J.

JACTITATION. OF MARRIAGE, Eng. eccl. law. The boasting by an individual that he or she has married another, from which it may happen that they will acquire the reputation of being married to each other.

2. The ecclesiastical courts may in such cases entertain a libel by the party injured; and, on proof of the facts, enjoin the wrong−doer to perpetual silence; and, as a punishment, make him pay the costs. 3 Bl. Com. 93; 2 Hagg. Cons. R. 423 Id. 285; 2 Chit. Pr. 459.

JACTURA. The same as jettison. (q. v.) 1 Bell's Com. 586, 5th ed.

JAIL. A prison; a place appointed by law for the detention of prisoners. A jail is an inhabited dwelling−house within the statute of New York, which makes the malicious burning of an inhabited dwelling−house to be arson. 8 John. 115; see 4 Call, 109. Vide Gaol; Prison.

JEOFAILE. This is a law French phrase, which signifies, "I am in an error; I have failed." There are certain statutes called statutes of amendment and jeofails because, where a pleader perceives any slip in the form of his proceedings, and acknowledges the error, (jeofaile,) he is at liberty by those statutes to amend it. The amendment, however, is seldom made, but the benefit is attained by the court's overlooking the exception. 3 Bl. Com. 407; 1 Saund. 228, n. 1; Doct. Pl. 287; Dane's Ab. h. t.

JEOPARDY. Peril, danger. 2. This is the meaning attached to this word used in the act establishing and regulating the post office department. The words of the act are, "or if, in effecting such robbery of the mail the first time, the offender shall wound the person having the custody thereof, or put his life in jeopardy by the use of dangerous weapons, such offender shall suffer death." 3 Story's L. U. S. 1992. Vide Baldw. R. 93−95.

3. The constitution declares that no person shall "for the same offence, be twice put in jeopardy of life and limb." The meaning of this is, that the party shall, not be tried a second time for the same offence after he has once been convicted or acquitted of the offence charged, by the verdict of a jury, and judgment has passed thereon for or against him; but it does not mean that he shall not be tried for the offence, if the jury have been discharged from necessity or by consent, without giving any verdict; or, if having given a verdict, judgement has been arrested upon it, or a new trial has been granted in his favor; for, in such a case, his life and limb cannot judicially be said to have been put in jeopardy. 4 Wash. C. C. R. 410; 9 Wheat. R. 579; 6 Serg. & Rawle, 577; 3. Rawle, R. 498; 3 Story on the Const. _1781. Vide 2 Sumn. R. 19. This great privilege is secured by the common law. Hawk. P. C., B. 2, 35; 4 Bl. Com. 335.

4. This was the Roman law, from which it has been probably engrafted upon the common law. Vide Merl. Rep. art. Non bis in idem. Qui de crimine publico accusationem deductus est, says the Code, 9, 2, 9, ab alio super eodem crimine deferri non potest. Vide article Non bis in idem.

JERGUER, Engl. law. An officer of the custom−house, who oversees the waiters. Techn. Dict. h. t.

JETTISON, or JETSAM. The casting out of a vessel, from necessity, a part of the lading; the thing cast out also bears the same name; it differs from flotsam in this, that in the latter the goods float, while in the former they sink, and remain under water; it differ; also from ligan. (q. v.)

2. The jettson must be made for sufficient cause, and not from groundless timidity. In must be made in a case of extremity, when the ship is in danger of perishing by the fury of a storm, or is laboring upon rocks or shallows, or is closely pursued by pirates or enemies.

3. If the residue of the cargo be saved by such sacrifice, the property saved is bound to pay a: proportion of, the loss. In ascertaining such average. loss, the goods lost and saved are both to be valued at the price they would have brought at the place of delivery, on the ship's arrival there, freight, duties and other charges being deducted. Marsh. Ins. 246; 3 Kent, Com. 185 to 187; Park. Ins., 123; Poth. Chartepartie, n. 108, et suiv; Boulay−Paty, Dr. Com. tit. 13; Pardessus, Dr. Com. n. 734; 1 Ware's R. 9.

JEUX DE BOURSE, French law. This is a kind of gambling or speculation, which consists of sales and purchase's, which bind neither of the parties to deliver the things which are the object of the sale, and which are settled by paying the difference in the value of the things sold between the day of the sale, and that appointed for delivery of such things. 1 Pard. Dr. Com. n. 162.

JEWS. See De Judaismo Statutum.

JOB. By this term is understood among workmen, the whole of a thing which is to be done. In this sense it is employed in the Civil Code of Louisiana, art. 2727; "to build by plot, or to work by the job," says that article, "is to undertake a building for a certain stipulated price." See Durant. du Contr. de Louage, liv. 8, t. 8, n. 248, 263; Poth. Contr. de Louage, n. 392, 394 and Deviation.

JOBBER, commerce. One who buys end sells articles for others. Stock jobbers are those who buy, and sell stocks for others; this term is also applied to those who speculate in stocks on their own account.

JOCALIA. Jewels; this term was formerly more properly applied to those ornaments which women, although married, call their own. When these jocalia are not suitable to her degree, they are assets for the payment of debts. 1 Roll. Ab. 911. Vide Paraphernalia.

JOINDER OF ACTIONS, practice. The putting two or more causes of action in the same declaration.

2. It is a general rule, that in real actions there can never be but one count. 8 Co. 86, 87; Bac. Ab. Action, C; Com. Dig. Action, G. A count in a real, and a count in a mixed action, cannot be joined in the same declaration; nor a count in a mixed action, and a count in a personal action; nor a count in a mixed action with a count in another, as ejectment and trespass.

3. In mixed actions, there may be two counts in the same declaration; for example, waste lies upon several leases, and ejectment upon several demises and ousters. 8 Co. 87 b Poph. 24; Cro. Eliz. 290; Ow. 11. Strictly, however, ejectment at common law, is a personal action, and a count in trespass for an assault and battery, may be joined with it; for both sound in trespass, and the same judgment is applicable to both.

4. In personal actions, the use of several counts in the same declaration is quite common. Sometimes they are applied to distinct causes of actions, as upon several promissory notes; but it more frequently happens that the various counts introduced, do not really relate to different claims, but are adopted merely as so many different forms of propounding the same demand. The joinder in action depends on the form of action, rather than on the subject−matter of it; in an action against a carrier, for example, if the plaintiff declare in assumpsit, he cannot join a count in trover, as he may if he declare against him in case. 1 T. R. 277 but see 2 Caines' R. 216; 3 East, R. 70. The rule as to joinder is, that when the same plea may be pleaded, and the same judgment given on all the counts of the declaration, or when the counts are all of the same nature, and the same judgment is to be given upon them all, though the pleas be different, as in the case of debt upon bond and simple contract, they may be joined. 2 Saund. 117, c. When the same form of action may be adopted, th may join as many causes of action as he may choose, though he acquired the rights affected by different titles; but the rights of the plaintiffs, and the liabilities of the defendant, must be in his own character, or in his representative capacity, exclusively. A, plaintiff cannot sue, therefore, for a cause of, action in his own right, and another cause in his character as executor, and join them; nor can he sue the defendant for a debt due by himself, and another due, by him as executor.

5. In criminal case s, different offences may be joined in the same indictment, if of the same nature, but an indictment may be quashed, at the discretion of the court, when the counts are joined in such a manner as will confound the evidence. 1 Chit. Cr. Law, 253−255. In Pennsylvania, it has been decided that when a defendant was indicted at one session of the court for a conspiracy to cheat a third person, and at another session of the same court he was indicted for another conspiracy to cheat another person, the two bills might be tried by the same jury against the will of the defendant, provided he was not thereby deprived of any material right, as the right to challenge; whether he should be so tried or not seems to be a matter of discretion with the court. 5 S. & R. 59 12 S. R. 69. Vide Separate Trial. Vide, generally, 2 Saund. 117, b. to 117, c.; Com. Dig. Action, G; 2 Vin. Ab. 38; Bac. Ab. Actions in General, C; 13 John. R. 462; 10 John. R. 240; 11 John. R. 479; 1 John. R. 503; 3 Binn. 555; 1 Chit Pl. 196 to 205; Arch. Civ. Pl. 172 to 176; Steph. Pl. Index, h. t. Dane's Ab. h. t.

JOINDER IN DEMURRER. When a demurrer is offered by one party, the adverse party joins with him in demurrer, and the answer which he makes is called a joinder in demurrer. Co. Litt. 71 b. But this is a mere formality.

JOINDER OF ISSUE, pleadings. The act by which the parties to a cause arrive at that stage of it in their pleadings, that one asserts a fact to be so, and the other denies it. For example, when one party denies the fact pleaded by his antagonist, who has tendered the issue thus, "And this he prays may be inquired of by the country," or, "And of this he puts himself upon the country," the party denying the fact may immediately subjoin, "And the said A B does the like;" when the issue is said to be joined.

JOINDER OF PARTIES TO ACTIONS. It is a rule in actions ex contractu that all who have a legal interest in the contract, and no others, must join in action founded on a breach of such contract; whether the parties are too many or too few, it is equally fatal. 8 S. & R. 308: 4 Watts, 456; 1 Breese, 286; 6 Pick. 359. 6 Mass. 460; 2 Conn. 697; 6 Wend. 629; 2 N. & M. 70; 1 Bailey, 13; 5 Verm. 116; 3 J. J. Marsh. 165; 16 John. 34; 19 John. 213; 2 Greenl. 117; 2 Penn. 817.

2. In actions ex contractu all obligors jointly and not severally liable, and no others, must be made defendants. 1

Saund. 153, note 1; 1 Breese, 128; 11 John. 101; J. J. Marsh. 38; 2 John. 213.

3. In actions ex. delicto, when an injury is done to the property of two or more joint owners, they must join in the action. 1 Saund. 291, g; 11 Pick. 269; 12 Pick. 120; 7 Mass. 135; 13 John. 286.

4. When a tort is of such a nature that it may be committed by several, they may all be joined in an action ex delicto, or they may be sued severally. But when the tort cannot be committed jointly, as, for example, slander, two or more persons cannot be sued jointly, although they may have uttered the same words. 6 John. 32. See, generally, 3 Bouv. Inst. n. 2648, et seq.

JOINT. United, not separate; as, joint action, or one which is brought by several persons acting together; joint bond, a bond given by two or more obligors.

JOINT CONTRACT. One in which the contractors are jointly bound to perform the promise or obligation therein contained, or entitled to receive the benefit of such promise or obligation.

2. It is a general rule that a joint contract survives, whatever may be the beneficial interests of the parties under it; where a partner, covenantor, or other person entitled, having a joint interest in a contract not running with the land, dies, the right to sue survives in the other partner, &c. 1 Dall. 65, 248; Addis. on Contr. 285. And when the obligation or promise is to perform something jointly by the obligor or promissors, and one dies, the action must be brought against the survivor. Ham. on Part. 156.

3. When all the parties interested in a joint contract die, the action must be brought by the executors or administrators of the last surviving, obligee, against the executors or administrators of the last surviving obligor. Addis. on Contr. 285. See Contracts; Parties to Actions; Co−obligor.

JOINT EXECUTORS. It is proposed to consider, 1. The interest which they have in the estate of the deceased. 2. How far they are liable for each other's acts. 3. The rights of the survivor.

2. − _1. Joint executors are considered in law as but one person, representing the testator, and, therefore, the acts of any one of them, which relate either to the delivery, gift, sale, payment, possession or release of the testator's goods, are deemed, as regards the persons with whom they contract, the acts of all. Bac. Abr. h. t.; 11 Vin. Abr. 358; Com. Dig. Administration, B 12; 1 Dane's Abr. 583; 2 Litt. (Kentucky) R. 315; Godolph. 314; Dyer, 23, in marg. 16 Serg. & Rawle, 337. But an executor cannot, without the knowledge of his co−executor, confess a judgment for a claim, part of which was barred by the act of limitations, so as to bind the estate of the testator. 6 Penn. St. Rep. 267.

3. − _2. As a general rule, it may be laid down that each, executor is liable for his own wrong, or devastavit only, and not for that of his colleague. He may be rendered liable, however, for the misplaced confidence which he may have reposed in his coexecutor. As, if he signs a receipt for money, in conjunction with another executor, and he receives no part of the money, but agrees that the other, executor shall retain it, and apply it to his own use, this is his own misapplication, for which he is responsible. 1 P. Wms. 241, n. 1; 1 Sch. & Lef. 341; 2 Sch. & Lef. 231; 7 East, R. 256; 11 John. R. 16; 11 Serg. & Rawle, 71; Hardr. 314; 5 Johns. Ch. R. 283; and see 2 Bro. C. C. 116; 3 Bro. C. C. 112; 2 Penn. R. 421; Fonb. Eq. B. 2, c. 7, s. 5, n. k.

4. − _3. Upon the death of one of several joint executors, the right of administering the estate of the testator devolves upon the survivor. 3 Atk. 509 Com. Dig. Administration, B 12; Hamm. on Parties, 148.

5. In Pennsylvania, by legislative enactment, it is provided, "that where testators may devise their estates to their executors to be sold, or direct such executors to sell and convey such estates, or direct such real estate to be sold, without naming, or declaring who shall sell the same, if one or more of the executors die, it shall or may be lawful for the surviving executor to bring actions for the recovery of the possession thereof, and against trespassers thereon; to sell and "convey such real estate, or manage the same for the benefit of the persons interested therein." Act of March 12, 1800, 3 Sm. L. 433.

JOINT STOCK BANKS. In England they are a species of quasi corporations, or companies regulated by deeds of settlement; and, in this respect, the stand in the same situation as other unincorporated bodies. But they differ from the latter in this, that they are invested by certain statutes with powers and privileges usually incident to corporations. These enactments provide for the continuance of the partnership, notwithstanding a change of partners. The death, bankruptcy, or the sale by a partner of his share, does not affect the identity of the partnership; it, continues the same body, under the same name, by virtue of the act of parliament, notwithstanding these changes. 7 Geo. IV., c. 46, s. 9.

JOINT TENANTS, estates. Two or more persons to whom are granted land's or tenements to hold in fee simple, fee tail, for life, for years, or at will. 2 Black. Com. 179. The estate which they, thus hold is called an estate in

joint tenancy. Vide Estate in joint tenancy; Jus accrescendi; Survivor.

JOINT TRUSTEES. Two or more persons who are entrusted with property for the benefit of one or more others.

2. Unlike joint executors, joint trustees cannot act separately, but must join both in conveyances and receipts, for one cannot sell without the others, or receive more of the consideration money, or be more a trustee than his partner. The trust having been given to the whole, it requires their joint act to do anything under it. They are not responsible for money received by their co−trustees, if the receipt be given for the mere purposes of form. But if receipts be given under circumstances purporting that, the money, though not received by both, was under the control of both, such a receipt shall charge, and the consent that the other shall misapply the money, particularly where he has it in his power to secure it, renders him responsible. 11 Serg. & Rawle, 71. See 1 Sch. & Lef. 341; 5 Johns. Ch. R. 283; Fonbl. Eq. B. 2, c. 7, s. 5; Bac. Abr. Uses and Trusts, K; 2 Bro. Ch. R. 116; 3 Bro. Ch. R. 112. In the case of the Attorney General v. Randall, a different doctrine was held. Id. pl. 9.

JOINTRESS or JOINTURESS. A woman who has an estate settled on her by her hushand, to hold during her life, if she survive him. Co. Litt. 46.

JOINTURE, estates.. A competent livelihood of freehold for the wife, of lands and tenements; to take effect in profit or possession, presently after the death of the hushand, for the life of the wife at least.

2. Jointures are regulated by the statute of 27 Hen. VIII. o. 10, commonly called the statute of uses.

3. To make a good jointure, the following circumstances must concur, namely; 1. It must take effect, in possession or profit, immediately from the death of the hushand. 2. It must be for the wife's life, or for some greater estate. 3. It must be limited to the wife herself, and not to any other person in trust for her. 4. It must be made in satisfaction for the wife's whole dower, and not of part of it only. 5. The estate limited to the wife must be expressed or averred to be, in satisfaction of her whole dower. 6. It must be made before marriage. A jointure attended with all these circumstances is binding on the widow, and is a complete bar to the claim of dower; or rather it prevents its ever arising. But there are other. modes of limiting an estate to a wife, which, Lord Coke says, are good jointures within the statute, provided the wife accepts of them after the death of the hushand. She may, however, reject them, and claim her dower. Cruise, Dig. tit. 7; 2 Bl. Com. 137; Perk. h. t. In its more enlarged sense, a jointure signifies a joint estate, limited to both hushand and. wife. 2 131. Com. 137. Vide 14 Vin. Ab. 540; Bac. Ab. h. t.; 2 Bouv. Inst. n. 1761, et seq.

JOUR. A French word, signifying day. It is used in our old law books, as, tout jours, for ever. It is also frequently employed in the composition of words, as, journal, a day book; journeyman, a man 'who works by the day; journeys account. (q. v.)

JOURNAL, mar. law. The book kept on board of a ship or other vessel, which contains an account of the ship's course, with a short history of every occurrence during the voyage. Another name for logbook. (q. v.) Chit. Law of Nat. 199.

JOURNAL, common law. A book used among merchants, in which the contents of the waste−book are separated every month, and entered on the debtor and creditor side, for more convenient posting in the ledger.

JOURNAL, legislation. An account of the proceedings of a legislative body.

2. The Constitution of the United States, art. 1, s. 5, directs that "each house shall keep a journal of its proceedings; and from time to time publish the same, excepting such parts as may, in their judgment, require secrecy." Vide 2 Story, Const., 301.

3. The constitutions of the several states contain similar provisions.

4. The journal of either house is evidence of the action of that house upon all matters before it. 7 Cowen, R. 613 Cowp. 17.

JOURNEYS ACCOUNT, Eng. practice. When a writ abated without any fault of the plaintiff, he was permitted to sue out a new writ, within as little time as he possibly could after abatement of the first writ, which was quasi a continuance of the first writ, and placed him in a situation in which he would have been, supposing he had still, proceeded on that writ. This was called journeys account.

2. This mode of proceeding has fallen into disuse, the practice now being to permit that writ to be quashed, and torque out another. Vide Termes de la Ley, h. t.; Bac. Ab. Abatement, Q; 14 Vin. Ab. 558; 4 Com. Dig. 714; 7 Mann. & Gr. 762.

JUDEX. This word has several significations: 1. The judge, one who declares the law, quijus dicit; one who administers justice between the parties to a cause, when lawfully submitted to him. 2. The judicial power, or the court. 3. Anciently, by judex was also understood a juror. Vide Judge.

JUDEX A Quo. A judge from whom an appeal may be taken; a judge of a court below. See A quo; 6 Mart. Lo. Rep. 520.

JUDEX AD OUEM. A judge to whom an appeal may be taken: a superior judge.

JUDGE. A public officer, lawfully appointed to decide litigated questions according to law. This, in its most extensive sense, includes all officers who are appointed to decide such questions, and not only judges properly so called, but also justices of the peace, and jurors, who are judges of the facts in issue. See 4 Dall. 229; 3 Yeates, IR. 300. In a more limited sense, the term judge signifies an officer who is so named in his commission, and who presides in some court.

2. Judges are appointed or elected, in a variety of ways, in the United States they are appointed by the president, by and with the consent of the senate; in some of the states they are appointed by the governor, the governor and senate, or by the legislature. In the United States, and some of the states, they hold their offices during good behaviour; in others, as in New York, during, good behaviour, or until they shall attain a certain age and in others for a limited term of years.

3. Impartiality is the first duty of a judge; before he gives an opinion, or sits in judgment in a cause, he ought to be certain that he has no bias for or against either of the parties; and if he has any (the slightest) interest in the cause, he is disqualified from sitting as judge; aliquis non debet esse judex in propria causa; 8 Co. 118; 21 Pick. Rep. 101; 5 Mass. 92; 13 Mass. 340; 6 Pick. R. 109; 14 S. & R. 157−8; and when he is aware of such interest, he ought himself to refuse to sit on the case. It seems it is discretionary with him whether he will sit in a cause in which he has been of counsel. 2 Marsh. 517; Coxe, 164; see 2 Binn. 454. But the delicacy which characterizes the judges in this country, generally, forbids their sitting in such a cause.

4. He must not only be impartial, but he must follow and enforce the law, whether good or bad. He is bound to declare what the law is , and not to make it; he is not an arbitrator, but an interpreter of the law. It is his duty to be patient in the investigation of the case, careful in considering it, and firm in his judgment. He ought, according to Cicero, "never to lose sight that he is a man, and that he cannot exceed the power given him by his commission; that not only power, but public confidence has been given to him; that he ought always seriously to attend not to his wishes but to the requisitions of law, of justice and religion." Cic. pro. Cluentius. A curious case of judicial casuistry is stated by Aulus Gellius Att. Noct. lib: 14, cap. 2, which may be interesting to the reader.

5. While acting within the bounds of his jurisdiction, the judge is hot responsible for any error of judgment, nor mistake he may commit as a judge. Co. Litt. 294; 2 Inst. 422; 2 Dall. R. 160; 1 Yeates, R. 443; N. & M'C. 168; 1 Day, R. 315; 1 Root, R. 211; 3 Caines, R. 170; 5 John. R. 282; 9 John. R. 395; 11 John. R. 150; 3 Marsh. R. 76; 1 South. R. 74; 1 N. H. Rep. 374; 2 Bay, 1, 69; 8 Wend. 468; 3 Marsh. R. 76,. When he acts corruptly, he may be impeached. 5 John. R. 282; 8 Cowen, R. 178; 4 Dall. R. 225.

6. A judge is not competent as a witness in a cause trying before him, for this, among other reasons, that he can hardly be deemed capable of impartially deciding on the admissibility of his own testimony, or of weighing. it against that of another. a Martln's R, N. S. 312. Vide, Com. Dig. Courts, B 4, C 2, E 1, P 16 justices, 1 1, 2, and 3; 14 Vin. Ab. 573; Bac. Ab. Courts, &c., B; 1 Kent, Com. 291; Ayl. Parerg. 309; Story, Const. Index, h. t. See U. S. Dig. Courts, I, where will be found an abstract of various decisions relating to the appointment and powers of judges in different states. Vide Eguality; Incompetency.;

JUDGE ADVOCATE. An officer who, is a member of a court martial.

2. His duties are to prosecute in the name of the United States, but he shall so far consider himself as counsel for the prisoner, after the prisoner shall have made his plea, as to object to leading questions to any of the witnesses, or any question to the prisoner, the answer to which might tend to criminate himself. He is further to swear the members of the court before they proceed upon any trial. Rules and Articles of War, art. 69, 2 Story, L. U. S. 1001; Lid. Jud. Adv. passim.

JUDGE'S NOTES. They are short statements, made by a judge on the trial of a cause, of what transpires in the course of such trial. They usually contain a statement of the testimony of witnesses; of documents offered or admitted in evidence; of offers of evidence and whether it has been received or rejected, and the like matters.

2. In general judge's notes are not evidence of what transpired at a former trial, nor can they be read to prove what a deceased witness swore to on such former trial, for they are no part of the record, and he is not officially bound to make them. But in chancery, when a new trial is ordered of an issue sent out of chancery to a court of law, and it is suggested that some of the witnesses in the former trial are of an advanced age, an order may be made that, in the event of death or inability to attend, their testimony may be read from the judge's notes. 1

Greenl. Ev. _166.

JUDGMENT, practice. The decision or sentence of the law, given by a court of justice or other competent tribunal, as the result of proceedings instituted therein, for the redress of an injury.

2. The language of judgments, therefore, is not that "it is decreed," or " resolved," by the court; but " it is considered," (consideratum est per curiam) that the plaintiff recover his debt, damages, or possession, as the case may require, or that the defendant do go without day. This implies that the judgment is not so much the decision of the court, as the sentence of the law pronounced and decreed by the court, after due deliberation and inquiry.

3. To be valid, a judicial judgment must be given by a competent judge or court, at a time and place appointed by law, and in the form it requires. A judgment would be null, if the judge had not jurisdiction of the matter; or, having such jurisdiction, he exercised it when there was no court held, or but of his district; or if be rendered a judgment before the cause was prepared for a hearing.

4. The judgment must confine itself to the question raised before the court, and cannot extend beyond it. For example, where the plaintiff sued for an injury committed on his lands by animals owned and kept carelessly by defendant, the judgment may be for damages, but it cannot command the defendant for the future to keep his cattle out of the plaintiff's land. That would be to usurp the power of the legislature. A judgment declares the rights which belong to the citizen, the law alone rules future actions. The law commands all men, it is the same for all, because it is general; judgments are particular decisions, which apply only to particular persons, and bind no others; they vary like the circumstances on which they are founded.

5. Litigious contests present to the courts facts to appreciate, agreements to be construed, and points of law to be resolved. The judgment is the result of the full examination of all these.

6. There are four kinds of judgments in civil cases, namely: 1. When the facts are admitted by the parties, but the law is disputed; as in case of judgment upon demurrer. 2. When the law is admitted, but the facts are disputed; as in, case of judgment upon a verdict. 3. When both the law and the facts are admitted by confession; as, in the case of cognovit actionem, on the part of the defendant; or nolle prosequi, on the part of the plaintiff. 4. By default of either party in the course of legal proceedings, as in the case of judgment by nihil disit, or non sum informatus, when the defendant has omitted to plead or instruct his attorney to do so, after a proper notice or in cases of judgment by non pros; or, as in case of nonsuit, when the plaintiff omits to follow up his proceedings.

7. These four species of judgments, again, are either interlocutory or final. Vide 3 Black. Com. 396; Bingh. on Judgm. 1. For the lien of judgment in the several estates, vide Lien.

8. A list of the various judgments is here given.

9. Judgment in assumpsit is either in favor of the plaintiff or defendant; when in favor of the plaintiff, it is that he recover a specified sum, assessed by a jury, or on reference to the prothonotary, or other proper officer, for the damages which he has sustained, by reason of the defendant's non−performance of his promises and undertakings, and for full costs of suit. 1 Chit. Pl. 100. When the judgment is for the defendant, it is that he recover his costs.

10. Judgment in actions on the case for torts, when for the plaintiff, is that he recover a sum of money ascertained by a jury for his damages occasioned by the committing of the grievances complained of, and the costs of suit. 1 Ch. Pl. 147. When for the defendant, it is for costs.

11. Judgment of cassetur breve, or billa, is in cases of pleas in abatement where the plaintiff prays that his "writ" or " bill" "may be quashed, that he may sue or exhibit a better one." Steph. Pl. 130, 131, 128 Lawes, Civ. PI.

12. Judgment by confession. When instead of entering a plea, the defendant chooses to confess the action; or, after pleading; he does, at any time before trial, both confess the action and withdraw his plea or other allegations; the judgment against him, in these two cases, is called a judgment by confession or by confession relicta verificatione. Steph. Pl. 130.

13. Contradictory judgment. By this term is understood, in the state of Louisiana, a judgment which has been given after the parties have been heard, either in support of their claims, or in their defence. Code of Pract. art. 535; 11 L. R. 366, 569. A judgment is called contradictory to distinguish it from one which is rendered by default.

14. Judgment in covenant; when for the plaintiff, is that he recover an ascertained sum for his damages, which he has sustained by reason of the breach or breaches of the defendant's covenant, together with costs of suit. 1 Chitty's Plead. 116, 117. When for the defendant, the judgment, is for costs.

15. Judgment in the action of debt; when for the plaintiff, is that he recover his debt, and in general, nominal damages for the detention thereof; and in cases under the 8 and 9 Wm. III. c. 11, it is also awarded, that the plaintiff have execution for the damages sustained by the breach of a bond, conditioned for the performance of

covenants; and that plaintiff recover full costs of suit. 1 Chitty's Pl. 108, 9.

16. In some penal and other particular actions the plaintiff does not, however, always recover costs. Espinasse on Pen. Act. 154: Hull. on Costs, 200; Bull. N. P. 333; 5 Johns. R. 251.

17. When the judgment is for the defendant, it is generally for costs. In some penal actions, however, neither party can recover costs, 5 Johns. R. 251.

18. Judgment by default, is a judgment rendered in consequence of tho non−appearance of the defendant, and is either by nil dicit; vide Judgment by nil dicit, or by non sum informatus; vide Judgment by non sum informatus.

19. This judgment is interlocutory in assumpsit, covenant, trespass, case, and replevin, where the sole object of the action is damages; but in debt, damages not being the principal object of the action, the plaintiff usually signs final judgment in the first instance. Vide Com. Dig. Pleader, B 11 and 12, E 42; 7 Vin. Ab. 429; Doct. Pl. 208; Grah. Pr, 631 Dane's Ab. Index, h. t.; 3 Chit. Pr. 671 to 680; Tidd's Pr. 563; 1 Lillv's Reg. 585; and article Default.

20. Judgment in the action of detinue; when for the plaintiff, is in the alternative, that he recover the goods, or the value thereof, if he cannot have the goods themselves, and his damage for the detention and costs. 1 Ch. Pl. l21, 2; 1 Dall. R. 458.

2l. Judgment in error, is a judgment rendered by a court ot error, on a record sent up, from an inferior court. These judgments are of two kinds, of affirmance and reversal. When the judgment is for the defendant in error, whether the errors assigned be in law or in fact, it is "that the former judgment be affirmed, and stand in full force and effect, the said causes and matters assigned for error notwithstanding, and that the defendant in error recover $____ for his damages, charges and costs which he hath sustained," &c. 2 Tidd's Pr. 1126; Arch. Forms, 221. When it is for the plaintiff in error, the judgment is that it be reversed or recalled. It is to be reversed for error in law, in this form, that it be reversed, annulled and altogether holden for nought." Arch. Forms, 224. For error in fact the, judgment is recalled, revocatur. 2 Tidd, Pr. 1126.

22. A final judgment is one which puts an end to the suit.

23. When the issue is one in fact, and is tried by a jury, the jury at the time that they try the issue, assess the damages, and the judgment is final in the first instance, and is that the plaintiff do recover the damages assessed.

24. When an interlocutory judgment has been rendered, and a writ of inquiry has issued to ascertain the damages, on the return of the inquisition the plaintiff is entitled to a final judgment, namely, that he recover the amount of damages so assessed. Steph. Pl. 127, 128.

25. An interlocutory judgment, is one given in the course of a cause, before final judgment. When the action sounds in damages, and the issue is an issue in law, or when any issue in fact not tried by a jury is decided in favor of the plaintiff, then the judgment is that the plaintiff ought to recover his damages without specifying their amount; for, as there has been no trial by jury in the case, the amount of damages is not yet ascertained. The judgment is then said to be interlocutory.

26. To ascertain such damages it is the practice to issue a writ of inquiry. Steph. Pl. 127. When the action is founded on a promissory note, bond, or other writing, or any other contract by which the amount due may be readily computed, the practice is, in some courts, to refer it to the prothonotary or clerk to assess the damages.

27. There is one species of interlocutory judgment which establishes nothing but the inadequacy of the defence set up this is the judgment for the plaintiff on demurrer to a plea in abatement, by which it appears that the defendant has mistaken the law on a point which does not affect the merits of his case; and it being but reasonable that he should offer, if he can, a further defence, that judgment is that he do answer over, in technical language, judgment of respondeat ouster. (q. v.) Steph. Plead, 126; Bac. Ab. Pleas, N. 4; 2 Arch. Pr. 3.

28. Judgment of nil capiat per breve or per billam. When an issue arises upon a declaration or peremptory plea, and it is decided in favor of the defendant, the judgment is, in general, that, the plaintiff take nothing by his writ, (or bill,) and that the defendant go thereof without day, &c. This is called a judgment of nil capiat per breve, or per billam. Steph. Pl. 128.

29. Judgment by nil dicit, is one rendered against a defendant for want of a plea. The plaintiff obtains a rule on the defendant to plead within a time specified, of which he serves a notice on the defendant or his attorney; if the defendant neglect to enter a plea within the time specified, the plaintiff may sign judgment against him.

30. Judgment of nolle prosequi, is a judgment entered against the plaintiff, where, after appearance and before judgment, he says, "he will not further prosecute his suit." Steph. Pl. 130 Lawes Civ. Pl. 166.

31. Judgment of non obstante veredicto, is a judgment rendered in favor of the plaintiff, without regard to the

verdict obtained by the defendant.

32. The motion for such judgment is made where after a pleading by the defendant in confession and avoidance, as, for example, a plea in bar, and issue joined thereon, and verdict found for, the defendant, the plaintiff on retrospective examination of the record, conceives that such plea was bad in substance, and might have been made the subject of demurrer on that ground. If the plea was itself substantially bad in law, of course the verdict, which merely shows it to be true in point of fact, cannot avail to entitle the defendant to judgment; while on the other hand the plea being in confession and avoidance, involves a confession of the plaintiff's declaration, and shows that he was entitled. to maintain his action. In such case, therefore, this court will give judgment for the plaintiff, without regard to the verdict; and this, for the reasons above explained, is called a judgment upon confession. Sometimes it may be expedient for the plaintiff to move for judgment non obstante, &c., even though the verdict be in his own favor; for, if in such case as above described, he takes judgment as upon the verdict, it seems that such judgment would be erroneous, and that the only safe course is to take it as upon confession. 1 Wils. 63; Cro. Eliz, 778 2 Roll. Ab. 99. See also, Cro. Eliz. 2 1 4 6 Mod. 1 0; Str. 394; 1 Ld. Raym. 641; 8 Taunt. 413; Rast. Ent. 622; 1 Wend. 307; 2 Wend. 624; 5 Wend. 513; 4 Wend. 468; 6 Cowen, R. 225. See this Dict. Repleader, for the difference between a repleader and a judgment non obstante veredicto.

33. Judgment by non sum informatus, is one which is rendered, when instead of entering a plea, the defendant's attorney says he is not informed of any answer to be given to the action. Steph. Pl. 130.

34. Judgment of non pros. (from non prosequitur,) is one given against the plaintiff, in any class of actions, for not declaring, or replying, or surrejoining, &c., or for not entering the issue.

35. Judgment of nonsuit, Practice, is one against the plaintiff, which happens when, on trial by jury, the plaintiff, on being called or demanded, at the instance of the defendant, to be present while the jury give their verdict, fails to make his appearance.

36. In this case, no verdict is given, but the judgment of nonsuit passes against the plaintiff. So if, after issue be joined, the plaintiff neglect to bring such issue on to be tried in due time, as limited by the practice of the court, in the particular case, judgment will be also given against him for this default; and it is called judgment as in case of nonsuit. Stepb. Pl. 131.

37. After suffering a nonsuit, the plaintiff may commence another action for the same cause for which the first had been instituted.

38. In some cases, plaintiffs having obtained information in what manner the jury had agreed upon their verdict before it was delivered in court, have, when the jury were ready to give in such verdict against them, suffered a nonsuit for the purpose of commencing another action and obtaining another trial. To prevent this abuse, the legislature of Pennsylvania have provided, by the Act of March 28, 1814, 6:Reed's L. 208, that "whenever on the trial of any cause, the jury shall be ready to give in their verdict, the plaintiff shall not be called, nor shall he then be permitted to suffer a nonsuit."

39. Judgment quod computet. The name of an interlocutory judgment in an action of account render that the defendant do account, quod computet. Vide 4 Wash. C. C. R. 84; 2 Watts, R. 95; 1 Penn. R. 138.

40. Judgment quod recuperet. When an issue in law, other than one arising on a dilatory plea, or an issue in fact, is decided in favor of the plaintiff, the judgment is, that the plaintiff do recover, which is called a judgment guod recuperet. Steph. Pl. 126; Com. Dig. Abatement, I 14, I 15; 2 Arch. Pr. 3. This judgment is of two kinds, namely, interlocutory or final.

41. Judgment in replevin, is either for the plaintiff or defendant.

42. − _1. For the plaintiff. 1. When the declaration is in the detinuit, that is, where the plaintiff declares, that the chattels "were detained until replevied by the sheriff," the judgment is that he recover the damages assessed by the jury for the taking and unjust detention, or for the latter only, where the former was justifiable, as also his costs. 5 Serg. & Rawle, 133 Ham. N. P. 488.

43. − 2. If the replevin is in the detinet, that is, where the plaintiff declares that the chattels taken are " yet detained," the jury must find, 'in addition to the above, the value of the chattels, (assuming that they are still detained,) not in a gross sum, but each separate article; for tho defendant, perhaps, will restore some, in which case the plaintiff is to recover the value of the remainder. Ham. N. P. 489; Fitz. N. B. 159, b; 5 Serg. & Rawle, 130.

44. − _2. For the defendant. 1. If the replevin be abated, the judgment is, that the writ or plaint abate, and that the defendant (having avowed) have a return of the chattels.

46. − 2. When the plaintiff is nonsuited) the judgment for the defendant, at common law, is, that the chattels be restored to him, and this without his first assigning the purpose for which they were taken, because, by abandoning his suit, the plaintiff admits that he had no right to dispossess the defendant by prosecuting the replevin. The form of this judgment. is simply " to have a return, " without adding the words " to hold irreplevisable." Ham. N. P. 490.

46. As to the form of judgments in cases of nonsuit, under the 21 Hen. VIII. c. 19, and 17 Car. II. c. 7, see Ham. N. P. 490, 491; 2 Ch. Pleacd. 161; 8 Wentw. Pl. 116; 5 Serg. & Rawle, 132; 1 Saund. 195, n. 3; 2 Saund. 286, n. 5. It is still in the defendant's option in these cases, to take his judgment pro retorno habendo at common law. 5 Serg. & Rawle, 132; 1 Lev. 265; 3 T. R. 349.

47. − 3. When tho avowant succeeds upon the merits of his case, the common law judgment is, that he "have return irreplevisable," for it is apparent that he is by law entitled to keep possession of the goods. 5 Serg. & Rawle, 135; Ham. N. P. 493; 1 Chit. Pl. 162. For the form of judgments in favor of the avowant, under the last mentioned statutes, gee Ham. N. P. 494−5.

48. Judgment of respondeat ouster. When there is an issue in law, arising on a dilatory plea, and it is decided in favor of the plaintiff, the judgment is only that the defendant answer over, which is called a judgment of respondeat ouster. The pleading is accordingly resumed, and the action proceeds. Steph. Pl. 126; see Bac. Abr. Pleas, N 4; 2 Arch. Pr. 3.

49. Judgment of retraxit, is one where, after appearance and before judgment, the, plaintiff enters upon the record that he "withdraws his suit;" in such case judgment is given against him. Stepb. Pl. 130.

50. Judgment in an action on trespass, when for the plaintiff, is, that he recover the damages assessed by the jury, and the costs. For the defendant, that he recover the costs.

51. Judgment in action on the case for trover, when for the plaintiff, is, that he recover damages and costs. 1 Ch. Pl. 157, For the defendant, the judgment is, that he recover his costs.

52. Judgment of capiatur. At common law, on conviction, in a civil action, of a forcible wrong, alleged to have been committed vi et armis, &c., the defendant was obliged to pay a fine to the king, for the breach of the peace implied in the act, and a judgment of capiatur pro fine was rendered against him, under which he was liable to be arrested, and imprisoned till the fine was paid. But by the 5 W. & M. c. 12, the judgment of capiatur pro fine was abolished. Gould on Pl. _38, 82; Bac. Ab. Fines and Amercements, C 1; 1 Ld. Raym. 273, 4; Style, 346. See Judgment of misericordia, 53. Judgment of misericordia. At common law, the party to, a suit who did not prevail was punished for his unjust vexation, and therefore judgment was given against him, quod sit in misericordia pro falso clamore. Hence, when the plaintiff sued out a writ, the sheriff was obliged to take pledges of prosecution before he returned it, which when fines and amercements were considerable, were real and responsible persons, and answerable for those amercements; but now they are never levied, and the pledges are merely formal, namely, John Doe and Richard Roe. Bac. Ab. Fines, &c., C 1 1 Lord Ray. 273, 4.

54. In actions where the judgment was against the defendant, it was entered at common law, with a misericordia or a capiatur. With a misericordia in actions on contracts, with a capiatur in actions of trespass, or other forcible wrong, alleged to have been committed vi et armis. See Judgment of capiatur; Gould on Pl. c. 4, __38, 82, 83.

55. Judgment quod partitio fiat, is a judgment, in a writ of partition, that partition be made; this is not a final judgment. The final judgment is, quod partitio facta firma et stabilis in perpetuum teneatur. Co. Litt. 169; 2 Bl. Rep. 1159.

56. Judgment quod partes replacitent. The name of a judgment given when the court award a repleader.

57. When issue is joined on an immaterial point, or a point on which the court cannot give a judgment determining the right, they award a repleader or judgment quod partes replacitent. See Bac. Ab. Pleas, &c., M; 3 Hayw. 159; Peck's R. 325. See, generally, Bouv. Inst. Index, h. t.

JUDGMENT, ARREST OF, practice. This takes place when the court withhold judgment from the plaintiff on the ground that there is some error appearing on the face of the record, which vitiates the proceedings. In consequence of such error, on whatever part of the record it may arise, from the commencement of the suit to the time when the motion in arrest of judgment is made, the court are bound to arrest the judgment.

2. It is, however, only with respect to objections apparent on the record, that such motions can be made. They cannot, in general, be made in respect to formal objections. This was formerly otherwise, and judgments were constantly arrested for matters of mere form; 3 Bl. Corn. 407; 2 Reeves, 448; but this abuse has been long remedied by certain statutes passed at different periods, called the statutes of amendment and jeofails, by the

effect of which, judgments, cannot, in general, now be arrested for any objection of form. Steph. Pl. 117; see 3 Bl. Com. 393; 21 Vin. Ab. 457; 1 Sell. Pr. 496.

JUDGMENT POLL, Eng. law. A record made of the issue roll, (q. v.) which, after final judgment has been given in the cause, assumes this name. Steph. Pl. 133. Vide Issue Roll.

JUDICATURE. The state of those employed in the administration of justice, and in this sense it is nearly synonymous with judiciary. This term is also used to signify a tribunal; and sometimes it is employed to show the extent of jurisdiction, as, the judicature is upon writs of error, &c. Com. Dig. Parliament, L 1; and see Com. Dig. Courts, A.

JUDICES PEDANEOS. Among the Romans, the praetors, and other great magistrates, did not themselves decide the actions which arose between private individuals these were submitted to judges chosen by the parties, and these judges were called judices pedaneos. In choosing them, the plaintiff had the right to nominate, and the defendant to accept or reject those nominated. Heinnee. Antiq. lib. 4, tit. b, n. 40 7 Toull. n. 353.

JUDICIAL. Belonging, or emanating from a judge, as such.

2. Judicial sales, are such as are ordered by virtue of the process of courts. 1 Supp. to Ves. jr., 129, 160; 2 Ves. jr., 50.

3. A judicial writ is one issued in the progress of the cause, in contradistinction to an original writ. 3 Bl. Com. 282.

4. Judicial decisions, are the opinions or determinations of the judges in causes before them. Hale, H. C. L. 68; Willes' R. 666; 3 Barn. & Ald. 122 4 Barn. & Adol. 207 1 H. B1. 63; 5 M. & S. 185.

5. Judicial power, the authority vested in the judges. The constitution of the United States declares, that "the judicial power of the United States shall be vested in one supreme court, and in such inferior courts as the congress may, from time to time, ordain and establish." Art. 3, s. 1. 6. By the constitutions of the several states, the judicial power is vested in such courts as are enumerated in each respectively. See the names Of, the several states. There is nothing in the constitution of the United States to forbid or prevent the legislature of a state from exercising judicial functions; 2 Pet. R. 413; and judicial acts have occasionally been performed by the legislatures. 2 Root, R. 350; 3 Greenl. R. 334; 3 Dall. R. 386; 2 Pet. R. 660; 16 Mass. R. 328; Walk. R. 258; 1 New H. Rep. 199; 10 Yerg. R. 59; 4 Greenl. R. 140; 2 Chip., R. 77; 1 Aik. R. 314. But a state legislature cannot annul the judgments, nor determine the jurisdiction of the courts of the United States; 5 Cranch, It. 116; 2 Dall. R. 410; nor authoritatively declare what the law is, or has been, but what it shall be. 2 Cranch, R. 272; 4 Pick. R. 23. Vide Ayl. Parerg. 27; 3 M. R. 248; 4 M. R. 451; 9 M. R. 325; 6 M. R. 668; 12 M. R. 349; 3 N. S. 551; 5 N. S. 519; 1 L. R. 438 7 M. R. 325; 9 M. R. 204; 10 M. R. 1.

JUDICIAL ADMISSIONS. Those which are generally made in writing in court by the attorney of the party; they appear upon the record, as in the pleadings and the like.

JUDICIAL CONFESSIONS, criminal law. Those voluntarily made before a magistrate, or in a court, in the due course of legal proceedings. A preliminary examination, taken in writing, by a magistrate lawfully authorized, pursuant to a statute, or the plea of guilty, made in open court to an indictment, are sufficient to found a conviction upon them.

JUDICIAL CONVENTIONS. Agreements entered into in consequence of an order of court; as, for example, entering into a bond on taking out a writ of sequestration. 6 N. S. 494.

JUDICIAL MORTGAGE. In Louisiana, it is the lien resulting from judgments, whether these be rendered on contested cases, or by default, whether they be final or provisional, in favor of the person obtaining them. Civ. Code of Lo. art. 3289.

JUDICIAL SALE. A sale by authority of some competent tribunal, by an officer authorized by law for the purpose.

2. The officer who makes the sale, conveys all the rights of the defendant, or other person against whom the process has been issued, in the property sold. Under such a sale there is no warranty, either express or implied, of the thing sold. 9 Wheat. 616. When real estate is sold by the sheriff or marshal, the sale is subject to the confirmation of the court, or it may be set aside. See 4 Wash. C. C. R. 45 Wallace, 128; 4 Wash. C. C. R. 322.

JUDICIAL WRITS, Eng. practice. The capias and all other writs subsequent to the original writ not issuing out of chancery, but from the court into which the original was returnable, and being grounded on what had passed in that court in consequence of the sheriff's return, were called judicial writs, in contradistinction to the writs issued out of chancery, which were called original writs. 3 Bl. Com. 282.

JUDICIARY. That which is done while administering justice; the judges taken collectively; as, the liberties of the people are secured by a wise and independent judiciary. See Courts; and 3 Story, Const. B. 3, c. 3 8.

JUDICIUM DEI. The judgment of God. The English law formerly impiously called the judgments on trials by ordeal, by battle, and the like, the judgments of God.

JUICIO DE CONCURSO. This term is Spanish, and is used in Louisiana. It is the name of an action brought for the purpose of making a distribution of an insolvent's estate. It differs from all other actions in this important particular, that all the parties to it except the insolvent, are at once plaintiffs and defendant. Each creditor is plaintiff against the failing debtor, to recover the amount due by him, and against the co−creditors, to diminish the amount they demand from his estate, and each is, of necessity, defendant against the opposition made by the other creditors against his demand. From the peculiar situation in which the parties are thus placed, many distinct and separate suits arise, and are decided during the pendancy of the main one, by the insolvent in which they originate. 4 N. S. 601, 3 Harr. Cond. Lo. R. 409.

JUNIOR. Younger.

2. This has been held to be no part of a man's name, but an addition by use, and a convenient distinction between a father and son of the same name. 10 Mass. R. 203 10 Paige, 170; 1 Pick. R. 388; 7 John . It. 549; 2 Caines, 164 1 Pick. 388 15 Pick. 7; 17 Pick. 200 3 Metc. 330.

3. Any matter that distinguishes persons renders the addition of junior or senior unnecessary. 1 Mod. Ent. 35; Salk. 7. But if father and son have both the same name, the father shall be, prima facie, intended, if junior be not added, or some other matter of distinction. Salk, 7; 6 Rep. 20 11 Rep. 39; Hob. 330. If father and son have the same name and addition, and the former sue the latter, the writ is abateable unless the son have the further addition of junior, or the younger. But if the father be the defendant and the son the plaintiff, there is no need of the further addition of senior, or the elder, to the name of the father. 2 Hawk. 187; Laws of Women, 380.

JUNIPERUS SABINA, med. jur. This plant is commonly called savine.

2. It is used for lawful purposes in medicine, but too frequently for the criminal intent of producing abortion, generally endangering the life of the woman. It is usually administered in powder or oil. The dose of oil for lawful purposes, for a grown person, is from two to four drops. Parr's Med. Dictionary, article Sabina. Fodere mentions a case where a large dose of powdered savine had been administered to an ignorant girl, in the seventh month of her pregnancy, which had no effect on the foetus. It was, however, near taking the life of the girl. Fodere, tome iv. p. 431. Given in sufficiently large doses, four or six grains in the form of powder, kills a dog in a few hours, and even its insertion into a wound has tho same effect. Orfila, Traite des Poisons, tome iii. p. 42. For or a form of indictment for administering savine to a woman quick with child, see 3 Chit. Cr. Law, 798. Vide 1 Beck's Med. Jur. 316,

JURA PERSONARUM. The rights and duties of persons are so called.

JURA RERUM. The rights which a man may acquire in and to such external things as are unconnected with. his person, are called jura rerum. 2 Bl. Com. 1.

JURA SUMMA IMPERII. Rights of sovereignty or supreme dominion.

JURAMENTAE CORPORALIA. Corporal oaths. These oaths are so called, because the party making oath must touch the Bible, or other thing by which he swears.

JURAMENTUM JUDICIALE. A term in the civil law. The oath called juramentum judiciale is that which the judge, of his wwn accord, defers to either of the parties.

2. It is of two kinds. 1st. That which the judge defers for the decision of the cause, and which is understood by the general name juramentum judiciale, and is sometimes called suppletory oath, juramentum suppletorium.

3. − 2d. That which the judge defers in order to fix and determine the amount of the condemnation which he ought to pronounce, and which is called juramentum in litem. Poth. on Oblig. P. 4, s. 3, art. 3.

JURAT Practice. That part of an affidavit where the officer certifies that the same was "sworn" before him.

2. The jurat is usually in the following form, namely "Sworn and subscribed before me, on the ____ day of _____, 1842, J. P. justice of the peace."

3. In some cases it has been holden that it was essential that the officer should sign the jurat, and that it should contain his addition and official description. 3 Caines, 128. But see 6 Wend. 543; 12 Wend. 223; 2 Cowen. 552 2 Wend. 283; 2 John. 479; Harr. Dig. h. t.; Am. Eq. Dig.

JURATA. A certificate placed at the bottom of an affidavit, declaring that the witness has been sworn or affirmed to the truth of the facts therein alleged. Its usual form is,: Sworn (or affirmed) before me, the ____ day of

____, 10 __." The Jurat. (q. v.)

JURATS, officers. In some English corporations, jurats are officers who have much the same power as aldermen in others. Stat. 1 Ed. IV. Stat. 2 & 3 Ed. VI. c. 30; 13 Ed. I., c. 26.

JURE. By law; by right; in right; as, jure civilis, by the civil law; jure gentium, by the law of nations; jure representationis, by right of representation; jure uxoris, in right of a wife.

JURIDICAL. Signifies used in courts of law; done in conformity to the laws of the country, and the practice which is there observed.

JURIDICAL DAYS. Dies juridici. Days in court on which the law is administered.

JURIS ET DE JURE. A phrase employed to denote conclusive presumptions of law, which cannot be rebutted by evidence. The words signify of law and from law. Best on Presumption, _17.

JURISCONSULT. One well versed in jurisprudence; a jurist: one whose profession it is to give counsel on questions of law.

JURISDICTION, Practice. A power constitutionally conferred upon a judge or magistrate, to take cognizance of, and decide causes according to law, and to carry his sentence into execution. 6 Pet. 591; 9 John. 239. The tract of land or district within which a judge or magistrate has jurisdiction, is called his territory, and his power in relation to his territory is called his territorial jurisdiction.

2. Every act of jurisdiction exercised by a judge without his territory, either by pronouncing sentence or carrying it into execution, is null. An inferior court has no jurisdiction beyond what is expressly delegated. 1 Salk. 404, n.; Gilb. C. P. 188; 1 Saund. 73; 2 Lord Raym. 1311; and see Bac. Ab. Courts, &c., C, et seq; Bac. Ab. Pleas, E 2.

3. Jurisdiction is original, when it is conferred on the court in the first instance, which is called original jurisdiction; (q. v.) or it is appellate, which is when an appeal is given from the judgment of another court. Jurisdiction is also civil, where the subject−matter to be tried is not of a criminal nature; or criminal, where the court is to punish crimes. Some courts and magistrates have both civil and criminal jurisdiction. Jurisdiction is also concurrent, exclusive, or assistant. Concurrent jurisdiction is that which may be entertained by several courts. It is a rule that in cases of concurrent jurisdictions, that which is first seized of the case shall try it to the exclusion of the other. Exclusive jurisdiction is that which has alone the power to try or determine the Suit, action, or matter in dispute. assistant jurisdiction is that which is afforded by a court of chancery, in aid of a court of law; as, for example, by a bill of discovery, by the examination of witnesses de bene esse, or out of the jurisdiction of the court; by the perpetuation of the testimony of witnesses, and the like.

4. It is the law which gives jurisdiction; the consent of, parties, cannot, therefore, confer it, in a matter which the law excludes. 1 N. & M. 192; 3 M'Cord, 280; 1 Call. 55; 1 J. S. Marsh. 476; 1 Bibb, 263; Cooke, 27; Minor, 65; 3 Litt. 332; 6 Litt. 303; Kirby, 111; 1 Breese, 32; 2 Yerg. 441; 1 Const. R. 478. But where the court has jurisdiction of the matter, and the defendant has some privilege which exempts him from the jurisdiction, he may wave the privilege. 5 Cranch, 288; 1 Pet. 449; 8 Wheat. 699; 4 W. C. C. R. 84; 4 M'Cord, 79; 4 Mass. 593; Wright, 484. See Hardin, 448; 2 Wash. 213.

5. Courts of inferior jurisdiction must act within their jurisdiction, and so it must appear upon the record. 5 Cranch, 172 Pet. C. C. R. 36; 4 Dall. 11; 2 Mass. 213; 4 Mass. 122; 8 Mass. 86; 11 Mass. 513; Pr. Dec. 380; 2 Verm. 329; 3 Verm. 114; 10 Conn. 514; 4 John. 292; 3 Yerg. 355; Walker, 75; 9 Cowen, 227; 5 Har. & John. 36; 1 Bailey, 459; 2 Bailey, 267. But the legislature may, by a general or special law, provide otherwise. Pet. C. C. R. 36. Vide 1 Salk. 414; Bac. Ab. Courts, &c., C. D; Id. Prerogative, E 6; Merlin, Rep. h. t.; Ayl. Pat. 317, and the art. Competency. As to the force of municipal law beyond the territorial jurisdiction of the state, see Wheat. Intern. Law, part a, c. 2, _7, et seq.; Story, Confl. of Laws, c. 2; Huberus, lib. 1, t. 3; 13 Mass. R. 4 Pard. Dr. Com. part. 6, t. 7, c. 2, _1; and the articles Conflict of Laws; Courts of the United States. See generally, Bouv. Inst. Index, h. t.

JURISDICTION CLAUSE. That part of a bill in chancery which is intended to give jnrisdiction of the suit to, the court, by a general averment that the' acts complained of are contrary to equity, and tend to the injury of the plaintiff, and that. he has no remedy, or not a complete remedy, without the assistance of a court of equity, is called the jurisdiction clause. Mitf. Eq. Pl. by Jeremy, 43.

2. This clause is unnecessary, for if the court appear from the bill, to have jurisdiction, the bill will be sustained without this clause; and if the court have not jurisdiction, the bill will be dismissed though the clause may be inserted. Story, Eq. Pl. _34.

JURISPRUDENCE. The science of the law. By science here, is understood that connexion of truths which is

founded on principles either evident in themselves, or capable of demonstration; a collection of truths of the same kind, arranged in methodical order. In a more confined sense, jurisprudence is the practical science of giving a wise interpretation to the laws, and making a just application of them to all cases as they arise. In this sense, it is the habit of judging the same questions in the same manner, and by this course of judgments forming precedents. 1 Ayl. Pand. 3 Toull. Dr. Civ. Fr. tit. prel. s. 1, n. 1, 12, 99; Merl. Rep. h. t.; 19 Amer. Jurist, 3.

JURIST. One well versed in the science of the law. The term i's usually applied to students and practitioners of law.

JUROR, practice. From juro, to swear; a man who is sworn or affirmed to serve on a jury.

2. Jurors are selected from citizens, and may be compelled to serve by fine; they generally receive a compensation for their services while attending court they are privileged from arrest in civil cases.

JURY. A body of men selected according to law, for the purpose of deciding some controversy.

2. This mode of trial by jury was adopted soon after the conquest of England, by William, and was fully established for the trial of civil suits in the reign of Henry II. Crabb's C. L. 50, 61. In the old French law they are called inquests or tourbes of ten men. 2 Loisel's Instit. 238, 246, 248.

3. Juries are either grand juries, (q. v.) or petit juries. The former having been treated of elsewhere, it will only be necessary to consider the latter. A petit jury consists of twelve citizens duly qualified to serve on juries, impanneled and sworn to try one or more issues of facts submitted to them, and to give a judgment respecting the same, which is called a verdict.

4. Each one of the citizens so impanneled and sworn is called a juror. Vide Trial.

5. The constitution of the United States directs, that "the trial of all crimes, except in cases of impeachment, shall be by jury;" and this invaluable institution is also, secured by the several state constitutions. The constitution of the United States also provides that in suits at common law, where the value in controversy shall exceed twenty dollars, the right of trial by jury shall be preserved. Amendm. VII.

6. It is scarcely practicable to give the rules established in the different states to secure impartial juries; it may, however, be stated that in all, the selection of persons who are to serve on the jury is made by disinterested officers, and that out of −the lists thus made out, the jurors are selected by lot.

JURY BOX. A place set apart for the jury to sit in during the trial of a cause.

JURY LIST. A paper containing the names of jurors impanneled to try a cause, or it contains the names of all the jurors summoned to attend court.

JUS. Law or right. This term is applied in many modern phrases. It is also used to signify equity. Story, Eq. Jur. _1; Bract, lib. 1, c. 4, p. 3; Tayl. Civ. Law, 147; Dig. 1, 1, 1.

2. The English law, like the Roman, has its jus antiquum and jus novum and jus novissimum. The jus novum may be supposed to have taken its origin about the end of the reign of Henry VII. A. D. 1509. It assumed a regular form towards the end of the reign of Charles II. A. D. 1685, and from that period the jus novissimum may be dated. Lord Coke, who was born 40 years after the death of Henry VII. is most advantageously considered as the connecting link of the jus antiquum and jus novissimum of English law. Butler's Remin.

JUS ABUTENDI. The right to abuse. By this phrase is understood the right to abuse property, or having full dominion over property. 3 Toull. n. 86.

JUS ACCRESCENDI. The right of survivorship.

2. At common law, when one of several joint tenants died, the entire tenancy or estate went to the survivors, and so on to the last survivor, who took an estate of inheritance. This right, except in estates held in trust, has been abolished by statute in Alabama, Delaware, Georgia, Illinois, Indiana, Kentucky, Michigan, Missouri Mississippi, New York, North Carolina, Pennsylvania, South−Carolina, Tennessee, and Virginia. Griff. Reg. h. t.; 1 Hill. Ab. 439, 440. In Connecticut, 1 Root, Rep. 48; 1 Swift's Dig. 102. In Louisiana, this right was never recognized. See 11 Serg. & R. 192; 2 Caines, Cas. Err. 326; 3 Verm. 543; 6 Monr. R. 15; Estate in common; Estate in joint tenancy.

JUS AD REM. property, title. This phrase is applied to designate the right a man has in relation to a thing; it is not the right in the thing itself, but only against the person who has contracted to deliver it. It is a mere imperfect or inchoate right. 2 Bl. Com. 312 Poth. Dr. de Dom. de Propriete, ch. prel. n. 1. This phrase is nearly equivalent to chose in action. 2 Wooddes. Lect. 235. See, 2 P. Wms. 491; 1 Mason, 221 1 Story, Eq. Jur. 506; 2 Story, Eq. Jur. _1215; Story, Ag. _352; and Jus in re.

JUS AQUAEDUCTUS, CIV. law. The name of a servitude which Lives to the owner of land the right to bring

down water through or from the land of another, either from its source or from any other place.

2. Its privilege may be limited as to the time when it may be exercised. If the source fails, the servitude ceases, but revives when the water returns. If the water rises in, or naturally flows through the land, its proprietor cannot by any grant divert it so as to prevent it flowing to the land below. 2 Roll. Ab. 140, l. 25; Lois des Bat. part. 1, c. 3, s. 1, art. 1. But if it had been brought. into his land by artificial means, it seems it would be, strictly his property, and that it would be in his power to grant it. Dig. 8, 3, 1 & 10; 3 Burge on the Confl. of Laws, 417. Vide Rain water.; River; Water−course.

JUS CIVILE. Among the Romans by jus civile was understood the civil law, in contradistinction to the public law, or jus gentium. 1 Savigny, Dr. Rom. c. 1, _1.

JUS CIVITATIS. Among the Romans the collection of laws which are to be observed among all the members of a nation were so called. It is opposed to jus gentium, which is the law which regulates the affairs of nations among themselves. 2 Lepage, El. du Dr. ch. 5, page l.

JUS CLOACAE, civil law. The name of a servitude which requires the paity who is subject to it, to permit his neighbor to conduct the waters which fall on his grounds over those of the servient estate.

JUS DARE. To give or to make the law. Jus dare belongs to the legislature; jus dicere to the judge.

JUS DICERE. To declare the law. This word is used to explain the power which the court has to expound the law; and not to make it, jus dare.

JUS DELIBERANDI. The right of deliberating, which in some countries, where the heir may have benefit of inventory, (q. v.) is given to him to consider whether he will accept or renounce the succession.

2. In Louisiana he is allowed ten days before he is required to make his election. Civ. Code, art. 1028.

JUS DISPONENDI. The right to dispose of a thing.

JUS DUPLICATUM, property, title. When a man has the possession as well as the property of anything, he is said to have a double right, jus duplicatum. Bract. 1. 4, tr. 4, c. 4 2 Bl. Com. 199.

JUS FECIALE. Among the Romans it was that species of international law which had its foundation in the religious belief of different nations, such as the international law which now exists among the Christian people of Europe. Sav. Dr. Rom. ch. 2,

JUS FIDUCIARUM, Civil law. A right to something held in trust; for this there was a remedy in conscience. 2 Bl. Com. 328.

JUS GENTIUM. The law of nations. (q. v.) Although the Romans used these words in the sense we attach to law of nations, yet among them the sense was much more extended. Falck, Encyc. Jur. 102, n. 42.

2. Some modern writers have made a distinction between the laws of nations which have for their object the conflict between. the laws of different nations, which they call jus gentium privatum, or private international law; and those laws of nations which regulate those matters which nations, as such, have with each other, which is de nominated jus gentium publicum, or public international law. Foelix, Droit Interm. Prive, n. 14.

JUS GLADII. Supreme jurisdiction. The right to absolve from, or condemn a man to death.

JUS HABENDI. The right to have and enjoy a thing.

JUS INCOGNITUM. An unknown law. This term is applied by the civilians to obsolete laws, which, as Bacon truly observes, are unjust, for the law to be just must give warning before it strikes. Bac. Aphor. 8, s. 1: Bowy. Mod. Civ. Law, 33. But until it has become obsolete no custom can prevail against it. Vide Obsolete.

JUS LEGITIMUM, civil law. A legal right which might have been enforced by due course of law.. 2 Bl. Com. 328.

JUS MARITI, Scotch law. The right of the hushand to administer, during the marriage, his wife’s goods and the rents of her heritage.

2. In the common law, by jus mariti is understood the rights of the hushand; as, jus mariti cannot attach upon a bequest to the wife, although given during coverture, until the executor has assented to the legacy. 1 Bail. Eq. R. 214.

JUS MERUM. A simple or bare right; a right to property in land, without possession, or the right of possession.

JUS PATRONATUS, eccl. law. A commission from the bishop, directed usually to his chancellor and others of competent learning, who are required to summon a jury composed of six clergymen and six laymen, to inquire into and examine who is the rightful patron. 3 Bl. Com. 246.

JUS PERSONARUM. The right of persons.

2. A branch of the law which embraces the theory of the different classes of men who exist in a state which has

been formed by nature or by society; it includes particularly the theory of the ties of families, and the legal form and juridical effects of the relations subsisting between them. The Danes, the English, and the learned in this country, class under this head the relations which exist between men in a political point of view. Blackstone, among others, has adopted this classification. There seems a confusion of ideas when such matters are placed under this head. Vide Bl. Com. Book 1.

JUS PRECARIUM, civil law. A right to a thing held for another, for which there was no remedy. 2 Bl. Com. 328.

JUS POSTLIMINII, property, title. The right to claim property after re−capture. Vide, Postliminy; Marsh. Ins. 573; 1 Kent, Com. 108. Dane's Ab. Index, h. t.

JUS PROJICIENDI, Civil law. The name of a servitude; it is the right which the owner of a building has of projecting a part of his building towards the adjoining house, without resting on the latter. It is extended merely over the ground. Dig. 50, 16, 242, 1; Dig. 8, 2, 25; Dig. 8, 5, 8, 5.

JUS PROTEGENDI, civil law. The name of a servitude; it is a right by which a part of the roof or tiling of one house is made to extend over the adjoining house. Dig. 50, 16, 242, 1 Dig. 8, 2, 25; Dig. 8, 5, 8, 5.

JUS QUAESITUM. A right to ask or recover; for example, in an obligation there is a binding of the obligor, and a jus quaesitum in the obligee. 1 Bell's Com. 323, 5th ed.

JUS IN RE, property, title. The right which a man has in a thing by which it belongs to him. It is a complete and full right. Poth. Dr. de Dora. de Prop. n. 1.

2. This phrase of the civil law conveys the same idea as thing, in possession does with us. 4 Wooddes. Lect. 235; vide 2 P. Wins. 491; 1 Mason, 221; 1 Story, Eq. Jur. _506; 2 Story, Eq. Jur. _1215; Story, Ag. _352; and Jus ad rem.

JUS RELICTA, Scotch law. The right of a wife, after her hushand's death, to a third of movables, if there be children; and to one−half, if there be none.

JUS RERUM. The right of things. Its principal object is to ascertain how far a person can have a permanent dominion over things, and how that dominion is acquired. Vide Bl. Com. Book 2.

JUS STRICTUM. A Latin phrase, which signifies law interpreted without any modification, and in its utmost rigor.

JUS UTENDI. The right to use property, without destroying its substance. It is employed in contradistinction to the jus abutendi. (q. v.) 3 Toull. n. 86.

JUST. This epithet is applied to that which agrees with a given law which is the test of right and wrong. 1 Toull. prel. n. 5 Aust. Jur. 276, n. It is that which accords with the perfect rights of others. Wolff, Inst. _83; Swinb. part 1, s. 2, n. 5, and part 1, _4, n. 3. By just is also understood full and perfect, as a just weight Swinb. part 1, s. 3, U. 5.

JUSTICE. The constant and perpetual disposition to render every man his due. Just. Inst. B. 1, tit. 1. Toullier defines it to be the conformity of our actions and our will to the law. Dr. Civ. Fr. tit. prel. n. 5. In the most extensive sense of the word, it differs little from virtue, for it includes within itself the whole circle of virtues. Yet the common distinction between them is that that which considered positively and in itself, is called virtue, when considered relatively and with respect to others, has the name of justice. But justice being in itself a part of virtue, is confined to things simply good or evil, and consists in a man's taking such a proportion of them as he ought.

2. Justice is either distributive or commutative. Distributive justice is that virtue whose object is to distribute rewards and punishments to each one according to his merits, observing a just proportion by comparing one person or fact with another, so that neither equal persons have unequal things, nor unequal persons things equal. Tr. of Eq. 3, and Toullier's learned note, Dr. Civ. Fr. tit. prel. n. 7, note.

3. Commutative justice is that virtue whose object it is to render to every one what belongs to him, as nearly as may be, or that which governs contracts. To render commutative justice, the judge must make an equality between the parties, that no one may be a gainer by another's loss. Tr. Eq. 3.

4. Toullier exposes the want of utility and exactness in this division of distributive and commutative justice, adopted in the compendium or abridgments of the ancient doctors, and prefers the division of internal and external justice; the first being a conformity of our will, and the latter a conformity of our actions to the law: their union making perfect justice. Exterior justice is the object of jurisprudence; interior justice is the object of morality. Dr. Civ. Fr. tit. prel. n. 6 et 7.

5. According to the Frederician code, part 1, book 1, tit. 2, s. 27, justice consists simply in letting every one

enjoy the rights which he has acquired in virtue of the laws. And as this definition includes all the other rules of right, there is properly but one single general rule of right, namely, Give every one his own. See, generally, Puffend. Law of Nature and Nations, B. 1, c. 7, s. 89; Elementorum Jurisprudentiae Universalis, lib. 1, definito, 17, 3, 1; Gro. lib. 2, c. 11, s. 3; Ld. Bac. Read. Stat. Uses, 306; Treatise of Equity, B. 1, c. 1, s. 1.

JUSTICES. Judges. Officers appointed by a competent authority to administer justice. They are so called, because, in ancient times the Latin word for judge was justicia. This term is in common parlance used to designate justices of the peace.

JUSTICES IN EYRE. They were certain judges established if not first appointed, A. D. 1176, 22 Hen. II. England was divided into certain circuits, and three justices in eyre, or justices itinerant, as they were sometimes called, were appointed to each district, and made the circuit of the kingdom once in seven years for the purpose of trying causes. They were afterwards directed by Magna Charta, c. 12, to be sent into every county once a year. The itinerant justices were sometimes mere justices of assize or dower, or of general gaol delivery, and the like. 3 Bl. Com. 58−9; Crabb's Eng. Law, 103−4. Vide Eire.

JUSTICES OF THE PEACE. Public officers invested with judicial powers for the purpose of preventing breaches of the peace, and bringing to punishment those who have violated the law.

2. These officers, under the Constitution of the United States and some of the states, are appointed by the executive in others, they are elected by the people, and commissioned by the executive. In some states they hold their office during good behaviour, in others for a limited period.

3. At common law, justices of the peace have a double power in relation to the arrest of wrong doers; when a felony or breach of the peace has been committed in their presence, they may personally arrest the offender, or command others to do so; and in order to prevent the riotous consequences of a tumultuous assembly, they may command others to arrest affrayers, when the affray has been committed in their presence. If a magistrate be not present when a crime is committed, before he can take a step to arrest the offender, an oath or affirmation must be made by some person cognizant of the fact that the offence has been committed, and that the person charged is the offender, or there is probable cause to believe that he has committed the offence.

4. The Constitution of the United States directs, that "no warrants shall issue, but upon probable cause, supported by oath or affirmation." Amendm. IV. After his arrest, the person charged is brought before the justice of the peace, and after bearing he is discharged, held to bail to answer to the complaint, or, for want of bail, committed to prison.

5. In some, perhaps all the United States, justices of the peace have jurisdiction in civil cases, given to them by local regulations. In Pennsylvania, their jurisdiction in cases of contracts, express or implied, extends to one hundred dollars. Vide, generally, Burn's Justice; Graydon's Justice Baches Manual of a Justice of the Peace Com. Dig. h. t.; 15 Vin. Ab. 3; Bac. Ab. h. t.; 2 Sell. Pr. 70; 2 Phil. Ev. 239; Chit. Pr. h. t.; Amer. Dig. h. t.

JUSTICIAR, or JUSTICIER. A judge, or justice the same as justiciary.

JUSTICIARII ITINERANTES, Eng. law. They were formerly justices, who were so called because they went from county to county to administer justice. They were usually called justices in eyre, (q. v.) to distinguish them from justices residing at Westminster, who were called justicii residentes. Co. Litt. 293. Vide Itinerant.

JUSTICIARII RESIDENTES, Eng. law. They were justices or judges, who usually resided in Westminster; they were so called to distinguish them from justices in eyre. Co. Litt. 293. Vide Justiciarii Itinerantes.

JUSTICIARY, officer. Another name for a judge. In Latin, he was called justiciciarius, and in French, justicier. Not used. Bac. Ab. Courts and their Jurisdiction, A.

JUSTICIES, Eng. law. The name of a writ which acquires its name from the mandatory words which it contains, "that you do A B justice."

2. The county court has jurisdiction in cases where damages are claimed, only to a certain amount; but sometimes suits are brought there, when greater damages are claimed. In such cases, an original writ, by this name, issues out of chancery, in order to give the court jurisdiction. See 1 Saund. 74, n. 1.

JUSTIFIABLE HOMICIDE. That which is committed with the intention to kill, or to do a grievous bodily injury, under circumstances which the law holds sufficient to exculpate the person who commits it.

2. It is justifiable, 1. When a judge or other magistrate acts in obedience to the law. 2. When a ministerial officer acts in obedience to a lawful warrant, issued by a competent tribunal. 3. When a subaltern officer, or soldier, kills in obedience to the lawful commands of his superior. 4. When the party kills in lawful self−defence.

3. − _1. A judge who, in pursuance of his duty, pronounces sentence of death, is not guilty of homicide; for it is

evident, that as the law prescribes the punishment of death for certain offences, it must protect those who are entrusted with its execution. A judge, therefore, who pronounces sentence of death, in a legal manner, on a legal indictment, legally brought before him, for a capital offence committed within his jurisdiction, after a lawful trial and conviction, of the defendant, is guilty of no offence.

4. − 2. Magistrates, or other officers entrusted with the preservation of the public peace, are justified in committing homicide, or giving orders which lead to it, if the excesses of a riotous assembly cannot be otherwise be repressed.

5 − _2. An officer entrusted with a legal warrant, criminal or civil, and lawffully commanded by a competent tribunal to execute it, will be justified in committing homicide, if, in the course of advancing to discharge his duty, he be brought into such perils that, without doing so, he cannot either save his life, or discharge the duty which he is commanded by the warrant to perform. And when the warrant commands him to put a criminal to death, he is justified in obeying it.

6. − _3. A soldier on duty is justified in committing homicide, in obedience to the command of his officer, unless the command was something plainly unlawful.

7. − _4. A private individual will, in many cases, be justified in committing homicide, while acting in self−defence. See Self−defence. Vide, generally, 1 East, P. C. 219; Hawk. B. 1, c. 28, s. 1, n. 22; Allis. Prin. 126−139; 1 Russ. on Cr. 538; Bac. Ab. Murder, &c., E; 2 Wash. C. C. 515; 4 Mass. 891; 1 Hawkes, 210; 1 Coxes R. 424; 5 Yerg. 459; 9 C. & P. 22; S. C. 38 Eng. C. L. R. 20.

JUSTIFICATION. The act by which a party accused shows and maintains a good and legal reason in court, why he did the thing he is called upon to answer.

2. The subject will be considered by examining, 1. What acts are justifiable. 2. The manner of making the justification. 3. Its effects.

3. − _1. The acts to be justified are those committed with a warrant, and those committed without a warrant. 1. It is a general rule, that a warrant or execution, issued by a court haviug jurisdiction, whether the same be right or wrong, justifies the officer to whom it is directed and who is by law required to execute it, and is a complete justification to the officer for obeying its command. But when the warrant is not merely voidable, but is absolutely void, as, for want of jurisdiction in the court which issued it, or by reason of the privilege of the defendant, as in the case of the arrest of an ambassador, who cannot waive his privilege and immunities by submitting to be arrested on such warrant, the officer is no longer justified. 1 Baldw. 240; see 4 Mass. 232; 13 Mass. 286, 334; 14 Mass. 210. 2. A person may justify many acts, while acting without any authority from a court or magistrate. He may justifiably, even, take the life of an aggressor, while acting in the defence of himself, his wife, children, and servant, or for the protection of his house, when attacked with a felonious intent, or even for the protection of his personal property. See Self−defence. A man may justify what would, otherwise, have been a trespass, an entry on the land of another for various purposes; as, for example, to demand a debt due to him by the owner of the land to remove chattels which belong to him, but this entry must be peaceable; to exercise an incorporeal right; ask for lodging's at an inn. See 15 East, 615, note e; 2 Lill. Ab. 134; 15 Vin. Ab. 31; Ham. N. P. 48 to 66; Dane's Ab. Index, h. t.; Entry. It is an ancient principle of the common law, that a trespass may be justified in many cases. Thus: a man may enter on the land of another, to kill a fox or otter, which are beasts against the common profit. 11 H. VIII. 10. So, a house may be pulled down if the adjoining one be on fire, to prevent a greater destruction. 13 H. VIII. 16, b. Tua res agitur paries cum proximus ardet. So, the suburbs of a city may be demolished in time of war, for the good of the commonwealth. 8 Ed. IV. 35, b. So, a man may enter on his neighbor to make a bulwark in defence of the realm. 21 H. VIII. b. So, a house may be broken to arrest a felon. 13 Ed. IV. 9, a; Dodd. Eng. Lawy. 219, 220. In a civil action, a man may justify a libel, or slanderous words, by proving their truth, or because the defendant had a right, upon the particular occasion, either to write and publish the writing, or to utter the words; as, when slanderous words are found in a report of a committee of congress, or in an indictment, or words of a slanderous nature are uttered in the course of debate in the legislature by a member, or at the bar, by counsel, when properly instructed by his client on the subject. See Debate; Slander; Com. Dig. Pleader, 2 L 3 to 2 L 7.

4.− _2. In general, justification must be specially pleaded, and it cannot be given in evidence under the plea of the general issue.

5. − _3. When the plea of justification is supported by the evidence, it is a complete bar to the action. Vide Excuse.

JUSTIFICATORS. A kind of compurgators, or those who, by oath, justified the innocence or oaths of others, as

in the case of wagers of law.

JUSTIFYING BAIL, practice. The production of bail in court, who there justify themselves Against the exception of the plaintiff.