L.

LABEL. A narrow slip of paper or parchment, affixed to a deed or writing hanging at or out of the same. This name is also given to an appending seal.

LABOR. Continued operation; work.

2. The labor and skill of one man is frequently used in a partnership, and valued as equal to the capital of another.

3. When business has been done for another, and suit is brought to recover a just reward, there is generally contained in the declaration, a count for work and labor.

4. Where penitentiaries exist, persons who have committed crimes are condemned to be imprisoned therein at labor.

LACHES. This word, derived from the French lecher, is nearly synonymous with negligence.

2. In general, when a party has been guilty of laches in enforcing his right by great delay and lapse of time, this circumstance will at common law pre−judice, and sometimes operate in bar of a remedy which it is discretionary and not compulsory in the court to afford. In courts of equity, also delay will generally prejudice. 1 Chit. Pr. 786, and the cases there cited; 8 Com. Dig. 684; 6 Johns. Ch. R. 360.

3. But laches may be excused from, ignorance of the party's rights; 2 Mer. R. 362; 2 Ball & Beat. 104; from the obscurity of the transaction; 2 Sch. & Lef. 487; by the pendency of a suit; 1 Sch. & Lef. 413; and where the party labors under a legal disability, as insanity, coverture, infancy, and the like. And no laches can be imputed to the public. 4 Mass. Rep. 522; 3 Serg. & Rawle, 291; 4 Henn. & Munf. 57; 1 Penna. R. 476. Vide 1 Supp. to Ves. Jr. 436; 2 Id. 170; Dane's Ab. Index, h. t.; 4 Bouv. Inst. n. 3911.

LADY'S FRIEND. The name of a functioner in the British house of commons. When the husband sues for a divorce, or asks the passage of an act to divorce him from his wife, he is required to make a provision for her before the passage of the act; it is the duty of the lady's friend to see that such a provision is made. Macq. on H. & W. 213.

LAGA. The law; Magna Carta; hence Saxon−lage, Mercen−lage, Dane−lage, &c.

LAGAN. Goods tied to a buoy and cast into the sea are so called. The same as Ligan. (q.v.)

LAIRESITE. The name of a fine imposed upon those who committed adultery or fornication. Tech. Dict. h. t.

LAITY. Those persons who do not make a part of the clergy. In the United States the division of the people into clergy and laity is not authorized by law, but is, merely conventional.

LAMB. A ram, sheep or ewe, under the age of one year. 4 Car. & P. 216; S. C. 19 Eng. Com. Law Rep. 351.

LAND. This term comprehends any found, soil or earth whatsoever, as meadows, pastures, woods, waters, marshes, furze and heath. It has an indefinite extent upwards as well as downwards; therefore land, legally includes all houses and other buildings standing or built on it; and whatever is in a direct line between the surface and the centre of the earth, such as mines of metals and fossils. 1 Inst. 4 a; Wood's Inst. 120; 2 B1. Com. 18; 1 Cruise on Real Prop. 58. In a more confined sense, the word land is said to denote "frank tenement at the least." Shepp. Touch. 92. In this sense, then, leaseholds cannot be said to be included under the word lands. 8 Madd. Rep. 635. The technical sense of the word land is farther explained by Sheppard, in his Touch. p. 88, thus: "if one be seised of some lands in fee, and possessed of other lands for years, all in one parish, and he grant all his lands in that parish (without naming them) in fee simple or for life; by this grant shall pass no, more but the lands he hath in fee simple." It is also said that land in its legal acceptation means arable land. 11 Co. 55 a. See also Cro. Car. 293; 2 P. Wms. 458, n.; 5 Ves. 476; 20 Vin. Ab. 203.

2. Land, as above observed, includes in general all the buildings erected upon it; 9 Day, R. 374; but to this general rule there are some exceptions. It is true, that if a stranger voluntarily erect buildings on another's land, they will belong to the owner of the land, and will become a part of it; 16 Mass. R. 449; yet cases are, not wanting where it has been decided that such an erection, under peculiar circumstances, would be considered as personal property. 4 Mass. R. 514; 8 Pick. R. 283, 402; 5 Pick, R. 487; 6 N. H. Rep. 555; 2 Fairf. R. 371; 1 Dana, R. 591; 1 Burr. 144.

LAND MARK. A monument set up in order to ascertain the boundaries between two contiguous estates. For removing a land mark an action lies. 1 Tho. Co. Litt. 787. Vide Monuments.

LAND TENANT. He who actually possesses the land. He is technically called the terre−tenant. (q. v.)

LANDLORD. He who rents or leases real estate to another.

2. He is bound to perform certain duties and is entitled to certain rights, which will here be briefly considered.

1st. His obligations are, 1. To perform all the express covenants into which he has entered in making the lease. 2. To secure to the tenant the quiet enjoyment of the premises leased; but a tenant for years has no remedy against his landlord, if he be ousted by one who has no title, in that case the law leaves him to his remedy against the wrong doer. Y. B. 22 H. VI. 52 b, and 32 H. VI. 32 b; Cro. Eliz. 214; 2 Leon. 104; and see Bac. Ab. Covenant, B. But the implied covenant for quiet enjoyment may be qualified, and enlarged or narrowed according to the particular agreement of the parties; and a general covenant for quiet enjoyment does not extend to wrongful evictions or disturbances by a stranger. Y. B. 26 H. VIII. 3 b. 3. The landlord is bound by his express covenant to repair the premises, but unless he bind himself by express covenant the tenant cannot compel him to repair. 1 Saund. 320; 1 Vent. 26, 44; 1 Sed. 429; 2 Keb. 505; 1 T. R. 812; 1 Sim. R. 146.

3. His rights are, 1. To receive the rent agreed upon, and to enforce all the express covenants into which the tenant may have entered. 2. To require the lessee to treat the premises demised in such manner that no injury be done to the inheritance, and prevent waste. 3. To have the possession of the premises after the expiration of the lease. Vide, generally, Com. L. & T., B. 3, c. 1; Woodf. L. & T. ch. 10; 2 Bl. Com. by Chitty, 275, note; Bouv. Inst. Index, h. t.; 1 Supp. to Ves. Jr. 212, 246, 249; 2 Id. 232, 403; Com. Dig. Estate by Grant, G 1; 5 Com. Dig. tit. Nisi Prius Dig. page 553; 8 Com. Dig. 694; Whart. Dig. Landlord & Tenant. As to frauds between landlord and tenant, see Hov. Pr. c. 6, p. 199 to 225.

LANGUAGE. The faculty which men possess of communicating their perceptions and ideas to one another by means of articulate sounds. This is the definition of spoken language; but ideas and perceptions may be communicated without sound by writing, and this is called written language. By conventional usage certain sounds have a definite meaning in one country or in certain countries, and this is called the language of such country or countries, as the Greek, the Latin, the French or the English language. The law, too, has a peculiar language. Vide Eunom. Dial. 2; Technical.

2. On the subjugation of England by William the Conqueror, the French Norman language was substituted in all law proceedings for the ancient Saxon. This, according to Blackstone, vol. iii. p. 317, was the language of the records, writs and pleadings, until the time of Edward III. Mr. Stephen thinks Blackstone has fallen into an error, and says the record was, from the earliest period to which that document can be traced, in the Latin language. Plead. Appx. note 14. By the statute 36 Ed. III. st. 1, c. 15, it was enacted that for the future all pleas should be pleaded, shown, defended, answered, debated and judged in the English tongue; but be entered and enrolled in Latin. The Norman or law French, however, being more familiar as applied to the law, than any other language, the lawyers continued to employ it in making their notes of the trial of cases, which they afterwards published, in that barbarous dialect, under the name of Reports. After the enactment of this statute, on the introduction of paper pleadings, they followed in the language, as well as in other respects, the style of the records, which were drawn up in Latin. This technical language continued in use till the time of Cromwell, when by a statute the records were directed to be in English; but this act was repealed at the restoration, by Charles II., the lawyers finding it difficult to express themselves as well and as concisely in the vernacular as in the Latin tongue; and the language of the law continued as before till about the year 1730, when the statute of 4 Geo. II. c. 26, was passed. It provided that both the pleadings and the records should thenceforward be framed in English. The ancient terms and expressions which had been so long known in French and Latin were now literally translated into English. The translation of such terms and phrases were found to be exceedingly ridiculous. Such terms as nisi prius, habeas corpus, fieri facias, mandamus, and the like, are not capable of an English dress with any degree of seriousness. They are equally absurd in the manner they are employed in Latin, but use and the fact that they are in a foreign language has made the absurdity less apparent.

3. By statute of 6 Geo. II., c. 14, passed two years after the last mentioned statute, the use of technical words was allowed to continue in the usual language, which defeated almost every beneficial purpose of the former statute. In changing from one language to another, many words and technical expressions were retained in the new, which belonged to the more ancient language, and not seldom they partook of both; this, to the unlearned student, has given an air of confusion, and disfigured the language of the law. It has rendered essential also the study of the Latin and French languages. This perhaps is not to be regretted, as they are the keys which open to the ardent student vast stores of knowledge. In the United States, the records, pleadings, and all law proceedings are in the English language, except certain technical terms which retain their ancient French and Latin dress.

4. Agreements, contracts, wills and other instruments, may be made in any language, and will be enforced. Bac. Ab. Wills, D 1. And a slander spoken in a foreign language, if understood by those present, or a libel published in

such language, will be punished as if spoken or written in the English language. Bac. Ab. Slander, D 3; 1 Roll. Ab. 74; 6 T. R. 163. For the construction of language, see articles Construction; Interpretation; and Jacob's Intr. to the Com. Law Max. 46.

5. Among diplomatists, the French language is the one commonly used. At an early period the Latin was the diplomatic language in use in Europe. Towards the end of the fifteenth century that of Spain gained the ascendancy, in consequence of the great influence which that country then exercised in Europe. The French, since the age of Louis XIV. has become the almost universal diplomatic idiom of the civilized world, though some states use their national language in treaties and diplomatic correspondence. It is usual in these cases to annex to the papers transmitted, a translation in the language of the opposite party; wherever it is understood this comity will be reciprocated. This is the usage of the Germanic confederation, of Spain, and of the Italian courts. When nations using a common language, as the United States and Great Britain, treat with each other, such language is used in their diplomatic intercourse.

Vide, generally, 3 Bl. Com. 323; 1 Chit., Cr. Law, *415; 2 Rey, Institutions Judiciaires de l'Angleterre, 211, 212.

LANGUIDUS, practice. The name of a return made by the sheriff, when a defendant whom he has taken by virtue of process is so dangerously sick that to remove him would endanger his life or health. In that case the officer may and ought unquestionably to abstain from removing him, and may permit him to remain even in his own house, in the custody of a follower, though not named in the warrant, he keeping the key of the house in his possession the officer ought to remove him as soon is sufficiently recovered. If there be a doubt as to the state of health of the defendant, the officer should require the attendance and advice of some respectable medical man, and require him, at the peril of the consequences of misrepresentation, to certify in writing whether it be fit to remove the party, or take him to prison within the county. 3 Chit. Pr. 358. For a form of the return of languidus, see 3 Chit. P. 249; T. Chit. Forms, 53.

LAPSE, eccl. law. The transfer, by forfeiture, of a right or power to present or collate to a vacant benefice, from, a person vested with such right, to another, in consequence of some act of negligence of the former. Ayl. Parerg. 331.

LAPSED LEGACY. One which is extinguished. The extinguishment may take place for various reasons. See Legacy, Lapsed.

2. A distinction has been made between a lapsed devise of real estate and a lapsed legacy of personal estate. The real estate which is lapsed does not fall into the residue, unless so provided by the will, but descends to the heir at law; on the contrary, personal property passes by the residuary clause where it is not otherwise disposed of. 2 Bouv. Inst. 2154−6.

LARCENY, crim. law. The wrongful and fraudulent taking and carrying away, by one person, of the mere personal goods, of another, from any place, with a felonious intent to convert them to his, the taker's use, and make them his property, without the consent of the owner. 4 Wash. C. C. R. 700.

2. To constitute larceny, several ingredients are necessary. 1. The intent of the party must be felonious; he must intend to appropriate the property of another to his own use; if, therefore, the accused have taken the goods under a claim of right, however unfounded, he has not committed a larceny.

3. − 2. There must be a taking from the possession, actual or implied, of the owner; hence if a man should find goods, and appropriate them to his own use, he is not a thief on this account. Mart. and Yerg. 226; 14 John. 294; Breese, 227.

4. − 3. There must be a taking against the will of the owner, and this may be in some cases, where he appears to consent; for example, if a man suspects another of an intent to steal his property, and in order to try him leaves it in his way, and he takes it, he is guilty of larceny. The taking must be in the county where the criminal is to be tried. 9 C. & P. 29; S. C. 38 E. C. L. R. 23; Ry. & Mod. 349. But when the taking has been in the county or state, and the thief is caught with the stolen property in another county than that where the theft was committed, he may be tried in the county where arrested with the goods, as by construction of law, there is a fresh taking in every county in which the thief carries the stolen property.

5. − 4. There must be an actual carrying away, but the slightest removal, if the goods are completely in the power of the thief, is sufficient to snatch a diamond from a lady's ear, which is instantly dropped among the curls of her hair, is a sufficient asportation or carrying away.

6. − 5. The property taken must be personal property; a man cannot commit larceny of real estate, or of what is so considered in law. A familiar example will illustrate this; an apple, while hanging on the tree where it grew, is

real estate, having never been separated from the freehold; it is not larceny, therefore, at common law, to pluck an apple from the tree, and appropriate it to one's own use, but a mere trespass; if that same apple, however, had been separated from the tree by the owner or otherwise, even by accident, as if shaken by the wind, and while lying on the ground it should be taken with a felonious intent, the taker would commit a larceny, because then it was personal property. In some states there are statutory provisions to punish the felonious taking of emblements or fruits of plants, while the same are hanging by the roots, and there the felony is complete, although the thing stolen is not, at common law, strictly personal property. Animals ferae naturae, while in the enjoyment of their natural liberty, are not the subjects of larceny; as, doves; 9 Pick. 15; Bee. 3 Binn. 546. See Bee; 5 N. H. Rep. 203. At common law, choses in action are not subjects of larceny. 1 Port. 33.

7. Larceny is divided in some states, into grand and petit larceny this depends upon the value of the property stolen. Vide 1 Hawk, 141 to 250, ch. 19; 4 Bl. Com. 229 to 250; Com. Dig. Justices, O 4, 5, 6, 7, 8; 2 East's P. C. 524 to 791; Burn's Justice, Larceny; Williams' Justice, Felony; 3 Chitty's Cr. Law, 917 to 992; and articles Carrying Away; Invito Domino; Robbery; Taking; Breach, 6.

LARGE. Broad; extensive; unconfined. The opposite of strict, narrow, or confined. At large, at liberty.

LAS PARTIDAS. The name of a code of Spanish law; sometimes called las siete partidas, or the seven parts, from the number of its principal divisions. It is a compilation from the civil law, the customary law of Spain, and the canon law. Such of its provisions is are applicable are in force in Louisiana, Florida, and Texas.

LASCIVIOUS CARRIAGE, law of Connecticut. An offence, ill defined, created by statute, which enacts that every person who shall be guilty of lascivious carriage and behaviour, and shall be thereof duly convicted, shall be punished by fine, not exceeding ten dollars, or by imprisonment in a common gaol, not exceeding two months, or by fine and imprisonment, or both, at the discretion of the court. This law was passed at a very early period. Though indefinite in its terms, it has received a construction so limiting it, that it may be said to punish those wanton acts between persons of different sexes, who are not married to each other, that flow from the exercise of lustful passions, and which are not otherwise punished as crimes against chastity and public decency. 2 Swift's Dig. 343; 2 Swift's Syst. 331.

2. Lascivious carriage may consist not only in mutual acts of wanton and indecent familiarity between persons of different sexes, but in wanton and indecent actions against the will, and without the consent of one of them, as if a man should forcibly attempt to pull up the clothes of a woman. 5 Day, 81.

LAST RESORT. A court of last resort, is one which decides, definitely, without appeal or writ of error, or any other examination whatever, a suit or action, or some other matter, which has been submitted to its judgment, and over which it has jurisdiction.

2. The supreme court is a court of last resort in all matters which legally come before it; and whenever a court possesses the power to decide without appeal or other examination whatever, a subject matter submitted to it, it is a court of last resort; but this is not to be understood as preventing an examination into its jurisdiction, or excess of authority, for then the judgment of a superior does not try and decide so much whether the point decided has been so done according to law, as to try the authority of the inferior court.

LAST SICKNESS. That of which a person died.

2. The expenses of this sickness are generally entitled to a preference, in payment of debts of an insolvent estate. Civ. Code of Lo. art. 3166; Purd. Ab. 393.

3. To prevent impositions, the statute of frauds requires that nuncupative wills shall be made during the testator's last sickness. Rob. on Frauds, 556; 20 John. R. 502.

LATENT, construction. That which is concealed; or which does not appear; for example, if a testator bequeaths to his cousin Peter his white horse; and at the time of making his will and at his death he had two cousins named Peter, and he owned two white horses, the ambiguity in this case would be latent, both as respects the legatee, and the thing bequeathed. Vide Bac. Max. Reg. 23, and article Ambiguity. A latent ambiguity can only be made to appear by parol evidence, and may be explained by the same kind of proof. 5 Co. 69.

LATITAT, Eng. law. He lies hid. The name of a writ calling a defendant to answer to a personal action in the king's bench; it derives its name from a supposition that the defendant lurks and lies hid, and cannot be found in the county of Middlesex, (in which the said court is holden,) to be taken there, but is gone into some other county, and therefore requiring the sheriff to apprehend him in such other county. Fitz. N. B. 78.

LAUNCHES. Small vessels employed to carry the cargo of a large one to and from the shore; lighters. (q. v.)

2. The goods on board of a launch are at the risk of the insurers till landed. 5 N. S. 887. The duties and rights of

the master of a launch are the same as those of the master of a lighter.

LAW. In its most general and comprehensive sense, law signifies a rule of action; and this term is applied indiscriminately to all kinds of action; whether animate or inanimate, rational or irrational. 1 Bl. Com. 38. In its more confined sense, law denotes the rule, not of actions in general, but of human action or conduct. In the civil code of Louisiana, art. 1, it is defined to be "a solemn expression of the legislative will." Vide Toull. Dr. Civ. Fr. tit. prel. s. 1, n. 4; 1 Bouv. Inst. n. 1−3.

2. Law is generally divided into four principle classes, namely; Natural law, the law of nations, public law, and private or civil law. When considered in relation to its origin, it is statute law or common law. When examined as to its different systems it is divided into civil law, common law, canon law. When applied to objects, it is civil, criminal, or penal. It is also divided into natural law and positive law. Into written law, lex scripta; and unwritten law, lex non scripta. Into law merchant, martial law, municipal law, and foreign law. When considered as to their duration, laws are immutable and arbitrary or positive; when as their effect, they are prospective and retrospective. These will be separately considered.

LAW, ARBITRARY. An arbitrary law is one made by the legislator simply because he wills it, and is not founded in the nature of things; such law, for example, as the tariff law, which may be high or low. This term is used in opposition to immutable.

LAW, CANON. The canon law is a body of Roman ecclesiastical law, relative to such matters as that church either has or pretends to have the proper jurisdiction over:

2. This is compiled from the opinions of the ancient Latin fathers, the decrees of general councils, and the decretal epistles and bulls of the holy see. All which lay in the same confusion and disorder as the Roman civil law, till about the year 1151, when one Gratian, an Italian monk, animated by the discovery of Justinian's Pandects, reduced the ecclesiastical constitutions also into some method, in three books, which he entitled Concordia discordantium canonum, but which are generally known by the name of Decretum Gratiani. These reached as low as the time of Pope Alexander III. The subsequent papal decrees to the pontificate of Gregory IX., were published in much the same method, under the auspices of that pope, about the year 1230, in five books, entiled Decretalia Gregorii noni. A sixth book was added by Boniface VIII., about the year 1298, which is called Sextus decretalium. The Clementine constitution or decrees of Clement V., were in like manner authenticated in 1317, by his successor, John XXII., who also published twenty constitutions of his own, called the Extravagantes Joannis, all of which in some manner answer to the novels of the civil law. To these have since been added some decrees of the later popes, in five books called Extravagantes communes. And all these together, Gratian's Decrees, Gregory's Decretals, the Sixth Decretals, the Clementine Constitutions, and the Extravagants of John and his successors, form the Corpus juris canonici, or body of the Roman canon law. 1 Bl. Com. 82; Encyclop,die, Droit Canonique, Droit Public Ecclesiastique; Dict. de Jurispr. Droit Canonique; Ersk. Pr. L. Scotl. B. 1, t. 1, s. 10. See, in general, Ayl. Par. Jur. Can. Ang.; Shelf. on M. & D. 19; Preface to Burn's Eccl. Law, by Thyrwhitt, 22; Hale's Hist. C. L. 26−29; Bell's Case of a Putative Marriage, 203; Dict. du Droit Canonique; Stair's Inst. b. 1, t. 1, 7.

LAW, CIVIL. The term civil law is generally applied by way of eminence to the civil or municipal law of the Roman empire, without distinction as to the time when the principles of such law were established or modified. In another sense, the civil law is that collection of laws comprised in the institutes, the code, and the digest of the emperor Justinian, and the novel constitutions of himself and some of his successors. Ersk. Pr. L. Scotl. B. 1, t. l, s. 9; 6 L. R. 494.

2. The Institutes contain the elements or first principles of the Roman law, in four books. The Digests or Pandects are in fifty books, and contain the opinions and writings of eminent lawyers digested in a systematical method, whose works comprised more than two thousand volumes, The new code, or collection of imperial constitutions, in twelve books; which was a substitute for the code of Theodosius. The novels or new constitutions, posterior in time to the other books, and amounting to a supplement to the code, containing new decrees of successive emperors as new questions happened to arise. These form the body of the Roman law, or corpus juris civilis, as published about the time of Justinian.

3. Although successful in the west, these laws were not, even in the lifetime of the emperor universally received; and after the Lombard invasion they became so totally neglected, that both the Code and Pandects were lost till the twelfth century, A. D. 1130; when it is said the Pandects were accidentally discovered at Amalphi, and the Code at Ravenna. But, as if fortune would make an atonement for her former severity, they have since been the

study of the wisest men, and revered as law, by the politest nations.

4. By the term civil law is also understood the particular law of each people, opposed to natural law, or the law of nations, which are common to all. Just. Inst. l. 1, t. 1, _1, 2; Ersk. Pr. L. Scot. B. 1, t. 1, s. 4. In this sense it, is used by Judge Swift. See below.

5. Civil law is also sometimes understood as that which has emanated from the secular power opposed to the ecclesiastical or military.

6. Sometimes by the term civil law is meant those laws which relate to civil matters only; and in this sense it is opposed to criminal law, or to those laws which concern criminal matters. Vide Civil.

7. Judge Swift, in his System of the Laws of Connecticut, prefers the term civil law, to that of municipal law. He considers the term municipal to be too limited in its signification. He defines civil law to be a rule of human action, adopted by mankind in a state of society, or prescribed by the supreme power of the government, requiring a course of conduct not repugnant to morality or religion, productive of the greatest political happiness, and prohibiting actions contrary thereto, and which is enforced by the sanctions of pains and penalties. 1 Sw. Syst. 37. See Ayl. Pand. B. 1, t. 2, p. 6.

See, in general, as to civil law, Cooper's Justinian the Pandects; 1 Bl. Com. 80, 81; Encyclop,die, art. Droit Civil, Droit Romain; Domat, Les Loix Civiles; Ferriere's Dict.; Brown's Civ. Law; Halifax's Analys. Civ. Law; Wood's Civ. Law; Ayliffe's Pandects; Heinec. Elem. Jur.; Erskine's Institutes; Pothier; Eunomus, Dial. 1; Corpus Juris Civilis; Taylor's Elem. Civ. Law.

LAW, COMMON. The common law is that which derives its force and authority from the universal consent and immemorial practice of the people. It has never received the sanction of the legislature, by an express act, wbich is the criterion by which it is distinguished from the statute law. It has never been reduced to writing; by this expression, however, it is not meant that all those laws are at present merely oral, or communicated from former ages to the present solely by word of mouth, but that the evidence of our common law is contained in our books of Reports, and depends on the general practice and judicial adjudications of our courts.

2. The common law is derived from two sources, the common law of England, and the practice and decision of our own courts. In some states the English common law has been adopted by statute. There is no general rule to ascertain what part of the English common law is valid and binding. To run the line of distinction, is a subject of embarrassment to courts, and the want of it a great perplexity to the student. Kirb. Rep. Pref. It may, however, be observed generally, that it is binding where it has not been superseded by the constitution of the United States, or of the several states, or by their legislative enactments, or varied by custom, and where it is founded in reason and consonant to the genius and manners of the people.

3. The phrase "common law" occurs in the seventh article of the amendments of the constitution of the United States. "In suits at common law, where the value in controversy shall not exceed twenty dollar says that article, "the right of trial by jury shall be preserved. The "common law" here mentioned is the common law of England, and not of any particular state. 1 Gallis. 20; 1 Bald. 558; 3 Wheat. 223; 3 Pet. R. 446; 1 Bald. R. 554. The term is used in contradistinction to equity, admiralty, and maritime law. 3 Pet. 446; 1 Bald. 554.

4. The common law of England is not in all respects to be taken as that of the United States, or of the several states; its general principles are adopted only so far as they are applicable to our situation. 2 Pet, 144; 8 Pet. 659; 9 Cranch, 333; 9 S. & R. 330; 1 Blackf 66, 82, 206; Kirby, 117; 5 Har. & John. 356; 2 Aik. 187; Charlt. 172; 1 Ham. 243. See 5 Cow. 628; 5 Pet. 241; 1 Dall. 67; 1 Mass. 61; 9 Pick. 532; 3 Greenl. 162; 6 Greenl. 55; 3 Gill & John. 62; Sampson's Discourse before the Historical Society of New York; 1 Gallis. R. 489; 3 Conn. R. 114; 2 Dall. 2, 297, 384; 7 Cranch, R. 32; 1 Wheat. R. 415; 3 Wheat. 223; 1 Blackf. R. 205; 8 Pet. R. 658; 5 Cowen, R. 628; 2 Stew. R. 362.

LAW, CRIMINAL. By criminal law is understood that system of laws which provides for the mode of trial of persons charged with criminal offences, defines crimes, and provides for their punishments.

LAW, FOREIGN. By foreign laws are understood the laws of a foreign country. The states of the American Union are for some purposes foreign to each other, and the laws of each are foreign in the others. See Foreign laws.

LAW, INTERNATIONAL. The law of nature applied to the affairs of nations, commonly called the law of nations, jus gentium; is also called by some modern authors international law. Toullier, Droit Francais, tit. rel. _12. Mann. Comm. 1; Bentham. on Morals, &c., 260, 262; Wheat. on Int. Law; Foelix, Du Droit Intern. Priv„ n. 1.

LAW, MARTIAL. Martial law is a code established for the government of the army and navy of the United States.

2. Its principal rules are to be found in the articles of war. (q. v.) The object of this code, or body of regulations is to, maintain that order and discipline, the fundamental principles of which are a due obedience of the several ranks to their proper officers, a subordination of each rank to their superiors, and the subjection of the whole to certain rules of discipline, essential to their acting with the union and energy of an organized body. The violations of this law are to be tried by a court martial. (q. v.)

3. A military commander has not the power, by declaring a district to be under martial law, to subject all the citizens to that code, and to suspend the operation of the writ of habeas corpus. 3 Mart. (Lo.) 531. Vide Hale's Hist. C. L. 38; 1 Bl. Com. 413; Tytler on Military Law; Ho. on C. M.; M'Arth. on C. M.; Rules and Articles of War, art. 64, et seq; 2 Story, L. U. S. 1000.

LAW, MERCHANT. A system of customs acknowledged and taken notice of by all commercial nations; and those customs constitute a part of the general law of the land; and being a part of that law their existence cannot be proved by witnesses, but the judges are bound to take notice of them ex officio. See Beawes' Lex Mercatoria Rediviva; Caines' Lex Mercatoria Americana; Com. Dig. Merchant, D; Chit. Comm. Law; Pardess. Droit Commercial; Collection des Lois Maritimes ant‚rieure au dix hutiŠme siŠcle, par Dupin; Capmany, Costumbres Maritimas; II Consolato del Mare; Us et Coutumes de la Mer; Piantandia, Della Giurisprudenze Maritina Commerciale, Antica e Moderna; Valin, Commentaire sur l'Ordonnance de la Marine, du Mois d'Ao–t, 1681; Boulay−Paty, Dr. Comm.; Boucher, Institutions au Droit Maritime.

LAW, MUNICIPAL. Municipal law is defined by Mr. Justice Blackstone to be "a rule of civil conduct prescribed by the supreme power in a state, commanding what is right and prohibiting what is wrong." This definition has been criticised, and has been perhaps, justly considered imperfect. The latter part has been thought superabundant to the first; see Mr. Christian's note; and the first too general and indefinite, and too limited in its signification to convey a just idea of the subject. See Law, civil. Mr. Chitty defines municipal law to be "a rule of civil conduct, prescribed by the supreme power in a state, commanding what shall be done or what shall not be done." 1 Bl. Com. 44, note 6, Chitty's edit.

2. Municipal law, among the Romans, was a law made to govern a particular city or province; this term is derived from the Latin municipium, which among them signified a city which was governed by its own laws, and which had its own magistrates.

LAW OF NATIONS. The science which teaches the rights subsisting between nations or states, and the obligations correspondent to those rights. Vattel's Law of Nat. Prelim. _3. Some complaints, perhaps not unfounded, have been made as to the want of exactness in the definition of this term. Mann. Comm. 1. The phrase "international law" has been proposed, in its stead. 1 Benth. on Morals and Legislation, 260, 262. It is a system of rules deducible by natural reason from the immutable principles of natural justice, and established by universal consent among the civilized inliabitants of the world; Inst. lib. 1, t. 2, _1; Dig. lib. 1, t. 1, l. 9; in order to decide all disputes, and to insure the observance of good faith and justice in that intercourse which must frequently occur between them and the individuals belonging to each or it depends upon mutual compacts, treaties, leagues and agreements between the separate, free, and independent communities.

2. International law is generally divided into two branches; 1. The natural law of nations, consisting of the rules of justice applicable to the conduct of states. 2. The positive law of nations, which consist of, 1. The voluntary law of nations, derived from the presumed consent of nations, arising out of their general usage. 2. The conventional law of nations, derived from the express consent of nations, as evidenced in treaties and other international compacts. 3. The customary law of nations, derived from the express consent of nations, as evidenced in treaties and other international compacts between themselves. Vattel, Law of Nat. Prel.

3. The various sources and evidence of the law of nations, are the following: 1. The rules of conduct, deducible by reason from the nature of society existing among independent states, which ought to be observed among nations. 2. The adjudication of international tribunals, such as prize courts and boards of arbitration. 3. Text writers of authority. 4. Ordinances or laws of particular states, prescribing rules for the conduct of their commissioned cruisers and prize tribunal's. 5. The history of the wars, negotiations, treaties of peace, and other matters relating to the public intercourse of nations. 6. Treaties of peace, alliance and commerce, declaring, modifying, or defining the pre−existing international law. Wheat. Intern. Law, pt. 1, c. 1, _14.

4. The law of nations has been divided by writers into necessary and voluntary; or into absolute and arbitrary; by

others into primary and secondary, which latter has been divided into customary and conventional. Another division, which is the one more usually employed, is that of the natural and positive law of nation's. The natural law of nations consists of those rules, which, being universal, apply to all men and to all nations, and which may be deduced by the assistance of revelation or reason, as being of utility to nations, and inseparable from their existence. The positive law of nations consists of rules and obligations, which owe their origin, not to the divine or natural law, but to human compacts or agreements, either express or unplied; that is, they are dependent on custom or convention.

5. Among the Romans, there were two sorts of laws of nations, namely, the primitive, called primarium, and the other known by the name of secundarium. The primarium, that is to say, primitive or more ancient, is properly the only law of nations which human reason suggests to men; as the worship of God, the respect and submission which children have for their parents, the attachment which citizens have for their country, the good faith which ought to be the soul of every agreement, and the like. The law of nations called secundarium, are certain usages which have been established among men, from time to time, as they have been felt to be necessary. Ayl. Pand. B. 1, t. 2, p. 6.

As to the law of, nations generally, see Vattel's Law of Nations; Wheat. on Intern. Law; Marten's Law of Nations; Chitty's Law of Nations; Puffend. Law of Nature and of Nations, book 3; Burlamaqui's Natural Law, part 2, c. 6; Principles of Penal Law, ch. 13; Mann. Comm. on the Law of Nations; Leibnitz, Codex Juris Gentium Diplomaticus; Binkershoek, Quaestionis Juris Publici, a translation of the first book of which, made by Mr. Duponceau, is published in the third volume of Hall's Law Journal; Kuber, Droit des Gens Modeme de I'Europe; Dumont, Corps Diplomatique; Mably, Droit Public de l'Europe; Kent's Comm. Lecture 1.

LAW OF NATURE. The law of nature is that which God, the sovereign of the universe, has prescribed to all men, not by any formal promulgation, but by the internal dictate of reason alone. It is discovered by a just consideration of the agreeableness or disagreeableness of human actions to the nature of man; and it comprehends all the duties which we owe either to the Supreme Being, to ourselves, or to our neighbors; as reverence to God, self−defence, temperance, honor to our parents, benevolence to all, a strict adherence to our engagements, gratitude, and the like. Erskines Pr. of L. of Scot. B. 1, t. 1, s. 1. See Ayl. Pand. tit. 2, p. 5; Cicer. de Leg. lib. 1.

2. The primitive laws of nature may be reduced to six, namely: 1. Comparative sagacity, or reason. 2. Self−love. 3. The attraction of the sexes to each other. 4. The tendemess of parents towards their children. 5. The religious sentiment. 6. Sociability.

3. − 1. When man is properly organized, he is able to discover moral good from moral evil; and the study of man proves that man is not only an intelligent, but a free being, and he is therefore responsible for his actions. The judgment we form of our good actions, produces happiness; on the contrary the judgment we form of our bad actions produces unhappiness.

4. − 2. Every animated being is impelled by nature to his own preservation, to defend his life and body from injuries, to shun what may be hurtful, and to provide all things requisite to his existence. Hence the duty to watch over his own preservation. Suicide and duelling are therefore contrary to this law; and a man cannot mutilate himself, nor renounce his liberty.

5. − 3. The attraction of the sexes has been provided for the preservation of the human race, and this law condemns celibacy. The end of marriage proves that polygamy, (q. v.) and polyendry, (q. v.) are contrary to the law of nature. Hence it follows that the husband and wife have a mutual and exclusive right over each other.

6. − 4. Man from his birth is wholly unable to provide for the least of his necessities; but the love of his parents supplies for this weakness. This is one of the most powerful laws of nature. The principal duties it imposes on the parents, are to bestow on the child all the care its weakness requires, to provide for its necessary food and clothing, to instruct it, to provide for its wants, and to use coercive means for its good, when requisite.

7. − 5. The religious sentiment which leads us naturally towards the Supreme Being, is one of the attributes which belong to humanity alone; and its importance gives it the rank of the moral law of nature. From this sentiment arise all the sects and different forms of worship among men.

8. − 6. The need which man feels to live in society, is one of the primitive laws of nature, whence flow our duties and rights; and the existence of society depends upon the condition that the rights of all shall be respected. On this law are based the assistance, succors and good offices which men owe to each other, they being unable to provide each every thing for himself.

LAW, PENAL. One which inflicts a penalty for a violation of its enactment.

LAW, POSITIVE. Positive law, as used in opposition to natural law, may be considered in a threefold point of view. 1. The universal voluntary law, or those rules which are presumed to be law, by the uniform practice of nations in general, and by the manifest utility of the rules themselves. 2. The customary law, or that which, from motives of convenience, has, by tacit, but implied agreement, prevailed, not generally indeed among all nations, nor with so permanent a utility as to become a portion of the universal voluntary law, but enough to have acquired a prescriptive obligation among certain states so situated as to be mutually benefited by it. 1 Taunt. 241. 3. The conventional law, or that which is agreed between particular states by express treaty, a law binding on the parties among whom such treaties are in force. 1 Chit. Comm. Law, 28.

LAW, PRIVATE. An act of the legislature which relates to some private matters, which do not concern the public at large.

LAW, PROSPECTIVE. One which provides for, and regulates the future acts of men, and does not interfere in any way with what has past.

LAW, PUBLIC. A public law is one in which all persons have an interest.

LAW, RETROSPECTIVE. A retrospective law is one that is to take effect, in point of time, before it was passed.

2. Whenever a law of this kind impairs the obligation of contracts, it is void. 3 Dall. 391. But laws which only vary the remedies, divest no right, but merely cure a defect in proceedings otherwise fair, are valid. 10 Serg. & Rawle, 102, 3; 15 Serg. & Rawle, 72. See Ex post facto.

LAW, STATUTE. The written will of the legislature, solemnly expressed according to the forms prescribed by the constitution; an act of the legislature. See Statute.

LAW, UNWRITTEN, or lex non scripta. All the laws which do not come under the definition of written law; it is composed, principally, of the law of nature, the law of nations, the common law, and customs.

LAW, WRITTEN, or lex scripta. This consists of the constitution of the United States the constitutions of the several states the acts of the different legislatures, as the acts of congress, and of the legislatures of the several states, and of treaties. See Statute.

LAWFUL. That which is not forbidden by law. Id omne licitum est, quod non est legibus prohibitum, quamobrem, quod, lege permittente, fit, poenam non meretur. To be valid a contract must be lawful.

LAWLESS. Without law; without lawful control.

LAWS EX POST FACTO. Those which are made to punish actions committed before the existence of such laws, and which had not been declared crimes by preceding laws. Declar. of Rights, Mass. part 1, s. 24 Declar. of Rights, Maryl. art. 15. By the constitution of the United States and those of the several states, the legislatures are forbidden to pass ex post facto laws. Const. U. S. art. 1, s. 10, subd. 1.

2. There is a distinction between ex post facto laws and retrospective laws; every ex post facto law must necessarily be retrospective, but every retro−spective law is not an ex post facto law; the former only are prohibited.

3. Laws under the following circumstances are to be considered ex post facto laws, within the words and intents of the prohibition 1st. Every law that makes an act done before the passing of the law, and which was innocent when done, criminal, and punishes such action. 2d. Every law that aggravates a crime, or makes it greater than it was when committed. 3d. Every law that changes the punishment, and inflicts a greater punishment than the law annexed to the crime when committed. 4th. Every law that alters the legal rules of evidence and receives less, or different testimony, than the law required at the time of the commission of the offence, in order to convict the offender. 3 Dall. 390.

4. The policy, the reason and humanity of the prohibition against passing ex post facto laws, do not extend to civil cases, to cases that merely affect the private property of citizens. Some of the most necessary acts of legislation are, on the contrary, founded upon the principles that private rights must yield to public exigencies. 3 Dall. 400; 8 Wheat. 89; see 1 Cranch, 109; 1 Gall. Rep. 105; 9 Cranch, 374; 2 Pet. S. C. R. 627; Id. 380; Id. 523.

LAWS OF THE TWELVE TABLES. Laws of ancient Rome composed in part from those of Solon, and other Greek legislators, and in part from the unwritten laws or customs of the Romans. These laws first appeared in the year of Rome 303, inscribed on ten plates of brass. The following year two others were added, and the entire code bore the name of the Laws of the Twelve Tables. The principles they contained became the source of all the Roman law, and serve to this day as the foundation of the jurisprudence of the greatest part of Europe.

See a fragment of the Law of the twelve Tables in Coop. Justinian, 656; Gibbon’s Rome, c. 44.

LAWS OF THE HANSE TOWNS. A code of maritime laws known as the laws of the Hanse towns, or the

ordinances of the Hanseatic towns, was first published in German, at Lubec, in 1597. In an assembly of deputies from the several towns held at Lubec, these laws were afterwards, May 23, 1614, revised and enlarged. The text of this digest, and a Latin translation, are published with a commentary by Kuricke; and a French translation has been given by Cleirac.

LAWS OF OLERON, maritime law. A code of sea laws of deserved celebrity. It was originally promulgated by Eleonor, duchess of Guienne, the mother of Richard the First of England. Returning from the Holy Land, and familiar with the maritime regulations of the Archipelago, she enacted these laws at Oleron in Guienne, and they derive their title from the place of their publication. The language in which they were originally written is the Gascon, and their first object appears to have been the commercial operations of that part of France only. Richard I., of England, who inherited the dukedom of Guienne from his mother, improved this code, and introduced it into England. Some additions were made to it by King John; it was prormulgated anew in the 50th year of Henry III., and received its ultimate confirmation in the 12th year of Edward III. Brown's Civ. and Adm. Law, vol. ii. p. 40.

2. These laws are inserted in the beginning of the book entitled "Us et Coutumes de la Mer," with a very excellent commentary on each section by Clairac, the learned editor. A translation is to be found in the Appendix to 1 Pet. Adm. Dec.; Marsh. Ins. B. 1, c. 1, p. 16. See Laws of Wisbuy: Laws of the Hanse Towns; Code

LAWS OF WISBUY, maritime law. A code of sea laws established by "the merchants and masters of the magnificent city of Wisbuy." This city was the ancient capital of Gothland, an island in the Baltic sea, anciently much celebrated for its commerce and wealth, now an obscure and inconsiderable place. Malyne, in his collection of sea laws, p. 44, says that the laws of Oleron were translated into Dutch by the people of Wisbuy for the use of the Dutch coast. By Dutch probably means German, and it cannot be denied that many of the provisions contained in the Laws of Wisbuy, are precisely the same as those which are found in the Laws of Oleron. The northern writers pretend however that they are more ancient than the Laws of Oleron, or than even the Consolato del Mare. Clairac treats this notion with contempt, and declares that at the time of the promulgation of the laws of Oleron, in 1266, which was many years after they were compiled, the magnificent city of Wisbuy had not yet acquired the denomination of a town. Be this as it may, these laws were for some ages, and indeed still remain, in great authority in the northern part of Europe. "Lex Rhodia navalis," says Grotius, "pro jure gentium, in illo mare Mediteraneo vigebat; sicut apud Gallium leges Oleronis, et apud omnes transrhenanos, leges Wisbuenses." Grotius de Jure bel. lib. 2, c. 3.

A translation of these laws is to be found in 1 Peter's Adm. Dee. Appendix. See Code; Laws of Oleron.

LAWS, RHODIAN, maritime. law. A code of laws adopted by the people of Rhodes, who had, by their commerce and naval victories, obtained the sovereignty of the sea, about nine hundred. years before the Christian era. There is reason to suppose this code has not been transmitted to posterity, at least not in a perfect state. A collection of marine constitutions, under the denomination of Rhodian Laws, may be seen in Vinnius, but they bear evident marks of a spurious origin. See Marsh. Ins. B. 1, c. 4, p. 15; this Dict. Code; Laws of Oleron; Laws of Wisbuy; Laws of the Hanse Towns.

LAWYER. A counsellor; one learned in the law. Vide dttorney.

LAY, English law. That which relates to persons or things not ecclesiastical. In the United States the people are not, by law, divided, as in England, into ecclesiastical and lay. The law makes no distinction between them.

TO LAY, pleading. To state or to allege. The place from whence a jury are to be summoned, is called the venue, and the allegation in the declaration, of the place where the jury is to be summoned, is in technical language, said to lay the venue. 3 Steph. Com. 574; 3 Bouv. Inst. n. 2826.

TO LAY DAMAGES. The statement at the conclusion of the declaration the amount of damages which the plaintiff claims.

LAY CORPORATION. One which affects or relates to other than ecclesiastical persons.

LAY DAYS, mar. law. The time allowed to the master of a vessel for loading and unloading the same. In the absence of any custom to the contrary, Sundays are to be computed in the calculation of lay days at the port of discharge. 10 Mees. & Weis. 331. See 3 Esp. 121. They differ from demurrage. (q. v.)

LAY PEOPLE. By this expression was formerly understood jurymen. Finch's Law, B. 4, p. 381 Eunom. Dial. 2, _51, p. 151.

LAYMAN, eccl. law. One who is not an ecclesiastic nor a clergyman.

LAZARET or LAZARETTO. A place selected by public authority, where vessels coming from infected or unhealthy countries are required to perform quarantine. Vide Health.

LAESAE MAJESTATIS CRIMEN. The crime of high treason. Glanv. lib. 1, c. 2; Clef des Lois Rom. h. t.; Inst. 4, 18, 3 Dig. 48, 4; Code, 9, 8.

LE ROI S'AVISERA. The king will consider of it. This phrase is used by the English monarch when he gives his dissent to an act passed by the lords and commons. The same formula was used by the late king of the French, for the same purpose. Toull. n. 52. Vide Veto.

LE ROI LE VEUT. The king assents. This is the formula used in England, and formerly in France, when the king approved of a bill passed by the legislature. 1 Toull. n. 52.

LE ROI VEUT EN DELIBERER. The king will deliberate on it. This is the formula which the late French king used, when he intended to veto an act of the legislative assembly. 1 Toull. n. 42.

TO LEAD TO USES. In England, when deeds are executed prior to fines and recoveries, they are called deeds to lead to uses; when subsequent, deeds to declare the uses.

LEADING. That which is to be followed; as, a leading case; leading question leading counsel.

LEADING CASE. A case decided by a court in the last resort, which settles a particular point or question; the principles upon which it is decided are to be followed in future cases, which are similar to it. Collections of such cases have been made, with commentaries upon them by White, by Wallace and Hare, and others.

LEADING COUNSEL, English, law. When there are two or more counsel employed on the same side in a cause, he who has the principal management of the cause, is called the leading counsel, as distinguished from the other, who is called the junior counsel.

LEADING QUESTION, evidence, Practice. A question which puts into the witness' mouth the words to be echoed back, or plainly suggests the answer which the party wishes to get from him. 7 Serg. & Rawle, 171; 4 Wend. Rep. 247. In that case the examiner is said to lead him to the answer. It is not always easy to determine what is or is not a leading question.

2. These questions cannot, in general, be put to a witness in his examination in chief. 6 Binn. R. 483 , 3 Binn. R. 130; 1 Phill. Ev. 221; 1 Stark. Ev. 123. But in an examination in chief, questions may be put to lead the mind of the witness to the subject of inquiry; and they are allowed when it appears the witness wishes to conceal the truth, or to favor the opposite party, or where, from the nature of the case, the mind of the witness cannot be directed to the subject of inquiry, without a particular specification of such subject. 1 Camp. R. 43; 1 Stark. C. 100.

3. In cross−examinations, the examiner has generally the right to put leading questions. 1 Stark. Ev. 132; 3 Chit. Pr. 892; Rosc. Civ. Ev. 94; 3 Bouv. Inst. n. 3203−4.

LEAGUE, measure. A league is a measure of length, which consists of three geographical miles. The jurisdiction of the United States extends into the sea a marine league. See Acts of Congress of June 5, 1794; 1 Story's L. U. S. 352; and April 20, 1818, 3 Story's L. U. S. 1694; 1 Wait's State Papers, 195. Vide Cannon Shot.

LEAGUE, crim. law, contracts. In criminal law, a league is a conspiracy to do an unlawful act. The term is but little used.

2. In contracts it is applied to agreements between states. Leagues between states are of several kinds. 1st. Leagues offensive and defensive, by which two or more nations agree not only to defend each other, but to carry on war against their common enemies. 2d. Defensive, but not offensive, obliging each to defend the other against any foreign invasion. 3d. Leagues of simple amity, by which one contracts not to invade, injure, or offend the other; this usually includes the liberty of mutual commerce and trade, and the safe guard of merchants and traders in each others dominion. Bac. Ab. Prerogative, D 4. Vide Confederacy; Conspiracy; Peace; Truce; War.

LEAKAGE. The waste which has taken place in liquids, by their escaping out of the casks or vessels in which they were kept. By the act of March 2, 1799, s. 59, 1 Story's L. U. S, 625, it is provided that there be an allowance of two per cent for leakage, on the quantity which shall appear by the gauge to be contained in any cask of liquors, subject to duty by the gallon and ten per cent on all beer, ale, and porter, in bottles and five per cent on all other liquors in bottles; to be deducted, from the invoice quantity, in lieu of breakage or it shall be lawful to compute the duties on the actual quantity, to be ascertained by tale, at the option of the importer, to be made at the, −time of entry.

LEAL. Loyal; that which belongs to the law.

LEAP YEAR. Vide Bissextile.

LEASE, contracts. A lease is a contract for the possession and profits of lands and tenements on one side, and a recompense of rent or other income on the other; Bac. Ab. Lease, in pr.; or else it is a conveyance of lands and tenements to a person for life, or years, or at will, in consideration of a retun of rent, or other recompense.

Cruise’s Dig. tit. Leases. The instrument in writing is also known by the name of lease; and this word sometimes signifies the term, or time for which it was to run; for example, the owner of land, containing a quarry, leases the quarry for ten years, and then conveys the land, "reserving the quarry until the end of the lease;" in this case the reservation remained in force tin the ten years expired, although the lease was cancelled by mutual consent within the ten. years. 8 Pick. R. 3 3 9.

2. To make such contract, there must be a lessor able to grant the land; a lessee, capable of accepting the grant, and a subject−matter capable of being granted. See Lessor; Lessee.

3. This contract resembles several others, namely: a sale,, to constitute which there must be a thing sold, a price for which it is sold, and the consent of the parties as to both. So, in a lease there must be a thing leased, the price or rent, and the consent of the parties as to both. Again, a lease resembles the contract of hiring of a thing, locatio condudio rei, where there must be a thing to be hired, a price or compensation, called the hire, and the agreement and consent of the parties respecting both. Poth. Bail a rente, n. 2.

4. Before proceeding to the examination of the several parts of a lease, it will be proper here to say a few words, pointing out the difference between an agreement or covenant to make a lease, and the lease itself. When an agreement for a lease contains words of present demise, and there are circumstances from which it may be collected that it was meant that the tenant should have an immediate legal interest in the term, such an agreement will amount to an actual lease; but although words of present demise are used, if it appears on the whole, that no legal interest was intended to pass, and that the agreement was only preparatory to a future lease, to be made, the construction will be governed by the intention of the parties, and the contract will be held to amount to no more than an agreement for a lease. 2 T. R. 739. See Co. Litt. 45 b: Bac. Abr. Leases, K; 15 Vin. Abr. 94, pl. 2; 1 Leon. 129; 1 Burr. 2209; Cro. Eliz. 156; Id. 173; 12 East, 168; 2 Campb. 286; 10 John. R. 336; 15 East, 244; 3 Johns. R. 44, 383; 4 Johns. R. 74, 424; 5 T. R. 163; 12 East, 274; Id. 170; 6 East, 530; 13 East, 18; 16 Esp. R. 06; 3 Taunt. 65; 5 B. & A. 322.

5. Having made these few preliminary observations, it is proposed to consider, 1. By what words a lease may be made. 2. Its several parts. 3. The formalities the law requires.

6. − 1 The words "demise, grant, and to farm let," are technical words well understood, and are the most proper that can be used in making a lease; but whatever words are sufficient to explain the intent of the parties, that the one shall divest himself of the possession and the other come into it, for such a determinate time, whether they run in the form of a license, covenant, or agreement, are of themselves sufficient, and will, in construction of law, amount to a lease for years as effectually as if the most proper and pertinent words had been made use of for that purpose. 4 Burr. 2209; 1 Mod. 14; 11 Mod. 42; 2 Mod. 89; 3 Burr. 1446; Bac. Abr. Leases; 6 Watts, 362; 3 M’Cord, 211; 3 Fairf. 478; 5 Rand. 571; 1 Root, 318.

7. − 2. A lease in writing by deed indented consists of the following parts, namely, 1. The premises. 2. The habendum. 3. The tenendum. 4. The reddendum. 5. The covenants. 6. The conditions. 7. The warranty. See Deed.

8. − 3. As to the form, leases may be in writing or not in writing. See Parol Leases. Leases in writing are either by deed or without deed; a deed is a writing sealed and delivered by the parties, so that a lease under seal is a lease by deed. The respective parties, the lessor and lessee, whose deed the lease is, should seal, and now in every case, sign it also. The lease must be delivered either by the parties themselves or their attorneys, which delivery is expressed in the attestation "sealed and delivered in the presence of us." Almost any manifestation, however, of a party’s intention to deliver, if accompanied by an act importing such intention, will constitute a delivery. 1 Ves. jr. 206.

9. A lease may be avoided, 1. Because it is not sufficiently formal; and, 2. Because of some matter which has arisen since its delivery.

10. − 1. It may be avoided for want of either, 1st. Proper parties and a proper subject−matter. 2d. Writing or, printing on parchment or paper, in those cases where the statute of frauds requires they should be in writing. 3d. Sufficient and legal words properly disposed. 4th. Reading, if desired, before the execution. 5th. Sealing, and in most cases, signing also; or, 6th. Delivery. Without these essentials it is void from the beginning.

11. − 2. It may be avoided by matter arising after its delivery; as, 1st. By erasure, interlineation, or other alteration in any material part; an immaterial alteration made by a stranger does not vitiate it, but such alteration made by the party himself, renders it void. 2d. By breaking or effacing the seal, unless it be done by accident. 3d. By delivering it up to be cancelled. 4th. By the disagreement of such whose concurrence is necessary; as, the husband, where a married woman is concerned. 5th. By the judgment or decree of a court of judicature.

LEASE AND RELEASE. A species of conveyance, invented by Serjeant Moore, soon after the enactment of the statute of uses. It is thus contrived; a lease, or rather bargain and sale, upon some pecuniary consideration, for one year, is made by the tenant of the freehold to the lessee or bargainee. This, without any enrolment, makes the bargainor stand seised to the use of the bargainee, and vests in the bargainee the use of the term for one year, and then the statute immediately annexes the possession. Being thus in possession, he is capable of receiving a release of the freehold and reversion, which must be made to the tenant in possession; and, accordingly, the next day a release is granted to him.

2. The lease and release, when used as a conveyance of the fee, have the joint operation of a single conveyance. 2 Bl. Com. 339; 4 Kent, Com. 482; Co. Litt. 207; Cruise, Dig. tit. 32, c. 11.

LEASEHOLD. The right to an estate held by lease.

LEAVE OF COURT. The grant by the court of something, which, without such grant it would have been unlawful to do.

2. Asking leave of court to do any act, is an implied admission of jurisdiction of the court, and, in those cases in which the objection to the jurisdiction must be taken, if at all, by plea to the jurisdiction, and it can be taken in no other way, the court by such asking leave becomes fully vested with the jurisdiction. Bac. Ab. Abatement, A; Bac. Ab. Pleas, &c., E 2; Lawes, Pl. 91; 6 Pick. 391. But such admission cannot aid the jurisdiction except in such cases.

3. The statute of 4 Ann. c. 16, s. 4, provides that it shall be lawful for any defendant, or tenant, in any action or suit, or for any plaintiff in replevin, in any court of record, with leave of the court, to plead as many several matters thereto, as he shall think necessary for his defence. The principles of this statute have been adopted by most of the states of the Union.

4. When the defendant, in pursuance of this statute, pleads more than one plea in bar, to one and the same demand, or thing, all of the pleas, except the first, should purport to be pleaded with leave of the court. But the omission is not error nor cause of demurrer. Lawes, Pl. 132; 2 Chit. Pl. 421; Story, Pl. 72, 76; Gould on Pl. c. 8, _21; Andr. 109; 3 N. H. Rep. 523.

LEDGER, commerce, accounts, evidence. A book in which are inscribed the names of all persons dealing with the person who keeps it, and in which there is a separate account, composed generally of one or more pages for each. There are two parallel columns, on one of which the party named is the debtor, and on the other the creditor, and presents a ready means of ascertaining the state of the account. As this book is a transcript from the day book or journal, it, is not evidence per se.

LEDGER BOOK, eccl. law. The name of a book kept in the prerogative courts in England. It is considered as a roll of the court, but, it seems, it cannot be read in evidence. Bac. Ab. h. t.

LEGACY. A bequest or gift of goods or chattels by testament. 2 Bl. Com. 512; Bac. Abr. Legacies, A. See Merlin, R,pertoire, mot Legs, s. 1; Swinb. 17; Domat, liv. 4, t. 2, _1, n. 1. This word, though properly applicable to bequests of personal estate only, has nevertheless been extended to property not technically within its import, in order to effectuate the intention of the testator, so as to include real property and annuities. 5 T. R. 716; 1 Burr. 268; 7 Ves. 522; Id. 391; 2 Cain. R. 345. Devise is the term more properly applied to gifts of real estate. Godolph. 271.

2. As the testator is presumed at the time of making his will to be inops concilii, his intention is to, be sought for, and any words which manifest the intention to give or create a legacy, are sufficient. Godolph. 281, pt. 3, c. 22, s. 21; Com. Dig. Chancery, 3 Y 4; Bac. Abr. Legacies, B 1.

3. Legacies are of different kinds; they may be considered as general, specific, and residuary. 1. A legacy is general, when it is so given as not to amount to a bequest of a specific part of a testator's personal estate; as of a sum of money generally, or out of the testator's personal estate, or the like. 1 Rop. Leg. 256; Lownd. Leg. 10. A general legacy is relative to the testator's death; it is a bequest of such a sum or such a thing at that time, or a direction to the executors, if such a thing be not in the testator's possession at that time, to procure it for the legatee. Cas. Temp. Talb. 227; Ambl. 57; 4 Ves. jr. 675; 7 Ves. jr. 399.

4. − 2. A specific legacy is a bequest of a particular thing, or money specified and distinguished from all other things of the same kind; as of a particular horse, a particular piece of plate, a particular term of years, and the like, which would vest immediately, with the assent of the executor. 1 Rop. Leg. 149; Lownd. Leg. 10, 11; 1 Atk. 415. A specific legacy has relation to the time of making the will; it is a bequest of some particular thing in the testator's possession at that time, if such a thing should be in the testator's possession at the time of his death. If it

should not be in the testator's possession, the legatee has no claim. There are legacies of quantity in the nature of specific legacies, as of so much money with reference to a particular fund for their payment. Touchst. 433; Amb. 310; 4 Ves. 565; 3 Ves. & Bea. 5.

5. This kind of legacy is so far general, and differs so much in effect from a specific one, that if the funds be called in or fail, the legatees will not be deprived of their legacies, but be permitted to receive them out of the general assets; yet the legacies are go far specific, that they will not be liable to abate with general legacies upon a deficiency of assets. 2 Ves. jr. 640; 5 Ves. jr. 206; 1 Meriv. 178.

6. − 3. A residuary legacy is a bequest of all the testator's personal estate, not otherwise effectually disposed of by his will. Lownd. Leg, 10; Bac. Abr. Legacies, I.

7. As to the interest given, legacies may be considered, as absolute, for life, or in remainder. 1. A legacy is absolute, when it is given without condition, and is to vest immediately. See 2 Vern. 181; Ambl. 750; 19 Ves. 86; Lownd. 151; 2 Vern. 430; 1 Vern. 254; 5 Ves. 461; Com. Dig. Appendix, Chancery IX.

8. − 2. A legacy for life is sometimes given, with an executory limitation after the death of the tenant for life to another person; in this case, the tenant for life is entitled to the possession of the legacy, but when it is of specific article's, the first legatee must sign and deliver to the second, an inventory of the chattels expressing that they are in his custody for life only, and that afterwards they are to be delivered and remain to the use and benefit of the second legatee. 3 P. Wms. 336; 1 Atk. 471; 2 Atk. 82; 1 Bro. C. C. 279; 2 Vern. 249. See 1 Rop. Leg. 404, 5, 580. It seems that a bequest for life, if specific of things quo ipso usu consumuntur, is a gift of the property, and that there cannot be a limitation over, after a life interest in such articles. 3 Meriv. 194.

9. − 8. In personal property there cannot be a remainder in the strict sense of the word, and therefore every future bequest of personal property, whether it be preceded or not by any particular bequest, or limited on a certain or uncertain event, is an executory bequest, and falls under the rules by which that mode of limitation is regulated. Fearne, Cont. R. 401, n. An executory bequest cannot be prevented or destroyed by any alteration whatsoever, in the estate, out of which, or after, which it is limited. Id. 421; 8 Co. 96, a; 10 Co. 476. And this privilege of executory bequests, which exempts them from being barred or destroyed, is the foundation of an invariable rule, that the event on which an interest of this sort is permitted to take effect, is such as must happen within a life or lives in being, and twenty−one years, and the fraction of another year, allowing for the period of gestation afterwards. Fearne, Cont. R. 431.

10. As to the right acquired by the legatee, legacies may be considered as vested and contingent. 1. A vested legacy is one;, by which a certain interest, either present or future in possession, passes to the legatee. 2. A contingent legacy is one which is so given to a person, that it is uncertain whether any interest will ever vest in him.

11. A legacy may be lost by abatement, ademption, and lapse. I. Abatement, see Abatement of Legacies. 2. Ademption, see, Ademption. 3. When the legatee dies before the testator, or before the condition upon which the legacy is given be performed, or before the time at which it is directed to vest in interest have arrived, the legacy is lapsed or extinguished. See Bac. Abr. Legacies, E; Com. Dig. Chancery, 3 Y. 13; 1 P. Wms. 83; Lownd. Leg. ch. 12, p. 408 to 415; 1 Rop. Leg. ch. 8, p. 319 to 341.

12. In Pennsylvania, by legislative enactment, no legacy in favor of a child or other lineal descendant of any testator, shall be deemed or held to lapse or become void, by reason of the decease of such devisee or legatee, in the lifetime of the testator, if such devisee or legatee shall leave issue surviving the testator, but such devise or legacy shall be good and available, in favor of such surviving issue, with like effect, as if such devisee or legatee had survived the testator. The testator may however, intentionally exclude such survlving issue, or any of them. Act of March 19, 1810, 5 Smith's L. of Pa. 112.

13. As to the payment of legacies, it is proper to consider out of what fund they are to be paid; at what time; and to whom. 1. It is a general rule, that the personal estate is the primary fund for the payment of legacies. When the real estate is merely charged with those demands, the personal assets are to be applied in the first place towards their liquidation. 1 Serg. & Rawle, 453; 1 Rop. Leg. 463.

14. − 2. When legacies are given generally to persons under no disability to receive them, the payments ought to be made at the end of a year next after the testator's decease. 5 Binn. 475. The executor is not obliged to pay them sooner although the testator may have directed them to be discharged within six months after his death, because the law allows the executor one year from the demise of the testator, to ascertain and settle his testator's affairs; and it presumes that at the expiration of that period, and not before, all debts due by the estate have been satisfied,

and the executor to be then able, properly to apply the residue among the legatees according to their several rights and interests.

15. When a legacy is given generally, and is subject to a limitation over upon a subsequent event, the divesting contingency will not prevent the legatee from receiving his legacy at the end of the year after the testator's death, and he is under no obligation to give security for re−payment of the money, in case the event shall happen. The principle seems to be, that as the testator has entrusted him without requiring security, no person has authority to require it. 1 Ves. Jr. 97; 18 Ves. 131; Lownd. on Legacies, 403.

16. As to the persons to whom payment to be made, see, where the legacy is given to an infant 1 Rop. Leg. 589 ;1 P. Wms. 285; 1 Eq. Cas. Abr. 300; 3 Bro. C. C. 97, edit. by Belt; 2 Atk. 80; 2 Johns. C. R. 614; where the legacy is given to a married woman; 1 Rop. Leg. 595; Lownd. Leg 399; where the legacy is given to a lunatic, 1 Rop. Leg. 599; where it is given to a bankrupt; Id. 600; 2 Burr. 717.; where it is given to a person abroad, who has not been heard of for a long time. Id. 601 Finch, R. 419; 3 Bro. C. C. 510; 5 Ves. 458; Lownd. Leg. 398.

See, generally, as to legacies; Roper on Legacies; Lowndes on Legacies; Bac. Abr. Legacy; Com. Dig. Administration, C 3, 5; Id. Chancery, 3 A; 3 G; 8 Y 1; Id. Prohibition, G 17; Vin. Abr. Devise; Id. Executor; Swinb. 17 to 44; 2 Salk. 414 to 416.

17. By the Civil Code of Louisiana, legacies are divided into universal legacies, legacies under an universal title, and particular legacies. 1. An universal legacy is a testamentary disposition, by which the testator gives to one or several persons the whole of the property which he leaves; at his decease. Civ. Code of Lo. art. 1599.

18. − 2. The legacy under an universal title, is that by which a testator bequeaths a certain proportion of the effects of which the law permits him to dispose, as a half, a third, or all his immovables, or all his movables, or a fixed proportion of all his immovables, or of all his movables. Id. 1604.

19. − 3. Every legacy not included in the definition given of universal legacies, and legacies under a universal title, is a legacy under a particular title. Id. 1618. Copied from Code Civ. art. 1003 and 1010. See Toullier, Droit Civil Francais, tome 5, p. 482, et seq.

LEGACY, ACCUMULATIVE. An accumulative legacy is a second bequest given by the same testator to the same legatee, whether it be of the same kind of thing, as money, or whether it be of different things, as, one hundred dollars, in one legacy, and a thousand dollars in another, or whether the sums are equal or whether the legacies are of a different naturer 2 Rop. Leg. 19.

LEGACY, ADDITIONAL. An additional legacy is one which is given by a codicil, besides one before given by the will; or it is an increase by a codicil of a legacy before given by the will. An additional legacy is generally subject to the same qualities and conditions as the original legacy. 6. Mod. 31; 2 Ves. jr. 449; 3 Mer. 154; Ward on Leg. 142.

LEGACY, ALTERNATIVE. One where the testator gives one of two things to the legatee without designating which of them; as, one of my two horses. Vide Election.

LEGACY, CONDITIONAL. A bequest which is to take effect upon the happening or, not happening of a certain event. Lownd. Leg. 166; Rop. Leg. Index, tit. Condition.

LEGACY, DEMONSTRATIVE. A demonstrative legacy is a bequest of a certain sum of money; intended for the legatee at all events, with a fund particularly referred to for its payment; so that if the estate be not the testator's property at his death, the legacy will not fail: but be payable out of general assets. 1 Rop. Leg. 153; Lownd. Leg 85; Swinb. 485; Ward on Leg. 370.

LEGACY, INDEFINITE. A bequest of things which are not enumerated or ascertained as to numbers or quantities; as, a bequest by a testator of all his goods, all his stocks in the funds. Lownd. on Leg. 84; Swinb. 485; Amb. 641; 1 P. Wms. 697.

LEGACY, LAPSED. A legacy is said to be lapsed or extinguished, when the legatee dies before the testator, or before the condition upon which the legacy is given has been performed, or before the time at which it is directed to vest in interest has arrived. Bac. Ab. Legacy, E; Com. Dig. Chancery, 3 Y 13; 1 P. Wms. 83. Lownd. Leg. 408 to 415; 1 Rop. Leg. 319 to 341. See, as to the law of Pennsylvania in favor of lineal descendants, 5 Smith's Laws of Pa. 112. Vide, generally, 8 Com. Dig. 502−3; 5 Toull. n. 671.

LEGACY, M0DAL. A modal legacy is a bequest accompanied with directions as to the mode in which it should be applied for the legatee's benefit; for example, a legacy to Titius to put him an apprentice. 2 Vern. 431; Lownd. Leg. 151.

LEGACY, PECUNIARY, A pecuniary legacy is one of money; pecuniary legacies are most usually general

legacies, but there may be a specific pecuniary legacy; for example, of the money in a certain bag. 1 Rop. Leg. 150, n.

LEGACY, RESIDUARY. That which is of the remainder of an estate after the payment of all the debts and other legacies. Madd. Ch. P. 284.

LEGAL. That which is according to law. It is used in opposition to equitable, as the legal estate is, in the trustee, the equitable estate in the cestui que trust. Vide Powell on Mortg. Index, h. t.

2. The party who has the legal title, has alone the right to seek a remedy for a wrong to his estate, in a court of law, though he may have no beneficial interest in it. The equitable owner, is he who has not the legal estate, but is entitled to the beneficial interest.

3. The person who holds the legal estate for the benefit of another, is called a trustee; he who has the beneficiary interest and does not hold the legal title, is called the beneficiary, or more technically, the cestui que trust.

4. When the trustee has a claim, he must enforce his right in a court of equity, for he cannot sue any one at law, in his own name; 1 East, 497; 8 T. R. 332; 1 Saund. 158, n. 1; 2 Bing. 20; still less can he in such court sue his own trustee. 1 East, 497.

LEGAL ESTATE. One, the right to which may be enforced in a court of law. It is distinguished from an equitable estate, the rights to which can be established only in a court of equity. 2 Bouv. Inst. n. 1688.

LEGALIZATION. The act of making lawful.

2. By legalization, is also understood the act by which a judge or competent officer authenticates a record, or other matter, in order that the same may be lawfully read in evidence. Vide Authentication.

LEGATES. Legates are extraordinary ambassadors sent by the pope to catholic countries to represent him, and to exercise his jurisdiction. They are distinguished from the ambassadors of the pope who are sent to other powers.

2. The canonists divide them into three kinds, namely: 1. Legates A latere. 2. Legati missi. 3. Legati nati.

3. − 1. Legates latere hold the first rank among those who are honored by a legation; they are always chosen from the college of cardinals, and are called a latere, in imitation of the magistrates of ancient Rome, who were taken from the court, or side of the emperor.

4. − 2. The legati missi are simple envoys.

5. − 3. The legati nati, are those who are entitled to be legates by birth.

LEGATEE. A legatee is a person to whom a legacy is given by a last will and testament.

2. It is proposed to consider, 1. Who may be a legatee. 2. Under what description legatees may take.

3. − 1. Who may be a legatee. In general, every person may be a legatee. 2 Bl. Com. 512. But a person civilly dead cannot take a legacy.

II. Under what description legatees may take.

4. − _1. Of legacies to legitimate children. 1. When it appears from express declaration, or a clear inference arising upon the face of the will, that a testator in giving a legacy to a class of individuals generally, intended to apply the terms used by him to such persons only as answered the description at the date of the instrument, those individuals alone will be entitled, although if no such intention had been expressed, or appeared in the will, every person failing within that class at the testator's death, would have been included in the terms of the bequest. 1 Meriv. 320; and see 3 Ves. 611; Id. 609; 15 Ves. 363; Ambl. 397; 2 Cox, 291; 4 Bro. C. C. 55; 3 Bro. C. C. 148; 2 Cox, 384.

5. − 2. Where a legacy is given to a class of individuals, as to children, in general terms, and no period is appointed for the distribution of it, the legacy is due at the death of the testator; the payment of it being merely postponed to the end of a year after that event, for the convenience of the executor or administrator in administering the assets. The rights of the legatees are finally settled, and determined at the testator's decease. 1 Ball & B. 459; 2 Murph. 178. Upon this principal, is founded the well established rule that children in existence at that period, or legally considered so to be, are alone entitled to participate in the bequest. 1 Bro. C. C. 532, n.; 2 Bro. C. C. 658; 2 Cox, 190.; 1 Dick. 344; 14 Ves. 576; 1 Ves. jr. 405; 1 Cox, 68; 3 Bro. C. C. 391; Amb. 448; 1 Ves. sen. 485; 5 Binn. 607.

6. − 3. A child in ventre sa mere takes a share in a fund bequeathed to children, under the general description of "children," or of "children living at the testator's death." 1 Ves. sen. 85; and see 1 P. Wms. 244, 341; 2 Bro. C. C. 63; 1 Salk. 229; 2 Cox, 425; 5 Serg. & Rawle, 38. See tit. In ventre sa mere.

7. − 4. When legacies are given to a class of individuals, generally, payable at a future period, as to the children of B, when the youngest shall attain the age of twenty−one, or to be divided among them upon the death of C; any

child who can entitle itself under the description, at the time when the fund is to be divided, may claim a share, viz: as well children living at the period of distribution, although not born till after the testator's death, as those born before, and living at the happening of that event. 1 Supp. to Ves. jr. 115, note 3, to Hill v. Chapman; 2 Supp. to Ves. jr. 157, note 1, to Lincoln v. Pelham. This general rule may be divided into two branches. First, when the division of the fund is postponed until a child or children attain a particular age; as, when a legacy is given to the children of A, at the age of twenty−one; in that case, so soon as the eldest arrives at that period, the fund is distributable among so many as are in existence at that time; and no child born afterwards can be admitted to a share, because the period of division fixes the number of legatees. Distribution is then made, and nothing remains for future partition. 1 Ball & Beat. 459; 3 Bro. C. C. 402; 5 Binn. 607; 2 Ves. jr. 690; 3 Ves. 730; 3 Bro. C. C. 352, ed. by Belt; 14 Ves. 256; 6 Ves. 345; 10 Ves. 152; 11 Ves. 238. Second, when the distribution of the fund is deferred during the life of a person in esse. In these cases, when the enjoyment of the thing given, is by the testator's express declaration not to be immediate by those, among whom it is to be finally divided, but is postponed to a particular period, as the death of A, then the children or individuals who answer the general description at that time, when distribution is to be made, are entitled to take, in exclusion of those afterwards coming in esse. 1 Ves. sen. 111; 1 Bro. C. C. 386; Id. 530; Id. 582; Id. 537; 1 Atk. 509; 2 Atk. 329; 5 Ves. 136; 3 Bro. C. C. 417; 1 Cox, 327; 8 Ves. 375; 15 Ves. 122; 1 Madd. R. 290; 1 Ball & Beat. 449.

8. − 5. The word "children " does not, ordinarily and properly speaking, comprehend grandchildren or issue generally; these are included in that term only in two cases, namely, 1. From necessity, which occurs where the will would remain inoperative unless the sense of the word "children" were extended beyond its natural import; and, 2. Where the testator has shown by other words, that he did not intend to use the term children in its proper and actual meaning, but in a more extended sense. 1 Supp. to Ves. jr. 202, note 2, to Bristow v. Ward. In the following cases, the word children was extended beyond its natural import from necessity. 6 Rep. 16; 10 Ves. 201; 2 Desauss. 123, in note. The following are instances where by using the words children and issue, indiscriminately, the testator showed his intention to use the former term in the sense of issue so as to entitle grandchildren, &c. to take. 1 Ves. sen. 196; S. C. Ambl. 555; 3 Ves. 258; 3 Ves. & Bea. 68; 4 Ves. 437; 2 Supp. to Ves. jr. 158. There is another class of cases wherein it was determined that grandchildren, &c. were not included in the word children. 2 Vern. 107; 4 Ves. 692; 10 Ves. 195; 3 Ves. & Bea. 59; see 2 Desauss. 308.

9. − _2. Of legacies to natural children. 1. Natural children unborn at the date of the will, cannot take under a bequest to the children generally, or to the illegitimate children of A B by Mary C; because a natural child cannot take as the issue of a particular person, until it has acquired the reputation of being the child of that person, which cannot be before its birth. Co, Litt. 3, b.

10. − 2. Natural children, unborn at the date of the will and described as children of the testator or another man, to be born of a particular woman, cannot take under such a description. 1 Peere, Wms. 529; 18 Ves. 288.

11. − 3. A legacy to an illegitimate child in ventre sa mere, described as the child of the testator or of another man, will fail, since whether the testator or such person were or were not in truth the father, is a fact which can only be ascertained by evidence that public policy forbids to be admitted. 1 Meriv. 141 to 152.

12. − 4. A child in ventre sa mere described merely as a child with which the mother is enceinte, without mentioning its putative father; or if the testator express a belief that the child is his own, and provide for it under that impression, regardless of the chance of being mistaken; then the child will in the first place be capable of taking and in the second, as presumed, be also, entitled in consequence of the testator's intent to provide for it, whether he be the father or not. 1 Meriv. 148, 152.

13. − 5. Natural children in existence, having acquired by reputation the name and character of children of a particular person, prior to the date of the will, are capable of taking under the name of children. 1 P. Wms. 529; 1 Ves. & Bea. 467. But the term child, son, issue, and every other word of that species, is to be considered as prima facie to mean legitimate child, son, or issue. Id.

14. − 6. Whether such children take or not depends upon the evidence of the testator's intention, manifested by the will, to include them in the term children; these cases are instances where the evidence of such intention was deemed insufficient. 5 Ves. 530; 1 Ves. & Bea. 454; 6 Ves. 43, 48; 1 Ves. & Bea. 4619; and see 1 Ves. & Bea. 456; 2 East, 530, 542. In the following, the evidence of intention was held to be sufficient. 1 Ves. & Bea. 469; Blundell v. Dunn, cited in 1 Madd. 433; Beachcroft v. Beachcroft, cited in 1 Madd. 430; 2 Meriv. 419.

15. − _3. Of legacies of personal estate to a man and his heirs. 1. A legacy to A and his heirs, is an absolute legacy to A, and the whole interest of the money vests in him for his use. 4 Mad. 361. But when no property in the

bequest is given to A, and the money is bequeathed to his heirs, or to him with a limitation to his heirs, if he die before the testator, and the contingency happens, then if there be nothing in the will showing the sense in which the testator made use of the word heirs, the next of kin of A, are entitled to claim under the description, as the only persons appointed by law to succeed to personal estate. 5 Ves. 403; 4 Ves. 649; 1 Jac. & Walk. 388.

16. − 2. A bequest to the heirs of an individual, without addition or explanation, will belong to the next of kin; the rule, however, is subject to, alteration by the intention of the testator. If then the contents of the will show, that by the word heirs the testator meant other persons than the next of kin, those persons will be entitled. Ambl. 273; 1 P. Wms. 432; Forrest, 56; 2 Atk. 89; See, also, 1 Ves. jr. 145; 4 Madd. 361; 14 Ves. 488; 1 Car. Law R. 484.

17. − _4. Legacies to issue. 1. The term issue, is of very extensive import, and when used as a word of purchase, and unconfined by any indication of intention, will comprise all persons who can claim as descendants from or through the person to whose issue the bequest is made; and in order to restrain the legal sense of the term, a clear intention must appear upon the will. 3 Ves. 257; Id. 421; 1 Meriv. 434; 13 Ves. 344.

18. − 2. Where it appears clearly to be a testator's meaning to provide for a class of individuals living at the date of his will, and he provides against a lapse by the death of any of them in his lifetime, by the substitution of their issue; in such case, although the word will include all the descendants of the designated legatees, yet if any person who would have answered the description of an original legatee when the will was made, be then dead, leaving issue, that issue will be excluded, because the issue of those individuals only who were capable of taking original shares, at the date of the will, were intended to take by substitution; so that as the person who was dead when the will was made, could never have taken an original share, there is nothing for his issue to take in his place. 1 Meriv. 320.

19. − 3. When it can be collected from the will that a testator in using the word issue, did not intend it should be understood in its common acceptation, the import of it will be confined to the persons whom it was intended to comprehend. 7 Ires. 531; 3 Ves. 383; 7 Ves. 522; 1 Ves. jr. 143.

20. − _5. Of legacies to relations. 1. Under a bequest to relations, none are entitled but those, who in the case of intestacy, could have claimed under the statute of distribution. Forrest. 251; 4 Bro. C. C. 207; 1 Bro. C. C. 31; 3 Bro. C. C. 234; 5 Ves. 529; Ambl. 507; Dick. 380; 1 P. Wms. 327; 2 Ves. sen. 527; 19 Ves. 403; 1 Taunt. 263; 1 T. R. 435; n. See the following cases where the bequests were to "poor relations;" 1 P. Wms. 327; 8 Serg. & Rawle, 45; 1 Scho. & Lef. 111; "most necessitous relations;" Ambl. 636.

21. − 2. To this general rule there are several exceptions, namely, first, when the testator has delegated a power to an individual to distribute the fund among the testator's relations according to his discretion; in such an instance whether the bequest be made to "relations" generally, or to "poor," or "poorest," or "most necessitous" relations, the person may exercise his discretion in distributing the property among the testator's kindred although they be not within the statute of distributions. 1 Scho. & Lef. 111, and 16 Ves. 43; 1 T. R. 485, n.; Ambl. 708; 16 Ves. 27, 43. Secondly. Another exception occurs where a testator has fixed ascertain test, by which the number of relatives intended by him to participate in his property, can be ascertained; as if a legacy be given to such of the testator's relations as should not be worth a certain sum, in such case, it seems, all the testator's relatives answering the description would take, although not within the degrees of the statute of distributions. Ambl. 798. Thirdly. Another exception to the general rule is, where a testator has shown an intention in his will, to comprehend relations more remote than those entitled nuder the statute; in that case his intention will prevail. 1 Bro. C. C. 32, n., and see 1 Cox, 235 .

22. − 3. The word "relation" or "relations," may be so qualified as to exclude some of the next of kin from participating in the bequest; and this will also happen when the terms of the bequest are to my "nearest relations;" 19 Ves. 400; Coop. 275; 1 Bro. C. C. 293; and see 1 Ves. sen. 337; Ambl. 70; to testator's relations of his name 1 Ves. sen. 336; or stock, or blood; 15 Ves. 107.

23. − 4. The word relations being governed by the statute of distributions, no person can regularly answer the description but those who are of kin to the testator by blood, consequently relatives by marriage are not included in a bequest to relations generally. 1 Ves. sen. 84; 3 Atk. 761; 1 Bro. C. C. 71, 294.

24. − _6. Legacies to next of kin. 1. When a bequest is made to testator's next of kin, it is understood the testator means such as are related to him by blood. But it is not necessary that the next of kin should be of the whole blood, the half blood answering the description of next of kin, are equally entitled with the whole, and if nearer in degree, will exclude the whole blood. 1 Ventr. 425; Alleyn, 36; Styl. 74.

25 − 2. Relations by marriage are in general excluded from participating in a legacy given to the next of kin. 18

Ves. 53; 14 Ves. 376, 381, 386; and, see 3 Ves. 244; 18 Ves. 49. But this is only a prima facie construction, which may be repelled by the contrary intention of a testator. 14 Ves. 382.

26. − 3. A testator is to be understood to mean by the expression "next of kin," when he does not refer to the statute, or to a distribution of the property as if he had died intestate, those persons only who should be nearest of kin to him, to the exclusion of others who might happen to be within the degree limited by the statute. 3 Bro. C. C. 69; 19 Ves. 404; 14 Ves. 385. See 3 Bro. C. C. 64.

27. − 4. Nearest of kin will alone be entitled under a bequest to the next of kin in equal degree. 12 Ves. 433; 1 Madd. 36.

28. − _7. Legacies to legal personal representatives or to personal representatives. 1. Where there is nothing on the face of the will to manifest a different intention, the legal construction of the words "personal representatives," or "legal personal representatives," is executors or administrators of the person described. 6 Ves. 402; 6 Mead. 159. A legacy limited to the personal or legal personal representatives of A, unexplained by anything in the will, will entitle A's executors or administrators to it, not as representing A, or as part of his estate, or liable to his debts, but in their own right as personae designated by the law. 2 Mad. 155.

29. − 2. In the following cases the executors or administrators were held to be entitled under the designation of personal, or legal personal representatives. 3 Ves. 486; Anstr. 128.

30. − 3. The next of kin and not the executors or administrators, were, in the following cases, held to be entitled under the same designation. 3 Bro. C. C. 224, approved by Lord Rosslyn in 3 Ves. 486; 3 Ves. 146; 19 Ves. 404.

31. − 4. The same words were held to mean children, grandchildren, &c. to the exclusion of those persons who technically answer the description of "personal representatives." 3 Ves. 383.

32. − 5. A husband or wife may take as such, if there is a manifest intention in the will that they should and if either be clothed with the character of executor or administrator of the other, the prima facie legal title attaches to the office, which will prevail, unless an intention to the contrary be expressed or clearly apparent in the instrument. See 14 Ves. 382; 18 Ves. 49; 3 Ves. 231; 2 Ves. sen. 84; 3 Atk. 758; 1 Rop. Husb. and Wife, 326; 2 Rop. Husb. and. Wife, 64.

33. − _8. The construction of bequests when limited to executors and administrators. 1. Where personal estate is given to B, his executors and administrators, the law transfers to B the absolute interest in the legacy. 15 Ves. 537; 2 Mad. 155.

34. − 2. If no interest were given to B, and the bequest were to his executors and administrators, it should seem that the individual answering the description would be beneficially entitled as personal designatae, in analogy to the devise of real estate to the heir of B, without a previous limitation to B, whose heir would take by purchase in his own right, and not by force of the word "heir" considered as a term of limitation. 2 Mad. 155. See 8 Com. Dig. Devise of Personal Property, xxxvi.

35: − _9. Legacies to descendants. 1. A legacy to the descendants of A, will comprehend all his children, grandchildren, &c.; and if the will direct the bequest to be divided equally among them, they are entitled to the fund per capita. Ambl. 97; 3 Bro. C. C. 369.

36. − _10. Legacies to a family. 1. The word family, when applied to personal property, is synonymous with "kindred," or "relations;" see 9 Ves. 323. This being the ordinary acceptation of the word family, it may nevertheless be confined to particular relations by the context of the will; or the term may be enlarged by it, so that the expression may, in some cases, mean children, or next of kin, and in others may even include relations by marriage. See 8 Ves. 604; Dy. 333; 5 Ves. 166; Hob. 33; Coop. 122; 5 M. & S. 126; 17 Ves. 263; 1 Taunt. 266; 14 Ves. 488; 9 Ves. 319; 3 Meriv. 689.

37. − _11. Legacies to servants. 1. To entitle himself to a bequest "to servants," the relation of master and servant must have arisen out of a contract by which the claimant must have formed an engagement which entitled the master to the service of the individual during the whole period, or each and every part of the time for which he contracted to, serve. 12 Ves. 114; 2 Vern. 546.

38. − 2. To claim as a servant, the legatee must in general be in the actual service of the testator at the time of his death. Still a servant may be considered by a testator as continuing in his employment, and be intended to take under the bequest, although he quitted the testator's house previous to his death, so as to answer the description in the instrument; and to establish which fact declarations of the testator upon the subject cannot be rejected; but testimony that the testator meant a servant notwithstanding his having left the testator's service, to take a legacy bequeathed only to servants in his employment at his death, cannot be received as in direct opposition to the will.

16 Ves. 486, 489.

39. − _12. The different periods of time at which persons answering the descriptions of next of kin, family relations, issue, heirs, descendants and personal representatives, (to whom legacies are given by those terms generally, and without discrimination,) were required to be in esse, for the purpose of participating in the legatory fund. 1. When the will expresses or clearly shows that a testator in bequeathing to the relations, &c. of a deceased individual, referred to such of them as were in existence when the will was made, they only will be entitled; as if the bequest was, "I give œ1000 to the descendants of the late A B, now living," those descendants only in esse at the date of the will can claim the legacy. Ambl. 397.

40. − 2. But, in general, a will begins to speak at the death of the testator, and consequently in ordinary cases, relations, next of kin, issue, descendants, &c., living at that period will alone divide the property bequeathed to them by those words. See 1 Ball &. Beat. 459; 1 Bro. C. C. 532; 3 Bro. C. C. 224; 5 Ves. 399; 1 Jac. & Walk, 388, n.; 3 Meriv. 689; 5 Binn. 607; 2 Murph. 178.

41. − 3. If a testator express, or his intention otherwise appear from his will, that a bequest to his relations, &c., living at the death of a person, or upon the happening of any other event, should take the fund, his next of kin only in existence at the period described, will be entitled, in exclusion of the representatives of such of them as happened to be then dead. 3 Ves. 486; 9 Ves. 325; 1 Atk. 469; 15 Ves. 27; 4 Vin. Abr. 485, pl. 16; 8 Ves. 38; 5 Binn. 606; see 6 Munf. 47.

42. − _13. When the fund given to legatees, by the description of "family," "relations" "next in kin," &c., is to be divided among them either per capita, or per stirpes, or both per stirpes et capita. 1. Where the testator gives a legacy to his relations generally, if his next of kin be related to him in equal degree, as brothers, there being no children of a deceased brother, the brothers will divide the fund among them in equal shares, or per capita; each being entitled in his own right to an equal share. So it would be if all the brothers had died before the testator, one leaving two children, another three, &c., all the nephews and nieces would take in equal shares, per capita, in their own rights, and not as representing their parents; because they are sole next of kin, and related to the testator in equal degree. Pre. Ch. 54; and see 1 P. Wms. 595; 1 Atk. 454; 3 P. Wms. 50. But if the testator's next of kin happen not to be related to him in equal degrees, as a brother, and the children of a deceased brother, so as that under the statute the children would take per stirpes as representing their parent, namely, the share he would have taken had he been living; yet if the testator has shown au intention that his next of kin shall be entitled to his property in equal shares, i. e. per capita, the distribution by the statute will be superseded. This may happen where the bequest is to relations, next of kin, &c., to be equally divided among them; or by expressions of like import. Forrest. 251; and see 1 Bro. C. C. 33; 8 Serg. & Rawle, 43; 11 Serg. & Rawle 103; 1 Murph. 383.

43. − 2. Where a bequest is to relations, &c., those persons only who are next of kin are entitled, and the statute of distributions is adopted, not only to ascertain the persons who take, but also the proportions and manner in which the property is to be divided; the will being silent upon the subject, if the next of kin of the person described be not related to him in equal degree, those most remote can only claim per stirpes, or in right of those who would have been entitled under the statute if they had been living. Hence it appears that taking per stirpes, always supposes an inequality in relation−ship. For example, where a testator bequeaths a legacy to his "relations," or "next of kin," and leaves at his death two children, and three grandchildren, the children of a deceased child; the grandchildren would take their parents' share, that is, one−third per stirpes under the statute, as representing their deceased parent. 1 Cox, 235.

44. − 3. Where a testator bequeaths personal estate to several persons as tenants in common, with a declaration that upon all or any of their deaths before a particular time, their respective shares shall be equally divided among the issue or descendants of each of them, and they die before the arrival of the period, some leaving children, others grandchildren, and great grandchildren, and other grandchildren and more remote descendants in such case the issue of each deceased person will take their parents share per stirpes; and such issue, whether children only, or children and grandchildren, &c., will divide each parent's share among them equally per capita. 1 Ves. sen. 196.

45. − _14. The effect of a mistake in the names of legatees. 1. Where the name has been mistaken in a will or deed, it will be corrected from the instrument, if the intention appear in the description of the legatee or donee, or in other parts of the will or deed. For example, if a testator give a bequest to Thomas second son of his brother John, when in fact John had no son named Thomas, and his second son was called William; it was held William was entitled. 19 Ves. 381; Coop. 229; and see Ambl. 175; Co. Litt. 3, a; Finch's R. 403; 3 Leon, 18. When a

bequest is made to a class of individuals, nomin−atim, and the name or christian name of one of them is omitted, and the name or christian name of another is repeated; if the context of the will sbow that the repetition of the name was error, and the name of the person omitted was intended to have been inserted, the mistake will be corrected. As where a testator gave his residuary estate to his six grandchildren, by their christian names. The name of Ann, one of them, was repeated, and the name of Elizabeth, another of them, was omitted. The context of the will clearly showed the mistake which had occurred, and Elizabeth was admitted to an equal share in the bequest. 1 Bro. C. C. 30; see 2 Cox, 186. And is to cases where parol evidence will be received to prove the mistakes in the names or additions of legatees, and to ascertain the proper person, see 3 B. & A. 632 to 642; 6 T. R. 676; 2 P. Wms. 137; 1 Atk. 410: 1 P. Wms. 421; 5 Rep. 68, b; 6 Ves. 42; 7 East, 302; Ambl. 75.

46. − _15. The effect of mistakes in the descriptions of legatees, and the admission of parol evidence in those cases. 1. Where the description of the legatee is erroneous, the error not having been occasioned by any fraud practiced upon the testator, and there is no doubt as to the person who was intended to be described, the mistake will not disappoint the bequest. Hence if a legacy be given to a person by a correct name, but a wrong description or addition, the mistaken description will not vitiate the bequest, but be rejected; for it is a maxim that veritas nominis tollit errorem demonstrationis. Ld. Bac. Max. reg. 25; and see 2 Ves. jr. 589; Ambl. 75; 4 Ves. 808; Plowd. 344; 19 Ves. 400.

47. − 2. Wherever a legacy is given to a person under a particular description and character which he himself has falsely assumed; or, where a testator, induced by the false representations of third persons to regard the legatee in a relationship which claims his bounty, bequeaths him a legacy according with such supposed relationship, and no motive for such bounty can be supposed, the law will not, in either case, permit the legatee to avail himself of the description, and therefore he cannot demand his legacy. See 4 Ves. 802; 4 Bro. C. C. 20.

48. − 3. The same principle which has establisbed the admissibility of parol evidence to correct errors in naming legatees, authorizes its allowance to rectify mistakes in the description of them. Ambl. 374; 1 Ves. jr. 266; 1 Meriv. 184.

49. − 4. If neither the will nor extrinsic evidence is sufficient to dispel the ambiguity arising from the attempt to apply the description of the legatee to the person intended by the testator, the legacy must fail from the uncer− tainty of its object. 7 Ves. 508; 6 T. R. 671.

50. − _16. The consequences of imperfect descriptions of, or reference to legatees, appearing upon the face of wills, and when parol evidence is admissible. These cases occur, 1. When a blank is left for the Christian name of the legatee. 2. When the whole name is omitted. 3. When the testator has merely written the initials of the name; and, 4. When legatees have been once accurately described, but in a subsequent reference to one of them, to take an additional bounty, the person intended is doubtful, from ambiguity in the terms.

51. − 1. When a blank is left for the Christian name of the legatee, evidence is admissible to supply the omission. 4 Ves. 680.

52. − 2. When the omission consists of the entire name of the legatee, parol evidence cannot be admitted to supply the blank. 2 Ch. Ca. 51.; 2 Atk. 239; 3 Bro. C.C. 311.

53. − 3. When a legatee is described by the initials of his name only, parol evidence may be given to prove his identity. 3 Ves. 148. When a patent ambiguity arises from an imperfect reference to one of two legatees correctly described in a prior part of the will, parol evidence is admitted to show which of them was intended, so that the additional legacy intended for the one will depend upon the removal of the obscurity by a sound interpretation of the whole will. 3 Atk. 257 and see 2 Ves. 217; 2 Eden, 107.

See further, upon this subject, Lownd on Leg. ch. 4; 1 Roper on Leg. ch. 2; Com. Dig. Chancery, 3 Y; Bac. Abr. h.. t. Vin. Abr. h. t.; Nels. Abr. h. t.; Whart. Dig. Wills, G. P.; Hamm. Dig. 756; Grimk, on Exec. ch. 5; Toll. on Executors, ch. 4.

LEGALIS HOMO. A person who stands rectus in curia, who possesses all his civil rights. A lawful man. One who stands rectus in curia, not outlawed nor infamous. In this sense are the words probi et legates homines.

LEGANTINE CONSTITUTIONS. The name of a code of ecclesiastical laws, enacted in national synods under Pope Gregory IX., and Pope Clement IV., about the years from 1220 to 1230.

LEGATARY. One to whom anything is bequeathed; a legatee. This word is sometimes though seldom used to designate a legate or nuncio.

LEGATION. An embassy; a mission.

2. All persons attached to a foreign legation, lawfully acknowledged by the government of this country, whether

they are ambassadors, envoys, winisters, or attaches, are protected by the act of April 30, 1790, 1 Story's L. U. S. 83, from violence, arrest or molestation. 1 Dall. 117; 1 W. C. C. R. 232; 11 Wheat. 467; 2 W. C. C. Rep. 435; 4 W. C. C. R. 531; 1 Miles, 366; 1 N & M. 217; 1 Bald. 240; Wheat. Int. Law, 167. Vide Ambassador; Envoy; Minister.

LEGATORY, dead man's part or share. (q. v.) The third part of a freeman's personal estate, which by the custom of London, in case he had a wife and children, the freeman might always have disposed of by will. Bac. Ab. Customs of London, D 4.

LEGISLATIVE POWER. The authority under the constitution to make laws and to alter or repeal them.

LEGISLATOR. One who makes laws.

2. In order to make good laws, it is necessary to understand those which are in force; the legislator ought therefore, to be thoroughly imbued with a knowledge of the laws of his country, their advantages and defects; to legislate without this previous knowledge is to attempt to make a beautiful piece of machinery with one's eye shut. There is unfortunately too strong a propensity to multiply our laws and to change them. Laws must be yearly made, for the legislatures meet yearly but whether they are always for the better may be well questioned. A mutable legislation is always attended with evil. It renders the law uncertain, weakens its effects, hurts credit, lessens the value of property, and as they are made frequently, in consequence of some extraordinary case, laws sometimes operate very unequally. Vide 1 Kent, Com. 227 and Le Magazin Universel, tome ii. p. 227, for a good article against excessive legislation; Matter, De l'Influence des Lois sur les Moeurs, et de l'Influence des Moeurs sur les Lois.

LEGISLATURE, government. That body of men in the state which has the power of making laws.

2. By the Constitution of the United States, art. 1, s. 1, all legislative powers granted by it are vested in a congress of the United States, which shall consist of a senate and house of representatives.

3. It requires the consent of a majority of each branch of the legislature in order to enact a law, and then it must be approved by the president of the United States, or in case of his refusal, by two−thirds of each house. Const. U. S. art. 1, s. 7, 2.

4. Most of the constitutions of the several states, contain provisions nearly similar to this. In general, the legislature will not exercise judicial functions; yet the use of supreme power upon particular occasions, is not without example. Vide Judicial.

LEGITIMACY. The state of being born in wedlock; that is, in a lawful manner.

2. Marriage is considered by all civilized nations as the only source of legitimacy; the qualities of husband and wife must be possessed by the parents in order to make the offspring legitimate; and furthermore the marriage must be lawful, for if it is void ab initio, the children who may be the offspring of such marriage are not legitimate. 1 Phil. Ev. Index, h. t.; Civ. Code L. art. 203 to 216.

3. In Virginia, it is provided by statute of 1787, "that the issue of marriages deemed null in law, shall nevertheless be legitimate." 3 Hen. & Munf. 228, n.

4. A conclusive, presumption of legitimacy arises from marriage and cohabitation; and proof of the mother's irregularities will not destroy this presumption: pater est quem nuptiae demonstrant. To rebut this presumption, circumstances must be shown which render it impossible that the husband should be the father, as impotency and the like. 3 Bouv. Inst. n. 300−2. Vide Bastard; Bastardy; Paternity; Pregnancy.

LEGITIMATE. That which is according to law; as, legitimate children, are lawful children, born in wedlock, in contradistinction to bastards; legitimate autbority, or lawful power, in opposition to usurpation.

LEGITIMATION. The act of giving the character of legitimate cbildren to those who were not so born.

2. In Louisiana, the Civil Code, art. 217, enacts that "children born out of marriage, except those who are born of an incestuous or adulterous connexion, may be legitimated by the subsequent marriage of their father and mother whenever the latter have legally acknowledged them for their children, either before their marriage, or by the contract of marriage itself."

3. In most of the other states the character of legitimate children is given to those who are not so, by special acts of assembly. In Georgia, real estate may descend from a mother to her illegitimate children and their representatives, and from such child, for want of descendants, to brothers and sisters, born of the same mother, and their representatives. Prince's Dig. 202. In Alabama, Kentucky, Mississippi, Vermont and Virginia, subsequent marriages of parents, and recognition by the father, legitimatize an illegitimate child and in Massachusetts, for all purposes except inheriting from their kindred. Mass. Rev. St. 414.

4. The subsequent marriage of parents legitimatizes the child in Illinois, but he must be afterwards acknowledged. The same rule seems to have been adopted in Indiana and Missouri. An acknowledgment of illegitimate children, of itself, legitimatizes in Ohio, and in Michigan and Mississippi marriage alone between the reputed parents has the same effcct. In Maine, a bastard inherits to one who is legally adjudged, or in writing owns himself to be the father. A bastard may be legitimated in North Carolina, on application of the putative father to court, either where he has married the mother, or she is dead, or married another or lives out of the state. In a number of the states, namely, in Alabama, Connecticut, Illinois, Indiana, Kentucky, Maine, Massachusetts, Michigan, North Carolina, Ohio, Rhode Island, Tennessee, Vermont, and Virginia, a bastard takes by descent from his mother, with modifications regulated by the laws of these states. 2 Hill, Ab. s. 24 to 35, and the authori−ties there referred to. Vide Bastard; Bastardy; Descent.

LEGITIME, civil law. That portion of a parent's estate of which he cannot disinherit his children, without a legal cause. The civil code of Louisiana declares that donations inter vivos or mortis causa cannot exceed two−thirds of the property of the disposer if he leaves at his decease a legitimate child; one half if he leaves two children; and one−third if he leaves three or a greater number. Under the name of children are included descendants of wbatever degree they may be; it must be understood that they are only counted for the child they represent. Civil. Code of Lo. art. 1480.

3. Donation inter vivos or mortis causa, cannot exceed two−thirds of the property if the disposer having no children have a father, mother, or both. Id. art. 1481. Where there are no descendants, and in case of the previous decease of the father and mother, donations inter vivos and mortis causa, may, in general, be made of the whole amount of the property of the disposer. Id. art. 1483. The Code Civil makes nearly similar previsions. Code Civ. L. 3, t. 2, c. 3, s. 1, art. 913 to 919.

4. In Holland, Germany, and Spain, the principles of the Falcidian law, more or less limited, have been generally adopted. Coop. Just. 616.

5. In the United States, other than Louisiana and in England, there is no restriction on the right of bequeathing. But this power of bequeathing did not originally extend to all a man's personal estate; on the contrary, by the common law, as it stood in the reian of Henry II, a man's goods were to be divided into three equal parts, one of which went to his heirs or lineal descendants, another to his wife, and the third was at his own disposal; or if he died without a wife, he might then dispose of one moiety, and the other went to his children; and so e converso if he had no children, the wife was entitled to one moiety, and he might bequeath the other; but if he died without either wife or issue, the whole was at his own disposal. Glanv. 1. 2, c. 6;, Bract. 1. 2, c. 26. The shares of the wife and children were called their reasonable part. 2 Bl. Comm. 491−2. See Death's part; Falcidian law.

LENDER, contracts. He from whom a thing is borrowed.

2. The contract of loan confers rights, and imposes duties on the lender. 1. The lender has the right to revoke the loan at his mere pleasure; 9 Cowen, R. 687; 8 Johns. Rep. 432; 1 T. R. 480; 2 Campb. Rep. 464; and is deemed the owner or proprietor of the thing during the period of the loan; so that au action for a trespass or conversion will lie in favor of the lender against a stranger, who has obtained a wrongful possession, or has made a wrongful conversion of the thing loaned; as mere gratuitous permission to a third person to use a chattel does not, in contemplation of the common law, take it out of the possession of the owner. 11 Johns. Rep. 285; 7 Cowen, Rep. 753; 9 Cowen, Rep. 687; 2 Saund. Rep. 47 b; 8 Johns. Rep. 432; 13 Johns. Rep. 141, 661; Bac. Abr. Trespass, c 2; Id. Trover, C 2. And in this the Civil agrees with the common law. Dig. 13, 6, 6, 8; Pothier, Pr‚t …, Usage, ch. 1, _1, art. 2, n. 4; art. 3, n. 9; Ayliffe's Pand. B. 4, t. 16, p. 517; Domat, B. 1, t. 5, _1, n. 4; and so does the Scotch law. Ersk. Pr. Laws of Scotl. B. 3, t. 1 _8.

3. − 2. In the civil law, the first obligation on the part of the lender, is to suffer the borrower to use and enjoy the thing loaned during the time of the loan, according to the original intention. Such is not the doctrine of the common law. 9 Cowen, Rep. 687. The lender is obliged by the civil law to reimburse the borrower the extraordinary expenses to which he has been put for the preservation of the thing lent. And in such a case, the borrower would have a lien on the thing, and may detain it, until these extraordinary expenses are paid, and the lender cannot, even by an abandonment of the thing to the borrower, excuse himself from re−payment, nor is he excused by the subsequent loss of the thing by accident, nor by a restitution of it by the borrower, without insisting upon repayment. Pothier, Pr‚t … Usage, ch. 3, n. 82, 83; Dig. 13, 6, 18, 4; Ersk. Pr. Laws of Scotl. B. 3, t. 1, _9. What would be decided at common law does not seem very clear. Story on Bailm. _274. Another case of implied obligation on the part of the lender by the civil law is, that he is bound to give notice to the borrower of the

defects of the thing loaned; and if he does not and conceals them, and any injury occurs to the borrower thereby, the lender is responsible. Dig. 13, 6, 98, 3; Poth. Pr,t … Usage, n. 84; Domat, Liv. 1, t. 5, s. 3, n. 3. In the civil law there is also an implied obligation on the part of the lender where the thing has been lost by the borrower, and after he has paid the lender the value of it, the thing has been restored to the lender; in such case the lender must return to the borrower either the price or thing. Dig. 13, 6, 17, 5; Poth. Id. n. 85. "The common law seems to recognize the same principles, though," says Judge Story, Bailm. _276, "it would not perhaps be easy to cite a case on a gratuitous loan directly on the point." See Borrower; Commodate; Story, Bailm. ch. 4; Domat. Liv. 2, tit. 5; 1 Bouv. Inst. n. 1078, et seq.

LESION, contracts. In the civil law this term is used to signify the injury suffered, in consequence of inequality of situation, by one who does not receive a full equivalent for what he gives in a commutative contract.

2. The remedy given for this injury, is founded on its being the effect of implied error or imposition; for in every commutative contract, equivalents are supposed to be given and received. Louis. Code, 1854. Persons of full age, however, are not allowed in point of law to object to their agreements as being injurious, unless the injury be excessive. Poth. Oblig. P. 1, c. 1, s. 1, art. 3, _4. But minors are admitted to restitution, not only against any excessive inequality, but against any inequality whatever. Poth. Oblig. P. 1, c. 1, s. 1, art. 3, _5; Louis. Code, art. 1858.

3. Courts of chancery relieve upon terms of redemption and set aside contracts entered into by expectant heirs dealing for their expectancies, on the ground of mere inadequacy of price. 1 Vern. 167; 2 Cox, 80; 2 Cas. in Ch. 136; 1 Vern. 141; 2 Vern. 121; 2 Freem. 111; 2 Vent. 359; 2 Vern. 14; 2 Rep. in Ch. 396; 1 P. W. 312; 1 Bro. C. C. 7; 3 P. Wms. 393, n.; 2 Atk. 133; 2 Ves. 125; 1 Atk. 301; 1 Wils. 286; 1 Wils. 320; 1 Bro. P. 6. ed. Toml. 198; 1 Bro. C. C. 1; 16 Ves. 512; Sugd. on Vend. 231, n. k.; 1 Ball & B. 330; Wightw. 25; 3 Ves. & Bea. 117; 2 Swanst. R. 147, n.; Fonb. notes to the Treatise of Equity, B, 1, c. 2, s. 9. A contract cannot stand where the party has availed himself of a confidential situation, in order to obtain some selfish advantage. Note to Crowe v. Ballard. 1 Ves. jun. 125; 1 Hov. Supp. 66, 7. Note to Wharton v. May. 5 Ves. 27; 1 Hov. Supp. 378. See Catching bargain; Fraud; Sale.

LESSEE. He to whom a lease is made. The subject will be considered by taking a view, 1. Of his rights. 2. Of his duties.

2. − 1. He has a right to enjoy the premises leased for the term mentioned in the lease, and to use them for the purpose agreed upon. He may, unless, restrained by the covenants in the lease, either assign it, or underlet the premises. 1 Cruise, Dig. 174. By an assignment of the lease is meant the transfer of all the tenant's interest in the estate to another person; on the contrary, an underletting is but a partial transfer of the property leased, the lessee retaining a reversion to himself.

3. − 2. The duties of the lessee are numerous. First, he is bound to fulfil all express covenants he has entered into in relation to the premises leased; and, secondly, he is required to fulfil all implied covenants, which the relation of lessee imposes upon him towards the lessor. For example, he is bound to put the premises to no other use than that for which it was hired; when a farm is let to him for common farming purposes, he cannot open a mine and dig ore which may happen to be in the ground; but if the mine has been opened, it is presumed both parties intended it should be used, unless the lessee were expressly restrained; 1 Cruise, Dig. 132. He is required to use the property in a tenant−like and proper manner; to take reasonable care of it and to restore it at the end of his term, subject only to the deterioration produced by ordinary wear and the reasonable use for which it was demised. 12 M. & W. 827. Although he is not bound, in the absence of an express covenant, to rebuild in case of destruction by fire or other accident, yet he must keep the house in a habitable state if he received it in good order. See Repairs. The lessee is required to restore the property to the lessor at the end of the term.

4. The lessee remains chargeable, after an assignment of his term, as before, unless the lessor has accepted the assignee; and even then he continues liable in covenant on an express covenaut, as for repairs, or to pay rent; 2 Keb. 640; but not for the performance of an implied one, or, as it is usually termed, a covenant in law. By the acceptance, he is discharged from debt for arrears of future rent. Cro. Jac. 309, 334; Ham. on Parties, 129, 130.

Vide Estate for years; Lease;, Notice to quit: Tenant for years; Underlease.

LESSOR. contr. He who grants a lease. Civ. Code of L. art. 2647.

LESTAGE, Eng: law. Duties paid for unlading goods in port. Harg. L. Tr. 75.

LET. Hinderance, obstacle, obstruction; as, without let, molestation or hinderance.

TO LET. To hire, to lease; to grant the use and possession of something for a compensation.

2. This term is applied to real estate and the words to hire are more commonly used when speaking of personal estate. See Hire, Hirer, and Letter.

3. Letting is very similar to selling; the difference consists, in this; that instead of selling the thing itself, the letter sells only the use of it.

LETTER, com. law, Crim. law. An epistle; a despatch; a written message, usually on paper, which is folded up and sealed, sent by one person to another.

2. A letter is always presumed to be sealed, unless the presumption be rebutted. 1 Caines, R. 682. 1

3. This subject will be considered by 1st. Taking a view of the law relating to the transmission of letters through the post office; and, 2. The effect of letters in making contracts. 3. The ownership of letters sent and received.

4. − _1. Letters are, commonly sent through the post office, and the law has carefully provided for their conveyance through the country, and their delivery to the persons to whom they are addressed. The act to reduce into one the several acts establishing and regulating the post office department, section 21, 3 Story's Laws United States, 1991, enacts, that if any person employed in any of the departments of the post office establishment, shall unlawfully detain, delay, or open, any letter, packet, bag, or mail of letters, with which he shall be entrusted, or which shall have come to his possession, and which are intended to be conveyed by post or, if any such person shall secrete, embezzle, or destroy, any letter or packet entrusted to such person as aforesaid, and which shall not contain any security for, or assurance relating to money, as hereinafter described, every such offender, being thereof duly convicted, shall, for every such offence, be fined, not exceeding three hundred dollars, or imprisoned, not exceeding six months, or both, according to the circumstances and aggravations of the offence. And if any person, employed as aforesaid, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters, with which he or she shall be entrusted, or which shall have come to his or her possession, and are intended to be conveyed by post, containing any bank nots, or bank post bill, bill of exchange, warrant of the treasury of the United States, note of assignment of stock in the funds, letters of attorney for receiving annuities or dividends, or for, selling stock in the funds, or for receiving the interest thereof, or any letter of credit, or note for, or relating to, payment of moneys or any bond, or warrant, draft, bill, or promissory note, covenant, contract, or agreement whatsoever, for, or relating to, the payment of money, or the delivery of any article of value, or the performance of any act, matter, or thing, or any receipt, release, acquittance, or discharge of, or from, any debt; covenant, or demand, or any part thereof, or any copy of any record of any judgment or decree, in any court of law or chancery, or any execution which way may have issued thereon; or any copy of any other record, or any other article of value, or any writing representing the same or if any such person, employed as aforesaid, shall steal, or take, any of the same out of any letter, packet, bag, or mail of letters, that shall come to his or her possession, such person shall, on conviction for any such offence, be imprisoned not less than ten years, nor exceeding twenty−one years; and if any person who shall have taken charge of the mails of the United States, shall quit or desert the same before such person delivers it into the post office kept at the termination of the route, or some known mail carrier, or agent of the general post office, authorized to receive the same, every such person, so offending, shall forfeit and pay a sum not exceeding five hundred dollars, for every such offence; and if any person concerned in carrying the mail of the United States, shall collect, receive, or carry any letter, or packet, or shall cause or procure the same to be done, contrary, to this act, every such offender shall forfeit and pay for every such offence a sum, not exceeding fifty dollars.

5. − _2. Most contracts may be formed by correspondence; and cases not unfrequently arise where it is difficult to say whether the concurrence of the will of the contracting parties took place or not. In order to form a contract both parties must concur at the same time, or there is no agreement. Suppose, for example, that Paul of Philadelphia, is desirous of purchasing a thousand bales of cotton, and offers by letter to Peter of New Orleans, to buy them from him at a certain price; but on the next day he changes his mind, and then he writes to Peter that he withdraws his offer; or on the next day he dies; in either case, there is no contract, because Paul did not continue in the same disposition to buy the cotton, at the time that his offer was accepted. The precise moment when the consent of both parties is perfect, is, in strictness, when the person who made the offer becomes acquainted with the fact that it has been accepted. But this may be presumed from circumstances. The acceptance must be of the same precise terms without any variance whatever. 4 Wheat. 225; see 1 Pick. 278; 10 Pick. 326; 6 Wend. 103.

6. − _3. A letter received by the person to whom it is directed, is the qualified property of such person: but where it is of a private nature, the receiver has no right to publish it without the consent of the writer, unless under very extraordinary circumstances; as, for example, when it is requisite to the defence of the character of the party who

received it. 2 Ves. & B. 19; 2 Atk. 542; Amb. 737; 1 Ball. & B. 207; 1 Mart. (Lo.) R. 297; Denisart, verbo Lettres Missives. Vide Dead Letter; Jeopardy; Mail; Newspaper; Postage; Post Master General.

LETTER, contracts. In the civil law, locator, and in the French law, locateur, loueur, or bailleur, is he who, being the owner of a thing, lets it out to another for hire or compensation. See Hire; Locator; Conductor; Story on Bailm. _369.

2. According to the French and civil law, in virtue of the contract, the letter of a thing to hire impliedly engages that the hirer shall have the full use and enjoyment of the thing hired, and that he will fulfil his own engagements and trusts in respect to it, according to the original intention of the parties. This implies an obligation to deliver the thing to the hirer; to refrain from every obstruction to the use of it by the hirer during the period of the bailment; to do no act which shall deprive the hirer of the thing; to warrant the title and possession to the hirer, to enable him to use the thing or to perform the service; to keep the thing in suitable order and repair for the purpose of the bailment; and finally to warrant the thing from from any fault inconsistent with the use of it. These are the main obligations deduced from the nature of the contract, and they seem generally founded on unexceptionable reasoning. Pothier, Louage, n. 53; Id. n. 217; Domat, B. 1, tit. 4, _3 Code Civ. of L. tit. 9, c. 2, s. 2. It is difficult to say how far (reasonable as they are in a general sense) these obligations are recognized in the common law. In some respects the common law certainly differs. See Repairs; Dougl. 744, 748; 1 Saund. 321, 32e, and ibid. note 7; 4 T. R. 318; 1 Bouv. Inst. n. 980 et seq.

LETTER, civil law. The answer which the prince gave to questions of law which had been submitted to him by magistrates, was called letters or epistles. See Rescripts.

LETTER OF ADVICE. comm. law. A letter containing information of any circumstances unknown to the person to whom it is written; generally informing him of some act done by the writer of the letter.

2. It is usual and perfectly proper for the drawer of a bill of exchange to write a letter of advice to the drawee, as well to prevent fraud or alteration of the bill, as to let the drawee know what provision has been made for the payment of the bill. Chitt. Bills 185. (ed. of 1836.)

LETTER OF ATTORNEY, practice. A written instrument under seal, by which one or more persons, called the constituents, authorize one or more other persons called the attorneys, to do some lawful act by the latter, for or instead, and in the place of the former. 1 Moody, Cr. Cas. 52, 70.

2. The authority given in the lettor of attorney is either general, as to transact all the business of the constituent; or special, as to do some special business, particularly named; as, to collect a debt.

3. It is revocable or irrevocable; the former when no interest is conveyed to the attorney, or some other person. It is irrevocable when the constituent conveys a right to the attorney in the matter which is the subject of it; as, when it is given as part security. 2 Esp. R. 565. Civil Code of Lo: art. 2954 to 2970.

LETTER BOOK, commerce. A book containing the copies of letters written by a merchant or trader to his correspondents.

2. After notice to the plaintiff to produce a letter which he admitted to have received from the defendant, it was held that an entry by a deceased clerk, in a letter book professing to be a copy of a letter from the defendant to the plaintiff of the same date, was admissible evidence of the contents, proof having been given, that according to the course of business, letters of business written by the plaintiff were copied by this clerk and then sent off by the post. 3 Campb. R. 305. Vide 1 Stark Ev. 356; Bouv. Inst. n. 3139.

LETTER CARRIER. A person employed to carry letters from the post office to the persons to whom they are addressed.

2. The act of congress of March 3, 1851, Statutes at Large of U. S. by Minot, 591, directs, _10, That it shall be in the power of the postmaster general, at all post offices where the postmaster's are appointed by the president of the United States, to establish post routes within the cities or towns, to provide for conveying letters to the post office by establishing suitable and convenient places of deposit, and by employing carriers to receive and deposit them in the post office; and at all such offices it shall be in his power to cause letters to be delivered by suitable carriers, to be appointed by him for that purpose, for which not exceeding one or two cents shall be charged, to be paid by the person receiving or sending the same, and all sums so received shall be paid into the post office department: Provided, The amount of compensation allowed by the postmaster general to carriers shall in no case exceed the amount paid into the treasury by each town or city under the provisions of this section.

3. It is further enacted by c. xxi. s. 2, That the postmaster general shall be, and he is hereby, authorized to appoint letter carriers for the delivery of letters from any post office in California or Oregon, and to allow the

letter carriers who may be appointed at any such post office to demand and receive such sum for all letters, newsapers, or other mailable matter delivered by them, as may be recommended by the postmaster for whose office such letter carrier may be appointed, not exceeding five cents for every letter, two cents for every newspaper, and two cents for every ounce of other mailable matter and the postmaster general shall be, and he is hereby, authorized to empower the special agents of the post office department in California and Oregon to appoint such letter carriers in their districts respectively, and to fix the rates of their compensation within the limits aforesaid, subject to, and until the final action of, the postmaster general thereon. And such appointments may be made, and rates of compensation modified from time to time, as may be deemed expedient and the rates of compensation may be fixed, and graduated in respect to the distance of the place of delivery from the post office for which such carriers are appointed, but the rate of compensation of any such letter carrier shall not be changed after his appointment, except by the order of the postmaster general; and such letter carriers shall be subject to the provisions of the forty−first section of the act entitled "An Act to change the organization of the post office, department, and to provide more effectually for the settlement of the accounts thereof," approved July second, eighteen hundred and thirty−six, except in cases otherwise provided for in this act.

LETTER OF CREDENCE, international law. A written instrument addressed by the sovereign or chief magistrate of a state, to the sovereign or state to whom a public minister is sent, certifying his appointment as such, and the general objects of his mission, and requesting that full faith and credit may be given to what he shall do and say ou the part of his court.

2. When it is given to an ambassador, envoy, or minister accredited to a sovereign, it is addressed to the sovereign or state to whom the minister is delegated in the case of a charg, d'affaires, it is addressed by the secretary or minister of state charged with the department of foreign affairs to the minister of foreign affairs of the other government. Wheat. International Law, pt. 3, c. 1, _7; Wicquefort, de l'Ambassadeur, l. 1, _15.

LETTER OF CREDIT, contracts. An open or sealed letter, from a merchant in one place, directed to another, in another place or country, requiring him that if a person therein named, or the bearer of the letter, shall have occasion to buy commodities, or to want money to any particular or unlimited amount, either to procure the same, or to pass his promise, bill, or other engagement for it, the writer of the letter undertaking to provide him the money for the goods, or to repay him by exchange, or to give him such satisfaction as he shall require, either for himself or the bearer of the letter. 3 Chit Com. Law, 336; and see 4 Chit. Com. Law, 259, for a form of such letter.

2. These letters are either general or special; the former is directed to the writer's friends or correspondents generally, where the bearer of the letter may happen to go; the latter is directed to some particular person. When the letter is presented to the person to whow it is addressed, he either agrees to comply with the request, in which case he immediately becomes bound to fulfil all the engagements therein mentioned; or he refuses in which case the bearer should return it to the giver without any other proceeding, unless, indeed, the merchant to whom the letter is directed is a debtor of the merchant who gave the letter, in which case he should procure the letter to be protested. 3 Chit. Com. Law, 337; Malyn, 76; 1 Beaw. Lex Mer. 607; Hall's Adm. Pr. 14; 4 Ohio R. 197; 1 Wllc. R. 510.

3. The debt which arises on such letter, in its simplest form, when complied with, is between the mandator and the mandant; though it may be so conceived as to raise a debt also against the person who is supplied by the mandatory. 1. When the letter is purchased with money by the person wishing for the foreign credit; or, is granted in consequence of a check on his cash account, or procured on the credit of securities lodged with the person who granted it; or in payment of money due by him to the payee; the letter is, in its effects, similar to a bill of exchange drawn on the foreign merchant. The payment of the money by the person on whom the letter is granted raises a debt, or goes into account between him and the writer of the letter; but raises no debt to the person who pays on the letter, against him to whom the money is paid. 2. When not so purchased, but truly an accommodation, and meant to raise a debt on the person accommodated, the engagement, generally is, to see paid any advances made to him, or to guaranty any draft accepted or bill discounted and the compliance with the mandate, in such case, raises a debt, both against the writer of the letter, and against the person accredited. 1 Bell's Com. 371, 6th ed. The bearer of the letter of credit is not considered bound to receive the money; he may use the letter as he pleases, and he contracts an obligation only by receiving the money. Poth. Contr. de Change, 237.

LETTER OP LICENSE, contracts. An instrument or writing made by creditors to their insolvent debtor, by

which they bind themselves to allow him a longer time than he had a right to, for the payment of his debts and that they will not arrest or molest him in his person or property till after the expiration of such additional time.

LETTER OF MARQUE AND REPRRISAL, War. A commission granted by the government to a private individual, to take the property of a foreign state, or of the citizens or subjects of such state, as a reparation for an injury committed by such state, its citizens or subjects. A vessel loaded with merchandise, on a voyage to a friendly port, but armed for its own defence in case of attack by an enemy, is also called a letter of marque. 1 Bouly−Paty, tit. 3, s. 2, p. 300.

2. By the constitution, art. 1, s. 8, cl. 11, congress has power to grant letters of marque and reprisal. Vide Chit. Law of Nat. 73; 1 Black. Com. 251; Vin. Ab. Prerogative, N a; Com. Dig. Prerogative, B 4; Molloy, B. 1, c. 2, s. 10; 2 Wooddes. 440; 6 Rob. Rep. 9; 5 Id. 360; 2 Rob. Reb. 224. And vide Reprisal.

LETTER missive, Engl. law. After a bill has been filed against a peer or peeress, or lord of parliament, a petition is presented to the lord chancellor for his letter, called a letter missive, which requests the defendant to appear and answer to the bill. A neglect to attend to this, places the defendant, in relation to such suit, on the same ground as other defendants, who are not peers, and a subpoena may then issue. Newl. Pr. 9; 2 Madd. Ch. Pr. 196; Coop. Eq. Pl. 16.

LETTER of RECFALL. A written document addressed by the executive of one government to the executive of another, informing the latter that a minister sent by the former to him, has been recalled.

LETTER OF RECOMMENDATION, com. law. An instrument given by one person to another, addressed to a third, in which the bearer is represented as worthy of credit. 1 Bell's Com. 371, 6th, ed.; 9 T. R. 51; 7 Cranch, Rep. 69; Fell on Guar. c. 8; 6 Johns. R. 181; 13 Johns. R. 224; 1 Day's Cas. Er 22; and the article Recommendation.

LETTER OF RECREDENTIALS. A document delivered to a minister, by the secretary of state of the government to which he was accredited. It is addressed to the executive of the minister's country. This is in reply to the letter of recall.

LETTERS CLOSE, Engl. law. Close letters are grants, of the king, and being of private concern, they are thus distinguished from letters patent.

LETTERS AD COLLIGENDUM BONA DE FUNCTI, practice. In default of the representatives and creditors to administer to the estate of an intestate, the officer entitled to grant letters of administration, may grant to such person as he approves, letters to collect the goods of the deceased, which neither make him executor nor administrator; his only busness being to collect the goods and keep them in his safe custody. 2 Bl. Com. 505.

LETTERS PATENT. The name of an instrument granted by the government to convey a right to the patentee; as, a patent for a tract of land; or to secure to him a right which he already possesses, as a patent for a new invention or discovery; Letters patent are a matter of record. They are so called because they are not sealed up, but are granted open. Vide Patent.

LETTERS OF REQUEST, Eng. eccl. law, An instrument by which a judge of an inferior court waives or remits his own jurisdiction in favor of a court of appeal immediately superior to it.

2. Letters of request, in general, lie only where an appeal would lie, and lie only to the next immediate court of appeal, waiving merely the primary jurisdiction to the proper appellate court, except letters of request from the most inferior ecclesiastical court, which may be direct to the court of arches, although one or two courts of appeal may, by this, be ousted of their jurisdiction as courts of appeal. 2 Addams, R. 406. The effect of letters of request is to give jurisdiction to the appellate court in the first instance. Id. See a form of letters of request in 2 Chit. Pr. 498, note.

LETTERS ROGATORY. A letter rogatory is an instrument sent in the name and by the authority of a judge or court to another, requesting the latter to cause to be examined, upon interrogatories filed in a cause depending before the former, a witness who is within the jurisdiction of the judge or court to whom such letters are addressed. In letters rogatory there is always an offer on the part of tbe court whence they issued, to render a similar service to the court to which they may be directed whenever required. Pet. C. C. Rep. 236.

2. Though formerly used in England in the courts of common law, 1 Roll. Ab. 530, pl. 13, they have been superseded by commissions of Dedimus potestatem, which are considered to be but a feeble substitute. Dunl. Pr. 223, n.; Hall's Ad. Pr. 37. The courts of admiralty use these letters, which are derived from the civil law, and are recognized by the law of nations. See Foelix, Dr. Intern. liv. 2, t. 4, p. 800; Denisart, h. t.

LETTERS TESTAMENTARY, AND OF ADMINISTRATION. It is proposed to consider, 1. Their different

kinds. 2. Their effect.

2. − _1. Their different kinds. 1. Letters testamentary. This is an instrument in writing, granted by the judge or officer having jurisdiction of the probate of wills, under his hand and official seal, making known that on the day of the date of the said letters, the last will of the testator, (naming him,) was duly proved before him; that the testator left goods, &c., by reason, whereof, and the probate of the said will, he certifies "that administration of all and singular, the goods, chattels, rights and credits of the said deceased, any way concerning his last will and testament, was committed to the executor, (naming him,) in the said testament named." 2. Letters of administration may be described to be an instrument in writing, granted by the judge or officer having jurisdiction and power of granting such letters, thereby giving the administrator, (naming him,)," full power to administer the goods, chattels, rights and credits, which were of the said deceased, in the county or, district in which the said judge or officer has jurisdiction; as also to ask, collect, levy, recover and receive the credits whatsoever, of the said deceased, which at the time of his death were owing, or did in any way belong to him, and to pay the debts in which the said deceased stood obliged, so far forth as the said goods and chattels, rights and credits will extend, according, to the rate and order of law." 3. Letters of administration pendente lite, are letters granted during the pendency of a suit in relation to a paper purporting to be the last will and testament of the deceased. 4. Letters of administration de bonis non, are granted, where the former executor or administrator did not administer all the personal estate of the deceased, and where he is dead or has been discharged or dismissed. Letters of administration, durante minori aetate, are granted where the testator, by his will, appoints an infaut executor, who is incapable of acting on account of his infancy. Such letters remain in force until the infant arrives at an age to take upon himself the execution of the will. Com. Dig. Administration, F; Off. Ex. 215, 216. And see 6 Rep. 67, b; 5 Rep. 29, a; 11 Vin. Abr. 103; Bac. Ab. h. t. 6. Letters of administration durante absentia, are granted when the executor happens to be absent at the time when the testator died, and it is necessary that some person should act immediately in the management of the affairs of the estate.

3. − _2. Of their eltect. 1. Generally. 2. Of their effect in the different states, when granted out of the state in which legal proceedings are instituted.

4. − 1. Letters testamentary are conclusive as to personal property, while they remain unrevoked; as to realty they are merelly prim*f* facie evidence of right. 3 Binn. 498; Gilb. Ev. 66;. 6 Binn. 409; Bac. Abr. Evidence, F. See 2 Binn. 511. Proof that the testator was insane, or that the will was forged, is inadmissible. 16 Mass. 433; 1 Lev. 236. But if the nature of his plea allow the defendant to enter into such proof, he may show that the seal of the supposed probate has been forged, or that the letters have been obtained by surprise; 1 Lev. 136; or been revoked; 15 Serg. & Rawle, 42; or that the testator is alive. 15 Serg. & Rawle, 42; 3 T. R. 130.

5. − 2. The effect of letters testametary, and of administration granted, in some one of the United States, is different in different states. A brief view of the law on this subject will here be given, taking the states in alphabetical order.

6. Alabama. Administrators may sue upon letters of administration granted in anothor state, where the intestate had no known place of residence in Alabama at the time of his death, and no representative has been appointed in the state; but before rendition of the judgment, he must produce to the court his letters of administration, authenticated according to the laws of the United States, and the certificate of the clerk of some county court in this state, that the letters have been recorded in his office. Before he is entitled to the money on the judgment, he must also give bond, payable to the judge of the court where the judgment is rendered, for the faithful administration of the money received. Aiken's Dig. 183 Toulm. Dig. 342.

7. Arkansas. When the deceased had no residence in Arkansas, and he devised lands by will, or where the intestate died possessed of lands, letters testa−mentary or of administration shall be granted in the county where the lands lie, or of one of them, if they lie in several counties; and if the deceased had no such place of residence and no lands, such letters may be granted in the county in which the testator or intestate died, or where the greater part of his estate may be. Rev. Stat. c. s. 2.

8. Connecticut. Letters testamentary issued in another state, are not available in this. 3 Day 303. Nor are letters of administration. 3 Day, 74; and see 2 Root, 462.

9. Delaware. By the act of 1721, 1 State Laws, 82, it is declared in substance, that when any person shall die, leaving bona notabilia, in several counties in the state and in Pennsylvania or elsewhere; and, any person not residing in the state, obtains letters of administration out of the state, the deceased being indebted to any of the inhabitants of the state, for a debt contracted within the same to the value of œ20, then, and in such case, such

administrator, before he can obtain any judgment in any court of record within the state against any inhabitant thereof, by virtue of such letters of administration, is obliged to file them with some of the registers in this state; and must enter into bonds with sufficient sureties, who have visible estates here, with condition to pay and satisfy all such debts as were owing by the intestate at the time of his death to any person residing in this state, so far as the effects of the deceased in this state will extend. By the act of June 16, 1769, 1 State Laws, 448, it is enacted in substance that any will in writing made by a person residing out of the state, whereby any lands within the state are devised, which shall be proved in the chancery in England, Scotland, Ireland, or any colony, plantation, or island in America, belonging to the king of Great Britain, or in the hustings, or mayor's court, in London, or in some manor court, or before such persons as have power or authority at the time of proving such wills, in the places aforesaid, to take probates of wills, shall be good and available in law for granting the lands devised, as well as of the goods and chattels bequeathed by such will. The copies of such will, and of the bill, answer, depositions and decree, where proved in any court of chancery, or copies of such wills and the probate thereof, where proved in any other court, or in any office as aforesaid, being transmitted to this state, and produced under the public or common−seal of the court or office where the probate is taken, or under the great seal of the kingdom, colony, plantation or island, within which such will is proved (except copies of such wills and probates as shall appear to be revoked), are declared to be matter of record, and to be good evidence in an any court of law or equity in this state, to prove the gift or devise made in such will; and such probates are declared to be sufficient to enable executors to bring their actions within any court within this state, as if the same probates or letters testamentary were granted here, and produced under the seal of any of the registers offices within this state. By the 3d section of the act, it is declared that the copies of such wills and probates so produced, and given in evidence, shall not be returned by the court to the persons producing them, but shall be recorded in the office of the recorder of the county where the same are given in evidence, at the expense of the party producing the same.

10. Florida. Copies of all wills, and letters testamentary and of administration, heretofore recorded in any public office of record in the state, when duly certified by the keeper of said records, shall be received in evidence in all courts of record in this state and the probate of wills granted in any of the United States or of the territories thereof, in any foreign country or state, duly authenticated and certified according to the laws of the state or territory, or of the foreign country or state, where such probate may have been granted, shall likewise be received in evidence in all courts of record in this state.

11. Georgia. To enable executors and administrators to sue in Georgia, the former must take out letters testamentary in the county where the property or debt is; and administrators, letters of administration. Prince's Dig. 238; Act of 1805, 2 Laws of Geo. 268.

12. Illinois. Letters testamentary must be taken out in this state, and when the will is to be proved, the original must be produced; administrators of other states must take out letters in Illinois, before they can maintain an action in the courts of the state. 3 Griff. L. R. 419.

13. Indiana. Executors and administrators appointed in another state may maintain actions and suits and do all other acts coming within their powers, as such, within this state, upon producing authenticated copies of such letters and filing them with the clerk of the court in which such suits are to be brought. Rev. Code, c. 24, Feb. 17, 1838, sec. 44.

14. Kentucky executors and administrators appointed in other states may sue in Kentucky "upon filing with the clerk of the court where the suit is brought, an authenticated copy of the certificate of probate, or orders granting letters of administration of said estate, given in such non−resident's state." 1 Dig. Stat. 536; 2 Litt. 194; 3 Litt. 182.

15. Louisiana. Executors or administrators of other states must take out letters of curatorship in this state. Exemplifications of wills, and testaments are evidence. 4 Griff. L. R. 683; 8 N. S. 586.

16. Maine. Letters of administration must be taken from some court of probate in this state. Copies of wills which have been proved in a court of probate in any of the United States, or in a court of probate of any other state or kingdom, with a copy of the probate thereof, under the seal of the court where such wills have been proved, may be filed and recorded in any probate court in this state, which recording shall be of the same force as the recording and proving the original will. Rev. Stat. T. 9, c. 107 _20; 3 Mass, 514; 9 Mass. 337; 11 Mass. 256; 1 Pick. 80; 3 Pick. 128.

17. Maryland. Letters testamentary or of administration granted out of Maryland have no effect in this state, except only such letters issued in the District of Columbia, and letters granted there authorize executors or

administrators to claim and sue in this state. Act of April 1813, chap. 165. By the act of 1839, chap. 41, when non−resident owners of any public or state of Maryland stocks, or stocks of the city of Baltimore, or any other corporation in this state die, their executors or administrators constituted under the authority of the state, district, territory or country, where the deceased resided at his death, have the same power as to such stocks, as if they were appointed by authority of the state of Maryland. But, before they can transfer the stocks, they must, during three months, give notice to two newspapers published in Baltimore, of the death of the testator or intestate, and of the "amount and description of the stock designed to be transferred." Administration must be granted in this state, in order to recover a debt due here to a decedent, or any of his property, with the exceptions above noticed.

18. Massachusetts. When any person shall die intestate in any other state or country, leaving estate to be administered within this state, administration thereof shall be granted by the judge of probate of any county, in which there is any estate to be administered; and the administration, which shall be first lawfully granted shall extend to all the estate of the deceased within the state, and shall exclude the jurisdiction of the probate court in every other county. Rev. Stat., ch. 64, s. 3. See 3 Mass. 514; 5 Mass. 67; 11 Mass. 256 Id. 314; 1 Pick. 81.

19. Michigan. Letters testamentary or letters of administration granted out of the state are not of any validity in it. In order to collect the debts or to obtain the property a deceased person who was not a resident of the state, it is requisite to take out letters testamentary or letters of administration from a probate court of this stafe, within whose jurisdiction the property lies, which letters operate over all the state, and then sue in the name of the executor or administrator so appointed. Rev. Stat. 280. When the deceased leaves a will executed according to the laws of this state, and the same is admitted to proof and record where he dies, a certified transcript of the will and probate thereof, may be proved and recorded in any county in this state, where the deceased has property real or personal, and letters testamentary may issue thereon. Rev. Stat. 272, 273.

2O. Mississippi. Executors or administrators in another state or territory cannot as such, sue nor be sued in this state. In order to recover a debt due to a deceased person or his property, there must be taken out in the state, letters of administration or letters with the will annexed, as the case may be. These may be taken out from the probate court of the county where the proprty is situated, by a foreign as well as a local creditor, or any person interested in the estate of the deceased, if properly qualified in other respects. Walker's R. 211.

21. Missouri. Letters testamentary or of administration granted in another state have no validity in this; to maintain a suit, the executors or adminis−trators must be appointed under the laws of this state. Rev. Code, _2, pt 41.

22. New Hampshire. One who has obtained letters of administrition; Adams' Rep. 193, or letters testamentary under the authority of another state, cannot maintain an action in New Hampshire by virtue of such letters. 3 Griff. L. R. 41.

23. New Jersey. Executors having letter testamentary, and administrators letters of administration granted in another state, cannot sue thereon in New Jersey, but must obtain such letters in that state as the law prescribes. 4 Griff. L R. 1240. By the act of March 6, 1828, Harr. Comp. 195, when a will has been admitted to probate in any state or territory of the United States, or foreign nation, the surrogate of any county or this state is authorized, on applicaton of the executor or any person interested, on filing a duly exemplified copy of the will, to appoint a time not less than thirty days, and not more than six−months distant, of which notice is to be given as he shall direct, and if at such time, no sufficient reason be shown to the contrary, to a omit such will to probate, and grant letters testamentary or of administration cum testamento annexo, which shall have the same effect as though the original will had been produced and proved under form. If the person to whom such letters testamentary or of administration be granted, is not a resident of this state, he is required to give security for the faithful administration of the estate. By the statute passed February 28, 1838, Elmer's Dig. 602, no instrument of writing can be admitted to probate under the preceding act unless it be signed and published by the testator as his will. See Saxton's Ch. R. 332.

24. New York. An executor or administrator appointed in another state has no authority to sue in New York. 6 John. Ch. Rep. 353; 7 John. Ch. Rep. 45; 1 Johns. Ch. Rep. 153. Whenever an intestate, not being an inhabitant of this state, shall die out of the state, leaving assets in several counties, or assets shall after his death come in several counties, the surrogate of any county in which assets shall be, shall have power to grant letters of administration on the estate of such intestate; but the surrogate, who shall first grant letters of administration on such estate, shall be deemed thereby to have acquired sole and exclusive jurisdiction over such estate, and shall be vested with the powers incidental thereto. Rev. Stat. part 2, c. 6. tit. 2, art. 2, s. 24; 1 R. L. 455 _3; Laws, of 1823, p. 62, s. 2,

1824, p. 332.

25. North Carolina. It was decided by the court of conference, then the highest tribunal in North Carolina, that letters granted in Georgia were insufficient. Conf. Rep. 68. But the supreme court have since held that letters testamentary granted in South Carolina, were sufficient to enable an executor to sue in North Carolina. 1 Car. Law Repos. 471. See 1 Hayw. 364.

26. By the revised statutes, ch. 46, s. 6, it is provided, that "where a testator or testatrix shall appoint any person, residing out of this state, executor or executrix of his or her last will and testament, it shall be the duty of the court of pleas and quarter sessions, before which the said will shall be offered for probate, to cause the executor or executrix named therein, to enter into bond with good and sufficient security for his or her faithful administration of the estate of the said testator or testatrix and for the distribution thereof in the manner prescribed by law; the penalty of said bond shall be double the supposed amount of the personal estate of the said testator or testatrix; and until the said executor or executrix shall enter into such bond, he or she shall have no power nor authority to intermeddle with the estate of the said testator or testatrix; and the court of the county in which the testator or testatrix had his or her last usual place of resi−dence, shall proceed to, grant letters of administration with the will annexed, which shall continue in force until the said executor or executrix shall enter into bond as aforesaid. Provided nevertheless, and it is hereby declared, that the said executor or executrix shall enter into bond as by this act directed within the space of one year after the death of the said testator, or testatrix, and not afterwards."

27. Ohio. Executors and administrators appointed under the authority of another state, may, by virtue of such appointment, sue in this. Ohio Stat. vol. 38, p. 146; Act. of March 23, 1840, which, went into effect the first day of November following; Swan's Coll. 184.

28. Pennsylvania. Letters testamentary or of administration, or otherwise purporting to authorize any person to intermeddle with the estate of a decedent, granted out of the commonwealth, do not in general confer on any such person any of the powers, and authorities possessed by an executor or administrator, under letters granted within the state. Act of March 15, 1832 s. 6. But by the act of April 14, 1835, s. 3, this rule is declared not to apply to any public debt or loan of this commonwealth; but such public debt or loan shall pass and be transferable, and the dividends thereon accrued and to accrue, be receivable in like manner and in all respects and under the same and no other regulations, powers and authorities as were used and practiced before the passage of the above mentioned act. And the act of June 16, 1836, s. 3, declares that the above act of March 15, 1832, s. 6, shall not apply to shares of stock in any bank or other incorporated company, within this commonwealth, but such shares of stock shall pass and be transferable, and the dividends thereon accrued and to accrue, be receivable in like manner in all respects, and under the same regulations, powers and authorities as were used and practiced with the loans or public debts of the United States and were used and practiced with the loans or public debt of this commonwealth, before the passage of the, said act of March 15, 1832, s. 6, unless the by−laws, rules and regulations of any such bank or corporation, shall, otherwise provide and declare. Executors and administrators who had been lawfully appointed in some other of the United States, might, by virtue of their letters duly authenticated by the proper officer, have sued in this state. 4 Dall. 492; S. C. 1 Binn. 63. But letters of administration granted by the archbishop of York, in England, give no authority to the administrator in Pennsylvania. 1 Dall. 456.

29. Rhode Island. It does not appear to be settled whether executors and administrators appointed in another state, may, by virtue of such appointment, sue in this. 3 Griff. L. R. 107, 8.

30. South Carolina. Executors and administrators of other states, cannot, as such, sue in South Carolina; they must take out letters in the state. 3 Griff. L. R. 848.

31. Tennessee. _1. Where any person or persons may obtain, administration on the estate of any intestate, in any one of the United States, or territory thereof, such person or persons shall be enabled to prosecute suits in any court in this state, in the same manner as if administration had been granted to such person or persons by any court in the state of Tennessee. Provided, that such person or persons shall, produce a copy of the letters of administration, authenticated in the manner which has been prescribed by the congress of the United States, for authenticating the records or judicial acts of any one state, in order to give them validity in any other state and that such letters of administration had been granted in pursuance of, and agreeable to the laws of the state or territory in which such letters of administration were granted.

32. _ 2. When any executor or executors may prove the last will and testament of any deceased person, and take on him or themselves the execution of said will in any state in the United States, or in any territory thereof, such person or persons shall be enabled to prosecute suits in any court in this state, in the same manner as if letters

testamentary had been granted to him or them, by any court within the state of Tennessee. Provided, That such executor or executors shall, produce a certified copy of the letters testa−mentary under the hand and seal of the clerk of the court where the same were obtained, and a certificate by the chief justice, presiding judge, or chairman of such court, that the clerk's certificate is in due form, and that such letters testamentary had been granted in pursuance of, and agreeable to, the laws of the state or territory in which such letters testamentary were granted. Act of 1839, Carr. & Nich. Comp. 78.

33. Vermont. If the deceased person shall, at the time of his death, reside in any other state or country, leaving estate to be administered in this state, administration thereof shall be granted by the probate court of the district in which there shall be estate to administer; and the administration first legally granted, shall extend to all the estate of the deceased in this state, and shall exclude the jurisdiction of the probate court of every other district. Rev. Stat. tit. 12, c. 47, s. 2.

34. Virginia. Authenticated copies of wills, proved according to the laws of any of the United States, or of any foreign country, relative to any estate in Virginia, may be offered for probate in the general court, or if the estate lie altogether in any other county or corporation, in the circuit, county or corporation court of such county or corporation. 3 Griff. L. R. 345. It is understood to be the settled law of Virginia, though there is no statutory provision on the subject, that no probate of a will or grant of administration in another state of the Union, or in a foreign country, and no qualification of an executor or administrator, elsewhere than in Virginia, give any such executor or administrator any right to demand the effects or debts of the decedent, which may happen to be within the jurisdiction of the state. There must be a regular probate or grant of administration and qualification of the executor or administrator in Virginia, according to her laws. And the doctrine prevails in the federal courts held in Virginia, as well as in the state courts. 3 Graff. L. R. 348.

LEVANT ET COUCHANT. This French phrase, which ought perhaps more properly to be couchant et levant, signifies literally rising and lying down. In law, it denotes that space of time which cattle have been on the land in which they have had time to lie down and rise again, which, in general, is held to be one night at least. 3 Bl. Com. 9; Dane's Ab. Index, h. t; 2 Lilly's Ab. 167; Wood's Inst. 190; 2 Bouv. Inst. n. 1641.

LEVARI FACIAS, Eng. law. A writ of execution against the goods and chattels of a clerk. Also the writ of execvtion on a judgment at the suit of the crown. When issued against an ecclesiastic, this writ is in effect the writ of fieri facias directed to the bishop of the diocese, commanding him to cause execution to be made of the goods and chattels of the defendant in his diocese. The writ also recites, that the sheriff had returned that the defendant had no lay fee, or goods or chattels whereof he could make a levy, and that the defendant was a beneficed clerk; &c. See 1, Chit. R. 428; Id. 589, for cases when it issues at the suit of the crown. This writ is also used to recover the plain−tiff's debt; the sheriff is commanded to levy, such debt on the lands and goods of the defendant, in virtue of which he may seize his goods, and receive the rents and profits of his lands, till satisfaction be made to the plain−tiff. 8 Bl. Com. 417; Vin. Ab. 14; Dane's Ab. Index, h. t.

2. In Pennsylvania, this writ is used to sell lands mortgaged after a judgment has been obtained by the mortgagee, or his assignee, against the mortgagor, under peculiar. proceeding authorized by statute. 3 Bouv. Inst. n. 3396.

LEVITICAL DEGREES. Those degrees of 'kindred set forth' in the eighteenth chapter of Leviticus, within which persons are prohibited to marry. Vide Branch; Descent; Line.

LEVY, practice. A seizure (q. v.) the raising of the money for which an execution has been issued.

2. ln order to make a valid levy on personal property, the sheriff must have it within his power and control, or at least withn his view, and if, having it so, he makes a levy upon it, it will be good if followed up afterwards within a reasonable time, by his takikng possession in such manner as to apprize everybody of the fact of its having been taken into execution. 3 Rawle R. 405−6; 1 Whart. 377; 2 S. & R. 142; 1 Wash C. C. R. 29; 6 Watts, 468; 1 Whart. 116. The usual mode of making levy upon real estate, is to describe the land which has been seised under the execution, by metes and bounds, as in a deed of conveyance. 3 Bouv. Inst. n. 3391.

3. It is a general rule, that hwen a sufficient levy has been made, the officer cannot make a second. 12 John. R. 208; 8 Cowen, R. 192.

LEVYING WAR, crim. law. The assembling of a body of men for the purpose of effecting by force a treasonable object; and all who perform any part however minute, or however remote from the scene of action, and who are leagued in the general conspiracy, are considered as engaged in levying war, within the meaning of the constitution. 4 Cranch R. 473−4; Const. art. 3, s. 3. Vide Treason; Fries'Trial; Pamphl. This is a technical term,

borrowed from the English law, and its meaning is the same as it is when used in stat. 25 Ed. III.; 4 Cranch's R. 471; U. S. v. Fries, Pamphl. 167; Hall's Am. Law Jo. 351; Burr's Trial; 1 East, P. C. 62 to 77; Alis. Cr. Law of Scotl. 606; 9 C. & P. 129.

LEX. The law. A law for the government of mankind in society. Among the ancient Romans, this word was frequently used as synonymous with right, jus. When put absolutely, lex meant the Law of the Twelve Tables.

LEX FALCIDIA, civ. law. The name of a law which permitted a testator to dispose of three−fourtbs of his property, but he could not deprive his heir of the other fourth. It was made during the reign of Augustus, about the year of Rome 714, on the requisition of Falcidius, a tribune. Inst. 2, 22; Dig. 35, 2; Code, 6, 50;. and Nov. 1 and 131. Vide article Legitime, and Coop. Just. 486; Rob. Frauds, 290, note 113.

LEX FORI, practice. The law of the court or forum.

2. The forms of remedies, the modes of proceeding, and the execution of judgments, are to be regulated solely and exclusively, by the laws of the place where the action is instituted or as the civilians uniformly express it, according to the lex fori. Story, Confl. of Laws, _550; 1 Caines' Rep. 402; 3 Johns. Ch. R. 190; 5 Johns. R. 132; 2 Mass. R. 84; 7 Mass. R. 515; 3 Conn. R. 472; 7 M. R. 214; 1 Bouv. Inst. n. 860.

LEX LOCI CONTRACTUS, contracts. The law of the place where an agreement is made.

2. Generally, the validity of a contract is to be decided by the law of the place where, the contract is made; if valid, there it is, in general, valid everywhere. Story, Confl. of Laws, _242, and the cases there cited. And vice versa if void or illegal there, it is generally void everywhere. Id _243; 2 Kent Com. 457; 4 M. R. 584; 7 M. R. 213; 11 M. R. 730; 12 M. R. 475; 1 N. S. 202; 5 N. S. 585; 6 N. S. 76; 6 L. R. 676; 6 N. S. 631; 4 Blackf. R. 89.

3. There is an exception to the rule as to the universal validity of contracts. The comity of nations, by virtue of which such contracts derive their force in foreign countries, cannot prevail in cases where it violates the law of our own country, the law of nature, or the law of God. 2 Barn. & Cresw. 448, 471. And a furthIer exeeption may be mentioned, namely, that no nation will regard or enforce the revenue laws of another country. Cas. Tem. 85, 89, 194.

4. When the contract is entered into in one place, to be executed in another, there are two loci contractus; the locus celebrate contractus, and the locus solutionis; the former governs in everything which relates to the mode of construing the contract, the meaning to be attached to the expressions, and the nature and validity of the engagement; but the latter governs the performance of the agreement. 8 N. S. 34. Vide 15 Serg. & Rawle 84; 2 Mass. R. 88; 1 Nott & M'Cord, 173; 2 Harr. & Johns. 193, 221; 2 N. H. Rep. 42; 5 Id. 401; 2 John. Cas. 355; 5 Pardes. n. 1482; Bac. Abr. Bail in Civil Causes, B 5; Com. Dig. 545, n.; 1 Supp. to Ves. jr. 270; 8 Ves. 198; 5 Ves. 750.

LEX LONGOBARDORUM. The name of an ancient code in force among the Lombards. It contains many evident traces of feudal policy. It survived the destruction of the ancient government of Lombardy by Charlemagne, and is said to be still partially in force in some districts of Italy.

LEX MERCATORIA. That system of laws which is adopted by all commercial nations, and which, therefore, constitutes a part of the law of the land. Vide Law Merchant.

LEX TALIONIS. The law of retaliation an example of which is given in the law of Moses, an eye for an eye, a tooth for a tooth, &c.

2. Jurists and writers on international law are divided as to the right of one nation punishing with death, by way of retaliation, the citizen's or subjects of another nation; in, the United States no example of such barbarity has ever been witnessed but, prisoners have been kept in close confinement in retaliation for the same conduct towards American prisoners. Vide Rutherf. Inst. b. 2, c. 9; Mart. Law of Nat. b. 8, c. 1, s. 3, note 1 Kent, Com. 93.

3. Writers on the law of nations have divided retaliation into vindictive and amicable: By the former are meant those acts of retaliation which amount to a war; the latter those acts of retaliation which correspond to the acts of the other nation under similar circumstances. Wheat. Intern. Law, pt. 4, c. 1, _1.

LEX TERAE. The law of the land. The phrase is used to distinguisb this from the civil or Roman law.

2. By lex terrae, as used in Magna Charta, is meant one process of law, namely, proceeding by indictment or presentment of good and lawful men. 2 Inst. 50; 19 Wend. 659; 4 Dev. R. 15. in the constitution of Tennessee, the words "the law of the land" signify a general and public law, operating equally upon every member of the community. 10 Yerg. 71.

LEY. This word is old French, a corruption of loi, and signifies law; for example, Termes de la Ley, Terms of the Law. In another, and an old technical sense, ley signifies an oath, or the oath with compurgators; as, il tend sa

ley aiu pleyntiffe. Brit. c. 27.

LEY−GAGER. Wager of Law. (q. v.)

LIABILITY. Responsibility; the state of one who is bound in law and justice to do sometbing which may be enforced by action. This liability may arise from contracts either express or implied, or in consequence of torts committed.

2. The liabilities of one man are not in general transferred to his representative's further than to reach the estate in his hands. For example, an executor is not responsible for the liabilities of his testator further than the estate of the testator which has come to his hands. See Hamm. on Pait. 169, 170.

3. The husband is liable for his wife's contracts made dum sola, and for those made during coverture for necessaries, and for torts committed either while she was sole or since her marriage with him; but this liability continues only during the coverture; as to her torts, or even her contracts made before marriage; for the latter, however, she may be sued as her executor or administiator, when she assumes that character.

4. A master is liable for the acts of his servant while in his employ, performed in the usual course of his business, upon the presumption that they have been authorized by him; but he is responiible only in a civil point of view and not criminally, unless the acts have been actually authorized by him. See Bouv. Inst. Index, h. t.; Driver; Quasi Offence; Servant.

LIBEL, practice. A libel has been defined to be "the plaintiff's petition or allegation, made and exhibited in a judicial process, with some solemnity of law;" it is also, said to be "a short and well ordered writing, setting forth in a clear manner, as well to the judge as to the defendant, the plaintiff's or accuser's intention in judgment." It is a written statement by a plaintiff, of his cause of action, and of the relief he seeks to obtain in a suit. Law's Eccl. Law, 147; Ayl. Par. 346; Shelf. on M. & D. 506; Dunf Adm. Pr. 111; Betts. Pr. 17; Proct. Pr. h. t.; 2 Chit. Pr. 487, 533.

2. The libel should be a narrative, specious, clear, direct, certain, not general, nor alternative. 3 Law's Eccl. Law. 147. It should contain, substantially, the following requisites: 1. The name, description, and addition of the plaintiff, who makes his demand by bringing his action. 2 The name, description, and addition of the defendant. 3. The name of the judge with a respectful designation of his office and court. 4. The thing or relief, general or special, which is demanded in the suit. 5. The grounds upon which the suit is founded. All these things are summed up in Latin, as follows;

> Quis, quid, coram quo, quo jure petitur, et a quo,
> Recte compositus quique libellus habet:

which has been translated,

> Each plaintiff and defendant's name,
> and eke the judge who tries the same,
> The thing demanded and the right whereby
> You urge to have it granted instantly:
> He doth a libel write and well compose,
> Who forms the same, emitting none of those.

3. The form of a libel is either simple or articulate. The simple form is, when the cause of action is stated in a continuous narration, when the cause of action can be briefly set forth. The articulate form, is when the cause of action is stated in distinct allegations, or articles. 2 Law's Ecel. Law, 148; Hall's Adm. Pr. 123; 7 Cranch, 349. The material facts should be stated in distinct articles in the libel, with as much exactness and attention to times and circumstances, as in a declaration at common law. 4 Mason, 541. Pompous diction and strong epithets are out of place in a legal paper designed to obtain the admission of the opposite party of the averments it contains, or to lay before the court the facts which the actor will prove.

4. Although there is no fixed formula for libels and the court will receive such an instrument from the party in such form as his own skill or that of his counsel may enable him to give it, yet long usage has sanctioned forms, which it may be most prudent to adopt. The parts and arrangement of libels commonly employed are,

5. − 1. The address to the court; as, To the Honorable John K. Kane, Judge of the district court of the United

States, within and for the eastern district of Pennsylvania.

6. − 2. The names and descriptions of the parties. Persons competent to sue at common law may be parties libellants, and similar regulations obtain in the admiralty courts and the common law courts, respecting those disqualified from suing in their own right or name. Married women prosecute by their husbands, or by prochein ami, when the husband has an adverse interest to hers; minors, by guardians, tutors, or prochein ami; lunatics and persons non compos mentis, by tutor, guardian ad litem, or committee; the rights of deceased persons are prosecuted by executors or administrators; and corporations are represented, and proceeded against as at common law.

7. − 3. The averments or allegations setting forth the cause of action should be conformable to the truth, and so framed as to correspond with the evidence. Every fact requisite to establish the libellant's right should be clearly stated, so that it may be directly met by the opposing party by admission, denial or avoidance; this is the more necessary because no proof can be given, or decree rendered, not covered by and conformable to the allegations. 1 Law's Eccl. Laws, 150; Hall's Pr. 126; Dunl. Adm. Pr. 113; 7 Cranch, 394.

8. − 4. The conclusion, or prayer for relief and process; the prayer should be for the specific relief desired; for general relief, as is usual in bills in chancery; the conclusion should also pray for general, or particular process. Law's Eccl. Law, 149; and see 3 Mason, R. 503. Interrogatories are sometimes annexed to the libel; when this is the case, there is usually a special prayer, that the defendant may be required to answer the libel, and the interrogatories annexed and propounded. This, however, is a dangerous practice, because it renders the answers of the defendant evidence, which must be disproved by two witnesses, or by one witness, corroborated by very strong circumstances.

9. The libel is the first proceeding in a suit in admiralty in the courts of the United States. 3 Mason, R., 504. It is also used in some other courts. Vide, generally, Dunl. Adm. Pr. ch. 3; Bett's Adm. Pr. s. 3; Shelf. on. M. & D. 606; Hall's Adm. Pr. Index, h. t.; 3 Bl. Com. 100; Ayl. Par. Index, h. t.; Com. Dig. Admiralty, E; 2 Roll. &b. 298.

LIBEL, libellus, criminal law. A malicious defamation expressed either in printing or writing, or by signs or pictures, tending to blacken the memory of one who is dead, with intent to provoke the living; or the reputation of one who is alive, and to expose him to public hatred, contempt, or ridicule. Hawk. b. 1, c. 73, s. 1; Wood's Inst, 444; 4 Bl. Com. 150; 2 Chitty, Cr. Law, 867; Holt on Lib. 73; 5 Co. 125; Salk. 418; Ld. Rgym. 416; 4. T. R. 126; 4 Mass. R. 168; 9 John. 214; 1 Den. Rep. 347; 2 Pick. R. 115; 2 Kent, Com. 13. It has been defined perhaps with more precision to be a censorious or ridiculous writing, picture or sign made with a malicious or mischievous intent, towards government magistrates or individuals. 3 John. Cas. 354; 9 John. R. 215; 5 Binn. 340.

2. In briefly considering this offence, we will inquire, 1st. By what mode of expression a libel may be conveyed. 2d. Of what kind of defamation it must consist. 3d. How plainly it must be expressed. 4th. What mode of publication is essential.

3. − 1. The reduction of the slanderous matter to writing, or printing, is the most usual mode of conveying it. The exhibition of a picture, intimating that which in print would be libelous, is equally criminal. 2 Camp. 512; 5 Co. 125; 2 Serg. & Rawle 91. Fixing a gallows at a man's door, burning him in effigy, or exhibiting him in any ignominious manner, is a libel. Hawk. b. 1, c. 73, s. 2,; 11 East, R. 227.

4. − 2. There is perhaps no branch of the law which is so difficult to reduce to exact, principles, or to compress within a small compass, as the requisites of a libel. All publications denying the Christian religion to be true; 11 Serg. & Rawle, 394; Holt on Libels, 74; 8 Johns. R. 290; Vent. 293; Keb. 607; all writings subversive of morality and tending to inflame the passions by indecent language, are indictable at common law. 2 Str. 790; Holt on Libels, 82; 4 Burr. 2527. In order to constitute a libel, it is not necessary that anything criminal should be imputed to the party injured; it is enough if the writer has exhibited him in a ludicrous point of view; has pointed him out as an object of ridicule or disgust; has, in short, done that which has a natural tendency to excite him to revenge. 2 Wils. 403; Bacon's Abr. Libel, A 2; 4 Taunt. 355; 3 Camp. 214; Hardw. 470; 5 Binn. 349. The case of Villars v. Monsley, 2 Wils. 403, above cited, was grounded upon the following verses, which were held to be libelous, namely:

"Old−Villers, so strong of brimstone you smell,
As if not long since you had got out of hell,
But this damnable smell I no longer can bear,
Therefore I desire you would come no more here;

You, old stinking; old nasty, old itchy, old toad,
If you come any more you shall pay for your board,
You'll therefore take this as a warning from me,
And never enter the doors, while they belong to J. P.
Wilncot, December 4, 1767."

5. Libels against the memory of the dead which have a tendency to create a breach of the peace by inciting the friends and relatives of the deceased to avenge the insult of the fanlily, render their authors liable to legal animadversion. 5 co. 123; 5 Binn. 281; 2 Chit. Cr. Law, 868; 4 T. R. 186.

6. − 3. If the matter be understood as scandalous, and is calculated to excite ridicule or abhorrence against the party intended, it is libelous, however it may be expressed. 5 East, 463; 1 Price, 11, 17; Hob. 215; Chit. Cr. Law, 868; 2 Campb. 512.

7. − 4. The malicious reading of a libel to one or more persons, it being on the shelves in a bookstore, as other books, for sale; and where the defendant directed the libel to be printed, took away some and left others; these several acts have been held to be publications. The sale of each copy; where several copies have been sold, is a distinct publication, and a fresh offence. The publication must be malicious; evidence of the malice may be either express or implied. Express proof is not necessary: for where a man publishes a writing which on the face of it is libelous, the law presumes he does so from that malicious intention which constitutes the offence, and it is unnecessary, on the part of the prosecution, to prove any circumstance from which malice may be inferred. But no allegation, however false and malicious, contained in answers to interrogatories, in affidavits duly made, or any other proceedings, in courts of justice, or petitions to the legislature, are indictable. 4 Co. 14; 2 Burr. 807; Hawk. B. 1, c. 73, s. 8; 1 Saund. 131, n. 1; 1 Lev. 240; 2 Chitty's Cr. Law, 869; 2 Serg. & Rawle, 23. It is no defence that the matter published is part of a document printed by order of the house of commons. 9 A. &E. 1.

8. The publisher of a libel is liable to be punished criminally by indictment; 2 Chitty's Cr. Law, 875; or is subject to an action on the case by the party grieved. Both remedies may be pursued at the same time. Vide) generally, Holt on Libels; Starkie on Slander; 1 Harr. Dig. Case, I.; Chit. Cr. L. Index, h. t.; Chit. Pr. Index, h. t.

LIBEL OF ACCUSATION. A term used in Scotland to designate the instrument which contains the charge against a person accused of a crime. Libels are of two kinds, namely, indictments and crimiual letters.

2. Every libel assumes the form of what is termed in logic, a syllogism. It is first stated that some partioular kind of act is criminal; as, that "theft is a crime of a heinous nature, and severely punishable." This proposition is termed the major. It is next stated that the person accused is guilty, of the crime so named, "actor, or art and part." This, with the narrative of the manner in which, and the time when the offence was committed, is called the, minor proposition of the libel. The conclusion is that all or part of the facts being proved, or admitted by confession, the panel "ought to be punished with the pains of the law, to deter others from committing the like crime in all time coming." Burt Man. Pub. L. 300, 301.

LIBELLANT. The party who fires a libel in a chancery or admiralty case, correspondes to the plaintiff in actions in the common law courts, is called the libellant.

LIBELLEE. A party against whom a libel has been filed in chancery proceedings, or in admiralty, corresponding to the defendant in a common law suit.

LIBER. A book; a principal subdivision of a literary work: thus, the Pandects, or Digest of the Civil Law, is divided into fifty books.

LIBER ASSISARUM. The book of assizes, or pleas of the crown; being the fifth part of the Year Books. (q. v.)

LIBER FEUD RUM. A code of the feudal law, which was compiled by direction of the emperor Frederick Barbarossa, and published in Milan, in 1170. It was called the Liber Feudorum, and was divided into five books, of which the first, second, and some fragments of the other's still exist and are printed at the end of all the modern editions of the Corpus Juris Civilis. Giannone, B. 13, c, 3; Cruise's Dig. Prel. Diss. c. 1, _31.

LIBER HOMO. A freeman lawfully competent to act as a juror. Raym. 417; Keb. 563.

LIBERATE, English practice. A writ which issues on lands, tenements, and chattels, being returned under an extent on a statute staple, commanding the sheriff to deliver them to the plaintiff, by the extent aud appraisement mentioned in the writ of extent, and in the sheriff's return thereto. See Com dig. Statute Staple, D 6.

LIBERATION, civil law. This term is synonymous with payment. Dig. 50, 16, 47. It is the extinguishment of a contract by which he who was bound become's free, or liberated. Wolff, Dr. de la Nat. _ 749.

LIBERTI, LIBERTINI. These two words were, at different times, made to express among the Romans, the condition of those who, having been slaves, had been made free. 1 Brown's Civ. Law, 99. There is some distinction between these words. By libertus, was understood the freedman, when considered in relation to his patron, who had bestowed liberty upon him and he was called libertinus, when considered in relation to the state he occupied in society since his manumission. Lec. El. Dr. Rom. _93.

LIBERTY. Freedom from restraint. The power of acting as one thinks fit, without any restraint or control, except from the laws of nature.

2. Liberty is divided into civil, natural, personal, and political.

3. Civil liberty is the power to do whatever is permitted by the constitution of the state and the laws of the land. It is no other than natural lib−erty, so far restrained by human laws, and no further, operating equally upon all the citizens, as is necessary and expedient for the general advantage of the public. 1 Black. Com. 125; Paley's Mor. Phil. B. 6, c.5; Swifts Syst. 12

4. That system of laws is alone calculated to maintain civil liberty, which leaves the citizen entirely master of his own conduct, except in those points in which the public good requires some direction and restrant. When a man is restrained in his natural liberty by no municipal laws but those which are requisite to prevent his violating the natural law, and to promote the greatest moral and physical welfare of the community, he is legally possessed of the fullest enjoyment of his civil rights of individual liberty. But it must not be inferred that individuals are to judge for themselves how far the law may justifiably restrict their individual liberty; for it is necessary to−the welfare of the commonwealth, that the law should be obeyed; and thence is derived the legal maxim, that no man may be wiser than the law.

5. Natural liberty is the right which nature gives to all mankind, of diposing of their persons and property after the manner they judge most consonant to their happiness, on condition of their acting within the limits of the law of nature, and that they do not in any way abuse it to the prejudice of other men. Burlamaqui, c. 3, s. 15; 1 Bl. Com. 125.

6. Personal liberty is the independence of our actions of all other will than our own. Wolff, Ins. Nat. _77. It consists in the power of locomotion, of changing situation, or removing one's person to whatever place one's inclination may direct, without imprisonment or restraint, unless by due course of law. 1 Bl. Com. 134.

7. Political liberty may be defined to be, the security by which, from the constitution, form and nature of the established government, the citizens enjoy civil liberty. No ideas or definitions are more distinguishable than those of civil aud political liberty, yet they are generally confounded. 1 Bl. Com. 6, 125. The political liberty of a state is based upon those fundamental laws which establish the distribution of legislative and executive powers. The political liberty of a citizen is that tranquillity of mind, which is the effect of an opinion that he is in perfect security; and to insure this security, the government must be such that one citizen shall not fear another.

8. In the English law, by liberty is meant a privilege held by grant or prescription, by which some men enjoy greater benefits than ordiuary subjects. A liberty is also a territory, with some extraordinary privilege.

9. By liberty or liberties, is understood a part of a town or city, as the Northern Liberties of the city of Philadelphia. The same as Faubourg. (q. V.)

LIBERTY OF THE PRESS. The right to print and publish the truth, from good motives, and for justifiable ends. 3 Johns. Cas. 394.

2. This right is secured by the constitution of the United States. Amendments, art. 1. The abuse of the right is punished criminally, by indictment; civilly, by action. Vide Judge Cooper's Treatise on the Law of Libel, aud the Liberty of the Press, passim; and article Libel.

LIBERTY OF SPEECH. The right given by the constitution and the laws to public support in speaking facts or opinions.

2. In a republican government like ours, liberty of speech cannot be extended too far, when its object is the public good. It is, therefore, wisely provided by the constitution of the United States, that members of congress shall not be called to account for anything said in debate; and similar provisions are contained in the constitutions of the several states in relation to the members of their respective legislatures. This right, however, does not extend beyond the mere speaking; for if a member of congress were to reduce his speech to writing and cause it to be printed, it would no longer bear a privileged character and he might be held responsible for a libel, as any other individual. Bac. Ab. Libel, B.* See Debate.

3. The greatest latitude is allowed by the common law to counsel; in the discharge of his professional duty he

may use strong epithets, however derogatory to other persons they may be, if pertinent to the cause, and stated in his instructions, whether the thing were true or false. But if he were maliciously to travel out of his case for the purpose of slandering another, he would be liable to an action, and amenable to a just and often more efficacious punishment inflicted by public opinion. 3 Chit. Pr. 887. No respectable counsel will indulge himself with unjust severity; and it is doubtless the duty of the court to prevent any such abuse.

LIBERUM TENEMENTUM, pleading. The name of a plea in an action of trespass, by which the defendant claims the locus in quo to be his soil and freehold, or the soil and freehold of a third person, by whose command he entered. 2 Salk. 453; 7 T. R. 355; 1 Saund. 299, b, note.

LIBERUM TENEMENTUM, estate. The same as, freehold, (q. v.) or frank tenement. 2 Bouv. Inst. n. 1690.

LICENSE, contracts. A right given by some competent authority to do an act, which without such authority would be illegal. The instrument or writing which secures this right, is also called a license. Vide Ayl. Parerg, 353; 15 Vin. Ab. 92; Ang. Wat. Co. 61, 85.

2. A license is express or implied. An express license is one which in direct terms authorizes the performance of a certain act; as a license to keep a tavern given by public authority.

3. An implied license is one which though not expressly given, may be presumed from the acts of the party having a right to give it. The following are examples of such licenses: 1. When a man knocks at another's door, and it is opened, the act of opening the door licenses the former to enter the house for any lawful purpose. See Hob. 62. A servant is, in consequence of his employment, licensed to admit to the house, those who come on his master's business, but only such persons. Selw. N. P. 999; Cro. Eliz. 246. It may, however, be inferred from circumstances that the servant has authority to invite whom he pleases to the house, for lawful purposes. See 2 Greenl. Ev. _427; Entry.

4. A Iicense is either a bare authority, without interest, or it is coupled with an interest. 1. A bare license must be executed by the party to whom it is given in person, and cannot be made over or assigned by him to another; and, being without consideration, may be revoked at pleasure, as long as it remains executory; 39 Hen. VI. M. 12, page 7; but when carried into effect, either partially or altogether, it can only be rescinded, if in its nature it will admit of revocation, by placing the other side in the same situation in which he stood before he entered on its execution. 8 East, R. 308; Palm. 71; S. C. Poph. 151; S. C. 2 Roll. Rep. 143, 152.

5. − 2. When the license is coupled with an interest the authority conferred is not properly a mere permission, but amounts to a grant, which cannot be revoked, and it may then be assigned to a third person. 5 Hen. V., M. 1, page 1; 2 Mod. 317; 7 Bing. 693; 8 East, 309; 5 B. & C. 221; 7 D. & R. 783; Crabb on R. P. _521 to 525; 14 S. & R 267; 4 S. & R. 241; 2 Eq. Cas. Ab. 522. When the license is coupled with an interest, the formalities essential to confer such interest should be observed. Say. R. 3; 6 East, R. 602; 8 East, R. 310, note. See 14 S. & R. 267; 4 S. & R. 241; 2 Eq. Cas. Ab. 522; 11 Ad. & El. 34, 39; S. C. 39 Eng, C. L. R. 19.

LICENSE, International law. An authority given by one of two belligerent parties, to the citizens or subjects of the other, to carry on a specified trade.

2. The effects of the license are to suspend or relax the rules of war to the extent of the authority given. It is the assumption of a state of peace to the extent of the license. In the country which grants them, licenses to carry on a pacific commerce are stricti juris, as being exceptions to the general rule; though they are not to be construed with pedantic accuracy, nor will every small deviation be held to vitiate the fair effect of them. 4 Rob. Rep. 8; Chitty, Law of Nat. 1 to 5, and 260; 1 Kent, Com. 164, 85.

LlCENSE, pleading. The name of a plea of justification to an action of trespass. A license must be specially pleaded, and cannot, like liberum tenementum, be given in evidence under the general issue. 2. T. R. 166, 108

LICENSEE. One to whom a license has been given. 1 M. Q. & S. 699 n.

LICENTIA CONCORDANDI, estates, conveyancing, practice. When an action is brought for the purpose of levying a fine, the defendant, knowing himself to be in the wrong, is supposed to make overtures of accommodation to the plaintiff, who accepts them; but having given pledges to prosecute his suit, applies to the court, upon the return of the writ of covenant, for leave to make the matter up; this, which is readily granted, is called the, licentia concordandi. 5 Rep. 39; Cruise, Dig. tit. 35, c. 2, 22.

LICENTIA LOQUENDI. Imparlance. (q. v.)

LICENTIOUSNESS. The doing what one pleases without regard to the rights of others; it differs from liberty in this, that the latter is restrained by natural or positive law, and consists in doing whatever we please, not inconsistent, with the rights of others, whereas the former does not respect those rights. Wolff, Inst. _84.

LICET SAEPIUS REQUISITUS, pleading. practice. Although often requested. It is usually alleged in the declaration that the defendant, licet saepius requisitus, &c., he did not perform the contract, the violatioin of which is the foundation of the action. The allegation is generally sufficient when a request is not parcel of the contract. Indeed, in such cases it is unneccssary even to lay a general request, for the bringing of the suit is itself a sufficient request. 1 Saund. 33, n. 2; 2 Saund, 118 note 3; Plowd. 128; 1 Wils. 33; 2 H. BI. 131; 1 John. Cas. 99, 319; 7 John. R. 462; 18 John. R. 485; 3 M. & S. 150. Vide Demand.

LICET. It is lawful; not forbidden by law. Id omne licitum est, quod non est legibus prohibitum; quamobrem, quod, lege permittente, fit, poenam non meretur.

LICITATION. A sale at auction; a sale to the highest bidder.

LIDFORD LAW. Vide Lynch Law.

TO LIE. That which is proper, is fit; as, an action on the case lies for an injury committed without force; corporeal hereditaments lie in livery, that is, they pass by livery; incorporeal hereditaments lie in grant, that is, pass by the force of the grant, and without any livery. Vide Lying in grant.

LIEGE, from the Latin, ligare, to bind. The bond subsisting between the subject and chief, or lord and vassal, binding the one to protection and just government, the other to tribute and due subjection. The prince or chief is called liege lord; the subjects liege men. The word is now applied as if the liegance or bond were only to attach the people to the prince. Stat. 8 Hen. VI. c. 10; 14 Hen. VIII. c. 2; 1 Bl. Com. 367.

LIEGE POUSTIE, Scotch law. The condition or state of a person who is in his ordinary health and capacity, and not a minor, nor cognosced as an idiot or madman, nor under interdiction. He is then said to be in Iiege poustie, or in legitima potestati, and he has full power of disposal of his property. 1 Bell's Com. 85, 5th ed.; 6 Clark & Fin. 540. Vide Sui juris.

LIEN, contracts. In its most extensive signification, this term includes every case in which real or personal property is charged with the payment of any debt or duty; every such charge being denominated a lien on the property. In a more limited sense it is defined to be a right of detaining the property of another until some claim be satisfied. 2 East 235; 6 East 25; 2 Campb. 579; 2 Meriv. 494; 2 Rose, 357; 1 Dall. R. 345.

2. The right of lien generally arises by operation of law, but in some cases it is created by express contract.

3. There are two kinds of lien; namely, particular and general. When a person claims a right to retain property, in respect of money or labor expended on such particular property, this is a particular lien. Liens may arise in three ways: 1st. By express contract. 2d. From implied contract, as from general or particular usage of trade. 3d. By legal relation between the parties, which may be created in three ways; When the law casts an obligation on a party to do a particular act, and in return for which, to secure him payment, it gives him such lien; 1 Esp. R. 109; 6 East, 519; 2 Ld. Raym. 866; common carriers and inn keepers are among this number. 2. When goods are delivered to a tradesman or any other, to expend his labor upon, he is entitled to detain those goods until he is remunerated for the labor which he so expends. 2 Roll. Ab. 92; 3 M. & S. 167; 14 Pick. 332; 3 Bouv. Inst. n. 2514. 3. When goods have been saved from the perils of the sea, the salvor may detain them until his claim for salvage is satisfied; but in no other case has the finder of goods, a lien. 2 Salk. 654; 5 Burr. 2732; 3 Bouv. Inst. n. 2518. General liens arise in three ways; 1. By the agreement of the parties. 6 T. R.14; 3 Bos. & Pull. 42. 2. By the general usage of trade. 3. By particular usage of trade. Whitaker on Liens 35; Prec. Ch. 580; 1 Atk. 235; 6 T. R. 19.

4. It may be proper to consider a few, general principles: 1. As to the manner in which a lien may be acquired. 2. To what claims liens properly attach. 3. How they may be lost. 4. Their effect.

5. − 1. How liens may be acquired. To create a valid lien, it is essential, 1st. That the party to whom or by whom it is acquired should have the absolute property or ownership of the thing, or, at least, a right to vest it. 2d. That the party claiminig the lien should have an actual or constructive, possession, with the assent of the party against whom the claim is made. 3 Chit. Com. Law, 547; Paley on Ag. by Lloyd, 137; 17 Mass. R. 197; 4 Campb. R. 291; 3 T. R. 119 and 783; 1 East, R. 4; 7 East, R. 5; 1 Stark. R. 123; 3 Rose, R. 955; 3 Price, R. 547; 5 Binn. R. 392. 3d. That the lien should arise upon an agreement, express or implied, and not be for a limited or specific purpose inconsistent with the express terms, or the clear, intent of the contract; 2 Stark. R. 272; 6 T. R. 258; 7 Taunt. 278;. 5 M. & S. 180; 15 Mass. 389, 397; as, for example, when goods are deposited to be delivered to a third person, or to be transported to another place. Pal. on Ag. by Lloyd, 140.

6. − 2. The debts or claims to which liens properly attach. 1st. In general, liens properly attach on liquidated demands, and not on those which sound only in damages; 3 Chit. Com. Law, 548; though by an express contract

they may attach even in such a case as, where the goods are to be held as an indemnity against a future contingent claim or damages. Ibid. 2d. The claim for which the lien is asserted, must he due to the party claiming it in his own right, and not merely as agent of a third person. It must be a debt or demand due from the very person for whose benefit the party is acting, and not from a third person, although the goods may be claimed through him. Pal. Ag. by Lloyd, 132.

7. − 3. How a lien may be lost. 1st. It may be waived or lost by any act or agreement between the parties, by which it is surrendered, or becomes inaplicable. 2d. It may also be lost by voluntarily parting with the possession of the goods. But to this rule there are some exceptions; for example, when a factor by lawful authority sells the goods of his principal, and parts with the possession under the sale he is not, by this act, deemed to lose his lien, but it attaches to the proceeds of the sale in the hands of hte vendee.

8. − 4. The effect of liens. In general, the right of the holder of the lien is confined to the mere right of retainer. But when the creditor has made advances on the goods of a factor, he is generally invested with the right to sell. Holt's N P. Rep. 383; 3 Chit. Com. Law, 551; 2 Liverm. Ag. 103; 2 Kent's Com. 642, 3d ed. In some cases where the lien would not confer power to sell, a court of equity would decree it. 1 Story Eq. Jur. _566; 2 Story, Eq. Jur. _1216; Story Ag. _371. And courts of admiralty will deeree a sale to satisfy maritime liens. Abb. Ship. pt. 3, c10. _2; Story, Ag. _371.

9. Judgments rendered in courts of record are generally liens on the real estate of the defendants or parties against whom such judgments are given. In Alabama, Georgia and Indiana, judgment is a lien; in the last mentioned state, it continues for ten years from January 1, 1826, if it was rendered from that time; if, after ten years from the rendition of the judgment, and when the proceedings are stayed by order of the court, or by an agreement recorded, the time of its suspension is not reckoned in the ten years. A judgment does not bind lands in Kentucky, the lien commences by the delivery of execution to the sheriff, or officer. 4 Pet. R. 366; 1 Dane's R. 360. The law seems to be the same in Mississippi. 2 Hill. Ab. c. 46, s. 6., In New Jersey, the judgments take priority among themselves in the order the executions on them have been issued. The lien of a judgment and the decree of a court of chancery continue a lien in New York for ten years, and bind after acquired lands. N. Y. Stat. part 3, t. 4, s. 3. It seems that a judgment is a lien in North Carolina, if an elegit has been sued out, but this is perhaps not settled. 2 Murph. R. 43. The lien of a judgment in Ohio is confined to the county, and continues only for one year, unless revived. It does not, per se, bind after acquired lands. In Pennsylvania, it commences with the rendering of judgment, and continues five years from the return day of that term. It does not, per se, bind after acquired lands. It may be revived by scire facias, or an agreement of the parties, and terre tenants, written and filed. In South CaroIina and Tennessee a judgment is also a lien. In the New England states, lands are attached by mesne process or on the writ, and a lien is thereby created. See 2 Hill. Ab. c. 46.

10. Liens are also divided into legal and equitable. The former are those which may be enforeed iu a court of law; the latter are valid only in a court of equity. The lien which the vendor of real estate has on the estate sold, for the purchase money remaining unpaid, is a familiar example of an equitable lien. Math. on Pres. 392. Vide Purchase money. Vide, generally, Yelv. 67, a; 2 Kent, Com. 495; Pal Ag. 107; Whit. on Liens; Story on Ag. ch. 14, _351, et seq: Hov. Fr. 35.

11. Lien of mechanics and material men. By virtue of express statutes in several of the states, mechanics and material men, or persons who furnish materials for the erection of houses or other buildings, are entitled to a lien or preference in the payment of debts out of the houses and buildings so erected, and to the land, to a greater or lessor extent, on which they are erected. A considerable similarity exists in the laws of the different states which have legislated on this subject.

12. The lien generally attaches from the commencement of the work or the furnishing of materials, and continues for a limited period of time. In some states, a claim must be filed in the office of the clerk or prothonotary of the court, or a suit brought within a limited time. On the sale of the building these liens are to be paid pro rata. In some states no lien is created unless the work done or the goods furnished amount to a certain specified sum, while in others there is no limit to the amount. In general, none but the original contractors can claim under the law; sometimes, however, sub−coutractors have the same right.

13. The remedy is various; in some states, it is by scire facias on the lien, in others, it is by petition to the court for an order of sale: in some, the property is subject to foreclosure, as on a mortgage; in others, by a common action. See 1 Hill. Ab. ch. 40, p. 354, where will be found an abstract of the laws of the several states, except the state of Louisiana; for the laws of that state, see Civ. Code of Louis. art. 2727 to 2748. See generally, 5 Binn. 585;

2 Browne, R. 229, n. 275; 2 Rawle R. 316; Id. 343; 3 Rawle, R. 492; 5 Rawle R. 291; 2 Whart. R. 223; 2 S. & R. 138; 14 S. & R. 32; 12 S. & R. 301; 3 Watts, R. 140, 141; Id. 301; 5 Watts, R. 487; 14 Pick. P,. 49; Serg. on Mech. Liens.

LIEU, place. Iu lieu of, instead, in the place of.

LIEUTENANT. This word has now a narrower meaning than it formerly had; its true meaning is a deputy, a substitute, from the French lieu, (place or post) and tenant (holder). Among civil officers we have lieutenant governors, who in certain cases perform the duties of governors; (vide, the names of the several states,) lieutenants of police, &c. Among military men, lieutenant general was formerly the title of a commanding general, but now it signifies the degree above major general. Lieutenant colonel, is the officer between the colonel and the major. Lieutenant simply signifies the officer next below a captain. In the navy, a lieutenant is the second officer next in command to the captain of a ship.

LIFE. The aggregate of the animal functions which resist death. Bichat.

2. The state of animated beings, while they possess the power of feeling and motion. It commences in contemplation of law generally as soon as the infant is able to stir in the mother's womb; 1 Bl. Com. 129; 3 Inst. 50; Wood's Inst. 11; and ceases at death. Lawyers and legislators are not, however, the best physiologists, and it may be justly suspected that in fact life commences before the mother can perceive any motion of the feotus. 1 Beck's Med. Jur. 291.

3. For many purposes, however, life is considered as begun from the moment of conception in ventre sa mere. Vide Foetus. But in order to acquire and transfer civil rights the child must be born alive. Whether a child is born alive, is to be ascertained from certain signs which are always attendant upon life. The fact of the child's crying is the most certain. There may be a certain motion in a new born infant which may last even for hours, and yet there may not be complete life. It seems that in order to commence life the child must be born with the ability to breathe, and must actually have breathed. 1 Briand, M,d. L,g. 1ere partie, c. 6, art. 1.

4. Life is presumed to continue at least till one hundred years. 9 Mart. Lo. R. 257 See Death; Survivorship.

5. Life is considered by the law of the utmost importance, and its most anxious care is to protect it. 1 Bouv. Inst. n. 202−3.

LIFE ANNUITY. An annual income to be paid during the continuance of a particular life.

LIFE−ASSURANCE. An insurance of a life, upon the payment of a premium; this may be for the whole life, or for a limited time. On the death of the person whose life has been insured, during the time for which it is insured, the insurer is bound to pay to the insured. the money agreed upon. See 1 Bouv. Inst. n. 1231.

LIFE−ESTATE. Vide Estate for life, and 3 Saund. 338, h. note; 2 Kent Com. 285; 4 Kent, Com. 23.; 1 Hov. Suppl. to Ves. jr. 371, 381; 2 Id. 45, 249, 330, 340, 398, 467; 8 Com. Dig. 714.

LIFE−RENT, Scotch law. A right to use and enjoy a thing during life, the substance of it being preserved. A life−rent cannot, therefore, be constituted upon things which perish in the use; and though it may upon subjects which gradually wear out by time, as household furniture, &c., yet it is generally applied to heritable subjects. Life−rents are divided into conventional and legal.

2. − 1. The conventional are either simple or by reservation. A simple life− rent, or by a separate constitution, is that which is granted by the proprietor in favor of another. A life−rent by reservation is that which a proprietor reserves to himself, in the same writing by which he conveys the fee to another.

3. − 2. Life−rents, by law, are the terce and the courtesy. See Terce; Courtesy.

LIGAN or LAGAN. Goods cast into the sea tied to a buoy, so that they may be found again by the owners, are so denominated. When goods are cast into the sea in storms or shipwrecks, and remain there without coming to land, they are distinguished by the barbarous names of jetsam, (q. v.) flotsam, (q. v.) and ligan. 5 Rep. 108; Harg. Tr. 48; 1 Bl. Com. 292.

LIGEANCE. The true and faithful obedience of a subject to his sovereign, of a citizen to his government. It signifies also the territory of a soverqign. See Allegiance.

LIGHTERMAN. The owner or manager of a lighter. A lighterman is considered as a common Carrier. See Lighters.

LIGHTERS, commerce. Small vessels employed in loading and unloading larger vessels.

2. The owners of lighters are liable, like other common carriers for hire; it is a term of the contract on the part of the carrier or lighterman, implied by law, that his vessel is tight and fit for the purpose or employments for which he offers and holds it forth to the public; it is the immmediate foundation and substratum of the contract that it is

so: the law presumes a promise to that effect on the part of the carrier without actual proof, and every principle of sound policy and public convenience requires it should be so. 5 East, 428; Abbott on Sh. 225; 1 Marsh. on Ins. 254; Park on Ins. 23; Wesk. on Ins. 328.

LIGHTS. Those openings in a wall which are made rather for the admission of light, than to look out of. 6 Moore, C. B. 47; 9 Bingh. R. 305; 1 Lev. 122; Civ. Code of Lo. art. 711. See Ancient Lights; Windows.

LIMBS. Those members of a man which may be useful to him in flight, and the unlawful deprivation of which by another amounts to a mayhem at common law. 1 Bl. Com. 130. If a man, se defendendo, commit homicide, he will be excused; and if he enter into an apparent contract, under a well−grounded apprehension of losing his life or limbs, he may afterwards avoid it. 1 Bl. 130.

LIMITATION, estates. When an estate is so expressly confined and limited by the words of its creation, that it cannot endure for a longer time than till the contingency shall happen, upon which the estate is to fail, this is denom−inated a limitation; as, when land is granted to a man while he continues unmarried, or until the rents and profits shall have made a certain sum, and the like; in these cases the estate is limited, that is, it does not go beyond the happening of the contingency. 2 Bl. Com. 155; 10 Co. 41; Bac. Ab. Conditions, H; Co. Litt. 236 b; 4 Kent. Com. 121; Tho. Co. Litt. Index, h. t.; 10 Vin. Ab. 218; 1 Vern. 483, n. 4; Ves. Jr. 718.

2. There is a difference between a limitation and a condition. When a thing is given until an event shall arrive, this is called a limitation; but when it is given generally, and the gift is to be defeated upon the happening of an uncertain event, then the gift is conditional. For example, when a man gives a legacy to his wife, while, or as long as, she shall remain his widow, or until she shall marry, the estate is given to her only for the time of her widowhood and, on her marriage, her right to it determines. Bac. Ab. Conditions, H. But if, instead of giving the legacy to the wife, as above mentioned, the gift had been to her generally with a proviso, or on condition that she should not marry, or that if she married she should forfeit her legacy, this would be a condition, and such condition being in restraint of marriage, would be void.

LIMITATION, remedies. A bar to the alleged right of a plaintiff to recover in an action, caused by the lapse of a certain time appointed by law; or it is the end of the time appointed by law, during which a party may sue for and recover a right. It is a maxim of the common law, that a right never dies and, as far as contracts were concerned, there was no time of limitation to actions on such contracts. The only limit there was to the recovery in cases of torts was the death of one of the parties; for it was a maxim actio personalis moritur cum persona. This unrestrained power of commencing actions at any period, however remote from the original cause of action, was found to encourage fraud aud injustice; to prevent which, to assure the titles to land, to quiet the possession of the owner, and to prevent litigation, statutes of limitation were passed. This was effected by the statutes of 32 Hen. VIII. c. 2, and 21 Jac, I. c. 16. These statutes were adopted and practiced upon in this country, in several of the states, though they are now in many of the states in most respects superseded by the enactments of other acts of limitation.

2. Before proceeding to notice the enactments on this subject in the several states, it is proper to call the attention of the reader to the rights of the government to sue untrammeled by any statue of limitations, unless expressly restricted, or by necessary implication included. It has therefore been decided that the general words of a statute ought not to include the government, or affect its rights, unless the construction be clear and indisputable upon the text of the act; 2 Mason's R. 314; for no laches can be imputed to the government. 4 Mass. R. 528; 2 Overt. R. 352; 1 Const. Rep. 125; 4 Henn. & M. 53; 3 Serg. & Rawle, 291; 1 Bay's R. 26. The acts of limitation passed by the several states are not binding upon the government of the United States, in a suit in the courts of the United States. 2 Mason's R. 311.

3. For the following abstract of the laws of the United States and of the several states, regulating the limitations of actions, the author has been much assisted by the appendix of Mr. Angell's excellent treatise on the Limitation of Actions.

4. United States. 1. On contracts. All suits on marshals' bonds shall be commenced and prosecuted within six years after the right of action shall have accrued, and not after; saving the rights of infants, femes covert, and persons non compos mentis, so that they may sue within three years after disability removed. Act of April 10, 1806, s. 1.

5. − 2. On legal proceedings. Writs of error must be brought within five years after judgment or decree complained of; saving in cases of disability the right to bring them five years after its removal. Act of September 24, 1789, s. 22. And the like limitation is applied to bills of review. 10 Wheat. 146.

6. − 3. Penalties. Prosecutions under the revenue laws, must be commenced within three years. Act of March 2, 1799, Act of March 1, 1823. Suits for penalties respecting copyrights, within two years. Act of April 29, 1802, s. 3. Suits in violation of the provisions of the act of 1818, respecting the slave trade, must be commenced within five years. Act of April 20, 1818, s. 9.

7. − 4. Crimes. Offences punishable by a court martial must be proceeded against within two years unless the person by reason of having absented himself, or some other manifest impediment, has not been amenable to justice within that period. The act of April 30, 1790, s. 31, limits the prosecution and trial of treason or other capital offence, wilful murder or forgery excepted, to three years next after their commission; and for offences not capital to two years, unless the party has fled from justice. 2 Cranch, 336.

8. Alabama. 1. As to real estate. 1. After twenty years after title accrued, no entry can be made into lands. 2. No action for the recovery of land can be maintained, if commenced after thirty vears after title accrued. 3. Actions on claims by virtue of any title which has not been confirmed by either of the boards of commissioners of the United States, for adjusting land claims &c., and not recognized or confirmed by any act of congress, are barred after three years; there is a proviso as to lands formerly in West Florida, and in favor of persons under disabilities.

9. − 2. As to personal actions. 1. Actions of trespass, quare clausum fregit; trespass; detinue; trover; replevin for taking away of goods and chattels; of debt, founded on any lending or contract, without specialty, or for arrearages of rent on a parol demise of account and upon the case, (except actions for slander, and such as concern the trade of merchandise between merchant and merchant, their factors or agents, are to be commenced within six years next after the cause of action accrued, and not after.

10. − 2. Actions of trespass for assaults, menace, battery, wounding and imprisonment, or any of them, are limited to two years.

11. − 3. Actions for words to one year.

12. − 4. Actions of debt or covenant for rent or arrearages of rent, founded upon any lease under seal, or upon any single or penal bill for the payment of money only, or on any obligation with condition for the payment of money only, or upon any award under the hands and seals of arbitrators, are to be commenced within sixteen years after the cause of action accrued, and not after; but if any payment has been made on the same at any time, then sixteen years from the time of such payment.

13. − 5. Judgments cannot be revived after twenty years.

14. − 6. A new action must be brought within one year when the former has been reversed on error, or the judgment has been arrested.

15. − 7. Actions on book accounts must be commenced within three years, except in the case of trade or merchandise between merchant and merchant, their factors or agents.

16. − 8. Writs of error must be sued out within three years after final judgment.

17. Arkansas. 1. As to lands. No action for the recovery of any lands or tenements, or for the recovery of the possession thereof, sball be maintained, unless it appears that the plaintiff, his ancestor, predecessor, or grantor, was seised or possessed of the promises in question within ten years before the commencement of such suit. Act of March 3, 1838, s. 1. Rev. Stat. 527. No entry upon lands or tenements shall be deemed sufficient or valid as a claim, unless an action be commenced thereon within one year after such entry, and within ten years from the time when the right to make such entry descended and accrued. Id. s. 2. The right of any person to the possession of any lands or tenements, shall not be impaired or affected by a descent cast in consequence of the death of any person in possession of such estate. Id. s. 3.

18. The savings are as follows: If any person entitled to commence any action in the preceding sections specified, or to make an entry, be, at the time such title shall first descend or accrue; first, within the age of twenty−one years; second, insane; third, beyond the limits of the state; or, fourth, a married woman; the time during which such disabilities shall continue, shall not be deemed any portion of the time in this act limited for the commencement of such suit, or the making of such entry; but such person may bring such action, or make such entry, after the time so limited, and within five years after such disability is removed, but not after that period. Id. S. 4. If any person entitled to commence any such action, or make such entry, die during the continuance of such disability specified in the preceding section, and no determination or judgment be had of the title, right, or action to him accrued, his heirs may commence such action, or make such entry, after the time in this act limited for that purpose, and within five years after his death, and not after that period. Id. s. 5, Rev. Stat. 527.

19. − 2. As to personal actions. 1. The following actions shall be commenced within three years after the cause

of action shall accrue: first, all actions founded upon any contract, obligation, or liability, (not under seal,) excepting such as are brought upon the judgment or decree of some court of record of the United States, of this, or some other state; second, all actions upon judgments rendered in any court not being a court of record; third, all actions for arrearages of rent, (not reserved by some instrument under seal); fourth, all actions of account, assumpsit, or on the case, founded on any contract or liability, expressed or implied; fifth, all actions of trespass on lands, or for libels; sixth, all actions for taking or injuring any goods or, chattels. Id. s. 6, Rev. Stat. 527, 528.

20. − 2. The following actions shall be commenced within one year after the cause of action shall accrue, and not after: first, all special actions on the case for criminal conversation, assault and battery and false imprisonment; second, all actions for words spoken, slandering the character of another; third, all words spoken whereby special damages are sustained. Id. s. 7.

21. − 3. All actions against sheriffs or other officers, for the escape of any person imprisoned on civil process, shall be commenced within one year from the time of such escape, and not after. Id. s. 8.

22. − 4. All actions against sheriffs and coroners, upon any liability incurred by them, by doing any act in their official capacity, or by the omission of any official duty, except for escapes, shall be brought within two years after the cause of action shall have accrued, and not thereafter. Id. s. 9.

23. − 5. All actions upon penal statutes where the penalty or any part thereof, goes to the state, or any county, or person suing for the same, shall be commenced within two years after the offence shall have been committed, or the cause of action shall have accrued. Id. s. 10.

24. − 6. All actions not included in the foregoing provisions, shall be commenced within five years after the cause of action shall have accrued. Id. s. 11.

25. − 7. In all actions of debt, account or assumpsit, brought to recover any balance due upon a mutual, open account current, the cause of action shall be deemed to have accrued from the time of the last item proved in such account Id. s. 12.

26. The savings are as follows: 1. If any person entitled to bring any action in the preceding seven sections mentioned, except in actions against sheriffs for escapes, and actions of slander, shall, at the time of action accrued, be either within the age of twenty−one years, or insane, or beyond the limits of this state, or a married woman, such person shall be at liberty to bring such action within the time specified in this act, after such disability is removed. Id. s. 13.

27. − 2. If any person entitled to bring an action in the preceding provisions of this act specified, die before the expiration of the time limited for the commencement of such suit, and such cause of action shall survive to his representatives, his executors or administrators may, after the expiration of such time, and within one year after such death, commence such suit, but not after that period. Id. s. 19.

28. − 3. If at any time when any cause of action specified in this act accrues against any person, he be out of the state, such action may be commenced within the times herein respectively limited, after the return of such person into the state; and if, after such cause of action shall have accrued, such person depart from, and reside out of the state, the time of his absence shall not be deemed or taken as any part of the time limited for the commencement of such action. Id. s. 20. If any person, by leaving the county absconding or concealing himself, or any other improper act of his own, prevent the commencement of any action in this act specified, such action may be commenceed within the times respectively limited, after the commencement of such action shall have ceased to be so prevented. Id. s. 26.

29. − 4. None of the provisions of this act shall apply to suit’s brought to enforced payment on bills, notes, or evidences of debt issued by any bank, or moneyed corporation. Id. s. 18.

30. Connecticut. 1. As to lands. No person can make an entry into lands after fifteen years next after his right or title first accrued to the same; and no such entry is valid unless an action is afterwards commenced thereupon, and is prosecuted with effect within one year next after the making thereof; there is a proviso in favor of disabled persons, who may sue within five years after the disability has been removed.

31. − 2. As to personal actions. 1. In actions on specialties and promissory notes, not negotiable, the limitation is seventeen years, with a saving that "persons legally incapable to bring an action on such bond or writing at the accruing of the right of action, may bring the same within four years after becoming legally capable."

32. − 2. Actions of account, of debt on book, on simple contract, or assumpsit, founded on an implied contract, or upon any contract in writing, not under seal, (except promissory notes not negotiable,) within six years, saving as above three years.

33. − 3. In trespass on the case, six years, but no savings.

34. − 4. Actions founded upon express contracts not reduced to writing; upon trespass; or upon the case for word; three years and no savings.

35. − 5. Actions founded on penal statutes one year after the commission of the offence.

36. − 6. A new suit must be commenced within one year after reversal of the former, or when it was arrested.

37. Delaware. 1. As to lands. Twenty years of adverse possession of land is a bar. The general principles of the English law on this subject, have been adopted in this state.

38. − 2. As to personal actions. All actions of trespass quare clausum fregit; of detinue; trover and replevin, for taking away goods or chattels; upon account and upon the case; (other than actions between merchant and merchant, their factors and servants, relating to merchandise;) upon the case for words; of debt grounded upon any lending or contract without specially; of debt for arrearages of rent; and all actions of trespass, assault, battery, menace, wounding or imprisonment, shall be commenced and sued within three years next after the cause of such action or suit accrues, and not after.

39. The 2d section of the same act contains a saving, in favor of persons who, at the time of the cause of action accrued, are within the age of twenty−one years; femes covert; persons of insane memory, or imprisoned. Such persons must bring their actions within one year next after the removal of such disability as aforesaid.

40. In the 3d section of the same act, provision is made, that no person not keeping a day book, or regular book of accounts, shall be admitted to prove or require payment of any account of longer standing than one year against the estate of any person dying within the state, or if it consist of many particulars, unless every charge therein shall have accrued within three years next before the death of the deceased, and unless the truth and justice thereof shall be made to appear by one, sufficient witness; and in case of a regular book of accounts, unless such account shall have accrued or arisen within three years before the death of the deceased person.

41. In section 6th, there is a saving of the rights or demands of infants, femes covert, persons of insane memory, or imprisoned, so their accounts be proved and their claims prosecuted within one year after the removal of such disability.

42. By a supplementary act, it is declared, that nothing contained in this act, shall extend to any intercourse between merchant and merchant, according to the usual course of mercantile business nor to any demands founded on mortgages: bonds, bills, promissory notes, or settlements under the hands of the parties concerned.

43. All actions upon administration, guardian and testamentary bonds, must be commenced within six years after passing the said bonds; and actions on sheriff's recognizances, within seven years after the entering into such recognizances, and not after; saving in all these cases, the rights of infants, femes covert, persons of insane memory, or imprisoned, of bringing such actions on administration, guardian or testamentary bonds, within three years after the removal of the disability, and on sheriff's recognizances within one year after such disability removed.

44. No appeal can be taken from any interlocutory order, or final decrees of the chancellor, but within one year next after making and signing the final decree, unless the person entitled to such appeal be an infant, feme covert, non compos mentis, or a prisoner.

45. No writ of error, can be brought upon any judgment, but within five years after the confessing, entering or rendering thereof, unless the person entitled to such writ, be an infant, feme covert, non compos mentis, or a prisoner, and then within five years exclusive of the time of such disabi− lity. Constitution, article 5, s. 13.

46. There is no saving in favor of foreigners or citizens of other states. The courts of this state have adopted the general principles of the English law.

47. Florida. 1. As to lands. Writs of formedon in descender, remainder, or reverter, must be brought within twenty years. Act of Nov. 10, 1828, sec. 1, Duval; 154. Infants, femes covert, persons non compos mentis, or prisoners, may. sue within ten years after disability is removed. Id. s. 2. A writ of right on seisin of ancestor or predecessor within fifty years; other possessory action on seisin of ancestor or predecessor, within forty years; real action on plaintiff's possession or seisin within thirty years. Id. sec. 3.

48. − 2. As to personal actions. All actions upon the case, other than for slander, actions for accounts, for trespass, debt, detinue, and replevin for goods and chattels, and actions of trespass quare clausum fregit, within five years. Actions of trespass, assault, battery, wounding and imprisonment, or any of them, within three years; and actions for words within one year. Id. s. 4. There is a saving in favor of infants, femes covert, persons non compos mentis, imprisoned, or beyond seas, or out of the country, who may bring suit within the same time after

the disability has been removed. All actions on book accounts shall be brought within two years.

49. − 3. As to crimes. All offences not punishable with death, shall be prosecuted within two years. Act of Feb. 10, 1882, s. 78. All actions, suits and presentments upon penal acts of the general assembly, shall be prosecuted within one year. Act of Nov. 19, 1828, s. 18.

50. Georgia. 1. As to lands. Seven years' adverse possession of lands is a bar, with a saving in favor of infants, femes covert, persons non compos mentis, imprisoned or beyond seas.

51. − 2. As to personal actions. Twenty years is a bar in personal actions, on bonds under seal; other obligations not under seal, six years; trespass quare clausum fregit, three years trespass, assault and battery, two years; slander and qui tam actions, six months. There are savings in favor of infants, femes covert, persons non composmentis, imprisoned and beyond seas.

52. No other savings in favor of citizens of other states or foreigners.

53. As to crimes. In cases of murder there is no limitation. In all other criminal cases where the punishment is death or perpetual imprisonment, seven years; other felonies, four years; cases punishable by fine and imprisonment, two years. Prince's Dig. 573−579. Acts of 1767, 1813, and 1833. See 1 Laws of Geo. 33; 2 Id. 344; 3 Id. 30; Pamphlet Laws, 1833, p. 143.

54. Illinois. 1. As to lands. No statute on this subject.

55. − 2. As to personal actions. All actions of trespass quare clausum fregit; all actions of trespass, detinue, actions sur trover, and replevin for taking away goods and chattels, all actions of account, and upon the case, other than such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants; all actions of debt, grounded upon any lending or contract without specialty; all actions of debt for arrearages of rent; all actions of assault, menace, battery, wounding, and imprisonment, or any of them, which shall be sued or brought, shall be commenced within the following times, and not after actions upon the case, other than for slander; actions of account, and actions of trespass, debt, detinue and replevin for goods and chattels, and actions of trespass quare clausum fregit, within five years next after the cause of action or suit, and not after; and the actions of trespass for assault, battery, wounding, imprisonment, or any of them, within three years next after cause of action or suit, and not after; and actions for slander, within one year next after the words spoken. There are no savings, by the statute, in favor of citizens of other states, or foreigners.

56. Indiana. 1. As to lands. "No action of ejectment shall be commenced for the recovery of lands or tenements against any person or persons who may have been in the quiet and peaceable possession of the same under an adverse title for twenty years, either in his own right, or the right of any other person or persons under whom he claims; and any action of ejectment commenced against the provisions of this act shall be dismissed at the cost of the party commencing the same. Provided, however, that this act shall not be so construed as to affect any person who may be a feme covert, non compos mentis, a minor, or any person beyond the seas, within five years after such disability is removed." Rev. Code, c. 36, see. 3, January 13, 1831.

57. − 2. As to personal actions. "All actions of debt on simple contract, and for rent in arrear, action on the case, (other than slander,) actions of account, trespass quare clausum fregit, detinue, and replevin for goods and chattels, shall be commenced within five years after the cause of action accrued, and not after. All actions of trespass, for assault and battery, and for wounding and imprisonment, shall be commenced within three years, and not after." Rev. Code, 6. 81, sec. 12, January 29, 1831.

58. − 3. Crimes. "All criminal prosecutions for offences, the affixed penalty of which is three dollars, or less, shall be commenced within thirty days," &c. "All prosecutions for offences, except those the fixed penalties of which do not exceed three dollars, and except treason, murder, arson, burglary, man stealing, horse stealing, and forgery, shall be instituted within two years, &c." Revised Code, c. 26, Feb. 10, 1831.

59. − 4. Penal actions. "All actions upon any act of assembly, now or hereafter to be made, when the right is limited to the party aggrieved, shall be commenced within two years, &c., and all actions of slander shall be commenced within one year, &c., saving the right of infants, femes covert, persons non compos mentis, or without the jurisdiction of the United States, until one year after their several disabilities are removed." Sec. 12.

60. − 5. Savings. Provided, that no statute of limitation shall ever be pleaded as a bar, or operate as such on an instrument or contract in writing, whether the same be sealed or unsealed, nor to running accounts between merchant and merchant. Rev. Code, eh. 81, s. 12.

61. And provided further, that on all contracts made in this state, if the defendant shall be without the same when the cause of action accrued, said action shall not be barred until the times above limited shall have expired, after

the defendant shall have come within the jurisdiction thereof, and on all contracts made without the state, if the defendant shall have left the state or territory when the same was made, and come within the jurisdiction of this state before the cause of action accrued thereon, the plaintiff shall not be barred his right of action, until the time above limited after the said demand shall have been brought within the jurisdiction of this state. Rev. Code, ch. 81, s. 12.

62. Kentucky. 1. As to lands. The act of limitation takes effect in a writ of right or other possessory action, in thirty years from the seisin of the demandant or his ancestors. In ejectment, in twenty years. See 1 Litt. 380, and Sessions Acts 1838−9, page 330. In the action of ejectment, there is a saving in favor of infants; persons insane or imprisoned; femes covert, to whom lands have descended during the coverture, when their cause of action ac− crued. These persons may sue within three years after the removal of the disability. 5 Litt. 90; Id. 97. There is no saving, in favor of non−residents or absent persons. 5 Litt. 90; 4 Bibb, 561. But when the possession has been held for seven years under a connected title in law or equity deducible of record from the commonwealth, claiming title under an adverse entry, survey or patent, no writ of ejectment or other possessory action can be commenced. In this case there is a saying in favor of infants, &c., as above, and of persons out of the United States, in the service of the United States, or of this state, who may bring actions seven years after the removal of the disability. 4 Litt. 55.

63. − 2. As to personal actions. The act of limitation operates on simple contracts (except store accounts) in five years. Torts to the person, three years. Torts, except torts to the person, five years. Slander, one year. Store accounts, one year from the delivery of each article; except in cases of the death of the creditor or debtor before the expiration of one year, when the further time of one year is allowed after such death.

64. Savings in such actions of simple contracts, tort, slander, and upon store accountt, in favor of infants, femes covert, persons imprisoned or insane at the time such action accrued, who have the full time aforesaid after the removal of their respective disabilities to commence their suit. But if the defendant, in any of said personal actions, absconds, or conceals himself by removal out of the country or county where he resides when the cause of action accrues, or by any other indirect ways or means defeats or obstructs the bringing of such suit or action, such defendant shall not be permitted to plead the act of limitations. 1 Litt. 380. There is no saving in favor of non− residents or persons absent. Act of 1823, s. 3, Session Acts, p. 287.

65. Louisiana. The Civil Code, book 3, title 23, chapter 1, section 3, provides as follows:

66. − _I. Of the prescription of one year. Art. 3499. The action of justices of the peace and notaries, and persons performing their duties, as well as constables, for the fees and emoluments which are due to them in their official capacity that of muters and instructors in the arts and sciences, for lessons which they give by the month; that of innkeepers and such others, on account of lodging and board which they furnish; that of retailers of provisions and liquors; that of workmen, laborers, and servants, for the payment of their wages; that for the payment of the freight of ships and other vessels, the wages of the officers, sailors, and others of the crew; that for the supply of wood and other things necessary for the construction, equipment, and provisioning of ships and other vessels, are prescribed by one year.

67. − 3500. In the cases mentioned in the preceding article, the prescription takes place, although there may have been a regular coutinuauce of supplies, or of labor, or other service. It only ceases, from the time when there has been an account acknowledged, a note or bond, or a suit instituted. However, with respect to the wages of officers, sailors, and others of the crew of a ship, this prescription runs only from the day when the voyage is completed.

68. − 3501. The actions for injurious words, whether verbal or written, and that for damages caused by slaves or animals, or resulting from offences or quasi offences; that which a possessor may institute, to have himself main− tained or restored to his possession, when he has been disturbed or evicted; that for the delivery of merchandise or other effects, shipped on board any kind of vessels; that for damage sustained by merchandise on board ships, or which may have happened by ships running foul of each other, are prescribed by one year.

69.− 3502. The prescription mentioned in the preceding article, runs, with respect to the merchandise injured or not delivered from the day of the arrival of the vessel, or that on which she ought to have arrived; and in the other cases, from that on which the injurious words, disturbance, or damage were sustained.

70. − _II. Of the prescription of three years. Art. 3503. The action for arrearages of rent charge, annuities and alimony, or of the hire of movables or immovables; that for the payment of money lent; for the salaries of overseers, clerks, secretaries, and of teachers of the sciences, for lessons by the year or quarter; that of physicians, surgeons, and apothecaries, for visits, opera− tions, and medicines: that of parish judges sheriffs, clerks, and

attorneys, for their fees and emoluments, are prescribed by three years, unless there be an account acknowledged, a note or bond given, or an action commenced before that time.

71. − 3504. The action of parties against their attorneys for the return of papers delivered to them for the interest of their suits, is prescribed also by three years, reckoning from the day when judgment was rendered in the suit, or from the revocation of the powers of the attorneys.

72. − _III. Of the prescription of five years. Art. 3505. Actions on bills of exchange, notes payable to order or bearer, except bank notes, those on all effects negotiable or transferable by endorsement or delivery, are prescribed by five years, reckoning from the day when these engagements were payable.

73. − 3506. The prescription mentioned in the preceding article, and those described above in the paragraphs, I. and II., run against minors and interdicted persons, reserving, however, to them their recourse against their tutors or curators. They run also against persons residing out of the state.

74. − 3507. The action of nullity or rescission of contracts, testaments, or other acts; that for the reduction of excessive donations; that for the rescission of partitions and guaranty of the portions, are prescribed by five years when the person entitled to exercise them is in the state, and ten years if he be out of it. This prescription only commences against minors after their majority.

75. − _IV. Of the prescription of ten years. Art. 3508. In general, all personal actions, except those above enumerated, are prescribed by ten years, if the creditor be present, and by twenty years, if he be absent.

76. − 3509. The action against an undertaker or architect, for defect of construction of buildings of brick or stone, is prescribed by ten years.

77. − 3610. If a master suffer a slave to enjoy his liberty for ten years, during his residence in the state, or for twenty years while out of it, he shall lose all right of action to recover possession of the slave, unless the slave be a runaway or fugitive.

78. − 3511. The rights of usufruct, use and habitation, and services, are lost, by non−use for ten years, if the person having a right to enjoy them, be in the state, and by twenty years, if he be absent.

79. − _V. Of the prescription of thirty years. Art. 3512. All actions for immovable property, or for an entire estate as a succession, are prescribed by thirty years, whether the parties be present, or absent from the state.

80. − 3513. Actions for the revindication of slaves are prescribed by fifeen years, in the same manner as in the preceding article.

81. − _VI. Of the rules relative to the prescription operating a discharge from debts. Art. 3514. In cases of prescription releasing debts, one may prescribe against a title created by himself, that is, against an obligation which be has contracted.

82. − 3515. Good faith not being required on the part of the person pleading this prescription, the creditor cannot compel him or his heirs to swear whether the debt has or has not been paid, but can only blame himself for not having taken his measures within the time directed by law; and it may be that the debtor may not be able to take any positive oath on the subject.

83. − 3516. The prescription releasing debts is interrupted by all such causes as interrupt the prescription by which property is acquired, and which have been explained in the first section of this chapter. It is also interrupted by the causes explained in the following articles.

84. − 3517. A citation served upon one joint debtor or his acknowledgment of the debt, interrupts the prescription with regard to all the others and, even their heirs. A citation served on one of the heirs of a joint debtor, or the acknowledgment of such heir, does not interrupt the prescription with regard to the other heirs, even if the debt was by mortgage, if the obligation be not indivisible. This citation or acknowledgment does not interrupt the prescription, with regard to the other co−debtors, except for that portion for which such heir is bound. To interrupt this prescription for the whole, with regard to the other co−debtors, it is necessary, either that the citations be served on all, or the acknowledgment be made by all the heirs.

85. − 3518. A citation served on the principal debtor, or his acknowledgment, interrupts the prescription on the part of the surety.

86. − 3519. Prescription does not run against minors and persons under interdiction, except in the cases specified above.

87. − 3520. Prescription runs against the wife, even although she be not separated of property by marriage contract or by authority of law, for all such credits as she brought in marriage to her husband, or for whatever has been promised to her in dower; but the husband continues responsible to her.

88. Maine. 1. As to real actions. The writ of right is limited to thirty years writ of ancestral seisin, twenty−five years writ of entry on party's own seisin, twenty years. Stat. of Maine, eh. 62, _1, 2, 3. But by the revised statutes, all real actions are limited to twenty years, from the time the right accrues. They took effect on the first day of April, 1843. Rev. Stat. T. 10, ch. 140, _1. And writs of right and of formedon are abolished after that time. Rev. Stat. ch. 145, _1.

89. − 2. As to personal actions. When founded on simple contract, they are limited after six years; Rev. Stat. T. 10, ch. 146, _1; on specialties, twenty years. Id. _11. Personal actions founded on torts are limited to six years, except trespass for assault and battery, false imprisonment, slanderous words and libels, which are limited to two years. Id. _1.

90. − 3. As to penal actions. When brought by individuals having an interest in the penalty or forfeiture, they are limited to one year; Rev. Stat. T. 10, c. 146, _15; when prosecuted by the state, two years. Id. _16.

91. − 4. As to crimes. Prosecutions for crimes must be commenced within six years when the party charged has publicly resided within the state, except in cases of treason, murder, arson, and manslaughter. Rev. Stat. T. 12, c. 167, 15.

92. Maryland. 1. As to lands. The statute of 21 Jac. I. c. 16, is in force in this state.

93. − 2. As to personal actions. By the Act of Assembly, 1715, c. 23, actions of account; upon the case; or simple contract; or book debt or account; and of debt not of specialty; detinue and replevin for taking away goods and chattels; and trespass quare clausum fregit; must be brought within three years ensuing the cause of action, and not after; other actions of trespass, of assault, battery, wounding and imprisonment, within one year from the time of the cause of action accruing; from these provisions are excepted, however, such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants which are not resident within this [province] state. This statute also enacts, that no bill, bond, judgment, or recognizance, statute merchant or of the staple, or other specialty whatsoever, (except such as shall be taken in the name or for the use of our sovereign the king, &c.) shall be "good and pleadable, or admitted in evidence" against any person of this [province] state, after the principal debtor and creditor have both been dead twelve years, or the debt or thing in action above twelve years standing.

94. Persons laboring under the impediments of infancy, coverture, insanity or imprisonment, are not barred until five years after the disability has been removed. And when a personal action abates by the death of the defendant, the plaintiff may at any time renew his suit, provided it be commenced without delay after letters testamentary have been granted.

95. Defendants, when absent from the state at the time the cause of action accrued, cannot compute the time of their absence in order to bar the plaintiff, but the latter may prosecute the same after the presence in the state of the persons liable thereto, within the time or times limited by the acts of limitation in such actions.

96. Massachusetts. By the Revised Statutes, ch. 120, it is provided as follows, to wit:

97. − _1. The following actions shall be commenced within six years next after the cause of action shall accrue, and not afterwards

98. First, all actions of debt, founded upon any contract, or liability not under seal, except such as are brought upon the judgment or decree of some court of record of the United States, or of this, or some other of the United States:

99. Secondly, all actions upon judgments rendered in any court, not being a court of record:

100. Thirdly, all actions for arrears of rent:

101. Fourthly, all actions of assumpsit, or upon the case, founded on any contract or liability, express or implied:

102. Fifthly, all actions for waste and for trespass upon land:

103. Sixthly, all actions of replevin and all other actions for taking, detaining or injuring goods or chattels:

104. Seventhly, all other actions on the case, except actions for slanderous words and for libels.

105. − _2. All actions for assault and battery, and for false imprisonment, and all actions for slanderous words and for libels, shall be commenced within two years next after the cause of action shall accrue, and not afterwards.

106. − _3. All actions against sheriffs, for the misconduct or negligence of their deputies, shall be commenced within four years next after the cause of action shall accrue, and not afterwards.

107. − _4. None of the foregoing provisions shall apply to any action brought upon a promissory note, which is signed in the presence of an attesting witness, provided the action be brought by the original payee, or by his executor or administrator, nor to an action brought upon any bills, notes, or other evidences of debt, issued by any

bank.

108. − _5. In all actions of debt or assumpsit brought to recover the bal−ance due upon a mutual and open account current, the cause of action shall be deemed to have accrued, at the time of the last item proved in such account.

109. − _6. If any person entitled to bring any of the actions before mentioned in this chapter shall, at the time when the cause of action accrues, be within the age of tweuty−one years, or a married woman, insane, imprisoned, or absent from the United States, such person may bring the said actions within the times in this chapter respectively limited, after the disability shall be removed, or within six years after the disability mentioned in the preceding section.

110. − _7. All personal actions on any contract, not limited by the foregoing sections, or by any other law of this commonwealth, shall be brought within twenty years after the accruing of the cause of action.

lll. − _8. When any person shall be disabled to prosecute an action in the courts of this commonwealth, by reason of his being an alien subject or citizen of any country at war with the United States, the time of the continuance of such war shall not be deemed any part of the respective periods, herein Iimited for the commencement of any of the actions before mentioned.

112. − _9. If, at the time when any cause of action, mentioned in this chapter, shall accrue against any person, he shall be out of the state, the action may be commenced within the time herein limited therefor, after such person shall come into the state and if after any cause of action shall have accrued, the person against whom it has accrued shall be absent from and reside out of the state, the time of his absence shall not be taken as any part of the time limited for the commencement of the action.

113. − _10. If any person, entitled to bring any of the actions, before mentioned in this chapter, or liable to any such action, shall die before the expiration of the time herein limited therefor, or within thirty days after the expiration of the said time, and if the cause of action does by law survive, the action may be commenced by or against the executor or administrator of the deceased person, as the case may be, at anytime within two years after the grant of letters testamentary or of administration, and not afterwards, if barred by the provisions of this chapter.

114. − _11. If, in any action duly commenced within the time in this chapter limited and allowed therefor, the writ shall fail of a sufficient service or return, by any unavoidable accident, or by any default or neglect of the officer to whom it is committed, or if the writ shall be abated, or the action otherwise avoided or defeated, by the death of any party thereto, or for any matter of form, or if after a verdict for the plaintiff, the judgment shall be arrested, or if a judgment for the plaintiff shall be reversed on a writ of error, the plaintiff may commnence a new action for the same cause, at any time within one year after the abatement or other determination of the original suit, or after the reversal of the judgment therein; and if the cause of action does by law survive, his executor or administrator may, in case of his death, commence such new action within the said one year.

115. − _12. If any person, who is liable to any of the actions mentioned in this chapter, shall fraudulently conceal the cause of such action from the knowledge of the person entitled thereto, the action may be commenced, at any time within six years after the person who is entitled to bring the same, shall discover that he has such cause of action, and not afterwards.

116. Michigan. 1. As to lands. Sec. 1. In all real actions the statute of limitation takes effect as follows, to wit: In all actions for the recovery of land the statute runs after twenty years from the time the cause of action accrued, or within twenty−five years after the plaintiff or those from, by or under whom he claims, shall have been seised or possessed of the premises, except as specified below.

117. − Sec. 2. If the right or title accrued to an ancestor or predecessor of the person who brings the action or makes the entry upon the land, or to any other person from, by or under whom he claims, the said twenty−five years shall be computed from the time when the right or title so first accrued to such ancestor, predecessor or other person.

118. − Sec. 3. The right to bring an action for the recovery of land or to make an entry thereon shall be deemed first to accrue when any person is disseised, at the time of such disseisin.

119. When any person claims as heir or devisee of one who died seised, his right shall be deemed to have accrued at the time of such death; unless there is a tenancy by the curtesy or other estate, intervening after the death of such ancestor or devisor, in which case the right shall be deemed to accrue when such intermediate estate shall expire, or when it would have expired by its own limitation.

120. When there is such an intermediate estate, and in all other cases when the party claims by force of any remainder or reversion, his right, so far as it is affected by the limitation herein prescribed, shall be deemed to accrue when the intermediate or precedent estate would have expired by its own limi−tation, notwithstanding any forfeiture thereof for which he might have entered at an earlier time; but if the person claims by reason of any forfeiture or breach of the condition, the statute runs from the time when the forfeiture was incurred or the condition was broken.

121. In all other cases not otherwise provided for, the right shall be deemed to accrue when the claimant or the person under whom he claims first became entitled to the possession of the premises, under the title upon which the entry or action is founded.

122. − Sec. 4. If any minister or other sole corporation shall be disseised, any of his successors may enter upon the premises, or bring an action for the recovery thereof at any time within five years after death, resignation or removal of the person so disseised, notwithstanding the twenty−five years after such disseisin shall have expired.

123. − Sec. 5. If the person first entitled to make such entry or bring such action shall die within the age of twenty−one years, or be a married woman, insane, imprisoned in the state prison, or absent from the United States, and no determination or judgment shall have been had of or upon the title, right or action which accrued to him, the entry may be made or the action brought by his heirs, or any other person claiming from, by or under him, at any time within ten years after his death, notwithstanding the said twenty−five years shall have expired.

124.− Sec. 6. No person shall be deemed to have been in possession of any lands within the meaning of the foregoing provisions merely by reason of having made an entry thereon, unless he shall have continued open and peaceable possession of the premises for the space of one year next after such entry, or unless an action shall be commenced upon such entry and seisin within one year after he shall be ousted or dispossessed of the premises. R. S., p. 573 and 574.

125. No actions for the recovery of an estate sold by an executor or administrator shall be maintained by the heir or other person claiming under the deceased testator or intestate, unless it be commenced within five years next after the sale. And no actions for any estate sold by a guardian shall be maintained by the ward or any other person claiming under him, unless it be commenced within five years after the termination of the guardianship. Except that persons out of the state and minors and others under any legal disability to sue at the time when the right of action shall first accrue, may commence such action at any time within five years after the disability is removed, or after their return to the state. R. S., p. 317, see. 35.

126. − 2. As to personal actions. The following actions shall be commenced within six years next after the cause of action shall accrue and not afterwards, to wit:

127. − 1st. All actions of debt founded upon any contract or liability not under seal, except such as are brought upon the judgment or decree of some court of record, or of general equity jurisdiction of the United States, or of this or some other of the United States.

128. − 2d. All actions upon judgments rendered in any court other than those above excepted.

129. − 3rd. All actions for arrears of rent.

130. − 4th. All actions of assumpsit or upon the case founded on any contract or liability express or implied.

131. − 6th. All actions for waste.

132. − 6th. All actions of replevin and trover and all other actions for taking, detaining, or injuring goods and chattels.

133. − 7th. All other actions on the case, except actions for slanderous words or for libels.

134. − Sec. 2. All actions for trespass upon land or for assault and battery, and for false imprisonment, and all actions for slanderous words and for libels, shall be commenced within two years next after the cause of action shall, accrue and]lot afterwards.

135. − Sec. 3. All actions against sheriffs for the misconduct or neglect of their deputies shall be commenced within four years next after the cause of action shall accrue and not afterwards.

136. − Sec. 4. None of the foregoing provisions shall apply to any action brought, upon any bills, notes or other evidence of debt issued by any bank.

137. − Sec. 5. ln all actions of debt or assumpsit brought to recover the balance due upon mutual and open account current the cause of action shall be deemed to have accrued at the time of the last item proved in such account.

138 .− Sec. 6. If any person entitled to bring any of the actions before mentioned in this chapter shall, at the time

when the cause of action accrues, be within the age of twenty−one years, or a married woman, insane, imprisoned in the state prison, or absent from the United States, such person may bring the said actions within the time in this chapter respectively limited after the disability shall be removed.

139. − Sec. 7. All personal actions or any contract not limited by the foregoing sections or by an other laws of this state shall be brought within twenty years after the accruing of the cause of action.

140. − Sec. 8. When any person shall be disabled to prosecute an action in the courts of this state by reason of his being an alien subject or citizen of any country at war with the United States, the time of the continuance of such war shall not be deemed any part of the respective period herein limited for the commencement of an of the actions before mentioned.

141. − Sec. 9. If at the time when a cause of action mentioned in this chapter shall accrue against any person, he shall be out of the state, the action may be commenced within the time herein limited therefor after such person shall come into this state. And if, after any cause of action shall have accrued, the person against whom it has accrued shall be absent from, and reside out of the state, the time of his absence shall not be taken as any part of the time limited for the commencement of the action.

142. − Sec. 10. If any person entitled to bring any of the actions before mentioned shall die before the expiration of the time herein limited or within thirty days after the expiration of the said time, and if the cause of action does by law survive; the action may be commenced by or against the executor or administrator of the deceased person as the case may be, at any time within two years after the granting of the letters testamentary or of administration, and not afterwards, if barred by the provisions of this chapter.

143. − Sec. 11. If in any action, duly commenced within the time limited in this chapter and allowed therefor, the writ shall fail of a sufficient service or return, by an unavoidable accident or by any default or neglect of the officer to whom it is committed, or if the suit shall be abated, or the action otherwise avoided or defeated by the death of any party thereto, or for any other matter of form, or if after a verdict for the plaintiff the judgment shall be arrested, or if a judgment for the plaintiff shall be reversed on a writ of error, the plaintiff may commence a new action for the same cause at any time within one year after the abatement or other determination of the original suit or after the reversal of the judgment therein. And if the cause of action does by law survive, the executor or administrator may in case of his death commence such action within said one year.

144. − Sec. 12. ln case of the fraudulent concealment of the right of action, such action may be commenced at any time within six years after the person entitled to the same shall discover that he has such cause of action. R. S., p. 576, 577 and 578.

145. − Sec. 21. All actions and suits for any penalty or forfeiture on any penal statute brought by any person to whom the penalty or forfeiture is given in the whole or in part, shall be commenced within one year next after the offence was committed, and not afterwards.

146. − Sec. 22. If the penalty or forfeiture is given in whole or in part to the state, a suit therefor may be commenced by or in behalf of the state at any time within two years after the offence was committed and not afterwards. Rev. Stat., p. 579.

147. − 3. As to crimes. The statute of limitations in criminal cases takes effect after six years from the time the offence was committed; but any period during which the party charged was not usually and publicly resident within this state shall not be reckoned as a part of the six years. In case of murder, however, there is no limitation. Rev. Stat., p. 666, sec. 15.

148. Mississippi. 1. As to lands. Real, possessory, ancestral and mixed actions for lands, tenements, or hereditaments must be instituted within twenty years next after the right or title thereto, or cause of action accrued. How. & Hutch. page 568, ch. 43, sec. 88 , L. 1822. Right or title of entry is barred after twenty years. Id. sec. 89, L. 1822. Fifty years actual possession uninterruptedly continued by occupancy, descent, conveyance or otherwise, vests a complete title in the occupier. Id. sec. 90, L. 1822. Real estate, which may have escheated to the state, must be claimed within two years next after the inquisition, or it will be sold. How. & Hutch. page 263, ch. 34, sec. 84, L. 1822. If real estate escheat to the state and be sold, the moneys arising from such sale may be claimed within twelve years next from the day of such sale; Id. sec. 87, L. 1822; and moneys arising from sale of personal estate, escheated, may be claimed within six years next after the sale thereof. Ib. All persons claiming real estate escheated, either by descent or otherwise, must appear and traverse the office of inquest within twelve years from the date thereof, and in case of personal estate, within six years, or they will be forever barred of their claim. Id. sec. 88, L. 1822.

149. − 2. As to personal actions. 1st. On contracts. These are, 1. Actions on simple contracts must be commenced and sued within six years next after the cause of action accrued. Except such actions as concern the trade or merchan−dise between merchant and merchant, their factors, agents and servants where there are mutual dealings and mutual credits. How. & Hutch. page. 569, ch. 43, sec. 91, L. 1822 How. Rep. 2, 786.

150. Actions founded upon any account for goods, wares or merchandise, sold and delivered, or for any articles charged in any store account, must be commenced and sued within three years next after cause of action accrued. Post−dating any article in such account is highly penal. How. & Hutch. page 570, ch. 43, sec. 98, L. 1822.

151. − 2. Actions on specialties must be commenced and sued within sixteen years next after cause of action accrued. How. & Hutch. page 569, ch. 43, sec. 95, L. 1822.

152. Judgments recovered in any court of record as well without as within this state, may be revived by scire facias, or an action of debt brought thereon within twenty years next after the date of such judgment. How. & Hutch. pages 570 and. 574, ch. 43, sec. 96 and 111, Laws 1822 and 1830. This extends to decrees of the chancery court. How. Rep. 4, 31.

153. − 3. Suits on bonds, or recognizances against sureties for public officers must be commenced and sued within five years next after cause of action accrued. Id. sec. 97, page 570, L. 1822.

154. − 2d. On torts. Actions for torts affecting the person must be sued within two years next after cause accrued. How. & Hutch. page 569, ch. 43, sec. 92, L. 1822. Actions of slander for words spoken or written must be sued within one year. Id. sec. 93, L. 1822; How. Rep. 2, 698. Actions of trespass quare clausum fregit; trespass; detinue; trover; replevin, for taking away goods and chattels, actions on the case, must be sued within six years next after cause of action accrued. Id. How. & Hutch. page 569, ch. 43, sec. 91, L. 1822.

155. − 3. As to penal actions. Penal actions are limited to twelve months from the time of incurring the fine or forfeiture. (Persons absconding or fleeing from justic are excepted:) How. & Hutch 49, see. 19, L. 1822.

156. − 4. As to crimes. Indictments, presentments or informations for offences (crimes) must be found or exhibited within one year next after the offence committed, (except for wilful murder, arson, forgery, counterfeiting and larceny; as to which there is no limitation.) How. & Hutch. p. 668, ch. 49; sec. 19, L. 1822.

157. Missouri. 1. As to lands. That from henceforth no person or persons whatsoever shall make entry into any lands, tenements or hereditaments, after the expiration of twenty years next after his, her or their right or title to the same first descended or accrued; nor shall any person or persons whatsoever have or maintain any writ of right, or any other real or possessory writ or action for any lands, tenements, or hereditaments of the seisin or possession of him, her or them, his, her or their ancestors or predecessors, nor declare or allege any other seisin or possession of him, her or them, his, her or their ancestors or predecessors, than within twenty years next before such writ, action, or suit, so hereafter to be sued, commenced or brought. Act of 1848. Infants, femes covert, persons of unsound memory, imprisoned, beyond seas, or without the jurisdiction of the United States, may sustain such actions commenced within twenty years after the disability has been removed.

158. − 2. As to personal actions. In all actions upon the case (other than for slander;) actions for accounts, (other than such accounts as concern the trade of merchandise between merchant and merchant, their factors and servants;) actions for debt, grounded upon any lending or contract without specialty, or of debt for arrearages of rent; and actions of trespass quare clausum fregit, shall be brought within five years after the cause of action shall accrue.

159. All actions upon accounts for goods, wares and merchandise sold and delivered, or for any article in any store account; all actions of trespass vi et armis, assault and battery, and imprisonment, shall be brought within two years after the cause of action shall accrue.

160. Actions on the case for words, one year after the words spoken; and writs of error shall be brought within five years after the judgment or order of complaint shall be rendered and not after. Act of July 4, 1807.

161. The plaintiff may within one year commence a new suit when a former judgment has been reversed, or the plaintiff has suffered a nonsuit.

162. − 3. As to criminal actions. Actions, suits, indictments, or informations, (if the punishment be fine and imprisonment,) must be brought within two years after the offence has been committed, and not after.

163. New Hampshire. 1. As to lands. No action can be maintained for the recovery of lands, unless upon a seisin within twenty years, except by persons under disability, that is, by those under twenty−one years of age, femes covert, non compos mentis, imprisoned, or without the limits of the United States, who may sue within five years after the disability has been removed.

164. − 2. As to personal actions. Actions in general are limited to be brought within six years after they have accrued; but actions of trespass, assault and battery, are limited to three years and actions of slander to two. Infants, femes covert, persons imprisoned, or beyond sea, without the Iimits of the United States, or non compos mentis, may bring an action within the same time, after the disability has been removed. When the defendant has left the state before the action accrued, and left no property there which could have been attached, then the whole time is allowed after his return.

165. New Jersey. 1. As to lands. By the act of June 5, 1787, it was enacted,

166. − _1. At the aforesaid date, that sixty years actual possession of lands, tenements or other real estate uninterruptedly continued by occupancy, descent, conveyance or otherwise, in whatever way or manner such possession might have commenced or been continued, shall vest a full and complete right and title in every actual possessor or occupier of such lands, tenements or other real estate, and shall be a good and sufficient bar to all claims that may be made or actions commenced, by any person or persons whatsoever for the recovery of such lands, &c.

167. − _2. And that thirty years' actual possession of lands, &c. uninterruptedly continued as aforesaid, wherever such possession commenced or is founded upon a proprietory right duly laid thereon, and recorded in the surveyor general's office of the division in which such location was made, or in the secretary's office, agreeably to law; or, wherever such possession was obtained by a fair bona fide purchase of such land, &c. of any person in possession, and supposed to have a legal right and title thereto, or of the agent or agents of such person or persons, shall be a good and sufficient bar to all prior locations, rights, titles, conveyances or claims whatever, not followed by actual possession as aforesaid, and shall vest an absolute right and title in the actual possessor or occupier of all such lands, &c.

168. Provided, That if any person or persons having a right or title to lands, &c. shall, at the time of the said right or title first descended or accrued, be within twenty−one years of age, feme covert, non compos, imprisoned, or without the United States, then such person or persons, and his heir or heirs may, notwithstanding the aforesaid times are expired, be en−titled to his or their action for the same, so as such person or persons, or his or their heirs, commence or sue forth his or their actions within five years, after his or their full age, discoverture, coming of sound mind, enlargement out of prison, or coming within any of the United States, and at no other time.

169. And provided that any citizens of this, or any of the United States, and his or their heirs, having such right, &c. may, notwithstanding the aforesaid times expired, commence his or their action for such lands, &c., at any time within five years next after the passing of this act, and not afterwards.

170. By the act of February 7, 1799, s. 9, it is enacted, that no person who now hath, or hereafter may have, any right or title of entry, into lands, tenements or hereditaments, shall make entry therein, but within twenty years next after such right or title shall accrue, and such person shall be barred from any entry afterwards.

171. Provided, That the time during which the person who hath or shall have such right or title of entry shall have been under the age of twenty−one years, feme covert, or insane, shall not be computed as part of the said limited period of twenty years.

172. By section 10, of the same act, from and after the first day of January, 1803, every real, possessory, ancestral, mixed or other action for any lands, tenements or hereditaments, shall be brought or instituted within twenty years next after the, right or title thereto or cause of such action shall accrue, and not after.

173. Provided, That the time during which the person who hath or shall have such right or title or cause of action, shall have been under the age of twenty−one years, feme covert, or insane, shall not be computed as part of the said twenty years.

174. − Section 11. That if a mortgagee and those under him be in possession, of lands, &c. contained in the mortgage or any part thereof, for twenty years after default of payment, then the right or equity of redemption therein, shall be barred, forever.

175. − Section 13. That no person or persons, bodies politic or corporate, shall be sued or impleaded by the state of New Jersey, for any land, &c. or any rents, revenues, or profits thereof, but within twenty years after the right, title or cause of action to the same shall accrue and not after.

176. − 2. As to personal actions. It is enacted that all actions of trespass quare clausum fregit; trespass; detinue; trover; replevin; debt, founded on any lending or contract without specialty, or for arrearages of rent due on a parol demise; of account, (except such actions as concern the trade of merchandise between merchant and merchant, their factors, agents and servants;) and on the case, (except actions for slander,) shall be commenced

and sued within six years next after the cause of such actions shall have accrued, and not after. That all actions of trespass for assault, menace, battery, wounding and imprisonment, or any of them, shall be commenced and sued within four years next after the cause of such actions shall have accrued and not after. That every action upon the case for words, shall be commenced and sued within two years next after the words spoken, and not after. Persons within the age of twenty−one years, femes covert or insane, may institute such actions within such time as is before limited after his or her coming to or being of full age, discoverture, or sane memory,

177. The act of February 7, 1799, s. 6, provides that every action of debt, or covenant for rent, or arrearages of rent, founded upon lease under seal; debt on any bill or obligation for the payment of money only, or upon any award, under the hands and seals of arbitrators, for the payment of money only, shall be commenced and sued within sixteen years next after the cause of such action shall have accrued, and not after; but if any payment shall have been made on any such lease, specialty or award, within or after the said period of sixteen years, then an action, instituted on such lease, specialty or award, within sixteen years after such payment, shall be effectual in law, and not after. Provided, That the time during which the person, who is or shall be entitled to any of the actions specified in this section, shall have been within the age of twenty−one years, feme covert, or insane, shall not be taken or computed as part of the said limited period of sixteen years.

178. As to crimes. By the statute passed February 17,1829, Harr. Comp. 243, all indictments for offences punishable with death, (except murder,) must be found within three years, and all offences not punishable with death, must be brought within two years; except, as to both, where the offender flies.

179. − 4. As to penal actions. By the statute of February 7, 1799, Rev. Laws, 410, all popular and qui tam actions, and also all actions on penal statutes by the party grieved, must be brought within two years.

180. New York. The provisions limiting the time of commencing actions, are contained in the Revised Statutes, part 3, chapter 4, tit. 2, and are substantially as follows:

181. − 1. As to lands. The people of this state will not sue or implead any person for, or in respect to any lands, tenements, or hereditaments, or for the issues or the profits thereof, by reason of any right or title of the said people to the same, unless, 1. Such right shall have accrued within twenty years before any suit, or other proceeding for the same shall have been commenced; or unless, 2. The said people or those from whom they claim, shall have received the rents and profits of such real estate, or some part thereof, within the said space of twenty years. Grantees of the state cannot recover, if the state could not; and when patents granted by the state are declared void for fraud, a suit may be brought at any time within twenty years thereafter.

182. No action for the recovery of any lands, tenements, or hereditaments, or for the recovery of the possession thereof, shall be maintained, unless it appear that the plaintiff, his ancestor, predecessor or grantor, was seised or possessed of the premises in question within twenty years before the commencement of such action.

183. No avowry or cognizance of title of real estate, or to any rents or services, shall be valid, unless it appear that the person making the avowry, or the person in whose right the cognizance is made, or the ancestor, pre− decessor, or grantor of such person, was seised or possessed of the premises in question, within twenty years before committing the act, in defence of which the avowry or cognizance is made.

184. No entry upon real estate shall be deemed sufficient or valid as a claim, unless an action be commenced thereupon within one year after the making of such entry, and within twenty years from the time when, the right of making such entry accrued.

185. All writs of scire facias upon fines, heretofore levied, of any manors, lands, tenements, or hereditaments, shall be sued out within twenty years next after the title or cause of action first descended or fallen, and not after that period.

186. If any person entitled to commence any action as above specified, or to make any entry, avowry, or cognizance, be at the time such title shall first descend or accrue, either, 1. Within the age of twenty−one years or, 2. Insane; or, 3. Imprisoned on any criminal charge or in execution upon some con− viction of a criminal offence for any term less than for life; or, 4. A married woman; the time during which such disability shall continue shall not be deemed any portion of the time above limited, for the commencement of such suit, or the making such entry, avowry, or cognizance; but such person may bring such action, or make such entry, avowry, or cognizance, after the said time so limited, and within ten years after such disability removed and not after. In case of the death of the person entitled to such action, &c., before any determination or judgment in the case, his heirs may institute the same within ten years after his death, but not after. Rev. Statutes, part 3, c. 4, tit. 2, article 1.

187. The 68th section of the act "to simplify and abridge the practice, pleadings and proceedings of the courts of

this state," (New York,) passed the 12th of April 1848, known as the Code of Procedure, enacts that the provisions of the Revised Statutes, contained in the article entitled, "Of the time of commencing actions relating property," shall, until otherwise provided by statute, continue in force, and be applicable to actions for the recovery of real property.

188. − 2. Other actions than for the recovery of real property, and actions already commenced, or cases where the right of action has accrued, to which the statutes in force when the said act was passed shall be applicable, according to the subject of the action, and without regard to the form, must be commenced within the times as provided for in part 2, t. 2, c. 3 and 4, of the code of procedure in the following sections, namely:

_70. Within twenty years:

1. An action upon a judgment or decree of any court of the United States, or of any state or territory within the United States. 2. An action upon a sealed instrument.

_ 71. Within six years:

1. An action upon a contract, obligation or liability, express or implied; excepting those mentioned in section seventy.

2. An action upon a liability created by statute, other than a penalty or forfeiture.

3. An action for trespass upon real property.

4. An action for taking, detaining or injuring any goods or chattels, including actions for the specific recovery of personal property.

5. An action for criminal conversation, or for any other injury to the person or rights of another, not arising on contract, and not hereinafter enumerated.

6. An action for relief, on the ground of fraud; the cause of action in such case not to be deemed to have accrued, until the discovery by the aggrieved party, of the facts constituting the fraud.

_72. Within three years:

1. An action against a sheriff or coroner, upon a liability incurred by the doing of an act in his official capacity, and in virtue of his office, or by the omission of an official duty; including the non−payment of money collected upon an execution. But this section shall not apply to an action for an escape.

2. An action upon a statue, for a penalty or forfeiture, where the action is given to the party aggrieved, or to such party and the people of this state, except where the statute imposing it prescribes a different limitation.

_73. Within two years:

1. An action for libel, slander, assault, battery, or false imprisonment.

2. An action upon a statute, for a forfeiture or penalty to the people of this state.

_74. Within one year:

1. An action against a sheriff or other officer, for the escape of a prisoner arrested, or imprisoned on civil process.

_75. In an action brought to recover a balance due upon a mutual, open and current account, where there have been reciprocal demands between the parties, the cause of action shall be deemed to have accrued from the time of the last item in the account, on the adverse side.

_76. An action upon a statute for a penalty or forfeiture, given in whole or in part to any person who will prosecute for the same, must be commenced with−in one year after the commission of the offence, and if the action be not commenced within the year, by a private party, it may be commenced within two years thereafter, in behalf of the people of this state, by the attorney−general, or the district attorney of the county where the offence was committed.

_77. An action for relief, not hereinbefore provided for, must be commenced within ten years after the cause of action shall have accrued.

_78. The limitations prescribed in this title shall apply to actions brought in the name of the people of this state or for their benefit, in the same manner as to actions by private parties.

_79. An action shall not be deemed commenced, within the meaning of this title, unless it appear:

1. That the summons or other process therein was duly served upon the defendants, or one of them; or

2. That the summons was delivered, with the intent that it should be actually served, to the sheriff of the county in which the defendants, or one of them, usually or last resided; or, if a corporation be defendant, to the sheriff of the county in which such corporation was established by law, or where its general business was transacted, or where it kept an office for the transaction of business.

_ 80. If, when the cause of action shall accrue against a person, he be out of the state, the action may be commenced within the term herein limited, after his return to the state; and if, after the cause of action shall have accrued, he depart from and reside out of the state, the time of his absence shall not be part of the time limited for the commencement of the action.

_81. If a person entitled to bring an action, except for a penalty or forfeiture, or against a sheriff or other officer for an escape be at the time the cause of action accrued, either:

1. Within the age of twenty−one years; or,

2. Insane; or,

3. Imprisoned on a criminal charge, or in execution under the sentence of a criminal court, for a term less than his natural life; or,

4. A married woman: The time of such disability shall not be part of the time limited for the commencement of the action.

_82. If a person entitled to bring an action, die before the expiration of the time limited for the commencement thereof, and the cause of action survive, his representatives may commence the action, after the expiration of that time, and within one year from his death.

_83. When a person shall be an alien, subject or citizen of a country at war with the United States, the time of the continuance of the war shall not be part of the period limited for the commencement of the action.

_84. If an action shall be commenced within the time prescribed therefor, and a judgment therein for the plaintiff be reversed, on appeal, the plain−tiff, or if be die and the cause of action survive, his heirs or representatives may commence a new action within one year after the reversal.

_85. When the commencement of an action shall be stayed by injunction, the time of the continuance of the injunction shall not be part of the time limited for the commencement of the action.

_86. No person shall avail himself of a disability, unless it existed when his right of action accrued.

_87. When two or more disabilities shall exist, the limitation shall not attach until they all be removed.

_88. This title shall not affect actions to enforce the payment of bills, notes, or other evidences of debt issued by moneyed corporations, or issued or put in circulation as money.

_89. This title shall not affect actions against directors or stockholders of a moneyed corporation, to recover a penalty or forfeiture imposed, or to enforce a liability created by the second title of the chapter of the Revised Statutes, entitled "Of Incorporations;" but such actions must be brought within six years after the discovery, by the aggrieved party, of the facts upon which the penalty or forfeiture attached, or the liability was created.

_90. Where the time for commencing an action arising on contract shall have expired, the cause of action shall not be deemed revived by an acknowledgment or new promise, unless the same be in writing, subscribed by the party to be charged thereby.

189. North Carolina. By the Revised Statutes, chapter 65, it is provided as follows, to wit:

190. 1. As to lands. 1. That no person or persons nor their heirs, which hereafter shall have any right or title to any lands, tenements, or hereditaments, shall thereunto enter or make any claim, but within seven years next after his, her, or their right or title descended or accrued, and in default thereof, such person or persons, so not entering or making claim, shall be utterly excluded and disabled from any entry or claim thereafter to be made: Provided, nevertheless, that if any person or persons, that is or hereafter shall be entitled to any right or claim of lands, tenements or hereditaments, shall be, at the time the said right or title first descended, accrued, come or fallen, within the age of twenty−one years, feme covert, non compos mentis, imprisoned or beyond seas, that then such person or persons shall and may, notwithstanding the said seven years be expired, commence his, her or their suit, or make his, her, or their entry, as he, she, or they might have done before this act, so as such person or persons shall, within three years next after full age, discoverture, coming of sound mind, enlargement out of prison, or persons beyond seas, within eight years after the title or claim becomes due, take benefit and sue for the same, and at no time after the times or limitations herein specified; but that all possessions, held without suing such claim as aforesaid, shall be a perpetual bar against all, and all manner of persons whatsoever, that the expectation of heirs may not, in a short time, leave much land unpossessed, and titles so perplexed, that no man will know of whom to take or buy land. Provided also, that if in any action of ejectment for the recovery of any lands, tenements or hereditaments, judgment be given for the plaintiff, and the same be reversed for error, or a verdict pass for the plaintiff, and, upon matter alleged in arrest of judgment, the judgment be given against the plaintiff that he take nothing by his plaint, writ or bill, or a verdict be given against the plaintiff, in all such cases the party plaintiff, his

heirs or executors, as the case shall require, may commence a new action or suit from time to time, within one year after such judgment reversed, or judgment given against the plaintiff.

191. − _2. Where any person or persons, or the person or persons under whom he, she, or they claim, shall have been, or shall continue to be, in possession of any lands, tenements or hereditaments whatsoever, under titles derived from sales, made either by creditors, executors or administrators of any person deceased, or by husbands and their wives, or by endorsement of patents or other colorable title, for the space of twenty−one years, all such possessions of lands, tenements or, hereditaments, under such title, shall be and are hereby ratified, confirmed and declared to be a good and legal bar, against the entry of any person or persons, under the right or claim of the state, to all intents and purposes whatsoever; Provided, nevertheless, that the possession so set up shall have been ascertained and identified under known and visible lines or boundaries.

192. − 2. As to personal actions. _3. All actions of trespass, detinue, actions sur trover and replevin for taking away of goods and chattels, all actions of account and upon the case, all actions of debt for arrearages of rent, all actions of debt grounded upon any lending or contract without specialty, and all actions of assault, menace, battery, wounding, and imprisonment, or any of tbem, which shall be sued or brought, shall be commenced or brought within the time and limitation in this act expressed, and not after; that is to say, actions of account render, actions upon the case, ac− tions of debt for arrearages of rent, actions of debt upon simple contract, actions of detinue, replevin, and trespass either for goods and chattels or quare clausum fregit, within three years next after the cause of such action or suit, and not after; except such accounts as concern the trade of merchandise, between merchant and merchant, and their factors, or servants; and the said actions of trespass, of assault and battery, wounding, imprisonment, or any of them, within one year after the cause of such action or suit, and not after; and the said actions upon the case for words, within six months after the words spoken, and not after.

193. − _4. Provided, nevertheless, that if, on any of the said actions or suits, judgment be given for the plaintiff, and the same be reversed by error, or a verdict pass for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill; or if any of the said actions shall be brought by original writ, and the defendant cannot be attached or legally served with process, in all such cases, the party plaintiff, his heirs, executors or administrators, as the case shall require, may commence a new action or suit, from time to time, within a year after such judgment reversed, or such judgment given against the plaintiff, or till the defendant can be attached or served with the process, so as to compel him to appear and answer. And provided further, that if any person or persons, that is or shall be entitled to any such action or trespass, detinue, action sur trover, replevin, actions of accompt and upon the case, actions of debt for arrearages of rent, actions of debt grounded upon any lending or contract without specialty, actions of assault, menace, battery, wounding, and imprisonment, actions of trespass quare clausum fregit, actions upon the case for slanderous words, be, or shall be, at the time of any such cause of action given or accrued, fallen or come, within the age of twenty−one years, feme covert, non compos mentis, imprisoned or beyond the seas, then such person or persons shall be at liberty to bring the same actions, so as they bring the same within such times as are before limited, after their coming to or being of full age, discovert, of sound memory, at large or returned from beyond seas, as other persons having no such impediment might have done. And provided further, that when any person or persons, against whom there is cause of action, shall be beyond sea at the time of such cause of action given or accrued, fallen or come, the person, who shall have such cause of action, may bring his action against them within such time or times as are hereinbefore limited, for bringing such actions after their return.

194. − _5. The limitation of actions shall apply to all bonds, bills, and other securities made transferable by law, after the assignment or endorsement thereof, in the same manner as it operates against promissory notes.

195. − 3. As to penal Actions. _6. All actions and suits to be brought on any penal act of the general assembly, for the recovery of the penalty therein set forth, shall be brought within three years after the cause of such action or suit shall or may have accrued, and not after: Provided, that this act shall not affect the time of bringing suit on any penal act of the general assembly, which hath a time limited therein for bringing the same.

196. Ohio. 1. As to lands. Twenty−one years adverse possession of lands operates a bar, with a saving in favor of infants, femes covert, persons insane, imprisoned or beyond the sea, when the right of action accrues. And if a person shall have left the state, and remain out of the same at the time the cause of action accrued; or shall have left the state or county at any time during the period of limitation, (that is, after the right of action has accrued,) and remain out of the same in a place unknown to the person having the right of action, suit may be brought at any time within the period of limitation, after the return of such person to the state or county.

197. − 2. As to personal actions. 1st. Actions upon the case, covenant and debt founded upon a specialty, or any agreement, contract or promise in writing, may be brought within fifteen years after the cause of action shall have accrued.

198. − 2d. Actions upon the case and debt founded upon any simple contract, not in writing, and actions on the case for consequential damages, within six years.

199. − 3d. Actions of trespass upon property, real or personal, detinue, trover and replevin, within four years.

200. − 4th. Actions of trespass for any injury done to the person, actions of slander for words spoken, or for a libel, actions for malicious prosecution, and for false imprisonment; actions against officers for malfeasance or nonfeasance in office, and actions of debt qui tam, within one year.

201. − 5th. Actions for forcible entry and detainer, or forcible detainer only, within two years.

202. − 6th. All other actions within four years; and all penalties and forfeitures given by statute and limited by the statute, within the times so limited.

203. − 7th. Infants, femes covert, persons insane or imprisoned, entitled to an action of ejectment, may, after the twenty−one years have elapsed, bring their actions within ten years after such disability removed. They may bring all other actions, within the respective times Iimited for bringing such actions, after the disability removed.

204. − 8th. Actions, founded on contracts between persons resident at the time of the contract without this state, which are barred by the laws of the country where the contract was made, are barred in the courts of this state.

205. − 9th. In all actions on contracts express or implied, in case of payment of an part, principal or interest, acknowledgment of an existing liability, debt or claim, or any promise to pay the same, within the time herein limited, the action may be commenced within the time limited after such payment, acknowledgment or promise.

206. − 10th. If judgment be arrested or reversed, the suit abate or the plaintiff become nonsuit, and the time limited shall have expired, the plain−tiff may bring a new action within one year after such arrest, reversal, abatement or nonsuit.

207. − 11th. A person who has left the state, or resides out of it, or whose place of residence is unknown although in the state, at the time the cause of action accrues, may be sued within the time limited by the act, after his return or to removal the state, or his place of residence, if in the state, becomes known. O. Stat. vol. 29, 214; Act of Feb. 18, 1831. Took effect, June 1, 1831. Swan's Col. Laws, 553, 4, 5, 6.

208. This act only operates upon causes of action accruing after the act took effect, and all causes of action previously subsisting are governed by the statutes (and there have been several) in force when the respective causes of action accrued, none of the statutes being retrospective in their operation. 7 O. R. p. 2, 235, West's Adm'r. v. Hymer; Id. 153, Hazlett et al. v.Critchfield et al.; 6 Id. 96, Bigelow's Ex'r. v. Bigelow's Adm'r.

209. − 3. As to penal actions. Prosecutions for any forfeitures under a penal statute, must be instituted within two years, unless otherwise specially provided for.

210. Pennsylvania. 1. As to lands. From henceforth no person or persons whatsoever, shall make entry into any manors, lands, tenements or hereditaments, after the expiration of twenty−one years next after his, her or their right or title to the same first descended or accrued; nor shall any person or persons whatsoever have or maintain any writ of right, or any other real or possessory writ or action, for any manor, lands, tenements or hereditaments, of the seisin or possession of him, her or themselves, his, her, or their ancestors, or predecessors, nor declare or allege any other seisin or possession of him, her or themselves, his, her or their ancestors or predecessors, than within twenty−one years next before such writ, action, or suit so hereafter to be sued, commenced or brought. Act of March 26, 1785, s. 2, 2 Smith's Laws Pa. 299.

211. Section 4, provides, that if any person or persons having such right or title be, or shall be at the time such right or title first descended or accrued, within the age of twenty−one years, feme covert, non compos mentis, imprisoned or beyond the seas, or from and without the United States of America, then such person or persons, and the heir or heirs of such person or persons, shall and may, notwithstanding the said twenty−one years be expired, bring his or their action, or make his or their entry, as he, she or, they might have done, before the passing of this act, so as such person or persons, or the heir or heirs of such person or persons, shall within ten years next after attaining full age, discoverture, soundness of mind, enlargement out of prison, or coming into the said United States, take benefit of or sue for the same, and no time after the said ten years; and in case such person or persons shall die within the said term of ten years, under any of the disbilities aforesaid, the heir or heirs of such person or persons shall have the same benefit, that such person or persons could or might have had; by living until the disabilities should, have ceased or been removed; and if any abatement happen in any proceeding or

proceedings upon such right or title, such proceeding or proceedings may be renewed and continued, within three years from the time of such abatement, but not afterward.

212. By the act of March 11, 1815, the provision above contained, so far as the same relates to persons beyond the seas, and from and without the United States of America, is repealed.

213. − 2. As to personal actions. All actions of trespass quare clausum fregit, all actions of detinue, trover and replevin, for taking away goods and cattle, all actions upon account, and upon the case, (other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants,) all actions of debt, grounded upon any lending or con− tract without specialty, all actions of debt for arrearages of rent, except the proprietaries' quit rents, and all actions of trespass, of assault, menace, battery, wounding and imprisonment, or any of them, which shall be sued or brought at any time after the five and twentieth day of April, which shall be in the year of our Lord one thousand seven hundred and thirteen, shall be commenced and sued within the time and limitation hereafter expressed, and not after; that is to say, the said actions upon the case, other than for slander, and the said actions for account, and the said actions for trespass, debt, detinue, and replevin for goods or chattels, and the said actions of trespass quare clausum fregit, within six years next after the cause of such actions or suit, and not after. And the said actions of trespass, of assault, menace, battery, wounding, imprisonment, or any of them, within two years next after the cause of such actions or suit, and not after. And the said actions upon the case for words, within one year next after the words spoken, and not after. Act. of March 27, 1713, s. 1.

214. If in any of the said actions or suits, judgment be given for the plaintiff and the same be reversed by error, or a verdict passed for the plaintiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing by his plaint, writ or bill, then and in every such case, the party plaintiff, his heirs, executors, or administrators, as the case may require, may commence a new action or suit, from time to time, within a year after such judgment reversed, or given against the plaintiff, as aforesaid, and not after. Id. s. 2.

215. In all actions upon the cause, for slanderous words, to be sued or prosecuted by any person or persons, in any court within this province, after the said twenty−fifth day of April next, if the jury upon trial of the issue in such action, or the jury that shall inquire of the damages, do find or assess the damages under forty shillings, then the plaintiff or plaintiffs in such action shall have and recover only so much costs as the damages so given or assessed do amount unto without any further increase of the same. Id. s. 4.

216. Provided nevertheless, that if any person or persons who is or shall be entitled to any such action or trespass, detinue, trover, replevin, actions of account, debt, actions for trespass, for assault, menace, battery, wounding or imprisonment, actions upon the case for words, be, or, at the time of any cause of such action given or accrued, fallen, or come, shall be within the age of twenty−one years, feme covert, non compos mentis, imprisoned or beyond the sea, that then such person or persons shall be at liberty to bring the same actions, so as they take the same within such times as are hereby before limited, after their coming to or being of full age, discoverture, of sound memory, at large, or returning into this province as other persons. id. s. 5.

217.−3. As to penal actions. All actions, suits, bills, indictments or information, which shall be brought for any forfeiture upon any penal act of assembly made or to be made, whereby the forfeiture is or shall be limited to the commonwealth only, shall hereafter be brought within two years after the offence was committed, and at no time afterwards, and all actions, suits, bills, or informations which shall be brought for any forfeiture upon any penal act of assembly made or to be made, the benefit and suit whereof is or shall be by the said act limited to the commonwealth, and to any person or persons that shall prosecute in that behalf, shall be brought by any person or persons that may lawfully sue for the same, within one year next after the offence was committed; and in default of such pursuit, then the same shall be brought for the commonwealth, any time within one year after that year ended; and if any action, suit, bill, indictment or information shall be brought after the time so Iimited, the same shall be void, and where a shorter time is limited by any act of assembly, the prosecution shall be within that time. Act of March 26, 1785, s. 6.

218. Rhode Island. 1. As to lands. It is enacted that where any person or persons, or others from whom he or they derive their titles, either by themselves, tenants or lessees, shall have been for the space of twenty years, in the uninterrupted, quiet, peaceable and actual seisin and possession of any lands, tenements or hereditaments in the, state, during the said time, claiming the same as his, her or their proper, sole and rightful estate in fee simple, such actual seisin and possession shall be allowed to give and make a good and rightful title to such person or persons, their heirs and assigns, forever; saving and excepting however, the rights and claims of persons under age, non compos mentis, feme covert, and persons imprisoned, or beyond seas, they bringing their suits for the recovery of

such lands, &c., within the space of ten years next after the removal of such impediment saving also, the rights and claims of any person or persons, having any estate in reversion or remainder, expectant or dependent on any lands, &c., after the determination of the estate for years, life, &c.; such person or persons pursuing his or their title by due course of law, within ten years after his or their right of action shall accrue.

219. − 2, As to personal actions. It provides that all actions upon the case, (except actions for slander,) all actions of account, (except such as concern trade and merchandise between merchant and merchant, their actors or servants,) all actions of detinue, replevin and trover, all actions of debt founded upon any contract without specialty, and all actions of debt for arrearages of rents, must be commenced within six years next after the accruing of the cause of said actions, and not after. That all actions of trespass for breaking enclosures, and all other actions of trespass for any assault, battery, wounding and imprisonment, must be commenced within four years next after the accruing of such cause of action, and not after. And that actions upon the case for words spoken, must be commenced within two years next after the words spoken, and not after. If the person against whom there is any such cause of action, at the time the same accrued, was without the limits of the state, and did not leave property or estate therein, that could, by common and ordinary process of law be attached, in that case, the person who is entitled to such action, may commence the same, within the respective periods limited in the preceding clause, after such person's return into the state. If a person, entitled to any of the before described actions, is at the time any such cause of action accrues, within the age of twenty−one, feme covert, non compos mentis, imprisoned, or beyond sea, such person may commence the same within the times respectively, limited as above, after being of full age, discovert, of sane memory, at large, or returned from beyond sea.

220. − South Carolina. 1. As to lands. By the act of 1712, s. 2, it is enacted, that if any person or persons to whom any right or title to lands, tenements or hereditaments within this province, shall hereafter descend or come, do not prosecute the same within five years after such right or title accrued, that then he or they, and all claiming under him or them, shall be forever barred to recover the same.

221. By section 5, that not only the persons who have not made claim within the time limited shall be barred, but also all persons that shall come under such as have lost their claim.

222. And by section 2, that any person or persons beyond the seas, or out of the limits of this province, feme covert, or imprisoned, shall be allowed the space of seven years to prosecute their right or title, or claim to any lands, tenements, or hereditaments in this province, after such right and title accrued to them or any of them, and at no time after the said seven years; and also, any person or persons that are under the age of twenty−one years, shall be allowed to prosecute their claims at any time within two years after they come of age, and if beyond the seas, three years." But a subsequent act, in 1778; Pub. L. 455, s. 2; as to persons under twenty−one, allows five years to prosecute their right to lands, after coming to twenty−one.

223. − 2. As to personal actions. By the act of 1712, s. 6, actions of account, and upon the case, (other than case for slander, and upon such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants;) of debt grounded upon any lending or contract without specialty, or for arrearages of rent reserved by indenture; of covenant; of trespass, and trespass quare clausum fregit; of detinue, and of replevin for taking away of goods and chattels; must be commenced within four years next after the cause of such action or suits, and not after. Actions of trespass, of assault and battery, wounding, imprisonment, or any of them, within one year next after the cause of action; and actions on the case for words, within six months next after the words spoken, and not after.

224. There are various minute provisions in the savings, in favor of persons under age, insane, beyond seas, imprisoned, and of femes covert.

225. When the defendant is beyond seas at the time any personal action accrues, the plaintiff may sue, after his return, within such times as is limited for bringing such action. Act of 1712, s. 6.

226. Tennessee. 1. As to lands. The act of Nov. 16, 1819, c. 28, 2 Scott, 482, enacts in substance: _l. That any persons, their heirs or assigns, who shall, at the passing of the act, or at any time after, have had seven years possession of any lands, tenements, or hereditaments, which have been granted by this state, or the state of North Carolina, holding or claiming the same under a deed or deeds of conveyance, devise, grant, or other assurance, purporting to convey an estate in fee simple, and no claim by suit in law or equity effectually prosecuted shall have been set up, or made to said land, &c., within the aforesaid time, in that case, the persons, or their heirs or assigns, so holding possession, shall be entitled to keep and hold in possession, such quantity of land as shall be specified and described in his or their deed, of conveyance, devise, grant, or other assurance, as aforesaid, in

preference to and against all and all manner of persons whatsoever; and any persons or their heirs, who shall neglect or have neglected, for the said term of seven years, to avail themselves of any title legal or equitable which they may have had to any lands, &c., by suit in law or equity, effectually prosecuted against the persons in possession, shall be for ever barred; and the persons so holding, their heirs. or assigns, for the term aforesaid, shall have an indefeasible title in fee simple to such lands. See 3 Am. Jur. 255.

227. − _2. That no persons, or their heirs, shall maintain any action in law or equity for any lands, &c., but within seven years next after his, her, or their right to commence, have, or maintain such suit, shall have come, fallen, or accrued; and that all suits in law or equity shall be commenced and sued within seven years next after the title or cause of action accrued or fallen, and at no time after the said seven years shall have passed.

228. Persons who, when title first accrued, were within twenty−one years of age, femes covert, non compos mentis, imprisoned, or beyond the limits of the United States, or the territories thereof, may bring their action at any time, so as such suit is commenced within three years next after his, her, or their respective disabilities or death, and not after; and it is further provided, that in the construction of the savings, no cumulative disability shall prevent the bar.

229. − _3. That if, in any of the said actions or suits, judgment is given for the plaintiff and is reversed for error, or verdict pass for the plain−tiff, and upon matter alleged in arrest of judgment, the judgment be given against the plaintiff, that he take nothing, &c.; or, if the action be commenced by original writ, and the defendant cannot be legally attached, or served with process, in such case the plaintiff, his heirs, executors, or administrators, as the case is, may commence a new action, from time to time, within a year after such judgment reversed or given against the plaintiff, or until the defendant can be attached, or served with process, so as to compel him, her, or them to appear and answer.

230. − _4. Provided, that this act shall have no bearing on the lands reserved for the use of schools.

231. − 2. As to personal actions. Actions of account render; upon the case; debt for arrearages of rent; detinue; replevin; and trespass quare clausum fregit; must be brought within three years next after the cause of such action, and not after: except such accounts as concern the trade of mer− chandise, between merchant and merchant, and their factors or servants. Actions of trespass, assault and battery, wounding, and imprisonment, or any of them, within one year after the cause of such action, and not after: and actions of the case for words, within six months after the words spoken, and not after. Act of 1715, c. 27, s. 5. Persons who, at the time the cause of action accrued, are within the age of twenty−one years, femes covert, non compos mentis, imprisoned, or beyond seas, may bring their actions within the time above limited, after the removal of the disability.. Id. s. 9.

232. The act of 1756, c. 4, 1 Scott, 89, contains the following enactment: 1. Where the plaintiff founds his demand upon a book account for goods, wares, and merchandise, sold and delivered, or work done, and solely relies for proof of delivery of the articles upon his oath, such oath shall not be admitted to prove the delivery of any articles in the book, of longer standing than two years.

233. − 2. And no such book of accounts, although proved by witnesses, shall be received in evidence for goods, &c., sold, or work done, above five years before action brought, except of persons being out of the government, or where the account shall be settled and signed by the parties.

234. − 3. Creditors of any deceased person, residing in the state, shall, within two years, and out of the state, within three years, from the qualifi−cation of the executors or administrators, make demand of their respective accounts, debts, and demands, of every kind whatsoever, to such executors, and administrators, and on failure to make the demand, and bring suit within those times, shall be for ever barred; saving to infants, non compotes, and femes covert, one year to sue, after the disability removed. But if any creditor, after making demand of his debt, &c., of the executor or administrator, shall delay his suit at their special request, then the demand shall not be barred during the time of indulgence.

235. Vermont. 1. Criminal cases. Sect. 1. All actions, suits, bills, complaints, informations, or indictments, for any crime or misdemeanor, other than theft, robbery, burglary, forgery, arson, and murder, shall be brought, had, commenced, or prosecuted within three years next after the offence was committed, and not after.

236. − Sect. 2. All complaints and prosecutions for theft, robbery, burglary and forgery, shall be commenced and prosecuted within six years next after the commission of the offence, and not after.

237. − Sect. 3. If any action, suit, bill, complaint, information, or indictment, for any crime or misdemeanor, other than arson and murder, shall be brought, had, commenced, or prosecuted, after the time limited by the two preceding sections, such proceedings shall be void, and of no effect.

238. − Sect. 4. All actions and suits, upon any statute, for any penalty or forfeiture, given in whole or in part to any person who will prosecute for the same, shall be commenced within one year after the offence was committed, and not after.

239. − Sect. 5. If the penalty is given in whole or in part to the state, or to any county or town, or to the treasury thereof, a suit therefor may be commenced by or in behalf of the state, county, town or treasury, at any time within two years after the offence was committed, and not afterwards,

240. − Sect. 6. All actions upon any statute, for any penalty or forfeiture, given in whole or in part to the party aggrieved, shall be commenced within four years after the offence was committed, and not after.

241. − Sect. 7. The six preceding sections shall not apply to any bill, complaint, information, indictment or action, which is or shall be limited by any statute, to be brought, had, commenced or prosecuted within a shorter or longer time than is prescribed in these six sections; but such bill, complaint, information, indictment or other suit, shall be brought and prosecuted within the time that may be limited by such statute.

242. − Sect. 8. When any bill, complaint, information or indictment shall be exhibited in any of the cases mentioned in this chapter, the clerk of the court, or magistrate, to whom it shall be exhibited, shall, at the time of exhibiting, make a minute thereon, in writing, under his official signature, of the true day, month and year, when the same was exhibited.

243. − Sect. 9. When any action shall be commenced, in any of the cases men− tioned in this chapter, the clerk or magistrate, signing the writ, shall enter upon it a true minute of the day, month and year, when the same was signed.

244. − Sect. 10. Every bill, complaint, information, indictment or writ, on which a minute of the day, month and year, shall not be made, as provided by the two preceding sections, shall, on motion, be dismissed.

245. − Sect. 11. None of the provisions of this chapter shall apply to suits against moneyed corporations, or against the directors or stockholders thereon to recover any penalty or forfeiture imposed, or to enforce any liability created by the act of incorporation or any other law; but all such suits shall be brought within six years after the discovery, by the aggrieved party, of the facts upon which such penalty or forfeiture attached, or by which such liability was created.

246. − 2. Real and personal actions and rights of entry. Sec. 1. No action for the recovery of any lands, or for the recovery of the possession thereof, shall be maintained, unless such action is commenced within fifteen years next after the cause of action first accrued to the plaintiff, or those under whom he claims.

247. − Sect. 2. No person having right or title of entry into houses or lands, shall tbereinto enter, but within fifteen years next after such right of entry shall accrue.

248. − Sect. 3. The right of any person to the possession of any real estate shall not be impaired or affected, by a descent being hereafter cast in consequence of the death of any person in possession of such estate.

249. − Sect. 4. The first two sections of this chapter, so far as they relate to or affect lands granted, given, sequestered or appropriated to any public, pious or charitable use, shall take effect from and after the first day of January, in the year of our Lord eighteen hundred and forty−two, and, until that day, the laws now in force relating to such lands, shall continue in operation.

250 . − Sect. 5. The following actions shall be commenced within six years next after the cause of action accrued, and not after:

First. All actions of debt founded upon any contract, obligation or liabili−ty, not under seal, excepting such as are brought upon the judgment or decree of some court of record of the United States, or of this or some other state:

Second. All actions upon judgments rendered in any court not being a court of record:

Third. All actions of debt for arrearages of rent:

Fourth. All actions of account, assumpsit or on the case, founded on any contract or liability, express or implied:

Fifth. All actions of trespass upon land:

Sixth. All actions of replevin, and all other actions for taking, detaining or injuring goods or chattels:

Seventh. All other actions on the case, except actions for slanderous words, and for libels.

251. Sect. 6. All actions for assault and battery, and for false imprisonment, shall be commenced within three years next after the cause of action shall accrue, and not afterwards.

252. − Sect. 7. All actions for slanderous words, and for libels, shall be commenced within two years next after the cause of action shall accrue, and not after.

253. − Sect. 8. All actions against sheriffs, for the misconduct or negligence of their deputies, shall be commenced within four years next after the cause of action shall accrue, and not afterwards.

254.−Sect. 9. None of the foregoing provisions shall apply to any action brought upon a promissory note, which is signed in the presence of an attesting witness but the action, in such case, shall be commenced within fourteen years next after the cause of action shall accrue thereon, and not after− wards.

255. − Sect. 10. All actions of debt or scire facias on judgment shall be brought within eight years, next after the rendition of such judgment, and all actions of debt on specialties within eight years after the cause of action accrued, and not afterwards.

256. − Sect. 11. All actions of covenant, other than the covenants of warranty, and seisin, contained in deeds of conveyance of lands, shall be brought within eight years next after the cause of action shall accrue, and not after.

257. − Sect. 12. All actions of covenant, brought on any covenant of warranty contained in any deed of conveyance of land, shall be brought within eight years next after there shall have been a final decision against the title of the covenantor in such deed; and all actions of covenant brought on any covenant of seisin, contained in any such deed, shall be brought within fifteen years next after the cause of action shall accrue, and not after.

258.−Sect. 13. When any person shall be disabled to prosecute an action in the courts of this state, by reason of his being an alien, subject or citizen of any country at war with the United States, the time of the continuance of such war shall not be deemed any part of the respective periods herein limited for the commencement of any of the actions before mentioned.

259. − Sect. 14. If, at the time when any cause of action of a personal nature, mentioned in this chapter, shall accrue against any person, he shall be out of the state, the action may be commenced, within the time herein Iimited therefor, after such person shall come into the state; and if, after any cause of action shall have accrued, and before the statute has run, the person against whom it has accrued, shall be absent from and reside out of the state, and shall not have, known property within this state, which could, by the common and ordinary process of law, be attached, the time of his absence shall not be taken as any part of the time limited for the commencement of the action.

260. − Sect. 15. If any person, entitled to bring any of the actions, before mentioned in this chapter, or liable to any such acion, shall die before the expiration of the time herein limited therefor, or within thirty days after the expiration of the said time, and if the cause of action does by law sur− vive, the action may be commenced, by the executor or administrator, within two years after such death, or against the administrator or executor of the deceased person, or the same may be presented to the commissioners on said estate, as the case may be, at any time within two years after the grant of letters testamentary or of administration, and not afterwards, if barred by the provisions of this chapter; provided, however, if the commissioners on such estate are required to make their report to the probate court before, the, expiration of said two years, the claim against the deceased shall be presented to the commisioners within the time allowed other creditors to present their claims.

261. − Sect. 16. If, in any action, duly commenced within the time in this chapter limited and allowed therefor, the writ shall fail of a sufficient service, or return, by any unavoidable accident, or by any default or neglect of the officer to whom it is committed, or if the writ shall be abated, or the action otherwise defeated or avoided, by the death of any party thereto, or for any matter of form, or if after a verdict for the plaintiff, the judgment shall be arrested, or if a judgment for the plaintiff shall be reversed on a writ of, error, or on exceptions, the plaintiff may commence a new action for the same cause, at any time within one year after the abatement or other determination of the original suit, or after the reversal of the judgment therein; and if the cause of action does by law survive, his executor or administrator may, in case of his death, commence such new action within the said one year; or, if no executor or administrator be appointed within that
time, then within one year after letters testamentary or of administration shall have been granted to him.

262. − Sec. 17. Whenever the commencement of any suit shall be stayed by an injunction of any court of equity, the time, during which such injunction shall be in force, shall not be deemed any portion of the time in this chapter limited, for the commencement of suit.

263. − Sect. 18. If any person entitled to bring any action in this chapter specified, shall, at the time when the cause of action accrues, be a minor or a married woman, insane or imprisoned, such person. may bring the said action, within the times in this chapter respectively limited, after the disability shall be removed.

264. − Sect. 19. None of the provisions of this chapter shall apply to suits brought to enforce payment on bills, notes or other evidences of debt, issued by moneyed corporations.

265. − Sect. 20. All, the provisions of this chapter shall apply to the case of a debt or contract, alleged by way of set−off; and the time of limitation of such debt shall be computed in like manner as if an action had been commenced therefor, at the time when the plaintiff's action was commenced.

266. − Sect. 21. The limitations herein before prescribed for the commencement of actions, shall apply to the same actions, when brought in the name of the state, or in the name of any officer, or otherwise, for the benefit of the state, in the same manner as to actions brought by citizens.

267. − Sect. 22. In actions of debt or upon the case founded on any contract, no acknowledgment or promise shall be evidence of a new or continuing contract, whereby to take any case out of the provisions of this chapter, or to deprive any party of the benefit thereof, unless such acknowledgment or promise be made or contained by or in some writing, signed by the party chargeable thereby.

268. − Sect. 23. If there are two or more joint contractors, or joint executors or administrators of any contractor, no such joint contractor, executor or administrator shall lose the benefit of the provisions of this chapter, so as to be chargeable by reason only of any acknowledgment or promise, made or signed by any other or others of them.

269. − Sect. 24. In actions commenced against two or more joint contractors, or joint executors or administrators of any contractor, if it shall appear on the trial, or otherwise, that the plaintiff is barred by the provisions of this chapter, as to one or more of the defendants, but is entitled to recover against any other or others of them, by virtue of a new acknowledgment or promise, or otherwise, judgment shall be given for the plaintiff as to any of the defendants against whom he is entitled to recover, and for the other defendant. or defendants against the plaintiff.

270. − Sect. 25. If, in any action on contract, the defendant shall plead in abatement, that any other person ought to have been, jointly sued, and issue be joined on that plea, and it shall appear on the trial, that the action was, by reason of the provisions of this chapter, barred against the person so named in the plea, the said issue shall be found for, the plaintiff.

271. − Sect. 26. Nothing, contained in the four preceding sections, shall alter, take away or lessen the effect of a payment of any principal or interest, made by any person.

272. − Sect. 27. If there are two or more joint contractors or joint executors or administrators of any contractor, no one of them shall lose the benefits of the provisions of this chapter, so as to be chargeable by reason only of any payment, made by any other or others of them.

273. − Sect. 28. None of the provisions of this chapter, respecting the acknowledgment of a debt, or a new promise to pay it, shall apply to any such acknowledgment or promise, made before the first day of January, in the year of our Lord eighteen hundred and forty−two, but every such last mentioned acknowledgment or promise, although not made in writing, shall have the same effect as if no provisions, relating thereto, had been herein contained.

274. − Sect. 29. The provisions of this chapter which alter or vary the law now in force relative to the limitation of actions shall not apply to any case where the cause of action accrues before this chapter shall take effect, and go into operation; and in all cases, where the cause of action accrues before this chapter takes effect, the laws now in force limiting the time for the commencement of suits thereon, shall continue in operation.

275. Virginia. 1. As to lands. All writs of formedon in descender, remainder, or reverter, of any lands, tenements or hereditaments, shall be sued out within twenty years next after the title or cause of action accrued, and not afterwards: and no person having any right or title of entry into any lands, &c. shall make any entry but within twenty years next after such right or title accrued. Persons entitled to such writ or right or title of entry, who are under twenty−one years of age, femes covert, non compos mentis, imprisoned, or not within the commonwealth, at the time such right or title accrues, may themselves or their heirs, notwithstanding the said twenty years have expired, bring and maintain his action, or make his entry, within ten years next after such disabilities removed, or the death of the person so disabled.

276. In all writs of right, and other actions possessory, any person may maintain a writ of right upon the possession or seisin of his ancestor or predecessor within fifty years, or any other possessory action upon the possession or seisin of his ancestor or predecessor, within forty years; but no person shall maintain a real action upon his own possession or seisin, but within thirty years next before the teste of the writ.

277. − 2. As to personal actions. The provisions in relation to personal actions are as follows: 1. Upon all actions upon the case, (other than for slander,) actions of account or assumpsit, (other than such accounts as concern the trade of merchandise between merchant and merchant, their factors or servants,) debt grounded upon any lending

or contract without specialty, debt for arrears of rent, trespass, detinue, trover, or replevin for goods and chattels, and trespass quare clausum fregit, five years: 2. Upon actions of assault, battery, wounding, or imprisonment, three years: 3. Upon actions of slander, one year. Infants, femes covert, persons non compos mentis, imprisoned, beyond seas, or out of the country, are allowed full time to bring all such actions, except that of slander, after the disability has been removed.

278. All actions or suits, founded upon any account for goods, sold and delivered, or for articles charged in any store account, must be commenced within one year next after the cause of action, or the delivery of the goods, and not after; except that, in the case of the death of the creditors or debtors, before the expiration of the said term of one year, the farther time of one year, from the death of such creditor or debtor, shall be allowed. In suits in the name of any person residing beyond the seas, or out of this country, for recovery of any debt due for goods actually sold and delivered here by his factor or factors, the saving in favor of persons beyond the seas at the time their causes of action accrued, is not to be allowed; but, if any factor shall happen to die before the expiration of the time in which suit should have been brought, his principal shall be allowed two years from his death, to bring suit for any debt due on account of any contract or dealing with such factor. 1 Rev. Code, 489−491.

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