowd. 472. 3 Salk. 289. If any Matter appears in the Declaration in an inferior Court, which sheweth that the Cause of Action did not arise infra Jurisdiction; or the Subject Matter is not proper for the Judgment of such Court; or if the Defendant who intended to plead in the Jurisdiction is prevented by any Artifice, or his Plea be not accepted or is overruled. In all these Cases a Prohibition will lie at any Time: But not after the Defendant hath admitted the Jurisdiction by pleading to the Action, &c. 2 Salk. 279. A Prohibition lies in all Causes wherein a Habeas Corpus doth lie at Common Law; but it is most commonly granted to the Spiritual Court, where a Cause belongs to the Temporal Jurisdiction: And the Court ought not to deny a Person a Prohibition that prays if, if there be Cause therefore; the Granting Prohibitions being not a discretionary Act of the Court, but ex natura Jurisdictionis; though a Prohibition will not be granted on Motion the last Day of the Term, but sometimes in such a Case, a Rule has been made to Pay Proceedings upon the Terms of the Prohibition. 3 Salk. 383. 4 Salk. 93. Prohibition may be granted to the Court of the Earl Marshal, by the Courts of Common Law, if it exceedeth its Jurisdiction; and it hath been broadly inferred that on the Court of Admiralty, a Prohibition is not Contable and Marshal may also be prohibited, but there having been no Court holden before the Contable and Marshal has been mentioned in our Books on that Head. 2 Nott. P. C. 14. The Court of B. R. may by the Common Law grant a Prohibition to the Court of Admiralty, to stay their Proceedings, if they hold Plea of any Matter which the Jurisdiction of their Court doth not extend to: And the Defendant in the Court of Admiralty may have a Prohibition, after he hath pleaded, although he cannot have an inferior Court; for an inferior Court doth not draw the Matter in Question ad illud Examum, but doth proceed therein according to the Common Law; but the Court of Admiralty doth draw the Matter ad illud Examum, that is to try it by the Civil Law; and therefore, that the Common Law may not be injured, this Court will Rule their Authority at any Time of their Proceedings in the Admirality, though the Defendant by his Incuriously Pleading hath allowed their Jurisdiction.
Prohibition does not lie to the Admiralty to stop proceedings on a Bond made beyond sea, such as a charter-party for carrying goods, nor for a suit for the recovery of money due, nor for a Bond between two Masters, unless the goods shall be brought before some special judge of the Admiralty, as the Court of Lloyd, or the Court of King's Bench. A Prohibition is not sufficient for a脖子, it concerns a layman; for it was never granted, where a Person charged a Penalty by Prohibition, 2 Lev. 203. Salk. 150. If in fixing for Tides, the Boundaries of Parishes come in question, Prohibition lies; because the Bounds of Parishes are to be determined by the Common Law. 1 Cor. 218. Though a Prohibition was denied, where the Bounds of two Villas in the same Parish were enumerated, 1 Lev. 78. And it has been said that a Prohibition is granted to the Complainant in a Libel, and of which the Spiritual Court have original Jurisdiction, they shall not be prohibitory; whereas the Libel is in the hands of the Court, where they have an original Jurisdiction of the Cause, and for Tides; and the Defendant pleads that it is not his Bole, but the Case of another Person: this is irremediable at Law, but may be remedied by a Prohibition, in the Spiritual Court. Sid. 89. 3 Nelf. Abr. 12. A Libel was for Tides; the Defendant an pleaded an Award, and prayed a Prohibition for that an Award is irremediable at Law; but a Prohibition was denied: And it is the same if a Suit is for a Legacy, and the Defendant sues for Payment for a Prohibition, as it is for an Acquittance is pleaded, no Prohibition shall go beyond where the Spiritual Court have a Jurisdiction of the original Matter, if any subsequent Matter should arise, and which is irremediable at Law, shall not deprive the Spiritual Court of their Jurisdiction, though if the Court shall adjudge otherwise upon an Acquittance, or an Award, according to the Common Law, in such a Case a Prohibition shall be had. 1 Roll. 12. 11 East 413. Ecclesiastical Courts, where the principal Cause is of Ecclesiastical Cognizance, may have Masters triable at Law, which come into question; and it is the same if a Thing incident to a Suit in a Spiritual Court is of a Temporal Nature, they must try it in the same Cause and the Court, as it would have been tried at Law, if a Prohibition would be granted; but if the Matter incident is of a Spiritual Nature, they were to try it according to their ownLaw; for Instance, if they require a Written Confirmation of a Will, a Prohibition will not lie, because such Proof is required at Law; but if they require two Witnesses to prove any Thing which has been done out of one Witness to the Payment of a Legacy, 6 Fig. 325. A Prohibition may be granted. 3 Lev. 464. Shaw. 115. 172. 3 Salk. 488. And if the Spiritual Court refuses a Copy of a Principal Plea to a Libel, though it is prepared at Law, in which Tatters was an Idem, or New Comum Munic. Just. Cent. 205. Where Articles and Offers are exhibited against any one in the Spiritual Court for criminal Matters, the Law does not apply. If on an Adjudication, that a Copy of the Libel, or where the Libel against the Defendant in the Spiritual Court is not proved, the Court shall declare a Prohibition upon the same Libel, it is always given for denying a Copy of the Libel.
Libel, because the Party ought to know, whether the
Master is within the Jurisdiction or not, and how to
answer. 1 Roll. Rep. 357, s. 2. Salk. 533. If a Man
promises another to kill, if he will marry his Daugh-
ter; if the Party marrieth, the other will
not pay the Money, he shall not libel the fame
in the Spiritual Court; if he doth Prohibition will
lie: But if he promises one with his Daughter in
Marriage 101. &c. If he doth marry the Daughter,
and he do not pay the Money, he may sue for it in
the Spiritual Court, because it concerns Matrimony.
22 Eldon, 5. 5. &c. And if a Person gives Goods
in Marriage with his Daughter, and afterwards they are
divorced, the Wife may sue in the Spiritual Court for the
Goods, and no Prohibition shall lie. 15 Hen. 8. 2. Prohibition concerning Marriage, and to
dissolve a Marriage. &c. 2 Law. 1059, 1075, 1076, 1077, 1078, 1079, 1080. A Person grants to one by Deed, that he shall be dis-
charged of the Tithes of his Land, and afterwards he
denies in the Spiritual Court for the Tithes; &c. It is
daid that the Party forth shall not have a Prohibition,
for he may suugest this Matter in the Spiritual Court,
where he shall be discharged of the Tithes. But if it were upon
a Composition made before Time of Memory, and
now the Person for the Tithes of those lands, there he shall have a Prohibition against the Person, &c. 8 Misch. 3 Ed. 14, 15. In a Suit for a Pro-
hibition to the Ecclesiastical Court in a Case of Tithes, and other Spiritual Profits, the Suggestion must be made by two called Witnesses, within six Months after such Prohibition granted: provided the Suggestion doth not contain a Negative. &c 3 Ed. 6, c. 13. 2 Inf. 652. If any Conten-
tion be in the Spiritual or Ecclesiastical Court between two Incumbents, who claim by divers Patrons; a Prohibition lieth, if the Suit concerns the fourth Part or moiety: But if it be for his Prohibition doth not lie. 22 Eldon, 5. 5. &c. The Clerk for Tithes, [if the Right arise not from the Rights of
Patronage, &c.]. Obligations, Mortuary, Commis-
sation of coroporal Penitence for Money, Defamation, &c. No Prohibition shall be granted. 9 Ed. 2, c. 2 Inf. 619. 4 Rep. 20. 5. &c 2 Law. 1043, 1057, 1062, 1066, c. Before the Reign of King Charles 1. Many Prohibitions were granted for damatory Words, in calling Women Whores, &c. but since
such Prohibitions have been denied, the Spiritual Court
having a Jurisdiction in Causes of Whoremong, they shall not exercise the same. 21 Cas. 113. 526. 6 Ed. 2. Carn. 529. No Prohibition will lie at the Common Law upon a Suit in the Spiritual Court for the Word Whore or Whores, in Case of Penitence. 6 Law. 378. But by the Custom of Lands, it is actionable to call a Woman Whore; and therefore where the Libel is for that Word there, a Prohibition will be granted. 2 Law. 1030, Stile 69, 120, 245, 246. A Prohibition was moved for to stay a Suit for their Words, You were such a one's Whore, where he married you, and on a Suggestion that the Plaintiff gave the Defendant provoking Language, calling him Rogue, &c. but the Prohibition was denied, the Provocating being so Injurious to the Suit in the Spiritual Court, though it might be of Mitigation of Damages in an Action at Common Law. 3 Lev. 157. A Person called a Woman Bitch, Whore, and an old Bawd, and on a Libel in the Spiritual Court; a Prohibition was granted between some of the Words are pu-
nitable at Common Law, and some in the Spiritual Court; and if a Prohibition should not be granted, the Plaintiff might be doubly wrong. 3 Ed. 74. On a Libel for calling a Woman Bitch, he was held, this being an Offence of a mixed-Nature, and pu-
nitable either at Common Law, or in the Spiritual Court; and if a Prohibition shall not be granted, the Suggestion for a Prohibition was, that they were Words of Heat and Passion; but a Prohibition was not al-
lowed; for the Words import that his Mother is a
Whore, and he a Bawd, and both are found fa-
lized, and this is an Ecclesiastical Scandal. 3 Lev. 119. One called another Whoremonger on a Libel, &c. it was urged, that this was a Word of Puffing, and not damatory; but adjudged it is the fame as calling a Woman Whore, which is an Ecclesiastical Standler. 2 Salk. 652. Prohibition will not be Up
on a Suit in the Spiritual Court by Husband and Wife, for calling the Husband Cauckold for the Words charge the Wife with Inconsequence, and for that Reason the Libel shall have this Suit in the Ecclesiastical Court, to punish the Defamation that subjecteth her to Penitence in the Spiritual Court: But if the Husband had fed freely, then a Prohibition might be granted; because he doth not infect any other with-breach of the Words. 2 Law. 66. 1 Salk. 991. And yet it hath been ruled, where Husband and Wife libelled in the Spiritual Court for calling the Husband Cauckold; that a Prohibition hath been refused, and that they cannot bring the Case in that Court for that Word. Hill. 15 W. 3, 3 Salk. 138. And to call a Man Cauckold, hath been refused not to be on Ecclesiastical Suit, but this is a
Waste 16; for that implies his Knowledge and Con-
test to the Adultery of his Wife. 2 Salk. 652. Their Words were spoken of a Parson, he is a flying Fel-
low, and has lain with all the Women, &c. for a
Prohibition was refused; for these Words are foun-
dable, being spoken of a Parson, though not actionable
at Law. 4 Lev. 18. But to say of a Parson, He hath an Unlawful Obsession, &c. 3 Salk. 652. Prohibition hath been granted; because a Parson is not punishable in the Spiritual Court for being a Bawd, 2 Salk. 653. So for calling a Parson Fool, &c. in a Thing which doth not concern his Profession. 2 Lev. 41. And where a Suit is in the Spiritual Court for Defamation, the Matter ought to be entirely of Ecclesiastical Cognizance; otherwise a
Prohibition will lie. 4 Rep. 20. 5 Mar. 873. In an
extraordinary Case, a Suit being brought for De-
famation in the Spiritual Court, of which they had
Cognizance, notwithstanding an Action at Law was
not commenced for Special Damage, occasioned by speak-
ing the same Words a Prohibition was denied. 4 Ed. 2. Rep. 110. If one call another Drunkard, such Libels may be punished in the Temporal Courts, and a Pro-
hibition shall be granted. 4 Carn. 529, 2 Salk. 256,
3 Salk. 288. If a Man sues another Person in the County-Court for Debt, &c. amounting to the Sum of 40s. or above, the Party shall have a
Prohibition to the Sheriff, that he do not hold Fees thereof. 24 Lev. 350. New H. 105. A Suggestion for Pro-
bition begins, Do you remember, that on the Day
sec. comes before the Subscribing Lord, the King or Weigh-
minster, C.D. in his proper Person, and gives this
Grant here to understand and retain, afterwards as A B. &c. (being forth the Cointalker and Pro-
ceeding in the other Court, contrary to the Laws and
Customs of the Kingdom) Wherefore the said C. in-
forming the Aid of this honorable Court, before the King
himself, prays to be reheld, and that he may be ben
of his Majesty's Writ of Prohibition, directed to the Judge of the said Court, &c. to prohibit him and them from taking any further Cognizance of the said Fees before
him, unless or concerning the Premises; and it is granted to him accordingly, &c. and the common
Suggestion of a Person in a Suit in the Court, to George, &c. Protestant, sec. To A B. &c. Greeting. We prohibit you,
that you hold not Fees in the Court, sec. of, sec. 149.
giving of Evidence to a Jury upon a Trial, or oath upon Interrogatories, or by Copies of Records, or Exemplifications of them. 3 Litt. Abr. 393. Though where a Man spares generally of Proof, it shall be tendered of Proof by a Jury, which in the Examinations is legal Proof. 3 Bla. 66. The Condition of a Bond was to pay Mannors as an Apprentice should mispend, upon Proof made by the Master of the Apprenticeship or otherwise; and it was held, that although generally Proof shall be intended to be made at a Trial by the Jury, in this Case it being referred to the Consideration of the Party, it is sufficient if he confides it under his Hand. 1 Crad. 511. 3 Nefl. Abr. 15. It hath been insisted upon, that the Law knows no other Proof but before a Jury in a judicial Way, and that which is on Record; but if the Proof is modified by the Agreement of the Parties, that it shall be in such a Manner, or before such a Person, that Mediation which allows another Master of Proof shall be observed, and prevail against the legal Confirmation of the Word Proof. 3 Litt. 513. 2 Lom. 458. Where in Agreements, or Deeds recorded, no particular Form is directed how the Proof shall be made, the Plaintiff may bring his Action, and aver that the Thing was done; and the Defendant may say, I do not believe that it is so done, and he will not prove the Doing it. 3 Lom. 57, 77. 3 Crad. 303. A Plaintiff said that a Wafer was due, and that the Defendant had no defence. Then the Judge said, then make a Bill ingo, and if you can prove that it was worn by me by Desce, I will give you five Pounds; and in an Action on the Cogge brought against the Defendant upon his Premises to pay the Five Pounds, the Plaintiff alleged in justify that he had got the Wafer by Desce; and it was adjudged, that he need not make any other Proof of it, but in this Action. 3 Bla. 66. 3 Crad. 303. In Articles the Parties bound themselves in the Penalty of 100L. to be paid upon putt Proof of a Breach; the Proof at the Trial will maintain the Action. 1 Lom. 461. And Proof may be in the Action, in several other Cases. 3 Crad. 388, 428. Proof by Winesses, &c. See Evidence.

The parties and their happenings, is an ancient Writ for the Partition of Lands between Co-heiresses. 9 Reg. 316.

Writs, (Propriety) is the highest Right a Man hath or can have to any Thing; being used for that Right that one hath to Lands or Tenements, Goods, or Chattels, which no way depends upon another Man's Grant, and was first introduced, that every Man might know what was his own. 19 Reg. Comp. 253. Before the Frank, there was no such Thing as particular Property, but an universal Right instead of it; every Man might then take his Use what he pleased, and what he had to possess himself of, another could not, without manifest Injury, take away from him. But upon the Inorder of People, Trade and Industry, Property was gained by Purchasing, and other lawful means; for the securing whereof, proper Laws were ordained. 25 Reg. 2. Property in Lands and Tenements at this Day, is acquired either by Entry, D vnent by Law, or by Covenants; and in Goods and Chattels, it may be gained a great many Ways, though it is usually by Deed of Gift, or by Hargreave and Sale. 3 Litt. 400. And for preferring Man's Properties our Law hath these Rules, 1st. That no Man is to desire another of his Property, or disturb him in enjoying it, 2dly. Every Person is bound to take due Care of his own Property, so as the Neglect thereof may not injure his Neighbour. 3dly. All Persons must in using their Right, &c. they can not injure, with the Law, in the Managing of it, damage their Neighbour's Property. 3 Litt. 513. 2 Lom. 458. There are likewise three Sorts of


Sorts of Properties. 1. Property absolute; Property qualified. 2. Inalienable Property, or such as cannot be transferred. 3. Property in the wild Creature. 3. Proprietor hath an absolute Power to dispose of his Estate as he pleaseth, subject to the Laws of the Land. The Heirs of a deceased Person have a right to their father's Goods, Real and Chattels and Debts; but in her Chattels personal, he hath an absolute Property. 

Every Owner of Goods, &c., hath a general Property in them: Thus a Legatee of Goods hath no Property in the Goods given him by Will until actually delivered by the Executrix, so that he hath the Possession. 

Midd. 3. Car. B. R. And though by a bare Agreement, a Bargain and Sale of Goods may be so far perfected, without Delivery or Payment of Money, that the Parties may have an Action of the Case for non-performance, yet no Property vests until there is a Delivery; and therefore it is said if a second Buyer gets a Delivery, he has the better Title. 

Sa. 6. 62. But if one Covenant with me another to buy and sell, and then the Horse as a Day, I shall have his Goods in such a Place, and I pay the Money; this is a good Sale, and by it I have a Property. 

Coy. 1. 142. A Legatee of Goods has no Property in the Goods given by Will until actually delivered by the Executors, so that he hath the Possession. 

Midd. 3. Car. B. R. And though by a bare Agreement, a Bargain and Sale of Goods may be so far perfected, without Delivery or Payment of Money, that the Parties may have an Action of the Case for non-performance, yet no Property vests until there is a Delivery; and therefore it is said if a second Buyer gets a Delivery, he has the better Title.

Said. 6. 62. But if one Covenant with me another to buy and sell, and then the Horse as a Day, I shall have his Goods in such a Place, and I pay the Money; this is a good Sale, and by it I have a Property.

Coy. 1. 142. A Legatee of Goods has no Property in the Goods given by Will until actually delivered by the Executors, so that he hath the Possession.

Midd. 3. Car. B. R. And though by a bare Agreement, a Bargain and Sale of Goods may be so far perfected, without Delivery or Payment of Money, that the Parties may have an Action of the Case for non-performance, yet no Property vests until there is a Delivery; and therefore it is said if a second Buyer gets a Delivery, he has the better Title.

Said. 6. 62. But if one Covenant with me another to buy and sell, and then the Horse as a Day, I shall have his Goods in such a Place, and I pay the Money; this is a good Sale, and by it I have a Property.

Coy. 1. 142. A Legatee of Goods has no Property in the Goods given by Will until actually delivered by the Executors, so that he hath the Possession.

Midd. 3. Car. B. R. And though by a bare Agreement, a Bargain and Sale of Goods may be so far perfected, without Delivery or Payment of Money, that the Parties may have an Action of the Case for non-performance, yet no Property vests until there is a Delivery; and therefore it is said if a second Buyer gets a Delivery, he has the better Title.

Said. 6. 62. But if one Covenant with me another to buy and sell, and then the Horse as a Day, I shall have his Goods in such a Place, and I pay the Money; this is a good Sale, and by it I have a Property.

Coy. 1. 142. A Legatee of Goods has no Property in the Goods given by Will until actually delivered by the Executors, so that he hath the Possession.
Propositum, Propositio. See De orando pro Rata Portionibus.


Proprietaries, Are mentioned with Monastery, and Projectors and signify the name as Monastici 3 Ind.

Proprietary, (Proprietarius) Was heretofore commonly applied to him that had the Profits of an Ecclesiastical Benefice to himself and his Heirs or Successors: as in Times past Abbots and Priors had, to them and their Successors. And Proprietary Monarches were those Monarchs who had any Goods or Substance of their own. Man. Angl. Law. 3. pag. 307.

Proprietea iuridica, Is a Writ to the Sheriff to inquire of the Property of Goods disfrained, when the Defendant claimed Property upon a Replevin suit; for the Sheriff cannot proceed till that Matter is decided by Writ: and if it is found for the Plaintiff, then the Sheriff is to make a Writ for the same; but if for the Defendant, he can proceed no further. F. N. B. 77.

Proprietors, Are as much as pro proprietariis sive as Jointtenants, or to pay Pro reas, i.e. in Proportion to their Estates. 16 Car. 2. c. 6.

Proposital, (Propositor) Signifies to prolong, or put off to another Day. 6 Hen. H. 8. Proposital, or of the Parliament, and Adjournment were anciently used as Synonyma; but of late there hath been a Distinction, a Proposition making a Session, and an Adjournment only a Continuance. Vide Parliament.

Protection, (Protestio) Is generally taken for that Benefit and Safety which every Subject hath by the King, any Man who is a loyal Subject is in the King’s Protection; and in this Sense to be out of the King’s Protection, is to be excluded the Benefit of the Laws. 25 Edw. 3. c. 22. In a special Signification, a Protection of the King is an Act of Grace, by Writ issued out of the Chancery, which lyes where a Man will pass over the Sea in the King’s Service; and by this Writ (when allowed in Court) he shall be quit of all Manner of Suits between him and any other Person, except Affairs of New Doctrine, Affair of Dispersi Prohibition, Attainders, or, until his Return into England. 2 25. 398. Protection is an Immunity granted by the King to a certain Person, to be free from Suits at Law for a certain Time, and for some reasonable Cause; and ‘tis a Branch of the King’s Prerogative so to do: There are two Sorts of these Protections; one is cum Claudia columna; and of that Protection there are three Particulars; one is the Name of the Judge, and is for him who is going beyond Sea in the King’s Service; another is quia maritatus, which is for him who is already abroad in the King’s Service, as an Ambassador, Or and another is for the King’s Debtor, that he be not sued till the King’s Debt is satisfied: And the other Sort of Protection is cum Claudia columna, Or which is granted to a Spiritual Corporation, that their Goods or Chattels be not taken by the Officers of the King, for the King’s Service; it may likewise be granted to a Spiritual Person tingling, or to a Temporal Person. F. N. B. 1. 20. On a Person’s going over Sea, in the Service of the King, Writ of Protection shall issue, to be quit of Suits till he returns; and then a Remission may be had against him: but one more proper against the Defendant having such Protection, until he comes and sues his Protection in Court, and hath it allowed: when his Fleta or Suit shall go non de suo, but after it appears that the Person whose Protection goes, is not about the Buccaneers for which the Protection was granted, the Plaintiffs may have a Repeal thereof, Lib. Hat. 2 Eliz. 1. 495. A Protection is to be made for one Year, and may be renewed from Year to Year; but if it be made for two or three Years, the Justices will not allow the same: And if the King grant a Protection to his Debtor, that he be not sued till his Debt is paid, on these Protections none shall be denied: the Party is to answer: and to be tried, and Execution shall be stayed. 1 Edw. 130. 25 Edw. 3. The King granted a Protection to one of his Debtors; and upon a De- murrer it was alleged, that by the Statute 25 Edw. 3. c. 109. Protections of this Kind are expressly, that none shall be delayed upon them: but the Party shall answer and proceed to Judgment, and Execution shall be stayed. And such a Protection as this cannot to Execution they would advise: so a Respondent’s Order was awarded. C. 2. 117. In all Protections ought there to be a Cause shown for granting them: If obtained pending the Suit, they are naught: and a Perfon giving Bail to an Action on Arrears, ‘tis said may not plead his Protection; one may not be discharged out of Prinon to which he is committed in Execution by a Perfon. 3 Edw. 3. Nor will a Protection be allowed where a Person is taken on a Capias Ultrajation, after Judgment; for though the Capias Ultrajation is the King’s Suit in the first Place, it is in the second Degree for the Subject. Lat. 157. 1 Law. 183. Dyn. 126. Hib. 115. But in Action on Affirmatio, a Protection under the Great Seal was brought in Court, for that the Defendant was in the Wars in Flanders, and it was allowed though after an Exigent. 3 R. 332. The Plaintiff in an Action cannot call a Protection; for the Protection is for the Defendant, and shall be always for him, if it be not in special Cases where the Plaintiff becomes Defendant. 4 Nat. Br. 62. And no Protection shall be allowed against the King. 1 Edw. 131. A Protection to save a Default, is not good for any Place within the Kingdom of England: And regularly it lies only where the Defendant or Tenant is demanded; an Exigent. 3 R. 332. When the King grants a Protection, the Writ thereupon in some Cases has been as follows.

A Writ of Protection by the King.

GEOEGE the Second, &c. To all and singular Sheriff, &c. and others, who shall be our present Letters, Greetings. Know you, that we have taken into our special Protection A. B. and all his Servants, &c. and are to be by you protected, &c. in the County of and in &c. And after our Writings whatsoever: Therefore we command you that you protest and defend the said A. B. and his Servants, &c. in the said County, &c. &c. and do all our Writings, &c. Therefore we command you that you protest and defend the said A. B. and his Servants, &c. in the said County, &c. &c. And after our Writings whatsoever. Pet. Coton. 66. 94. There are many Kinds of Protections; but they are rarely used, being mostly out of use. Vide Parliament. Wals. 3. 471. When the King grants a Protection, the Writ thereupon in some Cases has been as follows.

Protection of Parliament. Peers, and Members of Parliament, have a Privilege to protest their Mensal Servants, and those actually employed by them in Service; but by a late Order, this extends not to others, on written Protections. One Cather, Gentleman at the Earl of Suffolk, was by Order of the House of Lords committed to Newgate, on Proof of his being Guilty of procuring and selling written Protections, from and in the Name of that Peer, to several Persons, to the great Damage of their Creditors, and in Breach of the Orders of that House; and being charged with other Crimes, reflecting on the Credit of Persons, was brought to the Bar, and to stand in the Pillory, vide, M. 3. 394. &c. See Privilege.
The Petition of the Court at Westminster. The Protocol of the Court of B. R. is allowed for any Person who attends his own Business in this Court, or by Virtue of any Subpoena; but this is more proper in the Prestacy. The Statute of Allowing a Challenge to be entered against a Prestacy, &c. 33 Edw. 2.

Petition, (Protestant) Has two divers Applications; one by Way of Complaint, to return a Man's Bill of Exchange, refused Acceptance of Payments, which is necessary to recover Damages, &c. See Bill of Exchange.

Pestansmo, Is a Word made use of to avoid double Pleas. One Party presents a Plea that makes it from being concluded by the Plea he is about to make, that it cannot be applied upon it; and it is also the Form of aggrandizing hereon. It will not direct or deny any Thing alledged by another or himself. In the first Case, it is where a Man pleads a Thing which he does not affirm, or that he cannot plead for Fear of Making his Plea double: as in Tute to Land by two Defeants, the Defendant must plead one of them, and put the Word Pestansmo instead of dict., as to the other, that such a one died belied, &c. And in the last Case, when one is to answer to two Matters, and the Law he ought to plead but to one: then in the Beginning of his Plea he may say Pestansmo, that such Matter is not true, and add to his Plea, Pro Planta dict.; and so he may take Issue upon the other Part of the Matter. Procd. 276. 8 Edw. 5. Proct. Adept, &c. And effectual Matters in Bar ought not to be taken in a Plea by Pestansmo: A Pestansmo is sometimes thus: Pestansmo non Capitatis, such as Tithes, Pro; Planta dict., &c.

Petitionants, Exempt from Penalties, &c. See Different.

Prestacy (Prestacy), &c. (Prima Notitia) Is a Chief Officer or Clerk of the Common Pleas and King's Bench; and for the first named Court there are three Prestacy, and the other hath but one. He is to keep record all Actions Civil as the Clerk of the Crown Office doth all Criminal Causes in that Court: Those of the Common Pleas, since the Grotius in 1. 2. 1. upon an Agreement entered into between the Pristacy and Writers of that Court, do enter and enrol all Manner of Declarations, Pleadings, Affidavits, Judgments, and Actions: They make out all judicial Writs except Writs of Habeas Corpus, and the prerogative Jurisdiction, for which there is a particular Office erected, called the Habeas Corpus Office: Also Writs of Execution, and of Seisin, of Privilege for removing Causes from inferior Courts, Writs of Procedendo, Sureties in all Causes, and Writs to Inquire of Damages; and all Proces upon Prohibitions, &c. &c. They likewise enter Recognizances acknowledged in that Court; and all Common Recoveries; and make Exemplifications of Records, &c. 5 H. 4. rep. 14.

Petitionaries was he whom our ancient Kings made Chief of Windsor Forest, to hear all Causes; a Kind of Lord Chief Justice in Eye &c. Grand Brit. 215.

Proctor, 2 Edw. 1. and 3 Hen. 4. See Proctor.

Protestation, Provisions of Meat and Drink. Proctor. A Way of Aggrandizing hereon, to be used in the Course of Business, given by a Deputy or Lieutenant. Litt. Dict. It was used among the Romans for a Century, without the Limits of Italy, gained to their Subject by the Sword; whereas that Part of France then the Alps was so called by them, and still retains the Name. With or, a Proctor is most usually taken for the Circuit of an Archdeacon's Jurisdiction; as the Province of Canterbury, and that of York: Yet it is mentioned in some of our Statutes, for several Parts of the Realm; and sometimes for a County. 32 H. 8. c. 23.

Provincial, (Provincei) Of or belonging to a Province; also a chief Governor of a Religious Order; as of Friars, &c. Stat. 4 H. 4. c. 17.

Province (Province), By the old Laws of England, as well as the Canon Law, is the Providing a Bishop, or any other Ecclesiastical Person, with a Living, by the Pope, before the Incompend is dead: It is also called Gratia explicationis, or Mandatum de providendo; the great Abuse whereof heretofore in this Kingdom, occasioned divers Statutes to prevent it. 35 Edw. 5. c. 22. 37 2 Edw. 2. 2 R. 3.

Provisors. The Duties which were made in a Parliament at Oxford, Anno 1258. are termed Provisors. Cont. Matt. Part.

Provoiso, Is a Condition inserted into any Deed, on the Performance whereof the Validity of the Deed depends; and sometimes it is only a Covenant, scendum facultatem Materiae. 70. 2 Edw. 2. Abridg. 599. The Word Proviso is generally taken for a Condition; but it differs from it in several Respects: for a Condition is usually created by the Granter or Leeree, but a Proviso by the Granter or Leeree; there is likewise a Difference in placing the Proviso, as if immediately after the Habendum, the next Covenant is that the Leeree shall repair, provided always that the Leeree shall have Timber, this is no Condition; nor is it a Condition, if it comes among other Covenaunts after the Habendum, and is created by the Words of the Leeree, as of the Leeree covenanters to fence the Ditches, Proviso that the Leeree carry away the Soil, &c. 3 Nelf. Abr. 21. It hath been held, that the Law hath not appointed any proper Place in a Deed to insert a Proviso, but that when it does not depend on any other Sentence, but stands originally by itself, and when it is created by the Words of the Granter, &c. and is in retefective or compulsory, to inforce the Granter to do some Act, in such Case the Word Proviso makes a Condition, though 'tis intermixed with other Covenaunts, and does not immediately follow the Habendum. 2 Rep. 70. A Proviso always implies a Condition, if there be no Words subsequent which may change it into a Covenant; A. E. it is a Rule in Law, that where the Proviso is that the Leeree, &c. shall do, or not do a Thing, and no Penalty is added to it; this is a Condition, or 'tis void; but if a Penalty be annexed, it is otherwise. Grot. 549. &c. 1 Lees. 155. And where a Proviso is a Condition, it ought not to do the Office of a Condition, i.e. make the Effeate conditional, and shall have Reference to the Effeate, and be annexed to it; but shall not make it void without Entry, in a Limitation will: A Lease was made for Years, rendering Rent at such a Day, Provisor if the Rent be arrear for one Month, the Land to be vested back. The Question was, whether this was a Condition or Limitation; for if it was a Condition, then the Lease is not determined without Entry; adjudged, that it was a Limitation, though the Words were conditional, because it appeared by the Lease itself that it was the express Agreement of the Parties that the Land should be void on Non payment of the Rent; and it shall be void without Entry. 2 Nelf. Abr. 22. 26. If a Proviso be the mutual Words of both Parties to the Deed, it amounts to a Covenant; and a Proviso by way of Agreement to pay. A Covenant, and an Agreement well lies upon it. 2 Rep. 72. The Plaintiff convey'd an Office to the Defendant,
Puissant, Provost that out of the first Profit he pay the Plaintiff 50l. And it was resolved, that an Advo. for the Plaintiff lay on this Provost; for 'tis not by Way of Condicion or Defiance, but in Nature of a Covenant to pay the Money. 4 Lev. 1. 5. But a Defendant in Condition of 400l. granted him to pay to the Plaintiff for ninety-nine Years. Provost if he pay so much yearly during the Life of 7. yr. or 40l. within two Years after his Death, then the Grant to be void, and there was a Bond for Performance of Covenants; in Adion of Debt brought upon this Bond, it was adjudg'd, that there being no express Covenant to pay the Money, there could be no Breach alleged on this Provost. 2 Med. 36. In Articles of Agreement to make a Lease, Provost that the Leele should pay so much Rent, yr. although there be no special Words of Resignation that fairly led to the Court of Rome for a Proctor. Stat. 25 Ed. 7. 6. Proctor. Inside the Governor, or Steward of a Religious House. 6. 7. Proctor. Williamout, The King's Parson, who provided for the Accommodations of his Court. 8. 9. Proctors, In this Case, a Plaintiff, in this Case. 10. 11. When Ules are raised by Covenant, in Consideration of the Age, which is paid by the Plaintiff. 4 Lev. 1. 12. And after in the same Indenture, there is a Provost to make, Lessee, without any particular Consideration, it is void; though such a Provost might be good, if the Ules were fined by Fine, Recovery, Cred. and of the Terms. 13. 14. A Remitter, to him and his Executors. 1 J. 15. When Ules are raised by Covenant, in Consideration of the Age, which is paid by the Plaintiff. 4 Lev. 1. 16. And after in the same Indenture, there is a Provost to make, Lessee, without any particular Consideration, it is void; though such a Provost might be good, if the Ules were fined by Fine, Recovery, Cred. and of the Terms. 17. At the Heirs for their Bodies, shall be void; this Provost is sufficient to cede the other Ules, on Difiurbance, 8. 18. But a Provost, to make an Estate, limited to one and the Heirs for their Bodies, to cede as if he were naturally dead, on his Attesting any Act by which the Limitation of the Land was in Tail, should Horrendum, be, this, red, Cred. hath been adjudged not good; because the Estate tail is not determined by the Death of Tenant in Tail, but by his dying without Male issue. 19. 1. 20. And if a Provost is good at first, and afterwards it happens, that there is no other Remedy but that which was restrained; the remedy shall be had, notwithstanding the Restraint. 3. And if a Provost is Parcel of, or abridged a Covenant, it makes an Exception, when 'tis annexed to an Exception in a Deed, 'tis as if there was no Deed; and where added at the End of any Covenant, there it extends only to defeat that Covenant. 1. 21. Disburs, concerning Matters judicial, is where the Plaintiff in an Action drifs in Professing his Suit, and does not bring it to Trial in convenient Time; the Defendant in such Case may take out the Vereins, against the Sheriff, which hath in its Words, Provost, or Cred. To the End, that if the Plaintiff take out any Writ to that Purpose, the Sheriff shall fam-
Public accounts of the Kingdom, and examining and determining the Debts due to the Army and Navy; also, concerning the Expenditure of the King's Treasures, &c. empowering Commissioners for that Purpose, who were to give an Account of their Proceedings to the King and Parliament. Stat. 2 W. & M. c. 1. 8 Ann. c. 3. 1 Gr. 1. 1st.

Great Britain, (Fides Publica) In the Reign of King Charles I. was a Premie or Cheat, to raise Money of the feuded People, upon what was termed the Public Faith of the Nation, to make War against the King about the Year 1642. Stat. 17 Car. 1. c. 18. 8 Pechteage, (Palliattoria) Is used for Virginity, Maidenhead. 9th. 3. In an ancient Manuscript it is written Palliattia. Mich. 19 Ed. 3.

Puis Poterum Continuatio, Is a Plea of new Matter, pending an Action, vs ultimam Continuatio, see Plea.

Plebeus, (Fr.) Younger, Pavy born, or coming after.


Pettoria, Is an Examination or Demand, and: 'Vie de Monta' or Tariff of Exports, entered into a Monastery, as above, for several Days, and then enter. Mon. Aug. Tom. 2. p. 103.


Punishment, (Punis) Is the Penalty of Transgressing the Laws: And as Debits are charged to private Persons by Payment: so Obligations to the Public, for disturbing Society, are discharged when the Offender undergoes the Punishment inflicted for his Offence. Kings, and such as have equal Power with them, have a Right to require Punishment for Injuries committed against themselves or their Subjects, upon the Violation of National Laws; though the Right of inflicting Punishments to provide for the Safety of Society, was originally (before Commonwealths were erected and Courts of Justice ordained) in the Hands of every Man being equal to, and independent of others; but since, it has reeded in the Hands of the highest Powers, as Subjection to others hath taken away that privilege. However, this Power and natural Right of punishing an Equal, still remains in those Places where the People are not subject to some Form of Government. Grat. de Fœre Bell. lib. 14 c. 2. The Punishment of Offenders are many. The Punishment of Offenders is various, and adapted to the several Degrees of Crimes, and the Countries where committed; and in England are Bicharding, Impriantion, Fine, Amercement, &c.

party wher, Is where Lands, Gr. are held for another's Life. See Over-rent.

Perchabh, (Aquarium, Pecuniam, Parniachus) Signifies the Buying or Acquisition of Lands, or Tenements with Money, or by Deed or Agreement; and not obtaining by Deeds, or hereditarily Right: And Compendium Pecuniam is where two or more Persons join in the Purchase. Litt. 12. Reg. Orig. 144. One Concerns in a Purchase when he comes to Lands by legal Conveyance, and he has a lawful Estate: And a Purchase is always intended by Title, either for some Consideration, or by Gift: (For a Gift is a Purcha) whereas Deeds from an Ancetter comes of Course by Act of Law: Also all Contracts are comprehended under this Word Purchase. 1 Lev. 18. 88. Df. &c. sind 14. Purcha, the right of Defer, if in England, or if an Estate come to a Man from his Ancetor without Writing, that is a Direct: But where a Person takes any Thing from an Ancetor, or others, by Deed, Will, or Gift, and by a new Act of Law, a Purcha. 3 Litt. 407. When an Estate doth originally vest in the heir, and never was nor could be in the Ancetor; such heir shall take by way of Purchase: And when the Thing might have vested in his Ancetor, though it be full in the heir, and not in him at all; the Heir shall have it in Nature of Defect. 1 Rep. 95. 106. An Heir takes an Estate as will, in another Manner than the Common Law would have given it; there he takes by Purcha, and not Defect; but then he must be the right Heir. 2 Lev. 79. None can generally take as heir by Purcha, which is not a right Heir; nor by Defect, where the Eate was never executed in the Ancetor; by Holo Ch. Jul. a special Heir may take as such, by special Limitation, and the Law takes notice of him. IId. The Word Heir will not serve for a Name of Purcha, if he be not right and lawful Heir but Son, or Daughter. 11 Thuc. Cent. 203. In a new created Estate to right heirs, they must of Consequence take by Purcha. 4 Mtd 350. At Common Law a Man could not make his own right Heirs, take by Purchas. 15 Mtd 282. Depriving with the Whole Fee simple; but now by Way of Use, as he may: And when a Remission of the use of an Estate tail was void as a Purchase, it was held that the Estate should go on in a Course of Defect. 1 Mtd 216. 3 Salk 192. 293. If the Father devises Lands to his eldest Son, upon Condition; the Son shall be in by Purcha, not by Defect. 1 Cro Car. 161. And there is this Difference between Purcha and Defect of Lands: if a Person takes by Purchas, a Fine, Gr. may be no Bar. 1 Nolf. Ab. 59. Where the Heir takes Land by Will with a Charge, he does not take by Defect, but by Purcha, and the Land is no Aetens. 2 Mtd 258. And if a Power of Entry for a Condition broken to, and a Daughter enters; she is as a Purcha, and the Son born after shall not have it. 1 Rep. 99. 1 Inf. 76. Every common Purchaser of Land ought at his Peril to take Notice of the Easements and Charges, which are upon the Land he purchasses; for the Law presumes that no Man will purchasse Lands without Advice of Council. 2 Lev. 57. 2 Litt. 403. But there are several Statutes which guard against fraudulent Incumbrances: as the 27 Eliz. cap. 2, enacts, that Conveyances of Lands made to defraud a Purchaser, shall be void: The 29 Car. 2. cap. 5 makes Judgments of Lands good against Purchasers bona fide, only from the Time of Signing by the Judges. Gr. And no Judgment shall affect Purchasers of Lands, Gr. 2 & 3 Eliz. c. 2. M. cap. 20. Chancery will relieve the Purchaser of a Term, against a dormant Title, when Money hath been laid out upon Improvements. 2 Lev. 158. A Man controulled for the Purchas of Lands, but before the Conveyanace was made, he died, having devisd the Land, Gr. and it was held the Devise was good; because the Vendor, after the Contract, tendered Notice for the Vendor. 1 Salk 85. And if a Man covenants a Purchas, to pay another such a Sum of Money, he making hips, an Share in such Land, if the other tender him a possessant, and offer to make Livery and Seisin, Gr. he may bring an Action for the Money, as if he had actually made a Title. 1 Equit. 148. Natural Persons, incapable, or alleged, to, or under him, and the Break of a Purcha, the Election of themselves or others, as Administrators, and Probate Governors, 17 & 18 Geo. 1. p. 3. 3 & 4 Geo. 1. p. 77. 7 Rep. 17. See Defect, Heir. Gr. 8 A.

Purchas
Purchas and Value of Land. Lands are purchasable at divers Rates in this Kingdom: according to the State of Fee-Simple in the Land, it is usually valued in the Country at twenty Years Purchases. Lands next London yield about twenty-five Years Purchases; and in Wales, not above eighteen or nineteen. The Fine of Ten ancient Adovations is worth about twenty-two Years Purchases. The Fee of Holmen in London sells for seventeen or eighteen Years Purchases, if in good Repair, and the Ground Rents are not high; otherwise for less: Holne not in London, but well situated, without any Lands to them, are sold for fifteen or sixteen Years Purchases: For a Lease of a House for thirty Years, about eight Years Purchases is given in London; and for one and twenty Years about six Years Value. A Freehold Lease for one Life absolute, or a Copyhold Estate for the Life during the Life of the Tenant, or for a Term of Years after the Death of the Tenant, and for the Lives of several Persons, are not higher than usual, is rated at fourteen Years Purchases: for the Life of a young Male, for the second four, and two for the third Life; or seven, five, and two. A Chancery Lease for three, or two, or three Years Purchases, and for a Term of Years Purchases, is the same. The Exchanging one Life for another is generally one Year's Purchases: but if a Life be exchanged for a healthy one, two or three Years Purchases. A Widowhood in a Copyhold, after the Death of the Husband a third Life, is valued at one Year's Purchases. The Fee in Reverion after Lives, in worth nine, seven, and five Years Purchases, after one, two or three Lives; and more where there is Timber, or the Estate improveable. Land. Purch. Comp. i. 2. 3. 4. *etc.*

Purgation, (Purification) is the Clearing a Man's Self of a Crime, whereof he is publicly suspected, and acquitted before a Judge: Of which there was formerly great Use in England. And Purgation is either Canonica, or Vulgo; one that is by the Law of the Church, and the other that is by Privilege. The latter is more free from the Church and is a more absolute, and exact Purgation. The former is by the Law of the Church, and is a more absolute, and exact Purgation. The latter is by the Church, and is a more absolute, and exact Purgation.

Burxton, or Burxton, (from the Fr. Burx, i.e. purus, & Lius, locum) is all that Ground near any Forest, which being added to the ancient Forests by King Hen. 3. and King John, was afterwards disafforested and severed by the Stat. Charia de Forstia, and the Perambulations and Grants thereupon, by King Hen. 3. to that it became Purus, or Parus, from the Laws and Statutes of the Forest. Manwood's Far. Lawe. par. 2. cap. 20. Our Ancelliors called this Ground Purus, purus Lawe, because it was exempted from that Service which was formerly laid upon it: And whereas Manwood and Crescius call it Puruslaw, we may derive it from Parus, purus, & Lius, Amblyius, because he that walketh in the Course or Circuit, is not liable to the Laws or Penalties or taxes by them which hunt within the Forest Precincts; but Paruslaw is held to be properly the Perambulation whereby the Puruslaw is described. The Owners of Grounds within the Paruslaw by Disafforestation, may sell timber, convert Pastures into arable, or inclose them with any Kind of Inclosure; erect Edifices, and dispose of the same as if they had never been afforested; and a Paruslaw Man may as lawfully hunt to all Intents within the Puruslaw, as any Man may in his own Grounds that were ever afforested. He may keep his Dogs within the Paruslaw unexpediated; and the Wild Beasts do belong to the Paruslaw man ratione rei, so long as they remain in his Grounds, and he may kill them. 4 Inf. 503. 504. But in the Case of Sir Richard Wigel, Attorney General, it was laid, that though the Law be as above, yet that it does not extend by Presumption, and there is nothing in Statutes or in Hunting; and therefore Paruslaw Man may only keep out the Deer, but cannot kill them, though they be in their Ground. 1 Tenor Rep. 478. See Mor. 306. 497. And notwithstanding Paruslaw grounds are absolutely disafforested, it has been permitted, that the Ranger of the Forest shall, as often as the Wild Beasts of the Forest range into the Paruslaw, as his Hounds retrace him back into the Forest. 4 Inf. 12. 

Purificare, are those that have Ground within in the Puruslaw, and being able to dispose forty Shilling a Year Freehold; who, upon these two Points, are licensed to hunt in their own Paruslaw, observing what is required. M. For. Lawes 151, 152, 153, 154, 155, 156.

Purpurary, (Fr. Far parre, i.e. pro parte) Is that Part or Share of an Estate, firstly held in Commons by Parceners, which is by Parceners allotted to any of them. To divide and allot the Lands that fall to Parceners, and to Partition them they hold jointly, See Inf. 19. 20. Purpurature, (Fr. Purpuratuer, from the Fr. Purpurare, an Inclosure) Is when any Thing is done in the Name of the King's Judges, or the Highways, Ec. by Inclosure, or Buildings; endeavouring to make that Thing, which plotters thought to be Publick, Private. 2 Inf. 8. 27. And when a Man takes himself, or introuses any Thing which he ought not, whether it be in Lands, Franchises, or Jurisdiction, it is a Purpurature, and some Writers mention three Sorts of Purpuratures; one against the King, the Second against the Lord of the Fee, and the Third against his Neighbour. 2 Inf. 38. Purpurature is every Incroachment made therein, by Building, Inclosing, or Using any Liberty. It is a lawful warrant for the same. And if any Inclosures are made in Forests, they may be laid open, 5. For. Lawes, cap. 10. C. 70. 146. By Statute, Purpuratures or Incroachments upon the King's or his Retained, and Gilded, are to be suppressed which are to be of this in the Sheriff's Town. Dab. 146. 147.

Purpurificum, (Fr. Purpurificum) A Cloce or Inclosure; also the whole Compas or Extent of a Manor-Place. Man. Eng. Tom. 2. fol. 106.
P U

Officers of the Navy, &c. may preh' Carriages for the Life of his Majesty's Navy and Ordnance, according to the Regulations prescribed by that Statute, as at so much per Mile; and the like was provided by 1 Jac. 2. cap. 10. In Relev't to the King's Royal Provisions, &c.

Burles, (Fr. Poisses, a Patent or Grant) is frequently used by Sie Edu. Cake, for the Body, or that Part of an Act of Parliament which begins with Be it enacted, &c. The Statute 3 Hen. 7. stands upon a Preamble and Parliavue. 2 Ind. 403. 12 Rep. 20.

Burage, (Pattugium) Particulare ex partes Feminae; quae putam aequa Gall. Puttce, i. e. Meretric. Amongst our Accrastors this Crime was execrated very heinous; for if any Free Female under Guardianship, were guilty of it, she forfeited her Part to the other Cohabitors or if she were a free Servant, the Lord of the Fee had her Lands by Ejectment. Sylm. Gloss. 11. 7. 12.

Butterworth, Paravlux, Reputed, or commonly execrated; opposed to what is notorious and unquestionable.—Peter Parri Paritvsm, i.e. the repugnance of Children. 4 Hen. 7. 8.

Buttora, (Fr. Poisse) In a Cullom claimed by Keepers in Forests, and sometimes by Ballifts of Humble, to take Men, Meat, and Dog's Meat, of the Tenants and Inhabitants within the Perambulation of the Forest, Hundred, &c. and in the Liberty of Quakersbury it was long since turned into the Payment of 4d. in Money by each Tenant. MS. de Temp. Ed. 3. 4 Ind. 507. The Land subject to this Cullom is called Terra Poisse. Plac. apud Celle. 31 Ed. 1. 3.

Byker, or Torcars, a Small Ship or Herring boat. 31 Ed. 3. 2.

Q

Quinta, Signifies any Kind of Square, a Quarter, &c.

Quattuordecies, The fortieth Part, also the Time of Last, from our Savious's Forty Days. Lit. Ditt. 3.

Quatuordecima Sunnith, Is the First Sunday in Lent; and so called, because it is about the fortieth Day before Easter. Blosam.

Quatuordecimatis. In former Days it was the Cullom for People to visit their Mother-Church on Mid-Monday, and to make their Offerings at the High Altar; as the like Devotion was again revived in Whit's Week; But as the Provisions and Oblations at Whit's-end were sometimes committed into a rated Payment of Pontespace; so the Last or Easter Offerings were changed into a Cullomy Year called Quatuordecimatis, and Denarii Quadragesimatis, also Letter Jerusalem.

Quattuordecimatis. A fourth Part of a Penny: And before the Reign of King Edu. I. the smallest Coin was a Sterling or Penny, marked with a Crof, by the Guidance wherein a Penny might be cut into Halves for a Half penny, or into Quarters or four Parts for Farthings till to avoid the Fraud of unequal Cutting, that King coined Halfpence and Farthings in round dished Pieces. Mott. Wifius. Ann. 1709.

Quattuordecimatis. The fourth Part of an Ace.


Quattuordecimatis. The Center of four Ways, where four Roads meet and cross each other. By Statute, Polls with Inscriptions are to be set up at such Cross Ways.
Ways, as a Direction to Travellers, &c. 8 & 9 W. 3. c. 16.

Quaestiones terrena. A Team Land; or so much Ground as may be tilled with four Horses.

Quo cib. rabam. In Pleading is used to supply the Want of a Traverse, 2 Lib. Abr. 405. In a Clowden (for such a Day,) the Plaintiff pleads the Plaintiff's Licence to enter on the same Day, and that servitute index he entered; he need not say quia et in rem Transfrigia; So in Trefpa for taking of Goods, if the Defendant judgeth the same Day and Place: And in Trefpa for Battery, if the Defendant judgeth that the same Day and Place, the Plaintiff assaulted him, and that what Damage happened to him was of his own Wrong; this is good without quia et in rem Transfrigia, &c.; though he doth not directly answer the Assault laid by the Plaintiff; but where he judgeth at another Day, or at other Place, then he ought to say, quia et in rem, 21 Hen. 7. pl. 2. A Fact laid to be Nov. 1. and a Subsection, and such a Night as was enough of a Traverse, the Day not being material; but it had been taught, if the Day had been material. 1 Lev. 245. If a Trefpa is alleged to Nov. and Justifying the Defendant to extend the Exclusion of a Quo et in rem, it is well held good without making any Traverse. Law. 1457. Where a Defendant judgeth a Trefpa in the Place where Defendant. Declaration he hath no occasion to lay quia et in rem Transfrigia; because he agrees with the Plaintiff in the Time and Place mentioned in his Declaration, and gives an Answer to it. Micah. 5. 26 & M. 6.

Quo situta. Was a Writ that lay where an Inquisition had been taken by an Executor of Lands, &c. that a man died feized of, and all the land was supposed not to be found by the Office or Inquisition; this Writ was therefore to inquire of what other Lands or Tenements the Party died feised: But it is now made useless, since the taking away the Court of Wards and Office past mortem. 12 Car. 2. c. 24. Reg. Orig. 293.

Quo, or Secur. Is where any Point of Law, or Matter in Debate is doubted; as not having sufficient Authority to maintain it. See 1 Lib. Abr. 406.

Quoten non innobiscum Egregium, A Return made by the Sheriff, upon a Writ directed to him with this Clause, ut in Auxilliariis B. Iusticiarum & Curatorum sumi Propegentibus, Ec. F. N. B. 38.

Quo tenitiria, A Writ concerning Services, &c. See per quern servire.

Quo siteta, Illegitimatum tationem, vel Quantum tutionem, Ec. Glanv. lib. 7. cap. 1. *

Quothes. (From Templa) Are such who pretend to tremble or quake, in the Exercice of their Wholesome Religion. Quothes to the Number of Five or more, assembling in Religious Worship not authorized by Law, were forfeited for the first Offence 5 l. for the second, 13 l. 12. 14 Car. 2. cap. 1. but they are exempted from the Penalties of that Act by the 1 W. & M. c. 18. The 7 & 8 W. 3. cap. 37. enacts, that Quothes making and falsifying the Declaration of Fidelity mentioned in 1 W. & M. and owning King William to be rightful and lawful King, shall not be liable to the Penalties of this Act against others refusing to take the Oaths; and not falsifying the Declaration of Fidelity, &c. they are disabled to vote at Election of Members of Parliament: Quothes, where an Oath is required, are permitted to make a solemn affirmation, and to declare, declaring in the Presence of Almighty God the Witness of the Truth, &c. But they are not capable of being Witnesses in a Criminal Cause; nor of serving as Witnesses, or having Office in the Government. 7 & 8 W. 3. c. 34. The Quothes Affirmation is ordained to be in Force for ever, and the Form of it appointed by 1. Gen. 16. cap. 6. And the 8 Gen. 1 cap. 6. authorizes the Affirmation of the Quothes with the Words, I do promise and solemnly declare in the Presence of you, &c. without laying in the Presence of God &c. but false and corrupt Affirming, incurs the Pain and Penalties of willful Perjury. Quothes refusing to pay Tithes, or Church-Rates, Judges of Peace are to determine them, and order Costs, 7 & 8 W. 3. c. 1. And Quothes may be committed to Prison for Non-payment of Tithes, upon the Stat. 27 H. 8. c. 20. which is not repealed by the 7 & 8 W. 3. which gives another Remedy. 1 Lev. Remy. 253. In all Cases, except Criminal, where by any Act of Parliament an Oath shall be required, the Affirmation of a Quothe shall be allowed, the Law permitting that it is well enough in the Act of Parliament. 1 Lev. Remy. 253.

Quo tenitiria. A Writ judicial which was brought where a Man of Religion had Judgment to recover Land, before Execution was made of the Judgment; it went for a wider and more general Judgment and Execution, to make Inquiry whether the Religious Person had Right to recover, or the Judgment was obtained by Collusion, and to further add, by the Inquest that the Lord might not be defrauded. Reg. Fid. 8. 16, 46. Stat. W&m. 2. cap. 32.

Quum situta. Signifies a Man enabled to hold two Bénéfices. See Beneficia.

Admitte se bene geriris, Is a Clause often inserted in Letters Patent of the Grant of Offices, as in those to the Baron of the Exchequer, &c, which must be intended in Masters concerning their Office; and is nothing but what the Law would have implied, if the Office had been granted for Life. 4 Inst. 117.

Quantum meritis, i. e. How much he has deserved, is a Man's Action of the Cafe, so called, grounded upon the Promise of another, to pay him for doing anything so much as he should deserve or merit. If a Man retains any Perfon to do Work or other Thing for him; as a Taylor to make a Gown, a Carrier to carry Goods, &c. without any certain Agreement; in such Cafe, the Law implies that he shall pay for the same, as much as they are worth, and shall be reasonably demanded; for which Quantum of Merit may be brought: And if one owe another upon a Promise to satisfy him for Work done, &c. he must fulfill and aver in his Declaration much he deserved for his Work. Comp. Action. A Plaintiff declared, that the Defendant, in Confidertation that the Plaintiff had found him sufficient Meat, Drink, Washing and Lodging, for several Months last past, promised to pay him as much as he should deserve, and avered that he deserved so much; upon Non Affirmatis pleaded, the Plaintiff had a Versell; but it was moved in Areeft of Judgment, that the Declaration was not clear and inexact, as to the Time and Number of Months: Though the Declaration was held good, and the Plaintiff gained a Verdict. 15 Gen. Am. 12. 15 B. R. 2 Salk. 557. Where the Word Quantum was omitted in the Declaration, Tantum Erat been adjudged sufficient, v. E. The Defendant promised to pay so much as he deemed it; and Merumfiff signifies as much as ifis Merumfiff: Also on several Counts, Quantum habere meruit was confined to be Quantum habere meruit, or Quantum habere meruit, and it was said, as it was plain they did, though this was contrary to the Grammaratical Construction; and the Court held that they must take the Words of the Declaration, to be the Words Quantum habere meruit, &c. Per se, and not Hill. 4 Am. B. R. In a Quantum Meruit, bringing Money
Money into Court was denied. Hill 8 Will. 3 B. R. But it was allowed, nov. matins Magdalen Raymond, Paget 5. Post. 3 Hat. 117.

Quantum Damages are given where Goods and Wares sold are delivered by a Trademen at no certain Price, or to be paid for as much as they are worth in general; then Quantum maked lies, and the Plaintiff is to aver them to be worth so much: So where the Law obliges one to furnish another with Goods or Provisions, as an Inn keeper his Guests, Etc. Procris, d. 2. Ed. 1. p. 72.

Quat' rum, Are general Words used in original Writs, Etc. See Original

Quaere ejusdem Terminum. Is a Writ that lies for a Leafe, where he call out of his Farm before his Term is expired, against a Feoffee of the Lands, or the Lessor that ejected him; and the Effect of it is to recover his Term again, and his Damages.

Reg. Org. 227. F. N. B. 197. New Nat. Br. 439. It is said this Writ was devised for the following Cases: If a Man make a Lease of Land for Yeld, bought, and for his Term maketh not a Feoffee of the Land unto a Stranger in Fee; now the Leafe cannot have a Writ of Easements against him, before the Term; or before the Term is expired, against the Leafe, he had no Remedy against the Feoffee: And therefore, by the Equity of the Statute of Wymesw. 2. cap. 24. when it is said, that where it shall happen in one Case, a Writ is found, and in the like Case, falling under the same Law, and wanting the same Remedy, Etc. it is not so, the Clerks of the Chancery are to agree upon a proper Writ, Etc. By Reason of that Statute, was this Writ devised. New Nat. Br. 439. And if a Person lease Lands for Years, and the Lessor doth suffer a Recovery to be had against him upon a feigned Title, and the Recoverer entereth; the Leafe shall have his Writ of Quaere ejusdem Termimum, Etc. And the Words of the Writ are, Ocupation contra Possessionem; and yet the same is not properly a Sall, but those Words are only of Form. Ibid. It is in the election of the Leefe, or if he grants over his Term, the second Leefe, so far a Writ of Easements, or a Quaere ejusdem terminum, against the Leefe, or his Heir, or against the Lord by Escheat, Etc. if they put the Terminor out of possession and Damage; though in the Writ of Damages, so he recovers only the Presentation, not the Title to the Advowson, as for which Reason that disturbs him in his Right of Advowson by Precluding a Person from buying the Church, or other Goods, or the Sirs, F. N. B. 32. Stat. Ywmsw. 2. cap. 5. It differs from Allie of Dareste Preceptum (or Ulitme Preceptauncia) because that lies where a Man or his Ancestor, under whom he claims, have formerly preyended to the Church; and this is for him that is the Purchaser himself: But in both thele, the Plaintiff recovers the Preceptum and Damages; though in the Writ of Dareste Preceptum, Etc. he recovers only the Preceptum, not the Title to the Advowson, as he doth in a Quaere Impedit for which Reason that Allie is given for D. E. 3. Nieuw. 3. Nef. 10. Quaere Impedit is to be brought in Six Months after the Avoidance; and by it a Patron may be relieved, not only on his Preceptum to a Church, but to a Chapel, Prebend, Vicarage, Etc. And this Writ lies for a Donor, and the special Matter is to be set forth in the Declaration: It allo lieth for a Deaconry by the King, although it be elective, and for an Archdeaconry, but not for a new Office of the Church.

1 Inf. 344. 1 Eam. 205. And the Chapter may have a Quaere Impedit against the Dean, of their several Poissions. 40 Ed. 3. 48. If the Quaere Impedit be brought for a Donor, the Plaintiff may bring a preent to the Donor; if of a Patronage, then it is Quaere Impedit Preceptum a Ecclesiam: if to a Vicarage, it is an Avoidance; if to a Prebendary, to Pruches, 5 Nef. Atr. 35. If a Bishop be disturbed to collater, where he ought to make Collision, he may have a Writ Quaere Impedit, and the Writ shall be good preeminent all the Patronage, Etc. and he shall count upon the Collision: And if the King be disturbed in his Collation by Letters Patent, he shall have a Quaere Impedit New Nat. Br. 439. A Grantee of a next Avoidance may bring this Writ against the Patron who granted the Avoidance. 39 Eam. 6. It may be brought by Executors, for a Disturbance in vice Succession; and Executors being disturbed in their Preceptum, may bring Quaere Impedit as well as their Teller might. Owen 09. Lawe 1. Husband and Wife jointly, or the Husband alone without the Consent of his Wife may have the Writ Quaere Impedit as well as if a Man had an Advowson in Right of his Wife, be disturbed in his Preceptum, and the Wife shall bring it. 14 Ed. 4. 5 Rep. 07. The King shall not have Quaere Impedit, for a Disturbance tempore patriæ nor can he have Execution upon a Recovery by the Ancestor: Br. 2. Ed. 3. 19. But by the Statute 13 Ed. 1. c. 5. Ulteration of Churches during Wardship, particular Eierties or Vacancy, Etc. shall not bar an His or Her Ulteration. 6 Rep. 07. The same Case is in the same Way as a Spiritual Person in Succession, from having a Writ of poissiory of Quaere Impedit, Etc. as the Ancestor or Predecessor might have had, if such Ulteration had been in their Time: And the same Form of Pleading shall be had in Darreren Preceptum, and Quaere Impedit. Where Partition is made upon Record, to present by Turnus, the Capriner that is disturbed shall not be put to a Quaere Impedit, but may have Remedy upon the Roll, by Scias facias: It is otherwise on an Agreement to present. Stat. Judic. 22 Ed. 4. 8. If Tenant in Tail suffers an Ulteration, and dies, and six Months pate, the Issue in Tail cannot bring Quaere Impedit, but at the next Avoidance he may have it within the six Months. 48 Aflh. 4. This Writ is all in the Poissiory; and the Preceptum of Grantee of the next Avoidance is a good Title for the Grantor and Patron in Fee to bring it in and like Rights for his Heirs, and other Grantees. 9 Hen. 7. 31. 5 Rep. 07. Preceptum alledged in Leafe for Life, or Years, or it is said in Tenant at Will, is sufficient in Quaere Impedit; so of Tenant in Demise for Five Years, so of Tenants by Sature Merchant, Seple or Eligite, Etc. 21 Ed. 4. 3. 5. Rep. 09. Malory's Quaere Impedit is 55. It supposes both a Poissiory and a Right; and a Plaintiff must allege a Preception in himself; or in those under whom he claims; unless it be in Cafe of Lalie, Etc. In the Declaration of the Plaintiff, it is not sufficient for him to allege, that he, or such a Person from whom he claims, were Seised of the Advowson of the Church, but he must allege a Preception made of one of them; for if he doth not, the Defendant may declare the Preception, and the Reason of this is, that the Defendant, by joining the said Preception to his own Title, is to make appear, that he hath a Right to present now as well as then. Cor. Eam. 116. 8 Rep. 07. Vagby. 57. The Writ must be brought in that County where the Church is; the Patron and Incumbent are to be named in it, the one as he may be dispossessed his Patronage, and the other of his Preception; and it is usual likewise to make the Bishop a Defender, to prevent a Lalie, where the Church is void, preceptum lite: Quaere Impedit shall not lie against the Ordinary.

8 B and
and Incumbent, without naming the Patron; because at Common Law the Incumbent could not plead any Thing which concerned the Right of Patronage, and therefore it is unreasonable that he alone should be named in the Writ who could not defend the Patronage; but the Stat. 25 Ed. 3. c. 7, enables him to plead against the King, and to defend his Incumbency, although he claims nothing in the Patronage; and by that Statute he shall plead against any common Person; though with this Difference, that when the Inheritance of the Patronage is to be devolved by a Judgment in a Queu Impedit, he must be named in the Writ; but where the next Presentation only is to be recovered, he need not be named: Yet where the King presents without a Title, and his Clerk is indicted, the Queu Impedit is to be against the Ordinary and Incumbent; for it will not lie against the King; but if he is Plaintiff, the Writ may be brought against the Patron alone, without naming the Incumbent. 7 Rep. 25. 2 Cre. 650. Palm. 506. If the Church be full of a Predestination, so that there is no Danger of Lapley, the Bishop need not be named in a Queu Impedit; but it is otherwise where it stands upon a Disputance only: And though this Writ will lie against a Patron alone; yet in a common Case, where any Clerk is precluded and indicted, the Incumbent shall not be removed, without naming him also. Sdb. 380. Gist. 235. 3 T. K. Cen. 200. The only Plea which the Bishop has against the Common Law is a Queu Impedit, and that is, that he claims nothing but as ordinary; he could not counterplead the Patron's Title, or any Thing to the Right of Patronage, nor could the Incumbent counterplead his Title, till the said Stat. 25 Ed. 3. by which both the Bishop and the Incumbent may counterplead the Title of the Patron; the one, when he collates by Lapse, or makes Title himself to the Patronage; and the other being Per a imprestanta, may plead his Patron's Title, and counterplead the Title of the Plaintiff: And it has been adjudged, that the Incumbent cannot plead to the Title of the Patronage, without shewing that he is Per a imprestanta of the Predestination of the Patron, W. F. 13 March 159. 3 Nis. Abp. 38. In a Queu Impedit, though it was found that the Church was full of another, who was a Stranger to the Writ, and it did not appear whether he came in by a better Title than that which was found for the Plaintiff, the Court determined for the Plaintiff, so forth in the Queu Impedit. And the general Writ to the Bishop, which he is bound by Law to execute, or shall be amerced, &c. and he cannot shew, that the Church is full of another, till no Ilue can be joined between the Bishop and the Plaintiff, because he has no Day in Court. 6 Rep. 51. 3 Lem. 166. But where a Plaintiff recovered an Adowment in Erection, and thereupon had a Writ to the Bishop, there being another Incumbent in the Church, who was not a Party to the Adjourn; adjourns, so that this Writ would not lie without a prior Process to the Incumbent. Sid. 93. If it appears in a Queu Impedit, either in Pleading, or by Confession of the Parties, that neither of them have a Title, but that it is to the King: the Court may award a Writ to the Bishop for the King, to remove the Incumbent, and admit some new Person in obstruction. But this must be when his Title is very plain. Hob. 145. 1 Lem. 237. In a Queu Impedit, the Plaintiff and Defendant are both Accrues, so that the Defendant may have a Writ to the Bishop, as well as the Plaintiff; but without a Title appearing to the Court; wherefore if the Defendant never appears, the Plaintiff must make out a Title for Form-take, and to must the Defendant if the Paper be produced. Hob. 145. 3 Lem. 3. If the Plaintiff, after Appearance, in a Queu Impedit be nonsuit, it is peremptory because the Defendant upon a Title made, whereby he becomes Afoor, shall have a Writ to the Bishop: And it is the same in Case of a Discontinuance. 7 Rep. 27. It is the Nature of a Queu Impedit to be final, either upon its Discontinuance or Nonadmital; and no man can have two Things for the same Thing in this Case against one Person, though he may have several Queu Impedits against several Persons. 7 Rep. 27. Hob. 137. The Patron, Patron, and Ordinary are feed; the Ordinary disclaims, the Patron looses by Default; the Plaintiff shall have Judgment to recover his Presentation, and a Writ issue to the Bishop, &c. with a Caffex execution, until the Plea is determined between the Plaintiff and Patron. Fugue 6. Several were Plaintiffs in a Queu Impedit, the Defendant pleaded the Release of one of them pending the Writ; and it was resolved, that this Release shall only bar him who made it, and that the Writ shall stand good for the Rest. 5 Rep. 97. In a Queu Impedit against the Archibishop, the Bishop, and three Defendants; the Archibishop pleaded that he claimed nothing but as Metropolitan; and the Bishop pleaded that he claimed nothing but as Ordinary; and the three Defendants made a Title; but there was a Verdict against them: It was a Question, Whether the Writ of Execution should be awarded to the Archibishop, and the Bishop; and it was held, that the neither of them are Parties in Interest, it may be directed to either; but if the Bishop is Party in Interest, it must be directed to the Bishop only. 6 Rep. 46. 3 Gala. 174. And if the Bishop of Canterbury be Plaintiff in a Queu Impedit, the Writ must be directed to the Archibishop of York, &c. Show. 359. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may fairly press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. Hob. 162. There must be a Disputance to maintain this Action: In a Queu Impedit, the Patron declared upon a Disputance of him to present 1 November: the Incumbent pleaded, that 1 May next after the Predestination was on the Queen by Lapse, and the presented him to the Church, &c. And upon Demurrer the Plea was held ill; because the Defendant had not confessed and avoided, nor shewn a sufficient Disputance. But in a Queu Impedit, the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop. 1 May next after the Predestination was on the Queen by Lapse, and the presented him to the Church, &c. And upon Demurrer the Plea was held ill; because the Defendant had not confessed and avoided, nor shewn a sufficient Disputance. But in a Queu Impedit, the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages. If the Defendant pleads No disturba, which is in Effect the General Issue in a Queu Impedit, this will be only a Defence of the Wrong with which he stands charged, and is so far from compelling the Plaintiff to prove his Case in it, that the Plaintiff may press a Writ to the Bishop, or maintain the Disputance in order to recover Damages.
Qu

Writ within fifteen days after the Abatement, that shall be a Continuance of the last Writ, and prevent the Defendant’s taking any Advantage; But if the Writ abide for any Fault in the Declaration, the Defendant shall have a Writ to the Bishop to admit his Clerk; and so shall if Judgment is given upon a Writ return’d, &c. 3 & Ed. 8. 96. &c. For 57. Dyer 250. In a Plea of Quaere Impeydis, Days are given from 15 to 16, or from three Weeks to three Weeks, according to the Distance of Place: And if the Disbarber come not in on the great Diffir, a Writ is to be sent to the Bishop, that he claim not to the Prejudice of the Plaintiff for that Time; and upon Recovery, Judgment is to be given to the Party to recover the Presentation and Adowment. Stat. 31 H. 5. c. 12. A Roll Ab. 377. And Damages are given in a Quaere Impeydis, by the Stat. of Wilm. 2. c. 5, though Damages shall not be had against the Bishop, where he claims nothing but as ordinary, and is no Disbarber. 2 Lev. 49. Before this Statute no Damages were allowed in a Quaere Impeydis; and the King hath now, for this Day, aliquando ad damamum, &c. he is not within that Statute; because by his Prerogative he cannot lose his Preemption. 6 Rep. 481. If a Privity have a Veredict, and the Church is found to be vacant, the Paris may have the Frums of his Preemption, and so be invited to Damages; in which Case, a Remittitur de damamum is entered, &c. There are two Judgment in a Quaere Impeydis, &c. That the Plaintiff shall have a Writ to the Bishop and this is the final Judgment, that goes to the Right between the Parties, and is the Judgment at Common Law: And Judgments for Damages, since the Stat. of Wilm. 2. after the Points of the Writ are inquired into; which Judgment is not to be reversed but at the Instance of the Party, &c. Mod. 454. 255. The Points to be inquired of, where the Jury find for the Plaintiff, &c. are, of whom, and upon what Premuim the Presentation is full; how long space it was void; the yearly Value of the Church, &c. which being found, Damages are to be given accordingly. 6 Rep. 51. No Costs are recoverable in Quaere Impeydis, because of the great Damages given by the Statute of Wilm. 2. c. 5, which ordains, that when six Months pass hanging a Quaere Impeydis, &c. so that the Bishop presents by Layle, the Party shall recover Damages, in two Years Value of the Church; otherwise to have only Half a Year’s Value. See 10 Rep. 35. Where Judgment is given to have a Writ to the Bishop in Quaere Impeydis; it shall not be reversed upon a Writ of Error brought upon the whole Judgment, though the Judgment by the Statute for Damages be erroneous and reversed. 7 & 8 Pleas R. 1. A Quaere Impeydis was brought against two, one of them called an Eadon, and idem dare data 58 to the other, &c. Then an Attachment in aid against them, not appearing at the Day, and Process continued to the Stat. Cap. 4. which being returned, and the Paris not appearing, it was ruled that final Judgment should be entered according to the Stat. 52 H. 5. But by an Order to discharge this Rule, because the Defendants were not summoned either upon the Attachment or grand Disbarber, the Statute being only the forensic Names of John Dyer and Richard Dyer, the Judgment was not final; for the Deign of the Statute was to have Process duly executed, and that must be with Notice, &c. And when the Right is for a Fine; this concluded, this being to fatal, the Process must never be suffered to be a Thing of Course, &c. 1 Mod. 428. A Writ of Quaere Impeydis is had against two Persons; one does not appear, and the Grand Disbarber, the other pleads in Bar; there shall be a Writ to the Bishop for the Plaintiff, without his making any Title, by Stat. March, cap. 12. If the Bar pleaded by the other Defendant is found for him, he shall have his Writ to the Bishop; and their two Persons being admitted, instituted and induced upon the Writ, shall try their Right in an Affidavit, or Trefpa. 9 Ed. 49. 359. To many Defendants in a Quaere Impeydis plead several Bars, and one of them is found against the Plaintiff, and the other with him; he shall have his Writ to the Bishop. If there are many Defendants, pleading several Bars; the Plaintiff shall not have Judgment before all the Bars are tried; for though some be for the Plaintiff, others may be found against him, and he cannot have Judgment without good Title. F. N. B. 50. Hol. 70. When one recovers in a Quaere Impeydis against an Incumbent, the Incumbent is so removed by the Judgment, that the Recoverer may presume without any Thing further; but the Incumbent conceives the Incumbents of faits; till such Preemption is made: And if the Plaintiff in this Suit be instituted upon a Writ to the Bishop, the Defendant cannot appeal; if he doth, a Prohibition lies; because in this Case, the Bishop acts as the King’s Minister, and not as a Judge. 2 Roll. Ab. 565. 1 Roll. Ab. 565. If a Bishop brings an Incumbent present, professed, instituted and indulted, although upon a Uteration, but by Quaere Impeydis in a judicial C. 38. If a Man at this Day, by the King’s Licence, creates a Church which shall be preceptable, if he be disturbed to present it, he may have a Quaere Impeydis without allleging a Preemption in any Person: But anciently, when he held might not, because he could not allege a Preemption. 20 Ed. 4. 14. Mulley’s Q. Imp. 153. See Preemption, &c.

Geor. the Second, &c. to the Sheriff of W. Greeting; Command B. Bishop of S. & A. B. that they justify and without Delay, permit C. D. of, &c. to present a fit Person to the Churls of H. which is vacant, and belongs to his Gift, as he faiths and knoweth the said C. D. complaint, that the said B. Bishop and A. him upon a dispute therein; and if they shall not be do, and the said Bishop shall recover Damages, in two Years Value of the Church, &c. do ye summon by good Summoners; the said Bishop and the said A. that they be before our Judges at Westmin. &c. to form Calm why they shall do the said thing, &c. and know ye there, &c.

Form of a Declaration, Pies, and Judgment, &c. in Quaere Impeydis.

Writs of B. Bishop of Salisbury and A. B. Clerk.

B. were summoned to appear to C. D.

If a Pita, or an, &c. to the Bishop, that you permit them to present a fit Person to the Vicarage of the Church of H. which is vacant, &c. and belongs to his Gift, &c. And whereas the said C. D. by &c. his Attorney or deputys, that whereas any E. F. as &c. he shall be the Bishop of E. E. afterwards, to which, the Day of, &c. in the Year of the Reign, &c. as H. afterwards, by his certain Dier in Writings, whereby the said C. D. with the said B. Bishop and the said E. E. sealed, hereby brings into this Court, the Days therof is the same Day and Year, granted to the said C. and out W. M. the Bishop afterfied, with the Appurtenances, without the Administrator, &c. and in other Things: To be done and to hold to the said C. and W. and the Heirs of the said C. for ever: By Virtue of which Grant the said C. and W. were封ed the Bishop afterfied, with
the Apparencies, subterfums, &c. in their Drestrict, to 
quit, the said C. as of Fess and Right, and of the said W. 
as of Forbaid for Term of his Life; and the said C. 
and W. quitting to therse sides, evertowards the Fines 
right of the said Church commences accursed, by the Death or 
Resignation of, &c. the left Incumbent, and yet is void: 
And for that Resign, it was made to the said C. to 
prent a fit Person to the said Vicoage: and the said 
Bishop and A. unjustly hinder, or disburde them therin, 
without a reasonable, that he is injured and endamaged 
to the Value of 100 l. and therfore he brings his Suit, 
&c. And the said B. Bishop of S. and A. B. Clerk, 
by, &c. their Attorney, come and defend the Forces and 
Injuries aforesaid, &c. And the said A. B. pleads, &c. 
And the said Bishop and A. B. further plead, that the 
said C. ought not to have his said Action against 
them, becaus they say that the said Vicarage of the said 
Church of H. became vacant by the Death of the said 
Bishop, &c. in the Year of our Lord, &c. on which 
Day the said Bishop collated the said Church to 
incument, to the said A. B. for that the six Months after 
the Avoyance of the said Church nowhere fully expired, to 
the said Regent of the said Church, therby he did 
devote the said Bishop as Ordinary of that Place, as 
was holpful for him to do; and this they are ready to worify: where
for they say Judgement, whether the said C. D. ought 
to have his said Action against them, &c. And the 
said C. D. replies, that he ought not by any Thing above 
alleged, to be proceeded or barred from his said Action 
&c. [Here following such a Premise or Judgment of 
one of the two, and the Bishop's Refusal to admit 
them, whereupon they are at Issue, and a Verdict for 
the Plaintiff.] That the Bishop did really refuse to ad
mit and infringe him, and that the Church is full of the 
right of the said A. B. by the Collation of the said Bishop of S. and 
that the said Church is, and at the Time, &c. was of 
the yearly Value of 100 l. Therefore it is adjudged, that 
the said C. D. do recover against the said Bishop of S. and 
A. B. his Preffentation of the Vicarage of the Church 
after said, and his Damages, to the Palat of the Church 
for the same. Wherefore, and in consideration of that Place, 
beare the said Bishop of S. a Part, &c. [and for that the 
said A. B. is admitted, infiltrated and included into the 
same Church by the said Bishop] to remove the said 
A. B. from that Church, and that the said Bishop do 
pretend, or that the said Church, upon the Premis
therein, on the Preffentation of the said C. D. and be 
the said Bishop and A. B. amerced, &c.

Quaere Incumbabitis, A Write that lieth against 
the Bishop, who within six Months after the Vacayon 
of a Benefice, consents it upon his Clerc, whilst two 
others are contesting at Law for the Right of Pre
fementation. Reg. Orig. 32. Or is it a Write brought 
after a Recovery in a Quaere Impedit, or Affile of 
Derrin Prefemation, against the Bishop that thus ad
mits a Clerc, notwithstanding the Write Ne admits 
toried on him: For if the Bishop doth incur the 
Church before a Ne admits is loffed, then the Party 
shall have a Quaere Imped: so the Ordinary can have 
no Notice till the Ne Admits. F. N. B. 32. 13. 
Wood's Inst. 171. And if a Man hath a Write of Right 
of Advowson depending between him and another, 
and he is Deceased in pursuance of the Write, the Plain
tiff shall not have a Quaere Incumb. or Ne admits, 
although the Bishop incur the Church; because the 
Plaintiff shall not recover the Preffentation upon 
the Right of the Advowson: And where he hath 
Title to prort, he may do it; and have Quaere Impedit, 
if he be debarred. New Nat. Br. 188. 109. 
If the Bishop delay the true Patron to his Preffema
tion, and the Patron files a Quaere Impedit, he may 
thereupon have a Ne Admits; and if the Bishop 
after the Receipt of such Write, admit the Clerk of 
any other Perfon without a Verdict in a Jure Patron
natus, the true Patron shall have Quaere Incumbent 
against the Bishop, and thereby recover the Preffem
ntation with 40 l. more, and bring an Action for 
the Bishop to disincumber the Church. F. N. B. 
37. This Write may be brought after the six Months; 
and if the Plaintiff be Nonful in a Quaere Incubra
cent, he may have another Write, and vary for his 
first Declaration. 5. 48. After a Ne Ad
mits delivered, if the six Months pass, the Bishop 
may present his Clerk for Lapel, and shall not be 
charged by the Write of Quaere Incumbent for the 
Preffentation; but he cannot admit the Clerk of the 
other Man, for that would be against the Write Ne 
Admits delivered to him. 5. 48. If the 
Bishop does incumber the Church, there where there 
no Dispute about it, yet this Write Quaere Incumbent 
lies; but according to the best Opinions there ought 
to be a Suit depending; though there is no such 
Recovery:—18 3. 17. 5. 5. Imped. 3. The 
Write is to summons the Bishop, to be before the Judges 
&c. to force Copy, only he hath incumbered the said Church 
with the Damages and Injury of the Plaintiff 
A. and contrary to the Laws and Customs of the King
dom, &c.

Quaere non Admits, is A Write which lies against 
Bishop where a Man hath recovered his Advowson, 
or Preffentation in a Write of Right of Advowson, or 
the Quaere Impedit, or other Action, and the Bishop 
does refer to the Bishop to attend his Clerk upon 
the Presence of the Bishop, &c. It is requisite in the 
Write to mention the Recovery; and it is to be brought in 
the County where the Bishop was. 5. 7. Dyer 
Dyer 40. In a Quaere non Admits the Plaintiff shall 
recover Damages: And if a Plaintiff have Judgment in 
a Quaere Impedit, and a Write is awarded to the Bi
shop, if upon this Write the Bishop makes a false Re
turn, the Plaintiff may have Quaere non Admits against 
him, and have his Damages. Dyer 260. King 
Rev. 4. preferred his Clerk to a Benefice in York
shire, and the Archbishop of York refused to admit 
him; upon which the King brought a Quaere non 
Admits, and the Archbishop pleaded that the Pope 
had a long Time before provided for that Church, as 
one having episcopal Authority in that Place, and 
therefore he could not admit the King's Clerk: It was 
adjudged, that for his Contempt to execute the King's 
Write, the Archbishop to do as he pleased at his Ple
asure therein. Quaere, lib. 5. cap. 6.

Quaerentis de Quaerentibus, (Quaerentia) Is A 
Benefice allowed by Law to the Widow of a Man 
dying feised of Lands, whereby he may challenge to 
continue in 4th capitol Metiusque, or chief Manion
house, (not being a Cottage) by the Space of forty Days 
after his Death, in order to the Assignment of her 
Dower, &c. And if the Heir, or any other eject 
her, she may bring the Write De Quaerentibus bahu
s: but the Widow shall not have Meat, Drink, &c. 
though if thing be no Provision in the Houlle, accordin
ge to Fischher, she may kill Things for her Pro
40. P. N. B. 106. 1.

Quaerentis, also the Term of forty Days where
by in Persons coming from foreign Parts interfel 
with the Players, are not permitted to land or come 
on Shore, until so many Days are expired. Stat. 
Ann. cap. 2. 7 Geo. 1. cap. 3. 1 Geo. 2. c. 17. 
See Playne.

Quaerentis,
Of Quartermasters, Likewise a Quantity of Ground, containing forty Perches. Leg. Hen. 1. cap. 16.

Quartermaster-General, a Person whose Office is a Writ for a Person obnoxious, and hindered in passing through the Land of another, having a Liberty and Right to pass through the same. 8 Fleta, 6. cap. 26.


Quartermasters, The Word Quartermaster properly concerns Personal Actions, or suits at the highest: And yet by a Release of all Quartermasters, Actions Real and Personal are discharged. Co. Litt. 201. Quartermasters extend to Actions; and also to Causes of Actions and Suits. 8 Rep. 153.

Quartermasters, Were upper Garments with Coats of Arms quartered on them, the old Habit of our English Kings. Walsh, in vet. Ed. 2.


Quartermaster-General, Is a General Court held by the Judges of Peace in every County, once a Quarter in a Year; originally erected only for Matters touching the Branch of the Peace, but now its Power is greatly increased, and extends much farther by many Suits. The holding these Session: Quarter- masters was first ordained by the 24 Ed. 3. Stat. 1. cap. 8. And the particular Times are appointed by 36 Ed. 1. c. 12. See Judges of Peace.

Quartermaster-General, Sr. Feyler or Caffier, i. e. Caffier (facies) is to overthrow or annul any Thing Bract. 5. 11 Hen. 6. cap. 2. As if the Bailiff of a Liberty return any Jurisdiction of his Franchise, the Array shall be stopped. Co. Litt. 146. And the Court of B. R. hath Power to stop Orders of Sessions, Prelates, Indictments, &c. Though this Session is by the Favour of the Court, and the Court may leave the Party to take Advantage of the Insufficiency by Pleading; as they generally do where an Indictment is for an Office very prejudicial to the Commonwealth, as for Treason, Co. 3. Litt. 410. 2 Haw. P. C. 518. The Court will not know an Information; but there must be a Demurrer to it; 6. P. C. 719. 3. See Indictment. The Bill of the Plaintiff gauged, see Pluris.

Quartermaster-General, (Fr. Quartermant) A Tax of the Fourth Penny for all Wines and Retail.

Quartermaster-General, A Kind of Game, supposed to be what we now call Shovelhead, prohibited by the Stat. 17 Ed. 1. c. 7.

Quartermaster-General, Stat. Sax. Crown, i. e. User, a Wife, fit proper Excellency, the Wife of the King In our Law, either that she holds the Crown of England in Right of Blood, or who is married to the King; the First of which is called Regnum Regis, and the last Regnum Confort: She that holdeth by Blood is, in Constitution of Law, the same with the King, and hath the same Right of All Re- spects; but the last Comfort is inferior to the King, and his Subject. 3 Stann. Pr. R. 14. 3 Mar. Part. 1. c. 1. To comma the Death of the Queen in Trespass: Violating the Queen's Person, &c. is of Trespass; and if the content to the Adulterer, he shall be Trespass in her. 35 Ed. 3. 3 Inf. 9. The Queen, as the King's Wife, partner of several

Pregnant above other Women, &c. By the Common Law, the Wife of a King is a publick Person exempt from the King; and is capable of Lands or Tenements of the Gift of the King, which no other Person can have; she is of Ability, without the King, to purchase, grant, and make Leases; and may sue and be sued alone, in her own Name only, by Process, not by Petition: She may have in her right the Possession of personal Things during her Life, &c. But both Real and Personal Estate goes to the King after her Death; if the death not in her Life-time dispose of them, or devise them away by Will. 1 Inf. 3. 34. 133. Finch 86. 1 Roll. Abr. 912. Acts of Parliament relating to her, need not be pleaded; for the Court must take Notice of them, because she is a publick Person. 8 Rep. 28. If a Tenant of the Queen alien a Part of his Tenancy to one, and another Part to another; the Queen may diminish in any one Part for the Whole, as the King may do. Wood's Inf. 28. And in a Squat Impediment brought by the Queen, some lay that Plenary is no Plea; but see 2 Inf. 361. The King may not say No Tolls, 52. 5 Inf. 133. By Statute, the present King might grant to his late Queen out of the Crown Revenues, an Annuity of 100,000l. per Annum, to commence after the Death, and continue the Queen's personal Life, for supporting her Royal Dignity, &c. Stat. 1 Geo. 2. cap. 5. And his Majesty constituted the Queen Regent of the King, during his Absence abroad: to be capable of the Office, without taking the Oaths, or doing any Act required by Law to qualify any other. 2 Geo. 2. c. 37.

Queen Detainer, No Man may marry the Queen Detainer without Licence from the King, or Pay to forfeit his Lands and Goods: But if the many of any of the Nobility, or under that Degree, the locch not her Dignity: but by the Name of Queen may maintain an Action. 1 Inf. 18. 50. The Statute 13 Ed. 3. making it Trespass to violate the Queen, extrudes not to a Queen Detainer, but the King's Wife and Companion: And a Queen Confort and Queen Detainer shall be tried, in Case of Trespass, by the Petter. 2 Inf. 390.

Queen-detainer, (Squat impectus) Is a Royal Duty or Revenues belonging to every Queen of England, during her Marriage to the King, payable by Persons in this Kingdom and Ireland, upon divers Grants of the King, by Way of Fine or Obligation, &c. being one full tenth Part above the entire Finings, on Parcels, Contracts, or Agreements, which becomes a Real Debt to the Queen, by the Name of a Town Regio, upon the Party's bare Agreement with the King for his Fine, and Recording the same. Lab. Nis. Stat. 43. 14. 16. 3 Inf. 13.

Que Esates, Signifies which Estates: and is a Plea, where a Man instilling another to Land, &c. faith that the same Estate such other had, he has from him: As for Example, in a Squat Impediment, the Plaintiff alleges that two Persons were Feudal of Lands, whereto the Adrowdon in Iweflon was appendant in Fine, and did protest to the Church, and afterwards the Church was void: Que Estates, that is, which Estates of the two Persons he had how, by Virtue whereof he pretended, &c. Brute 175. Co. Litt. 121. A Man cannot sin a Squat Estate in 21. nor can it be pleaded in Estates for Life, or for Years; a Que Estate of a Term may not be pleaded, by Reason a Term cannot be granted by Difflin, as a Fee may; but one may plead a Que Estate in a Term in another Person, under whom he doth not claim, and be good; for he is not privy to the Estate of the Suranger, to know his Term. 46. 3 Lev. 19. 1 Lev. 100. Lawm. 81. A Thing which lies in Grant, cannot be claimed by a Que Estate, directly by fee; yet it may be claimed as Appurtenant to a Manor, by Que Estate in the Manor.
Mod. 259. A Man may not preface by a Lea Eflare, Ascent, Ambros, or Poll; but he may
of a Manor, &c. to which those are attendant. 2 Mod.
144. 3 Mod. 54. A Person cannot plead a Lea Eflare, without swearing the Deed how he came by
it. 2 C. 567. This is in Case of a Rent in
Gros or Land which cannot pass from one Man to
another without Deed. 72. 26. 56.
[Note 18 et seq.] See Law of rents, &c.

Signifying Turbini, the same
Thing. Is a Word of Art, in Actions of Trespass, &c.
for a direct Judicature of the very Act complained
of by the Plaintiff as a Wrong: And if where
Tenants at Will bringing an Action against their
Lord, the Plaintiffs say, that he threatened them in
such Sort, that he forced them to give up their Lands;
to which the Lord pleads, that he sold unto them,
if they would not depart he would have them at Law;
this being the same Threngthening that he used, or to
speak literally: Subit et imposu, the Defence is
good. 73. 226.

Turcetia, An Action or Declaration preferred in
any Court of Justice: when comes Querens or Com-
plainant to the Court against any Fid Trespasser.
And Quaest. off. &c. Queretur was to be exempted
from the customary Fees paid to the King or Lord of
a Court, for Liberty to prefer such an Action; but more
usually it is taken from Fines and Avermements im-
plored for common Trespasses and Defaults. Chart.
King Hen. 2. to Bernard de S. Walley. Kernel's
Copy. See Pleas.

Turcetia socit Lege & Contrivio, &c. A Write
whereby one is called to justify a Complaint of
Trespass made to the King himself, before the King

Turcetia fereb fistula, Is a Write of Proc. Force.

Tute, An Imprest or Imprestion, upon the Oaths
of an Imprested Jury: In London, in the Christmas
Holidays, the Aldermen and Citizens of every Ward
hold a Jur. to inquire of Middlemen and Announ-
cances, &c.

Qustus et ubi, Is the Form of a Write of
Nuisance ordained by Statute, lying against him
to whom the Horse or other Thing that occasioned
the Nuisance is sold or alienated. Stat. 13 El. 3 c. 24.
See Sect. permitto.

Quta impossibil, Seems to be a Supererogation
granted to the Behalf of a Clerk of the Clergy, who is
said contrary to the Privilege of that Place in C. B. &
prosecuted to the Exigent; and in many other Cases,
where a Write is unwarily and erroneously
forced out. D. 37.

Duty juris clamat, Is a Write judicial, issuing
d out of the Record of a Fine before it is ingrossed;
and it lies for the Granter or a Reversion or Re-
mainder, when the particular Tenant will not attorn,
Reg. Judic. 36. 37. After the Fine is ingrossed, the
Cognisant shall not have a Qustus juris clamat against
the Taker for Life: But the Court is, that he may in the
Reversion upon the Write of Covenant sued against
him, make Reconnaissance of the Reversion by Fine,
Gr. then upon that the Cognisant may have this Write
against the Tenant for Life; and if he be sick or
not able to travel, a Deuminus Potestatem shall be grant-
ted to take his Cognisance, and to certify the same
interest. But if after Place granted, the Tenant
may make Attorney; and if he be adjudged to as-
torn, a Dyinguis ad aeternam shall be awarded
against him. Gr. New Nat. Br. 315. This Write
seems to be obsolete and dilated, since the Stat. 4 &
5 Ann. See Attornment.

Quta pro quo, Signifies what for what and is
used in the Law, for the giving of one Thing of
Value for another. Being the mutual Considera-
cation and Performance of both Parties to a Con-
tract. Rich. 184. And at this is the Consideration of a
grant of a rent as a deed to a tenant; which is contrary to it, is what the Law called Ma-
dam pellum. 5 Rep. 83. 'Dyer 981.'

Nunbretial, A Quitance, or Acquittance. See Ac-
quittance.

Quis stare, To quit, discharge, or save harmlessly
often found in old Deeds and Conveyances.

Quietus clamatur, Is to quit, claim, or
acknowledge all Preliminary of Right and Title... .

Quirina terete in M. Richardus &c. Aldreda service to
& Quiene clamaverunt de &c. Jocabet, Gr. pra-
istrib. A. et heredit. ut pro hib. Hulsholn Quiene
clamationem idem A. dier. Gr. Brich. lib. 5.

Quturis, (Freed or Acquitted) Is a Word made
Lobe of by the Clerk of the Pipe and Auditor in the
Exchequer, in their Acquallis or Discharge given
to Accountants; usually concluding with whence every
qui quiets, which is called a Queretis eiff. A Queretis
given to the Sheriff, will discharge all his
Acquittals due to the King. Stat. 21 Jac. 1 cap. 5.
And these Quieten are mentioned in the Acts of Ge-
neral Pardon. 12 Car. 2. cap. 11. and 14 Car. 2.
cap. 6. Quieten are permitted by the King to
All Accountors due to the King. Stat. 17 Jac. 1 cap. 5.
And these Quieten are mentioned in the Acts of Ge-
neral Pardon. 12 Car. 2. cap. 11. and 14 Car. 2.
cap. 6. Quieten are permitted by the King to

Quterus Redditius, Now acquiring the Tenement
from all other Services, &c. See Que. Reddi.

Quinquerartes Munday, Is what we call Yenne-

Quinque-partit. The Five Parts; which are
Hosings, Romans, Devers, Sandwich. &c. See Five Parts.

Quinexfe or Manytimes, A French Word signi-
ingying a Fifteenth; with us it was a Tax, so-called,
being raised after the Rate of the Fifteenth Part of
Men's Land or Goods. 7 Ric. 2, cap. 11. 7 Ric. 3,
cap. 5. Though it is said to be a Middle, than this
was a Tax of the Fifteenth Part of Land; for it was
of the Goods only, and was first granted by the Par-
liament, 1 Ed. 1. And the Way of collecting it,
was by two Auditors appointed in every County by
the King; and they deputies others in every Hundred,
who made a true Valuation of every Man's Goods,
and then causeth the Fifteenth Part to be paid.
Blunt. See Fifteenth.

Quinnetie, It sometimes used for the Fifteenth
Day after any Fast in the Quinnetie of St. John
Baptist. 13 El. 1.

Quintal, One hundred Pound Weight of Pith, &c.

Quintane. (Quinta.) Is a New miniscule
Sport or Exercise, by Men on Horseback, formerly
praticed in this Kingdom to try the Agility of the
Country Youth; It was a Tiling at a Mark made
in the Field, in the centre of a Man to the Navel,
Hand having a Shield, and in his Right Hand a
wooden Sword, The Whole made to turn round, so
that if it was on the Break after the Lance in any other
Part but fall in the Breast, it turned with the Stroke
of the Stroke, and struck the Horsemans with the
Sword which he held in his Right Hand; Thiesport
is recorded by Mars. Paris. Anno 1713. 4, 5, 6.

Quintoffat, (Quinta transacta) Is the last Call of
the Defendant, who is sued to Obeedere and Nix, he
does not then appear, he is by the Judgment of the
Conners reformed outlawed. 31 El. 5.

Quintum, Is when an Information is exhibited
against any Person on a Penit Statute, at the Suit of
the King and the Party who is prosecute, when the
Penalty for Breach of the Statute is to be divided be-
tween them, and the Party in whose favour for the
same, the Prosecution may bring 'Aditio fu-
tum,' or sue in his own Name. &c. 7 Ann. 25.

Quintus clamat, A Release of one whom he holds
he hath against him, &c. &c. 'E. Act. 19.
Stuart permittit lies also for the Heir of him that is
in distrait of his Common of Palmar, against the
Heirs of the Distrait, being dead, Terms of Let 567.
And according to usage, this Writ may be brought by
the heirs, whox no one of the party, the person of a
father, or other like Thing annexed to his Inheritance,
against the Decevoir: If a Man is distrait by any
feud, to his Common of Palmar, for that, he causeth to
use it, he shall have a good permittit, of a of a Ten-
ney, Civics, Fair, Marke, &c. New N.B. 27. 275.
And a Petition may have a good
permittit against a Distrait, &c. in the Time of his
Protector. 2 Ed. 1. 3. 24. The Writ good percet-
tit, on a Distrait of Common of Palmar, directed to
the Sheriff, &c. that, justify, &c. peremit, to
behave Common of Palmar, &c. which it may be
seized, as is it suits, and unless he shall do, &c. &c.
summon, &c.
Stuart, &c. It is a Writ to compe a Man to come by
what Title he claims Common in the Land of another
Person, brought by such other, F.N.B. 348. It is
a Writ of Right in its Nature, and such against sev-
eland, &c. &c. but he may take several Defences and
Titles, &c. New N.B. 185.
This minute, A Writ that lies for the King's Par-
ter or Decevoir, in terms of Let 567, directed to
him on Borgan or Contract, &c. be-
cause by the Decevoir of his Debt, he is the
able to pay the King, Terms of Let. It issues out to the
Exchequer, to take the Body of the Decevoir, as
the Captains in the Common Place, and the Lastest
in the King's Service, and runs into Wales, where
no Writ does out of those Courts, except it be the Ex-
cheque forfet, &c. &c. &c. &c. &c.
which it is allowed
only to such Persons, as are Tenants or Debtors
in the King, at this Day the Practice is become general
for the Plaintiff to continue that, for the Writ
which the Defendant does him, he is less able to
justify his Decevoir to his Majestie, which Summits gives
Jurisdiction to the Court of Exchequer, to hear and
determine the Case. F.N.B. 25. In this Case a Debtor hath a
Kind of Priorit. the matter is granted to him, supposing that he is distrait to pay
the King. &c. And in this Writ, the Plaintiff hath been
Privileges above other Men in their ordinary State.
Old N.B. 143. Quod. 178. Finch 64. If a
privileged Petition be the Exchequer Court for a
5 minu. in any Action in which the King is the
Party, the Sheriff in Execution thereof may, after
Requet to open Doors, break them open, &c. F.N.B.
25. 347.
Lawsuit, (Law) Often occurs in our Court;
and Commission both of the Peace and others, but partic-
ularly in Commissions to Justices of Peace; and
Other Titles of the Queen, appointed from the
Commission, Quorum. A. B. minis efp. induct.
As where a Commission is directed to five Persons,
whereas, A. B. and C. D. be to Two in this Case
A. B. and C. D. are fit, to be of the Jurisdiction, but
that cannot proceed without them. They are
usually Petitions of greater Quality or Easier than the
Common Commission. 3 Hen. 8. 45. 46. 47.
Lawsuit, In the Reign of King Hen. 6, the
King's Collectors, and other Accouetants, were
much perplexed in taking their Accounts, by new in-
troduced Fees, and forced to produce a Turn, some had
Writ of Quoit, Nomina, for the Allowing and
busting out their Quows, their own Charge, without the
Allowance of the King. Clerk Argv. &c.
Lawsuit, A Tax to be levied in an equal Manner.
Chart. 92, 2.
Quo warranto. It's a Writ which lies against
Pardon or Corporation, that infringes any Privileges
or Liberty against the King, without good Title; and
it brings against the Quarters to show by other
things.
Right and Title they hold or claim such Franchise or Liberty: It is also lies for Misfeasor, or for Nonfeasance, as before, & the King and by the King's Bract, it may be brought against one that intrudes himself as Herit into Land, &c. Old Nat. Br. 149. Finch 332. 2 Eq. 579. The Statute of Qua Warrants is the 18 Ed. 3, which is restraint upon 2 Eq. 494, 495. &c. And the Attorney General may exhibit a Qua Warrant in the Crown Office against any particular person, or the House of Parliament, or the Corporation, who shall claim or use any Franchises, Privileges or Liberties, not having a legal Grant or Preemption for the same; and compel them by Process to appear in the Crown Office, and file Caution or fine for by way of Pleading what Title they have to the Privileges claimed, and Issue shall be joined and tried therein by Nisi Prius, or the Plea be determined by the Judges on Demurrer, as in other Cases: But though on Demurrer, &c. the Question be determined for the Defendant, yet he has no Costs allowed him; in such case, he must be bound for the Information, and pay large Costs to the Proctor. Legis. Legat. 147, 148, 157. But this is altered by statute 9 Ann. It hath been adjourned, that the Stat. 4 & 5 Wm. 11, c. 18, by which Information in the Crown Office are not to be filed without express Order in open Court, &c. being a remedial Law, extends to Information in the Nature of a Qua Warrant, which is made to exhibit as an Information of some Franchise; and it is the General Practice not to make such an Order for an Information, without first making a Return upon the Petition, and then complained of to the Court, as to the same; nor is there any Rule to show Cause to the contrary; and this Rule is grounded on an Affidavit of the Office, &c. and if the Person on whom the Rule is made and personally appears, he shall be bound to satisfy the Court of Affidavit, that there is no reasonable Cause for the Prosecution, the Court generally grants the Information; and upon special Circumstances, will grant it against an Information of a Qua Warrant, on the ground of such Rule; as if they purpose abstain themselves, &c. But if the Party on whom such a Rule is made, throw to the Court a reasonable Cause against such Prosecution; as against a Qua Warrant Information, that his Right in the Franchise in Question hath been already determined on a Mandamus; or been acquiesced in as a Custom, or ever, or that he has been in the Right of others which hath not been tried; or that the Franchise no way concerns the Publick, but is wholly of private Nature, &c. the Court will not generally grant the Information. 3 Hen. P. C. 262, 263. A Qua Warrant was brought for Vexation, on Forty-eight Points; and the Court on Motion, ordered that the Proctor should prove that such a Warrant, and bring a new one, and therein insist only upon three Points: but that he might proceed to Trial upon his new Qua Warrant, in such Time as he might have done upon the old. Hild. 215. G. R. 2. Litt. Ab. 414. A Qua Warrant requires to know of the Defendant by what Authority he claims the Liberty, and charges him with the wrongful Umparison of them: in a Qua Warrant to show by what Authority a Person claimed to have a Court-Lient, and alluding further good ufperopsis Libertatem ficta uspfusit conueget, &c. the Defendant pleaded Non uspfusit and it was objected that this was no good Plea, for that the Answer to a Qua Warrant is either to claim or disclaim; but the better Opinion was, that the Defendant had answered the Information, though it did not show by what Title he had claimed. Gnd. 91. In Qua Warrants for suing a False and Malignant, and taking Toll, Issue was taken, whether they had Toll by Prefiguration, or not: and it was found that they had; and it was moved in Arrest of Judgment, that there was a Disconsequence, because there was no Issue as to the other Liberties, claimed: But it was held, they were not sufficient to make this Objection, and that there can be no Disconsequence against the King by Bract, by virtue of his Prerogative, the Attorney General may proceed to take Issue upon the Rest, or may enter a Nulli Prope; but if he will not proceed, the Court may make a Rule on him, and then there may be a special Entry made of it. Harde 504. 3 Nis. Abr. 43. A Motion was made for an Information in the Nature of a Qua Warrant, against a Mayor and Alderman, to be heard by what Authority they admitted Persons to be Freemen of the Corporation, who did not inhabit in the Borough: The Motion was rejected, as it would be against the Common Law, &c. and an Information was granted, there being no other Way to try it, nor to redress the Parties concerned. 1 Salk. 174. A Qua Warrant Information may be brought against a Person voting in the Election of a Mayor, or other Chief Magistrate of a Corporation, that hath no Right to do it, upon Affidavit made that the Defendant voted in such an Election, and that the Deponent the Proctor believes he had no Right to do it, &c. and by Statute 9 Ann. e. 26. If any Person shall interfere, or be party to any Information, by Lawfully or by the Office of a Mayor, Ballif, or other Office in any Town Corporate or Place in England, the proper Officers of the Court shall be seized of the Information, and proceed to hear the same, to the end that such Person be punished, and proceed as usual: and if the Right of diverse Persons may properly be determined in one Information, one Information shall serve, and the Defendants shall appear, and plead as of the same Town: &c. the Information is filed, unless the Court give further Time; and the Proctor shall proceed with all convenient Speed; and if the Defendant be found guilty of an Information, the said Costs may be well given Judgment of Ouster, &c. and if the Defendants, and also give Judgment that the Defendant shall recover his Costs: And if Judgment be given against the Relator, the Defendants shall have Costs to be levied by Casps ad Satisfaction. Fieri facias, &c. In a Qua Warrant, the Judgment is given by the Court, and the Dismissal of the Information, in the Nature of a Qua Warrant, is not conclusive: The Proceedings in one are Summons, and Judgment that the Liberties be settled, if the Defendant does not appear; but in the other the Proctors is a Fieri facias and Discharge. Ibid. 86. 11 Cro. 159. 3 Nis. Abr. 43. Upon Qua Warrant, where the Proctor is to be heard, and they do not reply them the Court is, that Judgment shall be given, Nisi they plead within such a time. Camberwell 18, 19. Wherever judgment is given for the King on a Qua Warrant, for Liberties usurped, the Judgment is an extinguto, and that the Usurers Libertatis, &c. mutatis intermissatis; and in the Case, the Writ must be brought against particular Persons: But where the Qua Warrant is for a Liberty claimed by a Corporation, there it is to be brought against the Body Politick; and the Liberties may be settled, but the Corporation shall suffer, and it is not dissolved without Caution of Forfeiture, 2 Med. 52, 58. A Judgment of Seilref cannot be proper where a Thing is dissolved: And by the Judgment of the Court of London, which was good Libertatis & Franchises ex parte & infra, in mains Reg, the Corporation was not dissolved; for it is implied that they were not exiguified, Ibid. It has been observed, that frequent and violent Prosecutions on Qua Warrant, in behalf of the Crown, have been fatal to both King and People.
Money paid for the Pardoning some great Offence, and setting the Offender at Liberty who was under Imprisonment. Stat. 2. H. 3. cap. 7. 11 Hen. 6. cap. 11.

Five and Ransom go together, and some Words tell as that they are the same; but others say, that the Offender ought to be first imprisoned, and then delivered or ransomed in Consideration of a Fine. 1 Stat. 127. Del. 203. And Ransom differs from Amnestia being a Redemption of a Corporal Punishment due to any Crime. Lamb. Erm. 349.

Rape, (Rape us, en Rape, us) A Part of a County, signifying as much as a Hundred, and often times contains in it more Hundreds than one. As all Suffices is divided into six Rapes only. See. The Rape of Chechford, Arrawd, Brammer, Lewis, Pescotty and Hufnings; every of which, besides Hundreds, hath a Castle, River, and Forest belonging to it. Camden Brit. 233, 259. These Rapes are incident to the County of Suffys; as Lathe is to Kead, and Wependal to Yobere, &c.

Rape of the Assizes. (Rapts Forets) Trefpads comminued in the Foret by Violence; and it is reckned among those Crimes, whose Cognisance belonged only to the King—inter dicta numeratur, quorum cognitio ad antiquum Regem spectat. Leg. Hen. 1. c. 10.

Rape of Citizens, is an unlawful and carnal Knowledge of a Woman, by Force and against her Will: A Violation of the Body, and violent deflowering her; which is felony by Common and Statute Law. C. C. L. 110. And the Word Rape is so appropriated by Law to this Offence, that it cannot be expressed by any other; even the Words Carnaliter Coitum, &c. without it, will not be sufficient. 1 Stat. 124. 2 Stat. 180. There must be Penetration and Emisson, to make this Crime; and it is said Emisson may be Evidence prima facie of Penetration, & not full Evidence: If there be Penetration and Emisson, an Attempt to ravish a Woman, though it be never so outrageous, will be an Assailut only. 1 Hen. P. C. 108. It was a Question before 13 Edw. c. 7, whether a Rape could be committed on the Body of a Child of the Age of six or seven Years; and a Person being indicted for the Rape of a Girl of seven Years old, although he was found guilty, the Court doubted whether a Child of that Age could be ravished; if the had been nine Years old the might, for that Age the may be removed. 14 Edw. c. 12. But the Stat. 15 Edw. whooever shall carnally know or receive any Woman Child under the Age of ten Years, he shall suffer as a Felon, without Benefit of Clergy: And upon an Indictment for this Offence, it is no way material whether the Child contented, or were forced; but it must be proved that the Offender entered her Body. &c. 3 Car. 1. 1 Stat. 332. 2 Stat. 353. In Rape, it is no Excuse or Mitigation of the Crime, that the Woman at last yielded to the Violence, and consented either after the Fall or before. If such her Consent was forced by Fear of Death or of Durance; or that she was a common Strumpet, for the is still under the Punishment of the Law, and may be forced: But it was ancienly held to be no Rape to force a Man’s own Concubine; and it is by some to be Evidence of a Woman’s Consent, that she was a common Whore. 1 Henw. 108. 1 Stat. 123. Also for merly it was adjudged not to be a Rape to force a Woman, who conceived at the Time; because if she had not conceived, she could not have conceived: Though this Opinion hath been since quelled, by Reason the previous Violence is no way exausated by such a subsequent Consent: and if it were necessary to show that the Woman did not conceive, to make the Crime, the Offender could not be tried till such Time as it might appear whether she did or not. 1 Stat. 192. The former Opinion is made of a Rape the best: In Scotland it ought to be complained of the same Day or Night it is committed; and our Law mentions forty Days: It is a strong Prohibition against a Woman,
that the made no Complaint in a Reasonable Time after the Fact. 1 Inf. 143. 2 Inf. 19. H. P. C. 117.
On a Charge of Conspiracies, &c., where a Defendant did not
infect the Plaintiff for a Rape, in a short Time after the
injury supposed to be done, but concealed it for a Half a Year, and then would have preferred an Indict- ment against him; this was resolved to be malicious, and that there not being Relevus reprimae argued a Con- tent. 3 Nelf. Ab. 45. A Woman ravel'd may pro- fecure, and become an Excuse. 2 Rich. 3 Elaji. 3 El. 37.
Yet A Woman's positive Oath of a Rape, without
concurring Circumstances, is seldom credited: If a Man can prove himself to be in another Place, or in another Company, at the Time he charges him with the
Fact, this will overthrow her Oath; if she is wrong in the Description of the Place, or swears the Fact to be
committed in a Place where he was, he should have the
Man could have Accused at that Time: as if the Room
was lock'd up, and the Key in the Custody of another
Person, &c. Alders and Abetors in committing a Rape.
Made indited as principal Felons, whether Men or Women; and the Lord Audley was indited and executed as a Principal, for afflating his Servant to
ravish his own Wife, who was admitted a Witness
By Hale C. J. A Party ravished may give Evidence
upon Oath; but the Credibility of her Testimony, and how
the fact in her Belief, must be left to the Jury, being
more or less credible according to the Circum- stances of Fact, and Signs of the Injury, which are
many; and tho' a Rape is a most detestable Crime, it is
an Accusation easily made, and hard to be proved, but
harder to be defended by the Man accused, altho' ever so
innocent: And there are several Instances of Repeal
fully proved, but have after been discovered to be ma-
Of old Time, Rape was Felony, and punished with
Death; especially if the Party ravished were a Virgin,
unless such Virgin would accept of the Offender for her
Husband, in which Case the faine saved his Life; by
marrying him; for if the demanded him for her Hus-
band before Judgment passed, he escaped Punishment;
but by the Stat. 35 Hen. 7. c. 1. El. 37. is taken away:
Afterwards it was looked upon as a great Misdemeanor
only, and not Felony, but dreadfully punished, wil-
full by the Lofs of Eyes and Privity Members; and by
the Success of Wm. 1. 2 Ed. 1. 1441. it was reduced to
Trespass, subjecting the Offender to two Years Im-
prisonment, and a Fine at the King's Will: But the
Stat. 35 Hen. 7. c. 1. 1441. made it Felony again; and it is
excluded from the Benefit of the Clergy, by 18 El.
Rape was Excepted out of the general Pardon, a 2 H. &
M. c. 10. &c. See Appeal of Rape.

An Indictment for a Rape.
Wills ff.

TH E 'Lover,' sc. that A. B. of M. in the County of W. after said, Labour-
er, not knowing the Fear of God before his Eyes, but
being moved and seduced by the Indigant of the Devil, in
the Day of, sc. in the Year of the Reign, &c. at M.
after said in the said County, with Arms and Arms did
adulterously make a Woman B. D. of the age of
eighteen Years, then and there being in the Peace of
God and of our said Lord the King, and then and there
forthy and licenciously did ravish and carnally know
the said B. D., against the will, enmity, and force of
her said B. D., against the Peace of our said Sovereign
Lord the said King, his Crown and Dignity, and con-
trary to the Form of the Statute in such Cases made and
provided.

Marriage. (Reposa) To take a Thing in private a-
gainst the Owner's will, is properly Theft; but to take it

Rape hereof, Is an ancient Write lying for the
Taking away an Heir, holding in Suceage; of which there are two Sorts, one, where the Heir is married, the other when not. Reg. Orig. 163.
Rape, (Raperam) Seems to have been a Measure of
Corruption, &c. Vell shall be taken by the Rape, and
not by the Hosp or Cancel. Ord. for Bishops, UC. cap. 4. Pat. 12 Ed. 3.
Rape, A Valuation of every Man's Estate; or the
appointing and setting down how much every one shall
pay, or be charged with to any Tax. Stat. 43 Ed. 2.
Rape, A Temple, Is where any Sheep or other Cattle
are kept in a Parish for less Time than a Year, the
Owner must pay Tithes for them pre Rape, according
to the Custom of the Place. F. N. B. 51.
Rapte, A Foreign Measure, containing about four
Butts; but more commonly a Day's Allowance of
Forage, for Man and Horse in an Army. Lex Merc.
Ratification, (Ratifinare) A Ratifying or Confirm-
ning: It is principally used for the Confirmation of a
Clerk in a Prebend, &c. formerly conferred upon him by
the Bishop, where the Right of Patronage is doubt-
ED or supposed to be in the King. Reg. Orig. 304.
Rape, A Child, or Judgment given therein; and
pena ad rationem, is to cite one to appear in judg-
ment. Walch. 88.
Rape, A Warrant, Was Allimony here-
fore so called. Rot. 4 H. 4.
Rapteable, part, A Write of Right for Lands,
&c. See Relia de Ratnaples parta.
Rapteable, part, Monopom, Is a Write that lies
for the Wife, after the Death of her Husband, against
the Executors of the Husband denying her the third
by the Common Law of England, the Goods of the
Deceased, his Debts first paid, shall be divided in-
to three Parts; one Part for the Wife, another Part
for his Children, and the Third to the Executors: And
this Write may be brought by the Children, as well as
the Wife. Reg. Orig. 142. But it seems to be used
only where the Custom of the County serves for it; and
the Writ in the Regiller rehearse the Customs of the
Counties, &c. New Nat. Br. 270, 371. As to
Children bringing this Write, their Marriage is no
Advancement, if the Father's Goods be not given in
his Life-time; but where a Child is advanced by the
Father, this Write will not lie. Bid. 3.
Rapteable, part, Is a Kind of Jufification, that may be
removed by a Pane out of the County-Court into the
Book Entries.
Rapteable, A Priest's Garment, worn by the Pope
and Bishops, as a Token of the highest Virtue, qua-
gratia & Rationes perfectae. See Pectorales.
Rapteable, part, Is a Kind of Jufification, that may be
removed by a Pane out of the County-Court into the
Book Entries.
Rape, a Writ for Rape, or Deletation of Enemies. Law Fr. Dict.
RE

and Chamberlain of London, who have the Cudgel of
and if any Orphelins, or others, to
be shall have a Writ of Relevement of Ward against
him to take the Ward out of his Possession. New Nat. Br. 117.

Bays, is a Word appropriated to Cloth, never
coloured or dy'd. 11 H. 4. 6.

Mature, Of a Deed, so as to alter it in a material
Part, or without the Privy of the Party bound by it,
Ct. will make the same void: And if it be rated
in the Date, after the Delivering, it is said it goes through
the Whole. 5 Rep. 43. 309. Recess, Ct. is most
frequent, when it is in a Deed poll, that there is but
one Part of the Deed, and it makes to the Advantage
of him to whom made. And where a Deed by Re-
covery, Addition or Alteration becomes no Deed,
The Defendant may plead No act or failure to it. Ibid.

Stemfrith, Is where a Forest which had been
disafforested is again made Forest; as the Forest of
Din on is by Stat. 12 Car. 2. 102.

Statute, Is an Abbreviation of Real, as distinguished
from Perpetuity.

Receivers, Was Money paid by Tenants for Ex-
emption from the Penalty of a Process or Fine by the

Recovery, It has been obseved, is the very Life of
the Law; and that what is contrary to it, is unlawful.
Writ of Recovery was once current, and the Law it-
self generally called; because Recovery is the Foundation
of all our Laws. Co. Litt. 277. 1. If Maximus of
Maximus of Lovelace, who says Fines and not £5 is the
preferred, which carry with them the most perfect and excellent
Recovery. Ibid.

Rentenable, Was a duty claimed by the Lord
of the Fee of any Tenants holding by Knights Service
to marry his Daughter, Ct. Stat. Wills. 2. cap.

Reversion (Reversioner), Is a Secord
Attachment of him who was formerly attached and dis-
misfied the Court without Day, by the not coming of the
Judges, or some such Caflacity. Bract. Reg. Orig. 55.
A Castle disinformed, or put without Day,
cannot be revived without Reattachment or Re-
summons; if which they are special, may revive the
whole Proceedings; but if general, the original Re-
covery will pass. 12 Car. 2. 147. And a Reattachment,
the Defendant is to plead de novo, Ct. See Day.

Rebates, Is an abating what the Interest of Money
comes to, in Consideration of prompt Payment. Merc. Dict.

Rebellion, (Rebells) Among the Romans, was
where those who had been formerly overcome in Battle,
and subjected to their Subject, made a second Resi-
nance; But with it is generally used for the Taking
up of Arms traitorously against the King, whether by
natural Subjects, or others when once subdued; and
the Word Rebel is sometimes applied to him that wil-
fully breaks a Law; likewise to a Villain disobeying his
There is a Difference in our Law between Enmity and
Rebels; for Enemies are those that are out of the
King’s Allegiance; and therefore Subjects of the
King, either in open War, or Rebellion, are not the
King’s Enemies, but Traitors. And real Prison
of Wales, who levied War against K. Ed. 1. because
he was within the Allegiance of the King, had Sen-
tence against him as a Rebel or Traitor. Fleta. lib. 1. cap. 156. Private Persons may arm
themselves to suppress Rebels, Enemies, Ct. 1 Hovd.
P. C. 156.

Revellens Armory, Is a Gathering together of
twelve Persons, or more, intending or going out
to Pratice or put in Ufe unlawfully, of their own
Authority, any Thing to change the Laws or Statutes of
the Realm, or to destroy the Endowments of any
Ground, or Banks of any Fifth Pond, Pool or Conduitt,
so the Intent the same shall lie waste and void: or to
destroy the Deer in any Park, or any Warren of
Conies, Dove-houses, or Fifth in Ponds; or any House,
Barns, Mills, or Bays; or to burn Stacks of Corr;
or to waste Rents, or Prices of Virtuals; Ct. Stat. 1
Man. cap. 7. 6. See Attachment elsewhere.

Rehearsal, Was to give a second Stiring or Plough-
ing to Arable Land that lay fallow, to prepare it
for fellow Wheat, Ct. or to plough the Ground a third
Time for that Purpouse. Temple Receipts in
pos Ffym Nonantlianc Sandi Johannes Dospafi com
terra jalfuorver si cortam. Fleta. lib. 3. c. 73.

Rebutter, (From the Fr. Bouter, i. e. Rebutes, to put back or turn) Is the Answerer of the Defendant in
a Caufe to the Plaintiff's Surrounder: And the Plain-
tiff’s Answer to the Defendant’s Rebutter is called a Sur-
rounder. That, if it be very rarely that the Parties go for
in Pleading. Pleading. Assizes. Ed. 1. pag. 86. Reb-
tutter is also where a Man by Deed or Fine grants to
Warrant any Land or Hereditament to another; and
the Peron making the Warrant or his Heir, files
him to whom the Warrant is made, or his Heir or
Affgee, for the same Thing; if he who is so sued,
plead the Deed or Fine with Warranty, and pray
judgment if the Plaintiff be to be received to demand
the Thing which he ought to warrant to the Party,
against the Warranty in the Deed, Ct, is called a
Rebutter. Terms of Law 114. And if I grant to a
Tenant to hold without Impeachment of Waife, and
afterwards impel him for Waife done, he may debar
me of this Action by Bewing my Grant; which is
Rebutter. Co. Ltd. 28. 12.

Reception, (Reception) Signifies the Taking a second
Distress of one formerly distressed, during the Plea
grounded on the former Distress; and it is a Writ to
recover Damages for him whose Goods being distresed
for Rent, or Service, Ct. are distresed again for the
same Caufe, hanging the Plea in the County-Cour,
before the Judges. F. N. B. 71. 72. Stat. 47 Ed. 3.
cap. 7. And a Reception lie where the Warrant
distresses other Cattle of the Tenant than he before
distresed, as well as if he had distresed the same Cattle
before; and if he had distresed the same Cattle, but
in E. 5. Ifue was taken whether the Cattle were
If the Lord distres the Cattle of a Stronger for the
same Rent, and not his own, he shall not distress
neither the Stronger, nor the Party first distresed,
shall have the Writ of Reception: And if the Lord
distres the Cattle of the Tenant, the Tenant
shall or Baille takes a Distress on the Tenant for the same
Renta or Service, pending the Plea; the Tenant
shall not have a Reception against the Lord, or against
the Bailiff, although the Bailiff maketh Cogitation in
Right of the Lord, Ct. for it may be the Lord had
no Notice of that Distress, or the Bailiff had not No-
tice of the Distress took by the Lord; though in such
Case, Action of Trespass lies; and if the Lord agree
to the Distress taken by his Servant or Bailiff, the Te-
nant may have this Writ against the Lord. Ibid. 159.
A Man is distresed within a Liberty, and so a Replevin
there by Plantain or Write, and pendent that Plantain in
the Liberty he is distresed again for the same Caufe, by
the Peron who distresed before he shall not upon
that Scare bring a Write of Reception, because the
Plant is not pendent in the County Court before
the Sheriff, nor in C. B. before the Judges: But if the
Plant be removed by Paste or Rewards out of the
Liberty before the Judges, then the Party distresed
may have a Reception, Ct. And if a Peron be con-
victed before the Sheriff in a Write of Reception,
he shall not only render Damages to the Party, but he
shall be answering for the Contempts; and by the Judges be fined.
39 Ed. 2. For Damage-assain Beasts may be distresed
as often as they shall be found upon the Land; because
every Time is for a New Trespass and a New Wrogg, and
no Reception lies.

Rehearsal.
Receipts, Receivers and Revenue Administration

**Receivers** (Receivers) are by us, as with the Civilians, rated and taxed. For their **receipts** stolen Goods, 

And the Receiving a Felon, and Concealing him and his Offence, makes a Person criminal to the Felony. 2. (p. 183). But a Recei

<table>
<thead>
<tr>
<th>Page Dimension: 607.2x979.9</th>
</tr>
</thead>
</table>

| Received a Felon from Privy Council. S. P. C. 41. |

| By Statute, if any Person shall receive or buy knowingly any stolen Goods, or conceal Felons knowing of the Felony, he shall be accessory to the Felony, and suffer Death as a Felon. Stat. 5 Ann. c. 51. Such Receivers, &c. may be transported by 4 Geo. 1. c. 3. |

| Receivers, Annexed to other Words, as Receiver of Rentz, signifies an Officer belonging to the King, or other great Personage. Comp. Tit. 18. See above. |

| Receivers of the Fines, is an Officer who receives the Money of such as compound with the King upon a Bond forfeited out of the County. West's Jour. p. 2. fol. 106. Stat. 1 Ed. 4. c. 1. |

| Receiver General of the Duchy of Lancaster, An Officer of the Dutches Court, that gathers in the Dutches, Fines, Forfeitures and All other Revenues, within the said Duchy, or what else is there to be received arising from the Profits of the Duchy Lands, &c. 39 Eliz. cap. 7. |

| Receiver of the Spikes-Bolls. It is mentioned in the Stat. 5 Eliz. c. 4. |

| Receivers General of the Court of Wills and Liberties, Was an Officer belonging to that Court; but that Court being taken away by the Stat. 22 Eliz. cap. 2. this Officer is of Course out of Doors. |

| Reefs, (Reefs) is the Reels or making Mention in a Deed or Writing of something which has been done before. 2 Litt. Ab. 416. A Receipt is not conclusive, because it is no direct Acknowledgment; and by frigid Receipts in a true Deed, Men might make what Titles they pleased; since false Receipts are not punishable. 1. Law 352. 2. Law 108. Wood's Litt. 2. |

| If a Person by Deed of Assignment receive that he is possessor of an Interest in certain Lands, and affirms it over the Deed, and becomes bound by Bond to perform all the Agreements in the Deed; if he is not possessor of such Interest, the Condition is broken; and though a Receipt of itself is nothing, yet being joined and connected with the rest of the Deed, it is material. 1 Lew. 112. and where it is but a Receipt, that before the Indenture the Parties agreed to do |

| such a Thing, 'is a Covenant; and the Deed itself is considered as a Part, for the Receipt. But a Receipt for others Goods, &c. And the Receiving a Felon, and Concealing him and his Offence, makes a Person accessory to the Felony. 2 Stat. 183. But a Receipt of a Felon, &c. against the Person of the Felony either express or implied, which is to be expressly charged in the Indenture; and the Felony must be complained at the Receivers, Receipt, and not become so afterwards by Master [illegible]; if a Person know

| ing of one to have been guilty of Felony, barely receive him and permit him to escape, without giving him any Advice, Affirmation or Encouragement, it is a high Misdemeanor, but no capital Offence; and a Wife, in regard to the Duty and Love which the owes her Husband, may receive him when he hath committed Felony; but no other Relation will exempt the Recei

| ver of a Felon from Punishment. S. P. C. 41. |


| By Statute, if any Person shall receive or buy knowingly any stolen Goods, or conceal Felons knowing of the Felony, he shall be accessory to the Felony, and suffer Death as a Felon. Stat. 5 Ann. c. 51. Such Receivers, &c. may be transported by 4 Geo. 1. c. 3. |

| Receivers, Annexed to other Words, as Receiver of Rentz, signifies an Officer belonging to the King, or other great Personage. Comp. Tit. 18. See above. |

| Receivers of the Fines, is an Officer who receives the Money of such as compound with the King upon a Bond forfeited out of the County. West's Jour. p. 2. fol. 106. Stat. 1 Ed. 4. c. 1. |

| Receiver General of the Duchy of Lancaster, An Officer of the Dutches Court, that gathers in the Dutches, Fines, Forfeitures and All other Revenues, within the said Duchy, or what else is there to be received arising from the Profits of the Duchy Lands, &c. 39 Eliz. cap. 7. |

| Receiver of the Spikes-Bolls. It is mentioned in the Stat. 5 Eliz. c. 4. |

| Receivers General of the Court of Wills and Liberties, Was an Officer belonging to that Court; but that Court being taken away by the Stat. 22 Eliz. cap. 2. this Officer is of Course out of Doors. |

| Reefs, (Reefs) is the Reels or making Mention in a Deed or Writing of something which has been done before. 2 Litt. Ab. 416. A Receipt is not conclusive, because it is no direct Acknowledgment; and by frigid Receipts in a true Deed, Men might make what Titles they pleased; since false Receipts are not punishable. 1. Law 352. 2. Law 108. Wood's Litt. 2. |

| If a Person by Deed of Assignment receive that he is possessor of an Interest in certain Lands, and affirms it over the Deed, and becomes bound by Bond to perform all the Agreements in the Deed; if he is not possessor of such Interest, the Condition is broken; and though a Receipt of itself is nothing, yet being joined and connected with the rest of the Deed, it is material. 1 Lew. 112. and where it is but a Receipt, that before the Indenture the Parties agreed to do |
RE

Can't, &c. that are in his own Hands, and not fold some file and for valuable Consideration, are also sub-
ject to the Extent. 3 Rep. 15. But the Land is not the Deed, and in the Body and Land is an
Recept that it was in the Hands of the Cognisant at the Time of the Acknowledgment of the Recognizance, or after; and if the Person is charged, but the Land is chargeable only. Plowd. 72. Lands held in Tail shall be chargeable only during Life, and not affect the Title in Tail: unless a Recovery be passed, when it is an Extent Land: Copy. The Lands are forges:
to the Extent, only during the Life of the Cognisant: The Lands a Man hath in Right of his Wife, shall be chargeable but during the Lives of the Husband and Wife together; and Lands which the Cognisant hath in Jointtenancy with another, are liable to Ex-
duction during the Life of the Cognisant, and no longer: for after his Death, if no Execution was made in his Lift, he shall have an Extent only, but if the Cognisant survives, all is liable. 2 Salk. 673. If two or more join in the Recognizance, &c. the Lands of all must equally be charged: And where a Cognisant, after he hath entered into a Recognizance or Statute, doth convey away his L-olds to divers Per-
sons, and the Cognisant fess Execution upon the Lands of some of the Rest, and not all, then the whole are liable, if the whole are not made in Execution, may by Audit Querela or Sure facias have Contribution from the reis, and have all the Lands equally and propor-
tionably extended. 3 Rep. 14. Plowd. 72. But the Cognisant, or his Heirs, when he sells Part of his Lands, and keeps the Remainder, shall not have any Contribution thereon: For if the Land only is put in Execution. Hid. If there be a Recognizance, and after a Statute enter'd into by one Man to two others: his Lands may be extended pro rata, and so forth. The Execution upon the Recognizan-
ance may be used for Payment of Debts or to strengthen other Assurance. Wood 218. If a Recogni-
ance is to pay 100l. at five several Days, vac. sco. on each Day, Money is bound by an Extent shall bind the Recognizance in the Chancery, and the Cognisant hath certain Indemnities of Defaul;
tence: if the Recognizance will sue Execution on the Recognizance, the Recognizant may not be
come into the Chancery, and the Indemnities of Defaul;
tence, and he is ready to perform them, and they shall have a Sure facias against the Recognizant, retumable as a certain Per
Fees, he shall have a Superficial to the Sheriff not to make Execution in the mean Time. New Nat. Br. 515. If it be made use of, a Recognizance in Chancery, on other Court of Record, shall not reverse the Recognizant: his Executaries may sue
for such an Extent, to have Execution of the Lands of the Recognizant: And if the Sheriff return that the Recognizant is dead, then a special Sure facias shall go against the Heir of the Recognizant, and those who are Tenants of the Lands which he had at the Day of the Recognizance enter'd into, Hid. 500. One of the Sureties Securities we have for a Debt is the Recognizance in Chancery, acknowledged before a Master of that Court, must be signed by such Master, and afterwards inrolled: And the King may be his Commision give Authority to one to receive a Recognizance of another Man, and to return the same into Chancery: and on such a Recognizant, if the Recognizant do not pay the Debt at the Day, the Recognizant shall have an Extent on the Conclu;
se taken, as if it were taken in the Chancery. Proud. 131. New Nat. Br. 131. In Practice, Recognizances are mortgaged, without giving Notice of a Recognizance formerly had, if the Recognizance be not paid off and vacated in Six Months, the mortgagee is entitled to his Equity of Redemption, &c. 6 & 7 W. 3 M. c. 16. Recognizances may be discharged by Defaul;
tence on Condition, upon Performance of such Condi;

RE RE

Recognition, to the Party that enters into the Recognition of the Person to whom it is made, or one bound thereby, is the Recognizance.

Recognisance. A Church is said Recognisances when confounded again after it hath been polluted, or in the Parliament of Pagans or Hereticks. Moz. Wif. Ann. 1013.

Records, (Records, from the Lat. Registrum, to remember, or to cause to be remembered,) is a Memorial or Remembrance, or an anotchick Testimony in Writing, contained in Rolls of parchment, and preferred in a Court of Record, Brittan. c. 27. It is a Writing in Parchment, wherein are enrolled Pleadings of Land, or Criminal Proceedings in Courts of Records; and Records are restrained to such Courts only, and do not extend to the Rolls of Inferior Courts. The Registrity of Proceedings wherein are not properly called Records, 1 Lev. 260. 2 Litt. Abr. 418. And there are said to be three Kinds of Records, viz. a Record judicial, as an Amicorum, &c. a Record ministerial upon Oath, being an Office or Inquisition found; and a Record made by Conveyance and Custom, as a Fine, or a Deed inrolled, 4 Rep. 54. But it hath been held, that a Deed inrolled, or a Deed in Chancery inrolled, is not Records, but a Deed and a Deed recorded; and there is a Difference between a Record and a Thing recorded, 1 Litt. 421. Records being the Rolls or Memorials of the Actions, import in themselves fact only, without the introite of any extraneous Verity, that they admit of no Proof or Aversion to the contrary, infomuch that they are to be tried only by themselves, whereas in many there would be no End of Controversie: But during the Term wherein any judicial Act is done, the Roll is alterabile in that Term, as the Judges shall direct when the Term is over, and may be altered, or the Alteration, or Proof that it is false in any Instance, 1 Lev. 260. 2 Reg. 32. A Matter of Record is to be proved by the Record itself, and not by Evidence, because it may be joined upon it, and is to be tried by a Jury like to Matters of Fact; and the Credit of a Record is greater than the Testimony of Witness. 21 Car. B. R. That where Matter of Records is mixt with Matter of Fact, it shall be tried by a Jury. Hdb. 124. A Man cannot regularly aver against a Record; yet a Jury shall not be stopped by a Record to find the Truth of a Case. The Action of nullity was entered in the Court, that upon Evidence, 'tis at the Discretion of the Court to permit any Matter to be flown to prove a Record. 1 Ven. 356a. Allen 18. 3 Nill. Abr. 49. 49. A Record may not be controverted in Appearance, and yet be good: And 'tis heath apparent Famlihood in it, 'tis not to be denied; but a Record may in some Cases be avoided by Matter in Fact, Style's Reg. 281. Co. Litt. 4 Crs. 529. Hdb. 20. The Judges cannot judge of a Record given in Evidence, if the Record be not exemplified under Seal: But a Jury may find a Record although it be not so, if they have a Copy prov'd to them, or other Matter given in Evidence sufficient to induce them to believe that there was such a Record. 2 Litt. Abr. 421. By Statutes, Judges may reform Defects in any Record, or Proofs, or Variance between Records, &c. And a Record exemplified or inrolled, may be amended for Variations from the Exemplification. Stat. 8 H. 6. A Record of an Issue made up ready for Trial of a Cause, on Motion and Leave of Court, may be amended as to not to deface the Record; and notwithstanding it be matter of Record, and yet be paying Goo to the Defendant: But the Court will not give Leave to amend it, if it may not be done without defacing or much altering the Record. Mich. 23 Car. B. R. 2 Lev. 420. The Order of the Judges, that a Record or a Record annull'd, shall not be taken out of C. B. and Annull'd Records removed out of Inferior Courts, as to Fine and Misdnaprof of Clerics, which are adjudged arbiidable by the Statutes of Trespass, 1 though formerly the would not
not amend Records out of inferior Courts; but the Law in this Case is now altered, 4 Ed. 6 c. 55. 3. Litt. 422. If the Transcript of a Record be false, the Court of B. R. will, upon Motion, order a Certiorari to an inferior Court, to certify what is there inserted and how it is amended, and if it be found to be false, the Writ of Error out of the Common Pleas, they will grant a Rule to bring the Record out of C. B. into this Court, and then order the Transcript to be amended in Court, according to the Rule of B. R. See 2 Ca. 105. 2 Ca. 119. 2 Ca. 135. 244. Et cetera. A Record that is false, if illegal, remains a good Record notwithstanding the false; but he that made it is not to be punished for his Error, 4 Ed. 6 c. 55. 3. Litt. 422. And in Case of a Nature in a Judgment, done by Practice or in the absence of the Court, the Record hath been made by a Judge, and a special Error is there to be made; but though the Record by this Means be made perfect, the Offender may be indicted for Forfeiture; for not only such an Alteration whereby a Judgment is actually altered, but also such which is not such an alteration, but it is reversible, whether he be or be not afterwards amended by the Court, is within the Act 8 H. 6 c. 12, making it Felony to take away, or avoid any Record, 4 Ed. 6 c. 55. 3. Litt. 422. The Court will not supply a blank left in a Record, to make it perfect, when before it was defective; as this would be to make a Record, which is not the Office of the Court to do, but to judge of them. 2 Litt. Acr. 420. If a subscribent Record bear any Relation to one that is precedent; in such Case it may appear in Pleading, &c. to be the same, without any Variation. 3 Law. 405. Where Records are pleaded, they must be agreed, and one may not plead any Record, if he be not in the same Court where the record is made. As the Act 8 H. 6 c. 12, under the Great Seal of England, if denided: Acts of Record must be specially pleaded. 1 Br. 20. 2 Ca. 105. 10 Rep. 92. 5 Rep. 718. Style and Records are to be pleaded in the same, and not Part of them, with an Inter alia referring to the Record; and to shool a special Verification of every Record; unless a Judgment be pleaded, or you declare upon a Judgment in a superior Court, when the Plaintiff may say record per se est indicium, and not in an inferior Court, for there all the Proceedings must be for that particular. 3 Litt. 406. 24 Ca. B. R. When a Record is pleaded, it is to conclude that Record or the other Side may answer it. Such a Record is, unless the Plaintiff may say record per se est indicium, and not in an inferior Court, for there all the Proceedings must be for that particular. 3 Litt. 406. 24 Ca. B. R. When a Record is pleaded, it is to conclude that Record or the other Side may answer it. Such a Record is, unless the Plaintiff may say record per se est indicium, and not in an inferior Court, for there all the Proceedings must be for that particular. 3 Litt. 406. 24 Ca. B. R.
a Man suit for Land or any other Thing moveable or immovable, and have a Verdift and Judgment for him. C. Litt. 1. A segued Recovery, which is the Recovery intended here, is a formal Act by Convent, used for the better Affurance of Lands and Tenures. C. 2. It is a segued Suit and Judgment upon a real Action brought in the Common Place Court, by one against another that is seized of the Freehold, to cut off and destroy Eateis-Tail, Remains and Reversion, and to bar the former Owners thereof. 1. Inf. 154. Accou. Conv. 1. Vol. 108. And it is called a Common Recovery, because it is a common Path to that End for which it was ordained, viz. to cut off Eateis-Tail, &c. Alfo it is by Custom be- come a Common Conveyance of Lands; and is much favoured by the Law, many of the Inheritances of the Kingdom depending upon these Affurances. 3. Rep. 40. 41. This Recovery, it is said, was intro- duced in the Time of Hen. 8. But some Authors mention it to be 'eal'd much earlier; and was framed by the Wisdom and Policy of our Law, whereby the there be a Judgment of a Court, it is not in an ad- versary Manner, but by the Convent and Permission of the Parties; which is the Reason we generally lay, that a Recovery is to be suffered: But though this judg- ment is fictitious as to any actual Litigation upon which it is had; yet it is given upon a real writ brought, and that Judgment according to the Rules of the Common Law. Jenk. Conv. 250. 257. 1 Rep. 131. Attain. Compan. 231. And Common Recoveries suppoze a Recompence in Value, to all Persons that lost the Eateis, which has been held to be the principal Cause why they bar; and being become the common Affurances of the Nation, shall not be taken so fictitious as real Recoveries are. 2. Litt. Abr. 425. The Right of Recovery, id est, the power of delivery all Estates in Remainder, &c. and Incumbrances derived out of them, that one may sell, give or devite the Eateis in Fee, or in what Manner he pleases; and the Recompence adjudged over shall go in Succession of the Eateis, as the Land lost should have done, and then it would not be reasonable for the Heir, &c. to have the Land and Recompence in Value also; there- fore he lotheth the Land, and mustt trueth to the Recom- pence. 1. Rep. 62. 3. Rep. 61. 6 Rep. 42. This suppoze Recompence is the Reason why a Common Recovery is so much valued to all that are in Remainder or Reversion, as well as the Illeis in Tail; whereas a Fine bars only the Heirs in Tail, and not those in Remainder or Reversion, unless upon Non-claim in due Time. Wood's Inf. 252. A late Author says, the Recompence in Value, is the true Reason for barring the Illeis in Tail, on suffering a common Re- covery, but not for the Remainders, &c. to which the Recovery does not extend: And that a Re- covery by Tenant in Tail, bars the Eateis Tail, and all Remainders and Reversioners thereupon expectant; because at Law, that which is now a Tail Eateis, was a Conditional Fee; and no Remainder could come after it, for a Fee by the Rules of Law cannot be created on a Fee. Pigeon. Com. Recov. 13. 21. And a Recovery disaffirms all the Title of him against whom it is had; and this so strongly, that if there be three or four Deficients after 'tis suffered, yet the Recovery may come, for the Recovery binds the Blood, and dis- approves the Title. Ibid. 18. It is also said by the same Author, that the Ufe of Common Recoveries, is to reduce Estates to that Parity and Condition they were in by the Common Law, and evade many Incum- brances: without which a Tenant in Tail cannot make a Jointure on his Wife, nor any Provision for Children, or even for paying the Remainder. Pigeon. Pigge. 20. A Common Recovery is the bettt Affurance (ex- cept an Act of Parliament) that a Man can have; and it may be had of such Things, for the most part, as paid by a Fine: An Ufe may be raied upon a Re- cevery, as well as on a Fine, &c. and the fame Rules are generally to be observed and followed for the guid- ing and disposing of a Recovery, as are ob- served for the Guidance and Direction of a Fine. Walf. Symb. Inf. 2. 3. 1 Rep. 15. There must be three Persons, the Writer of the Recov., the Tenant of the Recovery, a Recoveror, a Recoveror, and a Vocher; the Recoveror is the Plaintiff or Demandant, that brings the Writ of Entry for Diffirin, &c. The Recoveror is the De- fendant or Tenant of the Land, against whom Writ is brought, and he must be perfect Tenant of the Freehold; and the Vocher is he to whom the De- fendant or Tenant voucheth or calls to Warrant of the Land in Demand, either to defend the Right, or yield him other Lands in Value according to a sup- pozed Agreement. 1. Inf. 101. Now to suffer a Re- covery, the Tenant of the Freehold agrees with the Demandant (usually some Friend) that he shall bring his Action real against him, as though he be the De- mandant had good Right to the Land, and the Te- nant no Right of Entry to the same, but on a Diffirin which a Stranger, one High Awa or Edition Dif- fessor, had unjustly made: though the Demandant never had Poiffelion thereof, nor the Stranger: The Tenant appearing to the Writ vouches to Warranty A. B. the Cryer of the Court, or the Bay-bearer of Writs to the Cafis Breviam, who is called the common Vocher, and is in the Writ of Entry for the Vochers who shall appear, as though he would defend the Title, and the Demandant exhibits a Declaration against him, who thereupon prays a Day to make his Defense; but on the Day given by the Strange. he makes Default, and the Plaintiff or Demandant hath Judgment to re- cover the Land against the Defendant or Tenant in 'Tail, and he to recover in Value against the common Vocher, which is the infirmt of Suits for the right or Poiffelion of the Lands, &c. Yet this Recovery in Va- lue is only imaginary, because the common Vocher had no Lands to render in Value; as though it is taken for a Bar of the Tail for ever, and is said to be good in Consequence as well as Law, notwithstanding the Stat. Wilm. 1. cap. 2. wherein it is provided, that the Writ of the Vochers is to be suffered; 2. Litt. Abr. 426. &c. all is not to be observed. Diz. &c. Stud. cap. 26. 10 Rep. 37. 38. 1. Inf. 224. To every Recovery there must be a good Tenant to the Prae- cipe, or it will be void. 2. Litt. Abr. 425. If the Tenant be not a good Tenant, this is Divit, but it is to be made by Lease and Release, Bargain and Sale insrolled, Fine, &c. so as he may thereby become Tenant in Poiffelion of the Land. And if the Ten- ant to the Prae- cipe gains a Freehold before Judgment, it is sufficient: Alfo where a Prae- cip was made by a Fine, and a Common Recovery suffered, and after- wards in a Writ of Error that Fine was reversed; although this was allowed for Error to reverse the Recovery, it was adjudged that the Recovery was good, for there was a Tenant to the Prae- cipe at that Time, 2. Salk. 528. There is no Occasion of setting forth a Lease and Release to make a Tenant to the Prae- cipe, because where a Mas claims under a common Recovery it will be intended that there was a good Tenant to the Prae- cipe till the contrary is shown; and rather than the Recovery shall fail, they shall be in- tended to be Tenants to the Prae- cipe by Diffirin, especially if it is alluded in the Pleadings that they are Tenants libri Terementi. 3 Rep. 59. 2. Mod. 70. Aduant tenant is a sufficient Averment in the pleading a Common Recovery; but it is not so when the same Recovery is made in the praecipe, as it is considered and incongruous with it. 1. Mod. 418. A Defendant pleaded a Title under a Common Re- covery, in which he set forth the Lease and Release to the Tenant to the Prae- cipe, and the Writ of Entry, and the particular Proceedings upon it, the Judgment, Writ of Seisin, &c. And it was a Question, whether it might have been pleaded in a Baron Manner.

(uic.)
this ball bar the Remainder and rReversion in Fee too though he in Remainder or RevEnon did never affice to the Remainder. And if Tenant for Life furnish to him in Remainder in Tail, he may bind the Remainder and Reversion expedient upon his Estate, 1 Rep. 15. 2 Rep. 60. 1 Inf. 562. But if Tenant for Life alone suffer a Recovery, without the Assent of him in Remainder, the Recovery will be void.

And if a Recovery be had against Tenant for Life and a Remainder man in Tail, (not being vouched by Tenant for Life, and they have the common Voucher; the Recovery thus suffered doth not bar the fatal, nor the Remainder over, neither are the llls in Tail barred by it. 3 Est. Gez. 690. If Tenant for Life suffers a common Recovery by Consent and Consent between both Tenant and the Recoverer this is a Voucher of his Effort, and he in the Recovery may enter presently. And all Recoveries have by Agreement of the Parties by Consent, against Tenants in Tail after Possibility of llls, extant, Tenants by the Curtesy, or for Term of Life, or Lives, or shall be void against them. But all recoveries, by Tenant for Life, a common Recovery by Consent, in which a Tenant in Tail was vouched. 1 Rep. 15. Tenant for Life, Remainder in Tail, Remainder in Fee; the common Recovery in which the llls in Tail was vouched of. 1 Inf.

And it was objected, that the Remainder man in Fee was not vouched by this Recovery, because the Statute 14 Eliz. grants. That Recoveries suffered by Tenant for Life, shall be void against those in Recovery or Remainders and the Privy council that quarters extend to land only chose in Remainder who suffer to the Recoverer in Remainder, in Tail was vouched in this Recovery, it was adjudged, that he in Remainder in Fee was barred, as he would have been if the Tenant in Tail had been the first Tenant to the Promiss, instead of the Tenant for Life; which judgment was affirmed in Error in the Exchequer-Chamber. After Goo. A Father devised his Lands to his Son B. for Life, and after his Death to the life of his Body, Bt. And for Want of such Issue, Remainder over B. suffered a common Recovery and so to the Estate that B. had, two judges held, he had only an Estate for Life, because such an Issue was expressly devised to him; but Hooke Chief Justice held, that he had an Estate tail by Implication, and by Construcion the Recovery was well suffered, for the Words Issue of his Body, and whose which follow, min. For want of such Issue, make an Estate tail by Implication; though judgment was given according to the Opinion of the Judges, which was afterwards reversed in the Exchequer-Chamber, on the Opinion of the Chief Justice. H. 2. 22. 25. 3. 22. 256. A Man made a Partement in Fee, to the Life of himself for Life, after his eldest Son in Tail, Remainder to his right Heirs, he not having then any Son: Afterwards he suffered a Recovery, and Issue a Son, who died in the Life of his Father, leaving a Son, and after he himself died; and it was held, that the Son and Heir of the Son should not avoid this Remainder, moreover for them there was not any Remainder in him in the Time of such Recovery. 3 Rep. 12. 22. 124. 3. 81. 82. A Tenant in Tail cannot be refrain from suffering a Common Recovery, 10 Rep. 36. 41. If there be Tenant in Tail, Remainder in Fee, and Remainder or Recovery in Fee and Tenant for Life is implanted by Agreement, and vouchers Tenant in Tail, and he vouches over to the common Voucher;
Fines levied, and Render in Fes, is no Bar to him in Remand: for by the Render a new estate is gained, and the Recourse shall not go to the ancien Remand. 1 Cr. 826. Tenant for Life, with B. above, is a Son; the Deman- dant recovered against the Tenant, and the Tenant over in Value: And it was held, that this should have been good. But it hath been adjudged other- wise in such a Case: unless he doth vouch the Donor, or their Heir, who is privy, Cf. 68. 41. 74. 27. 95. 475. If there be Tenant in Tail, Remainder in Fes, and he in Remainder is amiss of Tenor; a Recovery in his Life-time, in which he is Tenant or Voucher, doth not bar the King of his Remainder: So if he die, and his Heirs of his Body be vouched, because the Tail doth not descend upon him. Ibid. A Recovery had against Tenant in Tail of the King's Gift, the Remainder or Remainder being in the King, shall not be a Bar; nor shall the Remainder or Re- version, which at the Time of the Recovery is in the King, be barred by a Recovery. 34 & 35 H. 8. c. 30. But by the Stat. 34 H. 8. the Estate tail is not pre- served, where a Recovery or Remainder is in the King, except it was created by the Crown, and not where it was made by a common Person; for before that Statute a common Recovery barred an Estate tail made by a common Person. 1 C. 72. A. 89. There will be a 95. A recovery, Covet, with her Husband, is bound by a Recovery; but as in a Fine the ought to be examined. 3 Cr. 357. It is for the necessity necessary for the Judge to examine a Feme Cover, & ra. Ch. 19. when the joint with her Husband to suffer a Recovery of her own Lands; it shall be supposed the Chat it freely and vol- untarily; but it is pro ducto to do it, because it may happen that the Female may be brought to it by Fraud or Fire. 2 Litt. Abr. 424. The Case upon a Spec- ial known in England was: There was Tenant for Life, Remainder to Husband and Wife, and their Heirs, and the Husband and Wife suffered a Recovery; it was objected, that the Heirs of the Wife were not barred by this Recovery, by Reason she was not Te- nant to the Premises; neither did it appear that she was examined; but it was resolved, that he is concluded to speak again this Recovery, as the joined with her Husband in it, and the Recovery is perfect, and the being Party and privy to the Recovery, her Heirs shall be bound thereby. 319. Husband and Wife, John Johnson for Life, Remainder to the Heirs of the Body of the Husband, Remainder to A. B. in the Tail, the Husband alone suffered a Recovery; and it was held a Bar only as to a Moiety of the Lands, for by the Recovery the Jointure was severed, and the other Moiety was the Freehold of the Wife, so that the Re- covery could not bar the Estate-tail or Remainder, as to that Moiety. 3 Rep. 3, 5, 4. Moir 180. 4 L 2, 32. But when the Husband and Wife have not a joint Estate of Inheritance, and they join in a Fine to make a Tenant to the Premises, and the Recovery is suffered by the Husband alone, that shall be a good Bar to the Remainder. 3 Rep. 15. A Husband and Wife, Tenants in special Tail, Remainder to B. in Tail, Remainder to C. in Fes; the Husband alone levied a Fine to D. died, leaving a Wife; the Wife entered, she is in of her Estate tail; and though the Fine in Tail were barred by the Fine, yet by her En- try B. and C. are vested in their several Remainders; and if she suffers a Recovery, which the lawfulness may, because the hath the whole Estate-tail, those Remain- ders are barred. Hob. 629. 5 Nall. 125. An In- fant it hath been held, cannot suffer a Common Re- covery by Guardian; though if he obtains a Privy Seal for that Purpoe, he himself may. 10 Rep. 43. Hob. 156. If an Infant suffers a Recovery by his Guardian, with his Seal, his heirs said it may be availed against him and the Judges do not permit it to pass, but when it will be an Advantage to the Infant. 1 Ld.
A Lease for Years made by him who after suffers a Recovery, is good, and shall not be defeated by the Recovery; but otherwise where the Recovery is by a good Title. 2. Lawe. 65. It was a Doole by 2 Edw. that the Tenant in Tail was not a Brewer for Years, and Tenant in Tail suffers a Recovery, whether the Lease for Years be barred, or no. Because it was said that no Recoverer can go to this, being a Chaste. But it was ruled, that this Recovery should be barred, and that the effect of Experience has been.

2. Lee. 50. 2. Mod. 110. A Recovery bars only where there is a Recoverer in Law; as the Lease is an Interest in Tail, and he in Remainder, Recover. 2. Co. 55. Strangers are not barred by a Recovery and Nonclaim, as they are in a Fine. 3. Rep. 5. Nor shall a Recovery bar the Heirs, who claim as a Purchaser, and not by Difference; or where there is an executory Estate, which depends upon Contingencies: but it will bar a contingent Remainder. Lawe. 1242. 3. Lest. 397. The Remainder and Interest in some Case of the Court derrified his Lands to B. his second Son, paying no money to C. and if B. died without issue, living A. then to pay upon Lawa. by Writ, B. suffered a Recovery, and it was held that this should not bar A. because he had only a Possibility to have the Estate if he survived. B. dying without issue, which cannot be negatived, B. suffered a Recovery. 2. Co. 590. A common Recovery is adjudged to be no Bar of a Remainder created in a Settlement, as a Security for raising Money; though Remainders are barred by a Recovery, here the Person to whom the Land was limited, were both in Nature of Trustees for Money raised for theire Remainder. Prior. Cae. 433. Yet where a Cysteque Trust in Tail in Possession under the Trustee, who has the Freghold, suffers a Recovery; in which he himself is Tenant, and so no good Tenant to the Principal, this shall bar the Remainder in Fea of the Trustee, and Society will supply that Defect. 2. Chanc. 63. See Prior. Cae. 433. Recoveries are now declared valid in Law, without Contingencies from Leases to make Tenants to the Writs of Entry, &c. and shall be so effectual as if a good Estate of Freghold was granted to any Tenant to a Writ, but they are not so, unless the Persons settled to the first Estate, have lawfully conveyed an Estate for Life in feoff, to the Tenants to any Writs aforesaid. 14 Geo. 17. c. 20. Purchasers of Lands, which are Remainders, are necessary, and all that claim under them, having been in Possession twenty years, may produce Deeds making a Tenant for suffering any Recovery, and declaring the Ueles, which shall be allowed, but the Evidence that the same was duly performed, though it be not regularly entered on Record, &c. Except. And after twenty Years, all common Recoveries shall be good and valid, if it appears there was a Tenent to the Writs, and the Persons placing these in had an Estate sufficient to suffer them, notwithstanding the Deeds thereof are lost. Ibid. A Party who suffered a Recovery, died the 8th Day of Michaelem-Term, between Five and Six in the Morning, upon which Day the Recovery was suffered; and assized good. 1. Rep. 153. & 2. Litt. 415. And the Court at the first Term after the Recovery had; but for gross Error in the Proceedings in Matter of Substance, a Recovery may be avoided by Writ of Error when an Infant, or Femm Covert without her Husband, suffers a Recovery, &c. and it may be also avoided by Pleading, that it was by Covin against Tenant for Life to defeatur him in Remainder; or that he again when the Writ is brought is no Tenant of the Freghold by Right or Wrore; or he that hath the Estate, neither Part or Privy to the Recovery, or because another hath some Estate in the Thing whereof the Recovery is had, &c. Also by Motion to the Court, and praying a Facia of the Judgment, a Recovery may be null and avoided. 8 Rep. 162. 1 Inf. 104. Recoveries shall be adjudged void as any other Conveyance, if suffered by Fraud to deceive Purchasers, &c. And to suffer a Recovery in another Person's Name, not Privy or Conscious to the same, is Felony with out Benefit of Clergy. 21 Jac. 1, cap. 26. Where a Recovery is avoidable, for any Cause; it must be avoided by him whom it doth concern, that is bound thereby; and should have the Land, if the same had not been. As where an erroneous Recovery is suffered by Tenant in Tail; the liens in Tail, or the next in Remainder, &c. must defeat it: And if the Land be recovered against a Distiller, the Distiller shall avoid it, &c. But a Recovery shall bind every one that can not falsify the same. 5 Rep. 30. 1 Rep. 62. Plowd. 425. 2 Co. 591. Common Recoveries are suffer'd in the Common Peace by the Tenants and Vouchez personally in Court, or by Attorneys; and sometimes by Ancestry in the Country on a Distribut Patrimonium, or on the sufferance of the Distiller may be suffer'd at the Assizes and Great Sessions in Wales; and in the Countess Palatine of Lancaster, Chester and Durham. 24 & 25. H. 8. c. 16. 12 Rep. 12. Also in the Court of Husting of the City of London. Privil. Lan. 92. And Recoveries may be had in a Court-Baron, by Custum. 176. In B. the Princeps, taining the Demesn and the Eamond, the Quittance, and Quality of Land, &c. is delivered to one of the Serjeants at the Bar, who will count upon it; and then the Provenance of it, after which it is carried to the Carfer of the Country, and he makes out the Writ of Entry, &c. and the Recovery is pass'd through the several Offices. Clerks Memor. 212, 213.

A Prinicip for suiting forth a Recovery.

South'von, &c. COMMAND A. B. Gentleman, that he judyly, &c. render to C. D. Ejos one Mo:ny, two Garden, one Hundred Acres of Land, fifty Acres of Parch, &c. with the Apparitions in, &c. which he claims of, &c.

The Tenents by their proper Repre:ents to Warrany E. F. Gentleman, who being also prurient voucheth over J. M. The Form of the Writ of Entry Sur Distiller, &c.

GEORGE the Second, &c. To the Sheriff of S. Greeting; Command A. B. that judyly, and within Thirty Days, be render to C. D. one Mo:ny, two Gardens, &c. with the Apparitions in, &c. which he claims to be his Right and Inheritance, and into which the said A. hath met an Entry, but after a Differen which High Court thereof worthy, and without any Fraud, hath been made in the said A. within Thirty Years now full past, as he saith, and in which he Complaineth, that the said A. hath suffered him, and without any Safety, and the said C. D. shall give him Security, that his said Title shall be protected; then shall the Summons by good Summons, the said A. that he be before our Justice at Westminster, the Day, &c. to form, sover:eth he will not and have you there the Summons, and this Writ. Writen, &c.

The Writ of Entry is returned thus:

Pledge of Profession John Doe.

Richard Roe.

Summons Richard Fene.

Entry
Entry of a Recovery with Single Voucher.

South'ton, c. D. Episco, in his proper Person, 
remanded against A. B. G. Esquire,
one Messuage, two Gardens, and hundred Acres of Land, fifty Acres of Palfrey, &c., with the Appurtenances in li. as his Right of Inheritance; and into which the said A. B. hath no Entry, but after a Distress, &c. And whereas he declares, that he was seized of the said Tenant, with the Appurtenances, in his Demise, as of a Fee and Right, in Time of Peace, in the Time of our Lord the King that now is; by taking the Profits to the Felon, &c. and it was, &c. And therefor be brought his Suit, &c. And the said A. B. in his proper Person come to defend his Rights, &c. and thence venoeth J. M., to Warranty, who is present here in Court in his proper Person; and freely Warrant him to the said Tenement, with the Appurtenances, &c. And hereupon the said C. demands against the Appurtenances, and the Tenement, with the Appurtenances, in his Demise, as of a Fee and Right, in Time of Peace, in the Time of our Lord the King, that now is, by taking the Profits thereof to the Felon, &c., in which he, &c. and therefor bring his Suit, &c. And the said J. M., to the Tenement, by his Witness, warrants defend his Rights, &c, and thereon, that the said Hugh Hunt did not Distress the said C. of the said Tenement, with the Appurtenances, as the said C. by his Witness and Declaration afterfull shows above Jeffrey. And therefor be put themselves upon the Country, &c. And the said C. thereon comes to the Court, &c. and afterwars the said C. cometh again here into Court, this same Term, in his proper Person; and the said j., although falsely called, cometh not, but departed in Contempt of the Court, and makes Default; Therefore it is adjudged, that the said C. do recover his Seisin against the said A. of the said Tenement, with the Appurtenances, and that the said A. be held of the Land of the said C. to the Felon, &c. and the said J. M., &c. And thereupon the said C. prays a Writ of Summand the King, to be directed to the Sheriff of the County aforesaid, to cause full Seisin of the said Tenement, with the Appurtenances, to be delivered to him; and it is granted to him, returnable the Day, &c. At which Day the said C. cometh here into Court, in his proper Person, and the Sheriff (namely J. S. Episco) now returneth, that he by Virtue of the said Writ directed to him, on the Day of the said Full Seisin, of the said Tenement, with the Appurtenances, to be deliverable to the said C. as by the said Writ he was commanded, &c.

A Deed to lead the Uss of a Recovery.

THIS Indenture, ships, made, &c. Between A. B. of, &c. of the said Part, C. D. and E. F. of, &c. of the second Part, and G. H. and J. K. of, &c. of the third Part, witnesseth, that the said A. B. for the Duking,aining and Catching of all Essails, &c. in and to the Tenement, Lands and Hereditaments herein after mentioned, and for the Settling and Affair of the same, to and for the Uss, Intent and Purpose herein after mentioned, limited, excepted and declared, and in Consideration of £ 3. to be paid in Hand paid by the said C. D. and E. F. the Receipt whereof is hereby acknowledged, and for divers other good Gifts and Consideration from the said A. B. in this. Be half mourning, hath granted, bargained and sold, released and confirmed, and by these Presents doth grant, bargain and sell, &c. unto the said C. D. and E. F. (in their actual Possessions now being; by Virtue of a Bargain and Sale to them thereof made for one noble Year, &c.) and to their Heirs and Assigns, all that Messuage or Tenement, and all their Lands, &c. various, long and being in, &c. All and Ways, &c. And the Remainders, Rents and Services thereof, or incident thereto; &c. To have and to hold the said Messuage, Tenement, Lands and Premises above-mentioned, and every Part and Parcel thereof with the Appurtenances, with the said C. D. and E. F. and their Heirs for ever; To the Uss and Purposes only that the said C. D. and E. F. shall and may be perfect Tenants of the Freehold of the said Messuage, Lands and Premises, and shall and may stand and be seised thereof until a good and perfect common Recovery with doubleawrighteover, may be duly bad, executed and recovered of the said Messuages, Tenements, Lands and Premises, according to the usual Course of common Recoveries for the Affairs of Lands and Tenements in such Cases used and accustomed. And thereupon it is concluded, continued and agreed, by and between all the said Parties to these Presents, for themselves and the Uss of their Heirs and Assigns, by their particular and individual Names, in Manner following, that is to say: That the said C. D. and E. F. shall and will well and truly execute and perform in the said C. D. and E. F. the said Messuages, Tenements, Lands, Hereditaments and Premises herein before mentioned, by such Name and Names, Number of Acres, Quarters, Hundreds, Terms and Descriptions in the said Writ to be contained, and in such Manner and Form as by Counsel learned in the Law shall be advised; unto and upon which said Writ of Entry is to be restored and forth, the said C. D. and E. F. shall appear gratis and cause Warranty to the said A. B. which said A. B. shall appear either in Person or by Attorney lawfully authorized, and enter into Warranty, and after his Entry into Warranty, shall cause to Warranty the common Voucher, who shall likewise appear and enter, and afterwards make Default, and appear in Contempt of the Court, and that Judgment may be therein bad and given for the said C. D. and J. K. to recover the said Messuages, Tenements, Lands, Hereditaments and Premises against doubleawrighteover, may be therein bad and suffered, and all and every other Thing and Things be done and performed, and the same and every one of the same and every one of the said Tenements, Lands and Hereditaments, to the Use and Purposes only that the said C. D. and E. F. shall be and do, and every one of the said Tenements and Hereditaments, to the Use and Purposes only that the said C. D. and E. F. shall be and do, and every one of the said Tenements and Hereditaments, and every Part and Parcel thereof with the Appurtenances, to and for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the Uss of the said A. B. for the
Form of a Deed of Conveyance by Fine and Recovery.

THIS Indenture tripartite, made &c. Between A.B., C.D., E.F., G.H., and M. his Wife, of the first Part, B.F., G.I., J.K., and L.M. of the second Part, witnesses, that for and in consideration of the Sum of &c., in the said A.B. and E.B. his Wife, and C.D. and M. his Wife, in Hand paid by the said J.K. and L.M. the Receipt whereof they do hereby acknowledge to have received to the value of &c., in the said A.B. and E.B. his Wife, and C.D. and M. his Wife in Hand paid by the said E.F. and G.H. the Receipt whereof they do hereby acknowledge to have received to the value of &c., in the said A.B. and E.B. his Wife, and C.D. and M. his Wife in Hand paid by the said E.F. and G.H. the Receipt whereof they do hereby acknowledge to have received to the value of &c., in the said A.B. and E.B. his Wife, and C.D. and M. his Wife.

Barring, Cutting off and Disopening of all Easements and Remainders ever, now or to be created in and upon the Messuages, Lands, Tenements and Herediments hereafter mentioned, and for Conveying and Affecting the same Premises, to the only proper Use and Behoof of the said J.K. and L.M. and their Heirs; that the said A.B. and E.B. have, and do hereby give, grant, and confirm unto the said J.K. and L.M. and their Heirs, or to the Heirs of one of them, and first for the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever.

And also, that the said A.B. and C.D. for himself and his Heirs, and for his general and particular use and behoof, and for his and their use and behoof, and for the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever.

And further, that the said A.B. and E.B. his Wife, and C.D. and M. his Wife, are, or some or one of them now is lawfully and rightfully seized of a good, free, perfect, and indefeasible Estate of Absolute in Free, Simple, or Fee-tail, in the said Premises, and the Manors,年轻的, and other Appurtenances thereto, or any Part or Parcel thereof, to the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever, peaceably and quietly entering into, having, holding, selling, conveying, assigning, granting, and confirming unto the said J.K. and L.M. and their Heirs, or to the Heirs of one of them, and first for the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever.

And further, that the said A.B. and E.B. his Wife, and C.D. and M. his Wife, are, or some or one of them now is lawfully and rightfully seized of a good, free, perfect, and indefeasible Estate of Absolute in Fee, Simple, or Fee-tail, in the said Premises, and the Manors, the Youngs, and other Appurtenances thereto, or any Part or Parcel thereof, to the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever, peaceably and quietly entering into, having, holding, selling, conveying, assigning, granting, and confirming unto the said J.K. and L.M. and their Heirs, or to the Heirs of one of them, and first for the use and behoof of the said J.K. and L.M. and their Heirs, and afterwards to be used for ever.
RE RE

Recouped. (From the Fr. Recuper.) Signifies the
keeping and recovery of what is lost or stolen, or
in our Law we use it for to Deface or Different;
as if a Person hath a Rent of ten Pounds out of cer-
tain Lands, and he diffises the Tenant of the Land,
In such case the Right by the Deface of the
Land and Damages, the Defendant shall recoup
the Rent due in the Damages: So of a Rents Charge
lying out of Land, paid by the said Tenant to an-
other, &c. he may recoup the same. Termes de Ley. 3
Djur 5. And an In-keeper may keep back and
deny his Garth's Horse, &c. till he pay for his Re-
covery therefor: But a tithe that seems to a Heritor's Cattle
to Paliargue, he is said may not so do, unless it is
agreed between them at first. 1 Esr 196, 197.
Accrueat. (Fr.) Cowardly, Panic-heard: and
was formerly a Word very reproachful. Ficta, lib. b. 9.
Rellatio, Claim of Right, or an Appeal to the
Law for Recovery thereof.
Suffrante, Right or Justice; and sometimes is
signifies legal Due, a Tribute or Payment. Leg.
Deis. Conf. cap. 30. Si quis Dei Relicti[nus per
viam defecerat, venit, &c. wi. If any one doth
violently detain the Right of God, (i.e. Tithe and
Obliation) let him be fined or amended, to make full
Rebus, is used for a Write of Right, which is of
to convey a Right to a Name, that whereas other Writs in
Rents are only to recover the Possession of the Lands,
&c. in Quiddam; this aims to receive the Seisin, and
the Property, and thereby both the Rights of Pov-
arness and Property are tried together. 1 Jew. 175.
It hath two Species: a Write of Right Patent, and Write
of Right Cliche: The first is so called, because it is
found in the Ph. and in the highest Write of all others, lying
for him that hath a Possesse in the Lands or Ten-
enants and substance for, against Tenant of the Freehold at
and in no other Cafe. F. N. B. 1, 2, &c.
But the Right that is extended farther than originally intended;
for a Write of Right of Dower, which lies for Tenant in Dower, is Pa-
tent, as appearing by Fenchart. Nat. Br. 7. And the
itter is called a Table Reg. Orig. Also there is a Special Right of Patent
in London, otherwise termed a Write of Rights according
to the Cogation, which lieth of Lands or Tenements
within the City, &c. And the Write of Right Patent
is likewise called Breus magnum de Rebs. Reg. Orig. 9.
Ficta, lib. 5. c. 32. A Write of Right Cliche is brought what is
held by the Landlord and Tenement by Charter in
Ancient Dearge, in Fee simple, Fee militiam, or
for Term of Life, or in Dower, and is diffisit; and
is directed to the Bailiff of the King's Manors, or to the Lord of
Ancient Demise, if the Manor is in the Hands of a
Subジェクト, commanding him to do Right in his Court:
This Write is also called Breus parvo de Rebs. F.
N. B. 14. Reg. Orig. 3. Britton, cap. 120. And
he who holds Lands in Ancient Demise by Court-
Roll, if he be ousted, shall not have the Write of Right
Cliche, but is to sue by Bill in the Lord's Court, &c.
If a Person feined in Fee simple dies head of such Estate,
and a Stranger doth abate and enter into the Land,
and deforce the Heir; the Heir may sue for a Write of
Right Patent against the Tenant of the Freehold of the
same Land, or an Act of Necessity. 1 Jfr. 17. 
And in a Write of Right Patent, the Demandant is to
account to the own Seisin, or of the Seisin of the An-
celors, if one bring the Write as Heir was an An-
celora, but may lay the Seisin and Erist in his Pers-
ancy of the Pho[n]c of the Lands in his Antecedent;
and where it is brought by a Bishop or Body Politique,
Seisin is to be laid in the same, or the Person, or
his Predecessors. New Nat. Br. 10. Where a
Write of Right Cliche is directed unto the Lord of
whom the Lands are held, and he will not hold the
Hunt by Common agreement, &c. a Write shall issue as
quiring him to hold his Court, &c. And if the Lord
assents, he and his Court shall be laid as Right there-
or delay is, the Plea may be removed by the Write
called Tab into the County-Court of the Sheriff;
and from thence by Recovarsa into the Common Pleas.
Hood 67, 70. And if the Party shall be removed by
a Man solely for any Thing due unto him, a Write
of Right. Glaven. cap. 10, 11, 12.

Form of a Write of Right Patent.

GORGRE the Second, &c. To a. Lord B. &c.
Greeting: We command you, that without Delay
you do full Right to C. D. &c. of me, Messenge, and
twenty Acres of Land, with the Appurtaences, in &c.
which he claims to hold of you by your Servants, &c.
of which E. F. asserts him, &c. that to no more Clamor
thereof you may hear for Disright of Right. Wibbe, &c.

Write of Right may be had after an Affidavit, Write of
Entry for Digsifer, &c. or other Real Action, where
the Demandant is barred by Action tried; and so
if he lose by Default in a Write of Right, before the
Mise is joined, &c. But if a Person once lost his
Cause upon a Write of Right by Trial and Judgment,
&c. he is without Remedy, and shall be finally con-
cluded. New Nat. Br. 3.

Rebus Subvocatione Gentibus, is a Write lying
where a Man hath Right of Demise, and the Par-
don of the Church dying, a Stranger配上 his
Choir to the Church, the Party that hath Right not
having brought his Action of Quo Impedii nor Dau-
regem Prelatumum, but suffered the Stranger to usurp
upon him. And if it lie only where an Injunction
is claimed in Fee to him and his Heirs. F. N. B. 30.
4 Ed. 3. cap. 18.

Rebus in Eteam, a Write of Right of Dower, which
lies for a Woman that has received Part of her Dower,
and demands the Receipt against the Heir of the
Husband, or his Guardian. F. N. B. 7, 8, 147.
1 Jfr. 38, 39.

Rebus in Eteam unius titill habitat, is where the
Wife hath received no Part of her Dower; as in
Cafe a Man having Lands or Tenements; hath made
no Allience of any Part thereof to his Wife, so
that the is driven to sue for her Thirds against the
Husband. F. N. B. 6. 20 Jfr. 5. c. 1.

Rebus quoniam Dominus remittit, is a Write that
holds that any Land or Thing from the Seisin of the
Any Lord, are in Demand by a Write of Right. If the
Lord in such Cafe holdeth no Court at the Prayer of
the Demandant or Tenant, but tends to the King's
Court his Write to put the Gauss thinker for that Time,
(giving to him or other Times the Right of his Seig-
inary) then this Write shall issue out for the other
Party, and hath its Name from the Words therein
contained. F. N. B. 16.

Rebus in Estimabilia parte, a Write lying be-
 tween Privies in Blood, as Brothers in Consecration,
Sisters, and other Coparsoners, for Land in Fee-
simple. If these be two Sisters, and the Ascendal
defers of Land in Fee, and one of the Sisters
does not enter into the Whole, and deforses the other Sister,
the who is deforesed shall have the Write of Right
de Ratimabilita parte; and if there are our two Sis-
ers, after the Death of the Ascendal they agree;
and enter in common as Coparsoners, and the time of
deforse the other to occupy that which is im-
pendant or appurtenant to the Millennium, &c. which
they have to Coparsoners: the that is deferred
shall have, but will not interfere with the De-
feied of Lands, and defors, and one Sister-cousin
to the Whole Land, and deforses her sister, she
shall have the Write against her other sister: For it
lieth, as well upon a Dying, killed of the other-
Of one sider water upon all, as where the Ancestor, doth not die of it; and it is a Writ of Right Patent, &c. F. N. B. 9. New Nat. Br. 19. 20. In this Writ the Demand shall be of a certain Portion of Land, and Vesculer and View do not lie in it, because of the Privacy of Blood; but in a Registrable party the View was granted, 15 H. 5. for that the Ancestor did not die of it, &c. The Prettys in the Writ, after removing into C. 2. Sum- mons, Grand Capa, and Petit Capa, &c. Ibd. Meflo suet Edisciarcr, a Writ that lies where the Land, in the Court of Common Pleas, issues upon his Tenant and the Tenant Adulterum to hold of him; upon which Discommander the Lord shall have this Writ; and if he assay and provest that the Land is held of him, he shall recover the Land for ever. This Writ is groundid on the Statute of Wym. 2. cap. 2. Old Nat Br. 150. Melety. (Lat.) Signifies a Governor and Reeler Ecclesiastical. He that hath the Charge or Care of a Parish Church. It has been held, that Reeler Ecclesiastical is one who hath a Parish where there is a Vicar-General endorsed. And when Dioceses were divided into Parishes in this Kingdom, the Clergy who had the Charge in these Places were called Reeler and afterwards when their Reelers were appropriated to Monastery, &c. the Monks kept the great Tithes; but the Bishops were to take Care that the Reeler's Place should be supplied by another, to whom he was to allow the small Tithes for his Maintenance, and this was the Plan. Count. Parf. Comp. 75. — Reeler suntur juis in Ecclesia parochialis habere, quantum Prelato in Ecclesia Collegiata. Melety. (Realta). Is taken for inter Ecclesiastical parochialis, cum omnibus juis juribus, praebita, detrini aliquis presentium Speciebus. Spem. Also the Word Realta has been often applied to the Reeler's Manor, Parish House. Parc. Assay. 294. Sir Parfonsky. Medietum, Right; and anciently it was used for a Trial or Accusation. Brattl. ib. Medietum, Effid ad Realta in Carin Junes, is the same with Store al Realta. Leg. H. 1. c. 45. Medietum, Store ad Realta, To stand Trial at Law, or abide the Julis of the Court. Howard 858. Medietum Report, Is to petition the Judge to do Right. Leg. Inst. c. 9. Realta in Curia, i. e. Right in Court, is he that files some suit, and on that suit Manges any Oblivis against him. Smith de Repet. Angl. lb. 2. cap. 5. And when a Person sworid hath reversed the Outlawry, to that Month and a Week for the Benefit of the Law, he is said to be Realta in Curia. Nevertheless. Are as such as the Pope as Supra Head of the Church, and who refuse or denydispensation to the King, every guard, they were deemed. Receptus who disputed the Authority of the Crown in Causes Ecclesiastical, and denied the King Supremacy, but the Acts of Parliament made against Receptus, particularly the 25 Ed. 3. describe a Receptus to be one that does not repair to some Church or Chapel, or usual Place of Common Prayer, to hear Divine Services: Afterwards the Receiving the Sacrament of the Church was a matter of Test of Conformity: And by the 25 & 26 Car 2. a Declaration against Transubstantiation was required, to diisguish Papists and Papists Realta from Protestants. At this Day all Persons are judged Papist Receptus convicts, who refuse the Oaths of Allegiance and Supremacy, or Abjuration; and are liable to suffer and bear according wise, when they incur a Maimonnia, whereupon they forfeit all their Goods and Chattels, with their Lands, &c. Read Stat. 4. Pemb. pag. 315. Receptus convicts, abide to their Place of Abode or Settlement, and not traveled above five Miles from thence, without Licence from the King, three of the Privy Council, or four Justices of the Peace, with the Assent of the Bishop of the Diocese, or the Lieutenant, or a Deputy Lieutenant of the County, on Pah of forfeiting their Goods, &c. And not having Lands worth twenty Pounds or Goods to the Value of 40l. if they do not make the Submission of Conformity mentioned in 35 Edw. cap. 2. being required by a Justice of Peace, they may be compelled to abjure the Reformation: which Abjuration must be certified to the next Assize; and it is Felony if they do not depart within the Time limited by the Justices, or departing and returning again without the King's Licence; but if any Person offending against that Act, shall before Conviction, come to some Pa- rish Church on a Sunday, and make a publick Declaration of his Conformity, he shall be discharged from all Penalties, &c. though if such Offender afterwards relapse, and become a Recusant again, he shall lose the Benefit he might otherwise have had upon his Submission: And Recusants required by Processe to trave- vel, the Bishop, Lieutenant, or Deputy Lieutenant, who gives his Assent to it, must be a distinct Person from the Justices of Peace that gave the Licence; and therefore if one and the same Person is a Justice of Peace, and Deputy Lieutenant, he cannot act in both Capacities, but if he sign and seal the Licence as a Justice of Peace, and the Assent of some other Deputy Lieutenant, &c. must be had: And it is a good Ex- ception to a Licence by four Justices, that no particular Cause of the Recusant's travelling is explicated in it. Gov. Tact. 253. Cecily 210. A Person was indicted for Recusancy, but convicted before Conviction: And so again the Second Time, and was indicted a third time for a Recusant; and on Motion, that it might be certified into the Exchequer, because by Stat. 35 Edw. it is to lose all the Benefit which he was to have by his former Conformity, the Recusant was certified accordingly. 1 Bulst 151. Justices of Peace in their Sentences are to cause Proclamation to be made, that Papist Recusants shall render themselves to the Sheriff or Bailiff of the Liberty where they are, before the next Assizes or Sessions, &c. And if they do not, the Default being recorded, shall be taken as a sufficient Conviction. 3 Tact. 1. c. 4. And Credentials and Church-waarden of every Parish, or one of three, or if there be none such, or any Credentials given there, are to present once a Year at the Quarter-Sessions such Recusants as shall absent from the Church for a Month together; the Forfeiture thereof is that which is 20l. per Month, &c. Ibd. If a Recusant shall conform, and not receive the Sacrament once a Year at least, he shall forfeit for the first Year 20l. for the second, and 40l. for the third, and so on to 60l. And if after he hath once received it, he make Default therein, the Space of one Year, he shall for- feit 6l. to be recovered at the Quarter-Sessions by Ju- dgment, and divided between the King and the Pro- floressor: But the Husband is not churgeable with the Offence of the Wife; nor the Wife for the Husband after his Death. And he hath been adjudged, that a Writ of Error will not lie on a Conviction of a Recus- ant, for not rendering himself to the Sheriff, &c. be- cause the Conviction is no Judgment, but the Sentence gives Processe upon the Conviction: So that if there be any Faults in it, the same is to be quashed in the Exchequer, the Party first conforming by Stat. 453. An Information new ground was brought against a De- fendant, setting forth that before and on such a Day he was a Recusant convict, and that afterwards he con- formed, &c. and for three Years had not received the Sacrament, and was demoted for every Year he resorted thither. Upon Not guilty pleaded, the Plaintiff had a Ver- dict; and thereupon it was ordered that the Information wi.
was incertain, because neither the Time was alleged, nor the Place of his Death, nor the Reason of the Convinion was; and the Informer demands the Penalty for three Years, when by Statute no Informer can demand a Penalty upon the Penal Law, but by an Information within a Year after the Conviction:

But it was resolved, that the first Exception had been good on a Demurrer; but the Defendant having pleaded Not guilty, all the Circumstances of his Conviction were admitted, and that nothing remained to be tried but the Fact: And as for the second Exception, it was good against the Informer for his Part, but should not prejudice the King. 2 Cr. 215. 3 Nift. Ab. 52.

The Stat. 23 Edw. c. 1. gives several Remedies against Recusants: one for the King alone, and there the Protection must be by Indictment in B. R. The other for a common Peron, and that is by Action of Debt, Bill, Plaint or Information: And the 28 Edw. c. 6. was made for the Benefit of the Crown upon Indictments, and doth not extend to Informations: therefore such Informations may be brought in any Court of Record. Nib. 204.

Where the Defendant is indicted on the Statute of Recusancy, Conformity is a good Plea; but not if an Action of Debt be brought. Med. 216. But vide 2 Sher. 332. A Recusant certified into the Court of King's Bench, according to the 23 Edw. shall give Security for his good Behaviour. 2 & 3 B. Jef. 11. See Pophy.

Rec. (Sax. Rad.) is an old Word signifying Advice: And Redhawa is one who advised the Death of another.

Red Book of the Exchequer. (Liber rubrum Scot. carol.) is an ancient Record, wherein are registered the Names of those that held Lands per Baroniis in King James's Time. Before 1607, it is a manuscript Volume of several Miscellaneous Treatises in the Keeping of the King's Remembrancer in his Office in the Exchequer: and hath some Things (as the Number of the Hides of every County, &c.) relating to the Times before the Conquest. There is likewise an exact Collection of the Exchanges under King Hen. 1. Rich. 2 and King J. Jak.; and the Ceremonies used at the Coronation of Queen Eleanor, Wife to King Hen. the 3d.

Redemption. Is used substantively for the Close of a Lease, whereby the Rent is referred to the Sefor; and anciently Corn, Fleth, Fith, and other Vizuals, were for the most part referred on Leases. 4 Rep. 72. Wood's Inst. 216. In Debt for Rent, the Plaintiff declared upon a Lease made 25 August 11 W. 3. of a Meallage, &c. for seven Years, to commence from the 24th Day of June before; Reddemton Quarrel, between the Plaintiff, St. Thomas's Day, Lady Day, and Midsummer, three Pounds ten Shillings, the full Payment to be made at Michaelmas then next: and assigned for Breach that fourteen Pounds of the said Rent was in Arrear for one Year ending 24 December, Anne 15 Will. And upon Demurrer to this Declaration, it was objected that on this Lease there was no Year could be more upon the 24th of December, but on St. Thomas's Day, according to the Reddamton: which was held to be true, because where special Days are limited in the Reddamton, the Rent must be computed from thse Days, and not according to the Reddamton; and that the Rent is never computed from the Hebben, but when the Reddamton is general, i.e. paying Quarterly to much; to the Plaintiff had Leave to denominate, &c. 4 Chit. 141. See Debt and Redemption.

Redhibil fr. is Where a Man procures Bail for himself to an Action in any Court at Law; if the Party bailled at any Time before the Return of the second Scire facias against the Bail, renders himself in Dicherence of his Bail, they are thereby discharged. 2 & 3. 450. A Copy of a writ & satisfaction was returned Non de invento against the Principal, and one Scire Facias and a Nickle; and upon the second Scire Facias, he rendered himself, and was received; but if there had been a Scire facies and judgment thereupon, he had come too late. 3 Cray. 109. If a Defendant renders himself to the Marshal of B. R. upon any Action in that Court, in Dicherence of his Bail, the Defendant's Attorney is forthwith to give Notice of such Render to the Plaintiff's Attorney, and shall make Oath of the Notice, &c. And a Reddits &c will not discharge the Bail, unless the Attorney who is concerned for the Defendant or his Bail, enters it in the Marshal's Book; and having given Notice thereof to the Attorney for the Plaintif, brings the Bail Piece to the Secondary, who upon producing of a Note from the Marshal or his Clerk, that the Defendant is in Custody, will discharge it; and until this is done, the Plaintiff may notwithstanding proceed to Judgment and Execution against the Bail; for until the Bail Piece is discharged, there is a Record still remaining in Court against them. 15 Car. 2. 244. A Reddits &c of the Principal, in Dicherence of the Bail, is no Fes in a Wirk of Error; for the Recognition is not to render the Body, but to pay the Debt; adjudged 3 Facs. 1. c. 2. Vide Bail.

Redhibit, A Revender: and Reddissus hath been used for a Revender of a Manor, or other Estate. Cart. flor. Clavis. Glosser. Mad. 92.

Redhibit, (Redeem.) A Surrendering or Relieving; being also a judicial Confession and Acknowledgment that the Land or Thing in Demand belongs to the Demander, and not to the Person for surrendering. Stat. 3 & 4 Elizabeth c. 24.

Redhibitus, Is set or standing Rent. Vide afsa.


Redeemers, Is a Yielding and Delivering back of a Thing: If a Person has committed a Robbery, and delivered Goods of another, he cannot afterwards purge the Offence by any Redelivery. Ut. 1 Inst. 69. H. P. C. 72.

Redemption, Is a Reclaiming of Lands demised or leased. See Demul and Redemus.

Redemtion, (Redemus) A Ransom, or Compensation; and by the old Saxon Laws, a Man committed of a Crime paid such a Fine, according to the Estimation of his Head, pro Redemtione suae.

Redemption, (from the Sax. Reduor, debtur) signifies bound or obliged to another, for some Benefit received. See.

Redfisfia, (Redfisfia) Is a Difisfia made by him, who once before was found and adjudged to have disfisfied the fame Aths of his Lands or Tenements for which there lies a special Writ called a Writ of Redfisfia. Old Nat. Br. 106. F. N. B. 188. The Writ of Redfisfia lies where a Person doth recover by Affiit or Novel Difisfia any Lands, Rent, or Common, &c. and is put in Pofficion thereof by Verdict and Judgment, and afterwards he is disfisfied of the fame by him to whom he was disfisfied before Statute of Morton, c. 3. New Nat. Br. 417. Alto this Writ lies against him who committed the Redfisfia, and another who was not Disfisfier, if he be Tenant of the Land; and if a Man do recover by Redfisfia, and after he is disfisfied again by the Person who made the first Redfisfia, he shall have a new Writ of Redfisfia; and to one Redfisfia after another, every Time he is redifisfied is 419, 420. And the Redfisfia being found on the Sheriff's Inquisition, the Party to which it did it is to be committed to Prinon, and the Lands re- fetched; and he who redifisfies, doth pay Difisfia to double Damages, &c. Stat. Ws. 2. c. 56. The Punishment for Redfisfia is to be in the Statute 52 H. 3. c. 6. If a Plaintiff be redifisfied of Parcel of the Tenements lately recovered, he shall have a new Redfisfia: And when Coparceners be disfisfied, and re-
cover in an Affidavit. If after they make Partition and are severally distinct, they may bring several Writs of Re-Entry, &c. As a Rule, if the Affidavit of Novo Distinctio is against two Distinctio, and one of them defiles the Plaintiff again, he may have a Distinctio against him. The Second Distinctio is against a Woman in an Affidavit, and the trusty Husband, and both of them defile the Plaintiff, he shall not have this Writ; because the Husband is also, and not the same 4th Distinctio, &c. And if it be a Writ of Right, &c. the Demander makes his Presentation to see in his Natures of Legal, and after is referred; he shall not have a Writ of Distinctio, that Writ of Right not being in Writ of Novo Distinctio. 2 Inf. See Pag Distinctio.

Rejectors, Are those that buy rotten cloth, and turn it into some other Colour or Fashion, that may not be known again. Britton, cap. 29. Inf. 134.

Rejectors, (from the Fr. Recusant, i. e. recusus in recusus) is the Returns or Retaking a Possession lately had; as if a Man may have a Writ of Lands, &c. to another, he thereby quits the Possession; and if he convenes with the Leafe, that for Non-payment of the Rent at the Day, it shall be lawful for him to re-enter; this is as much as if he conditioned to take the Land into his own Hands, and to recover the Possession by his own Act, without the Affiance of the Law. But Writs of a Deed give no Re-entry, if a Clause of Re-entry be not added. Wood's Inst. 140. Any one may recover a Re-Entry on Condition of a Feoffment, Lease, &c. That if the Rent be behind he shall re-enter, and hold the Lands he is it he is satisfied, or paid the Rent in Arrear; and in this Case if the Rent be bind, he may re-enter, though when the Feoffment, &c. pays or renders on the Land all the Arrears, he may enter again. Litt. 327. Inf. 203. And the Feoffor, &c. hath only an Interest, and not the Freehold, to take the Possess in the Nature of a Distinctio; Here the Possessor shall not go in Part of Satisfaction of the Rent; but this otherwise if the Feoffor was to hold the Land till he was paid by the Proffers thereof. Ibid. All Peroms that would re-enter upon their Tenants for Non-payment of Rent, shall make a Demand of the Rent; and to prevent the Re-entry, Tenants are to render their Rent, &c. Inf. 201. If there is a Lease for Years, rending Rent with Condition, That if the Leafe assign his Term, the Leafee may re-enter; and the Leaffee assigneth, and the Leafee receiveth the Rent of the Assignee, not knowing or hearing of the Assignment, he may re-enter notwithstanding the Acceptance of the Rent. 3 Rep. 65. 1 Co. 513. A Feoffment may be made upon Condition, That if the Feoffee pays or renders to the Feoffor, a certain Sum of Money at a Day to come, then the Feoffor to re-enter, &c. Litt. 322.

Exchanges, Is the like Sum of Money payable by the Drawer of a Bill of Exchange which is remitted, Protended, for the Exchange of the Sum mentioned in the Bill bard again to the Place whence it was drawn. Las Margars. 98.

Exchange, Is a second Extent upon Lands or Tenements, on Complaint that the former Extent was partially made, &c. Brach. 313.

Breftho, A Dinner or Supper; sometimes taken for a Duty incumbent to provide Suppers, &c. The Word is derived from Religia, to refresh.

Brefettory, (from Refectory) Is that Place in Monasteries where the Monks used to eat: So the Halls in Colleges and Ann of Courts, wherein the Scholars and Students eat and reside themselves, may properly be called Refectories. Cowl.

Refectory, In the Acceptation of Law is, where a Matter is referred by the Court of Chancery to a

Master, and by the Courts at Law to a Preliminary or Secondary, to examine and report to the Court. 2 Litt. abr. 452. In Cases of Order of Courts, Irregularities, Exceptions, Matters of Account, &c. are referred to the Examination of a Master of that Court. In the Court of B. R. Matters concerning the due Proceeding, or undue Proceedings in a Cause, by either of the Parties, are proper Matters of Reference under the Secondary, and for him in some ordinary Cases to compute the Differences between them; and in others to make his Report how the Matters do stand, that the Court may settle the Differences according to their Rules and Orders. Fag 1650. If a Matter in Difference between the Plaintiff and Defendant be referred to the Secondary, and one of the Parties will not attend at the Time appointed, after Notice thereof, given, to hear the Business referred; the other Party may proceed in the Reference alone, and get the Secondary to make his Report without hearing of the Party not attending. 4 Litt. 452. See Report.

Referendary, (from Referendi, is an Officer abroad, of the same Nature as Masters of Requests were to the King among us: The Referendaries being those who exhibit the Petitions of the People to the King, and acquaint the Judges with his Commands. And there was such an Officer in the Time of the English Saxons here, viz. Ego Annoveneris Referendarius approbavit, &c. And we read of a Referendarius in Anglo-Saxon.)

Refuge, A Sanctuary or Privilege of the Church.

Com missa sumus Librarii et Reliquii

Refusals, For Refusals; and perhaps Residual
Apres is the High water Mark, or so high as the Water comes at full Sea. Mon. Angli.

Deparf. Is where one hath by Law a Right and Power of having or doing something of Advantage to him, and he refuseth it. An Executive may refuse an Execution; but the Refusal ought to be before the Ordinary: If an Executive be summoned to accept or refuse the Executivehip, and he doth not appear upon the Summons and prove the Will, the Court may grant Administration, &c. which shall be good in Law till such Executive hath proved the Will; but no Man can be compelled to take upon him the Executivehip, unless he hath interceded with the Executors. Lam. 154. Cro Eliz. 858. Where there are several Executors, and they all refuse, none of them shall act ministrer afterwards; but if there is a Refusal by one, and the other proves the Will, the Refusing Executive may administer when he will, during the Life of his Co-executor. 1 Rep. 28. 1 Inf. abr. 53. There is this Difference when there is but one Executive, and where there are more Executors than one, as to Refusal of an Executivehip; for if there is but one, and in such Case he administer, he cannot refuse afterwards; and if once he refuse he cannot administer afterwards:

As for Inducible: The Tellor being possessed of Lands, &c. for a Term of Years, devised the same to the Lord Chief Justice Carlow, and made him Ex executor, and died: Afterwards the Executor wrote a Letter to the Judge of the Prerogative Court, intimating that he could not attend the Executivehip, and defining him to the Administration to the next of Kin to the Decedent, which was done accordingly; and after this the Executor entered on the Lands, and granted the Term to another; but it was adjudged void, because the Letter which he wrote was a sufficient Refusal, and he may not once refuse, and afterwards take upon him the Executivehip. 2 Bl. 532. An Executor, after a Court entered against the Will, took the Oath of an Executive, and afterwards refused to prove the Will; and it was held, that having taken the Oath of Executor, the Court could not admit him to refuse afterwards.

S H words,
wards, but ought to grant Probate to him notwithstanding: standing the Curates, on another's Counselling for the Admission, or the Tenant, or a Re- feusal of a Clerk presented to a Church, for illITERATURE. &c. And if a Bishop once refuses a Clerk for Inefficiency, there is no further appeal, if a new Clerk is presented. 5 Rep. 58. 1 De G. 27. In Affairs of Power and Conversion, a Demand of the Goods and Royalties to deliver them, must be proved, &c. 10 Rep. 76. 1 Denw. 5th 20.

Refutamentia, A Discharge; or Renouncing of all future Claim. — Viz. Libris, Infrumentis, Regis, etc., Refutamen, aliquot Evocatus, &c. Torn. Ancs. 172. 3.
Regal, (Regale) Royal, or Kingly; like a King. Lit. Ditt.


Regal Iurisdicto, Are Whales and Sturgeons; to which some add Perpetuity. The King by his Prerogative ought to have every Whale call on Shore in all Places within this Realm, (except granted to Subjects by Special Words) as a Royal Fish: And 'tis said the King himself shall have the Head and Body to make Oil, and all the other Things; and the Queen the Tail to make Whale-Bones for her Royal Vessels. Part. 1 Edw. I. Stat. 17 Edw. 5. cap. 1. 1 Eliz. cap. 5. Regalia, (Late) Royalties, the Royal Rights of a King; which the Civilian say are Ex. 1. Power of Judicature. 2. Power of Life and Death. 3. All Kind of Arming. 4. Matter's Goods, as Waifs, etc. 5. Affidavits. 6. The Value of Money. &c. Also the Crown, the Scepter, four Several Swords, the Globe, and other Such like Things, used at the Coronation of our Kings, are called Regalia. Stat. 13 Eliz. cap. 16. And Regalia is sometimes taken for the Dignity and Prerogative of the King. Likewise Regalia is applied to these Rights, which the Church enjoys by the Grants and Concessions of Kings: And sometimes to the Patri- mony of the Church; and those Lands and Heredita- ments that have been given by our Kings thereto. Mon. Ang. Tom. 2. pag. 231.

Regardant, (Fr. i. e. Seeing, Marking, or Vigil- lant) As a Vills Regardant, was one who had the Charge to do all herb Services within the Manor, and to do the same freed of Annuities; and therefore called Regardant to the Manor. Co. Litt. 120.

Regale, (Regardeum, Fr. Regarder, i. e. Affe- xer) Signifies, having any Care, looking on and in a special Signification is used only in Matters of the Forest, and there two Ways; one for the Office of the Regarder, the other for the Comps of Ground belonging to the Regarder's Charge, which is the whole Forest, viz. All that Ground which is Parcel of the Forest; for there may be Woods within the Limits of the Forest, that are no Part thereof; and those are without the Regard. Crompt. jurird. 175, 199. Manw. par. 2. cap. 7.

Regarder, (Regardeur, Fr. Regardeur, Spectator) Is the name of the King's Forest, who is sworn to make the Regard of it, as has been used in ancient Time; and to view and inquire of all Offences of the Forest, as well as of praise to Forest; and of Con- cernments of any Offences or Defaults of the For- esters, and all other Officers of the King's Forest, relating to the Execution of their Offices, &c. Crompt. jurird. 175, 199. Manw. This Officer was ordained in the Beginning of the Reign of King Hen. 2. And the Regarders of the Forest must make their Re- gard, before any General Sessons of the Forest, or Justice Seat can be holden; when the Regarder is to go through the Forest, and every Bivallit, to see and inquire of the Treflappes therein; ad esquirenum, ad inquireinam, Crompt. jurird. 175, 199. Manw. c. v. Manw. Part 1. pag. 194. A Regarder may be made either by the King's Letters Patent; or by any; of the Judges of the Forest, or General Foresters, or such Times as the Regard is to be made, &c. Manw.

Regis interdicto, Is a Writ issued from the King to the Judges not to proceed in a Cause which may prejudice the King, until he is advised. K. James III granted the Office of Superintendence in C. B. to one Nichol, and thereupon Nichol, chief Constable, brought an affize against him; and the Defendant Mitchel obtained the King's Writ to the Judges, rec- oining the Grant of this Office, commanding them not to proceed in such Cause: And it was argued against the Writ, that the Court might proceed, because the Writ does not mention that the King had a Title to the Thing in Demand, nor any Prejudice which the Prince of Eight hundred Shillings, if it should proceed: The Cause was compromised. Nov. 1344. A Regis interdicto may be awarded, not only for the Pranny to the Plea, but as the King of a Stranger one Cause thrown that the King may be prejudiced by the Proceeding, &c. Fact. Jurid. 97.

Regio liberità, A Writ whereby the King gives his Royal Assent to the Election of a Bishop. Reg. Orig. 294. Regist. (Registri) Is an Officer that writes and keeps a Register. And Register is the Name of a Book, wherein are enter'd and set down much of the Forms of Writs Original and Judicial used at Common Law, called the Register of Writs: Sir Ed- ward Coke affirms, That this Register is one of the most ancient Books of the Common Law. Co. Lit. 119.

Registri of the Parish Church, (Registri Exch- als Porochialis) Is the wherein, Baptisms, Marriages, and Burials are registred in each Parish every Year; which was instituted by the Lord Cromwell, Anno 11 Hen. 8. while he was Vicer General to that King. These Parish Registers are to be subscribed by the Minister and Churchwardens; and the Names of the Person, shall be transcribed yearly to the Bishop, &c.

Registri, (Registri, from the old Fr. Cifer, i. e. in Latae Reprenta) It is properly the same with Register; and the Office Books, and Rolls where- in the Proceedings of the Courts, or any Spec- tual Court are recorded, &c. are called by this Name.

Registri of Deeds. The Register of Deeds and Incumbrances is a great Security to Titles to Purchasers of Lands and Mortgages; and some Laws have been made requiring the same. By the 2 Ann. cap. 4. A Register is to be kept of all Deeds and Conveyances affecting Lands executed in the Well-Riding of Yorkshire; and a publick Office estab- lished for that Purpose; and the Register is to the chosen by Freeholders having 100 per Annum, &c. The 6 Ann. cap. 35. ordains, that a Memorial and Register of all Deeds, Conveyances, Wills, &c. which affect any Lands or Tenements, shall be made in the East Riding of the County of York; and the Register is to be sworn by the Justices in Quarter Sessions, and every Leaf of his Book signed by two Justices. By 7 Ann. cap. 20. A Me- morial and Register is to be made of all Deeds and Conveyances, and of all Wills whereby Lands are affected, &c. in the County of Middlesex, in the Same Manner as in the W'st and East-Riding of Yorkshire. And by these Statutes, Deeds, Conveyances and Wills, shall be void against subsequent Purchasers or Mortgagees, unless registred before the Commis-
cases under which they claim: Alix no Judgment, Sentence or Recognition, shall bind any Lands in those Counties, but from the Time a Memorial thereof shall be entered at the Register’s Office; but the Acts do not extend to Grant Edicts, Leases at a Racks-Rent, or to any Leases, not exceeding 21 Years, where the Possession goes with the Lease; nor to any Chambers in the Law of Court. By the 8 Geo. II. c. 6. A Registry shall be of all Deeds made in the North Riding of the County of York: The Deeds and Conveyances registered to be in Parchment, under the Hand and Seal of some of the Grantors, or Grantee, &c. attested by two Witnesses, who shall on Oath prove the Signing and Sealing of the Memorial and Execution of the Deeds. Memorials of Wills, shall be registered within six Months after the Death of the Testator; the Register neglecting his Duty, or guilty of fraud or forgery, shall forfeit his Office, and pay treble Damages; and Perpetuals counterfeiting any Memorial, &c. be liable to the common Penalties of Forgery.

Registry of Papists Estates. Papists are to register their Estates as a default shall forfeit them. 1 Geo. I. cap. 55. And all Persons refusing to take the Oaths, are obliged to register their Estates as Papists, &c. 9 Geo. I. cap. 24. See Papists.

Regent, Regentess. A Register of Leases in the University, founded by the King: King Hen. 8. was the Founder of five Lectures in each University of Oxford and Cambridge, viz. of Divinity, Greek, Hebrew, Law and Physic. The Readers of which are called in the University Statutes Regi Profectores. Regni Regent, A Name given to the People of Soar and Sufia, and on the Sea-Coast of Hampshire. Blount.

Regnum Ecclesiasticum. In some Countries formerly, the Clergy held there was a double supreme Power, or two Kingdoms in every Kingdom; the one a Regnum Ecclesiasticum, absolute and independent upon any but the Pope over Ecclesiastical Men and Causes, exempt from the secular Magistrates; and the other a Regnum Secularum, of the King or Civil Magistrate, which had Subordination and Submission to the Ecclesiastical Kingdom: But these Uliparisons and Abhorritions, were examined here by King H. S. 2 Tudor Hist. P. 374.

Regates, (Regatares, Fr. Regraters). Signifies him that buys and sells any Wares or Vizuals in the same Market, or of the same Thing. Regraters are particularly described to be those who buy or get into their Hands in Fairs or Markets, any Grain, Beets, Barley, Rye, Linseed, Swine, Pigs, Geese, Oxen, Hens, Chickens, Pigeons, Cotes, or other dead Vizuals whatsoever, brought to a Fair or Market to be sold there, and do sell the same more for hire or at a profit, or in some other within four Miles thereof. Stat. 5 H. 5 Ed. 6. cap. 14. 13 Eliz. cap. 25. Regating is a Kind of Cheating, by which Vizuals are made dearer; the every Seller gain some thing, which must of Consequence enhance the Price. 3 Inf. 103. And in ancient Time, both the Ingrates and Regraters were comprehended under the Word Forefeller. Ibid. Regraters are punishable by Law and Forfeiture of Goods, and Imprisonment, in Proportion to the first, second, or third Offence, &c. Vide Forefeller.

Regula, The Table of Orders, Orders or Statutes in a Religious Convent. Regular, are Monks or Canons, who profess to live under some Rule of Obedience.

Regulatum, Is a Word often mentioned in the Councils of the English Saxons Kings, and used for Canons as the Subregulus was the Vicarbus; Ofa Rex Merriam, Ubebba Regulus, & Abersol Subregulus &c. vide Multiplices eorum.

Rebus curis facias istimam, Quando Vicianos libraris feccionem de magjere parte, quam deceler, is a judicial Writ; of which there is another of the same Name and Nature. Reg. Judic. 15, 51. 54.

Rehabilitation, (Rehabilitatio) A Restoring to former Ability; and is one of those Exceptions claimed by the Pope hereunto in Regum Ad Valorem, by his Bull of 13 July, for enabling a Spiritual Person to exercise his Function who had been dishabiled. Stat. 25 Hen. 8. cap. 21.

Reif, (Sax. Refun, i. e. Spoliate) In our Old Laws signifies Robbery. Cowell.

Reinterior, (Reinserit) Is where the Defendant in any Action makes Answer to the Plaintiff’s Representation; It is an Exception or Answer thereunto, and it ought to be a sufficient Answer to the Replication, and follow and infuse the Matter of the Bar pleaded. 2 Litt. Adv. 453. The Defendant is not to state upon such Words as are not contained in the Declaration, or Replication; and if the Defendant do in his Reinterior depart from his Plea pleaded in Bar, the Reinterior is not good, because this is uncertain, and to say and say so, which the Law doth not allow. Mich. 22 Car. B. R. It is observed, that in many Cases, if the Plaintiff in his Representation alleges any new Matter, the Defendant may there make a new Answer in the Reinterior; though if the Defendant pleads a general Plea, he shall not commonly make that good afterwards, by a particular Thing in his Reinterior. 5 Hen. 7. 19. Raym. 22. Where a Replication is pleaded, which is insubility, the Clerk of the Papers when he makes up the Paper Book, doth write of Course make up the Reinterior, and issue the Issue in it; and if the Reinterior be insubility, he hath the Making up of the Surrointer to it, and the Issue thereupon. 2 Litt. 453. See Departure.

Relation, (Relatio) Is where, in Consideration of Law, two different Times or other Things are accounted as one; and by some Act done the Thing subsequent is said to take Effect by Relation from the Time preceding: As if one deliver a Writing to another, to be delivered to a third Person, as the Deed of him who made it, when such third Person hath paid a Sum of Money; now when the Money is paid, and the Writing delivered, this shall be taken as the Deed of him who made and delivered it, at the Time of his Delivery, to which it has Relation; and so of Things relating to a Time long before, shall be as if they were done at that Time. Terms de Lex 515. deip. Estip. 857. This Device is most commonly to prevent the Person who shall take the Thing done, and shall relate to the same Thing, the same Intent, and between the same Parties only; and it shall never do a Wrong, or lay a Charge at a Person that is no Party. 1 Inf. 100. 1 Rep. 99. Plead. 182. And when the Execution of a Thing is done, it hath Relation to the Thing executed, and makes all but one Act or Record, although performed at a different Time. 1 Rep. 109. A Judgment had in full Term shall have Relation to the first Day of the Term, which is the 42nd Day, and this must be understood of a Judgment given after Appearance; and if it be upon Default, then the Quaestio dies prae est the Day, Cro. Car. 73. 1 Bath. 35. Judgment shall have Relation to the first Day of the Term, as if given on that very Day, unless there is a Memorandum to the contrary as where there is a Continuance till another Day in the same Term. 3 Salk. 212. A Verdict was given in a Cause for the Plaintiff, and there was a Motion in Arrest of Judgment within four Days; the Court took Time to advise, and in four Days afterwards the Plaintiff died: It was adjudged, that the Favour of the Court shall not prejudice the Party for the Judgment ought to have been given after the first four Days; and though it is given after the Death of the Party, it shall have Relation to the Time in which it ought to have been given. 1 Lev. 187. Rule was had for Judgment, and two Days after the Plaint-
tiff died; yet the judgment was entered, because it shall have Relation to the Day when the Rule was given, which was when the Plaintiff was alive. Pulp. 132. Judgment against an Heir upon the Obligation of still have Relation to the Time of the Witt, if it be purchased; and from that Time it will avoid all Alienations made by the Heir. 3 Co. 102. And if one be Bail for a Defendant, and before Judgment he Leaves his Lands; they shall be liable to the Bail, and Judgment by Relation. Pulp. 154, 112. The Defendant in a Suit after the Time of the Frist Suit, but before it was acquir'd, and paid the Goods, and delivered them to the Buyer; and it was resolved, that the Sheriff might take them in Execution in the Hands of the Buyer; for when such Execution is made, it shall have Relation to the Time of the F. F. A. 1. Lea. 504. Sale of Goods of a Bankrupt, by Commissioners, shall have Relation to the first Act of Bankruptcy; and be good, notwithstanding the Bankrupt sells them afterwards. 1 Term. 1. corp. 15. Wood's Inst. 311. And if a Man buys Cattle in a Market that are stolen, and fetheth them out of the Market, though the Cattle were afterwards brought into the Market, and the second Bargain confirmed, and Money paid, &c. this Bargain will not be good; for it shall have Relation to the Beginning, which was unknown. Things being bought at common Auctions, or where Allowances shall be guided by the Indentures precedent; and the Execution thereof shall have Relation to the original Act. 2 Co. 110. A Bargain and Sale was made to A. B. and before it was interolled, the fame Bargainer levied a Fine to the Bargainer, and afterwards and within the six Months the Deed was interolled; adjudged that the Bargainer was in the Fine, and not by the Deed interolled, brother though the Invollement shall have Relation to the Delivery of the Deed, that is only to protract the Lands from all Incumbrances to be made by the Bargainer, and others after the Deed, and before the Invollement, but not to defeat any lawful Estate made by him before. 4 Rep. 50. After an Indenture of Bargain and Sale is interolled, according to the Statute, it relates to the Delivery; nothing passes till Invollement, but it then relates. 3 Nifl. Arb. 68. One made a Lease for Years, rendring Rent at certain Feasts, he in Reversion bargained and sold the Land to a Stranger, who gave Notice to the Lessor; and the Day of Payment coming, he paid the Rent to the Bargainer, and after it the Deed was interolled: it was held, that the Bargainer should not have this Rent by Relation. High's Arb. 1044. If an Infant or a Feme Covert, dilige a Feoffment to them made, when they are of Age, or discover; it shall relate as to this Purpose, to discharge them of Damages from the Times. 3 Rep. 29. Ca. Litt. 310. But generally in Cases at Common Law, there is no Relation; as between the Feoffment of Lands and Livery and Selion; or between the Grant of a Reversion and the Attornment, which is only the Attorn of the particular Tenant, and shall not relate to the Grant. Ibid. Though if one distrait for Rent as Bailiff, when in Truth he is not; if he in whole Name he took the Distress will afterwards affect to it, he shall not be a Treason, for the Assent shall have Relation to the Time of the Distress taken. 2 Lea. 156. Letters of Ad- ministration relate to the Death of the Interesse, and not to the Time when they were granted. Stark 344. And when the Wife is inlaid of Lands by the Heir, the shall be in immediately from the Husband by Relation. 5 H. 6. 7. It is a Rule in Pleadings, Caunts, Suits, and other Matters of Relation; but that Rule has an Exception, (writ. s dark impotent finatoria: And it hath been held that this Rule hath many Exceptions, i.e. First Relation, so as there should not be any Imputation of a Habitual Will; and therefore it is always...
a Personal Thing, as an Obligation, upon a Condition fail'd to perform; because a Personal Thing once suspend'd, is extinguish'd for ever. 1 Roll. Abr. 412. 490. If a Person relieves upon Condition, the Condition is void: but it may be deliver'd as an Execrour, to be a Man's Deed when such a Thing is perform'd, which makes it in the Nature of a Condition. Kedw. 88. A Reliefs of an Action or Right cannot be for a Time: It will endure for ever, if made but for an Hour. 1 Inst. 747. Litt. 467. A Duty certain may be reliefed before the Day of Performance of the Condition: but a Duty uncertain at first, upon a Condition precedent to be made certain afterwards, being in the mean Time but a mere possibility, cannot be relieved. 5 Rep. 70. 10 Rep. 11. Cr. E欣. 180. As a Man may relieve any Debt or Duty to himself: to a Person may relieve any Thing or Wrong done to his Wife, before or after the Marriage: A Relief by the Husband of his Wife's Suit in the Ecclesiastical Court for Defamation, is a good Relief as to the Goods, but not as to the Defamation; for the Court may give Sentence that the Defendant shall make a corporal Satisfaction by a Charter and Subsidy, which the Husband cannot relieve. Cr. Cas. 161. If the Wife is Executrix in another, the Husband may relieve any Debt or Duty due to the Testator; which the exe. Executrix cannot to the Prejudice of her Husband. 8 Rep. 27. A Wife is divorced causa adultery, the Husband may relieve a Duty to the Wife. Cr. E欣. 128. A Relief of an Infant is void; yet an Infant Executor may relieve a Debt duty paid to him as Executor. Ibid. An Executor before Prolate of the Will, may relieve a Debt due to the Testator, because he hath an absolute Interest of the Debt in him. 5 Rep. 27. 9 Rep. 59. If a Man relieves, and after taketh out Administration, this is no Bar to him; by Reason at the Time of the Reliefs made, he had not the Power of the Deed. 1 Roll. Abr. 28. A Merchant of Ireland entered into a Bond there to one in London, which Bond was afterwards brought to London, the Oblige died in Ireland, and his Son obtained Administration in Ireland, and reliefed the Debt to the Obliger; after this the Widow of the Interfere obtained a Prerrogative Administration here, and fed the Oblige, and recover'd notwithstanding the Reliefs, the Administration granted to the Relief being void; for it ought to be granted where the Bond was, and not where the Debt began. Dyer 302. Where there are two joint Executors, and one alone doth relieve a Debt due to the Testator, before Judgment, this will bar the other Executor; but not if two Judges dost it. 1 Cr. 66. If divers Persons join in an Action to recover any Personal Thing, of which they are to discharge themselves of a Personal Thing, it is otherwise, for if there is Judgment against three, and they bring a Writ of Error, and the Defendant in Error pleads the Release of one of them, this is no Bar to the other, because they are all Compleats by Law to join in a Writ of Error, which is brought not to recover any Personal Thing, but to discharge themselves of an Imposed or Implied Judgment. 6 Rep. 25. A Defendant being in Execution brought a Writ of Error in B. R. and before the Judgment was affirmed, he obtained a Relief of all Actions, Debts, Duties, Executions, &c. and afterwards the Judgment was affirmed; and upon a Sure facius against the Bail, they pleaded this Relief: It was the Opinion of the Debt and Bail was discharged 2 S. & B. 231. But before Judgment given against the Principal, there can be nothing due from the Bail, to be releiefed or barred. 5 Rep. 71. Such a Relief before Judgment, is no Bar of Execution against the Bail: for here is no absolute, but a contingent Duty. Gold. 162. Where two are bound jointly in a Bond or Obligation, and the Obliger releaves to one of them, this shall discharge the other; and no Relief shall be had in Equity thereupon. 1 Inst. 232. 1 Cr. 648. A Reliefs by a Lord to one Jointenant shall extend to both of the Jointantens. If two commit a Trespass against a Man, his Relief to one of them shall discharge the other; for against joint Trespassers there can be but one Satisfaction. 1 Inst. 232. 1 Roll. Abr. 410. Hob. 66. 56. When a Promise in of two Parts, a Reliefs of one Part will be a Relief of the other Part. 1 Inst. 232. 'Torever was brought against two, and one pleads a Reliefs, and the other Not guilty; the Jury find him Guilty who pleaded Not guilty, and also the Reliefs for the Party, who pleaded it: The Judgment was thereupon stay'd, because a Reliefs to one joint trespasser is a Relief to all the Rest; though they may recover in Pleading, yet one Jury shall affixDamages for all: And the Plaintiff having joined made him a Defendant with whom he had a Related Relief: he can disunique to discharge him who pleaded Not guilty. 1 Litt. Abr. 439. In an Affid by two, the Reliefs of one of the Parties is no Bar for the Lands, nor for the Damages which infer in the Rest. 1 Cr. E欣. 494. And a Relief of an Action by one Churchwarden is not good; nor can both of the Churchwardens reliefs to the Privilege of the Church. 1 Inst. 178. 1 Roll. Abr. 788. A Relief of all Manner of Actions, discharges all Real, Personal and mixed Actions, and Cases of Action differing at the Time of the Reliefs: And a Relief of all Actions Real or Personal, relieves mixed Actions: but by a Relief of all Actions Real and Personal, a Writ of Error is not releafe; nor is it a Bar to an Execution, if the Party is not in a Sure facius; though a Relief of all Suits, will be a Bar to an Execution, except in the Case of the King: A Relief of all Actions bars only in civil Actions; not in Appeal of Death, 1 Cr. E欣. 476. 1 Inst. 285. 4 Rep. 63. 8 Rep. 152. Reliefs of all Actions generally, is better than to say all Actions Real and Personal. 2 Litt. Abr. 437. In Debt for Arrears of an Annuity, the Defendant pleads a Relief of all Actions before the Day of Payment; and it was held to be an ill Plea, because a Relief cannot discharge a Duty not then in Being. 1 Inst. 292. Cr. E欣. 857. An Annuity or Rent payable at a Time to come, cannot be discharged by a Relief of all Actions; but one may reliefs the Rent, &c. before the Day, by special Words. Wood's Writs, 278. A Relief of all Actions, bars not a Right, if there be other Means to come at it. 8 Rep. 159. Reliefs of all Querets, Controversies, or any Relief on a Relation on either side, is no Bar. If a Man making such a Reliefs, be dispossessed of his Good, he may take his Goods again, though he has releas'd; for such a Relief doth not bar the Right; it is the same in Relief of all Actions. 1 Inst. 292. 4 Rep. 63. 11 Rep. 82. A Relief of all Actions will not discharge a Covenant before broken; before Breach there is not any Duty or Cause of Action: by a Relief of all Covenants, a Covenant not broken may be relieved. 1 Rep. 112. 5 Rep. 71. Upon a Bond for Performance of Covenant, the Obliger before any Breach relieves the Obliger, and he shall execute a Covenant is broken, the Obligation is not forfeited but discharged. 3 Leon. 105. A Relief of all Statutes, discharges all Statutes; Reliefs of Errors, all Writs of Error, 1 Inst. 76. A Deed pleads that after a Bond, &c. by him given, the Plaintiff releaves to him all Errors, and all Actions, Suits, and Writs of Error; and upon the Sufficing that the Obligation makes the Duty, and the Reliefs of all Actions should be a good Bar; but adjudged that this was a special Reliefs, and extends only to the Error, 84 and
and that the Debt on the Bond was not released. 1 Hil. 33. 32, 32 Nof. abs. 70. By Release of all Debts, Debts upon Specialties, Executions, &c. are discharged; and by Release of all Actions and Duties, a Release which was in Question was held to be released. 1 Inf. 301. Owen 71. A Release of all Debts or Duties, will release personal Actions, and Executions; not bar a Writ of Account, where being no
ting certainly due before the Account made: A Re
dorse of all Actions will be a good Bar in Account; though a Release of all Accounts, shall be extended only to Accounts. 8 Rep. 135. 2 Bulle. abs. 404. By Release of all Advantages, is said Actions of Debts upon Account are discharged. 8 Rep. 150. Release of all Judgments, bars a Man from the Fuit and Effect of any Judgment he hath against the Released; and if Execution be not taken out, he is barred of it: Allio if the Party be in Execution when this Release is made, he and his Land may be discharged by Audita Querela. 1 Inf. 290. By a Release of all Executions, a Person bars himself of the having, or taking out any Execu
tion upon a Judgment, &c. Lit. Set. 370. The Release of all Debts is the best Release of all, and the most effectual to bar Actions, Rights, &c. and in
cludes it most of the others: By this Release, all Rights, and Titles to Lands, Conditions before broken or after, Contracts, Covenants broken, Rents, Annu
ties and Arrears of Rents and Annuities, Debts, Duties, Obligations, Recognisances, Statutes, Judg
tments, Executions, &c. all Manors of Actions Real and Personal, are barred and discharged. Lit. 508. 1 Inf. 301. 5 Rep. 71. 8 Rep. 153. Dyer 56. But a Release of all Demands doth not extend to such Writs, where nothing is demanded: as to bar a Writ of Error, to reverse an Outlawry, &c. 8 Rep. 152. And it hath been resolved, that a Release before any Rent due, of all Demands that the Relisor had or should have against the Released, shall not release the accruing Rent not being then due. 1 Inf. 301. 1 Leu. 29. 2 Leu. 310. A Release of all Demands may discharge all Rents actually due, but not the grow
ing Rent afterwards due, and which is incident to the Rever
erior; and if the Release be pleaded in Bar to the whole Rent, when 'tis good only for Part, the Plea is ill. 2 Bull. 378. In Award, that all Suits should cease, and that the Defendants should pay 10l. and the Plaintiff on Payment thereof should release all Demands, &c. It was held, that if the Plaintiff would not take 10l. because he would not be obliged to release, and the Defendant tendered, and he re
deled, the Plaintiff was as much obliged to release whatever he may, as if he actually received the Money. 1 Bull. 74. 75. One in Consideration that the Plaintiff had lent him 10l. and referred over to a Bond to him, and had promised to release him from all in consideration that if the Money was not received upon the Bond, he would at such a Time pay 10l. The Plaintiff avers all done on his Part, and that the 20l. was not paid: And the Defendant pleads the Release but it was not good, the Release being Part of the Consideration, without making of which the Plaintiff could not maintain his Action: Alicet. 300. 2 Lad. abs. 459. Release of all Debts doth not avoid Obligations subsequent to the Release; yet where a Man is bound in an Obligation to pay 10l. at Mi
crocosmus, a Release of all Actions and Debts before Michaelmas, will be a good Discharge. Lit. 312. Notwithstanding the Plaintiff could not have his Action till Michaelmas, it is Dehors in professo, and although fusussum in futuro. Ibid. 5 Rep. 28. If a Man makes a Release of all Debts to the personal Effece of another, this does not release a Bond; for it is a Demand to the personal Estate before Judgment and Execution, &c. And there is a Difference between a Release of all Debts, or the personal Estate. 14. 15. 1 Nof. abs. 757. A Release of all Actions and Demands, in Case of Land, releaseth the Right and entry: The Release of a Right, or of all Demands, gives a Right; but it supersedes him who releaseth it, out of the Act of Partial Truth. And a Release may bar an Action, but give no Right. 1 S. 137. 182. 181. Release of all Claims, is much of the same Nature, as the Release of all Dem
dands; But by Release of all Demands, or all Claims, is not discharged any Thing whereof a Release cannot be made. 1 Rep. 256. 4 Brev. ac 109. Release of all Debts, &c. may be made to a Timid Man, as until the Surt of May last, or the Day of the Date of the Re
dorse; and this shall discharge all Actions till that Day, and none after. Dyer 507. 1 Inf. 274. A Statute was acknowledged 5 Oth. and by a Release dated the 1st of October, the Cognize releaseth to the Cognize all Debts and Demands quod Confessionem of the Release, which was delivered the 1st of October, supposed that the Statute was discharged, because the Day of the Delivery is Dies Confessionis of the Release and that being after the Statute acknowledged, it must release it; but if it had been a Release of all Demands, or all Claims, the Release, it had not been released. Dyer 507. Release quod dixi datur of a Bond, &c. excludes the Day whereon it was made. 3 Mod. 280. If a Release be made on a particular Occasion, that shall restrain the General
ess of the Words. 5 Lev. 275. Reg. 599. 5 Mod. 277. And a general Release of all Debts, &c. relating to a particular Person or Thing, shall not bar not by the general Words, but only for that Purpose. 2 Lev. 214. 215. 3 Nof. abs. 77. 78. If a Bond be entered into to A. to the Use of another; this Bond cannot be released by A. And if an Oblige to B. for another release to the Obligor all Demands, upon his own Account; this doth not release the Obligation. 1 Lev. 231. 272. In Debt on a single Bill made to M. R. to the Use of him and L. R. In this Case L. R. may not release or sue, because he is not a Party to the Deed. Ibid. Where A. is bound to B. and then B. the Oblige reciting the Bond covenant not to for
the Oblige, or to save him harmlesse; this is an ab
solute Release; and if it is to save him harmless upon a Contingency, then 'tis a conditional Release. 3 Chit. 573. If A. contracted to marry his Daughter, then to pay him 100l. and his releaseth before Marriage; notwithstanding this Release, if he marries without due Notice, he shall be liable to the Demand of his Daughter. 1 Leu. 411. A Man may releaseth Part of any Debt due by Obliga
tion, and not all. 1 And. 235. An Acknowledg
ment under Hand and Seal that a Debt is satisfied, is a good and sufficient discharge of the Debt, and Release is to be pleaded by the Defendant. &c. See 2 Luc. 1178. Release of Lands, Vide Leases and Release.

Form of a general Release.

K N O W all Men by these Presents, That I A. B.
oc. &c. Have remitted, released, and for ever quit
claimed; and by these Presents do for me, my Heirs, Executors and Administrators, release, releaseth, and for ever quitclaimed unto C. D. &c. his Heirs, Executors and Administrators, and all and every Action of Alltion and Alltion, Cause and Causes of Action and Alltion, Suits, Bills, Bonds, Writings, Obligations, Debts, Duties, Accounts, Reckonings, Accounts, Sum and Sums of Money, Tradiments, Executions, Extents, Quarrels, Controversies, Traps
purses, Damages and Demands whatever, both of Lands and of Estates, in which or in any the said C. D. I ever had, now have, or shall have, my Heirs, Executors and Administrators, shall or may have, claim, challenge
Relief, Cre. Eliz. 883. Acceptance of the Rent of a new Tenant, to Bar of a Relief due from a former Tenant. Cre. Eliz. 883. 3 Rep. 66. Manor in the Lancashire. And an Anway for a Relief is good, without showing particularly how due; because a Relief in incident to every Tenure de manente jure, though it is not Parnel of it; and if repaid, must be levied on the other. 5 Lev. 145. See Lat. 37. 129.

Religion, (Religion, a religious) Signifies Piety, Devotion, and the Worship of God: And there are many Temporal Laws, made for the Support of Religion. The Law hath so tender a Regard for the Interests of the King and of Religion, that an Indictment will lie for doing any Thing which plainly appears immediately to tend to the Prejudice of either of them; and be good, though it do not expressly complain of it as a common Cause of Grievance. P. C. 198. Offences tending to subvert all Religion and Morality, which are the Foundation of Government, are punishable by the temporal Judges by Fine and Imprisonment, and also such corporal Punishment as the Court in Diction shall think fit; and seditious Words, in derogation of the established Religion, are indictable, as tending to a Breach of the Peace. Ibid. 7. So also the State, by Statute, No Person in Authority to execute Spiritual Jurisdiction, has Power to adjudge Matters of Religion to be Heretic, but such as have been so adjudged by Canonical Scripture, by one or more of the General Councils, or shall be adjudged by the Parliament with the Assent of the Convocation. 1 Eliz. cap. 1. The 13 Eliz. establishes the Thirty-nine Articles of Religion, to be subcribed by the Clergy. 1. But Irregular Ministers are exempted from subscriburing the 34, 35 and 56th Articles, by 1 W. & M. cap. 18. Persons educated in the Christian Religion, who by Writing or Speaking, deny any one of the Persons in the Holy Trinity, to be God; or asserting there are more Gods than one; or who shall deny the Christian Religion to be true; or the Old and New Testament to be written by Divine Authority, are rendered incapable to hold any Office or Employment; and being convicted of a second Offence, are disabled to prosecute any Action, to be Executor, Guardian, &c. and subject to imprisonment for three Years: But for the third Offence, the Offenders shall be disfranchised from Penalties, on denouncing his Errors in open Court. 9 & 10 W. 3. cap. 32. If any Person shall come into a Church, Chapel, or Congregation for Religion, and dishonestly be charged with the Teacher, he shall forfeit 20 l. W. & M.

Religious Houses, Are Housers for a part for Use or Extent of Religion, and paid other places and charitable Uses; as monasteries, Hospitalls, &c.

Religious Men, (Religious) Such as enter into some Monastery or Convent, there to live devoutly. In the ancient Days of Ecclesiastics, the Priests and Canons were often restrained by Covenant from giving or alienating it wise Religious, to the End the Land might not fall into Masonry or Cove.

Religious Duties, For the Qualification of Clergy. See Ordination.

Relinquishment, is a forsaking, abandoning, or giving over. It is hath adjudged, that a Person may relinquish an ill Demand in a Declaration, &c. and have Judgment for that which is well demanded. Ibid. 175. In All the Courts was of a Measuring, and four Acres of Land in B. and the Jury being a View only of the Land, the Defendant relinquished his Plant to the House. Tryer 66. But All the Where the Plant was for Fifty-three Shillings and Four Pounds Rent, no Part of that Rent could be relinquished, because a Rent is an entire Thing. Ibid 61. In a Jury of Ancillary, where the Jury Round the Answers, but did not affix Damages or Costs, which could never be supply'd
RE

Supply'd by a Writ of Enquiry; the Plaintiff was admitted to relinquish and release the Damages, and had Judgment for the Armed 11 Rep. 59. 4th. and 5th. Rents and Benefits, such as the Bones, &c. of those that are dead, preferred by Perons living, with great Veneration, as sacred Memorials of them. They are forbidden to be used or brought into England, by several Statutes and jejunes of Peace are empowered to search Houses for Popish Books and Reliques, which when found are to be defaced and burned, 25 & 3 Jas. 1. c. 46.

Remainder, (Remanuia) Is an Estait limited in Lands or Tenements, to be enjoyed after the Estait of another expired; as if one grant lands for Term of Years, or Life, and afterwards the same to remain to another Person, and his Heirs, Brad. lib. 2. c. 25. 2 Litt. App. 441. It is also defined to be the Residue of an Estait, and is the remainder to a particular Estait, and created together with the same; and it a man feid in Fee, let Lands or Tenements for Years, the Remainder over to another for Life, in Tail, or in Reversion, 12 Rep. 1. 20. 4th. 1st. Remainder, when it is creased out of a Fee, and afterwards the Residue disposed of which we call a Remainder; though the particular Estait is determined; and all the Remainders make but one Estait.

1 Plow. 25. 145. And where it depends upon a Leafe for Life or Years, Libery is to be made on the Leafe, or the Remainder will not pass. Remainders and Reversions are usually so called, because they are Estaites in Expectation only; they are a pretense Intestely, yet stand in a Degree removed from the Poifilion till the particular Estait is determined; And as by a Reversion, after the apportioned Term, the Estait returns to the Donor or his Heirs; so by a Remainder, it goes to some third Person or a Stranger. Woods' Inst. 152. Spina. If a Man make a Lease for Life, with Remainder to his Heirs, or Remainder to himself, and his Heirs, or to himself and the Heirs of his Body, the Remainder is void; and his Estait is not altered; But it is otherwise if he convey the Land by Way of Use, with such Limitation; and if he make a Feoffment to the Use of himself, and the Heirs of his Body; this is an Estait executed in him; and so it is if he covenant to flay feid in the same Manner. 21 Vict. 378. 1 Mo. 159. 5 Sales 252. A Lease was made for Life, and afterwards the Leafe reciting that Leafe, demited the Remainder to another; Hibbert, the said Remainder, after the Determination of the first Leafe, for twenty Years; and it was held, that the Remainder was void, by the Name of the Remainder; And if a Man grants Lands to another Person, and to the Heirs of his Body; and for Want of such Leafe, and then to the great Leafe, be it known by their Words the Remainder doth pass. Dyer 46. 3 Nefc. App. 90. And a Leafe by Deed reciting that A. B. held a Chole of him as Will, granted the same Chole to him for Life, rending Rent to the Leafe, and by the same Deed granted the Reversion to another in Fee; adjudged that A. B. had an Estait for Life by way of Condemnation, and that the other had a good Estait in Remainder, but not in Remainder. 1 And. 23. Though an Estait at Will is not such a particular Estait, whereon a Remainder may depend. 1640. In Deeds, by limitation, the Remainder may pass: There being a Grandfather, Father, and Son, &c. the Grandfather leived a Fine, to the Use of himself for Life, Remainder to the Father, to the Sons, to the Remainder; and the Remainder of the Grandfather; here the Grandfather had an Estait in Fee, expectant upon the Determination of the Estait, as a Remainder, and not in Remainder. 1 Rep. 91. And a Feoffment was made in Fee by a Man to the Use of himself for Life, Remainder over to the Use of A. B. for Life, Remainder over to the Right Heirs of the

Proctor; and it was resolved, that the Fee simple was in the Proctor in the Nature of a Reversion, not of a Remainder to his Heirs, as it proceeded from himself, and was as good as. 2 Hil. 5. Nefc. App. 256. The following Rules are to be observed, in the Creation of Remainders: There must be a particular Estait precedent; made at the same Time, that the Remainder may depend upon it; and the particular Estait must continue till the Remainder shall vest; the Remainder is to commence in Possession, at the very Time the particular Estait ends, for there must not be a Mean between; and pass of the Leafe executed or executory at the Time of the Possession taken by the particular Tenant; but it cannot depend upon a nullity ex gvo. falso: Also a Remainder may depend upon a Condition, that is not repugnant or against Law, and then it will pass either executed or executory: the Possessor on the Remainder is limited, is to be capable of it at the Time it was created, or by common Possibility during the particular Estait; and the Thing whereof a Remainder shall be created, must be a particular Estait for Years, and at the Time of the Appointment and Creation thereof. 1 Rep. 66. 159. 2 Rep. 51. 3 Rep. 20. 2 Inf. 578. No. 2. 156. But in some Cases, there may be a Remainder, without a particular Estait in life, to support it; as in the Case of an Ufe in Remainder, by the Statute of Uses 2 Litt. App. 443. And if the Remainder is limited by a Statute of Uses, they are good Without a particular Estait; though not where the Estait passes by Livery and Seisin; for when the particular Estait is defeant, the Livery is gone, and all the Estates which depended upon it. 2 Plow. 403.

A Remainder must be created with the particular Estait, and be limited for a certain Estait: A Cognizance levied a Fine to the Use of himself for Life, and afterwards to the Use of his two Daughters, till his Son returned from beyond Seas, or came of Age, or died, which should first happen; and then Remainder to his Son, &c. This was a good Remainder, and did not depend upon any Uncertainty, because though his Returning or Coming of Age was uncertain, yet his Death is certain. 8c. E. 267. If a Person holds a Son nine Years old, and make a Leafe to his Son's come of full Age, and after that, it shall remain to another in Fee; If he live to his Age, it will be a good Remainder; and otherwise see 3. Rep. 20. A feeted of Lands makes a Leafe for Years to B. Remainder in Tail to C. and Remainder to the right Heirs of B. In this Case B. hath nothing in the Fee; It is a contingent Remainder to the Heirs of B. and if C. dies without Issue in B.'s Life time, the Remainder is void; for B. during his Life cannot have an Heir. Crest: The great Leafe be it known by their Words the Remainder doth pass. 20 Years, the Remainder to the right Heirs of J. S. who is then living; this Remainder is not good: But if it be a Leafe for Life, with such a Remainder, it may be good. 2 Pleas. 31. 1 Rep. 132. 2. A Leafe for Life, with Condition that if the Life die, it shall remain over; or if Lands be given to A. and B. to long, as they be to whom the Remainder is limited, the right Heirs of him that dieth first: these are good Remainders. 3 Pleas. 35. 1 Inf. 578. A Remainder to the Wife one shall marry, and that shall survive him, is as good a Remainder; but when a Leafe is made to Husband and Wife for their Lives, Remainder to the Heirs of the Survivor: it was held a good Remainder notwithstanding the Incurtainty, and that the Husband does not die long enough after the Death of the Wife. 2 Mol. 475. 20 Inf. 130. If an Estait be made to one and his Heirs, during the Life of W. R. this is a good precedent Estait of Remainder. 25 above. And some Remainders may be good, although the Estaites preceding be void and never take Effect. A Ufe was to a Man's felf for Life, the Remainder to his
his Executors for Years, Remainder in Tail, and he made no Executor; yet it was adjudged, that the Remainder in Tail was good. 1 Fosb. 535. 2 Man. 609. and 3 Man. 457. in a Case of a Man dying during Life, with Remainder to another, and the Leftsee for Life wane, his Estate; the Remainder will be void. 4 Rep. 110. Though where an Estate could not be warded, because of the Prejudice of the Remainder. See Fed. Cest. 334. If a Lessee diffuse his Tenant for Life, and after make a new Lease to him, with a Remainder over; the Remainder shall be void; for the Lessee for Life is in of his first Estate, and the last Estate for Life which was the Foundation is gone. Plowd. 14. A Tenant may convey Land to the life of himself for ninety-nine Years, if he lives so long, Remainder to his heir, second, or third Son, &c. this Remainder is not good, for Want of a Freehold to support the same; a Freehold being necessary to support every contingent Remainder; and it is against the Rules of Law that such a Remainder can be supported by a Term for Years, or by any Thing less than a Freehold. 4 Inst. 54. 2 Saull. 679. One may make a Lease for Years to one, so long as he shall live of those Years; Remainder to another for the Rest of the Years: But he cannot give a Term for Years to one for Life; and after the Expired of the said Term, Remainder to another. 1 Rep. 153. 7. Rolls. Ab. 415. Though a Lease for Years may be given to one for Life, or so long as he shall live; and after to another during the Reversion of the Term. 8 Rep. 94. 10. Rep. 47. 1. Rolls. Ab. 627. 4. Saull. 577. All contingent Remainders before the Statute of 16 & 17 Vict. c. 9, were to be supported by particular Easates for Life, &c. and to vest either during such Easates, or at that very Instant when the particular Easates were determined: For if those Easates were determined, before the Contingencies happened, then the Remainders were void. Tenant for Life, made a Feoffment of his Estate, the contingent Remainder was destroyed, but not if the Tenant had been disabled, because there the particular Easate remains in Right, and may be revived; so that the Remainder is good. 3 Nels. Ab. 84. 1 Rep. 66. 65. 'To hold that a Right of Action, will not support a contingent Remainder, but a present Right of Entry will. If there be Tenant for Life with a contingent Remainder, and he makes a Feoffment in Fee upon Condition; here if the Contingency happens before the Condition is broken, it is gone and destroyed: But if before the Happening of the Contingency, the Tenant for Life continues in Right, the greatest broken, the contingent Remainder shall be revived; and the Contingency, if it happens, will then vest. 1 Ld. Raym. 314. 316. A Tenant being seized of Lands devised them to H. his Nephew, eldest Son of his Brother R. L. for Life, Remainder to his first Son in Tail, Remainder to R. the second Son of R. L. with several Remainders over: H. entered by Virtue of this Devis. died, and his Son was born, leaving his Wife with Child of a Son, and R. the second Son of R. entered as in Remainders over; H. entered by Virtue of this Devis. &c. and died before his Son was born, leaving his Wife with Child of a Son, and R. the second Son of R. entered as in Remainders over, and about six Months after this the Son was born; and it was adjudged, that this being a contingent Remainder to that Son, who was not born when his Father, who had the particular Estate for Life, died, it was therefore, void and the next in Remainders over, and entering before the Son of H. was born, it was vested in him by Pursuit; this Judgment was affirmed upon: A Writ of Error in B. R. But it was reversed in the House of Lords, for it being a Case arising upon a Will, it shall be construed according to Equity, and agreeable to the Intention of the Testator, which could never be to disfranchise the Heir of his Family; upon such a Nicety in the Law. 4 Med. 282. And because such Cases might often happen, the Statute of 21 Geo. II. c. 25 was enacted by the 10th and 11th of Geo. III. where any Estate is limited in Remainder, to the Sons or Daughters of any Person, with Remainders over to others, and a Son shall be born after the Death of his Father, such Son shall take in the same Manuary as if born in the Life time of his Father; although no Estate is limited to Trustees after the Father's Decree, to prefer such contingent Remainder to such after-born Son, &c. A Person not in life at first may take a Remainder by Way of Purchafe, if he be in life before the particular Easate is vested, to the son in Tail, Remainder shall be in Abeyance, until the Birth of the Child. 6 Ld. Abr. 404. A Feoffment was made to the Use of Husband and Wife for their Lives, Remainder to the first Son in Tail, Remainder to the Husband and Wife, and to the Heirs of their two Bodies, they having then no Son: In this Case, the Husband and Wife are Tenants in Tail; but when a Son is born, then the Easate is opened again; and they are Tenants for Life, Remainder to the Son in Tail, Remainder to them in Tail: and the Reversion is, because all these Easates were vested by one and the same Conveyance: wherefore the Remainder shall vest in the Husband and Wife 'till the Contingency happens, when the Easates shall be open and disputed, to let in the contingent Remainder to the Son, whose Name is Trespass. The Same in the Husband and Wife: But where the Remainder in life comes to the particular Easate by any Means whatsoever, after the original Conveyance, it is otherwise. 1 J. & B. 29. and 39. to Tenants for Life, with Remainder to his Wife for Life, Remainder to his first and second Son, &c. in Tail, Remainder to the right Heirs of the Tenant for Life, who afterwards commuted Trespass, and then his Son was born, and the Father was attained: It was adjudged, that whether the Son was born before or after the Attainment of the particular Remainder to him was not discharged by the Vesting of the Easate in the Crown, during the Life of the Father: because of the intermediate Easate to the Wife for Life, which supported the Remainder. 2 Saull. 576. Ruled by Hyde Chief Justice, that where W. R. is Tenant for Life, Remainder to R. for Life, Remainder to C. W. for Life, Remainder to L. L. and the Heirs of his Body: if H. R. and R. R. join in a Fine, the Right of Entry of C. W. prefers the contingent Easate over: And if there be Tenant for Life, Remainder to his first, second and third Son, the like Remainder to others, and their Sons. &c. one of which hath Issue a Son, and then he and the others join in a Fine to Tenant for Life, who after makes a Feoffment; by this Tenant not declaring the subsequent, as there is a Son, of one of the Remainder-Men born, who has a Right of Entry left in him, which will support the Remainders. 1 Med. 9. Contingent Remainders are where the Easate is to take Place upon an uncertain Event; and are preferred by making a Feoffment, &c. to the Use of A. B. for Life, Remainder to the Use of the Feoffment, for the Life of A. B. and so on for the contingent Remainders, when he that hath the first Easate cannot destroy the Remainder. 1 Vent. 180. 10. Rep. 85. A contingent Remainder does not destroy the Son, who a Reversion which comes after; but upon the Easate which precedes it: And may be destroyed by leaving a Fine, suffering a Recovery, or otherwise destroying the particular Easate upon which the contingent Easate depended, before the Contingency happens. 2 Ld. 446. Also where the particular Easate is drowned in the Reversion, the contingent Remainder depending upon it is gone. 2 Saunders. 182. If Feoffees, who have on the particular Easate during the Life of a Son, &c. where divers Remainders are limited over, make a Feoffment in F. K. Fee
Fee to him; by the Feoffment all the future Remainders are destroyed, because the Estates for Life on which they were supported, was forfeited by it. 1 Rep. 130. Land was deriv'd to the Father for Life over to the next Heir his Male of the Father, and to the Heirs Males of his Body; the Father made a Feoffment with Warranty; and it was held, that by the Feoffment of the Tenant for Life, the Remainder was destroyed; for the particular Estate for Life being determined by the Feoffment, by Consequence he in Remainder ought to enter for the forefront; and the words being left void of such a Heir Male, he could not enter as such, as he cannot be Heir whilfe his Father is living. 1 Rep. 66. It has been adjudged, that if an Estates be devised to A. for Life, the Remainder to the right Heirs of B. In that Case, if A. dies in B.'s Lifetime, this being a contingent Remainder is void; for that the Fee does not defend during the Life of B. to support for Remainder. 2 Pet. 607. 511. There are crofs Remainders in Wills and Deeds; as where the Testator devises an Estate to two Persons, and that each shall be the other's Heirs, &c.; but such crofs Remainders are seldom or never allowed by Implication: And though they are permitted between two Persons, they are rarely amongst three or more; unless they appearly appears by the Will, that the Testator to intend. 2 Roll. Rep. 281. 3 Nef. Abr. 98. If a Man devise one Acre of Land to A. the eldest Son, and the Heirs Males of his Body, another Acre to B. the second Son in like Manner, and another Acre to C. the third Son in the same Manner: and if they all die without issue of their or any of their Bodies, or either of them, Remainder over; here are crofs Remainders among all the three Sons, by resum of the Words or any of their Bodies. &c. Dyer 505. 1 Vent. 254. Three Things one shall have by Remainder, by Conveyance at the Common Law: A Remainder vested; Possession in Law; and Possession in Fact. Plowd. 25. 2 Lill. 445. A Man makes a Conveyance to the Ufe of himself for Life, Remainder to the eldest Child; he hath issue a Daughter, and afterwards a Son; as soon as the Daughter is born, the Remainder is vested in her, and shall not be devolved by the Birth of the Son. 2 Lorn. 219. In a Limitation of a Remainder, the Word Puer may be construed either a Son or Daughter; but in a Family Settlement it shall be intended a Son, where the Sons are always preferred. And where a Tenant in Tail, with a Remainder Seniior Filio of his Body in Tail, &c. and afterwards the same Person and his Wife devised a Fine to Ufe, to the Wife of the Husband, and the Child of the Husband, and Remainder over; after which the Husband had issue a Daughter, and a Son after that, and then the Father died; adjudged that the Son shall have the Land, and not the Daughter, by reason of the full Limitation. Bradl. 29. Dyer 537. If a Remainder be Seniior pueri in Tail, it shall be intended a Son, and not a Daughter, who shall enjoy the Land. Owens 64. T. P. being seated of Land which descended to him as Heir on the Part of his Mother, levied a Fine thereof to A. and B. to the Ufe of them and their Heirs, in order to the support of both; and by which a common Recovery was had, and the Ufe declared to the said T. P. for Life, Remainder to his Wife for Life, Remainder to his first and second Son, &c. in Tull, with Remainder to his own right Heirs; afterwards T. P. and his Wife died without issue; and in Ejfetment the Question was, whether this Limitation of the Remainder to the right Heirs of T. P. did create a new Estate in him defendable to the Heirs general; but it was resolved, that the Remainder shall be to the Heirs of T. P. on the Part of his Mother, according to the ancient Estates and Ufe which had existed before the Fire and Recovery, as it did arise immediately out of the Estate which moved from him. 2 Taft. 150. A Remainder may not be limited after a Fee simple; because the whole Estate is in the Granter, &c. and one Fee simple cannot remain upon another; 1 Plowd. 29. Raym. 29. Tenant in Tail, and Remainder over to the next Heir his Male of the Father, and to the Heirs Males of his Body; the Father made a Feoffment with Warranty: and it was held, that by the Feoffment of the Tenant for Life, the Remainder was destroyed; for the particular Estate for Life being determined by the Feoffment, by Consequence he in Remainder ought to enter for the forefront; and the words being left void of such a Heir Male, he could not enter as such, as he cannot be Heir whilfe his Father is living. 1 Rep. 66. It has been adjudged, that if an Estates be devised to A. for Life, the Remainder to the right Heirs of B. In that Case, if A. dies in B.'s Lifetime, this being a contingent Remainder is void; for that the Fee does not defend during the Life of B. to support for Remainder. 2 Pet. 607. 511. There are crofs Remainders in Wills and Deeds; as where the Testator devises an Estate to two Persons, and that each shall be the other's Heirs, &c.; but such crofs Remainders are seldom or never allowed by Implication: And though they are permitted between two Persons, they are rarely amongst three or more; unless they appearly appears by the Will, that the Testator to intend. 2 Roll. Rep. 281. 3 Nef. Abr. 98. If a Man devise one Acre of Land to A. the eldest Son, and the Heirs Males of his Body, another Acre to B. the second Son in like Manner, and another Acre to C. the third Son in the same Manner: and if they all die without issue of their or any of their Bodies, or either of them, Remainder over; here are crofs Remainders among all the three Sons, by resum of the Words or any of their Bodies. &c. Dyer 505. 1 Vent. 254. Three Things one shall have by Remainder, by Conveyance at the Common Law: A Remainder vested; Possession in Law; and Possession in Fact. Plowd. 25. 2 Lill. 445. A Man makes a Conveyance to the Ufe of himself for Life, Remainder to the eldest Child; he hath issue a Daughter, and afterwards a Son; as soon as the Daughter is born, the Remainder is vested in her, and shall not be devolved by the Birth of the Son. 2 Lorn. 219. In a Limitation of a Remainder, the Word Puer may be construed either a Son or Daughter; but in a Family Settlement it shall be intended a Son, where the Sons are always preferred. And where a Tenant in Tail, with a Remainder Seniior Filio of his Body in Tail, &c. and afterwards the same Person and his Wife devised a Fine to Ufe, to the Wife of the Husband, and the Child of the Husband, and Remainder over; after which the Husband had issue a Daughter, and a Son after that, and then the Father died; adjudged that the Son shall have the Land, and not the Daughter, by reason of the full Limitation. Bradl. 29. Dyer 537. If a Remainder be Seniior pueri in Tail, it shall be intended a Son, and not a Daughter, who shall enjoy the Land. Owens 64. T. P. being seated of Land which descended to him as Heir on the Part of his Mother, levied a Fine thereof to A. and B. to the Ufe of them and their Heirs, in order to the support of both; and by which a common Recovery was had, and the Ufe declared to the said T. P. for Life, Remainder to his Wife for Life, Remainder to his first and second Son, &c. in Tull, with Remainder to his own right Heirs; afterwards T. P. and his Wife died without issue; and in Ejfetment the Question was, whether this Limitation of the Remainder to the right Heirs of T. P. did create a new Estate in him defendable to the Heirs general; but it was resolved, that the Remainder shall be to the Heirs of T. P. on the Part of his Mother, according to the ancient Estates and Ufe which had existed before the Fire and Recovery, as it did arise immediately out of the Estate which moved from
Title of Entry; and there can be no Remitter before an Entry 1 Inf. 348. 2 Biff. 29. It is a Rule, that Remitter shall not be, where there is not both an Adee and a Right, with a Direction of the Policyman of the Estate to the same Party that is to be remitted: Nor may it be, when the Party comes to his last Title by his own Wrong, or any Folly of his own or on a void Estate. 1 Inf. 347. 3 57. If Land be de- 
ferred to him that has Right to it before, he shall be 
remitted to his better and more ancient Title, if he will: And a Remitter must be to a precedent Right; 
for regularly to every Remitter there are two Inci-
dents, viz. an ancient Right, and a defeasible Estate of 
Wood's Inf. 358. Tenant in Tail makes a Penitent in 
Fees upon Condition, and dieth, and his Issue be-
ing within Age enters for the Condition broken by 
Virtue of the Penitent; he shall be the heir in as Te-
nant in Fee-simple, and be remitted to his Father; But if the Heir be of Age, he shall not be 
remitted; but he is to bring this Writ of Forfeiture against the 
Fees. 1 Inf. 207. 49. And if Tenant in 
Tail because his Son or Heir apparent, who is within 
Age, and after dies, that is a Remitter to the Heir: 
Though he if were of full Age at the Time of such 
Penitent, it is not a Remitter, because it was his Ho-
that he being of full Age would take such a Penit-
ent. Litt. 655. If a Husband alien Land that he 
hath in Right of his Wife, and after take an Estate again to 
him and his Wife for their Lives, this is a Remitter 
to the Wife, for the Alienation is the Act of the Hus-
band, and not of the Woman; yet if the Alienation 
be by Fine in a Court of Record, such a Title 
again afterwards to the Husband and Wife, shall not 
make the Wife to be in her Remitter, the being ex-
cluded by the Fine for ever. Term. de Leg. 319. 
Lands are given to a Man and his Wife, and the 
Heirs of their two Bodies; and after the Husband 
aliens the Land in Fee, and then takes back an Estate 
to him, and to his Wife for their Lives; these 
will be both of them remitted an Estate. If he take an 
Estate again to himself for Life; Remitter will not be 
allowed against his own Alienation. 1 Inf. 354. 
When the Entry of a Person is lawful, and he takes 
an Estate in the Land for Life; or in Fee, U. (except 
it be by Matter of Record, or otherwise to conclude or 
set off him) he shall be remitted. 1 Inf. 653. And a 
Remitter to one who is not a Member may be a 
Remitter in another Remitter; if the Remitter be not bound, 
which ellops it. Cr. Cap. 145. If there be Tenant 
in Tail, Remainder to A.B. and the Tela-

emitter. (From the Lat. Remittere, to relieve or 

Title of Entry; and there can be no Remitter before an 

Entry 1 Inf. 348. 2 Biff. 29. It is a Rule, 

that Remitter shall not be, where there is not both an 

Adee and a Right, with a Direction of the Policyman of 

the Estate to the same Party that is to be remitted: 

Nor may it be, when the Party comes to his last 

Title by his own Wrong, or any Folly of his own or on 
a void Estate. 1 Inf. 347. 3 57. If Land be de- 
ferred to him that has Right to it before, he shall be 

remitted to his better and more ancient Title, if he will: 

And a Remitter must be to a precedent Right; 

for regularly to every Remitter there are two Inci-
dents, viz. an ancient Right, and a defeasible Estate of 


Wood's Inf. 358. Tenant in Tail makes a Penitent in 

Fees upon Condition, and dieth, and his Issue be-

ning within Age enters for the Condition broken by 

Virtue of the Penitent; he shall be the heir in as Te-

nant in Fee-simple, and be remitted to his Father; 

But if the Heir be of Age, he shall not be 

remitted; but he is to bring this Writ of Forfeiture against the 

Fees. 1 Inf. 207. 49. And if Tenant in 

Tail because his Son or Heir apparent, who is within 

Age, and after dies, that is a Remitter to the Heir: 

Though he if were of full Age at the Time of such 

Penitent, it is not a Remitter, because it was his Ho-

that he being of full Age would take such a Penit-

ent. Litt. 655. If a Husband alien Land that he 
hath in Right of his Wife, and after take an Estate again to 
him and his Wife for their Lives, this is a Remitter 
to the Wife, for the Alienation is the Act of the Hus-
band, and not of the Woman; yet if the Alienation 
be by Fine in a Court of Record, such a Title 
again afterwards to the Husband and Wife, shall not 
make the Wife to be in her Remitter, the being ex-
cluded by the Fine for ever. Term. de Leg. 319. 
Lands are given to a Man and his Wife, and the 
Heirs of their two Bodies; and after the Husband 
aliens the Land in Fee, and then takes back an Estate 
to him, and to his Wife for their Lives; these 
will be both of them remitted an Estate. If he take an 
Estate again to himself for Life; Remitter will not be 
allowed against his own Alienation. 1 Inf. 354. 
When the Entry of a Person is lawful, and he takes 
an Estate in the Land for Life; or in Fee, U. (except 
it be by Matter of Record, or otherwise to conclude or 
set off him) he shall be remitted. 1 Inf. 653. And a 
Remitter to one who is not a Member may be a 
Remitter in another Remitter; if the Remitter be not bound, 
which ellops it. Cr. Cap. 145. If there be Tenant 


RE

RE

not only after the Stat. 11 H. 7. cap. 20. and it was adjudged a Forfaiture, by Reason the Wife having two Tails, one Tenant in Tail, and the other in Tenancy for Life, by her Entry the Wife is remitted to her Estate for Life, so that the Forfaiture made by her is a Forfaiture of her Estate. 3 Nef. Abr. 109. If Land be given to a Woman in Tail, the Remainder to another and a Third in Tail, Remainder to a Fourth in Fee; the Feoffor takes Husband and be Deconfessed in the Lands in Fee, and after an Estate is made to the Husband and Wife for their Lives, or other Estates: This is a Remitter to all them in Remainder, and if the deceased without Issue, they may come; and so it is of them that have the Reversion after such Ensuite. Lit. Seq. 675. Where a Person lets Land for Term of Life to another, who grants it away in Fee if the Alience makes an Estate to the Lessor, it will be a Remitter to him, because his Entry is lawful. Ibid. 694. If one be dissatisfied, and the Distressor makes a Forfaiture to the Distressor; in this Case the Distressor may be remitted to his elder Title, or he may choose to take by the Forfaiture; and if it be with Warranty, he may if he will make Use of the Warranty. 1 H. 7. 20. 3 Steep. Abr. 126. If a Person in Tail have but two Sons, and he leaves the Land into his eldest Son for Life, the Remainder to his youngest Son; it is no Remitter to the eldest: But if he die without Issue of his Body, the youngest Son shall be remitted. Lit. 682. If Tenant in Tail make a Forfaiture to the Ue of himself and his Heirs, he shall not be remitted: but his Issue shall. 3 Nef. 100. On Remission of Issot in Tail in Title, Leases and other Charges on the Lands are avoided. Lit. 659. 660.


Remitter, is where a Suit or Cause is removed out of one Court into another; and for this there are divers Ways of an Error. 11 R. 1. 14. And Remitting of a Cause, is the transferring it back into the same Court, out of which it was called and sent for. Markb. 106. See Hoben Corpus.

Remich. Or rather Remich, i.e. Nogars, from the Fr. Remich, means, to deny or refuse. 32 H. 2. cap. 2.

Remit, (Fr. Rendre, vis. Redder) Signifies to yield, give again, or return. This Word is used in the Levying of a Fine, which is either single, when the Thing is restored back by the Cognizant, or double, when it contains a Grant and Render back again of the Land, &c. to the Cognizant. Wofl. Symb. And there are certain Things in a Matter that are to be Rendered, which may be taken by the Lord or his Officers when they happen, without any Order made by the Tenant, such as Eicharts, &c. and certain that lie in Render, i.e. must be rendered or answered by the Tenant, as Rents, Hotes, and other Services: Also some Services confound in Esance; and some in Render. Wofl. Symb. par. 2. Perkin's Rents 665. 666.

Remit, or Remise, which we commonly call Remise, is one who was a Chriftian, and afterwards negat Chriftian, and apostatized to Mahometanism: This is mentioned in Renovatum by the Name of Re- nort. Hor. Ann. 1191.

Renou, Is a Kind of Rent or Taxation. — Per Renegyld Johannes B. Ar. debitum habet de quoddam Bencel von Torrens in A. d. R. Plant in Inam. ipsof Czethn, 14 H. 7.

Rentant, (from Renou) To renounce, or make away: The Fr. Renon find one Title, to be paid by Things Rendered, &c. 2 Cro. 450.

Rent, (Reducio) Is a Sum of Money, or other Consideration, titling yearly out of Lands or Tenors.
Revere to have him harmless: If afterwards the Leifre pays the Rent to the Grantee of the Rent-charge, voluntarily and without Compulsion, for the Chief Chief or any other Rent, or if his own Wrong, and must pay it again to the Leifre; though if he is dissuaded from the Rent-charge, and his Goods are taken, whereby he is compelled to pay the Rent, it is otherwise, and this is a Branch of the Covenant, and not before. 3 Sa. 109. Rent, Sec., or dry Rent, is where a Man by Deed paifeth his Estate to another, and Refrives to him and his Heirs a certain Rent, or grants a Rent issuing out of his Lands, without any Clause of Diffirets in the Deed: Now by the Law he cannot deprive for this Rent, by Reaon he hath not Seoin of the Rent, and no Diffirets is incident to it, and there being no Reverion or particular Charge to enable him to do it: But if the King hath a Rent-see, he may deprive for it. Litt. 217, 213, 253. And a late Act of Parliament gives all Persons the like Remedy for recovering Rent-see, Chief Rents, &c. as for Rents referred on Leide. 4. 6. 5. A Diffirets annexed to a gentle, and no Such Charge to the other; and therefore the one is a Charge upon the Land, but for the other the Grantor must first have a Rent-see, &c. to charge the Person of the Grantor in a Writ of Assize; and he must have Seoin of the Rent, which is to be created by Grant, and not by Deed: also the first Payment that gives Life to the Rent-see, ought to be made by the Tenant of the Freehold; likewise he should attain, or he cannot have Affide. 6 Rep. 56. If a Rent be granted in Fee, with a Clause of Diffirets only for the Life of the Grantee, there it is a Grant-see for his Life, and after his Death his Heirs shall have it as a Rent-see; though if the Clause of Diffirets be for Years, then it is a Rent-see, as well during his Life as afterwards. 7 Rep. 23. 3 Nelf. Att. 151. If one grant that if A. be not paid 20. a Year for his Life, he shall deprive for it; this is a good Grant of forc a Rent during his Life. Co. Litt. 147. To these three Sorts of Rents may be added a Rent referred upon a Lease at Will, called a Rent divisible of Common Right: And in Action of Debt for Rent upon a Lease at Will, the Plaintiff must set forth, that the Defendant entered and professed to construct, and prove it, because the Occupier does not defend but on a Lease for Years, the Rent is due on the Controll; and if the Leifre never enters he must pay the Rent. 1. 147. 1 Saalk 209. A Man may have a Rent by Priaphtions and prefcribe that he and his Ance-

or grant the Reverion generally over to another, the Rent paifeth to the Grantee, although no Mention be made of it in the Grant; the Rent being incident to the Reverion, though a Rent be not made, and is not incident to the Reverion, it is not inapplicable incident; the Reverion may be granted, so as not to pass the Rent. 1 Inf. 145. 157. Rent may be Revived, and he shall have it in the same Manner as Lands: A Tenant fee'd of Lands in Fee, made a Leafe thereof rendering Rent, and afterwards devised the Rent to another; and adjudged that the Executor, and not the Heir shall have it; because it is but a Chattel in the Devisee. 2 Crs. 144. 425. 5. A Leafe is made for Years of Land in Fee Simple, rending Rent to the Leifre, his Executors or Assigns, during the Term; the Heir shall have the Rent; it running with the Reverion: And if a Leifre dies before the Day of Payment of Rent, it shall go to his Heirs, as incident to the Reverion; but if it becomes due in the Leifre's Life time, it shall go to the Executors. 12 Rep. 35. 10 Rep. 137. 95. 213. 4 Saund. 567. If the Leifre dies upon the Day of Payment, and the Rent is unpaid, the Heir shall have it: for the Rent is not due till the last Minute of the Day: But if it be paid that Morning before the Leifre dies, his Executors shall retain it against the Heir. 10 Rep. 137. 1 Inf. 212. In what Causes the Rent shall go to Executors, or him in Remainder; on the Leifre for Life's dying, and the Rent not paid before the last Minute of the Deceased's Life, the Rent shall be kept to the Heir, or to the Executors. Price. Cas. 555. One fee'd of Lands in Fee, makes a Lease of the same Lands for ten Years, yielding to him and his Heirs of 20. a Year, and the Feast of St. Michael or within one Month after; now if the Leifre die before the Feast of St. Michael and the End of the Month, the Rent must be paid to the Heir, and not the Executor; because this was not due until the End of the Month. 10 Rep. 137. 1 Saund. 252. If a Leafe is made for Years, paying a yearly Rent at Michaelmas and Lady day, or within twelve Days after, upon Condition that the Rent be not paid by that Time, next after the said Feasts, or Days of Payment, then the Leafe shall be void: in this Case, it is said the Tenant or Leifre hath twelve Days after the twelfth Day, to pay the said Rent; for the twelfth Day after the Feasts was a Day of Payment: But if the Clause in the Leafe had been, that if the Rent be behind for the Space of twelve Days after either of the said Feasts Days of Payment, the Leafe to be void, or, hère the Tenant hath but twelve Days allowed him. 6 Rep. 27. A Man fee'd in Fee of Lands, lets them for Years, and reserves a Rent to himself, not to him and his Heirs, the Rent shall determine by his Death, if he die within the Term; so that if he reserves a Rent to him and his Affigns, the Revision is good only during his Life. Wood's Inf. 186. Though if he reserves a Rent generally, without dwelling to whom it should go, it will go to his Heirs. 3 Inf. 47. 5 Rep. 11. An Heir shall have the Rent, where he is named in the Grant; and if the Rent is reserved to the Leifre, his Heirs and Affigns, the Affigns and the Heir shall have the Reverion shall enjoy it, if the Rent is incident to the Inheritance. 2 Crs. 282. Plead. 167. 1 Inf. 47. Where a Tenant for Life lets a Lease for Years, if he shall live for life, under certain Rent, and the Tenant for Life dies before a Quarter-Day, or Day of Payment, the Tenant is discharged of the Rent for that Quarter by the Act of God; But this may be guarded against by dividing the Rent, and making it payable weekly, or, though it be not usually received otherwise than quarrelly; or by Covenant in the Leafe, to oblige the Tenant to pay the Executors of the Leifre for so much of the Profits as shall be received 'till his Death, if he die before any Day of Payment. 10 Rep. 127, 129. Without this Care, the Tenant might receive the Profits of the Lands and detain the Rent.
Rent too, by quitting the Eftate upon the Death of the Landlord, who did not live till the Rent was due; and thereby burrying those in Remembrance and Restitution, &c., of the Rent, because he was not their Tenant at the Day of Payment: And this has been often done by the Tenants of Bishops and Parsonis, and of Widdows, and others, or having Professors of Land for Life, &c. The same as to Tenants at Will, where the Landlord dies the Day before the Rent Day. See Case 255. This Law is now altered by Statute; for if any Tenant for Life die on the Day, on which the Rent was made payable, his Executors, &c., may in Action on the Cafe recover from the Under-Tenants, the Whole, or if he die before such Day, a due Proportion of such Rent: And where Demises are not by Deed, Landlords may recover resonable Satisfaction, for the Use of what the Tenants held, &c. 11 Geo. 2.

If a Rent upon a Lease for Years of Land is reserved and made payable at four Quarter-Days, the Leifor may have Action of Debt after the first Day of Failure; for every Quarter's Rent is a several Debt, and didld it be due at the first, and the other three Quarter-Days are expired, because it is all but one personal Contract. 4 Rep. 94. 1 Inf. 292. An Action was for one Quarter's Rent, when two Quarters were due, so that the Plaintiff was for less than was his Due, without knowing how the Rent was divided, which it was objected the Law would not allow, has been adjudged good on Demurrer, every Quarter being a several Debt; but not if it appears by the Plaintiff's own knowing that Rent for a whole Year is due, and he brings an Action only for Half a Year, &c. 17 Geo. 2. 2 Pent. 129. 3 Nf. Abr. 1179. In Debt for Rent, the Plaintiff demands more in his Demand than is due, he may remit Part, and have Judgment for the Refidus. 2 Liff. 449. Action of Debt may be brought for Rent due for a Copyhold and Frehold together. 5 Lev. 33. 2 Cr. Eliz. 851. All for Rent upon a Leafe of Land, and a Flock of Sheep. 3 Lev. 150. All for Rent upon a Leafe for Years, shall have Debt for it. 1 Lev. 22. And Covenant for Rent lies against the Leifor after an Affirmation, by the Grantor in Reversion; and this, although Notice and Acceptance of the Rent had been pleaded, it was upon an expired Covenant. 3 Lev. 253. A Leifor for Years rendering Rent, asigned his Term in Possession of the Land, and that Alligferee made another Alligferee of that Place, and it was held, that the Leifor might have an Action of Debt against the first Leifor for the whole Rent, because the Priviledge of Contract remained between them, and that the Rent should not be apportioned. Dyer 4. 2 Lev. 121. If a Leafe be made of three Acres of Land of equal Value, paying such a Rent, and afterwards the Leifor grants the Reversion of one Acre to another; the Grantee shall have the proportionable Rent, for though it is but one Leafe and one Rent, yet because the Reversion is severable the Rent shall attend upon it, and be likewise severable. 2 Rep. But in a Lease of a Warren which extended into three Vills, where the Leifor granted the Reversion of that Part which lay in one of the Vills to another, and the Leifor acceded; adjudged that there should not have any Part of the Rent, nor the Grantor neither, because an entire Contract cannot be apportioned, and therefore the Rent is divided. May 175. Action of Debt was brought for Rent on a Lease of three several Acres of Land for three several Terms, paying Rent pro terminis prorata. And it was inferred, that the Rent could not arise out of all, because they were several Terms; but the Court ruled, that it was an entire Lease, and that the Rent issued out of all the Terms, and that if the Leifor should not pay, it shall be paid out of the Refidus. Dalby 139. A Lease is made of Lands, rendering ten Pounds Rent, per. For five Acres five Pounds, and for other five Acres five Pounds shall be divided between the two Parts, and not several Rests. 1 And. 174. But if one grant twenty Pounds a Year out of the Land, to hold ten Pounds yearly for thirty Years, and the other ten Pounds thirty-six Years, payable at the Feast of Easter, they will be several Rests, and a Diilref may be for either of them alone. 1 Cas. 109. A Man grants a Rent Charge to another for Life out of his Lands, if he grant further by the same Deed, that he and his Heirs may disfrain in the Land for the same Rent; this will amount to a New Grant of the Rent in Possession. 1 Inf. 149. Where Rent is granted for Life, out of Land in Fee, and a Term for Years; there it shall issue out of the Lands in Fee, nor the Term of Years. 7 Rep. 25. The Land in Fee only renders Rent, and yet the Rent in Fee and the other Land are chargeable after a for the same. 1 Inf. 27. 146. Plowd. 158. If a Man grants Rent out of his Lands, and lays not what Land, nor where; it cannot be a good Grant of the Rent, though it may be good to charge his Person as in an Annuity: So if one grant any Rent out of a Thing not chargeable with a Rent, as a Common, or Franchise, &c. 6 Rep. 58. 10 Rep. 93. But where Lands in general, are charged with a Rent, with Clause in the Deed, That if it be not paid, the Grantee shall disfrain it as in the Manor of S. it will charge that Manor, but not any other Lands. 1 Inf. 146. If the Rent be granted out of one Manor, with Power to disfrain in another; both the Mannors are liable to it. 7 Rep. 25. A Rent revered out of Land, is of the Nature of the Land: If a Person has a Rent on the Part of his Mother, the Dilref and Remedy for it shall go out of the Heir on the Part of the Mother, &c. Mor. 501. 1 Inf. 145. And if two Coparceners make a Frument in Fee, rendering Rent to them and their Heirs, the Rent shall be of the Quality of the Lands, and the Heirs of one of and of the other shall inherit. 5 Rep. 8. Yet if there be two jointenants, and one makes a Lease for Years, rendering Rent; the Leifor dies, the other shall not have this Rent. 1 Rep. 96. A Rent was reserved on a Leafe to be paid at two Periods, and not paid by what Portions; and yet held good, and that the Leifor should have Liberty to make the Payment by what Portions he pleased. 3 Lew. 332. The Husband after the Wife's Death is liable to pay the Rent of her Land, as his Wife, and a Man who in Right of his Wife, shall have any real Eftate in Rents, &c. which shall be due and in Arrear at her Death, may after her Death bring Debt for thde Arrears. 1 Lev. 23. 4 Rep. 10. An Action of Debt lies for Rent in arrears upon a Lease for Life, or Years; at Common Law it lay not on Leases for Life, but it may be brought by 8 Ann. cap. 17. If Tenants for Life or Years hold over Lands after the Determination of their Terms, and Demand being made to deliver the Poffession, they shall pay double the yearly Value, to be recovered by Action of Debt. And when Half a Year's Rent is due and in arrear from any Tenant, and no sufficient Dilref can be had on the Premises, the Landlord may serve a Declaration of Eftate, &c., and the Defendant, and the Tenant may file his Bill in Equity, within six Months, to be relieved; though not have an Injunction, till the Proceedings at Law, unless he bring the Money due into Court) and pay the Rent in arrears, and Costs, all Proceeding to cease, &c. by the 4 Geo. 3. cap. 48. If any Tenant, holding Lands, &c. at a Rack Rent, being in arrear one Year's
Year's Rent, shall defeat and leave the same unoccupied or unoccupied; two Judges of Peace, may at the Requet of the Landlord go upon and view the Premises, and for the most notorious Part thereof, a Notice in Writing, on what Day (at the Distance of 14 Days) they will take a second View; and if the Tenant, or some Person for him, do not then pay the Rent, and there is no Diffiret, the Tenant's Lease shall become void: The said two Judges Proceedings to be examined into in a Summary Way, by the next Judges of Advice of the County; who if they see Con, may award Redress and Costs to the Tenant, &c. By this Statute, in Case a Tenant gives Notice of his quitting the Premises, and do not according discovery of the Action or the Time notified; he is then forewarned to pay double Rent recoverable as single Rent. Stat. 13 Geo. 2. cap. 19. Debts may be brought for Part of Rent due, and a Diffiret taken for the other Parts: so as to make both the Person and Land liable: If Tenant in Fee, or in Tail die, his Executor may have Action of Debt by the Stat. 32 Eliz. 8. for the Rent over, or may dier with or Annul the Execution of any Remedy by the Common Law: So it was in the Case of a Tenant for aver, for his Executor had no Remedy till the Death of the Owner; & now and now may dier or have an Action of Debt for the Rent arrear. 1 Geo. 471. 5 Sail. 333. If Tenant for Life die, his Executor may bring Action of Debt for the Rent in arrear; but this his Remedy at Common Law, but a new Remedy is given by this Statute, and that is to dier: Though if there be a Grantment of a Rent for twenty Years, if he be too long live, and there is Rent in arrear, and then the Gran-tee dies; his Executor cannot dier for the Arrears within the Statute, but must keep to his Remedy at Common Law, 3 Sail. 304. Where the Lord gained a Rent of the Tenant by Incroachment, up on a Diffiret taken for it, the Tenant could not help himself in Replevin, before the Stat. 32 Eliz. cap. 3, before the Stat. 32 Eliz. for the same Reason, but was compelled to bring the Writ Ne injuriet voci against the Lord, and there he might traverse the Tenure: Since that Statute, the Lord in his Arrears must al-ledge Seizin of the Rent for forty Years past; which the Tenant may traverse. 4 Rep. 8. to Rep. 88. 9 Rep. 33. In Debt for Rent upon a Lease for Years, the Defendant pleaded an Invasion by Enemies, who drove him and his Castle from the Lands demised, so that he could not enjoy the same; but it was adjudged against him; for he did not plead that the Army were all Aliens and unknown: And if a Man coven-ant to pay Rent, and it happens that the Lands are overflowed with Water, he is still chargeable with the Rent; yet he may prove the Accidents by his Contraf. and though there was no express Covenant in this Lease to pay the Rent, the Reversion is a Covenant in Law, and a Duty is created by it, and the Law will not pronounce him against his own Agreement. Stat. 47. If No Place is appointed for Payment of Rent, the Law appoints it to be upon the Land. 4 Rep. 91. Demand of Rent is also to be on the Land, &c. and to warrant a Diffiret, the Demand may be at any Time after due; but it is not to be Re-entry. 1 Inf. 201. Day 25. Tender of the Rent, which must be the whole Rent due, may be upon any Part of the Lands let. Ibid. Acceptance of Rent, in some Cases, will give Allowance to a voidable Lease, and be Enters for Consideration. Stat. 32 Eliz. may be confirmed by Purchase of Parcel of the Land, &c. Fits theIconModule. Rentant, A Roll wherein the Rents of a Manor are written and set down, and by which the Lord's Bailiff collects the same; it contains the Lands and Tenements let to each Tenant, and the Names of the Tenants, the several Rents arising, and for what Time, usually a Year. Compl. Court Rep. 475. Rents of Annuity, The certain Rents of Freeholders, and ancient Copyholders, foiled, because they were affayed, and different from others that were uncertain, paid in Con, &c. 1 Inf. 19. Rents payable are such Rents as were annually payable to the Crown from the Lands of Abbots and Religious Houses; and after the Dissolution of the Abbey Lands which were demised to others, the said Rents were still re- served to the Crown; They are reckoned among the Peremour Rents, to be held by the Stat. 32 Geo. 2. cap. 6. Reparations, A Tenant for Life or Years, may cut down Timber thereon to make Reparation, though he be not compelled thereto; as where a House is ruinous at the Time of the Lease made, and the Lessee suffers it to fall, he is not bound to rebuild it, and yet if he fell Timber for Repara- tions he may justify the same. 1 Inf. 54. The Lessee covenants, That from and after the Amend- ment and Reparation of the Houses by the Lessee, he as his own Charges will keep and leave them in Repair: In this Case the Lessee as obliged not to do it, unless the Lessee first make good the Repara- tions: And if it be well repaired at first, when the Lease began, and after happen to decay; the Les- see must first repair, before the Lease is bound to keep it so. 2 Rep. 645. If one Covenant for the Reparation of a House, upon Requisition of the Lessee, and he repair without it; this is no Performance of the Covenant. 2 Leth. cap. 72. See Lessee, Cow- enant, and Waive. 33 Reparationis factibilibus, Is a Writ that lies in di- vers Cases; one whereof is where there are Tenants in Common or Jointinants of a House, &c. which is falling to Decay, and one of them is willing to repair it, but the others are not: In this Case the Party willing to repair the same, shall have this Writ against the others. F. N. B. 127. And if a Man have a House in a Tenure, and he suffer his House to lie in Decay to the Annuyance of my House, I may have a Writ against him to repair his House. So if a Person have a Passage over a Bridge, and another ought to repair the Bridge, who sufferers it to fall to Decay, &c. New Nat. Br. 281. Reprapatum, A Repair or Meal of Meat given to servile Tenants, when they laboured for their Lord. Parch. Ant. 401. Repar. [From the Fr. Repaper, i.e. Revenir] Signifies the same with restore; as the Reaping of a Statute is the Revoking or Dismantling it. Repall. It is said a Pardon of Felony, &c. may be repaid, or a Person declaring the Suggesting of it. 10 Eliz. 10. A Deed or Will may not stand good at Part, and be repaid for the Refl. Style 241. And a Defendant in a Suit cannot repall or recover his Warrant of At- torney, given to an Attorney to appear for him, &c. 2 Lef. Abr. 453. Repeptua (Replevitaris) Is to plead that again which was once pleaded before. Breke. On an in- material Issue in a Case, Replevlar may be awarded, and Repledger is to be had where the Pleading hath not brought the Issue in Question, which was to be tried: All if a Vendi be given where there was no Issue joined, there must be a Repledger to bring the Matter to Trial. &c. 2 Lef. Abr. 460. In Debt on a Sheriff's Bond, for the Defendant's Appearance in J. F. W. shall be encaised upon the Writer left of the Writ, upon the Demand of the Master of the Writ, the Defendant pleaded that he had appeared scou- dum, &c. and upon this they were at Issue; and there being a Vendi for the Plaintiff, a Repall of the same was allowed, because the Appearance was not tria- ble by a Jury, but by the Record. 1 Lef. 90. 3 Nef. Abr. 135. It was held by the Court of B. R. that
that at Common Law, a Repleviant was granted before Trial, because a Verdict did not cure an immaterial Ille: but that now a Repleviant ought never to be awarded before Trial, because the fault in the Ille may be helped by the Statutes of Torts: That if a Repleviant is denied where it should be granted, or a Convoy, it is Error; and the Judgment in Repleviant is general, (case.) and Parties pleni:ent: They must begin again at the first Fault, which occasioned the immaterial Ille: if the Declaration and the Bar, and the Replication be all ill, they must begin de novo; but if the bar be good, and the Replication ill, they must begin at the Replication: and no Cods are allowed on either Side; and a Repleviant cannot be awarded after a Default. Trin. 5 Am. 2. 2. 1579. Tho's Repleviant is allowed after a Verdict; it has been adjudged not to be awarded after a Dissolution: (But a Dissolution hath formerly been granted after a Default, and likewise after the Dissolution argued) and that a Repleviant can never be awarded after a Writ of Error; but only after Ille joined. Gr. Land 147. 2. 1. 1. 102. See the Form of a Repleviant. Liber. 1621.

Repetigiae. As to redeem a Thing detained or taken another, by putting in legal Sureties. See Replication.

Repetitione aberrere. A Writ brought by one whole Cattle are displeased or put in the Found upon any Cattle by another Person, on Surety given to the Sheriff to prosecute or answer the Action at Law. F. N. &. B. 56. Reg. Orig. Stat. 7 H. 8. c. 4.

Replicatione (Pleonas. Replicatione, a Repleviant of a) is a Remedy granted and granted upon a Dissolution, being a Re-discharge of the tennis displeased to remain with the first Foulfeild, on Security or Pledges given by him to try the Right with the Dis-tractor, and to answer him in a Court of Law. 1 Inf. 145. If one doth detain another's Cattle or Goods for Rent, or Service, Damage-tenant, Gr. the Owner, upon giving Security to the Sheriff that he will pursue his Action against the Party displeasing, and return the Cattle or Goods again, if the Taking shall be adjudged lawful, may have a Writ of Replication or Repugnans facias; whereby the Sheriff is commanded to return the Cattle or Goods to the Owner, till the Right of the Dis-tractor is determined: And the Person that is displeased is to be Plaintiff in the Replication, and the Person displeasing the Defendant or Avowant: for his Justification the Dis-tractor is termed an Avowant. 1 Inf. 148. Replication are by Writ at Common Law; or upon the Jailer in the Sheriff's Court by Surety, for the Party's more speedy having again of his Cattle and Goods displeased; and the Sheriff ought to take them, by one of the Common Laws, or of the Places of Protection; and another by the Statute, i.e. Plagi de Retviso Habenda: And Replication lies either in the King's Bench or Common Places, by Writ: also it lies in the County Court, and Court Baron by Plaint; and a Hundred Court may hold Plea of Replication, but they are not to granted out of Court. 1 Inf. 145. Doe add. If the Cattle or Goods are not delivered upon a first Replication, the Party displeasing shall have an Alias and a Pluris Replication. F. N. &. B. 56. The Sheriff may set by Virtue of the Writ of Replication, or as Alias to Precept to his Bailiff: And the Sheriff may take a Plaintiff on the Statute, and make a Replication presently, and enter it in the County-Court afterwards. 2 Inf. 153. 5 H. 5. 21. By the Statute H. 3. if Bailiff cannot be tried, F. N. &. B. 56. The Plaintiff in Replication must have a general or special Property in the Goods, for he who claims no Property in the Thing displeased shall not have Replication; but if the Defendant in the Replication claims the Property, the Sheriff cannot proceed till it is inquired into and decided before him by the Writ Pre-privates Petibus: whereas if found for the Defendant,
RE

RE

dant, he can proceed no further, as the may if found for the Plaintiff; though the Plaintiff may afterwards reply by writ; and if the Sheriff returns the Process, then it is that he put in Issue and tried in C.B. 1. Inst. 145. Finch 316, 317. If any Thing touching the Freehold comes in Question, the Sheriff likewise must proceed no further. Wm's Inst. 515.

When a Plaintiff in Realpia is removed into C.B. 8. 8c. and the Plaintiff makes Default, or is Nonuit, before or after Declaration, or Judgment is given against him, the Decree in Realpia shall have the Effect of a Return Habendis of the Goods taken in Distress; so if he pursue not his Action of Realpia, &c. And the Plaintiff being removed, if the Plaintiff in Realpia is non-suited before or after Anwomy made, the Defendant may again disraine his Castle for the same Cause he disrained the First; yet the Plaintiff may sue out a Writ of Second Deliverance upon the same Record, which will revive the 6th Suit: And after this Second Deliverance and Trial thereupon, or if the Plaintiff be again Nonuit upon a Declaration, then there must be a New Impression, or Right arrived to the Defendant, and then he may make his Anwomy, or Plea in Nullification of his Distress, to ground a Writ to inquire of Damages; or he may hold the Beasts till he is satisfied. F. N. B. 2. Wm's Inst. 473.

If the Defendant makes Default, the Plaintiff shall have Judgment to recover all in Damages; as well the Value of the Castle, as Damages for the Taking of it, and his Costs. F. N. B. 9. Mich. 3. H. 8.

No Writ of Second Deliverance lies in Realpia after a Judgment upon a Demurrer, or after a Verdil given, but in these Cases the Judgment must be entered with a Return irrepeable; though on a Nonuit a Second Deliverance will lie, because there is no Determination of the Matter, and there is a Writ of Second Deliverance, as it appears in the Case in the Case of a Demurrer and Verdict, the Matter is determined by Law. Mich. 7. W. B. R. 2 Ill. 4. 457. The Plaintiff in a Second Deliverance was non-suited, and a Writ of Inquiry of Damages awarded, and also a Return Habendis, upon which the Sheriff returned Averia Elongata; whereupon a Wibrer was granted, and all the other of the Plaintiff's Beasts were delivered to the Defendant; and some Time after the Plaintiff came into Court, and paid the Damages and Costs, on which the Court granted him his Beasts. If Castle be put into a Castle, the Sheriff must nevertheless make Realpia and Deliverance; and if Occasion be, he may take the Puff or Power of the County with him for that Purpose: And whether the Castle are driven out of the County, &c. so that the Sheriff cannot make Realpia, a Writ of Wibrer shall go to the Sheriff to take many of the Distraint's or Defendant's Castle, &c. 1 Bull. 456. A Defendant in Realpia may plead Property in the Castle in a Stranger, either in Bar or in Abatement; and where the Plea in Abatement is to the Points of the Action, as Property is, there the Defendant shall have a Return without making an Anwomy for it; for whether the Property was in him or a Stranger, he ought to have a Return, because he had the Possession of the Castle, which were illegitimately taken from him by the Plaintiff in Realpia: But where the Plea in Abatement is of a collateral Matter, he must make an Anwomy to have the Realpia Delivery. 3 Bell. 497. The Return Habendis in Realpia is Non Stop; but the Defendant may plead Property in himself, in Bar or Abatement to the Action of Realpia, and in a Realpia, he must conclude in Abatement; and 'tis to be observed, that upon the General Issue Property cannot be given in Evidence, therefore it must be pleaded there. Post 249. 3 Sal. 507. Realpia was brought for Taking and Detaining a Mare and Colt; the Defendant pleaded Not guilty as to the Taking, refta for annex ultima key, &c. and upon Demurrer it was held that the Plea was good, because in Effect 'tis Non Stop; and if he be not guilty of the Taking, he could not be guilty of the Detaining; and if this Plea be not allowed, the Statute of Limitations can never be a Bar to Realpia; but the Plea was adjudged ill, because it does not answer the Detaining, and probably the Castle might be pleaded in the Plaintiff could not come to reply them, which is an illegal Detaining, the the doing might be legal. Sal. 81. The Plaintiff is to lay his Realpia in the Detinates, or Distress; if in the Detinates, the Plaintiff hath his Goods again, and Damages for the Taking and Detaining; if 'tis brought in the Distress, he shall only recover for the wrongful Taking; for that Word being in the proper perfect Tense, implies that the Plaintiff had its Goods again: So that if in Realpia the Writ be in the Detinates, and the Plaintiff declare in the Distress, the Declaration is ill, the Veracity being material. Sal. 1147, 1151. A Realpia ought to be certain, in setting forth the Number and Kinds of Castle disrained, or it will not be good; because if it be uncertain, the Sheriff cannot tell how to make his Deliverance of the Castle, if a Writ be directed to him to do it. Tim. 23. 9. B. R. And in a Declaration in Realpia for Taking of Castle, if the Time and Place of Taking be not named, the Declaration is sought for Uncertainty: The Declaration must be not only of a Taking in a Vill or Town, but in quadam loco vel or. &c. or the same will not be good on Demurrer. But in a Declaration in Action of Trespass is good. Hob. 16. 3 Sal. 508. In Realpia for Taking several of his Beasts in quidom loco called A. and B. upon a Demurrer to this Declaration it was ruled, that the Plaintiff ought to shew how many were taken in one Place, and how many in another Place. Litt. 32. And if the Plaintiff allege two Places, and the Defendant answers only one, it is in the Place. Sal. 94. The Plaintiff in Realpia declared, that the Defendant took his Castle opus R. omittit the Words in quadam for ibidem; and on a Demurrer it was ruled, that the Effect of this Suit is the Taking of the Castle, and not the Shewing the Place where they were taken; for the Plaintiff might not know the Place, &c. and in this Action the Avowrant is not bound to shew where the Castle were taken, and therefore it ought to be shewed by him. 1 Brom. 176. 3 Nill. 1932. Count in a Writ in Action of Distraint for the Sheep of the Plaintiff's Doors and Locks, and Carrying away his Goods and Castle; the Defendant avows for a Rent-Charge, and pays nothing of the Breaking of the Doors, &c. Per Con'. He need not answer it in this Action; that in Action of Trespass he must. Tim. 7 W. 3 B. R. 1 Ill. 456. In a Realpia for Taking of four Beasts, the Defendant had Judgment for a Return; and he then formified that four Beasts were taken, and impounded, and were not all delivered back, and prayed that the Sheriff should make a Deliverance to him of forty, &c. But resolved, that the Plaintiff having declared less than four Beasts taken, and he the Defendant agreed that Four only were taken by Aworing for them, he was therefore without Remedy; for he might in his Aworry have shewn that forty Beasts were taken, and have avowed for all, and prayed a Return of all of them, although the Plaintiff had not declared for so many. Cras. 7. 611. In Realpia, the Aworry was for the Rent, and the Awovrant had Judgment; and in a Writ of Error brought in B. R. the Error aligned was, that Part of the Rent because of the Dairies taken, in the that Writ of Error, the Dairies was made three Days before Michaelmas, and the Defendant avowed for Michaelmas Rent; and it was adjudged ill, being for more than was due at the
Time of the Difetens taken: The Awovant ought to have stated his Avowry good the Michaelmas Rent, and taken Judgment for the Rent; but he got the Roll answered, 5. 7. and so it was here. 1. Salii. 508.

If the Jury in trying an Action of Replevin do inquire as well of the Value of the Cattle disaffirmed for Rent, that they may be told according to the Statue, as also of the Rent due, there shall be no Writ of Inquiry to supply it. 1 Erw. 255. A Verdict was found in Replevin, Part for the Plaintiff with Damages at Costs; and Part for the Defendants: But in Avowry for Rent, Part was found for the Plaintiff and Damages and Costs, and Part for the Awovant; and it was held, that the finding Damages and Costs for the Plaintiff was void, but that Part being found for the Awovant, he shall have a Return with Damages and Costs. Lawr. 1104. Cr. Jac. 473. It is a proper Conclusion of a Plaia in Replevin, Cr. to try Unde judicium & return. Assertum, without saying any Tying of Damages, because they are given by the Statue: And the Defendant must fogett Matter to have a Return, Cr., which Suggestion is only to bring his Case within the Statue of Hen. 8. for Damages; for before that Statue at Common Law the Defendant had no Damages; and this Suggestion being for a particular Purpose, is not transmissible. 1 Salii. 94. A Second Deliverance may be a Superfetatio to the Return. Habend. but 'tis not so to the Writ of Inquit for Damages; because they are not for the Tying for which the Defendant avowed, but by Virtue of the Stat. 21 H. 8. as a Reanswering to the Awovant for his Expense and Trouble. In Action of Replevin, the Defendant avowed for Damage feasant, and had a Verdict, as adjudged, that he shall have a Return. Habend. for the Cattle, and a Copias at satisfied, for the Damages: But if the Costs and Damages, the Sheriff ought not afterwards to execute the Return. Habend. And if for Want of such Tender, the Sheriff doth execute it, and after the Costs and Damages are paid, a Writ of Error could be given, upon cogging that the Costs are paid, to deliver the Difetens, Cr. 3. Cr. 102. 3 Salii. 45. If a Man take Cattle for Damage feasant, and the other traders Amendis, and he refuseth it, Cr., on a Replevin sued for the Cattle, Damages shall be recovered by the Plaintiff for the Detaining of them; and not for the Taking, which is lawful. New Nat. Br. 154, 155. And if a Lord disfain his Tenant's Cattle wrongfully, and afterwards the Cattle return back unto the Tenant; the Tenant shall nevertheless have a Replevin against the Lord for the Cattle, and recover Damages for the wrongful Disaffirming of them; because he cannot have Action of Trespass against his Lord for that Disafetens. Ibid. In Replevin an Avowry was made for Amencement in a Lect. The Plaintiff traversed that the Defendant was seised of the Manor in Fee: And it was held good. Hughes Ab. 1771. If a Replevin be again two, and one of them avows for Damage feasant in his several Land, and the other as a Commoner; both Avowries shall abate, and the Plaintiff recover Damages. 5 Rep. 15. Plead. 10. After issue in a Replevin, one of the Defendants died; and it was held the Writ was good against the other. 1 Cr. 174. A Replevin is triable by either Plaintiff or Defendant, without Proof; And if a Man do disfain Cattle in one County, and drive the Cattle into another County, the Party may for a Replevin in which of the Countries he will; but not in the County of the Return. New Nat. Br. 155. Replevin might be had, where Cattle are taken that agist or manure Land; if one disafain Cattle which afterwards hath a Cal. Ofi, it may be brought for both: All that shall be good, out, and any Goods or Chattels; for generally whatever is disaffained, may be repleived: But no Replevin lieth of Goods taken be-
yond the Seas, though brought afterwards into Eng-
land. Show. 91. A Replevin may not be had against the King, nor where he is Party, or the Taking was in his Right, 3 Hen. 7. An Infant may bring Re-
plevin; and Executors or Administrators shall have it de bene Tuatoribus: Husband and Wife shall join in a Replevin, for a Difetens on the Wife's Land; and for Goods and Chattels of the Wife, when taken when, the Husband alone may have it: If the Beasts of seve-
ral Men are taken, they must have Replevin severally, and not join; unless they are Jointtenant or Tenants in Common. Land Putch. Com. 174, 175. If a Man whole Goods are disaffained thinks himself wrong-
ed, and would have the Goods or Cattle restored, he may obtain them by Replevin; but if he be only defici-
ous of a reasonable Satisfaction for them, he may bring an Action of Trespass or Tresure, Cr. See
Aovury.

A Plain entered in Replevin.

B. complains against C. D. of his Beasts un-
justly taken, in his House, or his Freethold, in the Parish of, &c. Pledges, &c.

Form of a Writ of Replevin, to Repligare & Avovnet.

G. GEORGE the Second, &c. We Command you, that unjustly and without Delay you cause to be Re-
pleived in A. B. the Beasts, which C. D. took, and unjustly detained, or as it is said, after they were delivered by the said A. B., or you shall do you cause unjustly to be delivered, &c. That you may do more Clamorous thereupon for Defect of Justice, &c.

A Court, Avovnet and Judgment in Replevin.

A. was summonet to answer C. D. of a Plea.

Wherefore he took the Cattle or Beasts of the said C. and them unjustly detained against Saritcks and Pledges, &c. He summoned C. by, &c. His Attorney complaints, that the said A. the Day of, &c. in the Year of the Reign, &c. at in a certain Place there called, &c. took the Cattle, that is to say, two Herds and one Cow of the said C. and them unjustly detained, against Saritcks and Pledges, until such a Day, wherein they were delivered by G. H. E. Sheriff of the County aforesaid, or Bailiff of the Lord the King's

Aovnet and acknowledged, &c. Whereupon be faith, that he is the wrongs, and both Damages to the Value of ten Pounds; and therefore he brings his Suit, &c. And the said A. by his Attorney comes and defend the Part, as the said C. by his Attorney, for the said Injury, &c. And shall answer the taking of the Cattle aforesaid, in the said Place in which, &c. And justly, because as he should have delivered the Aovnet, or Ples that he took up the said Cattle as the said C. by his Declaration joppiseth, with the Answer, Repligation, ifne and Social Pledges. And because the Juftices here, will admit themselves of and upon the Premisses, before they give Judgement, Day is given to the Parties aforesaid until the Day, &c. to bear their Judgment thereupon, because the said Juftices are not yet advizet, &c. As which Day, here comes as will the said C. as the said A. by their Asssire aforesaid, and upon this he the Premisses aforesaid being true, and by the Juftices here fully understood: It is considered, that the said C. take nothing by his Writ aforesaid, but be in Mercy for his sake Claim, &c. And that the said A. do thereof without Day, &c. and that he have Return of the Cattle aforesaid, in the said Place in which, &c. And, beow, &c. the Sheriff made it here appear in, &c. It is soe confirmed, that the said A. do recover against the said C. his Damages aforesaid, by the Furnes in ten aforesaid, and his other Goods or Chattels, by the Court here of Intraves with his effet adj-
judged; wherein Damages in the whole amount to, &c.

Replevig.
Replevy. Tenants having their Goods taken as a Depreais for Rent, are to replevy them in five Days, or they may be apprised and sold, by Stat. 3 W. & M. 55. c. 5. Where any Goods are sold, if Prove is claimed in them, and nowithstanding the Party doth replevy, Trespass will lie, &c. Mod. Cap. 69. & Litt. 459. To replevy is used for the Bail- ing a Man, Stat. Wm. 1. c. 11. Vide Homam Replegiandas.

Replevith. Signifies to let one to mainprise upon Surety. 3 Ed. 1. cap. 11.

Replevition is an Exception or An- swer made by the Plaintiff in a Suit to the Defend- ant's Plea: And it is also that which the Complain- ant replies to the Defendant's Answer in Chancery, &c. Mod. Rep. part. 2. The Replication is to con- tain Certainty, and not vary from the Declaration, but must purport and maintain the Cause of the Plaintiff's Action; otherwise it will be a Deprecation in Pleading, and going to another Matter. 1 Inst. 504. Though as a faulty Bar may be made good by the Replica- tion; so sometimes a Replication is made good by a Rejoinder; but if in the same Suits a Replication can never help it. 2 Litt. Abr. 463. A Replication being intire, and ill in Part, is ill in the Whole: But if there be three Replications, and one of them is superfuous, and the other two sufficient, and the Defend- ant demurs generally, the Plaintiff may have Judg- ment upon those which are sufficient. 2 S. W. & M. 55. c. 5. If the Plaintiff pleads in Bar, and the Plaintiff replies insufficiently if the Defendant demurs specially upon the Replication, and the Bar is insufficient, if the Action be of such a Nature that a Title is set forth in the Declaration or Count, as in a Formed, &c. Judgment may be given for the Plaintiff upon the insufficient Bar of the Defendant: And where the Title doth not appear till set forth in the Replication, and that is insufficient, the judg- ment shall be had for the Defendant for the ill Replic- ation. Godb. 138. 1 Lew. 75. 3 Nef. Abr. 123.

If the Bar is taught, and the Replication likewise, the Plaintiff shall never have Judgment: So if there be a Variance between the Declaration and the Replica- tion, though there be a Verdict, &c. Id. 13. Style 351. And Replications confess no matter with bare par- ticulars of verisimilitude, or to the Country. In Action on a Bond to pay all Sums expended about a certain Buil- ding, &c. On the Defendant's plea he paid all; the Plaintiff replies that he paid not. &c. the same para- graph. Upon a Demurrer it was held the Plaintiff ought to have concluded to the Country; because there is an Affirmative and Negligent, and if he might be admitted to aver his Replication thus, there would be no End in Pleading. Reyp. 98. But where new Matter is offered in a Replication, the Plaintiff should have his Plea, so as to give the Defendant an Opportu- nity to rejoin. 4 Mod. 285. Lasso. 98.

Repost, (From the Lat. Rep.turare) Is a publick Reconsidering again to Memory of Cales judicially argued, debated, resolved and adjudged in any of the King's Courts of Justice, with the Causes and Reasons of the same as delivered by the Judges. Ca. Lit. 293. There are likewise Reports when the Court of Chancery, or other Court, refer the Suing some Case, &c. to a Master of Chancery, or other Referee, his Certificate therein is called a Report. Upon which they may draw an absolute Order. Prakt. Solis. 67. A Master in Chancery, having an Order of Reference, is to file his Summons for the Parties to attend him at a certain Time and Place; and where and when they may come with their Counsel, Clerks or Solicitor, to defend themselves, and main- tain or object against his Report or Certificate, &c. And he proceeds to try the cause as clearly and as judiciously as may be, preferring the Master carefully for the Judgment of the Court; without Recital of the several Points of the Order of Reference, or the Debates of Counsel before them; unless it be in Cases doubtful, when they may shortly represent the Re- fisons which induce them to that Answer. &c. Ibid. Rep. &c. and Certificates of Matters in Chancery are to be filed with the Register in four Days after the Making and Signing; and to be confirmed by the Court, to which Exceptions may be made, &c. None of these shall take any Money for the Report of an Order or Cause referred to them by any Judges, on Pain of 5 l. &c. so as not to prohibit the Clerk from taking 12 d. for the Eill, and a d. for every other Sheet. Stat. 1 &c. 1. cap. 10. But Masters in Chancery, may take for every Report or Certificate, made on an Order upon Hearing of a Cause 202. And for every Motion or Petition. &c. and their Clerks shall have 5 s. for writing every Report, by 13 Car. 2. Vide Reference.

Repetition of the Action, (Repensit Forci, i. e. A Re putting to) Was a Sinecure whereby certain For- rett Grounds being made Puritus upon View, were by a second View put to the Forsett again. Manw. par. 1.

Repertorium, (Lat.) A Storehouse or Place wherein Things are kept; also a Warehouse. 3 Cr. 555.

Repissimulatus, Signifies any Thing laid up in Secret or Private.

Representation, (Representatio) Is a Perfunctory of another: And it is an Earnest by which a Person, where a Father dies in the Life of the Grandfather, leaving a Son, who shall inherit his Grandfather's Estate, before the Father's Brother, &c. (to) 503. Also Executors represent a Person or Corporate, (to) a Tellor, to receive Money and Affairs. Ca. Lit. 260.

Representative, A Deputy or Parliament Man. Litt. Dict. 1.

Repitilis, (Repertulis, or Reprising) Is the Taking of one Thing in Satisfaction for another, derived from the Fr. Reprisilis and is all one in the Cor. Rep., and Civil Law. King 44. enacted, That Application being made to the Keeper of the Privy Seal, by Persons injured in the Loss of Shipping at Sea contrary to Treaties, &c. on Evidence drawn, he shall sign Let- ters of Reprisilis to demand Restitution and Reparation; which if not made in convenient Time, the Lord Chancellor of England is to grant Letters of Reprising, to obtain the same by Force, and for the Indemnity of the Persons interested: And this is confirmed by the Stat. 3 H. 7. cap. 7. Also there are two Sorts of Repressilis, Ordinary and Extraordinary; the Ordinary Repressilis are to arrest and take the Goods of Merchant Strangers within the Realm; and the other is for Satis- faction out of the Realm, and is under the Great Seal, &c. Lex Mercat. 140. If any Person shall be killed, wounded, spoiled, or any ways damaged in a hostile Manner, in the Territories of any King or Po- seessor, to whom Letters of Repressilis are transmitted, and no Satisfaction shall be made, there is no Neces- sity to refer to the ordinary Prosecution, but Letters of Reprising shall ille sufficere; and the Prince against whom the same are issued, is obliged to make Satisfaction out of the Ealties of the Persons committing the Injuries; and in Case of a Deficiency there, it will then be ad- judged a common Debt on his Country. But where Misfortunes happen in Person, or their Goods, residing in a Foreign Country in Time of War, Repressilis are not to be granted: In this Case they must be contented to sit down under the Loft, for they are at their Liberty to relinquish the Place on the Approach of the Enemy, when they forsee the Country is subject to Spoil and devastation; and if they continue, they must parallel of the common Censorship. Lex Mercat. 140. Rep. rem. 174, 175. Repressilis may be granted on unjust and illegal Persecutions abroad; where wrong judg- ment.
ment is given in Matters not doubtful, which might have been redress'd either by the ordinary or extraordinary Power of the Crown or Parliament, and which was apparently dennied. Gc. See Letters of Marque.

Regiftis, (Fr. Retournages, or a Taking back) is used for Deductions and Payments out of a Manor or Land, as Remedies, Annuitues, &c. And therefore when we speak of the clear yearly Value of a Manor or Feaste or Land, we fly it is so much per Annum ultra Regiftus, besides all Regiftus.

Regiftus, (from the Fr. Retour) Signifieth to back or expulsion a Prisoner from the Execution and Proceeding of the Law for that Time. Terme de Leg 169. 1. Every Judge that hath Power to order an Execution, hath Power to grant a Regiftus; and oftentimes Execution is stayed upon Condition of Transportation. But no Prisoner convicted of any Felony, for which he cannot have his Clergy, as at the Sessions of the Old Bailey for London and Middlesex, &c. ought to be repressed but in open Sessions; and Regiftus are not to be granted otherwise, without the King's express Permission, nor in the Order of the Judges, for the 7th Eliz. 21, 25 and 26. Delivery. K. 4. 2. Hawk. P. C. 463. Wood's Jaff. 662. If a Woman is condemned for Treason or Felony, and she is found by an Inquest or Jury of Magistrates impanneld by the Sheriff, Gc. to be quick with Child, Execution shall be reprieved, and the Woman reprimed till her Delivery; though the Inquest take this for a good Excuse, and the charge save herself by this Means from pleading upon her Arraignment, nor from having Judgment pronounced against her on her Conviction. S. P. C. 158. H. P. C. 272. Finch 478. Where 's found by a Jury of Women, that a Woman convicted of Felony, is with Child, some Judges have used to command a Regiftus of her Execution until a convenient Time, i. e. a Month after her Delivery, and then to be executed: But this is irregular, for the may have a Pardon to plead, and therefore ought to be reprimed till the next Sessions. 12 Aff. 10. Hale's Hist. P. C. 568. 390.

Repugnant. (Repugnans) Is what is contrary to any Thing before said: And Repugnancy in Deeds, Grants, Indemnities, Verdicts, &c. will make them void. 3 Nolf. 135. 2 Harw. P. C. The Common Law abhors Repugnancies and all Incongruities; but the former Part of a Deed, Gc. shall stand, where the latter Part is Repugnant to it. Finch. Cent. 251, 276.

Reputation, (Reputation) Is defined by Sir Edw. Coke to be Vulgaris Opinion uti non est voritas; and he tells us, that vulgaris Opinion uti duplicis, utra. Una arte interim. &c. &c. But seem to be the same word altern. inter mira &c. vulgari homines abscis specis voritas. &c. Rep. 104. That is not Reputation which per se has a great Value, but that which generally has been, and many Men have had or thought. 1 Leon. 15. A little Time is sufficient for the gaining of a Reputation, which needs not a very ancient Pedigree to establish it; for general Acquittation will produce a Reputation. 2 Cro. 397. 1. &c. But let it be held, that common Reputation cannot be intended of an Opinion which is conceived of four or five Years standing; but of Hoie Time. 2 Litt. Abb. 646. And some Special Matter must be averred to induce a Reputation. Ibid. Land may be reputed Parcel of a Manor: though not really. 1 Tod. 269. 3 Nolf. Abb. 237. And there is a Parth, and Office in Reputation, &c.

Reputation of Name, is under the Protection of the Law; and where a Person has an Interest in their good Name; and Scandal and Defamation are injurious to it, though defamatory Words are not actionable, otherwise than as a Damage to the Edifice of the Person injured. Jaff. 57.

Request, Of Things to be done: Where one is to do a Collateral Thing, agreed on making a Contract, there ought to be a Request to do it. 2 Litt. Abb. 166. If a Duty is due, it is payable without Request; On Promise to pay a Duty precedent on Request, there needs no special Request; but upon a Promise for Money due after the Demand, Collateral, there should be an actual Request before the Action is brought. C. Litt. 74. 3 Sandt. 53. 1 Lew. 293. If a Debt is before a General Assizes, and is not a Request, then a Request is not necessary, and a Request is not a Course of the Action: though a General Assizes generally do pay upon Request, the Action arises upon Request and not before. C. Litt. 74. 1 Lew. 48. Action of Debt, for Money due on a Bond, may be brought without alleging a special Request; and if the Action is for Debt, not appointed to be paid upon Request, there needs no special Request to be laid in the Declaration; otherwise if it is of a Thing collateral, C. Litt. 539. 535. A Man promises to redeem the Person upon Request, such Goods as were delivered to him; if an Action of Detinue is brought, the Plaintiff need not allege a special Request, because the Action is for the Thing itself: But if an Action of the Cade is bad for their Goods, then the Request must be specially alleged; as in the Action of the 7th Eliz. 25, 26. Delivery, &c. It felt, but for Damages. Sall 66. 3 Salk. 509. If a Promise is made to pay Money to the Plaintiff upon Request, no special Request is required: But where there are mutual Promises between two Persons to pay each other Money upon Request, if they do not perform the same, the Request is to be specially alleged. And if the promise is that the Plaintiff lends a Man upon Request, and he dies before any Request made, it shall be paid to his Executors; but not till the Request is made. 3 Salk. 509. 3 Bift. 259. When a Person promises to pay a precedent Duty, the general Allegation Licit sumus requisimus is sufficient, because there was a Duty without a Promise: As for Infancy: If one buys or borrows a Hare, and promises to pay so much upon Request: But where the Promise is collateral, as to pay the Debt of a Stranger upon Request, &c. the Request is Part of the Agreement, and traslatable. If the promise be to pay a Duty before the Promise is made; and for that Reason the Request must be specially alleged, for bringing the Action will not be a sufficient Request. Litt 93. 3 Lew. 200. 1 Sandt 55. 3 Bift. 306. If a Debt or Duty either upon Bond or Contract, Licit sumus requintus is good; where it becomes a Duty by the Request itself, then it is to be alleged specially. 5 Nolf. Abb. 144. It has been adjudged, that where the Thing is a Duty before any Request made, a Request can only be alleged to aggravate Damages, and such Request is not trivestable, but if the Request makes the Damage as in Affirmation to do such a Thing upon Request. there the Day, &c. of the Request ought to be alleged. And in the same Case, a Person could not be sued for a Request to do a Thing upon Request, a Request must be alleged; and a special Request must be laid to be made such a Day, at such a Place; where the Duty is not upon Bond, &c. If a Request is to be specially made, the Day and Year when made should be specially alleged. 1 Litt. 231. 2 Litt. Abb. 466. Cro. Car. 280. But where a Person is not restrained to make the Request by a Time limited, if made at any Time during his Life, it has been held to be good, C. Litt. 150. And a Request at any other Time than that set apart in the Deed. 5 Nolf. 294. A Defendant pleaded the Statute of Limitations in an Action on a Promise to pay so much on Request, &c. And upon Demurrer the Plaintiff had Judgment for though a Promise to pay a Duty precedent, the Duty was not, being no Duty till the Request was made, and the Action being then brought within Time after the Breach, 'is good. Cro. Car. 95. At a Trial, the Defendant would have the Plaintiff plead the Request; but it was ruled that he need not; for not being traversed in the Plea, 'is admitted. 1 Lew. 160. In a special Action on the Cafe for keeping a
Passage first appears, so that the Plaintiff could not come and cleanse his Gutter, &c. after a Verdict for the Plaintiff. it was objected in Arrell of Judgment, that the Plaintiff ought to have set forth a Refusis to the Defendant, at the time of the Release, and it was held a good Objection after a Demurrer, but not after a Verdict. 1 Mad. 27. Unreasonable Refusis are not regarded in Law; and there is no Distinction where a Thing is to be done upon Refusis, and reasonable Refusis. Dyer 218. Cr. Carr. 176. 3 Niles 140. 142.

Replevis Court. Of the Place where held being anciently called Camera alba, is taken away by Act of Parliament. See Court of Replevis.
Here County. Writ shall be delivered in the full County, or Rare County. Stat. 2 Ed. 3 cap. 5. Vide River County.

Refisset, (Reposite) is an Admission or Receipting of all the Goods of a third Person to plead his Right in a Cause formerly commenced between two other Persons; as where an Action is brought against Tenants for Life, or Years, or any other particular Tenants, and he makes Default, in the Case, and in the Reversion may move that he may be received to defend his Right, and to plead with the Demandant: Refisset is likewise applied to the Admission of a Miss, where the Controversy is between the same two Persons. Bridge 105. Co. Litt. 115. Niles 3 146. He in Reversion may come into Court, and pray to be received in a Suit against his particular Tenant; and after such Refisset the Refisset shall be had, as much as may be by the Law, without any Delay of either Side. Stat. 15 & 2. cap. 17. And 'tis said a Writ shall be return'd, in Default of her Husband, &c. 2 Litt. 467. But Refisset is admitted only for those who have Estates depending upon particular Estates for Life, Tenants by the Curtesy, or other Possibility, &c. and not for him in Remainder after an Estate tail, which is indurable. 1 And. 153. And Husband and Wife were Tenants for Life, Remainder to another in Fee. a Forman was brought against the Husband, who made Default after Default: and thereupon the Wife prayed that she might be received to defend her Right; but it was denied by the Court; because, if the Defendant should recover against her Husband, it would not bar her Right if she survived him, and therefore it would be to no Purpose. Then he in Remainder prayed to be received, which at first the Court denied; but upon some further Consideration, he might falsify such Recovery; and because his Estate did not depend upon the Estate of the Husband alone, but upon the Estate of the Wife at least he was received. 1 Lom. 86. The Statute of Glamysce 1619, that a Termor may be received to falsify, if he hath a Deed, and comes before Judgment; this is where he in Reversion causeth himself to be implicated by Collusion, to make the Termor lose his Term, &c. 6 Ed. 1 cap. 11. And if any Stranger come in by a collateral Title, before he is recover'd, he shall find the Court to satisfy the Demandant the Value of the Lands if he recovers from that Time till final Judgment; and the Demandant recovering, he shall be gavously amerced, &c. by Stat. 20 Ed. 148.

Refisset of Homage, (Reposite Hemage) The Lord's receiving Homage of his Tenant, at his Admission to the Land. Rish. 148.

Refisset, (Refisset) from the Fr. Refisset, i.e. (Liberation) is an illegal Taking away and setting at Liberty of a Defeas taken; i.e. a Person arrested by Proces or Court of Law: And where a Miss has taken a Defeas, and the Castle disallowed as he is driving them to the Pound happen to go into the House of the Owner; if he then took the Defeas disallowed and drove them away, and he delivered them not, this is a Refisset in Law. Co. Litt. Allo it is used for a Writ which lies for, this Fall, called Beso de

Reffsetis. F. N. B. 101. Reg Orig. 105. Refisset is a forcible Resistance and a Refusing of any Thing, or of a Person arrested, and procuring an Escape against Law. 2 Repet 150. And there must be a Defeas, or an Arrell, or there cannot be a Refisset. 2 Repet. 191. If a Defeas is taken without Cause, as where no Rent is due; or if one disarms out of his Fee, or in the Highway; or disarms fuerit parce sententia, where there is a sufficient Defeas before; or if the Landlord disarms any Thing that is not disarming, one may Refisset: And this may be done by the Tenant, when any thing of his is wrongfully disarmed; or by a Stranger, when his Goods are disarmed without just Cause, &c. But if the Defeas was made upon good Cause, the Owner cannot make Refisset as they are going to the Pound; and notwithstanding the Defeas be without Cause, if it be imposed, the Owner cannot break into the Pound to refuse the Defeas. 3 Repet. 150. 4 Repet. 11. Where the Owner of the Castle, before Defeas, renders his Rent, and a Defeas is afterwards taken, it is wrongful, and the Tenant may make Refisset; tho' he under after the Defeas, it is otherwise; he cannot make Refisset, the Taking being lawful. 1 Repet. 150. 2 Repet. 107. 2 Repet. 147. A Tender of Amends to a Bailiff is not good; for he cannot deliver the Defeas when once taken. Wod. 102. In Refisset, the Plaintiff declared that he had disarmed forty Sheep of the Defendant's, and eighty Sheep of another Person's Damage-feasant, and that the Defendant turned and refused all of them; the Defendant justified the parting his forty Sheep in the Place where, &c. having Right of Commun in them, and that the Plaintiff de injuria sua propria causa chained them, and that the Defendant would have taken them from him, but they ran among the other eighty Sheep of the Stranger, and he folded them, and because he could not seiver them, he chained them the Coal. 2 Repet 107. 2 Repet 147

Refissets of Goods disarmed, and Pound Breaches, incur turel Damages; recoverable by Statute on Action of the Castle, &c. 2 W. of M. Goods were levied on a Writ of Fori secus, and the Sheriff returned that they were removed by him from A. contra volanturiam adjudget, that no Refisset can be on a Fi. fac. for that lies only on a Castle arrestum pro phần, and cannot be of Goods seized; but the Party injured may have an Action on the Castle against A. B. who made the Refisset. Hamb. 104. And if the Refisset be not taken, it is. It has been held, that the Plaintiff, at whose Suit an Arrell is made upon mefe Proces, may have his Action against the Refissetors; and he cannot bring it against the Sheriff: And where a Person is refused, taken upon a Capias ad satisfaciendum. Action lies for the Plaintiff, as well against the Refissetors as the Sheriff. 2 Ric. 3 cap. 146. 2 Ric. 3 cap. 139. For a Refisset in Action upon the Castle, the Plaintiff alleged, that he recovered against A. B. in Debt, and that he was taken by the Sheriff on a Capias ad satisfaciendum, and the Defendant refused him; it was adjudged this Action did lie by the Plaintiff against the Defendant; who is not bound to sue for the Sheriff, and he to have his Remedy against the Refissetors: And if the Plaintiff recover, and he be after fed by the Sheriff, this may be pleaded in Bar. Higges' A. 1734. 1756. If a Sheriff return, that the Defendant refused himself, it is not good; Yet the Defendant shall not take Advantage of his own Wrong. 1 Co. 174. 146.

On Action for an Escape or mefe Proces, if the Sheriff pleads a Refisset, it shall be good; but not upon an Fi. fac. for Execution, where the Sheriff may, and he does not raise the Act of mendis to secure the Prisoner; or when the Prisoner is in Gaol. 2 Lev. 144. 3 Lev. 46. 2 Repet. 105, 8 N 193.
Affidavit: but where an Attachment is granted and they are examined in Interrogatories, upon answering which the Recusant is Examined in Court, and the Return of a Refusal, or Fee, the Return of a Refusal, or Fee, made by the Refusant, or any of the Parties that made the Recuse are to answer to it; and if it is found against them, they may be fined for it: Or the Party grieved may have the Right of Refusal against them. 2 Bal. 157. Refusing a Privilege or before the Courts of Justice at Westminster, is liable to forfeiture of Lands and Goods, and perpetual Imprimatur. And Refusing a Felson lawfully arrested for Felony, is Felony in the Recusant; and so of Treson, Gr. S. P. C. 31. H. P. C. 131. 3 Inf. 141.

Form of the Writ of Refusal.

GEORGE the Second, &c. To the Sheriff of M. Greeting: If A B shall make you feare, &c. then put C D. &c. to Shew only, whereas the said A B. at, &c. certain Brexit of the said C D. had taken, and Refusart for Rent, &c. And those three acres to the Low and Custom of our Kingdom of England, would have Impounded, the said C D. the Brexit aforesaid with Force of Arm Refused, and other Emoraties there did, to the Consternation of us, and to the Damage of the said A B. and against our Peace, &c.

Or put E F. and G H. to Refuse, &c. whereas the said A B. according to the Oaths of our said Brexit aforesaid, and this Brexit aforesaid, and Force of Arm Refused, and other Emoraties, &c.

Gorfralo, The Party that commiss such a Refusal. 2 Corr. 419.

Relf scanner. (Refusor) Is the Re-taking of Lands in to the Hands of the King, where a general Livery or Osfer le main was formerly nullified, contrary to the Order of Law. Stann au Prov. 26.

Rifiers. (Rifier) Is the Re-taking of Lands in to the Hands of the King, where a general Livery or Osfer le main was formerly nullified, contrary to the Order of Law. Stann au Prov. 26.

Refusation. (Refusation) A Keeping aside, or Providing; as when a Man les or departs with his Land, but refers or provides for himself a Rent out of it for his own Livelihood; and sometimes it has the Force of a Saving or Exception. 1 Inf. 145. Exception is always, of Part of the Thing granted, and of a Thing in Being: And a Refusation is of a Thing not in Being, but is newly erected out of the Lands of Te- nement, or of a Thing that has not been used promiscuously. 1 Inf. 47. The proper Place for a Refusation, is next after the Limitation of the Estate; and Refusation of Rent may be every two, three or more Years; as well as Yearly, half-yearly, Quarterly, &c. 1 Inf. 47. 8 Res. 71. It must be out of an House, or Lands; and be made either by the Words Taking and Passing, &c. or the Word Covenants, which is of both Lettner and Leffer, and there-fore makes a Refusation. Roll Rpo. 80. The Re- cousation of Rent is good, although it is not referred by apt and usual Words, if the Words are equivalent. Plowd. 120. 5 Inf. 150. But Refusation of a Rent is foundland Ream, is a void Refusation. 2 Ven. 272.

See Refusation, &c. Rent, &c.

Refusor. (Refusor) Signifies a Man's Abode or Continuance: whence comes the Particular Refusant, which is continually dwelling or abiding in any Place; and is all one with Refusor; but that Custom is only to Perform Ecclesiastical. Old Nat. Br. 85. Kitch. 33.

Refusant. (Refusant) i. e. Roll containing the Refusant Name or a Re-Tithing, &c. which are to be named.

over
over by the Seward on holding Courts Leet. Comp. Court, Ker.

Here a Case (Rheuum) is peculiarly used both in the Canon and Common Law, for the Continance of a Parson or Vicar upon his Benefice: and personal Residece is required of Ecclesiastical Parishes on their Lords, upon Pain of forfetting 10s. for every Month. Stat. 1 H. 8. cap. 15. One of the great Duties incumbent upon Clergymen, is that they Refute upon their Living: and on the old Erection Parochial Churches, every Clergyman was obliged to refute upon his Benefice, for Reading of Prayers, Penance, &c. by the Laws and Canons of the Church; and by Statute, the Parson ought to abide upon his Rectory in the Parsonage-House; for the Statute is intended not only for serving the Cure, and for Hospitality, but to maintain the House, Repair, and prevent Dilapidations; The lawful Imposition, Sicknes, &c. being Things of Necessity, are good Cause of Excuse for Absence, and excepted out of the Act by Concession, and not refusing that the Parson is employed in some important Business for the Church or King; or he is entertained in the King's Service. 6 Rep. 21. 1 Co. 470. In an Information on the Statute above mentioned, it was adjudged that the Parson is to live in his Parsonage House, and not in any other, though in the same Parish. But as by Stat. 13 Eliz. it is declared void, where the Parson is absent above eighty Days in any one Year, &c. On this Act a Defendant pleaded to an Agreement for Ten, that the Parson was absent from his Parsonage for the Space of eighty Days in one Year; and the Jury found that he dwelt in another Town adjoining, and came constantly to his Parish Church four Days in every Week, and there read Divine Service; and it was held, that this was not such an Absence as is intended by the Statute to avoid any Agreement or Lease made by the Parson. 1 Bell. 112. A Person allowed to have two Benefices, may Demise or Lease one of them (on which he is Non-Resident) to his Curate only; but if the Curate leaves over, such Lease shall last no longer than during the Curate's Residence, without Absence above forty Days in any one Year. 1 Leon. 100. See 1 Co. 123. Some Words in the Act 12 Eliz. as to Leases by Parson not Refuted, repeated, widt 14 Edin. cap. 11. and see Non-Residence. 1.

Relief. Is a Tenant who is bound Refute in his Lord's Land, and not to depart from thence. Leg. Hen. 1. cap. 43.

Exemtion Legatee. Is he to whom the Residue of the Estate is left by Will. And such Legatees being made Executor by others, shall resist against the Ref: Where there are two Residue Legatees, and one dies insolvent, his Administrator shall have a Moiety of the Surplus of the Personal Estate of the Testator, contrary to joint Executors, who are not intituled to Moieties; because by making them Residue Legatees, the Testator intended an equal Share to both: And if a Residue Legatee die before the Will is proved, his Executor shall have Administration, &c. 6 H. 7. 1 Chan. Rep. 238. Show. 26. See Executor.

Refutation, (Rheumation) Is the bringing up a Benefice into the Hands of the Ordinary, called by the Curates' Resumption; and though it is all one in Nature with the Word Surrender, yet it is the only surrender to the Yeomanry, to the Spiritual Living to the Bishop, as surrender is the Giving up of Temporal Land into the Hands of the Lord. And a Rheumation may now be made into the Hands of the King, as well as by Bishops, because he has Supereminence in Ecclesiastics, as the Pope had here in ancient Times; though it has been adjudged that a Rheumation ought to be made only to the Bishop of the Diocese, and not to the King because the King is not bound to give Notice of the Rheumation to the Patron, as the Ordinary is; nor can the king make himself, without previous Forewarning, to the Bishop. 2 Bank. 498. Roll. Abr. 358. Every Parson that refuses a Benefice, must make the Rheumation to his Superior; as an Objection to the Bishop, a Bishop to the Archibishop, and an Archibishop to the King, as supreme Ordinary; and a Donative is to be refused to the Patron, and not the Ordinary; for in that Case the Clerk received his Living immediately from the Patron. 1 Rep. 137. A common Benefice is to be refused to the Ordinary, by whose Admission and Inducement the Clerk first came into the Church: And the Rheumation must be made to that Ordinary who hath Power of Indulgence; in whose Diocese it is either to accept or refuse the Rheumation; as the Law hath declared him the proper Person to whom it ought to be made, it hath likewise empowered him to judge thereof. 2 Co. 64. 198. The Instrument of Rheumation is to be directed to the Bishop, and when the Bishop hath accepted of it, the Rheumation is good, to make void the Church, and not before; unless it be where there is no Curate, when it is good without the Acceptance of the Bishop. A Rheumation, may be made before a Publick Notary, but without the Bishop's Acceptance it doth not make the Church void: The Notary can only attest the Rheumation, in order to its being presented, 2 Co. Abr. Before Acceptance of the Rheumation by the Bishop, no Presentation can be had to the Church; but as soon as the Acceptance is made, the Patron may present to the Benefit Rheumated: And when the Clerk is instituted, the Church is full against all Men in Church of a Common Patron; though before Induction, such Incumbent may make the Church void again by Rheumation. Count. Parl. Compan. 106. A Parsonage is not to be granted over by the Incumbent, but it may be Rheumated; and Rheumations are to be absolute, and not conditional; for it is against the Nature of a Rheumation to be conditional, being a judicial Act. 3 Nisw. Abr. 157. If any Incumbent shall corruptly refuse Rheumation, or to any Reward directly or indirectly for refusing the same, he shall forfeit double the Value of the Sum, &c. given, and the Party giving it be incapable to hold the Living, Stat. 51 Eliz. cap. 6. But a Man may bind himself by Bond to Rheumate, and it is not unlawful, but may be upon good and valuable Reasons; as where he is obliged to Rheumate if he take a second Benefice, or if he be Non-refuted by the Space of so many Months, or on to Rheumate if the Patron shall present his Son or Kinsman when he shall be of Age capable to take the Living. 2 Co. 147. 149. For Rheumation of Benefices have no Encouragement in Church; for no such Bonds generally the Incumbent is relieved, and not obliged to Rheumate. 1 Roll. Abr. 443. A Parson's Refusal to pay his Tithes, tis said is a Rheumation, for which he may be deprived. Owen 5. And where Rheumation is actually made de Eexitial, as it extends to all the Lands and Profiscions of the Church. Co. Yar. 63. The usual Words of a Rheumation are Reseatures, Cede, Dimittor, and Refugum; and the Word Rheumate is not a proper Term alone. 2 Roll. 350.

Form of a Rheumation of a Benefice.

manu Reverendi Patris Johannes permissu Divinae
Cosmati Episcopi loco stitit Ordinarii et Disputante, vel
seu Commissario, qui sive delinuerat, sive
iniquitatis banc esse Reformatione admittit. Paterna
benedictum vel babiri, nam vel in muta cœtis, nec
dobe mox ad idem inducius, nec aliquis forensis machinae
maior, sed in cœtis, animi decus, & Spontanei unenturis suis juris, & adjunctae
Requisiti & Requisitori, ac te & coram vacare dimissi,
jure queque tituli & Petitionum men in solam Reformationem
fere Propriæz Ectasia, una cum sui jure, Membri
& pertinente Universi probabilitatis & militiae conscribunt
omnia, & singuli Requendi eftentum Ced & ad
idem recte resolutori & expressi Scripturis. In
viris Rei Tithennium nonem & Gylliam mereb preti-
phasisque affetis & Anno, &c.

Repetition of Titles. If a Man can have no
Title to the Profess of an Office, without the Admis-
istration or Confirmation of a Superior, there the Requa-
sition of that Office must be to him. 1 Nolf. Abp. 
158.

Refuge, (Refugium) Signifies the Authority or Ju-
risdiction of a Court; Salus tamen tam Rerum quam
cullis, jure nefco, & jure citum alius. Spelm. Dominor
Regis, the last Refugee.

Refugio distinctus Procuratoris babine, is a
Writ for the Refugio a Sheriff's Account, directed
to the Treasurer and Barons of the Exchequer. Reg.
Ori. 319.

Refugio, (Refugio) A Delay, Forbearance, or
Continuation of Time. Glanv. lib. 12. c. 9.

Refugio de Homage, (Refugio Homaggio) is the
Forbearance or Delay of Homage, which ought to be
performed by Tenants holding by Homage, &c. 'tis
that it had the most frequent Use for such as held in
Knights Service in the Capita, who partly paid into the
Exchequer every fifth Term some small Sum of Money
to be restored their Homage: But this Charge being
incident to and arising from Knight's Service, is
drawn away by the Statute 15 Car. 2.

Repontissa Butler, To answer over in an Ac-
tion to the Merits of the Cause, &c. If a Demurrer
is joined upon a Plead to the Jurisdiction, Perfon, or
Writ, &c. and it be adjudged against the Defendant,
then, it is a Repondent Officer. Jenk. Cent. 306. See
Judgment.

Reponse Suprascripta. If Sheriff of London are
insufficient, the Mayor and Commonalty must answer
for them: And pur Insufficiencia del Bisbat d'un Liberty,
Reponse Dominos Libertatis. 4 Ind. 114. Stat. 4 E.
417. If a Conner of a City is insufficient, the County
as his Superior shall answer for him. Ward's Inf. 83. A Cogler confiders an-
swering for him, will be grand to an Ejectment, if he be not
sufficient, Reponse Superior; and all Sheriff's Officers
must answer for their Deputies in Civil Actions, if
they are insufficient to answerDamages. Dr. &c.

Responstatis, (Quo Responisti defor) Is he that ap-
pear and answers for another in Court at a Day
assigned. Glanv. lib. 12. cap. 1. And Plata makes a
Difference between Reponsam, Attratam, and
Effistamatam; and says that Responstatis was for the
Tenant, not only to execute his Absence, but to signify
what Trial he meant to undergo, the Combat or the
County. Plata, lib. 6, cap. 21. This Wode is made
use of in the Canon Law, & significant procuratorum
cum qui aërentem excusat.

Respondit (Responsum fuit) Was applied philly
to the Knights of St. John of Jerusalem, to certain
Accounts made to them by such as held their Lands,
Ct. 54 H. 4. cap. 24. Responsum. A Word used for Rudiments: Fui Alex-
ander lent two Perons to King Edu. 1. pro Responso
ECclasticorum. Blunt.

Restitutum, i.e. To day or stop: It is mentioned in
Mat. Par. 555.

Restitution, (Restitutio) Is a Restoring any Thing
unjustly taken from another: It signifies also the set-
ting him in full Possession of his Goods, or Tenements,
which he had been unlawfully deprived of them. Cramp. Inf.
144. And Restitution is a Writ which lies where a
Judgment is reversed, to re-stores and makes good to
the Plaintiff all that he hath lost: The Court which reverses the Judgment, given upon the
Reversal a Judgment for Restitution, where a Scire
facies quae Restitutionem habet non debet, reversus
the Reversal of the Judgment, and the Writ of Execu-
tion, &c. must issue forth. 2 Litt. Abp. 472. But
the Sheriff doth oftentimes refer the Plaintiff to one
without a Writ of Restitution, i.e. by Writs Habeas
facias Petitionum, &c. in the common Proceeding of
Judicam upon a Trial at Law. Ibid. 473. And there
is a Rule as to the Possession of Lands in Cases of
forfeiture Every a Restitution of Lands to an Host, on
his Ancestor's being attainted of Treason or Felony; and
Restitutio of Judicam Goods, &c. A Writ of Restitution
is not properly not reversed: but where the Party can't
be referred by the ordinary Course of Laws and
the Nature of it is to re-stores the Party to the Possession
of a Freethold, or other Matter of from, from which
he is in illegally removed; and it extends to Restitution
on Mandamus to any Publick Office. Trin. 25 Car.
B. R. 2 Litt. 472, 473. Where a Judgment for
Land is reversed in B. R. by Writ of Errors, the
Court may grant a Writ of Restitutions to the Sheriff
to put the Party in Possession of the Lands recovered
from him by the erroneous Judgment: though there
ought to be no Restitution granted of the Possession of
Lands, where it cannot be grounded on some Matter of
Record appearing to the Court. Hill. 22 Car.
And Persons that are to re-stores, are to be Parties
to the Records of the Title, must be made by the special
scire facias. Cro. Car. 328. a Salk. 587. If a Leafe is
taken in Execution upon a Foro facias, and fold by
the Sheriff, and afterwards the Judgment is reversed:
the Restitution must be of the Title for which the
Leafe was fold, and not the Term. Cro. Juc. 246. Mers. 288.
But a Sheriff extended Goods and Lands upon an
Ejectment, and recovered that he took a Leafe for Years,
which he fold and delivered to the Plaintiff as Secret
& Catallia of the Defendant for the Debt, and after-
wards the Judgment was reversed for Error: and it
was adjudged, then, the Party shall be referred to
the Leafe, because the Ejectment gave the Sheriff no
Authority to sell the Term, and therefore a Writ of Re-
stitutio was awarded. Teile. 179. And there has been
in this Case a Distinction made between compulsory
and voluntary Acts done in Execution of Judicam, where
the Sheriff is commanded by the Writ to sell the
Goods, and where he is not, when the Goods are to
be re-stores, Cro. 8 Rep. 96. If the Plaintiff hath
Execution, and the Money is levied and paid, and af-
terwards the Judgment is reversed, there the Party
shall have Restitution without a scire facias, for it is
upon the Record what the Party had lost and paid: but
if the Money was only levied, and not paid, then
there must be a Scire facias2 alleging the Sum levied,
&c. And where the Judgment is for aside after Exe-
cution for an Irregularity, there needs no Scire facias
for Restitution, but an Attachment of Contemn, if
upon the Rule for Restitution, the Money is not re-
62. 1 Salk. 588. In a scire facias quae Restitu-
tionem, &c. 'the Defendant pleaded Payment of the
Money mentioned in the scire facias; and it was held
that the Plaintiff could not be no. Cro. Car. 328. But now Payment of the
money is a good Plea to a scire facias by the Stat. 4 & 5 Anm.
2 Litt. Abp. 472. Upon a &c Leases purchased a Per-
son was put out of Possession; and upon a Suspicion
thereof, and Aschalt, made, Restitution was ordered.
Cro. L. 461. The Judicam of Peace, before, where
an Indemnification for forcible Entry in fea, must give
the Party Restitution of his Lands, &c. who was any
out of Possession by Force. Stat. 3. Hen. 6. But where one is indicted for a forcible Entry, and the Party indicted trespass the Indictment, there cannot be Requisition before Trial and a Verdict, and judgment given, though the Indictment be erroneous; it being too late to move to quash the Indictment after the Verdict, which puts the Matter upon Trial. 2. Litt. 475. 476. The King may require the Party or his Heirs to his Lands, and the Blood, as to all fines begotten after the Attainer. Ibid. There shall be a Writ of Requisition granted to the Owner of false Goods, by the Court where a Falsa is tried on Indictment, after the Attainer of the Falsa, as in Case of Appeal of Robbery. 21 Hen. 8. cap. 11. And it may also be of Money when the False is convicted of the felony by Reason of the Evidence given by the Party robbed, or by his Procurement, &c. And by this Statute Executors and Administrators shall have Requisition of Goods, and it is a good and Substituting Saie in Market over. 3. Edw. 7. 3. Edw. 2. cap. 109. If Goods false are not waived by Flight, or seized for the King, the Party robbed may take his Good again, without prosecturing the Falsa; but if they are seized for the King, they may not be released without Appeal or Indictment. 22 Edw. 3. see Hardw. P. C. 168.

Writ of Recover is when the Party alleging a Writ of Requisition by the Court where a Falsa is tried on Indictment, after the Attainer of the Falsa, as in Case of Appeal of Robbery. 21 Hen. 8. cap. 11. And Requisition is generally Master of Duty but Requisition is Master of Cause. Russ. 85. A Writ of Requisition may be granted by the Court on a Motion to grant it. And on quashing an Indictment of Forcible Entry, the Court of R. may grant a Writ of Requisition. 2. Litt. Ab. 474. The King’s Encumbrants, is a Writ directed to the sheriff to retitle the Temporaries, or the Baronies of a Bishoprick to the Bishop elected and confirmed. P. N. B. 169. 2. Bell. Ab. 880.

Requiescens (Requiescentia) Signifies a second Summon, or calling a Mas to answer an Action, where the first Summon is defeated by any Occasion; and the Party, &c. of the Judge, they who have not come on the Day to which they were continued, for the Trial of Cause, such Causes may be revived on the same Occasion, with the same Agreement. Resumption, (Reimposition) Is usedparticularly for the Taking again into the King’s hands such Lands or Tenements, &c. as before upon false Suggestion he had had by Letters Patent to any Man. Bract 296. It is said that the King cannot grant a Prerogative of Power so, but that he may resume it: but otherwise it is of a Grant of an Interest. Skinner’s Rep. 236. Resumption of Grant is mentioned in the Stat. 51 Hen. 6. cap. 7. and other Statutes.

Retail. To buy by the Great, and sell by Retail or Parcels. 3 & 4 Ed. 6. cap. 22.

Retails. (From the Lat. Retina) Is a Keeping or Maintaining; as of a Servant, not manual or communally dwelling with the Master, but attending sometimes upon special Occasion. 1 R. 6. cap. 7. See Loans. And Cowpellers and Attorneys are required to attend the Caues of their Clients, in the several Courts, &c.

Revising fis, Is the first Fis given to any Ser vant or other law, where it makes him sure that he shall not be on the contrary Side.

Revisiteratur, Is a Word used for Desiring, with boldness, or keeping back. And for all revivers were a usual Expression in old Deeds, and conveyances of Lands, Gavel,

Bretiarum, A Reissue, or Person retained to a Prince or Nobleman. Pat. 64 R. 2.

Retreatous, The Ebb or return of a Tide. Place 30. Em. 1.

Revisit, Is when the Plaintiff cometh in Persou in Court where his Action is brought, and faith he will not proceed in it: and this is a Bar to that Action for ever. It is so called, and it is the euphemism, Word in the Latin Essay, ented thus, fi. lit prud. Surre. in proprio Persou sua certum & dict quod istum pluriem fum prvd. non prvd. Deferunt alterius Persoua in mlns, sed abinde enim in Persoua. A Revisitante must be always in Persou; and if it is by Attorney, it is Error. 8 Rep. 58. 5 Salk. 246. As to a Revisitante, it is a Bar to any Action of equal Nature brought for the same Cause or Duty, but a Non suit in not. 1. Salk. 208. If the Plaintiff says he will not appear, this is not a Revisitante but Non suit: But if the Plaintiff says he will not for it, it is a Revisitante. 2 Daws. Ab. 471. And Revisitante is always on the Part of the Plaintiff or Defendant: and it cannot be before a Declaration, for before the Declaration it is only a Non suit. 3. Litt. Ab. 476. If the Plaintiff enter a Revisitante against one Joint Trespasser, it is a Revisitante to the other. Cr. Eid. 752. But if a Revisitante be entered as to one Appellant in Appeal of Monery, the Suit may be continued against the Rest; because the Appellant is to have a further Execution against every one of them. H. P. C. 150. In a Plication by any Person or Revisitante of one shall not bar the other two Plaintiffs. Mun. 450. Nuff. Ab. 165. See Nolle Prosequi.

Reviscopamagiantum, Is After Pannage, when the bell is eaten, and only one has a Licence and such like are left. Pet. in Parl. temp. Edo. 5.

Betti, (Fr.) A Charge or Accusation. Stat. Wd. 1. cap. 2.

Recum, (Return, or Return, from the Fr. Recum, i.e. Redition, reditus) Hath divers Applications in our Law; but is most commonly used for the Return of Writs, which is the Certificate of the Sheriff made to the Court of what he hath done touching the Execution of any Writ directed to him; and where a Writ is executed, or the Defendant cannot be found, &c. then this Notice is required on the Back of the Writ by the Officer, and delivered into the Court whence the Writ issued, at the Day of the Return thereof in order to be filed. Stat. T queryString. 2. cap. 59. 1 Litt. Ab. 470. The Sheriff is to send return to the Returner always to be the Return of Writs; otherwise it doth not appear how they came into Court. If a Writ be returnated by a Person to whom it is not directed, the Return is not good, it being the same as if there were no Return at all upon it. And after a Return is filed it cannot be amended; but before it may. Cr. Eid. 110. 1 Litt. Ab. 472. 478. If the Sheriff doth not make Return of a Writ, the Court will smere him so if he makes an insufficient Return; and if he makes a false Return, the Party grievous may have his Action of the Cause against him. Wood’s Ind. 73. If a Sheriff return a Vouchsafed summoned, where in Truth he is dead, and there is no such Person; or in a Précipit post reditum that the Fœnum is dead, &c. there may be an Amertment against such Returns, by the Stat. 1 Ed. 3. c. 8. Hk. C. 121. Some Returns are a kind of Declaration of an Accusation; as the Return of a Revisión, and the like; and their must be certain and perfect, or they will be fil. 11 Rep. 40. Bowd. 63. 117. Keb. 167. Writs to do Things in Franchises, are directed to and returned by the Sheriff, to whom Bailiffs make their Returns. And the Action will lie against the Sheriff, that takes the Return of one that is no Bailiff, and against him who makes it, and likewise against the Bailiff of a Franchise, for Negligence in Execution, c. 1 Ed. 3. c. 12. 9 Ed. 4. c. 15. Mun. cap. 600. Sheriff are to accept of

0 O

Returns
Return of Bailiffs of Liberian, where they are sufficient.

RE

Return of Day, Are Days in Term called by that Name; or Days in Bank. See Term.

Return Haberdieu, Is a Writ that lies where Cat-
tle are distrained and replied, and the Perfon that
took the Diff rents judifies the Taking, and proves it
to be lawful, upon which the Cattle are to be returned
to him. This Writ also lies when the Plaintiff in Re-
plevin is removed by Recordare into the King's Bench
or Common Place, and he whose Cattle are distrained
makes Default, and does not prosecute his Suit. F.
N. B. 74.

Returnum Veritatum, A Judicial Writ, the same with

Returnum irrepugtabile, Is a Writ Judicial, di-
rected to the Sheriff for the final Reaffirm or Return
of Cattle to the Owner when unjustly taken or di-
strained by another, and so found by Verdict; and is
called after a Non Suit in a second Deliverance.

Receiv, Is the Bailiff of a Franchife or Manor, espe-

Receivland, The Land which in Domfeid is to have
been Rooded and, after conveyed into Receivland, seems to have been such Lands as being
reverted to the King after the Death of his Tsme,
who had it for Life, was not since granted out to any
by the King, but repled in Charge upon the Person
of the Reu or Bailiff of the Manor. Spelm. Fruds.
cap. 24.

Recite, Signifying with us Sports of Dancing, as Making, &c. Commonly performed by Night: See Master of the Revels.

Receus. (Fr.) Is properly the yearly Rent that
accrs to any Man from his Lands as {distrained:
and is generally used for the Revenues or Profits of
the Crown. An Act passed for preventing all Doubts
and Questions concerning the Collecting the publick
Receus in W. 31. 2. E. 2. 34.

Refusal, Of a Judgment is the making it void for Error: and when upon the Return of a Writ of Error, it appears that the Judge is erroneous, then the Court will give Judgment, Quod judicium requi-
estur, adductio & gestus pra niia habebat. 2 Lill.
Abr. 451. The ancient Judge of the Court, and in his Absence the next in SENIORITY to him, does
always pronounce the Refusal of an erroneous Judg-
ment openly in Court, upon the Prayer of the Party; and he according to the ancient Courte pronounces it in French, to this Effect. Par les Errors rouundts, et
autre error, manifest in le Record, fait le J udgment
Recus, &c. Thir. 22 Car. B. R. A Refusal of a
Judgment may be pronounced conditionally, i.e.
that the Judgment is reversed if the Defendant in
the Writ of Error doth not shew good Cause to the
contrary at an appointed Time; and this is called a
Receus non. And if no Cause be then shewed, it
stands reversed without further Motion. 2 Lill. 482.
The Stat. 21. 3. 16. hath provided a new Writ,
where Judgment is reversed after a Verdict, or
where an Outlawry is reversed, &c. Lawm. 244.

Refusation, (Recus, from Recus) Signifies a
Return against; and therefore Recusus term is
often applied to a Person who is not granted one for Life, and who cannot
dismiss it, nor demand it. 1. Sm. 142. A Recusus
hath two Significations: the one is an Easement, which continues during a particular Easement in Being;
and the other is the Reverse of the Land after the
particular Easement is ended: It is said to be an Interfell
in the Land, when the Possession falls, and so
is commonly taken; or it is when the Easement which
was passed with for a Time, ceases and is determin-
ed in the Possession of the Aliens or Grantors, &c,
and returns to the Grantor or Donor, or their Heirs
from whom derived. Plead. 160. 1. 134. But
the usual Definition of a Recusus is, that it is the
Recovery of an Easement left in the Grantor after a par-
ticular Easement granted away, continuing in him that
granted the particular Easement: and where the par-
ticular Easement is in the Owner: Alfo a Recusus takes Place after a Remainder, when a Person makes a
Difiision in Taw, the Recusus of the Fee-simple is in the
Donor; and in a Leafe for Life, or Years, the Recusus is
in the Leafee: Alfo a Recusus takes Place after a
Remainder, when a Person makes a Dissolution of
several Easements, and in such a Leafe, than whereof he was feated at the Time of making thereof.
1. Sm. 22. 14. Wood's

Was Py. 151. When the particular Easement determined,
then the Recusus comes into Possession, and before it is
separated from it; for he that hath the Possession,
cannot have the Recusus, because by uniting them,
two distrents of the same Kind are not receiv-
l. 2 Lill. 482. The Recusus of Land when it falls, is the Land it-
self; and the Possession of the Tenant, prefers the
Recusus of the Lands, with the Rents, &c. in the
Donor, or Leafee. 1. Sm. 3. 154. A Recusus of an
Easement of Inheritance, may be granted by Bargain and
Sale inrolled, and Release, Fine, &c. And by
the Grant of Lands, a Recusus will pass; though by
the Grant of a Recusus will not pass. The Act of
1555, 25. 1. 43. The Recusus of a Feudal
Leafe is derived out of his Leafe: As in a Gift in
Taw, the Recusus of the Fee-simple is in the
Donor; and in a Leafe for Life, or Years, the Recusus is
in the Leafee: Alfo a Recusus takes Place after a
Remainder, when a Person makes a Dissolution of

[Further text continues, discussing various legal terms and concepts related to real estate and property law.]
other. 3 Sep. Ab. 210. The Copyholder for Life, cannot be a Rentcharge or otherwise destroy the Estate in Reversion: And he that hath a Reversion cannot be put out of it, unless the Tenant be ousted of his Possession 56. 12 H. 6. Plowd, 162. Vero. 19. Reversion expected upon an Estate tail, are not Affets, or of any Account in Law, because they may be cut off by Fine and Recovery: but it is otherwise of a Reversion on an Estate for Life, or for Remainder: 1 Jac. 1. in 175. 6 Rep. 38. Wood's c. 175. No Lease, Rentcharge, or Estate, &c. made by Tenant in Tail in Remainder, shall charge the Possession of the Reversion on any Estate tail, shall be barred by a Recovery. 3 Rep. 39. There were no Reversions or Remainders: and whereby Easements and Leases may be made any Provision for those who have Remainders or Reversions on any Estate tail, are they barred by a Recovery. 10 Rep. 52. There were no Reversions or Remainders: and whereby Easements and Leases may be made any Provision for those who have Remainders or Reversions on any Estate tail, are they barred by a Recovery. 3 Rep. 53. And by the Common Law, no Grant of a Reversion could take Advantage of any Condition or Covenant broken by the Leases of the same Land, but by Statute, Grant of Reversions may take Advantage of Conditions and Covenants against Leases of the same Land, as fully as the Leases and their Heirs; and Leases may have the same Privileges against the Grant of Reversions, &c. 1 Jac. 177. 35 Hen. 8. cap. 34. A Reversioner may bring Action of the Case for impaling of Trees: for any Injury to his Reversion, he may bring Action of Nuisance: but if afterwards, he is impaled, he will not have Trepass, which is founded on the Possession. 5 Lev. 209. 213. 3 Cor. 55. He in Reversion shall have a Write of Entry and County Letters, where Tenant for Life, &c. aliens the Lands; and Write of Injunction, after their Deaths, &c. New Nat. Br. 461. How to plead a Reversion in Fee. 1 Lew. 1174. The Privilege of Stay against a Remainder, is that a Remainder is general, and may be to any Man, but he that grants the Land, for Term of Life or otherwise: and a Reversion is to himself from the Grantor, and is not proceeded, and is commonly perpetual, &c. And Remainder in an Estate, appointed over at the same Time: but the Reversion is not always at the same Time appointed. See Remainder. Reserva in cottis, vide Office. Unriga tete, A Ridge or Furrow of anable Land, planted in a slight Line. Moa. leg. Tom. 1. PG. 518.

Reribio, (Fr. Reserve) A Bill of Reserve in Chancery, is where the Cause hath been heard, and the Decree thereupon given, but some Error appears in the Body of the Decree, or new Matter is discovered in Time after the Decree made: Which Bill must be exhibited by Leave of the Court, and is usually done 9 H. 4. of the Discovery of new Matter, which could not be had or used at the Time of the Decree passed: and the Sum of 10 l. must be deposited in Court, on bringing this Bill, as a Surety for Costs and Delay, if the Matter be found against the Party, &c. Ord. in Cas. 69. Prud. Selic. 121. 122. Where a Decree of Chancery is repugnant, or one Part of it contradicts another, &c. it may be revoked by Bill of Review. Ibid.

Reribio of Appell of Delegatia, Is a Commission granted by the King, to certain Commissioners, &c. See Appeal in Rome.

Reribio, or Bill of Reserve, Is when a Bill hath been exhibited in the Chancery, against one who answereth, and before the Cause is heard, or is heard, and the Party dieth: then, besides the forms of the Case, this Bill of Reserve must be brought, praying the former Proceedings may stand revised, and he put into the same Condition as if the Party were alive. When a Party dieth, a Female Plaintiff married, or there have been no Proceedings on a Decree, &c. for a Year past, the Decree and Proceedings must be revised by Salpuna Strike focius, or if the Decree be installed, by Bill of Revise: But if the Parties be not Heirs or Executors, &c. to the Party dead, the Decree or Caute is to be revised by original Bill, and not by Salpuna. Sis. fac. 41. If a Bill of Reserve be granted, &c. the Decree lies not upon a Decree of long Standing, but an original Bill is to be preferred. Prud. Selic. 132.

Reribio of Actions, a Word metaphorically applied to Actions, Bills, &c. and with Actions them after they were extinguished. Brod. 245.

Reversion, (Reserva) Signifies the Calling back of a Thing granted; or a Detroying or making void of some Deed that hath not once subsisted, but of Reversion made it void. 1 Litt. 248. And a Reversion may be either General, of all Affets and Things done before; or Special, to reduce such a Thing: And where any Decree or Judgment, it is as it if never had been. 3 Rep. 50. Perk. Selic. 170. In voluntary Deeds and Conveyances, there are frequently Provisions containing Power of Reversion, which being coupled with an Use, and tending to pass by raising of Ules, according to the Stat. H. 8. are allowed to be good, and not repugnant; as where one frieden of an Estate in Fee, coventes not, and seised thereof to the Use of himself for Life, and after to the Use of his Son in Tail, Remainder over, &c. with Power that he may revoke any of the said Ules; but if afterwards, he is seised again in the Fee, without Entry or Claim: But in Case of a Feoffment or other Conveyance, whereby the Feoffor or Granter is in by the Common Law, such Proviso would be merely repugnant and void. 1 Jac. 177. Stat. 27. Hen. 8. cap. 10. And voluntary Easements made with Power of Reversion, as to Purchasers, are held in equal title. See Remainder. Reversion in cottis, vide Office.

Reribio, A Ridge or Furrow of anable Land, planted in a slight Line. Moa. leg. Tom. 1. PG. 518.
REI

174. Moor 615. A Will is revocable; and a last Will revokes the former: Though a new publication of the first Will, where there are two Wills, it is laid down, 7a. 39. 2704. 2 Ser. 3 Will. 45. 20. 2707. Wills are to be revoked by some other Will in Writing, signed in the Presence of three Witnesses, or by Cancelling by the Testator, &c. Stat. 20. 364. A Will revoking a former, tho' it must be subscribed by three Witnesses, 'tis said need not be in the Testator's Presence, as the Will of Lands must be, by the Statutes. 3 Will. 539. If a Person cancels or revokes either the Duplicate or original Will, this avoids both; they being but one Will, and must stand or fall together: But where a Man makes a second Will, and considers that as a Reversion of the first: if it be insufficient, it shall not destroy the full Will though cancelled. 3 Will. 210. 258. 2 Vern. 721. The Testator is to be of a good disposing Memory when he makes his Will, as well as when he makes it: he must have Anisim Rewuardi, as well as Anisim Tsanadi, to make an effectual Reversion. 1 Vern. 317. 1 Vern. 357. 2 Vern. 213. Writings of Reversion are to be taken according to the Subject Matter, or, where a last Will cannot stand with the first. 4th. 4a. A Testator made his Will, and some Time afterwards, made a Deed of the Proceeds of the Lands in the Will to Uses; and adjudged this was a Reversion of his Will, because a Will cannot take Effect till after his Death. 4th. 4a. And a Tenant in Tail made his Will in Tentin, which was duly executed; afterwards he made a Bargain and Sale of the same Lands contained in the Will, to a party to the Proceeds, in Order to suffer a common Recovery, which was done accordingly, and he declared the Uses to himself and his Heirs; by the Bargain and Sale, &c. the Will was revoked. 4th. 4a. It has been admitted to be a fiction Rule in Chancery, that where a Testator devises his Land in Fee to one, and after mortgages it in Fee to another, and then dies before the Principal and Interest is paid; the Recovery of the Will, but only good so much for which the Lands were mortgaged, and the Devisee shall have the Equity of Redemption. 1 Vern. 248. 2707. Where Lands are devised to one in Fee, and after mortgaged to the same Person, it is Reversion in ten in the Devisee, but if the Land be mortgaged to a Stranger, in that Case 'tis revoked. 5 Vern. 539. 4th. A Man feigned of Lands, devites the same to his Executors, or for Life, and afterwards makes a Leave thereof to another for Years, it shall not be a Reversion, but during the Years: Though in Case of a Person has devised Lands to one and his Heirs, and after Lesse to the same for a certain Term, to commence after his Death; that is a Reversion of the whole Estate. 1 Vern. 248. 2707. 2 Vern. 248. 2 Vern. 49. In Case a Fortune be given to a Child by the Father, subsequent to the making of his Will, wherein he bequeathed her a Portion; this shall not be taken as a Reversion of the Legacy and Will for so much. Preced. in Case. 183. A Person being unmarried, by Will devised all his personal Estate to T. P. and afterwards married and had several Children, and died without making any other Will: it was ruled by Commissioners of Delegates, that there being such an Alteration of his Estate and Circumstances, it was widely different from the Time of making his Will to his Death, there was room to presume a Reversion, and that he did not continue of the same Mind when he died. 2 Vern. 592. Letters to Attorney. 1 Vern. 592. Where other Authorities, may be revoked, by the Persons giving the Powers; and as they are revocable in their Nature, it has been adjudged, that they may be revoked, though the Power made irrevoable, 3 Ry. 839. 2 Vern. 357. 2 Vern. 357. These Reversions of a Power regularly must be made after the same Maner it was given; and there ought to be Notice to the Party, &c.
tollment-Books of all Grants that pafs the Great Seal.

Bull. 69.

Bullings, Are the Names of the Parts or Divisions of Fulkurs, which are three, viz. Earl Riding, Walth-Riding, and North-Riding, mentioned in the Stat. 20 Ed. III. c. 5. And in Indiments for Offences in that County, the Court must be expected, &c. W. Sibb's Symb. par. 2. See Registry of Deeds. Stat. 2 & 6 Hen.

Bruns arrest. A Pecus ufed in an Action of Debt for Arrears of Account, whereby the Defendant al-

equals that there is Nothing in arrest. Book Entr.

Bruns pacl per le fluit. Signifies that Nothing pulled by the Debt, and the form of an Exception taken in Some Cases to an Action. Brads.

Bruns per Defect. Is the Pecus of an Heir, where he is fued for his Ancestor's Debt, and hath no Land from him by Detent, or Affers in his Hands. 3 Co. 151. In Action of Debt against the Heir, who pleads Risus per Dilectum. Judgment may be had privity; and when Affets detent, a Store faces lies against the Heir. Gr. 8 Rep. 176.

Bury Court. (Rexa Comitalis, from the Fr. Ar-
vier, i.e. Posterity.) Is opposed to full and open County; and appears to be some public place, where the Sherif appoints for Receipt of the King's Money, after the End of his County Court. 2 Ed. 3. cap. 5. Stat. Willia. 1 c. 38. Pudin. lib. 2. cap. 67.

Affets (from the Fr. Dilecta, Repas.) Is to take away any Thing by Force; from whence comes our English Word Right. Leg. Hen. 1 c. 57.

Burlatia. A flight Wound in the Flesh. It is mentioned 44 Eliz. c. 44.

Right. (fut) In general Signification, includes not only a Right for which a Writ of Right lies; but all

any Title or Claim for which no Action is given by Law but only an Entry. 1 Infus. 265. There is Right of Entry, and of Action, where a Man is put out of his Lands; of Property, when one is defied, &c. and of Pussicion. There is a Right of Future and Future Right; a Fut in Re, which may be granted to a Stranger; and what is called a naked Right, or Fut ad Rem, where an Action is turned to a Right, on a Declaration, &c. Gr. Co. Litt. 126. A Right in Writs and Pleadings, is properly in one, when he is outed of the Possession of his Estate by Dileffin or Wrong, and hath Remedy by Entry, or Affets: But Right doth also include an Estate in office in Conveyances; and therefore if Tenant in Fee simple makes a Leave and Release of all his Right in the Land to another, the whole Estate in Fee passes. Woul. 119. 126. Sir Edward Coke tells us, That of such an high Esti-
mation is Right, that the Law preferveth it from Dileffins; and if it continues down it may be, but never trodden out: And there is such an extreme Enmity between an Estate gained by Wrong and an ancient Right, that the Right cannot possibly incorpo-
rate itself to the Estate gained by Wrong. 1 Infus. 279. 8 Rep. 105. 6 Rep. 70. A Right may some-
times sleep, though it never dies; a long Possession exceeding the Memory of Man, will make a Right; and if two Persons are in Possession by divers Titles, the Law will adjudge the Possession in him that hath the Right. Co. Litt. 478. 6 Litt. 158. Where there is no Remedy, there is presumed to be no Right by Law. Waugh. 38. No Commands shall be made under the great or little Seal, to disturb or delay com-

mon Right. Stat. 2 Ed. 3. c. 8. See Rights.

Rights upon the publick: Possessions of Rights and Liberties against the Conduits of J. James, 2d fet forth, that He by the Assistance of divers evil Counsellors, did endeavour to subvert the Laws and Justice, and the Power of dispencing with, and dispensing of Laws; by levyng Money for the Ute of the Crown by Preten-

sions, without Consent of Parliament; by raising and keeping a Standing Army, in Time of Peace; by violating the Freedom of Election of Members to serve in Parliament; by violating Proclamations in the Court of King's Bench and caudng partial and cor-

rupt Jurores to be returned on Trials; exeuctive Bail to be taken; and exeuctive Fines to be imposed; also to

encouragement of such Practices in the Courts of Common Law, and to expel and replace the Judges the

courts to be illegal, and infringing upon the ancient Rights and Liberties of the People. Stat. 1 W. & M. cap. 6.

Rift, (Sax. Rynn) A Water course, or little Stream, which rises high with Floods.

Rings, A military Girdle; from the Sax. Rinn, i.e. decum, circuit, in a cause it was girt round the Middle: But according to Braut, Rinnas enim di-
cunctum precedit circum., ens dictum accipit girdle. Brass. lib. 1 c. 8.

Ringstitched, An Engine used in furching of Cloth. 45 Eliz. c. 10.

Ringletts, A Kind of Baifiiff or Serjeant; and such Rsperq livelihoods in Hen. 7th.

Rift, (Rizza, Risset, Fr. Riote) Is where three or more Persons assembled together; do some unlaw-

ful Act of a private Nature, with Force and Violence, to the Disturbance of the Peace; as by beating one Person, forcibly Entering into the House, or upon the Possession or Lands of another, breaking down Inlo-

cures, &c. 3 Infus. 176. In every Riff, there must be the Intention of Force, or Violence; wherefore Inlo-

cums for Wredlng, Playing at Cudgels, Dance,

cums, &c. are not Riffs: And this Force must relate to some private Quarrel only; for if the Intention of such Inloccums is to redress Some Relevances of a Publick Nature, and such Intention is executed, it is a Levy-

ing War against the King, and Treason. Dall. 352.

3 Infus. 170. 1 Eliz. 70. 76. There are to be three Per-

sons at the least to make a Riff, and two alone can-

not be guilty of it: though two Persons may make a Conspriacy, &c. 3 Litt. ad. 489. If divers Persons assemble together in such a manner, and after assembled do some deliberate riotous Act; this is a

rious Assembly, notwithstanding they did not at first assemble in a rious Manner. The rious Act shall have Relation to their Assembling together, and the Intent and Nature of Persons is best interpreted by their Actions. ibid. But if Persons on a lawful Meeting, fall out upon a sudden Quarrel, here being no Inten-

tion of an unlawful Act, it is no Riff. Dall. A Number of Persons being met together at a Fair, Markcr, or Church-Day, or any other lawful and in-

nocent Occasion, if they happen to fall together by the EAST, they are not guilty of a Riff, but a sudden Affray only; because the Delight of their Meeting was lawful, and the consequent Breach of the Peace happened unexpectedly: Yet it is said, if Persons innocently assembled together, do afterwards upon a Dispute happening to arise among them, form themselves into Parties, and then make an Affray, they are guilty of a Riff: For upon their Confeder-

acting together, with an Intent to break the Peace, they may as properly be said to be assembled toge-

ther for that Purpose, from the Time of such Confe-

deracy, as if their first coming together, had been upon such a Delight. 1 Hawk. P. C. 156. 6 Mod. 45. and it is agreed, That if an Assemble of Per-

sons met together on any lawful Occasion, shall on a sudden Propoal go into a Body to pull down a Houte, or Inclosure, or do any Act of Violence to the Di-

burbance of the publick Peace, and the same be executed accordingly, the Persons concerned cannot be Riffers; their Assoilciating themselves together for such a new Purposo, being no way evemuated by their having met at another Place, and then proceeding to act upon a Person feeing others actually engaged in a Riff, shall join them, and assist them therein, he is as much a

Riffor as if he had at first assembled with them for that
that Intent; nor shall his pretended that he came innocently into the Company avail him; for it is impo-
sable, white any past, but that a Person for in-
egaged in a Rist was in Truth one of the first As-
semble, or had a previous Knowledge of the Design of the
Tumult. 1 Hark. 80. On an Indictment for a Rist, it hath been adjudged, that where three or
more are assembled unlawfully, without any ill Intent, and an Affray happens amongst them, none are guilty be-
hold, who are actually concerned in it; but if they
were unlawfully assembled, then the Act of one may
be imputed to all: That if they are unlawfully as-
sembled, and afterwards quarrelling, one of the Compa-
y is by himself the reef, it is no Rist; though if they
beat a Stranger, in that very Moment the Quarrel
began, they are an unlawfully Assemble: And if each
Stranger is beaten by one of the Company, the Con-
currence of the Reef is Evidence of their evil Inten-
tion, and it is a Rist in all of them. 2 Salk. 595.
Any Person may assemble a Number of Men to de-
feet his Hosts against Injury or Violence; and yet
if a Man be threatened, that if he comes to fetch a
Place, he shall be beaten, and he thereupon assembles a
Company to go thither with him, though it be for
the safety of his Person, this may be deemed a Rist,
because of the Danger the Government may be in
from such Assemblies; and for that the Law gives him another Remedy, viz. by demanding Surety for the Peace. Bract. Rat. But every Man in a peaceable
Manner may assemble a Company to do any lawful
Thing, or to remove any Nuisance; and may for that
Purpose enter another Man’s Ground; And, that a
Man had erected a Weir over a common River, and
several People assembled with Spades and other Things
necessary to remove the said Weir, and made a Trench
in the said Weir, to turn the Water so as they might the better take up the said
Weir, and did remove the same Nuisance; this was
held neither any forcible Entry nor Rist. 6 Br. 14, 53.
Though if, by removing such Nuisance, the Persons
assembling use any threatening Words, as that they
will do it, if they die for it, or the like; or their
Behaviour be in apparent Disobedience of the Peace,
then it will amount to a Rist for the Manner of do-
ing a lawful Thing may make it unlawful. Ibid.
If one assembles a proper Company to carry away a
Public Token of Timber, in which he pretended the Right, if the Number be no more than necessary to carry it
away, although another Man may have a better Right to
the Timber, and this is an unlawful Act, it is no
Rist by the laws the performance of the Peace; so
that the Doing of an unlawful Act by an Assemble of
People, may be so managed as not to be a Rist. 1
Harp. 404. And Persons assembled together to do
any Thing prohibited by Statute, if they peaceably
perform the same, cannot be denominated Ristar.
& Mod. 141. An Indictment against A. B. for that
he committed rist at such a Place, Or. did commit
a Rist, is good: And several being indicted for a
Rist, it was moved, that the Professor might name two or three, and try against them, and that
the Reef might enter into a Rule to plead guilty, if they
were found guilty; and a Rule was made accord-
ingly, this being to prevent the Charges in putting
them all to plead. Mod. Cap. 212. 3 Salk. 517.
If two only are found guilty on an Indictment for a
Rist, and the Reef acquitted, all are acquitted; and if
a Battery be likewise laid in the Indictment, if it be
not made out a Battery, but an Offence, the Defendants be so Discharged, the Reef, the
Discharge of the Rist, are also discharged of the Bat-
tery, 2 Salk. 593. Upon an Information against sev-
eral Persons for committing a Rist, and setting up a
Battery as a pretended Offence to set up the Bank, but proved the Rist not guilty; and it was held, that by this Verdict the Defendants
were acquitted of the Charge in the Information, which
was a Rist; for an Affion on the Cause would lie for
erecting the Bank. 3 Mod. 72. The Defendants be-
ning found guilty of a Battery, and setting up a
Battery, and claiming Turnpike Royalties, was an
unlawful Assembly, where three or more are
assembled, and the Ref did not question, whether
any Right in the Battery and Turnpike, to meet
together to choose a Battery, and they might be as-
sembled to do an unlawful Act themselves; and then it
is not unlawful in the Defendants to disturb them.
2 Salk. 594. Dyn. 68. A Mayor and Aldermen of
a Town making a Rist, are punishable in their na-
tural Capacities; but where they have committed
dangerous Ristar within their Precincts, their Libe-
ritys have been seised, or the Corporation owned.
3 Cr. 352. Dal. 204, 216. Women may be pros-
ecuted as Ristar; but Infants under the Age of fourteen Years,
are not punishable. Dall. 345. Word. lib. 425.
By the Common Law, Ristar are punished by Fine and Imprisonments, and if infamous, by Pillory; And by Statute, Justices of the Peace have Power to restrain
Ristors, &c. to arrest and imprison them, and cause
them to be duly punished. 34 Ed. c. 1. As soon
as the Sheriff and other the King’s Ministers hear
of a Rist, or other Assemble against the Peace, they
with the Power of the County shall apprehend such
Offenders, and put them in Prison until delivered by
Law. 27 Eliz. 2 c. 8.
If a Man found a Justice of the Peace, dwelling near the Place where such Offen-
cers shall be committed, together with the Sheriff or
Justices of the Peace, shall by the Power of the County, if need be, suppress Ristar, Run, &c.
shall the Offenders, and record what shall be done in
their Presence; by which Record the Offenders shall
stand convicted in Camera, or in any other Court,
civil or criminal; and if Offenders are departed, the said
Justices, &c. shall within a Month after make In-
quiry thereof, and hear and determine the same; and on
such Inquiry being found, within a further Month the
Justices and Sheriffs are to certify to the King and Council, &c. on Default whereof, the Ju-
stices, &c. shall forfeit 100s. 13 H. 4, c. 7. Their
Statutes are underfoot of great and notorious Ristar.
And the Record of the Rist within the View of the
Justices, by whom it is recorded, is such a Conviction
as cannot be reversed, nor can the King or any other
person do anything against it; and they shall
thereby; but they may take Advantage of the Inoffi-
cency of the Record, if the Justices have not purged
the Statutes, &c. It is laid before the Justices being
recorded, and the Offenders being
sentenced, and the Justices and
Sheriffs are to certify to the King
and Council, and the Offenders are
to be sent to the next Quarter-Session, or into the King’s Bench, to be tried according to Law.
Dall. 200, 201, 202. It has been adjudged, that
where Ristar are convicted upon the View of two
Justices, the Sheriff must be a Party to the Inquisition
on the Stat. 13 H. 4. But if they differ, before Conviction, the Sheriff need not be a Party; for in such Case the two Justices may make the In-
quittance of being a Party; and the Defendants by
the Inquisition, if they are not found guilty, the
 Sheriff, and the Defendants are to be declared guilty
as just, and the Justices to make an Inquisition afterwards.
2 Salk. 592. Ristar convicted on View of two Justices, and of the
Sheriff of the County, are to be fined by the two
Justices.
Judges and the Sheriff; and if the Sheriff do not join in letting the Fine, it is Error; for the Statute requires that he should be joined with the Judges in the whole Process, 35 Geo. 1. c. 7. By the 21 Geo. c. 8. If the Judges make Default in Inquiring of a Riot; at the Inquest of the Parry given by a King, or the Sheriff, to inquire into, and to try by sufficient and indifferent Men of the County, at the Direction of the Chancellor; and the Coroner shall make the Panel of Inquest upon the said Commission, which is returnable into the County, &c. and by this Statute, henceforth Risers are to suffer one Year's Imprisonment. The Lord Chancellor having Knowledge of a Riot, may send the King's Writ to the Judges of Peace, and to the Sheriff of the County,  &c. requiring them to put the Statute in Execution; and the Chancellor, upon Complaint made, that a dangerous Riot is fled into Places unknown, and on Suggestion under the Seals of two Judges of Peace and the Sheriff, that the common Fame runneth in the County of the Riot, may award a Capias against the Party, returnable in Chancery upon a certain Day, and afterwards a Writ of Proclamation returnable in the King's Bench, 2 Hen. 6. c. 9. 8 Hen. 6. c. 14. If one Justice of Peace hath Notice of a Riot, he shall immediately return the Writ; and if any person desire the Risers to the good Behaviour; and if they have no Sureties, or refuse to be bound, he may commit them to Prison. If, 5 July last, Risers committed by the Sheriff, the Risers, upon a Precept directed to him, is to return twenty-four Perfons dwelling within the County to inquire thereof, 19 Hen. 7. c. 13. The Statute, 1 Geo. 1. enacts, That if any Person to the Number of Twelve or more, unlawfully and riotously assembled against the Peace, being required by a Judge of Peace, Sheriff, or Under-Sheriff, Mayor, or any other Officer to come and give Information against the Person, committed in the King's Name, to disperse themselves, shall continue together an Hour afterwards, they shall be guilty of Felony without Benefit of Clergy, and Persons thus assembled and continuing, are to be apprehended and carried before a Justice of Peace, &c. And if in Refusance, the Risers are killed, the Perfons concerned in it shall be indemnified; Persons by Force hindering the Proclamation, shall be adjudged Felony; and the Offenders nevertheless guilty, if they do not disperse, &c. Risers demoliishing any Church, Churchyard, or Dwelling House, to be guilty of Felony, and Inhabitants of Towns and Hundreds are to yield Damages for Rebuilding or Repairation, to be levied and paid in form. As much as money recovered against the Hundred, by Persons robbing on the Highway, 1 Geo. 1. c. 5. Proclamations on this Aff are to be commenced within one Year after the Offence: And this is the severest Statute that hath been made against Risers, but it being wholly in the Affirmative, it doth not take away any Authority in the suppressing a Riot by Common Law, or by other Statutes. Wood's 450. See Robberies, p. 8.

A Record of a Riot on View.

BE it remembered, that on the Day, &c. in the Ninth Year of the Reign of our Sovereign Lord George the Second, King of Great Britain,  We A. B. and C. D. Esquires, two of the Justices of our said Lord the King affixed to keep the Peace in the County of, &c. after-said, and E. E. Esquire, the Sheriff of the said County, upon the Complaint and humble Supplication of L. B. of, &c. in the County after-said, to our more proper Person want to the Mangen-Hume of the said L. B. in the Year, &c. in the County after-said; and then and there saw G. H. of, &c. and J. K. and L. M. of, &c. in the County after-said, and other Malefactors and Disters of the Peace of our

sai'd Lord the King, to Us unknown, to the Number of five Persons, armed with Swords, Staves, &c. unlawfully and riotously assembled at the said House, threatening great damage to the said Lord the King, and Terror of His People, against the Form of the Statutes, &c. And therefore as we the said A. B. and C. D. Esquires, and then said E. E. Esquire, of the said G. H. J. K. and L. M. to be arrested, and carried to the next Goal of our said Lord the King in the County after-said, by our Force and Record being composed of the unlawful Assembly, Tomball and Riot after-said, there to remain until they have made Fine and Restitution to our said Lord the King for the same. In Witness whereof We have set our Seals to this our present Record, Dated at, &c. after-said, the Day and Year above mentioned.
Rivers. By the Statute of Westminster 2. c. 47. The
King may grant Commissions to Persons to take Care of Rivers, and the Fishery therein: And the Lord Mayor of London is to have the Conservation in Breaches and Ground overflown as far as the Water ebb and flows in the River Thames. 4 Hen. 7. c. 15. Persons are appointed to take Care of the River Thames, making Shews there, calling Deng therein, or taking away Stakes, Boards, Timber Work, &c. off the Banks, incur a Forfeiture of 1 sl. Stat. 37 Hen. 8. c. 18. Commit-
ments were appointed to prevent Excavations of the Oc-
cupiers of Locks, Wents, &c. upon the River Thames Westward from the City of London to Cricklade in the County of Wiltts, and for ascertaining the Rises of Water Carriage, on the said River, &c. by Stat. 6. & 7 W. 3. And this Statute is revived with Au-
thority for the Commissions to make Orders and Con-
clusions, to be observed under Penalties. 3 Geo. 2. c. 11.

Rivers made navigable. The River Wye is de-
dclared a free and common River, for the Carrying of Goods and Pallengers, with Power to Traffick to make it navigable, and ordaining Tell or Tonnage
Duties to be paid for Carriage of Goods, &c. by the Stat. 7 & 8 W. 3. c. 14. Duties and Impediments are abrogated by the Act of 1714, to recover and preserve the Navigation of the River Dee, by 11 & 12 W. 3. And the River Darwen is made navigable by Stat. 1. Ann. So of many others. 15 Geo. 1. If Persons break down a Lock, or other Works on any naviga-
ble River, it is Felony; and drawing up Fodgoutes made for preserving the Navigation of Rivers, &c. shall be sent to the House of Corretions for a Misd.
2 Geo. 2. c. 20. Persons may justify the going of their Servants or Horses upon the Banks of navigable
Rivers, for towing of Barges, &c. to whomsoever the River may belong. 9 Geo. 1. L. 2. 244.

Roba. A Robe, Coat or Garment; and those who Robs accipient of another, are accounted of his Fa-
mily. Wolfgang 627.

Robbery. (Robberia, or Robbaria, deriv'd de Roba, i.e. Ffyn) is a felonious and violent Assault upon the Person of another, by putting him in Fear, and taking from him his Money or Goods, on the Highway: And it is said to be so called, because a Man was thereby sometimes bereaved of his Robes or Garments; and for that his Money or other Goods being taken from his Person, were the Robber's Gar-
ment or Robe. 3 Inf. 68. Though Robbery in a large Sense, is any wrongfull Taking away of Goods; 2 Inf. 103. Pallers on the Highway of Death, though the Sum taken is under Twelve-pence, or be but one Penny; for it may be of any Value; whereas in other Cases of Judgement of Death is only where the Thing stolen is above the Value of 12s. 6d. H. P. C. 73, 74. But there must be something taken; and if any Thing be taken from the Person of another, on the Highway, without putting him in Fear, it is no Robbery, but Felony allowed Clergy; the put-
ting in Fear distinguished the Robbery from the other stealing from the Person. 3 Inf. 68. H. P. C. 71.

If there be only an Attempt to rob, without any Taking, it is not Felony, but a Misd.

Meanor punishable by Fine and Imprisonment. 2 Inf.
Wynn's Inf. 505. There is a Taking in Deed, and a Taking in Law, in Robberie; as when a Thief only receives Money of a Traveller, who delivers it through Fear or by his own Compulsion for Fear of Death to swear that he will fetch him a Sum of Mo-
ney, and he delivers it; this is a Taking in Law, and adjudged a Robbery. 3 Inf. The Robber must be in Possession of a Thing stolen: For Example; If the Possession of a Man be effaced to his Grand, and the Thief the more easily to take it out the Girdle, whereby it falls to the Ground, it is no Ta-
king by Reaon the Robber never had any Possession
thereof: But if the Thief take up the Bag or Purse, and in Striving let it fall, though he never take it up again; or if finding little in the Purse, he delivers it with all the Money to the Party again; these are a felonious Taking, because he had in it his Possession; and the Continuance of his Possession is not required by Law. If the Thief, by means of the Purse, lead the Purse into a Bush, to conceal it from the Robber, who perceiving it, takes it up, that is deemed in Law a Taking from the Person; so if a Man had thrown off his Coat, and whilst it lies in his Presence, a Thief assists him and takes his Coat, it is a Robbery; and if one endeavouring to make his Escape from a Robber, drops his Hat, and the Thief takes it up, it is a Taking from the Person. Ibid. The Taking away a Horie which a Man is actually riding, is not only Robbery; but if the Horse is standing by him, and he is taken away, it is a Robe; and a Claim of Property, without Colour for it, will not avail: But if any Man leaves his Horse tied, and steps aside; or if a Carrier follows his Horse at a Distance, and they are taken by a Thief, such Taking is not Taking from the Per-
son, to make it Robbery. Dall. 364, Part. 128. If a Peron having assaulted me, drives my Cattle in my Presence out of my Paiture; or robs my Servant of my Money before any Place, he may be indicted as
having taken such Things from my Person. S. P. C. 27.
Style 156. And some have gone so far as to hold,
That the Taking away a Man's Money in his own Money is Aiding and Abetting. That is, if a Man going with his Co-
on drawn, and he gives it him; or a Person with Sword or Pillion in his Hand, demands my Money, and afterwards pays Alms, and I give it accordingly; it is a Taking with a Robe, &c. 34. 1. 21. 47.

A thief another with Circumstances of Terror that cause him by Reaon thereof to part with his Money, the Taking thereof is adjudged Robbery; whether there were any Weapon drawn or not, or the Peron assaulted delivered
his Money upon the other's Command, or after gave it to him upon his Request to the Force, and begging Alms, 1 Inf. 96. H. P. C. 71, 75, 1 Haw. 96. And if I am robbed by several in a Gang, and one of them only takes my Money, in this Case in Judgement of Law, every one of the Com-
pany that furnish to the Rest, is a Robber, by express of that Indictment which they give to one another through the Hopes of mutual Affluence; and though they mis it of their full intents; and no one of them afterwards rides from the Rest, and robs another Person in the same Highway without their Knowledge or Consent, out of their View, and returns to them, all are guilty of Robbery, as they came together with an Intent to rob, and to afflict one another in doing so. Camp. 34.
1 And. 116. H. P. C. 72. Five Persons agreed to ride out to rob, but at Thames one parted from the Company, and rode away another Road, the other four riding on towards E. about three Miles further, they assailed a Man, and three of them robbed him; it was revolting, that the Party who rode away from the Rest, was not guilty of the Robbery, though he went out with them upon the same Defige, because he left them at H. and fell not in with them, for it may be repeated of what was defiled, or at least be purifyed it not: But the other four were adjudged guil-
ty, although one of them was not actually present at the Robbery. 1 Haiti's Hist. P. C. 535. A Robber was com-
mitted upon the Thames in a Ship there, on that Side of the River which is in Middlesex, and the Offenders were indicted for it done in or near the King's Highway, and parted for the Thames; which is in Truth alias via Regia, the King's High Street. Ibid. 536. Stat. 23 H. 8. The Words in an Indict-
ment for a Robbery, by the old Form of Proceedings, are,
are, a Person A. B. wileless & felonious Capt. & after
from the Town of London, in two parts, & the Robbers
must be laid in the Indictment to be done in Alias via Regia,
if it be alleged to be done in quodam via Regis per
Majestatem de Londini, &c. &c. The Creditor will not be
at his Cost & Charge; because the
Words of the Statute to this Purpose are, in or about
or near the Highway. 1 Hann. P. C. 97. 2 Hann.
42. Miss. 5. Streets in Cities are Highways, as to
Robberies, &c. by a late Statute, 6 Geo. 1. &c. And Persons
who with offensive Weapons shall assault, or in a
forcible Manner demand Money, &c. of any Person,
with an Intent to commit Robbery, shall be guilty of
Felony, and be transported for seven Years, Stat.
7 Geo. 2. c. 21.

The Form of an Indictment for a Robbery.
Southwark, 1746. The
Jury, &c. That A. B. late of,
dealt in the said County, L
abourer, on the Day, &c. in the Year of the Reign, &c.
with Force and Arms, between the Hours, &c. in the
Afternoon from the said Place, in the King's Highway,
near a certain Place called, &c. in the Parish of H. &c. in
the County aftersaid, made an Affair upon one C. D.
from Goodwill, the said C. D. being, &c. in the Peace of
the said Person, in and near the Peace of God, &c. as said Lord the
King, and then and there did violently and feloniously take and
carry away from the Person of him the said C. D. ten
Pounds of lawful Money of Great Britain, in ready
Money of the Goods and Chattels of the said C. D. &c. then
and there found, to the great Terror of him the said
C. D. and against the Peace, &c.

Rabberies, Where committed on the Highway in
the Day-time of any Day, except Sunday, the
Hundred is chargeable: if the Robbers are not taken in
40 Days, &c. the Hundred shall answer it, and
Hoe and Cry is to be made after the Robbers: &c. if the
Robbers are taken, and prosecuted by the Parish
rubbed, he shall have Rightness of his Goods, &c. &c.
Stat. 27 Eliz. 21 Hen. 8. And he who apprehends
and prosecutes a Robber on the Highway to Con
viction, shall receive of the Sheriff of the County,
where the Robbery was done 4/12 (producing the Cer
tificate of the Judge before whom the Person was con
victed) with his Horse, Furniture, Arms, &c. &c. And
if any Person out of Prison, having committed any
Robbery, discovers two or more Robbers, so as they are
convicted, he shall be entitled to a Pardon. 4 W. &
M. c. 8. How to use the Hundred for Money lost
on Rabberies, see Hoe and Cry and Hundred.

Robbers, (Robbermen) are interpreted to be mighty
Thieves by Lambard in his Eiren. lib. 3. c. 6. —
Laborers, called Rabbermen, perjurious liars, bana ha
direm virgins. 

Robbersmen or Rabbermen, Were a Sort of
great Thieves, mentioned in the Statutes 5 Ed. 3.
c. 14. and 7 St. 2. c. 5. of whom Sir Edw. Cobbe says,
That Robin Hood lived in the Reign of King Rich. I.
on the Borders of England and Scotland, by Robbery,
Burning of Houses, Rape and Spoil, &c. and that
these Rabbermen took Name from him. 3 Inf. 197.

Robe. is a Linen Garment worn by Bishops, gath
ered at the Wrists; it differs from a Surplice, which
hangs down to the Knees, but a Robe hath cloce Sleeves. Lynd. lib. 3.
Rob. (Ruda terre) A measure of sixteen Foot and
a Half long, otherwise called a perch.
Rob. (Robhest) From the Sax. Robo, i. e. Episcopo
& Capt. Femalos, 40th Missifi Episcopi) Certain
Servitors, who held their Land by serving their Lords on
Hortobaghy. Lib. 2. n. 15.
Robustion-erch. (Deton Regiocrum, Robigillus) Is
a Time so called, because of the special Devotion of
Prayer and Fasting then enjoined by the Church for
a Preparative to the Joyful Remembrance of the
Christ. Croues. — Robigalia, dies furtus item
Calend. Mail eleborat futilis, U. il. Robiginem
a futilis actione acquirere: Regiam, or Gang-Week. Litt.
Dict.

Rogue, (Fr.) Signifies an idle sturdy Beggars; who
by ancient statutes, for the first Offence was called a
Rogue of the first Degree, and punished by Whipping,
and boring through the Grifile of the right Ear with
a hot Iron; and for the second Offence, he was termed a
Rogue of the second Degree, and executed as a Felon,
if he were above eighteen Years old. 27 Hen. 8.
c. 25. 14 Eliz. c. 5. &c. And by a late Act, Per
sons apprehended as Vagabonds, and etaping, or
failing to go before a Justice, giving a false Account
of themselves; and all such Persons breaking Prison,
before the Execution of the Term, or who having
been punished and discharged, commit another
Offence, are adjudged incorrigible. 187. A justice of
Peace may send any such Rogue to the House of Cor
reption till the next Sessions: and then the Justice
shall order him to be detained six Months, and to
be hereafter, be hereafter, Labour, and to be corrected by
Whipping, in Manner and as often as they think fit; and
afterwards the Offender is to be passed away to his
Place of Settlement: And it is thought he is to be
Shotten from Prison, he shall be judged guilty of Felony, and
be transported for seven Years, U. Stat. 13 Geo. 2.
c. 24.

Roqueus, (Lat.) A great Fire wherein dead Bodies
were burned; and sometimes it is taken for a Pile of

Rool, (Roon.) Is a Schedule of Parchment that
may be turned up with the Hand in the Form of a
Pipe. Stann. P. C. 1. Rolls are Parchments on
which all the Pleadings, Memorials, and Acts of
Courts are entered and filed with the proper Officer; and
then they become Records of the Court. 2 Litt.
Act. 491. And by a Rule made by the Court of
King's Bench, every Attorney is to bring in his Rolls
into the Office fairly ingrossed by the Times thereby
limited, viz. The Rolls of Trinity, Michaelmas, and
Hilary Terms, before the Efflat Day of every sub
sequent Term; and the Rolls of Easter Term before the
first Day of Trinity Term; and no Attorney at
large, or any other Person, shall file any Rolls, &c.
but the Clerks of the chief Clerks of this Court.
Ord. B. R. M. 1707. If Rolls are not brought into
the Office in Time, it has been ordered that they
shall not be received without a particular Rule of
Court for that Purpase. Mich. 9 W. 3.

Rool Office of the Chansey. There is an Of
ce called the Rool Office in Chancery Lane, anciently
called Deoos Conferwom, which contains all the Rolls
and Records of the High Court of Chancery, but the
Said Master whereof is the Secon in the Chansey, Uc.
See Mayor of the Rools.

Rool of the Exchequer, Are of several Kinds, as
the great Wardrobe Roll, the Causer's Roll, the
Safely Roll, &c.

Rools of Parliament. The Manuscript Registors
of the Proceedings of our old Parliament; and our
Statutes being anciently ingrossed in Parchment;
In their Rolls are likewise a great many Decisions of
difficult Points in Law; which were frequently in former
Times referred to the Determination of this same Court by the Judges of both Beches, &c. Nich.
Hist. Lib. 47.

Rools of the Temples. In the two Temples is a
Roll called the Calucurs-head Roll, wherein every
Becher, Barrister, and Student, is taxed yearly as to
much to the Cook and other Officers of the Houses,
in Conformation of a Diners of Calcus heads provided
Notes of a Rule. The Court of Chancery is a peculiar Court, and the equity which it has in a Cause or Case to take Notice of the Rules made in Court touching the Cause between them. 2 Litt. Abr. 493, 493. The Court will not make a Rule for a Thing which may be done by the ordinary Courts, and if the Court be informed that they have made such a Rule, they will vacate it. Mich. 22 Car. B. R. And if a Rule be made by the Court grounded upon an Affidavit, the other Side may move the Court against this Rule; and thereupon shall bring into Court a Copy of the Affidavit and Rule made, and the Affidavit may be read, to put the Court in Mind for what Reasons they made the Rule, and whether there be stronger Reasons for the Vacating of it, than there were for the Making of it, or not. 2 Litt. 494. Where a Rule of Court is made, and it is not drawn up and entered before the Continuance Day of the same Term, the Clerk of the Rule will not draw it up afterwards until the Cause be heard, and shall again order the Cause to be entered. P. 1516. For Breach and Contempt of a Rule of Court, an Attachment lies; and if a Rule of Court is made betwixt Parties by their Consent, though the Court would not have made such Rule without their Consent, yet if either Party refuses to obey such a Rule made, the Court will upon Motion grant an Attachment against the Party that disobeys the Rule. Hyl. 185. But generally an Attachment is not grantable for Disobedience to any Rules, unless the Party hath been served with it personally; nor for disobeying a Rule at Nix prior, till it is made a Rule of Court; or for Disobedience to a Rule made by a Judge at his Chamber, if it be not entered. 1 Blk. 71, 83. And a Rule not entered, is of no Force to ground a Motion upon. 2 Litt. 493.

Rule of Court may be granted to any Prisoner in the King's Bench or Fleet Prison, every Day the Courts sit, to go as large, if such Prisoner hath Business in Law in his own to follow. 2 Litt. 493.

Rumney Marsh. King Hen. 3. granted a Charter to Rumney Marsh, in the County of Kent, impowering Twenty Four Men thenceunto chosen to make Distresses equally upon all those who have Lands and Tenements in the said Marsh, to repair the Walls and Water-gates of the same, against the Dangers of the Sea: And there are several Laws and Customs observed in the said Marsh, established by Ordinances of Justices thereto appointed, in the 43d Year of King Hen. 3. the 16 Edw. 1. the 35 Edw. 4. 46c.

Runners. Spreading such as are false, is criminal and punishable at Common Law. 1 Henr. P. C. 1234.

Runicarum. (From Runo) Signifies Land fall of Brambles and Briars. 1 Inf. 5. 5.

Runicus, Runicus, (Lat. Runicus), is used for a Land-Horfe, and a Cart-Horfe, in Demesnes; which Chaucer calls Rumney.

Runr, is a Measure of Wine, Oil, &c. containing eighteen Gallons and a Half. 2 R. 5. 13.

In He 4 Edw. 4. it is said to be an uncertain Quantity of Liquor, from Three to Twenty Gallons. Mech. Dif.

Rapaliso, Were Soldiers, or rather Robbers, called also Rotarii; and Rattia was a Company of Robbers: Hence we derive the Word Ratt, and Bankratt. Matt. Par. Ann. 1230.

Ruptura, (A Rubra color, because anciently writ in
S

Salacia, A Sort of poor small Beer. 
Litt. Dict. 
Salabastarina, A Salabastarina or Jewl of or belonging to the Sabbath. 

Sabbath, or Day of Rest; the seventh Day from the Creation: it is used for Peace, in the Book of Deuteronomy.

Sabbatine graces, i.e. Sable Furs, mentioned in 
Hebr. 9. 7. 
Stataium Sali in Anglorum genere qui eiusmod de laiis Sabbellino varie, vel grius orteru. 
Bois. Anno 1188.

Sabbatarian, A Gavel Fitt; or Liberty to dig Gravel and Sand; also the Money paid for the same. 

Sabat (Saca vel Sanda) is an ancient Privilege which a Lord of a Manor claim to have in his Court, of holding Plea in Causes of Truths arising among his Tenants, and of impounding Fines and Anerements touching the same. But by some Writers it is the Anerement and Forfeiture itself. 

Signature, i.e. used for an Oath; The common Form of all Impignorations made by a Jury runs thus: 
Quo dictum fuerit, Surrumentum fecit, ut in ea die quae superius probo, fandi, facta, olim, prout praebuit, proboque. 

Sacerdotum, Is a Service or Tenure of Finding a Sack and a Broach to the King, for the Use of his Army. 

Sacrarium, (Sacramentum) is the Most Illumin Act of Worship among us, being instituted by our Saviour himself, and by the Rubrics there must be Three at the least to communicate, and a Minister is not without lawful Cause to deny it to any who shall devoutly and humbly desire it: But notorious Sinners are not to be admitted to it till they have repented; nor those who maliciously contend, until they are reconciled, &c. Also the Sacrament is not w. be administered to such as refuse to be present at the Prayers of the Church, or to Strangers; for a Minister is not obliged to give it to any but those of his own Parish; and the Purifiers of the Holy Sacrament ought to signify their Names to the Curate at least a Day before it is administered. 

Sacrarium altari, The Sacrifice of the Morn, or what is now called the Sacrarium of the Lord's Supper; for which Communion in the Times of Popery, the Parish Priest provided Bread and Wine for the People and himself, out of the Offerings and Oblations. 

Sacrilegatus, (Sacrilegium) is Church Robbery, or a Taking of Things out of a Holy Place; as where a Person steals any Vestals, Ornaments, or Goods of the Church: And it is said to be a Robbery of God, at least of what is dedicated to his Service. 

Sacrifices, berries of Sacco, are the Eucharist in an apple, and this Crime from other Robberies; for is denied the Benefit of the Cessary to the Offenders, which it did not do to other Felons: But
But by Statute it is put upon a Posing with other
Feloniies, by Making it Felony exouded of Clergy,
as modr Feloniies are. 2 Stat. 250. All Persons
not in Holy Orders, who shall be indicted, whether
in the Court where the Fact was committed, or
in a different County, of Robbing any Church, Chas-
pel, or other Holy Place, are excluded from their
Clergy, by 23 H. 8. c. 1. 25 H. 8. c. 3. 5 & 6
Ed. 6. c. 10. And all Persons in general are oueth of
their Clergy for their felonious Taking of any
Goods out of any Parish Church, or other Church or
Chapel, by the 1 Ed. 6. c. 12. But the Word Rob-
ing being always taken to carry with it some Force,
It seems to Sacrilege of these Statutes, which is
not accompanied with the actual Breaking of a Church,
Cf. 1 El. 58. 69. 76. 83. 7 Dyer 324. And the Statute
23 H. 8. is the only Act which extends to Accezaries
to their Robberies: except the Offence amount to
Burglary, in which Case Accesaries before are oueth of
Clergy, by 2 3 & 4 W. M. c. 9. 2 Hnntl. P. C. 357.

Sartsleg, or Alienation to Laymen and to pro-
rate or common Purposes of what was given to Reli-
gious Persons and to pious uses, was a Guild which
our Fore fathers were very tender of incurring; and
therefore when the Order of the Knights-Templars was
disband, the Lands were given to the Knights Hos-
piatles of Jerusalem for this Reason:—Ne in pin
us vna ergetia contra Donutariam volonatatem in alias usus

Sails, (Lav.) A Scar, belonging to a Church, in
old Times called SagGeorgia and Sagfin.

Sails-conduit, (Salvus Conduit) Is a Security
given by the Prince, under the Great Seal to a Stran-
ger, for his going into and pulling out of the
Realm; the Form whereof is in Reg. Orig. 25. There
are Letters of Sails-conduit which must be inrolled in
Chancery; and the Persons to whom granted must
have them ready to shew: And touching which there
are several Statutes, win. 9 H. 3. c. 50. 15 H. 8.
c. 3. 28 H. 8. c. 1. 1 Salk. 354. (Salus Guardia) A Protection of the
King to one who is a Stranger that he not
Violence from some of his Subjects, for seeking his Right
by Course of Law. Reg. Orig. 25.

Sails-pronge, (Sailing fig.) A Surety given for
a Man's Appearance at a Day signified. Brad. 6. 4.
cap 2.

Saltman, (From the Sax. Sagge, i. e. Fabula)
Signifies a Tale Teller, or Secret Agent. Leg. Hn. 1.
c. 53.

Saltbarrow, alias Saltbarrow, is the name that we

Saltgittera, A bearded Arrow.

Redendi inde annuatim pro amno feriatio sax Sagi-
gin Barbatas ad Pyum Sandi Macabati, &c.

Saltgitteras, A Sort of small Ships or Vessells, with
Oars and Sails. R. de Dicets, anno 1776.

Salt-dike. For encouraging the Manufacture of
Sail-club, any Persons may import into this Kingdom
undred Flax, without paying any Duty for the
same, so a due Entry be made thereof at the Coun-
trum Goods. And no Drawback is to be allowed on
Re-exportation of foreign sail-club: But an Al-
lowance shall be made of 1 d. per Ell for luxury-Sail-
club exported, &c. 2 Stat. 2. c. 27. All foreign
Sail-club imported, from which Duties are granted,
shall be exempted, exporting from whence imported,
&c. And Manufacturers of Sail-club in this King-
dom shall not be obliged to the Fasts, to be liable to
any Persons cut off or accelerate such Stamps, they incur a
Forfeiture of £ 1 upon Conviction of any one or more
Judges, to be levied by Diftribr. &c. Ship built, on

fist setting out to Sea, to have one complete Set
of Sails manufacured here, on Pain of 50l. And no
Sail-maker may work up into Sails foreign Sail-club
not flamped, under 20 l. Penalty: Afl Sails-club
must be made by the King's Company of Sail-club,
the said Lenth and Breadth, shall weigh six Pounds each Bolt, and the Warp and Wrought of
double Yarn, &c. And any Yarn used in Bridgr
Sail-club, not to be whitened with lime, on Forfei-
ture of 6 d. a Yard Sail-makers, &c. are to caufe
this Act to be put up in their Shops and Work-houses,
under the Penalty of 40 l. Stat. 9. G. 2. c. 37. By
the Stat. 10. G. 2. c. 27. Masters of Ships are to
make Entry of all foreign made Sails on Board, under
the Penalty of 50 l. and pay Duty for the same,
unless he chooses to deliver up the Sale of the Money
brought from the East Indies are exempted from Duty:
Foreign made Sail-club imported, is to be flamped at
the Landing; Forger of Stamps, &c. shall forfeit
50 l. A Sail-maker making foreign Sail-club un-
flumped into Sails, shall forfeit 50 l. not repair
or amend the same under the Penalty of 20 l.

Sailors in Ships, Fort vndt Magistrates Minister.
A Tiptaff or Serjeant at Arms is derived from the Sax.
Sagel, i. e. Paxis, because they use to carry a Rod or
Staff of Silver.

Sailor, (Sailor) Is a Recompense or Confidence
made to a Peron for his Pains and Industry in
another Man's Business: The Word is used in the
Statute 25 Ed. 3. cap. 1. Salarium at first signified
the Rests or Profits of a Sale, Hall or House (as in
Gasgoys they now call the Seats of the Gentry
Sale's, as we do Halls) but afterwards it was taken
for any Wages, Stipend, or annual Allowance.

Sale, (Sale) Is the Transferring the Property of
Goods from one to another, upon valuable Con-
consideration: And if a Bargain is that another shall
give me £ 1 for such Thing, and he gives me
Earnest, which I accept, this is a perfect Sale. Wood's,
Instr. 316. On Sale of Goods, if Earnest be given
to the Seller, and Part of them are taken away by
the Buyer, he must pay the Redress of the Money
upon fetching away the Rest, because no other Time
is appointed: and the Earnest given binds the Bar-
gain, and gives the Buyer a Right to demand the
Goods; but a Demand without paying the Money
is void: And it has been held, that after the Earnest
is taken, the Seller cannot dispose of the Goods to
another, because there is none Default in the Buyer;
therefore if he do not take away the Goods and
pay the Money, the Seller ought to require him to
do it; and then if he do not do it in convenient
Time, the Bargain and Sale is dissolved, and the
Seller may dispose of them to any other Person.
1 Salk. 113. A Seller of a Thing is to keep it a rece-
asonable Time, for Delivery: But where no Time
is appointed for Delivery of Things sold, or for Pay-
ment of the Money, it is generally implied that the
Delivery be made immediately, and Payment on the
Delivery. 3 Salk. 61. Where one agrees for Wares
sold, the Buyer must not carry them away before
paid for; except a Day of Payment is allowed him
by the Seller. Nay 87. It is said a perfect Bargain
and Sale between Parties, will be good, though the
Seller knows of an Execution that is against him;
and doth sell the Goods to prevent the falling of
it upon them. 3 Laws. 11. A Seller may deliver any of
living or dead Goods in a fair or Market, be they
whose they will, or however the Seller come by
them; if made with the Cautions required by Law:
But if he sell to any Person, he may have the Goods
again. Dall. and Sidt. 3. 8. Fork. Sall. 93. If a
Man affirms a Thing sold is of such a Value when it
is not, is this not actionable, but if it actually War-
rants to be at any Time of the Sale, and not after
(since it will bear an Addition, being Part of the Contrac.
2 Cts.}
Stalboge. Is an Allowance made for Service of Ships or Goods from Danger of Sailing, Enemies, &c. Merch. Dist. And by Statute, where a Ship shall be in Danger of being beheaded or run on Shore, Juries of Peace are to concern themselves to assemble so many Men as shall be necessary to save the Ship) and being preferred by their Means, the Perons affilling shall within thirty Days after be paid a reasonable Reward for the Sailing by the Master of the Ship or Merchant, in Default whereof the Ship or Goods shall remain in the Caboty of the Officers of the Customs as a Security. 11 Ann. c. 18.

Stalbagger, Wild, Savage: as Salvages Ceters, the wild Cat. Rot Cart. 1 Feb.

Staluter, (Salus) Was a Com made by King Hra. 5. after his Conquests in France, whereas the Arms of France and England were stamped and quartered. Soc. Chron. 589.

Stallita, Are the Reliques of the Saints; and Feare foger Stalla was to make Oath on those Reliques. Leg. Canul. c. 57.

Sanctuary, (Santuarium) Is a Place privileged for the Safe guard of Offenders Lives, being founded upon the Law of Mercy, and the great Reverence and Devotion which the Prince bears to the Place whereunto he grants such Privilege. Sanctuaries were fist granted by King Luctose to our Church and their Precincts; and among all other Nations, our ancient Kings of England seem to have attached motif to their Sanctuaries, permitting them to shelter such as had committed both Pelones and Traitors; so as within forty Days they acknowledged their Fault, and submitted themselves to Banishment; during which Space, if any Layman expelled them, he was excommunicated; and if a Cleric, he was made irregular. Mat. Wiel. Ann. 187, S. P. C. lib. 3. cap. 38. Ecles. lib. 1. cap. 29. St. John's of Beverley in Yorkshrie had an eminent Sanctuary belonging to it in the Time of the Savages: And St. Burjins in Cornwall had the like granted by King Aberkel, Ann. 995. to had Wimflem granted by King Edw. to the Confessor. St. Marston's is Grand in London. 21 H. 8. &c.

Sanctuaries, It has been observed, did not gain the Name of such till they had the Pope's Bull, tho' they had full Privilege of Exemption from Temporal Courts by the King's Grant only: But no Sanctuary granted by general Words, extended to High Treason; though it extended to all Pelones, except Sacrilege, and all inferior Crimes, not committed by a Sanctuary Man; and it never was a Proceeding against any Action Civill, any farther than to save the Defendant from Execution of his Body, Gr. 2. Henr. P. C. 335, 336. Sanctuaries were abolished here by the Statutes 26, 28 & 32 H. 8. and 1 & 2 Ed. 6. And the Plan of Sanctuary with Anplot is taken away by 21 Jac.


Sanct-gabel, Is a Payment due to the Lord of the Manor of Redley in the County of Gloucester, for Liberty granted to the Tenants to dig Sand for their common Use. Tax. High. Gent. 113.

Sanctum, i. e. Perfect and sound Mind and Memory, to do any lawful Act, Gr. See Non Sanctum. Sanguinemia, a vessel. Other Villains were bound to buy or redeem their Blood or Tenure, and make themselves Freemen. -Quoto Examinari Tecess. de Manuero de Gandol de Sanguinem iacit examine. Lib. mag. Rev. 69.

Sanguina, Is taken for that Right or Power which the chief Lord of the Fee had to judge and determine Cales where Blood was shed. Mon. Engl. Tom. 1. pag. 102.

Sanct and Sancho, Words used for Blood. 8 R. 8. 9.

Bar sintivial. (From the Fr. Sartel. Lat. Sar-
clair) is the Time or Season when Husbandman weed the Corn.

Barcullavista, Weeding of Corn: Una Sarculavista,
the Tenant's Service of one Day's Weeding for the Lord.—Treat in Bondage, &c. by anon Sar-culun.

Barb, An unfaithful Net or Engine for de-

Bar has, A kind of Weer with Flood-Gates, most
commonly in navigable and cut Rivers, from the dam-
ing and shuffling up and locating the Stream of Wa-
ter, as Occasion requires, for the better pulling of Boats and Barges: This in the Weil of England is
called a Lock; and in some Places a Sluice. Stat. 16 & 17 Car. 2. c. 12.

Barf, The Corruption of Sauna. A Name of
Commission formerly given to the English, while they
affected to be called Anglori; they are still so called by the
Welsh.

Barfifullan, Is the Giving of Repose for
an Injury done; or the Payment of Money due on
Bond, judgment, &c. In which is, it must be entered on Record. 2 Litt. Abr. 455. Where Mo-
ney given one by Will, shall be held to be in Saufi-
ition of a Debtor, being more than that amounts to;
and where it is not, and both have been allowed.
Prev. Cas. 194, 231, 238. 2 Perm. 472. See La-
quy. Satisfaction and Amendus may be pleaded for
voluntary Trespass, &c. by Stat. 21 Jam. 1. cap. 5.

Barklys, Barkly, Barkly or Barkly, A Space of Time from Even-
long on Saturday till Sun-rising on Monday, in
which it was not lawful to take Salmon in Scotland, and
the Northern Parts of England. 15SI.

Barker-Default Is a Law Term for to exuce,
as when a Man having made Default in Appearance in
Court, &c. comes afterwards and alledges good
Cause for it, non imprisonment at the Time, or the
like. Book Entr.

Barnefin, (Fr. from Sang, i.e. Sangis & Fin, Finis.) Is the Determination or Final End of the Noble Race and Descendant of Kindred. Briton. Cap. 110.

Bason-Lyn, (Sauvyn Lys, Lou Sausam.) The Law of the Weel Saymo which by them were governed. See Almohades.

Scabini, Is a Word used for Wardens at Linen in
Northumberland. —Scient prisentes & futuri quid mns, &c. Cauda for Scabini Liber Excerptus free Gildes
Merceris in Silv Trinitatis Villa Lemu in Com.

Scalam, Ad Scalam. The old Way of paying
Money into the Exchequer. The Sheriff, &c. is to
make Payment ad Scalam, i.e. Saturas et ratio quam-
libi numeratum libram ex demens. Stat. W. 1. And at
that time Six pence supererogated to the Pound
made up the full Weight, and near the intrisicks
Value. This was agreed upon as a Medium to be
the common Estimate for the defective Weight of Money
thereby to void the Trouble of weighing is when brought to the Exchequer. Levant's Eff. on
Coins, pag. 4. Hall's Sher. accounts, pag. 21.

Bollinga, A Quarry or Fix of Stones, or rather
Scale of Houses: French Ecuenee, whence

Scambal, Signifies a Report or Rumour, or an
Alarmed Noise caused in a Publick. Cheem,

Scandulam Magnatum, Is the Special Name of a
Scandal or Wrong done to any high Personage of
the Realm: And it is also a Writ granted to re-
cover Damages thereupon. 2 R. 2. c. 5. None shall
report any false or slanderous News or Tales of
great Men, whereby any Dicford may strive between the
King and his People, on Pain of Imprisonment until
cap. 34. No Peron shall devise or tell any false
News, or Liews, of any Lord, Prelats, Officers of the
Government, judge, &c. by which any Slandering shall
happen to their Person, or Mischiefe come to the
Kingdom, upon Pain of being imprisoned; and
where any one hath told false News or Liews, and
cannot produce the Author, he shall suffer Imprison-
ment, and be punished by the King's Council, &c.
R. 2. c. 5. 2 R. 2. c. 11. If the slander
is published in a Libel, the banevity may be increased,
and imprisoned: But the Action of Scandulam Mag-
numtum is usually brought upon the Stat. 2. R. 2. temp
pro Dominc Rgge, quam pro jujit, in the Name of the
King and the Party; the King being concerned in the
Credit of great Men, who sit by his Authority:
that the Plaintiff recovers Damages upon this
Statute for the Wrong, and the Defendant is
imprisoned on the Statute of Wifm. upon the
King's Account. 3 Rep. 125. The Words in these Cases
shall be taken in the world Sense, to prefer the
Honesty of great Persons: Yet 'tis said a Defendant
may justify in Scandulam Magnatum, letting forth the
Special Matter. 1 Vent. 60. 1 Lec. 277. 4 Rep.
15. 14. And the Statutes extend only to extrajur-
dicial Slanders, and so is a Common Law: for
though the Charge be false, which is alleged a
gainst one in a Court of Justice, no Action of Scand-
ulam Magnatum. [left blank]; 2 Sent. 328; 1 Rot. Offic.
43. For these Words, I do not know but my Lord of
Peterborough, in suit Gils to take my Purse; they were
held actionable, though there was no positive Charge
at any time, where a Defender, saying that his Father's Barns were burnt, said, I cannot imagine who should do it but my Lord Stourton. Mour.
145. A Man said the Earl of Lincoln, This
house is a base Earl, and kept next but
Robes and Raffalions about him; although the Words
were spoken briefly concerning his Servants, they
were adjudged in Contempt of his Honour
Dignity, and actionable. 2 Cow. 105. But where the
Defendant said, The Lord Lincoln's Man Ad, by
his Command, take the Goods of a certain Person by a
Herald and presented him with an Action of the
Great Damages, the Judgment was reversed, because
it was not averred that the Earl knew the
Warrant to be forged. Guilds. 15. If one says a
Pet, He is an unworthy Person, and sits against
Law and Reason; in the Case of the Lord Trewhendal
it was adjudged Action of Scandulam Magnatum lay
nowwithstanding the Words were general, and chal-
ing him with nothing certain: Though Justice
Anns held an Action would not lie for the Words,
being of a trivial Nature: and the Statute mentions
only great Scandals, whereby Dicford might arise,
1 Med. 232. 2 Med. 150. 1 Danvo. Abr. 165. In
this last Case 400 l. Damages were given; and on
a Motion for a New Trial, because of the effervisive
Damages, it was denied. 1 Nelf. Abr. 150. The
Defendant being a Parson, spoke the following
Words in the Felicity, The Lord of Leicester is a
ruined and cruel Man, and an Enemy to the Reforma-
tion; and in an Action of Scandulam Magnatum the
Plaintiff had 500 l. Damages were given; 2 Sid. 21. 50.
The Statute of Scandulam Magnatum is a general Law,
of which the Court is Notice. 2 Sent. 21. And
it had been resolved, that if the Plaintiff rec-
cites so much of the Statute in his Declaration as
will make his Action against a Publick. Cheem,

Cheem, It will not make his Declaration ill: But it
being a general Law, it need not be recited.
Seal, Steward, and two Jurifers of the King's Bench and Commissary. Also to ascertain their Duties and order Tables to be made mentioning the Particulars, &c. by 22 H. 8. c. 8.

Stearwagh, The Officer who collected the Scandal Money, which was sometimes done with great Exertion.

Stearwaghrs, (From the Belg. Schoone, to scrape or carry away.) Are Persons chosen into this Office in London and its Suburbs, who hire Reapers and Carters to clean the Streets, and carry the Dirt and Filth thereof away. 14 Car. 2. c. 1. In Every Week yearly, two Tradesmen in every Parish within the Weekly Bills of Mortality must be elected Stearwaghrs by the Confectables, Churchwardens, and other Inhabitants, who are to take upon the Office two Jurifers for every Parish, or under the Penalty of 10½. These Stearwaghrs every Day except Sundays or Holidays, are to bring their Carts into the Streets, and give Notice by a Bell, or otherwise, of carrying away Dirt, and to carry a convenient Time, or shall forfeit 40s. and Jurifers of Peace in their Petit Sessions may give Stearwaghrs Liberty to lodge their Dirt in vacant Places near the Streets, satisfying the Person for the Damage, &c. All Persons within the Weekly Bills, are to sweep the Streets before their Doors, every Wednesday and Saturday, on Pain of Forfeiture. 3 Car. 2. c. 12. Stearwaghrs, &c. may make a Stearwaghrs Tax, being allowed by two Jurifers of the Peace, not exceeding 4d. in the Pound, Gr. 6 M. &c. 2. By the Stat. 3 Geo. 1. c. 48. Jurifers of Peace in their Quarter Sessions, may appoint Stearwaghrs, and order the Repairing and Cleansing the Streets in any City or Market-Town, and appoint Persons to make Affirmations, so as not to exceed 6d. per Pound per Ann. to defray the Charge of such Stearwaghrs, to be collected and levied by Diocritus; and when new Stearwaghrs are chosen, the old Ones must accept the Office. 3 Geo. 1. c. 48. in their Heads to the new Stearwaghrs, or be committed to Prison, &c. The Affirmations for Stearwaghrs of the Parishes of St. Andrew Wyndham, and St. James, shall be rated according to the Custom of the City; and ancient Streets in the City are to be maintained according to ancient Usage, &c. The Lord Mayor or any Alderman may present upon View, any Offence within the City of London, and forfeit Fines not exceeding 20s. to be paid to the Chamberlain for the Use of the City. Gr. Stat. Hid. Trullers and Commoners appointed to clean and repair St. James's Square, and continue the same cleaned and Rates to be made and affixed on Houses, at no more per Foot in Front, leviable by Diocritus, and annoying the Square by Filth, is liable to 20l. Penalty, &c. by 13 Geo. 1. c. 25. For the better Paving and Cleansing the Streets in the City of Westminster, &c. Surveyors are to be nominated by Jurifers of Peace, who shall take a View of all the Streets every six Weeks, and make Prefectures of Pavements out of Repair, cause the same to be amended, &c. And the Surveyors to have an Allowance not exceeding 8l. per Ann. out of the Stearwaghrs Rates, Gr. Stat. Gen. 2. c. 11. Persons authorized by 22 &c 23 Can. 1. may order such Parts of London Streets, &c. as lie before vacant Houses, to be paved and amended; and impose Affirmations on the Owners, to be paid on their Account by the next Occupiers, and whither deducted out of Rent; and in the mean Time, the Chamberlain of the City shall pay the Taxes: And such authorized Persons may direct Pulls to be set up in Pavements within the City, to prevent Foul-Pulls, and for that Purposes make Affirmations. 10 Geo. 2. c. 22.
Sir John Hoby in his Expedition of this Word, says it is not to be one and separate Clause, nor a depravity, but an intercession, and intire Clause, but intermedium; neither is it a fabulative Clause of itself, but it is rather to utter in the Sentence of another, and to particularize that which was too general before; so that which was too great, or to explain what was doubtfull and obscure; and it must neither increase nor diminsh, for it gives nothing to bring it: But it is a make a Restriction, where the precedent Words are not so very express, but they may be refrained.  

Hob. 171, 172.  

The Word Subject in a Declaration, shall not make any Almense of that which went before.  

Add. 255. 204.  And yet in some Cases, the Subject which introduces a Subsequent, shall not be rejected. 2 Cor. 6:18.

Sect. 1. A Write judical, most commonly to call a Man to shew Cause to the Court wherence it issues, why Execution of a Judgment should not go out.  

Old. Nat. Br. A Scire facias, to shew Cause, why there should not be Execution issued upon the Judgment against him; and if he can shew no Cause, there is Judgment.  


This Word was not at the Common Law, but given by the Statute of Wms. 2, cap. 45, in personal Actions, when Debt or Damages are recovered, and in Execution is issued, if the Plaintiff had not sued out his Execution in a Year and a Day after his Judgment, he had no Remedy but by new Action of Debt upon his Judgment; but now he hath the same right to bring either a Scire facias, or Action of Debt, as he pleaseth. 2 Inf. 469.  

By the Statute it is ordained in lieu of a new Original; and therefore Judgment upon the Scire facias shall have the same Effect as if it was before. 2 Inf. 600.  

If any of the Writs of Execution, whether in Personal or Real Actions, are not executed within the Year and Day after the Judgment, to obtain Execution, there must be a Scire facias, to shew Cause why the Execution should not be awarded: But if the Plaintiff seeth out any of them within the Year, he may continue them after the Year till he hath Execution; and so cannot get out any Scire facias.  

And a Writ of Error is a Consequence of the Cause, so that no Scire facias is required, though it depend some Years, and because pending the Writ of Error the Plaintiff cannot sue out Execution of the Judgment, but he may after the Affirmation of it,  

Gr. of 181. 1 Inf. 290. 2 Inf. 471. 2 Litt. 205, 174.  

Where Judgment is had against a Tenant, there must issue a Scire facias against the Executor, although within the Year, to shew Cause why Execution should not be had; the like against an Administrator of an Intestate; And to on the Plaintiff's Part, if Heir, Executor, or Administrator; the Peron being altered: And if one recovers against a叁�ee, and the is manifest within the Year and Day, a Scire facias is to go against the Husband.  

Word's Inf. 610. When either Plaintiff or Defendant, or one of the Plaintiff's or Defendant's dies, Execution may not be had, and thereupon, if an Administrator obtains and Judgment thereupon, in these Cases there is to be a new Judgment to warrant Execution. 2 Litt. 290.  

If an Administrator obtains a Judgment for a Debt due to the Intestate, by Default or Confession, and the Administrator doth after die intestate, and Letters of Administration are granted, that is to one de bonis asyment, will of him that first died intestate; this Administrator
cannot have a Spece facias to revive the judgment obtained by the first Administrator of the first Intestate, but must bring a new Action to recover that Debt; for he is no Ways Party or Privy to the first Judgment, but is in the same Situation as the Executors were By Verdict, he may now have a Spece facias upon it, by 17 Car. 2, c. 8. 2 Lill. 505. It hath been said of late to many late actions for this purpose, and also in Spece facias, and a Writ of Inquiry, all in one Writ, against an Executor or Administrator, for the speedy Obtaining of Execution upon a Judgment; and so be severally executed. 2d. 505. One may have a Spece facias to revive an old Judgment upon which no Execution hath been executed, without any Motion or Application to the Court; and the Judgment was good; and if it be above seven Years, and under ten Years since the Judgment was given, a Spece facias may be moved for at the Side-bar to revive it: But if it be above ten Years, then a Spece facias cannot be had without moving the Court, and a Rule for it; and the Court doth not use to deny it, if moved for. 2d. 505. The Court will not revive a Judgment ought not to be granted, till the Record of the Judgment be in Court where the Facia is moved for. 2 Lill. 446. In a Spece facia brought upon a Judgment, it is after a manner similar to the form before what Chief Justice by Name the Judgment was had; but it is not necessary to do in a Spece facias upon a Judgment of B. R. And the Reason is, because the Proceder in a Common Placem is the Common Pleas from the Chief Justice & facia sit; and in the King's Bench they are called Common pleas. Reval. 2d. 499. If a Spece facias is brought upon a Judgment of B. R. the Court will not revive a Judgment, but is brought by Original; the Plaintiff must allege a Place where the Court is held; as such a Facia is, returnable C. Coram nobis; sub reg. firminum, &c. To this or with a Name or in the Name of the Person by Magis- trate; or, in those Cases it may be returnable in Common, the Reason being before the Court, and the Place. If a Spece facias be brought to. In Debt upon a Recovery in Spece facias, on a Recognizances taken in the Chamber of London, it was not allowable that it was a Court of Record, and that they had been used to take Recognizances; And on Exception taken to it, divers Cakes were put, that though the Judgment was valid, yet Execution might be by Spece facias. For upon a voidable Judgment a Man shall recover, and may take out Execution; and that it should stand good, until the Judgment were revered. Godd. 96. After the Removal of a Record by Corrodari into a Superior Court, a Spece facias shall lie. And if a Spece facias is brought in B. R. upon a Judgment in an inferior Court, it must appear in the Writ it fell, how the Judgment came into B. R. whether by Corrodari, or by Writ of Error, because the Execution is different; if it came by Corrodari, the Spece facias is to be forth the same, and the Limits of the individual Action, and pray Execution within those particular Limits: But if it was brought in Writ of Error, that must be shown in the Spece facias itself likewise, and pray Execution generally. 3d. 505. A New Action, as the Defendant may plead to it: And it ought to be brought in the County where the original Action was laid; so as it must always be the first Action. Finch 477. 2d. 505. As a Spece facias is an Action, it requires a new Warrant of Attorney, and when the Party comes to pray Judgment thereon, he does it by Attorney. 2d. 505. And if one doth not proceed upon a Writ of Spece facias within a Year after it is taken out, he cannot, after that Time proceed upon that Writ, which is discontinued; but is to sue out a new Spece facias. 2d. 505. Spece facias may be pleaded to, before Judgment is given upon it: afterwards it is too late: Though a Writ of Error may be brought to reverse the Judg- ment on the Spece facias, if that be not good on which the Judgment was grounded. 2d. 505. Payment is no Plea at Common Law to a Spece facias upon a Judgment, because it is a Debt upon Record. 3d. 505. But this is altered by the 4 & 5 Ann. Whatever is pleaded to the original Action, in Abatement shall not be pleaded to disable the Plaintiff from having Execu- tion on a Spece facias; because the Defendant had admitted him able to have Judgment. 2d. 505. In Spece facias on a Judgment out of Debt, in a Real Action, the Defendant cannot plead Non-tenure of the Land generally, where it is contrary to the Re- turn of the Sheriff, but he may plead a special Non- tenure: But in a Spece facias to have Execution in a Real Action, the Defendant may plead Non-tenure generally, because the Freehold is in Question, and that is favoured in Law; and the Tenants in Chief may plead there are other Tenants not named, and pray Judgment if they ought to answer: The others are tenanted, &c. but it would be otherwise if the Facia had been brought against particular Tenants by Name. 3d. 505. On a Spece facias to have Execution upon a Judgment in Debt of every Tenant is to be contributory; and therefore one shall not an- swer, as long as he can show that nothing is due, and not warned: Canto in a Spece facias upon a Judgment in a Real Action for every Tenant is to answer for that which he hath, or is capable of receiving, and the other not. 3d. 505. N.S. 2d. 204. There is to be a Spece facias against the Heir and Tenants in Chief to reversible a Common Recovery of Lands; the Spece facias is to be had against the Heir, and for they are to gain or lose by the Judgment in the Re- covery. 3d. 505. Med. 2d. 749. A Spece facias to have Execution of a Fine, shall not be used against the Free- hold for Years, but against him who hath the Freehold, who may have some Manor to bar the Execution. 2d. 471. 2d. 144. In Ejaculation, it was adjudged, that a Spece facias might be brought by the Leasor though he was not the landlord, and that it may be had by the Leasor himself; as either of them may have a Writ of Error on the Judgment; And that it might be brought against those who were strangers to the Judgment, and against the Executors of the Defendant. 3d. 2d. 1257. A Defendant being summoned upon a Spece facias, and the Summons returned, if he doth not appear, but the Judgment go by Default, he is for ever barred. 1d. 41. 42. If the Sheriff hath returned him warned, he shall not have Autia Querela on a Re- leas, &c. for the Defendant might have pleaded the fame on the Return of the Spece facias; but if the Sheriff return Nihil, on which an Execution is awarded, he shall have Autia Querela, New Nat. 3d. 2d. Where the Plaintiff in the Judgment re- leases the Defendant of all Judgments and Execu- tions, &c. the Defendant may upon his Release sue out a Writ of Spece facias against the Plaintiff in the judgment ed Cogendum scripsum factum Relata- tions; and he need not sue out his Autia Querela. 3d. 5d. & M. B. R. Spece facias may be sued a- gainst a Sheriff, for not bringing a Moneyograph to Court levied on a Judgment, to show Cause why Execution should not be had against him for the Sum, with which he had charged himself by the Return of the Writ of Execution. 3d. 51. If.
one faces out two Writs of Scire facias, one after the other, where it is upon a Judgment by Bill, there ought not to be the space of three years between the first and Return of the first Scire facias. And the Scire facias is to be the Day of the Return of the first Scire facias. But if both the Bills be Writs of Scire facias, then they be to be laid out of the Court at the same time, and the second Scire facias, if Notes be allowed in Suits on Writs of Scire facias, &c. 

**Form of a Scire facias upon a Judgment in Debt.**

**George the Second, &c.** To the Sheriff of M. Greeting: Whereas A. B. lately in our Court before us at Westminister, by Bill without our Writ, and by a Judgment of the same Court recovered against T. D. &c. there three hundred and forty Pounds for a Debt, and seven Shillings for his Damages which had been sustained, as well by Occasion of the obtaining the said Debt, as for his Expenses. Costs laid out by him amounting to the said Bills, wherein the said T. D. is sued, as appears to us of Record; and now on the Part of the said A. B. we have received Information in our Court before us, that although Judgment be therein given, notwithstanding Execution for the said Debt and Damages still remains to be made to him; whereupon the said A. B. hath enjoined us to provide him of proper Remedy in this Case. And we do therefore declare what it is Right and Dignified to be done therein, hereby commanded you, that by your best and lawful Means of your Bailiffs, you cause it to be known to the said T. D. that he be before us at Westminister, and that he cannot, if he knows of it, have any Thing to say for himself, only the said A. B. ought not to have his Execution against him for his said Debt and Damages, according to the Form and Effect of the said Recovery; and further to do and receive what our said Court before us shall then and there confer of in Particular: And have you there the Names of those by whom you shall be caused it to be known to him, and this Writ. Writed, &c.

**Scire facias against Ball.** To an Action, is where the Capa is ad satisfacere, is found out and returned

**Novi inventio** against the Principal, and the Writ filed; after which this Writ is brought to have Execution against the Ball, &c. And if upon the Scire facias, or two Scire facias, or two Nikils, the Bail do not appear, Judgment shall be entered against them. 1 Inf. 290. Larp. 1735. C. B. there is but one Scire facias against the Ball, and upon a Nikil Oath returned, there is Execution; but in B. R. there are two Scire facias and two Nikils, and the first is to be duly returned, before the second filed out; and there must be fifteen Days interval between the Two of the first and the Return of the last. 2 Sa. 599. There must be a particular Warrant of Attorney to a Scire facias against the Ball for such a Warrant in the principal Action is no Warrant to the Scire facias, because there are distinct Actions; and the particular Warrant is to be entered when the Suit commences, which is when the Writ is returned. 2 Sa. 593. When a Scire facias is brought against the Ball, it must be in two parts, and where it is brought against the Defendant in the principal Action, it is to be in one part. 2 Sa. 599. If Ball are procured on a Scire facias when a Writ of Error is depending in the Exchequer-Chamber, and the Defendants the Ball will confine Judgment, and enter judgment for the Bail, and delivered up the Principal within four Days after the Judgment affirmed; in such Case the Proceedings on the Scire facias shall be stayed. 3 Mod. Cas. 175. & E. 199. And if there be no good Judgment against the Principal, Judgment against the Ball by Scire facias may be revived, &c. 3 Nolf. Abr. 190. See Ball.
SC

SC

Debtors have left with the Office, for Conditions broken, Non-attendance, &c. And for Disability, or in Case of Forfeiture, the Officers may be seized without Sci. Not. 3 Nell. Abr. 201, 202.

Debtors in Appeal of Murder, before a Pardon shall be allowed; vide Appeal.

Debtors, (Suits) Signifies the Setting or Standing of any Place, the Seat or Situation of a Capital Magistrate, or the Ground whereon it stands. Mon. Aug. Tom. 2. fol. 278. The Word in this Sense is mentioned in the Stat. 32 H. 8. c. 20. and 23 Car. 2. cap. 2.

Debts, In a legal Sense are Troublesome and Angry Women, who by their Bawling and Wrangling amongst their Neighbours, break the Publick Peace, and increase Discord. Stat. 53 H. 3. They are indelible in the Sheriff's Turn, and punished by the Caching-Sole. &c. Kitch. 15.

Debt and Debt (See Debt, pars. & Lott. 1. c. Ser.) Signify a customary Contribution laid upon all Subjects, according to their Ability. Spelm. Nor are these old Words grown obsolete, for whoever in like Manner, of the State and Arms, which are assigned to any Contribution, are generally paid to pay Sect and Lott. Stat. 33 H. 8. c. 9.

Debt or Debtor. Is where any Officer of a Forefoot keeps an Almoner within the Forefoot, by Colour of his Office, causing People to come to his House, and there spend their Money for Fear of his Displeasure: It is a Custom of Sect and Arms, which by Transposition of the Words is otherwise called an Almsman. This Word is used in the Charter of the Forefoot, cap. 8. —Nulla Forfariarum sectarum, vel sarbis, vel aliquid Calumniarum sectarum, &c. Wood. 216.

Debtor. These Tenants are said Debtors, whose Lands are subject to pay Sect. Mon. Aug. Tom. 1. p. 875.

Scotland, is united to England by 5 Ann. In the Reign of King James I. and K. Car. 2. Commissioners were appointed to treat with the Commissaries of Scotland, concerning an Union. But the bringing about this great Work, was referred for the Reign of Queen Anne. The 1 Ann. c. 14. ordains Articles to be settled by Commissioners for the Union of the two Kingdoms, &c. and by the 5 Ann. cap. 8. the Union was effected: The Kingdoms united are to be called Great Britain; and the Crown of Great Britain is to be one and indivisible. And to be constituted: They are to be represented by one Parliament, and fourteen Peers of Scotland, and forty-five Commons to be elected for Scotland, and have all the Privileges of Parliament as Peers and Commons of England: The Subjects of either Kingdom shall have Freedom of Trade, and be liable to the same Customs, and like Laws for publick Government, &c. Kirk-Government of the Church is confirmed; and the Courts of Justice are to remain the same as before the Union, but subject to Regulation: When 1,907,354. shall be raised in England on a Land-Tax, Scotland is to be charged with 48,000. And Scotland is to have an Equivalent for being charged towards the Payments of the Debts of England, &c. A Court of Exchequer is erected in Scotland, to be a Court of Record, Revenue, and Judicature for ever; and Baronies of the said Court to be appointed, who shall be judges there. Stat. Ann. cap. 26. Peers of Scotland and all other Officers Civil and Military, &c. are to take the Oath of Abjuration, &c. A Peer committing High Treason or Felony in Scotland, shall be tried under the Great Seal, continuing Justices to inquire, &c. and the King may grant Commissions of Oyer and Terminer in Scotland, to determine such Treason, &c. By 6 Ann. c. 14. and 7 Ann. cap. 21.

Persons having Lands in Scotland, guilty of High Treason by Corresponding with, Alliing, or Receiving Money, &c. to the Pretender, or Convict thereof, are to be liable to the Pains of Treason; and their Vassals continuing in open Allegiance, shall hold the said Lands of his Majesty in Fee and Heritages for ever, where the Lands were held of the Crown by the Officer; and Tenants continuing peacable and occupying Land, are to hold the same two Years Rent-free. 1 G. 1. c. 20. An Act for Dif.

arming the Highlanders of Scotland; and requiring Ball of Persons for their Housing and keeping Peaceable and occupying Lands, are to hold the same two Years Rent-free. 1 G. 1. c. 20. An Act for Dif.

arming the Highlanders of Scotland; and requiring Ball of Persons for their Housing and keeping Peaceable and occupying Lands, are to hold the same two Years Rent-free. 1 G. 1. c. 20. An Act for Dif.
A Fine imposed on such as neglected to attend the Scrygegant Court, which all Tenants were bound to do, was decided by the Presiding Officer. A Court held by the Saxon twice every Year by the Bishop of the Diocese, and the Earl of the Kingdom, and returning within a Year, may traverse the Indictment.

Apros, Are Laws relating to the Sea; as the Laws of England, &c. A Renter, Referred to the King, are punishable for departing without Licence. Stat. 1. 2. 13. And Fighting, Quarrelling, and Disturbances of the Navy, &c. may be punished by the Court. The Tenants by the Navy by Fine and Imprisonment. 19 Car. 2. 7. Regulated Seamen are exempted from serving upon Justice, &c. or Pay as the Clear of 40s. per Annum Bounty-money, besides their Pay; and on Disability of Service be admitted into Greenock Hospital: And Seamen to the Number of 35,000 were to be registered for the King's Service, by the 7 & 8 Wt. 3. 21. Stat. 1. Gen. 2. 19. Seamen on board English Merchant Ships, consigned in Fight against an Enemy, shall be admitted into the Hospital in Greenock, as wounded in the Service of his Majesties. 8 Gen. 2. 19. Provision for Relief of Wives of Seamen-officers, see 6 & 7. 8. Vide Navy and Marines.

St. Vig, or St. Ivan. In the Reign of King Henry 12, and Catherine Queen of England, had an Affiance made her of the Cargo of Ships, a Span, &c. valued at the Sum of forty thousand Pounds, every two whereof was worth a Noble. Stat. 12. Hen. 6. 5. A Scut, from Saxton. Sax Scutel. A Scutel, any thing of a flat and broad Shape, like a Shield. A Scutel, a Ship, or a Port, as Scutel, a Port, as Port of. 2.
Makers of Deeds subscribed their Names, adding the Sign of the Croft, and in the End putting down a great No. of Writs, as Masters of Great Seal, but in the Time of Will. 11, called the Caspref, the King and the Nobility used Seals of Arms, which was by the Privy Seal; and in the Reign of King Edw. 7th, Seals with Devices became common with all Sorts of Persons. Terms de Ley 334, 335. 1675, 170, 171, 173, 175, 176, 177, 178, 179, 180, 181, 182. New Deans and the Parliament of the Church of England. Mon. Ang. Tom. 5. p. 7. Sealing of Writings by being the Wax. See Wang.

Sealing Deeds, Makes Persons Parties to them; and if they are not so sealed they are void. Dev. 13. If a Seal is broken, it will make the Deed void; and when several are bound in a Bond, the pulling off the Seal of the Cohen it voids; as the others. Dev. 20. 21. Nolf. 408. But in a Deed of Covenant, 'tis held that a Person's breaking off the Seal of one of the Covenantors, after making the Covenant, shall avoid the Deed only against himself. Cen. Eic. 408. 409. In case the Seal of a Bond be broke or eat off by Rats, or it is any ways canceled, no Action can be brought on such Bond. Cen. 2 Ruff. 245.

Duty Seal, Exchequer Seal, Great Seal. Privy Seal, Seals of Office, of Bishops, &c. Vice the Heads. Great Seal, (Legitimate) is an Office in the High Court of Chancery, appointed by the Lord Chancellor to seal the Writs and Instruments there made in his Presence.

Steam Ship, Seems to be that Sort of Ship which is taken with a large and long Net, called a Seal. Stat. 1. 22. e. 25. Steamboat, An Officer of the Cabot, whose Buoyage is to keep the Inward bound, if they have any prohibited or uncustomed Goods on board, Cen. This Officer is mentioned in the Stat. 14. Car. 2. And there are Steamboats con. Steamboats at various Duties; of Leather, and in divers other Cales.

Secondary, (Secondaries) is an Officer, who is Second or next to the Cohen it voids; to the Secondaries to the Privy Councilors of the Courts of B. R. and G. S. The Secondary the Remembrancer in the Exchequer; the Deputy of the Comptroller, Cen. 2 Lill. 44. 45. Secondary of the Office of Public Seal, is taken Notice of by Edw. 4. c. 1.

Second Deliberant, (Seconda Deliberation) is a Judicial Writ that lies after a Nonuit of the Plaintiff in Replevin, and a Return Hank of the Cattle reprieved, adjourned to that day that restrained them; commanding the Sheriff to reprieve the same Cattle again, upon Security given by the Plaintiff in the Replevin for the Redelivery of them, if the Differs be justifi. It is a second Writ of Replevin. Cen. F. N. B. 68. Second Marriages, (Seconda Nuptia) is when after the Decease of one a Man marries a second Wife; which the Law terms bigamous.

Secretary, (Secretaries, &c.) A Title given to him that is ab Epistol & Scriptios Secretis, as the two Secretaries of State, &c. The Secretaries of State have an extraordinary Trust, which renders them very considerable in the Eyes of the King, and of the Subject also; whose Requests and Petitions are for the most part lodged in their Hands, to be represented to his Majesty, and to make Dispatches upon them, pursuant to his Majesty's Directions: They are Privy Councillors, and a Council is seldom or never held without the Presence of one of them; they write the Effusion of all Important Matters, and always attends the Court, and by the King's Warrant, prepares all Bills or Letters for the King to sign, not being Master of Law. And depending on them is the Office called the Paper Office, which contains all the publick Writings of State, Negotiations, and Disposi.

Secretariatum (secretarium quod = non disertaris et partes exterem sine Secretarii Regis, An ancient Writ lying for the King against any of his Subjects, to stay them from going out of this Kingdom to foreign Parts; the Ground whereof is, That every Man is bound to serve and defend the Commonwealth, as the King shall think fit. F. N. B. 85. See Its extens

Secretariatus, A Writ that lies for a Man who is threatened Death or bodily Harm by another, against him which he threatens; and is filled out
defence; but a defence ought to be always unblamable, not to take Revenge. Bar. 25.

If a man attack another Peron on a sullen falling out, and before a mortal Wound is given, the other flies to the Wall, or some other uneasie Place, to save his Life, and being still pursued the Peron making the Assault; from the unavoidable Necessity of it, this is so Defended; and so in the like Cases, Br. 3. Edw. 3. A Flight upon Necessity, to make Killing another So Defended, must not be a flegged one to gain Breath, or Opportunity to run away; but it must be a flying from the Danger, as far as the Party can, either by Reason of some Wall, Ditch, Company, or the Fiendness of the Assailant will permit. 1 Hal. Hift. P. C. 483. If a Peron is so assailed, who flies to avoid Death, and the Servant kills him in his Master's Defence, it is Homicide Defended of the Master; though if he had not been driven to that Extremity, it would have been Manslaughter. ibid. 484. And if I have a Weapon in my Hand, and a Peron assails me, if he runs so hastily after me, that he runneth on my Sword which I hold forth for the Defence, and whereof so is killed, it is So Defended: But if there be any Malice in the Case, or one kill him before he needs to do it, the Offence will be of a higher Nature. R. 284, 285, 377. Penns. 119. There is no express Judgment in Chancel-

middle, or So Defended; but the Offender is let to Maim himself to put out his Pardon; and yet his Goods and Chattels are forfeited. Though where one kills another in his own Defence, upon the Special Matter found, it is said he may be dismissed without any Fine, or Pardon purchased. 6 148. 5 125. 203. 3 Inf. 591. H. P. C. 138. See the Statute 4 H. 8. c. 5.

Sedgemoor. In the County of Somerset, an Act for Defining the same. 10 H. 3. c. 26, An Edict for Life, the Pleading of it is that he was feigned of it at de fide, leaving out the Word Dominus; but if it be a Re-

vision in Fee, expectant upon the Determination of a Lease for Year, there he may plead that he was feigned of it in Dominus fum ut de fide. Dyce 185, 257. Rep. 20, 27. 4 Rep. 62. Sefina is never to be alleged, but where it is transferable; and when a Defendant allegeth a Sefina in Fee in any one under whom he claims, the Plaintiff cannot allege a Sefina in another, without traverse, confining or avoiding of the Sefina alleged by the Defendant. Cro. Eliz. 90. 1 Brow. 170. If a Sefina in Fee is alleged, it shall be intended a lawful Sefina till the contrary appears. 2 Law. 1357. But the Party is to shew of what Estate he is seised, &c. 3 Nef. Ab. 215. See Stat. 3 H. 6. c. 2.

Sefina tenuita. qvia Per labdum Insum, Dictum 9 Vallum, is a Writ that lies for Delivery of Sefina to the Lord of Land or Tenement, after the King in Right of his Prerogative hath had the Year, Day and Waife, on a Felony committed, &c. Rep. Orig. Sefina of Goods for Offences. No Goods of a Felon or other Offender can be seised to the Use of
Seraphim. The third Sunday before Septem-
berfesta Sunday in Lammas, and the
because it is about the Thursday before Septem-
berfesta and Septembrifesta are thus denominated
from their being, the one first, the other fifty
before the same Feast, which are all of them Days
applied by the Church to Acts of Penance and
Mortification, preparatory to the Devotion of Lent.
Festana Sunday until the Fetia after
Stefan, the solemnation of Marriage is forbidden
by the Canons; and the Laws of King Canute
occupied a Vocation from Jociature, from Synta-
festa to Quodena Staph. See Stat. Wigm. i.
51.
Sequitur. The Seveney Interpreters of the Biblia;
who were in truth sevenery two, 69. Six out of every
even of these Theudas Tribes. Litt. 68.
Sequit, An Inclusion, to called by Resion it is
encompassed with Sep and Wife, with a Hedge or a
Ditch, at least with a Hedge; and it signifies any
place paled in.
Sequitur, (Sequiarum) Is the Place where any
Body lies buried; but a Monument is set up for the
Memorial of the Dead, though the Corps lie not
there. Covel.
Sequitur, An Offering made to the Priest for the
Burial of a dead Body. Dom. 22.
Sequiter (Sequit). A Pedestinhol, Is a Writ that lies
where a Summons ad Warr incarnadine is awarded,
and the Sheriff returns that the Party hath nothing
where by he may be summoned; then goes forth an
Hill and a Placita, and if he come not in the
Sequilia, Caule, The Procels and depending Issue
of a Caule for Truce.
Sequilia Curiae, Is used for Suit of Court,
2, pag. 253.
Sequitum, The Residence and Appen-
tances to the Goods and Charters of Vilama, which
were at the absolute Disposition of the Lord.
In former Times, when any Lord sold his Vilane, it was
Deed B. Nairaem man em etem Sequila fam: which
included all the Vilaine's Offspring. Parev. Antv.
216, 238.
Sequentia, A Preacher, or Sower of Words.
Pot. Blfyn.
Senatus, (Senagum, from Senate, sometimes used
for Synod) is Money paid for Synods.
Senatus, (Lut.) As now taken is a Parliament
Man. In the Laws of King Edward the Confessor, we
are told that the Britons called those Senators whom the
Saints afterwards called Bishops, and Borough
matters: though not for their Age, but their Wisdom,
for some of them were young Men, but very well
skilled in the Law. Kenule, King of the Merians
granted a Charter which ran thus, sem. Confes & con
infra Episcopum & Senatorem gratus sem largius fuit
Seno, A Kind of thin flat Silk, mentioned in
the Stat. 2. R. c. 1.
Senechal, (Senechall, deriv'd from Germ. Suz
a House or Place, and Sable, an Officer) Is
a Seward; and signifies one that hath the dispensing
of Justice, in some particular Cases: As the High
Seneschal, or Seward of England; Senechal de la Hault
de Roy, Seward of the King's Household; Senechal or
Senechall & Marchiall quod non tentant
planta de libero tentmato. A Writ directed to the
Seward and Marchiall of England, inquiring them to
take of a Concision of an Affair in their Court that
concerns Freehold. Reg. Orig. 185, 191.
Senechall, and ascended ued for Widowhood.
Patm. in. 17 Ed 3.
Senechall, Days, Are Play Days, or Times of Plea-
ture and Diversion: Des prerogatives vacati,
Senechall, Separell, Several, or severed and di-
wardens by Appointment of the Bishop, to make Provision for the Cure during the Vacancy, &c. Stat. 28 H. 8. cap. 11. Sequestration is further the A 6th of the Ordinary, disposing of the Goods of one that is dead, whose Estate no Man will meddle with.

Sequestration in London, is made upon an Ac-

tion of Debt and the Course of Proceeding in it is thus: The Action being entered, the Officer goes to the Shop or Warehouse of the Defendant, when there is no Body within, and takes a Padlock and hangs it upon the Door, &c. using their Words, viz. I do sequestrate this Warehouse, and the Goods and Merchandizes therein of the Defendant in the Action, in the Use of the Plaintiff, &c. and to put on his Seal, &c. &c. and makes Return thereof at the Comptor; then four Court Days be-
ing past, the next Court after the Plaintiff may have Judgment to open the Doors of the Shop or Ware-
house, and to appraise the Goods therein by a Serjeant, who takes a Bill of Appraisement, having two Fre-
men to appraise them, for which they are to be sworn at the next Court holden for that Comptor; and then the Officer puts his Seal to the Books called to the Bill of Appraisements, and the Court grants Judgment: Though the De-

fendant in the Action may put in Bail before Satis-

faction, and so discharge the Sequestration, and after Satisfaction, may put in Bail as aforesaid. &c. Pr. Pract. Solic. 429.

Sequestration, of the Estates of Perry and Mem-


Sequetea habente, is a Writ judicial for the Discharg of a Sequestration of the Profits of a Church Benefice granted by the Bishop as a King's Com-

mandment, thereby to compel the Parson to appear at the Suit of another; and the Parson upon his Ap-

pearance, may have this Writ for the Release of the Sequestration.

Seriment, (Fr.) An Oath, which is to be taken before a Person who hath Power to administer it, or shall be void. 2 Eliz. 284. See Oath, and makes Re-

turn thereof at the Comptor; then four Court Days be-
ing past, the next Court after the Plaintiff may have Judgment to open the Doors of the Shop or Ware-
house, and to appraise the Goods therein by a Serjeant, who takes a Bill of Appraisement, having two Fre-
men to appraise them, for which they are to be sworn at the next Court holden for that Comptor; and then the Officer puts his Seal to the Books called to the Bill of Appraisements, and the Court grants Judgment: Though the De-

fendant in the Action may put in Bail before Satis-

faction, and so discharge the Sequestration, and after Satisfaction, may put in Bail as aforesaid. &c. Pr. Pract. Solic. 429.

Serjeant or Serjeant. (Lat. Serviant.) Is a Word diversly used in our Law, and applied to fundry Offi-

ces and Callings. First a Serjeant at Law, (Serviant ad Legem,) otherwise called the Serjeant of the Court of the Cafe, is the highest Degree in the Common Law, as a Dater is in the Civil Law; but according to Spen-

se, a Doctor of Law is superior to a Serjeant, for the ve-

ry Name of a Doctor, is but a Title of a Serjeant is only Ministerial. To these Serjeants, as Men well loved and experienced in the Law and Practice of the Courts, one Court is offered to plead in by themselves, which is that of the Common Pleas, where the Common Law of England is most strictly observed; obeyd however are not so limited as to be restrin-

ted from Pleading in any other Courts, where the Judges (who cannot be such till they have taken the Decree of Serjeant) call them Brothers, and hear them with great Respect, and of which one or more are filled the King's Serjeants, being commonly chosen out of the rest in respect of their great Learning, to plead for the King in all his Causes, especially upon Indict-
ments for Treason, &c. In other Kingdoms the King's Serjeant is called Advocatus Regius; and here in Eng-

land, in the Time of King Edw. 6th, Serjeant Bredes wrote himself filius Servient ad Legem, there being for some Time none but himself, and in Ireland at this Day there is only a King's Serjeant. Serjeants at Law are made by the King's Writ directed unto such as are called, commanding them to take upon them that Degree by a certain Day; and by the Writ or Patent of Creation it appears that the Honour of Serjeant at Law, is a State and Dignity of great Rank; in giving these Degrees, which are so re-

mune is void: and the Serjeant chosen hold a fum-

tuous Feast, like that at a Coronation, which formerly continued several Days; also they make Presents of Gold Ring, to a considerable Value, &c. Fortnum, c. 50. 3 Cor. 1. Dryer 75. 2 Leigh 213, 214. Their Privilege of being impregnated in C. B. &c. Vide Privilege.

Serjeants at Arms. Their Office is to attend the Perion of the King; to arrest Perions of Condition offending, and give Attendance on the Lord Admiral, and Steward of England, sitting in Judgment on any Traitor, &c. There may not be above thirty Ser-

jeants at Arms in the Realm, who shall not oppose the People. &c. 13 R. 1. c. 6. And two of them by the King's Allowance, do attend on the two Houses of Parliament; the Office of him within the King's Com-

mons is, the Keeping of the Doors, and the Execu-

tion of such Commands touching the Apprehension and taking into Custody of any Offender, as that the House shall injeion him. Another of them attends on the Lord Chancellor in the Chancery; and one on the Lord Treasurer of England: Also one upon the Lord Mayor of London on extraordinary Solemnities, &c. They are in the old Book called Fermons, because they carried Silver Rods gilt with Gold, as they now do Maces, before the King. Stat. 7 Hen. 7. c. 5. Cranmer, 2. 39. Flint, 1. 2 c. 59.

Serjeants of a more inferior Kind are Serjeants of the Mace, whereby there is a great Band in the City of London, and other Corporate Towns, that at-

tend the House or other head Officer, chiefly for Mat-

ters of Justice, &c. Kirk. 143. Formerly all the Judges of Eyre had certain Officers attending them called Serjeants, who were in the Nature of Typhoons. &c. With 1. c. 30. And the Word Serjeant is used in Britten for an Officer belonging to the County; which is the fame with what Breath calls Serjeant of the Hands of the Hundred, being no more than Bailiff of the Hundred. Brit. lib. 5. c. 4. And we read of Serjeants of Ma-

ces, of the Peace, &c.

Serjeants of the Bench, are Officers who execute several Functions within the King's Bench, mentioned in the Stat. 53 Hen. 8. c. 12.

Serjeants, (Serjeantia) Signifies in Law a Service, that cannot be due from a Tenant to any Lord but to the King only; and this is either Grand Serjeancy, that is, a Liberty to have a Serjeant, or Petit Serjeant, or Petit Serjeancy; in a Tenant of the King's Land to have a Serjeant to help him in his Wars and in Effect payable at Rest. Though all Tenures are turned into Service by the 12 Car. 2. c. 24. Yet the honourable Services of Grand Serjeancy still remain, being therein excepted. Litt. 153, 150.


Scripta, A Mantle or upper Coat; from the Lat. Superpallium, Blount.

Sermons, It was when Tenants, besides Payment of a certain Rest, and one or more Workmen for their Lord's Service. 1 R. 2. c. 6. King John brought the Crown of England in Servage to the See of Rome. 2 Ind. 274.

Serants, Are such as Men of Trades and Pro-

fessions employ under them, to assist them in their particular Office or Business; and others who perform the Work and Business of their Families, which comprehends both Men and Women: And Ser-


newt mens ten Menial, or no so: Menial, being Domestic, living within the Walls of the Houle. Dre'. 51. Every Person under the Age of thirty Years, that has been brought up in Handicraft Trade, or Land of Labour, though, or for Life, of the yearly Value of forty Shillings, or is not worth ten Pounds in Goods, and is allowed by two Justices of Peace; and not being retained with any Person in Husbandry, or in the Old Age, not being lawfully hired as a Servant with any Nobleman or Gentleman, or having any Farm or other Holding whereon he may exercise his Labour; shall, upon Request made by any Person using the Mystery wherein in such Person hath been exercised, be obliged to serve him as a Servant therein, on Pain of Imposition. 5 Eliz. c. 4. And by the same Statute, Persons are compellable to serve in Husbandry by the Year, with any Person that keepeth or sitheth Husbandry, and who will require any proper Person to serve; and, by the same Authority herein, and to affile the Wages of such Servants in Husbandry, order Payment, &c. Also two Justices, and Mayors or Head Officers of Cities or Towns, may appoint any poor Woman of the Age of twelve Years, and under forty unmarried, to go to Service by the Year, &c. for such Wages and in such Manner as they think fit: and if such Woman shall desire to go abroad as a Servant, then the said Justices, &c. may commit such Woman until he be bound to serve. Stat. 1 Henr. If any Master shall give more Wages than affiled by the Justices; or any Servant takes more, or refusing to serve for the Statute Wages, they are punishable: but a Master may reward his Servant as he pleases: but not by way of Contract on the Retainer; and if a Servant depart before the End of the Term, being hired for a Year, without Cause allowed by a Justice: or after his Term is expired, without giving a Quarter's Warnings, two Justices may commit him to Prison till he give Security to serve out the Time; or one Justice of Peace may send him to the House of Correction, there to be detained as a disorderly Person. A Master cannot put away a Servant before the End of his Term without some reasonable Cause, to be allowed by one Justice; nor after the End of the Term without a Quarter's Warning given before Wimborne: if a Master discharges a Servant otherwise, he is liable to a Penalty of forty Shillings. 5 Eliz. And where Servants quit their Service by Consent, by Court, &c. and two Holdouthers, &c. declaring their lawful Departure; and a Servant not producing such a Ticket, or Note, where he is free to dwell, is to be imprisoned till he gets one; and in Default thereof be whipped as a Vagabond; Masters retaining them without such Testimonial, shall forfeit five Pounds. But the Testimonial concerns only Servants in Trades and Husbandry. Stat. 1 Henr. No Person may retain a Servant for less than a Year, by the ancient Statutes; if one retains a Servant generally, without expressing any Time, the Law confines it to a Year; and where a Servant is hired for a Year, according to the Statute, and the Master dieth within that Time, the Executor must pay any debt due: and if a Woman Servant marryeth, she is obliged to serve out her Year; but if a single Woman who is with Child procures herself to be retained with a Master, who knows nothing thereof, this is a good Ground to discharge her from her Service; and if so be gotten with Child during her Service. Dall. 92. Rol. Ann. 1635. A Servant retained for a Year, falling sick, ought not to be discharged therefore, or for any Disability of the Lord; neither may his Wages be absolved for the same Cause. Dall. 125. Master and Servant are two persons, and the discharge of the Bever of a Justice of Peace is not necessary: And a Master's retaining Wages, not allowing sufficient Mews, or to the Master's Wife beating him, are good Causes for a Servant's Departure; but he shall not be allowed by a Justice. Dall. If a Master put away his Servant, he must pay him his Wages to the Time he served; though if the Servant gets some of the Master's Money before the End of the Time agreed, he shall forfeit all his Wages. Dall. 125. A Servant is not to depart from his Service; and if he refuse to do his Work, this is a Departure in Law, although he go not away. Noy. Max. 90. Enticing away a Servant, or retaining and keeping one who departed from his Master without Licence, knowing him to be a Servant to another, the Master may have Action of the Court against the Person doing it. 2 Lev. 63. Stat. 23 Ed. 3. But if a Man do retain another Servant's, not knowing that he was in the Service of the other, he shall not be punished for so doing; if he do not retain after Notice of his Fifth Service: And if a Person do retain one to serve him for forty Days, and another person afterwards retain him, the Fifth Service is avoided, because the Retainer was not according to the Statute. New Nat. Br. 374, 375. A Master is answerable for the Actions and Treasons of his Servants in many Cases: but not for Treasons of Battery, &c. and in criminal Castle, unless done by his Commandment. Noy. Max. 59. And if the Master order his Servant to drive his Master's Cattle, and after he hath driven them he kills or abeeds the Deer, the Master shall not answer it. Noy. 111. If a Man has a Servant known to be such, and he sends him to Fairs and Markets to buy or sell, his Master shall be charged if the Thing come to his Use; tho' if a Servant makes a Contract in his Master's Name, the Contract will not be binding, unless it were by the Master's Commandment or Assent; and where a Servant borrows Money in his Master's Name, without Order, that does not bind the Master. Dall. & Stud. Dial. 4, 5. A Servant buys Things in his own Name, the Master shall not be charged, except the Things bought come to his Use, and he have Notice of it. Noy. 171. Where a Master always gives his Servant Money, he shall not answer for what the Servant buys on Trust: but if he sends sometimes on Trust, he must answer to his usual Trademen for what is to be taken up on Trust by him. Wold's Stat. 56. A Master used to give his Servant Money every Saturday, to defray the Charges of the foregoing Week, and the Servant kept the Money; for Hold. Ch. Law, the Master is not to have that Advantage; his Peril ought to take Care what he spends his Money on; and 'tis more reasonable that he should suffer for the Chances of his own Money, and Trademen who do not employ them. Salk. 234. It has been adjudged, that where a Servant usually buys Goods for his Master upon Tick, and takes up Things in his Master's Name, but for his own Use, the Master is liable: but it is not so where the Master usually gives him ready Money: That if the Master gives the Servant Money to buy Goods for him, and he converts the Money to his own Use, and buys the Goods upon Tick, yet the Master is answerable, as the Goods come to his Use; otherwise he is not. Alth. & Note upon Salk. 234. And the Lands and Goods of a Man do not bind his Master, where he is allowed to deliver out Notes, though the Money is never applied to the Master's Use; but if he is not allowed or accustomed to deliver out Notes, his Note shall not bind the Master, if the Money be not applied to the Use of the Master. Salk. 234, 235. The Act of a Servant shall not bind the Master, unless he be by the Authority of his Master; and therefore if a Servant lends his Master to receive Money, and the Servant instead of Money takes a Bill, and the Master as soon as told thereof discharges himself of his Debt: But Acquittance, or any small Matter, will be Proof of his Master's Consent, and that will make the
Warrant to levy the name of the Master's Goods. And upon Complaint on Oath of any Midlemaster, Mitcarriage or Ill-behaviour in any such Master, Artificer, or any person to the said Master, the Justice or Justices, may punish the Offender by Commitment to the House of Correction, there to be corrected and held to hard Labour, not exceeding a Calendar Month: or by abating some Part of his or her Wages, or by discharging such Master, Artificer, &c. from his or her Service or Employment. And on Complaint upon Oath of any Midlemaster, Refusal of necessary Provision, Cruise, or other ill-treatment to such Master, Artificer, &c. by any Master, the Justice or Justices may summon the Master to appear before him or them, and upon Proof thereof on Oath to the Satisfaction of such Justice or Justices, he or they may discharge such Master, Artificer, &c. from his said Service or Employment, such Discharge to be given gratis. Persons thinking themselves aggrieved by any such Determination, may appeal to the next Sessions of the Peace. But no Certiorari to remove any such Proceedings to any of the Courts of Writsminster.

An Agreement between a Master and Servant.

It is agreed this Day, &c. between A. B. of, &c. and C.D. in manner following, viz. That the said A. B. shall and will receive the said C.D. into his House and Service, for the Term of an whole Year, from the Date hereof; and provide for the said C.D. competent and sufficient Meals, Drink, Wages and Lodging, and one new Pair of Garments, and one new Suit of Coats and Suits, &c. the said C.D. the Sum or Wages of five Pounds, is the said C.D. continuing in the Service of the said A. B. during the said Term: And the said C.D. covenants and agrees with the said A. B. that he the said C. D. shall and will for the Consideration aforesaid, faithfully serve the said A. B. in the Beguinage and Service of, &c. for and during the said Term of one Year, without objecting against the same, or insubordinati or any of his Goods or Goods of the said A. B. or any ways disturbing the Service of his said Master. In Wittels, &c.

Servt., Were Bondmen; and Servt. Ternamenters, those which now call Covenant Servants, Leg. Achilles. The proper Servts were of four Sorts, viz. such as held themselves for a Livelihood; Those that were to be fold for being incapable to pay their Debts; Captives in War, employed as perfect Slaves; Naives, such as were born Servants, if the Servants belonged to the sole Property of the Lord. And all these had their Persons, their Children and Goods, at the Disposal of their Lords; and were incapable of making any Will, or giving any Executions; Servits, (Servitude) Is that Duty which the Tenant, by Reason of his Fee or Eate, oweth unto the Lord: Our ancient Law Books make many Descriptions of it, as into Personal and Real, Free and Ba'ts. Exceptional or Annual, Causal and Accidental; Injurex and Injureth, &c. Bract. lib. 2. Brit. cap. 66. &c. In Rep. 9. Personal Servits, is where anything is to be done by the Perfon of the Tenant, as Homage and Fealty; and Ra't, was Wards and Marriages, when in Uel: Annual and Certain Service in Rent, Suit of Court in the Lord, &c. Accidental Servits, are Herions, Reliefs and the like; And some Servits are only for the Lord's Benefit; and were borne Servants. Co. Copyholl 21. Co. Li. 222. 25 E. 4. 3. Also Servits are said to be in teria; of Chastels valuable, such as an Ox, or Things pleasureable, as a Hawk, &c. And so are those Profits, Markets, and Sale of his Goods, or such and other certain or such and other valuable or censive Office, &c. The Statute of Magna Charta ordains, That no Freeman shall sell so much of his Lands, but that of the Rest of the Lord may...
have his Service. 9 Hen. 3. c. 32. In Feudiments to a Man and his Heirs, the Feoffor shall hold the Land of the Lord by the same Services as the Feoffor, etc. Stat. 13 Ed. 1. And where Services are intire, and cannot be divided upon the Alienation of Parcel of the Lands by the Tenant, the Services shall be multiplied, and every Alieene render the whole Service; though by the Purchase of Parcel by the Lord, the whole is extint, except in Case of Mistake, and Heriot Coven. 6 Rep. 1. Wood’s Inf. 133.

Note: It signifies worldly Service, contrary to Spiritual and Ecclesiastical. Stat. 1 Edw. 4. c. 18.

Description of Tenure, A Service which did not belong to the chief Lord, but to the King: It was called Per-ferre and Foramen, because it was done Ferri, vel extra foramen quod St Dominus Capitali: And we find several Grants of Liberties with the Appurtenances, Saloje servis forinu, etc. in Mon. Angl. Tom. 2. pag. 48.

Description of Tenure, Is that Service which was due to the chief Lord alone from his Tenants within his Manor. Stat. 2. Eliz. 1. ch. 5.

Description of Tenure, A Service to be done by feodatory Tenants, who were called Liberari baines, and distinguished from Pagelles, as was their Service; for they were not bound to any of the 9 Services of ploughing the Lord’s Land, etc. but were to find a Man and a Horse, or go with the Lord into the Army, or attend his Court, etc. and sometimes it was in one of their Acts of War or Affairs. There was an old Rental of the Manor of South Malling in Effe, mentioned by Sumner in his Treatise of Gravveldale, pag. 46.

Description of Tenure, Royal Service, or the Prerogatives that within a royal Manor belonged to the Lord of it; which were generally reckoned to be the following, viz. Power of Judicature in Matters of Property; and of Life and Death in Felonies and Murders; Right to Waifs and Edneys; Minting of Money; Alienation of Brand and Beer; and Weights and Measures; All which Privileges it was abused to some Menors by Grant from the King. Parv. Audi. 50.

Description of Tenure, A Write Judicial that lies for a Man disarmed for Services to one, when he owes and performs them to another, for the Acquisition of such Services. Reg. Judici. 27.

Description of Tenure (Servants) who are particularly applied to Scholars in the Colleges of the Universities, who are upon the Foundation. Stat. 3. Eliz. 1. ch. 13.

Description of Tenure, The Servitors or Mercengers of the Merch of the King’s Bench, as were tent abroad with Bills or Writs to summon Men to that Court. Stat. 2. H. 4. c. 43.

Description of Tenure, Seems to signify the Affixing or Rating of Wages. Stat. 3 Ed. 3. c. 6.

Description of Tenure, (Suffa) Is a Sitting of Judges in Court upon their Commission; as the Suffa of Gwyer and Tenures, etc.

Description of Tenure, The Sitting of the Parliament and the Suffa of Parliament contains all it be prorogued or dissolved, and breaks not off by Adjournment. 4 Inf. 27. See Parliament.

Description of Tenure, A Court of Record, held before two or more Judges of Peace, (Leges novas) for the Execution of the Authority given them by their Commission, and certain Acts of Parliament. And the Judges in Suffas have Power to hear and determine Trespasses against the publick Peace, etc. and many Offences by Statute: This Court is held four Times in a Year at some Place within the Country. Stat. 4. Eliz. before the General Suffa of the Peace; there are private Suffas held by the Judges, for divers particular Branches of the Busines of their Offices. Dall. Inf. 572.

Description of Tenure for other Tenures, called Statua Suffas, held by Confraternities of Hundred, etc. 5 Eliz. See Statutes Suffas, 9 W. 3. c. 30. 12 Ann. c. 18. 9 Gen. 1. c. 7. Vide Part.

Description of Tenure, Is where two or more Persons are feevishly charged in any Actum.

Description of Tenure, A Covenant by two or more feevishly: And in a Deed where the Covenanters are several between divers Persons, they are as several Deeds, wrote in one Piece of Parchment. 9 Rep. 23.

Description of Tenure, Is an Inheritance conveyed, to as to defend, or come to Persons feevishly by Moieties, etc. Vide Inheritance.

Description of Tenure, Is that whereby Land is given and installed feevishly to two. Co. Litt.

Description of Tenure, (Grisal) A Plea or Exception taken to a Write that is laid agst. n. two Persons as joint Tenants, who are severally. Bro. 273.

Description of Tenure, Is the Singling or Severing of two or more joined in one Actum. There is a Severance of the Tenants in an Affitt, when one or two Diffferece appear upon the Write, and not the other. Book Stat. 81. A Severance in Deeds, where two Executors, etc. are Plaintiffs, and one refuseth to act or prosecute. Ibid. 220. Severance in Quaer Impediment in Alienats, etc. 9 Rep. 97. And it lies in Real, as well as personal Acts, and as Writs of Error. F. N. B. 78. 10 Rep. 135. In Write of Error, if three Defendants in the Action bring Error, and one releaseth the Errors, he may be summoned and severed, and then the other two shall proceed to reverse the Judgment. 6 Rep. 26. And if in Error where there are several Plaintiffs, one only appears and affineth Errors; this is not good, without summoning and severing the rest. Cre. Eliz. 893. It has been held, that Summons and Severance lies in Partition; yet he who was severally shall have his Part: For Partition ought to be made of the Whole. Juxta Coram. 211. And in Case of Jointestants of Lands, by Severance the Protection of the Suit is severed, but not the Jointure; where for one alone recovers afterwards, the other may enter into the Money recovered. Ibid. 40. Summons and Severance is usually before Appearance; as Nonuit is after Appearance. 10 Rep. 134. But according to Holbe, there are two sorts of Severances, one when a Plaintiff will not appear; and the other when several Plaintiffs appear, but none will not proceed and prosecute. Hard. 517. 3 Nels. Abr. 255. If a Plaintiff or Defendant on a Writ of Summons and Severance, hold out against him by another, doth not come in upon it, Judgment shall be had as if Projeffandum froum; and this hath been done in B. R. by giving a Rule to appear and come in, 2 Litt. 539.

Description of Tenure, The Cutting and Carrying is from off the Ground; and sometimes the setting out the Tillage from the rest of the Corn, is called Severance. 2 Cro. 315. And where Executors of Tenants for Life, etc. dying before Severance, shall have Corn grown. See Endowment.

Description of Tenure, A Reconvenc for Robberies done on the River Severn in Gloucestershire, may be had by Action of Deeds, according to the Statute of Winchester. 8 H. 6. None shall be disturbed in his Possession over the Severne; nor any Disorders committed upon the said River. Stat. 9 H. 6. & 19 H. 7. Vide Pagge.

Sect.
A Saxem Word for him who guards the See Castle: it signifies Cauffe Maris. 

SEITIR. (Seoyer) is a Fresh-water Trench, or little River, incompell'd with Banks on both Sides, to carry water into Sea, and thereby prevent the Land against Inundations, &c. The Kings of England granted Commissions of Sewers long before any Statute was enacted in Parliament for it; and during the Reign of King Hen. 6. Ed. 4. Hen. 7. several Statutes were made for appointing Commissions of Sewers in all Parts of the Realm where needful; some to Indemnify for 20 Years, and others for 21 Years, &c. with certain Powers to the Commissioners; which Commissions, by the 23 Hen. 8. are to be settled by the Lord Chancellor, Lord Treasurer, and the two Chief Justices, or any three of them, whereof the Lord Chancellor to be one: and are to continue ten Years, unless repealed by a new Commission: And by this Law, the Commissioners Oath is appointed: they are to be qualified and to Elect, by having Lands, Tenements or Hereditaments, in Fee or for Life, worth forty Marks per Ann. besides Repriphs (except they are resident in and about a Corporation, and having Moveables worth 100l.) and if they execute the Commission not being thus qualified or before sworn, they incur a Forfeiture of 40l. Commissioners that may lawfully have an Allowance for their Service, as of ass. per Diem, and their Clerks 21. a Day, out of the Taxes to be laid and levied. 23 Hen. 8. c. 5. The Commissioners of Sewers have a Power to make what Laws and Ordains they think fit; but not to continue in Force longer than their Commission by this Statute; and may decree Lands to be sold to levy Charges affixed, upon Non-payment, &c. All Laws, and Ordinaries of the Commissioners, are to remain in Force still repealed, notwithstanding the Determination of their Commission; and Clerks of Commissioners of Sewers are to exact Fines and penalties imposed by the Commissioners, yearly into the Exchequer, by 13 Eliz. c. 9. The Business of the Commissioners of Sewers is to repair Sea-Banks, and Walls, ferry Rivers, publick Streets, Ditches, &c. and make Orders for that Purpose: They have Authority grounded on the Statutes, to inquire of all Natives, and Officers committed by the Stepping of Rivers, seeding Mills, nor repairing of Banks, and Bridges, &c. and to tax and affix all whom it may concern, for the Amendment of Defaults, which tend to the Overflowing or Hindrance of the free Passage of the Water through its ancient Course: And they may arrest Carts and Horses, and take Trees, paying a reasonable Price for them, for Repairs, to the Nearer, to the Neighbors, and other Officers, &c. Terms de Ley 541. 4 Blunt 275. 275. Laws Sew. 86. 96. They proceed by Jury and View, in their Inquiries into Annuities and Defects of Repairs; and the Jury may assess for Neglect: All the Commissioners may punish by Fine for Contempes, and where Officers are negligent in their Duty, though they may not imprison Persons for Disobedience to their Orders. Laws Sew. But they cannot intermeddle where there is not a publick Prejudice; nor can they make a new River: Upon the 25. Statute 23. Hen. 8. the Commissioners decreed that a new River should be made out of another large River; through the main Land for seven Miles, unto another Part of the old River, and that they should take the tax of the same upon several Towns: adjudged that the Commissioners have no Power to make a New River, or any new Invention to call out Water, &c. for such Things are to be done in Parliament: But they may order an old Bank to be made new, or alter a Sourer upon any in evitable Necessity; and the Tax of a Sum in gross is to be made by them, to tax every Owner or Possessor of the Land, according to the Quality of their Land, Rent, and Number of Acres, and their respective Portions and Prods, whether of Pashure, Fithing, &c. 10 Rep. 141. Commissioners of Sewers are to tax equally, who are in Danger to receive any Damage by the Waters, and not only the Land of which Landowners are the Administers; because the Rages of the Waters may be so great, that the Land contiguous may not be of the Value to make the Bank; and therefore the Stat. 6 H. 6. c. 6. will have all those in Danger to be contributory, 5 Rep. 100. The Commissioners having made a Rate, according to the Quantity and Quality of the Land, &c. may grant Warrants to detain for it; and the Land may be decreed to be sold to pay the Rate: But the Decrees of Commissioners of Sewers are to be certified into the Chancery, and have the King's Affiet to be binding in the Commissioners and their Proceedings, are subject to the Jurisdiction of the King's Bench, 23 Hen. 8. 1 Fost. 67. There are several Cases and Considerations for which Perpet: may be obliged to repair and maintain Sewers; as farmers were bound to the Repair of the Walls, and Banks, &c. by reason of Frontage, by 37 Eliz. Afl. pl. 10. The bringing of a Quaerek over a Bank, or other Defence, is a sufficient Inducement to impose the Charge of the Repair thereof upon such Sewer. 8 Hen. 7. Presefion and Covenants are much of the same Nature, and the Law about Covenants in this Case; but Perpet: by Presefion doth not bind a Man to the Repair, except it be Rauious Terra. 21 Ed. 4. 58. 15 Hen. 7. By Tenors of a Statute, it is enacted that any Person may repair the Banks, or any part of the Wall, Bank, or Defence mentioned in the Statute of Sewers, 22 H. 4. A Man may bind himself and his Heirs by Covenants expressly to repair a Bank, Wall or any part of it, and be good; yet this shall not bind the Heir after his Death, where Affiet are not left from the Ancestor, which entered into the Covenant. Cullis's Read. The Use of Defences may be in the Man to the Reparation thereof; if one and his Ancestors have had the Use of a River by falling up and down the same, or have used a Ferry on or over it, &c. Laws Sew. 57. If no Persons or Grounds can be known, which ought to make Repairs by Tennure, Presefion, Covenants, or otherwise, then the Commissioners are to tax the Land: And by the Laws and Statutes of Sewers, all shall be charged. &c. Rid. 67. 58. If it is found before Commissioners of Sewers, that such a Person ought to repair a Bank; and this is removed into B. R. the Court will not quash the Inquisition, or grant a new Trial, except he repair it: and if afterwards he is acquited, he shall be reimbursed. Sid. 78. In Cases of Sewers, the Court of King's Bench inquires into the Nature of the Path, before they grant a Coroner to remove Orders; that no Milkfish may happen by Inundations in the mean Time, which is a discriminatory Execution of their power. 3 Sal. 46. The Court commonly hears Counsel on both Sides, where Orders of Commissioners of Sewers are removed by Coroner, before such Orders are filed; for if granted the Court will grant no Proceeds, which cannot be done after they are filed: But now they will file them in any Case, where there is no Danger likely to infuse. 3 Sal. 145. If Commissioners of Sewers proceed after a Coroner's delivered out of B. R. Attachment will issue against them, and they may be fined. 3 Nelf. Anc. 218. The Heirs and Bequest on Grounds, are all within the Statutes of Sewers in Point of Extent; but they and the Shore, and the relinquished Grounds, are out of the Commission of Sewers, to be determined thereby: But Parts of the same that is, as well as the Walls and Banks of Waters, are within the Commission of Sewers; and the Shore and Grounds left by the Sea, when they are put in Gaging and made profitable, then will be under the Commission of Sewers: And though before, the Ground left by the Sea, is not as to Defence, within the Commission.
tion of Sewers; yet a Wall or Bank may be thereon raised, for the Secure of the Country, although not for any private Commodiety, the Peril of Sewers arising at the general Good. Calvin's Read. Laws Seri. 31, 32. The Stat. 3 Jac. c. 14. ordains, That all Ditches, Banks, Bridges, Streams, and Watercourses in the Parish of London, being to the benefit of the Thames, shall be subject to the Commission of Sewers: And the Lord Mayor, &c. is to appoint Persons who have Power of Commissions of Sewers. 7 Ann. c. 10. Repairs of Sea Banks in Norfolk, by Order of Justices of Peace as Highways. See Stat. 27 Eliz. c. 24. Breaking down Sea Banks, whereby Lands shall be damaged, is Felony, by the 6 Geo. 2. c. 35. And Persons removing Piles, &c. used to prevent inundations of Rivers, shall forfeit 20 l. or be sent to the House of Correction for six Months. Stat. 18 Geo. 2. c. 32.

Sheriff's, The Middle Thanes, valued at 600 Skillings. Vide Hidemi Homens.


Sherris, A Goth in the Country of Norfolk, to have Common for Hogs, from the End of Harvett till Seed-Time, in all Men's Grounds without Control; And in that Country in go as Shab, as it is as much as to say as large. 7. Geo. 2. Rep. 5.

Sherping-Cynn. A customary Gift of Corn, which at every Christmas, the Farmers in some Parts of England give to their Smits, for Sherping their Ploughs. Herw. Text. &c. Bibl. 4.

Shew, A Grove of Trees, or a Wood, mentioned in 11. Jov. 5.

Shew-Craft, A Word unknown to Summer, who could not tell what it was, unless Chelvatians, which may agree with the Signification, but not with the Sound of the Word; for its more like Soldiers than Chelvatians. Knight Ann. 1158.

Sheriff, Signifies a Riding, Tithing, or Divi- sion in the Isle of Man, where the whole Island is divided into such Sheriffs, or of each of which there is a Sheriff, or chief Confidant appointed by Delivery of a Rod at the Town-head Court, or annual Convension. King's Jorrip. Life Man 17.

Shew, By an ancient Statute, no Peron shall keep at one Time above Two Thousand Sheep; but Lambs are not to be accounted as Sheep till they are a Year old. 23 Hen. 8. c. 15. Persons exporting Sheep, shall forfeit 10 l. and 20 l. for every Sheep, &c. 12 Car. 2. c. 32. And Perons in the Counties of Kent and Suffet, within ten Miles of the Sea, are to give an Account in Writing after Sheep-shearing, of the Number of Fleece, to the next Officer of the Customs, &c. 9 & 10 W. 3. c. 40. By late Statutes, Perons driving away, or selling Sheep, or other Cats, or killing them, with an Intent to sell the Car- cases, or any Part thereof; and those as if any one thereof, shall be adjudged guilty of Felony, without Benefit of Clergy: And a Reward of 10 l. is ordered to be paid by Sheriff to any Person who shall apprehend and convict such Offenders. &c. Stat. 14 Geo. 2. c. 6. c. 15 Geo. 2. c. 54. See Wool.

Sheep-Brother. A Service turned into Money, which was paid in Relief that anciently the Tenants used to wish the Lord's Sheep. W. Jones Rep. 289.

Sheepman's Craft, is a Craft or Occupation used at Norwich; the Artificers whereof do dye Worsted, Full-fleece, and all Woollen Cloth. Stat. 19 H. 7. c. 17.

and 22 & 23 Car. 2.
Death is all in Ceylonia Legis till there is a new Sheriff; and in their Cases when the new Sheriff is in Office, he must take Notice of all Persons in Execution, &c. as there is none to make a Delivery of them. 3 Rep. 72. 73. A Sheriff out of his Office may not be sued for any Misdemeanor the Chief: but the Court, may issue a Tippaish for him, or issue forth Proces of Discovering to cite him and answer, &c. 2 Lill. Abr. 510. The Sheriff hath a Judicial and statutory Power: He has the judicial authority of the Sheriff's Court to execute the Criminal of the Peace of the Court, in the Common Law, he is the principal Conserver of the Peace there; and he is to affite the Justices and take the Praemunire in favor of the Peace, &c. He may impose any one for a Breach of the Peace, or making an Affray in his Presence; and such Perons as shall appear to be upon Sufficient of Felony, on a Blind and Hasty, he is to commit to Gaol. But of his own Authority, he shall not arrest any Man on Sufficient of Felony; except there be a Felony actually done, and he himself have a Sufficient of the Party, &c. And the judicial authority of the Sheriff is toDamn Rule, when it is done otherwise, and his authority is to Damn Rule, by the Juries of the Peace. 1 Inf. 174. 2 Inf. 153. 2 Red. 237. The ministerial Power of a Sheriff is to be exercised in the Execution of Writs and Proceses out of the King's Courts; and no Proces is to be served but by the Sheriff, wherein he ought not to disfigure the Validity of any Writ, but to execute it. 1 Inf. 158. 2 Inf. 452. 6 Rep. 64. He shall not let a Peron escape, though taken on an erroneous Proces. Cer. (f) 3. 280. In Cases which concern the King, or where the King is Party, and in all such other Cases where the Sheriff's authority extends, he may break open a Door to execute the Proces, (after Demand to open it,) signifying the Cause of Coming, and Requiring them, though not in a Civil Cause at the time of the Subject; unless when an Execution, &c. is once lawfully begun, as where the Out-doors are open, the Sheriff entering may proceed and break open in the Door, 2 Rep. 45. 1 Palm. 53. The sheriff may not break a House, nor pull the Latch and open the Door, if he be not, to execute a Writ; and yet if he do so, and arrest the Party, it is good: But the Sheriff must first by a Writ of Proclamation, by his Authority. Hob. 1. Upon an Arrest, his Officers are to shew at whole Suit it is, and out of what Court the Writ is from, and what Cause. And if the Sheriff do not make a Return of the Writ, or if he imbles them, or make a false Return, the Sheriff may be arrested by the Court, or the Party may bring Action of the Case against the Sheriff; or his Attachment may be had against him for undue Practices in Arrests, &c. 3 Rep. 64. 9 Rep. 168. 10 Rep. 70. Cer. Erum. 75. 2 Hand. 145. Besides their ministerial Office to execute the Proces of the King's Courts, Sheriffs, are to return Juries for Trials in civil and criminal Causes; but where there is Cause of Challenge against the Sheriff, the Court is to return Juries; though if there be two Sheriffs, and one of them be challenged, the others shall go to the other. 23 Hen. 6. Show. 329. They are to proclaim Statutes and make Return of Writs for electing Knights of the Shire, &c. and they shall preserve the Rights of the King within their Counties; collect his Rent, seize Profits of Lands forfeited and Goods of Felons, levies, King's Indemnities, &c. And they may also be accountable to the King for the fines and Profes of their Counties; for which they are to give up their Accidents in the Exchequer, &c. And they are to see that Criminals are executed are observed the Order of Law in putting them to Death. 10 Ed. 1. Dut. & Stat. 2. ch. 41. The Sheriff hath under him an Under-Sheriff, Bailiffs, Gaoler, &c. for he hath the custody, Rule, and Charge of common Gaols; and for all these he is answerable: But he may execute his Office himself, without as an Under-Sheriff, if he pleases. 4 Inf. 114. The Under-Sheriff is to take the Oaths before he enters on his Office; and then his Office is granted. With this, the High Sheriff, he is to be seated in his Seat; though all Returns of Writs by the Under Sheriff are in the Name of the High Sheriff, and the High Sheriff is to swear to execute the Office of Sheriff, and therefore he must answer for all. 27 Edw. c. 12. 1 Wash. 3. And in some particular Cases the High Sheriff is immovable by the High Sheriff at Pleas; and is but in the Nature of a general Bailiff; Errest to the Sheriff in the whole County, as other Bailiffs are over particular Districts. A Lill. Abr. 511. 514. He ought always to have his Deputy Aliened under Courts, to receive and execute their Commands, give Account of Bufinets, &c. and is to file a Warrant of Administration of the High Sheriff in all the Courts at Westminster, by an Attorney of each Court, or by an Attorney of any Court, will lie upon the Statute Hen. 6. against the High Sheriff. 2 Lill. 511. An Under-Sheriff may be made by Proclamation, and under One or more Writs, and the High Sheriff implicitly gives him Power to execute all the ordinary Officers of Sheriff, or to serve Proces, Executions, &c. And as the common Officers of the Sheriff, or by Law, he may make any Under-Sheriff; if he be made, provided he shall not have any Writ of Execution for above 40l. this is repugnant and void. Hob. 15. For although a Sheriff may break open a Door to execute the Proces, he may not point him at Will, &c. Yet he cannot abridge his Power; no more than the King can that of himself. Under-Sheriff, on the return of any Process in Execution of the Office, be it by Neglect or Fraud, the High-Sheriff shall be amerced in the Exchequer; but he may not be imprisoned or indicted for the Act of his Under-Sheriff. Latch. 81. Sheriffs are not to remain in their Office above one Year, or Pain of 100l. which also extends to Under-Sheriffs; but they may not act longer in other Men's Names; and the Under-Sheriffs of Lands are excepted. 4 Ed. 3. cap. 9. 14 Ed. 3. cap. 7. 23 Hen. 6. cap. 8. No Sheriff is to act as a Justice of Peace, during his Sheriffalty; and No Under-Sheriff shall be Attorney in any of the King's Courts, so long as he bears the Office; though such as are Attorneys, may practice in the Name of others. 1 M. cap. 28. 1 Hen. 5. cap. 4. They are to let Perfons to Be upon reason, and shall take and reward for an Arrest, and the Bailiff 4d. and they shall take no Bond of Persons arrested but for Appearance, &c. under the Penalty of 40l. 13 H. 6. cap. 8. And No Sheriff, Under-Sheriff, &c. shall make out any Warrant or Commission by any of the Excheque, 11. 12. in the Pound if above, for levying an Extent or Execution. But for all Debts, &c. (except Pott-Fines) due to the King, or Livery, or for any other Purpose, he may have under his Right 12d. in the Pound, when the Sum is under 100l. and 1s. if above that Sum: And 1s. per Pound of the yearly Value of Lands,
SH  

for executing a Writ of Habere facias Poffeffionem,  

[...

shall 80; but after he hath feifi, he may go on and fell the Goods. Cor. Eliz. 597. A Sheriff to take Goods in Execution, and sell them in convenient Time; though he may not sell for not filling them: But if a Distrigens upon his Return go against him to the Coroners, if he continues Sheriff, and don't fell between the Tyme and the Return of the Distrigens, he shall forfeit Iles: And after Goods are once frienemy, no Writ of Error or Superfetation shall fail the Sale. Mod. CaP. 300. If a Sheriff levies Money on a Fine, and dies, Action may be brought against his Executor for the Money; but 'tis otherwise where the Sheriff is chargable in his Life for a Personal Tort: there Adio mustow com Perfona. Cor. Car. 519. And the Sheriff selling Goods in such a Case, is answerable for the Value he hath returned, and the Defendant is discharged. 3 Ann. B. R. Abr. 236. He may bring Treoir or Titphis, & c. for taking his Goods levied in Execution. 1 Leiz. 280. An Under Sheriff procuring Goods taken in Execution to be appraised at an Undervalue, and delivering them to the Plaintiff accordingly; on this Opinion, Indictor will lie. Cor. fac. 426. The Sheriff may have Action for Debts on his Fees; though the Statue does not give any Remedy, only that he shall have and receive Twelvenaunce per Pound, on Execution, 1 Nelf. Abr. 219. And a Sheriff shall take a Fine on a Ca. fa. for his Trouble in the Execution, though he be not an Execution with Satisfaction; and so for a second Execution, 1 Ether. 263. Upon an Execut of a Statute, and before the Liberite executed, the Sheriff took a Bond with a Penalty for the Payment of his Fees; and it was held, that he ought not before a complex Execution, and that the taking this Bond was Extortion. Wrench 21, 50. And a Sheriff refusing to execute a Copias ad satisfac. till he had his Fees: On Motion against him to attend, it was ruled, that the Plaintiff might bring an Action against him for not doing his Duty, or pay him the Fees, and indit him for Extortion. 1 Bk. 350. A Sheriff cannot detain in his own Hands his Fees upon levying of Goods on a Fine, but ought to bring his Action for them. 2 Litt. 575. The Sheriff took twenty Shillings for making a Warrant upon a Copias ad inagurale before Judgment, for which he ought to take no Fee, it being at the Seait of the King, and therefore he was committed; but on such a Copias after Judgment, he may take twenty Shillings and Four-pence, which is given by Statue. 2 Browne. 285. Sheriffs are to have Allowance for executing the King's Writs, levying Exchequer, Expenses at the Affairs, and the like; not exceeding a certain Sum, by Stat. 34 H. 8. cap. 16. But this was afterwards repealed; and where Sheriffs have conceiv'd no Tabile of Revenues, they are to be charged with the Expenses on Petition. 25 & 6 Ed. 6. c. 4. A Sheriff shall be a sufficient Disticharge for a Sheriff, his Heirs, Executors, &c. 21 Jac. 1. c. 3. No Sheriff as Affile Time is to keep a Table for the Entertainment of any but those of his own Retinue, or make any Prent to a Judge; or have above forty Servants with Liveries, or under Twenty, attending him at the Affairs. So as not to extend to theSheriffs of London and Middlesex. 13 & 14 Car. 2. c. 21. and this Act is made perpetual by 1 Jac. 2. cap. 17. Sheriff's Accounts are not to be delayed in the Exchequer; and 4000/. yearly is to be set apart at the Exchequer, and allowed the Sheriffs of the several Counties of England, to help pay their Accounts; and to the Fees in the several Counties on yeas. Sheriff's Accounts are appointed, &c. 3 Gen. 1. c. 16. The particular Form of the Oath of Sheriffs, is ordained by this Statue, and is as follows, viz.  

The
The Sheriff's Oath, enjoining his Duty by Statute.

I. A. de fuer residente. That I will well and truly serve the King's Majesty, in the Office of Sheriff of the County of, and promulge his Majesty's Prerogative in all Things relating to the King, or to my Office, as far as I lawfully can; and I will truly perform the King's Rights, and all that belong to the Crown, and will not affect to decreese, efface, or cancel the King's Rights, or the Rights of his franchise; and I will not know any Party to cancel the Rights of the Crown are concealed or subdued, be it in Lands, Rents, Franchises, Suits or Services, or in any other Matter or Thing, I will do my utmost to cause them to be restored to the Crown; and if I may not do it myself, I will certify and inform the King thereof; or some of his Judges; I will not refuse or delay to levy the King's Debts for any Gift, Pension, Reward, or Warrant, under which I may take the same without great Gravenece to the Debtor; I will do Right, as well to Poor as to Rich, in all Things belonging to my Office; I will do no Wrong to any Man for any Gift, Reward or Penance, nor for Favour or Hatred; I will not disburse Man's Rights, and will truly and faithfully acquit at the Exchequer all those of whom I receive any Debts or Duties belonging to the Crown; I will take nothing whereby the King may lose, nor whereby his Rights may be disburdened, injured, or delayed; I will truly perform and transact all the King's Writs, concerning my skill and knowledge, I will take no Bailiffs into my Service, but such as I will answere for, and will cause each of them to take such Oaths as I myself do, in what degree my own person appears; I must truly set and return reasonable and due fees of them that be within my Bailwark, according to their Estates and Circumstances, and make due Panels on the Parities of Persons and other Subjects, as I refered, and so proceed, as it is appointed by the Statutes of this Realm. I have not yield or let to Farm, nor contracted for, nor have I granted or promised for Reward or Benefits, nor will I sell or let to Farm, nor contract for, or grant for Reward or Benefits by myself, or any other Person for me, or for my Use, directly or indirectly, my Sheriffwicks, or any Bailwark thereof, or any Office belonging thereto, nor the Prerogative of the same, or any Person or Persons whatsoever; I will truly and diligently execute the Law and Statutes of this Realm; and in all Things well and truly behave myself towards the King, and the Deputy-Kings and the Yeomen, the Good of his Subjects, and disburse the same according to the right of my Skill and Power.

A Sheriff's Authority determined by the Death of the King; but in such Case, new Patents are presentily illustred out by the Successor. 3 Rep. 72. And on the Deaths of Sheriffs, their Under-Sheriffs are to act in their Names and be answerable, &c. till others are appointed, by the Stat. 5 Geo. 1. If a Sheriff chosen for the City of London, by the Lord Mayor, &c. refuse to take upon him the Office, by a By-Law of the City, he shall pay 400 l. Fine, and if not paid in three Months 100 l. more, unless he make Oath he is not worth 10000 l. to the City. A Subject cannot be exempted from the Office of Sheriff, but by Act of Parliament, or a Grant from the King. 3 Salk. 134. By Stat. 20 Geo. 2. c. 57. Sheriffs at the Expiration of their Office, are to turn over to the succeeding Sheriff by Indenture, and Schedule all Writs unexecuted; and he shall execute and return the same under Penalty of Satisfaction to the Party injured: And an Office of Sheriff is liable to be struck for做到了 it and unused Writ, unless required to do so within six Months after the Expiration of his Office. See L. &f. Executions, 1st Part. 51. Sheriffalty, (Vicarinam) is The Sheriff's, or Time of a Man's being Sheriff. 14 Car. 1. c. 21. 4

Sheriff-tythe, The Exent of a Sheriff's Authority. 13 Eliz. c. 22.

Sheriff-tythe. A Rent formerly paid by the Sheriff; and it is prayed that the Sheriff in his Account may be discharged thereof. Rot. Parl. 50 Ed. 2.

Sheriff-treasurer. Seems to be a Treasurer by the Service of providing Entertainment for the Sheriff at his County-Court. Rot. Plac. in Dabo. and Cnets. 4 Hen. 7. In Derbyshire the King's Bailiffs annually took 6 d. of every Boate of Land, in the Name of Sheriff-Treasurer. Plac. Parl. 613. And it is said to be a common Tax levied for the Sheriff's Diet.

Sheriffs. (Sambucus) An Infrumement of Defence from the Sax. Spadum) to cover, or the Greek scutum a Skin, anciently Shields being made with Skins.

Shilling. (Sax. Sciling. L. Sobulus) Among the English Saxons palled but for 2d. afterwards it contained 1d. and often 2d. In the Reign of King Will 1. called the Conqueror, a Shilling was of the usual Value as at this Day. 4 Hen. 1. 1. 1. Deinene.

Shilling, E. emitenda pro Transfrigenvia fauna in Niarcan, non impregnando. Monn. Kading. MS.

Ship, a Gear. Was an Impulsion charged upon the Ports, Towns, Cities, Boroughs and Counties of this Realm, in the Time of King Char. 1. by Writs commonly called Ship-writs, under the Great Seal of England, in the Year 1670, for regulating the Building, Equipping, and Furnishing certain Ships for the King's Service, which was declared to be contrary to the Laws and Statutes of this Realm, the Petition of Rights, and Liberty of the Subjects, by Stat. 17 Car. 1. c. 14. Shipper. Is a Dutch Term signifying the Master of a Ship, mentioned in the Stat. 1 Jac. 1. c. 3. We use it for any common Seaman and commonly say Skipper.

Ships and Shipping. None of the King's Subjects are to export or import, Merchandise, any Ships but English, on Pain of Forfeiture. 5 R. 2. c. 2. But Merchants had Power to hire other Ships, by 6 R. 2. c. 8. and 4 H. 7. cap. 10. Goods imported or exported out of the Seas of France belonging to England in Africa, Africa or America, shall be in Ships belonging to the English, and the Master and three fourths of the Mariners, to be also English, upon Pain of Fine, and the Ship and Goods, the King and the Yeomen, the Goods of his Subjects, and disburse the same according to the right of my Skill and Power.

A Duty of 5 l. per Tons is granted on foreign-built Ships, one Motorcy for the Cheer at Chebham, and the other for Greenwich Hospital, to relieve deceased Seamen. 1 Jac. 2. c. 18. Ships built of three Decks, containing 450 Tons, and mounted with thirty-Two Pieces of Ordinance, for the three Vessels. The Owners shall receive a third Part of the Tonnage and Poundage Duties, payable for Merchandises imported or exported in such Ships. Stat. 5 & 6 W. & M. c. 24. During the War with France, any Ships might be navigated by foreign Seamen; and Foreigners serving on Board any English Ship for two Years, were to be deemed natural-born Subjects, &c. 3 & 4 Anne. cap. 13. If any Captain, Master or Mariner belonging to any Ship, shall wilfully destroy the Ship, or procure the same to be done, they shall suffer as Felons, without Benefit of Clergy. 12 Geo. 1. c. 12. And if any such Offence be committed within the Body of any County, the Officers shall be tried in the same Courts as other Felons; and if on the High Seas, before the Judges by the Statute 28 Hen. 8. for trying of Pirates, Stat. 11 Geo. 1. c. 29. Merchants Ships in the River Thames, are not to have their Flags landed with Ship, or fixed after Sun-set, &c. Nor shall Pitch, or other combustible Matter, be melted by Fire in any Ship, on Pain...
Pain of c. 5. Star. 5 Geo. 2. c. 20. No owner of a Ship, or Loa, by reason of the Custom of the Fmondsing any Gold, Silver, Jewels, or taken in or put on Board, or for any Fortuity incurred, without the Privy or Knowledge of such Owner, further than the Year of such Ship and Freight thereof. But other Remedies against the Master and Seamen of such Ships, are not taken away. 7 Geo. 2. c. 15. As a Master or Owner of a Ship, Day have an Action for the Freight; either the one or the other are answerable, where Goods are damaged in the Ship. But where there are several Owners, and one disagrees to the Poyey, he shall not be liable to any Action after for a Millerrage, &c. Camb. 116. Ships Ballast in the Summer, how raised and at what Prices to be delivered, &c. vide 6 Geo. 2. c. 19. Ships of War, see Navy.

Shire, (Coniamus, from the Sax. Syre, to part or divide;) is well known to be a Part or Portion of this Kingdom, called also County; The old Latin Word was Syrius, and Syria, Provincia indicatrix. Blount. 966. King Alfred first divided this Land; and his Division was in Sartrupias, which we now call Shires, or Counties, now called Hundreds, and Deaneries, which we call Witheins. Leg. Alfred.

Shire-Clerk. He that keeps the County Court, and his Office is so incident to that of the Sheriff, that the King cannot by his状, alter it. Another right like the former, it runs Praepositus titi Sicet alias praepositi, &c. 4 Co. Rep. 55. See Alias.


Shilling, A Seal for the Sealing of Deeds and Charters. See Seal.

Shilling, (From the Sax. Segel) A Sail, mentioned in the Laws of King Ethelred, cap. 24.

Sign Manual, Is where any Bill or Writting is signed under the Hand of the King, and usually in Order to the Paying of the King's Grants, &c. through the Officers of the Keepers of the Seals.

Signet, (Fr.) Is one of the King's Seals, used in sealing his private Letters, and all such Grants as pass his Majesty's Hand by Bill signed; which Seal is always in the Custody of the King's Serjeants and there are four Clerks of the Signet Office attending them. 2 Lev. 456. The Law takes Notice of the Sign Manual and Privy Signet; and it is said a Re Exeat Regno be iss'd by Commandement under the Privy Signet, as well as by the King's Writ under the great Seal. Wod's 457. See Privy Seal.

Significat, A Writ which is out of the Chasey, upon the Certificate given by the Ordinary of a Man's standing Excommunicate by the Space of forty Days, for the laying him up in Prison till he submit himself to the Authority of the Church: And it is so called, because Significat is an emphatical Word in the Writ. Reg. Orig. There is also another Writ of this Name in the Registrator, directed to the Judges of the Church, commanding them to stay any Suit depending between such and such Parties, by reason of
of an Excommunication alleged against the Plaintiff, &c. Reg. Orig. 7. And in Defendants we find 
Writs of Signification in other Cases; as Significat
11 & 12 Car. 2. c. 2. The common long Writ of Signifi-
cation is the same with the Writ De Communicato Ci-
cipio.

Signifying of Deeds and Wills is necessary to make 
them binding; the Signifying a Will by the Telaitor is 
an essential Circumstance, without which 'tis not a 
Will; for this is expressly required by the Stat. 25 
Car. 2. c. 3.

Signum, A Cross prefixed as a Sign of Affent 
and Appointment to a Charter or Deed, used by the 
Signors.

Signs. The Citizens of London are to hang out 
Signs at their Houles, for the better finding out their 

Silbif, Signifies one of the Privy Council; 
and Silicium was formerly taken for Convenant pri-
vatus. Matt. Par. Anno 1171. According to Liddon-
ke it is an Usher, he feeth good Rule and 
ke it is an Usher, he feeth good Rule and 
Silk-Shepherd, and Thronerster, is a Trade or 
Mystery that winds, twills, and spins or throwSilk, 
thereby finest for Life. They are incorporated by 
Statute, and Mention is made of Silk-Shepherd and 
Doubler, which are Members of the same Trade. 14 
Car. 2. c. 15. None shall exercise the Silk throwers 
Trade, but such as have given seven Years Appren-
ticeship to it, on Pain of forfeiting 40. a Month. 
Stat. ibid. Silicium, &c. inembalming or detailing 
Silk, delivered by Silk throwers, shall pay such 
Damage as a Jurifex shall order, or doing it shall 
be whipt and set in the Stocks; and the Receivers 
are to be committed to Prison by a Jurifex of Peace 
till Satisfication is made the Party injured. 20 Car. 2. 
c. 6. 8 & 9 W. 3. c. 36. Fine through Silk of the 
Growth of Italy may be imported; and there are 
several Allowances paid for Exporting Silk Manufactures 
of Great Britain, 3 W. 2. c. 9. 1 Ann. c. 27, 
8 Geo. 1. 11 Geo. 1. c. 29. For preventing Frauds 
in mixing Silks with Stuff, to be exported, 5 
Stat. 2. c. 18.

Silk-Cloth, Wood under twenty Years Growth, 
or Coppice Wood. 45 Ed. 3. c. 3.

Simmet, (Siminos, vel Simellus) Is mentioned in 
the Acte of 1687, and is ill in Life, especially in 
Lent: The English Simul is Paniitur, or the 

Simmery, (Simmor) Is a corrupt Contraft for 
a Presentation to any Benefit of the Church, for 
Money, Gift, or Reward: It is defined to be, 
judicium voluntati emendati vel vastati aliquis Spirituale aut 
Spiritualium opera publica — Atto venefium et 
sacrae — De consilio Simmor et 
Simeor, so called from Simon Magus. And some 
Authors mention Simmery per manum triplex; as 
per manum & munus, i.e. by Bribery, where Money is paid 
down for a Benefice; per manum & donum, by Favour 
and Flattry; per manum ab oppresso, i.e. by a fordid 
Subjection to the Patron, or doing him Services: To 
which has been added, the making of Prefents, with- 
out taking any Notice of expecting a Benefice. Against 
the scandalous Corruption of Simmery many Church 
Canons have been made; particularly in the Time of 
King Henry II. A Provincial Canon was made against 
it by the then Archibishop of Canterbury; and 
among the Canons of Oxford, Anno 55 H. 3. there is a 
severe one on this Head: There are some other general 
Canons of the Church, requiring an Oath to be ad-
ministered to Clergymen against Simmery; and whereby 
Simmery is punished with Deprivation, Disability, &c. 
as was that of Dr. Warfen, Bishop of St. Davids, for 
pretending a Person to a Reditory in his Diocese for 
Money; and taking several Sums from Persons to ad-
mit them into Orders, &c. This Crime of Simmery is 

fraid to be worse than Felony; and the Abhorrence of 
the Law to it seems to have arisen from the Canons 
that had been made against it; for it was not an 
Offence at Common Law, Moz 564. And it has been 
held by others of the like nature, if not the 
Sine of the Holy Ghost: But neither the Greatness of 
the Offence, nor the Severity of the Canons (as has 
been observed) were sufficient to restrain this Practice 
in the Church; till the Parliament took it into their 
Care, and Anno 35 Eliz. enacted the following Law, 
One. That if any Person for any Sum of Money, Re-
ward, Gift, Profit, or Benefice, or by Reason of any 
Promiss, Agreement, Grant, Bond, Covenant, or 
other Assurance for any Sum of Money, Reward, Gift, 
&c. shall present or collate any Person to any Benefice 
with Care, Dignity, or Living Ecclesiastical; or give 
or bestow the fame in Respect of any such corrupt 
Caule or Confidence, every such Pretention, Col-
laction, Gift, and Befowing, and every Admision to 
Induction thenceupon, shall be utterly void; and the 
Crown shall present for that Tune: And the Perfon 
that shall give or take any Sum of Money, or shall 
take or give any such Perfon, &c. shall forfeit and 
lofe double the Value of one Year’s Profits of every 
such Benefice; and the Perfon so corruptly taking any 
such Benefice, shall be taken and delivered to have 
and enjoy the same. Stat. 35 Eliz. c. 6. 1 
Inf. 120. Generally any Covenant or Agreement, 
made under any Manner of Confidence whatsoever, 
to present a Clerk, or to present any Person to be a 
Clerk, that in Confidence he will marry his Daugh-
ter, Kinwoman, &c. he will present him to such a 
Living where void, or the next Living that shall 
fall within his gift, this has been adjudged a Seminot-
cal Controft: But if a Father, upon the Marriage of 
his Daughter, covenants to pay a Portion, &c. and 
there is a distinct Covenant that he will procure the 
Son in Law to be admitted to such a Benefice upon the 
next Avoidance, it shall not be intended to be Jnnaecia-
cal because the Covenant had no Dependence upon 
the Marriage or any Covenant by itself, and 
not made in Consideration of Marriage; for if it had, 
then it would have been Simmery; and yet 'tis said it 
may be made fo, by a special Averment, shewing that 
it was Simmtery. 43 Eliz. c. 43. A Free Squire was 
feided of an Advowson, and the Church becoming void, 
he presented a Parson upon Condition that he would 
marry her, which he did accordingly, and this was 
held to be Simmery, and that it made the Preseuation 
void; for it was for her Benefits, which is the very Word 
in the Statute: So if a Patron preface one, on Condi-
tion that he shall be a Turne to his Son, the this is not 
properly a Gift or Reward. 1 Nq 148. If a Patron 
take Bond of his Preseuer to pay a yearly Sum to the 
Wife of the Incumbent, for the Maintenance of her 
and her Children, or pay a yearly Sum to the Son of 
the last Incumbent, so long as he shall be a Student in 
the University unpreferred, no Simmery will be 
comitted; and this is by an equitable Construction of 
the Statute against Simmery: But if the Money were 
to be paid to the Son of the Patron, it would be 
otherwise. Pajb. 2 Jac. 1. New 142. A Man may 
buy the next Turn of a Church, when the Church 
is full of an Incumbent, who is well in Health, and 
be no Simmery: And if a Father doth purchase the 
next Avoidance, a Right for his Son, when the Incumbent 
is sick, with an Intent to present him af-
ter the Death of the Incumbent, it is not Simmery: 
because the Father is obliged by Nature to provide 
for the Son: And therefore it is, that though the 
Son may not contrav for a Benefice, to the Intent that 
another should present him; yet the Father may con-
tract with an Intention of presenting his Son. 3 
Car. 2. c. 3. Consequently a Melville was for many 
Years as the Church is void, in some Cases; for not 
withstanding it be lawful for any Perfon to buy the 
next
ne the Turn of a Church, when it is full, generally speaking, such Contracts have been sometimes adjudged unlawful: As if a Peron feized of an Advowson, grants the next Presentation to another, who enters into Bond to pay him a Sum of Money for it, when the Church shall be void, this is SIMONY: And if a Church being full of an old fickle Incumbent, a Clerk doth contract with the Patron of the Church for a certain Sum of Money, payable when the Church shall be void, to make a Grant of the next Turn to a Friend of his; and the Friend having such Grant doth present the said Clerk to the said Church, it is SIMONY: 

Simony. 

Hob. 105. In a Squar Impedite it was held, that the Grant of the next Avoidance for Money, when the Incumbent was very sick in his Bed and near Death, is SIMONY. 

Hob. 53. One feied of an Advowson granted the next Avoidance to his second Son, who after his Death corruptly agreed with J. S. to procure him to be preferred to the Benefice, and to perfect this, it was agreed that the second Brother should forrester his Grant and Interfell to the elder Brother, and he knowing nothing of the first Agreement preferred J. S. it was held to be SIMONY, and all void. 

Lawe 73. But if a Patron of a Church contract with one for SIMONY, and present another without SIMONY; this is not within the Statute, for the King is to present. 

Hob. 105. Where a Man agrees to give a Sum of Money to procure him to be preferred to a Church, this is SIMONY: And if an Incumbent make a Simoniacal Contract with the Friend, or Wife of the Patron, who knows nothing of it, it will be SIMONY; also if Strangers make Agreement by Compact betwixt them, without the Privy of the Incumbent or Patron; as if a Friend of the one, give Money to a Relation of the other to procure him to present such a Clerk, it is SIMONIACAL: Though this Judgment hath been opposed, because thereby the Patron's Right may be defeated by Collusion between Strangers. 

Carr. 330. 

Carr. 786. Sim. 339. 

And if one that hath No Right to present, shall by means of an corrupt Agreement, present a Clerk, who is by his Fds presented to Church; and the Patron being full by Ufperation, and a Squar Impedite then pendat to remove the Ufperation, and by which he was afterwards not to be doing the Right of another, in whom there is no Fault. 

Borneu L. 7. 

3 Inf. 153. 

But on a Sale of an Advowson with Covenent to present such a Peron as the Bargainer should nominate, the Church being void by Ufperation, and a Square Impedite then pendat to remove the Ufperation, and by which he was afterwards not to be doing the Right of another, in whom there is no Fault, be it proved, for that the Presentation by Ufperation being avoided, the Church shall be now void to be void from the Death of the last Incumbent. 

Simony's Rep. 90. 

If a Clerk receive an nomination to a Benefice, although he who presented know nothing of the Matter, his Prefentation, Induction, and Induction are void by the Statute 31 Eliz. and the King shall present a boc ex. The Statute intends to infilt a Punishment upon the Patron, by the Loss of the Prefentation, because he was the Author of the Corruption, and the Incumbent, by the Loss of his Incumbency, because he came in by such a corrupt Patron. 


And it is the corrupt Agreement, by Colour of which the Clerk is indited and indited, which makes the Simony: and Notice in this Cause is not material, because of the Difficulty of Proving it. 

3 Lev. 337. 

Mor. 

214. 

Though the Forgery of double Value of the Church, in receipt of a Benefice, in respect to the Forgery of the value, the Presentation is not forfeited to the King, unless the Clerk be de facto prefented or collated upon the same. 

Count Part Compan. 175. 

The Clerk is dilid to hold this Benefice made void by the Simony: and although he be neither Party nor privy to the simoniacal Con-
the next Avoidance upon Purchases, &c. not Laymen, nor such as are not to be presented to the Church, Wood, 150. It originally belonged to the Spiritual Court to determine Simony; and the Star. 31 Eliz. doth not abrogate the Ecclesiastical Laws concerning it, but only makes particular Penalties in more remarkable fraudulent Acts, relating to Benefices, &c. But in those special Cases mentioned in the Statute, they are to be determined in the Temporal Courts. Colly, Cade's 139. The Statute against Simony may be recited in the Declaration against Simony; or it may be good without it. 2 Levit. 19. 5. 

Simplex, Signifies simple, or single; as Canta simplicis is a Deed Poll or Feoff Deed.

Simplex Beneficium, A minor Dignity in a Cathedral or Collegiate Church, or any other Ecclesiastical Benefice, opposed to a Cure of Souls; and which therefore is confident with any parochial Cure, without coming under the Name of Parishes.

Simplex Judicarius, This Style was anciently used for any Judge, that was not Chief in any Court: And there is a Writ in the Register, beginning thus: — I John Wood, a simple Judge of the Court of Common Pleas, &c.

Simul cum, Are Words used in Indictments, and Declarations of Treasons against several Persons, where some of them are known, and others not known: As the Plaintiff declares against A. B. the Defendant, simul cum C. D. & E. and divers; others unknown, for that they committed such a Treason, &c. 2 Litt. Abs. 469. If a Writ is generally against two or more Persons, the Plaintiff may declare against one of them with a simul cum, if a Man bring an original Writ against one only, and declares with a simul cum, he abates his own Writ. Combr. 260.

Sinita simul: Capitalis, A Writ that lies where a Bishop, Dean, Prelacy, or Master of an Hospital alias the Lands held in Right of his Bishopric, Deanery, House, &c. without the Affirm of the Chapter or Priory; in which Case, his Successor shall have this Writ. F. N. B. 175. And if a Bishop or Prelacy be divided, and afterwards he releases to the Defendant; this is an Alienation, upon which may be brought a Writ de suo affirmatione Capitalis: But the Successor may enter upon the Prelacy, if he do not die seised, notwithstanding the Release of his Predecessor; for by the Release, so much paffeth as he may rightfully release. New Nat. Br. 453. A Person may have this Writ of Lands upon Demises of several Predecessors, &c.

Sint, Is where a Reformer of a Parish hath a Vicar under him endowed and charged with the Cure; so that the Reformer is not obliged either to Duty or Residence. Dog's Par. Coun. 95. And when a Church is fallen down, and the Parish becomes desolate of Parishioners, it is said to be a sine cure. Wood's Ind. 153.

Sint Dei, i.e. Without Day: Before the Act for turning the Law into English, when Judgment was given against the Plaintiff in an Action, he was said to be in Miserere de pro flaus commemorat; and for the Defendant, non indit pro dies, and the Defendant was discharge, &c. 2 Litt. 320.

Si non omnes, Is a Writ on Allocation of Jujucjus, by which if all in Communion cannot meet at the Day adjourned, it is allowed that two or more of them may finish the Business. Rex. Ord. 203. P. N. B. 185. And after the Writ of Allocation, it is usual to make out a Writ of Si non omnes, directed to the first Judges, and also to those who are to be allocated to them, which recites the Person of the two former Commissioners, commands the Judges, that if all of them cannot conveniently be present, such a Number of them may proceed, &c. 5 F. N. B. 111.

Dinging Fund, Is a Provision made by Parlia-
Trent, (Earl's) is a Frame to keep or let Water out of a Ground.

Somah, A Smack, or small light Vessel. Gowel.

Smalls, (i.e. Smalls) is that of which Painters make their blue Colouring; mentioned in the Stat. 21 Jac. c. 5.

Smakelater. Lands were held in some Places by the Payment of the Sum of 6d. yearly to the Sheriff, called Smakelater. Stat. 4 Ed. 6. 6. Smake Silver and Smoke Penny are to be paid to the Ministers of divers Parishes, as a Mosaic in Lieue of Tithe Wood: And in some places, formed by the King, with the Crown, there is still paid as appertaining to the said Manor, the ancient Peter-Price by the Name of Smoke Money. Twill. Hub. Vindict. 77. The Bishop of Lincolns, Ann. 1444, issued out his Commission — Ad Irmandam & Smoke-Farthing, &c.

Smugter, Are those Persons that totally prehend Goodes, and defraud the King of his Customs on the Sea Coasts, by running of Goods and Merchandize. Stat. 3 Geo. 1. c. 18. See Custom.

Smuggling. There was a Custom in the Valleys of Scotland, that all the fervile Tenants should pay for their Tenements a small Duty called Smutting Silver, to the Abbots of Caldeby. Placit. 18 Edw. 1.

Smull or Smuith. Mixing and colouring it with Ginger, Saffron, Sage, Rosemary, Tobacco Dust, Sand, &c. incurs a Penalty of 3l. for every Pound Weight. Stat. 1 Geo. 1. c. 45. A Duty is granted of 20d. a Pound on Tobacco imported from the Spanish Main, and 2s. for what is brought from Spain and Portugall, &c. except France, by the Stat. 12 Geo. 1. c. 26. A Smug. (Sax. Sec.) Signifies Power, or Liberty to ministe Justice and execute Laws, all the Circuit or Territory wherein such Power is exercised: Whence our Law Latin Word Seca is used for a Seignory or Liberty. In some cases, formed by the King, the Liberty of holding or keeping a Court of his Seacks: And this Kind of Liberty continues in divers Parts of England to this Day, and is known by the Names of Isle and Sole. Thos. Lamb — Nulla Seckam habebit impunem secundum i. e. None hath Liberty of Sinning without Punishment. Leg. Hen. 1

Smug. (Secrom, a Sec, a Plough) A Tenure by which Tenants held their Lands, to plough the Land of their Lords with their own Ploughs, and do other inferior Services of Husbandry at their own Charge: Which plowing Tenure was afterwards, by the mutual Agreement of Lord and Tenant, turned into the Payment of a Sum of Money yearly, and from thence it was called Liberum Seckam; whereas the other was termed Villam Seckam. Birch. Lib. 2. cap. 35. Free Seckam was a Tenure of Freehold by a certain Rent for all Services, and to pay upon the Death of the Tenant a double Rent for a Relief, and to be free from Wardship, &c. And Seckam was a Tenure of so large an Extent, that the Inhabitants of all the Lands in England, which were not held in Kingship Service, were held in Seckam: It seems the Land was divided between these two Tenures; and as they were of different Natures, so the Defect of these Lands was in a different Manner of the Estates held in King's Service being defenced to the eldest Son; but those held in Villam Seckam, equally among all the Sons; and if there was but one Mortgage, the eldest Son was to have it, paying the Rest of the Value, Stat. 17 Eth. 117.

When the Tenant holds the Lord by certain Service, for all Manner of Services, it is Seckam; if it be held by Royal, Royal Service is Tenure in Seckam: And Tenure by Petit Seckam, and

in Seckam, are but Seeyng Tenures in Latin: Socrat, holding of the King, and Frankal Seage, which is a Spiritual Service, it is not in Seckam. Litt. 117, 118, 160. 1 Inf. 66. The Tenure of Free Seage is likewise of a Common Service, and all Tenures are adjudged and taken to be for ever turned into Free and Commons Seage. Stat. 12 Car. 2. c. 24.

Seage was, those Tenures whole Tenure was called Seage; others are called Seemen.

Seamaner, (Seaman) Are such Tenants as hold their Lands and Tenements in Seage; but the Tenants in Ancient Service most properly to be called Seaman. F. N. B. 14. Briton, cap. 65. After the Conquest, the Seamaner and Seamen, often mentioned in Deusdial, were Tenants who held by no Service, but were only paid their Rent to the Lord as a Sole or Sign of Freedom; though they were sometimes obliged to customary Duties for their Service and Honour of their Lord. Sp. 6. Fr. c. 7.


Semen, Signifieth a Custom of grinding Corn at the Lord's Mill; and Great Seemen is where the Tenants are bound to it. Blien. Stringy, The Crime of, and how punished, see Briers.

Skepp, Signifieth a Liberty or a Tenement quam Scacca appellatum. Fleta, lib. 1. cap. 47. Stat. 3 H. 8. cap. 15.

Skeppere, The Lord's Rent-gatherer in the Sole or Solem. Fleta.


Skeplers. The Military State of England includes the Soldier by Land and Sea: and it is against our ancient Law to keep up any Army of Soldiers in the Tyme of Peace. In a Time of War, particular Orders are made for the Order and Discipline of Officers and Soldiers, which are to be conformed upon all Emergencies: and therefore we are not to expect many Standing and permanent Troops: But that Array which Wood's Inf. 45. The chief Statutes relating to the Army, and their Contents, are as follow, viz. By 18 H. 6. Soldiers retained, departing from their Colours, without Licence, are guilty of Felony, The 7 H. 7. cap. 1. and 2 H. 8. cap. 5. enacted, That if a Captain shall not have the whole Number of his Soldiers, or not pay them their Due Wages, within fix Days after he hath received it, he shall forfeit all his Goods and Chattels, and suffer Imprisonment. By the 4 of 5 Pk. & M. c. 3. If any Person being commanded to muster, doth absent himself (having no lawful Excuse) he shall suffer ten Days Imprisonment, or a Fine of 40s. And if any one authorized to levy or must soldiers, shall take any Reward to discharge or spare any from the said Service, he shall forfeit ten Times as much as he shall take, &c. The Stat. 1 Jac. 1. cap. 4. ordains, That if any Person go beyond Sea, to leave any foreign Prince, as a Soldier, and he do not take the Oath of Allegiance before he goes, it is Felony; and if he is a Gentleman or Officer, that is going to serve a foreign Prince, he is to be bound with two Sureties not to be reconciled to the See of Rome, &c. or it will be Felony. By 3 Car. 2. c. 1. no Soldier shall be quartered on any Persons without their Consent; and the Inhabitants of Places may refuse to quarter any Soldier, notwithstanding any Order whatsoever. The 4 of 5 Pk. & M. c. was made for punishing Mutiny and Desertion, &c. And by 10 & 11 W. 3. Officers and Soldiers may exercise Trades. The 1, 4, 7, 9 of 10, &c. ann. were made for punishing Mutiny and Desertion of Soldiers, and Sale of Muslery, and for Rule of the Army and Quarters, &c. And the 2 of 5 Ann. gave Powe. 2 Z. 20.
to Justices of Peace to send Warrants for apprehending idle Perfons, and to deliver them to Officers to receive them during the Warrants. 40 l. and Advance Money was given to Soldiers voluntarily lifting.

By the 12 Ann. c. 11. lifting Men, or being indentured for the Service of any foreign Prince as Soldiers. To procure them. Without the King's Licence, it was made High Treason. The 1 Geo. c. 1. c. 11. snuffs, That every Soldier who shall cause a Mutiny, or destroy any of his Company, and give him more Bills for Quartering Soldiers than there are effective Men: And if any Soldier shall be quartered on a private House, without the Owner's Consent, he may have his Remedy at Law; and Officers or Constables that quarter Women, Children, or Maid Servants of any Officer or Soldier, in such Manner; the Officer shall be cashiered and Confined for 40 l.

Where Persons are grieved in Bilketing Soldiers, by Constables, they may complain to the Justices of Peace, who shall order so many to be removed as they see Faire. 3 Geo. c. 8. c. 10. It is also enacted that Orders are liable to Quarter Soldiers in Westminster, the High Constables there shall deliver their Precepts to the Officers and Soldiers; also the Number quartered on each House, and if the Lists are defective shall forfeit 5 l. Officers or Soldiers, if they deliver Game on their Marches, or Poultry or Fish, being convicted before a Justice, are to forfeit 5 l. an Officer, and 20 l. a Soldier. And when a Soldier, shall be within Four Days be carried before the next Justice of Peace, or Chief Magistrate of a Town or Country, and it shall be voluntarily upon which the Justice is to certify it, and give him the Oath of Fidelity, &c. But if then he diffents, on returning the Money received, and 40 l. for Charges, he shall be cashiered, and the Officers acting contrary to this Act, to incur the Like Penalty as for making a false Warrant. 8 Geo. c. 2. 2.

If a Person abandons, or refuses to go before a Justice, in order to declare that his Majesty may establish Articles of War, &c. By 1 Geo. c. 34. no Soldier is to be allowed to be absent longer than twenty Days in six Months, by any Perfon, except figured by the Officer in Chief; and Soldiers in London shall have no Protection unless they conformably do Duty: Perceiving and procuring Soldiers to deride, incense a Penalty of 40 l. and not paying it, the Officers are to be committed to Goal for Six Months, and be set on the Pillory: Papists being Soldiers are to renounce their Religion, or be disenabled. The 3 Geo. c. 1. c. 2. and 4 Geo. c. 4. contain, That no Soldier shall be taken out of the Service, by any Proces, except it be for some Criminal Matter, or for a real Debt amounting to 10 l. of which Affidavit is to be made; and if any Soldier be otherwise arrested, a Justice of Peace by Warrant under his Hand shall discharge him: Yet the Plaintiff may file an Appearance, in an Action of Debt, upon Notice thereof given, and produced to Judgment and Execution, other than against the Body of such Soldier. By the 5 Geo. c. 1. 5. when an Officer or Soldier is accused of a capital Crime, the commanding Officer, on Application made to him, is to use his utmost Endeavours to deliver over the Criminal to the Civil Magistrate, and he is not to be tried by a Court Martial in eight Days; within which Time, Application is to be made: But after that the Criminal may be tried by a Court Martial. Officers of reduced Regiments are not entitled to Half pay, if they have not actual Service, or have no Place of Profit, being under sixteen Years old. 8 Geo. c. 1. c. 6.

Fictitious Names allowed by his Majesty's Order, for Maintenance of Widows of Soldiers killed in Service, not to be a False Name, and the Pay-master General may make usual Deductions for Cloathing, and 12 d. per Pound out of Officers and Soldiers Pay, to be disposed of as the King thinks fit.
of Equiley, Esq. Stat. 6 Geo. 2. c. 25. There is also a Solicitor-General, to whom the Crown Office next the Attorney General, See Attorney.

Neill. Asus, Used in the Neat's Gender is taken for that absolute Right or Property which a Man hath in any Thing. Mondon. Id. 1.

Sextus tergus. In the County of Kent, is about One hundred and fifty Acres; In common, Terra Monti Martini, i.e. 400 Ar. & dim. ; and five tenements, from the same, & dimid. Denomed.

Sellers, Mentioned in Leaves of Hours in London, Vide Solerianum.

Sellers effo, Is a Term of Art, signifying that a Man hath wherewith to pay, or is a Person solvent.

Sellers pernus. To pay the Penalty; or undergo the Punishment inflicted for Offences. 3 Salk. 32.

Sellers ad diem, Is a Plea in Action of Debt on a Bond, Bill, &c. that the Money was paid at the Day limited. Mod. Cas. 22. See Exem. Per. Solutioe, a Sentence in the Parlia-

Sellers, Ave Wres, whereby Knights of the Shire and Burgesses in Parliament might recover their ancient Allowance or Wages, if it were denied. 35 H. 8. c. 11.

Sellers ad finem, Is a Judicature in an Action of Affasce and Baneceis, in whose behalf a man defended his own Defence. Latt. Adv. 524. But Ad finem cannot be pleaded by a Defendant for his quasi-elegant

Sellers, Was a Tax of Forty Shillings laid upon every Knight's Fee, according to Smith, pag. 23.

Sellers, A Duty granted on it for 32 Years, &c. And sope makers are to give Notice of the Time of making and working of sope to Excite the Officers, on Pain of forfeiting 50s. Stat. 10 Ann. c. 19. and 1 Coll. c. 50.

Sellers, (Selligerium) Wicca of Divination, or Divination by Leaves, which was made Felony by 1 Jac. 1. c. 12.

Sellers, In Sums of Money lent, upon Usury, the Principal was anciently called Sase, to distinguish it from the interest. Fry's Col. Tom. p. 164.

Sellers, A Tenant of or from Hawnch. King John granted to Robert de Hauke, Land in the Burton of the Honour of Nottingham, to be held by the Service of Yielding the King yearly one Serj. Hawnch, &c. Carters. S. Edmund, MS.

Sellers, or Sodall, is Conceived to be mistaken for Socale. Bract. lib. 5.

Sellers, (Sax. Sax., i.e. sware, and Saga, Tiffinum) An Old Word which signifies History, and all Histories should be true, or true Sayings! From hence we derive Southyffer.

Sellers or Sodall, Is a Chief, or a Foreman Person, one highest of all; as a King, &c.

Sellers, A Piece of Gold Coin, current at 232. in 1 H. 8. when by Indemnity of the Ass, a Pound weight of Gold of the old Standard, was to be coined into twenty-four Sovereigns. In 34 H. 8. Sovereigns were coined at 201 a piece, and Half Sovereigns at 121. But Anne 4 Ed. 5. the Sovereign of Gold passed for 241, and in 8 Ed. 5. at 50.

Sellers, A narrow Sea, as Mart Balbium, the Sound; and to sound is to make Trial how many Fath- or a Sea is deep. Merch. D.B.

Sellers, A Man may pull down Wears, or in the Haven of Southampton, between Calford and Redrighs, and whatever breach any other, shall forfeit 100L. Stat. 1 H. 7. c. 9. An Act was made for confirming some Part of the Charter granted to the Mayor, Befells and Burgesses of Southampton, and for Relief of the Town. 4 Jac. 1. c. 10.

Sellers, A Company of Merchants, trading to the South-Sea. They were incorporated on a late Government ten Millions of Mon- ney, towards paying the Debts of the Army, &c. and may purchase Lands not exceeding 1000 l. per annum; and besides an Interest for the Money advanced the Government, 8000 l. a Year is to be paid out of the Founds towards the Management of this Company. The Corporation shall have the sole Trade from the River Orwell on the East Side of America, to the Southermost Part of Terra del Punz, and from thence through the South Sea, &c. And the Company to be Owners of all Islands, Posses, &c. they can discover. Stat. 9 Ann. c. 27. See 1, 6, 7. & 9 Geo. 1. 6 Geo. 3, &c. And Vide Mer-

Sellers, King Edward 3d by Charter granted to the City of London, the Village of Southampton, paying at the Exchequer the Farms therefore due. Also the Manor and Borough were granted except the Capital Mildding called Southampton-place, by Chart. Ed. 6.

Sellers. A new Name of the Month of May, by the Inhabitants of South Wales. Sellers, From the Fr. Soumene, i.e. remember'd; is a Word of Art used in the Exchequer, where Efficiency that Sown is not, are those who the Sheriff cannot levy, &c. Such Efficiencies and Casualties are as not to be re-

Sellers, Such Fees are such as be called a gather, and are leviable. Stat. 4 Hen. 5. c. 7. & 4. Inf. 107.

Sellers, for Southbury, Is a Sound-bearer. Botan.

Sellers, Gold Salver. A Court for the Speedy Execu-


Sellers, is numbered among the Holy Vents, &c. Comp. 25. p. 331.

Sellers, Chief Officer in this High and Ancient Court, as it is the common Month of the Rent. And as that Hou-

Sellers, The Grand Seal of England, and the other (being a Member of that House) is called The Speaker of the House of Commons, both whole Dutch consist in managing De-

Sellers, In the House of Commons, of which these Bills, the paving of Bills, being the Orders of each House observed, &c. See Par-

Sellers, The Speaker of the House of Commons, is the Speaker, as is specially alluded, and comes not into the General List. Specialty, (Specialties) A Bond, Bill, or such like Instrument; a Writing or Deed, under the Hand and Seal of the Parties. Litt.

Sellers, The Seal of a Monk, mentioned in Malbis. lib. 3.

Sellers, Licences are to be granted for Importing of Spices; and the Custom Duties thereon are in-

Sellers, In the Seal of King's Writs, from the Scrip. Scrip. to shut up or incline: But the following Original has been given of this Word, that Gafriedi Siprutal being by King John's act appointed to be Sealer of his Writs, was the first in that Office; and therefore in After-times the Persons that officiably the Office were called Siprutals. Pat. 41 H. 3. 4 Edow. 1. This Office was also known by the Name of the Siprutal, and Oliver de Stanwood held Lands in Netherby in Com. Oxon. per Sejentiam Siprutam in Cancellaria

Sellers, A Demise, 27 Ed. 1.
Sp virtus, A Sort of Veild we call it. For our.
Spirtus, Were those three Golden Pies which were for the Arharchedional Pall, and there
therren Spirotus fitges to be adorned with the Pall.
Da Cote.
Spirtus, Is an Additon in Law-Proceedings
usually given to all married Women ; and it is a
good Addition for the Esate and Degree of a Woman.
But it is said a Gentlewoman is to be named General,
and a Bachelor, or it will be ill. Dyce 45, 88. 2 G. 2.
Spirtus, Art. 68.

Spiritual Courts, Have Jurisdiction in Cause
matriominal, and for Probate of Wills of Goods, and
grannt Administration; and for Trees, where there
is no Madonna in Cases of Defamation, &c. Their
jurisdiction are set forth in the Stat. Articuli Clari,
9 e. 2. And in the Stat. de Circoncompl. alios, the
23 H. 1. 2. See Courts Ecclesiastical.

Spirituality, As containing the Clergy of England,
Statutes made for preferring their Privileges, &c. 14 N.
6. 4. 4.

Spiritualities of a Bishop, Are those Privileges
which he receives as a Bishop, and not as a Baron of
Parliament; such as the Duties of his Visitation, Prebendaries, his Benefices growing from the be put under the^
Permanences and Indemnities of Priests, the Income of his
Jurisdiction, &c. Statut. P. C. 132. The Arch
bishop of the Province is Guardian of Spiritualities
where a See is vacant, and has the Jurisdiction of
Courts, &c. Vide Canon Spiritualitatis.

Spittif-Boult, Is a Corruption from Espittifal, and
signifies the same Thing; or it may be taken from the
Twelfth Spittal, an Hospital or Alms-houte: It is men-
tioned in the 15 Car. 2. e. 9.

Spotiations, (Spotiation) A Writ or Suit for the
Fraud of a Church, or the Church itself, to be sued in
the Spiritual Court, and not in the Temporal, that
lies for one Incumbent against another, where they
both claim by one Patron, and the Right of Patronage
does not belong to any other. As a Parson be
possessed on a Bishop, and has Dispensation to hold his
Benefice, and afterwards the Patron presents another Incumbent, who is indicated and invested; now the Bishop may
have a Spottation in the Spiritual Court against the
new Incumbent, because they both claim by one Pat-
tron, and the Right of Patronage doth not come in
Debate and for that the other Incumbent came to the
Possession of the Benefice, by the Course of the Spiritual
Law, viz. by Indictment and Indictment; for oth-
erwise, if he be not indicted and indicted, a Spottation
lives against him, but Writ of Treffandell, or 
Affile of Novel Diijignis. F. N. B. 36, 37. So
it is where a Patron that hath a Plurality accepts of
another Benefice, by Renunciation whereof the Patron
presents another Clerk, who is indicated and invested;
in this Case one of them may have Spottation against
the other, and then shall come in Quetion, whether
he hath a sufficient Plurality, &c. nor: And it is the
name of Deprivatation, &c. Termis de Leg. 549.

Spinto obtata, A Free Gift or Prettix of the King
anciently called.

Spottita, Signifies Gifts and Granteis, forbidden
to be received by the Clergy; And St Copian
calls tho Clergyman Spinolatus Frestat, who ac-
tecpted such Gifts for their Maintenance. St. Cyp.
Ep. 70. 71.

Spottisilde, The Bethrothing of a Man or Woman

Spottisilde, Is Adultery opposed to Simple Mar-
tication: The Lady Katherine was accused to the King
of incontinent Living before her Marriage, and of
Spottisilde broach after her Marriage. Fox Ad. Mon.
Par. 90, 91, 92, 93.
Spot-Royal, (Sporium aurum) Ap neat
ancient Gold Coin.

Sp. v. 2.


Spottin Per, Are Persons that work at the
Spot or Wheel, or Tiers of Turn to for that it
be worked open, and for the Light. Litt. Dist.

Spottin, Is the Name of Faulkner in the Making of
Cloth. 4th Ed. c. 70. See Rewry.

Spottin, The Making, Selling, or Exporting to
Sale of Spott, Sterpes and other Fire works of
Throwing, Catching or Firing any Spots, &c. is de-
clared a common Nuisance: And such Persons who
make or sell Spots, shall forfeit 2/. Also the Persons
throwing them, or affilling therein, incur a Penaltify of
20s. is leviable by a Justice of Peace's Warrant:
and not being paid, the Offender is to be sent to the
House of Correction, or to any Place by a Yeare, with
Month. Stat. 9 & 10 H. 3. c. 7. If any Persons shall
permit Spots to be cast or thrown from out of their
Houses into the Street, they shall forfeit 20s. to be
levied by Distresses and Sale of Goods, &c.

Spottin Of Perons is made Felony without Be-
ness of Clergy, and punished as Murder, by Stat.
17 Geo. 5. & c. See Man's Handkerchief.

Stabulis, A Writ called by that Name, on a
Cathol in Normandy, that where a Man in Power
claimed Lands in the Possession of an Inferior, he
put three Hands (all the Right was declared) whereupon
he had this Writ. Droit de Stabulis: To this a Charter
Page 249.

Stabillitio venationum, The driving Deer to a
Stand. Owners Burgunymes de B. debent invente
urum unam ab-
mission for Annuity or Stabilitim beneficetum pro venatione
predicta, Lib. nuper Hert. And, in Venatione, jux
ta sub sanitatem nem erit. i. e. He doth not
come to the three where he ought to stand.
Leg.

Stabillis, (Stabilli stazis, ostre Statis in Stabulis)
Is when a Man is found at his Standing in the
Forest, with a Croft or Long-boat bent, ready to shoot
the Deer, if it is any Deer, and not any other: By a
Yeare with Greyhounds in a Leash, ready to fip: And it is
one of the four Evidences or Presumptions, where-
by a Person is convicted of intending to steal the
King's Deer in the Forest; the other three are Dog-
drawn, Back boat, and Blood-hound. Manwood, par.
2. cap. 18.

Starch, A Quantity of Wood three Foot long, as
many Feet broad, and twelve Feet high. March.

Stabulum, Is accounted a Furlog of Land ; which
is the eight Part of a Man of Daniel.

Stallholding, Is a Right to follow Cattle within a
Forest; And where Persons claim Common in any
Forest, it must be inquired by the Millerwells whether
they use Stall holding, for it is not allowable of
common Right; because by that Means the Deer
which would otherwise come and feed with the Cattle,
are frighted away, and the Keeper or Fol-
lower will drive the Cattle into the brist Grasses, so
that the Deer shall only have their Leaving: There-
fore if any Man who hirth Right of Common, under
Colour thereof use Staff holding, it is a Cade of
Seizing his Common till he pay a Fine for the Abuse.


Stagington, Signifies a Resident; as J. B. Car-
vois, Ed Stagoriani Sanct. Paul, is a Canon Refe-
dentary of St. Paul's Church, Hist. Eccl. S. Paul.
But this Distinction was made between Refe-
ington, and Stagington; Every Canon installe to the
Privileges and Profits of Reference, was Refe-
ington; and while he actually kept such stated Refe-
dece, he was Stagington; Stat. Eliis. Paulin.
MS. 14, 44, 45. See the Reference to which he was
obliged to Stagington, to keep Residency. Hence an
old Steger.
Staggers. (Stagge) Are Pools of standing Water.
5 Edw. c. 21. A Pool consists of Water and Land; and therefore by the Name of Stagge, the Water and Land shall pass ad damum for ad quod Commodities Right, &c. Claus. 14 Edw. 2.

Stal-boat. 1 is a Kind of Fishing-boat, mentioned in the 27 Edw. c. 21.

Stalheirs. The going gently Step by Step, to take Game; some thus walk with both or lead to any Deer, except in his own Forest or Park; under the Penalty of 10l. Stat. 19 H. 7 c. 11.

Stall-horses. Certain Fishing-sets, by the Statute 13 Edw. 2 s. 2. c. 20.

Stallage, (Stallages, from the Sax. Stalo. i.e. Stabulum, Status) The Liberty or Right of pitching and establishing their Tents in fields and meadows; or the Money paid for the same. Kenton's Gloss.

Stallarius, is mentioned in our Historians, and signifies Praefectus Stabuli; it was the same Officer which we now call Master of the Horse: - Eadnothus qui fuit Haroldi Regis Stallarius, &c. Spenel. Sometimes it has been used for him who hath a Stall in a Market. Fisher, Ed. 4 c. 28.

Stamp-Duties. There are certain Duties imposed by Parliament on all Vellum, Parchment and Paper, whereby Deeds, Grants, Commissions, or any Writs, when cast, or used, or in any way are used, are taxed and written; which Duties are as follow, &c. For all Letters Patent, Grants of Offices, Prebendals, &c. Admissions into any Company, Bills, Answers, &c. in Chancery 13 Edw. 2. All Paper, and Paper upon which common Deeds, Bonds, Writs, &c. are writ, &c. And for every Sheet of any Declaration, or Pleading, &c. Id. Stat. 56 Edw. W. & M. c. 21. And by the Statutes of 15 and 16 Henry the 8th. These Duties are doubled, and trebled: -The common Stamp is treble Six-pence. &c. Commissioners are appointed by Virtue of their Acts, to provide Stamps or Marks; and in interior Officers for the stamping of Parchment and Paper, and for Levying and Collecting the Duties: - If any Commissioner or Officer, shall fix the Mark or Stamp to Parchment or Paper before the Duty thereto is paid or secured, he shall forfeit 100l. And Persons Ingraining or Writing upon any Paper, &c. Any Thing for which the said is charged with the Duty, before it shall be stamped, or Writing upon it, or any Paper or Parchment marked or stamped, for any lower Duty than that which is required, shall incur a Forfeiture. - Laws of 15 and 16 Henry the 8th. Vide Printing.

Stanch, Is a Weight from two hundred and a Half to three hundred of Pinc. Murch, Ditto.

Stanhall, (From the Fr. Einfand, &c. Signum, Faxillum) In the general Signification, is an Edge in War. And it is used for the flaying Measure of the King. To the Stanching whereof all the Militia in the Land are or ought to be framed, by the Clerks of Markets, Aisangers or other Officers, according to Magna Charta and other Statutes: And it is not without good Reason called a Standard, because it standeth comform and immovable, having all Matters coming towards it for their Conformity; even Solid Things have their Stanch or Colours, for their Direction in their March, &c. to repair to. Britton, cap. 50. There is a Standard of Money, directing what Quantity of the Silver and Gold, and how much Alloy, are to be contain'd in Coin of old Sterling, &c. And Standard of Plate and Silver Manufactures. Stat. 6 Geo. 1 c. 11.

See Dicey.
by the Statute 14 R. 2. c. 1. (Though some allow only the five fifths; and yet of late Stale Goods are gene-
nerally despised, and are such as are not visible, and not suf-
Sible to perishing, of any Kind. Vide Statute Stale.

Stat., (Statuum, a Contraction from the Hebr.
Sutton, a Deed or Consecrat) All the Deeds, Obliga-
tions, &c, of the Jews were anciently called Charters,
and writ for the most part in Hebrew alone, or in
Hebrew or Latin; one of which yet remains in the
Treasury of the Exchequer, written in Hebrew, with-
out Points, the Substance whereof is expressed in Latin
just under it, like an English Condition under a Latin
Obligation: This bears Date in the Reign of King
Jehovah; and many Stars, as well of Grant and Release,
as Obligatory, and by Way of Mortgage, are plead-

Star-chamber, (Camera Stellarum, Camera de
Ejusdem) Was a Chamber at Westminster so called,
caused at first all the Roof thereof was decked with
It was the Star Chamber of 25 H. 8. c. 3. There was formerly a High Court called by this Name;
long since taken away. 3 H. 7. 21 H. 8. 17 Car. 1.
See Court of Star-chamber.

Star-chamber and Star-chamber. By a late Act, Star-
chamber-makers are to make use of square, or oblong
Boxes only, for boxing and draining green Starch,
before it is dried in the stove, under the Penalty of 10 l.
and shall give Notice to the Officers for the Duties, 
when they box and dry their Starch; and not remove
the Starch made before it is weighed, and an Account
thereon taken, on Pain of forfeiting 50 l. Officers may
search for Starch concealed, by Virtue of a Justice’s
Warrant, and seize the same. *Cf. A Penalty is like-
wise inflicted on Makers of Hair-Powder, Perfumers,
Peruke-makers, Barbers, *Cf. mixing any Powder of
Albaker, Chalk, Lime, *Cf. with Starch-Powder,
or making Hair-Powder of any other Materials than
Powdered Starch. And Makers of Powders for Hair,
are to make Entries of their Workhouses at the Office
of Exchequer: and any Officer may enter Workhouses
and Shops, and examine the Powder, which being
mixed shall be forfeited, and the Sum of 20 l. Stat.
4 G. 2. c. 14.

Statutes, (Statutis, Scientia Ponderum) Knowledge of
Weights and Measures; or the Art of Balancing or

Stationarius, (From Statu, Residence) It is the
same with Stigmaster.

Statius, A Tomb adorned with Statues.—
Ac tuis Sacer Corpore serte inter multa alia Romana
Statuaria commendatæ, &c. Ingulph. 823.

Statuta, The Statutes of a Manor: All the Tenants within the Manor, met in the Court
of their Lord, to do their customary Suit, and enjoy
their Rights and Ufages; which was termed amnis

Statute, (Statutum) Has divers Significations:
First, it signifies an Act of Parliament made by the
King, and the three Estates of the Realm; and Se-
condly, it is a short Writing called a Statute-merchant,
or Statute-Stale, which are in the Nature of Bonds,
&c, and called Statutes, as they are made according
to Form expressly given in certain Statutes. 5
H. 4. c. 12. To Statutes enacted in Parliament, there
must be the Assent of the King, Lords, and Com-
mons, without which there can be no good Act of
Parliament; by a Law Inter, though the other three Assents are not mentioned therein, as
Dominus Rex statuit in Parliamentis, and Dominus Rex in
Parliamentis statuit et, in de Commons Consili Statuit
et, &c. 170. and Sir R. Ewes. Cabe says, that several Statutes are penned like
Charters in the King’s Name only: though they were
made by lawful Authority. 4 Eft. 35. Before the

Invention of Printing, all Statutes were proclaimed by
the Sheriff in every County, by Virtue of the King’s
Writ. 2 Eft. & 20. 462. Consequences be such as are and
and some are Special: And they are called General
from the Genus, and Special from the Species: as for
Influence; The whole Body of the Spirituall is the
Genus, but a Bishop is a Species, *Cf. and the Law
Species: Therefore Statutes which concern all the
Clergy, are general Laws; but those which concern
Bishops only are special. 4 Rep. 76. The Statute
21 H. 8. c. 13, which makes the Acceptance of a
second Living by Clergymen, an Avoidance of the
Fifths, is a general Law, because it concerns all
Spiritual Persons. 3 Rep. All Statutes concerning
Maries and Trades in general, are general or publick
Acts: though an Act which relates to one particular
Trade is a private Statute. Dyer 75. A Statute
which concerns the King in a publick Act, and yet
the Stat. 23 Hen. 8. concerning Sheriff, &c. is a
Private Act. Plowd. 38. Dyer 119. 'Tis a Rule in
Law, that the Courts at Westminster neglect to
Notice of a General Statute, without Pleading it; but
they are not bound to take Notice of particular or
private Statutes unless they are pleaded. 1 Inf. 98.
Statutes against the Power of Subsequent Parliament
are not binding; notwithstanding the Statute 42 Edw. 3.
c. 3, declares that any Statute made against Magna
Charta shall be void: And this is evident, seeing
many Parts of Magna Charta have been repealed, and
altered by subsequent Acts. Read. on Statute Pol. 4.
p. 340. And the Law has been mistaken in this
Point: for the Statutes which intervene between the
9 H. 3. and 3 E. 3. are not repealed, though they
vary from and are contrary to Magna Charta. Jenk.
Cent. 2. Statutes continue in Force, although the
Records of them are destroyed, by the Injury of Time,
&Cf. But if a Statute is against Reason, or impossible
to be performed, it is void. 4 Rep. 76. 2 Inf. 587.
Old Statutes must give Place to new, where they are
contrary; and when there is a fixed Variation be-
tween two Statutes, and no Clause of Non inobstante in
the latter, such Contraction shall be made that both
may stand. 11 Rep. 25. 2 Inf. 547. By Repealing
of a Repealing Statute, the first Statute is revived:
And where one Statute is repealed by another, the
Acts done in the mean Time are valid. 4 P. 6. Read.
Stat. Gent. 2. Statutes consist of two parts, the
Words, and the Sense; and the Office of an Expositor,
and so called, on the Sense of the Statutes, is as agreeable to Equity and right Reason: Equity
must necessarily take Place in the Explanation of
Statutes: but Expositors Acts are to be construed ac-
ccording to the Words, and not by any Manner of
Invention or Explanations in the Statutes, contrary to
be explained. Poul. 625, 468. Cru. Cor. 23. The
Preamble of a Statute, which is the Beginning there-
of, going before, is as it were a Key to the Know-
ledge of it, and to open the Intent of the Makers of
the Act: it shall be deemed true, and therefore good
Arguments may be drawn from the same. 1 Inf. 11.
It is the most natural and genuine Exposition of a
Statute, to confine one Part by another Part of the
same Statute, for that bel Professor the Meaning of
the Makers: The Words of an Act of Parliament are
to be taken in a lawful and rightful Sense, and the
Contraction of Statutes in general must be made in
Suppression of the Milchif, and for the Advancement of
the Remedy intended by the Statute; but to that
end the Statute must be so interpreted as not to
receive any Damage. 1 Inf. 581, 24. The bel Way
to expound a Statute, is to consider what Answer the
Lawgivers would probably have given to the Question
proved in the same; and so to construe the Statute.
Acr. 125. And Sir R. Ewes. Cabe says, that several
Exposures of Statutes, these Things are to be observed, &c.
1. What was the Common Law before the making of the Statute.
2. The
2. The Milchif and Defell which the Common Law did not provide against. 3. What Remedy the Statute hath appointed to cure this Milchif: The true Reason of the Remedy. 3 Rep. 5. Where a Statute gives a Remedy for any Thing, it shall be pre

duced that there must be a Remedy before Common Law: And the Rules to continue Acts of Parliament, are different from the strict Rules of Common Law: though in the Construction of a Statute, the Reason of the Common Law gives great Light. Rang. 193, 355; 2 Iff. 502. If an Act of Parliament & Dobson, long Utage may be good to expound it by; and the Meaning of Things spoken and written, must be as hath been constantly received; but where Utage is against the obvious Meaning of a Statute, by the vulgar and common Acception of Words, then it is rather an Oppression than an Enjuinament of the Statute. Vaughan 169, 170. A Statute which alters the Common Law, shall not be strained beyond the Words, except in Cases of publick Utility, when the End and Design of the Law is so much to vary the Words themselves. Ibid. 179. Relative Words in any Statute, may make a Thing pass as well as if particularly exp

111. If a Statute be made only in Affirmative of the ancient Common Law, and doth not touch any Thing new, but what was before provided for; it is never

111. If a Statute be made only in Affirmative of the ancient Common Law, and doth not touch any Thing new, but what was before provided for; it is never

111. If a Statute be made only in Affirmative of the ancient Common Law, and doth not touch any Thing new, but what was before provided for; it is never

111. If a Statute be made only in Affirmative of the ancient Common Law, and doth not touch any Thing new, but what was before provided for; it is never

111. If a Statute be made only in Affirmative of the ancient Common Law, and doth not touch any Thing new, but what was before provided for; it is never
for Fairl, &c. but the Statute extends not to Jews. Stat. ibid. Cro. Car. 440. 447. Statutes Merchant were compiled and the security of Merchants only, to provide a speedy Remedy to recover their Debts; but at this Day they are used by others, who follow not Merchandizes, and become one of the common Affraiments of the Kingdom. And all Obligations made to the King, are of the Nature of these Statutes Merchant. 12 Rep. 2, 3. The Form of a Statute Merchant, and a Note of the same, is as follows, viz. —


Statutes Staple, Are concerning Merchants and Merchandizes of the Staple; and of the same Nature with Statutes Merchant: They are for Debt acknowledg'd before the Mayor of the Staple, at our chief Court, viz. in the Presence of one or more of the Confiants of the Staple, by Virtue of which the Creditor may forthwith have Execution of the Body, Land, and Goods of the Debtor in Non-payment. 4 Inf. 238. The Mayor of the Staple may take Recognition of a Debt in Presence of the Confiance of the Staple; and there shall be a Seal remaining with the Mayor, viz. with which every Obligation upon such Recognition shall be sealed: And upon such Obligation, after Default of Payment, the Mayor may Impose upon the Debtor, and attach his Goods, and sell them to satisfy the Creditor; but if the Debtor be not found within the Staple, the Mayor is to certify the Obligation into Chancery, and from thence a Process shall go against the Debtor's Person, his Lands, Goods, and Chattels, as in Case of a Statute Merchant. In every Staple Town there is to be a Mayor and two Confiance established to take Recognition of, and when they die, or are changed, others shall be chosen in their steads, by the Commonalty of Merchants; though the Mayor is not to hold over a Year, unless he be again chose, Eq. 37 Ed. 3, c. 1. Mayors and Confiants of the Staple are to have Confiants of Debts and Contrasts touching Merchandize: Officers of the Staple shall be sworn first to render an Account to the Mayor; and to the Staple; and the Mayor of the Staple taking Recognition contrary to the Statute, is to forfeit to the King Half the Sum recognized, viz. Perme leading out a Sire facias in Chancery, to defeat an Execution upon a Statute Staple, must find Security both to the King and Recognize to prosecute, Eq. Stat. 56 Ed. 3. 14 & 15 Rich. 2. A Statute Staple acknowledged before a Mayor only, and no others, was held good, being before the principal Officer; and where it is void as a Statute, it may be good as an Obligation. Hll. 23 Rec. 1. Cro. 461. Debt lies as well upon a Statute Staple, as upon a Bond: And a Statute acknowledged on Lands, is a present Duty, and ought to be satisfied before an Obligation; A Debt due on an Obligation being but a Choise in Action, and recoverable by Law, and not a present Duty by Law, as a Debt upon a Statute, Judgment or Recognition is, upon which present Execution is to be taken without further Suit. See. Eliz. 355. 461. 494. 2 Litt. Abr. 536. But a Judgment in a Court of Record, shall be preferred in Case of Execution before a Statute, though one acknowledges a Statute, and afterwards confesses Judgment; if the Land be extend'd thereon, the Cognitor shall have a Sire facias to stand Extent upon the Judgment. See. For. &c. 45 & 1 Brow. 57. It is otherwise as to Goods, for there he that comes first, shall be first served. Ibid. The Cognitor of a Statute grants his Eflate to the Cognitor; by this the Execution of the Statute will be suspended. 2 Cro. 444. But if the Cognitor before Execution of a Statute, Release to the Cognitor all his Right to the Land, it would be a Whistle to the whole Execution: For notwithstanding, he may be for Execution of his Body and Goods. 3 Steep. Abr. 336. Upon a Statute Staple, a Copy of Extent of Lands, Goods, and Chattels are contained in one Writ; but it is not so on a Statute Merchant. Jenk. Cent. 163. In Chancery the Proceedings on a Statute Staple, are in the same Way, and Officers: and Statutes Staple are liable in the King's Bench or Common Pleas, as well as in Chancery. See. Eliz. 208. On a Statute's being satisfied, it is to be effectuated by entering Satisfaction, viz. Statutes Staple and Statutes Merchant are to be entered within six Months, or shall not be good against Purchasers. 27 Eliz. c. 4. See the Stat. 16 & 17 Car. 2. for preventing Delays in extending Statutes, Vide Recognizance.

Statutes Merchant and Staple, Tenants therto. He that is in Possession of Lands on a Statute Merchant or Staple, is called Tenant by Statute Merchant and Statute Staple, during the Time of his Possession: And Creditors shall have Freehold in the Lands of Debtors, and Recovery by Novel Diffinjon, if put out: but if Tenant by Statute Merchant, on Statute Staple, hold over his Term, he hath Right may sue for a Feire facias ad commandam, or enter, as upon an Esco. 37 Edw. 3. 446. Statute Staple, Is a Writ that lies to take the Body to Prifon, and seiz on the Lands and Goods of one who hath forfeited the Bond called Statute Staple, Reg. Orig. 123. Statute Mercatorij, The Writ for Imposing him that hath forfeited a Statute Merchant Bond until the Debt is satisfied: And of these Writs, there is one against Lay Gilds, and another against Persons Ecclesiastical. Reg. Orig. 146, 148.

Statutum be Labarista, An ancient Writ for the Apprehending of such Labourers as refuse to work according to the Statute, Reg. 27.

Statutum dei. The Statute Officium, A Meeting in every Hundred of Confiances and Hostholders, by Custum, for the Ordering of Servants, and debating of Differences between the Masters and Servants, riding of Servants Wages, Eq. 5 Eliz. cap. 4.


Sterling, The fame with the Stereomanus, or Stereomannus.

Sterling. (Sterlingum) Was the Epithet for Silver Money current within this Kingdom, and took Name from this: that there was a pure Coin stamped in England by the Eightharies, or Merchants of East Germany, by the Command of King John; and Howden writes it Ejuring. Instead of the Pound Sterling, we now say so many Pounds of lawful English Money: but the Word is not wholly disused, for though we ordinarily lay lawful Money of England, yet in the Mint they call it Sterling Money: and when it was found convenient in the Fabrication of Monies, to have a certain Quantity of better Metal to be mixed with the pure Gold and Silver, the Word Sterling was then introduced; and it has ever since been used to denote the certain Proportion or Degree of Fineness, which ought to be retained in the respective Coins. Lownes' Essay on Coin 146.

Sterneham. (Sternfalle, compounded of the Sax. Stera, i. e. Room, or Stere, a Ward or Keeper) Is as much as to say a Man appointed in my Place or in my Ward, and Representative, but always denotes an Officer of chief Account within his Jurisdiction. The greatest of these Officers is, The Lord High Sterneward of England, who anciently had the Supervising and Regulating, next under the King, the
the Administration of Justice, and all other Affairs of the Realm, whether Civil or Military; and the Office was Hereditary, belonging to the Earls of Leicester, till forfeited to King Hen. 3. But the Power of this Great Seal being very great, for the Office of High Steward of England hath not been granted to any one, only pro bar voce, either for the Trial of a Peer of the Realm on an Indictment for a Capital Offence; or for the Decree of the Privy Council of those who claim to hold by Grand Serjeantry, to do certain honourable Services to the King at his Coronation, for which Purposes he may call a Court, and proceed according to the Laws and Customs of England; and he to whom this Office is granted must be of Nobility and a Lord of Parliament. 4 John, 29. Crant. 24. 42 Hen. 8. 11. 2 Hen. 6. P. C. 5. Of the nine great Officers of the Crown, the Lord High Steward is the first; but when the Special Business for which he appeared in once ended, his Commission expires. The first Lord High Steward that was created for the Solemnizing of a Coronation, was Thomas, second Son of Hen. 4th; and the first Lord Steward for the Trial of a Peer, was Edward Earl of Durns, on the Arrangement of John Hilders- one, Earl of Huntingdon in the same Reign. Les Confuta- tions. 170. There is a Lord Steward of the Household, mentioned Stat. 24. E. 3. cap. 13. whose Name was changed to that of Great Master of the Household, Anno 32 H. 8. But this Statue was repealed by a Mar. 24. Stat. 29. Statute, and the Office of Lord Steward of the Household revived. He is the chief Officer of the King's Court, to whom is committed the Care of the King's House; he has Authority over all Officers and Servants of the Household, except those belonging to the Chapel, Chamber, and Stable; and the Palace Royal is exempted from all Jurisdiction of any Court, but only of the Lord Steward, or in his Absence, of the Treasurer or Comptroller of the Household, with the Steward of the Marshalsea, who by Virtue of their Offices, without any Commission, hear and determine all Treaties, Murders, Felonies, Breaches of the Peace, &c. committed in the King's Palace: Besides the Treasurer and Comptroller, the Lord Steward hath under him a Cofferer, several Clerks of the Green Cloth, &c. He superintends the King's Person at the Beginning of Parliament; and is a White Staff Officer, which he breaks over the Hearst on the Death of the King, and thereby discharges all Officers under him: Of this Officer's ancient Power, read Flota, lib. 2. and P. N. B. 241. In the Liberty of Westminster, an Officer is chosen and appointed, called the High Steward; and there is a Deputy Steward of Westminster; and the Word Steward is of so great Diversity, that in most Corporations, and all Houses of Honor, an Officer is found of this Name and Authority. Stewards of Houses, see Copyhold.

Stirrup, (From the Fr. Epeu, 1. e. Thorne, E. 8. 23. Place where Perches were permitted in England to Women of professed Incontinency, and that for Hire would prostitute their Bodies to all Comers; so called, because diffuse Perches are worn to prepare themselves for venereal Acts by Bathing: And Hot Baths were by Honor reckoned among the effeminate Sort of Pleasures. Thee Stewards were suppressed by King Hen. 8. about the Year 1426.

Stirrups, A Bract Saxon Coin, of the Value of H.t a Parting, four of them making an Helfg.

Stitch of Eels, A Quantity or Measure of Twenty-five: A Bird of Eels contains ten Sticks, and each Stick 25 Eels. Stat. of Weights and Measure.

the Stock had fallen, the Trust must have suffered; so in its absolute Rule, shall be for the Benefit of it. 1 P. Wms. 6. 11, 16.

Stocks, (Cipps) A Wooden Engine to put the Legs of Offenders in, for the securing of disorderly Persons, and by Way of Punishment in divers Cases ordained by Statute, Cfr. And it is said that every Vill within the Precinct of a Town is indistinct for not having a Pair of Stocks, and shall forfeit 5 l. Kitch. 13.

Stockland and Boundland. In the Manor of Walden or in Suffox, there are two Sorts of Copyhold Estates, viz. Stockland and Boundland, defensible by Culflon in several Manors: As if a Man be first admitted to Stockland, and afterwards to Boundland, and dies seised of both, his eldest Son and Heir shall inherit both Estates; but if he be admitted first to Boundland, and after to the other, and of these death seised, his youngest Son shall inherit: And Boundland held alone, descends to the youngest Son.

Stock, (Stula) A Garment formerly worn by Priests, like unto theirs which we now call Hoods. And sometimes it is taken for the Archepiscopal Pall. Eadmer. episc. 188. Also a Veilment which Maurers wore. Coned.

Stone, A Weight of 14 Pounds, used for weighing of Wool, etc. The Stone of Wool ought to weigh 14 Pounds; but in some Places, by Culflon, it is left, as 12 Pounds and a Half: A Stone of Wax is 8 Pounds; and in London the Stone of Beef is no more. 11 Hen. 7. c. 4. Rot. Parl. 17 Ed. 3.

Stones of War, Are not to be imbrissed: and none to make Stones of War with the King's Marks, but Contraband with the principal Officers or Commissioners of the Navy, Cfr. under the Penalty of 200 l. Stat. 56. 17 Ed. 3.

Storax, He who had the Care of the Seed or Breed of young Horses. Leg. Alfred. c. 9.


Strow, (Strow, i.e. Loca) A Place, and is often joined to other Words; as Godfrow is a Place dedicated to God.

Strowage, Is the Room where Goods are laid, or in the Money paid for such Places. See Hosp.

Strait, A narrow Sea between two Lands, or an Arm of the Sea. Also there is a narrow coastly Channel ancienly so called. 19 Hen. 6. c. 16.

Strait, (Sax.) Any Shore or Bank of a Sea or great River. Hence the Strait is the West Suburbs of London, which lay next the Shore or Bank of the Thames, is called the Strand. An Immunity from Culflon, and all Imposts upon Goods or Vessels, by Land or Water, was usuallly exprest by Strand and Strow, as King Hen. 2d. in his Charter to the Town of Rochester,--Concedo et Conformam verterunt Socie Socris & Socle, & Strand et Strow. Min. Angl. Tom. 3. p. 3.

Strang, (from the Sax. Strando) Is when a Ship is by Tempet or ill Steerage run on Ground, and so perishes. 17 Car. 1. c. 14. Where a Vessel is stranded, justices of the Peace, Cfr. shall com- mand the Sea-Coxes to call Affidav- ance for the Preservation of the Ship; and Officers of Men of War are to be siding and affilling. 18 Ann. c. 16.

Stranger, (derived from the Fr. Estranger, alienus) Signifies generally in our Language, a Man born out of the Realm, or unknown. In the Law it hath a special Use, for him that is not pewty to the King's Peace, is commonly called the Knight Marsh, and hath the

Judgment doth not belong: and in this Sense it is directly contrary to Parry or Priory. Old Nat. Br. 188. Strangers to Deeds, shall not take Advantage of Conditions of Entry, Cfr. as Parties and Privies may; but they are not obliged to make their Claims on a Fine less than five Years; whereas Priory, such as the Heirs of the Party that paid the Fine, are barred prently. 1 Inst. 204. 2 Inst. 516. 3 Rep. 79. Strangers have either a profit or future Right; or an apparent Possibility of Right, growing afterwards, Cfr. Wood's Inst. 245.

Stray, or going avery of Beasts and Cattle, see Arey.


Streetman, (Sax.) Ridifus, vel potens vir. Land. Vol. 3. p. 188.

Streets. If Streets in London are not well paved, the Mayor and Aldermen, or any three Judges there, may set Fines upon Perons, to be levied by Distress or Afferao, Cfr. 32 & 33 H. 8. c. 10. And for Nu- fances, Difurbances, Reveelling, Cfr. in Streets, cer- tain Penalties are inflicted by the City Laws. Lex Lond. 134. It is made Peny maliciously to affail Perons in the Streets, with Intent to rob their Clothes, Cfr. Stat. 6 Geo. 1. c. 22. See to Geo. 2. Vide Robbery.


Strip, (Stripin) Deftitution, Mutilation, from the Fr. Etranger; Striptum et vagam facere, i. e. To make Strip and Wafte, or Strip and Waifte. See Efituation.

Strood, An old Saxo Word signifying the same as Strand.

Strumpet, (Moroea) A Whore, Harlot, or Cour- tain: This Word was herefore used for an Addi- tion. Plac. apud Coqr. 6 Hen. 3.

Stycke, The eighth Part of a Seam or Quarter of Corn; a Strile or Bushel. Cartular. Reading. MS. 116.

Stubb of Mares, is a Company of Mares kept for Breeding of Colts, from the Sax. Stodoma, i. e. Eva- ad futum.

Stye, (Appello) Is to call, name, or intitle one; as the Style of the King of England is George the Se- cond, by the Grace of God King of Great Britain, France and Ireland, Defender of the Faith, Cfr. There is also an Old and New Style, used in the Dates of Things abrood; the later being eleven Days before the former.

Submission, Florence of Worcester tells us, That King Alfred Subbarravit et duxit a Noblewoman of Morcia, Ann. 868.

Sub-bec, An ancient Officer in the Church, made by the Delivery of an empty Platter and Cup by the Bishop, and of a Picher, Bason and Towel by the Archdeacon: His Office was to wait on the Deaa- row with the Linen on which the Body, Cfr. was con- fecrated, and to receive and carry away the Plate with the Offerings at Sacraments, the Cup with the Wine and Water in it, Cfr. He is often mentioned by the Monkish Historians, and particularly in the Anglo- Saxon Canons 42, 43.

Subhita, (Subaita) Are the Members of the Common-wealth under the King their Head. Wood's Inst. 12.


Subgerius, (from the Sax. Sigher, i. e. Sig- hual) Or the guiltiness of anewcomer of a Shire.

Submarit, An Officer in the Merchant, who is Deputy to the Chief Submarit, and is commonly called the Knight Marsh, and hath the

Cifikasi
Custody of the Prisoners there. He is otherwise termed

Submissibilis, Of Manners to Agree, by Bond or
Covenant, &c., upon which an Action may be
brought; on Non performance of the Obedience, if it is
made for Payment of Money. 10 Rop. 121. See
Armament.

Suberbe, To cut the Sinews of the Legs or
Thighs to Hamstring: And it was an old Custom
in England, Meritorious & Impudent malverses Suberbe-
ware.

Substitution, (Substitutio) A secret under-hand
preparing, instructing, or bringing in a false Witness;
and from hence Substitution of Perjury is the preparing
or corrupt alluring to Perjury. Substitution of Wit-
nesses we read of in the 33 Hen. 8. c. 9. And pro-
curating or Suburbe a Witnesses to give false Testimony,
in any Court of Record concerning Lands or Goods,
the Offender shall forfeit 40 l. or suffer Imprisonment
for Half a Year, stand on the Pillory, &c. by 6 Elin.
c. 4. 1st Inf. 167. See Perjury.

Subpoena, Is a Write whereby common Persons
are called into Courcy, in such Causes where the
Common Law hath provided no ordinary Remedy; and
the Name of process is taken from the Words there-
in, which charge the Party called to appear at the
Day and Place assigned, Sub poena Cerum lirum, &c.,
Well known by. Corp. Justif. 4. 25. and where the
subpoena is the leading Proces in Courts of Equity;
and by Statute, when a Bill is filed against any Per-
son, Process of Subpoena shall be taken out to oblige
the Defendant to appear and answer the Bill, 4
45 of Ann. c. 16. Where a Defendant abounds,
or goes beyond Sea, to avoid being served with
Process of Subpoena to appear, &c. 3 Geor. 3. c.
25. And these are several of these Writs in Chan-
cery; as the Subpoena ad Rependum, Subpoena ad
Replicand. &c. ad Rependum, Subpoena ad Testificand
ad audundo, judicium, &c., which Writs are to be
made out by the proper Clerk of the Subpoena Office;
and Subpoena's to appear must be personally served
by being left with the Defendant, or at his House with
one of the Family, on Thursday whereas, if the De-
fendant do not answer, Attachment shall be had
against him, &c. Prac. Soc. 5. 6. A Subpoena
ad Testificandum lies for the calling in of Witnesses
to testify in any Cause, not only in Courcy, but in
all other Courts; and in that Court, and in the Ex-
chequer, it is made use of in Law and Equity. The
two chief Writs of Subpoena are to appear and to
Testify; and the latter issue out of the Court where
the Issue is joined, upon which the Evidence is to
be given. 4 Term. 2 Litt. Abc. 336. In this Writ the 100 l.
Penalty is inferred only in Trespass, being never lev-
ed; though if a Witness served with a Subpoena,
refuse to appear, on Tender of his Charges, the
Party injured thereby may recover 10 l. Damages,
and other Recompence by Action of the Cafe.

Term of a Writ of Subpoena for Witnesses at the
Affixes.

E. F. G. H. I. We commend you, and every of
you, for your aided all Manners of fine and Excess, wickedness and every of you be in your proper Perjury before our Justice of the Assizes appointed to be holden at, &c. in the County of
S. on the Day, &c. next following, to testify all and
forbear all that you shall know, under Oath or an Affidavit,
in a certain Action now depending and determined in our
Court before us, &c. between T. B. Plaintiff, and R.
D. Defendant, in the Affidavit of the Cafe, &c., and on that Day to be tried by a Jury of the Peace

and this you and every of you are in an act to submit,
under the Penalty of One Hundred Pounds for every of
you. Witness, &c.

A Subpoena Ticket for a Witness to appear and testify.

R. A. B. By Virtue of a Writ of Subpoena to
You and others directed, and herewith sealed to you,
You are required personally to be and appear,
before his Majesties Justice of Affixes on the Day, be-

The Prince of the Fortresses on the same
Day, at the Court of Affixes then to be holden at, &c.,
in the County of S. to testify the Truth according to your
Knowledge in a certain Case now depending, and there
and there to be tried between T. B. Plaintiff, and
R. D. Defendant, in an Action of Trespass upon the
Cafe, &c. on the Part of the Plaintiff, and herein you
are not to fail, on Pain of 100l. Dated the Day and
Year, &c.

In London or Middlesex, it must be personally
be and appear before either of the Lord Chief Ju-
dices, &c. See

Subdue, To (Subdixit) Signifies an Aid, Tax, or
Tribute, granted to the King for the urgent Occasions
of the Kingdom, to be levied on every Subject of
Ability according to the Value of his Land or Goods,
and in some of our Statutes it is taken for Custom.
Some Persons have held, that the Subsidy of Footage,
&c. might be taken by the King of his own Pre-
rogative; especially in a Case of Necessity, and for
the Publick Good, as to make an Equality of Trade:
And that the Precedent of the Exchequer make the
Law herein. But the Law was adjudged otherwise,
by both Houses of Parliament. 31 Edw. 4. Dyce 156;

Subsurance. The Subsurance of Things is most to
be regarded; and therefore our Law doth prefer Mas-
ter of Subsurance, before Matters of Circumstance,
&c. as in the Statutes 36 Edw. 3. c. 15. 33 H. 8. c. 16.
at 1 H. 7. c. 84. 23 Edw. 4. c. 6. Edw. 5.

Substitute, (Substitutum) One placed under an-
other Person to transact some Business, &c. See
Attorney.

Suburb, Are Husbandmen, according to the
Monas. Tom. 2. p. 468.

Substealer, (Steal.) Is he that followeth, or cometh
in another's Place, or Steals Goods; or may take a Pre-
simple Estate to them and their Successors; but not
without the Word Successors, And such a Corporation
cannot regularly take in Successor Goods and Chattels;
and therefore if a Lease for a Hundred Years be made
to a Person and his Successors, it hath been adjudged
only an Estate for Life: Nor may a Sole Corporation
bind the Successors. 4 Rop. 67. 1 Inf. 8. 46. 94.
2 Inf. 249. An Aggregate Corporation may have a
Fee-simple Estate in Succession, without the Word Suc-
cessors; and take Goods and Chattels in Ailon or
Pollution, and they shall go to the Successors. Ward's
Inf. 111. Vide Corporation.

Substrates. Tributum, The Cuttings and Crop-
ings of Trees. Chart. 2 Hen. 5.

Substanciate. Tenant at Sustenance, is he who holdeth
over his Term at first lawfully granted. Terms de Lez.
A Person is Tenant at Sustenance that continues after his
Estate is ended, and wrongfully holdeth another, &c.
1 Co. 187. 57. See Stat. 4 Geo. c. 28.

Subterranea parvis, A Grant or Sustainence of Peace
or Trade. — Pre quem Subterranea parvis cum illis
beneficiis, &c. non coram domino, sed per annum annuam. Chart. 1 Edw. 3.

Subtraganum, (Subtraganum, Subtraganum, Episcopo vi-
cinum) Is a Titular Bishop, ordained to aid and stilt
his Bishop of the Diocese in his Spiritual Functions;
or one who supplieth the Place instead of the
Bishop.
Bishop. Some Writers call these Suffragans by the Name of Subordinate Bishops, who alone is limited by the Statute 26 Cap. 14. In which Statute it was enacted, That it should be lawful for every Bishop, at his Pleasure, to elect two honest and discreet Spiritual Persons within his Diocese, and to present them to the King, that he might give or may give to one of them such Title, Stile and Dignity of such of the Sees that the said Statute mentioned, as he should think fit: And that every such Person should be called Bishop Suffragan of the same See, &c. This Act sets forth at large for what Places such Suffragans were to be nominated by the King: and if any one exercise the Jurisdiction of a Suffragan, without the Appointment of the Bishop of the Diocese, &c. he shall be guilty of a Pecuniary. Stat. 26. 29a. See Con-" 

Suffragan. (Suffgi) Is in Law a Surroge, or Representing of a Thing: and by Magna Charta no Person shall be put to his Law on the Suffragan of another, but by lawful Writings. 9 H. 3. 4. 28. Suffragans are Grounds to move for Prohibitions to Suits in the Spiritual Courts, &c. when they meddle with Matters out of their Jurisdictions. 2 Litt. Abr. 570. Though Matters of Record ought not to be stayed upon the bare Sufiz for the Party: there ought to be an Affidavit made of the Matter suzaged, to induce the Court to grant a Rule for staying the Proceedings upon the Record. 2 Litt. 537. There are Sufrias in Regleio, for a Return indem: which 'tis laid are not traversable, as these are for Prohibitions to the Spiritual or Admiralty Courts. 1 Plowd. 76. Branches of Covenants and Deaths of Persons must be suzaged upon Record, &c. 8 & 9 W. 3. cap. 10. " 

Suits. (Sfit, Fr. Suits, l. e. Confiscation, Squeale) Signifies a Following another; but in divers Sentences. The seiz is a Suit in Law, and is divided into Suit Real and Personal; which is all one with Allot Real and Personal. Suit of Crown is an Inheritance which a Tenant owes to the Crown of his Lord. 3. Suit-Covenant, when a Man hath covenanted to do Suit in the Lord's Court. 4. Suit-Covenant, where I and my Ancestors owe Suit Time out of Mind. 5. Suit is the following one in Chafe, as Folly Suit: and this Word is used for a Person made to the King, or any great Personage. Not proving by Deed that by Privilege and Proviso, to do Suit to his Lord's Court, unless he be bound thereto by the Form of his Deed, or he and his Ancestor Laws used to do it, &c. And if the Lord differeth from the Party, the Party shall have an Attraction against the Lord to appear in the King's Court, &c. Likewise where Suits are withdrawn, the Lord may recover Seisin and Damage by Statute 52 H. 3. c. 9. See Suits. 

Suits at Law, Are to be prosecuted in certain Times limited by the Statute 21 Jac. 1. c. 10. &c. Those Persons who acted as Lieutenants, Deputy-Lieutenants, Justices of Peace, &c not authorized, at the bringing in of King William, were indemnified from vexatious Suits, by 1 W. & M. s. 1. So Persons that acted for Security of the Government, during the Rebellion in the late Reign. 1 Gra. t. c. 59. Persons deferring to end any Suits or Controversies, for which there is no Remedy but by personal Action or Bill in Equity, may agree that their Submission to the Award of Arbitrators, shall be made a Rule of Court, &c. 9 & 10 W. 3. c. 15. Suit of the King's Peace, Is the Pursuing a Man for a Breach of the Peace. 6 R. 6. c. 1. 5 H. 4. c. 15. Suit and Suits. A Small Suit or Sum of Money paid in some Manors to excuse the Appearance of Freeholders at the Courts of their Lords. 

Suits at Scale, A little Brook or Stream of Water; otherwise called Sides, and in Latin a Ducta. Paroch. Ansiv. 531. 

Sutlers. (From the Sax. Sutile, i. e. Aratus) A Plough Land. 1 Inf. 5. 

Sutlers selling. (From the Sax. Sutile, i. e. Aratus) Is the same with Sunday. Thern. pag. 1531. 


Summary, (Summary Or) An Abridgment. Lawo Lat. Dict. 

Summers, (Summerset) A Payment to the Lords of the Wood in the Wealth of Kent, which used to visit those Places in Summer Times, when their Under-Tenants were bound to bring little Summer-House for their Reception, or else pay a Composition in Money. Cusum. de Sittingburn, MS. 

Summons, A Writ Judicial of great Diversity, according to the divers Cases wherein it is used. 40a. Red. Judic. 

Summneres, (Summneres) Are Petty Officers that give and return Men to appear in any Court; and their ought to be old Men, &c. Flota, lib. 4. The Summneres were properly the Apparitors, who warn'd in Delinquents at a certain Time and Place, to answer any Charge or Complaint exhibited against them. And in Citations from a Superior Court, they were to be Equals of the Party cited: at least the Barons were to be summoned by none under the Degree of Knights. Parow. Aniv. 177. 

Summonsteres (Summonsters) Officers who sifled in collecting the King's Revenues, by citing the De- faulters therein to the Court of Exchequer. 

Summones, (Summones) Is with us as much as necate in jus, or Citeria among the Citiains. Flota, lib. 6. cap. 6. In general, it is a Writ to the Sheriff to cause one to appear at a Day: and must be by certain Summoners on the Tenant's Land, not his Goods, &c. And if against an Heir, shall be on the Lands that did defend: or making Default, at the Great Court, the Tenant must pay his Law of New Summons. 6 Rep. 54. 37 H. 6. 26. There is a Summons in Writ of Partemion, &c. And every Summons upon the Land in a Real Action, fourteen Days before the Return, Proclamation is to be made thereon at a Sunday, at or near the Door of the Church or Chapel of the Place where the Land lies, which must be return'd with the Name of the Summoner: And if such Proclamation shall not be had, then no Grand Cape shall issue, but an Alias and a Plurit Summons, until a Summons and Proclamation be duly made and returned. 11 Geo. 1. 2. Litt. Abr. 535. In a Practice good Redad, no Man shall lose his Land without being summoned. Tenc. Cent. 98. 

Summons & Redresse, In Law Proceedings, see Seuorance. 

Summons ad Warrantiam, Summons ad Warrantandum, The Process whereby the Voucher in a common Recovery is called. 6 Litt. 101. 

Sumptuary Laws, (Sumptoria Lawes, from Sumptoria) of or belonging to Expenses) Are Laws made to restrain Excess in Apparel, and prohibit costly Cloths, of which heretofore we had none in England, but they are all repealed by 1 Jac. 1. 3 Inf. 199. 

Sumptuaria Lawes, (Dio Dominicus) Is the Lord's Day set apart for the Service of God, to be kept religiously, and not be profaned. Persons using Bell-banging or Bear beating, or such like Sports on a Sunday, shall forfeit 3s. 4d. and for Wrestling, Boxing, &c. Stat. 1 Car. 1. And if any Butchers shall kill or sell Meat on a Sunday, they are liable to a Penalty of 6s. 8d. Carriers, Drivers, &c. travelling on the Lord's Day, in a Forfeiture of 20s. Stat. 4 Car. 1. 1. No Person shall do any worldly Labour on a Sunday, except Works of Necessity and Charity on Pain of 51. And crying or expeding to tave any Woe or
or Goods on a Sunday, the Goods to be forfeited to the Poor, &c. on Conviction before a Justice of Peace, which Decision shall be recorded and enrolled by the Clerk. But this is not to extend to Dressing Meat in Families, Jars, Cook Shops, or Vending Hoities; nor to crying of Milk on a Sunday in the Morning. 29 Car. 3. c. 7. Law Proclaves are not to be served on a Sunday, unless it be in Cases of Treason or Felony; or on an Escape, by Virtue of 3 Ann. Sunday is not a Day in Law for Proceedings, Contra'd. &c. And hence it is, that a Sale of Goods on this Day in a Market overt is not good: And if any Part of the Proceedings of a Suit in any Court of Justice, be entered and recorded to be done on Sunday, it makes it all void. 2 Ida 264. 5 Rep. 181. The Service of a Citation on a Sunday is good, and not restrained by the Stat. 29 Car. 3. And by two Judges, the Delivery of a Declaration upon a Sunday may well be enough, it not being a Process; but Hild. C. I. thought it ill, because the Act intimated to quell all Sorts of Legal Proceedings. 1 Ed. Rexv. 706.

Supercargo, A Person employed by Merchants to go on a Voyage, and oversee their Cargo, and dispose of it to the best Advantage. Merch. Dict.

Superstitution. (Superstitio) is One Inquisition upon another; as where A. B. is admitted and enfrated to be done upon one Title, and C. D. is admitted and enfrated upon the Title or Preference of another. 2 Cr. 483. See Inquisition.

Superius-Coat, A Term used in our ancient Law, when a Criminal endeavoured to exculpate himself by his own oath, or the Oath of one or two Witnesses, and the Crime objected against him was so plain and notorious, that he was convicted by the Oaths of many more Witnesses: This was called Superius-Coat. Leg. Hen. I. c. 74. Leg. Athelstan. c. 15.

Superemotions of Bellona, A Judicial Writ that lies against him who is implicated in the County Court for the Surcharging or Overburthening a Common with his Cattle, in a Case where he was formerly implicated for it in the same Court, and the Cause is removed into one of the Courts at Westminster. Reg. Judic. Super Servitiatis Regis, A Writ which is merely aginst the King's Widow for Marrying without his Licence. F. N. B. 173.

Superfecundas, A Writ that lies in a great many Cites, and signifies in general a Command to lay some fine or Punishment on an Act that was done good on Cassel Brown, which ought otherwise to proceed. F. N. B. 256. A Superfecundas is used for the laying of an Execute, where a Person is alleged to have killed a Man and put in: But no Superfecundas can be made out on bringing Writ of Error, till Bill is given, where there are judgments upon Verdicts, or by Default, in Debt, &c. though in Cites and Treipas, where Damages only are recorded, on the bringing and allowing of the Writ, the Clerk of the Errors will make out a Superfecundas, without Bill. 2 Litt. Law. 543. A Writ of Error is laid to be in Judgment of Law a Superfecundas, until the Errors are examined, &c. that is to the Execution; not to Action of Debit on the Judgment at Law. From the Time of the Allowance, a Writ of Error is a Superfecundas; and if the Party had Notice of it before the Allowance, it is a Superfecundas from the Time of such Notice; but this must be where Execution is not executed, or begun to be executed. 1 Cro. 123. Raym. 100. Abel. Ca. 150. 1 Saull. 321. If before Execution, a Writ of Error is granted, and the Sheriff will execute a First Faire and levy the Money, the Court will award a Superfecundas, quia errorem eamali, and to have Redemption of the Money. 1 Stile 414. After an Execution there where a Superfecundas, quia Exequio improper eamali, ec. null. and there being no Clause of Relitigation in the Superfecundas, it was intimated that the Execution was executed before the Superfecundas was awarded, and the Money demanded, and the Sheriff was no Superfecundas; but the Court ordered another Superfecundas, with a Clause of Relitigation. Mor. 456. 3 Nelf. Ab. 356. The Superfecundas, quia errorem eamali, lies to relieve a Party from a Punishment, after an Action of Factum fejusnum, when firsted out erroneously: So of a Superfecundas after Execution upon a Capitas ad just. furnished, if he is immediately delivered to the Sheriff. Tent. Cas. 58. 42. It appearing upon Affidavit, that there were two Writs of Execution executed upon one Judgment: The Party moved for a Superfecundas, because there cannot be two such Executions, but where the Plainit is hindered either by the Death of the Defendant, or by some Act in Law, that he can have no Benefit of the first and so it was adjudged. Stile 255. A Superfecundas is granted to a Sheriff to stay the Return of an Habbus Corporis; and if he return it afterwards, and the Parties proceed to Trial 'tis Error; and so are all the Proceedings, inferior Courts below, after an Habbus Corporis delivered, unless a Procedens is awarded, in which Case a Superfecundas is not to be granted. Cr. Car. 43. 350. When a Certiorari is delivered, it is a Superfecundas to inferior Courts below, and being allowed, all their Proceedings afterwards are erroneous; and they may be punished. The Judges &c. to whom a Certiorari is sent, are to inform a Superfecundas to the Sheriff to stop Execution of any Award, Cr. 2 Howk. P. C. 193. If a Sheriff holds Pleas of 401. Debt in his County Court, the Defendant may not forth a Superfecundas, that he do not proceed, Cr. Or after Judgment he may have a Superfecundas directed to the Sheriff, requiring him not to award Execution upon such Judgment, and upon that an Action, a Placita, and an Attachment, &c. New Nat. Br. 132. Superfecundas may be granted by the Court for setting aside an erroneous Judicial Procurs, &c. Allo a Prisoner may be discharged by Superfecundas: as a Perfon is imprisoned by the King's Writ, so he is to be set at Liberty; and a Superfecundas is as good a Cause to discharge a Perfon, as the full Process is to arrest him. Finch 433. Cro. 17. 370. If a privileged Person is sued in any Jurisdiction foreign to his Privilege, he may bring his Superfecundas. Vaugh. 155. But a Peer being arrested by a Bill of Middelfox, was ordered to plead his Privilege; and not allowed a Superfecundas. Stile 177. It is false Imprisonment to detain a Man in Custody after a Superfecundas delivered; for the Superfecundas is to be obeyed, it is only a Writ of Error, and not a Caption without any Cause. 2 Cr. 370. 3 Nelf. 256. There is a Superfecundas where an Audia Querela is sued; and out of the Court of Special Jurisdiction, and taken upon an Exigent, giving Security to appear, &c. And in Cases of Safety of the Peace and Good Behaviour, where a Perfon is already bound to the Peace in the Chancery, Cr. New Nat. Br. 524. 529. 532.

From a Writ of Superfecundas.

G O R T H E second, &c. to the Sheriff of M. Greeting. Whereas, by the late Command of our Lord the King, you were directed to proceed against the Writ of Superfecundas return'd by this Writ, that you should take C. D. late of, &c. in your County, if he should be found in your Bailiwick, and safely keep him, so that you might have his Body before us at Westminster, on the Day, &c. last after, &c. then to come, and now left off, to make Satisfaction to A. B. for fifty Pounds, which in our Court before us were awarded to the said A. B. &c. And the said C. D. had infringed, by Reason of not performing certain Promises and Undertakings, made by the said C. to the said A. &c. in your County, the Sheriff is directed: and because it appears, so of the said Writ to take the said Body to make Satisfaction, was wandly and clandestinely taken.
A

Super Statuto de Arretulio Cleri, Cap. 6. A

Writ lying against the Sheriff or other Officer that

distains the King's Highway, or in the Land

anciently belonging to the Church. F. N. B. 173.

Super Statuto fato pour Henricb 6th & Mares

shal be delivered to have his Warrant there

upon for arresting the Party, &c. and then ha

ving found out a Certiorari, it is to be delivered to them that

took bail thereon: and they are required to certify it,


Superintendency, Signifies Sovereign Authority;

British and Foreign Telegraph, the highest E. B. &c. in

the Hen. 8. was the first Prince that took off the Yoke

of Rome here in England, and settled the Superintendency

in himself, after it had been long held by the Pope.

Stat. 25. ed. 20. And by 1 Edw. c. 1, all

Ecclesiastical Jurisdiction was annexed to

the Crown; and it was ordained that no foreign Powers

should have any Power or Authority over this

Kingdom : Alle the Oath of Superintendency was appointed,

&c. by these Laws, the great Power of Rome was

suppressed; and the Act of Sup. Edw. 3d, was an Act of Redemption of the ancient juris-

diction Ecclesiastical, which always belonged of Right

to the Crown of England; and that it was not intro-

ductory of a new Law, but declaratory of the old,

and that which was of Right ought to be by the

fundamental Laws of this Realm, Parcel of the King's

Jurisdiction; by which Laws, the King as Supremac

Head, had full and entire Power in all Causes Ecclesi-

as well as Temporal: And as in Temporal

Causes, the King doth judge by his Judges in the

Courts of Justice, by the Temporal Laws of England;

so in Causes Ecclesiastical, they are to be determined

by the Judges thereof, according to the King's Eccle-

siastical Laws. 5 Rep. 9. Candore's Cafe. And in

this Cafe it was resolved by all the Judges, that by our

ancient Laws, this Kingdom is an absolute Empire and

Monarchy; consisting of one Head, which is the

King, and of a Body Politicke, made up of many well

agreeing Members, all the Which divide into

two several Parts, the Clergy and the Laity, both of them

immediately under God, subject and obedient to the

Head. And the Head of this Politicke Body, is furnished with Prerogative and Jurisdiction,

to render Justice and Right to every Part and Member

of this Body, of what Estate or Degree soever, other-

wise he does not sit in the Bench of the

Writ of Supplication. 5 Edw. 7. &c. 5 Ca, 5 Rep.

There are several Influences of Ecclesiastical

Jurisdiction exercised by the King of England

in former Ages; and in this Reign the King is said to

be Potestas mixta et uxor zex Jurisdiction. The

King is the supreme Ordinary, and by the ancient

Laws of the Land, might without any Act of Parlia-

ment, make what Laws he list, and that the Clergy

and if there be a Controversy between spiritu-

ual Persons, concerning Jurisdiction, the King

is Arbitrator, and 's a Right of his Crown to declare

their Bonds. 10 Edw. 1. 1 Edw. 2. 15 Hen. 7.

See Appeals to Rome, Pope, and Pramunire.

Surcharge, An Over-charg, because what is left

and right is left.

Surtax in wit, Is a Writ that lies for the Heir

of a Woman, whose Husband hath aliened her Land

in Fee, and the neglect to bring the Writ in wit for

wit for the same: the Collector, and the Writ of

Circum

Rari directed unto the Judges of Peace to certify the

Writ of Supplication, and what they have done there-
Sutterley, (Vin Fadis) a Bail that undertakes for another in a criminal Case, or Action of Trespass, &c. And there is a Surrity of the Peace, so called, because the Party in those cases, by Bond or Recognisance of the other, and his Bail bound for him. Lamb. Etym. loc. 2. Vide Good Behaviour. 

Surgery, (Chirurgia) May be deduced from the Fr. Chirurgien, signifying that he deals in the mechanical Part of Physick, and the outward Cures performed with the Hand; and therefore is compounded of the two Greek Words Συγγεια, meaning, 'To see,' and γεια (σε), and for this Cause Surgeons are not allowed to administer any inward Medicine. By the Stat. 32 H. 8. c. 42, the Barbers and Surgeons of London are incorporated and made one Company; and there shall be chosen yearly four Masters for the said Company, of which two must be expert in Surgery, and the other two in Barbery, who shall have Power to punish and correct all Defaults; and the Company and their Successors are to have the Over sight and Correction as well of Freemen as Foreigners, and so they shall be called against the good Order of Barbery and Surgery. They shall be exempted from bearing of Arms, serving on Juries, and all Manner of Parish Offices, &c. but by Stat. 24 Geo. 3. Art. 13. the Corporation is Dissolved, and the said Company shall have free Liberty to take four Persons condemned for Felony, for Anatomies yearly. No Barber in London, or within one Mile thereabout, is a legally qualified, learned, or to any other Thing relating thereto, except Drawing of Teeth; nor shall any of them practice Surgery within those Limits, except that a Craft of a Barber: Though any Man not being a Barber or Surgeon, may retain in his House as a Servant, a Barber or Surgeon, who may exercise his Art in his Master's House, or elsewhere. U.S. All Persons practicing Surgery in London, shall have an open Sign in the street where they dwell, that People may know where to resort to them when wanted: And every Person offering in any of the Articles contained in this Statute shall forfeit 5/., a Month, one Moey to the King, and the other to him who shall sue for the same, &c. By the Stat. 18 Geo. 2. c. 15, the Surgeons of London, and the Barbers of London are made two separate and distinct Corporations. 

See Physicians.

Surt lies in, i. e. Upon his Oath, according to ancient Laws. Leg. 1. c. 16. 

Surrity, is something offered to a Court to move it to grant a prohibition, Audia Surrata, or other writs grantable thereto; and what shall be allowed to be a good Surrity, or not so, for 2 C. 669. 219, 501. Vide Surrata.

Surrata, (Fr. Surat, Lat. Seraphicam, Curtilage) is either a precedent or Additional more than need ful, which sometimes is the Cause that a Writ abates; but in pleading Many Times it is absolutely void, and the Reader of the Plea shall find good. Bade, Plowd. 63. And on a Writ of Inquiry of Damages in Wally, in which the Sheriff was commanded to go to the Place walked, and there inquire of the Wally done and Damages, who returned the Inquisition, without mentioning that he went to the Place walked; this was held to be Surrata in the Writ that would not hurt, because the Plea in the Action the Wally was acknowledged, so that he need not go to the Place walked to view it. Pobo. 24. A Differing was returnable Trad. Nixi praxis verreri Mathhias Halle Mihi. Capitale, 1. et alia. of such a Day, and so many Times whereas the Month of sun was not mentioned before, and this was moved in Arret of Judgement as a Dicentance; but adjudged that the Word praxis shall be rejected as Surrata and void, and then the Word sun shall be intended sun next; as a Covenant to pay Money at Michaelmas, shall be intended Michaelmas falling in November next. But in the Case of Debts, upon Demand, it was objected against the Debtor, that there had not paid, praed. xengea Libran, &c. when the Word xengea was not before mentioned: And it was resolved that it was sufficient, when 'in Pagis' was mentioned, that the Defendant had not paid praed. Libras, which must be the Pounds for which the Plaintiff had declared. 1 Law. 463. 1 Rep. 647. 3 Leef. Art. 269. A Plaintiff being right named through all the Proceedings, but in the last Place, where it was said that a Copias ultragens was prosecuted against praed. Xu- bennam Perdul, and his true Name was George: It was ruled that the Word Johannes shall be Surrata and be rejected; and then the Plea will be, that a Copias ultragens was prosecuted against praed. Foul- ler. 2 Leef. 919. 1 Lev. 428. If a Jury find the Substance of the fide before them to be tried, other Supererogation is but Surrata. 6 Rep. 465. And where a Verdict or Judgment is demanded, if there be any other Matter repentant or uncertain, &c. it shall be rejected as Surras. 3 Leef. 262. 2 Hawk. P. C. 441. See Plurality.

Surrata of Actions, Signifies a greater Differ- ment than the Charge of the Accountant amounts unto. In another Sense, Surrata is the Remainder or Overplus of a Lease, or Leasehold estate. 

Surrutcher, a second Rebuttor; or more properly it is the Replication or Answer of the Plaintiff to the Defendant's Rebutter. See Rebutter. 

Surrataber, (Surrataber) of the Plaintiff's Declaration in a Cause, and answers the Rejoinder of the Defendant. Whif. Symb. par. 2. As a Rejoin- der to the Defendant's Answer to the Replication of the Plaintiff: fo a Surraurer is the Plaintiff's Answer to the Defendant's Rejoinder. Word. 1st. 586. Where a Plaintiff in his Surraurer, is to conclude to the Country, and not without an Averment. See Raym. 14. After Rejoinder and Surraurer, and Rebutrer, &c. there may be a Demurrer. Pratt. Attor. Edit. 1. p. 86. 

Surrurber, (Surrurber) is a Deed or Instrument testifying that the particular Tenant for Life or Years, of Lands and Tenements, doth yield up his Estate to him that hath the immediate Estate in Remainder or Reversion, that he may have the present Possession thereof; and wherein the Estate for Life or Years may merge or devolve by the mutual agreement of the Parties. Co. Litt. 357. And of Surrurers there are three Kinds, a Surrurer properly taken at Common Law; a Surrurer of Copyhold or Cul- tuary Estates; and a Surrurer improperly taken, as of a Deed, a Patent, &c. shall not create. U.S. The Surrender at Common Law is the usual Surrender, and is of two Sorts, viz. A Surrender in Deed, by or by express Words in Writing where the Words of the Leather to the Leather is sufficient Affair to give him his Estate back again; And a Surrender in Law, being that which is wrought by Operation of Law, and not actual, as if Leefe for Life or Years, take a new Lease of the same Land during their Term; this will be a Surrender in Law of the first Lease. 1 Lef. 338. 5 Rep. 51. Perk. 601. And in some Cases a Surrender in Law of greater Force than a Surrender by Deed, because there is no Reversion when it is may devolve; but if the Leather before the Day, take a new Lease of the same Land, it is a good Surrender in Law of the former Lease; And this Surrender in Law, by taking a new Lease, holds good, though the second Lease is for a left Term than the first; and this is, though the second Lease is a voidable Lease, U.S. 5 Rep. 11. 6 Rep. 65. 10 Rep. 67. 1 Lev. 218. Co. Litt. 870. If after Life do accept of a Lease for Years, this is a Surrender in Law of his Lease for Life; if it should be otherwise, the Lease for Years won; the said Leases so purporting both Leases cannot stand together in the Person. 2 Litt. Att. 544.
544. Leefe for twenty-one Years takes a Leafe of the fame Lands for forty Years, to commence after the Death of A. B. it is not any pretens Surrrender of the firft Term; but if A. B. dies within the Term it is forfeited, & the Leafe reverts to the Leefe. A Leefe for Years takes a second Leafe to commence at Michaelmas next; adjudgeth this was an immediate Surrrender in Law of the firft, and that the Leefe mortiſter and take the Profit from the Time of the Acceptance of the second Leafe, until Michaelmas following. Cre. Eliz. 605. If the Leefe makes, and Leefe accept a new Leafe, and it is not upon Condition; this shall be a Surrrender in Law: And if an Affignee of Tenant for Years take a new Leafe, Gr. the firft Leafe shall be by Law Surrrendered. 1 Inf. 318, 338. If a Woman Leefe for Years marries, and afterwards takes a new Leafe for Life without her Husband, this is a Surrrender and Extinguishment of the Term; but if the Husband dies, or residue, though the new Leafe had been made to the Husband and Wife, then by the Acceptance thereof, the firft Leafe had been gone. Hints. 7. A Leefe takes the Leefe to Wife, the Term is not determined on her Death; but he is by the Corture, the Overruled. Wom. Inf. 285. A Surrrender may be of any Thing grantable, either absolute or conditional, and may be made to one, being a Conveyance tied and charged with the Limitation of a Use: But it may not be of an Estate in Fee; nor of Rights or Titles only to other Estates for Life or Years; or for Part of such an Estate; nor may one Term regularly Surrrender to another Term; nor can a Tenant at Will Surrrender any more than he can grant. Perk. 611. Noi's Max. 71. Eliz. 603. Eliz. 602. Things will not pass by Surrrender, the Deed may ensue to other Purposes, and take effect by way of Grant, having sufficient Words: Host a Surrrender may be made by thfe Words: Hasted, Surrrendered, granted, yielded up and confirmed, &c. To the making of a good Surrrender in Deed of Lands, the following Things are requisite: the Surrrenderer is to be a Person able to grant and make a Surrrender, and the Surrrenderer a Person able to receive and take it; the Surrrenderer must have an Estate in Possession of the Thing Surrrendered, and not a future Right; and the Surrrenderer is to be made to be hath the next Estate in Remainder or Reversion, without any Right than that for another's. The Surrrenderer must have a higher or greater Estate in his own Right, and not in the Right of his Wife, &c. in the Thing Surrrendered, than the Surrrenderor hath, so that the Estate of the Surrrenderor may be drowned therein; (for if Leefe for Life Surrrender to him in Remainder for Years, &c. it is a void Surrrender) there is to be a new Estate, by the Surrrenderor, and Surrrender, and the Surrrenderor must be sole feied of his Estate in Remainder or Reversion, and not in Jointtenancy; and the Surrrenderor agrees to the Surrrenderor, &c. Inf. 283. Perk. 584, 598. Riall. Abr. 494. Noi's Max. 73. A Man who hath a Fee-simple Estate cannot Surrrender it, because it can't be drowned in another Estate. 12 Eliz. 41. And if a Leefe be made for Life or Years to A. the Remainder for Life to B. Remainder in Fee-tail to C. and the firft Tenant Surrrenders to C. this will not take Effect as a Surrrender coming between the Remainder and Estate. 12 Eliz. 112. The Leefe for Life or Years, may Surrrender to him that is next in Remainder in Fee-tail, or Fee-tail: And if Leefe for Life Surrrenders his Estate to one Remainder, that is not a Tenant for his own Life; it is a good Surrrender, for a Man's Estate for his own Life in Judgment of Law, is greater than that for another's. And where an Estate is Surrrendered for Life, there needs no Livery and Selle, as in a Grant. 1 Inf. 338. Dyer 251, 280. Yet in some Cases an Eftate, &c. may have Considerance, though it be Surrrendered; as where Leefe for Life makes a Leafe for Years, and after doe Surrrender, the Term for Years doe continue; and so of a Rent-Charge granted by such Leefe, Es. Bre. 17. 1 Inf. 338. If the Leefe for Years rendring Rent, Surrrenders his Estate to the Leifier, hereby the Rent is extinted: But if the Rent were granted away before the Surrrender, it would be otherwise. 1 Riall. 145. Eliz. 90. Surrender when Life is diſfilme, for or Years onſide, and before Entry, or Partſeifen, gained, by Surrrenders to him in Reversion; this Surrrender is void: And yet if Leefe for Years, after his Term is begun, before he enters, and when no body doth keep from him the Problen, Surrrenders, it will be good; Perk. 620. 600. If there be Leefe for Years, the Remainder for Life, Remainder in Fee; if the Leefe for Years may Surrrender to the Leefe during Life, and so may he to him in the Remainder in Fee: But if there is Tenant for Life, the Remainder for Fee, and such Remainder in Fee; here the second Tenant for Life cannot Surrrender to him in Remainder. Hid. 605. In Case of Tenant for Life, Remainder for Life, for Life, and Fee, so it was a Surrrender, whether the Remainder-man for Life, by and with the Contemt of the Tenant for Life, could Surrrender to him in Reversion without Deed, only by coming on the Land and laying, that he did Surrrender to him in Reversion; the Court were divided; but two Judges held, that if Tenant for Life and he in Remainder for Life, Surrrendered to the Remainderman, it should pass at several Surrrenders, &c. First of him in Remainder to the Tenant for Life, and then by the Tenant for Life to him in Reversion. Perk. 137. If Tenant for Life grant his Estate in Reversion, this is a Surrrender; and it must be pleaded according to the Operation he hath in Law, or it will not be good. 4 MoL. 151. Though if Leefe for Life or Years, grant their Eftates to him in Remainder or Reversion and a Stranger; it shall ensue as a Surrrender of the one Half to him in Reversion, and as a Grant of the other Moety to the Stranger. 1 Inf. 335. And by Statute, no Estates of Freehold, or of Terms for Years, shall be granted or Surrrendered but by Deed in Writing, signed by the Parties, or unless by Operation in Law, &c. 29 Eliz. 2, 2. See Leefe, &c. 4 MoL. 2. Surrrenders of Copyhold Estates, see Copyhold.

Form of a Surrrender of Lands held for Term of Years.

T'o all People to whom these Presents shall come, A. B. &c. sendeth Greeting: Whereas the said A. B. is possessed of and interested in the above Mentioned Tenement or Estate, as Tenant for Years, and by his Deed, on the 10th Day of May last, hath Surrrendered, and doth hereby sell, grant, covenant, assign, and confirm, and is willing to quiet and demy, in &c. for the Remainder of a certain Term of twenty-one Years, the Remainder in and to the said A. B.'s Estate, as Tenant for Years, and doth hereby convey, assign, and confirm, and is willing to quit right, title, and interest, in and to the same, &c. as 'tis, as 'tis now, and from and after the same, &c. as 'tis, &c. and all other right, title, and interest, in and to the said Estate, &c. as 'tis, &c. and all other right, title, and interest, in and to the said Estate, &c. as 'tis, &c.
S

by these Prefects: And the said A. B. for himself, his Executors, Administrators, and Assigns, doth covenant and grant to and with the said C., D. C. D. C. D. C. E. D. C., or any of them, all and

may at all times, peaceably and quietly enter, have, hold, occupy, perform, and enjoy, all and

that the said Benefices or Tenements, Lands and Pre-

suits aforesaid, and every Part thereof, with the

Appurtenances, without the Let, Trouble, Hindrance,

Mutilation, Interception or Denial of the said A. B.

his Executors, Administrators or Assigns, or of any other

Persons or Persons whatsoever, claiming, or to claim, by

from, or under them. In Witness, &c.

Surrender of Letters Patent, and Offices. A

Surrender may be made of Letters Patent to the King,

to the End he may grant the Estate to whom he pleases,

Gr. and a second Patent for Years, to the same Per-

son, for the same Thing, is a Surrender in Law of the

first Patent. 10 Reg. 66. Letters Patent for Years

were delivered into Chancery to be cancelled, and new

Letters Patent made for Years; but the first were not

cancelled: It was held that the second were good,

because they were a Surrender in Law of the first,

and the non cancelling was the Fault of the Chancery,

which ought to have done it. 66 Eliz. 1, L. & T. 545.

If an Officer for Life accepts another Grant of

another Grant of the same Office, it is in Law a Surrender of the said

Grant: But if such an Officer takes another Grant of

the same Office to himself and another, it may

be otherwise. 1 Tract. 278. 3 Cr. 158. See Dyre 127,

159. 2 Ga. 415.

Surrenders. (Surrender) is one that is subsisted

or appointed in the Room of another : as the Bishop

or Chancellor's Surrenders, &c.

Surfeit. (Superfluous) A Word specially used in the

Caule of Dower, for Penalties and Prejudices laid

upon those that pay not the Duties or Rest of Cofte

ward, at their Days limited. Stat. 32 H. 8. cap. 40.

It probably comes from the Fr. Surfit, i.e. surplus or

neglected. Brit. 52. And Bruden hath it so in a gen-

eral Signification. Bruden. lib. 5.

Surfeit, is to measure, lay out, or particularly

describe a Manor, or Estate in Lands; and to after

not only the Bounds and Royalties thereof, but the

Tenure of the respective Tenants, the Rent and

Value of the same, &c. It in this last Signification, which is according to our Law, it is also understood to be a Courts for the Pealing of an Estate to a new Lord, confiding of Tenants, where there are Ten-

nants by Lease, and Copyholders, a Court of Survey

is generally held; and sometimes at other Times, to

assize the Lord of the present Terms and Interests of

the Tenants, and as a Direction inmaking further

Grants, as well as under Reference to Improvements, &c. See my

Comp. Court Resp.

A Survey of the Manor of D. In the County of G.

belonging to the Honourable W. B. Esq. Taken this

Day of, in the Year, &c.

A. if, &c. holds by Lease for his Life, and the

Livery of T. B. and C. his Son, and all his

Benefices, and twenty Acres of Land, Meadow and Pasture,

 Situate in, &c within the said Manor, under the yearly

Rent of 12s. 5d. per Ann.

C. D. holds by Copy of Court Roll for his own Life

and the Livery of M., his Wife and C. his Son (all of

them living) one Benefice or Tenement with the Ap-

purtenances, etc. Quit Rent 20s. Heron 9. 90. 30 l. per Ann.

E. F. holds by Copy for Livery of K. his Wife and T.

his Son, a Tenement, and all that is rent and Manor, Rent 5

Heresy, 6cs. 15l. per Ann.

G. H. holds for the Term of his own Life, one Cottage

with the Appurtenances, Quit Rent 5 l. 10s. 10d. per Ann.

J. K. holds for his Widowship, a Piece of Ground

called, &c.

L. M. holds, &c.

Examined by G. T. Gent.

Seward of the said Manor.

Surburies, (Compound of two Fr. Words, Sar,

i.e. Sugar & Veir, Coarse) Signifies one that hath

the Overfencing or Care of some great Person's Lands

or Works: And there was a Court of Surburies erec-

ted by 3 H. 8. c. 39.

Surburies of the King's Exchange, An ancient

Office belonging to the Mint and Coinage, mentioned

in the Statute 9 H. 5. c. 46.

Surburies General of the King's Estates and

Lands, We read of in Camp Juris. 166.rod

Surburies of the High, An Officer appointed

over all Secrecy; and to Survey Hulls and Ships of

Th. Chamberl. ri

Surburies of the King's Dominions, This Officer

surveyes the Ordemance and Provisions of War, allows

Bills of Deeds, and keeps the Checkes on Labourers

Works, &c.

Surburies of the Lords and Liberties, Taken

away with the Court of Wars and Liveries. 12 Car.

2. c. 24. 166. 2. 167.

Surburies, From the Fr. Survireus, and Lat.

Supernus) is the longer Liver of two Jointenants, or

of any two Persons joined in the Right of a Thing:

He that remaneth alive, after others are dead,

Brak 33. Where there are Jointenants in any Thing

when one dies, (if but two only) the Whole goes to

the Survivor, but if there are more than two, then

the Part of him who is dead goes amongst all the

Survivors. 2 Litt. A. 546. Jointenants take by Sur-

voryship, which they do any Act whereby the Jor-

tenure is severed; for then there can be no Survoyship.

Wood's left. 147. See Jointen.

Subasta, is said in Land worn out with

Ploughing. Tires.

Sub:Register, (Lat.) An Under-taker or Godfather,

also a Receiver of Tribute in the Roman Provinces.

Litt. Dist. 215.

Subscripta, (Superscription) is a temporary Stop, or

hanging up, as it were, of a Man's Right, for a Time;

and in legal Understanding, is taken to be where a

Rent, or other Profit out of Land, by Reason of the

Unions of Possession of the Rent, &c. and the

Loss of it which it is, is not in off for a certain Time,

Et tunc dormine, but may be revived or awaked:

And it differs from Extinguishment, which is when it

dies or is gone for ever. Ca. Lit. 215. A Subscript

of Rent is, when either the Rent or Land are so con-

veyed, not absolutely and finally, but for a Time,

after which the Rent will be revived again. Foug. 109.

A Rent may be superseded by Unity for a Time; and

if a Lessee doth any Thing which amounts to an

Entry on the Land, the he premises deny, yet the

Possession is in him sufficient to justify the Rent, until

the Lessee do some Act which amounts to a Re entry.

Foug. 39. 1 Lois. 110. As Rent is not inflating out of

of a Common, the Lessee's Including the Common

cannot supersede his Rent. Ca. Trib. 679. If Part of

A Condition is superseded, the whole Condition, as well

for Payment of the Rent, as doing a collateral Act, is

superseded. 1 Reg. 51. And a Thing or Allotment

once superseded, is for ever superseded, &c. Ca. Co.

373. See Extinguishment.

Subdivision. A Confin whereby Exclusivitie Per-

sons are forbidden to exercise their Office, or to

take the Profits of their Benefices; or where they

are prohibited for a certain Time in both of them,

in the Whole or in Part, all other persons being dead,

Offs, or in superficie & Benefices, and off effici & Benefice.

Wood's Int. 510. There is likewise a Superscription

which relates to the Lettis, i.e. sub registra fr. Ingriu.
**Swan**. (Cygna) A noble Bird of Game; and a Person may prescribe to have Game of Swans within his Manor, as well as a Warren, or Park. *7 Rep. 17; 18.* A Swan is a Bird Royal; and all white Swans not marked, which have gained their natural Liberty, and are swimming in an open and common River, may be killed to the use of the King; but if they escape out of his private Waters, into an open and common River, he may take them; though it is otherwise if they have gained their natural Liberty and swim in open Rivers, without such Pursuit. *Game Laws, par. 2. p. 152.* Stetting Swans marked and pinned, or unmarked, if kept in a Mote, Pond, or private River, and reduced to Tamebird's, is felony. *H. P. C. 68.* And he that kills the Eggs of Swans out of their Nests, shall be imprisoned a Year and a Day, and be fined at the King's Pleasure. *11 Hen. 7. c. 5.* No Fewel can be a Stray, but a Swan. *4 Indg. 280.*

**Swanwick. The King's Swanwick, Magistrate de- duced.** *Par. 16 R.*

**Swarms.** No Person may have a Swan mark, except he has Lands of the yearly Value of five Marks, and unifies it by Grant of the King or his Officers lawfully authorized, or by Precept. *Stat. 23 Eliz. 4. c. 6.*

**Swarms or Swinnots. (Swanotum, from the Sax. Swan, i.e. a Country Swan, and Gemot, i. Cornuta) Signifies a Court touching Musters of the Forces, held by the Charter of the Forest thrice in the Year, before the Verderers as Judges. Court. Terric. 16 Edw. 3. 1.* The Swammar is a Court unto which all the Freeholders in the Forest do owe Suits and Service; and all the Officers of the Forest are to appear at every Swammar, also out of every Town and Village in the Forest Four Men and a Reeve; or on Default, shall be amenazzed and dismem- bered. *Game Laws, par. 2. 19. 20.* A Court of Swammar is to be held as a Court, as the Court of Pie- powdow a far. *Ch. Ewt. Terric. Hen. 3. See Forfei.*

**Stuarl.Compm.** It mentioned among Culloms and Sexons, and this Stuarl-Compm is one Halfpenny, paid before the Rising of the Sun; the Party must go three Times about the Croft, and say the Swarfs...
Fortune: And formerly, in any notable Expedition, to invade and conquer an Enemy’s Country, it was the Custom of the more eminent Sort of Officers, to engage themselves, by reciprocal Oaths, to share the Reward of their Service; so in the Expedition of William Duke of Nevers into England, Robert de Oyle, and Roger de Ferry, were sworn Brothers and Companions in theEnterprise, which the Conqueror allotted them. —Robertus de Oyleio & Rogerus de Iovio Fratres jurati, & per Eidos & Sacramentum Confederati accorunt ad Condicionem Angliam. [Parch. Antiq. 57.]

This Practice gave Occasion to our Proverb of Sworn Brothers, or Brothers in Arms; because of their dividing Plunder and Slay.

Syberia, or Siberia, is a desert and wilderness, and other lands, called Sibire. See Silva Cardo.

Symbology, or Symbolics, is a Symbol, or Sign in the Sacred Scriptures; and the Creed of the Apostles, is often called by this Name by our Hyermists.

Symbatology, or Symbology, is a Study in several Ecclesiastical Councils and Synods, signifying to cut short or put an end to nonsense about things not to be known. [Simpson, c. 10.

Symbitus, an Advocate, or Patron: A Burgess Recorder of a Town, [Simpson, Parc. Antiq. 1245.

Syllogism, or Synthesis, is a Deduction, or Writing, under the Hand and Seal of all the Parties; and to which the Deeds themselves, and all the Documents, were subscribed. [D.L. 364.]

In Syllogismus, or Synthesis, is a Deduction, or Writing, under the Hand and Seal of all the Parties; and to which the Deeds themselves, and all the Documents, were subscribed. [D.L. 364.]

Symbology, or Symbology, is a Meaning or Assembly of Ecclesiastical Persons concerning Religion: being the same Thing in Greek, as Composition in Latin: And of Symbols there are four Kinds, viz. 1. A General or Universal Symbol, or Synod of a Hundred Persons, made at Rome, and published to the whole World; 2. A National Symbol, of the Clergy of one Nation only; 3. A Provincial Symbol, where Ecclesiastical Persons of a Province only assemble; 4. A Diocesan Symbol, of those of one Diocese, &c. And our Saxon Kings usually called a Synod or mixed Council, consisting of Ecclesiastics and the Nobility, three Times a Year; which is said to have been the same as our Parliament.

Symbology, or Syllabary, is a Alphabet of Signs used in Money, paid to the Bishop or Archdeacon, by the inferior Clergy, at Easter Visitations; and it is called Symbola or Symbolization, quia in Symbolo formata est e Graeco. They are likewise termed Symbols, in the Stat. 35 H. 8. cap. 16. And sometimes Symbols is used for the Symbol of itself, and Symbols Provincial, the Canonists or Commentators of a Provincial Symbol. 25 Hen. 8. cap. 19.

Symbols, or Syllables, were the urban and rural Deeds, whose Office at first was to inform of and attend the Disorders of the Clergy and People in the Episcopal Synod, and for which a solemn Oath was given them to make their Preparations, &c. But when they took in their Authority, the Synodal Writings were a Sort of impetissed Grand Jury, composed of a Priest and two or three Laymen of every Parish, for the Informing of or Preventing Offenders; and at length two principal Persons for each Diocese were annually chosen, till by Degrees this Office of Inquest and Information was devolved upon the Church-operatives. Parch. Antiq. 645.

Synonymy, or Synonymy, is a Thing of the same Name; or of the like Signification. Litt. Dist.
the Tail. 3 Nuc. Abr. 266. Before the Statute of
Wills 1, 13 Ed. 1. If Lands were given to a Man
and the Heirs of his Body, it was interpreted to be
a Fee-fimple present by the Gift, upon Condition
that it should be inherited by his Wife, and if he had
an Issue, the Condition was supposed to be performed
for three Purposes, viz. to alien and disinherit the Issue;
and by the Alienation to bar the Donor or his Heirs of all
Possibility of the Reversion; to forfeit the Estate
for Treson or Felony; and to charge it with Rent,
&c. But by this Statute, the Will and Inheritance
of the Tail may be otherwise stated, thus in
If a Man and his Issue shall not alien after Issue had or before,
or forfeit or Charge the Lands longer than for his own Life,
&c. and the Estate shall remain to the Issue of the Donor,
or to the Donor or his Heirs where there is no
Issue; so that whereas the Donor had a Fee-simple
before, now he has but an Estate-tail, and the Donor
a Reversion in Fee expectant upon that Estate-tail. Ca.
&c. In the same time, though daily Experience shewed that much Mistake
had crept into the Law by instalment Inheritances,
and from the Creditors, &c. and Sons became disobedient
when they found they could not be dispossessed; wherefore
the Judges found a Way to bar an Estate-tail,
with Remainders over, by a feigned Recovery. Ans.
12 Ed. 4. The Case is by a Fine to bar the Issue. See
4 Hen. 7. cap. 20. and 32 Hen. 8. cap. 56. And for
that Owners of Land held in Tail were left in a difficult
condition to commit Treson on Account of the safe Future
interests; therefore the Stat. 26 Hen. 8. cap. 13 was made; and
because men that had installe Lands, could not make
improvements, their Estate being only for Life; for they
had the next 32 Hen 8. cap. 18 gave them
Power to make Leases for twenty-one Years, or three
Lives, &c. And notwithstanding the many Mistakes
and Inconveniences arising from installe estates, and
the Statutes before mentioned, and Flaws and Re-
coveries to dock Installs; there are Methods ob-
forced in Settlements to limit Estates that no Law
or Statute can reach or alter them, except a particular
Act is made for that Purpose. Wood's Inst. 122.
The Statute de bonis creates no Install, but of such an
Estate which was Fee-simple in the Common Law;
and defendable as a Fee-simple. 1 Inst. 19. Lands
of Inheritance, and all Inheritances favouring of the
Residuary, may be installe; to Rents, Profits, Officers,
Dignities, &c. which concern Lands, or certain Places;
but it is not allowable to personal or exercised with Channel only; it cannot be installe.
4 Inst. 87. 7 Rep. A Grant of an Annuity, to a
Man for Life of the Body, to the Heirs of his Body;
Although for Years to a Person and the Heirs of his Body, is
also void; though an Affirmment may be made of a
Lease for Years, in Tail to permit the Issue in
Tail to receive the Profits; which is in Effect an
Estate-tail. 10 Rep. 87. Estates-tail of Lands, are
General, or Special; General Tail is where Lands or
Tenements are given to a Man and the Heirs of his
Body begotten; or to a Woman and the Heirs of her
Body begotten: In this Case, it is called a general
Tail, because whoever Woman the Man taketh to
 wife, in any case the Issue will be his or her
Issue; and whatsoever
Man the Woman takes to Husband, the Issue
may inherit; or if the have divers Husband, and
have Issue by every of them, they shall inherit one
after another, as Heirs of their Body; Special Tail
is when Lands and Tenements are given to a Man
and his Wife, and to the Heirs of their two Bo-
dies begotten: in which Case, no other Person can
inherit but the Issue that are begotten by him on
that particular Wife; and it is called Special Tail,
for that if the Wife die, and the Husband mar-
ries again, by whom he hath Issue, such Issue
has no Benefits, as they have by the general Tail.
Litt. 14. 16. Ca. Litt. 19. 20. If Lands are given
to the Husband and Wife; and to the Heirs of their
Bodies, both of them have an Estate in special Tail
by Restitution of the Word Heirs, for the Inheritance, is
not limited to one more than the other: Where
Lands and Tenements are given to a Man and his
Wife, and to the Heirs of the Body of the Man;
the Husband hath an Estate in general Tail, and the
Wife an Estate for Life; as the Word Heirs re-
lates generally to the Body of the Husband: And
if the Estate is made to the Husband and Wife, and to
the Heirs of the Body of the Wife by the Husband
and Wife, then if the Wife should die, the Issue in
Tail, and the Husband for Term of Life only be-
cause the Word Heirs hath Relation to the Body of the
Wife, to be begotten by that particular Husband: If
an Estate be limited to a Man's Heirs which he shall
begot on his Wife, it creates a special Tail in the
Husband; but the Wife will be limited to nothing.
Ca. Litt. 16. 28. Ca. Litt. 22. 26. Lands given to a Man
and Wife; and when one of them dies, shall
be an Estate in special Tail for they may
marry. 1 Inst. 25. 10 Rep. 50. And though lands are
given to a married Man and another Man's Wife,
and the Heirs of their two Bodies, it may be a good
Estate-tail, for the Possibility of their Intermarrying.
15 Hen. 7. A general Tail, and a special Tail, may
not be created as one and the same Time; if they are,
the General, which is greater, will frustrate the Special.
1 Inst. 28. There are other Estates tail within
the Equity of the Statute; as if Lands are given to a
Man and his Heirs Male or Females, of his Body
begotten, the Issue Male or Female shall only in-
hert according to the Limitation: By Virtue of the
Statute, here the Daughter may be Heirs Male,
Defents, though there be a Son; but in Cafe of a
Purcahse, there cannot be an Heir Female where
there is a Son, who is right Heir at Law. 1 Inst. 24.
164. And whoever Wife hath a Claim, as Heir for
formam desu to an Estate tail, must make his Defect
by such Heirs to whom it is limited; if it is to Heirs
Males of the Body, there the Pedigree is to be de-
divided by Heirs Male; and if it be to Heirs Females,
he must derive it by Heirs Females one after an-
other. 1 Inst. 396. If a Gift is to one, and the
Heirs Males of his Body, and he hath Issue a
Daughter, who hath a Son, and dies; in this Cafe
the Son shall not inherit the Estate-tail, for he cannot
make his Defect by Heirs Male. Ibid. And where
there is a gift to the Heirs Male or Females, the
Case is where the Gift was made by the Will or By
the Act of a Grantor, when Issue fail, the Land shall revert to the
Donor or defend to him that is to have it after the Effe-
tail is forever, and if not this, there is a Void
other Words amounting to it, make the Entail:
And a Gift to the Heirs Male, or Heirs Female,
without any Thing further, is a Fee-simple Estate,
because it is not limited of what Body: And hence
a Corporation cannot be seated in Tail. 1 Inst. 13.
20. 27. In a Devise or Gift Will, an Estate-tail may
be created without the Word Body; also begotten
shall be supplied and necessarily intended. Noy's Inst.
101. 1 Inst. 26. If one gives Lands to a Man
and his Issue, or Children of his Body, without the
Words, to Inherit, to the Issue of his Body; and whatso-
ever Man the Woman takes to Husband, the Issue
may inherit; or if the have divers Husband, and
have Issue by every of them, they shall inherit one
after another, as Heirs of their Body; Special Tail
is when Lands and Tenements are given to a Man
and his Wife, and to the Heirs of their two Bo-
dies begotten; in which Cafe, no other Person can
inherit but the Issue that are begotten by him on
that particular Wife; and it is called Special Tail,
for that if the Wife die, and the Husband mar-
ries again, by whom he hath Issue, such Issue
has no Benefits, as they have by the general Tail.
Litt. 14. 16. Ca. Litt. 19. 20. If Lands are given
Digitized by Google
fich who are lawfully begotten by the Grandee. 7 Rep. 442. if he do die without issue, and if the Heirs of his Body, this is an Estate-tail executed in him; and so it is if he them to stand feid of in the same Matter. 7 Med. 389. and Fine, bequeathed, "to the Use of Husband and Wife, for their joint Lives; Remainder to the Heirs of the Body of the Wife by the Husband to be begotten, Remainder (the Wife surviving the Husband) to her for Life, Remainder to the right Heirs of the Husband; this was hold to be an Estate-tail, executed in the Wife. 6 Rep. 317. 3 Salk. 538. Land is conveyed to the Use of a Man and his Wife for their Lives, and their issue Male in Tail, then to the Use of the Husband and Wife, and of his Sons and Heirs of their Bodies begotten, they having no Male issue; by this Husband and Wife are Tenants in Special Tail executued, and when they have Male issue, they bequeath, or have died without issue, the Tail be to the Remainder to the Heirs of his Body; he hath an Estated-tail in him: but he is only Tenant for Life in Possession: 1 Lev. Rep. 853. A Man seised of Land in Fees, makes a Gift of it in Tail, or Lease for Life, Remainder to the right Heirs of the Body of the Donor, as this Remainder is held it is free, and not an Estated-Tail. Dyer 216. If the Gift or Grant to the Land to "in S. and his Heirs, To hold to him and the Heirs of his Body, hereafter he will have an Estate in Tail, and a Fee-simple upon it. Lit. ch. 2. 1 Law 21. Lands are given to two Brothers, "and to the Heirs of their Bodies begotten; during their Lives they shall have joint Estates, so that the Survivor shall have all for his Life; and after their Deaths, their Heirs have Estates in general Tail, by kilothes in common or with another. 1 Law 25. 1 Rep. 140. When a Remainder is limited to two, and the Heirs male of their Bodies, they have not joint but several Estated-tails: And between Baron and Feme, 'tis fait several Masteries may be of an Estated-tail, as well as of a Fee-simple. Gr. Blin. 280. 3 Sawt. 2. 2 Lev. Rep. 551. A feoffment was made to the Use of the Feoffor for Life, Remainder to W. R. his Son and his Heirs, and for Want of Issue of his, Remainder to the Right Heirs of the Body of the Donor, Adj. R. hath only an Estate in Tail for though the two Words of the Sentence, viz. to his Son and his Heirs, make a Fee-simple, the former Words in the same Sentence, viz. and for Want of Issue of him, make an Estated-tail by qualifying and abridging the same. 5 Med. 365. 3 Salk. 357. Feoffment to the Use of a Man's Self; and afterwards made his Will, by which he desired that the Feoffor should make an Estate to all his Sons, except to Henry; and if all his Sons died without issue, Remainder to a Stranger. W. his Son, and the Remainder to be not excepted in this last Clause, he had an Estated-tail. Heil. 57. Though an Estated-tail is created by the Words Dying without Issue,Gr. yet where the Limitation is upon a Dies for ever, in the Life time of another, there it will be otherwise. Dyer 354. If a Person gives Lands to A. for Life, and then Issue, then to another Person; though here is an express Estat for Life given to A. the subsequent Words make an Estate-tail: But where Lands are devised to A. during Life, the Remainder to the Trustee, Remainder to his first born Son, Gr. if A. dies without Issue, then, Gr. The Limitation upon the Devisee's Death, 'is said will not give an Estate in Tail to A. but it shall be here extinguished, that if A. die without Issue, the Son of the William 605. A Father having two Sons, devised his Lands to his younger Son, and if he died without Heirs, then to his eldest Son and his Heirs; the younger Son had an Estate tail, because the Devisee to him, and if he died without Heirs, is the same as if the Testamentor had devised it in that Words, (v. n.) If he die without Heirs of his Body; for otherwise the Remainder limited to the eldest Son had been void, as the younger Son cannot die without Heirs, so long as the eldest is living. 1 Lev. Ab. 856. In Ejectment the Case was, the Father having three Sons, devised his Lands to his second Son, and his Heirs for ever; and for Want of such Heirs, then to the right Heirs of the Father; then the Father died, and his second Son entered, and died without Issue, living the eldest Son: it was resolved, that the second Son had but an Estated-tail, and that the Devisee by their Words, and for Want of such Heirs, is vested in Point of Limitation, for the Testamentor's Intent was that the Lands should descend from himself, and not from his second Son; and the Words, Want of such Heirs, could import no other than Want of Issue,Gr. so that the eldest Son takes by Devise, in this Case, and not by the Will. 1 Salk. 253. A Person devised Land to his Wife for Life, Remainder to his Younger Son, and his Heirs for ever; and if he died without Heirs, the same to remain to his two Daughters: In this Case it was held in Equity, that the Remainder over is to one, who may be the Devisee's Heirs at Law, such Limitation will be good, and the first confirmed an Estated-tail for the Generality of the Words, Heirs, shall be reversionary to the Heirs of the Body, since the Testamentor could not but know that the Devisee would not die without an Heir, while the Remainder Man, or any of his Issue continued; but where the second Limitation is to a Stranger, 'tis nearly void, and the first is a Fee-simple. Tailor's Chaf. Caf. 2. An Estated-tail cannot merge by the Acceptance of the Fee-simple to it: But it has been adjudged, that two Feas immediately expire upon one another, (as where a Man is Tenant in Tail, and Remainder in Fee to the Tenants in Tail) cannot subsist in the same Person; and the Statute of Wills, having made Estated-tails a Kind of particular Estates, they must like all other such Estates be subject to Mergers and Extinctions, when united with the absolute Fee. 3 Rep. 74. 1 Salk. 598. If a Tenant in Tail, Remainder in Tail and Tenant in Tail enforces the Reverescion in Fee; it is a Disjuncture: And Tenants in Tail cannot make any greater Estate than for their own Lives; unless the Law, Sec. according to the Stat. 5 H. 8. 1 Rep. 140. If a Tenant in Tail Sells lands and Sells Lands to another and his Heirs, or makes a Lease and Releaves to the Use of himself for Life, with Remainder over to another, Gr. These Estates may be avoided by Entry of the Issue in Tail. Erriff. Med. Ca. 23. 28. Estated-tails are usually created upon Settlements: Though an Agreement to install, is no Lease; for no Agreement shall bind the Issue in Tail, where there is a Right of Instal, without a Fee. Chanc. Rep. 256. It is incident to an Estat-Tail only, that the Wife of the Devisee shall be residuaries; and if the Husband of a Feme Donor, be Tenant by the Curtesy; and that the Tenant in Tail may suffer a common Recovery, Sec. and therefore Conditional tenures, are void. 1 Lev. 240. 10 Rep. 38. As by Statute it is incident to Estated-tail, to make Lands to fo by Colman, it is to grant Lands by Copy of Court-Roll. Gr. See Recovery.
have Iffie, and the Iffie dies without Iffie, whereas
by there is none left which may inherit by Force
of theInitial, the Survivor of the Donors hath an
Estate-tilt after Possibility. Lis. 32. The Estate of
the Iffie must be created by the Act of God, or
by the Death of either Party without Iffie: none
can have this Estate but one of the Donors, or a
Jew, or a Judge in General Stains. They may
Possibility have Iffie. Lis. 34. 1 Inf. 28.
11 Rep. 80. And if one gives Lands to a Man and
his Wife, and the Heirs of their two Bodies in spe-
cial Tail, and they live till each of them are one
hundred Years old, and have no Iffie; yet doth
the Law see no Impedibility of having Children,
and they continue Tenants in Tail: But if the Wife
dies without Iffie, there the Law forth an apparent
Impedibility. 1 Inf. 28. Tenants in Tail after Pos-
sibility of Iffie extinct, are not punishable for Wallow
as are Tenants for Life; But such Tenants, or Te-
nants by the Curtesy, &c. may not suffer a Recovery.
And though they have more Privileges than "Tenant
for Life only; as if they alien the Land, he in Re-
version cannot have the Use of the Principal Panel &c.
and they need not require Aid, &c. Yet as to the
Quantity of their Estates, they have no Privilege
above Estates for Life: For if such Tenant in Tail
after Possibility, make a Deed of Sale of their Land, he
in Reversion may enter for the Forfeiture, &c. 1 Inf.
27. 28. 9 Rep. 139. Lis. Sect. 54. A Tenant in
Tail cannot be blind of any use expressed: for his
Estate is so fixed, that none can execute the Use: And
whereas Tenants in Tail general or special, &c. die
without Iffie, the Donor or his Heirs may enter.
"Feed Sect. 195. Lis. 18. If Tenant in Tail in
Remainder, be attained of Tressain, the King the
shall have the Land; for it may not be in Abyance,
nor in any other, he being dead, but in Law:
'The Chief Lord cannot have it, by Reason the Te-
nant for Life is alive: so neither he that is in Re-
version, &c. and it cannot Revert, before the Tenant in
Tail die without Iffie. 1 Law. 123. Vide Stat. 10 Geo.
2. c. 6. 36.
Taint, (Sr. Taint, i. e. Affected, Taints) is taken
subjectively for a Contention; or addredicularly for a Per-
son who has an Affection for Taints. See Taint.
Talent. A Weight of Sixty-two Pounds: also a
Sum of Money among the Greeks, of about 100 l.
Value.
Talons, (Lat.) is used in the Law for a Supply of
Men impanelled on a Jury and not appearing, or
on their Appearance challenged as not Indissuists; when
the Judge on Motion orders a Supply to be made by
the Sheriff, "of one or more such Persons present in Court,
equal in Reputation to those who were im-
pannelled, make up a full Jury, which he could not
by the Common Law, and this is by the Statutes
35 H. 8. c. 6. 2 Ed. 6. c. 32. 12 Eliz. c. 9.
7 & 8 W. 3. c. 32. Lis. &c. Tales are of two Sorts,
i. e. Tales of Impedibility, and a Tales of
Lessee. Tales de Circumanthes is a where full Jury
do not appear at the Npf. prises, or so many are chal-
enged that there is not a full Jury; then on the Prayer
of the Plaintiff's Counsel or Attorney, the Judge will
grant this Tales, which the Sheriff returns immedi-
ately in Court: A Demo Tales is when a full Jury
does not appear at Bar, and is called a Tales de
Tales to the Sheriff appears Demo Tales. 10 Rep.
102. Finch 414. 2 Roll. Abr. 67. Upon a Trial at Bar, if
the Jury do not appear full, the Court cannot grant a
Tales de Circumanthes, but will grant a Demo Tales,
returnable in some convenient Time the same Term,
to try the Case. 2 Lill. Abr. 552. And a Tales de
Circumanthes ought not to be in an Affidavit, only a
Npf. prises, or so many are challenged. Scirpool. 1 Affid.
Law. 341. A Plaintiff or Defendant
may have a Tales de Circumanthes; and the Statutes
which authorize Justices of Npf. prises to award a Tales
described as well as capital Causes set
one
Cantamount, is where one thing doth amount to another, and then 'tis all one as if it was the same: As a Lease and Release amount to a Premiament; and a License to occupy Land for Years, to a Lease for the Term, &c. &c. H. 8. 1. 13. Eyre Ep. 1150.

Care and Cust. The first is an Allowance in Merchandize, made for the Buyer for the Weight of the Box, Bag, or Casks wherein Goods are packed: And the last is a Consideration in the Weight, for Wasse in emptying and refilling the Goods, by Dust, Dirt, Breaching, &c. Book Rate.

Caret, (from the Lat. Tergn) A Shield, originally made of Leather, wrought out of the Back of an Ox. Blunt.

Cargha, (Tarida.) Was a Ship of Burden, once called a Tarina, and Tarnda. Knightona, Anno 1358.

Carpanit, or Carpaniting, A tarred Canvas to keep the Weather out of Ship: But it is commonly used for a Mariner, or Drudge in a Ship that does the villia Service. Merc. Dict.

Carratona, A Sort of Fine Cloth or Silk. Stat. 4 Hen. 8. c. 6.

Case, (Fr.) Is a Cock, Heap, Stack or Rick of Hay or Corn. Law Fr. Dict.

Cassulae, A Priest's Garment covering him over.

Cassum, A Mow of Corn or Hay, from the Fr. Caste, to pelt up; Taffar, to mow or heap up; and all Taffam furors is to pelt to the Mow. Rel. Hill. 

Cath. In the Counties of Norfolk and Suffolk, the Lords of Manors claimed the Privilege of having their Tenants Flecks of Sheep brought at Night upon their own Denere Lands, there to be folded for the Improvement of the Ground: which Liberty was called by the Name of Teach. Spelin.

Cathora, The King may licence any Tewora for Selling of Wine, &c. 16 Car. 1. c. 21. But Perons, who inordinate-hast tewora, are indelible by the Common Law, and continuing drinking and tippling, &c. is liable to Penalties, by the Statutes 1 Jac. 1. c. 2. 21 Jac. 1. c. 7.

Cast, By Holde in his Notes upon Edwaras, signifies a Croft. Mon. Aug. Temp. 3. p. 131.

Cauri libertas, In ancient Charters is used for a common Bull: so called, because it is free and common to all the Tenants within such a Manor or Liberty. &c.

Cathed. It is ordered, that Ceiling-makers, Glover, Bridge-cutters, and others that Deser Shyn in Allom, &c. and out the common Wares, shall be called Tewora, and subject to the Penalties, for Frauds and Confections relating to the Duty on Leather, by Stat. 9 Hen. c. 11.

Case, (Fr.) Sells a Justice, i.e. Ordo Tribunum A Tribute or Impost laid upon the Subject, which being certainly and orderly rated, was wont to be yearly paid into the King's Exchequer: And it differs from what is commonly called a Subsidy, in That, it is always certain as it is set down in the Exchequer Book, and levied in general of every Town, and not particularly of every Man. &c. No History mentions that the Sextis Kings had any Taxes after the Manner of ours at present; but they had Leases of Money and personal Services towards Repairing of Cities, Castles and Bridges, and for military Expeditions, which they called Buinshes, Brightes and Hercy, and when the Danes invaded this Kingdom, great Sums of Money were raied yearly, by a Tax on every House of Land, the Lands of the Church only excepted, and therefore it was afterwards called Hy- denhouse, which Name remained and was used for all Taxes and Subsidies imposed on Lands; though sometimes it was laid upon Cattle, and then was termed Hercy: The Norman called their sometimes Taxes, other Times Tabling; and made a Law for it, in 1079.
the particular Manner of their Leving; but many Years after the Conquest, they were loved other-
wise than now, as every ninth Fleece, and every ninth Sheep, &c. Royal 7th 4th 26th 53. It is
fair to suppose that they were imposed by the King at his Pleasure; but King Edward 1. bound
himself and his Successors, in the 25th Year of his Reign, that from that Time forward no Tax should
be laid upon the Subject, without the Advice of the Lords and Commons in Parliament. Stat. 35 Edno.
1. c. 5. But although Taxes which are for the De-
fense of the Realm, cannot be imposed but by Act of
Parliament; yet the Crown has a Right to ask
them, upon any Emergency, and therefore 'tis held
they have a virtual Existence always, tho' not actual
one. In the 14th Year of Ed. 3. an Aid was granted
to the King by the Parliament; and Anne 5 R. 2.
a Royal Aid for keeping the Sea, and preferring
of those who were engaged for the King at
Fifteen and Tenants, payable by the Tem-
porality and Clergy in two or three Years, &c. And
they were frequently granted after this, for
Fifteen, and Tenants; then by Subsidies, afterwards by Royal Aids, and at last by a Pound Rate; the former were all upon the Peron and Personal Estate, and were much the
feast and the Pound Rates the Land and Rents.
Anne 18 Ed. 3. A Valuation was made of all the
Towns in England; and returned into the Exchequer,
and this became the hanging Rule for Taxing every
Town, &c. When a Tax was given, the Officers of
the Exchequer pretend to know how much it amount-
ed for every Town, and the Inhabitants rated the
Landholders, and Occupiers of Lands, and they were
charged and paid their portion, &c. A Subsidy was
granted Anne 52 Hen. 8. and this was a Tax upon
the Perons, both for Lands and Goods, and payable
where the Perons lived; and this continued till
the 15 Car. 1. and about two Years afterwards the
first Attinement was made upon Lands and Rents,
according to a Pound Rate. 2 175. 26. If 3. 3 5o.
In the 16 & 17 Car. 1. Taxes were granted for
Relief of, and disbarring the Army, &c. And
15 Car. 2. 9 3 5 4 4 the sum of 1,110,000 l. was
granted for eighteen Months at 70,000 l. per Month,
charged on the several Counties by Lieutenant-
generals, for Ammunition for the Militia, and several Aids
were granted; one of 2,177,000 l. for fitting out a Navy
and Maintenance of Wars, &c. In the years 16,
17, 18, 19 & 25 Car. 2. Allo a free and volun-
tary Prentiz was granted to King Cha. 2. but it was
ordinarily returned, but was drawn in like an
Example. King James 2. had Aids and Taxes
granted him by Parliament; and after the Revo-
cution, William was necessarily laid on Land Tax,
and Personal Estate, in the Reign of King Will. 3.
and Queen Anne, to defend the Crown and Kingdom
against the Efforts of the King of France, in Favour
of the pretended Prince of Wales, and secure the
Protestant Soveraign in the Line of his present
Majesty King George. Since this Necessity, joined
to others, Land Taxes have been annually granted of
1 2 3 4. and in the Pound, as the present
Exigencies have required; enabled to be levied by
Commissioners on the several Counties, Cities,
Towns, &c. And in respect of this, it is not the
Quantity but the yearly Value of Lands that must be
oberved; the Farmers or Occupiers of the Land, are
to be charged and death is out of their Rents to
the Landholders; and a Man may be rated for Goods,
as well as Lands, but not for both; and in Cate of a
Rate on Goods, the Charge must be on the Peron:
The Commissioners must ascertain the several Proport-
ions of the Tax, to be charged on every Hundred or
Division; and appoint for Perons to be Affixed and
Collectors in every Parish to aish and levy the Mo-
ney, which when received is to be paid to Re-
civers; Gen'ral, and by them returned to the Ex-
chequer, &c. If any Peron refuse to pay the Tax, the
Collectors may levy it by Distress and Sale of their
Goods; and if they are imposed, they be relieved
by Appeal to the Commissioners, who have Power
to charge the same on others, as they shall for
Castle, and a Case of Deficiency to make a Re-affil-
ment of Affixed Persons, or to be fined not
exceeding 4o l. And Collectors laying the Mo-
ney, shall be imprisoned, and their Elusses seized and
fold, &c. If a General Receiver neglects so return
the Money by him received, he is liable to the Penalty
of 500 l. and where there is any Failure in raising and
paying the Sums of Money charged on any County,
Process may issue against the Commissioners for their
Neglect, &c. By other later Statutes, when
Land, &c. are afflicted at more than an equal Pound-
Rate, the Commissioners upon Complaint made in
twenty Days, shall abide it, and re-affix such Abses-
ments within the whole Hundred, &c. or on Perons
under-named, so as the Sum charged be fully paid.
And when the Collectors have consented to charge them-
selves to the Land Tax for their own Estates, Com-
misioners by Statute have been empowered to su-
manent and execute them, and out of their Oath, and upon
Discovery thereof, to award Satisfaction to be
owed to the Collectors. If Lands or Houses are unoccu-
pied, whereby the Parish is obliged to make good the
Tax, the Collectors at any Time after may, enter and
Distress, and sell the Distress in four
Days, and the Money shall be distributed propor-
tionably to the Parties who paid for such Lands,
&c. In Case any Persons by charging themselves
with the Tax, and being taken before the Commis-
sioners, escape the Taxation, on Proof before two of
the Commissioners, or a Judge of Peace, within
one Year, they are to be charged at simple the Va-
ue, to be levied by Distress, &c. And in the tak-
ing their Distress, Collectors may break open
Houses, Chests, &c. in the Day-time, upon a War-
rant under the Hands of two Commissioners, and cal-
ing Constables to their Affidance: Allo if any Peron
refuse to pay the Tax, by the Space of ten Days after
Demand, or convey away his Goods, &c. the Com-
misioners may commen him to the common Gaol, till
Payment. Payzys are doubly taxed: but the Colle-
ges in the Universities are exempted from paying any
Thing to this Tax: There is a Poundsage Fee for
collecting the Tax, of 3 6. per Pound to the Collec-
tors, 2 6. per Pound to the General Receiver, and
1 6. Halfpenny per Pound to the Commissioners of
Cash. 4 Geo. 1. 1 6. & 15 Geo. 3. 1 6.
The above Statutes, as Land Tax Acts, whereas 2.
in the Pound is granted, have generally clauses of
Lease of 7 5. 0. 54 3. 2 6. per Pound, Two Millions for publick Uses: likewise in the
Med Tax Acts, there is such Clause of Lease for
750,000 l. at 3 4. per Cents. Interest, the Leases
to be made by the Commissioners or the Treas-
ury, &c.
Capitio 2. Tax is a Tax or Impost laid
upon Corn according to Census and the Atlas of Houns, which was anciently the Duty of their Offices.
Capitio 3. Shall not make or let upon Cloths any
Button or Botton holes of Cloth, Scoats, &c. until
any Peron from the Cloths, or with any Buttons or
Pain of forfeiting 40 l. per Dozen. 4 Geo. 1. Contracts
entered into with Journeymen Tailors, for advancing their
Wages and maintaining them: but if the dealers offer
their Wages greater than allowed, shall forfeit 5l. and Jour-
nymen accepting the same, or refusing to work for the
settled fixed Wages the Hours appointed, may be
first
sent to the House of Correction for two Months, &c. by Stat. 7 Geo. 1. c. 13.

Tears, is a fine Sort of Liquor, of late much used in England, and introduced from China and the East India, being the Product of a Shrub growing in those Parts: It is mentioned in the Stat. 12 Geo. 2. c. 15. And Persons mixing with Tea Leaves, the Leaves of other Trees and Shrubs, are liable to a Penalty of 10l. &c. by 4 Geo. 2. c. 14. The East India Company, are to have Allowance and Drawback, on exporting Tea. Stat. 6 Geo. 2. c. 98. By the Stat. 18 Geo. 2. c. 26. The Duty of 2s. per Pound Weight Acqueducts, and 2s. 6d. per Cent. on the Price on all Tea sold by the East India Company. And by the Stat. 21 Geo. 2. cap. 14. Tea is permitted to be exported to Ireland and his Majesty’s Plantations in America, without paying the inland Duties charged by the last Act.

Team and Thame. (From the Sax. Tymen, i.e. a Plough) Signifies a Royalty or Privilege granted by the King’s Charter to the Lord of a Manor, for the having, restraining and judging of Bondmen and Villains, with their Children, Goods and Chattels. Gr. Geschw. Lib. 5. c. 2.

Teconomancy, Toke-camancy, Toking-camancy, A small Dower in the Sheriff’s Ward, towards the Charge of keeping Courts, &c. from which some of the Religious were exempted by Charter from the King. Chart. Hen. 1.

Teane. (From the Sax. Tymen, to include or that is used in many Parts of England for Wood for Fences and Enclosures.

Teinsland, Thaeinsland, Thamseisland, The Land of a Thane or Noble Person. See noble Land.

Tellor, Is a confidant Officer in the Exchequer, of which Officers there are Four; whole Office is to receive all Money due to the King, and to give the Clerk of the Peals a Bill to charge him therewith: They also pay all Persons any Money payable by the King, by Warrant from the Auditor of the Receipt; and make weekly and yearly Books of their Receipts and Payments, which they deliver to the Lord Trea surer.

Telligraphy, (From the Sax. Tellen, i.e. dieres, and the Gr. Τροπος, Scriba, γραφεῖν A Telling any Thing by Writing) Are written Evidences of Things past.

Temptor. Is that Work or Labour which the Tenant was bound to do for his Lord, for a certain Number of Days; from the Saxons Word Teleyan, numer. W. It was, opus. Thyn. Ann. 1584.

Temple. Dowed and Swor both tell us that the Temple in London is a Place of Privileges from Arrears, by the Grant of the King; but this hath been denied by the Court of B. R. Dods. 317, 320. 3 Salt. Rep. 45. In the Middle-Temple the King’s Treasurer was anciently kept.

Templestir, (Templeri) Knights of the Temple, having their Residence in Part of the Buildings belonging to the Temple of Jerualem; we read of them in the Reign of Hen. 2. They had in array a great Body, whom Brandon calls Magistrum Militia Templi; and the Master of the Temple here, was summoned to Parliament. 49 Hen. 3. Bract. Lib. 1. cap. 10. The Chief Minister of the Temple Church is still called Master of the Temple. See Knights Templars.

Temporality of Bishops, Are the Revenues, Lands, Tenements and Lay-Prey belonging to Bishops, as they are Barons and Lords of Parliament; all Things as a Bishop hath by Livery from the King, as Manors, Lands, Tenants, &c. 1 Roll. Abr. 881. It was a

Coutram formerly, that when Bishops received from the King their Temporalities, they did by a solemn Form in Writing renounce all Right to the fame by Virtue of any Provision from the Pope, and acknowledged the Receipt of them only from the Kings; which Coutram continued from the Reign of Edw. 1. to the Time of the Reformation: And this Practice began by Occasion of a Bull of Pope Gregory 8. wherein he conferred the See of Warerbur on a certain Bishop, and commanded him to administer Spiritualism under Temporal Jurisdiction. Ann. 31 Edw. 3. The Custody of the Temporalities of every Bishop and Archipriff, during the Vacancy of the See, belongs to the King; and no Subject can claim them by Grant orarcer. F. N. B. 32. 34. 2. Lay. 15. And the King may remit the Temporalities during the Vacation of the See: so also he may present to a void Archbishop, when the Temporalities are in his Hands. 1 Lay. 50. 388. Mag. Chart. c. 5. 14 Edw. 3. c. 14.

Temptatio, or Tentatio. Is used in ancient Records for a Trial, or Proof. Chart. 50 Edw. 1.

Temptus, strapulis, is in the Fourth, which is from about Michaelmas to St. Martin’s Day.

Temptus pinguedinis & Armamentis; The Season of Killing the Black and the Doe. MS. Temp. H. 3.


Tenancies, Are Houses or Places for Habitation, held of another. 25 Edw. 4. c. 4.

Tenant, (Tenans a tenenda, from holding) Is one that holds or occupies Lands or Tenements, by any Kind of Right, of some Lord or Landlord, by Rent, Fealty, &c. Also the Word Tenure is used with divers Additions; as Tenure in Fee-simple, Fee-tail, for Life, Years, or at Will Tenancy in Dower, by the Courts, by Copy of Court Roll; Tenant in Mortgage, by Statue-Merchant, and Statute-Stapel, Etc. &c. Co. Lit.

Tenants in Common, Are such as hold Lands for Life or Years, by several Titles, or by one Title and several Rights; as Tenants have one joint Freehold, so Tenants in Common have divers Freeholds. 1 Lay. 158. If a Conveyance is made to two Persons, and one Manus to one and his Heirs, and the other Manus to the other, &c. it is a Tenancy in Common, and the Heirs and Executors of Tenants in Common, shall have their Parts or Shares, and not the Survivors. In case of Tenants in Common, one Tenant has a Right to sell the Tenement against another Tenant in Common; but one such Tenant may bring Writs against his Partner, &c. 3 Leon. 307. 2 Litt. 561. At Common Law Tenants in Common were not compellable to make Partition; though they are by the Stat. 31 H. 8. See Joint tenours.

Tenant to the Precipice, Is he against whom the Writ of Precipice is to be brought in forging a Recovery. 3 Rep.

Tenant, Seems to signify as much as Tenant, or Off- fice; it is mentioned in our old Books, as to send a Traveller, an Averment, &c. Brita. c. 76. Staunf. Prav. 16.

Tenant, (Fr. Tenor) Is the Offering of Money, or any other Thing in Satisfaction, or circumstantial to endeavour the Performance of a Thing; as a Tender of Rent is to offer it at the Time and Place where and when it ought to be paid: And it is an Act done to save the Penalty of a Bond before Action brought, &c. Tenor de Ley 557. Tender of Rent on any Part of the Land, or at any Time of
of the last Day of Payment, will have the Condition for that Time, though the Landlord refuse it: But whereas Rent is received, the Leasser may after bring Debts, though he cannot recover any Damages; the Leasser's being ready to pay excuses the Damages, but doth not delbar the other of his Rent. 3 Rep. 353. 3 Salk. 344. A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 354.

A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 355. 5 Salk. 344.

A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 355. 5 Salk. 344.

A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 355. 5 Salk. 344.

A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 355. 5 Salk. 344.

A Tender of Rent to have the Forfeiture must be of the whole Rent due, without any Deduction of Taxes or other Payments: unless it be so agreed. 5 Salk. 355. 5 Salk. 344.
But they have been often granted to the King by the Pope upon divers Occasions, sometimes for one Year, and sometimes for more; and were annexed perpetually to the Crown by Stat. 3 & 4 H. 8. c. 4. And as the Poet Pearson, in his Poem to the Poet Pearson, towards the Augmentation of the Maintenance of Poor Clergymen, 2 Ann. c. 11. Collectors of this Revenue are to be appointed by the King by Letters Patent, instead of the Bishops; and an Office is to be kept for Management of the same, in some Part of London, as Westminster, 3 Geo. 1. c. 10. Treasu fignerly likewise a Tax on the Tempresque. See the Statutes of King Edu. 6. Queen Eliz. and King James. And was to Tax.

Tenures, Robbing of, in Fairs and Markets, is Freely, and permitted by Bargained. 2 & 3 Ed. 6. c. 9.

Tenure, (Tenures, from the Lat. Tenura) is the Moner whereby Lands or Tenements are holden; or the Service that the Tenant owes to his Lord: And there can be no Tenure without some Service, because the Service makes the Tenure. 1 Inf. 1. 93. A Tenure may be of Hosues, and Land or Tenents; but not of a Rent, Common, &c. All Lands in the Hands of a Subject are held of some Lord or Landlord, by Tenure or Service: And all the Lands and Tenements are held by a tenant either militarily or immediately of the King; and therefore he is Summi Dominus supra suos. 2 Inf. 531. Tenure signifies the Estate in the Land; and Tenants were anciently divided into the following, viz. Essajas, which was Land held by the Service of the Shield, and by which the Tenant was obliged to follow his Lord into the Wars at his own Charge. Knight's Service and _Laudno_, where Lands were held of the King or some Lord, to perform Service in War, and which drew after it Homenage, _Eponse, Wartship, Chivalry, &c._ _Burgage Tenure_, where Land was held of the Lord of the Borough, at a certain Rent. _Villageware_, a base Tenure of Lands, whereby the Tenant was bound to do all inferior Vassalage Services commanded by the Lord. _Grand Servicery_, a Tenure of Lands by Honourary Services at the King's Coronation, &c. And _Petit Servicery_, where Lands were held of the King to contribute yearly some small Thing towards his Wars. _Fredeamandor_, a Tenure by which Land is held by Ecclesiastical Persons in free and perpetual Absolute Possession: And _Swage Tenure_, where Lands are held by Tenants to plough the Land of their Lord, and do other Services of Husbandry at their own Expenditure, but this has been turned into an yearly Rent, for all Manner of Services, when it is called _Free Service_. Of these general ancient Tenures, Knight's Service, Chivalry, _Eponse_, _Petit Servicery, Villageware_, and _Burgage Tenure_ are expressly by Statutes. 16 Car. 2. The Common Tenures at this Day, are _Fee Simple_, which is an absolute Tenure of Lands, to a Man and his Heirs for ever. _Fee tail_, a limited Fee to a Person and the Heirs of his Body begotten. _By the Curtesy_, where a Man marries a Woman sole of Lands in Fee simple, _&c._ and hath Issue before her Death, the Land dairing Life. In _Dower_, where a Widow holds for her Life the Third Part of her Husband's Land, whereby he was held in Fee. For _Life and Years_, where Lands are held by Tenants for the Term determined, on Rent referred. And _Capheild Tenure_, a holding for Lives or in Fee, at the Will of the Lord, according to the Manner, under divers Services. _Vide the Heads, and see Fee Tenure._

_Tenures._ (Terminus ex Tenens) is he that holds Lands or Tenements for Term of Years or Life. *L. 400.*

:A Terminus for Years, cannot plead in *Agfs.* like Tenants of the Freehold; but the special Matter, viz. his Lease for Years, the Reversion in the Plaintiff, and that he is in Possession, *G. Dyer* 246. 7th. *Cl. 142.*

_Terms._ Are those Spaces of Time, wherein the Courts of Justice are open, for all that complain of Wrongs or Injuries, and seek their Rights by Course of Law or Action, in order to their Redress; and during which, the Courts in Westminster-Hall sit and give Judgments, *G.** But the High Court of Parliament, the Chancery, and inferior Courts, do not observe the Terms; only the Courts of King's Bench, the Common Pleas, and Exchequer, the higher Courts at Common Law. Of these Terms there are Four in every Year, viz. *Hilary Term*, which begins the 25th of January, and ends the 12th of February; _Easter Term_, that begins the Wednesday Fortnight after Easter Day, and ends the Monday before Whitsun-Day; _Trinity Term_, which begins the Friday after Trinity Sunday, and ends the Wednesday Fortnight after; and _Michaelmas Term_, that begins the 23d of October, and ends the 28th of November. Each Term has certain Returns: as Hilary Term has Four, Easter Five, Trinity Four, and Michaelmas Six: And _Easter Term_ was anciently divided into four Terms, viz. _Easter Term_, _Trinity Term_, _Trinity and Michaelmas Term_, and _Trinity Michaelmas Term_; and for these Terms were formerly longer than now, till contrabated by the Statutes 3 & 4 H. 8. c. 21. and 16 Car. 1. c. 16. There are also Four Terms in Term, called the _Eves-Day_: the _Day of Exceptions_: the _Day of Return of Writs_: and _Day of Appearance_, called the _Quarter die post_. The Term is laid to begin on the _Eves-Day_: when one Judge sits in each Court of Law at Westminster, to take and enter Efficients; but the third Day afterwards is the first Day of the Term, at which Time the Judges in all the Courts sit to do the Business of the Term. *L. 559._ All the Terms in Confraction of Law are accounted but as one Day to many Purposes; for a Plea that is put in the last Day of a Term, is a Plea of the first Day of the Term; and a Judgment on the last Day of the Term is as effectual as on the first Day. *Trin. 25 Car. 2. B. R.* And for this Reason, the Judges may alter and amend their Judgments in the same Term, *G._ It has been held, that the Courts sit not but in Term, as to giving of Judgments: And the Judges of B. R. and C. B. before Trinity Term 1651. did not sit longer in Court than till one a-Clock upon the last Day of Term; because they would not encourage Attornies to neglect their Client's Business to the last Day of Term, as too commonly they do, to the Toil of the Court, and too much Hurry in Dispatch. *Mich. 12 Car. 2. L. 91.* Terms have been adjourned, and Returns of Writs and Process have been made by Statutes 11 and 12 M. 2. c. 4. Where there is a Term intervening between the *Tys_ and Return of a Writ of *Copias_, or when the Term to which a Suit is continued is adjourned, and the Suit is not adjourned, it is a Proclamation, *G. 2 Hawk. 298._ The *Inflatable Terms* are _Hilary and Trinity Terms_ only; to call them, because in them the _Illay days_ after Tys are made up of Cates, to be tried at the Lent and Summer Assizes, which immediately follow. *L. 558.*

The Terms in Scotland are _Martime_, _Commales_, _Whithandis_, and _Lammas_, at which Time the Court of Exchequer, *G._ there is to be kept. *Stat. 6 Ann. 1.* And the Terms of the Manor, under divers _Services_, *Vide the Heads, and see Fee Tenure._

_Terms._ (Terminus) Signifies commonly the Limitation of Time or Edent; as a _Leases for Term of Life, or Years, *G. Brath. Lib. 3._

_Tenures._ (Terminus ex Tenens) is he that holds Lands or Tenements for Term of Years or Life. *L. 400._
Certo for Payment of Rent. Or Rent-Term, the four Quarterly Feasts, upon which Rent is usually paid.

Cesta. In all the Surveys in Demesne Regis, is taken for arable Land, and always so distinguished from the Frank or Desert. Cert. Kenton’s Gloss.

Certa affirmata. Signifies Land let to Farm.

Certa Bolsalis, Woody Lands, according to an Inquisition, Cap. 1.

Certa curta. Land that is tillied or manured; as Terra redeema is the contrary. Mon. Ang. Temp. 1. pag. 500.

Certa debilis, Weak or barren Ground. Ing. 22. R. 2.

Certa Excultabilis, Such Land as may be ploughed. Mon. Ang. Temp. 1. pag. 426.

Certa frivola, Is firth Land, or that hath not been lately tilled; likewise written Terra frivola.

Certa Hybrida, Was Land subject to the Payment of Hydrop. Selc. 13.

Certa Lanfdulis, Land that may be gained from the Sea, or inclosed out of a Wattle, to a particular Use. Mon. Ang. Temp. 1. pag. 406.

Certa Stabilis, Is Land newly affainted and converted from Wood-Ground to arable; or we call it novus Conclusus, Gr. Spelm.

Certa Portuaria, Land in Forests held by the Tenant of furnishing Man’s Meat, Horst-men, Gr. to the Keepers therein. See Portuaria.

Certa Subtilis, Gravelly or sandy Ground. Ing. 23. C. 5. Ed. 3.

Certa Utilitas, Is used in old Charters for Land fown with Corn.


Cero. Seems to be an Exemption from Ploughing of Land, Reaping, Gr. mentioned in a Charter of K. Edw. 3.

Certo, or Territor, Territorium, is a Land-Roll, or Survey of Lands, either of a single Person, or of a Town; containing the Quantity of Acres, Tenants Names, and such like; and in the Exchequer, there is a Terra of all the Glebe Lands in England, made about 11. B. 3. Stat. 18 Eliz. cap. 17.

Territor, or Tenure, Territorium, is a Land-Roll, or Survey of Lands, either of a single Person, or of a Town; containing the Quantity of Acres, Tenants Names, and such like; and in the Exchequer, there is a Terra or all the Glebe Lands in England, made about 11. B. 3. Stat. 18 Eliz. cap. 17.

Territorius, A Land-holder, or one who possessest many Farms of Land. Leg. W. 1.

Territoria, Territoria, An Officer in Religious Houses, whose Office was to keep a Territor of all their Estates, and to have the Lands belonging to the Houses exactly surveyed and registered; and one Part of his Office was to ensue the better Sort of Conventual Tenants, when they come to pay their Rents, Gr. High. Danvel.

Territorianus, Tenuriant, Territorium, Is he who hath the actual Possession of the Land; For Example, a Lord of a Manor has a Freeholder, who leaseth out his Freehold to another, to be putified and occupied by him, such other is called the Territorian, Wyk. Symb. par. 2. Brit. cap. 29. In the Case of a Recognition, Statute or Judgment, the Heir is chargable as Territorian, and not as Heir; because by the Recognition or Judgment, the Heir is not bound, but the ancestor censsili that the Money of Territor, Gr. Territor. 3 Rep. 12. Plea of Territorium, in a Scire fac. Gr. 1. Cro. Eliz. 872. Cro. Jac. 506. See Scire facies.

Terris. Bonis s. Catallis 7 reddantur post Erasure, a Writ for a Clerk to recover his Lands, Goods and Chattels formerly seised, after he had cleared himself of the Fines of which he was accused, and delivered to his Ordinary to be purged. Reg. Oxford. 1.

Terris Catallis tenus ultra debita tenaudi, Is a judicial Writ for the Refounding of Lands or Goods to a Debtor, that is disclaimed above the Quantity of the Debt. Reg. 1. Jac. 38.

Territorius, Card. St. Edmund, 438. A Writ lying for a Man convicted of Usurpation, to bring the Record and Proceeds before the King, and take a Fine for his Impropriation, and then to deliver him his Lands and Tithe of the same again, and release him of the Srip and Waife. Reg. Orig. 345. It is also a Writ for the Delivery of Lands to the Heir, after Homage and Relief performed; or upon Security taken that he shall perform them. Ibid. 203. 515.

Tertiariu, A Measure of Eighty-four Gallons; so called, because it is a third Part of a Tun. 1 R. 3. c. 15. 2 H. 6. c. 11.

Tet, As to bring one to the Teto, is to bring him to a Trial and Examination, Gr. By the Act of King Chas. 3. commonly called the Teto Act, all Officers Civil and Military are to take the Oaths and Teto; and if they neglect it, and execute any Office within the Words of that Statute, being legally convicted thereof under Information, Presentment, or Indictment in any of the Courts at Westminster, or at the Assizes, they shall forfeit 50l. to be recovered by him who shall sue in the same in any Action of Debt. Gr. 25. Car. 2. c. 2.

Tela de Testi, Is an ancient Record in the Custody of the King’s Remembrancer in the Exchequer, compiled by John de Nouil, a Justice Itinerant in the 18 and 24 of King Hen. 3. containing an Account of Lands held in Grand Serjeantry, with Fees and Executions to the King. Tela, Tela of Testi.

Telenamum, Telenamum, i.e. Telenum mentis, Is Witness of the Mind: And it is thus particularly defined, Telenamum of ultima voluntate fuit Scenatio, so good a gift made at first views, Gr. And of Telenamum there are two Sorts, viz. a Telenamum in Writing; and a Telenamum in Words, which is called a Noviapopulare Telenamum. Gr. Lit. See Will.

Testament, Testament, Testament, He that makes a Testament or Will.

Suevit, Of Wills.

Testamentum, Is a Writ in personal Affairs, where the Defendant cannot be arrestet upon a Captus in the County where the Action is laid, but is returned New of Joventum by the Sheriff; then this Writ shall be sent out into any other County where such Person is thought to be, or to have where he is at liberty. And this is termed a Testament, by Reason the Sheriff hath testified that the Defendant was not to be found within his Bailiwick. Kilch. Rot. Lists. Writ 287.

Testate, A Writ generally used in the last Part of all Writs, wherein the Date is contained; which begins with these Words, Teto mortui, Gr. if it be an original Writ, or Teto the Lords Chief Justice, Gr. if judicial. There must be at least Fifteen Days between the Teto and Return of every Proceeds awarded from the King’s Bench into any Foreign County. Gr. Lit. 134. See Will.

Testimonial, Is a Certificate under the Hand of a Justice of Peace, testimony of the Place and Time, when and where a Soldier or Mariners landed, and the Place of his Dwelling and Birth, unto which he is to pass. 59 Eliz. cap. 17. And formerly Testimonials were to be given by Mayors and Constables to Seamen quitting their Services, Gr. 5 cap. 9.

Testimonials of Clergy, Are necessary to be made by Persons present, that a Clergyman bejudg’d to a Office he hath performed all Things according to the Act of Uniformity; to evidence that the Clerks hath complied with what the Law requires on his Inquisition and Induction, in some Cases he shall be put to do. Combr. Perf. Comp. 24. 26.

Testimoniagia, 1 French for Whispers, and Testi- munias, 1 Latin, Fins. Fr. Dist. 7.

Testa or Testum, Commonly called Teto, a Sort of Money, which among the French did bear the
the Value of 18 s. But being made of Brass lightly gilt, the height of K. H. was reduced to 13 s. and afterwards to 6s. Leavitt's Eff. on Canis, pag. 12.

"Leximus, A Text, or Subject of a Diploma, and it is mentioned by several Authors to signify the New Testament; it was written in Golden Letters, and carefully prefaced in the Churchs."

Excerpts from "TH." We read of in Domensay and Carender, S. Edmund.

Tutoris Reddiens, An ancient Manuscript, containing the Rights, Customs and Tenures, &c. of the Church of Rochester, drawn up by the Bishop of that See, Anno 1514.

"Tuners. If any Person procure any Thing to be done to the Annoyance of the Tenants, in making of Shelves, digging, &c., or shall take away any Boards or Staken, underime Banks, &c., therein, he shall forfeit 2s. 6d. Stat. 37 Hen. 8. And no Fisherman shall cast any Soil, Gravel or Rubbish in the Thames: nor drive any Piles in the said River whereby the common Passage may be hindered, on the Penalty of 10s. Ord. 10 July 1653. And there are several Ordinances of the said River, &c., for Reorganising the Fishing in the River Thames, Cit. Lib. 148. See Watermen, &c.

Thames, (From the Sax. Thanes, ministror) Was the Title of those Persons as attended the English Saxon Kings in their Courts, and who held Lands immediately of them; and therefore in Domensay they were proumneously called Thaito, and Servientes Regis. This Appellation was in Ute among us after the Norman Conquest, as appears by a certain Writ of K. Will. I. which runs thus: "Williamus Radulfo Sanctius iannam Eppesius & amicus Thaito, &c., though not long afterwards the Word was disused, and instead thereof those Men were called Barones Regis: And there were also Thanes Masones, likewise titled Barons; they were Lords of Manors, and had a particular Jurisdiction within their Lutins, and over their own Tenants in their Courts, which to this Day are called Councils.

Barons: But this Word signifies sometimes a Nobleman; sometimes a Freeman; sometimes a Magistrate; and more properly an Officer of the King. Show faith, that it was a Name of Dignity, equal with the Son of an Earl: And Thainus Regus is taken for a Baron, by Sir Edw. Coke.

"Thea-Lands, Such Lands as were granted by Charter of the Kings to their Thanes; which were held with all Immunities, except the threefold Necessity of Expulsions, Repairs of Cattle, and Manuring of the Land. The King signified also Land under the Government of a Than. Schole.

"Thain, A certain Sum of Money or Tribute imposed by the Romans on the Britains and their Lands, Leg. H. 1. c. 17.

"Thief, (From) Is an unlawful felonious Taking away of another Man's movable and personal Goods, against the Will of the Owner: And this is divided into Theft simply called, and Petit Theft; whereof the one is of Goods above the Value of Twelve Pences, and is Felony: and the other under that Value, called Larceny. Theft is also from the Person, and in the Presence of the Owner, or in his Minors, and either open or private Thefts is the Civil Law judges open Theft to be satisfied in its Punishment by the Recompence of double, and to private Thefts by the Recompence of double: But the Law of England adjudges both their Offences Felony. Wif. Synb. par. 2. Vide Lands.

"Tiroth-bote, (From the Sax. Tho, i.e. Fur, &c. bothe, comparativo) Is the Receiving of a Man's Goods again from a Thief, after stolen, or other Amend not to proficuous the other. And to the least the Thaf may escape; which is an Offence punishable with Fine and Impri monuments, Gr. H. P. C. 130. See Miseryment of Felony.

"Thermitium, Signifies Toll; to be exempt from which, there is a Writ called Dvrem offere paceti di Thermitio. F. N. B.


"Thermannium, A Duty or Acknowledgement paid by inferior Tenants to be free from Thoms or Thom. Hid. 88.

"Thermicus, Thermic agrorum, i.e.Arborum confectum circa agrum Clarum aerum, vulgarly called Hedgerow, or Dihernum. Lindwode.

"Theven, Was an Husbandman or Tenant, or an Under-Tenant, in the Degrees or Divisions of Persons among the Saxons. Spelm.

"Theflar, Was sometimes taken in old Charters for Throrunor, the Throsbray, and hence the Domensay Regius preferred in the Throsbray or Exchequer, when kept at Windescester, hath been often called Liber Thorsbray. Chart. Q. Maji, Wife of Henry IV.

"Thrifthing, A Word signifying a Thing: The thingmanno, a Tithingman. Sax.

"Throt, or Throtas. (Sax.) A Slave or Captive; Bondmen among the Saxons were called Throtas and Eoras, who were the lesser and Members of the Common wealth, but Parishes of their Masters Goods and Subsistance. Spelm. Frare, c. 5.

"Tich-thaker, Vide Tich-things, in general. The chief Part of every Thing, is the Beginning of it: but the End thereof, though it be left in Execution, is first in Intention, and therefore favoured in Law. 1 Jac. 599. 10 Rep. 25. Things which are more worthy, are ever preferred before those less worthy; and draw the others after them. Pisc. 1659. 1 Jac. 44. But Things may be defeated by the same Way or Manner they were made. 6 Rep. 15. 2 Rep. 53.


"Thirskings, i.e. The Third Part of the Corn growing on the Ground, due to the Lord for a Heritor on the Death of his Tenant, within the Manor of Thorpe, in Constable, Blount, Ten.

"Third Night Ann-board. (Triam noctem Hieger) By the Laws of St. Edward the Confessor, if any Man lay a Third Night in an Inn, he was called a Third Night Ann-board, for whom his Head was answerable, if he committed any Offence: The first Night, Fors- moknight, or Uncouth, he was reckoned a Stranger: the Second Night, Vide Vibo a Guest: and the Third Night, An Ann-board or Ann boards, a Dombrecker. Brall. lib. 3.

"Thirspenny. (Dennia Tertius) See Dennia Tertius Commaticus.

"Thistle-take. In the Manor of Halton in the County Palatine of Chester, there was a Cubton, that if in Driving Beasts over the Common the Driver permitted them to graze or take bane a Thistle, Half-penny a Beast to the Lord of the Fee. Reg. Priorat. de Thoroton.

"Tholz, Fili with broken Bellies, forbib by Statute to be mixed or packed with Tale-fish. 22 Ed. 4. c. 2.

"Throp, Trip, (Sax. Villa. Ficunt, View.) In the Beginning or End Name of Place, signifies a Street or Village; as Adbiheg, &c.

"Thurak of Cinne. (Cinee Blad, from the Sax. Threke, i.e. a Bundle) Is K. Quantity of twenty four Sheaves, or four Stocks; but in some Counties they reckon only twelve Sheaves to the Threke. 2 Hen. 6. 2 K. Abbe Black gave to St. John of Beverley's Church at the Church of the church, four Threke of new Four or Plough Share, in the Earl Riding of Yorkshire, by Charter, Anno 923.

9 G
Chimney, A Name... applications to certain... See Drobach.

Chimina, (Sax. Thirn, Thrine) Was an Old Piece... of the Shillings, according to Lamberti; or the third Part of a Shilling, being a German Coin... f. 604.

Chipping, (Thibringium) A Court confining of... 3. 23. 99.

Chute of Stealth, (Sax.) A Woodward, or Person that looks after the Woods.

Churnerich, A Sawm, Word, which in some old Writers is taken for the Custom of giving Entertainment to the Sheriff, &c. for Three Nights. Rot. 11 and 12. R. c. 2.


Chuithbettin, Are certain Officers of the Custom house appointed to watch or attend upon Ships, till the Customs are paid: and they are so called, because they go aboard the Ships at their Arrival in the Mouth of the Thames, and come up with the Tide.


Chute, The Earth for Tile is to be digged and call up before the first of November yearly, and to be sifted and turned before the first of February following, and be wrought before the first of March. And every common Tile must be in Length ten Inches and a Half, in Breadth six Inches and a Quarter, and Thickness Half an Inch and Half a Quarter: Rainy Tiles are to be thirteen Inches in Length, and of the same Thickness as the common Tiles, &c. And if any Persons put to Sale any Tiles contrary hereunto, they shall forfeit double Value and be fined. Stat. 17 Ed. 4. c. 4. By a late Statute, Pen-Tiles must be thirteen Inches and a Half long, nine Inches and a Half broad, and Half an Inch thick, &c. and the Penalty for making faulty Bricks and Tiles is 20s. for every thousand made. Stat. 12 Geo. 1. c. 35. See British.

Chillars, (Agriculture) is of great Account in Law, as being very profitable to the Commonwealth; and therefore Arable Land hath the Preference before Meadows, Pastures, and all other Ground whatsoever. And so careful is our Law to preserve it, that a Bond or Condition to retain Tillage or Sowing of Lands, &c. is void. 11 Rep. 53. There are divers escapes, as of the Management of Tillage and Husbandry, as the 4 Hen. 7. 26 Hen. 8. 33 Hen. 8. 5 & 5 Eliz. 21 Jac. 1. 15 Car. 2.

Chittling, Where one kills another in Fighting at Tilting, by the King's Command, the Accidental is execusable: But if it be by Tilting without the Command of the King or by Perjury with naked Swords, covered with Buttons at the Points, &c. which cannot be used without manifest Hazard of Life, it will be Felony of Manslaughter. H. P. C. 31.

Chimney, Is Wood fitted for Building, or other such like. 4 in and a legal Sende extends to Oak, Ash and Elm, &c. 5 Roll. Abr. 649. Leases of Land, may not take Timber-Tree felled by the Wind, for thereby their special Property expires. 1 Abr. 651. Chimney, &c. fellows is to be severed from the Soil, to make it criminal. See Yeve. 152.

Chimney for the Plate, A Act for the Incurrate and Prevention of the Forest of Dean. 20 Car. 2. c. 5. And two Thousand Acres of Land in the New Forst were ordained to be inclosed, for preferring Timber for the Navy Royal. by Stat. 9 & 10 W. 3.

Chimney, A Service by which Tenants were to carry Timber felled from the Woods to the Lord's House. There's Lower.

Chimney, Are to be set forth with Certainty in a Declaration; but Time may be only a Circumstance when a Thing was done, and not be made Part of the Deed. Er. 5 Mod. 266. But if there has been held, that an impossible Time is no Time; and where a Day or Time is appointed for the Payment of Money, and there is no such, the Money may be due presently. Ibid. 189. 5 Rep. 24. If no certain Time is implied by Law for the Doing of any Thing, and there is no Time agreed upon by the Parties, then the Law doth allow a convenient Time to the Party for the Doing thereof, i.e. as much as shall be adjudged reasonable, without Prejudice to the Doer of it. 2 Libr. Abr. 1572. In some Cases one hath Time during his Life for Performance, and after his Death, if a Thing is agreed, if he be not hastened to do it by Requell of the Party for whom it is to be done; but if in such Case he be hastened by Requell, he is obliged is perform within the Day of Requell. Stat. H. II. 21 Car. 1. B. R. Time taken generally, hath also in Time: And what is done in the Time of Peace, the Law doth more come encompass than in Time of War, in Case of Ban of an Entry, or Claim by Fine, and of Defuncts. Er. 1 Abr. 249. 10 Rep. 8. 4 Shop. Abr. 6. See Bond, Man, &c.

Chimney, For the Prosecution of Affairs. Vide Litteration.

Chimney, Is a Story, (Fr.) The King's Hall, wherein his Servants use to dine and sup. 12 R. 2. c. 3.

Chimney, Was a Party for a Forest, a which had the nodisfaral Care of Vert and Venison, and other Implantations in the Forest. Log. Canu. Reg. Chimney, (Taylor) Is used for Brickyard and Thermo to make and repair Hedges: In Harfords, to make a Gap in a Hedge is to fill it up with Thorns, that Cattle may not pass through it. Cour. 21 Hen. 6.

Wesendall, The Parliament or annual Convention of the People of the Isle of Man, of which this Account is given, The Governor and Officers of that Isle, do usually call the twenty-four Keys, being the chief Commons thereof, especially once every Year, viz. upon Midsummer Day at St. John's Chapel to the Court kept there, called the Yeaval Court; whereupon, upon a Hill near the Said Chapel, all the Inhabitants of the Island stand round about, and in the Plain adjoining, and hear the Laws and Ordinance agreed upon in the Chaplel of St. John, which are published and declaird among them; and at this Solomon, the Lord of the Island sits in a Chair of Saxe with a Royal Canopy over his Head, and a Sword held before him, and the Keys of the several Parts of the People, who sit on each Side of him, &c. King's Digest of the Man.

Chimney, A Tribefo called, usually paid for the Liberty of Digging in Tin Mines, from the Sea. Tintam, Stemmat. Of Penbig. Domerina, according to Des Prees: But some Writers say, it is a customary Payment to the Cornishmen from the Several Priories. As Tiltingney signifed the Money paid the Sheriff by the several Tishingos; for that Time is only a Contraction of Ten, and means the Number Ten. It is mentioned in several Places in the Monacogun:


Chimney, Officers appointed by the Monoply of the King's Bench, to attend upon the Judges with a Kind of Rod or Staff tipp'd with Silver, who take into their Custody all Prisoners either committed, or turned over by the Judges at their Chambers, Er. See Referee. Stat. 1 & 2.

Chimney, (Doseina, from the Sax. Totes, i.e. Tent) Are the Tenth Part of the Incurrate yearly arising from the Founds of Lands, and Indulgy of the 2

rioters
TI

thiathors of any Parishes, payable to the Clergy for the Church Service, and are not Ecclesiastical Inheritance, collateral to the State of the Land; and a Spiritual Duty, not releaved by a Release of any Demands of a Parishioner out of his Lands. 11 Rep. 13. 511. 814. The Ecclesiastical Cures do hold. That Tithes are due for every Thing; though by the Common Law it is otherwise, for they are due only for such Things which arise by annual Profit. 4 M. & W. 344. Tithes must be paid of all Things as yield an annual Increase by the Act of God; but are not due to be paid for Fruits, but for Fruits Terra. Selina. Those Tithes are of very Early Antiquity with us; being mentioned in the Laws of King Abbeballam: Though the Priests, and Ministers of the Altar, lived at first wholly on Oblations; in after Times, the Latiy gave a certain Portion of their Revenues to the Clergy, but this was voluntarily without any Compulsion; which Gift was called Tithes, though not a tenth Part of their Income, or near so much. Then in a following Age, the Priests in their Councils, in Concert with the Princes, made an express Law, by which they obliged the Latiy to give a full Tenth of their Revenues, for Fruits. 2 Chas. Chap. Dit. 15. But no Kian had a Property in Tithes until the Council of Lateran, which was held in the Reign of our Lord King Henry, for all that Time there were no Parishes distinct from one another, and by Consequence no Parish Prions who could claim any Right to the Tithes: By a Clause made in the Lateran Council, every Parson is compulsive to pay Tithes to the Parson or Vicar of that Parish where they arise; whereas before, the Bishop of every Diocese made a general Distribution of Tithes to Spiritual Persons for their Subsistence, to charitable Uses, and for Repairs of the Church. 2 H. 19. At Common Law none had Capacity to take Tithes, but only a Spiritual Person, or mixt Person, as the King; but a Layman, was by the Common Law capable of a Decharge of Tithes. 2 Rep. Since the Statutes of Difflusion of Abbey, &c., which were made 27 & 37 H. 8. Tithes and other Ecclesiastical Revenues have been transferred to Laymen, who were not capable to take them: And Spiritual Prions being by those Statutes made Lay-Prions in the Hands of Temporal Men, if those Men were wrongfully kept out of their Possession, a subsequent Statute, made the 31 H. 8. gave them Remedy to recover in the King’s Territorial Courts; though, as it did not take away the Force of the Ecclesiastical Law concerning Tithes; but all Spiritual Persons who had any Right to Tithes before the Parson, are in full of force; for, 1 Rep. 8, 9, 10. An Affid for Tithes is given by the Statute 32 H. 8. 4. 7. And the Statute of Liberties does not extend an Action of Debt for Tithes before the Parson. 45. 46. 47. And in the following Age, many Men were so thoroughly careful in their Payment of Tithes, as they at their Deaths bequeathed Legacies, and ordered Memorials to be given to the Priests, in Lien and Remembrance of any Tithes which might be forgotten: But it was observed by Sir Edward Coke, that in later Times, Laymen taking Occasion to restrain their Tithes, the Statutes 27 & 32 H. 8. and other Laws were made, to enforce the Payment thereof. 2 Inf. 648. By the 27 H. 8. 20. On Complaint, by a Judge of the Ecclesiastical Court, to forfie [if the Person of the Connexy] of any Connexy or Middlemanor committed by a Defendant in any Suit depending for Tithes, and on the Petition of the Plaintiff, the Judge may commit such Defendant to Prison, to remain without Bail till he shall find sufficient Security to give due Obedience to the Proces, Decrees and Sentences of the Ecclesiastical Jurisdiction, as requires. Thus all Persons do devise daily for, and pay Tithes and if they are not set out and paid, the Party grived may conveze, make as obtain them before the Ecclesiastical Judge, who has Power to hear and determine, &c. And Perons refusing Payment after Sentences are to be committed to Prison by two Justices of Peace, on Certificates from the Judge; and if such Persons are distrained of a Penitance or Tiber, made Temporal, they may have like Remedy in the Temporal Courts as for other Lands, &c. By 25 & 3 Ed. 1. 3. No Person shall carry away his Corn before he hath justly divided and fet forth the Tenth Part, or agreed for the Tiber with the Parson or other Pro- prietor, on Pain of forfeiting the True Value of the Tiber taken away; and the Owner claiming such Tiber may depose his Servant to view the said Tiber, and see that they are truly set out and fettered from the Nine Parts, and the same to take away; and if any Person shall carry his Corn or Hay, before the Tiber is fet forth, or withdraw his Tiber, fling the Owner, &c., from viewing or carrying away the same, upon twice Proof before a Spiritual Judge, the Party shall pay double Value of the Tiber, besides Costs of Suit; And in Suit for subtracting or withdrawing of Tiber, the Ecclesiastical Judge may communicate Perons disodifying his Sentence, &c. The true Value Damages are recoverable in the Temporal Courts, by Action of Debt; for they are given generally, not limiting where to be recovered, and the Foriture is to the Party grieved, though it is not given to any Person in certain by that Statue; but it cannot be demanded of Executors, because the Wrong was Peronal, and it was a personal Consequence of the Party. As for the double Value, it may be recovered in the Ecclesiastical Court; and it is equivalent to the true Foriture to be recovered in the Temporal Courts, because one may sue in the Spiritual Court for the Tiber themselves, or a Reconmpense for them, and have also the double Value. 1 Inf. 159. 2 Inf. 612, 610. If the Tiber are set out and fettered from the Nine Parts by the Owner, they are become Lay-Carlts; so that if after the Severance they are carried away by a Stranger, the Remedy is in the Temporal Courts for treble the Value. And if the Owner 1 the Land carries them away after Severance, this is no Setting forth. 1 Cor. 607. 2 Inf. 615. The Laws of the Church oblige the Owners of Corn, Hay, &c., to give Notice to the Parson of the Setting forth the Tiber; but by the Common Law such Notice is not necessary; and the Statue gives the Parson only a Right of seeing the Tiber, if it be set out, but does not oblige to Notice. 25 & 39. 2 Dwork. Ab. 505. If a Parson lays his Land, and before Severance the Parson of the Parson does, and the Parson of the Eccles- iaster, but if the Corn is cut down, the Parson’s Execu- tors shal have the Tiber. 1 Cor. And if a Par- riioner die before he pay his Tiber, his Executors or Administrators may be sued for the same, for as they have Affits to do it, must pay the same. Let 60. 9 Sho. Ab. 111. If a Man lets his Ground or Her- bage, it is laid the Parson may lie either the Owner of the Ground, or of the Cultivator for his Tiber; if the Cultivator of the Place be not against it; And if to evade the Statue, the Owner, the Parson, &c., sell it before Severance to another, who doth reap and carry away all the Corn; in this Case the Parson may sue the Vendor, who shall be charged with the treble Damages on the Statue. 13 Rep. 24. 2 Bell. 184. A Letter for Years Rents given the Parson to pay him 10d. per Aum for his Tiber, and that for this he shall be Tiber free; it is good to ground a Prohibition upon, if the Parson for the Tiber, 1 Leon. 308. The Statute 13 Edw. enacts, That Composition for Tiber may be made by the concurrent Consent of the Parson, Patron, and Ordinary; and a Mode Document may arise by Patent from the Common Council, beyond the Memory of Man, &c. Where there is a Capium allowed for the Payment of Tiber, a Proceedi...
bition shall go to the Ecclesiastical Court, which may not try Cullum, but the Temporal Courts; and so it is of a Prescription to pay Money in lieu of Tithe; but when it concerns a Right to be paid, or a Prescription merely Spiritual, it is other- wise. 2 Lev. 103. By the 7 & 8 Will. 3. c. 6. Small i. under the Value of 20l. may be recovered before two Justices of the Peace not interest- ed in the Tithes, within twenty Days after Demand, and two Years after due; and the said Justices are in- powered to administer an Oath to Witnesses, to sum- mon the Party, and to appear, or in Default thereof, to determine the Case in Writing, with Costs not exceeding 10s. but with Liberty of Appeal to the Quarter-Sessions, whose Judgment shall be final, unless the Title of such Tithes come in Question: The Justices may levy the Money adjudged by Di- ffrin, upon Re- fusal, ten Days after Notice, &c. And this Judgment being inrolled by the Complainant, shall not be removed by Correrinari; though if the Defendant insists on a Modus, and gives Security to pay the Amount Damages in the Courts above, which shall be given against him upon a Trial at Law, the Justices shall not proceed; but the Complainant is put to his Remedies, and for his Tithes in the Courts at Weymouth. This Statute does not extend to the City of London, or any other Corporation where the Tithes are particularly settled by Act of Parliament. The 7 & 8 Will. 3. c. 54. ordains, That if any Person refuse to pay or compound for great or small Tithes, &c. the two next Justices of Peace may, upon Com- plaint, administer an Oath to him before them, and examine upon Oath the Matter of Complaint, and thereupon determine what is due to the Person complaining; and by Order under their Hands and Seals, direct the Pay- ment in all Cases of or under 10l. And if after the Order such Quaker shall refuse to comply, one of the Justices may by Warrant order the same to be levied by Difrif, &c. subject to Appeal to the Quarter- Sessions, in which Case no Warrant for Difrif may be granted till the Appeal is determined. By 1 Geo. 1. c. 6. the Act 7 & 8 W. 3. c. 54. is made perpetual; and that Statute is extended to the Recovery of any Tithe, or Right belonging to the Church, with 10l. Costs, &c. But notwithstanding all these Statutes, Tithes, if of any considerable Value, are commonly sued for in the Ecclesiary by English Bill; except it be upon the Statute of 2 & 3 6. for triple and double Value, &c. And the Matter of Payment of Tithes is for the most part governed by Cullum; it is in the Customs of Parishes which generally determine what are the Due of the Parson, specially of small Tithes. 11 Rep. 16. And Cullum may make that Tithes of titheable value is not to be collected by any ancient Statute obliged the Citizens of London to pay yearly to their Parson, for every 20l. Rent of all Houses, Shops, or Warehouse, 2. 9. 4d. and so in proportion for greater and lesser Rents: But by an Act of Cha. 2. after the Fire of London, the whole Parishes of the Parishes in London were reduced to a Certain Sum, from 20l. per Annum, the greater In- comes of Reckers, to 100l. per Annum the lowest, over and above Perquisites, Gifts, &c. to be levied by Rate and Assessment on the Inhabitants, made by the several Lords of the Manor, Common Council Men and Churchwardens; and in Default of Payment, by Difrif and Sale of Goods, by Virtue of the Land Marks, and the Tithe Over and above the Parishes where there are Appropriations, the Appropriations shall pay and allow what they formerly used and ought to pay to the several Incumbrances, as Parts of the Maintenance of the Parson; and no Court or Judge Ecclesiastical or Temporal, that have cognizance of or determine any Controversy relating to the Sums ordained for these Tithes, but the Persons men- tioned in the Statute 2 & 3 6. 153. Titheable due to the Person or Rector of the Parson; and are of three Kinds, viz. Predial, Personal, or Miss; Predial, such as immediately arise from the Land, and vary according to the Nature or State of it, as Corn, Grass, Hay, Wood, Fruit and Herbs; and these are due without deducting the Costs. Personal Tithes are liable as arise from the Labour and Industry of Man only, being the rent of Parts of his clear Gains in Trade, &c. after Charges ded- ducted; which are paid when due by Cullum, though not in kind in kind, and payable where the Party dwells, and has Divine Service, &c. But by the Statute 2 & 3 6. Mixed, such as arise not immediately from the Ground, but proceed from Cattle and other Things that come there, are not levied by the Commoners, and are maintained out of the Land; as Cattle, Calfes, Pigs, Wool, Lamb, Milk, Chees, &c. and are paid where they arise. 2 Inf. 459. 645. 656. And Tithes are paid in their Time, are likened Twenty Years阀 into Great Tithes; Small: Great Tithes are Corn, Hay, and Wood; small Tithes comprehend all other Predial Tithes besides Corn and Hay, &c. as all other Tithes which are Paid in kind and Mixed: Some Things may be great or small Tithes, in REGARD of the Place: as Hop in Gardens are small Tithes, and in Fields may be great Tithes: 11 Rep. 107. It is not material how great or small the Tithes into a great one, if the Parson is generally wont with it. 1 Rot. Abr. 643. 1 Cor. 578. Wood's Inf. 162. According to Hol, Ch. 12th. where Flax or Oat grow in Gardens, they shall be account- ed small Tithes but when sown in large Quantities in Fields, that alter the Nature of those Things, and then they become great Tithes: But the other Judges held, that the Quantity did not alter the Nature of the Flax; for let that be as much or as little as it will, it is still small Tithes. 3 Lev. 565. 4 Mod. 181. 5 Rot. Abr. 513. Great Tithes generally be- long to the Rectors; and small Tithes to the Vicar. Cor. Car. 20. The particular Things for which Tithes are paid, and for which not, according to our Law; are the followings, viz. Apples, as they yearly increase, are liable to the Payment of Tithes; but this is where they are gathered and sold, and reduced to a certain Price; and not when they drop, and the Hogs eat them. 2 Inf. 683. Hel. 27. After, or After-pouns pays no Tithes, except by Cullum; being the Remainings of what was before Tithes. 2 Inf. 675. 2 Darnv. Abr. 589. Tit. Diffrin. Aplymen of Cattle upon Parsonal Land, which hath paid no other Tithes that Year, pays Tithes for the Cattle; and if a Man breeds or buys Cattle, he's not exempted. March 49c. As he pays Tithes, he shall pay for the Aplymen; but if he deportures his Land with his own Saddle Horses, he shall pay no Tithes. If Ground is rated up with unprofitable Cattle of a Man's own, or others, a remit Part of the yearly Value of the Rent of the Land, i. e. the Sum of 2l. per Pound, is payable by the Owner of the Land, or his Tenant; though the whole Part is Settled free, excepted. 8 Real. Abr. 646. Hard 184. After Trees pay Tithes, notwithstanding they are above twenty Years Growth, not being Timber. Afl is Timber, and therefor- e if the Trees are not matured except of its concern under Tithe, for the Maintenance of the rejoicing Parson, Vicars, &c. of the Parishes in the Act mentioned; and in Parishes where there are Appropriations, the Appropriations shall pay and allow what they formerly used and ought to pay to the several Incumbrances, as Parts of the Maintenance of the Parson; and no Court or Judge Ecclesiastical or Temporal, that have cognizance of or determine any Controversy relating to the Sums ordained for those Tithes, but the Persons mentioned in the Statute 2 & 3 Cor. 2. c. 153.
But the barren Land, during the seven Years of Inanjument, shall pay such small Taxes as they have been paid twelve Years ago, and afterwards it is to pay the full Taxes according to the Improvement: And if Land is over-run with Bushes, or become unprofitable by bad husbandry, it cannot properly be called barren Land, for if it be grazed, or plough’d and foul’d, it immediately pays Taxes. 2. Int. 616. 3. Ext. 475. Beef Trees, where Timber and Coal are, are for Building. If above twenty Years Growth to be Timber, are privileged from Taxes, by the Stat. 45 Ed. 3. c. 5. though this Tree is not naturally Timber, for its electricity makes it so. 4.Danw. Abr. 529. Bees are tickable for their Honey and Wax, by the tenth Measure, and thenth Pound: It hath been a Question whether the tenth Swarms can be demanded for Timber of Bees, because Bees are not in the Statute; but when the Bees are gathered into Hives, they are then under Custody, and may pay Taxes by the Hive or Swarm; but the Tax is generally paid in the tenth Part of the Honey or Wax. 5. Rol. Abr. 324. 6. 3. 529. Bird Wood is tickable, though of above twenty Years Growth. 7. Int. 619. 8. Becks pay not Taxes, for they are part both of Parishes and of the Freemen, and are of the inhabitance of the Earth, not an annual Increase. 1. Acre. 1. 8. Beams shall pay Taxes; but it may be discharged by Culfam, if the tenant be a Husband. 2. Danw. Abr. 527. Calfs are tickable, and the tenth Calf is due to the Parson when weaned, and he is not obliged to take it before; but if the Parson has not the Number of ten Calfs, the Parson is not entitled to Taxes in Kind for that Year, without a special Culfam for it, though he may take it the next Year, throwing both Years together; and it is not to be made out of the Calf in Straw, where there hath been no more in one Year; and where a Man sells a Calf to pay the Tithes of the Value, or for the Parson, he has the right Shoulder. 9. Rol. Abr. 612. 10. Reg. 617. 11. Cowd. 577. Cattle paid by Taxes; but not Cattle kept for the Plough or Pail, which shall pay no Taxes for their Pasture, by Reason the Parson hath the Benefit of the Labour of Plough Castle in tilling the Ground, by the Tithes of the Cows, and Tuke Milk for the Calf or the Feast, yet if such Cattle bought are sold before in or if being past their Labour is done, the Cowdows are barns, and afterwards fattened in order to fall, Tithes shall be paid for them; though if the Owner kill and spend the Cattle in his own House, no Tithes shall be due to them, being for his Provision to support him in his labour about other Affairs, for which the Parson hath Cattle. Cattle feeding on large Commons, where the Bounds of the Parson are not certainly known, shall pay Taxes to the Parson of the Parish where the Owner lives; and if fed in several Parishes, and they continue above a Month in each Parish, Tithes shall be paid the two Parsonas proportionably. 1. Rol. Abr. 648. 649. 651. Hardw. 53. Chalk Chalk pits are not tickable; nor is Clay or Clay, as they are Part of the Freemen, and not to be paid as such. 12. Rol. Abr. 651. Cheshire pays Tithes by Culfam, where Tithes is not paid for the Milk; but if the Milk pays a Tith, the Cheshire pays nothing: And it may be a good Culfam to pay the tenth Chester made in such a Month, for all Tithes Milk in that Year. 1. Rol. Abr. 651. Chickens are not tickable, because Tithes is paid for the Eggs. 1. Rol. Abr. 651. 12. Lady pays Tithes and Calf, but if the Cow is not tickable only by Culfam, for those that are old, not for such as are kept in the House. 2. Danw. Abr. 525. Corn pays a Predial Tith; it is tickable by the Parish, for the Corn that is made before the Owner do not set out, he may be levied on an Atti- on the Statute 5 & 3 Ed. 6. And if the Parti- renner will not lower his taxaul law equally, the Parson may bring his Action against him. When Tithes Corn is to stand, the Lay gives the Parson a reasonable Time to carry it away, and if he suffer it to die off, he is too long on the Land to the Prejudice of the Owner thereof, he may be liable to an Action: But the Par- son may not set out the Tithes himself, or take them away without Leave. 1. Rol. Abr. 648. 3. Stat. 45 Ed. 3. 4. Stat. 42. 5. Lev. 70. Deer are not tickable, for they are Fore Nature; though in Parks, C. they pay Tithes by Culfam. 6. Int. 617. 7. Docks kept in if they are not spent in the Owner’s House are tickable. 8. 1 Vent. 5. Eggs pay Tithes when Tithes are not paid for the Young. 1. Rol. Abr. 645. 8. Eels being Timber are discharged from the Payment of Tithes. 1. Rol. Rep. 354. 9. Fish taken in the Sea or common Rivers are tickable only by Culfam, and the Tithes is to be paid in Money, and not the tenth Fish; but Fish in Ponds and Rivers included, ought to be set forth as a Tith in Kind. 10. Danw. Abr. 512. 645. 12. Flox pays Tithes; every Acre of Flax or Hemp needs for the same a fifth Tith, 15. Danw. Abr. 512. 13. More. 516. 14. Yard lands shall pay no Tithes while in the Hands of the King, though such Lands in the Hands of a Subject shall pay Taxes; and if a Forest shall be deforested, and any for a Forest or Plantation within a Parish, it shall pay Taxes. 1. Rol. Abr. 651. 3. 529. 16. Forests, as Hens, Geese, Ducks, are to pay Tithes, either in Eggs or the Young, according to Culfam, but not in Eggs. 17. Stat. 45 Ed. 1. 18. exempt from Tithes. 2. Danw. Abr. 512. 518. Fruit, Apples, Pears, Plums, Cherries, C. they pay Tithes in Kind when gathered; and ought to be let out according to the Statute. 19. Int. 611. Fruit-Trees cut down and sold, are not tickable, if they have paid Tithes Fruit that Year before cut. 19. Int. 615. 20. Parsnips, if sold, pay Tithes, nor if sold for Fuel in the House, or to make Pens for Sheep, C. Wolds in 166. Gardens are tickable as Lands, and therefore Tithes in Kind are due for all Herbs, Plants, and Seeds sown in them; but Money is generally paid, or Agreements made. 21. Rol. Abr. 648. 649. Wood. 615. 22. Hardw. 516. 23. Hedges, Holly, and Maple Trees, C. are regularly tickable, although of 20 Years Growth. 1. Rol. Abr. 651. 24. Hay pays a Predial Tith; the tenth Cock is to be let out and paid, after made into Hay, by the Culfam of good Places, and the Parishioners shall make the Grafs Cocks into Hay for the Parish’s Tithes; but if they are not obliged to make the Tithes into Hay, they may leave it in Cocks, and the Parson must take it, for which Purposes he may come on the Ground, C. A Prescription to measure out and pay the tenth Acre, or Part of Grafs standing, in lieu of all Tithes Hay, may be good; And if Meadow Ground is so rich, that there are two Crops of Hay in one Year, the Parson and Cf. tasks may have Tithes of both. 1. Rol. Abr. 648. 649. 651. 250. Hardw. 516. 26. Headslands are not tickable, if only large enough for turning the Plough; but if larger, Tithes may be payable. 1. Rol. Abr. 651. 27. Hervey of Ground is tickable for barren Cattle kept for Sale, which yield no Profit to the Parson. Wood’s Inst. 167. Honey pays a Tith, as under Bee. Hops are tickable, and the
the tenth Part may be set out after they are picked: There are also ways of storing Hay, and by the Hills, Pole, or Pounds; in some Places they set forth the tenth Pole for Taykes; but my Land Chiefly Rall tells us, they ought not to be tied before or after the Horse is got to fell, and after-wards sold, Taykes shall be paid for their Failure: though not where Horses are kept for Work and La- bor, for Tayke for Dwelling are not properly titheable; A Medow may be paid for Houties in lieu of Taykes of the Land upon which they are built, and a great many Cities and Boroughs have a Cuffon to pay a Medow for their Houties; as it may be reasonably supposed that it was usual to pay so much for the Land, before the Houties were erected on it. 11 Rep. 16. 2. 1553. Rall pays Tayke Calver, the tenant is due to the Parson. Wood 162. Lambis are titheable in like manner as Calves; but if they be yeaned in one Parish, and do not travel there thirty Days, no Tayke is due to the Parson of that Place: If there be a Cuffon that the Parishioner having fix Lambis or under, shall pay so much for every Lamb; and if he have above that Number, then to pay the Seventh, it is titheable. 3. C. a. 2. 642. 1. 642. Malt of Oak and Beech pays Tayke, as under Aornis. Milk is titheable when no Taykes are paid for Cheefe, all the Year round, except Cuffon over-rules; and it is payable by every tenth Meal, not tenth Quart or Part of every Meal; and is to be brought to the House of the Parson, &c. by Cuffon, in which Particular this Tayke differs from all others, which must be fetched by the Reiver. Information of it, by Tayke Cheefe for Milk, and in others some small Rate according to Cuffon. Cro. Eliz. 669. 2. Daw. Abr. 156. Millis, as there are several forces of them, the Taykes are different; the Taykes of Corn Mills driven by Wind or Water, are paid in Kind, every tenth Toll-Dish of Corn to the Parson of the Parish wherein the Mills are standing; but ancient Corn-Mills are Tayke free, being foggled that they are very ancient, and never paid Tayke, &c. And it is questioned whether Tayke is due for any Corn Mills, unless by Cuffon, because the Corn hath before paid Tayke; and it feemeth rather a Personal Tayke where due: The Taykes of Fulling-Mills, Paper-Mills, Powder-Mills, &c. are Personal, charged in respect to the Labour of Men, by Cuffon only; and are regarded more as Engines of several Traders than as Mills. 1. Roll. Abr. 369. 2. 641. 1. 641. Mowse pay no Tayke but by Cuffon, being of the Substance of the Earth, and not annually increasing. 2. 641. Naurices of Taykes shall pay Tayke, if the Owner digs them up and makes Profit of them. 1. Cro. Eliz. 415. 4. The Taykes of Sheep and Trees are privileged as Timber from the Payment of Taykes by the Statute of Sylva Cantab, 42 Edw. 3. if of or over above 20 Years Growth; and if Osaks are under that age, it is the same when they are apt for Timber. Abr. 411. Offerings, &c. are in the Nature of Per- sonal Taykes. 2. 641. 661. Orchards pay Tayke too, for the Fruit they produce, and the Grains of Grain, if any be fown or cut therein. 2. 641. 662. Parks are titheable by Cuffon, for the Deer and the Herbage; and when dispersed and converted into Timber, shall pay Tayke in Kind. Education of the Parks may be in part certain, and Part casual; and a 2. Year, and a Shoulder of every Third Deer, hath been paid as Tayke for a Park. 1. Roll. Rep. 170. Hops and Phaenops, &c. are the Same Nature, yield no Taykes of Eggs or Young; 1. Roll. Abr. 636. Peafl, if gathered for Sale, or to feed Hogs, pay Tayke; but not Green Peafl spent in the House, 1. Roll. Abr. 647. Pigsw ought to pay Tayke when sold; and this holds good if they lodge in Holes about an House, as well as in a Dove-house; and by the Statute they are titheable, though not of common Right. 2. Daw. Abr. 583. 597. Pigs are titheable, as Calves. Mid. Pollard Trees, such as are usually fopp'd, and disabled from Timber-Trees, pay Tayke. Plowes of 170. Quarrers of Stone, &c. are not subject to pay Tayke, because they are Part of the Inheritance, and Taykes ought to be collateral to the Land, and distinct from it: 1. Roll. 644. Railings of Corn are not titheable, for they are left for the Poor, and we properly the Scattering of the Corn whereas the Taykes have been paid, let after the Cockes set out are taken away. Cro. Eliz. 660. Saffron pays a Pedial and small Tayke. 1. Cro. 667. Salt is not titheable, but by Cuffon only. 2. Daw. Abr. 670. A shop, in Tayke paid for of Lambis and Wool, and therefore they pay no Tayke for their Feeding. If Sheep are in the Parish all the Year, they are to pay Tayke Wool to the Parson; but if removed from one Parish to another, the Parish of each Parish to have Tayke per Rota, where they remain thirty Days in a Parish; and if they are fed in one Parish, and brought into another to be shorn, the same Tayke is to be ob'ed: Milk is titheable, as above the Castle of the Plooghe, where there is not sufficient Pulture in the Parish, no Tayke shall be paid for them. 1. Cro. 159. Taykes are no yearly Incessafe, and not titheable. 2. 641. Timber Trees, such as Oaks, Ashes, and Elms, and in some Places Beech, &c. above the Age of twenty Years, were discharg'd of Taykes by the Common Law, before the Statute 45 & 46. H. 9. and the same is in such Cases. Such Trees are employed to build Houses, and Houties when built are not only fixed to, but Part of the Freehold; and if those Trees fall for a long till they become rotten and fit for firing only, no Tayke is due for them, because they were once privileged; and Loppings of Timber-Trees, above 20 Years Growth, pay no Tayke, for the Branch is privileged as well as the Body of the Tree; and the Roots of such Trees are exempted as Parcel of the Inheritance. Trees cut for Plough- boot, Cart-boot, &c. shall not pay Tayke, although they are no Timber; but all Trees not fit for Tim- ber, and not put to such Uses, pay Taykes. 1. Roll. Abr. 650. Cro. Eliz. 477. 499. Turfi used for Fuel are Part of the Soil of Timber-Trees, 2. 641. 643. 672. Hob. 250. 2. Daw. Abr. 597. Warrens where Titheable, see Conies. Wafals Ground, where on Cattle feed, is liable to the Payment of Taykes. 2. Daw. Abr. Wood growing in the Nature of a Herb is a Pedial and small Tayke. 2. Daw. 592. Wood is generally esteemed to be a great Tayke: If Wood Grounds have likewise Timber-Trees growing on them, the Wood and the most part of the Tayke, the Timber-Trees shall privilege the other Wood; but if the Wood is the greatest Part, then it must pay Taykes for the Whole. 15 Rep. 13. If Wood beon before the Hops are got to, and then the Taykes of Hops, no Tayke shall be paid for it. Hughen's Abr. 665. Wool is a mixed small Tayke, paid when clipped; one Ounce of Wool from One Pounds of Wool in a Year is given to the Parson. If there is under ten Pounds of Wool at the Shearing, a reasonable Con-
TITULES

Seduction shall be paid, because the Tite is due of common Right: and if leas (than ten Fecies, they shall be divided into ten Parts, or an Allowance be chosen to the Tite. As sheep killed, and sheep which die, pay Tite Wool, and Neck-Wool cut off for the Benefit of the Wool, but not if it is to preserve the Sheep from Vermin, &c. Also the Wool of Lambs born at Alkemore, though Tite was paid for the Lambs at Alkemore, is titheable. 1 Roll. Abr. 465, 647. 1 Inst. 612. Vide Tite of Sheep. When any Thing is titheable by Compromise, it may be exempted from Tite by Custum; but Custum to exempt Corn, &c. from Tite, will not be allowed, because for that Tite are due de jure. Canon. Per. Comp. 105. See Nates and Prejepition.

Titules Extraordinaire, which do not lie in any Parish, belong to the King. 2 Rep. 2. 44. Tithings, (Tithenges, from the Fr. Tis, Tisage.) 1. 5. Dict. 2. 5. Dict. 2. The Tite is frequently given to the same Town with a Conable, who is as it were a Deputy to execute the Office in the Conable's Absence; but there are some Things which a Conable has Power to do, that Tithe-men and Headboroughs cannot intermeddle with. 1 Blant. 3. When there is no Conable of a Parish, the Office and Authority of a Tithe-men seems to be all one under another Name. Stat. 15 & 16 Car. 2. cap. 12. See Conable.

Tite, (Tytel) When a Man hath lawful Cause of the Entry into Lands whereof another is feiled; and it signifies all the Means whereby a Man comes to Lands or Tenements, as by Feoffment, Fine, Lait Will and Testament, &c. The Word Tite, includeth a Right; but is the more general Word; Every Right is a Tite, though every Tite is not such a Right for which an Action lies; so that Titules of jufta Compe can be held by a Tite-men in possession of them. Stat. 15. & 16 Car. 2. cap. 13. See Conable.

Tite, (Titulus) Is when a Man hath lawful Cause of the Entry into Lands whereof another is feiled; and it signifies all the Means whereby a Man arrives at the Possession of such Lands. 1 Roll. Rep. 15. 1. Dict. Car. 575. 3 Inst. 352. But in Tentes for cutting Corn on Lands, the Parry must set forth the Tite which he hath to the Ploughman, being in like Condition. When a Person will recover any Thing from another, he must make out and prove a better Tite than the other hath or it will not be enough to do, even in a Tite. Vide Hed. 103. It is not allowed for the Parry to forsake his own Title, and by upon the other's; for he must recover by his own Strength, not the other's Weakness. 1 Inst. 104. If by the Record it appears that the Plaintiff in the Cause hath no

Title
Tolls, (Talhe) Signifies to defeat or take away: so as to Tell an Entry is to take away the Right of Entry. 8 Hen. 6.

Toll, (Talumum, vel Thomeumum) Is a Savoy Word, and means, a house, market, and fair, for goods and cattle bought and sold. It is a reasonable sum of Money due to the owner of the Fair or Market, upon Sales of Things sellable within the same. 2 Inst. 210. And it is used for a Liberty as well as to take, as to be free from Tolls of which Freedom from Toll the City of Coventry boasts an ancient charter granted by Leopold, Earl of the Mercia, in the time of King Ethel, the confessor, who in theimportance of Graces, his virtuous Lady, granted this freedom to that City. By the ancient law of this Country, what is sold in a Market in Fairs or Markets ought to pay Toll to the Lord of the Market, in Testimony of the Contract there lawfully made; for Toll was first invented that Contracts in Markets bound to be kept, and private Winesellers; and Contracts were held unlawful. But the King shall pay no Toll for any of his Goods; and a Man may sell in the King's Grant. Also Tenants in Ancient Demesne are discharg'd of Toll throughout the Kingdom, for Things which arise out of their Lands, or bought for Maintenance thereof, &c. not for Merchandises. Here's Min. lib. 1. 2 Inst. 211. 2 Roll. Abr. 198. Toll doth not of common Right belong to a Fair; though it hath been held, that some Toll is due of common Right, as it appears from the Imposition of several Persons not to pay Toll, which proves that if it was not for those Privileges, they ought to pay Toll of common Right; therefore where the King grants a Market, Toll is due, although it is not exprest in the Grant what Toll is to be paid: and this from the Necessity of it, because the Property of Things sold in a Market is not altered without paying Toll. Palm. 76. 2 Lawr. 1337. 3 Nelf. Abr. 326. But it is said, if the King grants to a Man a Fair or Market, and grants no Toll, the Patron shall have no Toll; for Toll being a Master of private Right for the Benefit of the Lord, is not incident to a Fair or Market, as a Court of Piepowders is, which is for the Benefit of the Publick and Advancement of Justice, &c. Such a Fair or Market is free from Toll; and after the Grant made, the King cannot grant a Toll to such a Free Fair or Market, without some proportionable Benefit to the Subject: And if the Toll granted with the Fair or Market be outrageous, the grant of the Toll is void, and the same is a free Market. 2 Inst. 320. 2 Coke, &c. 570. When the King grants a Fair, he may likewise grant that Toll shall be paid, though it be a Charge upon the Subject; but then it must be of a very small Sum. Toll is to be reason-able, for the King grants a grant a reasonable Toll; and one may have Toll by Precrastination for some reasonable Cause, but such a Precrastination to charge the Subject with the Publick and Advancement of Justice, &c. But a Benefic or Recompence for it, or some Reason must be shown why it is claimed. 3 Coke, 579. 3 Lew. 474. 2 Med. 143. 4 Med. 223. The Toll in Fairs is generally taken upon the Sale of Goods, as Horses, &c. but in the Markets for Grain only; and the Lord may seize until Satisfaction is made him: it is a thing may be be the Buyer, unless there be Customs to the contrary: and nothing is Tolsable but the Sale, except it be by Customs Time out of Mind; which Customs none can challenge that claim the Fair or Market by Grant since the Reign of King Richard.
Toll-hop. A small Dish or Measure by which Toll is taken in a Market. Er.

Tollkeeper, (Tollstroom) An old Excise, or Duty paid by the Tenants of some Manors to the Lord, for Liberty to brew and sell Ale. Car. Rais. 1521. Chart. 21 Hen. 3. 5.

Tollgate, (from the Sax. Tel, i.e. Tributum, &c. See Sen.) is the Place where Merchants meet, in a City or Town of a.

Toll, A Writ whereby a Case depending in a Court Baron, is removed into the County Court. Old St. Br. 4. And as this Writ removes the Case to the County Court so the Peace serves to remove a Case from thence into the Court of Common Peace.


Tombes, Delacing of in Churches. See Monument.

Tomn, A Weight of 12 Grains used by Goldsmiths and Jewellers.

Tonnage, (Tonnage) is a Custom paid to the King. Vide Tonnage.

Tonn, (Six Tens) A Morn or Hill; as Glatten-by-Tonn, Tons Bridge, Glatten, Hants, MS. pag. 1 cap. 1.

Tont, (from the Lat. Tonus) Is a French Word for Injury or Wrong; and Wrong is properly called Tont, because it is wreathed or crooked. Cal. Lit. 158. See De fax tart, &c.


Tont, Justice. As often as a Thing shall happen, Cet, used in Deeds and Conveyances. 19 Car. 2 cap. 4. 4.

Tont. A good Deke to the King, is by the foreign Agent or other Officer in the Exchequer noted for such by writing the Word Tont to it: And that which is paid shall be rated—Tont Provisum Regi debetur. Stat. 4 Ed. 3. cap. 9. 1 Ed. 4. cap. 15.

Tont, The Sheriff's Court so called. See Turn.

Tournements, Maritl Exercises frequent in former Ages, wherein the Combatants fought with blunted Weapons, and in great Companies; the Intent of them was to ensure Men to the Wars. Vide Tont.

Tout temps pitt a uncour eft, i.e. Always was, and is at present ready; and is a Kind of Pies by Way of Excise for him that is fed for any Debt or Duty. Bokes 258.

Toutage, (Toumage, Fr. Toraige) Is the Rowing or Drawing a Ship or Barge along the Water by another Man, and hired to be done by Men or Beasts on Land; and it is also Money which is given by Bargemen to the Owner of Ground near a River where they tow a Barge or other Vessel. Plac. Parl. 18 Ed. 1.

Touton, (Oppidum, Ville) A wall'd Place or Borough. The Old Boroughs were fift of all Towns; and upland Towns, which are not ruled and governed as Boroughs, are but Towns, though included with Walls. Erin. 80. There ought to be in every Town a Confable, or Tithing-man; and it cannot be a Town where it hath or had a Church, with Celebration of Sacraments and Burials. Er. But if a Town is decayed so that it hath no Hoose left, yet it is a Town in Law. 1 Inf. 115. Under the Name of a Town, or Village, Boroughs, and this said Cities are contained; for every Borough or City is a Town. Where a Murderer escapes unmarked, Let the Day-time, the Town shall be amerced. 3 Eng. 7 cap. 1. And a Township is answerable for Felons Good to the King, which may be joined by them. 1 R. 3. c. 3. But for 31 Ed. 3. cap. 3. A Custom may be allowed in a Town, &c.

Trabner, Were little Boats, so called from their being made out of single Bars, like Pieces of Timber cut hollow. Flor. de Warter, pag. 618.

Trades in Churches, was that we now call Branchers, made chiefly with Brains, but formerly with Iron. Cant. 3.

Tractus, A Treatise by which Horses in their Gears draw a Cart, Plough, or Waggon. Panach. Misc. 340.

Tract, In general Signification is Traffick or Merchandize: Also a private Art, and Way of Living. All the King's Subjects were to have a free Trade with France, Spain, &c. Stat. 5 Edw. 1 cap. 1. And by 1 W. & M. cap. 34. all Trade with France was prohibited during the War, and importing Goods was declared a common Nuisance, and the Commonalties were to be seized and burned; the Vellists with their Furniture, &c. to be forfeited; and Lading Goods, or assailing therein, incurred a Penalty of 500 L. Though the Prohibition of Trade to France was taken off and repealed by 9 Ann. cap. 8. The King was enabled to prohibit all Trade with Sweden, on the intended Invasion of this Kingdom, by the last King of Sweden. 3 Geo. 3 cap. 1. All Trade with Spain, during the present War, is prohibited; and no Goods of the Growth or Manufacture of Old Spain, shall be imported into Great Britain or Ireland, &c. from any Place, mixt or unmixed with Commodities of any other Nation, on Pain of forfeiting the Goods and treble Value; and also the Ship or Vessel, with all her Furniture. Er. Stat. 13 Geo. 2 e. 27. None of the King's Subjects may trade to and with a Nation of Infidels without the King's Leave, because of the Danger of re-inquelling Christlikeness: and Sir Edw. Coke said, That he had been a Litigant from one of our King's, reciting, That he having a special Truth and Confidence that such a one, his Subject, would not decline his Faith and Religion, licensed him to trade with Infidels. 12 Nelf. Abr. 331. As to private Trades, at Common Law none was prohibited to exercise any particular Trade, wherein he had any Skill or Knowledge; and if he used it unskilfully, the Party injured might have his Remedy against him by Action on the Cafe, &c. By the 5 Edw. 1. Man might serve seven Years Apprenticeship, before he could set up any Trade; though it hath been reliev'd that the Statute doth not prohibit the Use of a Trade for a Family, but the publick Use of it in general. 11 Rep. 51. If a Bond or Premise relieves the Exercise of a Trade, though it be to a particular Place only, if there was no Consideration for it, it is void; if there be a Consideration, in such Case, it may be good. But if the Restraint be general throughout England, although there be a Consideration, it will be vam. 2 Lill. Abr. 179. Hence we see how the Law favour Trails, &c.

Trade, Companies of, and their Privileges and Advantages, see Merchant.


Tract, Bread of Tact was formerly what we now call White bread.

Transcript, Is the Copy of any Original Writing, or Deed, &c. where it is written over again, or exemplified. Stat. 34 & 35 Hen. 8. cap. 14.


Transcriptus omnem licentiam falsam causam ultra tertiarium (Itinerarius). Er. Is an old Writ to certify a Recognition taken by Judicis in Eyre. Reg. Orig. 152. 9 I.
Transplantation. A Write or Action of Trespass, according to前述

A Action of Trespass. It is used for a Warrant from the Custom House, to let pass. 14 Car. 2. cap. 11.

Transplantation. Is the Opposite to Local. Transplantation Actions may be laid in any County, or Place; such as Personal Action of Trespass. See Local.

Transplantation. (Transplant) In a common Sense of the Word signifies a Verdict out of one Language into another; but in a more confined Acceptation, it denotes the Setting from one Place to another, and the Removal of a Bishop to another Diocese, &c. which is called Transplanting: And such a Bishop writes not Anna Congregation, but Anna Transplantation minit, &c. A Bishop transplanted, is not consecrated de novo; for a Consecration is like an Ordination, 'tis an indelebel Character, and holds good for ever. 3 Salk. 32. But the Bishop is to be a new elected, &c. 3 Salk. 137. See Consecration.

Transplantation, Is the Banishing or Sending away a Criminal into another Country. And by statute, if any one convicted of Felony, shall in open Court prays to be transplanted, it may be done; if the Court thinks fit. 31 Car. 2. cap. 2. The 4th G. 1. cap. 11. was made for the more effectual Transplantation of Offenders convicted of Felony, or Larceny, within the Benefit of clergy, &c. And all Charges in transplanted Felons, are to be born by the Place for which the Court was held, &c. By the 5 G. 1. cap. 28. Deer-Stalkers may be transplanted to the Plantations, &c. And if any Persons forcibly hinder Officers of the Customs, in executing their Office, being armed with Weapons, and eight in Company, they shall be transplanted, by 6 G. 1. So three Persons assembled near the Sea Coast, with Fire-Arms, &c. to run uncontrolled Goods. Stat. 9 G. 2. c. 37.

Transplantation. Of Goods and Merchandise, is allowed and not allowed, in many Cases by Statute, for the Advantage of Trade. See Merchant, &c.

Transplantation. (Transplantation) Is a Converting into another Subsistence: To transplanta, i.e. Tradupiam in alium Substantiam convertit. Litt. Dict. A Declaration against the Doctrine of Transplantation used in the Church of Rome, is required by the Stat. 30 Car. 2. cap. 1.

Travellers. Inn keepers are to receive Travellers, and find them Lodging, Vehicula, &c. And on Reputa, a reasonable Price being tendered, they may be indelibly fixed; or Action of the Cafe lies against them. 2 Hook. 225.

Treasurer. (from the Fr. Trésorier) is used in the Law for the denying of some Matter of Fact, alleged to be done in a Declaration or Pleading; upon which the other Side comes and affirms that it was done; and this makes a single and good Issue for the Cause to proceed to Trial: And the formal Words of a Treasurer are in our French Suits, in Latin Habes locum, and in English without that, for a 'thing was done, or not. 2 Kitto. 227. W. Irf. Synb. part 2. A Plea will be ill, which neither traverses nor confesses the Plaintiff's Title, &c. And every Matter in Fact, alleged by the Plaintiff, may be traversed by the Defendant; but not Matter of Law, or where it is Part Matter of Law and Part Matter of Fact; nor may a Record but not being tried by a Jury. And if a Matter be expressly pleaded in the Affirmative, which is expressly answered in the Negative, no Travers is necessary, there being a sufficient Issue joint and also where the Defendant hath given a particular Answer in his Plea, to all the material Matters contained in the Declaration, he need not take a Treasurer; for when the Thing is answered, there needs no further Denial. Cr. Eas. 755. Telv. 173, 191, 195. 2 Mad. 44. If a Treasurer contain no more than the Party hath pleaded before, it will not be good: No Treasurer ought to be taken but where the Thing traversed is issuable. And where one will make a Treasurer to a Declaration, he ought to traverse that Part of it, that no Proof will be given of it. In a Declaration, the Point is determined by the Jury. 2 Roll. Rep. 37. 2 Litt. Abr. 587.

Treasurer. As one Treasurer is enough to make a perfect Issue, it is not traversable to be taken upon a Treasurer, if 'tis well taken to the material Point, and goes to the Subsistence of the Action; but where the said Treasurer is not well taken, it is pertinent to the Matter, there to that which was sufficiently confess'd and avoided before, the other Party may well take a Treasurer after such immaterial Treasurer taken before. And if special Matter alleged in a foreign Country in the Defendant's Plea be false, the Plaintiff may maintain his Action, and traverse that special Matter, and in it, if the Treasurer, or a Plea on a Treasurer hath been adjudged good. 1 Swale. 32. Pop. 101. These Rules are to be obdered in Treasurer: 1. The Treasurer of a Thing immediately alleged, vitiates a good Bar. 2. Nothing must be traversed but what is expressly alleged. 3. Surplusage in a Plea doth not inform a Treasurer. 4. It must be always made to the substantial Part of the Action. Where an Action is intended to be laid at one Day or another, there the Day is not traversable. 6. In Action of Trespass generally the Day is not material; though if a Matter be to be done upon a particular Day, there it is material and traversable. 2 Roll. Rep. 37. 1 Roll. Rep. 235. Telv. 122. 2 Litt. Abr. 313. If the Parties have agreed on the Day for a Thing to be done, the Treasurer of the Day is material; but where they are not agreed on the Day, it is otherwise; and though 'tis proved to be done on another Day, 'tis sufficient. Pamba. 90. Per Hol C. T. W. Where a Treasurer goes to the Matter of a Plea, &c. all that went before is waved by the Treasurer; and if the Treasurer goes to the Time only, it is not waived. 2 Salk. 634. In Action of Trespass, a particular Place and Time were laid in the Declaration, and in the Plea there was a Treasurer as to the Place, but not as to the Time. On Avernum that it is a Town treasurer, the Treasurer was held good. 3 Law. 227. 2 Law. 1492. Where a Plea in justification of a Thing is not local, or the Treasurer of the Place is wrong. 2 Mad. 720. The Subsistence and Body of a Plea must be traversed. Hoo. 232. But a Treasurer, that a Person died issue of Land in Fee ends &c. as forming the Action, the Defendant had declared, was adjudged good. Hoo. 123. A Lord and Tenant differ in the Services, there the Tenure and not the Seisin shall be traversed; but if they agree in the Services, the Seisin and not the Treasurer is traversable; and it is a general Rule, that the Tenant shall never traverse the Seisin of the Services without admitting the Tenure. March. 156. 2 Nelf. 65. That a Seisin is not material not traversable, is not admitted when it is alleged, and not traversed. 2 Salk. 601. But the Omitting a Treasurer where it is necessary, is Matter of Substance. A Mad. 60. And a Treasurer of a Debt is ill when a Promissie is the Ground of the Action; which ought to be traversed, and not the Debt. Law. 252. A Treasurer should have an Indemnity to make it refer to the Reason given by the Jury. And as not traversed for a Plea for the Plaintiff to reply, that is an alleged to be dead, without traversing that he is not dead. 2 Litt. 3 Salk. 357. It is laid that where a Treasurer a Jesu decy compriseth the whole Matter generally, it may conclude &c. de Jesu, &c. papier Patriam; but when it traverses a particular Matter, the Conclusion ought to be with an Answer, &c. 2 Salk.
1 Salk. 4. Truants in An Affair in Chancery, Re- plication, &c. See Chancery.

Travers, not confessed to; the Plaintiff is not to take issue upon, and can not deny or force any chief Point of it: As in a Pretermitment against a Person for a Highway overflowed with Water, for Default of foreseeing a Drain, &c. he may traverse the Matter, that there is no Highway, or that the Ditch is sufficiently focused, or whatever traverse the Cause, &c. That he hath not the Land, or he and they who have Estate, &c. have not used to do the Ditch. Lamb. Eiron. 531. But East.

Travers or an Affair, it is to prove that an In- quisition made of Lands or Goods by the Executive, is defective and untrue only. No Person shall traverse an Office, unless he can make to himself a good Right and Title: And if one be admitted to traverse an Office, this Admission of the Party to the Travers, doth suspend the Title to be in him, or else he had no Cause of Travers. Vaugh. 64. 2 Litt.

Travers, Signs a Ferry: It is mentioned in the Manna.s Tom. 2. pag. 100.

Travellers, A Kind of Fishermen on the River Thames, used to use unlawful Nets and Engines to destroy Fish, of which some were termed Tinskmers, others Hebrewmen, and Travellers, &c. And hence comes to travel or travel for Fishers. Stowe's Surv. Lond. Per. 19.


Travesty, (Traveller, Proctor) A State Officer, Betrayer, &c.

Travesty, (Proctor et al.) Treschurous, or full of Dishonour, &c. It is said.

Travestying Person, Of taking Arms by the King's Authority against his Peron, and that are commissioned by him, is condemned by the Statute 14 Car. 3. cap. 3.

Travers, (From the Fr. Traverb, to betray, and Traversim Betraying, contrived into Travers) is the Crime of Treachery and Infidelity to our lawful Sovereign; the Latin Word for which used in Law is Prodisti, and is divided into High Travers, Alia Prodisti, and Petit Travers, Prodisti paraas; And there is Mention of Accumulative and Conspiratorial Travers in some of our Statutes. High Travers is de- fined to be an Offence committed against the Security of the King and Kingdom; and as all Travers include Felonies, the Word Prodisti must be used in the Indictment for Travers, to distinguish it. 3 Salk. 4. 15. The Greatness of this Offence of Travers, and Seve- rity of its punishment, is upon all Accounts, is so great that it is upon all Accounts, is a Crime: because the Safety, Peace and Tranquility of the Kingdom, is highly concerned in the Prepreration of the Person and Government of the King; and therefore the Laws have given all possible Security there- to, under the severest Penalties: And as the Subjects have Protection from the King and his Laws; so they are bound by their Allegiance to be true and faithful to him. 1 Hali. His P. C. 59. At Com- mon Law there were different Opinions concerning High Travers; and besides the Statute 25 Ed. 3 tr. Travers was made to be increasing Royal Power, and held to be Travers; so that by the Excess of the Times, any Crime by aggravating the Circum- stances, it is heightened into Travers: Wherefore this Statute was made to determine what should be Travers; and since the Making thereof, there can be no constructive Travers, i. e. Nothing can be construed to be a High Travers, literally defined in that Act, nor may the Statute be construed by Equity, be-
tures ancient and modern, declaring what Offences shall be Treason; and Treasons committed out of the Realm may be tried in B. R. as if the Offence had been done in the County of Middlesex; also they may be committed and tried in such County as the King thinks fit, \&c. A Party within one Year after Outlawry for Treason, may surrender himself to the Chief Justice of England, and traverse the Indictment; and none shall be attainted of Treason but by the Testimony of Two Witnesses, \&c. by Stat. 35 H. 8. c. 2. & 6 E. 6. c. 11. All Trials for High Treason shall be according to the Course of the Common Law, and not otherwise. 1 & 2 Ph. Mar. cap. 10. And Per- sons indit for Treason are to have a Copy of the Indictment five Days before Trial, to advise with Coun- sel; and shall be admitted to make a full Defence by Counsel learned in the Law, and by lawful Witnesses, &c. and there must be two Witnesses to the fame Overt Act, or two Acts of the fame Treason, produced Face to Face, to make out the Treason against them. 7 H. 3. cap. 3. If one Witness in High Treason be put to the Testimony, and the other is only by Hearsay; these are not two lawful Witnesses, within the Case of a Deny. But two Witnesses are not required either upon the Indictment or Trial of Treason for Counterfeiting Money, by the Provis of the Statute. 1 & 2 P. & M. of- fenders guilty of High Treason by being concerned in the Rebellion in the first Year of K. Geo. 1. were to be tried before such Commissioners of Oyer and Terminer and Goal Delivery, and in such County as his Majesty by any Commission under the Great Seal should appoint, by lawful Men of the fame County, as if the Fact had been there committed: This ex- tended only to Persons actually in Arms. 1 Geo. 1. c. 53. All are Principals in High Treason; and On Attinder of Treason, the Blood of the Criminal is corrupted; he shall be drawn, hung, and quartered; and forfeit his Lands and Goods to the King, &c. Treason by the Stat. 25 Ed. 3. in compounding and imagining the Death of the King, must be manifested by some Overt Act, as by providing Arms to do it, cons- ulting to levy War against him, writing Letters to excite others to join in it, assembling Persons in order to imprint or depose the King, or to get him into their Power, \&c. their Acts are sufficient to prove that one compounded or imagined the Death of the King, and to make a Man guilty of High Treason. 3 Stat. 15. c. 5. It has been a very great Question whether Words spoken can amount to High Treason: But it was resolved in the Trial of the Regicides, that though a Man cannot be indicted of High Treason for Wishing away the King's Life, if he be indicted for compounding the Death of the King's Death, these Words may be laid as an Overt Act, to prove that he compounded the Death of the King; and to support this Opinion, the Case of a Person was cited who was indicted of Treason, Anno 9 Car. 1. for that he being the King's Subject at Liffon used the Words: I will kill the King, (pronouncing King Charles) if I may come to him; and afterwards he came into England for that Purpose; and two Mer- chants proving that he spoke the Words, for that his traitorous Intent and the wicked Imagination of his Heart was declared by these Words, it was held to be High Treason by the Common Law, and within the Statute of the 25 Ed. 3. cap. 2. Cor. Cap. 2. Car. 5. c. 7. 2. Other Words, which were by a direct Punishment against the King's Life, will amount to an Overt Act of compounding or imagining the King's Death; in the Compounding or Imagining the Death of the King. The Reasons of these are the most natural Way of expressing the Imagination of the Heart, and may be \(\text{of certain Evidence of it. And any external Act which may be a Manifestation of such Imagination, in such Words without an Overt Act of treason, they must be so certain and positive, as plainly to denote the Intention of the Speaker, and be laid with an Averment that they were spoken de Rege, &c. 1 Hawk. P. C. 40. 2 Salt. 343. 3 Mad. 52. The Maxim, That no Words can amount to Treason, at this Day, is not generally understood; and was never understood in such Passage of the Statute, as Words being High Treason, from the Stat. 1 M. cap. 1. where it is said, that many honourable Persons, and others of good Reputation, had been indicted for Words only suffered shameful Death, that the Se- verity of such like dangerous and painful Laws should be abolished: It was encharged, That no Offence made by Words, Writing, Kyphering, &c. Should be adjudged Treason: It appears from the next Part of the Preamble of the said Statute, that it is applica- ble only to the Statutes in the Time of King Henry VI., which made bare Words High Treason: And in the first Edition of Hoc's Piaus of the Crown it is twice said, that it hath been adjudged that Words are an Overt Act; though in a later Matter it is said, that Compounding by bare Words is not an Overt Act, &c. 1 Hawk. 44. Ever since the Revolution, it has been the constant Practice, when a Person, by treasonable Discourses, has manifestly resolved to murder the King, to depose the King, to convict him upon such Evidence: And Chief Justice Hale was of Opinion, that Express Words were not necessary to constitute a Man of High Treason; but if from the Tenor of his Discourse, the Jury were satisfied he was engaged in a Design against the King's Life, this was sufficient to convict the Person, State, and Fellow Subjects. The Words of Persuasion to kill the King, are Overt Acts of compounding his Death; and it hath been adjudged, that he who intended by Force to procure Laws to the King, and to deprive him of his Power, did inten- tiously deprive him of his Crown and Life; that if a Man be ignorant of the Intention of those who take up Arms against the King, if he join in any Action with them, he is guilty of Treason; and that the Law constrains every Rebellion to be a Pisc against the King's Life, and a Deposing him, because a Rebel would not suffer that King to reign and live, who will punish him for Rebellion. 2016. 2 Salt. 353. 3 Nof. Abs. 352. It is said, that Words spoken to draw away the Affection of the People from the King, and to find a Rebellious Spirit against him, to his Death and Destruction, are Treason: But the Imagination in High Treason, without Act or Word, is punishable. 1345. 1 Rep. Treas. Cent. 127. Words are set down in Writing, and kept privately in one's Closet, they are not an Overt Act of Treason, except the Words are published. 2016. But it has been held, that treasonable Muses put in Writing, written \(\text{of aggre.} \) and though it was not published, but sent in a Box to the King, it theorised the Intent of the Party to be High Treason. 2 Stat. Repl. 43. Under the Head of compounding and imagining the King's Death, Intention of Treason proved by Circumstances, is High Treason: The Law takes Notice of Intentions to com- mit Treason, and Men's Actions are governed by their Intentions, &c. 1 Stat. 140. 5 Mad. 265. For a Man to say, That he will be King after the King's Death, hath been adjudged Treason: And so to pro- pably when the King shall die; for this may imply a Knowledge of a Conspiration. Roll. Repl. 43. There must be a Compelling, Intent or Imagination to kill the King: State of the Overt Act of Treason, and the Killers him for infatuation, as Sir W. Fryel killed King Will. 2. by the Gliance of an Arrow in New Forest, is not Treason; And though by the ancient Law, if a Man slams killed, orADMINISTRATION, as the King, it was held to be Treason; by the Stat. 25 Ed. 5. by Force of the Words Compay or Imagine, he is that in Nov. Comps, and totally deprived of all Compelling, \(\text{of aggre.} \) and even Words may be an Overt Act of Treason, but it must be an absolute Misdemeanour, and total Depriva- tion of Memory. 3 Stat. 24. If the Husband of a Queen
Queen Regent conspire her Death; or a Queen Consort shall conspire the King’s Death, either of these Acts are Treasons: And though the Compounding the Death or Wounding the King or Queen by the 25 Ed. 5. this must be intended during the Marriage; and it doth not extend to a Queen Dowager. 3 Inf. 8. And the eldest Son and Heir of the King, that is living, is intended by the said Act, though he was not the first Son; but if the Heir apparent to the Crown be a collateral Heir, he is not within the Statute; nor is a Conspiracy against such collateral Heir, Treason by this Act. Ibid. Also Violating the Queen Consort is High Treason, and her yielding and confessing to it is Treason; but this does not affect a Dowager Queen: So likewise Violating the Wife of the Prince in Treason only during the Covens. 3 Inf. 9. And the eldest Daughter of the King is such a Daughter as is eldest not married, at the Time of the Violation, which will be Treason, although there was an elder Daughter than her, who died without Issue; for now the Elder alive has a Right to the Inheritance of the Crown, upon the Death of the Male Heir: as Violating the Queen’s Person, &c. was High Treason at Common Law, by Reason it destroyed the Cerenity of the King’s Issue, and the Custom and Consequence about the Succession. H. P. C. 16. A Queen Dowager after the Death of her Husband, is not a Queen within the Statute; for though the bears the Title, and hath many Honours and Adornments of that Dignity of her Person, yet she is not the King’s Wife or Companion: And a Queen divorced from the King a coena Matrimoniis, is no Queen within this Act, although the King be living; which was the case of Q. Katharina, who after twenty Years Marriage with King Hen. 8. was divorced causa affectuosa. 1 Hale’s Hist. P. C. C. 134. At Common Law Compealing the Death of any of the King’s Children, and declaring it by Overt Act, was taken to be Treason; though by this Statute it is restrained to the eldest Son and Heir. Ibid. 135. By the Common Law, Leaguing against the King was Treason: But, as in Case of High Treason, there must be an Overt Act; a Conspiracy or Compassing to levy War is no Overt Act, unless a War is actually levied; though if a War is actually levied, then the Conspirators are all Traitors, although they are not in Arms: And a Conspiracy to levy War will be Evidence of an Overt Act to maintain an In- diement for Compealing the King’s Death; but if the Indictment be for levy War only, Proof must be made that a War was levied, to bring the Offender under this Clause of the Statute 25 Ed. 3. 3 Inf. 8. 9. H. P. C. 14. If two or more comply to levy War, and one of them alone railes Forces; this is not enough to all. Dryden’s Case, More 620. To suffer or adhere to the King’s Enemies, give them Comfort or Relief, or for any Person to be in Council with others to levy any seditious Wars, are High Treason: And the Deliver- ry or Surrender of the King’s Coaltres or Forts, by the Captains thereof, to the King’s Enemies, within the Realm or without, for Reward, &c. is an Adhering to the King’s Enemies, and Treason by the 25 Ed. 3. A Lieutenant in Ireland let several Rebels out of Dublin Castle, and discharged some Irish Hostages which had been given for Securing the Peace; and for this he was attainted of High Treason, as adhering to the King’s Enemies, 35 Ed. 8. 1 Lew. Adhering to the King’s Enemies out of the Realm is Treason; and one who was beyond Sea having falsified a foreign Prince to invade the Kingdom, was held guilty of High Treason, and triable by the Statute 35 Hen. 8. But Adherence out of the Realm must be alleged in some Place in England. 5 Inf. 10. H. P. C. 14. Dryd. 298. 310. If there be War between the King of England and France, those Engl. Men, that live in France before the War, and continue there after, are not meerly upon the ground that they are not Enemies, to be guilty of Treason, unless they actually assist in such War; or at least refuse to return into England, upon a Proper Proclamation and Notice thereof; and this Refusal is but Evidence of an Adherence and not so in irrefi. 1 Hale’s Hist. P. C. 125. It has been adjudg’d, that Adhering to the King’s Enemies is an Adhering against him; and that Engl. Subjects joining with Rebel Subjects of the King’s Allies, and fighting with them under the Command of an Alien Enemy Prince, is Treason, in Adhering to the King’s Enemies; and Cruelty in 9 K. A Ship
a Ship with Intent to destroy the King's Ships, without doing any Act of Hajolity, is an Over-Act of Adhering, Comforting and Aiding; for where an Englishman fills himself and marcheth, this is Treason without any Act of Adhering, or actual Fighting; it is 2 & 3 Ed. 6 s. 634. An Indictment for Levying of War, or Adhering to the King's Enemies generally, without bewing some particular Infringes, is not good; because of their Words, to be. And thereof shall be provably attainted by Overi Dred, which follow and are connected to the Treason of Compelling the King's Death, Levying War, and Adhering to the King's Enemies; and as these Treasons are several and distinct Treasons, one of them cannot be made an Over-Act of another. 

When there is no such or no such words evidently to alledge that Adherence was against the King; but the Special Maner of Adherence must be set forth: And it is said, that the Succeeding a Rebel, fled into another Realm, is not within the Statue; for a Rebel is not properly an Enemy, and the Statue is strictly taken. 1 Hen. 35. Subjects of the King, in open War or Rebellion, are not the King's Enemies, but Subjects of a Subject in War; and come into England with him, if he be taken Prisoner, shall not be randomed or process for any Enemy, but as a Traitor to the King: On the other hand, an Enemy coming in open Holliety into England, and taken, shall be either executed by Martial Law, or randomed; for he cannot be indicted of Treason, because he never was within the Ligeance of the King. 3 Ed. 11. From the Word Provenably, a Person ought to be concern'd on direct and manifest Proof or and not upon Presumptions or Inferences; and the Word Attainted, neatly implies, That the Prisoner be proceeded against and attainted according to due Course of Law; wherefore if a man be killed in open War against the King, or be put to Death arbitrarily, or by Martial Law, and be not attainted of Treason according to the Common Law, he forfeits nothing; for which Cause some Person, kill'd in open Rebellion against the King, have been attainted by Act of Parliament. Ibid. 12. If a Person be indicted of Treason, and will not answer, or if he answers improperly, Judgment shall be given against him as taken pro confessa that he is Guilty. 

Stylis 104. On a Judgment for High Treason, Error was brought, for that the Indemnity did not con- clude contra Legitimau, &c. Now though all the particular Parts of the Treason were fully express'd, to that it appeared that it must be acquitt'd by its due debitis, yet the Judgment was reversed. 3 Lev. 396. Upon a Writ of Error to reverse an Attain- der in Treason, because the Party convicted was not actually taken, to try by what Judgement would not be given against him, the Attainer was reversed; for he might have a Pardon, or some Matter to move in Arrest of Judgment. 2 Salk. 550. 3 Mad. 126. And the Omission of any necessary Part of the Judg- ment for Treason, is Error sufficient to reverse an Attainder, as it is more severe and formidable in Tra- son, than in any other Crime. 3 Salk. 123. As to the Counterfeiting the King's Seal, this was Treason by the Common Law; and the Statute 25 Ed. 3. mentions only the Great Seal and Privy Seal; for the Commonages of the Sign Manual, &c. 1 Han. 3, is not Treason within that Act, but by 1 & 2 F. & M. c. 6. Whose aid and consent to the Counterfeiting of the King's Seal are equally guilty with the Auctor: But an Intent or Compounding to counterfeit the Great Seal, if he be not actually done, is not Treas- son; there must be an actual Counterfeiting, and it is 12 Eliz. 2 P. & C. 3 s. 1. Great Seal; 2 & 3 Ed. 17, 52. & C. 5. H. P. C. 18. And this Branch of the Statue does not extend to the Affixing the Great Seal to a Pa- per, without a Warrant for so doing; nor to the Ra- sing any Thing out of a Patent, and Adding new Mat- ter therein; or to the Taking off the Wax impressed by the Great Seal from one Patent, and fixing it to another yet such, though it be not a Counterfeiting, has been allowed a high Degree of Dishonesty. And a Person guilty of an Act of this Nature, with Relation to a Commission for Levying Money, &c. had Judgment to be drawn and hang'd. 2 H. 4, c. 19. 

A Peron guilty of an Act of this Nature, with Relation to a Commission for Levying Money, &c. had Judgment to be drawn and hang'd. 2 H. 4, c. 19. 

The adding a Crown in a Counterfa- tive Privy Signet, which was not in the true; and omitting some Words of the Inscription, and inserting others, done purposely to make a little Diffe- rence, not alter the Coin, but its High Treason; being published on a feigned Patent to be true, &c. 

The 1 & 2 F. & M. &c. 1. H. P. C. 177. This Act adds, after the word Money, after the word Coin, that is Counterfeiting it is by the Stat. 35 Ed. 5. Forging or Counterfeiting foreign Money made current here by Proclamation, is likewise High Treason, by 1 Mar. c. 6. And if not current here, it is Misprision of Treason. Counterfeiting the King's Coin, or impairing or lightening it by Clipping, &c. is Treason; but it shall work no Corruption of Blood, nor be try'd by a grand Jury. 18 El. cap. 1. And as those who coin Money without the King's Authority are guilty of Treason; to those who coin Money, and do it, if they coin it of greater Alloy, or less Weight than they ought: 3 Ed. 17. 2 & 177. H. P. C. 20. If A Counterfeiting Money, and another vent the fame for his own Benefit, he is not guilty of Treason; for it is only a Cheat and Middlemener in him, punishable by Fine and Imprisonment: But if one Counterfeits the King's Money, though he never ven's it, this is a Counterfeiting and Treason within the Statue. And if any Man doth Counterfeit the lawful Coin of this Kingdom in a great Measure, but with some Varia- tion in the Impression, &c. yet it is Countereating of the King's Money; and shall not evade the Statue. 1 Haliis H. P. C. 214, 215. Treason in making Stamps, Dyces, &c. for coining and colouring Met- ale, &c. See 2 Eliz. 2 P. & M. and Conv. By reason of any Money into this Kingdom, Countereated like the Mo- ney of England, knowing it to be Little, is Treason by the 25 Ed. 5. In that it must be Countereated, according to the Likeness of English Money, and is to be knowingely brought over from some foreign Nation, not from any Place subject to the Crown of England. 3 Ed. 12. As to any other under the Acts 18. The Killing of the King's Chancellor, Treasurers, Justifiers of other Bench, &c. declared to be Treason, relates to no other Officers of State before they were expressly named; and to them only when they are in actual Execution of their Offices, representing the Person of the King; and it doth not extend to any Attempt to kill, or wounding them, &c. 3 Ed. 12. 

Pett
Petit Treson. Is where one, out of Malice, takes away the life of a Subject, to whom he owes special Obedience: And is called Petit Treson, in respect to High Treson, which is against the King. 5 Inf. 2. For it may be against a Stranger, a Wife, a Master, a Sculptor, a Religious Person, the Prelate, or a Superiour. 25 Ed. 3. c. 2. And Alders, Abboters, and Procurers, are within the Act; but if the Killing is upon a sudden falling out, or St Deferendum, it is not Petit Treson; for Persons accused of Petit Treson shall be adjudged Not guilty, or Principal and Ac- cessor, according to the Rules of Law in other Cases. H. P. C. 24. Petit Treson is committed against the Head, though not against the head of the Preceding. And if a Stranger kills his Master, or the Wife of his Master, she is to be within the Act; with the Letter of the Sentence, and it is Petit Treson: But this Statute is to be strictly construed, so that no Case which cannot be within the Act, and the Words of it, shall be punished by it: and therefore if a Son kill his Father, he shall not be tried for Petit Treson, except he forswear his Father for Wages, &c. in which Case, he may be adjudged by the Act. And he is the Officer, and the Officer is responsible for the Act: and the Act is proceeded against and laid in Lieu of the Act, against the Person who killed him in his Father's Preceding. This was Petit Treson in the Servant, and Murder in the other; if the Servant had been abode, the Crime would not have been Petit Treson, but Murder, to which he would have been accessory. 3 Inf. 29. More 91. Where a Servant incurred to kill his Master, and laid in Writ for that Purpuse while he was his Servant, but did not come within a Year out of his Service: it was adjudged Petit Tras- en. H. P. C. 23. A Maid Servant and a Stranger compared to rob the Master, and in the Night the Servant opened the Door and let in the Stranger in to the House, who killed her Master, the lighting him to her Bed, but neither stiling or doing any Thing, only holding the Candle: and this was held Murder in the Stranger, and Petit Treson in the Serv- ant. Dyre 128. If a Wife and a Stranger kill the Husband, it is Petit Treson in the Wife, and Mur- der in the Stranger: And so it is an Ecclesiastic Person, killing his Prelate, &c. Dalt. 357. If a Wife and a Servant conspire to kill the Husband, and appoint Time and Place for it, but the Servant alone in the Absence of the Wife killed him; it shall be Petit Treson in both: and if the Wife procures a Servant to kill the Husband, both are guilty of Petit Treson; also if a Stranger procures a Wife or Servant to kill the Husband or Master, he may be adjudged as accessory to Petit Treson. Dyre 128, 512, Comm. 41. Where the Wife and another who was not her Servant, conspired the Death of the Husband, the Indictment was that the Wife Pro- diurate, and the other Person Prodiurate gave him Poi- sion, c. whereby he died: And the Wife being ac- quitted on the Indictment, the brought an Action against her Son in Law for a malicious Procuration, and withers but afterwards he brought an Appeal of Murder against her, upon which she was convicted in B. R. and carried down into the County where the Fact was done, and there exe- cuted. 212, 213, 217. 3 Neff. Abr. 352. On Divorce from the Husband for Adultery, a Woman is a Wife within the Sentence to be guilty of Petit Treson against her Husband; for so it is designed. But when a Man mar- ries a second Wife, the former being alive, she is not within this Law. H. Hals Hist. P. C. 351. If a Cowker of the Bishop of A., and he kill that Bishop, it is Petit Treson, for he hath proffered Canonical Obedience to him: And where
the Check of all the Officers employed in Collecting the Duties and Royal Revenues; all the Offices of the Customs in all Ports of England are in his Gift and Disposition; Eldestors in every County are nominated by him; and he makes Leaves of all the Lands belonging to the Crown, &c. But the high and important Post of Lord Treasurer has of late Years, like some other great Offices, been emptied too great a Talk for one Person, and has been generally executed by Commissioners. See more belonging to this Office, Stat. 20 Ed. 3. c. 6. 31 H. 6. c. 5. 4 Ed. 4. c. 1. 17 Ed. 4. c. 6. 21 H. 8. c. 20. and 1 Ed. 6. c. 13. 3 Infr. 106. Besides the Lord Treasurer, there is a Treasurer of the King's Household, who is of the Privy Council, and with the Controller, &c. has a Treasurer of the Navy or War, 55 Eliz. c. 4. A Treasurer of the King's Chamber. 33 H. 8. c. 59. A Treasurer of the Wardrobe. 21 Ed. 3. c. 21. And there are Treasurers of Corporations, &c.

Treasurer in Cathedral Churches, An officer whose whole Charge was to take Care of the Vestments, Plate, Jewels, Reliques, and other Treasures belonging to the Re- Churches, and the Revenue from them. See the Statutes for the Information, the Office was extinguished as needless in most Cathedral Churches; but it is still remaining in those of Canterbury, London, &c.

Treasurer of the Country, Is he that keeps the Country Stock? There are Two of them in each County, chosen by the major Part of the Judicature of the Peace, &c. at Easter-Sessions; they must have 10 L. a Year in Land, or 150 L. in Personal Estate, and shall not continue in their Office above a Year; and they are to account yearly at Easter-Sessions, or within ten Days after their Successors, under Penalties: The Country Stock, of which this Officer hath the Keeping, is raised by Rating every Parish yearly; and is disposed of to CHARITABLE USES, for the Relief of mankind, Soldiers and Mariners, Priests, and others in the Country, paying the Salaries of the Officers of Correction, and Relieving poor Alms-houses, &c. And the Duty of such Officers, with the Manner of raising the Stock, &c. is particularly in the Statutes of 43 Ed. 3. c. 7. 1 Stat. 1. c. 4. 11 & 12 P. 3. c. 18. 5 Ann. c. 3. 6 Geo. 1. c. 23.

Treasurer, (Thebamosi Ioventus) Is where any Money is found hid in the Earth, but not lying upon the Ground, and no Man knows to whom it belongs; then the Property thereof belongs to the King, or the Lord of the Manor by Special Grant or Pre-Scripture, or if the Owner persists, or if no other ways be known, it doth not belong to the King or Lord of the Liberty, but such Owner: By the Civil Law, Treasurer true is given to the Finder; but the Law of England makes it to be a Punishment and Imprisonment. Brine, cap. 17. S. P. C. 25. Coroner ought to inquire of Treasurer, true, being certified thereof by the King's Bailiffs or others, and of who was the Finder, &c. 4 Ed. 4. c. 17. and to Enter Treasurer's Broadson's Pond, and be inquired of in the Sheriff's Turn. 2 Hens. P. C. 67.

Tresnut, Tresnuth, A Tumbrel or Cocking-foot; also a great Engine to call Stones to Batter Walls. 3 Infr. 319.

Trett, (Tractum) Fine Wheat, mentioned in the Statute 51 H. 8. c. 5. 

Trematiuus, Tremettum, Tremetum, The Session or Time for sowling Summer-Corn, being about March, the third Month, to which the Word may be applied; and Corn-wheat, or the corn called Tresnet and Tremettum; Tremettum was the Saxon for Summer-Corn, Barley, oats, Beans, &c. applied to the Season for Winter Corn, Wheat and Rye, called Hibernia in the old Charters. Car. Glyn. MS. 91.


Trencher, [From the Fr. Trancheur, to cut] A Carver of Meat at a Table; as in the Paasant Roll, Mention is made of a Pension granted by the King to a J. B. and Trencheratun maternum, &c.

Trencher, A Trench, or Dike newly cut. For. Ann. 33 H. 3.


Trencher, (Transiagrus) Is any Transgression of the Law under Trespass, Felony, or Misprision of either: But it is most commonly used for that Wrong or Damage, which is done by one private Man assailing another in his House, &c. &c. In which Signification it is of two Sorts: Trespass qualter, otherwise termed Trespass F V A in Arms, and Trespass spatio, or upon the Land. B. & R. 13 Ed. 4. 3 Trespassoppes a Wrong to be done with Force; and Trespass against the Perfon of a Man are of several Kinds, as by Menacing or Threatening to hurt him; affaulting or setting upon one to beat him; Battery being the actual Beating of another; maiming of a Person so that he loses the Use of his Limbs; by Imprisonment, or restraining him of his lawful Liberty, &c. Trespass against a Man's Property may be committed in divers Cases; as against his Wife, Children, or Servants, or his Horse and Goods, &c. and against his Land, by carrying away Deer and Evidences concerning it, Cutting the Tin, or spoiling the Grains therein, &c. F. N. B. 36. 17. 3 Trespass, 201. 2 Rial. Abr. 515. Action of Tres- 
pasis lies where a Man makes an Entry on the Land of another, and does Damage: And Trespass in A in Arms may be brought by him that hath the Possession of Goods, or of a House, or Land, if he shall disturb his Possession; for the Dismember, besides the private Damage, is also a Breach of the Public Peace. 1 Infr. 57. 2 Rial. Abr. 512. 1 Litt. Abr. 796. There is in this Difference, an Action of Trespass F V A, and Trespass on the Case: The one lies where the original Act was a Wrong in the Possessor, or was made by another, where an Injury is consequential to a lawful Act, as for Injuries, in lawful for a Man to make a Dam on his own Ground; but if by making it, the Water overflows his Neighbour's, &c. or in any other Case against him. Med. Cam. 1. v. & E. 275. Entry into a House is a Man's Will in Trespass; but a Man may lawfully come into the House of another Person, if he demands or pays Money, and if Trespass be brought he may plead it specially, 1 Litt. Abr. Trespass is generally for Breaking a Man's Close; for chaking Cattle, whereby they die or are injured; for Taking away Parts and Breaking of Fences, or of Doors or Windows of a House; for Driving a Cart and Horses over the Ground of another, where there is no Way for them; for Filling a Pond; for Making a Dam; for Taking away Cattle, for Taking away Cows; for Taking Goods to much of the Plaintiff's Money; for Tearing a Bond, 1 Br. 316. 1 Smedew. 120. 2 Cr. 425. Liv. 144. and where a Perfon has only the Crop and Vehemt, or Pursuit of Land, he may maintain Trespass, 3 Mar. 426. 2 L. In Trespass for taking Goods, the Plaintiff must allege a Property in himself, beside a
such Case there may be two Intentions, one that there be a Grant of Goods, and then the Taking is lawful; and the other that they were the Goods of the Plaintiff, when the Taking will be wrong, but wherever the Contrivance is indifferent, it shall at all times be against the Plaintiff. 2 Lev. 20. 37. If the Defendant makes the Place where the Trespass was done material by his Plot, he must flew it with great Certainty; but if it be a Trespass Super clausum feet in B. and the Defendant pleads that the Place where is his Freehold, which is the common Bar in this Cafe, and in Justice as it is his, if he be seize thereon, the Defendant may give in evidence any Cloze in which he hath a Freehold; though if the Plaintiff had repaid and given the Cloze a Name, the Defendant must have a Freehold in that very Cloze. 2 Salk. 453. Carew's Rep. 376. A Plaintiff may make a New Allinement of the Place where, &c. and then the Defendant may vary from his first Justification: As for Inducement: In action of Trespass, as it is done generally in D. the Defendant justified the Taking Damage feasting; and the Plaintiff in his Replication put the Plaintiff in new Allainment, upon which the Defendant justified for a Heriot; and it was adjudged good. 3 Nifi. 490. 3 Nifi. 398. The Defendant in his Plea may put the Plaintiff to new Allainment; and every new Allainment is a new Declaration, to which the Defendant is to give a new Anwver, and he may not traverse it, but in cases of emergency when he is in danger, he is to be heard to declare he had no Damage to the Matter. Salk. 30. 9 Nifi. 111. 1. 3 Reg. 130. Trespass for Breaking the Plaintiff's Cloze, and Being his Servant; the Plaintiff had a Verditi, but he could never get Judgment, because the Servant himself may have an Action of Trespass for the Beating, though his Master cannot, unless it be to the great that he los'd his Service, which, where he had no Damage to the Matter, Salk. 30. 9 Nifi. 111. Action of Trespass may be brought for Taking away a Man's Servant; but not for the Taking away of a Man generally. 2 Salk. 125. 1. Trespass good sepi & abandonment lies not for the Father for Taking and carrying away any of his Children, except for Taking of a Son or Daughter who is Heir. Salk. 629. A Man committed Adultery with a Woman in Southwark, where they both dwelt, and the Woman went to Raisin in Middlesex, from whence the Man brought her to Richmond, in Surrey; the Prothonotary brought an Action of Trespass de Usura Raptis & abdication con benis Piris and it was a Doubt, whether upon this Matter given in Evidence, the Defendant could be found guilty in London; but the Jury found him guilty generally, and gave the Plaintiff 300L Damages. Dyer 256. Executors may bring Trespass for Goods taken out of their Possession, or for Goods and Chattels taken in the Life of the Testator; also Administrators shall have it for Goods of Inscendates; and an Ordinary may bring Action of Trespass for Goods in his own Possession to administer as Ordinary, &c. If a Man voluntarily take away my Goods or Cattle, and keep them till I pay him Money, on Presence that they are his Heriot, &c. when they are not, I may have Action of Trespass. Dyer 354. And if the Sheriff have a Writ against the Lands and Goods of one Man, and he by Militate execute it upon my Lands or Goods; this Action lies against him, and it will be no Excuse that the Plaintiff or any other informed him they were the Goods, &c. of the Defendant. Dyer 354. 1. 356. He that is possified of Lands, though he hath no good Title, shall have this Action for a Trespass against one who hath no Right to the Lands; but not against him that hath Right. Act 8. yet a Man may have a Right of Title by Defect, Lease, &c. may not bring Trespass, before Entry made thereon. Plowd. 451. 546. 1. 356. The Lease for Years after his Lease is expired, may have Action for a Trespass done on the Land before his Lease was ended. Dyer 456. An Action of Trespass was brought by the Lord of a Manor, for Trespass done in the Highway, by a Tenancy in Possession, by breaking out of his Cloze into the Wall; and it was adjudged
TR

TR

adjudged it would not lie. 1 Blin. 157. If A. is
bound to Fence his Cloke against B. and he against C. a Neighbour; and neither of them inclose against each other, so that the Beasts of C. for Want of In-
closure go out of the Ground, to that of B. and thence to A.'s Ground: In this Case A. shall have Trepass against C. for he is bound only to Fence a-
bread and every one ought to keep his Cattle as well in open Grounds, not included, in several
Grounds where there is Inclusion. Dyer 356. Tem-
d. Com. 161. One drives his, the other man's Cattle, I may go on the Land and fetch them out by
this I am a Trepasser to the Owner of the Ground, and he may have his Action against me for, and I must take every care to prevent him that drove them in. 21 H. 7. 27. 1 Rep. 54. But if another Man has a Horse, or other Goods in my House or
Ground, and he enter to take it away, without my Leave. Action of Trespass lies against him: But if I drive the Cattle or carry the Goods of another into
my Land, he may come upon the Land and take the Goods. 3 Salk. 135, 136. Where a Man's Corn is in Danger of spoiling, in the Harreut, &c. and his Neighbour brings it Home to
fear it; or if strange Cattle be in my Corn, and he drive them out, without Leave. Trespass may be brought against him: But if my own Cattle in my Corn, are driven out by another, it is otherwise. Kebr. 88. If a Man hunt my Beasts, in Ground belonging to, or some other Person; he is liable to this Action: Though the Owner of the Land
wherein Cattle are doing this Trepass, may gently
by his Dog, chase them out, and justify the same. Hill. 16. Y. B. B. R. Bro. Tresps. 45. 8 Rep. 67. If any Person shall maliciously main, or
hurt any Cattle, or destroy any Planation of Trees, or take or kill any, the Trespasser shall forfeit treble Dam-
ages in Action of Trespass. 22 & 23 Car. 2. c. 7. But in Action of Trespass, if the Jury give not 40 l.
Damas, the Plaintiff shall have no more Costs than
would be allowed for enjoining Firebreak or Tithe of Land come in Question, or of the Plaintiff's be carried away. 26. Car. 2. c. 9. Though the Plain-
tiff, where the Trespass is wilful and malicious, upon
Certificate thereof by the Judge on the Back of the
Record, shall recover Damages and full Costs, by 8 & 9 W. 3. c. 11. And Damages being small un-
der 40 l. in Trespass, no Marion full Costs have been
allowed; where Entry was made on the Firebreak. &c.
Skin. 100. Cartw. 255. A Court, which is not a
Court of Record, cannot hold Plea of Trespass in
Armis. F. N. B. 85. Writes of Trespass lie either
to the Sheriff to determine the Matter in the County-
Court, or returnable in B. R. or C. B. And the Words "in Armis" shall be in the returnable Writ, but not in the others: Though in Writs of Trespass
upon the Cattle, these Words must not be inserted, if returnable in B. R. & F. N. B. 85, 190. Trespass
quarte Fi. & Armis clamor fugit was brought, where-
in the Plaintiff laid Damage to the Value of 20 l. and
the Defendant demurred for that Cattle, alleging
that B. R. could have no Cognizance at Com-
mon Law, or by the Statute of Gloucester, to hold
Plea in an Action where the Damages are under 40 l.
But it was adjudged, that Trespass Quarte Fi. & Armis
will lie in this Case, as the Damages what that will. 3 Mod. 275. At Common Law, in Trespass
Fi. & Armis, if the Defendant was convicted, he
was to be fined and imprisoned; but in other Tre-
passes, only Fine was demanded. 27. Geo. 3. c. 185. But now the Action of Trespass against two Persons for carrying away Goods, &c. one lets Judgment go by Default, and the other
judges under a License from the Plaintiff, and has
a Verdict: this goes to the whole, and Judgment
shall be arrested as to the other Defendant. 2 Ed.
Reg. 1372, 1374. The Process in Writ of Trea-

psis is an Attachment and Distimage, and upon a
Return of a Writ by the Sheriff, a Causer, Alias,
and Parties shall issue; and then Exigent and Process of
Attachment, &c. New Nat. Br. 93, 203. See Ac-
tion on the Caes, and Treasures.

Form of a common Writ of Trespass.

GEORGE the Second, &c. To the Sheriff of S.
Gres, if A. B. shall make you secure, &c. then put to good and just Pledge of C. D. that he be de-
ferred our Trespassers at Wealdminster, on the Occasion of St.
Hillary, to know why with Force and Arms, upon him A. or, &c. he made an Affair, and him beat, wound-
ed, and evil treated, and other Wrongs to him did, to the
grievous Damage of the said A. and against our
Fresco and have you there the Name of the Pledge
and this Write, &c. — Or, why with Peace and
Arms, the Clofe of him A. at N. he did break, and in it
without his Leave, in many Cases, of Jacob Price, he
took and carried away, &c. Or, why the
Damage or Act of him A. at N. lastely growing, and in the Value of, &c. with certain Beasts, he eat up, tread
down and consumed; and other Wrongs, &c.

Trespasser, is one who commits a Trespass; and
though the Law allows a Man to enter a Tavern, a
Landlord to distrain on Land, &c. yet if he doth do it
by commission of itself, the Law will not
judge him a Trespasser ab initio 8 Rep. 146. But
where Persons for any Irregularity in taking a Dishes,
A. B. shall not be Trespassers ab initio; so as they make
Satisfaction for any Special Damage, vide Stat. 11.
Geo. 2. c. 19. and Dishes.

Trespassantes, (Fr.) is used for Paidgangers, by Bri-
ton, cap. 29.

Tresvivere, To turn or divert another Way; as
to turn a Road, &c. Chart. K. John.

Trespassing, (Fr.) Signifies taken out or withdrawn,
and is applied to a Juris removed or discharged. F.
N. B. 159.

Trial, (Trias) Is the Examination of a Cause, Civil or Criminal, before a Judge who has Juris-
diction of it, according to the Laws of the Land:
It is the Trial and Examination of the Point in
Iffet, and of the Question between the Parties,
whereupon Judgment may be given. 1 Ed. 12. Fin.
36. Allot is taken for the Manner and Order of Proceeding, in the hearing and determining of Matters in Difference, being diversely used, accord-
ing to the Nature of the Thing to be tried. Ibid.
And there are many Kinds of Trials; as of Matters of Fact, which shall be tried by a Jury; Matters of
Law, that are tried by the Judge; and Matters that
may be tried by the Records themselves; also some
Things shall be tried by the Bishop's Certificate;
and some by Injunction, &c. 3 Lill. Abr. 652.
Nothing that is tried by an Iffet, can be directed to
be tried otherwise: Irregularities in ining out a judg-
ment or Execution, are tried by Reference, &c.
But other Matters subseuent to the Judgment, by an
Audia Gubelia, Comber. 8, 14. In criminal Ca-
ses, it is usual to sft the Criminal how he will be
tried; which was formerly a very signifi-
quent Question, though it is not so now, because there were Trial by Battle, by Ordrels, and by Jury: And when the Offender answered the Question, By
God and his Country, it showed that he made Choice to be tried by a Jury. 3 Lill. Abr. 185. But now the Way of Trial of Criminals. Powell's Dict. It is or-
dained by Magna Charta, that no Person shall be
condemned on any Accusat. The Trial be by a nor-
sal Judgment of his Peers, or by the Law. 9 Hen. 3.
cap. 29. And the motl general Rule has been, that
every Trial shall be out of that Town, Prestwich, &c.
within
within which the Matter of Faet triable is alluded'd, or the nearest thereunto, for the better Cogitation of the Faet committed; and not to have things tried in Foreign Countries, where the Jury are strangers to the Parties, to the Writures, and the Point in Issue. 1145. But when an Indictment is found against a Person in the proper County, it may be heard and determined in another County by Special Commision, &c. 35. 35. 37. If a Subject of England be killed in a Foreign Kingdom, by an Englishman, he may be tried by the Courts of Admiralty; or by Commissioners in any County. Stat. 33. 3. 8. If any Man die here in one County, of a Wound received in another; he shall be tried by a Jury of the County where he died. And if he be tried here, it is to be there brought, and Tried by be both Counties. Stat. 34. 3. 3. 24. 3. 7. 7. 12. And if one be wounded on the Sea, or out of England, and be of the same here; or shall be wounded in England, and die on the Sea, or at any Place abroad; an Indictment may be found by Juries of the County in which the Death, or Striken, &c. has happened, and the Judge proceeded in the same as the Officers, as it the Penalty were done, Out. by Stat. 22 Geo. 1. 21. 21. An Issue being joined in R. of a Matter triable in Ireland; this shall be brought into Ireland to be tried, and after Trial be remanded; though an Issue be thus joined of a Thing in Wales, the Record shall not be sent there to be tried; but it shall be tried in the next County of which it is a part within thirty miles. 20. Hum. 2. 2. 243. If a Foreign Issue which it is local, should happen, it may be tried where the Action is laid; and for that Purpose the Plaintiff may enter a Suggestion on the Roll, that such a Place in such a Country is next adjacent; and it may be tried in R. by a Jury from that Place, according to the Laws of that Country, which may be given in Evidence and Adjudged in Action of Debt for Rent, upon a Lease made in London of Lands in Jamaica; and it was held, that where the Lessor declares upon the Privy of Enkare, the Action must be brought where the Lands are; but his otherwise when the Action is founded on the Privy of Covenant, the one being local, and the other extraordinary, as in this Case. 2 Salk. 631. In Covendants, the Action was laid in London, and Issue joined upon a Feoffment in Oxfordshire, of Lands in that Country, and the Case was tried in London; after Verdect it was objected that the Trial ought to have been in Oxfordshire, but relieved that by the Stat. 37. 2. 2. it was well tried in the County where the Action was brought; but though the Words of that Statute are, that it shall be good, if tried by the County where the Action is laid, it hath been adjudged, that must be understood of a Trial by the County, and the Issue done both ways; for otherwise it would destroy the whole Law concerning Trials by Juries. 3 Salk. 364. In the Trial of a Grant of Lands, if the Issue be whether such Grant was made or not, the Issue shall be from that Place where that is alluded to upon Demise; but 'tis otherwise of a Feoffment or Lease for Life, when Livery is made; for there it is to be given where the Land birth. 39. 38. 39. 3. 13. In Ejectments the Plaintiff ought to come always from the Place where the Lands lie, and not from the Place where the Demise is laid to be made; But that Case is help'd after Verdick. Md. Ca. 26. 9. And by the Statute 4 & 5. 4. for the Prence for the Trial of any Issue in a civil Cause, shall be awarded of the Body of the Country where the Cause was grown to be tried, if they are to be tried in London or Middlesex, and the Defendant live not forty Miles from London, eight Days Notice of Trial is to be given; and if the Defendant lives that Distance or further, he must have fourteen Days Notice from the Plaintiff, before he tries his Issue; but eight Days Notice of Trial is good at the
Clerk of Affid, or his Affidavit, delivers a Copy of the jury's Names, and the Affidavit they are to try, to the Jury; and a Bailiff being sworn to keep them without Disturbance, till they are agreed, they depart from the Bar; and when they are all agreed, they return to give in their Verdict: Then the Plaintiff is called, and if he do not appear, a Nonuit shall be recorded; but if he appears, the Clerk asks the Jury who they find, and what Costs and Damages; and he enters it on the Back of the Panel, and repeats it to the Jury, which stands in the Tally: And when the Trial is over, the Affidavit delivers to the Party recovering the Record with the Differings, and the Names of the Jury annexed, on the Back of which he indorses the Substance of the Verdict, and the Costs given by the Jury; and then upon the Back of the Record is ingrossed the Affidavit, which is delivered to the Clerk of the Rolls, and he makes out a Four Days Rule for Judgment; and when the Rule is out, if Judgment be not arrested, further Costs are taxed, and the Judgment is fit to be entered: But in Trials at the Affidavit, the Record and Differings is usually kept by the Affidavit till the next Term, when he is to be called upon for the Affidavit, and you proceed to have it marked, made out a Rule, and sign Judgment; and Judgment being entered, Execution is thereupon awarded, and Writs of Ca. Inj., Plur. Fac. Judic., &c. Issued, &c. Ibid. 100, 101. If a Trial be had the last Day of Term, or at the Sittings after the Term, or the Affidavit, Judgment cannot be given therein, till the first Day of the next Term. When a Defendant is not prepared to try his Case, upon Pension and Affidavit of the Reactions, the Court will order the Cause to be tried till another Day the same Affidavit; or in London till the next Term, on Payment of Costs: And in Cases at a Trial, the Court hears that one of the Parties is surprised, through Want of Money, and no bond from any Party on his own, they may in their Discretion put off the Trial to another Time, until such Party is better prepared. 2 Litt. 569, 610. If the Matters concluded are of great Value, or the Title in Question is difficult or intricate, on Motion the Judges will order a Trial at Bar, for the better Satisfaction of the Parties: though it is not usual to grant Trials at Bar the same Term moved for: And these Trials are appointed by the Statute of Westminster. 2, where the Cause requires Magna Examinatio; the Officers of the Court, and Barristers at Law, may sit upon a Trial at Bar after which, a new Trial is not to be granted. 2 Saughter 628, 629, 630. It had been laid down as a Rule, that after a Trial at Bar, no new Trial shall be had in any Cause, except it appear that there had been some Corruption in the Jury. 2 Car. 2. New Trials may be granted generally in several Causes, wise: where the Defendant had not sufficient Notice given him of the former Trial; or where Evidence is too great to be managed in one Term; or where great Damage is given, or costs are incurred, or where the Evidence at the former Trial, which the Party might then have produced: And it had been denied, where the Defendant forgot to bring a Settlement at the Trial's side, likewise where very large Damages were given, on the Report and Opinion of the Judge who tried the Cause, that he believed the Jury gave a Verdict according to their Consciences: And no new Trial Ball shall be granted for too small Damages; unless where Action of Covenant is brought for a Sum certain, and the jury give Damages under the same, &c. The Reason of granting new Trials upon Verdicts against Evidence at the Affidavit is, because the Trials are subordinate to the Courts; and such new Trials have been anciently granted, as appears from this: that it is a new Challenge to a Juryman to say that he had been a Juror before in the same Cause; Adjudged that a new Trial cannot be granted in an inferior Court. 2 Saughter 628, 629, 630. 3 Nef. Abr. 414, 417. 2

After a Motion in Arrêt of Judgment, the Party shall not move for a new Trial; but after Motion for a new Trial, he may move in Arrêt of Judgment. 2 Saughter 628. A new Trial is granted in Criminal Causes, where the Defendant is acquitted, if some Fraud, or Trick be not proved in the Case. Ibid. But on Convi-iction, a new Trial may be granted upon Cause; so if a Trial on Indictment be by a wrong Person, or in Cases where Appeal may be brought. 2 Litt. 606, 613. If the Affidavit tried in any Cause is not joined, it is not a good Trial; except it be an Affidavit in Chancery in the Petty-Big-Side, which is to be first from thence to be tried in B. R. Hall. 22 Car. It is a Mis-trial for a Thing to be tried before a Judge, who hath Interest in the Thing in Question; and if the Tally be tried by a Jury out of a wrong County, or there be any Error in the Proofs against the Jurors, or it is directed to a wrong Officer, &c. it is a Mis-trial, likewise where Matter of Record is to be tried by a Jury, it will be a Mis-trial; but if the Matter of Record be mixed with Matter of Fact, Trial by Jury is good. Ibid. 139. On a Mis-trial, Judgment may not be given; but shall be arrested, &c. But a Miss-trial is helped by the Statute of放假。See offic, Visit, &c.

A Record of a Trial and Judgment in Actions of Debt.

Pleas before the Lord the King at Westminster, of Hilary Term in the Sixth Year of the Reign of our Sovereign Lord GEORGE the Second, King of Great Britain, &c. Roll 20.

Somerset, E. It is to be remembered, that breviorum, to wit, in Michaelmas Term last past, came before the Lord the King at Westminster, by C. D. his Attorney, and brought here into the Court of the said Lord the King, now here held, his certain Bill against E. F. in Chancery of the Marshal, &c. of a Pound of Debt, and there were Preface, &c. in the Marshal's Office, to wit, John Doe and Richard Roe, which said Bill follows in these Words, that is to say: Somerset, E. A. B. complains of E. F. otherwise called, &c. in the Chancery of the Marshal of the Marshals of our Sovereign Lord the King, bring before the King himself, of a Pique, that be render unto the said A. Forry; of good and lawful Money of Great Britain, which be owes to him, and unjustly detained. For that, whereas the afterforesaid E. the fifth Day of June in the Fourth Year of the Reign of the Lord George the Second, now King of Great Britain, &c. at Bridgwater in the County of Somerset afterforesaid, by his Writing Obligator, sealed with the Seal of the said E. and now here shewn to the said King and Queen, the Day before is the same Day and Year aforesaid, acknowledged himselves to be held and firmly bound to the afterforesaid A. in the afterforesaid Forty Pounds, to be paid in the said A. when he should afterwards be therein required; yet the said E. upon thence often required, hath paid not the said Forty Pounds to the said A. but hitherto hath al-
King at Westminster, on, &c. (Jack a Return Day)

In the name of the King, &c. (Jack a Return Day)

and who are neither, &c. to recognize, &c. become as well, &c. The same Day is given to the said Parties before, &c. or the said King at Westminster, until the Day, &c. until the Justice of the Lord King, &c. if the Plaintiff do have, &c. if the said Justice be, &c. &c. to the Plaintiff's Order, &c. and the said Justice of the Lord King, &c. on the Day of, &c. according to the Form of the Statute in such Case made and provided, &c. before the said Jury, &c. on the Day of the Return of the Venire, &c. before the said Lord King at Westminster, was delivered &c. in due Form of Law to be executed, &c. Afterwards, (that is to say) on the Day, &c. and at the Place within contained, &c. as well the within named A. B. as the several written by. E. &c. by their said Attornies within mentioned, &c. before Sir E. Knight, Chief Justice of the said dressed, &c. and the said Justice of the said Lord King, &c. &c. appointed to hold the Affidavit in the County aforesaid, &c. before the said Lord King, &c. on the Day of the Return of the Venire, &c. before the said Lord King, &c. &c. appointed to hold the Affidavit in the County of, &c. by Power of the Writ of the same, &c. before any two of the Persons therein named, &c. the Justice of the said Lord King, &c. not being expressed in the Writs, &c. of the Jury, being sworn and Balloted, according to the Form of the Statute in such Case made and provided, &c. &c. &c. &c.

Citis in Criminal Cases. First the Bill of Indictment is preferred, &c. and the PartY of the said Party, and so bound over to give Evidence, &c. to be ordered to attend, the Grand Jury to refuse &c. on Examination of the Witnesses, &c. the Jury find the Bill of Indictment, or bring it in Ignoramus: If the Jury find the Bill, &c. the Jury is brought to the Bar of the Court; &c. the Party of the said Party, and so bound over to give Evidence, &c. to be ordered to attend, the Grand Jury to refuse &c. on Examination of the Witnesses, &c. the Jury find the Bill of Indictment, or bring it in Ignoramus: If the Jury find the Bill, &c. the Jury is brought to the Bar of the Court; &c.
Guilty of the Felony and Murder, to him in Form afteraid impaled, in Manner and Form as by the Indictment afteraid it is furthered, and that at the Time of the Felony and Murder afteraid, in Form afteraid committed, or ever after had no Good or Charity, Land or Tenements, in the Knowledge of the Jurors afteraid: Upon which the said T. W. and J. R. being generally fully sworn, if they had any Thing for themselves to offer, or could say, why the Court afteraid, in Judgment and Execution of them and their Actions, for the Banns, to be first said, and then be led, and either of them be led unto the Place of Execution, and there be hanged, and either of them be hanged, until, &c.

Tricentinitz. In the same with Tritonal. 1 Eliz. 6.

Tricentinitz. An ancient Custom in a Borough in the County of Hereford, so called, because Thirty Bargroves paid 4 d. Rent for their Horses to the Bishop, who is Lord of the Manor. Lib. Niger Heryt.

Trichingnate. The Court held for a Triching or Triching, Chart. King Hen. 4.

Triching or Trichinge, (Sat. Trichings) Contains the third Part of a County, or three or four Hundreds: Alto it was a Court held within that Circuit of the Nature of the Court-Leet, but inferior to the County-Court. Camp. 102. Magna Charta cap. 96. The Riding in Yorkshire are corruptly called by that Name, from Trichings or Trichings: And those who anciently governed those Trichings, were termed Riding Rivers, before whom were brought all Chores which could not be decided in the Hundred as far from the Hundred Court Suits might be removed to the Triching, and thence to the County-Court. Spem. See Lath-rense.

Trivium, A Word used by Merchants in Accounts, to shew that the Word Million is thence mentioned. March. Dict.

Trincity. The English Saxons denominated the Month of May Trimilibi; because they milk'd their Cattle three Times every Day in that Month. Bede.

Trinity, (Trinitis) The Number of three Persons in the Godhead or Deity; and denying any one of the Perions in the Trinity to be God, is subject to divers Penalties, and Incapacities, by the Stat. 5 & 10 W. 3. See Religion.

Trinity-Beaufie, Is a Kind of College at Dover, belonging to a Company or Corporation of Seamen, who have carried by Charter out of the City of London, and Deputy-Recorders of the City of London, and other their Fellow-Justices of the Lord the King, his Great afteraid of Priests in the same being to deliver the same, the afteraid T. W. and his afteraid P. S. R. and C. P. E. E. E. Sheriff of the City of London, after the Bar afteraid brought, in their proper Persons, and being severally asked, baw of the Felony and Murder afteraid they would acquit themselves, the said T. W. faith, That he cannot deny, but that he is guilty of the Felony and Murder afteraid, to him in Form afteraid impaled, and the said Eason, is a Man of his life's confiure, and thereof possess himself, upon the Mercy of the King; and the said J. R. faith, That he of the Felony and Murder afteraid, is himself in Form afteraid impaled or charged, is Left, and stands here for God and his Part within upon the Country: Therefore immediately cause a Jury thereof to come, &c. And the Jurors of the Jury afteraid, by the Law of the City of London, to this impanelled being called, that is to say, L. M. N. O. P. R. S. T. &c. came to to say the Truth of and upon the Premisses, to the said J. R. impaled, chosen, tried and proven, joy upon their Oaths, that the afteraid J. R. is
the Panel of True, or any of them, be just or not.

44. True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.

True.
TR

may have TROVER for the Goods of the Teller: the Law gives him a Property, which draws the Possession to it, though there be not an actual Possession. Lawfully a Rape is a Right of Property in the Goods, or a lawful Possession, &c., which is to be proved by the Plaintiff in TROVER, before the Goods came to the Defendant's Hands: And if a Man by his own Hands or by his Goods left in the Hands of another, if he bought them in open Fair or Market; this alters the Property, and he cannot recover them. 1 Inf. 496. 1 Dowa. 93. The Plaintiff declared on a Conversion of his own Goods, the Defendant judg'd, that the Property of the Goods was in B. E. who sold them. This was a good TROVER to justify the Conversion without a TROVER, unless the Goods had been fold in the Market. 1 Lem. 291. In TROVER, the Plaintiff may declare upon a Conversion of his own Goods. The Plea on the Defendant's Part is commonly Not guilty, on which the special Matter may be given in Evidence, to prove the Plaintiff hath no Equity of TROVER or other Right of Property to the Thing in Controversy: If the Defendant pleads a special Plea, he must confess and avoid, or traverse the TROVER; the Plaintiff must prove a Bult 1243. Inf. Wood's Case 540. The Defendant in TROVER may plead Not guilty, and give in Evidence, that he disfraised the Goods, and detained them till he was paid; but he cannot confess, especially not that he took the Goods by Defraud, or that he detained them as a Hoit till paid for Horses flarding, &c., for the Detainer being lawful, the Conversion is confessed; though if he pleads a Matter which confounds a Conversion, and avoids it, the Good. 1 Tel. 198. 2 Salk. 654. A Man puts out Cattle to Pasture at so much per Week; and then tells them to the Plaintiff, who demands the Cattle, but the Defendant refuses to let them go till paid for a TROVER well lies, and the Defendant's Remedy must be by Action for the Money due to him for depreciating the Cows; as he may not maintain for the Money, as in Case of an Inkeeper, or a Taylor, of Things in their Custody. 1 Cr. Cas. 27. 2 Litt. 632. In TROVER for a Bond, the Plaintiff need not shew the Date; for the Bond being lost or converted, he may not know the Date; and if he should lay out the Date, and mistake it, he would fail in his Action. Cr. Cas. 262. If the Defendant find the Bond, and receive the Money, Action of Account fitteth against the Receiver, and not TROVER. Cr. Cas. 243. The Plaintiff in Action of TROVER alleged, that such a Day and Year he required the Defendant to deliver the Goods, but he refused and converted them to his Own Use; though he shewed no Day or Place as the Day and Place were alleged of the Receipt and Refusal, it was held sufficient. Cr. Cas. 162. But the Place of Conversion must be generally mentioned in TROVER, or it will be found, Cr. Cas. 78. 97. And yet where the TROVER of Goods is in one County, and the Conversion in another County, the Action brought for these Goods may be laid in the County where the Conversion was, or in any other County, as it is only a transitory Action; and neither the Place of TROVER, nor Conversion, are traversable. Pag. 25. 2 B. R. If Goods were converted then in Plaintiff, and a Conversion afterwards; the Husband and Wife may join, and it will be good. 2 Lev. 109. 1 Barri. 464. E. Pennington, stating forth that they converted the Goods to the Use of the Husband; for the Feme may be a TROVERER, and convert them to the Husband's Use, or the Use of a Stranger, but not to her Own Use; and if the Conversion be laid ad usus of her self and Husband, or ad usum program, &c., it will not be good. Cr. Cas. 494. In TROVER the Plaintiff may lay a Conversion here, and prove it in TROVER; his otherwise in TROVER quae Clavem friget, for there the Party cannot prove the Trefpa but where it lies, nor lay it in any other Place than where it lies. 31 lev. 152. 2 B. R. 92. The Action of TROVER or Detain, at the Plaintiff's Election, may be brought for Goods detained; for it is but Justice that the Party should have his Goods detained if they may be had, or else Damages to the Value of the Detaining and Conversion of them. 1 Litt. 461. And TROVER or TROVER, lies for the same Thing; though they cannot be brought in one Declaration; And the Allegation of the Conversion of the Goods in Trefpa, is for Aggravation of the Damage, &c. Cr. Tref. 172. Lawes that Measure not lie nor take numbered; but TROVER and Conversion lies for it: For though in the Finding and Converting generally, the Money of one Person can't be distinguished from that of another, all Money being alike; yet the Proof that the Plaintiff lost, and Defendant converted so much, maintains the Action, if the Verdict finds it. 2 B. R. 208. Where Money is given to a Person on a Condition, though it be given in Bills, Actions of TROVER will lie; because this Action is not to recover the Money, but Damages. Pag. 91. 3 Salk. 165. In Case a Master delivered Cows to his Servant to sell, who does and converts the Money, the Master may bring TROVER against the Servant; 2 B. R. 107. 1. Bll's Rep. 19. And where an Ap- prentice goes into the Service of a Master which he hath a Right of TROVER of Money he earns, if the same be refused Payment, Cr. Mead. Cas. 69. There is no paper Plea in an Action of TROVER, unless there is no paper in it; and then if it lies, but the General Issue Not Guilty; on which the Defendant may give Evidence that the Goods or Money were not the Plaintiff's. 1 B. R. 109. TROVER lies not for any Part of a Portion; but if Doors fall &c. are removed and converted, it will lie. Wood's Case 540. In TROVER, the Defendant may not wage his Law, as he may in Detain, whereof it is often taken Place of that Action. 

Trop-Height. (Pandus Tropus) A Weight of twelve Ounces to the Pound, having its Name from Tropus, a City in Champagne, whence it first came to be used here. 

Truce, (Tragoc) A League or Cession of Arms; and anciently there were Keepers of Truces appointed by King Edward 3. and continued by Commission two Keepers of the Truce between him and the King of Scots, with this Clause, No volunteer Truagm pro- clamation quantum ad assisted, &c., Cr. Scot. Soci. 10 Ed. 5. Vide Conformators of the Truce. 

Truce-Corn. (Trugum Frumentum) Is a Measure of Corn; and at London, at this Day the Vicar hath Truce-Corn showed weekly, as the Day and Place whereof is at some Chapels of East within that Parish. Liber Niger Hery. 

Trutters, A Trunk fet in Churches, to receive the Obligations of Pious People; of which, in the Times of Popery, there were many at several Altars and Images, like the Boxes which since the Reformation have been placed near the Doors of Churches for receiving all voluntary Contributions for the Poor; and the Company Free will Offerings that were dropped into those Trunks, made up a good Part of the Endowment of Vicars, and thereby oftentimes rendered their older better than in their Trunks, Vide Parens. 


Trufts, A Trust or Bundle of Corn; mentioned among the customary Services done by Tenants. Car- toler, 3. Edmond. 6. 

Trufts, (Fiducia, Confidencia) Is a Confidence which one Man repays in another; and it a Person in whom a Trust is reposed, breaks or does not perform the same, the remedy is by Bill in Chancery. The
the Common Law generally taking no Notice of
Trouw. 2 Litt. Abr. 624. A Trouw and a Uf were all one at Common Law, till the Stat. 27 H. 8. which decaugnone the french word Trouw, for which see 8 Plowden, 197, and 109, where the Answer is, that Trouw is but a meaning Convention by Way of Trouw, was invented to evade the Statute of Uses; and these Conventions are not so much for the benefit of the Grantor, as for the benefit of the Grantee or the devisees of the Grantor. Par. 49. 20 Car. 2. 14. Declarations and Creations of Trouws, of Lands, Tenements or He-reditaments, are to be in Writing, signed by the Party empowered to declare such Trouw, Sec. 29. Car. 2. c. 3. In the Explanation of this Statute, it is provi-
ded, that this shall not extend to referring Trouws, or
Trouws arising by Implication or Construction of Law;
which shall be of like Force as before that Act. 44
5 Ann. And there is a Statute by which Infants
failed of Estates in Fee in Trouw, may make Convey-
ances of such Estates, by Order of the Chancery. 8
Ann. If a Man buys Land in another Peron's Name, and
pays the Money for the Lands, this will be a
Trouw for him that paid the Money, though there be
not a Deed of the land, by the Method of the Statute
of Frauds extending not to Trouws raised by Implication of
Law: And a bare Declaration by Parol, on a Deed
alligned, may prevent the referring Trouw to the Ac-
gressor. 2 Pauc. Rep. 291. 1 Penn. 394. Where
there has been fraud in gaining a Conveyance from
another, that is a Reason of making the Grantee con
solidated, but the Statute of Frauds, 2 Ch. 152. 29
Car. 2. relates only to equitable Trouws and Interests, and
not as Uf, which is a legal Estate. 1 P. Williams 113.
There are only two Kinds of Trouws by Operation of
Law: one where the Deed or Conveyance has been
made in the Name of one Man, and the Purchase-
Money paid by another; or where the Owner of an
Estate has made a voluntary Conveyance of it, and
declared the Trouw with regard to some Part to be
for another Person, but has been silent as to the other
Part, in which case he himself ought to have the
Benefit of that, being plainly his Interest. Barn-
hard. 328. Trouw Estates are generally governed by
the like Rules, and within the same Reason, as le-
gal Estates; for there ought to be a like Rule of
Property in all Courts, to avoid Uncertainty: There
shall be a Tenancy by the Curtesy, Gr. of a Trouw
Estate; but of such an Estate a Woman shall not be
endorsed. 1 P. Williams 109. Tatel's Caf. 130. See 2
P. Williams 147. A Fine and Recovery of Cefait que
Trouw shall bar and transfer a Trouw, as it
should an Estate at Law, if it were upon a Con-
fronsion. Sec. 89. In Equity Trouws are to be re-
garded, that no Act of a Trouw will prejudice the
Cefait que Trouw for so much as though a Purchaser, for valuable
Consideration, shall have his
Title any Ways imperished, yet the Trouw must
make good the Trouw: But if he purchases, having
Notice, then he is the Trouw himself, and shall be
unanswerable. Ab. Caf. Es. 534. Where Trouws in
a Settlement, with Tenant for Life in any Con-
voyance, to defeat a Remainder, before it comes in
even; this is a plain Breach of Trouw; and those as
claim under such Deed, having Notice of the Trouw,
will be liable to make good the Estates. 2 Salt. 680.
Yet in case a Trouw joins with Cefait que Trouw in
Tall, in a Deed for bar, it is more than he may be
compelled to, 'tis no Breach of his Trouw. 1 Cham. Caf. 49. 213. It has been de-
cided, that a Trouw for a Son, Gr. the paid with the
Land bought, and whose Hands forever cost, which cannot be
not be defeated by any Act of the Father or Trou-
wee. Though a Husband and Wife, have no
Children in many Years, and they and the Trouws
agree to sell the Land willed, Gr. it will not be
181. A Tormor grants his Lands in Trouw for himself,
for Life, and to his Wife for Life, and after to
his Children for their Lives, and then to A.B. This
Trouw to A.B. is good; though it had been to the
Heirs of their Bodies, it would be otherwise: And a
Trouw of a Term, which runs to a Term of life,
without knowledge of the Person, has been decreed a void Limitation. Chanc.
Rep. 320, 249. If a Husband makes a Lease for Years, in Trouw for his Wife, he may sell it, as a
Trouw, but the Vendor will bind him: But when a Trouw is first created for a
Wife been be, he cannot sell it, unless the join in a
Fine. Ibid. 307, 308. It has been adjudged, that one Term is forfeited in Trouw for a Jointure on a
Wife, or in Purse of Marriage Articles, or if the
Term of the Wife be alligned by her before Mar-
riage; the Husband can neither charge or sell it,
Gr. though if the Affidavit is made after Marriage
in Trouw for the Wife, it is then voluntary and fra-
dulent. Ibid. 215. A Trouw to pay Portions, Lega-
cies, &c. out of the Rests and Profits of the
Estate, at a Day preixed, gives the Trouwever Power to sell
if the annual Profits will not do it within that Time,
then they may sell the Land, being within the In-
ception of the Trouw. But this case is not to
be applied to the Money, except it be to be paid at a certain Time.
Ibid. 176. A Trouwe for Sale of Lands for Payment of Debts, paying Debts to the value of the
Estate, and thereby becomes a Purchaser himself. Ibid. 109.
Where a Trouwe for paying Portions, pays one Child his full Share, and the Trouw Estate decay, he shall
not be allowed, as the Payment was not, 1 Cor. 132. 2 Ch.
8. 32. Where one devide Lands to Trouws until their Debts are paid, with
Remainder over, and the Trouws misapply the
Profits, they shall hold the Land only till they might have paid the Debts, and then
thereafter, one child
supplied: and after that the Land is to be discharged, and the Trouws are only answerable. 1 P. Williams
519. And a Person having granted a Lease of Land to
Trouws, to pay all the Debts which he should owe at his Death, in a just Proportion, with-
out any Preference; it was here decreed, that the
Simple Contraft Debts became as Debts due out of Mort-
gage, and should carry Interest. Ibid. 229. Trouw of a
Fine simple Estate, or Fee tail, is forfeited by Trea-
son, but not by Felony; for such Fortrime is a
Way of Echest, and an Ech作战 cannot be but be-
there there is a Defect of a Tenant: and here is a Tenant
Hard 405. See Tenn. Cent. 244. A Trouw for a
Term is forfeited to the King in Case of Treson or Felony; and the Trouws in Equity shall be com-
pellier to ally to the King. Cro. Ten. 513. If a
Bond be taken in another's Name, or a Lease be
made to another in Trouw for a Person, who is after-
wards convicted of Treson or Felony, they are as
much liable to be forfeited as a Bond or Lease made in his own Name, as if it had been
bound by 2 Ch. Car. 2. 1 P. 144. There is a
Trouw of Trouws in Servants, going away with their
Masters Goods delivered them, Gr.

Trussiffs of Papilla. Are disabled to make Pre-
Ten. A Measur containing forty Pounds Weight of
Tea; and from Fifty-six to Eighty Pounds of
Cambridge; 8. March Dist. 3.
Tambrett, (Tambrellum) An Engine for Punish-
ment and Correcion of Scolds. Kitch. 73. See Car-
kingwell.
Curt, (Sax.) In the End of Words signifies a Town, or Dwelling Place.

At the Lit. of Wine and Oil, being four Hogsheads, 1 R. g. c. 1. 2 A Ton of Timber is a Measure of forty solid Feet, cut to a Square. 12 Car. = 1 Ton. And a Ton of Wines composed of 1000 Pounds of Goods, Sec. by Stat. 12 G. 10 W. 15. c. 13.

Turkis, (Venician) Is a Custom or Import granted to the Crown for Merchandise imported or exported, payable after a certain Rate for every Ton thereof. Stat. 12 Hen. 4. c. 3. 6 Hen. 8. c. 14. 1 Ed. 6. c. 13. 12 Car. c. 2. c. 4. See Coffains.


Turbarie, (Turba, from Turba, an obsolete Lat. Word for Turf) Is a Right to dig Turfs on a Common or in another Man's Ground. Kirk. 94. Alto it is taken for the Place where Turfs are digged; And Turbs had been used for the Turfs; and Turba for the Turf. See Turkis.

Turkis Company of Merchants, having divers Carriers abroad, and which carry on great Trade to Turkis, is, in the Time of Queen Elizabeth. See Merchant.


Turke, Is the King's Lost through all the Country; of which the Sheriff is Judge, and this Court is incident to his Office; wherefore it is called the Sheriff's Turk: And it had its Name originally from the Sheriff's Taking a Court or Circuit about his Shire, and holding this Court in several Places; for the Word Turk properly taken, doth not signify the Court of the Sheriff, but his Pasambolization. Compl. turf. 250. 4 Inst. 250. 2 Inst. 250. 2 Inst. P. C. 55. The Turk is a Court of Record; and by the Common Law, every Sheriff ought to make his Turk or Circuit throughout all the Hundreds in his County, in order to hold a Court in every Hundred for the Redressing of Common Grievances, and Pre-

vention of the Peace; and this Court might be held at any Place within the Hundred, and as often as the Sheriff thought fit: But this having been found to give the Sheriff too great Power of oppressing the People, by holding his Court at such Times and Places, at which they could not con-

veniency attend, and thereby increase the Number of his Amertemente; by the Stat. of Magna Chart. c. 27, it was enacted, that no Sheriff shall make his Turk through a Hundred but twice in a Year, viz. once after Easter, and once after the Feast of the Nativitas Domini, at the Places assigned. Also a subsequent Statute ordains, That every Sheriff shall make his Turk yearly, one Time within in the Month after Easter, and another Time within in the Month after Michaelmas; and if they hold them in any other Manner, they shall lose their Turk for that Time. 37 Ed. 4, cap. 15. Since these Statutes, the Sheriff is indefinable for holding this Court at another Time, then what is therein limi-
ted, or at an unusual Place: And it hath been held, that an Indictment found at a Sheriff's Turk, ap proving to have been held at another Time, is void. Dall. Sib. 350, 151. Dry. 131. 38 Hen. 6.

At Common Law the Sheriff might proceed to hear and determine any Offence within his Jurisdiction, being indicted before him, and requiring a Trial, till Sheriff were restrained from holding Pleas of the Crown by Magna Chart. c. 17. But that Statute doth not refrain the Sheriff's Turk, from taking In-
dictments or on a Warrant or Indictment, for several Offences thereto; though the Power of awarding such Proces being abdicated, was taken from all the Sheriffs (except both of London,) by the Ed. 4, c. 2, and laye

ed in the Justices of Peace at their Sessions, who are to award Precises on such Indictments delivered to them by the Sheriff, as if they had been taken before themselves. Ed. 6, c. 7. A Sheriff's Power in this Court is still the same as antici-
cently it was, in all Causes not within the Statute above mentioned for a Judge of Records, and may inquire in his Turk of Trespass and Felon-
ies, by the Common Law; as well as in the lower Offences against the King, such as Purpasures, Sei-

fors of Trespass-Tres, of Waifs, Estrays, Goods wreck'd, &c. All common Nuisances and Annoy-
ances, and other such like Offences; as filling cor-

rupt Vehiculars, breaking the Alleie of Beer and Ale, or keeping false Weights or Measures, are here in-
dicable; also all common Disturbances of the Peace, Barratrous, and common Opprobriums; and all dange-

rous and injurious Persons, &c. And the Sheriff in his Turk may impose a Fine on all such as are guilty of Contempes in the Face of the Court; and upon a Suitor to the Court making Default, or refusing to be present in the Court, or on a Bailiff not making a Panel; on a Riding-man neglecting to make his Prenticeship; or a Peron chose Contable refusing to be sworn, &c. And he may amend for Offences; which Fines and Impositions are liable and recoverable by Dilectis, &c. Jud. 98, 60, 67. But notwithstanding this it has been observed, that this Part of the Business of the Turk, is for some Years past, through the Negligence of Sheriffs and Sewardes, devolved on the Quarter-Justes. Wood's Inft. See County Court and Court-Let.

Turkis, Becomes a躅, is a Way that lies for those that are called to the Sheriff's Turk out of their own Hundred. Reg. Org. 173.

Warrighees, There are Statutes continually made for creeting Turkeys for Repairing of Ways; empow-

ering Justices of Peace and other Commissioners to appoint Surveyors of the Roads to amend the same; and also Collectors of the Toll at the Places where the Turkeys are set up; which Toll is generally a s. or f. for Coach or Waggon, and f. 4. for every Horse; &c. and the Money collected is to be paid weekly to the Surveyors, who are to account to the Justices, &c. Perons driving Horses or other Cattle through any Grounds adjoining to the Ways, to avoid the Toll, shall forfeit 10 s. And if any Peron willfully and maliciously breaks down or destroys any Turkeys Goal, &c. he shall be sent to the common Goal for three Months; and for a second Off-

cence, the Offender shall be imprisoned. The Offender shall be imprisoned. Stat. 8 Geo. 1. c. 5. 1 Geo. 2. c. 25. Perons maliciously pulling down, plucking up, or otherwise destroying the Swarding Roads. Wood's Inft. See Beams, Bars, &c. or Hoole erected for the Use of such Turkeys, or who shall refuse any Person in Custody for such Offences, shall be guilty of Felony, without Benefit of Clergy; and the Inhabitants of the Hundred are to make Satisfaction for Damages, &c. but to be made good to them, if any of the Offenders are convicted in twelve Months. If any Peron alights any Collector of the Toll, or by Force passes through a Turkeys Goal, without paying, he shall forfeit s. 1. liable by Justices; and the like Penalty is inflicted on Collectors, refusing to receive Warrants of Commissioners, &c. 8 Geo. 2. c. 20. Where any Peron having paid Toll, at a Turkeys Goal, gives his Ticket to another, that he may avoid pay-

ing the same, both the Peron giving and receiving it, are liable to a Forfeiture of 10 s. on Conviction be-

fore the Commissioners, or a Justice of Peace. 15 Geo. 2. c. 25. And by a late Statute, the Trusters or Commissioners are to receive, with several Weights and Measures, all Carriages that pass through any Turkeys Goal with their Loading, and take over and above the Toll 20 s. per Carriage, which weighs about 15 Pounds Weight: The Money to go towards making
the Ways, and be levied by Diftreb in like Manner as the Perdering under the manner of weighing before being imprisoned three Months, and forfeit to 10l. upon Oath made thereof by one Witness before the next Justice, &c. Stat. 14 Geo. 2. c. 42. By the Stat. 21 Geo. 2. c. 38. The Condemnation in such cases may be issued upon any Part of the Road, at such Distance from the Turnpike as they shall think requisite. And if any Person shall take any Part of the Goods before the Wagggon, &c. comes to the weighing Engine, in order to avoid Payment of the Duty, 100l. per 100 Pounds, he shall forfeit 20l. Turnp. (Fr. Turn.} Mentioned in the Stat. 24 H. 8. c. 13. See Turnp. Turnip. The Statue relating to, 10l. & 14 Car. 2. c. 4. Vide Schonmaker. Turnip, Signifies a Wood grubbed up, and converted to arable Land. Co. Lit. 4. Turnip-field, (Lupiis durum Nudiss.} Was a Guest at an Inn a second Night; and if he did any Injury to any Person, he was to answer for it himself; and not his Host, as in Case of a Third Night's Accommodation, &c. Sax. Lit. 12. Turnspint, (Sax.) The highest Rank of Men, in the same Government, who were valued at 1200 Shillings; and if any Injury were done to such Persons, Satisfaction was to be made according to their Worth. Leg. K. Alfred, cap. 12, 13, &c. of K. H. 1. c. 76. Turnspirt Men, (Duxdim huncis leges.) Is a Number of rouced Persons or upwards, by whom and whole Oath as to Matter of Fact all Trials pass, both in Civil and Criminal Causes, through all Courts of the Country, under the Laws, as well as to maintain themselves, live idle, and refuse to work for the usual Wages; and all Persons going from Door to Door, or placing themselves in Streets, &c. to beg in the Parrishes where they dwell, shall be deemed idle and disorderly Persons. All Persons going about as Patent Gatherers, or Gatherers of Aims, under Pretences of Love by Fire, &c. or as Collectors for Persons, &c. all Fencers and Bearers; all common Players of Interlude, and Persons who for Hire, Gain or Reward, pretend or perform, or cause to be affted, &c. any Interlude, Tragedy, Comedy, Opera, Play, Farce, or other Entertainment of the Stage, or any Part therein, not being authorised by Law; all Minstrels, Juglers; all Persons pretending to be Gypsies, or wandering in the Habit or Form of Egyptians, or pretending to have Skill in Physiognomy, Palmarzy, or other crafty Science, or to tell Fortunes, or using any false Craft to deceive and impose on a Person by playing or betting at any unlawful Games or Plays; and all Persons who go about and leave their Wives and Children, whereby they become chargeable to any Parish; all Pedlars not duly licensed; all Persons wandering abroad and begging, pretending to be Soldiers, Maritiers, or pretending to go work in Harvell, not having proper Certificate; and all other Persons wandering abroad and begging; and all Persons going from Door to Door, or placing themselves in Streets, &c. to beg in the Parishes where they dwell, being apprehended for the same, shall be seized, shall be deemed Rogues and Vagabonds. All End gatherers offending against the Stat. 13 Geo. 1. c. 23. being convicted; and all Persons apprehended as Rogues and Vagabonds, and escaping or refusing to go before a Judge on Oath to be examined upon Oath before such Justice, or refusing to be conveyed by Oath, or giving a false Account of themselves after Warranting of the Punishment, and all Rogues or Vagabonds breaking or escaping out of any House of Correction, and all Persons who having
having been punished as Rogues and Vagabonds shall again commit any of the said Offences, and Offenders against this Act having Children with them, and such Children being put out Apprentices or Servants pursuant to this Act being again found with the same Children, shall be deemed inscribable Rogues. The Punishment of idle and disorderly Persons is Commit to the House of Correction, there to be kept hard Labour, not exceeding a Month. Rogues and Vagabonds are to be publicly whipt or sent to the House of Correction until the next Sessions, or any less Time, and after such Whipping or Commitment may be paid to their just legal Settlement or Place of Birth, or if under fourteen, and have a Father or Mother living, to the Place of Abode of such Father or Mother. And if committed until the next Sessions and adjudged a Rogue or Vagabond, the Justices may order him to be kept in the House of Correction to hard Labour, not exceeding two Years nor less than six Months, and during that Time he shall be corrected, and after such Times and Places as the Justices shall think fit, and may then be paid as aforesaid: But if a Male, and above the Age of twelve Years, the Justices before his Discharge may send him to any Workhouse in the King's Service, either by Sea or Land. If before the Expiration of his Commitment he shall escape from the House of Correction, or be released again in the like Manner, he shall be deemed to be guilty of Felony, and transported for any time not exceeding seven Years. Any Person may apprehend and carry before a Justice any Persons going about from Door to Door, or placing themselves in Streets, Highways or Passages to beg Alms in the Parishes where they dwell, and the Justices may order the Overeters of the Poor to pay such Persons 5d. for every Offender, which on Refusal of Payment may be levied on the Overeters' Goods. Any Person may apprehend an Offender against this Act, and carry him before a Justice. A Contable refusing or neglecting to use his endeavour to apprehend any such Offender shall forfeit not exceeding 5s. nor less than 10s. to the Use of the Poor, to be levied by the Dillick. And any other Person charged by a Justice of Peace to apprehend such Offender, refusing so to do, shall forfeit 10s. A Justice may order the High Constable to pay to any Person, whether a Contable or not, who shall apprehend any such Offender, 10s. for every Offender. The Justices are four Times in the Year at least, to cause a general privy Search for Thieves in all the Places and Houses of the apprehending Rogues and Vagabonds. To prevent Expences in palling Rogues, Vagabonds and inscribable Rogues, the said Justices may deliver, to the Officer directed how they are to be conveyed, whether in a Cart, by Horse, or on Foot. The Contable is to convey such Person in such Manner and Time as the Pal is directed, the next direct Way to the Place where such Person is ordered to be sent if in the same County, &c. but if another County, &c. he shall deliver the Person to the proper Officer of the said Town in the next County, &c. in the direct Way to the Place where such Person is to be conveyed, together with the Pal and Duplicate of Examination, taking his Receipt for the Same; and such Officer accordingly to apply to a Justice of Peace in the same County, who is to convey the Person to the first Parish, &c. in the said County, and so in like Manner from one County to another, till they come to the Place where such Person is sent: And if the Officer who shall receive such Person there, shall think the Examination to be false, he may carry the Person before a Justice of Peace, who, if he see Cause, may commit such Per-
VA

VA

Of the Writ before he shall have any Advantage of the Variance, because the Writ and Declaration are not upon the same Roll; and therefore if the Defendant plead to it without demanding Over, on Demurrer Judgment may be for him to answer over, Gr. 3 Salk. 563. If to the Impression Roll the Declaration is in Debt, and in the Plea Roll 'in Trespass,' this is such a Variance, that if the Plaintiff hath Judgment it shall be reversed. 1 Bost. 229. When a Contract is in issue, an Action of Debt cannot be brought for Part of the Money, without showing how the other is satisfied; if it be, this Variance from the true Debt will make it ill. 1 Salk. 440. In Writ of Error in the Exchequer-Chamber to remove a Record out of R. & C. of a certain Trespass the Husband and Wife had done, the Record certified was of a Trespass done by the Woman alone, and for this Variance the Writ was abused, and the Record judge not removed. Sid. 269. 5 Salk. 369. If a Lease be alleged to be made by two Persons, and it appears on Evidence they were Tenants in Common, and to severalLeases; it is a material Variance: But on its appearing that the two Leases were Coparceners, it will be otherwise, for it is there a Lease of both, 1 Salk. 719. On Variance in the Persons or Number of Acres, Gr. between a Fine and an Indenture to lead the Uses; if the Party averse, there was not any other Consideration, or New Agreement, but that the Fine was levied according to the Uses and Intentions mentioned in the Indenture, it is good. 5 Rep. 25. Variance in Names, Gr. how supplied by Averment, that a Man is the same Person, and in Order of Office, Gr. see Averment and Parol. Vide Amendment.

Walfal (Vaffalus) In our ancient Customs figuring a Tenant or Peadantary; or Person who vowed Fidelty and Homage to a Lord, on Account of some Land, Gr. held of him in Fee; also a Slave or Servant, and especially a Domestick of a Prince. Da Cope. F. Salk. has it said to be the Writ of Fidellity, as the Paval is inferior to his Master, and must serve him; and yet he is in a Manner his Companion, because each of them is obliged to the other. 

Walfalstrict, Signifies the State of a Fidell, or Servile and Dependency on a Superior Lord: Leges Paffalii only belonging to the King.

Walfeltrita, Was the Tenancy or holding of Walfalls. Counsel.

Walfal, Is a Writ that lies against Tenants for Term of Life or Years, committing Wakes. F. N. B. 55. Gr. Rep. Orig. 32. See upon Wakes.

Walfalum, A Writ of Common lying open to the Castle of all Tenants who have a Right of Commoning in Paroch. 


Walfalory, (Vascularia) The Lands that a Fidell held. Bract. lib. 3.

Walemoney, The Tenants within the Manor of Bradford in the Country of Wils, pay a yearly Rent by this Name to their Lord, in lieu of Feed paid formerly in Kind. 

Weltigist Judicarium, Is applied to Money or Fines paid to the King, to defray the Charge he is at in maintaining the Courts of Justice, and Provision of the People. 1 Salk. 13.

Weltur, (Velturii, from the Fr. Veler, i.e. cere.) Are such Persons as are sent by the Court to take a View of any Place in Queston, for the better Decision of the Right thereof: And it is used for those that are appointed to view an Offense: as a Man murdered, a Woman ravished. Gr. Old Nat. Br. 112. Bract. lib. 5.

90

Welturatus
One who leads Greyhounds, which
Dogs in Germany are called Welshers, in other
Places are known as Cougar or Courser, &c. And Lands are held per ferocium inveniendum,
For coluerunt Caen ac Douay, &c. Boneo's Tenures, &c.

A View or Piece of Hang-

Vestiar, Are those Beasts which are caught in the Woods by hunting. - Leg. Carol. 1046.

Statute. In the Statute of Charles de Forfei signifi-
Veritas, in Fr. Vérité: It is called Vérité, of the Motes whereby the Beasts are taken, quamvis
En Vérités cognoscent, and being hunted are not whole;
And in the Law, are termed Beasts of Favour, (not Favers) because they are gotten in Hunting.

Antecedent exposition, is a judicial Writ, directed to
the Sheriff, commanding him to sell Goods which he hath formerly taken into his Hands, for the Satisf-

A Writ to Favour, as it is called Veniuntis in execution, and returns that he hath done, and cannot find Buyers; or if he do find them, the Party, on whose behalf the Writ Veniuntis exposition shall issue to the Sheriff, to make Safe of the Goods, and bring in the Money.

If a Superfetation or the Sheriff shall have been
For him to have been in part executed a Writ of Execution, he may afterwards be authorized to go through it with a Veniuntis exposition; as he may also, if the Case after a Writ of Error. Dyer 98.

Civil. Exn. 597. 1 Roll. Abr. 894.

Recapitulation. The King's Salesmen: being the Persons who exposed to Sale Goods and Chattels forfeited or stolen, or whose Action of a Favour to the King: This Office was granted by King Ed. 1. to Philip de Lardiner, in the County of York. Its good
And a great many Arrears stand at Mandatum Vex-
comites de loco in loco infra Com. prad. Immittas, suis ad pridid. Veniuntis facultatibus, & capiat de aequaqueque
Veniuntis pro festo sanx. deo. But the Office was
feated into the King's Hands for the Abbe thereof.
Ann. 2 Ed. 2.

A Writ, used for a Kneeling or low Prolation on the Ground, by Preachers. Walley. 178.

A Writ to Favour, is a Writ judicial awarded to the
Sheriff to cause a Jury of the Neighbourhood to ap-
pear, when a Case is brought to issue, to try the same; and if the Jury come not at the Day of this Writ, then there shall go a Habebus Corpora, and after a Differs until they appear. Old Nat. Br. 157. But if a Favour omits Part of the favour to be tried, or any of the Parties; if a Jury is named in the Habebus Corpora, by a Name different from that in the Favour; or a Jury return'd on such a Panel is omitted in the Habebus Corpora, or a Favour or Differses are issued withou-
t any Award on the Roll to warrant them; it will be ill, and is said to be a Difcontinuance. 2 Hand. P. C. 928, 929. A Favour facias ought to be de ali-
quais Vicinissi., and Favour de Falcunam Gratia, is good
without naming of the Parish within the City out of which the Jurors are summoned. 2 Litt. 633, 635.

Though it hath been held, that the Favour facias may be of a Town, Parish, Manor, or any Place known, called a Lira Canis; but not of a City, or County. Exn. Lib. 260. And yet where a Favour cannot come from a Vill, Hamlets, &c. there it might be de Cor-
poris Comites, to prevent Failure of Jurie, before the Statute 4 & 5 Ann. By which Act a Favour facias
may be from the Body of the County, &c. In an Island or a County for any remaining real, a Judge, when it was held, that the Attorney General might take a
Favour to any adjacent County; and that it might be

Sheriffs, safely to keep her in such a House, and that the Doors should be well guarded; and that every Day they should cause her to be viewed by some of the Women named in the Writ, and when she should not be delivered, that some of them should be with her to view her Birth, whether it be Male or Female, to the Intent that there should be no Falsity: And upon this Writ the Sheriffs returned, That they had caused her accordingly to be kept and viewed, and that the same Day she was delivered of a Daughter. 6 Salk. 566. In the 2nd Year of K. James the 1st. The Widow of one Diamond married within a short Time after the Death of her first Husband, and his Conund and Heir brought the Writ Venire ad recipiendum directed to the Sheriff of L. who returned that he had caused her to be searched by such Marshals who found her with Child, Ex qua parte facta futur in such a Time; and thereon it was prayed that the Sheriff might take her into his Custody, and keep her till she was delivered, but because the mother lived with her Husband, they would not take her from him; but he was ordered to enter into a Recognizance not to remove her from his Dwelling House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarum. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarium. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarium. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarium. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarium. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.

Vestiarium. (Vestinarum, or Vestiarum) is taken for a neighbouring Place, Lucas was a Vicar of a House, and a Writ was awarded to the Sheriff to cause her to be inspected every Day, by Two of the Women which he had returned had searched her, and that Three of them should be present at her Delivery. 8 Ch. 74, 685. These two last Cases are notable Precedents of the Form of Perfecting the Writ: And where Women complained for Children, who plead for their Mother, being present to be with Child, are to be viewed and tried by a Jury of Mastors, see Report.
Wertstift. (Perdistium, quae dixerunt Perdisti.) Is the Answer of a Jury given to the Court, concerning the Master of Fact in any Cause committed to their Trial; whereas every one of the Twelve Jurors must agree, or it cannot be a Verdict; And the Jurors are to try the Fact, and the Judges to adjudge according to the Law that ariseth upon it. 2 Co. 285. Verdicts are either General, or Special: A General Verdict is that which is brought into the Court in like general Terms to the General Issue; as if a Defendant pleads Not guilty, or no Wrong, then the Issue is general, whether he be guilty, or the Fact be a Wrong, or not; which being committed to the Jury, they, upon Confirmation of the Evidence, say for the Plaintiff, that the Defendant is guilty of a Wrong, or for the Defendant, that it is no Wrong, &c. A Special Verdict is where they find the Matter at large, according to the Evidence given, that such a Thing is done by the Defendant; and declaring the Course of the Fact, as in their Opinions it is proved, pray the Judgment of the Court as to what the Law is in such a Case. 3 S. P. 2. & Hil. 4. sa. And a Fact may be found specially, sae. Where a Person is indicted of Murder; the Jury may bring him in guilty of Manslaughter, &c. Or they may leave the Matter to the Judges, in which Cases sometimes the Fact is referred to the Chief Justice of B. R. and all the Judges, to determine it; wherein 'tis said a Recorder of London who tried such Cases, gives his Opinion; and the King himself, to whom the Matter was reported. 2 Lev. 255. 2 Nolf. Abr. 57. There are likewise Publick and Privy Verdicts: Publick, when given in open Court, and Privy, when given out of the Court, before any of the Judges thereof; and is called Privy, being to keep secret from the Parties 'till affirmed in Court. 1 Sk. 287. But a Privy Verdict is in such a Case, as it is only to direct which is to be tried, and is allowed by the Court to the Jury for their Ease: The Jury may vary it from, and when come into Court give a contrary Verdict; but this must be before the Privy Verdict is recorded, 5 Mod. 451. 1 Sk. No Privy Verdict can be given in criminal Matters, which concern Life, as Felony, &c. but it must be openly in Court; because the Jury are commanded to look upon the Prisoner, when they give their Verdict, and so the Prisoner is to be there present: But in criminal Causes, where the Defendant is not to be personally, at the Time of the Verdict, and in Informations, a Privy Verdict may be given. Ryca. 193. 1 Pet. 57. A Special Verdict may be given in criminal, or civil Causes; and where the Court directs the Jury to find a Special Verdict in a civil Cause, one of the Counsel on each Side agree upon Notes for it, and draw them up and set their Hands to them; and then they are to be delivered to the Jury in convenient Time, or the Court will take a General Verdict: If at the Prayer of the Plaintiff or Defendant, a Special Verdict is ordered to be found, the Party praying it is to prosecute the Special Verdict, that the Matter in Law may be determined; and if either Party desire to join in drawing it up, and pay his Part of the Charges, or if the Counsel for the Defendant refuses to subscribe the Special Verdict, the Party deferring it shall draw it up and enter it Ex parte. 2 Lill. Abr. 645, 653. Where the Parties disagree, or the Special Verdict is not drawn contrary to the Notes agreed upon, the Court on Motion will rectify it and the Court may amend a Special Verdict, to bring the Special Matter in Question: Though 'tis a Matter of Fact be left out in the Notes of the Special Verdict drawn by Counsel, this cannot be amended afterwards. Ibid. 646. The Plaintiff and Defendant are both of them present in Court to hear the Special Verdict, and the Jury is to be called and to have the Special Verdict read unto them by the Second; and upon the Reading of it, if there be any Mistake in the Drawing it up, the Counsel on either Side may except against it; and when the Counsel are agreed, then the Secondary demands of the Jury, whether they agree to find it so; and if they say they do, the Verdict is found; and it is to be afterwards entered, &c. Page. 23 Car. B. R. 2 Lill. 46. A Special Verdict, though agreed to by the Counsel, is not a Special Verdict till allowed by the Court. Ibid. In all Cases and all Actions, the Jury may give a General or Special Verdict; and the Court is bound to receive it, if pertinent to the Point in Issue, and if the Jury doubt, they may refer themselves to the Court, but are not bound to do so. 3 Salt. 373. Though the Plaintiff and Defendant in a Cause content to have the Jury find a Special Verdict, yet they may find a General Verdict; but this is not usual: And if the Jury will take upon them to find, against the Direction of the Court, the Thing in Matter of Law, the Court will receive the Verdict; but if they give a false Verdict, they are liable to Attaint. Page. 23 Car. The ancient Course of having a Fine on Jurors, barely for giving a Verdict contrary to the Directions of the Court, is condemned as illegal, and disused: And it is the fame if the Verdict be given against Evidence; for the Jury may give it against Evidence, if they know the Fact themselves. Leit. 50. 58. If Jurors eat or drink any Thing at the Charge of him for whom they give their Verdict, before they agreed; or if any Person give them any Thing, or find for the Plaintiff or Defendant; if any Writing, Letter, &c. be delivered by the Plaintiff, or in his Behalf to the Jury, concerning the Matter in Issue, after the Jury are gone from the Bar, and the Jury is found for the Plaintiff; or if either of the Parties, their Attorneys or Solicitors, speak any Thing to the Jury before agreed on their Verdict, which relates to the Cause, as it is not to be seen, which will find for such a Person; or if any Witness be bốc for by the Jury, after gone from the Bar, and he repeats his Evidence again, &c. In their Caves the Verdict shall be void and set aside: But though where the Jury eat and drink at the Charge of the Plaintiff, and the Verdict being found for him, it is void; it is not so if given for the Defendant: And if the Plaintiff, after the Jury are gone from the Bar, deliver any Writing to any of the Jurors, although the Verdict shall be void if given for the Plaintiff; it is otherwise if given for the Defendant, and it cannot be set aside. &c. Also if the Jury have eat or drank after they went from the Bar, and before they gave their Verdict, this ought to be known before the Verdict is given. 1 Sk. 237. 1 Pet. 125. 2 Lev. 140. Mist. 57. 5 Nolf. Abr. 454. A Juryman withdrawing from his Fellows, or keeping them from giving their Verdict, without giving good Reason for it shall be fined; but if he differ from them in Judgment, he shall not: And although Jurymen are punishable for Misdemeanors, every Misdemeanor of the Jury before they give their Verdict, is not a sufficient Cause to make void the Verdict. Dyer 53. 2 Lill. Abr. 647. If one of a Jury that found a Verdict, were outlawed at the Time of the Verdict, it is not good: And where a Verdict is given by thirteen Jurors, it is said to be a void Verdict; because no Attaint will lie. 2 Lill. 650. If there be eleven Jurors agreed, and one dissenting, the Verdict shall not be taken, nor the Refuser fined, &c. Though 'tis said anciently it was not necessary, that all the twelve should agree in Civil Causes. 2 Holt's Hist. P. C. 297. In capital Causes, a Verdict must be actually given; and if the Jury don't all agree upon it, they may be carried in Carts after the Judges, round the Circuit till they agree; and in such a Case they may give their Verdict in another County. 1 Sk. 271. 281. 1 Pet. 97. The Court may set aside a Verdict that convicts a Man contrary to Evidence in a criminal Cause; but they cannot
not set aside a Verdict which acquits him. *Wid. *Inf. 648. If the jury acquit a Peron of an Indictment of Felony against Evidence, the Court, before the Peron is to be absolved, must frankly and, as far as it can, consider the Matter; but this hath been thought hard, and of late Years is not so frequently practised as formerly: There are Instances where Defendants acquitted of Crimes contrary to Evidence, have been bound to the good Behaviour. *2 Haml. *P. C. 443.

In Cae 2 a jury acquit a Man upon Trial against full Evidence, and being sent back to consider better, it is, peremptory in and to that matter, the Court must take it, but may refuse judgment upon the Acquittal: And here the King may have an At- taint. And if the jury will by Verdict convict a Person against or without Evidence, and against the Opinion of the Court; they may reprieve him before Judgment, and certify for his Perdon. *2 Haml. *Hil. *P. C. 310. When a Verdict in a Civil Action is given against Evidence, it shall be set aside, and a new Trial had. *Gr. If the Part upon which the Court was to give judgment, by a Verdict found by the Verdict, a new Plea or Suit may be granted. *1 Roll. *Ab. 653. A Verdict being given where no Issue is joined, there can be no other Verdict but a N. V. to be had. *Med. *Ca. 49. And if a Verdict be ambiguous, insufficient, repugnant, imperfect, or uncertain, Judgment shall not pass upon it. *1 Smal. 124, 125. *Pit. 301. *Port. 647. 2 Smal. 121. *Edw. 41. 3 Smal. 664. 3 *Med. 161. Where a Verdict is found for the Plaintiff, and he will not enter it, the Defendant may compel him to do it, on Motion; or the Defendant may enter it himself. *2 *Litt. *After a Verdict is returned in Court, it cannot be altered, but if there be any Misprision, it is to be suggested before: And a Mistake of the Clerk of the Registry appearing to the Court, was ordered to be amended. *Cr. *Blis. 112, 150. On Return of Verdicts, in Civil Causes, given at the Assizes, to the Courts at *Wythenshawe; Judgment is bad thereon; and generally if the Judgment differ from the Verdict, it may be reverted, *Gr. See *Ilsa and *Judgment.


**Wetmore** (Virginia) The Compan's of the King's Court, which bounds the Jurisdiction of the Lord Treasurer of the Houseof and that seems to have been twelve Miles about. *Stat. *16 R. 2, cap. 5. *Brist. 69. *F. *R. 24. There is also a Vergy of Land: which is an uncertain Quantity directed by the Culture of the Country, from fifteen to 30 Acres, as appears under *Yard.* *Land. 28 Ed. 1.* And the Word Vergy hath another Signification, of a Stick or Rod, whereby one is admitted Tenant to a Copyhold Estate. *Old *Nat. *Br. 17.

**Wetters** (Virginia) Are such as carry White Wands before the Judges, *Gr. *Hine, ed. 2, 293 58.

**Wetworth**, A Word mentioned by our Historians, having its Original from this, That as our Saviour was led towards the Cross, the Likeness of his Face was formed on his Handskerchief by a miraculous Man- ner, which is still preferred in St. Peter's Church at Rome, and called *Porcheria. Mat. *Parl. *Anno 1210.* pg. 174. *Bromp. 183.

**Wetts** (Fr. *Ford, t. e. Verdis, otherwise called Green bud) In the Forst Laws signifies every Thing that beareth a Green Leaf within a Forst, that may cover a Deer; but especially grass and thistle. Of Vert there are divers Kinds; some that bear Fruit, which may serve for Food, as Chestnut, Service-Trees, Crab-Trees, &c. And for the Shelter of the Game, some called Hau- boys, serving both for Food and Browse; also for the Defence of them, as Oaks, Beeches, *Gr. and for Shelter and Defence of Poults, Mice, Birds, &c. *Alder, *Gr. Of Sub-boys, some for Browse and *Food.
Food of the Game; of Bathes and other Vegetables, some are for Food and Shelter, as the Haw thorne, Blackthorne, and some for the Ends, as such as Baskets, Gore, Heath, &c. But Herbs and Weeds, although they be Green, our legal Ver extende not them, 4 Ind. 357. Mentione division 3, Veri into Subway and Veri over; the Over-who is that which the Law Book term Haut-boys; and the Subway, what they call Sub-boys: And into Spacial Veri, which is all Trees growing within the Fo ret that bear Fruit to feed Deer; called Special, because the Deforestation is more grievously punished than of any other. Fora. par. p. 32. And Veri is sometimes taken for that Power which a Man hath by the King's Grant to cut green Wood in the Forest.

Wife, A Kind of Cloth, mentioned in the Statute 1. 3. c. 8. See Pinctures.

Veery Land and very Tenant, (Vasa Dominus, &c Vasa Tenens) are they that are immediate Lord and Tenant one another. Brack, In the Taking of Leaves there is to be a very Lord and very Tenant; and a Man is not a very Tenant, until he hath attested to the Lord by some Service, &c. Old Nat. Br. 19 Hit. 7. c. 15.

Wife, for Beer, Ale, and Sop, &c. their Concerns are not, as Ch. 2. H. 4. See Common Lab. 4.

Wife, if an Estate in Remembrance is limited to a Child before born, when a Child is born the Estate in Remembrance is vested, &c. 2. Lem. 219.

Wife, A Place adjoining to a Church, where the Pymister of the Minister is kept; also a Meeting at such Place: And sometimes the Bishop and Priests sit together in Pymister, to consult of the Affairs of the Church. In Remembrance of which ancient Times, Cumm, the Minister, Churchwardens, and Chief Men of most Parishes, do at this Day make a Parish Wife. By Cumm there may be secket Pymister, or a certain Number of Parishes chosen to have the Government of the Parish, make Rates, and take the Accounts of Churchwardens, &c. And when Rates are made, the Parishes must have Notice of a Wife held for that Purpos, and then all that are absent shall be concluded by a Majority of those that be present, who in Construction of Law are the whole Parish. Wood's Inst. 90. And if a Parson be forth out of the Pymister Room by the Clerk of the P. 935; and he makes it appear that he hath a Right to come into the Room, and to be present and vote in the Pymister, &c. Action of the Clerk lies, as a Remedy. Med. Ca. in L. 9. E. 5. 354. Wife men in London are for the number of the chief Palis in every Parish within the City and suburbs, who yearly chair Officers for the Parish, and take Care of its Concerns, &c. by Statute 19 Car. 2. c. 5. On erecting new Churches to be built; near London and Westminster, the Commissioners for building the Churches are impowered to name a sufficient Number of the Inhabitants of each new Parish to be Wife men; and on their Deaths or Removal, the Majority of the Parishes to choose others, &c. And the Parish Officers, who with the Wife or principal Inhabitants of the Parish are in Ec-Week to affix the Rates for the Poor, &c. 9 Ann. c. 22. Wife of Parishes are to be confounded by Parish Officers, and to give their Affix on hiring of Housers for Better Employing and Maintaining of the Poor. 9 Geo. 1.

Wife, A Crop of Grains or Corn; and Mention is made of Prime Vifura, and Secondo Vifura, et Carol. Abb. St. Edmund. MS. fol. 182.

Wife, (Vifura) Signifies a Garment; but in the Law it is metaphorically applied to a Polletion or a Garment of rank. In the significations it is borrowed from the Frndits, with whom In-quebita imports a Delivery of Polletion; and Vifura Polletion illus. Humm. Vifura of an Acre of Land is the Profit of it, and it shall be inquire how much the Vifura is worth, and how much the Land, &c. Ed. 14. Ed. 3. By Grant of Vifura tenens, the Soil will pass; but the Vifura being the Profit of Land, 'tis generally all one; and have that, as the Land illus. 1. Year. 3. 2. Roll. 399.

Vestitum namum, Is where the Bai liff of a Lord disseals Beasts or Lands of another, and the Lord forbids his Bailiff to deliver them when the Sheriff comes to make Replevin: The Word Namum signifies a Taking or D멀은, and Polletion forbidden; and the Owner of the Castle may demand Satisfaction for the Injury, which is called Platinum de vestio Namum. Divers Lords of Hundreds and Courts-Baron, had Power to hold Plais de vestio Namum; Matilda de Mortone clamat in Mensa de M. duci Law. Days, &c. Passio de Namno vesti, front Bremi Domini Regii, &c. 2. Ind. 140. Record in Thetford. See Namum.

Widings, The Kings of the East Angles were fo termed from King Ulf, who lived in the Year 578. Mton. Wpt.

Widow, Is the Highway or common Road, called the King's Way, because authorized by him, and under his Protection: It is also denominated Via Militaria. See Hen. 1. c. 19. See Common Lab. 4.

Wicke, (Figurac, going wit fingen limitati) The Priest of every Parish is called Figurac, unless the Pradial Tibes are appropriated, and then he is called Figurac; and when Rectories are appropriated, Figurac are to supply the Rectors Places. At first a Figurac was a mere Curate to the Impropriator of the Church, temporary, and removable at Pleasure; to those who are now in the Figurac, and when there were no particular Parishes, were only Curates to the Bishops; but by Degrees the Vicars got a settled Maintenance of Gibe; and some Kind of Tiches, and now claim their Dues either by Endowment or by Precipitation; And where the Vicar is endowed, and comes in by Induction and Induction, he hath Carum animarum actualiter, and is not to be remoned at the Pleasure of the Rector, who in this Case hath only Carum animarum Vadimir; but where the Vicar is not endowed, nor comes in by Induction and Induction, the Rector hath Carum animarum actualiter, and may remove the Vicar. 1. Pet. 15. 3. Sal. 378. In every Church appropriated, one is to be ordained perpetual Vicar, and to be canonically instituted and indited, and also endued at the Discretion of the Ordinary; which Endowment is a Part of the Rectory, by out of the Patron, Patron, and Paragraph, for the Ordinary, for Maintaining the Vicar: The Indinction and Induction, &c. of Vicars is done in the same Manner as that of Rectors; and over and above they are to have a Salary, or an Indemnity, but this the Bishop may dispense with; the Statutes concerning Plurallities, Disloations, &c. relate to them as well as to Parions. 4. H. 4. 2. Roll. 397.

Upon Endowment, the Vicar hath an Equal, though not to great an Interest in the Church as a Rector; the Freethold of the Church, Church-yard and Gibe is in him; and as he hath the Freehold of the Church, he may prescribe to have all the Tibes in the Parish, except those of Cora, &c. Many Vicars have a good Part of the great Tibes; and some Benefices, that were formerly held by a外国, have, by being united, had all the Gibe and Tibes given to the Vicar: But Tibes can no other Way belong to the Vicars, by out of the Patron, Patron, and Paragraph; for all Tibes of this Nature appear to the Patron; and yet generally the Vicars are endowed with Gibe and Tibes, especially small Tibes, &c. If a Vicar be endowed with a small Tich, and afterwardsLand, which had been arable Time out of Mind, is altered, and there are growing small Tibes thereon,
on, the Visitor shall have them; for his Endowment goes to such Tithe, in any Place within the Parish.

Cr. Eliz. 467. Tit. 39. But where the Visitor is endowed out of the Patronage, he shall not have Tithe, or of any Land that was Part thereof at the Time of the Endowment, but now severed from it; yet it seems to be otherwise, if the Glebe Lands are in the Hands of the Patron's Lessee. Cr. Eliz. 470. Maller. 2. Imp. a. The Endowment of Vicarages hath been always favored in Law, the Visitor for the most part having the Cure of Souls. 9 Reg. 155. Comp. Incumb. 547. March Rep. 11.

Vicarage. (Victoria) Of Places did originally belong to the Patronage or Rectory, being derived out of it: The Right of common Right is Patron of the Vicarage; but it may be fettered otherwise; for if he makes a Levis of his Patronage, the Patronage of the Vicarage suffer as incident to it. 2 Roll. Adv. 59. And if a Vicarage become void, during the Vacancy of the Patronage, the Patron of the Patronage shall appoint to such Vicarage. 19 Ed. 5. 41. If the Patron of the Patronage or Vicarage fall into Decay, for which either of them by itself is not sufficient to maintain a Patron and Vicar, they ought again to be again considered as divided, and to be vested to maintain a Vicar, the Bishop may compel the Patron to augment the Vicarage. 2 Roll. 517. Par. Canefall. 195, 196. Stat. 29 Car. 2. c. 8. Upon the Apprehension of a Church, and Endowment of a Vicar out of the same, the Vicarage and Vicarage are two distinct Ecclesiastical Benefits: And it hath been held, That where there is a Vicarage and Parsonage endowed, that the Bishop in the Vacation may dissolve the Vicarage; but if the Parsonage be improperly, he cannot do it; for a Dissolution the Cure must revert, which it cannot into Lay Hands. Comp. Incumb. 2. Cr. 518. Pal. 219. For the most part Vicarages were endowed upon Appropriations; but sometimes Vicarages have been endowed without any Appropriation of the Patronage, and these are several Churches, where the Tithe is wholly appropriated, and no Vicarage endowed; and there the Impropricators are bound to maintain Curates to perform Divine Service. Cf. The Patron, Parish, and Ordinary, may create a Vicarage, and endow it:

And in Time of Vacancy of the Church, the Patron and Ordinary may do it, but the Ordinary alone cannot create a Vicarage, without the Patron's Assent. 17 Ed. 3. 51. Cr. Stat. 516. Where there is an Appropriation and Patron of Vicarage, and it is vacant, and in one Person's Patronage if he precludes his Clerk as Parson, who is therupon indicted, this shall unite the Parsonage and Vicarage again. 11 H. 6. 52. Vicarages are not to be tried in the Spiritual Court, because it could not begin to be created but by the Ordinary. 3 Safo. 378.

Vicar Theobald, another occasions rajahsism Recognisantia, &c. an ancient Writ that lies for a Spiritual Person impri'd, upon Forfeiture of a Recognizance, &c. mentioned in Rep. Orig. 147.

Wic-Beit. Barter. An under Admiral at Sea; or Admiral on the Coast, &c.

Wic-Clerk. A Great Officer next under the Lord Chamberlain: And in his Absence hath the Rule and Control of all Officers appertaining to that Part of his Majesty's Household, which is called the Chamber above Stair. 13 R. 2. c. 1.

Wic-Clerk of the English. An Officer whose whole Office is set in Part 22 Ed. 4.


Wic-Dominus Episcopi. The Vicar General, or Con involuntary of a Bishop. Bishop.


Wic-March. Is mentioned with Vice-Cammes.

Wic-Camp. 47 Inf. 11.

Wic-King, (Pro-Rex). The King's Lord Lieutenant over a Kingdom. Lieut.


Wic-Dr Bersellis mundelshe. Is a Writ which lies against a Mayor or Bailiff of a Town, &c. for the clean Keeping of their Streets. Rep. Orig. 267.

Wiccount, Signifies as much as Sheriff; also a Degree of Nobility. Camden Brit. 1737. See Viccount.

Wic-contit. or Wic-constit. Is an Adjective from Vicarius, signifyeth any Thing that belongeth to the Sheriff, as Writs Vicars are such Writs as are triable in the County or Sheriff's Court, of which Kind there are divers Writs of Nullity, &c. mentioned by Thynna. 1605. F. N. B. 184.

Wic-copt. or Wic-copt. Is an Officer without a Title, for which the Sheriff pays a Rent to the King, and he makes what Profit he can of them: And Wic-copt. Rent usually come under the Title of Office Commissions. It is the Sheriff hath a particular Roll of them given in to him, which he delivers back with his Accounts. 33 & 34 H. 8. c. 16. 3 Ed. 6. c. 4. 22 Car. 2. c. 5.

Wic-constit. Jurisdiction, is that Jurisdiction which belongs to the Officers of a County; as to Sheriff, Constables, &c.

Wic-dahl. (Vic) Southport, and Things necessary to live by, as Meat and Provisions; and Wic-dahl. are those that fell Wic-dahl, and we call now all common Almshouses keepers by the Name of Wic-dahl. Wic-dahl. shall fall their Wic-dahl at reasonable Prices, or forfeit double Value; and Wic-dahl, Fishmonger, Poulterer, &c. coming with their Wic-dahl to London, shall be under the Governor of the Lord Mayor and Aldermen; and fell their Wic-dahl at Prices appointed by Justices, &c. 23 & 31 Ed. 3. c. 6. 7 R. 2. 13 R. 2. No Person during the Time that he is a Mayor, or in Office in any Town, shall fall his Wic-dahl, on Pain of Forfeiture, &c. But if a Wic-dahl be chosen Mayor, whereby he is to keep the Affidavit by Statute, two different Persons of the same Place who are not Wic-dahl, are to be sworn to affidavit Bread, Wine, and Wic-dahl, during the Time that he is in Office, and both are sworn, and in one Person's Patronage if he precludes his Clerk as a Parish, who is therupon indicted, this shall unite the Parsonage and Vicarage again. 11 H. 6. 52. Vicarages are not to be tried in the Spiritual Court, because it could not begin to be created but by the Ordinary. 3 Safo. 378.

Wic-dahl possessing any occupation a rajahsism Recognizantia, &c. An ancient Writ that lies for a Spiritual Person imput'd, upon Forfeiture of a Recognizance, &c. mentioned in Rep. Orig. 147.

Wic-Const. An Admiral at Sea; or Admiral on the Coast, &c.

Wic-Canter. A Great Officer next under the Lord Chamberlain; And in his Absence hath the Rule and Control of all Officers appertaining to that Part of his Majesty's Household, which is called the Chamber above Stair. 13 R. 2. c. 1.

Wic-Clerk of the English. An Officer whose whole Office is set in Part 22 Ed. 4.


Wic-Dominus Episcopi. The Vicar General, or Con involuntary of a Bishop. Bishop.

be a several Husband. of an Annuity of 20 l. to one, and to four others: it will be to the same Effect, if, to one, to be equal
 divided, (see) 20 l. to one, and so to the rest.

25th April, 1692, the 15 Hen. 6. cap. 3. of the 3rd. It is also

Arms, are Words used in Indictments, Gr. to express the Charge of a Suspect and violent Com-
mittting any Crime or Trephine. But in Appeal of
Death, on a Killing with a Weapon, Words Wi
Of Arms are not necessary, because they are implied
so in an Indictment of Forfeiture, alleged to have
been made Manu fortis, Gr. 3 Hen. 3. P. C.
179. 1 Henw. 150, 220. And where the Omission
of wi & Arms, Gr. is help'd in Indictments, with
the Stat. 4 & Frank. 11.

The, (Fr. Vue, i. i. Vijn) It is generally where a
Real Action is brought, and the Tenant does not
know certainly what is in Demand in such Case he
may pray that a Jury may view it, Brit. cap.
45. F. N. B. 178. This View is for a Jury to see
the Land or Thing claim'd, and in Controversy is:
and here in Wiltshire, Alfreds of Nod Tory,
where at least Six of the Reckoners must have the
View before the Aliffs 2 Litt. Abr. 655. Stat 13
Ed. r. 2. 48. 12 Ed. 3. and though formerly
there could not have been a View in a Personal Ac-
tion, but upon withdrawing of a Juror after they
were sworn, and Consent of the Parties by a Rule of
Court; now by the Act for the Amendments of
the Laws, it may be granted in any Action brought
in the Courts at Westminster, where necessary the bet-
ter to understand the Evidence upon the Trial; in
which Case the Courts may order special Writs of Di-
frings or Habens Corpus to the Sheriff, requiring
him to have six of the Jurors, or a greater Number of
them, at the Place in Question, some convenient
Time before the Trial; who shall have the Matters
shown to them by two Persons named in the Writ of
Diffrings, and appointed by the Court; and the
said Sheriff executing the Writ is specially to return the
View made accordingly, Gr. 4 & 5 Ann. cap.
16. Upon a View, the Thing in Question is only to
be shown to the Jury; and no Evidence can be gi-
gn on either Side; and Litt. 656. But where in Wilt-
shire, several Places are assigned, and the Jury
hath not the View of some of them, they may be
shown in that Part which they did not view:
In Wiltshire wawing a Wood, if the Jury viewed the
Wood without entering into it, it is good; also Wilt-
shire being assigned in every Room of an House, the
View of the House generally is sufficient. 1 Lew.
259, 267. If a Rent or Common is demanded, the
Land out of which it falls must be put in View.
1 Lew. 56. And if a View be denied, where it
ought to be granted, or granted, or where it ought not
to be, Gr, it is Error. 2 Lew. 217. See Fojours,
Or Viewers, Affix, Gr.

All the Matters alcagte, (Villis Franci plagi) signi-
ifies the Office which the Sheriff in his County Court
performs in looking to the King's Peace, and seeing
that every Man is in good Order, Gr. Or it is a
Bond of Every County Court for every Person of the
Age of Fourteen were bound with Sureties or Pledges for their Truth to the King,
and to come to this Bond, 3 Litt. 1259. There
is a Writ to exempt a Person from coming to the View of Frank plagi, who is not
resident within one Hundred; as men are bound to be in their Title, and the use of
lands held, where they dwell not: Which

Wilt is called Villes plagi. Reg. Orig. 175. See Fran. plagi.

Wilt, (Fr. Villes, i. i. Vilain) in the Eve, or next Day before
every solemn Feast, besechest Christians were go to
watch, fast, and pray in their Churches. Stat. 2 &
3 Ed. 6. c. 19.

Wilt LATITUDES Agree, A Writ that lies where
two Parishes contain for a Church; and one of them
enters into it with a great Number of Laymen, and
holds out the other that the Welcome then he that shall un-
cover us shall have this Writ directed to the Sheriff,
that he remove the Force; But the Sheriff ought not
to remove the Incumbent out of the Church, whether
he is there by Right or Wrong, but only the Force.
F. N. B. 5. Is 161, and see 5 R. 2. c. 8. And
the Writ Vi. Latas renovata ought not to be grant-
ed, until the Bishop of the Diocese where such Church
is, hath certified into the Chancellor such Refilling and
Force, Gr. Though it is said in the Novo Nuima
Brevium, it lieth upon a Suretie made by the In-
cumbent, or by him that is in his place, without any
121. A Reinstatement was awarded to one who was put out
of Possession by the Sheriff upon a Vi latas renovata.

Oro. Eliz. 49. 66. A Man in the same Condition, a Bondman, or

Vill, or Village, (Villis) is sometimes taken for
a Manor, and sometimes for a Parith, or Part of it:

A Vill is more commonly a Manor of less
rith, consisting of a few Houses, as it were separate from it—Villis of ex pluribus Manuibus uti-
cinin, or Villata ex pluribus Villinis. 1 Stat. 115.
A Manor makes the Difference between a Massey, a
Village, and a Manor, since a Massey is of One or more Houses, but it must be but one
Dwelling-place, and so near to it; for other Houses are
contiguous, it is a Village, and a Manor may be a
vill of several Villages, or one alone. Fizl. lib. 6. cap.
51. And according to Porcius, the Boundaries of
Villages, are not by Houses or Streets; but by a
Circuit of Ground, within which there may be Ham-
lets, Woods, and Wails-Ground, Gr. Forst in Land.
Lev. Aug. c. 24. When a Place is named general-
ly, in legal Proceedings, it is intended to be a Vill,
because it is not so Civil Parishes the Kingdom was first di-
vided into Villis; and it is never intended a Parith,
that being an Ecclesiastical Division of the Kingdom
to Spiritual Parishes, though in many Cases the Law
takes Notice of Parishes as to Civil Parishes. 1
Mod. 250. 3 Nutt. Abr. 57. If no Vill, e. is al-
lledged, where a Manor and Lands lie, no Trial
can be had concerning it; But some Counties in the
North of England, and in Wales, have no Villis but
Parishes were vested in both, and, if a Jury of the
Parish will serve. j. 1 Stat. 128. 3 Vill and a Parith by
Interpretation shall be all one; and in Procurs of Appeal, a Parith may be intended
a Vill. Cent. 735. 3 Saet. 128. If a View be laid in
Gray's Inn, which is no Parith or Villis the Defend-
ant must plead there is no such Vill as Gray's Inn,
or it shall be intended a Vill after Verdict. Gr.
3 Saet. 181. See Piece Churf. of Parishes.

Villag. A Title given to such Country Villages, where the Kings of England had a Royal
Seat, and in their Stock or their Deans in their
having their commonly a free Chapel, not subject
to Ecclesiastical Jurisdiction. Paroch. Antiq. 53.

Vill. (Villans, Fr. Villain, i. i. Villis) Signifies
a Man of the Common or Hollow, or Parish
of these Bredmen or Villians there were two
Such in England's one termed a Villain in gift,
who was intended by on the Bridges lib. 3.

The Lord, and his His: The other, a Villain regardant
to a Manor, being bound to his Lord as a Metehet
belonging and annexed to a Manor, whatever the
Lord was. Therefore a Villian, of the same
of whom the Lord took Redemption to marry
VI

VI

His Daughter, and to make him free; and whom the Lord in an Ansath Tenement, Goods and Chattels at his Will, and chaste, but not maim him: For if he haimed his Villain, he might have Appeal of Malhem against the Lord; as he could bring the Death of an Ancilar a gainst his Lord, or Appeal of Rape done to his Wife. Bract. lib. 1. cap. 6. Old Nat. Br. 8. Terms de Ley 474, 475. Some were Villains by Tite or Precipitation, that is to say, that all their Blood have been Villains regardant to the Manor of the Lord Time out of Mind: And some were made Villains by their Condemnation in a Court of Record, &c. Though the Lord might make a Manimass to his Villain, and thereby infrachile him: And if the Villains brought any Action against his Lord, they had an Appeal of Malhem, &c. And the Lord, without Pretention, made Answer to it, by this the Villain was made free. Terms de Ley 576. Villain Eijate was contradillinguished to free Eijate by the Statue 8 H. 1. c. 11. And the Villains were such as dwell in Villages, and of that fervile Condition, that they were usully feld with the Farm to which they respectively belonged: To that the Lord by a Kind of Slaves, and used as such: And Villainage or Bondage, it is said, had Beginning among the Hebrews, and its Original of a Chattel; and, because he had mock of his Father Nor to Score, was punished in his Son Canaan with Penalty of Bondage. Ibid. 455. Villainage cometh of Villain, and was a base Tenure of Lands or Tenements, whereby the Tenant was bound to do all such Services as the Lord commanded, or were fit for a Villain to perform: The Divi tion of Villainage, by Braden, was into Parr Villaine, and a Servant Tenure of Under Tenure, & Villagemian Superium; which was to carry the Lords Dung into his Fields, to plough his Ground at certain Days, sow and reap his Corn, &c. and even to empty his Jakes, as the Inhabitants of some Places were bound to do, though afterwards turn'd into a Rent, and that villainous Service execut ed. Every one that held in Villainage could not be a Villain or Bondman: for Tenure in Villainage could make no Freeman Villain, unless it were continued Time out of Mind: nor could free Land make a Tenure villain. Bract. lib. 1. c. 7. Capital Tenures seem to be sprung from Villainage. F. N. B. 48. And the Slavery of this Custom hath been long ago taken off: for we have hardly heard of any Case in Villainage since Cowdray's Case in Dyer's Rep. There are not properly any Villains now: and the Title and Tenure of Villainage are abolished by the Statute of Car. 2. See Nig. Willianous Judgment, (Villianous Judicium) is that which calls the Reproach of Villains and Shame upon any ungodly Person: a given, as a corporal Pun., &c. And the Judgment in such a Case shall be like the ancient Judgment in Attaint, &c. That the Offender shall not be of any Credit afterwards; nor shall it be lawful for him to approach the King's Court; and his Lands and Goods shall be seised into the King's Hands, his Trees rooted up, and Body imprisoned, &c. Statute: P. C. 157. Land Eivin 63. Stat. 4 H. 5. And the Punishment at this Day appointed for Prayers, may paraake of the Name of Villainous Judgment: as it hath somewhat more in it than corporal Pun., i. e. by disgusting the Telling of the Offender for ever.

Willenaestra, Are Bad Fleas of Wool, born from Rabbed Sheep. 31 Edw. 3. cap. 8.

Willing, (Villene) The Tenure of See Villain.

Willingliam, (Villenum a Fino) A Payment of a certain Quantity of Wine in lieu of Rent, to the Chief Lord of a Villainy. Mon. Ang. Tom. 2. pag. 920.
UN

Misa Justice a Legale. A Sheriff of the County is to be the Life of Affairs, as no Suit begins and no Process is serv'd but by him; and after Suits are ended, he hath the making Execution, which is the Life of the Laws. Co. Li. 11.

A King, 1 Exchequer. A Place by Land or Water, where living Creatures are kept: And in Law it is most commonly used for a Park, Warren, Pitsary, &c. 2 Vent. 100.

Winne, Is where a Witness is examined personally in open Court. See Deposition.

Wig, A Halk or Ship of Barren. Leg. Excheq. 1 Reg. 4. 590. 3 Edw. 3d.

Winnethe, Where is there a Want of Measure in a Oak, &c.

Winne, The same with Wighe. Vide Wighe.


Winprey, (Archery) One chosen by Compromise to deal indifferent in between both Parties. List.

Witness, In a Place is there where is but one Arbitrator of Matters submitted to Award; and is usually when the Parties submit themselves to the Arbitration of certain Persons; and if they would agree, or are not ready to deliver their Award in Writing before such a Time, then to the Judgment of another as Winprey: And this is often the Effect of Bonds of Submission to Arbitration; 3 Rol. 2d. 263. See Arbitrators.

Winns rum Dominium stulti, in the Grant of a Deed, is a new Addition of other Things than were granted before; and hath its own Consequence attending it. 3 Eliz. c. 2.

Wincetarth, (From the Sax. Un, a Negative Particle, i.e. Sine, Ces, lis, and Ab Oath) is an obsolete Word used where one killed a Thief, and made Oath that he did it as he was flying for the Fae, and thereupon Parvitis fidelis stulti fysto unceatheth, 961. That his Kindred would not revenge his Death; or they averred there should be no Contention about it. Leg. Ine. cap. 37.

Winne terra, Often occurs in the Charters of the British Kings for some Measure or Quantity of Land: It was the Quantity of a Medes, and each Medus pos- sibly 100 Foot square. Nov. Angl. Temp. 5. pag. 198, 203.

Wincor piff, Is a Ples of a Defendant in Nature of Ples in Bane, where being fined for a Debauchery on Bond at a Day past, to fool the Forgery of the Bond, he says that he tendered the Money at the Day and Place, and that there was none to receive it: and that he was still ready to pay the same. This will save the Defendant from the Penalty of his Obligation; and if the Plaintiff now refuse to receive the Money, but takes the upon the Tender, and it is found against him, he lothes his Money for ever. 7 Ed. 6. 9 Rep. 79. Prad. Attorn. Edit. 10. pag. 87, 83.

Winceth, A Saxan Word, signifying as much as Incautious, i.e. unknown; and is used in the old Saxon Laws for him that cometh to an Inn Gostwise, and lies there but one Night. Bract. Lib. 3.

Winceth habitat, A Writ of a Dower, for which see Date made nihil habet.

Winder-chamberlain of the Exchequer, Vide Ex-

chequer.

Winder-sherif, (boc Pattens) See Sheriff.

Winfather, Are such as the King's Parishes employ'd as their Deputies: And those that undertake any Work: as draining of Penns, &c. Stat. 1st & 3d P. 1. Lib. 1. E. 3. 2 Kel. 3.

Winder-Treasurer of England, (Vis-Thernantus Angliae) An Officer first created in the Time of King Hen. 7th, but some think he was of an ancienst Origin; for this Officer was to chide up the King's Treasure at the End of every Term; to note the Consent of Money in each Chefe, and see it carried into the King's Treasury for the Ease of the Lord Treasurer, as being

a Thing too mean for him, but fit to be performed by a Man of great Trust and Secrecy; and in the Vacancy of the Lord Treasurer's Office, he did all Things in the Receipt. E. 93. This Officer is mentioned in several Statutes; and named Treasurer of the Exchequer till the Reign of Queene Eliz., when he was termed Under-Treasurer of England. 39 Eliz. cap. 7.

In 1634, a King, Was the leard Judge Littleton's Motto.

Wadets, A Word used for Minor, or Persons under Age; not capable to bear Arms, &c. Fleta, lib. 1. c. 9.

Warchith, One that hath no Quiet or Peace. Sax. Mar. 1. Warchith, (from the Sax. Walch, Waste of the Law, so that if he were murdered, no Gild or Fine should be paid, or Composition made by him that kill'd him. Leg. Excheq. 45.

Wifmumfemph (Uniformity) One Form of publick Prayers and Administration of Sacraments, and other Rites and Ceremonies of the Church of England, prescribed by Statutes, to which all must submit. 1 Edw. c. 14. Car. 2. c. 2. But see Diffinitors.

Union, (Unia) Is a Combining or Confedelgating of two Churches into one: Allo it is when one Church is made subject to another. Or that one is Repealed, and the book; and where a Conventual Church is made a Cathedral. Lychwood. In the first Signification, if two Churches were so to make that the Aticles would not affect a, or the Power and Interest of the Common Ordinarion, Patron, and Incumbents might unite them at Common Law, before any Statute was made for that Purpose; and in such Case it was agreed which Patron should preside first, &c. But though by the Union the Incumbency of one Church was lost, yet the Patronage remain'd, and each Patron might have a Quaesum impedit upon a Discharge to present in his Turn. 3 Nelf. Add. 456. The Bishop, Patron, and Incumbent must unite Churches, without Licence from the King, by the Statute 37 H. 8. The Licentce of the King is not necessa- ry to an Unia. A 50 out of the Protection of the Adven- tions: for an Appropriation cannot be made by them without the King's Licence, because that is a Mor- main, and the Patronage of the Advowson is lost, and by Consequence all Tithes and Firth Fruits. Dyre 359. Nov. 460, 661. By Affent of the Ordinary, Patron, and Incumbent, two Churches lying not above a Mile distant from the other, and whereof the Value of one is not above six Pounds a Year in the King's Books, the Firth Fruits, may be united into one. Stat. 37 H. 8. c. 21. And by another Statute, in Cities and Corporation Towns, it shall be lawful for the Bishop, Patron, and Incumbent, or the Chief Magistrates of the Twenty. &c. to unite Churches therein: but where the Income of the Churches united exceeds 100l. a Year, the major Part of the Parsonage is to be confined to the Family, and after the Union made, the Patrons of the Churches united shall present by Turn, to that Church only which shall be Preferment, in such Order as agreed; and notwithstanding the Union, each of the Parties united shall continue dillicult as to Rates, Charged, &c. though the Tithes are to be paid to the Incumbent of the united Church. 17 Car. 2. c. 3. A Unia where made of Churches of greater yearly Value than mentioned in the Statute 37 H. 8. was held good at Common Law; and by the Canon Law, the Ordinary with the Consent of the Patron, might make an Union of Churches, or what Value soever: So by Statutes, the Affent of the King. Dyre 359. 2 Roll. Add. 728. And when two parochial Churches were thus united, the Reparations were to be made as before the Union, and for the inhabitants of the Parish where any such Church was demoted, were not obliged to contribute to the Repairs of the remaining Church to which it was united. Hob. 67. 2d & 3d An. 5 of M. by which it is ordain'd, That where any Churches have been united, by Virtue of the Statute 17 Car. 2. and one of them is demolish'd when the other Church,
Church shall be out of Repair, the Parishioners of the Parish whole Church is down, shall pay in Proportion towards the Charge of such Repairs, &c. Stat. 4 3 W. 5 & M. c. 12.

Union of England and Scotland, When and how brought about, and the Laws relating thereto, for Scotland.

Unity of Possession, (Unius Pasta Possess.) Is where a Man hath a Right to two Elstons, and holds them together jointly in his own Hands; as if a Man take a Lease of Lands from another at a certain Rent, and after he buys the Re-simple, this is an Unity of Possession, by which the Lease is extinguished, because that the Person who had before the Occupation only for his Rent, is now become Lord and Owner of the Land. Term. de Ley. A Lease for Years of an Adventurer, on the Church becoming void, was praetured by the Leifiton, and intimated and indicted; and it was held, that this was a Surrender of his Lease; for they cannot stand together in one Person, and by the Unity of Possession one of them is extinguished.

A Wife will extinct or suspend Tithes; but notwithstanding any Unity they remain, G. 11 Rep. 14. 2 Litt. 658. Unity of Possession extinguishes all Privileges not expressly necessary; but not a Way to a Close, or a Water to a Mill, &c. because they are thus necessary. A Way of Easement is destroyed by Unity of Possession; and a Rent, or Exemptions, do not exit until the Unity, whereby they are gone. Leith 153. 154. 1 Peat. 95. Trin. 8 W.

University, (Universitas) Is a Place where all Kinds of Knowledge are taught. It is likewise used by Civilians for any Corporation, or Body Politick. The Universities with us are taken for those Two Bodies which are the Nurseries of Learning and Liberal Sciences in this Kingdom, and Cambridge and Oxford; endowed with great Privileges. And by the 15 Eliz. it is enacted, That each of the Universities shall be incorporated by a certain Name, though they were ancient Corporations before; and that all Letters Patent and Charters granted to the Universities, shall be good and effectual in Law: That the Chancellor, Masters, and Deans, &c. be Procured of either of the said Universities, shall enjoy all Manors, Lands, Liberties, Franchises, and Privileges, and all other things which the said Corporations have enjoyed; or of Right ought to be enjoyed by them. Letters Patent, and all Letters Patents, and Liberties, Franchises, &c. shall be establish'd and confirm'd, any Law, Usage, &c. to the contrary notwithstanding. The Universities have the Keeping the Aisle of Bread and Beer, and are to punish Offences concerning it: Also they have the Aisle of Wine and Ale, &c. and the Chancellor, his Commissary, and Deputy, are Judges of Peace for the Vill of Oxford, County of Oxford, and Berks, by Virtue of their Office; for the Stat. 11 Eliz. 3. 31 Ed. 1. 7 Ed. 6. 2 & 3 P. & M. and the Chart. 29 Ed. 1. 14 H. 8. &c. By Letters Patent, Anne 11 Car. 1. granted to the University of Oxford, the old Privileges are explain'd, and larger granted: And the Privilege of the University is allowed to Scholars, and Students, &c. 14 Car. 2. 2 & 4. Persons acting Theatrical Performances within the Precinct of either University, or five Miles thereof, shall be deemed Vagrants; and the Chancellor, &c. may commit them to the House of Correction, or common Goal for one Month. Stat. 10 Geo. 1. c. 19. See Courts of the Universities.

Universe, A Saxon Word, denoting an unspilt Law; and which is found in Leg. Hen. 1. 34. In Writer's Alphabets, (Hirten Congregations) The Meeting of Three or more together, by Force, to commit some unspilt Law. &c. See Writers.

Unnatural, (Propter anormali) That which is not usual or by Nature: And what is unnatural to Man generally, must be the same to all Men, and at all Times; but what is unnatural to this to be that Person, is to him only, and not for the Time tis fit. Argument on Incongruous Marriages. Eng. 224. Masters guilt. Alleged to perform a Thing: Used in Pleading to an Action, which if the Plaintiff cannot prove to the contrary, he shall recover no Damages. Rich. 245.


Occasione, (Facio) Is a Want of an Incumbent upon an Ecclesiastical Benefice. Vide Avisibil.

Use, and Useable. In the Law some Things are absolutely void, and some are useable. A Thing is void, which is done against Law at the very Time of the Doing of it, and it shall bind no Person: But a Thing which is only useable, and not void, although it be what he did ought not to have done, yet when it is done the Deed cannot avoid the same; though by some Act in Law it may be made void by his Heir, &c. 2 Litt. 653. Where a Grant is void at the Commencement, so acts afterwards can make it good: If a Heilth is absolutely void, Acceptance of Rent will not affect it; it is otherwise when a Lease is voidable, there it will make it good. 3 Rep. 64. A Lease for Life, which is voidable only, must be made void by Action or Deed, or by any other general Grant. "Tis generally held that Covenants made in a void Lease or Deed, are also void. Trea. 18. See Owners: A Deed of Exchange, created or issued into by an Infant, or one that was mad or diseased, is void; but may be avoided by the Infant when arrived of Age, or by the Heir of him who was the same. Perk. 281. But it has been adjudged, that it is a Bond of an Infant, or of one that was mad or diseased, because the Law hath not appointed any Thing to be done to avoid such Bonds; for the Party cannot plead New of fraud, nor can the Child, for the Deed does not appear upon the Face of the Deed. 2 Saft. 675. 3 Neft. Abr. 486. Where the Condition of a Bond is void, in Part by Stares, it may be void totally; though it is otherwise if void in Part by the Custom Law, for there it shall be good for the Referre. Neft. 856. 1 Brown. 64. A Deed being voidable, to be avoided by the Persons, and writing, and any Act of Parliament says, that a Deed, &c. shall be void, it is intended that it shall be by pleading, as it is voidable, but not absolutely vacated. 3 Rep. 179. A judgment given by Persons who had a good Commission to do it, is void, without Writ of Error: But an erroneous Attinder is not void, but voidable by Writ of Error, &c. 2 Harg. P. C. 459. 391.

Wife, A French Word signifying truly. Law Fr. Div. "Wife, (fr. Female) Is when it is proved by a true Law, that a Wife may be sworn upon a false writ; which is, that she shall on his Oath speak the Truth, whether she be wise or yet her husband in Controversy: And if it appears that he is unconcern'd, his Testimony is allowed otherwise not. Blunt. "On a false writ, a Witness may be excus'd by the Court, if by he or a Party interested in the Case, is such as the Period for which he was a Witness, and this has been often done, whereby a Party, &c. to be exception against, is suspected of Partiality. "Taylor's Law. 1739.


Witness, When it is applied to a Deed, is where any Consequence is made without a Consideration, whether of Money, of Marriage, &c. And Witenham's limited the Access of Witenham to Stakes, but tis a jest, and the whole Word is Euphony, and the Parish Church, as follows, are called Witenham. 2 Harg. Eq. 383. 3 Saft. 174. See Phaen. 39. 391.

Voluntas,
Voluntas, is when a Tenant by Land holds Lands at the Will of the Lessor; or a Copyholder holds his Lands at the Will of the Lord, by Copy of Court Roll, according to the Custom of the Manor, &c.

Voucher, or Promissory, used in Fleta for a Nisi Prima, is the Wedding Day. Fleta, lib. 4.

Voucher, (Fr. in Latin Vouer) Signifies to call one to Ware or Pay. Fleta, 1692.

Voucher, is a Word of an Art, when the Tenant in Right of Suits another into the Court, who is bound to him to Warrant, and is either to defend the Right against the Demandant, or yield him other Lands to the Value, &c. And it extends to Lands or Tenements of Freehold or Inheritance, and not to any Chattel, Real, Personal, or Misc.; for he that sueseth is called the Voucher, (suesor) and he that is sued is called the Voucher, (punissetor) and the Process whereby the Voucher is called, is a Summons ad Warrantiam; on which Right, if the Sheriff return that the Party hath nother whereby he may be summoned, then goes out another Writ called Summariarium, in Fleta, &c. Co. Lit 101. There is also a foreign Voucher, when the Tenant being impelled within a particular Jurisdiction, as in London, sueseth one to Warrant in some other County out of the Jurisdiction, and prays that he may be summoned, &c. 2 Rep. 50. In a Suit in England, a Voucher doth not lie in Ireland; but it lies in Wales, and the Tenant shall be summoned in the next County to him. Gower, 23; and in Scotland, the Tenant in Law of the Lands; and when the Demandant Comtains against him, he may plead a Release, &c. 4 Inst. Cas 41, 100. In a Writ of Entry in the Degrees, none shall eschew out of the Land; And in Right of Right and Possession, it is a good Counterplea, that neither the Voucher nor his Ancestors had any Benefit of the Land. Inst. 2 Ed. 1 c. 48. And the Demandant may sue a Voucher to be dead, and that there is no such Person, where the Tenant sueseth a Person deceased to Warrant. 14 Ed. 3 c. 19. In a Suit of Entry and Warrant, &c. andvide Warrant.

Voucher, is also used for a Ledger-Book, or Book of Accounts, wherein are entered the Accounts of Warrantor, &c. the Account Book. 1599 Car. 2 c. 1.

Vouchers, keep no. bakers. A Phrase made use of by Bakers, for an infamous Person, one who is not admitted to be a Witiess. Bract. Lib. 3.

Wigletters, none shall put to Sale any Bed, Bolsters, &c. except such as are stuffed with one Sort of dry pulled Feathers, or clean Down; and not mix'd with sealed Feathers, Fenn-down, Thistle-down, Sand, &c. on Pain to forfeit the Name, or the Value: And they are a useful Quality for Mattresses and Cushions, with clean Wool, and Fleeces; without using Horse hair, &c. therein, under the like Foresight. Stat. 11 H. 7 c. 19, and 26 Ed. 6 c. 23.

Wiglett, High Ground, or Terra firma, as it is called by some, customary to low Ground. Jowett.

Wiglett, is the River Whr; which River was term'd Ipsi from the Goddess of that Name; for it was culiously among the Pagans to dedicate Hills, Woods, and Rivers, to favour Goddesse, and to call them after their Nature. Lech. on the British History. For Reversion for Cores and Premises, who was also called Ipsi, did for that Reason name the River Ipsi: And the being the Goddess of the Night, from whence the compassed Days by Night, and Green Night, &c. Blount.

Wiglett, differs from Coifin, and Preformation. No Man may claim a Rent, Common, or other Inheritance by Eftacy; though he may by Premission. 6 Rep. 65. See Preformation.

Usance, A Calendar Month, as from May 20 to June 20, and douce Usance, is two such Months a Words used in Bills of Exchange. Merch. Dict. 1756.

Usf. (Uf) is Application of Law, the Profit or Benefit Lands and Tenements; or a Trust and Confidence repose'd in a Man for the holding of Lands. That to whom the Usf the Trust is made shall take the Profits thereof: Welf. symb. par. 1. 1 Inf. 572.

An Usf is a Trust or Confidence which one Man puts in another; and therefore 'tis not a Thing lying out of the Land, but collateral to it, and annex'd to the Privy of Estate between them, leas. That he to whom the Usf is made shall have the Profits; and that the Tenant of the Land shall make an Eftate as he shall direct; But the Coffin技艺 is neither in lies in Red and Ren, the only remedy being to Chancery to compel the Coffin技艺 to trust to execute a 3 Nelf. Abr. 457. The Limitation of an Usf, was at the Common Law but a Matter of Equity: But now Festsments to Usf, &c. have the same Acceptation as Deeds at Common Law; and Usf limited by any Conveyance, are govern'd and directed according to the Rules of the Law. 2 Litt. Abr. 664. There were two Inversions of Usf, Fear in the Time of Trouble and Civil War, for the saving of inheritances from Forfeiture; and Fraud in Time of Peace, to defeat Debtors. De ever. 34; and did the Original of Usf was the Statute of Mortmain, which cramp'd the Clergy so much that they were forced to take Shelter under the Laity, and make use of them to purchase Lands in the Name of the Usf, in order to their Usf: Afterwards the Wars between the Houses of York and Lancaster coming on, Trusts and Usfs increased more than ever; and although the Common Law could take no cognizance of them, yet there were always, until King Hen. 8th's Reign, Clergymen Chancellors, who were ready upon all Occasions to decree the Performance of the Trust and Usf. 2 Litt. 662, 663. It hath been observed by some Writers, that there were no such Things as Usfs at Common Law the Reason was, because the Fee was always taken as the Owner of the Land and it was very inconvenient and absurd that there should be two several Fees, and the Owners, of the same Land Usf, &c. therefore by the Common Law the Feesments to Usf, were the very Tenants, &c. But the Statute of Usf hath united the Eftate to the Usf, so that now the Feesments to Usf have no Eftate or Interest in all, but in the Usf and the consequent Eftate, and Usf limited in the Deed. 3 Salk. 386. Because in Time many Decrees were inverted, by firing the Possession in one Man, and the Usf in another, so much that the Possession and the Usf were divided, which opened a Gap for Frauds; To avoid these Inconveniences, the Statute of 27 H. 8. gives the Possession to the Usf and as before the Statute the Possession ruled the Usf, so now the Usf governs the Possession; for this Reason in Conveyances it is set down in the Habeendum to whole Usf the Lands are conveyed, and whatever Eftate a Man hath in the Usf, the same he has in the Possession at this Day. 1 Reg. 121. 2 Lev. cap. 25. The Stat. 27 H. 8. c. 10. enacts, That where any are or shall be entitled to Lands, to the Usf of any other, by reason of any Bargain and Sale, Feesment, Fine, Recovery, Contract, Agreement or Will, &c. he to whole Usf and Lands are subject, are to take the Usf, &c. 1 Inf. 300. But there are Usfs, that are not executed, by this Statute; as if Lands are
are granted to others in Truf, that the Feesfoles shall take the Profits, and deliver them to the Feeholder and his Heirs; also Leaves for Years of Lands in Uf, (wherein the successors to the Leasehold have had their being before, are grant-
ed over in Uf and Truf) where the Leafe is forfeited
only of his Term, and not forfeited of any Freehold,
Uf, may be a Uf of Woods and Chatches Personal, which is properly a Chantry Truf, wherein the Uf and Poffeffion are divided; though in
other Cases the Statute executes Agreement as the
Chantry would have done before. Ward, 2 Rep. 256.
All Lands of Inheritance, Liberties, Franchizes, 
vizible or local, may be conveyed by Way of Uf. But Inheritance Personal, which have no Relation to Lands or local Hereditaments, cannot be conveyed by Way of Uf.
And some Questions having been made, out of what an Uf shall arise, it hath been held, That Uf
shall be raised only out of a Feehold, that they cannot be raised out of a Chattel, nor out of an Uf, or a bare Right or Power, nor out of an intended Purpose, &c. More 509. 1 Lem. 148. 3 Salk. 356. In Uf there are many or Our in the Statute, 401. And there are four Things required to the Execution of a Uf within the Statute, &c. There must be a Perfon for Uf, or the King or a Corporation, an Alien, Uf, cannot be feized to the Uf of another. There is to be a 
Coffit or Uf in Being; for the Words of the Act are, Stood and be feized to the Uf of any Person or Persons: There must be a Uf in Eft, in Poffeffion, Remnant, or Reversion, and the Effe of the Feeholders, &c. out of which the Uf arise, is to be vended or transferred to Coffit or Uf; and if any of these fail, the Uf will not be executed. 3 Lem. 126. 2 Chit. 401. Ufis are in Eft, either in Poffeffion, Remnant, or Re-
version; or in Contingency, which by Possibility may fall 
into Poffeffion, or in Reversion, &c. Contingent Ufis in 
12 G. 4. may be created though they are not executed
by the Statute, but remain at Common Law: But when
they come in Eft, then the Statute executes them; and
before that, they may be destroyed, discontinued, or suf-
fended. 1 Rep. 135. A Uf is also expres, or im-
plied, as when a Feehold is made of Land to A. B. and his Heirs, to the Use of C. D. and the Heirs of his Body, &c. Implied, where the Uf is not declared between the Parties, but is left to the Construc-
tion of the Law: And if a Man Ried of Lands makes a 
Feehold in Eft without any Consideration, and it is
not declared to whole Uf, by Implication of Law it
shall be to the Use of the Feoffor, &c. It hath been adjudged, that if by Feehold, or Lease and Release, A Man convey any Uncertain Effe that afo to another Person, there the Refidue of the Effe shall by Implication remain to the Uf of the Party having the Effe, and not to the whole Effe. And, the
whole Effe may be conveyed to any Person, if the Party be continued to have the remaining Uf in him; indeed upon 
A Fine or Recovery Persons may have their particular Eftates in other Receipts, as barring upon Nonclaim,
&c. 1 Rep. 212. 2 Ball. 781. 272. 3 Salk. 678.
3 Salk. 357. An Uf may be raised two Manner of
Ways, &c. By Trannimation or death with the Poffeffion of the Effe, &c. Without Trannimation of the Effe, by keeping the Land in a Man’s own 
Hand, and making the Possession be to the Uf of an-
other, who is to have the Uf of that which is to pass into Trannimation, are by Feehold, Fine, Recovery, &c. And those which arise without Trannimation, being by Bargain and Sale instated, and Covenant to land feized to Ufis.
1 Rep. 140. Covenant to land feized to Ufis are of three Sorts; a Covenant to feize feized, a Feehold, Fine, or Recovery to Ufis, and a Bargain and Sale feized to Ufis are no Covenant to land feized to Ufis, excepted, though by the two first it may; and there is a Dif-
ference between a Covenant to Ufis, and a Covenant to land feized, because the Feeholder depriveth with his whole Effe, but the Covenantor depriveth with no more than
what is actually velted in the Coffit or Ufis. 2 Sid. 64.
129. In Bargains and Sales, and Covenants to land feized, some Consideration is necessary to make the Deeds operable to Ufis; the Consideration of Money in a Bargain and Sale, and natural Affection, Blood, Af-
finity, Marriage, &c. in the Covenant to land feized:
And they are to be a Money, or a Body in Feoffment, and not without any Consideration; but not to others. Plow. 301. Dyer 162. 3 Lem. 356. The Consideration, or a Reservation of 12 d. a Penny, or a Pepper Corn, are sufficient Considerations to raise an Uf. 2 Med. 251.
3 Sal. 387. If a Man covenants in Consideration of Marriage, or of a Sum of Money paid to him, that the 
Covenantor shall have such Lands; the same shall change 
the Use immediately, for these are good Condi-
tions either to change or raise Ufis. Dyer 6. But a 
Perfon covenanteth to make an Effe to certain Persons
to certain Ufis, in Consideration of Marriage; no Uf
arises by such bare Covenant, unless the Effe be made
accordingly: So where upon Marriage there is a Coven-
ant to levy a Fine, except the Fine be levied; but if a Fine be levied, the Effe shall be made. 1 Lem. 356. 3 
Cov. 81. 401. An Uf arises when de-
clared by Effe executed, which needs no Considera-
tion: A Fine it self without any Consideration, does
raise Ufis, where a Marriage is intended; but in other
Covenants, the Consideration of Marriage will not
raise an Uf, if the Marriage take not Effect; because 
the Consideration must be executed before the Uf arise. 
1 Lem. 138. A Consideration of Money given by one, may extend to all the Estates; but if it be of 
Blood, &c. it is singular, and will raise the Uf of that
only to which it goeth: Though if I Covenant with B.
in Consideration of the Marriage of my Son with his Daughter, to be feized to the Uf of a Stranger for Life, 
and after to my Son and his Wife in Tail, then the Use
shall arise to the Stranger, to bear up the Remainder, 
which is not good without a particular Effe. Pless. 307.
Dyer 174. 1 Rep. 24. Yet if such Covenant be to 
stand feized to the Uf of any in Fee for Life, and
after to C. a Stranger for the Term of Twenty Years, and
after that to my Son in Tail; in this Case the Uf is 
limit-
ed to C. is void, and my Son after me. And if a 
Covenant be made to the Use of any in Fee for Life, and
after that to a Stranger for the Term of Twenty Years, and
after to my Son in Tail; in this Case the Uf is limited
unto C. is void, and my Son after me. And in this Case
the Land. 1 Rep. 155. A Covenant for natural Af-
fection, to be seized to the Uf of himself for Life, and
after his Death that the Land should descendent or remain
to his Couin R. in Fee, in Fee, &c. subject to the Judge, no Uf is raised to R. by Reason of the Disjunctive, re-
main or descendent. Trench. 267. An Uf cannot be
raised by any Covenant, Prevoi, or Bargain and Sale,
upon a general Consideration, without special Aver-
ment: And although he that hath the Fee-simple of Land, may make what Ufis he will of it in Fee, for
Life, or Years; yet unless the Agent makes a Covenant
in writing, no Uf is raised to R. 1 C. 400. 401. Ufis may be made to a Man and the Wife he shall marry, or to his heir, fe-
cond, or third Wife, &c. And if Parties to a Deed declare, that one of them shall make a Feeffor, or 
levy a Fine to the Uf and Intent that one shall hold the Land for Life, and after his Death another in Tail, and
after that a Third in Fee simple, &c. the Effe att-
aches according to the Ufis declared by the Deed. 1 Rep.
13. 121. A Devise may be to an Uf, and be so ex-
cuted: A Man makes a Feeffment to the Uf of his
Will, he hath the Uf while the Tenor Time; and when the 
Feeffor by Will limits the Effe power to his Power, the Effe takes Effect by the Feeffment, and the 
Uf is directed by the Will. Law. 833. 6 Rep.
12. 13. If Ufis are fetted upon Condition, the Con-
dition must first be performed; and a future Ufis may 
well arise on the Non performance of a Condition. 
1 Litt. 658. Dyer 174. Dyer 6. For raising Ufis, 
without a precedent Effe made to support it, as a Man
conveyeth to land feized after his Death to the Uf of his 
Kinsman and his Heirs, the Effe in the mean Time is in him; for it cannot pass out of him during
9 R
his Life, and therefore in Cave of Covenant he hath such Estate. 1 Rep. 154. 2 Lev. 77. An Uff is con-

stantly to be given, and therefore may be, to comply with the Intent of the Party: Intention is the Foundation of Uffs, but it ought to be out of the Words of the Dead, to be agreeable to Law, and collected and taken from the mise Deed. 1 Med. 98. Laws 700, 790. If the Meaning of the Party doth appear, that he intended to pass his Estate by Way of sailing an Uff, then the Words, Give, Grant, &c. shall secure as a Covenant to be void; but where it doth not appear, that he intended to pass it by way of Uff, but by Conveyance at Common Law, no Uff is raised. March 50. Lands being once sold and stated to Uff, the Party that makes the Uff may not create any far-
ther Uffs: Where the Estate out of which an Uff is rais'd is gone, the Uff is gone likewise; and Uffs may be made void by Releas, or Power of Revo-
cation. Dyer 186. 1 Inst. 377. Deeds of Gift of Goods, &c. made in Trust to the Use of the Gran-
tor, shall be void. 3 H. 7. c. 4. And no Uff will prevent Power of a Woman after her Husband's Death. &c. See Covenant to be void.

Superstitious Uffs. By Statute, a Devise of Land or Goods to Superstitious Uffs, is where 'tis to find or maintain a Chaplain or Priest to pray for the Souls of the Dead, or Lamp in a Chapel, a Stipendiary Priest, &c. These, and such like, are declared to be Superstitious Uffs; and the Lands and Goods so devised are forfeited to the King. 1 Ed. 6. c. 14. But a Man devoted Lands to Trustees and their Heirs, to find a Priest, to pray for his Soul, so long as the Laws of the Land would permit; and if the Laws would not permit it, then to apply the Profits to the Poor, with Power to convert the Profits to either of the said Uffs; adjudged this was not a Devise to any Superstitious Uffs. 3 Nelf. Abr. 259. And where cer-
tain Profits arising out of Lands are given to Superstitious Uffs, the King shall have only so much of the yearly Profits, which were to be applied to the Super-
stitious Uffs; though when the Land itself is given by the Testator, declaring that the Profits, without finding a Priest, shall be expend'd for such Uffs, in this case the King shall have the Land itself. Bower 129. If a Sum certain is given to a Priest, and other Goods which depend upon the Superstitious Uffs, all is forfeited to the King; yet if Land, &c. is given to find an Obis or Anniversary, and for an other good Uff; and there is no Certainty how much shall be applied to the Superstitious Uffs, the Gift to the good Uff shall preserve the Whole from Forfei-
ture. 4 Rep. 104. 2 Roll. 205. It has been held, when the Goods were void, so that the King could not have it; that it was not so far void, as to re-
fect to the Heir at Law; and therefore the King may apply it to Certainty. 1 Stat. 12 Hen. 8. under Westmarn and the 1 Co. 1 Tithe Parliament.

After de Ation, Is the Pursuing or bringing an Action, in the proper County, &c. Bract 64.

Action (Fr. Heurier, a Door keeper) Is an Officer in the King's House, as of the Privy Chamber, &c. And there are Au Uffs of the Courts of Chancery and Exchequer.

hinder hison, (Uffocrat) Signifies the Enjoying by Continuance of Time; a long Possession, or Preemption. Terms of Law.

Mistfilled, (Uffstratum) One that hath the Uff, and enps the Profit of a Thing.

Uffraction, (Uffraction) Is the using that which is another's; an Interception or Délivering a Man in his Right and Possession, &c. And Uffraction in the Court of Chancery, is called Impositions; and such Intruders having not any Right shall submit, or be communicated and deprived, &c. by Benefi-
ciate's of Churches. 1 Co. Law 817. The Uffraction of a Church Benefice is, when one that hath no Right,
US

US

Usury (Usura) is Money given for the Use of Money; and is particularly defined to be the Gain of any Thing by Contract above the Principal, or that which was lent, exacted in Consideration of Loan, whereby, whether it be of Money or of any other Thing. 3 Inst. 151. Some make Usury to be the Profit exacted for a Loan made to a Peron in Want and Distress; but properly it consists in exacting an unreasonable Rate for Money, beyond what is allowed by Statute. The Letting Money out at Interest, or upon Usury, was against the Common Law; and in former Times, by one after his Death had been found to be a Usurer, all his Goods and Chattels were forfeited to the King, &c. And according to several ancient Statutes, all Usury is unlawful; nor at this Time neither the Common or Statute Law, absolutely prohibit Usury. 3 Inst. 151, 152. Though excess of Usury is liable to the forfeiture of treble Value of the Money, unless by Statute; and that Judge cannot be given upon the Statute, if it be found that a Peron took Money for Usufructure by corrupt Agreement, Judgment should be given against him at common law, which is a Fine and Impemision. 3 Salk. 391.

Reasonable Interest may be taken for the Use of Money at this Day: The Stat. 22 Hen. 8. c. 9 and the Statutes for Money lent at Interest, and the 2d Car. 2. c. 13, and the 12 Ann. c. 17, are in force. The 2d Car. 2. c. 13, lowered the Interest of the Money to 6l. per Cent. And the 12 Ann. c. 16, to 5 l. per Cent. But it is said, that the Statutes 15 Eliz. and 1 Ann. 1 allow not Usury, but punish for Usury; and the 2d Car. 2. is called the Statute against Excessive Usury. By the Stat. 12 Ann. c. 16. No Peron shall take directly or indirectly, for Loan of any Money, or any Thing, above the Value of 5 l. for the Forbearance of 100 l. for a Year, and so proportionably for a greater or less Sum; and all Bonds, Contracts, and Affurances made for Payment of any principal Sum to be lent on Usury, above the Rate of 5 l. per Cent. shall be void: And whosoeuer shall take, accept or receive by way of corrupt Bargain, Loan, &c., a greater Interest, shall forfeit treble the Value of the Money lent: and Receivers, Solicitors and Drivers of Bargains, are not to take above 5 l., for the Procurring the Loan of 100 l. a Year, on Pain of forfeiting 20 l. &c. It has been adjudged on this Statute, that a Centum for 6 l. per Cent. made before the Statute, is not within the Meaning of it; and therefore that it was valid and receivable, which is contrary to the Statute; and that a Centum for 6 l. per Cent. made before the Statute, and after the Statue comes and finds the Interest to 2 l. per Cent. if he continues the old Interest on that Bond, the Bond shall not be void as usurious: but it is said the Party shall be liable to forfeit treble Value. 1 Hawk. 246. 1 Nut. 69. The Receipt of higher Interest than is allowed by the Statute, by Virtue of an Agreement subsequent to the first Contract, doth not avoid an Affurance fairly made; and a Bond made to secure a full Debt, passed by Statute, and if ill more, shall not be avoided by a corrupt usurious Agreement between others, to which the Obligee was no ways privy: Nor shall Mistakes in drawing Writings make void a said Agreement. But if the original Contract be not usurious, nothing done afterwards can make it so: And a Counter-Bond to have one harmeless against a Bond made upon a corrupt Agreement, shall not be void by the Statutes. But if the original Agreement be corrupt between all the Parties, and within the Statute, no Colour will exempt it from the Danger of that Act. 1 Lev. 217. 3 Inst. 428. 4 Sum. 170. A Fine levied, or Judgment suffered as a Security for Money, in Pursuance of a usurious Contract, may be avoided by an Averment of the corrupt Agreement; as well as any common Specialty, or parcel Contract: And it is not material, whether the Payment of the Principal and the aforesaid premium be made, or by different Conveniences, for all Writings whatever, for the Strengthening such a Contract are void; also a Contract referring to the Lender a greater Advantage than was agreed, is usurious, if the Whole is referred by way of Interest, or in Part only under that Name, and in Part by way of Rent for a House, let at a Rate plainly exceeding the known Value; so where Part is taken before the End of the Time, that the Borrower hath not the Profit of the whole principal Money, &c. 1 Hawk. P. C. 248. 3 Nelf. 499. By Hulst Ch. Jul. ii. 42, a Peron of 100 l. who demands his Money, and A. acquaints him, that he hath not the Money ready, but is desirous to pay it if he can procure it to be lent by any other Peron, and if Jud. B. has an Occasion for his Money, contracts with C. That if he will lend him 100 l. he will give him 10 l. on which C. lends the Money, and the Debtor pays 10 l. is a good and lawful Contract, and not usurious between B. and C. Cart. 2. Rep. 372. It is not Interest in Law, if there be not a corrupt Agreement, for more than the principal, nor that he shall be paid in any other Way, and he is not punished, unless he receive some Part of the Money in Affirmance of the usurious Agreement. 3 Salk. 390. There can be no Usury, without a Loan; and the Court hath distinguished between a Bargain and a Loan. 1 Lev. 273. 37. If a Man lend another 100 l. for two Years, to pay the Loan 30 l. and if he pays the Principal at the Year's End, he shall not be paid nothing for Interest; this is not Usury, because the Party may pay it at the Year's End, and so discharge himself. 1 Lev. 409. 40. And it is the same where a Peron by special Agreement, is to pay double the Sum borrowed, &c., by way of Penalty, for Nonpayment of the principal Debt; the Penalty being in Lieu of Damages, and the Borrower might repay the Principal at the Time agreed, and avoid the Penalty. 2 Lev. 89. 2 Roll Abr. 801. A Man surrender a Copollony Easite to another upon Condition that if he pays 80 l. at a certain Day, then the Surrenderor to be void; and after it is agreed between them that the Money shall not be paid, but that the Surrenderor shall forfeit, &c.; In Consideration whereof, the Surrenderor promises to pay on the Surrenderor on a certain Day 60 l. or 6 l. per Annum from the said Day pro prste of Interets of the said 60 l. till that Sum is paid, or with interest of the said 60 l. in the Year, shall be liable to be Interest Demurrum, and not Lucr., and but limited as a Penalty for Nonpayment of the 60 l. as a Nomine pone, &c. 2 Roll. Rep. 469. 1 Damo. Abr. 44. On a Loan of 100 l. or other Sum of Money for a Year, the Lender may agree to take his Interest Half-Yearly, or Quarterly; or to receive the Profit of a Manor or Lands, &c., and he be no Usury, though such Profits are rendered every Day. 3 Lev. 36.

If a Grant of Rent, or Lease for 20 l. a Year of Land which is worth 100 l. per Annum be made for One hundred pounds, this is not a usurious Agreement, that this Grant or Lease shall be void, upon Payment of the Principal and Arrears, &c. 1 Lev. 249. But if two Men speak together, and one desires the other to lend him an hundred Pounds, and for the Loan of it, he will give more than legal Interest; and to evade the Statue, he grante to him 30 l. out of his Land, for ten Years, or makes a Lease for one hundred Years to him, and the Loeffet regrants it upon Condition that he shall pay 30 l. yearly for the ten Years; In this Case, it is Usury; and though the Lender have his own hundred Pounds again. 1 Lev. 27. See 1 Lev. 119. A Man granted a large Rent for Years, a small Sum of Money: The Statue of
Uttery was pleaded; and it was adjudge'd, that if it had been laid to be upon a Loan of Money, it had been a plain Contradiction; though it otherwise, if it be a Contract for an Annuity, 4 Sep. 170, l. 170. If one hath a Rent-charge of 50 l. a Year, and another afeaks what he shall give for it, and they agree for 100 l. this is a plain Contrad for the Rent Charge, and no Uttery. 3 Nef. 510. The Grant of an Annuity for Lives, not only exceeding the Rate allowed for Interest, but also the Proportion for Contracts for a Kind, in Confideration of a certain Sum of Money, is not within the Statutes against Uttery; and of no Grant of an Annuity, on Condition, 6 Cr. Cas. 215. 2 Litt. 182. See 1 Sid. 45. If the Interest exceeds 5 l. per Cent. per Annum on a Bond, if possibly the Principal and Interest are in Hazard, upon a Contingency, or Casualty; or if there is a Hazard that one may have lost more than his Principal, as when a Bond is to pay Money upon the Return of a Ship from Sea, 6 Cr. 206, 508. 1 Cr. 27. 2 Litt. 8. Though where B. tends to D. three Hundred Pounds and more, and the Time is during the Life of E. for such a Time; if therefore D. pays to B. twenty Pounds in three Months, and at the End of six Months, the Principal Sum, with a further Premiuim, at the Rate of 6 l. per Bond a Month; or if before the Times mentioned E. dies, then the Bond to be void: This differing from the Hazard on a Butterxy Bond, was adjudged an infinite Contract. 2 Carlev 67, 68. 2 Cembr. 125. One hundred Pounds is less to have 20 l. at the Year's End, upon the Casualty; if the Casualty goes to the Interest only, and not the Principal, it is Uttery. The Difference in the Books is, that where the Principal and Interest are both in Danger of being lost, there the Contract for extraordinary Interest is not Uttery; but when the Principal is well secured, 'tis otherwise. 3 Salk. 391. A Peron secures the Interest and Principal, if it be at the Will of the Party who pays, it is Uttery. 3 Salk. 120. And a Lender accepting a voluntary Gravity from the Borrower, on Payment of Principal and Interest; or receiving the Interest before due, etc., without any co-rupt Agreement, shall not be within the Statutes against Uttery. 2 Cr. 367. 3 Cr. 501. Also if one gives an annuities Bond, and tenders the whole Money; yet if the Party will take the only legal Interest, he shall not forfeit the treble Value by Statue. 4 Lew. 43. On an Information upon the Statue of Utter, he who burrows the Money may be a Winten's Surety; after he has paid the Money. 6st. 151. In Action for Utter, the Statue against Utter must be pleaded, and a corrupt Agreement set forth: It is not sufficient to plead the Statue, and lay the Party's pleading 20 l. the Defendant took more than 5 l. per Cent. without setting forth a corrupt Agreement or Contrat. 5 Litt. 466. 2 Litt. 672. 3 Nef. 514. And in pleading an annuities Contract by way of Barr to an Utter, the whole Matter is to be set forth specially, because it lay within the Party's own Privicy; but in an Information on the Statue of Utter, it is not sufficient to set forth the corrupt Agreement generally, by Reason Matters of this Kind are supposed to be privily transfixed; and such Information may be brought by a Stranger. 2 Twel. 243. In Case of Utter, etc. an Obiror is admitted to aver against the Condition of a Bond, or against the Bond itself, for Necelc. 66, 67, 68. B. R. The Word Corruptio is necessary in a Declaration for Utter, etc.

Utter, Is the Eighth Day following any Term Day, as the Usus of St. Michael, etc. And any Day between the Feast and the Oadies is said to be within the Usus: The Use of this is in the Return of Writs; as appears by the Stat. 51 H. 3.
is called by the Crier thrice; and if he do not appear, he becomes nonsuit; and the Defendant swears that he owes the Plaintiff nothing, and the Comportors give it upon Oath that they can prove it true, the Plaintiff is barred for ever; and for when a Person has waage by Law, it is as much as if a Verdict has passed against the Plaintiff: If the Plaintiff do not appear to hear the Defendant perform his Law, so that he is nonsuit; he is not barred, but may bring a new Action. 1 Jet. 155. 2 Litt. Abr. 674. In an Action of Debt on a By-Law, the Defendant waage Law; a Day being given on the Roll for him to come and make his Law, he was set on the Right Corner of the Bar, and the Defendant asked him if he was ready to waage his Law; who answering that he was, he laid his Hand on the Book, and then the Plaintiff was called: Then the Judges admonished him and his Comportors not to cross each other above to make Oath. That he did not owe the Money said of forms as the Plaintiff had declared; and then his Comportors, who were standing behind him, were called, and each of them proved his Right hand upon Oath that they believed what the Defendant had sworn to. 2 Jet. 171. 2 Sa1. 682. The Defendant cannot waage his Law in any Action, but personal Actions, where a Person has a Right to waage Law. Wages of Law has been denied on hearing the Case, and the Defendant was advised to plead liase. Er. Also this Wages of Law being, it is said, abated by the Iniquity of the Times, the Law was forced to find another Way to do justice, and that was by turning Actions of Debt on simple Contract, &c. into Action upon the Case by Indisoport. Affirm that, which he has defied the Defendant of his Lay Ganger. 2 Litt. 675, 656.

Wages: By Statute, all Wages pended upon a Consequence relating to the late War with France, and all Securities, &c. therefore, were declared to be void; and Persons concerned to forfeit double the Suma laid. 7 Ann. cap. 17.

Wages, is what is agreed upon by a Master to be paid to a Servant, or any other Person which he hires to do Business for him. 2 Litt. Abr. 677. The Wages of Servants, Labourers, &c. is to be settled by Justice. 1 Jac. 4 cap. 1. And justices of Peace may order Payment of Wages for Husbandry, &c. but not in other Cases. Mod. Cap. 204, 205. The Statute of Labourers extends to Covenant Servants in Husbandry; &c. an Order of Judges was qualified in R. 4 because made upon the Servant's Oath, without other Evidence. 2 Litt. 158. 159. Seamen, Wages, &c. 3 Edw. & 2 Ann. 1 Geo. 1, c. 25.

Wages. The 2 Car. 2. enacted, That Wages, and other Wages of a Thing, are not to be paid more than once in the Year. And no Cart with three Horse, or on Pain of forfeiting all supernumerary Horses; also travelling Wages are to have their Wheels bound with Iron, two Solches and a half, to the Horse, or all the Horses for going to Market, &c. Stat. 16 Geo. 2, cap. 29.

Wages, (From the Sax. Wafien, Fr. Chez gaier, Lat. Bona Wages) Are Goods which are stolen and wounded, or left by the Felon, on his being purloined, for fear of being apprehended, which are forfeited to the King or Lord of the Manor. 11. & 12. Hen. 11. 1. 1. If a Felon in Pursuit woues the Goods, or having them in his Custody, and thinking that Pursuit was made, for his own Excit and more speedy Flight, flies away and leaves the Goods behind him; then the King's Officer or the Bailiff of the Lord of the Manor, within whole Jurisdiction they are left, who hath the Franchise of Wast, may seize the Goods to the King or Lord's Use and keep them; except the Owner makes fresh Pursuit after the Felon, and sues an Appeal of Robbery within a Year and a Day, or give Evidence against him whereby he is attainted, &c. In which Case, the Owner shall have Restitution of his Goods so stolen and wounded. 21. & 22. 7 Geo. 2. cap. 11. 5 Reg. 196. Goods owned by a Felon, in his Flight from those who pursue him, shall be forfeited; And though Wast is generally spoken of Goods stolen; yet if a Man be pursuited with liase and as a Felon, and he flies and leaves his own Goods, these will be forfeited as Goods stolen; but they are properly Feuditi Goods, and not forfeited till it be found before the Coroner, or other Member of Record, that the Felon fled. 2 Hen. 8. 450. 5 Reg. The Law makes a Forfeiture of Goods without, as a Punishment to the Owner of the Goods, for not bringing the Felon to Justice: But if the Thief had not the Goods of the Owner, when he ran off, there is no Forfeiture: If a Felon steals Goods and hides them, and afterwards files, these Goods are not forfeited; for where he leaves stolen Goods any where, with an Intent to fetch them at another Time, they are not forfeited; and in these Cases the Owner may take his Goods where he finds them, without forfeit, &c. 5 Geo. 1. cap. 109. 1. Mar. 295. Wast and Stray are said to be Nullitas in saec.; and therefore they belong to the Lord of the Franchise where found. Briton, cap. 17. We read of Plentitio Coronae & Wast, in the Manor of Usten, &c. in Cam. Salw.

Wast, (Plaudrum) A Cart, Waggon, or Plough to till Land.

Wastables, i. e. That may be ploughed, or manured; Land tillable. Chart. fee du.

Wastages, (Wastaginou) According to Sir Edw. Cole, signifies the Consideration of a Villain or the Furniture of his Cart or Wain. 2 Inf. 28. And the Villain of any other, if he fall into our Mercy, shall be amerced giving his Wastage. Magn. Chart. 24. 15. Sir John Wastings has been also used for Tillage. Mon. Ann. Tav. 2. p. 612. See Gainage.

Wasther, (Wasthers) In the general Signification, is to forswake; but is more particularly confined to a Woman who for any Crime, for which a Man may be outlawed, is termed Waste. Reg. Orig. 132.

Wasther, Signifieth not only a Woman, but also a Thing, or a Refusal to accept it: Sometimes it is applied to an Estate, or something convey'd to a Man, and sometimes to a Pies, &c. And a Waste or Disagree-ment as to Goods and Chattels, in Cafe of a City, will be effectual. Litt. Sch. 710. If a Jointure of Lands be made to a Woman after Marriage, the may waste this after her Husband's Death. 3 Reg. 27. And an Infant, or he son, his Heir may by Waste avoid an Estate made to him during his Minority. 1 Inf. 23. 348. But where a particular Estate is given with a Life for the General Legislature, and hath it may not waste it, to the Damage of him in Remainder: Though it is otherwise where one hath a Reversion for such shall not be hurt by such Waister. 2 Sh. 4. App. 1. Afterwards Special Gift joined to a Special Waste, the Parties cannot waste it, without Motion of Court. 1 H. 255. Allegement of Error by At- tumony on an Other, and granted to be waived, and the Party to sign in Person, after Demand, to Castle. See a 3d. 1. 5.
...The Eve Feast of the Dedication of Churches; which in many Country Places, is observed with Feasting and rural Diverctions, &c. (Stat. Anal. Antiqu. 609. Corr. Warcham.) The Chief Magistrate of the Town of Ripon in Yorkshire, is so called. 

Wales. (Wallia) is Part of England on the West side formerly divided into three Provinces, North Wales, South Wales, and West Wales; and inhabited by the Offspring of the ancient Britains, chased thither by the Saxons, called in to aid them against the Picts and Scots. (Stat. Wallia, 1 ed. 1. England and Wales were originally but one Nation, and so they continued till the Time of the Roman Conquest; but when the Romans came, those Britains who would not submit to their Yoke, betook themselves to the Mountains of Wales, from whence they came again soon after the Romans were drove away by their Difficulties and Wars. After this came the Saxons, and gave them another Disburthen, and then the Kingdom was divided into an Hepertacy; and then also began the Welsh to be divided into nine Provinces, from the English: Yet it is observable, that the Welsh had Princes of their own, the King of England had Superiority over them, for to him they paid Homage. (Cond. 67, 2 Mod. 11.) The Stat. 28 Ed. 3. c. 3. anno 1347, about the Marches of Wales perpetually to the Crown of England, so as not to be of the Principality of Wales. And by the 27 Hen. 8. c. 26. Wales was incorporated to and united with England; and all Persons born in Wales shall enjoy the like Liberty as those born in England, and Lands defined there according to the English Laws: The Laws of England are to be executed in Wales; and the King to have a Chancellor and Exchequer at Brecon and Denbigh: Officers of Law and Ministers shall keep Courts in the English Tongue; and the Welsh Laws and Customs to be inquired into by Commission, and such of them as shall be thought fit continued; but the Laws and Customs of North Wales are favored. By 34 & 35 Hen. 8. cap. 26. A Division of Wales was made into twelve Counties; and a President and Council shall remain in Wales and the Marches thereof, with Officers, &c. Two Justices are to sit ad hoc to hold a Sessions twice every Year, and determine Plans of the Crown, and Affairs, and all other Actions; and Justices of Peace shall be appointed as in England, &c. The 18 Edw. cap. 8. enacts, That the King, or his Lieutenant, may appoint two other Persons learned in the Laws, to be Judges in each of the Welsh Circuits, which had but one Judge before; or grant Commissions of Allocations, &c. An Office for Inquisitions was erected, and the Fees and Proceedings regulated in paying Fine and Recoveries in Wales, by 27 Edw. cap. 9. Persons of Quality in Wales may give the benefit of their Goods and Chattels by Will, in like Manner as may be done within any Part of the Province of Canterbury or elsewhere. 7 & 12 W. 3. c. 5. 9. Jurors return to try Actions in Wales, are to have 6 d. a Day for Firehold or Copyhold, above Reparations: And none shall be held to Bail in Wales, unless Assiduity be made that the Cause of Action is 20 l. or upwards. 11 & 12 W. 3. c. 9. In Actions where the Debt, &c. amounts not to 10 l. in the Court of Great Sessions in Wales, the Plaintiff shall sue out a Writ of Proces, which is returnable in the Court of Common Pleas eight Days before holding of the said Court, &c. who shall appear at the Return, or before the Third Court; or the Plaintiff may enter an Appearance, and proceed. 6 Gen. 2. c. 14. Of Process into Wales, Judgments, and Courts there, &c. see 3 Nifi. Abr. 519, 520, 522. and Courts of Wales. Prince of Wales, vice Prince. (Stat. 26 W. 3. called the Bishop of Durham, a deputy of the Bishop of Warrington.) &c. Walmes is a Parish: But by others it is interpreted Foraminata Helminis interflexa; the same with Polysiphon. 

Waltham. (Sax. Waltham) A Bank of Earth. See Watergate. Waltham Abbey, The Demesne Lands in Waltham Forest may be let by Copy, and shall be Copyholds. 35 H. 8. c. 3. 

Walthamstow. In the Reign of K. Geo. 1. there sprung up a Set of delightful Villains called Walthamstow Blacks, headed by one whom they called K. John; who blacking their Faces, and using other Disguises, robbed Forests, Parks, and Warrens, destroying Cattle, levied Money on their Neighbours, and committed divers other Violence and Outrages to the great Terror of the People; but they were suppressed, and declared False, by Stat. 9 Geo. 1. c. 22. 

Wallingford. (Sax. Walhingefor) In the Town of Wallingford, or Law wherever in the Teeth are let: Hence Chaucer called the Check-Teeth or Grinders, Wongs or Wyng-Teeth which is recorded in this old Way of Sealing Writings: And in Wines I thou art so, I bite the Wax with my Wyng-Tooth. 


Walters, or driving the Walsians, is to drive Deer to a Stand, that the Lord may have a Shoot: which is one of our ancient customary Tenures of Lands. Blund. Ten. 140. 

Wassens, (From the Sax. Wesen, i.e. Examen, &c. &.c. &.c.) is one with what we call a Hundred; especially used in the North Counties beyond the River Trent. Bract. lib. 3. Lamb. The Words seem to be of Danish Original, and to be called fo for this Reason; when first this Kingdom, or Part thereof, was divided into Wapentakes, he was who the Chief of the Wapentake or Hundred, and whom we now call a High Constable, as soon as he entered upon his Office, appeared in the Field on a certain Day on Horseback with a Pike in his Hand, and all the chief Men of the Hundred met him there with their Lancers, and waved his Pike; which was a Sign that they were firmly united to each other, by the Teaching their Weapons. Howden. Fier. lib. 2. But Sir Thomas Smith says, That anciently Mullers were made of the Armour and Weapons of the several Habitants of every Wapentake; and from thence that could not find sufficient Pledges for their good Behaviour, their Weapons were taken away, and given to others; from whence he derives this Word. Rep. Angl. lib. 2. cap. 16. Camden. Brit. 159. 2 Inf. 55. Stat. 3 Hen. 5. c. 2. 1600. 6 Hen. 6. c. 3. 1619. Wapentake was at quiescentia de seilis. Of Hundreds good dinar Wapentake. MS. in Bibl. Cotton. 

Wapping, An Act was made for the Partition of Wapping Marsh. Stat. 35 H. 8. c. 9. And Persons sheltering themselves from Debts, and obliterating the Execution of Writs in Wapping, Stapes, &c. to be guilty of Felon, by 1 & 2 Geo. 1. c. 22. 

Warr (Bellow) A Fighting between two Kings Princes or Parties, in Vindication of their just Rights; also the State of War, or all the Time it lasts. By our Law, when the Courts of Justice are open, so that the King's Judges distribute Justice to all, and protect Men from Wrong and Violence, it is said to be a Time of Peace: But when by Invasion, Rebellion, &c. the Whole Country is in a State of War, then it is adjudged to be a Time of War: And this shall be tried by the Records and Judges, whether Justice at such a Time had her equal Course of Proceeding or not. For Time of War gives Privileges to them that are in War, and all others within the Kingdom. 1 Inf. 249. 

In the Civil Wars of K. Char. 1. it was composed that there were not less than 200,000 foot and 50,000 Horse.
Horrible to Arms on both Sides; which was an extraordinary Effort, considering its composition of British sufficient to have shaken Europe, though it was otherwise luckily employed. And in ancient Times, when the Kings of Macedonia were to be fought with Soldiers in their Wars, a Knight or Squire that had Revenues, Farmers and Tenants, would covenant with the King by Indenture drawn up in his name, to furnish him with such a Number of Military Men: and those Men were to serve under him, whom they knew and honoured, and with whom they must live at their Return. 1. Stat. 71. This was an excellent Inducement; but we have had many Statutes which have alter'd this Method of recruiting the Army, by introducing the Lifting of Soldiers, and retaining them by Virtue of Money paid and advanced, &c. The Statute 25 E. 3. enabled, that none should be condemn'd to find Men of Arms: but by Torment of Land, or Grant in Parliament. And what Persons are obliged to attend upon the King, and how they go his Kith in Perpetual Wars, see Vide 11 H. 7. c. 18. See LAW OF ARMS, AND SOLDIERS.

Glara, A certain Quantity or Measure of Ground. 12 H. 4. 35.

Glareus (Capitola) is variously said in our old Books: A Ward in London is a District or Division of the City, committed to the several Parishes of the Alleys, of which there are Twenty-six Parishes, according to the Number of the Mayor and Aldermen, of which every one has his Ward for his proper Good and Jurisdiction. Sir's Tuar. A Peril is divided into Wards. Mann, p. 1. p. 97. And a Prifon is called a Ward. Laflly, The Heir of the King's Tenant, that held in Capite, was termed a Ward during his Minority. But this Wardship is taken away by the Statute 12 Car. 2. c. 34.

Glarthy, The Cuddy of a Town or Castle, which the Inhabitants were bound to keep at their own Charge. Min. Ang. Tom. 1. p. 572.

Glart's (Wardingham) Seems to be the same with Wardeyn.

Glarris (Gardnian, Fr. Gardin) is he that hath the Keeping or Charge of any Perions or Things by Office, as the Wardens of the Pellowshaws or Chambers in London. 14 H. 8. cap. 2. Wardens of the Marches of Wales. 12 H. 7. cap. 3. Wardens of the Peace. 2 Ed. 5. c. 3. Wardens of the Tabbs of the King's Exchange. 2 Ed. 5. c. 7. Wardens of the Armoury in the Tower. 1 Ed. 4. c. 6. Wardens of the Rolls of the Chancellor. 1 Ed. 4. c. 7. Wardens of the King's Writs and Records of his Court of Common Bench. B. W. of the Lands of the Lords for repairing Stockbridge. 19 Ed. 2. c. 7. Wardens of the Stapen- ries. 14 Car. 2. c. 5. Wardens and minor Canons of St. Paul's Church. 22 Ed. 23 Car. 2. Wardens of the Peace. 1 Ed. 16. &c. See Warden, Steward.

Glartmottis (Wardmount) Is a Court kept in every Ward in London; ordinarily called the Wardmote Court. And the Wardmote Inquest, hath Power every Year to inquire into and present all Defaults concerning the Watch, and Confablers doing their Duty; that Engines, &c. are provided against Fire; Perions selling Ale and Beer be honest, and suffer no Drunks, nor permit Gaming, &c. that they fill in laufull Manners; and Searches be made for Vagrants, Beggers, and Idle Perions, &c. who shall be punished. Chart. K. Mat, 2. Lex. 157.

Glartony, Money paid and contributed to Watch and Ward. Domedal.

Glartunte, Is to be quit of giving Money for keeping of Wards. Terra Lex. 157.

Glartes, Was a Court first reigned in the Reign of King Hen. 3. and afterwards augmented by him with the Offices of London: wherein it was filled at the Court of Wars and LICeees, now discharged by the 15 Car. 2.

Glartstaff, The Confable or Watchman's Staff. And the Masts of Landing in Office is held by the 2

Service of the Ward-Craft, and unwraking the fame in an extraordinary Manner, when it is brought to the Town of Alderney, Gern. 

Glartfare, To plough up Land designd for Wheat in the Spring, in order to let it lie fallow for better improvement; which in Kent is called Summer Land; Hence Wardhalls in campe, a Fallow Field; Campe at Warttime, Terra Wartitias, &c.

Glartere, Certain Worns not to be brought into this Realm from abroad, to be sold or exchanged here, on Pain of Forfeiture. See Stat. 5 Eliz. cap. 7.


Glartans, Is used for Garnish, Furniture, Provision, &c. Pat. 9 Hen. 3.

Glartnoth. It is an ancient Coven; if any Tenant holding of the Castle of Donau failed in paying his Rent at the Day, that he should forfeit double, and for the second Failure treble; And the Lands so held are called Terre Cudas & Terre de Wrarnoth. Mon. Ang. Tom. 2. pag. 589.

Glartant, A Precept under Hand and Seal to some Officer to bring an Offender before the Peron granting it: And Warrants of Commitment are Issued by the Privy Council, a Secretary of State, or a Justice of Peace, &c. where there has been a private Information, or a Warrant has been signed and Offered in Worns' Inf. 614. Any one under the Degree of Nobility, may be arrested for a Misdemeanor, or any Thing done against the Peace of the Kingdom, by Warrant from a Justice of Peace; though if he should be a Peer of the Realm, he must be apprehended for a Breach of the Peace by Procests out of B. R. &c. Denf. Proc. 165. A Confable ought not to execute a Justice's Warrant, where the Warrant is unlawful, or the Justice hath no Jurisdiction; if he doth, he may be punished. Plead. 394. But if any Peron shot or trowed in the Dift, &c. or refuse to execute a lawful Warrant; it is a Contempt of the King's Procests, for which the Offender may be impleaded and fined. Comn. 145. See Confable.

Glartant of Bretony, Is an Authority and Power given by a Client to his Attorney, to appear and plead for him; or to offer judgment to pass against him by confounding the Action, by nil distr. Non Jus Informatum, &c. And although a Warrant of Attorney given by a Man in Cuddy to confound a Judgment, so Attorney being present, is void as to the Entry of a Judge's own; yet it may be a good Warrant to appear and File Com- mon Ball. 2 Ed. 1. 604. A Warrant of Attorney which warrants the Action, is of Course put in by the Attorney, for the Plaintiff's &c. Defendant; so that it differs from a Letter of Attorney, which passes ordi- narily under the Hand and Seal of him that makes it; and is made before Writts, &c. Though a Warrant of Attorney to follow a Spanish Robber, by the Tenant, is acknowledged: before such Perions as a Commissariat for the Doing thereof directs. Wiff. Syn. par. 2. Vide Stat. 4 & 5 Ann.

Glartart, Warrant of Office, is a Promise or Covenant by Deed made by the Bargainer, for himself and his Heirs, to warrant of fecuring the Bargainer and his Heirs, against all Men for the Enjoying of the Thing granted. Bract. 6. 2. 3 Ed. Warrant of Office, &c. Warrant in Real or Personal, &c. when it conveys Lands of Tenement, granted in Fee, or for Life, &c. And real Warrants are either in Deed, as the Warrant or Warrant in Real or Personal, or in Law, by the Word Dile, &c. And a Deed of Gift and Exchanging, have a Warrant in Law implied. Litt. 607. 9 Ed. Warrant of Office, &c. Red Calle, &c. A real Warrant to be a Conveyance is a Real Grant to Lands, whereby a Man and his Heirs are bound to warrant the same to other and his Heirs; and that they shall quietly hold and enjoy the Lands upon Vouchsafe, or by Writ of Warrant in Chancery, to yield other Lands and Tenements to the Ven- tue of those that shall be evicted by other Title: And
Warranty being a Covenant real, binding to yield Lands in Recompence. 1. Inf. 365. 384. Warranty is the Inscription of Life, or a common Recovery, which is the Act of the Party. 1 Inf. 370. 3 Rep. 62. Though if the Estate the Warranty is annexed to be free, the Woman heirs by the Deed to Warranty, and hath Issue a Son and dies, and the Warranty defends to his Son and Heirs; for if no Deed with Warranty had been made, then the Right of the Lands should have defended to the Son as Heir to his Father, and he would have conveyed the Defect from Father to Son: This Warranty binds the Right of Fee-Simple: but not the Right of an Estate, unless the limited Warranty be with Issue in Fee Simple. Litt. 609, 703. 1 Inf. 350. Collateral Warranty is when the Party upon whom the Warranty defends, cannot convey the Title which he hath in the Land from him that made the Warranty, or swears that he is his Heir, etc. As if Tenant in Tail defeatis the Tail, or alienates the Land, and then dieth, leaving Issue, and the Uncles the Heirs declare to the Defendant no Issuu with Warranty, and dies without Issue; this is a collateral Warranty to the Issue in Tail, and bindeth his Right, without declaring it upon him, and he can't make a Title to the Insuit from his Uncle. Litt. 704- 1 Inf. 375, 376. Warranty by Defeasance, is where one that hath no Right to the Freehold of another, enters and makes it with Warranty, which shall not bind or bar the Person defeas'd, or the right Heir that ought to have the Land: And if where Tenant for Life, Remainder in Tail, leases for Years with Agreement with the Lease, that he shall make a Defeasance of the Land, and then he will release with Warranty, which is done accordingly; adjusted that this collateral Warranty annexing by Defeasance, shall not bind the Heir in Tail, upon whom it depended. Litt. 698. 1 Inf. 366, 367. Cro. Cos. 483. Accomp. Conv. 1 Vol. 56. He that makes a Warranty, may make it as large, or small as he pleases; as for himself and his Heirs, and what Heirs, etc. And if the Warranty be made for Life, or Tenancy, 'tis good, and shall bind for so long only. 1 Inf. 387. 1 And. 261, 305. But no Warranty can enlarge an Estate granted; for if the Leasor for Deed doth Release to his Lessee for Life, and warrant the Land to him and his Heirs, it shall not make his Estate greater. 1 Inf. 389. And where one binds him and his Heirs to Warranty; by this they are not bound to new new Titles, or any Right that consequent after Warranty made, but such as were in Fight. 1 Inf. 387. And if any Person doth there be, and grant to warrant the Land, but doth not say for how long: it shall be taken for so long as the Estate to which it shall be granted, and the Grantor grants to warrant Lands to another, and say not against what Persons; here it will be held a general Warranty against all Men. 1 Rep. 1. A Warranty may be annexed to Estates of Inheritance or Freehold, and that put only to Houses and Lands, but also Rent, Adowment, Connu, etc. which Issue out of Lands or Tenements. 1 Inf. 366, 389. And to every good Warranty in Deed, to make it binding: the Person that doth warrant must be a Person able; it is necessary that there be some Estate in which the Warranty is annexed, to support that which is annexed; by him who is Heir of the whole Blood by the Common Law, to him that made it, and not upon another; and that the Heir claim by the same Right as the Ancestor; that it take Effect in the Life-time of such Ancestor: and he be bound thereby; and the Estate of Freehold, which is to be barred, be put to a Right before, or at the Time of the Warranty, and that he to whom the Warranty defends, have idea but a Right to the Land. 1 Inf. 367, 370, 384, 388. 10 Rep. 96, 97. If one be a Successor only in Cafe of a Corporation, he shall not be as the Heir of his Natural Ancestor; and he that comes into Land merely by Act of Law, as the Lord by Easement, or he shall never take Advantage of a Warranty: but it is otherwise when the Est­ate arises by a Collateral Warranty, or a common Recovery, which is the Act of the Party. 1 Inf. 370. 3 Rep. 62. Though if the Estate the Warranty is annexed to be free, the Woman heirs by the Deed to Warranty, and hath Issue a Son and dies, and the Warranty defends to his Son and Heirs; for if no Deed with Warranty had been made, then the Right of the Lands should have defended to the Son as Heir to his Father, and he would have conveyed the Defect from Father to Son: This Warranty binds the Right of Fee-Simple: but not the Right of an Estate, unless the limited Warranty be with Issue in Fee Simple. Litt. 609, 703. 1 Inf. 350.
Land upon him, and if the Land be conveyed from him, he shall recover as much Land as he had against the Warranee. But the Warranee, however, may claim that the Title was lost by the Feoffee depositing a Bond with the Deed, the Finder against him, as he hath left his Advantage. *FIN. R. 154. Term. de Lege 1757. 468.* And if a Person forth in another's Name, and Dole more or restricted, the Warranee, and the Feoffee makes a Feoffment once, and still back an Estate in Eq., the Warranee is dissatisfied, and he shall have the Warranee to satisfy, because he is in of another Estates: Also whereupon makes a Feoffment in Fee with Warranee against him, and his Heirs, the Feoffee shall not have a Warranee in Champaigny, this Warranee against the Feoffee or his Heirs, if he be impeached by them, but the Nature of it is so robust against the Feoffee and his Heirs. Delt. 48. 2 Lib. 681. This Warr. may be found forth before a Man is impeached in any Action, but the Warr. doth suppose that he is impeached: and if the Defendant appear and say, that he is not impeached, by that Plea he confest the Warr. forth, and the Party shall recover in Value of the Lands against the Voechee, which he had at the Time of the Purchase of the Purchaser of the Purchaser; and the Jury shall, by may be good Policy to bring it, against him, before he is sued, to bind the Lands as he had at that Place; for if he have auled his Lands before the Voechee, he shall recover in Value. N. S. 1st. 156. 265. 299. If a Man recover his Warranee in Warranee Chartar, and after he is impeached he : ought to give Notice to him against whom he had recovered, of the Action, and upon him, new where Plea he were pleased, to defend the Land, &c. And where a person can a Voechee duch and recover in Value, if he is then impeached by the Land recovered, he may not vouch for, the Warranee was once executed, 23 E. 3. 12. In a Warranee to the Feoffee in Land, made by the Voechee; upon Voechee if Special Inde- ty be heed by the Voechee, when he entered into the Warranee, the Time the Land at the Time of the Feoffment was worth only 100., and now at the Time of the Voechee it is worth 200. By the In- dustry of the Feoffee: the Plaintiff in a Warranee Chartar, &e., shall recover only the Value as it was at the Time of the Sale. *Jad. Cap. 36.* If the Voechee can make these, why should he not Warranee, that must be Tried, &c.

Form of a Warr. de Warranee Chartar.

GEORGE, the Second, &c. To the Sheriff of W. &c. A B. an A B. in Warranee to C. D., one Meffige with the Apparitions in S. which he holds, and claims to hold of him, whereof he hath his Deed or Charter of Feoffment, as he holds his and inde, &c. And annex the said G. in his proper Person faith, that whereas the said A. was falsed of the Meffige after- field, with the Apparitions, in his Demesne of E., and by his Deed and Inde S., he received a Bond of Song of Feoffment, which said C. brings here into Court, whereof Date is the, &c. granted, bargained and sold, re- bellied, false, and contrary to the said C. the Meffige afterfield, with the Apparitions, in S. Things, by the Name of, &c. To be void, and to hold so to the said C. his Heirs and Assignes for ever, and bound himself and his Heirs to warrant to the same C. his

*Warranee Chartar, is no ancient* thing, when one having a Land, being personally to appear at Court to any Action, is in the same Time employ'd in the King's Service, so that he cannot come at the Day appointed; And it is directed to the Judges for the End, that they neither take nor record him in Demand for that Time. *Reg. Orig. 18. F. N. B. 17. Case &c.*

MARRAN, (Marran, from Germ. Meffere, i.e. Confessore, or the Sr. Germain) Is a Frenshiac, or Place privileged, by Pecipation or Grant from the King, for the Keeping of Bells, in the Forests, the which are Parcels and Commons, appearing there, and some add Quails, Woodcocks and Water-Fowl, *etc. Term. de Lege 180. 1 Ind. 235.* A Person may have a Warranee in another's Land, for one may alienate the Land, and assure the Franchiac: But none can make a Warranee, and appropriate those Creatures that are Free Nature, without Licence from the King, or where a Warranee is claimed from Pecipation. *Reg. 1st. 11. Reg. Rep. 87.* A Warranee may be open, and there is no Necessity of Isolating it, as there is of a Parc. *Reg. 5th.* If any Person offer in a free Warranee, he is punishable by the Common Law, and by Stat. 25 Ed. 5. And if any one enter wrongfully into any Warranee, and claim, take or kill any Conies, without the Consent of the Owner, he shall forfeit treble Damages, and suffer three Months Imprison- ment, *cf. 23 & 25 Car. 2. c. 25. When Conies are on the Soil of the Party, he hath a Property in them by Reason of the Possession, and Action lies for Killing them; but if they run out of the Warranee, and cut up a Neighbour's Corn, the Owner of the Land may sue, *cf. 1st. 104. 1 Ind. 548.* In Walls, &c. against a Letters of a Warranee, the Walle affigned was for flapping Coney- borough; and it was held, that this Action did not lie, because a Man cannot have the Inheritance of Conies; and Action may be brought against him who makes Holes in the Land, but not against him that stops them, by Reason the Land is made better by it. *Quo W. 66. 3 Reg. 450.*

MLCUT, was a Contribution usually made towards Armory, in the Times of the Saxons. *Leg. Coa.*

Marth, A Customary Payment for Cattle Guard. *Blom's Tax 60.*

Mlat, A Skallow Part of a River, or Arm of the Seas: as the Walle in Lincolnshire, *etc. Knight 1346.*

Mlatoffer, from Door to Door, about the Time of the Epiphany. *Mlat, (Pilgrim) Is where any Spoil of Defraction is made in House's, Lands, Woods, &c. by Tenants to the Demesne of the House, in Reversionary Remainders: Whereupon the Writ or Action of Walle is brought for Recovery of the Things wasted, and Damages. *etc. 168. Walle in another Significa-
WA

WA

ption is taken for those Lands which are not in any Man's Occupation, but lie Common; which are so called, because the Lord cannot make such Profit of them as other of his Lands, by Resale of that which others have thereof in palling to and fro, &c., but only upon this none may build, cut down Trees, or dig, without the Tenant's Leave. Day and Night, and 

WA of a Punishment or Penalty belonging to Petit treason and Felony. S. P. C. Lib. 3. Wafle is said to be voluntary, where the Tenant doth it willingly, as if he pull down the House, &c., or for 
mishaps and Negligence, when he suffereth it to be done: And the Writ alio loco is given for Relief, is either in the Tenet, where it is brought against him, who hath and continueth in the Estate; or in the Tenet, 

WA, against him that had such an Estate, but now it is ended. 1 Lev. 53. 57. Action of Wafle is mainta 

inable against Tenant by the Currevye, in Dower, for Life, or Years, and tare Damages, recoverable by the 

Sta. Gne. 5 Ed. 1. c. 5. And this Action may be brought by the Heir for Wafle, done in his 

Ascendency, or by the Reverser, against Tenant for Life or Years, that aliens his 

Estate to a Stranger, who afterwards commits 

Wafle, such Tenant full receiving the Profit: life by one Tenant in Common against another. 15 

Ed. 1. 20 Ed. 11. H. 6. c. 5. At Common 

Law, there is a Writ of Wafle, for Wafle done by 

or by Consent; and by 

Stare, the Action of Wafle lies against Tenants for 

Life, or Years, &c. But not against Tenant by 

States, Merchants, Stay or Eleaghty, they not being 

Tenants for Years; though Trefias lie against them, or Covenant for voluntary Wafle: It lies not against Tenant after Fussibility of fine ext; and the Sta. 3 Ed. 1. extends to Jointholders, but not to Coparceners. 1 Lev. 54. 200. 2 Lev. 699. 

When Action of Wafle is brought against any one in the 

Tenet, Damages are only to be recovered, as he payes for Wafle, but when brought in the 

Tenet, then both are recoverable. 6 Rep. 44. 3 Nef. 

Ab. 532. If Tenant by the Currevye, or in Dower, 

align their Estate to another, the Heir shall have 

Action of Wafle against them, or 

Wafle done after the 

Assignment; for notwithstanding the 

Assignment, the Privy of Estate still remaineth; but if the 

Heir grant over his Reversion, then the Privacy of Estate is gone, and he cannot bring Wafle against 

them. 3 Rep. 9 Rep. 138. Tenant by Currevye, in 

Dower, for Life, Years, &c. must answer for the 

Wafle done by their Heirs, or a Stranger; being left 

to take their Remedy against the Stranger, if he did 

Wafle 1 Lev. 54. 2 Lev. 145. If a Lease be made 

for Life, and the Tenant another, the Remainder in 

Fees for Life; and the Tenant for Life doth 

Wafle, he in the next Remainder may have the 

Action against him. 1 Rep. 45. A 

Lease was granted to A. for Life, Remainder to B. in 

Tall, Remainder to the right Heirs of B. who 

bargains and sells all his Estate to D and then A com 

mits Wafle in this Case D may not have this Ac 

tion, because he hath no Estate for Life but for 

the Life of the Grantor, as to the Remainder in Tall and 

the Fee-simple批次 not till the Tall is spent 1 Lev. 

89 4 Cope. Ab. 120. There is Remainder for Life, 

Remainder to another for Years, the Remainder to a third in Fee, or in Tall to him, or a third 

batches the Reversion; if the Tenant for Life doth 

Wafle, A may not answer against the Lessee: But 

'tis said Execution for the Place wafled, cannot be 

had till the Lessee for Years be ended 5 Rep. 75. 

P. R. B. 356. If there be Remainder for Life, Remain 

der in Fee, and Tenants for Life commits 

Wafle; the Remainder man for Life dies, or 

surrenders his Estate, in the time of Tenet for 

Life, and then not before, he in Remainder in Fee 

may bring Wafle against Tenant for Life; because 

there being an intermediate Estate for Life, it is not 

an extinguishment of him in Remainder. 1 Rep. 

45. A Man takes a Feoffment in Fee, to the Life of 

himself for Life, and after his Death to the Use of 

M. & his Heirs, if the Feoffee commits 

Wafle, it has been held, that the Tenant shall not 

have his 

Remainder by reason of the 

Wafle against him. Hal. 79. In Action of Wafle, 

if the Defendant pleads he repaired before the Action 

brought, 'ts a good Plea, but not afterwards. Jouer 

144. And if the Plaintiff acknowledges a Wafle; though 

by the Plea Novo secta Patham nothing is admitted. 

Dover 276. 2 Lev. 1559. Where a Defendant in a 

Writ of Wafle, besides by Default at the Great 

Diffrain, Inquiry shall be made of the Wafles, and to 

what Damages; but if he lies by Nil dicti, &c., the 

Wafle is acknowledged, and it shall not be inquir 

ed of a. Litt. Ab. 666. 680. Not only all volun 

tary but permisive Wafle is punishable; but this 

Action ought to be brought by one who hath the 

immediate Estate and Inheritance in Fee-simple, or 

Fee tail, and not by Tenants for Years; though 

a Parish may have Action of Wafles; and a Tenant by 

the Curtesy and Heir may join in this Action; and 

the Tenant shall have Damages, but the Heir have 

None. If Tenant for Years doth Wafle and ditch, an 

Action of Wafle doth not lie against his Executor or 

Administrator, for Wafle done before their Time. 

Wode's 1 Inf. 704. Wafle may be committed in 

Houses, by pulling them down, or suffering 

them to be uncovered, whereby the Timber becomes 

mortal: But if the House was uncovered whilst the 

Tenant entered, it is no Wafle in the Tenant to suffer 

the House to fall down. 1 Lev. 53. 2 Lev. 145. To 

pull down a House, unless the same be ruinous, and in 

order to rebuild it of the same Dimensions, is Wafle; 

So it is if the Tenant builds a new House; and if he 

suffers it to be wafled, it is a new Wafle. 1 Lev. 53. 

But it has been held, that to build a new House is not 

Wafle; though to build the Building or Repairing 

such a House is Wafle. Hol. 234. To permit a House to 

be built by Negligence, &c., if the 

Tenant do not repair it, 'tis Wafle: But if the 

House be destroyed by Lightning, Tempells, Floods, 

or Enemies, without any Fussibility of the Lessee's Pre 

venting it, this is no Wafle in the Lessee. Kirke 

57. 1 Inf. 13. And if the House fall down by 

Tempell, or be burnt by Lightning, or prostrated by 

Enemies, or the like, without any Default of the 

Tenant; or was ruinous at his Coming in, and fell 

town, the Tenant may build the same again with such 

Materials as remain, and with other Timber, which he may take 

growing on the Ground, for his Habitation, and it 

will be no Wafle, because it is not as 

larger than was: If the House be uncovered by 

Tempell, the Tenant must in convenient Time repair 

it, or 'twill be Wafle; and though there be no Tim 

ber growing upon the Ground, 'tis said the Tenant 

muff at his Peril keep the Houses from Wafling. 

1 Lev. 53. To convert a Brew house into Tenements, 

although of a great Value, is Wafle; and all volun 

tary may be converted into a Falling mill, &c, it will be 

Wafle in the Lessee: for Things must be used in 

their natural and proper Manner, and not be altered. 

1 Lev. 795. 2 Lev. 183. Thus taking away or 

breaking down Waincolt, Doors, Windows, Benches, 

or Coppes fixed to the House, is Wafle: Though 

a Distillation has been made between outer Doors, and 

inner Doors not up in the Leases, it makes no 

menence of his Term; the taking away of one at 

the End of the Term being adjudged Wafle, and the 

other not fo. 1 Lev. 153. Mon. 179. And although 

where any of these are fixed by the Leisso is it Wafle 

in the Lessee to take them away; yet when they are 

set up by the Lessee, it hath been lately held, that 

they may be taken down by such Leisso before the 

End
End of his Term, so as he do for thereby-wash the
Preheald, but leave the fame in as good Plight as it was
when he first had it there. 2. If the
Felling of Timber-Trees, whether Oak, Ash, Elm, or Elm,
or other Trees in some Counties reputed Timber, or
Topping them to fell, or any other Inns but for Re-
payment of the fine, it is 4/2. 3. If
Trees are cut where there is other Timber. 1 Inf. 53.
Timber is Parted of the Inheritance, and retted by
Law to the Lessor: Therefore if it be cut down by a
Lessor, the Lessor may take it away; and the Lef-
sie having an Inns only in Tree while standing, as
in the Fruit, Shrewd, Shadow, &c., the Account if
he cut down Timber, or do any such Act whereby
they may decay, it is 4/2. And if the Le-
sie has a wood to serve him in good Condi-
tion at the End of the Term as he found it, the Le-
sil shall presently have an Action of Covenant for Cutting
down the Timber: for now it is not possible for him to per-
form his Agreement, or to leave the Wood as he
found the same: But 'twas otherwise, if during the Term the
Trees were the death of any Heirs, for those may be re-
paired before the Term expires. 2 Rep. 62. 5 Rep. 11.
21. 7 Rep. 15. If Timber Trees be growing in the
Hedges of a Field or Close, and the Lessor comes
them down, the Field shall not be forfeited in an Ac-
tion of Waste brought against the Lessor; but if the
Trees cut did grow scattering throughout the Field or Close,
and the Field is forfeited by cutting then, a new down.
2 Litt. Abr. 686. Where Waste is done in Wood,
so much shall be recovered wherein the Waste
is done; and so is it in Houchs: Though if the Waste
done be here and there through the Whole, all shall be
recovered. 1 Inf. 54. 2 Inf. 303. To cut Willows,
Beech, Maple Trees, &c., standing in Defence of a
Houch, or planted for Fencing a Manor, is Waste. So
the Cutting down of Fruit Trees, if they grow in an
Orchard or Garden, although the same be used in Re-
parations of the Houch, &c., But it is not so if they grow
out of the Field. 2 Inf. 172. A Tenant may cut down
Underwood; though where the Law has appointed a
Time for Tenant to Life for felt Underwood, and 'tis
can done in that Time, if he do it afterwards to Waste;
And if a Tenant suffer the said Wood to be
burnt, or felled, they up, it will be Waste as it is like-
wise Studding up a Quickler Fedge, &c.; 1 Inf. 53,
84. 9 Nefr. 245. Cutting down green Wood, where
there is dry; or more Fire-boat then is neces-
arily, is Waste; But Tenants may take sufficient Wood
to repair the Fages, Hedges and Fences and what is
called Ploughing-boat: Fire-boat, and other House-born
1 Inf. 53. The Ploughing of Lands that have not
been ploughed up Time out of Mind, is Waste; it is
also called Wood-hedges. Though up the let-
ing arable Lands lie unploughed is not Waste. 1 Inf.
53. Dyre 37. It has been observed, that if a Tenant
convers arable Land into Wood, Wood into arbale Land,
or Meadow into Arable, Arable into Meadow,
or Pasture into Arable; there are Waste: For they not
only change the Course of Hubandry, but also the
Proof of the Landlord's Evidence of his Estate. 1 Inf.
53. If ancient Meadow Ground, or Brook Meadow
is ploughed up, it is Waste: But where Meadow
Ground hath born at any Time arable, or sometimes
Meadow, and sometimes Wood, then it be no Waste to
plough it up. 2 Bell. Abr. 84. A Lessor for Years
contracted a Meadow into a Hop Ground, and adjudged
no Waste because it may be easily made Meadow
again; But converting it into an Orchard is Waste;
though it may be more profitable. 2 Litt. 174. 1 It is
Waste to suffer a Wall of the Sea to be in Decay, so
that the Meadow Ground is surrounded with Water,
and rendered unserviceable, though it be good for a
flow'd suddenly by the Violence of the Sea, occasioned
by Tempest, it is not punishable as Waste: The same
Law is as to the Repons of Banks or Walls against Ri-
vers; where the Meadows receive Damage. 1 Inf. 53.
The not Searing of a Motte or Bitch, by Reason
whereof it will be sterile and barren, is Waste.
Waste, Quære 45. The Digging for Lime, Clay,
Brick, Earth, Stone, or the like, or Mines of Metal,
Coal, &c., hidden in the Earth, and that were not open
when the Tenants were in the Term, the Tenant may
dig Gravel, Clay, Earth, &c., for Reparations of the
Hould, as well as he may take convenient Timber.
1 Inf. 54. 5 Rep. 13. To destroy Leaves, and dig up
their Branches, is no Waste. 1 Inf. 26. Defeating
Trees in a Park, Doves in a Dove House, or Fills in a
Pond: or if such sufficient Stores be not left by the Lessor, as
he found when he entered the Land, it is Waste.
And so is doing any Thing, by which the Lessor
is abridg'd of his annual Profits, 1 Inf. 53. Ac-
tion of Waste lies in any of the foregoing Instances;
and before any Waste is done, a Preliminary may he
have directed to the Sheriff not to permit it or he in Re-
mainder, &c., may have an Injunction out of the Chan-
try to stay the Waste, and enter a Hould or Lands to
see if Waste is committed, 1 P. N. B. 55. 1 Inf.
52. 1 Inf. 145. 306. 11 Rep. 49. The Procures
instituted to Action of Waste, is but a Writ of Summum
made by the Constable of the County where the Land
lies, and on the Return of this Writ the Defendant
may Affirm, and the Plaintiff Admit, &c., Then a
Pur is to be made out by the Squire of the County, on
the Return of which a Writ of Summum is served on the
Defendant to appear, and upon his Appearing the Plaintiff
declares, and the Defendant pleads, &c., Or if the
Defendant makes Default, a Writ of Enquiry goes to
the Sheriff to inquire by the Constable of the County
what Damage the Plaintiff hath sustained, and then
the Party hath Judgment to recover all the Treble of it;
also after Judgment entered, a Writ of habeas is awarded
to the Sheriff to give Possession to the Plaintiff of the
Placewaited. Comp. Attorn. 250. 251. 258. 259. And
a Plaintiff shall have Costs in all Actions of Waste,
where the Defendant found the same; but not in
other, which he could nut by the Common Law. Stat.
8 & 9 W. 7, c. 11. A common Writ Waste of it is of
this Form: GEORGE the Second, &c., To the Sher-
fiff of S. C. &c., &c., that you, the Sheriff
summon by good Summons C. D. that he be before our
Justice, &c., to serve out, whereby the Common Council of
this Kingdom of England, is hereby provided, that it shall
not be lawful for any Man to commit Waste, Spoil, or Dis-
fractio in Lands, Houchs, Wood or Gardens to him de-
quity of Terms or Tenures; if the said C. in a Houchs,
Lands, and Woods as W. be held for the Terms for
his Life, of the Demand of the said A. hath made Waste,
Spoil, and Disfractio, to the Disbelieving of him the said
A. and against the Form of the Province of said C.,
A Lease, without Impeachment of Waste, takes off all
Rents from the Tenant of doing it; and he may in
such Case pull up, or cut down Wood or Timber, or
dig ditches, &c., at his Pleasure, and not be liable to
any Action. Plead. 145. But though the Tenant may
let the Houches be out of Repair, and cut down Trees,
and convert them to his own Ule; where a Tenant in
Fee-simple made a Lease for Years, without Impeachment
of Waste, it was adjudged that the Lessor had still
such a Property, that if he cut and carried away the
Trees, the Lessor could only recover Damages in Ac-
tion for the Tetives, and not for the Trees; Also if
he had been held, that Tenant for Life, without Impe-
achment of Waste, if he cut down Trees, is only exempt
from an Action of Waste. 1 Inf. 145. 2 Rep. 130.
2 Inf. 145. 5 Rep. 63. Dyre 181. And if the Words
are, To hold without Impeachment of any Writ or Action of
Waste, the Lessor may tell the Trees, if the Lessor
puts them there, he may take them. 1 Inf. 53. The Clauss,
without Impeachment of Waste, is common in Leases made on Settlements; and on the
other Hand it is as common to provide against Waste
by
by Tenants, where it is not allowed by Conveyance. Or

[Text continues]

and standing, the Statutes relating to...
Boats 3 Tuns. And Rulers of the Company of Watermen are to appoint two Officers, one at Billing Gate at high Water; and another at Gravelgod, to ring a Bell in the Tilbury Church, or at any other place, when they do not immediately proceeding in their Voyage with two sufficient Men, shall forfeit 5s. leviable on their Boats, Tuns, hogs, &c. for neglecting Flat bottom'd Boats or Barges, not subject to the Penalties of the Act 10 Geo. c. 31. The Forces of Watermen sit and by the Court of Aldermen, are from London Bridge to Limehouse, Blackwall, Ors. 1 z. 19. Watermen have no privilege in their Profession, or any of the Twelve Companies, which may be the left Room for Defences and Indemnities. These are two sorts of Weights in this Act, viz. Troy weight, and Assiduous: Troy weight contains twenty One hundred Pounds, and no more; by which are weighed Gold, Silver, Pearl, Jewels, Medicines, Silks, Wheat-Bread, &c. and Assiduous contains fifteen Onces in the Pound, by which Grocers, and others, are sold, and as such, their Pounds and Tons weigh Seventy Two, Hemp, Wool, &c. are weighed; and their twelve Pounds are allowed to every Hundred, &c. as one hundred Pounds makes one Quaaron, and a thousand Quaaron makes one Troy weight. Dalt 248. In the Composition of Troy weight, Twenty Pennyweights make an Ounce, twenty four Grains a Pennyweight; twenty four Grains a Grain, twenty four Drills a Mill, twenty Perish a Mile, twenty four Perish a Ton, and twenty four Blanks a Perit. And the Troy weight is laid to 202. Sterling in the Pound, and the Assiduous-weight is 25. Sterling. 4 Ship. 194. 1820 mentioned all Pounds and Troy-weight, to weigh as much as the same with what we now call Troy weight; and according to the same Author, all our Weights have their first Composition from the Penny Sterling, which ought to weigh thirty two Wheat-Corns of the middle Sort; twenty of which make an Ounce, and twenty four Ounces a Pound; but fifteen Ounces make the Merchant's Pound. Three by Magna Charta, of 5 s. c. 25. 15 Ed. 3. c. 12. 25 Ed. 5. c. 10. 27 Ed. 3. 8. There is to be but one Weight, Weights, throughout the Kingdom, but this is to be understood of the same Species of Goods, otherwise the Troy and Assiduous Weights would not be permitted. Every City, Borough and Town, shall have a common Balance, with common Weights scaled on Pain of 5s. to the City, 5s. to the Borough, and 40s. to the Town. 8 H. 6. c. 5. But only Cities and Market-Towns are joined to have common Balances, Weights and Measures, by 11 H. 7. c. 4. And by this statute, Weights are to be marked by the Chief Officers of Places, and Sealed, or refusing or delaying to do it, is liable to a Penalty of 40s. And allowing Weights not agreeable to the Standard, incurs a Forfeiture of 5s. &c. And the Mayors and such Officers are once a Year to view all Weights and Measures, and burn and destroy those which are defective; also fine the Offenders, &c. And two Justices of Peace have Power to hear and determine the Defaults of Mayors. See the Statutes 17 Car. 1. c. 19. 22 Car. 2. c. 8. &c. and make Measure. 10 Hans. (W. Bridges, 1 c. c. 4. Peremius, from the Sax. Wundum) Signifies a certain Quantity or Circuit of Ground. Rentall. Regal. Manor. de Wyr, pag. 31. 8 Ed. 9. (Sax. Wunum) is the word put in Common Time for Killing a Man, when such Crimes were punished with pecuniary Multis, not Death; Or it is Prosimun Repromptio of the Offender. Leg. Ed. Cap. 11. 8 Ed. 9. (Sax. Wunum) is the word put in Common Time for Killing a Man, when such Crimes were punished with pecuniary Multis, not Death; Or it is Prosimun Repromptio of the Offender. Leg. Ed. Cap. 11.
when he was to purge himself by the Oath of five
real Persons, according to his Degree and Quality,
which was called Werewala. Leg. Hist. 1. c. 11.

Morgib (Wewrung) The Price of Humanitie; paid
pariahs, in the Lohn of a Subject, partly to the
Lord whose Vassal he was, and partly to the next
of Kin of the Peron slain. LL. Hist. 1.

Welle-Benaghimg, Was the Law of the Wif Sex
See Welle-Wenisias.

Welle-Mansiy, (Wollmanvarum, Wiss. Wellmyfeser)
1. i.e. Occidental Manumission) The ancient Seat of our
Kings; and is now the well known Place where the
High Court of Parliament, and Courts of Judicature
sit. It had great Privileges granted by Pope Nicholas;
among others, Ut amplius in perpetuum Regiae consiituta
donnum, super Manumissionem Regum Inhumation.
4 Inst. 257. By the Stat. 22 Car. 2. c. 49. A free
Market is to be erected for the Sale of Fifth in the City
of Welle-Wenisias.

Whales, And Sturgeon, vide Regal Fishes.

Welle-Wenisias, In the Northern Sea. &c. See
Greenland.

Wiberb, (Wheryb) A broad plain Place, near some
Creeks of Havre, to lay Goods and Waters on that
are brought to or from the Water. 13 Car. 2. c. 2.

Wifhargyf, (Wolfergaming) Is Money paid for Land-
ings, as a Wismatch, or for Shipping and taking,
Goods into a Boat or Barge from thence: it is men-
tioned in the Statutes 17 H. 8. c. 16. and 22 Car. 2.
c. 1.

Wifharginger, is he that owns or keeps a Wismatch.
13 Car. 2. c. 2. and 22 Car. 2. And Wifhargingers
commonly keep Boats or Lighters of their own, for
the Carrying out and bringing in of Goods, in which a
Lot of Damage happens, they may in some Cases be
made answerable. Lex Merc. 135.

Wifhargyf, (Wolfergaming) Tributum e ordini Regum, monatus
1st. 2, pro Planfis et Carris trans-
manionibus. Spelm.

Wifhargyf, (Wolfergaming) The ancient British
Charities, that were used by Persons of Quality before the Invention of

Winfactar, A Sword, from the Saxon, Win, i.e.
To get, and Are Honour; because Honour is gained by
the Sword.

White-locks, None shall slip, lade, or convey away
any White Adjs, to Parts beyond Sea, under the Pen-

Whitebryg-er, (Wolfebryge, or Wifhargyf) A Mulch
on certain Lands in
or near the Forest of Witches, paid yearly into the
Exchequer, imposed by K. Hen. 3. upon Thomas de la
Linde, for killing a beautiful White Hare which that
King before had spared in Hunting. Camb. Br. 150.

White-meats, Are Milk, Butter, Cheese, Eggs, and
any Composition of them, which before the Reforma-
tion were forbid in Lent; as well as Flesh, till King
Hen. 8. published a Proclamation allowing the Eating
of White meats in Lent. Ann. 1543.

White-ray, A Duty or Rent payable by the Tra-
ners in Drownore to the D. of Cornwall. See Quo-Regis.

White-spars, A Kind of E spirits called by this
Name.

Wifhargy, (Wolfergaming) The Feast of the Witches,
by being the 60th Day after Epifher: And it is called, from
Blowme, because those who were newly baptized came to the
Church between Wefher and Wifhargy in white Gar-
ments. Blowme's Dist.

Wifhargyf, Mentioned in Letters Patent of King
Hen. 8. to the Dean of Wescyf. See Pren-
ches.

Wielis A Place on the Sea shore, or on the Bank of a
River. 1 Inq. 4. But it more properly signifies a
Town, Village, or Dwelling place; and it is often in
the Saxen Language made a Termination to the Name of the Town, which had a complex Name
without it, as Landes-Wiel, i.e. London Town; so if

wich is written in some old Charters Vtela de Gippe
Wien, which is the same Thing, for Gippe is the Name,
and Gippe Wiel is Gippe Town.

Wielis, A Country House or Farm, and there are
many Buildings called Gippe Wiel and the Wiel.

Wielisneter, A Savoy Word for Wielers, which

Wielis, (Vidua, Ridiita) A married Woman be-
reft of her Husband, left all alone. Litt. The Widow
of a Freeman of London, may use her Husband's Trade,
so long as the continent a Widow. Chart. K. Can. 1.

Wielisneter of the Wieling, (Vidua Regis) Was the fhe
after her Husband's Death, being the King's Tenant
in Copies, could not marry again without the King's
Litt. 32 H. 8. cap. 46.

Wielisbchoob, (Vidulor) The State and Condition
of a Widow. — Sciant quod ego Margeria de R. in
Vindelius & deo a Patris facem, remini, relinquit,

Wielis, (Uxum) Is a Woman married; and after
Marriage the Wife of the Wielis, in Judgment of Law,
is subject to the Will of the Husband; and it is said
a Wife hath no Will, ful fugit reus Maritii. Plow.
344. 4. Rep. A Wife cannot contract for any Thing;
but all Goods and Chattels must be brought in the
Name of and for the Husband. See Wielis, &c. sine
nome. &c. Wielis granted to another, vide Dower.

Wielisbrede, (from the Sax. Wie, i.e. Sylva, and

Wielis Wielis, was an anciantly called Cokb by the
Britians; whence it had many other Names, as Ida,

Wielis-Ad, Are not to be destroyed by Nets or oth-
erwise, nor their Eggs taken, under divers Penali-
ties by Statute 25 H. 8. c. 11. 1 Fac. 1. c. 17. 9
Ann. 25. Vide Game.

Wielis, or Lad Wielis and Testament, (Viftramens,
ulima voluntate) is a solemn Act or Instruement,
whereby a Peron declares his Mind and Intention, as
to the Disposal of his Lands, Goods or Effects, and
the manner and order of his Succession: when such
Wielis-Ad there must be an Executor appoint-
ted, not of Lands only without Goods; an Execu-
tor having nothing to do with the Freehold. 1 Inq.
111. If Lands are given by Will, it is called a De-
wife's Goods and Chattels a Legacy; And there is
this Diversity between Lands and Goods given by a
Will, that when Lands are devised in Fee, or for Life,
the Devisee shall enter without the Appointment of
others: in Case of Goods and Chattels there must be
the Assign of the Executor, &c. Swin. 24. If Lands
are given and devised by Will, the Will ought to be
proved in the Chancery; and of Goods it must be in
the Spiritual Court; A Will both of Lands and Goods,
may be proved in the Spiritual Court. Ibid. A Will
doth not Pass till after the Testators Death; but
then without any further Grant, Livery, &c. it gives
and transfers Estates, and alters the Property of Lands
and Goods, as effectually as any Deed or Convey-
ance executed in a Man's Life-time, and hereby De-
sects may be prevented, Estates in Fee-simple, Fee-
tail, for Life, or Years, &c. be made: And be that
takes Lands Devised, it is Nature of a Purchaser.
Litt. 167. A Devisee is in by Act executed in the
Devisee's Life-time, though it be not constummated till
his Death. Roll. Rep. And therefore a Devisee shall
take Effect, as before a Devisee: But an Heir may in
the Land by Devise, notwithstanding a Devisee made
him to; and to give a Thing by Will to such a Per-
son to whom the Law gives it, as if it had not been

Things are requisite to the Perfection of a Will, First,
The Inception, which is the Writing of it; Secondly, The Progresse, being the Publication thereof; and Thirdly, The Confirmation of it, which is the Death of the Party. 1 Mott. 113. But such an Effeate as the Law may not be conveyed by Act executed in a Man's Life, shall not be created, or conveyed by Will: 5 Th. 12. to make a Perpetuity, Er. 6. Rep. 85. Dyer 12, 53. A Devise may be of Lands, Goods, or Chattels, simply or absolutely, or conditionally; and be also with a Limitation: And a Rent may be devise, or Land referring a Rent, with Laurence Difforment. 4. Rep. 259. It is certain in Canons law, a Man could not devise by Will, the Lands which he had by Defeunt, though he might those which he had by Purchase; indeed he might devise Lands which he held for a Term of Years, because such an Effeate is of little Regard in the Law: but not Lands of which he had the Fee-simpie in Fee-doble or Reversion: Yet in certain Borough Tracts, the Inhabitants might devise the Houses and Lands, which they had by Defeunt; and this was a Privilege which they claimed by the Custum of those Places. 3 Nef. Abr. 25. By the Common Law if a Man sole failed of Lands in Fee, he devided the same by Testa-ment, such a Devise was void; unless the Lands were in some City or Borough where Lands were deviseable by the Common Law. 52. 61. 34. H. 3. i. 5. All Persons having a sole Effeate in Fee-simpie, of any Lands, Tenements, Etc. may give and devise the same by Left Will and Testament, at their free Will and Pleasures, though if any Part of the Lands be held in Capite of the King, then the Party can devise but two Thirds of the Whole, the other Third being to defeunt the Heir at Law, to answer the Duties of the Crown. Etc. But the Tenure in Capite being a-bolished by 12 Car. 2. Devises are now good for the whole Lands. Trench. Cest. 156. One feigned in Co- percary, or by Tenancy in Common, in Fee Simple, or in Fee Simple of Lands, may be by Will devise them at their Pleasure by this Statute. But Lands instanter are not deviseable, only Fee-simpie Lands, and Goods and Chattels: and Will, made by a Man sole, to a Fellow Co-tenant, Persons of Nonfane Memory, are not good in Law. Stat. Haid. 3 Rep. 30. A Person that hath an Effeate-Tall in Land, the Reversion in Fee-simpie, cannot de- vice the Lands in Fee to another, though he should die not having Issue; but it is held he may give Lands by Will to a Charity, and without either Fine levied, or any other Mark of Indemnity. A Person makes his Will for Lands, and when of Age he declares as his Will, yet it is void; though an Infant at fourteen Years of Age may make a Will of his Goods and Chattels: 1. Inst. Rep. 2. 2 Litt. Abr. 655. A Feme Sole makes a Will, and gives her Lands to A. B. whom the afterwards marries; by this the Will is commutative, for otherwise she could not after Marriage revoke it; and if she dies in his Life-time, whilst Feme Covert, the Devise is void; 4 Rep. 60. A Feme Covert cannot make a Will; but the Husband may bind himself by Consent or Bond to permit his Wife by Will to dispose of Legacies, Etc., and this will be such an Appointment as the Husband will be bound to order to his Wife, and this is a Will in Law; or not ought to be prov'd in the Spiritual Court: Of Things in Azion, or of what the Wife hath as her own as Executrix, by her Husband's Consent, is fail, the same may make a Will, and this is a Will in Law; but if in other Cases, the dispoison of any Thing by the Consent and Agreement of the Husband, the Property passes from him to her Legatee; and it is in the Gift of the Wife. 21. 203. 210. 21. 220. 211. 2 Davv. Abr. 518. If there be an Agreement before Marriage that the Wife may make a Will, or dispose of his Goods, unless the Husband disfries; and his Consent shall be implied till the contrary appear: And if the Husband would not
nefes are to a Will, it is sufficient though one of them on the Trial will not swear that he saw the Testator seal and publish it; if he be proved that he signed the Name of the Testator to the Will. 4 W. & M. 437. If a Will is published before three Witnesses, and it be at several Times, it is good. Presta. Chan. 414. A Grant of property to or for another shall be good, though attested only by one Witness; and the Reason is, because it passes by the Surrender, and not the Will, to make a Title. 2 Vern. 700. A Man may make a Will in his Bed, and the Curate drawn. 2 Salk. 688. Lands purchased after making a Will, cannot pass; for the Testator ought to have the Lands at the Time of the Making. But it hath been held, that a new Publication of the Will shall make the Lands pass; and if such Lands are devised for Payment of Debts, &c. Chancery will make the Devise good, without new Publication. 3 Hil. ab. 33; 4 Gard. 25; 2 Ch. Rep. 144. A Devise by will all Lands, Tenements, and Eblates whenever, whereof at the Time of his Death he should be possessed, and after the lawful Term, &c. And it was revolved, that a Devise of per se things is good, though the Testator had them at the Time of his Will; but a Chattel Real, as a Lease for Years, dost not pass. And if a Devise of Lands is not good, if the Testator had nothing in them at the Time of making his Will. Guild. 92; 3 Salk. 237. Where after the Will is made a Person to whom it is shown, and at some time after, and says he shall be his last Will; or if he says, that his Will is in a Box, in such a Chamber, &c. either of them amount to a sufficient Publication, to make Lands newly purchased. 2 Rol. Abr. 618; 2 Vern. 209. Though Land bought after making a Will, passeth not by the Devise of all the Land a Man shall have at his Death, in being within the Bounties of Wills, for he is no Person having: Yet if there be Articles for a Purchase, and the Purchaser makes his Will and dies before any Conveyance is executed, there the Land passes to the Devisee. 4 W. & M. 434; 2 Vern. 207. A Man having Lands in Fee, and by the Will devise all his Lands and Tenements the Leases for Years pass, otherwise the Will would be to no Purposes. 2 Dow. Abr. 537. The Testator was feigned of an House in A and an Heir and Lands in B, and devised to W. R. his House in A, with all and singular his Lands, Meadows, &c. in B. and adjac'd that his House in B. shall not pass; though for a Footment of Land the House the Will will pass, Will are to be construed according to the Intent of the Testator, and here the particular Devise of the Lands, Meadows, &c. excludes the general Intendment of the Word Terra, which comprehends both Houses and Land takes present. 2 Nelf. Abr. 653. Wards in which Wills are always construed according to the Intention of the Parties that make them, as near as can be collecti; and may have a valid Controversion from those in other Decrees. Wards and Intent must agree with the Law; and if the Words are inexpressible, they are void. 1 Inst. 45; 2 Plowd. 162; 4 H. 34. And the Reason why the Construction of Wills is more favourable in Law than any other Deed or Conveyance, to fulfil the Intent of the Testator, is because the Testator is intended to be impo Contemnu, and in a Hurry; and a Devise is deemed as a Contract. 3 Salk. 145. If any nm. is exempted this Kind of Conveyance from the Regularity and Propriety required in other Conveyances: And thus it came to pass that Wills upon the Statute, in Evidence, in the Common Law, and there were three Witness to the last Paper, and none of them aver they saw, this is not a good Will. 3 Mod. 263. As to the Subscribing of Witnesses, it is enough that the Testator might see them; it is not absolutely necessary that he should see them do it; so that it may be in another Room in the View of the Testator. Or where the Testator is sick in Bed, and the Curate drawn. 2 Salk. 688. Lands purchased after making a Will, cannot pass; for the Testator ought to have the Lands at the Time of the Making. But it hath been held, that a new Publication of the Will shall make the Lands pass; and if such Lands are devised for Payment of Debts, &c. Chancery will make the Devise good, without new Publication. 3 Hil. ab. 33; 4 Gard. 25; 2 Ch. Rep. 144. A Devise by will all Lands, Tenements, and Eblates whenever, whereof at the Time of his Death he should be possessed, and after the lawful Term, &c. And it was revolved, that a Devise of per se things is good, though the Testator had them at the Time of his Will; but a Chattel Real, as a Lease for Years, dost not pass. And if a Devise of Lands is not good, if the Testator had nothing in them at the Time of making his Will. Guild. 92; 3 Salk. 237. Where after the Will is made a Person to whom it is shown, and at some time after, and says he shall be his last Will; or if he says, that his Will is in a Box, in such a Chamber, &c. either of them amount to a sufficient Publication, to make Lands newly purchased. 2 Rol. Abr. 618; 2 Vern. 209. Though Land bought after making a Will, passeth not by the Devise of all the Land a Man shall have at his Death, in being within the Bounties of Wills, for he is no Person having: Yet if there be Articles for a Purchase, and the Purchaser makes his Will and dies before any Conveyance is executed, there the Land passes to the Devisee. 4 W. & M. 434; 2 Vern. 207. A Man having Lands in Fee, and by the Will devise all his Lands and Tenements the Leases for Years pass, otherwise the Will would be to no Purposes. 2 Dow. Abr. 537. The Testator was feigned of an House in A and an Heir and Lands in B, and devised to W. R. his House in A, with all and singular his Lands, Meadows, &c. in B. and adjac'd that his House in B. shall not pass; though for a Footment of Land the House the Will will pass, Will are to be construed according to the Intent of the Testator, and here the particular Devise of the Lands, Meadows, &c. excludes the general Intendment of the Word Terra, which comprehends both Houses and Land takes present. 2 Nelf. Abr. 653. Wards in which Wills are always construed according to the Intention of the Parties that make them, as near as can be collecti; and may have a valid Controversion from those in other Decrees. Wards and Intent must agree with the Law; and if the Words are inexpressible, they are void. 1 Inst. 45; 2 Plowd. 162; 4 H. 34. And the Reason why the Construction of Wills is more favourable in Law than any other Deed or Conveyance, to fulfil the Intent of the Testator, is because the Testator is intended to be impo Contemnu, and in a Hurry; and a Devise is deemed as a Contract. 3 Salk. 145. If any nm. is exempted this Kind of Conveyance from the Regularity and Propriety required in other Conveyances: And thus it came to pass that Wills upon the Statute, in Evidence, in the Common Law, and there were three Witness to the last Paper, and none of them aver they saw, this is not a good Will. 3 Mod. 263. As to the Subscribing of Witnesses, it is enough that the Testator might see them; it is not absolutely necessary that he should see them do it; so that it may be in another Room in the View of the Testator. Or where the Testator is sick in Bed, and the Curate drawn. 2 Salk. 688. Lands purchased after making a Will, cannot pass; for the Testator ought to have the Lands at the Time of the Making. But it hath been held, that a new Publication of the Will shall make the Lands pass; and if such Lands are devised for Payment of Debts, &c. Chancery will make the Devise good, without new Publication. 3 Hil. ab. 33; 4 Gard. 25; 2 Ch. Rep. 144. A Devise by will all Lands, Tenements, and Eblates whenever, whereof at the Time of his Death he should be possessed, and after the lawful Term, &c. And it was revolved, that a Devise of per se things is good, though the Testator had them at the Time of his Will; but a Chattel Real, as a Lease for Years, does not pass. And if a Devise of Lands is not good, if the Testator had nothing in them at the Time of making his Will. Guild. 92; 3 Salk. 237. Where after the Will is made a Person to whom it is shown, and at some time after, and says he shall be his last Will; or if he says, that his Will is in a Box, in such a Chamber, &c. either of them amount to a sufficient Publication, to make Lands newly purchased. 2 Rol. Abr. 618; 2 Vern. 209. Though Land bought after making a Will, passes not by the Devise of all the Land a Man shall have at his Death, in being within the Bounties of Wills, for he is no Person having: Yet if there be Articles for a Purchase, and the Purchaser makes his Will and dies before any Conveyance is executed, there the Land passes to the Devisee. 4 W. & M. 434; 2 Vern. 207. A Man having Lands in Fee, and by the Will devise all his Lands and Tenements the Leases for Years pass, otherwise the Will would be to no Purposes. 2 Dow. Abr. 537. The Testator was feigned of an House in A and an Heir and Lands in B, and devised to W. R. his House in A, with all and singular his Lands, Meadows, &c. in B. and adjac'd that his House in B. shall not pass; though for a Footment of Land the House the Will will pass, Will are to be construed according to the Intent of the Testator; and here the particular Devise of the Lands, Meadows, &c. excludes the general Intendment of the Word Terra, which comprehends both Houses and Land takes present. 2 Nelf. Abr. 653. Wards in which Wills are always construed according to the Intention of the Parties that make them, as near as can be collecti; and may have a valid Controversion from those in other Decrees. Wards and Intent must agree with the Law; and if the Words are inexpressible, they are void. 1 Inst. 45; 2 Plowd. 162; 4 H. 34. And the Reason why the Construction of Wills is more
all the Perons are in it ; but if a Devile in Remainder be to one for Life, who is not then in Being, there no Limitation of a Term may be beyond it. 1 Sid. 451. Devile of a Term to one for Life, and if he dies without Issue, to another. 1 Lea. 290. A Chaffel Peron cannot be given to one for Life, with Remainders to others; though the Ufe may be given by Will to one during Life, and the Thing itself afterwards to another. 1 Mor. 51, 99. Deviles may be to one, to the Ufe of another, and the Ufe shall be executed. 2 Law. One by Will devises, that after his Death A. and B. his Feefees and their Heirs, when they were no Feefees, should be feiledato fech Ufes ; and it was held a good Devile. 1 Bred. 118. Though if there be a Condition in a Will, that a Man shall not marry a Peron, or a Woman marry, without Consent, &c. and the Legacy be not devis’d over to another; these Conditions are void, for Marriages ought to be by Law. 19; 4th Ed. 518. 1 Sid. 353. A Devile must be not only of a Thing, but to a Person certain; and a Devile to a Man shall marry my Daughter, or to a Man and his Children, is certain enough. 1 Swite. 291. If where a Legacy is given by Will, the Legacy dies before it becomes due, the Legacy is extinguished and gone. A Man devises 500 £ to his Daughter, by Will, if the same 21 Years of Age in this Life, if the devise before that Age the Legacy is gone: But if the Devile had been to be paid her at the Age of 21, then it is devoit in praesenti, &c. He shall have it, if the devise be at 21. 1 Litt. Ab. 457. The Teller devises a Sum of Money to a Woman at her Age, or Day of Marriage, and then added their Words, To be paid her with Interest: she is the unmaried, and before she was 21 Years old; and it was held that the Money should go to her Administratrix; but if their Words were not added, it would have been otherwise; and if the Money had been devi’d to her, when the came of Age, &c. 2 Fevr. 342. Where one devises a certain Portion to his Daughter, chargeable upon Lands, and payable at the Age of 21 Years, and the Daughter dies before the Money shall fall in the Land, for the Benefit of the Heir at Law; here if no Time were limited for Payments, or if it were only a Sum of Money generally devis’d by the Will, it would go to the Executors, &c. of the Daughter. 1 Fevr. 204, 1 Fevr. 92. A Law was settled by the Consent of the Devile to an Inheritance in his Name, in which he gave 500 £ to each of his Daughters, to be paid at the Age of 21 Years, and if any or all died before that Age, but devised nothing in Remainder, to them till their Portions became payable: Et per Cur. A Maintenance cannot be decreed, because of the Devile over. Ch Rep. 249. If a Man in his Wild resists all his Lands in C. to D. and his Heirs, it is good; but one cannot release a Debt or Duty by Will, though he may give and bequeath it. 1 and 31, 1 Fevr. 59. Things in Alien, as Debts and the like, although they are not grasable by Deed, may be devi’d by Will: But if it be a Thing in Alien altogether uncertain, as where one hath Caufe of Alien, to come not 12½. 12½. 25. 12½. These Things that are annexed and incident to a Free-hold or Inheritance, so that they cannot be severed from it, such as the Mine, and Glass of Houses, or the like, are not Devible, but where the Thing itself is free. 6th Ed. 83. A Devile in a Will of the Ufe and Occupation of Lands, is a Devile of the Land it itself, but 'tis otherwise of Goods, for one may have the Occupation, and another the Property of them. March 105. If a Devile all his Moveables, by this are given all Personal Goods both quick and dead, which either move themselves, or may be moved; as Horses, Place, &c. and by Devile of Immoveables, do
which the Father agreed to give the Son to, much, and he was to pay such Debts and Sums of Money; and there were some Expences resembling those in a Will; as that the Father was sick of Body, and did give all his Goods and Chattels, &c. But the Writing was Sealed and delivered as a Deed; This be


2. Windows at the End. By the Statute of Geo. c. 2. 4 Eliz., as is also Geo. c. 2. 6 Eliz., and as is also Geo. c. 2. 10. A yearly Duty is laid on every Dwelling-House inhabited of 2, having 10, 11, 12, 13, or 14 Windows 6 d. per Window, having 15, 16, 17, 18, or 19 Windows 9 d. per Window, having 20 or more Windows 11 d. per Window, besides the 2. Every Kitchen, Scullery, Battery, Pantry, Larder, Wash-House, Laundry, Bake house, Brew-house, and Lodging-Room belonging to, or occupied with any Dwelling-House, whether within or not, or contiguous or disjoined from such Dwelling-House, shall be deemed Part of such Dwelling-House. When there are or more Windows are fixed in one Frame, if there be a Li- vision between them of twelve Inches Breadth, they shall be charged as different Windows; and if so they cannot to give Light into more Rooms than one. Sky Lights, and Lights in Garrets, Stair-cases, Ceilings, and Pillages, are unchargeable. An Inhabitant of any Chamber in any Court or Court of Common would be chargeable for every Window in his Chamber, but not to the two 2. on a Housekeeper. The Re- gulation of this Act is under the Direction of the Quarter Masters of the Land Tax. On Demand of Payment, this Duty is to be levied by Distress, and if no sufficient Distress, the Party is to be taxed to Good for the whole Amount of the Unpaid Payment. 

3. Effect. The Mayor and Bailiff, Esq. of Wind- sors are to maintain the great Bridge there, and receive Tolls for Carriages, Cattle, Esq. pulling over it, and under the same Statute of Geo. c. 1. 11. Olifte, (Vineum) is to be tried twice a Year, once at Stur and Michaelmas; and none shall fall Wine but at reasonable Price, by Statute 4 Ed. 4. 28. The Lord Chancellor, Treasurer, Esq. are to settle to the Place of Winds by the Bust, Barrel, Esq. Persons selling at greater Prices shall forfeit 40 l. and 10 Persons may sell Wine by Retail, but such as are licensed by Justices of Peace, Esq. 28 H. 8. 14, 7 Ed. 6 cap. 5. By Statute, Cantry Wine, Aliquot, and other Spanish or Sweet Wines were not to be sold above 6 l. a Quaart, and French Wine above 8 l. a Quaart, Esq. unless appointed at a higher Price; and when the Lord Chancellor, Treasurer, Esq. set the Prices of all Wines, they are to cause them to be written and proclaimed made thereof in the Cities, Towns, and Market-Town, wherever it is to be sold at those Prices. Also the Number of Retailers of every City and Market-Town, was particularly limited. Stat. 7 Ed. 6. 12 & 13 Car. 2. The King may grant Commissions to Commissioners to Hencie Persons to retail Wine and they may under their Seal of Office grant Licences, for any Term not exceeding 21 Years, under certain Reons. Esq. the Revenue whereof is to be paid into the Exchequer; but the Privileges of the University, and of the Company of Vintners in London, Esq. were varied by this Statute, 12 Car. 2. cap. 25. And the Revenue of Wine Licences is granted to the King, his Heirs and Successors, by the 22 & 23 Car. 2. cap. 5. Merchants, Esq. selling Wines, who shall ad- dorate the name, or utter any adulterated Wine, are liable to a Penalty of 500 l. And Retailers of mix'd adulterated Wines, are liable to a Forfeiture of 40 l. Stat. 12 Car. 2 1 W. & M. c. 54. Also if any Retailer of Wine fell in it Measures not made of Pewter, and failed, Esq. shall pay 10 l. for every Office, legible by the Table of Vintners, Esq. to 2 W. & M. 14. But see 4 W. & M. Persons selling Eng- lish made Wines, (on which there is a Duty of 12 s. per Barrel) shall be detained by two Justices of Peace; and the Mayor of Publick Houses by the Stat. 18 Geo. c. 17. By the Stat. 18 Geo. c. 2. 9 & 10 given an ad-
ditional Duty of 8 l. for every Ton of Brandy and Vinegar, and 4 l. for every Ton of all other Wines and Vinegrets.

4. Wines cheaper. A Season between the eleventh Day of November and the third and twentieth Day of April inclusive, which is excepted from the Liberty of Commoning in the Forest of Dean, Esq. Stat. 20 Geo. c. 2. cap. 21. 

5. Wines by which. It is enacted by Statute, that Wines made for making Gold and Silver Threads, shall contain certain Quantities to the Pound-Weight, on Pain of 5 l. per Ounce wasting. 9 & 10 W. 5. 17. The Silvers were to be known for Silver Threads, to hold eleven Ounces and nine Penny Weight, and all Silver to be gelt and sold in the Wire-beaters Trades, shall hold eleven Ounces and eight Penny-weight of fine Silver on the Pound Weight Troy; and four Penny-weight and four Grains of Gold, to be laid upon each Pound of Silver, on Forfeiture of 5 l. for every Ounce made otherwise. 12 Geo. c. 3. 17.

6. Aliquot, A Measure of Land among the Saxons being the Quantity of Half a Hide, the Hide is 20 Acres—Oda witegian unam Hidam formaet Wita was peurum witegian unam Hidam forte, Tom I. p. 235. 

7. Aliquot, Scutum und Witan juras, Is for a Person to purge himself by the Oaths of so many Witanwic, as the Offence required. Leg. inae. cap. 65.


9. Olifte, A Saxen Word, used for Punishment; a Pain, Penalty, Malt, Esq. And Wine, as a Seal of Privilege or Immunity from Fines and Amereaments. Sax. l. 142. From hence comes the Words Blackdbe, Lechbonne, etc.

10. Oliftermen, (Sax. Constantia sepientis) Was a Convention or Assembly of great Men to advise and assist the King, anverserale to our Parliament, in the Time of the Saxons.

11. Oliftermen, the Chief of the Saxen Lords or Thanes, their Nobles and Wife Men. Sax. Dit.

12. Oliftermen, A Taxation of the Wif-Saxen, imposed by the public Charter of the King, to the Relief of Unions.


14. Withearnum. (From the Sax. Wicer, i.e. alien, or, as some say, covert, & Num, capio) Is where a Distress is to be levied in order to take away and keep a Person upon a Reprieve cannot make Deliverance to the Party detained: In this Case the Wite of Withearnum is directed to the Sheriff, for the taking of many of his Seals or Stamps which all the same Heilts, or in his Keeping till the Party make Deliverance of the Distress, Esq. It is a Taking or Reprieve of other Goods or Goods, in lieu of those that were formerly unjustly taken and detained, or otherwise withheld. F. N. B. 68, 69. 2 Inf. 140. Stat. Wif. s. 13 Ed. 1. c. 2. This Wite is granted on the Return of the Sheriff upon the Alias and Flouris in Withearn, that the Cartle, Esq. are elibled, by Reson whereof he cannot revive them; and it appears by our Booles, that the Sheriff may award Withearnum on Rep- plevin form by Plains, if it be found by Inquest in the County, that the Cartle were elibled according to the Ballif's Return, Esq. Though upon the Withearnum awarded in the County Court, if the Ballif did not then that the other Party hath not any Thing, that shall be an Alias and Flouris, and so infinite, and so other Remedy there: But on a Withearnum returned in the King's Bench, or Common Pleas, if the Sheriff return that the Party hath not any Thing, Esq. a Cu- pion stili issue against him, and Extent and Outlawry. New Nat. Br. 166. In Repleve, Esq. the Sheriff returns the Wite to the Alias and Flouris, if the Party thereupon a Wite of Withearnum is awarded: and if he return Nihil, the Plaintiff proceeds to Outlawry by Alias and Flouris Cap. in Withearn, and so to Extent; where there the Plaintiff is enten- dant appears upon the Return of the Flouris Cap-
pion, and when he flies longer, and appears on the Return of the Exigent and not before; for in the fifth Month, he will not be taken in Write d. for the King, but he must find Penders to make Deliverance, or be committed: and in the last Cafe, he shall not only find Penders for making Deliverance, but shall be seated, and his ship may be taken in Write a. for the King: in both cases, the Plaintiff may declare for the unjust Taking, and yet detaining of his Castle, and so go to Trial upon the Right; and if his case is found for him, then shall he recover the Value of the Castle with Costs and Damages, or may have the Castle again by a Return. babends directed to the Sheriff; but if it be found for the Defendant, he shall keep the Castle, and have Costs and Damages for the unjust Proceedure. 1 Browne. 180. 3 Nott. Abr. 553, 554. A Defendant in Replevin may have a Writ of Writ a. a gainst the Plaintiff as if the Defendant hath a Re- tenn awarded for him, and he forth a Writ return. babends, and the Sheriff return upon the Plaute, good brownie that first, he shall have a S. E. to return the Pender which the Plaintiff put in to prosecute, &c. and if they have nothing, then he shall have a Capias ad Writ a. against the Plaintiff. Ibid. And the Castle taken in Write a. are to be ad Valorem, i.e. to the Value of the Castle that were first taken and detain'd: for 'tis to be understand not only of the Number of the Castle, but according to the Worth was taken: afterwards he that brings the Reprieve and Writ a, will be deprived of his Satisfaction. 3 Lid. Abr. 690. Where Castle have been taken in Writ a, they have been by a Rule of Court delivered back and restored to the Owner, on his Pay- ment to the Plaintiff of all his Damages, Costs and Expenses. Ibid. Castle taken in Writ a, may be much damaged, and if they are deliv- erson to the Party as his own Castle, &c. Centra of Castle disfirmed. 1 Lem. 502. This Word Writ a. also signifies Reprefisants taken at Sea by Letters of Murt. Shipp. 13 Ed. 133. 3 Lid. 479. 478. 477.

Glithribsale, An Apothe & perfidious Renegado. Leg. Canut. cap. 57. Glihterds (fig. 1). Is one that gives Evidence in a Castle; is an indifferent Peron to each Party, sworn to speak the Truth, the whole Truth, and nothing but the Truth: And if he will be a Gainer or Loiter by the Suit, he shall be sworn as a Writ. Lid. 750. See Evidence. Gliht, A profitable Herb much used for the Drying of blue Colours, mentioned in the Stat. 9 H. 8. cap. 4. Glihterds, (See.) Signifies a Down, or open Champion Ground, void of Wood; as Sown in the Wolds, Caffin in Gloucestershire, &c. Glihtersheen, or Glithersheen, (See.) Capt. Laf- mine. Was the Condition of such as were Outlaws in the Time of the Saxons; who if they could not be taken alive to be brought to Justice, might be slain and their Heads brought to the King: for they were no more accounted of than a Wolf's Head, a Beast so hateful to Man. Leg. Edw. Cap. 35th. lib. b. 5. Glihtmore, Laws relating to. See Baron and Fees, for which Marriage, &c.

Gluping, A Saxan Word for Field;—Tri acras Terre jacentes in Le Wanga, i.e. in Campi opus femi- nalis, Spem. Gluthb, If any Peron purposely burn any Pile of Wood, or bark any Trees, &c. the Owner may re- cover treble Damages for it in Trefpks. Stat. 37 Hen. 6. c. 6. Not to destroy any Woods, by turning them into Tillage or Faller. &c. if there are Acres or more in Quantity, on Pain of 40s. an Acre: And no Peron shall suffer his Swine to go in a Wood un- hindered. Where it shall be Wood or Cappice in Common, the Lord may incl a fourth Part, &c. 35 H. 8. c. 17. 13 Ed. 25. If Coppice Wood is felled 42 or under twenty-four Years Growth, these must be left twelve Stands of Oaks in every Acre, or the like Number of Ash, Elm, &c. on Pain of forfeiting 10s. 2d. &c. yet wanting; and they are not to be cut down 'til ten Inches square within three Foot of the Ground, or until to many Years after left, under the Penalty of 6s. 8d. &c. Stat. 37 Hen. 6. cap. 17. Of Woods or Cappices felled at fourteen Years Growth, shall be preserved from Defraudation for eight Years; and no Castle be put into the Ground from the Time of lelling, till five Years afterwards, by 13 Ed. cap. 25. The Statutes 43 Edin. cap. 7, and 15 Car. 2. cap. 2, provide against Woodfelling, ordaining Recompense be to be made, and inducing a Forfeiture of 10s. &c. Burning Woods, or Underwood, is made Felony: And Perons maliciously cutting or felling Timber-Tree, Fruit-Tree, &c. are to be sent to the Houte of Correction for three Months, and whipt once a Month, by 1 G. I. c. 48. Also where Perons destroy Woods, or break open Hedge, the Owners shall have Satisfactions for the Inhabitants of the Place, as lost. Dikes overthrown in the Night, provided by 13 Ed. 1. under Approuvement: If the Offenders be not convict- ed in six Months, &c. 6 G. I. c. 10. 16. It has been adjury'd, that if A. plants a Tree upon his own Ground, and in growing its Roots extend into the Land of B. adjoining, they are Tenants in Common of this Tree; But if all the Root grows in the Ground of A. though the Shoots overhang B.'s Land, yet the Branches follow the Root, and the Property of the whole 11 in A.'s Lat. Rom. 377. 11. Glubh Gauge. A certain Quantity of Grain, paid by the Tenants of some Manors to the Lord, for the Liberty to pick up dead or broken Wood. Cartular. Burgh. S. Petri, MS. 148. Glubh Gauge, is used to signify the Cutting of Wood within the Forsth, or rather Money paid for the same to the Foresters, or it signifies to be free from Pay- ment of Money, for taking Wood in any Forsth. Compe. Jurif. cap. 12. Leg. 233.

Glummers, Seem to those in Foresth, that have their Charge particularly to look to the King's Woods there. Compe. Jurif. 146.

Glummy is the Old Name of that Court of the Forsth, which is now called the Court of Attachments; and was wont to be held at the Will of the Chief Officers of the Forsth, without any certain Times, and since the Statute of Charta de Forsth. Manuvs, cap. 22. pag. 207.

Glumours Court, A Court held twice in the Year in the Forsth of Cnum in Shafford, for determining all Masters of Wood and Agreements there. Glumours, Is an Officer of the Forsth, whole Office confides in Looking after the Woods, and Vert and Venison, and presenting Offences relating to the same, &c. And Woodward may not walk with Bow and Shaft, but with Forsth Bills. Compe. Jurif. 201. Manuvs, par. 1. 189.

Gluod, Being a Single Community of the greatest Value in this Kingdom; the Employment of our Poor at home, and our natural Trade abroad, depending in a great Measure upon it; there have been divers good Laws made to preferre the same intirely to our selves, and to prevent its being transported to other Nations. The Stat. 37 Ed. 3. declared it Felony to transport Wood; But the Felony was repealed by 38 Ed. 3. cap. 6. By the 12 Car. 2. cap. 32. If any Peron shall export any Wood, Yarn, &c. he shall forfeit the same, and for every Pound-weight of the same 5 l. And the Owners of the Ship in which it shall be transported, being privy to the Offence, shall forfeit all their Interest in the said Ship; also the Master and Marniers affh'd, all their Goods; and any Perons may sue such Wood, and shall be intituled to one Moity, and the King to the other Moity of Forsth-

Trans-
Transportation of Wom Felony again; though this being thought too severe, the 7 & 8 W. 3. cap. 21. a second Time repeals the Felony, and ordains, that every Person shall incur a Fine of One hundred pounds, and the third Part of his Goods, in addition to his Imprisonment. By the Statute of 4 & 5 W. 3. cap. 40. the former Laws are explained, and a further Provision is made against transporting Wom by obliging Entries to be made of Wom born, and Wom not to be carried near the Sea Coasts, but between town Rising and Sun-setting. Or, if an unlawful Exporter of Wom, where judgment is obtained against them, to pay the Sum recovered within three Months; or liable to Transportation for seven Years as Felons. 4 Gen. 1. cap. 11. The Admiralty shall appoint three Sixth Rate Ships, and eight Sloops to cruise on the Coasts, and search and seize Vessels having Manufactures of Wom of the Kingdom of Ireland, to be exported to foreign Parts; and where the Ship and Goods shall be seized, the Statute of 5 Gen. 2. c. 21. All woolen Manufactures, are to be shipped from Dublin, and certain other Ports in Ireland, under a special Order, which are to be exhibited here to Bishops and Lords, and certain other Persons, and be brought from thence hither in Ships built in Great Britain or Ireland and duly registered on Coast and Adm. Yachts, shall be packed up in Leather, or Canvas marked, and not in any Box, or on Pain of forfeiting 500 l. for every Pound: All cloaks, Coverters, Wadding, or Bock, or fluffed with combed Wool may be exported under the like Penalties as for Exportation of Wool. Stat. 17. Persons that by way of Infringement, and against Law, carry small Goods abroad, shall forfeit 100 l. And if they give a Bribe or Reward to any Officer to convice at exporting Wom, they are liable to 500 l. Forfeitures; and Persons obstructing the Officer, or being armed, are to be transported as Felons for seven Years. ibid. See 13 Geo. 2. c. 8.

Globe-sifters, Are such as buy Wom in the Counties of the Sheep Owners, and carry it on Horse-back to the Clothiers, or to market Towns, to sell again. 2 & 3 P. & M. c. 15.

Great Waders, Those that mixed up every Fleece of Wom, intended to be packed and sold by Weight, into a Kind of Bundle, after it is clarified as required by Statute, to avoid Decoits by Thrufing in Locks of Wom and Thrum to gain Weight: They must be sworn to perform this Office truly, between the Owner and the Wom Buyer or Merchant, by Stat. 8 W. 3. c. 23. 35. H. 8. c. 17. That every Wading and selling deceitful Wom, shall forfeit for every Fleece 6 l. And if Wom packers do not make good and due Packing, without putting any Locks, Pelt Wom, Salt, Earth, or Dung, in the Fleece of Birds, and Decoits lies against them, Stat. ibid. Ibid.

Great Market, A Market for Hops to be held by the Guardians of the Poor of the City of Worcester; and the Liberty of holding the said Market, and all Tool's usually had by the Mayor, Aldermen and Citizens, shall be vested in such Guardians, for the Uses expressed in the Act 2 & 3 Ann. c. 8. Stat. 2. c. 27.

Great Church, and woollen Cloths, Are mentioned in many of our old Statutes, 17 R. 2. 7 E. 4. 14 L. 1. 15 E. 3. &c.

Great Necessities, Which may be taken or interpreted by Law in a general or common Sense, ought not to receive a straitened or unnatural Construction: And ambiguous Words shall be understood to be so as to make them stand with Law and Equity; and not to be wrested to do Wrong. A Latine Word in Pleading, which signify'd divisible, and expres'd with different Inten- tions to be express'd by it: Certain Words in a Declaration are made good and certain by a plea in Bar, where Notice is taken of the meaning of them

and Words which are in themselves uncertain, may be made certain by subjection or following Words. The different Placeing of the same Words may cause them to have a different Sense, and therefore the Statute which is written short or abbreviated, is not good without a Dash to distinguish it: And sundry Words are void and idle though they shall not hurt where it is good without them. Nor shall Words in Decrees, which are needful, impeach a Clause certain and perfect without such Words. 2 Litt. Abr. 711, 712, 713, 714. Vide Soci.

Great Defacatory that are actionable, and Criminal making Libels, and High Treason; Words how expounded in Wills, &c. See the Heads. Utopia House, The most considerable Work house in the City of London, is that in Bishopsgate first; wherein some Hundreds of Idle Persons are constantly employed in beating Hemp, &c. and a great many poor Children maintained and educated. Stat. 15 & 16 Car. 2. And in the City of Bridget a great Work house is erected, for the better employing and maintaining the Poor, governed by Corporation, and imported into Bishops and Poor, and on Pain of Forfeiture, such Work houses shall lose all the Contents, &c. de Worma-

tak, wil sol vi de solvenda annuandum ad Esum S. Mart- inini, Inquisit. 22 Rich. 2.

Great, or Greatth. (From the Sex Wom) A Cer- taine or Country Farm. Mast. Wom're. 707.

Greatth of Land, Is a certain Quantity of Ground, to be called the Manor of Kingthand in the County of Hereford: And in.full Places the Terms of Men and Women are called Workthins. Confessed. Maner. de Hadenhun in Com. Bucks. 18 Ed. 3.

Greatth. (Lat. Wierum Maria, Fr. Vreth de Mer, sometimes with Wome, Wome, &c. Sewelry, &c. Sea swer, 1. e. Eyebel maris) Signifies in our Law such Goods as, after a Shipwreke, are cast upon the Land by the sea, and left there within some County 3 for they are not Wocks as long as they remain at Sea, in the Jurisdiction of the Admiralty. 2 Inf. 1671. Where a Ship is perished on the Sea, and no Man escapes alive out of it, this is called Wreck: And the Goods in the Ship being brought to Land by the Waves, belong to the King by his Prerogative, or to the Lord of the Manor. 5 Rep. 106. By the Common Law, all Goods belonging to the King, and therefore they are not chargeable with any Culloms, and for that Goods coming into the Kingdom by Wreck, are not imported by any Body, but cast ashore by the Wind and Waves: But it was usual to feile Wrecks to the King's Use, only when no Owner could be found; and that Case, the Property being in no Man, it of Consequent, belongs to the King, as Lord of the narrow Sea, &c. Bract. ibid. 3. cap. 5. And by the Stat. of Wom'f. 1. 3 Ed. 1. cap. 4. it is en- thralled, that when a Man, or any Living Creature, escapes alive out of a Ship cast away, whereby the Owner of the Goods may be known, the Ship or Goods shall not be Wreck; but the same shall be kept a Year and a Day by the Sheriff, to be returnd to any Person that can prove a Property in the Goods within that Time; and if no Body comes, then the same shall be forfeited as Wreck. The Year and Day shall be accounted from the Conquestry; and if the Owner of the Goods dies within the Year, his Executors or Administrators may make Proof: And when the Goods are Bona persequata, the Sheriff may sell them within the Year; so as he dispenses of them to the best Advantage, and accounts for them, Stat. 2 Inf. 1675. 5 Rep. 106. Wom's. Inf. 214. If a Man have a Grant of Wreck, and the Goods and People on the Lands, and another take them away before Saisure, he may bring Action of Trespass, &c. For before they are tried, there is no Property gained, to make it
it Felony. 1 Hen. P. C. 94. If Goods wrou'd be freted by Persons having no Authority, the Owner may have his Action against them; or if the Wrong-doers are unknown, he may have a Commiision to inquire of 165. Goods lost by Tempest, or Piracy, &c. and not by Wreck, if they afterwards come to Land, shall be return'd to the Owner. 27 Ed. 5. 239. 13. Where a Ship is ready to sink, and all the Men therein, for the Preservation of their Lives, quit the Ship, and afterwards the perils if any of the Men are saved and come to Land, the Goods must not be set on the Sea. 15, &c. 8. 168. This was by an Enemy; the Men therein for the Security of their Lives forc'd the Ship, which was taken by the Enemy, and spoil'd of her Goods and Tackle, and then turn'd to Sea; after this by Breach of Weather she was cast on Land, where it happen'd her Men safely arriv'd; and it was redu'd, that this was no Wreck. 2 39. If a Wreck happens by any Fault or Negligence in the Master or Mariners, the Master must make good the Loss; but if the occasion was occasion'd by Tempest, Enemies, &c. he shall be excus'd: And making Holes in Ships, or doing any Thing wilfully tending to the Loss thereof, is Felony, by Stat. 12 Ann. Which Act requires Justice of Peace to command Alliances for preserving Ships in Danger of Sinking, or for the Continuance or Return of Men of War, and other Ships, are to be aiding, &c. under the Penalty of 100 l. No Person shall enter any such Ship, without Leave from the Commander, or a Conable. And Persons carrying away Goods from such Ships, are liable to pay treble Value; but the Persons giving Alliances, shall be paid by the Masters a reasonable Reward for Salvage. 12 Ann. c. 18. See Pilots. Mariners Ship's wrou'd be relieved Abroad, by Stat. 17 9 Geo. 2. Vide Mariner. 

street. It is to be excepted from the Forfeiture of all Goods in a Sudden Accident of Shipwreck, &c. by charter grant to the Baron of the Casquet Port. Placit. temp. Ed. 1. 

writing. (Scriptum) A simple Writing of Deeds, matters, or in Writing, in a Manuscript, or in a certain Person, &c. shall be good in Law. Hol. 712. 

writ. (Writu, in Sax. Writing, i. e. Scribere) In general is the King's Process, in Writing under Seal, issuing out of some Court to the Sheriff, or other Person, and commanding something to be done touching a Suit or Action, or giving Commiision to have hit done. 1 Ed. 2. 54. A Writ is said to be a formal Letter of the King, in Parchment sealed with a Seal, directed to some Judge, Officer, or Kinsman, &c. at the Suit or Plaintiff of a Subject, requiring to have a Thing done, for the Cause briefly expressed, which is to be inclosed in the proper Court according to Law. Old Nor. Br. 4. Slep. Abr. 245. Of Writs there are divers Kinds, in many respects; some Writs are grounded on Rights of Action, and some in Nature of Commitments; some Mandatory and Extraditall, and others Remittal, and some are Patent or open, and some Chief or sealed up; some Writs issue at the Suit of Parties; some are of Office, some Ordinary, and others of Privilege; and some Writs are directed to the Sheriff, and in Special Cases to the Jury, Par. 1. 1 Ed. 594. 2 Ed. 59. 1 Rep. 20. 

The Writs in Civil Actions are either Original or Judicial: Original Writs are issued in the Court of Chancery, for the Appraisement of a Defendant, and are granted before the Suit is begun, to begin the same; and Judicial Writs issue out of the Court where the Original is return'd, after the Suit is begun: The Original is a Bear of the Name of the King: but Judicial Writs bear Telle in the Name of the Chief Justice: And it is obferv'd, that a Writ without a Telle is not good, for the Time may be material when it is return'd, and it is prov'd by the Telle; and if it be out of the Common Law Courts, it must bear, Date some Day in Term, (not being Sunday) but in Chancellor Writs may be issued in Vacation as well as Term Time, as that Court is always open; also there are to be fifteen Days between the Telle and Return of all Writs, excepted out of the Seven Days, and the Statute Delays in Actions by Return of fifteen Days between the Telle and Return of Writs in Personal Actions, and Ejectments, are remitted. F. N. B. 51. 147. 2 Ed. 40. Law. 335. 15. 144. 3. 207. Writs in Actions are likewise Rest concerning the Possession of Lands, called Writ of Entry, or of Right of Recovery, &c. by a Person who was the Possessor of Goods, Chattels, and Personal Injuries; and Mis'd, for the Recovery of the Thing, and Damages. 2 39. And Writs may be Peffellry, of a Man's own Possession; or pursuant, of the herein and Possession of his Ancestor: And there are certain Writs of Prevention or Anticipation; and of Restitution, &c. But the most common Writs in daily Use, are in Debt, Detinue, Trespas, Action upon the Cafe, Accomps, and Covenant, &c. which with others must be rightly directed, or they will be bought. F. N. B. Style 42. 257. And in all Writs, Cases is to be taken, that they are laid and formal'd according to the Cause or Ground of them, and so purposed in the Process thereof: That the Writ in some Cases may be general; and the Writ in some Cases may be specific. 2 Ed. 2. 26. After the Action is fixed on, for a Wrong done, or Right detained, such a Writ must be taken out as is suitable to the Action; for the Writ is different from the Action; though they are often confounded. The Writ is to be grounded upon the Action, and is the Means to bring the Plaintiff to his Right. 24 Ed. 255. The King's Writs cannot be denied to the Subject: and it is regularly true that no Man shall be punished for doing Writs in the King's Courts, be it of Right or Wrong: But Writs may be abused in several Cases; and the Writs Judicial, Fereneous, may be amended; Original Writs are not amendable, if the Error be by Default of the Party who gave Instructions; yet a new Original may be taken out, where it is not amendable. 2 716. Writs may be removed every Year, unless a Writ be amended; but in B. R. if the Plaintiff be not renewed in five Terms, a new Writ is to be taken out; and the Plaintiff may not renew the old one. The Sheriff's Bulllets cannot execute a Writ directed to the Sheriff, without his Warrant; and if in a Writ several Persons are included, (for four Defendants may be in one Writ) there must be several Warrant from the Sheriff to execute the same. Comp. Action. All Writs are to be return'd and filed in Due Time, to avoid Costs and penalties; and it is very unsafe to keep Writs undecided, because the Filing them is the Warranty for the Proceedings: And where a Writ is issued out directed to the Sheriff, when it comes to his Hands, though the Plaintiff requires the Writ back again, the Sheriff must return and file it in the Court where returnable; unless the Plaintiff procure a Writ of Supersedeas, 2 716. 3. 444. where the Sheriff, for non-executing a Writ, or for doing it oppressively by Force,-extort Money thereon, or not doing it effectually, through any corrupt Practice. Vide 8 Rep. 66. The Court of B. R. cannot give Judgment or Execution before the Writ is return'd, and has deferred to quash it, because the Defendant was not present in Court. 1 Lord Rym. 618. 620. See Attr. Executors. &c. of Writ of Affidavit, Is a Writ issuing out of the Exchequer, to authorize any Person to take a Confin-
tile, or other public Officer, to seize Goods or Merchandise, without the permission of the Warrant, is punishable with imprisonment and fine, and there is a Writ of this Name issued out of the Chancery, to give Possession of Goods. Stat. 14 Car. 2. cap. 1.

Writ of Jeopardy, or Damages, is a Writ which issues out of the Sheriff upon a Judgment by Default, in Action of the Café, Covenant, Trespass, etc., commanding him to summon a Jury to inquire into what Damages the Plaintiff has sustained, and when this is returned with the Inquisition, the Rule for Judgment is given upon it; and if no damage be found, the contrary, judgment is ipso facto entered. 2 Litt. Abr. 731. This Writ lies on a Nihil dicat, Non sum informatus, or a Demurrer; but not upon a Verdict, and it is executed before the Sheriff, or his Deputy, at the Time of which both Parties, have the Liberty of being heard before the Sheriff, by their Counsel or Attorney, and Evidence may be given on both Sides: It is the Duty of the Jury not to inquire into what Damages have been sustained by the Plaintiff, and this cannot be without Evidence given upon it; and if where an Indebtedness, Affranchi is brought for 100 l. for Goods sold, and the Defendant less than this goes by Default if the Plaintiff at the Executing it, gives no Evidence to the Jury of any Goods, sold or delivered to the Defendant, or that the Goods sold or delivered in this Case, the Jury must find some Damages, because the Defendant hath confessed the Affranchi, and admitted that there is Damage; but there being no Evincing they ought to find only a Penny, or some such small Matter. 2 Litt. Abr. 731, 732.

If a Writ of Inquiry be executed without giving due Notice thereof to the Defendant, it shall be quashed. 2 Litt. 731. In an Action of Covenant, Judgment was given for the Plaintiff in the Common Pleas by Default, and a Writ of Inquiry of Damages executed, and final Judgment for the Plaintiff. And on a Writ of Error brought in by B. R. amongst other Exceptions, one was, that no Day was given on the Writ of Inquiry, and therefore it might be a Discontinuance; but the Court ruled, that they never give a Day in C. B. on this Writ, nor is it necessary, because nothing is done but to ascertain the Damages. 1 Ld. Raym. 588.

A Writ of Inquiry was ordered to be executed before the Lord Chief Justice, the Action being laid for very large Damages: And such Writ hath been set aside where the Jury gave too little Damages; and a new Writ of Inquiry ordered by Rule of Court, on Payment of Costs, etc., 2 Litt. Abr. 217, 240. A Judgment shall not be set aside, after a Writ of Inquiry executed. 3 Aik. Writ of Membition, a Writ out of the Chancery, or Exchequer, against a Person in Contempt, not appearing in those Courts, C. & C. See Contemnation of Rebellion.

Orffing, (Latin) Signifies any Damage or Injury, being in Law Conclusively that which is contrary to Right. Co. Lit. Vide Tres.

Orrants, Signs, seem to be ill grown Trees that will never prove Timbers; such as are growing the Ground they grow in. Kitch. 169.

Orbileg, (From the Sax. Udileg, i. e. Sycon) A Fullness of Wood, with a great Waterfall, or Watering-place; often mentioned in old Laws of Houses, in the Covenant for Repairs, C. & C.


Ornit, Parra, Multa----Saxones du Multa-

us unus naturale, i. e. Wuram, & Wyram. Vide Wide.

X.

Xanthus, Is used for Sandals: Xante Dei Lex et qua mortis advince direct.
Year and Day. (Annu. & Dies) Is a Time that determines a Right, or works a Prescription in many Cases by Law; as in Case of an Ethnic, if the Owner challenges it within that Time, it is a Bound to the Lord; if so a Wreck, &c. A Year and Day is given to procure Appeals; and for Actions in a Writ of Right, &c. after Entry or Claim, to avoid a Fine. And if a Person wounded in a Year and Day, it makes the Offender guilty of Murder, &c. 3 Inf. 53. 6 Rep. 107.

Year and Waife. (Annu. Dies & Fausum) Is a Part of the King’s Prerogative, whereby he hath the Profits of Lands and Tenements for a Year and a Day of those that are attained of Petit Tenancy or Felony, whosoever is Lord of the Manor where the Lands or Tenements do belong; and the King may cause Waife to be made on the Tenements, by destroying the Hous, ploughing up the Meadows and Pastures, rooting up the Woods, &c. except the Lord of the Fee agree with him for the Redemption of such Waife; afterwards restoring it to the Lord of the Fee.

Feme, Is often used for of Hesum. Laws Fr. Dist.

Fremm, A Derivative of the Sax. German. i.e. Commeres, and Yomen are a Degree of Commoners, which Camden placeth next in Order to Gentlemen, calling them Ingeusae, and this is agreeable to the Sax. Yomen are chiefly Freeholders, and Farmers; but this Word comprehends all under the Rank of Gentlemen, and is a good Addition to a Name. &c. 2 Inf. 658. All Yomen signifies an Officer in the King’s House, between the Spotz and the Groom; as Yomen of the Spoz. And there are Yomen of the Guard, &c. 32 Hes. 8. cap. 12.

Folcstern, (From the Sax. Curvion, Derw.) Is the same with Greene; and it was formerly used at the End of Indentures and other Instruments issued thereof.

Fron, the Day and Year above written.

Fruit, is derived from the Greek term, to hurt, and probably because before the Invention of Guns our Ancelles made Bows with this Wood, with which they annoys’d their Enemies, and therefore they took Care to plant the Trees in the Church yards, where they might be often seen and feared by the People.

Fitching and Farging, (Reddants & Salunds) Comes from the Sax. Goldens & Cildrons; and in Domesday, Gilders is frequently used for Salonds, Reddants, the Sax. G. being often turn’d into X.

Finghman, Mentioned in the Lawes of King Hen. I. c. 15. Spleen thinks may be a Midlak for Ingesthman, or as we now by Engishman. But perhaps the Finghman were rather Freemen, printed for Tenmen and Tenoms, in Stat. 33 H. 8. cap. 10.

Pochlet, (Sax. Juelat) Is a little Farm, &c. in some Parts of Kent, so called from its requiring but a Yale of Oxen to till it. Sax. Dist.

Foot and Poulsbire. Peroms inhabiting, or those who have any Goods within the Province of York, may by Will dispose of all their personal Estate, &c. 4 & 5 Wm. & M. cap. 2. And a Registry of Deeds, Convenancies, and Wills, &c. of Lands, is ordained in the Wyf Riding of Yorkshire, by a 4m. c. 4. And so in Eng. and North-York, by subsequent Acts. Large Walls in the West Riding of the County of York, by Consent of Lords of Manors, &c. to be included; a sixth Part for the Benefit of poor Clergymen, &c. 12 Ann. York Market is regulated for Sale of Butter, &c. which shall be viewed, measured and weighed before sold, by Stat. 5 Geo. 1. Yorkshire Cloth is to be of certain Lengths and Breadths, under the Penalty of 10s. by Juries of Peace, &c. And narrow woolen Cloths shall have the Names of the Masters, Millman, and Searcher stamped thereon; and not be stretched above a Yard in Length, &c. under diver Penalties. See Stat. 7 Ann. 1 Geo. 1. 11 Geo. 1. 7 Geo. 4. c. 25. 11 Geo. 2. c. 28. and 14 Geo. 2. c. 35.

Pitt’s Buildings Company. A Corporation or Company ered by Statute for Raising Thomas Water in York Buildings and this Company having bought the Perseveld Estates in Scotland on the Rebellion time. Gen. 1. to enable them to make good their Engagements to the Government, they were impoverished to dispise of Rest-Chargers, grant Annuities, &c. and any Peroms may purchaze Annuities of the said Company. 7 Gen. 1. cap. 20.

Pytthyrma, in Latin Altissima, Signifies God; the Sonnderer.

Perprym, From the Pr. Hyverum, the Winter-Corn Sexton. See Hierbagnym.

Pitt. In the North of England, the Country People call the First of the Nativity of our Lord by the Name of Yule, which is the proper Scotch Word for Christmas; and the Sports used at Christmas here, called Christmas Gimbals, in Scotland they term Yule Games. A Statue was made not long since for the Repeal of a petition AY paffed in the Parliament of Scotland, intitled an Act for discharging the Yule-vacance. Gen. 1. c. 8.

Z

Zobius, i.e. Diobuls, As used in many old Writers, viz. Edgar in Leg. Mon. Hydrys. c. 4. Oderic. Vitalis, 460, &c.


Zela, i.e. Incendium; from whence we derive the English Word Zelad.

Zelach, A Kind of Vesture or Garment. Lit.

Zelamillato, A Measure containing for English Bushel.

Zeloth, Settin, or fine Silk; mention’d in Mos. Angl. 2. p. 177.

Zeloth, (Euloch) Is for the most part taken in pe-jorin fronjun, so that we term one that is a Separatist at Schismatist from the Church of England, a Zealot or Fanatick.

Zetach, An Hebrew Measure of nine Inches. Lit.

Zeus, A Room kept warm like a Stove; a withdrawing Chamber with Pipes convey’d along in the Walls, to receive from below either the cool Air in the Summer, or the Heat of Fire, &c. in Winter; it is called by our English Historians a Dining Room, or Parlor. Ojfor. win. S. Elesby apud Walrton. Angl. par. 2. p. 137.

Zeus, A Strooling Thief, or Gipsey. Lit.

Zetheth, (Zedem) A Circle in the Heavens, containing the Twelve Signs through which the Sun passes every Year of Time. Lit.

Zethyth, (Zesib) foots &c. (write) A whirled or dry Stock of a Tree, &c. Ren. &c. Zepth accep-tingum per Inquisitio, qne non ad Damnum sua prejudicio motum aut aliquam, &c. concedimus, quod soluta infra Richard de S. amosi Zachos, ars, qui Anglice vocantur Soverens infra Hainem & Backwood, infra Perfora motum de Shirewood, &c. Placit. Fo- ren. Ass. 1689. This seems to have been the Will of Ad quod Damnum Iffed, on granting of Za-cher, or dead Wood in a Fosst in Fosst in Thomas de C. amosi Zachos, ars, vocat. Subb. arborum faciandam in Perfora de S. Adam per- fecta Canhus Forde alia Tramont. Pat. 32 Ed. 3.

Zepathata, is a Clerk of the Market, to see to Weights, &c. Lit. Dist.

Zeppath, A Drick made of Corn, used by the old Scots; so called from the Seeping or Boiling it, whence Sper had its Name.

A Table
A TABLE

References to all the Arguments and Resolutions of the Lord Chief Justice Holt;

IN THE

Several Books of Reports, under proper general Heads.

A.

Abatement. 1 Show. 75. Ibid. 403, 405, 404. Mod. 144. 1 Salk. 2.

Acquittal. Mod. Caf. 316, 317. 5 Mod. 405.

Actions. 1 Salk. 11, 16. Ibid. 26.

Additions. Mod. Caf. 198, 199.

Administrators. 1 Show. 351. 1 Salk. 351. Ibid. 185. 3 Salk. 161. 3 Mod. 176.

Aultery. Farell. 78, 79, 80, 81. 1 Salk. 552.

Amendment. 5 Mod. 16, 69. 1 Salk. 50. Mod. Caf. 368, 374, 385. 1 Salk. 51. Mod. Caf. 363. 1 Salk. 52.

Ancient Demesne. 1 Salk. 57.


Appointments. Carthew 151, 154. 1 Show. 267. 268. 1 Salk. 65. 3 Salk. 41. 2 Salk. 611. Mod. Caf. 227, 259, 260.

Arrests. Farell. 71, 72.

Arrest of Judgment. 1 Salk. 77.

Assizes. Carthew 126, 127, 129. Ibid. 245, 246.

Assignments. 1 Show. 340, 341. 3 Salk. 5. 1 Show. 348.


Awards. 1 Salk. 83. Ibid. 70, 71. Mod. Caf. 35. Ibid. 160, 176.

B.

Bankrupts. 3 Salk. 61. 1 Salk. 170.

Bargain and Sale. 1 Salk. 171, 173. Mod. Caf. 162.

Baron and Feme. Skinn. 323, 324. 1 Salk. 116, 118. Mod. Caf. 171.

Wills of Erbunge and Notes. 1 Show. 115. 127. Ibid. 125, 156. Ibid. 317, 319. 5 Salk. 68. Skinn. 345. 3 Salk. 70. Skinn. 410, 411. Farell. 87. 1 Salk. 126, 127. Ibid. 283. Mod. Caf. 36. 37. Ibid. 80. 1 Salk. 124. Mod. Caf. 147.

Bonds. 3 Salk. 72. 1 Salk. 465. 3 Salk. 118. Mod. Caf. 260. 1 Salk. 272.

Borough English. Mod. Caf. 120, 121, 122.

Bridges. Farell. 54, 55. Mod. Caf. 255.


Z C. Car.
<table>
<thead>
<tr>
<th>C.</th>
<th>Carriers and Conveyances. Skinn. 613. 1 Salk. 381. 3 Salk. 11.</th>
</tr>
</thead>
<tbody>
<tr>
<td>Certiorari.</td>
<td>1 Salk. 200.</td>
</tr>
<tr>
<td>Challenge.</td>
<td>3 Salk. 81.</td>
</tr>
<tr>
<td>Church.</td>
<td>1 Salk. 164. Carth. 960. Skinn. 716. Mod. Ca. 189, 190. 3 Salk. 88.</td>
</tr>
<tr>
<td>Churchwardens.</td>
<td>Carth. 118.</td>
</tr>
<tr>
<td>Colleges.</td>
<td>1 Show. 74. Carth. 98, 93. 4 Mod. 241.</td>
</tr>
<tr>
<td>Commitments.</td>
<td>5 Mod. 21, 83. Skinn. 598. 3 Mod. 80, 81, 84. Ibid. 416.</td>
</tr>
<tr>
<td>Commons.</td>
<td>3 Salk. 13, 14.</td>
</tr>
<tr>
<td>Conditions.</td>
<td>3 Salk. 95.</td>
</tr>
<tr>
<td>Conspiracy.</td>
<td>Mod. Ca. 169, 183.</td>
</tr>
<tr>
<td>Constables.</td>
<td>2 Salk. 50a. 1 Salk. 116.</td>
</tr>
<tr>
<td>Convictions.</td>
<td>Mod. Ca. 17. 41.</td>
</tr>
<tr>
<td>Copyhold Estates.</td>
<td>1 Show. 87. Carth. 205. 4 Mod. 237. 3 Salk. 99, 100. Mod. Ca. 66.</td>
</tr>
<tr>
<td>Coypers.</td>
<td>1 Show. 339. 1 Salk. 377. Farell. 10.</td>
</tr>
<tr>
<td>Corporations.</td>
<td>4 Mod. 36. 1 Show. 380. 5 103, 103. 1 Salk. 192.</td>
</tr>
<tr>
<td>Covenants.</td>
<td>2 Salk. 198. 3 Salk. 198.</td>
</tr>
<tr>
<td>Courts.</td>
<td>1 Salk. 144, 149. Farell. 4, 39, 6. 8c. Ibid. 81, 103.</td>
</tr>
<tr>
<td>Custos Rotulorum.</td>
<td>3 Mod. 32.  Ibid. 172, 493. 1 Show. 537, 507.</td>
</tr>
<tr>
<td>D.</td>
<td>----------------------------------------------------------------</td>
</tr>
<tr>
<td>Damages.</td>
<td>1 Salk. 418. 5 Mod. 77. Carth. 416. Skinn. 595. Mod. Ca. 153.  Ibid. 301.</td>
</tr>
<tr>
<td>Deaths of Persons.</td>
<td>Carth. 246.</td>
</tr>
<tr>
<td>Debt.</td>
<td>Farell. 89, 90.</td>
</tr>
<tr>
<td>Decedent.</td>
<td>1 Salk. 211.  Ibid. 283.</td>
</tr>
<tr>
<td>Declarations.</td>
<td>Carth. 86. 1 Salk. 324.</td>
</tr>
<tr>
<td>Default.</td>
<td>1 Salk. 216. Mod. Ca. 8.</td>
</tr>
<tr>
<td>Demurrer.</td>
<td>3 Salk. 122.</td>
</tr>
<tr>
<td>Departure.</td>
<td>1 Salk. 222. Mod. Ca. 115.</td>
</tr>
<tr>
<td>Deputies.</td>
<td>1 Salk. 95.</td>
</tr>
</tbody>
</table>

**Dissent.** 1 Show. 93. 3 Salk. 138. Mod. Ca. 141.

**Discontinuance.** 1 Salk. 214.

**Diffrets.** Ibid. 248.

**E.**

**Ceclesiastical Courts.** 5 Mod. 70, 71. Ibid. 450.

**Ejectment.** Skinn. 300. 2 Salk. 411. Farell. 67. 1 Salk. 237, 259, 260.

**Entry.** 1 Salk. 246.

**Execution.** 5 Mod. 377. Carth. 410. 1 Salk. 264, 392.

**Exemptions.** 5 Mod. 158. 1 Salk. 135. 2 Salk. 690. 1 Salk. 284. Ibid. 286, 288.

**Execution.** 5 Mod. 377. Carth. 410. 1 Salk. 264, 392.

**Exemption.** Skinn. 74. 1 Salk. 196. 5 Mod. 145. 1 Salk. 299, 304. 3 Salk. 161. 1 Salk. 512. Mod. Ca. 144.

**F.**

**Fees.** 1 Salk. 353, 354, 355.

**Felons Goods.** Skinn. 357.

**Fines.** Carth. 412. 1 Salk. 341. 5 Salk. 168.

**Forfeiture.** 1 Salk. 657. Skinn. 677.

**Facade Entry.** 1 Salk. 387.

**Fugery.** Farell. 171.

**G.**

**Gaming.** 3 Mod. 23. 1 Salk. 244. 3 Salk. 176. Mod. Ca. 189.

**Good Debtorship.** Farell. 29.

**Grants.** Mod. Ca. 170, 172.

**Guardians.** Carth. 386.

**H.**

**Habeas Corpus.** 1 Salk. 549, 370. Ibid. 371.

**Hears.** 1 Show. 248. 3 Salk. 179.

**Juries.** 1 Salk. 200.
<table>
<thead>
<tr>
<th>L.</th>
<th>Labourers. Mod. Caf. 206.</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Leafes. 1 Show. 316. 1 Salk. 546. Carth. 278. Skin. 550. 2 Salk. 414. 5 Mod. 356. 3 Salk. 324. 1 Salk. 568. Mod. Caf. 215.</td>
</tr>
<tr>
<td></td>
<td>Lecturers. 3 Salk. 87.</td>
</tr>
<tr>
<td></td>
<td>Rebutis facias. Skin. 617, 618.</td>
</tr>
<tr>
<td></td>
<td>Liberty. 2 Salk. 417, 661. 3 Salk. 245, 226.</td>
</tr>
<tr>
<td></td>
<td>Limitation. 1 Show. 341. 5 Mod. 426. Carth. 471.</td>
</tr>
<tr>
<td></td>
<td>London. 5 Mod. 320. Carth. 482.</td>
</tr>
<tr>
<td></td>
<td>Lottery. 2 Salk. 210, 292.</td>
</tr>
<tr>
<td>M.</td>
<td>1 Mod. 204.</td>
</tr>
<tr>
<td></td>
<td>Sandbaggs. 1 Show. 383. 9 Mod. 24. 1 Salk. 416. 3 Salk. 250. 2 Salk. 459, 430. 451. Mod. Caf. 173.</td>
</tr>
<tr>
<td></td>
<td>Merchants. 2 Salk. 443.</td>
</tr>
<tr>
<td></td>
<td>Distainer. 3 Salk. 326. 1 Salk. 6.</td>
</tr>
<tr>
<td></td>
<td>Boner. Skin. 523. 1 Salk. 592.</td>
</tr>
<tr>
<td></td>
<td>Bonopolics. 2 Salk. 497.</td>
</tr>
<tr>
<td></td>
<td>Rentages. 1 Salk. 457.</td>
</tr>
<tr>
<td>N.</td>
<td>He great Regnum. Farell. 9.</td>
</tr>
<tr>
<td></td>
<td>Negroes. 2 Salk. 666.</td>
</tr>
<tr>
<td></td>
<td>Hale Ploesqui. Mod. Caf. 261, 262.</td>
</tr>
<tr>
<td></td>
<td>Non Compos. 3 Salk. 301.</td>
</tr>
<tr>
<td></td>
<td>Distance. Ibid. 247.</td>
</tr>
<tr>
<td>O.</td>
<td>Offices. 4 Mod. 280. Carth. 306.</td>
</tr>
<tr>
<td></td>
<td>Debtorv. 2 Salk. 495.</td>
</tr>
<tr>
<td>P.</td>
<td>Parsons. Carth. 243. 1 Show. 314. 2 Salk. 499, 500. 4 Mod. 63. 3 Salk. 264.</td>
</tr>
<tr>
<td></td>
<td>Patrons and Pledges. 3 Salk. 268, 269.</td>
</tr>
<tr>
<td></td>
<td>Periclinar. Mod. Caf. 358.</td>
</tr>
<tr>
<td></td>
<td>Peerage. Skin. 517.</td>
</tr>
<tr>
<td></td>
<td>Perjury. Skin. 403. 5 Mod. 348. Carth. 422.</td>
</tr>
<tr>
<td></td>
<td>Physicians. Carth. 494.</td>
</tr>
<tr>
<td></td>
<td>Playhouse. 3 Mod. 143. Farell. 17.</td>
</tr>
<tr>
<td></td>
<td>Pleasings. 1 Show. 390. Skin. 295, 300. 2 Salk. 515, 517. 3 Salk. 309. 1 Salk. 279. 3 Salk. 273. Mod. Caf. 236.</td>
</tr>
<tr>
<td></td>
<td>Post-Office. 3 Mod. 456. 1 Salk. 17.</td>
</tr>
</tbody>
</table>

Practice.
<table>
<thead>
<tr>
<th>A T A B L E.</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Prayer.</strong> Skinn. 175.</td>
</tr>
<tr>
<td><strong>Presentation.</strong> 1 Salk. 45.</td>
</tr>
<tr>
<td><strong>Privileges.</strong> Skinn. 182. 2 Salk. 1. 2 Salk. 247. 3 Salk. 283.</td>
</tr>
<tr>
<td><strong>Privileged Places.</strong> 3 Salk. 45, 92.</td>
</tr>
<tr>
<td><strong>Prohibitions.</strong> 1 Salk. 349, 550. Farell. 80, 211, 212. Ibid. 93, 247. 3 Salk. 289. Mod. Cat. 252.</td>
</tr>
<tr>
<td><strong>Property.</strong> 3 Salk. 390.</td>
</tr>
</tbody>
</table>

**Q.**

Quantum meritum. 1 Salk. 557.

Quae tam, et Tam quam. 3 Salk. 7.

**R.**

**Recognizances.** Farell. 10.

**Records.** 2 Salk. 565, 567.

**Recoveries.** Carth. 212. 2 Salk. 569, 676. Farell. 279, 312.

**Release.** 1 Show. 46. 3 Mod. 279. Farell. 75.

**Remainders.** Skinn. 351, 352. 2 Salk. 577. 3 Salk. 300.

**Remittitur.** 1 Show. 404.


**Replevin.** 2 Salk. 587. Mod. Cat. 102, 103.

**Release.** 3 Salk. 311. 4 Salk. 586.

**Riots.** 3 Salk. 317. 5 Mod. 405. 2 Salk. 595.

**Rivers.** 2 Salk. 337.

**Robbery.** Carth. 146. Fareley 157.

**S.**

**Seize facetia.** 2 Salk. 599, 600. 5 Salk. 311.

**Seizure.** 1 Show. 95. 3 Salk. 234. 2 Salk. 458, 441.

**Sessions.** 2 Salk. 606.

**Sheriffs.** 4 Mod. 273. 5 Mod. 438. Mod. Cat. 154, 159.

**Ships.** 1 Show. 153a. Ibid. 154, 179. Carth. 27. Skinn. 278. 1 Salk. 33. 2 Salk. 23.

**Simon.** Carth. 485.

**Standal.** 4 Salk. 697, 698. Farell. 207. Mod. Cat. 33. 3 Salk. 190.

**State.** 1 Salk. 212. 3 Salk. 330, 331. Mod. Cat. 62.

**Stocks.** 2 Salk. 118.

**T.**

**Tall.** 3 Salk. 357. 2 Salk. 519.

**Vears.** 2 Salk. 615. 3 Salk. 540. Carth. 439. Mod. Cat. 214.

**Lithrs.** Carth. 70. 2 Salk. 551.

**Toll.** Carth. 358. 4 Mod. 525.

**Trespasses.** 3 Salk. 517.

**Treas.** 4 Mod. 166, 385, 401. Skinn. 579. 2 Salk. 651, 653, 654.

**Trespass.** 3 Salk. 319. Mod. Cat. 127. 2 Salk. 645.

**Treats.** 2 Salk. 648, 649.

**Truer.** Mod. Cat. 128.

**Trifles.** 2 Salk. 679.

**U.**

**Warrant.** Mod. Cat. 240.

**Warrant.** Mod. Cat. 240, 265. 2 Salk. 670.

**Writ.** 2 Salk. 665.

**Writs.** Carth. 262. 3 Salk. 33, 387.

**Writ.** Carth. 252. Skinn. 548.

**W.**

**Wager of Latin.** 2 Salk. 683.

**Wagers.** 1 Show. 157.

**Wills.** Skinn. 310, 415. 3 Salk. 137, 194. 1 Salk. 254, 279. Mod. Cat. 26.

**Writs.** Carth. 144. 3 Mod. 15, 74, 75. 2 Salk. 689. Farell. 19.

**Writs.** Mod. Cat. 153, 310.

N. B. These References are Inserted in the Order of Time.

FINIS.