A

LAW DICTIONARY

ADAPTED TO THE CONSTITUTION AND LAWS OF
THE UNITED STATES OF AMERICA
AND OF THE
SEVERAL STATES OF THE AMERICAN UNION
With References to the Civil and Other Systems of Foreign Law

by

John Bouvier

Ignoratis terminis ignoratur et ars. − Co. Litt. 2 a.
Je sais que chaque science et chaque art a ses termes
propres, inconnu au commun des hommes. − Fleury

SIXTH EDITION, REVISED, IMPROVED, AND GREATLY ENLARGED.

VOL. I.

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TO THE HONORABLE
JOSEPH STORY, L L.D.,
One of the Judges of the Supreme Court of the United States
THIS WORK is WITH HIS PERMISSION MOST RESPECTFULLY DEDICATED
AS A TOKEN OF
GREAT REGARD ENTERTAINED FOR HIS TALENTS, LEARNING, AND CHARACTER,
BY
THE AUTHOR.

ADVERTISEMENT
TO THE THIRD EDITION

Encouraged by the success of this work, the author has endeavored to render this edition as perfect as it was possible for him to make it. He has remoulded very many of the articles contained in the former editions, and added upwards of twelve hundred new ones.

To render the work as useful as possible, he has added a very copius index to the whole, which, at the same time that it will assist the inquirer, will exhibit the great number of subjects treated in these volumes.

As Kelham's Law Dictionary has been published in this city, and can be had by those who desire to

possess it, that work has not been added as an appendix to this edition.
Philadelphia, November, 1848.

ADVERTISEMENT
TO THE FOUTH EDITION

Since the publication of the last edition of this work, its author, sincerely devvoted to the advancement of his profession, has given to the world his Institutes of American Law, in 4 vols. Svo. Always endeavoring to render his Dictionary as perfect as possible, he was constantly revising it; and whenever he met with an article which he had omitted, he immediately prepared it for a new edition. After the completion of his Institutes, in September last, laboring to severely, he fell a victim to his zeal, and died on the 18th of November, 1851, at the age of sixty−four.

In preparing this edition, not only has the matter left by its author been made use of, but additional matter has been added, so that the present will contain nearly one−third more than the last edition. Under one head, that of Maxims, nearly thriteen hundred new articles have been added. The book has been carefully examined, a great portion of it by two members of the bar, in order that it mught be purged, as far as possible, from all errors of every description. The various changes in the constitutions of the states made since the last edition, have been noticed, so far as was compatible with this work; and every effort made to render it as perfect as a work of the kind would permit, in order that it might still sustain the reputation given to it by a Dublin barrister, "of being a work of a most elaborate character, as compared with English works of a similar nature, and one which should be in every library."

That it may still continue to receive the approbation of the Bench and Bar of the United States, is the sincere desire of the widow and daughter of its author.

PREFACE

To the difficulties which the author experienced on his admission to the bar, the present publication is to be attributed. His endeavours to get forward in his profession were constantly obstructed, and his efforts for a long time frustrated, for want of that knowledge which his elder brethren of the bar seemed to possess. To find among the reports and the various treatises on the law the object of his inquiry, was a difficult task; he was in a labyrinth without a guide: and much of the time which was spent in finding his way out, might, with the friendly assistance of one who was acquainted with the construction of the edifice, have been saved, and more profitably employed. He applied to law dictionaries and digests within his reach, in the hope of being directed to the source whence they derived their learning, but be was too often disappointed; they seldom pointed out the authorities where the object of his inquiry might be found. It is true such works contain a great mass of information, but from the manner in which they have been compiled, they sometimes embarrassed him more than if he had not consulted them. They were written for another country, possessing laws different from our own, and it became a question how far they were or were not applicable here. Besides, most of the matter in the English law dictionaries will be found to have been written while the feudal law was in its full vigor, and not fitted to the present times, nor calculated for present use, even in England. And there is a great portion which, though useful to an [vii] English lawyer, is almost useless to the American student. What, for example, have we to do with those laws of Great Britain which relate to the person of their king, their nobility, their clergy, their navy, their army; with their game laws; their local statutes, such as regulate their banks, their canals, their exchequer, their marriages, their births, their burials, their beer and ale houses, and a variety of similar subjects ?

The most modern law dictionaries are compilations from the more ancient, with some modifications and alterations and, in many instances, they are servile copies, without the slightest alteration. In the mean time the law has undergone a great change. Formerly the principal object of the law seemed to be to regulate real property, in all its various artificial modifications, while little or no attention was bestowed upon the rules which govern personal property and rights. The mercantile law has since arisen, like a bright pyramid, amid the gloom of the feudal law, and is now far more important in practice, than that which refers to real estate. The law of real property, too, has changed, particularly in this country.

The English law dictionaries would be very unsatisfactory guides, even in pointing out where the laws relating to the acquisition and transfer of real estate, or the laws of descent in the United States, are to be found. And the student who seeks to find in the Dictionaries of Cowel, Manly, Jacobs, Tomlins, Cunningham, Burn, Montefiore, Pott, Whishaw, Williams, the Termes de Ley, or any similar compilation, any satisfactory account in

relation to international law, to trade and commerce, to maritime law, to medical jurisprudence, or to natural law, will probably not be fully gratified. He cannot, of course, expect to find in them anything in relation to our government, our constitutions, or our political or civil institutions.[viii]

It occurred to the author that a law dictioinary, written entirely anew, and calculated to remedy those defects, would be useful to the profession. Probably overrating his strength, he resolved to undertake the task, and if he should not fully succeed, he will have the consolation to know, that his effort may induce some more gifted individual, and better qualified by his learning, to undertake such a task, and to render the American bar an important service. Upon an examination of the constitution and laws of the United States, and of the several states of the American Union, he perceived many technical expressions and much valuable information which he would be able to incorporate in his work. Many of these laws,although local in their nature, will be found useful to every lawyer, particularly those engaged in mercantile practice. As instances of such laws the reader is referred to the articles Acknowledgment, Descent, Divorce, Letters of Administration, and Limitatio. It is within the plan of this work to explain such technical expressions as relate to the legislative, executive, or judicial departments of the government; the political and the civil rights and duties of the citizens; the rights and duties of persons, particularly such as are peculiar to our institutions, as, the rights of descent and administration; of the mode of acquiring and transferring property; to the criminal law, and its administration. It has also been an object with the author to embody in his work such decisions of the courts as appeared to him to be important, either because they differed from former judgments, or because they related to some point which was before either obscure or unsettled. He does not profess to have examined or even referred to all the American cases; it is a part of the plan, however, to refer to authorities, generally, which will lead the student to nearly all the cases.

The author was induced to believe, that an occasional comparison of the civil, canon, and other systems of foreign law, with our own,[ix] would be useful to the profession, and illustrate many articles which, without such aid, would not appear very clear; and also to introduce many terms from foreign laws, which may supply a deficiency in ours. The articles Condonation, Extradition, and Novation, are of this sort. He was induced to adopt this course because the civil law has been considered, perhaps not without justice, the best system of written reason, and as all laws are or ought to be founded in reason, it seemed peculiarly proper to have recourse to this fountain of wisdom: but another motive influenced this decision; one of the states of the Union derives most of its civil regulations from the civil law; and there seemed a peculiar propriety, therefore, in introducing it into an American law dictionary. He also had the example of a Story, a Kent, Mr. Angell, and others, who have ornamented their works from the same source. And he here takes the opportunity to acknowledge the benefits which he has derived from the learned labors of these gentlemen, and of those of Judge Sergeant, Judge Swift, Judge Gould, Mr. Rawle, and other writers on American law and jurisprudence.

In the execution of his plan, the author has, in the first place, defined and explained the various words and phrases, by giving their most enlarged meaning, and then all the shades of signification of which they are susceptible; secondly, he has divided the subject in the manner which to him appeared the most natural, and laid down such principles and rules as belong to it; in these cases he has generally been careful to give an illustration, by citing a case whenever the subject seemed to require it, and referring to others supporting the same point; thirdly, whenever the article admitted of it, he has compared it with the laws of other countries within his reach, and pointed out their concord or disagreement; and, fourthly, he has referred to the authorities, the abridgments, digests, and the [x] ancient and modem treatises, where the subject is to be found, in order to facilitate the researches of the student. He desires not to be understood as professing to cite cases always exactly in point; on the contrary, in many instances the authorities will probably be found to be but distantly connected with the subject under examination, but still connected with it, and they have been added in order to lead the student to matter of which he may possibly be in pursuit.

To those who are aware of the difficulties of the task, the author deems it unnecessary to make any apology for the imperfections which may be found in the work. His object has been to be useful; if that has been accomplished in any degree, he will be amply rewarded for his labor; and he relies upon the generous liberality of the members of the profession to overlook the errors which may have been committed in his endeavors to serve them.

PHILADELPHIA, September, 1839.

LAW DICTIONARY

A, the first letter of the English and most other alphabets, is frequently used as an abbreviation, (q. v.) and also in the marks of schedules or papers, as schedule A, B, C, &c. Among the Romans this letter was used in criminal trials. The judges were furnished with small tables covered with wax, and each one inscribed on it the initial letter of his vote; A, when he voted to absolve the party on trial; C, when he was for condemnation; and N L, (non liquet) when the matter did not appear clearly, and be desired a new argument.

A MENSA ET THORO, from bed and board. A divorce a mensa et thoro, is rather a separation of the parties by act of law, than a dissolution of the marriage. It may be granted for the causes of extreme cruelty or desertion of the wife by the hushand. 2 Eccl. Rep. 208. This kind of divorce does not affect the legitimacy of children, nor authorize a second marriage. V. A vinculo matrimonii; Cruelty Divorce.

A PRENDRE, French, to take, to seize, in contracts, as profits a prendre. Ham. N. P. 184; or a right to take something out of the soil. 5 Ad. & Ell. 764; 1 N. & P. 172 it differs from a right of way, which is simply an easement or interest which confers no interest in the land. 5 B. & C. 221.

A QUO, A Latin phrases which signifies from which; example, in the computation of time, the day a quo is not to be counted, but the day ad quem is always included. 13 Toull. n. 52 ; 2 Duv. n. 22. A court a quo, the court from which an appeal has been taken; a judge a quo is a judge of a court below. 6 Mart. Lo. R. 520; 1 Har. Cond. L. R. 501. See Ad quem.

A RENDRE, French, to render, to yield, contracts. Profits a rendre; under this term are comprehended rents and services. Ham N. P. 192.

A VINCULO MATRIMONII, from the bond of marriage. A marriage may be dissolved a vinculo, in many states, as in Pennsylvania, on the ground of canonical disabilities before marriage, as that one of the parties was legally married to a person who was then living; impotence, (q. v.,) and the like adultery cruelty and malicious desertion for two years or more. In New York a sentence of imprisonment for life is also a ground for a divorce a vinculo. When the marriage is dissolved a vinculo, the parties may marry again but when the cause is adultery, the guilty party cannot marry his or her paramour.

AB INITIO, from the beginning.

2. When a man enters upon lands or into the house of another by authority of law, and afterwards abuses that authority, he becomes a trespasser ab initio. Bac. Ab. Trespass, B.; 8 Coke, 146 2 Bl. Rep. 1218 Clayt. 44. And if an officer neglect to remove goods attached within a reasonable time and continue in possession, his entry becomes a trespass ab initio. 2 Bl. Rep. 1218. See also as to other cases, 2 Stra. 717 1 H. Bl. 13 11 East, 395 2 Camp. 115 2 Johns. 191; 10 Johns. 253; ibid. 369.

3. But in case of an authority in fact, to enter, an abuse of such authority will not, in general, subject the party to an action of trespass, Lane, 90 ; Bae. Ab. Trespass, B ; 2 T. It. 166. See generally 1 Chit. PI. 146. 169. 180.

AB INTESTAT. An heir, ab intestat, is one on whom the law casts the inheritance or estate of a person who dies intestate.

AB IRATO, civil law. A Latin phrase, which signifies by a man in anger. It is applied to bequests or gifts, which a man makes adverse to the interest of his heir, in consequence of anger or hatred against him. Thus a devise made under these circumstances is called a testament ab irato. And the suit which the heirs institute to annul this will is called an action ab irato. Merlin, Repert. mots Ab irato.

ABANDONMENT, contracts. In the French law, the act by which a debtor surrenders his property for the benefit of his creditors. Merl. Rep. mot Abandonment.

ABANDONMENT, contracts. In insurances the act by which the insured relinquishes to the assurer all the property to the thing insured.

2.− No particular form is required for an abandonment, nor need it be in writing; but it must be explicit and absolute, and must set forth the reasons upon which it is founded.

3.−It must also be made in reasonable time after the loss.

4.−It is not in every case of loss that the insured can abandon. In the following cases an abandonment may be made: when there is a total loss; when the voyage is lost or not worth pursuing, by reason of a peril insured against or if the cargo be so damaged as to be of little or no value; or where the salvage is very high, and further expense be necessary, and the insurer will not engage to bear it or if what is saved is of less value than the freight; or

where the damage exceeds one half of the value of the goods insured or where the property is captured, or even detained by an indefinite embargo ; and in cases of a like nature.

5.−The abandonment, when legally made transfers from the insured to the insurer the property in the thing insured, and obliges him to pay to the insured what he promised him by the contract of insurance. 3 Kent, Com. 265; 2 Marsh. Ins. 559 Pard. Dr. Coin. n. 836 et seq. Boulay Paty, Dr. Com. Maritime, tit. 11, tom. 4, p. 215.

ABANDONMENT. In maritime contracts in the civil law, principals are generally held indefinitely responsible for the obligations which their agents have contracted relative to the concern of their commission but with regard to ship owners there is remarkable peculiarity; they are bound by the contract of the master only to the amount of their interest in the ship, and can be discharged from their responsibility by abandoning the ship and freight. Poth. Chartes part. s. 2, art. 3, _ 51; Ord. de la Mar. des proprietaires, art. 2; Code de Com. 1. 2, t. 2, art. 216.

ABANDONMENT, lights. The relinquishment of a right; the giving up of something to which we are entitled.

2. − Legal rights, when once vested, must be divested according to law, but equitable rights may be abandoned. 2 Wash. R. 106. See 1 H. & M. 429; a mill site, once occupied, may be abandoned. 17 Mass. 297; an application for land, which is an inception of title, 5 S. & R. 215; 2 S. & R. 378; 1 Yeates, 193, 289; 2 Yeates, 81, 88, 318; an improvement, 1 Yeates, 515 ; 2 Yeates, 476; 5 Binn. 73; 3 S. & R. 319; Jones' Syllabus of Land Office Titles in Pennsylvania, chap. xx; and a trust fund, 3 Yerg. 258 may be abandoned.

3. − The abandonment must be made by the owner without being pressed by any duty, necessity or utility to himself, but simply because he wishes no longer to possess the thing; and further it must be made without any desire that any other person shall acquire the same; for if it were made for a consideration, it would be a sale or barter, and if without consideration, but with an intention that some other person should become the possessor, it would be a gift: and it would still be a gift though the owner might be indifferent as to whom the right should be transferred; for example, he threw money among a crowd with intent that some one should acquire the title to it.

ABANDONMENT for torts, a term used in the civil law. By the Roman law, when the master was sued for the tort of his slave, or the owner for a trespass committed by his animal, he might abandon them to the person injured, and thereby save himself from further responsibility.

2. − Similar provisions have been adopted in Louisiana. It is enacted by the civil code that the master shall be answerable for all the damages occasioned by an offence or quasi offence committed by his slave. He may, however, discharge himself from such responsibility by abandoning the slave to the person injured; in which case such person shall sell such slave at public auction in the usual form; to obtain payment of the damages and costs; and the balance, if any, shall be returned to the master of the slave, who shall be completely discharged, although the price of the slave should not be sufficient to pay the whole amount of the damages and costs; provided that the master shall make abandonment within three days after the judgment awarding such damages, shall have been rendered; provided also that it shall not be proved that the crime or offence was committed by his order, for in such cases the master shall be answerable for all damages resulting therefrom, whatever be the amount, without being admitted to the benefit of abandonment. Art. 180, 181.

3. − The owner of an animal is answerable for the damages he has caused; but if the animal had been lost, or had strayed more than a day, he may discharge himself from this responsibility, by abandoning him to the person who has sustained the injury, except where the master has turned loose a dangerous or noxious animal, for then he must pay for all the harm he has done, without being allowed, to make the abandonment. Ib. art. 2301.

ABANDONMENT, malicious. The act of a hushand or wife, who leaves his or her consort wilfully, and with an intention of causing perpetual separation.

2. − Such abandonment, when it has continued the length of time required by the local statutes, is sufficient cause for a divorce. Vide 1 Hoff. R. 47; Divorce.

ABATEMENT, chancery practice, is a suspension of all proceedings in a suit, from the want of proper parties capable of proceeding therein. It differs from an abatement at law in this, that in the latter the action is in general entirely dead, and cannot be revived, 3 Bl. Com. 168 but in the former, the right to proceed is merely suspended, and may be revived by a bill of revivor. Mitf. Eq. Pl. by Jeremy, 57; Story, Eq. PI. _354.

ABATEMENT, contracts, is a reduction made by the creditor, for the prompt payment of a debt due by the payor or debtor. Wesk. on Ins. 7.

ABATEMENT, merc. law. By this term is understood the deduction sometimes made at the custom−house from the duties chargeable upon goods when they are damaged See Act of Congress, March 2, 1799, s. 52, 1 Story L. U. S. 617.

ABATEMENT, pleading, is the overthrow of an action in consequence of some error committed in bringing or conducting it when the plaintiff is not forever barred from bringing another action. 1 Chit. Pl. 434. Abatement is by plea. There can be no demurrer in abatement. Willes' Rep. 479; Salk. 220.

2. Pleas in abatement will be considered as relating, 1, to the jurisdiction of the court; 2, to the person of the plaintiff; 3, to that of the defendant; 4, to the writ; 5, to the qualities. of such pleas ; 6, to the form of such pleas; 7, to the affidavit of the truth of pleas in abatement.

3. − _ 1. As to pleas relating to the jurisdiction of the court, see article Jurisdiction, and Arch. Civ. Pl. 290; 1 Chit. PI. Index. tit, Jurisdiction. There is only one case in which the jurisdiction of the court may be inquired of under the general issue, and that is where no court of the country has jurisdiction of the cause, for in that case no action can be maintained by the law of the land. 3 Mass. Rep. Rea v. Hayden, 1 Dougl. 450; 3 Johns. Rep. 113; 2 Penn. Law Journal 64, Meredith v. Pierie.

4. − _ 2. Relating to the person of the plaintiff. 1. The defendant may plead to the person of the plaintiff that there never was any such person in rerum natura. Bro. Brief, 25 ; 19 Johns. 308 Com. Dig. Abatement, E 16. And if one of several plaintiffs be a fictitious person, it abates the writ. Com. Dig. Abatement, E 16; 1 Chit. Pl. 435; Arch. Civ. Pl. 304. But a nominal plaintiff in ejectment may sustain an action. 5 Verm. 93; 19 John. 308. As to the rule in Pennsylvania, see 5 Watts, 423.

5. − 2. The defendant. may plead that the plaintiff is a feme covert. Co. Lit. 132, b.; or that she is his own wife. 1 Brown. Ent. 63; and see 3 T. R. 631; 6 T. R. 265; Com. Dig. Abatement, E 6; 1 Chit. Pl. 437; Arch. Civ. Pl. 302. Coverture occurring after suit brought is a plea in abatement which cannot be pleaded after a plea in bar, unless the matter arose after the plea in bar; but in that case the defendant must not suffer a continuance to intervene between the happening of this new matter, or its coming to his knowledge, and pleading it. 4 S & R. 238; Bac. Abr. Abatement, G; 4 Mass. 659; 4 S. & R.
238; 1 Bailey, 369; 4 Vern. 545; 2 Wheat. 111; 14 Mass. 295 ; 1 Blackf. 288 ; 2 Bailey, 349. See 10 S. & R. 208; 7 Verm. 508; 1 Yeates, 185; 2 Dall. 184; 3 Bibb, 246.

6. − 3. That the plaintiff (unless he sue with others as executor) is an infant and has declared by attorney. 1 Chit. Pl. 436; Arch. Civ. Pi. 301; Arch. Pr. B. R. 142 ; 2 Saund. 212, a, n. 5; 1 Went. 58, 62; 7 John. R. 373; 3 N. H. Rep. 345; 8 Pick. 552; and see 7 Mass. 241; 4 Halst. 381 2 N. H. Rep. 487.

7. − 4. A suit brought by a lunatic under guardianship, shall abate. Brayt. 18.

8. − 5. Death of plaintiff before the purchase of the original writ, may be pleaded in abatement. 1 Arch. Civ. PI. 304, 5; Com. Dig. Abatement, E 17. Death of plaintiff pending the writ might have been pleaded since the last continuance, Com. Dig. Abatement, H 32; 4 Hen. & Munf. 410; 3 Mass. 296 ; Cam. & Nor. 72; 4 Hawks, 433; 2 Root, 57; 9 Mass. 422; 4 H. & M. 410; Gilmer, 145; 2 Rand. 454; 2 Greenl. 127. But in some states, as in Pennsylvania, the, death of the plaintiff does not abate the writ; in such case the executor or administrator is substituted. The rule of the common law is, that whenever the death of any party happens, pending the writ, and yet the plea is in the same condition, as if such party were living, then such death makes no alteration; and on this rule all the diversities turn. Gilb. Com. Pleas 242.

9. − 6. Alienage, or that the plaintiff is an alien enemy. Bac. Abr. h.t.; 6 Binn. 241 ; 10 Johns. 183; 9 Mass. 363 ; Id. 377 ; 11 Mass. 119 ; 12 Mass. 8 ; 3 31. & S. 533; 2 John. Ch. R. 508; 15 East, 260; Com. Dig. Abatement, E 4; Id. Alien, C 5; 1 S. & R. 310; 1 Ch. PI. 435; Arch. Civ. PI. 3, 301.

10. − 7. Misnomer of plaintiff may also be pleaded in abatement. Arch. Civ. Pi. 305; 1 Chitty's Pleading, Index, tit. Misnomer. Com. Dig. Abatement, E 19, E 20, E 21, E 22; l Mass. 75; Bac. Abr. h. t.

11. − 8. If one of several joint tenants, sue in action ex contractu, Co. Lit. 180, b; Bac. Abr. Joint−tenants, K; 1 B. & P. 73; one of several joint contractors, Arch. Civ. PI. 48−51, 53 ; one of several partners, Gow on Part. 150; one of. several joint executors who have proved the will, or even if they have not proved the will, 1 Chit. PI. 12, 13; one of several joint administrators, Ibid. 13; the defendant may plead the non−joinder in abatement. Arch. Civ. Pl. 304; see Com. Dig. Abatement, E 9, E 12, E 13, E 14.

12.−9. If persons join as plaintiffs in an action who should not, the defendant may plead the misjoinder in abatement. Arch. Civ. PI. 304; Com. Dig. Abatement, E 15.

13. − 10. When the plaintiff is an alleged corporation, and it is intended to contest its existence, the defendant must plead in abatement. Wright, 12; 3 Pick. 236; 1 Mass 485; 1 Pet. 450; 4 Pet. 501; 5 Pet. 231. To a suit brought in the name of the "judges of the county court," after such court has been abolished, the defendant may plead in abatement that there are no such judges. Judges, &c. v. Phillips; 2 Bay, 519.

14. − _ 3. Relating to the person of the defendant. 1. In an action against two or more, one may plead in abatement that there never was such a person in rerum natura as A, who is named as defendant with him. Arch. Civ. PI. 312.

15. − 2. If the defendant be a married woman, she may in general plead her coverture in abateraent, 8 T. R. 545 ; Com. Dig. Abatement, F 2. The exceptions to this rule arise when the coverture is suspended. Com. Dig. Abatement, F 2, _3; Co. Lit. 132, b; 2 Bl. R. 1197; Co. B. L. 43.

16. − 3. The death of the defendant abates the writ at common law, and in some cases it does still abate the action, see Com. Dig. Abatement, H 34; 1 Hayw. 500; 2 Binn. l.; 1 Gilm. 145; 1 Const. Rep. 83; 4 McCord, 160; 7 Wheat. 530; 1 Watts, 229; 4 Mass. 480; 8 Greenl. 128; In general where the cause of action dies with the person, the suit abates by the death of the defendant before judgment. Vide Actio Personalis moritur cum persona.

17. − 4. The misnomer of the defendant may be pleaded in abatement, but one defendant cannot plead the misnomer of another. Com. Dig. Abatement, F 18 ; Lutw. 36; 1 Chit. PI. 440; Arch. Civ. PI. 312. See form of a plea in abatement for a misnomer of the defendant in 3 Saund. 209, b., and see further, 1 Show. 394; Carth. 307 ; Comb. 188 ; 1 Lutw. 10 ; 5 T. R. 487 .

18. − 5. When one joint tenant, Com. Dig. Abatement, F 5, or one tenant in common, in cases, where they ought to be joined, Ibid. F 6, is sued alone−he may plead in abatement. And in actions upon contracts if the plaintiff do not sue all the contractors, the defendant may plead the non−joinder in abatement. Ibid. F 8, a; 1 Wash. 9; 18 Johns. 459; 2 Johns. Cas. 382 ; 3 Caines's Rep. 99 ; Arch.. Civ. PI. 309; 1 Chit. PI. 441. When hushand and wife should be sued jointly, and one is sued alone, the non−joinder may be pleaded in abatement. Arch. Civ. PI. 309. The non−joinder of all the executors, who have proved the will; and the non−joinder of all the administrators of the deceased, may be pleaded in abatement. Com. Dig. Abatement, F 10.

19. − 6. In a real action if brought against several persons, they may plead several tenancy, that is, that they hold in severalty and not jointly, Com. Dig. Abatement, F 12; or one of them may take the entire tenancy on himself, and pray judgment of the writ. Id. F 13. But mis−joinder of defendant in a personal action is not the subject of a plea in abatement. Arch. Civ. PI. 68, 310.

20. − 7. In cases where the defendant may plead non−tenure, see Arch. Civ. PI. 310; Cro. El. 559.

21. − 8. Where he may plead a disclaimer, see Arch. Civ. PI. 311; Com. Dig. Abatement, F 15.

22. − 9. A defendant may plead his privilege of not being sued, in abatement. Bac. Ab. Abridgment C ; see this Dict. tit. Privilege.

23. − _ 4. Plea in, abatement of the writ. 1. Pleas in abatement of the writ or a bill are so termed rather from their effect, than from their being strictly such pleas, for as oyer of the writ can no longer be craved, no objection can be taken to matter which is merely contained in the writ, 3 B. & P. 399; 1 B. & P. 645−648; but if a mistake in the writ be carried into the declaration, or rather if the declaration, which is resumed to correspond with the writ or till, be incorrect in respect of some extrinsic matter, it is then open to the defendant to plead in abatement to the writ or bill, 1 B. & P. 648; 10 Mod. 210; and there is no plea to the declaration alone but in bar; 10 Mod. 210 ; 2 Saund. 209, d. 24.−2. Pleas in abatement. of the writ or bill and to the form or to the action. Com. Dig. Abatement, H. 1, 17.

25. − 3. Those of the first description were formerly either matter apparent on the face of the ;Writ, Com. Dig. Abatement, H l, or matters dehors. Id. H 17.

26. − 4. Formerly very trifling errors were pleadable in abatement, 1 Lutw. 25; Lilly's Ent. 6 ; 2 Rich. C. P. 5, 8 ; 1 Stra. 556; Ld. Raym. 1541 ; 2 Inst. 668; 2 B. & P. 395.. But as oyer of the writ can no longer be had, an omission in the defendant's declaration of the defendant's addition, which is not necessary to be stated in a declaration, can in no case be pleaded in abatement. 1 Saund. 318, n. 3; 3 B. & B. 395; 7 East, 882.

27. − 5. Pleas in abatement to the formof the writ, are therefore now principally for matters dehors, Com. Dig. Abatement,H 17; Glib. C. P., 51 , existing at the time of suing out the writ, or arising afterwards, such as misnomer of the plaintiff or defendant in Christian or surname.

28. − 6. Pleas in abatement to the action of the writ, and that the action is misconceived, as that it is in case where it ought to have, been in trespass, Com. Dig. Abatement, G 5 ; or that it was prematurely brought, Ibid. Abatement, G 6, and tit. Action E ; but as these matters are grounds of demurrer or nonsuit, it is now very unusual to plead them in abatement. It may also be pleaded that there ii another action pending. See tit. Autre action pendant. Com. Dig. Abatement, H. 24; Bac.

Ab. Abatement, M; 1 Chitty's Pi. 443.

29. − _ 6. Qualities of pleas in abatement. 1. A writ is divisible, and may be abated in part, and remain good for the residue; and the defendant may plead in abatement to part, and demur or plead in bar to the residue of the declaration. 1 Chit. PI. 444; 2 Saund. 210, n. The general rule is, that whatever proves the writ false at the time of suing it out, shall abate the writ entirely Gilb. C. P. 247 1 Saund. Rep. 286, (n) 7; 2 do. 72, (i) sub fin.

30. − 2. As these pleas delay the trial of the merits of the action, the greatest accuracy and precision are required in framing them; they should be certain to every intent, and be pleaded without any repugnancy. 3 T. R. 186; Willes, 42 ; 2 Bl. R. 1096 2 Saund. 298, b, n. 1 ; Com. Dig. 1, 11 Co. Lit. 392; Cro. Jac. 82; and must in general give the plaintiff a better writ. This is the true criterion to distinguish a plea in abatement from a plea in bar. 8 T. IR. 615; Bromal. 139; 1 Saund. 274, n. 4 ; 284 n. 4; 2 B. & P. 125 ; 4 T. R. 227 ; 6 East) 600 ; Com. Dig. Abatement, J 1, 2; 1 Day, 28; 3 Mass. 24; 2 Mass. 362; 1 Hayw. 501; 2 Ld. Raym. 1178; 1 East, 634. Great accuracy is also necessary in the form of the plea as to the commencement and conclusion, which is said to make the plea. Latch. 178 ; 2 Saund. 209, c. d; 3 T. R. 186.

31. − _ 6. Form of pleas in abatement .1 As to the form of pleas in abatement, see 1 Chit. PI. 447; Com. Dig. Abatement, 1 19; 2 Saund. 1, n. 2.

32. − _ 7. Of the affidavit of truth. 1. All pleas in abatement must be sworn to be true, 4 Ann. c. 16, s. 11. The affidavit may be made by the defendant or a third person, Barnes, 344, and must be positive as to the truth of every fact contained in the plea, and should leave nothing to be collected by inference; Sayer's Rep. 293; it should be stated that the plea is true in substance and fact, and not merely that the plea is a true plea. 3 Str. 705, Litt. Ent. 1; 2 Chitt. Pl. 412, 417; 1 Browne's Rep. 77 ; see. 2 Dall. 184; 1 Yeates, 185.

See further on the subject of abatement of actions, Vin. Ab. tit. Abatement; Bac. Abr. tit. Abatement; Nelson's Abr. tit. Abatement; American Dig. tit. Abatement; Story's Pl. 1 to 70; 1 Chit. Pl. 425 to 458; Whart. Dig. tit. Pleading, F. (b.) Penna. Pract. Index, h. t.; Tidd's Pr. Index, h. t.; Arch. Civ. Pl. Index, h. t.; Arch. Pract. Index, h. t. Death; Parties to actions; Plaintiff; Puis darrein continuance.

ABATEMENT OF A FREEHOLD. The entry of a stranger after the death of the ancestor, and before the heir or devisee takes possession, by which the rightful possession of the heir or devisee is defeated. 3 Bl. 1 Com. 167; Co. Lit. 277, a; Finch's Law, 1 195; Arch. Civ. Pl. 11.

2. By the ancient laws of Normandy, this term was used to signify the act of one who, having an apparent right of possession to an estate, took possession of it immediately after the death of the actual possessor, before the heir entered. Howard, Anciennes Lois des Frangais, tome 1, p. 539.

ABATEMENT OF LEGACIES, is the reduction of legacies for the purpose of paying the testator's debts.

2. When the estate is short of paying the debts and legacies, and there are general legacies and specific legacies, the rule is that the general legatees must abate proportionably in order to pay the debts; a specific legacy is not abated unless the general legacies cannot pay all the debts; in that case what remains to be paid must be paid by the specific legatees, who must, where there are several, abate their legacies, proportionably. 2 Bl. Com. 513; 2 Vessen. 561 to 564; 1 P. Wms. 680; 2 P. Wms. 283. See 2 Bro. C. C. 19; Bac. Abr. Legacies, H; Rop. on Leg. 253, 284.

ABATEMENT OF NUISANCES is the prostration or removal of a nuisance. 3 Bl.

2. − 1. Who may abate a nuisance; 2, the manner of abating it. _1. Who may abate a nuisance. 1. Any person may abate a public nuisance. 2 Salk. 458; 9 Co. 454.

3. − 2. The injured party may abate a private nuisance, which is created by an act of commission, without notice to the person who has committed it; but there is no case which sanctions the abatement by an individual of nuisances from omission, except that of cutting branches of trees which overhang a public road, or the private property of the person who cuts them.

4. − _ 2. The manner of abating it. 1. A public nuisance may be abated without notice, 2 Salk. 458; and so may a private nuisance which arises by an act of commission. And, when the security of lives or property may require so speedy a remedy as not to allow time to call on the person on whose property the mischief has arisen to remedy it, an individual would be justified in abating a nuisance from omission without notice. 2 Barn. & Cres. 311; 3 Dowl. & R. 556.

5. − 2. In the abatement of a public nuisance, the abator need not observe particular care in abating it, so as to prevent injury to the materials. And though a gate illegally fastened, might have been opened without cutting it

down, yet the cutting would be lawful. However, it is a general rule that the abatement must be limited by its necessity, and no wanton or unnecessary injury must be committed. 2 Salk. 458.

6. − 3. As to private nuisances, it has been held, that if a man in his own soil erect a thing which is a nuisance to another, as by stopping a rivulet, and so diminishing the water used by the latter for his cattle, the party injured may enter on the soil of the other, and abate the nuisance and justify the trespass; and this right of abatement is not confined merely to a house, mill, or land. 2 Smith's Rep. 9; 2 Roll. Abr. 565; 2 Leon. 202; Com. Dig. Pleader, 3 M. 42; 3 Lev. 92; 1 Brownl. 212; Vin. Ab. Nuisance; 12 Mass. 420; 9 Mass. 316; 4 Conn. 418; 5 Conn. 210; 1 Esp. 679; 3 Taunt. 99; 6 Bing. 379.

7. − 4. The abator of a private nuisance cannot remove the materials further than is necessary, nor convert them to his own use. Dalt. o. 50. And so much only of the thing as causes the nuisance should be removed; as if a house be built too high, so much. only as is too high should be pulled down. 9 Co. 53; God. 221; Str. 686.

8. − 5. If the nuisance can be removed without destruction and delivered to a magistrate, it is advisable to do so; as in the case of a libellous print or paper affecting an individual, but still it may be destroyed 5 Co. 125, b.; 2 Campb. 511. See as to cutting down trees, Roll. Rep. 394; 3 Buls 198; Vin. Ab. tit. Trees, E, and Nuisance W.

ABATOR is, 1st, he who abates or prostrates a nuisance; 2, he who having no right of entry, gets possession of the freehold to the prejudiae of an heir or devisee, after the time when the ancestor died, and before the heir or devisee enters. See article Abatement. Litt. _ 897; Perk. _ 383; 1 Inst. 271; 2 Prest. Abst. 296. 300. As to the consequences of an abator dying in possession, See Adams' Eject. 43.

ABATUDA, obsolete. Any thing diminished; as, moneta abatuda, which is money clipped or diminished in value. Cowell, h. t.

ABAVUS, civil law, is the great grandfather, or fourth male ascendant. Abavia, is the great grandmother, or fourth female ascendant.

ABBEY, abbatia, is a society of religious persons, having an abbot or abbess to preside over them. Formerly some of the most considerable abbots and priors in England had seats and votes in the house of lords. The prior of St. John's of Jerusalem, was styied the first baron of England, in respect to the lay barons, but he was the last of the spiritual barons.

ABBREVIATION, practice. − The omission of some words or letters in writing; as when fieri facias is written fi. fa.

2. In writing contracts it is the better practice to make no abbreviations; but in recognizances, and many other contracts, they are used; as John Doe tent to prosecute, &c. Richard Roe tent to appear, &c. when the recognizances are used, they are drawn out in extenso. See 4 Ca. & P. 61; S.C.19E.C.L.R.268; 9 Co.48.

ABBREVIATIONS and abbreviated references. The following list, though neces−sarily incomplete, may be useful to some readers.

A, a, the first letter of the alphabet, is sometimes used in the ancient law books to denote that the paging is the first of that number in the book. As an abbreviation, A is used for anonymous.
A. & A. on Corp. Angell & Ames on Corporations. Sometimes cited Ang. on Corp.
A. B. Anonymous Reports, printed at the end of Bendloe's Reports.
A. D. Anno Domini, in the year of our Lord
A. & E. Adolphus and Ellis' Reports.
A. & E. N. S. Adolphus & Ellis' Queen's Bench Reports, New Series, commonly cited Q. B.
A. & F. on Fixt. Amos & Ferard on Fixtures.
A. K. Marsh. A. K. Marshall's (Kty.) Reports.
Ab. or Abr. Abridgement.
Abr. Ca. Eq. Abridgement of cases in Equity.
Abs. Absolute.
Ab. Sh. Abbott on Shipping.
Acc. Accord or Agrees.
Act. Acton's Reports.
Act. Reg. Acta Regia.
Ad. Eject. Adams on Ejectment.

Ad. & Ell. Adolphus & Ellis' Reports.
Ad. finn. Ad finem. At or near the ond.
Ads. Ad sectum, vide Ats.
Addam's R. Addam's Ecclesiastical Reports. In E. Eccl. Rep.
Addis on Contr. Addison on the Law of Contracts and on Parties to actions ex contractu.
Addis. R. Addison's Reports.
Admr. Administrator.
Ady. C. M. Adye on Courts Martial.
Aik. R. Aiken's Reports.
Al. Aleyn's Cases.
Al. Alinea. Al et. Et alii, and others.
Al.& N.~~ Alcock & Napier's Reports.
Ala. R. Alabama Repo_rt~.
Alc. Reg. G~. Alcock's Reg~stration Case~
Ald. ~ Van Hoes. Dig. A Di~gest of the Laws of Mi~sissippi, by T. J. ~Fox Alden and J. A. Yan Hoesen.
Aldr. Hilt. Aldridge's History of the Court~ of Law.
Alis. Prin. Alison's Principles of the Criminal Law of Scotland.
All. ~ Mor. Tr. Allen and Morris' Trial.
Alley. L. D. of ~Mar. Alleyne'~s Legal Degrees of Marriage considered.
Alln. Part. Allnat on Partition.
Am. America, American, or Americana.
Amb. Ambler's Reports.
Am. ~ Fer. on. F~ixt. Amo~s & Ferard on Fi~xture~s.
Amer. ~America, American, or Americana.
Amer. Dig. American Dige~t.
~Amer. Jur. American Jurist.
A~n. Anonymous.
And . Anderson's Reports.
Ander. Ch. War. Anderdon on Church Warden~.
Andr. Andrew'~ Report~.
Ang. on Adv. Enj. Angell'~s Inquiry into the rule of law which creates a right to an incorporeal hereditament, by an adverse enjoyment of twenty years.
Ang. on Ass. Angell'~s Practical Summary of the Law of Assignment~ in tru~t for creditor~.
Ang. on B. T. Angell on Bank Tax.
Ang. on Corp. Angell on the Law of Private Corporation~s.
Ang. on Limit. Angell's Treatise on the Limitation of Actions at Law, and Suits in Equity.
~Ang. on Tide Wat. ~~Angell on the right of property in Tide Waters.
Ang.~ on W~ater Co~urses. Angell on the Common Law in relation to Water Courses.
Ann. Anne; as 1 Ann. c. 7.
Anna. Annaly's Reports. This book is usually cited Cas. Temp. Hardw.
Annesl. on Ins. Annesley on Insurance.
Anstr. Anstruther's Reports.
Anth. Shep. Anthon's editon's of Sheppard's Touchstone.
Ap. Justin. Apud Justinianum, or Justinian's Institutes.
App. Apposition.
Appx. Appendix.
Arch Archbold. Arch. Civ. Pl. Archbold's Civil Pleadings. Arch. Cr. Pl. Archbold's Criminal Pleadins. Arch. Pr. Archbold's Practice. Arch. B. L.

Archbold's Bankrupt law. Arch. L. & T. Archbold on the Law of Landlord and Tenant. Arch. N. P. Archbold's Law of nisi Prius.
Arg. Argumento, by an argument drawn from such a law. it also signifies arguendo.
Arg. Inst. Institution au Droit Francais, par M. Argou.
Ark. Rep. Arkansas Reports. See Pike's Rep.
Ark. Rev. Stat. Arkansas Revised Statutes.
Art. Article
Ashm. R. Ashmead's Reports
~Aso & Man. Inst. Aso and Manuel's institutes of the Laws of Spain.
Ass. or Lib. Ass. Liber Assissarium, or Pleas of the Crown.
Ast. Ent. Aston's Entries.
Atherl. on Mar. Atherley on the Law of Marriage and other Family Settlements.
Atk. Atkyn's Reports.
Atk. P. T. Atkyn's Parliamentary Tracts.
Atk. on Con. Atkinson on Conveyancing.
Atk. on Tit. Atkinson on Marketable Titles.
Ats. in practice, is an abbreviation for the words "at suit of," and is used when the defendant files any pleadings; for example: when the defendant enters a plea he puts his name before that of the plaintiff, reversing the order in which they are on the record. C.D.(the defendant,) ats A.B. (the plaintiff.)
Aust. on Jur. The Province of Jurisprudence determind, by John Austin
Auth. Authentica, in the Authentic; that is, the Summary of some of the Novels of the Civil Law inserted in the code under such a title.
Ay. Ayliff'es Pandect.
Ayl. Parerg. Ayliffe's Parergon juris canonici Anglicani.
Azun. Mar. Law. Azuni's Maritime Law of Europe.
B, b, ig used to point out that a number, used at tho head of a page to denote the folio, is the second number o~f the same volume.
B. B. Bail Bond.
B. or Bk. Boo~k.
B. ~& A. Barnewall & Alderson~s Reports.
B. ~& B. Ball ~& Beatty's Reports.
B. C. R. Brown'~s Chancery Reports.
B. Eccl. L. Burn's Ecclesia~tical Law.
B. J~ust. Burn's Justice.
B. N. C. Brooke's ~New Cases.
B. P. C. or Bro. Parl. CaJ. Brown's Parliamentry Ca~ses.
B. ~& P. or Bos. ~& Pull. Bosanquet & Puller's Reports.
B. R. or K. B. ~King'~s Bench.
B. Tr. Bishop's Trial.
Bab. on Auct. Babington on the Law of Auctions.
Bab. Set off. Babington on Set off and mutual credit.
Bac. Abr. Bacon's Abridgement.
Bac. Comp. Arb. Bacon's (M.) Complete Arbitrator.
Bac. El. Bacon's Elements of the Common Law.
Bac. Gov. Bacon on Go~vernment.
Bac. Law Tr. Bacon'~s Law Tracts
Bac. Leas. Bacon (M.) on Leases and Term~ of Years.
Bac. Lib Reg. Bacon's ~John) Liber Regis, vel Thesaurus Rerum Eccleslasticarum.
Bac. Use~s Bacon'~s Reading on the Statute of Uses. This is printed in his Law

Tract~s.
Bach. ~an. Bache'~s Manual of a Pennsylvania Justice of the Peace
Bail. R. Bailey's Report~.
Bain. on ~~~M.&M. Bainbridge on Mines and Mineral~s.
Baldwin. R. Baldwin's Circuit Court Reports.
Ball & Beat. Ball and Beatty'~s Report~s.
Ballan. Lim. Ballantine on Limitations.
Banc. Sup. Upper Bench.
Barb. ~Eq. Dig. Barbour~s Equity Dige~st.
Barb. Cr. Pl. B~arbour's Criminal Pleading~.
Bar~b. Pract. in Ch. Barbour's Treatise on the Practice of the Court of Chancery.
Barb. R. Barbour's Chancery Report~s.
~Barb. Grot. Grotius on War and Peace, with notes by Barbeyrac.
Barb. Puff. Puffendorf'~s Law of Nature and Nations, with notes by M. Barbeyrac.
Barb. on Set off. Barbour on the Law of Set off, with an appendix of Precedents.
Barn. C. Barnardiston's~ Chancery Reports.
Barn. Barnardi~ston's K. B. Reports.
Barn. ~& Ald. Barnewall & Alder~on'~s Re~ports.
~Barn. ~& ~Adolph. Barnewall & Adolphu~'s Reports.
Barn. ~& Cre~ss. Barnewull & Cresswell'~s Reports.
Barn. Sher. Barnes' Sheriff.
Barnu. Barne~' Notes of Practice.
Barr. Ob~s. Stat. Barrington'~s Observations on the more ancient statute~s.
Barr. Te~n. Barry's Tenure.
Bart. El. Conv. Barton's Element~ of Conveyancing. ~Bart. Prec. Conv. Barton's Precedent~ of Conveyancing.
Bart. S. Eq. Barton's Suit in Equity.
Batt~y'~s R. Batty's Reports of Cases determined in the ~K. B. Ireland.
Bay's R. Bay's Reprts.
Bayl. Bills. Bayley on Bill~s.
Bayl. Ch. Pr. Bayley~'s Chamber Practice.
Beam. ~Ne E~xeat. Br~ief view of the writ of Ne Exeat Regno, as a~ equi~ablc proc~ess, by J. Beam~s.
Beam.. Eq. Beames on Equity Pleading.
Beam. Ord. Chan. Beames' ~General Orders of the High Court of Cbancery, from 1600 to 1815.
Beat. R. Beatty'~s Reports determined in the High Court of Chancery In Ireland.
Beav. R. Beavan's Chancery Reports.
Beawes. Beawe~'s Lex Mercatoria.
Beck'~s Med. Jur. Bec~k's Medical Jurisprudence.
Bee's R. Bee's Reports.
Bell'~s Com. Bell's Commentaries on the Laws of Scotland, and on the Principles of Mercantile~ Jurisprudence.
Bell. Del. U. L. Beller's Delineation of Universal Law.
Bell's Dict. Dictionary of the Law of Scotland By Robert Bell
Bell's ~Med. Jur Bell'~s Medical Jurisprudence.
Bell~. Bellewe'~s Ca~ses in the time of ~K. Richard II. Bellewe'~s Cases in the time of Henry VIII, Edw VI., and Q. Mary, collected out of Brooke's ~ Abridgment, and arranged under years,~ with a table, are cited as Brooke's New Cases.
Bellingh. Tr. Bellingham's Trial.

Belt's Sup. Belt's Supplement. Supplement to the Reports in Chancery of Francis Vesey, Senior, Esq, during the time of Lord Ch J. Hardwicke.
Belt's Ves. sen. Belt's editon of Vesey senior's Reports.
Benl. Benloe & Dalison's Reports. See New Benl.
Ben. on Av. Benecke on Average.
Benn. Diss. Bennet's Short Dissertation on the nature and various proceedings in the Master's Office, in the Court of Chancery. Sometimes this book is called Benn. Pract.
Benn. Pract. See Benn. Diss.
Benth. Ev. Bentham's Treatise on Judicial Evidence.
~B~est on Prc~. Best's Treatise on Presumption of Law and Fact.
Bett's Adm. Pr. Bett's Admiralty Practice.
Bev. on Hom. Bevil on Homicide.
Bill. on Aw. Billing on the Law of Awards.
Bi~ng. Bingham Bin~. Inf; Bingham on Infancy. Bing on Judg. Bingham on Judgments and E~ecutions. Bing L.&~ T. Bingham on the Law of Landlord and Tenant Bing. R. Bing Bingham's Reports. Bin~. ~N. C. Bingham'~s New C~ases.
Binn. Reports Of Cases adjudged in the Supreme Court. of Pennsyl~vania By Horace Binney
Bird on Conv. Bird on Conveyancing Bird L.~& T. Bird o~n the Laws respecting Landlords, Tenants and Lod~gers. Bird's Sol. Pr Bird's Solution of Precedents of Settlement~.
Biret, De l'Abs. Traite de l'Absence et de ses effects, par M. Biret
Bi~s. on E~st. or Buss. on Life E~st. Bi~ssett on the Law of Estates for Life.
Biss. on Par~n. Bissett on Partnership.
Bl. Blounts Law Dictionary and ~Glossary
Bl. Comm. or Comm. Commentaries on the Laws of England by Sir Wllliam Black~stone.
Bl. Rep. Sir William Blac~kstone's Reports.
Bl. ~H. Henry Blackstone's Report~, sometime cited ~H. Bl.
Bla~ck. L. T. Blackstone's Law Tracts
Blackb on Sales. Blac~kburn on the Eff~ect of the Contract of Sale~s.
Blac~b. on Sales. Blac~burn on the Law of Sales.
Blackf. R. Blackford'~s Reports.
Blak. Ch. Pr. Bla~ke's Practice of the Court of Chancery of ~the State of ~New' Yor~k.
Blan. on Ann. Blaney on Life Annuities
Bland's Ch. R. Bland'~s Chancery Reports.
Blansh. Lim. Blan~shard on Limitations.
Bligh. R. Bligh's Reports of Cases decided in the House of Lords.
Blount. Blount's ~ Law Dictionary and Glo~ssary.
Bo. R. Act. Booth on Real Actions.
Boh. Dec. Bohun'~s Declaration~. Boh. En~g. L. Bohun'~s English Lawyer. Boh. Priv. Ion. Bohun'~s Privilegia Londini.
Boote. Boote's Ch. Pr. Boote'~s Chanccry Practice. Boote's S. L. ~Boote's Suit at Law.
Booth's R. A. Booth on Real Action.
Borth. L. L. Borthwic~k on the La~w of Libel~.
Bos. & ~ Pull. Bosanquet and Puller'~s Reports. Vide B.~& P.
Bosc. on Con~. Bo~cowen on Convictions.
Bott. Bott'~s Poor Law~.
Bouch In~st. Dr. ~Mar. Boucher, Institution au Droit Maritime.

Boulay Paty~ Dr. Com. Cours de Droit Commercial Maritime, par P. S Boulay Paty.
Bousq. Dict. de Dr. Bousquet, Dictionnaire de Droit.
Bouv. L. D. Bouvier'~s Law Dictionary.
Bouv. Inst. Institutione~s Theologicae Auctore J. Bouvier.
Bouv. In~st. ~Am. Law. Bouvier'~s Institutes of American Law.
Bo~wl. on Lib. Bowles on Libels.
Br. or Brownl. Brownlow'~s Reports.
Br. or Br. Ab. Brooke'~s ~Abridgment.
Bra. Brady~'s Hiatory of the Succession of the Crown of England, ~&c.
Brac. Bracton's Treatise on the Law~ and C~ustoms of England.
Bra. Princ. Branche'~s Principia Legi~s et A~equitati~s.
Brack. L. ~Misc. Brackenridge'~s Law Miscellany.
bradb. Bradby on Distresses.
Bradl. P. B. Bradley's Point Book.
Bran. Prin. or Bran. Max. Branch's Principia Legis Aequitatis, being an alphabetical collection of maxims, &c.
Brayt. R. Brayton's Report~.
Breese'~s R. B~reese'~s Report~
Brev. Sel. Brevia Selecta, or Choice Writ~s.
Brid. Bridgman's Reports Reports from 12 to 19 K Jame~s. By Sir John Bridgman.
Brid. Dig. Ind. Bridgman's Dige~sted Inde~x.
Brid. Leg. Bib. Bridgman'~s Legal Bibliography.
Brid. Conv. Bridgman~'s Precedents of Conveyancing.
Brid. Refl. Bridgman'~s Reflections on the Study of the Law.
Brid. Sy~nth. Bridgeman's Synthesis.
Brid. Thes. Jur. Bridgman'~s The~saurus Juridic~.
Bridg. O. Orlando Bridgmen's Reports.
Bridg. The. Jru. Bridgman's Thesaurus Juridicus.
Britton. Treatise onthe Ancient Pleas of the Crown
Bro. or Brownl. Brownlow's Reports. Also, Reports by Richard Brownlow and John Goldeshorough. Cited 1 Bro. 2 Bro.
Bro. Ab. Brooke's Abridgement.
Bro. A. & C. L. Brown's Admiralty and Civil Law.
Bro. C. C. Brown's Chancery Cases.
Bro. Off. Not. A Treatise on the Office and Practice of a Notary in England, as connected with Mercantile Instruments, &c. By Richard Brooke.
Bro. P. C. Brown's Parliamentary Cases.
Bro. Read. Brooke's Reading on the Statute of Limitations.
Bro. on Sales. Brown on Sales
Bro. V.M. Brown's Vade Mecum.
Brock. R. Brockenbrough's Reports of Chief Justice Marshall's Decisions.
Brod. & Bing. Broderip & Bingham's Reports.
Broom on Part. Broom on Parties to Actions.
Brownl. Rediv. or Brownl. Ent. Brownlow Redivivus.
Bruce M. L. Bruce's Military Law.
Buck's Ca. Buck's Cases. Cases in Bankruptcy in 1817, 1818, by J.W. Buck.
Bull. Bull. N.P. Buller's Nisi Prius.
Bulst. Bulstrode's Reports.
Bunb. Bunbury's Reports.
Burge Col. Law. Burge's Colonial Law.
Burge Confl. of Law. Burge on the Conflict of Laws.
Burge on Sur. Burge's Commentaries on the Law of Suretyship. &c.

Burge For. Law. Burge on Foreign Law.
Burlam. Burlamaqui's Natural and Political Law.
Burn's L.D. Burn's Law Dictionary.
Burn's Just. Burn's Justice of the Peace.
Burn's Eccl. Law or Burn's E.L. Burn's Ecclesiastical Law.
Burn. C.L. Burnett's Treatise on the Criminal Law of Scotland.
Burn. Com. Burnett's Commentaries on the Criminal Law of Scotland.
Burr. Burrow's Reports.
Burr. Sett. Cas. Burrow's Settlement Cases.
Burr's Tr. Burr's Trial.
Burt. Man. Burton's Manual of the Law of Scotland. The work is in two parts, one relating to "public law," and the other to the law of "private rights and obligations." The former is cited Burt. Man. P.L.; the latter, Burt. Man. Pr.
Burt. on Real Prop. Burton on Real Property.
Butl. Hor. Jur. Butler's Horae Juridicae Subsecivae.
C. Codes, the Code of Justinian. C. Code. C. Chancellor.
C.& A. Cooke and Alcock's Reports.
C.B. Communi Banco, or Common Bench.
C.C. Circuit Court.
C.C. Cepi Corpus.
C.C.& B.B. Cepi Corpus and Bail Bond.
C.C. or Ch. Cas. Cases in Chancery in three parts.
C.C.C. or Cr. Cir. Com. Crown Circuit Companion.
C.C.& C. Cepi corpus et committitur. See Capias ad satisfaciendum, in the body of the work.
C.C.E. or Cain. Cas. Caines' Cases in Error.
C.D. or Com. Dig. Comyn's Digest.
C.& D. C. C. Crawford and Dix's Criminal Cases.
C.& D. Ab. C. Crawford and Dix's Abridged Cases.
C.& F. Clark & Findley's Reports.
C.& F. Clarke & Finelly's Reports.
C. J. Chief Justice.
C.& J. Crompton & Jervis' Exchequer Reports.
C.J.C.P. Chief Justice of the Common Pleas.
C.J.K.B. Chief Justice of the King's Bench.
C.J.Q.B. Chief Justice of the Queen's Bench.
C.J.U.B. Chief Justice of the Upper Bench. During the time of the common−wealth, the English Court of the King's Bench was called the Upper Bench.
C.& K. Carrington & Kirwan's Reports.
C.& M. Crompton & Meeson's Reports.
C.& M. Carrington & Marshman's Reports.
C.M.& R. Crompton, Meeson & Roscoe's Exchequer Reports.
C.N.P.C. Campbell's Nisi Prius Cases.
C. P. Common Pleas.
C.P. Coop. C.P. Cooper's Reports.
C.& P. or Car.& Payn. Carrington & Payne's Reports.
C.& P. Craig & Phillips' Reports.
C.R. or Ch. Rep. Chancery Reports.
C.& R. Cockburn & Rowe's Reports.
C.W. Dudl. Eq. C.W. Dudley's Equity Reports.
C. Theod. Codice Theodosiano, in the Theodosian code.

Ca. Case or placitum.
Ca. T.K. Select Cases tempore King.
Ca. T. Talb. Cases tempore Talbot.
Ca. res. Capias ad respondendum.
Ca. sa., in practice, is the abbreviation of capias ad satisfaciendum.
Caines' R. Caines' Term Reports.
Caines' Cas. Caines' Cases, in error.
Caines' Pr. Caines' Practice.
Cald. R. Caldecott's Reports.
Cald. S.C. Caldecott's Settlement Cases; sometimes cited Cald. R.
Caldw. Arbit. Caldwell on Arbitration.
Call. on Sew. Callis on the Law relating to Sewers.
Call's R. Call's REports.
Calth. R. Calthorp's Reports of Special Cases touching several customs and liberties of the City of London.
Calv. on Part. Calvert on Parties to Suits in Equity.
Cam.& Norw. Cameron & Norwood's Reports.
Campb. Campbell's Reports.
Can. Canon.
Cap. Capitulo, chapter.
Car. Carolus: as 13 Car. 2, st. 2, c.1.
Carr. Cr. L. Carrington's Criminal Law.
Carr.& Kirw. Carrington & Kriwan's Reports. See C.& K.
Carr.& Marsh. Carrington & Marshman's Reports.
Carr.& Oliv. R. and C.C. Carrow & Oliver's Railway and Canal Cases.
Cart. Carter's Reports. Reports in C.P. in 16, 17, 18, and 19, Charles II.
Cara de For. Carta de Foresta.
Carth. Carthew's Reports.
Cary. Cary's Reports.
Cary on Partn. Cary on the Law of Partnership.
Cas. of App. Cases of Appeals to the House of Lords.
Cas. L. Eq. Cases and Opinions in Law, Equity, and Conveyancing.
Cas. of Pr. Cases of Practice in the Court of the King's Bench, from the reign of Eliz. to the 14 Geo. 3.
Cas. of Sett. Cases of Settlement.
Cas. Temp. Hardw. Cases during the time of Lord Hardwicke.
Cas. Temp. Talb. Cases during the time of Lord Talbot.
Ch. Chancellor.
Ch. CAs. Cases in Chancery.
Ch. Pr. Precedents in Chancery.
Ch. R. REports in Chancery.
Ch. Rep. Vide Ch. Cases.
Chamb. on Jur. of Chan. Chambers on the Jurisdiction of the High Court of Chancery, over the Persons and Property of Infants.
Chamb. L.& T. Chambers on the Law of Landlord and Tenant.
Char. Merc. Charta mercatoria. See Bac. Ab. Smuggling, C.
Charlt. Charlton. T.U.P. Charl. T.U.P. Charlton's Reports. R.M. Charlton's Reports.
Chase's Tr. Chase's Trial.
Cher. Cas. Cherokee Case.
Chev. C.C. Cheves' Chancery Cases.
Chipm. R. Chipman's Reports. D. Chipm. D. Chipman's Reports.

Chipm. Contr. Essay on the Law of Contracts for the payment of Specific Articles. By Daniel Chipman.
Ch. Contr. A Practical Treatise on the Law of Contracts. By Joseph Chitty, Jr.
Chitty. on App. Chitty's Practical Treatise on the Law relating to Apprentices and Journeymen.
Chit. on Bills. Chitty on Bills.
Chit. Jr. on Bills. Chitty, junior, on Bills.
Chit. Com. L. Chitty's Treatise on Commerical Law.
Chit. Cr. L. Chitty's Criminal Law.
Chit. on Des. Chitty on the Law of Descents.
Chit. F. Chitt's Forms and Practical Proceedings.
Chit. Med. Jur. Chitty on Medical Jurisprudence.
Chit. Chitty's Reports.
Chit. Pl. A Practical Treatise on Pleading, by Joseph Chitty.
Chit. Pr. Chitty's General Practice.
Chit. Prerog. Chitty on the Law of the Prerogatives of the Crown.
Chris. B.L. Christian's Bankrupt Laws.
Christ. Med. Jur. Christison's Treatise on Poisons, relating to Medical Jurisprudence, Physiology, and the Practice of Physic.
Civ. Civil.
Civ. Code Lo. Civil Code of Louisiana.
Cl. The Clementines.
Cl. Ass. Clerk's Assistant.
Clan. H.& W. Clancy on the Rights, Duties, and Liabilities of Hushand and Wife.
Clark on Leas. Clark's Enquiry into the Nature of Leases.
Clarke, R. Clarke's Reports.
Clark & Fin. Clark & Finelly's Reports.
Clark. Adm. Pr. Clarke's Practice inthe Admiralty.
Clark. Prax. Clarke's Praxis, being the manner of proceeding in the Ecclesiastical Courts.
Clay. Clayton's Reports.
Cleir. Us et Const. Cleirac, Us et Coustumes ae la Mer.
Clerke's Rud. Clerke's Rudiments of American Law and Practice.
Clift. Clift's Entries.
Co. A particle used before other words to imply that the person spoken of possesses the same character as other persons whose character is mentioned, as co−executor, and executor with other; co−heir, an heir with others; co−partner, a partner with others, etc. − Co. is also an abbreviation for "com−pany" as John Smith & Co. When so abbreviated is also represents "county."
Co. Coke's Reports.
Co. or Co. Rep. Coke's Reports.
Co. Ent. Coke's Entries.
Co. B. L. Cooke's Bankrupt Law.
Co. on Courts. Coke on Courts; 4th Institute. See Inst.
Co. Litt. Coke on Littleton. See Inst.
Co. M. C. Coke's Magna Charta; 2d Institute. See. Inst.
Co. P. C. Coke's Pleas of the Crown. See Inst.
Cock & Rowe. Cockburn & Rowe's Reports.
Code Civ. Code Civil, or Civil Code of France. This work is usually cited by the article.
Code Nap. Code Napoleaon. The same as Code Civil.

Code Com. Code de Commerce.
Code Pen. Code Penal.
Code Pro. Code de Procedure.
Col. Column, in the first or second column of the book quoted.
Col.& Cai. CAs. Coleman & Caines' Cases.
Cole on Inf. Cole on Criminal Informations, and Informations in the Nature of Quo Warranto.
Coll. on Pat. Collier on the Law of Patents.
Coll. on Idiots. Collinson on the Law concerning Idiots, &c.
Coll. Rep. Colle's Reports.
Coll. Collation.
Colly. Rep. Collyer's Reports.
Com. Communes, or Extravagantes Communes.
Com. or Com. Rep. Comyn's Reports.
Com. Contr. Comyn on Contract.
Com. on Us. Comyn on Usury.
Com. Dig. Comyn's Digest.
Com. L.& T. Comyn on the Law of Landlord and Tenant.
Com. Law. Commerical Law.
Com. Law. Rep. Common Law Reports, edited by Sergeant and Lowher.
Comb. Comberbach's Reports.
Comm. Blackstone's Commentaries.
Con. & Law. Connor & Lawson's Reports.
Cond. Condensed.
Cond. Ch. R. Condensed Chancery Reports.
Cond. Ex. R. Condensed Exchequer Reports.
Conf. Chart. Confirmatio Chartorum.
Cong. Congress.
Conkl. Pr. Conkling's Practice of the Courts of the United States.
Conn. R. Connecticut Reports.
Conr. Cust. R. Contoy's Custodiam Reports.
Cons. del Mar. Consolato del Mare.
Cons. Ct. R. Constitutional Court REports.
Cont. Contra.
Cooke on Defam. Cooke on Defamation.
Coop. Eq. R. Cooper's Equity Reports.
Coop. Cas. Cases in the High Court of Chancery. By George Cooper.
Coop. on Lib. Cooper on the Law of Libels.
Coop. Eq. Pl. Cooper's Equity Pleading.
Coop. Just. Cooper's Justinian's Institutes.
Coop. Med. Jur. Cooper's Medical Jurisprudence.
Coop. t. Brough. Cooper's Cases in the time of Brougham.
Coop. P.P. Cooper's Points of Practice.
Cote. Mrtg. Coote on Mortgages.
Corb. & Dan. Corbet & Daniel's Election Cases.
Corn. on Uses. Cornish on Uses.
Corn. on REm. Cornish on REmainders.
Corp. Jur. Civ. Corpus Juris Civilus.
Corp. Jur. Can. Corpus Juris Canonicus.
Corvin. Corvinus. See Bac. Ab. Mortgage A, where this author is cited.
Cot. Abr. Cotton's Abridgement of Records.
Cov. on Conv. Evi. Coventry on Conveyancers' Evidence.

Cow. Int. Cowel's Law Dictionary, or the Interpreter of words and terms, used either in the common or statute laws of Great Britain.
Cowp. Cowper's Reports.
Cow. R. Cowen's Reports, N.Y.
Cox's Cas. Cox's Cases.
Coxe's R. Coxe's Reports.
Crabb's C.L. Crabb's Common Law. A History of English Law. By George Crabb.
Crabb, R. P. Crabb on the Law of REal Property.
Craig & Phil. Craig & Phillip's Reports.
Cranch, R. Cranch's Reports.
Cressw. R. Cresswell's Reports of Cases decided in the Court for the RElief of Insolvent Debtors.
Crim. Con. Criminal Conversation: adultery.
Cro. Croke's Reports.
Cro. Eliz. Croke's Reports, during the time of Queen Elizabeth, also cited as 1 Cro.
Cro. jac. Croke's Reports during the time of King James I., also cited as 2 Cro.
Cro. Car. Croke's Reports, during the time of Charles I., also cited as 3 Cro.
Crompt. Ex. Rep. Crompton's Exchequer Reports.
Crompt. J.C. Crompton's Jurisdiction of Courts.
Crompt. & Mees. Crompton & Meeson's Exchequer Reports.
Crompt. Mees. & Rosc. Crompton, Meeson, and Roscoe's Exchequer Reports.
Cross on Liens. Cross' Treatise on the Law of Liens and Stoppage in Transitu.
Cru. Dig. or Cruise's Dig. Cruise's Digest of the Law of Real Property.
Cul. Culpablilis, guilty; non cul. not guilty; a plea entered in actions of trespass.
Cul. prit., commonly written culprit; cul., as above mentioned, means culpabilis, or culpable; and prit, which is a corruption of pret, signifies ready. 1 Chitty Cr. Law. 416.
Cull. Bankr. L. Cullen's Principles ofhte Bankrupt Law.
Cun. Cunningham's Reports.
Cunn. Dict. Cunningham's Dictionary.
Cur. adv. vult. Curia advisare vult. Vide Ampliation.
Cur. Scacc. Cursus Scaccarii, the Court of the Star Chamber.
Cur. Phil. Curia Philipica.
Curs. Can. Cursus Cancellariae.
Curt. R. Curteis' Ecclesiastical Reports.
Curt. Am. Sea. Curtis on American Seamen.
Curt. on Copyr. Curtis on Copyrights.
Cush. Trust. Pr. Cushing on Trustee Process, or Foreign Attachment, of the Laws of Massachusetts and Maine.
Cust. de Norm. Custome de Normandie.
D. dialogue; as, Dr. and Stud. D. 2, c. 24, or Doctor and Student, dialogue 2, chapter 24.
D. dictum; D. Digest of Justinian.
D. The Digest or Pandects of the Civil Law, is sometimes cited thus, D.6.1.5.
D. C. District Court; District of Columbia.
D. C. L. Doctor of the Civil Law.
D. Chipm. R. D. Chipman's Reports.
D. S. B. Debit sans breve.
D. S. Deputy Sheriff.
D.& C. Dow and Clark's Reports.

D.& C. Deacon & Chitty's Reports.
D.& E. Durnford & East's Reports. This book is also cited as Term Reports, abbreviated as T.R.
D.& L. Danson & Lloyd's Mercantile Cases.
D.& M. Davidson's & Merivale's Reports.
D.& R. Dowling and Ryland's Reports.
D.& R. N. P. C. Dowling and Ryland's Reports of Cases decided at Nisis Prius.
D.& S. Doctor and Student.
D.& W. Drury & Walsh's Reports.
D;Aguesseau, Oeuvres. Oeuvres completes du Chancellier D'Aguesseau.
Dat. Cr. L. Dagge's Criminal Law.
Dal. Dalison's Reports. See Benl.
Dall. Dallas' Reports.
Dall. Dallas' Laws of Pennsylvania.
Dalloz, Dict. Dictionaire General et raisonne de legilation, de Doctrine, et de Jurisprudence, en matiere civile, commerciale, criminelle, administra− tive, et de Droit Public. Par Armand Dalloz, jeune.
Dalr. Feud. Pr. Dalrymple's Essay, or History of Feudal Property in Great Britain. Sometimes cited Dalr. F.L.
Dalr. on Ent. Dalrymple on the Polity of Entails.
Dalr. F. L. Dalrymple's Feudal law.
Dalt. Just. Dalton's Justice.
Dalt. Sh. Dalton's Sheriff.
D'Anv. D'Anvers' Abridgement.
Dan. Ch. Pr. Caniell's Chancery Practice.
Dan. Ord. Danish Ordinances.
Dan. Rep. Daniell's Reports.
Dan.& Ll. Danson & Lloyd's Reports.
Dana's R. Dana's Reports.
Dane's Ab. Dane's Abridgment of American Law.
Dav. Davies' Reports.
Dav. on Pat. Davies' Collection of Cases respecting patents.
Daw. Land. Pr. Dawe's Epitome of the Law of Landed Property.
Daw. Real Pr. Dawe's Introduction to the Knowledge of the Law on Real Estates.
Daw. on Arr. Dawe's Commentaries on the Law of Arrest in Civil Cases.
Daws. Or. Leg. Dawson's Origo Legum.
Deac. R. Deacon's Reports. Deac.& Chit. Deacon & Chitty's Reports.
Deb. on Jud. Debates on the Judiciary.
Dec. temp. H.& M. Decisions in Admiralty duringthe time of Hay & Marriott.
Deft. Defendant.
De Gex & SM. R. De Gex & Smale's Reports.
Den. Cr. Cas. Denison's Crown Cases.
Den. Rep. Denio's New York Reports.
Desaus. R. Desaussure's Chancery Reports.
Dev. R. Devereux's Reports.
Dev. Ch. R. Devereux's Chancery Reports.
Dev.& Bat. Devereux & Battle's Reports.
Di. or Dy. Dyer's Reports.
Dial. de Scac. Dialogus de Scaccario.
Dick. Just. Dickinson's Justice.
Dick. Pr. Dickinson's Practice of the Quarter of and other Sessions.
Dick. Dicken's Reports.
Dict. Dictionary.

Dict. Dr. Can. Dictionnaire de Driot Canonique.
Dict. de' Jur. Dictionnaire de Jurisprudence.
Dig. Digest of writs. Dig. The Pandects or Digest of the Civil Law, cited as Dig. 1,2,5,6, for Digest, book 1, 2, law 5, sections 6.
Disn. on Gam. Disney's Law of Gaming.
Doct. & Stud. Doctor and Student.
Doct. Pl. Doctrina Placitandi.
Doder. Eng. Law. Doderidge's English Lawyer.
Dods. R. Dodson's Reports.
Dom. Domat, Lois Civilles.
Dom. Proc. Domo Procerum. In the House of Lords.
Domat. Lois Civilles dans leur ordre naturel. Par M. Domat.
Dougl. Douglas' Reports.
Doug. El. Cas. Dougls' Election Cases.
Dougl. (Mich.) R. Dougls' Michigan Reports.
Dow. or Dow. P.C. Dow's Parliamentary Cases.
Dow & Clarke, Dow and Clarke's Reports of Cases in the House of Lords.
Dowl. P. C. Dowling's Practical Cases.
Dow.& R. N. P. Dowling and Ryan's Nisi Prius Cases.
Dow.& Ry. M.C. Dowling & Ryan's Cases for Magistrates.
Dow.& Ry. Dowling and Ryland's Reports.
Dr.& St. Doctor and Student.
Drew. on Inj. Drewry on Injunctions.
Dru.& Wal. Drury and Walsh's Reports.
Dru.& War. Drury & Warren's Reports.
Dub. Dubitatur.
Dudl. R. Dudley's Law and Equity Reports.
Dug. S. or Dugd. Sum. Dugdale's Summons.
Dugd. Orig. Dugdale's Origines.
Dug. Sum. Dugdale's Summonses
Duke. or Duke's Ch. Uses. Duke's Law of Charitable Uses.
Dunl. Pr. Dunlap's Practice.
Dunl. Admr. Pr. Dunlap's Admiralty Practice.
Duponc. on Jur. Duponceau on Jurisdictions.
Duponc. Const. Duponceau on the Constitution.
Dur. Dr. FR. Duranton, Droit Francais.
Durnf.& East. Durnford & East's Reports, also cited D.& E. or T.R.
Duv. Dr. Civ. Fr. Duvergier, Droit Civil Francais. This is a continuation of Touiller's Droit Civil Francais. Teh first volume of Duvergier is the sixteenth volume of the continuation. The work is sometimes cited 16 Toull. or 16 Toullier, instead of being cited 1 Duv. or 1 Duvergier, etc.
Dwar. on Stat. Dwarris on Statutes.
Dy. Dyer's Reports.
E. Easter Term.
E. Edward; as 9 E. 3, c. 9.
E. of Cov. Earl of Coventry's Case.
E.C.L.R. English Common Law Reports, sometimes cited Eng. Com. Law REp. (q.v.)
E.g., usually written e.g., exempli gratia; for the sake of an instance or example.
E.P.C. or East, P.C. East's Pleas of the Crown.
East, P.C. East's Pleas of the Crown.
Eccl. Ecclesiastical.
Eccl. Law. Ecclesiastical Law.

Eccl. Rep. Ecclesiastical Reports. Vide Eng. Eccl. Rep.
Ed. or Edit. Edition.
Ed. Edward; as, 3 Ed. 1, c. 9.
Ed. Inj. Eden on Injunction.
Ed. Eq. Reps. Eden's Equity Reports.
Ed. Prin. Pen. Law. Eden's Principles of Penal Law.
Edm. Exch. Pr. Edmund's Exchequer Practice.
Edw. Ad. Rep. Edward's Admiralty Reports.
Edw. Lead. Dec. Edward's Leading Decisions.
Edw. on Part. Edward's on Parties to Bills in Chancery.
Edw. on Rec. Edwards on Receivers in Chancery.
Eliz. Elizabeth; as, 13 Eliz. c. 15.
Ellis on D. and Cr. Ellis on the Law relating to Debtor and Creditor.
Elm on Dil. Elmes on Ecclesiastical and Civil Dilapidations.
Elsyn on Parl. Elsynge on Parliaments.
Encycl. Encycloaedia, or Encyclopedie.
Eng. English.
Eng. Ch. R. English Chancery Reports. Vide Cond. Ch. R. (See App. A.)
Eng. Com. Law Rep. English Common Law Reports.
Eng. Ecc. R. English Ecclisiastical Reports.
Eng. Plead. English Pleader.
Engl. Rep. English's Arkansas Reports.
Eod. Eodem, under the same title.
Eod. tit. In the same title.
Eq. Ca. Ab. Equity Cases Abridged.
Eq. Draft. Equity Draftsman.
Ersk. Inst. Erskin'e Institute of the Law of Scotland.
Ersk. Prin. of Laws of Scotl. Erskine's Principles of the Laws of Scotland.
Esp. N.P. Espinasse's Nisi Prius.
Esp. N. P. R. Espinasse's Nisi Prius Reports.
Esp. on Ev. Espinasse on Evidence.
Esp. on Pen. Ev. Espinasse on Penal Evidence.
Esq. Esquire.
Et. al. Et alii, and others.
Eunom. Eunomus.
Ev. Col. Stat. Evan's Collection of Statutes.
Ev. on Pl. Evans on Pleading.
Ev. Tr. Evans' Trial.
Ex. or Exor. Executor.
Execx. Executrix.
Exch. Rep. Exchequer Reports. Vide Cond. Exch. REp.
Exec. Execution. Exp. Expired.
Exton's Mar. Divaeo. Exton's Maritime Dicaeologie.
Extrav. Extravagants.
F. Finalis, the last or latter part.
F. Fitzherbert's Abridgment.
F.& F. Falconer & Fitzherbert's Reports.
F. R. Forum Romanum.
F.& S. Fox & Smith's Reports.
F. N. B. Fitzherbert's Natura Brevium.
Fairf. R. Fairfield's Reports.
Fac. Coll. Faculty Collection; the name of a set of Scotch Reports.

Falc. & Fitzh. Falconer & Fitzherbert's Election Cases.
Far. Farresly, (7 Mod. REp.) is sometimes so cited.
Farr's Med. Jur. Farr's Elements of Medical Jurisprudence.
Fearn. on Rem. Fearne on Remainders.
Fell. on Mer. Guar. Fell on Mercantile Guaranties.
Ferg. on M.& D. Ferfusson on Marriage and Divorce.
Ferg. R. Fergusson's Reports of the Consistorial Court of Scotland.
Ff. or ff. Pandects of Justinian: a careless way of writing the Greek ã.
Ferr. Hist. Civ. L. Ferriere's History of the Civil Law.
Ferr. Mod. Ferriere Moderne, on Nouveau Dictionnaire des Termes de Droit et de Pratique.
Fess. on Pat. Fessenden on Patents.
Fi. fa. Fieri Facias.
Field's Com. Law. Field on the Common Law of England.
Dielf. on Penl Laws. Fielding on Penal Laws.
Finch. Finch's Law; or a Discourse thereof, in five books.
Finch's Pr. Finch's Precedents in Chancery.
Finl. L. C. Finlayson's Leading Cases on Pleading.
Fish. Capyh. Fisher on Copyholds.
]Fitz. C. Fitzgibbon's Cases.
Fitzh. Fitzherbert's Abridgment
Fitzh. Nat. Bre. Fitzherbert's Natura Brevium.
Fl. or Fleta. A Commentary on the English Law, written by an anonymous author, in the time of Edward I., while a prisoner in the Fleet.
Fletch. on Trusts. Fletcher on the Estates of Trustees.
Floy. Proct. Pr. Floyer's Proctor's Practice.
Fol. Foley's Poor Laws.
Fol. Folio.
Fonb. Fonblanque on Equity.
Fonb. Med. Jur. Fonblanque on Medical Jurisprudence.
Forr. Forrester's Cases during the time of Lord Talbot, commonly cited Cas. Temp. Talb.
For. Pla. Brown's Formulae Placitandi.
Forb. on Bills. Forbes on Bills of Exchange.
Forb. Inst. Forbes' Institutes of the Law of Scotland.
Forr. Exch. Rep. Forrest's Exchequer Reports.
Fors. on Comp. Forsyth on the Law relating to Composition with Creditors.
Fortesc. Fortescue, De Laudibus Legum Angliae.
Fortesc. R. Fortescue's Reports, temp. Wm. and Anne.
Fost. or Fost. C.L. Foster's Crown Law.
Fox.& Sm. Fox & Smith's Reports.
Fr. Fragmentum.
Fra. or Fra. Max. Francis' Maxims.
Fr. Ord. French Ordinance. Sometimes cited Ord. de la Mar.
Fras. Elect. Cas. Fraser's Election Cases.
Fred. Co. Frederician Code.
Freem. Freeman's Reports.
Freem. C. C. Freeman's Cases in Chancery.
Freem. (Mis.) R. Freeman's Reports of Cases decided by the Superior Court of Chancery of Mississippi.
G. George; as, 13 G. 1, c. 29.
G. & J. Glyn & Jameson's Reports.

G. & J. Gill & Johnson's Reports.
G. M. Dudl. Repo. G. M. Dudley's Reports.
Gale & Dav. Gale & Davidson's Reports.
Gale's Stat. Gale's Statutes of Illinois.
Gall. or Gall. Rep. Gallison's Reports.
Garde on Ev. Garde's Practical Treatise onthe General Principles and Elementary Rules of the Law of Evidence.
Geo. George; as, 13 Geo. 1, c. 29.
Geo. Dec. Georgia Decisions.
Geo. Lib. George on the Offence of Libel.
Gib. on D.& N. Gibbons on the Law of Dilapidations and Nuisances.
Gibs. Codex. Gibson's Codex Juris Civilis.
Gilb. R. Gilbert's Reports.
Gilb. Ev. Gilbert's Evidence.
Gilb. U. & T. Gilbert on Uses and Trusts.
Gilb. Ten. Gilbert on Tenures.
Gilb. on Rents. Gilbert on Rents.
Gilb. on Rep. Gilbert on Replevin.
Gilb. Ex. Gilbert on Executions.
Gilb. Exch. Gilbert's Exchequer.
Gilb. For. Rom. Gilbert's Forum Romanum.
Gilb. K. B. Gilbert's King's Bench.
Gilb. Rem. Gilbert on REmainders.
Gilb. on Dev. Gilbert on Devises.
Gilb. Lex. praet. Gilbert's Lex Praetoria.
Gill & John. Gill & Johnson's Reports.
Gill's R. Gill's Reports.
Gilm. R. Gilmer's Reports.
Gilp. R. Gilpin's Circuit Court Reports.
Gl. Glossa, the Gloss.
Glanv. Glanville's Treatise of the Laws and Customs of England.
Glassff. Ev. Glassford on Evidence.
Glov. Mun. Corp. Glover on Municipal Corporations, or Glov. on Corp. Glover on the Law of Municipal Corporations.
Glyn. & Jam. Glyn & Jameson's Reports of Cases in Bankruptcy.
Godb. Godbolt's Reports.
Godolph. Ad. Jr. Godolphin's View of the Admiralty Jurisdiction.
Godolph. Rep. Can. Godolphin's Repertorium Canonicum.
Godolph. Godolphin's Orphan's Legacy.
Gods. on Pat. Godson'sTReatise ont he Law of Patents.
Goldesh. Goldeshorought's Reports.
Golds. Goldshorough's Reports.
Gord. on Dec. Gordon on the Law of Decedents in Pennsylvania.
Gould on Pl. Gould on the Principles of Pleading in Civil Actions.
Gow on Part. Gow on Partnership.
Grah. Pr. Graham's Practice.
Grah. N.T. Graham on New Trials.
Grand. Cout. Grand Coutumier de Normandie, (q.v.)
Grady on Fixt. Grady on the law of Fixtures.
Grant on New. Tr. Grant on New Trials.
Grant's Ch. Pr. Grant's Chancery Practice.
Gratt. R. Grattan's Virginia Reports.

Green's B.L. Green's Bankrupt Laws.
Green's R. Green's Reports.
Greenl. on Ev. Greenleaf's Treatise on the Law of Evidence.
Greenl. Ov. Cas. Greenleaf's Overruled Cases.
Greenl. R. Greenleaf's Reports.
Greenw on Courts. Greenwood on Courts.
Gres. Eq. Ev. Gresley's Equity Evidence.
Grif. REg. Griffith's Law Register.
Grimk. on Ex. Grimke on the Duty of Executors and Administrators.
Grisw. Rep. Griswold's Reports.
Grot. Grotius de Jure Belli.
Gude's Pr. Gude's Practice on the Crown side of King's Bench, &c.
Gwill. Gwillim's Tithe Cases.
H. Henry; as, 18 H. 7, c. 15.
H. Hilary Term.
H.A. Hoc Anno
H.v. commonly written in small letters h.v. hoc verbo.
H. of L. House of Lords.
H. of R. House of Representatives.
H.& B. Hudson & Brooke's Reports.
H.& G. Harris & Gill's Reports.
H.& J. Harris & Johnson's Reports.
H. Bl. Henry Blackston'es Reports.
H. H. C. L. Hale's History ofthe Common Law.
H.& M. Henning and munford's Reports.
H.& M'H. or Harr. & M'Hen. Harris & M'Henry's Reports.
Hab. fa. seis. Habere facias seisinam.
H. P. C. Hales' Pleas of the Crown.
H.t. usually put in small letters, h.t. hoc titulo.
Hab. Corp. Habeas Corpus.
Hab. fa. pos. Habere facias possessionem.
Hagg. Ad. R. Haggard's Admiralty Reports.
Hagg. Ecc. R. Haggard's Ecclesiastical Reports.
Hagg. C. R. Haggard's REports in the Consistory Court of London.
Hale, P.C. Hale's Pleas of the Crown.
Hale's Sum. Hale's Summary of Pleas.
Hale's Jur. J. L. Hale's Jursidiction of the House of Lords.
Hale's Hist. C.L. Hale's History of the Common Law.
Halif. Civ. Law. Halifax's Analysis ofthe Civil Law.
Hall's R. Hall's Reports of Cases decided in the Superior Court of the city of New York.
Halk. dig. Halkerton's digest of the Law of Scotland relating ot Marriage.
Hall's Adm. Pr. Hall's Admiralty Practice.
Halst. R. Halstead's Reports.
Hamm. N. P. Hammond's Nisi Prius.
Ham. R. Hammond's (Ohio) Reports.
Hamm. on Part. Hammond on Parties to Actions.
Hamm. Pl. Hammond's Analysis of the Principles of Pleading.
Hamm. on F. II. Hammond on Fire Insurance.
Han. Hansard's Entries.
Hand's ch. Pr. Hand's Chancery Practice.
Hand on Fines. Hand on Fines and Recoveries.

hand's Cr. Pr. hand's Corwn Practice.
hand on Pat. hand on Patents. Hans. Parl. Bed. hansard's Parliamentary Debates.
hard. Hardress' Reports.
Hardin's R. Hardin's Reports.
Hare R. Hare's Reports.
Hare & Wall. Sel. Dec. Hare & Wallace's Select Decisions of American Cases, with Notes.
Hare on Disc. Hare on the Discovery of Evidence by Bill and Answer in Equity.
Harg. Coll. Hargrave's Juridical Arguments and collection.
Harg. St. Tr. Hargrave's State Trials.
Harg. Exer. Hargrave's Exercitations.
Harg. Law Tr. Hargrave's Law Tracts.
Harp. L. R. Harper's Law Reports.
Harp. Eq. R. Harper's Equity Reports.
Harr. Ch. Harrison's Chancery Practice.
Harr. Cond. Lo. R. Harrison's condensed Report of Cases in Superior Court of the Territory of Orleans, and in the Supreme Court of Louisiana.
Harr. Dig. Harrison's Digest.
harr. Ent. Harris' Entries.
Harr. (Mich.) R. harrington's Reports of Cases in the Supreme Court of Michigan.
Harr. & Gill. Harris & Gill's Reports.
harr. & John. Harris & Johnso's Reports.
Harr. & M'H. Harris & M'Henry's Reports.
Harringt. R. Harrington's Reports.
Hasl. Med. Jur. Haslam's Medical Jurisprudence.
Hawk. P.C. Hawkins' Pleas of the Crown.
Hawk's R. Hawk's Reports.
Hay on Est. An Elementary View of the Common Law of uses, Devises, and Trusts, with reference to the Creation and Conveyance of Estates, by William Hayes.
Hay. on Lim. Hayes on Limitations.
Hay. Exch. R. Hayes' Exchequer Reports.
Hays on R. P. Hays on REal Property.
Heath's Max. Heath's Maxim's.
Hein. Elem. Juris. civ. Heineccii, Elementa juris Civilis, secundum ordinem Institutionum.
Hein. Elem. Juris. Nat. Heineccii, Elementa juris Naturae et gentium.
Hen on For. Law. Henry on Foreign Law.
Hen. J. P. Henning's Virginia Justice of the Peace.
hen. & Munf. Henning & Munford's Reports.
Herne's Ch. Uses. Herne's law of Charitable Uses.
Herne's Plead. Herne's Pleader.
het. Hetley's Reports.
Heyw. on El. Heywood on Elections.
Heyw. *N.C.) R. Heywood's North Carolina Reports.
Heyw. (Tenn.) R. Heywood's Tennessee Reports.
High. Highmore.
High on Bail. Highmore on Bail.
High. on Lun. Highmore on Lunacy.
High. on Mortm. Highmore on ortmain.
Hill. Ab. Hilliard's Abridgment of the Law of Real Property.
Hill's R. Hill's Reports.
Hill's Ch. R. Hill's Chancery Reports.

Hill on Trust. A Practical Treatise on the Law relating to Trustees, &c.
Hind's Pr. Hind's Practice.
Hob. Hobart's Reports.
Hodg. R. Hodge's Reports.
Hodges on Railw. Hodges on the Law of Railways.
Hoffm. Outl. Hoffman's Outlines of Legal Studies.
Hoffm. Leg. St. Hoffman's Legal Studies.
Hoffm. Ch. Pr. Hoffman's Chancery Practice.
Hoffm. Mas. Ch. Hoffman's master in Chancery.
Hoffm. R. Hoffman's Reports.
Hog. R. Hogan's Reports.
Hog. St. Tr. Hogan's State Trials.
Holt on Lib. Holt on the Law of Libels.
Holt on Nav. Holt on Navigation.
Holt. R. Holt's Reports.
Holt on Sh. Holt on the Law of Shipping.
Hopk. R. Hopkins' Chancery Reports.
Hopk. Adm. Dec. Hopkinson's Admiralty Decisions.
Houard's Ang. Sax. Laws. Houard's Anglo Saxon laws and Ancient Laws ofthe French.
Houard's dict. Houard's Dictionary of the Customs of normandy.
Hough C. M. Hough on Courts Martial.
Hov. Fr. Hovenden on Frauds.
Hov. Supp. Hovenden's Supplement to Vesey Junior's Reports.
How. St. Tr. Howell's State Trials.
Howe's Pr. Howe's Practice in Civil Actions and Proceedings at Law in Massachusetts.
How. Pr. R. Howard's Practice Reports.
Hub. on Suc. Hubback on Successions.
Huds. & Bro. Hudson & Brooke's Reports.
Hugh. Ab. Hughes' Abridgment.
Hugh. Entr. Hughes' Entries.
Hugh. on Wills. Hughes on Wills.
Hugh. R. Hughes' Reports.
Hugh. Or. Writs. Hughes' Comments upon Original Writs.
Hugh. Ins. Hughes on Insurance.
Hugh. on Wills. Hughes' Practical Directions for Taking Instructions for Drawing Wills.
Hull. on Costs. Hullock on the Law of Costs.
Hult. on Conv. Hulton on Convictions.
Humph. R. Humphrey's Reports.
Hume's com. Hume's Commentaries on the Criminal Law of Scotland.
Hut. Hutton's Reports.
I. The Institutes of Justinian (q.v.) are sometimes cited, I.1, 3, 4.
I. Infra, beneath or below.
Ib. Ibidem.
Ictus. Jurisconsultus. This abbreviation is usually written with an I, though it would be more proper to write it with a J, the first letter of the word Jurisconsultus; c is the initial letter of the third syllable, andtus is the end of the word.
Id. Idem.
Il Cons. del Mar. Il Consolato del Mare. See Consolato del Mare, in the body

of the work.
Imp. Pr. C. P. Impey's Practice in the common Pleas.
Imp. Pr. K. B. Impey's Practice in the King's Bench.
Imp. Pl. Impey's Modern Pleader.
Imp. Sh. Impey's Office of Sheriff.
In f. In fine, at the end of the title, law, or paragraph quoted.
In pr. In principio, in the beginning and before the first paragraph of a law.
In princ. In principio. In the beginning .
In sum. Insumma, in the summary.
Ind. Index.
Inf. Infra, beneath or below.
Ing. Dig. Ingersoll's Digest of the laws of the United States.
Ing. Roc. Ingersoll's Roccus.
Ingr. on Insolv. Ingraham on Insolvency.
Inj. Injunction.
Ins. Insurance.
Inst. Coke on Littleton, is cited Co. Lit. or 1 Inst., for First Institute.
Coke's magna Charta, is cited Co. M.C. or 2 Inst., for Second Institute.
Co. P. C. Coke's Pleas of the Crown, is cited 3 Inst., for Third Institute.
Co. on Courts. Coke on Courts, is cited 4 Inst., for Fourth Institute.
Inst. Institutes. When the Institutes of Justinian are cited, the citation is made thus; Inst. 4, 2, 1; or Inst. lib. 4, tit. 2, l. 1; to signify In stutues, book 4, tit. 2, law 1. Coke's Institutes are cited, the first, ei− ther Col Lit. or 1 Inst., and the others 2 Inst., 3 Inst., and 4 Inst.
Inst. Cl. or Inst. Cler. Instructor Clericalis.
Inst. Jur. Angl. Institutiones Juris Anglicani, by Doctor Cowell.
Introd. Introduction.
Ir. Eq. R. Irish Equity Reports.
Ir. T. R. Irish Term Reports. Sometimes cited Ridg. Irish. T. R. (q.v.)
J. Justice.
J. institutes of Justinian.
J. C. Juris Consultus.
J. C. P. Justice ofthe common Pleas.
J. Glo. Juncta Glossa, the Gloss joined to the text quoted.
J. J. Justices.
J. J. Marsh. J.J. Marsha''s (Kentucky) Reports.
J. K. B. Justice of the King's Bench.
J. P. Justice of the Peace.
J. Q. B. Justice ofthe Queen's Bench.
J. U. B. Justice of the Upper Bench. During the Commonwealth of the English Court ofthe King's Bench was called the Upper Bench.
Jac. Jacobus, James; as, 4 Jac. 1, c. 1.
Jac. Introd. Jacob's Introduction to the Comm, Civil, and Canon Law.
Jac. L. D. Jacob's law Dictionary.
jac. L. G. Jacob's law Grammar.
Jac. Lex. Mer. jacob's Lex Mercatoria, or the Merchant's Companion.
Jac. R. Jacob's Chancery Reports.
Jac. & Walk. Jacob & Walker's Chancery Reports.
Jack. Pl. Jackson on Pleading.
Jarm. on Wills. Jarman on the Law of Wills.
Jarm. Pow. Dev. Powell on Devises, with Notes by Jarman.
Jebb's Ir. Cr. Cas. Jebb's Irish Criminal Cases.

Jeff. Man. Jefferson's Manual.
Jeff. R. Thomas Jefferson's Reports.
Jenk. Jenkins' Eight Centuries of Reports; or Eight Hundred Cases solemnly adjudged in the Exchequer Chamber, or upon Writs of Error, from K. Henry III, to 21 K. James I.
Jer. Jeremy.
Jer. on Carr. Jeremy's Law of Carriers.
Jer. Eq. Jur. Jeremy on the Equity Jurisdiction of the High Court of Chancery.
Jer. on Cor. Jervis on Coroners.
John. Cas. Johnson's Cases.
John. R. Johnson's Reports.
John. Ch. R. Johnson's Chancery Reports.
John. Eccl. Law. Johnson's Ecclesiastical Law.
Johns. Civ. L. of Sp. Johnson's Civil Law of Spain.
Johns. on Bills. The Law of Bills of Exchange, Promissory Notes, Checks, & c., by Cuthbert W. Johnson.
Jon. Sir Wm. Jones' Reports.
Jon. & Car. Jones and Carey's Reports.
Jon. on Lib. Jones, De Libellis Famosis, or the Law of Libels.
Jon. Inst. HInd. L. Jones' Institutes of Hindoo Laws.
Jon. (1) Sir W. Jones' Reports.
Jon. (2) Sir T. Jones' Reports.
Jon. T. Thomas Jones' REports.
Jon. oon Bailm Lones' Law of Bailments.
Jones' Intr. Jones' Introduction to Legal Science.
Joy on Ev. Acc. Joy on the Evidence of Accomplices.
Joy on Chal. Joy on Challenge to Jurors.
Joy Leg. Ed. Joy on Legal Education.
Jud. Chr. Judicial Chronicle.
Jud. Repos. Judicial Repository.
Judg. Judgments.
Jr. Eccl. Jura Ecclesiastica, or a Treatise of the Ecclesiastical Law and Courts, interspersed with various cases of Law and Equity.
Jr. Mar. Molloy's Jure Maritimo. Sometimes cited Molloy.
Jus. Nav. Thod. Jus Navale Thodiorum.
Just. Inst. Justinian's Institutes.
K. B. King's Bench.
K. C. R. Reports in the time of Chancellor King.
K.& O. Knapp & Omber's Election Cases.
Kames on Eq. Kames' Principles of Equity.
Kames' Ess. Kames' Essays.
Kames' Hist. L. T. Kames' HIstorical Law Tracts.
Keat. Fam. Settl. Keating on Family Settlements.
Keb. Keble's Reports.
Keb. Stat. Keble's English Statutes.
Keen's R. Keen's Reports.
Keil or Keilw. Keilways' Reports.
Kel. Sir John Kelyng's Reports.
Kel. 1,2, or W. Kel. William Kelyng's Reports, two parts.
Kelh. Norm L. D. Kelham's Norman French Law Dictionary.
Kell. R. Kelly's Reports.
Ken. on Jur. Kennedy on Juries.

Kent. Com. Kent's Commentaries on American Law.
Keny. Kenyon's Reports of the Court of King's Bench.
Kit. or Kitch. Kitchen on Courts.
Kna.& Omb. Knapp & Omber's Election Cases.
Knapp's A. C. Knapp's Appeal Cases.
Knapp's R. Knapp's Privy Council Reports.
Kyd on Aw. Kyd on the Law of Awards.
Kyd on Bills. Kyd on the Law relating to Bills of Exchange.
Kyd on Corp. Kyd on the Law of Corporations.
L, in citation means law, as L. 1, 33. Furtum, ff de Furtis, i.e. law 1, section or paragraph beginning with the word Furtum; ff, signifies the Digest, and the words de Furtis denote the title. L. signifies also liber, book.
L.& G. Lloyd's & Goold's Reports.
L.& W. Lloyd & welshy's Mercantile Cases.
LL. Laws, as LL. Gul. 1, c. 42. Laws of William I. chapter 42; LL. of U.S.,
Laws of the United States.
L.S. Locus sigili.
L.R. Louisiana Reports.
La. Lane's REports.
Lalaure, des Ser. Traite des Servitudes reelles, par M. laalaure.
Lamb. Archai. Lambard's Archaionomia.
Lamb. Eiren. Lambard's Eirenarcha.
Lamb. on Dow. Lambert on Dower.
Lat. Latch's Reprts.
Laus. on Eq. laussat's Essay on Equity Practice in Pennsylvania.
Law. on Chart. part. Lawes on the Law of Charter Parties.
Law. Lib. Law Library.
Law Rep. Law Reporter.
Laws Eccl. Law. Laws' Ecclesiastical Law.
Law Intel. Law Intelligencer.
Law Fr. & latin Dict. Law French and Latin Dictionary.
Law. Pl. lawes' Elementary Treatise on Pleading in Civil Actions.
Law. Pl. in Ass. Lawes' Treatise on Pleading in Assumpsit.
Laws of Wom. Laws of Women.
Lawy. Mag. lawyer's magazine.
Le. Ley's Reports.
Leach. Leach's Cases in Crown Law.
Lec. Elm. Lecons Elementaire du Driot Civil Romain.
Lee Abst. Tit. Lee on the Evidence of Abstracts of Title to REal Property.
Lee on Capt. Lee's Treatise of Captures in War.
Lee's Dict. Lee's Dictionary of Practice.
Lee's Eccl. R. Lee's Ecclesiastical Reports.
Leg. Bibl. Legal Bibliography, by J.G. Marvin.
Leg. Legibus.
Leg. Obs. Legal Observer.
Leb. Oler. The Laws of Oleron.
Leg. on Outl. Legge on Outlawry.
Leg. Rhod. The Laws of Thodes.
Leg. ult. The Last Law.
Leg. Wish. Lawas of Wishury.
Leigh & Dal. on Conv. Leigh & Dalzell on Conversion of Property.
Leigh's R. Leigh's Reports.
Leigh's N.P. Leigh's Nisi Prius.

Leo. or Leon. Leonard's Reports.
Lev. Levinz' Reports.
Lev. Ent. Levinz's Entries.
Lew. C. C. Lewin's Crown Cases.
Lew. Cr. Law. An Abridgment of the Criminal Law of the United States, by Ellis Lewis.
Lew. on Tr. Lewin on Trusts.
Lew. on Perp. Lewin on the Law of Perpetuities.
Lex Man. Lex maneriorum.
Lex Mer. Lex Mercatoria.
Lex Mer. Am. Lex Mercatoria Americana.
Lex Parl. Lex Parliamentaria.
Ley. Ley's Reports.
Lib. Liber, book.
Libb. Ass. Liber Assisarum.
Lib. Ent. Old Book of Entries.
Lib. Feud. Liber Feudorum.
Lib. Intr. Liber Intrationum; or Old Book of Entries.
Lib. Nig. Liber Niger.
Lib. Pl. Liber Placitandi.
Lib. Reg. Register Books.
Lib. Rub. LIber Ruber.
Lib. Ten. Liberum Tenementum.
Lid. Jud. Adv. Liddel's Detail of the Duties of a Deputy Judge Advocate.
Lill. Entr. Lilly's Entries.
Lill. Reg. Lilly's Register.
Lill. Rep. Lilly's Reports.
Lill. Conv. Lilly's conveyancer.
Lind. Lindewooode's Provinciale; or Provincial Constitutions of England, with the Legantine Constitutions of Otho and Othobond.
Litt. s. Littleton, section.
Litt. R. Littell's Reports.
Litt. Rittleton's Reports.
Litt. Sel. Cas. Littell's Select Cases.
Litt. Ten. Littleton's Tenures.
Liv. Livre, book.
Liv. on Ag. Livermore on the Law of Principal and Agent.
Liv. Syst. Livingston's System of Penal Law for the State of Louisiana. This work is sometimes cited Libingston's Report on the Plan of a Penal Code.
Liverm. Diss. Livermore's dissertations on the Contrariety of Laws.
Llo.& Go. Lloyd & Goold's Reports.
Llo.& Go. t. Sudg. Lloyd & Goold's Reports, during the time of Sugden.
Llo.& Go. t. Plunk. Lloud & Goold during the time of Plunkett.
Llo.& Welsh. Lloyd & Welshy's Reports of Cases relating to Commerce, Manufac− tures, &c., determined in the Courts of Common Law.
Loc. cit. Loco citato, the place cited.
Log. Comp. Compendium of the Law of England, Scotland, and Ancient Rome, by James Logan.
Lofft. Lofft's Reports.
Lois des Batim. Lois des Batimens.
Lom. Dig. Lomax's Digest of the Law of Real Property in the United States.
Lom. Ex. Lomax on Executors.
Long. Quint. Year Book, part 10 Vide Year Book.

Louis Code. Civil Code of Louisiana.
Louis. R. Louisiana Reports.
Lovel. on Wills. Lovelass on Wills.
Lown. Leg. Lowndes on the Law of Legacies.
Lube, Pl. Eq. An Analysis of the Principles of Equity Pleading, by D. G. Lube.
Luder's elec. Cas. Luder's Election Cases.
Luml. Ann. Lumley on Annuities.
Luml Parl. Pr. Lumley's Parliamentary Practice.
Luml on Settl. Lumley on Settlements and Removal.
Lut. Ent. Lutwyche's entries.
Lutw. Lutwyches' Reports.
M. Michaelmas Term.
M. Maxim, or Maxims.
M. Jary; as 4 Mary st.3, c.1.
M.& A. Montagu & Ayrton's Reports of Cases of Bankruptcy.
M.& B. Montagu and bligh's Cases in Bankruptcy.
M.& C. Mylne & Craig's Reports.
M.& C. Montagu & Chittys' Reports.
M.& G. Manning & Granger's Reports.
M.& G. Maddock & Geldart's Reports.
M.G.& S. Manning, Granger & Scott's Reports.
M.& K. Mylne & Keen's chancery Reports.
M.& M. or Mo.& Malk. Rep. Moody & Malkin's Nisi Prius Reports.
M. P. Exch. Modern Practice Exchequer.
M.& P. Moore & Payne's Reports.
M.R. Master ofthe Rolls.
M. R. Martin's Reports of the Supreme Court of the State of Louisiana.
M.& R. Manning & Ryland's Reports.
M.& S. Moore & Scott's Reports.
M.& S. Maule & Selwyn's Reports.
M.& Y. or Mart. & Yerg. Martin & Yerger's Reports.
M.& W. Meeson & Welshy's Reports.
M. D.& G. Montagu, Daecon & Gex's Reports of Cases in Bankruptcy.
M'Arth. C. M. M'Arthur on Courts Martial.
M'Cl & Yo. M'Clelland & Younge's Exchequer Reports.
M'Clel. E. R. M'Clelland's Exchequer Reports.
M'Cord's Ch. R. M'Cord's Chancery Reports.
M'Cord's R. M'Cord's Reports
M'Kin. Phil. Ev. M'Kinnon's Philosophy of Evidence.
M'Naght. C. M. M'Naghton on Courts Martial.
McLean & Rob. McLean & Robinson's Reports.
M'Lean R. M'Lean's Reports.
Macn. on Null. Macnamara on Nullities nad Irregularities in the Practice of the Law.
macnal. Ev. Macnally's Rules of Evidence on Pleas oft he Crown.
Macph. on Inf. Macpherson on Infants.
Macq. on H.& W. Macqueen on Hushand and Wife.
Mad. Exhc. Madox's History ofthe Exchequer.
Mad. Form. Madox's Formulare Anglicanum.
Madd.& Geld. Maddock's & Geldart's Reports.
Madd., Madd. R. Maddock's chancery REports.
Madd. Pr. or Madd. Ch. Maddock's Chancery Practice.

Mag. Ins. Magens on Insurance.
Mal. Malyne's Lex Mercatoria.
Man. Manuscript.
Man.& Gra. Manning & Granger's Reports.
man. Gr.& Sc. Manning, Granger & Scott's Reports.
Man.& Ry. Manning & Ryland's Reports.
Manb. on Fines. Manby on Fines.
Man. Comm. Manning's Commentaries of the Law of Nations.
Mann. Exch. Pr. Manning's Exchequer Practice.
mans. on Dem. Mansel on Demurrers.
Mans. on Lim. Mansel of the Law of Limitations.
Manw. Manwood's Forest Laws.
mar. Mritime.
mar. N.C. March's New Cases.
Mar. R. march's Reports.
Marg. margin.
Marr. Adm. Dec. Marriott's Admiralty Decisions.
Marr. Form. Inst. marriott's Formulare Instrumentorum; or a Formulary of Authentic Instruments, Writs, and Standing orders used in the Court of Admiralty of Great Britain, of Prize and Instance.
Marsh. Marshall's Reports in the Court of Common Pleas. A. Marsh. Marshall's (Kty.) Reports. J. J. Marsh. J. J. Marshall's Reports. Marsh. Ins. Marshall on the Law of Insurance.
Marsh. Decis. Brockenbrought's Reports of Chief JUstice marshall's Decisions.
Mart. law Nat. Martin's Law of Nations.
Mart. (N.C.) R. Martin's North Carolina Reports.
Mart. (Lo.) R. Martin's Louisiana Reports.
Marv. Leg. Bibl. Marvin's Legal Bibliography.
Mart.& Yerg. Martin & Yerger's Reports.
Mart. N. S. Martin's Louisiana Reports, new series.
Sason R. mason's circuit Court Reports.
Mass. R. Massachusetts Reports.
Math. on Pres. Mathew on the Doctrine of Presumption and Presumptive Evidence.
Matth. on Prt. Matthews on Portion.
Matth. on Ex. Matthews on Executors.
maugh. Lit. Pr. Maughan on Literary Property.
Maule & Selw. Maule & Selwyn's Reports.
Max. Maxims.
Maxw. L. D. Maxwell's Dictionary of the Law of Bills of Exchange, & c.
Maxw. on Mar. L. Laxwell's Spirit of the Marine Laws.
Mayn. Maynard's Reports. See Year Books in the body of the work. The first part of the Y. B. is sometimes so cited.
Med. Jr. Medical Jurisprudence.
Mees. & Wels. Meeson & Welshy's Reports.
Meigs, R. Meigs' Tennessee Reports.
Mer. R. Merivale's Reports.
Merch. Dict. Merchant's Dictionary.
Merl. Quest. Merlin, Questions de Driot.
Merl. Repert. Merlin, Repertoire.
Merrif. Law of Att. Merrifield's Law of Attorneys.
Merrif. on Costs. Merrifield's Law of costs.
Metc. R. Metcalf's Reports.

Metc. & Perk. Dig. Digest of the Decisions of the Courts of Common Law and Admiralty in the United States. By Theron Metcalf and Jonathan C. Perkins.
Mich. Michaelmas.
Mich. Rev. St. Michigan Revised Statutes.
Miles' R. Miles' Reports.
Mill. Civ. Law. Miller's civil Law.
Mill. Ins. Millar's Elements of the Law relating to Insurances. Sometimes this work is cited Mill. El.
Mill. on Eq. Mort. Miller on Equitable Mortgages.
Minor's Rep. Minor's Alabama Reports, sometimes cited Ala. Rep.
Mirch. onAdv. Mirehead on Advowsons.
Mirr. Mirroir des Justices.
Misso. R. Missourti Reports.
Mitf. Pl. Mitford's Pleadings in Equity. Also cited Redead. Pl. Redesdale's Pleadings.
MO. Sir Francis Moore's Reports in the reign of K. Henry VIII., Q. Elizabeth, and K. James.
Mo.& Malk. Moody & Malkin's Reports.
Mo. C. C. Moody's Crown Cases.
Mo. Cas. Moody's Nisi Prius and Crown Cases.
Mod. or Mod. R. Modern Reports.
Mod. Cas. Modern Cases.
Mod. C. L.& E. Modern Cases in Law and Equity. The 8 & 9 Modern Reports are sometimes so cited; the 8th cited as the 1st, and the 9th as the 2d.
Mod. Entr. Modern entries.
Mod. Int. Modus Intrandi.
Mol. Molloy, De jure Miartimo.
Moll. R. Molloy's chancery Reports.
Monr. R. Monroe's Reports.
Mont. & Ayrt. Montagu & Ayrton's Reports.
Mont. B. C. Montagu's Bankrupt Cases.
Mont. & Bligh. Montagu & Bligh's Cases in Bankruptcy.
Mont. & Chit. Montagu & Chitty's Reports.
Mont. on Comp. Montagu on the Law of Composition.
Mont. B. L. Montagu on the Bankrupt Laws.
Mont. on Set−off. Montagu on Set−off.
Mont. Deac. & Gex. Montagu, Deacon & Gex's Reports of Cases in Bankruptcy, argued and determined in the Court of Review, and on Appeals to the Lord Chancellor.
Mont. Dig. Montagu's digest of Pleadings in EQuity.
Mont. Eq. Pl. Montagu's Equity Pleading.
Mont. & Mac. Montagu & MacArthur's Reports.
Mont. Sp. of Laws. Montesquieu's Spirit of Laws.
Montesq. Montesquieu, Esprit des Lois.
Moo. & Malk. Moody & Malkin's Reports.
Moo. & Rob. Moody & Robinson's Reports.
Moore, R. J. B. Moore's Reports of Cases decided in the Court of Common Pleas.
Moore's A. C. Moore's Appeal Cases.
Moore & Payne. Moore & Payne's Reports of Cases in C. P.
Moore & Scott. Moore & Scott's Reports of Cases in C. P.
Mort. on Vend. Morton's law of Vendors and Purchasers of Chattels Personal.
Mos. Mosely's Reports.

MSS> Manuscripts; as, Lord Colchester's MSS>
Much. D.& S. Muchall's Doctor and Student.
Mun. Municipal.
Munf. R. Munford's Reports.
Murph. R. Murphy's Reports.
My. & Keen. Mylne & Keen's Chancery Reports.
Myl.& Cr. Mylne & Craig's Reports.
N. Number.
N. or Nov. Novellae: the Novels.
N. A. Non allocatur.
N. B. Nulla bona.
N. Benl. New Benloe.
N. C. Cas. North Carolina Cases.
N. C. Law Rep. North Carolina Law Repository.
N. C. Term R. North Carolina Term Reports. This volume is sometimes cited 2 Tayl.
N. Chipm. R. N. Chipman's Reports.
N. E. I. Non est Inventus.
N. H. Rep. New Hampshire Reports.
N. H. & G. Nicholl, Hare & Garrow's Reports.
N. L. Nelson's editon of Lutwyche's Reports.
N. L. Non liquet. Vide Ampliation.
N.& M. Neville & Manning's Repors.
N.& P. Neville & Perry's Reports.
N. P. Nisi Prius.
N.& M'C. Nott & M'Cord's Reports.
N. R. or New R. New Reports; the new series, or 4 & 5 Bos. & Pull. Reports, are usually cited N. R.
N. S. New Series of the Reports of the Supreme Court of Louisiana.
N. Y. R. S. New York Revised Statutes.
Nar. Conv. Nares on Convictions.
Neal's F.& F. Neal's Feasts and Fasts; an Essay on the Rise, Progress and Present State of the Laws relating to Sundays and other Holidays, and other days of fasting.
Nels. Ab. Nelson's Abridgment.
Nels. Lex Maner. Nelson's Lex Maneriorum.
Nels. R. Nelson's Reports.
nem. con. Nemine contradicente, (q.v.)
Nem. Dis. nemine dissentiente.
Nev. & Mann. Neville & Manning's Reports.
nev. & Per. Neville & Perry's Reports.
New Benl. Benloe's Reports. Reports in the Reign of Henry VIII., Edw. VI.,' Phil. and Mary, and Elizabeth, and other Cases in the times of Charles. By William Benloe. See Benl.
New Rep. new Reports. A continuation of Bosanquet & Puller's Reports. See B.& P.
Newf. Rep. Newfoundland Reports.
newl. Contr. Newland's Treatise on Contracts.
Newl. Ch. Pr. Newland's Chancery Practice.
Newn. Conv. Newnam on Conveyancing.
Ni. Pri. Nisi Pirus.
Nich. Adult. Bast. Nicholas on Adulterine Bastardy.
Nich. Har. & Gar. Nicholl, Hare & Garrow's Reports.
Nient Cul. Nient Culpable, old French, not guilty.

Nol. P. L. Nolan's Poor Laws.
Nol. R. Nolan's Reports of Cases relative to the Duty and Office of Justice of the Peace.
Non Cul. Non culpabilis, not guilty.
North. Northington's Reports.
Nott.& M'cord. Nott & M'Cord's reports.
Nov. Novellae, the Novels.
Nov. REc. Novisimi Recopilacion de las Leyes de Espana.
Noy's Max. Nou's Maxims.
Noy's R. Noy's Reports.
O. Benl. Old Benloe.
O. Bridg. Orlando Bridgman's Reports.
O. C. Old Code: so is denominated the Civil Code of Louisiana, 1808.
O. N. B. Old Natura Brevium. Vide Vet. N. B., in the abbreviations, and "Old Natura Brevium," in the body of the work.
O. Ni. These letters, which are an abbreviation for overatur nisis habent sufficientem exonerationem, are, according tot he practice of the English Exchequer, marked upon each head of a Sheriff's account for issues, amercia− ments and mean profits. 4 Inst. 116.
Oblig. Obligations.
Observ. Observations.
Off. Office.
Off. Br. Officina Brevium.
Off. Ex. Wentworth's Office of Executors.
Ohio R. Ohio Reports.
Oldn. Oldnall's Welsh Practice.
Onsl. N. P. Onslow's Nisi Prius.
Ord. Anst. Ordinance of Amsterdam.
Ord. Antw. Ordinance of Antwerp.
Ord. Bilb. Ordinance of Bilboa.
Ord. Ch. Orders in Chancery.
Ord. Cla. Lord Clarendon's Orders.
Ord. Copenh. Ordinance of Copenhagen.
Ord. Cor. Orders of Court.
Ord. Flor. Ordinances of Florence.
Ord. Gen. Ordinance of Genoa.
Ord. Hamb. Ordinance of Hamburgh.
Ord. Konigs. Ordinance of Konigsherg.
Ord. Leg. Ordinances of Leghorn.
Ord. de la Mar. Ordonnance de la marine, de Louis XIV.
Ord. Prot. Ordinances of Portugal.
Ord. Prus. Ordinances of Prussia.
Ord. Rott. Ordinances of Rotterdam.
Ord. Swed. Ordinances of Sweden.
Ord. on Us. Ordinances on the Law of Usury.
Orfil. Med. Jur. Orfila's Medical Jurisprudence.
Orig. Original.
Oought. Oughton's Ordo Judiciorum.
Overt. R. Overton's Reports.
Ow. owen's Reports.
Owen, Bankr. Owen on Bankruptcy.
P. Page or part. Pp. Pages.

P. Pachalis, Easter term.
P.C. Pleas of the Crown.
P.& D. Perry & Davison's Reports.
P.& K. Perry & Knapp's Election Cases.
P.& M. PHilip and mary; as, 1 & 2 P.& M. c. 4.
P.N>P. Peake's Nisi Prius.
P. P. Propria persona; in his own person.
Pa. R. Pennsylvania Reports.
P. R. or P. R. C. P. Practical REgister in the Common Pleas.
P. Wms. Peere Williams' Reports.
Paige's R. Paige's Chancery Reports.
Paine's R. Paine's Reports.
Pal. Palmer's Reports.
Pal. AG. Paley on the Law of Principal and Agent.
Pal. Conv. Paley on Convictions.
Palm. Pr. Lords. Palmer's Practice in the House of Lords.
Pand. Pandects. Vide Dig.
Par. Paragraph; as, 29 Eliz. cap. 5, par. 21.
Par.& Fonb. M. J. Paris & Fonblanque on Medical Jurisprudence.
Pardess. Pardessus, Cours de Driot Commercial. In this work Pardessus is cited in several ways, namely: Pardes. Dr. Com Part 3, tit. 1, c. 2, s. 4, n. 286; or 2 Pardes. n. 286, which is the same reference.
Park on Dow. Park on Dower.
Park, Ins. Park on Insurance.
Park. R. Sir Thomas Parker's Reports of Cases concerning the Revenue, in the Exchequer.
Park. on Ship. Parker on Shipping nad Insurance.
Parl. Hist. Parliamentary History.
Patch. on Mortg. Patch's Treatise on the Law of Mortgages.
Paul's Par. Off. Paul's Parish Officer.
Pay. Mun. Rights. Payne's Municipal Rights.
Peak. Add. Cas. Peake's Additional Cases.
Peak. C. N. P. Peake's Cases determined at Nisi Prius, and in the K. B.
Peake, Ev. Peake on the Law of Evidence.
Peck. R. Peck's Reports.
Peck's Tr. Peck's Trial.
Peckw. E. C. Peckwell's Election Cases.
Penn. Bl. Pennsylvania Blackstone, by John Read, Esq.
Penn. law Jo. Pennsylvania Law JOurnal.
Penn. R. Pennington's Reports. The Pennsylvania Reports are sometimes cited Penn. R., but more properly, for the sake of distinction, Penna. R.
Penn. St. R. Pennsylvania State Reports.
Penna. Pr. Pennsylvania Practice; also cited Tro. & Hal. Pr., Troubat & Haly's Practice.
Penna. R. Pennsylvania Reports.
Pennsylv. Pennsylvania Reports.
Penr. Anal. Penruddocke's Analysis ofthe Criminal Law.
Penult. The last but one.
Per.& Dav. Perry & Davison's Reports.
Per.& Knapp. Perry & Knapp's Election Cases.
Perk. Perkins on conveyancing.
Perk. Prof. B. Perkins' Profitable Book.

Perpip. on Pat. Perpigna on Patents. The full title of this work is, "The French Law and Practice of Patents for Inventions, Improvements, and Importations. by A. Perpigna, A.M.L.B., Barrister in the Royal Court of Paris, Member of the Society for the Encouragement of ARts, &c." The work is well written in the English language. The author is a French lawyer, and has written another work on the same subject in French.
Pet. Ab. Petersdorff's Abridgment.
Pet. Adm. Dec. Peters' Admiralty Decisions.
Pet. on Bail, or Petersd. on Bail. Petersdorff on the Law of Bail.
Pet. R. Peters' Supreme Court Reports.
Pet. C. C. R. Peters' Circuit Court Reports.
Petting. on Jur. Pettingal on Juries.
Phil. Ev. Phillips' Evidence.
Phil. Ins. PHillips on Insurance.
Phil. St. Tr. Phillips' State Trials.
Phill. Civ. and Can. Laws. Phillimore on the Study of the Civil and Canon Law, considered in relation to the state, the church, and the universities, and in connexion with the college of advocates.
Phill. on Dom. Phillimore on the Law of Domicil.
Phillim. or Phillim E. R. Phillimore' Ecclesiastical Reports.
Pick. R. Pickering's Reports.
Pig. Pigot on Recoveries.
Pike's Rep. Reports of Cases argued and determined in the Supreme Court of Law and Equity of the State of Arkansas. By Albert Pike. These Reports are cited Ark. Rep.
Pitm. Prin. and Sur. Pitman on Principal and Surety.
Pl. Placitum or plea.
Pl. or Plow. or Pl. Com. Plowden's Commentaries, or Reports.
Plff. Plaintiff.
Platt on Cov. Platt on Law of Covenants.
Platt on Lea. Platt on Leases.
Pol. Pollexfen's Reports.
Poph. Popham's Reports. The cases at the end of Pophams' Reports are cited 2 Poph.
Port. R. Porter's Reports.
Poth. Pothier. The numerous works of Pothier are cited by abbreviating his name Poth. and then adding the name of the treatise; the figures generally refer to the number, as Poth. Ob. n. 100, which signifies Pothier's Treatise on the Law of Obligations, number 100. Poth. du Mar. Pothier du Mariage. Poth. Vente. Pothier Traite de Vente, & c. His Pandects, in 24 vols. are cited Poth. Pand. with the book, title, law, & c.
Pott's L. D. Pott's Law Dictionary.
Pow. Powell.
Pow. Contr. Powell on Contracts.
Pow. Dev. Powell on Devises.
Pow. Mortg. Powell on Mortgages.
Pow. Powers. Powell on Powers.
Poyn. on M. and D. Poynter on the Law of Marriage and Divorce.
Pr. Principio. In pr. In principio; in the beginning.
Pr. Ex. Rep. or Price's E. R. Prices' Exchequer Reports.
Pr. Reg. Cha. Practical Register in Chancery.
Pr. St. Private Statute.

Pr. Stat. Private Statute.
Pract. Reg. C. P. Practical Register of the Common Pleas.
Pract. Reg. in Ch. Practical Register in Chancery.
Prat. on H.& W. Prater on the Law of Hushand and Wife.
Pref. Preface.
Prel. Preliminaire.
Prest. Preston.
Prest. on Est. Preston on Estates.
Prest. Abs. Tit. Preston's Essay on Abstracts of Title.
Prest. on Conv. Preston's Treatise on Conveyancing.
Prest. on Leg. Preston on Legacies.
Pri. Price's Reports.
Price's Ex. Rep. Price's Exchequer Reports.
Price's Gen Pr. Price's General Practice.
Prin. Principium, the beginning of a title or law.
Prin. Dec. Printed Decisions.
Priv. Lond. Customs or Privileges of London.
Pro. L. Province Laws.
Pro quer. Pro querentum, for the plaintiff.
Proct. Pr. Proctor's Practice.
Puff. Puffendorff's law of nature.
Q. Quaestione, in such a Question.
Q. B. Queen's Bench.
Q. B. R. Queen's Bench Reports, by Adolphus & Ellis. New series.
Q.t. Qui tam.
Qu. Quere.
Q. Van Weyt. Q. Van Weytsen on Average.
Q. Warr. Quo Warranto; (q.v.) The letters (q.v.) quod vide, which see, refer to the article mentioned immediately before them.
Qu. Quaestione, in such a Question.
Quest. Questions.
Quinti Quinto. Year−book, 5 Henry V.
Quon. Attach. Quoniam Attachiamenta. See Dalr. F.L. 47.
R. Resolved, ruled, or repealed.
R. Richard; as, 2 R. 2, c. 1.
Rich. Rep. Richardson's (S.C.) Reports.
RC. Rescriptum.
R.& M. Russell and Milne's Reports.
R.& M. C. C. Ryan and Moody's Crown Cases.
R.& M. N. P. Ryan & Moody's Nisi Prius Cases.
R.& R. Russell & Ryans' Criwn Cases.
R. M. Charlt. R. M. Charlton's Reports.
RS. Responsum.
R. S. L. Reading on Statute Law.
Ram on Judgm. Ram on the LAw relating to Legal Judgments
Rand. Perp. Randall on the Law of Perpetuities.
Rand. R. Randolph's Reports.
Rast. Rastall's Entries.
Rawle's R. Rawle's Reports.
Rawle, Const. Rawle on the Constitution.
Ray's Med. Jur. Ray's Medical Jurisprudence on Insanityh.
Raym. or, more usually, Ld. Raym. lrod Raymond's Reports. T. Raym. Sir Thomas

Raymond's Reports.
Re. Fa. lo. Recordari facias loquelam. Vide Refalo in the body of the work.
Rec. Recopilation.
Rec. Recorder; as, City Hall Rec.
Redd. on Mar. Com. Reddie's Historical View of hte Law of Maritime Commerce.
Redesd. Pl. Redesdale's Equity Pleading. This work is also and must usually cited Mitf. Pl.
Reeves' H. E. L. Reeves' History of the English Law.
Reeves on Ship. Reeves on the Law of Shipping and Navigation.
Reeves on Des. Reeves on Descents.
Reg. Regula, rule.
Reg. Register.
Reg. Brev. Registrum Brevium, or Register of Writs.
Reg. Gen. Regulae Generales.
Reg. Jud. Registrum Judiciale.
Reg. Mag. Regiam Magestatem.
Reg. Pl. Regula Placitandi.
Renouard, des Brev. d'Inv. Traite des Brevets d'Invention, de Perfectionement, et d'Importation, par Augustin Charles Renouard.
Rep. The Reports of Lord Coke are frequently cited 1 Rep., 2 Rep., &c. and sometimes they are cited Co.
Rep. Repertoire.
Rep. Eq. Gilbert's Reports in Equity.
Rep. Q. A. Reports of Cases during the time of Queen Anne.
Rep. T. Finch. Reports tempore Finch.
Rep. T. Hard. Reports during the time of Lord Hardwicke.
Rep. T. Holt. Reports tempore Holt.
Rep. T. Talb. Reports of Cases decided during the time of Lord Talbot.
Res. Resolution. Teh cases reported in Coke's Reports, are divided into resolutions on the different points of the case, and are cited 1 Res. &c.
Ret. Brev. Retorna Brevium.
Rev. St. or REv. Stat. REvised Statutes.
Rey, des Inst. de l'Anglet. Des Institutions Judiciaries de l'Angleterre comparees avec celles de la France. Par Joseph Rey.
Reyn. Inst. Institutions du Droit des Gens, &c. par Gerard de Reyneval.
Ric. Richard; as, 12 Ric. 2, c. 15.
Rice's Rep. Reports of Cases in Chancery argued and determined in the Court of Appeals and Court of Error of South Carolina. By William Rice, State Reporter.
Rich. Pr. C. P. Richardson's Practice in the Common Pleas.
Rich. Pr. K. B. Richardson's Practice in the King's Bench.
Rich Eq. R. Richardson's Equity Reports.
Rich. on Wills. Richardson on Wills.
Ridg. Irish. T. R. Ridgeway, Lapp & Schoales' Term Reports in the K.B., Dublin. Sometimes this is cited Ridg. L.& S.
Ridg. P. C. Ridgeway's Cases in Parliament.
Ridg. Rep. Ridgeway's Reports of Cases in K. B. and Chancery.
Ridg. St. Tr. Ridgeway's Reports of State Trials in Ireland.
Ril. Ch. Cas. Riley's chancery Cases.
Rob. Adm. REp. Robinson's Admiralty Reports.
Rob. Cas. Robertson's Cases in Parliament, from Scotland.
Rob. Dig. Robert's Digest of the English Statutes in force in Pennsylvania.

Rob. Entr. Robinson's Entries.
Rob. on Fr. Roberts on Frauds.
Rob. on Fraud. Conv. Roberts on Fraudulent Conveyances.
Rob. on Gavelk. Robinson on Gavelkind.
Rob. Lo. Rep. Robinson's Louisiana Reports.
Rob. Just. Robinson's Justice of the Peace.
Rob. Pr. Robinson's Practice in Suits at Law, in Virginia.
Rob. V. Rep. Robinson's (Virginia) Reports.
Rob. on Wills. Robert's Treatise on the Law of Wills and Codicils.
Roc. Ins. Roccus on Insurance. Vide Ing. Roc.
Rog. Eccl. Law. Rogers' Ecclesiastical law.
Rog. Rec. Roger's City Hall Recorder.
Roll. Rolle's Abridgment.
Roll. R. Rolle's Reports.
Rom. Cr. Law. Romilly's Observations on the Criminal Law of England, as it relates to capital punishment.
Rop. on H.& W. A Treatise on the Law of Property, arising from the relation between Hushand and Wife. By R. S. Donnison Roper.
Rop. Leg. Roper on Legacies.
Rop. on Revoc. Roper on Revocations.
Rosc. Roscoe.
Rosc. on Act. Roscoe on Actions relating to Real Property.
Rosc. Civ. Ev. Roscoe's Digest of the Law of Evidence on the Trial of Actions at Nisi Prius.
Rosc. Cr. Ev. Roscoe on Criminal Evidence.
Rosc. on Bills. Roscoe's Treatise on the Law relating to Bills of Exchange, Promissory Notes, Banker's Checks, &c.
Rose's R. Rose's Reports of Cases in Bankruptcy.
Ross on V.& P. Ross on the Law of Vendors and Purchasers.
Rot. Parl. Rotulae Parliamentariae.
Rowe's Sci. Jur. Rowe's Scintilla Juris.
Rub. or Rubr. Rubric, (q.v.)
Ruffh. Ruffhead's Statutes at Large.
Runn. Ej. Runnington on Ejectments.
Runn. Stat. Runnington's Statutes at Large.
Rus.& Myl. Russell & Mylne's Chancery Reports.
Rush. Rushworth's Collections.
Russ. Cr. Russell on Crimes and Misdemeanors.
Rus.& Myl. Russell & Mylne's Reports of Cases in Chancery.
Russ. on Fact. Russell on the Laws relating to Factors and Brokers.
Russ. R. Russell's Reports of Cases in Chancery.
Russ.& Ry. Russell & Ryan's Crown Cases.
Rutherf. Inst. Rutherford's Institutes of Natural Law.
Ry. F. Rymer's Foedera.
Ry.& Mo. Ryan & Moody's Nisi Prius Reports.
Ry.& Mo. C. C. Ryan & Moody's Crown Cases.
Ry. MEd. Jur. Ryan on Medical Jurisprudence.
S. _, section.
S. B. Upper Bench.
S.& B. Smith & Batty's Reports.
S. C. Same Case.
S. C. C. Select Cases in Chancery.

S. C. Rep. South Carolina Reports.
S.& L. Schoales & Lefroy's Reports.
S.& M. Shaw & Maclean's Reports.
S.& M. Ch. R. Smedes & Marshall's Reports of Cases decided by the Superior Court of Chancery of Mississippi.
S.& M. Err. & App. Smedes & Marshall's Reports of Cases in the High Court of Errors and Appeals of Mississippi.
S. P. Same Point.
S.& R. Sergeant & Rawle's Reports.
S.& S. Sausse & Scully's Reports.
S.& S. Simon & Stuart's Chancery Reports.
Sa.& Scul. Sausse & Scully's Reports.
Samdl. St. Pap. Sandler's State Papers.
Salk. Salkeld's Reports.
Sandf. Rep. Reports of Cases argued and determined in the Court of Chancery of the State of New York, before the Hon. Lewis H. Sandford, Assistant vice Chancellor of the First Circuit.
Sand. U.& T. Sanders on Uses and Trusts.
Sanf. on Ent. Sanford on Entails.
Sant. de Assoc. Santerna, de Asecurationibus.
Saund. Saunders' Reports.
Saund. Pl. & ev. Saunders' Treatise on the Law of Pleading and Evidence.
Sav. Saville's Reports.
Sav. Dr. Rom. Savigny, Driot Romain.
Sav. Dr. Rom. M. A. Savigny, Driot Romain au Moyen Age.
Sav. Hist. Rom. Law. Savigny's History of the Roman Law during the Middle Ages. Translated from the German of Carl Von Savigny, by E. Cathcart.
Say. Costs. Sayer's Law of Costs.
Say. Sayer's Reports.
SC. Senatus consultum.
Scac. de Cam. Scaddia de Cambiis.
Scam. Rep. Scammon's Reports of Cases argued and determined in the Supreme Court of Illinois.
Scan. Mag. Scandalum Magnatum.
Sch.& Lef. Schoales & Lefroy's Reports.
Scheiff. Pr. Scheiffer's Practice.
Schul. Aq. R. Schultes on Aquatic Rights.
Sci. Fa. Scire Facias.
Sci. fa. ad. dis. deb. Scire facias ad disprobandum debitum, (q.v.)
Scil. Scilicet, i.e. scire licet, that is to say.
Sco. N.R. Scott's new Reports.
Scott's R. Scott's Reports.
Scriv. Copyh. Scriven's Copyholds.
Seat. F. Ch. Seaton's Forms in Chancery.
Sec. Section.
Sec. Leg. Secundum legem; according to law.
Sec. Reg. Secundum regulam; according to rule.
Sedgw. on Dam. Sedgwick on Damages.
Sel. Ca. Chan. Select Cases in Chancery. Vide S. C. C.
Seld. mar. Cla. Selden's Mare Clausum.
Self. Tr. Selfridge's Trial.
Sell. Pr. Sellon's Practice in K. B. and C. P.

Selw. N. P. Selwyn's Nisi Prius.
Selw. R. Selwyn's Reports. These Reports are usually cited M.& S. Maule & Selwyn's Reports.
Sem. or Semb. Semble, it seems.
Sen. Senate.
Seq. Sequentia.
Serg. on Att. Sergeant on the Law of Attachment.
Serg. Const. Law. Sergeant on constitutional Law.
Serg. on Land L. Sergeant on the Land Laws of Pennsylvania.
Serg.& Loub. Sergeant & Lowher's edition of the English Common Law Reports; more usually cited Eng. Com. Law Rep.
Serg.& Rawle. or S.R. Reports of Cases adjudged in the Supreme Court of Pennsylvania. By Thomas Sergeant and William Rawle, Jun.
Sess. Ca. Sessions Cases in K. B., chiefly touching Settlements.
Set. on Dec. Seton on Decrees.
Shaw & Macl. Shaw & Maclean's Reports.
Shelf. Lun. Shelford on Lunacy.
Shelf. on Mort. Shelford on the Law of Mortmain.
Shelf. on Railw. Shelford on Railways.
Shelf. on R. Pr. Shelford on Real Property.
Shep. To. Sheppard's Touchstone.
Shepl. R. Shepley's Reports.
Sher. Sheriff.
Show. P. C. Shower's Parliamentary Cases.
Show. R. Shower's Reports in the Court of King's Bench.
Shub. Jur. Lit. Shuback de Jure Littoris.
Sid. Siderfin's Reports.
Sim. Simon's Chancery Reports. In Con. C.R.
Sim.& Stu. Simon & Stuart's Chancery Reports.
Skene, Ver. Sign. Skene de VerborumSignificatione; an explanation of terms, difficult words, &c.
Skin. Skinner's Reports.
Skirr. Und.Sher. Skirrow's Complete Practical Under Sheriff.
Slade's Rep. Slade's Reports. More usually cited Vermont Reports.
Smed & Marsh. Ch. R. Smedes & Marshall's Reports of Cases decided by the High Court of Errors and Appeals of Mississippi.
Smith & Batty. Smith & Batty's Reports.
Smith's Ch. RPr. Smith's Chancery Practice.
Shith's For. Med. Smith's Forensic Medicine.
Smith's Hints. Smith's Hints for the Examination of Medical Witnesses.
Smith on M. L. Smith on Mercantile Law.
Sm. on Pat. Smith on the Law of Patents.
Smith's R. Smith's Reports in K. B., together with Cases in the Court of Chancery.
Sol. Solutio, the answer to an objection.
South. Car. R. South Carolina Reports.
South. R. Southard's Reports.
Sp. of Laws. Spirit of Laws, by Montesquieu.
Spelm. Feuds. Spelman on Feuds.
Spel. Gl. Spelman's Glossary.
Spence on Eq. Jur. of Ch. Spence on the Equitable Jurisdiction of Chancery.
Spenc. R. Spencer's Reports.

Speers' Eq. Cas. Equity Cases argued and determined in the Court of Appeals of South Carolina. By R. H. Speers.
Speers' Rep. Speers' Reports.
Ss. usually put in small letters, ss. Scilicet, that is to say.
St. or Stat. Statute.
St. Armand. Hist. Ess. St. Armand's Historical Essay on the Legislative Power of England.
Stant. R. Stanton's Reports.
Stath. Ab. Statham's Abridgment.
St. Cas. Stillingfleet's Cases.
St. Tr. State Trials.
Stair's Inst. Stair's Inst. Stair's Institutions of the Law of Scotland.
Stallm. on Elec. & Sat. Stallman on Election and Satisfaction.
Stark. Starkie's Ev. Starkie on the Law of Evidence.
Stark. Cr. Pl. Starkie's Criminal Pleadings.
Stark. R. Starkie's Reports.
Stark. on Sl. Starkie on Slander and Libel.
Stat. Statutes.
Stat. Wes. Statute of Westminster.
Staunf or Staunf. P. C. Staunford's Pleas of the Crown.
Stearn. on R. A. Stearne on Real Actions.
Steph. Comm. Stephen's New Commentaries on the Law of England.
Steph. Cr. Law. Stephen on Criminal Law.
Steph. Pl. Stephen on Pleading.
Steph. Proc. Stephen on Procurations.
Steph. on Slav. Stephens on Slavery.
Stev. on Av. Stevens on Average.
Stev.& B. on Av. Stevens & Beneke on Average.
Stew. Adm. Rep. Stewart's Reports of Cases argued and determined in the Court of Vice Admiralty at Halifax.
Stew. R. Stewart's Reports.
Stew.& Port's. Stewart & Porter's Reports.
Story on Bail. Story's Commentaries on the Law of Bailments.
Story on Const. Story on the Constitution of the United States.
Story on Eq. Story's Commentaries on Equity Jurisprudence.
Story's L. U. S. Story's edition of the Laws of the United States, in 3 vols. The 4th and 5th volumes are a continuation of the same work by George Sharswood, Esq.
Story on Partn. Story on Partnership.
Story on Pl. Story on Pleading.
Story, R. Story's Reports.
Str. Strange's Reports.
Stracc. de Mer. Straccha de Mercatura, Navibus Assecurationibus.
Strah. Dom. Straham's Translation of Domat's Civil Law.
Strob. R. Strobhart's Reports.
Stroud's Dig. Stroud's Digest of the Laws of Pennsylvania.
Stuart's (L.C.) R. Reports of Caes in the Court of King's bench in the Provincial Court of Appeals of Lower Canada, and Appeals before the Lords of the Privy Council. By George O'Kill Stuart, Esq.
Sty. Style's Reports.
Sugd. Lett. Sugden's Letters.
Sugd., Sugd. Pow. Sugden on Powers.
Sugd. Vend. Sugden on Vendors.

Sull. Lect. Sullivan's Lectures on the Feudal Law, and the Constitution and Laws of England.
Sull. on Land Tit. Sullivan's History of Land Titles in Massachusetts.
Sum. Summa, the Summary of a law.
Sumn. R. Sumner's Circuit Court Reports.
Supers. Supersedeas.
Supp. Supplement.
Supp. to Ves. Jr. Supplement to Vesey Junior's Reports.
Swan on Eccl. Cts. Swan on the Jurisdiction of Eccleciastical Courts.
Swanst. Swanston's Reports.
Sweet on Wills. Sweet's Popular Treatise on Wills.
Swift's Dig. Swift's Digest of the Laws of Connecticut.
Swift's Ev. Swift's Evidence.
Swift's Sys. Swift's System of the Laws of Connecticut.
Swinb. Swinburn on the Law of Wills andTestaments. This work is generally cited by refernce to the part, book, chapter, &c.
Swinb. on Desc. Swinburne on the Law of Descents.
Swinb. on Mar. Swinburne on Marriage.
Swinb. on Spo. Swinburne on Spousals.
Sw. Swinburne on Wills.
Syst. Plead. System of Pleading.
T. Title.
T.& G. Tyrwhitt & Granger's Reports.
T.& P. Turner & PHillips' Reports.
T. Jo. Sir Thomas Jones' Reports.
T. L. Termes de la Ley, or Terms of the Law.
T. R. Term Reports. Ridgeway's Reports are sometimes cited Irish Tr.
T. R. Teste Rege.
T.& R. Turner & Russell's Chancery Reports.
T.& R. Turner & Russell's Reports.
T. R. E. or T. E. R. Tempore Regis Edwardi. This abbreviation is frequently used in Domesday Book, and in the more ancient Law writers. See Tyrrel's Hist. Eng., introd. viii. p. 49. See also Co. Inst. 86, a,where in a quotation from Domesday Book, this abbreviation is interpreted Terra Regis Edwardi; but in Cowell's Dict. verb. Reveland, it is said to be wrong.
T. Raym. Sir Thomas Taymond's Reports.
T. U. P. Chalt. T. U. P. Charlton's Reports.
Tait on Ev. Tait on Evidence.
Taml. on Ev. Tamlyn on Evidence, principally with reference to the Practice of the Court of Chancery, and in the Master's office.
Taml. R. Tamlyn's Reports of Cases decided in Chancery.
Taml. T. Y. Tamlyn on Terms for Years.
Tapia. Jur. Mer. Tratade de Jurisprudentia Mercantil.
Taunt. Taunto's Reports. Tayl. on Ev. Taylor on Evidence.
Tayl Cir. L. Taylor's Civil Law.
Tayl. Law glo. Taylor's Law Glossary.
Tayl. L.& T. Taylor's Treatise on the American Law of Landlord and Tenant.
Tech. Dict. Crabb's Technological Dictionary.
Thach. Crim. Cas. Thacher's Criminal Cases.
Th. Br. Thesaurus brevium.
Th. Dig. Theloall's Digest.
Theo. of Pres. Pro. Theory of Presumptive Proof.

Theo. Pres. Pro. Theory of Presumptive Proof, or an Inquiry into the Nature of Circumstantial Evidence.
Tho. co. Litt. Coke upon Littleton' newly arranged on the plan of Sir Matthew Hale's Analysis. By J. H. Thomas, Esq.
Thomp. on Bills. Thompson on Bills.
Tho. U. J. Thomas on Universal Jurisprudence.
Tidd's Pr. Tidd's Practice.
tit. Title.
Toll. Ex. Toller's Executors.
Toml. L. D. Tomlin's Law dictionary.
Toth. Tothill's reports.
Touchs. Sheppard's Touchstone.
Toull. Le Droit civil Francais suivant Pordre du Code; ouvrage dans lequel on a tache de reunir la eorie a la practique. Par M. C. B. M. Toullier. This work is sometimes cited Toull. Dr. Civ. Fr. liv. 3, t. 2, c. 1, n. 6; at other times, 3 Toull. n. 86, which latter signifies vol. 3 of Toullier's work, No. 86.
Tr. Eq. Treatise of Equity; the same as Fonblanque on Equity.
Traill, Med. Jur. Outlines of a Course of Lectures on Medical Jurisprudence. By Thomas Stewart Traill, M.D.
Treb. Jur. de la Med. Jurisprudence de la Medecine, de la Chirurgie, et de la Pharmacie. Par Adolphe Trebuchet.
Trem. Termaine's Pleas of the Crown.
Tri. of 7 Bish. Trial of the Seven Bishops.
Tri. per Pais. Trials per Pais.
Trin. Trinity Term.
Tuck. Bl. Com. Blackstone's Commentaries, edited by Judge Tucker.
Turn. R. Turner's Reports of Cases determined in Chancery.
Turn.& Russ. Turner & Russell's Chancery Reports.
Tuck. Com. Tucker's Commentaries.
Turn.& Phil Turner & PHillips' Reports.
Tyl. R. Tyler's Reports.
Tyrw. Tyrwhitt's Exchequer Reports.
Tyrw.& Gra. Tyrwhitt & Granger's Reports.
Tyt. Mil. Law. Tytler's Essay on Military Law and the Practice of Military Courts Martial.
U.S. United States of America.
U.S. Dig. United States Digest. See Metc.& Perk. Dig.
Ult. Ultimo, ultima, last, usually applied to last title, paragraph or law.
Umfrev. Off of Cor. Umfreville's Office of Coroner.
Under Sher. Under Sheriff, containing the office and duty of High Sheriff, Under Sheriffs and Bailiffs.
Ux. et. Et uxor, et uxorem, and wife.
V. Versus, against; as AB. v. CD.
V. Versiculo, in such a verse.
V. Vide, see.
V. or v. Voce; as Spelm Gloss. v. Cancelarious.
V.& B. Vesey & Beames' Reports.
V. C. Vice Chancellor.
Vac. Voce, or Vocem.
V.& S. Vernon & Scriven's Reports.
Val. Com. Valin's Commentaries.

Van. Heyth. Mar. Ev. Van Heythuysen's Essay upon marine Evidence, in Courts of Law and Equity.
Vand. Jud. Pr. Vanderlinden's Judicial Practice.
Vat. or Vattel. Battle's Law of Nations.
Vang. vaugnan's Reports.
Vend. Ex. Venditioni Exponas.
Ventr. Ventris' Reports.
Verm. R. Vermont Judges' Reports.
Vern. Vernon's Reports.
Vern.& Scriv. Vernon & Scriven's Reports of Cases in the King's Courts, Dublin.
Verpl. Contr. Verplanck on Contracts.
Verpl. Ev. Verplanck on Evidence.
Ves. Vesey Senior's Reports.
Ves. Jr. Vesey Junior's Reports.
Ves.& Bea. Vesey & Beames' Reports.
Vet. N. B. Old Natura Brevium.
Vid. Vidian's Entries.
Vin. Ab. Viner's Abridgment.
Vin. Supp. Supplement ot Viner's Abridgment.
Vinn. Vinnius.
Viz. Videlicet, that is to say.
Vs. Versus.
W. 1, W. 2. Statutes of Westminster, 1 and2.
W. C. C. R. Washington's Circuit Court Reports.
W.& C. Wilson & Courtenay's Reports.
W. Jo. Sir William Jones' Reports.
W. Kel. William Kelynge's Reports.
W.& M. William and Mary.
W.& M. Rep. Woodbury & Minot's Reports.
W.& S. Wilson & Shaw's Reports of Cases decided in the House of Lords.
Wigr. on Disc. Wigram on Discovery.
Walf. on Part. Walford's Treatise on the Law respecting Parties to Actions.
Walk. Ch. Ca. Walker's Chancery Cases.
Walk. Am. R. or Walk. Introd. Walker's Introduction to American Law.
Walk. R. Walker's Reports.
Wall. R. Wallace's Circuit Court Reports.
Ward, on Leg. Ward on Legacies.
Ware's R. Reports of Cases argued and determined in the District Court of the United States, for the District of Maine.
Warr. L. S. Warren's Law Studies.
Wash. C. C. Washington's Circuit Court Reports.
Washb. R. Washburn's Vermont Reports.
Wat. Cop. Watkin's Copyhold.
Watk. Conv. Watking's Principles of conveyancing.
Wats. Cler. Law. Watson's Clergyman's Law.
Wats. on Arb. Watson on the Law of Arbitrations and Awards.
Wats. on Partn. Watson on the Law of Partnership.
Wats. on Sher. Watson on the Law relating to the office and duty of Sheriff.
Watt's R. Watt's Reports.
Watts & Serg. Watts & Sergeant's Reports.
Welf. on Eq. Plead. Welford on Equity Pleading.

Wellw. Ab. Wellwood's Abridgment of Sea Laws.
Wend. R. Wendell's Reports.
Wentw. Wentworth.
Wentw. Off. Ex. Wentworth's Office of Executor.
Wentw. Pl. Wentworth's System of Pleading.
Wesk. Ins. Weskett on the Law of Insurance.
West's Parl. Rep. West's parliamentary Reports.
West's Rep. West's Reports of Lord Chancellor Hardwicke.
West's Symb. West's Symboliography, or a description of instruments and precedents, 2 parts.
Westm. Westminister;
Westm. I. Westminister primer.
Weyt. on Av. Quintin Van Weytsen on Average.
Whart. Cr. Law. Wharton on the Criminal Law of the United States.
Whart. Dig. Wharton's Digest.
Whart. Law Lex. Wharton's Law Lexicon, or Dictionary of Jurisprudence.
Whart. R. Wharton's Reports.
Wheat. Wheaton.
Wheat. R. Wheatons' Reports.
Wheat. on Capt. Wheaton's Digest of the Law of Maritime Captures and Prizes.
Wheat. Hist. of L. of N. Wheaton's History of the Law of Nations in Europe and America.
Wheel. Ab. Wheeler's Abridgments.
Wheel Cr. Cas. Wheeler's Criminal Cases.
Wheel on Slav. Wheeler on Slavery.
Whish. L. D. Whishaw's Law Dictionary.
Whit. on Liens. Whitaker on the Law of Liens.
Whit. on Trans. Whitaker on Stoppage in Transitu.
White's New Coll. A New Collections of the Laws, Charters, and Local Ordinances of the Governments of Great Britain, France, Spain, &c.
Whitm. B. L. Whitmarsh's Bankrupt Law.
Wicq. L'Ambassadeur et ses fonctions, par de Wicquefort.
Wightw. Wightwich's Reports in the Exchequer.
Wilc. on Mun. Cor. Wilcock on Municipal Corporations.
Wilc. R. Wilcox's Reports.
Wilk Leg. Ang. Sax. Wilkin's leges Anglo−Saxionicae.
Wilk. on Lim. Wilkinson on Limitations.
Wilk on Publ. Funds. Wilkinson on the Law relating to the Public Funds, including the Practice of Distringas, &c.
Wilk. on Repl. Wilkinson on the Law of Replevin.
Will. Auct. Williams on the Law of Auctions.
Will. on Eq. Pl. Willis' Treatise on Equity Pleadings.
Will. on Inter. Willis on Interrogatories.
Will. L. D. Williams' Law Dictionary.
Will. Per. Pr. Williams' Principles of the Law of Personal Property.
Will. (P.) Rep. Peere Williams' Reports.
Willc. Off. of Const. Willcock on the Office of Constable.
Willes' R. Willes' Reports.
Wills on Cir. Ev. Wills on Circumstantial Evidence.
Wils. on uses. Wilson on Springing Uses.
Wilm on Mortg. Wilmot on Mortgages.
Wilm. Judg. Wilmot's NOtes of Opinions and Judgments.

Wils. on Arb. Wilson on Arbitration.
Wils. Ch. R. Wilson's Chancery Reports.
Wils.& Co. Wilson & courtenay's Reports.
Wils. Ex. R. Wilson's Exchequer Reports.
Wils.& Sh. Wilson & Shaw's Reports decided by the House of Lords.
Wils. R. Wilson's Reports.
Win. Winch's Entries.
Win. R. Winch's Reports.
Wing. Max. Wingate's MAxims.
Wins. JUst. Williams' Justice.
Wms. R., more usually, P. Wms. Peere Williams' Reports.
Wolff. Inst. Wolffius Institutiones Juris Naturae.
Wood's Inst., or Wood's Inst. Com.. L. Wood's Institutes of the Common Law of England.
Wood's Inst. Civ. Law. Wood's Institutes of the Civil Law.
Wood & Min. Rep. Woodbury and Minot's Reports.
Woodes. Wooddesson.
Woodes. El Jur. Woodesson's Elements of Jurisprudence.
Woodes. Lect. Wooddesson's Vinerian Lectures.
Woodf. L. and T. Woodfall on the Law of Landlord and Tenant.
Woodm. R. Woodman's Reports of Criminal Cases tried in the Municipal Court of the City of Boston.
Wool. Com. L. Woolrych's commercial Law.
Wool. L. W. Woolrych's law of Waters.
Woolr. on Com. Law. Woolrych's Treatise on the Commercial and Mercantile Law of England.
Wool. on Ways. Woolrych on Ways.
Worth. on Jur. Worthington's Inquiry into the Power of Juries to decide incidentally on Questions of Law.
Worth. Pre. Wills. Worthington's GeneralPrecedents for Wills, with practical notes.
Wright's R. Wright's Reports.
Wright, Fr. Soc. Wright on Friendly Societies.
Wright, Ten. Sir Martin Wright's Law of Tenures.
Wy. Pr. Reg. Wyatt's Practical REgister.
X. The decretals of Gregory the ninth are denoted by the letter X, thus, X.
Y. B. Year Books, (q.v.)
Y.& C. Younge & Collyer's Exchequer Reports.
Y.& C. N. C. Younge & Collyer's New Cases.
Y.& J. Younge & Jervis' Exchequer Reports.
Yeates, R. Yeates' Reports.
Yearb. Year Book.
Yelv. Yelverton's Reports.
Yerg. R. Yerger's Reports.
Yo.& Col. Younge & Collyer's Exchequer Reports.
Yo.& Col. N. C. Younge and Collyer's New Cases.
Yo. Rep. Younge's Reports.
Yo.& Jer. Younge & Jervis' Reports.
Zouch's Adm. Zouch's Jurisdiction of the Admiralty of England, asserted.

ABBREVIATORS, eccl. law. Officers whose duty it is to assist in drawing up the Pope's briefs, and reducing petitions into proper form, to be converted into Papal Bulls. Vide Bulls.

ABBROCHMENT, obsolete. The forestalling of a market or fair.

ABDICATION, government. 1. A simple renunciation of an office, generally understood of a supreme office. James II. of England; Charles V. of Germany; and Christiana, Queen of Sweden, are said to have abdicated. When James III of England left the kingdom, the Commons voted that he had abdicated the government, and that thereby the throne had become vacant. The House of Lords preferred the word deserted, but the Commons thought it not comprehensive enough, ofr then, the king might have the liberty of returning. 2. When inferior magistrates decline or surrender their offices, they are said to make a resignation. (q.v.)

ABDUCTION, crim. law. The carrying away of any person by force or fraud. This is a misdemeanor punishable by indictment. 1 East, P.C. 458; 1 Russell, 569. The civil remedies are recaption, (q.v.) 3 Inst. 134; Hal. Anal. 46; 3 Bl. Com 4; by writ of habeas corpus; and an action of trespass, Fitz. N. B. 89; 3 Bl. Com 139, n. 27; Roscoe, Cr. Ev. 193.

ABEARANCE. Behaviour; as, a recognizance to be of good abearance, signifies to be of good behaviour. 4 Bl. Com.,251, 256.

ABEREMURDER, obsolete. An apparent, plain, or downright murder. It was used to distinguish a wilful murder, from a chance−medley, or manslaughter. Spelman; Cowell; Blount.

TO ABET, crim. law. To encourage or set another on to commit a crime. This word is always taken in a bad sense. To abet another to commit a murder, is to command, procure, or counsel him to commit it. Old Nat. Brev 21; Col Litt. 475.

ABETTOR, crim. law. One who encourages or incites, persuades or sets another on to commit a crime . Such a person is either a principal or, an accessory to the crime. When present, aiding, where a felony is committed, he is guilty as principal in the second degree ; when absent, "he is merely an accessory. 1. Russell, 21; 1 Leach 66; Foster 428.

ABEYANCE, estates, from the French aboyer, which in figurative sense means to expect, to look for, to desire. When there is no person in esse in whom the freehold is vested, it is said to be in abeyance, that is, in expectation, remembrance and contemplation.

− 2. The law requires, however, that the freehold should never, if possible, be in abeyance. Where there is a tenant of the freehold, the remainder or reversion in fee may exist for a time without any particular owner, in which case it is said to be in abeyance. 9 Serg. & R.. 367; 8 Plowd. 29 a. b 35 a.

− 3. Thus, if sn estate be limited to A for life, remainder to the right heirs of B, the fee simple is in abeyance during the life of B, because it is a maxim of law, that nemo est hoeres viventis. 2 Bl. Com. 107; 1 Cruise, 67−70; 1 Inst. 842, Merlin, Repertoire, mot Abeyance; 1 Com. Dig. 176; 1 Vin. Abr. 101.

− 4. Another example may be given in the case of a corporation. When a charter is given, and the charter grants franchises or property to a corporation which is to be brought into existence by some future acts of the corporators, such franchises or property are in abeyance until such acts shall be done, and when the corporation is thereby brought into life, the franchises instantaneously attach. 4 Wheat. 691. See, generally, 2 Mass. 500; 7 Mass. 445; 10 Mass. 93; 15 Mass. 464; 9 Cranch, 47. 293; 5 Mass. 555.

ABIDING BY PLEA. English law. A defendant who pleads a frivolous plea, or a plea merely for the purpose of delaying the suit; or who for the same purpose, shall file a similar demurrer, may be compelled by rule in term time, or by a Judge’s order in vacation, either to abide by that plea, or b y that demurrer, or to plead peremptorily on the morrow; or if near the end of the term, and in order to afford time for notice of trial, the motion may be made in court for rule to abide or plead instanter; that is, within twenty−four hours after rule served, Imp. B.R. 340, provided that the regular time for pleading be expired. If the defendant when ruled, do not abide, he can only plead the general issue; 1 T.R. 693; but he may add notice of set−off. Ib. 694, n. See 1 Chit. Rep. 565, n.

ABIGEAT, civ. law, A particular kind of larceny, which is committed not by taking and carrying away the property from one place to another, but by driving a living thing away with an intention of feloniously appropriating the same. Vide Taking.

ABIGEI, civil law. Stealers of cattle, who were punished with more severity than other thieves. Dig. 47, 14; 4 Bl. Com. 239.

ABJURATION− A renunciation of allegiance to a country by oath.

2. − 1. The act of Congress of the 14th of April, 1802, 2 Story’s Laws, U.S. 850, requires that when an alien shall apply to be admitted a citizen of the United States, he shall declare on oath or affirmation before the court where the application shall be made, inter alia, that he doth absolutely and entirely renounce and abjure all allegiance

and fidelity which he owes to any foreign prince, &c., and particularly, by name, the prince, &c., whereof he was before a citizen or subject. Rawle on the Const. 98.

3. − 2. In England t he oath of abjuration is an oath by which an Englishman binds himself not to acknowledge any right in the Pretender to the throne of England.

4. − 3 it signifies also, according to 25 Car. H., an oath abjuring to certain doctrines of the church of Rome.

5. − 4. In the ancient English law it was a renunciation of one's country and taking an oath of perpetual banishment. A man who had committed a felony, and for safety
flea to a sanctuary might within forty days' confess the fact, and take the oath of abjuration and perpetual banishment; he was then transported. This. was abolished by Stat. 1 Jac. 1, c. 25. Ayl. Parerg. 14.

ABLEGATI, diplomacy. Papal ambassadors of the second rank, who are sent with a less extensive commission to a court where there are no nuncios. This title is equivalent to envoy (q. v.).

ABNEPOS, civil law. The grandson of a grandson or grand−daughter, or fourth descendant. Abneptis, is the grand−daughter of a grandson or grand−daughter. These terms are used in making genealogical tables.

ABOLITION. An act by which a thing is extinguished, abrogated or annihilated. Merl. Repert, h. t., as, the abolition of slavery is the destruction of slavery.

2 . In the civil and French law abolition is used nearly synonymously with pardon, remission, grace. Dig. 39, 4, 3, 3. There is, however, this difference; grace is the generic term; pardon, according to those laws, is the clemency which the prince extends to a man who has participated in a crime, without being a principal or accomplice; remission is made in cases of involuntary homicides, and self−defence. Abolition is different: it is used when the crime cannot be remitted. The prince then may by letters of abolition remit the punishment, but the infamy remains, unless letters of abolition have been obtained before sentence. Encycl. de d'Alembert, h. t.

3. The term abolition is used in the German law in the same sense as in the French law. Encycl. Amer. h. t. The term abolition is derived from the civil law, in which it is sometimes used synonymously with absolution. Dig. 39, 4, 3, 3.

ABORTION, med jur. and criminal law. The expulsion of the foetus before the seventh mouth of utero−gestation, or before it is viable. q. v.

2. The causes of this accident are referable either to the mother, or to the foetus and its dependencies. The causes in the mother may be: extreme nervous susceptibility, great debility, plethora, faulty conformation, and the like; and it is frequently induced immediately by intense mental emotion. The causes seated in the foetus are its death, rupture of the membranes, &c.

3. It most frequently occurs between the 8th and 12th weeks of gestation. When abortion is produced with a malicious design, it becomes a misdemeanor, at common law, 1 Russell, 553; and the party causing it may be indicted and punished.

4. The crimjnal means resorted to for the purpose of destroying the foetus, may be divided into general and local. To the first belong venesection, emetics, cathartics diuretics, emmenagogues &c. The second embraces all kinds of violence directly applied.

5. When, in consequence of the means used to produce abortion, the death of the woman ensues, the crime is murder.

6. By statute a distinction is made between a woman quick with child, (q. v.) and one who, though pregnant, is not so, 1 Bl. Com. 129. Physiologists, perhaps with reason, think that the child is a living being from the moment of conception. 1 Beck. Med. Jur. 291.

General References. 1 Beck, 288 to 331; and 429 to 435; where will be found an abstract of the laws of different countries, and some of the states punishing criminal abortion; Roscoe, Cr. Ev. 190; 1 Russ. 553; vilanova y Manes, Materia Criminal Forense, Obs. 11, c. 7 n. 15−18. See also 1 Briand, Med. Leg. 1 ere partie, c. 4, where the question is considered, how far abortion is justifiable, and is neither a crime nor a misdemeanor. See Alis. Cr. L. of Scot. 628.

ABORTUS. The fruit of an abortion; the child born before its time, incapable of life. See Abortion; Birth; Breath; Dead bord; Gestation; Life.

ABOVE. Literally higher in place: But in law this word is sometimes used to designate the superior court, or one which may revise proceedings of an inferior court error, from such inferior jurisdiction. The court of error is called the court above; the court whose proceedings are to be examined is called the court below.

2. By bail above, is understood bail to the action entered with the prothonotary or clerk, which is an appearance.

See Bail above. The bail given to the Sheriff, in civil cases, when the defendant is arrested on bailable process, is called bail below; (q.v.) vide Below.

TO ABRIDGE, practice. To make shorter in words, so as to retain the sense or substance. In law it signifies particularly the making of a declaration or count shorter, by taking or severing away some of the substance from it. Brook, tit. Abridgment
ment; Com. Dig. Abridgment; 1 Vin. Ab. 109.

2. Abridgment of the Plaint is allowed even after verdict and before judgment (Booth on R. A.) in an cases of real actions where the writ is de lib. ten. generally, as in assize, dower; &c.; because, after the abridgment the writ is still true, it being liberum tenementum still. But it is not allowed in a proecipe quod reddat, demanding a certain number of acres; for this would falsify the writ. See 2 Saund. 44, (n.) 4 ; Bro. Abr. Tit. Abr.; 12 Levin's Ent. 76; 2 Saund. 330; Gilb. C. P. 249−253; Thel. Dig. 76, c. 28, pl. 15, lib. 8.

AN ABRIDGMENT. An epitome or compendium of another and larger work, wherein the principal ideas of the larger work are summarily contained. When fairly made, it may justly be deemed, within the meaning of the law, a new work, the publication of which will not infringe the copyright of the work abridged. An injunction, however, will be granted against a mere colorable abridgment. 2 Atk. 143; 1 Bro. C. C. 451; 5 Ves. 709; Lofft's R. 775; Ambl. 403; 5 Ves. 709.; 1 Story, R. 11. See Quotation.

2. Abridgments of the Law or Digests of Adjudged Cases, serve the very useful purpose of an index to the cases abridged, 5 Co. Rep. 25. Lord Coke says they are most profitable to those who make them. Co. Lit. in preface to the table −at the end of the work. With few exceptions, they are not entitled to be considered authoritative. 2 Wils. R. 1, 2; 1 Burr. Rep. 364; 1 Bl. Rep. 101; 3 T. R. 64, 241. See North American Review, July, 1826, pp. 8, 13, for an account of the principal abridgments.

ABROGATION, in the civil law, legislation. The destruction or annulling of a former law, by an act of the legislative power, or by usage. A− law may be abrogated or only derogated from; it is abrogated when it is totally annulled; it is derogated from when only a part is abrogated: derogatur legi, cum pars detrahitur; abrogatur legi, cum prorsus tollitur. Dig lib.. 50, t. 17, 1, 102. Lex rogatur dum fertur; abrogatur dum tollitur; derogatur eidem dum quoddam ejus caput aboletuer; subrogatur dum aliquid ei adjicitur; abrogatur denique, quoties aliquid in ea mutatur. Dupin, Proleg. Juris, Art. iv.

2. Abrogation is express or implied; it is express when it, is literally pronounced by the new law, either in general terms, as when a final clause abrogates or repeals all laws contrary to the provisions of the new one, or in particular terms, as when it abrogates certain preceding laws which are named.

3. Abrogation is implied when the new law contains provisions which are positively, contrary to the former laws, without expressly abrogating such laws: for it is a posteriora derogant prioribus. 3 N. S. 190; 10 M. R. 172. 560. It is also implied when the order of things for which the law had been made no longer exists, and hence the motives which had caused its enactment have ceased to operate; ratione legis omnino cessante cessat lex. Toullier, Droit Civil Francais, tit. prel. _11, n. 151. Merlin, mot Abrogation.

ABSCOND. To go in a clandestine manner out of the jurisdiction of the courts, or to lie concealed in order to avoid their process.

ABSENTEE. One who is away from his domicil, or usual place of residence.

2. After an absence of seven years without being heard from, the presumption of death arises. 2 Campb. R. 113; Hardin's R. 479; 18 Johns. R. 141 15 Mass. R. 805; Peake's Ev. c. 14, s. 1; 2 Stark. Ev. 457 8; 4 Barn. & A. 422; 1 Stark. C. 121 Park on Ins. 433; 1 Bl. R. 404; Burr v. Simm, 4 Wh. 150; Bradley v. Bradley, 4 Wh. 173.

3. In Louisiana, when a person possessed of either movable or immovable property within the state, leaves it, without having appointed somebody to take care of his estate; or when the person thus appointed dies, or is either unable or unwilling to continue to administer that estate, then and in that case, the judge of the place where the estate is situated, shall appoint a curator to administer the same. Civ. Code of Lo. art. 50.. In the appointment of this curator the judge shall prefer the wife of the absentee to his presumptive heirs, the presumptive heirs to other relations; the relations to strangers, and creditors to those who are not otherwise interested, provided, however, that such persons be possessed of the necessary qualifications. Ib. art. 51. For the French law on this subject, vide Biret, de l'Absende; Code Civil, liv. l tit.. 4. Fouss. lib. 13 tit. 4, n. 379−487; Merl. Rep. h. t.;
and see also Ayl. Pand. 269; Dig. 50, 16, 198; Ib. 50, 16, 173; Ib. 3, 3,,6; Code, 7 32 12.

ABSOLUTE. Without any condition or encumbrance, as an "absolute bond," simplex obligatio, in distinction from a conditional bond; an absolute estate, one that is free from all manner of condition or incumbrance. A rule

is said to be absolute, when, on the hearing, it is confirmed. As to the effect of an absolute conveyance, see 1 Pow. Mortg. 125; in relation to absolute rights, 1 Chitty, PI. 364; 1 Chitty, Pr. 32.

ABSOLUTION. A definite sentence whereby a man accused of any crime is acquitted.

ABSQUE HOC, pleading. When the pleadings were in Latin these words were employed in a traverse. Without this, that, (q. v.) are now used for the same purpose.

ABSQUE IMPETITIONE VASTI. Without impeachment of waste. (q. v.) Without any right to prevent waste.

ABSQUE TALI CAUSA. This phrase is used in a traverse de injuria, by which the plaintiff affirms that without the cause in his plea alleged he did commit the said trespasses, &c. Gould on PI. c. 7, part 2, _9.

ABSTENTION, French law. This is the tacit renunciation by an heir of a succession Merl. Rep. h.t.

ABSTRACT OF TITLE. A brief account of all the deeds upon which the title to an estate rests. See Brief of Title.

ABUSE. Every thing which is contrary to good order established by usage. Merl. Rep. h. t. Among the civilians, abuse has another signification; which is the destruction of the substance of a thing in using it. For example, the borrower of wine or grain, abuses the article lent by using it, because he cannot enjoy it without consuming it. Leg ; El. Dr. Rom. _414. 416.

ABUTTALS. The buttings and boundings of land, showing on what other lands, rivers, highways, or other places it does abut. More properly, it is said, the sides of land, are adjoining and the ends abutting to the thing contiguous. Vide Boundaries, and Cro. Jac. 184.

AC ETIAM, Eng. law. In order to give jurisdiction to a court, a cause of action over which the court has jurisdiction is alleged, and also,, (ac etiam) another cause of action over which, without being joined with the first, the court would have no jurisdiction; for example, to the usual complaint of breaking the plaintiff's close, over which the court has jurisdiction, a clause is added containing the real cause of action. This juridical contrivance grew out of the Statute 13 Charles H. Stat. 2, c. 2. The clause was added by Lord North, Ch. J. of the C. P. to the clausum fregit writs of that court upon which writs of capias might issue. He balanced awhile whether he should not use the words nec non instead of ac etiam. The matter is fully explained in Burgess on Insolvency, 149. 155. 156. 157.

ACCEDAS AD CURIAM, Eng. law. That you go to court. An original writ, issuing out of chancery, now of coarse, returnable in K. B. or C. P. for the removaI of a replevin sued by plaint in court of any lord, other than the county before the sheriff See F. N. B. 18; Dyer, 169.

ACCEDAS AD VICECOMITEM, Eng. law. The name of a writ directed to the coroner, commanding him to deliver a writ to the sheriff, who having a pone delivered to him, suppresses it.

ACCEPTANCE, contracts. An agreement to receive somethinng which has been offered.

2. To complete the contract, the acceptance must be absolute and past recall, 10 Pick. 826; 1 Pick. 278; and communicated to the party making the offer at the time and place appointed. 4. Wheat. R. 225; 6 Wend. 103.

3. In many cases acceptance of a thing waives the right which the party receiving before had; as, for example, the acceptance of rent after notice to quit, in general waives. the notice. See Co. Litt. 211, b; Id. 215, a.; and Notice to quit.

4. The acceptance may be express, as when it is openly declared by the party to be bound by it; or implied, as where the party acts as if he had accepted. The offer, and acceptance must be in some medium understood by, both parties; it may be language, symbolical, oral or written. For example, persons deaf and dumb may contract by symbolical or written language. At auction sales, the contract, generally symbolical; a nod, a wink, or some other sign by one party, imports that he makes an offer, and knocking down a hammer by the other, that he agrees to it. 3 D. & E. 148. This subject is further considered under the articles Assent and Offer, (q v.)

5. Acceptance of a bill of exchange the act by which the drawee or other person evinces his assent or intention to comply with and be bound by, the request contained in a bill of exchange to pay the same; or in other words, it is an engagement to pay the bill when due. 4 East, 72, It will be proper to consider, 1, by whom the acceptance ought to be made; 2, the time when it is to be made; 3, the form of the acceptance; 4, its extent or effect.

6. − 1. The acceptance must be made by the drawee himself, or by one authorized by him. On the presentment of a bill, the holder has a right to insist upon such an acceptance by the drawee as will subject him at all events to the

payment of the bill, according to its tenor; consequently such drawee must have capacity to contract, and to bind himself to pay the amount of the bill, or it, may be treated as dishonored. Marius, 22. See 2 Ad. & EH. N. S. 16, 17.

7. − 2. As to the time when, a bill ought to be accepted, it may be before the bill is drawn; in this case it must be in writing; 3 Mass. 1; or it may be after it is drawn; when the bill is presented, the drawee must accept the bill within twenty−four hours after presentment, or it should be treated as dishonored. Chit. Bills, 212. 217. On the refusal to accept, even within the twenty−four hours, it should be protested. Chit. Bills, 217. The acceptance may be made after the bill is drawn, and before it becomes due or after the time appointed for payment 1 H. Bl. 313; 2 Green, R. 339 ; and even after refusal to accept so as to bind the acceptor.

8. The acceptance may also be made supra protest, which is the acceptance of the bill, after protest for non−acceptance by the drawee, for the honor of the drawer, or a particular endorser. When a bill has been accepted supra protest for the honor of one party to the bill, it may be accepted supra protest, by another individual, for the honor of another. Beawes, tit. Bills of Exchange, pl. 52; 5 Campb. R. 447.

9. − 3. As to the form of the acceptance, it is clearly established it may be in writing on the bill itself, or on another paper, 4 East, 91; or it may be verbal, 4 East, 67; 10 John. 207; 3 Mass. 1; or it may be expressed or implied.

10. An express acceptance is an agreement in direct and express terms to pay a bill of exchange, either by the party on whom it is drawn, or by some other person, for the honor of some of the parties. It is Usually in the words accepted or accepts, but other express words showing an engagement to pay the bill will be equally binding.

11. An implied acceptance is an agreement to pay a bill, not by direct and express terms, but by any acts of the party from which an express agreement may be fairly inferred. For example, if the drawee writes "seen," "presented," or any, other thing upon it, (as the day on which it becomes due,) this, unless explained by other circumstances, will constitute an acceptance.

12. − 4. An acceptance in regard to its extent and effect, may be either absolute, conditional, or partial.

13. An absolute acceptance is a positive engagement to pay the bill according to its tenor, and is usually made by writing on the bill " accepted," and subscribing the drawee's name; or by merely writing his name either at the bottom or across the bill. Comb. 401; Vin. Ab. Bills of Exchange, L 4; Bayl. 77; Chit. Bills, 226 to 228. But in order to bind another than the drawee, it is requisite his name should appear. Bayl. 78.

14. A conditional acceptance is one which will subject the drawee or acceptor to the payment of the money on a contingency, Bayl. 83, 4, 5; Chit. Bills, 234; Holt's C. N. P. 182; 5 Taunt, 344; 1 Marsh. 186. The holder is not bound to receive such an acceptance, but if he do receive it he must observe its terms. 4 M.& S. 466; 2 W. C. C. R. 485; 1 Campb. 425.

15. A partial acceptance varies from the tenor of the bill, as where it is made to pay part of the sum for which the bill is drawn, 1 Stra. 214; 2 Wash. C. C. R. 485; or to pay at a different time, Molloy, b. 2, c. 10, s. 20; or place, 4. M.& S. 462.

ACCEPTILATION, contracts. In the civil law, is a release made by a creditor to his debtor of his debt, without receiving any consideration. Ayl. Pand. tit. 26, p. 570. It is a species of donation, but not subject to the forms of the latter, and is valid, unless in fraud of creditors. Merlin, Repert. de Jurisp. h. t. Acceptilation may be defined verborum conceptio qua creditor debitori, quod debet, acceptum fert; or, a certain arrangement of words by which on the question of the debtor, the creditor, wishing to dissolve the obligation, answers that he admits as received, what in fact, he has not received. The acceptilation is an imaginary payment. Dig. 46, 4, 1 and 19; Dig. 2, 14, 27, 9; Inst. 3, 30, 1.

ACCEPTOR, contracts. The person who agrees to pay a bill of exchange drawn upon him. There cannot be two separate acceptors of a bill of exchange, e. g. an acceptance by the drawee, and another for the honor of some party to the bill. Jackson v. Hudson, 2 Campb. N. P. C. 447.

2. The acceptor of a bill is the principal debtor, and the drawer the surety. He is bound, though he accepted without consideration, and for the sole accommodation of the drawer. By his acceptance he admits the drawer's handwriting, for, before acceptance it was incumbent upon him to inquire into the genuineness of the drawer's handwriting. 3 Burr. 1354; 1 Bla. Rep. 390, S. C.; 4 Dall. 234; 1 Binn. 27, S. C. When once made, the obligation of the acceptor is irrevocable. As to what amounts to an acceptance, see ante, Acceptance; Chitty on Bills, 242, et. seq.; 3 Kent, Com. 55, 6; Pothier, Traite du Contrat de Change, premiere part. n. 44.

3. The liability of the acceptor cannot in general be released or discharged, otherwise than by payment, or by

express release or waiver, or by the act of limitations. Dougl. R. 247. What amounts to a waiver and discharge of the acceptor's liability, must depend on the circumstances of each particular case. Dougl. 236, 248; Bayl. on Bills, 90; Chitty on Bills, 249.

ACCEPTOR SUPRA PROTEST, in contracts, is a third person, who, after protest for non−acceptance by the drawee, accepts the bill for the honor of the drawer, or of the particular endorser.

2. By this acceptance he subjects himself to the same obligations as if the bill had been directed to him. An acceptor supra protest has his remedy against the person for whose honor he accepted, and against all persons who stand prior to that person. If he takes up the bill for the honor of the endorser, he stands in the light of an endorsee paying full value for the bill, and has the same remedies to which an endorsee would be entitled against all prior parties, and he can, of course, sue the drawer and endorser., 1 Ld. Raym. 574; 1 Esp. N. P. Rep. 112; Bayly on Bills, 209; 3 Kent. Com. 57; Chitty on Bills, 312. The acceptor supra protest is required to give the same notice, in order to charge a party, which is necessary to be given by other holders. 8 Pick. 1. 79; 1 Pet. R. 262. Such acceptor is not liable, unless demand of payment is made on the drawee, and notice of his refusal given. 3 Wend. 491.

ACCESS, persons. Approach, or the means or power of approaching. Sometimes by access is understood sexual intercourse; at other times the opportunity of communicating together so that sexual intercourse may have taken place, is also called access. 1 Turn. & R. 141.

2. In this sense a man who can readily be in company with his wife, is said to have access to her; and in that case, her issue are presumed to be his issue. But this presumption may be rebutted by positive evidence that no sexual intercourse took place. lb.

3. Parents are not allowed to prove non−access, for the purpose of bastardizing the issue of the wife; nor will their declarations be received after their deaths, to prove the want of access, with a like intent. 1 P. A. Bro. R. App. xlviii.; Rep. tem. Hard. 79; Bull. N. P. 113; Cowp. R. 592; 8 East, R. 203; 11 East, R. 133. 2 Munf. R. 242; 3 Munf. R. 599; 7 N. S. 553; 4 Hayw R. 221, 3 Hawks, R 623 1 Ashm. R. 269; 6 Binn. R. 283; 3 Paige's R. 129; 7 N. S. 548. See Shelf. on Mar. & Div. 711; and Paternity.

ACCESSARY, criminal law. He who is not the chief actor in the perpetration of the offence, nor present at its performance, but is some way concerned therein, either before or after the fact committed.

2. An accessary before the fact, is one who being absent at the time of, the crime committed, yet procures, counsels, or commands another to commit it. 1 Hale, P. C. 615. It is, proper to observe that when the act is committed through the agency of a person who has no legal discretion nor a will, as in the case of a child or an insane person, the incitor, though absent when the crime was committed, will be considered, not an accessary, for none can be accessary to the acts of a madman, but a principal in the first degree. Fost. 340; 1 P. C. 118.

3. An accessary after the fact, is one who knowing a felony to have been committed, receives, relieves, comforts, or assists the felon. 4 Bl. Com. 37.

4. No one who is a principal (q. v.) can be an accessary.

5. In certain crimes, there can be no accessaries; all who are concerned are principals, whether they were present or absent at the time of their commission. These are treason, and all offences below the degree of felony. 1 Russ. 21, et seq.; 4 Bl. Com. 35 to 40; 1 Hale, P. C. 615; 1 Vin. Abr. 113; Hawk. P. C. b. 2, c. 29, s. 16; such is the English Law. But whether it is law
in the United States appears not to be determined as regards the cases of persons assisting traitors. Serg. Const. Law, 382; 4 Cranch, R. 472, 501; United States v. Fries, Parnphl. 199.

6. It is evident there can be no accessary when there is no principal; if a principal in a transaction be not liable under our laws, no one can be charged as a more accessary to him. 1 W.& M. 221.

7. By the rules of the common law, accessaries cannot be tried without their consent, before the principals. Foster, 360. The evils resulting from this rule, are stated at length in the 8th vol. of Todd's Spencer, pp. 329, 330.

ACCESSION, property. The ownership of a thing, whether it be real or personal, movable or immovable, carries with it the right to all that the thing produces, and to all that becomes united to it, either naturally or artificially; this is called the right of accession.

2. −1. The doctrine of property arising from accession, is grounded on the right of occupancy.

3. − 2. The original owner of any thing which receives an accession by natural or artificial means, as by the growth of vegetables, the pregnancy of animals; Louis. Code, art. 491; the embroidering of cloth, or the conversion of wood or metal into vessels or utensils, is entitled to his right of possession to the property of it,

under such its state of improvement; 5 H. 7, 15; 12 H. 8, 10; Bro. Ab. Propertie, 23; Moor, 20; Poph. 88. But the owner must be able to prove the identity of the original materials; for if wine, oil, or bread, be made out of another man's grapes, olives, or wheat, they belong to the new operator, who is bound to make satisfaction to the former proprietor for the materials which he has so converted. 2 Bl. Com. 404; 5 Johns. Rep. 348; Betts v. Lee, 6 Johns. Rep. 169; Curtiss v. Groat, 10 Johns. 288; Babcock v. Gill, 9 Johns. Rep. 363; Chandler v. Edson, 5 H. 7, 15; 12 H. 8, 10; Fits. Abr. Bar. 144; Bro. Abr. Property, 23; Doddridge Eng. Lawyer, 125, 126, 132, 134. See Adjunction; Confusion of Goods. See Generally, Louis. Code, tit. 2, c. 2 and 3.

ACCESSION, international law, is the absolute or conditional acceptance by one or several states, of a treaty already concluded between one or several states, of a traty already concluded between other sovereignties. Merl. Rep. mot Accession.

ACCESSORY, property. Everything which is joined to another thing, as an ornament, or to render it more perfect, is an accessory, and belongs to the principal thing. For example, the halter of a horse, the frame of a picture, the keys of a house, and the like; but a bequest of a house would not carry the furniture in it, as accessory to it. Domat, Lois Civ. Part. 2, liv. 4, tit. 2, s. 4, n. 1. Accesiorium non ducit, sed sequitur principale. Co. Litt. 152, a. Co. Litt. 121, b. note (6). Vide Accession; Adjunction; Appendant; Appurtenances; Appurtenant; Incident.

ACCESSORY CONTRACT. oNE MADE FOR assuring the performance of a prior contract, either by the same parties, or by others; such as suretyship, mortgages, and pledges.

2. It is a general rule, that payment of the debt due, or the performance of a thing required to be performed by the first or principal contract, is a full discharge of such accessory obligation. Poth. Ob. part. 1, c. 1, s. 1, art. 2, n. 14. Id. n. 182, 186. See 8 Mass. 551; 15 Mass. 233; 17 Mass. 419; 4 Pick. 11; 8 Pick. 522.

3. An accessory agreement to guaranty an original contract, which is void, has no binding effect. 6 Humph. 261.

ACCIDENT. The happening of an event without the concurrence of the will of the person by whose agency it was caused or the happening of an event without any human agency; the burning of a house in consequence of a fire being made for the ordinary purpose of cooking or warming the house, which is an accident of the first kind; the burning of the same house by lightning would have been an accident of the second kind. 1 Fonb. Eq. 374, 5, note.

2. It frequently happens that a lessee covenants to repair, in which case he is bound to do so, although the premises be burned down without his fault. 1 Hill. Ab. c. 15, s. 76. But if a penalty be annexed to the covenant, inevitable accident will excuse the former, though not the latter. 1 Dyer, 33, a. Neither the landlord nor the tenant is bound to rebuild a house burned down, unless it has been so expressly agreed. Amb. 619; 1 T. R. 708; 4−Paige, R. 355; 6 Mass. R. 67; 4 M'Cord, R. 431; 3 Kent, Com. 373.

3. In New Jersey, by statute, no action lies against any person on the ground that a fire began in a house or room occupied by him, if accidental. But this does not affect any covenant. 1 N. J. Rev. C. 216.

ACCIDENT, practice. This term in chancery jurisprudence, signifies such unforeseen events, misfortunes, losses, acts or omissions, as are not the result of any negligence or misconduct in the party. Francis' Max. M. 120, p. 87; 1 Story on Eq. _78.

Jeremy defines it as used in courts of equity, to be " an occurrence in relation to a contract, which was not anticipated by the parties, when the same was entered into, and which gives an undue advantage to one of them over the other in a court of law." Jer. on Eq. 358. This definition is objected to, because as accident may arise in relation to other things besides contracts, it is inaccurate in confining accidents to contracts; besides, it does not exclude cases of unanticipated occurrences, resulting from the negligence or misconduct of the party seeking relief. 1 Story on Eq. _ 78, note 1.

2. In general, courts of equity will relieve a party who cannot obtain justice in consequence of an accident, which will justify the interposition of a court of equity. The jurisdiction being concurrent, will be maintained only, first, when a court of law cannot grant suitable relief; and, secondly, when the party has a conscientious title to relief.

3. Many accidents are redressed in a court of law; as loss of deeds, mistakes in receipts and accounts, wrong payments, death, which makes it impossible to perform a condition literally, and a multitude of other contingencies; and many cannot be redressed even in a court of equity; is if by accident a recovery is ill suffered, a contingent remainder destroyed, or a power of leasing omitted in a family settlement. 3 Bl. Comm. 431. Vide, generally, Com. Dig. Chancery, 3 F 8; 1 Fonb. Eq. B. 1, c. 3, s. 7; Coop. Eq. PI. 129; 1 Chit. Pr. 408; Harr. Ch. Index, h. t.; Dane's Ab. h. t.; Wheat. Dig. 48; Mitf. Pl. Index, h. t.; 1 Madd. Ch. Pr. 23; 10 Mod. R. 1, 3; 3 Chit. Bl. Com. 426, n.

ACCOMENDA, mar. law. In Italy, is a contract which takes place when an individual entrusts personal property

with the master of a vessel, to be sold for their joint account. In such case, two contracts take place; first, the contract called mandatum, by which the owner of the property gives the master power to dispose of it, and the contract of partnership, in virtue of which, the profits are to be divided between them. One party runs the risk of losing his capital, the other his labor. If the sale produces no more than first cost, the owner takes all the proceeds; it is only the profits which are to be divided. Emer. on Mar. Loans, B. 5.

ACCOMODATION, com. law. That which is done by one merchant or other person for the convenience of some other, by accepting or endorsing his paper, or by lending him his notes or bills.

2. In general the parties who have drawn, endorsed or accepted bills or other commercial paper for the accommodation, of others, are, while in the hands of a holder who received them before they became due, other than the person for whom the accomodation was given, responsible as if they had received full value. Chit. Bills, 90; 91. See 4 Cranch, 141; 1 Ham. 413; 7 John. 361; 15 John. 355, 17 John. 176; 9 Wend. 170; 2 Whart. 344; 5 Wend. 566; 8 Wend. 437; 2 Hill, S. C. 362; 10 Conn. 308; 6 Munfd. 381.

ACCOMMODATION, contracts. An amicable agreement or composition between two contending parties. It differs from accord and satisfaction, which may take place without any difference having existed between the parties.

ACCOMPLICE, crim. law. This term includes in its meaning, all persons who have been concerned in the commission of a crime, all particepes crimitis, whether they are considered in strict legal propriety, as principals iu the first or second degree, or merely as accessaries before or after the fact. Foster, 341; 1 Russell, 21; 4 Bl. Com. 331; 1 Phil. Ev. 28; Merlin, Repertoire, mot Complice. U. S. Dig. h. t.

2. But in another sense, by the word accomplice is meant, one who not being a principal, is yet in some way concerned in the commission of a crime. It has been questioned, whether one who was an accomplice to a suicide can be punishhed as such. A case occurred in Prussia where a soldier, at the request of his comrade, had cut the latter in pieces; for this he was tried capitally. In the year 1817, a young woman named Leruth received a recompense for aiding a man to kill himself. He put the point of a bistouri on his naked breast, and used the hand of the young woman to plunge it with greater force into his bosom; hearing some noise he ordered her away. The man receiving effectual aid was soon cured of the wound which had been inflicted; and she was tried and convicted of having inflicted the wound, and punished by ten years' imprisonment. Lepage, Science du Driot, ch. 2 art. 3, _5. The case of Saul, the king of Israel, and his armor bearer, (1 Sam. xxxi. 4,) and of David and the Amelekite, (2 Sam. i. 2−16,) will doubtless occur to the reader.

ACCORD, in contracts. A satisfaction agreed upon between the party injuring and the party injured, which when performed is a bar to all actions upon this account. 3 Bl. Com. 15; Bac. Abr, Accord.

2. In order to make a good accord it is essential: −

1. That the accord be legal. An agreement to drop a criminal prosecution as a satisfaction for an assault and imprisonment, is void. 5 East, 294. See 2 Wils. 341 Cro. Eliz. 541.

3. − 2. It must be advantageous to the contracting party; hence restoring to the plaintiff his chattels, or his land, of which the defendant has wrongfully dispossessed him, will not be any consideration to support a promise by the plaintiff not to sue him for those injuries. Bac. Abr. Accord, &c. A; Perk. s. 749; Dyer, 75; 5 East, R. 230; 1 Str. R. 426; 2 T. R. 24; 11 East, R. 390; 3 Hawks, R. 580; 2 Litt. R. 49; 1 Stew. R. 476; 5 Day, R. 360; 1 Root, R. 426; 3 Wend. R. 66; 1 Wend, R. 164; 14 Wend. R. 116; 3 J. J. Marsh. R. 497.

4. − 3. It must be certain; hence an agreement that the defendant shall relinquish the possession of a house in satisfaction, &c., is not valid, unless it is also agreed at what time it shall be relinquished. Yelv. 125. See 4 Mod. 88; 2 Johns. 342; 3 Lev. 189.

6. − 4. The defendant must be privy to the contract. If therefore the consideration for the promise not to sue proceeds from another, the defendant is a stranger to the agreement, and the circumstance that the promise has been made to him will be of no avail. Str. 592; 6, John. R. 37; 3 Monr. R. 302 but in such case equity will grant relief by injunction. 3 Monr. R. 302; 5 East, R. 294; 1 Smith's R. 615; Cro. Eliz. 641; 9 Co. 79, b; 3 Taunt. R. 117; 5 Co. 117, b.

6. − 5. The accord must be executed. 5 Johns. R. 386; 3 Johns. Cas. 243; 16 Johns. R. 86; 2 Wash. C. C. R. 180; 6 Wend. R. 390; 5 N. H. Rep. 136; Com. Dig. Accord, B 4.

7. Accord with satisfaction when completed has two effects; it is a payment of the debt; and it is a species of sale of the thing given by the debtor to the creditor, in satisfaction; but it differs from it in this, that it is not valid until the delivery of the article, and there is no warranty of the thing thus sold, except perhaps the title; for in regard to

this, it cannot be doubted, that if the debtor gave on an accord and satisfaction the goods of another, there would be no satisfaction. See Dation, en paiement.

See in general Com. Dig. h. t.; Bac. Ab. h. t.; Com. Dig. Pleader, 2 V 8; 5 East, R. 230; 4 Mod. 88 ; 1 Taunt. R. 428; 7 East, R. 150; 1 J. B. Moore, 358, 460; 2 Wils. R. 86; 6 Co. 43, b; 3 Chit. Com. Law, 687 to 698; Harr. Dig. h. t.; 1 W. Bl. 388; 2 T. R. 24; 2 Taunt. 141; 3 Taunt. 117; 5 B.& A. 886; 2 Chit. R. 303 324; 11 East, 890; 7 Price, 604; 2 Greenl. Ev. _ 28; 1 Bouv. Inst. n. 805; 3 Bouv. Inst. n. 2478−79−80−81. Vide Discharge of Obligations.

ACCOUCHEMENT. The act of giving birth to a child. It is frequently important to prove the filiation of an individual; this may be done in several ways. The fact of the accouchement may be proved by the direct testimony of one who was present, as a physician, a midwife, or other person. 1 Bouv. Inst. u. 314.

ACCOUNT, remedies. This is the name of a writ or action more properly called account render.

2. It is applicable to the, case of an unliquidated demand, against a person who is chargeable as bailiff or receiver. The use of it, is where the plaintiff wants an account and cannot give evidence of his right without it. 5 Taunt. 431 It is necessary. where the receipt was directed to a merchandising which makes all uncertainty of the nett remain, till the account is finished; or where a man is charged as bailiff, whereupon the certainty of his receipt appears not till account. Hob. 209.; See also 8 Cowen, R. 304; 9 Conn. R. 556;
2 Day, R. 28; Kirby, 164; 3 Gill & John. 388; 3 Verm. 485; 4 Watts, 420; 8 Cowen, 220. It is also the proper remedy by one partner against another. 15 S. & R. 153 3 Binn. 317; 10 S. & R. 220; 2 Conn. 425; 4 Verm. 137; 1 Dall. 340; 2 Watts 86.

3. The interlocutory judgment in this action is (quod computet) that the defendant render an account upon which judgment auditors are assigned to him to hear and report his account. (See I Lutwych, 47; 3 Leon. 149, for precedents) As the principal object of the action is to compel a settlement of the account in the first instance, special bail cannot be demanded, (2 Roll. Rep. 53; 2 Keble, 404,) nor are damagos awarded upon the first judgment, nor given except ratione interplacitationis, (Cro. Eliz. 83; 5 Binn. 664; 24 Ed. 3. 16;
18 Ed. 3. 55; Reg. Brev. 136 b,) although it is usual to conclude the count with a demand of damages. (Lib. Int. fo. 16. fo. 20; 1 Lutw. 51. 58; 2 H. 7. 13.) The reason assigned for this rule, is, that it may be the defendant will not be found in arrears after he has accounted, and the court cannot know until the settlement of the account whether the plaintiff has been endamaged or not. 7 H. 6. 38.

4. This action combines the properties of a legal and equitable action. The proceedings up to the judgment quod computet, and subsequent to the account reported by the auditors are conducted upon the principles of the common law. But the account is to be adjusted upon the most liberal principles of equity and, good faith. (Per Herle, Ch. J. 3 Ed. 3. 10.) The court it is said are judges of the action − the auditors of the account, Bro. Ab. Ace. 48, and both are judges of record, 4 H. 6. 17; Stat. West. 2. c. 11. This action has received extension in Pennsylvania. 1 Dall. 339, 340.

5. The fist judgment (quod computet) is enforeed by a capias ad computandum where defendant refuses to appear before the auditors, upon which he may be held to bail, or in default of bail be made to account in prison. The final judgment quod recuperet is enforeed by fi. fa. or such other process as the law allows for the recovery of debts.

6. If the defendant charged as bailiff is found in surplusage, no judgment oan be entered thereon to recover the amount so found in his favor against the plaintiff, but as the auditors are judges of record, he may bring an action of debt, or by some authorities a sci. fac. against the plaintiff, whereon he may have judgment and execution against the plaintiff. See Palm. 512; 2 Bulst. 277−8; 1 Leon. 219; 3 Keble Rep. 362; 1 Roll. Ab. 599, pl. 11; Bro. Ab. Acc. 62; 1 Roll. Rep. 87. See Bailiff, in account render.

7. In those states where they have courts of chancery, this action is nearly superseded by the better remedy which is given by a bill in equity, by which the complainant can elicit a discovery of the acts from the defendant under his oath, instead of relying merely on the evidence he may be able to produce. 9 John. R. 470; 1 Paige, R. 41; 2 Caines' Cas. Err. 38, 62; 1 J. J. Marsh. R. 82; Cooke, R. 420; 1 Yerg. R. 360; 2 John. Ch. R. 424; 10 John. R. 587; 2 Rand. R. 449; 1 Hen. & M9; 2 M'Cord's Ch. R. 469; 2 Leigh's R. 6.

8. Courts of equity have concurrent jurisdiction in matters of account with courts of law, and sometimes exclusive jurisdiction at least in some respects: For example; if a plaintiff be entitled to an account, a court of equity will restrain the defendant from proceeding in a claim, the correctness of which cannot be ascertained until the account be taken; but not where the subject is a matter of set−off. 1 Sch. & Lef. 309; Eden on Injunct. 23, 24.

9. When an account has voluntarily been stated between parties, an action of assumpsit may be maintained thereon. 3 Bl. Com. 162; 8 Com. Dig. 7; 1 Com. Dig. 180; 2 Ib. 468; 1 Vin. Ab. 135; Bac. Ab. h. t.; Doct. Pl. 26; Yelv. 202; 1 Supp. to Ves. Jr, 117; 2 Ib. 48, 136. Vide 1 Binn. R. 191; 4 Dall. R. 434; Whart. Dig. h. t. ; 3 Wils. 73, 94; 8 D.& R. 596; Bull. N. P. 128; 5 Taunt. 431; U. S. Dig. h. t.; 2 Greenl. Ev. _ 34−39.

ACCOUNT, practice. A statement of the receipts and payments of an executor, administrator, or other trustee, of the estate confided to him.

2. Every one who administers the affairs of another is required at the end of his administration to render an account of his management of the same. Trustees of every description can, in general, be compelled by courts of chancery to settle accounts, or otherwise fully execute their trusts. Where there are no courts of chancery, the courts of common law are usually invested with power for the same purposes by acts of legislation. When a party has had the property of another as his agent, he may be compelled at common law to account by an action of account render.

3. An account is also the statement of two merchants or others who have dealt together, showing the debits and credits between them.

ACCOUNT−BOOK. A book kept by a merchant, trader, mechanic, or other person, in which are entered from time to time the transactions of his trade or business. Vide Books; Entry; Original entry.

ACCOUNT CURRENT. A running or open account between two persons.

ACCOUNT IN BANK, com. law. 1: A fund which merchants, traders and others have deposited into the common cash of some bank, to be drawn out by checks from time to time as the owner or depositor may require. 2. The statement of the amount deposited and drawn, which is kept in duplicate, one in the depositor's bank book, and the other in the books of the bank.

ACCOUNT STATED. The settlement of an account between the parties, by which a balance is struck in favor of one of them, is called an account stated.

2. An acknowledgnaent of a single item of debt due from the defendant to the plaintiff is sufficient to support a count on an account stated. 13 East, 249; 5 M.& S. 65.

3. It is proposed to consider, 1st, by whom an account may, be stated; 2d, the manner of stating the account; 3d, the declaration upon such, an account; 4th, the evidence.

4. 1. An account may be stated by a man and his wife of the one part, and a third person; and unless there is an express promise to pay by the hushand, Foster v. Allanson, 2 T. R. 483, the action must be brought against hushand and wife. Drue v. Thorne, Aleyn, 72. A plaintiff cannot recover against a defendant upon an account stated by him, partly as administrator and partly in his own private capacity. Herrenden v. Palmer, Hob. 88. Persons wanting a legal capacity to make a contract cannot, in general, state an account; as infants, Truman v. Hurst, 1 T. R. 40; and persons non compos mentis.

5. A plaintiff may recover on an account stated with the defendant, including debts due from the defendant alone, and from the defendant and a deceased partner jointly. Riebards v. Heather, 1 B.& A. 29, and see Peake's Ev. 257. A settlement between partners, and striking a balance, will enable a plaintiff to maintain an action on such stated account for the balance due him, Ozeas v. Johnson, 4 Dall. 434; S. C. 1 Binn. 191; S. P. Andrews v. Allen, 9 S. & R. 241; and see Lamelere v Caze, 1 W. C.C.R. 435.

6. − 2. It is sufficient, although the account be stated of that which is due to the plaintiff only without making any deduction for any counter−claim for the defendant, Styart v. Rowland, 1 Show. 215. It is not essential that there should be cross demands between the parties or that the defendant's acknowledgment that a certain sum was due from him to the plaintiff, should relate to more than a single debt, or transaction. 6 Maule & Selw. 65; Knowles et al. 13 East, 249. The acknowledgment by the defendant that a certain sum is due, creates an implied promise to pay the amount. Milward v. Ingraham, 2 Mod. 44; Foster v. Allanson, 2 T. R. 480.

7. − 3. A count on an account stated is almost invariably inserted in declarations in assumpsit for the recovery of a pecuniary demand. See form, 1 Chit. PI. 336. It is advisable, generally, to insert such a count, Milward, v. Ingraham, 2 Mod. 44; Trueman v. Hurst, 1 T. R. 42; unless the action be against persons who are incapable in law to state an account. It is not necessary to set forth the subject−matter of the original debt, Milward v. Ingraham, 2 Mod. 44; nor is the sum alleged to be due material. Rolls v. Barnes, 1 Bla. Rep. 65; S. C. 1 Burr. 9.

8. − 4. The count upon an account stated, is supported by evidence of an acknowledgment on the part of the defendant of money due to the plaintiff, upon an account between them. But the sum must have been stated between the parties; it is not sufficient that the balance may be deduced from partnership books. Andrews v.

Allen, 9 S.&. R. 241. It is unnecessary to prove the items of which the account consists; it is sufficient to prove some existing antecedent debt or demand between the parties respecting which an account was stated, 5 Moore, 105; 4 B.& C. 235, 242; 6 D.& R. 306; and that a balance was struck and agreed upon; Bartlet v. Emery, 1 T. R. 42, n; for the stating of the account is the consideration of the promise. Bull. N. P. 129. An account stated does not alter the original debt; Aleyn, 72; and it seemsnot to be conclusive against the party admitting the balance against him. 1 T. R. 42. He would probably be allowed to show a gross error or mistake iu the account, if he could adduce clear evidence to that effect. See 1 Esp. R. 159. And see generally tit. Partner's; Chit. Contr. 197; Stark. Ev. 123; 1 Chit. Pl. 343.

9. In courts of equity when a bill for an account has been filed, it is a good defence that the parties have already in writing stated and adjusted the items of the account, and struck a balance; for then an action lies it law, and there is no ground for the interference of a court of equity. 1 Atk. 1; 2 Freem. 62; 4 Cranch, 306; 11 Wheat. 237; 9 Ves. 265; 2 Bro. Ch. R. 310; 3 Bro. Ch. R. 266; 1 Cox, 435.

10. But if there has been any mistake, ommision, fraud, or undue advantage, by which the account stated is in fact vitiated, and the balance incorrectly fixed, a court of equity will open it, and allow it to be re−examined; and where there has been gross fraud it will direct the whole account to be opened, and examined de novo. Fonbl. Eq. b. 1, c. 1 _3, note (f); 1 John. Ch. R. 550.

11. Sometimes the court will allow the account to stand, with liberty to the plaintiff to surcharge and falsify it; the effect of this is, to leave the account in full force and vigor, as a stated account, except so far as it can be impugned by the opposing party. 2 Ves. 565; 11 Wheat. 237. See Falsification; Surcharge.

ACCOUNT OF SALES. comm. law. An account delivered by one merchant or tradesman to another, or by a factor to his principal, of the disposal, charges, commissions and net proceeds of certain merchandise consigned to such merchant, tradesman or factor, to be sold.

ACCOUNTANT. This word has several significations: 1. One who is versed in accounts; 2. A person or officer appointed to keep the accounts of a public company; 3. He who renders to another or to a court a just and detailed statement of the administration of property which he holds as trustee, executor, admnistrator or guardian. Vide 16 Vin. Ab. 155.

ACCOUPLE. To accouple is to marry. See Ne unquas accouple.

TO ACCREDIT, international law. The act by which a diplomatic agent is acknowledged by the government near which he is sent. This at once makes his public character known, and becomes his protection.

ACCRETION. The increase of land by the washing of the seas or rivers. Hale, De Jure Maris, 14. Vide Alluvion; Avulsion.

TO ACCRUE. Literally to grow to; as the interest accrues on the principal.

Accruing costs are those which become due and are created after judgment of an execution.

2. − To accrue means also to arise, to happen, to come to pass; as the statute of limitations does not commence running until the cause of action has accrued. 1 Bouv. Inst. n. 861; 2 Rawle, 277; 10 Watts, 363; Bac. Abr. Limitation of Actions, D 3.

ACCUMULATIVE JUDGMENT. A second or additional judgment given against one, who has been convicted, the execution or effect of which is to commence after the first has expired; as, where a man is sentenced to an imprisonment for six months on conviction of larceny, and, afterwards he is convicted of burglary, he may be sentenced to undergo an imprisonment for the latter crime, to commence after the expiration of the first imprisonment; this is called an accumulative jufgment.

ACCUSED. One who is charged with a crime or misdemeanor.

ACCUSATION, crim. law. A charge made to a competent officer against one who has committed a crime or misdemeanor, so that he may be brought to justice and punishment.

2. A neglect to accuse may in some cases be consicleied a misdemeanor, or misprision. (q. v.) 1 Bro. Civ. Law, 247; 2 Id. 389; Inst. lib. 4, tit. 18.

3. It is a rule that no man is bound to accuse himself, or to testify against himself in a criminal case. Accusare nemo se debet nisi coram Deo. Vide Evidence; Interest; Witness.

ACCUSER. One who makes an accusation.

ACHAT. This French word signifies a purchase. It is used in some of our law books, as well as achetor, a purchaser, which in some ancient statutes means purveyor. Stat. 36 Edw. III.

ACHERSET, obsolete. An ancient English measure of grain, supposed to be the same with their quarter or eight

bushels.

ACKNOWLEDGMENT, conveyancing. The act of the grantor going before a competent officer, and declaring the instrument to be his act or deed, and desiring the same to be recorded as such. The certificate of the officer on the instrument, that such a declaration has been made to him, is also called an acknowledgment. The acknowledgment or due proof of the instrument by witnesses, must be made before it can be put upon record.

2. Below will be found the law of the several states relating to the officer before whom the acknowledgment must be made. Justice requires that credit should be here givem for the valuable information which has been derived on this subject from Mr. Hilliard's Abridgment of the American Law of Real Property, and from. Griffith's Register. Much valuable information has also been received on this subject from the correspondents of the author.

3. Alabama. Before one of the judges of the superior court, or any one of the justices of the county court; Act of March 3, 1803; or before any one of the superior judges or justices of the quorum of the territory (state); Act of Dec. 12, 1812; or before the clerks of the circuit and county courts, within their respective counties; Act of Nov. 21, 1818; or any two justices of the peace; Act of Dee. 17, 1819; or clerks of the circuit. courts, for deeds conveying lands anywhere in the state; Act of January 6, 1831; or before any notary public, Id, sec. 2; or before one justice of the peace; Act of January 5, 1836; or before the clerks of the county courts; Act of Feb. 1, 1839; See Aiken's Dig. 88, 89, 90, 91, 616; Meek's Suppl. 86.

4. When the acknowledgment is out of the state, in one of the United States or territories thereof, it may be made before the chief justice or any associate judge of the supreme court of the United States, or any judge or or justice of the superior court of any state, or territory in the Union. Aiken's Dig. 89.

5. When it is made out of the United States, it may be made before and certified by any court of law, mayor or other chief magistrate of any city, borough or corporation of the kingdom, state, nation, or colony, where it is made. Act of March 3,1803.

6. When a feme covert is a grantor, the officer must certify that she was examined "separately and apart from her said hushand and that on such private examination, she acknowledged that she signed, sealed and delivered the deed as her voluntary act and deed, freely and without any threat, fear, or compulsion, of her said hushand."

7. Arkansas. The proof or acknowledgment of every deed or instrument of writing for the conveyance of real estate, shall be taken by some one of the following courts or officers: 1. When acknowledged or proven within this state, before the supreme court, the circuit court, or either of the judges thereof, or of the clerk of either of the said courts, or before the county court, or the judge thereof, or before an justice of the peace or notary public.

8. − 2. When acknowledged or proven without this state, and within the United States or their territories, before any court of the United States, or of any state or territory having a seal, or the clerk of any such court, or before the mayor of any city or town, or the chief officer of any city or town having a seal of office.

9. − 3.When acknowledged or proven without the United States, before any court of any state, kingdom or empire having a seal, or any mayor or chief officer of any city. or town having an official seal, or before any, officer of any foreign country, who by the laws of such country, is authorized to take probate of the conveyance of real estate of his own country, if such officer has by law an official seal.

10. The conveyance of any real estate by any married woman, or the relinquishment of her dower in any of her hushand's real estate, shall be authenticated, and the title passed, by such married woman voluntarily appearing before the proper court or officer, and, in the absence of her hushand, declaring that she had of her own free will executed the deed or instrument in question, or that she had signed and sealed the relinquishment of dower for the purposes therein contained and set forth, without any compulsion or undue influence of her hushand. Act of Nov. 30, 1837, s. 13, 21; Rev. Stat. 190, 191.

11. In cases of ackkowledgment or proof of deeds or conveyances of real estate taken within the United States or territories thereof, when taken before a court or officer, having a seal of office, such deed or conveyance shall be attested under such seal of office; and if such officer have no seal of office, then under the official signature of such officer, Idem, s. 14; Rev. Stat. 190.

12. In all cases of deeds, and conveyances proven or acknowledged without the United States or their territories, such acknowledgment or proof must be attested under the official seal of the court or officer before whom such probate is had. Idem, s. 15. 13. Every court or officer that shall take the proof or acknowledgment of any deed or conveyance of real estate, or the relinquishment of dower of any married woman in any conveyance of the estate of her hushand, shall grant a certificate thereof, and cause such certificate to be endorsed on the said deed,

instrument, conveyance or relinquishment of dower, which certificate shall be signed by the clerk of the court where the probate is taken in court, or by the officer before whom the same is taken and sealed, if he have a seal of office. Idem, s. 16.

14. Connecticut. In this state, deeds must be acknowledged before a judge of the supreme or district court of the United States, or the supreme or superior court, or court of common pleas or county court of this state, or a notary public.

15. When the acknowledgment is made in another state or territory of the United States, it must be before some officer or commisioner having power to take acknowledgments there.

16. When made out of the United States before a resident American consul, a justice of the peace, or notary public, no different form is used, and no different examination of a feme covert from others. See Act of 1828; Act of 1833; 1 Hill. Ab. c. 34, s. 82.

17. Delaware. Before the supreme court, or the court of common pleas of any county, or a judge of either court, or the chancellor, or two justices of the peace of the same county.

18. The certificate of an acknowledgment in court must be under the seal of the court.

19. A feme covert may also make her acknowledgment before the same officers, who are to examine her separately from her hushand.

20. An acknowledgment out of the state, may be made before a judge of any court of the United States, the chancellor or judge of a court of record, of the said court itself, or the chief officer of a city or borough, the certificate to be under the official seal; if by a judge, the seal to be affixed to his certificate, or to that of the clerk or keeper of the seal. Commissioners appointed in other states may also take acknowledgments. 2 Hill. Ab. 441 ; Griff. Reg. h. t.

21. Florida. Deeds and mortgages must be acknowledged within the state before the officer authorized by law to record the same, or before some judicial officers of this state. Out of the state, but within some other state or territory of the United States, before a commissioner of Florida, appointed under the act passed January 24, 1831; and where there is no commissioner, or heis unable to attend) before the chief justice, judge, presiding judge, or president of any court of record of the United States or of any state or territory thereof having a seal and a clerk or prothonotary. The certificate must show, first, that the acknowledgment was taken within the territorial jurisdiction of the officer; secondly, the court of which he is such officer. And it must be accompanied by the certificate of the clerk or prothonotary of the court of which he is judge, justice or president, under the seal of said court that he is duly appointed and authorized as such. Out of the United States. If in Europe, or in North or South America, before. any minister plenipotentiary, or minister extraordinary, or any cbarge d'affaires, or consul of the United States, resident or accredited there. If in any part of Great Britain and Ireland, or the dominions thereeunto belonging, before the consul of the United States, resident or accredited therein, or before the mayor or other chief magistrate of London, Bristol, Liverpool, Dublin or Edinburgh, the certificate to be under the hand and seal of the officer.In any other place out of the United States, where there is no public minister, consul or vice consul, commercial agent or vice commercial agent of the United States, before two subscribing witnesses and officers of such place, and the identity of such civil officer and credibility, shall be certified by a consul or vice consulof the United States, of the government of which such place is a part.

22. The certificate of acknowledgmeut of a married, woman must state that she was examined apart from her hushand, that she executed such deeds, &c., freely and without any fear or compulsion of her hushand.

23. Georgia. Deeds of conveyance of land in the state must be executed in the preseace of two witnesses, and proved before a justice of the peace, a justice of the inferior court, or one of the judges of the superior courts.If executed in the presence of one witness and a magistrate, no probate is required. Prince's Dig. 162; 1 Laws of Geo. 115.

24. When out of the state, but in the United States, they may be proved by affidavit of one or more of the witnesses thereto, before any governor, chief justice, mayor, or other justice, of either of the United States, and certified accordingly, and transmitted under the common or public seal of the state, court, city or place, where the same is taken. The affidavit must express the place of the affidant's abode. Idem.

25. There is no state law, directing how the acknowledgment shall be made when it is made out of the United States.

26. By an act of the legislature passed in 1826, the widow is barred, of her dower in all lands of her deceased hushand, that he aliens or conveys away during the coverture, except such lands as he acquired by his

intermarriage with his wife; So that no relinquishment of dower by the wife is necessary, unless the lands came to her hushand by her. Prince's Dig.249; 4 Laws of Geo. 217. The magistrate should certify that the wife did declare that freely, and without compulsion, she signed, sealed and delivered the instrument of writing between the parties, naming them and that she did renounce all title or claim to dower that she might claim or be entitled to after death of her hushand, (naming him.) 1 Laws of. Geo. 112; Prince's Dig. 160.

27. Indiana. Before the recorder of the county in which the lands may, be situate, or one of the judges of the supreme court of this state, or before one of the judges of the circuitcourt, or some justice of the peace of the county within which the estate may be situate, before notaries public, or before probate judges. Ind. Rev. Stat. c. 44, s. 7; Id. eh. 74; Act of Feb. 24, 1840.

28. All deeds and conveyances made and executed by any person without this state and brought within it to be recorded, the acknowledgment having been lawfully made before any judge or justice of the peace of the proper county in which such deed may have been made and executed, and certified under the seal of such county by the proper officer, shall be valid and effectual in law. Rev. Code, c. 44, s. 11 App. Jan. 24, 1831.

29. When ackkowledged by a feme covert, it must be certified that she was examined separate and apart from her hushand; that the full contents of the deed were made known to her; that she did then and there declare that she had, as her own voluntary act and deed, signed, sealed and executed the said deed of her own free will and accord, without any fear or compulsion from her said hushand.

30. Illinois. Before a judge or justice of the supreme or districtcourts of the United States, a commissioner authorized to take acknowledgments, a judge or justice of the supreme, superior or district court of any of the United States or territories, a justice of the peace, the clerk of a court of record, mayor of a city, or notary public; the last three shall give a certificate under their official seal.

31. The certificate must state that the party is known to the officer, or that his identity has been proved by a credible witness, naming him. When the acknowledgment is taken by a justice of the peace of the state, residing in the county where the lands lie, no other certificate is required than his own; when heresides in another county, there shall be a certificate of the clerk of the county commissioners court of the proper county, under seal, to his official capacity.

32. When the justice of the peace taking the acknowledgment resides out of the state, there shall be added to the deed a certificate of the proper clerk, that the person officiating is a justice of the peace.

33. The deed of a feme covert is acknowledged before the same officers. The certificate must state that she is known to the officer, or that. her identity has been proved by a witness who must be named; that the officer informed her of the contents of the deed; that she was separately examined; that she acknowledged the execution and release to be made freely, voluntarily, and without the compulsion of her hushand.

34. When the hushand and wife reside in the state, and the latter is over eighteen years of age, she may convey her lands, with formalities substanially the same as those used in a release of dower; she acknowledges the instrument to be her act and deed, and that she does not wish to retract.

35. When she resides out of the state, if over eighteen, she may join her hushand in any writing relating to lands in the state, in which case her acknowledgmeut is the same as if she were a feme sole. Ill. Rev. L. 135−8; 2 Hill Ab. 455, 6.

36. Kentucky. Acknowledgments taken in the State must be before the clerk of a county court, clerk of the general court, or clerk of the court of appeals. 4 Litt. L. of K. 165 ; or before two justices of the peace, 1 Litt. L. of K. 152.; or before the mayor of the city of Louisville. Acts of 1828, p. 219, s. 12.

37. When in another state or territory of the United States, before two justices of the peace, 1 Litt. L. of K. 152; or before any court of law, mayor, or other chief magistrate of any city, town or corporation of the county where the grantorsdwell, Id. 567; or before any justice or judge of a superior or inferior court of law. Acts of 1831, p. 128.

38. When made out of the United States, before a mayor of a city, or consul of the U. S. residing there' or, before the chief, magistrate of such state or country, to be authenticated in the usual manner such officers authenticate the official act's. Acts of 1831, p. 128, s. 5.

39. When a feme covert acknowledges the deed, the certificate must state that she was examined by the officer separate and apart from her hushand, that she declared that she did freely and willingly seal and deliver the said writing, and wishes not to retract it, and acknowledged the said writing again shown and explained to her, to be her act and deed, and consents that the same may be recorded.

40. Maine. Before a justice of the peace in this state, or any justice of the peace, magistrate, or notary public, within the United States, or any commissioner appointed for that purpose by the governor of this state, or before any minister or cousul of the United States, or notary public in any foreign country. Rev. St. t. 7, c. 91, 7; 6 Pick. 86.

41. No peculiar form for the certificate of acknowledgment is prescribed; it is required that the hushand join in the deed. "The joint deed of hushand and wife shall be effectual to convey her real estate, but not to bind her to any covenant or estoppel therein." Rev. St. t. 7, c. 91, _5.

42. Maryland. Before two justices of the peace of the county where the lands lie, or where the grantor lives, or before a judge of the county court of the former county, or the mayor of Annapolis for Anne Arundel county. When the acknowledgment is made in another county than that in which the lands are situated, an in which the party Eves, the clerk of the court must certify under the court seal, the official capacity of the acting justices or judge.

43. When the grantor resides out of the state, a commission issues on, application of the purchaser, and with the written consent of the grantor, from the clerk of the county court where the landlies, to two or more commissioners at the grantee's residence; any two of whom may take the acknowledgment, and shall certify it under seal and return the commission to be recorded with the deed; or the grantor may empower an attorney in the state to acknowledge for him, the power to be incorporated in the deed, or annexed to it, and proved by a subscribing witness before the county court, or two justices of the peace where the land lies, or a district judge, or the governor or a mayor, notary public, court or judge thereof, of the place where it is. executed; in each case the certificate to be under an official seal. By the acts of 1825, c. 58, and 1830, c. 164 the acknowledgment in another state may be before a judge of the U. S. or a judge of a court of record of the state. and county where the grantor may be the clerk to certify under seal, the official character of the magristrate.

44. By the act of 1837, c. 97, commissioners may be appointed by authority of the state, who shall reside in the other states or territories of the United States who shall be authorized to take acknowledgment of deeds. The act of 1831, c. 205, requires that the officer shall certify knowledge of the parties.

45. The acknowledgment of a feme covert must be made separate and apart from her hushand. 2 Hill. Ab. 442; Griff. Reg. h. t. See also, 7 Gill & J. 480; 2 Gill. & J. 173 6 Harr. & J. 336; 3 Harr. & J.371 ; 1 Harr. & J. 178; 4 Harr. & M'H. 222.

46. Massachusetts. Before a justice of the peace or magistrate out of the state. It has been held that an American consul at a foreign port, is a magistrate. 13 Pick. R. 523. An acknowledgment by one of two grantors has been held, sufficient to authorize the registration of a deed; and a wife need not, therefore, acknowledge the conveyance when she joins with her hushand. 2 Hill.
Ab. c. 34, s. 45.

47. Michigan. Before a judge of a court of record, notary public, justice of the peace, or master in chancery; and in case of the death of the grantor, or his departure from the state, it may be proved by one of the subscribing witnesses before any court of record in the state. Rev. St. 208 Laws of 1840, p. 166.

48, When, the deed is acknowledged out of the state of Michigan, but in the United States, or an of the territories of the U. S., it is to be acknowledged according to the laws of such state or territory, with a certificate of the proper county clerk, under his seal of office, that such deed is executed according to the laws of such state or territory, attached thereto.

49. When acknowledged in a foreign country, it may be executed according to the laws of such foreign country, but, it must in such. case, be acknowledged before a minister plenipotentiary , consul, or charge d'affaires of the United States and the acknowledgment must be certified by the officer before whom the same was taken. Laws of 1840, p. 166, sec. 2 and 3.

50. When the acknowledgment is made by a feme covert, the certificate must state that on a private examination of such feme' covert, separate and apart from her hushand, she acknowledged that she executed the deed without fear or compulsion from any one. Laws of 1840, p. 167, sec. 4.

51. Mississippi. When in the state, deeds may be acknowledged, or proved by one or more of the subscribing witnesses to them, before any judge of the high court of errors and appeals, or a judge of the circuit courts, or judge of probate, and certified by such judge; or before any notary public, or clerk of any court of record. in this state, and certified by such notary or clerk under the seal of his office; How. & Hutch. c. 34, s. 99, p. 868, Law of .1833 ; or before any justice of that county, where the land, or any part thereof, is situated; Ib. p. 343, s. 1 , Law of

1822; or before any, member of the board of police, in his respective county. Ib. p. 445, c. 38, s. 50, Law of 1838.

52. When in another state or territory of the United States, such deeds must be acknowledged, or proved as aforesaid, before a judge of the supreme court or of the district courts of the United States, or before any judge of the supreme or superior court of any state or territory in the Union; How. & Hutch. 846) c. 34, s. 13, Law of 1832; or before and certified by any judge of any inferior or county court of record, or before any justice of the peace of the state or territory and county, wherein such person or witness or witnesses may then be or reside, and authenticated by the certificate of the clerk or register of the superior county or circuit court of such county, with a seal of his office thereto affixed; or if taken before or certified by a justice of the peace, shall be authenticated by the certificate of either the clerk of the Said inferior or county court of record of such county, with the seal of his office thereto affixed. Laws of Mississippi, Jan. 27, 1841, p. 132.

53. When out of the United States, such acknowledgment, or proof as, afore said, must be made before an court of law, or mayor, or other chief magistrate of any city, borough or corporation of such foreign kingdom, state, nation, or colony, in which the said parties or witnesses reside; certified by the court, mayor, or chief magistrate, in a manner such acts are usually authenticated by him. How. & Hutch, 346, c. 34, s. 14, Law of 1822.

54. When made by a feme covert, the certificate must state that she made previous acknowledgment, on a private examination, apart from her hushand before the proper officer, that she sealed and delivered the same as her act and deed, freely, without any fear, threat or compulsion of her hushand. How. & Hutch. 347, c. 34, s. 19, Law of 1822.

55. Missouri. In the state, before some court having a seal, or some judge, justice or clerk thereof, or a justice of the peace in the county where the land lies. Rev. Code, 1835, _8, p. 120.

56. Out of the state, but in the United States, before any court of the United States, or of any state or territory, having a seal, or the clerk thereof. Id. cl. 2.

57. Out of the United States, before any court of any state, kingdom or empire having a seal, or the mayor of any city having an official seal.

58. Every court or officer taking the acknowledgment of such instrument or relinquishment of dower or the deed of the wife of the hushand's land, shall endorse a certificate thereof upon the instrument; when made before a court, the certificate shall beunder its seal; if by a clerk, under his band and the seal of the court; when before an officer having an official seal, under his hand and seal; when by an officer having no seal, under his hand. The certificate must state thatthe party was personally known to the judge or other officer as the signer, or proved to be such by two credible witnesses. Misso. St. 120−122 ; 2 Hill. Ab. 453; Griff. h. t.

59. When the acknowledgment is made by a feme covert, releasing her dower, the certificate must statethat she is personally known to a judge of the court, or the officer before whom the deed is acknowledged, or that, her identity was proved by two credible witnesses; it must also state that she was informed of the contents of the deed; that it was acknowledged separate and apart from her hushand; that she releases her dower freely without compulsion or undue conveyance of her own lands, the acknowledgment may be made before any court authorized to take acknowledgments. It must be done as in the cases of release of dower, and have a similar certificate. Ib.

60. New Hampshire. Before a justice of the peace or a notary public; and the acknowledgment of a deed before a notary public in another state is good. 2 N. H. Rep. 420 2 Hill. Ab. c. 34, s. 61.

61. New Jersey. In the state, before the chancellor, a justice of the supreme court of this state, a master in chancery, or a judge of any inferior court of common pleas, whether in the same or a different county; Rev. Laws, 458, Act of June 7, 1799 ; or before a commissioner for taking the acknowledgments or proofs of deeds, two of whom are appointed by the legislature in each township, who are authorized to take acknowledgments or proofs of deeds in any part of the state. Rev. Laws, 748, Act of June 5, 1820.

62. In another state or territory of the United States, before a judge of the supreme court of the United States, or a district judge of the United States, or any judge or justice of the supreme or superior court of any state in the Union; Rev. Laws, 459, Act of June 7, 1799; or before a mayor or other chief magistrate of any city in any other state or territory of the U. S., and duly certified under the seal of such city; or before a judge of any, superior court, or court of common pleas of any state or territory; when, taken before a judge of a court of common pleas, it must be accompanied by a certificate under the great seal of the state, or the seal of the county court in which it is made, that he is such officer; Rev. Laws, 747, Act of June 5, 1820; or before a commissioner appointed by the overnor, who resides in such state; Harr. Comp. 158, Act of December 27, 1826; two of whom may be appointed

for each of the States of New York and Pennsylvania. Elmer's Dig. Act of Nov. 3, 1836.

63. When made out of the United States, the acknowledgment may be before any court of law, or mayor,−or other magistrate, of any city, borough or corporation of a foreign kingdom, state, nation or colony, in which the party or hiswitnesses reside, certified by the said court, mayor, or chief magistrate, in the manner in which such acts are usually authenticated by him. Rev. Laws, 459, Act of June 7, 1799. The certificate. in all cases must state that the officer who makes it, first made known the contents of the deed to the person making the acknowledgment, and that he was satisfied such person was the grantor mentioned in the deed.Rev. Laws, 749, Act of June 5, 1820.

64. When the acknowledgment is made by a feme covert, the certificate must state that on a private examination, apart from her hushand, before a proper officer, (ut supra,) she acknowledged that she signed, sealed, and delivered the deed, as her voluntary act and deed, freely, without any fear, threats or compulsion of her hushand. Rev. Laws, 459, Act of June 7, 1799..

65. New York. Before the chancellor or justice of the supreme court, circuit judge, supreme court commissioner, judge of the county court, mayor or recorder of a city, or, commissioner of deeds; a couuty judge or commissioner of deeds for a city or county, not to act out of the same.

66. When the party resides in another state, before a judge of the United States, or a judge or justice of the supreme, superior or circuit court of any state or territory of the United States, Within his own jurisdiction. By a statute passed in 1840, chap. 290, the governor is authorized to appoint commissioners in other states, to take the acknowledgment and proof of deeds and other instruments.

67. When the party is in Europe or other parts of America, before a resident minister or charge d'affaires of the United States; in France, before the United States consul at Paris; in Russia, before the same officer at St. Petershurg; in the British dominions, before the Lord Mayor of London, the chief magistrate of Dublin, Edinburgh, or Liverpool, or the United States consul at London. The certificate to be uuder the hand and official seal of such officer. It may also be made before any person specially authorized by the court of chancery of this state.

68. The officer must in all cases be satisfied of the identity of the party, either from his own knowledge or from the oath or affirmation of a witness, who is to be named in the certificate.

69. A feme covert must be privately examined; but if out of the state this is unnecessary. 2 Hill. Ab. 434; Griff. Reg. h. t.

70. By the act passed April 7, 1848, it is provided, that: _1. The proof or acknowledgment of auy deed or other written, instrument required to be proved or acknowledged, inorder to entitle the same to be recorded or read in evidence, when made by any person residing out of this state and within any other state or territory of the United States, may be made before any officer of such state or territory, authorized by the laws thereof to take the proof and acknowdgment of deeds and when so taken and certified as by the act is provided, shall be entitled to be recorded in any county in this state, and may be read in evidence in any court iu this state, in the sae manner and with like effect, as proofs and acknowledgments taken before auy of the officers now authorized by law to take such proofs and acknowledgments: Provided that no such acknowledgment shall be valid unless the officer taking the same shall know or have satisfactory evidence that the person making such acknowledgment is the individual described in, and who executed the deed or instrument.

71. − 2. To entitle any conveyance or other written instrument acknowledged or proved under the preceding section, to be read in evidence or recorded in this state, there shall be subjoined to the certificate of proof or acknowledgment, signed by such officer, a certificate under the name and official seal of the clerk or register of the county in which such officer resides, specifying that such officer was at the time of taking such proof or acknowledgment, duly authorized to take the same, and that such clerk or register is well acquainted with the handwriting of such officer, and verily believes that the signature to said certificate of proof and acknowledgment, is genuine.

72. North Carolina. The acknowledgment or proof of deeds for the conveyance of lands, when taken or made in the state, must be before one of the judges of the supreme court, or superior court, or in the court of the county where the land lieth. 1 ltev. Stat. c. 37, s.. 1.

73. When in another state or territory of the United States, or the District of Columbia, the deed must be acknowledged, or proved, before some one of the judges of the superior courts of law, or circuit courts of law of superior jurisdiction, within the said state, &c., with a certificate of the governor of the said state or territory, or of

the secretary of state of the United St−ates, when in the District of Columbia, of the official character of the judge; or before a commissioner appointed by the governor of this state according to law. 1 Rev. Stat. c. 37, s. 5.

74. When out of the United States, the deeds must be acknowledged, or proved, before the chief magistrate of some city, town, or corporation of the countries where the said deeds were executed; or before some ambassador, publio minister, consul, or commercial agent, with proper certificate under their official seals; 1 Rev. Stat. c. 37 s. 6. and 7; or before a commissioner in such foreign country, under a commission from the county court where the land lieth. See. 8.

75. When acknowledged by a feme covert, the certificate must state that she was privily examined by the proper officer, that she acknowledged the due execution of the deed, and declared that she executed the same freely, voluntarily, and without the fear or compulsion of her hushand, or any other person, and, that she then assented thereto. When she is resident of another county, or so infirm that she cannot travel to the judge, or county court, the deed may be acknowledged by the hushand, or proved by witnesses, and a commission in a prescribed form may be issued for taking the examination of the wife. 1 Rev. Stat. c. 37, s. 6, 8, 9, 10, 11, 13, and 14.

76. Ohio. In the state, deeds and other instruments affecting lands must be acknowledged before a judge of the supreme court, a judge of the court of common pleas, a justice of the peace, notary public, mayor, or other presiding officer of an incorporated town or city. Ohio Stat. vol. 29, p. 346, Act of February 22, 1831, which went in force June 1, 1831 Swan's Coll. L. 266, s. 1.

77. When made out of the state, whether in another state or territory, or out of the U. S., they must be acknowledged, or proved, according to the laws of the state, territory or country, where they are executed, or according to the laws of the state of Ohio. Swan's Coll. L. 265, 8. 5.

78. When made by a feme covert, the certificate must state that she was examined by the officer, separate and apart from her hushand, and the contents of the deed were fully made known to her; that she did declare upon such separate examination, that she voluntarily sign, seal, and acknowledge the same, and that she is still satisfied therewith.

79. Pennsylvania. Before a judge of the supreme court, or of the courts of common pleas, the district courts, or before any mayor or alderman, or justice of the peace of the commonwealth, or before the recorder of the city of PhLiladelphia.

80. When made out of the state, and within the United States, the acknowledgment may be before one of the judges of the supreme or district courts of the United States, or before an one of the judges or justices of the supreme or superior courts, or courts of common pleas of any state or territory within the United States; and so certified under the hand of the said judge, and the seal of the court. Conmmissioners appointed by the governor, residing in either of the United States or of the District of Columbia, are also authorized to take acknowledgment of deeds.

81. When made out of the United States, the acknowledgment may, be made before any consul or vice−consul of the United States, duly appointed for and exercising consular functions in the state, kingdom, country or place where such an acknowledgment may be made, and certified under the public or official seal of such consul or vice−consul of the United States. Act of January 16, 1827. By the act May 27th, 1715, s. 4, deeds made out of the province [state] may be proved by the oath or solemn affirmation of one or more of the witnesses thereunto, before one or more of the justices of the peace of this province [state], or before any mayor or chief magistrate or officer of the cities, towns or places, where such deed or conveyances are so proved. The proof must be certified by the officer under the common or public seal of the cities, towns, or places where such conveyances are so proved. But by construction it is now established that a deed acknowledged before such officer is valid, although the act declares it shall be proved. 1 Pet. R. 433.

82. The certificate of the acknowledgment of a feme covert must state, 1, that she is of full age; 2, that the contents of the instrument have been made known to her; 3, that she has been examined separate and apart from her hushand; and, 4, that she executed the deed of her own free will and accord, without any coercion or compulsion of her hushand. It is the constant practice of making the certificate, under seal, though if it be merely under the hand of the officer, it will be sufficient. Act of Feb. 19, 1835.

83. By the act of the 16th day of April, 1840, entitled. "An act incorporating the Ebenezer Methodist Episcopal congregation for the borough of Reading, and for other purposes," Pamph. Laws, 357, 361, it is provided by _15, "That any and every grant, bargain and sale, release, or other deed of conveyance or assurance of any lands, tenements, or hereditaments in this commonwealth, heretofore bona fide made, executed and delivered by

hushand and wife within any other of the United States, where the acknowledgmentof the execution thereof has been taken, and certified by any officer or officers in any of the states where made and executed, who, was, or were authorized by the laws of such state to take and certify the acknowledgment of deeds of conveyance of lands therein, shall be deemed and adjudged to be as good, valid and effectual in law for transferring, passing and conveying the estate, right, title and interest of such hushand and wife of, in, and to the lands; tenements and hereditaments therein mentioned, and be in like manner entitled to be recorded, as if the acknowledgment of the execution of the same deed had been in the same and like way, manner and form taken and certified by any judge, alderman, or justice of the peace, of and within this commonwealth. _16. That no grant, bargain and sale, feoffment, deed of conveyance, lease, release, assignment, or other assurance of any lands, tenements and hereditaments whatsoever, heretofore bona fide made and executed by hushand and wife, and acknowledged by them before some judge, justice of the peace, alderman, or other officer authorized by law, within this state, or an officer in one of the United States, to take such acknowledgment, or which may be so made, executed and acknowledged as aforesaid, before the first day of January next, shall be deemed, held or adjudged, invalid or, defective, or insufficient in law, or avoided or prejudiced, by reason of any informality or omissiou in setting forth the particulars of the acknowledgment made before such officer, as aforesaid, in the certificate thereof, but all and every such grant, bargain and sale, feoffment, deed of conveyance, lease, release, assigument or other assurance so made, executed and acknowledged as aforesaid, shall be as good, valid and effectual in law for transferring, passing and conveying the estate, right, title and interest of such hushand and wife of, in, and to the lands, tenements and hereditaments mentioned in the same, as if all the requisites and particulars of such acknowledgment mentioned in the act, entitle an act for the better confirmation of the estates of persons holding or claiming under feme coverts, and for establishing a mode by which hushand and wife may hereafter convey their estates, passed the twenty−fourth day of February, one thousand seven hundred and seventy, were particularly set forth in the certificate thereof, or appeared upon the face of the same."

84. By the act of the 3d day of April, 1840, Pamph. L. 233, it is enacted, "That where any deed, conveyance, or other instrument of writing has been or shall be made and executed, either within or out of this state, and the acknowledgment or proof thereof, duly certified, by any officer under seal, according to the existing laws of this commmonwealth, for the purpose of being recorded therein, such certificate shall be deemed prima facie evidence of such execution and acknowledgment, or proof, without requiring proof of the said seal, as fully, to all intents and purposes, and with the same effect only, as if the same had been so acknowledged or proved before any judge, justice of the peace, or alderman within this commonwealth."

85. The act relating to executions and for other purposes, passed 16th April, 1840, Pamph. L. 412, enacts, _7, " That the recorders of deeds shall have authority to take the acknowledgment and proof of the execution of any deed, mortgage, or other conveyance of any lands, tenements, or hereditaments lying or being in the county, for which they are respectively appointed as recorders of deeds, or within every city, district, or part thereof, or for any contract, letter of attorney, or any other writing, under seal, to be used or recorded within their respective counties and such acknowledgment or proof, taken or made in the manner directed by the laws of this state, and certified by the said recorder, under his hand and seal of office; which certificate shall be endorsed or annexed to said deed or instrument aforesaid, shall have the same force and effect, and be as good and available in law, for all purposes, as if the same had been made or taken before any judge of the supreme court, or president or associate judge of any of the courts of common pleas within this commonwealth."

86. Rhode Island. Before any senator, judge, justice of the peace, or town clerk. When the acknowledgment is made in another state or country, it must be before a judge, justice, mayor or, notary public therein, and certifiedunder his hand and seal.

87. A wife releasing dower need not acknowledge the deed; but to a conveyance an acknowledgment and private examination are necessary. 2 Hill. Ab. c. 34, s. 94.

88. South Carolina. Before a judge of the supreme court. A feme covert may release her dower or convey her own estate, by joining with her hushand in a deed, and being privately examined, in the latter case, seven days afterwards, before a judge of law or equity, or a justice of the quorum; she may also release dower by a separate deed.

89. The certificate of the officer is under seal and signed by the woman. Deeds may be proved upon the oath of one witness before a magistrate, and this is said to be the general practice.

90. When the deed is to be executed out of the state, the justices of the county where the land lies, or a judge of

the court of common pleas, may by dedimus empower two or more justices of the county where the grantor resides, to tale his acknowledgment upon the oath of two witnesses to the execution. 2 Hill. Ab. 448, 9; Griff. Reg. b. t.

91.Tennessee. A deed or power of attorney to convey land must be acknowledged or proved by two subscribing witnesses, in the court of the county, or the court of the district where the land lies. The certificate of acknowledgment must be endorsed upon the deed by the clerk of the court.

93. The ackiaowledgment of a feme covert is made. before a court of record in the state, or, if the parties live out of it, before a court of record iu another state or territory; and if the wife is unable to attend court, the acknowledgment may be before commissioners empowered by the court of the county in which the hushand acknowledges the commission to be returned certified with the court seal, and recorded.

94. In all these cases the certificate must state that the wife has been privately examined. The seal of the court is to be annexed when the deed is to be used out of the state, when made in it, and vice. versa; in which case there is to be a seal and a certificate of the presiding judge or justice to the official station, of the clerk, and the due formality of the attestation. By the statute of 1820, the acknowledgment in other states may be conformable to the laws of the state, in which the grantor resides.

95. By the act of 1831, c, 90, s. 9, it is provided, that all deeds or conveyances for land made without the limits of this state, shall be proved as heretofore, or before a notary public under his seal of office. Caruthers & Nicholson's Compilation of the Stat. of Tenn. 593.

96. The officer must certify that he is acquainted with the grantor, and that he is an inhabitant of the state. There must also be a certificate of the governor or secretary under the great seal, or a judge of the superior court that the acknowledgment is in due form.Griff. Reg. h. t. ; 2 Hill. Ab. 458.

97. By an act passed during the session of 1839−1840, chap. 26, it is enacted, _1. "That deeds of every description may be proved by two subscribing witnesses, or acknowledged and recorded, and may then be read in, evidence. 2. That deeds executed beyond the limits of the United States may be proved or acknowledged before a notary public, or before any consul, minister, or ambassador of the United States, or before a commissioner of the state. 3. That the govornor may appoint commissioners in other states and in foreign countries for the proof, &c. of deeds. 4. Affidavits taken as above, as to pedigree or heirship, may be received as evidence, by executors or administrators, or in regard to the partition and distribution of property or estates." See 2 Yerg. 91, 108, 238, 400, 520; 3 Yerg. 81; Cooke, 431.

98. Vermont. 1. All deeds and other conveyances of lands, or any estate or interest therein, shall be signed and sealed by the party granting the same, and signed by two or more witnesses, and acknowledged by the grantor, before a justice of the peace. Rev. Stat. tit. 14, c. 6, s. 4.

99. Every deed by the hushand and wife shall contain an acknowledgment by the wife, made apart from her hushand, before a judge of the supreme court, a judge of the county court, or some justice of the peace, that she executed such conveyance freely, and without any fear or compulsion of her hushand; a certificate of which acknowledgment, so taken, shall be endorsed on the deed by the, authority taking the same. Id. s. 7.

100. − 2. All deeds and other conveyances, and powers of attorney for the conveyance of lands, the acknowledgment or proof of which shall have been, or hereafter shall be taken without this state, if certified agreeably to the laws of the state, province, or kingdom in which it was taken, shall be as valid as though the same were taken before some proper officer or court, within this state; and the proof of the same may be taken, and the same acknowledged with like effect, before any justice of the peace, magistrate, or notary public, within the United States, or in any foreign country, or before any commissioner appointed for that purpose by the governor of this state, or before any minister,cbarge d'affaires, or consul of the United States in any foreign countryand the acknowledgment of a deed a feme in the form required by covert, by this chapter may be taken by either of the said persons Id. 9.

101. Virginia. Before the general court, or the court of the district, county, city, or corporation where some part of the land lies; when the party lives out of the state or of the district or county where the land lies, the acknowledgment may be before any court of law, or the chief magistrate of any city, town, or corporation of the country where the party resides, and certified by him in the usual form.

102. When a married woman executes the deed, she appears in court and is examined privately by one of the judges, as to her freely signing the instrument, and continuing satisfied with it, the deed being shown and explained to her. She acknowledges the deed before the court, or else before two justices of the county where she

dwells, or the magistrate of a corporate town, if she lives within the United States; these officers being empowered by a commission from the clerk of the court where the deed, is to be recorded, to examine her and to take her acknowledgment. If she is out of the United States, the commission authorizes two judges or justices of any court of law, or the, chief magistrate of any city, town, or corporation, in her county, and is executed as by two justices in the United States.

103. The certificate is to be authenticated in the usual form. 2 Hill. Ab. 444, 5; Griff. Reg. h. t.; 2 Leigh's R, 186; 2 Call. R. 103 ; 1 Wash. R. 319.

ACQUETS, estates in the civil law. Property which has been acquired by purchase, gift or otherwise than by succession. Merlin Rep. h. t., confines acquets to immovable property.

2. In Louisiana they embrace the profits of all the effects, of which the hushand has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both hushand and wife, and of the estates which they may acquire during the marriage, either by donations, made jointly to them both, or by purchase, or in any other similar way, even although the purchase be only in the name of one of the two, and not of both, because in that case the period of time when the purchase is made is alone attended to, and not the person who made the purchase. Civ. Code, art. 2371.

3. This applies to all marriages contracted in that state, or out of it, when the parties afterward go there to live, as to acquets afterward made there.Ib. art. 2370.

4. The acquets are divided into two equal portions between the hushand and wife, or between their heirs at the dissolution of their marriage. Ib. art. 2375.

5. "The Parties may, however, lawfully stipulate there shall be no community of profits or gains. Ib. art. 2369.

6. But the parties have no right to agree that they shall be governed by the laws of another country.' 3 Martin's Rep. 581. Vide 17 Martin's Rep. 571 2 Kent's Com. 153, note.

ACQUIESCENCE, contracts. The consent which is impliedly given by one or both parties, to a proposition, a clause, a condition, a judgment, or to any act whatever.

2. When a party is bound to elect between a paramount right and a testamentary disposition, his acquiescence in a state of things which indicates an election, when he was aware of his rights will be prima facie evidence of such election. Vide 2 Ves. Jr. 371; 12 Ves. 136 1 Ves. Jr. 335; 3 P. Wms. 315. 2 Rop. Leg. 439.

3. The acts of acquiescence which constitute an implied election, must be decided rather by the circumstances of each case than by any general principle. 1 Swanst. R. 382, note, and the numerous cases there cited.

4. Acquiescence in the acts of an agent, or one who has assumed that character, will, be equivalent to an express authority. 2 Bouv. Inst. n. 1309; Kent, Com. 478; Story on Eq. _255; 4 W. C. C. R. 559; 6 Miss. R. 193; 1 John. Cas. 110; 2 John. Cas. 424 Liv. on Ag. 45; Paley on, Ag. by Lloyd, 41 Pet. R. 69, 81; 12 John. R. 300; 3 Cowen's R. 281; 3 Pick. R. 495, 505; 4 Mason's R. 296. Acquiescence differs from assent. (q. v.)

ACQUIETANDIS PLEGIIS, obsolete. A writ of justices, lying, for the surety against a creditor, who refuses to acquit him after the debt has been satisfied. Reg. of Writs, 158; Cowell; Blount.

TO ACQUIRE, descents, contracts. To make property one's own.

2. Title to property is acquired in two ways, by descent, (q. v.) and by purchase, (q. v.) Acquisition by purchase, is either by, 1. Escheat. 2. Occupancy. 3. Prescription. 4. Forfeiture. 5. Alienation, which is either by deed or by matter of record. Things which cannot be sold, cannot be acquired.

ACQUISITION, property, contracts, descent. The act by which the person procures the property of a thing.

2. An acquisition, may be temporary or Perpetual, and be procured either for a valuable consideration, for example, by buying the same; or without consideration, as by gift or descent.

3. Acquisition may be divided into original and derivative. Original acquisition is procured by occupancy, 1 Bouv. Inst. n. 490; 2 Kent. Com. 289; Menstr. Leg. du Dr. Civ. Rom. _344 ; by accession, 1 Bouv. Inst. n. 499; 2 Kent., Com. 293; by intellectual labor, namely, for inventions, which are secured by patent rights and for the authorship of books, maps, and charts, which is protected by copyrights. 1. Bouv. Inst. n. 508.

4. Derivative acquisitions are those which are procured. from others, either by act of law, or by act of the parties. Goods and chattels may change owners by act of law in the cases of forfeiture, succession, marriage, judgment, insolvency, and intestacy. And by act of the parties, by gift or sale. Property may be acquired by a man himself, or by those who are in his power, for him; as by his children while minors; 1 N. Hamps. R. 28; 1 United States Law Journ. 513 ; by his apprentices or his slaves. Vide Ruth. Inst. ch. 6 & 7; Dig. 41, 1, 53; Inst. 2,9; Ib. 2,9,3.

ACQUITTAL, contracts. A release or discharge from an obligation or eng agement. According to Lord Coke

there are three kinds of acquittal, namely; 1, By deed, when the party releases the obligation; 2, By prescription; 3, By tenure.Co. Lit. 100, a.

ACQUITTAL, crim. law practice. The absolution of a party charged with a crime or misdemeanor.

2. Technically speaking, acquittal is − the absolution of a party accused on a trial before a traverse jury. 1 N. & M. 36; 3 M'Cord, 461.

3. Acquittals are of two kinds, in fact and in law. The former takes place when the jury upon trial finds a verdict of not guilty; the latter when a man is charged merely as an accessary, and the principal has been acquitted. 2 Inst. 384. An acquittal is a bar to any future prosecution for the offence alleged in the first indictment.

ACQUITTANCE, contracts. An agreement in writing to discharge a party from an engagement to pay a sum of money. it is evidence of payment. It differs from a release in this, that the latter must be under seal, while an acquittance need not be under seal. Poth. Oblig. n. 781. In Pennsylvania, a receipt, (q. v.) though not under seal, has nearly the same effect as a release. 1 Rawle, R. 391. Vide 3 Salk. 298, pl. 2; Off. of Ex. 217 ; Co. Litt. 212 a, 273 a.

ACRE, measures. A quantity of land containing in length forty perches, and four in breadth, or one hundred and sixty square perches, of whatever shape may be the land. Serg. Land Laws of Penn., 185. See Cro. Eliz. 476, 665; 6 Co. 67; Poph. 55; Co. Litt. 5, b, and note 22.

ACREDULITARE, obsolete. To purge one's self of an offence by oath. It frequently happens that when a person has been arrested for a contempt, he comes into court and purges himself, on oath, of having intended any contempt. Blount, Leges. Inac. c. 36.

ACT, civil law, contracts. A writing which states in a legal form that a thing has been said, done, or agreed. In Latin, Instrumentum. Merl. Rep.

ACT. In the legal sense, this word may be used to signify the result of a public deliberation, the decision of a prince, of a legislative body, of a council, court of justice, or a magistrate. Also, a decree, edict, law, judgment, resolve, award, determination. Also, an instrument in writing to verify facts, as act of assembly, act of congress, act of parliament, act and deed. See Webster's Dict. Acts are civil or criminal, lawful or unlawful, public or private.

2. Public acts, usually denominated authentic, are those which have a public authority, and which have been made before public officers, are authorized by a public seal, have been made public by the authority of a magistrate, or which have been extracted and been properly authenticated from public records.

3. Acts under private signature are those which have been made by private individuals, under their hands. An act of this kind does not acquire the force of an authentic act, by being registered in the office of a notary. 5 N. S. 693; 8 N. S. 568 ; 3 L. R. 419 ; 8 N. S. 396 ; 11 M. R. 243; unless it hasheen properly acknowledged before the officer, by the parties to it. 5 N. S. 196.

4. Private acts are those made by private persons, as registers in relation to their receipts and expenditures, schedules, acquittances, and the like. Nov. 73, c. 2 ; Code, lib. 7, tit. 32, 1. 6; lib. 4, t. 21; Dig. lib. 22, tit.. 4; Civ. Code of Louis. art. 2231 to 2254; Toull. Dr. Civ. Francais, tom. 8, p. 94.

ACT, evidence. The act of one of several conspirators, performed in pursuance of the common design, is evidence against all of them. An overt act of treason must be proved by two witnesses. See Overt.

2. The terra. acts, includes written correspondence, and other papers relative to the design of the parties, but whether it includes unpublished writings upon abstract questions, though of a kindred nature, has been doubted, Foster's Rep. 198 ; 2 Stark. R. 116, 141.

3. In cases of partnership it is a rule that the act or declaration of either partner, in furtherance of the common object of the association, is the act of all. 1 Pet. R. 371 5 B. & Ald. 267.

4. And the acts. of an agent, in pursuance of his authority, will be binding on his principal. Greenl. Ev. _ 113.

ACT, legislation. A statute or law made by a legislative body; as an act of congress is a law by the congress of the United States; an act of assembly is a law made by a legislative assembly. If an act of assembly expire or be repealed while a proceeding under it is in fieri or pending, the proceeding becomes abortive; as a prosecution for an offence, 7 Wheat. 552; or a proceeding under insolvent laws. 1 Bl. R. 451; Burr. 1456 ; 6 Cranch, 208 ; 9 Serg. & Rawle, 283.

2. Acts are general or special; public or private. A general or public act is a universal rule which binds the whole community; of which the courts are bound to take notice ex officio.

3. Explanatory acts should not be enlarged by equity Blood's case, Comb. 410; although such acts may be

allowed to have a retrospective operation. Dupin, Notions de Droit, 145. 9.

4. Private or special acts are rather exceptions, than rules; being those which operate only upon particular persons and private concerns; of these the courts are not bound to take notice, unless they are pleaded. Com. 85, 6; 1 Bouv. Inst. n. 105.

ACT IN PAIS. An act performed out of court, and not a matter of record. Pais, in law French, signifies country. A deed or an assurance transacted between two or more private persons in the country is matter in pais. 2 Bl. Com. 294.

ACT OF BANKRUPTCY. An act which subjects a person to be proceeded against as a bankrupt. The acts of bankruptcy enumerated in the late act of congress, of 19th Aug. 1841, s. 1, are the following: 1. Departure from the state, district, or territory of which a person, subject to the operation of the bankrupt laws, is an inhabitant, with intent to defraud his creditors. See, as to what will be considered a departure, 1 Campb. R. 279; Dea. & Chit. 4511 Rose, R. 387 9 Moore, R. 217 2 V. & B. 177; 5 T. R. 512; 1 C. & P. 77; 2 Bini,. R. 99; 2 Taunt. 176; Holt, R. 175.

2. Concealment to avoid being arrested. 1 M. & S. 676 ; 2 Rose, R. 137; 15 Ves. 4476 Taunt. R. 540; 14 Ves. 86 Taunt. 176;1 Rose, R. 362; 5 T. R. 512; 1 Esp. 334.

3. Willingly or fraudulently procuring himself to be arrested, or his goods and chattels, lands, or tenements to be attached, distrained, sequestered, or taken in execution.

4. Removal of his goods, chattels and effects, or concealment of them to prevent their being levied upon, or taken in execution, or by other process.

5. Making any fraudulent conveyance, assignment, sale, gift, or other transfer of his lands, tenements, goods, or chattels, credits, or evidences of debt. 15 Wend. R. 588; 5 Cowen, R. 67; 1 Burr. 467, 471, 481; 4 C. & P. 315; 18 Wend. R. 375; 19 Wend. R. 414; 1 Dougl. 295; 7 East, 137 16 Ves. 149; 17−Ves. 193; 1 Smith R. 33; Rose, R. 213.

ACT OF GOD, in contracts. This phrase denotes those accidents which arise from physical causes, and which cannot be prevented.

2. Where the law casts a duty on a party, the performance shall be excused, if it be rendered impossible by the act of God; but where the party, byhis own contract, engages to do an act, it is deemed to be his own fault and folly that he did not thereby provide against contingencies, and exempt himself from responsibilities in certain events and in such case, (that is, in the instance of an absolute general contract the performance is not excused by an inevitable accident, or other contingency, although not foreseen by, nor within the control of the party. Chitty on Contr. 272, 8; Aleyn, 27, cited by Lawrence; J. in 8 T. R. 267; Com. Dig. Action upon the Case upon Assumpsit, G; 6 T. R. 650 ; 8 T. R. 259; 3 M. & S. 267 ; 7 Mass. 325; 13 Mass. 94; Co. Litt. 206; Com. Dig. Condition, D 1, L 13; 2 Bl. Com. 340; 1 T. R. 33; Jones on Bailm 104, 5 ; 1 Bouv. Inst. n. 1024.

3. Special bail are discharged when the defendant dies, Tidd, 243 ; actus Dei nemini facit injuriam being a maxim of law, applicable in such case; but if the defendant die after the return of the case and before it is filed, the bail are fixed. 6 T. R. 284; 6 Binn. 332, 338. It is, however, no ground for an exoneratur, that the defendant has become deranged since the suit was brought, and is confined in a hospital. 2 Wash. C. C. R. 464, 6 T. It. 133 Bos. & Pull. 362 Tidd, 184. Vide 8 Mass. Rep. 264; 3 Yeates, 37; 2 Dall. 317; 16 Mass. Rep. 218; Stra. 128; 1 Leigh's N, P. 508; 11 Pick. R. 41; 2 Verm. R. 92; 2 Watt's Rep. 443. See generally, Fortuitous Event; Perils of the Sea.

ACT OF GRACE, Scotch law. The name by which the statute which provides for the aliment of prisoners confined for civil debts, is usually known.

2. This statute provides that where a prisoner for debt declares upon oath, before the magis trate of the jurisdiction, that he has not wherewith to maintain himself, the magistrate may set him it liberty, if the creditor, in consequence of whose diligence he was imprisoned, does not aliment him within ten days after intimation for that purpose. 1695, c. 32; Ersk. Pr. L. Scot. 4, 3, 14. This is somewhat similar to a provision in the insolvent act of Pennsylvania.

ACT 0F LAW. An event which occurs in consequence of some principle of law. If, for example, land out of which a rent charge has been granted, be recovered by an elder title, and thereby the rent charge becomes avoided; yet the grantee, shall have a writ of annuity, because the rent charge is made void by due course or act of law, it, being a actus legis nemini est damnosus. 2 Inst. 287.

ACT OF MAN. Every man of sound mind and discretion is bound by his own acts, and the law does not permit

him to do any thing against it; and all acts are construed most strongly against him who does them. Plowd. 140.

2. A man is not only bound by his own acts, but by those of others who act or are presumed to act by his authority, and is responsible civilly in all such cases; and, in some cases, even when there is but a presumption of authority, he may be made responsible criminally; for example, a bookseller may be indicted for publishing a libel which has been sold in his store, by his regular salesmen, although he may possibly have had no knowledge of it.

ACTIO BONAE FIDEI, civil law. An action of good faith.

ACTIO COMMODATI CONTRARIA. The name of an action in the civil law, by the borrower against the lender, to compel the execution of the contract. Poth. Pret Usage, n. 75.

ACTIO COMMODATI DIRECTA. In the civil law, is the name of an action, by a lender against a borrower, the principal object of which is to obtain restitution of the thing lent. Poth. Pret. 5, Usage, n. 65, 68.

ACTIO CONDICTIO INDEBITI. The name of an action in the civil law, by which the plaintiff recovers the amount of a sum of money or other thing be paid by mistake. Poth. Promutuum, n. 140. See Assumpsit.

ACTIO EXCONDUCTIO, civil law. The name of an action which the bailor of a thing for hire may bring against the bailee, in order to compel him to re−deliver the thing hired. Poth. du Contr. de Louage, n. 59.

ACTIO DEPOSITI CONTRARIA. The name, of an action in the civil law which the depositary has against the depositor to compel him to fulfil his engagement towards him. Poth. Du Depot, la. 69.

ACTIO DEPOSITI DIRECTA. the civil law, this is the name of an action which is brought by the depositor against the depositary, in order to get back the, thing deposited. Poth. Du Depot, n. 60.

ACTIO JUDICATI, civil law. Was an action instituted, after four months had elapsed after the rendition of judgment, in which the judge issued his warrant to seize, first, the movables, which were sold within eight days afterwards; and then the immovables, which were delivered in pledge to the creditors, or put under the care of a curator, and, if at the end of two mouths, the debt was not paid, the land was sold. Dig. 42, t. 1. − Code, 8, 34.

ACTIO NON, pleading. After stating the appearance and defence, special pleas begin with this allegation, "that the said plaintiff ought not to have or maintain his aforesaid action thereof against him," actio non habere debet. This is technically termed the actio non. 1 Ch. Plead. 531 2 Ch. Plead. 421 ; Steph. Plead. 394.

ACTIO NON ACCREVIT INFRA SEX ANNOS. The name of a plea to the statute of limitations when the defendant insists that the plaintiff's action has not accrued within six years. It differs from non assumpsit in this: non assumpsit is the proper plea to an action on a simple contract, when the action accrues on the promise but when it does not accrue on the promise but subsequently to it, the proper plea is actio non accrevit, &c. Lawes, Pl. in Ass. 733; 5 Binn. 200, 203; 2 Salk. 422; 1 Saund. Rep. 83 n. 2; 2 Saund, 63, b; 1 Sell. N.P. 121.

ACTIO PERSONALIS MIORITUR CUM PERSONA. That a personal action dies with the person, is an ancient and uncontested maxim. But the term personal action, requires explanation. In a large sense all actions except those for the recovery of real property may be called personal. This definition would include contracts for the payment of money, which never were supposed to die with the person. See 1 Saund. Rep. 217, note 1.

2. The maxim must therefore be taken in a more restricted meaning. It extends to all wrongs attended with actual force, whether the affect the person or property and to all injuries to the person only, though without actual force. Thus stood originally the common law, in which an alteration was made by the statute 4 Ed. III. c. 7, which gave an action to an executor for an injury done to the personal property of his testator in his lifetime, which was extended to the executor of an executor, by statute of 25 Ed. III. c. 5. And by statute 31 Ed. III. c. 11, administrators have the same remedy as executors.

3. These statutes received a liberal construction from the judges, but they do not extend to injuries to the person of the deceased, nor to his freehold. So that no action lies by an executor or administrator for an assault and battery of the deceased, or trespass, vi et armis on his land, or for slander, because it is merely a personal injury. Neither do they extend to actions against executors or administrators for wrongs committed by the deceased. 13 S. 184; Cowp. 376; 1 Saund. 216, 217, n. 1; Com. Dig 241, B 13; 1 Salk. 252; 6 S. & R. 272; W. Jones, 215.

4. Assumpsit may be maintained by executors or administrators, in those cases where an injury has been done to the personal, property of the deceased, and he might in his lifetime have waived the tort and sued in assumpsit. 1 Bay's R. 61; Cowp. 374; 3 Mass. 321; 4 Mass. 480; 13 Mass. 272; 1 Root, 2165. An action for a breach of a promise of marriage cannot be maintained by an executor, 2 M. & S. 408; nor against 13 S. & R. 183; 1 Picker. 71; unless, perhaps, where the plaintiff's testator sustained special damages. 13 S. & R. 185. See further 12.S. & R. 76; 1 Day's Cas. 180; Bac. Abr. Ejectment, H11 Vin. Abr. 123; 1 Salk. 314; 2 Ld. Raym. 971 1 Salk. 12 Id. 295; Cro. Eliz. 377, 8 1 Str. 60 Went. Ex. 65; 1 Vent. 176 id. so; 7 Serg. & R. 183; 7 East, 134−6 1 Saund. 216, a,

n. 1; 6 Mass. 394; 2 Johns. 227; 1 Bos. & Pull. 330, n. a.; 1 Chit. Pi. 86; 3 Bouv. Inst. n. 2750; this Dictionary, tit. actions; Death; Parties to actions; Survivor.

ACTIO PRO SOCIO. In the civil law, is the name of an action by which either partner could compel his co−partners to perform their social contract. Poth. Contr. de Societe, n. 134.

ACTION. Conduct, behaviour, something done. Nomen actionis latissime patere vulgo notum est ac comprehenders omnem omnino viventis operationem quae passioni opponitur. Vinnius, Com. lib. 4, tit. 6. De actionibus.

2. Human actions have been divided into necessary actions, or those over which man has no control; and into free actions, or such as he can control at his pleasure. As man is responsible only when he exerts his will, it is clear lie can be punished only for the Iatter.

3. Actions are also divided into positives and negative the former is called an act of commision the latter is the omission of something which ought to be done, and is called an act of omission. A man may be responsible as well for acts of omission, as for acts of commission.

4. Actions are voluntary and involuntary. The former are performed freely and without constraint − the latter are performed not by choice, against one's will or in a manner independent of the will. In general a man is not responsible for his involuntary actions. Yet it has been ruled that if a lunatic hurt a man, he shall be answerable in trespass, although, if he kill a man, it is not felony. See Hob. Rep. 134; Popham, 162; Pam. N. P. 68. See also Duress; Will.

ACTION, French com. law. Stock in a coompany, shares in a corporation.

ACTION, in practice. Actio nihil aliud est, quam jus persequendi in judicio quod sibi debetur. Just. Inst. Lib. 4, tit. 6; Vinnius, Com. Actions are divided into criminal and civil. Bac. Abr. Actions, A. 2. − _1. A criminal action is a prosecution in a court of justice in the name of the government, against one or more individuals accused of a crime. See 1 Chitly's Cr. Law.

1. − _2. A civil action is a legal demand of one's right, or it is the form given by law for the recovery of that which is due. Co. Litt. 285; 3 Bl. Com. 116; 9 Bouv. Inst. n. 2639; Domat. Supp. des Lois Civiles, liv. 4, tit. 1, No. 1; Poth. Introd. generale aux Coutumes, 109; 1 Sell. Pr. Introd. s. 4, p. 73. Ersk. Princ. of Scot. Law, B. 41 t. 1. _1. Till judgment the writ is properly called an action, but not after, and therefore, a release of all actions is regularly no bar of all execution. Co. Litt. 289 a; Roll. Ab. 291. They are real, personal and mixed. An action is real or personal, according as realty or personalty is recovered; not according to the nature of the defence. Willes' Rep. 134.

4. − 1. Real actions are those brought for the specific recovery of lands, tenements, or hereditaments. Steph. PI. 3. They are either droitural, when the demandant seeks to recover the property; or possessory when he endeavors to obtain the possession. Finch's Law, 257, 8. See Bac. Abr. Actions, A, contra. Real Actions are, 1st. Writs of right; 2dly, Writs of entry, which lie in the per, the per et cui, or the post, upon disseisin, intrusion. or alienation. 3dly. Writs ancestral possessory, as Mort d' ancester, aid, besaiel, cosinage, or Nuper obiit. Com. Dig. Actions, D 2. By these actions formerly all disputes concerning real estate, were decided; but now they are pretty generally laid aside in practice, upon account of the great nicety required in their management, and the inconvenient length of their process; a much more expeditious, method of trying titles being since introduced by other actions, personal and mixed. 3 Bl. Com. 118. See Booth on Real Actions.

5. − 2. Personal actions are those brought for the specific recovery of goods and chattels; or for damages or other redress for breach of contract, or other injuries, of whatever description; the specific recovery of lands, tenements, and hereditaments only excepted. Steph. PI. 3; Com. Dig. Actions, D 3; 3 Bouv. Inst. n. 2641. Personal actions arise either upon contracts, or for wrongs independently of contracts. The former are account, assumpsit, covenant, debt, and detinue; see these words. In Connecticut and Vermont there is, an action used which is peculiar to those states, called the action of book debt. 2 Swift's Syst. Ch. 15. The actions for wrongs, injuries, or torts, are trespass on the case, replevin, trespass, trover. See these words, and see Actio personalis moritur cum persona.

6. − 3. Mixed actions are such as appertain, in some degree, to both the former classes, and, therefore, are properly reducible to neither of them, being brought for the specific recovery of lands, tenements, or hereditaments, and for damages for injury sustained in respect of such property. Steph. Pl. 3; Co. Litt. 284, b; Com. Dig. Actions, D 4. Every mixed action, properly so called, is also a real action. The action of ejectment is a personal action, and formerly, a count for an assault and battery might be joined with a count for the recovery of a

term of Years in land.

7. Actions are also divided into those which are local and such as are transitory.

1. A local action is one in which the venue must still be laid in the county, in which the cause of action actually arose. The locality of actions is founded in some cases, on common law principles, in others on the statute law.

8. Of those which continue local, by the common law, are, lst, all actions in which the subject or thing to be recovered is in its nature local. Of this class are real actions, actions of waste, when brought on the statute of Gloucester, (6 Edw. I.) to recover with the damages, the locus in quo or place wasted; and actions of ejectment. Bac. Abr. Actions Local, &c. A, a; Com. Dig. Actions, N 1; 7 Co. 2 b; 2 Bl. Rep. 1070. All these are local, because they are brought to recover the seisin or possession of lands or tenements, which are local subjects.

9. − 2dly. Various actions which do not seek the direct recovery of lands or tenements, are also local, by the common law; because they arise out of some local subject, or the violation of some local right or interest. For example, the action of quare impedit is local, inasmuch as the benefice, in the right of presentationto which the plaintiff complains of being obstructed, is so. 7 Co. 3 a; 1 Chit. PI. 271; Com. Dig. Actions, N 4. Within this class of cases are also many actions in which only pecuniary damages are recoverable. Such are the common law action of waste, and trespass quare clausum fregit; as likewise trespass on the case for injuries affecting things real, as for nuisances to houses or lands; disturbance of rights of way or of common; obstruction or diversion of ancient water courses, &c. 1 Chit. Pl. 271; Gould on Pl. ch. 3, _105, 106, 107. The action of replevin, also, though it lies for damages only, and does not arise out of the violation of any local right, is nevertheless local. 1 Saund. 347, n. 1. The reason of its locality appears to be the necessity of giving a local description of the taking complained of. Gould on PI. ch. 3, _111. A scire facias upon a record, (which is an action, 2 Term Rep. 46,) although to some intents, a continuation of the original suit, 1 Term Rep. 388, is also local.

10. − 2. Personal actions which seek nothing more than the recovery of money or personal chattels of any kind, are in most cases transitory, whether they sound in tort or in contract; Com. Dig. Actions, N 12; 1 Chit. PI. 273; because actions of this class are, in most instances, founded on the violation of rights which, in contemplation of law, have no locality. 1 Saund. 241, b, note 6. And it will be found true, as a general position, that actions ex delicto, in which a mere personalty is recoverable, are, by the common law, transitory; except when founded upon, or arising out of some local subject. Gould on Pl. ch. 3, _112. The venue in a transitory action may be laid in any county which the plaintiff may prefer. Bac. Abr. Actions Local, &c. A. (a.)

11. In the civil law actions are divided into real, personal, and mixed. A real action, according to the civil law, is that which he who is the owner of a thing, or, has a right in it, has against him who is in possession of it, to compel him to give up the plaintiff, or to permit him to enjoy the right he has in it. It is a right which a person has in a thing, follows the thing, and may be instituted against him who possesses it; and this whether the thing be movable or immovable and, in the sense of the common law, whether the thing be real or personal. See Domat, Supp. des Lois Civiles, Liv. 4, tit. 1, n. 5; Pothier, Introd. Generales aux Coutumes 110; Ersk. Pr. Scot. Law, B. 4, t. 1, _2.

12. A personal action is that which a creditor has against his debtor, to compel him to fulfil his engagement. Pothier, lb. Personal actions are divided into civil actions and criminal actions. The former are those which are instituted to compel the payment or to do some other thing purely civil the latter are those by which the plaintiff asks the reparation of a tort or injury which he or those who belong to him have sustained. Sometimes these two kinds of actions are united when they assume the name of mixed personal actions. Domat, Supp. des Lois Civiles, Liv. 4, tit. 1, n. 4; 1 Brown's Civ. Law, 440.

13. Mixed actions participate both of personal and real actions. Such are the actions of partition, and to compel the parties to put down landmarks or boundaries. Domat, ubi supra.

ACTION AD EXHIBENDUM, civil law. This was an action instituted for the purpose of compelling the defendant to exhibit a thing or title, in his power. It was preparatory to another action, which was always a real action in the sense of the Roman law, that is, for the recovery of a thing, whether it was movable or immovable. Merl. Quest. de Dr. tome i. 84. This is not unlike a bill of discovery. (q. v.)

ACTION OF ADHERENCE, Scotch law. An action competent to a hushand or Wife to compel either party to adhere in case of desertion.

ACTION OF BOOK DEBT. The name of an action in Connecticutand Vermont, resorted to for the purpose of recovering payment for articles usually charged on book. 1 Day, 105; 4 Day, 105; 2 Verm, 66. See 1 Root, 59; 1 Conn. 75; Kirby, 89; 2 Robt, 130; 11 Conn. 205.

ACTION. REDHIBITORY, civil law. An action instituted to avoid a sale on account of some Vice or defect in the thing sold which readers it either absolutely useless, or its use so inconvenient and, imperfect, that it must be, supposed the buyer would not have purchased it, had he known of the vice. Civ. Code of Louis. art. 2496.

ACTION OF A WRIT. This phrase is used when one pleads some matter by which he shows that the plaintiff had no cause to have the writ which he brought, and yet he may have a writ or action for the same matter. Such a plea is called: a plea to the action of the writ, whereas if it should appear by the plea that the plaintiff has no cause to have action for the thing demanded, then it is called a plea to the action. Termes de la ley.

ACTIONS ORDINARY. Scotch law. By this term is understood all actions not recissory. Ersk. Pr. L. Scot. 4, 1, 5.

ACTIONS RESCISSORY, Scotch law. Are divided into, 1, Actions of proper improbation; 2, Actions of reduction−improbation; 3, Actions of simple reduction. Ersk. Pr. L. Scot. 4 1, 5,

2. − 1. Proper improbation is an action brought for declaring writing false or forged.

3. − 2. Reduction−improbation is an action whereby a person who may be hurt, or affected by a writing, insists for producing or exhibiting it in court, in order to have it set aside or its effects ascertained, under the certification, that the writing if not produced, shall be declared false and forged.

4. − 3. In an action of simple reduction, the certification is only temporary, declaring the writings called for, null, until they be produced; so that they recover their full force after their production. Ib. 4, 1, 8.

ACTIONARY. A commercial term used among foreigners, to signify stockholders.

ACTIONES NOMINATAE. Formerly the English courts of chancery would make no writs when there was no precedent, and the cases for which there were precedents were called actiones nominatoe. The statute of Westm. 2, c. 24, gave chancery authority to form new writs in consimili casu. Hence arose the action on the case. Bac. Ab. Court of Chancery, A; 17, Serg. R. 195.

ACTIVE. The opposite, of passive. We say active debts, or debts due to us; passive debts are those we owe.

ACTON BURNELL. Statute of Vide de Mercatoribus. Cruise, Dig. tit. 14, s. 6.

ACTOR, practice. 1. A plaintiff or complainant. 2. He on whom the burden of proof lies. In actions of replevin both parties are said to be actors. The proctor or advocate in the courts of the civil law, was called actor.

ACTS OF COURT. In courts of admiralty, by this phrase is understood legal memoranda of the nature of pleas. For example, the English court of admiralty disregards all tenders, except those formally made by acts of court. Abbott on Ship. pi. 3, c. 10, _2, p. 403; 4 Rob. R. 103; 1 Hagg. R. 157; Dunl. Adm. Pr. 104, 6.

ACTS OF SEDERUNT. In the laws of Scotland, are ordinances for regulating the forms of proceeding, before the court of session, in the administration of justice, made by the judges, who have a delegated power from the legislature for that purpose. Ersk. Pr. L. Scot. B. 1, t. 1, s. 14.

ACTUAL. Real; actual.

2. Actual notice. One which has been expressly given by which knowledge of a fact hos been brought home to a party directly ; it is opposed to constructive notice.

3. Actual admissions. Those which are expressly made; they are plenary or partial. 4 Bouv. Inst. n. 4405.

4. An actual escape takes place when a prisoner in fact gets out of prison, and unlawfull regains his liberty. Vide Escape.

ACTUARIUS. An ancient name or appellation of a notary.

ACTUARY. A clerk in some corporations vested with various powers. In the ecclesiastical law he is a clerk who registers the acts and constitutions of the convocation.

ACTUS. A foot way and horse way. Vide Way.

AD DAMNUM, pleading. To the damage. In all personal and mixed actions, with the exception of actions of debt qui tam, where the plaintiff has sustained no damages, the declaration concludes ad damnum. Archb. Civ. Pl. 169.

AD DIEM. At the day, as a plea of payment ad diem, on the day when the money became due. See Solvit ad diem, and Com. Dig. Pleader, 2 W. 29.

AD INQUIRENDUM, practice. A judicial writ, commanding inquiry to be made of any thing relating to a cause depending in court.

AD INTERIM. In the mean time. An officer is sometimes appointed ad interim, when the principal officer is absent, or for some cause incapable of acting for the time. AD LARGUM. At large; as, title at large, assize at large. See Dane’s Abr. ch. 144,

AD QUEM. A Latin expression which signifies to which, in the computation of time or distance, as the day ad quem. The last day of the term, is always computed. See A quo.

QUOD DAMNUM, Eng. law. The name of a writ issuing out of and returnable into chancery, directed to the sheriff, commanding him to inquire by a jury 'What damage it will be to the king, or any other, to grant a liberty, fair, market, highway, or the like.

AD SECTAM. At the suit of, commonly abbreviated ads. It isusual in filing pleas, and other papers, for a defendant, instead of putting the name of the plaintiff first, as Peter v. Paul to put his own first, and instead of v. to put ads., as Paul ads. Peter.

AD TERMINUM QUI PRETERIIT. The name of a writ of entry which lay for the lessor or his heirs, when a lease had been made of lands or tenements, for term of life or years, and, after the term had expired, the lands were withheld from the lessor by the tenant, or other person possessing the same. F. N. B. 201. The remedy now applied for holdiug over (q, v.) is by ejectment, or under local regulations, by summary prooceedings.

AD TUNC ET IBIDEM. That part of an indictment, where it is stated that the object−matter of the crime or offence " then and there being found," is technically so called. N. C. Term R. 93; Bac. Ab. Indictment, G 4.

AD VITAM AUT CULPAM. An office to be so held as to determine only by the death or delinquency of the possessor; in other words it is held quam diu se benegesserit.

AD VALOREM. According to the value. This Latin term is used in commerce in reference to certain duties, called ad valorem duties, which are levied on commodities at certain rates per centum on their value. See Duties; Imposts; Act of Cong. of March 2, 1799, s. 61 of March 1, 1823 s. 5.

ADDITION. Whatever is added to a man's name by way of title, as additions of estate, mystery, or place. 10 Went. Plead. 871; Salk. 6; 2 Lord Ray. 988; :1 WUS. 244, 5.

2. Additions of an estate or quality are esquire, gentleman, and the like; these titles can however be claimed by none, and may be assumed by any one. In Nash v. Battershy (2 Lord Ray. 986 6 Mod. 80,) the plaintiff declared with the addition of gentleman. The defendant pleaded in abatement that the plaintiff was no gentleman. The plaintiff de−murred, and it was held ill; for, said the court, it amounts to a confession that the plaintiff is no gentleman, and then not the person named in the count. He should have replied that he is a gentle− man.

3. Additions of mystery are such as scrivener, painter, printer, manufacturer, &c.

4. Additions of places are descriptions by the place of residence, as A. B. of Philadelpliia and thelike. See Bac. Ab. b. t.; Doct. PI. 71; 2 Vin. Abr. 77; 1 Lilly's Reg. 39; 1 Metc. R. 151.

5. At common law there was no need of addition in any case, 2 Lord Ray. 988; it was, required only by Stat. 1 H. 5. c. 5, in cases where process of outlawry lies. In all other cases it is only a description of the person, and common reputation is sufficient. 2 Lord Ray. 849. No addition is necessary in a Homine Replegiando. 2 Lord Ray. 987; Salk. 5; 1 Wils. 244, 6; 6 Rep. 67.

ADDITIONALES, in contracts. Additional terms or propositions to be added to a former agreement.

ADDRESS, chan. plead. That part of a bill which contains the appropriate and technical description of the court where the plaintiff seeks his remedy. Coop. Eq. PI. 8; Bart. Suit in Eq. 20Story, Eq. PI. _26 Van Hey. Eq. Draft. 2.

ADDRESS, legislation. In Pennsylvania it is a resolution of both, branches of the legislature, two−thirds of each house concurring, requesting the governor to remove a judge from office. The constitution of that state, art. 5, s. 2, directs that " for any reasonable cause, which shall not be, ground for impeachment, the governor may remove any of them [the judges], on the address of two−third's of each branch of the legislature." The mode of removal by address is unknown to the constitution of the, United States, but it is recognized in several of the states. In some of the state constitutions the language is imperative; the governor when thus add ressed shall remove; in others it is left to his discretion, he may remove. The relative proportion of each house that must join in the address, varies also in different states. In some a bare majority is sufficient; in others, two−thirds are requisite; and in others three−fourths. 1 Journ. of Law, 154.

ADEMPTION, wills. A taking away or revocation of a legacy, by the testator.

2. It is either express or implied. It is the former when revoked in express terms by a codicil or later will; it is implied when by the acts of the testator it is manifestly his intention to revoke it; for example, when a specific legacy of, a chattel is made, and afterwards the testator sells it; or if a father makes provision for a child by his will and afterwards gives to such child, if a daughter, a portion in marriage; or, if a son, a sum of money to establish him in life, provided such portion or sum of money be equal to or greater than the legacy. 2 Fonbl. 368 et, seq. Toll. Ex. 320; 1 Vern. R. by Raithby, 85 n. and the cases there cited. 1 Roper, Leg. 237, 256, for, the

distinction between specific and general legacies.

ADHERING. Cleaving to, or joining; as, adhering to the enemies of the United States.

2. The constitution of the United States, art. 3, s 3, defines treason against the United States, to consist only in levying war against them or in adhering to their enemies, giving them aid and comfort.

3. The fact that a citizen is cruising in an enemy's ship, with a design to capture or destroy American ships, would be an adhering to the enemies of the United States. 4 State Tr. 328 ; Salk. 634; 2 Gilb. Ev. by Lofft, 798.

4. If war be actually levied, that is, a body of men be actually assembled for the purpose of effecting by force a treasonable enterprise, all those who perform any part, however minute, or however remote from the scene of action, and who are leagued in the general conspiracy are to be considered as traitors. 4 Cranch. 126.

ADJOURNMENT. The dismissal by some court, legislative assembly, or properly authorized officer, of the business before them, either finally, which is called an adjournment sine die, without day; or, to meet again at another time appointed, which is called a temporary adjournment. 2. The constitution of the United States, art. 1, s. 5, 4, directs that "neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place, that that in which the two houses shall be sitting,." Vide Com. Dig. h. t.; Vin. Ab. h. t.; Dict. de Jur. h. t.

ADJOURNMENT−DAY. In English practice, is a day so called from its being a further day appointed by the judges at the regular sittings, to try causes at nisi prius.

ADJOURNMENT−DAY IN ERROR. In the English courts, is a day appointed some days before the end of the term, at which matters left undone on the affirmance day are finished. 2 Tidd, 1224.

ADJUDICATION, in practice. The giving or pronouncing a judgment in a cause; a judgment.

ADJUDICATIONS, Scotch law. Certain proceedings against debtors, by way of actions, before the court of sessions and are of two kinds, special and general.

2. − 1. By statute 1672, c. 19, such part only of the debtor's lands is to be adjudged to the principal sum and interest of the debt, with the compositions due to the superior, and the expenses of infeoffment, and a fifth part more, in respect the creditor is obliged to take landsfor his money but without penalties or sheriff fees. The debtor must deliver to the creditor a valid right to the lands to be adjudged, or transumpts thereof, renounce the possession in his favor, and ratify the decree of adjudication: and the law considers the rent of the lands as precisely commensurate to the interest of the debt. In this, which is called a special adjudication, the time allowed the debtor to redeem the lands adjudged, (called the legal reversion or the legal,) is declared to be five years.

3. − 2. Where the debtor does not produce a sufficient right to the lands, or is not willing to renounce the possession and ratify the decree, the statute makes it lawful for the creditor to adjudge all right belonging to the debtor, in the same manner, and under the same reversion of ten years. In this kind, which is called a general adjudication, the creditor must limit his claim to the principal sum, interest and penalty, without demanding a fifth part more. See Act 1 Feb. 1684; Ersk. Pr. L. Scot,. (????) s. 15, 16. See Diligences.

ADJUNCTION. in civil law. Takes place when the thing belonging to one person is attached or united to that which belongs to another, whether this unionis caused by inclusion, as if one man's diamond be encased in another's ring; by soldering, as if one's guard be soldered on another's sword; by sewing, as by employing the silk of one to make the coat of another; by construction; as by building on another's land; by writing, as when one writes on another's parchment; or by painting, when one paints a picture on another's canvas.

2. In these cases, as a general rule, the accessory follows the principal; hence these things which are attached to the things of another become the property of the latter. The only exception which the civilians made was in the case of a picture, which although an accession, drew to itself the canvas, on account of the importance which was attached to it. Inst. lib. 2, t. 1, _34; Dig. lib. 41, t. 1, 1. 9, _ 2. See Accession, and 2 Bl. Comm. 404; Bro. Ab. Propertie; Com. Dig. Pleader, M. 28; Bac. Abr. Trespass, E 2. 1 Bouv. Inst. n. 499.

ADJUNCTS, English law. Additional judges appointed to determine causes in the High Court of Delegates, when the former judges cannot decide in consequence of disagreement, or because one of the law judges of the court was not one of the majority. Shelf. on Lun. 310.

ADJURATION. The act by which one person solemnly charges another to tell or swear to the truth. Wolff. Inst. _374.

ADJUSTMENT, maritime law. The adjustment of a loss is the settlling and ascertaining the amount of the indemnity which the insured after all proper allowances and deductions have been made, is entitled to receive, and

the proportion of this, which each underwriter is liable to pay, under the policy Marsh. Ins. B. 1, c. 14, p. 617 or it is a written admission of the amounts of the loss as settled between the parties to a policy of insurance. 3 Stark. Ev. 1167, 8.

2. In adjusting a loss, the first thing to be considered is, how the quantity of damages for which the underwriters are liable, shall be ascertained. When a loss is a total loss, and the iusured decides to abandon, he must give notice of this to the underwriters iii a reasonable time, otherwise he will waive his right to abandon, and must be content to claim only for a partial loss. Marsh. Ins. B. 1, .c. 3, s. 2; 15 East, 559; 1 T. R. 608; 9 East, 283; 13 East 304; 6 Taunt. 383. When the loss is admitted to be total, and the policy is a valued one, the insured is entitled to receive the whole sum insured, subject to such deductions as may have been agreed by the policy to be made in case of loss.

3. The quantity of damages being known, the next point to be settled, is, by what rule this shall be estimated. The price of a thing does not afford a just criterion to ascertain its true value. It may have been bought very dear or very cheap. The circumstances of time and place cause a continual variation in the price of things. For this reason, in cases of general average, the things saved contribute not according to prune cost, but according to the price for which they may be sold at the time of settling the average. Marsh. Ins. B. 1, c. 14, s. 2, p. 621; Laws of Wishuy, art. 20 Laws of Oleron, art. 8 this Dict. tit. Price. And see 4 Dall. 430; 1 Caines' R. 80; 2 S. & R. 229 2 S.& R. 257, 258.

4. An adjustment being endorsed on the policy, and signed by the underwriters, with the promise to pay in a given time, is prima facie evidence against them, and amouuts to an admission of all the facts necessary to be proved by the insured to entitle him to recover in an action on the policy. It is like a note of hand, and being proved, the insured has no occasion to go into proof of any other circumstances. Marsh. Ins. B. 1, c. 14, s. 3, p. 632; 3 Stark. Ev. 1167, 8 Park. ch. 4; Wesk. Ins, 8; Beaw. Lex. Mer. 310; Com. Dig. Merchant, E 9; Abbott on Shipp. 346 to 348. See Damages.

ADJUTANT. A military officer, attached to every battalion of a regiment. It is his duty to superintend, under his superiors, all matters relating to the ordinary routine of discipline in the regiment.

ADJUTANT−GENERAL. A staff officer; one of those next in rank to the Com mander−in−chief.

ADJUNCTUM ACCESSORIUM, civil law. Something which is an accessory and appurtenant to another thing. 1 Chit. Pr. 154.

ADMEASUREMENT OF DOWER, remedies. This remedy is now nearly obsolete, even in England; the following account of it is given by Chief Baron Gilbert. "The writ of admeasurement of dower lieth where the heir when he is within age, and endoweth the wife of more than she ought to have dower of; or if the guardian in chivalry, [for the guardian in socage cannot assign dower,] endoweth the wife of more than one−third part of the land of which she ought to have dower, then the heir, at full age, may sue out this writ against the wife, and thereby shall be admeasured, and the surplusage she hath in dower shall be restored to the heir; but in such case there shall not be assigned anew any lands to hold to dower, but to take from her so much of the lands as surpasseth the third part whereof she ought to be endowed; and he need not set forth of whose assignments she holds." Gilb. on Uses, 379; and see F. N. B. 148; Bac. Ab. Dower, K; F. N. B. 148; Co. Litt. 39 a; 2 Inst. 367 Dower; Estate in Dower.

ADMEASUREMENT OF PASTURE, Eng. law. The name of a writ which lies where any tenants have common appendant in another ground and one overcharges the common with beasts. The other commoners, to obtain their just rights, may sue out this writ against him.

ADMINICLE 1. A term, in the Scotch and French law, for any writing or deed referred to by a party, in an action at law, for proving his allegations. 2. An ancient term for aid or support. 3. A term in the civil, law for imperfect proof. Tech. Dict. h. t.; Merl. Repert. mot Adminicule.

ADMINICULAR EVIDENCE, eccl. law. This term is used in the eclesiastical law to signify evidence, which is brought to explain or complete other evidence. 2 Lee, Ecel.R. 595.

TO ADMINISTER, ADMINISTERING. The stat. 9 G. IV. c. 31, S. 11, enacts "that if any person unlawfully and maliciously shall administer, or attempt to administer to any person, or shall cause to be taken by any person any poison or other destructive things," &c. every such offender, &c. In a case which arose under this statute, it was decided that to constitute the act of administering the poison, it was not absolutely necessary there should have been a delivery to the party poisoned, but that if she took it from a place where it had been put for her by the defendant, and any part of it went into her stomach, it was an administering. 4 Carr. & Payne, 369; S. C. 19 E. C.

L. R. 423; 1 Moody’s C. C. 114; Carr. Crim. L. 23. Vide Attempt to Persuade.

TO ADMINISTER, trusts. To do some act in relation to an estate, such as none but the owner, or some one authorized by him or by the law, in caseof his decease, could legally do. 1 Harr. Cond. Lo. R. 666.

ADMINISTRATION, trusts. The management of the estate of an intestate, a minor, a lunatic, an habitual drunkard, or other person who is incapable of managing his own affairs, entrusted to an administrator or other trustee by authority of law. In a more confinedsense, and in which it will be used in this article, administration is the management of an intestate’s estate, or of the estate of a testator who, at the time administration was granted, had no executor.

2. Administration is granted by a public officer duly authorized to delegate the trust; he is sometimes called surrogate, judge of probate, register of wills and for granting letters of administration. It is to be granted to such persons as the statutory provisions of the several states direct. In general the right of administration belongs to him who" has the right to the vendue of the personalty: as if A make his will, and appoint B his executor, who dies intestate, and C is the legatee of the residue of A’s estate, C has the right of administration cum testamento annexo. 2 Strange, 956; 12 Mod. 437, 306; 1 Jones, 225; 1 Croke. 201; 2 Leo. 55; 1 Vent. 217.

3. There are several kinds of administrations, besides the usual kind which gives to the administrator the management of all the personal estate of the deceased for an unlimited time. Administration durante minore oetate, administration durante absentia, administration pendente lite, administration de bonis non, administration cum testamento annexo.

ADMINISTRATION, government. The management of the affairs of the government; this word is also applied to the persons entrusted with the management of the publio affairs.

ADMIINISTRATOR, trusts. An administrator is a person lawfully appointed, with his assent, by an officer having jurisdiction, to manage and settle the estate of a deceased person who has left no executor, or one who is for. the time incompetent or unable to act.

2. It will be proper to consider, first, his rights; secondly, his duties.; thirdly, the number of administrators, and their joint and several powers; fourthly, the several kinds of administrators.

3. − 1. By the grant of the letters, of administration, the administrator is vested with full and ample power, unless restrained to some special administration, to take possession of all the personal estate of the deceased and to sell it; to collect the debts due to him; and to represent him in all matters which relate to his chattels real or personal. He is authorized to pay the debts of the, intestate in the order dire ted by law; and, in the United States, he is generally entitled to a just compensation, which is allowed him as commmisions on the amount whichpasses through his hands.

4. − 2. He is bound to use due diligence in the management of the estate; and he is generally on his appointment required to give security that he will do so; he is responsible for any waste which. may happen for his default. See Devastavit.

5. Administrators are authorized to bring and defend actions. They sue and are sued in their own names; as, A B, administrator of C D, v. E F; or E F v. A B, administrator of C D.

6. − 3. As to the number of administrators. There may be one or more. When there are several they must, in general, act together in bringing suits, and they must all be sued ; but, like executors, the acts of each, which relate to the delivery, gift, sale, payment, possession. or release of the intestate’s goods, are considered as of equal validity as the acts of all, for they have a joint power and authority over the whole. Bac. Ab. Executor, C 4; 11 Vin. Ab. 358; Com. Dig. Administration, B 12; 1 Dane’s Ab. 383; 2 Litt. R. 315. On the death of one of several joint administrators, the whole authority is vested in the survivors.

7. − 4. Administrators are general, or those who have right to administer the whole estate of the intestate; or special, that is, those who administer it in part, or for a Iimited time.

8 − 1. General administrators are of two kinds, namely: first, when the grant of administration is unlimited, and the administrator is required to administer the whole estate. under the intestate laws. secondly, when the grant is made with the annexation of the will, which is the guide to the administrator to administer and distribute the estate. This latter administration is granted when the deceased has made a will, and either he has not appointed an executor, or having appointed one he refuses to serve, or dies, or is incompetent to act; this last kind is called an administrator cum testamento annexo. 1 Will. on Wills, 309.

9. − 2. Special administrators are of two kinds; first, when the administration is limited to part of the estate, as for example, when the former administrator has died, leaving a part of the estate unadministered, an administrator

is appointed to administer the remainder, and he is called an administrator de bonis non. He has all the powers of a common administrator. Bac. Ab. Executors, B 1; Sw. 396; Roll. Ab. 907; 6 Sm. & Marsh. 323. When an executor dies leaving a part of the estate unadministered, the administrator appointed to complete the execution of the win is called an administrator de bonis non, cum testamento annexo. Com. Dig. Administrator, B 1. Secondly, When the authority of the administrator is limited as to time. Administrators of this kind are, 1. An administrator durante minore oetate. This administrator is appointed to act as such during the minority of an infant executor, until the latter shall, attain his lawful age to act. Godolph. 102; 5 Co. 29. His powers extend to administer the estate so far as to collect the same, sell a sufficiency of the personal property to pay the debts, sell bona peritura, and perform such other acts as require immediate attention. He may sue and be sued. Bac. Ab. Executor, B 1 ; Roll. Ab. 110; Cro. Eliz. 718. The powers of such an administrator cease, as soon as the infant executor attains the age at which the law authorizes him to act for himself, which, at common law, is seventeen years, but by statutory provision in several states twenty−one years.

10. − 2. An administrator durante absentid, is one who is appointed to administer the estate during the absence of the executor, before he has proved the will. The powers of this administrator continue until the return of the executor, and. then his powers cease upon the probate of the will by the executor. 4 Hagg. 860. In England it has been holden, that the death of the executor abroad does not determine the authority of the administrator durante absentia. 3 Bos. & Pull. 26.

11. − 3. An administrator pendente lite. Administration pendente lite may be granted pending the controversy respecting an alleged will and it has been granted pending a contest as to, the right to administration. 2 P. Wms. 589; 2 Atk. 286; 2 Cas. temp. Lee, 258. The administrator pendente lite is merely an officer of the court, and holds the property only till the suit terminates. 1 Hagg. 313. He may maintain suits, 1 Ves. sen. 325; 2 Ves. & B. 97; 1 Ball & B. 192; though his power does not extend to the distribution of the assets. 1 Ball & B. 192.

ADMINISTRATRIX. This term is applied to a woman to whom letters of administration have been granted. See Administrator.

ADMIRAL, officer. In some countries is the commander in chief of the naval forces. This office does not exist in the United States.

ADMIRALTY. The name of a jurisdiction which takes cognizance of suits or actions which arise in consequence of acts done upon or relating to the sea; or, in other words, of all transactions and proceedings relative to commerce and navigation, and to damages or injuries upon the sea. 2 Gall. R. 468. In the great maritime nations of Europe, the term " admiralty jurisdiction," is, uniformly applied to courts exercising jurisdiction over maritime contracts and concerns. It is as familiarly known among the jurists of Scotland, France, Holland and Spain, as of England, and applied to their own courts, possessing substantially the same jurisdiction as the English Admiralty had in the reign of Edward III. Ibid., and the authorities there cited; and see, also, Bac. Ab. Court of Admiralty; Merl. Repert. h. t. Encyclopedie, h. t.; 1 Dall. 323.

2. The Constitution of the United States has delegated to the courts of the national government cognizance "of all cases of admiralty and maritime jurisdiction;" and the act of September 24, 1789, ch. 20 s. 9, has given the district court " cognizance of all civil causes of admiralty and maritime jurisdiction," including all seizures under laws of imposts, navigation or trade of the United States, where the seizures are made on waters navigable from the sea, by vessels of ten or more tons burden, within their respective districts, as well as upon the high seas.

3. It is not within the plan of this work to enlarge upon this subject. The reader is referred to the article Courts of the United States, where he will find all which has been thought necessary to say upon it as been the subject. Vide, generally, Dunlap’s Adm. Practice; Bett’s Adm. Practice; 1 Kent’s Com. 353 to 380; Serg. Const. Law, Index, h. t.; 2 Gall. R. 398. to 476; 2 Chit. P. 508; Bac. Ab. Courts of Admiralty; 6 Vin. Ab. 505; Dane’s Ab. Index b. t; 12 Bro. Civ. and Adm. Law; Wheat. Dig. 1; 1 Story L. U. S. 56, 60; 2 Id. 905, 3 Id. 1564, 1696; 4 Sharsw. cont. of Story’s L. U. S. 2262; Clerke’s Praxis; Collectanea Maritima; 1 U. S. Dig. tit. Admiralty Courts, XIII.

ADMISSION, in corporations or companies. The act of the corporation or company by which an individual acquires the rights of a member of such corporation or company.

2. In trading and joint stock corporations no vote of admission is requisite; for any person who owns stock therein, either by original subscription or by conveyance, is in general entitled to, and cannot be refused, the rights and privileges of a member. 3 Mass. R. 364; Doug. 524; 1 Man. & Ry. 529.

3. All that can be required of the person demanding a transfer on the books, is to prove to the corporation his right to the property. See 8 Pick. 90.

4. In a Mutual Insurance Company, it has been held, that a person may become a member by insuring his property, paying the premium and deposit−money, and rendering himself liable to be assessed according to the rules of the corporation. 2 Mass. R. 315.

ADMISSIONS, in evidence. Concessions by a party of the existence of certain facts. The term admission is usually applied to civil transactions, and to matters of fact in criminal cases, where there is no criminal intent the term confession, (q. v.) is generally considered as an admission of guilt.

2. An admission is the testimony which the party admitting bears to the truth of a fact against himself. It is a voluntary act,which he acknowledges as true the fact in dispute. [An admission and consent are, in fact, one and the same thing, unless indeed for more exactness we say, that consent is given to a present fact or agreement, and admission has reference to au agreement or a fact anterior for properly speaking, it is not the admission which forms a contract, obligation or engagement, against the party admitting. The admission is, by its nature, only the proof of a pre−existing obligation, resulting from the agreement or the fact, the truth of which is acknowledged. There is still another remarkable difference between admission and consent: the first is always free in its origin, the latter, always morally forced. I may refuse to consent to a proposition made to me, abstain from a fact or an action which would subject me to an obligation ; but once my consent is given, or the action committed, I am no longer at liberty to deny or refuse either; I am constrained to admit, under the penalty of dis−honor and infamy. But notwithstanding all these differences, admission is identified with consent, and they are both the manifestation of the will. These admissions are generally evidence of those facts, when the admissions themselves are proved.]

3. The admissibility and effect of evidence of this description will be considered generally, with respect to the nature and manner, of the admission itself and, secondly, with respect to the parties to be affected by it.

4. In the first place, as to the nature and manner of the admission; it is either made with a view to evidence; or, with a view to induce others to act upon the representation; or, it is an unconnected or casual representation.

5. − 1. As an instance of admission made with a view to evidence may be mentioned the case where a party has solemnly admitted a fact under his hand and seal, in which case he is, estopped, not only from disputing the deed itself, but every fact which it recites. B. N. P. 298; 1 Salk. 186; Com. Dig. Estoppel, B 5; Stark. Ev. pt. 4, p. 3 1.

6. − 2. Instances of thing second class of admissions which have induced others to act upon them are those where a man has cohabited with a woman, and treated her in the front of the world as his wife, 2 Esp. 637; or where he. has held himself out to the world in a particular character; Ib. 1 Camp. 245 ; he cannot in the one case deny her to be his Wife when sued by a creditor who has supplied her with goods as such, nor in the other can he divest himself of the character be has assumed.

7. − 3. Where the admission or declaration is not direct to the question pending, although admissible, it is not in general conclusive evidence; and though a party may by falsifying his former declaration, show that he has acted illegally andimmorally, yet if he is not guilty of any breach of good faith in the existing transaction, and has not induced others, to act upon his admission or declaration, nor derived any benefit from it against his adversary, be is not bound by it. The evidence in such cases is merely presumptive, and liable to be rebutted.

8. Secondly, with respect to the parties to be affected by it. 1. By a party to a suit, 1 Phil. Ev. 74; 7 T. R. 563; 1 Dall. 65. The admissions of the party really interested, although he is no party to the suit, are evidence. 1 Wils. 257.

9. − 2. The admissions of a partner during the existence of a partnership, are evidence against both. 1 Taunt. 104; Peake’s C. 203 1 Stark. C. 81. See 10 Johns. R. 66 Ib. 216; 1 M. & Selw. 249. As to admissions made after the dissolution. of the partnership, see 3 Johns. R. 536; 15 Johns. R. 424 1 Marsh. (Kentucky) R. 189. According to the English decisions, it seems, the admissions of one partner, after the dissolution, have been holden to bind the other partner; this rule has been partially changed by act of parliament. Colly. on Part. 282; Stat. 9 Geo. IV. c. 14, (May 9, 1828.) In the Supreme Court of the United States, a rule, the reverse of the English, has been adopted, mainly on the ground, that the admission is a new contract or promise, springing out of, ana supported by the original consideration. 1 Pet. R. 351; 2 M’Lean, 87. The state courts have varied in their decisions some have adopted the English rule; and, in others it has been overruled. 2 Bouv. Inst. ii. 1517; Story, Partn. _324; 3 Kent, Com. Lect. 43, p. 49, 4th ed.; 17 S. & R. 126; 15 Johns. R. 409; 9 Cowen, R. 422; 4 Paige, R. 17; 11 Pick. R. 400; 7 Yerg. R. 534.

10. − 3. By one of several persons who have a community of interest. Stark, Ev. pt. 4, p. 47; 3 Serg. & R. 9.

11. − 4. By an agent, 1 Phil. Ev. 77−82 3 Paley Ag. 203−207. −

12. − 5. By an attorney, 4 Camp. 133; by wife, Paley, Ag. 139, n. 2 Whart. Dig. tit. Evidence, 0 7 T. R. 112 ;

Nott & M'C. 374.

13. Admissions are express or implied. An express admission is one made in direct terms. An admission may be implied from the silence of the party, and may be presumed. As for instance, when the existence of the debt, or of the particular right, has been asserted in his presence, and he has not contradicted it. And an aquiescence and endurance, when acts are done by another, which if wrongfully done, are encroachments, and call for resistance and opposition, are evidence, as a tacit admission that such acts could not be legally resisted. See 2 Stark. C. 471. See, generally, Stark. Ev. part 4, tit. Admissions; 1 Phil. Ev. part 1, c. 5, s . 4; 1 Greenl. Ev. _169−212; 2 Evans' Pothier, 319; 8 East, 549, ii. 1; Com. Dig. Testemoigne, Addenda, vol. 7, p. 434; Vin. Abr. Evidence, A, b. 2, A, b. 23 Ib. Confessions; this Dict. tit. Confessions, Examination; Bac. Abr. Evidence L.; Toullier, Droit, Civil Francais, tome 10, p. 375, 450; 3 Bouv. Inst. n. 3073.

ADMISSIONS, of attorneys and counsellors. To entitle counsellors and attorneys to practice in court, they must be admitted by the court to practice there. Different statutes and rules have been made to regulate their admission; they generally require a previous qualification by study under the direction of some practicing counsellor or attorney. See 1 Troub. & Haly's Pr. 18; 1 Arch. Pr. 16; Blake's Pr. 30.

ADMISSIONS. in pleading. Where one party means to take advantage of, or rely upon some matter alleged by his adversary, and to make it part of his case, he ought to admit such matter in his own pleadings; as if either party states the title under which his adversary claims, in which instances it ,is directly opposite in its nature to a protestation. See Prote stando. But where the party wishes to prevent the application of his pleading to some matter contained in the pleading of his adversary, and therefore makes an express admission of such matter (which is sometimes the case,) in order to exclude it from the issue taken or the like, it is somewhat similar in operation and effect, to a protestation.

2. The usual mode of making an express admission in pleading, is, after saying that the plaintiff ought not to have or maintain his action, &c., to proceed thus, " Because he says that although it be true that" &c. repeating such of the allegations of the adverse party as are meant to be admitted. Express admissions are only matters of fact alleged in the pleadings; it never being necessary expressly to admit their legal sufficiency, which is always taken for granted, unless some objection be made to them. Lawes' Civ. Pl. 143, 144. See 1 Chit PI. 600; Arcbb. Civ. PI. 215.

3. In chancery pleadings, admissions are said to be plenary and partial. They are plenary by force of terms not only when the answer runs in this form, "the defendant admits it to be true," but also when he simply asserts, and generally speaking, when be says, that "he has been informed, and believes it to be true," without adding a qualification such as, "that he does not know it of his own knowledge to be so, and therefore does not admit the same." Partial admissions are those which are delivered in terms of uncertainty, mixed up as they frequently are, with explanatory or qualifying circumstances.

ADMISSIONS, in practice, It, frequently occurs in practice, that in order to save expenses as to mere formal proofs, the attorneys on each side consent to admit, reciprocally, certain facts in the cause without calling for proof of them.

2. These are usually reduced to writing, and the, attorneys shortly, add to this effect, namely, " We agree that the above facts shall on the trial of this cause be admitted, and taken as proved on each side;" and signing two copies now called, "admissions " in the cause, each attorney takes one. Gresl. Eq. Ev. c. 2, p. 38.

ADMITTANCE, Eng. law. The act of giving possession of a copyhold estate, as livery of seisin is of a freehold; it is of three kinds, namely uponavoluntary
grant by the lord) upon a surrender by the former tenant and upon descent.

ADMIITENDO IN SOCIUM. Eng. law. A writ associating certain persons to justices of assize.

ADMONITION. A reprimamd from a judge to a person accused, on being discharged, warning him of the consequences of his conduct, and intimating to him, that should he be guilty of the same fault for which he has been admonished, he will be punished with greater severity. Merlin, Repert. h. t.

2. The admonition was authorized by the civil law, as a species of punishment for slight misdemeanors. Vide Reprimand

ADNEPOS. A term employed by the Romans to designate male descendants in the fifth degree, in a direct line. This term is used in making genealogical tables.

ADOLESCENCE, persons. That age which follows puberty and precedes the age of majority; it commences for males at fourteen, and for females at twelve years completed, and continues till twenty−one years complete.

ADOPTION, civil law. The act by which a person chooses another from a strange family, to have all the rights of his own child. Merl. Repert. h. t.; Dig. 1, 7, 15, 1; and see Arrogation. By art. 232, of the civil code of Louisiana, it is abolished in that state. It never was in use in any other of the United States.

ADROGATION, civil law. The adoption of one who was impubes, that is, if a male, under fourteen years of age; if a female, under twelve. Dig. 1, 7, 17, 1.

ADULT, in the civil law. An infant who, if a boy, has attained his full age of fourteen years, and if a girl, her full age of twelve. Domat, Liv. Prel. t. 2, s. 2, n. 8. In the common law an adult is considered one of full age. 1 Swanst. R. 553.

ADULTERATION. This term denotes the act of mixing something impure with something pure, as, to mix an inferior liquor with wino; au inferior article with coffee, tea,.and the like.

ADULTERINE. A term used in the civil law to denote the issue of an adulter− ous intercourse. See Nicholas on Adulterine Bastardy.

ADULTERIUM. In the old records this word does not signify the offence of adultery, but the fine imposed for its commission. Barr. on the Stat. 62, note.

ADULTERY, criminal law. From ad and alter, another person; a criminal conversation, between a man married to another woman, and a woman married to another man, or a married and unmarriod person. The married person is guilty of adultery, the unmarried of fornicatiou. (q. v.) 1 Yeates, 6; 2 Dall. 124; but see 2 Blackf. 318.

2. The elements of this crime are, 1st, that there shall be an unlawful carnal connexion; 2dly, that the guilty party shall at the time be married; 3dly, that he or she shall willingly commit the offence; for a woman who has been ravished against her will is not guilty of adultery. Domat, Supp. du Droit Public, liv. 3, t. 10, n. 13.

3. The punishment of adultery, in the United States, generally, is fine and imprisonment.

4. In England it is left to the feeble hands of the ecclesiastical courts to punish this offence.

5. Adultery in one of the married persons is good cause for obtaining a divorce by the innocent partner. See 1 Pick. 136; 8 Pick. 433; 9 Mass. 492: 14 Pick. 518; 7 Greenl. 57; 8 Greenl. 75; 7 Conn. 267 10 Conn. 372; 6 Verm. 311; 2 Fairf. 391 4 S. & R. 449; 5 Rand. 634; 6 Rand. 627; 8 S. & R. 159; 2 Yeates, 278, 466; 4 N. H. Rep. 501; 5 Day, 149; 2 N. & M. 167.

6. As to proof of adultery, see 2 Greenl. _40, Marriage.

ADVANCEMENT. That which is given by a father to his child or presumptive heir, by anticipation of whathe might inherit. 6 Watts, R. 87; 17 Mass. R. 358; 16 Mass. R. 200; 4 S. & R. 333; 11 John. R. 91; Wright, R. 339. See also Coop Just. 515, 575; 1 Tho. Co. Lit. 835, 6; 3 Do. 345, 348; Toll. 301; 5 Vez. 721; 2 Rob. on Wills, 128; Wash. C. C. Rep. 225; 4 S. & R. 333; 1 S. & R. 312; 3 Conn. Rep. 31; and post Collatio bonorum.

2. To constitute an advancement by the law of England, the gift must be made by the father and not by another, not even by the mother. 2 P. Wms. 856. In Pennsylvania a gift of real or personal estate by the father or mother may be an advancement. 1 S. & R. 427; Act 19 April 1794, _9; Act 8 April, 1833, _16. There are in the statute laws of the several states provisions relative to real and personal estates, similar in most respects to those which exist in the English statute of distribution, concerning an advancement to a child. If any child of the intestate has been advanced by him by settlement, either out of the real or personal estate, or both, equal or superior to the amount in value of the share of such child which would be due from the real and personal estate, if no such advancementhad been made, then such child and his descendants, are excluded from any share in the real or personal estate of the intestate.

3. But if the advancement be not equal, then such child, and in case of his death, his descendants, are entitled to receive, from the real and personal estate, sufficient to make up the deficiency, and no more.

4. The advancement, is either express or implied. As to what is an implied advancement, see 2 Fonb. Eq. 121; 1 Supp. to Ves. Jr. 84; 2 lb. 57; 1 Vern. by Raithby, 88, 108, 216; 5 Ves. 421; Bac. Ab. h. t.; 4 Kent, Com. 173.

5. A debt due by a child to his father differs from an advancement. In case of a debt, the money due may be recovered by action for the use of the estate, whether any other property be left by the deceased or not; whereas, an advancement merely bars the child's right to receive any part of his father's estate, unless he brings into hotch pot the property advanced. 17 Mass. R. 93, 359. See, generally, 17 Mass. R. 81, 356; 4 Pick. R. 21; 4 Mass. R. 680; 8 Mass. R. 143; 10. Mass. R. 437; 5 Pick. R. 527; 7 Conn. R. 1; 6 Conn. R. 355; 5 Paige's R. 318; 6 Watts' R. 86, 254, 309; 2 Yerg. R. 135; 3 Yerg. R. 95; Bac. Ab. Trusts, D; Math. on Pres. 59; 5 Hayw. 137; 11 John. 91; l Swanst. 13; 1 Ch. Cas. 58; 3 Conn. 31; 15 Ves. 43, 50; U. S. Dig. h. t.; 6 Whart. 370; 4 S. & R. 333; 4 Whart. 130, 540; 5 Watts, 9; 1 Watts & Serg. 390; 10 Watts, R. 158; 5 Rawle, 213; 5 Watts, 9, 80; 6 Watts & Serg. 203. The

law of France in respect to advancements is stated at length in Morl. Rep. de Jurisp. Rapport a succession.

ADVANCES, contracts. Said to take place when, a factor or agent pays to his principal , a sum of, money on the credit of goods belonging to the principal, which are placed, or are to be placed, in the possession of the factor or agent, in order to reimburse himself out of the proceeds of the sale. In such case the factor or agent has a lien to the amount of his claim. Cowp. R. 251; 2 Burr. R. 931; Liverm. on Ag. 38; Journ. of Law, 146.

2. The agent or factor has a right not only to advances made to the owner −of goods, but also for expenses and dishursements made in the course of his agency, out of his own moneys, on account of, or for the benefit of his principal; such as incidental charges forwarehouse−room, duties, freight, general average, salvage, repairs, journeys, and all other acts done to preserve the property of the principal, and to enable the agent to accomplish the objects of the principal, are to be paid fully by the latter. Story on Bailm. 197; Story on Ag. _335.

3. The advances, expenses and dishursements of the agent must, however, have been made in good faith, without any default on his part Liv. on Ag. 14−16; Smith on Merc. 56 Paley on Ag. by Lloyd, 109; 6 East, R. 392; 2 Bouv. list. n. 1340.

4. When the advances and dishursements have been properly made, the agent is entitled not only to the return of the money so advanced, but to interest upon such advances and dishursements, whenever from the nature of the business, or the usage of trade, or the particular agreement of the parties, it may be fairly presumed to be stipulated for, or due to the agent. 7 Wend. R. 315; 3 Binn. R. 295; 3 Caines' R. 226; 1 H. Bl. 303; 3 Camp. R. 467 15 East, R. 223; 2 Bouv. Inst. n. 1341. This just rule coincides with the civil law on this subject. Dig. 17, 1, 12, 9; Poth. Pand. lib. 17, t. 1, n. 74.

ADVENTITIOUS, adventitius. From advenio; what comes incidentally; us adventitia bona, goods that, fall to a man otherwise than by inheritance; or adventitia dos, a dowry or portion given by some other friend beside the parent.

ADVENTURE, bill of. A writing signed by a merchant, to testify that the goods shipped on board a certain vessel are at the venture of another person, he himself being answerable only for the produce. Techn. Dict.

ADVENTURE, crim. law. See Misadventure.

ADVENTURE, mer. law. Goods sent abroad under the care of a supercargo, to be disposed of to the best advantage for the benefit of his employers, is called an adventure.

ADVERSARY. One who is a party in a writ or action opposed to the other party.

ADVERSE POSSESSION, title to lands. The enjoyment of land, or such estate as lies in grant, under such circumstances as indicate that such enjoyment has been commenced and contiuued, under an assertion or color of right on the part of the possessor. 3 East, R. 394; 1 Pick. Rep. 466; 1 Dall. R. 67; 2 Serg. & Rawle, 527; 10 Watts R, 289; 8 Con R. 440; 3 Penn. 132; 2 Aik. 364; 2 Watts, 23; 9, John. 174; 18 John. 40, 355; 5 Pet. 402; 4 Bibb, 550. Actual possession is a pedis possessio which can be only of ground enclosed, and only such possession can a wrongdoer have. He can have no constructive possession. 7 Serg. & R. 192; 3 Id. 517; 2 Wash. C. Rep. 478, 479.

2. When the possession or enjoyment has been adverse for twenty years, of which the jury are to judge from the circumstances the law raises the presumption of a grant. Ang. on Wat. Courses, 85, et seq. But this presumption arises only when the use or occupation would otherwise have been unlawful. 3 Greenl. R. 120; 6 Binn. R. 416; 6 Cowen, R. 617, 677; Cowen, R. 589; 4 S. & R. 456. See 2 Smith's Lead. Cas. 307−416.

3. There are four general rules by which it may be ascertained that possession is not adverse; these will be separately considered.

4.− 1. When both parties claim under the same title; as, if a man seised of certain land in fee, have issue two sons and die seised, and one of the sons enter by abatement into the land, the statute, of limitations will not operate against the other son; for when the abator entered into the land of his father, before entry made by his brother, the law intends that he entered claiming as heir to his father, by which title the other son also claims. Co. Litt s. 396.

5. − 2. When the possession of the one party is consistent with the title of the other; as, where, the rents of a trust state were received by a cestui que trust for more than twenty years after the creation of the trust, without any interference, of the trustee, such ppssession being consistent with and secured to the cestui qwe trust by the terms of the deed, the receipt was held not to be adverse to the title of the trustee. 8 East. 248.

6. − 3. When, in contemplation of law, the claimant has never been out of possession; as, where Paul devised lands to John and his heirs, and died, and John died, and afterwards the heirs of John and a stranger entered, and took the profits for twenty years; upon ejectment brought by the devisee of the heir of John against the stranger, it was held that the perception of the rents and profits by the stranger was not adverse to the devisee's title; for when

two men are in possession, the law adjudges it to be the possession of him who has the right. Lord Raym. 329.

7. − 4. When the occupier has acknowledged the claimant's titles; as, if a lease be granted for a term, and, after paying the rent for the land during such term, the tenant hold for twenty years without paying rent, his possession will not be adverse. See Bos. & P. 542; 8 B. & Cr. 717; 2 Bouv. Inst. n. 2193−94, 2351.

ADVERTISEMENT. A 'notice' published either in handbills or in a newspaper.

2. The law in many instances requires parties to advertise in order to give notice of acts which are to be done; in these cases, the advertisement is in general equivalent to notice.

3. When an advertisement contains the terms of sale, or description of the property to be sold, it will bind the seller; and if there be a material misrepresentation, it may avoid the contract, or at least entitle the purchaser to a compensation and reduction from the agreed, price. Kapp's R. 344; 1 Chit. Pr. 295.

ADVICE, com. law. A letter containing information of any circumstances unknown to the person to whom it is written; when goods are forwarded by sea or land, the letter transmited to inform the consignee of the fact, is termed advice of goods, or letter of advice. When one merchant draws upon another, he generally advises him of the fact. These letters are intended to give notice of the facts they contain.

ADVICE, practice. The opinion given by counsel to their clients; this should never be done but upon mature deliberation to the best of the counsel's ability; and without regard to the consideration whether it will affect the client favorably or unfavorably.

ADVISEMENT. Consideration, deliberation, consultation; as the court holds the case under advisement.

ADVOCATE, civil and ecclesiastical law. 1. An officer who maintains or de fends the rights of his client in the same manner as the counsellor does in the common law.

2. Lord Advocate. An, officer of state in Scotland, appointed by the king, to advise about the making and executing the law, to prosecute capital crimes, &c.

3. College or faculty of advocates. A college consisting of 180 persons, appointed to plead in. all actions before the lords of sessions.

4. Church or ecclesiastical advocates. Pleaders appointed by the church to maintain its rights.

5. − 2. A patron who has the advowson or presentation to a church. Tech. Dict.; Ayl. Per. 53; Dane Ab. c.,31, _20. See Counsellor at law; Honorarium.

ADVOCATIA, civil law. This sometimes signifies the quality, or functions, and at other times the privilege, or the territorial jurisdiction of an advocate, See Du Cange, voce Advocatia, Advocatio.

ADVOCATION, Scotch law. A writing drawn up in the form of a petition, called a bill of advocation, by which a party in an action applies to the supreme court to advocate its cause, and to call the action out of an inferior court to itself. Letters of advocation, are the decree or warrant of the supreme court or court of sessions, discharging the inferior tribunal from all further proceedings in the matter, and advocating the action to itself. This proceeding is similar to a certiorari (q. v.) issuing out of a superior court for the removal of a cause from an inferior.

ADVOCATUS. A pleader, a narrator. Bract. 412 a, 372 b.

ADVOWSON, ecclesiastical law. From advow or advocare, a right of presentation to a church or benefice. He who possesses this right is called the patron or advocate, (q. v.) when there is no patron, or he neglects to exercise his right within six months, it is called a lapse, i. e. a title is given to the ordinary to collate to a church; when a presentation is made by one who has no right it is called a usurpation.

2. Advowsons are of different kinds, as Advowson appendant, when it depends upon a manor, &c. − Advowson in gross, when it belongs to a person and not to a manor. − Advowson presentative, where the patron presents to the bishop. − Advowson donative, where the king or patron puts the clerk into possession without presentation. − Advowson of the moiety of the church, where there are two several patrons and two incumbents in the same churcb. − A moiety of advowson, where two must join the presentation, of one incumbent. − Advowson of religious houses, that whicb is vested in the person who founded such a house. Techn. Dict.; 2 Bl. Com. 21; Mirehouse on Advowsons; Com. Dig. Advowson, Quare Impedit; Bac. Ab. Simony; Burn's Eccl. Law, h. t.; Cruise's Dig. Index, h. t.

AFFECTION, contracts. The making over, pawning, or mortgaging a thing to assurp the payment of a sum of money, or the discharge of some other duty or service. Techn. Diet.

AFFEERERS, English law. Those who upon oath settle and moderate fines in courts leet. Hawk. 1. 2, c. 112.

TO AFFERE, English law. Signifies either "to affere an amercement," i. e. to mitigate the rigor of a fine; or "to

affere an account," that is, to confirm it on oath in the exchequer.

AFFIANCE, contracts. From affidare or dare fidem, to give a pledge. A plighting of troth between a man and woman. Litt. s. 39. Pothier, Traite du Mariage, n. 24, defines it to be a an agreement by which a man and a woman promise each other that they will marry together. This word is used by some authors as synonymous with marriage. Co. Litt. 34, a, note 2. See Dig. 23, 1 Code 5, 1, 4; Extrav. 4, 1.

AFFIDARE. To plight one's faith, or give fealty, i. e. fidelity by making oath, &c. Cunn. Dict. h. t.

AFFIDATIO DOMINORUM, Eng. law. An oath taken by a lord in parliament.

AFFIDAVIT, practice. An oath or affirmation reduced to writing, sworn or affirmed to before some officer who has authority to administer it. It differs from a deposition in this, that in the latter the opposite party has had an opportunity to cross−examine the witness, whereas an affidavit is always taken ex parte. Gresl. Eq. Ev. 413. Vide Harr. Dig. h. t.

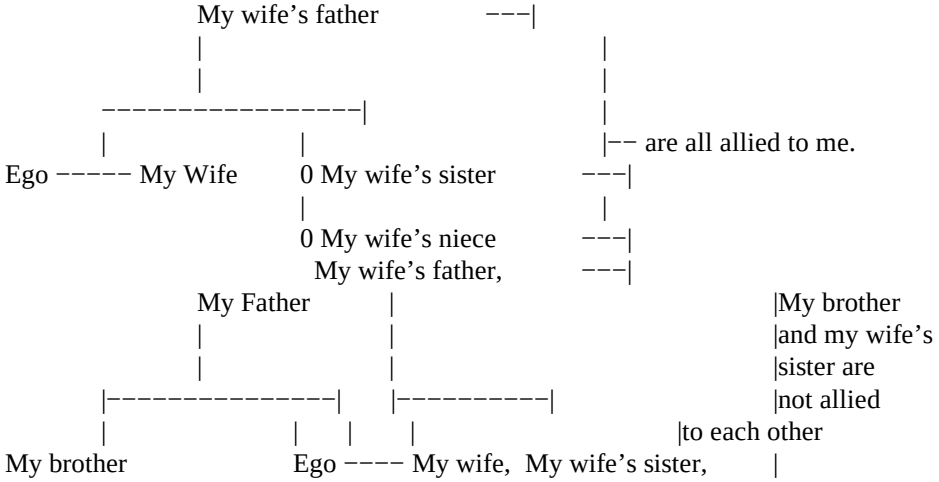
2. Affidavit to hold to bail, is in many cases required before the defendant can be arrested; such affidavit must be made by a person who is acquainted with the fact, and must state, 1st, an indebtedness from the defendant to the plaintiff; 2dly, show a distinct cause of action; 3dly, the whole must be clearly and certainly, expressed. Sell. Pr. 104; 1 Chit. R. 165; S. C. 18 Com. Law, R. 59 note; Id. 99.

3. An affidavit of defence, is made by a defendant or a person knowing the facts, in which must be stated a positive ground of defence on the merits. 1 Ashm. R. 4, 19, n. It has been decided that when a writ of summons has been served upon three defendants, and only one appears, a judgment for want of an affidavit of defence may be rendered against au. 8 Watts, R. 367. Vide Bac. Ab. h. t.

AFFINITAS AFFINITATIS. That connexion between two persons which has neither consanguinity nor affinity; as, the connexion between the hushand's brother and the wife's sister. This connexion is formed not between the parties themselves, nor between one of spouses and the kinsmen of the other, but between the kinsmen of both. Ersk. Inst. B, 1, tit. 6, s. 8.

AFFINITY. A connexion formed by marriage, which places the hushand in the same degree of nominal propinquity to the relations of the wife, as that in which she herself stands towards them, and gives to the wife the same reciprocal connexion with the relations of the hushand. It is used in contradistinction to consanguinity. (q. v.) It is no real kindred.

2. Affinity or alliance is very different from kindred. Kindred are relations. by blood; affinity is the tie which exists between one of the spouses with the kindred of the other; thus, the relations, of my wife, her brothers, her sisters, her uncles, are allied to me by affinity, and my brothers, sistors, &c., are allied in the same way to my wife. But my brother and the sister of my wife are not allied by the ties of affinity: This will appear by the following paradigms



3. A person cannot, by legal succession, receive an inheritance from a relation by affinity; neither does it extend to the nearest relations of hushand and wife, so as to create a mutual relation between them. The degrees of affinity are computed in the same way as those of consanguinity. See Pothier, Traite du Mariage, part 3, ch. 3, art.

2, and see 5 M. R. 296; Inst. 1, 10, 6; Dig. 38, 10, 4, 3; 1 Phillim. R. 210; S. C. 1 Eng. Eccl. R. 72; article Marriage.

TO AFFIRM, practice. 1. To ratify or confirm a former law or judgment, as when the supreme court affirms the judgment of the court of common pleas. 2. To make an affirmation, or to testify under an affirmation.

AFFIRMANCE. The confirmation of a voidable act; as, for example, when an infant enters into a contract, which is not binding upon him, if, after attaining his full age, he gives his affirmance to it, he will thereafter be bound, as if it had been made when of full age. 10 N. H. Rep. 194.

2. To be binding upon the infant, the affirmance must be made after arriving of age, with a full knowledge that it would be void without such confirmation. 11 S. & R. 305.

3. An affirmance may be express, that is, where the party declares his determination of fulfilling the contract; but a more acknowledgment is not sufficient. Dudl. R, 203. Or it may be implied, as, for example, where an infant mortgaged his land and, at full age, conveyed it, subject to the mortgage. 15 Mass. 220. See 10 N. H. Rep. 561.

AFFIRMANCE−DAY, GENERAL. In the English Court of Exchequer, is a day appointed by the judges of the common pleas, and barons of the exchequer, to be held a few days after the beginning of every term for the general affirmance or reversal of judgments. 2 Tidd. 1091.

AFFIRMANT, practice. One who makes affirmation instead of making oath that the evidence which he is about to give shall be the truth, as if he had been sworn. He is liable to all the pains and penalty of perjury, if he shall be guilty of wilfully and maliciously violating his affirmation.

AFFIRMATION, practice. A solemn declaration and asseveration, which a witness makes before an officer, competent to administer an oath in a like case, to tell the truth, as if be had been sworn.

2. In the United States, generally, all witnesses who declare themselves conscientiously scrupulous against taking a corporal oath, are permitted to make a solemn affirmation, and this in all cases, as well criminal as civil.

3. In England, laws have been enacted which partially relieve persons who, have conscientious scruples against taking an oath, and authorize them to make affirmation. In France, the laws which allow freedom of religious opinion, have received the liberal construction that all persons are to be sworn or affirmed according to the dictates of their consciences; and a quaker’s affirmation has been received and held of the same effect as an oath. Merl. Quest. de Droit, mot Serment, _1.

4. The form is to this effect: "You, A B, do solemnly, sincerely, and truly declare and affirm," &c. For the violation of the truth in such case, the witness is subject to the punishment of perjury " as if he had been sworn.

5. Affirmation also means confirming; as, an affirmative statute.

AFFIRMATiVE. Averring a fact to be true; that which is opposed to negative. (q. v.)

2. It is a general rule of evidence that the affirmative of the issue must be proved. Bull. N. P. 298 ; Peake, Ev. 2.

3. But when the law requires a person to do an act, and the neglect of it, will render him guilty and punishable, the negative must be proved, because every man is presumed to do his duty and in that case they who affirm he did not, must prove it. B. N. P. 298; 1 Roll. R. 83; Comb. 57; 3 B.& P. 307; 1 Mass. R. 56.

AFFIRMATIVE PREGNANT, Pleading. An affirmative allegation, implying some negative, in favor of the adverse party, for example, if to an action of assumpsit, which is barred by the act of limitations of six years, the defendant pleads that be did not undertake &c. within ten years; a replication that he did undertake, &c. within ten years, would be an affirmative pregnant; since it would impliedly admit that the defendant had not promised within six years. As no proper issue could be tendered upon such plea the plaintiff should, for that reason, demur to it. Gould, PI. c. 6 29, 37; Steph. PI. 381; Lawes, Civ. PI. 113; Bac. Ab. Pleas, N 6.

AFFORCE, AFFORCEMENT OF THE ASSIZE, Old English law, practice. An ancient practice in trials by jury, which is explained by Bracton, (fo. 185, b. 292 a) and by the author of Fleta, lib. 4, cap. 9, _2. It consisted in adding other jurors to the panel of jurors, after the cause had been committed to them, in case they could not agree in a verdict. The author of Fleta (ubi sup) thus describes it. The oath having been administered to the jury, the (prenotarius) prothonotary, addressed them thus: "You will say upon the oath you have taken, whether such a one unjustly and without judgment disseized such a one of his freehold in such a ville within three years or not." The justices also repeat for the instruction of, the jurors the plaint of the plaintiff, &c. The jurors then retire and confer together, &c. If the jurors differ among themselves and cannot agree in one (sententiam) finding, it will be in the discretion of the judges, &c; to afforce the assize by others, provided there remain of the jurors summoned many as the major party of the dissenting jurors; or they may compel the same jurors to unanimity, viz. by directing the sheriff to keep them safely without, meat or drink until they agree. The object of adding to the panel a number

equal to the major party of the dissenting jurors, was to ensure a verdict by twelve of them, if the jurors thus added to the panel should concur with the minor party of the dissenting jurors. This practice of afforcing the assize, was in reality a second trial of the cause, and was abandoned, because the courts found it would save delay and trouble by insisting upon unanimity. The practice of confining jurors without meat and drink in order to enforce unanimity, has in more modern times also been abandoned and the more rational practice adopted of discharging the jury and summoning a new one for the trial of the cause, in cases where they cannot agree. This expedient for enforcing unanimity was probably introduced from the canon law, as we find it was resorted to on the continent, in other cases where the unanimity of a consultative or deliberative body was deemed indispensable. See Barring. on Stats. 19, 20; 1, Fournel, Hist. des Avocats, 28, note.

TO AFFRANCHISE. To make free.

AFFRAY, criminal law. The fighting of two or more persons, in some public place, to the terror of the people.

2. To constitute this offence there must be, 1st, a fighting; 2d, the fighting must be between two or more persons; 3d, it must be in some public place ; 4th, it must be to the terror of the people.

3. It differs from a riot, it not being premeditated; for if any persons meet together upon any lawful or innocent occasion, and happen on a sudden to engage in fighting, they are not guilty of a riot but an affray only; and in that case none are guilty except those actually engaged in it. Hawk. b. 1, c. 65, s. 3 ; 4 Bl. Com. 146; 1 Russell, 271.

AFFREIGHTMEET, Com. law. The contract by which a vessel or the use of it, is let out to hire. See Freight; General ship.

AFORESAID. Before mentioned; already spoken of. This is used for the purpose of identifying a person or thing; as where Peter, of the city of Philadelphia, has been mentioned; when it is necessary to speak of him, it is only requisite to say Peter aforesaid, and if the city of Philadelphia, it may be done as the city of Philadelphia, aforesaid.

AFORETHOUGHT, crim. law. Premeditated, prepense; the length of time during which the accused has entertained the thought of committing the offence is not very material, provided he has in fact entertained such thought; he is thereby rendered criminal in a greater degree than if he had committed the offence without. premeditation. Vide Malice; aforethought; Premeditation 2 Chit. Cr. 785; 4 Bl. Com. 199; Fost. 132, 291, 292; Cro. Car. 131; Palm. 545; W. Jones, 198; 4 Dall. R. 146; 1 P. A. Bro. App. xviii.; Addis. R. 148; 1 Ashm. R. 289.

AFTERMATH. A right to have the last crop of grass or pasturage. 1 Chit. Pr. 181.

AGAINST THE FORM OF THE STATUTE. When a statute prohibits a thing to be done, and an action is brought for the breach of the statute, the declaration or indictment must conclude against the form of the statute. See Contra formam statuti.

AGAINST THE WILL, pleadings. In indictments for robbery from the person, the words "feloniously and against the will," must be introduced; no other words or phrase will sufficiently charge the offence. 1 Chit. Cr. 244.

AGARD. An old word which signifies award. It is used in pleading, as nul agard, no award;

AGE. The time when the law allows persons to do acts which, for want of years, they were prohibited from doing before. See Coop. Justin. 446.

2. For males, before they arrive at fourteen years they are said not to be of discretion; at that age they may consent to marriage and choose a guardian. Twenty−one years is full age for all private purposes, and the may then exercise their rights as citizens by voting for public officers; and are eligible to all offices, unless otherwise provided for in the constitution. At 25, a man may be elected a representative in Congress; at 30, a senator; and at 35, he may be chosen president of the United States. He is liable to serve in the militia from 18 to 45. inclusive, unless exempted for some particular reason.

3. As to females, at 12, they arrive at years of discretion and may consent to marriage; at 14, they may choose a guardian; and 21, as in males, is fun Age, when they may exercise all the rights which belong to their sex.

4. In England no one can be chosen member of parliament till he has attained 21 years; nor be ordained a priest under the age of 24; nor made a bishop till he has completed his 30th year. The age of serving in the militia is from 16 to 45 years.

5. By the laws of France many provisions are made in respect to age, among wbich are the following. To be a member of the legislative body, the person must have attained 40 years; 25, to be a judge of a tribunal de remiere instance; 27, to be its president, or to be judge or clerk of a cour royale ; 30, to be its president or procureur general; 25, to be a justice of the peace; 30, to be judge of a tribunal of commerce, and 35, to be its president; 25,

to be a notary public; 21, to be a testamentary witness; 30, to be a juror. At 16, a minor may devise one half of his, property as if he were a major. A male cannot contract marriage till after the 18th year, nor a female before full 15 years. At 21, both males and females are capable to perform all the act's of civil life.. − Toull. Dr. Civ. Fr. Liv. 1, Intr. n. 188.

6. In the civil law, the age of a man was divided as follows: namely, the infancy of males extended to the full accomplishment of the 14th year; at 14, he entered the age of puberty, and was said to have acquired full puberty at 18 years accomplished, and was major on completing his 25th year. A female was an infant − til 7 years; at 12, she entered puberty, and accquired full puberty at 14; she became of fall age on completing her 25th year. Lecons Elem. du Dr. Civ. Rom. 22.

See Com. Dig. Baron and Feme, B 5, Dower, A, 3, Enfant, C 9, 10, 11, D 3, Pleader, 2 G 3, 2 W 22, 2 Y 8; Bac. Ab. Infancy and Age; 2 Vin. Ab. 131; Constitution of the United States; Domat. Lois Civ. tome 1, p. 10; Merlin, Repert. de Jurisp. mot Age; Ayl. Pand. 62; 1 Coke Inst. 78; 1 Bl. Com. 463. See Witness.

AGE−PRAYER, AGE−PRIER, oetatis precatio. English law, practise. Wnen an action is brought against an infant for lands which he hath by descent, he may show this to the court, and pray quod loquela remaneat until he shall become of age; which is called his age−prayer. Upon this being ascertained, the proceedings are stayed accordingly. When the lands did not descend, he is not allowed this privilege. 1 Lilly's Reg. 54.

AGED WITNESS. When a deposition is wanted to be taken on account of the age of a witness, he must be at least seventy years old to be considered an aged witness. Coop. Eq. PI. 57; Amb. R. 65; 13 Ves. 56, 261.

AGENCY, contracts. An agreement, express , or implied, by which one of the parties, called the principal, confides to the other, denominated the agent, the management of some business; to be transacted in his name, or on his account, and by which the agent assumes to do the business and to render an account of it. As a general rule, whatever a man do by himself, except in virtue of a delegated authority, he may do by an agent. Combee's Case, 9 Co. 75. Hence the maxim qui facit per alium facit per se.

2. When the agency express, it is created either by deed, or in writing not by deed, or verbally without writing. 3 Chit. Com. Law 104; 9 Ves. 250; 11 Mass. Rep. 27; Ib. 97, 288; 1 Binn. R. 450. When the agency is not express, it may be inferred from the relation of the parties and the nature of the employment, without any proof of any express appointment. 1 Wash. R. 19; 16 East, R. 400; 5 Day's R. 556.

3. The agency must be antecedently given, or subsequently adopted; and in the latter case there must be an act of recognition, or an acquiescence in the act of the agent, from which a recognition may be fairly implied. 9 Cranch, 153, 161; 26 Wend. 193, 226; 6 Man. & Gr. 236, 242; 1 Hare & Wall. Sel. Dec. 420; 2 Kent, Com. 478; Paley on Agency; Livermore on Agency.

4. An agency may be dissolved in two ways − 1, by the act of the principal or the agent; 2, by operation of law.

5. − 1. The agency may be dissolved by the aet of one of the parties. 1st. As a general rule, it may be laid down that the principal has a right to revoke the powers which he has given; but this is subject to some exception, of which the following are examples. When the principal has expressly stipulated that the authority shall be irrevocable, and the agent has an interest in its execution; it is to be observed, however, that although there may be an express agreement not to revoke, yet if the agent has no interest in its execution, and there is no consideration for the agreement, it will be considered a nude pact, and the authority may be revoked. But when an authority or power is coupled with an interest, or when it is given for a valuable consideration, or when it is a part of a security, then, unless there is an express stipulation that it shall be revocable, it cannot be revoked, whether it be expressed on the face of the instrument giving the authority, that it be so, or not. Story on Ag. 477; Smith on Merc. L. 71; 2 Liv. on Ag. 308; Paley on Ag. by Lloyd, 184; 3 Chit. Com. f. 223; 2 Mason's R. 244; Id. 342; 8 Wheat. R. 170; 1 Pet. R. 1; 2 Kent, Com. 643, 3d edit.; Story on Bailm. _209; 2 Esp. R. 665; 3 Barnw. & Cressw. 842; 10 Barnw. & Cressw. 731; 2 Story, Eq. Jur. _1041, 1042, 1043

6. − 2. The ageacy may be determined by the renunciation of the agent. If the renunciation be made after it has been partly executed, the agent by renouncing it, becomes liable for the damages which may thereby be sustained by his principal. Story on Ag. _ 478; Story on Bailm. _436; Jones on Bailm. 101; 4 John r. 84.

7. − 2 The agency is revoked by operation of law in the following cases: 1st. When the agency terminates by the expiration of the period, during which it was to exist, and to have effect; as, if an agency be created to endure a year, or till the happening of a contingency, it becomes extinct at the end or on the happening of the contingency.

8. − 2. When a change of condition, or of state, produces an incapacity in either party; as, if the principal, being a woman, marry, this would be a revocation, because the power of creating an agent is founded on the right of the

principal to do the business himself, and a married woman has no such power. For the same reason, when the principal becomes insane, the agency is ipso facto revoked. 8 Wheat. R. 174, 201 to @04; Story on Ag. _481; Story on Bailm. _206. 2 Liv. on Ag. 307. The incapacity of the agent also amounts to a revocation in law, as in case of insanity, and the like, which renders an agent altogether incompetent, but the rule does not reciprocally apply in its full extent. For instance, an infant or a married woman may in some cases be agents, althouah they cannot act for themselves. Co. Litt. 52a.

9. − 3. The death of either principal or agent revokes the agency, unless in cases where the agent has an interest in the thing actually vested in the agent. 8 Wheat. R. 174; Story on Ag. _486 to 499; 2 Greenl. R. 14, 18; but see 4 W. & S. 282; 1 Hare & Wall. Sel. Dec. 415.

10. − 4. The agency is revoked in law, by the extinction of the subject−matter of the agency, or of the principal's power over it, or by the complete execution of the trust. Story on Bailm. _207, Vide generally, 1 Hare & Wall. Sel. Dec. 384, 422; Pal. on Ag.; Story on Ag.; Liv. on Ag.; 2 Bouv. Inst. n. 1269−1382.

AGENT, practice. An agent is an attorney who transacts the business of another attorney.

2. The agent owes to his principal the unremitted exertions of his skil and ability, and that all his transactions in that character, shall be distinguished by punctuality, honor and integrity. Lee's Dict. of Practice.

AGENT, international law. One who is employed by a prince to manage his private affairs, or, those of his subjects in his name, near a foreign, government. Wolff, Inst. Nat. _1237.

AGENT, contracts. One who undertakes to manage some affair to be transacted for another, by his authority on account of the latter, who is called the principal, and to render an account of it.

2. There are various descriptiona of agents, to whom different appellations are given according to the nature of their employments; as brokers, factors, supercargoes, attorneys, and the like; they are all included in this general term. The authority is created either by deed, by simple writing, by parol, or by mere employment, according to the capacity of the parties, or the nature of the act to be done. It is, therefore, express or implied. Vide Authority.

3. It is said to be general or special with reference to its object, i.e., according as it is confined to a single act or is extended to all acts connected with a particular emplowment.

4. With reference to the manner of its execution, it is either limited or unlimited, i. e. the agent is bound by precise instructions, (q. v.) or left to pursue his own discretion. It is the duty of an agent, 1, To perform what he has undertaken in relation to his agency. 2, To use all necessary care. 3, To render an account. Pothier, Tr. du Contrat de Mandat, passim; Paley, Agency, 1 and 2; 1 Livrm. Agency, 2; 1 Suppl. to Ves. Jr. 67, 97, 409; 2 Id. 153, 165, 240; Bac. Abr. Master and Servant, 1; 1 Ves. Jr. R. 317. Vide Smith on Merc. Law, ch. 3, p. 43,. et seq. and the articles Agency, Authority, and Principal.

5. Agents are either joint or several. It is a general rule of ther common law, that when an authority is given to two or more persons to do an act, and there is no several authority given, all the ageuts must concur in doing it, in order to bind the principal. 3 Pick. R. 232; 2 Pick. R. 346; 12 Mass. R. 185; Co. Litt. 49 b, 112 b, 113, and Harg. n. 2; Id. 181 b. 6 Pick. R. 198 6 John. R. 39; 5 Barn. & Ald. 628.

6. This rule has been so contrued that when the authority is given jointly and severally to three person, two cannot properly execute it; it must be done by all or by one only. Co. Litt. 181 b; Com. Dig. Attorney, C 11; but if the authority is so worded that it is apparent, the principal intended to give power to either of them, an execution by two will be valid. Co. Litt. 49 b; Dy. R. 62; 5 Barn. & Ald. 628. This rule aplies to private agencies: for, in public agencies an authority executed by a major would be sufficient. 1 Co. Litt. 181b; Com. Dig. Attorney, C 15; Bac. Ab. Authority, C; 1 T. R. 592.

7. The rule in commercial transactions however, is very different; and generally when there are several agents each possesses the whole power. For example, on a consignment of goods for sale to two factors, (whether they are partners or not,) each of them is understood to possess the whole power over the goods for the purposes of the consigment. 3 Wils. R. 94, 114; Story on Ag. _43.

8. As to the persons who are capable of becoming agents, it may be observed, that but few persons are excluded from acting as agents, or from exercising authority delegated to them by others. It is not, therefore, requisite that a person be sui juris, or capable of acting in his own right, in order to be qualified to act for others. Infants, femes covert, persons attainted or outlawed, aliens and other persons incompetent for many purposes, may act as agents for others. Co. Litt. 62; Bac. Ab. Authority, B; Com. Dig. Attorney, C 4; Id. Baron and Feme, P 3; 1 Hill, S. Car. R. 271; 4 Wend. 465; 3 Miss. R. 465; 10 John. R. 114; 3 Watts, 39; 2 S. & R. 197; 1 Pet. R. 170.

9. But in the case of a married woman, it is to be observed, that she cannot be an agent for another when her

husband expressly dissents, particularly when he may be rendered liable for her acts. Persons who have clearly no understanding, as idiots and lunatics cannot be agents for others. Story on Ag. _7.

10. There is another class who, though possessing understanding, are incapable of acting as agents for others; these are persons whose duties and characters are incompatible with their obligations to the principal. For example, a person cannot act as agent in buying for another, goods belonging to himself. Paley on Ag. by Lloyd, 33 to 38; 2 Ves. Jr. 317. 11. An agent has rights which he can enforce, and is, liable to obligations which he must perform. These will be briefly considered:

1. The rights to which agents are entitled, arise from obligations due to them by their principals, or by third persons.

12 − 1. Their rights against their principals are, 1., to receive a just compensation for their services, when faithfully performed, in execution of a lawful agency, unless such services, are entirely gratuitous, or the agreement between the parties repels such a claim; this compensation, usually called a commission, is regulated either by particulaar agreement, or by the usage of trade, or the presumed intention of the parties. 8 Bing. 65; 1 Caines, 349; 2 Caines, 357.

2. To be reimbursed all their just advances, expenses and disbursemnts made in the course of their agency, on account of, or for the benefit of their principal; 2 Liverm. on Ag. 11−23; Story on Ag. _335; Story on Bailm. _196; Smith on Mer. Law, 56; 6 East, 392; and also to be paid interest upon such advances, whenever from the nature of the business, or the usage of trade, or the particular agreement of the parties, it may be fairly presumed to have been stipulated for, or due to the agent. 7 Wend. 315; 3 Binn. 295; 3 Caines, 226; 3 Camp. 467; 15 East, 223.

13. Besides the personal remedies which an agent has to enfored his claims against his principal for his commissions and, advancements, he has a lien upon the property of the principal in his hand. See Lien, and Story on Ag. _351 to 390.

14. − 2. The rights of agents against third penons arise, either on contracts made between such third persons and them, or in consequence of torts committed by the latter. 1. The rights of agents against third persons on contracts, are, 1st, when the contract is in writing and made expressly with the agent, and imports to be a contract personally with him, although he may be known to act as an agent; as, for example, when a promissory note is given to the agent as such, for the benefit of his principal, and the promise is to pay the money to the agent, oe nomine. Story on Ag. 393, 394; 8 Mass. 103; see 6 S.& R. 420; 1 Lev. 235; 3 Camp. 320; 5 B.& A. 27. 2d. When the agent is the only known or ostensible pincipal, and therefore, is in contemplation of law, the real contracting party. Story on Ag. _226, 270, 399. As, if an agent sell goods of his principal in his own name, as if he were the owner, he is entitled to sue the buyer in his own name; although his prncipal may also sue. 12 Wend. 413; 5 M.& S. 833. And on the other hand, if he so buy, he may enforce the contract by action. 3d. When, by the usage of trade, the agent is authorized to act as owner, or as a principal contracting party, although his character as agent is known, he may enforce his contract by action. For example, an auctioner, who sells the goods of another may maintain an action for the price, because he has a possession coupled with an interest in the goods, and it is a general rule, that whenever an agent, though known as such, has a special property in the subject−matter of the contract, and not a bare −custody, or when he has acquired an interest, or has a lien upon it, he may sue upon the contract. 2 Esp. R. 493; 1 H. Bl. 81, 84; 6 Wheat. 665; 3 Chit. Com. Law, 10; 3 B. & A. 276. But this right to bring an action by agents is subordinate to the rights of the principal, who may, unless in particular cases, where the agent has a lien, or some other vested right, bring a suit himself, and suspend or extinguish the right of the agent. 7 Taunt. 237, 243; 2 Wash. C. C. R. 283. 2. Agents are entitled to actions against third persons for torts committed against them in the course of their agency. 1st. They may maintain actions, of trespass or trover against third persons for any torts or injuries affecting their possession of the goods which they hold as agents. Story on Ag. _414; 13 East, 135; 9 B. & Cressw. 208; 1 Hen. Bl. 81. 2d. When an agent has been induced by the fraud of a third person to sell or buy goods for his principal, and he has sustained loss, he may maintain an action against such third person for such wrongful act, deceit, or fraud. Story on Ag. _415.

15 − _2. Agents are liable for their acts, 1, to their principals; and 2, to third person.

16. − 1. The liabilities of agents to their principals arise from a violation of their duties and obligations to the principal, by exceeding their authority, by misconduct, or by any negligence or omission, or act by which the principal sustains a loss. 3 B. & Adol. 415; 12 Pick. 328. Agents may become liable for damages and loss under a special contract, contrary to the general usages of trade. They may also become responsible when charging a del

credere commission. Story on Ag. _234.

17. − 2. Agents become liable to third persons; 1st, on their contract; 1, when the agent, undertakes to do an act for another, and does not possess a sufficient authority from the principal, and that is unknown to the other party, he will be considered as having acted for himself as a principal. 3 B. 9 Adol. 114. 2. When the agent does not disclose his agency, he will be considered as a principal; 2 Ep. R. 667; 15 East, 62; 12 Ves. 352; 16 Martin's R. 530; and, in the case of agents or factors, acting for merchants in a foreign country, they will be considered liable whether they disclose their principal or not, this being the usage of the trade; Paley on Ag. by Lloyd, 248, 373; 1 B.& P. 368; but this presumption may be rebutted by proof of a contrary agreement. 3. The agent will be liable when he expressly, or by implication, incurs a personal responsibility. Story on Ag. _156−159. 4. When the agent makes a contract as such, and there is no other responsible as principal, to whom resort can be had; as, if a man sign a note as "guardian of AB," an infant; in that case neither the infant nor his property will be liable, and the agent alone will be responsible. 5 Mass. 299; 6 Mass., 58. 2d. Agents become liable to third persons in regard to torts or wrongs done by them in the course of their agency. A distinction has been made, in relation to third persons, between acts of misfeasance and non−feasance: an agent is, liable for the former, under certain circumstances, but not for the latter; he being responsible for his non−feasance only to his principal. Story on Ag. _309, 310. An agent is liable for misfeasance as to third persons, when, intentionally or ignorantly, he commits a wrong, although authorized by his principal, because no one can lawfully authorize another to commit a wrong upon the rights or property of another. 1 Wils. R. 328; 1 B. & P. 410. 3d. An agent is liable to refund money, when payment to him is void ab initio, so that, the money was never received for the use of his principal, and he is consequently not accountable to the latter for it, if he has not actually paid it over at the time he receives notice of the take. 2 Cowp. 565; 10 Mod. 233; M.& S. 344. But unless "caught with the money in his possession," the agent is not responsible. 2 Moore, 5; 8 Taunt. 136; 9 Bing. 878; 7 B.& C. 111; 1 Cowp. 69; 4 Taunt. 198. This last rule is, however, subject to this qualification, that the money shall have been lawfully received by the agent; for if, in receiving it, the agent was a wrongdoer, he will not be exempted from liability by payment to his principal. 1 Campb. 396; 8 Bing. 424; 1 T. R. 62; 2 Campb. 122; 1 Selw. N. P. 90, n.; 12 M. & W. 688; 6 A.& Ell. N. S. 280; 1 Taunt. 359; 3 Esp. 153.

See Diplomatic dgent.

AGENT AND PATIENT. This phrase is used to indicate the state of a person who is required to do a thing, and is at the same time the person to wbom it is done; as, when a man is indebted to another, and he appoints him his executor, the latter is required to pay the debt in his capacity of executor, and entitled to receive it in his own right, he is then agent and patient. Termes de la ley.

AGGRAVATION, crimes, torts. That which increases the enormity of a crime or the injury of a wrong. The opposite of extenuation.

2. − When a crime or trespass has been committed under aggravating circumstances, it is punished with more severity; and, the damages given to vindicate the wrong are greater.

AGGRAVATION, in pleading. The introduction of matter into the declaration which tends to increase the amount of damages, but does not affect the right of action itself. Steph. Pl. 257; 12 Mod. 597. See 3 An. Jur. 287, 313. An example of this is found in the case where a plaintiff declares in trespass for entering his house, and breaking his close, and tossing his goods about; the entry of the house is the principal ground and foundation of the action, and the rest is only stated by way of agravation; 3 Wils. R. 294; and this matter need not be proved by the plintiff or answered by the defendant.

AGGREGATE. A collection of particular persons or items, formed into one body; as a corporation aggregate, which is one formed of a number of natural persons; the union of individual charges make an aggregate charge.

AGGRESSOR, crim. law. He who begins, a quarrel or dispute, either by threatening or striking another. No man may strike another because he has threatened, or in consequence of the use of any words.

AGIO, aggio. This term is used to denote the difference of price beteen the value of bank notes and nominal money, and the coin of the country. − Encyc.

AGIST, in contrads. The taking of other men's cattle on one's own ground at a certain rate. 2 Inst. 643; 4 Inst. 293.

AGISTER. One who takes horses or other animals to agist.

2. The agister is not, like an innkeeper, bound to take all horses offered to him, nor is he liable for any injury done to such animals in his care, unless he has been guilty of negligence, or from his ignorance, negligence may

be inferred. Holt's R. 457.

AGISTMENT, contracts. The taking of another person's cattle into one's own ground to be fed, for a consideration to be paid by the owner. The person who receives the cattle is called an agister.

2. An agister is bound to ordinary diligence, and of course is responsible for loses by ordinary negligence; but he does not insure the safety of the cattle agisted. Jones, Bailm. 91; I Bell's Com. 458; Holt's N. P. Rep. 547; Story, Bail. _443; Bac. Ab. Tythes, C l.

AGNATES. In the sense of the Roman law were those whose propinquity was connected by males only; in the relation of cognates, one or more females were interposed.

2. By the Scotch lanv, agnates are all those who ar related by the father, even though females intervene; cognates are those who are related by the mother. Ersk. L. Scot. B. 1, t. 7, s. 4.

AGNATI, in descents. Relations on the father's side: they are different from the cognati, they being relations on the mother's side, affines, who are allied by marriage, and the propinqui, or relations in general. 2 Bl. Com. 235; Toull. Dr. Civ. Fr. tome 1, p. 139; Poth. Pand. Tom. 22, p. 27. Calvini Lex.

AGNATION, in descents. The relation by blood which exists between such males as are descended from the same father; in distinction from cognation or consanguinity, which includes the descendants from females. This term is principally used in the civil law.

AGRARIAN LAW. Among the Romans, this name was given to a law, which had for its object, the division among the people of all the lands which had been con−
quered, and which belonged to the domain of the state.

AGREEMENT, contract. The consent of two or more persons concurring, respecting the transmissiou of some property, right or benefit, with a view of contracting an obligation. Bac. Ab. h.t.; Com. Dig. h.t.; Vin. Ab. h.t.; Plowd. 17; 1 Com. Contr. 2; 5 East's R. 16. It will be proper to consider, 1, the requisites of an agreement; 2, the kinds of agreements; 3, how they are annulled.

2. − 1. To render an agreement complete six things must concur; there must be, 1, a person able to contract; 2, a person able to be contracted with; 3, a thing to be contracted for; 4, a lawful consideration, or quid pro quo; 5, words to express the agreement; 6, the assent of the contracting parties. Plowd. 161; Co. Litt. 35, b.

3. − 2. As to their form, agreements are of two kinds; 1, by parol, or, in writing, as contradistinguished from specialties; 2, by specialty, or under seal. In relation to their performance, agreements are executed or executory. An agreement is said to be executed when two or more persons make over their respective rights in a thing to one another, and thereby change the property therein, either presently and at once, or at a future time, upon some event that shall give it full effect, without either party trusting to the other; as where things are bought, paid for and delivered. Executory agreements, in the ordinary acceptation of the term, are such contracts as rest on articles, memorandums, parol promises, or undertakings, and the like, to be performed in future, or which are entered into preparatory to more solemn and formal alienations of prtperty. Powel on Cont. Agreements are also conditional and unconditional. They are conditional when some condition must be fulfilled before they can have full effect; they are unconditional when there is no condition attached;

4. − 3. Agreements are annulled or rendered of no effect, first, by the acts of the parties, as, by payment; release − accord and satisfction; rescission, which is express or implied; 1 Watts & Serg. 442; defeasance; by novation: secondly, by the acts of the law, as, confusion; merger; lapse of time; death, as when a man who has bound himself to teach an apprentice, dies; extinction of the thing which is the subject of the contract, as, when the agreement is to deliver a certain horse and before the time of delivery he dies. See Discharge of a Contract.

5. The writing or instrument containing an agreement is also called an agreement, and sometimes articles of agreement.(q. V.)

6. It is proper, to remark that there is much dfference between an agreement and articles of agreement which are only evidence of it. From the moment that the parties have given their consent, the agreement or contraet is formed, and, whether it can be proved or not, it has not less the quality to bind both contracting parties. A want of proof does not make it null, because that proof may be supplied aliunde, and the moment it is obtained, the contract may be−enforced.

7. Again, the agreement may be mull, as when it was obtained by fraud, duress, and the like; and the articles of agreement may be good, as far as the form is concerned. Vide Contract. Deed; Guaranty; Parties to Contracts.

AGRI. Arable land in the common fields. Cunn. Dict. h. t.

AGRICULTURE. The art of cultivating the earth in order to obtain from it the divers things it can produce; and

particularly what is useful to man, as grain, fruit's, cotton, flax, and other things. Domat, Dr. Pub. liv. tit. 14, s. 1, n. 1.

AID AND COMFORT. The constitution of the United States, art. 8, s. 3, declares, that adhering to the enemies of the United States, giving them aid and comfort, shall be treason. These words, as they are to be understood in the constitution, have not received a full judicial construction. They import, however, help, support, assistance, countenance, encouragement. The word aid, which oocurs in the Stat. West. 1, c. 14, is explained by Lord Coke (2 just. 182) as comprehending all persons counselling, abetting, plotting, assenting, consenting, and encouraging to do the act, (and he adds, what is not applicable to the Crime to treason,) who are not present when the act is done, See, also, 1 Burn's Justice, 5, 6; 4 Bl. Com. 37, 38.

AID PRAYER, English law. A petition to the court calling in help from another person who has an interest in the matter in dispute. For example, a tenant for life, by the courtesy or for years, being impleaded, may pray aid of him in reversion; that is, desire the court that he may be called by writ, to allege what he thinks proper for the maintenance of the right of the person calling him, and of his own. F. N. B. 60; Cowel.

AIDERS, crim. law. Those who assist, aid, or abet the principal, and who are principals in the second degree. 1. Russell, 21.

AIDS, Engl. law. Formerly they were certain sums of money granted by the tenant to his lord in times of difficulty and distress, but, as usual in such cases, what was received as a gratuity by the rich and powerful from the weak and poor, was soon claimed as a matter of right; and aids became a species of tax to be paid by the tenant to his lord, in these cases: 1. To ransom the lord's person, when taken priisoner; 2. To make the lord's eldest son a knight; − 3. To marry the lord's eldest daughter, by giving her a suitable portion. The first of these remained uncertain; the other two were fixed by act of parliament at twenty shillings each being the supposed twentieth part of a knight's fee, 2 Bl. Com. 64.

AILE or AYLE, domestic relations. This is a corruption of the French word aieul, grandfather, avus. 3.Bl. Com. 186.

AIR. That fluid transparent substance which surrounds our globe.

2. No property can be had in the air it belongs equally to all men, being indispensable to their existence. To poison or materially to change the air, to the annoyance of the public, is a nuisance. Cro. Cr. 610; 2 Ld. Raym 1163; I Burr. 333; 1 Str. 686 Hawk. B. 1, c. 75, s. 10; Dane's Ab. Index h. t. But this must be understood with this qualification, that no one has a right to use the air over another man's land, in such a manner as to be injurious to him. See 4 Campb. 219; Bowy. Mod. Civ. Law, 62; 4 Bouv. Inst. n. 36 1; Grot. Droit de la Guerre et de la Paix, liv. 2, c. 2, _3, note, 3 et 4.

3. It is the right of the proprietor of an estate to enjoy the light and air that will come to him, and, in general, no one has a right to deprive him of them; but sometimes in building, a man opens windows over his neighbor's ground, and the latter, desirous of building on his own ground, necessarily stops the windows already built, and deprives the first builder of light and air; this he has the right to do, unless the windows are ancient lights, (q. v.) or the proprietor has acquired a right by grant or prescription to have such windows open. See Crabb on R. P. _444 to 479 and Plan. Vide Nuisance.

AJUTAGE. A conical tube, used in drawing water through an aperture, by the use of which the quantity of water drawn is much increased. When a privilege to draw water from a canal through the forebay or tunnel by means of in aperture has been granted, it is not lawful to add an adjutage, unless such was the intention of the parties. 2 Whart. R. 477.

ALABAMA. The name of one of the new states of the United States of America. This state was admitted into the Union by the resolution of congress, approved December 14th, 1819, 3 Sto. L. U. S. 1804, by which it is resolved that the state of Alabama shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states, in all respects whatever. The convention which framed the constitution in this state, assembled at the town of Huntsville on Monday the fifth day of July, 1819, and continued in session by adjournment, until the second day of August, 1819, when the constitution was adopted.

2. The powers of the government are divided by the constitution into three distinct, departments; and each of them confided to a separate body of magistracy, to wit: those which are legislative, to one; those which are executive, to another; and those which are judicial, to a third. Art. 2,

3. − 1. The legislative power of the state is vested in two distinct branches; the one styled the senate, the other

the house of representatives, and both together, the general assembly of the state of Alabama. 1. The senate is never to be less than one−fourth nor more than one−third of the whole number of representatives. Senators are chosen by the qualified electors for the term of three years, at the same time, in the same manner, and at the same place, where they vote for members of the house of representatives; one−third of the whole number of senators are elected every year. Art. 3, s. 12. 2. The house of representatives is to consist of not less than forty−four, nor more than sixty members, until the number of white inhabitant's shall be one hundred thousand; and after that event, the whole number of representatives shall never be less than sixty, nor more than one hundred. Art. 3, B. 9. The members of the house of representatives are chosen by the qualified electors for the term of one year, from the commencement of the general election, and no longer.

4. − 2. The supreme executive power is vested in a chief magistrate, styled the governor of the state of Alabama. He is elected by the qualified electors, at the time and places when they respectively vote for representatives; he holds his office for the term of two years from the time of his installation, and until a successor is duly qualified; and is not eligible more than four years in any term of six years. t. 4. He is invested, among other things, with the veto power. Ib. s. 16. In cases of vacancies, the president of the senate acts as governor. Art. 4, s. 18.

5. − 3. The judicial power is vested in one supreme court, circuit courts to be held in each county in the state, and such inferior courts of law and, equity, to consist of not more than five members, as the general assembly may, from time to time direct, ordain, and establish. Art. 6, S. 1.

ALBA FIRMA. Eng. law. When quit rents were reserved payable in silver or white money, they wero called white rents, or blanch farms reditus albi. When they were reserved payable in work, grain, or the like, they were called reditus nigri or black mail. 2 Inst. 19.

ALCADE, Span. law. The name of a judicial officer in Spain, and in those countries which have received the body of their laws from those of Spain.

ALDERMAN. An officer, generally appointed or elected in towns corporate, or cities, possessing various powers in different places.

2. The aldermen of the cities of Pennsylvania, possess all the powers and jurisdictions civil and criminal of justices of the peace. They are besides, in conjunction with the respective mayors or recorders, judges of ibe mayor's courts.

3. Among the Saxons there was an officer called the ealderman. ealdorman, or aldernwn, which appellation signified literally elderman. Like the Roman senator, he was so called, not on account of his age, but because of his wisdom and dignity, non propter oetatem sed propter sapientism et dignitatem. He presided with the bisbop at the scyregemote, and was, ex officio, a member of the witenagemote. At one time he was a military officer, but afterwards his office was purely judical.

4. There were several kinds of aldermen, as king's aldermen, aldermen of all England, aldermen of the county, aldermen of the hundred, &c., to denote difference of rank and jurisdiction.

ALEA; civil law. The chance of gain or loss in a contract. This chance results either from the uncertainty of the thing sold, as the effects of a succession; or from the uncertainty of the price, as when a thing is sold for an annuity, which is to be greater or less on the happening of a future event; or it sometimes arises in consequence of the uncertainty of both. 2 Duv. Dr. Civ. Fr. n. 74.

ALEATORY CONTRACTS, civil law. A mutual agreement, of which the effects, with respect both to the advantages and losses, whether to all the parties, or to some of them, depend on an uncertain event. Civ. Code of Louis. art. 2951.

2. − These contracts are of two kinds; namely, 1. When one of the parties exposes himself to lose something which will be a profit to the other, in consideration of a sum of money which the latter pays for the risk. Such is the contract of insurance; the insurer takes all the risk of the sea, and the assured pays a premium to the former for the risk which he runs.

3. − 2. In the second kind, each runs a risk which is the consideration of the engagement of the other; for example, when a person buys an annuity, he runs the risk of losing the consideration, in case of his death soon after, but he may live so as to receive three times the amount of the price he paid for it. Merlin, Rep. mot Aleatoire.

ALER SANS JOUR, or aller sans jour, in practice. A French phrase which means go without day; and is used to signify that the case has been finally dismissed the court, because there is no further day assigned for appearance. Kitch. 146.

ALFET, obsolete. A vessel in which hot water was put, for the purpose of dipping a criminal's arm in it up to the elbow.

ALIA ENORMIA, pleading. And other wrongs. In trespass, the declaration ought to conclude "and other wrongs to the said plaintiff then and there did, against the peace," &c.

2. Under this allegation of alia enormia, some matters may be given in evidence in aggravatiou of damages, though not specified in other parts of the declaration. Bull. N. P. 89; Holt, R. 699, 700. For example, a trespass for breaking and entering a house, the plaintiff may, in aggravation of damages, give in evidence the debauching of his daughter, or the beating of his servants, under the general allegation alia enormia, &c. 6 Mod. 127.

3. But under the alia nomia no evidence of the loss of service, or any other matter which would of itself sustain an action; for if it would, it should be stated specially. In trespass quare clausum fregit, therefore, the plaintiff would not, under the above general allegation, be permitted to give evidence of the defendant's taking away a horse, &c. Bull. N. P. 89; Holt, R. 700; 1 Sid. 225; 2 Salk. 643; 1 Str. 61; 1 Chit. Pl. 388; 2 Greenl. Ev. _278.

ALIAS, practice. This word is prefixed to the name of a second writ of the same kind issued in the same cause; as, when a summons has been issued and it is returned by the sheriff, nil, and another is issued, this is called an alias summons. The term is used to all kinds of writs, as alias fi. fa., alias vend. exp. and the like. Alias dictus, otherwise called; a description of the defendant by an addition to his real name of that by wbich he is bound in the writing; or when a man is indicted and his name is uncertain, he may be indicted as A B, alias dictus C D. See 4 John. 1118; 1 John. Cas. 243; 2 Caines, R. 362; 3 Caines, R. 219.

ALIBI, in evidence. This is a Latin word which signifies, elsewhere.

2. When a person, charged with a crime, proves (se eadem die fuisse alibi,) that he was, at the time alleged, in a different place from that in which it was committed, he is said to prove an alibi, the effect of which is to lay a founation for the necessary inference, that he could not have committed it. See Bract. fo. 140, lib. 3, cap. 20, De Corona.

3. This proof is usually made out by the testimony of witnesses, but it is presumed it might be made out by writings; as if the party could prove by a record properly authenticated, that on the day or at the time in question, he was in another place.

4. It must be admitted that mere alibi evidence lies under a great and general prejudice, and ought to be heard with un−common caution; but if it appear, to be founded in truth, it is the best negative evidence that can be offered; it is really positive evidence, which in the nature of things necessarily implies a negative; and in many cases it is the only evidence which an innocent man can offer.

ALIEN, persons. One born out of the jurisdiction of the United States, who has not since been naturalized uuder their constitution and laws. To this there are some exceptions, as this children of the ministers of the United States in foreign courts. See Citizen, Inhabitant.

2. Aliens are subject to disabilities, have rights, and are bound to perform duties, which will be briefly considered. 1. Disabilities. An alien cannot in general acquire title to real estate by the descent, or by other mere operation of law; and if he purchase land, he may be divested of the fee, upon an inquest of office found. To this general rule there are statutory exceptions in some of the states; in Pennsylvania, Ohio, Louisiana, New Jersey, Rev. Laws, 604, and Michigan, Rev. St. 266, s. 26, the disability has been removed; in North Carolina, (but see Mart. R. 48; 3 Dev. R. 138; 2 Hayw. 104, 108; 3 Murph. 194; 4 Dev. 247; Vermont and Virginia, by constitutional provision; and in Alabama, 3 Stew R. 60; Connecticut, act of 1824, Stat. tit. Foreigners, 251; Indiana, Rev. Code, a. 3, act of January 25, 1842; Illinois, Kentucky, 1 Litt. 399; 6 Mont. 266 Maine, Rev. St,. tit. 7, c. 93, s. 5 Maryland, act of 1825, ch. 66; 2 Wheat. 259; and Missouri, Rev. Code, 1825, p. 66, by statutory provision it is partly so.

3. An alien, even after being naturalized, is ineligible to the office of president of the United States; and in some states, as in New York, to that of govenor; he cannot be a member of congress, till the expiration of seven years after his naturalization. An alien can exercise no political rights whatever; he cannot therefore vote at any political election, fill any office, or serve as a juror. 6 John. R. 332.

4. − 2. An alien has a right to acquire personal estate, make and enforce contracts in relation to the same − he is protected from injuries, and wrongs, to his person and property, his relative rights and character; he may sue and be sued.

5. − 3. He owes a temporary local allegiance, and his property is liable to taxation. Aliens are either alien friends or alien enemies. It is only alien friends wbo have the rights above enumerated; alien enemies are incapable,

during the existence of war to sue, and may be ordered out of the covntry. See generally, 2 Kent. Com. 43 to 63; 1 Vin. Ab. 157; 13 Vin. ab. 414; Bac. Ab. h.t.; 1 Saund. 8, n.2; Wheat. Dig. h.t.; Bouv. Inst. Index, h.t.

ALIENAGE. The condition or state of alien.

ALIENATE, aliene, alien. This is a generic term applicable to the various methods of transfering property from one person to another. Lord Coke, says, (1 Inst. 118 b,) alien cometh of the verb alienate, that is, alienum facere vel ex nostro dominio in alienum trawferre sive rem aliquam in dominium alterius transferre. These methods vary, according to the nature of the property to be conveyed and the particular objects the conveyance is designed to accomplish. It has been held, that under a prohibition to alienate, long leases are comprehended. 2 Dow's Rep. 210.

ALIENATION, estates. Alienation is an act whereby one man transfers the property and possession of lands, tenements, or other things, to another. It is commonly applied to lands or tenements, as to alien (that is, to convey) land in fee, in mortmain. Termes de la ley. See Co. Litt. 118 b; Cruise Dig. tit. 32, c. 1, _1−8.

2. Alienations may be made by deed; by matter of record; and by devise.

3. Alienations by deed may be made by original or primary conveyances, which are those by means of which the benefit or estate is created or first arises; by derivative or secondary conveyances, by which the benefit or estate originally created, is enlarged, restrained, transferred, or extinguished. These are conveyances by the common law. To these may be added some conveyances which derive their force and operation from the statute of uses. The original conveyances are the following: 1. Feoffment; 2. Gift; 3. Grant; 4. Lease; 6. Exchange; 6. Partition. The derivative are, 7. Release; 8. Confirmation; 9. Surrender; 10. Assignment; 11. Defeasance. Those deriving their force from the statute of uses, are, 12. Covenants to stand seised to uses; 13. Bargains and sales; 14. Lease and release; 15. Deeds to lend or declare the uses of other more direct conveyances; 16. Deeds of revocation of uses. 2 Bl. Com. ch. 20. Vide Conveyance; Deed. Alienations by matter of record may be, 1. By private acts of the legislature; 2. By grants, as by patents of lands; 3. By fines; 4. By common recovery. Alienations may also be made by devise (q.v.)

ALIENATION, med. jur. The term alienation or mental alienation is a generic expression to express the different kinds of aberrations of the human understandiug. Dict. des Science Med. h. t.; 1 Beck's Med. Jur. 535.

ALIENATION OFFICE, Engligh law. An office to which all writs of covenants and entries are carried for the recovery of fines levied thereon. See Alienate.

TO ALIENE, contracts. See Alienate.

ALIENEE. One to whom an alienation is made.

ALIEXI JURIS. Words applied to persons who are subject to the authority of another. An infant who is under the authority of his father or guardian, and a wife under the power of her husband, are said to be alieni juris. Vide sui juris.

ALIENOR. He who makes a grant or alienation.

ALIMENTS. In the Roman and French law this word signifies the food and other things necessary to the support of life, as clothing and the like. The same name is given to the money allowed for aliments. Dig. 50, 16, 43.

2. By the common law, parents and children reciprocally owe each other aliments or maintenance. (q. v.) Vide 1 Bl. Com. 447; Merl. Rep. h. t.; Dig. 25, 3, 5. In the common law, the word alimony (q.v.) is used. Vide Allowance to a Prisoner.

ALIMONY. The maintenance or support which a husband is bound to give to his wife upon separation from her; or the support which either father or mother is bound to give to his or her children, though this is more usually called maintenance.

2. The causes for granting alimony to the wife are, 1, desertion, (q. v.) or cruelty of the husband; (q. v.) 4 Desaus. R. 79,; 1 M'Cord's Ch. R. 205; 4 Rand. R. 662; 2 J. J; Marsh. R. 324.; 1 Edw. R. 62; and 2, divorce. 4 Litt. R. 252; 1 Edw. R. 382; 2 Paige, R. 62; 2 Binn. R. 202; 3 Yeates, R. 50; S.& R. 248; 9 S.& R. 191; 3 John. Ch. R. 519; 6 John. Ch. 91.

3. In Louisiana by alimony is meant the nourishment, lodging and support of the person who claims it. It includes education when the person to whom alimoiay is due is a minor. Civil Code of L. 246.

4. Alimony is granted in proporion to the wants of the person requiring it, and the circumstances of those who are to pay it. By the common law, parents and children owe each other alimony. 1 Bl. Com. 447; 2 Com. Dig. 498;. 3 Ves. 358; 4 Vin. Ab. 175; Ayl. Parerg. 58; Dane's Ab. Index. h.t.; Dig. 34, 1. 6.

5. Alimony is allowed to the wife, pendente lite, almost as a matter of course whether she be plaintiff or

defendant, for the obvious reason that she has generally no other means of living. 1 Clarke's R. 151. But there are special cases where it will not be allowed, as when the wife, pending the progress of the suit, went to her father's, who agreed with the husband to support her for services. 1 Clarke's R. 460. See Shelf. on Mar. and Div. 586; 2 Toull. n. 612.

ALITER, otherwise. This term is frequently used to point out a difference between two decisions; as, a point of law has been decided in a particular way, in such a case, aliter in another case.

ALIUNDE. From another place; evidence given aliunde, as, when a will contains an ambiguity, in some cases, in order to ascertain the meaning of the testator, evidence aliunde will be received.

ALL FOURS. This is a metaphorical expression, to signify that a case agrees in all its circumstances with another case; it goes as it were upon its four legs, as an animal does.

ALLEGATA. A word which the emperors formerly signed at the bottom of their rescripts and constitutions; under other instrumets they usually wrote nata or testate. Ency. Lond.

ALLEGATA AND PROBATA. The allegations made by a party to a suit, and the proof adduced in their support. It is a general rule of evidence that the allegata and probata must correspond; that is, the proof must at least be sufficiently extensive to cover all the allegations of the party. Greenl. Ev. _51; 3 R. s. 636.

ALLEGATION, English ecclesiastical law. According to the practice of the prerogative court, the facts intended to be relied on in support of the contested suit are set forth in the plea, which is termed an allegation; this is submitted to the inspection of the counsel of the adverse party, and, if it appear to them objectionable in form or substance, they oppose the admission of it. If the opposition goes to the substance of the allegation, and is held to be well founded, the court rejects it; by which mode of proceeding the suit is terminated without, going into any proof of the facts. 1 Phil. 1, n.; 1 Eccl. Rep. ll, n. S. C. See 1 Brown's Civ. Law, 472, 3, n.

ALLEGATION, common law. The assertion, declaration or statement of a party of what he can prove.

ALLEGATI6N, civil law. The citation or reference to a voucher to support a proposition. Dict. de jurisp.; Encyclopedie, mot Allegation; 1 Brown's Civ. Law, 473, n.

ALLEGATION OF FACULTIES When a suit is instituted in the English ecclesiastical courts, in order to obtain alimony, before it is allowed, an alIegation must be made on the part of the wife, stating the property of the husband. This allegation is called an allegation of faculties. Shelf. on Mar. and Div. 587.

ALLEGIANCE. The tie which binds the citizen to the government, in return for the protection which the government affords him.

2. It is natural, acquired, or local. Natural allegiance is such as is due from all men born within the United States; acquired allegiance is that which is due by a naturalized citizen. It has never been decided whether a citizen can, by expatriation, divest himself absolutely of that character. 2 Cranch, 64; 1 Peters' C. C. Rep. 159; 7 Wheat. R. 283; 9 Mass. R. 461. Infants cannot assume allegiance, (4 Bin. 49) although they enlist in the army of the United States. 5 Bin. 429.

3. It seems, however, that he cannot renounce his allegiance to the United States without the permission of the government, to be declared by law. But for commercial purposes he may acquire the rights of a citizen of another country, and the place of his domicil determines the character of a party as to trade. 1 Kent, Com. 71; Com. Rep. 677; 2 Kent, Com. 42.

4. Local allegiance is that which is due from an alien, while resident in the United States, for the protection which the government affords him. 1 Bl. Com. 366, 372; Com. Dig. h.t; Dane's Ab. Index, h. t.; 1 East, P.C. 49 to 57.

ALLIANCE, relationship. The union or connexion of two persons or families by marraiage, which is also called affinity. This is derived from the Latin preposition ad and ligare, to bind. Vide Inst 1, 10, 6; Dig 38, 10, 4, 3; and Affinity.

ALLIANCE, international law. A contract, treaty, or league between two sovereigns or states, made to insure their safety and common defence.

2. Alliances made for warlike purposes are divided in general into defensive and offensive; in the former the nation only engages to defend her ally in case he be attacked; in the latter she unites with him for the purpose of making an attack, or jointly waging the war against another nation. Some alliances are both offensive and defensive; and there seldom is an offensive alliance which is not also defensive. Vattel, B. 3, c. 6, _79; 2 Dall. 15.

ALLISION, maritime law. The running of one vessel against another. It is distiguished from collision in this, that the latter means the running of two vessels against each other; this latter term is frequently used for allision.

ALLOCATION, Eng. law. An allowance upon account in the Exchequer; or rather, placing or adding to a thing. Eucy. Lond.

ALLOCATIONE FACIENDA. Eng. law. A writ commanding that an allowance be made to an accountant, for such moneys as he has lawfully expended in his office. It is directed to the lord treasurer and barons of the exchequer.

ALLOCATUR, practice. The allowance of a writ; e. g. when a writ of habeeas corpus is prayed for, the judge directs it to be done, by writing the word allowed and signing his name; this is called the allocator. In the English courts this word is used to indicate the master or prothonotary's allowance of a sum referred for his consideration, whether touching costs, damages, or matter of account. Lee's Dict. h, t.

ALLODIUM estates. Signifies an absolute estate of inheritance, in coutradistinction to a feud.

2. In this country the title to land is essentially allodial, and every tenant in fee simple has an absolute and perfect title, yet in technical language his estate is called an estate in fee simple, and the tenure free and common socage. 3 Kent, Com. 390; Cruise, Prel. Dis. c. 1, _13; 2 Bl. Com. 45.

For the etymology of this word, vide 3 Kent Com. 398 note; 2 Bouv. Inst. n. 1692.

ALLONGE, French law. When a bill of exchange, or other paper, is too small to receive the endorsements which are to be made on it, another piece of paper is added to it, and bears the name of allonge. Pard. n. 343; Story on P. N. _121, 151; Story on Bills, 204. See Rider.

ALLOTMENT. Distribution by lot; partition. Merl. Rep. h. t.

TO ALLOW, practice. To approve; to grant; as to allow a writ of error, is to approve of it, to grant it. Vide Allocatur. To allow an amount is to admit or approve of it.

ALLOWANCE TO A PRISONER. By the laws of, it is believed, all the states, when a poor debtor is in arrest in a civil suit, the plaintiff is compelled to pay an allowance regulated by law, for his maintenance and support, and in default of such payment at the time required, the prisoner is discharged. Notice must be given to the plaintiff before the defendant can be discharged.

ALLOY, or ALLAY. An inferior metal, used with gold. and silver in making coin or public money. Originally, it was one of the allowances known by the name of remedy for errors, in the weight and purity of coins. The practice of making such allowances continued in all European mints after the reasns, upon which they were originally founded, had, in a great measure, ceased. In the imperfection of the art of coining, the mixture of the metals used, and the striking of the coins, could not be effected with, perfect accuracy. There would be some variety in the mixture of metals made at different times, although intended to be in the same proportions, and in different pieces of coin, although struck by the same process and from the same die. But the art of coining metals has now so nearly attained perfection, that such allowances have become, if not altogether, in a great measure at least, unnecessary. The laws of the United States make no allowance for deficiencies of weight. See Report of the Secretary of State of the United States, to the Senate of the U. S., Feb. 22, 1821, pp. 63, 64.

2. The act of Congress of 2d of April, 1792, sect. 12, directs that the standard for all gold coins of the United States, shall be eleven parts fine to one part of alloy; and sect. 13, that the standard for all silver coins of the United States, shall be one thousand four hundred and eighty−five parts fine, to one hundred and seventy−nine parts alloy. 1 Story's L. U. S. 20. By the act of Congress, 18th Feb. 1831, _8, it is provided, that the stadard for both gold and silver coim of the United States, shall be such, that of one thousand parts by weight, nine hundred shall be of pure metal, and one hundred of alloy; and the alloy of the silver coins shall be of copper, and the alloy of gold coins shall be of copper and silver, provided, that the silver do not exceed one−half of the whole alloy. See also, Smith's Wealth of Nations, vol. i., pp. 49, 50.

ALLUVION. The insensible increase of the earth on a shore or bank of a river by the force of the, water, as by a current or by waves. It is a part of the definition that the addition, should be so gradual that no one can judge how much is added at each moment of time. Just. Inst. lib. 2, tit. 1, _20; 3 Barn. & Cress. 91; Code Civil Annote No. 556. The proprietor of the bank increased by alluvion is entitled to the addition. Alluvion differs from avulsion in this: that the latter is sudden and perceptible. See avulsion. See 3 Mass. 352; Coop. Justin. 458; Lord Raym. 77; 2 Bl. Com. 262, and note by Chitty; 1 Swift's Dig. 111; Coop. Just. lib. 2, t. 1; Angell on Water Courses, 219; 3 Mass. R. 352; 1 Gill & Johns. R. 249; Schultes on Aq. Rights, 116; 2 Amer. Law Journ. 282, 293; Angell on Tide Waters, 213; Inst. 2, 1, 20; Dig. 41, 1, 7; Dig. 39, 2, 9; Dig. 6, 1, 23; Dig. 1, 41, 1, 5; 1 Bouv. Inst. pars 1, c. 1 art. 1, _4, s. 4, p. 74.

ALLY, international law. A power which has entered into an alliance with another power. A citizen or subject of

one of the powers in alliance, is sometimes called an ally; for example, the rule which renders it unlawful for a citizen of the United States to trade or carry on commerce with an enemy, also precludes an ally from similar intercourse. 4 Rob. Rep. 251; 6 Rob. Rep. 406; Dane's Ab, Index, h. t.; 2 Dall. 15.

ALMANAC. A table or calendar, in which are set down the revolutions of the seasons, the rising and setting of the sun, the phases of the moon, the most remarkable conjunctions, positions and phenomena of the heavenly bodies, the months of the year, the days of the month and week, and a variety of other matter.

2. The courts will take judicial notice of the almanac; for example, whether a certain day of the month was on a Sunday or not. Vin. Ab. h. t.; 6 Mod. 41; Cro. Eliz. 227, pl. 12; 12 Vin. Ab. Evidence (A, b, 4.) In dating instrments, some sects, the Quakers, for example, instead of writing January, February, March, &c., use the terms, First month, Second month, Third month, &c., and these are equally valid in such writings. Vide 1 Smith's Laws of Pennsylvania, 217.

ALLODARII, Eng. law, Book of Domesday. Such tenants, wbo have as large an estate as a subject can have. 1 Inst. 1; Bac. Ab Tenure, A.

ALMS. In its most extensive sense, this comprehends every species of relief bestowed upon the poor, and, therefore, including all charities. In a more, limited sense, it signifies what is given by public authority for the relief of the poor. Shelford on Mortmain, 802, note (x); 1 Dougl. Election Cas. 370; 2 Id. 107; Heywood on Elections, 263.

ALTA PRODITIO, Eng. law. High treason.

ALTARAGE, eccl. law. Offerings made on the altar; all profits which accrue to the priest by means of the altar. Ayl. Par. 61; 2 Cro. 516.

TO ALTER. To change. Alterations are made either in the contract itself, or in the instrument which is evidence of it. The contract may at any time be altered with the consent of the parties, and the alteration may be either in writing or not in writing.

2. It is a general rule that the terms of a contract under seal, cannot be changed by a parol agreement. Cooke, 500; 3 Blackf. R. 353; 4 Bibb. 1. But it has been decided that an alteration of a contract by specialty, made by parol, makes it all parol. 2 Watts, 451; 1 Wash. R. 170; 4 Cowen, 564; 3 Harr. & John. 438; 9 Pick. 298; 1 East, R. 619; but see 3 S.& R. 579.

3. When the contract is, in writing, but not under seal, it may be varied by parol, and the whole will make but one agreement. 9 Cowen, 115; 5.N. H. Rep. 99; 6 Harr. & John, 38; 18 John. 420; 1 John. Cas. 22; 5 Cowen, 606; Pet. C. C. R. 221; 1 Fairf. 414.

4. When the contract is evidenced by a specialty, and it is altered by parol, the whole will be considered as a parol agreement. 2 Watt 451; 9 Pick. 298. For alteration of instruments see Erasure; Interlineation. See, generally, 7 Greenl. 76, 121, 394; 15 John. 200; 2 Penna. R. 454.

ALTERATION. An act done upon an instrument in writing by a party entitled under it, without the consent of the other party, by which its meaning or language is changed; it imports some fraud or design on the part of him who made it. This differs from spoliation, which is the mutilation of the instrument by the act of a stranger.

2. When an alteration has a tendency to mislead, by so changing the character of the instrument, it renders it void; but if the change has not such tendency, it will not be considered an alteration. 1 Greenl. Ev. 566.

3. A spoliation, on the contrary, will not affect the legal character of the instrument, so long as the original writing remains legible; and, if it be a deed, any trace of the seal remains. 1 Greenl. Ev. _ 566. See Spoliation.

ALTERNAT. The name of a usage among diplomatists by which the ranl and places of different powers, who have the same rights and pretensions to precedence, are changed from time to time, either in a certain regular order, or one determined by lot. In drawing up treaties and conventions, for example, it is the usage of certain powers to alternate, both in the preamble and the signatures, so that each power occupies, in the copy intended to be delivered to it, the first place. Wheat. Intern. Law, pt. 2, c. 3, _ 4..

ALTERNATIVE. The one or the other of two things. In contracts a party has frequently the choice to perform one of several things, as, if he is bound to pay one hundred dollars, or to deliver a horse, he has the alternative. Vide Election; Obligation; Alternative.

ALTIUS NON TOLLENDI, civil law. The name of a servitude due by the owner of a house, by which he is restrained from building beyond a certain height. Dig. 8, 2, 4, and 1, 12, 17, 25.

ALTIUS TOLLENDI, civil law. The name of a servitude which consists in the right, to him who is entitled to it, to build his house as high as he may think proper. In general, however, every one enjoys this privilege, unless he,

is restrained by home contrary title.

ALTO ET BASSO. High and low. This phrase is applied to an agreement made between two contending parties to submit all matters in dispute, alto et basso, to arbitration. Cowel.

ALTUM MARE. The high sea. (q. v.)

ALUMNUS, civil law. A child which one has nursed; a foster child. Dig. 40, 2, 14.

AMALPHITAN CODE. The name given to a collection of sea−laws, complied about the end of the eleventh century, by the people of Amalphi. It consists of the laws on maritime subjects which were, or had been, in force in counries bordering on the Mediterranean; and, on account of its being collected into one regular system, it was for a long time received as authority in those countries. 1 Azun. Mar. Law, 376.

AMANUENSIS. Oe who write another dictates. About the beginning of the sixth century,, the tabellions (q.v.) were known by this name. 1 Sav. Dr. Rom. Moy. Age, n. 16.

AMBASSADOR, interaational law. A public minister sent abroad by some sovereign state or prince, with a legal commission and authority to transact business on behalf of his country with the government to which he is sent. He is a minister of the highest rank, and represents the person of his sovereign.

2. The United States have always been represented by ministers plenipotentiary, never having sent a person of the rald of an, ambassador in the diplomatic sense. 1 Kent's Com. 39, n.

3. Ambassadors, when acknowledged as such, are exempted, absolutely from all allegiance, and from all responsibility to the laws. If, however, they should be so regardless of their duty, and of the object of their privilege, as to insult or openly to attack the laws of the government, their functions may be suspended by a refusal to treat with them, or application can be made to their own sovereign for their recall, or they may be dismissed, and required to depart within a reasonable time. By fiction of law, an ambassador is considered as if he were out of the territory of the foreign power; and it is an implied agreement among nations, that the ambassador, while he resides in the foreign state, shall be considered as a member of his own country, and the government he represents has exclusive cognizance of his conduct, and control of his person. The attendants of the ambassador are attached to his person, and the effects in his use are under his protection and privilege, and, generally, equally exempt from foreign jurisdiction.

4. Ambassadors are ordinary or extraordinary. The former designation is exclusively applied to those sent on permanent missions; the latter, to those employed on particular or extraordinary occasions, or residing at a foreign court for an indeterminate period. Vattel, Droit des Gens, 1. 4, c. 6, __70−79.

5. The act of dtigress of April 30th, 1790, s. 25, makes void any writ or process sued forth or prosecuted against any ambassador authorized and received by the president of the United States, or any domestic servant of such ambassador; and the 25th section of the same act, punishes any person who shall sue forth or proseeute such writ or process, and all attorneys − and soliciters prosecuting or soliciting in such case, and all officers executing such writ or process, with an imprisonment not exceeding three years, and a fine at the discretion of the court. The act provides that citizens or inhabitants of the United States who were indebted when they went into the service of an ambassador, shall not be protected as to such debt; and it requires also that the names of such servants shall be registered in the office of the secretary of state. The 16th section imposes the like punishment on any person offering violence to the person of an ambassador or other minister. P Vide 1 Kent, Com. 14, 38, 182; Rutherf. Inst. b. 2, c. 9; Vatt. b. 4, c. 8, s. 113; 2 Wash. C. C. R. 435; Ayl. Pand. 245; 1 Bl. Com. 253; Bac. Ab. h. t.; 2 Vin. Ab. 286; Grot. lib. 2, c. 8, 1, 3; 1 Whart. Dig. 382; 2 Id. 314; Dig. l. 50, t. 7; Code I. 10, t. 63, l. 4; Bouv. Inst. Index, h. t.

6. The British statute 7 Ann, cap. 12; is similar in its provisions; it extends to the family and servants of an ambassador, as well when they are the natives of the country in which the ambassador resides, as when they are foreigners whom he brings with him. (3 Burr. 1776−7) To constitute a domestic servant within the meaning of the statute, it is not necessary that the servant should lodge, at night in the house of the ambassador, but it is necessary to show the nature of the service he renders and the actual performance of it. 3 Burr. 1731; Cases Temp. Hardw. 5. He must, in fact, prove that he is bona fide the ambassador's servant. A land waiter at the custom house is not such, nor entitled to the privilege of the statute. 1 Burr. 401. A trader is not entitled to the protection of the statute. 3 Burr. 1731; Cases Temp. Hardw. 5. A person in debt cannot be taken into an ambassador's service in order to protect him. 3 Burr. 1677.

AMBIDEXTER. It is intended by this Latin word, to designate one who plays on both sides; in a legal sense it is taken for a juror or embraceor who takes money from the parties for giving his verdict. This is seldom or never

done in the United States.

AMBIGUITY, contracts, construction. When au expression has been used in an instrument of writing which may be understood in more than one sense, it is said there is an ambiguity,

2. There are two sorts of amiguities of words, ambiguitas latens and ambiguitas patens.

3. The first occurs when the deed or instrument is sufficiently certain and free from ambiguity, but the ambiguity is produced by something extrinsic, or some collateral matter out of the instrument; for example, if a man devise property to his cousin A B, and he has two cousins of that name, in such case parol evidence will be received to explain the ambiguity.

4. The second or patent ambiguity occurs when a clause in a deed, will, or other instrument, is so defectively expressed, that a court of law, which has to put a construction on the instrument, is unable to collect the intention of the party. In such case, evidence of the declaration of the party cannot be submitted to explain his intention, and the clause will be void for its uncertainty. In Pennsylvania, this rule is somewhat qualified. 3 Binn. 587; 4 Binn. 482. Vide generally, Bac. Max. Reg. 23; 1 Phu. Ev. 410 to 420; 3 Stark. Ev. 1021 ; I Com. Dig. 575; Sudg. Vend. 113. The civil law on this subject will be found in Dig. lib. 50, t. 17, 1. 67; lib. 45, t. 1, 1. 8; and lib. 22, t. 1, 1. 4.

AMBULATORIA VOLUNTAS. A phrase used to designate that a man has the power to alter his will or testament as long as he lives. This form of phrase frequently occurs in writers on the civil law; as ambulatoria res, ambulatoria actio, potestas, conditio, &c. Calvini Lexic.

AMENABLE. Responsible; subject to answer in a court of justice liable to punishment.

AMENDE HONORABLE, EngIish law. A penalty imposed upon a person by way of disgrace or infamy, as a punishment for any offence, or for the purpose of making reparation for any injury done to another, as the walking into church in a white sheet, with a rope about hte neck, and a ortch in the hand, and begging the pardon of God, or the king, or any private individual, for some delinquency.

2. A punishment somewhat similar to this, and which bore the same name, was common in France; it was abolished by the law of the 25th of September, 1791. Merlin Rep. de Jur. h.'t.

3. For the form of a sentence of amende horrorable, see D'Agaesseau, Oeuvres, 43 Plaidoyer, tom. 4, p. 246.

AMENDMENT, legislation. An alteration or change of something proposed in a bill.

2. Either house of the legislature has a rigt to make amendments; but, when so made, they must be sanctioned by the other house before they can become a law. The senate has no power to originate any money bills, (q. v,) but may propose and make amendments to such as have passed the House of representatives. Vide Congress; Senate.

3. The constitution of the United States, art. 5, and the constitutions of some of the states, provide for their amendment. The provisions contained in tho constitution of the United States, are as follows: "Congress, whenever two−thirds of both houses shall deem it necessary, shall propose amendments to this constitution, or, on the application of the legislatures of two−thirds of the several states, shall call a convention for proposing amendments, which, in either case, shall be valid, to all intents and purposes, as part of this constitution, when ratified by the legislatures of three−fourths of the several states, or by conventions in three−fourths thereof, as the one or the other mode of ratification may be proposed by Congress: Provided, that no amendment which may be made prior to the year one thousand eight hundred and eight, shall, in any manner, affect the first and fourth clauses in the ninth section of the first article; and that no state, without its consent, shall be deprived of its equal suffrage in the Senate."

AMMENDMENT, practice. The correction, by allowance of the court, of an error committed in the progress of a cause.

2. Amendments at common law, independently of any statutory provision on the subject, are in all cases in the discretion of the court, for the furtherance of justice they may be made while the proceedings are in paper, that is, until judgment is signed, and during the term in which it is signed; for until the end of the term the proceedings are considered in fieri, and consequently subject to the control of the court; 2 Burr. 756; 3 Bl. Com. 407; 1 Salk. 47; 2 Salk. 666 ; 8 Salk. 31; Co. Litt. 260; and even after judgment is signed, and up to the latest period of the action, amendment is, in most cases, allowable at the discretion of the court under certain statutes passed for allowing amendments of the record; and in later times the judges have been much more liberal than formerly, in the exercise of this discretion. 3 McLean, 379; 1 Branch, 437; 9 Ala. 647. They may, however, be made after the term, although formerly the rule was otherwise; Co. Litt. 260, a; 3 Bl. Com. 407; and even after error brought, where there has been a verdict in a civil or criminal case. 2 Serg. & R. 432, 3. A remittitur damna may be allowed

after error; 2 Dall. 184; 1 Yeates, 186; Addis, 115, 116; and this, although error be brought on the ground of the excess of damages remitted. 2 Serg. & R. 221. But the application must be made for the remittitur in the court below, as the court of error must take the record as they find it. 1 Serg. & R. 49. So, the death of the defendant may be suggested after errer coram nobis. 1 Bin. 486; I Johns. Cases, 29; Caines' Cases, 61. So by agreement of attormeys, the record may be amended after error. 1 Bin. 75; 2 Binn. 169.

3. Amendments are, however, always Iimited by due consideration of the rights of the opposite party; and, when by the amendment he would be prejudiced or exposed to unreasonable delay, it is not allowed. Vide Bac. Ab Com. Dig. h. t.; Viner's. Ab. h. t.; 2 Arch. Pr. 200; Grah. Pt. 524; Steph. Pl. 97; 2 Sell. Pr. 453; 3 Bl. Com. 406; Bouv. Inst. Index, h. t.

AMENDS. A satisfaction, given by a wrong doer to the party injured for a wrong committed. 1 Lilly's Reg. 81.

2. By statute 24 Geo. II. c. 44, in England, and by similar statutes in some of the United States, justices of the peace, upon being notified of an intended suit against them, may tender amends fore the wrong alleged or done by them in their official character, and if found sufficient, the tender debars the action. See Act of Penn. 21 March, 1772, __1 and.2; Willes' Rep. 671, 2; 6 Bin. 83; 5 Serg. & R. 517, 299; 3 Id. 295; 4 Bin. 20.

AMERCEMENT, practice. A pecuniary penalty imposed upon a person who is in misericordia; as, for example, when the defendant se retaxit, or recessit in contemptum curioe. 8 Co. 58; Bar. Ab. Fines and Amercements. By the common law, none can be amerced in his absence, except for his default. Non licet aliquem in sua absentia amerciare nisi per ejus defaltas. Fleta, lib. 2, cap. 65, _15.

2. Formerly, if the sheriff failed in obeying the writs, rules, or orders of the court, he might be amerced; that is, a penalty might be imposed upon bim; but this practice has been superseded by attachment. In New Jersey and Ohio, the sheriff may, by statutory provision, be amerced for making a return contrary to the provision of the statute. Coxe, 136, 169; 6 Halst. 334; 3 Halst. 270, 271; 5 Halst. 319; 1 Green, 159, 341; 2 Green, 350; 2 South. 433; 1 Ham. 275; 2 Ham. 603; 6 Ham. 452; Wright, 720.

AMERCIAMENT, AMERCEMENT, English law. A pecuniary punishment arbitrarily imposed by some lord or count, in distinction from a fine which is expressed according to the statute. Kitch. 78. Amerciament royal, when the amerciament is made by the sheriff, or any other officer of the king. 4 Bl. Com. 372.

AMI. A friend; or, as it is written in old works, amy. Vide Prochein amy.

AMICABLE ACTION, Pennsylvania practice. An action entered by agreement of parties on the dockets of the courts; when entered, such action is considered as if it, had been adversely commenced, and the defendant had been regularly summoned. An amicable action may be entered by attorney, independently of the provisions of the act of 1866. 8 Er & R. 567.

AMICUS CURIAE, practice. A friend of the court. One, who as a stander by, when a judge is doubtful or mistaken in a matter of law, may inform the court. 2 Inst. 178; 2 Vin. Abr. 475; and any one, as amicus curia, may make an application to the court in favor of an infant, though he be no relation. 1 Ves. Sen. 313.

AMITA. A paternal aunt; the sister of one's father. Inst. 3, 6, 3.

AMNESTY, government. An act of oblivion of past offences, granted by the government to those who have been guilty of any neglect or crime, usually upon condition that they return to their duty within a certain period.

2. An amnesty is either express or implied; it is express, when so declared in direct terms; and it is implied, when a treaty of peace is made between contending parties. Vide Vattel, liv. 4, c. 2, _20, 21, 22; Encycl. Amer. h.t.

3. Amnesty and pardon, are very different. The former is an act of the sove reign power, the object of which is to efface and to cause to be forgotten, a crime or misdemeanor; the latter, is an act of the same authority, which exempts the individual on whom it is bestowed from the punishment the law inflicts for the crime he has committed. 7 Pet. 160. Amnesty is the abolition and forgetfulness of the offence; pardon is forgiveness. A pardon is given to one who is certainly guilty, or has been convicted; amnesty, to those who may have been so.

4. Their effects are also different. That of pardon, is the remission of the whole or a part of the punishment awarded by the law; the conviction remaining unaffected when only a partial pardon is granted: an amnesty on the concrary, has the effect of destroying the criminal act, so that it is as if it had not been committed, as far as the public interests are concerned.

5. Their application also differs. Pardon is always given to individuals, and properly only after judgment or conviction: amnesty may be granted either before judgment or afterwards, and it is in general given to whole classes of criminals or supposed criminals, for the purpose of restoring tranquillity in the state. But sometimes amnesties are limited, and certain classes are excluded from their operation.

AMORTIZATION, contracts, English law. An alienation of lands or tenements in mortraain. 2 Stat. Ed. I.

2. The reduction of the property of lands or tenements to mortmain.

AMORTISE, contracts. To alien lands in mortmain.

AMOTION. In corporations and companies, is the act of removing an officer from his office; it differs from disfranchisement, which is applicable to members, as such. Wille. on Corp. n. 708. The power of amotion is incident to a corporation. 2 Str. 819; 1 Burr. 639.

2. In Rex v. Richardson, Lord Mansfield specified three sorts of offences for which an officer might be discharged; first, such as have no immediate relation to the office, but are in themselves of so infamous a nature, as to render the offender unfit to execute any public franchise; secondly, such as are only against his oath, and the duty of his office as a corporator, and amount to breaches of the tacit condition annexed to his office; thirdly, the third offence is of a mixed nature; as being an offence not only against the duty of his officer but also a matter indictable at common law. 2 Binn. R. 448. And Lord Mansfield considered the law as settled, that though a corporation has express power of amotion, yet for the first sort of offences there must be a previous indictment and conviction; and that there was no authority since Bagg's Case, 11 Rep. 99, which says; that the power of trial as well as of amotion, for the second offense, is not incident to every corporation. He also observed: "We think that from the reason of the thing, from the nature of the corporation, and for the sake of order and good government, this power is incident as much as the power of making by−laws." Doug. 149.

See generally, Wilcock on Mun. Corp. 268; 6 Conn. Rep. 632; 6 Mass. R. 462; Ang. & Am. on Corpor. 236.

AMOTION, tort. An amotion of possession from an estate, is an ouster which happens by a species of disseisin or turning out of the legal propritor before his estate is determined. 3 Bl. Com. 198, 199. Amotion is also applied to personal chattels when they are taken unlawfully out of the possession of the owner, or of one who has a special property in them.

AMPLIATION, civil law. A deferring of judgment until the cause is further examined. In this case, the judges pronounced the word amplius, or by writing the letters N.L. for non liquet, signifying that the cause was not clear. In practice, it is usual in the courts when time is taken to form a judgment, to enter a curia advisare vult; cur. adv. vult. (q. v.)

AMPLIATION, French law. Signifies the giving a duplicate of an acquittance or other instrument, in order that it may be produced in different places. The copies which notaries make out of acts passed before them, and which are delivered to the parties, are also called ampliations. Dict. de Jur. h. t.

AMY or ami, a French word, signifying, friend. Prochein amy, (q. v.) the next friend. Alien amy, a foreigner, the citizen or subject of some friendly power or prince.

AN, JOUR, ET WASTE. See Year, day, and waste.

ANALOGY, comtruction. The similitude of relations which exist between things compared.

2. To reason analogically, is to draw conclusions based on this similitude of relations, on the resemblance, or the connexion which is perceived between the objects compared. "It is this guide," says Toollier, which leads the law lawgiver, like other men, without his observing it. It is analogy which induces us, with reason, to suppose that, following the example of the Creator of the universe, the lawgiver has established general and uniform laws, which it is unnecessary to repeat in all analogous cases." Dr. Civ. Fr. liv. 3, t. 1, c. 1. Vide Ang. on Adv. Enjoym. 30, 31; Hale's Com. Law, 141.

3. Analogy has been declared to be an argument or guide in forming legal judgments, and is very commonly a ground of such judgments. 7 Barn. & Cres. 168; 3 Bing. R. 265; 8 Bing R. 557, 563; 3 Atk. 313; 1 Eden's R. 212; 1 W. Bl. 151; 6 Ves. jr. 675, 676; 3 Swanst. R. 561; 1 Turn. & R. 103, 338; 1 R. & M. 352, 475, 477; 4 Burr. R. 1962; 2022, 2068; 4 T. R. 591; 4 Barn. & Cr. 855; 7 Dowl. & Ry. 251; Cas. t. Talb. 140; 3 P. Wms. 391; 3 Bro. C. C. 639, n.

ANARCHY. The absence of all political government; by extension, it signifies confusion in government.

ANATHEMA, eccl. law. A punishment by which a person is separate from, the body of the church, and forbidden all intercourse with the faithful: it differs from excommunication, which simply forbids the person excommunicated, from going into the church and communicating with the faithful. Gal. 1. 8, 9.

ANATOCISM, civil law. Usury, which consists in taking interest on interest, or receiving compound interest. This is forbidden. Code, lib. 4, t. 32, 1, 30; 1 Postlethwaite's Dict.

2. Courts of equity have considered contracts for compounding interest illegal, and within the statute of usury. Cas. t. Talbot, 40; et vide Com. Rep. 349; Mass. 247; 1 Ch. Cas. 129; 2 Ch. Cas. 35. And contra, 1 Vern. 190. But

when the interest has once accrued, and a balance has been settled between the parties, they may lawfully agree to turn such interest into principal, so as to carry interest in futuro. Com. on Usury, ch. 2, s. 14, p. 146 et eq.

ANCESTOR, descents. One who has preceded another in a direct line of descent; an ascendant. In the common law, the word is understood as well of the immediate parents, as, of these that are higher; as may appear by the statute 25 Ed. III. De natis ultra mare, and so in the statute of 6 R. III. cap. 6, and by many others. But the civilians relations in the ascending line, up to the great grandfather's parents, and those above them, they term, majores, which common lawyers aptly expound antecessors or ancestors, for in the descendants of like degree they are called posteriores. Cary's Litt.45. The term ancestor is applied to natural persons. The words predecessors and successors, are used in respect to the persons composing a body corporate. See 2 Bl. Com. 209; Bac. Abr. h. t.; Ayl. Pand. 58.

ANCESTRAL. What relates to or has, been done by one's ancestors; as homage ancestral, and the like.

ANCHOR. A measure containing ten gallons. Lex, Mereatoria.

ANCHORAGE, merc. law. A toll paid for every anchor cast from a ship into a river, and sometimes a toll bearing this name is paid, although there be no anchor cast. This toll is said to be incident to almost every port. 1 Wm. Bl. 413; 2 Chit. Com. Law, 16.

ANCIENT. Something old, which by age alone has acquired some force; as ancient lights, ancient writings.

ANCIENT DEMESNE, Eng. law. Those lands which either were reserved to the crown at the original distribution of landed property, or such as came to it afterwards, by forfeiture or other means. 1. Sal. 57; hob. 88; 4 Inst. 264; 1 Bl. Com. 286; Bac. Ab. h. t.; F. N. B. 14.

ANCIENT LIGHTS, estates. Windows which have been opened for twenty years or more, and enjoyed without molestation by the owner of the house. 5 Har. & John. 477; 12 Mass. R. 157,.220.

2. It is proposed to consider, 1. How the right of ancient light is gained. 2, What amounts to interruption of an ancient light. 3, The remedy for obstructing an ancient light.

3. − _1. How the right of opening or keeping a window open is gained. 1. By grant. 2. By lapse of time. Formerly it was holden that a party could not maintain an action for a nuisance to an ancient light, unless he had gained a right to the window by prescription. 1 Leon. 188; Cro. Eliz. 118. But the modern doctrine is, that upon proof of an adverse enjoyment of light; for twenty yers or upwards, unexplained, a jury may be directed to presume a right by grant, or otherwise. 2 Saund. 176, a; 12 Mass. 159; 1 Esp. R. 148. See also 1 Bos. & Pull. 400.; 3 East, 299; Phil. Ev. 126; 11 East, 372; Esp. Dig. 636. But if the window was opened during the seisin of a mere tenant for life, or a tenaucy for years, and the owner in fee did not acquiesce in, or know of, the use of the light, he would not be bound. 11 East, 372; 3 Camp. 444; 4 Camp. 616. If the owner of a close builds a house upon one half of it, with a window lighted from the other half, he cannot obstruct lights on the premises granted by him; and in such case no lapse of time necessary to confirm the grantee's right to enjoy them. 1 Vent. 237, 289; 1 Lev. 122; 1 Keb. 553; Sid. 167, 227; L. Raym. 87; 6 Mod. 116; 1 Price, 27; 12 Mass. 159, Rep. 24; 2 Saund. 114, n. 4; Hamm. N. P. 202; Selw. N. P. 1090; Com. Dig. Action on the Case for a Nuisance, A. Where a building has been used twenty years to one purpose, (as a malt house,) and it is converted to another, (as a dwelling−house,) it is entitled in its new state only to the same degree of light which was necessary in its former state. 1 Campb. 322; and see 3 Campb. 80. It has been justly remarked, that the English doctrine as to ancient lights can hardly be regarded as applicable to narrow lots in the new and growing cities of this country; for the effect of the rule would be greatly to impair the value of vacant lots, or those having low buildings upon them, in the neighborhood of other buildings more than twenty years old. 3 Kent, Com. 446, n.

4. − _2. What amounts to an interruption of an ancient light. Where a window has been completely blocked up for twenty years, it loses its privilege. 3 Camp. 514. An abandonment of the right by express agreement, or by acts from which an abandonment may be inferred, will deprive the party having such ancient light of his right to it. The building of a blank wall where the lights formerly existed, would have that effect. 3 B. & Cr. 332. See Ad. & Ell. 325.

5. − _3. Of the remedy for interrupting an ancient light. 1. An action on the case will lie against a person who obstructs an ancient light. 9 Co. 58; 2 Rolle's Abr. 140, 1. Nusans, G 10. And see Bac. Ab. Actions on the Case, D; Carth. 454; Comb. 481; 6 Mod. 116.

6.− Total deprivation of light is not necesary to sustain this action, and if the party cannot enjoy the light in so free and ample a manner as he did before, he may sustain the action; but there should be some sensible diminution of the light and air. 4. Esp. R. 69. The building a wall which merely obstructs the right, is not actionable. 9 Ca. 58,

b; 1 Mod. 55.

7. − 3. Nor is the opening windows and destroying, the privacy of the adjoining property; but such new window may be immediately obstructed to prevent a right to it being acquired by twenty years use. 3 Campb. 82.

8. − 5. When the right is clearly established, courts of equity will grant an injunction to restrain a party from building so near the plaintiff's house as to darken his windows. 2 Vern. 646; 2 Bro. C. C. 65; 16 Ves. 338; Eden on Inj. 268, 9; 1 Story on Eq _926; 1 Smith's Chan. Pr. 593.; 4 Simm. 559; 2 Russ. R. 121. See Injunction; Plan.

See generally on this subject, 1 Nels. Abr. 56, 7; 16 Vin. Abr. 26; 1 Leigh's N. P. C. 6, s. 8, p. 558; 12 E. C. L. R. 218; 24 Id. 401; 21 Id. 373; 1 id. 161; 10 Id. 99; 28 Id. 143; 23 Am. Jur. 46 to 64; 3 Kent, Com. 446, 2d ed. 7 Wheat. R. 106; 19 Wend. R. 309; Math on Pres. 318 to 323; 2 Watts, 331; 9 Bing. 305; 1 Chit. Pr. 206, 208; 2 Bouv. Inst. n. 1619−23.

ANCIENT WRITINGS, evidence. Deeds, wills, and other writings more than thirty years old, are considered ancient writings. They may in general be read in evidence, without any other proof of their execution than that they have been in the possession of those claiming rights under them. Tr. per Pais, 370; 7 East, R. 279; 4 Esp. R. 1; 9 Ves. Jr. 5; 3 John. R. 292; 1 Esp. R. 275; 5 T. R. 259; 2 T. R. 466; 2 Day's R. 280. But in the case of deeds, possession must have accompanied them. Plowd. 6, 7. See Blath. Pres. 271, n. (2.)

ANCIENTLY, English law. A term for eldership or seniority used in the statute of Ireland, 14 Hen. Vni.

ANCIENTS, English law. A term for gentlemen in the Inns of Courts who are of a certain standing. In the Middle Temple, all who have passed their readings are termed ancients. In Gray's Inn, the ancients are the oldest barristers; besides which the society consists of benchers, barristers and students. In the Inas of Chancery, it conts of ancients, and students or clerks.

ANCILLARY. That which is subordinate on, or is. subordinate to, some other decision. Encyc. Lond. 1

ANDROLEPSY. The taking by one nation of the citizens or subjects of another, in order to compel the latter to do justice to the former. Wolff. _1164; Molloy, de Jure lar. 26.

ANGEL. An ancient English coin of the value of ten shillings sterling. Jac. L. D. h. t.

ANIENS. In some of our law books signifies void, of no force. F. N. B. 214.

ANIMAL, property. A name given to every animated being endowed with the power of voluntary motion. In law, it signifies all animals ecept those of the him, in species.

2. Animals are distinguished into such as are domitae, and such as are ferae naturae.

3. It is laid down, that in tame or domestic animals, such as horse, kine, sheep, poultry, and the like, a man may have an absolute property, because they coutiaue perpetually in his possession and occupation, and will not stray from his house and person unless by accident or fraudulent enticement, in either of which cases the owner does not lose his property. 2 Bl. Com. 390; 2 Mod. 319. 1.

4. But in animals ferae naturae, a man can have no absolute property; they belong to him only while they continue in his keeping or actual possession; for if at any they regain their natural liberty, his property instantly ceases, unless they have animum revertendi, which is only to be known by their usual habit of returning. 2 Bl. Com. 396; 3 Binn. 546; Bro. Ab. Propertie, 37; Com. Dig. Biens, F; 7 Co. 17 b; 1 Ch. Pr. 87; Inst. 2, 1, 15. See also 3 Caines' Rep. 175; Coop. Justin. 457, 458; 7 Johns. Rep. 16; Bro. Ab. Detinue, 44.

5. The owner of a mischievous animal, known to him to be so, is responsible, when he permits him to go at large, for the damages he may do. 2 Esp. Cas. 482; 4 Campb. 198; 1 Starkie's Cas. 285; 1 Holt, 617; 2 Str.1264; Lord Raym. 110; B. N. P. 77; 1 B. & A. 620; 2 C. M.& R. 496; 5 C.& P. 1; S. C. 24 E. C. L. R. 187. This principle agrees with the civil law. Domat, Lois Civ. liv. 2, t. 8, s. 2. And any person may justify the killing of such ferocious animals. 9 Johns. 233; 10. Johns. 365; 13 Johns. 312. The owner, of such an animal may be indicted for a common nuisance. 1 Russ. Ch. Cr. Law, 643; Burn's Just., Nuisance, 1.

6. In Louisiana, the owner of an animal is answerable for the damage he may cause; but if the animal be lost, or has strayed more than a day, he may discharge himself from this responsibility, by abandoning him to the person who has sustained the injury; except where the master turns loose a dangerous or noxious animal; for then he must pay all the harm done, without being allowed to make the abndonment. Civ. Code, art. 2301. See Bouv. Inst. Index, h. t.

ANIMANLS OF A BASE NATURE. Those which, though they may be reclaimed, are not Such that at common law a larceny may be committed of them, by reason of the baseness of their nature. Some animals, which are now usually tamed, come within this class; as dogs and cats; and others which, though wild by nature, and oftener reclaimed by art and industry, clearly fall within the same rule; as, bears, foxes, apes, monkeys, ferrets, and the

like. 3 Inst. 109,; 1 Hale, P. C. 511, 512; 1 Hawk. P. C. 33, s. 36; 4 Bl. Com. 236; 2 East, P. C. 614. See 1 Saund. Rep. 84, note 2.

ANIMUS. The intent; the mind with which a thing is done, as animus. cancellandi, the intention of cancelling; animus farandi, the intention of stealing; animus maiaendi; the intention of remaining; auimus morandi, the intention or purpose of delaying.

2. Whether the act of a man, when in appearance criminal, be so or not, depends upon the intention with which it was done. Vide Intention.

ANIMUS CANCELLANDI. An intention to destroy or cancel. The least tearing of a will by a testator, animus cancellandi, renders it invalid. See Cancellation.

ANIMUS FURANDI, crim. law. The intention to steal. In order to comstitute larceny, (q. v.) the thief must take the property anino furandi; but this, is expressed in the definition of larceny by the word felonious. 3 Inst. 107; Hale, 503; 4. Bl. Com. 229. Vide 2 Russ. on Cr. 96; 2 Tyler's R. 272. When the taking of property is lawful, although it may afterwards be converted animo furandi to the taker's use, it is not larceny. 3 Inst. 108; Bac. Ab. Felony, C; 14 Johns. R. 294; Ry. & Mood. C. C. 160; Id. 137; Prin. of Pen. Law, c. 22, _3, p. 279, 281.

ANIMUS MANENDI. The intention of remaining. To acquire a domicil, the party must have his abode in one place, with the intention of remaining there; for without such intention no new domicil can be gained, and the old will not be lost. See Domicile.

ANIMUS RECIPIENDI. The intention of receiving. A man will acquire no title to a thing unless he possesses it with an intention of receiving it for himself; as, if a thing be bailed to a man, he acquires no title.

ANIMUS REVERTENDI. The intention of returning. A man retains his domicil, if he leaves it animo revertendi. 3 Rawle, R. 312; 1 Ashm. R. 126; Fost. 97; 4 Bl. Com. 225; 2 Russ. on Cr. 18; Pop. 42,. 62; 4 Co. 40.

ANIMUS TESTANDI. An intention to make a testament or will. This is required to make a valid will; for whatever form may have been adopted, if there was no animus testandi, there can be no will. An idiot for example, can make no will, because he has no intention.

ANN, Scotch law. Half a year's stipend over and above what is owing for the incumbency due to a minister's relict, or child, or next of kin, after his decease. Wishaw. Also, an abbreviation of annus, year; also of annates. In the old law French writers, ann or rather an, signifies a year. Co. Dig h. v.

ANNATES, ecc. law. First fruits paid out of spiritual benefices to the pope, being, the value of one year's profit.

ANNEXATION, property. The union of one thing to another.

2. In the law relating to fixtures, (q. v.) annexation is actual or constructive. By actual annexation is understood every movement by which a chattel can be joined or united to the freehold. By constructive annexation is understood the union of such things as have been holden parcel of the realty, but which are not actually annexed, fixed, or fastened to the freehold; for example, deeds, or chattels, which relate to the title of the inheritance. Shep. Touch. 469. Vide Anios & Fer. on Fixtures, 2.

3. This term has been applied to the union of one country, to another; as Texas was annexed to the United States by the joint reolution of Congress of larch 1, 1845., See Texas.

ANNI NUBILES. The age at which a girl becomes by law fit for marriage, which is twelve years.

ANNIENTED. From the French aneantir; abrogated or made null. Litt. sect. 741.

ANNO DOMINI, in the year of our Lord, abbreviated, A. D. The computation of time from the incarnation of our Saviour which is used as the date of all public deeds in the United tites and Christian countries, on which account it is called the "vulgar vera."

ANNONAE CIVILES, civil law. A species of rent issuing out of certain lands, which were paid to Rome monasteries.

ANNOTATION, civil law. The designation of a place of deportation. Dig. 32, 1, 3 or the summoning of an, absentee. Dig. lib. 5.

2. In another sense, annotations were the answers of the prince to questions put to him by private persons respecting some doubtful point of law. See Rescript.

ANNUAL PENSION, Scotch law. Annual rent. A yearly profit due to a creditor by way of interest for a given sum of money. Right of annual rent, the original right of burdening land with payment yearly for the payment of money.

ANNUITY, contracts. An anuity is a, yearly sum of money granted by one party to another in fee for life or years, charging the person of the grantor only. Co. Litt. 144; 1 Lilly's Reg. 89; 2 Bl. Com. 40; 5 M. R. 312;

Lumley on Annuities. 1; 2 Inst. 293; Davies' Rep. 14, 15.

2. In a less technical sense, however, when the money is chargeable on land and on the person, it is generally called an annuity. Doet. and Stud Dial. 2, 230; Roll. Ab. 226. See 10 Watts, 127.

3. An anuuity is different from a rent charge, with which it is frequently confounded, in this; a rent charge is a burden imposed upon and issuing out of lands, whereas an annuity is chargeable only upon the person of the grantee. Bac. Abr. Annuity, A. See, for many, regulations in England relating to annuities, the Stat,. 17 Geo. III. c. 26.

3. An annuity may be created by contract, or by will. To enforce the payment of an annuity, the common law gives a writ of annuity which may be brought by the grantee or his heirs, or their grantees, against the grantor and his heirs. The action of debt cannot be maintained at the common law, or by the Stat. of 8 Anne, c. 14, for the arrears of an annuity devised to A, payable out of lands during the life of B, to whom the lands are devised for life, B paying the annuity out of it, so long as the freehold estates continues. 4 M. & S. 113; 3 Brod. & Bing. 30; 6 Moore, 336. It has been ruled also, that if an action of annuity be brought, and the annuity determines pending the suit, the writ faileth forever because no such action is maintainable for arrearages only, but for the annuity and the arrearages. Co. Litt. 285, a.

4. The first payment of an annuity is to be made at the time appointed in the instrument creating it. In cases where testator directs the annuity to be paid at the end of the first quarter, or other period before the expiration of the first year after his death, it is then due; but in fact it is not payable by the executor till the end of the year. 3 Mad. Ch. R. 167. When the time is not appointed, as frequently happens in will, the following distinction is presumed to exist. If the bequest be merely in the form of an annuity as a gift to a man of "an annuity of one hnndred dollars for life" the first payment will be due at the end of the year after the testator's death. But if the disposition be of a sum of money, and the interest to be given as an annuity to the same man for life, the first payment will not accrue before the expiration of the second year after ihe testator's death. This distinction, though stated from the bench, does not appear to have been sanctioned by express decision. 7 Ves. 96, 97.

5. The Civil Code of Louisiana makes the following provisions in relation to annuities, namely: The contract of annuity is that by which one party delivers to another a sum of money, and agrees not to reclaim it, so long as the receiver pays the rent agreed upon. Art. 2764.

6. This annuity mav be perpetual or for life. Art. 2765.

7. The amount of the annuity for life can in no case exceed the double of the conventional interest. The amount of the perpetual annuity cannot exceed the double of the conventional interest. Art. 2766.

8. Constituted annuity is essentially redeemable. Art. 2767.

9. The debtor of a constituted annuity may be compelled to redeem the same: 1, If he ceases fulfilling his obligations during three years: 2, If he does not give the lender the securities promised by the contract. Art. 2768.

10. If the debtor should fail, or be in a state of insolvency, the capital of the constituted annuity becomes exigible, but only up to the amount at wich it is rated, according to the order of contribution amongst the creditors. Art. 2769.

11. A similar rule to that contained in the last article has been adopted in England. See stat. 6 Geo. IV., c. 16, s. 54 and 108; note to Ex parte James, 5 Ves. 708; l Sup. to Ves. Jr. 431; note to Franks v. Cooper, 4 Ves. 763; 1 Supp. to Ves. Jr. 308. The debtor, continues the Code, may be compelled by his security to redeem the annuity within the time which has been fixed in the contract, if any time has been fixed, or after ten years, if no mention be made of the time in the act. Art. 2770.

12. The interest of the sums lent, and the arrears of constituted and life annuity, cannot bear interest but from the day a judicial demand of the same has been made by the creditor, and when the interest is due for at least one whole year. The parties may only agree, that the same shall not be redeemed prior to a time which cannot exceed ten years, or without having warned the creditor a time before, which they shall limit. Art. 2771. See generally, Vin. Abr. Annuity; Bac. Abr. Annuity and Rent; Com. Dig. Annuity; 8 Com. Dig. 909; Doct. Plac. 84; 1 Rop. on Leg. 588; Diet. de Jurisp. aux mots Rentes viageres, Tontine. 1 Harr. Dig. h. t.

ANNUM DIEM ET VASTUM, English law. The title which the king acquires in land, when a party, who held not of the king, is attainted of felony. He acquires the power not only to take the profits for a full year, but to waste and demolish houses, and to extirpate woods and trees.

2. This is but a chattel interest.

ANONYMOUS. Without name. This word is applied to such.books, letters or papers, which are published

without the author's name. No man is bound to publish his name in connexion with a book or paper he has publisbed; but if the publication is libellous, he is equally responsible as if his name were published.

ANSWER, pleading in equity. A defence in writing made by a defendant, to the charges contained in a bill or information, filed by the plaintiff against him in a court of equity. The word answer involves a double sense; it is one thing when it simply replies to a question, another when it meets a charge; the answer in equity includes both senses, and may be divided into an examination and a defence. In that part which consists of an examination, a direct and full answer, or reply, must in general be given to every question asked. In that part which consists of a defence, the defendant must state his, case distinctly; but is not required to give information respecting the proofs that are to maintain it. Gresl . Eq. Ev. 19.

2. As a defendant is called by a bill or information to make a discovery of the several cbarges it contains, he must do so, unless he is protected either by a demurrer a plea or disclaimer. It may be laid down as an invariable rule, that whatever part of a bill or information is not covered by one of these, must be defended by answer. Redesd. Tr. Ch. PI. 244.

3. In form, it usually begins, 1st, with its title, specifying which of the defendants it is the answer of, and the names of the plaintiffs in the cause in which it is filed as answer; 2d, it reserves to the defendant all the advantages which might be taken by exception to the bill; 3d, the substance of the answer, according to the defendant's knowledge, remembrance, information and belief, then follows, in which the matter of the bill, with the interrogatories founded thereon, are answered, one after the other, together with such additional matter as the defendant thinks necessary to bring forward in his, defence, either for the purpose of qualifying, or ad−ding to, the case made by the bill, or to state a new case on his own behalf; 4th, this is followed by a general traverse or denial of all unlawful combinations charged in the bill, and of all other matters therein contained 5th, the answer is always upon oath or affirmation, except in the case of a corporation, in which case it is under the corporate seal.

4. In substance, the answer ought to contain, 1st, a statement of facts and not arguments 2d, a confession and avoidance, or traverse and denial of the material parts of the bill 3d, its language ought to be direct and without evasion. Vide generally as to answers, Redes. Tr. Ch. PI. 244 to 254; Coop. Pl. Eq. 312 to 327; Beames PI. Eq. 34 et seq.; Bouv. Inst. Index, h. t. For an historical account of this instrument, see 2 Bro. Civ. Law, 371, n. and Barton's Hist. Treatise of a Suit in Equity.

ANSWER, practice. The declaration of a fact by a witness after a question has been put asking for it.

2. If a witness unexpectedly state facts against the interest of the party calling him, other witnesses may be called by the same party, to disprove those facts. But the party calling a witness cannot discredit him, by calling witnesses to prove his bad character for truth and veracity, or by proving that he has made statements out of court contrary to what he has sworn on the
trial; B. N. P.; for the production of the witness is virtually an assertion by the party producing him, that he is credible.

ANTECEDENT. Something that goes before. In the construction of laws, agreements, and the like, reference is always to be made to the last antecedent; ad proximun antecedens fiat relatio. But not only the antecedents but the subsequent clauses of the instrument must be considered: Ex antecedentibus et consequentibus fit optima interpretatio.

ANTE LITEM MOTAM. Before suit brought, before controversy moved.

ANTEDATE. To, put a date to an instrument of a time before the time it was written. Vide Date.

ANTENATI. Born before. This term is applied to those who were born or resided within the United States before or at the time of the declaration of independence. These had all the rights of citizens. 2 Kent, Com. 51, et seq.

ANTE−NUPTIAL. What takes place before marriage; as, an ante−nuptial agreement, which is an agreement made between a man and a woman in contemplation of marriage. Vide Settlement.

ANTHETARIUS, obsolete See Anti−thetarius.

ANTI−MANlFESTO. The declaration of the reasons which one of the belligerents publishes, to show that the war as to him is defensive. Wolff, _1187. See Manifesto.

ANTlCIPATION. The act of doing or taking a thing before its proper time.

2. In deeds of trust there is frequently a provision that the income of the estate shall be paid by the trustee as it shall accrue, and not by way of anticipation. A payment made contrary to such provision would not be considered as a discharge of the trustee.

ANTICHRESIS, contracts. A word used in the civil law to denote the contract by which a creditor acquires the

right of reaping the fruit or other revenues of the immovables given to him in pledge, on condition of deducting, annually, their proceeds from the interest, if any is due to him, and afterwards from the principal of his debt. Louis. Code, art. 3143 Dict. de Juris. Antichrese, Mortgage; Code Civ. 2085. Dig. 13, 7, 7 ; 4, 24, 1 Code, 8, 28, 1.

ANTINOMY. A term used in the civil law to signify the real or apparent contradiction between two laws or two decisions. Merl. Repert. h. t. Vide Conflict of Laws.

ANTIQUA CUSTOMA, Eng. law. A duty or imposition which was collected on wool, wool−felts, and leather, was so called. This custom was called nova customa until the 22 Edw. I., when the king, without parliament, set a new imposition of 40s. a sack, and then, for the first time, the nova customa went by the name of antiqua customa. Bac. Ab. Smuggling &c. B.

ANTIQUA STATUTA. In England the statutes are divided into new and ancient statutes; since the time of memory; those from the time 1 R. I. to E. III., are called antiqua statuta − those made since, nova statuta.

ANTITHETARIUS, old English law. The name given to a man who endeavors to discharge himself of the crime of which he is accused, by retorting the charge on the accuser. He differs from an approver (q, v.) in this, that the latter does not charge the accuser, but others. Jacob's Law Dict.

APARTMENTS. A part of a house occupied by a person, while the rest is occupied by another, or others. 7 Mann. & Gr. 95 ; 6 Mod. 214 ; Woodf. L. & T. 178. See House.

APOSTACY, Eng. law. A total renunciation of the Christian religion, and differs from heresy. (q. v.) This offence is punished by the statute of 9 and 10 W. III. c. 32. Vide Christianity.

APOSTLES. In the British courts of admiralty, when a party appeals from a decision made against him, he prays apostles from the judge, which are brief letters of dismission, stating the case, and declaring that the record will be transmitted. 2 Brown's Civ. and Adm. Law, 438; Dig. 49. 6.

2. This term was used in the civil law. It is derived from apostolos, a Greek word, which signifies one sent, because the judge from whose sentence an appeal was made, sent to the superior judge these letters of dismission, or apostles. Merl. Rep. mot Apotres.

APPARATOR or APPARITOR, eccles. law. An officer or messenger employed to serve the process of the spiritual courts in England.

APPARENT. That which is manifest what is proved. It is required that all things upon which a court must pass, should be made to appear, if matter in pays, under oath if matter of record, by the record. It is a rule that those things which do not appear, are to be considered as not existing de non apparentibus et non existentibus eadem est ratio. Broom's Maxims, 20, What does not appear, does not exist; quod non apparet, non est.

APPARLEMENT. Resemblance. It is said to be derived from pareillement, French, in like manner. Cunn. Dict. h. t.

APPEAL, English crim. law. The accusation of a person, in a legal form, for a crime committed by him; or, it is the lawful declaration of another man's crime, before a competent judge, by one who sets his name to the declaration, and undertakes to prove it, upon the penalty which may ensue thereon. Vide Co. Litt. 123 b, 287 b; 6 Burr. R. 2643, 2793; 2 W. Bl. R. 713; 1 B. & A. 405. Appeals of murder, as well as of treason, felony, or other offences, together with wager of battle, are abolished by stat. 59 Geo. M. c. 46.

APPEAL, practice. The act by which a party submits to the decision of a superior court, a cause which has been tried in an inferior tribunal. 1 S. & R. 78 Bin. 219; 3 Bin. 48.

2. The appeal generally annuls the judgment of the inferior court, so far that no action can be taken upon it until after the final decision of the cause. Its object is to review the whole case, and to secure a just judgment upon the merits.

3. An appeal differs from proceedings in error, under which the errors committed in the proceedings are examined, and if any have been committed the first judgment is reversed; because in the appeal the whole case is exainined and tried as if it had not been tried before. Vide Dane's Ab. h. t.; Serg. Const. Law Index, h. t. and article Courts of the United States.

APPEARANCE, practice. Signifies the filing common or special bail to the action.

2. The appearance, with all other subsequent pleadings supposed to take placein court, should (in accordance with the ancient practice) purport to be in term time. It is to be observed, however, that though the proceedings are expressed as if occurring in term time, yet, in fact, much of the business is now done, in periods of vacation.

3. The appearance of the parties is no longer (as formerly) by the actual presence in court, either by themselves

or their attorneys; but, it must be remembered, an appearance of this kind is still supposed, and exists in contemplation of law. The appearance is effected on the part of the defendant (when be is not arrested) by making certain formal entries in the proper office of the court, expressing his appearance; 5 Watts & Serg. 215; 1 Scam. R. 250; 2 Seam. R. 462; 6 Port. R. 352; 9 Port. R. 272; 6 Miss. R. 50; 7 Miss. R. 411; 17 Verm. 531; 2 Pike, R. 26; 6 Ala. R. 784; 3 Watts & Serg. 501; 8 Port. R. 442; or, in case of arrest, it may be considered as effected by giving bail to the action. On the part of the plaintiff no formality expressive of appearance is observed.

4. In general, the appearance of either party may be in person or by attorney, and, when by attorney, there is always supposed to be a warrant of attorney executed to the attorney by his client, authorizing such appearance.

5. But to this general rule there are various exceptions; persons devoid of understanding, as idiots, and persons having understanding, if they are by law deprived of a capacity to appoint an attorney, as married women, must appear in person. The appearance of such persons must purport, and is so entered on the record, to be in person, whether in fact an attorney be employed or not. See Tidd's Pr. 68, 75; 1 Arch. Pract. 22; 2 John. 192; 8 John. 418; 14 John. 417; 5 Pick. 413; Bouv. Inst. Index, h. t.

6. There must be an appearance in person in the following cases: 1st. An idiot can appear only in person, and as, a plaintiff he may sue in person or by his next friend 2d. A married woman, when sued without her hushand, should defend in person 3 Wms. Saund. 209, b and when the cause of action accrued before her marriage, and she is afterwards sued alone, she must plead her coverture in person, and not by attorney. Co. Litt. 125. 3d. When the party pleads to the jurisdiction, be must plead in person. Summ.on Pl. 51; Merrif. Law of Att. 58. 4th. A plea of misnomer must always be in person, unless it be by special warrant of attorney. 1 Chit. PI. 398; Summ. on PI. 50; 3 Wms. Saund. 209 b.

7. An infant cannot appoint an attorney; he must therefore prosecute or appear by guardian, or prochein ami.

8. A lunatic, if of full age, may appear by. attorney; if, under age, by guardian. 2 Wms. Saund. 335; Id. 332 (a) n. (4.)

9. When an appearance is lawfully entered by the defendant, both parties are considered as being in court. lmp. Pr. 215. And if the defendant pleads to issue, defects of process are cured but not, if he demurs to the process, (I Lord Raym. 21,) or, according to the practice of some courts, appears de bene esse, or otherwise conditionally.

10. In criminal cases, the personal presence of the accused is often necessary. It has been held, that if the record of a conviction of a misdemeaner be removed by certiorari, the personal presence of the defendant is necessary, in order to move in arrest. of judgment: but, after a special verdict, it is not necessary that the defendant should be personally present at the argument of it. 2 Burr. 931 1 Bl. Rep. 209, S. C. So, the defendant must appear personally
in court, when an order of bastardy is quashed and the reason is, he must enter into a recognizance to abide the order of sessions below. 1 Bl. Rep. 198.
So, in a case, when two justices of the peace, having confessed an information for mishehaviour in the execution of their office, and a motion was made to dispense with their personal appearance, on their clerks undertaking in court to answer for their flues, the court declared the rule to be, that although such a motion was subject to the discretion of the court either to grant or refuse it, in cases where it is clear that the punishment would not be corporal, yet it ought to be denied in every case where it is either probable or possible that the punishment would be corporal; and therefore the motion was overruled in that case. And Wilmot and Ashton, Justices, thought, that even where the punishment would most probably be pecuniary only, yet in offences of a very gross and public nature, the persons convicted should appear in person, for the sake of example and prevention of the like offences being committed by other persons; as the notoriety of being called up to answer criminally for such offences, would very much conduce to deter others from venturing to commit the like. 3 Burr. 1786, 7.

APPEARANCE DAY. The day on which the parties are bound to appear in court. This is regulated in the different states by particular provisions.

APPELLANT, practice. He who makes an appeal from one jurisdiction to another.

APPELLATE JURISDICTION. The jurisdiction which a superior court has to bear appeals of causes which have been tried in inferior courts. It differs from original jurisdiction, which is the power to entertain suits instituted in the first in stance. Vide Jurisdiction; Original jurisdiction.

APPELLEE, practice. The party in a cause against whom an appeal has been taken.

APPELLOR. A criminal who accuses his accomplices; one who eballenges a jury.

APPENDANT. An incorporeal inheritance belonging to another inheritance.

2. By the word appendant in a deed, nothing can be conveyed which is itself substantial corporeal real property, and capable of passing by feoffment and livery of seisin: for one kind of corporeal real property cannot be appendant to another description of the like real property, it being a maxim that land cannot be appendant to land. Co. Litt. 121; 4 Coke, 86; 8 Barn. & Cr. 150; 6 Bing. 150. Only, such things can be appendant as can consistently be so, as a right of way, and the like. This distinction is of importance, as will be seen by the following case. If a wharf with the appurtenances be demised, and the water adjoining the wharf were in tended to pass, yet no distress for rent on the demised premises could be made on a barge on the water, because it is not a place which could pass as a part of the thing demised. 6 Bing. 150.

3. Appendant differs from appurtenant in this, that the former always arises from prescription, whereas an appurtenance may be created at any time. 1 Tho. Co. Litt. 206; Wood's Inst. 121; Dane's Abr. h. t.; 2 Vin. Ab. 594; Bac. Ab. Common, A 1. And things appendant must have belonged by prescription to another principal substantial thing, which is considered in law as more worthy. The principal thing and the appendant must be appropriate to each other in nature and quality, or such as may be properly used together. 1 Chit. Pr. 154.

APPENDITIA. From appendo, to hang at or on; the appendages or pertinances of an estate the appurtenauces to a dwelling, &c.; thus pent−houses, are the appenditia domus, &c.

APPLICATION. The act of making a request for something; the paper on which the request is written is also called an application; as, an application to chancery for leave to invest trust funds; an application to an insurance company for insurance. In the land law of Pennsylvania, an application is understood to be a request in writing to have a certain quantity of land at or near a certain place therein mentioned. 3 Binn. 21; 5 Id. 151; Jones on Land Office Titles, 24.

2. An application for insurance ought to state the facts truly as to the object to be insured, for if any false representation be made with a fraudulent intent, it will avoid the policy. 7 Wend. 72.

3. By application is also meant the use or disposition of a thing; as the application of purchase money.

4. In some cases a purchaser who buys trust property is required, to see to the application of thee purchase money, and if be neglects to do so, and it be misapplied, he will be considered as a trustee of the property he has so purchased. The subject will be examined by considering, 1, the kind of property to be sold; 2, the cases where the purchaser is bound to see to the application of the purchase money in consequence of the wording of the deed of trust.

5. − 1. Personal property is liable, in the hands of the executor, for the payment of debts, and the purchaser is therefore exempted from seeing to the application of the purchase money, although it may have been bequeathed to be sold for the payment of debts. 1 Cox, R. 145; 2 Dick. 725; 7 John. Ch. Rep., 150, 160; 11 S. & R. 377, 385; 2 P. Wms. 148; 4 Bro. C. C. 136; White's L. C. in Eq. 54; 4 Bouv. Inst. n. 3946.

6. With regard to real estate, which is not a fund at law for the payment of debt's, except where it is made so by act of assembly, or by direction in the will of the testator or deed of trust, the purchaser from an executor or trustee may be liable for the application of the purchase money. And it will now be proper to consider the cases where such liability exists.

7. − 2. Upon the sale of real estate, a trustee in whom the legal title is vested, can it law give a valid discharge for the purchase money, because he is the owner at law. In equity, on the contrary, the persons among whom the produce of the sale is to be distributed are considered the owners; and a purchaser must obtain a discharge from them, unless the power of giving receipts is either expressly or by implication given to t−he trustees to, give receipts for the purchase money. It is, for this reason, usual to provide in wills and trust deeds that the purchaser shall not be required to see to the application of the purchase money.

APPOINTEE. A person who is appointed or selected for a particular purpose; as the appointee under a power, is the person who is to receive the benefit of the trust or power.

APPOINTOR. One authorized by the donor under the statute of uses, to execute
a power. 2 Bouv. Ins. n. 1923.

APPOINTMENT, chancery practice. The act of a person authorized by a will or other instrument to direct how trust property shall be disposed of, directing such disposition agreeably to the general directions of the trust.

2. The appointment must be made in such a manner as to come within the spirit of the power. And although at law the rule only requires that some allotment, however small, shall be given to each person, when the power is to appoint to and among several persons; the rule in equity differs, and requires a real and substantial portion to each, and a mere nominal allotment to one is deemed illusory and fraudulent. When the distribution is left to discretion,

without any prescribed rule, Is to such of the children as the trustee shall think proper, he may appoint to one only; 5 Ves. 857; but if the words be, 'amongst' the children as he should think proper, each must have a share, and the doctrine of illusory appointment applies. 4 Ves. 771 Prec. Ch. 256; 2 Vern. 513. Vide, generally, 1 Supp. to Ves. Jr. 40, 95, 201, 235, 237; 2 Id. 1 27; 1 Vern. 67, n.; 1 Ves. Jr. 31 0, n.; 4 Kent, Com. 337; Sugd. on Pow. Index, h. t.; 2 Hill. Ab. Index, h. t.; 2 Bouv. Inst. n. 1921, et seq.

APPOINTMENT, government, wills. The act by which a person is selected and invested with an office; as the appointment of a judge, of which the making out of his commission is conclusive evidence. 1 Cranch, 137, 155; 10 Pet. 343. The appointment of an executor, which is done by nominating him as such in a will or testament.

2. By appointment is also understood a public employment, nearly synonymous with office. The distinction is this, that the term appointment is of a more extensive signification than office; for example, the act of authorizing a man to print the laws of the United States by authority, and the right conveyed by such an act, is an appointment, but the right thus conveyed is not an office. 17 S. & R. 219, 233. See 3 S. & R. 157; Coop. Just. 599, 604.

APPORTIONMENT, contracts. Lord Coke defines it to be a division or partition of a rent, common, or the like, or the making it into parts. Co . Litt. 147. This definition seems incomplete. Apportionment frequently denotes, not, division, but distribution ; and in its ordinary technical sense, the distribution of one subject in proportion to another previously distributed. 1 Swanst. C. 87, n.

2. Apportionment will here be considered only in relation to contracts, by talking a view, 1, of such as are purely personal and, 2, of such as relate to the realty.

3. − 1. When a Purely personal contract is entire and not divisible in its nature, it is manifest it cannot be apportioned; as when the subject of the contract is but one thing, and there is but one creditor and one debtor, neither can apportion the obligation without the consent of the other. In such case the creditor cannot force his debtor to pay him a part of his debt only, and leave the other part unpaid, nor can the debtor compel his creditor to receive a part only of what is due to him on account of his claim. Nor can the assignee of a part sustain an action for such part. 5 N. S. 192.

4. When there is a special contract between the parties, in general no compensation can be received unless the whole contract has been actually fulfilled. 4 Greenl. 454; 2 Pick. R. 267; 10 Pick. R. 209; 4 Pick. R. 103; 4 M'Cord, R. 26, 246; 6 Verm. R. 35. The subject of the contract being a complex event, constituted by the performance of various acts, the imperfect completion of the event, by the performance of only some of those acts, cannot, by virtue of that contract, of which it is not the subject, afford a title to the whole, or any part of the stipulated benefit. See 1 Swanst. C. 338, n. and the cases there cited; Story, Bailm. _441; Chit. Contr. 168; 3 Watts, 331; 2 Mass. 147, 436; 3 Hen. & Munf. 407; 2 John. Cas. 17; 13 John. R. 365; 11 Wend. 257; 7 Cowen, 184; 8 Cowen, 84; 2 Pick. 332. See generally on the subject of the apportionment, of personal obligations, 16 Vin. Ab. 138; 22 Vin. Ab. 13; Stark. Ev. part 4, p. 1622; Com. Dig. Chancery, 2 E and 4 N 5; 3 Chit. Com. Law 129; Newl. Contr. 159; Long on Sales, 108. And for the doctrine of the civil law, see Dumoulin, de dividuo et individuo, part 2, n. 6, 7; Toull. Dr. Civ. Fr. liv. 3, tit 3, c. 4, n. 750, et seq.

5. − 2. With regard to rents, the law is different. Rents may in general be apportioned, and this may take place in several ways; first, by the act of the landlord or reversioner alone, and secondly, by virtue of the statute of 11 Geo. II., c. 19, s. 15, or by statutes in the several states in which its
principles have been embodied.

6. − 1. When there is a subsisting obligation on the part of the tenant to pay a certain reat, the reversioner may sell his estate in different parts, to as many persons as he may deem proper, and the lessee or tenant will be bound to pay to each a proportion of the rent. 3 Watts, 404; 3 Kent Com. 470, 3d. ed.; Co. Litt. 158 a; Gilb. on Rents, 173; 7 Car. 23; 13 Co. 57 Cro. Eliz. 637, 651; Archb. L. &. T. 172 5 B. & A. 876; 6 Halst. 262. It is usual for the owners of the reversion to agree among themselves as to the amount which each is to receive; but when there is no agreement, the rent will be apportioned by the jury. 3 Kent, Com. 470; 1 Bouv. Inst. n. 697.

7. − 2. Rent may be apportioned as to time by virtue of the stat. 11 Geo. H., C. 19, s. 15, by which it is provided that the rent due by a tenant for life, who dies during the currency of a quarter, of a year, or other division of time at which the rent was made payable, shall be apportioned to the day of his death. In Delaware, Missouri, New Jersey, and New York, it is provided by statutes, that if the tenant for life, lessor, die on the rent day, his executors may recover the whole rent; if before, a proportional part. In Delaware, Kentucky, Missouri, and New York, when one is entitled to rents, depending on the life of another, he may recover them notwithstanding the death of the

latter. In Delaware, Kentucky, Missouri, and Virginia, it is specially provided, that the hushand, after the death of his wife, may recover the rents of her lands. 1 Hill. Ab. c. 16, _50. In Kentucky, the rent is to be apportioned when the lease is determined upon any contingency.

8. When the tenant is deprived of the land, as by eviction, by title paramount, or by quitting the premises with the landlord's consent, in the absence of any agreement to the contrary, his obligation to pay rent ceases, as regards the current quarter or half year, or other day of payment, as the case may be. But rent which is due may be recovered. Gilb. on Rents, 145; 3 Kent, Comm. 376; 4 Wend. 423; 8 Cowen, 727 1 Har. & Gill, 308; 11 Mass. 493. See 4 Cruise's Dig. 206; 3 Call's R. 268; 4 M'Cord 447; 1 Bailey's R. 469; 2 Bouv. Inst. n. 1675, et seq.

APPOSAL OF SHERIFFS, English law. The charging them with money received upon account of the Exchequer. 22 Car. II.

APPOSER, Eng. law. An officer of the Court of Exchequer, called the foreign apposer.

APPOSTILLE, French law. Postil. In general this means an addition or annotation made in the margin of an act, [contract in writing,] or of some writing. Mer. Rep.

APPRAISEMENT. A just valuation of property.

2. Appraisements are required to be made of the property of persons dying intestate, of insolvents and others; an inventory (q. v.) of the goods ought to be made, and a just valuation put upon them. When property real or personal is taken for public use, an appraisement of it is made, that the owner may be paid it's value.

APPRAISER, practice. A person appointed by competent authority to appraise or value goods; as in case of the death of a person, an appraisement and inventory must be made of the goods of which he died possessed, or was entitled to. Appraisers are sometimes appointed to assess the damage done to property, by some public work, or to estimate its value when taken for public use.

APPREHENSION, practice. The capture or arrest of a person. The term apprehension is applied to criminal cases, and arrest to civil cases; as, one having authority may arrest on civil process, and apprehend on a criminal warrant.

APPRENTICE, person, contracts. A person bound in due form of law to a master, to learn from him his art, trade or business, and to serve him during the time of his apprenticeship. (q. v.) 1 Bl. Com. 426; 2 Kent, Com. 211; 3 Rawle, Rep. 307; Chit. on Ap. 4 T. R. 735; Bouv. Inst. Index, h. t.

2. Formerly the name of apprentice en la ley was given indiscriminately to all students of law. In the reign of Edward IV. they were sometimes called apprentice ad barras. And in some of the ancient law writers, the term apprentice and barrister are synonymous. 2 Inst. 214; Eunom. Dial, 2, _53, p. 155.

APPRENTICESHIP, contracts. A contract entered into between a person who understands some art, trade or business, and called the master, and another person commonly a minor, during his or her minority, who is called the apprentice, with the consent of his or her parent or next friend by which the former undertakes to teach such minor his art, trade or business, and to fulfil such other covenants as may be agreed upon; and the latter agrees to serve the master during a definite period of time, in such art, trade or business. In a common indenture of apprenticeship, the father is bound for the performance of the covenants by the son. Daug. 500.

2. The term during which the apprentice is to serve is also called his apprenticeship. Pardessus,)Dr. Com. n. 34.

3. This contract is generally entered into by indenture or deed, and is to continue no longer than the minority of the apprentice. The English statute law as to binding out minors as apprentices to learn some useful art,. trade or business, has been generally adopted in the United States, with some variations which cannot, be noticed here. 2 Kent, Com. 212.

4. The principal duties of the parties are as follows: 1st, Duties of the master. He is bound to instruct the apprentice by teaching him, bona fide, the knowledge of the art of which he has undertaken to teach him the elements. He ought to, watch over the conduct of the apprentice, giving him prudent advice and showing him a good example, and fulfilling towards him the duties of a father, as in his character of master, he stands in loco parentis. He is also required to fulfil all the covenants he has entered into by the indenture. He must not abuse his authority, either by bad treatment, or by employing his apprentice in menial employments, wholly unconnected with the business he has to learn. He cannot dismiss his apprentice except by application to a competent tribunal, upon whose, decree the indenture may be cancelled. But an infant apprentice is not capable in law of consenting to his own discharge. 1 Burr. 501. Nor can the justices, according to some authorities, order money to be returned on the discharge of an apprentice. Strange, 69 Contra, Salk. 67, 68, 490; 11 Mod. 110 12 Mod. 498, 553. After the apprenticeship is at an end, he cannot retain the apprentice on the ground that he has not fulfilled his contract,

unless specially authorized by statute.

5. − 2d. Duties of the apprentice. An apprentice is bound to obey his master in all his lawful commands, take care of his property, and promote his interest, endeavor to learn his trade or business, and perform all the covenants in his indenture not contrary to law. He must not leave his master's service during the term of the apprenticeship. The apprentice is entitled to payment for extraordinary services, when promised by the master; 1 Penn. Law Jour. 368. See 1 Whart. 113; and even when no express promise has been made, under peculiar circumstances. 2 Cranch, 240, 270; 3 Rob. Ad. Rep. 237; but see 1 Whart, 113. See generally, 2 Kent, Com. 211−214; Bac. Ab. Master and Servabt; 1 Saund. R. 313, n. 1, 2, 3, and 4; 3 Rawle, R. 307 3 Vin. Ab. 19; 1 Bouv. Inst. n. 396, et seq. The law of France on this subject is strikingly similar to our own. Pardessus, Droit Com. n. 518−522.

6. Apprenticeship is a relation which cannot be assigned at the common law 5
Bin. 428 4 T. R. 373; Doug. 70 3 Keble, 519; 12 Mod. 554; although the apprentice may work with a second master by order and consent of the first, which is a service to the first under the indenture. 4 T. R. 373. But, in Pennsylvania and some other states the assignment of indentures of apprenticeship is authorized by statute. 1 Serg. & R. 249; 3 Serg. & R. 161, 164, 166.

APPRIZING. A name for an action in the Scotch law, by which a creditor formerly carried off the estates of his debtor in payment of debts due to him in lieu of which, adjudications are now resorted to.

APPROBATE AND REPROBATE. In Scotland this term is used to signify to approve and reject. It is a maxim quod approbo non reprobo. For example, if a testator give his property to A, and give A's property to B, A shall not be at liberty to approve of the will so far as the legacy is given to him, and reject it as to the bequest of his property to B in other words, he cannot approve and reject the will. 1 Bligh. 21; 1 Bell's Com. 146.

APPROPRIATION, contracts. The application of the payment of a sum of money, made by a debtor to his creditor, to one of several debts.

2. When a voluntary payment is made, the law permits the debtor in the first place, or, if he make no choice, then it allows the creditor to make an appropriation of such payment to either of several debts which are due by the debtor to the creditor. And if neither make an appropriation, then the law makes the application of such payment. This rule does not apply to payments made under compulsory process of law. 10 Pick. 129. It will be proper to consider, 1, when the debtor may make the appropriation; 2, when the creditor may make it; 3, when it will be made by law.

3. − 1. In general the appropriation may be made by the debtor, but this must be done by his express declaration, or by circumstances from which his intentions can be inferred. 2 C. M. & R. 723; 14 East, 239; 1 Tyrw. & Gr. 137; 15 Wend. 19; 5 Taunt. 7 Wheat. 13; 2 Ear. & Gill, 159; S. C. 4 Gill & Johns. 361; 1 Bibb, 334; 5 Watts, 544; 12 Pick. 463; 20 Pick. 441; 2 Bailey, 617; 4 Mass. 692; 17 Mass. 575. This appropriation, it seems, must be notified to the creditor at the time; for an entry made by the debtor in his own books, is not alone sufficient to determine the application of the payment. 2 Vern. 606; 4 B. & C. 715. In some cases, in consequence of the circumstances, the presumption will be that the payment was made on account of one debt, in preference to another. 3 Caines, 14; 2 Stark. R. 101. And in some cases the debtor has no right to make the appropriation, as, for example, to apply 4 partial payment to the liquidation of the principal, when interest is due. 1 Dall. 124; 1 H. & J. 754; 2 N. & M'C. 395; 1 Pick. 194; 17 Mass. 417.

4. − 2. When the debtor has neglected to make an appropriation, the creditor may, in general, make it, but this is subject to some exceptions. If, for example, the debtor owes a debt as executor, and one in his own right, the creditor cannot appropriate a payment to the liquidation of the former, because that may depend on the question of assets. 2 Str. 1194. See 1 M. & Malk.
40; 9 Cowen, 409; 2 Stark. R. 74; 1 C. & Mees. 33.

5. Though it is not clearly settled in England whether a creditor is bound to make the appropriation immediately, or at a subsequent time Ellis on D. and C. 406−408 yet in the United States, the right to make the application at any time has been recognized, and the creditor is not bound to make an immediate election. 4 Cranch, 317; 9 Cowen, 420, 436. See 12 S. & R. 301 2 B. & C. 65; 2 Verm. 283; 10 Conn. 176.

6. When once made, the appropriation cannot be changed; and, rendering an account, or bringing suit and declaring in a particular way, is evidence of such appropriation. 1 Wash. 128 3 Green. 314; 12

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7. When no application of the payment has been made by either party, the law will appropriate it, in such a way as to do justice and equity to both parties. 6 Cranch, 8, 28; 4 Mason, 333; 2 Sumn. 99, 112; 5 Mason, 82; 1 Nev. & Man. 746; 5 Bligh, N. S. 1; 11 Mass. 300;1 H. & J. 754; 2 Vern. 24; 1 Bibb. 334; 2 Dea. & Chit. 534; 5 Mason, 11. See 6 Cranch, 253, 264; 7 Cranch, 575; 1 Mer. 572, 605; Burge on Sur. 126−138; 1 M. & M. 40. See 1 Bouv Inst. n. 8314. 8. In Louisiana, by statutory enactment, Civ. Code, art. 1159, et seq., it is provided that the debtor of several debts has a right to declare, when he makes a payment, what debt he means to discharge. The debtor of a debt which bears interest or produces rents, cannot, without the consent of the creditor, impute to the reduction of the capital, any payment he may make, when there is interest or rent due. When the debtor of several debts has accepted a receipt, by which the creditor has imputed what he has received to one of the debts especially, the debtor can no longer require the imputation to be made to a different debt, unless there have been fraud or surprise on the part of the creditor. When the receipt bears no imputation, the payment must be imputed to the debt which the debtor had at the time most interest in discharging of those that are equally due, otherwise to the debt which has fallen due, though less burdensome than those which are not yet payable. If the debts be of a like nature, the imputation is made to the less burdensome; if all things are equal, it is made proportionally." This is a translation of the Codo Napoleon, art. 1253−1256 slightly altered. See Poth. Obl. n. 528 translated by Evans, and the notes; Bac. Ab. Obligations, F; 6 Watts & Amer. Law Mag. 31; 1 Hare & Wall. Sel. Dec. 123−158.

APPROPRIATION, eccl. law. The setting apart an ecclesiastical benefice, which is the general property of the church, to the perpetual and proper use of some religious house, bishop or college, dean and chapter and the like. Ayl. Pat. 86. See the form of an appropriation in Jacob's Introd. 411.

TO APPROVE, approbare. To increase the profits upon a thing; as to approve land by increasing the rent. 2 Inst. 784.

APPROVEMENT, English crim. law. The act by which a person indicted of treason or felony, and arraigned for the same, confesses the same before any plea pleaded, and accuses others, his accomplices, of the same crime, in

order to obtain his pardon. 2 This practice is disused. 4 Bl. Com. 330 1 Phil. Ev. 37. In modern practice, an accomplice is permitted to give evidence against his associates. 9 Cowen, R. 707; 2 Virg. Cas. 490; 4 Mass. R. 156; 12
Mass. R. 20; 4 Wash. C. C. R. 428; 1 Dev. R. 363; 1 City Hall Rec. 8. In Vermont, on a trial for adultery, it was held that a particeps criminis was not a competent witness, because no person can be allowed to testify his own guilt or turpitude to convict another. N. Chap. R. 9.

APPROVEMENT, English law. 1. The inclosing of common land within the lord's waste, so as to leave egress and regress to a tenant who is a commoner. 2. The augmentation of the profits of land. Stat. of Merton, 20 Hen. VIII.; F. N. B. 72 Crompt. Jus. 250; 1 Lilly's Reg. 110.

APPROVER, Bngl. crim. law. One confessing himself guilty of felony, and approving others of the same crime to save himself. Crompt. Inst. 250 3 Inst. 129.

APPURTENANCES. In common parlance and legal acceptation, is used to signify something belonging to another thing as principal, and which passes as incident to the principal thing. 10 Peters, R. 25; Angell, Wat. C. 43; 1 Serg. & Rawle, 169; 5 S. & R. 110; 5 S. & R. 107; Cro. Jac. 121 3 Saund. 401, n. 2; Wood's Inst. 121 Rawle, R. 342; 1 P. Wms. 603; Cro. Jac. 526; 2 Co. 32; Co. Litt. 5 b, 56 a, b; 1 Plowd. 171; 2 Saund. 401, n. 2; 1 Lev. 131; 1 Sid. 211; 1 Bos. & P. 371 1 Cr. & M. 439; 4 Ad., & Ell. 761; 2 Nev. & M. 517; 5 Toull. n. 531. 2. The word appurtenances, at least in a deed, will not pass any corporeal real property, but only incorporeal easements, or rights and privileges. Co. Lit. 121; 8 B. & C. 150; 6 Bing. 150; 1 Chit. Pr. 153, 4. Vide Appendant.

APPURTENANT. Belonging to; pertaining to of right.

AQUA. Water. This word is used in composition, as aquae ductus, &c. 2. It is a rule that water belongs to the land which it covers, when it is stationary: aqua cedit solo. But the owner of running water, or of a water course, cannot stop it the inferior inheritance having a right to the flow: aqua currit et debet currere, ut currere solebat.

AQUAE DUCTUS, civil law. The name of a servitude which consists in the right to carry water by means of pipes or conduits over or through the estate of another. Dig. 8, 3, 1; Inst. 2, 3; Lalaure, Des Serv. c. 5, p. 23.

AQUAE HAUSTUS, civil law. The name of a servitude which consists in the right to draw water from the fountain, pool, or spring of another. Inst. 2, 3, 2; Dig. 8, 3, 1, 1.

AQUAE IMMITTENDAE, Civil law. The name of a servitude, which frequently occurs among neighbors. It is the right which the owner of a house, built in such a manner as to be surrounded with other buildings, so that it has no outlet for its waters, has, to cast water out of his windows on his neighbor's roof court or soil. Lalaure, Des. Serv. 23.

AQUAGIUM, i. e. aquae agium. 1. A water course. 2. A toll for water.

AQUATIC RIGHTS. This is the name of those rights which individuals have in water, whether it be running, or otherwise.

ARBITER. One who, decides without any control. A judge with the most extensive arbitrary powers; an arbitrator.

ARBITRAMENT. A term nearly synonymous with arbitration. (q. v.)

ARBITRAMENT AND AWARD. The name of a plea to an action brought for the same cause which had been submitted to arbitration, and on which an award had been made. Wats. on Arb. 256.

ARBITRARY. What depends on the will of the judge, not regulated or established by law. Bacon (Aphor. 8) says, Optima lex quae minimum relinquit arbitrio judicis et (Aph. 46) optimus judex, qui mi nimum sibi

2. In all well adjusted systems of law every thing is regulated, and nothing arbitrary can be allowed; but there is a discretion which is sometimes allowed by law which leaves the judge free to act as he pleases to a certain extent. See Discretion

ARBITRARY PUNISHMENTS, practice. Those punishments which are left to the decision of the judge, in distinctiou from those which are defined by statute.

ARBITRATION, practice. A reference and submission of a matter in dispute concerning property, or of a personal wrong, to the decision of one or more persons as arbitrators.

2. They are voluntary or compulsory. The voluntary are, 1. Those made by mutual consent, in which the parties select arbitrators, and bind themselves by bond abide by their decision; these are made without any rule of court. 3 Bl. Com. 16.

3. − 2. Those which are made in a cause depending in court, by a rule of court, before trial; these are arbitrators at common law, and the award is enforced by attachment. Kyd on Awards, 21.

4. − 3. Those which are made by virtue of the statute, 9 & l0 Will. III., c. 15, by which it is agreed to refer a matter in dispute not then in court, to arbitrators, and agree that the submission be made a rule of court, which is enforced as if it had been made a rule of court; Kyd on Aw. 22; there are two other voluntary arbitrations which are peculiar to Pennsylvania.

5. − 4. The first of these is the arbitration under the act of June 16, 1836, which provides that the parties to, any suit may consent to a rule of court for referring all matters of fact in controversy to referees, reserving all matters of law for the decision of the court, and the report of the referees shall have the effect of a special verdict, which is to be proceeded upon by the court as a special verdict, and either party may have a writ of error to the judgment entered thereupon

6. − 5. Those by virtue of the act of 1806, which authorizes " any person or persons desirous of settling any dispute or controversy, by themselves, their agents or attorneys, to enter into an agreement in writing, or refer such dispute or controversy to certain persons to be by them mutually chosen; and it shall be the duty of the referees to make out an award and deliverÿ20it to the party in whose favor it shall be made, together with the written agreement entered into by the parties; and it shall be the duty of the prothonotary, on the affidavit of a subscribing witness to the agreement, that it was duly executed by the parties, to file the same in Iiis office; and on the agreement being so filed as aforesaid, he shall enter the award on record, which shall be as available in law as an award made under a reference issued by the court, or entered on the docket by the parties."

7. Compulsory arbitrations are perhaps confined to Pennsylvania. Either party in a civil suit or action,, or his attorney, may enter at the prothonotary's office a rule of reference, wherein be shall declare his determination to have arbitrators chosen, on a day certain to be mentioned therein, not exceeding thirty days, for the trial of all matters in variance in the suit between the parties. A copy of this rule is served on the opposite party. On the day. appointed they meet at the prothonotary's, and endeavor to agree upon arbitrators; if they cannot, the prothonotary makes out a list on whicb are inscribed the names of a number of citizens, and the parties alternately strike each one of them from the list, beginning with the plaintiff, until there are but the number agreed upon or fixed by the prothonotary left, who are to be the arbitrators; a time of meeting is then agreed upon or appointed by the prothonotary, when the parties cannot agree,−at which time the arbitrators, after being sworn or affirm and equitably to try all matters in variance submitted to them, proceed to bear and decide the case; their award is filed in the office of the prothonotary, and has the effect of a judgment, subject, however, to appeal, which may be entered at any time within twenty days after the filing of such award. Act of 16th June, 1836, Pamphl. p. 715.

8. This is somewhat similar to the arbitrations of the Romans; there the praetor selected from a list Of citizens made for the purpose, one or more persons, who were authorized to decide all suits submitted to them, and which had been brought before him; the authority which the proctor gave them conferred on them a public character and their judgments were without appeal Toull. Dr. Civ. Fr. liv. 3, t. 3, ch. 4, n. 820. See generally, Kyd on Awards; Caldwel on Arbitrations; Bac. Ab. h. t.; 1 Salk. R. 69, 70−75; 2 Saund. R. 133, n 7; 2 Sell. Pr. 241; Doct. PI. 96; 3 Vin. Ab. 40; 3 Bouv. Inst. n. 2482.

ARBITRATOR. A private extraordinary judge chosen by the parties who have a matter in dispute, invested with power to decide the same. Arbitrators are so called because they have generally an arbitrary power, there being in common no appeal from their sentences, which are called awards. Vide Caldw. on Arb. Index,. h. t.; Kyd on Awards, Index, h. t. 3 Bouv. Inst. n. 2491.

ARBOR CONSANGUINITATIS. A table, formed in the shape of a tree, in order to show the genealogy of a family. The progenitor is placed beneath, as if for the root or stem the persons descended from him are represented by the branches, one for each descendant. For example : if it be desired to form the genealogical tree of Peter's family, Peter will be made the trunk of the tree; if he has two sons, John and James, their names will be written on the first two branches, which will themselves shoot as many twigs as John and James have children; these will produce others, till the whole family shall be represented on the tree.

ARCHAIONOMIA. The name of a collection of Saxon laws, published during the reign of the English Queen Elizabeth, in the Saxon language, with a Latin version, by Mr. Lambard. Dr. Wilkins enlarged this. collection in his work, en−titled Leges Anglo Saxonicae, containing all the Saxon laws extant, together with those ascribed to Edward the Confessor, in Latin; those of William the Conqueror, in Norman and Latin; and of Henry I., Stephen, and Henry II., in Latin.

ARCHBISHOP, eccl. law. The chief of the clergy of a whole province. He has the, inspection of the bishops of that province, as well as of the inferior clergy, and may deprive them on notorious cause. The archbishop has also

his own diocese, in which he exercises, episcopal jurisdiction, as in his province he exercises archiepiscopal authority. 1 Bl. Com. 380; L. Raym. 541; Code, 1, 2.

ARCHES COURT. The name of one of the English ecclesiastical courts. Vide Court of Arches.

ARCHIVES. Ancient cbarters or titles, which concern a nation, state, or community, in their rights or privileges. The place where the archives are kept bears the same name. Jacob, L. D. h. t.; Merl. Rep. h. t.

ARCHIVIST. One to whose care the archives have been confided.

ARE. A French measure of surface. This is a square, the sides of which are of the length of ten metres. The are is equal to 1076.441 square feet. Vide Measure.

AREA. An enclosed yard or opening in a house; an open place adjoining to a house. 1 Chit. Pr. 176.

AREOPAGITE. A senator, or a judge of the Areopagus. Solon first established the Areopagites; although some say, they were established in the time of Cecrops, (Anno Mundi, 2553,) the year that Aaron, the brother of Moses, died; that Draco abolished the order, and Solon reestablished it. Demosthenes, in his harangue against Aristocrates, before the Areopagus, speaks of the founders of that tribunal as unknown. See Acts of the Apostles, xviii. 34.

AREOPAGUS. A tribunal established in ancient Athens, bore this name. It is variously represented; some considered as having been a model of justice and perfection, while others look upon it as an aristocratic court, which had a very extended jurisdiction over all crimes and offences, and which exercised an absolute power. See Acts 17, 19 and 22.

ARGENTUM ALBUM. White money; silver coin. See Alba Firma,

ARGUMENT, practice. Cicero defines it ii probable reason proposed in order to induce belief. Ratio probabilis et idonea ad faciendam fidem. The logicians define it more scientifically to be a means, which by its connexion between two extremes) establishes a relation between them. This subject be−longs rather to rhetoric and logio than to law.

ARGUMENT LIST. A list of cases put down for the argument of some point of law.

ARGUMENTATIVENESS. What is used by way of reasoning in pleading is so called.

2. It is a rule that pleadings must not be argumentative. For example, when a defendant is sued for taking away the goods of the plaintiff, he must not plead that "the plaintiff never had any goods," because although this may be an infallible argument it is not a good plea. The plea should be not guilty. Com. Dig. Pleader R 3; Dougl. 60; Co. Litt. 126 a.

ARGUMENTUM AB INCONVENIENTI. An argument arising from the inconvenience which the construction of the law would create, is to have effect only in a case where the law is doubtful where the law is certain, such an argument is of no force. Bac. Ab. Baron and Feme, H.

ARISTOCRACY. That form of government in which the sovereign power is exercised by a small number of persons to the exclusion of the remainder of the people.

ARISTODEMOCRACY. A form of government where the power is divided between the great men of the nation and the people.

ARKANSAS. The name of one of the new states of the United States. It was admitted into the Union by the act of congress of June 15th, 1836, 4 Sharsw. cont. of Story's L. U. S. 2444, by which it is declared that the state of Arkansas shall be one, and is hereby declared to be one of the United States of America, and admitted into the Union on an equal footing with the original states in all respects whatever.

2. A convention assembled at Little Rock, on Monday, the 4th day of January, 1836, for the purpose of forming a constitution, by which it is declared that " We, the people of the Territory of Arkansas, by our representatives in convention assembled, in order to secure to ourselves and our posterity the enjoyments of all the rights of life, liberty and property, and the free pursuit of happiness do mutually agree with each other to form ourselves into a free and independent state, by the name and style of 'The State of Arkansas.' " The constitution was finally adopted on the 30th day of January, 1836.

3. The powers of the government are divided into three departments; each of them is confided to a separate body of magistry, to wit; those which are legislative, to one; those which are executive, to another and those which are judicial, to a third.

4. − 1. The legislative authority of the state is vested in a general assembly, which consists of a senate and house of representatives. Each house shall appoint its own officers, and shall judge of the qualifications, returns and

elections of its own members. Two−thirds of each shall constitute a quorum to do business, but a smaller number may adjourn from day to day, and compel the attendance of absent members, in such manner, and under such penalties, as each house shall provide. Sect. 15. Each house may determine the rules of its own proceedings, punish its own members for disorderly behaviour, and with the concurrence of two−thirds of the members elected, expel a member; but no member shall be expelled a second time for the same offence. They shall each from time to time publish a journal of their proceedings, except such parts as, in their opinion, require secrecy; and the yeas and nays shall be entered on the journal, at the desire of any five members. Sect. 16.

5. The doors of each house while in session, or in a committee of the whole shall be kept open, except in cases which may require secrecy; and each house may punish by fine and imprisonment, any person, not a member, who shall be guilty of disrespect to the house, by any disorderly or contemptuous behaviour in their presence, during, their session; but such imprisonment shall not extend beyond the final adjournment of that session. Sect. 17.

6. Bills may originate in either house, and be amended or rejected in the other and every bill shall be read on three different days in each house, unless two−thirds of, the house where the same is pending shall dispense with the rules : and every bill having passed both houses shall be signed by the president of the senate, and the speaker of the house of representatives.
Sect. 81.

7. Whenever an officer, civil or military, shall be appointed by the joint concurrent vote of both houses, or by the separate vote of either house of the general assembly, the vote shall be taken viva voce, and entered on the journal. Sect. 19.

8. The senators and representatives shall, in all cases except treason, felony, or breach of the peace, be privileged from arrest, during the session of the general assembly, and for fifteen days before the commencement and after the termination of each session; and for any speech or debate in either house, they shall not be questioned in any other place. Sect. 20.

9. The members of the general assembly shall severally receive, from the public treasury, compensation for their services, which may be increased or diminished; but no alteration of such compensation of members shall take effect during t−he session at which it is−made. Sect. 21.

10. − 1. The senate shall never consist of less than seventeen nor more than thirty−three members. Art. 4, Sect. 31. The members shall be chosen for four years, by the qualified electors of the several districts. Art. 4, Sect. 5. No person shall be a senator who shall not have attained the age of thirty years; Who shall not be a free white male citizen of the United States; who shall not have been an inhabitant of this state for one year; and who shall not, at the time of his election, have an actual residence in the district he may be chosen to represent. Art. 4, Sect. 6.

11. All impeachments shall be tried by the senate; and when sitting for that purpose, the senators shall be on oath or affirmation to do justice according to law and evidence. When the governor shall be tried, the chief justice of the supreme court shall preside; and no person shall be convicted without the concurrence of two−thirds of the senators elected. Art. 4, Sect. 27.

12. − 2. The house of representatives shall consist of not less than fifty−four, nor more than one hundred representatives, to be apportioned among the several counties in this state, according to the number of free white male inhabitants therein, taking five hundred as the ratio, until the number of representatives amounts to seventy−five; and when they amount to seventy−five, they shall not be further increased until the population of the state amounts to five hundred thousand souls. Provided that each county now organized shall, although its population may not give the existing ratio, always be entitled to one representative. The members are chosen every second year, by the qualified electors of the several counties. Art. 4, Sect. 2.

13. The qualification of an elector is as follows: he must 1, be a free, white male citizen of the United States; 2, have attained the age of twenty−one years; 3, have been a citizen of this state six months; 4, be must actually reside in the county, or district where he votes for an office made elective under this state or the United States. But no soldier, seaman, or marine, in the army of the United States, shall be entitled to vote at any election within this state. Art. 4, Sect. 2.

14. No person shall be a member of the house of representatives, who shall not have attained the age of twenty−five years; who shall not be a free, white male citizen of the United States; who shall not have been an inhabitant of this state one year; and who shall not, at the time of his election, have an, actual residence in the county he may be chosen to represent. Art. 4,

Sect. 4.

15. The house of representatives shall have the sole power of impeachment. Art. 4, Sect. 27.

16. _2. The supreme executive power of this state is vested in a chief magistrate, who is styled " The Governor of the State of Arkansas." Art. 5, Sect. 1.

17. − 1. He is elected by the electors of the representatives.

18. − 2. He must be thirty years of age a native born citizen of Arkansas, or a native born citizen of the United States, or a resident of Arkansas ten years previous to the adoption of this constitution, if not a native of the United States; and, shall have been a resident of the same at least four years next before his election. Art. 4, s. 4.

19. − 3. The governor holds his office for the term of four years from the time of, his installation, and until his successor shall be duly qualified; but he is not eligible for more than eight years in any term of twelve years. Art. 5, sect. 4.

20. − 4. His principal duties are enumerated in the fifth article of the constitution, and are as follows: He Shall be commander−in−chief of the army of this state, and of the militia thereof, except when they shall be called into the service of the United States; s. 6: He may require information, in writing, from the officers of the executive department, on any subject relating to the duties of their respective offices; s. 7. He may by proclamation, on extraordinary occasions, convene the general assembly, at the seat of government, or at a different place, if that shall have become, since their last adjournment, dangerous from an enemy, or from contagious diseases. In case of disagreement between the two houses, with respect to the time of adjournment, he may adjourn them to such time as he shall think proper, not beyond the day of the next meeting of the general assembly; s, 8. He shall, from time to time, give to the general assembly information of the state of the government, and recommend to their consideration such measures as he may deem expedient; s. 9. He shall take care that the laws be faithfully executed s. 10. In all criminal and penal cases, except those of treason and impeachment, he shall have power to grant pardons, after conviction, and remit fines and forfeitures, under such rules and regulations as shall be prescribed by law in cases of treason, he shall have power, by and with the advice and consent of the senate, to grant reprieve sand pardons; and he may, in the recess of the senate, respite the sentence until the end of the next session of the general assembly s. 11. He is the keeper of the seal of the' state, which is to be used by him officially; s. 12. Every bill which shall have passed both houses, shall be presented to the governor. If he approve, he shall sign it; but if he shall not approve it, he shall return it, with his objections, to the house in which it Shall have originated, who shall enter his objections at large upon their journals, and proceed to reconsider it. If, after such reconsideration, a majority of the whole number elected to that house shall agree to pass the bill, it shall be sent, with the objections, to the other house, by which, likewise, it shall be reconsidered; and if approved by a majority of the whole number elected to that house it shall be a law; but in such cases, the votes of both houses shall be determined by yeas and nays; and the names of persons voting for or against the bill, shall be entered on the journals of each house respectively. If the bill shall not be returned by the governor within three days, Sundays excepted, after it shall have been presented to him, the same shall be a law, in like manner as if be had signed it, unless the general assembly, by their adjournment, prevent its return; in such case it shall not be a law; s. 16. 5. In case of the impeachment of the governor, his removal from office, death, refusal to qualify, or absence from the state, the president of the senate shall exercise all the authority appertaining to the office of governor, until another governor shall have been elected and qualified, or until the governor absent or impeached, shall return or be acquitted; s. 18. If, during the vacancy of the office of governor, the president of the senate shall be impeached, removed from office, refuse to qualify, resign, die, or be absent from the state, the speaker of the house of representatives shall, in like manner, administer the government; s. 19.

2l. − _3. The judicial power of this state is vested by the sixth article of the constitution, as follows

22. − 1. The judicial power of this state shall be vested in one supreme court, in circuit courts, in county courts, and in justices of the peace. The general assembly may also vest such jurisdiction as may be deemed necessary, in corporation courts; and, when they deem it expedient, may establish courts of chancery.

23. − 2. The supreme court shall be composed of three judges, one of whom shall be styled chief justice, any two of whom shall constitute a quorum and −the concurrence of any two of the said judges shall, in every case, be necessary to a decision. The supreme court, except in cases otherwise directed by this constitution, shall have appellate jurisdiction only, which shall be coextensive with the state, under such rules and regulations as may, from time to time, be prescribed by law; it shall have a general superintending control over all inferior and other courts of law and equity it shall have power to issue writs of error and Bupersedeas, certiorari and habeas corpus,

mandamus, and quo warranto, and other remedial writs, and to hear and determine the same; said judges shall be conservators of the peace throughout the state, and shall severally have power to issue any of the aforesaid writs.

24. − 3. The circuit court shall have jurisdiction over all criminal cases whicb shall not be otherwise provided for by law and exclusive original jurisdiction of all crimes amounting to felony.at common law; and original jurisdiction of all civil cases which shall not be cognizable before justices of the peace, until otherwise directed by the general assembly; and original ju−risdiction in all matters of contract) when the sum in controversy is over one hundred dollars. It shall hold its terms at such place in each county, as may be by law directed.

25. − 4. The state shall be divided into convenient circuits, each to consist of not less than five, nor more than seven counties contiguous to each other, for each of which a judge shall be elected, who, during his continuance in office, shall reside and be a conservator of the peace within the circuit for which he shall have been elected.

26. − 5. The circuit courts shall exercise a superintending control over the county courts, and over justices of the peace, in each county in their respective circuits; and shall have power to issue all the necessary writs to carry into effect their general and specific powers.

27. − 6. Until the general assembly shall deem it expedient to establish courts of chancery, the circuit courts shall have jurisdiction in matters of equity, subject to appeal to the supreme court, in such manner as may be prescribed by law.

28.−7. The general asserably shall, by joint vote of both houses, elect the judges of the supreme and circuit courts, a majority of the whole number in joint vote being necessary to a choice. The judges of the supreme court− shall be at least thirty years of age; they shall hold their offices for eight years from the date of their commissions. The judges of the circuit courts shall be at least twenty−five years of age, and shall be elected for the term of four years from the date of their commissions.

29. − 8. There shall be established in each county, a court to be holden by the justices of the peace, and called the county court, which shall have jurisdiction in all matters relating, to county taxes, dishursements of money for county purposes, and in every other case that may be necessary to the internal improvement and local concerns of the respective counties.

30. − 9. There shall be elected by the justices of the peace of the respective counties, a presiding judge of the county court, to be commissioned by the governor, and hold his office for the term of two years, and until his successor is elected or qualified. He shall, in addition to the duties that may be required of him by law, as presiding judge of the county court, be a judge of the court of probate, and have such jurisdiction in matters relative to the estates of deceased persons, executors, administrators, and guardians, as may be prescribed by law, until otherwise directed by the general assembly.

31.− 10. No judge shall preside in the trial of any cause, in the event of which he may be interested, or where either of the parties shall be connected with him by affinity or consanguinity, within such degrees as may be proscribed by law, or in which he shall have been of counsel, or have presided in any inferior court, except by consent of all the parties.

32. − 11. The qualified voters in each township shall elect the justices of the peace for their respective townships. For every fifty voters there may be elected one justice of the peace, provided, that each township, however small, shall have two justices of the peace. Justices of the peace shall be elected for two years, and shall be commissioned by the governor, and reside in the townships for which they shall have been elected, during their continuance in office. They shall have individually, or two or more of them jointly, exclusive original jurisdiction in all matters of contract, except in actions of covenant, where the sum in controversy is of one hundred dollars and under. Justices of the peace shall in no case have jurisdiction to try and determine any criminal case or penal offence against the state; but may sit as examining courts, and commit, discbarge, or recognize to the court having jurisdiction, for further trial, offenders against the peace. For the foregoing purposes they shall have power to issue all necessary process they shall also bave power to bind to keep the peace, or for good behaviour.

ARM OF THE SEA. Lord Coke defines an arm of the sea to be where the sea or tide flows or reflows. Constable’s Case, 5 Co. 107. This term includes bays, roads, creeks, coves, ports, and rivers where the water flows and reflows, whether it be salt or fresh. Ang. Tide Wat. 61. Vide Creek; Haven; Navigable; Port; Reliction; River; Road.

ARMISTICE. A cessation of hostilities between belligerent nations for a considerable time. It is either partial and local, or general. It differs from a mere suspension of arms which takes place to enable the two armies to bury their dead, their chiefs to hold conferences or pourparlers, and the like. Vattel, Droit des Gens, liv. 3, c. 16, _233.

The terms truce, (q. v.) and armistice, are sometimes used in the same sense. Vide Truce.

ARMS. Any thing that a man wears for his defence, or takes in his hands, or uses in his anger, to cast at, or strike at another. Co. Litt. 161 b, 162 a; Crompt. Just. P. 65; Cunn. Dict. h. t.

2. The Constitution of the United States, Amendm. art. 2, declares, "that a well regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall not be infringed." In Kentucky, a statute " to prevent persons from wearing concealed arms," has been declared to be unconstitutional; 2 Litt. R. 90; while in Indiana a similar statute has been holden valid and constitutional. 3 Blackf. R. 229. Vide Story, Const.−_1889, 1890 Amer. Citizen, 176; 1 Tuck. Black. App. 300 Rawle on Const. 125.

ARMS, heraldry. Signs of arms, or drawings painted on shields, banners, and the like. The arms of the United States are described in the Resolution of Congress, of June 20, 1782. Vide Seal of the United States.

ARPENT. A quantity of land containing a French acre. 4 Hall's Law Journal, 518.

ARPENTATOR, from arpent. A measurer or surveyor of land.

ARRAIGNMENT, crim. law practice. Signifies the calling of the defendant to the bar of the court, to answer the accusation contained in the indictment. It consists of three parts.

2. − 1. Calling the defendant to the bar by his name, and commanding him to hold up his hand; this is done for the purpose of completely identifying the prisoner, as the person named in the indictment; the holdingÿ20up his hand is not, however, indispensable, for if the prisoner should refuse to do so, he may be identified by any admission that he is the person intended. 1 Bl. Rep. 3.

3. − 2. The reading of the indictment to enable him fully to understand, the charge to be produced against him; The mode in which it is read is, after' saying, " A B, hold up your hand," to proceed, "you stand indicted by the name of A B, late of, &c., for that you on, &c." and then go through the whole of the indictment.

4. − 3. After this is concluded, the clerk proceeds to the third part, by adding, " How say you, A B, are you guilty or not guilty?" Upon this, if the prisoner, confesses the charge, the confession is recorded, and nothing further is done till judgment if, on the contrary, he answers "not guilty", that plea is entered for him, and the clerk or attorney general, replies that he is guilty; when an issue is formed. Vide generally, Dalt. J. h. t.; Burn's J. h. t.; Williams; J. h. t.; 4 Bl. Com. 322; Harg. St. Tr. 4 vol. 777, 661; 2 Hale, 219; Cro. C. C. 7; 1 Chit. Cr. Law, 414.

ARRAMEUR, maritime law. The name of an ancient officer of a port, whose business was to load and unload vessels.

2. In the Laws of Oleron, art 11, (published in English in the App. to 1 Pet. Adm. R. xxv.) some account of arrameurs will be found in these words: " There were formerly, in several ports of Guyenne, certain officers called arrameurs, or stowers, who were master−carpenters by profession, and were paid by the merchants, who loaded the ship. Their business was to dispose right, ana Stow closely, all goods in casks, bales, boxes, bundles or otherwise to balance both sides, to fill up the vacant spaces, and manage every thing to the best advantage. It was riot but that the greatest part of the ship's crew understood this as well as these stowers but they would not meddle with it, nor undertake it, to avoid falling under the merchant's displeasure, or being accountable for any ill accident that might.happen by that means. There were also sacquiers, who were very ancient officers, as may be seen in the 14th book of the Theodosian code, Unica de Saccariis Portus Romae, lib. 14. Their business was to load and unload vessels loaded with salt, corn, or fish, to prevent the ship's crew defrauding the merchant by false tale, or cheating him of his merchandize otherwise." See Sacquier; Stevedore.

ARRAS, Span. law. The property contributed by the hushand, ad sustinenda onera matrimonii, is called arras. The hushand is under no obligation to give arras, but it is a donation purely voluntary. He is not permitted to give in arras more than a tenth of his property. The arras is the exclusive property of the wife, subject to the hushand's usufruct during his life. Burge on the Confl. of Laws, 417.

2. By arras is also understood the donation which the hushand makes to his wife, by reason or on account of marriage, and in consideration of the dote, or portion, which be receives from her. Aso & Man. Inst. h. t. 7, c. 3.

ARRAY, practice. The whole body of jurors summoned to attend a court, as −they are arrayed or arranged on the panel. Vide Challenges, and Dane's Ab. Index, h. t.; 1 Chit. Cr. Law, 536; Com. Dig. Challenge, B.

ARREARAGE. Money remaining unpaid after it becomes due as rent unpaid interest remaining due Pow. Mortgages, Index, h. t.; a sum of money remaining in the hands of an accountant. Merl. Rep. h. t.; Dane's Ab. Index, h. t.

ARREST. To stop; to seize; to deprive one of his liberty by virtue of legal authority.

ARREST IN CIVIL CASES, practice. An arrest is the apprehension of a person by virtue of a lawful authority,

to answer the demand against him in a civil action.

2. To constitute an arrest, no actual force or manual touching of the body is requisite; it is sufficient if the party be within the power of the officer, and submit to the arrest. 2 N. H. Rep. 318; 8 Dana, 190; 3 Herring. 416; 1 Baldw. 239; Harper, 453; 8 Greenl. 127; 1 Wend. 215 2 Blackf. 294. Barewords, however, will not make an arrest, without laying the person or otherwise confining him. 2 H. P. C. 129 1 Burn's Just. 148; 1 Salk. 79. It is necessarily an assault, but not necessarily a battery. Cases Temp. Hardw. 300.

3. Arrests are made either on mesne or final process. An arrest on mesne process is made in order that the defendant shall answer, after judgment, to satisfy the claim of the plaintiff; on being arrested, the defendant is entitled to be liberated on giving sufficient bail, which the officer is bound to take. 2. When the arrest is on final process, as a ca. sa., the defendant cannot generally be dis charged on bail; and his discharge is considered as an escape. Vide, generally, Yelv. 29, a, note; 3 Bl. Com. 288, n.; 1 Sup. to Ves. Jr. 374; Wats. on Sher. 87; 11 East, 440; 18 E. C. L. R. 169, note.

4. In all governments there are persons who are privileged from arrest in civil cases. In the United States this privilege continues generally while the defendant remains invested with a particular character. Members of congress and of the state legislatures are exempted while attending the respective assemblies to which they belong parties and witnesses, while lawfully attending court; electors, while attending a public election; ambassadors and other foreign ministers; insolvent debtors, when they have been lawfully discharged; married women, when sued upon their contracts, are generally privileged; and executors and administrators, when sued in their representative characters, generally enjoy the same privilege. The privilege in favor of members of congress, or of the state legislatures, of electors, and of parties and witnesses in a cause, extend to the time of going to, remaining at, and returning from, the places to which they are thus legally called.

5. The code of civil practice of Louisiana enacts as follows, namely: Art. 210. The arrest is one of the means which the law gives the creditor to−secure the person of his debtor while the suit is pending, or to compel him to give security for his appearance after judgment. Art. 211. Minors of both sexes, whether emancipated or not, interdicted persons, and women, married or single, cannot be arrested. Art. 212. Any creditor, whose debtor is about to leave the state, even for a limited time, without leaving in it sufficient property to satisfy the judgment which he expects to obtain in the suit he intends to bring against him, may have the person of such debtor arrested and confined until he shall give sufficient security that be shall not depart from the state without the leave of the court. Art. 213. Such arrest may be ordered in all demands brought for a debt, whether liquidated or not, when the term of payment has expired, and even for damages for any injury sustained by the plaintiff in either his person or property. Art. 214. Previous to obtaining an order of arrest against his debtor, to compel him to give sufficient security that be shall not depart from the state, the creditor must swear in the petition which he presents to that effect to any competent judge, that the debt, or the damages which he claims, and the amount of which he specifies, is really due to him, and that he verily believes that, the defendant is about to remove from the state, without leaving in it and lastly, that he does not −take this oath with the intention of vexing the defendant, but only in order to secure his demand. Art. 215. The oath prescribed in the preceding article, ulay be taken either by the creditor himself, or in his absence, by his attorney in fact or his agent, provided either the one or the other can swear to the debt from his personal and direct knowledge of its being due, and not by what he may know or have learned from the creditor he represent. Art. 216. The oath which the creditor is required to take of the existence and nature of the debt of which he claims payment, in the cases provided in the two preceding articles, may be taken either before any judge or justice of the peace of the place where the court is held, before which he sues, or before the judge of any other place, provided the signature of such judge be proved or duly authenticated. Vide Auter action pendant; Lis pendens: Privilege; Rights.

ARREST, in criminal cases. The apprehending or detaining of the person, in order to be forthcoming to answer an alleged or suspected crime. The word arrest is more properly used in civil cases, and apprehension in criminal. A man is arrested under a capias ad respondendum, apprehended under a warrant charging him with a larceny.

2. It will be convenient to consider, 1, who may be arrested; 2, for what crimes; 3, at what time; 4, in what places; 5, by whom and by what authority.

3. − 1. Who may be arrested. Generally all persons properly accused of a crime or misdeameanor, may be arrested; by the laws of the United States, ambassadors (q. v.) and other public ministers are exempt from arrest.

4. − 2. For what offences an arrest may be made. It may be made for treason, felony, breach of the peace, or

other misdemeanor.

5. − 3. At what time. An arrest may be made in the night as well as in the day time and for treasons, felonies, and breaches of the peace, on Sunday as well as on other days. It may be made before as well as after indictment found. Wallace's R. 23.

6. − 4. At what places. No place affords protection to offenders against the criminal law; a man may therefore be arrested in his own house, (q. v.) which may be broken into for the purpose of making the arrest.

7. − 5. Who may arrest and by what authority. An offender may be arrested either without a warrant or with a warrant. First, an arrest may be made without a warrant by a private individual or by a peace officer. Private individuals are enjoined by law to arrest an offender when present at the time a felony is committed, or a dangerous wound given− 11 Johns. R. 486 and vide Hawk. B. 1, c, 12, s. 1; c. 13, F3. 7, 8; 4 Bl. Com. 292; 1 Hale, 587; Com. Dig. Imprisonment, H 4; Bac. Ab. Trespass, D.

3. Peace officers may, a fortiori, make an arrest for a crime or misdemeanor committed in their view, without any warrant. 8 Serg. & R. 47. An arrest may therefore be made by a constable, (q. v.) a justice of the peace, (q. v.) slieriff, (q. v.) or coroner. (q. v.) Secondly, an arrest may bb made by irtue of a warrant, (q. v.) which is the proper course when the circumstances of the case will permit it. Vide, generally, 1 Chit. Cr. Law, 11 to 71; Russ. on Cr. Index, h. t.

ARREST OP JUDGMENT. The act of a court by which the judges refuse to give judgment, because upon the face of the record, it appears that the plaintiff is not entitled to it. See Judgment, arrest of.

ARRESTANDIS bonis ne dissipentur. In the English law, a writ for him whose cattle or goods, being taken during a controversy, are likely, to be wasted and consumed.

ARRESTEE, law of Scotland. He in whose hands a debt, or property in his possession, has been arrested by a regular arrestment. If, in contempt of the ar−restment, he shall make payment of the sum, or deliver the goods arrested to the common debtor, he is not only liable criminally for breach of the arrestment, but he must pay the debt again to the arrester. Ersk. Pr. L. Scot. 3, 6, 6.

ARRESTER, law of Scotland. One who sues out and obtains an arrestment of his debtor's goods or movable obligations. Ersk. Pr. L. Soot. 3, 6, 1.

ARRESTMENT, Scotch law. By this term is sometimes meant the securing of a criminal's person till trial, or that of a debtor till he give security judicio sisti. Ersk. Pr. L. Scot. 1, 2, 12. It is also the order of a judge, by which he who is debtor in a movable obligation to the arrester's debtor, is probibited to make payment or delivery till the debt due to the arrester be paid or secured. Ersk. Pr. L. Scot. 3, 6, 1. See Attachment, foreign. where arrestment proceeds on a depending action, it may be loosed by the common debtor's giving security to the arrester for his debt, in the event it shall be found due. Id. 3, 6, 7.

ARRET, French law. An arret is a judgment, sentence, or decree of, a court of competent jurisdiction. Saisie− arret is an attachment of property in the hands of a third person. Code of Pract. of Lo. art. 209.

ARRETTED, arrectatus, i. e. ad rectum vocatus. Convened before a judge and charged with a crime. Ad rectum malefactorem, is, according to Bracton, to have a malefactor forthcoming to be put on his trial. Sometimes it is used for imputed or laid to his charge; as, no folly may be arretted to any one under age. Bract. 1. 3, tr. 2, c. 10; Cunn. Dict. h. t.

ARRHAE, contracts, in the civil law. Money or other valuable things given by the buyer to the seller, for the purpose of evidencing the contract earnest.

2. There are two kinds of arrbae; one kind given when a contract has only been proposed; the other when a sale has actually taken place. Those which are given when a bargain has been merely proposed, before it has been concluded, form the matter of the contract, by which he who gives the arrhae consents and agrees to lose them, and to transfer the title to them in the opposite party, in case he should refuse to complete the proposed bargain; and the receiver of arrhae is obliged on his part to return double the amount to the giver of them in case be should fail to complete his part of the contract. Poth. Contr. de Vente, n. 498. After the contract of sale has been completed, the purchaser usually gives arrbae as evidence that the contract has been perfected. Arrbae are therefore defined quod ante pretium datur, et fidem fecit contractus, facti totiusque pecuniae solvendae. Id. n. 506; Code, 4, 45, 2.

TO ARRIVE. To come to a particular place; to reach a particular or certain place as, the ship United States arrived in New York. See 1 Marsh. Dec. 411.

ARROGATION, civil law. Signifies nearly the same as adoption; the only difference between them is this, that

adoption was of a person under full age but as arrogation required the person arrogated, sui juris, no one could be arrogated till he was of full age. Dig. 1, 7, 5; Inst. 1, 11, 3 1 Brown's Civ. Law, 119.

ARSER IN LE MAIN. Burning in the hand. This punishment was inflicted on those who received the benefit of clergy. Terms de la Ley.

ARSON, criminal law. At common law an offence of the degree of felony; and is defined by Lord Coke to be the malicious and voluntary burning of the house of another, by night or day. 3 Inst. 66.

2. In order to make this crime complete, there must be, 1st, a burning of the house, or some part of it; it is sufficient if any part be consumed, however small it may be. 9 C. & P. 45; 38 E. C. L. R. 29; 16 Mass. 105. 2d. The house burnt must; belong to another; but if a man set fire to his own house with a view to burn his neighbor's, and does so, it is at least a great misdemeanor, if not a felony. 1 Hale, P. C. 568; 2 East, P. C. 1027; 2 Russ. 487. 3d. The burning must have been both malicious and willful.

3. The offence of arson at common law, does not extend further than the burning of the house of another. By statute this crime is greatly enlarged in some of the states, as in Pennsylvania, where it is extended to the burning of any barn or outhouse having bay or grain therein; any barrack, rick or stack of hay, grain, or bark; any public buildings, church or meeting−house, college, school or library. Act 23d April, 1829; 2 Russell on Crimes, 486; 1 Hawk. P. C. c. 39 4 Bl. Com. 220; 2 East, P. C. c. 21, s. 1, p. 1015; 16 John. R. 203; 16 Mass. 105. As to the extension of the offence by the laws of the United States, see Stat. 1825, c. 276, 3 Story's L. U. S. 1999.

ARSURA. The trial of money by fire after it was coined. This word is obsolete.

ART. The power of doing. something not taught by nature or instinct. Johnson. Eunomus defines art to be a collection of certain rules for doing anything in a set form. Dial. 2, p. 74. The Dictionaire des Sciences Medicales, h. v., defines it in nearly the same terms.

2. The arts are divided into mechanical and liberal arts. The mechanical arts are those which require more bodily than mental labor; they are usually called trades, and those who pursue them are called artisans or mecbanics. The liberal are those which have for the sole or principal object, works of the mind, and those who are engaged in them are called artists. Pard. Dr. Com. n. 35.

3. The act of Congress of July 4, 1836, s. 6, in describing the subjects of patents, uses the term art. The sense of this word in its usual acceptation is perhaps too comprehensive. The thing to be patented is not a mere elementary, principle, or intellectual discovery, but a principle put in practice, and applied to some art, machine, manufacture, or composition of matter. 4 Mason, 1.

4. Copper−plate printing on the back of a bank note, is an art for which a patent may be granted. 4 Wash. C. C. R. 9.

ART AND PART, Scotch law. Where one is accessory to a crime committed by another; a person may be guilty, art and part, either by giving advice or counsel to commit the crime; or, 2, by giving warrant or mandate to commit it; or, 3, by actually assisting the criminal in the execution.

2. In the more atrocious crimes, it seems agreed, that the adviser is equally punishable with the criminal and that in the slighter offences, the circumstances arising from the adviser's lesser age, the jocular or careless manner of giving the advice, &c., may be received as pleas for softening the punishment.

3. One who gives a mandate to commit a crime, as he is the first spring of the action, seems more guilty than the personÿ20employed as the instrument in executing it.

4. Assistance may be given to the committer of a crime, not only in the actual execution, but previous to it, by furnishing him, with a criminal intent, with poison, arms, or other means of perpetrating it. That sort of assistance which is not given till after the criminal act, and which is commonly called abetting, though it be itself criminal, does not infer art and part of the principal crime. Ersk. Pr. L; Scot. 4, 4, 4 ; Mack. Cr. Treat. tit. Art and Part.

ARTICLES. A division in some books. In agreements and other writings, for the sake of perspicuity, the subjects are divided into parts, paragraphs, or articles.

ARTICLES, chan. practice. An instrument in writing, filed by a party to a proceeding in chancery, containing reasons why a witness in the cause should be discredited.

2. As to the matter which ought to be contained in these articles, Lord Eldon gave some general directions in the case of Carlos v. Brook, 10 Ves. 49. " The court," says he, "attending with great caution to an application to permit any witness to be examined after publication, has held where the proposition was to examine a witness to credit, that the examination is either to be confined to general credit; that is, by produciug witnesses to swear, that the person is not to be believed upon his oath; or, if you find him swearing to a matter, not to issue in the cause,

(and therefore not thought
material to the merits,) in that case, as the witness is not produced to vary the case in evidence by, testimony that relates to matters in issue, but is to speak only to the truth or want of veracity, with which a witness had spoken to a fact not, in issue, there is no danger in permitting him to state that such fact, not put in issue, is false and, for the purpose of discrediting a witness, the court has not considered itself at liberty to sanction such a proceeding as an examination to destroy the credit of another witness, who had deposed only to points put in issue. In Purcell v. M'Namara, it was agreed that after publication it was competent to examine any witness to the point, whether he would believe that man upon his oath. It is not competent, even at law, to ask the ground of that opinion; but the general question only is permitted. In Purcell v. M'Namara, the witness went into the history of his whole life and as to his solvency, & c. It was not at all put at issue whether he had been insolvent, or had compounded with his creditors; but, having sworn the contrary, they proved by witnesses, that he, who had sworn to a, matter not in issue, had sworn falsely to that fact; and that he had been insolvent, and had compounded with his creditors; and it would be lamentable, if the court could not find means of getting at it; for he could not be indicted for perjury, though swearing falsely, the fact not being material. The rule is, in general cases the cause is heard upon −evidence given before publication; but that you may examine after publication, provided you examine to credit only, and do not go to matters in issue in the cause, or in contradiction of them,
under pretence of examing to credit only. Those depositions," he continued, " appear to me material to what is in issue in the cause; and therefore must be suppressed," See a form of articles in Gresl. Eq. Ev. 140, 141; and also 8 Ves. 327; 9 Ves. 145; 1 S. & S. 469.

ARTICLES, eccl. law. A complaint in the form of a libel, ex hibited to an ecclesiastical court.

ARTICLES OF AGREEMENT, contracts. Relate either to real or personal estate, or to both. An article is a memorandum or minute of an agreement, reduced to writing to make some future disposition or modification of property; and such an instrument will create a trust or equitable estate, of which a specific performance will be decreed in chancery. Cruise on Real Pr. tit. 32 c. 1, s. 31. And see Id. tit. 12, c. 1.

2. This instrument should contain: 1, the name and character of the parties; 2, the subject−matter of the contracts; 3, the covenants which each of the parties bind themselves to perform; 4, the date; 5, the signatures of the parties.

3. − 1. The parties should be named, and their addition should also be mentioned, in order to identify them. It should also be stated which persons are of the first, second, or other part. A confusion, in this respect, may occasion difficulties.

4. − 2. The subject−matter of the contract ought to be set out in clear and explicit language, and the time and place of the performance of the agreement ought to be mentioned and, when goods are to be delivered, it ought to be provided at whose expense they shall be removed, for there is a difference in the delivery of light and bulky articles. The seller of bulky articles is not in general bound to deliver them unless he agrees to do so. 5 S. & R. 19 12 Mass. 300; 4 Shepl. 49.

5. − 3. The covenants to be performed by each party should be specially and correctly stated, as a mistake in this respect leads to difficulties which might have been obviated had they been properly drawn.

6. − 4. The instrument should be truly dated.

7. − 5. It should be signed by the parties or their agents. When signed by an agent he should state his authority, and sign his principal's name, and then his own, as, A B, by his agent or attorney C D.

ARTICLES OF CONFEDERATION. The compact which was made by the original thirteen states of the United States of America, bore the name of the "Articles of Confederation and perpetual union between, the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia." It was adopted and went into force on the first day of March, 1781, and remained as the supreme law until the first Wednesday of March, 1789. 5 Wheat. R. 420. The following analysis of this celebrated instrument is copied from Judge Story's Commentaries on the Constitution of the United States, Book 2, c. 3.

2. "In pursuance of the design already announced, it is now proposed to give an analysis of the articles of confederation, or, as they are denominated in the instrument itself, the Articles of Confederation and Perpetual Union between the States, as they were finally adopted by the thirteen states in 1781.

3. "The style of the Confederacy was, by the first article, declared to be, 'The United States of America.' The second article declared, that each state retained its sovereignty, freedom, and independence, and every power,

jurisdiction and right, which was not by this confederation expressly delegated to the United States, in congress assembled. The third article declared, that the states severally entered into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare binding themselves to assist each other against all force offered to, or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever. The fourth article declared, that the free inhabitants of each of the states, (vagabonds and fugitives from justice excepted,) should be entitled to all the privileges of free citizens in the several states; that the people of each state should have free ingress and regress to any from any other state, and should enjoy all the privileges of trade and commerce, subject to the same duties and restrictions, as the inhabitants; that fugitives from justice should, upon the demand of the executive of the state, from which they fled, be delivered up; and that full faith and credit should be given, in each of the states, to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

4. "Having thus provided for the security and intercourse of the states, the next article (5th) provided for the organization of a general congress, declaring that delegates should be chosen in such manner, as the legislature of each state should direct; to meet in congress on the first Monday in every year, with a power, reserved to each state, to recall any or all of the delegates, and to send others in their, stead. No state was to be represented in congress by less than two, nor than seven members. No delegate was eligible for more than three, in any term of six years; and no delegate was capable of holding any office of emolument under the United States. Each state was to maintain its own delegates; and, in determining questions in congress, was to have one vote. Freedom of speech and debate in congress was not to be impeached or questioned in any other place; and the members were to be protected from arrest and imprisonment, during the time of their going to and from, and attendance on congress, except for treason, felony, or breach of the peace.

5. "By subsequent articles, congress was invested with the sole and exclusive right and power of determining on peace and war, unless in case of an invasion of a state by enemies, or an imminent danger of an invasion by Indians; of sending and receiving ambassadors; entering into treaties and alliances, under certain limitations, as to treaties of commerce; of establishing rules for deciding all cases of capture on land and water, and for the division and appropriation of prizes taken by the land or naval forces, in the service of the United States of granting letters of marque and reprisal in times of peace; of appointing courts for the trial of piracies and felonies committed on the high seas; and of establishing courts for receiving and finally determining appeals in all cases of captures.

6. "Congress was also invested with power to decide in the last resort, on appeal, all disputes and differences between two or more states concerning boundary, jurisdiction, or any other cause whatsoever; and the mode of exercising that authority was specially prescribed. And all controversies concerning the private right of soil, claimed under different grants of two or more states before the settlement of their jurisdiction, were to be finally determined in the same manner, upon the petition of either of the grantees. But no state was to be deprived of territory for the benefit of the United States.

7. "Congress was also invested with the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or that of the United States; of fixing the standard of weights and measures throughout the United States; of regulating the trade and managing all affairs with the Indians, not members of any of the states, provided, that the legislative right of any state within its own limits should not be infringed or violated of establishing and regulating post offices from one state to another, and exacting postage to defray the expenses; of appointing all officers of the land forces in the service of the United States, except regimental officers; of appointing all officers of the naval forces, and commissioning all officers whatsoever in the service of the United States; and of making rules for the government and regulation of the land and naval forces, and directing their operations.

8. "Congress was also invested with authority to appoint a committee of the states to sit in the recess of congress, and to consist of one delegate from each state, and other committees and civil officers, to manage the general affairs under their direction; to appoint one of their number to preside, but no person was to serve in the office of president more than one year in the term of three years; to ascertain the necessary sums for the, public service, and to appropriate the same for defraying the public expenses; to. borrow money and emit bills ou credit of the United States to build and equip a navy; to agree upon the number of land forces, and make requisitioins upon each state for its quota, in proportion to the number of white inhabitants in such state. The legislatures of each state were to appoint the regimental officers, raise the men, and clothe, arm, and equip them at the expense of the United

States.

9. "Congress was also invested with power to adjourn for any time not exceeding six months, and to any place within the United States and provision was made for the publication of its journal, and for entering the yeas and nays thereon, when desired by any delegate.

10. "Such were the powers confided in congress. But even these were greatly restricted in their exercise; for it was expressly. provided, that congress should never engage in a war; nor grant letters of marque or reprisal in, time of peace; nor enter into any treaties or alliances; nor coin money or regulate the value thereof; nor ascertain the sums or expenses necessary for the, defence and welfare of the United States, nor emit bills nor borrow money on the credit of the United States nor appropriate money; nor agree upon the number of vessels of war to be built, or purchased; or the number of land or sea forces to be raised; nor appoint a commander−in−chief of the army or navy; unless nine states should assent to the same. And no question on any other point, except for adjournng from day to day, was to be determined, except by vote of the majority of the states.

11. "The committee of the states or any tine of them, were authorized in the recess of congress to exercise such powers, as congress, with the assent of nine states, should think it expedient to vest them with, except such powers for the exercise of which, by the articles of confederation, the assent of nine states was required, which could not be thus delegated.

12. "It was further. provided, that all bills of credit, moneys borrowed, and debts contracted by or under the authority of congress before the confederation, should be a charge against the United States; that when land forces were raised by any state for the common defence, all officers of or under the rank of colonel should be appointed by the legislature of the state, or in such manner as the state should direct; and all vacancies should be filled up in the same manner that all charges of war, and all other expenses for the common defence or general welfare, should be defrayed out of a common treasury, which should be supplied by the several states, in proportion to the value of the land within each state granted or surveyed, and the buildings and improvements thereon, to be estimated according to the mode prescribed by congress; and the taxes for that proportion were to be laid and levied by the legislatures of the states within the time agreed upon by congress.

13. "Certain prohibitions were laid upon the exercise of powers by the respective states. No state, without the consent of the United States, could send an embassy to, or receive an embassy from, or enter into, any treaty with any king, prince or state; nor could any person holding any office under the United States, or any of them, accept any present, emolument, office −or title, from any foreign king, prince or state; nor could congress itself grant any title of nobility. No two states could enter into any treaty, confederation, or alliance with each other, without the consent of congress. No state could lay any imposts or duties, which might interfere with any proposed treaties. No vessels of war were to be kept up by any state in time of peace, except deemed necessary by congress for its defence, or trade; nor any body of forces, except such as should be deemed requisite by congress to garrison its forts, and necessary for its defence. But every state was required always to keep up a well regulated and disciplined militia, sufficiently armed and accoutred, and to be provided with suitable field−pieces, and tents, and arms, and amunition, and camp equipage. No state could engage in war without the consent of congress, unless actually invaded by enemies, or in danger of invasion by the Indians. Nor could any state grant commissions to any ships of war, nor letters of marque and reprisal, except after a declaration of war by congress, unless such state were infested by pirates, and then subject to the determination of congress. No state could prevent the removal of any property imported into any state to any other state, of which the owner was an inhabitant. And no imposition, duties, or restriction, could be laid by any state on the Property of the United States or of either of them.

14. "There was also provision made for the admission of Canada, into the Union, and of other colonies with the assent of nine states. And it was finally declared, that every state should abide by the determinations of congress on all questions submitted to it by the confederation; that the articles should be inviolably observed by every state; that the union should be perpetual; and that no alterations should. be made in any of the articles, unless agreed to by congress, and ’Confirmed by the legislatures of every state.

15. "Such is the substance of this celebrated instrument, under which the treaty of peace, acknowledging our independence, was negotiated, the war of the revolution concluded, and the union of the states maintained until the adoption of. the present constitution."

ARTICLES OF IMPEACHMENT. An instrument which, in cases of impeachment, (q. v.) is used, and performs the same office which an indictment does, in a common criminal case, is known by this name. These articles do

not usually pursue the strict form and accuracy of an indictment., Wood. Lect. 40, p. 605; Foster, 389, 390; Com. Dig. Parliament, L 21. They are sometimes quite general in the form of the allegations, but always contain, or ought to contain, so much certainty, as to enable the party to put himself on the proper defence, and in case of an acquittal, to avail himself of it, as a bar to another impeachment. Additional articles may, perhaps, be exhibited at any stage of the prosecution. Story on the _806; Rawle on the Const. 216.

2. The answer to articles of impeachment is exempted from observing great strictness of form; and it may contain arguments as well as facts. It is usual to give a full and particular answer to each article of the accusation. Story, _808.

ARTICLES OF PARTNERSHIP. The name given to an instrument of writing by which the parties enter into a partnership, upon the conditions therein mentioned. This instrument generally contains certain provisions which it is the object here to point out.

2. But before proceeding more particularly to the consideration of the Subject, it will be proper to observe that sometimes preliminary agreements to enter into a partnership are formed, and that questions, not unfrequently, arise as to their effects. These are not partnerships, but agreements to enter into partnership at a future time. When such an agreement has been broken, the parties may apply for redress to a court of law, where damages will be given, as a compensation. Application is sometimes made to courts of equity for their more efficient aid to compel a specific performance. In general these courts will not entertain bills for specific performance of such preliminary contracts; but in order to suppress frauds, or manifestly mischievous consequences, they will compel such performance. 3 Atk. 383; Colly. Partn. B. 2, c. 2, _2 Wats. Partn. 60; Gow, Partn. 109; Story, Eq. Jur. _666, note; Story,
Partn. _189; 1 Swanst. R. 513, note. When, however, the partnership may be immediately dissolved, it seems the contract cannot be specifically enforeed. 9 Ves. 360.

3. It is proper to premise that under each particular head, it is intended briefly to examine the decisions which have been made in relation to it.

4. The principal parts of articles of partnership are here enumerated.
1. The names of the contracting parties. These should all be severally set out.

5. − 2. The agreement that the parties actually by the instrument enter into partnership, and care must be taken to distinguish this agreement from a covenant to enter into partnership at a future time.

6. − 3. The commencement of the partnership. This ought always to be expressly provided for. When no other time is fixed by it, the commencement will take place from the date of the instrument. Colly. Partn. 140 5 Barn. & Cres. 108.

7. − 4. The duration of the partnership. This may be. for life, or for a, specific period of time; partnerships may be conditional or indefinite in their duration, or for a single adventure or dealing; this period of duration is either express or implied, but it will not be presumed to be beyond life. 1 Swanst. R. 521. When a term is fixed, it is presumed to endure until that period has elapsed; and, when no term is fixed, for the life of the parties, unless sooner dissolved by the acts of one of them, by mutual consent, or operation of law. Story, Part. _84.

8. A stipulation may lawfully be introduced for the continuance of the partnership after the death of one of the parties, either by his executors or administrators, or for the admission of one or more of his children into the concern. Colly. Partn. 147; 9 Ves. 500. Sometimes this clause provides, that the interest of the partner shall go to such persons, as be shall by his last will name and appoint, and for want of appointment to such persons as are there named. In these cases it seems that the executors or administrators have an option to continue the partnership or not. Colly. Partn. 149; 1 McCl. & Yo. 569; Colles, Parl. Rep. 157.

9. when the duration of the partnership has been fixed by the articles, and the partnership expires by mere effluxion of time, and, after such determination it is carried on by the partners without any new agreement, in the absence of all circumstances which may lead as to the true intent of the partners, the partnership will not, in general, be deemed one for a definite period; 17 Ves. 298; but in other respects, the old articles of the expired partnership are to be deemed adopted, by implication as the basis of the new partnership during its continuance. 5 Mason, R. 176, 185; 15 Ves. 218; 1 Molloy, R. 466.

10. − 5. The business to be carried on and the place where it is to be conducted. This clause ought to be very particularly written, as courts of equity will grant an injunction when one or more of the partners attempt, against the wishes of one or more of them, to extend such busiress beyond the provision contained in the articles. Story, Partn. _193; Gow, Partn 398.

11 − 6. The name of the firm, as for example, John Doe and Company, ought to be ascertained. The members of the partnership are required to use the name thus agreed upon, and a departure from it will make them individually liable to third persons or to their partners, in particular cases. Colly. Partn. 141; 2 Jac. & Walk. 266; 9 Adol. & Ellis, 314; 11 Adol. & Ellis, 339; Story, Partn. _102, 136, 142, 202.

12.−7. A provision is not unfrequently inserted that the business shall be managed and administered by a particular partner,ÿ20or that one of its departments shall be under his special care. In this case, courts of equity will protect such partner in his rights. Story, Partn. _172, 182, 193, 202, 204 Colly. Partn. 753. In Louisiana, this provision is incorporated in it's civil code, art. 2838 to art. 2840. The French and civil law also agree as to this provision. Poth. de Societe, n. 71; Dig. 14, 1, 1, 13;
Poth. Pand. 14, 1, 4.

13. Sometimes a provision is introduced that a majority of the partners shall have the management of the affairs of the partnership. This is requisite, particularly when the associates are numerous, As to the rights of the majority, see Partners.

14. − 8. A provision should be inserted as to the manner of furnishing the capital or stock of the partnership. When a partner is required to furnish his proportion of the stock at stated periods, or pay by installments, he will, where there are no stipulutions to the contrary, be considered a debtor to the firm. Colly. Partn. 141; Story, Partn. _203; 1 Swanst. R. 89, Sometimes a provision is inserted that real estate, and fixtures belonging to the firm shall be considered, as between the partners, not as partnership but as several property. In cases of bankruptcy this property will be treated as the separate property of the partners. Colly. Partn. 141, 595, 600; 5 Ves. 189; 3 Madd. R. 63.

15. − 9. A provision for the apportionment of the profits a and losses among the partners should be introduced. In the absence of all proof, and controlling circumstances, the partners are to share in both equally, although one may have furnished all the capital, and the other only his skill, Wats. Partn. 59; Colly. Partn. 105; Story, Partn. _24; 3 Kent, Com. 28; 4th ed.; 6 Wend. R. 263; but see 7 Bligh, R. 432; 5 Wils. & Shaw, 16.

16. − 10. Sometimes a stipulation for an annual account of the Property of the partnership whether in possession or in action, and of the debts due by partnership is inserted. These accounts when settled are at least prima facie evidence of the facts they contain. Colly. Partn. 146 Story Partn. _206; 7 Sim. R. 239.

17. − 11. A provision is frequently introduced forbidding any one partner to carry on any other business. This should be provided for, though there is an implied provision in every partnership that no partner shall carry. on any separate business inconsistent or contrary to the true interest of the partnership. Story, Partn. _178, 179, 209.

18.− 12. When the partners are numerous, a provision is often made for the expulsion of a partner for gross misconduct, for insolvency, bankruptcy, or other causes particularly enumerated. This provision will govern when the case occurs.

19. − 13. This instrument should allways contain a provision for winding up the business. This is generally provided for in one of three modes: first, by turning all the assets into cash, and, after paying all the liabilities of the partnership, dividing such money in proportion to the several interests of the parties; secondly, by providing that one or more of the partners shall be entitled to purchase the shares of the others at a valuation; thirdly, that all the property of partnership shall be appraised, and that after paying the partnership debts, it shall be divided in the proper proportions. The first of these modes is adopted by courts of equity in the absence of express stipulations. Colly. Partn. 145 Story, Partn. _207 8 Sim. R. 529.

20. − 14. It is not unusual to insert in these articles, a provision that in case of disputes the matter shall be submitted to arbitration. This clause seems nugatory, for no action will lie for a breach of it, as that would deprive the courts of their jurisdiction, which the parties cannot do. Story, Partn. _215; Gow, Partn. 72; Colly. Partn, 165 Wats. Partn. 383.

21. − 15. The articles should be dated, and executed by the parties. It is not requisite that the instrument, should be under seal. Vide Parties to contracts; Partners Partnership.

ARTICLES OF THE PEACE, Eng. practice. An instrument which is presented to a court of competent jurisdiction, in which the exhibitant shows the grievances under which be labors, and prays the protection of the court. It is made on oath. See a form in 12 Adol. & Ellis, 599; 40 E. C. L. R. 125, 126; 1 Chit. Pr. 678.

2. The truth of the articles cannot be contradicted, either by affidavit or otherwise; but the defendant may either except to their sufficiency, or tender affidavits in reduction of the amounts of bail. 13 East. 171.

ARTICLES OF WAR. The name commonly given to a code made for the government

of the army. The act of April 10, 1806, 2 Story's Laws U. S. 992, contains the rulesand articles by which the armies of the United States shall be governed. The act of April 23, 1800, 1 Story's L. U. S. 761, contains the rules and regulations for the government of the navy of the United States.

ARTICULATE ADJUDICATION. A term used in Scotch, law in cases where there is more than the debt due to the adjudging creditor, when it is usual to accumulate each debt by itself, so that any error that may arise in ascertaining one of the debts need not reach to all the rest.

ARTIFICERS. Persons whose employment or business consists chiefly of bodily labor. Those who are masters of their arts. Cunn. Dict. h. t. Vide drt.

ARTIFICIAL. What is the result of, or relates to, the arts; opposed to natural; thus we say a corporation is an artificial person, in opposition to a natural person. Artificial accession is the uniting one property to another by art, opposed to a simple natural union. 1 Bouv. Inst. n. 503.

ARTIFICIAL PERSON. In a figurative sense, a body of men or company are sometimes called an artificial person, because the law associates them as one, and gives them various powers possessed by natural persons. Corporations are such artificial persons. 1 Bouv. Inst. n. 177.

AS. A word purely Latin. It has two significations. First, it signifies weight, and in this sense, the Roman as, is the same thing as the Roman pound, which was composed of twelve ounces. It was divided also into many other parts (as may be seen in the law, Servum de hoeredibus, Inst. Lib. xiii. Pandect,) viz. uncia, 1 ounce; sextans, 2 ounces; quodrans, 3 ounces; triens, 4 ounces quincunx, 5 ounces; semis, 6 ounces; septunx, 7 ounces; bes, 8 ounces, dodrans, 9 ounces; dextans, 10 ounces; deunx, 11 ounces.

2. From this primitive and proper sense of the word another was derived: that namely of the totality of a thing, Solidum quid. Thus as signified the whole of an inheritance, so that an heir ex asse, was an heir of the whole inheritance. An heir ex triente, ex semisse, ex besse, or ex deunce, was an heir of one−third, one−half, two−thirds, or eleven−twelfths.

ASCENDANTS. Those from whom a person is descended, or from whom he derives his birth, however remote they may be.

2. Every one has two ascendants at the first degree, his father and mother; four at the second degree, his paternal grandfather and grandmother, and his maternal grandfather and grandmother; eight at the third. Thus in going up we ascend by various lines which fork at every generation. By this progress sixteen ascendants are found at the fourth degree; thirty−two, at the fifth sixty−four, at the sixth; one hundred and twenty−eight at the seventh, and so on; by this progressive increase, a person has at the twenty−fifth generation, thirty−three millions five hundred and−fifty−four thousand, four hundred and thirty−two ascendant's. But as many of the ascendants of a person have descended from the same ancestor, the lines which were forked, reunite to the first comnmon ancestor, from whom the other descends; and this multiplication thus frequently interrupted by the common ancestors, may be reduced to a few persons. Vide Line.

ASCRIPTITIUS, civil law. Among the Romans, ascriptitii were foreigners, who had been naturalized, and who had in general the same rights as natives. Nov. 22, ch. . 17 Code 11, 47.

ASPHYXY, med. jur. A temporary suspension of the motion of the heart and arteries; swooning, fainting. This term includes persons who have been asphyxiated by submersion or drowning; by breathing mephitic gas; by the effect of lightning; by the effect of cold; by heat; by suspension or strangulation. In a legal point of view it is always proper to ascertain whether the person who −has thus been deprived of his senses is the victim of another, whether the injury has been caused by accident, or whether it is. the act of the sufferer himself.

2. In a medical point of view it is important to ascertain whether the person is merely asphyxiated, or whether he is dead. The following general remarks have been made as to the efforts which ought to be made to restore a person thus situated,

1st. Persons asphyxiated are frequently in a state of only apparent death.

2d. Real from apparent death, can be distinguished only by putrefaction.

3d. Till putrefaction commences, aid ought to be rendered to persons asphyxiated.

4th. Experience proves that remaining several hours under water does not always produce death.

5th. The red, violet, or black color of
the face, the coldness of the body, the stiffness of the limbs, are not always signs of death.

6th. The assistance to persons thus situated, maybe administered by any intelligent person; but to insure success, it must be done without discouragement for several hours together.

7th. All unnecessary persons should be sent away; five or six are in general sufficient.

8th. The place where the operation is performed should not be too warm.

9th. The assistance should be rendered with activity, but without precipitation.

ASPORTATION. The act of carrying a thing away; the removing a thing from one place to another. Vide Carrying away; Taking.

ASSASSIN, crim, law. An assassin is one who attacks another either traitorously, or with the advantage of arms or place) or of a number of persons who support him, and kills his victim. This being done with malice, aforethought, is murder. The term assassin is but little used in the common law, it is borrowed from the civil law.

ASSASSINATION, crim. law. A murder committed by an assassin. By assassination is understood a murder committed for hire in money, without any provocation or cause of resentment given by the person against whom the crime is directed. Ersk. Inst. B. 4, t. 4, n. 45.

ASSAULT, crim. law. An assault is any unlawful attempt or offer with force or violence to do a corporal hurt to another, whether from malice or wantonness; for example, by striking at him or even holding up the fist at him in a threatening or insulting manner, or with other circumstances as denote at the time. an intention, coupled with a present ability, of actual violence against his person, as by pointing a weapon at him when he is within reach of it. 6 Rogers Rec: 9. When the injury is actually inflicted, it amounts to a battery. (q. v.)

2. Assaults are either simple or aggravated. 1. A simple assault is one Where there is no intention to do any other injury. This is punished at common law by fine and imprisonment. 2. An aggravated assault is one that has in addition to the bare intention to commit it, another object which is also criminal; for example, if a man should fire a pistol at another and miss him, the former would be guilty of an assault with intent to murder; so an assault with intent to rob a man, or with intent to spoil his clothes, and the like, are aggravated assaults, and they are more severely punished than simple assaults. General references, 1 East, P. C. 406; Bull. N. P. 15; Hawk. P. B. b. 1, c. 62, s. 12; 1 Russ. Cr. 604; 2 Camp. Rep. 650 1 Wheeler's Cr. C. 364; 6 Rogers' Rec. 9; 1 Serg. & Rawle, 347 Bac. Ab. h. t.; Roscoe. Cr. Ev. 210.

ASSAY. A chemical examination of metals, by which the quantity of valuable or precious metal contained in any mineral or metallic mixture is ascertained.

2. By the acts of Congress of March 3, 1823, 3 Story's L. U. S. 1924; of June 25, 1834, 4 Shars. cont. Story's L. U. S. 2373; and of June 28, 1834, Id. 2377, it is made the duty of the secretary of the treasury to cause assays to be made at the mint of the United States, of certain coins made current by the said acts, and to make report of the result thereof to congress.

ASSEMBLY. The union of a number of persons in the same place. There are several kinds of assemblies.

2. Political assemblies, or those authorized by the constitution and laws; for example, the general assembly, which includes the senate and house of representatives; the meeting of the electors of the president and vice−president of the United States, may also be called an assembly.

3. Popular assemblies are those where the people meet to deliberate upon their rights; these are guaranteed by the constitution. Const. U. S. Amend. art. 1 Const. of Penn. art. 9, s. 20.

4. Unlawful assemblies. An unlawful assembly is the meeting of three or more persons to do an unlawful act, although they may not carry their purpose into execution. It differs from a riot or rout, (q. v.) because in each of the latter−cases there is some act done besides the simple meeting.

ASSENT, contracts. An agreement to something that has been done before.

2. It is either express, where it is openly declared; or implied, where it is presumed by law. For instance, when a conveyance is made to a man, his assent to it is presumed, for the following reasons; cause there is a strong intendment of law, that it is for a person's benefit to take, and no man can be supposed to be unwilling to do that which is for his advantage. 2. Because it would seem incongruous and absurd, that when a conveyance is completely executed on the part of the grantor, the estate should continue in him. 3. Because it is contrary to the policy of law to permit the freehold to remain in suspense and uncertainty. 2 Ventr. 201; 3 Mod. 296A 3 Lev. 284; Show. P. C. 150; 3 Barn. & Alders. 31; 1 Binn. R. 502; 2 Hayw. 234; 12 Mass IR. 461 4 Day, 395; 5 S. & R. 523 20 John. R. 184; 14 S. & R. 296 15 Wend. R. 656; 4 Halst. R. 161; 6 Verm. R. 411.

3. When a devise draws after it no charge or risk of loss, and is, therefore, a mere bounty, the assent of the devisee to, take it will be presumed. 17 Mass. 73, 4. A dissent properly expressed would prevent the title from passing from the grantor unto the grantee. 1 2 Mass. R. 46 1. See 3 Munf. R. 345; 4 Munf. R. 332, pl. 9 5 Serg. & Rawle, 523; 8 Watts, R. 9, 11 20 Johns. R. 184. The rule requiring an express dissent, does not apply, however,

when the grantee is bound to pay a consideration for the thing granted. 1 Wash. C. C. Rep. 70.

4. When an offer to do a thing has been made, it is not binding on the party making it, until the assent of the other paity has been given and such assent must be to the same subject−matter, in the same sense. 1 Summ. 218. When such assent is given, before the offer is withdrawn, the contract is complete. 6 Wend. 103. See 5 Wend. 523; 5 Greenl. R. 419; 3 Mass. 1; 8 S. R. 243; 12 John. 190; 19 John. 205; 4 Call, R. 379 1 Fairf. 185; and Offer.

5. In general, when an assignment is made to one for the benefit of creditors the assent of the assignees will be presumed. 1 Binn. 502, 518; 6 W. & S. 339; 8 Leigh, R. 272, 281. But see 24 Wend. 280.

ASSERTORY COVENANT. One by which the covenantor affirms that a certain fact is in a particular way, as that the grantor of land is lawfully seised; that it is clear of encumbrances, and the like. If the assertion is false, these covenants are broken the moment that the instrument is signed. See 11 S. & R. 109, 112.

TO ASSESS. 1. To rate or to fix the proportion which every person has to pay of any particular tax. 2. To assess damages is to ascertain what damages are due to the plaintiff; in actions founded on writings, in many cases after interlocutory judgment, the prothonotary is directed to assess the damages; in cases sounding in tort the damages are frequently assessed on a writ of inquiry by the sheriff and a jury.

2. In actions for damages, the jury are required to fix the amount or to assess the damages. In the exercise of this power or duty, the jury must be guided by sound discretion, and, when the circumstances will warrant it, may give high damages. Const. Rep. 500. The jury must, in the assessment of damages be guided by their own judgment, nd not by a blind chance. They cannot lawfully, therefore, in making up their verdict, each one put down a sum, add the sums together, divide the aggregate by the number of jurors, and adopt the quotient for their verdict. 1 Cowen, 238.

ASSESSMENT. The making out a list of property, and fixing its valuation or appraisement; it is also applied to making out a list of persons, and appraising their several occupations, chiefly with a view of taxing the said persons and their property.

ASSESSMENT OF DAMAGES. After an interlocutory judgment has been obtained, the damages must be, ascertained; the act of thus fixing the amount of damages is called the assessment of damages.

2. In cases sounding in damages, (q. v.) that is, when the object of the action is to recover damages only, and not brought for the specific recovery of lands, goods, or sums of money, the usual course is to issue a writ of inquiry, (q. v.) and, by virtue of such writ, the sheriff, aided by twelve lawful men, ascertains the amount of damages, and makes return to the court of the inquisition, which, unless set aside, fixes the damages, and a final judgment follows.

3. When, on the contrary, the action is founded on a promissory note, bond, or other contract in writing, by which the amount of money due may be easily computed, it is the practice, in some courts, to refer to the clerk or prothonotary the assessment of damages,. and in such case no writ of inquiry is issued. 3 Bouv. Inst. n. 8300.

ASSESSORS, civil law. So called from the word adsidere, which Signifies to be seated with the judge. They were lawyers who were appointed to assist, by their advice, the Roman magistrates, who were generally ignorant of law. being mere military men. Dig. lib. 1, t. 22; Code, lib. 1, t. 51.

2. In our law an assessor is one who has been legally appointed to value and
appraise property, generally. with a view of laying a tax on it.

ASSETS. The property in the hands of an heir, executor, administrator or trustee, which is legally or equitably chargeable with the obligations, which such heir, executor, administrator or other trustee, is, as such, required to discharge, is called assets. The term is derived from the French word assez, enough; that is, the heir or trustee has enough property. But the property is still called assets, although there may not be enough to discharge all the obligations; and the heir, executor, &c., is chargeable in distribution as far as such property extends.

2. Assets are sometimes divided by all the old writers, into assets enter mains and assets per descent; considered as to their mode of distribution, they are 1egal or equitable; as to the property from which they arise, they are real or personal.

3. Assets enter maim, or assets in hand, is such property as at once comes to the executor or other trustee, for the purpose of satisfying claims against him as such. Termes de la Ley.

4. Assets per descent, is that portion of the ancestor’s estate which descends to the heir, and which is sufficient to charge him, as far as it goes, with the specialty debts of his ancestor. 2 Williams on Ex. 1011.

5. Legal assets, are such as constitute the fund for the payment of debts according to their legal priority.

6. Equitable assets, are such as can be reached only by the aid of a court of equity, and are to be divided,, pari

passu, among all the creditors; as when a debtor has made his property subject to his debts generally, which, without his act would not have been so subject. 1 Madd. Ch. 586; 2 Fonbl. 40 1, et seq.; Willis on Trust, 118.

7. Real assets, are such as descend to the heir, as in estate in fee simple.

8. Personal assets, are such goods and chattels to which the executor or administrator is entitled.

9. In commerce, by assets is understood all the stock in trade, cash, and all available property belonging to a merchant or company. Vide, generally, Williams on Exec. Index, h. t.; Toll. on Exec. Index, h. t.; 2 Bl. Com. 510, 511; 3 Vin. Ab. 141; 11 Vin. Ab. 239; 1 Vern. 94; 3 Ves. Jr. 117; Gordon's Law of Decedents, Index, h. t.; Ram on Assets.

ASSEVERATION. The proof which a man gives of the truth of what be says, by appealing to his conscience as a witness. It differs from an oath in this, that by the latter he appeals to God as a witness of the truth of what he says, and invokes him as the avenger of falsehood and perfidy, to punish him if he speak not the truth. Vide Affirmation; Oath; and Merl. Quest. de
Droit, mot Serment.

TO ASSIGN, contracts; practice. 1. To make a right over to another; as to assign an estate, an annuity, a bond, &c., over to another. 5 John. Rep: 391. 2. To appoint; as, to appoint a deputy,, &c. Justices are also said to be −assigned to keep the peace. 3. To set forth or point out; as, to " assign errors," to show where the error is committed; or to assign false judgment, to show wherein it was unjust. F. N. B. 19.

ASSIGNATION, Scotch law. The ceding or yielding a thing to another of which intimation must be made.

ASSIGNEE. One to whom an assignment has been made.

2. Assignees are either assignees in fact or assignees in law. An assignee in fact is one to whom an assignment has been made in fact by the party having the right. An assignee in law is one in whom the law vest's the right, as an executor or administrator. Co. Litt. 210 a, note 1; Hob. 9. Vide Assigns, and 1 Vern. 425; 1 Salk. 81 7 East, 337; Bac. Ab. Covenant, E; a Saund. 182, note 1; Arch. Civ. PI. 50, 58, 70 Supp, to Ves. Jr, 72 2 Phil. Ev. Index, h. t.

ASSIGNMENT, contracts. In common parlance this word signifies the transfer of all kinds of property, real, personal, and mixed, and whether the same be in possession or in action; as, a general assignment. In a more technical sense it Is usually applied to the transfer of a term for years; but it is more properly used to signify a transfer of some particular estate or interest in lands.

2. The proper technical words of an assignment are, assign, transfer, and set over; but the words grant, bargain, and sell, or any other words which will show the intent of the parties to make a complete transfer, will amount to an assignment.

3. A chose in action cannot be assigned at law, though it may be done in equity; but the assignee takes it subject to all the equity to which it was liable in the hands of the original party. 2 John. Ch. Rep. 443, and the cases there cited. 2 Wash. Rep. 233.

4. The deed by which an assignment is made,, is also called an assignment. Vide, generally, Com. Dig. h. t.; Bac. Ab. h. t. Vin. Ab. h. t.; Nelson's Ab. h. t.; Civ. Code of Louis. art. 2612. In relation to general assignments, see Angell on Assignments, passim; 1 Hate & Wall. Sel. Dec. 78−85.

5. By an assignment of a right all the accessories which belong to it, will pass with it as, if the assignor of a bond had collateral security, or a lien on property, the collateral security and the lien will pass with the assignment of the bond. 2 Penn. 361; 3 Bibb, 291; 4 B. Munroe, 529; 2 Drev. n. 218; 1 P. St. R. 454. 6. The assignment of a thing also carries with it all that belongs to it by right of accession; if, therefore, the thing produce interest or rent, the interest or the arrearages of the rent since the assignment, will belong to the assignee. 7 John. Cas. 90 6 Pick. 360.

ASSIGMENT OF DOWER. The act by which the rights of a widow, in her deceased hushand's real estate, are ascertained and set apart for her benefit. 2 Bouv. Inst. 242.

ASSIGNMENT OF ERRORS. The act by which the plaintiff in error points out the errors in the record of which he complains.

2. The errors should be assigned in distinct terms, such as the defeudant in error may plead to; and all the errors of which the plaintiff complains should be assigned. 9 Port. 186; 16 Conn. 83; 6 Dana, 242 3 How. (Miss.) R. 77.

ASSIGNOR. One who makes an assignment; one who transfers property to another.

2. In general the assignor can limit the operation of his assignment, and impose whatever condition he may think proper, but when he makes a general assignment in trust for the use of his creditors, he can impose no condition

whatever which will deprive them of any right; 14 Pick. 123; 15 John. 151; 7 Cowen, 735; 5 Cowen, 547 20 John. 442; 2 Pick. 129; nor any condition forbidden by law; as giving preference when the law forbids it.

3. Ad assignor may legally choose his own trustees. 1 Binn. 514.

ASSIGNS, contracts. Those to whom rights have been transmitted by particular title, such as sale, gift, legacy, transfer, or cession. Vide Ham. Paities, 230; Lofft. 316. These words, and also the word forever, are commonly added to the word heirs in deeds conveying a fee simple, heirs and assigns forever "but they are in such cases inoperative. 2 Barton's Elem. Convey. 7, (n.) But see Fleta, lib. 3, cap. 14, _6. The use of naming them, is explained in Spencer's Case, 5 Rep. 16; and Ham. Parties, 128. The word heirs, however, does not include or imply assigns. 1 Anderson's Rep. 299.

ASSISES OF JERUSALEM. The name of a code of feudal law, made at a general assembly of lords, after the conquest of Jerusalem. It was compiled principally from the laws and customs of France. They were reduced to form about the year 1290, by Jean d'Iblin, comte de Japhe et d'Ascalon. Fournel (Hist. des Avocats, vol. i. p. 49,) calls them the most precious monument of our (French) ancient law. He defines the word assises to signify the assemblies of the great, men of the realm. See also, 2 Profession d'Avocat, par Dupin, 674 to 680; Steph. on Plead. App. p. xi.

ASSISORS, Scotch law. This term corresponds nearly to that of jurors.

ASSIZE, Eng. law. This was the name of an ancient court; it derived its name from assideo, to sit together. Litt. s. 234; Co. Litt. 153 b., 159 b. It was a kind of jury before which no evidence was adduced, their verdict being regarded as a statement of facts, which they knew of their own knowledge. Bract. iv. 1, 6.

2. The name of assize was also given to a remedy for the restitution of a freehold, of which the complainant had been disseised. Bac. Ab. h. t. Assizes were of four kinds: Mort d'ancestor Novel Disseisin Darrien Presentment; and Utrum. Neale's F. & F. 84. This reimedy has given way to others less perplexed and more expeditious. Bac. Ab. h. t.; Co. Litt. 153−155.

3. The final judgment for the plaintiff in an assize of Novel Disseisin, is, that he recover per visum recognitorum, and it is sufficiently certain. if the recognitors can put the demandant in possession. Dyer, 84 b; 10 Wentw. PI. 221, note. In this action, the plaintiff cannot be compelled to be nonsuited. Plowd. 11 b. See 17 Serg. & R. 187; 1 Rawle, Rep. 48, 9.

4. There is, however, in this class of actions, an interlocutory judgment, or award in the nature of a judgment, and which to divers intents and purposes, is a judgment; 11 Co. Rep. 40 b; like the judgment of quod computet, in account render; or quod partitio flat, in partition; quod mensuratio fiat; ouster of aid; award of a writ of inquiry, in waste.; of damages in trespass; upon these and the like judgments, a writ of error does not lie. 11 Co. Rep. 40 a; Metcalf's Case, 2 Inst. 344 a: 24 Ed. III, 29 B 19.

ASSIZE OF MORT D' ANCESTOR. The name, of an ancient writ, now obsolete. It might have been sued out by one whose father, mother, brother, &c., died seised of lands, and tonements, which they held in fee , and which, after their death, a stranger abated. Reg. Orig. 223. See Mort d' Ancestor.

ASSOCIATE. This term is applied to a judge who is not the president of a court; as associate judge.

ASSOCIATION. The act of a number of persons uniting together for some purpose; the persons so joined are also called an association. See Company.

ASSUMPSIT, contracts. An undertaking either express or implied, to perform a parol agreement. 1 Lilly's Reg. 132.

2. An express assumpsit is where one undertakes verbally or in writing, not under seal, or by matter of record, to perform an act, or to pa a sum of money to another.

3. An implied assumpsit is where one has not made any formal promise to do an act or to pay a sum of money to another, but who is presumed from his conduct to have assumed to do what is in point of law just and right; for, 1st, it is to be presumed that no one desires to enrich himself at the expense of another; 2d, it is a rule that he who desires the antecedent, must abide by the consequent; as, if I receive a loaf of bread or a newspaper daily sent to my house without orders, and I use it without objection, I am presumed to have accepted the terms upon which the person sending it had in contemplation, that I should pay a fair price for it; 3d, it is also a rule that every one is presumed to assent to what is useful to him. See Assent

ASSUMPSIT, remedies, practice., A form of action which may be defined to be an action for the recovery of damages for the non−performance of, a parol or simple contract; or, in other words, a contract not under seal, nor of record; circumstances which distinguish this remedy from others. 7 T. R. 351; 3 Johns. Cas. 60. This action

differs from the action of debt; for, in legal consideration, that is for the recovery of a debt eo nomine, and in numero, and may be upon a deed as well as upon any other contract. 1 h. Bl. 554; B. N. P. 167. If differs from covenant, which, though brought for the recovery of damages, can only be supported upon a contract under seal. See Covenant.

2. It will be proper to consider this subject with reference, 1, to the contract upon which this action may be sustained; 2, the declaration 3, the plea; 4, the judgment.

3. − 1. Assumpsit lies to recover damages for the breach of all parol or simple contracts, whether written or not written express or implied; for the payment of money, or for the performance or omission of any other act. For example, to recover, money lent, paid, or had and received, to the use of the plaintiff; and in some cases, where money has been received by the defendant, in consequence of some tortious act to the plaintiff's property, the plaintiff may waive the tort, and sue the defendant in assumpsit. 5 Pick. 285; 1 J. J. Marsh. 543 3 Watts, R. 277; 4 Binn. 374; 3 Dana, R. 552; 1 N. H. Rep. 151; 12 Pick. 120 4 Call. R. 461; 4 Pick. 452. It is the proper remedy for work and. labor done, and services rendered 1 Gill, 95; 8 S. & M. 397 2 Gilman, 1 3 Yeates, 250 9 Ala. 788 but such work, labor, or services, must be rendered at the request, express or implied, of the defendant; 2 Rep. Cons. Ct. 848; 1 M'Cord, 22; 20 John. 28 11 Mass. 37; 14 Mass. 176; 5 Monr. 513 1 Murph. 181; for goods sold and delivered; 6 J. J. Marsh. 441; 12 Pick. 120; 3 N. H. Rep. 384; 1 Mis. 430; for a breach of promise of marriage. 3 Mass. 73 2 Overton, 233 2 P. S. R. 80. Assumpsit lies to recover the purchase money for land sold; 14 Johns. R. 210; 14 Johns. R. 162; 20 Johns. R. 838 3 M'Cord, R. 421; and it lies, specially, upon wagers; 2 Chit. PI. 114; feigned issues; 2 Chit. PI. 116; upon foreign judgments; 8 Mass. 273; Dougl. 1; 3 East, 221; 11 East, 124; 3 T. R. 493; 5 Johns. R. 132. But it will not lie on a judgment obtained in a sister state. 1 Bibb, 361 19 Johns. 162; 3 Fairf. 94; 2 Rawle, 431. Assumpsit is the proper remedy upon an account stated. Bac. Ab. Assumpsit, A. It will lie for a corporation, 2 Lev. 252; 1 Camp. 466. In England it does not lie against a corporation, unless by express authority of some legislative act; 1 Chit. PI. 98; but in this country it lies against a corporation aggregate, on an express or implied promise, in the same manner as against an individual. 7 Cranch, 297 9 Pet. 541; 3 S. & R. 117 4 S. & R. 16 12 Johns. 231; 14 Johns. 118; 2 Bay, 109 1 Chipm. 371, 456; 1 Aik. 180 10 Mass, 397. But see 3 Marsh. 1; 3 Dall. 496.

4. − 2. The declaration must invariably disclose the consideration of the contract, the contract itself, and the breach of it; Bac. Ab. h. t. F 5 Mass. 98; but in a declaration on a negotiable instrument under the statute of Anne, it is not requisite to, allege any consideration; 2 Leigh, R. 198; and on a note expressed to have been given for value received, it is not necessary to aver a special consideration. 7 Johns. 321. See Mass. 97. The gist of this action is the promise, and it must be averred. 2 Wash. 187 2 N. H. Rep. 289 Hardin, 225. Damages should be laid in a sufficient amount to cover the real amount of the claim. See 4 Pick. 497; 2 Rep. Const. Ct. 339; 4 Munf. 95; 5 Munf. 23; 2 N. H. Rep. 289; 1 Breese, 286; 1 Hall, 201; 4 Johns. 280; 11 S. & R. 27; 5 S. & R. 519 6 Conn. 176; 9 Conn. 508; 1 N. & M. 342; 6 Cowen, 151; 2 Bibb, 429; 3 Caines, 286.

5. − 3. The usual plea is non−assumpsit, (q. v.) under which the defendant may give in evidence most matters of defence. Com. Dig. Pleader, 2 G 1. When there are several defendants they cannot plead the general issue severally; 6 Mass. 444; nor the same plea in bar, severally. 13 Mass. 152. The plea of not guilty, in an action of assumpsit, is cured by verdict. 8 S. & R. 541; 4 Call. 451. See 1 Marsh, 602; 17 Mass. 623. 2 Greenl. 362; Minor, 254 Bouv. Inst. Index, h. t.

6. − 4. Judgment. Vide Judgment in Assumpsit. Vide Bac. Ab. h. t.; Com. Dig. Action upon the Case upon Assumpsit; Dane's Ab. Index, h. t.; Viner's Ab. h. t.; 1 Chit. Pi. h. t.; Petersd. h. t.; Lawes PI. in Assumpsit the various Digests, h. t. Actions; Covenant; Debt; Indebitatus assumpsit; Padum Constitutiae pecuniae.

ASSURANCE, com. law. Insurance. (q. v.)

ASSURANCE, conveyancing. This is called a common assurance. But the term assurances includes, in an enlarged sense, all instruments which dispose of property, whether they be the grants of private persons, or not; such are fines and recoveries, and private acts of the legislature. Eunom. Dial. 2, s. 5.

ASSURED. A person who has been insured by some insurance company, or underwriter, against losses or perils mentioned in the policy of insurance. Vide Insured.

ASSURER. One who insures another against certain perils and dangers. The same as underwriter. (q. v.) Vide Insurer.

ASSYTHMENT, Scotch law. An indemnification which a criminal is bound to make to the party injured or his executors, though the crime itself should be extinguished by pardon. Ersk. Pr. L. Scot. 4, 3, 13.

ASYLUM. A place, of refuge where debtors and criminals fled for safety.

2. At one time, in Europe, churches and other consecrated places served as asylums, to the disgrace of the law. These never protected criminals in the United States. It may be questioned whether the house of an ambassador (q. v.) would not afford protection temporarily, to a person who should take refuge there.

AT LAW. This phrase is used to point out that a thing is to be done according to the course of the common law; it is distinguished from a proceeding in equity.

2. In many cases when there is no remedy at law, one will be afforded in equity. See 3 Bouv. Inst. n. 2411.

ATAVUS. The male ascendant in the fifth degree, was so called among the Romans, and in tables of genealogy the term is still employed.

ATHEIST. One who denies the existence of God.

2. As atheists have not any religion that can bind their consciences to speak the truth, they are excluded from being witnesses. Bull. N. P. 292; 1 Atk. 40; Gilb. Ev. 129; 1 Phil. Ev. 19. See also, Co. Litt. 6 b.; 2 Inst. 606; 3 Inst. 165; Willes, R. 451 Hawk. B. 2, c. 46, s. 148; 2 Hale's P. C. 279.

TO ATTACH, crim. law, practice. To an attachment for contempt for the non−take or apprehend by virtue of the order of a writ or precept, commonly called an attachment. It differs from an arrest in this, that he who arrests a man, takes him to a person of higher power to be disposed of; but be who attaches, keeps the party attached, according to the exigency of his writ, and brings him into court oh the day assigned. Kitch. 279; Bract. lib. 4; Fleta, lib. 5, c. 24; 17 S. & R. 199.

ATTACHE'. Connected with, attached to. This word is used to signify those persons who are attached to a foreign legation. An attache is a public minister within the meaning of the Act of April 30, 1790, s. 37, 1 Story's L. U. S. 89, which protects from violence "the person of an ambassador or other public minister." 1 Bald. 240 Vide 2 W. C. C. R. 205; 4 W. C. C. R. 531; 1 Dall. 117; 1 W. C. C. R. 232; 4 Dall. 321. Vide Ambassador; Consul; Envoy; Minister.

ATTACHMENT, crim. law, practice. A writ requiring a sheriff to apprehend a particular person, who has been guilty of. a contempt of court, and to bring the offender before the court. Tidd's Pr. Index, h. t.; Grab. Pr. 555.

2. It may be awarded by the court upon a bare suggestion, though generally an oath stating what contempt has been committed is required, or on their own knowledge without indictment or information. An attachment may be issued against officers of the court for disobedience or contempt of their rules and orders, for disobedience of their process, and for disturbing them in their lawful proceedings. Bac. Ab. h. t. A. in the nature of a civil execution, and it was therefore held it could not be executed on Sunday; 1 T. R. 266; Cowper, 394; Willes, R. 292, note (b); yet, in. one case, it was decided, that it was so far criminal, that it could not be granted in England on the affirmation of a Quaker. Stra. 441. See 5 Halst. 63; 1 Cowen, 121, note; Bac. Ab. h. t.

ATTACHMENT, remedies. A writ issued by a court of competent jurisdiction, commanding the sheriff or other proper officer to seize any property; credit, or right, belonging to the defendant, in whatever hands the same may be found, to satisfy the demand which the plaintiff has against him.

2. This writ always issues before judgment, and is intended to compel an appearance in this respect it differs from an execution. In some of the states this process can be issued only against absconding debtors, or those who conceal themselves; in others it is issued in the first instance, so that the property attached may respond to the exigency of the writ, and satisfy the judgment.

3. There are two kinds of attachment in Pennsylvania, the foreign attachment, and the domestic attachment. l. The foreign attachment is a mode of proceeding by a creditor against the property of his debtor, when the debtor is out of the jurisdiction of the state, and is not an inhabitant of the same. The object of this process is in the first instance to compel an appearance by the debtor, although his property may even eventually be made liable to the amount of the plaintiff Is claim. It will be proper to consider, 1. by whom it be issued; 2. against what property 3. mode of proceeding. 1. The plaintiff must be a creditor of the defendant; the claim of the plaintiff need not, however, be technically a debt, but it may be such on which an action of assumpsit would lie but an attachment will not lie for a demand which arises ex delicto; or when special bail would not be regularly required. Serg. on Att. 51. 2. The writ of attachment may be issued against the real and personal estate of any person not residing within the commonwealth, and not being within the county in which such writ may issue, at the time. of the issuing thereof. And proceedings may be had against persons convicted of crime, and sentenced to imprisonment. 3. The writ of attachment is in general terms, not specifying in the body of it the name of the garnishee, or the property to be attached, but commanding the officer to attach the defendant, by all and singular his goods and

chattels, in whose hands or possession soever the same may be found in his bailiwick, so that he be and appear before the court at a certain time to answer, &c. The foreign attachment is issued solely for the benefit of the plaintiff.

4. − 2. The domestic attachment is issued by the court of common pleas of the county in which any debtor, being an inhabitant of the commonwealth, may reside; if such debtor shall have absconded from the place of his usual abode within the same, or shall have remained absent from the commonwealth, or shall have confined himself to his own house, or concealed himself elsewhere, with a design, in either case, to defraud his creditors. It is issued on an oath or affirmation, previously made by a creditor of such person, or by some one on his bebalf, of the truth of his debt, and of the facts upon which the attachment may be founded. Any other creditor of such person, upon affidavit of his debt as aforesaid, may suggest his name upon the record, and thereupon such creditor may proceed to prosecute his said writ, if the person suing the same shall refuse or neglect to proceed thereon, or if he fail to establish his right to prosecute the same, as a creditor of the defendant. The property attached is vested in trustees to be appointed by the court, who are, after giving six months public notice of their appointment, to distribute the assets attached among the creditors under certain regulations prescribed by the act of assembly. Perishable goods way be sold under an order of the court, both under a foreign and domestic attachment. Vide Serg. on Attachments Whart. Dig. title Attachment.

5. By the code of practice of Louisiana, an attachment in the hands of third person is declared to be a mandate which a creditor obtains from a competent officer, commanding the seizure of any property, credit or right, belonging to his debtor, in whatever hands they may be found, to satisfy the demand which he intends to bring against him. A creditor may obtain such attachment of the property of his debtor, in the following cases. 1. When such debtor is about permanently leaving the state, without there being a possibility, in the ordinary course of judicial proceedings, of obtaining or executing judgment against him previous to, his departure; or when such debtor has already left the state never again to return. 2. When such debtor resides out of the state. 3. When he conceals himself to avoid being cited or forced to answer to the suit intended to be brought against him. Articles 239, 240.

6. By the local laws of some of the New England states, and particularly of the states of Massachusetts, New Hampshire and Maine, personal property and real estate may be attached upon mesne process to respond the exigency of the writ, and satisfy the judgment. In such cases it is the common practice for the officer to bail the goods attached, to some person, who is usually a friend of the debtor, upon an express or implied agreement on his part, to have them forthcoming on demand, or in−time to respond the judgment, when the execution thereon shall be issued. Story on Bailm. _124. As to the rights and duties of the officer or bailor in such cases, and as to the rights and duties of the bailee, who is conmmonly called the receiptor, see 2 Mass. 514; 9 Mass. 112 11 Mass. 211; 6 Johns. R. 195 9 Mass. 104, 265; 10 Mass. 125 15 Mass. 310; 1 Pick. R. 232, 389. See Metc. & Perk. Dig. tit. Absent and Absconding Debtors.

ATTACHMENT OF PRIVILEGE, Eng. law. A process by which a man by virtue of his privilege, calls another to litigate in that court to which he himself belongs; and who has the privilege to answer there.

ATTAINDER, English criminal law. Attinctura, the stain or corruption of blood which arises from being condemned for any crime.

2. Attainder by confession, is either by pleading guilty at the bar before the judges, and not putting one's self on one's trial by a jury; or before the coroner in sanctuary, when in ancient times, the offender was obliged to abjure the realm.

3. Attainder by verdict, is when the prisoner at the bar pleads not guilty to the indictment, and is pronounced guilty by the verdict of the jury.

4. Attainder by process or outlawry, is when the party flies, and is subsequently outlawed. Co. Lit. 391.

5. Bill of attainder, is a bill brought into parliament for attainting persons condemned for high treason. By the constitution of the United States, art. 1, sect. 9, _3, it is provided that no bill of attainder or ex post facto law shall be passed.

ATTAINT, English law. 1. Atinctus, attainted, stained, or blackened. 2. A writ which lies to inquire whether a jury of twelve men gave a false verdict. Bract. lib. 4, tr. 1, c. 134; Fleta, lib. 5, c. 22, _8.

2. It was a trial by jury of twenty−four men empanelled to try the goodness, of a former verdict. 3 Bl. Com. 351; 3 Gilb. Ev. by Lofft, 1146. See Assize.

ATTEMPT, criminal law. An attempt to commit a crime, is an endeavor to accomplish it, carried beyond mere

preparation, but falling short of execution of the ultimate design, in any part of it.

2. Between preparations and attempts to commit a crime, the distinction is in many cases, very indeterminate. A man who buys poison for the purpose of committing a murder, and mixes it in the food intended for his victim, and places it on a table where he may take it, will or will not be guilty of an attempt to poison, from the simple circumstance of his taking back the poisoned food before or after the victim has had an opportunity to take it; for if immediately on putting it down, he should take it up, and, awakened to a just consideration of the enormity of the crime, destroy it, this would amount only to preparations and certainly if before he placed it on the table, or before he mixed the poison with the food, he had repented of his intention there would have been no attempt to commit a crime; the law gives this as a locus penitentiae. An attempt to commit a crime is a misdemeanor; and an attempt to commit a misdemeanor, is itself a misdemeanor. 1 Russ. on Cr. 44; 2 East, R. 8; 3 Pick. R. 26; 3 Benth. Ev. 69; 6 C. & P. 368.

ATTENDANT. One who owes a duty or service to another, or in some sort depends upon him. Termes de la Ley, h. t. As to attendant terms, see Powell on Morts. Index, tit. Attendant term; Park on Dower, c. 1 7.

ATTENTAT, In the language of the civil and canon laws, is anything whatsoever in the suit by the judge a quo, pending an appeal. 1 Addams, R. 22, n.; Ayl. Par. 100.

ATTERMINING. The granting a time or term for the payment of a debt. This word is not used. See Delay.

ATTESTATION, contracts and evidence. The act of witnessing an instrument of writing, at the request of the party making the same, and subscribing it as a witness. 3 P. Wms. 254 2 Ves. 454 1 Ves. & B. 362; 3 Marsh. 146; 3 Bibb. 494; 17 Pick. 373.

2. It will be proper to consider, 1. how it is to be made 2. bow it is proved; 3. its effects upon the witness; 4. its effect upon the parties.

3.− 1. The attestation should be made in the case of wills, agreeably to the direction of the statute; Com. Dig. Estates, E 1 and in the case of deeds or other writings, at the request of the party executing the same. A person who sees an instrument executed, but is not desired by the parties to attest it, is not therefore an attesting witness, although he afterwards subscribes it as such. 3 Camp. 232. See, as to the form of attestation, 2 South. R. 449.

4. − 2. The general rule is, that an attested instrument must be proved by the attesting witness. But to this rule there are various exceptions, namely: 1. If he reside out of the jurisdiction of the court; 22 Pick. R. 85; 2. or is dead; 3. or becomes insane; 3 Camp. 283; 4. or has an interest; 5 T. R. 371; 5. or has married the party who offers the instrument; 2 Esp. C. 698 6. or refuses to testify 4 M. & S. 353; 7. or where the witness swears he did not see the writing executed; 8. or becomes infamous; Str. 833; 9. or blind; 1 Ld. Raym. 734. From these numerous cases, and those to be found in the books, it would seem that, whenever from any cause the attesting witness cannot be had secondary evidence may be given. But the inability to procure the witness must be absolute, and, therefore, when be is unable to attend from sickness only, his evidence cannot be dispensed with. 4 Taunt. 46. See 4 Halst. R. 322; Andr. 236 2 Str. 1096; 10 Ves. 174; 4 M. & S. 353 7 Taunt. 251; 6 Serg. & Rawle, 310; 1 Rep. Const.; Co. So. Ca. 310; 5 Cranch, 13; Com. Dig. tit. Testmoigne, Evidence, Addenda; 5 Com. Dig. 441; 4 Yeates, 79.

5. − 3. When the witness attests an instrument which conveys away, or disposes of his property or rights, he is estopped from denying the effects of such instrument; but in such case he must have been aware of its contents, and this must be proved. 1 Esp. C. 58.

6. − 4. Proof of the attestation is evidence of the sealing and delivery. 6 Serg. & Rawle, 311; 2 East, R. 250; 1 Bos. & Pull. 360; 7 T. R. 266. See, in general, Starkie's Ev. part 2, 332; 1 Phil. Ev. 419 to 421; 12 Wheat. 91; 2 Dall. 96; 3 Rawle's Rep. 312 1 Ves. Jr. 12; 2 Eccl. Rep. 60, 214, 289, 367 1 Bro. Civ, Law, 279, 286; Gresl. Eq. Ev. 119 Bouv. Inst. n. 3126.

ATTESTATION CLAUSE, wills and contracts. That clause wherein the witnesses certify that the instrument has been executed before them, and the manner of the execution of the same. The usual attestation clause to a will, is in the following formula, to wit: "Signed, sealed, published and declared by the above named A B, as and for his last will and testament, in the presence of us, who have hereunto subscribed our names as the witnesses thereto, in the presence of the said testator, and of each other." That of deeds is generally in these words " Sealed and delivered in the presence of us."

2. When there is an attestation clause to a will, unsubscribed by witnesses, the presumption, though slight, is that the will is in an unfinished state; and it must be removed by some extrinsic circumstances. 2 Eccl. Rep. 60. This

’presumption is infinitely slighter, where the writer’s iutention to have it regularly attested, is to be collected only from the single vord " witnesses." Id. 214. See 3 Phillim. R. 323; S. C. 1 Eng. Eccl. R. 407.

ATTESTING WITNESS. One who, upon being required by the parties to an instrument, signs his name to it to prove it, and for the purpose of identification.

2. The witness must be desired by the parties to attest it, for unless this be done, he will not be an attesting witness, although he may have seen the parties execute it. 3 Campb. 232. See Competent witness; Credible witness; Disinterested witness; Respectable witness; Subscribing witness; and Witness; Witness instrumentary; 5 Watts, 399; 3 Bin. 194.

ATTORNEY. One who acts for another by virtue of an appointment by the latter. Attorneys are of various kinds.

2. Attorney in fact. A person to whom the authority of another, who is called the constituent, is by him lawfully delegated. This term is employed to designate persons who act under a special agency, or a special letter of attorney, so that they are appointed in factum, for the deed, or special act to be performed; but in a more extended sense it includes all other agents employed in any business, or to do any act or acts in pais for another. Bac. Ab. Attorney; Story, Ag. _25.

3. All persons who are capable of acting for themselves, and even those who are disqualified from acting in their own capacity, if they have sufficient understanding, as infants of a proper age and femes coverts, may act as attorneys of others. Co. Litt. 52, a; 1 Esp. Cas. 142; 2 Esp. Cas. 511 2 Stark. Cas. N. P. 204.

4. The form of his appointment is by letter of attorney. (q. v.)

5. The object of his appointment is the transaction of some business of the constituent by the attorney.

6. The attorney is bound to act with due diligence after having accepted the employment, and in the end, to ’render an account to his principal of the acts which be has performed for him. Vide Agency; Agent; Authority; and Principal.

7. Attorney at law. An officer in a court of justice, who is employed by a party in a cause to manage the same for him. Appearance by an attorney has been allowed in England, from the time of the earliest records of the courts of that country. They are mentioned in Glanville, Bracton, Fleta, and Britton; and a case turning upon the party’s right to appear by attorney, is reported, B. 17 Edw. III., p. 8, case 23. In France such appearances were first allowed by letters patent of Philip le Bel, A. D. 1290. 1 Fournel, Hist. des Avocats, 42; 43, 92, 93 2 Loisel Coutumes, 14, 15. It results from the nature of their functions, and of their duties, as well to the court as to the client, that no one can, even by consent, be the attorney of both the litigating parties, in the same controversy. Farresly, 47.

8. In some courts, as in the supreme court of the United States, advocates are divided into counsellors at law, (q. v.) and attorneys. The business of attorneys is to carry on the practical and formal parts of the suit. 1 Kent, Com. 307. See as to their powers, 2 Supp. to Ves. Jr. 241, 254; 3 Chit. Bl. 23, 338; Bac. Ab. h. t.; 3 Penna. R. 74; 3 Wils. 374; 16 S. & R. 368; 14 S. & R. 307; 7 Cranch, 452; 1 Penna. R. 264. In general, the agreement of an attorney at law, within the scope of his employment, binds his client; 1 Salk. 86 as to amend the record, 1 Binn. 75; to refer a cause 1 Dall. Rep. 164; 6 Binn. 101; 7 Cranch, 436; 3 Taunt. 486; not to sue out a writ of error; 1 H. Bl. 21, 23 2 Saund. 71, a, b; 1 Term Rep. 388 to strike off a non pros; 1 Bin. 469−70 to waive a judgment by default; 1 Arcb. Pr. 26; and this is but just and reasonable. 2 Bin. 161. But the act must be within the scope of −their authority. They cannot, for example, without special authority, purchase lands for the client at sheriff’s sale. 2 S. & R. 21 11 Johns. 464.

9. The name of attorney is given to those officers who practice in courts of common law; solicitors, in courts. of equity and proctors, in courts of admiralty, and in the English ecclesiastical courts.

10. The principal duties of an attorney are, 1. To be true to the court and to his client; 2. To manage the business of his client with care, skill and integrity. 4 Burr. 2061 1 B. & A. 202; 2 Wils. 325; 1 Bing. R. 347; 3. To keep his client informed as to the state of his business; 4. To keep his secrets confided to him as such. See Client Confidential Communication.

11. For a violation of his duties, an action will in general lie; 2 Greenl. Ev. _145, 146; and, in some cases, he may be punished by an attachment. His rights are, to be justly compensated for his services. Vide 1 Keen’s R. 668; Client; Counsellor at law.

12. Attorney−general of the United States, is an officer appointed by the president. He should be learned in the law, and be sworn or affirmed to a faithful execution of his office.

13. His duties are to prosecute and conduct all suits in the supreme court, in which the United States shall be

concerned; and give his advice upon questions of law, when required by the president, or when requested by the heads of any of the departments, touching matters that may Concern their departments. Act of 24th Sept. 1789.

14. His salary is three thousand five hundred dollars per annum, and he is allowed one clerk, whose compensation shall not exceed one thousand dollars per annum. Act 20th Feb. 1819, 3 Story's Laws, 1720, and Act 20th April, 1818, s. 6, 3 Story's Laws, 1693. By the act of May 9, 1830, 4 Sharsw. cont. of Story, L. U. S. 2208, _10, his salary is increased five hundred dollars per annum.

ATTORNMENT, estates. Was the agreement of the tenant to the grant of the seignory, or of a rent, or the agreement of the donee in tail, or tenant for life, or years, to a grant of a reversion or of a remainder made to another. Co. Litt. 309; Touchs. 253. Attornments are rendered unnecessary, even in England, by virtue of sundry statutes, and they are abolished in the United States. 4 Kent, Com. 479; 1 Hill. Ab. 128, 9. Vide 3 Vin. Ab. 317; 1 Vern. 330, n.; Saund. 234, n. 4; Roll. Ab. h. t.; Nelson's Ab. h. t.; Com. Dig. h. t.

AU BESOIN. This is a French phrase, used in commercial law. When the drawer of a foreign bill of exchange wishes as a matter of precaution, and to−save expenses, he puts in the corner of the bill, " Au besoin chez Messieurs or, in other words, " In case of need, apply to Messrs. at _____ " _____." 1 Bouv. Inst. n. 1133 Pardess Droit Com. 208.

AUBAINE, French law. When a foreigner died in France, the crown by virtue of a right called droit d'aubaine, formerly claimed all the personal property such foreigner had in France at the time of his death. This barbarous law was swept away by the French revolution of 1789. Vide Albinatus Jus. 1 Malleville's Analyse de la Discussion du Code Civil, pp. 26, 28 1 Toullier, 236, n. 265.

AUCTION, commerce, contract. A public sale of property to the highest bidder. Among the Romans this kind of sale, was made by a crier under a spear (sub hasta) stuck in the ground.

2. Auctions are generally held by express authority, and the person who con−
ducts them is licensed to do so under various regulations.

3. The manner of conducting an auction is imaterial; whether it be by public
outcry or by any other manner. The essential part is the selection of a purchaser from a number of bidders. In a case where a woman continued silent during the whole time of the sale, but whenever anyone bid she gave him a glass of brandy, and when the sale broke up, the person who received the last glass of brandy was taken into a private room, and he was declared to be the purchaser; this was adjudged to be an auction. 1 Dow. 115.

4. The law requires fairness in auction sales, and when a puffer is employed to raise the property offered for sale on bona fide bidders, or a combination is entered into between two or more persons not to overbid each other, the contract may in general be avoided. Vide Puffer, and 6 John. R. 194; 8 John. R. 444; 3 John. Cas. 29; Cowp. 395; 6 T. R. 642; Harr. Dig. Sale, IV.; and the article Conditions Sale. Vide Harr. Dig. Sale, IV.; 13 Price, R. 76; M'Clel. R. 25; 6 East, R. 392; 5 B. & A. 257; S. C. 2 Stark. R. 295; 1 Esp. R. 340; 5 Esp. R. 103 4 Taunt. R. 209; 1 H. Bl. R. 81; 2 Chit. R. 253; Cowp. R. 395; 1 Bouv. Inst., n. 976.

AUCTIONEER, contracts, commerce. A person authorized by law to sell the goods of others at public sale.

2. He is the agent of both parties, the seller and the buyer. 2 Taunt. 38, 209 4 Greenl. R. 1; Chit. Contr. 208.

3. His rights are, 1. to charge a commission for his services; 2. be has an interest in the goods sold coupled with the possession; 3. he has a lien for his commissions; 4. he may sue the buyer for the purchase−money.

4. He is liable, 1. to the owner for a faithful discharge of his duties in the sale, and if he gives credit without authority, for the value of the goods; 2. he is responsible for the duties due to the government; 3. he is answerable to the purchaser when he does not disclose the name of the principal; 4. be may be sued when he sells the goods of a third person, after notice not to sell them. Peake's Rep. 120; 2 Kent, Com. 423, 4; 4 John. Ch. R. 659; 3 Burr. R. 1921;.2 Taunt. R. 38; 1, Jac. & Walk. R. 350; 3 V. & B. 57; 13 Ves. R. 472; 1 Y. & J. R. 389; 5 Barn, & Ald. 333; 1 H. Bl. 81; 7 East, R. 558; 4 B. & Adolpb. R. 443; 7 Taunt. 209; 3 Chit. Com. L. 210; Story on Ag. _27 2 Liv. Ag. 335 Cowp. 395; 6 T. R. 642; 6 John. 194; Bouv. Inst. Index, h. t.

AUCTOR. Among the Romans the seller was called auctor; and public, sales were made by fixing a spear in the forum, and a person who acted as crier stood by the spear the catalogue of the goods to be sold was made in tables called auctionariae.

AUDIENCE. A hearing. It is usual for the executive of a country to whom a minister has been sent, to give such minister an audience. And after a minister has been recalled, au audience of leave usually takes place.

AUDIENCE COURT, Eng. eccl. law. A court belonging to the archbishop of Canterbury, having the same authority with the court of arches. 4 Inst. 337.

AUDIENDO ET TERMINANDO, oyer and terminer, English crim. law. A writ, or rather a commission, directed to certain persons for the trial and punishment of such persons as have been concerned in a riotous assembly, insurrection or other heinous misdemeanor.

AUDITA QUERELA. A writ applicable to the case of a defendant against whom a judgment has been recovered, (and who is therefore in danger of execution or perhaps actually in execution,) grounded on some matter of discharge which happened after the judgment, and not upon any matter which might have been pleaded as a defence to the action. 13 Mass. 453; 12 Mass. 270; 6 Verm. 243; Bac. Ab. h. t.; 2 Saund. 148, n. 1; 2 Sell. Pr. 252.

2. It is a remedial process, which bears solely on the wrongful acts of the opposite party, and not upon the erroneous judgments or acts of the court. 10 Mass. 103; 17 Mass. 159; 1 Aik. 363. It will therefore, where the cause of complaint is a proper subject for a writ of error. 1 Verm. 433, 491; Brayt. 27.

3. An audita querela is in the nature of an equitable suit, in which the equitable rights of the parties will be considered. 10 Mass. 101; 14 Mass. 448 2 John. Cas. 227.

4. An audita querela is a regular suit, in which the parties may plead, take issue, &c. 17 John. 484. But the writ must be allowed in open court, and is not, of itself, a supersedeas, which may or may not be granted, in the discretion of the court, according to circumstances. 2 John. 227.

5. In modern practice, it is usual to grant the same relief, on motion, which might be obtained by audita querela: 4 John. 191 11 S. & R. 274 and in Virginia, 5 Rand. 639, and South Carolina, 2 Hill, 298; the summary remedy, by motion, has superseded this ancient remedy. In Pennsylvania this writ. It seems, may still be maintained, though relief is more generally obtained on motion. 11 S. & R. 274. Vide, generally, Pet. C. C. R. 269; Brayt. 2 or, 28; Walker, 66 1 Chipm. 387; 3 Conn. 260; 10 Pick. 439 1 Aik. 107; 1 Overt. 425 2 John. Cas. 227 1 Root; 151; 2 Root, 178; 9 John. 221 Bouv. Inst. Index, h. t.

AUDITOR. An officer whose duty is to examine the accounts of officers who have received and dishursed public moneys by lawful authority. See Acts of Congress, April 3, 1817; 3 Story's Laws U. S. 1630; and the Act of February 24, 1819, 3 Story's L. U. S. 1722.

AUDITORS, practice. Persons lawfully appointed to examine and digest accounts referred to them, take down the evidence in writing, which may be lawfully offered in relation to such accounts, and prepare materials on which a decree or judgment may be made; and to report the whole, together with their opinion, to the, court in which such accounts originated. 6 Cranch, 8; 1 Aik. 145; 12 Mass. 412.

2. Their report is not, per se, binding and conclusive, but will become so, unless excepted to. 5 Rawle, R. 323. It may be set aside, either with or without exceptions to it being filed. In the first case, when errors are apparent on its face, it may be set aside or corrected. 2 Cranch, 124; 5 Cranch, 313. In the second case, it may be set aside for any fraud, corruption, gross misconduct, or error. 6 Cranch, 8; 4 Cranch, 308; 1 Aik. 145. The auditors ought to be sworn, but this will be presumed. 8 Verm. 396.

3. Auditors are also persons appointed to examine the accounts subsisting between the parties in an action of account render, after a judgment quod computet. Bac. Ab. Accompt, F.

4. The auditors are required to state a special account, 4 Yeates, 514, and the whole is to be brought down to the time when they make an end of their account. 2 Burr. 1086. And auditors are to make proper charges and credits without regard to time, or the verdict. 2 S. & R. 317. When the facts or matters of law are disputed before them, they are to report them to the court, when the former will be decided by a jury, and the latter by the court, and the result sent to the auditors for their guidance. 5 Binn. 433.

AUGMENTATION, old English law. The name of a court erected by Henry VIII., which was invested with the power of determining suits and controversies relating to monasteries and abbey lands.

AULA REGIS. The name of an English court, so called because it was held in the great hall of the king's palace. Vide Curia Regis.

AUNT, domestic relations. The sister of one's father or mother; she is a relation in the third degree. Vide 2 Com. Dig. 474 Dane's Ab. c. 126, a. 3. _4.

AUTER. Another. This word is frequently used in composition, us auter droit,
auter vie, auter action, &c. .

AUTRE ACTION PENDANT. A plea that another action is pending for the same cause.

2. It is evident that a plaintiff cannot have two actions at the same time, for the same cause, against the same defendant; and when a second action is so commenced, and this plea is filed, the first action must be discontinued, and the costs paid, and this ought to be done before the plaintiff replies nul tiel record. Grah. Pr. 98. See Lis

Pendens.

3. But the suit must be for the same cause, in order to take advantage of it under these circumstances, for if it be for a different cause, as, if the action be for a lien, as, a proceeding in, rem to enforce a mechanic's lien, it cannot be pleaded in abatement in an action for the labor and materials. 3 Scamm. 201. See 16 Verm. 234; 1 Richards, 438; 3 Watts & S. 395 7 Mete. 570; 9 N. H. Rep. 545.

4. In general, the pending of another action must be pleaded in abatement; 3 Rawle, 320; 1 Mass. 495; 5 Mass. 174, 179; 2 N. H. Rep. 36 7 Verm. 124; 3 Dana, 157; 1 Ashm. 4, 2 Browne, 175 4 H. & M. 487; but in a penal action, at the suit of a common informer, the priority of a former suit for the same penalty in the name of a third person, may be pleaded in bar, because the party who first sued is entitled to the penalty. 1 Chit. PI. 443.

5. Having once arrested a defendant, the plaintiff cannot, in general, arrest him again for the same cause of action. Tidd. 184. But under special circumstance's, of which the court will judge, a defendant may be arrested a second time−. 2 Miles, 99, 100, 141, 142. Vide Bac. Ab. Bail in civil cases, B 3; Grah. Pr. 98; Troub. & H. Pr. 44; 4 Yeates, 206, 1 John. Cas. 397; 7 Taunt. 151; 1 Marsh. 395; and Lis Pendens.

AUTER DROIT, or more properly, Autre Droit, another's right. A man may sue Or be sued in another's right; this is the case with executors and administrators.

AUTHENTIC. This term signifies an original of which there is no doubt.

AUTHENTIC ACT, civil law, contracts, evidence. The authentic act is that which has been executed before a notary or other public officer authorized to execute such functions, or which is testified by a public seal, or has been rendered public by the authority of a competent magistrate, or which is certified as being a copy of a public register. Nov. 73, c. 2; Code, 7, 52; 6; Id. 4, 21; Dig. 22, 4.

2. In Louisiana, the authentic act, as it relates to contracts, is that which has been executed before a notary public or other officer authorized to execute such functions, in presence of two witnesses, free, male, and aged at least fourteen years, or of three witnesses, if the party be blind. If the party does not know how to sign, the notary must cause him to affix his mark to the instrument. Civil Code of Lo., art. 2231.

3. The authentic act is full proof of the agreement contained in it, against the contracting parties and their. heirs or assigns, unless it be declared and proved to be a forgery. Id. art. 2233. Vide Merl. Rep. h. t.

AUTHENTICATION, practice. An attestation made by a proper officer, by which he certifies that a record is in due form of law, and that the person who certifies it is the officer appointed by law to do so.

2. The Constitution of the U. S., art. 4, s. 1, declares, " Full faith and credit shall be given in each state to the public acts, records and judicial proceedings of every other state. And congress may by general laws prescribe the manner in which such acts,, records and proceedings shall be proved, and the effect thereof." The object of the authentication is to supply all other proof of the record. The laws of the United States have provided a mode of authentication of public records and office papers; these acts are here transcribed.

3. By the Act of May 26, 1790, it is provided, "That the act of the legislatures of the several states shall be authenticated by havig the seal of their respective states affixed thereto: That the records and judicial proceedings of the courts of any state shall be proved or admitted, in any other court within the United States, by the attestation of the clerk, and the seal of the court annexed, if there be a seal, together with a certificate of the judge, chief justice or presiding magistrate, as the case may be, that the said attestation is in due form. And the said records and judicial proceedings, authenticated as aforesaid, shall have such faith and credit given to them, in every court within the United States, as they have, by law or usage, in the courts of the state from whence the said records are, or shall be taken."

4. The above act having provided only for one species of record, it was necessary to pass the Act of March 27, 1804, to provide for other cases. By this act it is enacted, _1. " That, from and after the passage of this act, all records and exemplifications of office books, which are or may be kept in any public office of any state, not appertaining to a court, shall be proved or admitted in any other court or office in any other state, by the attestation of the keeper of the said records or books, and the seal of his office thereto annexed, if there be a seal, together with a certificate of the presiding justice of the court of the county or district, as the case may be, in which such office is or may be kept or of the governor, the secretary of state, the chancellor or the keeper of the great seal of the state, that the said attestation is in due form, and by the proper officer and the said certificate, if given by the presiding justice of a court, shall be further authenticated by the clerk or prothonotary of the said court, who shall certify, under his hand and the seal of his office, that the said presiding justice is duly commissioned and qualified; or if the said certificate be given by the; governor, the secretary of state, the

chancellor or keeper of the great seal, it shall be under the great seal of the state in which the said certificate is made. And the said records and exemplifications, authenticated as aforesaid, shall have such faith and credit given to them in every court and office within the United States, as they have by law or usage in the courts or offices of the state from whence the same are or shall be taken."

5. − _2. That all the provisions of this act, and the act to which this is, a supplement, shall apply, as well to the public acts, records, office books, judicial proceedings, courts, and offices of the respective territories of the United States, and countries subject to the jurisdiction of the United States, as to the public acts, records, office books, judicial proceedings, courts and offices of the several states."

6. The Act of May 8, 1792, s. 12, provides: That all the records and proceedings of the court of appeals, heretofore appointed, previous to the adoption of the present constitution, shall be deposited in the office of the clerk of the supreme court of the United States, who is hereby authorized and directed to give copies of all such records and proceedings, to any person requiring and paying for the same, in like manner as copies of the records and other proceedings of the said court are by law directed to be given; which copies shall have like faith and credit as all other proceedings of the said court."

7. By authentication is also understood whatever act is done either by the party or some other person with a view of causing an instrument to be known and identified as for example, the acknowledgment of a deed by the grantor; the attesting a deed by witnesses. 2 Benth. on Ev. 449.

AUTHENTICS, civ. law. This is the name given to a collection of the Novels of Justinian, made by an anonymous author. It is called authentic on account of its authority.

2. There is also another collection which bears the name of authentics. It is composed of extracts made from the Novels, by a lawyer named Irnier, and which he inserted in the code at such places as they refer; these extracts have the reputation of not being correct. Merlin, Repertoire, mot Authentique.

AUTHORITIES, practice. By this word is understood the citations which are made of laws, acts of the legislature, and decided cases, and opinions of elementary writers. In its more confined sense, this word means, cases decided upon solemn argument which are said to ’be authorities for similar judgments iii like cases. 1 Lilly’s Reg. 219. These latter are sometimes called precedents. (q. v.) Merlin, Repertoire, mot Autorites.

2. It has been remarked, that when we find an opinion in a text writer upon any particular point, we must consider it not merely as the opinion of the author, but as the supposed result of the authorities to which he refers; 3 Bos. & Pull. 361; but this is not always the case, and frequently the opinion is advanced with the reasons which support it, and it must stand or fall as these are or are not well founded. A distinction has been made between writers who have, and those who have not holden a judicial station; the former are considered authority, and the latter are not so considered unless their works have been judicially approved as such. Ram. on Judgments, 93. But this distinction appears not to be well founded; some writers who have occupied a judicial station do not possess the talents or the learning of others who have not been so elevated, and the works or writings of the latter are much more deserving the character of an authority than those of the former. See 3 T. R. 4, 241.

AUTHORITY, contracts. The delegation of power by one person to another.

2. We will consider, 1. The delegation 2. The nature of the authority. 3. The manner it is to be executed. 4. The effects of the authority.

3. − 1. The authority may be delegated by deed, or by parol. 1. It may be delegated by deed for any purpose whatever, for whenever an authority by parol would be sufficient, one by deed will be equally so. When the authority is to do something which must be performed through the medium of a deed, then the authority must also be by deed, and executed with all the forms necessary, to render that instrument perfect; usless, indeed, the principal be present, and verbally or impliedly authorizes the agent to fix his name to the deed; 4 T. R. 313; W. Jones, R. 268; as, if a man be authorized to convey a tract of land, the letter of attorney must be by deed. Bac. Ab. h. t.; 7 T. R. 209; 2 Bos. & Pull, 338; 5 Binn. 613;. 14 S. & A. 331; 6 S. & R. 90; 2 Pick. R. 345; 6 Mass. R. 11; 1 Wend. 424 9 Wend. R. 54, 68; 12 Wend. R. 525; Story, Ag. _49; 3 Kent, Com. 613, 3d edit.; 3 Chit. Com. Law, 195. But it does not require a written authority to sign an unscaled paper, or a contract in writing not under seal. Paley on Ag. by Lloyd, 161; Story, Ag. _50.

4. − 2. For many purposes, however, the authority may be by parol, either in writing not under seal, or verbally, or by the mere employment of the agent. Pal. on Agen. 2. The exigencies of commercial affairs render such an appointment indispensable; business would be greatly embarrassed, if a regular letter of attorney were required to sign or negotiate a promissory note or bill of exchange, or sell or buy goods, or write a letter, or procure a policy

for another. This rule of the common law has been adopted and followed from the civil law. Story, Ag. _47; Dig. 3, 3, 1, 1 Poth. Pand. 3, 3, 3; Domat, liv. 1, tit. 15, _1, art. 5; see also 3 Chit. Com. Law, 5, 195 7 T. R. 350.

5. − 2. The authority given must have been possessed by the person who delegates it, or it will be void; and it must be of a thing lawful, or it will not justify the person to whom it is given. Dyer, 102; Kielw. 83. It is a maxim that delegata potestas non potest delegari, so that an agent who has a mere authority must execute it himself, and cannot delegate his authority to a sub−agent. See 5 Pet. 390; 3 Story, R. 411, 425; 11 Gill & John. 58; 26 Wend. 485; 15 Pick. 303, 307; 1 McMullan, 453; 4 Scamm. 127, 133−; 2 Inst. 597. See Delegation.

6. Authorities are divided into general or special. A general authority is one which extends to all acts connected with a particular employment; a special authority is one confined to "an individual instance." 15 East, 408; Id. 38.

7. They are also divided into limited and unlimited. When the agent is bound by precise instructions, it is limited; and unlimited when be is left to pursue his own discretion. An authority is either express or implied.

8. An express authority may be by deed of by parol, that is in writing not under seal, or verbally.. The authority must have been actually given.

9. An implied authority is one which, although no proof exists of its having been actually given, may be inferred from the conduct of the principal; for example, when a man leaves his wife without support, the law presumes he authorizes her to buy necessaries for her maintenance; or if a master, usually send his servant to buy goods for him upon credit, and the servant buy some things without the master's orders, yet the latter will be liable upon the implied authority. Show. 95; Pal. on Ag. 137 to 146.

10. − 3. In considering in what manner the authority is to be executed, it will be necessary to examine, 1. By whom the authority must be executed. 2. In what manner. 3. In what time.

11. − 1. A delegated authority can be executed only by the person to whom it is given, for the confidence being personal, cannot be assigned to a stranger. 1 Roll. Ab. 330 2 Roll. Ab. 9 9 Co. 77 b .; 9 Ves. 236, 251 3 Mer. R. 237; 2 M. & S. 299, 301.

12. An authority given to two cannot be executed by one. Co. Litt. 112 b, 181 b. And an authority given to three jointly and separately, is not, in general, well executed by two. Co. Litt. 181 b; sed vide 1 Roll. Abr. 329, 1, 5; Com. Dig. Attorney, C 8 3 Pick. R. 232; 2 Pick. R. 345; 12 Mass. R. 185; 6 Pick. R. 198; 6 John. R. 39; Story, Ag. _42. These rules apply to on authority of a private nature, which must be executed by all to whom it is given; and not to a power of a public nature, which may be executed by all to whom majority. 9 Watts, R. 466; 5 Bin. 484, 5; 9 S, & R. 99. 2. When the authority is particular, it must in general be strictly pursued, or it will be void, unless the variance be merely circumstantial. Co. Litt. 49 b, 303, b; 6 T. R. 591; 2 H. Bl. 623 Co. Lit. 181 , b; 1 Tho. Co. Lit. 852.

13. − 2. As to the form to be observed in the execution of an authority, it is a general rule that an act done under a power of attorney must be done in the name Of the person who gives a power, and not in the attorney's name. 9 Co. 76, 77. It has been holden that the name of the attorney is not requisite. 1 W. & S. 328, 332; Moor, pl. 1106; Str. 705; 2 East, R. 142; Moor, 818; Paley on Ag. by Lloyd, 175; Story on Ag. _146 T 9 Ves. 236: 1 Y. & J. 387; 2 M. & S. 299; 4 Campb. R. 184; 2 Cox, R. 84; 9 Co. R. 75; 6 John. R. 94; 9 John. Pi,. 334; 10 Wend. R. 87; 4 Mass. R. 595; 2 Kent, Com. 631, 3d ed. But it matters not in what words this is done, if it sufficiently appear to be in the name of the principal, as, for A B, (the principal,) C D, (the attorney,) which has been held to be sufficient. See 15 Serg. & R. 55; 11 Mass. R. 97; 22 Pick. R. 168; 12 Mass. R. 237 9 Mass. 335; 16 Mass. R. 461; 1 Cowen, 513; 3 Wend. 94; Story, Ag. __154,275, 278, 395; Story on P. N., _69; 2 East, R. 142; 7 Watt's R. 121 6 John. R. 94. But see contra, Bac. Ab. Leases, J 10; 9 Co, 77; l Hare & Wall. Sel. Dec. 426.

14. − 3. The execution musr take place during the continuance, of the authority, which is determined either by revocation, or performance of the commission.

15. In general, an authority is revocable, unless it be given as a security, or it be coupled with an interest. 3 Watts & Serg. 14; 4 Campb. N. P. 272; 7 Ver. 28; 2 Kent's Com. 506; 8 Wheat. 203; 2 Cowen, 196; 2 Esp. N. P. Cases, 565; Bac. Abr. h. t. The revocation (q. v.) is either express or implied; when it is express and made known to the person authorized, the authority is at an end; the revocation is implied when the principal dies, or, if a female, marries; or the subject of the authority is destroyed, as if a man have authority to sell my house, and it is destroyed by fire or to buy for me a horse, and before the execution of the authority, the horse dies.

16. When once the agent has exercised all the authority given to him, the authority is at an end.

17. − 4. An authority is to be so construed as to include all necessary or usual means of executing it with effect 2

H. Bl. 618; 1 Roll. R. 390; Palm. 394 10 Ves. 441; 6 Serg. & R. 149; Com'. Dig. Attorney, C 15; 4 Campb. R. 163 Story on Ag. 58 to 142; 1 J. J. Marsh. R. 293 5 Johns. R. 58 1 Liv. on Ag. 103, 4 and when the agent acts, avowedly as such, within his authority, he is not personally responsible . Pal. on Ag. 4, 5. Vide, generally, 3 Vin. Ab. 416; Bac. Ab. h. f.; 1 Salk. 95 Com. Dig. h. t., and the titles there referred to. 1 Roll. Ab. 330 2 Roll. Ab. 9 Bouv. Inst. Index, h. t. and the articles, Attorney; Agency; Agent; Principal.

AUTHORITY, government. The right and power which an officer has in the exercise of a public function to compel obedience to his lawful commands. A judge, for example, has authority to enforce obedience to his not being correct. Merlin, Repertoire, mot Authentique.

AUTOCRACY. The name of a government where the monarch is unlimited by law. Such is the power of the emperor of Russia, who, following the example of his predecessors, calls himself the autocrat of all the Russias.

AUTRE VIE. Another's life. Vide, Pur autre vie.

AUTREFOIS. A French word, signifying formerly, at another time; and is usually applied to signify that something was done formerly, as autrefois acquit, autrefois convict, &c.

AUTREFOIS ACQUIT, crim. law, pleading. A plea made by a defendant, indicted for a crime or misdemeaner, that he has formerly been tried and acquitted of the same offence. See a form of this plea in Arch. Cr. PI. 90.

2. To be a bar, the acquittal must have been by trial, and by the verdict of a jury on a valid indictment. Hawk. B. 2, c. 25, s. 1; 4 Bl. Com. 335. There must be an acquittal of the offence charged in law and in fact. Stark. PI. 355; 2 Swift's Dig. 400 1 Chit. Cr. Law, 452; 2 Russ. on Cr. 41.

3. The Constitution of the U. S., Amend. Art. 5, provides that no person shall be subject for the same offence to be put twice in jeopardy of life or limb. Vide generally, 12 Serg. & Rawle, 389; YeIv. 205 a, note.

AUTREFOIS ATTAINT, crim. law. Formerly attainted.

2. This is a good plea in bar, where a second trial would be quite superfluous. Co. Litt. 390 b, note 2; 4 Bl. Com. 336. Where, therefore, any advantage either to public justice, or private individuals, would arise from a second prosecution, the plea will not prevent it; as where the criminal is indicted for treason after an attainder of felony, in which case the punishment will be more severe and more extensive. 3 Chit. Cr. Law, 464.

AUTREFOIS CONVICT, crim. law, pleading. A plea made by a defendant, indicted for a crime or misdemeanor, that he has formerly been tried and convicted of the same.

2. As a man once tried and acquitted of an offence is not again to be placed in jeopardy for the same cause, so, a fortiori, if he has suffered the penalty due to his offence, his conviction ought to be a bar to a second indictment for the same cause, least he should be punished twice for the same crime. 2 Hale, 251; 4 Co, 394; 2 Leon,. 83.

3. The form of this plea is like that of autrefois acquit; (q. v.) it must set out the former record, and show the identity of the offence and of the person by proper averments. Hawk. B. 2, c. 36; Stark. Cr. Pi. 363; Arcb. Cr, PI, 92; 1 Chit. Cr. Law, 462; 4 Bl. Com. 335; 11 Verm. R. 516.

AVAIL. Profits of land; hence tenant paravail is one in actual possession, who makes avail or profits of the land. Ham. N. P. 393.

AVALUM. By this word is understood the written engagement of a third person to guaranty and to become security that a bill of exchange shall be paid when due.

AVERAGE. A term used in commerce to signify a contribution made by the owners of the ship, freight and goods, on board, in proportion to their respective interests, towards any particular loss or expense sustained for the general safety of the ship and cargo; to the end that the particular loser may not be a greater sufferer than the owner of the ship and the other owners of goods on board. Marsh. Ins. B. 1, c. 12, s. 7; Code de Com. art. 397; 2 Hov. Supp. to Ves. jr. 407; Poth. Aver. art. Prel.

2. Average is called general or gross average, because it falls generally upon the whole or gross amount of the ship, freight and cargo; and also to distinguish it from what is often though improperly termed particular average, but which in truth means a particular or partial, and not a general loss; or has no affinity to average properly so called. Besides these there are other small charges, called petty or accustomed averages; such as pilotage, towage, light−money, beaconage, anchorage, bridge toll, quarantine, river charges, signals, instructions, castle money, pier money, digging the ship out of the ice, and the like.

3. A contribution upon general average can only be claimed in cases where, upon as much deliberate on and consultation between the captain and his officers as the occasion will admit of, it appears that the sacrifice at the time it was made, was absolutely and indispensably necessary for the preservation of the ship and cargo. To entitle the owner of the goods to an average contribution, the loss must evidently conduce to the preservation of the ship

and the rest of the cargo; and it must appear that the ship and the rest of the cargo were in fact saved. Show. Ca. Parl. 20. See generally Code de Com. tit. 11 and 12; Park, Ins. c. 6; Marsh. Ins. B. 1, c. 12, s. 7 4 Mass. 548; 6 Mass. 125; 8 Mass. 467; 1 Caines' R. 196; 4 Dall. 459; 2 Binn. 547 4 Binn. 513; 2 Serg. & Rawle, 237, in note; 2 Serg. & Rawle, 229 3 Johns. Cas. 178; 1 Caines' R. 43; 2 Caines' R. 263; Id. 274; 8 Johns. R . 237, 2d edit 9 Johns. R. 9; 11 Johns. R 315 1 Caines' R. 573; 7 Johns R. 412; Wesk. Ins. tit. Average; 2 Barn. & Crest. 811 1 Rob. Adlm. Rep. 293; 2 New Rep. 378 18 Ves. 187; Lex. Mer. Armer. ch. 9; Bac Abr. Merchant, F; Vin. Abr. Contribution and' Average; Stev. on Av.; Ben. on Av.

AVERIA. Cattle. This word, in its most enlarged signification is used to include horses of the plough, oxen and cattle. Cunn. Dict. h. t.

AVERIIS CAPTIS IN WlTHERNAM, Eng. law. The name of a writ which lies in favor of a man whose cattle have been unlawfully taken by another, and driven out of the county where they were taken, so that they cannot be replevied.

2. This writ issues against the wrong doer to take his cattle to the plaintiff's use. Reg. of Writs, 82.

AVERMENT, pleading. Comes from the Latin verificare, or the French averrer, and signifies a positive statement of facts in opposition to argument or inference. Cowp. 683, 684.

2. Lord Coke says averments are two−fold, namely, general and particular. A general averment is that which is at the conclusion of an offer to make good or prove whole pleas containing new affirmative matter, but this sort of averment only applies to pleas, replications, or subsequent pleadings for counts and a vowries which are in the nature of counts, need not be averred, the form of such averment being et hoc paratus. est verificare.

3. Particular averments are assertions of the truth of particular facts, as the life of tenant or of tenant in tail is averred: and, in these, says Lord Coke, et hoc, &c., are not used. Co. Litt. 362 b. Again, in a particular averment the party merely protests and avows the truth of the fact or facts averred, but in general averments he makes an offer to prove and make good by evidence what he asserts.

4. Averments were formerly divided into immaterial and impertinent; but these terms are now treated as synonymous. 3 D. & R. 209. A better division may be made of immaterial or impertinent averments, which are those which need not be stated, and, if stated, need not be proved; and unnecessary averments, which consist of matters which need not be alleged, but if alleged, must be proved. For example, in an action of assumpsit, upon a warranty on the sale of goods, allegation of deceit on the part of the seller is impertinent, and need not be proved. 2 East, 446; 17 John. 92. But if in an action by a lessor against his tenant, for negligently keeping his fire, a demise for seven years be alleged, and the proof be a lease at will only, it will be a fatal variance; for though an allegation of tenancy generally would have been sufficient, yet having unnecessarily qualified it, by stating the precise term, it must be proved as laid. Carth. 202.

5. Averments must contain not only matter, but form. General averments are always in the same form. The most common form of making particular averments is in express and direct words, for example: And the party avers or in fact saith, or although, or because, or with this that, or being, &c. But they need not be in these words, for any words which necessarily imply the matter intended to be averred are sufficient. See, in general, 3 Vin. Abr. 357 Bac. Abr. Pleas, B 4 Com. Dig. Pleader, C 50, C 67, 68, 69, 70; 1 Saund. 235 a, n. 8 3 Saund. 352, n. 3; 1 Chit. PI. 308; Arch. Civ. PI. 163; Doct. PI. 120; 1 Lilly's Reg. 209 United States Dig. Pleading II (c); 3 Bouv. Inst. n. 2835−40.

AVOIDANCE, eccl. law. It is when a benefice becomes vacant for want of an incumbent; and, in this sense, it is opposed to plenarty. Avoidances are in fact, as by the death of the incumbent or in law.

AVOIDANCE, pleading. The introductiou of new or special matter, which, admitting the premises of the opposite party, avoids or repels his conclusions. Gould on PI. c. 1 _24, 42.

AVOIR DU POIS, comm. law. The name of a peculiar weight. This kind of weight is so named in distinction from the Troy weight. One pound avoir du pois contains 7000 grains Troy; that is, fourteen ounces, eleven pennyweights and sixteen grains Troy a pound avoir du pois contains sixteen ounces; and an ounce sixteen drachms. Thirty−two cubic feet of pure spring−water, at the temperature of fifty−six degrees of Fahrenheit's thermometer, make a ton of 2000 pounds avoir du pois, or two thousand two hundred and forty pounds net weight. Dane's Abr. c. 211, art. 12, _6. The avoir du pois ounce is less than the Troy ounce in the proportion of 72 to 79; though the pound is, greater. Eneye. Amer. art. Avoir du pois., For the derivation of this phrase, see Barr. on the Stat. 206. See the Report of Secretary of State of the United States to the Senate, February 22d, 1821, pp. 44, 72, 76, 79, 81, 87, for a learned

exposition of the whole subject.

AVOUCIIER. The call which the tenant makes on another who is bound to him by warranty to come into court, either to defend the right against the demandant, or to yield him other land in value. 2 Tho. Co. Lit. 304.

AVOW or ADVOW, practice. Signifies to justify or maintain an act formerly done. For example, when replevin is brought for a thing distrained, and the distrainer justifies the taking, he is said to avow. Termes de la Ley. This word also signifies to bring forth anything. Formerly when a stolen thing was found in the possession of any one" he was bound advocare, i. e. to produce the seller from whom he alleged he had bought it, to justify the sale, and so on till they found the thief. Afterwards the word was taken to mean anything which a man admitted to be his own or done by him, and in this sense it is mentioned in Fleta, lib. 1, c. 5, par 4. Cunn., Dict. h. t.

AVOWANT, practice, pleading. One who makes an avowry.

AVOWEE, eccl. law. An advocate of a church benefice.

AVOWRY, pleading. An avowry is where the defendant in an action of replevin, avows the taking of the distress in his own right, or in right of his wife, and sets forth the cause of it, as for arrears of rent, damage done, or the like. Lawes on PI. 35 Hamm. N. P. 464; 4 Bouv. Inst. n. 3571.

2. An avowry is sometimes said to be in the nature of an action or of. a declaration, and privity of estate is necessary. Co. Lit. 320 a; 1 Serg. & R. 170−1. There is no general issue upon an avowry and it cannot be traversed cumulatively. 5 Serg. & R. 377. Alienation cannot be replied to it without notice; for the tenure is deemed to exist for the purposes of an avowry till notice be given of the alienation. Ham. Parties, 131−2; Ham. N. P. 398, 426.

AVOWTERER, Eng. law. An adulterer with whom a married woman continues in adultery. T. L.

AVOWTRY, Eng. law. The crime of adultery.

AVULSION. Where, by the immediate and manifest power of a river or stream, the soil is taken suddenly from one man’s estate and carried to another. In such case the property belongs to the first owner. An acquiescence on his part, however, will in time entitle the owner of the land to which it is attached to claim it as his own. Bract. 221; Harg. Tracts, De jure maris, &c. Toull. Dr. Civ. Fr. tom. 3, p. 106; 2. Bl. Com. 262; Schultes on Aq. Rights, 115 to 138. Avulsion differs from alluvion (q. v.) in this, that in the latter case the change of the soil is gradual and imperceptible.

AVUS. Grandfather. This term is used in making genealogical tables.

AWAIT, crim. law. Seems to signify what is now understood by lying in wait, or way−laying.

AWARD. The judgment of an arbitrator or arbitrators on a matter submitted to him or them : arbitrium est judicium. The writing which contains such judgment is also called an award.

2. The qualifications requisite to the validity of an award are, that it be consonant to the submission; that it be certain; be of things possible to be performed, and not contrary to law or reason; and lastly, that it be final.

3. − 1. It is manifest that the award must be confined within the powers given to the arbitrators, because, if their decisions extend beyond that authority, this is all assumption of, power not delegated, which cannot legally affect the parties. Kyd on Aw. 140 1 Binn. 109; 13 Johns. 187 Id. 271; 6 Johns. 13, 39 11 Johns. 133; 2 Mass. 164; 8 Mass. 399; 10 Mass. 442 Caldw. on Arb. 98; 2 Harring. 347; 3 Harring. 22; 5 Sm. & Marsh. 172; 8 N. H. Rep. 82; 6 Shepl. 251; 12 Gill & John. 456; 22 Pick. 144. If the arbitrators, therefore, transcend their authority, their award pro tanto will be void but if the void part affect not the merits. of the submission, the residue will be valid. 1 Wend. 326; 13 John. 264; 1 Cowen, 117 2 Cowen, 638; 1 Greenl. 300; 6 Greenl. 247; 8 Mass. 399; 13 Mass. 244; 14 Mass.43; 6 Harr. & John. 10; Doddr. Eng, Lawyer, 168−176; Hardin, 326; 1 Yeates, R. 513.

4. − 2. The award ought to be certain, and so expressed that no reasonable doubt can arise on the face of it, as to the arbitrator’s meaning, or as to the nature and extent of the duties imposed by it on the parties. An example of such uncertainty may be found in the following cases: An award, directing one party to bind himself in an obligation for the quiet enjoyment of lands, without expressing in what sum the obligor should be bound. 5 Co. 77 Roll. Arbit. Q 4. Again , an award that one should give security to the other, for the payment of a sum of money, or the performance of any particular, act, when the kind of security is not specified. Vin. Ab. Arbitr. Q 12; Com. Dig. Arbitrament, E 11 Kyd on Aw. 194 3 S. & R. 340 9 John. 43; 2 Halst. 90; 2 Caines, 235 3 Harr. & John. 383; 3 Ham. 266 1 Pike, 206; 7 Metc. 316 5 Sm. & Marsh. 712 13 Verm. 53; 5 Blackf. 128; 2 Hill, 75 3 Harr 442.

5. − 3. It must be possible to be performed, be lawful and reasonable. An award that could not by any possibility be performed, as if it directed that the party should deliver a deed not in his possession, or pay a sum of money at a day past, it would of course be void. But the, award that the party should pay a sum of money, although he

might not then be able to do so, would be binding. The award must not direct anything to be done contrary to law, such as the performance of an act which would render the party a trespasser or a felon, or would subject him to an action. It must also be reasonable, for if it be of things nugatory in themselves, and offering no advantage to either of the parties, it cannot be enforced. Kirby, 253.

6.− 4. The award must be final that is, it must conclusively adjudicate all the matters submitted. 1 Dall. 173 2 Yeates, 4 Rawle, 304; 1 Caines, 304
Harr. & Gill, 67 Charlt. 289; 3 Pike) 324; 3 Harr. 442; 1 P. S. R. 395; 4
Blackf. 253; 11 Wheat. 446. But if the award is as final as, under the circumstances of the case it might be expected, it will be considered as −valid. Com. Dig. Arbitrament, E 15. As to the form, the award may be by parol or by deed, but in general it must be made in accordance with the provisions and requirements of the submission. (q. v.) Vide, generally, Kyd on Awards, Index, h. t.; Caldwell on Arbitrations, Index, h. t.; Dane's Ab. c. 13; Com. Dig. Arbitrament, E; Id Chancery, 2 K 1, &c.; 3 Vin. Ab. 52, 372 1 158 15 East, R. 215; 1 Ves. Jr. 364 1 Saund. 326, notes 1, 2, and 3; Wats. on Arbitrations and Awards; 3 Bouv. Inst., n. 2402 to 2500.

AWM, or AUME. An ancient measure, used in measuring Rhenish wines it contained forty gallons.

AYANT CAUSE. French law. This term, which is used in Louisiana, signifies one to whom a right has been assigned, either by will, gift, sale, exchange, or the like. An assignee. An ayant cause differs from an heir who acquires the right by inheritance. 8 Toull. n. 245.

AYUNTAMIENTO, Spanish law. A congress of persons the municipal council of a city or town. 1 White's Coll. 416; 12 Pet. 442, notes.