

LAW DICTIONARY.

FOR A TABLE OF ABBREVIATIONS, SEE TITLE *ABBREVIATIONS*.

A.

A. The first letter of the alphabet.

It is used to distinguish the first page of a folio, the second being marked "b," thus: Coke, Litt. 114 a, 114 b. It is also used as an abbreviation for many words of which it is the initial letter. See *ABBREVIATIONS*.

In *Latin phrases* it is a preposition, denoting *from, by, in, on, of, at*, and is of common use as a part of a title.

In *French phrases* it is also a preposition, denoting *of, at, to, for, in, with*.

Among the Romans this letter was used in criminal trials. The judges were furnished with small tables covered with wax, and each one inscribed on it the initial letter of his vote: A (*absolvo*) when he voted to acquit the accused; C (*condemno*) when he was for condemnation; and N L (*non liquet*), when the matter did not appear clearly, and he desired a new argument.

The letter A (i. e. *antiquo*, "for the old law") was inscribed upon Roman ballots under the *Lex Tabellaria*, to indicate a negative vote; Tayl. Civ. Law, 191, 192.

A CONSILIIS (Lat. *consilium*, advice). A counsellor. The term is used in the civil law by some writers instead of a *responsis*. Spelm. Gloss. *Apocrisarius*.

A LATERE (Lat. *latus*, side). Collateral. Used in this sense in speaking of the succession to property. Bract. 20 b, 62 b.

Without right. Bract. 42 b.

Apostolic; having full powers to represent the Pope as if he were present. Du Cange, *Legati a latere*; 4 Bla. Com. 306.

A ME (Lat. *ego*, I). A term denoting direct tenure of the superior lord. 2 Bell, H. L. Sc. 133.

Unjustly detaining from me. He is said to withhold *a me* (from me) who has obtained possession of my property unjustly. Calvinus, Lex.

To pay *a me*, is to pay from my money.

A MENSA ET THORO (Lat. from table and bed, but more commonly translated, from bed and board). A kind of divorce, which is rather a separation of the parties by law,

than a dissolution of the marriage. This species of divorce is practically abolished in Massachusetts, by statute 1870, c. 404. See 2 Bish. M. & D. § 743 a; 1 *id.* §§ 29, 39, 705. See *DIVORCE*.

A PRENDRE (Fr. to take, to seize). Rightfully taken from the soil; 5 Ad. & E. 764; 1 N. & P. 172; 4 Pick. 145.

Used in the phrase *profit à prendre*, which differs from a right of way or other easement which confers no interest in the land itself; 5 B. & C. 221; 2 Washb. R. P. 25.

A QUO (Lat.). From which.

A court *a quo* is a court from which a cause has been removed. The judge *a quo* is the judge in such court; 6 Mart. La. 520. Its correlative is *ad quem*.

A RENDRE (Fr. to render, to yield). Which are to be paid or yielded. *Profits à rendre* comprehend rents and services; Hammond, Nisi P. 192.

A RETRO (Lat.). In arrear.

A RUBRO AD NIGRUM (Lat. from red to black). From the (red) title or rubric to the (black) body of the statute. It was anciently the custom to print statutes in this manner; Erskine, Inst. 1, 1, 49.

A VINCULO MATRIMONII (Lat. from the bond of matrimony). A kind of divorce which effects a complete destruction of the marriage contract. See *DIVORCE*.

AB ACTIS (Lat. *actus*, an act). A notary; one who takes down words as they are spoken. Du Cange, *Acta*; Spelm. Gloss. *Cancellarius*.

A reporter who took down the decisions or *acta* of the court as they were given.

AB ANTE (Lat. *ante*, before). In advance.

A legislature cannot agree *ab ante* to any modification or amendment to a law which a third person may make; 1 Sumn. 308.

AB ANTECEDENTE (Lat. *antecedens*). Beforehand. 5 M. & S. 110.

AB EXTRA (Lat. *extra*, beyond, without). From without. 14 Mass. 151.

AB INCONVENIENTI (Lat. *inconveniens*). From hardship; from what is inconvenient. An argument *ab inconvenienti* is an argument drawn from the hardship of the case.

AB INITIO (Lat. *initium*, beginning). From the beginning; entirely; as to all the acts done; in the inception.

An estate may be said to be good, an agreement to be void, an act to be unlawful, a trespass to have existed, *ab initio*; Plowd. 6 a; 11 East, 395; 10 Johns. 253, 369; 1 Bla. Com. 440. See Adams, Eq. 186. See TRESPASS; TRESPASSER.

Before. Contrasted in this sense with *ex post facto*, 2 Bla. Com. 308, or with *postea*, Calvinus, Lex., *Initium*.

AB INTESTAT. Intestate. 2 Low. Can. 219. Merlin, Repert.

AB INTESTATO (Lat. *testatus*, having made a will). From an intestate. Used both in the common and civil law to denote an inheritance derived from an ancestor who died without making a will; 2 Bla. Com. 490; Story, Confl. L. 480.

AB INVITO (Lat. *invitum*). Unwillingly. See INVITUM.

AB IRATO (Lat. *iratus*, an angry man). By one who is angry. A devise or gift made by a man adversely to the interest of his heirs, on account of anger or hatred against them, is said to be made *ab irato*. A suit to set aside such a will is called an action *ab irato*; Merlin, Repert. *Ab irato*.

ABACTOR (Lat. *ab* and *agere*, to lead away). One who stole cattle in numbers. Jacob, Law Dict. One who stole one horse, two mares, two oxen, two she-goats, or five rams. *Abigeus* was the term more commonly used to denote such an offender.

ABADENGO. Spanish Law. Lands, town, and villages belonging to an abbot and under his jurisdiction. All lands belonging to ecclesiastical corporations, and as such exempt from taxation; Escriche, Dice. Raz.

Lands of this kind were usually held in mortmain, and hence a law was enacted declaring that no land liable to taxation could be given to ecclesiastical institutions ("*ningun Realengo non pase a abadengo*"), which is repeatedly insisted on.

ABALIENATIO (Lat. *alienatio*). The most complete method used among the Romans of transferring lands. It could take place only between Roman citizens. Calvinus, Lex., *Abalienatio*; Burr. Law Dic.

ABAMITA (Lat.). The sister of a great-grandfather; Calvinus, Lex.

ABANDONMENT. The relinquishment or surrender of rights or property by one person to another.

In Civil Law. The act by which a debtor surrenders his property for the benefit of his creditors; Merlin, Repert.

In Maritime Law. The act by which the

owner of a ship surrenders the ship and freight to a creditor who has become such by contracts made by the master.

The effect of such abandonment is to release the owner from any further responsibility. The privilege in case of contracts is limited to those of a maritime nature; Pothier, Chart. Part. sec. 2, art. 2, § 51; Code de Commerce, lib. 2, tit. 2, art. 216. Similar provisions exist in England and the United States to some extent; 1 Parsons, Mar. Law, 395-405; 5 Sto. 465; 16 Bost. Law Rep. 686; 5 Mich. 368. See ABANDONMENT FOR TORTS.

By Husband or Wife. The act of a husband or wife who leaves his or her consort wilfully, and with an intention of causing perpetual separation. See DESERTION.

In Insurance. The transfer by an assured to his underwriters of his interest in the insured subject, or the proceeds of it, or claims arising from it, so far as the subject is insured by the policy.

The term is used only in reference to risks in navigation; but the principle is applicable in fire insurance, where there are remnants, and sometimes also under stipulations in life policies in favor of creditors; 2 Phillips, Ins. §§ 1490, 1514, 1515; 3 Kent, 265; 16 Ohio St. 200.

The object of abandonment being to recover the whole value of the subject of the insurance, it can occur only where the subject itself, or remains of it, or claims on account of it, survive the peril which is the occasion of the loss. 2 Phillips, Ins. §§ 1507, 1516; 36 Eng. L. & Eq. 198; 3 Kent, 321; 3 Bing. N. C. 266. In such case the assured must elect, immediately on receiving intelligence of a loss, whether to abandon, and not delay for the purpose of speculating on the state of the markets; 2 Phillips, Ins. § 1667. He may have a reasonable time to inspect the cargo, but for no other purpose; 3 Kent, 320. He must give notice promptly to the insurer of his intention; five days held too late; 5 M. & S. 47; see L. R. 5 C. P. 341. In America, it appears that the right of abandonment is to be judged by the facts of each particular case as they existed at the time of abandonment; 3 Mas. 27; 2 Phillips, Ins. § 1536; 12 Pet. 378. In England, the abandonment may be affected by subsequent occurrences, and the facts at the time of action brought determine the right to recover; 4 M. & S. 394; 2 Burr. 1198. But this rule has been doubted in England; 2 Dow, 474; 3 Kent, 324.

By the doctrine of constructive total loss, a loss of over one-half of the property insured, or damage to the extent of over one-half its value, by a peril insured against, may be turned into a total loss by abandonment; 2 Pars. Mar. Ins. 126; 20 Wend. 287; 3 Johns. Cas. 182; 1 Gray, 154; 3 Mass. 27. This does not appear to be the English rule; 9 C. B. 94; 1 H. of L. 513. See 4 Am. L. Reg. 481; 1 Gray, 371.

The right is waived by commencing repairs; 2 Pars. Mar. Ins. 140; 3 Mas. 429; 3 Wend. 658; 5 Cow. 63; but not by temporary repairs; 2 Phillips, Ins. §§ 1540, 1541; but is not lost by reason of the enhancement of the loss through the mere negligence or mistakes of the master or crew. It is too late to abandon after the arrival *in specie* at the port of destination; 2 Parsons, Mar. Ins. 128; 4 H. of L. 24; 15 Wend. 453. See 3 S. & R. 25. An inexpedient or unnecessary sale of the subject by the master does not strengthen the right; 2 Phillips, Ins. §§ 1547, 1555, 1570, 1571. See SALVAGE; TOTAL LOSS.

Abandonment may be made upon information entitled to credit, but if made speculatively upon conjecture, it is null.

In the absence of any stipulation on the subject, no particular form of abandonment is required; it may be in writing or oral, in express terms or by obvious implication (but see 1 Campb. 541); but it must be absolute and unconditional, and the ground for it must be stated; 2 Phillips, Ins. §§ 1678, 1679 *et seq.*; 1 Curt. C. C. 148; 4 Dall. 272; 18 Pick. 83; see 9 Metc. 354; 9 Mo. 406. Acceptance may cure a defect in abandonment, but is not necessary to its validity; 2 Phillips, Ins. § 1689. Nor is the underwriter obliged to accept or decline. He may, however, waive it; 2 Phillips, Ins. § 1698. But it is not subject to be defeated by subsequent events; 2 Phillips, Ins. § 1704; 3 Mas. 27, 61, 429; 4 Cranch, 29; 9 Johns. 21. See *supra*. And the subject must be transferred free of incumbrance except expense for salvage; 1 Gray, 154; 5 Cow. 63. See TOTAL LOSS.

Of Rights. The relinquishment of a right. It implies some act of relinquishment done by the owner without regard to any future possession by himself, or by any other person, but with an intention to abandon; 14 M. & W. 789; 9 Metc. 395. Mere non-user does not necessarily or usually constitute an abandonment; 10 Pick. 310; 23 *id.* 141; 3 Strobb. 224; 5 Rich. 405; 16 Barb. 150; 24 *id.* 44; see Tudor, Lead. Cas. 130; 2 Washb. R. P. 83-85.

Abandonment is properly confined to incorporeal hereditaments, as legal rights once vested must be divested according to law, though equitable rights may be abandoned; 2 Wash. C. C. 106; 25 Penn. St. 259; 32 *id.* 401; 15 N. H. 412; see 1 Hen. & M. 429; and an abandonment combined with sufficiently long possession by another party destroys the right of the original owner; 10 Watts, 192; 2 Metc. Mass. 32; 6 *id.* 337; 31 Me. 381; see also 8 Wend. 480; 16 *id.* 545; 3 Ohio, 107; 3 Penn. St. 141; 2 Washb. R. P. 453-458.

There may be an abandonment of an easement; 5 Gray, 409; 9 Metc. 395; 6 Conn. 289; 10 Humphr. 165; 16 Wend. 531; 16 Barb. 184; 3 B. & C. 332; of a mill site; 17 Mass. 297, 23 Pick. 216; 34 Me. 394; 4 M'Cord, 96; 7 Bingham, 682; an application for land; 2 S. & R. 378; 5 *id.* 215; of an

improvement; 1 Yeates, 515; 2 *id.* 476; 3 S. & R. 319; of a trust fund; 3 Yerg. Tenn. 258; of an invention or discovery; 1 Stor. C. C. 280; 4 Mas. 111; property sunk in a steamboat and unclaimed; 12 La. An. 745; a mining claim; 6 Cal. 510; a right under a land warrant; 23 Penn. St. 271.

The question of abandonment is one of fact for the jury; 2 Washb. R. P. 82.

The effect of abandonment when acted upon by another party is to divest all the owner's rights; 6 Cal. 510; 11 Ill. 588. Consult 2 Washb. R. P. 56, 82-85, 253-258.

ABANDONMENT FOR TORTS. In Civil Law. The relinquishment of a slave or animal who had committed a trespass to the person injured, in discharge of the owner's liability for such trespass or injury. If this were done, the owner could not be held to any further responsibility. Just. Inst. 4, 8, 9.

A similar right exists in Louisiana; 11 La. An. 396.

ABARNARE (Lat.). To discover and disclose to a magistrate any secret crime. *Leges Canuti*, cap. 10.

ABATAMENTUM (Lat *abatere*). An entry by interposition. Coke, Litt. 277. An abatement. Yelv. 151.

ABATARE. To abate. Yelv. 151.

ABATE. See ABATEMENT.

ABATEMENT (Fr. *abattre*, L. Fr. *abater*), to throw down, to beat down, destroy, quash; 3 Bla. Com. 168.

In Chancery Practice. A suspension of all proceedings in a suit, from the want of proper parties capable of proceeding therein.

It differs from an abatement at law in this: that in the latter the action is entirely dead and cannot be revived; but in the former the right to proceed is merely suspended, and may be revived by a supplemental bill in the nature of a bill of revivor; 3 Bla. Com. 301; 21 N. H. 246; Story, Eq. Pl. § 20 n. § 354; Adams, Eq. 403; Mitford, Eq. Pl., by Jeremy, 57; Edwards, Receiv. 19.

Generally speaking, if any property or right in litigation is transmitted to another, he is entitled to continue the suit, or at least have the benefit of it, if he be plaintiff; Edwards, Receiv. 19; 9 Paige, Ch. 410; or it may be continued against him, or at least perfected, if he be defendant; Story, Eq. Pl. §§ 332, 442; 7 Paige, Ch. 290. See PARTIES.

Death of a trustee does not abate a suit, but it must be suspended till a new one is appointed; 5 Gray, 162.

There are some cases, however, in which a court of equity will entertain applications, notwithstanding the suit is suspended: thus, proceedings may be had to preserve property in dispute; 2 Paige, Ch. 368; to pay money out of court where the right is clear; 6 Ves. 250; or upon consent of parties; 2 Ves. 399; to punish a party for breach of an injunction; 4 Paige, Ch. 163; to enroll a decree; 2 Dick. 612; or to make an order for the delivery of deeds and writings; 1 Ves. 185.

Although abatement in chancery suspends proceedings, it does not put an end to them; a party therefore imprisoned for contempt is not discharged, but must move that the complaint be revived in a specified time or the bill be dismissed and himself discharged; 3 Daniel, Ch. Pr. 225. Nor will a receiver be discharged without special order of court; 1 Hogan, 291; 1 Barb. 329; Edwards, Receiv. 19.

All declinatory and dilatory pleas in equity are said to be pleas in abatement, or in the nature thereof; see Story, Eq. Pl. § 708; Beames, Eq. Pl. 55-57; Cooper, Eq. Pl. 236. And such pleas must be pleaded before a plea in bar, if at all; Story, Eq. Pl. § 708; see 7 Johns. Ch. 214; 20 Ga. 379. See PLEA.

In Contracts. A reduction made by the creditor, for the prompt payment of a debt due by the payer or debtor; Weskett, Ins. 7.

Of Freehold. The unlawful entry upon and keeping possession of an estate by a stranger, after the death of the ancestor and before the heir or devisee takes possession. It is a species of ouster by intervention between the ancestor or deviser and the heir or devisee, thus defeating the rightful possession of the latter; 3 Bla. Com. 167; Coke, Litt. 277 a; Finch, Law, 195; Cruise, Dig. B, 1, 60.

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

Of Legacies. The reduction of a legacy, general or specific, on account of the insufficiency of the estate of the testator to pay his debts and legacies.

When the estate of a testator is insufficient to pay both debts and legacies, it is the rule that the general legacies must abate proportionally to an amount sufficient to pay the debts.

If the general legacies are exhausted before the debts are paid, then, and not till then, the specific legacies abate, and proportionally; 2 Bla. Com. 513 and note; Bacon, Abr. Leg. H; Roper, Leg. 253, 284; 2 Brown, Ch. 19; 2 P. Wms. 283.

In Revenue Law. The deduction from, or the refunding of, duties sometimes made at the custom house, on account of damages received by goods during importation or while in store. See Act of Congress, Mar. 2, 1799, § 52; 1 Story, U. S. Laws, 617; Andrews, Rev. Laws, §§ 113, 162.

Of Nuisances. The removal of a nuisance; 3 Bla. Com. 5. See NUISANCE.

In Pleading at Law. The overthrow of an action caused by the defendant pleading some matter of fact tending to impeach the correctness of the writ or declaration, which defeats the action for the present, but does not debar the plaintiff from recommencing it in a better way; Stephen, Pl. 47; 3 Bla.

Com. 301; 1 Chitty, Pl. 6th Lond. ed. 446; Gould, Pl. ch. 5, § 65.

It has been applied rather inappropriately as a generic term to all pleas of a dilatory nature; whereas the word dilatory would seem to be the more proper generic term, and the word abatement applicable to a certain portion of dilatory pleas; Comyn, Dig. Abt. B; 1 Chitty, Pl. 440 (6th Lond. ed.); Gould, Pl. ch. 5, § 65. In this general sense it has been used to include pleas to the jurisdiction of the court. See JURISDICTION.

AS TO THE PERSON OF THE PLAINTIFF AND DEFENDANT. It may be pleaded, as to the plaintiff, that there never was such a person *in rerum natura*; 1 Chitty, Pl. (6th Lond. ed.) 448; 6 Pick. 370; 5 Watts, 423; 19 Johns. 308; 14 Ark. 27; 5 Vt. 93 (except in ejectment; 19 Johns. 308); and by one of two or more defendants as to one or more of his co-defendants; Archbold, Civ. Pl. 312. That one of the plaintiffs is a fictitious person, to defeat the action as to all; Comyn, Dig. Abt. E, 16; 1 Chitty, Pl. 448; Archbold, Civ. Pl. 304. This would also be a good plea in bar; 1 B. & P. 44. That the nominal plaintiff in the action of ejectment is fictitious, is not pleadable in any manner; 4 M. & S. 301; 19 Johns. 169. A defendant cannot plead matter which affects his co-defendant alone; 40 Me. 336; 4 Zab. 333; 14 N. H. 243; 21 Wend. 457.

Certain legal disabilities are pleadable in abatement, such as *outlawry*; Bacon, Abr. Abt. B; Coke, Litt. 128 a; *attainder* of treason or felony; 3 Bla. Com. 301; Comyn, Dig. Abt. E, 3; also *præmunire* and *excommunication*; 3 Bla. Com. 301; Comyn, Dig. Abt. E, 5. The law in reference to these disabilities can be of no practical importance in the United States; Gould, Pl. ch. 5, § 32.

Alienage. That the plaintiff is an alien friend is pleadable only in some cases, where, for instance, he sues for property which he is incapacitated from holding or acquiring; Coke, Litt. 129 b; Busb. 250. By the common law, although he could not inherit, yet he might acquire by purchase, and hold as against all but the sovereign. Accordingly he has been allowed in this country to sue upon a title by grant or devise; 1 Mass. 256; 7 Cranch, 603; but see 6 Cal. 250; 26 Mo. 426. The early English authority upon this point was otherwise; Bacon, Abr. Abt. B, 3, Aliens D; Coke, Litt. 129 b. He is in general able to maintain all actions relating to personal chattels or personal injuries; 3 Bla. Com. 384; Cowp. 161; Bacon, Abr. Aliens D; 2 Kent, 34; Coke, Litt. 129 b. But an alien enemy can maintain no action except by license or permission of the government; Bacon, Abr. Abt. B, 3, Aliens D; 1 Salk. 46; 1 Ld. Raym. 282; 2 Strange, 1082; 4 East, 502; 6 Term, 23, 49; 8 *id.* 166; 6 Binn. 241; 9 Mass. 363, 377; 11 *id.* 119; 12 *id.* 8; 3 M. & S. 533; 2 Johns. Ch. 508; 15 East, 260; 1 S. & R. 310; 1 Chitty, Pl. 434. This will be implied from the alien being suffered to remain, or to come to the country, after the commencement of hostilities without being

ordered away by the executive; 10 Johns. 69. See 28 Eng. L. & Eq. 219. The better opinion seems to be that an alien enemy cannot sue as administrator; Gould, Pl. ch. 5, § 44.

Corporations. A plea in abatement is the proper manner of contesting the existence of an alleged corporation plaintiff; Wright, Ohio, 12; 6 Cush. 279; 3 Pick. 236; 1 Mass. 485; 1 Md. 502; 33 Penn. St. 356; 28 N. H. 93; 1 Pet. 450; 4 *id.* 501; 5 *id.* 231. To a suit brought in the name of the "Judges of the County Court," after such court has been abolished, the defendant may plead in abatement that there are no such judges; 2 Bay, So. C. 519.

Coverture of the plaintiff is pleadable in abatement; Comyn, Dig. Abt. E, 6; Bacon, Abr. Abt. G; Coke, Litt. 132; 3 Term, 631; 1 Chitty, Pl. 439; 7 Gray, 338; though occurring after suit brought; 3 Bla. Com. 316; Bacon, Abr. Abt. 9; 4 S. & R. 238; 17 Mass. 342; 7 Gray, 338; 6 Term, 265; 4 East, 502; and see 1 E. D. Smith, 273; but not after plea in bar, unless the marriage arose after the plea in bar; 15 Conn. 569; but in that case the defendant must not suffer a continuance to intervene between the happening of this new matter, or its coming to his knowledge, and his pleading it; 4 S. & R. 238; 1 Bailey, 369; 2 *id.* 349; 2 Wheat. 111; 14 Mass. 295; 1 Blackf. Ind. 288; 10 S. & R. 208; 7 Vt. 508; 4 *id.* 545; 1 Yeates, 185; 2 Dall. 184; 3 Bibb, 246. And it cannot be otherwise objected to if she sues for a cause of action that would survive to her on the death of her husband; 12 M. & W. 97; 3 C. B. 153; 10 S. & R. 208. Where she sues, not having any interest, the defence is one of substance, and may be pleaded in bar, by demurrer, or on the general issue; 4 Term, 361; 1 Salk. 114; 1 H. Bla. 108; Cro. Jac. 644, whether she sues jointly or alone. So also where coverture avoids the contract or instrument, it is matter in bar; 14 S. & R. 379.

Where a *feme covert* is sued without her husband for a cause of action that would survive against her, as upon a contract made before, or a tort committed after, marriage, the coverture is pleadable in abatement; 1 Sid. 109; 3 Term, 629; and not otherwise; 9 M. & W. 299; Comyn, Dig. Abt. F, 2. If the marriage takes place pending the action, it cannot be pleaded; 2 Ld. Raym. 1525; 5 Me. 445; 2 M'Cord, 469. It must be pleaded by the *feme* in person; 2 Saund. 209 *b.* Any thing which suspends the coverture suspends also the right to plead it; Comyn, Dig. Abt. F, 2, § 3; Coke, Litt. 132 *b.*; 2 W. Bla. 1197; 1 B. & P. 358, n. (f); 4 Esp. 27, 28; 15 Mass. 31; 6 Pick. 29.

Death of the plaintiff before purchase of the writ may be pleaded in abatement; 1 Archbold, Civ. Pl. 304; Comyn, Dig. Abt. E, 17; 3 Ill. 507; 1 Watts & S. 438; 14 Miss. 205; 2 M'Mull. 49. So may the death of a sole plaintiff who dies pending his suit at common law; Bacon, Abr. Abt. F; Comyn, Dig.

Abt. H, 32, 33; 4 Hen. & M. 410; 3 Mass. 296; 2 Root, 57; 9 Mass. 422; 2 Rand. Va. 454; 2 Me. 127. Otherwise now by statute, in most cases, in most if not all the States of the United States, and in England since 1852. The personal representatives are usually authorized to act in such cases. If the cause of action is such that the right dies with the person, the suit still abates. By statute 8 & 9 Wm. IV., ch. 2, sect. 7, which is understood to enact the common law rule, where the form of action is such that the death of one of several plaintiffs will not change the plea, the action does not abate by the death of any of the plaintiffs pending the suit. The death of the lessor in ejectment never abates the suit; 8 Johns. 495; 23 Ala. N. S. 193; 13 Ired. 43, 489; 1 Blatchf. 393.

The death of sole defendant pending an action abates it; Bacon, Abr. Abt. F; Comyn, Dig. Abt. H, 32; Hayw. 500; 7 Binn. 1; Gilm. 145; 4 M'Cord, 160; 2 Wheat. 530; 1 Watts, 229; 4 Mass. 480; 8 Me. 128; 11 Ga. 151. But where one of several co-defendants dies pending the action, his death is in general no cause of abatement, even by common law; Hargrave, 113, 151; Croke, Car. 426; Bacon, Abr. Abt. F; Gould, Pl. ch. 5, § 93. If the cause of action is such as would survive against the survivor or survivors, the plaintiff may proceed by suggesting the death upon the record; 24 Miss. 192; Gould, Pl. ch. 5, § 93. The inconvenience of abatement by death of parties was remedied by 17 Car. II. ch. 8, and 8 & 9 Wm. III., ch. 2, ss. 6, 7. In the United States, on the death of a sole defendant, his personal representatives may be substituted if the action could have been originally prosecuted against them; Gould, Pl. ch. 5, § 95. The right of action against a tort-feasor dies with him; and such death should be pleaded in abatement; 3 Cal. 370. Many exceptions to this rule exist by statute.

Infancy is pleadable in abatement to the person of the plaintiff, unless the infant appear by guardian or *prochein ami*; Coke, Litt. 135 *b.*; 2 Saund. 117; 3 Bla. Com. 301; Bacon, Abr. Infancy, K, 2; 7 Johns. 379; 2 Conn. 357; 3 E. D. Smith, 596; 1 Speers, 212; 7 Johns. 373; 8 Pick. 552. He cannot appear by attorney, since he cannot make a power of attorney; 1 Chitty, Pl. 436; Archbold, Civ. Pl. 301; 3 Saund. 212; 3 N. H. 345; 8 Pick. 552; 7 Mass. 241; 4 Halst. 381; 2 N. H. 487; 7 Johns. 373. Where an infant sues as co-executor with an adult, both may appear by attorney, for, the suit being brought *in autre droit*, the personal rights of the infant are not affected, and therefore the adult is permitted to appoint an attorney for both; 3 Saund. 212; 1 Rolle, Abr. 288; Cro. Eliz. 542; 2 Strange, 784. At common law, judgment obtained for or against an infant plaintiff who appears by attorney, no plea being interposed, may be reversed by writ of error; 1 Rolle, Abr. 287; 3 Saund. 212; Cro. Jac. 441.

By statute, however, such judgment is valid, if for the infant; 3 Saund. 212 (n. 5).

Imprisonment. A sentence to imprisonment in New York, either of plaintiff or defendant, abates the action by statute; 2 Johns. Cas. 408; 1 Duer, 664; 2 R. S. § 19, p. 701, but see 8 Bosw. 617.

Lunacy. A lunatic may appear by attorney, and the court will on motion appoint an attorney for him; 18 Johns. 135. But a suit brought by a lunatic under guardianship shall abate; Brayt. 18.

Misjoinder. The joinder of improper plaintiffs may be pleaded in abatement; Comyn, Dig. Abt. E, 15; Archbold, Civ. Pl. 304; 1 Chitty, Pl. 8. Advantage may also be taken, if the misjoinder appear on record, by demurrer in arrest of judgment, or by writ of error. If it does not appear in the pleadings, it would be ground of non-suit on the trial; 1 Chitty, Pl. 66. Misjoinder of defendants in a personal action is not subject of a plea in abatement; 18 Ga. 509; Archbold, Civ. Pl. 68, 310. When an action is thus brought against two upon a contract made by one, it is a good ground of defence under the general issue; Clayt. 114; 1 East, 48; 2 Day, 272; 11 Johns. 104; 1 Esp. 363; for in such case the proof disproves the declaration. If several are sued for a tort committed by one, such misjoinder is no ground of objection in any manner, as of co-defendants in actions *ex delicto*, some may be convicted and others acquitted; 1 Saund. 291. In a real action, if brought against several persons, they may plead several tenancy; that is, that they hold in severalty, not jointly, Comyn, Dig. Abt. F, 12; or one of them may take the entire tenancy on himself, and pray judgment of the writ; Comyn, Dig. Abt. F, 13.

Misnomer of plaintiff, where the misnomer appears in the declaration, must be pleaded in abatement; 1 Chitty, Pl. 451; 1 Mass. 76; 5 *id.* 97; 15 *id.* 469; 10 S. & R. 257; 10 Humphr. 512; 9 Barb. 202; 32 N. H. 470. It is a good plea in abatement that the party sues by his surname only; Harp. 49; 1 Tayl. No. C. 148; Coxe, 138. A mistake in the Christian name is ground for abatement; 13 Ill. 570. In England the effect of pleas in abatement of misnomer has been diminished by statute 3 & 4 Wm. IV., ch. 42, s. 11, which allows an amendment at the cost of the plaintiff. The rule embodied in the English statute prevails in this country.

If the defendant is sued or declared against by a wrong name, he may plead the mistake in abatement; 3 Bla. Com. 302; 1 Salk. 7; 3 East, 167; Bacon, Abr. D; and in abatement only, 5 Mo. 118; 3 Ill. 290; 14 Ala. 256; 8 Mo. 291; 1 Metc. Mass. 151; 3 *id.* 235; but one defendant cannot plead the misnomer of another, Comyn, Dig. Abt. F, 18; 1 Chitty, Pl. 440; Archbold, Civ. Pl. 312; 1 Nev. & P. 26.

The omission of the initial letter between the Christian and surname of the party is not

a misnomer or variance; 5 Johns. 84. As to *idem sonans*, see 18 East, 83; 16 *id.* 110; 2 Taunt. 400. Since oyer of the writ has been prohibited, the misnomer must appear in the declaration; 1 Cowen, 37. Misnomer of defendant was never pleadable in any other manner than in abatement; 5 Mo. 118; 3 Ill. 290; 14 Ala. 256; 8 Mo. 291; 1 Metc. Mass. 151; 3 *id.* 235. In England this plea has been abolished; 3 & 4 Wm. IV., ch. 42, s. 11. And in the States, generally, the plaintiff is allowed to amend a misnomer.

In criminal practice the usual pleas in abatement are for misnomer. If the indictment assigns to the defendant no Christian name, or a wrong one, no surname, or a wrong one, he can only object to this matter by a plea in abatement; 2 Gabbett, Crim. Law, 327. As to the evidence necessary in such case, see 1 M. & S. 453; 1 Salk. 6; 1 Campb. 479; 3 Greenl. Ev. § 221.

Non-joinder. If one of several joint tenants sue, Coke, Litt. 180 b; Bacon, Abr. *Joint Tenants*, K; 1 B. & P. 73; one of several joint contractors, in an action *ex contractu*, Archbold, Civ. Pl. 48-51, 53; one of several partners, 16 Ill. 340; 19 Penn. St. 273; 20 *id.* 228; Gow. Partn. 150; Collier, Partn. § 649; one of several joint executors who have proved the will, or even if they have not proved the will, 10 Ark. 169; 1 Chitty, Pl. 12, 13; one of several joint administrators, *id.* 13; the defendant may plead the non-joinder in abatement; Comyn, Dig. Abt. E; 1 Chitty, Pl. 12. The omission of one or more of the owners of the property in an action *ex delicto* is pleaded in abatement; 22 Vt. 388; 10 Ired. 169; 2 Cush. 130; 13 Penn. St. 497; 11 Ill. 22. Dormant partners may be omitted in suits on contracts to which they are not privy; 4 Wend. 628; 8 S. & R. 55; 6 Pick. 352; 3 Cow. 85. A non-joinder may also be taken advantage of in actions *ex contractu*, at the trial, under the general issue, by demurrer, or in arrest of judgment, if it appears on the face of the pleadings; 4 Wend. 496.

Non-joinder of a person as defendant who is jointly interested in the contract upon which the action is brought can only be taken advantage of by plea in abatement, 5 Term, 651; 1 East, 20; 4 Term, 725; 3 Campb. 50; 2 Jur. 48; 2 Johns. Cas. 382; 3 Caines, 99; 18 Johns. 459; 2 Iowa, 161; 24 Conn. 531; 26 Penn. St. 458; 24 N. H. 128; 8 Gill, Md. 59; 19 Ala. n. s. 340; 2 Zabr. 372; 9 B. Monr. 30; 23 Ga. 600; Archbold, Civ. Pl. 309; unless the mistake appear from the plaintiff's own pleadings, when it may be taken advantage of by demurrer or in arrest of judgment; 1 Saund. 271; 18 Johns. 459; 1 B. & P. 72. Non-joinder of a co-tenant may be pleaded when the suit respects the land held in common; 44 Me. 92. When the contract is several as well as joint, the plaintiff is at liberty to proceed against the parties separately or jointly. 1

Chitty, Pl. 43; 1 Saund. 153, n. 1; 2 Burr. 1190; Brayt. Vt. 22. In actions of tort the plaintiff may join the parties concerned in the tort, or not, at his election; 6 Taunt. 29, 35, 42; 1 Saund. 291; 6 Moore, 154; 7 Price, Exch. 408; 3 B. & P. 54; Gould, Pl. ch. 5, § 118; 3 East, 62. The non-joinder of any of the wrong-doers is no defence in any form of action.

When husband and wife should be sued jointly, and one is sued alone, the non-joinder may be pleaded in abatement; Archbold, Civ. Pl. 309. Non-joinder of co-executors or co-administrators may be pleaded in abatement; Comyn, Dig. Abt. F. The form of action is of no account where the action is substantially founded in contract; 6 Term, 369; 5 *id.* 651. The law under this head has in a great measure become obsolete in many of the States, by statutory provisions making contracts which by the common law were joint, both joint and several.

Privilege of defendant from being sued may be pleaded in abatement; 9 Yerg. 1; Bacon, Abr. Abt. C. See PRIVILEGE. A peer of England cannot, as formerly, plead his peerage in abatement of a writ of summons; 2 Wm. IV. ch. 39. It is a good cause of abatement that the defendant was arrested at a time when he was privileged from arrest; 2 N. H. 468; 4 T. B. Monr. 539; or that he was served with process while privileged from suits, 2 Wend. 586; 1 South. N. J. 366; 1 Ala. 276. The privilege of defendant as member of the legislature has been pleaded in abatement; 4 Day, 129.

For cases where the defendant may plead non-tenure, see Archbold, Civ. Pl. 310; Cro. Eliz. 559; 33 Me. 343.

Where he may plead a disclaimer, see Archbold, Civ. Pl.; Comyn, Dig. Abt. F, 15; 2 N. H. 10.

PLEAS IN ABATEMENT TO THE COUNT required oyer of the original writ; and, as this cannot now be had, these pleas are, it seems, abolished; 1 Chitty, Pl. 450 (6th Lond. ed.); Saunders, Pl. *Abatement*.

PLEAS IN ABATEMENT OF THE WRIT.—In general, any irregularity, defect, or informality in the terms, form, or structure of the writ, or mode of issuing it, is a ground of abatement; Gould, Pl. ch. 5, s. 132. Among them may be enumerated want of date, or impossible date; want of venue, or in local actions, a wrong venue; a defective return; Gould, Pl. ch. 5, s. 133. Oyer of the writ being prohibited, these errors cannot be objected to unless they appear in the declaration, which is presumed to correspond with the writ; 1 B. & P. 645-648; 6 Fla. 724; 3 B. & P. 399; 14 M. & W. 161. The objection then is to the writ through the declaration; 1 B. & P. 648; there being no plea to the declaration alone, but in bar; 2 Saund. 209; 10 Mod. 210.

Such pleas are either to the form of the writ, or to the action thereof.

Those of the first description were formerly

either for matter apparent on the face of the writ, or for matter *dehors*; Comyn, Dig. Abt. H, 17.

Pleas in abatement to the form of the writ were formerly allowed for very trifling errors apparent on the face of the writ, 1 Lutw. 25; 1 Strange, 556; Ld. Raym. 1541; 2 B. & P. 395, but since oyer has been prohibited have fallen into disuse; Tidd, Pr. 636.

Pleas in abatement of the form of the writ are now principally for matters *dehors*, Comyn, Dig. Abt. H, 17; Gilbert, C. P. 51, existing at the time of suing out the writ, or arising afterwards; such as misnomer of the plaintiff or defendant in Christian name or surname; Tidd, Pr. 637.

Pleas in Abatement to the Action of the Writ are that the action is misconceived, as if assumpsit is brought instead of *account*, or trespass when case is the proper action; 1 Show. 71; Hob. 199; Tidd, Pr. 579; or that the right of action had not accrued at the commencement of the suit; 2 Lev. 197; Cro. Eliz. 325; Hob. 199; Comyn, Dig. *Action*, E, 1. But these pleas are unusual, since advantage may be taken for the same reasons on demurrer or under the general issue; Gould, Pl. ch. 5, s. 137; 1 C. & M. 492, 768. It may also be pleaded in abatement that there is another action pending; Comyn, Dig. Abt. H, 24; Bacon, Abr. Abt. M; 1 Chitty, Pl. 443. See LIS PENDENS.

Variance. Where the count varies from the writ, or the writ varies from the record or instrument on which the action is brought, it is pleadable in abatement; 2 Wils. 85, 395; Cro. Eliz. 722; 1 H. Bla. 249; 17 Ark. 254; 17 Ill. 529; 25 N. H. 521. If the variance is only in matter of mere form, as in time or place, when that circumstance is immaterial, advantage can be taken only by plea in abatement; 8 Ind. 354; 10 Ill. 75; Yelv. 120; Latch, 173; Gould, Pl. ch. 5, ss. 97, 98-101. But if the variance is in matter of substance, as if the writ sounds in contract and the declaration in tort, advantage may also be taken by motion in arrest of judgment; 28 N. H. 90; Hob. 279; Cro. Eliz. 722. Pleas under this head have been virtually abolished by the rule refusing oyer of the writ; and the operation of this rule extends to all pleas in abatement that cannot be proved without examination of the writ; Gould, Pl. ch. 5, s. 101. It seems that oyer of the writ is allowed in some of the states which retain the old system of pleading, as well as in those which have adopted new systems. In such states these rules as to variance are of force. 28 N. H. 90; 25 *id.* 521; 17 Ill. 529; 22 Ala. n. s. 588; 23 Miss. 193; 8 Ind. 354; 21 Ala. n. s. 404; 11 Ill. 573; 35 N. H. 172; 17 Ark. 154; 1 Harr. & G. 164; 1 T. B. Monr. 35; 11 Wheat. 280; 12 Johns. 430; 4 Halst. 284.

QUALITIES OF PLEAS IN ABATEMENT. The defendant may plead in abatement to part, and demur or plead in bar to the residue, of the declaration; 1 Chitty, Pl. 458 (6th

Lond. ed.); 2 Saund. 210. The general rule is that whatever proves the writ false at the time of suing it out shall abate the writ entirely; Gilbert, C. P. 247; 1 Saund. 286 (n. 7).

As this plea delays the ascertainment of the merits of the action, it is not favored by the courts; the greatest accuracy and precision are therefore required; and it cannot be amended; 3 Term, 186; Willes, 42; 2 Saund. 298; Comyn, Dig. I, 11; Coke, Litt. 392; Cro. Jac. 82; 13 M. & W. 464; 2 Johns. Cas. 312; 8 Bingh. 416; 44 Me. 482; 18 Ark. 236; 1 Hempst. 215; 27 Ala. n. s. 678; 24 *id.* 329. It must contain a direct, full, and positive averment of all the material facts; 30 Vt. 76; 35 N. H. 172; 4 R. I. 110; 37 Me. 49; 28 N. H. 18; 26 Vt. 48; 24 Ala. n. s. 329; 1 Mich. 254. It must give enough so as to enable the plaintiff by amendment completely to supply the defect or avoid the mistake on which the plea is founded; 6 Taunt. 595; 4 Term, 224; 8 *id.* 515; 1 Saund. 274 (n. 4); 6 East, 600; 1 Day, 28; 3 Mass. 24; 2 *id.* 362; 1 Hayw. 501; 2 Ld. Raym. 1178; 1 East, 634.

It must not be double or repugnant; 5 Term, 487; Carth. 207; 3 M. & W. 607. It must have an apt and proper beginning and conclusion; 3 Term, 186; 2 Johns. Cas. 312; 10 Johns. 49; 2 Saund. 209. The whole matter of complaint must be covered by the plea; 2 B. & P. 420. It cannot be pleaded after making full defence; 1 Chitty, Pl. 441 (6th Lond. ed.).

As to the form of pleas in abatement, see 22 Vt. 211; 1 Chitty, Pl. (6th Lond. ed.) 454; Comyn, Dig. Abt. I, 19; 2 Saund. 1 (n. 2).

As to the time of pleading matter in abatement, it must be pleaded before any plea to the merits, both in civil and criminal cases, except in cases where it arises or comes to the knowledge of the party subsequently; 6 Metc. 224; 11 Cush. 164; 21 Vt. 52; 40 Me. 218; 22 Barb. 244; 14 Ark. 445; 35 Me. 121; 15 Ala. 675; 13 Mo. 547; and the right is waived by a subsequent plea to the merits; 14 How. 505; 15 Ala. 675; 19 Conn. 493; 1 Iowa, 165; 4 Gill, Md. 166. See PLEA PUIS DARREIN CONTINUANCE.

Of the Affidavit of Truth. Every dilatory plea must be proven to be true, either by affidavit, by matter apparent upon the record, or probable matter shown to the court to induce them to believe it; 3 & 4 Anne, ch. 16, s. 11; 3 B. & P. 397; 2 W. Bla. 1088; 3 Nev. & M. 260; 30 Vt. 177; 1 Curt. 494; 17 Ala. 30; 1 Chandl. 16; 1 Swan, 391; 1 Iowa, 165. It is not necessary that the affidavit should be made by the party himself; his attorney, or even a third person, will do; Barnes, 344; 1 Saunders, Pl. & Ev. 3 (5th Am. ed.). The plaintiff may waive an affidavit; 5 Dowl. & L. 737; 16 Johns. 307. The affidavit must be coextensive with the plea, 3 Nev. & M. 260, and leave nothing to be collected by inference, Say. 293. It should state that the plea is true in substance and

fact, and not merely that the plea is a true plea; 3 Strange, 705; 1 Browne, 77; 2 Dall. 184; 1 Yeates, 185.

JUDGMENT ON PLEAS IN ABATEMENT. If issue be joined on a plea in abatement, a judgment for the plaintiff upon a verdict is final, 2 Wils. 368; 1 Ld. Raym. 992; Tidd, Pr. 641; 1 Strange, 532; 1 Bibb, 234; 6 Wend. 649; 8 Cush. 301; 3 N. H. 232; 2 Penn. St. 361; 3 Wend. 258; but judgment for plaintiff upon a demurrer to a plea in abatement is not final, but merely *respondet ouster*; 1 East, 542; 1 Ventr. 137; Ld. Raym. 992; Tidd, Pr. 641; 16 Mass. 147; 14 N. H. 371; 32 *id.* 361; 1 Blackf. Ind. 888. After judgment of *respondet ouster*, the defendant has four days' time to plead, commencing after the judgment has been signed; 8 Bingh. 177. He may plead again in abatement, provided the subject-matter pleaded be not of the same degree, or of any preceding degree or class with that before pleaded; Comyn, Dig. Abt. I, 3; 1 Saunders, Pl. & Ev. 4 (5th Am. ed.); Tidd, Pr. 641.

If the plea is determined in favor of the defendant either upon an issue of law or fact, the judgment is that the writ or bill be quashed; Yelv. 112; Bacon, Abr. Abt. P; Gould, Pl. ch. 5, § 159; 2 Saund. 211 (n. 3).

See further, on the subject of abatement of actions, Comyn, Dig. Abt.; Bacon, Abr. Abt.; United States Digest, Abt.; 1 Saunders, Pl. & Ev. 1 (5th Am. ed.); Graham, Pr. 224; Tidd, Pr. 636; Gould, Pl. ch. 5; 1 Chitty, Pl. 446 (6th Lond. ed.); Story, Pl. 1-70.

Of Taxes. A diminution or decrease in the amount of tax imposed upon any person. The provisions for securing this abatement are entirely matters of statute regulation; 5 Gray, 365; 4 R. I. 313; 30 Penn. St. 227; 18 Ark. 380; 18 Ill. 312, and vary in the different States. See the various digests of State laws and collections of statutes.

ABATOR. One who abates or destroys a nuisance. One who, having no right of entry, gets possession of the freehold to the prejudice of an heir or devisee, after the time when the ancestor died, and before the heir or devisee enters; Littleton, § 397; Perkins, Conv. § 383; 2 Preston, Abstr. 296, 300. See Adams, Eject. 43; 1 Washb. R. P. 225.

ABATUDA. Any thing diminished; as, *moneta abatuda*, which is money clipped or diminished in value. Cowel.

ABAVIA. A great-great-grandmother.

ABAVITA. Used for *abamita*, which see.

ABAVUNCULUS. A great-great-grandmother's brother. Calvinus, Lex.

ABAVUS. A great-great-grandfather, or fourth male ascendant.

ABBEY. A society of religious persons, having an abbot or abbess to preside over them.

ABBREVIATION. A shortened form of a word, obtained by the omission of one or

more letters or syllables from the middle or end of the word.

The abbreviations in common use in modern times consist of the initial letter or letters, syllable or syllables, of the word. Anciently, also, contracted forms of words, obtained by the omission of letters intermediate between the initial and final letters were much in use. These latter forms are now more commonly designated by the term *contraction*. Abbreviations are of frequent use in referring to text-books, reports, &c., and in indicating dates, but should be very sparingly employed, if at all, in formal and important legal documents. See 4 C. & P. 51; 9 Coke, 48. No part of an indictment should contain any abbreviations except in cases where a *fac-simile* of a written instrument is necessary to be set out. 1 East, 180, n. The variety and number of abbreviations are as nearly illimitable as the ingenuity of man can make them; and the advantages arising from their use are, to a great extent, counterbalanced by the ambiguity and uncertainty resulting from the usually inconsiderate selection which is made.

The following list is believed to contain all abbreviations in common use. Where a shorter and a longer abbreviation are in common use, both are given. For a fuller explanation of the reports in this list, see REPORTS.

- A.* American, see *Am.*; anonymous.
A, a, B, b. "A" front, "B" back of a leaf.
A. B. Anonymous Reports at end of Benloe's Reports, commonly called New Benloe.
A. C. Appeal Court, English Chancery; Law Reports Appeal Cases.
A. D. Anno Domini; in the year of our Lord.
A. K. Marsh. A. K. Marshall's Reports, Kentucky.
A. L. J. Albany Law Journal.
A. P. B. or *Ashurst MSS. L. I. L.* Ashurst's Paper-books; the manuscript paper-books of Ashurst, J., Buller, J., Lawrence, J., and Dampier, J., in Lincoln's Inn Library.
A. R. Anno Regni; in the year of the reign.
A. S. Acts of Sederunt, Ordinances of the Court of Sessions, Scotland.
A. & A. Corp. Angell & Ames on Corporations.
A. & E. Adolphus & Ellis's Reports, English King's Bench.
A. & E. N. S. Adolphus & Ellis's Reports, New Series, English Queen's Bench, commonly cited *Q. B.*
A. & F. Fixt. Amos & Ferrard on Fixtures.
Ab. Abridgment.
Ab. Adm. Abbott's Admiralty Reports, U. S. Dist. Court, South. Dist. N. Y.
Ab. App. Dec., Ab. Ct. App. or *Ab. N. Y. Ct. App.* Abbott's New York Court of Appeals Decisions.
Ab. Eq. Cas. Equity Cases Abridged, English Chancery.
Ab. N. Y. Dig. Abbott's Digest of New York Reports and Statutes.
Ab. N. Y. Pr. or *Ab. Pr.* Abbott's Practice Reports, various New York courts.
Ab. N. Y. Pr. N. S. or *Ab. Pr. N. S.* Abbott's Practice Reports, New Series, various New York courts.
Ab. Nat. Dig. Abbott's National Digest.
Ab. New Cas. Abbott's New Cases, various New York courts.
Ab. Pl. Abbott's Pleadings under the Code.
Ab. Pr. Abbott's Practice Reports, New York.
Ab. Sh. Abbott (Lord Tenterden) on Shipping.

Ab. U. S. Abbott's Reports, United States District and Circuit Courts.

Ab. U. S. Pr. Abbott's United States Courts Practice.

Abdys R. C. P. Abdy's Roman Civil Procedure.

Abr. Abridgment.

Abr. Cas. Eq. or *Abr. Eq. Cas.* Equity Cases Abridged, English Chancery.

Abs. Absolute.

Acc. Accord or Agrees.

Act. Acton's Reports, Prize Causes, English Privy Council.

Act. Can. Monro's Acta Cancellariæ.

Act. Pr. C. Acton's Reports, Prize Causes, English Privy Council.

Act. Reg. Acta Regia.

Ad. Con. Addison on Contracts.

Ad. E. Adams on Ejectment.

Ad. & Ell. Adolphus & Ellis's Reports, English King's Bench.

Ad. & Ell. N. S. Adolphus & Ellis's Reports, New Series, English Queen's Bench, commonly cited *Q. B.*

Ad. Eq. Adams's Equity.

Ad. fin. Ad finem, at or near the end.

Ad. Torts. Addison on Torts.

Ad. Rom. Ant. Adams's Roman Antiquities.

Adams (Me.) Adams's Reports, Maine Reports, vols. 41, 42.

Adams (N. H.) Adams's Reports, New Hampshire Reports, vol. 1.

Add. Addison's Reports, Pennsylvania.

Add. Abr. Addington's Abridgment of the Penal Statutes.

Add. Con. Addison on Contracts.

Add. Eccl. Addams's Ecclesiastical Reports, English.

Add. Pa. Addison's Reports, Pennsylvania.

Add. Torts. Addison on Torts.

Addams. Addams's Ecclesiastical Reports, English.

Adj. Adjudged, Adjourned.

Adjournal, Books of. The Records of the Court of Justiciary, Scotland.

Adm. Admiralty.

Admr. Administrator.

Admx. Administratrix.

Adolph. & E. Adolphus & Ellis's Reports, English King's Bench.

Adolph. & E. N. S. Adolphus & Ellis's Reports, New Series, English Queen's Bench, commonly cited *Q. B.*

Ads. Ad sectam, at suit of.

Adye C. M. Adye on Courts-Martial.

Aelf. C. Canons of Aelfric.

Agn. Pat. Agnew on Patents.

Aik. Aiken's Reports, Vermont.

Al. Aleyn's Select Cases, English King's Bench.

Al. Tel. Cas. Allen's Telegraph Cases, American and English.

Al. & Nap. Alcock & Napier's Reports, Irish King's Bench and Exchequer.

Ala. Alabama Reports.

Ala. N. S. Alabama Reports, New Series.

Ala. Sel. Cas. Alabama Select Cases, by Shepherd.

Alb. Arb. Albert Arbitration, Lord Cairns's Decisions.

Alb. L. J. or *Alb. Law Jour.* Albany Law Journal.

Alc. Alcock's Registry Cases, Irish.

Alc. & N. Alcock & Napier's Reports, Irish King's Bench and Exchequer.

Alid. Alden's Condensed Pennsylvania Reports.

Ald. Hist. Aldridge's History of the Courts of law.

- Ald. Ind.* Alden's Index of U. S. Reports.
Ald. & Van Hoes. Dig. Alden & Van Hoesen's Digest, Laws of Mississippi.
Alex. Cas. Report of "Alexandra" case, by Dudley.
Alex. Ch. Pr. Alexander's Chancery Practice.
Aleyn. Aleyn's Select Cases, English King's Bench.
Alison Prac. Alison's Practice of the Criminal Law of Scotland.
Alison Princ. Alison's Principles of ditto.
All. & Mor. Tr. Allen & Morris's Trial.
All. Sher. Allen on Sheriffs.
Allen. Allen's Reports, Massachusetts Reports, vols. 83-96.
Allen (N. B.) Allen's Reports, New Brunswick.
Allen Tel. Cas. Allen's Telegraph Cases.
Alleyne L. D. of Mar. Alleyne's Legal Degrees of Marriage Considered.
Alln. Part. Allnat on Partition.
Am. America, American, or Americana.
Am. C. L. J. American Civil Law Journal, New York.
Am. Ch. Dig. American Chancery Digest.
Am. Corp. Cas. Withrow's American Corporation Cases.
Am. Crim. Rep. American Criminal Reports, by Hawley.
Am. Dec. American Decisions.
Am. Insolv. Rep. American Insolvency Reports.
Am. Jur. American Jurist, Boston.
Am. L. Cas. or Am. Lead. Cas. American Leading Cases (Hare & Wallace's).
Am. L. Elect. American Law of Elections.
Am. L. J. or Am. Law Jour. American Law Journal (Hall's), Philadelphia.
Am. L. J. N. S. or Am. Law Jour. N. S. American Law Journal, New Series, Philadelphia.
Am. L. M. or Am. Law Mag. American Law Magazine, Philadelphia.
Am. L. Rec. or Am. Law Rec. American Law Record, Cincinnati.
Am. L. R. or Am. Law Reg. American Law Register, Philadelphia.
Am. L. Rep. or Am. Law Rep. American Law Reporter, Davenport, Iowa.
Am. L. Rev. or Am. Law Rev. American Law Review, Boston.
Am. L. T. or Am. Law Times. American Law Times, Washington, D. C.
Am. L. T. Bank. American Law Times Bankruptcy Reports.
Am. L. T. R. American Law Times Reports.
Am. Pl. Ass. American Pleader's Assistant.
Am. R. or Am. Rep. American Reports.
Am. Rail. Cas. Smith and Bates's American Railway Cases.
Am. Rail. R. American Railway Reports.
Am. St. P. American State Papers.
Am. Them. American Themis, New York.
Am. Tr. M. Cas. Cox's American Trade Mark Cases.
Amb. Ambler's Reports, English Chancery.
Ames. Ames's Reports, Rhode Island Reports, vols. 4-7.
Ames, K. & B. Ames, Knowles, and Bradley's Reports, Rhode Island Reports, vol. 8.
Amos & F. Amos and Ferrard on Fixtures.
Amos Jur. Amos's Science of Jurisprudence.
An. Anonymous.
And. Anderson's Reports, English Common Pleas and Court of Wards.
And. Ch. Ward. Anderson on Church Wards.
And. Com. Anderson's History of Commerce.
Andr. Andrews' Reports, English, King's Bench.
Andr. Pr. Andrews' Precedents of Leases.
Andr. Rev. L. Andrews on the Revenue Laws.
Ang. Angell's Reports, Rhode Island Reports, vol. 1.
Ang. Adv. Enj. Angell on Adverse Enjoyment.
Ang. Ass. Angell on Assignments.
Ang. B. T. Angell on Bank Tax.
Ang. Carr. Angell on Carriers.
Ang. Corp. Angell and Ames on Corporations.
Ang. Ins. Angell on Insurance.
Ang. High. Angell on Highways.
Ang. Lim. Angell on Limitations.
Ang. Tide Wat. Angell on Tide Waters.
Ang. Water C. Angell on Water Courses.
Ang. & A. Corp. Angell and Ames on Corporations.
Ang. & D. High. Angell and Durfree on Highways.
Ann. Queen Anne; as 1 Ann. c. 7.
Ann. C. Annals of Congress.
Ann. de la Pro. Annales de la Propriété Industrielle.
Ann. de Lég. Annuaire de Législation Étrangère, Paris.
Ann. Jud. Annuaire Judiciaire, Paris.
Ann. Reg. Annual Register, London.
Ann. Reg. N. S. Annual Register, New Series, London.
Annaly. Annaly's Reports, English. Commonly cited *Cas. temp. Hardw.*, but sometimes as *Ridgway's Reports*.
Annes. Ins. Annesly on Insurance.
Anon. Anonymous.
Ans. Contr. Anson on Contracts.
Anst. Anstruther's Reports, English Exchange.
Anth. Abr. Anthon's Abridgment of Blackstone's Commentaries.
Anth. Ill. Dig. Anthon's Illinois Digest.
Anth. L. S. Anthon's Law Student.
Anth. N. P. Anthon's Nisi Prius Cases, New York.
Anth. Prec. Anthon's Precedents.
Anth. Shep. Anthon's edition of Sheppard's Touchstone.
Ap. Justin. Apud Justinium, or Justinian's Institutes.
App. Appeal. Apposition. Appendix.
App. Appleton's Reports, Maine Reports, vols. 19-20.
App. Ev. Appleton on Evidence.
Appz. Appendix.
Ar. Arrêté.
Arbuth. Arbuthnot's Select Criminal Cases, Madras.
Arch. Court of Arches.
Arch. B. L. Archbold's Bankrupt Law.
Arch. C. P. Archbold's Civil Pleading.
Arch. Cr. L. Archbold's Criminal Law.
Arch. Cr. P. Archbold's Criminal Pleading.
Arch. Cr. P. by Pom. Archbold's Criminal Pleading, by Pomeroy.
Arch. F. Archbold's Forms.
Arch. F. I. Archbold's Forms of Indictment.
Arch. J. P. Archbold's Justice of the Peace.
Arch. L. & T. Archbold's Landlord and Tenant.
Arch. N. P. Archbold's Nisi Prius Law.
Arch. P. Archbold's Practice.
Arch. P. by Ch. Archbold's Practice, by Chitty.
Arch. P. C. P. Archbold's Practice, Common Pleas.
Arch. P. K. B. Archbold's Practice, King's Bench.
Arch. Sum. Archbold's Summary of the Laws of England.

- Archer.* Archer's Reports, Florida Reports, vol. 2.
Arg. Arguendo, in arguing, in the course of reasoning.
Arg. Inst. Institution au Droit Français, par M. Argou.
Ark. Arkansas Reports.
Ark. Rev. Sts. Arkansas Revised Statutes.
Arkl. Arkley's Scotch Reports.
Arms. Elect. Cas. Armstrong's Cases of Contested Elections, New York.
Arms. M. & O. Armstrong, Macartney, and Ogle's Reports, Irish Nisi Prius Cases.
Arms. Tr. Armstrong's Limerick Trials, Ireland.
Arn. Arnold's Reports, English Common Pleas.
Arn. El. Cas. Arnold's Election Cases, English.
Arn. Ins. Arnold on Marine Insurance.
Arn. & H. Arnold and Hodges's Reports, English Queen's Bench.
Arn. & H. B. C. Arnold and Hodges's English Bail Court Reports.
Arnot. Arnot's Criminal Cases, Scotland.
Art. Article.
Ash. Ashe's Tables.
Ashm. Ashmead's Reports, Pennsylvania.
Aso & Man. Inst. Aso and Manuel's Institutes of the Laws of Spain.
Asp. Mar. L. Cas. Aspinall's Maritime Law Cases.
Ass. Liber Assissarium, Part 5 of the Year Books.
Ass. de Jerus. Assizes of Jerusalem.
Ast. Ent. Aston's Entries.
Atch. Atcheson's Reports, Navigation and Trade, English.
Ath. Mar. Set. Atherly on Marriage Settlements.
Atk. Atkyn's Reports, English Chancery.
Atk. Ch. Pr. Atkinson's Chancery Practice.
Atk. Con. Atkinson on Conveyancing.
Atk. P. T. Atkyn's Parliamentary Tracts.
Atk. Tit. or Atk. M. T. Atkinson on Marketable Titles.
Ats. At suit of.
Atw. Atwater's Reports, Minnesota Reports, vol. 1.
Atty. Attorney.
Atty. Gen. Attorney-General.
Aus. Jur. Australian Jurist, Melbourne.
Aust. Juris. Austin's Province of Jurisprudence.
Austin C. C. R. Austin's County Court Reports, English.
Austr. Jur. Australian Jurist, Melbourne.
Auth. Authentica, in the authentic; that is, the Summary of some of the Novels in the Civil Law inserted in the Code under such a title.
Av. & H. B. Law. Avery and Hobb's Bankrupt Law of the United States.
Ayck. Ch. F. Ayckbourns Chancery Forms.
Ayck. Ch. Pr. Ayckbourns Chancery Practice.
Ayl. Pan. Ayliffe's Pandects.
Ayl. Par. Ayliffe's *Parerygon Juris Canonici Anglicani*.
Azuni Mar. Law. Azuni on Maritime Law.
B. Bancus; the Common Bench; the back of a leaf; Book.
B. B. Bail Bond; Bayley on Bills.
B. Bar. Bench and Bar, Chicago.
B. C. Bail Court.
B. C. Bell's Commentaries on the Laws of Scotland.
B. C. C. Lowndes and Maxwell's Bail Court Cases, English; Brown's Chancery Cases, English.
B. C. R. Saunders and Cole's Bail Court Reports, English.
B. C. T. Bell on Completing Titles.
B. Ecc. Law. Burns's Ecclesiastical Law.
B. Just. Burns's Justice.
B. L. T. Baltimore Law Transcript.
B. Mon. B. Monroe's Reports, Kentucky.
B. M. or B. Moore. Moore's Reports, English.
B. N. C. Bingham's New Cases, English.
B. N. C. Brooke's New Cases, English.
B. N. P. Buller's Nisi Prius.
B. P. B. Buller's Paper Books. See A. P. B.
B. P. C. Brown's Parliamentary Cases.
B. P. L. Cas. Bott's Poor Law Cases.
B. R. *Bancus Regis*; the King's Bench.
B. R. American Law Times Bankruptcy Reports.
B. Reg. Bankruptcy Register, New York.
B. R. Act. Booth's Real Action.
B. R. H. Cases in King's Bench, *temp. Hardwicke*.
B. S. Upper Bench.
B. Tr. Bishop's Trial.
B. & A. or B. & Ald. Barnewall and Alderson's Reports, English.
B. & Ad. Barnewall and Adolphus' Reports, English.
B. & Aust. Barron and Austin's Election Cases, English.
B. & B. Ball and Beatty's Reports, Irish Chancery.
B. & B. Broderip and Bingham's Reports, English.
B. & Bar. The Bench and Bar, Chicago.
B. & C. Barnewall & Cresswell's Reports, English.
B. & H. Dig. Bennett & Heard's Massachusetts Digest.
B. & H. Lead. Cas. Bennett & Heard's Leading Cases on Criminal Law.
B. & L. Browning & Lushington's Reports, English Admiralty.
B. & L. Prec. Bullen & Leake's Precedents of Pleading.
B. & P. Bosanquet & Puller's Reports, English.
B. & P. N. E. Bosanquet & Puller's New Reports, English.
B. & S. Best & Smith's Reports, English.
Bab. Auc. Babington on Auctions.
Bab. Set-off. Babington on Set-off.
Bac. Abr. Bacon's Abridgment.
Bac. Comp. Arb. Bacon's Complete Arbitration.
Bac. El. Bacon's Elements of the Common Law.
Bac. Gov. Bacon on Government.
Bac. Law Tr. Bacon's Law Tracts.
Bac. Lease. Bacon on Leases and Terms of Years.
Bac. Lib. Reg. Bacon's *Liber Regis, vel Thesaurus Rerum Ecclesiasticarum*.
Bac. M. Bacon's Maxims.
Bac. U. Bacon on Uses.
Bach. Man. Bache's Manual of a Pennsylvania Justice of the Peace.
Bag. C. Pr. Bagley's Chamber Practice.
Bage. Const. Bagehot on the English Constitution.
Bagl. Bagley's Reports, California Reports, vol. 16.
Bagl. & H. Bagley & Harmen's Reports, California Reports, vols. 17-19.
Bail Ct. Cas. Lowdes & Maxwell's Bail Court Cases, English.
Bail Ct. Rep. Saunders & Cole's Bail Court Reports.
Bailey. Bailey's Law Reports, South Carolina.
Bailey Eq. or Bailey Ch. Bailey's Chancery Reports, South Carolina.

- Bain. M. & M.* Bainbridge on Mines and Minerals.
- Bak. Bur.* Baker's Law Relating to Burials.
- Bak. Corp.* Baker on Corporations.
- Bak. Quar.* Baker's Law of Quarantine.
- Bald.* Baldwin's Reports, U. S. 3d Circuit.
- Bald. Con. or Bald. C. V.* Baldwin on the Constitution.
- Balf.* Balfour's Practice of the Law of Scotland.
- Ball & B.* Ball & Beatty's Reports, Irish Chancery.
- Ball. Lim.* Ballantine on Limitations.
- Balt. L. Tr.* Baltimore Law Transcript.
- Banc. Sup.* Bancus Superior, or Upper Bench.
- Bank. Ct. R.* Bankrupt Court Reporter, New York.
- Bank. Inst.* Banker's Institutes of Scottish Law.
- Bank. Reg.* National Bankruptcy Register, New York.
- Bank. Rep.* American Law Times Bankruptcy Reports.
- Bank. & Ins. R.* Bankruptcy and Insolvency Reports, English.
- Banker's Mag.* Banker's Magazine, New York.
- Banker's Mag. (Lon.).* Banker's Magazine, London.
- Banks.* Banks's Reports, Kansas Reports, vols. 1-5.
- Bann.* Bannister's Reports, English Common Pleas.
- Bann. Lim.* Banning on Limitation of Action.
- Bar.* Bar Reports, in all the courts, English.
- Bar Ex. Jour.* Bar Examination Journal, London.
- Barb. or Barb. S. C.* Barbour's Reports, Supreme Court, New York.
- Barb. (Ark.).* Barber's Reports, Arkansas Reports, vols. 14-24.
- Barb. Ch.* Barbour's Chancery Reports, New York.
- Barb. Ch. Pr.* Barbour's Chancery Practice.
- Barb. Cr. P.* Barbour's Criminal Pleadings.
- Barb. on Set-off.* Barbour on Set-off.
- Barb. Grot.* Grotius on War and Peace, Notes by Barbeyrac.
- Barb. Puff.* Puffendorf's Law of Nature and Nations, Notes by Barbeyrac.
- Barber.* Barber's Reports, Arkansas Reports, vols. 14-24.
- Barn.* Barnardiston's Reports, English King's Bench.
- Barn. Ch.* Barnardiston's Chancery Reports, English.
- Barn. Sh.* Barnes's Sheriff.
- Barn. & A. or Barn. & Ald.* Barnewell & Alderson's Reports, English.
- Barn. & Ad.* Barnewell & Adolphus's Reports, English King's Bench.
- Barn. & Cress.* Barnewell & Cresswell's Reports, English.
- Barnes.* Barnes's Practice Cases, English.
- Barnet.* Barnet's Reports, Central Criminal Courts Reports, vols. 27-92.
- Barr.* Barr's Reports, Pennsylvania Reports, vols. 1-10.
- Barr. Ob. St.* Barrington's Observations on the Statutes.
- Barr. Ten.* Barry on Tenures.
- Barr. & Arn.* Barron & Arnold's Election Cases, English.
- Barr. & Aus.* Barron & Austin's Election Cases, English.
- Barron Mir.* Barron's Mirror of Parliament.
- Barry Ch. Jur.* Barry's Chancery Jurisdiction.
- Barry Conv.* Barry on Conveyancing.
- Bart. Conv.* Barton's Elements of Conveyancing.
- Bart. Elect. Cas.* Bartlett's Congressional Election Cases.
- Bart. Eq.* Barton's Suit in Equity.
- Bart. Prec.* Barton's Precedents of Conveyancing.
- Bat. Sp. Per.* Batten on Specific Performance.
- Batem. Ag.* Bateman on Agency.
- Batem. Ex. L.* Bateman's Excise Laws.
- Batem. Auct.* Bateman on the Law of Auctions.
- Batem. Comm. L.* Bateman's Commercial Law.
- Batem. Const. L.* Bateman's Constitutional Law.
- Bates Ch.* Bates's Chancery Reports, Delaware.
- Batty.* Batty's Reports, Irish, King's Bench.
- Baum.* Baum on Rectors, Church Wardens, and Vestrymen.
- Baxt.* Baxter's Reports, Tennessee.
- Bay.* Bay's Reports, South Carolina.
- Bay (Mo.).* Bay's Reports, Missouri Reports, vols. 1-3 and 5-8.
- Bayl. Bill.* Bayley on Bills.
- Bayl. Ch. Pr.* Bayley's Chancery Practice.
- Bea. C. E.* Beame's Costs in Equity.
- Bea. Eq.* Beame's Equity Pleading.
- Bea. Ne. Execut.* Beame on the Writ of *Ne Execut.*
- Bea. Ord.* Beame's Orders in Chancery.
- Bea. Pl. Eq.* Beame's Pleas in Equity.
- Beas.* Beasley's Reports, New Jersey Equity Reports, vols. 12-13.
- Beatt.* Beatty's Reports, Irish Chancery.
- Beaumont. B. of S.* Beaumont on Bills of Sale.
- Beaumont. Ins.* Beaumont on Insurance.
- Beav.* Beavan's Reports, English.
- Beav. R. & C. Cas.* Beavan's Railway and Canal Cases.
- Beawes.* Beawes's *Lex Mercatoria*.
- Becc. Cr.* Beccaria on Crimes and Punishments.
- Beck's Med. Jur.* Beck's Medical Jurisprudence.
- Bee or Bee Adm.* Bee's Admiralty Reports, U. S. Dist. Court, South Carolina.
- Bee C. C. R.* Bee's Crown Cases Reserved, English.
- Bel.* Bellewe's Reports, English King's Bench *temp.* Richard II.
- Bell. (Or.).* Bellinger's Reports, Oregon Reports, vols. 4-8.
- Bell Ap. Cas.* Bell's House of Lords Cases, Scotch Appeal.
- Bell C. C.* Bell's Crown Cases Reserved.
- Bell C. T.* Bell on Completing Titles.
- Bell Cas.* Bell's Cases, Scotch Court of Sessions.
- Bell Com.* Bell's Commentaries on the Laws of Scotland.
- Bell. Cr. Cas.* Beller's Criminal Cases, Bombay.
- Bell. Del. U. L.* Beller's Delineation of Universal Law.
- Bell Dict.* Bell's Dictionary of the Law of Scotland.
- Bell Dict. Dec.* Bell's Dictionary of Decisions, Court of Sessions, Scotland.
- Bell Ek. L.* Bell's Election Law of Scotland.
- Bell H. C. Cal.* Bell's Reports High Court of Calcutta.
- Bell H. L.* Bell's House of Lords Cases, Scotch Appeal.
- Bell H. & W.* Bell on Husband and Wife.
- Bell Illus.* Bell's Illustration of Principles
- Bell (In.).* Bell's Reports, India.
- Bell L.* Bell on Leases.
- Bell Notes.* Bell's Supplemental Notes to Hume on Crimes.
- Bell P. C.* Bell's Cases in Parliament.
- Bell Prin.* Bell's Principles of the Law of Scotland.

- Bell Put. Mar.* Bell's Putative Marriage Case, Scotland.
- Bell S.* Bell on Sales.
- Bell Sess. Cas.* Bell's Cases in the Court of Sessions.
- Bell Styles.* Bell's System of the Forms of Deeds.
- Bell T. D.* Bell on the Testing of Deeds.
- Bellais.* Bellais's Criminal Cases, Bombay.
- Belleve.* Belleve's Reports, English King's Bench temp. Richard II.
- Belleve Cas.* Belleve's Cases, temp. Henry VIII.; Brooke's New Cases; Petit Brooke.
- Bellingh. Tr.* Report of the Bellingham Trial.
- Belt Sup. Ves.* Belt's Supplement to Vesey Senior's Reports.
- Belt Ves. Sen.* Belt's Edition of Vesey Senior's Reports.
- Ben. or Bi.* Benedict's Reports, U. S. Dist. Court, 2d Circuit.
- Ben. Adm.* Benedict's Admiralty Practice.
- Ben. Av.* Beneake on Average.
- Ben. Just.* Benedict on Justices of the Peace.
- Bench & Bar.* The Bench and Bar, Chicago.
- Bendl.* Bendloe's, or New Benloe's Reports, English Common Pleas, Ed. of 1661.
- Benet Ct.-M.* Benet on Military Law and Courts-Martial.
- Beng. L. E.* Bengal Law Reports, India.
- Beng. S. D.* Bengal Sudder Dewany Reports, India.
- Benj. Sales.* Benjamin on Sales.
- Benl.* Benloe's Reports, English Common Pleas.
- Benl. in Ashe.* Benloe's Reports, at the end of Ashe's Tables.
- Benl. in Keil.* Benloe's Reports, at the end of Keilway's Reports.
- Benl. New.* Benloe's Reports, English Common Pleas, Ed. of 1661.
- Benl. Old.* Benloe's Reports, English Common Pleas, of Benloe & Dalison, Ed. of 1689.
- Benl. & Dal.* Benloe & Dalison's Reports, English Common Pleas.
- Benn. (Cal.).* Bennett's Reports, California Reports, vol. 1.
- Benn. (Mo.).* Bennett's Reports, Missouri Reports, vols. 16-21.
- Benn. Diss.* Bennett's Dissertation on the Proceedings in the Master's Office in the Court of Chancery of England, sometimes cited *Benn. Prac.*
- Benn. Fire Ins. Cas.* Bennett's Fire Insurance Cases.
- Benn. Prac.* See *Benn. Diss.*
- Benn. & H. Cr. Cas.* Bennett & Heard's Criminal Cases.
- Benn. & H. Dig.* Bennett & Heard's Massachusetts's Digest.
- Bennett M.* See *Benn. Diss.*
- Bent.* Bentley's Reports, Irish Chancery.
- Benth. Ev. or Benth. Jud. Ev.* Bentham on Rationale of Judicial Evidence.
- Benth. Leg.* Bentham on Theory of Legislation.
- Berry.* Berry's Reports, Missouri.
- Bert.* Berton's Reports, New Brunswick.
- Besson Prec.* Besson's New Jersey Precedents.
- Best Ev.* Best on Evidence.
- Best Pres.* Best on Presumption.
- Best & S.* Best & Smith's Reports, English Queen's Bench.
- Betts Adm. Pr.* Betts's Admiralty Practice.
- Bev. Hom.* Bevill on Homicide.
- Bibb.* Bibb's Reports, Kentucky.
- Bick.* Bicknell's Reports, Nevada Reports, vol. 10.
- Bick. (In.).* Bicknell's Reports, India.
- Biddle Retro. Leg.* Biddle on Retrospective Legislation.
- Big.* Bignall's Reports, India.
- Big. Bills & N.* Bigelow on Bills and Notes.
- Big. Eq.* Bigelow on Equity.
- Big. Estop.* Bigelow on Estoppel.
- Big. Frauds.* Bigelow on Frauds.
- Big. Jarm. Wills.* Bigelow's Edition of Jarman on Wills.
- Big. L. & A. Ins. Cas.* Bigelow's Life and Accident Insurance Cases.
- Big. Lead. Cas.* Bigelow's Leading Cases on Torts.
- Big. Over-ruled Cas.* Bigelow's Over-ruled Cases.
- Big. Placita.* Bigelow's Placita Anglo-Normanica.
- Bigg Cr. L.* Bigg's Criminal Law.
- Bign.* Bignall's Reports, India.
- Bib. Ord.* Ordinances of Bilboa.
- Bill. Av.* Billing on the Law of Awards.
- Bill. & Pr. Pat. Law.* Billing & Price on the Patent Laws.
- Bing.* Bingham's Reports, English Common Pleas.
- Bing. Des.* Bingham on Descent.
- Bing. Inf.* Bingham on Infancy.
- Bing. Judg.* Bingham on Judgments and Executions.
- Bing. L. & T.* Bingham on Landlord and Tenant.
- Bing. N. C.* Bingham's New Cases, English Common Pleas.
- Bing. & Colv. Rents.* Bingham & Colvin on Rents, etc.
- Binn.* Binney's Reports, Pennsylvania.
- Binn Jus.* Binn's Pennsylvania Justice.
- Bird Conv.* Bird on Conveyancing.
- Bird L. & T.* Bird on Landlord and Tenant.
- Bird Sol. Pr.* Bird's Solution of Precedents of Settlements
- Biret de l'Abs. Traité de l'Absence et de ses effets, par M. Biret.*
- Bish. Contr.* Bishop on Contracts.
- Bish. Cr. L.* Bishop on Criminal Law.
- Bish. Cr. Proc.* Bishop on Criminal Procedure.
- Bish. Mar. & D.* Bishop on Marriage and Divorce.
- Bish. Mar. Wom.* Bishop on Married Women.
- Bish. St. Cr.* Bishop on Statutory Crimes.
- Bisp. Eq.* Bispham's Equity.
- Biss.* Bissell's Reports, U. S. Courts, 7th Circuit.
- Biss. Est. or Biss. Life Est.* Bissett on Estates for Life.
- Biss. Part.* Bissett on Partnership.
- Bl. Judg.* Book of Judgments, by Townsend.
- Bl.* Black's Reports, U. S. Supreme Court.
- Bl. C. C.* Blatchford's Reports, U. S. Circuit Court, 2d Circuit.
- Bl. Com. or Bl. Comm.* Blackstone's Commentaries.
- Bl. D.* Blount's Law Dictionary.
- Bl. D. & O.* Blackham, Dundas, & Osborne's Reports, Ireland.
- Bl. H.* Henry Blackstone's Reports, English.
- Bl. & How.* Blatchford & Howland's Admiralty Reports, U. S. Dist. Court, Southern Dist. of N. Y.
- Bl. L. D.* Blount's Law Dictionary.
- Bl. L. T.* Blackstone's Law Tracts.
- Bl. Pr. Ca.* Blatchford's Prize Cases, U. S. Dist. of N. Y.
- Bl. R. or Bl. Wm.* William Blackstone's Reports, English.
- Bl. Comm.* Blackstone's Commentaries.
- Black.* Black's Reports, U. S. Supreme Court.
- Black (Ind.).* Black's Reports, Indiana Reports, vols. 50-53.
- Black H.* Henry Blackstone's Reports, Common Pleas and Exchequer, English.

- Black. Jus.* Blackerby's Justices Cases.
Black. S. Blackburn on Sales.
Black. T. T. Blackwell on Tax Titles.
Black. W. Wm. Blackstone's Reports, King's Bench and Common Pleas, Exchequer.
Blackf. Blackford's Reports, Indiana.
Blackst. Com. Blackstone's Commentaries.
Blackst. R. Wm. Blackstone's Reports, English.
Blake. Blake's Reports, Montana Territory Reports, vol. 1.
Blak. Ch. Pr. Blake's Chancery Practice, New York.
Blan. Annu. Blaney on Life Annuities.
Blan. Lim. Blanshard on Limitations.
Blanc. & W. L. C. Blanchard & Week's Leading Cases on Mines, etc.
Bland. Bland's Chancery Reports, Maryland.
Blatchf. Blatchford's Reports, U. S. Circuit Court, 2d Circuit.
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Blatchf. & H. Blatchford & Howland's Admiralty Reports, U. S. Dist. Court, Southern Dist. of N. Y.
Blech. Blechley's Reports, Georgia Reports, vols. 34-35.
Blh. or Bligh. Bligh's Reports, English House of Lords.
Blh. N. S. or Bligh N. S. Bligh's Reports, New Series, English House of Lords.
Bliss L. Ins. Bliss on Life Insurance.
Bloomf. Manu. Cas. or Bloomf. N. Cas. Bloomfield's Negro Cases, New Jersey.
Blount. Blount's Law Dictionary.
Blount. Tr. Bount's Impeachment Trial.
Blum. B'k'cy. Blumenstiel's Bankruptcy.
Blvd. U. Blydenburg on Usury.
Bo. R. Act. Booth on Real Actions.
Boh. Dec. Bohun's Declarations.
Boh. Eng. L. Bohun's English Lawyer.
Boh. Priv. Lon. Bohun's Privilegia Londini.
Boil. Code N. Boileux's Code Napoléon.
Bomb. H. Ct. Rep. Bombay High Court Reports.
Bond. Bond's Reports, U. S. Courts, Southern Dist. of Ohio.
Bone Pree. Bone's Precedents on Conveyancing.
Bonney Ins. Bonney on Insurance.
Books S. Books of Sederunt.
Boor. Booraem's Reports, California Reports, vols. 6-8.
Boote Ch. Pr. Boote's Chancery Practice.
Boote S. Boote's Suit at Law.
Booth Act. or Booth R. A. Booth on Real Actions.
Boothley Ind. Off. Boothley on Indictable Offences.
Borr. Borradaile's Reports, Bombay.
Borth. Borthwick on Libel and Slander.
Bos. & P. or Bos. & Pul. Bosanquet & Puller's Reports, English Common Pleas.
Bos. & P. N. R. or Bos. & Pul. N. R. Bosanquet & Puller's New Reports, English Common Pleas.
Bosc. Conv. Boscawen on Convictions.
Bost. Law Rep. Boston Law Reporter.
Bost. Pol. Rep. Boston Police Court Reports.
Bosw. Boswell's Reports, Scotch Court of Sessions.
Bosw. (N. Y.). Bosworth's New York City Superior Court Reports, vols. 14-23.
Bott P. L. Bott's Poor Laws.
Bott Sett. Cas. Bott's Settlement Cases, English.
Bouch. Ins. Dr. Mar. Boucher, Institutes ou Droit Maritime.
Boulnois. Boulnois's Reports, Bengal.
- Boulay Paty Dr. Com. Cours de Droit Commercial Maritime, par P. S. Boulay Paty.*
Bouln. Boulnois's Reports, Bengal.
Bourke. Bourke's Reports, India.
Bourke P. P. Bourke's Parliamentary Precedents.
Bousq. Dict. de Dr. Bousquet, Dictionnaire de Droit.
Bout. Man. Boutwell's Manual of the Tax System of the U. S.
Bow. or Bow. L. D. Bouvier's Law Dictionary.
Bow. Inst. Bouvier's Institutes of American Law.
Bow. Inst. Th. Institutiones Theologicae, auctore J. Bouvier.
Bouvier. Bouvier's Law Dictionary.
Bowl. Lib. Bowles on Libels.
Bowy. C. L. Bowyer's Modern Civil Law.
Bowy. Com. or Bowy. P. L. Bowyer's Commentaries on Universal Public Law.
Boyce Pr. Boyce's Practice in the U. S. Courts.
Boyd Adm. Boyd's Admiralty Law.
Boyd Jus. Boyd's Justice of the Peace.
Boyd Sh. Boyd's Merchant Shipping Laws.
Boyle Char. Boyle on Charities.
Br. British. Brooke. Brown. Brownlow.
 See *Bro.*
Br. Bracton de Legibus et Consuetudinibus Anglie.
Br. Abr. Brooke's Abridgment.
Br. Brev. Jud. Brownlow's Brevia Judicialia.
Br. Ch. C. Brown's Chancery Cases, English.
Br. N. C. Brooke's New Cases, English, King's Bench.
Br. P. C. Brown's Parliamentary Cases.
Br. Reg. Braithwaite's Register.
Br. Syn. Brown's Synopsis of Decisions, Scotch Court of Sessions.
Br. & F. Ecc. Broderick & Freemantle's Ecclesiastical Cases, English.
Br. & Lush. Browning & Lushington's Admiralty Reports, English.
Bra. or Bract. Bracton de Legibus et Consuetudinibus Anglie.
Brack. L. Mis. Brackenbridge's Law Miscellany.
Brack. Trust. Brackenbridge on Trusts.
Brad. Brady's History of the Succession of the Crown of England.
Brad. or Bradf. Surr. Bradford's Surrogate Court Reports, N. Y.
Bradby Dist. Bradby on Distresses.
Bradf. Bradford's Surrogate Reports, N. Y.
Bradf. (Iowa). Bradford's Reports, Iowa.
Bradl. P. B. Bradley's Point Book.
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Branch Pr. Branch's Principia Legis et Æquitatis.
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Brandt Div. Brandt on Divorce Causes.
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Brayt. Brayton's Reports, Vermont.
Breese. Breese's Reports, Illinois Reports, vol. 1.
Brev. Brevard's Reports, South Carolina.
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Brev. Sel. Brevia Selecta, or Choice Writs.
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- Brice Pub. Wor.* Brice's Law Relating to Public Worship.
- Brice U. V.* Brice's Ultra Vires.
- Bridg. J.* Bridgmore's Reports, English Common Pleas.
- Bridg. Conv.* Bridgman on Conveyancing.
- Bridg. Leg. Bib.* Bridgman's Legal Bibliography.
- Bridg. O.* Orlando Bridgman's Reports, English Common Pleas.
- Bridg. Refl.* Bridgman's Reflections on the Study of the Law.
- Bridg. Thes. Jur.* Bridgman Thesaurus Juridicus.
- Bright.* Brightly's Nisi Prius Reports, Pennsylvania.
- Bright. Bank. L.* Brightly's Bankrupt Law.
- Bright. C.* Brightly on Costs.
- Bright. Dig.* Brightly's Digest of the Laws of the U. S.
- Bright. Elect. Cas.* Brightly's Leading Election Cases, U. S.
- Bright. Eq.* Brightly's Equity Jurisprudence.
- Bright. Fed. Dig.* Brightly's Federal Digest.
- Bright H. & W.* Bright on Husband and Wife.
- Bright. N. P.* Brightly's Nisi Prius Reports, Pennsylvania.
- Bright. Purd.* Brightly's Edition of Purdon's Digest of Laws of Pennsylvania.
- Bright. T. & H. Pr.* Brightly's Edition of Troubat & Haly's Practice.
- Bright. U. S. Dig.* Brightly's United States Digest.
- Brit. Col. S. C.* British Columbia Supreme Court Reports.
- Britt.* Britton on Ancient Pleading.
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- Bro. Abr.* Brooke's Abridgments.
- Bro. Car.* Browne on Carriers.
- Bro. Ch. Cas. or Bro. Ch. R.* Brown's Chancery Cases, English.
- Bro. Civ. Law.* Browne's Civil Law.
- Bro. Co. Act.* Browne on the Companies Act.
- Bro. Com.* Brown's Commentaries.
- Bro. Div. Pr.* Browne's Divorce Court Practice.
- Bro. Ecc.* Brooke's Ecclesiastical Reports, English.
- Bro. Ent.* Browne's Book of Entries.
- Bro. & F.* Brodrick & Freemantle's Ecclesiastical Cases.
- Bro. Insan.* Browne's Medical Jurisprudence of Insanity.
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- Bro. N. C.* Brooke's New Cases, English King's Bench.
- Bro. N. P.* Brown's Nisi Prius Cases, English.
- Bro. N. P. (Mich.).* Brown's Nisi Prius Cases, Michigan.
- Bro. Of. Not.* Brooke on the Office of a Notary in England.
- Bro. P. C.* Brown's Parliamentary Cases.
- Bro. Pa.* Browne's Reports, Pennsylvania.
- Bro. R. P. L.* Brown's Limitation as to Real Property.
- Bro. Read.* Brooke's Reading on the Statute of Limitations.
- Bro. Sales.* Brown on Sales.
- Bro. St. Fr.* Browne on the Statute of Frauds.
- Bro. Stair.* Brodie's Notes and Supplement to Stair's Institutions of the Laws of Scotland.
- Bro. Supp.* Brown's Supplement to Morri-son's Dictionary.
- Bro. Syn.* Brown's Synopsis of the Decisions of the Scotch Court of Sessions.
- Bro. T. M.* Browne on Trademarks.
- Bro. V. M.* Brown's Vade Mecum.
- Brock., Brock. C. C., or Brock. Marsh.* Brock- enbrough's Reports of Marshall's Decisions, U. S. Circuit Court, 4th Circuit.
- Brock. Cas.* Brockenbrough's Cases, Virginia Cases, vol. 2.
- Brock. & H.* Brockenbrough & Holmes's Re- ports, Virginia Cases, vol. 1.
- Brod. & B.* Broderip & Bingham's Reports, English Common Pleas.
- Brod. & F.* Brodrick & Freemantle's Eccle- siastical Cases.
- Brod. Stair.* Brodie's Notes and Supplement to Stair's Institutes of the Laws of Scotland.
- Brooke Abr.* Brooke's Abridgment.
- Brooke Ecc.* Brooke's Ecclesiastical Reports, English.
- Brooke Lim.* Brooke's Reading on the Stat- ute of Limitations.
- Brooke N. C.* Brooke's New Cases, English King's Bench (Bellewe's Cases temp. Henry VIII.).
- Brooke Not.* Brooke on the Office of a Notary in England.
- Brooke Read.* Brooke's Reading on the Stat- ute of Limitations.
- Brooke Six Judg.* Six Ecclesiastical Judg- ments of the English Privy Council, by Brooke.
- Broom C. L. or Broom Com. Law.* Broom's Commentaries on the Common Law.
- Broom Comm.* Broom's Commentaries on English Law.
- Broom Const. L.* Broom's Constitutional Law.
- Broom Leg. Max. or Broom Max.* Broom's Legal Maxims.
- Broom Part.* Broom's Parties to Actions.
- Broom & H. Com.* Broom & Hadley's Com- mentaries on the Laws of England.
- Brown or Brown Just.* Brown's Reports, Scotch Justiciary Court.
- Brown A. & R.* Brown's Admiralty and Reve- nue Cases, U. S. Dist. Court, Mich.
- Brown Car.* Browne on Carriers.
- Brown Ch. C. or Brown Ch. R.* Brown's Chancery Cases, English.
- Brown Comm.* Brown's Commentaries.
- Brown Dict.* Brown's Law Dictionary.
- Brown Ecc.* Brown's Ecclesiastical Reports, English.
- Brown Ent.* Brown's Entries.
- Brown Fixt.* Brown on Fixtures.
- Brown Lim.* Brown's Law of Limitations.
- Brown Novis.* Brown's Method of Novissima.
- Brown. M. & D.* Browning on Marriage and Divorce.
- Brown N. P. Cas.* Brown's Nisi Prius Cases, English.
- Brown N. P. (Mich.).* Brown's Nisi Prius Re- ports, Michigan.
- Brown P. C.* Brown's Parliamentary Cases.
- Brown R. P. L.* Brown's Limitations as to Real Property.
- Brown Sales.* Brown on Sales.
- Brown Sup.* Brown's Supplement to Morri- son's Dictionary.
- Brown Syn.* Brown's Synopsis of Decisions of the Scotch Court of Sessions.
- Brown V. M.* Brown's Vade Mecum.
- Brown. & L.* Browning & Lushington's Re- ports, English Admiralty.
- Browne.* Browne's Reports, Pennsylvania.
- Browne Act.* Browne on Actions.

- Browne Adm. & C. L.* Browne's Admiralty and Civil Law.
- Browne Car.* Browne on the Law of Carriers.
- Browne Civ. L.* Browne on Civil Law.
- Browne Div. Pr.* Browne's Divorce Court Practice.
- Browne Frauds.* Browne on the Statute of Frauds.
- Browne Insan.* Browne's Medical Jurisprudence of Insanity.
- Browne Mass.* Browne's Reports, Massachusetts Reports, vols. 97-109.
- Browne T. M.* Browne on Trademarks.
- Browne Usages.* Browne on Usages and Customs.
- Browne & G.* Browne & Gray's Reports, Massachusetts Reports, vols. 110-114.
- Browning Mar. & D.* Browning on Marriage and Divorce.
- Browning & L.* Browning & Lushington's Reports, English Admiralty.
- Brownl. or Brownl. & G.* Brownlow & Goldesborough's Reports, English Common Pleas.
- Brownl. Brev. Jud.* Brownlow's Brevia Judicialia.
- Brownl. Ent. or Brownl. Rediv.* Brownlow's Redivivus or Entries.
- Bru. or Bruce.* Bruce's Reports, Scotch Court of Sessions.
- Bruce M. L.* Bruce's Military Law, Scotland.
- Bt.* Benedict's Reports, U. S. Dist. of N. Y.
- Buch. Cas.* Buchanan's Criminal Cases, Scotland.
- Buch. Rep.* Buchanan's Reports, Cape of Good Hope.
- Buck Cas.* Buck's Bankrupt Cases, English.
- Buck. Co. Act.* Buckley's Law and Practice under Companies Act.
- Bull. N. P.* Buller's Law of Nisi Prius.
- Bull. & Cur. Dig.* Bullard & Curry's Louisiana Digest.
- Bull. & L. Pr.* Bullen & Leake's Precedents of Pleading.
- Bulling. Eccl.* Bullingbrooke's Ecclesiastical Law.
- Bulst.* Bulstrode's Reports, English King's Bench.
- Bump Bkcy.* Bump's Bankruptcy Practice.
- Bump Fed. Proc.* Bump's Federal Procedure.
- Bump Fr. Conv.* Bump on Fraudulent Conveyances.
- Bump Inter. Rev. L.* Bump's Internal Revenue Laws.
- Bump Notes.* Bump's Notes of Constitutional Decisions.
- Bump Pat.* Bump's Law of Patents, Trademarks, etc.
- Bunb.* Bunbury's Reports, English Exchequer.
- Buny. L. A.* Bunyon on Life Insurance.
- Bur.* Burrow's Reports, English King's Bench.
- Burge Col. Law.* Burge on Colonial Law.
- Burge Confl. Law.* Burge on the Conflict of Laws.
- Burge For. Law.* Burge on Foreign Law.
- Burge Mar. Int. L.* Burge on Maritime International Law.
- Burge Sur.* Burge on Suretyship.
- Burke Tr.* Burke's Celebrated Trials.
- Burlam. Nat. Law.* Burlamaqui's Natural and Politic Law.
- Burn.* Burnett's Reports, Wisconsin.
- Burn. Cr. L.* Burnett on the Criminal Law of Scotland.
- Burn Dict.* Burn's Law Dictionary.
- Burn Ec. L.* Burn's Ecclesiastical Law.
- Burn Jus.* Burn's Justice of the Peace.
- Burr.* Burrow's Reports, English King's Bench temp. Mansfield.
- Burr. Ass.* Burrill on Assignments.
- Burr. Circ. Ev.* Burrill on Circumstantial Evidence.
- Burr. Dict.* Burrill's Law Dictionary.
- Burr. Prac.* Burrill's Practice.
- Burr. Sett. Cas.* Burrow's Settlement Cases.
- Burr. Taxation.* Burroughs on Taxation.
- Burr Tr.* Burr's Trial.
- Burt. Banker.* Burton on Bankruptcy.
- Burt. Cas.* Burton's Collection of Cases and Opinions.
- Burt. Parl.* Burton's Parliamentary Diary.
- Burt. E. P.* Burton on Real Property.
- Busb.* Busbee's Law Reports, North Carolina Reports, vol. 44.
- Busb. Eq.* Busbee's Equity Reports, North Carolina Reports, vol. 45.
- Bush.* Bush's Reports, Kentucky.
- Busw. & Wal. Pr.* Buswell & Walcott's Practice, Massachusetts.
- Butl. Co. Litt.* Butler's Notes to Coke on Littleton.
- Butl. Hor. Jur.* Butler's Horæ Juridicæ Subseviivæ.
- Byles Bills.* Byles on Bills.
- Bynk. Jur. Pub.* Bynkershoek Quæstiones Juris Publici.
- Bynk. War.* Bynkershoek on the Law of War.
- Byrne B. S.* Byrne on Bills of Sale.
- Byth. Conv.* Bythewood's Conveyancing.
- Byth. Prec.* Bythewood's Precedents.
- C.* Codex Juris Civilis. Code. Chancellor. Chancery. Chapter. Case.
- C. B.* English Common Bench Reports, by Manning, Granger, & Scott.
- C. B. N. S.* English Common Bench Reports, New Series, by Manning, Granger, & Scott.
- C. C.* Circuit Court. Chancery Cases. Crown Cases. Civil Code. Cepi Corpus.
- C. C.* Cases in Chancery, English.
- C. C.* Civil Code Français, or Code Napoléon.
- C. Com.* Code de Commerce.
- C. C. A.* County Court Appeals.
- C. C. C.* Choice Cases in Chancery, English.
- C. C. C.* Crown Circuit Companion.
- C. C. Chron.* Chancery Cases Chronicle, Ontario.
- C. C. E.* Caines's Cases in Error, New York.
- C. C. P.* Code of Civil Procedure.
- C. C. R.* Crown Cases Reserved.
- C. C. R.* City Courts Reports, New York City.
- C. Cr. P.* Code of Criminal Procedure.
- C. C. & B. B.* Cepi Corpus and Bail Bond.
- C. C. & C.* Cepi Corpus et Committitur.
- C. D.* Comyn's Digest.
- C. d'Et.* Conseil d'Etat.
- C. E. Gr.* C. E. Green's Chancery Reports, New Jersey Ch. Rep., vols. 2-4.
- C. F.* Code Forestier.
- C. I.* Constitutiones Imperiales.
- C. Instr. Cr.* Code Instruction Criminelle.
- C. J.* Chief Justice.
- C. J. C.* Couper's Justiciary Cases, Scotland.
- C. J. Can.* Corpus Juris Canonici.
- C. J. Civ.* Corpus Juris Civilis.
- C. J. C. P.* Chief Justice of the Common Pleas.
- C. J. K. B.* Chief Justice of the King's Bench.
- C. J. Q. B.* Chief Justice of the Queen's Bench.
- C. J. U. B.* Chief Justice of the Upper Bench.
- C. L.* Common Law. Civil Law.
- C. L. J.* Central Law Journal, St. Louis, Mo.
- C. L. J.* Canada Law Journal, Toronto.
- C. L. J. N. S.* Canada Law Journal, New Series, Toronto.
- C. L. N.* Chicago Legal News.
- C. L. P. Act.* English Common Law Procedure Act.

- C. L. R.* Common Law Reports, English.
C. M. & R. Crompton, Meeson, & Roscoe's Reports, English Exchequer.
C. N. Code Napoléon.
C. N. P. Cases at Nisi Prius.
C. N. P. C. Campbell's Nisi Prius Cases, English.
C. O. Commons's Orders.
C. P. Code of Procedure. Common Pleas.
Code Pénal.
C. P. C. Cooper's Practice Cases, English.
C. P. Coop. C. P. Cooper's Reports, English.
C. P. C. Code de Procédure Civile.
C. P. Div. Common Pleas Division, English Law Reports.
C. P. Rept. Common Pleas Reporter, Scranton, Penna.
C. P. U. C. Common Pleas Reports, Upper Canada.
C. S. Scotch Court of Sessions.
C. t. K. Cases *tempore* King.
C. t. N. Cases *tempore* Northington.
C. t. Talb. Cases *tempore* Talbot.
C. T. Constitutiones Tiberii.
C. Theod. Codex Theodosiani.
C. W. Dudl. Eq. C. W. Dudley's Equity Reports, South Carolina.
C. & A. Cooke & Alcock's Reports, Irish King's Bench and Exchequer.
C. & D. Corbett & Daniel's Election Cases, English.
C. & D. C. C. Crawford & Dix's Criminal Cases, Irish.
C. & D. A. C. Crawford & Dix's Abridged Cases, Irish.
C. & F. Clark & Finnely's Reports, English House of Lords.
C. & H. Dig. Coventry & Hughes's Digest.
C. & J. Crompton & Jervis's Reports, English Exchequer.
C. & K. Carrington & Kirwan's Reports, English Nisi Prius.
C. & L. C. C. Cane & Leigh's Crown Cases.
C. & M. Crompton & Meeson's Reports, English Exchequer.
C. & Marsh. Carrington & Marshman's Reports, English Nisi Prius.
C. & O. R. & C. Cas. Carrow & Oliver's Railway and Canal Cases.
C. & P. Carrington & Payne's Reports, English Nisi Prius.
C. & R. Cockburn & Rowe's Reports, English Election Cases.
Ca. Case. Placita. Cases. See *Cas. et seq.*
Ca. resp. Capias ad respondendum.
Ca. sa. Capias ad satisfaciendum.
Cadv. Gr. Rents. Cadwalader on Ground Rents.
Ca. Caines's Reports, Supreme Court, N. Y.
Ca. Cas. Caines's Cases Court of Errors, N. Y.
Ca. Inst. Call or Gail Institutiones.
Ca. Lex Mer. Caines's *Lex Mercatoria*.
Ca. Pr. Caines's Practice.
Ca. Visig. Caines's *Visigothicum*.
Cal. California Reports.
Cal. L. J. California Law Journal, San Francisco.
Cal. Leg. Obs. Calcutta Legal Observer.
Cal. Leg. Rec. California Legal Record, San Francisco.
Cal. Prac. Hart's California Practice.
Cal. Sew. Callis on Sewers.
Cald. or Cald. M. Cas. Caldecott's Reports, English Justice of the Peace Cases.
Cald. Arb. Caldwell on Arbitration.
Cald. Sett. Cas. Caldecott's Settlement Cases.
Call. Call's Reports, Virginia.
Call. Mil. L. Callan's Military Laws.
Call. Sew. Callis on Sewers.
- Calth.* Calthorpe's Reports, English King's Bench.
Calth. Copyh. Calthorpe on Copyholds.
Calv. Lex. Calvin's Lexicon Juridicum.
Calv. Par. Calvert on Parties to Suits in Equities.
Cam. Cameron's Reports, Upper Canada Queen's Bench.
Cam. Brit. Camden's Britannia.
Cam. Duc. Camera Ducata, Duchy Chamber.
Cam. Scacc. Camera Scaccaria, Exchequer Chamber.
Cam. Stell. Camera Stellata, Star Chamber.
Cam. & N. Cameron & Norwood's Reports, North Carolina Conference Reports, vol. 3.
Camp. Campbell's Reports, English Nisi Prius.
Camp. Ld. Ch. Campbell's Lives of the Lord Chancellors.
Camp. N. P. Campbell's Reports, English Nisi Prius.
Camp. Neg. Campbell on Negligence.*
Can. Canon. Canada.
Can. L. J. Canada Law Journal, Toronto.
Can. L. J. (L. C.). Lower Canada Law Journal, Montreal.
Can. S. C. Rep. Canada Supreme Court Reports.
Cap. Capitulo. Chapter.
Car. Carolus; thus 13 Car. II. signifies the thirteenth year of the reign of King Charles II.
Car. Cr. L. Carrington's Criminal Law.
Car. H. & A. Carrow, Hamerton, & Allen's Reports, English Session Cases.
Car. L. Jour. Carolina Law Journal, Charleston, S. C.
Car. L. Rep. Carolina Law Repository, Raleigh, N. C.
Car. O. & B. Carrow, Oliver, & Bevan's Railway and Canal Cases.
Car. & Kir. Carrington & Kirwan's Reports, English Nisi Prius.
Car. & Mar. Carrington & Marshman's Reports, English Nisi Prius.
Car. & O. Carrow & Oliver's Railway and Canal Cases.
Car. & P. Carrington & Payne's Reports, English Nisi Prius.
Carp. Carpenter's Reports, California Reports, vol. 53.
Carp. P. C. Carpmael's Patent Cases.
Carr. Cas. Carran's Summary Cases, India.
Cart. Carter's Reports, English Common Pleas.
Cart. (Ind.). Carter's Reports, Indiana Reports, vols. 1-2.
Carta de For. Carta de Foresta.
Carth. Carthew's Reports, English King's Bench.
Cary. Cary's Reports, English Chancery.
Cary Part. Cary on Partnership.
Cas. Casey's Reports, Pennsylvania State Reports, vols. 25-36.
Cas. App. Cases of Appeal to the House of Lords.
Cas. Arg. & Dec. Ch. Cases Argued and Decreed in Chancery, English.
Cas. B. R. Cases Banco Regis, Modern Reports, vol. 12.
Cas. B. R. Holt. Cases and Resolutions in the Court of King's Bench (1714-1739).
Cas. C. L. Cases in Crown Law.
Cas. Ch. Select Cases in Chancery.
Cas. Ch. 1, 2, 3. Cases in Chancery *temp.* Car. II.
Cas. Eq. Cases in Equity, Gilbert's Reports, English.
Cas. Eq. Abr. Cases in Equity Abridged, English.

- Cas. H. of L.* Cases in the English House of Lords, 1814-1819.
- Cas. K. B. t. Hardw.* Cases temp. Hardwicke, W. Kelynge's Reports, English King's Bench.
- Cas. L. & Eq.* Cases in Law and Equity, Modern Reports, vol. 10.
- Cas. in P. or Cas. Parl.* Cases in Parliament.
- Cas. Pr.* Cases of Practice in the Court of the King's Bench, from Eliz. to 14 Geo. III.
- Cas. Pr. (Cooke)* Cooke's Practice Cases, English Common Pleas.
- Cas. Pr. C. P.* Cases of Practice, English Common Pleas.
- Cas. Pr. K. B.* Cases of Practice, English King's Bench.
- Cas. R.* Casey's Reports, Pennsylvania State Reports, vols. 25-36.
- Cas. S. C. (Cape of G. H.)* Cases in the Supreme Court, Cape of Good Hope.
- Cas. Self Def.* Cases on Self Defence, Horri-gan & Thompson's.
- Cas. Sett.* Cases of Settlement, King's Bench.
- Cas. Six Cir.* Cases in the Six Circuits, Ireland.
- Cas. t. F.* Cases tempore Finch, English Chancery.
- Cas. t. Geo. I.* Cases tempore George I., English Chancery, Modern Reports, vols. 8 and 9.
- Cas. t. H.* Cases tempore Hardwicke, English King's Bench, Ridgway's Reports, Annaly's Reports.
- Cas. t. Holt.* Cases tempore Holt, English King's Bench, Holt's Reports.
- Cas. t. King.* Cases tempore King, English Chancery, Mosely's Reports.
- Cas. t. Mac.* Cases tempore Macclesfield, Modern Reports, vol. 10, Lucas's Reports.
- Cas. t. Nap.* Cases tempore Napier, Irish.
- Cas. t. Plunk.* Cases tempore Plunket, Irish Chancery.
- Cas. t. Q. A.* Cases tempore Queen Anne, Modern Reports, vol. 11.
- Cas. t. Sugd.* Cases tempore Sugden, Irish Chancery.
- Cas. t. Tal.* Cases tempore Talbot, English Chancery, Forrester's Reports.
- Cas. t. Wm. III.* Cases tempore William III., Modern Reports, vol. 12.
- Cas. Tak. & Adj.* Cases Taken and Adjudged, English Chancery.
- Cas. v. Op. or Cas. & Op.* Cases with Opinions of Eminent Counsel.
- Casey.* Casey's Reports, Pennsylvania State Reports, vols. 25-36.
- Castle Com.* Castle on Law of Commerce.
- Cav. Money Sec.* Cavanaugh's Law of Money Securities.
- Cav. Deb.* Cavendish's Debates, House of Commons.
- Cane & L.* Cane & Leigh's Crown Cases Reserved.
- Cawll.* Cawley's Laws against Recusants.
- Cay Abr.* Cay's Abridgment of the Statutes.
- Centr. Cr. C. R.* Central Criminal Court Reports, English.
- Centr. L. J.* Central Law Journal, St. Louis, Mo.
- Ch. App. Cas.* Chancery Appeal Cases Law Reports.
- Ch. Burn J.* Chitty's Burn's Justice.
- Ch. Cal.* Chancery Calendar.
- Ch. Cas.* Cases in Chancery.
- Ch. Cas. Ch.* Choice Cases in Chancery.
- Ch. Cham. (Ont.)* Chancery Chamber's Reports, Ontario.
- Ch. Div.* Chancery Division Law Reports.
- Ch. J.* Chief Justice. Chief Judge.
- Ch. Pr.* Chancery Practice.
- Ch. Pre.* Precedents in Chancery.
- Ch. R. or Ch. Repts.* Reports in Chancery.
- Ch. Sent.* Chancery Sentinel, Saratoga, New York.
- Chal. Op.* Chalmer's Colonial Opinions.
- Chamb.* Chambers's Reports, Upper Canada.
- Chamb. Ch. Jur.* Chambers's Chancery Jurisdiction.
- Chamb. L. & T.* Chambers on Landlord and Tenant.
- Chan.* Chaney's Reports, Michigan Reports, vols. 37-42.
- Chance.* Chance on Powers.
- Chand. (N. H.)* Chandler's Reports, New Hampshire Reports, vols. 20 and 33-44.
- Chand. (Wis.)* Chandler's Reports, Wisconsin.
- Chand. Cr. Tr.* Chandler's American Criminal Trials.
- Char. Merc.* Charta Mercatoria.
- Charl. Pr. Cas.* Charley's Practice Cases (Judicature Act).
- Charl. R. P. Stat.* Charley's Real Property Statutes.
- Charlt.* T. W. P. Charlton's Reports, Georgia.
- Charlt. R. M.* R. M. Charlton's Reports, Georgia.
- Chase.* Chase's Decisions by Johnson, U. S. 4th Circuit.
- Chase Tr.* Chase's Trial by the U. S. Senate.
- Cher. Cas.* Cherokee Case.
- Chest. Cas.* Case of the City of Chester, on Quo Warranto.
- Chev.* Cheves's Law Reports, South Carolina.
- Chev. Ch. or Chev. Eq.* Cheves's Chancery Reports, South Carolina.
- Chic. L. J.* Chicago Law Journal.
- Chic. L. Rec.* Chicago Law Record.
- Chic. Leg. News.* Chicago Legal News.
- Chip. Contr.* Chipman on Contracts.
- Chip. D.* D. Chipman's Reports, Vermont.
- Chip. N.* N. Chipman's Reports, Vermont.
- Chit. App.* Chitty on Apprentices and Journeymen.
- Chit. Arch. Pr.* Chitty's Archbold's Practice.
- Chit. B. C.* Chitty's Bail Court Reports, English.
- Chit. Bills.* Chitty on Bills.
- Chit. Bl. Com.* Chitty's Blackstone's Commentaries.
- Chit. Burn's J.* Chitty's Burn's Justice.
- Chit. Car.* Chitty on Carriers.
- Chit. Com. L.* Chitty on Commercial Law.
- Chit. Contr.* Chitty on Contracts.
- Chit. Cr. L.* Chitty on Criminal Law.
- Chit. Des.* Chitty on the Law of Descent.
- Chit. Eq. Dig.* Chitty's Equity Digest.
- Chit. F.* Chitty's Forms.
- Chit. G. P.* Chitty's General Practice.
- Chit. Jr. Bills.* Chitty, Junior, on Bills.
- Chit. L. of N.* Chitty's Law of Nations.
- Chit. Med. Jur.* Chitty on Medical Jurisprudence.
- Chit. Pl.* Chitty on Pleading.
- Chit. Prac.* Chitty's General Practice.
- Chit. Prec.* Chitty's Precedents in Pleading.
- Chit. Prer.* Chitty's Prerogatives of the Crown.
- Chit. Rep.* Chitty's Reports, English Bail Court.
- Chit. Stamp L.* Chitty's Stamp Laws.
- Chit. Stat.* Chitty's Statutes of Practical Utility.
- Chitt.* Chitty's Reports, English Bail Court.
- Cho. Cas. Ch.* Choice Cases in Chancery.
- Chr. Pr. W.* Christie's Precedents of Wills.
- Chr. Rep.* Chamber Reports, Upper Canada.
- Christ. B. L.* Christian's Bankrupt Laws.
- Churchill & Br. Sh.* Churchill and Bruck on Sheriffs.
- Cin. Law Bul.* Cincinnati Law Bulletin, Cincinnati, Ohio.

- Cin. Mun. Dec.* Cincinnati Municipal Decisions.
- Cin. Rep.* or *Cinc. (Ohio)*. Cincinnati Superior Court Reports.
- Circ. Ct. in Eq.* Circuit Court in Equity.
- City C. Rep.* City Courts Reports, New York City.
- City Hall Rec.* Rogers's City Hall Recorder, New York.
- City Hall Rep.* Lumas's City Hall Reporter, New York.
- City Rec.* City Record, New York.
- Civ. Code.* Civil Code.
- Cl. App.* Clark's Appeal Cases, English House of Lords.
- Cl. Ass.* Clerk's Assistant.
- Cl. Ch.* Clarke's Chancery Reports, N. Y.
- Cl. Col.* Clark's Colonial Law.
- Cl. Elec.* Clark on Elections.
- Cl. Extr.* Clarke on Extradition.
- Cl. Herne R.* Clerk Herne's Scotch Reports.
- Cl. Ins.* Clarke on Insurance.
- Cl. R. L.* Clark's Early Roman Law.
- Cl. & Fin.* Clark & Finnelly's Reports, English House of Lords.
- Cl. & H.* Clarke & Hall's Congressional Election Cases.
- Clan. H. & W.* Clancy on Husband and Wife.
- Clan. Mar. Wom.* Clancy on Married Women.
- Clar. Parl. Chr.* Clarendon's Parliamentary Chronicle.
- Clark.* Clark's Appeal Cases, English House of Lords.
- Clark (Ala.).* Clark's Reports, Alabama Reports, vol. 58.
- Clark Lease.* Clark's Inquiry into the Nature of Leases.
- Clark (Pa.).* Clark's Pennsylvania Law Journal Reports.
- Clark & Fin.* Clark & Finnelly's Reports, English House of Lords.
- Clark & Fin. N. S.* Clark & Finnelly's Reports, New Series, English House of Lords.
- Clarke (Iowa).* Clarke's Reports, Iowa Reports, vols. 1-8.
- Clarke (Mich.).* Clarke's Reports, Michigan Reports, vols. 19-22.
- Clarke Adm. Pr.* Clarke's Admiralty Practice.
- Clarke Bills.* Clarke on Bills, Notes, and Checks.
- Clarke Ch. R.* Clarke's Chancery Reports, New York.
- Clarke Cr. L.* Clarke on Criminal Law, Canada.
- Clarke Ins.* Clarke on Insurance, Canada.
- Clarke Prac.* Clarke's Praxis.
- Clayt.* Clayton's Reports, English York Assize.
- Clay. Conv.* Clayton's Conveyancing.
- Clem. Corp. Sec.* Clemens on Corporate Securities.
- Cleir. Us et Coust.* Cleirac, *Us et Coustumes de la Mer*.
- Clerke Dig.* Clerke's Digest, New York.
- Clerke Pr.* Clerke's Praxis Admiralitatis.
- Clerke Rud.* Clerke's Rudiments of American Law and Practice.
- Clev. Bank.* Cleveland on the Banking System.
- Cliff.* Clifford's Reports, U. S. 1st Circuit.
- Cliff. El. Cas.* Clifford's Election Cases.
- Clift Ent.* Clift's Entries.
- Clode.* Clode's Martial Law.
- Clow L. C. on Torts.* Clow's Leading Cases on Torts.
- Clusk. P. T.* Cluskey's Political Text Book.
- Co.* County Company.
- Co.* Coke's Reports, English King's Bench.
- Co. B. L.* Cooke's Bankrupt Law.
- Co. Cop.* Coke's Copyholder.
- Co. Ct. Rep.* County Court Reports.
- Co. Cts.* Coke on Courts (4th Inst.).
- Co. Ent.* Coke's Entries.
- Co. Litt.* Coke on Littleton (1st. Inst.).
- Co. M. C.* Coke's Magna Charta (2d Inst.).
- Co. P. C.* Coke's Pleas of the Crown (3d Inst.).
- Co. Pal.* County Palatine.
- Co. Rep.* Coke's Reports, English King's Bench.
- Cobb.* Cobb's Reports, Georgia Reports, vols. 6-20.
- Cobb. Parl. Hist.* Cobbett's Parliamentary History.
- Cobb. Pol. Reg.* Cobbett's Political Register.
- Cobb Slav.* Cobb on Slavery.
- Cochr.* Cochran's Reports, Nova Scotia.
- Cock. Nat.* Cockburn on Nationality.
- Cock. & Rowe.* Cockburn and Rowe's English Election Cases.
- Cocke (Ala.).* Cocke's Reports, Alabama Reports, N. S., vols. 16-18.
- Cocke (Fla.).* Cocke's Reports, Florida Reports, vols. 14-16.
- Cocke Const. His.* Cocke's Constitutional History.
- Cocke Pr.* Cocke's Practice in the U. S. Courts.
- Coa. Jur. Civ.* Codex Juris Civilis; Justinian's Code.
- Code Civ.* Code Civil, or Civil Code of France.
- Code Comm.* Code de Commerce.
- Code F.* Code Forestier.
- Code I.* Code d'Instruction Criminelle.
- Code La.* Civil Code of Louisiana.
- Code Nap.* Code Napoléon; Civil Code.
- Code P.* Code Pénal.
- Code Pro.* Code de Procédure Civile.
- Code Rep.* Code Reporter, New York.
- Code Rep. N. S.* Code Reports, various New York courts.
- Coke.* Coke's Reports, English King's Bench.
- Col.* Column.
- Col.* Colorado Reports.
- Col. Cas.* Coleman's Cases, New York.
- Col. & Cai. Cas.* Coleman & Caines's Cases, New York.
- Colb. Pr.* Colby's Practice.
- Coldw.* Coldwell's Reports, Tennessee.
- Cole.* Cole's Reports, Iowa.
- Cole. Cas. Pr.* Coleman's Cases, New York.
- Cole. Dig.* Colebrooke's Digest of Hindoo Law.
- Cole Eject.* Cole's Law and Practice in Ejectment.
- Cole Inf.* Cole on Criminal Information.
- Cole. & C.* Coleman & Caines's Cases, New York.
- Coll.* Collyer's Reports, English Chancery.
- Coll. Caus. Cél.* Collection des Causes Célèbres, Paris.
- Coll. Contrib.* Collier's Law of Contributories.
- Coll. Id.* Collison on the Law concerning Idiots.
- Coll. Jur.* Collectanea Juridica.
- Coll. Min.* Collier on Mines.
- Coll. Part.* Collyer on Partnership.
- Coll. Parl. Cas.* Colles's Parliamentary Cases.
- Coll. Pat.* Collier on the Law of Patents.
- Colles.* Colles's Parliamentary Cases.
- Collin. Lun.* Collinson on Lunacy.
- Colq. C. L.* Colquhoun's Civil Law.
- Colq. R.* Colquit's Reports (1 Modern).
- Com.* Communes, or Extravagantes Communes.
- Com.* Commissioner; Commentary.
- Com.* Comyn's Reports, English King's Bench and Common Pleas.
- Com. B.* English Common Bench Reports, by Manning, Granger, & Scott.

- Com. B. N. S.* English Common Bench Reports, New Series, by Manning, Granger, & Scott.
- Com. Cont.* Comyn on Contracts.
- Com. Dig.* Comyn's Digest.
- Com. Jour.* Journals of the House of Commons.
- Com. Law.* Commercial Law. Common Law.
- Com. Law. R.* Common Law Reports, English Common Law Courts.
- Com. L. & T.* Comyn on Landlord and Tenant.
- Com. P. Div.* Common Pleas Division, Law Reports.
- Com. P. Repr.* Common Pleas Reporter, Scranton, Penna.
- Com. U.* Comyn on Usury.
- Comb.* Comberbach's Reports, English King's Bench.
- Comm.* Blackstone's Commentaries.
- Coms.* Comstock's Reports, New York Ct. of Appeals Reports, vols. 1-4.
- Coms. Ex.* Comstock on Executors.
- Comyn.* Comyn's Reports, English King's Bench and Common Pleas.
- Con.* Conover's Reports, Wisconsin Reports, vols. 16-50.
- Con. Dig.* Connor's Digest.
- Con. Par.* Cornell on Parishes.
- Con. & Law.* Connor & Lawson's Reports, Irish Chancery.
- Con. & Sim.* Connor & Simonton's Equity Digest.
- Cond.* Condensed.
- Cond. Ch. R.* Condensed Chancery Reports.
- Cond. Ecc. R.* Condensed Ecclesiastical Reports.
- Cond. Exch. R.* Condensed Exchequer Reports.
- Cond. Rep. U. S.* Peter's Condensed United States Reports.
- Condy Mar.* Marshall's Insurance, by Condy.
- Conf.* Cameron & Norwood's Conference Reports, North Carolina.
- Conf. Chart.* Confirmatio Chartarum.
- Cong. Elect. Cas.* Congressional Election Cases.
- Congr. Globe.* Congressional Globe, Washington.
- Congr. Rec.* Congressional Record, Washington.
- Conk. Adm.* Conkling's Admiralty.
- Conk. Jur. & Pr.* or *Conk. Pr.* Conkling's Jurisdiction and Practice, U. S. Courts.
- Conn.* Connecticut Reports.
- Conr.* Conroy's Custodian Reports, Irish.
- Cons. del Mare.* Consolato del Mare.
- Cons. Ord. in Ch.* Consolidated General Orders in Chancery.
- Consist.* Haggard's Consistory Court Reports, English.
- Const.* Constitution.
- Const. Oth.* Constitutions Othoni.
- Const. S. C.* Treadway's Constitutional Reports, South Carolina.
- Const. (N. S.) S. C.* Mill's Constitutional Reports, New Series, South Carolina.
- Const. U. S.* Constitution of the United States.
- Consuet. Feud.* Consuetudines Feudorum, or the Book of Forms.
- Cont.* Contra.
- Cooke.* Cooke's Practice Cases, English Common Pleas.
- Cooke (Tenn.).* Cooke's Reports, Tennessee.
- Cooke Agr. T.* Cooke on Agricultural Tenancies.
- Cooke B. L.* Cooke's Bankrupt Law.
- Cooke Cop.* Cooke's Law of Copyhold Enfranchisements.
- Cooke Def.* Cooke's Law of Defamation.
- Cooke I. A.* Cooke's Inclosure Act.
- Cooke Pr. Cas.* Cooke's Practice Reports, English Common Pleas.
- Cooke & Al.* Cooke & Alcock's Reports, Irish King's Bench.
- Cooke & H.* Cooke & Harwood's Charitable Trust Acts.
- Cooley.* Cooley's Reports, Michigan Reports, vols. 2-12.
- Cooley Const. L.* Cooley on Constitutional Law.
- Cooley Const. Lim.* Cooley on Constitutional Limitations.
- Cooley Tax.* Cooley on Taxation.
- Cooley Torts.* Cooley on Torts.
- Coop.* Cooper's Reports, English Chancery temp. Eldon.
- Coop. (Tenn.).* Cooper's Reports, Tennessee.
- Coop. C. & P. R.* Cooper's Chancery and Practice Reporter, Upper Canada.
- Coop. C. C. or Coop. Cas.* Cooper's Chancery Cases temp. Cottenham.
- Coop. Eq. Pl.* Cooper's Equity Pleading.
- Coop. Inst. or Coop. Jus.* Cooper's Institutes of Justinian.
- Coop. Pr. Cas.* Cooper's Practice Cases, English Chancery.
- Coop. Med. Jur.* Cooper's Medical Jurisprudence.
- Coop. t. Brough.* Cooper's Reports temp. Brougham, English Chancery.
- Coop. t. Cotten.* Cooper's Cases, temp. Cottenham, English Chancery.
- Coop. t. Eld.* Cooper's Reports temp. Eldon, English Chancery.
- Cooper.* Cooper's Reports, English Chancery temp. Eldon.
- Coote Adm.* Coote's Admiralty Practice.
- Coote L. & T.* Coote's Landlord and Tenant.
- Coote Mort.* Coote on Mortgages.
- Coote Pro. Pr.* Coote's Probate Practice.
- Coote & Tr.* Coote & Tristram's Probate Court Practice.
- Cop. Cop.* Copinger on Copyright.
- Cop. Ind. Pr.* Copinger's Index to Precedents.
- Copp U. S. Min. Dec.* Copp's U. S. Mining Decisions.
- Copp U. S. Min. L.* Copp's U. S. Mineral Land Laws.
- Corb. & Dan.* Corbett & Daniel's Parliamentary Election Cases.
- Cord Mar. Wom.* Cord on Married Women.
- Corn. D.* Cornish on Purchase Deeds.
- Corn. Dig.* Cornwell's Digest.
- Corn. Uses.* Cornish on Uses.
- Corn. Rem.* Cornish on Remainders.
- Cornw. Tab.* Cornwall's Table of Precedents.
- Corp. Jur. Can.* Corpus Juris Canonici.
- Corp. Jur. Civ.* Corpus Juris Civilis.
- Corry.* Corryton's Reports, Calcutta.
- Corvin.* Corvinus's Elementa Juris Civilis.
- Cory. Cop.* Coryton on Copyright.
- Cory. Pat.* Coryton on Patents.
- Cot. Abr.* Cotton's Abridgment of the Records.
- Coul. & F. Waters.* Coulston & Forbes on Waters.
- County Cts. Ch.* County Courts Chronicles, London.
- Couper.* Couper's Judiciary Reports, Scotland.
- Cov. Ev.* Coventry on Evidence.
- Cow.* Cowen's Reports, New York.
- Cowell, Cow. Dic., or Cow. Int.* Cowell's Law Dictionary; Cowell's Interpreter.
- Cow. Inst.* Cowell's Institutes of Law.
- Cow. Tr.* Cowen's Treatise on the Jurisdiction of a Justice of the Peace, N. Y.
- Cowp.* Cowper's Reports, English King's Bench.
- Cox, Cox Ch., or Cox Eq.* Cox's Reports, English Chancery.
- Cox (Ark.).* Cox's Reports, Arkansas Reports, vols. 25-27.

- Cox Am. Tr. Cas.* Cox's American Trademark Cases.
- Cox Anc. L.* Cox on Ancient Lights.
- Cox C. C.* or *Cox Cr. Cas.* Cox's Criminal Cases, English.
- Cox Elect.* Cox on Ancient Parliamentary Elections.
- Cox Gov.* Cox's Institutions of the English Government.
- Cox J. S.* Cox on Joint Stock Companies.
- Cox J. S. Cas.* Cox's Joint Stock Cases.
- Cox M. C.* Cox's Magistrate Cases.
- Cox, McCl., & H.* Cox, McCrae and Hertslett's County Court Reports, English.
- Cox Tr. Cas.* Cox's American Trademark Cases.
- Cox & Atk.* Cox and Atkinson's Registration Appeals.
- Coxe.* Coxe's Reports, New Jersey Law Reports, vol. 1.
- Cr.* Craig's Jus Feudale, Scotland.
- Cr.* Cranch's Reports, Supreme Court U. S.
- Cr. C. C.* Cranch's Reports U. S. Circuit Court, Dist. of Columbia.
- Cr. Cas. Res.* Crown Cases Reserved, Law Reports.
- Cr. Pat. Dec.* Cranch's Patent Decisions.
- Crabb Conn.* Crabb's Conveyancing.
- Crabb Com. L.* Crabb on the Common Law.
- Crabb Hist.* Crabb's History of the English Law.
- Crabb R. P.* Crabb on the Law of Real Property.
- Crabbe.* Crabbe's Reports, District Court of U. S., Eastern District of Penna.
- Craig Pr.* Craig's Practice.
- Craig & P.* Craig and Phillip's English Chancery.
- Craig & St.* Craigie, Stewart and Patons, English House of Lords, Appeals from Scotland.
- Craik.* Craik's English Causes Célèbres.
- Cranch.* Cranch's Reports, U. S. Supreme Court.
- Cranch C. C.* Cranch's Reports, U. S. Circuit Ct. District of Columbia.
- Cranch Pat. Dec.* Cranch's Patent Decisions.
- Craw. & D.* Crawford and Dix's Reports, Irish Circuit Cases.
- Craw. & D. Abr. C.* Crawford and Dix's Abridged Cases, Ireland.
- Creasy Col. C.* Creasy's Colonial Constitutions.
- Creasy Int. L.* Creasy on International Law.
- Cressw. Ins. Cas.* Cresswell's Insolvency Cases, English.
- Crim. Con.* Criminal Conversation, Adultery.
- Crim. Law Mag.* Criminal Law Magazine, Jersey City, N. J.
- Crim. Rec.* Criminal Recorder, Philadelphia.
- Crim. Rec. (Eng.).* Criminal Recorder, London.
- Cripp Ch. Cas.* Cripp's Church Cases.
- Cripp Ecc. L.* Cripp's Ecclesiastical Law.
- Critch.* Critchfield's Reports, Ohio State Reports, vols. 5-21.
- Cro.* Croke's Reports, English King's Bench.
- Cro.* Sometimes refers to Keilway's Reports, published by Serj. Croke.
- Cro. Car.* Croke's Reports temp. Charles I. (3 Cro.).
- Cro. Eliz.* Croke's Reports temp. Elizabeth. (1 Cro.).
- Cro. Jac.* Croke's Reports temp. James I. (2 Cro.).
- Crook. Notes.* Crocker's Notes on Common Forms.
- Crook. Sher.* Crocker on Sheriffs.
- Crompt. Star* Chamber Cases by Crompton.
- Crompt. Cts.* Crompton on Courts.
- Crompt. Exch. R.* Crompton's Exchequer Reports, English.
- Crompt. J. C.* Crompton's Jurisdiction of Courts.
- Crompt. M. & R.* Crompton, Meeson and Roscoe's Reports, English Exchequer.
- Crompt. & J.* Crompton and Jervis's Reports, English Exchequer.
- Crompt. & M.* Crompton and Meeson's Reports, English Exchequer.
- Cross Lien.* Cross on Liens.
- Crown C. C.* Crown Circuit Companion.
- Cruise Dig.* or *Cruise R. P.* Cruise's Digest of the Law of Real Property.
- Cruise Titles.* Cruise on Titles of Honor.
- Cruise Uses.* Cruise on Uses.
- Crump Mar. Ins.* Crump on Marine Insurance.
- Ct. of App.* Court of Appeals.
- Ct. of Cl.* Court of Claims Reports, U. S.
- Ct. of Err.* Court of Error.
- Ct. of Gen. Sess.* Court of General Sessions.
- Ct. of Sess.* Court of Sessions.
- Ct. of Spec. Sess.* Court of Special Sessions.
- Cul.* Culpabilis, Guilty.
- Cull. B. L.* Cullen's Bankrupt Law.
- Cum. C. L.* Cumin's Civil Law.
- Cummins.* Cummin's Reports, Idaho Reports, vol. 1.
- Cun.* Cunningham's Reports, English King's Bench.
- Cun. Bills of Ex.* Cunningham on Bills of Exchange.
- Cun. Dict.* Cunningham's Dictionary.
- Cur. Adv. Vult.* Curia Advisare Vult.
- Cur. Phil.* Curia Philippica.
- Cur. Seacc.* Currus Scaccarii.
- Curs. Can.* Cursus Cancellariae.
- Curry.* Curry's Reports, Louisiana Reports, vols. 6-19.
- Curte.* Curteis's Ecclesiastical Reports, English.
- Curte. Ad. Dig.* Curtis's Admiralty Digest.
- Curte. C. C.* Curtis's Reports, U. S. Circuit Court, 1st Circuit.
- Curte. Com.* Curtis's Commentaries.
- Curte. Cond.* Curtis's Condensed Reports, U. S. Supreme Court.
- Curte. Cop.* Curtis on Copyrights.
- Curte. Dec.* Curtis's U. S. Courts Decisions, Condensed.
- Curte. Dig.* Curtis's Digest.
- Curte. Ecc.* Curtis's Ecclesiastical Reports, English.
- Curte. Eq. Prec.* Curtis's Equity Precedents.
- Curte. Jur.* Curtis on the Jurisdiction of the U. S. Courts.
- Curte. Mer. S.* Curtis on Merchant Seamen.
- Curte. Pat.* Curtis on Patents.
- Curw.* Curwen's Overruled Cases, Ohio.
- Cush.* Cushing's Reports, Massachusetts Reports, vols. 55-66.
- Curw. Abs. Tit.* Curwen on Abstracts of Title.
- Cush. El. Cas.* Cushing's Election Cases, Massachusetts.
- Cush. Parl. L.* Cushing's Parliamentary Law.
- Cush. Trust. Pr.* Cushing on Trustee Process, or Foreign Attachment.
- Cushm.* Cushman's Reports, Mississippi Reports, vols. 23-29.
- Cust. de Norm.* Custome de Normandie.
- Cutl.* Cutler on Naturalization.
- Cutl. Ins. L.* Cutler's Insolvent Laws of Massachusetts.
- D.* Decree. Décret. Dictum.
- D.* Digest, particularly the Digest of Justinian.
- D.* Dictionary, particularly Morrison's Dictionary of the Law of Scotland.
- D. B.* Domesday Book.

- D. C.* District Court. District of Columbia.
D. C. L. Doctor of the Civil Law.
D. Chip. D. Chipman's Reports, Vermont.
D. Dec. Dix's School Decisions, New York.
D. F. & J. De Gex, Fisher, and Jones's Reports, English Chancery.
D. J. & S. De Gex, Jones, and Smith's Reports, English Chancery.
D. M. & G. De Gex, Macnaghten, and Gordon's Reports, English Chancery.
D. N. S. Dowling's Reports, New Series, English Ball Court Reports.
D. P. Domus Procerum, House of Lords.
D. Pr. Darling's Practice, Court of Sessions.
D. P. B. Dampier Paper Book. See *A. P. B.*
D. P. C. Dowling's Practice Cases, Old Series.
D. S. Deputy Sheriff.
D. S. B. Debit sans breve.
D. & B. C. C. Dearsley and Bell's Crown Cases Reserved, English.
D. & C. Dow and Clark's English House of Lords.
D. & C. or D. & Chit. Deacon and Chitty's Bankruptcy Cases, English.
D. & E. Durnford and East, English King's Bench. Term Reports.
D. & J. De Gex and Jones's Reports, English Chancery.
D. & L. Dowling and Lowndes's English Bails Court Reports.
D. & M. Davison and Merival's Reports, English Queen's Bench.
D. & R. Dowling and Ryland's Reports, English King's Bench.
D. & R. M. C. Dowling and Ryland's Magistrate Cases.
D. & R. N. P. C. Dowling and Ryland's Nisi Prius Cases.
D. & S. Doctor and Student.
D. & W. Drury and Walsh's Reports, Irish Chancery.
D. & War. Drury and Warren's Reports, Irish Chancery.
Da. Dakota Reports.
Dag. Cr. L. Dagge's Criminal Law.
Dak. Dakota Reports.
Dal. Dalison's Reports, English Common Pleas (Benloe & Dalison).
Dale Ecc. Dale's Ecclesiastical Reports, English.
Dall. Dallas's Reports, U. S. Supreme Court and Pennsylvania Courts.
Dall. L. Dallas's Laws of Pennsylvania.
Dall. Sty. Dallas's Styles, Scotland.
Dalr. Dalrymple's Cases, Scotch Court of Sessions.
Dalr. Ent. Dalrymple on the Polity of Entails.
Dalr. F. L. or Dalr. Feud. Pr. Dalrymple on Feudal Property.
Dalr. Ten. Dalrymple on Tenures.
Dalt. Just. Dalton's Justice.
Dalt. Sh. Dalton's Sheriff.
Daly. Daly's Reports, New York Common Pleas.
D'An. D'Anver's Abridgment.
Dan. Daniel's Reports, English Exchequer Equity.
Dan. Ch. Pr. Daniel's Chancery Practice.
Dan. Neg. Inst. Daniel's Negotiable Instruments.
Dan. Ord. Danish Ordinance.
Dan. T. M. Daniels on Trademarks.
Dan. & Lld. Danson & Lloyd's Mercantile Cases.
Dana. Dana's Reports, Kentucky.
Dane Abr. Dane's Abridgment.
Danner. Danner's Reports, Alabama Reports, vol. 42.
Dans. & Lld. Danson & Lloyd's Mercantile Cases.
D'Anv. Abr. D'Anver's Abridgment.
Darb. & B. Darby & Bosanquet on Limitations.
Dart Vend. Dart on Vendors and Purchasers.
Dart. Col. Cas. Report of Dartmouth College Case.
Das. Dasent's Reports, Common Law Reports, vol. 3.
Dav. Davies's Reports, Irish King's Bench.
Daw. (U. S.). Davais's Reports, U. S. Dist. of Maine (2d Ware).
Daw. Con. Davidson's Conveyancing.
Dav. Jus. Davis's Justice of the Peace.
Daw. Pat. Cas. Davis's Patent Cases, English Courts.
Daw. Prec. Davidson's Precedents in Conveyancing.
Dav. & M. Davison & Merivale's Reports, English Queen's Bench.
Daveis. Davais's Reports, U. S. Dist. of Maine.
Davis Build. Davis's Law of Building.
Dav. Eng. Ch. Can. Davis's English Church Canon.
Davis Rep. Davis's Reports, Sandwich Island.
Daw. Arr. Dawe on the Law of Arrest in Civil Cases.
Daw. Land. Pr. Dawe's Epitome of the Law of Landed Property.
Daw. Real Pr. Dawe's Introduction to the Knowledge of the Law on Real Estates.
Day. Day's Reports, Connecticut Reports, vols. 1-21.
Day Pr. Day's Common Law Practice.
Dayt. Surr. Dayton on Surrogates.
De Bois. Halluc. De Boismond on Hallucinations.
De Burgh Mar. Int. L. De Burgh on Maritime International Law.
De Colyar's Quar. De Colyar's Law of Quarantine.
D'Ewes. D'Ewes's Journal and Parliamentary Collection.
De G. De Gex's Reports, English Bankruptcy.
De G. F. & J. De Gex, Fisher, & Jones's Reports, English Chancery.
De G. F. & J. B. App. De Gex, Fisher, & Jones's Bankruptcy Appeals, English.
De G. J. & S. De Gex, Jones, & Smith's Reports, English Chancery.
De G. J. & S. Bankr. De Gex, Jones, & Smith's Bankruptcy Appeals, English.
De G. M. & G. De Gex, Macnaghten, & Gordon's Reports, English Chancery.
De G. M. & G. Bankr. De Gex, Macnaghten, & Gordon's Bankruptcy Appeals, English.
De G. & J. De Gex & Jones's Reports, English Chancery.
De G. & J. Bankr. De Gex & Jones's Bankruptcy Appeals.
De G. & Sm. De Gex & Smale's Reports, English Chancery.
De H. M. L. De Hart on Military Law.
De L. Const. De Lolme on the English Constitution.
Dea. & Sw. Deane & Swabey's Reports, English Ecclesiastical Courts.
Deac. Deacon's Reports, English Bankruptcy.
Deac. Bankr. Deacon on Bankruptcy.
Deac. & Chit. Deacon & Chitty's English Bankruptcy Cases.
Deady. Deady's Reports, U. S. Dist. of Oregon.
Dean Med. Jur. Dean's Medical Jurisprudence.
Deane. Deane's Reports, Vermont Reports, vols. 24-26.
Deane Blockade. Deane on the Law of Blockade.
Deane Conv. Deane's Conveyancing.

- Deane Ecc.* Deane's Ecclesiastical Reports, English.
- Deane N.* Deane on Neutrals.
- Dears.* Dearsly's Crown Cases Reserved.
- Dears. & B.* Dearsly & Bell's Crown Cases Reserved.
- Deas & And.* Deas & Anderson's Scotch Court of Sessions Cases.
- Deb. Jud.* Debates on the Judiciary.
- Dec. Joint Com.* Decisions of the Joint Commission.
- Dec. i. H. & M.* Decisions in Admiralty *tempore* Hay & Marriot.
- Def.* Defendant.
- Degge.* Degge's Parson's Companion.
- Del.* Delaware Reports.
- Del. Ch.* Delaware Chancery Reports.
- Del. Cr. Cas.* Delaware Criminal Cases, by Houston.
- Del. El. Cas.* Delane's Election Decisions.
- Deleg.* Court of Delegates.
- Demol. C. N.* Demolombe's Code Napoléon.
- Den. or Denio.* Denio's Reports, New York.
- Den. C. C.* Denison's Crown Cases.
- Dess., Dess., or Dessaus.* Dessausure's Reports, South Carolina.
- Desty Com. & Nav.* Desty on Commerce and Navigation.
- Desty Fed. Const.* Desty on the Federal Constitution.
- Desty Fed. Proc.* Desty's Federal Procedure.
- Desty Sh. & Adm.* Desty on Shipping and Admiralty.
- Dev. or Dev. Ct. Cl.* Devereux's Reports, U. S. Court of Claims.
- Dev. Eq.* Devereux's Equity Reports, North Carolina Reports, vols. 16-17.
- Dev. L.* Devereux's Law Reports, North Carolina Reports, vols. 12-15.
- Dev. & B. Eq.* Devereux & Battle's Equity Reports, North Carolina Reports, vols. 21-22.
- Dev. & B. L.* Devereux & Battle's Law Reports, North Carolina Reports, vols. 18-20.
- Dewitt.* Dewitt's Reports, Ohio.
- Di.* Dyer's Reports, English King's Bench.
- Dial. de Scac.* Dialogus de Scaccario.
- Dibb F.* Dibb's Forms of Memorials.
- Dacey Dom.* Dacey on Domicil.
- Dacey Part.* Dacey on Parties to Actions.
- Dick.* Dickens's Reports, English Chancery.
- Dick. Ch. Proc.* Dickinson's Chancery Precedents.
- Dick. Jus.* Dickinson's Justice.
- Dick. Pr. or Dick. Qr. Sess.* Dickinson's Practice of the Quarter and other Sessions.
- Dickson Ev.* Dickson's Law of Evidence.
- Dict.* Dictionary.
- Dig.* Digest of Writs.
- Dig.* Digest, particularly the Digest of Justinian.
- Digby R. P.* Digby on Real Property.
- Dill.* Dillon's Report, U. S. 8th Circuit.
- Dill. Mun. Corp.* Dillon on Municipal Corporations.
- Dirl.* Dirleton's Decisions, Scotch Court of Sessions.
- Disn.* Disney's Reports, Superior Court of Cincinnati, Ohio.
- Disn. Gam.* Disney's Law of Gaming.
- Div.* Division, Courts of the High Court of Justice.
- Div. & Matr. C.* Divorce and Matrimonial Causes Court.
- Dixon Farm.* Dixon's Law of the Farm.
- Dixon Mar. L.* Dixon's Maritime Law.
- Dixon Subr.* Dixon on Subrogation.
- Doct. Pl.* Doctrini Placitanda.
- Doct. & Stud.* Doctor and Student.
- Dod.* Dodson's Reports, English Admiralty Courts.
- Dod. Eng. Law.* Doderidge's English Lawyer.
- Dom. or Domat.* Domat on Civil Law.
- Dom. Proc.* Domo Procerum, in the House of Lords.
- Domesd.* Domesday Book.
- Donn.* Donnelly's Reports, English Chancery.
- Doug.* Douglas's Reports, English King's Bench.
- Doug. (Mich.).* Douglass's Reports, Michigan.
- Doug. El. Cas.* Douglas's Election Cases, English.
- Dow or Dow P. C.* Dow's Cases, English House of Lords.
- Dow & C. or Dow N. S.* Dow & Clark's Cases, English House of Lords.
- Dow. St. L.* Dowell on Stamp Law.
- Dowl.* Dowling's English Bail Court Reports.
- Dowl. N. S.* Dowling's English Bail Court Reports, New Series.
- Dowl. Pr. C.* Dowling's Reports, English Practice Cases.
- Dowl. Pr. C. N. S.* Dowling's Reports, New Series, English Practice Cases.
- Dowl. & L.* Dowling & Lowndes English Bail Court and Practice Cases.
- Dowl. & Ry.* Dowling & Ryland's Reports, English King's Bench.
- Dowl. & Ry. M. C.* Dowling & Ryland's Magistrate Cases, English.
- Dowl. & Ry. N. P.* Dowling & Ryland's Nisi Prius Cases, English.
- Down. & Lud.* Downton & Luder's Election Cases, English.
- Drake Att.* Drake on Attachments.
- Draper.* Draper's Reports, Upper Canada King's Bench.
- Drew. or Drewry.* Drewry's Reports, English Chancery.
- Drew (Fla.).* Drew's Reports, Florida Reports, vol. 13.
- Drew. Inj.* Drewry on Injunctions.
- Drewry T. M.* Drewry on Trademarks.
- Drew. & S. or Drewry & Sm.* Drewry & Smale's Reports, English Chancery.
- Drink.* Drinkwater's Reports, English Common Pleas.
- Drone Copyr.* Drone on Copyrights.
- Dru. or Drury.* Drury's Reports, Irish Chancery.
- Dru. t. Nap.* Drury's Reports in the time of Napier, Irish Chancery.
- Dru. & Wal.* Drury & Walsh's Reports, Irish Chancery.
- Dru. & War.* Drury & Warren's Reports, Irish Chancery.
- Du C.* Du Cange's Glossarium.
- Duane Road L.* Duane on Road Laws.
- Dub.* Dubitatur. Dubitante.
- Dud. or Dud. Ga.* Dudley's Reports, Georgia.
- Dud. Ch. or Dud. Eq.* Dudley's Equity Reports, South Carolina.
- Dud. L. or Dud. S. C.* Dudley's Law Reports South Carolina.
- Duer.* Duer's Reports, New York Superior Court Reports, vols. 8-13.
- Duer Const.* Duer's Constitutional Jurisprudence.
- Duer Ins.* Duer on Insurance.
- Duer Mar. Ins.* Duer on Marine Insurance.
- Duer Repr.* Duer on Representation.
- Duff Conv.* Duff on Conveyancing, Scotland.
- Dugd. Orig.* Dugdale's Original Juridiciales.
- Dugd. Sum.* Dugdale's Summons.
- Duke or Duke Uses.* Duke on Charitable Uses.
- Duncan's Man.* Duncan's Manual of Entail Procedure.
- Dunl.* Dunlop, Bell, & Murray's Reports, Scotch Court of Sessions (second series, 1838-62).
- Dunl. Adm. Pr.* Dunlop's Admiralty Practice.

- Dunl. B. & M.* Dunlop, Bell, & Murray's Reports, Scotch Court of Sessions (Second Series, 1838-62).
- Dunl. F.* Dunlop's Forms.
- Dunl. L. Penn.* Dunlop's Laws of Pennsylvania.
- Dunl. L. U. S.* Dunlop's Laws of the United States.
- Dunl. Paley Ag.* Dunlop's Paley on Agency.
- Dunl. Par.* Dunlop on Parochial Law, Scotland.
- Dunl. Pr.* Dunlop's Practice.
- Duponc. Const.* Duponceau on the Constitution.
- Duponc. Jur.* Duponceau on Jurisdiction.
- Dur. Dr. Fr.* Duranton's Droit Français.
- Durf.* Dürfee's Reports, Rhode Island Reports, vol. 2.
- Durie.* Durie's Reports, Scotch Court of Sessions.
- Durnf. & E.* Durnford & East's Reports, English King's Bench; Term Reports.
- Dutch.* Dutcher's Reports, New Jersey Law Reports, vols. 25-29.
- Duv.* Duvall's Reports, Kentucky.
- Dwar.* Dwarrit on Statutes.
- Dwight.* Dwight's Charity Cases, English.
- Dyer.* Dyer's Reports, English King's Bench.
- E.* Easter Term. King Edward.
- E.* East's Reports, English King's Bench.
- E. B.* Ecclesiastical Compensations or "Bots."
- E. B. & E.* Ellis, Blackburn, and Ellis's Reports, English Queen's Bench.
- E. B. & S.* Best & Smith's Reports, sometimes so cited.
- E. C. L.* English Common Law Reports.
- E. D. S.* E. D. Smith's Reports, New York Common Pleas.
- E. E.* Equity Exchequer.
- E. E. R.* English Ecclesiastical Reports.
- E. I.* Ecclesiastical Institutes.
- E. I. C.* East India Company.
- E. L. & Eq.* English Law and Equity Reports.
- E. of Cov.* Earl of Coventry's Case.
- E. P. C.* East's Pleas of the Crown.
- E. R.* East's Reports, English King's Bench.
- E. T.* Easter Term.
- E. & A.* Spink's Ecclesiastical and Admiralty Reports.
- E. & A. R.* Error and Appeal Reports, Ontario.
- E. & B.* Ellis & Blackburn's Reports, English Queen's Bench.
- E. & E.* Ellis & Ellis's Reports, English Queen's Bench.
- Eag. T.* Eagle's Commutation of Tithes.
- Eag. & Yo.* Eagle & Young's Tithe Cases.
- Ea. or East.* East's Reports, English King's Bench.
- East P. C.* East's Pleas of the Crown.
- East's N. of C.* East's Notes of Cases, India.
- Ec. & Ad.* Spink's Ecclesiastical and Admiralty Reports.
- Ecl.* Ecclesiastical.
- Ecl. Lav.* Ecclesiastical Law.
- Ecl. Rep.* Ecclesiastical Reports.
- Ecl. Stat.* Ecclesiastical Statutes.
- Ed.* Edition. Edited. King Edward.
- Eden.* Eden's Reports, English Chancery.
- Eden B. L.* Eden's Bankrupt Law.
- Eden Inj.* Eden on Injunctions.
- Eden Pen. L.* Eden's Penal Law.
- Edg.* Edgar's Reports, Scotch Court of Sessions.
- Edg. C.* Canons enacted under King Edgar.
- Edict.* Edicts of Justinian.
- Edinb. L. J.* Edinburgh Law Journal.
- Edm. Exch. Pr.* Edmund's Exchequer Practice.
- Edm. Sel. Cas.* Edmonds's Select Cases, New York.
- Edw.* King Edward; thus 1 Edw. I. signifies the first year of the reign of King Edward I.
- Edw. (Mo.).* Edwards's Reports, Missouri.
- Edw. Abr.* Edwards's Abridgment of Cases in Privy Council.
- Edw. Adm.* Edwards's Admiralty Reports, English.
- Edw. Bail.* Edwards on Bailments.
- Edw. Bill.* Edwards on Bills.
- Edw. Ch.* Edwards's Chancery Reports, New York.
- Edw. Jur.* Edwards's Juryman's Guide.
- Edw. Lead. Dec.* Edwards's Leading Decisions in Admiralty; Edwards's Adm. Reports.
- Edw. Part.* Edwards on Parties to Bills in Chancery.
- Edw. Prize Cas.* Edwards's Prize Cases.
- Edw. Rec.* Edwards on Receivers in Chancery.
- Edw. St. Act.* Edwards on the Stamp Act.
- Er.* Lambert's Eirenarcha.
- El. B. & E.* Ellis, Blackburn, & Ellis's Reports, English Queen's Bench.
- El. B. & S.* Ellis, Best, & Smith's Reports, English Queen's Bench.
- El. & B.* Ellis & Blackburn's Reports, English Queen's Bench.
- El. & El.* Ellis & Ellis's Reports, English Queen's Bench.
- Elchie.* Elchie's Dictionary of Decisions, Scotch Court of Sessions.
- El. Deb.* Ellis's Debates.
- El. D. & Cr.* Ellis on Debtor and Creditor.
- El. Ins.* Ellis on Insurance.
- Elm. Dig.* Elmer's Digest.
- Elm. Dilap.* Elmes on Ecclesiastical and Civil Dilapidation.
- Elm. Lun.* Elmer on Lunacy.
- Elsyn. Parl.* Elsyng on Parliaments.
- El. Ten. of Kent.* Elton's Tenures of Kent.
- Elw. Med. Jur.* Elwell's Medical Jurisprudence.
- Emer. Ins.* Emerigon on Insurance.
- Emer. Mar. Loans.* Emerigon on Maritime Loans.
- Encycl.* Encyclopædia.
- Eng.* English's Reports, Arkansas Reports, vols. 6-13.
- Eng. Adm. R.* English Admiralty Reports.
- Eng. Ch. R.* English Chancery Reports.
- Eng. Com. L. R.* English Common Law Reports.
- Eng. Ecl. R.* English Ecclesiastical Reports.
- Eng. Exch. R.* English Exchequer Reports.
- Eng. Jud.* Cases in the Court of Sessions by English Judges.
- Eng. L. & Eq. R.* English Law and Equity Reports.
- Eng. Plead.* English Plead.
- Eng. R. & C. Cas.* English Railroad and Canal Cases.
- Eng. Rep.* English Reports, Notes by Moak.
- Eng. Sc. Ecc.* English and Scotch Ecclesiastical Reports.
- Entries, Antient.* Rastell's Entries.
- Entries, New Book of.* Sometimes refers to Rastell's Entries, and sometimes to Coke's Entries.
- Entries, Old Book of.* Liber Intraitionum.
- Eod.* Eodem.
- Eq. Ab. or Eq. Ca. Abr.* Equity Cases Abridged.
- Eq. Cas.* Equity Cases, vol. 9, Modern Reports.
- Eq. Draft.* Equity Draftsman (Hughes's).
- Eq. Rep.* Equity Reports, English Chancery and Appeals from Colonial Courts, printed by Spottiswoode.
- Erie U. U.* Erie on the Law of Trades-Union.
- Err. & App.* Error and Appeals Reports, Upper Canada.

- Ersk. Inst.* Erskine's Institutes of the Law of Scotland.
- Ersk. Prin.* Erskine's Principles of the Law of Scotland.
- Esp.* Espinasse's Reports, English Nisi Prius.
- Esp. Ev.* Espinasse on Evidence.
- Esp. N. P.* Espinasse's Nisi Prius Law.
- Esp. Pen. Ev.* Espinasse on Penal Evidence.
- Esq.* Esquire.
- Estee Pl.* Estee's Pleadings and Forms.
- Et al.* Et alii, and others.
- Euer.* Euer's Doctrina Placitandi.
- Eunom.* Wynne's Eunomus.
- Europ. Arb.* European Arbitration, Lord Westbury's Decisions.
- Ev.* Evidence.
- Evans.* Evans's Reports, Washington Territory.
- Evans Ag.* Evans on Agency.
- Evans Pl.* Evans on Pleading.
- Evans Pothier.* Evans's Pothier on Obligations.
- Evans R. L.* Evans's Road Laws of South Carolina.
- Evans Stat.* Evans's Collection of Statutes.
- Evans Tr.* Evans's Trial.
- Ewell's Evans Ag.* Ewell's Evans on Agency.
- Ewell Fixt.* Ewell on Fixtures.
- Ewell Lead. Cas.* Ewell's Leading Cases on Infaney, etc.
- Ewing Just.* Ewing's Justice.
- Ex. or Exr.* Executor.
- Ex. Com.* Extravagantes Communes.
- Ex rel.* Ex relatione.
- Exch.* Exchequer Reports, English (Welsby, Hurlstone, & Gordon's Reports).
- Exch. Cas.* Exchequer Cases, Scotland.
- Exch. Chamb.* Exchequer Chamber.
- Exch. Div.* Exchequer Division, English Law Reports.
- Exec.* Execution. Executor.
- Exp.* Ex parte. Expired.
- Expl.* Explained.
- Ext.* Extended.
- Eaton Mar. Dicael.* Exton's Maritime Dicaelologie.
- F.* Finalis.
- F.* Consuetudines Feudorum.
- F.* Fitzherbert's Abridgment.
- F. B. C.* Fonblanque's Bankruptcy Cases.
- F. C.* Faculty of Advocates Collection, Scotch Court of Sessions Cases.
- F. C. R.* Fearnie on Contingent Remainders.
- F. Dict.* Kames and Woodhouselee's Dictionary, Scotch Court of Sessions Cases.
- F. N. B.* Fitzherbert's Natura Brevium
- F. R.* Forum Romanorum.
- F. & F.* Foster and Finlason's Reports, English Nisi Prius.
- F. & Fitz.* Falconer and Fitzherbert's Election Cases.
- F. & S.* Fox and Smith's Reports, Irish King's Bench.
- F. & W. Pr.* Freud and Ward's Precedents.
- Fac. Col.* Faculty of Advocates Collection, Scotch Court of Sessions Cases.
- Fairf.* Fairfield's Reports, Maine Reports, vols. 10-12.
- Falc.* Falconer's Reports, Scotch Court of Sessions.
- Falc. & Fitz.* Falconer and Fitzherbert Election Cases.
- Fam. Cas. Cr. Ev.* Famous Cases of Criminal Evidence, by Phillips.
- Far.* Farresly's Reports, English King's Bench, Modern Reports, vol. 7.
- Farr Med. Jur.* Farr's Elements of Medical Jurisprudence.
- Farw. Pow.* Farwell on Powers.
- Faw. L. & T.* Fawcett's Landlord and Tenant.
- Fearne Rem.* Fearnie on Contingent Remainders.
- Fed.* The Federalist.
- Fed. Rep.* The Federal Reporter, St. Paul, Minn.
- Fell Guar.* Fell on Mercantile Guarantees.
- Fer. Fixt.* Amos and Féard on Fixtures.
- Ferg.* Fergusson's Reports, Scotch Consistorial Court.
- Ferg. M. & D.* Fergusson on Marriage and Divorce.
- Ferg. Proc.* Fergusson's Common Law Procedure Acts, Ireland.
- Fern. Dec.* Decretos del Fernando, Mexico.
- Ferr. Hist. Civ. L.* Ferriere's History of the Civil Law.
- Ferr. Cont. de Paris.* Ferriere's *Contume de Paris*.
- Ferr. Mod.* Ferriere's *Dictionnaire de Droit et de Pratique*.
- Fess. Pat.* Fessenden on Patents.
- Ff.* Pandects of Justinian.
- Fi. fa.* Fieri facias.
- Field Com. Law.* Field on the Common Law of England.
- Field Corp.* Field on Corporations.
- Field Ev.* Field's Law of Evidence, India.
- Field Int. Code.* Field's International Code
- Field Pen. L.* Field's Penal Law.
- Fil.* Filiger's Writs.
- Fin.* Finch's Reports, English Chancery.
- Fin. Law.* Finch's Law.
- Fin. Pr.* Finch's Precedents in Chancery.
- Fin. Ren.* Finlay on Renewals.
- Finl. Dig.* Finlay's Digest and Cases, Ireland.
- Finl. L. C.* Finlason's Leading Cases on Pleading, etc.
- Finl. Mart. L.* Finlason on Martial Law.
- Finl. Rep.* Finlason's Report of the Gurney Case.
- Finl. Ten.* Finlason on Land Tenures.
- Fish.* Fisher's Patent Cases.
- Fish. Cop.* Fisher on Copyrights.
- Fish. Dig.* Fisher's Digest, English Reports.
- Fish. Mort.* Fisher on Mortgages.
- Fish. Pat. Cas.* Fisher's Patent Cases, U. S. Circuit Courts.
- Fish. Pat. Rep.* Fisher's Patent Reports, U. S. Supreme and Circuit Courts.
- Fish. Pr. Cas.* Fisher's Prize Cases, U. S. Courts, Penna.
- Fitz. Abr.* Fitzherbert's Abridgment.
- Fitz-G.* Fitz-Gibbon's Reports, English.
- Fitz. N. B.* Fitzherbert's Natura Brevium.
- Fl.* Fleta, *Commentarius Juris Anglicani*
- Fla.* Florida Reports.
- Flan. & K.* Flanagan and Kelly's Reports, Irish Rolls Court.
- Fland. Ch. J.* Flanders's Lives of the Chief Justices.
- Fland. Const.* Flanders on the Constitution.
- Fland. Fire Ins.* Flanders on Fire Insurance.
- Fland. Mar. L.* Flanders on Maritime Law.
- Fland. Ship.* Flanders on Shipping.
- Flech. Trust.* Fletcher on Estates of Trustees.
- Flipp.* Flippin's Reports, U. S. Circ. Cts.
- Floy. Proc. Pr.* Floyer's Proctor's Practice.
- Foelix Dr. Int.* Foelix's Droit International Privé.
- Fogg.* Fogg's Reports, New Hampshire Reports, vols. 32-37.
- Fol.* Folio.
- Fol.* Foley's Poor Laws and Decisions, English.
- Fol. Dict.* Kames and Woodhouselee's Dictionary, Scotch Court of Sessions Cases.
- Foley Poor L.* Foley's Poor Laws and Decisions, English.
- Folk.* Folkard on Loans and Pledges.

- Folw. Laws.* Folwell's Laws of the United States.
- Fonb. Eq.* Fonblanque's Equity.
- Fonb. Med. Jur.* Fonblanque on Medical Jurisprudence.
- Fonb. N. R.* Fonblanque's New Reports, English Bankruptcy.
- Foot. Int. Jur.* Foote on Private International Jurisprudence.
- For.* Forrest's Reports, English Exchequer.
- For. Pla.* Brown's Formulæ Placitandi.
- Foran C. C. P. Q.* Foran's Code of Civil Procedure, Quebec.
- Forb.* Forbes's Decisions, Scotch Court of Sessions.
- Forb. Bills.* Forbes on Bills of Exchange.
- Forb. Inst.* Forbes's Institutes of the Law of Scotland.
- Form.* Forman's Reports, Illinois.
- Form. Pla.* Brown's Formulæ Placitandi.
- Forr.* Forrester's Reports, English Chancery Cases temp. Talbot.
- Forrest.* Forrest's Reports, English Exchequer.
- For. Cas. & Op.* Forsyth's Cases and Opinions on Constitutional Law.
- Fors. Comp.* Forsyth's Composition with Creditors.
- Fors. His.* Forsyth's History of Trial by Jury.
- Fors. Inf.* Forsyth on Infants.
- Fors. Trial by Jury.* Forsyth's History of Trial by Jury.
- Fortes.* Fortescue's Reports, English Courts.
- Fortes. de Laud.* Fortesque de Laudibus Legum Anglia.
- Forum.* The Forum, by David Paul Brown.
- Forum L. R.* Forum Law Review, Baltimore and London.
- Fost.* Foster's Reports and Crown Law, English.
- Fost. (N. H.).* Foster's Reports, New Hampshire Reports, vols. 19 and 21-31.
- Fost. Elem. or Fost. Jur.* Foster's Elements of Jurisprudence.
- Fost. S. F.* Foster on the Writ of *Scire Facias*.
- Fost. & Fin.* Foster and Finlason's Reports, English Nisi Prius Cases.
- Foulk. Cel. Sep.* Foulke's Cellular Separation.
- Fount.* Fountainhall's Reports, Scotch Court of Sessions.
- Fowl. L. Cas.* Fowler's Leading Cases on Collieries.
- Fox & Sm.* Fox & Smith's Reports, Irish King's Bench.
- Fr.* Fragment, or Excerpt, or Laws in Titles of Pandects.
- Fr. Ord.* French Ordinances.
- Fra. Max.* Francis's Maxims of Equity.
- Fran. Char.* Francis's Law of Charities.
- Franc.* Francillon's Judgments, County Courts.
- France.* France's Reports, Colorado Reports, vols. 3-4.
- Fras. Dom. Rel.* Fraser on Personal and Domestic Relations.
- Fras. El. Cas.* Fraser's Election Cases.
- Fras. Mast. & Serv.* Fraser on Master and Servant.
- Fraz. or Fraz. Adm.* Frazer's Admiralty Cases, Scotland.
- Fred. Code.* Frederician Code, Prussia.
- Freem. Ch.* Freeman's Reports, English Chancery. (2d Freeman.)
- Freem. Coten. & Par.* Freeman on Cotenancy and Partition.
- Freem. Ex.* Freeman on Executions.
- Freem. Judg.* Freeman on Judgments.
- Freem. K. B.* Freeman's Reports, English King's Bench. (1st Freeman.)
- Freem. (Ill.).* Freeman's Reports, Illinois Reports, vols. 31-96.
- Freem. (Miss.).* Freeman's Chancery Reports, Mississippi.
- Freem. Pr.* Freeman's Practice, Illinois.
- French.* French's Reports, New Hampshire Reports, vol. 6.
- Fry Cont.* Fry on the Specific Performance of Contracts.
- Fult.* Fulton's Reports, Bengal.
- Furl. L. & T.* Furlong on the Law of Landlord and Tenants, Ireland.
- G.* King George; thus 1 G. I. signifies the first year of the reign of King George I.
- G.* Gale's Reports, English Exchequer.
- G. B.* Great Britain.
- G. Gr.* George Greene's Reports, Iowa.
- G. M. Dudd.* G. M. Dudley's Reports.
- G. S.* General Statutes.
- G. & D.* Gale & Davison's Reports, English Exchequer.
- G. & J.* Glyn & Jameson's Reports, English Courts.
- Ga.* Georgia Reports.
- Ga. Dec.* Georgia Decisions, Superior Courts.
- Gab. Cr. L.* Gabbett's Criminal Law.
- Gait.* Gait Institutionum Commentarii IV.
- Gaius.* Gaius's Institutes.
- Galb.* Galbraith's Reports, Florida Reports; vols. 9-11.
- Galb. & M.* Galbraith & Meek's Reports, Florida Reports, vol. 12.
- Gale.* Gale's Reports, English Exchequer.
- Gale E.* Gale on Easements.
- Gale Stat.* Gale's Statutes of Illinois.
- Gale & Dav.* Gale and Davison's English King's Bench.
- Gale & W.* Gale and Whalley on Easements.
- Gall. or Gallis.* Gallison's Reports, Circuit Ct. U. S. 1st Circuit.
- Gall. Cr. Cas.* Gallick's Reports of French Criminal Cases.
- Gall. Hist. Col.* Gallick's Historical Collection of French.
- Gall. Int. L.* Gallaudet on International Law, Criminal Cases.
- Gard. N. Y. Rept.* Gardener's New York Reporter, New York.
- Garde Ev.* Garde on Evidence.
- Garden.* Gardenhire's Reports, Missouri Reports, vols. 14-15.
- Gardn. P. Cas.* Report of the Gardner Peerage Case.
- Gaz. B.* Gazette of Bankruptcy, London.
- Gaz. & Bank. Ct. Rep.* Gazette and Bankrupt Court Reporter, New York.
- Gazz. Bank.* Gazzam on Bankruptcy.
- Gen. Arb.* Geneva Arbitration.
- Gen. Ord.* General Orders.
- Gen. Ord. in Ch.* General Order of the High Court of Chancery.
- Gen. Sess.* General Sessions.
- Gen. Term.* General Term.
- Geo.* King George. See G.
- Geo.* Georgia Reports.
- Geo. Dec.* Georgia Decisions.
- Geo. Lib.* George on Libel.
- George.* George's Reports, Mississippi.
- Ger. Real Est.* Gerard on Titles to Real Estate.
- Giauque El. L.* Giauque's Election Laws.
- Gib. Cod.* Gibson's Codex Juris Ecclesiastici Anglicani.
- Gibb. D. & N.* Gibbons on Dilapidations and Nuisances.
- Gibb. Fixt.* Gibbons on Fixtures.
- Gibb. Lim.* Gibbons on Limitation.
- Gibbs.* Gibbs's Reports, Michigan.
- Gibs.* Gibbons's Decisions, Scotland.
- Gide Not.* Gide Notation et Transport des Créances.

- Giff.* Giffard's Reports, English Chancery.
Giff. & H. Giffard and Hemming's Reports, English Chancery.
Gilb. Gilbert's Reports, English Chancery.
Gilb. Bank. Gilbert on Banking.
Gilb. Cas. Gilbert's Cases in Law and Equity, English Chancery and Exchequer.
Gilb. Ch. Gilbert's Reports, English Chancery.
Gilb. Ch. Pr. Gilbert's Chancery Practice.
Gilb. C. P. Gilbert's Common Pleas.
Gilb. Debt. Gilbert's Treatise on Debt.
Gilb. Dev. Gilbert on Devices.
Gilb. Dist. Gilbert on Distress.
Gilb. Ex. Gilbert on Executions.
Gilb. Exch. Gilbert's Exchequer.
Gilb. Ev. Gilbert's Evidence.
Gilb. For. Rom. Gilbert's Forum Romanum.
Gilb. K. B. Gilbert's King's Bench.
Gilb. Lex Præ. Gilbert's Lex Prætoria.
Gilb. Railw. L. Gilbert's Railway Law.
Gilb. Rep. Gilbert's Reports, English Chancery.
Gilb. Rem. Gilbert on Remainders.
Gilb. Rents. Gilbert on Rents.
Gilb. Repl. Gilbert on Replevin.
Gilb. Ten. Gilbert on Tenures.
Gilb. U. Gilbert on Uses and Trusts.
Gill. Gill's Reports, Maryland.
Gill Pol. Rep. Gill's Police Court Reports, Boston, Mass.
Gill & J. Gill & Johnson's Reports, Maryland.
Gilm. Gilmour's Reports, Scotch Court of Sessions.
Gilm. (Ill.). Gilman's Reports, Illinois Reports, vols. 6-10.
Gilm. (Va.). Gilmer's Reports, Virginia.
Gilm. & Fal. Gilmour and Falconer's Reports, Scotch Court of Sessions.
Gilp. Gilpin's Reports, U. S. Dist. Court, East. Dist. of Penna.
Gir. W. C. Girard Will Case.
Gl. Glossa; a gloss or interpretation.
Glanv. Glanville de Legibus.
Glanv. El. Ca. Glanville's Election Cases.
Glasc. Glascock's Reports, Irish.
Glassf. Glassford on Evidence.
Glenn. Glenn's Reports, Louisiana Annual Reports, vols. 16-18.
Glen. High. L. Glen's Highway Laws.
Glov. Corp. or *Glov. Mun. Corp.* Glover on Municipal Corporations.
Glyn & Jam. Glyn and Jameson's Bankruptcy Cases, English.
Godb. Godbolt's Reports, English King's Bench.
Godd. Eas. Goddard on Easements.
Godef. Trust. Godefroi's Law of Trustees.
Godef. & S. Godefroi and Shortt on Law of Railway Companies.
Godolph. Abr. Godolphin's Abridgment of Ecclesiastical Law.
Godolph. Adm. Jur. Godolphin on Admiralty Jurisdiction.
Godolph. Leg. Godolphin's Orphan's Legacy.
Godolph. Rep. Can. Godolphin's Repertorium Canonicum.
Gods. Pat. Godson on Patents.
Gog. Or. Goguet's Origin of Laws.
Goiraud. Goiraud's French Code of Commerce.
Golds. Godesborough's Reports, English King's Bench.
Golds. Eq. Goldsmith's Equity Practice.
Gond. R. L. Gondsmit's Roman Law.
Gord. Dec. Gordon on the Law of Decedents in Pennsylvania.
Gord. Dig. Gordon's Digest of the Laws of the U. S.
Gord. Tr. Gordon's Treason Trials.
Gosf. Gosford's Reports, Scotch Court of Sessions.
Goud. R. L. Gondsmit's Roman Law.
Gould. Pl. Gould on Pleading.
Gouldsb. Gouldsborough's Reports, English King's Bench.
Gow or Gow N. P. Gow's Nisi Prius Cases, English.
Gow Part. Gow on Partnership.
Gr. Cas. Grant's Cases, Pennsylvania.
Gra. Fixt. Grady on Fixtures.
Grah. Jur. Graham on Jurisdiction.
Grah. Pr. Graham's Practice.
Grah. & Wat. N. T. Graham & Waterman on New Trials.
Grain Hip. Grain's Ley Hipotecaria, of Spain.
Grand Cout. Grand Coutumier de Normandie.
Grang. Granger's Reports, Ohio.
Grant. Grant's Chancery Reports, Ontario.
Grant Bank. Grant on Banking.
Grant Cas. or Grant (Pa.). Grant's Cases, Pennsylvania Supreme Court.
Grant Ch. Pr. Grant's Chancery Practice.
Grant Corp. Grant on Corporations.
Grant U. C. Grant's Upper Canada Chancery Reports.
Gratt. Grattan's Reports, Virginia.
Gray. Gray's Reports, Massachusetts Reports, vols. 67-82.
Grayd. F. Graydon's Forms.
Greav. R. C. or Greav. Russ. Greave's Edition of Russell on Crimes.
Green (R. I.). Green's Reports, Rhode Island Reports, vol. 11.
Green B. L. Green's Bankrupt Law.
Green's Brice's U. V. Green's Edition of Brice's Ultra Vires.
Green C. E. C. E. Green's Reports, New Jersey Equity Reports, vols. 16-27.
Green Ch. or Green Eq. Green's Chancery Reports, New Jersey Equity Reports, vols. 2-4.
Green Cr. L. Rep. Green's Criminal Law Reports, U. S.
Green L. or Green N. J. Green's Law Reports, New Jersey Law Reports, vols. 13-15.
Green Sc. Cr. Cas. Green's Criminal Cases, Scotland.
Green & H. Greenwood & Horwood's Conveyancing.
Greene. Greene's Reports, Iowa.
Greenh. Sh. Greenhow's Shipping Law Manual.
Greenl. Greenleaf's Reports, Maine Reports, vols. 1-9.
Greenl. Cr. Greenleaf's Cruise on Real Property.
Greenl. Ev. Greenleaf on Evidence.
Greenl. Ov. Cas. Greenleaf's Over-ruled Cases.
Greenw. Courts. Greenwood on Courts.
Greenw. & M. Greenwood & Martin's Police Guide.
Grein. Dig. Greiner's Digest.
Grein. Pr. Greiner's Practice.
Gresl. Eq. Ev. Gresley's Equity Evidence.
Grey Deb. Grey's Debates in Parliament.
Griff. Cr. Griffith on Arrangements with Creditors.
Griff. Ct. Mar. Griffith on Courts-Martial.
Griff. Inst. Griffith's Institutes of Equity.
Griff. L. R. Griffith's Law Register, Burlington, N. J.
Griff. Pr. Griffith's Practice.
Grimké. Ex. Grimké on Executors and Administrators.
Grimké Just. Grimké's Justice.
Grimké P. L. Grimké's Public Laws of South Carolina.
Grisw. Griswold's Reports, Ohio Reports, vols. 14-19.

Grisw. Und. T. B. Griswold's Fire Underwriters' Text Book.
Grot., Gro. B. et P., or Gro. de J. B. Grotius *de Jure Belli et Pacis*.
Grot. Dr. de la Guer. Grotius *Le Droit de la Guerre*.
Gude Pr. Gude's Practice on the Crown Side of the King's Bench.
Guern. Eq. Jur. Guernsey's Key to Equity Jurisprudence.
Gundry. Gundry Manuscripts in Lincoln's Inn Library.
Guthrie. Guthrie's Sheriff Court Cases, Scotland.
Guy Med. Jur. Guy on Medical Jurisprudence.
Guy Répér. Guy's *Répertoire de la Jurisprudence*.
Gw. Sh. Gwynne on Sheriffs.
Gwill. Gwillen's Tithes Cases, English Courts.
H. Hilary Term.
H. King Henry; thus 1 H. I. signifies the first year of the reign of King Henry I.
h. a. Hoc anno.
H. Bl. Henry Blackstone's Reports, English.
H. C. House of Commons.
H. Ct. R. N. W. P. High Court Reports, North West Province, India.
H. H. C. L. Hale's History of the Common Law.
H. H. P. C. Hale's History, Pleas of the Crown.
H. L. House of Lords.
H. L. C. House of Lords Cases. (Clark's.)
H. L. F. Hall's Legal Forms.
H. L. Rep. Clark and Finnely's House of Lords Reports, New Series.
H. P. C. Hale's Pleas of the Crown.
H. T. Hilary Term.
h. t. Hoc titulum, or hoc titulo.
h. v. Hoc verbum, or his verbis.
H. & B. Hudson and Brooke's Reports, Irish King's Bench.
H. & C. Hurlstone and Coltman's Reports, English Exchequer.
H. & D. Lalor's Supplement to Hill and Denio's Reports, New York.
H. & Disb. Pr. Holmes and Disbrow's Practice.
H. & G. Harris and Gill's Reports, Maryland.
H. & H. Horn and Hurlstone's Reports, English Exchequer.
H. & J. Harris & Johnson's Reports, Maryland.
H. & J. Forms. Hayes and Jarman's Forms of Wills.
H. & J. Ir. Hayes and Jones's Reports, Irish Exchequer.
H. & M. Hening and Mumford's Reports, Virginia.
H. & M. Ch. Hemming and Miller's Chancery Reports, English.
H. & McH. Harris and McHenry's Reports, Maryland.
H. & N. Hurlstone and Norman's Reports, English Exchequer.
H. & P. Hopwood and Philbrick's Election Cases.
H. & R. Harrison and Rutherford's Reports, English Common Pleas.
H. & T. Hall and Twell's Reports, English Chancery.
H. & W. Harrison and Wollaston's Reports, English King's Bench.
H. & W. Hurlstone and Walmsley's Reports, English Exchequer.
Ha. & Tw. Hall and Twell's Reports, English Chancery.
Hab. Corp. Habeas Corpus.
Hab. fa. poss. Habeas facias possessionem.

Hab. fa. seis. Habere facias seisinam.
Hadd. Haddington's Reports, Scotch Court of Sessions.
Hadd. Hadley's Reports, New Hampshire Reports, vols. 45-48.
Hadd. Int. R. L. Hadley's Introduction to the Roman Law.
Hagan. Hagan's Reports, West Virginia Reports, vols. 1-5.
Hagg. Adm. Haggard's Admiralty Reports, English.
Hagg. Con. Haggard's Consistory Reports, English.
Hagg. Ecc. Haggard's Ecclesiastical Reports, English.
Hailes. Hailes's Decisions, Scotch Court of Sessions.
Hailes Ann. Hailes's Annals of Scotland.
Halc. Cas. Halcomb's Mining Cases, London, 1826.
Hale. Hale's Reports, California Reports, vols. 33-37.
Hale C. L. Hale's History of the Common Law.
Hale Jur. H. L. Hale's Jurisdiction of the House of Lords.
Hale P. C. Hale's Pleas of the Crown.
Hale Prec. Hale's Precedents in Criminal Cases.
Hale Sum. Hale's Summary of Pleas.
Halk. Dig. Halkerton's Digest of the Law of Scotland, concerning Marriages.
Hall. Hall's Reports, New York City Superior Court.
Hall Adm. Hall's Admiralty Practice.
Hall Am. L. J. American Law Journal (Hall's).
Hall Sea Sh. Hall on the Sea Shore.
Hall Jour. Journal of Jurisprudence (Hall's).
Hall L. J. American Law Journal (Hall's).
Hall. Law of W. Halleek's International Law and Law of War.
Hall Neut. Hall on Neutrals.
Hall & Tw. Hall and Twell's Reports, English Chancery.
Hallam. Hallam's Middle Ages.
Hallam's Const. Hist. Hallam's Constitutional History of England.
Hallett. Hallett's Reports, Colorado Reports, vols. 1-2.
Hallif. C. L. Halifax's Civil Law.
Halst. or Halst. L. Halsted's Law Reports, New Jersey Reports, vols. 6-12.
Halst. Ch. or Halst. Eq. Halsted's Chancery Reports, New Jersey Equity Reports, vols. 5-8.
Halst. Ev. Halsted's Digest of the Law of Evidence.
Ham. Hamilton's Reports, Scotch Court of Sessions.
Ham. A. & O. Hamerton, Allen, & Otter's Magistrate Cases, English Courts.
Hammond. (Ga.). Hammond's Reports, Georgia Reports, vols. 36-44.
Hammond. (Ohio). Hammond's Reports, Ohio Reports, vols. 1-9.
Hammond. F. Ins. Hammond on Fire Insurance.
Hammond. Insan. Hammond on Insanity.
Hammond. N. P. Hammond's Nisi Prius.
Hammond. Part. Hammond on Parties to Action.
Hammond. Pl. Hammond's Principles of Pleading.
Hammond & J. Hammond's and Jackson's Reports, Georgia Reports, vol. 45.
Hannay. Hannay's Reports, New Brunswick.
Hansard's Ent. Hansard's Entries.
Hanover. Hanover on the Law of Horses.
Hand. Hand's Reports, New York Court of Appeals Reports, vols. 40-45.
Hand Ch. Pr. Hand's Chancery Practice.
Hand Cr. Pr. Hand's Crown Practice.

- Hand Fines.* Hand on Fines and Recoveries.
Hand Pat. Hand on Patents.
Handy. Handy's Reports, Cincinnati, Ohio.
Hammer. Hammer's Lord Kenyon's Notes, English King's Bench.
Hann. Hannay's Reports, New Brunswick.
Hans. Hansard's Entries.
Hans. Parl. Deb. Hansard's Parliamentary Debates.
Hanson. Hanson on Probate Acts, etc.
Har. & G. Harris and Gill's Reports, Maryland.
Har. & J. Harris and Johnson's Reports, Maryland.
Har. & McH. Harris and McHenry's Reports, Maryland.
Har. & W. Harrison and Wallaston's Reports, English King's Bench.
Harc. Harecase's Decisions, Scotch Court of Sessions.
Hard. Hardres's Reports, English Exchequer.
Hard. Stat. L. Hardcastle's Construction and Effect of Statutory Law.
Hard. (Ky.) or Hardin. Hardin's Reports, Kentucky.
Hardw. Cases temp. Hardwicke, English King's Bench.
Hare. Hare's Reports, English Chancery.
Hare Dis. or Hare Ev. Hare on Discovery of Evidence.
Hare & W. Hare & Wallace's American Leading Cases.
Harg. Hargrove's Reports, North Carolina Reports, vols. 68-75.
Harg. C. B. M. Hargrave's Collection, British Museum.
Harg. Co. Litt. Hargrave's Notes to Coke on Littleton.
Harg. Coll. Hargrave's Judicial Arguments and Collection.
Harg. Exer. Hargrave's Jurisconsult Exercitations.
Harg. Jud. Arg. Hargrave's Judicial Arguments.
Harg. Law Tr. Hargrave's Law Tracts.
Harg. St. Tr. Hargrave's State Trials.
Harg. Th. Hargrave on the Thellusson Act.
Harl. C. B. M. Harleian Collection, British Museum.
Harmon. Harmon's Reports, California Reports, vols. 13-15.
Harper. Harper's Reports, South Carolina.
Harper. Con. Cas. Harper's Conspiracy Cases, Maryland.
Harper. Eq. Harper's Equity Reports, South Carolina.
Harrison. Harrison's Reports, New Jersey Law Reports, vols. 16-19.
Harr. (Del.). Harrington's Reports, Delaware.
Harr. (Ind.). Harrison's Reports, Indiana Reports, vols. 15-17 and 23-29.
Harr. (Mich.). Harrington's Chancery Reports, Michigan.
Harr. (N. J.). Harrison's Reports, New Jersey Law Reports, vols. 16-19.
Harr. (Pa.). Harris's Reports, Pennsylvania State Reports, vols. 13-24.
Harr. Ch. Harrison's Chancery Reports, Michigan.
Harr. Ch. Pr. Harrison's Chancery Practice.
Harr. Con. La. R. Harrison's Condensed Louisiana Reports.
Harr. Cr. L. Harris's Criminal Law.
Harr. Dig. Harrison's Digest of English Common Law Reports.
Harr. Ent. Harris's Book of Entries.
Harr. Proc. Harrison's Common Law Procedure Act.
Harr. & G. Harris and Gill's Reports, Maryland.
- Harr. & J.* Harris and Johnson's Reports, Maryland.
Harr. & McH. Harris and McHenry's Reports, Maryland.
Harr. & R. Harrison and Rutherford's Reports, English Common Pleas.
Harr. & S. Harris and Simrall's Reports, Mississippi Reports, vols. 49-52.
Harr. & W. Harrison and Wallaston's Reports, English King's Bench.
Harris. Harris's Reports, Pennsylvania State Reports, vols. 13-24.
Hart. Hartley's Reports, Texas Reports, vols. 4-21.
Hart. Dig. Hartley's Digest of Laws, Texas.
Hasl. Med. Jur. Haslam's Medical Jurisprudence.
Hast. Hasting's Reports, Maine Reports, vols. 69-70.
Hast. Tr. Sp. Speeches in the trial of Warren Hastings, Ed. by Bond.
Hats. Pr. Hatsell's Parliamentary Precedents.
Hav. Ch. Rep. Haviland's Chancery Reports, Prince Edward Island.
Haw. Am. Cr. Rep. Hawley's American Criminal Reports.
Haw. W. Cas. Hawe's Will Case.
Hawk. Hawkin's Reports, Louisiana Annual Reports, vols. 19-24.
Hawk. Abr. or Hawk. Co. Litt. Hawkins's Coke upon Littleton.
Hawk. P. C. Hawkins's Pleas of the Crown.
Hawk. W. Hawkins on Construction of Wills.
Hawks. Hawks's Reports, North Carolina Reports, vols. 8-11.
Hawley Cr. R. Hawley's American Criminal Reports.
Hay. Haye's Reports, Irish Exchequer.
Hay Acc. Cas. Hay's Cases of Accident or Negligence.
Hay. Conv. Hayes's Conveyancer.
Hay (Calc.). Hay's Reports, Calcutta.
Hay. Est. or Hay. U. D. & F. Hayes on the Law of Uses, Devises, and Trusts, with reference to the Creation and Conveyance of Estates.
Hay. Exch. Hayes's Reports, Irish Exchequer.
Hay. Lim. Hayes on Limitations.
Hay. & J. or Hayes & Jones. Hayes and Jones's Reports, Irish Exchequer.
Hay & M. Hay and Marriott's Admiralty Decisions.
Hay. & J. Wills. Hayes and Jarman on Wills.
Hayes. Hayes's Reports, Irish Exchequer.
Hayes Conv. Hayes on Conveyancing.
Hayes R. P. Hayes on Real Property.
Hayw. L. R. Hayward's Law Register, Boston.
Hayw. (N. C.). Haywood's Reports, North Carolina.
Hayw. (Tenn.). Haywood's Reports, Tennessee.
Haz. Pa. Reg. Hazard's Pennsylvania Register.
Haz. U. S. Reg. Hazard's United States Register.
Haz. & Roch. M. War. Hazlitt and Roche on Maritime Warfare.
Head. Head's Reports, Tennessee.
Heard Civ. Pl. Heard's Civil Pleading.
Heard Cr. L. Heard's Criminal Law, Massachusetts.
Heard Cr. Pl. Heard's Criminal Pleading.
Heard L. & Sl. Heard on Libel and Slander.
Heath. Heath's Reports, Maine Reports, vols. 36-40.
Heath Max. Heath's Maxims.
Heck. Cas. Hecker's Leading Cases on Warranty.
Hein. Heineccius Opera.
Heisk. Heiskell's Reports, Tennessee.
Helm. Helm's Reports, Nevada Reports, vols. 5-9.

- Hem. & Mil.* Hemming and Miller's Reports, English Chancery.
- Hemp.* Hempstead's Reports, U. S. 9th Circuit and Dist. of Ark.
- Hen.* King Henry; thus 1 Hen. I. signifies the first year of the reign of King Henry I.
- Hen. Bl.* Henry Blackstone's Reports, English.
- Hen. For. Law.* Henry on Foreign Law.
- Hen. Man. Cas.* Henry's Manumission Cases.
- Hen. Va. J. P.* Hening's Virginia Justice of the Peace.
- Hen. & M.* Hening and Mumford's Reports, Virginia.
- Hepb.* Hepburn's Reports, California Reports, vols. 2-4.
- Her.* Herne's Pleader.
- Her. Char. U.* Herne's Law of Charitable Uses.
- Her. Estop.* Herman on Estoppel.
- Her. Ex.* Herman on Executions.
- Her. Hist. or Her. Jur.* Heron's History of Jurisprudence.
- Het.* Hetley's Reports, English Common Pleas.
- Heyle Imp. D.* Heyle's United States Import Duties.
- Heyno. El.* Heywood on Elections.
- High. Bail.* Highmore on Bail.
- High Ct. R.* High Court Reports, N. W. Provinces, India.
- High Inj.* High on Injunction.
- High Leg. Rem.* High on Legal Remedies.
- High. Lun.* Highmore on Lunacy.
- High. Mortm.* Highmore on Mortmain.
- High Rec.* High on Receivers.
- Hil. T.* Hilary Term.
- Hild. Ins.* Hildyard on Insurance.
- Hildy M. Ins.* Hiddy on Marine Insurance.
- Hill (N. Y.).* Hill's Reports, New York.
- Hill (S. C.).* Hill's Reports, South Carolina.
- Hill. Abr.* Hilliard's Abridgment of the Law of Real Property.
- Hill. Am. Jur.* Hilliard's American Jurisprudence.
- Hill. Am. Law.* Hilliard's American Law.
- Hill. B. & Ins.* Hilliard on Bankruptcy and Insolvency.
- Hill Ch. or Hill Eq.* Hill's Chancery Reports, South Carolina.
- Hill Ch. Pr.* Hill's Chancery Practice.
- Hill. Contr.* Hilliard on Contracts.
- Hill. Fixt.* Hill on Fixtures.
- Hill. Inj.* Hilliard on Injunction.
- Hill. Mort.* Hilliard on Mortgages.
- Hill. N. T.* Hilliard on New Trials.
- Hill. R. P.* Hilliard on Real Property.
- Hill. Sales.* Hilliard on Sales.
- Hill. Tax.* Hilliard on the Law of Taxation.
- Hill. Tort.* Hilliard on Torts.
- Hill Tr.* Hill on Trustees.
- Hill. Vend.* Hilliard on Vendors.
- Hill & Den.* Lalor's Supplement to Hill and Denio's Reports, New York.
- Hillyer.* Hillyer's Reports, California Reports, vols. 20-22.
- Hilt.* Hilton's Reports, Common Pleas, New York.
- Hind. Pat.* Hindemarch on Patents.
- Hind. Pr.* Hind's Practice.
- Hirsh Juries.* Hirsh on Juries.
- Ho. Lord Cas.* House of Lords Cases (Clark's).
- Hob.* Hobart's Reports, English Common Pleas and Chancery.
- Hod.* Hodge's Reports, English Common Pleas.
- Hod. Railw.* Hodge on the Law of Railways.
- Hoff.* Hoffman's Reports, U. S. Dist. of California.
- Hoff. (N. Y.) or Hoff. Ch.* Hoffman's Chancery Reports, New York.
- Hoff. Ch. Pr.* Hoffman's Chancery Practice.
- Hoff. Ecc. L.* Hoffman's Ecclesiastical Law.
- Hoff. Land Ca.* Hoffman's Land Cases, California.
- Hoff. Leading Ca.* Hoffman's Leading Cases, Commercial Law.
- Hoff. Leg. St.* Hoffman's Legal Studies.
- Hoff. Mas. Ch.* Hoffman's Master in Chancery.
- Hoff. Outl.* Hoffman's Outlines of Legal Studies.
- Hoff. Publ. Pap.* Hoffman's Public Papers, New York.
- Hoff. Ref.* Hoffman on Referees.
- Hog.* Hogan's Reports, Irish Rolls Court.
- Hog. St. Tr.* Hogan's Pennsylvania State Trials.
- Hogue.* Hogue's Reports, Florida Reports, vols. 3-4.
- Hol. Inst.* Holland's Institutes of Justinian.
- Holc. D. & Cr.* Holcombe's Law of Debtor and Creditor.
- Holc. Dig.* Holcombe's Digest.
- Holc. Eq. Jur.* Holcombe's Equity Jurisprudence.
- Holc. Lead. Cas.* Holcombe's Leading Cases on Commercial Law.
- Holm.* Holmes' Reports, U. S. Circuit Court, 1st Circuit.
- Holt.* Holt's Reports, English King's Bench.
- Holt. Adm.* Holt's Admiralty Cases. (Rule of the Road at Sea.)
- Holt. L. Dic.* Holthouse's Law Dictionary.
- Holt Eq. Rep.* Holt's Equity Reports, English.
- Holt Lib.* Holt on the Law of Libel.
- Holt N. P.* Holt's Nisi Prius Reports, English Courts.
- Holt Nav.* Holt on Navigation.
- Holt Rule of R.* Holt's Rule of the Road at Sea.
- Holt Sh.* Holt on Shipping.
- Holthouse Dic.* Holthouse's Law Dictionary.
- Home.* Clerk Home's Reports, Scotch Court of Sessions.
- Hood Ex.* Hood on Executors.
- Hook.* Hooker's Reports, Connecticut Reports, vols. 25-45.
- Hope.* Hope's Reports, Scotch Court of Sessions.
- Hope Maj. Pr.* Hope's Major Practicks, Scotland.
- Hope Min. Pr.* Hope's Minor Practicks, Scotland.
- Hopk.* Hopkinson's Works.
- Hopk. Adm. Dec.* Hopkinson's Admiralty Decisions, Pennsylvania.
- Hopk. Av.* Hopkins on Average.
- Hopk. Ch.* Hopkins's Chancery Reports, New York.
- Hopk. Mar. Ins.* Hopkins on Marine Insurance.
- Hopw. & C.* Hopwood and Coltman's English Registration Appeal Cases.
- Hopw. & P.* Hopwood and Philbrick's English Registration Appeal Cases.
- Horn & H.* Horn and Hurlstone's Reports, English Exchequer.
- Horne Dipl.* Horne on Diplomacy.
- Horne Mir.* Horne's Mirror of Justices.
- Horr. & T. Cas.* Horrigan and Thompson's Cases of Self Defence.
- Houard Ang.-Sax. Laws.* Houard's Anglo-Saxon Laws and Ancient Laws of the French.
- Houard Dict.* Houard's Dictionary of the Customs of Normandy.
- Houck Riv.* Houck on Rivers.
- Hough Am. Con.* Hough on the American Constitution.
- Hough C. M.* Hough on Court Martial.

- Hous. Pr.* Housman's Precedents in Conveyancing.
- House of L.* House of Lords, House of Lords Cases.
- Houst.* Houston's Reports, Delaware.
- Houst. Cr. Cas.* Houston's Criminal Cases, Delaware.
- Houst. St. in Tr.* Houston on Stoppage in Transitu.
- Hov. Fr.* Hovenden on Frauds.
- Hov. Sup. Ves.* Hovenden's Supplement to Vesey, Junior's, Reports.
- How.* Howard's Reports, U. S. Supreme Court.
- How. (Miss.).* Howard's Reports, Mississippi Reports, vols. 2-8.
- How. App. Cas. or How. (N. Y.).* Howard's Reports, N. Y. Court of Appeals.
- How. Pat.* Howson on Patents.
- How. Pt.* Howard's Pleading.
- How. Pop. Cas.* Howard's Popery Cases, Ireland.
- How. Pr. R.* Howard's Practice Reports, New York.
- How. St. Tr.* Howell's State Trials.
- How. U. S.* Howard's Reports, U. S. Supreme Court.
- Howe Pr.* Howe's Practice, Massachusetts.
- Hub. Ev.* Hubback on Evidence.
- Hub. Suc.* Hubback on Succession.
- Hubb.* Hubbard's Reports, Maine Reports, vols. 45-51.
- Hud. & B.* Hudson and Brooke's Reports, Irish King's Bench.
- Hugh.* Hughes's Reports, U. S. Circuit Court, 4th Circuit.
- Hugh. (Ky.).* Hughes's Reports, Kentucky.
- Hugh. Abr.* Hughes's Abridgment.
- Hugh. Con.* Hughes's Precedents in Conveyancing.
- Hugh. Ent.* Hughes's Book of Entries.
- Hugh. Ins.* Hughes on Insurance.
- Hugh. Wills.* Hughes on Wills.
- Hugh. Writs.* Hughes on Writs.
- Hull. Costs.* Hullock on the Law of Costs.
- Hult. Conv.* Hulton on Conviction.
- Hume.* Hume's Decisions, Scotch Court of Sessions.
- Hume Com. or Hume Cr. L.* Hume's Commentaries on Criminal Law of Scotland.
- Humph.* Humphrey's Reports, Tennessee.
- Humph. R. P.* Humphrey on Real Property.
- Hun.* Hun's Reports, New York Supreme Ct. Reports, vols. 8-31.
- Hunt or Hunt Ann. Cas.* Hunt's Collection of Annuity Cases.
- Hunt Bound.* Hunt's Law of Boundaries and Fences.
- Hunt Eq.* Hunt's Suit in Equity.
- Hunt Fr. Conv.* Hunt on Fraudulent Conveyances.
- Hunt. L. & T.* Hunter on Landlord and Tenant.
- Hunt Mer. Mag.* Hunt's Merchants' Magazine, New York.
- Hunt. Rom. L.* Hunter on Roman Law.
- Hunt S. in Eq.* Hunt's Suit in Equity.
- Hunt. Tr.* Huntingdon's Trial.
- Hunter L. & T.* Hunter on Landlord and Tenant.
- Hurd F. & B.* Hurd on Freedom and Bondage.
- Hurd Hab. Corp.* Hurd on Habeas Corpus.
- Hurd Pers. Lib.* Hurd on Personal Liberty.
- Hurlst. B.* Hurlstone on Bonds.
- Hurlst. & C.* Hurlstone and Coltman's Reports, English Exchequer.
- Hurlst. & G.* Hurlstone and Gordon's Reports, English Exchequer; Exchequer Reports, vols. 10-11.
- Hurlst. & N.* Hurlstone and Norman's Reports, English Exchequer.
- Hurlst. & W.* Hurlstone and Walmsley's Reports, English Exchequer.
- Husb. Mar. Wom.* Husband on Married Women.
- Hust. L. T.* Huston on Land Titles in Pennsylvania.
- Hut.* Hutton's Reports, English Common Pleas.
- Hutch. Car.* Hutchinson on Carriers.
- Hux. Judg.* Huxley's Judgments.
- Hyde.* Hyde's Reports, India.
- I.* The Institutes of Justinian.
- I. A.* Irish Act.
- I. C. L. R.* Irish Common Law Reports.
- I. C. R.* Irish Chancery Reports.
- I. E. R.* Irish Equity Reports.
- I. J. C.* Irvine's Justiciary Cases, Scotch Justiciary Court.
- I. Jur.* Irish Jurist, Dublin.
- I. Jur. N. S.* Irish Jurist, New Series, Dublin.
- I. L. T.* Irish Law Times, Dublin.
- I. O. U.* I owe you.
- I. P.* Institutes of Polity.
- I. R. C. L.* Irish Reports, Common Law Series.
- I. R. Eq.* Irish Reports, Equity Series.
- I. R. R.* Internal Revenue Record, New York.
- Ib. or Id. Ibidem or Idem,* the same.
- Ida.* Idaho Reports.
- Il Cons. del Mar.* Il Consolato del Mare. See Consolato del Mare, in the body of this work.
- Ill.* Illinois Reports.
- Imp. C. P.* Impey's Practice, Common Pleas.
- Imp. K. B.* Impey's Practice, King's Bench.
- Imp. Pl.* Impey's Pleadler's Guide.
- Imp. Pr. C. P.* Impey's Practice in Common Pleas.
- Imp. Pr. K. B.* Impey's Practice in King's Bench.
- Imp. Sh.* Impey's Office of Sheriff.
- In Dom. Proc.* In the House of Lords.
- In f.* In fine. At the end of the title, law, or paragraph quoted.
- In pr.* In principio. At the beginning of a law, before the first paragraph.
- In sum.* In summa. In the summary.
- Ind.* Indiana Reports.
- Ind. App.* Law Reports, Indian Appeals.
- Ind. Jur.* India Jurist, Calcutta.
- Ind. L. Reg.* Indiana Legal Register, Lafayette.
- Ind. Super.* Indiana Superior Court Reports (Wilson's).
- Inder. Com. L.* Indermaur's Principles of the Common Law.
- Inder. L. C. Com. L.* Indermaur's Leading Common Law Cases.
- Inder. L. C. Eq.* Indermaur's Leading Equity Cases.
- Inf.* Infra. Beneath or below.
- Ing. Comp.* Ingram on Compensation.
- Ing. Dig.* Ingersoll's Digest of the Laws of the U. S.
- Ing. Hab. Corp.* Ingersoll on Habeas Corpus.
- Ing. Roc.* Ingersoll's Roccus.
- Ingr. Insolv.* Ingraham on Insolvency.
- Inj.* Injunction.
- Ins.* Insurance. Insolvency.
- Ins. L. J.* Insurance Law Journal, New York and St. Louis.
- Ins. Mon.* Insurance Monitor, New York.
- Ins. Rep.* Insurance Reporter, Philadelphia.
- Inst.* Institutes; when preceded by a number denoting a volume (thus 1 Inst.), the reference is to Coke's Institutes; when followed by several numbers (thus Inst. 4, 2, 1) the reference is to the Institutes of Justinian.
- Inst. Cler.* Instructor Clericalis.

- Inst. Jur. Angl.* Institutiones Juris Anglicani, by Doctor Cowell.
- Int. Rev. Rec.* Internal Revenue Record, New York.
- Iowa.* Iowa Reports.
- Ir.* Irish. Ireland.
- Ir. C. L.* or *Ir. L. N. S.* Irish Common Law Reports.
- Ir. Ch.* or *Ir. Ch. N. S.* Irish Chancery Reports.
- Ir. Cir.* Irish Circuit Reports.
- Ir. Eccl.* Irish Ecclesiastical Reports, by Milward.
- Ir. Eq.* Irish Equity Reports.
- Ir. Jur.* Irish Jurist, Dublin.
- Ir. L.* Irish Law Reports.
- Ir. L. T.* Irish Law Times, Dublin.
- Ir. L. T. Rep.* Irish Law Times Reports.
- Ir. Law & Ch.* Irish Law and Equity Reports, New Series.
- Ir. Law & Eq.* Irish Law and Equity Reports, Old Series.
- Ir. Law Rec.* Irish Law Recorder.
- Ir. Law Rep. N. S.* Irish Common Law Reports.
- Ir. R. C. L.* Irish Reports, Common Law Series.
- Ir. R. Eq.* Irish Reports, Equity Series.
- Ir. Rep. Reg. App.* Irish Reports, Registration Appeals.
- Ir. Rep. Reg. & L.* Irish Reports, Registry, and Land Cases.
- Ir. St. Tr.* Irish State Trials (Ridgeway's).
- Ir. T. R.* Irish Term Reports (Ridgeway, Lapp, and Schoole's).
- Ired.* Iredell's Law Reports, North Carolina.
- Ired. Dig.* Iredell's Digest.
- Ired. Eq.* Iredell's Equity Reports, North Carolina.
- Irv.* Irvine's Justiciary Cases, Scotch Justiciary Court.
- Iv. Ersk.* Ivory's Notes on Erskine's Institutes.
- J.* Justice.
- J.* Institutes of Justinian.
- J. C.* Juris Consultus.
- J. C. P.* Justice of the Common Pleas.
- J. et J.* De Justitia et Jure.
- J. Glo.* Junctæ Glossa.
- JJ.* Justices.
- J. J. Mar.* J. J. Marshall's Reports, Kentucky.
- J. K. B.* Justice of the King's Bench.
- J. Kel.* J. Kelyng's Reports, English King's Bench.
- J. P.* Justice of the Peace.
- J. Q. B.* Justice of the Queen's Bench.
- J. U. B.* Justice of the Upper Bench.
- J. & H.* Johnson and Hemming's Reports, English Chancery.
- J. & La T.* Jones and La Touche's Reports, Irish Chancery.
- J. & W.* Jacob and Walker's Reports, English Chancery.
- Jac.* King James; thus 1 Jac. 1. signifies the first year of the reign of King James I.
- Jac.* Jacob's Reports, English Chancery.
- Jac. Int.* Jacob's Introduction to the Common, Civil, and Canon Law.
- Jac. Dict. or Jac. L. D.* Jacob's Law Dictionary.
- Jac. Fish. Dig.* Jacob's Fisher's Digest.
- Jac. L. G.* Jacob's Law Grammar.
- Jac. Lex Mer.* Jacob's Lex Mercatoria, or the Merchant's Companion.
- Jac. Sea Law.* Jacobsen's Law of the Sea.
- Jac. & W.* Jacob and Walker's Reports, English Chancery.
- Jack.* Jackson's Reports, Georgia Reports, vols. 46-60.
- Jack. Pl.* Jackson on Pleading.
- James.* James's Reports, Nova Scotia.
- James Bk. L.* James's Bankrupt Law.
- James C. M.* James on Courts Martial.
- James Const. Con.* James on Constitutional Conventions.
- James F. S.* James's Guide to Friendly Societies.
- James J. S.* James's Law of Joint Stock Companies.
- James Op.* James's Opinions, Charges, etc., London, 1820.
- James Sel. Cas.* James's Select Cases, Nova Scotia.
- Jan. Angl.* Jani Anglorum.
- Jar. Ch. Pr.* Jarman's Chancery Practice.
- Jar. Prec.* Bythewood and Jarman's Precedents.
- Jar. Pow. Dev.* Powell on Devices, with Notes by Jarman.
- Jar. Wills.* Jarman on Wills.
- Jard. Tr.* Jardine's Criminal Trials.
- Jarm. Ch. Pr.* Jarman's Chancery Practice.
- Jarm. Pow. Dev.* Powell on Devices, with Notes by Jarman.
- Jarm. Wills.* Jarman on Wills.
- Jarm. & By. Conv.* Jarman and Bythewood's Conveyancing.
- Jetus.* Jurisconsultus.
- Jebb Cr. Cas. or Jebb Ir. Cr. Cas.* Jebb's Irish Crown Cases.
- Jebb & B.* Jebb and Bourke's Reports, Irish Queen's Bench.
- Jebb & S.* Jebb and Symes's Reports, Irish Queen's Bench.
- Jeff.* Jefferson's Reports, Virginia.
- Jeff. Man.* Jefferson's Parliamentary Manual.
- Jenk.* Jenkin's Reports, English Exchequer.
- Jenn.* Jennison's Reports, Michigan Reports, vols. 14-18.
- Jer. Car.* Jeremy on Carriers.
- Jer. Eq. Jur.* Jeremy's Equity Jurisdiction.
- Jerv. Cor.* Jervis on Coroners.
- Jick. Est.* Jickling on Equitable Estates.
- Jo. Juris.* Journal of Jurisprudence.
- Jo. & La T.* Jones and La Touche's Reports, Irish Chancery.
- Johns.* Johnson's Reports, New York Supreme Court.
- Johns. Bills.* Johnson on Bills of Exchange, etc.
- Johns. Cas.* Johnson's Cases, New York Supreme Court.
- Johns. Ch.* Johnson's Chancery Reports, New York.
- Johns. Ch.* Johnson's Reports, English Chancery.
- Johns. Ch. (Md.) or Johns. Dec.* Johnson's Maryland Chancery Decisions.
- Johns. Ch. (N. Y.) or Johns. Ch. Cas.* Johnson's Chancery Reports, New York.
- Johns. Civ. L. Sp.* Johnson's Civil Law of Spain.
- Johns. Ct. Err.* Johnson's Reports, N. Y. Court of Errors.
- Johns. Eccl. Law.* Johnson's Ecclesiastical Law.
- Johns. Tr.* Johnson's Impeachment Trial.
- Johns. U. S.* Johnson's Reports, U. S. 4th Circuit, Chase's Decisions.
- Johns. V. Ch. Cas.* Johnson's Cases in Vice-Chancellor Wood's Court.
- Johns. & H.* Johnson and Hemming's Reports, English Chancery.
- Johnst. Inst.* Johnston's Institutes of the Law of Spain.
- Johnst. N. Z.* Johnston's Reports, New Zealand.
- 1 *Jon.* Wm. Jones's Reports, English King's Bench and Common Pleas.
- 2 *Jon.* Thos. Jones's Reports, English King's Bench and Common Pleas.

- Jon. (Ala.)*. Jones's Reports, Alabama Reports, N. S., vols. 43-49, and 52-57, and 61.
- Jon. (Mo.)*. Jones's Reports, Missouri Reports, vols. 22-30.
- Jon. (N. C.)*. Jones's Law Reports, North Carolina.
- Jon. (N. C.) Eq.* Jones's Equity Reports, North Carolina.
- Jon. (Pa.)*. Jones's Reports, Pennsylvania State Reports, vols. 11-12.
- Jon. (U. C.)*. Jones's Reports, Upper Canada.
- Jon. B. & W.* Jones, Barclay, and Whittelsey's Reports, Missouri Reports, vol. 31.
- Jon. Bailm.* Jones's Law of Bailments.
- Jon. Eq.* Jones's Equity Reports, North Carolina.
- Jon. Exch.* Jones's Reports, Irish Exchequer.
- Jon. Inst.* Jones's Institutes of Hindoo Law.
- Jon. Intr.* Jones's Introduction to Legal Science.
- Jon. Ir. Exch.* Jones's Reports, Irish Exchequer.
- Jon. L. O. T.* Jones on Land Office Titles.
- Jon. Lib.* Jones's Law of Libels.
- Jon. Mort.* Jones on Mortgages.
- Jon. Railw. Sec.* Jones on Railway Securities.
- Jon. Salv.* Jones on Salvage.
- Jon. T.* Thos. Jones's Reports, English King's Bench and Common Pleas. Sometimes cited as 2 Jones.
- Jon. W.* Wm. Jones's Reports, English King's Bench and Common Pleas. Sometimes cited as 1 Jones.
- Jon. & C.* Jones and Cary's Reports, Irish Exchequer.
- Jon. & La T.* Jones and La Touche's Reports, Irish Chancery.
- Jon. & S.* Jones and Spencer's Reports, New York City Superior Court Reports, vols. 33-46.
- Jones.* See *Jon.*
- Jord. P. J.* Jordan's Parliamentary Journal.
- Jour. Jur.* Journal of Jurisprudence (Hall's), Philadelphia.
- Jour. Jur. (Sc.)*. Journal of Jurisprudence and Scottish Law Magazine, Edinburgh.
- Jour. Law.* Journal of Law, Philadelphia.
- Joy Chal.* Joy on Challenge to Jurors.
- Jour. Trib. Com.* Journal des Tribunaux de Commerce, Paris.
- Joy Ev. Acc.* Joy on the Evidence of Accomplices.
- Joy Leg. Ed.* Joy on Legal Education.
- Joyce Inj.* Joyce on Injunction.
- Joynes Lim.* Joynes on Limitation.
- Jud.* Judgments. Judicial. Judicature.
- Jud.* Book of Judgments, English Courts.
- Jud. Chr.* Judicial Chronicle.
- Jud. Com. of P. C.* Judicial Committee of the Privy Council.
- Jud. Repos.* Judicial Repository.
- Jur.* The Jurist Reports in all the Courts, London.
- Jur. N. S.* The Jurist, New Series, Reports in all the Courts, London.
- Jur. Eccl.* Jura Ecclesiastica.
- Jur. Mar.* Molloy's De Jure Maritimo.
- Jur. N. Y.* The Jurist or Law and Equity Reporter, New York.
- Jur. Ros.* Roscoe's Jurist, London.
- Jur. Sc.* Scottish Jurist, Court of Sessions, Scotland.
- Jur. Soc. P.* Juridical Society Papers, London.
- Jur. St.* Juridical Styles, Scotland.
- Jur. Wash. D. C.* The Jurist, Washington, D. C.
- Jurispr.* The Jurisprudent, Boston.
- Jus Nav. Rhod.* Jus Navale Rhodiorum.
- Just. Inst.* Justinian's Institutes.
- Just. Itin.* Justice Itinerant or of Assize.
- VOL. I.—4**
- Just. P.* The Justice of the Peace, London.
- Just. S. L.* Justice's Sea Law.
- Just. T.* Justice of Trailbaston.
- K. B.* King's Bench.
- K. C.* King's Council.
- K. C. R.* Reports *tempore* King, English Chancery.
- K. & G. R. C.* Keane and Grant's Registration Appeal Cases.
- K. & J.* Kay and Johnson's Reports, English Chancery.
- K. & O.* Knapp and Ombler's Election Cases, English.
- Kam. or Kam. Dec.* Kames's Decisions, Scotch Court of Sessions.
- Kam. Eluc.* Kames's Elucidations of the Law of Scotland.
- Kam. Eq.* Kames's Principles of Equity.
- Kam. Ess.* Kames's Essays.
- Kam. Hist. L. Tr. or Kam. L. T.* Kames's Historical Law Tracts.
- Kam. Rem. Dec.* Kames's Remarkable Decisions, Scotch Court of Sessions.
- Kam. Sel. Dec.* Kames's Select Decisions, Scotch Court of Sessions.
- Kam. Tr.* Kames's Historical Law Tracts.
- Kan. or Kans.* Kansas Reports.
- Kat. Pr. Law.* Katchenovsky's Prize Law.
- Kay.* Kay's Reports, English Chancery
- Kay Sh.* Kay on Shipping.
- Kay & J.* Kay and Johnson's Reports, English Chancery.
- Keane & G. R. C.* Keane and Grant's Registration Appeal Cases.
- Keat. Fam. Sett.* Keating on Family Settlements.
- Kebl. or Keble.* Keble's Reports, English King's Bench.
- Kebl. J.* Keble's Justice of the Peace.
- Kebl. Stat.* Keble's Statutes, of England.
- Keen.* Keen's Reports, English Rolls Court.
- Keil. or Keilw.* Keilway's Reports, English King's Bench.
- Kel. An.* Kelly on Life Annuities.
- Kel. Ga.* Kelly's Reports, Georgia Reports, vols. 1-3.
- Kel. J. or 1 Kel. J.* Kelyng's Reports, English Crown Cases.
- Kel. W. or 2 Kel. W.* Kelynge's Reports, English Chancery and King's Bench.
- Kel. U.* Kelly on Usury.
- Kel. & C.* Kelly and Cobb's Reports, Georgia Reports, vols. 4-5.
- Kelth. Norm. L. D.* Kelham's Norman French Law Dictionary.
- Kelly.* Kelly's Reports, Georgia Reports, vols. 1-3.
- Kelly & C.* Kelly and Cobb's Reports, Georgia Reports, vols. 4-5.
- Ken. Jur.* Kennedy on Juries.
- Kenn. Gloss.* Kennett's Glossary.
- Kenn. Imp.* Kennett on Impropriations.
- Kent or Kent Com.* Kent's Commentaries on American Law.
- Keny.* Kenyon's Notes, English King's Bench.
- Kern.* Kernan's Reports, New York Ct. of Appeals, vols. 11-14.
- Kerr.* Kerr's Reports, Indiana Reports, vols. 18-22.
- Kerr (N. B.)*. Kerr's Reports, New Brunswick.
- Kerr Act.* Kerr on Actions at Law.
- Kerr Anc. L.* Kerr on Ancient Lights.
- Kerr Disc.* Kerr on Discovery.
- Kerr Extra.* Kerr on Inter-state Extradition.
- Kerr Fr.* Kerr on Fraud and Mistake.
- Kerr Inj.* Kerr on Injunction.
- Kerr Rec.* Kerr on Receivers.
- Keyes.* Keyes's Reports, New York Ct. of Appeals. Sometimes cited as vols. 39-41 N. Y.

- Keyes Chat.* Keyes on Chattels.
Keyes F. I. C. Keyes on Future Interest in Chattels.
Keyes F. I. L. Keyes on Future Interest in Lands.
Keyes Rem. Keyes on Remainders.
Keys. St. Ex. Keyser on Stock Exchange.
Kilk. Kilkerran's Reports, Scotch Court of Sessions.
King. King's Reports, Louisiana Annual Reports, vols. 5-6.
Kirby. Kirby's Reports, Connecticut.
Kirt. Sur. Pr. Kirtland on Practice in Surrogate's Courts.
Kit. Kitchen on Courts.
Kn. or Knapp. Knapp's Reports, English Privy Council.
Kn. A. C. or Knapp A. C. Knapp's Appeal Cases.
Kn. & M. or Knapp & M. Knapp and Moore's Reports, English Privy Council.
Kn. & O. or Knapp & Omb. Knapp and Ombler's Election Cases.
Knowles. Knowles's Reports, Rhode Island Reports, vol. 3.
Ky. Kentucky Reports.
Ky. Dec. Kentucky Decisions, Sneed's Reports.
Kyd Aw. Kyd on the Law of Awards.
Kyd Bills. Kyd on Bills of Exchange.
Kyd Corp. Kyd on Corporations.
L. Law. Loi. Liber.
L. Alam. Law of the Alamanni.
L. Baiwar. or L. Bior. Law of the Bavarians.
L. C. Lord Chancellor.
L. C. B. Lord Chief Baron.
L. C. C. C. Lower Canada Civil Code.
L. C. C. P. Lower Canada Civil Procedure.
L. C. Eq. White and Tudor's Leading Cases in Equity.
L. C. G. Local Court's Gazette, Toronto.
L. C. J. Lord Chief Justice.
L. C. J. or L. C. Jur. Lower Canada Jurist, Montreal.
L. C. L. J. Lower Canada Law Journal, Montreal.
L. C. R. Lower Canada Reports.
L. E. Law of Evidence (Gilbert's).
L. F. Leges Forestarum.
L. Fr. Law French.
L. H. C. Lord High Chancellor.
L. I. Legal Intelligencer, Philadelphia.
L. I. L. Lincoln's Inn Library.
L. J. House of Lords Journal.
L. J. Lord Justices Court.
L. J. The Law Journal, London.
L. J. (M. & W.). Morgan and Williams's Law Journal, London.
L. J. (Sm.). Smith's Law Journal, London.
L. J. or L. J. O. S. Law Journal Reports, in all the Courts.
L. J. Adm. Law Journal Reports, New Series, English Admiralty.
L. J. Bankr. Law Journal Reports, New Series, English Bankruptcy.
L. J. C. or L. J. C. P. Law Journal Reports, New Series, English Common Pleas.
L. J. Chan. Law Journal Reports, New Series, English Chancery.
L. J. Ecc. Law Journal Reports, New Series, English Ecclesiastical Court.
L. J. Exch. Law Journal Reports, New Series, English Exchequer.
L. J. H. L. Law Journal Reports, New Series, English House of Lords.
L. J. M. C. or L. J. Mag. Cas. Law Journal Reports, New Series, English Magistrates Cases.
L. J. Mat. Cas. Law Journal Reports, New Series, Divorce and Matrimonial Causes.
L. J. N. S. Law Journal, New Series, London.
- L. J. Notes Cases.* Law Journal Notes of Cases.
L. J. P. or L. J. P. C. Law Journal Reports, New Series, English Privy Council.
L. J. P. D. & A. Law Journal Reports, New Series, English Probate, Divorce, and Admiralty.
L. J. Prob. Law Journal Reports, New Series, English Probate.
L. J. Rep. Law Journal Reports.
L. J. Rep. N. S. Law Journal Reports, New Series.
L. J. Q. B. Law Journal Reports, New Series, English Queen's Bench.
LL. Laws.
L. L. Law Latin. Local Law.
L. L. Law Library, Philadelphia (reprint of English treatises).
L. L. N. S. Law Library, New Series
L. Lat. Law Latin.
L. M. & P. Lowndes, Maxwell, and Pollock's Reports, English Bail Court.
L. Mag. Law Magazine, London.
L. Mag. & L. R. Law Magazine and Law Review, London.
L. Mag. & R. Law Magazine and Review, London.
L. N. Liber Niger, or the Black Book.
L. O. Legal Observer, London.
L. P. B. Lawrence's Paper Book. See A. P. B.
L. P. C. Lord of the Privy Council.
L. R. Law Reporter, Law Reports, Law Review.
L. R. Law Recorder, Reports in all the Irish Courts.
L. R. A. & E. Law Reports, English Admiralty and Ecclesiastical.
L. R. App. Cas. Law Reports, English Appeal Cases.
L. R. C. C. R. Law Reports, English Crown Cases Reserved.
L. R. C. P. Law Reports, English Common Pleas.
L. R. C. P. D. Law Reports, Common Pleas Division, English Supreme Court.
L. R. Ch. Law Reports, English Chancery Appeal Cases.
L. R. Ch. D. Law Reports, Chancery Division, English Supreme Court.
L. R. E. & Ir. App. Law Reports, English and Irish Appeal Cases.
L. R. Eq. Law Reports, English Equity.
L. R. Ex. or L. R. Exch. Law Reports, English Exchequer.
L. R. Ex. D. Law Reports, Exchequer Division, English Supreme Court.
L. R. H. L. Law Reports, English and Irish Appeal Cases, House of Lords.
L. R. H. L. Sc. Law Reports, Scotch and Divorce Appeal Cases, House of Lords.
L. R. Ind. App. Law Reports, Indian Appeals.
L. R. Ir. Law Reports, Ireland.
L. R. P. C. Law Reports, English Privy Council, Appeal Cases.
L. R. P. Div. Law Reports, Probate, Divorce, and Admiralty Division, English Supreme Court.
L. R. P. & D. Law Reports, English Probate and Divorce.
L. R. Q. B. Law Reports, English Queen's Bench.
L. R. Q. B. Div. Law Reports, Queen's Bench Division, English Supreme Court.
L. R. Stat. Law Reports, Statutes.
L. Ripar. Law of the Riparians.
L. S. Locus sigilli, place of the seal.
L. Salic. Salic Law.
L. T. The Law Times, Scranton, Pa.
L. T. The Law Times, London.
L. T. B. American Law Times Bankruptcy Reports.

- L. T. N. S.* or *L. T. Rep. N. S.* Law Times Reports, New Series, English Courts, with Irish and Scotch Cases.
- L. T. R.* Law Times Reports, in all the Courts.
- L. & C. C. C.* Leigh and Cave's Crown Cases, English.
- L. & E.* English Law and Equity Reports, Boston Edition.
- L. & G. t. Plunk.* Lloyd and Goid's Cases *tempore* Plunkett, Irish Chancery.
- L. & M.* Lowndes, Maxwell, and Pollock's Reports, English Bail Court.
- L. & T.* Longfield and Townsend's Reports, Irish Exchequer.
- L. & W.* or *L. & Welsb.* Lloyd and Welsby's Mercantile Cases, English Courts.
- La.* Lane's Reports, English Exchequer.
- La.* Louisiana Reports.
- La. Ann.* Louisiana Annual Reports.
- La. L. J.* Louisiana Law Journal, New Orleans, 1875.
- La. L. J. (Schm.).* Louisiana Law Journal (Schmidt's), New Orleans.
- La Laure des Ser.* Traité des Servitudes réelles, par M. La Laure.
- Lab.* Labatt's Reports, U. S. District Ct., California.
- Lack. Leg. R.* Lackawana Legal Record, Scranton, Pa.
- Lal. R. P.* Lalor on Real Property.
- Lalor.* Lalor's Supplement to Hill and Denio's Reports, New York.
- Lamb. Archai.* Lambard's Archaionomia.
- Lamb. Dow.* Lambert on Dower.
- Lamb. Eiren.* Lambard's Eirenarcha.
- Lamb. J. P.* Lambard's Justice of the Peace.
- Lan. B.* The Lancaster Bar, Pennsylvania.
- Land. Est. C.* Landed Estates Court.
- Lane.* Lane's Reports, English Exchequer.
- Lang. Eq. Pl.* Langdell's Summary of Equity Pleading.
- Lang. Lead. Cas.* Langdell's Leading Cases on Contracts.
- Lang. L. C. Sales.* Langdell's Leading Cases on Sales.
- Lang. Tr.* Langley's Trustees' Act.
- Lans.* Lansing's Reports, New York Supreme Court Reports, vols. 1-7.
- Lans. Ch. or Lans. Sel. Cas.* Lansing's Select Chancery Cases, New York.
- Laper. Dec.* Laperriere's Speaker's Decisions, Canada.
- Latch. or Latch.* Latch's Reports, English King's Bench.
- Lat. Jus.* Latrobe's Justice.
- Lath.* Lathrop's Reports, Massachusetts's Reports, vols. 115-129.
- Lath. W. L.* Latham on Law of Window Lights.
- Laur. Prim.* Laurence on the Law and Custom of Primogeniture.
- Lauss. Eq.* Laussat's Equity Practice in Pennsylvania.
- Law Bul.* Law Bulletin, San Francisco.
- Law Chron.* Law Chronicle, London.
- Law Chron.* Law Chronicle, Edinburgh.
- Law. Con.* Lawson on Contracts.
- Law Ex. J.* Law Examination Journal, London.
- Law F.* Law's Forms of Ecclesiastical Law.
- Law Fr. & Lat. Dict.* Law French and Latin Dictionary.
- Law Int.* Law Intelligencer.
- Law Jour.* Law Journal. See *L. J.*
- Law Jour. (M. & W.).* Morgan and Williams's Law Journal, London.
- Law Jour. (Smith's).* J. P. Smith's Law Journal, London.
- Law Jur.* Law's Jurisdiction of the Federal Courts.
- Law Lib.* Law Library, Philadelphia (reprint of English treatises).
- Law Lib. N. S.* Law Library, New Series, Philadelphia.
- Law Mag.* Law Magazine, London.
- Law News.* Law News, St. Louis, Mo.
- Law Pat.* Law's Patent and Copyright Laws.
- Law. Pl.* Lawes's Treatise on Pleading in Assumpsit.
- Law Pr.* Law's Practice in the Courts of the U. S.
- Law Rec.* Law Recorder, Reports in all the Irish Courts.
- Law Rep.* Law Reports. See *L. R.*
- Law Rep.* Law Reporter, Boston.
- Law Rep. N. S.* Monthly Law Reporter, Boston.
- Law Rep. (Tor.).* Law Reporter, Toronto.
- Law Repos.* Carolina Law Repository, North Carolina.
- Law Rev.* Law Review, London.
- Law Rev. Qu.* Law Review Quarterly, Albany, N. Y.
- Law Rev. & Qu. J.* Law Review and Quarterly Journal, London.
- Law Stu. Mag.* Law Students' Magazine, London.
- Law Times.* Law Times, Cases in all the English Courts.
- Law Times N. S.* or *Law Times Rep. N. S.* Law Times Reports, New Series, English Courts, with Irish and Scotch Cases.
- Law Times (Scranton).* Law Times, Scranton, Pa.
- Law Weekly.* Law Weekly, New York.
- Law. & Mag. Mag.* Lawyers' and Magistrates' Magazine, London.
- Lawes C.* Lawes on Charter Parties.
- Lawes Pl.* Lawes on Pleading.
- Lavr.* Lawrence's Reports, Ohio Reports, vol. 20.
- Lawson Cont.* Lawson on Contracts.
- Lawy. Mag.* Lawyers' Magazine.
- Ld. Br. Sp.* Lord Brougham's Speeches.
- Ld. Ken.* Kenyon's Reports, English King's Bench.
- Ld. Raym.* Raymond's Reports, English King's Bench.
- Lea or Lea B. J.* Lea's Reports, Tennessee.
- Leach or Leach C. C.* Leach's Crown Cases, English Courts.
- Leach Cas.* Leach's Club Cases, London.
- Leake Contr.* Leake on Contracts.
- Lead. Cas. Eq.* White and Tutor's Leading Cases in Equity.
- Lec. Elm.* Leçons Élémentaires du Droit Civil Romain.
- Le Droit C. Can.* Le Droit Civil Canadian, Montreal.
- Lee or Lee Cas.* Lee's Cases, English Ecclesiastical Courts.
- Lee (Cal.).* Lee's Reports, California Reports, vols. 9-12.
- Lee Abs.* Lee on Abstracts of Title.
- Lee Bankr.* Lee on Bankruptcy.
- Lee Cap.* Lee on Captures.
- Lee Cas. t. H. or Lee & H.* Lee's Cases *tempore* Hardwicke, English King's Bench.
- Lee Dict. or Lee Pr.* Lee's Dictionary of Practice.
- Leg.* Legibus.
- Leg. Adv.* Legal Adviser, Chicago, Ill.
- Leg. Bibl.* Legal Bibliography, by J. G. Marvin.
- Leg. Burg.* Leges Burgorum, Scotland.
- Leg. Chron.* Legal Chronicle, Pottsville, Pa.
- Leg. Chron. Rep.* Legal Chronicle Reports, Pennsylvania.
- Leg. Exam.* Legal Examiner, London.
- Leg. Exam. N. S.* Legal Examiner, New Series, London.

- Leg. Exam. & L. C.* Legal Examiner and Law Chronicle, London.
- Leg. Exam. & Med. J.* Legal Examiner and Medical Jurist, London.
- Leg. Exam. W. R.* Legal Examiner, Weekly Reporter, London.
- Leg. Exch.* Legal Exchange, Des Moines, Iowa.
- Leg. G.* Legal Guide, London.
- Leg. Gaz.* Legal Gazette, Philadelphia.
- Leg. Gaz. Rep.* Legal Gazette Reports, Pennsylvania Courts.
- Leg. Inq.* Legal Inquirer, London.
- Leg. Int.* Legal Intelligencer, Philadelphia.
- Leg. News.* Legal News, Montreal.
- Leg. Obs.* Legal Observer, London.
- Leg. Oler.* The Laws of Oleron.
- Leg. Op.* Legal Opinions, Harrisburgh, Penna.
- Leg. Out.* Legge on Outlawry.
- Leg. Rem.* Legal Remembrancer, Calcutta High Court.
- Leg. Rep.* Legal Reporter, Nashville, Tenn.
- Leg. Rep. (Ir.).* Legal Reporter, Irish Courts.
- Leg. Rev.* Legal Review, London.
- Leg. Rhod.* Laws of Rhodes.
- Leg. T. Cas.* Legal Tender Cases.
- Leg. Ult.* The Last Law.
- Leg. Wisb.* Laws of Wisbury.
- Leg. Y. B.* Legal Year Book, London.
- Leg. & Ins. Rept.* Legal and Insurance Reporter, Philadelphia.
- Legge Outl.* Legge on Outlawry.
- Legul.* The Leguleian, London.
- Leigh.* Leigh's Reports, Virginia.
- Leigh N. P.* Leigh's Nisi Prius Law.
- Leigh & C.* Leigh and Cave's Crown Cases, English Courts.
- Leigh & D. Conv.* Leigh and Dalzell on Con-
version of Property.
- Leith R. P. St.* Leith's Real Property Stat-
utes, Ontario.
- Le Mar.* Le Marchant's Gardner Peerage
Case.
- Leo. or Leon.* Leonard's Reports, English
King's Bench.
- Lester.* Lester's Reports, Georgia Reports,
vols. 31-33.
- Lester L. L.* Lester on the Land Law.
- Lester Supp. or Lester & B.* Lester & Butler's
Supplement to 33d Georgia Reports.
- Lev.* Levinz's Reports, English King's Bench.
- Levi.* Levi's Commercial Law.
- Lew.* Lewis's Reports, Nevada Reports, vol. 1.
- Lew. Ap.* Lewin on Apportionment.
- Lew. C. C.* Lewin's Crown Cases, English
Courts.
- Lew. Cr. Law.* Lewis's Criminal Law of the
U. S.
- Lew. L. Cas. on L. L.* Lewis's Leading Cases
on Public Land Law.
- Lew. L. T. in Phila.* Lewis on Land Titles in
Philadelphia.
- Lew. Perp.* Lewis on the Law of Perpetuities.
- Lew. Pr.* Lewis's Principles of Conveyancing.
- Lew. Stocks.* Lewis on Stocks, Bonds, etc.
- Lew. Tr.* Lewin on Trusts.
- Lex Cust.* Lex Customaria.
- Lex Man.* Lex Manerium.
- Lex Mer. or Lex Mer. Red.* Lex Mercatoria,
by Beawes.
- Lex Mer. Am.* Lex Mercatoria Americana.
- Lex Parl.* Lex Parliamentaria.
- Ley.* Ley's Reports, English Court of Wards,
and other Courts.
- Lib.* Liber, Book.
- Lib. Ass.* *Liber Assisarum* (Part 5 of the Year
Books).
- Lib. Ent.* Old Book of Entries.
- Lib. Feud.* *Liber Feudorum; Consuetudines
Feudorum*, at end of *Corpus Juris Civilis*.
- Lib. Intr.* *Liber Intrationum*; Old Book of
Entries.
- Lib. L. & Eq.* Library of Law and Equity.
- Lib. Niger.* *Liber Niger*, or the Black Book.
- Lib. Pl.* *Liber Placitandi*, Book of Pleading.
- Lib. Reg.* Register Books.
- Lib. Rub.* *Liber Ruber*, the Red Book.
- Lib. Ten.* *Liber Tenementum*.
- Lieb. Civ. Lib.* Lieber on Civil Liberty and
Self-Government.
- Life & Acc. Ins. R.* Life and Accident Insur-
ance Reports (Biglow's).
- Lig. Dig.* Ligon's Digest.
- Lil.* Lilly's Reports or Entries, English Court
of Assize.
- Lil. Abr.* Lilly's Abridgment.
- Lil. Conv.* Lilly's Conveyancer.
- Lil. Reg.* Lilly's Practical Register.
- Lind. Jur.* Lindley's Jurisprudence.
- Lind. Part.* Lindley on Partnership.
- Lit.* Littleton's Reports, English Common
Pleas and Exchequer.
- Lit. s.* Littleton, section.
- Lit. Ten.* Littleton's Tenures.
- Litt. (Ky.).* Littell's Reports, Kentucky.
- Litt. Sel. Cas.* Littell's Select Cases, Kentucky.
- Liv. Livre,* Book.
- Liv. Cas.* Livingston's Cases in Error, New
York.
- Liv. Jud. Op.* Livingston's Judicial Opinions,
New York.
- Liv. L. Mag.* Livingston's Law Magazine,
New York.
- Liv. L. Reg.* Livingston's Law Register, New
York.
- Liverm. Ag.* Livermore on Principal and
Agent.
- Liverm. Diss.* Livermore's Dissertation on the
Contrariety of Laws.
- Ll. Leges, Laws.*
- Llo. Ch. St.* Lloyd's Chitty's Statutes.
- Llo. Comp.* Lloyd's Law of Compensation.
- Llo. T. M.* Lloyd on Trademarks.
- Llo. & G. t. P.* Lloyd and Goold's Reports,
tempore Plunkett, Irish Chancery.
- Llo. & G. t. S.* Lloyd and Goold's Reports,
tempore Snyder, Irish Chancery.
- Llo. & W., Lloyd & W., or Llo. & W. Mer.
Cas.* Lloyd and Welsby's Mercantile Cases,
English King's Bench.
- Loc. cit.* Loco citato, in the place cited.
- Loc. Ct. Gaz.* Local Courts and Municipal
Gazette, Toronto, Ont.
- Lock. Rev. Cas.* Lockwood's Reversed Cases,
New York.
- Lofft.* Lofft's Reports, English King's Bench.
- Log. Comp.* Logan's Compendium of Eng-
lish, Scotch, and Ancient Roman Law.
- Lois des Batim.* Lois des Batimens.
- Lom. C. H. Rep.* Lomas's City Hall Reporter,
New York.
- Lom. Dig.* Lomax's Digest of the Law of
Real Property in the U. S.
- Lom. Ex.* Lomax on Executors.
- Lon. Jur.* London Jurist, Reports in all the
Courts.
- Lon. Jur. N. S.* London Jurist, New Series.
- Lon. L. Mag.* London Law Magazine.
- Long Quint.* Year Book, part 10.
- Long Sales.* Long on Sales.
- Longf. & T.* Longfield and Townsend's Re-
ports, Irish Exchequer.
- Lor. Inst.* Lorimer's Institutes.
- Lords Jour.* Journal of the House of Lords.
- Louis. Code.* Civil Code of Louisiana.
- Love. Wills.* Lovell on Wills.
- Low.* Lowell's Decisions, U. S. Dist. of Mas-
sachusetts.
- Low. Can. Jur.* Lower Canada Jurist, Mon-
treal.

- Low. Can. L. J.* Lower Canada Law Journal.
Low. Can. Repts. Lower Canada Reports.
Lownd. Av. Lowndes on Average.
Lownd. Col. Lowndes on Collisions at Sea.
Lownd. Leg. Lowndes on Legacies.
Lownd. & M. Lowndes and Maxwell's Ball Court Reports, English.
Lownd. M. & P. Lowndes, Maxwell, and Pollock's Bail Court Reports, English.
Lube Eq. Lube on Equity Pleading.
Luc. Lucas's Reports, English (10 Modern).
Lud. El. Cas. Luder's Election Cases, English.
Lud. & Jenk. Ludlow and Jenkins on Trade-marks.
Ludd. Ludden's Reports, Maine Reports, vols. 43-44.
Lum. An. Lumley on Annuities.
Lum. Cas. or Lum. P. L. Cas. Lumley's Poor Law Cases.
Lum. Parl. Pr. Lumley's Parliamentary Practice.
Lum. Set. Lumley on Settlements and Removal.
Lund. Pat. Lund on Patents.
Lush. or Lush. Adm. Lushington's Admiralty Reports, English.
Lush. P. L. Lushington on Prize Law.
Lush. Pr. Lush's Practice.
Lut. Lutwycke's Reports, English Common Pleas.
Lut. Elec. Cas. Lutwycke's Election Cases, English.
Lut. Ent. Lutwycke's Entries.
Lut. R. C. Lutwycke's Registration Cases.
Luz. Leg. Ob. Luzerne Legal Observer, Carbondale, Pa.
Luz. Leg. Reg. Luzerne Legal Register, Wilkesbarre, Pa.
Lynd. Prov. Lyndwood's Provinciales.
Lyne. Lyne's Reports, Irish Chancery.
M. Queen Mary; thus 1 M. signifies the first year of the reign of Queen Mary.
M. Michaelmas Term. Mortgage.
M. Morison's Dictionary of Decisions, Scotch Court of Sessions.
M. Session Cases, 3d Series, Scotland (Macpherson).
M'. See *Mc*.
M. Cas. Magistrates Cases.
M. C. C. Moody's Crown Cases.
M. D. & D. Montague, Deacon, and De Gex's Reports, English Bankruptcy.
M. G. & S. Manning, Granger, and Scott's Reports, English Common Pleas, Common Bench Reports, vols. 1-8.
M. L. Mercian Law.
M. L. J. Memphis Law Journal, Tennessee.
M. L. R. Maryland Law Record, Baltimore.
M. M. R. Mitchell's Maritime Register, London.
M. P. C. Moore's Privy Council Cases, English.
M. P. Exch. Modern Practice, Exchequer.
M. R. Master of the Rolls.
MS. Manuscript, Manuscript Reports.
M. St. More's Notes on Stair's Institutes.
M. T. Michaelmas Term.
M. & Ayr. Montagu and Ayrton's Reports, English Bankruptcy.
M. & Ayr. B. L. Montagu and Ayrton on Bankrupt Law.
M. & B. Montagu and Bligh's Reports, English Bankruptcy.
M. & C. Mylne and Craig's Reports, English Chancery.
M. & C. Bankr. Montagu and Chitty's Bankruptcy Reports, English.
M. & G. Manning and Granger's Reports, English Common Pleas.
M. & Gel. Maddock and Gelhart's Reports, English Chancery.
M. & Gord. Macnaghten and Gordon's Reports, English Common Pleas.
M. & K. Mylne and Keen's Reports, English Chancery.
M. & M. Moody and Malkin's Reports, English Nisi Prius.
M. & McA. Montague and McArthur's Reports, English Bankruptcy.
M. & P. Moore and Payne's Reports, English Common Pleas and Exchequer.
M. & R. Manning and Ryland's Reports, English King's Bench.
M. & R. M. C. Manning and Ryland's Magistrate Cases, English King's Bench.
M. & Rob. Moody and Robinson's Nisi Prius Cases, English Courts.
M. & S. Maule and Selwyn's Reports, English King's Bench.
M. & S. or M. & Scott. Moore and Scott's Reports, English Common Pleas.
M. & W. Meeson and Welsby's Reports, English Exchequer.
M. & Y. Martin and Yerger's Reports, Tennessee.
McAll. McAllister's Reports, U. S. Dist. of California.
McArth. McArthur's Reports, Dist. of Columbia.
McArth. C. M. McArthur on Courts Martial.
McCahon. McCahon's Reports, Supreme Court of Kansas and U. S. Courts, Dist. of Kansas.
McCall Pr. McCall's Precedents.
McCart. McCarter's Chancery Reports, New Jersey Equity Reports, vols. 14-15.
McClell. McClelland's Reports, English Exchequer.
McClell. Civ. Malpr. McClelland's Civil Malpractice.
McClell. Ex. Guide. McClellan's Executor's Guide.
McClell. Pro. Pr. McClellan's Probate Practice.
McClell. & Y. McClelland and Younge's Reports, English Exchequer.
McCook. McCook's Reports, Ohio State Reports, vol. 1.
McCord. McCord's Law Reports, South Carolina.
McCord Ch. McCord's Chancery Reports, South Carolina.
McCork. McCorkle's Reports, North Carolina Reports, vol. 65.
McCr. Elect. McCrary's American Law of Elections.
McCull. Dict. McCullough's Commercial Dictionary.
McDon. Inst. McDonall's Institutes of the Law of Scotland.
McDon. Jus. McDonald's Justice.
McGloin. McGloin's Reports, Louisiana Court of Appeals.
McKinn. Jus. McKimney's Justice.
McKinn. Phil. Ev. McKinnon's Philosophy of Evidence.
McL. or McLean. McLean's Reports, U. S. Circuit Court, 7th Circuit.
McLar. Wills. McLaren on Wills.
McMas. R. L. McMaster's Railroad Law, New York.
McMull. McMullan's Law Reports, South Carolina.
McMull. Ch. or McMull. Eq. McMullan's Chancery Reports, South Carolina.
McNagh. Elem. McNaghten's Elements of Hindoo Law.
McNall. Ev. McNally on Evidence.
Macas. Macassey's Reports, New Zealand.

- Macc. Cas.* Maccola's Breach of Promise Cases.
- Maccles.* Macclesfield's Reports (10 Modern).
- Macf.* Macfarlane's Reports, Scotch Jury Courts.
- Macf. Pr.* Macfarlane's Practice of the Court of Sessions.
- Mack. C. L.* Mackeldey on Civil Law.
- Mack. Cr. L.* Mackenzie on the Criminal Law of Scotland.
- Mack. Inst.* Mackenzie's Institutes of the Law of Scotland.
- Mack. Obs.* Mackenzie's Observations on Acts of Parliament.
- Mack. Rom. L.* Mackenzie's Studies in Roman Law.
- Macl. Dec.* Maclaurin's Decisions, Scotch Courts.
- Macl. Sh.* Maclachlan on Merchant Shipping.
- Macl. & R.* Maclean and Robinson's Scotch Appeals.
- Macn.* Macnaghten's (W. H.) Reports, India.
- Macn. C. M.* Macnaghten on Courts Martial.
- Macn. F.* F. Macnaghten's Reports, India.
- Macn. Null.* Macnamara on Nullities and Irregularities in the Practice of the Law.
- Macn. & G.* Macnaghten and Gordon's Reports, English Chancery.
- Maenal. Ev.* Maenally's Rules of Evidence.
- Macomb. C. M.* Macomb on Courts Martial.
- Maeph.* Macpherson's Cases, Court of Sessions Cases, 3d Series.
- Maeph. Inf.* Macpherson on Infancy.
- Maq. Deb.* Macqueen's Debates on Life Peage Question.
- Maq. H. L. Cas.* Macqueen's House of Lords Cases, Appeals from Scotland.
- Maq. H. & W.* Macqueen on Husband and Wife.
- Maq. M. & D.* Macqueen on Marriage and Divorce.
- Macr. P. Cas.* Macrory's Patent Cases.
- Macr. & H.* Macrae and Hertslet's Insolveny Cases.
- Mad. Exch.* Madox's History of the Exchequer.
- Mad. Form.* Madox's Formulæ Anglicarum.
- Mad. H. Ct. Rep.* Madras High Court Reports.
- Mad. Jur.* Madras Jurist, India.
- Mad. Papers.* Madison's (James) Papers, 3 vols.
- Mad. Reg.* Madden on Registration of Deeds.
- Mad. S. D. R.* Madras Sudder Dewany Reports.
- Mad. Sel.* Madras Select Decrees.
- Madd.* Maddock's Reports, English Chancery.
- Madd. Ch. Pr.* Maddock's Chancery Practice.
- Madd. & G.* Maddock and Geldart's Reports, English Chancery (vol. 6, Maddock's Reports).
- Mag.* The Magistrate, London.
- Mag. Cas.* Magistrate Cases, Edited by Biltleston, Wise, and Parnell.
- Mag. Char.* Magna Charta.
- Mag. Ins.* Magen on Insurance.
- Mag. (Md.) or Magr.* Magruder's Reports, Maryland Reports, vols. 1-2.
- Maine.* Maine Reports.
- Maine Anc. L.* Maine on Ancient Law.
- Maine Vil. Com.* Maine on Village Communities.
- Mal.* Malynes's Lex Mercatoria.
- Male L. Elec.* Male's Law of Elections.
- Mall. Ent.* Mallory's Modern Entries.
- Malt. C. M.* Maltby on Courts Martial.
- Malth. Pop.* Malthus on Population.
- Man.* Manning's Reports, English Court of Revision.
- Man. Dem.* Mansel on Demurrers.
- Man. El. Cas.* Manning's Election Cases.
- Man. Exch. Pr.* Manning's Exchequer Practice.
- Man. Gr. & S.* Manning, Granger, and Scott's Reports, English Common Pleas.
- Man. Lim.* Mansel on Limitations.
- Man. & G.* Manning and Granger's Reports, English Common Pleas.
- Man. & R.* Manning and Ryland's Reports, English King's Bench.
- Man. & R. Mag. Cas.* Manning and Ryland's Magistrate Cases, English King's Bench.
- Manl. Fines.* Manley on Fines.
- Mann. or Mann. (Mich.).* Manning's Reports, Michigan Reports, vol. 1.
- Mann. Com.* Manning's Commentaries on the Law of Nations.
- Manum. Cas.* Manumission Cases, New Jersey (Bloomfield's).
- Manw.* Manwood's Forrest Laws.
- Mar.* Maritime.
- Mar.* March's Reports, English King's Bench.
- Mar. Br.* March's Translation of Brook's New Cases.
- Mar. L. Cas. or Mar. L. Rep.* Maritime Law Cases (Crockford's), English.
- Mar. L. Cas. N. S. or Mar. L. Rep. N. S.* Maritime Law Reports, New Series (Aspinall's), English.
- Mar. Rec. B.* Martin's Recital Book.
- Mar. Reg.* Mitchell's Maritime Register, London.
- Marine Ct. R.* Marine Court Reporter (McAdam's), New York.
- Mark. El.* Markley's Elements of Law.
- Marr. Adm.* Marriott's Reports, English Admiralty.
- Marsh.* Marshall's Reports, English Common Pleas.
- Marsh. (Ky.) or Marsh. A. K.* A. K. Marshall's Reports, Kentucky.
- Marsh. Calc.* Marshall's Reports, Calcutta.
- Marsh. Dec.* Brokenbrough's Reports, Marshall's U. S. Circuit Court Decisions.
- Marsh. Ins.* Marshall on Insurance.
- Marsh. J. J.* J. J. Marshall's Reports, Kentucky.
- Marsh. Op.* Marshall's (Chief Justice) Constitutional Opinions.
- Mart. (Cond. La.).* Martin's Condensed Louisiana Reports.
- Mart. (Ga.).* Martin's Reports, Georgia Reports, vols. 21-30.
- Mart. (Ind.).* Martin's Reports, Indiana Reports, vols. 54-62.
- Mart. or Mart. (La.).* Martin's Reports, Louisiana.
- Mart. N. S. or Mart. (La.) N. S.* Martin's Reports, New Series, Louisiana.
- Mart. (N. C.).* Martin's Reports, North Carolina.
- Mart. Law Nat.* Martin's Law of Nations.
- Mart. & Y.* Martin and Yeager's Reports, Tennessee.
- Marv. Av.* Marvin on General Average.
- Marv. Leg. Bibl.* Marvin's Legal Bibliography.
- Marv. Salv. or Marv. Wr. & S.* Marvin on Wreck and Salvage.
- Mas.* Mason's Reports, U. S. Circuit Court, 1st Circuit.
- Mass.* Massachusetts Reports.
- Mass. L. R.* Massachusetts Law Reporter, Boston.
- Mass. Dr. Com.* Masse's Le Droit Commercial.
- Math. Ev.* Mathews on Presumptive Evidence.
- Math. L. & T.* Mathews on Landlord and Tenant.
- Mats.* Matson's Reports, Connecticut Reports, vols. 22-24.

- Matth. (W. Va.)*. Matthews's Reports, West Virginia Reports, vol. 6.
Matth. Com.. Matthews's Guide to Commissions in Chancery.
Matth. Dig.. Matthews's Digest.
Matth. Ex.. Matthews on Executors.
Mau. & Pol. Sh.. Maude and Pollock's Law of Shipping.
Mau. & Sel.. Maule and Selwyn's Reports, English King's Bench.
Maug. Lit. Pr.. Maughan on Literary Property.
Max.. Maxims.
Maxw.. Maxwell on Marine Laws.
Maxw. Int. Sts.. Maxwell on the Interpretation of Statutes.
May Const. Hist.. May's Constitutional History of England.
May Crim. L.. May's Criminal Law.
May Fr. Conv.. May on Fraudulent Conveyances.
May Hist.. May's Constitutional History of England.
May Ins.. May on Insurance.
May. Merg.. Mayhew on Merger.
May P. L.. May's Parliamentary Law.
Maymo Inst.. Maymo's *Romani et Hispani Juris Institutiones*.
Mayn.. Maynard's Reports, 1st Year Book.
Mayne Dam.. Mayne on Damages.
Mayo Just.. Mayo's Justice.
Mayo & Moul.. Mayo and Moulton's Pension Laws.
Md.. Maryland Reports.
Md. Ch.. Maryland Chancery Decisions, by Johnson.
Md. L. Rec.. Maryland Law Record, Baltimore.
Md. L. Rep.. Maryland Law Reporter, Baltimore.
Me.. Maine Reports.
Med. Jur.. Medical Jurisprudence.
Medd.. Meddaugh's Reports, Michigan Reports, vol. 13.
Mees. & Wels.. Meeson and Welsby's Reports, English Exchequer.
Megg. A.. Meggison on Assets in Equity.
Meigs.. Meigs's Reports, Tennessee.
Mem. L. J.. Memphis Law Journal, Tennessee.
Mence L.. Mence on the Law of Libel.
Menz.. Menzie's Reports, Cape of Good Hope.
Mer. or Meriv.. Merivale's Reports, English Chancery.
Merch. Dict.. Merchant's Dictionary.
Merl. Quest.. Merlin, Questions de Droit.
Merl. Repert.. Merlin's *Répertoire de Jurisprudence*.
Merr. Att.. Merrifield's Law of Attorneys.
Merr. Costs.. Merrifield's Law of Costs.
Metc. or Metc. (Mass.). Metcalf's Reports, Massachusetts Reports, vols. 42-54.
Metc. (Ky.). Metcalfe's Reports, Kentucky.
Mete. Contr.. Metcalf on Contracts.
Meth. Ch. Cas.. Report of the Methodist Church Property Case.
Mich.. Michigan Reports.
Mich. Lawyer.. Michigan Lawyer, Detroit, Mich.
Mich. N. P.. Michigan Nisi Prius Cases (Brown's).
Mich. Rev. St.. Michigan Revised Statutes.
Mich. T.. Michaelmas Term.
Middx. Stt.. Middlesex Sittings at Nisi Prius.
Mil. Civ. Law.. Miller's Civil Law.
Mil. Eq. M.. Miller on Equitable Mortgages.
Miles.. Miles's Reports, Pennsylvania.
Mill.. Mill's Constitutional Reports, South Carolina.
Mill. (La.). Miller's Reports, Louisiana Reports, vols. 1-5.
Mill. (Md.). Miller's Reports, Maryland Reports, vols. 3-18.
Mill. Civ. L.. Miller's Civil Law.
Mill Const.. Mill's Constitutional Reports, South Carolina.
Mill. Dec. U. S.. Miller's Decisions, U. S. Supreme Court Reports, Condensed (Continuation of Curties).
Mill. Dec. or Mill. Op.. Miller's Decisions, U. S. Circuit Court (Woolworth's Reports).
Mill. El.. Miller's Elements of the Law of Insurances.
Mill. Eq. M.. Miller on Equitable Mortgages.
Mill. Ins.. Miller's Elements of the Law of Insurances.
Mill. Part.. Miller or Partition.
Mill. & C. Bills.. Miller and Collier on Bills of Sale.
Mills Em. D.. Mills on Eminent Domain.
Milw. or Milw. Eccl.. Milwood's Reports, Irish Ecclesiastical.
Min.. Minor's Reports, Alabama.
Min. Dig.. Minot's Digest.
Min. Ev.. Minutes of Evidence.
Minn.. Minnesota Reports.
Minor.. Minor's Reports, Alabama.
Mr. Jus.. Horne's Mirror of Justices.
Mr. Parl.. Mirror of Parliament, London.
Mr. Pat. Off.. Mirror of the Patent Office, Washington, D. C.
Mirch. D. & S.. Mirchall's Doctor and Student.
Miss.. Mississippi Reports.
Mitch. M. R.. Mitchell's Maritime Register, London.
Mitf. Pl.. Mitford on Chancery Pleading.
Mitf. & Ty. Eq. Pl.. Mitford and Tyler's Practice and Pleading in Equity.
Mo.. J. B. Moore's Reports, English Common Pleas.
Mo.. Missouri Reports.
Mo. App.. Missouri Appeal Reports.
Mo. Bar.. Missouri Bar, Jefferson City.
Mo. Jur.. Monthly Jurist, Bloomington, Ill.
Mo. Law Mag.. Monthly Law Magazine, London.
Mo. Law Rep.. Monthly Law Reporter, Boston.
Mo. Leg. Exam.. Monthly Legal Examiner, New York.
Mo. W. J.. Monthly Western Jurist, Bloomington, Ill.
Mod.. Modern Reports, English Courts.
Mod. Cas.. Modern Cases (6 Modern Reports).
Mod. Cas. L. & Eq.. Modern Cases in Law and Equity (8 and 9 Modern Reports).
Mod. Ent.. Modern Entries.
Mod. Int.. Modus Intradendi.
Mol.. Molloy's Reports, Irish Chancery.
Mol. de J. M.. Molloy de Jure Maritimo.
Moly.. Molyneaux's Reports, English Courts, temp. Car. I.
Mon. or Mon. T. B.. T. B. Monroe's Reports, Kentucky.
Mon. B.. Ben. Monroe's Reports, Kentucky.
Mon. Ty.. Montana Territory Reports.
Mont. or Mont. B. C.. Montagu's Reports, English Bankruptcy.
Mont. B. L.. Montagu on the Bankrupt Laws.
Mont. Cas.. Montrion's Cases in Hindoo Law.
Mont. Comp.. Montagu on the Law of Composition.
Mont. D. & De G.. Montagu, Deacon, and De Gex's Reports, English Bankruptcy.
Mont. Dig. or Mont. Eq. Pl.. Montagu's Digest of Pleadings in Equity.
Mont. Inst.. Montrion's Institutes of Jurisprudence.
Mont. Set-Off.. Montagu on Set-Off.
Mont. & A.. Montagu and Ayrton's Reports, English Bankruptcy.
Mont. & B.. Montagu and Bligh's Reports, English Bankruptcy.

- Mont. & C.* Montagu and Chitty's Reports, English Bankruptcy.
- Mont. & McA.* Montagu and McArthur's Reports, English Bankruptcy.
- Montesq.* Montesquieu's Spirit of Laws.
- Moo.* Francis Moore's Reports, English. When a volume is given, it refers to J. B. Moore's Reports, English Common Pleas.
- Moo. A.* Moore's Reports, English (1st Bosanquet and Puller's Reports, after page 470).
- Moo. C. Cas.* Moody's Crown Cases, English Courts.
- Moo. C. P.* J. B. Moore's Reports, English Common Pleas.
- Moo. I. App.* Moore's Reports, English Privy Council, Indian Appeals.
- Moo. J. B.* J. B. Moore's Reports, English Common Pleas.
- Moo. P. C. Cas.* Moore's Privy Council Cases, English.
- Moo. P. C. Cas. N. S.* Moore's Privy Council Cases, New Series, English.
- Moo. Tr.* Moore's Divorce Trials.
- Moo. & M.* Moody and Mackin's Nisi Prius Cases, English Courts.
- Moo. & P.* Moore and Payne's Reports, English Common Pleas.
- Moo. & R.* Moody and Robinson's Nisi Prius Cases, English Courts.
- Moo. & Sc.* Moore and Scott's Reports, English Common Pleas.
- Moore (Ark.).* Moore's Reports, Arkansas Reports, vols. 28-33.
- Moore & W.* Moore and Walker's Reports, Texas Reports, vols. 22-24.
- Mor. or Mor. Dict. Dec.* Morison's Dictionary of Decisions, Scotch Court of Sessions.
- Mor. Dig.* Morley's Digest of the Indian Reports.
- Mor. Pr.* Morehead's Practice.
- More St.* More's Notes on Stair's Institutes, Scotland.
- Morg. Ch. A. & O.* Morgan's Chancery Acts and Orders.
- Morg. Tariff.* Morgan on the U. S. Tariff.
- Morg. & W. L. J.* Morgan and Williams's Law Journal, London.
- Morr.* Morris's Reports, Iowa.
- Morr. (Bomb.).* Morris's Reports, Bombay.
- Morr. (Cal.).* Morris's Reports, California Reports, vol. 5.
- Morr. (Miss.).* Morris's Reports, Mississippi Reports, vols. 43-48.
- Morr. Repl.* Morris on Replevin.
- Morr. St. Cas.* Morris's State Cases, Mississippi.
- Morse Arb. & Aw.* Morse on Arbitration and Award.
- Morse Bk.* Morse on Banks and Banking.
- Morse Tr.* Morse's Famous Trials, Boston.
- Mort.* Morton's Reports, Bengal.
- Mort. Vend.* Morton on Vendors and Purchasers of Chattels Personal.
- Mos.* Mosley's Reports, English Chancery.
- Mos. Man.* Moses on Mandamus.
- Moyle. Ent.* Moyle's Book of Entries.
- Moz. & W.* Mozley and Whitley's Law Dictionary.
- MS.* Manuscript.
- Mun.* Municipal.
- Munf.* Mumford's Reports, Virginia.
- Mung. Applic. Pay.* Munger on Application of Payments.
- Murph.* Murphey's Reports, North Carolina.
- Mur. & H.* Murphy and Hurlstone's Reports, English Exchequer.
- Murr.* Murray's Reports, Scotch Jury Court.
- Murr. Usury.* Murray on Usury.
- Myl. & C.* Mylne and Craig's Reports, English Chancery.
- Myl. & K.* Mylne and Keen's Reports, English Chancery.
- Myrick.* Myrick's Probate Court Reports, San Francisco, Cal.
- N. Novellæ.* The Novels or New Constitutions.
- N. A.* Non allocatur.
- N. B.* Nulla bona.
- N. B.* New Brunswick Reports.
- N. Benl.* New Benloe's Reports, English King's Bench, Edition of 1661.
- N. B. R.* National Bankruptcy Register, New York.
- N. C.* Notes of Cases, English Ecclesiastical and Maritime Courts.
- N. C.* North Carolina Reports.
- N. C. Law Repos.* North Carolina Law Repository.
- N. C. Term R.* North Carolina Term Reports (2 Taylor).
- N. Chip.* N. Chipman's Reports, Vermont.
- N. E.* New Edition.
- N. E. I.* Non est inventus.
- N. P.* Newfoundland Reports.
- N. H.* New Hampshire Reports.
- N. H. & C.* Nicholl, Hare, and Carrow's English Railway Cases.
- N. J.* New Jersey Reports.
- N. J. Ch. or N. J. Eq.* New Jersey Equity Reports.
- N. J. Law.* New Jersey Law Reports.
- N. J. L. J.* New Jersey Law Journal, Somerville, N. J.
- N. L.* Nelson's Lutwyche's Reports, English Common Pleas.
- N. L. L.* New Library of Law, etc., Harrisburg, Pa.
- N. L. L.* New Library of Law and Equity, English.
- N. of Cas.* Notes of Cases, English Ecclesiastical and Maritime Courts.
- N. of Cas. Madras.* Notes of Cases at Madras.
- N. P.* Nisi Prius. Notary Public. Nova Placita. New Practice.
- N. P. C.* Nisi Prius Cases.
- N. R.* New Reports, English Common Pleas. Bosanquet and Puller's Reports.
- N. R.* Not reported.
- N. S.* New Series. Nova Scotia Reports.
- N. W. P.* North West Provinces Reports, India.
- N. W. Repr.* North Western Reporter, St. Paul.
- N. Y.* New York Reports, Court of Appeals.
- N. Y. City H. Rec.* New York City Hall Recorder.
- N. Y. Code Rept.* New York Code Reporter, New York City.
- N. Y. Code Repts. N. S.* New York Code Reports, New Series, New York City.
- N. Y. Elec. Cas.* New York Contested Election Cases.
- N. Y. Jud. Rep.* New York Judicial Repository, New York (Bacon's).
- N. Y. Jur.* New York Jurist.
- N. Y. Law Gaz.* New York Law Gazette, New York City.
- N. Y. Leg. Obs.* New York Legal Observer, New York City (Owen's).
- N. Y. Leg. Reg.* New York Legal Register, New York City.
- N. Y. Mo. Law Bull.* New York Monthly Law Bulletin, New York City.
- N. Y. Mun. Gaz.* New York Municipal Gazette, New York City.
- N. Y. Reg.* New York Daily Register, New York City.

- N. Y. Repr.* New York Reporter (Gardner's).
- N. Y. Superior Ct.* New York Superior Court Reports.
- N. Y. Supr. Ct. Repts.* New York Supreme Court Reports.
- N. Y. Supr. Ct. Repts. (T. & C.)* New York Supreme Court Reports, by Thompson and Cook.
- N. Y. Term R.* New York Term Reports, by Caines.
- N. Y. Them.* New York Themis, New York City.
- N. Y. Trans.* New York Transcript, New York City.
- N. Y. Trans. N. S.* New York Transcript, New Series, New York City.
- N. Y. Week. Dig.* New York Weekly Digest, New York City.
- N. Z. Jur.* New Zealand Jurist, Dunedin, N. Z.
- N. Z. Rep.* New Zealand Reports, Court of Appeals.
- N. & H.* Nott and Huntington's Reports, U. S. Court of Claims Reports, vols. 1-11.
- N. & Hop.* Nott and Hopkins's Reports, U. S. Court of Claims Reports, vols. 12-14.
- N. & M.* Neville and Manning's Reports, English King's Bench.
- N. & McC.* Nott and McCord's Reports, South Carolina.
- N. & P.* Neville and Perry's Reports, English Queen's Bench.
- Nal. St. P.* Nalton's Collection of State Papers.
- Nam. Dr. Com.* Namur's Cour de Droit Commercial.
- Nap. Prescr.* Napier on the Law of Prescription.
- Napt.* Napton's Reports, Missouri Reports, vol. 4.
- Naq. Leg. Chem.* Naquet's Legal Chemistry.
- Nar. Conv.* Nares on Penal Convictions.
- Nas. Inst.* Nasmith's Institutes of English Law.
- Nash. Pl. & Pr.* Nash's Pleading and Practice.
- Nat. Reg.* National Register, Edited by Mead, 1816.
- Nd.* Newfoundland Reports.
- Neal F. & F.* Neal's Feasts and Fasts.
- Neb.* Nebraska Reports.
- Nels.* Nelson's Reports, English Chancery.
- Nels. Abr.* Nelson's Abridgment.
- Nels. Fol. Rep.* Reports temp. Finch, Edited by Nelson.
- Nels. Lex Maner.* Nelson's Lex Manerium.
- Nels. Rights Cler.* Nelson's Rights of the Clergy.
- Nem. con.* Nemine contradicente.
- Nem. dis.* Nemine dissentiente.
- Nev.* Nevada Reports.
- Nev. & M.* Neville and Manning's Reports, English King's Bench.
- Nev. & M. M. Cas.* Neville and Manning's Magistrate Cases, English.
- Nev. & M. R. & C. Cas.* Neville and McNamara's Railway and Canal Cases.
- Nev. & P.* Neville and Perry's Reports, English Common Pleas.
- Nev. & P. M. Cas.* Neville and Perry's Magistrate Cases, English.
- New Ann. Reg.* New Annual Register, London.
- New Benl.* New Benloe's Reports, English King's Bench, Edition of 1661.
- New Br.* New Brunswick Reports.
- New M. Cas.* New Magistrate Cases, English Courts.
- New Pr. Cas.* New Practice Cases, English Courts.
- New Rep.* New Reports, English Common Pleas. Bosanquet and Fuller's Reports.
- New Sess. Cas.* Carrow, Hamerton, and Allen's Reports, English Courts.
- New York.* See *N. Y.*
- Newb.* Newberry's Admiralty Reports, U. S. Dist. Courts.
- Newf.* Newfoundland Reports.
- Newl. Ch.* Newland's Chancery Practice.
- Newl. Contr.* Newland on Contracts.
- Newm. Conv.* Newman on Conveyancing.
- Nich. Adult. Bast.* Nicholas on Adulterine Bastardy.
- Nich. H. & C.* Nicholl, Hare, and Carrow's English Railway and Canal Cases, vols. 1-2.
- Nient Cul.* Nient culpabilis, Not guilty.
- Niles Reg.* Niles's Register, Baltimore.
- Nix. F.* Nixon's Forms.
- No. Cas. Ecc. & M.* Notes of Cases in the English Ecclesiastical and Maritime Courts.
- No. N.* Novæ Narrationes.
- Nol. M. Cas.* Nolan's Magistrate Cases, English.
- Nol. P. L.* Nolan on Poor Law.
- Nol. Sett.* Nolan's Settlement Cases.
- Non Cul.* Non culpabilis, Not guilty.
- Nor. Fr.* Norman French.
- Nor. L. C. Inh.* Norton's Leading Cases on Inheritance, India.
- Nor. Pat.* Norman on Patents.
- Nor. Pro. Pr.* North's Probate Practice.
- Norr.* Norris's Reports, Pennsylvania Reports, vols. 82-95.
- Norr. Peake.* Norris's Peake's Law of Evidence.
- North.* Northington's Reports, English Chancery, Eden's Reports.
- Northwest. Rep.* Northwestern Reporter, St. Paul, Minn.
- Not. Cas. Ecc. & M.* Notes of Cases in the English Ecclesiastical and Maritime Courts.
- Not. Cas. Madras.* Notes of Cases at Madras.
- Nott Mech. L. L.* Nott on the Mechanics' Lien Law.
- Nott & H.* Nott and Huntington's Reports, U. S. Court of Claims Reports, vols. 1-11.
- Nott & Hop.* Nott and Hopkins's Reports, U. S. Court of Claims, vols. 12-14.
- Nott & McC.* Nott and McCord's Reports, South Carolina.
- Nouv. Den.* Denizart Collection de Decisions Nouvelles.
- Nouv. Rev.* Nouvelle Revue de Droit Français, Paris.
- Nov.* Novellæ. The Novels, or New Constitutions.
- Nov. Rec.* Novissimi Recopilacion de las Leyes de España.
- Noy.* Noy's Reports, English Courts.
- Noy Max.* Noy's Maxims.
- Noyes Char. U.* Noyes on Charitable Uses.
- O.* Ordonnance.
- O.* Ohio Reports. Otto's Reports, U. S. Supreme Court Reports, vols. 91-102.
- O. B.* Session Papers of the Old Bailey.
- O. B. S.* Old Bailey Sessions.
- O. Benl.* Old Benloe's Reports, English Common Pleas (Benloe, of Benloe and Dalison, Edition of 1689).
- O. Bridg.* Orlando Bridgman's Reports, English Common Pleas.
- O'Brien M. L.* O'Brien's Military Law.
- O. C.* Orphans' Court.
- O. C.* Old Code. (Louisiana Civil Code of 1808.)
- O. G.* Official Gazette, U. S. Patent Office, Washington, D. C.
- O'Dowl Sh.* O'Dowl's Merchants' Shipping Act.
- O'Mal. & H.* O'Malley and Hardcastle's Election Cases.

- O. N. B.* Old Natura Brevium.
O'Neal Neg. L. O'Neal's Negro Law of South Carolina.
O. S. Old Series.
O. St. Ohio State Reports.
O. & T. Oyer and Terminer.
Observ. Observations.
Oct. Str. Strange's Reports, English Courts, Octavo Edition.
Off. Br. Officina Brevium.
Off. Ex. Wentworth's Office of Executors.
Off. Gaz. Pat. Off. Official Gazette, U. S. Patent Office, Washington, D. C.
Off. Min. Officer's Reports, Minnesota Reports, vols. 1-9.
Ogd. Ogden's Reports, Louisiana Annual Reports, vols. 12-15.
Ohio. Ohio Reports.
Ohio St. Ohio State Reports.
Oke Mag. Syn. Oke's Magisterial Synopsis.
Ol. Con. Oliver's Conveyancing.
Ol. Prec. Oliver's Precedents.
Olc. or Olc. Adm. Olcott's Admiralty Reports, U. S. So. Dist. of N. Y.
Oldn. Oldnall's Welsh Practice.
Oldr. Oldright's Reports, Nova Scotia.
Olioph. Oliphant on Law of Horses.
Oliv. B. & L. Oliver, Beavan, and Lefroy's Reports, English Railway and Canal Cases, vols. 5-7.
Onsl. N. P. Onslow's Nisi Prius.
Ont. Ontario.
Ont. App. Rep. Ontario Appeal Reports, Canada.
Op. Att.-Gen. Opinions of the Attorney-Generals, United States.
Op. Att.-Gen. N. Y. Opinions of the Attorney-Generals, New York (Sickel's Compilation).
Or. Oregon Reports.
Ord. Ord on Usury.
Ord. Amst. Ordinance of Amsterdam.
Ord. Ant. Ordinance of Antwerp.
Ord. Bilb. Ordinance of Bilbao.
Ord. Ch. Orders in Chancery.
Ord. Cla. Lord Clarendon's Orders.
Ord. Copenh. Ordinance of Copenhagen.
Ord. Ct. Orders of Court.
Ord. Flor. Ordinances of Florence.
Ord. Gen. Ordinance of Genoa.
Ord. Hamb. Ordinance of Hamburg.
Ord. Königs. Ordinance of Königsberg.
Ord. Leg. Ordinances of Leghorn.
Ord. de la Mer. Ordonnance de la Marine de Louis XIV.
Ord. Port. Ordinances of Portugal.
Ord. Prus. Ordinances of Prussia.
Ord. Rott. Ordinances of Rotterdam.
Ord. Swed. Ordinances of Sweden.
Ord U. Ord on the Law of Usury.
Ordr. Jud. Ins. Ordonnau on Judicial Aspects of Insanity.
Ordr. Med. Jur. Ordonnau's Medical Jurisprudence.
Oreg. Oregon's Reports.
Orf. M. L. Orfila's Médecine Légale.
Orl. Bridg. Orlando Bridgman's Reports, English Common Pleas.
Orl. T. E. Orleans Term Reports, vols. 1 and 2, Martin's Reports, Louisiana.
Orm. Ormond's Reports, Alabama Reports, N. S., vols. 12-15.
Ort. R. L. Ortolan's History of Roman Law.
Otto. Otto's Reports, Supreme Court U. S., vols. 91-102.
Ought. Oughton's Ordo Judiciorum.
Out. Outerbridge's Reports, Pennsylvania State Reports, vol. 95.
Over. Overton's Reports, Tennessee.
Ow. or Owen. Owen's Reports, English King's Bench and Common Pleas.
Owen Bankr. Owen on Bankruptcy.
P. Easter Term.
P. C. Privy Council. Prize Court. Probate Court.
P. C. Parliamentary Cases. Pleas of the Crown. Practice Cases. Prize Cases.
P. C. Precedents in Chancery. Procédure Civile.
P. C. Penal Code. Political Code.
P. C. Act. Probate Court Act.
P. C. C. Privy Council Cases.
P. C. L. J. Pacific Coast Law Journal, San Francisco.
P. C. R. Parker's Criminal Reports, New York.
P. E. I. Rep. Prince Edward Island Reports (Haviland's).
P. F. S. P. F. Smith's Reports, Pennsylvania State Reports, vols. 51-81½.
P. L. Pamphlet Laws. Public Laws. Poor Laws.
P. L. Com. Poor Law Commissioners.
P. L. J. Pennsylvania Law Journal.
P. L. J. Pittsburgh Legal Journal, Pa.
P. L. R. Pennsylvania Law Record, Philadelphia.
P. N. P. Peake's Nisi Prius.
P. O. Cas. Perry's Oriental Cases, Bombay.
P. P. Parliamentary Papers.
P. P. A. P. Precedents of Private Acts of Parliament.
P. R. Pennsylvania Reports, by Penrose and Watts.
P. R. Parliamentary Reports.
P. R. Pyke's Reports, Canada.
P. R. C. P. Practical Register in Common Pleas.
P. R. Ch. Practical Register in Chancery.
P. R. U. C. Practice Reports, Upper Canada.
P. R. & D. Power, Rodwell, and Dew's Election Cases, English.
P. W. or P. Wms. Peere Williams's Reports, English Chancery.
P. & C. Prideaux and Cole's Reports, English Courts.
P. & D. Perry and Davidson's Reports, English Queen's Bench.
P. & H. Patton and Heath's Reports, Virginia.
P. & K. Perry and Knapp's Election Cases.
P. & M. Philip and Mary; thus 1 P. & M. signifies the first year of the reign of Philip & Mary.
P. & R. Pigott and Rodwell's Election Cases, English.
P. & W. or Pa. Penrose and Watt's Pennsylvania Reports.
Pa. or Paine. Paine's Reports, U. S. Circuit Ct., 2d Circuit.
Pa. L. G. or Pa. Leg. Gaz. Legal Gazette Reports (Campbell's), Pennsylvania.
Pa. L. J. or Pa. Law Jour. Pennsylvania Law Journal, Philadelphia.
Pa. L. J. Rep. or Pa. Law Jour. Rep. Pennsylvania Law Journal Reports (Clark's Reports).
Pa. L. Rec. or Pa. Law Rec. Pennsylvania Law Record, Philadelphia.
Pa. St. Pennsylvania State Reports.
Pac. Coast L. J. Pacific Coast Law Journal, San Francisco.
Pac. Law Mag. Pacific Law Magazine, San Francisco.
Pac. Law Repr. Pacific Law Reporter, San Francisco.
Page Div. Page on Divorce.
Paig., Paige, or Paige Ch. Paige's Chancery Reports, New York.
Paine. Paine's Reports, U. S. Circ. Ct., 2d Circuit.

- Paine & D. Pr.* Paine and Duer's Practice.
Pal. Ag. Paley on Agency.
Pal. Conv. Paly on Summary Convictions.
Palm. Palmer's Reports, English King's Bench.
Palm. Pr. Lords. Palmer's Practice in the House of Lords.
Pamph. Pamphlets.
Papy. Papy's Reports, Florida Reports, vols. 5-8.
Par. Parker's Reports, English Exchequer.
Par. Paragraph.
Par. W. C. Parish Will Case.
Par. & Fonb. M. J. Paris and Fonblanque on Medical Jurisprudence.
Pard. Pardessus's Cours de Droit Commercial.
Pard. Lois Mar. Pardessus's Lois Maritimes.
Pard. Serv. Pardessus's Traités des Servitudes.
Par. Parker's Reports, English Exchequer.
Park. Cr. Cas. or Park. Cr. Rep. Parker's Criminal Reports, New York.
Park Dow. Park on Dower.
Park Ins. Park on Insurance.
Park. Hist. Ch. Parker's History of Chancery.
Park. Pr. Ch. Parker's Practice in Chancery.
Park. R. P. Parke on Real Property.
Park. Sh. Parker on Shipping and Insurance.
Parl. Hist. Parliamentary History.
Parl. Reg. Parliamentary Register.
Pars. Bills & N. Parsons on Bills and Notes.
Pars. Cas. Parsons's Select Equity Cases, Pennsylvania.
Pars. Com. Parsons's Commentaries on American Law.
Pars. Con. Parsons on Contracts.
Pars. Costs. Parsons on Costs.
Pars. Dec. Parsons's Decisions, Massachusetts.
Pars. Eq. Cas. Parsons's Select Equity Cases, Pennsylvania.
Pars. Essays. Parsons's Essays on Legal Topics.
Pars. Ins. Parsons on Marine Insurance.
Pars. Law Bus. Parsons's Law of Business.
Pars. Mar. Ins. Parsons on Marine Insurance.
Pars. Mar. L. Parsons on Maritime Law.
Pars. Merc. L. Parsons on Mercantile Law.
Pars. Notes & B. Parsons on Notes and Bills.
Pars. Part. Parsons on Partnership.
Pars. Sh. & Adm. Parsons on Shipping and Admiralty.
Pars. Wills. Parsons on Wills.
Pas. Terminus Paschæ. Easter Term.
Pasch. Paschal's Reports, Texas Reports, vols. 28-31.
Pasch. Ann. Const. Paschal's Annotated Constitution of the U. S.
Pat. App. Cas. Paton's Scotch Appeal Cases, English House of Lords. Craigie, Stewart, and Paton's Reports.
Pat. Com. Paterson's Compendium of English and Scotch Law.
Pat. Law Rev. Patent Law Review, Washington, D. C.
Pat. El. Cas. Patrick's Election Cases, Upper Canada.
Pat. Off. Gaz. Official Gazette, U. S. Patent Office, Washington, D. C.
Pat. St. Ex. Paterson's Law of Stock Exchange.
Pat. Stop. Tr. Paton on Stoppage in Transitu.
Pat. & H. or Patton & H. Patton and Heath's Reports, Virginia.
Pat. & Mur. Paterson and Murray's Reports, New South Wales.
Patch Mortg. Patch on Law of Mortgages.
Paters. App. Cas. Paterson's Scotch Appeal Cases.
Paters. St. Ex. Paterson's Law of Stock Exchange.
Patr. El. Cas. Patrick's Election Cases, Upper Canada.
Paul Par. Off. Paul's Parish Officer.
Pay. Munc. Rights. Payne on Municipal Rights.
Peach. Mar. Sett. Peachey on Marriage Settlements.
Peak. Peake's Nisi Prius Cases, English Courts.
Peak. Add. Cas. Peake's Additional Cases, Nisi Prius, English.
Peak. Ev. Peake on Evidence.
Peak. N. P. Cas. Peake's Nisi Prius Cases, English.
Pear. Pearson's Reports, Pennsylvania.
Pearce C. C. Pearce's Crown Cases, English.
Peck or Peck (Tenn.). Peck's Reports, Tennessee.
Peck. El. Cas. Peckwell's Election Cases, English.
Peck (Ill.). Peck's Reports, Illinois Reports, vols. 11-30.
Peck Mun. L. Peck's Municipal Laws of Ohio.
Peck Tr. Peck's Impeachment Trial.
Peere Wms. or Peere Williams. Peere Williams's Reports, English Chancery.
Pemb. J. & O. Pemberton's Judgments and Orders.
Pemb. R. & S. Pemberton on Revivor and Supplement.
Pen. Pennington's Reports, New Jersey Law Reports, vols. 2 and 3.
Pen. (In this work.) Pennsylvania State Reports.
Penn. Bl. Pennsylvania Blackstone, by John Reed.
Penn. L. G. or Penn. Leg. Gaz. Pennsylvania Legal Gazette Reports (Campbell's).
Penn. L. J. or Penn. Law Jour. Pennsylvania Law Journal, Philadelphia.
Penn. L. J. R. or Penn. Law Jour. Rep. Pennsylvania Law Journal Reports (Clark's).
Penna. L. R. or Penn. Law Rec. Pennsylvania Law Record, Philadelphia.
Penn. Pr. Pennsylvania Practice, by Troubat and Haly.
Penn. R. Pennsylvania Reports.
Penn. St. Pennsylvania State Reports.
Penning. Pennington's Reports, New Jersey.
Penr. & W. Penrose and Watt's Pennsylvania Reports.
Penrud. Anal. Penruddock's Analysis of the Criminal Law.
Peo. L. Adv. People's Legal Adviser, Utica, N. Y.
Per. Or. Cas. Perry's Oriental Cases, Bombay.
Per. T. & T. Perry on Trusts and Trustees.
Per. & Dav. Perry and Davison's Reports, English Queen's Bench.
Per. & K. El. Cas. Perry and Knapp's Election Cases, English.
Perk. Conv. Perkins on Conveyancing.
Perk. Pl. Perkins on Pleading.
Perk. Prof. Bk. Perkins's Profitable Book.
Perp. Pat. Perpigna on Patents.
Pet. Peters's Reports, U. S. Supreme Court.
Pet. Adm. Peters's Admiralty Decisions, U. S. Dist. of Pa.
Pet. Brooke. Petit Brooke or Brooke's New Cases, English King's Bench (Bellew's Cases temp. Hen. VIII.).
Pet. C. C. Peters's Reports, U. S. Circuit Court, 3d Circuit.
Peters. Peters's Reports, U. S. Supreme Court.
Peters Adm. Peters's Admiralty Decisions, U. S. Dist. of Pa.

- Peters C. C.* Peters's Reports, U. S. Circuit Court, 3d Circuit.
Petersd. Abr. Petersdorff's Abridgment.
Petersd. B. Petersdorff on the Law of Bail.
Petersd. L. of N. Petersdorff on the Law of Nations.
Petersd. Pr. Petersdorff's Practice.
Peth. Int. Petheram on Interrogatories.
Petit Br. Petit Brooke.
Petit Jur. Pettigal on Juries.
Ph. or Phil. Phillips's Reports, English Chancery.
Phear W. Phear on Rights of Water.
Phil. Copyr. Phillips on Copyright.
Phil. El. Cas. Phillips's Election Cases.
Phil. Eq. Phillips's Equity Reports, North Carolina.
Phil. Ev. Phillips on Evidence.
Phil. Ins. Phillips on Insurance.
Phil. Insan. Phillips on Insanity.
Phil. Law (N. C.). Phillips's Law Reports, North Carolina.
Phil. Mech. Liens. Phillips on Mechanics' Liens.
Phil. Pat. Phillips on Patents.
Phil. Pr. Phillips's Practice.
Phil. St. Tr. Phillips's State Trials.
Phila. Philadelphia Reports, Common Pleas of Philadelphia City.
Phill. Phillimore's Reports, English Ecclesiastical Courts.
Phill. Cr. L. Phillimore's Study of the Criminal Law.
Phill. Dom. Phillimore on the Law of Domicil.
Phill. Eccl. Phillimore on Ecclesiastical Law.
Phill. Eccl. Judg. Phillimore's Ecclesiastical Judgments.
Phill. Ev. Phillimore on Evidence.
Phill. Int. Phillimore on International Law.
Phill. Jur. Phillimore on Jurisprudence.
Phill. Prin. Jur. Phillimore's Principles and Maxims of Jurisprudence.
Phill. Priv. L. Phillimore's Private Law among the Romans.
Phill. Rom. L. Phillimore's Study and History of the Roman Law.
Phillim. See *Phill.*
Pick. Pickering's Reports, Massachusetts Reports, vols. 18-41.
Pierce R. R. Pierce on Railroads.
Pig. Rec. Pigott on Common Recoveries.
Pig. & E. Pigott and Rodwell's Registration Appeal Cases, English.
Pike. Pike's Reports, Arkansas Reports, vols. 1-5.
Pin. Pinney's Reports, Wisconsin.
Pist. Piston's Reports, Mauritius.
Pitc. Tr. Pitcairn's Ancient Criminal Trials, Scotland.
Pitm. S. Pitman on Suretyship.
Pitts. L. J. or Pitts. Leg. Jur. Pittsburgh Legal Journal, Pittsburgh, Penn.
Pitts. Repts. Pittsburgh Reports, Pennsylvania Courts (reprinted from the Journal).
Pl. Placiti Generalia.
Pl. or Pl. Com. Plowden's Commentaries or Reports, English King's Bench.
Pl. U. Plowden on Usury.
Platt Cov. Platt on the Law of Covenants.
Platt Lease. Platt on Leases.
Plowd. or Plowd. Com. Plowden's Commentaries or Reports, English King's Bench.
Plowd. Crim. Con. Tr. Plowden's Crim. Con. Trials.
Pléb. Plébiscite.
Plff. Plaintiff.
Plum. Contr. Plumtre on Contracts.
Po. Ct. Police Court.
Pol. Pollexfen's Reports, English King's Bench.
Poll. Contr. Pollock on Contracts.
Poll. Doc. Pollox on Production of Documents.
Poll. Part. Pollock on Partnership.
Pols. Int. or Pols. Law of Nat. Polson on Law of Nations.
Pom. Con. L. Pomeroy's Constitutional Law of the U. S.
Pom. Contr. Pomeroy on Contracts.
Pom. Mun. L. Pomeroy's Municipal Law.
Poore Const. Poore's Federal and State Constitutions.
Pope C. & E. Pope on Customs and Excise.
Poph. Popham's Reports, English King's Bench.
2 Poph. Cases at the end of Popham's Reports.
Poph. Insol. Popham's Insolvency Act of Canada.
Port. Porter's Reports, Alabama.
Port. (Ind.). Porter's Reports, Indiana Reports, vols. 3-7.
Post. Post's Reports, Michigan Reports, vols. 23-24.
Post (Mo.). Post's Reports, Missouri Reports, vols. 42-63.
Postl. Dict. Postlethwaite's Commercial Dictionary.
Poth. Cont. Pothier on Contracts.
Poth. Cæv. Pothier's Œuvres.
Poth. Obl. Pothier on Obligations.
Poth. Part. Pothier on Partnership.
Poth. Proc. Civ. Pothier de la Procédure Civile.
Potter Corp. Potter on Corporations.
Potter's Dwar. St. Potter's Dwaris on Statutes.
Potts L. D. Potts's Law Dictionary.
Pow. Am. L. Powell's American Law.
Pow. App. Pr. Powell's Appellate Proceedings.
Pow. Car. Powell on Inland Carriers.
Pow. Con. Powell on Contracts.
Pow. Conv. Powell on Conveyancing.
Pow. Dev. Powell on Devises.
Pow. Ev. Powell on Evidence.
Pow. Mort. Powell on Mortgages.
Pow. Powers. Powell on Powers.
Pow. Pr. Powell's Precedents in Conveyancing.
Pow. R. & D. Power, Rodwell, and Dew's Election Cases, English.
Poynt. M. & D. Poynter on Marriage and Divorce.
Pr. Ch. Precedents in Chancery (Finch's).
Pr. Ct. Prerogative Court.
Pr. Dec. Kentucky Decisions, printed by Sneed.
Pr. Exch. Price's Exchequer Reports, English.
Pr. Falc. President Falconer's Reports, Scotch.
Pr. L. Private Law or Private Laws.
Pr. Reg. B. C. Practical Register in the Ball Court.
Pr. Reg. C. P. Practical Register in the Common Pleas.
Pr. Reg. Ch. Practical Register in Chancery (Styles's).
Pr. St. Private Statutes.
Prat. Cas. Prater's Cases on Conflict of Laws.
Prat. H. & W. Prater on the Law of Husband and Wife.
Pratt B. S. Pratt on Beneficial Building Societies.
Pratt C. W. Pratt on Contraband of War.
Pratt S. L. Pratt on the Law of Sea Lights.
Pref. Preface.
Prél. Préliminaire.

- Prer.* Prerogative Court.
Pres. Abs. Preston on Abstracts.
Pres. Conv. Preston on Conveyancing.
Pres. Est. Preston on Estates.
Pres. Leg. Preston on Legacies.
Pres. Merg. Preston on Merger.
Pres. Shep. T. Preston's Sheppard's Touchstone.
Price or Price Exch. Price's Reports, Exchequer, English.
Price Liens. Price on Liens.
Price P. P. Price's Notes of Points in Exchequer Practice.
Price R. Est. Price on Acts relating to Real Estate.
Price Gen. Pr. Price's General Practice.
Prid. Chu. Gui. Prideaux's Churchwarden's Guide.
Prid. Prec. Prideaux's Precedents in Conveyancing.
Prid. & C. Prideaux and Cole's Reports, English, New Sessions Cases, vol. 4.
Prin. Principium. The beginning of a title or law.
Prin. Dec. Kentucky Decisions, printed by Sneed.
Prior Lim. Prior on Construction of Limitations.
Pritch. M. & D. Pritchard on Marriage and Divorce.
Priv. Lond. Customs or Privileges of London.
Pro. L. Province Law.
Pro quer. Pro querentem. For the plaintiff.
Prob. L. T. Probyn on Land Tenures.
Prob. & Adm. Div. Probate and Admiralty Division, Law Reports.
Prob. & Div. Probate and Divorce, Law Reports.
Prob. & Matr. Probate and Matrimonial Cases.
Proc. Ch. Proceedings in Chancery.
Proc. Pr. Proctor's Practice.
Proff. Corp. Proffatt on Corporations.
Proff. Jury Tr. Proffatt on Jury Trials.
Proff. Not. Proffatt on Notaries.
Proff. Wills. Proffatt on Wills.
Proud. Dom. Pub. Proudhon's *Domaine Public*.
Psychol. & M. L. J. Psychological and Medico-Legal Journal, N. Y.
Puf. Pufendorf's Law of Nature and Nations.
Pugs. Pugsley's Reports, New Brunswick.
Pugs. & Bur. Pugsley and Burbridge's Reports, New Brunswick.
Pull. Attor. Pulling on the Law of Attorneys.
Puls. Pulsifer's Reports, Maine Reports, vols. 65-68.
Pult. Pulton de Pace Regus.
Purd. Dig. Pa. Purdon's Digest of Pennsylvania Laws.
Purd. Dig. U. S. Purdon's Digest of United States Laws.
Puter. Pl. Puterbaugh's Pleading.
Pyke. Pyke's Reports, Lower Canada, King's Bench.
Q. Question. Quorum.
Q. Attach. Quoniam Attachiamenta.
Q. B. Court of Queen's Bench.
Q. B. Queen's Bench Reports, Adolphus and Ellis's Reports, N. S., English.
Q. B. Div. Queen's Bench Division, English Law Reports.
Q. B. U. C. Queen's Bench Reports, Upper Canada.
Q. C. Queen's Council.
Q. L. R. Quebec Law Reports.
Q. S. Quarter Sessions.
Q. t. Qui tam.
Q. v. Quod vide.
Q. Van Weyt. Q. Van Weytson on Average.
Q. Vict. Statutes of Province of Quebec (Reign of Victoria).
Q. War. Quo Warranto.
Qu. L. Jour. Quarterly Law Journal, Richmond, Va.
Qu. L. Rev. Quarterly Law Review, Richmond Va.
Quin. Quincy's Reports, Massachusetts.
Quin. Bank. Quin on the Law of Banking.
Quint's Quinto. Year Book, 5 Hen. V.
R. Resolved. Repealed. Revised. Revision. Rolls.
R. King Richard; thus 1 R. III. signifies the first year of the reign of King Richard III.
R. A. Regular Appeals. Registration Appeals.
Re. Rescriptum.
R. C. Record Commission. Railway Cases.
R. C. & C. R. Revenue, Civil, and Criminal Reporter, Calcutta.
R. I. Rhode Island Reports.
R. J. & P. J. Revenue, Judicial, and Police Journal, Calcutta.
R. L. Roman Law, Revised Laws.
R. L. & S. Ridgeway, Lapp, and Schoales's Reports, Irish King's Bench.
R. L. & W. Roberts, Leaming, and Wallis's County Court Reports, English.
R. M. Charl. R. M. Charlton's Reports, Georgia.
R. S. Revised Statutes.
R. S. L. Reading on Statute Law.
R. t. F. Reports *tempore* Finch, English Chancery.
R. t. Hardw. Reports *tempore* Hardwicke, English King's Bench.
R. t. Holt. Reports *tempore* Holt, English King's Bench.
R. & M. or R. & My. Russell and Mylne's Reports, English Chancery.
R. & M. C. C. Ryan and Moody's Crown Cases Reserved, English.
R. & M. N. P. Ryan and Moody's Nisi Prius Cases, English.
R. & R. C. C. Russell and Ryan's Crown Cases Reserved, English.
Raff Pens. Man. Raff's Pension Manual.
Railw. Cas. Railway Cases.
Railw. & C. Cas. Railway and Canal Cases, English.
Ram A. Ram on Assets.
Ram Cas. P. & E. Ram's Cases of Pleading and Evidence.
Ram F. Ram on Facts.
Ram Judgm. Ram on Science of Legal Judgment.
Ram W. Ram on Exposition of Wills.
Rand. Randolph's Reports, Virginia.
Rand. (Kan.). Randolph's Reports, Kansas Reports, vols. 21-24.
Rand. (La.). Randolph's Reports, Louisiana Annual Reports, vols. 7-11.
Rand. Perp. Randall on Perpetuities.
Raney. Raney's Reports, Florida Reports, vol. 16.
Rank. P. Rankin on Patents.
Rast. Rastell's Entries and Statutes.
Ratt. L. C. Rattigan's Leading Cases on Hindoo Law.
Ratt. R. L. Rattican's Roman Law.
Raw. or Rawle. Rawle's Reports, Pennsylvania.
Rawle Const. Rawle on the Constitution.
Rawle Covt. Rawle on Covenants for Title.
Rawle Eq. Rawle's Equity.
Ray Med. Jur. Ray's Medical Jurisprudence of Insanity.
Ray Men. Path. Ray's Mental Pathology.

- Raym. or Raym. Ld.* Raymond's Reports, English King's Bench.
Raym. B. of Ex. Raymond on Bill of Exceptions.
Raym. Ch. Dig. Raymond's Chancery Digest.
Raym. Ent. Raymond's Book of Entries.
Raym. T. T. Raymond's Reports, English King's Bench.
Rayn. Rayner's Tithe Cases, Exchequer.
Read. Pl. Read's Pleadings.
Real Est. Rec. Real Estate Record, New York.
Rec. Recorder.
Rec. Com. Record Commission.
Rec. Dec. Vaux's Recorder's Decisions, Philadelphia.
Red. Mar. Reddie's Law of Maritime Commerce.
Red. R. L. Reddie's Roman Law.
Redes. Pl. Mitford's Chancery Pleading.
Redf. Redfield's Surrogate Court Reports, N. Y.
Redf. Am. Railw. Cas. Redfield's American Railway Cases.
Redf. Bailm. Redfield on Carriers and Bailments.
Redf. L. Cas. Wills. Redfield's Leading Cases on Wills.
Redf. Pr. Redfield's Practice, New York.
Redf. Railw. Redfield on Railways.
Redf. R. Cas. or Redf. Railw. Cas. Redfield's American Railway Cases.
Redf. Surr. Redfield's Surrogate Court Reports, N. Y.
Redf. Wills. Redfield on Wills.
Redf. & Big. L. Cas. Redfield and Biglow's Leading Cases on Notes and Bills.
Reding. Redington's Reports, Maine Reports, vols. 31-35.
Redm. Redman on Arbitrations and Awards.
Reed Fraud or Reed Lead. Cas. Reed's Leading Cases in Law of Statute of Frauds.
Reeve Des. Reeve on Descents.
Reeve Dom. R. Reeve on Domestic Relations.
Reeve Eng. L. or Reeve H. E. L. Reeve's History of the English Law.
Reeve Sh. Reeve on the Law of Shipping and Navigation.
Reg. The Daily Register, New York City.
Reg. Brev. Register of Writs.
Reg. Cas. Registration Cases.
Reg. Deb. (Gales). Register of Debates in Congress, 1789-91 (Gales's).
Reg. Deb. (G. & S.). Register of Debates in Congress, 1824-37 (Gales and Seaton's).
Reg. Gen. Regula Generales.
Reg. Jud. Registrum Judiciale.
Reg. Lib. Register Book.
Reg. Maj. Books of Regiam Majestatem.
Reg. Orig. Registrum Originale.
Reg. Pl. Regula Placitandi.
Rep. Repealed. Reports. Repertoire.
Rep. Cope's Reports, English King's Bench.
Rep. The Reporter, Boston, Mass.
Rep. (N. Y.) or Rep. (Wash.). The Reporter, Washington and New York.
Rep. Cas. Pr. Reports of Cases of Practice (Cooke's).
Rep. Ch. Reports in Chancery.
Rep. Ch. Pr. Reports on the Chancery Practice.
Rep. Const. Reports of the Constitutional Court of South Carolina.
Rep. Cr. L. Com. Reports of Criminal Law Commissioners.
Rep. de Jur. Répertoire de Jurisprudence, Paris.
Rep. de Jur. Com. Répertoire de Jurisprudence Commerciale, Paris.
Rep. au Not. Répertoire du Notariæ, Paris.
Rep. Ec. C. C. Répétitions Ecrites sur le Code Civil.
Rep. Eq. Guilbert's Reports in Equity, English.
Rep. in Ch. Reports in Chancery, English.
Rep. Q. A. Reports *tempore* Queen Anne (11 Modern).
Rep. Sel. Cas. in Ch. Kelynge's (W.) Reports, English Chancery.
Rep. t. Finch. Reports *tempore* Finch, English Chancery.
Rep. t. Hard. Reports *tempore* Hardwicke, English King's Bench.
Rep. t. Holt. Reports *tempore* Holt, English King's Bench.
Rep. t. Talb. Reports *tempore* Talbot, English Chancery.
Report. Coke's Reports, English King's Bench.
Reptr. The Reporter, Boston, Mass.
Res. Cas. Reserved Cases.
Ret. Brev. Retorna Brevium.
Rettie. Rettie's Scotch Court of Sessions Cases (4th Series).
Rev. Reversed. Revised. Revenue.
Rev. Cas. Revenue Cases.
Rev. Crit. La Revue Critique, Montreal.
Rev. Crit. de Leg. Revue Critique de Legislation, Paris.
Rev. de Leg. Revue de Legislation, Montreal.
Rev. Dr. Int. Revue de Droit International, Paris.
Rev. Dr. Leg. Revue de Droit Législation, Paris.
Rev. Leg. La Revue Légale, Sorel, Quebec.
Rev. Stat. Revised Statutes.
Reyn. Reynolds's Reports, Mississippi Reports, vols. 40-42.
Reyn. L. Ins. Reynolds on Life Insurance.
Reyn. Steph. Reynolds's Stephens on Evidence.
Rho. L. Rhodian Law.
Rice. Rice's Law Reports, South Carolina.
Rice Ch. Rice's Chancery Reports, South Carolina.
Rich. Richardson's Law Reports, South Carolina.
Rich. (N. H.). Richardson's Reports, New Hampshire Reports, vols. 3-5.
Rich. Cas. Ch. Richardson's Cases in Chancery, South Carolina.
Rich. Ch. or Rich. Eq. Richardson's Chancery Reports, South Carolina.
Rich. N. S. Richardson's Reports, New Series, South Carolina.
Rich. Pr. C. P. Richardson's Practice Common Pleas.
Rich. Pr. K. B. Richardson's Practice in the King's Bench.
Rich. P. R. C. P. Richardson's Practical Register, Common Pleas.
Rich. Wills. Richardson on Wills.
Rich. & W. Richardson and Woodbury's Reports, Massachusetts Reports, vol. 2.
Ridg. Ridgeway's Reports, English Chancery and King's Bench.
Ridg. App. Ridgeway's Appeal Cases, Ireland.
Ridg. L. & S. Ridgeway, Lapp, and Schoales's Reports (Irish Term Reports).
Ridg. P. C. Ridgeway's Appeal Cases, Ireland.
Ridg. St. Tr. Ridgeway's State Trials, Ireland.
Riley. Riley's Law Reports, South Carolina.
Riley Ch. or Riley Eq. Riley's Chancery Reports, South Carolina.
Riv. Ann. Reg. Rivington's Annual Register.
Rob. Robinson's Reports, English House of Lords, Scotch Appeals.

- Rob. (Cal.)*. Robinson's Reports, California Reports, vol. 38.
Rob. (La.). Robinson's Reports, Louisiana.
Rob. (La. Ann.). Robinson's Reports, Louisiana Annual, vols. 1-4.
Rob. (Mo.). Robard's Reports, Missouri Reports, vols. 13-14.
Rob. (N. Y.). Robertson's Reports, New York City Superior Court Reports, vols. 24-30.
Rob. (Nev.). Robinson's Reports, Nevada Reports, vol. 1.
Rob. (Va.). Robinson's Reports, Virginia.
Rob. Adm. or Rob. Chr. Chr. Robinson's Reports, English Admiralty.
Rob. Adm. & Pr. Roberts on Admiralty and Prize.
Rob. App. Robinson's Scotch Appeals, English House of Lords.
Rob. Bank. Robson's Bankrupt Practice.
Rob. Chr. Adm. Chr. Robinson's Reports, English Admiralty.
Rob. Conscr. Cas. Robard's Conscript Cases, Texas.
Rob. Eec. Robertson's Ecclesiastical Reports, English.
Rob. Ent. Robinson's Entries.
Rob. Eq. Roberts's Principles of Equity.
Rob. Fr. Roberts on Frauds.
Rob. Fr. Conv. Roberts on Fraudulent Conveyances.
Rob. Gavelk. Robinson on Gavelkind.
Rob. Jr. or Rob. Wm. Wm. Robinson's Reports, English Admiralty.
Rob. Jus. Robinson's Justice of the Peace.
Rob. Pr. Robinson's Practice.
Rob. S. I. Robertson's Reports, Sandwich Islands.
Rob. Sc. App. Robinson's Scotch Appeals, English House of Lords.
Rob. St. Fr. Roberts on the Statute of Frauds.
Rob. Suc. Robertson on Personal Succession.
Rob. U. C. Robinson's Reports, Upper Canada.
Rob. Wm. Adm. Wm. Robinson's Reports, English Admiralty.
Rob. Wills. Roberts on Wills.
Rob. & J. Robard and Jackson's Reports, Texas Reports, vols. 26-27.
Robb Pat. Cas. Robb's Patent Cases.
Robert. Robertson's Scotch Appeals, English House of Lords.
Robt. (N. Y.). Robertson's Reports, New York City Superior Court Reports, vols. 24-30.
Roc. Ins. Roccus on Insurance.
Roc. Mar. L. Roccus on Maritime Law.
Roc. & H. Bank. Roche and Hazlitt on Bankruptcy.
Rockw. Min. Rockwell on Mines.
Rockw. Sp. & Mex. L. Rockwell's Spanish and Mexican Law.
Roelk. Man. Roelker's Manual for Notaries and Bankers.
Rog. Ecc. Rogers's Ecclesiastical Law.
Rog. Elec. Rogers on Elections.
Rog. Min. Rogers on Mines.
Rog. Rec. Rogers City Hall Recorder, New York.
Roll. or Rolle. Rolle's Reports, English King's Bench.
Rolle Abr. Rolle's Abridgment.
Rom. Romilly's Notes of Cases, English Chancery.
Rom. Cr. L. Romilly's Criminal Law.
Root. Root's Reports, Connecticut.
Rop. H. & W. Roper on Husband and Wife.
Rop. Leg. Roper on Legacies.
Rop. Prop. Roper on Property.
Rop. Rev. Roper on Revocation of Wills.
Rorer Int. St. L. Rorer on Inter-State Law.
Rorer Jud. Sales. Rorer on Judicial Sales.
Rosc. Bills. Roscoe on Bills and Notes.
Rosc. Civ. Ev. Roscoe on Civil Evidence.
Rosc. Cr. Ev. Roscoe on Criminal Evidence.
Rosc. Jur. Roscoe's Jurist, London.
Rosc. N. P. Roscoe on Nisi Prius Evidence.
Rosc. Pl. Roscoe on Pleading.
Rosc. R. Ac. Roscoe on Real Actions.
Rosc. St. D. Roscoe on Stamp Duties.
Rose. Rose's Reports, English Bankruptcy.
Rose W. C. Rose Will Case, New York.
Ross Lead. Cas. Ross's Leading Cases on Commercial Law.
Ross V. & P. Ross on Vendors and Purchasers.
Rot. Chart. Rotulus Chartarum.
Rot. Cur. Reg. Rotuli Curie Regis.
Rot. Parl. Rotule Parliamentarie.
Round Dom. Round on Domicil.
Rouse Con. Rouse's Practical Conveyancer.
Rouse Cop. Rouse's Copyhold Enfranchisement Manual.
Rouse Pr. Mort. Rouse on Precedents of Mortgages.
Rowe. Rowe's Reports, English Parliamentary and Military Cases.
Rowe Sci. Jur. Rowe's Scintilla Juris.
Rowell. Rowell's Reports, Vermont Reports, vols. 45-52.
Royle Stock Sh. Royle on the Law of Stock Shares, etc.
Rt. Law Repts. Rent Law Reports, India.
Rub. Rubric.
Ruff. Ruffin's Reports, North Carolina (vol. 1, Hawk's Reports).
Ruffh. or Ruffh. St. Ruffhead's Statutes-at-Large of England.
Runn. Runnell's Reports, Iowa Reports, vols. 38-39.
Runn. Ej. Runnington on Ejectment.
Runn. Stat. Runnington's Statutes-at-Large of England.
Rush. Rushworth's Historical Collection.
Russ. Russell's Reports, English Chancery.
Russ. Arb. Russell on Arbitrators.
Russ. Cr. Russell on Crimes.
Russ. Elec. Cas. Russell's Election Cases, Nova Scotia.
Russ. Fact. Russell on Factors and Brokers.
Russ. & Ches. Russell and Chesley's Reports, Nova Scotia.
Russ. & Ches. Eq. Russell and Chesley's Equity Reports, Nova Scotia.
Russ. & Geld. Russell and Geldert's Reports, Nova Scotia.
Russ. & M. Russell and Mylne's Reports, English Chancery.
Russ. & R. Russell and Ryan's Crown Cases Reserved, English.
Rutger Cas. Rutger-Waddington Case, New York City, 1784 (First of New York Reports).
Ruth. Inst. or Ruth. Nat. L. Rutherford's Institutes of Natural Law.
Ry. Cas. Railway Cases, Reports of.
Ry. F. Rymer's Fœdera, Conventiones, etc.
Ry. & M. C. C. Ryan and Moody's Crown Cases Reserved, English.
Ry. & M. N. P. Ryan and Moody's Nisi Prius Reports, English.
S. Section.
S. Shaw and Dunlap's Reports, Scotch Court of Sessions (1st Series).
S. App. Shaw's Appeal Cases, Scotland.
S. B. Upper Bench.
S. C. Same Case. Senatus-Consulte. Sessions Cases. Superior Court. Supreme Court.
S. C. South Carolina Reports.
S. C. C. Select Chancery Cases.
S. C. E. Select Cases relating to Evidence.
S. C. Rep. Supreme Court Reports.

- S. D. A.* or *S. L. D.* Sudder Dewany Adulat Reports, India.
- S. Just.* Shaw's Justiciary Cases, Scotch.
- S. L.* Session Laws. Solicitor at Law. Statute Law.
- S. L. C. App.* Stuart's Lower Canada Appeal Cases.
- S. L. Ev.* Select Laws relating to Evidence.
- S. L. J.* Scottish Law Journal, Edinburgh.
- S. L. R.* Southern Law Review, St. Louis, Mo.
- S. L. R.* Scottish Law Reporter, Edinburgh.
- S. P.* Same Point. Same Principle.
- S. S.* Synopsis Series of U. S. Treasury Decisions.
- S. S. C.* Sandford's Reports, New York City Superior Court Reports, vols. 3-7.
- S. Teinds.* Shaw's Teinds Cases, Scotch Courts.
- S. V. A. R.* Stuart's Vice-Admiralty Reports, Lower Canada.
- S. W. L. J.* Southwestern Law Journal, Nashville, Tenn.
- S. & B.* Smith and Batty's Reports, Irish King's Bench.
- S. & D.* Shaw and Dunlop's Scotch Court of Sessions (1st Series).
- S. & L.* Schoales and Lefroy's Reports, Irish Chancery.
- S. & M.* or *S. & M'L.* Shaw and Maclean's Appeal Cases, English House of Lords.
- S. & M.* or *S. & Mar.* Smedes and Marshall's Reports, Mississippi Reports, vols. 9-22.
- S. & M. Ch.* or *S. & Mar. Ch.* Smedes and Marshall's Chancery Reports, Mississippi.
- S. & R.* Sergeant and Rawle's Reports, Pennsylvania.
- S. & S.* Simon and Stuart's Reports, English Chancery.
- S. & Sc.* Sausse and Scully's Reports, Irish Chancery.
- S. & Sm.* Searle and Smith's Reports, English Probate and Divorce Cases.
- S. & T.* Swabey and Tristram's Reports, English Probate and Divorce Cases.
- Salk.* Salkeld's Reports, English Courts.
- Salm. Abr.* Salmon's Abridgment.
- San Fr. L. J.* San Francisco Law Journal, California.
- San. U.* Sanders on Uses and Trusts.
- Sand. Eq.* Sands's Suit in Equity.
- Sand. Essays.* Sanders's Essays.
- Sand. Inst.* or *Sand. Jus.* Sandar's Institutes of Justinian.
- Sand. U. & T.* Sanders on Uses and Trusts.
- Sandf.* Sandford's Reports, New York City Superior Court Reports, vols. 3-7.
- Sandf. (Ala.).* Sandford's Reports, Alabama Reports, N. S., vol. 59.
- Sandf. Ch.* Sandford's Chancery Reports, New York.
- Sandf. Ent.* Sandford on Entails.
- Sandl. St. Pap.* Sandler's State Papers.
- Sant. de Assec.* Santerna, de Assecurationibus.
- Sar. Ch. Sen.* Saratoga Chancery Sentinel.
- Sau. & Sc.* Sausse and Scully's Reports, Irish Chancery.
- Saund.* Saunders's Reports, English King's Bench.
- Saund. Bank. Pr.* Saunders's Bankrupt Practice.
- Saund. Neg.* Saunders on the Law of Negligence.
- Saund. Pl.* Saunders on Civil Pleading.
- Saund. & C.* Saunders and Cole's Reports, English Bills Court.
- Sausse & Sc.* Sausse and Scully's Reports, Irish Chancery.
- Sav.* Savile's Reports, English Common Pleas.
- Sav. Dr. Rom.* Savigny, Droit Romain.
- Sav. His. Rom. L.* Savigny's History of the Roman Law.
- Sav. Obl.* Savigny on Obligations.
- Sav. Priv. Int. L.* Savigny on Private International Law.
- Sav. Priv.* Trial of the Savannah Privateers.
- Saw.* Sawyer's Reports, U. S. Circuit Court, 9th Circuit.
- Sax. or Saxt. Ch.* Saxton's Chancery Reports, New Jersey Equity Reports, vol. 1.
- Say.* Sayer's Reports, English King's Bench.
- Say. Costs.* Sayer on Costs.
- Say. Pr.* Sayle's Practice in Texas.
- Sc.* Scott's Reports, English Common Pleas.
- Sc. Scilicet.* That is to say.
- Sc. Liber Rubeus Scaccarii,* Scottish.
- Sc. Jur.* Scottish Jurist, Edinburgh.
- Sc. L. J.* Scottish Law Journal, Glasgow.
- Sc. L. M.* Scottish Law Magazine, Edinburgh.
- Sc. L. R.* Scottish Law Reporter, Edinburgh.
- Sc. Sess. Cas.* Scotch Court of Sessions Cases.
- Seac. Seaccaria Curia,* Court of Exchequer.
- Scam.* Scammon's Reports, Illinois Reports, vols. 2-5.
- Scan. Mag.* Scandalum Magnatum.
- Sch. & Lef.* Schoales and Lefroy's Reports, Irish Chancery.
- Scheiff. Pr.* Scheiffer's Practice.
- Schm. C. L.* Schmidt's Civil Law of Spain and Mexico.
- Schm. L. J.* Schmidt's Law Journal, New Orleans.
- Schoul. Bailm.* Schouler on Bailments, including Carriers.
- Schoul. Dom. Rel.* Schouler on Domestic Relations.
- Schoul. Per. Pr.* Schouler on Personal Property.
- Schuyl. Leg. Rec.* Schuylkill Legal Record, Pottsville, Pa.
- Sci. fa.* Scire facias.
- Sci. fa. ad dis. deb.* Scire facias ad disbandum debitum.
- Scil.* Scilicet. That is to say.
- Sco.* Scott's Reports, English Common Pleas.
- Sco. Costs.* Scott on Costs.
- Sco. Int.* Scott's Intestate Laws.
- Sco. N. R.* Scott's New Reports, English Common Pleas.
- Sco. Nat.* Scott on Naturalization of Aliens.
- Sco. & J. Tel.* Scott and Jarnigan on the Law of Telegraphs.
- Scot.* Scotland. Scottish.
- Scot. Jur.* Scottish Jurist, Edinburgh.
- Scot. L. J.* Scottish Law Journal, Glasgow.
- Sc. L. M.* Scottish Law Magazine, Edinburgh.
- Scot. L. R.* Scottish Law Reporter, Edinburgh.
- Scr. L. T.* Scranton Law Times, Pennsylvania.
- Scrat. Life As.* Scratchley on Life Assurance.
- Scrib. Dow.* Scribner on Dower.
- Scriv. Cop.* Scriven on Copyholds.
- Seab. V. & P.* Seaborne on Vendors and Purchasers.
- Searle & Sm.* Searle and Smith's Reports, English Probate and Divorce.
- Seat. F. Ch.* Seaton's Forms in Chancery.
- Seb. T. M.* Sebastian on Trademarks.
- Sec.* Section.
- Sec. leg. Secundum legem,* According to law.
- Sec. reg. Secundum regulam,* According to rule.
- Sedg. L. Cas.* Sedgwick's Leading Cases on the Measure of Damages.
- Sedg. Meas. D.* Sedgwick on the Measure of Damages.
- Sedg. St. L.* Sedgwick on Statutory and Constitutional Law.

- Seign.* Seigniorial Reports, Quebec.
Sel. Cas. or Sel. Cas. Ch. Select Cases in Chancery, English.
Sel. Cas. A.-S. Law. Select Cases in Anglo-Saxon Law.
Sel. Cas. Ev. Select Cases in Evidence, English.
Sel. Cas. N. F. Select Cases, Newfoundland Courts.
Sel. Cas. N. Y. Select Cases, Yates et al., New York.
Sel. Cas. with Opin. Select Cases with Opinions.
Sel. Ch. Cas. Select Cases in Chancery, English.
Sel. L. Cas. Select Law Cases.
Seld. or Seld. (N. Y.) Selden's Reports, New York Ct. of Appeals Reports, vols. 5-10.
Seld. Notes. Selden's Notes of Cases, New York Court of Appeals.
Self. Tr. Selfridge's Trial.
Sell. Pr. Sellon's Practice in the King's Bench.
Selw. N. P. Selwin's Nisi Prius.
Selw. & Barn. The first part of Barnwell and Alderson's Reports.
Serg. Attach. Sergeant on Attachment Law, Pa.
Serg. Const. L. Sergeant on Constitutional Law.
Serg. Land L. Sergeant on the Land Laws of Pennsylvania.
Serg. Mech. L. L. Sergeant on Mechanics' Lien Law.
Serg. & Rawle. Sergeant and Rawle's Reports, Pennsylvania.
Sess. Cas. Session Cases, English King's Bench.
Sess. Cas. Sc. Session Cases, Scotch Court of Sessions.
Sess. Pap. C. C. C. Session Papers, Central Criminal Court.
Sess. Pap. O. B. Session Papers, Old Bailey.
Set. Dec. or Set. F. Dec. Seton's Forms of Equity Decrees.
Sett. Cas. Settlement Cases.
Sev. Sevestre's Reports, Calcutta.
Sew. Sh. Sewell on Sheriffs.
Sey. Merch. Sh. Seymour on Merchant Shipping.
Sh. Shaw's Reports, Scotch Court of Sessions (1st Series).
Sh. App. Shaw's Appeal Cases, English House of Lords, Appeals from Scotland.
Sh. Dig. Shaw's Digest of Decisions, Scotland.
Sh. Jus. Shaw's Justiciary Cases, Scotland.
Sh. W. & C. Shaw, Wilson, and Courtney's Reports, English House of Lords, Scotch Appeals (Wilson and Shaw's Reports).
Sh. & Dunl. Shaw and Dunlop's Reports, First Series, Scotch Court of Sessions.
Sh. & Macl. Shaw and Maclean's Appeal Cases, English House of Lords.
Shand. Shand's Reports, South Carolina Reports, N. S., vols. 11-13.
Shand Pr. Shand's Practice, Court of Sessions.
Sharp. Sharpstein's Digest of Life and Accident Insurance Cases.
Sharsw. Bla. Com. Sharswood's Blackstone's Commentaries.
Sharsw. Comm. Law. Sharswood on Commercial Law.
Sharsw. Law Eth. Sharswood's Legal Ethics.
Sharsw. Law Lec. Sharswood's Law Lectures.
Shaw. Shaw's Reports, First Series, Scotch Court of Sessions.
Shaw (Vt.). Shaw's Reports, Vermont Reports, vols. 10, 11, 30-35.
Shaw App. Shaw's Appeal Cases, English House of Lords, Appeals from Scotland.
Shaw Dig. Shaw's Digest of Decisions, Scotch Courts.
Shaw's Ellis Ins. Shaw's Ellis on Insurance.
Shaw Jus. Shaw's Justiciary Cases, Scotch Justiciary Courts.
Shaw, W. & C. Shaw, Wilson, and Courtney's Reports, English House of Lords, Scotch Appeals (Wilson and Shaw's Reports).
Shaw & Dunl. Shaw and Dunlop's Reports, First Series, Scotch Court of Sessions.
Shaw & Macl. Shaw and Maclean's Scotch Appeal Cases, English House of Lords.
Shearm. & Red. Neg. Shearman and Redfield on the Law of Negligence.
Sheld. Sheldon's Reports, Superior Court of Buffalo, N. Y.
Shelf. Copy. Shelford on Copyholds.
Shelf. J. S. Co. Shelford on Joint Stock Companies.
Shelf. Lun. Shelford on Lunacy.
Shelf. M. & D. Shelford on Marriage and Divorce.
Shelf. Mort. Shelford on Mortmain.
Shelf. Railw. Shelford on Railways.
Shelf. R. Pr. Shelford's Real Property Statutes.
Shelf. T. Shelford on Titles.
Shep. Shepherd's Reports, Alabama Reports, N. S., vols. 19-21, 40-51, and 60.
Shep. Touch. Sheppard's Touchstone.
Shep. Sel. Cas. Shepherd's Select Cases, Alabama.
Shepl. Shepley's Reports, Maine Reports, vols. 13-18, 21-30.
Shepp. Abr. Sheppard's Abridgment.
Shepp. Act. Sheppard's Action upon the Case.
Shepp. Cas. Sheppard's Cases on Slander.
Shepp. Touch. Sheppard's Touchstone.
Sher. Ct. Rep. Sheriff Court Reports, Scotland.
Sher. Mar. Ins. Sherman's Marine Insurance.
Sher. Pr. Sheridan's Practice, King's Bench.
Ship. Gaz. Shipping Gazette, London.
Shipp. Shipp's Reports, North Carolina Reports, vols. 66-67.
Shirl. Shirley's Reports, New Hampshire Reports, vols. 49-55.
Shirl. L. C. Shirley's Leading Cases.
Shortt Copy. Shortt on Copyrights.
Show. Shower's Reports, English King's Bench.
Show. P. C. Shower's Parliamentary Cases.
Sick. Sickels's Reports, N. Y. Court of Appeals Reports, vols. 46-82.
Sick. Min. Laws & D. Sickles's Mining Laws and Decisions.
Sid. Siderfin's Reports, English King's Bench.
Sid. Gov. Sidney on Government.
Sieye. Sieye Traité sur l'Adultère.
Sills Deeds. Sills on Composition Deeds.
Sim. Simon's Reports, English Chancery.
Sim. Cas. Simon's Cases, Design Patents.
Sim. Int. Simon on the Law of Interpleader.
Sim. N. S. Simon's Reports, New Series, English Chancery.
Sim. Pat. L. Simond's Manual of Patent Law.
Sim. Pr. Ct. M. Simmon's Practice of Courts Martial.
Sim. R. A. Simon's Law relating to Railway Accidents.
Sim. & Stu. Simon and Stuart's English Chancery Reports.
Skene Verb. Sign. Skene's De Verborum Significatione.
Skillm. Skillman's New York Police Reports.
Skinn. Skinner's Reports, English King's Bench.
Skink. Skinker's Reports, Missouri Reports, vols. 65-68.
Slade. Slade Reports, Vermont Reports, vol. 15.

- Sligh T.* Sligh on Law of Torts.
Sloan Leg. Reg. Sloan's Legal Register, New York.
Sm. Smith's Reports, English King's Bench.
Sm. (E. D.). E. D. Smith's Reports, New York Common Pleas.
Sm. (Ind.). Smith's Reports, Indiana.
Sm. (K. B.). Smith's Reports, English King's Bench.
Sm. (Me.). Smith's Reports, Maine Reports, vols. 61-64.
Sm. (N. H.). Smith's Reports, New Hampshire.
Sm. (N. Y.). Smith's Reports, New York Court of Appeals Reports, vols. 15-27.
Sm. (Pa.) or Sm. (P. F.). Smith's Reports, Pennsylvania State Reports, vols. 51-81½.
Sm. (Wis.). Smith's Reports, Wisconsin Reports, vols. 1-11.
Sm. Act. Smith's Actions at Law.
Sm. C. C. M. Smith's Circuit Courts-Martial Reports, Maine.
Sm. Ch. Pr. Smith's Chancery Practice.
Sm. Com. L. Smith's Manual of Common Law.
Sm. Comp. Smith's Compendium.
Sm. Cont. Smith on Contracts.
Sm. E. D. E. D. Smith's Reports, New York Common Pleas.
Sm. Eng. Smith's Reports, English King's Bench.
Sm. Eq. Smith's Manual of Equity.
Sm. Ez. Int. Smith on Executory Interest.
Sm. For. Med. Smith's Forensic Medicine.
Sm. Forms. Smith's Forms of Procedure.
Sm. L. C. Smith's Leading Cases.
Sm. L. C. Comm. L. Smith's Leading Cases on Commercial Law.
Sm. L. J. Smith's Law Journal.
Sm. L. & T. Smith on Landlord and Tenant.
Sm. Law of Prop. Smith on Real and Personal Property.
Sm. Lead. Cas. Smith's Leading Cases.
Sm. Mast. & S. Smith on Master and Servant.
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Sm. Real & P. Pr. Smith on Real and Personal Property.
Sm. Rec. Smith's Law of Receivers.
Sm. Repar. Smith's Law of Reparation.
Sm. Stat. L. Smith's Statutory and Constitutional Law.
Sm. & B. Railw. Cas. Smith and Bates's Railway Cases, American Courts.
Sm. & Bat. Smith and Batty's Reports, Irish King's Bench.
Sm. & G. Smale and Gifford's Reports, English Chancery.
Sm. & M. Smedes and Marshall's Reports, Mississippi Reports, vols. 9-22.
Sm. & M. Ch. Smedes and Marshall's Chancery Reports, Mississippi.
Sm. & Sod. L. & T. Smith and Soden on Landlord and Tenant.
Smale & Giff. Smale and Gifford's Reports, English Chancery.
Smedes & M. Smedes and Marshall's Reports, Mississippi Reports, vols. 9-22.
Smedes & M. Ch. Smedes and Marshall's Chancery Reports, Mississippi.
Smith. See *Sm.*
Smy. Smythe's Reports, Irish Common Pleas and Exchequer.
Smy. Homst. Smyth on Homestead and Exemption.
Sn. or Sneed. Sneed's Reports, Tennessee.
Sneed Dec. or Sneed Ky. Sneed's Kentucky Decisions.
- Snell Eq.* Snell's Principles of Equity.
Snyder Rel. Corp. Snyder on Religious Corporations.
So. Car. South Carolina Reports.
So. Car. Const. South Carolina Constitutional Reports.
So. Car. L. J. South Carolina Law Journal, Columbia.
So. L. J. Southern Law Journal and Reporter, Nashville, Tenn.
So. L. R. Southern Law Review, Nashville, Tenn.
So. L. R. N. S. Southern Law Review, New Series, St. Louis, Mo.
So. West. L. J. Southwestern Law Journal, Nashville, Tenn.
Sol. J. Solicitor's Journal, London.
Sol. J. & R. Solicitor's Journal and Reporter, London.
South. Southard's Reports, New Jersey Law Reports, vols. 4-5.
South. L. J. & Rep. Southern Law Journal and Reporter, Nashville, Tenn.
South. L. Rev. Southern Law Review, Nashville, Tenn.
South. L. Rev. N. S. Southern Law Review, New Series, St. Louis, Mo.
Sp. A. Special Appeal.
Sp. T. Special Term.
Sp. Laws. Spirit of Laws, by Montesquieu.
Spear. Spear's Reports, South Carolina.
Spear Ch. or Spear Eq. Spear's Chancery Reports, South Carolina.
Spear Extr. Spear's Law of Extradition.
Spel. Spelman's Glossary.
Spel. Feud. Spelman on Feuds.
Spenc. Spencer's Reports, New Jersey Law Reports, vol. 20.
Spenc. (Minn.). Spencer's Reports, Minnesota Reports, vols. 10-20.
Spence Eq. Jur. Spence's Equitable Jurisdiction.
Spence Or. L. Spence's Origin of Laws.
Spence Pat. Inv. Spence on Patentable Inventions.
Spink. Spink's Reports, English Admiralty and Ecclesiastical.
Spink P. C. Spink's Prize Cases, English.
Spoon. Spooner's Reports, Wisconsin Reports, vols. 12-15.
Spott. Spottiswoode's Reports, Scotch Court of Sessions.
Spott. St. Spottiswoode's Styles, Scotland.
Spr. Sprague's Decisions, U. S. Dist. Court, Massachusetts.
St. State. Statute. Statutes at Large.
St. Story's Reports, U. S. Circuit Court, 1st Circuit.
St. Stair's Reports, Scotch Court of Sessions.
St. Abm. Statham's Abridgment.
St. Armand. St. Armand on the Legislative Power of England.
St. Cas. Stillingfleet's Ecclesiastical Cases, English.
St. Ch. Cas. Star Chamber Cases.
St. Clem. St. Clement's Church Case, Philadelphia.
St. Ecc. Cas. Stillingfleet's Ecclesiastical Cases, English.
St. Inst. Stair's Institutes of the Law of Scotland.
St. Marks. St. Mark's Church Case, Philadelphia.
St. P. State Papers.
St. Rep. State Reports.
St. Tr. State Trials.
Stair. Stair's Reports, Scotch Court of Sessions.
Stair Inst. Stair's Institutes of the Laws of Scotland.

- Stair Pr.* Stair's Principles of the Laws of Scotland.
- Stallm. Elect.* Stallman on Election and Satisfaction.
- Stant.* Stanton's Reports, Ohio Reports, vols. 11-13.
- Star Ch. Cas.* Star Chamber Cases.
- Stark. Cr. L.* Starkie on Criminal Law.
- Stark. Cr. Pl.* Starkie on Criminal Pleading.
- Stark. Ev.* Starkie on Evidence.
- Stark. Jury Tr.* Starkie on Trial by Jury.
- Stark. N. P.* Starkie's Reports, English Nisi Prius.
- Stark. Stan.* Starkie on Slander and Libel.
- Stat.* Statute.
- Stat. An.* Statistical Annals (Seybert's) U. S.
- Stat at L.* Statutes at Large.
- Stat. Glo.* Statute of Gloucester.
- Stat. Marl.* Statute of Marlbridge.
- Stat. Mer.* Statute of Merton.
- Stat. Westm.* Statute of Westminster.
- Stat. Winch.* Statute of Winchester.
- State Tr.* State Trials.
- Stath. Abr.* Statham's Abridgment of the Law.
- Stauf. P. C. & Pr.* Staunforde's Pleas of the Crown and Prerogative.
- Stearn R. A.* Stearn on Real Actions.
- Steph. Com.* Stephen's Commentaries on English Law.
- Steph. Const.* Stephens on the English Constitution.
- Steph. Cr. L.* Stephen on Criminal Law.
- Steph. Dig.* Stephen's Digest, New Brunswick Reports.
- Steph. Elect.* Stephens on Elections.
- Steph. Ev.* Stephens's Evidence.
- Steph. N. P.* Stephens's Nisi Prius.
- Steph. Pl.* Stephen's Pleading.
- Steph. Proc.* Stephens on Procurations.
- Steph. Slav.* Stephens on Slavery.
- Stev. Av.* Stevens on Average.
- Stev. & Ben. Av.* Stevens and Benecke on Average and Insurance.
- Stew. (Ala.).* Stewart's Reports, Alabama.
- Stew. Adm. or Stev. V. A.* Stewart's Vice-Admiralty Reports, Nova Scotia.
- Stew. (N. J.).* Stewart's Reports, New Jersey Equity Reports, vols. 23-33.
- Stew. & Port.* Stewart and Porter's Reports, Alabama.
- Stiles.* Stiles's Reports, Iowa Reports, vols. 22-37.
- Stillingft. Ecc.* Stillingfleet's Ecclesiastical Cases, English.
- Sto.* Story's Reports, U. S. Circuit Courts, 1st Circuit.
- Sto. & H. Cr. Ab.* Storer and Heard on Criminal Abortion.
- Stock.* Stockton's Reports, New Jersey Equity Reports, vols. 9-11.
- Stock. (Md.).* Stockett's Reports, Maryland Reports, vols. 27-53.
- Stock Non. Com.* Stock on the Law of Non Compotes Mentis.
- Stokes L. of A.* Stokes on Liens of Attorneys.
- Stone B. B. S.* Stone on Benefit Building Societies.
- Storer & H. Cr. Ab.* Storer and Heard on Criminal Abortion.
- Story.* Story's Reports, U. S. Circuit Court, 1st Circuit.
- Story Ag.* Story on Agency.
- Story Bailm.* Story on Bailments.
- Story Bills.* Story on Bills.
- Story Comm.* Story's Commentaries.
- Story Conf. L.* Story on Conflict of Laws.
- Story Const.* Story on the Constitution.
- Story Contr.* Story on Contracts.
- Story Eq. Jur.* Story's Equity Jurisdiction.
- Story Eq. Pl.* Story's Equity Pleading.
- Story L. U. S.* Story's Laws of the United States.
- Story Part.* Story on Partnership.
- Story Prom. N.* Story on Promisory Notes.
- Story Sales.* Story on Sales of Personal Property.
- Str. or Strange.* Strange's Reports, English Courts.
- Str. H. L.* Strange's Hindoo Laws.
- Str. N. C.* Strange's Notes of Cases, Madras.
- Straac. de Mer.* Straacha de Mercatura, Navibus Assecurationibus.
- Strah. Dom.* Strahan's Translation of Domat's Civil Law.
- Stringf.* Stringfellow's Reports, Missouri Reports, vols. 9-11.
- Strob.* Strobhart's Law Reports, South Carolina.
- Strob. Ch., or Strob. Eq.* Strobhart's Equity Reports, South Carolina.
- Stroud Slav.* Stroud on Slavery.
- Stu. or Stuart.* Stuart, Milne, and Peddie's Reports, Scotch Court of Sessions.
- Stu. App., Stu. K. B., or Stu. L. C.* Stuart's Reports, Lower Canada King's Bench.
- Stu. Adm. or Stu. V. A.* Stuart's Vice-Admiralty Reports, Lower Canada.
- Stu. M. & P.* Stuart, Milne, and Peddie's Reports, Scotch Court of Sessions.
- Sty.* Styles's Reports, English King's Bench.
- Sty. Pr. Reg.* Styles's Practical Register.
- Sud. Dew. Adul.* Sudder Dewany Adulat Reports, India.
- Sud. Dew. Rep.* Sudder Dewany Reports, N. W. Provinces, India.
- Sugd. Est.* Sugden on the Law of Estates.
- Sugd. Pow.* Sugden on Powers.
- Sugd. Pr.* Sugden on the Law of Property.
- Sugd. Pr. St.* Sugden on Property Statutes.
- Sugd. Vend. & P.* Sugden on Vendors and Purchasers.
- Sull. Land Tit.* Sullivan on Land Titles in Massachusetts.
- Sull. Lect.* Sullivan's Lectures on Constitution and Laws of England.
- Sum.* Summa, the summary of a law.
- Sumn.* Sumner's Reports, U. S. Circuit Court, 1st Circuit.
- Sup.* Superseded. Superior. Supreme.
- Sup. or Supp.* Supplement.
- Supp. Ves. Jur.* Supplement to Vesey, Junior's, Reports.
- Suth.* Sutherland's Reports, Calcutta.
- Suth. P. C. J.* Sutherland's Privy Council Judgments.
- Suth. W. Rept.* Sutherland's Weekly Reporter, Calcutta.
- Swab. Adm.* Swabey's Admiralty Reports, English.
- Swab. & Trist.* Swabey and Tristram's Reports, English Probate and Divorce.
- Swan.* Swan's Reports, Tennessee.
- Swan Ecc. Cas.* Swan on the Jurisdiction of Ecclesiastical Courts.
- Swan Just.* Swan's Justice.
- Swan Pl. & Pr.* Swan's Pleading and Practice.
- Swan Pr.* Swan's Practice.
- Swans.* Swanston's Reports, English Chancery.
- Sweeney.* Sweeney's Reports, New York Superior Court Reports, vols. 31-32.
- Sweet L. L.* Sweet on the Limited Liability Act.
- Sweet M. Sett. Cas.* Sweet's Marriage Settlement Cases.
- Sweet Pr. Conv.* Sweet's Precedents in Conveyancing.
- Sweet Wills.* Sweet on Wills.
- Swift Ev.* Swift on Evidence.

- Swift Sys.* Swift's System of the Laws of Connecticut.
- Swin. Jus. Cas.* Swinton's Justiciary Cases, Scotland.
- Swinb. Des.* Swinburne on the Law of Descents.
- Swinb. Mar.* Swinburne on Marriage.
- Swinb. Spo.* Swinburne on Spousals.
- Swinb. Wills.* Swinburne on Wills.
- Syd. App.* Sydney on Appeals.
- Syme.* Syme's Justiciary Cases, Scotland.
- Syn. Ser.* Synopsis Series of the U. S. Treasury Decisions.
- T. Tempore.* Title. Trinity Term.
- T. B. Monr.* T. B. Monroe's Reports, Kentucky Court of Appeals.
- T. Jones.* T. Jones's Reports, English King's Bench and Common Pleas.
- T. L.* Termes de la Ley.
- T. R.* Teste Rege.
- T. R.* Term Reports, English King's Bench (Durnford and East's Reports).
- T. R. E. Tempore Regis Edwardi.*
- T. Raym.* T. Raymond's Reports, English King's Bench.
- T. T.* Trinity Term.
- T. U. P. Charl.* T. U. P. Charlton's Reports, Georgia.
- T. & C.* Thompson and Cook's Reports, New York Supreme Court.
- T. & G.* Tyrwhitt and Granger's Reports, English Exchequer.
- T. & M.* Temple and Mew's Reports, English Criminal Appeal Cases.
- T. & P.* Turner and Phillips's Reports, English Chancery.
- T. & R.* Turner and Russell's Reports, English Chancery.
- Tait Ev.* Tait on Evidence.
- Talb.* Cases *tempore* Talbot, English Chancery.
- Taml.* Tamlyn's Reports, English Chancery.
- Taml. Ev.* Tamlyn on Evidence.
- Taml. T. Y.* Tamlyn on Term of Years.
- Tann. Dec.* or *Taney.* Taney's Decisions, by Campbell, U. S. Circuit Court, 4th Circuit.
- Tann.* Tanner's Reports, Indiana Reports, vols. 8-14.
- Tap.* or *Tapp.* Tappan's Nisi Prius Reports, Ohio.
- Tap. C. M.* Tapping's Copyholder's Manual.
- Tap. Man.* Tapping on the Writ of Mandamus.
- Tapp M. & C.* Tapp on the Law of Maintenance and Champerty.
- Tas.-Lang. Const. His.* Taswell-Langmead's Constitutional History of England.
- Taunt.* Taunton's Reports, English Common Pleas.
- Tay.* Taylor's Reports, Upper Canada King's Bench.
- Tayl. (J. L.).* Taylor's Reports, North Carolina Term Reports.
- Tayl. (U. C.).* Taylor's Reports, Upper Canada King's Bench.
- Tayl. Bank. L.* Taylor on the Bankruptcy Law.
- Tayl. Civ. L.* Taylor on Civil Law.
- Tayl. Ev.* Taylor on Evidence.
- Tayl. Gov.* Taylor on Government.
- Tayl. L. & T.* Taylor on Landlord and Tenant.
- Tayl. Law Glos.* Taylor's Law Glossary.
- Tayl. Med. Jur.* Taylor's Medical Jurisprudence.
- Tayl. Pois.* Taylor on Poisons.
- Tayl. Wills.* Taylor on Wills.
- Tech. Dict.* Crabb's Technological Dictionary.
- Tel.* The Telegram, London.
- Temp. & M.* Temple and Mew's Reports, English Criminal Appeal Cases.
- Tenn.* Tennessee Reports.
- Tenn. Ch.* Tennessee Chancery Reports (Cooper's).
- Tenn. Leg. Rep.* Tennessee Legal Reporter, Nashville.
- Term.* Term Reports, English King's Bench (Durnford and East's Reports).
- Term. N. C.* Term Reports, North Carolina, by Taylor.
- Terr.* Terrell's Reports, Texas Reports, vol. 52.
- Terr. & Wal.* Terrell and Walker's Reports, Texas Reports, vols. 38-51.
- Tex.* Texas Reports.
- Tex. App.* Texas Court of Appeals Reports.
- Tex. L. J.* Texas Law Journal, Tyler, Texas.
- Th. B. & N.* Thomson on Bills and Notes.
- Th. Br.* Thesaurus Brevium.
- Th. C.* Theodon Capitula et Fragmenta.
- Th. Dig.* Theloall's Digest.
- Th. Ent.* Thompson's Entries.
- Thach. Cr. Cas.* Thacher's Criminal Cases, Massachusetts.
- Them.* La Themis, Montreal, Quebec.
- Themis.* The American Themis, New York.
- Theo. Pr. & S.* Theobald on Principal and Surety.
- Theo. Wills.* Theobald on Construction of Wills.
- Thes. Brev.* Thesaurus Brevium.
- Thom.* Thomas's Reports, Nova Scotia.
- Thom. (Wy.).* Thomas's Reports, Wyoming Reports, vol. 1.
- Thom. Bills.* Thomson on Bills and Notes.
- Thom. Co. Litt.* Thomas's Edition of Coke upon Littleton.
- Thom. L. C.* Thomas's Leading Cases on Constitutional Law.
- Thom. Mort.* Thomas on Mortgages.
- Thom. Sc. Acts.* Thomson's Scottish Acts.
- Thom. Sel. Dec.* Thomson's Select Decisions, Nova Scotia.
- Thom. U. Jur.* Thomas on Universal Jurisprudence.
- Thom. & Fr.* Thomas & Franklin's Reports, Maryland Ch. Dec., vol. 1.
- Thomp. (Cal.).* Thompson's Reports, California Reports, vols. 39-40.
- Thomp. (N. S.).* Thompson's Reports, Nova Scotia.
- Thomp. B. B. S.* Thompson on Benefit Building Societies.
- Thomp. Car.* Thompson on Carriers.
- Thomp. Ch. Jury.* Thompson on Charging the Jury.
- Thomp. Ent.* Thompson's Entries.
- Thomp. High.* Thompson on the Law of Highways.
- Thomp. Home. & Exem.* Thompson on Homestead and Exemption.
- Thomp. Liab. Off.* Thompson on Liability of Officers of Corporations.
- Thomp. Liab. Stockh.* Thompson on Liability of Stockholders.
- Thomp. Man.* Thompson's Manual.
- Thomp. N. B. Cas.* Thompson's National Bank Cases.
- Thomp. Neg.* Thompson on Negligence.
- Thomp. Pat.* Thompson's Patent Laws of all Countries.
- Thomp. Rem.* Thompson's Provisional Remedies.
- Thomp. Tenn. Cas.* Thompson's Tennessee Cases.
- Thomp. & C.* Thompson and Cook's Reports, New York Supreme Court.
- Thorn.* Thornton's Notes of Cases Ecclesiastical and Maritime, English.
- Thorn. Conv.* Thornton's Conveyancing.

- Thring. L. D.* Thring's Land Drainage Act.
Throop Ag. or Throop V. Ag. Throop on Verbal Agreements.
Tichb. Tr. Report of the Tichborne Trial, London.
Tidd Pr. Tidd's Practice in the King's Bench.
Tiff. Tiffany's Reports, New York Court of Appeals Reports, vols. 28-39.
Tiff. & B. Tr. Tiffany and Bullard on Trusts and Trustees.
Tiff. & S. Pr. Tiffany and Smith's Practice, New York.
Till. Prec. Tillinghast's Precedents.
Till. & Sh. Pr. Tillinghast and Shearman's Practice.
Till. & Yates App. Tillinghast and Yates on Appeals.
Tils. St. L. Tilsey's Stamp Laws.
Tinw. Tinwald's Reports, Scotch Court of Sessions.
Tit. Title.
Tobey. Tobey's Reports, Rhode Island Reports, vols. 9-10.
Toll. Ex. Toller on Executors.
Tomk. Inst. or Tomk. R. L. Tomkins's Institutes of Roman Law.
Tomk. & J. B. L. Tomkins and Jeckens's Roman Law.
Toml. Tomlin's Election Evidence Cases.
Toml. L. D. Tomlin's Law Dictionary.
Toml. Supp. Br. Tomlin's Supplement to Brown's Parliamentary Cases.
Tor. Deb. Torbuck's Reports of Debates.
Toth. Tothill's Reports, English Chancery.
Touch. Sheppard's Touchstone.
Toull. Dr. Civ. Toullier's Droit Civil Français.
Towl. Con. Towle on the U. S. Constitution.
Town. Com. Law. Townsend on Commercial Law.
Town. Pl. Townshend's Pleading.
Town. Pr. Townshend's Practice, New York.
Town. Sl. & L. Townshend on Slander and Libel.
Town. St. Tr. Townsend's Modern State Trials.
Town. Sum. Proc. Townshend's Summary Proceedings by Landlords against Tenants.
Tr. Translation. Translator.
Tr. Eq. Treatise of Equity, by Fonblanque.
Tr. & H. Pr. Troubat and Haly's Practice, Pennsylvania.
Tr. & H. Prec. Troubat and Haly's Precedents of Indictments.
Traill Med. Jur. Traill on Medical Jurisprudence.
Train & H. Prec. Train and Heard's Precedents of Indictments.
Trans. App. Transcript Appeals, New York.
Trat. Jur. Mer. Traite de Jurisprudentia Mercantil.
Trav. & Tw. L. of N. Travers and Twiss on Law of Nations.
Tread. Treadway's Reports, South Carolina (Constitutional Reports).
Treb. Jur. de la Med. Trebuchet, Jurisprudence de la Médecine.
Trem. Tremaine's Pleas of the Crown.
Trev. Tax. Suc. Trevor on Taxes on Succession.
Tri. Bish. Trial of the Seven Bishops.
Tri. per Pais. Trials per Pais.
Trib. Civ. Tribunal Civil.
Trib. de Com. Tribunal de Commerce.
Trin. or Trin. T. Trinity Term.
Trop. Dr. Civ. Troplong's Droit Civil.
Troub. Lim. Part. Troubat on Limited Partnerships.
Troub. & H. Pr. Troubat and Haly's Practice, Pennsylvania.
- Trow.* Trower on Debtor and Creditor.
Tru. Railw. Rep. Truman's Railway Reports.
Tuck. Tucker's Surrogate Reports, New York.
Tuck. Bl. Com. Blackstone's Commentaries, by Tucker.
Tuck. Lect. Tucker's Lectures.
Tuck. Pl. Tucker's Pleadings.
Tuck. Sel. Cas. Tucker's Select Cases, Newfoundland Courts.
Tud. Char. Tr. Tudor on Charitable Trusts.
Tud. L. Cas. or Tud. L. Cas. M. L. Tudor's Leading Cases on Mercantile Law.
Tud. L. Cas. R. P. Tudor's Leading Cases on Real Property.
Tap. App. Tupper's Appeal Reports, Ontario.
Turn. Ch. Pr. Turner on Chancery Practice.
Turn. Pr. Turnbull's Practice, New York.
Turn. & Ph. Turner and Phillip's Reports, English Chancery.
Turn. & Rus. Turner and Russell's Reports, English Chancery.
Tutt. Tuttle's Reports, California Reports, vols. 23-32 and 41-51.
Tutt. & Carp. Tuttle and Carpenter's Reports, California Reports, vol. 52.
Twiss L. of Nat. Twiss's Law of Nations.
Tyler. Tyler's Reports, Vermont.
Tyler Bound. & Fences. Tyler's Law of Boundaries and Fences.
Tyler Ecc. Tyler on American Ecclesiastical Law.
Tyler Ej. Tyler on Ejectment and Adverse Enjoyment.
Tyler Fixt. Tyler on Fixtures.
Tyler Inf. Tyler on Infancy and Coverture.
Tyler Us. Tyler on Usury.
Tyng. Tyng's Reports, Massachusetts Reports, vols. 2-17.
Tyrw. Tyrwhitt's Reports, English Exchequer.
Tyrw. & G. Tyrwhitt and Granger's Reports, English Exchequer.
U. B. Upper Bench.
U. B. Prec. Upper Bench Precedents *tempore* Car. I.
U. C. C. P. Upper Canada Common Pleas Reports.
U. C. Cham. Upper Canada Chambers Reports.
U. C. Chan. Upper Canada Chancery Reports.
U. C. E. & A. Upper Canada Error and Appeals Reports.
U. C. L. J. Upper Canada Law Journal, Toronto.
U. C. O. S. Upper Canada Queen's Bench Reports, Old Series.
U. C. Pr. Upper Canada Practice Reports.
U. C. Q. B. Upper Canada Queen's Bench Reports.
U. C. Q. B. O. S. Upper Canada Queen's Bench Reports, Old Series.
U. K. United Kingdom.
U. S. United States Reports.
U. S. Crim. Dig. United States Criminal Digest, by Waterman.
U. S. Dig. Abbott's United States Digest.
U. S. Eq. Dig. United States Equity Digest.
U. S. Jur. United States Jurist, Washington, D. C.
U. S. L. Int. United States Law Intelligencer (Angell's), Providence and Philadelphia.
U. S. L. J. United States Law Journal, New Haven and New York.
U. S. L. M. or U. S. Law Mag. United States Law Magazine (Livingston's), New York.
U. S. R. S. United States Revised Statutes.
U. S. Reg. United States Register, Philadelphia.

- U. S. Stat.* United States Statutes at Large.
Ulm. L. Rec. Ulman's Lawyer's Record, New York.
Ulp. Ulpian's Fragments.
Umf. Off. Cor. Umfreville's Office of Coroner.
Underh. Torts. Underhill on Torts.
Up. Can. See *U. C.*
Upt. Mar. W. & Pr. Upton on Maritime Warfare and Prize.
Upt. Tradem. Upton on Trademarks.
Uri. For. Pat. Urling on Foreign Patents.
Uri. Trust. Urling on Trustees.
Utah. Utah Reports.
V. Versus. Victoria. Victorian.
V. A. C. or V. Adm. Vice-Admiralty Court.
V. C. Vice-Chancellor. Vice-Chancellor's Court.
V. O. De Verborum Obligationibus.
V. S. De Verborum Significatione.
V. & B. Vesey and Beames's Reports, English Chancery.
V. & S. Vernon and Scriven's Reports, Irish King's Bench.
Va. Virginia Reports.
Va. Cas. Virginia Cases.
Va. L. J. Virginia Law Journal, Richmond.
Va. R. Gilmer's Reports, Virginia.
Val. Com. Valen's Commentaries.
Vall. Ir. L. Vallencey's Ancient Laws of Ireland.
Van Hay. Eq. Van Haythuysen's Equity Draftsman.
Van Hay. Mar. Ev. Van Haythuyer on Maritime Evidence.
Van K. Van Koughnet's Reports, Upper Canada C. P. Reports, vols. 15-21.
Van Ness. Van Ness's Reports, U. S. District Courts, New York.
Van Sant. Eq. Pr. Van Santvoord's Equity Practice.
Van Sant. Pl. Van Santvoord's Pleadings.
Van Sant. Prec. Van Santvoord's Precedents.
Vatt. Vattel's Law of Nations.
Vaugh. Vaughan's Reports, English Common Pleas.
Vaux. Vaux's Recorder's Decisions, Philadelphia, Pa.
Vaz. Extrad. Vazelhes's Etude sur l'Extradition.
Veaz. Veazey's Reports, Vermont Reports, vols. 36-46.
Vend. Ex. Venditioni Exponas.
Vent. Ventris's Reports, English King's Bench.
Vern. Vernon's Reports, English Chancery.
Vern. & Sc. Vernon and Scriven's Reports, Irish King's Bench.
Verpl. Contr. Verplanck on Contracts.
Verpl. Ev. Verplanck on Evidence.
Ves. Vesey, Senior's, Reports, English Chancery.
Ves. Jun. Vesey, Junior's, Reports, English Chancery.
Ves. Jun. Supp. Supplement to Vesey, Junior's, Reports, English Chancery.
Ves. & Beam. Vesey and Beames's Reports, English Chancery.
Vet. Entr. Old Book of Entries.
Vet. N. B. Old Natura Brevium.
Vict. C. S. Victorian Consolidated Statutes.
Vict. L. E. Victorian Law Reports, Colony of Victoria.
Vict. L. T. Victorian Law Times, Melbourne.
Vict. Rep. Victorian Reports, Colony of Victoria.
Vict. St. Tr. Victorian State Trials.
Vid. Entr. Vidian's Entries.
Vin. Abr. Viner's Abridgment.
Vin. Supp. Supplement to Viner's Abridgment.
Vincens Leg. Com. Vincens's Legislation Commerciale.
Vinn. Vinnins.
Vint. Can. L. Vinton on American Canon Law.
Vir. Virgin's Reports, Maine Reports, vols. 52-60.
Virg. Virginia Reports.
Virg. Cas. Virginia Cases.
Viz. Videlicet, That is to say.
Von Holst Const. His. Von Holst's Constitutional History of the U. S.
Voorh. Code. Voorhies's Code, New York.
Voorh. Cr. Jur. Voorhies on the Criminal Jurisprudence of Louisiana.
Vr. or Vroom. Vroom's Reports, New Jersey Law Reports, vols. 30-41.
Vs. Versus.
Vt. Vermont Reports.
W. King William; thus 1 W. I. signifies the first year of the reign of King William I.
W. Statute of Westminster.
W. Bl. William Blackstone's Reports, English King's Bench and Common Pleas.
W. C. C. Washington's Circuit Court Reports, U. S., 3d Circuit.
W. Ent. Winch's Book of Entries.
W. H. Chron. Westminster Hall Chronicle, London.
W. H. & G. Welsby, Hurlstone, and Gordon's Reports, English Exchequer Reports, vols. 1-9.
W. J. Western Jurist, Des Moines, Iowa.
W. Jones. Wm. Jones's Reports, English Courts.
W. Kel. Wm. Kelyne's Reports, English King's Bench and Chancery.
W. L. Gaz. Western Law Gazette, Cincinnati, O.
W. L. Jour. Western Law Journal, Cincinnati, O.
W. L. M. Western Law Monthly, Cleveland, O.
W. L. R. Washington Law Reporter, Washington, D. C.
W. N. Weekly Notes, London.
W. N. Cas. Weekly Notes of Cases, Philadelphia.
W. P. Cas. Wollaston's Practice Cases.
W. R. Weekly Reporter, London.
W. R. Calc. Southerland's Weekly Reporter, Calcutta.
W. Rep. West's Reports temp. Hardwicke, English Chancery.
W. T. R. Weekly Transcript Reports, New York.
W. Ten. Wright's Tenures.
W. Ty. R. Washington Territory Reports.
W. Va. West Virginia Reports.
W. W. & D. Willmore, Wollaston, and Davison's Reports, English Queen's Bench.
W. W. & H. Willmore, Wollaston, and Hodge's Reports, English Queen's Bench.
W. & Buh. West & Buhler's Collection of Futwahs, India.
W. & M. Woodbury and Minot's Reports, U. S. Circuit Court, 1st Circuit.
W. & S. Watts and Sergeant's Reports, Pennsylvania.
W. & S. App. Wilson and Shaw's Scotch Appeals, English House of Lords.
Wa. Wales.
Wa. Watts's Reports, Pennsylvania.
Wadd. Dig. Waddilove's Digest of English Ecclesiastical Cases.
Wade Notice. Wade on the Law of Notice.
Wade Retro. L. Wade on Retroactive Laws.
Wait Act. & Def. Wait's Actions and Defence.

- Wait. Pr.* Wait's New York Practice.
Wait. St. Pap. Wait's State Papers of the U. S.
Walf. Part. Walford on Parties to Actions.
Walf. Railw. Walford on Railways.
Walk. (Mich.). Walker's Reports, Michigan Chancery.
Walk. (Miss.). Walker's Reports, Mississippi Reports, vol. 1.
Walk. (Tex.). Walker's Reports, Texas Reports, vol. 25.
Walk. Am. L. Walker's Introduction to American Law.
Walk. Bank. L. Walker on Banking Law.
Walk. Ch. Cas. Walker's Chancery Cases, Michigan.
Walk. Com. L. Walker's Theory of the Common Law.
Walk. Wills. Walker on Wills.
Wall. Wallace's Reports, U. S. Supreme Court.
Wall. C. C. Wallace's Reports, U. S. Circuit Court, 3d Circuit.
Wall. Jun. Wallace, Junior's, Reports, U. S. Circuit Court, 3d Circuit.
Wall. Pr. Wallace's Principles of the Laws of Scotland.
Wallis. Wallis's Reports, Irish Chancery.
Walsh. Walsh's Registry Cases, Ireland.
Ward. (Ohio). Warden's Reports, Ohio State Reports, vols. 2-4.
Ward Just. Ward's Justices of the Peace.
Ward Leg. Ward on Legacies.
Ward Nat. Ward on the Law of Nations.
Ward. & Sm. Warden and Smith's Reports, Ohio State Reports, vol. 3.
Ware. Ware's Reports, U. S. District Court, Maine.
Warr. Bl. Warren's Blackstone.
Warr. L. S. Warren's Law Studies.
Wash. (Va.). Washington's Reports, Virginia.
Wash. C. C. Washington's Reports, U. S. Circuit Court, 3d Circuit.
Wash. L. Rep. Washington Law Reporter, Washington, D. C.
Wash. Ty. Washington Territory Reports.
Washb. Washburn's Reports, Vermont Reports, vols. 16-23.
Washb. Cr. L. Washburn on Criminal Law.
Washb. Easem. Washburn on Easements and Servitudes.
Washb. R. P. Washburn on Real Property.
Wat. Cr. Proc. Waterman's Criminal Procedure.
Wat. Jus. Waterman's Justice.
Wat. Set-Off. Waterman on Set-Off, etc.
Wat. Tres. Waterman on Trespass.
Watk. Conv. Watkins's Conveyancing.
Watk. Copyh. Watkins's Copyholds.
Wats. Arb. Watson on Arbitration.
Wats. Cler. Law. Watson's Clergyman's Law.
Wats. Comp. or Wats. Eq. Watson's Compendium of Equity.
Wats. Const. Hist. Watson's Constitutional History of Canada.
Wats. Part. Watson on the Law of Partnership.
Wats. Sher. Watson on Sheriffs.
Watts. Watts's Reports, Pennsylvania.
Watts & Ser. Watts and Sergeant's Reports, Pennsylvania.
Web. Pat. Webster on Patents.
Web. Pat. Cas. Webster's Patent Cases, English Courts.
Webb. Webb's Reports, Kansas Reports, vols. 6-20.
Webb, A' B. & W. Webb, A'Beckett, and Williams's Reports, Victoria.
Webb, A' B. & W. Eq. Webb, A'Beckett, and Williams's Equity Reports, Victoria.
Webb, A' B. & W. I. P. & M. Webb, A'Beckett, and Williams's Insolvency, Probate, and Matrimonial Reports, Victoria.
Webb, A' B. & W. Min. Webb, A'Beckett, and Williams's Mining Cases, Victoria.
Webb. & D. Webb and Duval's Reports, Texas Reports, vols. 1-3.
Webs. Pat. Cas. Webster's Patent Cases, English Courts.
Wedg. Gov. & Laws. Wedgwood's Government and Laws of the U. S.
Weekl. Cin. L. B. Weekly Cincinnati Law Bulletin.
Weekl. Dig. Weekly Digest, New York.
Weekl. L. Rev. Weekly Law Review, San Francisco, Cal.
Weekl. No. Weekly Notes of Cases, London.
Weekl. No. Cas. Weekly Notes of Cases, Philadelphia.
Weekl. Repr. Weekly Reporter, London.
Weekl. Trans. Repts. Weekly Transcript Reports, New York.
Weeks Att. at Law. Weeks on Attorneys at Law.
Weeks, D. A. Inj. Weeks, Damnum Absque Injuria.
Weeks Dep. Weeks on the Law of Deposition.
Weight. M. & L. Weightman's Marriage and Legitimacy.
Welf. Eq. Pl. Welford on Equity Pleading.
Wellw. Abr. Wellwood's Abridgment of Sea Laws.
Wells L. & F. Wells's Questions of Law and Facts.
Wells Res Ad. & St. D. Wells on Res Adjudicata and Stare Decisis.
Wells Sep. Pr. of Mar. Wom. Wells on Separate Property of Married Women.
Welsby, H. & G. Welsby, Hurlstone, & Gordon's Reports, English Exchequer Reports, vols. 1-9.
Welsh. Welsh's Registry Cases, Ireland.
Wend. Wendell's Reports, New York Supreme Court.
Wendt Mar. Leg. Wendt on Maritime Legislation.
Went. Ex. or Went. Off. Ex. Wentworth on Executors.
Went. Pl. Wentworth on Pleadings.
Wesk. Ins. Weskett on Insurance.
West. West's Reports, English Chancery tempore Hardwicke.
West. H. L. West's Reports, English House of Lords.
West. Jur. Western Jurist, Des Moines, Iowa.
West. L. J. or West. Law Jour. Western Law Journal, Cincinnati, Ohio.
West. L. Mo. or West. Law Mo. Western Law Monthly, Cleveland, Ohio.
West. L. O. or West. Leg. Obs. Western Legal Observer, Quincy, Ill.
West Pat. West on Patents.
West. T. Cas. Western's Tithes Cases.
West Va. West Virginia Reports.
West t. H. West's Reports, English Chancery, tempore Hardwicke.
Westl. Const. Westlake on Conflict of Laws.
Westm. Statute of Westminster.
Weston. Weston's Reports, Vermont Reports vols. 12-14.
Weyt. Av. Van Weyton on Average.
Wh. Wharton's Reports, Pennsylvania.
Wh. Wheaton's Reports, U. S. Supreme Court.
Wh. Cr. Cas. Wheeler's Criminal Cases, New York.
Wh. & T. L. Cas. White and Tudor's Leading Cases, Equity.

Whart. or Wh. Wharton's Reports, Pennsylvania.

Whart. Ag. Wharton on Agency and Agents.

Whart. Confl. Wharton on Conflict of Laws.

Whart. Conv. Wharton's Conveyancing.

Whart. Cr. Law. Wharton's Criminal Law.

Whart. Ev. Wharton's Evidence.

Whart. Hom. Wharton on Homicide.

Whart. Law Dic. or Whart. Lex. Wharton's Law Lexicon.

Whart. Prec. Wharton's Precedents of Indictments.

Whart. St. Tr. Wharton's State Trials of the United States.

Whart. & St. Med. Jur. Wharton and Stille's Medical Jurisprudence.

Wheat. Wheaton's Reports, U. S. Supreme Court.

Wheat. Cap. & Pr. Wheaton on Maritime Captures and Prizes.

Wheat. Hist. L. of N. Wheaton's History of the Law of Nations.

Wheat. Int. L. Wheaton's International Law.

Wheel. Wheelock's Reports, Texas Reports, vols. 32-37.

Wheel. Abr. Wheeler's Abridgment.

Wheel. Br. Cas. Wheeling Bridge Case.

Wheel. Cr. Cas. Wheeler's Criminal Cases, New York.

Wheel. Cr. Rec. Wheeler's Criminal Recorder, New York.

Wheel. Slav. Wheeler on Slavery.

Whish. L. D. Whishaw's Law Dictionary.

Whit. Eq. Pr. Whitworth's Equity Precedents.

Whit. Lien. Whitaker on the Law of Liens.

Whit. Trans. Whitaker on Stoppage in Transitu.

Whit. War P. Whiting on War Powers under the Constitution.

White. White's Reports, West Virginia Reports, vols. 10-15.

White L. L. White's Land Law of California.

White Rec. White's Recopilacion.

White Supp. White on Supplement and Revivor.

White & T. L. Cas. White and Tudor's Leading Cases, Equity.

Whitm. B. L. Whitmarsh's Bankrupt Law.

Whitm. Pat. Cas. Whitman's Patent Cases.

Whitm. Pat. L. Whitman's Patent Laws.

Whitm. Pat. Law Rev. Whitman's Patent Law Review, Washington, D. C.

Whitt. Whittlesey's Reports, Missouri Reports, vols. 32-41.

Whitt. Pl. Whittaker's Practice and Pleading, New York.

Wig. Disc. Wigram on Discovery.

Wig. Wills. Wigram on Wills.

Wight. Wightwick's Reports, English Exchequer.

Wight. El. Cas. Wight's Election Cases, Scotland.

Wile. Wilcox's Reports, Ohio Reports, vol. 10.

Wile. Cond. Wilcox's Condensed Reports, Ohio.

Wile. Mun. Corp. Wilcox on Municipal Corporations.

Wild. Int. L. Wildman's International Law.

Wild. S. C. & P. Wildman on Search, Capture, and Prize.

Wilde Supp. Wilde's Supplement to Barton's Conveyancing.

Wilk. Leg. Ang. Sax. Wilkins's Leges Anglo-Saxonice.

Wilk. Lim. Wilkinson on Limitations.

Wilk. P. & M. Wilkinson, Paterson, and Murray's Reports, New South Wales.

Wilk. Prec. Wilkinson's Precedents in Conveyancing.

Wilk. Pub. Funds. Wilkinson on the Law Relating to Public Funds.

Wilk. Repl. Wilkinson on Replevin.

Wilk. Ship. Wilkinson on Shipping.

Wilk. & Ow. Wilkinson and Owen's Reports, New South Wales.

Wilk. & Pat. Wilkinson and Paterson's Reports, New South Wales.

Will. (Mass.). Williams's Reports, Massachusetts Reports, vol. 1.

Will. (Peere). Peere Williams's Reports, English Chancery.

Will. (Vt.). Williams's Reports, Vermont Reports, vols. 27-29.

Will. Ann. Reg. Williams's Annual Register, New York.

Will. Auct. Williams on the Law of Auctions.

Will. Bankt. L. Williams on the Bankrupt Law.

Will. Williams on Executors.

Will. Just. Williams's Justice.

Will. L. D. Williams's Law Dictionary.

Will. Per. Pr. Williams on Personal Property.

Will. Real As. Williams on Real Assets.

Will. Real Pr. Williams on Real Property.

Will. Saund. Williams's Notes to Saunders's Reports.

Will. & Br. Adm. Jur. Williams and Bruce on Admiralty Jurisdiction.

Willard Eq. Willard's Equity.

Willard Ex. Willard on Executors.

Willard Real Est. & Con. Willard's Real Estate and Conveyancing.

Willc. Const. Willcock's Office of Constable.

Willc. L. Med. Pr. Willcock's Law relating to the Medical Profession.

Willc. Mun. Corp. Willcocks on Municipal Corporations.

Willes. Willes's Reports, English King's Bench and Common Pleas.

Williams. Williams's Reports, Massachusetts Reports, vol. 1.

Williams, Peere. Peere Williams's Reports, English Chancery.

Willis Eq. Willis on Equity Pleadings.

Willis Int. Willis on Interrogatories.

Willis Trust. Willis on Trustees.

Willm. W. & D. Willmore, Wollaston, and Davidson's Reports, English Queen's Bench.

Willm. W. & H. Willmore, Wollaston, and Hodge's Reports, English Queen's Bench.

Wills Civ. Ev. Wills on Circumstantial Evidence.

Wilm. Wilmot's Notes of Opinions and Judgments, English King's Bench.

Wilm. Mort. Wilmot on Mortgages.

Wils. Wilson's Reports, English King's Bench and Common Pleas.

Wils. (Cal.). Wilson's Reports, California Reports, vol. 1.

Wils. (Ind.). Wilson's Reports, Indiana Superior Court Reports.

Wils. (Oreg.). Wilson's Reports, Oregon Reports, vols. 1-3.

Wils. Arb. Wilson on Arbitrations.

Wils. Ch. Wilson's Reports, English Chancery.

Wils. Exch. Wilson's Reports, English Exchequer.

Wils. Fines & Rec. Wilson on Fines and Recoveries.

Wils. Parl. L. Wilson's Parliamentary Law.

Wils. Uses. Wilson on Uses.

Wils. & C. Wilson and Courtney's Reports, English House of Lords Appeals from Scotland.

Wils. & S. Wilson and Shaw's Reports, English House of Lords Appeals from Scotland.

Win. or Winch. Winch's Reports, English Common Pleas.

Win. Ent. Winch's Entries.

- Wing. Max.* Wingate's Maxims.
Wins. Winston's Reports, North Carolina.
Wms. Eq. Winston's Equity Reports, North Carolina.
Wis. Wisconsin Reports.
Wis. Leg. N. Wisconsin Legal News, Milwaukee.
With. Withrow's Reports, Iowa Reports, vols. 9-20.
With. Corp. Cas. Withrow's American Corporation Cases.
Wm. Bl. William Blackstone's Reports, English Courts.
Wm. Rob. William Robinson's New Admiralty Reports, English.
Wms. (Mass.). Williams's Reports, Massachusetts Reports, vol. 1.
Wms. (Peere). Peere Williams's Reports, English Chancery.
Wms. (Vt.). Williams's Reports, Vermont Reports, vols. 27-29.
Wms. Ann. Reg. Williams's Annual Register, New York.
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Wms. Per. Pr. Williams on Personal Property.
Wms. Real As. Williams on Real Assets.
Wms. Real Pr. Williams on Real Property.
Wms. Saund. Williams's Notes to Saunders's Reports.
Wms. & Br. Adm. Jur. Williams and Bruce on Admiralty Jurisdiction.
Wolf. Inst. Wolfiin's Institutiones Juris Nature et Gentium.
Wolf. & B. Wolfierstan and Bristow's Election Cases.
Wolf. & D. Wolfierstan and Dew's Election Cases.
Woll. Wollastan's Reports, English Bail Court.
Wood. Woods's Reports, U. S. Circuit Court, 5th Circuit.
Wood (H.). Hutton Wood's Decrees in Tithe Cases, English.
Wood Civ. L. Wood's Institutes of the Civil Law.
Wood Com. L. Wood's Institutes of the Common Law.
Wood Conv. Wood on Conveyancing.
Wood Fire Ins. Wood on Fire Insurance.
Wood Inst. Eng. L. Wood's Institutes of English Law.
Wood Man. Wood on Mandamus.
Wood Mast. & St. Wood on Master and Servant.
Wood Mayne Dam. Wood's Mayne on Damages.
Wood Nuisances. Wood on Nuisances.
Woodb. & M. Woodbury's and Minot's Reports, U. S. Circuit Court, 1st Circuit.
Woodd. Jur. Wooddeson's Elements of Jurisprudence.
Woodd. Lect. Wooddeson's Lectures on the Laws of England.
Woodf. L. & T. Woodfall on Landlord and Tenant.
Woodf. Parl. Deb. Woodfall's Parliamentary Debates.
Woodm. Cr. Cas. Woodman's Criminal Cases, Boston.
Woodm. & T. on For. Med. Woodman and Tidy on Forensic Medicine.
Woods or Woods C. C. Woods's Reports, U. S. Circuit Courts, 5th Circuit.
Wool. C. C. Woolworth's Reports, U. S. Circuit Courts, 8th Circuit (Fuller's Opinions).
Woolr. Cert. Woolrych on Certificates.
Woolr. Com. Woolrych on Commons.
Woolr. Comm. L. Woolrych on Commercial Law.
Woolr. P. W. Woolrych on Party Walls.
Woolr. Sew. Woolrych on Sewers.
Woolr. Waters. Woolrych on Law of Waters.
Woolr. Ways. Woolrych on Law of Ways.
Woolr. Window L. Woolrych on Law of Window Lights.
Wools. Div. Woolsey on Divorce.
Wools. Int. L. Woolsey's International Law.
Woolw. Woolworth's Reports, U. S. Circuit Court, 8th Circuit (Miller's Opinions).
Woolw. (Neb.). Woolworth's Reports, Nebraska Reports, vol. 1.
Word. Elect. Wordsworth's Law of Election.
Word. Elect. Cas. Wordsworth's Election Cases.
Word. J. S. Wordsworth's Joint Stock Companies.
Word. Min. Wordsworth on the Law or Mining.
Word. Pat. Wordsworth on the Law of Patents.
Worth. Jur. Worthington on the Powers of Juries.
Worth. Prec. Wills. Worthington's Precedents for Wills.
Wr. or Wr. Pa. Wright's Reports, Pennsylvania State Reports, vols. 37-50.
Wr. Ch. or Wr. Ohio. Wright's Chancery Reports, Ohio.
Wr. Cr. Consp. Wright on Criminal Conspiracies.
Wr. Fr. Soc. Wright on Friendly Societies.
Wr. N. P. Wright's Nisi Prius Reports, Ohio.
Wr. Ten. Wright on Tenures.
Wy. Wyoming Territory Reports.
Wyatt P. R. Wyatt's Practical Register in Chancery.
Wyatt, W. & A' B. Wyatt, Webb, and A'Beckett's Reports, Victoria.
Wyatt, W. & A' B. Eq. Wyatt, Webb, and A'Beckett's Equity Reports, Victoria.
Wyatt, W. & A' B. I. P. & M. Wyatt, Webb, and A'Beckett's Insolvency, Probate, and Matrimonial Reports, Victoria.
Wyatt, W. & A' B. Min. Wyatt, Webb, and A'Beckett's Mining Cases, Victoria.
Wyatt & W. Wyatt and Webb's Reports, Victoria.
Wyatt & W. Eq. Wyatt and Webb's Equity Reports, Victoria.
Wyatt & W. I. P. & M. Wyatt and Webb's Insolvency, Probate, and Matrimonial Reports, Victoria.
Wyatt & W. Min. Wyatt and Webb's Mining Cases, Victoria.
Wym. Wyman's Reports, Bengal.
Wynne. Wynne's Boville Patent Cases.
Wythe Ch. Wythe's Chancery Reports, Virginia.
Y. B. Year Book.
Y. & C. Younge and Collyer's Reports, English Exchequer and Equity.
Y. & C. C. C. Younge and Collyer's Chancery Cases, English.
Y. & J. Younge and Jervis's Reports, English Exchequer.
Yates Sel. Cas. Yates's Select Cases, New York.
Yeates. Yeates's Reports, Pennsylvania.
Yelv. Yelverton's Reports, English King's Bench.
Yerg. Yerger's Reports, Tennessee.
Yool Waste. Yool on Waste, Nuisance, and Trespass.

Young. Young's Reports, Minnesota Reports, vols. 21-26.

Young M. L. Cas. Young's Maritime Law Cases, English.

Younge. Younge's Reports, English Exchequer Equity.

Younge & Coll. Younge and Collyer's Reports, English Exchequer Equity.

Younge & Coll. Ch. Younge and Collyer's Chancery Cases, English.

Younge & Jer. Younge and Jervis's Reports, English Exchequer.

Zab. Zabriskie's Reports, New Jersey Law Reports, vols. 21-24.

Zach. Dr. Civ. Zachariæ Droit Civil Français.

Zinn L. C. Zinn's Leading Cases on Trusts.

Zouch Adm. Zouch's Admiralty Jurisdiction.

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

ABBROCHMENT. Old Eng. law. The forestalling of a market or fair.

ABBUTTALS. See ABUTTALS.

ABDICATION. A simple renunciation of an office; generally understood of a supreme office.

James II. of England, Charles V. of Germany, and Christiana, Queen of Sweden, are said to have *abdicated*. When James II. of England left the kingdom, the Commons voted that he had *abdicated* the government, and that thereby the throne had become vacant. The House of Lords preferred the word *deserted*; but the Commons thought it not comprehensive enough, for then the king might have the liberty of returning.

ABDUCTION. Forcibly taking away a man's wife, his child, or his maid; 3 Bla. Com. 139-141.

The unlawful taking or detention of any female for purposes of marriage, concubinage, or prostitution; 4 Steph. Com. 84.

The remedy for taking away a man's wife was by a suit by the husband for damages, and the offender was also answerable to the king. 3 Bla. Com. 139.

If the original removal was without consent, subsequent assent to the marriage does not change the nature of the act.

It is stated to be the better opinion, that if a man marries a woman under age, without the consent of her father or guardian, that act is not indictable at common law; but if children are taken from their parents or guardians, or others intrusted with the care of them, by any sinister means, either by violence, deceit, conspiracy, or any corrupt or improper practices, as by intoxication, for the purpose of marrying them, though the parties themselves consent to the marriage, such criminal means will render the act an offence at common law; 1 East, Pl. Cr. 458; 1 Rus. Cr. 962; Rose. Cr. Ev. 260.

ABBEARANCE. Behavior; as a recognition to be of good abbearance, signifies to be of good behavior; 4 Bla. Com. 251, 256.

ABEREMURDER. In old Eng. law. An apparent, plain, or downright murder. It was used to distinguish a wilful murder from

chance-medley, or manslaughter; Spelman; Cowel; Blount.

ABET. In crim. law. To encourage or set another on to commit a crime. This word is always applied to aiding the commission of a crime. To abet another to commit a murder, is to command, procure, or counsel him to commit it. Old Nat. Brev. 21; Coke, Litt. 475.

ABETTOR. An instigator, or setter on; one that promotes or procures the commission of a crime. Old Nat. Brev. 21.

The distinction between abettors and accessories is the presence or absence at the commission of the crime; Cowel; Fleta, *lib. 1, cap. 34*. Presence and participation are necessary to constitute a person an abettor; 4 Sharsw. Bla. Com. 33; Russ. & R. 99; 9 Bingh. n. c. 440; 13 Mo. 382; 1 Wis. 159; 10 Pick. 477.

ABEYANCE (Fr. *abbayer*, to expect). In expectation, remembrance, and contemplation of law; the condition of a freehold when there is no person in being in whom it is vested.

In such cases the freehold has been said to be *in nubibus* (in the clouds), and *in gremio legis* (in the bosom of the law). It has been denied by some that there is such a thing as an estate in abeyance; Fearne, Cont. Rem. 513. See also the note to 2 Sharsw. Bla. Com. 107.

The law requires that the freehold should never, if possible, be in *abeyance*. Where there is a tenant of the freehold, the remainder or reversion in fee may exist for a time without any particular owner, in which case it is said to be in abeyance; 9 S. & R. 367; 3 Plowd. 29 a, b, 35 a; 1 Washb. R. P. 47.

A glebe, parsonage lands, may be in abeyance, in the United States. 9 Cranch, 47; 2 Mass. 500; 1 Washb. R. P. 48. So also may the franchise of a corporation. 4 Wheat. 691. So, too, personal property may be in abeyance or legal sequestration, as in case of a vessel captured at sea from its capture until it becomes invested with the character of a prize. 1 Kent, 102; 1 C. Rob. Adm. 139; 3 *id.* 97, n. See generally, also, 5 Mass. 555; 15 *id.* 464.

ABIATICUS (Lat.). A son's son; a grandson in the male line. Spelman. Sometimes spelled *Aviaticus*. Du Cange, *Avius*.

ABIDING BY. In Scotch law. A judicial declaration that the party abides by the deed on which he founds, in an action where the deed or writing is attacked as forged. Unless this be done, a decree that the deed is false will be pronounced. Paterson, Comp. It has the effect of pledging the party to stand the consequences of founding on a forged deed. Bell, Dict.

ABIGEATORES. See ABIGEUS.

ABIGEATUS. The offence of driving away and stealing cattle in numbers. See ABIGEUS.

ABIGELI. See ABIGEUS.

ABIGERE. See ABIGEUS.

ABIGEUS. (Lat. *abigere*). One who steals cattle in numbers.

This is the common word used to denote a stealer of cattle in large numbers, which latter circumstance distinguishes the *abigeus* from the *fur*, who was simply a thief. He who steals a single animal may be called *fur*; he who steals a flock or herd is an *abigeus*. The word is derived from *abigere*, to lead or drive away, and is the same in signification as *Abactor* (q. v.), *Abigatores*, *Abigati*, *Abigei*. Du Cange; Guyot, Rép. Univ.; 4 Bla. Com. 239.

A distinction is also taken by some writers depending upon the place whence the cattle are taken; thus, one who takes cattle from a stable is called *fur*. Calvinus, Lex, *Abigei*.

ABJUDICATIO (Lat. *abjudicare*). A removal from court. Calvinus, Lex. It has the same signification as *foris-judicatio* both in the civil and canon law. Coke, Litt. 100 b. Calvinus, Lex.

ABJURATION (Lat. *abjuratio*, from *abjurare*, to forswear). A renunciation of allegiance, upon oath.

In Am. law. Every alien, upon application to become a citizen of the United States, must declare on oath or affirmation before the court where the application is made, amongst other things, that he doth absolutely and entirely renounce and *abjure* all allegiance and fidelity which he owes to any foreign prince, state, etc., and particularly, by name, the prince, state, etc., whereof he was before a citizen or subject. Rawle, Const. 93; 2 Story, U. S. Laws, 850.

In Eng. law. The oath by which any person holding office in England was formerly obliged to bind himself not to acknowledge any right in the Pretender to the throne of England; 1 Bla. Com. 368; 13 and 14 W. III. c. 6. Repealed by 30 and 31 Vic. c. 59.

It also denotes an oath abjuring certain doctrines of the church of Rome.

In the ancient English law, it was a renunciation of one's country and taking an oath of perpetual banishment. A man who had committed a felony, and for safety fled to a sanctuary, might within forty days confess and take the oath of abjuration and perpetual banishment; he was then transported. This was abolished by stat. 21 Jac. I. c. 28. Ayliffe, Parerg. 14; Burr. L. Dic., Abjuration of the Realm; 4 Bla. Com. 332.

But the doctrine of abjuration has been referred to, at least, in much later times; 4 Sharsw. Bla. Com. 56, 124, 332; 11 East, 301; 2 Kent, 156, n.; Termes de la Ley.

ABLEGATI. Papal ambassadors of the second rank, who are sent with a less extensive commission to a court where there are no nuncios. This title is equivalent to *envoy*, which see.

ABNEPOS (Lat.). A great-great-grandson. The grandson of a grandson or granddaughter. Calvinus, Lex.

ABNEPTIS (Lat.). A great-great-granddaughter. The granddaughter of a grandson or granddaughter. Calvinus, Lex.

ABOLITION (Lat. *abolitio*, from *abolere*, to utterly destroy). The extinguishment, abrogation, or annihilation of a thing.

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

ABORDAGE (Fr.). The collision of vessels.

If the collision happen in the open sea, and the damaged ship is insured, the insurer must pay the loss, but is entitled in the civil law, at least, to be subrogated to the rights of the insured against the party causing the damage. *Ordonnance de la Marine de 1681, Art. 8; Jugements d'Oléron; Emer. Ins. c. 123, 14.*

ABORTION. The expulsion of the fœtus at a period of utero-gestation so early that it has not acquired the power of sustaining an independent life.

Its natural and innocent causes are to be sought either *in the mother*—as in a nervous, irritable temperament, disease, malformation of the pelvis, immoderate venereal indulgence, a habit of miscarriage, plethora, great debility; or *in the fœtus* or its dependencies; and this is usually disease existing in the ovum, in the membranes, the placenta, or the fœtus itself.

The criminal means of producing abortion are of two kinds. *General*, or those which seek to produce the expulsion through the constitution of the mother, which are venesection, emetics, cathartics, diuretics, emmenagogues, comprising mercury, savin, and the *secale cornutum* (spurred rye, ergot), to which much importance has been attached; or *local or mechanical* means, which consist either of external violence applied to the abdomen or loins, or of instruments introduced into the uterus for the purpose of rupturing the membranes and thus bringing on premature action of the womb. The latter is the more generally resorted to, as being the most effectual. These local or mechanical means not unfrequently produce the death of the mother, as well as that of the fœtus.

At common law, an attempt to destroy a child *en ventre sa mere*, appears to have been held in England to be a misdemeanor. *Rosc. Cr. Ev. 4th Lond. ed. 260; 1 Russ. Cr. 3d Lond. ed. 671.* At an early period it was held to be murder, in case of death of the child. 2 Whart. Cr. L. § 1220. In this country, it has been held that it is not an indictable offence, at common law, to administer a drug, or perform an operation upon a pregnant woman with her consent, with the intention and for the purpose of causing an abortion and premature birth of the fœtus of which she is pregnant, by means of which an abortion is in fact caused, unless, at the time of the administration of such drug or the performance of such operation, such woman was *quick with child*; 9 Metc. 263; 11 Gray, 85; 2 Zab. 52; 3 Clarke (Iowa), 274; 15 Iowa, 177; 49 N. Y. 86. A recent case in Kentucky citing all the earlier cases holds that

this is the rule at common law, and must prevail in the absence of statute; 10 Cent. L. J. 338. But in Pennsylvania a contrary doctrine has been held; 13 Penn. St. 631. Wharton supports the latter doctrine on principle. See, also, 116 Mass. 343.

The former English statutes on this subject, the 43 Geo. III. c. 58, and 9 Geo. IV. c. 51, § 14, distinguished between the case where the woman was quick and was not quick with child; and under both acts the woman must have been pregnant at the time. 1 Mood. Cr. Cas. 216; 3 C. & P. 605. The terms of the recent act (24 and 25 Vic. c. 100, s. 62) are, "with intent to procure the miscarriage of any woman whether she be with child or not." See 1 Den. Cr. Cas. 18; 2 C. & K. 293.

When, in consequence of the means used to secure an abortion, the death of the woman ensues, the crime is murder. And if a person, intending to procure abortion, does an act which causes a child to be born so much earlier than the natural time that it is born in a state much less capable of living, and afterwards dies in consequence of its exposure to the external world, the person who by this misconduct so brings the child into the world, and puts it thereby in a situation in which it cannot live, is guilty of murder; and the mere existence of a possibility that something might have been done to prevent the death will not render it less murder; 2 C. & K. 784.

A woman who takes a potion given to her to cause a miscarriage, is not an accomplice with the person administering it; 39 N. J. L. 598.

Consult 1 Beck. Med. Jur. 288-331, 429-435; Rosc. Cr. Ev. 190; 1 Russ. Cr. 3d Lond. ed. 671; 1 Briand, *Méd. Leg.* pt. 1, c. 4; Alison, Scotch Cr. Law, 628; 2 Whart. & Still. Med. Jur. § 84 *et seq.*; 2 Whart. Cr. L. § 1220 *et seq.*

ABORTIVE TRIAL. Used "when a case has gone off, and no verdict has been pronounced without the fault, contrivance, or management of the parties." Jebb & B. 51.

ABORTUS. The fruit of an abortion; the child born before its time, incapable of life. See **ABORTION**; **BIRTH**; **BREATH**; **DEAD-BORN**; **GESTATION**; **LIFE**.

ABOUTISSEMENT (Fr.). An abuttal or abutment. See Guyot, *Répert. Univ. Aboutissans*.

ABOVE. Higher; superior. As, court above, bail above.

ABPATRUUS. (Lat.). A great-great-uncle; or, a great-great-grandfather's brother. Du Cange, *Patruus*. It sometimes means uncle, and sometimes great-uncle.

ABRIDGE. In practice. To shorten a declaration or count by taking away or severing some of the substance of it; Brooke, *Abr. Abridgment*; Comyn, *Dig. Abridgment*; 1 Viner, *Abr.* 109.

To *abridge a plaint* is to strike out a part

of the demand and pray that the tenant answer to the rest. This was allowable generally in real actions where the writ was *de libero tenemento*, as assize, dower, etc., where the demandant claimed land of which the tenant was not seized. See 1 Wms. Saund. 207, n. 2; 2 *id.* 24, 330; Brooke, *Abr. Abridgment*; 1 Pet. 74; Stearns, *Real Act.* 204.

ABRIDGMENT. An epitome or compendium of another and larger work, wherein the principal ideas of the larger work are summarily contained.

Copyright law. When fairly made, it may justly be deemed, within the meaning of the law, a new work, the publication of which will not infringe the copyright of the work abridged. The abridgment must be something more than a mere copy of the whole or parts of the original. It must be the result of independent labor other than copying, and there must be substantial fruits of authorship on the part of the maker; Drone on Copyright, 158; 4 McLean, 306; 2 Am. L. T. R. U. S. 402. See 16 U. C. B. 409. For a discussion of this subject, in which it is maintained that an abridgment is piratical, see Drone, Copyright, p. 44. See, also, 5 Am. L. T. R. 158; L. R. 8 Exch. 1.

An injunction will be granted against a mere colorable abridgment. 2 Atk. 143; 1 Brown, Ch. 451; 5 Ves. 709; Lofft, 775; Ambl. 403; 1 Story, 11; 3 *id.* 6; 1 Y. & C. Ch. 298; 39 Leg. Obs. 346; 2 Kent, 382.

Abridgments of the law or digests of adjudged cases serve the very useful purpose of an index to the cases abridged; 5 Coke, 25. Lord Coke says they are most profitable to those who make them; Coke, Litt., in preface to the table at the end of the work. With few exceptions, they are not entitled to be considered authoritative. See 2 Wils. 1, 2; 1 Burr. 364; 1 W. Bla. 101; 3 Term, 64, 241; and an article in the North American Review, July, 1826, pp. 8-13, for an account of the principal abridgments, which was written by the late Justice Story, and is reprinted in his "Miscellaneous Writings," p. 79. Warren Law Stud. 778 *et seq.*

ABROGATION. The destruction of or annulling a former law, by an act of the legislative power, or by usage.

A law may be abrogated, or only derogated from: it is abrogated when it is totally annulled; it is derogated from when only a part is abrogated; *derogatur legi, cum pars detrahitur*; *abrogatur legi, cum prorsus tollitur*. Dig. 50. 17. 1. 102. *Lex rogatur dum fertur* (when it is passed); *abrogatur dum tollitur* (when it is repealed); *derogatur idem dum quoddam ejus caput aboletur* (when any part of it is abolished); *subrogatur dum aliquid ei adjicitur* (when any thing is added to it); *abrogatur denique, quoties aliquid in ea mutatur* (as often as any thing in it is changed). Dupin, *Proleg. Jur.* art. iv.

Express abrogation is that literally pronounced by the new law either in general terms, as when a final clause abrogates or repeals all laws contrary to the provisions of the new one, or in particular terms, as when it

abrogates certain preceding laws which are named.

Implied abrogation takes place when the new law contains provisions which are positively contrary to the former laws, without expressly abrogating such laws; for it is a maxim, *posteriora derogant prioribus*; 10 Mart. La. 172, 560; and also when the order of things for which the law had been made no longer exists, and hence the motives which had caused its enactment have ceased to operate; *ratione legis omnino cessante, cessat lex*; Toullier, Dr. Civ. Fr. tit. prel. § 11, n. 151; Merlin, Répert., *Abrogation*.

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

ABSCONDING DEBTOR. One who absconds from his creditors.

The statutes of the various states, and the decisions upon them, have determined who shall be treated in those states, respectively, as absconding debtors, and liable to be proceeded against as such. A person who has been in a state only transiently, or has come into it without any intention of settling therein, cannot be treated as an absconding debtor; 2 Cal. 318; 15 Johns. 196; nor can one who openly changes his residence; 3 Yerg. 414; 5 Conn. 117; 43 Ill. 185. For the rule in Vermont, see 2 Vt. 489; 6 *id.* 614. It is not necessary that the debtor should actually leave the state; 7 Md. 209. It is essential that there be an intention to delay and defraud creditors.

ABSENCE. The state of being away from one's domicile or usual place of residence.

A presumption of death arises after the absence of a person for seven years without having been heard from; Peake, Ev. c. 14, § 1; 2 Starkie, Ev. 457, 458; Park, Ins. 433; 1 W. Bla. 404; 1 Stark. 121; 2 Campb. 113; 4 B. & Ald. 422; 4 Wheat. 150, 173; 15 Mass. 305; 18 Johns. 141; 1 Hardin, 479.

In Louisiana a curator is appointed under some circumstances to take charge of the estate of those who are out of the state during their absence; La. Civ. Code, art. 50, 51.

ABSENTEE. A landlord who resides in a country other than that from which he draws his rents. The discussions on the subject have generally had reference to Ireland. McCulloch, Polit. Econ.; 33 British Quarterly Review, 455.

ABSOILE. To pardon; to deliver from excommunication. Staunford, Pl. Cr. 72; Kelham. Sometimes spelled *Assoile*, which see.

ABSOLUTE (Lat. *absolvere*). Complete, perfect, final; without any condition or incumbrance; as an absolute bond (*simplex obligatio*) in distinction from a conditional bond; an absolute estate, one that is free from all manner of condition or incumbrance. See **CONDITION**.

A rule is said to be absolute when on the hearing it is confirmed and made final. A conveyance is said to be absolute, as distin-

guished from a mortgage or other conditional conveyance; 1 Powell, Mort. 125.

Absolute *rights* are such as appertain and belong to particular persons merely as individuals or single persons, as distinguished from relative rights, which are incident to them as members of society; 1 Sharsw. Bla. Com. 123; 1 Chitty, Pl. 364; 1 Chitty, Pr. 32.

Absolute *property* is where a man hath solely and exclusively the right and also the occupation of movable chattels; distinguished from a qualified property, as that of a bailee; 2 Sharsw. Bla. Com. 388; 2 Kent, 347.

ABSOLUTION. In Civil Law. A sentence whereby a party accused is declared innocent of the crime laid to his charge.

In Canon Law. A juridical act whereby the clergy declare that the sins of such as are penitent are remitted. The formula of absolution in the Roman Church is absolute; in the Greek Church it is deprecatory; in the Reformed Churches, declaratory. Among Protestants it is chiefly used for a sentence by which a person who stands excommunicated is released or freed from that punishment. Encyc. Brit.

In French Law. The dismissal of an accusation.

The term *acquittal* is employed when the accused is declared not guilty, and *absolution* when he is recognized as guilty but the act is not punishable by law or he is exonerated by some defect of intention or will; Merlin, Rép.

ABSOLUTISM. In politics. That government in which public power is vested in some person or persons, unchecked and uncontrolled by any law or institution.

The word was first used at the beginning of this century, in Spain, where one who was in favor of the absolute power of the king, and opposed to the constitutional system introduced by the Cortes during the struggle with the French, was called *absolutista*. The term Absolutist spread over Europe, and was applied exclusively to absolute monarchism; but absolute power may exist in an aristocracy and in a democracy as well. Dr. Lieber, therefore, uses in his works the term Absolute Democracy for that government in which the public power rests unchecked in the multitude (practically speaking, in the majority).

ABSQUE ALIQUO INDE REDDEN-DO (Lat. without reserving any rent therefrom). A term used of a free grant by the crown; 2 Rolle, Abr. 502.

ABSQUE HOC (Lat.). Without this. See TRAVERSE.

ABSQUE IMPETITIONE VASTI (Without impeachment of waste). A term indicating freedom from any liability on the part of the tenant or lessee to answer in damages for the waste he may commit. See WASTE.

ABSQUE TALI CAUSA (Lat. without such cause). **In pleading.** A form of replication in an action *ex delicto* which works a general denial of the whole matter of the defendant's plea of *de injuria*; Gould, Plead. c. 7, § 10.

ABSTENTION. In French Law. The

tacit renunciation of a succession by an heir; Merlin, Répert.

ABSTRACT OF A FINE. A part of the record of a fine, consisting of an abstract of the writ of covenant and the concord; naming the parties, the parcel of land, and the agreement; 2 Bla. Com. 351.

ABSTRACT OF A TITLE. An epitome, or brief statement of the evidences of ownership of real estate.

An abstract should set forth briefly, but clearly, every deed, will, or other instrument, every recital or fact relating to the devolution of the title, which will enable a purchaser, or mortgagee, or his counsel, to form an opinion as to the exact state of the title.

In England this is usually prepared at the expense of the owner; 1 Dart, Vend. and Purch. 279. The failure to deliver an abstract in England relieves the purchaser from his contract in law; *id.* 305. It should run back for sixty years; or, since the Act of 38 and 39 Vic. c. 78, forty years prior to the intended sale, etc.

In the United States, where offices for registering deeds are universal, and conveyancing much less complicated, abstracts are much simpler than in England, and are usually prepared at the expense of the purchaser, etc., or by his conveyancer.

See Whart. Law Dict.; 7 W. Va. 390.

ABUSE. Every thing which is contrary to good order established by usage. Merlin, Répert.

Among the civilians, abuse has another signification; which is the destruction of the substance of a thing in using it. For example, the borrower of wine or grain *abuses* the article borrowed by using it, because he cannot enjoy it without consuming it.

ABUSE OF A FEMALE CHILD. An injury to the genital organs in an attempt at carnal knowledge, falling short of actual penetration. 58 Ala. 376. See RAPE.

ABUT. To reach, to touch.

In old law, the ends were said to abut, the sides to adjoin. Cro. Jac. 184.

To take a new direction; as where a bounding line changes its course. Spelman, Gloss. *Abuttare*. In the modern law, to bound upon. 2 Chitty, Pl. 660.

ABUTTALS (Fr.). The buttings or boundings of lands, showing to what other lands, highways, or places they belong or are abutting. *Termes de la Ley*.

AC ETIAM (Lat. and also). The introduction of the statement of the real cause of action, used in those cases where it was necessary to allege a fictitious cause of action to give the court jurisdiction, and also the real cause in compliance with the statutes. It was first used in the K. B., and was afterwards adopted by Lord C. J. North in addition to the *clausum fregit* writs of his court upon which writs of *capias* might issue. He balanced awhile whether he should not use the words *nec non* instead of *ac etiam*.

It is sometimes written *acetiam*. 2 Stra. 922. This clause is no longer used in the English courts. 2 Will. IV. c. 39. See Burgess, Ins. 149-157; 3 Bla. Com. 288.

AC ETIAM BILLÆ. And also to a bill. See AC ETIAM.

ACCEDAS AD CURIAM (Lat. that you go to court). In Eng. law. An original writ issuing out of chancery and directed to the sheriff, for the purpose of removing a replevin suit from the Hundred Court or Court Baron before one of the superior courts of law. It directs the sheriff to go to the lower court, and there cause the plaintiff to be recorded and to return, etc. See Fitzherbert, Nat. Brev. 18; Dy. 169.

ACCEDAS AD VICE COMITEM (Lat. that you go to the sheriff). In Eng. law. A writ directed to the coroner, commanding him to deliver a writ to the sheriff, when the latter, having had a *pone* delivered him, suppressed it; Reg. Orig. 83.

ACCELERATION. The shortening of the time for the vesting in possession of an expectant interest. Wharton.

ACCEPTANCE (Lat. *accipere*, to receive). The receipt of a thing offered by another with an intention to retain it, indicated by some act sufficient for the purpose; 2 Parsons, Contr. 221.

The element of receipt must enter into every acceptance, though receipt does not necessarily mean in this sense some actual manual taking. To this element there must be added an intention to retain. This intention may exist at the time of the receipt, or subsequently; it may be indicated by words, or acts, or any medium understood by the parties; and an acceptance of goods will be implied from mere detention, in many instances.

An acceptance involves very generally the idea of a receipt in consequence of a previous undertaking on the part of the person offering to deliver such a thing as the party accepting is in some manner bound to receive. It is through this meaning that the term acceptance, as used in reference to bills of exchange, has a relation to the more general use of the term. As distinguished from assent, acceptance would denote receipt of something in compliance with, and satisfactory fulfilment of, a contract to which assent had been previously given. See ASSENT.

Under the statute of frauds (29 Car. II. c. 3) delivery and acceptance are necessary to complete an oral contract for the sale of goods, in most cases. In such cases, it is said the acceptance must be absolute and past recall; 2 Exch. 290; 5 Railw. Cas. 496; 1 Pick. 278; 10 *id.* 326, and communicated to the party making the offer; 4 Wheat. 225; 6 Wend. 103, 397. As to how far a right to make future objections invalidates an acceptance, see 3 B. & Ald. 521; 5 *id.* 557; 10 Bingh. 376; 10 Q. B. 111; 6 Exch. 903.

Acceptance of rent destroys the effect of a notice to quit for non-payment of such rent; 3 Taunt. 78; 4 Bingh. n. c. 178; 4 B. & Ald. 401; 13 Wend. 530; 11 Barb. 33; 1 Bush. 418; 2 N. H. 163; 19 Vt. 587; 1 Washb. R. P. 322; and may operate a waiver

of forfeiture for other causes; 3 Coke, 64; 1 Wms. Saund. 287 c, note; 3 Cow. 220; 5 Barb. 339; 3 Cush. 325.

Of Bills of Exchange. An engagement to pay the bill in money when due. 4 East, 72; 19 Law Jour. 297; Byles on Bills, 288.

Acceptances are said to be of the following kinds.

Absolute, which is a positive engagement to pay the bill according to its tenor.

Conditional, which is an undertaking to pay the bill on a contingency.

The holder is not bound to receive such an acceptance, but if he does receive it, must observe its terms; 4 M. & S. 466; 1 Campb. 425; 2 Wash. C. C. 485; Dan. Neg. Inst. 411. For some examples of what do and what do not constitute conditional acceptances, see 1 Term, 182; 2 Strange, 1152, 1211; 2 Wils. 9; 6 C. & P. 218; 3 C. B. 841; 15 Miss. 245; 7 Me. 126; 1 Ala. 73; 10 Ala. n. s. 533; 1 Strobb. 271; 1 Miles, 294; 4 Watts & S. 346; 105 Mass. 401; 10 C. B. n. s. 214; 44 Ga. 513; 73 Ill. 469; 63 Me. 498; 14 Cal. 407.

Express or absolute, which is an undertaking in direct and express terms to pay the bill.

Implied, which is an undertaking to pay the bill inferred from acts of a character fairly to warrant such an inference.

Partial, which is one varying from the tenor of the bill.

An acceptance to pay part of the amount for which the bill is drawn, 1 Strange, 214; 2 Wash. C. C. 485; or to pay at a different time, 14 Jur. 806; 25 Miss. 376; Molloy, b. 2, c. 10, § 20; or at a different place, 4 M. & S. 462, would be partial.

Qualified, which are either conditional or partial, and introduce a variation in the sum, time, mode, or place of payment; 1 Dan. Neg. Inst. 414.

Supra protest, which is the acceptance of the bill after protest for non-acceptance by the drawee, for the honor of the drawer or a particular indorser.

When a bill has been accepted *supra protest* for the honor of one party to the bill, it may be accepted *supra protest* by another individual for the honor of another; Beawes, Lex Merc., *Bills of Exchange*, pl. 52; 5 Campb. 447.

The acceptance must be made by the drawee or some one authorized to act for him. The drawee must have capacity to act and bind himself for the payment of the bill, or it may be treated as dishonored. See ACCEPTOR SUPRA PROTEST; Marius, 22; 2 Q. B. 16. As to when an acceptance by an agent, an officer of a corporation, etc., on behalf of the company, will bind the agent or officer personally, see 15 Jur. 335; 20 Law Jour. 160; 6 C. B. 766; 10 *id.* 318; 9 Exch. 154; 4 N. Y. 208; 6 Mass. 58; 8 Pick. 56; 11 Me. 267; 2 South. 828; see also 17 Wend. 40; 5 B. Monr. 51; 2 Conn. 660; 19 Me. 352; 16 Vt. 220; 2 Metc. Mass. 47; 7 Miss. 371.

It may be made before the bill is drawn, in which case it must be in writing; 3 Mass. 1; 9 *id.* 55; 15 Johns. 6; 10 *id.* 207; 2 Wend. 545; 1 Bail. 522; 2 Green, 239; 2 Dana,

95; 5 B. Monr. 8; 15 Penn. St. 453; 2 Ind. 488; 3 Md. 265; 1 Pet. 264; 4 *id.* 121; 2 Wheat. 66; 2 McLean, 462; 2 Blatchf. C. C. 335. See 1 Story 22; 2 *id.* 213. It may be made after it is drawn and before it comes due, which is the usual course, or after it becomes due; 1 H. Bla. 313; 2 Green, 339; or even after a previous refusal to accept; 5 East, 514; 1 Mas. 176. It must be made within twenty-four hours after presentment, or the holder may treat the bill as dishonored; Chitty, Bills, 212, 217. And upon refusal to accept, the bill is at once dishonored, and should be protested; Chitty, Bills, 217.

It may be in writing on the bill itself or on another paper; 4 East, 91; and it seems that the holder may insist on having a written acceptance, and in default thereof consider the bill as dishonored; 1 Dan. Neg. Inst. 406; or it may be oral; 1 East, 67; Rep. temp. Hardw. 74; 6 C. & P. 218; 1 Wend. 522; 2 Green, 339; 1 Rich. 249; 3 Mass. 1; 2 Metc. 53; 22 N. H. 153; 115 Mass. 374; 91 U. S. 406; 75 Ill. 595; 11 Moore, 320. An acceptance by telegraph has been held good; 87 Ill. 98; 109 Mass. 414; but must now be in writing, in England and New York; Stat. 19 & 20 Vict. c. 97, § 6. The usual form is by writing "accepted" across the face of the bill and signing the acceptor's name; 1 Parsons, Contr. 223; 1 Mann. & R. 90; but the drawee's name alone is sufficient, or any words of equivalent force to accepted. See Byles, Bills, 147; 1 Atk. 611; 1 Mann. & R. 90; 21 Pick. 307; 3 Md. 265; 9 Gill, 350.

Consult Bayley, Byles, Chitty, Parsons, and Story, on Bills; Parsons on Contracts; Dan. Neg. Inst.

In Insurance. Acceptance of abandonment in insurance is in effect an acknowledgment of its sufficiency, and perfects the right of the assured to recover for a total loss if the cause of loss and circumstances have been truly made known. No particular form of acceptance is requisite, and the underwriter is not obliged to say whether he accepts; 2 Phillips, Ins. § 1689. An acceptance may be a constructive one, as by taking possession of an abandoned ship to repair it without authority so to do; 2 Curt. C. C. 322; or by retaining such possession an unreasonable time, under a stipulation authorizing the underwriter to take such possession; 16 Ill. 235.

ACCEPTILATION. In Civil Law. A release made by a creditor to his debtor of his debt, without receiving any consideration. Ayliffe, Pand. tit. 26, p. 570. It is a species of donation, but not subject to the forms of the latter, and is valid unless in fraud of creditors. Merlin, Répert.

Acceptilation may be defined *verborum conceptio qua creditor debitori, quod debet, acceptum fert*; or, a certain arrangement of words by which, on the question of the debtor, the creditor, wishing to dissolve the obligation, answers that he admits as received what in fact he has not received. The acceptilation is an imaginary payment; Dig. 46. 4. 1, 19; Dig. 2. 14. 27. 9; Inst. 3. 30. 1.

ACCEPTOR. One who accepts a bill of exchange. 3 Kent, 75.

The party who undertakes to pay a bill of exchange in the first instance.

The drawee is in general the acceptor; and unless the drawee accepts, the bill is dishonored. The acceptor of a bill is the principal debtor, and the drawer the surety. He is bound, though he accepted without consideration and for the sole accommodation of the drawer. By his acceptance he admits the drawer's handwriting; for before acceptance it was incumbent upon him to inquire into the genuineness of the drawer's handwriting; 3 Kent, 75; 3 Burr. 1384; 1 W. Bla. 390; 4 Dall. 204.

ACCEPTOR SUPRA PROTEST. One who accepts a bill which has been protested, for the honor of the drawer or any one of the endorsers.

Any person, even the drawee himself, may accept a bill *supra protest*; Byles, Bills, *262, and two or more persons may become acceptors *supra protest* for the honor of different persons. A general acceptance *supra protest* is taken to be for the honor of the drawer; Byles, Bills, *263. The obligation of an acceptor *supra protest* is not absolute but only to pay if the drawee do not; 16 East, 391. See 3 Wend. 491; 19 Pick. 220; 8 N. H. 66. An acceptor *supra protest* has his remedy against the person for whose honor he accepted, and against all persons who stand prior to that person. If he takes up the bill for the honor of the endorser, he stands in the light of an endorsee paying full value for the bill, and has the same remedies to which an endorsee would be entitled against all prior parties, and he can, of course, sue the drawer and endorser; 1 Ld. Raym. 574; 1 Esp. 112; Bayley, Bills, 209; 3 Kent, 75; Chitty, Bills, 312. The acceptor *supra protest* is required to give the same notice, in order to charge a party, which is necessary to be given by other holders; 19 Pick. 220.

ACCESS. Approach, or the means or power of approaching.

Sometimes by access is understood sexual intercourse; at other times, the opportunity of communicating together so that sexual intercourse may have taken place, is also called access.

In this sense a man who can readily be in company with his wife is said to have access to her; and in that case her issue are presumed to be his issue. But this presumption may be rebutted by positive evidence that no sexual intercourse took place; 1 Turn. & R. 141.

Parents are not allowed to prove non-access for the purpose of bastardizing the issue of the wife, whether the action be civil or criminal, or whether the proceeding is one of settlement or bastardy, or to recover property claimed as heir at law; Rep. temp. Hardw. 79; Buller, N. P. 113; Cowp. 592; 8 East, 203; 11 id. 133; 2 Munf. 242; 3 id. 599; 3 Hawks, 323; 3 Hayw. 221; 1 Ashm. 269; 1 Grant Cas. 377; 3 Paige, Ch. 129.

The modern doctrine is that children born

in lawful wedlock (when there has been no divorce *a mensa et thoro*) are presumed legitimate, but this presumption may be rebutted by evidence (not that of the parents) tending to show that intercourse could not have taken place, impotency, etc. Where there were opportunities for intercourse, evidence is generally not allowed to establish illegitimacy; 2 Greenl. Ev. § 150, 151, and n. See 9 Beav. 552.

Non-access is not presumed from the mere fact that husband and wife lived apart; 1 Gale & D. 7. See 3 C. & P. 215; 1 Sim. & S. 153; 1 Greenleaf Ev. § 28.

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

An accessory before the fact is one who, being absent at the time of the crime committed, yet procures, counsels, or commands another to commit it; 1 Hale, Pl. Cr. 615. With regard to those cases where the principal goes beyond the terms of the solicitation, the approved test is, "Was the event alleged to be the crime to which the accused is charged to be accessory, a probable cause of the act which he counselled?" 1 F. & F. Cr. Cas. 242; Roscoe, Crim. Ev. 181. When the act is committed through the agency of a person who has no legal discretion or a will, as in the case of a child or an insane person, the incitor, though absent when the crime was committed, will be considered, not an accessory, for none can be accessory to the acts of a madman, but a principal in the first degree; 1 Hale Pl. Cr. 514. But if the instrument is aware of the consequences of his act, he is a principal in the first degree, and the employer, if he is absent when the fact is committed, is an accessory before the fact; 1 R. & R. Cr. Cas. 363; 1 Den. Cr. Cas. 37; 1 C. & K. 589; or if he is present, as a principal in the second degree; 1 Fost. Cr. Cas. 349; unless the instrument concur in the act merely for the purpose of detecting and punishing the employer, in which case he is considered as an innocent agent.

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

No one who is a principal can be an accessory.

In certain crimes, there can be no accessories; all who are concerned are principals, whether they were present or absent at the time of their commission. These are treason, and all offences below the degree of felony; 4 Bla. Com. 35-40; Hawkins, Pl. Cr. b. 2, c. 29, § 16; 1 Whart. Cr. L. § 223; 2 Den. Cr. Cas. 453; 5 Cox, Cr. Cas. 521; 2 Mood. Cr. Cas. 276; 8 Dana, 28; 20 Miss. 53; 3 Cush. 284; 3 Gray, 448; 14 Mo. 137; 18 Ark. 198; 4 J. J. Marsh. 182; 67 Ill. 587. Such is the English law; but in the United States it appears not to be determined as re-

gards the cases of persons assisting traitors. Sergeant, Const. Law, 382; 4 Cranch. 472, 501; U. S. v. Fries, 3 Dall. 515. See 2 Wall. Jr. 134, 139; 16 Wall. 147; 12 Wall. 347. That there cannot be an accessory in cases of treason, see Davis, Cr. L. 38. *Contra*, 1 Whart. Cr. L. § 224.

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

By the rules of the common law, an accessory cannot be tried, without his consent, before the conviction of the principal; Fost. Cr. Cas. 360. This is altered by statute in most of the states.

But an accessory to a felony committed by several, some of whom have been convicted, may be tried as accessory to a felony committed by these last; but if he be indicted and tried as accessory to a felony committed by them all, and some of them have not been proceeded against, it is error; 7 S. & R. 491; 10 Pick. 484. If the principal is dead, the accessory cannot, by the common law, be tried at all; 16 Mass. 423.

ACCESSIO (Lat.). An increase or addition; that which lies next to a thing, and is supplementary and necessary to the principal thing; that which arises or is produced from the principal thing; Calvinus, Lex.

A manner of acquiring the property in a thing which becomes united with that which a person already possesses.

The doctrine of property arising from accessions is grounded on the rights of occupancy. It is said to be of six kinds in the Roman law.

First. That which assigns to the owner of a thing its products, as the fruit of trees, the young of animals.

Second. That which makes a man the owner of a thing which is made of another's property, upon payment of the value of the material taken. See La. Civ. Code, art. 491. As where wine, bread, or oil is made of another man's grapes or olives; 2 Bla. Com. 404; 10 Johns. 288.

Third. That which gives the owner of land new land formed by gradual deposit. See ALLUVION.

Fourth. That which gives the owner of a thing the property in what is added to it by way of adorning or completing it; as if a tailor should use the cloth of B. in repairing A.'s coat, all would belong to A.; but B. would have an action against both A. and the tailor for the cloth so used. This doctrine holds in the common law; F. Moore, 20; Poph. 38; Brooke, Abr. *Propertie*, 23.

Fifth. That which gives islands formed in a stream to the owner of the adjacent lands on either side.

Sixth. That which gives a person the property in things added to his own so that they cannot be separated without damage. Guyot, Répert. Univ.

An accessory obligation, and sometimes also the person who enters into an obligation as surety in which another is principal. Calvinus, Lex.

ACCESSION. The right to all which one's own property produces, whether that property be movable or immovable, and the

right to that which is united to it by accession, either naturally or artificially; 2 Kent, 360; 2 Bla. Com. 404.

If a man hath raised a building upon his own ground with the material of another, or, on the contrary, if a man shall have built with his own materials upon the ground of another, in either case the edifice becomes the property of him to whom the ground belongs; for every building is an accession to the ground upon which it stands; and the owner of the ground, if liable at all, is only liable to the owner of the materials for the value of them; Inst. 2. 1. 29, 30; 2 Kent, 362. And the same rule holds where trees, vines, vegetables, or fruits are planted or sown in the ground of another; Inst. 2. 1. 31, 32.

If the materials of one person are united by labor to the materials of another, so as to form a single article, the property in the joint product is, in the absence of any agreement, in the owner of the principal part of the materials by accession; 7 Johns. 473; 5 Pick. 177; 6 *id.* 209; 32 Me. 404; 16 Conn. 322; Inst. 2. 1. 26. But a vessel built of materials belonging to different persons, it has been said, will belong to the owner of the keel, according to the rule, *proprietas totius navis carinæ causam sequitur*; 2 Kent, 361; 6 Pick. 209; 7 Johns. 473; 11 Wend. 139. It is said to be the doctrine of the civil law, that the rule is the same though the adjunction of materials may have been dishonestly contrived; for, in determining the right of property in such a case, regard is had only to the *things joined*, and not to the *persons*, as where the materials are changed in species; Wood, Inst. 93; Inst. 2. 1. 25. And see ADJUNCTION.

Where, by agreement, an article is manufactured for another, the property in the article, while making and when finished, vests in him who furnished the whole or the principal part of the materials; and the maker, if he did not furnish the same, has simply a lien upon the article for his pay; 2 Denio, 268; 10 Johns. 268; 15 Mass. 242; 4 Ired. 102.

The increase of an animal, as a general thing, belongs to its owner; but, if it be let to another, the person who thus becomes the temporary proprietor will be entitled to its increase; 8 Johns. 435; Inst. 2. 1. 38; though it has been held that this would not be the consequence of simply putting a mare to pasture, in consideration of her services; 2 Penn. St. 166. The Civil Code of Louisiana, following the Roman law, makes a distinction in respect of the issue of slaves, which, though born during the temporary use or hiring of their mothers, belong not to the hirer, but to the permanent owner; La. Code, art. 539; Inst. 2. 1. 37; and see 31 Miss. 557; 4 Sneed, 99; 2 Kent, 361. But the issue of slaves born during a tenancy for life belong to the tenant for life; 7 Harr. & J. 257.

If there be a sale, mortgage, or pledge of a chattel, carried into effect by delivery or by a recording of the mortgage where that is equivalent to a delivery, and other materials are

added, afterwards, by the labor of the vendor or mortgagor, these pass with the principal by accession; 12 Pick. 83; 1 R. I. 511.

If, by the labor of one man, the property of another has been converted into a thing of different species, so that its identity is destroyed, the original owner can only recover the value of the property in its unconverted state, and the article itself will belong to the person who wrought the conversion, if he wrought it *believing the material to be his own*. Such a change is said to be wrought when wheat is made into bread, olives into oil, or grapes into wine; Inst. 2. 1. 25; 4 Denio, 332; Year B. 5 H. VII. 15; Brooke, Abr. *Property*, 23.

But, if there be a mere change of form or value, which does not destroy the identity of the materials, the original owner may still reclaim them or recover their value as thus improved; Brooke, Abr. *Property*, 23; F. Moore, 20; 2 N. Y. 379. So, if the change have been wrought by a wilful trespasser, or by one who knew that the materials were not his own; in such case, however radical the change may have been, the owner may reclaim them, or recover their value in their new shape: thus, where whiskey was made out of another's corn, 2 N. Y. 379; shingles out of another's wood, 6 Johns. 163; 12 Ala. n. s. 590; leather out of another's hides, 21 Barb. 92; in all these cases, the change having been made by one who knew the materials were another's, the original owner was held to be entitled to recover the property, or its value in the improved or converted state. And see 6 Hill, 425; 2 Rawle, 427; 5 Johns. 349; 21 Me. 287; 30 *id.* 370; 11 Metc. 493; Story, Bailm. § 40; 1 Brown, Civil and Adm. Law, 240, 241.

In International Law. The absolute or conditional acceptance, by one or several States, of a treaty already concluded between other sovereignties. Merlin, Répert., *Accession*.

ACCESSORY. Any thing which is joined to another thing as an ornament, or to render it more perfect.

For example, the halter of a horse, the frame of a picture, the keys of a house, and the like, each belong to the principal thing. The sale of the materials of a newspaper establishment will carry with it, as an accessory, the subscription list, 2 Watts, 111; but a bequest of a house would not carry the furniture in it, as accessory to it. Domat, Lois Civ., Part 2, liv. 4, tit. 2, s. 4, n. 1. *Accessorium non ducit, sed sequitur principale*. Coke, Litt. 152, a.

See **ACCESSION**; **ADJUNCTION**; **APPURTENANCES**. Used also in the same sense as **ACCESSARY**, which see.

ACCESSORY ACTIONS. In Scotch Law. Those which are in some degree subservient to others. Bell, Dict.

ACCESSORY CONTRACT. One made for assuring the purpose of the performance of a prior contract, either by the same parties or

by others; such as suretyship, mortgages, and pledges.

It is a general rule, that payment or release of the debt due, or the performance of a thing required to be performed by the first or principal contract, is a full discharge of such accessory obligation; Pothier, Ob. 1, c. 1, s. 1, art. 2, n. 14; *id.* n. 182, 186; see 8 Mass. 551; 15 *id.* 233; 17 *id.* 419; 4 Pick. 11; 8 *id.* 422; 5 Metc. Mass. 310; 7 Barb. 22; 2 Barb. Ch. 119; 1 Hill. & D. 65; 6 Penn. St. 228; 24 N. H. 484; 3 Ired. 337; and that an assignment of the principal contract will carry the accessory contract with it; 7 Penn. St. 280; 17 S. & R. 400; 5 Cow. 202; 5 Cal. 515; 4 Iowa, 434; 24 N. H. 484.

If the accessory contract be a contract by which one is to answer for the debt, default, or miscarriage of another, it must, under the statute of frauds, be in writing, and disclose the consideration, either explicitly, or by the use of terms from which it may be implied; 5 Mees. & W. 128; 7 *id.* 410; 5 B. & Ad. 1109; 1 Bingham. n. c. 761; 6 Bingham. 201; 9 East, 348; 8 Cush. 156; 15 Penn. St. 27; 20 Barb. 298; 13 N. Y. 232; 4 Jones, No. C. 287. Such a contract is not assignable so as to enable the assignee to sue thereon in his own name; 21 Pick. 140; 5 Wend. 307.

An accessory contract of this kind is discharged not only by the fulfilment or release of the principal contract, but also by any material change in the terms of such contract by the parties thereto; for the surety is bound only by the precise terms of the agreement he has guaranteed; 2 Nev. & P. 126; 9 Wheat. 680; 1 Eng. L. & Eq. 1; 3 Wash. C. C. 70; 12 N. H. 320; 13 *id.* 240. Thus, the surety will be discharged if the right of the creditor to enforce the debt be suspended for any definite period, however short; and a suspension for a day will have the same effect as if it were for a month or a year; 2 Ves. Sen. 540; 2 White & T. Lead. Cas. 707; 5 Ired. Eq. 91; 7 Hill, 250; 3 Denio, 512; 2 Wheat. 253; 23 Vt. 209. But the surety may assent to the change, and waive his right to be discharged because of it; 13 N. H. 240; 2 McLean, 99; 5 Ohio, 510; 8 Me. 121.

If the parties to the principal contract have been guilty of any misrepresentation, or even concealment, of any material fact, which, had it been disclosed, would have deterred the surety from entering into the accessory contract, the security so given is voidable at law on the ground of fraud; 5 Bingham. n. c. 156; B. & C. 605; 1 B. & P. 419; 9 Ala. n. s. 42; 2 Rich. 590; 10 Clark & F. Hou. L. 936.

So the surety will be discharged should any condition, express or implied, that has been imposed upon the creditor by the accessory contract, be omitted by him; 8 Taunt. 208; 14 Barb. 123; 6 Cal. 24; 27 Penn. St. 317; 6 Hill, 540; 9 Wheat. 680; 17 Wend. 179, 422.

An accessory contract to guarantee an original contract, which is void, has no binding effect; 7 Humphr. 261; and see 27 Ala. n. s. 291.

ACCESSORY OBLIGATIONS. In Scotch Law. Obligations to antecedent or primary obligations, such as obligations to pay interest, etc.; Erskine, Inst. lib. 3, tit. 3, § 60.

ACCIDENT (Lat. *accidere*.—*ad*, to, and *cadere*, to fall). An event which, under the circumstances, is unusual and unexpected by the person to whom it happens.

The happening of an event without the concurrence of the will of the person by whose agency it was caused; or the happening of an event without any human agency. The burning of a house in consequence of a fire made for the ordinary purposes of cooking or warming the house is an accident of the first kind; the burning of the same house by lightning would be an accident of the second kind; 1 Fonbl. Eq. 374, 375, n.

In Equity Practice. Such an unforeseen event, misfortune, loss, act, or omission as is not the result of any negligence or misconduct in the party; Francis, Max. 87; Story, Eq. Jur. § 78.

An occurrence in relation to a contract which was not anticipated by the parties when the same was entered into, and which gives an undue advantage to one of them over the other in a court of law; Jeremy, Eq. 358. This definition is objected to, because, as accidents may arise in relation to other things besides contracts, it is inaccurate in confining accidents to contracts; besides, it does not exclude cases of unanticipated occurrence resulting from the negligence or misconduct of the party seeking relief. See also 1 Spence, Eq. Jur. 628. In many instances it closely resembles **MISTAKE**, which see.

In general, courts of equity will relieve a party who cannot obtain justice at law in consequence of an accident which will justify the interposition of a court of equity.

The jurisdiction which equity exerts in case of accident is mainly of two sorts: over bonds with penalties to prevent a forfeiture where the failure is the result of accident; 2 Freem. Ch. 128; 1 Spence, Eq. Jur. 629; 25 Ala. N. s. 452; 9 Ark. 533; 4 Paige, Ch. 148; 4 Munf. 68; as sickness; 1 Root, 298, 310; or where the bond has been lost; 5 Ired. Eq. 331. And, second, where a negotiable or other instrument has been lost, in which case no action lay at law, but where equity will allow the one entitled to recover upon giving proper indemnity; 4 Term, 170; 1 Ves. Ch. 338; 5 *id.* 288; 16 *id.* 430; 4 Price, 176.

The ground of equitable interference where a party has been defeated in a suit at law to which he might have made a good defence had he discovered the facts in season, may be referred also to this head; 2 Rich. Eq. 63; 3 Ga. 226; 7 Humphr. 130; 18 Miss. 502; 6 How. 114. See 4 Ired. Eq. 178; but in such case there must have been no negligence on the part of the defendant; 18 Miss. 103; 7 Humphr. 130; 1 Morr. 150; 7 B. Monr. 120.

Under this head equity will grant relief in cases of the defective exercise of a power in

favor of a purchaser, creditor, wife, child, or charity, but not otherwise; Bisp. Eq. § 182. So also in other cases, viz., where a testator cancels a will, supposing that a later will is duly executed, which it is not; where boundaries have been accidentally confused; where there has been an accidental omission to endorse a promissory note, etc. *Id.* § 183.

See **INEVITABLE ACCIDENT**; **MISTAKE**; **ACT OF GOD**.

It is exercised by equity where there is not a plain, adequate, and complete remedy at law; 44 Me. 206; but not where such a remedy exists; 9 Gratt. 379; 5 Sandf. 612; and a complete excuse must be made; 14 Ala. N. s. 342.

ACCOMENDA. A contract which takes place when an individual intrusts personal property with the master of a vessel, to be sold for their joint account.

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

ACCOMMODATION PAPER. Promissory notes or bills of exchange made, accepted, or endorsed without any consideration therefor.

Such paper, in the hands of the party to whom it is made or for whose benefit the accommodation is given, is open to the defence of want of consideration, but when taken by third parties in the usual course of business, is governed by the same rules as other paper; 2 Kent, 86; 1 Bingham, N. C. 267; 1 M. & W. 212; 12 *id.* 705; 33 Eng. L. & Eq. 282; 2 Duer, 33; 26 Vt. 19; 5 Md. 389.

Consult Chitty; Parsons; Story, Bills of Exchange; Byles; Daniel.

ACCOMPLICE (Lat. *ad* and *complicare*—*con*, with, together, *plicare*, to fold to wrap,—to fold together).

In Criminal Law. One who is concerned in the commission of a crime.

The term in its fullness includes in its meaning all persons who have been concerned in the commission of a crime, all *participes criminis*, whether they are considered in strict legal propriety as principals in the first or second degree, or merely as accessories before or after the fact; Fost. Cr. Cas. 341; 1 Russ. Cr. 21; 4 Bla. Com. 331; 1 Phillips, Ev. 28; Merlin, Répert., *Complice*.

It has been questioned, whether one who was an accomplice to a suicide can be punished as such. A case occurred in Prussia where a soldier, at the request of his comrade, had cut the latter in pieces; for this he was tried capitally. In the year 1817, a young woman named Leruth received a recompense for aiding a man to kill himself. He put the point of a bistoury on his naked breast, and used the hand of the young woman to plunge it with greater force into his bosom; hearing some noise, he ordered her away. The man, receiving effectual aid, was soon cured of the wound which had been inflicted, and she

was tried and convicted of having inflicted the wound, and punished by ten years' imprisonment. Lepage, *Science du Droit*, ch. 2, art. 3, § 5. The case of Saul, the King of Israel, and his armor-bearer (1 Sam. xxxi. 4), and of David and the Amalekite (2 Sam. i. 2-16), will doubtless occur to the reader.

In Massachusetts, it has been held, that, if one counsels another to commit suicide, he is principal in the murder; for it is a presumption of law, that advice has the influence and effect intended by the adviser, unless it is shown to have been otherwise, as, for example, that it was received with scoff or manifestly rejected and ridiculed at the time; 13 Mass. 359. See 7 Bost. Law Rep. 215.

It is now finally settled, that it is not a rule of law, but of *practice* only, that a jury should not convict on the unsupported testimony of an accomplice. Therefore, if a jury choose to act on such evidence only, the conviction cannot be quashed as bad in law. The better practice is for the judge to advise the jury to acquit, unless the testimony of the accomplice is corroborated, not only as to the circumstances of the offence, but also as to the participation of the accused in the transaction; and when several parties are charged, that it is not sufficient that the accomplice should be confirmed, as to one or more of the prisoners, to justify a conviction of those prisoners with respect to whom there is no confirmation; 7 Cox, Cr. Cas. 20; Dears. Cr. Cas. 555; 20 Pick. 397; 10 Cush. 535. See 1 Fost. & F. 388; Greenl. Ev. § 111; 127 Mass. 424; 34 Amer. Rep. 391, 408.

ACCORD. In Contracts. An agreement between two parties to give and accept something in satisfaction of a right of action which one has against the other, which when performed is a bar to all actions upon this account; generally used in the phrase "accord and satisfaction;" 2 Greenl. Ev. 28; 3 Bla. Com. 15; Bacon, Abr. *Accord*; 5 Md. 170. It may be pleaded to all actions except real actions; Bacon, Abr. *Accord* (B).

It must be *legal*. An agreement to drop a criminal prosecution, as a satisfaction for an assault and imprisonment, is void; 5 East, 294. See 2 Wils. 341; Cro. Eliz. 541.

It must be *advantageous* to the creditor, and he must receive an actual benefit therefrom which he would not otherwise have had; 2 Watts, 325; 2 Ala. 476; 3 J. J. Marsh. 497. Restoring to the plaintiff his chattels, or his land, of which the defendant has wrongfully dispossessed him, will not be any consideration to support a promise by the plaintiff not to sue him for those injuries; Bacon, Abr. *Accord*, A; Perkins, § 749; Dy. 75; 5 East, 230; 11 *id.* 390; 1 Stra. 426; 3 Hawks. 580; 2 Litt. Ky. 49; 5 Day, 360; 1 Root, 426; 1 Wend. 164; 3 *id.* 66; 14 *id.* 116. The payment of a part of the whole debt due is not a good satisfaction, even if accepted; 2 Greenl. Ev. § 28; 2 Parsons, Contr. 199; 4 Mod. 88; 3 Bingham. n. c. 454; 10 Mees. & W. Exch. 367; 12 Price, Exch. 183; 1 Zab. 391; 5 Gill, 189; 20 Conn. 559; 70 N. C. 573; 6

Heisk. 1; 1 Metc. Mass. 276; 27 Me. 362, 370; 39 *id.* 203; 2 Strobh. 203; 15 B. Monr. 566; otherwise, however, if the amount of the claim is disputed; Cro. Eliz. 429; 3 Mees. & W. Exch. 651; 5 B. & Ald. 117; 1 Ad. & E. 106; 21 Vt. 223; 23 *id.* 561; 4 Gill, 406; 4 Denio, 166; 2 Duer, 302; 65 Barb. 161; 43 Conn. 455; 56 Ga. 494; 52 Miss. 494; 12 Metc. n. 551; or contingent, 14 B. Monr. 451; or there are mutual demands, 6 El. & B. 691; and if the negotiable note of the debtor, 15 Mees. & W. 23, or of a third person, 2 Metc. Mass. 283; 20 Johns. 76; 1 Wend. 164; 14 *id.* 116; 13 Ala. 353; 11 East, 390; 4 Barnew. & C. 506; 51 Ala. 349, for part, be given and received, it is sufficient; or if a part be given at a different place, 3 Hawks. 580; 29 Miss. 139, or an earlier time, it will be sufficient, 18 Pick. 414; and, in general, payment of part suffices if any additional benefit be received; 30 Vt. 424; 26 Conn. 392; 27 Barb. 485; 4 Jones, 518; 4 Iowa, 219. Acceptance by several creditors, by way of composition of sums respectively less than their demands, held to bar actions for the residue; 37 Iowa, 410. And the receipt of specific property, or the performance of services, if agreed to, is sufficient, whatever its value; 19 Pick. 273; 5 Day, 360; 51 Ala. 349; provided the value be not agreed upon; 65 Barb. 161; but both delivery and acceptance must be proved; 1 Wash. C. C. 328; 3 Blackf. 354; 1 Dev. & B. 565; 8 Penn. St. 106; 16 *id.* 450; 4 Eng. L. & Eq. 185.

It must be *certain*. An agreement that the defendant shall relinquish the possession of a house in satisfaction, etc., is not valid, unless it is so agreed at what time it shall be relinquished; Yelv. 125. See 4 Mod. 88; 2 Johns. 342; 3 Lev. 189; 2 Iowa, 553; 1 Hempst. 315; 102 Mass. 140.

It must be *complete*. That is, every thing must be done which the party undertakes to do; Comyns, Dig. *Accord*, B, 4; T. Raym. 203; Kebl. 690; Cro. Eliz. 46; 9 Coke, 79, *b*; 14 Eng. L. & Eq. 296; 2 Iowa, 553; 5 N. H. 136; 24 *id.* 289; 3 Johns. Cas. 243; 5 Johns. 386; 16 *id.* 86; 1 Gray, 245; 8 Ohio, 393; 7 Blackf. 582; 14 B. Monr. 459; 2 Ark. 45; 44 Me. 121; 15 Tex. 198; 29 Penn. St. 179; 8 Md. 188; 50 Tex. 113; 64 Me. 563; but this performance may be merely the substitution of a new undertaking for the old by way of novation if the parties so intended; 2 Parsons, Contr. 194 n.; 24 Conn. 613; 23 Barb. 546; 7 Md. 259; 16 Q. B. 1039; it is a question for the jury whether the agreement or the performance was accepted in satisfaction; 16 Q. B. 1039; and in some cases it is sufficient if performance be tendered and refused; 2 Greenl. Ev. § 31; 2 B. & Ad. 328; 3 *id.* 701. Whether an accord with an unaccepted *tender* of performance is a defence, seems unsettled; but where there is a sufficient consideration to support the agreement, it seems that a tender, though unaccepted, would bar an action; Story, Contr.

§ 1357; 3 Johns. Cas. 243. But see 3 Bingham, n. c. 715; 16 Barb. 598; 5 R. I. 219.

It must be *by the debtor or his agent*; 3 Wend. 66; 2 Ala. 84; and if made by a stranger, will not avail the debtor in an action at law; Stra. 592; 3 T. B. Monr. 302; 6 Johns. 37. See 6 Ohio St. 71. His remedy in such a case is in equity; Cro. Eliz. 541; 3 Taunt. 117; 5 East, 294.

Accord with satisfaction, when completed, has two effects: it is a payment of the debt; and it is a species of sale of the thing given by the debtor to the creditor, in satisfaction; but it differs from it in this, that it is not valid until the delivery of the article, and there is no warranty of the thing thus sold, except perhaps the title; for in regard to this it cannot be doubted, that if the debtor gave on an accord and satisfaction the goods of another, there would be no satisfaction. But the intention of the parties is of the utmost consequence; 30 Vt. 424; as the debtor will be required only to execute the new contract to that point whence it was to operate a satisfaction of the pre-existing liability. See, generally, 2 Greenl. Ev. § 28 *et seq.*; 2 Parsons, Contr. 193 *et seq.*; 2 Story, Contr. § 1354 *et seq.*; Comyns, Dig. *Accord*; 1 Bouvier, Inst. n. 805; 3 *id.* n. 2478-2481; notes to Cumber v. Wane; 1 Sm. Lead. Cas.

In America accord and satisfaction may be given in evidence under the general issue, in *assumpsit*, but it must be pleaded specially in debt, covenant, and trespass; Greenl. Ev. § 29. In England it must be pleaded specially in all cases; Rose. N. P. 569. PAYMENT.

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

ACCOUNT. A detailed statement of the mutual demands in the nature of debt and credit between parties, arising out of contracts or some fiduciary relation; 1 Metc. Mass. 216; 1 Hempst. 114; 32 Penn. 202.

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

An *open account* is one in which some term of the contract is not settled by the parties, whether the account consists of one item or many; 1 Ala. n. s. 62; 6 *id.* 438.

A form of action, called also *account render*, in which such a statement, and the recovery of the balance which thereby appears to be due, is sought by the party bringing it.

In Practice. In Equity. Jurisdiction concurrent with courts of law is taken over matters of account; 9 Johns. 470; 2 A. K. Marsh. 338; 1 J. J. Marsh. 82; 2 Caines, Cas. 1; 1 Paige, Ch. 41; 1 Yerg. 360; 1 Ga. 376, on three grounds: mutual accounts, 18 Beav. 575; dealings so complicated that

they cannot be adjusted in a court of law; 1 Sch. & L. 305; 2 *id.* 400; 2 Hou. L. Cas. 28; 2 Leigh, 6; 1 Metc. Mass. 216; 15 Ala. n. s. 34; 17 Ga. 558; the existence of a fiduciary relation between the parties; 1 Sim. Ch. n. s. 573; 4 Gray, 227; 1 Story, Eq. Jur. 8th ed. § 459, a.

In addition to these peculiar grounds of jurisdiction, equity will grant a discovery in cases of account on the general principles regulating discoveries; 8 Ala. n. s. 743; 4 Sandf. 112; 35 N. H. 339, and will afterwards proceed to grant full relief in many cases; 1 Madd. 86; 6 Ves. 136; 9 *id.* 437; 10 Johns. 587; 17 *id.* 384; 5 Pet. 495.

Equitable jurisdiction over accounts applies to the *appropriation of payments*; 1 Story, Eq. Jur. 8th ed. §§ 459-461; agency; 2 McCord, Ch. 469; including factors, bailiffs, consignees, receivers, and stewards, where there are mutual or complicated accounts; 1 Jac. & W. 135; 13 Ves. 53; 9 Beav. 284; 17 Ala. n. s. 667; trustees' accounts; 1 Story, Eq. Jur. § 465; 2 Mylne & K. 664; 9 Beav. 284; 1 Stockt. 218; 4 Gray, 227; administrators and executors; 22 Vt. 50; 14 Mo. 116; 3 Jones, Eq. 316; 32 Ala. n. s. 314; see 23 Miss. 361; guardians, etc.; 31 Penn. St. 318; 9 Rich. Eq. 311; 33 Miss. 553; tenants in common, joint tenants of real estate or chattels; 4 Ves. 752; 1 Ves. & B. 114; partners; 1 Hen. & M. 9; 3 Gratt. 364; 3 Cush. 331; 23 Vt. 576; 4 Sneed, 238; 1 Johns. Ch. 305; directors of companies, and similar officers; 1 Younge & C. 326; *apportionment* of apprentice fees; 2 Brown, Ch. 78; 1 Atk. 149; 13 Jur. 596; or rents; 2 Ves. & B. 331; 2 P. Will. 176, 501; see 1 Story, Eq. Jur. § 480; *contribution* to relieve real estate; 3 Coke, 12; 3 Bligh, 590; 2 Bos. & P. 270; 1 Johns. Ch. 409, 425; 7 Mass. 355; 1 Story, Eq. Jur. § 487; general average; 2 Abbott, Shipp. pl. 3, c. 8, § 17; 18 Ves. 190; 4 Kay & J. 367; 2 Curt. C. C. 59; between sureties; 1 Story, Eq. Jur. §§ 492-504; *liens*; Sugden, Vend. 7th ed. 541; 8 Paige, Ch. 182, 277; *rents and profits* between landlord and tenant; 1 Sch. & L. 305; 7 East, 353; 4 Johns. Ch. 287; in case of torts; Bacon, Abr. *Accompt*, B; a levy; 2 Atk. 362; 1 Ves. Sen. 250; 1 Eq. Cas. Abr. 285; and in other cases; 3 Gratt. 330; *waste*; 1 P. Will. 407; 6 Ves. 88; 1 Brown, Ch. 194; 6 Jur. n. s. 809; 4 Johns. Ch. 169; *tithes and moduses*; Comyns, Dig. *Chauncery* (3 C.), *Distress* (M. 13).

Equity follows the analogy of the law, in refusing to interfere with stated accounts; 2 Sch. & L. 629; 3 Brown, Ch. 639, n.; 19 Ves. 180; 13 Johns. Ch. 573; 6 *id.* 360; 3 McLean C. C. 83; 4 Mas. C. C. 143; 3 Pet. 44; 6 *id.* 61; 9 *id.* 405. See ACCOUNT STATED.

At Law. The action lay against bailiffs, receivers, and guardians, in socage only, at the common law, and, by a subsequent extension of the law, between merchants; 11 Coke, 89; 12 Mass. 149.

Privity of contract was required, and it did

not lie by or against executors and administrators; 1 Wms. Saund. 216, n.; Willes, 208, until statutes were passed for that purpose, the last being that of 3 & 4 Anne, c. 16; 1 Story, Eq. Jur. § 445.

In several states of the United States, the action has received a liberal extension; 4 Watts & S. 550; 13 Vt. 517; 28 *id.* 338; 7 Penn. St. 175; 25 Conn. 137; 5 R. I. 402. Thus, it is said to be the proper remedy for one partner against another; 1 Dall. 340; 3 Binn. 317; 10 S. & R. 220; 15 *id.* 153; 2 Conn. 425; 4 Vt. 137; 3 Barb. 419; 1 Cal. 448; for money used by one partner after the dissolution of the firm; 18 Pick. 299; though equity seems to be properly resorted to where a separate tribunal exists; 1 Hen. & M. 9; 1 Johns. Ch. 305. And see 1 Metc. Mass. 216; 1 Iowa, 240.

In other states, reference may be made to an auditor by order of the court, in the common forms of actions founded on contract or tort, where there are complicated accounts or counter-demands; 12 Mass. 525; 6 Pick. 193; 8 Conn. 499; 13 N. H. 275; 1 Tex. 646. See AUDITOR. In the action of account, an interlocutory judgment of *quod computet* is first obtained; 2 Greenl. Ev. §§ 36, 39; 11 Ired. 391; 12 Ill. 111, on which no damages are awarded except *ratione interplacitationis*. Cro. Eliz. 83; 5 Binn. 564.

The account is then referred to an auditor, who now generally has authority to examine parties, 4 Fost. 198 (though such was not the case formerly), before whom issue of law and fact may be taken in regard to each item, which he must report to the court; 2 Ves. 388; Yelv. 202; 5 Binn. 433; 5 Vt. 543; 26 N. H. 139.

A final judgment *quod recuperet* is entered for the amount found by him to be due; and the auditor's account will not be set aside except upon a very manifest case of error; 5 Penn. St. 413; 1 La. Ann. 380. See AUDITORS.

If the defendant is found in surplusage, that is, is creditor of the plaintiff on balancing the accounts, he cannot in this action recover judgment for the balance so due. He may bring an action of debt, or, by some authorities, a *sci. fac.*, against the plaintiff, whereon he may have judgment and execution against the plaintiff. See Palm. 512; 2 Bulst. 277-8; 1 Leon. 219; 3 Kebl. 362; 1 Rolle, Abr. 599, pl. 11; Brooke, Abr. *Accord*, 62; 1 Rolle, 87.

As the defendant could wage his law, 2 Wms. Saund. 65 a; Cro. Eliz. 479; and as the discovery, which is the main object sought, 5 Taunt. 431, can be more readily obtained and questions in dispute more readily settled in equity, resort is generally had to that jurisdiction in those states where a separate tribunal exists, or under statutes to the courts of law; 18 Vt. 345; 13 N. H. 275; 8 Conn. 499; 1 Metc. Mass. 216.

ACCOUNT BOOK. A book kept by a merchant, trader, mechanic, or other person, in which are entered from time to time the

transactions of his trade or business. Such books, when regularly kept, may be admitted in evidence; Greenl. Ev. §§ 115-118.

ACCOUNT CURRENT. An open or running account between two parties.

ACCOUNT IN BANK. See BANK ACCOUNT.

ACCOUNT STATED. An agreed balance of accounts. An account which has been examined and accepted by the parties. 2 Atk. 251.

In Equity. Acceptance may be inferred from circumstances, as where an account is rendered to a merchant, and no objection is made, after sufficient time; 2 Vern. 276; 1 Sim. & S. 333; 3 Johns. Ch. 569; 7 Cranch, 147; 1 M'Cord, Ch. 156; 2 Md. Ch. Dec. 433; 10 Barb. 213.

Such an account is deemed conclusive between the parties; 2 Brown, Ch. 62, 310; 2 Ves. 566, 837; 1 Swanst. 460; 6 Madd. 146; 20 Ala. n. s. 747; 3 Johns. Ch. 587; 1 Gill, 350; 3 Jones, Eq. 109; to the extent agreed upon; 1 Hopk. Ch. 239; unless some fraud, mistake, or plain error is shown; 1 Parsons, Contr. 174; 1 Johns. Ch. 550; 1 M'Cord, Ch. 156; and in such case, generally, the account will not be opened, but liberty to surcharge or falsify will be given; 2 Atk. 119; 9 Ves. 265; 1 Sch. & L. 192; 7 Gill, 119; 1 Md. Ch. Dec. 306.

At Law. An account stated is conclusive as to the liability of the parties, with reference to the transactions included in it; 3 Jones; except in cases of fraud or manifest error; 1 Esp. 159; 24 Conn. 591; 4 Wis. 219; 5 Fla. 478. See 4 Sandf. 311.

Acceptance by the party to be charged must be shown by the one who relies upon the account; 10 Humphr. 238; 12 Ill. 111. The acknowledgment that the sum is due is sufficient; 2 Mod. 44; 2 Term, 480, though there be but a single item in the account; 13 East, 249; 5 Maule & S. 65; 1 Show. 215.

Acceptance may also be inferred from retaining the account a sufficient time without making objection; 7 Cranch, 147; 3 Watts & S. 109; 10 Barb. 213; 4 Sandf. 311; see 22 Penn. St. 454; and from other circumstances; 1 Gill, 234.

A definite ascertained sum must be stated to be due; 9 S. & R. 241.

It must be made *by a competent person*, excluding infants and those who are of unsound mind; 1 Term, 40.

Husband and wife may join and state an account with a third person; 2 Term, 483; 16 Eng. L. & Eq. 290.

An agent may bind his principal; 3 Johns. Ch. 569. Partners may state accounts; and an action lies for the party entitled to the balance; 4 Dall. 434; 1 Wash. C. C. 435; 16 Vt. 169.

The acceptance of the account is an acknowledgment of a debt due for the balance, and will support *assumpsit*. It is not, therefore, necessary to prove the items, but only to

prove an existing debt or demand, and the stating of the account; 16 Ala. N. S. 742.

ACCOUNTANT. One who is versed in accounts. A person or officer appointed to keep the accounts of a public company.

He who renders to another or to a court a just and detailed statement of the property which he holds as trustee, executor, administrator, or guardian. See 16 Viner, Abr. 155.

ACCOUNTANT GENERAL. An officer of the English Court of Chancery, by whom the moneys paid into court are received, deposited in bank, and disbursed. The office appears to have been established by an order of May 26, 1725, and 12 Geo. I. c. 32, before which time the effects of the suitors were locked up in the vaults of the Bank of England, under the care of the masters and two of the six clerks; 1 Smith, Ch. Pr. 22.

ACCUPLE. To unite; to marry.

ACCREDIT. In International Law. To acknowledge.

Used of the act by which a diplomatic agent is acknowledged by the government near which he is sent. This at once makes his public character known, and becomes his protection. It is used also of the act by which his sovereign commissions him.

ACCRESCEERE (Lat.). To grow to; to be united with; to increase.

The term is used in speaking of islands which are formed in rivers by deposit. Calvinus, Lex.; 3 Kent, 428.

In Scotch Law. To pass to any one. Bell, Dict.

It is used in a related sense in the common law phrase *jus accrescendi*, the right of survivorship; 1 Washb. R. P. 426.

In Pleading. To commence; to arise; to accrue. *Quod actio non accrevit infra sex annos*, that the action did not accrue within six years; 3 Chitty, Pl. 914.

ACCRETION (Lat. accrescere, to grow to). The increase of real estate by the addition of portions of soil, by gradual deposition through the operation of natural causes, to that already in possession of the owner; 2 Washb. R. P. 451.

The term *alluvion* is applied to the deposit itself, while accretion rather denotes the act.

If an island in a non-navigable stream results from accretion, it belongs to the owner of the bank on the same side of the *flum aquæ*; 2 Washb. R. P. 452. Consult 2 Washb. R. P. 451-453; 2 Bla. Com. 261, n.; 3 Kent, 428; Hargrave, Law Tracts, 5; Hale, de Jur. Mar. 14; 3 Barn. & C. 91, 107; 6 Cow. 537; 4 Pick. 268; 17 *id.* 41; 17 Vt. 387.

ACCROACH. To attempt to exercise royal power. 4 Bla. Com. 76.

A knight who forcibly assaulted and detained one of the king's subjects till he paid him a sum of money was held to have committed treason on the ground of accroachment; 1 Hale, Pl. Cr. 80.

In French Law. To delay. Whishaw.

ACCRUE. To grow to; to be added to, as the interest accrues on the principal. *Accruing costs* are those which become due and are created after judgment; as the costs of an execution.

To arise, to happen, to come to pass; as the statute of limitation does not commence running until the cause of action has accrued; 1 Bouvier, Inst. n. 861; 2 Rawle, 277; 10 Watts, 363; Bacon, Abr. *Limitation of Actions* (D, 3).

ACCUMULATIVE JUDGMENT. A second or additional judgment given against one who has been convicted, the execution or effect of which is to commence after the first has expired.

Thus, where a man is sentenced to an imprisonment for six months on conviction of larceny, and afterwards he is convicted of burglary, he may be sentenced to undergo an imprisonment for the latter crime, to commence after the expiration of the first imprisonment: this is called an accumulative judgment. And if the former sentence is shortened by a pardon, or by reversal on a writ of error, it expires, and the subsequent sentence takes effect, as if the former had expired by lapse of time; 11 Metc. 581. Where an indictment for misdemeanor contained four counts, the third of which was held on error to be bad in substance, and the defendant, being convicted on the whole indictment, was sentenced to four successive terms of imprisonment of equal duration, one on each count, it was held that the sentence on the fourth count was not invalidated by the insufficiency of the third count, and that the imprisonment on it was to be computed from the end of the imprisonment on the second count; 15 Q. B. 594.

Upon an indictment for misdemeanor containing two counts for distinct offences, the defendant may be sentenced to imprisonment or penal servitude for consecutive terms of punishment, although the aggregate of the punishments may exceed the punishment allowed by law for one offence.

Upon an indictment for perjury charging offences committed in different suits, the defendant, upon conviction, may be sentenced to distinct punishments, although the suits were instituted with a common object; 5 Q. B. Div. 490.

Where upon trial of an indictment—containing several counts—charging separate and distinct misdemeanors, identical in character, a general verdict of guilty is rendered, or a verdict of guilty upon two or more specified counts, the court has no power to impose a sentence or cumulative sentences exceeding in the aggregate what is prescribed by statute as the maximum punishment for one offence of the character charged. 15 Sickness, 559.

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

A neglect to accuse may in some cases be considered a misdemeanor, or misprision (which see); 1 Brown, Civ. Law, 247; 2 *id.* 389; Inst. *lib.* 4, *tit.* 18.

It is a rule that no man is bound to accuse himself or testify against himself in a criminal case; 7 Q. B. 126. A man is competent, though not compellable, to prove his own crime; 14

Mees. & W. 256. See EVIDENCE; INTEREST; WITNESS.

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

ACCUSER. One who makes an accusation.

ACHAT. In French Law. A purchase.

It is used in some of our law-books, as well as *achetor*, a purchaser, which in some ancient statutes means purveyor. Stat. 36 Edw. III.; Merlin, Répert.

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

ACKNOWLEDGMENT. The act of one who has executed a deed, in going before some competent officer or court and declaring it to be his act or deed.

The acknowledgment is certified by the officer or court; and the term acknowledgment is sometimes used to designate the certificate.

The function of an acknowledgment is twofold: to authorize the deed to be given in evidence without further proof of its execution, and to entitle it to be recorded. The same purposes may be accomplished by a subscribing witness going before the officer or court and making oath to the fact of the execution, which is certified in the same manner; but in some states this is only permitted in case of the death, absence, or refusal of the grantor. In some of the states a deed is void except as between the parties and their privies, unless acknowledged or proved.

Nature of. In most states the act is held to be a judicial one, while in some it is held to be a ministerial act.

Who may take. An officer related to the parties; 6 N. Y. 422. The presumption is that the officer took it within his jurisdiction; 16 La. Ann. 100; 19 Me. 274; 60 Mo. 33.

A notary cannot take acknowledgment in another county than the one within which he was appointed and resides; 33 How. Pr. 312; nor the attorney of record; 4 How. Pr. 153; 11 N. B. R. 289.

One cannot take an acknowledgment of a deed in which he has any interest; 20 Me. 413; 13 Mich. 329; 2 Sandf. 630; 54 Miss. 351; 38 Tex. 645. *Contra*; 14 Bank. Reg. 513.

Sufficiency of. Certificate need only substantially comply with the statute. The fact of acknowledgment and the identity of the parties are the essential parts, and must be stated; 8 Cal. 461; 21 Miss. 373; 13 Miss. 470; 9 Mo. 514. Important words omitted cannot be supplied by intentment; 20 Ark. 190; 11 Conn. 129; 17 Iowa, 528; 5 Biss. 160.

Effect of. Only purchasers for value can take advantage of defects; 46 Mo. 472; 61 Mo. 196.

An acknowledged deed is evidence of seizin in grantee, and authorizes recording it; 82 Mass. 48.

An unacknowledged deed is good between the parties and subsequent purchasers with actual notice; 8 Kar. 112; 82 Mass. 48; 46 Mo. 404, 472, 483.

The certificate will prevail over the unsupported denial of the grantor; 65 Ill. 505.

Identification of grantor. An introduction by a common friend is sufficient to justify officer in making certificate; 8 Wall. 513. *Contra*; 48 Barb. 568; 4 Col. 211.

A notary imposed upon by a personation is liable only for clear negligence. It is a legal presumption that he acted on reasonable information, and his absence of memory as to details of what occurred does not destroy that presumption; 10 W. N. C. Pa. 392.

The certificate is not invalidated by want of recollection of the officer; 30 N. J. Eq. 394.

Correction. Where a notary fails to set forth the necessary facts, he may correct his certificate, and may be compelled by mandamus, but equity has no jurisdiction to correct it; 51 Mo. 150. *Contra*; 6 N. Y. 422.

The following is a statement of the substance of the laws of the several states and territories on this subject. Though it is not to be inferred that every certificate not conforming to the text is void, an acknowledgment which does may be deemed sufficient. In addition to the statutes cited, there are in many states various acts curing irregularities in acknowledgments and certificates. References are made to the original statutes in the various states where there has been no change in the law by later revisions.

Vide Hubbell's Leg. Direc.; Snyder's Manual.

ALABAMA. Acknowledgments and proof may be taken, *within the state*, before judges of the supreme and circuit courts and their clerks, chancellors, registers in chancery, judges of the courts of probate, justices of the peace, and notaries public. The provisions of the code respecting the jurisdiction of justices of the peace define it as extending to take acknowledgments within their respective counties, but do not authorize them to do so without such counties. *Without the state and within the United States*, before judges and clerks of any federal court, judges of any court of record in any state, notaries public, or Alabama Commissioners. *Without the United States*, before the judge of any court of record, mayor, or chief magistrate of any city, town, borough, or county, notaries public, or any consul or commercial agent of U. S. Code, §§ 2155, 2156.

The certificate must be in substantially the following form:—Date.

I hereby certify that _____, whose name is signed to the foregoing conveyance, and who is known to me, acknowledged before me on this day, that being informed of the contents of the conveyance, he executed the same voluntarily on the day the same bears date.

Given under my hand this _____ day of _____, 18____.

Rev. Code, § 1548; Code of Ala. § 2158.
An examination of the wife separate and apart from her husband is necessary to convey the title to any homestead exempted by the laws of this state. This examination may be had before a circuit or supreme court judge, chancellor, or judge of probate, justice of the peace, or notary public, who must endorse thereon a certificate in the following form:—

State of Alabama, }
County of _____ }

I, _____, judge (chancellor, notary public, or justice of the peace, as the case may be), hereby certify, that on the _____ day of _____, 18____, came before me the within named _____, known or made known to me to be the within named _____

, who, being by me examined separate and apart from her husband, touching her signature to the within , acknowledged that she signed the same of her own free will and accord, and without fear, constraint, or threats on the part of her husband.

In witness whereof, I hereunto set my hand this day of , 18 . Code of Ala. § 2822.

There is no special law regulating the execution of deeds, etc., by corporations. This depends altogether on the act of incorporation.

Deeds may be proved by a subscribing witness. Rev. Code, § 1549; Code of Ala. § 2159.

ARIZONA. *Within the territory;* before a judge or clerk of a court having a seal, notary public, or justice of the peace of the proper county. *Without the territory, and within the United States or their territories;* before a judge or clerk of any court of the United States or of any state or territory having a seal, or by any commissioner appointed by the governor of this territory for that purpose. *Without the United States;* before a judge or clerk of any court of any state, kingdom, or empire, having a seal, or by any notary public therein, or by any minister, commissioner, or consul of the United States appointed to reside there.

The certificate must be in substantially the following form:—On this day of A. D., 18 , before me (title of officer) personally appeared , personally known to me to be the described in and who executed the foregoing instrument, who acknowledged to me that executed the same freely and voluntarily, and for the uses and purposes therein mentioned.

The certificate for acknowledgment of a married woman must be in the following form:—On this day of , A. D. 18 , before me (title of officer) personally appeared Mrs. , personally known to me to be the described in and who executed the annexed foregoing instrument, and upon examination apart from and without the hearing of her husband I made her acquainted with the contents of said instrument, and thereupon she acknowledged to me that she executed the same freely and voluntarily, and without fear or compulsion or undue influence of her husband, and that she does not wish to retract the execution of the same.

ARKANSAS. *Within the state;* before the supreme court, the circuit court, or either of the judges thereof, or the clerk of either of these courts, or before the county court, or the presiding judge thereof, or before any justice of the peace within the state, or notary public. *Without the state, and within the United States or their territories;* before any court of the United States, or of any state or territory having a seal, or the clerk of any such court, or before the mayor of any city or town, or the chief officer of any city or town having a seal of office. *Without the United States;* before any court of any state, kingdom, or empire having a seal, or any mayor or chief officer of any city or town having an official seal, or before any officer of any foreign country, who by the laws of such country is authorized to take probate of the conveyance of real estate of his own country, if such officer has by law an official seal.

An acknowledgment is to be made by the grantor's appearing in person before the court or officer, and stating that he executed the same for the consideration and purposes therein mentioned and set forth. If the grantor is a married wo-

man, she must, in the absence of her husband, declare that she had of her own free will executed the deed or instrument in question, or that she had signed and sealed the relinquishment of dower for the purposes therein contained and set forth, without any compulsion or undue influence of her husband. Rev. Stat. c. 21; same statute, Gould, Dig. (1858) 267, §§ 18, 21.

In cases of acknowledgment or proof taken within the United States, when taken before a court or officer having a seal of office, such deed or conveyance must be attested under such seal of office; and if such officer have no seal of office, then under his official signature. Rev. Stat. 190; Gould, Dig. 267, § 14.

In all cases, acknowledgments or proof taken without the United States must be attested under the official seal of the court or officer. *Id.* § 15.

Every court or officer that shall take the proof or acknowledgment of any deed or conveyance of real estate, or the relinquishment of dower of any married woman in any conveyance of the estate of her husband, shall grant a certificate thereof, and cause such certificate to be endorsed on the instrument, which certificate shall be signed by the clerk of the court where the probate is taken in court, or by the officer before whom the same is taken, and sealed, if he have a seal of office. *Id.* § 16.

Notaries public may also take acknowledgments of instruments relating to commerce and navigation. Rev. Stat. 104, § 4.

CALIFORNIA.—*Within the state;* by some judge or clerk of a court having a seal, or some notary public or justice of the peace of the proper county. *Without the state, and within the United States;* by some judge or clerk of any court of the United States, or of any state or territory having a seal, a notary public, or by a California commissioner; also, by any other officer of the state or territory where the acknowledgment is made, authorized by its laws to take such proof or acknowledgment. C. C. § 1182. *Without the United States;* by some judge or clerk of any court of any state, kingdom, or empire having a seal, or by any notary public therein, or by any minister, commissioner, or consul of the United States appointed to reside therein. C. C. § 1183. A conveyance by a married woman has no validity until acknowledged. C. C. § 1186.

The officer's certificate, which must be endorsed or annexed, must be, when granted by a judge or clerk, under the hand of such judge or clerk, and the seal of the court; when granted by an officer who has a seal of office, under his hand and official seal. Cal. Laws, 1850-53, 513, § 5.

The certificate must show, in addition to the fact of the acknowledgment, that the person making such acknowledgment was personally known to the officer taking the same, to be the person whose name was subscribed to the conveyance as a party thereto, or must show that he was proved to be such by a credible witness (naming him). Cal. Laws, 1850-53, 513, §§ 6, 7.

The certificate is to be substantially in the following form:—State of California, County of . On this day of , A. D. , personally appeared before me, a notary public (or judge, or officer, as the case may be) in and for the said county, A. B., known to me to be the person described in, and who executed the foregoing instrument, who acknowledged [or, if the grantor is unknown, A. B., satisfactorily proved to me to be the person described in, and who executed the within conveyance, by the oath of C. D., a competent and credible witness for that purpose, by me duly sworn, and he, the said A. B., acknowledged] that he executed the same freely and voluntarily for

the uses and purposes therein mentioned. C. C. § 1191.

The certificate for the acknowledgment by a married woman must be in the following form: On this _____ day of _____, in the year _____, before me personally appeared _____, known to me to be the person whose name is subscribed to the within instrument, described as a married woman; and upon an examination, without the hearing of her husband, I made her acquainted with the contents of the instrument, and thereupon she acknowledged to me that she executed the same, and that she does not wish to retract such execution. Civil Code, § 1191.

The proof may be by a subscribing witness, or, when all the subscribing witnesses are dead, or cannot be had, by evidence of the handwriting of the party, and of at least one subscribing witness, given by a credible witness to each signature. Cal. Laws, 1850-53, 514, § 10.

The certificate of such proof must set forth, that such subscribing witness was personally known to the officer to be the person whose name is subscribed to such conveyance as a witness thereto, or was proved to be such by oath of a witness (naming him); and must also set forth the proof given by such witness of the execution of such conveyance, and of the fact that the person whose name is subscribed in such conveyance, as a party thereto, is the person who executed the same, and that such witness subscribed his name to such conveyance as a witness thereof. Cal. Laws, 1850-53, 515, § 13.

No proof by evidence of the handwriting of the party and of a subscribing witness shall be taken, unless the officer taking the same shall be satisfied that all the subscribing witnesses to such conveyance are dead, or cannot be had to prove the execution thereof. Cal. Laws, 1850-53, 515, § 14.

A deed affecting the married woman's separate property must be acknowledged by her upon an examination separate and apart from her husband, before any judge of a court of record or notary public; or, if executed out of the state, then before a judge of a court of record, or a California commissioner, or before any minister, secretary of legation, or consul of the United States, appointed for and residing in the country in which the deed is acknowledged. Laws of 1858, 22, c. 25.

COLORADO.—*Within the state*; before any justice of the supreme, district, or county courts, or any clerk of either of said courts, or the deputy of any such clerk, such county judge and such clerk certifying the same under the seal of such court, respectively, before the county clerk of any county or his deputy, he or his deputy certifying the same under the seal of his county, before any notary public, or before any justice of the peace within his county; provided, that if the land do not lie in the county of such justice, then there must be affixed the certificate of the county clerk of such county, under his hand and the seal of such county, to the official capacity of such justice of the peace, and to the genuineness of his signature. *Without the state, and within the United States or their territories*; before the secretary of any such state or territory, certified by him under the seal of such state or territory, before the clerk of any court of record, and before any officer authorized by the laws of such foreign state or territory to take and certify such acknowledgments, provided there shall be affixed a certificate by the clerk of some court of record of the county, city, or district wherein such officer resides, under the seal of such court, that the person certifying such acknowledgment is the officer he assumes to be, that he is authorized to take acknowledg-

ments, and that his signature and seal are genuine; or before any commissioner of deeds appointed under the laws of this state. *Without the United States*; before any court of record having a seal, the judge or justice of such court certifying the acknowledgment to have been made before such court; before the mayor or other chief officer of any city or town having a seal; or before any consul of the United States, under the seal of his consulate.

The acknowledgment of a married woman need not be made separate and apart from her husband, but her covenants operate only as a quitclaim.

CONNECTICUT.—All grants and deeds of bargain and sale, and mortgages, must be acknowledged, whether within or without the state, by the grantors to be their free act and deed before a justice of the peace, or a notary public, or a town clerk, or before a judge of the supreme or district court of the United States, or of the supreme or superior court, or court of common pleas, or county court of any individual state; before any officer having power by law to take acknowledgments; or before a Connecticut commissioner; or, within this state, before the commissioners of the school fund and commissioners of the superior court. When deeds are executed by an attorney, his acknowledgment is sufficient, when the power of attorney is acknowledged by the grantor of the power. All such instruments executed by any grantors residing in a foreign state or country, without the United States, may be acknowledged likewise before any United States consul resident in such country, or any notary public or justice of the peace of such country, or before a Connecticut commissioner. A certificate of the county clerk should be annexed to an acknowledgment by a justice of the peace or notary public. A separate examination of wife is not necessary.

DAKOTA.—Conveyances may be made between husband and wife; all rights of dower or curtesy are abolished. The wife need not join in a conveyance of land belonging to husband, nor need the husband join in a conveyance of land belonging to wife; except of homesteads, when, if both husband and wife reside in the territory, both must be parties to conveyance. A conveyance by a married woman has no validity until acknowledged, and the certificate of acknowledgment must set forth that upon an examination without the hearing of her husband, having been made acquainted with the contents of the instrument by the officer taking the same, she did acknowledge that she executed the same freely, and did not wish to retract such execution.

Acknowledgments may be made, *within the territory*, before a justice, clerk of the supreme court, or notary public; or, within their respective districts, before a judge or clerk of a court of record, a mayor, register of deeds, or justice of the peace. *Without the territory, but within the United States*; before a justice, judge, or clerk of any court of record, a notary public, or any officer authorized to take acknowledgments by the laws of such state or territory, or by a Dakota commissioner. *Without the United States*; before a minister, commissioner, a *chargé d'affaires*, a consul, or consular agent of the United States, a judge of a court of record, or a notary public.

No certificate of the official character of the officer is needed. Rev. Code, pp. 339-341, §§ 665-670.

DELAWARE.—A deed may be acknowledged by any party to it, or by his attorney, the power of attorney being first proved; or it may be proved by a subscribing witness. If acknowledged by

a party, it may be in the superior court or before the chancellor, or any judge or notary public, or before two justices of the peace for the same county. A deed may be acknowledged in the superior court by attorney, by virtue of a power either contained in the deed or separate from it, or may be proved in that court by a subscribing witness.

A married woman who executes a deed to which her husband is a party must acknowledge, upon a private examination apart from her husband, that she executed it willingly, without compulsion or threats, or fear of her husband's displeasure. Her examination may be taken in any county before the officers above mentioned.

The certificate of any acknowledgment or proof must be authenticated under the hand and seal of the clerk or prothonotary of the court in which, or under the hand of the chancellor or other officer before whom, the same is taken, and must be endorsed on or annexed to the deed.

An acknowledgment or proof, or the private examination of a married woman, may be taken, *out of the state*, before any consul-general, consul, or commercial agent of the United States, duly appointed in any foreign country at the places of their respective official residence, or before a judge of any district or circuit court of the United States, or the chancellor, or any judge of a court of record of any state, territory, or country, or the chief officer of any city or borough; or, *within the United States*, by a Delaware commissioner. It must then be certified under the hand of such officer and his official seal; or the acknowledgment or proof may be taken in any court above mentioned, and certified under the hand of the clerk or other officer, and the seal of the court. In case of a certificate by a judge, the seal of his court may be affixed to his certificate, or to a certificate of attestation of the clerk or keeper of the seal. Rev. Code (1874), 501-3.

A deed of a corporation may be acknowledged before the chancellor or any judge of the state, or a judge of the district or circuit court of the United States, or a notary public, or two justices of the peace of the same county, by the presiding officer or legally constituted attorney of the corporation. *Id.*

Acknowledgments need not be taken within the county where the lands lie. *Id.*

The form of the certificate is prescribed by chapter 36, § 8; and see chapter 83, p. 502, § 9.

DISTRICT OF COLUMBIA.—Follow the form prescribed by the laws of Maryland.

FLORIDA.—*Within the state*; before the recording officer, or a judicial officer of the state, before any judge, clerk of the circuit court, notary public, or justice of the peace. Acts 1873, p. 18.

Without the state, and within the United States; before a Florida commissioner, or, in cities and counties where there is no commissioner appointed or acting there, before the chief justice, judge, presiding justice, or president of any court of record of the United States, or of any state or territory thereof, having a seal and a clerk or prothonotary; but the acknowledgment must be taken within the jurisdiction of such court. The certificate must state the place, and that the court is a court of record; and it must be accompanied by the clerk's certificate under seal to the appointment of the judge.

Without the United States; before any notary public, minister plenipotentiary, minister extraordinary, minister resident, *chargé d'affaires*, commissioner or consul of the United States, or

a commissioner of this state. A certificate of the character of an officer not having a seal must be certified by a court of record or by a secretary of state, minister plenipotentiary, minister extraordinary, minister resident, *chargé d'affaires*, or commissioner. *Id.* § 3.

The certificate of acknowledgment of a married woman must state that she acknowledged, on a separate examination apart from her husband, that she executed such deed, etc., freely and without any constraint, apprehension, or fear of her husband.

In any acknowledgment taken out of the state, the certificate must set forth that the officer knew or had satisfactory proof that the party making the acknowledgment was the individual described in, and who executed, the instrument.

GEORGIA.—Deeds are to be executed in the presence of two witnesses. They are to be acknowledged or proved, when *within the state*; before a justice of the peace, or the chief justice, or an assistant justice, or a notary public. It is not necessary for the officer to affix his seal.

Without the state, and within the United States; before a Georgia commissioner; or they may be proved before the governor, chief justice, or other justice of either of the United States, or a mayor, and certified under the common or public seal of the state, city, court, or place. The affidavit of the witness must express the addition of the witness and the place of his abode.

Consuls and vice-consuls may take the acknowledgments of citizens of the United States, or of other persons, being or residing within the districts of their consulates.

A married woman should acknowledge, on a private examination before the chief justice, or any justice of the peace, that she did, of her own free will and accord, subscribe, seal, and deliver the deed, with an intention thereby to renounce, give up, and forever quit-claim her right of dower and thirds of, in, and to the lands, etc., therein mentioned.

IDAHO.—*Within the territory*; before some judge or clerk of a court of record, a notary public, or justice of the peace. *Without the territory, but within the United States*; before some judge or clerk of any court of record, or before a commissioner for Idaho. *Without the United States*; before some judge or clerk of any court having a seal, or by any notary public, or minister, commissioner, or consul of the United States.

A married woman must be examined apart from and without the hearing of her husband, and must acknowledge that the act is free and voluntary, and without fear or compulsion, or under the influence of her husband, and that she does not wish to retract the execution of the same. Laws, 1863-64, 528 et seq.

ILLINOIS.—*Within the state*; before any judge, justice, or clerk of any court of record in the state having a seal, any mayor of a city, notary public, or commissioner of deeds having a seal, or any justice of the peace. *Without the state, and within the United States*; in conformity with the laws of the state, territory, or district; provided that a clerk of a court of record therein certifies that the instrument is executed and acknowledged in such conformity; or before a judge or justice of the superior or district court of the United States, an Illinois commissioner, a judge or justice of the supreme or superior or circuit court of any of the United States or territories, a justice of the peace, clerk of a court of record, or mayor of a city, or notary public, the last three to certify under their official seal. *Without the United States*; before

any consul of the United States, or any court of any republic, state, kingdom, or empire having a seal, or before a mayor or chief officer of a city or town having a seal, or any officer authorized by the laws of such country to take acknowledgments; and proof of his authority must accompany his certificate. The certificate of such court, mayor, or officer must be under their official seal. R. S. 276; Underwood, 311.

The wife need not be examined separately.

The certificate of an acknowledgment taken before a justice of the peace residing within the state, but in another county than that in which the lands lie, must be certified by the clerk of the county commissioners' court. *Id.* 963, § 18.

A certificate of acknowledgment must state that the person was personally known to the officer to be the person whose name is subscribed to the deed or writing as having executed the same, or that he was proved to be such by a credible witness (naming him). *Id.* § 40.

INDIANA.—Acknowledgment, or proof by subscribing witness, may be: 1. If taken within the state; before any supreme or circuit judge, or clerk of a court of record, county surveyor, justice of the peace, auditor, recorder, notary public, or mayor of a city. 2. Elsewhere within the United States; before any judge of a supreme or circuit court, or court of common pleas, or clerks of said courts, any justice of the peace, or mayor, or recorder of a city, notary public, or Indiana commissioner. 3. Beyond the United States; before a minister, *chargé d'affaires*, or consul of the United States. No separate examination of a married woman is now necessary. Rev. Stat. (1852), c. 23.

An officer taking an acknowledgment need not affix an ink scroll or seal, unless he is an officer required by law to keep an official seal. Laws of 1858, 39, c. 13, § 3.

IOWA.—Acknowledgment or proof may be made, *within the state*, before some court having a seal, or a judge or clerk thereof, or some justice of the peace, notary public, or a county auditor, or his deputy, or any deputy clerk of court. A deed made or acknowledged *without the state, but within the United States*, shall be acknowledged before some court of record, or officer holding the seal thereof, or before an Iowa commissioner, or before some notary public or justice of the peace; and when before a justice of the peace, a certificate, under the official seal of the proper authority, of the official character of the justice and of his authority to take such acknowledgments, and of the genuineness of his signature, shall accompany the certificate of acknowledgment. Code, § 1218, as amended by Laws of 1855, 75, § 2.

A deed executed without the United States may be acknowledged or proved before any [the words "court of any" seem to have been omitted here, in the statute] state, republic, kingdom, or province having a seal, or before any officer authorized by the laws of such foreign country to take acknowledgments; or any ambassador, minister, secretary of legation, consul, *chargé d'affaires*, consular agent, or any other officer of the United States in any foreign country, who is authorized to issue certificates under the seal of the United States; if he have an official seal, the certificate to be attested by the official seal, and in case the same is not before a court of record, or mayor, or other officer of a town having such seal, proof under the official seal of the proper authority that the officer was authorized by the laws of the country to do so, and that his certificate is genuine, must accompany it. Laws of 1855, 75, § 1.

If the grantor die before acknowledging, or if his attendance cannot be procured, or, appearing, he refuses to acknowledge, proof may be made by any competent testimony. In such case the certificate must state the title of the court or officer; that it was satisfactorily proved that the grantor was dead, or that his attendance could not be procured, or that having appeared he refused to acknowledge the deed; the names of the witnesses by whom the proof was made, and that it was proved by them that the instrument was executed by the person whose name is thereunto subscribed as a party. A separate examination of wife is not necessary.

KANSAS.—No instrument affecting real estate is of any validity against subsequent purchasers for a valuable consideration without notice, unless recorded in the office of the register of deeds of the county in which the land lies, or in such other office as is, or may be, provided by law.

If acknowledged *within the state*, it must be before some court having a seal, or some judge, justice, or clerk thereof, or some justice of the peace, notary public, or register of deeds, county clerk, or mayor of a city. Comp. Stat. (1862).

If acknowledged *out of the state*, it must be before some court of record, or clerk, or officer holding the seal thereof, or before some commissioner to take the acknowledgments of deeds for this state, or before some notary public, or justice of the peace, or any United States consul resident abroad. If taken before a justice of the peace, the acknowledgment shall be accompanied by a certificate of his official character, under the hand of the clerk of some court of record, to which the seal of said court shall be affixed.

The court or person taking the acknowledgment must endorse upon the deed a certificate setting forth the following particulars: 1. The title of the court or person before whom the acknowledgment is taken; 2. That the person making the acknowledgment was personally known to at least one of the judges of the court, or to the officer taking the acknowledgment, to be the identical person whose name is affixed to the deed as grantor, or that such identity was proved by at least one credible witness (naming him); 3. That such person acknowledged the instrument to be his own voluntary act and deed.

If the grantor die before acknowledging the deed, or if, for any other reason, his attendance cannot be procured in order to make the acknowledgment, or if, having appeared, he refuses to acknowledge it, proof of the due execution and delivery of the deed may be made by any competent testimony before the same court or officers as are authorized to take acknowledgments of grantors.

The certificate endorsed upon the deed must state in this last case: 1. The title of the court or officer taking the proof; 2. That it was satisfactorily proved that the grantor was dead, or that, for some other cause, his attendance could not be procured to make the acknowledgment, or that, having appeared, he refused to acknowledge the deed; 3. The names of the witnesses by whom the proof was made, and that it was proved by them that the instrument was executed by the person whose name is thereunto subscribed as a party.

The certificate of proof or acknowledgment may be given under seal or otherwise, according to the mode by which the courts or officers granting the same usually authenticate their most solemn and formal official acts.

Any court or officer having power to take the proof above contemplated may issue the neces-

sary subpoenas, and compel the attendance of witnesses residing within the county, by attachments, if necessary.

No instrument containing a power to convey, or in any manner affect real estate, certified and recorded as above prescribed, can be revoked by an act of the parties by whom it was executed, until the instrument containing such revocation is acknowledged and deposited for record, and entered on the entry-book, in the same office in which the instrument conferring the power is recorded.

Every instrument in writing affecting real estate which is acknowledged or proved, and certified as hereinbefore directed, may be read in evidence, without further proof. Kans. Comp. Stat. 1862, c. 41, § 15-24.

A married woman may convey her interest in the same manner as other persons. *Id.* § 9.

KENTUCKY.—A deed executed *within the state* can be acknowledged before the clerk of the county court where the property lies; or the deed may be proved by the subscribing witnesses, or by one of them if he can prove the attestation of the other; or by proof by two witnesses that the two subscribing witnesses are dead, or out of the state, and proof of the signature of one of them and of the grantor. In such case, the certificate must state the witnesses' names.

A deed executed *out of the state, and within the United States*, may be acknowledged before a judge and certified under the seal of his court, or before a clerk of a court, notary public, mayor of a city, secretary of state, or Kentucky commissioner, and certified under his official seal.

A deed executed *out of the United States* may be acknowledged or proved before any foreign minister, consul, or secretary of legation of the United States, or before the secretary of foreign affairs, certified under his seal of office, or a judge of a superior court of the nation where acknowledged. On making proof by others than the subscribing witnesses, the names and residence of the witnesses must be stated in the certificate.

If a married woman is a grantor, the officer must explain to her the contents and effect of the deed separately and apart from her husband; and she must also declare that she did freely and voluntarily execute it, and is willing that it should be recorded. When the acknowledgment of a married woman is taken within the state, the officer may simply certify that the acknowledgment was made before him, and its date, and it will be presumed that the law was complied with.

When taken without the state, the certificate must be to this effect:—

County (or, Town, City, Department, or Parish) of _____ set.

I, A. B. [here give title], do certify that this instrument of writing from C. D. and wife [or, from E. F., wife of C. D.] was this day produced to me by the parties (which was acknowledged by the said C. D. to be his act and deed); and the contents and effect of the instrument being explained to the said E. F. by me, separately and apart from her husband, she thereupon declared that she did, freely and voluntarily, execute and deliver the same, to be her free act and deed, and consented that the same might be recorded.

Given under my hand and seal of office.
[SEAL] A. B.

If the deed of a married woman is not recorded within the time prescribed (viz., if executed in the state, eight months; without the state, and in the United States, twelve months; and with-

out the United States, eighteen months), it is not effectual, but must be re-acknowledged before it can be recorded. Rev. Stat. (1852) 198; 200, §§ 15-23.

LOUISIANA.—The authentication of instruments *in the state* is effected by the parties appearing before a notary, who reduces the contract to writing and signs it, together with them, in the presence of two male witnesses of at least fourteen years of age.

Without the state, and within the United States, acknowledgments and proof may be taken by Louisiana commissioners, and certified under their signature and seal; but the commissioner can only take such acknowledgment or proof where the party making it resides in the state or territory where the commissioner resides. Any acknowledgment made in conformity with the laws of the state where the act is passed is valid in Louisiana. Rev. Stat. (1856) 102, 103. *In any foreign country*, all American ministers, *chargés d'affaires*, consuls-general, consuls, vice-consuls, and commercial agents may act as commissioners. *Id.* 103.

The certificate of acknowledgment by a married woman must set forth an examination by the officer apart from the presence of her husband touching the freedom of her action, and that he informed her fully of the nature of her rights upon the property of her husband. As to execution by agent of a power to renounce a mortgage or privilege on the husband's estate, see *id.* 561.

MAINE.—Deeds are to be acknowledged by the grantors, or one of them, or by their attorney executing the same, before a justice of the peace or notary public within the state, or any justice of the peace, magistrate, or notary public within the United States, or any minister or consul of the United States, or notary public in any foreign country. Rev. Stat. (1857) 451, § 17.

When a grantor dies or leaves the state without acknowledging the deed, it may be proved by a subscribing witness before any court of record in the state; and in their absence by proof of the handwriting of the grantor and witness. *Id.* §§ 18, 19.

A certificate must be endorsed on, or annexed to, the deed. *Id.* § 23.

Acknowledgments and proof may also be taken without the state, but, according to the laws of the state, by a Maine commissioner; his certificate to be under official seal, and annexed or endorsed. *Id.* 629, §§ 1, 2. Private examination of wife not necessary.

MARYLAND.—From the 24th article of the Code of 1860 the following is taken, being the law of Maryland on the subject of acknowledgments.

Section 66.—“The following forms of acknowledgment shall be sufficient.”

Acknowledgment taken within the state of Maryland.

“_____ county, to wit:—
Section 67.—“I hereby certify, that on this day of _____, in the year _____, before the subscriber [here insert style of the officer taking the acknowledgment], personally appeared [here insert the name of person making the acknowledgment], and acknowledged the foregoing deed to be his act.”

Form of acknowledgment of husband and wife.
“State of Maryland, _____ county, to wit:—

Section 68.—“I hereby certify, that on this day of _____, in the year _____, before the subscriber [here insert the official style of the judge taking the acknowledgment], personally appeared [here insert name of the husband] and [here insert

name of the married woman making the acknowledgment], his wife, and did each acknowledge the foregoing deed to be their respective act."

Form of acknowledgment taken out of the state.

"State of _____ county, to wit:—
Section 69.—"I hereby certify, that on this day of _____, in the year of _____, before the subscriber [here insert the official style of the officer taking the acknowledgment], personally appeared [here insert the name of the person making the acknowledgment], and acknowledged the foregoing deed to be his act.

"In testimony whereof, I have caused the seal of _____ of the court to be affixed (or have the Court. } affixed my official seal), this day of _____, etc. etc.

Section 70.—"Any form of acknowledgment containing in substance the foregoing forms shall be sufficient."

The acknowledgment is to be taken as follows:—

If in the county or city within which the real estate, or any part of it, lies, before some one justice of the peace of county or city; a judge of the orphans' court for county or city; the judge of the circuit court for county; the judge of the superior court, court of common pleas, or circuit court for Baltimore city.

If acknowledged *within the state, but out of the county where the land lies*, before any justice of the peace where the grantor may be, with a certificate of the justice's character, as such, under seal of the circuit or superior court; before any judge of the circuit court; or judge of superior, circuit, or court of common pleas in Baltimore.

If acknowledged *out of the state, but within the United States*, before a notary public, judge of any court of the United States, judge of any state or territory having a seal, or a commissioner of Maryland to take acknowledgments.

If acknowledged *without the United States*, before any minister or consul of the United States, a notary public, or a commissioner of Maryland, as above.

When an acknowledgment is taken before a judge, the seal of the court must be affixed.

Code of Public General Laws, Art. 25:—No private acknowledgment by the wife is necessary. The acknowledgment is merely that the parties "acknowledge the foregoing deed to be their act," or to this effect.

There must be added to the acknowledgments of mortgages and bills of sale the affidavit of the mortgagee or vendee, that the consideration is true and *bona fide* as therein set forth. *Id.*

MASSACHUSETTS.—Acknowledgments of deeds are to be by the grantors, or one of them, or by the attorney executing the same.

They may be taken before any justice of the peace of the state, or before any justice of the peace, magistrate, or notary public, or Massachusetts commissioner, within the United States or in any foreign country; or before a minister or consul of the United States in any foreign country. Gen. Stat. (1860) 467, §§ 18, 19.

When acknowledgments are taken out of the state by a justice of the peace, there should be appended a certificate of his appointment and authority, made by the secretary of state or clerk of a court of record.

The wife is not required to be examined separate and apart from her husband.

If the grantor dies, or leaves the state, the execution may be proved by a subscribing witness.

MICHIGAN.—A deed executed within the state may be acknowledged before any judge or com-

missioner of a court of record, or any notary public, or justice of the peace. The officer must endorse on the deed a certificate of the acknowledgment, and the time and date of making it, under his hand.

A deed executed *without the state, and within the United States*, may be executed according to the laws of the state, territory, or district where executed, and may be acknowledged before any judge of a court of record, notary public, justice of the peace, master in chancery, or other officer, authorized by the laws thereof to take acknowledgments, or before a Michigan commissioner. In such case, unless the acknowledgment is taken before a Michigan commissioner, there must be attached a certificate of the clerk, or other proper certifying officer, of a court of record for the county or district within which the acknowledgment was taken, under his official seal, that the person subscribing the certificate was, at the date of it, such officer as represented; that he believes the officer's signature to be genuine, and that the deed is executed according to the laws of the state, territory, or district. A deed executed *in a foreign country* may be executed according to the laws thereof, and acknowledged before any notary public, or any minister plenipotentiary, extraordinary, or resident; any *chargé d'affaires*, commissioner, or consul of the United States appointed to reside therein.

The acknowledgment of a married woman of a deed, in which she joins with her husband, may be the same as if she were sole. Laws of 1875, p. 142.

If a grantor dies, or leaves the state, or resides out of the state, the execution of the deed may be proved before any court of record by proceedings given by the statute; and if the grantor is residing in the state, and refuses to acknowledge the deed, he must be summoned to attend. Rev. Stat. 1846, c. 65, ss.; 2 Comp. Laws, 1857, 840 (2733), §§ 14-20.

MINNESOTA.—*Within the state*; before a judge of the supreme, district, or probate court, or a clerk of said courts, or before clerks of United States circuit and district courts for the district of Minnesota, a notary public, justice of the peace, register of deeds, court commissioner, county auditor, town clerk, city clerk, or recorder of a village. Laws of 1876, p. 59; Laws of 1877, p. 186; Laws of 1878, p. 103.

Without the state, and within the United States; the deed may be executed according to the laws of the state, territory, or district where executed, and acknowledged before any judge of a court of record, notary public, justice of the peace, or before a Minnesota commissioner.

In a foreign country, the execution may be according to its laws, and the acknowledgment may be before a notary public therein, or any minister plenipotentiary, extraordinary, or resident, *chargé d'affaires*, commissioner, or consul of the United States, appointed to reside therein, to be certified under the hand of the officer, and, if he is a notary, under his seal.

The separate acknowledgment of a married woman is not necessary.

Proof by witnesses may be taken before any court of record, when the grantor dies, or resides out of the state, or refuses to acknowledge. Minn. Comp. Stat. (1858), c. 35, §§ 8-26.

MISSISSIPPI.—*When in the state*, deeds may be acknowledged, or proved by one or more of the subscribing witnesses to them, before any judge of the high court of errors and appeals, or a judge of the circuit courts, or judge of probate, any

clerk of any court of record, who shall certify the same under the seal of his office, or any justice of the peace, or any chancellor, or member of the board of county supervisors, whether the lands be within his county or not.

When in another state or territory of the United States, such deeds must be acknowledged or proved, as aforesaid, before a judge of the supreme court or of the district courts of the United States, or before any judge of the supreme or superior court of any state or territory in the Union; or any justice of the peace, whose official character shall be certified under the seal of some court of record in his county or by a Mississippi commissioner.

When out of the United States, such acknowledgment or proof may be made before any court of record, or mayor, or other chief magistrate of any city, borough, or corporation of such foreign kingdom, state, nation, or colony, or before any ambassador, secretary of legation, or consul of the United States to the kingdom or state, nation or colony; and the certificate in such cases must show the identity of the party, and that he acknowledged the execution of the deed, or that the execution was duly proved; or, if made before an ambassador, minister, or consul, then as such acts are usually certified by such officer. In the same way, a married woman residing without the United States may acknowledge her conveyance of lands or right to dower.

The real property or right of dower of a married woman does not pass by her deed, either jointly with her husband or alone, without a previous acknowledgment, on a private examination apart from her husband, before the proper officer, that she signed, sealed, and delivered the same as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband, which the certificate must state. Rev. Code (1857), 311, art. 23-32.

MISSOURI.—*Within the state*; before a court having a seal, or before a judge, justice, or clerk thereof, a notary public, or some justice of the peace for the county where the land lies. *Without the state, and within the United States*, by any notary public, or by any court of the United States, or of any state or territory, having a seal, or the clerk of such court, or before a Missouri commissioner. *Without the United States*, by any court of any state, kingdom, or empire, having a seal; or before the mayor or chief officer of any city or town having an official seal; or by any minister or consul of the United States, or notary public, having a seal.

The certificate must be endorsed on the instrument. If granted by a court, it must be under its seal; if by a clerk, then under his hand and the seal of his court; if by an officer having an official seal, then under his hand and seal; if by one who has no seal, then under his hand.

No acknowledgment must be taken unless the person offering to make it is personally known to at least one judge of the court, or to the officer taking it, to be the person whose name is subscribed, or unless he is proved to be such by at least two credible witnesses. The certificate must state this fact, as well as the fact of acknowledgment; and, if the identity was proved by witnesses, their names and residence must be stated. 1 Rev. Stat. (1855) 358, §§ 16-21.

If the deed is attested by a subscribing witness, proof of the execution of the deed may be made by the subscribing witness before one of the officers mentioned, and the certificate must state the residence of the witness, and that he is personally known to the officer so certifying. *Id.* §§ 22-30.

A married woman's relinquishment of dower may be acknowledged in the same way; but no such acknowledgment can be taken unless, in addition to the requirements in the case of other grantors, she is made acquainted with the contents of the conveyance, and acknowledges, on a separate examination apart from her husband, that she executed the same (*and, if it is a relinquishment of her dower*, that she relinquishes her dower in the real estate therein mentioned) freely, and without compulsion or undue influence of her husband. The certificate must set forth these facts, as well as those required to be stated in a certificate of acknowledgment by any other party. *Id.* §§ 31-39.

MONTANA.—*Within the territory*; before the secretary of the territory, some judge or clerk of a court having a seal, a notary public, a justice of the peace, the county clerk and *ex-officio* county recorder. *Without the territory, and within the United States*; before some judge or clerk of any court of the United States, or any state or territory having a seal, a notary public, a justice of the peace, or commissioner appointed by the governor of the territory for that purpose. If taken by a justice of the peace, his official character must be certified to under the seal of the court, tribunal, or officer within and for the county in which such justice may be acting, which has cognizance of his official character.

The certificate must state that the person acknowledging the execution is personally known to the officer.

The certificate of an acknowledgment by a married woman must state that the officer first made her acquainted with the contents of the instrument, and that on examination, separate, apart from, and without the hearing of her husband, she acknowledged that she executed the same freely and voluntarily, without fear or compulsion or undue influence of her husband, and that she does not wish to retract the execution of the same.

NEBRASKA.—*Within the state*; before some court having a seal, or some judge, justice, or clerk thereof, or some justice of the peace, or notary public. *Without the state*; before a Nebraska commissioner, or before some officer authorized, by the laws of the state or country where the acknowledgment is made, to take the acknowledgment of deeds.

The certificate must be endorsed upon the instrument, and must set forth the title of the court or officer; that the person making the acknowledgment was personally known to at least one of the judges of the court, or to the officer, to be the identical person whose name is affixed to the deed as grantor, or that such identity was proved by at least one credible witness (naming him); that such person acknowledged the instrument to be his voluntary act and deed.

The certificate of acknowledgment or proof may be under seal or otherwise, according to the mode by which the court or officer usually authenticates the most solemn official acts. Laws of 1855, 165, §§ 10-16, 18.

All acknowledgments taken by an officer having no seal must be accompanied with a certificate of a clerk of record or other proper officer of the district, under official seal, that the officer taking the same was the same as represented therein at the date thereof, that the signature is genuine, and the acknowledgment in conformity to law. Gen. Stat. 1873, pp. 141, 239, 343, 494, 873, 877. No separate examination is required in taking the acknowledgment of a married woman. All deeds should have at least one subscribing wit-

ness. It is requisite for the husband to join in his wife's conveyance to cut out his right of curtesy.

NEVADA.—Every conveyance in writing, whereby any real estate is conveyed or may be affected, must be acknowledged, or proved, and certified as provided by law. *Within the state*; by some judge or clerk of a court having a seal, or some notary public or justice of the peace of the proper county. *Without the state, but within the United States*; by a judge or clerk of any court of the United States, or of any state or territory having a seal, notary public, or justice of the peace, with a certificate of his official character and the genuineness of his signature; or by a commissioner appointed by the government of the state for the purpose. *Without the United States*; by a judge or clerk of any court of any state, kingdom, or empire having a seal, or by any notary public therein, or by any minister, commissioner, or consul of the United States, appointed to reside therein.

A certificate must be endorsed or annexed by the officer taking the acknowledgment under seal of the court, or under the hand and the official seal of the officer taking it, when he has an official seal.

The person making the acknowledgment must be known personally by the officer taking the acknowledgment, or proved by the oath or affirmation of a credible witness, to be the person executing the instrument, and the fact must be stated in the certificate. The certificate must state, in addition, that the execution was made freely and voluntarily, and for the uses and purposes mentioned in the deed or other instrument.

Proof may be made by subscribing witnesses, and, where they are dead or cannot be had, by evidence of the handwriting of the party.

The subscribing witnesses must be personally known, or their identity established by oath or affirmation of one witness, and must establish that the person whose name is subscribed as a party is the person described as executing the instrument, did execute it, and that the witness subscribed his name. The certificate must set forth these facts.

Where the officer is satisfied that the subscribing witnesses are dead, proof may be made by a competent witness who swears or affirms that he knew the person who executed the instrument, knew his signature and believes it to be his, and a witness who testifies in the same manner as to the signature of the subscribing witness.

Compulsory process may be had for the attendance of witnesses.

The examination of the wife must be taken separate and apart from her husband, and her execution of the deed must be acknowledged, and cannot be proved.

A deed so acknowledged or proved may be recorded. Nev. Laws of 1861, c. 9, §§ 3-18.

NEW HAMPSHIRE.—Deeds are not valid, except as against the grantor and his heirs, unless attested by two or more witnesses, acknowledged and recorded. Acknowledgments are to be before a justice of the peace, notary public, or commissioner, or before a minister or consul of the United States in a foreign country. Comp. Laws (1853), 289. If before a justice of the peace without the state, his official character should be authenticated by the clerk of a court of record or by the secretary of state.

No separate acknowledgment is required to be made by the wife, nor need she be examined apart from her husband.

NEW JERSEY.—Deeds, etc., must be acknowl-

edged by the party or parties who executed them, the officer having first made known to them the contents, and being also satisfied that such person is the grantor mentioned in said deed, of all which the said officer shall make his certificate; or, if it be proved by one or more of the subscribing witnesses to it, that such party signed, sealed, and delivered the same as his, her, or their voluntary act and deed, before the chancellor of the state, or one of the justices of the supreme court, or one of the masters in chancery, or one of the judges of any of the courts of common pleas of the state; and if a certificate of such acknowledgment or proof shall be written upon or under the said deed or conveyance, and be signed by the person before whom it was made, the same may be received in evidence. Nixon's Dig. 1855, 121, § 1.

If the grantor or witnesses reside *without the state, but within the United States*, the acknowledgment or proof may be made before the chief justice of the United States, or an associate justice of the United States supreme court, or a district judge of the same, or any judge or justice of the supreme or superior court of any state or territory or in the District of Columbia; or before any mayor or chief magistrate of a city, duly certified under the seal of such city; or before a New Jersey commissioner for the state, territory, or district in which the party or witness resides; or before a judge of a court of common pleas of the state, district, or territory in which the party or witness may be; and in the latter case a certificate under the great seal of the state, or the seal of the county court in which it is made, that the officer is judge of the common pleas, is to be annexed. *Id.* § 5; *id.* 131, § 52.

Or it may be taken, if the party or witness reside in some other state of the United States, before a judge of any district or circuit court, or the chancellor of the state, in the manner directed by the laws of the state. This provision applies to deeds of *femes covert* residing in any other state of the United States. *Id.* 125, §§ 25, 26.

If the grantor or witnesses reside without the United States, it may be made before any court of law, mayor or chief magistrate of a city, borough, or corporation of the kingdom, state, nation, or colony in which they reside, or any ambassador, public minister, *chargé d'affaires*, secretary of legation, or other representative of the United States at the court thereof, and may be certified as such acts are usually authenticated by such officers. *Id.* 122, § 6; 132, §§ 57, 61.

No estate of a *feme covert* passes by her deed without her previous acknowledgment, on a private examination apart from her husband, that she signed, sealed, and delivered the same, as her voluntary act and deed, freely, without any fear, threats, or compulsion of her husband, and a certificate thereof written on or under the instrument, signed by the officer. *Id.* § 4.

The mode of making proof in case of the death of parties and witnesses is prescribed by Laws of 1850, 273; Nixon, Dig. 125.

NEW MEXICO.—Every instrument in writing by which real estate is transferred or affected in law or equity must be acknowledged and certified to as provided by law.

Within the territory; before any court having a seal, before any judge or clerk thereof, or before any justice of the peace of the county in which the land lies, or before a notary public. *Without the territory, and within the United States*; before any United States court, or the court of any state or territory having a seal, or

before a clerk of said courts, or a commissioner of deeds appointed by the governor of this territory. *Without the United States*; before any court of any state, kingdom, or empire having a seal, or before any magistrate, or the supreme power of any city, who may have a seal, before any notary public having a seal, any consul or vice-consul of the United States having a seal, or before the judge of any court of record having a seal.

The person making the acknowledgment must be personally known to the officer taking the same to be the one executing the instrument, or his identity must be proved by two witnesses.

The certificate must state the fact of acknowledgment and one or the other of the above facts, as the case may be.

Acknowledgments may be made by married women before the same officers. In addition to evidence or knowledge of identity, as before stated, the woman must be informed of the contents of the instrument, and must confess, on examination, separate, apart, and independent of her husband, that she executed the same voluntarily, and without the compulsion or illicit influence of her husband; and the certificate must state the above facts. Laws of 1851, p. 373, § 5-13.

NEW YORK.—*Within the state*; before judges of courts of record within the jurisdiction of their respective courts, county judges, surrogates, notaries public, and justices of peace at a place within their counties, mayors, recorders, and commissioners of deeds of cities within their respective cities.

Without the state, but within the United States; before a judge of the United States supreme or district courts, or of the supreme, superior, or circuit court of any state or territory, or before a judge of the United States circuit court in the District of Columbia; but such acknowledgment must be taken at a place within the jurisdiction of such officer. Or before the mayor of any city; or before a New York commissioner, but the certificate of a New York commissioner must be accompanied by the certificate of the secretary of state of the state of New York, attesting the existence of the officer and the genuineness of his signature, and such commissioner can only act within the city or county in which he resided at the time of his appointment. 1 Rev. Stat. 757, § 4, subd. 2; Laws of 1845, 89, c. 109; Laws of 1850, 582, c. 270; Laws of 1857, 788.

When made by any person residing *out of the state, and within the United States*, it may be made before any officer of the state or territory where made, authorized by its laws to take proof or acknowledgment; but no such acknowledgment is valid unless the officer taking the same knows, or has satisfactory evidence, that the person making it is the individual described in and who executed the instrument. And there must be subjoined to the certificate of proof or acknowledgment a certificate under the name and official seal of the clerk and register, recorder, or prothonotary of the county in which such officer resides, or of the county or district court or court of common pleas thereof, specifying that such officer was, at the time of taking such proof or acknowledgment, duly authorized to take the same, and that such clerk, register, recorder, or prothonotary, is well acquainted with the handwriting of such officer, and verily believes his signature genuine. Laws of 1848, c. 195, as amended by Laws of 1856, c. 61, § 2.

Without the United States; when the party is in other parts of America, or in Europe, before a minister plenipotentiary, or minister extraordi-

nary, or *chargé d'affaires* of the United States, resident and accredited there, or before any United States consul, resident in any port or country, or before a judge of the highest court in Upper or Lower Canada. In the British dominions, before the Lord Mayor of London, or chief magistrate of Dublin, Edinburgh, or Liverpool. 1 Rev. Stat. 759, § 6; Laws of 1829, 343, c. 222.

Acknowledgment may be made before a person specially authorized by the supreme court of the state, by a commission issued for the purpose. 1 Rev. Stat. 757, § 8.

The governor of New York is also authorized to appoint commissioners of deeds, not exceeding three in each, for the following cities: London, Liverpool, Glasgow, Paris, and Marseilles. Laws of 1858, 498, c. 308, § 1.

No acknowledgment is to be taken unless the officer knows, or has satisfactory evidence, that the person making such acknowledgment is the individual described in and who executed such conveyance. 1 Rev. Stat. 758, § 9.

Married women acknowledge in the same manner as if they were *sole*. Laws, 1879, ch. 249; Laws, 1880, ch. 300.

An acknowledgment or proof of conveyance by a *non-resident* married woman joining with her husband, may be made as if she were *sole*. 1 Rev. Stat. 758, § 11.

Proof of execution may be made by a subscribing witness, who shall state his own place of residence, and that he knew the person described in and who executed such a conveyance; and such proof shall not be taken unless the officer is personally acquainted with such subscribing witness, or has satisfactory evidence that he is the same person who was a subscribing witness to such instrument. 1 Rev. Stat. 758, § 12.

The officer must endorse a certificate of the acknowledgment or proof, signed by himself, on the conveyance; and in such certificate shall set forth the matters required to be done, known, or proved, on such acknowledgment or proof, together with the names of the witnesses examined before such officer, and their places of residence, and the substance of the evidence by them given. 1 Rev. Stat. 759, § 15.

The certificate of a New York commissioner appointed in another state must be under his seal of office, and is wholly void unless it specifies the day on which, or [and?] the city or town in which it was taken. Laws of 1850, 582, c. 273, §§ 2, 5.

NORTH CAROLINA.—*Within the state*; before a judge of the supreme or superior court, or in the county court of the county where the estate is situated, or before the clerk of such court or his deputy and notaries public, justices of the peace, and any court of record.

Without the state; by a commissioner appointed for the purpose by the court of pleas and quarter sessions of the county, or a North Carolina commissioner of affidavits.

Without the state, and within the United States; before a judge of supreme jurisdiction, or a judge of a court of law of superior jurisdiction, within the state, territory, or district where the parties may be; and his certificate must be attested by the governor of the state; or, if in the District of Columbia, by the secretary of state of the United States; or it may be taken before a North Carolina commissioner.

Without the United States; before the chief magistrate of the city in which the instrument was executed, attested under the corporate seal; or before an ambassador, public minister, consul, or commercial agent, under his official seal. Rev. Code, 240, § 5; 241, §§ 6, 7; 125, § 2.

A married woman's acknowledgment is to be taken, within the state, before a judge of the supreme or superior court, or in the court of the county where the land lies, she being first privily examined by such judge, or some member of the county court appointed by the court for that purpose, or by a commission issued by the judge or court for that purpose, as to whether she voluntarily assents. Without the state, before the same officers specified above as authorized to take other acknowledgments without the state; but the same private examination is requisite wherever the acknowledgment may be taken. *Id.* 242, §§ 8, 9; 243, § 12.

OHIO.—Instruments affecting lands which are executed *within the state* are to be acknowledged before a judge of the supreme court or of the court of common pleas, a justice of the peace, notary public, mayor, or other presiding officer of an incorporated town or city, or a county surveyor of the county. The certificate must be upon the same sheet with the instrument. Laws of 1831, 346; same statute, Swan, Rev. Stat. 308, 893, § 26.

A married woman must be examined by the officer separate and apart from her husband, and the contents of the deed be made known to her; and she must declare, upon such separate examination, that she did voluntarily sign, seal, and acknowledge the same, and that she is still satisfied therewith. Swan, Rev. Stat. 309, § 2.

A certificate of acknowledgment within the state need not show that the officer was satisfied of the identity of the grantor, nor that he made known the contents of the deed to a married woman, nor need it be sealed. *Id.* 312.

Instruments executed *without the state* may be proved or acknowledged in conformity with the laws of the state, territory, or country where acknowledged, or in conformity with the laws of Ohio. They may be taken before Ohio commissioners. *Id.* 310, § 5; 179, § 3. Laws of 1858, 15, § 12.

OREGON.—Acknowledgments are to be before any judge of the district court, probate judge, justice of the peace, or notary public; and the certificate, stating the true date, must be endorsed on the instrument. If the deed is executed in any other state, territory, or district of the United States, it may be executed and acknowledged according to the laws of such state, etc.; but in this case, unless it is acknowledged before an Oregon commissioner, the deed must have attached to it a certificate of the clerk, or other proper certifying officer, of a court of record of the county or district, under his seal of office, certifying that the person taking the acknowledgment was such officer as represented, that his signature is genuine, and that the deed was executed according to the laws of the place. If executed in any foreign country, it may be executed according to the laws thereof, and acknowledged before any notary public therein, or before any minister plenipotentiary, minister extraordinary, minister resident, *chargé d'affaires*, commissioner, or consul of the United States, appointed to reside therein, under his hand, and, if before a notary, under his seal of office.

The acknowledgment of a married woman residing within the territory, and joining in execution with her husband, must be taken separately and apart from her husband, and she must acknowledge that the execution was done freely, and without fear or compulsion from any one. If not residing in the territory, her acknowledgment may be as if she were sole. No acknowledgment can

be taken unless the officer has satisfactory evidence that the person is the individual described in and who executed the conveyance.

Proof may be by a subscribing witness personally known to the officer, or satisfactorily shown to him to be the subscribing witness. The witness must state his residence, and that he knew the person described in and who executed the conveyance.

In case of the death or absence of the grantor and witnesses, proof may be by handwriting of the grantor and of any witness. Proceedings for compelling witnesses to appear are also given by the statute.

The officer must endorse the certificate on the instrument, and set forth the matter required to be done, known, or proved, and the names and residences of witnesses examined, and the substance of their evidence. Statutes (1855), 519, §§ 10-21.

PENNSYLVANIA.—*Within the state*; before a judge of the supreme court, or of the courts of common pleas, or of the district courts, or a justice of the peace, or a recorder of deeds; the mayor, recorder, and aldermen, or any of them, of the cities of Allegheny, Carbondale, Philadelphia, and Pittsburg; the recorders of deeds, notaries public, and all justices of the peace and magistrates.

Without the state, and within the United States; before any officer authorized by the laws of the state in which the instrument was executed; proof of his authority by the certificate of a clerk of a court of record being affixed. Or the acknowledgment may be before a judge of the supreme or district court of the United States, or before a judge or justice of the supreme or superior court, or court of common pleas, or court of probate, or court of record, of any state or territory within the United States; and so certified under the hand of the judge, or before a Pennsylvania commissioner.

When made out of the United States; before a Pennsylvania commissioner, or any consul or vice-consul of the United States, duly appointed for and exercising consular functions in the state, kingdom, country, or place where such acknowledgment may be made; or any ambassador, minister plenipotentiary, *chargé d'affaires*, or other person exercising public ministerial functions, duly appointed by the United States.

Deeds made out of the state may be acknowledged or proved before one or more of the justices of the peace of this state, or before any mayor, or chief magistrate, or officer of the cities, towns, or places where such deeds or conveyance are so acknowledged or proved. The same to be certified by the officer under the common or public seal of the city, town, or place.

A married woman's acknowledgment of a deed to pass her separate estate is to be in the same form as her acknowledgment to bar dower.

The certificate of the acknowledgment of a feme covert must state:—1, that she is of full age; 2, that the contents of the instrument have been made known to her; 3, that she has been examined separate and apart from her husband; and, 4, that she executed the deed of her own free will and accord, without any coercion or compulsion of her husband. It is the practice to make the certificate under seal; though a seal is not required. Purd. Dig. p. 463 *et seq.*

RHODE ISLAND.—All deeds are void, except as between the parties and their heirs, unless acknowledged and recorded. Rev. Stat. (1857) 335.

Within the state, the acknowledgment must be before a senator, a judge, justice of the peace, notary public, or town clerk. *Id.*

A deed executed without the state, and within the United States, may be acknowledged before any judge, justice of the peace, mayor, or public notary, in the state where the same is executed; or by any commissioner, appointed by the governor and qualified; and if without the United States, before any ambassador, minister, *chargé d'affaires*, recognized consul, vice-consul, or commercial agent of the United States, or any commissioner so appointed and qualified in the country in which the same is executed. *Id.*

Where husband and wife convey real property of which they are seized in the right of the wife, or property wherein the wife might be endowed, the latter must be examined privily and apart from her husband, and declare to the officer that the instrument shown and explained to her by him is her voluntary act, and that she does not wish to retract the same. *Id.* 316.

SOUTH CAROLINA.—To admit a deed to record in the register's office, or the secretary of state's office, it must be proved by the oath of one of the witnesses before a magistrate, trial justice, or notary public, or any officer entitled to administer an oath, and without the state before a commissioner of deeds of South Carolina, and endorsed on the deed in which the witness swears that he saw the grantor sign, seal, and deliver the deed to the grantee for the uses and purposes contained in the deed, and that the other witness with himself witnessed the due execution thereof.

A feme covert may renounce her dower by going before any judge of the court of common pleas, a magistrate of the district wherein she may reside or the land may be, and acknowledging, upon a private and separate examination, that she does freely and voluntarily, without any compulsion, dread, or fear of any person whatsoever, renounce and release her dower to the grantee and his heirs and assigns, in the premises mentioned in such deed. A certificate under the hand of the woman, and the hand and seal of the judge or magistrate, must be endorsed on the deed or separate instrument of writing to the same effect, in the form or to the purport following, and be recorded in the office of mesne conveyances or office of the clerk of the district where the land lies:—

The State of South Carolina.

District. I, Z. G., one of the judges of the court of common pleas in the said state [or a magistrate of district, as the case may be], do hereby certify unto all whom it may concern, that E. B., the wife of the within named A. B., did this day appear before me, and, upon being privately and separately examined by me, did declare that she does freely, voluntarily, and without any compulsion, dread, or fear of any person or persons whatsoever, renounce, release, and forever relinquish unto the within named C. D., his heirs and assigns forever, all her interest and estate, and all her right and claim of dower of, in, or to all and singular the premises within mentioned and released. Given under my hand and seal, this day of , Anno Domini

[L. s.] Z. G., judge of the court of E. B.
common pleas in the state of
South Carolina (or magistrate,
as the case may be).

This provision, it must be observed, applies exclusively to "dower."

A feme covert of the age of twenty-one years, who may be entitled to any real estate as her inheritance, and is desirous of joining her husband in conveying away the fee simple of the same to

any other person, may bar herself of her inheritance by joining her husband in the execution of the release, and seven days after the execution of the same going before a judge of the court of common pleas, or a magistrate of the district, and then, upon a private and separate examination by him, declaring to him that she did, at least seven days before such examination, actually join her husband in executing such release, and that she did then, and at the time of her examination still does, freely, voluntarily, and without any manner of compulsion, dread, or fear of any person or persons whomsoever, renounce, release, and forever relinquish all her estate, interest, and inheritance in the premises mentioned in the release unto the grantee and his assigns. *Id.*

A certificate signed by the woman, and under the hand and seal of the judge or magistrate, must then immediately be endorsed upon the said release, or a separate instrument of writing to the same effect in the form of that required as above in dower, to which must be added to the following effect, to wit: that the woman did declare that the release was positively and bona fide executed at least seven days before such examination. The renunciation is not complete and legal until recorded; but if that be done in the lifetime of husband and wife, it is sufficient.

It may be well enough to remark that the term "inheritance" does not necessarily mean an estate descended to the wife, but an estate in her own right, and which may be inherited from her.

If the words required in the additional certificate appear in the body of the certificate, it will be sufficient.

A deed executed and acknowledged out of the state according to the form and using the necessary words required by the Act of 1795, before a commissioner appointed by South Carolina, would be sufficient.

TENNESSEE.—By a person *within the state*, an acknowledgment is to be before the clerk, or legally appointed deputy clerk, of the county court of some county in the state, and any notary public. *Without the state, but within the United States*, before any court of record, or clerk of any court of record, in any state, or a Tennessee commissioner, or a notary public, or any clerk of any court of record of any state or territory. *Without the United States*, before a Tennessee commissioner or notary public, or before a consul, minister, or ambassador of the United States.

A certificate taken within the state must be endorsed on or annexed to the instrument. A notary, Tennessee commissioner, a consul, minister, or ambassador, must make the certificate under his seal of office.

If the acknowledgment is taken before a judge, he must certify under his hand, and the clerk of his court must, under seal (a private seal, if there is no official seal), certify to the official character of the judge; or his official character may be certified by the governor of the state or territory, under its great seal. If it is taken before a court of record, a copy of the entry on the record must be certified by the clerk under seal (a private seal, if he has no official seal); and in this case, or if the acknowledgment be before the clerk of a court of record of another state, the judge, chief justice, or presiding magistrate must certify to the official character of the clerk. Tenn. Code (1858), §§ 2038-2046.

Proof by witnesses may be before the same officers. *Id.* §§ 2047, etc.

A married woman uniting with her husband in a deed must be examined, privily and apart from her husband, touching her voluntary execution of the same, and her knowledge of its contents

and effect, and must acknowledge that she executed it freely, voluntarily, and understandingly, without any compulsion or constraint on the part of her husband, and for the purposes therein expressed, which must be stated in the certificate. *Id.* § 2076.

TEXAS.—*Within the state*; before a notary public, or the chief justice, or the clerk, or deputy clerk, of any county court. *Without the state, and within the United States*; before some judge of a court of record having a seal, a notary public, or Texas commissioner. *Without the United States*; before a notary public, or any public minister, *chargé d'affaires*, consul-general, consul, vice-consul, commercial agent, vice-commercial agent, deputy consul, or consular agent of the United States. Rev. Stat. 1879.

In all cases the certificate must be under official seal.

The party should state that he executed the instrument for the consideration and purposes therein stated. Proof of execution may be made by one or more subscribing witnesses. *Id.* 1719, 1620.

A married woman's acknowledgment of conveyance of her separate property, or of the homestead, or other property exempt from execution, may be before a judge of the supreme or district court, or notary public, or the chief justice of a county court, or the clerk or deputy clerk of a county court. *Id.* 72, art. 207; 379, art. 1715, 1716, 1718.

She must be privily examined by the officer, apart from her husband, and must declare that she did freely and willingly sign and seal the writing, to be then shown and explained to her, and does not wish to retract it, and must acknowledge the instrument, so again shown to her, to be her act. The certificate must show these facts, and that the instrument was fully explained to her. *Id.* 72, art. 207.

If the husband and wife executed such conveyance without the state, the acknowledgment (which should be in the same form) may be taken before the officers who are specified above as authorized to take other acknowledgments.

UTAH.—*Within the territory*; before a judge, or clerk of a court having a seal, a notary public, county recorder, or justice of the peace. *Without the territory, and within the United States*; before a judge, or clerk of a United States court, or before a court of record or the clerk thereof, a notary public, or a Utah commissioner. *Without the United States*; before a judge, or clerk of a court of record, a notary public, a minister, commissioner, or consul of the United States.

A married woman may convey her estate as if a *feme sole*.

VERMONT.—All deeds and other conveyances of lands, or any estate or interest therein, must be signed and sealed by the party granting the same, and signed by two or more witnesses, and acknowledged by the grantor before a justice of the peace, a town clerk, a notary public, or master in chancery. Rev. Stat. tit. 14, c. 60, § 4; Laws of 1850, n. 53; same statute, Comp. Laws, 584, §§ 4, 5.

The separate acknowledgment or private examination of the wife is not required.

Acknowledgment or proof taken without the state, if certified agreeably to the laws of the state, province, or kingdom in which it was taken, is valid as though duly taken within the state; and the proof of the same may be taken, and the same acknowledged with like effect, before any justice of the peace, magistrate, or

notary public, or Vermont commissioner within the United States, or in any foreign country; or before any minister, *chargé d'affaires*, or consul of the United States in any foreign country. Rev. Stat. tit. 14, c. 60, § 9; tit. 4, c. 8, § 51; same statute, Comp. Laws, 385, 87.

VIRGINIA.—The acknowledgment may be made before the court of the county where the instrument is to be recorded, before the clerk of the court, in his office, or before a justice, notary public, or commissioner in chancery; or the deed may be proved by two witnesses.

A wife conveying must be examined by one of the justices of the court, or by the clerk, privily and apart from her husband; and, having such writing fully explained to her, must acknowledge the same to be her act, and declare that she executed it willingly, and does not wish to retract it. *Without the state, but within the Union*; before a justice (except that that of a married woman must be made before two justices together), or a notary public, or a Virginia commissioner.

Without the United States; before any minister plenipotentiary, *chargé d'affaires*, consul-general, consul, vice-consul, or commercial agent, appointed by the government of the United States, or by the proper officer of any court of such country, or the mayor or other chief magistrate of any city, town, or corporation therein; the certificate to be under official seal. Code (1849), 512, §§ 2-4.

WASHINGTON.—A deed shall be in writing, signed and sealed by the party bound thereby, witnessed by two witnesses, and acknowledged by the party making it. *Within the territory*; before a judge of the supreme court, a judge of the probate court, a justice of the peace, a notary public, or county auditor, or a clerk of the district and supreme courts. *Out of the territory, and within the United States*; before a Washington commissioner, or before any person authorized to take acknowledgments by the laws of the state or territory wherein the acknowledgment is taken. *Without the United States*; before any minister plenipotentiary, *chargé d'affaires*, consul-general, vice-consul, or commercial agent appointed by the government of the United States to the country where it is taken, or before the mayor, or chief magistrate of any city or town.

A married woman is not bound by any deed affecting her own real estate or releasing dower, unless she joins in the conveyance by her husband, and, upon an examination by the officer, separate and apart from her husband, acknowledges that she did voluntarily, of her own free will and without the fear of, or coercion from, her husband, execute the deed; and the officer must make known to her the contents of the deed, and certify that he has made known to her its contents, and examined her separate and apart from her husband, as is above provided. Stat. (1855) 402, § 3.

WEST VIRGINIA.—Before a justice, notary public, clerk of a county court, prothonotary, clerk of any court within the United States, or West Virginia commissioner; and, *without the United States*, before any officer there authorized to take such acknowledgments.

A married woman must be examined separate and apart from her husband, and the certificate must state that the paper executed was fully explained to her, and that she declared that she had willingly executed the same and did not wish to retract it.

WISCONSIN.—Deeds executed within the state may be acknowledged before a judge or commissioner of a court of record, and clerk of the board of supervisors, or a notary public, or justice of the peace of the state. The certificate must state the true date of the acknowledgment.

Deeds executed without the state, and within the United States, before a judge of a court of record, notary public, justice of the peace, master in chancery, or other officer authorized by the law of the place to take acknowledgments, or before a Wisconsin commissioner. Except in the last case, the certificate must be attested by the certifying officer of a court of record.

In a foreign country, before a notary public, or other officer authorized by the laws thereof, or any minister plenipotentiary, minister extraordinary, minister resident, *chargé d'affaires*, commissioner, or consul of the United States, appointed to reside therein. If before a notary public, his certificate must be under seal. Rev. Stat. (1858), 538, §§ 8, 11.

Married women residing in the state may acknowledge as if they were unmarried. *Id.* §§ 12, 14.

WYOMING.—*Within the territory*; before any judge or commissioner of a court of record, or before a notary public or justice of the peace. *Without the territory*; before a Wyoming commissioner, or any officer there authorized to take such acknowledgment, to be accompanied by a certificate, under the seal of a court of record, of his official capacity and the genuineness of his signature.

A married woman may convey and acknowledge as a *feme sole*.

See Judge Cooley's paper, 4 Rep. Am. Bar Asso. 1881.

ACKNOWLEDGMENT MONEY. In English Law. A sum paid by tenants of copyhold in some parts of England, as a recognition of their superior lords; Cowel; Blount. Called a fine by Blackstone; 2 Sharsw. Bla. Com. 98.

ACQUEST. An estate acquired by purchase; 1 Reeves, Hist. Eng. Law, 56.

ACQUETS. In Civil Law. Property which has been acquired by purchase, gift, or otherwise than by succession. Immovable property which has been acquired otherwise than by succession; Merlin, Répert.

The profits of all the effects of which the husband has the administration and enjoyment, either of right or in fact, of the produce of the reciprocal industry and labor of both husband and wife, and of the estates which they may acquire during the marriage, either by donations, made jointly to them both, or by purchase, or in any other similar way, even although the purchase be only in the name of one of the two, and not of both.

This is the signification attached to the word in Louisiana; La. Civ. Code, 2371. The rule applies to all marriages contracted in that state, or out of it, when the parties afterward go there to live, as to acquets afterward made there. The acquets are divided into two equal portions between the husband and wife, or between their heirs at the dissolution of their marriage.

The parties may, however, lawfully stipulate there shall be no community of profits

or gains; but have no right to agree that they shall be governed by the laws of another country; 3 Mart. La. 581; 17 *id.* 571; La. Civ. Code, 2369, 2370, 2375. See 2 Kent, 153, note.

As to the sense in which it is used in Canada, see 2 Low. Can. 175.

ACOLYTE. An inferior church servant, who, next under the sub-deacon, followed and waited upon the priests and deacons, and performed the meaner offices of lighting the candles, carrying the bread and wine, and paying other servile attendance; Spelman, Cowel.

ACQUIESCENCE. A silent appearance of consent; Worcester, Dict.

Failure to make any objections.

It is to be distinguished from avowed consent, on the one hand, and from open discontent or opposition, on the other. It amounts to a consent which is impliedly given by one or both parties to a proposition, a clause, a condition, a judgment, or to any act whatever.

When a party is bound to elect between a paramount right and a testamentary disposition, his acquiescence in a state of things which indicates an election, when he was aware of his rights, will be *primâ facie* evidence of such election. See 2 Roper, Leg. 439; 1 Ves. 335; 2 *id.* 371; 12 *id.* 136; 3 P. Wms. 315. The acts of acquiescence which constitute an implied election must be decided rather by the circumstances of each case, than by any general principle; 1 Swans. 382, note, and the numerous cases there cited.

Acquiescence in the acts of an agent, or one who has assumed that character, will be equivalent to an express authority; 2 Bouvier, Inst. n. 1309; 2 Kent, 473; Story, Eq. Jur. § 255; Livermore, Ag. 45; Paley, Ag. Lloyd ed. 41; 4 Wash. C. C. 559; 4 Mas. 296; 3 Pet. 69, 81; 6 Mass. 193; 3 Pick. 495; 1 Johns. Cas. 110; 2 *id.* 424; 12 Johns. 300; 3 Cowen, 281.

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

ACQUIRE (Lat. *ad*, for, and *querere*, to seek). To make property one's own.

It is regularly applied to a permanent acquisition. A man is said to obtain or procure a mere temporary acquisition.

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

The thing the property in which is secured.

Original acquisition is that by which a man secures a property in a thing which is not at the time he acquires it, and in its then existing condition, the property of any other individual. It may result from occupancy; 1 Bouvier, Inst. n. 490; 2 Kent, 289; accession, 1 Bouvier, Inst. n. 499; 2 Kent, 293; intellectual labor—namely, for inventions, which are secured by patent rights; and for the authorship of books, maps, and charts,

which is protected by copyrights; 1. Bouvier, Inst. n. 508.

Derivative acquisitions are those which are procured from others, either by act of law or by act of the parties. Goods and chattels may change owners by act of law in the cases of forfeiture, succession, marriage, judgment, insolvency, and intestacy; or by act of the parties, as by gift or sale.

An acquisition may result from the act of the party himself, or those who are in his power acting for him, as his children while minors; 1 N. H. 28; 1 U. S. Law Journ. 513. See Dig. 41. 1. 53; Inst. 2. 9. 3.

ACQUITTAL. In Contracts. A release or discharge from an obligation or engagement.

According to Lord Coke, there are three kinds of acquittal, namely: by deed, when the party releases the obligation; by prescription; by tenure; Coke, Litt. 100, a.

In Criminal Practice. The absolution of a party charged with a crime or misdemeanor.

The absolution of a party accused on a trial before a traverse jury; 1 Nott & M'C. 36; 3 M'Cord, 461.

Acquittals in fact are those which take place when the jury, upon trial, finds a verdict of not guilty.

Acquittals in law are those which take place by mere operation of law; as where a man has been charged merely as an accessory, and the principal has been acquitted; Coke, 2d Inst. 364.

An acquittal is a bar to any future prosecution for the offence alleged in the first indictment.

When a prisoner has been acquitted, he becomes competent to testify either for the government or for his former co-defendants; 7 Cox, Cr. Cas. 341, 342, per *Monahan*, C. J. And it is clear, that where a married defendant is entirely removed from the record by a verdict pronounced in his favor, his wife may testify either for or against any other persons who may be parties to the record; 12 Mees. & W. 49, 50, per *Alderson*, B.; 8 Carr. & P. 284; 2 Taylor, Ev. 3d ed. § 1230.

ACQUITTANCE. In Contracts. An agreement in writing to discharge a party from an engagement to pay a sum of money. It is evidence of payment, and differs from a release in this, that the latter must be under seal, while an acquittance need not be under seal; Pothier, Oblig. n. 781. See 3 Salk. 298; Coke, Litt. 212 a, 273 a; 1 Rawle, 391.

ACRE (Germ. *Aker*, perhaps Lat. *Ager*, a field). A quantity of land containing one hundred and sixty square rods of land, in whatever shape; Sergeant, Land Laws of Penn. 185; Cro. Eliz. 476, 665; 6 Coke, 67; Poph. 55; Coke, Litt. 5 b. The word formerly signified an open field; whence *acre-fight*, a contest in an open field; Jacob, Dict.

The measure seems to have been variable in amount in its earliest use, but was fixed by statute at a remote period. As originally

used, it was applicable especially to meadows; Cowel.

ACT (Lat. *agere*, to do; *actus*, done). Something done or established.

In its general legal sense, the word may denote something done by an individual, as a private citizen, or as an officer; or by a body of men, as a legislature, a council, or a court of justice; including not merely physical acts, but also decrees, edicts, laws, judgments, resolves, awards, and determinations. Some general laws made by the Congress of the United States are styled joint resolutions, and these have the same force and effect as those styled acts.

An instrument in writing to verify facts; Webster, Dict.

It is used in this sense of the published acts of assembly, congress, etc. In a sense approaching this, it has been held in trials for treason that letters and other written documents were *acts*; 1 Fost. Cr. Cas. 198; 2 Stark. 116.

In Civil Law. A writing which states in a legal form that a thing has been done, said, or agreed; Merlin, Répert.

Private acts are those made by private persons as registers in relation to their receipts and expenditures, schedules, acquittances, and the like; Nov. 73, c. 2; Code, 7. 32. 6; 4. 21; Dig. 22. 4; La. Civ. Code, art. 2231 to 2254; 8 Toullier, *Droit Civ. Français*, 94.

Acts under private signature are those which have been made by private individuals, under their hands. An act of this kind does not acquire the force of an authentic act by being registered in the office of a notary; 11 Mart. La. 243; 5 Mart. n. s. La. 693; 8 *id.* 568; 3 *id.* 396; 3 La. Ann. 419; unless it has been properly acknowledged before the officer by the parties to it; 5 Mart. n. s. La. 196.

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

In Evidence. The act of one of several conspirators, performed in pursuance of the common design, is evidence against all of them. And see TREASON; PARTNER; PARTNERSHIP; AGENT; AGENCY.

In Legislation. A statute or law made by a legislative body.

General or public acts are those which bind the whole community. Of these the courts take judicial cognizance.

Private or special acts are those which operate only upon particular persons and private concerns.

Explanatory acts should not be enlarged by equity; Comb. 410; although such acts may be allowed to have a retrospective operation; Dupin, *Notions de Droit*, 145. 9. If an act of assembly expire or be repealed while a proceeding under it is *in fieri* or pending, the proceeding becomes abortive; as a prosecution for an offence; 7 Wheat. 552; or a proceeding under insolvent laws; 1 W.

Bla. 451; 3 Burr. 1456; 6 Cranch, 208; 9 S. & R. 283.

ACT OF BANKRUPTCY. An act which subjects a person to be proceeded against as a bankrupt.

In England, the bankruptcy act of 1869 enumerates the following acts of bankruptcy:

By traders and non-traders alike, conveyance of property to trustees for the benefit of creditors generally; fraudulent conveyance, gift, delivery, or transfer of property; departure out of England; remaining out of England; declaration of inability to pay debts; debtor's summons requiring payment of not less than £50, and that the debtor has not paid or compounded for the same within the time limited by traders only; departure from his dwelling house; otherwise absenting himself; beginning to keep house; suffering himself to be outlawed; that execution issued for not less than £50 has been levied by seizure and sale.

As to conveyance of property to trustees for benefit of creditors generally, see Williams on Bank. 3. As to fraudulent conveyance, gift, delivery, or transfer of property; 1 Sm. L. C. 1; 36 L. J. Q. B. 289; 1 Ad. & E. 456; 1 Esp. 67; 1 Burr. 407; 1 Ld. Raymond, 724. As to departure out of England; 1 Taunt. 270; 1 Q. B. 51; 3 Camp. 349. See generally Williams, Roche, Hazlitt. In the United States see, as to the Act of 1867 (now repealed), Bump, Bankruptcy.

ACT OF GOD. Any accident due to natural causes directly and exclusively without human intervention, such as could not have been prevented by any amount of foresight, and pains, and care reasonably to have been expected; L. R. 1 C. P. D. 423. See also L. R. 10 Ex. 255. The civil law employs, as a corresponding term, *vis major*.

The term generally applies, broadly, to natural accidents, such as those caused by lightning, earthquakes, and tempests; Story, Bailm. § 511; 2 Ga. 349. A severe snow-storm, which blocked up railroads, held within the rule; 40 Mo. 491. So where fruit-trees were frozen, in transit, it was held to be by the act of God, unless there had been improper delay on the part of the carrier; 63 Mo. 230. The freezing of a canal or river held within the rule; 14 Wend. 213; 23 Id. 306; 4 N. H. 259. A frost of extraordinary severity (11 Ex. 781; s. c. 25 L. J. Ex. 212) and an extraordinary fall of snow (28 L. J. Ex. 51) have been held to be the act of God. A sudden failure of wind has been held to be an act of God; 6 Johns. 160 (but this case has been doubted; 1 Sm. L. C. Am. ed. 417; and Kent, Ch. J., substantially dissented; see also 21 Wend. 190). Losses by fire have not generally been held to fall under the act of God; 1 T. R. 33; 6 Seld. 431; 69 Ill. 285; s. c. 18 Am. R. 613; 76 Ill. 542 (the Chicago fire); (though otherwise when the fire is caused by lightning, 26 Me. 181); but where a distant forest fire was driven by a tornado, to where a carrier's cars were on the track awaiting a locomotive, their destruction was held to be by the act of God; 87 Pa. 234; but see 2 Tex. 115, *contra*. When a flood had risen higher than ever before, destruction of goods thereby was held to be by act of God; 30 N. Y. 630. The bursting of a boiler does not come within the act of God; 5

Strob. 119. See 28 Barb. 403; 12 Md. 9; 4 Stew. & P. 382; 28 Mo. 323.

In a late and well-considered English case, 1 C. P. D. 34, 423; 34 L. T. R. n. s. 827; s. c. 18 Am. R. 618; 14 Alb. L. J. 164; Cockburn, C. J., held, in an action for the loss of a horse on shipboard, that if a carrier "uses all the known means to which prudent and experienced carriers usually have recourse, he does all that can be reasonably required of him, and if under such circumstances he is overpowered by storm or other natural agency, he is within the rule which gives immunity from the effects of such *vis major* as the act of God." The accident, to come within the rule, must be due entirely to natural causes without human intervention; *ibid.*, also 2 Zab. 373; 1 Murphy, 173; 2 Bailey, 157, 421.

The term is sometimes defined as equivalent to inevitable accident (2 Sm. & M. 572; 2 Ga. 349), but incorrectly, as there is a distinction between the two; although Sir William Jones proposed the use of inevitable accident instead of *Act of God*; Jones, Bailm. 104. See Story, Bailm. § 25; 2 Bla. Com. 122; 2 Crabb, R. P. § 2176; 4 Dougl. 287; 21 Wend. 190; 10 Miss. 572; 5 Blackf. 222.

Where the law casts a *duty* on a party, the performance shall be excused if it be rendered impossible by the act of God; *lex neminem cogit ad impossibilia*; but where the party by *his own contract*, engages to do an act, it is deemed to be his own fault that he did not thereby provide against contingencies, and exempt himself from responsibilities in certain events; and in such case (that is, in the instance of an absolute general contract) the non-performance is not excused by an inevitable accident, or other contingency, although not foreseen by, nor within the control of, the party; Aley, 26; Chitty, Contr. 272, 3; 1 Bouvier, Inst. n. 1024; 6 Term, 650; 3 *id.* 267; 3 Maule & S. 267; 7 Mass. 325; 13 *id.* 94; L. R. 5 C. P. 586; *id.* 4 Q. B. 134; Leake, Contr. 683.

Certain contracts are construed as containing an implied exception of impossible events, and even general words in the contract will not be held to apply to the possibility of the particular contingency which afterwards happened; Leake, Contr. 702; L. R. 4 Q. B. 185. So if a bail bond to render a debt is discharged by the debtor's death before default; W. Jones, 29. Contracts for strictly personal services, marriage, etc., are discharged by death or incapacity; 3 B. & S. 835; Cro. Eliz. 532; 2 M. & S. 408; L. R. 6 Ex. 269; as where a singer could not sing by reason of ill-health. So, when one employed a bailiff for six months, and died, the contract was held dissolved; L. R. 4 C. P. 744. So of contracts of partnership.

See BAILMENT; COMMON CARRIER; PERIL OF THE SEA; SPECIFIC PERFORMANCE.

ACT OF GRACE. In Scotch Law. A statute by which the incarcerating creditor is bound to alimnt his debtor in prison, if such debtor has no means of support, under penalty of a liberation of his debtor if such alimnt be not provided; Paterson, Comp.

This statute provides that where a prisoner for

debt declares upon oath, before the magistrate of the jurisdiction, that he has not wherewith to maintain himself, the magistrate may set him at liberty, if the creditor, in consequence of whose diligence he was imprisoned, does not alight him within ten days after intimation for that purpose; Stat. 1696, c. 32; Erskine, Pract. 4.

ACT OF HONOR. An instrument drawn up by a notary public, after protest of a bill of exchange, when a third party is desirous of paying or accepting the bill for the honor of any or all of the parties to it.

The instrument describes the bill, recites its protest, and the fact of a third person coming forward to accept, and the person or persons for whose honor the acceptance is made. The right to pay the debt of another, and still hold him, is allowed by the law merchant in this instance, and is an exception to the general rule of law; and the right can only be gained by proceeding in the form and manner sanctioned by the law; 3 Dan. Ky. 554; Bayley, Bills; Sewell, Banking.

ACT EN PAIS. An act performed out of court, and which is not a matter of record.

A deed or an assurance transacted between two or more private persons in the country, that is, according to the old common law, upon the very spot to be transferred, is matter in pais; 2 Bla. Com. 294.

ACT ON PETITION. A form of summary proceeding formerly in use in the High Court of Admiralty, in England, in which the parties stated their respective cases briefly, and supported their statements by affidavit; 2 Dods. Adm. 174, 184; 1 Hagg. Adm. 1, note.

The suitors of the English Admiralty were, under the former practice, ordinarily entitled to elect to proceed either by act on petition, or by the ancient and more formal mode of "plea and proof;" that is, by libel and answer, and the examination of witnesses; W. Rob. Adm. 169, 171, 172. But, by the new rules which took effect Jan. 1, 1860, the modes of pleading theretofore used, as well in causes by act on petition as by plea and proof, were abolished, and a uniform mode of pleading substituted: the first pleading to be called the petition; the second, the answer; the third, the reply; the fourth, the rejoinder, etc. etc. Rules 65 and 66. Morris, Lectures on the Jurisdiction and Practice of the High Court of Admiralty, p. 28. See as to proof under these rules, Rules 78, 79.

ACT OF SETTLEMENT. In English Law. The statute of 12 & 13 Will. III. c. 2, by which the crown of England was limited to the present royal family; 1 Bla. Com. 128; 2 Steph. Com. 290.

ACTA DIURNA (Lat.). A formula often used in signing; Du Cange.

Daily transactions, chronicles, journals, registers. I do not find the thing published in the *acta diurna* (daily records of affairs); Tacitus, Ann. 3, 3; Ainsworth, Lex.; Smith, Lex.

ACTA PUBLICA (Lat.). Things of general knowledge and concern; matters transacted before certain public officers; Calvinus, Lex.

ACTIO. In Civil Law. A specific mode of enforcing a right before the courts of law:

e. g. legis actio; actio sacramenti. In this sense we speak of *actions* in our law, *e. g.* the action of debt. The right to a remedy, thus: *ex nudo pacto non oritur actio*; no right of action can arise upon a naked pact. In this sense we rarely use the word action; 3 Ortolan, Inst. § 1830; 5 Savigny, System, 10; Mackeldey, Civ. L. (13th ed.), § 193.

The first sense here given is the older one. Justinian, following Celsus, gives the well-known definition: *Actio nihil aliud est, quam jus persequendi in iudicio, quod sibi debetur*, which may be thus rendered: An action is simply the right to enforce one's demands in a court of law. See Inst. Jus. 4. 6, *de Actionibus*.

In the sense of a specific form of remedy, there are various divisions of *actiones*.

Actiones civiles are those forms of remedies which were established under the rigid and inflexible system of the civil law, the *jus civile*. *Actiones honorarie* are those which were gradually introduced by the prætors and ædiles, by virtue of their equitable powers, in order to prevent the failure of justice which too often resulted from the employment of the *actiones civiles*. These were found so beneficial in practice that they eventually supplanted the old remedies, of which in the time of Justinian hardly a trace remained; Mackeldey, Civ. L. § 194; 5 Savigny, System.

Directæ actiones, as a class, were forms of remedies for cases clearly defined and recognized as actionable by the law. *Utiles actiones* were remedies granted by the magistrate in cases to which no *actio directa* was applicable. They were framed for the special occasion, by analogy to the existing forms, and were generally fictitious; that is, they proceeded upon the assumption that a state of things existed which would have entitled the party to an *actio directa*, and the cause was tried upon this assumption, which the other party was not allowed to dispute; 5 Savigny, System, § 215.

Again, there are *actiones in personam* and *actiones in rem*. The former class includes all remedies for the breach of an obligation, and are considered to be directed against the person of the wrong-doer. The second class comprehends all remedies devised for the recovery of property, or the enforcement of a right not founded upon a contract between the parties, and are therefore considered as rather aimed at the *thing* in dispute, than at the person of the defendant; Mackeldey, Civ. L. § 195; 5 Savigny, System, §§ 206-209; 3 Ortolan, Inst. §§ 1952 *et seq.*

In respect to their *object*, actions are either *actiones rei persequendæ causâ comparatæ*, to which class belong all *in rem actiones*, and those of the *actiones in personam*, which were directed merely to the recovery of the value of a thing, or compensation for an injury; or they are *actiones penales*, called also *actiones ex delicto*, in which a penalty was recovered of the delinquent, or *actiones mixtæ*, in which

were recovered both the actual damages and a penalty in addition. These classes, *actiones pœnales* and *actiones mixtæ*, comprehended cases of injuries, for which the civil law permitted redress by private action, but which modern civilization universally regards as crimes; that is, offences against society at large, and punished by proceedings in the name of the state alone. Thus, theft, receiving stolen goods, robbery, malicious mischief, and the murder or negligent homicide of a slave (in which case an injury to property was involved), gave rise to private actions for damages against the delinquent; Inst. 4. 1. *De obligationibus quæ ex delicto nascuntur*; id. 2. *De bonis vi raptis*; id. 3. *De lege Aquilia*. And see Mackeldey, Civ. L. § 196; 5 Savigny, System, §§ 210-212.

In respect to the mode of procedure; *actiones in personam* are divided into *stricti juris*, and *bonæ fidei actiones*. In the former the court was confined to the strict letter of the law; in the latter something was left to the discretion of the judge, who was governed in his decision by considerations of what ought to be expected from an honest man under circumstances similar to those of the plaintiff or defendant. Mackeldey, Civ. L. § 197 a.

It would not only be foreign to the purpose of this work to enter more minutely into a discussion of the Roman *actio*, but it would require more space than can here be afforded, since in Savigny's System there are more than a hundred different species of *actio* mentioned, and even in the succinct treatise of Mackeldey nearly eighty are enumerated.

In addition to the works cited in passing may be added the Introduction to Sandars' Justinian, which may be profitably consulted by the student.

To this brief explanation of the most important classes of *actiones* we subjoin an outline of the Roman system of procedure. From the time of the twelve tables (and probably from a much earlier period) down to about the middle of the sixth century of Rome, the system of procedure was that known as the *actiones legis*. Of these but five have come down to us by name: the *actio sacramenti*, the *actio per iudicis postulationem*, the *actio per conditionem*, the *actio per manus injectionem*, and the *actio per pignoris captionem*. The first three of these were actions in the usual sense of the term; the last two were modes of execution. The *actio sacramenti* is the best known of all, because, from the nature of the questions decided by means of it, which included those of *status*, of property *ex jure Quiritium*, and of successions; and from the great popularity of the tribunal, the *centumviri*, which had cognizance of these questions, it was retained in practice long after the other actions had succumbed to a more liberal system of procedure. As the *actio sacramenti* was the longest-lived, so it was also the earliest, of the *actiones legis*; and it is not only in many particulars a type of the whole class, but the other species are conceived to have been formed by successive encroachments upon its field. The characteristic feature of this action was the *sacramentum*, a pecuniary deposit made in court by each party, which was to be forfeited by the loser. Subsequently, however,

the parties were allowed, instead of an actual deposit, to give security in the amount required. Our knowledge of all these actions is exceedingly slight, being derived from fragments of the earlier jurisprudence preserved in literary works, laboriously pieced together by commentators, and the numerous gaps filled out by aid of ingenious and most copious conjectures. They bear all those marks which might have been expected of their origin in a barbarous or semi-barbarous age, among a people little skilled in the science of jurisprudence, and having no acquaintance with the refined distinctions and complex business transactions of civilized life. They were all of that highly symbolical character found among men of rude habits but lively imaginations. They abounded in sacramental words and significant gestures, and, while they were inflexibly rigid in their application, they possessed a character almost sacred, so that the mistake of a word or the omission of a gesture might cause the loss of a suit. In the nature of things, such a system could not maintain itself against the advance of civilization, bringing with it increased complications in all the relations of man to man; and accordingly we find that it gradually, but sensibly, declined, and that at the time of Justinian not a trace of it existed in practice. See 3 Ortolan, Justinian, 467 *et seq.*

About the year of Rome 507 began the introduction of the system known as the procedure *per formulam* or *ordinaria judicia*. An important part of the population of Rome consisted of foreigners, whose disputes with each other or with Roman citizens could not be adjusted by means of the *actiones legis*, these being entirely confined to questions of the strict Roman law, which could only arise between Roman citizens.

To supply the want of a forum for foreign residents, a magistrate, the *prætor peregrinus*, was constituted with jurisdiction over this class of suits, and from the procedure established by this new court sprang the formulary system, which proved so convenient in practice that it was soon adopted in suits where both parties were Roman citizens, and gradually withdrew case after case from the domain of the *legis actiones*, until few questions were left in which that cumbrous procedure continued to be employed.

An important feature of the formulary system, though not peculiar to that system, was the distinction between the *jus* and the *judicium*, between the magistrate and the judge. The magistrate was vested with the civil authority, *imperium*, and that jurisdiction over law-suits which in every state is inherent in the supreme power; he received the parties, heard their conflicting statements, and referred the case to a special tribunal of one or more persons, *iudex*, *arbiter*, *recuperatores*. The function of this tribunal was to ascertain the facts and pronounce judgment thereon, in conformity with a special authorization to that effect conferred by the magistrate. Here the authority of the judge ended; if the defeated party refused to comply with the sentence, the victor must again resort to the magistrate to enforce the judgment. From this it would appear that the functions of the judge or judges under the Roman system corresponded in many respects with those of the jury at common law. They decided the question of fact submitted to them by the magistrate, as the jury decides the issue eliminated by the pleadings; and the decision made their functions ceased, like those of the jury.

As to the amount at stake, the magistrate, in cases admitting it, had the power to fix the sum in dispute, and then the judge's duties were con-

fined to the simple question whether the sum specified was due the plaintiff or not; and if he increased or diminished this amount he subjected himself to an action for damages. In other cases, instead of a precise sum, the magistrate fixed a *maximum* sum, beyond which the judge could not go in ascertaining the amount due; but in most cases the magistrate left the amount entirely to the discretion of the judge.

The directions of the magistrate to the judge were made up in a brief statement called the *formula*, which gives its name to this system of procedure. The composition of the formula was governed by well-established rules. When complete, it consisted of four parts, though some of these were frequently omitted, as they were unnecessary in certain classes of actions. The *first* part of the formula, called the *demonstratio*, recited the subject submitted to the judge, and consequently the facts of which he was to take cognizance. It varied, of course, with the subject-matter of the suit, though each class of cases had a fixed and appropriate form. This form, in an action by a vendor against his vendee, was as follows: "*Quod Aulus Agerius Numerio Negidius hominem vendidit;*" or, in case of a bailment, "*Quod Aulus Agerius apud Numerium Negidium hominem deposuit.*" The *second* part of the formula was the *intentio*: in this was stated the claim of the plaintiff, as founded upon the facts set out in the *demonstratio*. This, in a question of contracts, was in these words: "*Si paret Numerium Negidium Aulo Agerio sestertium X milia dare oportere,*" when the magistrate fixed the amount; or, "*Quidquid paret Numerium Negidium Aulo Agerio dare facere oportere,*" when he left the amount to the discretion of the judge. In a claim of property the form was, "*Si paret hominem ex jure Quiritium Auli Agerii esse.*" The *third* part of the complete formula was the *adjudicatio*, which contained the authority to the judge to award to one party a right of property belonging to the other. It was in these words: "*Quantum adjudicari oportet, iudex Titio adjudicatio.*" The *last* part of the formula was the *condemnatio*, which gave the judge authority to pronounce his decision for or against the defendant. It was as follows: "*Judex, Numerium Negidium Aulo Agerio sestertium X milia condemna: si non paret, absolvo,*" when the amount was fixed; or, "*Judex, Numerium Negidium Aulo Agerio dimittat X milia condemna: si non paret, absolvo,*" when the magistrate fixed a *maximum*; or, "*Quanti ea res erit, tantam pecuniam, iudex, Numerium Negidium Aulo Agerio condemna: si non paret, absolvo,*" when it was left to the discretion of the judge.

Of these parts, the *intentio* and the *condemnatio* were always employed: the *demonstratio* was sometimes found unnecessary, and the *adjudicatio* only occurred in three species of actions—*familiae eriscundae, communi dividundo*, and *finium regundorum*—which were actions for division of an inheritance, actions of partition, and suits for the rectification of boundaries.

The above are the essential parts of the *formula* in their simplest form; but they are often enlarged by the insertion of clauses in the *demonstratio*, the *intentio*, or the *condemnatio*, which were useful or necessary in certain cases: these clauses are called *adjectiones*. When such a clause was inserted for the benefit of the defendant, containing a statement of his defence to the claim set out in the *intentio*, it was called an *exceptio*. To this the plaintiff might have an answer, which, when inserted, constituted the *replicatio*, and so on to the *duplicatio* and *triplicatio*. These clauses, like the *intentio* in which they were inserted, were all framed conditionally, and not,

like the common-law pleadings, affirmatively. Thus: "*Si paret Numerium Negidium Aulo Agerio X milia dare oportere (intentio); si in ea re nihil dolo malo Auli Agerii factum sit neque fiat (exceptio); Si non, etc. (replicatio).*"

In preparing the *formula* the plaintiff presented to the magistrate his *demonstratio, intentio, etc.*, which was probably drawn in due form under the advice of a juriconsult; the defendant then presented his *adjectiones*, the plaintiff responded with his replications, and so on. The magistrate might modify these, or insert new *adjectiones*, at his discretion. After this discussion *in jure, pro tribunali*, the magistrate reduced the results to form, and sent the *formula* to the judge, before whom the parties were confined to the case thus settled. See 3 Ortolan, Justinian, §§ 1909 *et seq.*

The procedure *per formulam* was supplanted in course of time by a third system, *extraordinaria judicia*, which in the days of Justinian had become universal. The essence of this system consisted in dispensing with the judge altogether, so that the magistrate decided the case himself, and the distinction between the *jus* and the *judicium* was practically abolished. This new system commenced with usurpation by the magistrates, in the extension of an exceptional jurisdiction, which had existed from the time of the *leges actiones*, to cases not originally within its scope. Its progress may be traced by successive enactments of the emperors, and was so gradual that, even when it had completely undermined its predecessor, the magistrate continued to reduce to writing a sort of formula representing the result of the pleadings. In time, however, this last relic of the former practice was abolished by an imperial constitution. Thus the formulary system, the creation of the great Roman juriconsults, was swept away, and carried with it in its fall all those refinements of litigation in which they had so much delighted. Thenceforth the distinctions between the forms of actions were no longer regarded, and the word *actio*, losing its signification of a *form*, came to mean a *right, jus persequendi in judicio quod sibi debetur*.

See Ortolan, Hist. no. 392 *et seq.*; *id.* Instit. nos. 1833-2067; 5 Savigny, System, § 6; Sandars, Justinian, Introduction; Gaius, by Abdy & Walker.

ACTIO BONÆ FIDEI (Lat. an action of good faith). In Civil Law. A class of actions in which the judge might at the trial, *ex officio*, take into account any equitable circumstances that were presented to him affecting either of the parties to the action; 1 Spence, Eq. Jur. 218.

ACTIO COMMODATI CONTRARIA. In Civil Law. An action by the borrower against the lender, to compel the execution of the contract; Pothier, *Prêt à Usage*, n. 75.

ACTIO COMMODATI DIRECTA. In Civil Law. An action by a lender against a borrower, the principal object of which is to obtain a restitution of the thing lent; Pothier, *Prêt à Usage*, nn. 65, 68.

ACTIO COMMUNI DIVIDUNDO. In Civil Law. An action for a division of the property held in common; Story, Partn., Bennett, ed. § 352.

ACTIO CONDUCTIO INDEBITATI. In Civil Law. An action by which the plaintiff recovers the amount of a sum of money or other thing he paid by mistake; Pothier, *Promutuum*, n. 140; Merlin, Rép.

ACTIO EX CONDUCTO. In Civil Law. An action which the bailor of a thing for hire may bring against the bailee, in order to compel him to re-deliver the thing hired; Pothier, *du Contr. de Louage*, n. 59; Merlin, *Rép.*

ACTIO EX CONTRACTU. See ACTION.

ACTIO EX DELICTO. See ACTION.

ACTIO DEPOSITI CONTRARIA. In Civil Law. An action which the depositary has against the depositor, to compel him to fulfil his engagement towards him; Pothier, *Du Dépôt*, n. 69.

ACTIO DEPOSITI DIRECTA. In Civil Law. An action which is brought by the depositor against the depositary, in order to get back the thing deposited; Pothier, *Du Dépôt*, n. 60.

ACTIO AD EXHIBENDUM. In Civil Law. An action instituted for the purpose of compelling the person against whom it was brought to exhibit some thing or title in his power.

It was always preparatory to another action, which lay for the recovery of a thing movable or immovable; 1 Merlin, *Quest. de Droit*, 84.

ACTIO IN FACTUM. In Civil Law. An action adapted to the particular case which had an analogy to some *actio in jus* which was founded on some subsisting acknowledged law; Spence, *Eq. Jur.* 212. The origin of these actions is strikingly similar to that of actions on the case at common law. See CASE.

ACTIO FAMILIÆ ERCISCUNDÆ. In Civil Law. An action for the division of an inheritance; *Inst.* 4. 6. 20; Bracton, 100 b.

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

According to some authorities, if the defendant then utterly denied the rendition of the former judgment, the plaintiff was driven to a new action, conducted like any other action, which was called *actio judicati*, and which had for its object the determination of the question whether such a judgment had been rendered. The exact meaning of the term is by no means clear. See Savigny, *Syst.* 305, 411; 3 Ortolan, *Just.* § 2033.

ACTIO MANDATI. In Civil Law. An action founded upon a mandate; *Dig.* 17. 1.

ACTIO NON. In Pleading. The declaration in a special plea "that the said

plaintiff ought not to have or maintain his aforesaid action thereof against" the defendant (in Latin, *actio non habere debet*).

It follows immediately after the statement of appearance and defence; 1 Chitty, *Plead.* 531; 2 *id.* 421; Stephens, *Plead.* 394.

ACTIO NON ACCREVIT INFRA SEX ANNOS (Lat.). The action did not accrue within six years.

In Pleading. A plea of the statute of limitations, by which the defendant insists that the plaintiff's action has not accrued within six years. It differs from *non assumpsit* in this: *non assumpsit* is the proper plea to an action on a simple contract, when the action accrues on the promise; but when it does not accrue on the promise, but subsequently to it, the proper plea is *actio non accrevit*, etc.; Lawes, *Plead.* 733; 5 Binn. 200, 203; 2 Salk. 422; 2 Saund. 63 b.

ACTIO PERSONALIS. A personal action. The proper term in the civil law is *actio in personam*.

ACTIO PERSONALIS MORITUR CUM PERSONA (Lat.). A personal action dies with the person.

In Practice. A maxim which formerly expressed the law in regard to the surviving of personal actions.

To render the maxim perfectly true, the expression "personal actions" must be restricted very much within its usual limits. In the most extensive sense, all actions are *personal* which are neither *real* nor *mixed*, and in this sense of the word personal the maxim is not true. A further distinction, moreover, is to be made between personal actions actually commenced and pending at the death of the plaintiff or defendant, and causes of action upon which suit might have been, but was not, brought by or against the deceased in his lifetime. In the case of actions actually commenced, the old rule was that the suit abated by the death of either party. But the inconvenience of this rigor of the common law has been modified by statutory provisions in England and the states of this country, which prescribe in substance that when the *cause of action* survives to or against the personal representatives of the deceased, the suit shall not abate by the death of the party, but may proceed on the substitution of the personal representatives on the record by *scire facias*, or, in some states, by simple suggestion of the facts on the record. See 6 Wheat. 260. And this brings us to the consideration of what causes of action survive.

CONTRACTS.—It is clear that, in general, a man's personal representatives are liable for his breach of contract on the one hand, and, on the other, are entitled to enforce contracts made with him. This is the rule; but it admits of a few exceptions; 6 Me. 470; 2 D. Chpm. Vt. 41.

No action lies against executors upon a covenant to be performed by the testator in

person, and which consequently the executor cannot perform, and the performance of which is prevented by the death of testator; 3 Wils. Ch. 99; Cro. Eliz. 553; 1 Rolle, 359; as if an author undertakes to compose a work, or a master covenants to instruct an apprentice, but is prevented by death. See Wms. Exec. 1467. But for a breach committed by deceased in his lifetime, his executor would be answerable; Cro. Eliz. 553; 1 Mees. & W. 423, *per Parke*, B.; 19 Penn. 234.

As to what are such contracts, see 2 Perr. & D. 251; 10 Ad. & E. 45; 1 Mees. & W. 423; 1 Tyrwh. 349; 2 Strange, 1266; 2 W. Bla. 856; 3 Wils. 380. But whether the contract is of such a nature is a mere question of construction, depending upon the intention of the parties; Hob. 9; Yelv. 9; Cro. Jac. 282; 1 Bingham, 225; unless the intention be such as the law will not enforce; 19 Penn. 233, *per Lowrie*, J.

Again, an executor, etc. cannot maintain an action on a promise made to deceased where the damage consisted entirely in the personal suffering of the deceased without any injury to his personal estate, as a breach of promise of marriage; 2 Maule & S. 408; 4 Cush. 408. And as to the right of an executor or administrator to sue on a contract broken in the testator's lifetime, where no damage to the personal estate can be stated, see 2 Crompt. M. & R. 588; 5 Tyrwh. 985, and the cases there cited.

The fact whether or not the estate of the deceased has suffered loss or damage would seem to be the criterion of the right of the personal representative to sue in another class of cases, that is, where there is a breach of an implied promise founded on a *tort*. For where the action, though in form *ex contractu*, is founded upon a *tort to the person*, it does not in general survive to the executor. Thus, with respect to injuries affecting the life and health of the deceased; all such as arise out of the unskilfulness of medical practitioners; or the imprisonment of the party occasioned by the negligence of his attorney, no action, generally speaking, can be sustained by the executor or administrator on a breach of the implied promise by the person employed to exhibit a proper portion of skill and attention; such cases being in substance actions for injuries to the person; 2 Maule & S. 415, 416; 8 Mees. & W. 854. And it has been held that for the breach of an implied promise of an attorney to investigate the title to a freehold estate, the executor of the purchaser cannot sue without stating that the testator sustained some actual damage to his estate; 4 J. B. Moore, 532. But the law on this point has been considerably modified by statute.

On the other hand, where the breach of the implied promise has occasioned damage to the *personal estate* of the deceased, though it has been said that an action in form *ex contractu* founded upon a *tort* whereby damage has been occasioned to the estate of the deceased,

as debt against the sheriff for an escape, does not survive at common law, 1 Ga. 514 (though in this case the rule is altered in that state by statute), yet the better opinion is that, if the executor can show that damage has accrued to the *personal estate* of the deceased by the breach of an express or implied promise, he may well sustain an action at common law, to recover such damage, though the action is in some sort founded on a *tort*; Wms. Exec. 676; citing, *in extenso*, 2 Brod. & B. 102; 4 J. B. Moore, 532. And see 3 Wooddeson, Lect. 78, 79; Marsh. 14. So, by waiving the *tort* in a trespass, and going for the value of the property, the action of *assumpsit* lies as well for as against executors; 1 Bay, 58.

In the case of an action on a contract commenced against joint defendants one of whom dies pending the suit, the rule varies. In some of the states the personal representatives of the deceased defendant may be added as parties and the judgment taken against them jointly with the survivors; 27 Miss. 455; 9 Tex. 519. In others the English rule obtains which requires judgment to be taken against the survivors only; and this is conceived to be the better rule, because the judgment against the original defendants is *de bonis propriis*, while that against the executors is *de bonis testatoris*; 119 Mass. 361.

TORTS.—The ancient maxim which we are discussing applies more peculiarly to cases of *tort*. It was a principle of the common law that, if an injury was done either to the person or property of another for which *damages* only could be recovered in satisfaction,—where the declaration imputes a *tort* done either to the person or property of another, and the plea must be *not guilty*,—the action died with the person to whom or by whom the wrong was done. See Wms. Exec. 668, 669; 3 Bla. Com. 302; 1 Saund. 216, 217, n. (1); Cowp. 371–377; 3 Wooddeson, Lect. 73; Viner, Abr. *Executors*, 123; Comyn, Dig. *Administrator*, B, 13.

But if the goods, etc., of the testator taken away continue in specie in the hands of the wrong-doer, it has long been decided that *replevin* and *detinue* will lie for the executor to recover back the specific goods, etc.; W. Jones, 173, 174; 1 Saund. 217, note (1); 1 Hempst. C. C. 711; 10 Ark. 504; or, in case they are sold, an action for money had and received will lie for the executor to recover the value; 1 Saund. 217, n. (1). And actions *ex delicto*, where one has obtained the property of another and converted it, survive to the representatives of the injured party, as *replevin*, *trespass de bonis asport*. But where the wrong-doer acquired no gain, though the other party has suffered loss, the death of either party destroys the right of action; 3 Mass. 351; 6 How. 11; 1 Bay, 58; 4 Mass. 480; 13 *id.* 272, 454; 1 Root, 216.

Successive innovations upon this rule of the common law have been made by various statutes with regard to actions which survive to executors and administrators.

The stat. 4 Ed. III. c. 7, gave a remedy to executors for a *trespass* done to the personal estate of their testators, which was extended to executors of executors by the stat. 25 Ed. III. c. 5. But these statutes did not include wrongs done to the person or freehold of the testator or intestate; Wms. Exec. 670. By an equitable construction of these statutes, an executor or administrator shall now have the same actions for any injury done to the personal estate of the testator in his lifetime, *whereby it has become less beneficial* to the executor or administrator, as the deceased himself might have had, whatever the form of action may be; 1 Saund. 217, n. (1); 1 Carr. & K. 271; Ow. 99; 7 East, 134, 136; 11 Viner, Abr. 125; Latch, 167; Poph. 190; W. Jones, 173, 174; 2 Maule & S. 416; 5 Coke, 27 a; 4 Mod. 403; 12 *id.* 71; Ld. Raym. 973; 1 Ventr. 31; 1 Rolle, Abr. 912; Cro. Car. 297; 2 Brod. & B. 103; 1 Stra. 212; 2 Brev. 27.

And the laws of the different states, either by express enactment or by having adopted the English statutes, give a remedy to executors in cases of injuries done to the personal property of their testator in his lifetime. Trover for a conversion in the lifetime of the testator may be brought by his executor; T. U. P. Charlt. 261; 4 Ark. 173; 11 Ala. n. s. 859. But an executor cannot sue for expenses incurred by his testator in defending against a groundless suit; 1 Day, 285; nor in *Alabama* (under the Act of 1826) for any injury done in the lifetime of deceased; 15 Ala. 109; nor in *Vermont* can he bring *trespass on the case*, except to recover damages for an injury to some specific property; 20 Vt. 244. And he cannot bring *case* against a sheriff for a false return in testator's action; *Ibid.* But he may have *case* against the sheriff for not keeping property attached, and delivering it to the officer holding the execution in his testator's suit; 20 Vt. 244, n.; and *case* against the sheriff for the default of his deputy in not paying over to testator money collected in execution; 22 Vt. 108. In *Maine*, an executor may revive an action against the sheriff for misfeasance of his deputy, but not an action against the deputy for his misfeasance; 30 Me. 194. So, where the action is merely penal, it does not survive; Cam. & N. 72; as to recover penalties for taking illegal fees by an officer from the intestate in his lifetime; 7 S. & R. 183. But in such case the administrator may recover back the excess paid above the legal charge; *Ibid.*

The stat. 3 & 4 W. IV. c. 42, § 2, gave a remedy to executors, etc., for injuries done in the lifetime of the testator or intestate to his real property, which case was not embraced in the stat. Ed. III. This statute has introduced a material alteration in the maxim *actio personalis moritur cum persona* as well in favor of executors and administrators of the party injured as against the personal representatives of the wrong-doer, but respects only injuries to personal and real property;

Chitty, Pl. Parties to Actions in form *ex delicto*. Similar statutory provisions have been made in most of the states. Thus, *trespass quare clausum fregit* survives in *North Carolina*, 4 Dev. & B. 68; 3 Dev. No. C. 153; in *Maryland*, 1 Md. 102; in *Tennessee*, 3 Sneed, 128; and in *Massachusetts*, 21 Pick. 250; even if action was begun after the death of the injured party; 22 Pick. 495; in *New Jersey*, 38 N. J. L. 296. *Proceedings to recover damages for injuries to land by overflowing* survive in *North Carolina*, 7 Ired. 20; and *Virginia*, 11 Gratt. 1. *Aliter* in *South Carolina*, 10 Rich. 92; and *Maryland*, 1 Harr. & M'H. 224. *Ejectment* in the U. S. circuit court does not abate by death of plaintiff; 22 Vt. 659. But in *Illinois* the statute law allows an action to executors only for an injury to the personalty, or personal wrongs, leaving injuries to realty as at common law; 18 Ill. 403.

Injuries to the person. In cases of injuries to the *person*, whether by assault, battery, false imprisonment, slander, negligence, or otherwise, if either the party who received or he who committed the injury die, the maxim applies rigidly, and no action at *common law* can be supported either by or against the executors or other personal representatives; 3 Bla. Com. 302; 2 Maule & S. 408. Case for the seduction of a man's daughter; 9 Ga. 69; case for libel; 5 Cush. 544; and for malicious prosecution; 5 Cush. 543; are instances of this. But in one respect this rule has been materially modified in England by the stat. 9 & 10 Vict. c. 93, known as Lord Campbell's Act, and in this country by enactments of similar purport in many of the states. These provide for the case where a wrongful act, neglect, or default has caused the death of the injured person, and the act is of such a nature that the injured person, had he lived, would have had an action against the wrong-doer. In such cases the wrong-doer is rendered liable, in general, not to the executors or administrators of the deceased, but to his near relations, husband, wife, parent, or child. In the construction given to these acts, the courts have held that the measure of damages is in general the pecuniary value of the life of the person killed to the person bringing suit, and that vindictive or exemplary damages by reason of gross negligence on the part of the wrong-doer are not allowable; Sedg. Damages.

Pennsylvania, New Jersey, New York, Massachusetts, Connecticut, and some other states, have statutes founded on Lord Campbell's Act. In *Massachusetts*, under the statute, an action may be brought against a city or town for damages to the person of deceased occasioned by a defect in a highway; 7 Gray, 544. But where the death, caused by a railway collision, was instantaneous, no action can be maintained under the statute of that state; for the statute supposes the party deceased to have been once entitled to an action for the injury, and either to have com-

menced the action and subsequently died, or, being entitled to bring it, to have died before exercising the right; 9 Cush. 108. But the accruing of the right of action does not depend upon intelligence, consciousness, or mental capacity of any kind on the part of the person injured; 9 Cush. 478. For the law in *New York*, see 16 Barb. 54; 15 N. Y. 432; in *Missouri*, 18 Mo. 162; in *Connecticut*, 24 Conn. 575; in *Maine*, 45 Me. 209; in *Pennsylvania*, 44 Penn. 175.

Actions against the executors or administrators of the wrong-doer. The common law principle was that if an injury was done either to the person or property of another, for which damages only could be recovered in satisfaction, the action died with the person by whom the wrong was committed; 1 Saund. 216 a, note (1); 1 Harr. & M'H. 224. And where the cause of action is founded upon any *malfeasance* or *misfeasance*, is a *tort*, or arises *ex delicto*, such as trespass for taking goods, etc., trover, false imprisonment, assault and battery, slander, deceit, diverting a water-course, obstructing lights, and many other cases of the like kind, where the *declaration* imputes a tort done either to the person or the property of another, and the *plea* must be *not guilty*, the rule of the common law is *actio personalis moritur cum persona*; and if the person by whom the injury was committed dies, no action of that kind can be brought against his executor or administrator. But now in England the stat. 3 & 4 W. IV. c. 42, § 2, authorizes an action of trespass, or trespass on the case, for an injury committed by deceased in respect to property *real* or *personal* of another. And similar provisions are in force in most of the states of this country. Thus, in *Alabama*, by statute, *trover* may be maintained against an executor for a conversion by his testator; 11 Ala. n. s. 859. So in *New Jersey*, 1 Harr. (N. J.) 54; *Georgia*, 17 Ga. 495; and *North Carolina*, 10 Ired. 169.

In *Virginia*, by statute, *detinue* already commenced against the wrong-doer survives against his executor, if the chattel actually came into the executor's possession; otherwise not; 6 Leigh, 42, 344. So in *Kentucky*, 5 Dana, 34. *Replevin* in *Missouri* does not abate on the death of defendant; 21 Mo. 115; nor does an action on a *replevin bond* in *Delaware*, 5 Harr. (Del.) 381. It has, indeed, been said that where the wrong-doer has secured no benefit to himself at the expense of the sufferer, the cause of action does not survive, but that where, by means of the offence, property is acquired which benefits the testator, then an action for the value of the property survives against the executor; 6 How. 11; 3 Mass. 321; 4 *id.* 480; 5 Pick. 285; 20 Johns. 43; 1 Root, Conn. 216; 4 Halst. 173; 1 Bay, 58; and that where the wrong-doer has acquired gain by his wrong, the injured party may waive the *tort* and bring an action *ex contractu* against the representatives to recover compensation; 5 Pick. 285; 4 Halst. 173.

But this rule, that the wrong-doer must have acquired a gain by his act in order that the cause of action may survive against his representatives, is not universal. Thus, though formerly in *New York* an action would not lie for a fraud of deceased which did not benefit the assets, yet it was otherwise for his fraudulent performance of a contract; 20 Johns. 43; and now the statute of that state gives an action against the executor for every injury done by the testator, whether by force or negligence, to the property of another; Hill & D. 116; as for fraudulent representations by the deceased in the sale of land; 19 N. Y. 464; or wasting, destroying, taking, or carrying away personal property; 2 Johns. 227. In *Massachusetts*, by statute, a sheriff's executors are liable for his official misconduct; 7 Mass. 317; 13 *id.* 454, but not the executors of a deputy sheriff; *Ibid.* So in *Kentucky*; 9 B. Monr. 135. And in *Missouri*, for false return of execution; 10 Mo. 234. Under the statute of *Ohio*, case for injury to property survives; 4 McLean, C. C. 599; under statute in *Missouri*, trespass; 15 Mo. 619; and a suit against an owner for the criminal act of his slave; 23 Mo. 401; in *North Carolina*, deceit in sale of chattels; 1 Car. Law-Rep. 529; and the remedy by petition for damages caused by overflowing lands; 1 Ired. 24; in *Pennsylvania*, by statute, an action against an attorney for neglect; 24 Penn. St. 114; and such action has been maintained in England; 3 Stark. 154; 1 Dowl. & R. 30.

But in *Texas* the rule that the right of action for torts unconnected with contract does not survive the death of the wrong-doer, has not been changed by statute; 12 Tex. 11. And in *California* trespass does not lie against the representatives of the wrong-doer; 3 Cal. 370; nor in *Alabama* does it survive against the representatives of defendant; 19 Ala. 181; and an action for malicious prosecution does not survive defendant's death; 121 Mass. 550. *Detinue* does not survive in *Tennessee*, whether brought in the lifetime of the wrong-doer or not; 3 Yerg. 133; nor in *Missouri*, under the stat. of 1835; 17 Mo. 362. *Trespass for mesne profits* does not lie against personal representatives in *Pennsylvania*; 5 Watts, 474; 3 Penn. 93; nor in *New Hampshire*; 20 Vt. 326; nor in *New York*; 2 Bradf. N. Y. 80; but the representatives may be sued on contract; *Ibid.* But this action lies in *North Carolina*, 3 Hawks, 390, and *Vermont*, by statute; 20 Vt. 326. *Trespass for crim. con.*, where defendant dies pending the suit, does not survive against his personal representatives; 9 Penn. 128.

Where the intestate had falsely pretended that he was divorced from his wife, whereby another was induced to marry him, the latter cannot maintain an action against his personal representatives; 31 Penn. 533. *Case for nuisance* does not lie against executors of wrong-doer; 1 Bibb, 246; 73 Ill. 214; nor for fraud in the exchange of horses; 5 Ala. n. s. 369;

nor, under the statute of *Virginia*, for fraudulently recommending a person as worthy of credit; 17 How. 212; nor for negligence of a constable, whereby he failed to make the money on an execution; 3 Ala. N. S. 366; nor for misfeasance of constable; 29 Me. 462; nor against the personal representatives of a sheriff for an escape, or for taking insufficient bail bond; Harr. 42; nor against the administrators of the marshal for a false return of execution, or imperfect and insufficient entries thereon; 6 How. 11; nor does *debt* for an escape survive against the sheriff's executors; 1 Caines, 124; *aliter* in *Georgia*, by statute; 1 Ga. 514. An action against the sheriff to recover penalties for his failure to return process does not survive against his executors; 13 Ired. 433; nor does an action lie against the representatives of a deceased postmaster for money feloniously taken out of letters by his clerk; 1 Johns. 396. See **ABATEMENT**.

ACTIO IN PERSONAM. (Lat. an action against the person).

A personal action.

This is the term in use in the civil law to denote the actions which in the common law are called personal. In modern usage it is applied in English and American law to those suits in admiralty which are directed against the person of the defendant, as distinguished from those *in rem* which are directed against the specific thing from which (or rather the proceeds of the sale of which) the complainant expects and claims a right to derive satisfaction for the injury done to him; 2 Parsons, Mar. Law, 663.

ACTIO PRÆSCRIPTIS VERBIS. In Civil Law. A form of action which derived its force from continued usage or the *responsa prudentium*, and was founded on the unwritten law; 1 Spence, Eq. Jur. 212.

The distinction between this action and an *actio in factum* is said to be, that the latter was founded not on usage or the unwritten law, but by analogy to or on the equity of some subsisting law; 1 Spence, Eq. Jur. 212.

ACTIO REALIS (Lat.). A real action. The proper term in the civil law was *Rei Vindicatio*; Inst. 4. 6. 3.

ACTIO IN REM. An action against the thing. See **ACTIO IN PERSONAM**.

ACTIO REDHIBITORIA. In Civil Law. An action to compel a vendor to take back the thing sold and return the price paid.

ACTIO RESCISSORIA. In Civil Law. An action for rescinding a title acquired by prescription in a case where the party bringing the action was entitled to exemption from the operation of the prescription.

ACTIO PRO SOCIO. In Civil Law. An action by which either partner could compel his co-partners to perform the partnership contract; Story, Partn., Bennett ed. § 352; Pothier, Contr. de Société, n. 34.

ACTIO STRICTI JURIS (Lat. an action of strict right). An action in which the judge followed the formula that was sent to

him closely, administered such relief only as that warranted, and admitted such claims as were distinctly set forth by the pleadings of the parties; 1 Spence, Eq. Jur. 218.

ACTIO UTILIS. An action for the benefit of those who had the beneficial use of property, but not the legal title; an equitable action; 1 Spence, Eq. Jur. 214.

It was subsequently extended to include many other instances where a party was equitably entitled to relief, although he did not come within the strict letter of the law and the formulæ appropriate thereto.

ACTIO VULGARIS. In Civil Law. A legal action; a common action. Sometimes used for *actio directa*; 1 Mackeldey, Civ. L. 189.

ACTION (Lat. *agere*, to do; to lead; to conduct). A doing of something; something done.

In Practice. The formal demand of one's right from another person or party, made and insisted on in a court of justice. In a quite common sense, action includes all the formal proceedings in a court of justice attendant upon the demand of a right made by one person or party of another in such court, including an adjudication upon the right and its enforcement or denial by the court.

In the Institutes of Justinian an action is defined as *jus persequendi in judicio quod sibi debetur* (the right of pursuing in a judicial tribunal what is due one's self); Inst. 4. 6. In the Digest, however, where the signification of the word is expressly treated of, it is said, *Actio generaliter sumitur; vel pro ipso jure quod quis habet persequendi in judicio quod suum est sibi ve debetur; vel pro hac ipsa persecutione seu juris exercitio* (Action in general is taken either as that right which each one has of pursuing in a judicial tribunal his own or what is due him; or as the pursuit itself or exercise of the right); Dig. 50. 16. 16. Action was also said *continere formam agendi* (to include the form of proceeding); Dig. 1. 2. 10.

This definition of action has been adopted by Mr. Taylor (Civ. Law, p. 50). These forms were prescribed by the prætors originally, and were to be very strictly followed. The actions to which they applied were said to be *stricti juris*, and the slightest variation from the form prescribed was fatal. They were first reduced to a system by Appius Claudius, and were surreptitiously published by his clerk, Cneius Flavius. The publication was so pleasing to the people that Flavius was made a tribune of the people, a senator, and a curule edile (a somewhat more magnificent return than is apt to await the labors of the editor of a modern book of forms); Dig. 1. 2. 5.

These forms were very minute, and included the form for pronouncing the decision.

In modern law the signification of the right of pursuing, etc., has been generally dropped, though it is recognized by Bracton, 98 b; Coke, 2d Inst. 40; 3 Bla. Com. 116; while the two latter senses of the exercise of the right and the means or method of its exercise are still found.

The vital idea of an action is, a proceeding on the part of one person as actor against another, for the infringement of some right of the first, before a court of justice, in the manner prescribed by the court or the law.

Subordinate to this is now connected in a quite common use, the idea of the answer of the de-

defendant or person proceeded against; the adducing evidence by each party to sustain his position; the adjudication of the court upon the right of the plaintiff; and the means taken to enforce the right or recompense the wrong done, in case the right is established and shown to have been injuriously affected.

Actions are to be distinguished from those proceedings, such as writ of error, *scire facias*, mandamus, and the like, where, under the form of proceedings, the court and not the plaintiff appears to be the actor; 6 Binn. 9. And it is not regularly applied, it would seem, to proceedings in a court of equity; 3 S. C. 417; 71 Penn. 170.

In the Civil Law.

Civil Actions.—Those personal actions which are instituted to compel payments or do some other thing purely civil; Pothier, *Introd. Gen. aux Coutumes*, 110.

Criminal Actions.—Those personal actions in which the plaintiff asks reparation for the commission of some tort or injury which he or those who belong to him have sustained.

Mixed Actions are those which partake of the nature of both real and personal actions; as, actions of partition, actions to recover property and damages; Just. Inst. 4, 6, 18–20; Domat, *Supp. des Lois Civiles*, liv. 4, tit. 1, n. 4.

Mixed Personal Actions are those which partake of both a civil and a criminal character.

Personal Actions are those in which one person (*actor*) sues another as defendant (*reus*) in respect of some obligation which he is under to the actor, either *ex contractu* or *ex delicto*, to perform some act or make some compensation.

Real Actions.—Those by which a person seeks to recover his property which is in the possession of another.

In the Common Law.

The action properly is said to terminate at judgment; Coke, *Litt.* 289 a; Rolle, *Abr.* 291; 3 Bla. Com. 116; 3 Bouvier, *Inst.* n. 2639.

Civil Actions.—Those actions which have for their object the recovery of private or civil rights, or of compensation for their infraction.

Criminal Actions.—Those actions prosecuted in a court of justice, in the name of the government, against one or more individuals accused of a crime. See 1 Chitty, *Crim. Law*.

Local Actions.—Those civil actions the cause of which could have arisen in some particular place or county only. See LOCAL ACTIONS.

Mixed Actions.—Those which partake of the nature of both real and personal actions. See MIXED ACTION.

Personal Actions.—Those civil actions which are brought for the recovery of personal property, for the enforcement of some contract, or to recover damages for the commission of an injury to the person or property. See PERSONAL ACTION.

Real Actions.—Those brought for the specific recovery of lands, tenements, or hereditaments; Stephen, *Pl.* 3. See REAL ACTION.

Transitory Actions.—Those civil actions the cause of which might well have arisen in one place or county as well as another. See TRANSITORY ACTION.

In French Law. Stock in a company; shares in a corporation.

ACTION OF BOOK DEBT. A form of action resorted to in the states of Connecticut and Vermont for the recovery of claims, such as usually evidenced by a book account; 1 Day, 105; 4 *id.* 105; 2 Vt. 366. See 1 Conn. 75; 11 *id.* 205.

ACTION REDHIBITORY. See REDHIBITORY ACTION.

ACTION RESCISSORY. See RESCISSORY ACTION.

ACTIONS ORDINARY. In Scotch Law. All actions which are not rescissory; Ersk. *Inst.* 4, 1, 18. See ORDINARY ACTIONS.

ACTIONABLE. For which an action will lie; 3 Bla. Com. 23.

Where words in themselves are actionable, malicious intent in publishing them is an inference of law; 2 Greenl. Ev. § 418. See LIBEL; SLANDER.

ACTIONARY. A commercial term used in Europe to denote a proprietor of shares or actions in a joint stock company.

ACTIONES NOMINATÆ (Lat. named actions).

In English Law. Those writs for which there were precedents in the English Chancery prior to the statute 13 Edw. I. (*Westm. 2d*) c. 34.

The clerks would make no writs except in such actions prior to this statute, according to some accounts. See 17 S. & R. 195; CASE; ACTION.

ACTON BURNELL. An ancient English statute, so called because enacted by a parliament held at the village of Acton Burnell; 11 Edw. 1.

It is otherwise known as *statutum mercatorum* or *de mercatoribus*, the statute of the merchants. It was a statute for the collection of debts, the earliest of its class, being enacted in 1283.

A further statute for the same object, and known as *De Mercatoribus*, was enacted 13 Edw. I. (c. 3.). See STATUTE MERCHANT.

ACTOR (Lat. *agere*). In Civil Law. A patron, pleader, or advocate; Du Cange; Cowel; Spelman.

Actor ecclesie.—An advocate for a church; one who protects the temporal interests of a church. *Actor ville* was the steward or head-bailiff of a town or village; Cowel.

One who takes care of his lord's lands; Du Cange.

A guardian or tutor. One who transacts the business of his lord or principal; nearly synonymous with agent, which comes from the same word.

The word has a variety of closely-related meanings, very nearly corresponding with manager. Thus, *actor domina*, manager of his master's farm; *actor ecclesie*, manager of church prop-

erty; *actores provinciarum*, tax-gatherers, treasurers, and managers of the public debt.

A plaintiff; contrasted with *reus* the defendant. *Actores regis*, those who claimed money of the king; Du Cange, *Actor*; Spelman, Gloss.; Cowel.

ACTRIX (Lat.). A female actor; a female plaintiff; Calvinus, Lex.

ACTS OF COURT. Legal memoranda made in the admiralty courts in England, in the nature of pleas.

For example, the English court of admiralty disregards all tenders except those formally made by acts of court; Abbott, Shipp. 403; Dunlop, Adm. Pr. 104, 105; 4 C. Rob. Adm. 103; 1 Hagg. Adm. 157.

ACTS OF SEDERUNT. In Scotch Law. Ordinances for regulating the forms of proceeding, before the court of session, in the administration of justice, made by the judges, who have the power by virtue of a Scotch Act of Parliament passed in 1540; Erskine, Pract. book 1, tit. 1, § 14.

ACTUAL DAMAGES. The damages awarded for a loss or injury actually sustained; in contradistinction from damages implied by law, and from those awarded by way of punishment. See DAMAGES.

ACTUARIUS (Lat.). One who drew the acts or statutes.

One who wrote in brief the public acts.

An officer who had charge of the public baths; an officer who received the money for the soldiers, and distributed it among them; a notary.

An *actor*, which see; Du Cange.

ACTUARY. The manager of a joint stock company, particularly an insurance company; Penny Cyc.

A clerk, in some corporations vested with various powers.

In Ecclesiastical Law. A clerk who registers the acts and constitutions of the convocation.

ACTUM (Lat. *agere*). A deed; something done.

Datum relates to the time of the delivery of the instrument; *actum*, the time of making it; *factum*, the thing made. *Gestum*, denotes a thing done without writing; *actum*, a thing done in writing.

Du Cange. ACTUS.

ACTUS (Lat. *agere*, to do; *actus*, done).

In Civil Law. A thing done. See ACTUM.

In Roman Law. A servitude which carried the right of driving animals and vehicles across the lands of another.

It included also the *iter*, or right of passing across on foot or on horseback.

In English Law. An act of parliament; 8 Coke, 40.

A foot and horse way; Coke, Litt. 56 a.

AD (Lat.). At; by; for; near; on account of; to; until; upon.

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AD ABUNDANTIOREM CAUTELAM (Lat.). For greater caution.

AD ALIUD EXAMEN (Lat.). To another tribunal; Calvinus, Lex.

AD CUSTAGIA. At the costs; Toulrier; Cowel; Whishaw.

AD CUSTUM. At the cost; 1 Sharsw. Bla. Com. 314.

AD DAMNUM (Lat. *damnæ*). To the damage.

In Pleading. The technical name of that part of the writ which contains a statement of the amount of the plaintiff's injury.

The plaintiff cannot recover greater damages than he has laid in the *ad damnum*; 2 Greenl. Ev. § 260.

AD EXCAMBIUM (Lat.). For exchange; for compensation; Bracton, fol. 12 b, 37 b.

AD EXHÆREDITATIONEM. To the disherison, or disinheriting.

The writ of waste calls upon the tenant to appear and show cause why he hath committed waste and destruction in the place named *ad exhæreditationem*, etc.; 3 Bla. Com. 228; Fitzherbert, Nat. Brev. 55.

AD FACTUM PRÆSTANDUM. In Scotch Law. The name given to a class of obligations of great strictness.

A debtor *ad fac. præ.* is denied the benefit of the act of grace, the privilege of sanctuary, and the *cessio honorum*; Erskine, Inst. lib. 3, tit. 3, § 62; Kames, Eq. 216.

AD FIDEM. In allegiance; 2 Kent, 56. Subjects born in allegiance are said to be born *ad fidem*.

AD FILUM AQUÆ. To the thread of the stream; to the middle of the stream; 2 Cush. 207; 4 Hill (N. Y.), 369; 2 N. H. 869; 2 Washb. R. P. 632, 633; 3 Kent, 428 *et seq.*

A former meaning seems to have been, to a stream of water; Cowel; Blount. *Ad medium filum aquæ* would be etymologically more exact; 2 Eden, Inj. 260, and is often used; but the common use of *ad filum aquæ* is undoubtedly to the thread of the stream; 3 Sumn. C. C. 170; 1 M' Cord, 580; 3 Kent, 431; 20 Wend. 149; 4 Pick. 272.

AD FILUM VIÆ (Lat.). To the middle of the way; 8 Metc. Mass. 260.

AD FIRMAM. To farm.

Derived from an old Saxon word denoting rent, according to Blackstone, occurring in the phrase, *dedi concessi et ad firmam tradidi* (I have given, granted, and to farm let); 2 Bla. Com. 317. *Ad firmam noctis* was a fine or penalty equal in amount to the estimated cost of entertaining the king for one night; Cowel. *Ad feodi firmam*, to fee farm; Spelman, Gloss.; Cowel.

AD INQUIRENDUM (Lat. for inquiry).

In Practice. A judicial writ, commanding inquiry to be made of any thing relating to a cause depending in court.

AD INTERIM (Lat.). In the mean time.

An officer is sometimes appointed *ad interim*, when the principal officer is absent, or for some cause incapable of acting for the time.

AD LARGUM. At large: as, title at large; assize at large; see Dane, Abr. c. 144, art. 16, § 7.

AD LITEM (Lat. *lites*). For the suit.

Every court has the power to appoint a guardian *ad litem*; 2 Kent, 229; 2 Bla. Com. 427.

AD LUCRANDUM VEL PERDENDUM. For gain or loss.

AD MAJORAM CAUTELAM (Lat.). For greater caution.

AD NOCUMENTUM (Lat.). To the hurt or injury.

In an assize of nuisance, it must be alleged by the plaintiff that a particular thing has been done, *ad nocumentum liberi tenementiarii* (to the injury of his freehold); 3 Bla. Com. 221.

AD OSTIUM ECCLESIE (Lat.). At the church-door.

One of the five species of dower formerly recognized at the common law; 1 Washb. R. P. 149; 2 Bla. Com. 132.

AD QUÆRIMONIAM. On complaint of.

AD QUEM (Lat.). To which.

The correlative term to *a quo*, used in the computation of time, definition of a risk, etc., denoting the end of the period or journey.

The *terminus a quo* is the point of beginning or departure; the *terminus ad quem*, the end of the period or point of arrival.

AD QUOD DAMNUM (Lat.). What injury.

A writ issuing out of and returnable into chancery, directed to the sheriff, commanding him to inquire by a jury what damage it will be to the king, or any other, to grant a liberty, fair, market, highway, or the like.

The name is derived from the characteristic words denoting the nature of the writ, to inquire how great an injury it will be to the king to grant the favor asked; Whishaw, Fitzherbert, Nat. Brev. 221; Termes de la Ley.

AD RATIONEM PONERE. To cite a person to appear.

AD SECTAM. At the suit of.

It is commonly abbreviated. It is used where it is desirable to put the name of the defendant first, as in some cases where the defendant is filing his papers; thus, Roe *ads.* Doe, where Doe is plaintiff and Roe defendant. It is found in the indexes to cases decided in some of our older American books of reports, but has become pretty much disused.

AD TERMINUM QUI PRÆTERIT.

A writ of entry which formerly lay for the lessor or his heirs, when a lease had been made of lands and tenements, for term of life or years, and, after the term had expired, the lands were withheld from the lessor by the tenant, or other person possessing the same; Fitzherbert, Nat. Brev. 201.

The remedy now applied for holding over is by

ejectionment, or, under local regulations, by summary proceedings.

AD TUNC ET IBIDEM. In Pleading. The technical name of that part of an indictment containing the statement of the subject-matter "then and there being found;" Bacon, Abr. *Indictment*, G, 4; 1 No. C. 93.

In an indictment, the allegation of time and place must be repeated in the averment of every distinct material fact; but after the day, year, and place have once been stated with certainty, it is afterwards, in subsequent allegations, sufficient to refer to them by the words *et ad tunc et ibidem*, and the effect of these words is equivalent to an actual repetition of the time and place. The *ad tunc et ibidem* must be added to every material fact in an indictment; Saund. 95. Thus, an indictment which alleged that J. S. at a certain time and place made an assault upon J. N., *et eum cum gladio felonice percussit*, was held bad, because it was not said, *ad tunc et ibidem percussit*; Dy. 68, 69. And where, in an indictment for murder, it was stated that J. S. at a certain time and place, having a sword in his right hand, *percussit* J. N., without saying *ad tunc et ibidem percussit*, it was held insufficient; for the time and place laid related to the having the sword, and consequently it was not said when or where the stroke was given; Cro. Eliz. 738; 2 Hale, Pl. Cr. 178. And where the indictment charged that A. B. at N., in the county aforesaid, made an assault upon C. D. of F. in the county aforesaid, and him *ad tunc et ibidem quodam gladio percussit*, this indictment was held to be bad, because two places being named before, if it referred to both, it was impossible; if only to one, it must be to the last, and then it was insensible; 2 Hale, Pl. Cr. § 180.

AD VALOREM (Lat.). According to the valuation.

Duties may be specific or *ad valorem*. *Ad valorem* duties are always estimated at a certain per cent. on the valuation of the property; 3 U. S. Stat. at Large, 732; 24 Miss. 501.

AD VITAM AUT CULPAM (For life or until misbehavior).

Words descriptive of a tenure of office "for life or good behavior," equivalent to *quamdiu bene se gesserit*.

ADDICERE (Lat.). In Civil Law. To condemn; Calvinus, Lex.

Addictio denotes a transfer of the goods of a deceased debtor to one who assumes his liabilities; Calvinus, Lex. Also used of an assignment of the person of the debtor to the successful party in a suit.

ADDITION (Lat. *additio*, an adding to).

Whatever is added to a man's name by way of title or description, as additions of mystery, place, or degree; Cowel; Termes de la Ley; 10 Wentworth, Plead. 371; Salk. 5; 2 Ld. Raym. 988; 1 Wils. 244.

Additions of estate are esquire, gentleman, and the like.

These titles can, however, be claimed by none, and may be assumed by any one. In *Nash v. Battersby* (2 Ld. Raym. 986; 6 Mod. 80), the plaintiff declared with the addition of gentleman. The defendant pleaded in abatement that the plaintiff was no gentleman. The plaintiff demurred, and it was held ill; for, said the court, it amounts to a confession that the plaintiff is no gentleman, and then not the person named in the

count. He should have replied that he is a gentleman.

Additions of mystery are such as scrivener, painter, printer, manufacturer, etc.

Additions of places are descriptions by the place of residence, as A. B. of Philadelphia, and the like. See Bacon, Abr. *Addition*; Doctr. Plac. 71; 2 Viner, Abr. 77; 1 Lilly, Reg. 39; 1 Metc. Mass. 151.

The statute of additions extends only to the party indicted. An indictment, therefore, need not describe, by any addition, the person upon whom the offence therein set forth is alleged to have been committed; 2 Leach, Cr. Cas. 4th ed. 861; 10 Cush. 402. And if an addition is stated, it need not be proved; 2 Leach, Cr. Cas. 4th ed. 547; 2 Carr. & P. 230. But where a defendant was indicted for marrying E. C., "widow," his first wife being alive, it was held that the addition was material; 1 Mood, Cr. Cas. 303; 4 Carr. & P. 579. At common law there was no need of addition in any case; 2 Ld. Raym. 988; it was required only by stat. 1 Hen. V. c. 5, in cases where process of outlawry lies. In all other cases it is only a description of the person, and common reputation is sufficient; 2 Ld. Raym. 849. No addition is necessary in a *Homine Replegiando*; 2 Ld. Raym. 987; Salk. 5; 1 Wils. 244, 245; 6 Coke, 67.

In French Law. A supplementary process to obtain additional information; Guyot, *Répert.*

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

ADDRESS. In Equity Pleading. That part of a bill which contains the appropriate and technical description of the court where the plaintiff seeks his remedy; Cooper, Eq. Plead. 8; Barton, Suit in Eq. 26; Story, Eq. Plead. § 26; Van Heythuysen, Eq. Draft. 2.

In Legislation. A formal request addressed to the executive by one or both branches of the legislative body, requesting him to perform some act.

It is provided as a means for the removal of judges who are deemed unworthy longer to occupy their situations, although the causes of removal are not such as would warrant an impeachment. It is not provided for in the Constitution of the United States; and even in those states where the right exists it is exercised but seldom, and generally with great unwillingness.

ADELANTADO. In Spanish Law. The military and political governor of a frontier province. His powers were equivalent to those of the president of a Roman province. He commanded the army of the territory which he governed, and, assisted by persons learned in the law, took cognizance of the civil and criminal suits that arose in his province. This office has long since been abolished.

ADEMPTION (Lat. *ademptio*, from *adimere*, to take away). The extinction or withholding of a legacy in consequence of some act of the testator which, though not directly

a revocation of the bequest, is considered in law as equivalent thereto, or indicative of an intention to revoke.

The question of ademption of a *general legacy* depends entirely upon the intention of the testator, as inferred from his acts under the rules established in law. Where the relations of the parties are such that the legacy is, in law, considered as a portion, an advancement during the life of the testator will be presumed an ademption, at least, to the extent of the amount advanced; 5 Mylne & C. 29; 3 Hare, 509; 10 Ala. n. s. 72; 12 Leigh, 1; and see 3 Clark & F. 154; 18 Ves. 151, 153; but not where the advancement and portion are not *ejusdem generis*; 1 Brown, Ch. 555; 1 Roper, Leg. 375; or where the advancement is contingent and the portion certain; 2 Atk. 493; 3 Mylne & C. 374; or where the advancement is expressed to be in lieu of, or compensation for, an interest; 1 Ves. 257; or where the bequest is of uncertain amount; 15 Ves. 513; 4 Brown, Ch. 494; but see 2 Hou. L. Cas. 131; or where the legacy is absolute and the advancement for life merely; 2 Ves. sen. 38; 7 Ves. 516; or where the devise is of real estate; 3 Younge & C. 397.

But where the testator was not a parent of the legatee, nor standing *in loco parentis*, the legacy is not to be held a portion, and the rule as to ademption does not apply; 2 Hare, 424; 2 Story, Eq. Jur. § 1117; except where there is a bequest for a particular purpose and money is advanced by the testator for the same purpose; 2 Brown, Ch. 166; 7 Ves. 516; 1 Ball & B. 303; see 3 Atk. 181; 6 Sim. 528; 3 Mylne & C. 359; 2 P. Will. 140; 1 Pars. Eq. Cas. 139; 15 Pick. 133; 1 Roper, Leg. c. 6.

The ademption of a *specific legacy* is effected by the extinction of the thing or fund, without regard to the testator's intention; 3 Brown, Ch. 432; 2 Cox, Ch. 182; 3 Watts, 338; 1 Roper, Leg. 329; and see 6 Pick. 43; 14 *id.* 318; 16 *id.* 133; 2 Halst. 414; but not where the extinction of the specific thing is by act of law and a new thing takes its place; Forrest, 226; Ambl. 59; or where a breach of trust has been committed or any trick or device practised with a view to defeat the specific legacy; 2 Vern., Rathby ed. 748 n.; 8 Sim. 171; or where the fund remains the same in substance, with some unimportant alterations; 1 Cox, Ch. 427; 3 Brown, Ch. 416; 3 Mylne & K. 296; or where the testator lends the fund on condition of its being replaced; 2 Brown, Ch. 113.

Republication of a will may prevent the effect of what would otherwise cause an ademption; 1 Roper, Leg. 351.

ADHERING (Lat. *adherere*, to cling to). Cleaving to, or joining; as, adhering to the enemies of the United States.

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

A citizen's cruising in an enemy's ship, with a design to capture or destroy American ships, would be an adhering to the enemies of the United States; 4 State Trials, 328; Salk. 634; 2 Gilbert, Ev., Lofft ed. 798.

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

ADITUS (Lat. *adire*). An approach; a way; a public way; Coke, Litt. 56 a.

ADJACENT. Next to, or near.

Two of three lots of land might be described as adjacent to the first, while only the second could be said to be adjoining; 1 Cooke, Tenn. 128.

ADJOURN (Fr. *adjourner*). To put off; to dismiss till an appointed day, or without any such appointment. See ADJOURNMENT.

ADJOURNED TERM. A continuation of a previous or regular term; 4 Ohio St. 473; 22 Ala. n. s. 27. The Massachusetts General Statutes, c. 112, § 26, provide for holding an adjourned law term from time to time.

ADJOURNMENT. The dismissal by some court, legislative assembly, or properly authorized officer, of the business before them, either finally (which, as popularly used, is called an adjournment *sine die*, without day), or to meet again at another time appointed (which is called a temporary adjournment).

The constitution of the United States, art. 1, s. 5, 4, directs that "neither house, during the session of congress, shall, without the consent of the other, adjourn for more than three days, nor to any other place than that in which the two houses shall be sitting." See Comyns, Dig.; Viner, Abr.; Dict. de Jur.

In Civil Law. A calling into court; a summoning at an appointed time; Du Cange.

ADJOURNMENT DAY. **In English Practice**. A day appointed by the judges at the regular sittings for the trial of causes at *nisi prius*.

ADJOURNMENT DAY IN ERROR. **In English Practice**. A day appointed some days before the end of the term at which matters left undone on the affirmand day are finished; 2 Tidd, Pract. 1224.

ADJOURNMENT IN EYRE. The appointment of a day when the justices in eyre mean to sit again; Cowel; Spelman, Gloss.; 1 Bla. Com. 186.

ADJUDICATAIRE. **In Canadian Law**. A purchaser at a sheriff's sale. See 1 Low. Can. 241; 10 *id.* 325.

ADJUDICATION. **In Practice**. A judgment; giving or pronouncing judgment in a case.

In Scotch Law. A process for transferring the estate of a debtor to his creditor; Erskine, Inst. lib. 2, tit. 12, §§ 39-55; Bell, Dict., Shaw ed. 944.

It may be raised not only on a decree of court, but also where the debt is for a liquidated sum. The execution of a summons and notice to the opposite party prevents any transfer of the estate. Every creditor who obtains a decree within a year and a day is entitled to share with the first creditor, and, after ten years' possession under his adjudication, the title of the creditor is complete; Paterson, Comp. 1137, n. The matter is regulated by statute 1672, c. 19, Feb. 26, 1684. See Erskine, lib. 2, c. 12, §§ 15, 16.

ADJUNCTION (Lat. *adjungere*, to join to).

In Civil Law. The attachment or union permanently of a thing belonging to one person to that belonging to another. This union may be caused by *inclusion*, as if one man's diamond be set in another's ring; by *soldering*, as if one's guard be soldered on another's sword; by *sewing*, as by employing the silk of one to make the coat of another; by *construction*, as by building on another's land; by *writing*, as when one writes on another's parchment; or by *painting*, as when one paints a picture on another's canvas.

In these cases, as a general rule, the accessory follows the principal: hence those things which are attached to the things of another become the property of the latter. The only exception which the civilians made was in the case of a picture, which, although an accession, drew to itself the canvas, on account of the importance which was attached to it; Inst. 2. 1. 34; Dig. 41. 1. 9. 2. The common law implicitly adopts the civil law doctrines. See 2 Bla. Com. 404; 1 Bouvier, Inst. n. 499.

ADJUNCTS. Additional judges sometimes appointed in the High Court of Delegates. See Shelford, Lun. 310.

ADJUSTMENT. **In Insurance**. The determining of the amount of a loss; 2 Phillips, Ins. §§ 1814, 1815.

There is no specific form essentially requisite to an adjustment. To render it binding, it must be intended, and understood by the parties to a policy, to be absolute and final. It may be made by indorsement on the policy, or by payment of the loss, or the acceptance of an abandonment; 2 Phillips, Ins. § 1815; 4 Burr. 1966; 1 Campb. 134, 274; 4 Taunt. 725; 13 La. 13; 4 Mete. Mass. 270; 22 Pick. 191. If there is fraud by either party to an adjustment, it does not bind the other; 2 Phillips, Ins. § 1316; 2 Johns. Cas. 233; 3 Campb. 319. If one party is led into a material mistake of fact by fault of the other, the adjustment will not bind him; 2 Phillips, Ins. § 1817; 2 East, 469; 2 Johns. 157; 8 *id.* 334; 4 *id.* 331; 9 *id.* 405; 2 Johns. Cas. 233.

The amount of a loss is governed by that of the insurable interest, so far as it is covered by the insurance. See INSURABLE INTEREST; ABANDONMENT; May, Insurance.

ADMEASUREMENT OF DOWER.

In Practice. A remedy which lay for the heir on reaching his majority, to rectify an assignment of dower made during his minor-

ity, by which the doweress had received more than she was legally entitled to; 2 Bla. Com. 136; Gilbert, Uses, 379.

The remedy is still subsisting, though of rare occurrence. See 1 Washb. R. P. 225, 226; 1 Pick. 314; 2 Ind. 336.

In some of the states, the special proceeding which is given by statute to enable the widow to compel an assignment of dower, is termed an admeasurement of dower.

See, generally, DOWER; Fitzherbert, Nat. Brev. 148; Bacon, Abr. *Dower*, K; Coke, Litt. 39 a; 1 Washb. R. P. 225, 226.

ADMEASUREMENT OF PASTURE. In Practice. A remedy which lay in certain cases for surcharge of common of pasture.

It lay where a common of pasture appurtenant or in gross was certain as to number; or where one had common appendant or appurtenant, the quantity of which had never been ascertained. The sheriff proceeded, with the assistance of a jury of twelve men, to admeasure and apportion the common as well of those who had surcharged as those who had not, and, when the writ was fully executed, returned it to the superior court. *Termes de la Ley*.

The remedy is now abolished in England; 3 Sharsw. Bla. Com. 239, n.; and in the United States; 3 Kent, 419.

ADMINICLE. In Scotch Law. Any writing or deed introduced for the purpose of proof of the tenor of a lost deed to which it refers; Erskine, Inst. lib. 4, tit. 1, § 55; Stair, Inst. lib. 4, tit. 32, §§ 6, 7.

In English Law. Aid; support; stat. 1 Edw. IV. c. 1.

In Civil Law. Imperfect proof; Merlin, *Répert.*

ADMINICULAR EVIDENCE. In Ecclesiastical Law. Evidence brought in to explain and complete other evidence; 2 Lee, Eccl. 595.

ADMINISTERING POISON. An offence of an aggravated character, punishable under the various statutes defining the offence.

The stat. 9 G. IV. c. 31, s. 11, enacts "that if any person unlawfully and maliciously shall administer, or attempt to administer, to any person, or shall cause to be taken by any person, any poison or other destructive thing," etc.; every such offender, etc. In a case which arose under this statute, it was decided that, to constitute the act of administering the poison, it was not absolutely necessary there should have been a delivery to the party poisoned, but that if she took it from a place where it had been put for her by the defendant, and any part of it went into her stomach, it was an administering; 4 Carr. & P. 369; 1 Mood. Cr. Cas. 114.

The statute 7 Will. IV. & 1 Vict. c. 85 enacts that "whosoever, with intent to procure the miscarriage of any woman, shall unlawfully administer to her, or cause to be taken by her, any poison, or other noxious thing," shall be guilty of felony. Upon an indictment under this section, it was proved that the woman requested the prisoner to get her something to procure miscarriage, and

that a drug was both given by the prisoner and taken by the woman with that intent, but that the taking was not in the presence of the prisoner. It was held, nevertheless, that the prisoner had caused the drug to be taken within the meaning of the statute; 1 Dears. & B. 127, 164. It is not sufficient that the defendant merely imagined that the thing administered would have the effect intended, but it must also appear that the drug administered was either a "poison" or a "noxious thing."

ADMINISTRATION (Lat. *administrare*, to assist in).

Of Estates. The management of the estate of an intestate, or of a testator who has no executor; 2 Bla. Com. 494; 1 Williams, Ex. 401. The term is applied broadly to denote the management of an estate by an executor, and also the management of estates of minors, lunatics, etc. in those cases where trustees have been appointed by authority of law to take charge of such estates in place of the legal owners.

At common law, the real estate of an intestate goes to his heirs; the personal, to his administrator. The fundamental rule is that all just debts shall be paid before any further disposition of the property; Coke, 2d Inst. 398. Originally, the king had the sole power of disposing of an intestate's goods and chattels. This power he early transferred to the bishops or ordinaries; and in England it is still exercised by their legal successors, the ecclesiastical courts, who appoint administrators and superintend the administration of estates; 4 Burns, Eccl. Law, 291; 2 Fonblanque, Eq. 313; 1 Williams, Ex. 402.

Ad colligendum. That which is granted for collecting and preserving goods about to perish (*bona peritura*). The only power over these goods is under the form prescribed by statute.

Ancillary. That which is subordinate to the principal administration, for collecting the assets of foreigners. It is taken out in the country where the assets are locally situated; Kent, 43 *et seq.*; 1 Williams, Ex. [362], 6th Am. ed., note (u)—cases cited; 88 Penn. 131; 11 Mass. 256, 263; 44 Ill. 202; 32 Barb. 190; 57 Howard Pr. 208.

Cæterorum. See CÆTERORUM.

Cum testamento annexo. That which is granted where no executor is named in the will, or where the one named dies, or is incompetent or unwilling to act. Such an administrator must follow the statute rules of distribution, except when otherwise directed by the will; Willard, Ex.; 2 Bradf. 22; 4 Mass. 634; 6 Howard, 59, 60. The residuary legatee is appointed such administrator rather than the next of kin; 2 Phil. 54, 310; 1 Ventr. 217; 4 Leigh, 152; 2 Add. 352; 1 Williams, Ex., 6 Am. ed. (462), notes (h)(i).

De bonis non. That which is granted when the first administrator dies before having fully administered. The person so appointed has in general the powers of a common administrator; Bacon, Abr. *Executors*, B, 1; Rolle, Abr. 907; 22 Miss. 47; 27 Ala. 273; 9 Ind. 342; 4 Sneed, 411; 31 Miss. 519; 29 Vt. 170; 11 Md. 412; 6 Metc. 197, 198.

De bonis non cum testamento annexo. That which is granted when an executor dies leaving a part of the estate unadministered; Comyns, Dig. Adm. B, 1; 3 Cush. 28; 4 Watts, 34, 38, 39.

Durante absentia. That which subsists during the absence of the executor and until he has proved the will. In England, by statute, such an administration is raised during the absence of the executor, and is not determined by the executor's dying abroad; 4 Hagg. Eccl. 360; 3 Bos. & P. 26; see 5 Rawle, 264.

Durante minori etate. That which is granted when the executor is a minor. It continues until the minor attains his lawful age to act, which at common law is seventeen years; Godolph. 102; 5 Coke, 29. When an infant is sole executor, the statute 38 Geo. III. c. 87, s. 6 provides that probate shall not be granted to him until his full age of twenty-one years, and that *adm. cum test. annexo* shall be granted in the mean time to his guardian or other suitable person. A similar statute provision exists in most of the United States. This administrator may collect assets, pay debts, sell *bona peritura*, and perform such other acts as require immediate attention. He may sue and be sued; Bacon, Abr. *Executor*, B, 1; Cro. Eliz. 718; 2 Bla. Com. 503; 5 Coke, 29; 35 N. H. 484, 493.

Foreign administration. That which is exercised by virtue of authority properly conferred by a foreign power.

The general rule in England and the United States is that letters granted abroad give no authority to sue or be sued in another jurisdiction, though they may be ground for new probate authority; 5 Ves. 44; 9 Cranch, 151; 12 Wheat. 169; 2 Root, 462; 20 Mart. La. 232; 1 Dall. 456; 1 Binn. 63; 27 Ala. 273; 9 Tex. 13; 21 Mo. 434; 29 Miss. 127; 4 Rand. 158; 10 Yerg. 283; 5 Me. 261; 35 N. H. 484; 4 McLean, C. C. 577; 15 Pet. 1; 13 How. 458. Hence, when persons are domiciled and die in one country as A, and have personal property in another as B, the authority must be had in B, but exercised according to the laws of A; Story, Conf. Laws, 23, 447; 15 N. H. 137; 15 Mo. 118; 5 Md. 467; 4 Bradf. 151, 249; and see DOMICIL.

There is no legal privity between administrators in different states. The principal administrator is to act in the intestate's domicile, and the ancillary is to collect claims and pay debts in the foreign jurisdiction and pay over the surplus to his principal; 2 Metc. Mass. 114; 3 Hagg. Eccl. 199; 6 Humph. 116; 21 Conn. 577; 19 Penn. St. 476; 3 Day, 74; 1 Blatchf. & H. 309; 23 Miss. 199; 2 Curt. Eccl. 241; 1 Rich. 116.

But some courts hold that the probate of a will in a foreign state, if duly authenticated, dispenses with the necessity of taking out new letters in their state; 5 Ired. 421; 2 B. Monr. 12; 18 *id.* 582; 4 Call, 89; 15 Pet. 1; 7 Gill, 95; 12 Vt. 589. So it has been held that possession of property may be taken in a for-

foreign state, but a suit cannot be brought without taking out letters in that state; 2 Ala. 429; 18 Miss. 607; 2 Sandf. Ch. N. Y. 173. See CONFLICT OF LAWS.

Pendente lite. That which is granted pending the controversy respecting an alleged will or the right of appointment. An officer of the court is appointed to take care of the estate only till the suit terminates; 2 P. Will. 589; 2 Atk. 286; 2 Lee, 258; 1 Hagg. Eccl. 313; 26 N. H. 533; 9 Tex. 13; 16 Ga. 13; 18 N. J. L. 15. He may maintain suits, but cannot distribute the assets; 1 Ves. sen. 325; 2 Ves. & B. 97; 1 Ball & B. 192; 7 Md. 282; 31 Penn. St. 465; 51 Mo. 193.

Public. That which the public administrator performs. This happens in many of the states by statute in those cases where persons die intestate, without leaving any who are entitled to apply for letters of administration; 3 Bradf. 151; 4 *id.* 252.

Special. That which is limited either in time or in power. Such administration does not come under the statutes of 31 Edw. III. c. 11, and 21 Hen. VIII. c. 5, on which the modern English and American laws are founded. A judgment against a special administrator binds the estate; 1 Sneed, 430.

Jurisdiction over administrations is in England lodged in the ecclesiastical courts, and these courts delegate the power of administering by *letters of administration*. In the United States, administration is a subject charged upon courts of civil jurisdiction. A perplexing multiplicity of statutes defines the powers of such courts in the various states. The public officer authorized to delegate the trust is called surrogate, judge of probate, registrar of wills, etc.; Williams, Ex. 237, notes; 8 Cranch, 536; 12 Gratt. 85; 1 Watts & S. 396; 11 Ohio, 257; 22 Ga. 431; 29 Miss. 127; 2 Gray, 228; 2 Jones (N. C.), 387. In some states, these courts are of special jurisdiction, while in others the power is vested in county courts; 2 Kent, 410; 9 Dana, 91; 4 Johns. Ch. 552; 4 Md. 1; 11 S. & R. 432; 7 Paige, Ch. 112; 1 Green, N. J. 480; 1 Hill, N. Y. 130; 5 Miss. 638; 12 *id.* 707; 30 *id.* 472.

Death of the intestate must have taken place, or the court will have no jurisdiction. A decree of the court is *prima facie* evidence of his death, and puts the burden of disproof upon the party pleading in abatement; 3 Term, 130; 26 Barb. 383; 18 Ohio, 268.

The *formalities* and requisites in regard to valid appointments and rules, as to notice, defective proceedings, etc., are widely various in the different states. Some of the later cases on the subject are these: 26 Mo. 332; 28 Vt. 819; 28 Ala. n. s. 164, 218; 29 *id.* 510; 1 Bradf. 182; 2 *id.* 200; 16 N. Y. 180; 4 Ind. 355; 10 *id.* 60; 18 Ill. 59; 31 Miss. 430; 12 La. Ann. 44. If letters appear to have been unduly granted, or to an unfaithful person, they will be revoked; 9 Gill, 463; 12 Tex. 100; 18 Barb. 24; 14 Ohio, 268; 4 Sneed, 263; 6 Metc. 370.

The personal property of a decedent is appropriated to the payment of his debts, so far as required, and, until exhausted, must be first resorted to by creditors. And, by certain statutes, courts may grant an administrator power to sell, lease, or mortgage land, when the personal estate of the deceased is not sufficient to pay his debts; 1 Bradf. 10, 182, 234; 2 *id.* 50, 122, 157; 29 Ala. N. S. 210, 542; 4 Mich. 308; 4 Ind. 468; 18 Ill. 519. The purchasers at such a sale get as full a title as if they had been distributees; but no warranty can be implied by the silence of the administrator; 2 Stockt. 206; 20 Ga. 588; 15 Tex. 322; 30 Miss. 147, 502; 31 *id.* 348, 430. And a fraudulent sale will be annulled by the court; 16 N. Y. 174; 2 Bradf. 200. See ASSETS.

Insolvent estates of intestate decedents are administered under different systems prescribed by the statutes of the various states; 4 R. I. 41; 34 N. H. 124, 381; 35 *id.* 484; 1 Sneed, 351; 3 Johns. Ch. 58. See, generally, Raff; Redfield; Toller; Williams; Willard, on *Executors*; Blackstone; Kent; Story, *Conflict of Laws*; DOMICIL; CONFLICT OF LAWS.

Of Government. The management of the executive department of the government.

Those charged with the management of the executive department of the government.

ADMINISTRATOR. A person authorized to manage and distribute the estate of an intestate, or of a testator who has no executor.

In English law, administrators are the officers of the Ordinary appointed by him in pursuance of the statute, and their title and authority are derived exclusively from the ecclesiastical judge, by grants called letters of administration. Williams, Ex. 331. At first the Ordinary was appointed administrator under the statute of Westm. 2d. Next, the 31 Edw. III. c. 11, required the Ordinary to appoint the next of kin and the relations by blood of the deceased. Next, under the 21 Hen. VIII., he could appoint the widow, or next of kin, or both; at his discretion.

The appointment of the administrator must be lawfully made with his consent, and by an officer having jurisdiction. If an improper administrator be appointed, his acts are not void *ab initio*, but are good, usually, until his power is rescinded by authority. But they are void if a will had been made, and a competent executor appointed under it; 8 Cra. 23; 1 Dane, Abr. 556-561; 73 N. Y. 292. But, in general, anybody can be administrator who can make a contract. An infant cannot; a *feme covert* may, with her husband's permission; 4 Bac. Abr. 67; 3 Salk. 21. Improvident persons, drunkards, gamblers, and the like, are disqualified by statute; 6 N. Y. 443; 14 *id.* 449; 30 N. Y. 106.

Persons holding certain relations to the intestate are considered as entitled to an appointment to administer the estate in established order of precedence; 3 Redf. 512.

Order of appointment.—*First in order of*

appointment.—The husband has his wife's personal property, and takes out administration upon her estate. But in some states it is not granted to him unless he is to receive the property eventually. So the widow can ordinarily claim sole administration, though in the discretion of the judge it may be refused her, or she may be joined with another; 2 Bla. Com. 504; Williams, Ex. 342; 18 Pick. 26; 10 Md. 52; 56 Ala. 270.

Second in order of appointment are the next of kin. Kinship is computed by the civil-law rule. The English order, which is adopted in some states, is, *first*, husband or wife; *second*, sons or daughters; *third*, grandsons or granddaughters; *fourth*, great-grandsons or great-granddaughters; *fifth*, father or mother; *sixth*, brothers or sisters; *seventh*, grandparents; *eighth*, uncles, aunts, nephews, nieces, etc.; 1 Atk. 454; 1 P. Will. 41; 2 Add. Eccl. 352; 24 Eng. L. & Eq. 593; 12 La. Ann. 610; 2 Kent, 514; 56 Ala. 539.

In New York the order is, the widow; the children; the father; the brothers; the sisters; the grandchildren; any distributee being next of kin; 2 N. Y. Rev. Stat. 74; 1 Bradf. 64, 200, 259; 2 *id.* 281, 322; 4 *id.* 13, 173; 3 Redf. 512.

When two or three are in the same degree, the probate judge or surrogate may decide between them; and in England he is usually guided by the wishes of the majority of those interested. This discretion, however, is controlled by certain rules of priority concerning equigradal parties, which custom or statute has made. *Males* are generally preferred to females, though from no superior right. *Elder* sons are preferred to younger, usually, and even when no doctrine of primogeniture subsists. So *solvent* persons to insolvent, though the latter may administer. So *business* men to others. So *unmarried* to married women. So relations of the *whole* blood to those of the half blood. So *distributees* to all other kinsmen.

The appointment in all cases is voidable when the court did not give a chance to all parties to come in and claim it. In Massachusetts an administrator cannot be appointed within thirty days, so as to deprive the widow and the next of kin. In general, see Williams, Ex. 251; 1 Salk. 36; 15 Barb. 302; 6 N. Y. 443; 5 Cal. 63; 4 Jones (N. C.), 274; 87 Penn. 163.

Third in order of appointment.—Creditors (and, ordinarily, first the largest one) have the next right. To prevent fraud, a creditor may be appointed when the appointee of the two preceding classes does not act within a reasonable time. In the United States a creditor may make oath of his account to prove his debt, but no rule establishes the size of the debt necessary to be proved before appointment; 1 Cush. 525. After creditors, any suitable person may be appointed. Generally, consuls administer for deceased aliens; but this is by custom only, and in England there is no such rule.

Co-administrators, in general, must be joined in suing and in being sued; but, like executors, the acts of each, in the delivery, gift, sale, payment, possession, or release of the intestate's goods, are the acts of all, for they have joint power; Bacon, Abr. Ex. C, 4; 11 Viner, Abr. 358; Comyns, Dig. *Administration* (B, 12); 1 Dane, Abr. 383; 2 Litt. (Ky.) 315; 56 Ala. 173. If one is removed by death, or otherwise, the whole authority is vested in the survivors; 6 Yerk. 167; 5 Gray, 341; 29 Penn. St. 265. Each is liable only for the assets which have come to his own hands, and is not liable for the torts of others except when guilty of negligence or connivance; 1 Strange, 20; 2 Ves. 267; 8 Watts & S. 143; 8 Ga. 388; 5 Conn. 19; 24 Penn. St. 413; 4 Wash. C. C. 186; 3 Sandf. Ch. 99; 3 Rich, Eq. (So. C.) 132. As to the several powers of each, see 10 Ired. 263; 9 Paige, Ch. 52; 35 Me. 279; 4 Ired. 271; 28 Penn. 471; 20 Barb. 91; 16 Ill. 329.

The *duty of an administrator* is in general to do the things set forth in his bond; and for this he is generally obliged to give security; Williams, Ex. 439, Am. notes; 4 Yerg. 20; 5 Gray, 67. He must publish a notice of his appointment, as the law directs. Usually he must render an inventory. In practice, book accounts and unliquidated damages are not inventoried, but debts evidenced by mercantile paper, bonds, notes, etc., are; 1 Stockt. 572; 23 Penn. 223.

He *must collect* the outstanding claims and convert property into money; 2 Kent, 415; 18 Miss. 404; Taml. 279; 1 Mylne & C. 8; 6 Gill & J. 171; 4 Edw. Ch. 718; 4 Fla. 112; 20 Barb. 100; 25 Miss. 422; 57 Ind. 198; 82 Penn. 193. As to what constitutes assets, see ASSETS.

For this purpose he acquires a property in the assets of the intestate. His right is not a personal one, but an incident to his office; 9 Mass. 74, 352; 16 N. Y. 278. He owns all his intestate's personal property from the day of death, and for any cause of action accruing after that day may sue in his own name; Williams, Ex. 747; 4 Hill (N. Y.), 57; 17 Vt. 176; 4 Mich. 170, 132; 26 Mo. 76. This happens by *relation* to the day of death; 12 Metc. 425; 7 Jur. 492; 18 Ark. 424; 34 N. H. 407. An administrator is a trustee, who holds the legal property but not the equitable. If he is a debtor to the estate, and denies the debt, he may be removed; but if he inventories it, it is cancelled by the giving of his bond; 11 Mass. 268.

He may declare, as administrator, wherever the money when received will be assets; and he may sue on a judgment once obtained, as if the debt were his own. He may summon supposed debtors or holders of his intestate's property to account, and has the right to an investigation in equity. In equity he may recover fraudulently-conveyed real estate, for the benefit of creditors. He may also bind the estate by arbitration; 4 Harr. (N. J.) 457; 35 Me. 357; 38 Penn. St. 239. He

may assign notes, etc. See 35 N. H. 421; 28 Vt. 661; 2 Stockt. 320; 29 Miss. 70; 3 Ind. 369; 18 Ill. 116; 28 Penn. St. 459; 2 Patt. & H. Va. 462; 1 Sandf. N. Y. 132. Nearly all debts and actions survive to the administrator. But he has no power over the firm's assets, when his intestate is a partner, until the debts are paid; 1 Bradf. 24, 165. He must pay the intestate's debts in the order prescribed by law. There is no universal order of payment adopted in the United States; but debts of the last sickness and the funeral are preferred debts everywhere; Bacon, Abr. Ex. L, 2; Williams, Ex. 679, 1213; 2 Kent, 416; 4 Leigh, 35; 10 B. Monr. 147; 7 Ired. Eq. 62; 23 Miss. 228; 28 N. J. Eq. 327.

Next to these, as a general rule, debts due the state or the United States are privileged. This priority of the United States only extends to the net proceeds of the property of the deceased, and therefore the necessary expenses of the administration are first paid. The act of burial and its accompaniments may be done by third parties, who have a preferred claim therefor, if reasonable; 3 Nev. & M. 512; 8 Ad. & E. 348; 4 Sawyer, 199. But the amount is often disputed; 1 B. & Ad. 260; R. M. Charl. 56. If the administrator pays debts of a lower degree first, he will be liable out of his own estate in case of a deficiency of assets; 2 Kent, 419.

The statute prescribes a fixed time within which the administrator must ascertain the solvency of the estate. During this time he cannot be sued, unless he waives the right; 2 Nott & M'C. 259; 2 Duer, 160; 6 McLean, C. C. 443. And if the commissioner deems the estate insolvent, parties dissatisfied may resort to a court and jury. If the administrator makes payments erroneously, supposing the estate to be solvent, he may recover them, it being a mistake of facts; 3 Pick. 261; 2 Gratt. 319. In some states, debts cannot be brought in before due, if the estate is solvent.

The administrator may plead the statute of limitations, but he is not bound to, if satisfied that the debt is just; 15 S. & R. 231; 1 Atk. 526; 9 Dowl. & R. 40; 11 N. H. 208, 3 Metc. Mass. 369; 9 Mo. 262; 28 Ala. N. S. 484; 10 Md. 242; 23 Penn. 95; 8 How. 402; 10 Humphr. 301; 4 Fla. 481. He is, in some states, chargeable with interest, *first*, when he receives it upon assets put out at interest; *second*, when he uses them himself; *third*, when he has large debts paid him which he ought to have put out at interest; 5 N. H. 497; 1 Pick. 530; 13 Mass. 232. In some cases of need, as to relieve an estate from sale by the mortgagee, he may lend the estate-money and charge interest thereon; 10 Pick. 77. The widow's support is usually decreed by the judge. But the administrator is not liable for the education of infant children, or for mourning-apparel for relatives and friends of the deceased; 11 Paige, Ch. 265; 11 S. & R. 16.

He *must distribute* the residue amongst

those entitled to it, under direction of the court and according to law; 6 Ired. 4; 86 Penn. 149, 363; 3 Redf. 461.

The great rule is, that personal property is regulated by the law of the domicile. The rights of the distributees vest as soon as the intestate dies, but cannot be sued for till the lapse of the statute period of distribution. See 118th Novel of Justinian, Cooper's trans. 393; 2 P. Will. 447; 2 Story, Eq. Jur. § 1205; 20 Pick. 670; 12 Cush. 282; 31 Miss. 556. See DISTRIBUTION; CONFLICT OF LAWS.

The liability of an administrator is in general measured by the amount of assets. On his contracts he may render himself liable personally, or as administrator merely, according to the terms of the contract which he makes; 7 Taunt. 581; 7 B. & C. 450. But to make him liable personally for contracts about the estate, a valid consideration must be shown; Yelv. 11; 3 Sim. 543; 2 Brod. & B. 460. And, in general, assets or forbearance will form the only consideration; 5 Mylne & C. 71; 9 Wend. 273; 13 *id.* 557. But a bond of itself imports consideration; and hence a bond given by administrators to submit to arbitration is binding upon them personally; 8 Johns. 120; 22 Miss. 161. In general, he is not liable when he has acted in good faith, and with that degree of caution which prudent men exhibit in the conduct of their own affairs; 2 Ashm. 437.

An administrator is liable for torts and for gross negligence in managing his intestate's property. This species of misconduct is called in law a *devastavit*; 2 Williams, Ex. 1529; 4 Hayw. 134; 1 Dev. Eq. 516. Such is negligence in collecting notes or debts; 2 Green. Ch. 300; an unnecessary sale of property at a discount; 8 Gratt. 140; paying undue funeral expenses; 1 B. & Ad. 260; 2 Carr. & P. 207; and the like mismanagements. So he may be liable for not laying out assets for the benefit of the estate, or for turning the money to his own profit or advantage. In such cases he is answerable for both principal and interest. In England he may be charged with increased interest for money withheld by fraud; 2 Cox, Ch. 113; 4 Ves. 620; and he is sometimes made chargeable with compound interest in this country; 10 Pick. 77. Finally, a refusal to account for funds, or an unreasonable delay in accounting, raises a presumption of a wrongful use of them; 5 Dana, 70; 6 Gill & J. 186; Williams, Ex. 1567.

An administrator receives no compensation in England, 3 Mer. 24; but in this country he is paid in proportion to his services, and all reasonable expenses are allowed him; 84 Penn. 303. An administrator cannot pay himself. His compensation must be ordered by the court; 58 Ind. 374. If too small a compensation be awarded him, he may appeal; 1 Edw. Ch. 195; 4 Whart. 95; 11 Md. 415; 3 Cal. 287; 7 Ohio St. 143; 3 Redf. 465. He cannot buy the estate, or any

part of it, when sold by a common auctioneer to pay debts; but he may when the auctioneer is a state officer, and the sale public and *bona fide*; 2 Patt. & H. 71; 9 Mass. 75; 4 Ind. 355; 6 Ohio St. 189.

ADMIRAL (Fr. *amiral*). A high officer or magistrate that hath the government of the king's navy, and the hearing of all causes belonging to the sea; Cowel. See ADMIRALTY.

By statute of July 25, 1866, the active lists of line-officers of the navy of the United States were divided into ten grades, of which the highest is that of admiral, and the next that of vice-admiral. By statute of Jan. 24, 1873, these grades will cease to exist when the offices become vacant, and the highest rank will then be rear-admiral.

ADMIRALTY. A court which has a very extensive jurisdiction of maritime causes, civil and criminal.

On the revival of commerce after the fall of the Western empire, and the conquest and settlement by the barbarians, it became necessary that some tribunal should be established that might hear and decide causes that arose out of maritime commerce. The rude courts established by the conquerors had properly jurisdiction of controversies that arose on land, and of matters pertaining to land, that being at the time the only property that was considered of value. To supply this want, which was felt by merchants, and not by the government or the people at large, on the coast of Italy and the northern shores of the Mediterranean, a court of consuls was established in each of the principal maritime cities. Contemporaneously with the establishment of these courts grew up the customs of the sea, partly borrowed, perhaps, from the Roman law, a copy of which had at that time been discovered at Amalfi, but more out of the usage of trade and the practice of the sea. These were collected from time to time, embodied in the form of a code, and published under the name of the *Consolato del Mare*. The first collection of these customs is said to be as early as the eleventh century; but the earliest authentic evidence we have of their existence is their publication, in 1266, by Alphonso X., King of Castile; 1 Pardessus, *Lois Maritimes*, 201.

On Christmas of each year, the principal merchants made choice of judges for the ensuing year, and at the same time of judges of appeal, and their courts had jurisdiction of all causes that arose out of the custom of the sea, that is, of all maritime causes whatever. Their judgments were carried into execution, under proper officers, on all movable property, ships as well as other goods, but an execution from these courts did not run against land; *Ordonnance de Valentia*, 1283, c. 1, §§ 22, 23.

When this species of property came to be of sufficient importance, and especially when trade on the sea became gainful and the merchants began to grow rich, their jurisdiction in most maritime states was transferred to a court of admiralty; and this is the origin of admiralty jurisdiction. The admiral was originally more a military than a civil officer, for nations were then more warlike than commercial; *Ordonnance de Louis XIV.*, liv. 1; 2 Brown, Civ. & Adm. Law, c. 1. The court had jurisdiction of all national affairs transacted at sea, and particularly of prize; and to this was added jurisdiction of all controversies of a private character that grew out of maritime employment and commerce; and this, as nations grew more commer-

cial, became in the end its most important jurisdiction.

The admiralty is, therefore, properly the successor of the consular courts, which were emphatically the courts of merchants and sea-going persons. The most trustworthy account of the jurisdiction thus transferred is given in the *Ordonnance de Louis XIV.*, published in 1631. This was compiled under the inspiration of his great minister Colbert, by the most learned men of that age, from information drawn from every part of Europe, and was universally received at the time as an authoritative exposition of the common maritime law; Valin, Preface to his Commentaries; 3 Kent, 16. The changes made in the *Code de Commerce* and in the other maritime codes of Europe are unimportant and inconsiderable. This ordinance describes the jurisdiction of the admiralty courts as embracing all maritime contracts and torts arising from the building, equipment, and repairing of vessels, their manning and victualling, the government of their crews and their employment, whether by charter-party or bill of lading, and from bottomry and insurance. This was the general jurisdiction of the admiralty: it took all the consular jurisdiction which was strictly of a maritime nature and related to the building and employment of vessels at sea.

In English Law. The court of the admiral.

This court was erected by Edward III. It was held by the Lord High Admiral, whence it was called the High Court of Admiralty, or before his deputy, the Judge of the Admiralty, by which latter officer it has for a long time been exclusively held. It sat as two courts, with separate commissions, known as the Instance Court and the Prize Court, the former of which was commonly intended by the term admiralty. At its origin the jurisdiction of this court was very extensive, embracing all maritime matters. By the statutes 13 Rich. II. c. 5, and 15 Rich. II. c. 3, especially as explained by the common-law courts, their jurisdiction was much restricted. A violent and long-continued contest between the admiralty and common-law courts resulted in the establishment of the restriction, which continued until the statutes 3 & 4 Vict. c. 65, and 9 & 10 Vict. c. 99, materially enlarged its powers. See 2 Pars. Mar. Law, 479, n., 1 Kent, Lect. XVII.; 2 Gall. C. C. 398; 12 Wheat. 611; 1 Baldw. C. C. 544; Daveis, 93. This court was abolished by the Judicature Act of 1873, and its functions transferred to the High Court of Justice, the Probate, Divorce, and Admiralty Divisions.

The *civil* jurisdiction of the court extends to *torts* committed on the high seas, including personal batteries; 4 C. Rob. Adm. 73; collision of ships; Abbott, Shipp. 230; restitution of possession from a claimant withholding unlawfully; 2 B. & C. 244; 1 Hagg. 81, 240, 342; 2 Dods. Adm. 38; Edw. Adm. 242; 3 C. Rob. Adm. 93, 133, 213; 4 *id.* 275, 287; 5 *id.* 155; cases of piratical and illegal taking at sea and *contracts* of a maritime nature, including suits between part owners; 1 Hagg. 306; 3 *id.* 299; 1 Ld. Raym. 223; 2 *id.* 1255; 2 B. & C. 248; for mariners' and officers' wages; 2 Ventr. 181; 3 Mod. 379; 1 Ld. Raym. 632; 2 *id.* 1206; 2 Strange, 858, 937; 1 *id.* 707; pilotage; Abbott, Shipp. 198, 200; bottomry and respondentia bonds; 6 Jur. 241; 3 Hagg. Adm. 66; 3 Term, 267; 2 Ld. Raym. 982; Rep. *temp.* Holt, 48; and salvage

claims; 2 Hagg. Adm. 3; 3 C. Rob. Adm. 355; 1 W. Rob. Adm. 18.

The *criminal* jurisdiction of the court has been transferred to the Central Criminal Court by the 4 & 5 Will. IV. c. 36. It extended to all crimes and offences committed on the high seas, or within the ebb and flow of the tide, and not within the body of a county. A conviction for manslaughter committed on a German vessel, by reason of negligent collision with an English vessel, within two and a half miles of the English coast, whereby a passenger on the English vessel was lost, is not within the jurisdiction of the English criminal courts; 46 L. J. M. C. 17.

The first step in the process in a plenary action may be the arrest of the person of the defendant, or of the ship, vessel, or furniture; in which cases the defendant must find bail or *fidejussors* in the nature of bail, and the owner must give bonds or stipulations equal to the value of the vessel and her immediate earnings; or the first step may be a monition to the defendant. In 1840, the form of proceeding in this court was very considerably changed. The advocates, surrogates, and proctors of the Court of Arches were admitted to practice there; the proceedings generally were assimilated to those of the common-law courts, particularly in respect of the power to take *viva voce* evidence in open court; power to compel the attendance of witnesses and the production of papers; to ordering issues to be tried in any of the courts of Nisi Prius, and allowing bills of exception on the trial of such issues, and the grant of power to admiralty to direct a new trial of such issues; to make rules of court, and to commit for contempt. The judge may have the assistance of a jury, and in suits for collision he usually decides upon his own view of the facts and law, after having been assisted by, and hearing the opinion of, two or more Trinity brethren.

A court of admiralty exists in Ireland; but the Scotch court was abolished by 1 Will. IV. c. 69. See VICE-ADMIRALTY COURTS.

In American Law. A tribunal exercising jurisdiction over all maritime contracts, torts, injuries, or offences; 2 Pars. Mar. Law, 508.

The court of original admiralty jurisdiction in the United States is the United States District Court. From this court causes may be removed, in certain cases, to the Circuit, and ultimately to the Supreme, Court. After a somewhat protracted contest, the jurisdiction of admiralty has been extended beyond that of the English admiralty court, and is said to be coequal with that of the English court as defined by the statutes of Rich. II., under the construction given them by the contemporaneous or immediately subsequent courts of admiralty; 2 Pars. Mar. Law, 508. See 2 Gall. C. C. 398; Daveis, 93; 3 Mas. C. C. 28; 1 Stor. C. C. 244; 2 *id.* 176; 12 Wheat. 611; 2 Cranch, 406; 4 *id.* 444; 3 Dall. 297; 6 How. 344; 17 *id.* 399, 477; 18 *id.* 267; 19 *id.* 82, 239; 20 *id.* 296, 588.

It extends to the navigable rivers of the United States, whether tidal or not, the lakes, and the waters connecting them; 4 Wall. 455, 411; 8 W. 15; 12 How. 443; 7 Wall. 624;

11 *id.* 185; 16 *id.* 522; to a stream tributary to the lakes, but lying entirely within one state; 1 *Brow. Adm.* 334; to a ferry-boat plying between opposite sides of the Mississippi River; 5 *Biss.* 200; to an artificial ship-canal connecting navigable waters within the jurisdiction; 2 *Hughes*, 12; to the Welland canal; 1 *Brown, Adm.* 170; *Newb.* 101. See as to Erie canal, 8 *Ben.* 150. The Judiciary Act of 1789 (R. S. § 563), while conferring admiralty jurisdiction upon the Federal courts, saves to suitors their common-law remedy, which has always existed for damages for collision at sea; 102 U. S. 118.

Admiralty has jurisdiction of a libel by mariners for wages against a vessel plying on navigable waters, even though lying entirely within one state; 2 *Am. L. Rev.* 455; but see 3 *id.* 610, where all the cases on admiralty jurisdiction by reason of locality are fully treated.

Its *civil* jurisdiction extends to cases of salvage; 2 *Cranch*, 240; 1 *Pet.* 511; 12 *id.* 72; 2 *Low.* 302; bonds of bottomry, respondentia, or hypothecation of ship and cargo; 1 *Curt. C. C.* 340; 3 *Sumn.* 228; 1 *Wheat.* 96; 4 *Cranch*, 328; 8 *Pet.* 538; 18 *How.* 63; seamen's wages; 1 *Low.* 203; 2 *Pars. Mar. Law*, 509; seizures under the laws of impost, navigation, or trade; 1 U. S. Stat. at Large, 76; 4 *Biss.* 156; 11 *Blatch.* 416; *Chase*, Dec. 503; 6 *Biss.* 505; cases of prize or ransom; 3 *Dall.* 6; charter-parties; 1 *Sumn.* 551; 2 *id.* 589; 2 *Stor. C. C.* 81; *Ware*, 149; contracts of affreightment between different states or foreign ports; 2 *Curt. C. C.* 271; 2 *Low.* 173; 2 *Sumn.* 567; *Ware*, 188, 263, 322; 6 *How.* 344; and upon a canal-boat without powers of propulsion, upon an artificial canal; 21 *Int. Rev. Rec.* 221; contracts for conveyance of passengers; 16 *How.* 469; 1 *Blatchf.* 560, 569; 1 *Abbott, Adm.* 48; 1 *Newb.* 494; contracts with material-men; 4 *Wheat.* 438; 6 *Ben.* 564; see 20 *How.* 393; 21 *Bost. Law Rep.* 601; jettisons, maritime contributions, and averages; 6 *McLean*, 573; 7 *How.* 729; 19 *id.* 162; 21 *Bost. Law Rep.* 87, 96; pilotage; 1 *Mas. C. C.* 508; 10 *Pet.* 108; 12 *How.* 299; see 2 *Paine, C. C.* 131; 9 *Wheat.* 1, 207; 13 *Wall.* 236; 1 *Low.* 177; 1 *Sawy.* 463; 5 *Ben.* 574; *R. M. Charlt.* 302, 314; 8 *Metc.* 332; 4 *Bost. Law Rep.* 20; contracts for wharfage; 95 U. S. 68; 5 *Ben.* 60, 74; 15 *Blatch.* 473; but not to injuries to wharves; 1 *Brown, Adm.* 356; contracts for towage; 5 *Ben.* 72; surveys of ship and cargo; *Story, Const.* § 1665; 5 *Mas.* 465; 10 *Wheat.* 411; but see 2 *Pars. Mar. Law*, 511, n.; and generally to all assaults and batteries, damages, and trespasses, occurring on the high seas; 2 *Pars. Mar. Law*; see 2 *Sumn.* 1; *Chase*, Dec. 145, 150; 5 *Ben.* 63.

Its *criminal* jurisdiction extends to all crimes and offences committed on the high seas or beyond the jurisdiction of any country. See, as to jurisdiction generally, the article COURTS OF THE UNITED STATES.

A civil suit is commenced by filing a libel, upon which a warrant for arrest of the person,

or attachment of his property if he cannot be found, even though in the hands of third persons, or a simple monition to appear, may issue; or, in suits *in rem*, a warrant for the arrest of the thing in question; or two or more of these separate processes may be combined. Thereupon bail or stipulations are taken if the party offer them.

In most cases of magnitude, oral evidence is not taken; but it may be taken, and it is the general custom to hear it in cases where smaller amounts are involved. The decrees are made by the court without the intervention of a jury.

In criminal cases the proceedings are similar to those at common law.

Consult the article COURTS OF THE UNITED STATES; *Conkling*; *Dunlap, Adm. Prac.*; *Sergeant*; *Story, Const.*; *Abbott, Sh.*; *Parsons, Mar. Law*; *Kent*; *Flanders, Sh.*; *Kay, Sh.*; and the following cases, viz.: 2 *Gall. C. C.* 398; 5 *Mas.* 465; *Daveis*, 93; 1 *Baldw.* 524; 4 *How.* 447; 6 *id.* 378; 12 *id.* 443; 20 *id.* 296, 393, 583; 21 *id.* 244, 248; 23 *id.* 209, 491.

ADMISSION (Lat. *ad, to, mittere, to send*).

In Practice. The act by which attorneys and counsellors become recognized as officers of the court and are allowed to practise. The qualifications required vary widely in the different states. See an article in 15 *Am. L. Rev.* 295; also a learned report to *Amer. Bar Asso.* by *Mr. Hunt*, published in *Rep. of 2d An. Meeting*, 1879.

In Corporations or Companies. The act of a corporation or company by which an individual acquires the rights of a member of such corporation or company.

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

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

In a mutual insurance company it has been held that a person may become a member by insuring his property, paying the premium and deposit-money, and rendering himself liable to be assessed according to the rules of the corporation; 2 *Mass.* 318.

ADMISSIONS. In Evidence. Concessions or voluntary acknowledgments made by a party of the existence or truth of certain facts.

As distinguished from confessions, the term is applied to civil transactions, and to matters of fact in criminal cases where there is no criminal intent. See **CONFESSIONS**.

As distinguished from consent, an admission may be said to be evidence furnished by the party's own act of his consent at a previous period.

Direct, called also *express*, admissions are those which are made in direct terms.

Implied admissions are those which result from some act or failure to act of the party.

Incidental admissions are those made in some other connection, or involved in the admission of some other fact.

As to the *parties* by whom admissions must have been made to be considered as evidence:—

They may be made by a party to the record, or by one identified in interest with him; 9 B. & C. 535; 7 Term, 563; 1 Dall. 65. Not, however, where the party of record is merely a nominal party and has no active interest in the suit; 1 Campb. 392; 2 *id.* 561; 2 Term, 763; 3 B. & C. 421; 5 Pet. 580; 5 Wheat. 277; 7 Mass. 131; 9 Ala. n. s. 791; 20 Johns. 142; 5 Gill & J. 134.

They may be made by one of several having a joint interest, so as to be binding upon all; 2 Bingham, 306; 8 *id.* 309; 8 B. & C. 36; 1 Stark. 488; 2 Pick. 581; 3 *id.* 291; 4 *id.* 332; 1 M'Cord, 541; 1 Johns. 3; 7 Wend. 441; 4 Conn. 336; 8 *id.* 268; 7 Me. 26; 5 Gill & J. 144; 1 Gall. 635. Mere community of interest, however, as in case of co-executors; 1 Greenl. Ev. § 176; 4 Cowen, 493; 16 Johns. 277; trustees, 3 Esp. 101; co-tenants; 4 Cowen, 483; 15 Conn. 1; is not sufficient.

The interest in all cases must have subsisted at the time of making the admissions; 2 Stark. 41; 4 Conn. 544; 14 Mass. 245; 5 Johns. 412; 1 S. & R. 526; 9 *id.* 47; 12 *id.* 328.

They may be made by any person interested in the subject-matter of the suit, though the suit be prosecuted in the name of another person as a *cestui que trust*; 1 Wils. 257; 1 Bingham, 45; but see 3 N. & P. 598; 6 M. & G. 261; or by an indemnifying creditor in an action against the sheriff; 7 C. & P. 629.

They may be made by a third person, a stranger to the suit, where the issue is substantially upon the rights of such a person at a particular time; 1 Greenl. Ev. § 181; 2 Stark. 42; or who has been expressly referred to for information; 1 Campb. 366, n.; 3 C. & P. 532; or where there is a privity as between ancestor and heir; 5 B. & Ad. 223; 1 Bingham, n. c. 430; assignor and assignee; 54 Taunt. 16; 2 Pick. 536; 2 Me. 242; 10 *id.* 244; 3 Rawle, 437; 2 M'Cord, 241; 17 Conn. 399; intestate and administrator; 3 Bingham, n. c. 291; 1 Taunt. 141; grantor and grantee of land; 4 Johns. 230; 7 Conn. 319; 4 S. & R. 174; and others.

They may be made by an agent, so as to bind the principal; Story, Ag. §§ 134-137; so far only, however, as the agent has authority; 1 Greenl. Ev. § 114; and not, it would seem, in regard to past transactions; 6 Mees. & W. Exch. 58; 11 Q. B. 46; 7 Me. 421; 4 Wend. 394; 7 Harr. & J. 104; 19 Pick. 220; 8 Metc. 142.

Thus, the admissions of the wife bind the husband so far only as she has authority in

the matter; 1 Esp. 142; 4 Campb. 92; 1 Carr. & P. 621; 7 Term, 112; and so the formal admissions of an attorney bind his client; 7 C. & P. 6; 1 Mees. & W. 508; and see 2 C. & K. 216; 3 C. B. 608.

Implied admissions may result from assumed character; 1 B. & Ald. 677; 2 Campb. 513; from conduct; 2 Sim. & S. 600; 6 C. & P. 241; 9 B. & C. 78; 9 Watts, 441; from acquiescence, which is positive in its nature; 1 Sumn. 314; 4 Fla. 340; 3 Mas. 81; 2 Vt. 276; from possession of documents in some cases; 5 C. & P. 75; 25 State Tr. 120.

In civil matters, constraint will not avoid admissions, if imposition or fraud were not made use of.

Admissions made in treating for an adjustment cannot be given in evidence; 33 Mo. 323; 117 Mass. 55; 13 Ga. 406; 40 N. Y. Sup. Ct. 8; whether made "without prejudice" or not; 2 Whart. Ev. § 1090; 15 Md. 510; but they may be as to independent facts; 117 Mass. 55; 44 N. H. 223.

Judicial admissions; 1 Greenl. Ev. § 205; 2 Campb. 341; 5 Mass. 365; 5 Pick. 285, those which have been acted on by others; 3 Rob. La. 243; 17 Conn. 355; 15 Jur. 253; and in deeds as between parties and privies; 4 Pet. 1; 6 *id.* 611; are conclusive evidence against the party making them.

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

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

In Pleading. The acknowledgment of recognition by one party of the truth of some matter alleged by the opposite party.

IN EQUITY.

Partial admissions are those which are delivered in terms of uncertainty, mixed up with explanatory or qualifying circumstances.

Plenary admissions are those which admit the truth of the matter without qualification, whether it be asserted as from information and belief or as from actual knowledge.

AT LAW.

In all pleadings in confession and avoidance, admission of the truth of the opposite party's pleading is made. Express admissions may be made of matters of fact only.

The usual mode of making an express admission in pleading is, after saying that the plaintiff ought not to have or maintain his action, etc., to proceed thus, "Because he says that, although it be true that," etc., repeating such of the allegations of the adverse party as are meant to be admitted; Lawes, Civ. Pl. 143, 144. See 1 Chitty, Pl. 600; Archbold, Civ. Pl. 215.

ADMITTANCE. In English Law. The act of giving possession of a copyhold estate. It is of three kinds: namely, upon a voluntary grant by the lord, upon a surrender by the former tenant, and upon descent; 2 Bla. Com. 366-370.

ADMITTENDO IN SOCIUM. In English Law. A writ associating certain persons to justices of assize; Cowel.

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

The admonition was authorized as a species of punishment for slight misdemeanors.

ADNEPOS. The son of a great-great-grandson; Calvinus, *Lex.*

ADNEPTIS. The daughter of a great-great-granddaughter; Calvinus, *Lex.*

ADNOTATIO. (Lat. *notare*). A subscription or signing.

In the civil law, casual homicide was excused by the indulgence of the emperor, signed with his own sign-manual, called *adnotatio*; Code, 9. 16. 5; 4 Bla. Com. 187.

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

ADOPTION. The act by which a person takes the child of another into his family, and treats him as his own.

A juridical act creating between two persons certain relations, purely civil, of pater- nity and filiation; 6 Demolombe, § 1.

Adoption was practised in the remotest anti- quity, and was established to console those who had no children of their own. Cicero asks, "*Quod est jus adoptionis? nempe ut is adoptat, qui neque procreare jam liberos possit, et cum potuerit, sit expertus.*" At Athens, he who had adopted a son was not at liberty to marry with- out the permission of the magistrates. Gaius, Ulpian, and the Institutes of Justinian only treat of adoption as an act creating the paternal power. Originally, the object of adoption was to intro- duce a person into the family and to acquire the paternal power over him. The adopted took the name of the adopter, and only preserved his own adjectively, as *Scipio Amilianus*; *Cæsar Octavi- anus*, etc. According to Cicero, adoptions pro- duced the right of succeeding to the name, the property, and the lares: "*hereditates nominis, pecunie, sacrorum secute sunt;*" *Pro Dom.* § § 13, 35.

The first mode of adoption was in the form of a law passed by the *comitia curiata*. Afterwards, it was effected by the *mancipatio*, *alienatio per aes et libram*, and the *in jure cessio*; by means of the first the paternal authority of the father was dis- solved, and by the second the adoption was com- pleted. The *mancipatio* was a solemn sale made to the *emptor* in presence of five Roman citizens (who represented the five classes of the Roman people), and a *libripens*, or scalesman, to weigh the piece of copper which represented the price.

By this sale the person sold became subject to the *mancipium* of the purchaser, who then emanci- pated him; whereupon he fell again under the paternal power; and in order to exhaust it en- tirely it was necessary to repeat the *mancipatio* three times: *si pater filium ter venundabit, filius a patre liber esto.* After the paternal power was thus dissolved, the party who desired to adopt the son instituted a fictitious suit against the purchaser who held him in *mancipium*, alleging that the person belonged to him or was subject to his paternal power; the defendant not deny- ing the fact, the prætor rendered a decree accord- ingly, which constituted the *cessio in jure*, and completed the adoption. *Adoptantur autem, cum a parente in cujus potestate sunt, tertia mancipa- tione in jure ceduntur, atque ab eo, qui adoptat, apud eum apud quem legis actio est, vindicantur;* Gell. 5. 19.

Towards the end of the Republic another mode of adoption had been introduced by custom. This was by a declaration made by a testator, in his will, that he considered the person whom he wished to adopt as his son: in this manner Julius Cæsar adopted Octavius.

It is said that the adoption of which we have been speaking was limited to persons *alieni juris*. But there was another species of adoption, called adrogation, which applied exclusively to persons who were *sui juris*. By the adrogation a *pater- familias*, with all who were subject to his *patria potestas*, as well as his whole estate, entered into another family, and became subject to the pater- nal authority of the chief of that family. *Quæ species adoptionis dicitur adrogatio, quia et is qui adoptat rogatur, id est interrogatur, an velit eum quem adopturus sit justum sibi filium esse; et is, qui adoptatur rogatur an id fieri patiatur; et populus rogatur an id fieri jubeat;* Gaius, 1. 99. The formulæ of these interrogations are given by Cicero, in his oration *pro Dom.* 20: "*Velitis, jubeatis, Quirites, uti Lucius Valerius Lucio Titio tam jure legeque filius sibi siet, quam si ex eo patre matreque familias ejus natus esset, utique eo vitæ necisque in eum potestas siet uti pariendo filio est; hoc ita ut dixi vos, Quirites rogo.*" This pub- lic and solemn form of adoption remained un- changed, with regard to adrogation, until the time of Justinian: up to that period it could only take place *populi auctoritate*. According to the Institutes, 1. 11. 1, adrogation took place by vir- tue of a rescript of the emperor,—*principali re- scripto*, which only issued *causa cognita*; and the ordinary adoption took place in pursuance of the authorization of the magistrate,—*imperio magis- tratus*. The effect of the adoption was also modified in such a manner, that if a son was adopted by a stranger, *extranea persona*, he pre- served all the family rights resulting from his birth, and at the same time acquired all the family rights produced by the adoption.

In the United States, adoption is regulated by the statutes of the several states. In Louisiana, where the civil law prevails, it was abolished by the Code of 1808, art. 35, p. 50. In many of the continental states of Europe it is still permitted under various restric- tions.

ADPROMISSOR (Lat. *promittere*). One who binds himself for another; a surety; a peculiar species of *fidejussor*. Calvinus, *Lex.*

The term is used in the same sense in the Scotch law. The cautionary engagement was undertaken by a separate act: hence, one en- tering into it was called *ad promissor* (promis- sor in addition to); Erskine, *Inst.* 3. 3. 1.

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

ADSCRIPTI (Lat. *scribere*). Joined to by writing; ascribed; set apart; assigned to; annexed to.

ADSCRIPTI GLEBÆ. Slaves who served the master of the soil; who were annexed to the land, and passed with it when it was conveyed; Calvinus, Lex.

These *servi adscripti* (or *adscriptitii*) *glebæ* held the same position as the *villains regardant* of the Normans; 2 Bla. Com. 93.

ADSCRIPTITII (Lat.). A species of slaves.

Those persons who were enrolled and liable to be drafted as legionary soldiers; Calvinus, Lex.

ADSESSORES (Lat. *sedere*). Side judges. Those who were joined to the regular magistrates as assistants or advisers; those who were appointed to supply the place of the regular magistrates in certain cases; Calvinus, Lex.

ADULT. In Civil Law. A male infant who has attained the age of fourteen; a female infant who has attained the age of twelve; Domat, *Liv. Prel.* tit. 2, § 2, n. 8.

In Common Law. One of the full age of twenty-one; Swanst. Ch. 553.

ADULTER (Lat.). One who corrupts; one who corrupts another man's wife.

Adulter solidorum. A corrupter of metals; a counterfeiter; Calvinus, Lex.

ADULTERA (Lat.). A woman who commits adultery; Calvinus, Lex.

ADULTERATION. The act of corrupting or debasing; the act of mixing something impure or spurious with something pure or genuine, or an inferior article with a superior one of the same kind.

ADULTERATOR (Lat.). A corrupter; a counterfeiter.

Adulator monetæ. A forger; Du Cange.

Adulations of food, when wilful, are punishable by the laws of most countries. In Paris, malpractices connected with such adulteration are investigated by the Conseil de Salubrité, and punished. In Great Britain, numerous acts have been passed for the prevention of adulterations: they are usually punished by a fine, determined by a summary process before a magistrate. In Pennsylvania, the adulteration of articles of food and drink, and of drugs and medicines, is, by a statute of March 31, 1860, made a misdemeanor punishable by fine or imprisonment, or both.

ADULTERINE. The issue of adulterous intercourse.

Those are not deemed adulterine who are begotten of a woman openly married through ignorance of a former wife being alive.

Adulterine children are regarded more unfavorably than the illegitimate offspring of single persons. The Roman law refused the title of natural children, and the canon law discouraged their admission to orders.

ADULTERINE GUILDS. Companies of traders acting as corporations, without charters, and paying a fine annually for the privilege of exercising their usurped privileges; Smith, *Wealth of Na.*, book 1, c. 10; Wharton, *Dict.*, 2d Lond. ed.

ADULTERIUM. A fine imposed for the commission of adultery. Barrington, *Stat.* 62, n.

ADULTERY. The voluntary sexual intercourse of a married person with a person other than the offender's husband or wife; Bishop, *Mar. & D.* § 415; 6 Metc. 243; 36 Me. 261; 11 Ga. 56; 2 Strobb. Eq. 174.

The voluntary sexual intercourse of a married woman with a man other than her husband.

Unlawful voluntary sexual intercourse between two persons, one of whom at least is married, is the essence of the crime in all cases. In general, it is sufficient if either party is married; and the crime of the married party will be adultery, while that of the unmarried party will be fornication; 1 Yeates, 6; 2 Dall. 124; 5 Jones, No. C. 416; 27 Ala. N. s. 23; 35 Me. 205; 7 Gratt. 591; 6 *id.* 673. In Massachusetts, however, by statute, and some of the other states, if the woman be married, though the man be unmarried, he is guilty of adultery; 21 Pick. 509; 2 Blackf. 318; 18 Ga. 264; 9 N. H. 515; and see 1 Harr. N. J. 380; 29 Ala. 313. In Connecticut, and some other states, it seems that to constitute the offence of adultery it is necessary that the woman should be married; that if the man only is married, it is not the crime of adultery at common law or under the statute, so that an indictment for adultery could be sustained against either party; though within the meaning of the law respecting divorces it is adultery in the man.

It is not, by itself, indictable at common law; 4 Bla. Com. 65; 5 Rand. 627, 634; but is left to the ecclesiastical courts for punishment. In the United States it is punishable by fine and imprisonment under various statutes, which generally define the offence.

Parties to the crime may be jointly indicted; 2 Metc. Mass. 190; or one may be convicted and punished before or without the conviction of the other; 5 Jones, No. C. 416.

ADVANCEMENT. A gift by anticipation from a parent to a child of the whole or a part of what it is supposed such child will inherit on the death of the parent; 6 Watts, 87; 4 S. & R. 333; 17 Mass. 358; 11 Johns. 91; Wright, Ohio, 339.

An advancement can only be made by a parent to a child; 5 Miss. 356; 2 Jones, No. C. 137; or in some states, by statute, to a grandchild, 4 Kent, 419; 4 Watts, 82; 4 Ves. 437.

The intention of the parent is to decide whether a gift is intended as an advancement; 23 Penn. 85; 11 Johns. 91; 2 M' Cord, Ch. 103; see 26 Vt. 665.

A mere gift is presumptively an advancement, but the contrary intention may be shown; 22 Ga. 574; 8 Ired. 121; 18 Ill. 167; 3 Jones, No. C. 190; 3 Conn. 31; 6 *id.* 356; 1 Mass. 527. The maintenance and educa-

tion of a child, or the gift of money without a view to a portion or settlement in life, is not deemed an advancement; 5 Rich, Eq. 15; 23 Conn. 516. If security is taken for repayment, it is a debt and not an advancement; 21 Penn. 283; 29 *id.* 298; 23 Ga. 531; 2 Patt. & H. 1; 22 Pick. 508; and see 17 Mass. 93, 359; 2 Harr. & G. 114.

No particular formality is requisite to indicate an advancement; stat. 22 & 23 Car. II. c. 10; 1 Maddox, Ch. Pr. 507; 4 Kent, 418; 16 Vt. 197; unless a particular form of indicating such intention is prescribed by statute as requisite; 4 Kent, 418; 1 Gray, 587; 5 *id.* 341; 5 R. I. 255, 457.

The effect of an advancement is to reduce the distributive share of the child by the amount so received, estimating its value at the time of receipt; 1 S. & R. 422; 21 Mo. 347; 3 Yerg. 112; 5 Harr. & J. 459; 1 Wash. Va. 224; 3 Pick. 450; 3 Rand. 117; 2 Hayw. 266; but adding interest in some cases; 2 Watts, 314; 12 Gratt. 33; yet in some states the child has his option to retain the advancement and abandon his distributive share; 9 Dana, 193; 4 Ala. n. s. 121; to abandon his advancement and receive his equal share of the estate; 12 Gratt. 33; 15 Ala. n. s. 85; 26 Miss. 592; 28 *id.* 674; 18 Ill. 167; but this privilege exists only in case of intestacy; 1 Hill, Ch. 10; 3 Yerg. 95; 3 Sandf. Ch. 520; 5 Paige, Ch. 450; 14 Ves. Ch. 323. See ADEMPMENT.

ADVANCES. Payments made to the owner of goods by a factor or agent, who has or is to have possession of the goods for the purpose of selling them.

An agent is entitled to reimburse himself from the proceeds of the goods, and has a lien on them for the amount paid; Livermore, Ag. 38; and an action over for the balance, against his principal, if the sales are insufficient to cover the advances; 22 Pick. 40; 3 N. Y. 62; 12 N. H. 239; 2 Pars. Contr. 466; 2 Bouvier, Inst. n. 1340.

ADVENA (Lat. *venire*). In Roman Law. One of foreign birth, who has left his own country and settled elsewhere, and who has not acquired citizenship in his new locality: often called *albanus*; Du Cange.

ADVENT. The period commencing on Sunday falling on St. Andrew's day (30th of November), or the nearest Sunday to it, and continuing till Christmas; Blount.

It took its name from the fact that it immediately preceded the day set apart to commemorate the birth or coming (advent) of Christ; Cowel; Termes de la Ley.

Formerly, during this period, "all contentions at law were omitted." But, by statute 13 Edw. I. (Westm. 2) c. 48, certain actions were allowed.

ADVENTITIUS (Lat. *adventitius*). That which comes incidentally, or out of the regular course.

ADVENTITIUS (Lat.). Foreign; coming from an unusual source.

Adventitia bona are goods which fall to a man otherwise than by inheritance.

Adventitia dos is a dowry or portion given by some friend other than the parent.

ADVENTURE. Sending goods abroad under charge of a supercargo or other agent, which are to be disposed of to the best advantage for the benefit of the owners.

The goods themselves so sent.

ADVERSE ENJOYMENT. The possession or exercise of an easement or privilege under a claim of right against the owner of the land out of which the easement is derived; 2 Washb. R. P. 42.

Such an enjoyment, if open, 4 M. & W. 500; 4 Ad. & E. 369, and continued uninterruptedly, 9 Pick. 251; 8 Gray, 441; 17 Wend. 564; 26 Me. 440; 20 Penn. 331; 2 N. H. 255; 9 *id.* 454; 2 Rich, 136; 11 Ad. & E. 788, for the term of twenty years, raises a conclusive presumption of a grant, provided that there was, during the time, some one in existence, in possession and occupation, who was not under disability to resist the use; 2 Washb. R. P. 48.

ADVERSE POSSESSION. The enjoyment of land, or such estate as lies in grant, under such circumstances as indicate that such enjoyment has been commenced and continued under an assertion or color of right on the part of the possessor; 3 East, 394; 1 Pick. 466; 2 S. & R. 527; 3 Penn. 132; 8 Conn. 440; 2 Aik. Vt. 364; 9 Johns. 174; 18 *id.* 40, 355; 5 Pet. 402; 4 Bibb, 550; 43 Ala. 643.

When such possession has been actual, 3 S. & R. 517; 7 *id.* 192; 2 Wash. C. C. 478, and has been adverse for twenty years, of which the jury are to judge from the circumstances, the law raises the presumption of a grant; Angell, Wat. Cour. 85, *et seq.* But this presumption arises only when the use or occupation would otherwise have been unlawful; 3 Me. 120; 6 Cowen, 617, 677; 8 *id.* 589; 4 S. & R. 456.

The adverse possession must be "actual, continued, visible, notorious, distinct, and hostile;" 6 S. & R. 21. See numerous cases in note to *Nepean v. Doe*, 2 Sm. Lead. Cas. 597.

In 55 Miss. 671 it is said that there must be a claim of ownership; but see 41 N. J. L. 527.

Possession is not adverse:

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

When the possession of the one party is consistent with the title of the other; as, where the rents of a trust estate were received

by a cestui que trust for more than twenty years after the creation of the trust, without any interference of the trustee, such possession being consistent with and secured to the cestui que trust by the terms of the deed, the receipt was held not to be adverse to the title of the trustee; 8 East, 248; see 69 Mo. 117;

When, in contemplation of law, the claimant has never been out of possession; as, where Paul devised lands to John and his heirs, and died, and John died, and afterwards the heirs of John and a stranger entered, and took the profits for twenty years; upon ejectment brought by the devisee of the heir of John against the stranger, it was held that the perception of the rents and profits by the stranger was not adverse to the devisee's title; for when two men are in possession, the law adjudges it to be the possession of him who has the right; 1 Ld. Raym. 329;

When the occupier has acknowledged the claimant's titles; as, if a lease be granted for a term, and, after paying the rent for the land during such term, the tenant hold for twenty years without paying rent, his possession will not be adverse. See 1 B. & P. 542; 8 B. & C. 717; 2 Bouvier, Inst. n. 2193, 2194, 2351.

ADVERTISEMENT (Lat. *advertere*, to turn to).

Information or knowledge communicated to individuals or the public in a manner designed to attract general attention.

A notice published either in handbills or in a newspaper.

The law in many instances requires parties to advertise in order to give notice of acts which are to be done; in these cases, the advertisement is in general equivalent to notice. But there are cases in which such notice is not sufficient, unless brought home to the actual knowledge of the party. Thus, notice of the dissolution of partnership by advertisement in a newspaper printed in the city or county where the business is carried on, although it is of itself notice to all persons who have had no previous dealings with the firm, yet it is not notice to those who have had such previous dealings; it must be shown that persons of the latter class have received actual notice; 4 Whart. 484. See 17 Wend. 526; 22 *id.* 183; 9 Dan. Ky. 166; 2 Ala. n. s. 502; 8 Humphr. 418; 3 Bingh. 2. It has been held that the printed conditions of a line of public coaches are sufficiently made known to passengers by being posted up at the place where they book their names. W. & S. 373; 3 *id.* 520. An advertisement by a railroad corporation in a newspaper in the English language of a limitation of its liability for baggage is not notice to a passenger who does not understand English; 16 Penn. 68.

When an advertisement contains the terms of sale, or description of the property to be sold, it will bind the seller; and if there be a material misrepresentation, it may avoid the contract, or at least entitle the purchaser to a compensation and reduction from the agreed price.

Advertisements published *bonâ fide* for the apprehension of a person suspected of crime, or for the prevention of fraud, are privileged. Thus, an advertisement of the loss of certain bills of exchange, supposed to have been embezzled, made in the belief that it was necessary either for the purposes of justice with a view to the discovery and conviction of the offender, or for the protection of the defendant himself against the liability to which he might be exposed on the bills, is privileged, if these were the defendant's only inducements; Heard, Lib. & Sland. § 131.

A sign-board, at a person's place of business, giving notice of lottery-tickets being for sale there, is an "advertisement;" and, if erected before the passage of a statute making the advertising of lottery-tickets penal, a continuance of it is within the statute; 5 Pick. 42.

ADVICE. Information given by letter by one merchant or banker to another in regard to some business transaction which concerns him; Chitty, Bills, 185.

ADVISARE, ADVISARI (Lat.). To advise; to consider; to be advised; to consult.

Occurring often in the phrase *curia advisari vult* (usually abbreviated *cur. adv. vult* or *C. A. V.*), the court wishes to consider of the matter. When a point of law requiring deliberation arose, the court, instead of giving an immediate decision, ordered a *cur. adv. vult* to be entered, and then, after consideration, gave a decision. Thus, from amongst numerous examples, in *Clement vs. Chivis*, 2 B. & C. 173, after the account of the argument we find *cur. adv. vult*; then, "on a subsequent day judgment was delivered," etc.

ADVICEMENT. Consideration; deliberation; consultation.

ADVOCATE. An assistant; adviser; a pleader of causes.

Derived from *advocare*, to summon to one's assistance; *advocatus* originally signified an assistant or helper of any kind, even an accomplice in the commission of a crime; Cicero, *Pro Cœcina*, c. 8; Livy, lib. ii. 55; iii. 47; Tertullian, *De Idolatr.* cap. xxiii.; Petron. *Satyric.* cap. xv. Secondly, it was applied to one called in to assist a party in the conduct of a suit; Inst. 1, 11, D, 50, 13. *de extr. cogn.* Hence, a pleader, which is its present signification.

In Civil and Ecclesiastical Law. An officer of the court, learned in the law, who is engaged by a suitor to maintain or defend his cause. Advocates, like counsellors, have the exclusive privilege of addressing the court either orally or in written pleadings; and, in general, in regard to duties, liabilities, and privileges, the same rules apply *mutatis mutandis* to advocates as to counsellors. See COUNSELLOR.

Lord Advocate.—An officer in Scotland appointed by the crown, during pleasure, to take care of the king's interest before the courts of session, judiciary, and exchequer. All actions that concern the king's interest, civil or criminal, must be carried on with course of the lord advocate. He also discharges the duties of public prosecutor, either in person or by one of his four deputies, who

are called *advocates-depute*. Indictments for crimes must be in his name as accuser. He supervises the proceedings in important criminal cases, and has the right to appear in all such cases. He is, in fact, secretary of state for Scotland, and the principal duties are connected directly with the administration of the government.

Inferior courts have a *procurator fiscal*, who supplies before them the place of the lord advocate in criminal cases; see 2 Bankt. Inst. 492.

College or Faculty of Advocates.—A corporate body in Scotland, consisting of the members of the bar in Edinburgh. A large portion of its members are not active practitioners, however; 2 Bankt. Inst. 486.

Church or Ecclesiastical Advocates.—Pleaders appointed by the church to maintain its rights.

In Ecclesiastical Law. A patron of a living; one who has the advowson, *advocatio*; Tech. Dict.; Ayliffe, Par. 53; Dane, Abr. c. 31, § 20; Erskine, Inst. 79, 9.

Originally the management of suits at law was undertaken by the *patronus* for his *clients* as a matter of duty arising out of their reciprocal relation. Afterwards it became a profession, and the relation, though a peculiarly confidential one while it lasted, was but temporary, ending with the suit. The profession was governed by very stringent rules: a limited number only were enrolled and allowed to practise in the higher courts—one hundred and fifty before the *præfectus prætorio*; Dig. 8, 11; Code, 2, 7; fifty before the *præf. aug.* and *dux Ægypticus* at Alexandria; Dig. 8, 13; etc. etc. The enrolled advocates were called *advocati ordinarii*. Those not enrolled were called *adv. supernumerarii* or *extraordinarii*, and were allowed to practise in the inferior courts; Dig. 8, 13. From their ranks vacancies in the list of *ordinarii* were filled; *Ibid.* The *ordinarii* were either *fiscales*, who were appointed by the crown for the management of suits in which the imperial treasury was concerned, and who received a salary from the state; or *privati*, whose business was confined to private causes. The *advocati ordinarii* were bound to lend their aid to every one applying to them, unless a just ground existed for a refusal; and they could be compelled to undertake the cause of a needy party; l. 7, C. 2, 6. The *supernumerarii* were not thus obliged, but, having once undertaken a cause, were bound to prosecute or defend it with diligence and fidelity.

The client must be defended against every person, even the emperor, though the *advocati fiscales* could not undertake a cause against the *fiscus* without a special permission; ll. 1 et 2, C. 2, 9; unless such cause was their own, or that of their parents, children, or ward; l. 10, pr. C. 11, D. 3, 1.

An advocate must have been at least seventeen years of age; l. 1, § 3, D. 3, 1; he must not be blind or deaf; l. 1, § 3 et 5, D. 3, 1;

he must be of good repute, not convicted of an infamous act; l. 1, § 8, D. 3, 1; he could not be advocate and judge in the same cause; l. 6, pr. C. 2, 6; he could not even be a judge in a suit in which he had been engaged as advocate; l. 17, D. 2, 1; l. 14, C. 1, 51; nor after being appointed judge could he practise as advocate even in another court; l. 14, pr. C. 1, 51; nor could he be a witness in the cause in which he was acting as advocate; l. ult. D. 22, 5; 22 Glück, Pand. p. 161, *et seq.*

He was bound to bestow the utmost care and attention upon the cause, *nihil studii reliquentes, quod sibi possibile est*; l. 14, § 1, C. 3, 1. He was liable to his client for damages caused in any way by his fault; 5 Glück, Pand. 110. If he had signed the *conceptit*, he was responsible that it contained no matter punishable or improper; Boehmer, Cons. et Decis. t. ii. p. 1, resp. cviii. no. 5. He must clearly and correctly explain the law to his clients, and honestly warn them against transgression or neglect thereof. He must frankly inform them of the lawfulness or unlawfulness of their cause of action, and must be especially careful not to undertake a cause clearly unjust, or to let himself be used as an instrument of chicanery, malice, or other unlawful action; l. 6, §§ 3, 4, C. 2, 6; l. 13, § 9; l. 14, § 1, C. 3, 1. In pleading, he must abstain from invectives against the judge, the opposite party or his advocate; l. 6, § 1, C. 2, 6. Should it become necessary or advantageous to mention unpleasant truths, this must be done with the utmost forbearance and in the most moderate language; 5 Glück, Pand. 111. Conscientious honesty forbade his betraying secrets confided to him by his client or making any improper use of them; he should observe inviolable secrecy in respect to them; *ibid.*; he could not, therefore, be compelled to testify in regard to such secrets; l. ult. D. 22, 5.

If he violated the above duties, he was liable, in addition to compensation for the damage thereby caused, to fine, or imprisonment, or suspension, or entire removal from practice, or to still severer punishment, particularly where he had been guilty of a *prævaricatio*, or betrayal of his trust for the benefit of the opposite party; 5 Glück, Pand. 111.

Compensation.—By the *lex Cincia*, A. U. C. 549, advocates were prohibited from receiving any reward for their services. In course of time this became obsolete. Claudius allowed it, and fixed ten thousand sesterces as the maximum fee. Trajan prohibited this fee, called *honorarium*, from being paid before the termination of the action. This, too, was disregarded, and prepayment had become lawful in the time of Justinian; 5 Glück, Pand. 117. The fee was regulated by law, unless the advocate had made a special agreement with his client, when the agreement fixed the amount. But a *factum de quota litis, i. e.*, an agreement to pay a contingent fee, was prohibited, under penalty of the advocate's forfeiting his privilege of practising; l. 5, C.

2, 6. A *palmarium*, or conditional fee in addition to the lawful charge and depending upon his gaining the cause, was also prohibited; 5 Glück, Pand. 120 *et seq.* But an agreement to pay a *palmarium* might be enforced when it was not entered into till after the conclusion of the suit; l. 1, § 12, D. 50, 13. The compensation of the advocate might also be in the way of an annual salary; 5 Glück, Pand. 122.

Remedy.—The advocate had the right to retain papers and instruments of his client until payment of his fee; l. 26, Dig. 3, 2. Should this fail, he could apply for redress to the court where the cause was tried by petition, a formal action being unnecessary; 5 Glück, Pand. 122.

ADVOCATI (Lat.) In Roman Law. Patrons; pleaders; speakers.

Anciently, any one who lent his aid to a friend, and who was supposed to be able in any way to influence a judge, was called *advocatus*.

Causidicus denoted a speaker or pleader merely; *advocatus* resembled more nearly a counsellor; or, still more exactly, *causidicus* might be rendered *barrister*, and *advocatus* *attorney*; though the duties of an *advocatus* were much more extended than those of a modern attorney; Du Cange; Calvinus, Lex.

A witness.

ADVOCATI ECCLESIAE. Advocates of the church.

These were of two sorts: those retained as pleaders to argue the cases of the church and attend to its law-matters; and advocates, or patrons of the advowson; Cowel; Spelman, Gloss.

ADVOCATI FISCI. In Civil Law. Those chosen by the emperor to argue his cause whenever a question arose affecting his revenues; Calvinus, Lex.; 3 Bla. Com. 27.

ADVOCATIA. In Civil Law. The functions, duty, or privilege of an advocate; Du Cange, *Advocatia*.

ADVOCATION. In Scotch Law. The removal of a cause from an inferior to a superior court by virtue of a writ or warrant issuing from the superior court. See BILL OF ADVOCATION; LETTER OF ADVOCATION.

ADVOCATUS. A pleader; a narrator; Bracton, 412 a, 372 b.

ADVOWSON. A right of presentation to a church or benefice.

He who possesses this right is called the patron or advocate. When there is no patron, or he neglects to exercise his right within six months, it is called a *lapse*, and a title is given to the ordinary to collate to a church: when a presentation is made by one who has no right, it is called a *usurpation*.

Advowsons are of different kinds: as *advowson appendant*, when it depends upon a manor, etc.; *advowson in gross*, when it belongs to a person and not to a manor; *advowson presentative*, where the patron presents to the bishop; *advowson donative*, where the king or patron puts the clerk into possession without presentation; *advowson collative*,

where the bishop himself is a patron; *advowson of the moiety of the church*, where there are two several patrons and two incumbents in the same church; a *moiety of advowson*, where two must join the presentation of one incumbent; *advowson of religious houses*, that which is vested in the person who founded such a house; 2 Bla. Com. 21; Mirehouse, *Advowsons*; Comyns, Dig. *Advowson, Quare Impedit*; Bacon, Abr. *Simony*; Burns, Eccl. Law.

ADVOWTRY. In English Law. The crime committed by a woman who, having committed adultery, continued to live with the adulterer; Cowel; Termes de la Ley.

ÆDES (Lat.). In Civil Law. A dwelling; a house; a temple.

In the country every thing upon the surface of the soil passed under the term *ædes*; Du Cange; Calvinus, Lex.

ÆDILE (Lat.). In Roman Law. An officer who attended to the repairs of the temples and other public buildings; the repairs and cleanliness of the streets; the care of the weights and measures; the providing for funerals and games; and regulating the prices of provisions; Ainsworth, Lex.; Smith, Lex.; Du Cange.

ÆDILITIUM EDICTUM (Lat.). In Roman Law. That provision by which the buyer of a diseased or imperfect slave, horse, or other animal was relieved at the expense of the vendor who had sold him as sound knowing him to be imperfect; Calvinus, Lex.

ÆEL (Norman). A grandfather. Spelled also *æeul*, *æyle*; Kelham.

ÆS ALIENUM (Lat.). In Civil Law. A debt.

Literally translated, the money of another; the civil law considering borrowed money as the property of another, as distinguished from *æs suum*, one's own.

ÆSTIMATIO CAPITIS (Lat. the value of a head). The price to be paid for taking the life of a human being.

King Athelstan declared, in an assembly held at Exeter, that mulcts were to be paid *per æstimationem capitis*. For a king's head (or life), 30,000 thuringæ; for an archbishop's or prince's, 15,000; for a priest's or thane's, 2000; Leg. Hen. I.

ÆTAS INFANTILI PROXIMA (Lat.). The age next to infancy. Often written *ætās infantie proxima*.

See AGE. 4 Bla. Com. 22.

AFFECTION. The making over, pawning, or mortgaging a thing to assure the payment of a sum of money, or the discharge of some other duty or service; Techn. Dict.

AFFECTUS (Lat.). Movement of the mind; disposition; intention.

One of the causes for a challenge of a juror is *propter affectum*, on account of a suspicion of bias or favor; 3 Bla. Com. 363; Coke, Litt. 156.

AFFEER. In English Law. To fix in amount; to liquidate.

To afeer an amercement.—To establish the amount which one amerced in a court-leet should pay.

To afeer an account.—To confirm it on oath in the exchequer; Cowel; Blount; Spelman.

AFFEERORS. In Old English Law. Those appointed by a court-leet to mulct those punishable, not by a fixed fine, but by an arbitrary sum called amercement. Termes de la Ley; 4 Bla. Com. 373.

AFFIANCE (Lat. *affidare, ad, fidem, dare*, to pledge to).

A plighting of troth between man and woman; Littleton, § 39.

An agreement by which a man and woman promise each other that they will marry together; Pothier, *Traité du Mar.* n. 24.

Marriage; Coke, Litt. 34 a. See Dig. 23, 1. 1; Code, 5. 1. 4.

AFFIANT. A deponent.

AFFIDARE (Lat. *ad fidem dare*). To pledge one's faith or do fealty by making oath; Cowel.

Used of the mutual relation arising between landlord and tenant; 1 Washb. R. P. 19; 1 Bla. Com. 337; Termes de la Ley, *Fealty*. Affidavit is of kindred meaning.

AFFIDATUS. One who is not a vassal, but who for the sake of protection has connected himself with one more powerful; Spelman, Gloss.; 2 Bla. Com. 46.

AFFIDAVIT (Lat.). In Practice. A statement or declaration reduced to writing, and sworn or affirmed to before some officer who has authority to administer an oath or affirmation.

It differs from a deposition in this, that in the latter the opposite party has an opportunity to cross-examine the witness, whereas an affidavit is always taken *ex parte*; Gresley, Eq. Ev. 413; 3 Blatch. 456.

An affidavit includes the oath, and may show what facts the affiant swore to, and thus be available as an oath, although unavailable as an affidavit; 28 Wis. 460.

By general practice, affidavits are allowable to present evidence upon the hearing of a motion, although the motion may involve the very merits of the action; but they are not allowable to present evidence on the trial of an issue raised by the pleadings. Here the witnesses must be produced before the adverse party. They are generally required on all motions to open defaults or to grant delay in the proceedings and other applications by the defendant addressed to the favor of the court.

Formal parts.—An affidavit must intelligibly refer to the cause in which it is made. The strict rule of the common law is that it must contain the exact title of the cause. This, however, is not absolutely essential; 80 Ill. 307. The place where the affidavit is taken must be stated, to show that it was taken within the officer's jurisdiction; 1 Barb. Ch. Pr. 601. The deponent must sign the affidavit at the end; 11 Paige, Ch. 173. The jurat

must be signed by the officer with the addition of his official title. In the case of some officers the statutes conferring authority to take affidavits require also his seal to be affixed.

In general, an affidavit must describe the deponent sufficiently to show that he is entitled to offer it; for example, that he is a party, or agent or attorney of a party, to the proceeding; 7 Hill, 177; 4 Denio, 71, 258; and this matter must be stated, not by way of recital or as mere description, but as an allegation in the affidavit; 3 N. Y. 41; 8 *id.* 158.

AFFIDAVIT OF DEFENCE. In Practice. A statement made in proper form that the defendant has a good ground of defence to the plaintiff's action upon the merits.

The statements required in such an affidavit vary considerably in the different states where they are required. In some, it must state a ground of defence; 1 Ashm. 4; Troub. & H. Pr. § 399; in others, a simple statement of belief that it exists is sufficient. Called also an affidavit of merits, as in Massachusetts. See as to its salutary effect, 20 Penn. 387; 1 Grant, 190.

It must be made by the defendant, or some person in his behalf who possesses a knowledge of the facts; 1 Ashm. 4.

The effect of a failure to make such affidavit is, in a case requiring one, to default the defendant; 8 Watts, 367. It was first established in Philadelphia by agreement of members of the bar; 3 Binn. 423; and afterwards by act of assembly. A law permitting judgment in default of such an affidavit is constitutional; 99 Mass. 104; 86 Penn. 225.

AFFIDAVIT TO HOLD TO BAIL. In Practice. An affidavit which is required in many cases before a person can be arrested.

Such an affidavit must contain a statement, clearly and certainly expressed, by some one acquainted with the fact, of an indebtedness from the defendant to the plaintiff, and must show a distinct cause of action; Selwyn, Pr. 104; 1 Chitty, Plead. 165. See BAIL.

AFFILARE. To put on record; to file; 8 Coke, 319; 2 M. & S. 202.

AFFILIATION. In French Law. A species of adoption which exists by custom in some parts of France.

The person affiliated succeeded equally with other heirs to the property acquired by the deceased to whom he had been affiliated, but not to that which he inherited.

In Ecclesiastical Law. A condition which prevented the superior from removing the person affiliated to another convent; Guyot, *Répert.*

AFFINES (Lat. *finis*). In Civil Law. Connections by marriage, whether of the persons or their relatives; Calvinus, Lex.

From this word we have affinity, denoting relationship by marriage; 1 Bla. Com. 434.

The singular, *affinis*, is used in a variety of related significations—a boundary; Du Cange; a partaker or sharer, *affinis culpæ* (an aider or one who has knowledge of a crime); Calvinus, Lex.

AFFINITAS. In Civil Law. Affinity.

AFFINITAS AFFINITATIS. That connection between parties arising from marriage which is neither consanguinity nor affinity.

This term intends the connection between the kinsmen of the two persons married, as, for example, the husband's brother and the wife's sister; Erskine, Inst. 1. 6. 8.

AFFINITY. The connection existing, in consequence of marriage, between each of the married persons and the kindred of the other.

It is distinguished from consanguinity, which denotes relationship by blood. Affinity is the tie which exists between one of the spouses with the kindred of the other: thus, the relations of my wife, her brothers, her sisters, her uncles, are allied to me by affinity, and my brothers, sisters, etc., are allied in the same way to my wife. But my brother and the sister of my wife are not allied by the ties of affinity.

A person cannot, by legal succession, receive an inheritance from a relation by affinity; neither does it extend to the nearest relations of husband and wife, so as to create a mutual relation between them. The degrees of affinity are computed in the same way as those of consanguinity. See 1 Bla. Com. 435; Pothier, Traité du Mar. pt. 3, c. 3, art. 2; Inst. 1, 10, 6; Dig. 38, 10, 4, 3; 1 Phill. Eccl. 210; 5 Mart. La. 296.

AFFIRM (Lat. *affirmare*, to make firm; to establish).

To ratify or confirm a former law or judgment; Cowel.

Especially used of confirmations of the judgments of an inferior by an appellate tribunal.

To ratify or confirm a voidable act of the party.

To make a solemn religious asseveration in the nature of an oath. See AFFIRMATION.

AFFIRMANCE. The confirmation of a voidable act by the party acting, who is to be bound thereby.

The term is in accuracy to be distinguished from *ratification*, which is a recognition of the validity or binding force as against the party ratifying, of some act performed by another person; and from *confirmation*, which would seem to apply more properly to cases where a doubtful authority has been exercised by another in behalf of the person ratifying; but these distinctions are not generally observed with much care; 1 Parsons, Contr. 243.

Express affirmance takes place where the party declares his determination of fulfilling the contract; Dudl. Ga. 203.

A mere acknowledgment that the debt existed, or that the contract was made, is not an affirmance; 10 N. H. 561; 2 Esp. 628; 1 Bail. 28; 9 Conn. 330; 2 Hawks, 535; 1 Pick. 203; Dudl. Ga. 203; but it must be a direct and express confirmation, and substantially (though it need not be in form) a promise to pay the debt or fulfil the contract; 3 Wend. 479; 4 Day, 57; 12 Conn. 550; 8 N. H. 374; 2 Hill, 120; 19 Wend. 301; 1 Pars. Contr. 243; Bingham, Inf., 1st Am. ed. 69.

Implied affirmance arises from the acts of the party without any express declaration; 15 Mass. 220. See 10 N. H. 194; 11 S. & R. 305; 1 Pars. Contr. 243; 1 Bla. Com. 466, n. 10.

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

AFFIRMANT. In Practice. One who makes affirmation instead of making oath that the evidence which he is about to give shall be the truth, as if he had been sworn.

He is liable to all the pains and penalty of perjury, if he shall be guilty of wilfully and maliciously violating his affirmation. See PERJURY.

AFFIRMATION. In Practice. A solemn religious asseveration in the nature of an oath; 1 Greenl. Ev. § 371.

Quakers, as a class, and other persons who have conscientious scruples against taking an oath, are allowed to make affirmation in any mode which they may declare to be binding upon their consciences, in confirmation of the truth of testimony which they are about to give; 1 Atk. 21, 46; Cowp. 340, 389; 1 Leach, Cr. Cas. 64; 1 Ry. & M. 77; 6 Mass. 262; 16 Pick. 153; Buller, Nisi P. 292; 1 Greenl. Ev. § 371.

AFFIRMATIVE. That which establishes; that which asserts a thing to be true.

It is a general rule of evidence that the affirmative of the issue must be proved; Buller, Nisi P. 298; Peake, Ev. 2. But when the law requires a person to do an act, and the neglect of it will render him guilty and punishable, the negative must be proved, because every man is presumed to do his duty, and in that case they who affirm he did not must prove it; Buller, Nisi P. 298; 1 Rolle, 83; Comb. 57; 3 Bos. & P. 307.

AFFIRMATIVE PREGNANT. In Pleading. An affirmative allegation implying some negative in favor of the adverse party.

For example, if to an action of *assumpsit*, which is barred by the act of limitations in *six* years, the defendant pleads that he did not undertake, etc., within *ten* years, a replication that he did undertake, etc., within ten years would be an affirmative pregnant; since it would impliedly admit that the defendant had not promised within six years. Such a plea should be demurred to; Gould, Pl. c. 6, §§ 29, 37; Stephen, Pl. 381; Lawes, Civ. Pl. 113; Bacon, Abr. *Pleas* (n. 6).

AFFORCE THE ASSIZE. To compel unanimity among the jurors who disagree.

It was done either by confining them without meat and drink, or, more anciently, by adding other jurors to the panel, to a limited extent, securing the concurrence of twelve in a verdict. See Bracton, 185 *b*, 292 *a*; Fleta, book 4, c. 9, § 2.

The practice is now discontinued.

AFFRANCHISE. To make free.

AFFRAY. In Criminal Law. The fighting of two or more persons in some public place to the terror of the people.

It differs from a riot in not being premedi-

tated; for if any persons meet together upon any lawful or innocent occasion, and happen on a sudden to engage in fighting, they are not guilty of a riot, but an affray only; and in that case none are guilty except those actually engaged in it; Hawkins, Pl. Cr. book 1, c. 65, § 3; 4 Bla. Com. 146; 1 Russell, Cr. 271.

Fighting in a private place is only an assault; 1 Crompt. M. & R. 757; 1 Cox, Cr. Cas. 177.

AFFRECTAMENTUM (Fr. *fret*). Affreightment.

The word *fret* means tons, according to Cowel. *Affreightamentum* was sometimes used; Du Cange.

AFFREIGHTMENT. The contract by which a vessel, or the use of it, is let out to hire. See FREIGHT; GENERAL SHIP.

AFORESAID. Before mentioned; already spoken of or described.

Whenever in any instrument a person has once been described, all future references may be made by giving his name merely and adding the term "aforesaid" for the purpose of identification. The same rule holds good also as to the mention of places or specific things described, and generally as to any description once given which it is desirable to refer to.

Where a place is once particularly described in the body of the indictment, it is sufficient afterwards to name such place, and to refer to the venue by adding the word "aforesaid," without repeating the whole description of the venue; 1 Gabbett, Crim. Law, 212; 5 Term, 616.

AFORETHOUGHT. In Criminal Law. Premeditated; prepense.

The length of time during which the accused has entertained the thought of committing the offence is not very material, provided he has in fact entertained such thought; he is thereby rendered criminal in a greater degree than if he had committed the offence without premeditation. See MALICE AFORETHOUGHT; PREMEDITATION; 2 Chitty, Cr. Law, 785; 4 Bla. Com. 199; Fost. Cr. Cas. 132, 291, 292; Cro. Car. 131; Palm. 545; W. Jones, 198; 4 Dall. 146.

AFTERMATH. The second crop of grass.

A right to have the last crop of grass or pasturage; 1 Chitty, Pract. 181.

AGAINST THE FORM OF THE STATUTE. Technical words which must be used in framing an indictment for a breach of the statute prohibiting the act complained of.

The Latin phrase is *contra formam statuti*.

AGAINST THE WILL. Technical words which must be used in framing an indictment for robbery from the person; 1 Chitty, Cr. Law, 244.

In the statute of 13 Edw. I. (Westm. 2d) c. 34, the offence of rape is described to be ravishing a woman "where she did not consent," and not ravishing *against her will*.

Per *Tindal*, C. J., and *Parke*, B., in the addenda to 1 Den. Cr. Cas. 1. And in England this statute definition was adopted by all the judges; Bell, Cr. Cas. 63, 71.

AGARD. Award. Burrill, Dic.

AGE. That period of life at which the law allows persons to do acts or discharge functions which for want of years they were prohibited from doing or undertaking before.

The full age of twenty-one years is held to be completed on the day preceding the twenty-first anniversary of birth; 1 Bla. Com. 464; 1 Sid. 162; 1 Kebl. 589; 1 Salk. 44; 1 Ld. Raym. 84; 3 Harr. Del. 557; 4 Dana, 597.

Males, before fourteen, are said not to be of discretion; at that age they may consent to marriage and choose a guardian. Twenty-one years is full age for all private purposes, and they may then exercise their rights as citizens by voting for public officers, and are eligible to all offices, unless otherwise provided for by law.

Females, at twelve, arrive at years of discretion, and may consent to marriage; at fourteen, they may choose a guardian; and twenty-one, as in males, is full age, when they may exercise all the rights which belong to their sex. The age of puberty for both sexes is fourteen.

In the United States, at twenty-five, a man may be elected a representative in congress; at thirty, a senator; and at thirty-five, he may be chosen president. He is liable to serve in the militia from eighteen to forty-five inclusive, unless exempted for some particular reason. In England no one can be chosen member of parliament till he has attained twenty-one years; nor be ordained a priest under the age of twenty-four; nor made a bishop till he has completed his thirtieth year. The age of serving in the militia is from sixteen to forty-five years. The sovereignty of the realm is assumed at eighteen; though the law, according to Blackstone, recognizes no minority in the heir to the throne.

In French Law. A person must have attained the age of forty to be a member of the legislative body; twenty-five to be a judge of a tribunal *de première instance*; twenty-seven, to be its president, or to be judge or clerk of a *cour royale*; thirty, to be its president or *procureur-général*; twenty-five, to be a justice of the peace; thirty, to be judge of a tribunal of commerce, and thirty-five, to be its president; twenty-five, to be a notary public; twenty-one, to be a testamentary witness; thirty, to be a juror. At sixteen, a minor may devise one-half of his property as if he were a major. A male cannot contract marriage till after the eighteenth year, nor a female before full fifteen years. At twenty-one, both males and females are capable to perform all the acts of civil life; Touillier, *Droit*, Civ. liv. 1, Intr. n. 188.

In Roman Law. Infancy (*infantia*) extended to the age of seven; the period of childhood (*pueritia*), which extended from

seven to fourteen, was divided into two periods; the first, extending from seven to ten and a half, was called the period nearest childhood (*ætas infantie proxima*); the other, from ten and a half to fourteen, the period nearest puberty (*ætas pubertati proxima*); puberty (*pubertas*) extended from fourteen to eighteen: full puberty extended from eighteen to twenty-five: at twenty-five, the person was *major*. See Taylor, Civ. Law, 254; *Leçon El. du Droit Civ.* 22.

AGE-PRAYER. A statement made in a real action to which an infant is a party, of the fact of infancy and a request that the proceedings may be stayed until the infant becomes of age.

It is now abolished; stat. 11 Geo. IV.; 1 Will. IV. c. 37, § 10; 1 Lilly, Reg. 54; 3 Bla. Com. 300.

AGENCY. A relation between two or more persons, by which one party, usually called the agent or attorney, is authorized to do certain acts for, or in relation to the rights or property of, the other, who is denominated the principal, constituent, or employer; Prof. Joel Parker, MS. Lect. 1851.

A contract by which one person, with greater or less discretionary power, undertakes to represent another in certain business relations; Whart. Agency, 1.

The right on the part of the agent to act, is termed his authority or power. In some instances the authority or power must be exercised in the name of the principal, and the act done is for his benefit alone. In others, it may be executed in the name of the agent, and, if the power is coupled with an interest on the part of the agent, it may be executed for his own benefit; Prof. Joel Parker, Harvard Law School Lect. 1851.

The creation of the agency, when express, may be either by deed, in writing not by deed, or by a verbal delegation of authority; 2 Kent, 612; 3 Chitty, Com. Law, 104; 9 Ves. 250; 11 Mass. 27, 97, 288; 1 Binn. 450; 4 Johns. Ch. 667.

When the agency is not express, it may be inferred from the relation of the parties and the nature of the employment, without proof of any express appointment; 2 Kent, 613; 15 East, 400; 1 Wash. Va. 19; 5 Day, 556.

In most of the ordinary transactions of business, the agency is either conferred verbally, or is implied from circumstances. But where the act is required to be done in the name of the principal by deed, the authority to the agent must also be by deed, unless the principal be present and verbally or impliedly authorize the agent to fix his name to the deed; 1 Liverm. Ag. 35; Paley, Ag. 157; Story, Ag. §§ 49, 51; 5 Binn. 613; 1 Wend. 424; 9 *id.* 54, 68; 12 *id.* 525; 14 S. & R. 331.

The authority may be *general*, when it extends to all acts connected with a particular business or employment; or *special*, when it is confined to a single act; Story, Ag. § 17; 21 Wend. 279; 9 N. H. 263; 3 Blackf. 436.

If the powers are special, they form the limits of the authority; if general, they will be more liberally construed, according to the necessities of the occasion and the course of the transaction.

The agency must be antecedently given, or subsequently adopted; and in the latter case there must be an act of recognition, or an acquiescence in the act of the agent from which a recognition may be fairly implied; 2 Kent, 614. If, with full knowledge of what the agent has done, the principal ratify the act, the ratification will be equivalent to an original authority,—according to the maxim, *omnis ratihabitio retrotrahitur et mandato æquiparatur*; Paley, Ag. 172; 4 Ex. 798. The ratification relates back to the original making of the contract; 31 L. J. Ex. 163; except as to intermediate vested rights; 4 Ct. Cl. 511; 49 Ill. 59; 43 Mo. 113; 12 Minn. 255. It must be ratified in its entirety; 31 N. Y. 611; 1 Oreg. 115; 45 Ga. 153; 27 Mo. 163; 31 Iowa, 547; and subject to the charges imposed by the agent; 9 H. L. C. 391. An intention to ratify may be presumed from the silence of the principal who has received a letter from the agent informing him of what has been done on his account; 12 Wall. 358; 2 Biss. 255; 105 Mass. 551; 49 Penn. 457; 69 *id.* 426; 21 Mich. 374; 37 Ill. 442; 26 Iowa, 38; 27 Tex. 120; or from any acts inconsistent with a contrary presumption; 26 Me. 84; 69 Penn. 426; 59 Ill. 23; 12 Kan. 135; or from a suit by the principal; 56 Me. 564; 21 Ark. 539; 28 Ill. 135; 9 B. & C. 59; 12 Wall. 681; 12 Johns. 300; 3 Cow. N. Y. 281; 4 Wash. C. C. 549; 14 S. & R. 30. Ratification can only take place where the agent professed to act for the person ratifying; 5 B. & C. 909; Leake, Contracts, 470. Thus a forged signature to a note cannot be ratified; L. R. 6 Ex. 89; *contra*, 46 Me. 176; 32 Ill. 387; 33 Conn. 95; 42 Penn. 143; Whart. Ag. § 71.

The business of the agency may concern either the property of the principal, of a third person, of the principal and a third person, or of the principal and the agent, but must not relate solely to the business of the agent. A contract in relation to an illegal or immoral transaction cannot be the foundation of a legal agency; 1 Liverm. Ag. 6, 14.

The termination of the agency may be by a countermand of authority on the part of the principal, at the mere will of the principal; and this countermand may, in general, be effected at any time before the contract is completed; 3 Chitty, Com. & Manuf. 223; Story, Ag. §§ 463, 465; 53 Penn. 256; 46 id. 426; Whart. Ag. § 94; even though in terms irrevocable, provided there is no valid consideration, and the agent has not an interest in the execution of the authority entrusted to him; Story, Ag. §§ 476, 477. But when the authority or power is coupled with an interest, or when it is given for a valuable consideration, or when it is a part of a security, then, unless there is an express stipulation

that it shall be revocable, it cannot be revoked; Story, Ag. §§ 476, 477; 2 Kent, 643, 644; 8 Wheat. 174; 10 Paige, 205; 34 N. Y. 24; 53 Penn. 212; 3 Const. 62; 2 Mas. C. C. 244, 342. When the authority has been partially executed by the agent, if it admit of severance, or of being revoked as to the part which is unexecuted, it may be revoked as to that part; but if it be not thus severable, and the agent by its execution in part will sustain damage, it cannot be revoked as to the unexecuted part unless the agent be fully indemnified; Story, Ag. § 466. This revocation may be by a formal declaration publicly made known, by an informal writing, or by parol; or it may be implied from circumstances, as, if another person be appointed to do the same act; Story, Ag. § 474; 5 Binn. 305; 6 Pick. 198. See 11 Allen, 208. It takes effect from the time it is made known, and not before, both as regards the agent and third persons; Story, Ag. § 470; 2 Kent, 644; 11 N. H. 397; 7 Ct. of Cl. 535; 44 Ill. 114; 35 Vt. 179; 95 U. S. 48; 38 Conn. 197.

The determination may be by the renunciation of the agent either before or after a part of the authority is executed; Story, Ag. § 478; it should be observed, however, that if the renunciation be made after the authority has been partly executed, the agent by renouncing it becomes liable for the damages which may thereby be sustained by his principal; Story, Ag. § 478; Jones, Bailm. 101; 4 Johns. 84; or, by *operation of law*, in various ways. And the agency may terminate by the expiration of the period during which it was to exist and to have effect; as, if an agency be created to endure a year, or until the happening of a contingency, it becomes extinct at the end of the year, or on the happening of the contingency; Story, Ag. § 480.

The determination may result from the marriage of the principal, if a feme sole; the insanity of the principal; 10 N. H. 156; 8 Wheat. 174; *bankruptcy*; Story, Ag. § 482; 16 East, 382; Baldw. C. C. 38; or *death*; Story, Bailm. § 209; 2 Kent, 645 (in England and most of the United States this revocation is instantaneous, even as to third parties without notice; L. R. 4 C. P. 744; 84 Ill. 286; 10 M. & W. 1; 5 Pet. 319; 12 N. H. 145; 25 Ind. 182; 2 Humph. 350; 31 Ala. 274; 29 Tex. 204; 28 Cal. 645; 77 Iowa, 73; 9 Wend. 452. But notice is necessary in Pennsylvania, Missouri, and, in some cases, in Ohio; 4 W. & S. 282; 26 Mo. 313; 8 Ohio St. 520; and under the civil law; Whart. Ag. § 101); but not when the authority is coupled with an interest; 53 Penn. 266; 4 Campb. 325; 10 Paige, 201; see 4 Pet. 332; or from the insanity; Story, Ag. § 487; *bankruptcy*; 5 B. & Ald. 27, 31; or *death* of the agent; 2 Kent, 643; though not necessarily by marriage or bankruptcy; Story, Ag. §§ 485, 486; 12 Mod. 383; 3 Burr. 1469, 1471; from the extinction of the subject-matter of the agency, or of the principal's power over it,

or by the complete execution of the trust; Story, Ag. § 499.

As to revocation by *lunacy* of principal, see late English case in 19 Am. L. Reg. 106, with Judge Bennett's note. As to revocation by *death* of principal, see *id.* 401.

AGENS (Lat. *agere*, to do; to conduct).

A conductor or manager of affairs.

Distinguished from *factor*, a workman.

A plaintiff. Fleta, lib. 4, c. 15, § 8.

AGENT (Lat. *agens*; from *agere*, to do).

One who undertakes to transact some business, or to manage some affair, for another, by the authority and on account of the latter, and to render an account of it; 1 Livermore, Ag. 67; 2 Bouvier, Inst. 3. See Co. Litt. 207; 1 B. & P. 316.

The term is one of a very wide application, and includes a great many classes of persons to which distinctive appellations are given; as, factors, brokers, attorneys, cashiers of banks, auctioneers, clerks, supercargoes, consignees, ships' husbands, masters of ships, and the like. The terms agent and attorney are often used synonymously. Thus, a letter or power of attorney is constantly spoken of as the formal instrument by which an agency is created; Paley, Ag., Dunl. ed. 1, n.

Who may be.

Many persons disqualified from acting for themselves, such as infants (117 Mass. 479), persons attainted or outlaws, aliens (19 La. Ann. 482; see 18 Wall. 106; 42 N. Y. 54; 62 Ill. 61), slaves, and others, may yet act as agents in the execution of a naked authority; Whart. Ag. § 14; 45 Ala. 656; 1 Hill (s. c.) 270; Coke, Litt. 252 a; Story, Ag. § 4. A feme covert may be the agent of her husband, and as such, with his consent, bind him by her contract or other act; 47 Ala. 624; 16 Vt. 633; 3 Head. (Tenn.) 471. See 70 Penn. 181; and she may be the agent of another in a contract with her husband; Bacon, Abr. Authority, B; 6 N. H. 124; 3 Whart. 369; 16 Vt. 653. But although she is in general competent to act as the agent of a third person; 7 Bingham, 565; 1 Esp. 142; 2 *id.* 511; 4 Wend. 465; it is not clear that she can do so when her husband expressly dissents, particularly when he may be rendered liable for her acts; Story, Ag. § 7. Persons *non compos mentis* cannot be agents for others; Whart. Ag. § 15 (but see Ewell's Evans, Agency, *10; 4 Exch. 7; s. c. Ewell, Lead. Cas. on Disabilities, 614; as to cases when one deals with a lunatic, not knowing of his lunacy. See, also, 55 Ill. 62; 34 Ind. 181; 14 Barb. 488; 23 Iowa, 433; 48 N. H. 133; 6 Gray, 279; 28 Ark. 417; 24 Ind. 238); nor can a person act as agent in a transaction where he has an adverse interest or employment; 2 Ves. Ch. 317; 11 Clark & F. 714; 3 Beav. 783; 2 Campb. 203; 2 Chitty, Bail, 205; 30 Me. 431; 24 Ala. n. s. 358; 3 Denio, 575; 19 Barb. 595; 20 *id.* 470; 6

La. 407; 7 Watts, 472; and whenever the agent holds a fiduciary relation, he cannot contract with the same general binding force with his principal as when such a relation does not exist; Story, Ag. § 9; 1 Story, Eq. Jur. §§ 308, 328; 4 M. & C. 134; 14 Ves. 290; 3 Sumn. 476; 2 Johns. Ch. 251; 11 Paige, 538; 5 Me. 420; 6 Pick. 198; 4 Conn. 717; 10 Pet. 269.

Extent of authority.

The authority of the agent, unless the contrary clearly appears, is presumed to include all the necessary and usual means of executing it with effect; Story, Ag. §§ 58, 85, 86; 5 Bingham, 442; 2 H. Bla. 618; 10 Wend. 218; 6 S. & R. 146; 11 Ill. 177; 9 Mete. 91; 22 Pick. 85; 15 Miss. 365; 9 Leigh, Va. 387; 11 N. H. 424; 6 Ired. 252; 10 Ala. n. s. 386; 21 *id.* 488; 1 Ga. 418; 1 Sneed, 497; 8 Humphr. 509; 15 Vt. 155; 2 McLean, 543; 8 How. 441. Where, however, the whole authority is conferred by a written instrument, its nature and extent must be ascertained from the instrument itself, and cannot be enlarged by parol evidence; Story, Ag. §§ 76, 79; 1 Taunt. 347; 5 B. & Ald. 204; 7 Rich. 45; 1 Pet. 264; 3 Cranch, 415.

Generally, in *private* agencies, when an authority is given by the principal; 7 N. H. 253; 1 Dougl. Mich. 119; 11 Ala. n. s. 755; 1 B. & P. 229; 3 Term, 592; to two or more persons to do an act, and no several authority is given, all the agents must concur in doing it, in order to bind the principal, though one die or refuse; Story, Ag. § 42; 3 Pick. 232; 6 *id.* 198; 12 Mass. 185; 23 Wend. 324; 6 Johns. 39; 9 Watts & S. 56; 10 Vt. 532; 12 N. H. 226; 1 Gratt. 226; 53 N. Y. 114; 57 Ill. 180.

The words *jointly and severally*, and *jointly or severally*, have been construed as authorizing all to act jointly, or each one to act separately, but not as authorizing any portion of the number to do the act jointly; Paley, Ag., Lloyd ed. 177, *note*. But where the authority is so worded that it is apparent the principal intended to give power to either of them, an execution by a part will be valid; Coke, Litt. 49 *b*; Dyer, 62; 5 B. & Ald. 628. And generally, in commercial transactions, each one of several agents possesses the whole power. For example, on a consignment of goods for sale to two factors (whether they are partners or not), each of them is understood to possess the whole power over the goods for the purposes of the consignment; Story, Ag. § 44; 3 Wils. 94, 114; 20 Pick. 59; 24 *id.* 13; see 53 N. Y. 114. In public agencies an authority executed by a majority will be sufficient; 1 Coke, Litt. 181 *b*; Comyns, Dig. *Attorney*, c. 15; Bacon, Abr. *Authority*, C; 1 Term, 592; 10 Wis. 271; 11 Ala. 755.

A mere agent cannot, generally, appoint a sub-agent, so as to render the latter directly responsible to the principal; 9 Coke, 75; 2 M. & S. 298, 301; 1 Younge & J. 387; 4 Mass. 597; 12 *id.* 241; 1 Hill, 501; 13 B. Monr. 400; 12 N. H. 226; 3 Story, 411; 72

Penn. 491; 26 Wend. 485; 11 How. 209; 28 Tex. 163; 34 Miss. 63; but may when such is the usage of trade, or is understood by the parties to be the mode in which the particular business might be done; 9 Ves. 234; 1 M. & S. 484; 2 *id.* 301; 6 S. & R. 386; 1 Ala. n. s. 249; 3 Johns. Ch. 167; 51 N. Y. 117.

Duties and liabilities.

The particular obligations of an agent vary according to the nature, terms, and end of his employment; Paley, Ag. 3; 2 Ld. Raym. 517. He is bound to execute the orders of his principal whenever, for a valuable consideration, he has undertaken to perform them; Story, Ag. § 189; 5 Cowen, 128; 20 Wend. 321. When his authority is limited by instructions, it is his duty to adhere faithfully to those instructions; Paley, Ag. 3, 4; 3 B. & P. 75; 5 *id.* 269; Story, Ag. § 192; 3 Johns. Cas. 36; 1 Sandf. 111; 26 Penn. 394; 14 Pet. 494; 25 N. J. Eq. 202; 48 Ga. 128; 3 W. Va. 133; 31 Ill. 200; but cases of extreme necessity and unforeseen emergency constitute exceptions to this rule; 1 Story, 45; 4 Binn. 361; 5 Day, 556; 26 Penn. 394; 4 Campb. 83; and where the agent is required to do an illegal or an immoral act; 6 C. Rob. Adm. 207; 7 Term, 157; 11 Wheat. 258; he may violate his instructions with impunity; Story, Ag. §§ 193, 194, 195. If he have no specific instructions, he must follow the accustomed course of the business; Story, Ag. § 199; 1 Gall. C. C. 360; 11 Mart. La. 636. When the transaction may, with equal advantage to the principal, be done in two or more different ways, the agent may in general do it in either, provided a particular mode has not been prescribed to him; 1 Livermore, Ag. 103. He is to exercise the skill employed by persons of common capacity similarly engaged, and the same degree of diligence that persons of ordinary prudence are accustomed to use about their own affairs; 6 Taunt. 495; 10 Bingham, 57; 1 Johns. 364; 20 Pick. 167; 6 Mete. 13; 24 Vt. 149; 57 Mo. 93; 66 Ill. 136; 21 Wall. 178; 38 Miss. 242. It is his duty to keep his principal informed of his doings, and to give him reasonable notice of whatever may be important to his interests; 5 M. & W. 527; 4 Watts & S. 305; 1 Story, 45, 56; 4 Rawle, 229; 6 Whart. 9; 13 Mart. La. 214, 365. He is also bound to keep regular accounts, and to render his accounts to his principal at all reasonable times, without concealment or overcharge; Story, Ag. § 203; 22 Tex. 703; 22 La. An. 599; 9 Iowa, 589; 52 Ill. 512; 4 Mo. Cr. 41.

As to their principals, the liabilities of agents arise from a violation of duties and obligations to them by exceeding his authority, by misconduct, or by any negligence, omission, or act by the natural result or just consequence of which the principal sustains a loss; Paley, Ag. 7, 71, 74; 1 B. & Ad. 415; 6 Hare, 366; 12 Pick. 328; 20 *id.* 167; 11 Ohio, 363; 13 Wend. 518; 6 Whart. 9. And

joint agents who have a common interest are liable for the misconduct and omissions of each other, in violation of their duty, although the business has, in fact, been wholly transacted by one with the knowledge of the principal, and it has been privately agreed between themselves that neither shall be liable for the acts or losses of the other; Story, Ag. § 232; Paley, Ag. 52, 53; 7 Taunt. 403; 3 Wils. 73; 51 N. Y. 373.

The degree of neglect which will make the agent responsible for damages varies according to the nature of the business and the relation in which he stands to his principal. The rule of the common law is, that where a person holds himself out as of a certain business, trade, or profession, and undertakes, whether gratuitously or otherwise, to perform an act which relates to his particular employment, an omission of the skill which belongs to his situation or profession is imputable to him as a fraud upon his employer; Paley, Ag., Lloyd ed. 7, note 4. But where his employment does not necessarily imply skill in the business he has undertaken, and he is to have no compensation for what he does, he will not be liable to an action if he act *bonâ fide* and to the best of his ability; 1 Livermore, Ag. 336, 339, 340.

As to *third parties*, generally, when a person having full authority is known to act merely for another, his acts and contracts will be deemed those of the principal only, and the agent will incur no personal responsibility; Story, Ag. § 261; Paley, Ag. 368, 369; 2 Kent, 629, 630; 15 East, 62; 3 P. Will. 277; 6 Binn. 324; 13 Johns. 58, 77; 15 *id.* 1. But when an agent does an act without authority, or exceeds his authority, and the want of authority is unknown to the other party, the agent will be personally responsible to the person with whom he deals; Story, Ag. § 264; 2 Taunt. 385; 7 Wend. 315; 8 Mass. 178. If the agent having original authority contract in the name of his principal, and it happen that at the time of the contract, unknown to both parties, his authority was revoked by the death of the principal, the agent will not be personally responsible; Story, Ag. § 265 a; 10 M. & W. 1.

An agent will be liable on a contract made with him when he expressly, or by implication, incurs a personal responsibility; Story, Ag. §§ 156-159; 269; as, if he make an express warranty of title, and the like; or if, though known to act as agent, he give or accept a draft in his own name; 5 Taunt. 74; 1 Mass. 27, 54; 2 Duer, 260; 2 Conn. 453; 5 Whart. 288; and public as well as private agents may, by a personal engagement, render themselves personally liable; Paley, Ag. 381. If he makes a contract, signs a note, or accepts a draft as "agent," without disclosing his principal, he becomes personally liable unless the person with whom he is dealing has knowledge of the character and extent of the agency or the circumstances of the transaction are sufficient to inform him; 1 Am. L. C.

766, 767; 61 Penn. 69. In general, although a person contract as agent, yet if there be no other responsible principal to whom resort can be had, he will be personally liable: as, if a man sign a note as "guardian of A. B.," an infant, in that case neither the infant nor his property will be liable, and the agent alone will be responsible; Story, Ag. § 280; 2 Brod. & B. 460; 5 Mass. 299; 6 *id.* 58; 8 Cowen, 31. The case of an agent of government, acting in that capacity for the public, is an exception to this rule, even though the terms of the contract be such as might, in a case of a private nature, involve him in a personal obligation; it not being presumed that a public agent meant to bind himself individually; Paley, Ag. 376, 377; and see 5 B. & Ald. 34; 1 Brown, Ch. 101; 6 Dowl. & R. 122; 7 Bingham. 110. Masters of ships, though known to contract for the owners of the ships and not for themselves, are liable for the contracts they make for repairs, unless they negative their responsibility by the express terms of the contract; Paley, Ag. 388; 15 Johns. 298; 16 *id.* 89; 11 Mass. 34. As a general rule, the agent of a person resident in a foreign country is personally liable upon all contracts made by him for his employer, whether he describe himself in the contract as agent or not, this being the usage of trade, and it being presumed that the credit was given to him and not to his principal; Story, Ag. § 268; 15 East, 68; 9 B. & C. 78; L. R. 9 Q. B. 572; 35 Md. 396; 15 East, 62; 22 Wend. 244; 33 Me. 106; 5 W. & S. 9; 3 Hill, N. Y. 72; but this presumption may be rebutted by proof of a contrary agreement; 11 Ad. & E. 589, 594, 595; and does not apply to agents in a different state within the U. S.; 23 Ind. 63.

An agent is personally responsible where money has been paid to him for the use of his principal under such circumstances that the party paying it becomes entitled to recall it. In such cases, as long as the money has not been paid over by the agent, nor his situation altered, as by giving his principal *fresh credit* upon the faith of it, it may be recovered from the agent; Story, Ag. § 300; 3 M. & S. 344; 7 Johns. 179; 1 Wend. 173; and if, in receiving the money, the agent was a wrong-doer, he will not be exempted from liability by payment to his principal; Paley, Ag. 393, 394; 1 Campb. 396.

With regard to the liability of agents to third persons for torts, there is a distinction between acts of misfeasance or positive wrongs, and non-feasances or mere omissions of duty. In the former case, the agent is personally liable to third persons, although authorized by his principal; Story, Ag. § 311; Paley, Ag. 396; 1 Wils. 328; 1 B. & P. 410; 28 Me. 464; while in the latter he is, in general, solely liable to his principal; Story, Ag. § 308; Paley, Ag. 396, 397, 398; Story, Bailm. §§ 400, 404, 507.

Where the *sub-agents* are appointed, if the agent has either express or implied authority

to appoint a sub-agent, he will not ordinarily be responsible for the acts or omissions of the substitute, 2 B. & P. 438; 2 M. & S. 301; 1 Wash. C. C. 479; 8 Cowen, 198 (but only for negligence in choosing the substitute; Whart. Negl. § 277); and this is especially true of public officers; 1 Ld. Raym. 646; Cowp. 754; 15 East, 384; 7 Cranch, 242; 9 Wheat. 720; 8 Wend. 403; 3 Hill, 531; 22 N. H. 252; 13 Ohio, 523; 1 Pick. 418; 4 Mass. 378; 8 Watts, 455; but the sub-agent will himself be directly responsible to the principal for his own negligence or misconduct; Story, Ag. § 201, 217 a; 2 Gall. C. C. 565; 8 Cow. N. Y. 198.

Rights and privileges.

As to his principal, an agent is ordinarily entitled to compensation for his services, commonly called a commission, which is regulated either by special agreement, by the usage of trade, or by the presumed intention of the parties; Story, Ag. §§ 324, 326; 8 Bingham, 65; 1 Caines, 349; 2 *id.* 357. In general, he must have faithfully performed the whole service or duty before he can claim any commissions; Story, Ag. §§ 329, 331; 1 C. & P. 384; 4 *id.* 289; 7 Bingham, 99; 16 Ohio, 412. He may forfeit his right to commissions by gross unskillfulness, by gross negligence, or gross misconduct, in the course of his agency; 3 Campb. 451; 7 Bingham, 569; 12 Pick. 328; as, by not keeping regular accounts; 8 Ves. 48; 11 *id.* 358; 17 Mass. 145; 2 Johns. Ch. N. Y. 108; by violating his instructions; by wilfully confounding his own property with that of his principal; 9 Beav. 284; 5 Bos. & P. 136; 11 Ohio, 363; by fraudulently misapplying the funds of his principal; 3 Chitty, Comm. & M. 222; by embarking the property in illegal transactions; or by doing anything which amounts to a betrayal of his trust; 12 Pick. 328, 332, 334; 20 Grat. 672; 21 Iowa, 326; L. R. 9 Q. B. 480; 98 Mass. 348; 25 Conn. 386; 52 Ill. 512; 9 Kans. 320; 29 Cal. 142; 71 Penn. 206.

The agent has a right to be reimbursed his advances, expenses, and disbursements reasonably and in good faith incurred and paid, without any default on his part, in the course of the agency; Story, Ag. §§ 335, 336; 5 B. & C. 141; 3 Binn. 295; 11 Johns. 439; 4 Halst. Ch. 657; and also to be paid interest on such advancements and disbursements whenever it may fairly be presumed to have been stipulated for, or to be due to him; 15 East, 223; 3 Campb. 467; 7 Wend. 315; 3 Caines, 226; 3 Binn. 295. But he cannot recover for advances and disbursements made in the prosecution of an illegal transaction, though sanctioned by or even undertaken at the request of his principal; Story, Ag. § 344; 3 B. & C. 639; and he may forfeit all remedy against his principal even for his advances and disbursements made in the course of legal transactions by his own gross negligence, fraud, or misconduct; 12 Wend. 362; 12

Pick. 328, 332; 20 *id.* 167; nor will he be entitled to be reimbursed his expenses after he has notice that his authority has been revoked; 2 Term, 113; 8 *id.* 204; 3 Brown, Ch. 314.

The agent may enforce the payment of a debt due him from his principal on account of the agency, either by an action at law or by a bill in equity, according to the nature of the case; and he may also have the benefit of his claim by way of set-off to an action of his principal against him, provided the claim is not for uncertain damages, and is in other respects of such a nature as to be the subject of a set-off; Story, Ag. §§ 350, 385; 4 Burr, 2133; 6 Cowen, 181; 11 Pick. 482. He has also a lien for all his necessary commissions, expenditures, advances, and services in and about the property intrusted to his agency, which right is in many respects analogous to the right of set-off; Story, Ag. § 373; 40 N. H. 88, 511; 67 Ill. 139; 8 Iowa, 211; 30 Miss. 578; but it is only a particular lien; 9 Cush. 215; 8 Engl. (Ark.) 437; 8 H. L. Cas. 838. Factors have a general lien upon the goods of their principal in their possession, and upon the price of such as have been lawfully sold by them, and the securities given therefor; Story, Ag. § 376; 2 Kent, 640; 26 Wend. 367; 10 Paige, Ch. 205. There are other cases in which a general lien exists in regard to particular classes of agents, either from usage, from a special agreement of the parties, or from the peculiar habit of dealing between them: such, for example, as insurance brokers, bankers, common carriers, attorneys-at-law, and solicitors in equity, packers, calico-printers, fullers, dyers, and wharfingers; Story, Ag. §§ 379-384. See LIEN.

As to third persons, in general, a mere agent who has no beneficial interest in a contract which he has made on behalf of his principal cannot support an action thereon; 1 Livermore, Ag. 215; 22 Penn. 522. An agent acquires a right to maintain an action upon a contract against third persons in the following cases: *First*, when the contract is in writing, and made expressly with the agent, and imports to be a contract personally with him; as, for example, when a promissory note is given to the agent, as such, for the benefit of the principal, and the promise is to pay the money to the agent *eo nomine*; in such case the agent is the legal plaintiff, and alone can bring an action; Story, Ag. §§ 393, 394, 396; 1 Livermore, Ag. 215-221; 3 Pick. 322; 16 *id.* 381; 5 Vt. 500; Dicey, Parties, 134; 5 Penn. 520; 27 Penn. 97; and it has been held that the right of the agent in such case to sue in his own name is not confined to an express contract; thus, it has been said that one holding, as mere agent, a bill of exchange, or promissory note, indorsed in blank, or a check or note payable to bearer, may yet sue on it in his own name; Paley, Ag., Dunl. ed. 361, note. *Second*, the agent may maintain an action against third persons on contracts made with them, whenever he is the only known

and ostensible principal, and consequently, in contemplation of law, the real contracting party; Russ. Fact. & B. 241, 244; Paley, Ag. 361, *note*; Story, Ag. § 393; Dicey, Parties, 136-138; 5 Penn. 41; as, if an agent sell goods of his principal in his own name, as though he were the owner, he is entitled to sue the buyer in his own name; 12 Wend. 413; 5 M. & S. 833; and, on the other hand, if he so buy, he may enforce the contract by action. The renunciation of the agent's contract by the principal does not necessarily preclude the agent from maintaining an action, but he will still be entitled to sue the party with whom he has contracted for any damages which he may have sustained by reason of a breach of contract by the latter; Russ. Fact. & B. 243, 244; 2 B. & Ald. 962. *Third*, the right of the agent to sue in his own name exists when, by the usage of trade or the general course of business, he is authorized to act as owner, or as a principal contracting party, although his character as agent is known; Story, Ag. § 393. *Fourth*, where the agent has made a contract in the subject-matter of which he has a special interest or property, he may enforce his contract by action, whether he held himself out at the time to be acting in his own behalf or not; 1 Livermore, Ag. 215-219; Story, Ag. § 393; 27 Ala. n. s. 215; Dicey, Parties, 139; 22 Penn. 522: for example, an auctioneer who sells the goods of another may maintain an action for the price, though the sale be on the premises of the owner of the goods, because the auctioneer has a possession coupled with an interest; 2 Esp. 493; 1 H. Bla. 81, 84, 85. But this right of the agent to bring an action in his own name is subordinate to the rights of the principal, who may, unless in particular cases where the agent has a lien or some other vested right, bring a suit himself, and suspend or extinguish the right of the agent; 1 Livermore, Ag. 221; Story, Ag. § 403; 3 Hill, 72, 73; 6 S. & R. 27; 4 Campb. 194.

An agent may maintain an action of trespass or trover against third persons for injuries affecting the possession of his principal's property; and when he has been induced by the fraud of a third person to sell or buy goods for his principal, and he has sustained a personal loss, he may maintain an action against such third person for such wrongful act, deceit, or fraud; Story, Ag. §§ 414, 415; 9 B. & C. 208; 3 Campb. 320; 1 H. Bla. 81; 1 B. & Ald. 59. But his remedy for mere torts is confined to cases like the foregoing, where his "right of possession is injuriously invaded, or where he incurs a personal responsibility, or loss, or damage in consequence of the tort;" Story, Ag. § 416.

A *sub-agent* employed without the knowledge or consent of the principal has his remedy against his immediate employer only, with regard to whom he will have the same rights, obligations, and duties as if the agent were the sole principal. But where sub-agents are ordinarily or necessarily employed in the busi-

ness of the agency, the sub-agent can maintain his claim for compensation both against the principal and the immediate employer, unless the agency be avowed and exclusive credit be given to the principal, in which case his remedy will be limited to the principal; Story, Ag. §§ 386, 387; 6 Taunt. 147; 4 Wend. 285; 16 La. An. 127; 6 S. & R. 386; 3 Johns. 167.

A sub-agent will be clothed with a lien against the principal for services performed and disbursements made by him on account of the sub-agency, whenever a privity exists between them; Story, Ag. § 388; 2 Campb. 218, 597; 2 East, 523; 6 Wend. 475. He will acquire a lien against the principal if the latter ratifies his acts, or seeks to avail himself of the proceeds of the sub-agency, though employed by the agent without the knowledge or consent of the principal; Story, Ag. § 389; 2 Campb. 218, 597, 598; 4 *id.* 348, 353. He may avail himself of his general lien against the principal by way of substitution to the rights of his immediate employer, to the extent of the lien of the latter; Story, Ag. § 389; 1 East, 335; 2 *id.* 523, 529; 7 *id.* 7; 6 Taunt. 147. And there are cases in which a sub-agent who has no knowledge or reason to believe that his immediate employer is acting as an agent for another, will have a lien on the property for his general balance; 2 Livermore, Ag. 87-92; Paley, Ag. 148, 149; Story, Ag. § 390; 4 Campb. 60, 349, 353.

See INSURANCE AGENT.

Consult Livermore, Paley, Ross, Story, Wharton, *Agency*; Addison, Chitty, Parsons, Story, *Contracts*; Cross, *Lien*; Kent, *Commentaries*; Bouvier, *Institutes*.

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

AGER (Lat.). In Civil Law. A field; land generally.

A portion of land enclosed by definite boundaries.

Used like the word *acre* in the old English law, denoting a measure of undetermined and variable value; Spelman, *Gloss.*; Du Cange; 3 Kent, 441.

AGGRAVATION (Lat. ad, to, and gravis, heavy; aggravare, to make heavy). That which increases the enormity of a crime or the injury of a wrong.

In Criminal Law. One of the rules respecting variances is, that cumulative allegations, or such as merely *operate in aggravation*, are immaterial, provided that sufficient is proved to establish some right, offence, or justification included in the claim, charge, or defence specified on the record. This rule runs through the whole criminal law, that it is invariably enough to prove so much of the

indictment as shows that the defendant has committed a substantive crime therein specified; per Lord Ellenborough, 2 Campb. 583; 4 B. & C. 329; 21 Pick. 525; 4 Gray, 18; 7 *id.* 49, 331; 1 Taylor, Ev. § 215. Thus, on an indictment for murder the prisoner may be convicted of manslaughter, for the averment of malice aforethought is merely matter of aggravation; Coke, Litt. 282 a.

In Pleading. The introduction of matter into the declaration which tends to increase the amount of damages, but does not affect the right of action itself; Stephen, Pl. 257; 12 Mod. 597. See 3 Am. Jur. 287-313.

An example of this is found in the case where a plaintiff declares in trespass for entering his house, and breaking his close, and tossing his goods about; the entry of the house is the principal ground and foundation of the action, and the rest is only stated by way of aggravation; 3 Wils. 294; and this matter need not be proved by the plaintiff or answered by the defendant.

AGGREGATE. Consisting of particular persons or items, formed into one body.

See CORPORATION.

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

AGIO. A term used in commercial transactions to denote the difference of price between the value of bank-notes or other nominal money and the coin of the country.

AGISTMENT. The taking of another person's cattle into one's own ground to be fed, for a consideration to be paid by the owner. See AGISTOR.

AGISTOR. One who takes in horses or other animals to pasture at certain rates; Story, Bailm. § 443.

He is not, like an innkeeper, bound to take all horses offered to him, nor is he liable for any injury done to such animals in his care, unless he has been guilty of negligence, or from his ignorance, negligence may be inferred; Holt, 547.

As to whether he is entitled to a lien, see 3 Hill, 485, and LIEN.

AGNATES. In Scotch Law. Relations on the father's side.

AGNATI. In Civil Law. The members of a Roman family who traced their origin and name to a common deceased ancestor through the male line, under whose paternal power they would be if he were living.

They were called *adgnati*—*adgnati*, from the words *ad eum nati*. Ulpianus says: "*Adgnati autem sunt cognati virilis sexus ab eodem orti: nam post suos et consanguineos statim mihi proximus est consanguinei mei filius, et ego ei; patris quoque frater qui patruus appellatur; deincepsque ceteri, si qui sunt, hinc orti in infinitum;*" Dig. 38, 16, *De suis*, 2, § 1. Thus, although, the grandfather and father being dead, the children become *sui juris*, and the males may become the founders of new families, still they all continue to be agnates;

and the *agnatio* spreads and is perpetuated not only in the direct but also in the collateral line. Marriage, adoption, and adrogation also create the relationship of the *agnatio*. In the Sentences of Paulus, the order of inheritance is stated as follows: *Intestatorum hereditas, lege Duodecim Tabularum primum suis hereditibus, deinde adgnatis et aliquando quoque deferebatur.*

They are distinguished from the *cognati*, those related through females. See COGNATI.

AGNATIO (Lat.). In Civil Law. A relationship through males; the male children.

Especially spoken of the children of a free father and slave mother; the rule in such cases was *agnatio sequitur ventrem*; Du Cange.

AGNOMEN (Lat.). A name or title which a *man* gets by some action or peculiarity; the last of the four names sometimes given a Roman. Thus, Scipio *Africanus* (the African), from his African victories; Ainsworth, Lex.; Calvinus, Lex. See NOMEN.

AGRARIAN LAWS. In Roman Law. Those laws by which the commonwealth disposed of its public land, or regulated the possession thereof by individuals, were termed Agrarian Laws.

The greater part of the public lands acquired by conquest were laid open to the possession of any citizen, but the state reserved the title and the right to resume possession. The object of many of the agrarian laws was to limit the area of public land of which any one person might take possession. The law of Cassius, B. C. 486, is the most noted of these laws.

Until a comparatively recent period, it has been assumed that these laws were framed to reach private property as well as to restrict possession of the public domain, and hence the term agrarian is, in legal and political literature, to a great degree fixed with the meaning of a confiscatory law, intended to reduce large estates and increase the number of landholders. Harrington, in his "Oceana," and the philosophers of the French Revolution, have advocated agrarian laws in this sense. The researches of Heyne, Op. 4. 351; Niebuhr, Hist. vol. ii., trans.; and Savigny, Das Recht des Besitzes, have redeemed the Roman word from the burden of this meaning.

AGREEMENTUM. Agreement.

Spelman says that it is equivalent in meaning to *aggregatio mentium*, though not derived therefrom.

AGREEMENT. A coming together of parties in opinion or determination; the union of two or more minds in a thing done or to be done; a mutual assent to do a thing; Comyn, Dig. *Agreement*, A 1; Plovd. 5 a, 6 a.

Aggregatio mentium.—When two or more minds are united in a thing done or to be done.

It ought to be so certain and complete that either party may have an action on it, and there must be a *quid pro quo*; Dane, Abr. c. 11.

The consent of two or more persons concurring, the one in parting with, the other in receiving, some property, right, or benefit; Bacon, Abr.

A mutual contract in consideration between

two or more parties; 5 East, 10; 4 Gill & J. 1; 12 How. 126.

"The expression by two or more persons of a common intention to affect the legal relations of those persons;" Anson, Contr. 3.

An agreement "consists of two persons being of the same mind, intention, or meaning, concerning the matter agreed upon"; Leake, Contr. 12.

"Agreement" is seldom applied to specialties; "contract" is generally confined to simple contracts; and "promise" refers to the engagement of a party without reference to the reasons or considerations for it, or the duties of other parties; Parsons, Contr. 6.

An agreement ceases to be such by being put in writing under seal, but not when put in writing for a memorandum; Dane, Abr. c. 11.

It is a wider term than "contract"; Anson, Contr. 4; an agreement might not be a contract, because not fulfilling some requirement of the law of the place in which it is made.

A promise or undertaking.

This is the loose and inaccurate use of the word; 5 East, 10; 3 B. & B. 14; 3 Conn. 335.

The writing or instrument which is evidence of an agreement.

This is a loose and evidently inaccurate use of the term. The agreement may be valid, and yet the written evidence thereof insufficient: as, if a promissory note be given for twenty dollars, the amount of a previous debt, where the note may generally be neglected and the debt collected by means of other evidence; or, again, if a note good in form be given for an illegal consideration, in which case the instrument is good and the agreement void.

Conditional agreements are those which are to have full effect only in case of the happening of certain events, or the existence of a given state of things.

Executed agreements are those where nothing further remains to be done by the parties.

Executed agreements take place when two or more persons make over their respective rights in a thing to one another, and thereby change their property therein either presently and at once, or at a future time upon some event that shall give it full effect, without either party trusting to the other. Such an agreement exists where a thing is bought, paid for, and delivered.

Executory agreements are such as rest on articles, memorandums, parol promises or undertakings, and the like, to be performed in the future, or which are entered into preparatory to more solemn and formal alienations of property; Powell, Contr.

An *executed* agreement always conveys a chose in possession, while an *executory* one conveys a chose in action only.

Express agreements are those in which the terms are openly uttered and avowed by the parties at the time of making.

Implied agreements are those which the law supposes the parties to have made, although the terms were not openly expressed.

Thus, every one who undertakes any office,

employment, or duty impliedly contracts to do it with integrity, diligence, and skill; and he impliedly contracts to do whatever is fairly within the scope of his employment; 6 Scott, 761. Implied promises, or promises in law, only exist where there is no express stipulation between the parties touching the same matter; for *expressum facit cessare tacitum*; 2 Bla. Com. 444; 2 Term, 105; 7 Scott, 69; 1 N. & P. 633.

The parties must agree or assent. There must be a definite promise by one party accepted by the other; 3 Johns. 534; 12 *id.* 190; 9 Ala. 69; 29 Ala. n. s. 864; 4 R. I. 14; 2 Dutch. 268; 3 Halst. 147; 29 Penn. 358. There must be a communication of assent by the party accepting; a mere mental assent to the terms in his own mind is not enough; L. R. 2 App. Ca. 691. But the assent need not be formally made; it can be inferred from the party's acts; L. R. 6 Q. B. 607; L. R. 10 C. P. 307. They must assent to the same thing in the same sense; 4 Wheat. 225; 1 Sumn. 218; 2 Woodb. & M. 359; 7 Johns. 240; 18 Ala. 605; 9 M. & W. 535; 4 Bing. 660; L. R. 6 Q. B. 597. The assent must be mutual and obligatory; there must be a request on one side, and an assent on the other; 5 Bingh. n. c. 75. The assent must comprehend the whole of the proposition; it must be exactly equal to its extent and provision, and it must not qualify them by any new matter; 1 Parsons, Contr. 400; and even a slight qualification destroys the assent; 5 M. & W. 535; 2 Sandf. 133. The question of assent when gathered from conversations is for the jury; 1 Cush. 89; 13 Johns. 294.

A sufficient consideration for the agreement must exist; 2 Bla. Com. 444; Chitty, Contr. 20; 2 Q. B. 851; 5 Ad. & E. 548; 7 Brown, Ch. 550; 7 Term, 350; as against third parties this consideration must be good or valuable; 10 B. & C. 606; Chitty, Contr. 28; as between the parties it may be equitable only; 1 Pars. Contr. 431.

But it need not be adequate, if only it have some real value; 3 Anstr. 732; 2 Sch. & L. 395, n. a; 9 Ves. 246; 16 East, 372; 11 Ad. & E. 983; 1 Mete. Mass. 84. If the consideration be illegal in whole or in part, the agreement will be void; 6 Dana, 91; 3 Bibb, 500; 9 Vt. 23; 5 Penn. 452; 22 Me. 488. So also if the consideration be impossible; 5 Viner, Abr. 110, *Condition*; Coke, Litt. 206 a; Sheppard, Touchst. 164; L. R. 5 C. P. 588; 2 Lev. 161. See CONSIDERATION.

The agreement may be to do any thing which is lawful, as to sell or buy real estate or personal property. But the evidence of the sale of real property must generally be by deed, sealed; and in many cases agreements in regard to personal property must be in writing. See STATUTE OF FRAUDS.

The construction to be given to agreements is to be favorable to upholding them, and according to the intention of the parties at the time of making it, as nearly as the meaning of the words used and the rules of law will permit; 1 Pars. Contr. 7; 2 Kent, 555; 1 H.

Bla. 569, 614; 30 Eng. L. & E. 479; 5 Hill, 147; 40 Me. 43; 10 A. & E. 326; 19 Vt. 202. This intent cannot prevail against the plain meaning of words; 5 M. & W. 535. Neither will it be allowed to contravene established rules of law.

And that the agreement may be supported, it will be construed so as to operate in a way somewhat different from that intended, if this will prevent the agreement from failing altogether; 22 Pick. 376; 9 Wend. 611; 16 Conn. 474.

Agreements are construed most strongly against the party proposing (*i. e.*, *contra proferentem*); 6 M. & W. 662; 2 Parsons, Contr. 20; 3 B. & S. 929; 7 R. I. 26. See CONTRACTS.

The effect of an agreement is to bind the parties to the performance of what they have thereby undertaken. In case of failure, the common law provides a remedy by damages, and equity will in some cases compel a specific performance.

The obligation may be avoided or destroyed by *performance*, which must be by him who was bound to do it; and whatsoever is necessary to be done for the full discharge of this duty, although only incidental to it, must be done by him; 2 Pars. Contr. 148; 11 Q. B. 368; 4 B. & S. 556; 48 Iowa, 462; 39 Wis. 553; by *tender* of exact performance according to the terms of the contract, which is sufficient when the other party refuses to accept performance under the contract; 6 M. & G. 610; Benj. Sales, 563; by *acts of the party* to be benefited, which prevent the performance, or where some act is to be done by one party before the act of the other, the second party is excused from performance, if the first fails; 15 M. & W. 109; 8 Q. B. 358; 6 B. & C. 325; 10 East, 359; by *rescission*, which may be made by the party to be benefited, without any provision therefor in the agreement, and the mere acquiescence of the other party will be evidence of sufficient mutuality to satisfy the general rule that rescission must be mutual; 4 Pick. 114; 5 Me. 277; 7 Bingh. 266; 1 W. & S. 442; rescission, before breach, must be by agreement; Anson, Contr. 247; Leake, Contr. 787; 7 M. & W. 55; 2 H. & N. 79; 6 Exch. 39; by *acts of law*, as confusion, merger; 29 Vt. 412; 4 Jones, No. C. 87; death, as when a master who has bound himself to teach an apprentice dies; inability to perform a personal service, such as singing at a concert; L. R. 6 Exch. 269; or extinction of the subject-matter of the agreement. See also ASSENT; CONTRACT; DISCHARGE OF CONTRACTS; PARTIES; PAYMENT; RESCISSION.

AGREEMENT FOR INSURANCE.

An agreement often made in short terms preliminary to the filling out and delivery of a policy with specific stipulations.

Such an agreement, specifying the rate of premium, the subject, and risk, and amount to be insured, in general terms, and being assented to by the parties, is binding; 4

Rob. N. Y. 150; 2 Curt. c. c. 277; 19 N. Y. 305. It is usually in writing, but may be by parol or by parol acceptance of a written proposal; 2 Curt. c. c. 524; 19 How. 318; 31 Ala. 711. It must be in such form or expression that the parties, subject, and risk can be thereby distinctly known, either by being specified or by references so that it can be definitely reduced to writing; 1 Phillips, Ins. §§ 6-14 *et seq.*; 2 Parsons, Marit. Law, 19; 19 N. Y. 305.

Such an agreement must have an express or implied reference to some form of policy. The ordinary form of the underwriters in like cases is implied, where no other is specified or implied; 56 Penn. 256; 7 Taunt. 157; 2 C. & P. 91; 3 Bingh. 285; 3 B. & Ad. 906.

Where the agreement is by a communication between parties at a distance, an offer by either will be binding upon both on a despatch by the other of his acceptance within a reasonable or the prescribed time, and prior to the offer having been countermanded; 1 Phillips, Ins. §§ 17, 21; 27 Penn. 263. See INSURANCE POLICY.

AID AND COMFORT. Help; support; assistance; counsel; encouragement.

The constitution of the United States, art. 3, s. 3, declares, that adhering to the enemies of the United States, giving them aid and comfort, shall be treason. These words, as they are to be understood in the constitution, have not received a full judicial construction; but see 97 U. S. 39, as to their meaning in the Act of Congress, March 12, 1863. See also 92 U. S. 187; 13 Wall. 128; 16 *id.* 147; 7 Ct. Cl. 398. They import help, support, assistance, countenance, encouragement. The word *aid*, which occurs in the stat. Westm. 1, c. 14, is explained by Lord Coke (2 Inst. 182) as comprehending all persons counselling, abetting, plotting, assenting, consenting, and encouraging to do the act (and he adds, what is not applicable to the crime of treason), who are not present when the act is done. See also 1 Burn, Just. 5, 6; 4 Bla. Com. 37, 38.

AID BONDS. See BONDS.

AID PRAYER. In English Law. A petition to the court calling in help from another person who has an interest in the matter in dispute. For example, a tenant for life, by the curtesy, or for years, being impleaded, may pray aid of him in reversion; that is, desire the court that he may be called by writ, to allege what he thinks proper for the maintenance of the right of the person calling him, and of his own; Fitzherbert, Nat. Brev. 50; Cowel.

AIDER BY VERDICT. In Pleading. The presumption which arises after verdict, whether in a civil or criminal case, that those facts, without proof of which the verdict could not have been found, were proved, though they are not distinctly alleged in the record; provided it contains terms sufficiently general to comprehend them in reasonable intentment.

The rule is thus laid down, that where a

matter is so essentially necessary to be proved, that had it not been in evidence the jury could not have given such a verdict as that recorded, there the want of stating that matter in express terms in a declaration, provided it contains terms sufficiently general to comprehend it in fair and reasonable intendment, will be cured by the verdict; and where a general allegation must, in fair construction, so far require to be restricted that no judge and no jury could have properly treated it in an unrestrained sense, it may reasonably be presumed after verdict that it was so restrained at the trial; 1 Maule & S. 234, 237; 1 Saund., 6th ed. 227, 228; 1 Den. Cr. Cas. 356; 2 Carr. & K. 868; 13 Q. B. 790; 1 *id.* 911, 912; 2 Mann. & G. 405; 2 Scott, New Rep. 459; 9 Dowl. 409; 13 Mees. & W. 377; 6 C. B. 136; 9 *id.* 364; 6 Metc. 334; 6 Pick. 409; 16 *id.* 541; 2 Cush. 316; 6 *id.* 524; 17 Johns. 439, 458.

AIDING AND ABETTING. In Criminal Law. The offence committed by those persons who, although not the direct perpetrators of a crime, are yet present at its commission, doing some act to render aid to the actual perpetrator thereof; 4 Bla. Com. 34; Russ. & R. 363, 421; 9 Ired. 440; 1 Woodb. & M. 221; 10 Pick. 477; 26 Miss. 299. See 9 Cent. L. J. 206.

A principal in the second degree is he who is present aiding and abetting the fact to be done; 1 Hale, Pl. Cr. 615. See 41 N. H. 407; 1 Metc. (Ky.) 413; 28 Ga. 604; 18 Tex. 713; 26 Ind. 496; 2 Nev. 226; 2 Brev. 338.

Actual presence is not necessary: it is sufficient to be so situated as to come readily to the assistance of his fellows; 13 Mo. 382.

AIDS. In English Law. A species of tax payable by the tenant of lands to his superior lord on the happening of certain events.

They were originally mere benevolences granted to the lord in certain times of danger and distress, but soon came to be claimed as a right. They were originally given in three cases only, and were of uncertain amount. For a period they were demanded in additional cases; but this abuse was corrected by Magna Charta (of John) and the stat. 25 Edw. I. (*confirmatio chartarum*), and they were made payable only,—to ransom the lord's person, when taken prisoner; to make the lord's eldest son a knight; to marry the lord's eldest daughter, by giving her a suitable portion. The first of these remained uncertain; the other two were fixed by act of parliament (25 Edw. III. c. 11) at twenty shillings each, being the supposed twentieth part of a knight's fee; 2 Bla. Com. 64. They were abolished by the 12 Car. II. c. 24; 2 Bla. Com. 77, n.

AIEL (spelled also *Ayel*, *Aile*, and *Ayle*). Cowel.

A writ which lieth where the grandfather was seized in his demesne as of fee of any lands or tenements in fee simple the day that he died, and a stranger abateth or entereth the same day and dispossesseth the heir; Fitzherbert, Nat. Brev. 222; Spelman, Gloss.; Termes de la Ley; 3 Bla. Com. 186.

AIELESSE (Norman). A grandmother. Kelham.

AILE. A corruption of the French word *aieul*, grandfather. See **AIEL**.

AIR. That fluid transparent substance which surrounds our globe.

No property can be had in the air; it belongs equally to all men, being indispensable to their existence. But this must be understood with this qualification, that no man has a right to use the air over another man's land in such a manner as to be injurious to him. To poison or materially to change the air, to the annoyance of the public, is a nuisance; Cro. Car. 510; 2 Ld. Raym. 1163; 1 Burr. 333; 1 Strange, 686; Dane, Abr., Index; see **NUISANCE**.

An easement of light and air coming over the land of another cannot be acquired by prescription in the United States; 17 Am. L. Reg. 440, note; 111 Mass. 119; 2 Watts, 327; 19 Wend. 300; 54 N. Y. 439; 5 W. Va. 1; 2 Conn. 597; 16 Ill. 217; 25 Tex. 238; 1 Dudl. 131; 5 Rich. 311; 26 Me. 436; 11 Md. 23; 10 Ala. n. s. 63; though the rule is otherwise in England; 8 E. & B. 39; see 2 Washb. R. P. 62 *et seq.*

Upon a conveyance the right to air over the grantor's remaining land is implied in grantee; 34 Md. 1; s. c. 11 Am. L. Reg. 24; but in other states only where it is an easement of necessity; 18 Am. L. Reg. 646; Washb. Easem. 618; 58 Ga. 268; 5 W. Va. 1. When it is never implied, see 115 Mass. 204; 10 Barb. 537; 33 Penn. 371; 51 Ind. 316. The right would not be implied in the grantor; 24 Iowa, 35; s. c. 7 Am. L. Reg. 336, note; L. R. 2 C. P. D. 13.

AISIAMENTUM (spelled also *Esamentum*). An easement; Spelman, Gloss.

AJUAR. In Spanish Law. The jewels and furniture which a wife brings in marriage.

AJUTAGE (spelled also *Adjutage*). A conical tube used in drawing water through an aperture, by the use of which the quantity of water drawn is much increased.

When a privilege to draw water from a canal, through the forebay or tunnel, by means of an aperture, has been granted, it is not lawful to add an *ajutage*, unless such was the intention of the parties; 2 Whart. 477.

ALABAMA. One of the United States of America.

The territory of Alabama was organized under an act of congress of March 3, 1817; 3 Statutes at Large, 371. An act of congress was passed March 2, 1819, authorizing the inhabitants of the territory of Alabama to form for themselves a constitution and state government. In pursuance of that act, the constitution of the state of Alabama was adopted by a convention which met at Huntsville, July 5th, and adjourned August 2, 1819.

The constitution provides that the general assembly may, whenever two thirds of each house shall deem it necessary, propose amendments thereto, which, having been read on three several days in each house, shall be duly published in such manner as the general assembly may

direct, at least three months before the next general election for representatives, for the consideration of the people; that the several returning officers, at the next general election which shall be held for representatives, shall open a poll for the vote of the qualified electors on the proposed amendments, and shall make a return of said vote to the secretary of state; and that, if it shall thereupon appear that a majority of all the qualified electors of the state, who voted at such election, voted in favor of the proposed amendments, said amendments shall be valid, to all intents and purposes, as parts of the constitution; Const. art. xvii. § 1.

The constitution also provides "That no convention shall hereafter (Dec. 6, 1875) be held for the purpose of altering or amending the constitution of this state, unless the question of convention or no convention shall be first submitted to a vote of all the electors of the state, and approved by a majority of those voting at said election;" Const. art. xvii. § 2.

Prior to the constitution of 1868, the acceptance by the people of proposed constitutional amendments must have been afterwards, and before another election, ratified by two-thirds of each house of the general assembly. Under this provision the constitution was amended in 1830, 1846, and 1850. In 1861, 1865, 1868, and 1875, respectively, new constitutions were submitted to the people by conventions called for that purpose, and with the exception of that proposed in 1868 were subsequently ratified and adopted.

Every male citizen of the United States, and every male person of foreign birth, who has been naturalized, or who may have legally declared his intention of becoming a citizen of the United States before he offers to vote, who is twenty-one years old or upwards, who shall have resided in the state one year, three months in the county, and thirty days in the precinct or ward, next immediately preceding the election at which he offers to vote, is a qualified elector, and may vote in the precinct or ward of his actual residence, and not elsewhere, for all officers elected by the people.

THE LEGISLATIVE POWER.—The legislative power of the state is vested in a senate and house of representatives, together composing the general assembly. The senators are elected for a term of four years, and the representatives for a term of two years, on the first Monday in August, by the electors. The voting is by ballot. The senators are divided into two classes, one of which goes out of office at the end of every period of two years; Const. of 1875, art. iv. § 3; Code of 1876, page 131, § 3. The general assembly meets biennially at the capitol, and is composed of thirty-three senators and one hundred representatives, the largest number in both houses allowed by the constitution. The whole number of senators shall not be less than one-fourth, nor more than one-third of the whole number of representatives. The representatives are apportioned among the counties according to the number of their inhabitants, by the general assembly at its regular session next after each decennial census of the United States, each county being entitled to, at least, one representative. The senators are apportioned among thirty-three senatorial districts, the districts being as nearly equal to each other in the number of inhabitants as may be, and each district being entitled to one senator and no more. No county must be divided between two districts, and no district shall be made of two or more counties not contiguous to each other; Const. 1875; Code of 1876, page 143.

The Qualifications of Senators and Representa-

tives are that senators must be at least twenty-seven years of age, and representatives at least twenty-one years of age; both senators and representatives must have been citizens and inhabitants of the state for three years, and inhabitants of their respective counties or district one year, next before their election. Persons are ineligible who hold any office of profit under the United States, except postmasters whose annual salary does not exceed two hundred dollars; or who hold any office of profit under the state, except justices of the peace, constables, notaries public, and commissioners of deeds; or who have been convicted of embezzlement of the public money, bribery, perjury, or other infamous crime; and no member of the legislature is re-eligible thereto who has once been expelled for corruption.

Members of the general assembly are in all cases, except treason, felony, violation of their oath of office, and breach of the peace, privileged from arrest during their attendance at the sessions of their respective houses, and in going to and returning from the same, and from accountability for words spoken in debate. They receive a compensation fixed by the constitution. They cannot be appointed to offices of profit created or improved in their emoluments during their terms, except such offices as are filled by popular election. A member of the General Assembly who has a personal or private interest in any measure or bill proposed or pending before the general assembly, must disclose the fact to the house of which he is a member, and cannot vote thereon.

All bills for raising revenue must originate in the house of representatives, but the senate may propose amendments as in other bills. No law can be passed except by bill, and no bill must be so altered or amended on its passage through either house as to change its original purpose.

The general assembly has no power to pass a special or local law for the benefit of individuals or corporations in cases which are or can be provided for by a general law, or when the relief sought can be given in any court of the state; but may pass special or local laws concerning public or educational institutions, and industrial, mining, manufacturing, or immigration corporations, or interests, or corporations for constructing canals, or improving navigable rivers or harbors in the state.

The state cannot engage in works of internal improvement, nor lend money on its credit in aid of such; nor be interested in any private or corporate enterprise, or lend money or its credit to any individual, association, or corporation; nor can the state, through the general assembly, authorize any county, city, or town, to so lend its credit, or to grant any public money or thing of value in aid of any individual, association, or corporation, or to become a stockholder in any such corporation, association, or company, by issuing bonds or otherwise.

Each house chooses its presiding officer and other officers; judges of the election, qualification, and returns of its members; determines the rules of its proceedings; punishes for disorderly conduct, or contempt; enforces obedience to its process; protects its members against violence, or offers of bribes, or corrupt solicitations; and may, with the concurrence of two-thirds of either house, expel a member, but not a second time for the same cause. Each house keeps and prints a journal of its proceedings.

A majority of each house constitutes a quorum to do business, but a smaller number may adjourn from day to day, and may compel the attendance of absent members. Any member may dissent from, or protest against, any act or resolution which he may think injurious to the

public or an individual, and have the reasons for his dissent entered on the journals. The governor issues writs of election to fill vacancies. The doors of each house are kept open except when the occasion requires secrecy. Neither house, without the consent of the other, can adjourn for more than three days, or to a different place. Const. art. iv.

Impeachments of the governor, secretary of state, auditor, treasurer, attorney-general, superintendent of education, and judges of the supreme court, are tried by the senate sitting as a court for that purpose, under oath or affirmation, on articles or charges preferred by the house of representatives; Const. art. vii. § 1, p. 141.

THE EXECUTIVE DEPARTMENT.—The executive department of the state consists of a governor, secretary of state, state treasurer, state auditor, attorney-general, superintendent of education, and a sheriff for each county.

The governor is the chief magistrate of the state, and in him is vested the supreme executive power.

The governor, secretary of state, state treasurer, state auditor, and attorney-general, are elected by the qualified electors of the state, at the same time and places appointed for the election of members of the general assembly. Contested elections for these offices are determined by both houses of the general assembly. They hold their respective offices for the term of two years. They must reside at the seat of government during their continuance in office, and they receive a compensation for their services, which is fixed by law, and which cannot be increased or diminished during the term for which they are elected.

No person is eligible to the office of secretary of state, state treasurer, state auditor, or attorney-general, unless he shall have been a citizen of the United States at least seven years, and shall have resided in this state at least five years next preceding his election, and unless he is at least twenty-five years old when elected.

The Governor.—The governor must be at least thirty years of age when elected, and must have been a citizen of the United States ten years, and a resident citizen of the state at least seven years next before the day of his election. And no other office under this state, or any other power, can be held at the same time with that of governor. His salary, fixed by statute, is three thousand dollars per annum, and the constitution prohibits its being either increased or diminished during his term of office. He is commander-in-chief of the militia and volunteer forces of the state, except when they shall be called into the service of the United States, and he may call out the same to execute the laws, suppress insurrection, and repel invasion; but he need not command in person, unless directed to do so by a resolution of the general assembly; and when acting in the service of the United States, he may appoint his staff, and the general assembly may fix his rank.

He may require information in writing from the officers of the executive department, and may require at any time information in writing, under oath, from all officers and managers of state institutions, upon all subjects relating to their respective offices and institutions. He may, on extraordinary occasions, convene the general assembly by proclamation. It is his duty to give information to the general assembly, from time to time, of the state of the government, and recommend measures for its consideration; and at the commencement of each of its sessions, and at the close of his term of office, give information of the condition of the state. He must account to the general assembly for all moneys received

and paid out by him from any funds subject to his order, with the vouchers therefor; and must, at the commencement of each regular session, present to the general assembly estimates of the amount of money required to be raised by taxation for all purposes. He must approve or veto bills passed by the general assembly; but if a bill returned with his objections is afterwards passed in each house by a majority of all the members elected, it becomes a law without his approval; and if any bill is not returned by the governor within five days after it has been presented to him, it becomes a law as if he had signed it, unless the general assembly prevent its return by their adjournment, in which case it does not become a law.

The governor is required to take care that the laws are faithfully executed, and he has the power of remitting fines and forfeitures under the rules and regulations prescribed by law, and after conviction, to grant reprieves, pardons, and commutation of sentence, except in cases of treason and impeachment; and he may in cases of treason respite the sentence, and report the same to the general assembly at its next regular session, when the general assembly must either pardon, commute the sentence, direct its execution, or grant further reprieve. He must communicate to the general assembly at every regular session each case of reprieve, pardon, or commutation of sentence granted, with his reasons therefor, stating the name and crime of the convict, the sentence, its date, and the date of the reprieve, commutation, reprieve, or pardon.

In case of the governor's impeachment, removal from office, death, refusal to qualify, resignation, absence from the state, or other disability, the president of the senate fills the office until the next election, or until the governor, who is absent or impeached, shall return or be acquitted, or his other disability be removed. And if during such vacancy in the office of governor, the president of the senate is impeached, removed from office, or is under any other disability, the speaker of the house of representatives administers the government.

The Secretary of State is the custodian of the seal of the state, and authenticates therewith all the official acts of the governor, his approval of laws and resolutions excepted, and he countersigns all grants and commissions issued in the name and by the authority of the state, which have been sealed with the seal of the state, and signed by the governor. His salary is eighteen hundred dollars per annum, together with fees which he is allowed to charge for the performance of certain duties.

The State Treasurer and State Auditor.—See, *supra*, as to the manner of election of these officers, and their terms of office. The annual salary of the state treasurer is two thousand dollars, and of the state auditor, eighteen hundred dollars, exclusive of the fees of his office.

The Attorney-General of the State.—See, *supra*, as to the manner of his election and term of office. He is required by law to give his opinion on any question of law connected with the interests of the state, or with the duties of any of the departments when required by the governor, secretary of state, auditor, treasurer, or superintendent of education in writing to do so; to give his opinion to the chairman of the judiciary committee of either house, when required, upon any matter under the consideration of the committee; to prepare, on the application of the governor, all contracts and writings in relation to any matter in which the state is interested; to attend, on the part of the state, to all criminal cases pending in the supreme court of the state,

and to all civil suits in which the state is a party in the same court, and to all causes other than criminal that may be pending in the courts of Montgomery county, in which the state may be in any manner concerned; and when required to do so by the governor, in writing, to appear in the courts of other states, or of the United States, in any cause in which the state may be interested in the result; to superintend the collection of all notes for school lands; and annually to make a report to the governor, stating the number of persons prosecuted under indictments during the past year in each county, the character of the alleged offence, the results of the trials, and the punishments imposed; together with such suggestions tending to the suppression of crime as he may deem proper. His salary is fifteen hundred dollars a year.

The Superintendent of Education is elected by the qualified electors of the state, and his term of office is two years. His salary is twenty-two hundred and fifty dollars per annum. His duties are, generally, to devote his time to the care and improvement of the common schools, and the promotion of public education, and to exercise a general supervision over all the educational interests of the state; to annually distribute and apportion all money belonging to the educational fund; to cause suits to be entered and prosecuted against all defaulters to the educational fund; to elicit, by correspondence, exchange of official reports, and other proper means, information relative to the systems of public instruction in other states and countries; and at the close of each scholastic year to make a report to the governor of all his transactions done in relation to the duties of his office.

THE JUDICIAL DEPARTMENT.—The judicial power of the state is vested in the senate sitting as a court of impeachment, a supreme court, circuit courts, chancery courts, courts of probate, such inferior courts of law and equity, to consist of not more than five members, as the general assembly may from time to time establish, and such persons as may be by law invested with powers of a judicial nature.

The constitution provides that the supreme court shall consist of one chief justice and such number of associate justices as may be prescribed by law. Under this provision the powers of the supreme court have been by statutory regulation vested in three judges, who are elected by the qualified electors of the state, and who appoint one of their number chief justice. They also appoint a reporter of the decisions of the court, its clerk, and the marshal and librarian. Code, §§ 568, 569, 581, 588, 596.

The constitution prescribes that the court shall be held at the seat of government, and that it shall have appellate jurisdiction coextensive with the state, under such restrictions and regulations not repugnant to the constitution as may from time to time be prescribed by law: *Provided*, that it shall have power to issue writs of injunction, *quo warranto*, *habeas corpus*, and such other remedial and original writs as may be necessary to give it a general superintendence and control of inferior jurisdictions; and the judges by the constitution are made conservators of the peace throughout the state; Const., art. vi., §§ 2, 3, 16.

Qualifications—Term of Office, etc.—The judges of the supreme court must have been citizens of the United States, and of this state, for five years next preceding their election or appointment, and must not be less than twenty-five years of age, and learned in the law. They hold office for the term of six years, and until their successors are

elected or appointed and qualified, and receive a salary of three thousand dollars per year. They are not allowed to practise law in any of the courts of the state nor of the United States. Vacancies are filled by appointment by the governor, and such appointee holds office for the unexpired term of his predecessor, and until his successor is elected or appointed and qualified.

The Circuit Court.—The circuit court has original jurisdiction in all matters civil and criminal within the state, not otherwise excepted in the constitution; but in civil cases only when the matter or sum in controversy exceeds fifty dollars. A circuit court is required to be held in each county in the state at least twice in every year; and the judges of the several circuits are allowed to hold courts for each other when they deem it expedient, and shall do so when directed by law. The judges of the several courts have power to issue writs of injunction returnable into courts of chancery.

The constitution directs that the state shall be divided into convenient circuits, not to exceed eight in number, unless increased by a vote of two-thirds of the members of the general assembly, and that no circuit shall contain less than three nor more than twelve counties; and that there shall be a judge for each circuit, who shall reside in it. The judges are chosen by the qualified electors of the respective circuits. The number of circuits into which the state was divided has, by recent legislation, been reduced from twelve to eight; Const. art. vi.

City Courts of Mobile and Montgomery.—These courts are held respectively in the cities of Mobile and Montgomery. They were established by statutes passed under the authority given by the constitution to establish inferior courts, and they have jurisdiction concurrent with that of the circuit courts over criminal causes in Mobile and Montgomery counties, respectively, and over civil causes pertaining to courts of common law except to try titles to land; Const. art. vi. § 1; 24 Ala. 521; 18 Ala. 521; 52 Ala. 299; 48 Ala. 171; 45 Ala. 103. The judge of the city courts of Mobile is chosen by the electors of Mobile county; the judge of the city court of Montgomery by the state senate from among three persons nominated by the governor; and the judge of the city court of Selma is appointed directly by the governor. See Acts of 1845-46, p. 29; Acts of 1876-77, p. 266; Acts of 1878-79, p. 418.

Chancery Courts.—Equity jurisdiction was exercised by the circuit courts till 1839, when a separate chancery court was established. The state is now divided into three chancery divisions, for each of which there is a chancellor, who is elected by the qualified electors of his division; Const. p. 139, §§ 1, 7, 8; Acts of 1839, p. 22; Acts of 1878-79, p. 90; Const. p. 140, § 12; Code of 1876, § 615.

Probate Courts.—These courts are established in each county. They have a single officer, who is styled the judge of probate, and is chosen by the electors of the county for a term of six years. He is compensated by fees of office. Courts of probate have, in the cases defined by law, original jurisdiction of the probate of wills; the granting and revoking of letters testamentary, and of administration; of all controversies in relation to the right of executorship, or of administration; the settlement of accounts of executors and administrators; the sale and disposition of the real and personal property belonging to, and the distribution of, intestates' estates; the appointment and removal of guardians for minors and persons of unsound mind; all controversies as to the right of guardianship, and the settlement of guardians' accounts; the binding out of

apprentices, and all controversies between master and apprentice; the allotment of dower in lands, in the cases by law provided; the partition of lands within their counties; the change of the names of persons residing in their counties, etc.; Const. art. vi. §§ 1, 9, 13, 15; Code of 1876, §§ 684-694.

The Court of County Commissioners is established by law in each county. It is composed of the probate judge and four commissioners, who are elected by the qualified voters of the county for a term of four years. It has jurisdiction in relation to roads, bridges, causeways, and ferries, and it has authority to direct and control the property of the county; to levy county taxes; to examine, settle, and allow all claims against the county; to examine and audit the accounts of all officers having the care, management, collection, or disbursement of money belonging to the county, or appropriated for its use and benefit; to make rules and regulations for the support of the poor; and to establish, change, or abolish election precincts; Code of 1876, §§ 244, 246, 745, 746, 252.

Justices of the Peace.—The constitution provides that there shall be elected, by the qualified electors of each precinct of the counties, not exceeding two justices of the peace and one constable, such justices to have jurisdiction in all civil cases wherein the amount in controversy does not exceed one hundred dollars, except in cases of libel, slander, assault and battery, and ejectment; and that in all cases tried before such justices the right of appeal, without prepayment of costs, shall be secured by law; *Provided*, that the governor may appoint one notary public for each election precinct in counties, and one for each ward in cities of over five thousand inhabitants, who, in addition to the powers of notary, shall have and exercise the same jurisdiction as justices of the peace within the precincts and wards for which they are respectively appointed; Const. of 1876, § 26, p. 141. They hold office for four years, and are conservators of the peace and committing magistrates.

Of the Judges generally.—The judges are elected for a term of six years; Const. of 1876, art. vi. § 15; Code of 1876, § 247. Judges of the supreme court, circuit courts, and chancery courts, receive stated salaries, which cannot be diminished during their continuance in office; and they are prohibited from receiving any fees or perquisites of office, and from holding any other office of trust or profit under this state, the United States, or any other power; Const. of 1876, § 10. No judge of any court of record is allowed to practise law in any of the courts of the state, or of the United States.

Regulations applicable to Officers generally.—All members of the general assembly, and all officers, executive and judicial, are required to take an oath to support the constitution of the United States and of the state of Alabama, while remaining citizens of the state, and to discharge, to the best of their abilities, the duties of their offices; Const. art. xv. § 1.

In pursuance of a section of the constitution authorizing the enactment of laws to suppress the evil practice of duelling, laws have been adopted requiring every public officer to take an anti-duelling oath, and disqualifying from holding office under the authority of the state all persons who have in this state, or in any of the United States, given, accepted, or knowingly carried a challenge to fight with deadly weapons; Const. art. iv. § 47; Code of 1876, §§ 149, 155.

ALBA FIRMA. White rents; rents reserved payable in silver, or white money.

They were so called to distinguish them from *reditus nigri*, which were rents reserved payable in work, grain, and the like; Coke, 2d Inst. 19.

ALCALDE. In Spanish Law. A judicial officer in Spain, and in those countries which have received the body of their laws from those of Spain. His powers and duties are similar to those of a justice of the peace.

ALDERMAN (equivalent to senator or senior).

In English Law. An associate to the chief civil magistrate of a corporate town or city.

The word was formerly of very extended signification. Spelman enumerates eleven classes of aldermen. Their duties among the Saxons embraced both magisterial and executive power, but would seem to have been rather an appellation of honor, originally, than a distinguishing mark of office; Spelman, Gloss.

Aldermannus civitatis burgi seu castelle (alderman of a city, borough, or castle); 1 Bla. Com. 475, n.

Aldermannus comitatus (alderman of the county), who is thought by Spelman to have held an intermediate place between an earl and a sheriff; by others, held the same as the earl; 1 Bla. Com. 116.

Aldermannus hundredi seu wapentachii (alderman of a hundred or wapentake); Spelman.

Aldermannus regis (alderman of the king) was so called, either because he was appointed by the king, or because he gave the judgment of the king in the premises allotted to him.

Aldermannus totius Angliæ (alderman of all England). An officer of high rank whose duties cannot be precisely determined. See Spelman, Gloss.

The aldermen of the city of London were probably originally the chiefs of guilds. See 1 Spence, Eq. Jur. 54, 56.

In American Cities. The aldermen are generally a legislative body, having limited judicial powers as a body, as in matters of internal police regulation, laying out and repairing streets, constructing sewers, and the like; though in many cities they hold separate courts, and have magisterial powers to a considerable extent. Consult Spelman, Gloss.; Cowel; 1 Sharsw. Bla. Com. 116; Reeve, Hist. Eng. Law; Spence, Eq. Jur.

ALEATOR (Lat. *alea*, dice). A dice-player; a gambler.

"The more skilful a player he is, the wickeder he is;" Calvinus. Lex.

ALEATORY CONTRACT. In Civil Law. A mutual agreement, of which the effects, with respect both to the advantages and losses, whether to all the parties or to some of them, depend on an uncertain event; La. Civ. Code, art. 2951.

The term includes contracts, such as insurance, annuities, and the like.

ALE-CONNER (also called *ale-taster*). An officer appointed by the court-leet, sworn to look to the assize and goodness of ale and beer within the precincts of the leet; Kitchin, Courts, 46; Whishaw.

An officer appointed in every court-leet, and sworn to look to the assize of bread, ale, or beer within the precincts of that lordship; Cowel.

This officer is still continued in name, though the duties are changed or given up; 1 Crabb, Real Prop. 501.

ALER SANS JOUR (Fr. *aller sans jour*, to go without day).

In Practice. A phrase formerly used to indicate the final dismissal of a case from court.

The defendant was then at liberty to go, without any day appointed for his subsequent appearance; Kitchin, Courts, 146.

ALFET. The vessel in which hot water was put, for the purpose of dipping a criminal's arm in it up to the elbow in the ordeal by water; Cowel.

ALIA ENORMIA (Lat., other wrongs).

In Pleading. A general allegation, at the end of a declaration, of wrongful acts committed by the defendant to the damage of the plaintiff. In form it is, "and other wrongs then and there did against the peace, etc." Under this allegation, damages and matters which naturally arise from the act complained of may be given in evidence; 2 Greenl. Ev. § 678; including battery of servants, etc., in a declaration for breaking into and entering a house; 6 Mod. 127; 2 Term, 166; 7 Harr. & J. Md. 68; and all matters in general which go in aggravation of damages merely, but would not of themselves be ground for an action; Buller, Nisi P. 89; 3 Mass. 222; 6 Munf. 308.

But matters in aggravation may be stated specially; 15 Mass. 194; Gilm. 227; and matters which of themselves would constitute a ground of action must be so stated; 1 Chitty, Pl. 348; 17 Pick. 284. See generally 1 Chitty, Pl. 648; Buller, Nisi P. 89; 2 Greenl. Ev. §§ 268, 273, 278; 2 Salk. 643; Peake, Ev. 505.

ALIAS (Lat. *alius*, another). **In Practice.** Before; at another time.

An *alias* writ is a writ issued where one of the same kind has been issued *before* in the same cause.

The second writ runs, in such case, "we command you as we have *before* commanded you" (*sicut alias*), and the Latin word *alias* is used to denote both the writ and the clause in which it or its corresponding English word is found. It is used of all species of writs.

ALIAS DICTUS (Lat., otherwise called).

A description of the defendant by adding to his real name that by which he is known in some writing on which he is to be charged, or by which he is known; 4 Johns. 118; 2 Caines, 362; 3 id. 219.

ALIBI (Lat., elsewhere). Presence in another place than that described.

When a person, charged with a crime, proves (*se eadem die fuisse alibi*) that he was, at the time alleged, in a different place from that in which it was committed, he is said to prove an *alibi*, the effect of which is to lay a foundation for the necessary inference that he could not have committed it. See Bracton, 140.

This proof is usually made out by the testi-

mony of witnesses, but it is presumed it might be made out by writings; as if the party could prove by a record, properly authenticated, that on the day or at the time in question he was in another place.

It has been said that this defence must be subjected to a most rigid scrutiny; and that it must be established by a preponderance of proof; 30 Vt. 377; 5 Cush. 124; 20 Penn. 429; 81 Ill. 565; 24 Iowa, 570. See remarks of Shaw, C. J., in Webster's Case, and 2 Alison's Cr. L. of Scotland, 624. It is peculiarly liable to be supported by perjury and false testimony of all sorts. There must be satisfactory proof that the prisoner could not have been at the place where the crime was committed, but the proof need not be higher than is required as to other facts; 59 Ga. 142; see 48 Iowa, 583.

ALIEN (Lat. *alienus*, belonging to another; foreign). A foreigner; one of foreign birth.

In England, one born out of the allegiance of the king.

In the United States, one born out of the jurisdiction of the United States, and who has not been naturalized under their constitution and laws; 2 Kent, 50. The children of ambassadors and ministers at foreign courts, however, are not aliens. And see 10 U. S. Stat. 604.

An alien cannot in general acquire title to real estate by descent, or by other mere operation of law; 7 Coke, 25 a; 1 Ventr. 417; 3 Johns. Cas. 109; Hardin, 61; and if he purchase land, he may be divested of the fee, upon an inquest of office found; but until this is done he may sell, convey, or devise the lands and pass a good title to the same; 4 Wheat. 453; 12 Mass. 143; 6 Johns. Ch. 365; 7 N. H. 475; 1 Washb. R. P. 49. The disabilities of aliens in respect to holding lands are removed by statute in many of the states of the United States; in *Alabama*, wholly; Rev. Code, 1876, § 2860; in *Arkansas*, if they have declared an intention to become citizens; Rev. Stat. c. iii. § 224; *California*, wholly, if resident; if non-resident, must appear and claim within five years; Civ. Code, 1880, §§ 671, 672; *Colorado*, wholly; Laws, 1868, p. 45; *Connecticut*, wholly; Rev. Stat. 1875; tit. ii. c. 1, § 4; *Delaware*, as in *Arkansas*; Rev. Code, 1852, c. 81, § 1; *Florida*, wholly; Const. 1868, preamble, § 17; *Georgia*, wholly, so long as alien government is at peace with U. S.; Rev. Code, 1873, § 1661; *Illinois*, wholly; Rev. Stat. 1880, c. 6, § 1; *Iowa*, wholly; McClain's Stat. 1880, § 1908; *Kentucky*, wholly, after declaration of intention to become a citizen of U. S.; a non-resident alien may take and hold by descent or devise, but must alienate within eight years thereafter; Gen. Stat. 1873, p. 191, 192; *Maine*, wholly; Rev. Stat. 1871, c. 73, § 2; *Massachusetts*, wholly; Gen. Stat. c. 90, § 38; *Michigan*, wholly, if *bona fide* residents; Const., art. xviii. § 13; *Mississippi*, wholly if resident; Rev. Code,

1871, c. 52, § 2322, art. vi.; *Missouri*, wholly; Rev. Stat. c. 3, § 325; *Nebraska*, wholly; Const., art. i. § 14; *New Hampshire*, wholly, if resident; General Laws, 1878; *New Jersey*, wholly; Rev. Stat. 1877, c. 1, § 1; *New York*, partly; 2 Rev. Stat. 1875; p. 1096; *Ohio*, wholly; 7 Rev. Stat. 1880, § 4173; *Oregon*, wholly; Gen. Laws, 1872, 588; *Pennsylvania*, wholly; 1 *Purd. Dig.* 65; and as to corporations, Act June 1, 1881; *Rhode Island*, wholly; Gen. Stat. 1872, c. 161, § 6; *South Carolina*, as in Arkansas; Rev. Stat. 1873, p. 419; see 1 *M'Cord*, Ch. So. C. 146; *Tennessee*, partly; 1 Stat. of 1871, §§ 1998, 2427; *Texas*, wholly if a resident, and an intention to become a resident has been declared; Stat. Laws, 1870, 106; *Virginia*, partly; Code, 1873, 130; *Wisconsin*, wholly; Const., art. i. § 15; *Maryland*, the common law prevails; Mayer's *Dig.* 1870; *North Carolina*, wholly; Battle's *Revisal*, p. 78; *Vermont*, the common law prevails; but there is no provision in the state constitution or laws for declaring a forfeiture; 25 *Vt.* 433; 1 *Washb. R. P.* 49 n.; *West Virginia*, wholly; 1 *Rev. Stat.* 1879, 214.

An alien has a right to acquire personal estate, make and enforce contracts in relation to the same; he is protected from injuries and wrongs to his person and property, his relative rights and character; he may sue and be sued; 7 *Coke*, 17; *Dyer*, 2 b; 1 *Cush.* 531; 2 *Sandf. Ch.* 586; 2 *Woodb. & M.* 1; 2 *Kent*, 63.

An alien, even after being naturalized, is ineligible to the office of president of the United States, and in some states, as in New York, to that of governor; he cannot be a member of congress till the expiration of seven years after his naturalization. An alien can exercise no political rights whatever; he cannot, therefore, vote at any political election, fill any office, or serve as a juror; 6 *Johns.* 332. The disabilities of aliens may be removed, and they may become citizens, under the provisions of the Acts of Congress of April 14, 1802, c. 28; March 3, 1813, c. 184; March 22, 1816, c. 32; May 26, 1824, c. 186; May 24, 1828, c. 116. See 2 *Curt. C. C.* 98; 1 *Woodb. & M.* 323; 4 *Gray*, 559; 33 *N. H.* 89.

An alien owes a temporary local allegiance, and his property is liable to taxation. As to the case of alien enemies, see that title.

Consult *Kent*; *Washburn*, R. P.

Of Estates. To alienate; to transfer.

ALIEN ENEMY. One who owes allegiance to the adverse belligerent; 1 *Kent*, 73.

He who owes a temporary but not a permanent allegiance is an alien enemy in respect to acts done during such temporary allegiance only; and when his allegiance terminates, his hostile character terminates also; 1 *B. & P.* 163.

Alien enemies are said to have no rights, no privileges, unless by the king's special favor, during time of war; 1 *Bla. Com.* 372; *Bynkershoek*, 195; 8 *Term*, 166. But the ten-

dency of modern law is to give them protection for person and property until ordered out of the country. If resident within the country, they may sue and be sued; 2 *Kent*, 63; 10 *Johns.* 69; 6 *Binn.* 241; 50 *Ill.* 186; they may be sued as non-resident defendants; 11 *Wall.* 259; 30 *Md.* 512; and may be served by publication, even though they had no actual notice, being within the hostile lines; 37 *Md.* 25.

ALIENAGE. The condition or state of an alien.

ALIENATE. To convey; to transfer; *Coke*, *Litt.* 118 b. *Alien* is very commonly used in the same sense; 1 *Washb. R. P.* 53.

ALIENATION. Of Estates. The transfer of the property and possession of lands, tenements, or other things, from one person to another; *Termes de la Ley*.

It is particularly applied to absolute conveyances of real property; 1 *N. Y.* 290, 294.

Alienations by deed may be by conveyances at common law, which are either *original* or *primary*, being those by means of which the benefit or estate is created or first arises; or *derivative* or *secondary* conveyances, being those by which the benefit or estate originally created is enlarged, restrained, transferred, or extinguished; or they may be by conveyances under the statute of uses. The *original* conveyances are the following: feoffment, gift, grant, lease, exchange, partition. The *derivative* are, release, confirmation, surrender, assignment, defeasance. Those deriving their force from the *statute of uses* are, covenants to stand seised to uses, bargains and sale, lease and release, deeds to lead or declare the uses of other more direct conveyances, deeds of revocation of uses; 2 *Bla. Com.* c. 20; 2 *Washb. R. P.* 600 *et seq.* See **CONVEYANCE**; **DEED**. *Alienations by matter of record* may be: by private acts of the legislature; by grants, as by patents of lands; by fines; by common recovery.

As to *alienations by devise*, see **DEVISE**; **WILL**.

In Medical Jurisprudence. A generic term denoting the different kinds of aberration of the human understanding; 1 *Beck*, *Med. Jur.* 535.

ALIENATION OFFICE. In *English Law*. An office to which all writs of covenants and entries were carried for the recovery of fines levied thereon.

ALIENEE. One to whom an alienation is made.

ALIENI GENERIS (Lat.). Of another kind.

ALIENI JURIS (Lat.) Subject to the authority of another. An infant who is under the authority of his father or guardian, and a wife under the power of her husband, are said to be *alieni juris*. See **SUI JURIS**.

ALIENIGENA (Lat.). One of foreign birth; an alien; 7 *Coke*, 31.

ALIENOR. He who makes a grant or alienation.

ALIMENT. In Scotch Law. To support; to provide with necessaries; Paterson, Comp. §§ 845, 850.

Maintenance; support; an allowance from the husband's estate for the support of the wife; Paterson, Comp. § 893.

In Civil Law. Food and other things necessary to the support of life; money allowed for the purpose of procuring these; Dig. 50. 16. 43.

In Common Law. To supply with necessaries; 3 Edw. Ch. 194.

ALIMENTA (Lat. *alere*, to support). Things necessary to sustain life.

Under the appellation are included food, clothing, and a house; water also, it is said, in those regions where water is sold; Calvinus, Lex.; Dig. 50. 16. 43.

ALIMONY. The allowance which a husband by order of court pays to his wife, living separate from him, for her maintenance; 2 Bishop, Marr. & D. 351; 55 Me. 21; 36 Ga. 286.

Alimony pendente lite is that ordered during the pendency of a suit.

Permanent alimony is that ordered for the use of the wife after the termination of the suit during their joint lives.

To entitle a wife to permanent alimony, the following conditions must be complied with. *First*, a legal and valid marriage must be proved; 1 Rob. Eccl. 484; 2 Add. Eccl. 484; 4 Hen. & M. 507; 10 Ga. 477; 5 Sess. Cas. N. s. Sc. 1288. *Second*, by the common law the relation of husband and wife must continue to subsist; for which reason no alimony could be awarded upon a divorce *a vinculo matrimonii*, or a sentence of nullity; 1 Lee, Eccl. 621; 1 Blackf. 360; 1 Iowa, 440; 2 Hagg. Cons. 395; Saxt. 96; 13 Mass. 264; 5 Pick. 461; 18 Me. 308; 4 Barb. 295; 1 Gill & J. 463; 8 Yerg. 67. This rule, however, has been very generally changed by statute in this country; 2 Bishop, Marr. & D. § 376. *Third*, the wife must be separated from the bed and board of her husband by judicial decree; voluntary separation, for whatever cause, is insufficient. And, as a general rule, the alimony must be awarded by the same decree which grants the separation, or at least in the same suit, it not being generally competent to maintain a subsequent and independent suit for that purpose; 9 Watts, 90; 27 Miss. 630, 692; 21 Conn. 185; 1 Blackf. 360; 8 Yerg. 67. *Fourth*, the wife must not be the guilty party; 1 Paige, Ch. 276; 2 Barb. Ch. 311; 2 Ill. 242; Wright, Ohio, 514; 6 B. Monr. 496; 11 Ala. N. s. 763; 24 N. H. 564; but in some states there are statutes in terms which permit the court, in its discretion, to decree alimony to the guilty wife; 2 Bishop, Marr. & D. 378.

Alimony pendente lite is granted much more freely than permanent alimony, it being very much a matter of course to allow the former, unless the wife has sufficient separate property, upon the institution of a suit; 1 Hagg. Eccl.

773; 1 Curt. Eccl. 444; 2 B. Monr. 142; 2 Paige, Ch. 8; 11 *id.* 166; either for the purpose of obtaining a separation from bed and board; 1 Edw. Ch. 255; a divorce *a vinculo matrimonii*, 9 Mo. 539; 18 Me. 308; 1 Bland. Ch. 101; or a sentence of nullity, and whether the wife is plaintiff or defendant. The reason is, that it is improper for the parties to live in matrimonial cohabitation during the pendency of such a suit, whatever may be its final result; 1 Sandf. Ch. 483. Upon the same principle, the husband who has all the money, while the wife has none, is bound to furnish her, whether plaintiff or defendant, with the means to defray her expenses in the suit; otherwise, she would be denied justice; 2 Barb. Ch. 146; Walk. Ch. 421; 2 Md. Ch. Dec. 335, 393. See 1 Jones, No. C. 528.

Alimony is not a sum of money nor a specific proportion of the husband's estate given absolutely to the wife, but it is a continuous allotment of sums payable at regular intervals, for her support from year to year; 6 Harr. & J. 485; 9 N. H. 309; 9 B. Monr. 49; 6 W. & S. 85; 75 N. C. 70; 12 Fla. 449; 62 Barb. 109; but in some states statutory allowances of a gross sum have been given to the wife under the name of alimony; see 9 N. H. 309; 21 Conn. 185; 9 Ohio, 37; 107 Mass. 428; 40 Mich. 493; 78 Ill. 402; 36 Wis. 362; 23 Ind. 370; 19 Kan. 159. It must secure to her as wife a maintenance separate from her husband: an absolute title in specific property, or a sale of a part of the husband's estate for her use, cannot be decreed or confirmed to her as alimony; 3 Hagg. Eccl. 322; 7 Dana, 181; 6 Harr. & J. 485; 4 Hen. & M. 587; 6 Ired. 293. Nor is alimony regarded, in any general sense, as the separate property of the wife. Hence she can neither alienate nor charge it; 4 Paige, Ch. 509; if she suffers it to remain in arrear for more than one year, she cannot generally recover such arrears; 3 Hagg. Eccl. 322; if she saves up any thing from her annual allowance, upon her death it will go to her husband; 6 W. & S. 85; 12 Ga. 201; if there are any arrears at the time of her death, they cannot be recovered by her executors; 8 Sim. 321; 8 Term, 545; 6 W. & S. 85; as the husband is only bound to support his wife during his own life, her right to alimony ceases with his death; 1 Root, 349; 4 Hayw. 75; 4 Md. Ch. Dec. 289; and as it is a maintenance for the wife living separate from her husband, it ceases upon reconciliation and cohabitation. So also its amount is liable at any time to be increased or diminished at the discretion of the court; 8 Sim. 315, 321, n.; 6 W. & S. 85. The preceding observations, however, respecting the nature and incidents of alimony should be received with some caution in this country, where the subject is so largely regulated by statute; 10 Paige, Ch. 20; 7 Hill, 207.

In respect to the amount to be awarded for alimony, it depends upon a great variety of considerations and is governed by no fixed rules; 4 Gill, 105; 7 Hill, N. Y. 207; 1 Green,

Ch. 90; 1 Iowa, 151; 10 Ga. 477. The ability of the husband, however, is a circumstance of more importance than the necessity of the wife, especially as regards permanent alimony; and in estimating his ability his entire income will be taken into consideration, whether it is derived from his property or his personal exertions; 3 Curt. Eccl. 3, 41; 1 Rich. Eq. 282; 2 B. Monr. 370; 5 Pick. 427; 1 R. I. 212. But if the wife has separate property; 2 Phill. 40; 2 Add. Eccl. 1, or derives income from her personal exertions, this will also be taken into account. The method of computation is, to add the wife's annual income to her husband's; consider what, under all the circumstances, should be allowed her out of the aggregate; then from the sum so determined deduct her separate income, and the remainder will be the annual allowance to be made her. There are various other circumstances, however, beside the husband's ability, to be taken into consideration: as, whether the bulk of the property came from the wife, or belonged originally to the husband; 2 Litt. Ky. 337; 4 Humphr. 510; or was accumulated by the joint exertions of both, subsequent to the marriage; 11 Ala. n. s. 763; 3 Harr. Del. 142; whether there are children to be supported and educated, and upon whom their support and education devolves; 3 Paige, Ch. 267; 4 *id.* 643; 3 Green, Ch. 171; 2 Litt. 337; 10 Ga. 477; the nature and extent of the husband's *delectum*; 3 Hagg. Eccl. 657; 2 Johns. Ch. 391; 4 Des. Eq. 183; 24 N. H. 564; the demeanor and conduct of the wife towards the husband who desires cohabitation; 7 Hill, 207; 5 Dana, 499; 15 Ill. 145; the condition in life, place of residence, health, and employment of the husband, as demanding a larger or smaller sum for his own support; 1 Hagg. Eccl. 526, 532; the condition in life, circumstances, health, place of residence, and consequent necessary expenditures of the wife; 5 Pick. 427; 4 Gill. 105; 11 Ala. n. s. 763; the age of the parties; 6 Johns. Ch. 91; 4 Gill, Md. 105; and whatever other circumstances may address themselves to a sound judicial discretion.

So far as any general rule can be deduced from the decisions and practice of the courts, the proportion of the joint income to be awarded for permanent alimony is said to range from one-half, where the property came from the wife (2 Phill. 235), to one-third, which is the usual amount; 29 L. J. Mat. Cas. 150; 4 Gill, 105; 8 Bosw. 640; 44 Ind. 106; 44 Ala. 437; or even less; 37 Ind. 164; 68 Ill. 17; 38 Ind. 139. In case of alimony *pendente lite* it is not usual to allow more than about one-fifth, after deducting the wife's separate income; 2 Bishop, Marr. & D. §§ 460, 463; and generally a less proportion will be allowed out of a large estate than a small one; for, though no such rule exists in respect to permanent alimony, there may be good reasons for giving less where the question is on alimony during the suit; when the wife should

live in seclusion, and wants only a comfortable subsistence; 2 Phill. Eccl. 40; Bishop, Marr. & D. §§ 603-619. See 4 Thomp. & C. 574; 36 Iowa, 383; 39 Ind. 185; 29 Wis. 517.

ALIO INTUITU (Lat.). Under a different aspect. See **DIVERSO INTUITU**.

ALITER (Lat.). Otherwise; otherwise held or decided.

ALIUNDE (Lat.). From another place. Evidence *aliunde* (*i. e.* from without the will) may be received to explain an ambiguity in a will; 1 Greenl. Ev. § 291.

ALL FOURS. A metaphorical expression, signifying that a case agrees in all its circumstances with another.

ALLEGATA. A word which the emperors formerly signed at the bottom of their rescripts and constitutions; under other instruments they usually wrote *signata* or *testata*; Encyc. Lond.

ALLEGATA ET PROBATA (Lat., things alleged and proved). The allegations made by a party to a suit, and the proof adduced in their support.

It is a general rule of evidence that the *allegata* and *probata* must correspond; that is, the proof must at least be sufficiently extensive to cover all the allegations of the party; 1 Greenl. Ev. § 51; 2 Sumn. 206; 3 Mart. n. s. La. 636.

ALLEGATION. The assertion, declaration, or statement of a party of what he can prove.

In Ecclesiastical Law. The statement of the facts intended to be relied on in support of the contested suit.

It is applied either to the libel, or to the answer of the respondent, setting forth new facts, the latter being, however, generally called the *defensive allegation*. See 1 Browne, Civ. Law, 472, 473, n.

ALLEGATION OF FACULTIES. A statement made by the wife of the property of her husband, in order to her obtaining alimony; 11 Ala. n. s. 763; 3 Tex. 168.

To such an allegation the husband makes answer, upon which the amount of alimony is determined; 2 Lee, Eccl. 593; 3 Phill. Eccl. 387; or she may produce other proof, if necessary in consequence of his failure to make a full and complete disclosure; 2 Hagg. Cons. 199; 3 Knapp, 42; Bishop, Marr. & D. § 605.

ALLEGIANCE. The tie which binds the citizen to the government, in return for the protection which the government affords him.

Acquired allegiance is that binding a citizen who was born an alien, but has been naturalized.

Local allegiance is that which is due from an alien while resident in a country, in return for the protection afforded by the government.

Natural allegiance is that which results from the birth of a person within the territory

and under the obedience of the government; 2 Kent, 42.

At common law, in England and America, natural allegiance could not be renounced except by permission of the government to which it was due; 1 Bla. Com. 370, 371; 1 East, Pl. Cr. 81; 3 Pet. 99, 242; but see 8 Op. Att.-Gen. U. S. 139; 9 *id.* 356. Held to be the law of Great Britain in 1868; Cockb. Nationality. It was otherwise in the civil law and in most continental nations. After many negotiations between the two countries, the rule has been changed in the United States by Act of July 27, 1868, and in England by Act of May 10, 1870. Whether natural allegiance revives upon the return of the citizen to the country of his allegiance, is an open question; Whart. Conf. L. § 6. See Cockb. Nationality; Whart. Conf. L.; 18 Am. L. Reg. 595, 565; Lawrence's Wheat. Int. L., App.; NATURALIZATION; EXPATRIATION.

ALLIANCE (Lat. *ad, to, ligare, to bind*). The union or connection of two persons or families by marriage; affinity.

In International Law. A contract, treaty, or league between two sovereigns or states, made to insure their safety and common defence.

Defensive alliances are those in which a nation agrees to defend her ally in case she is attacked.

Offensive alliances are those in which nations unite for the purpose of making an attack, or jointly waging the war against another nation.

ALLISION. Running one vessel against another.

To be distinguished from collision, which denotes the running of two vessels against each other.

The distinction is not very carefully observed, but collision is used to denote cases strictly of allision.

ALLOCATION. An allowance upon an account in the English Exchequer; Cowel.

Placing or adding to a thing; Encyc. Lond.

ALLOCATIONE FACIENDA. In English Law. A writ directed to the lord treasurer and barons of the exchequer, commanding that an allowance be made to an accountant for such moneys as he has lawfully expended in his office.

ALLOCATUR (Lat., it is allowed).

A Latin word formerly used to denote that a writ or order was allowed.

A word denoting the allowance by a master or prothonotary of a bill referred for his consideration, whether touching costs, damages, or matter of account; Lee, Dict.

ALLOCATUR EXIGENT. A writ of exigent which issued in a process of outlawry, upon the sheriff's making return to the original exigent that there were not five county courts held between the *teste* of the original writ and the return day; 1 Tidd, Pract. 128.

ALLODARII. Those who own allodial lands.

Those who have as large an estate as a subject can have; Coke, Litt. 1; Bacon, Abr. *Tenure, A.*

ALLODIUM (Sax. *a*, privative, and *lode* or *leude*, a vassal; that is, without vassalage).

An estate held by absolute ownership, without recognizing any superior to whom any duty is due on account thereof; 1 Washb. R. P. 16.

It is used in opposition to *feodum* or *stef*, which means property the use of which was bestowed upon another by the proprietor, on condition that the grantee should perform certain services for the grantor, and upon the failure of which the property should revert to the original possessor.

In the United States the title to land is essentially allodial, and every tenant in fee simple has an absolute and unqualified dominion over it; yet in technical language his estate is said to be in fee, a word which implies a feudal relation, although such a relation has ceased to exist in any form, while in several of the states the lands have been declared to be allodial; 44 Penn. 492; 2 *id.* 191; 10 Gill & J. 443; but see 7 Cush. 92; 2 Sharsw. Bla. Com. 77, n.; 1 Washb. R. P. 41, 42; Sharswood's Lecture on Feudal Law, 1870. In some states, the statutes have declared lands to be allodial. See also 28 Wis. 367.

In England there is no allodial tenure, for all land is held mediately or immediately of the king; but the words *tenancy in fee simple* are there properly used to express the most absolute dominion which a man can have over his property; 3 Kent, 390; Cruise, Prelim. Dis. c. 1, § 13; 2 Bla. Com. 45.

ALLONGE (Fr.). A piece of paper annexed to a bill of exchange or promissory note, on which to write endorsements for which there is no room on the instrument itself; Pardessus, n. 343; Story, Prom. Notes, §§ 121, 151.

ALLOY (spelled also *alloy*). An inferior metal used with gold and silver in making coin.

The amount of alloy to be used is determined by law, and is subject to changes from time to time.

ALLUVIO MARIS (Lat.). Soil formed by the washing-up of earth from the sea; Schultes, Aq. Rights, 138.

ALLUVION. That increase of the earth on a shore or bank of a river, or to the shore of the sea, by the force of the water, as by a current or by waves, which is so gradual that no one can judge how much is added at each moment of time; Inst. 1. 2, t. 1, § 20; 3 B. & C. 91; Code Civil Annoté, n. 556; Ang. Watercourses, 53; 9 Cush. 551.

The proprietor of the bank increased by alluvion is entitled to the addition, this being regarded as the equivalent for the loss he may

sustain from the breaking-in or encroachment of the waters upon his land; 1 Washb. R. P. 451; 2 Md. Ch. Dec. 485; 1 Gill & J. 249; 4 Pick. 273; 17 *id.* 41; 1 Hawks. 56; 6 Mart. La. 19; 11 Ohio, 311; 18 La. 122; 5 Wheat. 380; 48 N. H. 9; 64 Ill. 56; 26 Ohio St. 40; 58 N. Y. 437; 18 Iowa, 549; 23 Wall. 46; 4 Wall. 502. The increase is to be divided among riparian proprietors by the following rule: measure the whole extent of their ancient line on the river, and ascertain how many feet each proprietor owned on this line; divide the newly-formed river-line into equal parts, and appropriate to each proprietor as many of these parts as he owned feet on the old line, and then draw lines from the points at which the proprietors respectively bounded on the old to the points thus determined as the points of division on the newly-formed shore. In applying this rule, allowance must be made for projections and indentations in the old line; 17 Pick. 41; 9 Me. 44; 51 N. H. 496; 17 Vt. 387; see 19 Mich. 325. Where the increase is instantaneous, it belongs to the sovereign, upon the ground that it was a part of the bed of the river of which he was proprietor; 17 Ala. 9; 2 Bla. Com. 269; the character of *alluvion* depends upon the addition being imperceptible; 3 B. & C. 91; 26 Wall. 46; 18 La. 122.

Sea-weed which is thrown upon a beach, as partaking of the nature of alluvion, belongs to the owner of the beach; 7 Metc. 322; 2 Johns. 322; 3 B. & Ad. 967. But sea-weed below low-water mark on the bed of a navigable river belongs to the public; 9 Conn. 38.

Alluvion differs from avulsion in this, that the latter is sudden and perceptible; 23 Wall. 46. See **AVULSION**. And see 2 Ld. Raym. 737; Cooper, Inst. 1. 2, t. 1; Angell, Watercourses, § 53 *et seq.*; Phillimore, Int. Law, 255; 2 Am. Law Jour. 282, 393; Angell, Tide Waters, 249; Inst. 2. 1. 20; Dig. 41. 1. 7; *id.* 39. 2. 9; *id.* 6. 1. 23; *id.* 41. 1. 5; 1 Bouvier, Inst. 74.

ALLY. A nation which has entered into an alliance with another nation; 1 Kent, 69.

A citizen or subject of one of two or more allied nations; 4 C. Rob. Adm. 251; 6 *id.* 205; 2 Dall. 15; Dane, Abr., Index.

ALMS. Any species of relief bestowed upon the poor.

That which is given by public authority for the relief of the poor; Shelford, Mortm. 802, note (X); Haywood, Election, 263; 1 Dougl. El. Cas. 370; 2 *id.* 107.

ALNAGER (spelled also *Ulmager*). A public sworn officer of the king, who, by himself or his deputy, looks to the assize of woollen cloth made throughout the land, and to the putting on the seals for that purpose ordained; Statute 17 Ric. II. c. 2; Cowel; Blount; Termes de la Ley.

ALNETUM. A place where alder-trees grow; Domesday Book; Cowel; Blount.

ALTA PRODITIO. High treason.

ALTA VIA. The highway.

ALTARAGE. In Ecclesiastical Law. Offerings made on the altar; all profits which accrue to the priest by means of the altar; Ayliffe, Par. 61.

ALTERATION. A change in the terms of a contract made by the agreement of the parties thereto.

An act done upon an instrument in writing by a party entitled under it, without the consent of the other party, by which its meaning or language is changed.

The term is properly applied to the change in the language of instruments, and is not used of changes in the contract itself. And it is in strictness to be distinguished from the act of a stranger in changing the form or language of the instrument, which is called a *spoliation*. This latter distinction is not always observed in practice, however.

An alteration avoids the instrument; 11 Coke, 27; 5 C. B. 181; 4 Term, 320; 15 East, 29; 8 Cowen, 71; 2 Halst. 175; but not, it seems, if the alteration be not material; 2 N. H. 543; 8 *id.* 139; 10 Conn. 192; 5 Mass. 540; 6 *id.* 519; 20 Vt. 217; 3 Ohio St. 445; 5 Nebr. 233, 439; 12 N. H. 466. The insertion of such words as the law supplies is said to be not material; 15 Pick. 239; 3 Metc. Mass. 103; 29 Me. 298. As to whether tearing and putting on a seal is material; see 2 Pick. 451; 4 Gilm. 411; 11 M. & W. 778; 13 *id.* 343; 1 Parsons, Contr. 227. The question of materiality is one of law for the court; 1 N. H. 95; 2 *id.* 543; 11 Me. 115; 13 Pick. 165; 5 Miss. 231; and depends upon the facts of each case; L. R. 1 Ex. D. 176. The principle seems to be that a party "is discharged from his liability, if the altered instrument, supposed to be genuine, would operate differently to the original instrument, whether it be or be not to his prejudice;" Anson, Contr. 319; 5 E. & B. 89. For instances, see 74 N. Y. 307; 39 Mich. 182; 57 Ala. 379; 51 Iowa, 473; 66 Ind. 331; 69 Mo. 429. Alteration of a deed will not defeat a vested estate or interest acquired under the deed; 11 Mees. & W. 800; 2 H. Bla. 259; 23 Pick. 231; 1 Me. 73; 1 Watts, 236; 3 Barb. 404; see 18 Vt. 466; but as to an action upon covenants, has the same effect as alteration of an unsealed writing; 11 M. & W. 800; 23 Pick. 231; 2 Barb. Ch. 119. As to filling up blanks in deeds, see 6 M. & W. 200; 5 Mass. 538; 17 S. & R. 438; 20 Penn. 12; 4 M' Cord, 239; 7 Cowen, 484; 2 Dana, 142; 4 *id.* 191; 2 Wash. Va. 164; 2 Ala. 517; 10 Am. Dec. 267.

A spoliation by a third party without the knowledge or consent of a party to the instrument will not avoid an instrument even if material, if the original words can be restored with certainty; 1 Parsons, Contr. 224; 1 Greenl. Ev. § 566; but the material alteration of an instrument by a stranger, while it is in the custody of the promisee, avoids his rights under it; 11 Coke, 27 b; L. R. 10 Ex. 330; because one who "has the custody of

an instrument made for his benefit, is bound to preserve it in its original state;" 13 M. & W. 352; 3 E. & B. 687. But see 23 Pick. 231.

Where there has been manifestly an alteration of a parol instrument, the party claiming under it is bound to explain the alteration; 6 Cush. 314; 9 Penn. 186; 11 N. H. 395; 13 *id.* 385; 2 La. 290; 3 Harr. Del. 404; 8 Miss. 414; 17 *id.* 375; 7 Barb. 564; 6 C. & P. 273; 7 Ad. & E. 444; 8 *id.* 215; 2 M. & G. 890, 909; see 11 Conn. 531; 9 Mo. 705; 2 Zab. 424; 5 Harr. & J. 36; 20 Vt. 205; 13 Me. 386. As to the rule in case of deeds, see Coke, Litt. 225 *b*; 1 Kebl. 22; 5 Eng. L. & Eq. 349; 1 Zab. 280.

ALTERNAT. A usage among diplomats by which the rank and places of different powers, who have the same right and pretensions to precedence, are changed from time to time, either in a certain regular order, or one determined by lot. In drawing up treaties and conventions, for example, it is the usage of certain powers to alternate, both in the preamble and the signatures, so that each power occupies, in the copy intended to be delivered to it, the first place; Wheaton, Int. Law, § 157.

ALTERNATIVE. Allowing a choice between two or more things or acts to be done.

In contracts, a party has often the choice which of several things to perform. A writ is in the alternative which commands the defendant to do the thing required, or show the reason wherefore he has not done it; Finch, 257; 3 Bla. Com. 273. The first *mandamus* is an alternative writ; 3 Bla. Com. 111.

ALTIUS NON TOLLENDI. In Civil Law. A servitude by which the owner of a house is restrained from building beyond a certain height.

ALTIUS TOLLENDI. In Civil Law. A servitude which consists in the right, to him who is entitled to it, to build his house as high as he may think proper. In general, every one enjoys this privilege, unless he is restrained by some contrary title.

ALTO ET BASSO. High and low.

This phrase is applied to an agreement made between two contending parties to submit all matters in dispute, *alto et basso*, to arbitration; Cowel.

ALTUM MARE. The high sea.

ALUMNUS. A foster-child.

ALVEUS (Lat.). The bed or channel through which the stream flows when it runs within its ordinary channel; Calvinus, Lex.

Alveus derelictus, a deserted channel; 1 Mackeldey, Civ. Law, 280.

AMALPHITAN TABLE. A code of sea laws compiled for the free and trading republic of Amalphi toward the end of the eleventh century; 3 Kent, 9.

It consists of the laws on maritime subjects which were or had been in force in countries bordering on the Mediterranean; and, on account of its being collected into one regular system, it was

for a long time received as authority in those countries; 1 Azuni, Mar. Law, 376.

AMBACTUS (Lat. *ambire*, to go about). A servant sent about; one whose services his master hired out; Spelman, Gloss.

AMBASSADOR. In International Law. A public minister sent abroad by some sovereign state or prince, with a legal commission and authority to transact business on behalf of his country with the government to which he is sent.

Extraordinary are those employed on particular or extraordinary occasions, or residing at a foreign court for an indeterminate period; Vattel, *Droit des Gens*, l. 4, c. 6, §§ 70-79.

Ordinary are those sent on permanent missions.

An ambassador is a minister of the highest rank.

The United States have always been represented by ministers plenipotentiary, never having sent a person of the rank of an ambassador in the diplomatic sense; 1 Kent, 39, n.

Ambassadors, when acknowledged as such, are exempted absolutely from all allegiance, and from all responsibility to the laws; 7 Cranch, 138. If, however, they should be so regardless of their duty, and of the object of their privilege, as to insult or openly to attack the laws of the government, their functions may be suspended by a refusal to treat with them, or application can be made to their own sovereign for their recall, or they may be dismissed, and required to depart within a reasonable time. By fiction of law, an ambassador is considered as if he were out of the territory of the foreign power; and it is an implied agreement among nations, that the ambassador, while he resides in the foreign state, shall be considered as a member of his own country, and the government he represents has exclusive cognizance of his conduct and control of his person; Grotius, b. 2, c. 18, §§ 1-6.

Ambassadors' children born abroad are held not to be aliens; 7 Coke, 18 *a*. The persons of ambassadors and their domestic servants are exempt from arrest on civil process; 1 Burr. 401; 3 *id.* 1731; Cas. *temp.* Hardw. 5; Stat. 7 Anne, c. 12; Act of Cong. April 30, 1790, § 25.

Consult 2 Wash. C. C. 435; 7 Cranch, 138; 1 Kent, 14, 38, 182; 1 Bla. Com. 253; Rutherford, Inst. b. 2, c. 9; Vattel, b. 4, c. 8, § 113; Grotius, l. 2, c. 8, §§ 1, 3.

AMBIDEXTER (Lat.). Skilful with both hands.

Applied anciently to an attorney who took pay from both sides, and subsequently to a juror guilty of the same offence; Cowel.

AMBIGUITY (Lat. *ambiguitas*, indistinctness; duplicity). Duplicity, indistinctness, or uncertainty of meaning of an expression used in a written instrument.

Latent is that which arises from some collateral circumstance or extrinsic matter in

cases where the instrument itself is sufficiently certain and intelligible.

Patent is that which appears on the face of the instrument; that which occurs when the expression of an instrument is so defective that a court of law which is obliged to put a construction upon it, placing itself in the situation of the parties, cannot ascertain therefrom the parties' intention; 4 Mass. 205; 4 Cranch, 167; 1 Greenl. Ev. §§ 292-300.

The term does not include mere *inaccuracy*, or such uncertainty as arises from the use of peculiar words, or of common words in a peculiar sense; Wigram, Wills, 174; 3 Sim. 24; 3 Mann. & G. 452; 8 Metc. 576; 13 Vt. 36; see 21 Wend. 651; and intends such expressions as would be found of uncertain meaning by persons of competent skill and information; 1 Greenl. Ev. § 298.

Latent ambiguities are subjects for the consideration of a jury, and may be explained by parol evidence; 1 Greenl. Ev. § 301; and see Wigram, Wills, 48; 2 Starkie, Ev. 565; 1 Stark. 210; 5 Ad. & E. 302; 6 *id.* 153; 3 B. & Ad. 728; 8 Metc. 576; 7 Cowen, 202; 1 Mas. 11. *Patent ambiguity* cannot be explained by parol evidence, and renders the instrument as far as it extends inoperative; 4 Mass. 205; 7 Cranch, 167; Jarman, Wills, 315.

AMBIT. A boundary line.

AMBITUS (Lat.). A space beside a building two and a half feet in width, and of the same length as the building; a space two and a half feet in width between two adjacent buildings; the circuit, or distance around; Cicero; Calvinus, Lex.

AMBULATORY (Lat. *ambulare*, to walk about). Movable; changeable; that which is not fixed.

Ambulatoria voluntas (a changeable will) denotes the power which a testator possesses of altering his will during his lifetime.

AMELIORATIONS. Betterments; 6 Low. Can. 294; 9 *id.* 503.

AMENABLE. Responsible; subject to answer in a court of justice; liable to punishment.

AMENDE HONORABLE. In English Law. A penalty imposed upon a person by way of disgrace or infamy, as a punishment for any offence, or for the purpose of making reparation for any injury done to another, as the walking into church in a white sheet, with a rope about the neck and a torch in the hand, and begging the pardon of God, or the king, or any private individual, for some delinquency.

In French Law. A punishment somewhat similar to this, and which bore the same name, was common in France; it was abolished by the law of the 25th of September, 1791; Merlin, *Répert.*

AMENDMENT. In Legislation. An alteration or change of something proposed in a bill or established as law.

Thus, the senate of the United States may

amend money-bills passed by the house of representatives, but cannot originate such bills. The constitution of the United States contains a provision for its amendment; U. S. Const. art. 5.

In Practice. The correction, by allowance of the court, of an error committed in the progress of a cause.

Amendments, at common law, independently of any statutory provision on the subject, are in all cases in the direction of the court, for the furtherance of justice. Under statutes in modern practice, they are very liberally allowed in all formal and most substantial matters, either without costs to the party amending, or upon such terms as the court think proper to order.

An amendment, where there is something to amend by, may be made in a criminal as in a civil case; 12 Ad. & E. 217; 2 Pick. 550. But an indictment, which is a finding upon the oaths of the grand jury, can only be amended with their consent before they are discharged; 2 Hawkins, Pl. Cr. c. 25, §§ 97, 98; 13 Pick. 200.

An information may be amended after demurrer; 4 Term, 457; 4 Burr. 2568.

AMENDS. A satisfaction given by a wrong-doer to the party injured, for a wrong committed; 1 Lilly, Reg. 81.

By statute 24 Geo. II. c. 44, in England, and by similar statutes in some of the United States, justices of the peace, upon being notified of an intended suit against them, may tender amends for the wrong alleged or done by them in their official character, and, if found sufficient, the tender debars the action; 5 S. & R. 209, 517; 4 Binn. 20; 6 *id.* 83.

AMERCEMENT. In Practice. A pecuniary penalty imposed upon an offender by a judicial tribunal.

The judgment of the court is, that the party be at the mercy of the court (*sit in misericordia*), upon which the *affeoors*—or, in the superior courts, the coroner—liquidate the penalty. As distinguished from a fine, at the old law an *amercement* was for a lesser offence, might be imposed by a court not of record, and was for an uncertain amount until it had been affeered. Either party to a suit who failed was to be *amerced pro clamore falso* (for his false claim); but these amercements have been long since disused; 4 Bla. Com. 379; Bacon, Abr., *Fines* and *Amercements*.

The officers of the court, and any person who committed a contempt of court, was also liable to be amerced.

Formerly, if the sheriff failed in obeying the writs, rules, or orders of the court, he might be amerced; but this practice has been generally superseded by attachment. In some of the United States, however, the sheriff may, by statutory provision, be amerced for making a return contrary to the provision of the statute; Coxe, 136, 169; 2 South, 433; 3 Halst. 270; 5 *id.* 319; 6 *id.* 334; 1 Green, N. J. 159, 341; 2 *id.* 350; 1 Ohio, 275; 2 *id.* 503; 6 *id.* 452; Wright, Ohio, 720; 3 Ired. 407; 5 *id.* 385; Cam. & N. 477.

AMEUBLISSEMENT. A species of agreement which by a fiction gives to immovable goods the quality of movable; Merl. Rép.; 1 Low. Can. 25, 58.

AMI (Fr.). A friend. See **PROCHEIN AMY.**

AMICABLE ACTION. In Practice. An action entered by agreement of parties on the dockets of the courts.

This practice prevails in Pennsylvania. When entered, such action is considered as if it had been adversely commenced and the defendant had been regularly summoned.

AMICUS CURIE (Lat. a friend of the court).

In Practice. A friend of the court.

One who, for the assistance of the court, gives information of some matter of law in regard to which the court is doubtful or mistaken; Coke, 2d Inst. 178; 2 Viner, Abr. 475. The information may extend to any matter of which the court takes judicial cognizance; 8 Coke, 15.

Any one as *amicus curie* may make application to the court in favor of an infant, though he be no relation; 1 Ves. sen. 313; and see 11 Gratt. 656; 11 Tex. 698; 2 Mass. 215.

AMITA (Lat.). An aunt on the father's side.

Amita magna. A great-aunt on the father's side.

Amita major. A great-great-aunt on the father's side.

Amita maxima. A great-great-great-aunt, or a great-great-grandfather's sister; Calvinus, Lex.

AMITINUS. The child of a brother or sister; a cousin; one who has the same grandfather, but different father and mother; Calvinus, Lex.

AMITTERE CURIAM (Lat. to lose court).

To be excluded from the right to attend court; Stat. Westm. 2, c. 44.

AMITTERE LIBERAM LEGEM. To lose the privilege of giving evidence under oath in any court; to become infamous, and incapable of giving evidence; Glanville, 2.

If either party in a wager of battle cried "craven," he was condemned *amittere liberam legem*; 3 Bla. Com. 340.

AMNESTY. An act of oblivion of past offences, granted by the government to those who have been guilty of any neglect or crime, usually upon condition that they return to their duty within a certain period.

Express amnesty is one granted in direct terms.

Implied amnesty is one which results when a treaty of peace is made between contending parties; Vattel, l. 4, c. 2, §§ 20-22.

Amnesty and pardon are very different. The former is an act of the sovereign power, the object of which is to efface and to cause to be forgotten a crime or misdemeanor; the latter is an act of the same authority, which exempts the in-

dividual on whom it is bestowed from the punishment the law inflicts for the crime he has committed; 7 Pet. 160. Amnesty is the abolition and forgetfulness of the offence; pardon is forgiveness. A pardon is given to one who is certainly guilty, or has been convicted; amnesty, to those who may have been so.

Their *effects* are also different. That of pardon is the remission of the whole or a part of the punishment awarded by the law,—the conviction remaining unaffected when only a partial pardon is granted; an amnesty, on the contrary, has the effect of destroying the criminal act, so that it is as if it had not been committed, as far as the public interests are concerned.

Their *application* also differs. Pardon is always given to individuals, and properly only after judgment or conviction; amnesty may be granted either before judgment or afterwards, and it is in general given to whole classes of criminals or supposed criminals, for the purpose of restoring tranquillity in the state. But sometimes amnesties are limited, and certain classes are excluded from their operation.

The term *amnesty* belongs to international law, and is applied to rebellions which, by their magnitude, are brought within the rules of international law, but has no technical meaning in the common law, but is a synonym of *oblivion*, which, in the English law, is the synonym of *pardon*; 10 Ct. Cl. 397.

As to amnesty proclamation of 29 May, 1865, see 7 Ct. Cl. 444.

The general amnesty granted by President Johnson on Dec. 25, 1868, does not entitle one receiving its benefits to the proceeds of his property previously condemned and sold under the act of 17 July, 1862, the proceeds having been paid into the treasury; 95 U. S. 147. As to amnesty in cases arising out of the rebellion; 6 Wall. 766; 4 *id.* 333; 13 *id.* 128, 154; 16 *id.* 147; 7 Ct. Cl. 398, 443, 501, 595; 8 *id.* 457.

AMORTISE. To alien lands in mortmain.

AMORTIZATION. An alienation of lands or tenements in mortmain.

The reduction of the property of lands or tenements to mortmain.

AMOTION (Lat. *amovere*, to remove; to take away).

An unlawful taking of personal chattels out of the possession of the owner, or of one who has a special authority in them.

A turning out the proprietor of an estate in realty before the termination of his estate; 3 Bla. Com. 198, 199.

In Corporations. A removal of an official agent of a corporation from the station assigned to him, before the expiration of the term for which he was appointed; 8 Term, 356; 1 East, 562; 6 Conn. 532; Dill. Mun. Corp. § 238.

The term is distinguished from *disfranchisement*, which deprives a *member* of a public corporation of all rights as a corporator. *Expulsion* is the usual phrase in reference to loss of membership of private corporations. The term seems in strictness not to apply properly to cases where officers are appointed merely during the will of the corporation, and are superseded by the choice of a successor, but, as commonly used, includes such cases.

The right of amotion of an officer *for just cause* is a common law incident of all corporations; 1 Burr. 517; 2 Kent, 297; 1 Dill. Mun. Corp. 267; and in case of mere ministerial officers appointed *durante bene placito*, at the mere pleasure of those appointing him, without notice; Willcock, Mun. Corp. 253; 23 Mo. 22; see 1 Ventr. 77; 2 Show. 70; 11 Mod. 403; 9 Wend. N. Y. 394. Notice and an opportunity to be heard are requisite where the appointment is *during good behavior*, or the removal is for a specified cause; 32 Pa. 478; 8 B. Monr. 648; 3 Dutch. 265; 32 Ind. 74; 13 Mich. 346; 10 H. of L. Cas. 404. Mere acts, which are a cause for amotion, do not create a vacancy till the amotion takes place; 2 Green, N. J. 332; 5 Ind. 77; 12 Pick. 244.

The causes for amotion are said by Lord Mansfield (1 Burr. 538) to be:—“*first*, such as have no immediate relation to the office, but are in themselves of so infamous a nature as to render the offender unfit to execute any public franchise (but indictment and conviction must precede amotion for such causes, except where he has left the country before conviction; 1 B. & Ad. 936); *second*, such as are only against his oath and the duty of his office as a corporator, and amount to breaches of the tacit condition annexed to his office; *third*, such as are offences not only against the duty of his office, but also matter indictable at common law;” Dougl. 149; 2 Binn. 448; 50 Penn. 107.

Sufficient grounds of removal:—*poverty* and inability to pay taxes; 3 Salk. 229; *total desertion of duty*; Bull. N. P. 206; 1 Burr. 541; as to neglect of duty, see Ang. & Am. Corp. § 427; 2 Kyd, 65; 1 B. & Ad. 936; 4 Burr. 2004; 2 Stra. 819; 1 Vent. 146; *habitual drunkenness*; 3 Salk. 231; 3 Bulst. 190; *official misconduct*, in the office; 4 Burr. 1999. See 1 Q. B. 751.

Insufficient grounds of removal:—*bankruptcy*; 2 Burr. 723; *casual intoxication*; 3 Salk. 231; 1 Rolle, 409; *old age*; 2 Rolle, 11; *threats, insulting language, or libel upon the mayor or officers*; 11 Coke, 93; 11 Mod. 270; 1 C. & P. 257; 10 Ad. & E. 374; 2 Perry & D. 498.

The Q. B. in England will see that a right of amotion of an officer is lawfully exercised; but it will not control the discretion of the corporation, if so exercised; L. R. 5 H. L. 636 (1872).

Consult Angell & A. Corp. §§ 408, 423-432; Wilc. Mun. Corp.; Dougl. 149; 6 Conn. 532; 6 Mass. 462; 50 Penn. 107; Dill. Mun. Corp. § 238 *et seq.*

AMOUNT COVERED. In Insurance. The amount that is insured, and for which underwriters are liable for loss under a policy of insurance.

It is limited by that specified in the policy to be insured, and this limit may be applied to an identical subject only, as a ship, a building, or life; or to successive subjects, as successive cargoes on the same ship, or successive

parcels of goods transmitted on a certain canal or railroad during a specified period; and it may also be limited by the terms of the contract to a certain proportion, as a quarter, half, etc., of the value of the subject or interest on which the insurance is made; 2 Phillips, Ins. c. xiv. sect. 1, 2; 10 Ill. 235; 16 B. Monr. 242; 2 Dutch. N. J. 111; 6 Gray, 574; 7 *id.* 246; 13 La. An. 246; 34 Me. 487; 39 Eng. L. & Eq. 228.

AMOUNT OF LOSS. In Insurance. The diminution, destruction, or defeat of the value of, or of the charge upon, the insured subject to the assured, by the direct consequence of the operation of the risk insured against, according to its value in the policy, or in contribution for loss, so far as its value is covered by the insurance; 2 Phillips, Ins. c. xv., xvi., xvii.; 2 Pars. Mar. Law, c. x. § 1, c. xi., xii.; 9 Cush. 415; 1 Gray, Mass. 371; 26 N. H. 389; 31 *id.* 238; 5 Du. N. Y. 1; 1 Dutch. N. J. 506; 6 Ohio St. 200; 5 R. I. 426; 2 Md. 217; 7 Ell. & B. 172.

AMOVEAS MANUS (Lat. that you remove your hands). After office found, the king was entitled to the things forfeited, either lands or personal property; the remedy for a person aggrieved was by “petition,” or “*monstrans de droit*,” or “*traverses*,” to establish his superior right. Thereupon a writ issued, *quod manus domini regis amoveantur*; 3 Bla. Com. 260.

AMPARO (Span.). A document protecting the claimant of land till properly authorized papers can be issued; 1 Tex. 790.

AMPLIATION. In Civil Law. A deferring of judgment until the cause is further examined.

In this case, the judges pronounced the word *amplius*, or by writing the letters N. L. for *non liquet*, signifying that the cause was not clear. It is very similar to the common-law practice of entering *cur. adv. vult* in similar cases.

In French Law. A duplicate of an acquittance or other instrument.

A notary's copy of acts passed before him, delivered to the parties.

AMY (Fr.). Friend. See PROCHEIN AMY.

AN, JOUR ET WASTE. See YEAR, DAY AND WASTE.

ANALOGY. The similitude of relations which exist between things compared.

Analogy has been declared to be an argument or guide in forming legal judgments, and is very commonly a ground of such judgments; 3 Bingh. 265; 8 *id.* 557; 1 Turn. & R. 103; 4 Burr. 1962, 2022, 2068; 4 B. & C. 855; 7 *id.* 168; 1 W. Bla. 151; 6 Ves. 675; 3 Swanst. 561; 3 P. Will. 391; 3 Brown, Ch. 639, n.

ANARCHY. The absence of all political government; by extension, confusion in government.

ANATHEMA. In Ecclesiastical Law. A punishment by which a person is separated

from the body of the church, and forbidden all intercourse with the faithful.

It differs from excommunication, which simply forbids the person excommunicated from going into the church and communicating with the faithful.

ANATOCISM. In Civil Law. Taking interest on interest; receiving compound interest.

ANCESTOR. One who has preceded another in a direct line of descent; an ascendant.

A former possessor; the person last seised. *Termes de la Ley*; 2 Bla. Com. 201.

In the common law, the word is understood as well of the immediate parents as of those that are higher; as may appear by the statute 25 Edw. III., *De natis ultra mare*, and by the statute 6 Ric. II. c. 6, and by many others. But the civilians' relations in the ascending line, up to the great-grandfather's parents, and those above them, they term *majores*, which common lawyers aptly expound *antecessors* or ancestors, for in the descendants of like degree they are called *posteriores*; Cary, Litt. 45. The term *ancestor* is applied to natural persons. The words predecessors and successors are used in respect to the persons composing a body corporate. See 2 Bla. Com. 209; Bacon, Abr.; Ayliffe, Pand. 58; Reeve, Descents.

ANCESTRAL. What relates to or has been done by one's ancestors; as homage ancestral, and the like.

That which belonged to one's ancestors.

Ancestral estates are such as come to the possessor by descent; 2 Washb. R. P. 411, 412.

ANCHOR. A measure containing ten gallons.

ANCHORAGE. A toll paid for every anchor cast from a ship in a port.

Such a toll is said to be incident to almost every port; 1 W. Bla. 413; 4 Term, 260; and is sometimes payable though no anchor is cast; 2 Chitty, Com. Law, 16.

ANCIENT DEMESNE. Manors which in the time of William the Conqueror were in the hands of the crown, and are so recorded in the Domesday Book; Fitzh. Nat. Brev. 14, 56.

Tenure in *ancient demesne* may be pleaded in abatement to an action of ejectment; 2 Burr. 1046.

Tenants of this class had many privileges; 2 Bla. Com. 99.

ANCIENT HOUSE. One which has stood long enough to acquire an easement of support; 3 Kent, 437; 2 Washb. R. P. 74, 76. See SUPPORT; EASEMENT.

ANCIENT LIGHTS. Windows or openings which have remained in the same place and condition twenty years or more; 5 Harr. & J. 477; 12 Mass. 157, 220.

In England, a right to unobstructed light and air through such openings is secured by mere user for that length of time under the same title.

In the United States, such right is not ac-

quired without an express grant, in most of the states; 2 Washb. R. P. 62, 63; 3 Kent, 446, n. See 11 Md. 1, and cases under AIR; LIGHT AND AIR.

ANCIENT READINGS. Essays on the early English statutes; Coke, Litt. 280.

ANCIENT RENT. The rent reserved at the time the lease was made, if the building was not then under lease; 2 Vern. 542.

ANCIENT WRITINGS. Deeds, wills, and other writings, more than thirty years old.

They may, in general, be read in evidence without any other proof of their execution than that they have been in the possession of those claiming rights under them; 1 Phillips, Ev. 273; 1 Greenl. Ev. § 141; 2 Bingham. N. C. 183, 200; 12 M. & W. 205; 8 Q. B. 158; 10 id. 314; 11 id. 884; 2 Anstr. 601; 3 Taunt. 91; 1 Price, 225; 5 id. 312; 4 Perry & D. 193; 7 Beav. 93; 8 B. & C. 22; 4 Wheat. 213; 5 Pet. 319; 9 id. 663-675; 5 Cowen, 221; 3 Johns. 292; 7 Wend. 371; 2 Nott & M'C. 55, 400; 4 Pick. 160; 24 id. 71; 16 Me. 27.

ANCIENTS. Gentlemen in the Inns of Courts who are of a certain standing.

In the Middle Temple, all who have passed their readings are termed ancients. In Gray's Inn, the ancients are the oldest barristers; besides which, the society consists of benchers, barristers, and students; in the Inns of Chancery, it consists of ancients, and students or clerks.

ANCIENTY. Eldership; seniority. Used in the statute of Ireland, 14 Hen. VIII.; Cowel.

ANCILLARY (Lat. *ancilla*, a handmaid). Auxiliary, subordinate.

As it is beneath the dignity of the king's courts to be merely ancillary to other inferior jurisdictions, the cause, when once brought there, receives its final determination; 3 Bla. Com. 98.

Used of deeds, and also of an administration taken out in the place where assets are situated, which is subordinate to the principal administration; 1 Story, Eq. Jur. § 583.

ANCIPITIS USUS (Lat.). Useful for various purposes.

As it is impossible to ascertain the final use of an article *ancipitis usus*, it is not an injurious rule which deduces the final use from its immediate destination; 1 Kent, 140.

ANDROLEPSY. The taking by one nation of the citizens or subjects of another, in order to compel the latter to do justice to the former; Wolffius, § 1164; Molloy, *de Jure Mar.* 26.

ANECIUS (Lat. Spelled also *æsnecius*, *enitius*, *æneas*, *eneyus*). The eldest-born; the first-born; senior, as contrasted with the *puis-ne* (younger); Spelman, Gloss., *Æsnecia*.

ANGARIA. In Roman Law. A service or punishment exacted by government.

They were of six kinds, viz.: maintaining a post-station where horses are changed; furnishing horses or carts; burdens imposed on

lands or persons; disturbance, injury, anxiety of mind; the three- or four-day periods of fasting observed during the year; saddles or yokes borne by criminals from county to county, as a disgraceful mode of punishment among the Germans or Franks; Du Cange, *verb. Angaria*.

In Feudal Law. Any troublesome or vexatious personal service paid by the tenant to his lord; Spelman, Gloss.

ANGEL. An ancient English coin, of the value of ten shillings sterling; Jacobs, Law Dict.

ANGILD (Sax.). The bare, single valuation or estimation of a man or thing, according to the legal estimates.

The terms *twigild*, *trigild*, denote twice, thrice, etc., *angild*; *Leges Inæ*, c. 20; Cowel.

ANHLOTE (Sax.). The sense is, that every one should pay, according to the custom of the country, his respective part and share; Spelman, Gloss.

ANIENS. Void; of no force; Fitzherbert, Nat. Brev. 214.

ANIENT (Fr. *anéantir*). Abrogated, or made null; Littleton, § 741.

ANIMAL. Any animate being which is not human, endowed with the power of voluntary motion.

Domite are those which have been tamed by man; domestic.

Feræ naturæ are those which still retain their wild nature.

A man may have an absolute property in animals of a domestic nature; 2 Mod. 319; 2 Bla. Com. 390; but not so in animals *feræ naturæ*, which belong to him only while in his possession; 3 Binn. 546; 3 Caines, 175; 7 Johns. 16; 13 Miss. 383; 8 Blackf. 498; 2 B. & C. 934; 4 Dowl. & R. 518. Yet animals which are sometimes *feræ naturæ* may be tamed so as to become subjects of property; as an otter; 65 N. C. 615; s. c., 6 Am. Rep. 744; pigeons which return to their house or box; 2 Den. Cr. Cas. 361, 362, n.; 4 C. & P. 131; 9 Pick. 15; or pheasants hatched under a hen; 1 Fost. & F. 350. And the flesh of animals *feræ naturæ* may be the subject of larceny; 3 Cox, Cr. Cas. 572; 1 Den. Cr. Cas. 501; 2 Templ. & M. 196; 2 C. & K. 981; 65 N. C. 615.

It was not larceny at common law to steal dogs or other inferior animals that did not serve for food; 4 Bla. Com. 235; 78 N. C. 481; 1 Greene, 106. See note in 15 Am. Rep. 356.

The owner of a mischievous animal, known to him to be so, is responsible, when he permits him to go at large, for the damages he may do; 2 Esp. 482; 4 Campb. 198; 1 Stark. 285; 1 Holt. 617; 2 Stra. 1264; 1 Ld. Raym. 110; 1 B. & Ald. 620; 2 Crompt. M. & R. 496; 5 C. & P. 1; Bull. Nisi P. 77; 99 U. S. 645; 105 Mass. 71; 35 Ind. 178; 75 Ill. 141; 38 Wis. 300; 9 Q. B. 110. And any person may justify the killing of ferocious animals; 9 Johns. 233; 10 *id.* 365; 13 *id.* 312; 11 Chic.

Leg. N. 295. The owner of such an animal may be indicted for a common nuisance; 1 Russ. Crimes, 643; Burn, Just., *Nuisance*, O.; Bouvier, Inst.

The keeper of an animal *feræ naturæ* is liable for any injury it may cause, unless he can disprove negligence (which need not be averred in the declaration); 38 Barb. 14; 35 Ind. 178; 41 Cal. 138; 9 Q. B. 101. The owner of any animal, tame or wild, is liable for the exercise of such dangerous tendencies as generally belong to its nature, but not of any not in accordance with its nature, unless the owner or keeper knew, or ought to have known, of the existence of such dangerous tendency; Whart. Negl. § 923. To recover for damages inflicted by a ferocious dog, it is not necessary actually to prove that it has bitten a person before; L. R. 2 C. P. 1; 126 Mass. 511; 65 N. Y. 54.

See on the general subject of *Animals*, 20 Alb. L. J. 6, 104; 2 *id.* 101; 1 Thomps. Negl. 173 *et seq.*

ANIMALS OF A BASE NATURE.

Those animals which, though they may be reclaimed, are not such that at common law a larceny may be committed of them, by reason of the baseness of their nature.

Some animals which are now usually tamed come within this class, as dogs and cats; and others which, though wild by nature and often reclaimed by art and industry, clearly fall within the same rule, as bears, foxes, apes, monkeys, ferrets, and the like; Coke, 3d Inst. 109; 1 Hale, Pl. Cr. 511, 512; 1 Hawkins, Pl. Cr. 33, § 36; 4 Bla. Com. 236; 2 East, Pl. Cr. 614. See 1 Wms. Saund. 84, note 2.

ANIMO (Lat.). With intention.

Quò animo, with what intention. *Animo cancellandi*, with intention to cancel; 1 Powell, Dev. 603; *furandi*, with intention to steal; 4 Sharsw. Bla. Com. 230; 1 Kent, 183; *lucrandi*, with intention to gain or profit; 3 Kent, 357; *manendi*, with intention to remain; 1 Kent, 76; *morandi*, with intention to stay, or delay; *republicandi*, with intention to republish; 1 Powell, Dev. 609; *revertendi*, with intention to return; 2 Sharsw. Bla. Com. 392; *revocandi*, with intention to revoke; 1 Powell, Dev. 595; *testandi*, with intention to make a will.

ANIMUS (Lat., mind). The intention with which an act is done.

ANIMUS CANCELLANDI. An intention to destroy or cancel. See CANCELLATION.

ANIMUS CAPIENDI. The intention to take; 4 C. Rob. Adm. 126, 155.

ANIMUS FURANDI. The intention to steal.

In order to constitute larceny, the thief must take the property *animò furandi*; but this is expressed in the definition of larceny by the word felonious; Coke, 3d Inst. 107; Hale, Pl. Cr. 503; 4 Bla. Com. 229. See 2 Russell, Crimes, 96; 2 Tyl. Com. 272. When the taking of property is lawful, although it may afterwards be converted *animò furandi* to the taker's use, it is not larceny; Bacon, Abr., *Felony*, C; 14 Johns. 294; Ry. & M. 160, 137; Prin. of Pen. Law, c. 22, § 3, pp. 279, 281.

ANIMUS MANENDI. The intention of remaining.

To acquire a domicile, the party must have his abode in one place, with the intention of remaining there; for without such intention no new domicile can be gained, and the old will not be lost. See **DOMICIL**.

ANIMUS RECIPIENDI. The intention of receiving.

A man will acquire no title to a thing unless he possesses it with an intention of receiving it for himself; as, if a thing be bailed to a man, he acquires no title.

ANIMUS REVERTENDI. The intention of returning.

A man retains his domicile if he leaves it *animo revertendi*; 3 Rawle, 312; 4 Bla. Com. 225; 2 Russ. Cr. 18; Poph. 42, 52; 4 Coke, 40. See **DOMICIL**.

ANIMUS TESTANDI. An intention to make a testament or will.

This is required to make a valid will; for, whatever form may have been adopted, if there was no *animus testandi*, there can be no will. An idiot, for example, can make no will, because he can have no intention.

ANN. In Scotch Law. Half a year's stipend, over and above what is owing for the incumbency, due to a minister's relict, or child, or next of kin, after his decease; Whishaw.

ANNALES. A title given to the Year Books; Burrill, Law Dict. Young cattle; yearlings; Cowel.

ANNATES. In Ecclesiastical Law. First-fruits paid out of spiritual benefices to the pope, being the value of one year's profit.

ANNEXATION (Lat. *ad, to, nexare, to bind*). The union of one thing to another.

It conveys the idea, properly, of fastening a smaller thing to a larger; an incident to a principal. It has been applied to denote the union of Texas to the United States.

Actual annexation includes every movement by which a chattel can be joined or united to the freehold.

Constructive annexation is the union of such things as have been holden parcel of the realty, but which are not actually annexed, fixed, or fastened to the freehold; Sheppard, Touchst. 469; Amos & F. Fixt. 2. See **FIXTURES**.

ANNI NUBILES (Lat. marriageable years). The age at which a girl becomes by law fit for marriage; the age of twelve.

ANNICULUS (Lat.). A child a year old; Calvinus, Lex.

ANNO DOMINI (Lat. the year of our Lord; abbreviated A.D.). The computation of time from the birth of Jesus Christ.

The Jews began their computation of time from the creation; the Romans, from the founding of Rome; the Mohammedans, from the Hegira, or flight of the Prophet; the Greeks reckoned by Olympiads; but Christians everywhere reckon from the birth of Jesus Christ.

In a complaint, the year of the alleged offence may be stated by means of the letters "A.D.," followed by words expressing the year; 4 Cush. 596. But an indictment or

complaint which states the year of the commission of the offence in figures only, without prefixing the letters "A.D.," is insufficient; 5 Gray, 91. The letters "A.D.," followed by figures expressing the year, have been held sufficient in several states; 3 Vt. 481; 1 Greene, Iowa, 418; 35 Me. 489; 1 Bennett & H. Lead. Crim. Cas. 512; but the phrase, or its equivalents, may be dispensed with; 12 Q. B. 834; 2 Cart. (Ind.) 91; 22 Minn. 67; but see 1 Breese, 4. See Whart. Prec. etc. (2) n. g.

ANNONA (Lat.). Barley; corn; grain; a yearly contribution of food, of various kinds, for support.

Annona porcum, acorns; *annonna frumentum hordeo admixtum*, corn and barley mixed; *annonna panis*, bread, without reference to the amount; Du Cange; Spelman, Gloss.; Cowel.

The term is used in the old English law, and also in the civil law quite generally, to denote any thing contributed by one person towards the support of another; as, *si quis mancipio annonam dederit* (if any shall have given food to a slave); Du Cange; Spelman, Gloss.

ANNONÆ CIVILES. Yearly rents issuing out of certain lands, and payable to monasteries.

ANNOTATION. In Civil Law. The answers of the prince to questions put to him by private persons respecting some doubtful point of law. See **RESCRIPT**.

Summoning an absentee; Dig. 1. 5.

The designation of a place of deportation; Dig. 32. 1. 3.

ANNUAL ASSAY. An annual trial of the gold and silver coins of the United States, to ascertain whether the standard fineness and weight of the coinage is maintained.

At every delivery of coins made by the coiner to a superintendent, it is made the duty of the superintendent, in the presence of the assayer, to take indiscriminately a certain number of pieces of each variety for the annual trial of coins, the number for gold coins being not less than one piece for each one thousand pieces, or any fractional part of one thousand pieces delivered; and for silver coins, one piece for each two thousand pieces, or any fractional part of two thousand pieces delivered. The pieces so taken shall be carefully sealed up in an envelope, properly labelled, stating the date of the delivery, the number and denominations of the pieces enclosed, and the amount of the delivery from which they were taken. These sealed parcels containing the reserved pieces shall be deposited in a pyx, designated for the purpose at each mint, which shall be under the joint care of the superintendent and assayer, and be so secured that neither can have access to its contents without the presence of the other, and the reserved pieces in their envelopes from the coinage of each mint shall be transmitted quarterly to the mint at Philadelphia. A record shall also be kept of the number and denomination of the pieces so delivered, a copy of which shall be transmitted quarterly to the director of the mint; Sect. 40, Act of Feb. 12, 1873; U. S. Rev. Stat. § 3539.

To secure a due conformity in the gold and

silver coins to their respective standards and weights, it is provided by law that an annual trial shall be made of the pieces reserved for this purpose at the mint and its branches, before the judge of the district court of the United States for the eastern district of Pennsylvania, the comptroller of the currency, the assayer of the assay office at New York, and such other persons as the president shall from time to time designate for that purpose, who shall meet as assay commissioners, on the second Wednesday in February annually, at the mint in Philadelphia, to examine and test, in the presence of the director of the mint, the fineness and weight of the coins reserved by the several mints for this purpose, and may continue their meetings by adjournment, if necessary; and if a majority of the commissioners shall fail to attend at any time appointed for their meeting, then the director of the mint shall call a meeting of the commissioners at such other time as he may deem convenient, and if it shall appear that these pieces do not differ from the standard fineness and weight by a greater quantity than is allowed by law, the trial shall be considered and reported as satisfactory; but if any greater deviation from the legal standard or weight shall appear, this fact shall be certified to the president of the United States, and if, on a view of the circumstances of the case, he shall so decide, the officer or officers implicated in the error shall be thenceforward disqualified from holding their respective offices; § 48, Act of Feb. 12, 1873 (U. S. Rev. Stat. § 3547); *id.* §§ 49, 50 (R. S. §§ 3548, 3549). As to the standard weight and fineness of the gold and silver coins of the United States, see sections of the last-cited act. The limit of allowance for wastage is fixed; § 43, Act of Feb. 12, 1873; R. S. § 3542.

For the purpose of securing a due conformity in the weight of the coins of the United States, the brass troy pound weight procured by the minister of the United States (Mr. Gallatin) at London, in the year 1827, for the use of the mint, and now in the custody of the director thereof, shall be the standard troy pound of the mint of the United States, conformably to which the coinage thereof shall be regulated; and it is made the duty of the director of the mint to procure and safely keep a series of standard weights corresponding to the aforesaid troy pound, and the weights ordinarily employed in the transactions of the mint shall be regulated according to such standards at least once in every year under his inspection, and their accuracy tested annually in the presence of the assay commissioners on the day of the annual assay; Act of Feb. 12, 1873; R. S. § 3548.

In England, the accuracy of the coinage is reviewed once in about every four years; no specific period being fixed by law. It is an ancient custom or ceremony, and is called the *Trial of the Pyx*; which name it takes from the pyx or chest in which the specimen-coins are deposited. These specimen-pieces are taken to be a fair representation of the whole money coined within a certain period. It having been notified to the government that a trial of the pyx is called for, the lord chancellor issues his warrant to summon a jury of goldsmiths, who, on the appointed day, proceed to the Exchange Office, Whitehall, and there, in the presence of several privy councillors and the officers of the mint, receive the charge of the lord chancellor as to their important functions, who requests them to deliver to him a verdict of their finding. The jury proceed to Goldsmiths' Hall, London, where assaying apparatus and all other necessary appliances are provided, and, the sealed packages of the specimen-

coins being delivered to them by the officers of the mint, they are tried by weight, and then a certain number are taken from the whole and melted into a bar, from which the assay trials are made, and a verdict is rendered according to the results which have been ascertained; Encyc. Brit. titles Coinage, Mint, Money, Numismatics.

ANNUAL RENT. In Scotch Law. Interest.

To avoid the law against taking interest, a yearly rent was purchased: hence the term came to signify interest; Bell, Dict.; Paterson, Comp. §§ 19, 265.

ANNUITY (Lat. *annuus*, yearly). A yearly sum stipulated to be paid to another in fee, or for life, or years, and chargeable only on the person of the grantor; Coke, Litt. 144 *b*; 2 Bla. Com. 40; Lumley, Ann. 1; 5 Mart. La. 312; Dav. Ir. 14.

An annuity is different from a rent-charge, with which it is sometimes confounded,—the annuity being chargeable on the person merely, and so far personalty; while a rent-charge is something reserved out of realty, or fixed as a burden upon the estate in land; 2 Bla. Com. 40; Rolle, Abr. 226; 10 Watts, 127. An annuity in fee is said to be a personal fee; for, though transmissible, as is real estate of inheritance; Ambl. Ch. 782; liable to forfeiture as a hereditament; 7 Coke, 34 *a*; and not constituting assets in the hands of an executor, it lacks some other characteristics of realty. The husband is not entitled to curtesy, nor the wife to dower, in an annuity; Coke, Litt. 32 *a*. It cannot be conveyed by way of use; 2 Wils. 224; is not within the statute of frauds, and may be bequeathed and assigned as personal estate; 2 Ves. Sen. 70; 4 B. & Ald. 59; Roscoe, Real Act. 68, 35; 3 Kent, 460.

To enforce the payment of an annuity, an action of annuity lay at common law, but when brought for arrears must be before the annuity determines; Coke, Litt. 285. In case of the insolvency or bankruptcy of the debtor, the capital of the constituted annuity becomes exigible; La. Civ. Code, art. 2769; stat. 6 Geo. IV. c. 16, §§ 54, 108; 5 Ves. 708; 4 *id.* 763; 1 Belt, Supp. Ves. 308, 431. See 1 Roper, Leg. 588; CHARGE.

ANNULUS ET BACULUS (Lat. ring and staff). The investiture of a bishop was *per annulum et baculum*, by the prince's delivering to the prelate a ring and pastoral staff, or crozier; 1 Sharsw. Bla. Com. 378; Spelman, Gloss.

ANNUM, DIEM ET VASTUM. See YEAR, DAY, AND WASTE.

ANNUS LUCTUS (Lat.). The year of mourning; Code, 5. 9. 2.

It was a rule among the Romans, and also the Danes and Saxons, that the widows should not marry *infra annum luctus* (within the year of mourning); 1 Bla. Com. 457.

ANNUS UTILIS. A year made up of available or serviceable days; Brissonius; Calvinus, Lex.

ANNUUS REDITUS. A yearly rent; annuity; 2 Sharsw. Bla. Com. 41; Reg. Orig. 158 *b*.

ANONYMOUS. Without name.

Books published without the name of the author are said to be anonymous. Cases in the reports of which the names of the parties are not given are said to be anonymous.

ANSWER. In Equity Pleading. A defence in writing, made by a defendant to the charges contained in a bill or information filed by the plaintiff against him in a court of equity.

In case relief is sought by the bill, the answer contains both the defendant's defence to the case made by the bill, and the examination of the defendant, on oath, as to the facts charged in the bill, of which discovery is sought; *Gresley, Eq. Ev. 19*; *Jeremy's Mitf. Eq. Pl. 15, 16*. These parts were kept distinct from each other in the civil law; their union, in chancery, has caused much confusion in equity pleading; *Langd. Eq. Pl. 41*; *Story, Eq. Pl. § 850*.

As to the *form* of the answer, it usually contains, in the following order: *the title*, specifying which of the defendants it is the answer of, and the names of the plaintiffs in the cause in which it is filed as answer; *8 Ves. 79*; *11 id. 62*; *1 Russ. 441*; see *17 Ala. n. s. 89*; *a reservation* to the defendant of all the advantages which might be taken by exception to the bill, which is mainly effectual in regard to other suits; *Beames, Eq. Pl. 46*; *1 Hempst. 715*; *4 Md. 107*; *the substance* of the answer, according to the defendant's knowledge, remembrance, information, and belief, in which the matter of the bill, with the interrogatories founded thereon, are answered, one after the other, together with such additional matter as the defendant thinks necessary to bring forward in his defence, either for the purpose of qualifying or adding to the case made by the bill, or to state a new case on his own behalf; *a general traverse* or denial of all unlawful combinations charged in the bill, and of all other matters therein contained.

The answer must be upon oath of the defendant, or under the seal of a corporation defendant; *21 Ga. 161*; *1 Barb. 22*; see *8 Gill, 170*; unless the plaintiff waives the right; *Story, Eq. Pl. § 824*; *10 Cush. 58*; *2 Gray, 431*; in which case it must be generally signed by the defendant; *6 Ves. 171, 285*; *10 id. 441*; *14 id. 172*; *Cooper, Eq. Pl. 326*; and must be signed by counsel; *Story, Eq. Pl. § 876*; unless taken by commissioners; *4 McL. C. C. 136*.

As to *substance*, the answer must be full and perfect to all the material allegations of the bill, confessing and avoiding, denying or traversing, all the material parts; *Comyns, Dig. Chancery, K, 2*; *28 N. H. 440*; *6 Rich. Eq. 1*; *10 Ga. 449*; *3 id. 302*; not literally merely, but answering the substance of the charge; *Mitf. Eq. Pl. 309*; *28 Ala. n. s. 289*; *16 Ga. 442*; *1 Halst. Ch. 60*; and see *2 Stockt. Ch. 267*; must be responsive; *3 Halst. Ch. 17*; *13 Ill. 318*; *21 Vt. 326*; and must state facts, and not arguments,

directly and without evasion; *Story, Eq. Pl. § 852*; *7 Ind. 661*; *24 Vt. 70*; *4 Ired. Eq. 390*; *9 Mo. 605*; without scandal; *19 Me. 214*; *18 Ark. 215*; or impertinence; *3 Story, 13*; *6 Beav. 558*; *4 McL. 202*; *8 Blackf. 124*. See *10 Sim. 345*; *13 id. 583*; *17 Eng. L. & Eq. 509*; *22 Ala. n. s. 221*.

Insufficiency of answer is a ground for exception when some material allegation, charge, or interrogatory is unanswered or not freely answered; *1 Md. Ch. Dec. 358*; *7 How. 726*; *6 Humphr. 18*. See *10 Humphr. 280*; *11 Paige, 543*.

An answer may, in some cases, be amended; *2 Brown, Ch. 143*; *2 Ves. 85*; to correct a mistake of fact; *Ambl. 292*; *1 P. Will. 297*; but not of law; *Ambl. 65*; nor any mistake in a material matter except upon evidence of surprise; *36 Me. 124*; *3 Sumn. 583*; *1 Brown, Ch. 319*; and not, it seems, to the injury of others; *Story, Eq. Pl. § 904*; *1 Halst. Ch. 49*. A supplemental answer may be filed to introduce new matter; *6 McL. 459*; or correct mistakes; *2 Coll. 133*; *15 Ala. n. s. 634*; *7 Ga. 99*; *8 Blackf. 24*; which is considered as forming a part of the original answer. See **DISCOVERY**; *Mitf. Eq. Pl. 244, 254*; *Cooper, Eq. Plead. 312, 327*; *Beames, Eq. Plead. 34*; *Bouv. Inst., Index*. The 60th Equity Rule S. C. of U. S. provides for amendments.

For an historical account of the instrument, see *2 Brown, Civ. Law, 371, n.*; *Barton, Suit in Eq.* See also *Langdell's learned Summary of Equity, 41 to 52*.

In Practice. The declaration of a fact by a witness after a question has been put, asking for it.

ANTAPOCHA (Lat.). An instrument by which the debtor acknowledges the debt due the creditor, and binds himself. A copy of the *apocha* signed by the debtor and delivered to the creditor; *Calvinus, Lex*.

ANTE JURAMENTUM (Lat.; called also *Juramentum Calumnice*). The oath formerly required of the parties previous to a suit,—of the plaintiff that he would prosecute, and of the defendant that he was innocent; *Jacobs, Dict.*; *Whishaw*.

ANTE LITEM MOTAM. Before suit brought.

ANTE-NUPTIAL. Before marriage; before marriage, with a view to entering into marriage.

ANTEDATE. To put a date to an instrument of a time before the time it was written.

ANTENATI. (Lat. born before). Those born in a country before a change in its political condition such as to affect their allegiance.

The term is ordinarily applied by American writers to denote those born in this country prior to the declaration of Independence. It is distinguished from *postnati*, those born after the event.

As to the rights of British *antenati* in the United States, see Kirby, 413; 2 Halst. 305, 337; 2 Mass. 236, 244; 9 *id.* 460; 2 Pick. 394; 2 Johns. Cas. 29; 3 *id.* 109; 4 Johns. 75; 1 Munf. 218; 6 Call, 60; 3 Binn. 75; 4 Cranch, 321; 7 *id.* 603; 3 Pet. 99. As to their rights in England, see 7 Coke, 1, 27; 2 B. & C. 779; 5 *id.* 771; 1 Wooddesson, Lect. 382.

ANTI MANIFESTO. The declaration of the reasons which one of the belligerents publishes, to show that the war as to him is defensive. Wolffius, § 1187.

ANTICHRESIS (Lat.). In Civil Law. An agreement by which the debtor gives to the creditor the income from the property which he has pledged, in lieu of the interest on his debt; Guyot, *Répert.*

It is analogous to the Welsh mortgage of the common law. In the French law, if the income was more than the interest, the debtor was entitled to demand an account of the income, and might claim any excess; La. Civ. Code, 2085. See Dig. 20. 1. 11; *id.* 13. 7. 1; Code, 8. 28. 1; 11 Pet. 351; 1 Kent, 137.

ANTICIPATION (Lat. *ante*, before, *capere*, to take). The act of doing or taking a thing before its proper time.

In deeds of trust there is frequently a provision that the income of the estate shall be paid by the trustee as it shall accrue, and not by way of anticipation. A payment made contrary to such provision would not be considered as a discharge of the trustee.

ANTINOMIA. In Roman Law. A real or apparent contradiction or inconsistency in the laws; Merlin, *Répert.*

It is sometimes used as an English word, and spelled Antinomy.

ANTIQUA CUSTUMA (L. Lat. ancient custom). The duty due upon wool, woolfells, and leather, under the statute 3 Edw. I.

The distinction between *antiqua* and *nova custuma* arose upon the imposition of a new and increased duty upon the same articles, by the king, in the twenty-second year of his reign; Bacon, *Abbr.*, *Smuggling*, C. I.

ANTIQUA STATUTA. Also called *Vetera Statuta*. English statutes from the time of Richard First to Edward Third; Reeves, *Hist. Eng. Law*, 227.

ANTITHETARIUS. In old English Law. A man who endeavors to discharge himself of the crime of which he is accused, by retorting the charge on the accuser. He differs from an approver in this, that the latter does not charge the accuser, but others; Jacobs, *Law Dict.*

ANY TERM OF YEARS. In Criminal Law. In Massachusetts, this term, in the statutes relating to additional punishment, means a period of time not less than two years; 14 Pick. 40, 86, 90, 94.

APANAGE. In French Law. A portion set apart for the use and support of the younger ones, upon condition, however, that it should revert, upon failure of male issue, to his original donor and his heirs; Spelman, *Gloss.*

APARTMENT. A part of a house occupied by a person, while the rest is occupied by another, or others; 7 M. & G. 95; 6 Mod. 214; Woodfall, L. & T. 178. As to what is not an apartment, see 10 Pick. 293.

APEX JURIS (Lat. the summit of the law).

A rule of law of extreme refinement. A term used to denote a stricter application of the rules of law than is indicated by the phrase *summum jus*; 2 Caines, 117; 2 Stor. 143; 5 Conn. 334; 1 Burr. 341; 14 East, 522; 2 Parsons, Notes and Bills, ch. 25, § 11. See, also, Coke, *Litt.* 3046; Wingate, *Max.* 19; **MAXIMS.**

APOCÆ (Lat.) A writing acknowledging payments; acquittance.

It differs from acceptance in this, that acceptance imports a complete discharge of the former obligation whether payment be made or not; *apocha*, discharge only upon payment being made; Calvinus, *Lex.*

APOCRISARIUS (Lat.). In Civil Law. A messenger; an ambassador.

Applied to legatees or messengers, as they carried the messages (*αποκρισις*) of their principals. They performed several duties distinct in character, but generally pertaining to ecclesiastical affairs.

A messenger sent to transact ecclesiastical business and report to his superior; an officer who had charge of the treasury of a monastic edifice; an officer who took charge of opening and closing the doors; Du Cange; Spelman, *Gloss.*; Calvinus, *Lex.*

Apocrisarius Cancellarius. An officer who took charge of the royal seal and signed royal despatches.

Called, also, *secretarius*, *consiliarius* (from his giving advice); *referendarius*; *a consiliis* (from his acting as counsellor); *a responsis*, or *responsalis*.

APOGRAPHIA. In Civil Law. An examination and enumeration of things possessed; an inventory; Calvinus, *Lex.*

APOPLEXY AND PARALYSIS. In Medical Jurisprudence. These terms imply an affection of the brain, and they are supposed to be only different degrees of the same affection.

In the first, the patient is suddenly deprived of all consciousness and sensibility, and so continues for a period varying from a few hours to a few days, when he dies or begins to recover. The recovery, however, may be imperfect, some mental impairment, or loss of power in the muscles of voluntary motion, remaining for a time, if not for life. Paralysis is a loss of power in some of the voluntary muscles—those of the face, eyes, arms, or legs. It may be the sequel of apoplexy, or it may be the primary affection, occurring very much like an attack of apoplexy.

The mental impairment succeeding these disorders presents no uniform characters, but varies indefinitely, in extent and severity, from a little failure of memory, to an entire abolition of all the intellectual faculties. The power of speech is usually more or less affected: it may be a slight difficulty of utterance, or an inability to remember certain words or parts of words, or an entire

loss of the power of articulation. This feature may arise from two different causes—either from a loss of the power of language, or a loss of power in the muscles of the larynx. This fact must be borne in mind by the medical jurist, and there can be little difficulty in distinguishing between them. In the latter, the patient is as capable as ever of reading, writing, or understanding spoken language. In the former, he is unable to communicate his thoughts by writing, because they are disconnected from their articulate signs. He recognizes their meaning when he sees them, but cannot recall them by any effort of the perceptive powers. This affection of the faculty of language is manifested in various ways. One person loses all recollection of the names of persons and things, while other parts of speech are still at command. Another forgets every thing but substantives, and only those which express some mental quality or abstract idea. Another loses the memory of all words but yes or no. In these cases the patient is able to repeat the words on hearing them pronounced, but, after a second or third repetition, loses them altogether.

Wills and contracts are not unfrequently made in that equivocal condition of mind which sometimes follows an attack of apoplexy or paralysis; and their validity is contested on the score of mental incompetency. In cases of this kind there are generally two questions at issue, viz., the absolute amount of mental impairment, and the degree of foreign influence exerted upon the party. They cannot be considered independently of each other. Neither of them alone might be sufficient to invalidate an act, while together, even in a much smaller degree, they would have this effect.

In testing the mental capacity of paralytics, reference should be had to the nature of the act in question. The question is not, had the testator sufficient capacity to make a will? but, had he sufficient capacity to make *the* will in dispute? A capacity which might be quite adequate to a distribution of a little personal property among a few near relatives would be just as clearly inadequate to the disposition of a large estate among a host of relatives and friends possessing very unequal claims upon the testator's bounty. Here, as in other mental conditions, all that is required is mind sufficient for the purpose, neither more nor less. See DEMENTIA; DELIRIUM; IMBECILITY; MANIA. In order to arrive at correct conclusions on this point, we must be careful, among other things, not to confound the power to appreciate the terms of a proposition with the power to discern its relations and consequences.

In testing the mental capacity of one who has lost the power of speech, it is always difficult, and often impossible, to arrive at correct results. If the person is able and willing to communicate his thoughts in writing, his mental capacity may be clearly revealed. If not disposed to write, he may communicate by constructing words and sentences by the help of a dictionary or block letters. Failing in this, the only other intellectual manifestation possible is the expression of assent or dissent by signs to propositions made by others. Any

of these means of communication, other than that of writing, must leave us much in the dark respecting the amount of intellect possessed by the party. If the act in question is complicated in its relations, if it is unreasonable in its dispositions, if it bears the slightest trace of foreign influence, it cannot but be regarded with suspicion. If the party has only the power of assenting or dissenting, it must always be impossible to decide whether this does not refer to the terms rather than the merits of the proposition; and, therefore, an act which bears no other evidence than this of the will of the person certainly ought not to be established. Besides, it must be considered that a will drawn up in this manner is, actually, not the will of the testator, since every disposition has originated in the minds of others; Ray, Med. Jur. 363. The phenomena and legal consequences of paralytic affections are extensively discussed in 1 Paige, Ch. 171; 1 Hagg. Eccl. 502, 577; 2 *id.* 84; 1 Curt. Eccl. 782; Parish Will Case, 4 vols. N. Y. 1858. And see DEATH; INSANITY.

APOSTLES. Brief letters of dismissal granted to a party who takes an appeal from the decision of an English court of admiralty, stating the case, and declaring that the record will be transmitted; 2 Brown, Civ. and Adm. Law, 438; Dig. 49. 6.

This term was used in the civil law. It is derived from *apostolos*, a Greek word, which signifies *one sent*, because the judge from whose sentence an appeal was made, sent to the superior judge these letters of dismissal, or apostles; Merlin, *Répert.*, mot *Apôtres*; 1 Parsons, Marit. Law, 745; 1 Blatchf. C. C. 663.

APOSTOLI. In Civil Law. Certificates of the inferior judge from whom a cause is removed, directed to the superior; Dig. 49. 6. See APOSTLES.

Those sent as messengers; Spelman, Gloss.

APPARATOR (Lat.). A furnisher; a provider.

The sheriff of Bucks had formerly a considerable allowance as *apparator comitatus* (apparator for the county); Cowel.

APPARENT (Lat. *apparens*). That which appears; that which is manifest; what is proved. It is required that all things upon which a court must pass should be made to appear, if matter in pays, under oath; if matter of record, by the record. It is a rule that those things which do not appear are to be considered as not existing: *de non apparentibus et non existentibus eadem est ratio*; Broom, Max. 20. What does not appear does not exist: *quod non apparet, non est*; 8 Cow. N. Y. 600; 1 Term, 404; 12 Mees. & W. 316.

APPARITOR (Lat.). An officer or messenger employed to serve the process of the spiritual courts in England and summon offenders; Cowel.

APPARURA (Lat.). In Old English Law. Furniture or implements.

Carucaria apparura, plough-tackle; Cow-el; Jacob, Dict.

APPEAL (Fr. *appeler*, to call). In **Criminal Practice**. A formal accusation made by one private person against another of having committed some heinous crime; 4 Bla. Com. 312.

Anciently, appeals lay for treason as well as felonies; but appeals for treason were abolished by statutes 5 Edw. III. c. 9, 25 Edw. III. c. 24, and 1 Hen. IV. c. 14, and for all other crimes by the statute 59 Geo. III. c. 46.

An appeal lay for the heir male for the death of his ancestors; for the widow while unmarried for the death of her husband; and by the party injured, for certain crimes, as robbery, rape, mayhem, etc.; Coke, Litt. 287 b.

It might be brought at any time within a year and a day, even though an indictment had been found. If the appellee was found innocent, the appellor was liable to imprisonment for a year, a fine, and damages to the appellee.

The appellee might claim *wager of battle*. This claim was last made in the year 1818 in England; 1 B. & Ald. 405. And see 2 W. Blackst. 713; 5 Burr. 2643, 2793; 4 Sharsw. Bla. Com. 312-318, and notes.

In Practice. The removal of a cause from a court of inferior to one of superior jurisdiction, for the purpose of obtaining a review and retrial; *Ellsworth*, C. J., 3 Dall. 321; 7 Cranch, 110; 10 Pet. 205; 14 Mass. 414; 1 S. & R. 78; 1 Binn. 219; 3 *id.* 48.

It is a civil-law proceeding in its origin, and differs from a writ of error in this, that it subjects both the law and the facts to a review and a retrial, while a writ of error is a common-law process which removes matter of law only for re-examination; 7 Cranch, 111.

On an appeal the whole case is examined and tried, as if it had not been tried before, while on a writ of error the matters of law merely are examined, and judgment reversed if any errors have been committed; Dane, *Abr. Appeal*. The word is used, however, in the sense here given both in chancery and in common-law practice; 16 Md. 282; 20 How. 198; and in criminal as well as in civil law; 9 Ind. 569; 6 Fla. 679.

An appeal generally supersedes the judgment of the inferior court so far that no action can be taken upon it until after the final decision of the cause; 26 Barb. N. Y. 55; 5 Fla. 234; 4 Iowa, 230; 5 Wis. 185.

The rules of the various states regulating appeals are too numerous and various, and too much matters of mere local practice, to be given here. For the practice in federal courts, see Phillips, *Pr. in S. C. of U. S.*; *Rev. Stat. U. S.*, title Judiciary; and **COURTS OF THE UNITED STATES**.

In Legislation. The act by which a member of a legislative body who questions the correctness of a decision of the presiding officer, or "chair," procures a vote of the body upon the decision. In the House of Representatives of the United States the question

on an appeal is put to the House in this form: "Shall the decision of the chair stand as the judgment of the House?"

If the appeal relates to an alleged breach of decorum, or transgression of the rules of order, the question is taken without debate. If it relates to the admissibility or relevancy of a proposition, debate is permitted, except when a motion for the previous question is pending.

APPEARANCE. In Practice. A coming into court as party to a suit, whether as plaintiff or defendant.

The formal proceeding by which a defendant submits himself to the jurisdiction of the court.

Appearance anciently meant an actual coming into court, either in person or by attorney. It is so used both in the civil and the common law. It is indicated by the word "comes," "and the said C. D. comes and defends," and, in modern practice, is accomplished by the entry of the name of the attorney of the party in the proper place on the record, or by filing bail where that is required. It was a formal matter, but necessary to give the court jurisdiction over the person of the defendant.

A time is generally fixed within which the defendant must enter his appearance; usually the *quarto die post*. If the defendant failed to appear within this period, the remedy in ancient practice was by distress infinite when the injuries were committed without force, and by *capias* or attachment when the injuries were committed against the peace, that is, were technical trespasses. But, until appearance, the courts could go no further than apply this process to secure appearance. See **PROCESS**.

In modern practice, a failure to appear generally entitles the plaintiff to judgment against the defendant by default. See **CONFLICT OF LAWS**.

It may be of the following kinds:—

Compulsory.—That which takes place in consequence of the service of process.

Conditional.—One which is coupled with conditions as to its becoming general.

De bene esse.—One which is to remain an appearance, except in a certain event. See **DE BENE ESSE**.

General.—A simple and absolute submission to the jurisdiction of the court.

Gratis.—One made before the party has been legally notified to appear.

Optional.—One made where the party is not under any obligation to appear, but does so to save his rights. It occurs in chancery practice, especially in England.

Special.—That which is made for certain purposes only, and does not extend to all the purposes of the suit.

Subsequent.—An appearance by the defendant after one has already been entered for him by the plaintiff. See Daniell, *Ch. Pract.*

Voluntary.—That which is made in answer to a subpoena or summons, without process; 1 Barbour, *Ch. Pract.* 77.

How to be made.—On the part of the plaintiff no formality is required. On the part of the defendant it may be effected by making certain formal entries in the proper office of

the court, expressing his appearance; 5 Watts & S. 215; 2 Ill. 250; 3 *id.* 462; 15 Ala. 352; 18 *id.* 272; 6 Mo. 50; 7 *id.* 411; 17 Vt. 531; 2 Ark. 26; or, in case of arrest, is effected by giving bail; or by putting in an answer; 4 Johns. Ch. 94; or a demurrer; 6 Pet. 323; or notice to the other side; 4 Johns. Ch. 94.

By whom to be made.—In civil cases it may in general be made either by the party or his attorney; and in those cases where it is said that the party must appear in person, it is sufficient if it is so entered on the record; although, in fact, the appearance is by attorney; 2 Johns. N. Y. 192; 14 *id.* 417.

An appearance by attorney is, in strictness, improper where a party wishes to plead to the jurisdiction of the court, because the appointment of an attorney of the court admits its jurisdiction; 1 Chitty, Plead. 398; 2 Wms. Saund. 209 *b*; and is insufficient in those cases where the party has not sufficient capacity to appoint an attorney. Thus, an *idiot* can appear only in person, and as a plaintiff he may sue in person or by his next friend.

An *infant* cannot appoint an attorney; he must, therefore, appear by guardian or prochein ami.

A *lunatic*, if of full age, may appear by attorney; if under age, by guardian only. 2 Wms. Saund. 335; *id.* 232 (*a*), n. (4).

A *married woman*, when sued without her husband, should defend in person; 1 Wms. Saund. 209 *b*. And see 1 Chitty, Plead. 398.

In criminal cases the personal presence in court of the defendant is often necessary; see 2 Burr. 931; *id.* 1786; 1 W. Blackst. 198.

The effect of an appearance by the defendant is, that both parties are considered to be in court.

In *criminal cases* the personal appearance of the accused is often necessary. The verdict of the jury must, in all cases of treason and felony, be delivered in open court, in the presence of the defendant. In cases of misdemeanor, the presence of the defendant during the trial is not essential; Bacon, Abr. *Verdict*, B; Archbold, Crim. Plead., 14th ed. 149.

No motion for a new trial is allowed unless the defendant, or if more than one, the defendants who have been convicted, are present in court when the motion is made; 3 Maule & S. 10, note; 17 Q. B. 503; 2 Den. Cr. Cas. 372, note. But this rule does not apply where the offence of which the defendant has been convicted is punishable by a fine only; 2 Den. Cr. Cas. 459; or where the defendant is in custody on criminal process; 4 B. & C. 329. On a charge of felony, a party suing out a writ of error must appear in person to assign errors; and it is said that if the party is in custody in the prison of the county or city in which the trial has taken place, he must be brought up by *habeas corpus*, for the purpose of this formality, which writ must be moved for on affidavit. This course was followed in 2 Den. Cr. Cas. 287;

17 Q. & B. 317; 8 E. & B. 54; 1 D. & B. 375.

Where a defendant is not liable to personal punishment, but to a fine, sentence may be pronounced against him in his absence; 1 Chitty, Cr. L. 695; 2 Burr. 931; 3 *id.* 1780.

APPELLANT. In Practice. He who makes an appeal from one jurisdiction to another.

APPELLATE JURISDICTION. In Practice. The jurisdiction which a superior court has to re-hear causes which have been tried in inferior courts. See JURISDICTION.

APPELLATIO. (Lat.). An appeal.

APPELLEE. In Practice. The party in a cause against whom an appeal has been taken.

APPELLOR. A criminal who accuses his accomplices; one who challenges a jury.

APPENDANT (Lat. *ad*, to, *pendere*, to hang). Annexed or belonging to something superior; an incorporeal inheritance belonging to another inheritance.

Appendant in deeds includes nothing which is substantial corporeal property, capable of passing by feoffment and livery of seisin. Coke, Litt. 121; 4 Coke, 86; 8 B. & C. 150; 6 Bingham, 150. A matter *appendant* must arise by prescription; while a matter *appurtenant* may be created at any time; 2 Viner, Abr. 594; 3 Kent, 404.

APPENDITIA. (Lat. *appendere*, to hang at or on). The appendages or pertinances of an estate; the appurtenances to a dwelling, etc.; thus, *pent-houses* are the *appenditia domus*.

APPLICATION. (Lat. *applicare*). The act of making a request for something.

A written request to have a certain quantity of land at or near a certain specified place; 3 Binn. 21; 5 *id.* 151.

The use or disposition made of a thing.

In Insurance. The preliminary statement made by a party applying for an insurance on life, or against fire. It usually consists of written answers to interrogatories proposed by the company applied to, respecting the proposed subject. It corresponds to the "representations" preliminary to maritime insurance. It is usually referred to expressly in the policy as being the basis or a part of the contract, and this reference creates in effect a warranty of the truth of the statements. If the policy does not make the answers a part of the contract, this will have only the effect of representation; May, Ins. § 159; 50 Penn. 331. A mere reference in the policy to the application does not make its answers warranties; it is a question of intention; 7 Wend. 72; 22 Conn. 235; 18 Ind. 352; the courts tend to consider the answers representations, rather than warranties, except in a clear case; 98 Mass. 381; 31 Iowa, 216; 4 R. I. 141. An oral misrepresentation of a material fact will defeat a policy on life or against fire, no less than in maritime insurance on the ground of fraud; 1 Phillips, Ins. § 650. See REPRESENTATION · MISREPRESENTATION.

Of Purchase-Money. The disposition made of the funds received by a trustee on a sale of real estate held under the trust.

Where there is a general power to sell for debts, or debts and legacies, the purchaser need not look to the application of the purchase-money; 2 Rawle, 392; 13 Pick. 393; 1 Beas. 69; 5 Ired. Eq. 357; 3 Mas. 178; so as to legacies where there is a trust for reinvestment; 8 Wheat. 421; 6 Hamm. 114; where the trust is to pay specified debts, the purchaser must see to the application of the purchase-money; 3 Mas. 178; 10 Penn. 267; 1 Pars. Eq. 57; 6 Gill, 487. See note to *Elliot v. Merryman*, 1 Lead. Cas. Eq. 74; *Perry, Trusts*; *Adams, Eq.* (by Phillips) *155. The doctrine is abolished in England by 23 and 24 Vict. c. 145, § 29.

Of Payments. See APPROPRIATION.

APPOINTEE. A person who is appointed or selected for a particular purpose; as, the appointee under a power is the person who is to receive the benefit of the power.

APPOINTMENT. The designation of a person, by the person or persons having authority therefor, to discharge the duties of some office or trust.

The making out a commission is conclusive evidence of an appointment to an office for holding which a commission is required; 1 Cranch, 137; 10 Pet. 343.

As distinguished from an election, it seems that an appointment is generally made by one person, or a limited number acting with delegated powers, while an election is made by all of a class.

The word is sometimes used in a sense quite akin to this, and apparently derived from it as denoting the right or privilege conferred by an appointment: thus, the act of authorizing a man to print the laws of the United States by authority, and the right thereby conveyed, are considered such an appointment, but the right is not an office; 17 S. & R. 29, 233. And see 3 *id.* 157; *Cooper, Justin.* 599, 604.

In Chancery Practice. The exercise of a right to designate the person or persons who are to take the use of real estate; 2 Washb. R. P. 302.

By whom to be made.—It must be made by the person authorized; 2 Bouv. Inst. § 1922; who may be any person competent to dispose of an estate of his own in the same manner; 4 Kent, 324; including a married woman; 1 Sugd. Pow. 182; 3 C. B. 578; 5 *id.* 741; 3 Johns. Ch. 523; 2 Dall. 201; 8 How. 27; even though her husband be the appointee; 21 Penn. 72; or an infant, if the power be simply collateral; 2 Washb. R. P. 317. And see 1 Sugd. Pow. ed. 1856, 211. Where two or more are named as donees, all must, in general, join; 2 Washb. R. P. 322; 14 Johns. 553; but where given to several who act in a trust capacity, as a class, it may be by the survivors; 10 Pet. 564; 13 Metc. Mass. 220; *Story, Eq. Jur.* § 1062, n.

How to be made.—A very precise compliance with the directions of the donor is necessary; 2 Ves. Ch. 231; 1 P. Will. 740; 3 East, 410, 430; 1 Jac. & W. Ch. 93; 6

Mann. & G. 386; 8 How. 30; having regard to the intention, especially in substantial matters; *Tudor, Lead. Cas.* 306; 2 Washb. R. P. 318; *Ambl. Ch.* 555; 3 Ves. Ch. 421. It may be a partial execution of the power only, and yet be valid; 4 Cruise, Dig. 205; or, if excessive, may be good to the extent of the power; 2 Ves. Sen. 640; 3 Dru. & War. 339. It must come within the spirit of the power; thus, if the appointment is to be to and amongst several, a fair allotment must be made to each; 4 Ves. Ch. 771; 2 Vern. Ch. 513; otherwise, where it is made to such as the donee may select; 5 Ves. Ch. 857.

The effect of an appointment is to vest the estate in the appointee, as if conveyed by the original donor; 2 Washb. R. P. 320; 2 Crabb, R. P. 726, 741; 2 Sugd. Pow. 22; 11 Johns. 169. See POWER. Consult 2 Washb. R. P. 298, 337; Tudor, Lead. Cas., Chance, Pow.; 4 Greenl. Cruise, Dig.

APPOINTOR. One authorized by the donor, under the statute of uses, to execute a power; 2 Bouv. Inst. n. 1923.

APPORTIONMENT. The division or distribution of a subject-matter in proportionate parts; *Coke, Litt.* 147; 1 Swanst. 37, n.; 1 *Story, Eq. Jur.* 475 a.

Of Contracts. The allowance, in case of the partial performance of a contract, of a proportionate part of what the party would have received as a recompense for the entire performance of the contract.

Where the contract is to do an entire thing for a certain specified compensation, there can be no apportionment; 9 B. & C. 92; 2 Parsons, Contr. 520; 82 Penn. 267; 44 Cal. 18; 38 Conn. 290; 4 Heisk. 590; but see *contra*, 36 Tex. 1. A contract for the sale of goods is entire; 9 B. & C. 386; 60 Penn. 182; 6 Oreg. 248; but where there has been a part delivery of the goods, the buyer is liable on a *quantum valebant* if he retain the part delivered; 9 B. & C. 386; 10 *id.* 441; 18 Pick. 555 (but *contra* in New York and Ohio; 13 Wend. 258; 5 Denio, 46; 16 Ohio, 238); though he may return the part delivered and escape liabilities. A contract consisting of several distinct items, and founded on a consideration apportioned to each item, is several; 66 Penn. 351. The question of entirety is one of intention, to be gathered from the contract; 2 Pars. Contr. *521. Where no compensation is fixed, the contract is usually apportionable; 3 B. & Ad. 404; *Cutter v. Powel*, 2 Sm. Lead. Cas. note (*q. v.* on this whole subject).

Annuities, at common law, are not apportionable; but by statute 11 Geo. II. it was enacted that annuities, rents, dividends, etc., and all other payments of every description made payable at fixed periods, should be apportioned; 2 P. Wms. 501; 3 Atk. 260; 2 W. Bla. 843; 17 S. & R. 173; 3 Kent, 471. This has been adopted by statute or decision in many of the states.

Wages are not apportionable where the

hiring takes place for a definite period; 6 Term, 320; 5 B. & P. 651; 11 Q. B. 755; 19 Pick. 528; 12 Metc. Mass. 286; 28 Ill. 257; 34 Me. 102; 13 Johns. 865; 14 Wend. 257; 12 Vt. 49; 1 Ind. 257; 19 Ala. n. s. 54; 44 Conn. 333. See 2 Pick. 332; 17 Me. 38; 11 Vt. 273; 3 Denio, 175; *contra*, 6 N. H. 481.

Of Incumbrances. Determining the amounts which each of several parties interested in an estate shall pay towards the removal or in support of the burden of an incumbrance.

As between a tenant for life and the remainder man, the tenant's share is limited to keeping down the interest; but not beyond the amount of rent accruing; 46 Vt. 45; 31 E. L. & E. 345; if the principal is paid, the tenant for life must pay a gross sum equivalent to the amount of all the interest he would pay, making a proper estimate of his chances of life; 1 Washb. R. P. 96; 1 Story, Eq. Jur. § 487. See 2 Dev. & B. Eq. 179; 5 Johns. Ch. 482; 10 Paige, Ch. 71, 158; 13 Pick. 158; 27 Barb. 49.

Of Rent. The allotment of their shares in a rent to each of several parties owning it.

The determination of the amount of rent to be paid when the tenancy is terminated at some period other than one of the regular intervals for the payment of rent.

An apportionment of rent follows upon every transfer of a part of the reversion; 17 Mass. 439; 22 Wend. 121; 22 Penn. 144; see 18 N. Y. 529; or where there are several assignees, as in case of a descent to several heirs; 3 Watts, 394; 13 Ill. 25; 25 Wend. 456; 10 Coke, 128; Comyn, Land. & Ten. 422; where a levy for debt is made on a part of the reversion, or is set off to a widow for dower; 1 Rolle, Abr. 237; but whoever owns at the time the rent falls due is entitled to the whole; 7 Md. 368; 3 Metc. Mass. 76; 1 Washb. R. P. 98, 337. See Williams, Ex. 709.

Rent is not, at common law, apportionable as to time; Smith, Land. & T. 134; Taylor, Land. & T. §§ 384-387; 3 Kent, 470; 5 W. & S. 432; 13 N. H. 343; 3 Bradf. Surr. 359. It is apportionable by statute 11 Geo. II. c. 19, § 15; and similar statutes have been adopted in this country to some extent; 2 Washb. R. P. 289; 13 N. H. 343; 14 Mass. 94; 1 Hill, Abr. c. 16, § 50.

Consult also 3 Kent, 469, 470; 2 Parsons, Contr. 33; 1 Story, Eq. Jur. 475 a; Williams, Exec. 709; 2 Bouvier, Inst. n. 1675.

Of Representatives. Representatives shall be apportioned among the several states according to their respective numbers, counting the whole number of persons in each state, excluding Indians not taxed. But when the right to vote at any election for the choice of electors for president and vice-president of the United States, representatives in congress, the executive and judicial officers of a state, or the members of the legislature thereof, is denied to any of the male inhabitants of such state, being twenty-one years of age, and

citizens of the United States, or in any way abridged, except for participation in rebellion, or other crime, the basis of representation therein shall be reduced to the proportion which the number of such male citizens shall bear to the whole number of male citizens twenty-one years of age in such state; Art. 14, § 2, U. S. Const.

The actual enumeration shall be made within three years after the first meeting of the congress of the United States, and within every subsequent term of ten years, in such manner as they shall by law direct. The number of representatives shall not exceed one for every thirty thousand; but each state shall have at least one representative; U. S. Const. Art. 1, § 2.

The Revised Statutes of the United States (1878), § 20, provide that from and after March 3, 1873, the house of representatives shall be composed of two hundred and ninety-two members, and provide the number to which each state is entitled. Upon the admission of a new state, the representatives to be assigned to it are in addition to the above two hundred and ninety-two; *id.* § 21.

Under the present constitution, representatives' apportionments have been made as follows. The first house of representatives consisted of sixty-five members, or one for every thirty thousand of the representative population. By the census of 1790, it consisted of one hundred and six representatives, or one for every thirty-three thousand; by the census of 1800, one hundred and forty-two representatives, or one for every thirty-three thousand; by the census of 1810, one hundred and eighty-three representatives, or one for every thirty-five thousand; by the census of 1820, two hundred and thirteen representatives, one for every forty thousand; by the census of 1830, two hundred and forty-two representatives, or one for every forty-seven thousand seven hundred; by the census of 1840, two hundred and twenty-three representatives, or one for every seventy thousand six hundred and eighty; by the census of 1850, and under the act of May 23, 1850, the number of representatives was increased to two hundred and thirty-three, or one for every ninety-three thousand four hundred and twenty-three of the representative population; Sheppard's Const. Text Book, 65; Acts 30 July, 1852, 10 Stat. 25; May 11, 1858, 11 Stat. 285; 14 Feb. 1859, 11 Stat. 383.

Under the census of 1860, the ratio was ascertained to be for one hundred and twenty-four thousand one hundred and eighty-three upon the basis of two hundred and thirty-three members; but by the act of 4th March, 1862, the number of representatives was increased to two hundred and forty-one, by allowing one additional representative to each of the following states—Pennsylvania, Ohio, Kentucky, Illinois, Iowa, Minnesota, Vermont, and Rhode Island.

APPOSAL OF SHERIFFS. In English Law. The charging them with money

received upon account of the Exchequer; 22 & 23 Car. II.; Cowel.

APPOSER. In English Law. An officer of the Exchequer, whose duty it was to examine the sheriffs in regard to their accounts handed in to the exchequer. He was also called the foreign apposer.

APPOSTILLE. In French Law. An addition or annotation made in the margin of a writing; Merlin, *Répert.*

APPRAISEMENT. A just valuation of property.

Appraisements are required to be made of the property of persons dying intestate, of insolvents, and others; an inventory (*q. v.*) of the goods ought to be made, and a just valuation put upon them. When property real or personal is taken for public use, an appraisement of it is made, that the owner may be paid its value.

APPRAISER. In Practice. A person appointed by competent authority to appraise or value goods or real estate.

APPREHENSION. In Practice. The capture or arrest of a person on a criminal charge.

The term apprehension is applied to criminal cases, and arrest to civil cases; as, one having authority may *arrest* in civil process, and *apprehend* on a criminal warrant. See ARREST.

APPRENTICE. A person bound in due form of law to a master, to learn from him his art, trade, or business, and to serve him during the time of his apprenticeship; 1 Bla. Com. 426; 2 Kent, 211; 3 Rawle, 307; 4 Term, 735; Bouvier, *Inst. Index.*

Formerly the name of *apprentice en la ley* was given indiscriminately to all students of law. In the reign of Edward IV. they were sometimes called *apprenticis ad barras*. And in some of the ancient law-writers the terms apprentice and barrister are synonymous; Coke, 2d *Inst.* 214; Eumenius, *Dial.* 2, § 53, p. 155.

APPRENTICESHIP. A contract by which one person who understands some art, trade, or business, and is called the master, undertakes to teach the same to another person, commonly a minor, and called the apprentice, who, on his part, is bound to serve the master, during a definite period of time, in such art, trade, or business.

The term during which an apprentice is to serve; Pardessus, *Droit Comm.* n. 34.

At common law, an infant may bind himself apprentice by indenture, because it is for his benefit; 5 M. & S. 257; 6 Term, 652; 5 D. & R. 339. But this contract, both in England and in the United States, on account of its liability to abuse, has been regulated by statute, and is not binding upon the infant unless entered into by him with the consent of the parent or guardian (the father, if both parents be alive, being the proper party to such consent; 8 W. & S. 339), or by the parent and guardian for him, with his consent, such consent to be made a part of the contract; 2 Kent, 261; 8 Johns. 328; 14 *id.* 374; 2

Penn. 977; 4 Watts, 80; 43 Me. 458; 12 N. H. 437; 4 Leigh, 493; or, if the infant be a pauper, by the proper authorities without his consent; 3 S. & R. 158; 32 Me. 299; 3 Jones, No. C. 21; 15 B. Monr. 499; 30 N. H. 104; 5 Gratt. 285. The contract need not specify the particular trade to be taught, but is sufficient if it be a contract to teach such manual occupation or branch of business as shall be found best suited to the genius or capacity of the apprentice; 9 Barb. 309; 1 Sandf. 672. In a common indenture of apprenticeship the father is bound for the performance of the covenants by the son; Dougl. 500; 3 B. & Ald. 59. But to an action of covenant against the father for the desertion of the son, it is a sufficient answer that the master has abandoned the trade which the son was apprenticed to learn, or that he has driven the son away by cruel treatment; 4 Eng. L. & Eq. 412; 4 Mass. 480; 2 Pick. 357.

This contract must generally be entered into by indenture or deed; 1 Salk. 68; 4 M. & S. 383; 10 S. & R. 416; 1 Vt. 69; 18 Conn. 337; and is to continue, if the apprentice be a male, only during minority, and if a female, only until she arrives at the age of eighteen; 2 Kent, 264; 5 Term, 715. The English statute law as to binding out minors as apprentices to learn some useful art, trade, or business, has been generally adopted in the United States, with some variations which cannot be noticed here; 2 Kent, 264. As to the provisions of the English statutes, see 1 Harrison, *Dig.* 206-227.

The duties of the master are to instruct the apprentice by teaching him the knowledge of the art which he has undertaken to teach him, though he will be excused for not making a good workman if the apprentice is incapable of learning the trade, the burden of proving which is on the master; 2 Dana, 131; 5 Metc. Mass. 37; 1 Dev. & B. 402. He ought to watch over the conduct of the apprentice, giving him prudent advice and showing him a good example, and fulfilling towards him the duties of a father, as in his character of master he stands *in loco parentis*. He is also required to fulfil all the covenants he has entered into by the indenture. He must not abuse his authority, either by bad treatment or by employing his apprentice in menial employments wholly unconnected with the business he has to learn, or in any service which is immoral or contrary to law; 4 Clark & F. 234; but may correct him with moderation for negligence and misbehavior; 1 Ashm. 267. He cannot dismiss his apprentice except by consent of all the parties to the indenture; 1 S. & R. 330; 12 Pick. 110; 2 Burr. 766, 801; 1 Carr. & K. 622; or with the sanction of some competent tribunal; 1 Mass. 24; 2 Pick. 451; 8 Conn. 14; 1 Bail. 209; even though the apprentice should steal his master's property, or by reason of incurable illness become incapable of service, the covenants of the master and apprentice being independent; 2

Pick. 451; 2 Dowl. & R. 465; 1 B. & C. 460. He cannot remove the apprentice out of the state under the laws of which he was apprenticed, unless such removal is provided for in the contract or may be implied from its nature; and if he do so remove him, the contract ceases to be obligatory; 6 Binn. 202; 6 S. & R. 526; 2 Pick. 357; 13 Metc. Mass. 80. An infant apprentice is not capable in law of consenting to his own discharge; 1 Burr. 501; 3 B. & C. 484; nor can the justices, according to some authorities, order money to be returned on the discharge of an apprentice; Stra. 69; *contra*, Salk. 67, 68, 490; 11 Mod. 110; 12 *id.* 498, 553. After the apprenticeship is at an end, the master cannot retain the apprentice on the ground that he has not fulfilled his contract, unless specially authorized by statute.

An apprentice is bound to obey his master in all his lawful commands, take care of his property, and promote his interest, endeavor to learn his trade or business, and perform all the covenants in his indenture not contrary to law. He must not leave his master's service during the terms of his apprenticeship; 6 Johns. 274; 2 Pick. 357. The apprentice is entitled to payment for extraordinary services when promised by the master; 1 Am. L. Jour. 308; see 1 Whart. 113; and even when no express promise has been made, under peculiar circumstances; 2 Cranch, 240, 270; 3 C. Rob. Adm. 237; but see 1 Whart. 113. Upon the death of the master, the apprenticeship, being a personal trust, is dissolved; 1 Salk. 66; Strange, 284; 1 Day, 30.

To be binding on the apprentice, the contract must be made as prescribed by statute; 5 Cush. 417; 5 Pick. 250; but if not so made, it can only be avoided by the apprentice himself; 9 Barb. 309; 8 Johns. 328; 5 Strobb. 104; and if the apprentice do elect to avoid it, he will not be allowed to recover wages for his services, the relation being sufficient to rebut any promise to pay which might otherwise be implied; 12 Barb. 473; 2 *id.* 208; but see 13 Metc. Mass. 80. The master will be bound by his covenants, though additional to those required by statute; 10 Humphr. 179.

Where an apprentice is employed by a third person without the knowledge or consent of the master, the master is entitled to all his earnings, whether the person who employed him did or did not know that he was an apprentice; 6 Johns. 274; 3 N. H. 274; 7 Me. 457; 2 Aik. 243; 1 E. D. Smith, N. Y. 408; 1 Sandf. 711; but in an action for harboring or enticing away an apprentice, a knowledge of the apprenticeship by the defendant is a prerequisite to recovery; 2 Harr. & G. 182; 1 Wend. 376; 1 Gilm. 46; 5 Ired. 216.

Apprenticeship is a relation which cannot be assigned at common law; 5 Binn. 423; 4 Term, 373; Dougl. 70; 3 Keble, 519; 12 Mod. 554; 18 Ala. n. s. 99; Busb. 419; though, if under such an assignment the ap-

prentice continue with his new master, with the consent of all the parties and his own, it will be construed as a continuation of the old apprenticeship; Dougl. 70; 4 Term, 373; 19 Johns. 113; 5 Cowen, 363; 2 Bail. 93. But in Pennsylvania and some other states the assignment of indentures of apprenticeship is authorized by statute; 1 S. & R. 249; 3 *id.* 161; 6 Vt. 430. See, generally, 2 Kent, 261-266; Bacon, Abr. *Master and Servant*; 1 Saund. 313, n. 1, 2, 3, and 4; 1 Bouvier, Inst. n. 396 *et seq.* The law of France on this subject is strikingly similar to our own; Pardessus, *Droit Com.* nn. 518, 522.

APPRIZING. In Scotch Law. A form of process by which a creditor formerly took possession of the estates of the debtor in payment of the debt due.

It is now superseded by adjudications.

APPROACH. The right of visit or visitation to determine the national character of the ship approached for that purpose only; 1 Kent, Comm. 153.

APPROBATE AND REPROBATE. In Scotch Law. To approve and reject.

The doctrine of *approve and reprobate* is the English doctrine of election. A party cannot both *approve and reprobate* the same deed; 4 Wils. & S. Hou. L. 460; 1 Ross, Lead. Cas. 617; Paterson, Comp. 710; 1 Bell, Comm. 146.

APPROPRIATION. In Ecclesiastical Law. The perpetual annexation of an ecclesiastical benefice which is the general property of the church, to the use of some spiritual corporation, either sole or aggregate.

It corresponds with impropriation, which is setting apart a benefice to the use of a lay corporation. The name came from the custom of monks in England to retain the churches in their gift and all the profits of them *in proprio usus* to their own immediate benefit. 1 Burns, Eccl. Law, 71.

To effect a good appropriation, the king's license and the bishop's consent must first be obtained. When the corporation having the benefice is dissolved, the parsonage becomes disappropriate at common law; Coke, Litt. 46; 1 Bla. Com. 385; 1 Hagg. Eccl. 162. There have been no appropriations since the dissolution of monasteries. For the form of an appropriation, see Jacob, Introd. 411.

Of Payments. The application of a payment made to a creditor by his debtor, to one or more of several debts.

The debtor has the first right of appropriation; 1 Mer. 605; 2 B. & C. 72. No precise declaration is required of him, his *intention* (12 N. J. Eq. 238, 312), when made known, being sufficient; 7 Blackf. 236; 10 Ill. 449; 1 Fla. 409; 4 B. & C. 715; 7 Beav. 10; 30 Ind. 429; 58 Ga. 176; 39 Wis. 300; 74 Ill. 238; Taney, 460; 59 Ala. 345; 62 Ind. 128; 54 N. H. 395. Still, such facts must be proved as will lead a jury to infer that the debtor did purpose the specific appropriation claimed; 14 East, 239, 243, n.;

4 Ad. & E. 840; 8 W. & S. 320; 2 Hall, 185; 10 Leigh, 481; 1 Ga. 241; 17 Mass. 575; 5 Ired. 551; 2 Rob. 2, 27; 12 Vt. 608; 36 Me. 222; 4 J. J. Marsh. 621; 4 Gill & J. 361. An entry made by the debtor in his own book at the time of payment is an appropriation, if made known to the creditor; but otherwise, if not made known to him. The same rule applies to a creditor's entry communicated to his debtor; 3 Dowl. & R. 549; 8 C. & P. 704; 2 B. & C. 65; 5 Denio, 470; 11 Barb. 80. The appropriation must be made by the debtor at or before the time of payment; if not made by the debtor, the creditor may appropriate at any time before suit brought; suit fixes the appropriation; 14 Cal. 446. The intention to appropriate may be referred to the jury on the facts of the transaction; 5 W. & S. 542.

The creditor may apply the payment, as a general rule, if the debtor does not; 4 Cranch, 316; 7 How. 681; 20 Pick. 339; 25 Penn. 411; 1 M'Cord, 308; 5 Day, 166; 1 Mo. 315; 2 Ill. 196; 54 Ga. 174; 39 Wis. 300; 32 Ark. 645; 54 N. H. 345. But there are some restrictions upon this right. The debtor must have known and waived his right to appropriate. Hence an agent cannot always apply his principal's payment. He cannot, on receipt of money due his principal, apply the funds to debts due himself as agent, selecting those barred by the statute of limitations; 8 Dowl. Bail, 563; 1 Mann. & G. 54; 5 N. H. 237. But on an agent's appropriations, see 5 Bligh. n. s. 1; 3 B. & Ad. 320; 9 Pick. 325; 1 La. Ann. 393; 19 N. H. 479; 29 Miss. 139. A prior legal debt the creditor must prefer to a posterior equitable debt. Where only one of several debts is valid and lawful, all the payments must be applied to this, irrespective of its order in the account; 27 Vt. 187. Whether if the equitable be prior it must first be paid, see 9 Cow. 420; 2 Stark. 74; 1 C. & M. 33; 6 Taunt. 597.

If the creditor is also trustee for another creditor of his own debtor, he must apply the unappropriated funds *pro rata* to his own claims and those of his *cestui que trust*; 18 Pick. 361. But, if the debtor, besides the debts in his own right, owe also debts as executor or administrator, the unappropriated funds should first be applied to his personal debt, and not to his debts as executor; 2 Str. 1194; 4 Harr. & J. 566; 14 N. H. 352; 2 Dowl. Parl. Cas. 477. A creditor cannot apply unappropriated funds to such of his claims as are *illegal* and not recoverable at law; 3 B. & C. 165; 4 M. & G. 860; 4 Dowl. & R. 783; 2 Deac. & C. 534; 11 Cush. 44; 14 N. H. 431. But in the case of some debts illegal by statute—namely, those contracted by sales of spirituous liquors—an appropriation to them has been adjudged good; 2 Ad. & E. 41; 5 C. & P. 19; 1 M. & R. 100; 34 Me. 112. And the debtor may always elect to have his payment applied to an illegal debt.

If some of the debts are barred by the *stat-*

ute of limitations, the creditor cannot first apply the unappropriated funds to them, and thus revive them and take them out of the statute; 2 Cr. M. & R. Exch. 723; 2 C. B. 476; 7 Scott, 444; 31 Eng. L. & Eq. 555; 13 Ark. 754; 1 Gray, 630. Still, a debtor may waive the bar of the statute, just as he may apply his funds to an illegal debt; and the creditor may insist, in the silence of the debtor, unless other facts controvert it, that the money was paid on the barred debts; 5 M. & W. 300; 26 N. H. 85; 25 Penn. 411. Proof of such intent on the debtor's part may be deduced from a mutual adjustment of accounts before the money is sent, or from his paying interest on the barred debt. But, in general, the creditor cannot insist that a part-payment revives the rest of the debt. He can only retain such partial payment as has been made; 1 Gray, 630. It has been held that the creditor may first apply a general payment to discharging any one of several accounts all barred, and by so doing he will revive the balance of that particular account, but he is not allowed to distribute the funds upon all the barred notes, so as to revive all; 19 Vt. 26. See LIMITATIONS.

Wherever the payment is not *voluntary*, the creditor has not the option in appropriation, but he must apply the funds received ratably to all the notes or accounts. This is the rule wherever proceeds are obtained by judicial proceedings. So, in cases of assignment by an insolvent debtor, the share received by a creditor, a party to the assignment, must be applied *pro rata* to all his claims, and not to such debts only as are not otherwise secured; 10 Pick. 129; 24 *id.* 270; 1 M. & G. 54; 1 Perr. & D. 138; 1 Miss. 526; 12 N. H. 320; 22 Me. 295; 1 Sandf. 416. See 22 La. Ann. 289.

A creditor having several demands may apply the payments to a debt not secured by sureties, where other rules do not prohibit it; 11 Metc. 185. Where appropriations are made by a receipt, *prima facie* the creditor has made them, because the language of the receipt is his; Dav. Dist. Ct. 146.

It is sufficiently evident from the foregoing rules that the principle of the Roman law which required the creditor to act for his debtor's interest in appropriation more than for his own, is not a part of the common law; 6 W. & S. 9. The nearest approach to the civil law rule is the doctrine that when the right of appropriation falls to the creditor he must make such an application as his debtor could not *reasonably* have objected to; 21 Vt. 456; 20 Miss. 631. See IMPUTATION.

The law will apply part-payments in accordance with the justice and equity of the case; 9 Wheat. 720; 12 S. & R. 301; 2 Vern. 24; 6 Cranch, 28, 253, 264; 5 Mas. 82; 1 Abb. App. Dec. 295; 2 Del. Ch. 333; Taney, 460.

Unappropriated funds are always applied to a *debt due* at the time of payment, rather than to one not then due; 2 Esp. 666; 1

Bibb, 334; 5 Gratt. 57; 9 Cow. 420; 5 Mas. 11; 27 Ala. n. s. 445; 20 *id.* 313; 10 Watts, 255; 4 Wisc. 442. But an express agreement with the debtor will make good an appropriation to debts not due; 22 Pick. 305. The creditor should refuse a payment on an account not yet due, if he be unwilling to receive it; but if he do receive it he must apply it as the debtor directs; 40 Me. 325; 59 Ala. 345. A payment is applied to a *certain* rather than to a *contingent* debt, and, therefore, to a debt on which the payer is bound directly, rather than to one which binds him collaterally; 22 Me. 295; 1 Smedes & M. Ch. 331. And where the amount paid is precisely equal to one of several debts, a jury is authorized to infer its intended application to that debt; 8 Wend. 403; 3 Caines, 14; 1 Woodb. & M. 150.

The law, as a general rule, will apply a payment in the way most beneficial to the *debtor* at the time of payment; 50 Miss. 175; 78 Penn. 96. This rule seems to be similar to the civil law doctrine. Thus, *e. g.*, courts will apply money to a mortgage debt rather than to a simple contract debt; see 12 Mod. 559; 2 Harr. & J. 402; 10 Humphr. 238; 12 Vt. 246; 9 Cow. 747, 765; 1 Md. Ch. Dec. 160; 25 Miss. 95. Yet, on the other hand, in the pursuit of equity, courts will sometimes assist the *creditor*. Hence, of two sets of debts, courts allow the creditor to apply unappropriated funds to the debts least strongly secured; 1 Stark. 153; 1 Freem. Ch. 502; 18 Miss. 113; 15 Conn. 438; 10 Ired. 165; 11 *id.* 253; 2 Rich. Eq. 63; 13 Vt. 15; 46 *id.* 512; 6 Cranch, 8; 11 Leigh, 512; 14 Ark. 86; 4 Gratt. 53; 15 Ga. 321; 9 Cow. 747, 765.

Interest. Payments made on account are first to be applied to the interest which has accrued thereon. And if the payment exceed the amount of interest, the balance goes to extinguish the principal; 1 Dev. 341; 11 Paige, Ch. 619; 1 Strobb. Eq. 426; 16 Miss. 368; 10 Tex. 216; 5 Cow. 331; 3 Sandf. Ch. 608; Wright, Ohio, 169; 5 Ohio, 260; 2 Fla. 445; 8 Watts & S. 17; 4 Neb. 190. Funds must be applied by the creditor to a judgment bearing interest, and not to an unliquidated account; 4 T. B. Monr. 389; nor to usurious interest; 22 La. Ann. 418; 34 Ohio St. 142.

Priority. When no other rules of appropriation intervene, the law applies part-payments to debts in the order of time, discharging the oldest first; 3 Woodb. & M. 150, 390; 1 Bay, 497; 40 Me. 378; 10 Barb. 183; 4 Harr. & J. 351; 7 Gratt. 86; 27 Vt. 478; 9 Watts, 386; 27 Ala. n. s. 445; 46 Vt. 448; 39 Iowa, 330; 116 Mass. 374. So strong is this priority rule that it has been said that equity will apply payments to the earliest items even where the creditor has security for these items and none for later ones; 6 N. Y. 147. But this is opposed to the prevailing rule.

Sureties. The general rule is that neither debtor nor creditor can so apply a payment

as to affect the liabilities of sureties, without their consent; 12 N. H. 320; 1 McLean, 493; 16 Pet. 121; Gilp. 106. Where a principal makes general payments, the law presumes them, *prima facie*, to be made upon debts guaranteed by a surety, rather than upon others; though circumstances and intent will control this rule of surety, as they do other rules of appropriation; 2 Maule & S. 18, 39; 2 Stark. 101; 1 C. & P. 600; 8 Ad. & E. 855; 10 J. B. Moore, 362; 4 Gill & J. 361; 5 Leigh, 329.

Continuous Accounts. In these, payments are applied to the earliest items of account, unless a different intent can be inferred; 1 Mer. 529, 609; 2 Brod. & B. 70; 5 Bingham, 13; 4 B. & Ad. 766; 2 *id.* 45; 1 Nev. & M. 742; 4 Q. B. 792; 9 Wheat. 720; 3 Sumn. 98; 23 Me. 24; 28 Vt. 498; 4 Mas. 336; 5 Mete. Mass. 268; 19 Conn. 191; 53 Ill. 414; 27 Ala. 445; 32 Ga. 1.

Partners. Where a creditor of the old firm continues his account with the new firm, payments by the latter will be applied to the old debt, *prima facie*, the preceding rule of continuous accounts guiding the appropriations. As above, however, a different intent, clearly proved, will prevail; 3 Nev. & M. 167; 5 B. & Ad. 925; 2 *id.* 39; 3 Bingham, 71; 2 Barnew. & Ald. 39; 10 J. B. Moore, 362; 3 Younge & C. 625; 3 Dowl. & R. 252; 3 Moore & S. 174; 6 Watts & S. 9. When a creditor of the firm is also the creditor of one partner, a payment by the latter of partnership funds must be applied to the partnership debts. Yet circumstances may allow a different application; 1 Mood. & M. 40; 10 Conn. 175; 1 Rice, 291; 2 A. K. Marsh. 277; 28 Me. 91; 2 Harr. Del. 172. And so, unappropriated payments made by a party indebted severally and also jointly with another to the same creditor, for items of book-charges, are to be applied upon the several debts; 33 Me. 428.

The rules of appropriation, it has now been seen, apply equally well whether the debts are of the same or of different orders, and though some are specialties while others are simple contracts; 2 Vt. 606; 4 Cranch, 317; 15 Ga. 221; 22 Penn. 492; 2 Hayw. 385. As to the time during which the application must be made in order to be valid, there is much discrepancy among the authorities. But perhaps a correct rule is that any time will be good as between debtor and creditor, but a *reasonable* time only when third parties are affected; 6 Taunt. 597; 9 Mod. 427; 3 Green, N. J. 314; 20 Me. 457; 1 Bail. 89; 1 Bail. Eq. 430; 1 Overt. 488; 4 Ired. Eq. 42; 12 Vt. 249; 10 Conn. 184.

When once made, the appropriation cannot be changed but by common consent; and rendering an account, or bringing suit and declaring in a particular way, is evidence of an appropriation; 1 Wash. Va. 128; 12 S. & R. 305; 2 Rawle, 316; 2 Wash. C. C. 47; 12 Ill. 159; 28 Me. 91.

Consult Burge, Suretyship, 126-128; 2 Parsons, Contr. *Payment*; 1 Am. Lead. Cas. 330-

363; 14 Am. Dec. 694 n.; 11 East, 36; 7 Dowl. & R. 201; 6 Ves. Ch. 94; 1 Tyrwh. & G. 137; 2 Cr. M. & R. 723; 2 Sumn. 99; 2 Stor. 243; 31 Me. 497; 3 Ill. 347; 2 J. J. Marsh. 414; 6 Dana, 217; 1 M'Mull. 82, 310; 1 M'Cord, Ch. 318; 9 Paige, Ch. 165; 7 Ohio, 21; 29 Tex. 419.

Of Government. No money can be drawn from the treasury of the United States but in consequence of appropriations made by law; Const. art. 1, s. 9. Under this clause of the constitution it is necessary for congress to appropriate money for the support of the federal government and in payment of claims against it; and this is done annually by acts of appropriation, some of which are for the general purposes of government, and others special and private in their nature. These general appropriation bills, as they are commonly termed, extend to the 30th of June in the following year, and usually originate in the house of representatives, being prepared by the committee of ways and means; but they are distinct from the bills for raising revenue, which the constitution declares shall originate in the house of representatives. A rule of the house gives appropriation bills precedence over all other business, and requires them to be first discussed in committee of the whole. Where money once appropriated remains unexpended for more than two years after the expiration of the fiscal year in which the act shall have been passed, such appropriations are deemed to have ceased and determined, and the moneys so unexpended are immediately thereafter carried to the "surplus fund," and it is not lawful thereafter to pay them out for any purpose without further and specific appropriations by law. Certain appropriations, however, are excepted from the operation of this law, viz.: moneys appropriated for payment of the interest on the funded debt, or the payment of interest and reimbursement according to contract of any loan or loans made on account of the United States; as likewise moneys appropriated for a purpose in respect to which a longer duration is specially assigned by law. No expenditure is allowed in any department in any year in excess of the appropriation for that year; Rev. St. 1878, §§ 3660-3692; 7 Opinions of Attorney-Generals, 1.

APPROVE. To increase the profits upon a thing.

Used of common or waste lands which were enclosed and devoted to husbandry; 3 Kent, 406; Old Nat. Brev. 79.

While confessing crime one's self, to accuse another of the same crime.

It is so called because the accuser must prove what he asserts; Staundford, Pl. Cr. 142; Crompton, Jus. Peace, 250.

To vouch. To appropriate. To improve. Kelham.

APPROVED ENDORSED NOTES. Notes endorsed by another person than the maker, for additional security.

Public sales are generally made, when a credit is granted, on approved endorsed notes. The meaning of the term is that the purchaser shall give his promissory note for the amount of his purchases, endorsed by another, which, if approved of by the seller, shall be received in payment. If the party approve of the notes, he consents to ratify the sale; 20 Wend. 431.

APPROVER. In English Criminal Law. One confessing himself guilty of felony, and accusing others of the same crime to save himself. Crompton, Inst. 250; Coke, 3d Inst. 129.

Such an one was obliged to maintain the truth of his charge, by the old law; Cowel. The improvement must have taken place before plea pleaded; 4 Bla. Com. 330.

Certain men sent into the several counties to increase the farms (rents) of hundreds and *wapentakes*, which formerly were let at a certain value to the sheriffs; Cowel.

Sheriffs are called the king's approvers. *Termes de la Ley.*

Approvers in the Marches were those who had license to sell and purchase beasts there.

APPURTENANCES. Things belonging to another thing as principal, and which pass as incident to the principal thing; 10 Pet. 25; Angell, Wat. C. 43; 1 S. & R. 169; 5 *id.* 110; Cro. Jac. 121; 1 P. Will. 603; Cro. Jac. 526; 2 Coke, 32; Coke, Litt. 5 *b.*, 56 *a.*, *b.*; 1 Plowd. 171; 2 Saund. 401, n. 2; 1 Lev. 131; 1 Sid. 211; 1 B. & P. 371; 1 Cr. & M. 439; 4 Ad. & E. 761; 2 Nev. & M. 517; 5 Toullier, n. 531; 74 Penn. 25; 34 Bear. 576; see 13 Am. Dec. 657.

Thus, if a house and land be conveyed, every thing passes which is necessary to the full enjoyment thereof and which is in use as incident or appurtenant thereto; 1 Sumn. 492. Under this term are included the curtilage, 2 Bla. Com. 17; a right of way, 4 Ad. & E. 749; water-courses and secondary easements, under some circumstances, Angell, Water-Courses, 43; a turbary, 3 Salk. 40; and, generally, anything necessary to the enjoyment of a thing; 4 Kent, 468, n.; but not an adjacent strip of land; land cannot pass as appurtenant to land; 49 Barb. 501; 10 Pet. 25; but it may be *aliter* to give effect to the intent of a will; 9 Pick. 293. The mere use of the term "appurtenances," without more, will not pass a right of way established over one portion of land merely for convenience of the owner, it not being a way of necessity; 68 N. Y. 62; s. c. 23 Am. Rep. 149.

If a house is blown down, a new one erected there shall have the old appurtenances; 4 Coke, 86. The word appurtenances, at least in a deed, will not pass any corporeal real property, but only incorporeal easements, or rights and privileges; Coke, Litt. 121; 8 B. & C. 150; 6 Bingham, 150; 1 Chitty, Pract. 153, 4; see APPENDANT.

Appurtenances of a ship include whatever is on board a ship for the objects of the voyage and adventure in which she is engaged, belonging to her owner. Ballast was held no appurtenance; 1 Leon. 46. Boats and cable

are such; 17 Mass. 405; also, a rudder and cordage, 5 B. & Ald. 942; 1 Dods. Adm. 278; fishing-stores, 1 Hagg. Adm. 109; chronometers, 6 Jur. 910; see 15 Me. 421. For a full and able discussion of the subject of appurtenances to a ship, see 1 Parsons, Marit. Law, 71-74; see 3 Sawy. 201.

APPURTENANT. Belonging to; pertaining to.

The thing appurtenant must be of an inferior nature to the thing to which it is appurtenant; 2 Bla. Com. 19; 1 Plowd. 170; 1 Sumn. 21; 41 Md. 523. A right of common may be appurtenant, as when it is annexed to lands in other lordships, or is of beasts not generally commonable; 2 Bla. Com. 33. Such can be claimed only by immemorial usage and prescription.

APUD ACTA (Lat.). Among the recorded acts. This was one of the verbal appeals (so called by the French commentators), and was obtained by simply saying, *appello*.

AQUA (Lat.). Water. It is a rule that water belongs to the land which it covers when it is stationary. *Aqua cedit solo* (water follows the soil); 2 Bla. Com. 18; Coke, Litt. 4.

But the owner of running water cannot obstruct the flow to the injury of an inheritance below him. *Aqua currit, et currere debet* (water runs, and ought to run); 3 Kent, 439; 26 Penn. 413.

AQUÆ DUCTUS. In Civil Law. A servitude which consists in the right to carry water by means of pipes or conduits over or through the estate of another; Dig. 8. 3. 1; Inst. 2. 3; Lalaure, *Des Serv.* c. 5, p. 23.

AQUÆ HAUSTUS. In Civil Law. A servitude which consists in the right to draw water from the fountain, pool, or spring of another; Inst. 2. 3. 2; Dig. 8. 3. 1. 1.

AQUÆ IMMITTENDÆ. In Civil Law. A servitude which frequently occurs among neighbors.

It is the right which the owner of a house, built in such a manner as to be surrounded with other buildings, so that it has no outlet for its waters, has to cast water out of his windows on his neighbor's roof, court, or soil. Lalaure, *Des Serv.* 23. It is recognized in the common law as an easement of drip; 15 Barb. 96; Gale & Whatley, *Easements*. See **EASEMENTS**.

AQUAGIUM (Lat.). A water-course. Cowel.

Canals or ditches through marshes. Spelman. A signal placed in the *aquagium* to indicate the height of water therein. Spelman.

AQUATIC RIGHTS. Rights which individuals have in water.

ARALIA (Lat. *arare*). Land fit for the plough. Denoting the character of land, rather than its condition. Spelman. Kindred in meaning, *arare*, to plough; *arator*, a ploughman; *aratrum terræ*, as much land as could

be cultivated by a single *arator*; *araturia*, land fit for cultivation.

ARBITER. A person bound to decide according to the rules of law and equity, as distinguished from an arbitrator, who may proceed wholly at his own discretion, so that it be according to the judgment of a sound man. Cowel.

This distinction between arbiters and arbitrators is not observed in modern law. Russell, *Arbitrator*, 112. See **ARBITRATOR**.

One appointed by the prator to decide by the equity of the case, as distinguished from the *judex*, who followed the law. Calvinus, *Lex*.

One chosen by the parties to decide the dispute; an arbitrator. Bell, *Dict*.

ARBITRAMENT AND AWARD. A plea to an action brought for the same cause which had been submitted to arbitration and on which an award had been made. Watson, *Arb.* 256.

ARBITRARY PUNISHMENT. In Practice. That punishment which is left to the decision of the judge, in distinction from those defined by statute.

ARBITRATION (Lat. *arbitratio*). In Practice. The investigation and determination of a matter or matters of difference between contending parties, by one or more unofficial persons, chosen by the parties, and called arbitrators, or referees. Worcester, *Dict.*; 3 Bla. Com. 16.

Compulsory arbitration is that which takes place when the consent of one of the parties is enforced by statutory provisions.

Voluntary arbitration is that which takes place by mutual and free consent of the parties.

It usually takes place in pursuance of an agreement (commonly in writing) between the parties, termed a submission; and the determination of the arbitrators or referee is called an award. See **SUBMISSION**; **AWARD**.

At common law it was either *in pais*,—that is, by simple agreement of the parties,—or by the intervention of a court of law or equity. The latter was called arbitration by rule of court; 3 Bla. Com. 16.

Besides arbitration at common law, there exists arbitration, in England as well as the United States, under various statutes, to which reference is made for local peculiarities.

Most of them are founded on the 9 & 10 Will. III. c. 15, and 3 & 4 Will. IV. ch. 42, § 49, by which it is allowed to refer a matter in dispute, not then in court, to arbitrators, and agree that the submission be made a rule of court. This agreement, being proved on the oath of one of the witnesses thereto, is enforced as if it had been made at first under a rule of court; 3 Bla. Com. 18; Kyd, *Aw.* 22. Particular reference may be made to the statutes of Pennsylvania, in which state the legislation on the subject of arbitration has been extensive and peculiar.

Any matter may be determined by arbitration which the parties may adjust by agreement, or which may be the subject of a suit at law. Crimes, however, and perhaps ac-

tions (*qui tam*) on penal statutes by common informers, cannot be made the subject of adjusment and composition by arbitration. See SUBMISSION.

Any person who is capable of making a valid and binding contract with regard to the subject may, in general, be a party to a reference or arbitration. Every one is so far, and only so far, bound by the award as he would be by an agreement of the same kind made directly by him. For example, the submission of a minor is not void, but voidable. See SUBMISSION.

At common law it is entirely voluntary, and depends upon the agreement of the parties, to waive the right of trial in court by a jury.

In Pennsylvania, however, there exist compulsory arbitrations. Either party in a civil suit or action, or his attorney, may enter at the prothonotary's office a rule of reference, wherein he shall declare his determination to have arbitrators chosen on a day certain, to be mentioned therein, not exceeding thirty days, for the trial of all matters in variance in the suit between the parties. A copy of this rule is served on the opposite party.

On the day appointed, they meet at the prothonotary's and endeavor to agree upon arbitrators. If they cannot, the prothonotary makes out a list, on which are inscribed the names of a number of citizens, and the parties alternately strike, each, one of them from the list, beginning with the plaintiff, until only the number agreed upon, or fixed by the prothonotary, are left, who are to be the arbitrators. A time of meeting is then agreed upon, or appointed by the prothonotary if the parties cannot agree; at which time the arbitrators, having been sworn or affirmed justly and equitably to try all matters in variance submitted to them, proceed to hear and decide the case. Their award is filed in the office of the prothonotary, and has the effect of a judgment, subject, however, to appeal, which may be entered at any time within twenty days from the filing of such award. Act of 16th June, 1836; Pamph. p. 715; see, also, act of 1874.

This is somewhat similar to the arbitrations of the Romans. There the prætor selected, from a list of citizens made for the purpose, one or more persons, who were authorized to decide all suits submitted to them and which had been brought before him. The authority which the prætor gave them conferred on them a public character, and their judgments were without appeal. Toullier, *Droit Civ. Fr.* liv. 3, t. 3, c. 4, n. 820.

See, generally, ARBITRATOR; SUBMISSION; AWARD.

Consult Caldwell; Stephens; Watson, Arbitration; Russell, Arbitrator; Billings; Kyd; Loring; Reed, Awards; Bacon, Abridgment; 3 Bouvier, Institutes, n. 2482.

ARBITRATOR. In Practice. A private extraordinary judge, to whose decision matters in controversy are referred by consent of the parties; Worcester, Dict.

Referee is of frequent modern use as a synonym

of arbitrator, but is in its origin of broader signification and less accurate than arbitrator.

Appointment.—Usually, a single arbitrator is agreed upon, or the parties each appoint one, with a stipulation that, if they do not agree, another person, called an umpire, named, or to be selected by the arbitrators, shall be called in, to whom the matter is to be referred; Caldwell, Arb. 99; 2 Vern. 485; 16 East, 51; 9 B. & C. 624; 3 B. & A. 248; 5 B. & Ad. 488; 7 Scott, 841; 9 Ad. & E. 699; 6 Harr. & J. 403; 17 Johns. 405; 1 Barb. 325; 2 M'Cord, 279; 4 Rand. 275; 15 Vt. 548; 2 Bibb, 88; 4 Dall. 471; 9 Ind. 150. In general, any objection to the appointment of an arbitrator or umpire will be waived by attending before him; 2 Eng. L. & Eq. 284; 9 Ad. & E. 679; 8 East, 344; 1 Jac. & W. 511; 1 Ry. & M. 17; 3 Ind. 277; 9 Penn. 254, 487; 10 B. Monr. 536; one who goes to trial before a referee without requiring an oath, waives the oath; 97 U. S. 581.

Any person selected may be an arbitrator, notwithstanding natural incapacity or legal disability, as infancy, coverture, or lunacy; Watson, Arb. 71; Russell, Arb. 107; Viner, Abr. Arbitration, A, 2; 8 Dowl. 879; 1 Pet. 228; 7 W. & S. 142; 26 Miss. 127; *contra*, Comyns, Dig. Abatement, B, C; West, Symb. *Compromise*, p. 164, §§ 23, 26; Brooke, Abr.; 10 Ad. & E. 775; 11 Q. B. 7; or disqualification on account of interest, provided it be known to the parties at the time of making the submission; 9 Bingh. 672; 3 Vern. Ch. 251; 5 Dowl. 247; 4 Mod. 226; 1 Jac. & W. 511; 1 Caines, 147; 1 Bibb, 148; Hard. 318; 14 Conn. 26; 26 Miss. 127; 27 Me. 251; 2 E. D. Smith, 32. In the civil law the rule was otherwise; *Domat*, Civ. Law, §§ 1112, 1113; D. 9. 1. In 123 Mass. 190, the award of an arbitrator, who had been counsel in a former case for the party in whose favor he found, was held valid, although the fact was not known to the other party; and so of an arbitrator, who knew one of the parties intimately, and had heard his version of the facts before, and expressed an opinion thereon; 123 Mass. 129.

The proceedings. Arbitrators proceed on the reference as judges, not as agents of the parties appointing them; 1 Ves. Ch. 226; 9 *id.* 69. They should give notice of the time and place of proceeding to the parties interested; 3 Atk. 529; 8 Md. 208; 6 Harr. & J. 403; 3 Gill, 31; 7 *id.* 488; 24 Miss. 346; 23 Wend. 628; 6 Cow. 103; 12 Metc. Mass. 293; 1 Dall. 81; 4 *id.* 432; 1 Conn. 498; 17 *id.* 309; 2 N. H. 97; 6 Vt. 666; 3 Rand. 2; Hard. 46; 32 Me. 455, 513. They should all conduct the investigation together, and should sign the award in each other's presence; 4 Me. 468; but a majority is held sufficient; 1 Wash. C. C. 448; 11 Johns. 402; 3 R. I. 192; 30 Penn. 384; 2 Dutch. 175; 9 Ind. 150; 7 *id.* 669; 14 B. Monr. 292; 21 Ga. 1.

In investigating matters in dispute, they

are allowed the greatest latitude; 9 Bingham. 679; 1 B. & P. 91; 14 M. & W. 264; 5 C. B. 211, 581; 6 Cow. 103; 1 Hill, N. Y. 319; 1 Sandf. 681; 1 Dall. 161; 6 Pick. 148; 10 Vt. 79; 2 Bay, 370; 1 Bail. 46. But see 1 Halst. 386; 1 Wash. Va. 193; 4 Cush. 111; 7 Hill, 463; 2 Johns. Cas. 224; 1 Binn. 458. They are judges both of law and of fact, and are not bound by the rules of practice adopted by the courts; 3 Atk. 486; 1 Ves. Ch. 369; 1 Price, 81; 11 *id.* 57; 13 *id.* 533; 1 Swanst. 58; 1 Taunt. 52, n.; 6 *id.* 255; 13 East. 358; 9 Bingham. 681; 2 B. & Ald. 692; 3 *id.* 239; 4 Ad. & E. 347; 7 *id.* 601; 1 Dowl. & L. 465; 1 Dowl. & R. 366; 17 How. 344; 2 Gall. 61; 7 Metc. Mass. 316, 486; 36 Me. 19, 108; 2 Johns. Ch. 276, 368; 3 Du. N. Y. 69; 1 E. D. Smith, 85, 265; 5 Md. 353; 19 Penn. 431; 21 Vt. 99, 250; 25 Conn. 66; 16 Ill. 34, 99; 12 Gratt. 554; 7 Ind. 49; 2 Cal. 64, 122; 23 Miss. 272. Thus, the witnesses were not sworn in Hill & Den. 110; 28 Vt. 776. They may decide *ex æquo et bono*, and need not follow the law: the award will be set aside only when it appears that they meant to be governed by the law but have mistaken it; 9 Ves. 364; 14 *id.* 271; 3 East, 18; 13 *id.* 351; 4 Tyrwh. 997; 2 C. B. 705; 3 *id.* 705; 2 Gall. 61; 1 Dall. 487; 6 Pick. 148; 6 Metc. Mass. 131; 7 *id.* 486; 6 Vt. 529; 21 *id.* 250; 4 N. H. 357; 1 Hall, 598. See 19 Mo. 373.

Under submissions *in pais*, the attendance of witnesses and the production of papers was entirely voluntary at common law; 1 Dowl. & L. 676; 2 Sim. & S. 418; 2 C. & P. 550. It was otherwise when made under a rule of court. Various statutes in England and the United States now provide for compelling attendance.

Duties and Powers of. Arbitrators cannot delegate their authority: it is a personal trust; 2 Atk. 401; Cro. Eliz. 726; 9 Dowl. Parl. Cas. 1044; 6 C. B. 258; 4 Dall. 71; 7 S. & R. 228; 1 Wash. C. C. 448. The power ceases with the publication of the award; 9 Mo. 30; and death after publication and before delivery does not vitiate it; 21 Ga. 1. They cannot be compelled to make an award; in which respect the common law differs from the Roman; Story, Eq. Jur. § 1457; Kyd, Aw. 2d ed. 100; or to disclose the grounds of their judgment; 3 Atk. 644; 7 S. & R. 448; 5 Md. 253; 19 Mo. 373.

An arbitrator may retain the award till paid for his services, but cannot maintain *assumpsit* in England without an express promise; 8 East, 12; 4 Esp. 47; 2 M. & G. 847, 870; 3 Q. B. 466, 928. But see 1 Gow. 7; 1 B. & P. 93. In the United States he may, however; 1 Denio, 188; 29 N. H. 48.

The powers and duties of arbitrators are now regulated very fully by statute, both in England and the United States. See SUBMISSION, and also ARBITRATION.

ARBITRIUM (Lat.). Decision; award; judgment.

For some cases the law does not prescribe an exact rule, but leaves them to the judgment of sound men; 1 Bla. Com. 61. The decision of an arbiter is *arbitrium*, as the etymology indicates; and the word denotes, in the passage cited, the decision of a man of good judgment who is not controlled by technical rules of law, but is at liberty to adapt the general principles of justice to the peculiar circumstances of the case.

ARBOR (Lat.). A tree; a plant; something larger than an herb; a general term including vines, osiers, and even reeds. The mast of a ship; Brissonius. Timber; Ainsworth; Calvinus, Lex.

Arbor Civilis. A genealogical tree; Coke, Inst.

A common form of showing genealogies is by means of a tree representing the different *branches* of the family. Many of the terms in the law of descent are figurative, and derived hence. Such a tree is called, also, *arbor consanguinitatis*.

ARCARIUS (Lat. *arca*). A treasurer; one who keeps the public money; Spelman, Gloss.

ARCHAIONOMIA. The name of a collection of Saxon laws published during the reign of the English Queen Elizabeth, in the Saxon language, with a Latin version, by Mr. Lambard. Dr. Wilkins enlarged this collection in his work entitled *Leges Anglo-Saxonice*, containing all the Saxon laws extant, together with those ascribed to Edward the Confessor, in Latin; those of William the Conqueror, in Norman and Latin; and of Henry I., Stephen, and Henry II., in Latin.

ARCHBISHOP. In Ecclesiastical Law. The chief of the clergy of a whole province.

He has the inspection of the bishops of that province, as well as of the inferior clergy, and may deprive them on notorious cause. The archbishop has also his own diocese, in which he exercises episcopal jurisdiction, as in his province he exercises archiepiscopal authority; 1 Bla. Com. 380; 1 Ld. Raym. 541.

ARCHDEACON. In Ecclesiastical Law. A ministerial officer subordinate to the bishop.

In the primitive church, the archdeacons were employed by the bishop in the more servile duties of collecting and distributing alms and offerings. Afterwards they became, in effect, "eyes to the overseers of the Church;" Cowel.

His jurisdiction is ecclesiastical, and immediately subordinate to that of the bishop throughout the whole or a part of the diocese. He is a ministerial officer; 1 Bla. Com. 383.

ARCHDEACON'S COURT. In English Law. The lowest court of ecclesiastical jurisdiction in England.

It is held before a person appointed by the archdeacon, called his official. Its jurisdiction is limited to ecclesiastical causes arising within the archdeaconry. It had until recently, also, jurisdiction of matters of probate and granting administrations. In ordinary cases, its jurisdiction is concurrent with that of the Bishop's Court; but in some instances cases must be commenced in this court. In

all cases, an appeal lies to the Bishop's Court; 24 Hen. VIII. c. 12; 3 Bla. Com. 64.

ARCHES' COURT. See COURT OF ARCHES.

ARCHIVES (*archivum, arcibum*). The Rolls; any place where ancient records, charters, and evidences are kept. In libraries, the private depositary; Cowel; Spelman, Gloss.

The records need not be ancient to constitute the place of keeping them the Archives.

ARCHIVIST. One to whose care the archives have been confided.

ARCTA ET SALVA CUSTODIA (Lat.). In safe and close custody or keeping.

When a defendant is arrested on a *capias ad satisfaciendum* (ca. sa.), he is to be kept *arcta et salva custodia*; 3 Bla. Com. 415.

AREA. An enclosed yard or opening in a house; an open place adjoining to a house; 1 Chitty, Pract. 176.

ARENALES. In Spanish Law. Sandy beaches.

ARENTARE (Lat.). To rent; to let out at a certain rent. Cowel.

Arentatio. A renting.

ARGENTARII (Lat. *argentum*). Money-lenders.

Called, also, *nummularii* (from *nummus*, coin) *mensarii* (lenders by the month). They were so called whether living in Rome or in the country towns, and had their shops or tables in the forum. *Argentarius* is the singular. *Argentarium* denotes the instrument of the loan, approaching in sense to our *note or bond*.

Argentarius miles was the servant or porter who carried the money from the lower to the upper treasury to be tested. Spelman, Gloss.

ARGENTUM ALBUM (Lat.). Unstamped silver; bullion. Spelman, Gloss.; Cowel.

ARGENTUM DEI (Lat.). God's money; God's penny; money given as earnest in making a bargain. Cowel.

ARGUMENT AB INCONVENIENTI. An argument arising from the inconvenience which the construction of the law would create.

It is to have effect only in a case where the law is doubtful: where the law is certain, such an argument is of no force. Bacon, Abr. *Baron and Peme, H.*

ARGUMENTATIVE. By way of reasoning.

A plea must be (among other things) direct and positive, and not argumentative; 3 Bla. Com. 308; Stephen, Pl. 191.

ARIBANNUM. A fine for not setting out to join the army in obedience to the summons of the king.

ARIMANNI (Lat.). The possessors of lands holden or derived from their lords. Clients joined to some lord for protection. By some, said to be soldiers holding lands from a lord; but the term is also applied to women and slaves. Spelman, Gloss.

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ARISTOCRACY. A government in which a class of men rules supreme.

Aristotle classified governments according to the person or persons in whom the supreme power is vested: in monarchies or kingdoms, in which one rules supreme; in aristocracies, in which a class of men rules supreme; and in democracies, in which the people at large, the multitude, rules. The term aristocracy is derived from the Greek word *αριστος*, which came, indeed, to settle down as the superlative of *αγαθος*, good, but originally meant the strongest, the most powerful; and in the compound term aristocracy it meant those who wielded the greatest power and had the greatest influence,—the privileged ones. The aristocracies in ancient Greece were, in many cases, governments arrogated by violence. If the number of ruling aristocrats was very small, the government was called an oligarchy. Aristotle says that in democracies the "demagogues lead the people to place themselves above the laws, and divide the people, by constantly speaking against the rich; and in oligarchies the rulers always speak in the interest of the rich. At present," he says, "the rulers, in some oligarchies, take an oath, 'And I will be hostile to the people, and advise, as much as is in my power, what may be injurious to them.'" (Politics, v. ch. 9.) There are circumstances which may make an aristocracy unavoidable; but it has always this inherent deficiency, that the body of aristocrats, being set apart from the people indeed, yet not sufficiently so, as the monarch is (who, besides, being but one, must needs rely on the classes beneath him), shows itself severe and harsh so soon as the people become a substantial portion of the community. The struggle between the aristocratic and the democratic element is a prominent feature of the middle ages; and at a later period it is equally remarkable that the crown, in almost every country of the European continent, waged war, generally with the assistance of the commonalty, with the privileged class, or aristocracy. The real aristocracy is that type of government which has nearly entirely vanished from our cis-Caucasian race; although the aristocratic element is found, like the democratic element, in various degrees, in most of the existing governments. The term aristocracy is at present frequently used for the body of privileged persons in the government of any institution,—for instance, in the church. In the first French Revolution, Aristocrat came to mean any person not belonging to the levellers, and whom the latter desired to pull down. The modern French communists use the slang term *Aristo* for aristocrat. The most complete and consistently developed aristocracy in history was the Republic of Venice,—a government considered by many early publicists as a model: it illustrated, however, in an eminent degree, the fear and consequent severity inherent in aristocracies. See GOVERNMENT; ABSOLUTISM; MONARCHY.

ARISTO-DEMOCRACY. A form of government where the power is divided between the great men of the nation and the people.

ARIZONA. One of the territories of the United States.

The Organic Act is the act of congress of Feb. 24, 1862, U. S. Stat. at Large, 664. By this act, the territory embraces "all that part of the territory of New Mexico situated west of a line running due south, from the point where the southwest corner of the territory of Colorado joins the northern boundary of the territory of New Mex-

ico, to the southern boundary of the territory of New Mexico." The frame of government is substantially the same as that of New Mexico, and the laws of New Mexico are substantially extended to Arizona. See **NEW MEXICO**.

The qualifications of voters are:—Every white male citizen of the United States, and every white male citizen of Mexico, who shall have elected to become a citizen of the United States under the treaty of peace exchanged and ratified at Quintero, on the 30th day of May, 1848, and the Gadsden treaty of 1854, of the age of twenty-one years, who shall have been a resident of the territory six months next preceding the election, and the county or precinct in which he claims his vote ten days, shall be entitled to vote at all elections which are now, or hereafter may be authorized by law.

For the purpose of voting no person shall be deemed to have gained or lost a residence by reason of his presence or absence in the service of the United States; nor while engaged in the navigation of the waters of this territory, or of the United States, or of the high seas; nor while a student of any seminary of learning; nor while kept at any almshouse or other asylum; nor while confined in any public prison.

No idiot, or insane person, or person convicted of any infamous crime, shall be entitled to the privileges of an elector. A crime shall be deemed infamous which is punishable by death, or by imprisonment in the state prison.

Absence from this territory on business of the territory, or of the United States, shall not affect the question of residence of any person.

By the Organic Act of Arizona, it is provided that the government thereby authorized shall consist of an executive, legislative, and judicial power. The executive power shall be vested in a governor. The legislative power shall consist of a council of nine members, and a house of representatives of eighteen. The judicial power shall be vested in a supreme court, to consist of three judges, and such inferior courts as the legislative council may by law prescribe; there shall also be a secretary, a marshal, a district attorney, and a surveyor-general for said territory, who, together with the governor and judges of the supreme court, shall be appointed by the president, by and with the advice and consent of the senate, and the term of office for each, the manner of their appointment, and the powers, duties, and the compensation of the governor, legislative assembly, judges of the supreme court, secretary, marshal, district attorney, and surveyor-general aforesaid, with their clerks, draughtsmen, deputies, and sergeant-at-arms, shall be such as are conferred upon the same officers by the act organizing the territorial government of New Mexico, which subordinate officers shall be appointed in the same manner, and not exceed in number those created by said act; and acts amendatory thereto, together with all legislative enactments of the territory of New Mexico not inconsistent with the provisions of this act, are hereby extended to and continued in force, in the said territory of Arizona, until repealed or amended by future legislation.

No session of the legislature can exceed forty days. The legislative power of the territory extends to all rightful subjects of legislation, not inconsistent with the constitution and laws of the United States, or the Organic Act. No law is to be passed interfering with the primary disposal of the soil; no taxes to be imposed upon property of the United States, and lands and other property of non-residents cannot be taxed higher than lands and other property of residents. All laws passed by the legislative assembly must be submit-

ted to congress, and if disapproved are null and of no effect; Organic Act, sec. 7. The legislature cannot pardon or commute the sentence of any prisoner; or audit and settle any private claim; or authorize lotteries, or the sale of lottery tickets; Acts, 1877, 2. All township, district, and county officers not otherwise provided for in the Organic Act, are appointed, or elected, as the case may be, by the legislature of the territory. No member of the legislature can hold, or be appointed to, any office which shall have been created, or the salary or emoluments of which shall have been increased, while he was a member, during the time for which he was elected, and for one year after the expiration of such term; and no person holding a commission or appointment under the United States, except postmasters, shall be a member of the legislative assembly or shall hold any office under the government of the territory; Org. Act, § 9. The legislature shall meet on the second Monday of January, 1883, and bi-annually thereafter on that day; Acts, 1881, 134.

The *Executive* power is vested in a governor, who shall hold office four years, and until his successor shall be appointed and qualified, unless sooner removed by the president of the United States. The governor shall reside within the territory, shall be commander-in-chief of the militia thereof, shall perform the duties and receive the emoluments of superintendent of Indian affairs, and shall approve all laws passed by the legislative assembly before they shall take effect; he may grant pardons for offences against the laws of the territory, and reprieves for offences against the laws of the United States until the decision of the president can be made known thereon; he shall commission all officers who shall be appointed to office under the laws of the said territory, and shall take care that the laws be faithfully executed; Org. Act, § 3.

He may convene the legislature by proclamation on extraordinary occasions; may grant reprieves, commutations, and pardons for all offences against the laws of the territory, upon such condition, etc., as he may deem proper; he may fill by appointment any vacancy in any territorial or county office for the unexpired term of such office, when no other provision of law is made for that purpose; he may, upon notice and hearing, remove any such officer for neglect or misconduct, or incompetency; he may accept any grants of land made by congress to the territory upon the conditions named in the grant.

Besides the *Supreme Court* the legislature has established the *District Court*, *Probate Court*, and *Justice's Courts*; there are three district courts, each presided over by one of the judges of the supreme court assigned for that purpose. Their original jurisdiction extends to all civil cases exceeding one hundred dollars, and to all criminal cases not otherwise provided for, and to all cases involving real property, and issues from the probate court. The appellate jurisdiction from inferior courts is vested in this court. Writs of error and appeals from the supreme court to the supreme court of the United States are allowed in the same manner as from the circuit courts of the United States, when the sum in controversy exceeds \$1000, and upon cases of habeas corpus. The district courts have the same jurisdiction as the circuit and district courts of the United States, subject to writs of error and appeal to the supreme court of the territory.

ARKANSAS. One of the United States of America; admitted into the union by an act of congress of June 15, 1836.

It was formed of a part of the Louisiana terri-

tory, purchased of France by the United States, by treaty of April 30, 1803. By act of congress of March 2, 1819, a separate territorial government was established for Arkansas; 3 Stat. at Large, 493.

The first constitution of the state was adopted on the 30th January, 1836.

The present constitution of the state was ratified by a popular vote on the 13th October, 1874, and went into effect October 30, 1874.

It contains a preamble setting forth the name and style of the state as "The State of Arkansas;" and also a declaration of rights, enumerating and securing many rights to the people, in whom all power is declared to inhere.

Male citizens of the United States of the age of twenty-one, who have resided in the state two years, in the county six months, and in the voting precinct one month, are entitled to vote; but idiots and lunatics, and United States soldiers, sailors, and marines are debarred the right. The general election takes place biennially on the first Monday in September, and the voting is by ballot. The electors are privileged from arrest, except for treason, felony, or breach of the peace, while attending, going to, and returning from elections. Public defaulters are ineligible to any office.

THE LEGISLATIVE DEPARTMENT.—The *Senate* is to consist of not less than thirty nor more than thirty-five members, chosen every four years by the qualified electors of their respective districts. The senators must be citizens of the United States, must have resided in the state two years, and must be twenty-five years of age. The senators at their first meeting were divided by lot into two classes, in order that one class might be elected every two years.

The state is to be divided from time to time into senatorial districts, so that each senator may, as near as possible, represent an equal number.

The representatives are elected every two years, and must be at least twenty-one years of age, and possess in other respects the same qualifications as the senators.

The *House of Representatives* is to consist of not less than seventy-three nor more than one hundred members. Each county existing at the time of the adoption of the constitution is entitled to one representative, and the remainder are to be apportioned among the several counties according to the number of adult male inhabitants, upon a ratio of two thousand, until the number of representatives amounts to one hundred, when the ratio shall be increased.

The general assembly meets biennially, and can remain in session only sixty days, unless by a two-thirds vote the session is extended.

The vacancies in either house are to be filled by writs of election issued by the governor.

No person holding any lucrative office under the state or the United States, except militia officers, justices of the peace, postmasters, public school officials, and notaries, is eligible to a seat in either house; nor is any person who has been convicted of an infamous crime eligible.

Each house is the sole judge of the election and qualifications of its members, may establish rules for its own proceedings, and may punish for contempt.

The members when attending the sessions of the general assembly, and when going to and from the same, are exempt from arrest, except for treason, felony, and breach of the peace; and for any speech or debate they cannot be questioned in any other place. Their compensation cannot be increased during the session.

The style of laws is, "Be it enacted by the General Assembly of the State of Arkansas."

No law can be passed except by bill, and bills cannot be so amended as to change their original purpose.

Every bill must be read at length on three different days in each house, unless the rules be suspended by a two-thirds vote; and no bill can become a law unless the vote on its final passage be taken by ayes and nays, the names of those voting for and against be entered on the journals, and a majority of each house be recorded in its favor.

No law can be revived or amended by reference to its title, but must be re-enacted at length.

No special law changing the venue in criminal cases, changing names of persons, adopting or legitimating children, granting divorces, or vacating roads or streets, can be passed.

No special law can be passed where a general law would apply, nor can general laws be suspended for the benefit of individuals or associations, nor can special laws be passed where the courts have jurisdiction to grant the relief.

No local bill can be passed unless notice of the intention to apply therefor has been published in the neighborhood. No additional compensation can be made to any officer or contractor after the performance of the service or the making of the contract, unless by a two-thirds vote.

Neither house can adjourn for more than three days without the consent of the other, nor to any other place.

No money can be drawn from the treasury except pursuant to a specific appropriation.

The general assembly cannot limit the amount to be recovered for injuries resulting in death, and the right of action in such cases survives.

No liability of any corporation to the state can be postponed, exchanged, or remitted by the general assembly.

Impeachments are to be preferred by the house and tried by the senate, the chief justice presiding. All state officers are liable to impeachment, or may be removed by the governor for cause upon the joint address of two-thirds of each house.

Either house may propose constitutional amendments, and, if approved by a majority of the members elected to each house, shall be entered on the journals, and submitted to the people at the next general election for ratification. Not more than three amendments can be submitted at once.

THE EXECUTIVE DEPARTMENT.—The executive department consists of the governor, secretary of state, treasurer of state, auditor of state, attorney-general, commissioner of state lands, and superintendent of public instruction. The governor is elected for a term of two years at each general election. He must be a citizen of the United States, at least thirty years of age, and must have resided in the state seven years. The person receiving the highest number of votes is to be the governor, and in case of a tie, he is to be elected by a joint vote of the general assembly.

He is commander-in-chief of the army and militia of the state, except when called into the service of the United States; may require information in writing from the officers of the executive department relative to their official duties; may convene the general assembly, by proclamation, on extraordinary occasions, at the seat of government, or at a different place, if that shall have become dangerous, since the last adjournment, from an enemy or contagious disease; in case of disagreement between the two houses with respect to the time of adjournment, may adjourn

them to such time as he may think proper, not beyond the day of the next meeting of the general assembly; shall give them information of the state of government, and recommend to their consideration such measures as he may deem expedient. He shall take care that the laws are faithfully executed; in criminal and penal cases, except treason, where the consent of the senate is required, and impeachment, he has power to grant pardons and remit fines. He is the keeper of the seal of the state. All commissions and grants must be signed by him, sealed with the great seal of the state, and attested by the secretary of state.

He has the power to veto any bill or concurrent resolution; but such bill or resolution may be passed over his veto, if a majority of the members of both houses, after it is returned with the objections of the governor, vote in favor of its passage. If a bill be not returned by the governor within five days after its passage, it shall become a law; except when its return is prevented by adjournment, in which case it becomes a law, unless he shall file it with his objections in the office of the secretary of state within twenty days after adjournment. He has the power to veto any designated item in an appropriation bill.

In case of the death, absence, or other disability of the governor, the president of the senate performs the duties of the office.

The other members of the executive department are elected at the same time and in the same manner as the governor.

THE JUDICIAL DEPARTMENT.—The supreme court is composed of three judges, one of whom is styled chief justice; two of them constitute a quorum, and the concurrence of two is necessary to a decision. The supreme court has appellate jurisdiction only, which is co-extensive with the state. It has a superintending control over inferior courts, and has power to issue the necessary remedial writs, and to hear and determine the same. The judges are conservators of the peace throughout the state. They are elected for a term of eight years. They must be at least thirty years of age, and must have been lawyers for at least eight years prior to their election.

The court appoints its clerk and reporter, who hold office for a term of six years.

When any supreme judge is disqualified to sit in any case, the governor appoints a special judge to take his place.

The circuit courts are composed of judges of whom one is elected in each judicial circuit. The circuit judge must be at least twenty-eight years of age, must reside in his circuit, and is a conservator of the peace therein. Circuit judges may temporarily exchange circuits.

The circuit courts have jurisdiction of all civil and criminal cases, the exclusive jurisdiction of which is not vested in some other court provided for by this constitution. They have a superintending control over all inferior courts, and may issue such writs as may be necessary to carry their powers into effect.

Until the establishment of separate courts of chancery, the circuit courts have jurisdiction in matters of equity.

The circuit judge cannot sit in a case where he is related by blood or affinity to either party; and when the circuit judge is absent or disqualified, the members of the bar elect a special judge.

Judges must not charge juries as to matters of fact, but must declare the law.

Circuit courts have jurisdiction to remove from office all county and township officers for malfeasance or incompetency.

A prosecuting attorney is elected in each circuit at each general election.

The county court consists of one judge, except that all the justices of the peace in the county sit with the county judge when the court is engaged in making appropriations and levying taxes. The county judges are elected in the respective counties at each general election for the term of two years.

The county court has exclusive jurisdiction of all matters relating to the internal improvement and local concerns of the county.

The general assembly may authorize the county judge to hold courts of common pleas, which shall have such jurisdiction in matters of contract, not affecting the title to land, as may be prescribed.

The county judge is also the judge of the probate court, and has exclusive jurisdiction of all matters relating to the estates of deceased persons, lunatics, and minors.

Appeals lie from the county and probate courts and from justices of the peace to the circuit court.

In the absence of the circuit judge the county judge may order the issue of injunctions and other provisional writs.

Justices of the peace are elected at each general election for the term of two years.

They have exclusive jurisdiction of all matters of contract not involving more than one hundred dollars, and jurisdiction concurrent with the circuit court of matters of contract not exceeding three hundred dollars; concurrent jurisdiction in suits for the recovery of personal property where the amount does not exceed three hundred dollars, and of matters of damages to personal property where the amount does not exceed one hundred dollars; concurrent jurisdiction of misdemeanors; jurisdiction to sit as examining courts; and are conservators of the peace within their respective counties; but they have no jurisdiction of suits affecting the title or possession of real property.

The chancery court of Pulaski county is continued in existence, and has all the jurisdiction of a court of equity in the county. It has also jurisdiction to enforce the liens on real estate bank lands throughout the state.

At each general election in each county there are elected a sheriff, who is *ex-officio* collector of taxes, an assessor, coroner, treasurer, and county surveyor, who hold for two years.

At each general election in each township a constable is elected, who is commissioned by the county court; but all other county officers are commissioned by the governor.

MISCELLANEOUS PROVISIONS.—The militia consists of all the able-bodied male residents of the state between the ages of eighteen and forty-five.

No county or municipal corporation can become a stockholder in any company, or lend its credit to any such company.

Corporations must be formed under general laws.

The state shall always maintain an efficient system of public schools.

No county or municipal corporation can levy a tax exceeding one-half of one per cent. for all general purposes, but may levy an additional one-half of one per cent. to pay debts existing at the time of the adoption of this constitution.

No person who denies the being of a God can hold any office, or testify in any court.

All contracts for a greater rate of interest than ten per cent. are void as to principal and interest;

but when no rate of interest is specified, the rate shall be six per cent.

All distinction between sealed and unsealed instruments is abolished except as to the statute of limitations.

No witness can be excluded on account of interest in the suit.

The state cannot be sued in her own courts.

The proper pronunciation of the name of the state is declared to be "in three syllables, with the final 's' silent, the 'a' in each syllable with the Italian sound, and the accent on the first and last syllable," etc. Acts, 1881, 216.

ARLES. Earnest.

Used in Yorkshire in the phrase *Arles-penny*. Cowel. In Scotland it has the same signification. Bell, Dict.

ARM OF THE SEA. A portion of the sea projecting inland, in which the tide ebbs and flows.

It includes bays, roads, creeks, coves, ports, and rivers where the water flows and reflows. An arm of the sea is considered as extending as far into the interior of a country as the water of fresh rivers is propelled backward by the ingress and pressure of the tide. Angell, Tide Wat. 2d ed. 73; 7 Pet. 324; 2 Dougl. 441; 6 Clark & F. Hou. L. 628; Ole. Adm. 18.

Arms of the sea, so closely embraced by land that a man standing on one shore can reasonably discern with the naked eye objects and what is done on the opposite shore, are within county limits; Bish. Cr. L. § 146; 2 East, P. C. 805; Russ. & R. 243. Lord Coke said (Owen, 122) that the admiral has no jurisdiction when a man may see from one side to another. This was followed by Cochrane, C. J., in Reg. v. Keyn, L. R. 2 Ex. 164, 168. See CREEK; HAVEN; NAVIGABLE; PORT; RELICTION; RIVER; ROAD.

ARMIGER (Lat.). An armor-bearer; an esquire. A title of dignity belonging to gentlemen authorized to bear arms. Kennett, Paroch. Antiq.; Cowel.

In its earlier meaning, a servant who carried the arms of a knight. Spelman, Gloss.

A tenant by scutage; a servant or valet; applied, also, to the higher servants in convents. Spelman, Gloss.; Wishaw.

ARMISTICE. A cessation of hostilities between belligerent nations for a considerable time.

It is either partial and local, or general. It differs from a mere suspension of arms, which takes place to enable the two armies to bury their dead, their chiefs to hold conferences or pourparlers, and the like. Vattel, *Droit des Gens*, l. 3, c. 16, § 233. The terms truce and armistice are sometimes used in the same sense. See TRUCE.

ARMS. Any thing that a man wears for his defence, or takes in his hands, or uses in his anger, to cast at or strike at another. Coke, Litt. 161 b, 162 a; Crompton, Just, P. 65; Cunningham, Dict.

The constitution of the United States, Amend. art. 2, declares that, "a well-regulated militia being necessary to the security of a free state, the right of the people to keep and bear arms shall

not be infringed." This is said to be not a right granted by the constitution, and not dependent upon that instrument for its existence. The amendment means no more than that this right shall not be infringed by congress; it restricts the powers of the national government, leaving all matters of police regulations, for the protection of the people, to the states; 92 U. S. 553.

An act forbidding the carrying of pistols, dirks, etc., is not repugnant to this article; the "arms" referred to are the arms of a soldier, etc.; 35 Tex. 473. A statute prohibiting the wearing of concealed deadly weapons is constitutional; 77 Penn. 470; 3 Heisk. 165; 53 Ga. 472; 31 Ark. 455; 7 Blackf. 572; 31 Ala. 387; *contra*, 2 Litt. 90; see Story, Const. §§ 1889, 1890; Rawle, Const. 125.

Signs of arms, or drawings, painted on shields, banners, and the like.

The arms of the United States are described in the resolution of congress of June 20, 1782.

ARPENNUS. A measure of land of uncertain amount. It was called arpent also; Spelman, Gloss.; Cowel.

In French Law. A measure of different amount in each of the sixty-four provinces; Guvot, Répert., *Arpenteur*.

The measure was adopted in Louisiana; 6 Pet. 763.

ARPENT. A quantity of land containing a French acre; 4 Hall, Law J. 518.

ARPENTATOR. A measurer or surveyor of land.

ARRA. In Civil Law. Earnest; evidence of a completed bargain.

Used of a contract of marriage, as well as any other. Spelled, also, *Arrha*, *Arræ*; Calvinus, Lex.

ARRAIGN. To call a prisoner to the bar of the court to answer the matter charged in the indictment; 2 Hale, Pl. Cr. 216. To set in order. "An assize may be arraigned; Littleton, § 242; 3 Mod. 273; *Termes de la Ley*; Cowel.

ARRAIGNMENT. In Criminal Practice. Calling the defendant to the bar of the court, to answer the accusation contained in the indictment.

The first step in the proceeding consists in calling the defendant to the bar by his name, and commanding him to hold up his hand.

This is done for the purpose of completely identifying the prisoner as the person named in the indictment. The holding up his hand is not, however, indispensable; for if the prisoner should refuse to do so, he may be identified by any admission that he is the person intended; 1 W. Blackst. 33; see Archbold, Cr. Pl. 1859 ed., 128.

The second step is the reading the indictment to the accused person.

This is done to enable him fully to understand the charge to be produced against him. The mode in which it is read is, after saying, "A B, hold up your hand," to proceed, "you stand indicted by the name of A B, late of, etc., for that you, on, etc.," and then go through the whole of the indictment.

The third step is to ask the prisoner,

"How say you [A B], are you guilty, or not guilty?"

Upon this, if the prisoner confesses the charge, and it appears to the satisfaction of the judge that he rightly comprehends the effect of his plea, the confession is recorded, and nothing further is done till judgment. If, on the contrary, he answers, "Not guilty," that plea is entered for him, and the clerk or attorney-general replies that he is guilty; when an issue is formed; 1 Mass. 95; see 4 Bla. Com. c. xxv. The holding up of the hand is no longer obligatory in England, though still maintained in some of the United States with the qualification that if the defendant refuses to hold up his hand, but confesses that he is the person named, it is enough; Whart. Cr. Pl. & Pr. § 699. In cases where arraignment of the defendant is required, a failure to arraign is fatal; 54 Ind. 159; 31 Mich. 471; 3 Penn. (Wis.) 367; 1 Tex. Ap. 408; 52 Cal. 480; see *contra*, 12 Kan. 550. In cases of a mistrial (53 Ga. 35), or removal to another court (39 Md. 355), there need not be a fresh arraignment.

If the defendant, when called upon, makes no answer, and it is a matter of doubt whether or not he is mute of malice, the court may direct a jury to be forthwith impanelled and sworn, to try whether the prisoner is mute of malice or *ex visitatione Dei*; and such jury may consist of any twelve men who may happen to be present. If a person is found to be mute *ex visitatione Dei*, the court in its discretion will use such means as may be sufficient to enable the defendant to understand the charge and make his answer; and if this is found impracticable, a plea of not guilty will be entered, and the trial proceed. But if the jury return a verdict that he is mute fraudulently and willfully, the court will pass sentence as upon a conviction; 1 Mass. 103; 13 *id.* 299; 9 *id.* 402; 10 Metc. Mass. 222; Archbold, Cr. Pl. 14th Lond. ed. 129; Carrington, Cr. Law, 57; 3 C. & K. 121; Roscoe, Cr. Ev. 4th Lond. ed. 215. See the case of a deaf person who could not be induced to plead; 1 Leach, Cr. Cas. 4th ed. 451; of a person deaf and dumb, 1 Leach, Cr. Cas. 4th ed. 102; 14 Mass. 207; 7 C. & P. 503; 6 Cox, Cr. Cas. 386; 3 C. & K. 328.

ARRAMEUR. An ancient officer of a port, whose business was to load and unload vessels.

There were formerly, in several ports of Guyenne, certain officers, called *arrameurs*, or stowers, who were master-carpenters by profession, and were paid by the merchants, who loaded the ship. Their business was to dispose right, and stow closely, all goods in casks, bales, boxes, bundles, or otherwise; to balance both sides, to fill up the vacant spaces, and manage every thing to the best advantage. It was not but that the greatest part of the ship's crew understood this as well as these stowers, but they would not meddle with it, nor undertake it, to avoid falling under the merchant's displeasure, or being accountable for any ill accident that might happen by that means. There were also *sacquièrs*, who were very ancient officers, as may be seen in the Theodosian code, *Unica de Seacariis Fortus Romæ*, lib. 14. Their business was to load and unload vessels loaded with salt, corn, or fish, to prevent the ship's crew defrauding the merchant by false tale, or cheating him of his merchandise otherwise; 1 Pet. Adm. App. xxv.

ARRAS. In Spanish Law. The donation which the husband makes to his wife, by reason or on account of marriage, and in consideration of the *dote*, or portion, which he receives from her. Aso & Man. Inst. b. 1, t. 7, c. 3.

The property contributed by the husband *ad sustinenda onera matrimonii* (for bearing the expenses).

The husband is under no obligation to give arras; but it is a donation purely voluntary. He is not permitted to give in *arras* more than a tenth of his property. The *arras* is the exclusive property of the wife, subject to the husband's usufruct during his life; Burge, Conf. Laws, 417.

ARRAY. In Practice. The whole body of jurors summoned to attend a court, as they are *arrayed* or arranged on the panel; see CHALLENGES; Dane, Abr. Index; 1 Chitty, Cr. Law, 536; Comyns, Dig. *Challenge*, B.

ARREARAGES. Arrears.

ARREARS (Fr.). The remainder of an account or sum of money in the hands of an accountant. Any money due and unpaid at a given time; Cowel; Spelman, Gloss.

ARRECT. To accuse. *Arrectati*, those accused or suspected.

ARREST (Fr. *arrêter*, to stay, to stop, to detain). To deprive a person of his liberty by legal authority. The seizing a person and detaining him in the custody of the law. See Baldw. 234.

As ordinarily used, the terms arrest and attachment coincide in meaning to some extent; though in strictness, as a distinction, an arrest may be said to be the act resulting from the service of an attachment. And in the more extended sense which is sometimes given to attachment, including the act of taking, it would seem to differ from arrest in that it is more peculiarly applicable to a taking of property, while *arrest* is more commonly used in speaking of persons.

The terms are, however, often interchanged when speaking of the taking a man by virtue of legal authority. Arrest is also applied in some instances to a seizure and detention of personal chattels, especially of ships and vessels; but this use of the term is not common in modern law.

In Civil Practice. The apprehension of a person by virtue of a lawful authority to answer the demand against him in a civil action.

One of the means which the law gives the creditor to secure the person of his debtor while the suit is pending, or to compel him to give security for his appearance after judgment; La. Civ. Code, art. 211. Acts which amount to a taking into custody are necessary to constitute an arrest; but there need be no actual force or manual touching the body: it is enough if the party be within the power of the officer and submit to the arrest; Cas. temp. Hardw. 301; 5 B. & P. 211; Buller, N. P. 62; 2 N. H. 318; 8 Dana, 190; 3 Harr. Del. 416; 1 Harp. 453; 8 Me. 127; 1 Wend. 215; 21 Ala. 240; 20 Ga. 369; 2 Blackf. 294; but mere words without submission are not sufficient; 2 Hale, Pl. Cr. 129; 13 Ark. 79; 13 Ired. 448. See, generally, 8 Dana, 190; 3 Harr. Del. 416.

Whom to be made by. It must be made by an officer having proper authority. This is,

in the United States, the sheriff, or one of his deputies, general or special (see United States Digest, *Sheriff*, and the statutes of the various states), or by a mere assistant of the officer, if he be so near as to be considered as acting, though he do not actually make the arrest; Cowp. 65.

The process of the United States courts is executed by a marshal. As to the power of the sergeant-at-arms of a legislative body to arrest for contempt or other cause, see 1 Kent, 236, and notes; Bost. Law Rep. May, 1860.

Who is liable to. All persons found within the jurisdiction are liable to arrest, with the exception of certain specified classes, including *administrators* in suits on the intestate's promises; Metc. Yelv. 63; see 1 Term, 16; *ambassadors* and their servants, 1 B. & C. 554; 3 D. & R. 25, 833; 4 Sandf. 619; *attorneys at law*; *barristers* attending court or on circuit, 1 H. Blackst. 636; see 19 Ga. 608; 1 Phila. 217; *bail* attending court as such, 1 H. Blackst. 636; 1 Maule & S. 638; *bankrupts* until the time for surrender is passed, and under some other circumstances, 8 Term, 475, 534; 2 Ben. 38; *bishops* (but not in U. S.); *consuls-general*, 9 East, 447; though doubtful, and the privilege does not extend to consuls; 1 Taunt. 106; 3 Maule & S. 284; 6 Ben. 556; *clergymen*, while performing divine service; Bacon, Abr. *Trespass*; *electors* attending a public election; *executors* sued on the testator's liability; *heirs* sued as such; *hundredors* sued as such; *insolvent debtors* lawfully discharged, 3 Maule & S. 595; 19 Pick. 260; and see 4 Taunt. 631; 5 Watts, 141; 7 Metc. Mass. 257; not when sued on subsequent liabilities or promises, 6 Taunt. 563; see 4 Harr. Del. 240; *Irish peers*, stat. 39 & 40 Geo. III. c. 67, § 4; *judges* on process from their own court, 8 Johns. 381; 1 Halst. 419; *marshal* of the King's Bench; *married women*, on suits arising from contracts, 1 Term, 486; 6 *id.* 451; 7 Taunt. 55; but the privilege may be forfeited by her conduct, 1 B. & P. 8; 5 *id.* 380; *members* of congress and the state legislatures while attending the respective assemblies to which they belong; 4 Dall. 341; 4 Day, 133; 2 Bay, 406; 3 Gratt. 237; 1 Penn. 85, 115; *militia-men* while engaged in the performance of military duty; *officers* of the army and militia, to some extent; 4 Taunt. 557; but see 8 Term, 105; 1 Dall. 295; *parties* to a suit attending court; 11 East, 439; Cox, 142; 4 Call, 97; 2 Va. Cas. 381; 4 Dall. 387; 6 Mass. 245, 264; 12 Ill. 61; 5 Rich. 523; 1 Wash. C. C. 186; 1 Pet. C. C. 41; see 1 Brev. No. C. 177; including a court of insolvency, 2 Marsh. 57; 6 Taunt. 336; 7 Ves. 312; 1 V. & B. 316; 2 Rose, 24; 5 Gray, 538; a reference, 1 Caines, 115; 1 Rich. 194; the *former president* of a foreign republic while residing in one of the U. S.; 7 Hun, 596; but a party arrested on a criminal charge, and discharged on bail, may be arrested on civil process be-

fore he leaves the court room; 73 N. C. 394; *soldiers*, 8 Dana, 190; 3 Ga. 397; *sovereigns*, including, undoubtedly, governors of the states; *the Warden of the Fleet*; *witnesses* attending a judicial tribunal; 1 Chitt. 679; 3 B. & Ald. 252; 3 East, 189; 7 Johns. 538; 4 Edw. Ch. N. Y. 557; 3 Harr. Del. 517; 72 N. L. 596; by legal compulsion, 6 Mass. 264; 9 S. & R. 147; 6 Cal. 32; 3 Cow. 381; 2 Penn. N. J. 516; see 4 T. B. Monr. 540; *women*, Wright, Ohio, 455; but see 2 Abb. N. C. 193; 13 N. Y. 1; and perhaps other classes, under local statutes. Reference must be had in many of the above cases to statutes for modifications of the privilege. In all cases where the privilege attaches in consideration of an attendance at a specified place in a certain character, it includes the stay and a reasonable time for going and returning; 2 W. Blackst. 1113; 4 Dall. 329; 2 Johns. Cas. 222; 6 Blackf. 278; 3 Harr. Del. 517; but not including delays in the way, 3 B. & Ald. 252; 4 Dall. 329; or deviations; 19 Pick. 260. And see *infra*.

Where and when it may be made. An arrest may be made in any place, except in the actual or constructive presence of court, and the defendant's own house; 4 Bla. Com. 288; 6 Taunt. 246; Cowp. 1 (*contra*, 73 N. C. 394); and even there the officer may break inner doors to find the defendant when the outer door is open; 5 Johns. 352; 17 *id.* 127; 8 Taunt. 250; Cowp. 2. See 10 Wend. 300. It cannot be made on Sunday or any public holiday; Stat. 29 Car. II. c. 7; *contra*, 6 Blackf. 447.

Discharge from arrest on mesne process may be obtained by giving sufficient bail, which the officer is bound to take; 4 Taunt. 669; 1 Bingh. 103; 3 Maule & S. 283; 6 Term, 355; 15 East, 320; but when the arrest is on final process, giving bail does not authorize a discharge.

If the defendant otherwise withdraw himself from arrest, or if the officer discharge him without authority, it is an *escape*; and the sheriff is liable to the plaintiff. See ESCAPE. If the party is withdrawn forcibly from the custody of the officer by third persons, it is a *rescue*. See RESCUE.

Extended facilities are offered to poor debtors to obtain a discharge under the statutes of most if not all of the states of the United States. In consequence, except in cases of apprehended fraud, as in the concealment of property or an intention to abscond, arrests are infrequently made. See, as to excepted cases, 19 Conn. 540; 28 Me. 45.

Generally. An unauthorized arrest, as under process materially irregular or informal; 26 N. H. 268; 6 Barb. 654; 1 Hayw. 471; 5 Ired. 72; 11 *id.* 242; 3 H. & M'H. 113; 3 Yerg. Tenn. 392; 36 Me. 366; 2 R. I. 436; 1 Conn. 40; 13 Mass. 286; see 20 Vt. 321; or process issuing from a court which has no general jurisdiction of the subject-matter; 10 Coke, 68; Stra. 711; 2 Wils. 275, 384; 10 B. & C. 28; 8 Q. B. 1020; 7 C. & P.

542; 4 Mass. 497; 1 Gray, 1; 2 Cush. 577; 4 Conn. 107; 11 *id.* 95; 1 Ill. 18; 7 Ala. 518; 2 Fla. 171; 3 Dev. 471; 4 B. Monr. 230; 21 N. H. 262; 9 Ga. 73; 37 Me. 130; 3 Cranch, 448; 1 Curt. C. C. 311; and see 5 Wend. 170; 16 Barb. 268; 5 N. Y. 381; 3 Binn. 215; but if the failure of jurisdiction be as to person, place, or process, it must appear on the warrant, to have this effect; Buller, N. P. 83; 5 Wend. 175; 3 Barb. 17; 12 Vt. 661; 6 Ill. 401; 1 Rich. 147; 2 J. J. Marsh. 44; 1 Conn. 40; 6 Blackf. 249, 344; 3 Munf. 458; 13 Mo. 171; 3 Binn. 38; 8 Metc. Mass. 326; 1 R. I. 464; 1 Mood. 281; 3. Burr. 1766; 1 W. Blackst. 555; or arrest of the wrong person; 2 Scott, N. s. 86; 1 M. & G. 775; 2 Taunt. 400; 8 N. H. 406; 4 Wend. 555; 9 *id.* 319; 6 Cow. 456; renders the officer liable for a trespass to the party arrested. See 1 Bennett & H. Lead. Crim. Cas. 180-184.

In Criminal Cases. The apprehending or detaining of the person in order to be forthcoming to answer an alleged or suspected crime.

The word *arrest* is said to be more properly used in civil cases, and *apprehension* in criminal. Thus, a man is arrested under a *capias ad respondendum*, and apprehended under a warrant charging him with larceny.

Who may make. The person to whom the warrant is addressed is the proper person in case a warrant has been issued, whether he be described by name; Salk. 176; 24 Wend. 418; 2 Ired. 201; or by his office; 1 B. & C. 288; 2 D. & R. 444; 7 Exch. 827; 6 Barb. 654. See 1 Mass. 488. But, if the authority of the warrant is insufficient, he may be liable as a trespasser. See *supra*.

Any peace officer, as a justice of the peace, 1 Hale, Pl. Cr. 86; sheriff, 1 Saund. 77; 1 Taunt. 46; coroner, 4 Bla. Com. 292; constable, 32 Eng. L. & Eq. 783; 36 N. H. 246; or watchman, 3 Taunt. 14; 3 Campb. 420; may without a warrant arrest any person committing a felony in his presence; 6 Binn. 318; Sullivan, Lect. 402; 3 Hawkins, Pl. Cr. 164; 71 Ill. 78; or committing a breach of the peace, during its continuance or immediately afterwards; 1 C. & P. 40; 4 *id.* 387; 6 *id.* 741; 32 Eng. L. & Eq. 186; 3 Wend. 384; 1 Root. Conn. 66; 2 Nott & M'C. 475; 1 Pet. C. C. 390; or even to prevent the commission; and such officer may arrest any one whom he reasonably suspects of having committed a felony, whether a felony has actually been committed or not; 3 Campb. 420; 5 Cush. 281; 6 Humphr. 53; 6 Binn. 316; 3 Wend. 350; 1 N. H. 54; whether acting on his own knowledge or facts communicated by others; 6 B. & C. 635; but not unless the offence amount to a felony; 73 Ill. 78; 1 Mood. Crim. 80; 5 Exch. 378; 5 Cush. 281; 11 *id.* 246, 415. See Russ. & R. 329. See **FELONY**.

A private person who is present when a felony is committed, 1 Mood. 93; 3 Wend. 353; 12 Ga. 293; or during the commission

of a breach of the peace; 10 C. & F. 28; 1 Cr. M. & R. 757; 25 Vt. 261; may and should arrest the felon, and may upon reasonable suspicion that the person arrested is the felon, if a felony has been committed; 4 Taunt. 34, 35; 1 Price, Exch. 525; but in defence to an action he must allege and prove the offence to have been committed; 1 M. & W. 516; 2 *id.* 477; 10 *id.* 105; 2 Q. B. 375; 11 *id.* 311; 6 C. & P. 723, 684; 2 Bingham. 523; 6 Term, 315; 6 B. & C. 638; 3 Wend. 353; 5 Cush. 281; and also that he had reasonable grounds for suspecting the person arrested; 1 Holt, 478; 3 Campb. 35; 4 Taunt. 34; 9 C. B. 141; 2 Q. B. 169; 1 Term, 493; 5 Bingham. N. C. 722; 1 Eng. L. & Eq. 566; 25 *id.* 550; 6 Barb. 84; 9 Penn. 137; 6 Binn. 316; 6 Blackf. 406; 18 Ala. 195; 6 *id.* 196; 5 Humphr. 357; 12 Pick. 324; 4 Wash. C. C. 82. And see 3 Strobb. 546; 8 W. & S. 308; 2 C. & P. 361, 565; 1 Bennett & H. Lead. Cas. 143-157; 73 Ill. 100; 66 *id.* 464. As to arrest to prevent the commission of crimes, see 2 B. & P. 260; 9 C. & P. 262. As to arrest by hue and cry, see **HUE AND CRY**. As to arrest by military officers, see 7 How. 1.

Who liable to. Any person is liable to arrest for crime, except ambassadors and their servants; 3 Mass. 197; 4 *id.* 29; 27 Vt. 762; 7 Wall. 483.

When and where it may be made. An arrest may be made at night as well as by day; and for treason, felony, breach of the peace, or generally for an indictable offence, on Sunday as well as on other days; 16 M. & W. 172; 2 E. & B. 717; 13 Mass. 547; 24 Me. 158. And the officer may break open doors even of the criminal's own house; 10 Cush. 501; 14 B. Monr. 305 (even to arrest a person therein, not the owner; 120 Mass. 190); as may a private person in fresh pursuit, under circumstances which authorize him to make an arrest; 4 Bla. Com. 293.

It must be made within the jurisdiction of the court under whose authority the officer acts; 1 Hill. N. Y. 377; 2 Cranch, 187; 8 Vt. 194; 3 Harr. Del. 416; and see 4 Maulé & S. 361; 1 B. & C. 288; and jurisdiction for this purpose can be extended to foreign countries only by virtue of treaties or express laws of those countries; 1 Bishop, Cr. Law, § 598; Wheaton, Int. Law, 177; 10 S. & R. 125; 12 Vt. 631; 1 W. & M. 66; 1 Barb. 248; 1 Park. Crim. N. Y. 108, 429. And see, as between the states of the United States, 5 How. 215; 5 Metc. Mass. 536; 4 Day, 121; R. M. Charl. 120; 2 Humphr. 258. As to arrest in a different county; 41 Ind. 181. As to what constitutes an arrest; 2 Thomp. & C. 224.

Manner of making. An officer authorized to make an arrest, whether by warrant or from the circumstances, may use necessary force; 9 Port. Ala. 195; 3 Harr. Del. 568; 24 Me. 158; 35 *id.* 472; 16 Barb. 268; 4 Cush. 60; 7 Blackf. 64; 2 Ired. 52; 4 B. & C. 596; 6 D. & R. 623; 43 Tex. 93 (but he may not strike except in self-defence); he

may kill the felon if he cannot otherwise be taken; see 7 C. & P. 140; 2 Mood. & R. 39; 73 Ill. 78; see 1 Hugh. 560; and so may a private person in making an arrest which he is *enjoined* to make; 4 Bla. Com. 293; and if the officer or private person is killed, in such case it is murder. Reading a warrant and directing the defendant to appear, is not an arrest; 82 Ill. 485. Arresting the body and exhibiting the process is enough; 50 Vt. 728.

ARREST OF JUDGMENT. In Practice. The act of a court by which the judges refuse to give judgment, because upon the face of the record it appears that the plaintiff is not entitled to it.

A motion for arrest of judgment must be grounded on some objection arising on the face of the record itself; and no defect in the evidence or irregularity at the trial can be urged in this stage of the proceedings. But any want of sufficient certainty in the indictment, as in the statement of time or place (where material), of the person against whom the offence was committed, or of the facts and circumstances constituting the offence, or otherwise, which is not aided by the verdict, is a ground for arresting the judgment. In criminal cases, an arrest of judgment is founded on exceptions to the indictment. In civil cases whatever is alleged in arrest of judgment must be such matter as would on demurrer have been sufficient to overturn the action or plea. In the applicability of the rule there is no difference between civil and criminal cases; 60 Penn. 367. Although the defendant himself omits to make any motion in arrest of judgment, the court, if on a review of the case it is satisfied that the defendant has not been found guilty of any offence in law, will of itself arrest the judgment; 1 East, 146. Where a statute upon which an indictment is founded was repealed after the finding of the indictment, but before plea pleaded, the court arrested the judgment; 18 Q. B. 761; Dears. 3. See also 8 Ad. & E. 496; 1 Russ. & R. 429; 11 Pick. 350; 21 *id.* 373; 6 Cush. 465; 12 *id.* 501. If the judgment is arrested, all the proceedings are set aside, and judgment of acquittal is given; but this will be no bar to a new indictment; Comyns, Dig. Indictment, N.

ARRESTANDIS BONIS NE DISSIPENTUR. In English Law. A writ for him whose cattle or goods, being taken during a controversy, are likely to be wasted and consumed.

ARRESTEE. In Scotch Law. He in whose hands a debt, or property in his possession, has been arrested by a regular arrestment.

If, in contempt of the arrestment, he make payment of the sum or deliver the goods arrested to the common debtor, he is not only liable criminally for breach of the arrestment, but he must pay the debt again to the arrester; Erskine, Inst. 3. 6. 6.

ARRESTER. In Scotch Law. One who sues out and obtains an arrestment of his debtor's goods or movable obligations. Erskine, Inst. 3. 6. 1.

ARRESTMENT. In Scotch Law. Securing a criminal's person till trial, or that of a debtor till he give security *judicio sisti*. The order of a judge, by which he who is debtor in a movable obligation to the arrester's debtor is prohibited to make payment or delivery till the debt due to the arrester be paid or secured. Erskine, Inst. 3. 6. 1; 1. 2. 12.

Where arrestment proceeds on a depending action, it may be loosed by the common debtor's giving security to the arrester for his debt, in the event it shall be found due; Erskine, Inst. 3. 6. 7.

ARRET (Fr.) A judgment, sentence, or decree of a court of competent jurisdiction.

The term is derived from the French law, and is used in Canada and Louisiana.

Saisie arrêt is an attachment of property in the hands of a third person. La. Code Pract. art. 209; 2 Low. C. 77; 5 *id.* 198, 218.

ARRETED (arrectatus, i. e. ad rectum vocatus).

Convened before a judge and charged with a crime.

Ad rectum malefactorem is, according to Bracton, to have a malefactor forthcoming to be put on his trial.

Imputed, or laid to one's charge; as, no folly may be *arretted* to any one under age. Bracton, l. 3, tr. 2, c. 10; Cunningham, Dict.

ARRHÆ. Money or other valuable things given by the buyer to the seller, for the purpose of evidencing the contract; earnest.

There are two kinds of arrhæ: one kind given when a contract has only been proposed; the other when a sale has actually taken place. Those which are given when a bargain has been merely proposed, before it has been concluded, form the matter of the contract, by which he who gives the arrhæ consents and agrees to lose them, and to transfer the title to them in the opposite party, in case he should refuse to complete the proposed bargain; and the receiver of arrhæ is obliged on his part to return double the amount to the giver of them in case he should fail to complete his part of the contract; Pothier, *Contr. de Vente*, n. 498. After the contract of sale has been completed, the purchaser usually gives arrhæ as evidence that the contract has been perfected. Arrhæ are therefore defined *quod ante pretium datur, et fidem fecit contractus, facti totiusque pecuniæ solvendæ*. *Id.* n. 506; Cod. 4. 45. 2.

ARRIAGE AND CARRIAGE. Services of an indefinite amount formerly exacted from tenants under the Scotch law. Bell, Dict.

ARRIER BAN. A second summons to join the lord, addressed to those who had neglected the first. A summons of the inferiors or vassals of the lord. Spelman, Gloss.

To be distinguished from *aribannum*.

ARRIERE FIEF (Fr.) An inferior fee granted out of a superior.

ARRIVE. To come to a particular place;

to reach a particular or certain place. See cases in Leake, Contr., and in Abb. Dict.; 1 Brock. 411; 2 Cush. 439; 8 B. & C. 119.

ARROGATION. The adoption of a person *sui juris*. 1 Brown, Civ. Law, 119; Dig. 1. 7. 5; Inst. 1. 11. 3.

ARSER IN LE MAIN. (Burning in the hand.) The punishment inflicted on those who received the benefit of clergy. *Termes de la Ley*.

ARSON (Lat. *ardere*, to burn). The malicious burning of the house of another. Coke, 3d Inst. 66; Bishop, Cr. L. § 415; 4 Bla. Com. 220; 2 Pick. 320; 10 Cush. 479; 7 Gratt. 619; 9 Ala. 175; 7 Blackf. 168; 1 Leach, Cr. Cas. 4th ed. 218; 51 Cal. 319; 12 Bush, 243.

The house, or some part of it, however small, must be consumed by fire; 9 C. & P. 45; 16 Mass. 105; 5 Ired. 350. The question of burning is one of fact for the jury; 1 Mood. Cr. Cas. 398; 5 Cush. 427.

It must be *another's* house; 1 Bishop, Crim. Law, § 389; but *aliter* under the N. H. statute; 51 N. H. 176; but if a man set fire to his own house with a view to burn his neighbor's, and does so, it is, at least, a great misdemeanor; 1 Hale, Pl. Cr. 568; 2 East, Pl. Cr. 1027; 5 Russ. & R. Cr. Cas. 487; W. Jones, 351; 2 Pick. 325; 34 Me. 428; 2 Nott & M'C. 36; 8 Gratt. 624; 5 B. & Ad. 27. See 1 Park. Cr. Cas. 560; 2 Johns. 105; 7 Blackf. 168.

The *house* of another must be burned, to constitute arson at common law; but the term "house" comprehends not only the very mansion-house, but all out-houses which are parcel thereof, though not contiguous to it, nor under the same roof, such as the barn, stable, cow-house, sheep-house, dairy-house, mill-house, and the like, being within the curtilage, or same common fence, as the mansion itself; 1 C. & K. 533; 14 M. & W. 181; 4 C. & P. 245; 20 Conn. 245; 16 Johns. 203; 18 *id.* 115; 3 Ired. 570; 3 Rich. 242; 5 Whart. 427; 4 Leigh, 683; 4 Call. 109. And it has also been said that the burning of a barn, though no part of the mansion, if it has corn or hay in it, is felony at common law; 1 Hale, P. C. 567; 4 C. & P. 245; 5 W. & S. 385; *contra*, 81 Ill. 565. In Massachusetts, the statute refers to the dwelling-house strictly; 16 Pick. 161; 10 Cush. 478. And see 3 Story, U. S. Laws, 19, 99. Where a prisoner set fire to his cell, in order to effect an escape, held, not arson; 18 Johns. 115; but see 1 Whart. Cr. L. § 829; 8 Call, 109; 49 Ala. 30. The burning must have been both malicious and wilful; Roscoe, Cr. Ev. 272; 2 East, Pl. Cr. 1019, 1031; 1 Bishop, Cr. L. § 259; 28 Miss. 100. And generally, if the act is proved to have been done wilfully, it may be inferred to have been done maliciously, unless the contrary is proved; 1 Russ. & R. Cr. Cas. 26. On a charge of arson for setting fire to a mill, an intent to injure or defraud the mill-owners will be conclusively inferred

from the wilful act of firing; 1 Russ. & R. Cr. Cas. 207; 1 Mood. Cr. Cas. 263; 2 B. & C. 264. But this doctrine can only arise where the act is wilful; and therefore, if the fire appears to be the result of accident, the party who is the cause of it will not be liable.

It is a felony at common law, and originally punishable with death; Coke, 3d Inst. 66; 2 East, Pl. Cr. 1015; 5 W. & S. 385; but this is otherwise, to a considerable extent, by statute; 8 Rich. So. C. 276; 4 Dev. 305; 4 Call, 109; 5 Cranch, C. C. 73. If homicide result, the act is murder; 1 Green, N. J. 361; 1 Bishop, Cr. Law, 361.

It is not an indictable offence at common law to burn one's own house to defraud insurers; 1 Whart. Cr. L. § 843; otherwise in some states by statute; 51 N. H. 176; 19 N. Y. 537; 32 Cal. 160.

ARSURA. The trial of money by heating it after it was coined. Now obsolete.

ART. A principle put in practice and applied to some art, machine, manufacture, or composition of matter. 4 Mas. 1; see act of Cong. July 8, 1870.

Copper-plate printing on the back of a bank-note is an art for which a patent may be granted; 4 Wash. C. C. 9; see, also, 1 Fisher, 133; as to "lost arts," 10 How. 477.

ART AND PART. In Scotch Law. The offence committed by one who aids and assists the commission of a crime, but who is not the principal or chief actor in its actual commission. An accessory. A principal in the second degree. Paterson, Comp.

A person may be guilty, art and part, either by giving advice or counsel to commit the crime; or by giving warrant or mandate to commit it; or by actually assisting the criminal in the execution.

In the more atrocious crimes, it seems agreed that the adviser is equally punishable with the criminal, and that, in the slighter offences, the circumstances arising from the adviser's lesser age, the jocular or careless manner of giving the advice, etc., may be received as pleas for softening the punishment.

One who gives a mandate to commit a crime, as he is the first spring of the action, seems more guilty than the person employed as the instrument in executing it.

Assistance may be given to the committer of a crime, not only in the actual execution, but previous to it, by furnishing him, with a criminal intent, with poison, arms, or other means of perpetrating it. That sort of assistance which is not given until after the criminal act, and which is commonly called abetting, though it be itself criminal, does not infer art and part of the principal crime; Erskine, Inst. 4. 4. 10.

ARTICLES (Lat. *articulus, artus*, a joint). Divisions of a written or printed document or agreement.

A specification of distinct matters agreed upon or established by authority or requiring judicial action.

The fundamental idea of an article is that of an object comprising some integral part of a complex whole. See Worcester, Dict. The term may be applied, for example, to a single complete

question in a series of interrogatories; the statement of the undertakings and liabilities of the various parties to an agreement in any given event, where several contingencies are provided for in the same agreement; a statement of a variety of powers secured to a branch of government by a constitution; a statement of particular regulations in reference to one general subject of legislation in a system of laws; and in many other instances resembling these in principle. It is also used in the plural of the subject made up of these separate and related articles, as, articles of agreement, articles of war, the different divisions generally having, however, some relation to each other, though not necessarily a dependence upon each other.

In Chancery Practice. A formal written statement of objections to the credibility of witnesses in a cause in chancery, filed by a party to the proceedings after the depositions have been taken and published.

The object of articles is to enable the party filing them to introduce evidence to discredit the witnesses to whom the objections apply, where it is too late to do so in any other manner; 1 Daniell, Ch. Pr. 957; and to apprise the party whose witnesses are objected to of the nature of the objections, that he may be prepared to meet them; 1 Daniell, Ch. Pr. 958.

Upon filing the articles, a special order is obtained to take evidence; 2 Dick. Ch. 532; which is sparingly to be granted; 1 Beam. Ord. 187.

The interrogatories must be so shaped as not to call for evidence which applies directly to facts in issue in the case; 2 Sumn. 316, 605; 3 Johns. Ch. 558; 10 Ves. Ch. 49. The objections can be taken only to the credit and not to the competency of the witnesses, 3 Atk. 643; 3 Johns. Ch. 558; and the court are to hear all the evidence read and judge of its value; 2 Ves. Ch. 219; see, generally, 1 Daniell, Ch. Pr. 959 *et seq.*; 10 Ves. Ch. 49; 19 *id.* 127; 2 Ves. & B. 267; 1 Sim. & S. 467.

In Ecclesiastical Law. A complaint in the form of a libel exhibited to an ecclesiastical court.

In Scotch Law. Matters; business. Bell, Dict.

ARTICLES OF AGREEMENT. A written memorandum of the terms of an agreement.

They may relate either to real or personal estate, or both, and if in proper form will create an equitable estate or trust such that a specific performance may be had in equity.

The instrument should contain a clear and explicit statement of the *names of the parties*, with their additions for purposes of distinction, as well as a designation as parties of the first, second, etc., part; *the subject-matter* of the contract, including the time, place, and more important details of the manner of performance; *the promises* to be performed by each party; *the date*, which should be truly stated. It should be signed by the parties or their agents. When signed by an agent, the

proper form is, A B, by his agent [or attorney], C D.

ARTICLES APPROBATORY. In Scotch Law. That part of the proceedings which corresponds to the answer to the charge in an English bill in chancery; Paterson, Comp.

ARTICLES OF CONFEDERATION. The title of the compact which was made by the thirteen original states of the United States of America.

The full title was "Articles of Confederation and perpetual union between the states of New Hampshire, Massachusetts Bay, Rhode Island and Providence Plantations, Connecticut, New York, New Jersey, Pennsylvania, Delaware, Maryland, Virginia, North Carolina, South Carolina, and Georgia." It was adopted and went into force on the first day of March, 1781, and remained as the supreme law until the first Wednesday of March, 1789; 5 Wheat. 420.

The accompanying analysis of this important instrument is copied from Judge Story's Commentaries on the Constitution of the United States, book 2, c. 3.

The style of the confederacy was, by the first article, declared to be, "The United States of America." The second article declared that each state retained its sovereignty, freedom, and independence, and every power, jurisdiction, and right which was not by this confederation expressly delegated to the United States, in congress assembled. The third article declared that the states severally entered into a firm league of friendship with each other, for their common defence, the security of their liberties, and their mutual and general welfare; binding themselves to assist each other against all force offered to or attacks made upon them, or any of them, on account of religion, sovereignty, trade, or any other pretence whatever. The fourth article declared that the free inhabitants of each of the states (vagrabonds and fugitives from justice excepted) should be entitled to all the privileges of free citizens in the several states; that the people of each state should have free ingress and regress to and from any other state, and should enjoy all the privileges of trade and commerce, subject to the same duties and restrictions as the inhabitants; that fugitives from justice should, upon the demand of the executive of the state from which they fled, be delivered up; and that full faith and credit should be given, in each of the states, to the records, acts, and judicial proceedings of the courts and magistrates of every other state.

Having thus provided for the security and intercourse of the states, the next article (5th) provided for the organization of a general congress, declaring that delegates should be chosen in such manner as the legislature of each state should direct; to meet in congress on the first Monday in every year, with a power, reserved to each state, to recall any or all of the delegates, and to send others in their stead. No state was to be represented in congress by less than two nor more than seven members. No delegate was eligible for more than three in any term of six years; and no delegate was capable of holding office of emolument under the United States. Each state was to maintain its own delegates, and, in determining questions in congress, was to have one vote. Freedom of speech and de-

bate in congress was not to be impeached or questioned in any other place; and the members were to be protected from arrest and imprisonment during the time of their going to and from and attendance on congress, except for treason, felony, or breach of the peace.

By subsequent articles, congress was invested with the sole and exclusive right and power of determining on peace and war, unless in case of an invasion of a state by enemies, or an imminent danger of an invasion by Indians; of sending and receiving ambassadors; entering into treaties and alliances, under certain limitations as to treaties of commerce; of establishing rules for deciding all cases of capture on land and water, and for the division and appropriation of prizes taken by the land or naval forces, in the service of the United States; of granting letters of marque and reprisal in times of peace; of appointing courts for the trial of piracies and felonies committed on the high seas; and of establishing courts for receiving and finally determining appeals in all cases of captures.

Congress was also invested with power to decide in the last resort, on appeal, all disputes and differences between two or more states concerning boundary, jurisdiction, or any other cause whatsoever; and the mode of exercising that authority was specially prescribed. And all controversies concerning the private right of soil, claimed under different grants of two or more states before the settlement of their jurisdiction, were to be finally determined in the same manner, upon the petition of either of the grantees. But no state was to be deprived of territory for the benefit of the United States.

Congress was also invested with the sole and exclusive right and power of regulating the alloy and value of coin struck by their own authority, or that of the United States; of fixing the standard of weights and measures throughout the United States; of regulating the trade and managing all affairs with the Indians, not members of any of the states, provided that the legislative right of any state within its own limits should not be infringed or violated; of establishing and regulating post-offices from one state to another, and exacting postage to defray the expenses; of appointing all officers of the land forces in the service of the United States, except regimental officers; of appointing all officers of the naval forces, and commissioning all officers whatsoever in the service of the United States; and of making rules for the government and regulation of the land and naval forces, and directing their operations.

Congress was also invested with authority to appoint a committee of the states to sit in the recess of congress, and to consist of one delegate from each state, and other committees and civil officers, to manage the general affairs under their direction; to appoint one of their number to preside, but no person was to serve in the office of president more than one year in the term of three years; to ascertain the necessary sums for the public service, and to appropriate the same for defraying the public expenses; to borrow money and emit bills on credit of the United States; to build and equip a navy; to agree upon the number of land forces, and make requisitions upon each state for its quota, in proportion to the number of white inhabitants in such state. The legislatures of each state were to appoint the regimental officers, raise the men, and clothe, arm, and equip them at the expense of the United States.

Congress was also invested with power to adjourn for any time not exceeding six months, and to any place within the United States; and

provision was made for the publication of its journal, and for entering the yeas and nays thereon when desired by any delegate.

Such were the powers confided in congress. But even these were greatly restricted in their exercise; for it was expressly provided that congress should never engage in a war; nor grant letters of marque or reprisal in time of peace; nor enter into any treaties or alliances; nor coin money or regulate the value thereof; nor ascertain the sums or expenses necessary for the defence and welfare of the United States; nor emit bills; nor borrow money on the credit of the United States; nor appropriate money; nor agree upon the number of vessels of war to be built, or purchased, or the number of land or sea forces to be raised; nor appoint a commander-in-chief of the army or navy; unless nine states should assent to the same. And no question on any other point, except for adjourning from day to day, was to be determined, except by vote of the majority of the states.

The committee of the states, or any nine of them, were authorized in the recess of congress to exercise such powers as congress, with the assent of nine states, should think it expedient to vest them with, except powers for the exercise of which, by the articles of confederation, the assent of nine states was required, which could not be thus delegated.

It was further provided that all bills of credit, moneys borrowed, and debts contracted by or under the authority of congress before the confederation, should be a charge against the United States; that when land forces were raised by any state for the common defence, all officers of or under the rank of colonel should be appointed by the legislature of the state, or in such manner as the state should direct; and all vacancies should be filled up in the same manner; that all charges of war, and all other expenses for the common defence or general welfare, should be defrayed out of a common treasury, which should be supplied by the several states, in proportion to the value of the land within each state granted or surveyed, and the buildings and improvements thereon, to be estimated according to the mode prescribed by congress; and the taxes for that proportion were to be laid and levied by the legislatures of the states within the time agreed upon by congress.

Certain prohibitions were laid upon the exercise of powers by the respective states. No state, without the consent of the United States, could send an embassy to, or receive an embassy from, or enter into any treaty with, any king, prince, or state; nor could any person holding any office under the United States, or any of them, accept any present, emolument, office, or title from any foreign king, prince, or state; nor could congress itself grant any title of nobility. No two states could enter into any treaty, confederation, or alliance with each other, without the consent of congress. No state could lay any imposts or duties which might interfere with any proposed treaties. No vessels of war were to be kept up by any state in time of peace, except deemed necessary by congress for its defence or trade; nor any body of forces, except as should be deemed requisite by congress to garrison its forts and necessary for its defence. But every state was required always to keep up a well-regulated and disciplined militia, sufficiently armed and accoutred, and to be provided with suitable field-pieces, and tents, and arms, and ammunition, and camp equipage. No state could engage in war without the consent of congress, unless actually invaded by enemies or in danger of invasion by the Indians. Nor could any state

grant commissions to any ships of war, nor letters of marque and reprisal, except after a declaration of war by congress, unless such state were infested by pirates, and then subject to the determination of congress. No state could prevent the removal of any property imported into any state to any other state, of which the owner was an inhabitant. And no imposition, duties, or restriction could be laid by any state on the property of the United States or of either of them.

There was also provision made for the admission of Canada into the Union, and of other colonies, with the assent of nine states. And it was finally declared that every state should abide by the determinations of congress on all questions submitted to it by the confederation; that the articles should be inviolably observed by every state; that the union should be perpetual; and that no alterations should be made in any of the articles, unless agreed to by congress and confirmed by the legislatures of every state.

ARTICLES OF IMPEACHMENT. A written articulate allegation of the causes for impeachment.

They are called by Blackstone a kind of bills of indictment, and perform the same office which an indictment does in a common criminal case. They do not usually pursue the strict form and accuracy of an indictment, but are sometimes quite general in the form of the allegations. Wooddeson, Lect. 605; Comyns. Dig. *Parliament* (L. 21); Story, Const. § 807 *et seq.*; Com. Dig. *Parliament*, L. 21; Foster, Cr. L. 389. They should, however, contain so much certainty as to enable a party to put himself on the proper defence, and in case of an acquittal to avail himself of it as a bar to another impeachment. Additional articles may perhaps be exhibited at any stage of the proceedings; Rawle, Const. 216.

The answer to articles of impeachment need not observe great strictness of form; and it may contain arguments as well as facts. It is usual to give a full and particular answer to each article of the accusation; Story, Const. § 810; Jeff. Man. § 53.

ARTICLES IMPROBATORY. In Scotch Law Articulate averments setting forth the facts relied upon. Bell, Dict.

That part of the proceedings which corresponds to the charge in our English bill in chancery to set aside a deed. Paterson, Comp. The answer is called articles approbatory.

ARTICLES OF PARTNERSHIP. A written agreement by which the parties enter into a partnership upon the conditions there- in mentioned.

These are to be distinguished from agreements to enter into a partnership at a future time. By articles of partnership a partnership is actually established; while an agreement for a partnership is merely a contract, which may be taken advantage of in a manner similar to other contracts. Where an agreement to enter into a partnership is broken, an action lies *at law* to recover damages; and *equity*, in some cases, to prevent frauds or manifestly mischievous consequences, will enforce specific performance; Story, Partn. § 109; 3 Atk. 383; 1 Swanst. 513, n.; Lind. Partn. *914; 17 Beav. 294; but not when the partnership may be immediately dissolved; 9 Ves. Ch. 360. Specific performance was decreed in 40 Miss. 483; 5 Munf. 492; and refused in 4 Md. 60. See 8 Beav. 129; 30 *id.* 376.

The instrument should contain *the names of*

the contracting parties severally set out; the *agreement* that the parties do by the instrument enter into a partnership, expressed in such terms as to distinguish it from a covenant to enter into partnership at a subsequent time; the *date*, and necessary *stipulations*, some of the more common of which follow.

The *commencement* of the partnership should be expressly provided for. The date of the articles is the time, when no other time is fixed by them; 5 B. & C. 108; Lindl. Part. 831; if not dated, parol evidence is admissible to show that they were not intended to take effect at the date of their execution; 17 C. B. 625.

The *duration* of the partnership should be stated. It may be for life, for a limited period of time, or for a limited number of adventures. When a term is fixed, it endures until that period has elapsed; when no term or limitation is fixed, the partnership may be dissolved at the will of either partner; 17 Ves. 298; 3 Ross. L. C. Com. Law, 611; 51 Ind. 478; 4 Col. 567; 76 N. Y. 373; Lindl. Partn. *220. The duration will not be presumed to be beyond the life of all the partners; 1 Swanst. 521; but provision may be made for the succession of the executors or administrators or a child or children of a deceased partner to his place and rights; 2 How. 560; 8 Am. L. Rev. 641; 12 La. Ann. 626; 9 Ves. Ch. 500. Where a provision is made for a succession by appointment, and the partner dies without appointing, his executors or administrators may continue the partnership or not, at their option; 1 M'Cl. & Y. 579; Colly. Ch. 157. A continuance of the partnership beyond the period fixed for its termination, in the absence of circumstances showing intent, will be implied to be upon the basis of the old articles; 5 Mas. 176, 185; 15 Ves. Ch. 218; 1 Moll. Ch. 466; but it will be considered as at will, and not as renewed for a further definite period; 17 Ves. 307.

The *nature* of the business and the *place* of carrying it on should be very carefully and exactly specified. Courts of equity will grant an injunction when one or more of the partners attempt, against the wishes of one or more of them, to extend such business beyond the provision contained in the articles; Story, Partn. § 193; Lindl. Partn. *600, *830; 32 N. H. 9; 4 Johns. Ch. 573.

The *name* of the firm should be ascertained. The members of the partnership are required to use the name thus agreed upon, and a departure from it will make them individually liable to third persons or to their partners, in particular cases; Lindl. Partn. *832; 2 Jac. & W. 266; 9 Ad. & E. 314; 11 *id.* 339; Story, Partn. §§ 102, 136, 142, 202.

The *management* of the business, or of some particular branch of it, is frequently intrusted by stipulation to one partner, and such partner will be protected in his rights by equity; Story, Partn. §§ 172, 182, 193, 202; and see La. Civ. Code, art. 2838-2840; Pothier,

Société, n. 71; Dig. 14, 1, 1, 13; Pothier, Pand. 14, 1, 4; or it may be to a majority of the partners, and should be where they are numerous. See PARTNERS.

The manner of furnishing capital and stock should be provided for. When a partner is required to furnish his proportion of the stock at stated periods, or pay by instalments, he will, where there are no stipulations to the contrary, be considered a debtor to the firm; Story, Part. § 203; 1 Swanst. 89. As to the fulfilment of some conditions precedent by a partner, such as the payment of so much capital, etc., see Lindl. Partn. *834; 1 Wms. Saund. 320, a. Sometimes a provision is inserted that real estate and fixtures belonging to the firm shall be considered, as between the partners, not as partnership but as several property. In cases of bankruptcy, this property will be treated as the separate property of the partners; Collyer, Partn. 141, 595, 600; 5 Ves. 189; 3 Madd. 63.

The apportionment of profits and losses should be provided for. The law distributes these equally, in the absence of controlling circumstances, without regard to the capital furnished by each; Watson, Partn. 59; Story, Partn. 24; 3 Kent, 28; 6 Wend. 263. But see 7 Bligh, 432; 5 Wils. & S. 16.

Periodical accounts of the property of the partnership may be stipulated for. These, when settled, are at least *prima facie* evidence of the facts they contain; 7 Sim. 239. It is proper to stipulate that an account settled shall be conclusive; Lindl. Partn. *839.

The *expulsion* of a partner for gross misconduct, bankruptcy, or other specified causes may be provided for; and the provision will govern, when the case occurs; see 10 Hare, 493; L. R. 9 Ex. 190.

A *settlement* of the affairs of the partnership should always be provided for. It is generally accomplished in one of the three following ways: *first*, by turning all the assets into cash, and, after paying all the liabilities of the partnership, dividing such money in proportion to the several interests of the parties; or, *second*, by providing that one or more of the partners shall be entitled to purchase the shares of the others at a valuation; 20 Beav. 442; or, *third*, that all the property of the partnership shall be appraised, and that after paying the partnership debts it shall be divided in the proper proportions. The first of these modes is adopted by courts of equity in the absence of express stipulations; Lindl. Partn. *847; Story, Partn. § 207; 8 Sim. 529; but see 6 Madd. 146; 3 Hare, 581.

Submission of disputes to arbitration is provided for frequently, but such a clause is nugatory, as no action will lie for a breach; Story, Partn. § 215; and (except in England, under Com. L. Proc. Act, 1854) it is no defence to an action relative to the matter to be referred. See Lindl. Partn. *868 *et seq.*

The article should be executed by the parties, but need not be under seal. See PARTIES; PARTNERS; PARTNERSHIP.

ARTICLES OF THE PEACE.

A complaint made before a court of competent jurisdiction by one who has just cause to fear that an injury to his person or property is about to be committed or caused by the party complained of, alleging the causes of his belief, and asking the protection of the court.

The object of articles is to compel the party complained of to find sureties of the peace. This will be granted when the articles are on oath; 1 Str. 527; 12 Mod. 243; 12 Ad. & E. 599; unless the articles on their face are false; 2 Burr. 806; 3 *id.* 1922; or are offered under suspicious circumstances; 2 Str. 835; 1 W. Blackst. 233. Their truth cannot be controverted by affidavit or otherwise; but exception may be taken to their sufficiency, or affidavits for reduction of the amount of bail tendered; 2 Str. 1202; 13 East, 171.

ARTICLES OF ROUP. In Scotch Law. The conditions under which property is offered for sale at auction. Paterson, Comp.

ARTICLES OF SET. In Scotch Law. An agreement for a lease. Paterson, Comp.

ARTICLES OF WAR. The code of laws established for the government of the army.

The term is used in this sense both in England and the United States. The term also includes the code established for the government of the navy. See Rev. Stat. U. S. (1878) § 1342, as to the army, and § 1624, as to the navy; and 22 Geo. II. c. 33; 19 Geo. III. c. 17; 37 Geo. III. cc. 70, 71; 47 Geo. III. c. 71; MARTIAL LAW.

ARTICULATE ADJUDICATION. In Scotch Law. Separate adjudication for each of several claims of a creditor.

It is so made in order that a mistake in accumulating one debt need not affect the proceedings on other claims which are correctly accumulated.

ARTIFICIAL. Having its existence in the given manner by virtue of or in consideration only of the law.

Artificial person. A body, company, or corporation considered in law as an individual.

ARURA. Days' work at ploughing.

AS (Lat.). A pound.

It was composed of twelve ounces. The parts were reckoned (as may be seen in the law, *Servum de hereditibus*, Inst. lib. xiii. *Pandect*) as follows: *uncia*, 1 ounce; *sextans*, 2 ounces; *triens*, 3 ounces; *quadrans*, 4 ounces; *quincunx*, 5 ounces; *semis*, 6 ounces; *septunx*, 7 ounces; *bes*, 8 ounces; *dostrans*, 9 ounces; *destrans*, 10 ounces; *deunx*, 11 ounces.

The whole of a thing; *solidum quid*.

Thus, as signified the whole of an inheritance: so that an heir *ex asse* was an heir of the whole inheritance. An heir *ex triente*, *ex semisse*, *ex besse*, *ex deunce*, was an heir of one-third, one-half, two-thirds, or eleven-twelfths.

ASCENDANTS (Lat. *ascendere*, to ascend, to go up to, to climb up to). Those from whom a person is descended, or from

whom he derives his birth, however remote they may be.

Every one has two ascendants at the first degree, his father and mother; four at the second degree, his paternal grandfather and grandmother, and his maternal grandfather and grandmother; eight at the third. Thus, in going up we ascend by various lines, which fork at every generation. By this progress sixteen ascendants are found at the fourth degree; thirty-two, at the fifth; sixty-four, at the sixth; one hundred and twenty-eight, at the seventh, and so on. By this progressive increase, a person has at the twenty-fifth generation thirty-three million five hundred and fifty-four thousand four hundred and thirty-two ascendants. But, as many of the ascendants of a person have descended from the same ancestor, the lines which were forked reunite to the first common ancestor, from whom the other descends; and this multiplication, thus frequently interrupted by the common ancestors, may be reduced to a few persons.

ASCRIPTITIUS. One enrolled; foreigners who have been enrolled. Among the Romans, ascriptitii were foreigners who had been naturalized, and who had in general the same rights as natives. Nov. 22, c. 17; Cod. 11. 47. *Ascriptitii* is the plural.

ASPHYXY. In Medical Jurisprudence. Suspended animation produced by non-conversion of the venous blood of the lungs into arterial; swooning; fainting.

This term applies to the situation of persons who have been asphyxiated by submersion or drowning; by breathing mephitic gas; by the effect of lightning; by the effect of cold; by heat; by suspension or strangulation. In a legal point of view, it is always proper to ascertain whether the person who has thus been deprived of his senses is the victim of another, whether the injury has been caused by accident, or whether it is the act of the sufferer himself.

ASPORTATION (Lat. *asportatio*). The act of carrying a thing away; the removing a thing from one place to another.

ASSASSINATION. Murder committed for hire, without provocation or cause of resentment given to the murderer by the person upon whom the crime is committed. Erskine, Inst. b. 4, t. 4, n. 45.

A murder committed treacherously, with advantage of time, place, or other circumstances.

ASSAULT. An unlawful offer or attempt with force or violence to do a corporeal hurt to another.

Force unlawfully directed or applied to the person of another under such circumstances as to cause a well-founded apprehension of immediate peril.

Aggravated assault is one committed with the intention of committing some additional crime. *Simple assault* is one committed with no intention to do any other injury.

Assault is generally coupled with battery, and for the excellent practical reason that they generally go together; but the assault is rather the initiation or offer to commit the act of which the battery is the consummation. An assault is included in every battery; 1 Hawk. Pl. Cr. c. 62, § 1.

Where a person is only *assaulted*, still the form

of the declaration is the same as where there has been a *battery*, "that the defendant assaulted, and beat, bruised, and wounded the plaintiff;" 1 Saund. 6th ed. 14 a. The word "ill-treated" is frequently inserted; and if the assaulting and ill-treating are justified in the plea, although the beating, bruising, and wounding are not, yet it is held that the plea amounts to a justification of the battery; 7 Taunt. 689; 1 J. B. Moore, 420. So where the plaintiff declared, in trespass, for assaulting him, seizing and laying hold of him, and imprisoning him, and the defendant pleaded a justification under a writ of *habeas corpus*, it was held, that the plea admitted a battery; 3 M. & W. 28. But where in trespass for assaulting the plaintiff, and throwing water upon him, and also wetting and damaging his clothes, the defendant pleaded a justification as to assaulting the plaintiff and wetting and damaging his clothes, it was held, that, though the declaration alleged a battery, yet the matter justified by the plea did not amount to a battery; 8 Ad. & E. 602; 3 Nev. & P. 564.

Any act causing a well-founded apprehension of immediate peril from a force already partially or fully put in motion is an assault; 4 C. & P. 349; 9 *id.* 483, 626; 110 Mass. 407; 1 Ired. 125, 375; 11 *id.* 475; 1 S. & R. 347; 3 Strobb. 137; 9 Ala. 79; 2 Wash. C. C. 435; unless justifiable. But if justifiable, then it is not necessarily either a battery or an assault. Whether the act, therefore, in any particular case is an assault and battery, or a gentle imposition of hands, or application of force, depends upon the question whether there was justifiable cause. If, therefore, the evidence fails to show the act to have been unjustifiable, or leaves that question in doubt, the criminal act is not proved, and the party charged is entitled to an acquittal; 2 Metc. Mass. 24, 25; 1 Gray, 63, 64.

If a master takes indecent liberties with a female scholar, without her consent, though she does not resist, it is an assault; R. & R. Cr. Cas. 130; 6 Cox, Cr. Cas. 64; 9 C. & P. 722. So, if a medical practitioner unnecessarily strips a female patient naked, under the pretence that he cannot otherwise judge of her illness, it is an assault, if he assisted to take off her clothes; 1 Moody, 19; 1 Lew. 11. Where a medical man had connection with a girl fourteen years of age, under the pretence that he was thereby treating her medically for the complaint for which he was attending her, she making no resistance solely from the *bonâ fide* belief that such was the case, it was held that he was properly convicted of an assault; 1 Den. Cr. Cas. 580; 4 Cox, Cr. Cas. 220; Templ. & M. 218. But an attempt to commit the misdemeanor of having carnal knowledge of a girl between ten and twelve years old, is not an assault, by reason of the consent of the girl; 8 C. & P. 574, 589; 9 *id.* 213; 2 Mood. 123; 7 Cox, Cr. Cas. 145. And see 1 Den. Cr. Cas. 377; 2 C. & K. 957; 3 Cox, Cr. Cas. 266. One is guilty of assault and battery who delivers to another a thing to be eaten, knowing that it contains a foreign substance and concealing the fact, if the other, in ignorance, eats it and is injured; 114 Mass. 203; but see 2 Mood. & R. 531; 2 C. & K. 912;

1 Cox, Cr. Cas. 281. An unlawful imprisonment is also an assault; 1 Hawk. Pl. Cr. c. 62, § 1. A negligent attack may be an assault; Whart. Cr. L. § 603. See Steph. Dig. Cr. L. § 241.

ASSAY. The proof or trial of the purity or fineness of metals,—particularly the precious metals, gold and silver.

By this proof the amount of pure metal in any homogeneous mass is ascertained. In the case of gold, the base metals, such as copper or tin, are removed by a method called *cupellation*, which is conducted in an assay-furnace, in a cupel, or little cup composed of calcined bones. To the other metals lead is added,—this metal possessing the properties of oxidizing and vitrifying under the action of heat, of promoting, at the same time, the oxidation of any of the base metals which may be present, and of drawing such metals with it into the pores of the cupel, and thus leaving behind the gold only, together with any amount of silver which may be present. The silver is separated from the gold by another process, founded on the property possessed by nitric acid of dissolving silver without acting upon gold.

The assay of silver is generally made by a method called the *humid assay*. The silver is dissolved in nitric acid, and a solution of common salt in water is added, by which the silver is precipitated in the form of a white powder, which is an insoluble chloride. It has been ascertained that one hundred parts, by weight, of pure salt will convert into chloride of silver just one hundred and eighty-four and one-fourth parts of pure silver. From this theorem the fineness of the specimen operated upon is deduced from the quantity of salt used to convert into chloride a given amount of silver.

Assays at the mint are for two purposes. 1. To determine the value of the deposits of gold and of silver. 2. To ascertain whether the ingots prepared for coinage are of the legal standard of fineness. The standard gold of the United States is so constituted that in one thousand parts, by weight, nine hundred shall be of pure gold and one hundred of an alloy composed of silver and copper. The standard silver of the United States is composed of nine hundred parts of pure silver and one hundred of copper. See ANNUAL ASSAY.

ASSAY OFFICE. An establishment, or department, in which the manipulations attending the assay of bullion and coins are conducted. See ASSAY.

Assay offices are established (R. S. (1878) § 3495 *et seq.*) at New York, Boise City, Idaho, and Charlotte, North Carolina. Sec. 3853 provides that the business of the United States assay office at New York shall be in all respects similar to that of the mints, except that bars only, and not coin, shall be manufactured therein; and no metals shall be purchased for minor coinage. All bullion intended

by the depositor to be converted into coins of the United States, and silver bullion purchased for coinage, when assayed, parted, and refined, and its net value certified, shall be transferred to the mint at Philadelphia, under such directions as shall be made by the Secretary of the Treasury, at the expense of the contingent fund of the mint, and shall be there coined, and the proceeds returned to the assay office.

Sec. 3558 provides that the business of the mint of the United States at Denver, while conducted as an assay office, that of the United States assay office at Boise City, and that of any other assay offices hereafter established, shall be confined to the receipt of gold and silver bullion, for melting and assaying, to be returned to depositors of the same, in bars, with the weight and fineness stamped thereon.

The assay office is also subject to the laws and regulations applied to the mint. R. S. (1878) § 3562.

ASSECURARE (Lat.). To assure; to make secure by pledges, or any solemn interposition of faith. Spelman, Gloss.; Cowel.

ASSECURATION. In European Law. Assurance; insurance of a vessel, freight, or cargo. Opposition to the decree of Grenoble. Ferriere.

ASSECURATOR. An insurer.

ASSEDATION. In Scotch Law. An old term, used indiscriminately to signify a lease or feu-right. Bell's Dict.; Erskine, Inst. lib. 2, tit. 6, § 20.

ASSEMBLY. The meeting of a number of persons in the same place.

Political assemblies are those required by the constitution and laws: for example, the general assembly, which includes the senate and house of representatives. The meeting of the electors of the president and vice-president of the United States may also be called an assembly.

Popular assemblies are those where the people meet to deliberate upon their rights: these are guaranteed by the constitution. U. S. Const. Amend. art. 1.

Unlawful assembly is the meeting of three or more persons to do an unlawful act, although they may not carry their purpose into execution.

It differs from a riot or rout, because in each of the latter cases there is some act done besides the simple meeting; see 1 Ired. 30; 9 C. & P. 91, 431; 5 *id.* 154; 1 Bishop, Cr. Law, § 535; 2 *id.* §§ 1256, 1259.

ASSENT. Approval of something done. An undertaking to do something in compliance with a request.

In strictness, *assent* is to be distinguished from *consent*, which denotes a willingness that something about to be done, be done; *acceptance*, compliance with, or receipt of, something offered; *ratification*, rendering valid something done without authority; and *approval*, an expression of satisfaction with some act done for the benefit of another beside the party approving. But in practice the term is often used in the sense of accep-

tance and approval. Thus, an offer is said to be assented to, although properly an offer and acceptance complete an agreement. It is apprehended that this confusion has arisen from the fact that a request, assent, and concurrence of the party requesting complete a contract as fully as an offer and acceptance. Thus, it is said there must be a request on one side, and assent on the other, in every contract; 5 Bingham, N. C. 75; and this assent becomes a promise enforceable by the party requesting, when he has done any thing to entitle him to the right. Assent thus becomes in reality (so far as it is assent merely, and not acceptance) an offer made in response to a request. Assent and approval, as applied to acts of parliament and of congress, have become confounded, from the fact that the bills of parliament were originally requests from parliament to the king; see 1 Bla. Com. 183.

Express assent is that which is openly declared. *Implied assent* is that which is presumed by law.

Unless express dissent is shown, acceptance of what it is for a person's benefit to take, is presumed, as in the case of a conveyance of land; 2 Vent. 201; 3 Mod. 296; 3 Lev. 284; 3 B. & Ald. 31; 1 Binn. 502; 5 S. & R. 523; 14 *id.* 296; 12 Mass. 461; 2 Hayw. 234; 4 Day, 395; 20 Johns. 184; 15 Wend. 656; 4 Halst. 161; 6 Vt. 411; as to the effect of assent (or acceptance) of the grantee upon the delivery of a deed by a person other than the grantor, see 9 Mass. 307; 8 Metc. Mass. 436; 9 Ill. 176; 5 N. H. 71; 4 Day, 66; 20 Johns. 187; 2 Ired. Eq. 557; 5 B. & C. 671; 1 Ohio, pt. 2, 50; 2 Washb. R. P. 579; or in case of a devise which draws after it no charge or risk of loss; 17 Mass. 73; 3 Munf. 345; 4 *id.* 332; 8 Watts, 9. See 1 Wash. C. C. 70.

Assent must be to the same thing done or offered in the same sense; 1 Sumn. C. C. 218; 3 Johns. 534; 7 *id.* 470; 18 Ala. 605; 3 Cal. 147; 4 Wheat. 225; 5 M. & W. 575; it must comprehend the whole of the proposition, must be exactly equal to its extent and provisions, and must not qualify them by any new matter; 5 M. & W. 535; 4 *id.* 155; 4 Whart. 369; 3 Wend. 459; 11 N. Y. 441; 1 Metc. Mass. 93; 1 Parsons, Contr. 400.

In general, when an assignment is made to one for the benefit of creditors, the assent of the assignee will be presumed; 1 Binn. 502, 518; 6 W. & S. 339; 8 Leigh, 272, 281. But see 24 Wend. 280.

ASSESS. To rate or fix the proportion which every person has to pay any particular tax.

To tax.

To adjust the shares of a contribution by several towards a common beneficial object according to the benefit received.

To fix the value of; to fix the amount of.

ASSESSMENT. Determining the value of a man's property or occupation for the purpose of levying a tax.

Determining the share of a tax to be paid by each individual.

Laying a tax.

Adjusting the shares of a contribution by

several towards a common beneficial object according to the benefit received.

The term is used in this latter sense in New York, distinguishing some kinds of local taxation, whereby a peculiar benefit arises to the parties, from general taxation; 11 Johns. 77; 3 Wend. 263; 4 Hill, 76; 4 N. Y. 419.

Of Damages. Fixing the amount of damages to which the prevailing party in a suit is entitled.

It may be done by the court through its proper officer, the clerk or prothonotary, where the assessment is a mere matter of calculation, but must be by a jury in other cases. See DAMAGES.

In Insurance. An apportionment made in general average upon the various articles and interests at risk, according to their value at the time and place of being in safety, for contribution for damage and sacrifices purposely made, and expenses incurred for escape from impending common peril; 2 Phillips, Ins. c. xv.

It is also made upon premium-notes given by the members of mutual fire-insurance companies, constituting their capital, and being a substitute for the investment of the paid-up stock of a stock company; the liability to such assessments being regulated by the charter and the by-laws; May, Ins. § 549; 14 Barb. 374; 21 *id.* 605; 12 N. Y. 477; 9 Cush. 140; 3 Gray, 208, 210; 6 *id.* 77, 288; 13 Minn. 135; 36 N. H. 252; 15 Abb. Pr. 66. The right to assess is strictly construed, the notes being merely conditional promises to pay; 40 Mo. 39; 19 Iowa, 502; 23 Barb. 656; May, Ins. § 557.

ASSESSORS. Those appointed to make assessments.

In Civil and Scotch Law. Persons skilled in law, selected to advise the judges of the inferior courts. Bell, Dict.; Dig. 1. 22; Cod. 1. 51.

ASSETS (Fr. *assez*, enough).

All the stock in trade, cash, and all available property belonging to a merchant or company.

The property in the hands of an heir, executor, administrator, or trustee, which is legally or equitably chargeable with the obligations which such heir, executor, administrator, or other trustee is, as such, required to discharge.

Assets enter mains. Assets in hand. Such property as at once comes to the executor or other trustee, for the purpose of satisfying claims against him as such. *Termes de la Ley.*

Equitable assets. Such as can be reached only by the aid of a court of equity, and which are to be divided, *pari passu*, among all the creditors; 2 Fonblanque, 401 *et seq.*; Willis, Trust. 118.

Legal assets. Such as constitute the fund for the payment of debts according to their legal priority.

Assets per descent. That portion of the

ancestor's estate which descends to the heir, and which is sufficient to charge him, as far as it goes, with the specialty debts of his ancestors; 2 Williams, Ex. 1011.

Personal assets. Goods and personal chattels to which the executor or administrator is entitled.

Real assets. Such as descend to the heir, as, an estate in fee simple.

In the United States, generally, by statute, all the property of the deceased, real and personal, is liable for his debts, and, in equity, is to be applied as follows, when no statute prescribes a different order of application, exhausting all the assets of each class before proceeding to the next: *First*, the personal estate not specifically bequeathed; *second*, real estate devised or ordered to be sold for the payment of debts; *third*, real estate descended but not charged with debts; *fourth*, real estate devised, charged generally with the payment of debts; *fifth*, general pecuniary legacies pro rata; *sixth*, real estate devised, not charged with debts; 4 Kent, 421; 2 W. & T. Lead. Cas. 72.

With regard to the distinction between realty and personalty in this respect, growing crops go to the administrator; 7 Mass. 34; 6 N. Y. 597; so do nurseries, though not trees in general; 1 Metc. Mass. 423; 4 Cush. 380; as do bricks in a kiln; 22 Pick. 110; so do buildings held as personal property by consent of the land-owner; 9 Gill & J. 171; so do chattels real, as interests for years and mortgages; and hence the administrator must bring the action if the mortgagor die before foreclosing; 3 A. K. Marsh. 249; so does rent, provided the intestate dies before it is due. Fixtures go to the heir; 2 Smith, Lead. Cas. 99; 11 H. & G. 114; 2 Pet. 137; 6 Me. 167; 20 Wend. 628; 9 Conn. 67. And see FIXTURES as to what are fixtures. In copyrights and patents the administrator has right enough to get them extended and beyond the customary time; 4 How. 646, 712. The wife's paraphernalia he cannot take from her, in England, for the benefit of the children and heirs, but he may for that of creditors. In the United States, generally, the wearing-apparel of widows and minors is retained by them, and is not assets. So among things reserved is the widow's quarantine, *i.e.* forty days of food and clothing; 5 N. H. 495; 10 Pick. 430. In Pennsylvania, a statute gives the widow and children \$300 for their support in preference even to creditors.

Where the assets consist of two or more funds, and at law a part of the creditors can resort to either fund, but the others can resort to one only, courts of equity exercise the authority to marshal (as it is called) the assets, and by compelling the more favored creditors to exhaust first the fund upon which they have the exclusive claim, or, if they have been satisfied without the observance of this rule, by permitting the others to stand in their place, thus enable such others to receive more complete satisfaction; 1 Story, Eq. Jur. §

558 *et seq.*; Adams, Eq. 263, 590; Williams, Exec. 1457; 4 Johns. Ch. 17; 1 P. Will. 679; 1 Ves. Ch. 312; 5 Cranch, 35; 1 Johns. Ch. 412; 19 Ga. 513; 1 Wisc. 43. See MARSHALLING OF ASSETS. See, generally, Williams, Ex.; Toller, Ex.; 2 Bla. Com. 510, 511; 3 Viner, Abr. 141; 11 *id.* 239; Gordon, Decedents; Ram, Assets.

ASSEVERATION. The proof which a man gives of the truth of what he says, by appealing to his conscience as a witness.

It differs from an oath in this, that by the latter he appeals to God as a witness of the truth of what he says, and invokes him, as the avenger of falsehood and perjury, to punish him if he speak not the truth. See AFFIRMATION; OATH.

ASSIGN. To make or set over to another; Cowel; 2 Bla. Com. 326; 5 Johns. 391.

To appoint; to select; to allot; 3 Bla. Com. 58.

To set forth; to point out; as, to assign errors; Fitzherbert, Nat. Brev. 19.

ASSIGNATION. In Scotch Law. Assignment, which see.

ASSIGNEE. One to whom an assignment has been made.

Assignee in fact is one to whom an assignment has been made in fact by the party having the right.

Assignee in law is one in whom the law vests the right: as, an executor or administrator. See ASSIGNMENT.

ASSIGNMENT (Law Lat. *assignatio*, from *assigno*,—*ad* and *signum*,—to mark for; to appoint to one; to appropriate to).

In Contracts. A transfer or making over to another of the whole of any property, real or personal, in possession or in action, or of any estate or right therein.

A transfer by writing, as distinguished from one by delivery.

The transfer of the interest one has in *lands* and *tenements*, and more particularly applied to the unexpired residue of a term or estate for life or years; Cruise, Dig. tit. xxxii. (Deed) c. vii. § 15; 2 Woodd. Lect. 170, 171; 1 Steph. Com. 485. The deed by which the transfer is made is also called an assignment; Comyns, Dig.; Bacon, Abr.; Viner, Abr.; Nelson, Abr.; La. Civ. Code, art. 2612; Angell, Assign.; 1 Am. Lead. Cas. 78-85; 4 Cruise, Dig. 160.

What may be assigned. Every demand connected with a right of property, real or personal, is assignable. Every estate and interest in lands and tenements may be assigned, as also every present and certain estate or interest in incorporeal hereditaments, even though the interest be future, including a *term of years* to commence at a subsequent period; for the interest is vested *in presenti*, though only to take effect *in futuro*; Perkins, s. 91; Coke, Litt. 46 *b*; *rent* to grow due (but not that in arrear, 8 Cow. 206); *a right of entry* where the breach of the condition *ipso facto*

terminates the estate; 2 G. & J. 173; 4 Pick. 1; a right to betterments; 9 Me. 62; the right to cut trees, which have been sold on the grantor's land; Hob. 173; 1 Greenl. Ev. § 27; Cruise, Dig. tit. 1, § 45, n.; 7 N. H. 522; 6 Me. 81, 200; 18 Pick. 569; 1 Metc. Mass. 313; 4 *id.* 580; 9 Leigh, 548; 11 Ad. & E. 34; a right in lands which may be perfected by occupation; 4 Yerg. 1; 1 Cooke, 67. But no right of entry or re-entry can be assigned; 2 Yerg. 84; Littleton, § 347; 2 Johns. 1; 1 Cranch, 423-430; 1 Dev. & B. 319; nor a naked power; though it is otherwise where it is coupled with an interest; 2 Mod. 317.

To make an assignment valid at law, the subject of it must have an existence, actual or potential, at the time of the assignment; 7 Ohio St. 432. But courts of equity will support an assignment not only of interests in action and contingency, but of things which have no present, actual, or potential existence, but rest in mere possibility only; 2 Story, Eq. Jur. 630-639; Fearne, Cont. Rem. 527; as an heir's possibility of inheritance; 4 Sneed, 258. The assignment of personal property is chiefly interesting in regard to choses in action and as to its effect in cases of insolvency and bankruptcy. Assignments by debtors for the benefit of creditors are regulated by statute in nearly all the states of the United States. See collection of statutes in Moses, *Insolv. Laws*. A chose in action cannot be transferred at common law; 1 Fonbl. Eq. b. 1, c. 4, § 2, n. 9; 10 Coke, 48; Coke, Litt. 266 a; Chitty, Bills, 6; Comyns, Dig. *Chancery* (2 H); 3 Cow. 623; 2 Johns. 1; 15 Mass. 388; 1 Cranch, 367; 5 Wisc. 17; 5 Halst. 20. But the assignee may sue in the assignor's name, and the assignment will be considered valid in equity. See *infra*.

In equity, as well as law, some choses in action are not assignable: for example, an officer's pay or commission; 2 Anstr. 533; 1 Ball and B. Ch. 387; 1 Swanst. 74; 3 Term, 681; 2 Beav. 544; Turn & R. 459; see 7 Metc. Mass. 335; 13 Mass. 290; 15 Ves. Ch. 139; or the salary of a judge; 10 Humphr. 342; or claims for fishing or other bounties from the government; or rights of action for fraud or tort; as a right of action for assault; or in trover; 12 Wend. 297 (*aliter* of a right of action in replevin; 24 Barb. 382); and it seems that all rights of action which would survive to the personal representatives, may be assigned; 22 Barb. 110; 7 How. 492; 34 Penn. 299; 44 N. H. 424; so if a right of action against a common carrier for not delivering goods; 44 N. H. 424. A cause of action for malicious prosecution is not assignable even after verdict; 22 Cal. 174; 1 Pet. 193, 213; 6 Cal. 456; 3 E. D. Smith, 246; 22 Barb. 110; 26 *id.* 635; 2 N. Y. 293; 3 Litt. 41; 9 S. & R. 244; 6 Madd. 59; 2 M. & K. 592; or any rights *pendente lite*. Nor can personal trusts be assigned; as the right of a master in his apprentice; 11 B. Monr. 60; 8 Mass. 299; 8 N. H. 472, or the duties of a

testamentary guardian; 12 N. H. 437; 1 Hill, N. Y. 375; nor a contract for the performance of personal services; 4 Litt. 9.

The assignment of bills of exchange and promissory notes by general or special endorsement constitutes an exception to the law of transfer of choses in action. When negotiable (*i. e.*, made payable to order), they were made transferable by the statute of 3 & 4 Anne; they may then be transferred by endorsement; the holder can sue in his own name, and the equitable defences which might have existed between the promisor and the original promisee are cut off; Chitty, Bills, Perkins ed. 1854, 8, 11, 225, 229, n. (3) and cases cited; 11 Barb. 637, 639; Burrill, Ass. 2d ed. 3, nn. 1, 2; 26 Miss. 577; Hard. 562.

The most extensive class of assignments are the general assignments in trust made by insolvent and other debtors for the discharge of their debts. In most of the states of the United States these are regulated by state statutes (*q. v.*); 3 Sumn. 345; 10 Paige, Ch. 445; 1 N. Y. 101; 20 Ga. 44.

Independently of bankrupt and insolvent laws, priorities and preferences in favor of particular creditors are allowed. Such preference is not generally considered unequitable, nor is a stipulation that the creditors taking under it shall release and discharge the debtor from all further claims; 4 Mass. 206; 41 Me. 277; 9 Ind. 88; 4 Wash. C. C. 232; 13 S. & R. 132; 4 Zab. 162; 2 Cal. 107; 16 Ill. 435; 17 Ga. 430; 2 Paine, 180; 15 Johns. 571; 11 Wend. 187; 7 Md. 88, 381; 29 Ala. 266; 5 N. H. 113; 7 Pet. 608; 11 Wheat. 78; 8 Conn. 505; 26 Miss. 423; 6 Fla. 62; 6 R. I. 328; 1 Am. L. Cas. 71.

How made. It used to be held that the instrument of assignment must be of as high a character and nature as the instrument transferred; but now a parol (usually written) assignment may transfer a deed, if the deed be at the same time delivered; 1 Dev. 354; 2 Jones, 224; 13 Mass. 304; 15 *id.* 431; 26 Me. 234, 448; 17 Johns. 284, 292; 19 *id.* 342; 1 E. D. Smith, 414; 5 Ad. & E. 107; 4 Taunt. 326; 1 Ves. Sen. Ch. 332, 348; 2 *id.* 6; 1 Madd. Ch. 53; 2 Rose. Bank. 271; 1 Harr. & J. 114, 274; 2 Ohio, 56, 221; 11 Tex. 273; 26 Ala. n. s. 292. See 5 Halst. 156. When the transfer of personal chattels is made by an instrument as formal as that required in the assignment of an interest in lands, it is commonly called a *bill of sale* (which see); 2 Stephen, Com. 104. See as to the distinction, 5 W. & S. 36. In most cases, however, personal chattels are transferred by mere note or memorandum, or, as in the case of negotiable paper, by mere endorsement; 3 E. D. Smith, 555; 6 Cal. 247; 28 Miss. 56; 15 Ark. 491.

The proper technical and operative words in assignment are "assign, transfer, and set over;" but "give, grant, bargain, and sell," or any other words which show the intent of the parties to make a complete transfer, will

work an assignment; Watkins, Conv., Preston ed. b. 2, c. ix.

No consideration is necessary to support the assignment of a term; 1 Mod. 263; 3 Munf. 556; 2 E. D. Smith, 469. Now, by the statute of frauds, all assignments of chattels *real* must be made by deed or note in writing, signed by the assigning party or his agent thereunto lawfully authorized by writing; 1 B. & P. 270. If a tenant assigns the whole or a part of an estate for a part of the time, it is a sub-lease, and not an assignment; 1 Gray, 325; 2 Paige, Ch. 68; 2 Ohio, 369; 1 Washb. R. P. 327.

Effect of. During the continuance of the assignment, the assignee is liable on all covenants running with the land, but may rid himself of such continuing liability by transfer to a mere beggar; 2 H. Blackst. 133; 5 Coke, 16; 3 Burr. 1271; 1 B. & P. 21; 2 Bridgman, Eq. Dig. 138; 1 Vern. Ch. 87; 2 *id.* 103; 8 Ves. Ch. 95; 1 Schoales & L. 310; 1 Ball & B. 238; Dougl. 56, 183; (but a conveyance to an irresponsible person to avoid paying a ground-rent accruing on the land conveyed held not to release the original covenantor; 54 Penn. 30.) By the assignment of a right all its accessories pass with it: for example, the collateral security, or a lien on property, which the assignor of a bond had, will pass with it when assigned; 1 Stockt. 592; 5 Litt. 248; 3 Bibb, 291; 4 B. Monr. 529; 2 Dana, 98; 1 Penn. 454, 280; 5 Watts, 529; 9 Cow. 747; 2 Yerg. 84. So, also, what belongs to the thing by the right of accession is assigned with it; 7 Johns. Cas. 90; 6 Pick. 360; 31 N. H. 562.

The assignee of a chose in action in a court of law must bring the action in the name of the assignor in whose place he stands; and every thing which might have been shown in defence against the assignor may be used against the assignee; 18 Eng. L. & Eq. 82; 42 Me. 221; 6 Ga. 119; 15 Barb. 506; 2 Johns. Ch. 441; 9 Cow. 34; 3 N. H. 82, 539; 2 Wash. Va. 233; 4 Rand. 266; 5 Mass. 201, 214; 6 Pick. 316; 10 Cush. 92; 23 Miss. 488; 23 *id.* 56; 13 Ill. 486; 1 Stockt. 146; 1 Dutch. 506; 3 Day, 364; 7 Conn. 399; 4 Litt. 435; 9 Ala. 60; Harp. 17; 2 Cranch, 342; 1 Wheat. 236; 7 Pet. 608; 2 Penn. 361, 463; 1 Bay, 173; 1 M'Cord, 219; 5 Mas. 215; 1 Paine, 525; 3 McLean, 147; 3 Hayw. 199; 1 Humphr. 155; 11 Md. 251. But in a court of equity the assignee may sue in his own name, but he can only go into equity when his remedy at law fails; Freem. Ch. 145; 1 Ves. Ch. 331, 409; 3 Mer. 86; 2 Vern. 692; 1 Younge & C. 481; 1 Pick. 485-493; 4 Mass. 508, 511; 4 Rand. 392; 30 Me. 419; 32 *id.* 203, 342; 2 Johns. Ch. 441; 8 Wheat. 268. Such an assignment is considered as a declaration of trust; 10 Humphr. 342; 3 P. Will. 199; 2 *id.* 603; 1 Ves. Ch. 411; 5 Pet. 597; 1 Wheat. 235; 5 *id.* 277; see 5 Paige, Ch. 539; 6 *id.* 583; 6 Cranch, 335; but all the equitable defences exist; 3 Yeates, 327; 1 Binn. 429; 8 Wheat. 268.

A valid assignment of a policy of insurance in the broadest legal sense, by consent of the underwriters, by statute, or otherwise, vests in the assignee all the rights of the assignor, legal and equitable, including that of action; but the instrument, not being negotiable in its character, is assignable only in equity, and not even so, if it has, as it sometimes has, a condition to the contrary; 3 Md. 244, 341; 8 Cush. 393; 10 *id.* 350; 15 Barb. 413; 23 *id.* 116; 17 N. Y. 391; 25 Ala. n. s. 353; 30 N. H. 231; 3 Sneed, 565; 42 Me. 221; 26 Conn. 165; 31 Penn. 438; 18 Eng. L. & Eq. 427; 22 *id.* 590. In marine policies, custom seems to have established a rule different from that of the common law, and to have made the policies transferable with the subject matter of insurance; May, Ins. § 377.

A debtor making an assignment for the benefit of his creditors may legally choose his own trustees, and the title passes out of him to them; 21 Barb. 65; 1 Binn. 514; 18 Ark. 85, 123; 24 Conn. 180. The assent of creditors will ordinarily be presumed; 29 Ala. n. s. 112; 4 Mass. 183, 206; 5 *id.* 153; 8 Pick. 113; 2 Conn. 633; 9 S. & R. 244; 8 Me. 411. In some states the statutes provide that the assignment shall be for the benefit of all creditors equally.

Assignments are peculiarly the objects of equity jurisdiction; 2 Bligh, 171, 189; 1 Ventr. 128; 9 B. & C. 300; 7 Wheat. 556; 11 *id.* 78; 4 Johns. Cas. 529, 205, 119, 129; and bona fide assignments will in most cases be upheld in equity courts; 8 Me. 17; Paine, 525; 1 Wash. C. C. 424; 14 S. & R. 137; T. U. P. Charlt. 230; 12 Johns. 343; 22 Barb. 550; but champerty and maintenance, and the purchase of lawsuits, are inquired into and restrained in equity as in law, and fraud will defeat an assignment. By some of the state statutes regulating assignments, the assignee may bring an action in his own name in a court of law, but the equities in defence are not excluded; see 6 Ohio, 271; 6 Yerg. 572; 3 Dana, 142; 2 Pet. 239; 1 Miss. 69.

ASSIGNMENT OF DOWER. The act by which the share of a widow in her deceased husband's real estate is ascertained and set apart to her.

The assignment may be made *in pais* by the heir or his guardian, or the devisee or other persons seised of the lands subject to dower; 2 Penning. 521; 19 N. H. 240; 23 Pick. 80, 88; 4 Ala. n. s. 160; 4 Me. 67; 2 Ind. 388; Tudor, Lead. Cas. 51; or it may be made after a course of judicial proceedings, where a voluntary assignment is refused. In this case the assignment will be made by the sheriff, who will set off her share by metes and bounds; 2 Bla. Com. 136; 1 Washb. R. P. 229. The assignment should be made within forty days after the death of the husband, during which time the widow shall remain in her husband's mansion-house. See 20 Ala. n. s. 662; 7 T. B. Monr. 337; 5 Conn. 462; 1 Washb. R. P. 222, n., 227. The share of the widow is usually one-third

of all the real estate of which the husband has been seised during coverture; and no writing or livery is necessary in a valid assignment, the dowress being *in*, according to the view of the law, of the seisin of her husband. The remedy of the widow, when the heir or guardian refuses to assign dower, is by a writ of dower *unde nihil habet*; 4 Kent, 63. If the guardian of a minor heir assign more than he ought, the heir on coming of age may have the writ of admeasurement of dower; 2 Ind. 336; 1 Pick. 314; Coke, Litt. 34, 35; Fitzherbert, Nat. Brev. 148; Finch, 314; Stat. Westm. 2 (13 Edw. I.), c. 7; 1 Washb. R. P. 222-250; 1 Kent, 63, 69; 2 Bouvier, Inst. n. 1743.

ASSIGNMENT OF ERRORS. In Practice. The statement of the case of the plaintiff in error, on a writ of error, setting forth the errors complained of.

It corresponds with the declaration in an ordinary action; 2 Tidd, Pr. 1168; 3 Steph. Com. 644. All the errors of which the plaintiff complains should be set forth and assigned in distinct terms, so that the defendant may plead to them; 18 Ala. 186; 15 Conn. 83; 4 Miss. 77.

ASSIGNOR. One who makes an assignment; one who transfers property to another.

In general, the assignor can limit the operation of his assignment, and impose whatever condition he may think proper; but when he makes a general assignment in trust for the use of his creditors, he can impose no condition whatever which will deprive them of any right; 14 Pick. Mass. 123; 2 *id.* 129; 15 Johns. N. Y. 151; 20 *id.* 442; 7 Cow. N. Y. 735; 5 *id.* 547; nor any condition forbidden by law, as giving preference when the law forbids it.

ASSIGNS. Assignees; those to whom property shall have been transferred. Now seldom used except in the phrase, in deeds, "heirs, administrators, and assigns;" 8 R. I. 36.

ASSISA (Lat. *assidere*). A kind of jury or inquest. *Assisa vertitur in juratum*. The assize has been turned into a jury.

A writ: as, an assize of *novel disseisin*, assize of common pasture.

An ordinance: as, *assisa panis*. Spelman, Gloss.; Littleton, § 234; 3 Sharsw. Bla. Com. 402.

A fixed specific time, sum, or quantity. A tribute; tax fixed by law; a fine. Spelman, Gloss.

Assisa armorum. A statute ordering the keeping arms.

Assisa cadere. To be nonsuited. Cowel; 3 Bla. Com. 402.

Assisa continuanda. A writ for the continuation of the assize to allow the production of papers. Reg. Orig. 217.

Assisa de foresta. Assize of the forest, which see.

Assisa mortis d'ancestoris. Assize of *mort d'ancestor*, which see.

Assisa panis et cerevisie. Assize of bread and ale; a statute regulating the weight and measure of these articles.

Assisa proroganda. A writ to stay proceedings where one of the parties is engaged in a suit of the king. Reg. Orig. 208.

Assisa ultimæ presentationis. Assize of *darrein presentment*.

Assisa venalium. Statutes regulating the sale of certain articles. Spelman, Gloss.

ASSISORS. In Scotch Law. Jurors.

ASSIZE (Lat. *assidere*, to sit by or near, through the Fr. *assisa*, a session).

In English Law. A writ directed to the sheriff for the recovery of immovable property, corporeal or incorporeal. Cowel; Littleton, § 234.

The action or proceedings in court based upon such a writ. Magna Charta, c. 12; Stat. 13 Edw. I. (Westm. 2) c. 25; 3 Bla. Com. 57, 252; Sellon, Pract. Introd. xii.

Such actions were to be tried by special courts, of which the judicial officers were justices of assize. See COURTS OF ASSIZE AND NISI PRUS. This form of remedy is said to have been introduced by the parliament of Northampton (or Nottingham, A. D. 1176), for the purpose of trying titles to land in a more certain and expeditious manner before commissioners appointed by the crown than before the suitors in the county court or the king's justiciars in the Aula Regis. The action is properly a mixed action, whereby the plaintiff recovers his land and damages for the injury sustained by the disseisin. The value of the action as a means for the recovery of land led to its general adoption for that purpose, those who had suffered injury not really amounting to a disseisin alleging a disseisin to entitle themselves to the remedy. The scope of the remedy was also extended so as to allow the recovery of incorporeal hereditaments, as franchises, estovers, etc. It gave place to the action of ejectment, and is now abolished, having been previously almost, if not quite, entirely disused. Stat. 3 & 4 Will. IV. c. 27, § 36. Stearns, Real Act. 187.

A jury summoned by virtue of a writ of assize.

Such juries were said to be either *magna* (grand), consisting of sixteen members and serving to determine the right of property, or *parva* (petit), consisting of twelve and serving to determine the right to possession. Mirror of Just. lib. 2.

This sense is said by Littleton and Blackstone to be the original meaning of the word; Littleton, § 234; 3 Bla. Com. 185. Coke explains it as denoting originally a *session* of justices; and this explanation is sanctioned by the etymology of the word. Coke, Litt. 153 b. It seems, however, to have been early used in all the senses here given. The recognitors of assize (the jurors) had the power of deciding, upon their own knowledge, without the examination of witnesses, where the issue was joined on the very point of the assize; but collateral matters were tried either by a jury or by the recognitors acting as a jury, in which latter case it was said to be turned into a jury (*assisa vertitur in juratum*). Booth, Real Act. 213; Stearns, Real Act. 187; 3 Bla. Com. 402. The term is no longer used, in England, to denote a jury.

The verdict or judgment of the jurors or recognitors of assize; 3 Bla. Com. 57, 59.

A court composed of an assembly of knights and other substantial men, with the baron or justice, in a certain place, at an appointed time. Grand Coutum. cc. 24, 25.

An ordinance or statute. Littleton, § 234; Reg. Orig. 239. Any thing reduced to a certainty in respect to number, quantity, quality, weight, measure, etc. 2 Bla. Com. 42; Cowel; Spelman, Gloss. *Assisa*. See the articles immediately following.

In Scotch Law. The jury, consisting of fifteen men, in criminal cases tried in the court of justiciary. Paterson, Comp.; Bell, Dict.

ASSIZE OF DARRHEIN PRESENTMENT. A writ of assize which formerly lay when a man or his ancestors under whom he claimed presented a clerk to a benefice, who was instituted, and afterwards upon the next avoidance, a stranger presented a clerk and thereby disturbed the real patron. 3 Sharsw. Bla. Com. 245; Stat. 13 Edw. I. (Westm. 2) c. 5. It has given way to the remedy by *quare impedit*.

ASSIZE OF FRESH FORCE. A writ of assize which lay where the disseisin had been committed within forty days. Fitzh. Nat. Brev. 7.

ASSIZE OF MORT D'ANCESTOR. A writ of assize which lay to recover possession of lands against an abator or his alienee. It lay where the ancestor from whom the claimant derived title died seised. Cowel; Spelman, Gloss.; 3 Bla. Com. 185.

ASSIZE OF NOVEL DISSEISIN. A writ of assize which lay where the claimant had been lately disseised. The action must have been brought subsequent to the next preceding session of the eyre or circuit of justices, which took place once in seven years. Coke, Litt. 153; Booth, Real Act. 210.

ASSIZE OF NUISANCE. A writ of assize which lay where a nuisance had been committed to the complainant's freehold.

The complainant alleged some particular fact done which worked an injury to his freehold (*ad nocumentum liberi tenementi sui*), and, if successful, recovered judgment for the abatement of the nuisance and also for damages. Fitzh. Nat. Brev. 183; 3 Bla. Com. 221; 9 Coke, 55.

ASSIZE OF UTRUM. A writ of assize which lay for a parson to recover lands which his predecessor had improperly allowed the church to be deprived of. 3 Bla. Com. 257.

ASSIZES. Sessions of the justices or commissioners of assize.

These assizes are held twice in each year in each of the various shires of England, with some exceptions, by virtue of several commissions, for the trial of matters of fact in issue in both civil and criminal cases. They still retain the ancient name in popular language, though the commission of assize is no longer issued. 3 Stephen, Com. 424, n. See

ASSIZE; NISI PRIUS; COMMISSION OF ASSIZE; COURTS OF ASSIZE AND NISI PRIUS.

ASSIZES DE JERUSALEM. A code of feudal law prepared at a general assembly of lords after the conquest of Jerusalem, A. D. 1099.

It was compiled principally from the laws and customs of France. It was reduced to form by Jean d'Iblin, *Comte de Japhe et Ascalon*, about the year 1290. 1 Fournel, *Hist. des Av.* 49; 2 Dupin, *Prof. des Av.* 674-680; Stephen, Pl. App. xi.

ASSOCIATE. An officer in each of the superior courts of common law in England whose duty it was to keep the records of his court, to attend its *nisi prius* sittings, and to enter the verdict, make up the *postea*, and deliver the record to the party entitled thereto. Abbott, Law Dict.

A person associated with the judges and clerk of assize in the commission of general jail delivery; Mozley & W. Dict.

The term is frequently used of the judges of appellate courts, other than the presiding judge or chief justice.

ASSOCIATION (Lat. *ad, to, and sociare*—from *socius*, a companion).

The act of a number of persons in uniting together for some purpose.

The persons so joining.

In English Law. A writ directing certain persons (usually the clerk and his subordinate officers) to associate themselves with the justices and sergeants for the purpose of taking the assizes. 3 Bla. Com. 59.

ASSOIL (spelled also *assoile, assoilyie*). To set free; to deliver from excommunication. Stat. 1 Hen. IV. c. 7; Cowel.

ASSUMPSIT (Lat. *assumere, to assume, to undertake; assumpsit, he has undertaken*).

In Contracts. An undertaking, either express or implied, to perform a parol agreement. 1 Lilly, Reg. 132.

Express assumpsit is an undertaking made orally, by writing not under seal, or by matter of record, to perform an act or to pay a sum of money to another.

Implied assumpsit is an undertaking presumed in law to have been made by a party, from his conduct, although he has not made any express promise.

The law presumes such an undertaking to have been made, on the ground that everybody is supposed to have undertaken to do what is, in point of law, just and right; 2 Burr. 1008; L. J. 11 C. P. 100; 8 C. B. 545; Leake, Contr. 75. Such an undertaking is never implied where the party has made an express promise; 2 Term, 100; 10 Mass. 192; 20 Am. Jur. 7; nor ordinarily against the express declaration of the party to be charged; 1 Me. 125; 13 Pick. 165; nor will it be implied unless there be a request or assent by the defendant shown; 20 N. H. 490; 1 Greenl. Ev. § 107; though such request or assent may be inferred from the nature of the transaction;

1 Dowl. & L. 984; 15 Conn. 52; 28 Vt. 401; 2 Dutch. 49; or from the silent acquiescence of the defendant; 22 Am. Jur. 2-11; 14 Johns. 378; 2 Blatchf. 343; or even contrary to fact on the ground of legal obligation; 1 H. Blackst. 90; 3 Campb. 298; 6 Mod. 171; 14 Mass. 227; 10 Pick. 156; 4 Me. 258; 20 Am. Jur. 9; 22 *id.* 2; 13 Johns. 480.

In Practice. A form of action which lies for the recovery of damages for the non-performance of a parol or simple contract; 7 Term, 351; 3 Johns. Cas. 60.

It differs from *debt*, since the amount claimed need not be liquidated (see DEBT), and from *covenant*, since it does not require a contract under seal to support it. See COVENANT. See 4 Coke, 91; 4 Burr. 1008; 14 Pick. 428; 2 Metc. 181. Assumpsit is one of the class of actions called actions upon the case, and in the older books is called action upon the case upon assumpsit. Comyns, Dig.

Special assumpsit is an action of assumpsit brought upon an express contract or promise.

General assumpsit is an action of assumpsit brought upon the promise or contract implied by law in certain cases. See 2 Sm. Lead. Cas. 14.

The action should be brought by the party from whom the consideration moved; 1 Ventr. 318; 3 B. & P. 149, n.; 14 East, 582; 4 B. & C. 664; 17 Mass. 404, 575; 3 Pick. 83, 92; 8 Johns. 58; 13 *id.* 497; 1 Pet. C. C. 169; 22 Am. Jur. 1-19; or by the person for whose benefit it was paid; 15 Me. 285, 443; 1 Rich. So. C. 268; 5 Blackf. 179; 17 Ala. 333; against the party who made the undertaking; suing the principal to recall money paid to the agent. See 4 Burr. 1984; 1 Sumn. 277, 317. It lies for a corporation, 2 Lev. 252; 1 Campb. 466; and against it, in the United States; 7 Cranch, 297; 12 Wheat. 68; 17 N. Y. 449; 30 Mo. 452; 9 Tex. 69; 8 Pick. 178; 14 Johns. 118; 2 Bay, 109; 1 Ark. 180; 3 Halst. 182; 3 S. & R. 117; but not in England formerly (because a corporation could not contract by parol), unless by express authority of some legislative act, or in actions on negotiable paper; 1 Chitty, Pl. *119; 4 Bingh. 77; but now corporations are liable in many cases on contracts not sealed, and generally in executed contracts, up to the extent of the benefit received; 2 Lev. 252; 6 A. & E. 846; L. R. 10 C. P. 409; Brice, Ultra Vires, 577.

Assumpsit will lie in favor of a third party on a contract made in his favor in most of the United States; 93 U. S. 143; 85 Penn. 235 (but see 3 *id.* 330); 20 N. Y. 258 (but see 69 N. Y. 280); 85 Ill. 279; 43 Wis. 319. *Contra*, 107 Mass. 39; 15 N. H. 129. See discussion in 15 Am. L. Rev. 231, and 4 N. J. L. Journ. 197.

A promise or undertaking on the part of the defendant, either expressly made by him or implied by the law from his actions, constitutes the gist of the action. A sufficient consideration for the promise must be averred and shown, 21 Am. Jur. 258, 283; though it may be implied by the law, 7 Johns. 29, 321; 14

Pick. Mass. 210; 21 Am. Jur. 258, 283; as in case of negotiable promissory notes and bills, where a consideration is presumed to exist till its absence is shown; 6 Vt. 165; Story, Prom. Notes.

The action lies for—

Money had and received to the plaintiff's use, including all cases where one has money, or that which the parties have agreed to treat as money; 1 Greenl. Ev. § 117; 2 N. H. 333; 6 Cow. 297; 8 Gill & J. 333; in his hands which in equity and good conscience he is bound to pay over; including bank-notes; 13 East, 20, 130; 17 Mass. 560; 7 Cow. 662; 32 Ala. 523; promissory notes; 9 Pick. 293; 16 Me. 285; 7 Johns. 132; 11 N. H. 218; 6 Blackf. 378; notes payable in specific articles; 7 Wend. 311; and some kinds of evidences of debt; 3 Campb. 199; 8 Wend. 641; 17 Mass. 560; 4 Pick. 71; but not goods, except under special agreement; 2 Burr. 2589; 1 East, 1; 7 S. & R. 246; 8 Term, 687; 3 B. & P. 559; 1 Y. & J. 380; 1 Dougl. 117; whether delivered to the defendant for a particular purpose to which he refuses to apply it; 14 East, 590, n.; 3 Price, 68; 3 Day, 252; 4 Cow. 607; 1 D. Chipm. 101; 1 Harr. Del. 446; see 2 Bingh. 7; 17 Mass. 575; or obtained by him through fraud; 1 Salk. 28; 4 Mass. 488; 4 Conn. 350; 30 Vt. 277; 4 Ind. 43; or by tortious seizure and conversion of the plaintiff's property; 10 Pick. 161; and see Cowp. 414; 1 Campb. 285; 8 Bingh. 43; or by duress, imposition, or undue advantage or other involuntary and wrongful payment; 2 B. & C. 729; 6 Q. B. 276; 7 M. & G. 586; 3 N. H. 508; 20 Johns. 290; 7 Me. 135; 12 Pick. 206; 26 Barb. 23; 4 Ind. 43; 24 Conn. 88; 10 Pet. 137; 28 Vt. 370; see 2 Jac. & W. 249; 7 Term, 265; 9 Bingh. 644; or for a security which turns out to be a forgery, under some circumstances; 6 Taunt. 76; 3 B. & C. 428; 4 Bingh. 253; 26 Conn. 23; 30 Penn. 527; 4 Ohio St. 628; or paid under a mistake of facts; 9 Bingh. 647; 15 Mass. 208; 1 Wend. 355; 3 *id.* 412; 6 Yerg. 483; 26 Barb. 423; 4 Gray, 388; see 2 Term, 648; 15 Me. 45; 20 Wend. 174; 18 B. Monr. 792; or upon a consideration which has failed; 1 Stra. 407; 8 Term, 516; 3 B. & P. 181; 17 Mass. 1; 2 Johns. 455; 5 *id.* 85; 15 *id.* 504; 20 *id.* 24; 9 Cal. 338; 4 Gill & J. 463; 13 S. & R. 259; 4 Conn. 350; 10 Ind. 172; 15 Tex. 224; see 18 B. Monr. 523; or under an agreement which has been rescinded without partial performance; 2 C. & P. 514; 3 *id.* 407; 1 Vt. 159; 30 *id.* 432; 5 Ohio, 286; 15 Mass. 319; 5 Johns. 85; 12 *id.* 363; Mart. & Y. 20, 203; 2 Nott & M'C. 65; 20 N. H. 102.

Money paid for the use of another, including negotiable securities; 9 Mass. 553; 4 Pick. 444; 3 N. H. 366; 3 Johns. 206; 5 Rawle, 91, 98; 2 Vt. 213; 6 Me. 331; see 7 Me. 355; 1 Wend. 424; 7 S. & R. 238; 11 Johns. 464; where the plaintiff can show a previous request; 20 N. H. 490; or subsequent assent; 12 Mass. 11; 1 Greenl. Ev. § 113; or that he paid it for a reasonable cause,

and not officiously; 4 Taunt. 190; 1 H. Blackst. 90, 93; 5 Esp. 171; 8 Term, 310; 3 M. & W. 607; 16 Mass. 40; but a mere voluntary payment of another's debt will not make the person paying his creditor; 1 N. Y. 472; 1 Gill & J. 433, 497; 5 Cow. 603; 3 Ala. 500; 4 N. H. 138; 20 id. 490.

Money lent, including negotiable securities of such a character as to be essentially money; 11 Jur. 157, 289; 6 Mass. 189; 15 Pick. 212; 9 Metc. Mass. 278, 417; 2 Johns. 235; 12 id. 90; 7 Wend. 311; 3 Gill & J. 369; 11 N. H. 218; 18 Me. 296; 3 J. J. Marsh. 37; 21 Ga. 384; see 10 Johns. 418; 1 Hawks. 195; 9 Ohio, 5; 16 M. & W. 449; actually loaned by the plaintiff to the defendant himself; 1 Dane, Abr. 196.

Money found to be due upon an account stated, called an *insimul computassent*, for the balance so found to be due, without regard to the nature of the evidences of the original debt; 1 Ventr. 268; 2 Term, 479; 3 B. & C. 196; 4 Price, 260; 3 C. & P. 170; 12 Johns. 227; 6 Mass. 358; 6 Metc. Mass. 127; 7 Watts, 100; 11 Leigh, 471; 10 N. H. 532.

Goods sold and delivered either in accordance with a previous request; 9 Conn. 379; 6 Harr. & J. 273; 1 Bosw. 417; 32 Penn. 506; 35 N. H. 477; 28 Vt. 666; or where the defendant receives and uses them; 6 J. J. Marsh. 441; 12 Mass. 185; 41 Me. 565; although tortiously; 3 N. H. 384; 1 Mo. 430, 643. See 5 Pick. 285. See TROVER.

Work performed; 11 Mass. 37; 14 id. 176; 19 Ark. 671; 1 Hempst. 240; and materials furnished; 7 Pick. 181; with the knowledge of the defendant; 20 Johns. 28; 1 M'Cord, 22; 19 Ark. 671; so that he derives benefit therefrom; 27 Mo. 308; 11 Ired. 84; whether there be an express contract or not. As to whether any thing can be recovered where the contract is to work a specified time and the labor is performed during a portion of that time only, see 29 Vt. 219; 25 Conn. 188; 6 Ohio St. 505; 1 Sneed, 622; 24 Barb. 174; 23 Mo. 228; APPORTIONMENT.

Use and occupation of the plaintiff's premises under a parol contract express or implied; 7 J. J. Marsh. 6; 1 Yeates, 576; 13 Johns. 240; 4 Day, 28; 11 Pick. 1; 4 Hen. & M. 161; 1 Munf. 407; 3 Harr. N. J. 214; 1 How. 153; 30 Vt. 277; 31 Ala. n. s. 412; 41 Me. 446; 3 Cal. 196; 4 Gray, 329; but not if it be tortious, 2 Nott & M'C. 156; 3 S. & R. 500; 10 Gill & J. 149; 6 N. H. 298; 14 Ohio, 244; 10 Vt. 502; see 20 Me. 525; or where defendant enters under a contract for a deed; 6 Johns. 46; 3 Conn. 203; 4 Ala. 294; 7 Pick. 301; 2 Dana, 295. The relation of landlord and tenant must exist expressly or impliedly; 1 Dutch. 293; 6 Ind. 412; 19 Ga. 313.

And in many other cases, as, for instance, for a breach of promise of marriage; 2 Mass. 73; 2 Overt. 233; to recover the purchase-money for land sold; 14 Johns. 162, 210; 20 id. 338; 3 M'Cord, 421; and, specially,

upon wagers; 2 Chitty, Pl. 114; feigned issues, 2 Chitty, Pl. 116; upon foreign judgments; Dougl. 1; 11 East, 124; 3 Term, 493; 8 Mass. 273; 5 Johns. 132; but not on a judgment obtained in a sister state; 1 Bibb, 361; 19 Johns. 162; 11 Me. 94; 14 Vt. 92; 2 Rawle, 431; and see 2 Brev. No. C. 99; money due under an award; 9 Mass. 198; 21 Pick. 247; where the defendant has obtained possession of the plaintiff's property by a tort for which trespass or case would lie; 10 Pick. 161; 3 Dutch. 43; 5 Harr. Del. 38; 21 Ga. 526; or, having rightful possession, has tortiously sold the property; 12 Pick. 452, 120; 1 J. J. Marsh. 543; 3 Watts, 277; 4 Binn. 374; 3 Dana, 552; 1 N. H. 151; 4 Call, 451; 2 Gill & J. 326; 3 Wisc. 649; or converted it to his own beneficial use; W. Blackst. 827; 1 Dougl. 167, n.; 4 Term, 211; 3 M. & S. 191; Cowp. 372; 13 Mass. 454; 2 Pick. 285, n.; 7 id. 133; 1 N. H. 451; 3 id. 384; 29 Ala. 332; 41 Me. 565; 1 Hempst. 240; 3 Sneed, 454; 3 Iowa, 599.

The action may be brought for a sum specified in the promise of the defendant, or for the definite amount of money ascertained by computation to be due, or for as much as the services, etc., were worth (called a *quantum meruit*), or for the value of the goods, etc. (called a *quantum valebant*).

The form of the action, whether general or special, depends upon the nature of the undertaking of the parties, whether it be express or implied, and upon other circumstances. In many cases where there has been an express agreement between the parties, the plaintiff may neglect the special contract and sue in general assumpsit. He may do this: *first*, where the contract is executed; Fitzg. 303; 2 Dougl. 651; 4 B. & P. 355; 1 Bingham, 34; 5 B. & C. 628; 18 Johns. 451; 19 Pick. Mass. 496; 11 Wheat. 237; 3 T. B. Monr. 405; 7 Vt. 228; 5 Harr. & G. 45; 3 M'Cord, 421; 18 Ga. 364; and is for the payment of money; 2 Munf. 344; 6 id. 506; 1 J. J. Marsh. 394; 3 T. B. Monr. 405; 1 Bibb, 395; 4 Gray, 292; though if a time be fixed for its payment, not until the expiration of that time; 1 Stark. 229; *second*, where the contract, though only partially executed, has been abandoned by mutual consent; 7 Term, 181; 2 East, 145; 12 Johns. 274; 16 Wend. 632; 12 id. 334; 15 id. 87; 16 Me. 283; 11 Rich. So. C. 42; 7 Cal. 150; see 29 Penn. 82; or extinguished and rescinded by some act of the defendant; 11 Me. 317; 2 Blackf. 167; 2 Speers, 148; 20 N. H. 457; see 4 Cranch, 239; *third*, where that which the plaintiff has done has been performed under a special agreement, but not in the time or manner agreed, but yet has been beneficial to the defendant and has been accepted and enjoyed by him; 1 Bingham, 34; 13 Johns. 94; 4 Cow. 564; 14 Mass. 282; 1 Sandf. 206; 5 Gill & J. 240; 8 Yerg. 411; 12 Vt. 625; 23 Mo. 228; 3 Ind. 59, 72; 5 Mich. 449; 3 Iowa, 90; 3 Wisc. 323. See 1 Greenl. Ev. § 104; 2 Sm. Lead. Cas. 14, 15; 31 Penn. 218.

A surety who has paid money for his principal may recover upon the common counts, though he holds a special agreement of indemnity from the principal; 1 Pick. 118. But in general, except as herein stated, if there be a special agreement, special assumpsit must be brought thereon; 14 B. Monr. 177; 22 Barb. 239; 2 Wisc. 34; 14 Tex. 414.

The declaration should state the contract in terms, in case of a special assumpsit; but, in general, assumpsit contains only a general recital of a consideration, promise, and breach. Several of the common counts are frequently used to describe the same cause of action. Damages should be laid in a sufficient amount to cover the real amount of the claims; see 4 Pick. 194; 2 Cons. So. C. 339; 4 Munf. 95; 5 *id.* 23; 2 N. H. 289; 1 Ill. 286; 4 Johns. 280; 6 Cow. 151; 1 Hall, 201; 5 S. & R. 519; 11 *id.* 27; 6 Conn. 176; 9 *id.* 508; 2 Bibb, 429.

Non assumpsit is the usual plea under which the defendant may give in evidence most matters of defence. Comyns, Dig. *Pleader* (2 G, 1). Where there are several defendants, they cannot plead the general issue severally; 6 Mass. 444; nor the same plea in bar severally; 13 Mass. 152. The plea of not guilty is defective, but is cured by verdict; 8 S. & R. 541; 4 Call, 451. See, generally, Bacon, Abr.; Comyns, Dig., *Action upon the case upon assumpsit*; Dane, Abr.; Viner, Abr.; 1 Chitty, Pl.; Lawes, Assump.; 1 Greenl. Ev.; Bouvier, Inst. Index; COVENANT; DEBT; JUDGMENT; note to Lamplough & Braithwaite, Sm. Lead. Cas.

ASSURANCE. In Conveyancing. Any instrument which confirms the title to an estate.

Legal evidence of the transfer of property; 2 Bla. Com. 294.

The term *assurances* includes, in an enlarged sense, all instruments which dispose of property, whether they be the grants of private persons, or not; such are fines and recoveries, and private acts of the legislature. Eunom. Dial. 2, s. 5.

In Commercial Law. Insurance.

ASSURED. A person who has been insured by some insurance company, or underwriter, against losses or perils mentioned in the policy of insurance.

The party whom the underwriters agree to indemnify in case of loss; 1 Phill. Ins. sect. 2. He is sometimes designated in maritime insurance by description, and not by name, as in a policy "for whom it may concern;" 3 Rich. Eq. 274; 40 Me. 181; 10 Cush. 87; 6 Gray, 192; 27 Penn. 268; 33 N. H. 9; 12 Md. 315, 348.

ASSURER. An insurer; an underwriter.

ASSYTHEMENT. In Scotch Law. Damages awarded to the relative of a murdered person from the guilty party, who has not been convicted and punished. Paterson, Comp.

The action to recover it lies for the personal representatives; 26 Scott. Jur. 156; and may be brought by collateral relations; 27 Scott. Jur. 450.

ASTRICT. In Scotch Law. To assign to a particular mill.

Used of lands the occupants of which were bound to grind at a certain mill. Bell, Dict.; Paterson, Comp. n. 290; Erskine, Inst. 2, 9, 18, 32.

ASTRIHILTET. In Saxon Law. A penalty for a wrong done by one in the king's peace. The offender was to replace the damage twofold. Spelman, Gloss.

AT LAW. According to the course of the common law. In the law.

ATAMITA (Lat.). In Civil Law. A great-great-great-grandfather's sister.

ATAVUNCULUS (Lat.). In Civil Law. A great-great-great-grandfather's brother.

ATAVUS. In Civil Law. The male ascendant in the fifth degree.

ATHA. In Saxon Law. (Spelled also *Atta, Athe, Atte.*) An oath. Cowel; Spelman, Gloss.

Athes, or *Athaa*, a power or privilege of exacting and administering an oath in certain cases. Cowel; Blount.

ATHEIST. One who does not believe in the existence of a God.

Such persons are, at common law, incapable of giving testimony under oath, and, therefore, incompetent witnesses. Buller, N. P. 292. See 1 Atk. Ch. 21; 2 Cow. 431, 433, n.; 5 Mas. 18; 13 Vt. 362; 17 Ill. 541. To render a witness competent, there must be superadded a belief that there will be a punishment for swearing falsely, either in this world or the next; 14 Mass. 184; 1 Greenl. Ev. § 370. See 7 Conn. 66; 18 Johns. 98; 17 Wend. 460; 2 W. & S. 262; 26 Penn. 274; 10 Ohio, 121. The disability resulting from atheism has been wholly or partly removed in many of the states of the United States. 1 Greenl. Ev. § 369, note. See, generally, 1 Sm. Lead. Cas. 737.

ATILIU (Lat.). Tackle; the rigging of a ship; plough-tackle. Spelman, Gloss.

ATMATERTERA (Lat.). In Civil Law. A great-great-great-grandmother's sister.

ATTACHMENT. Taking into the custody of the law the person or property of one already before the court, or of one whom it is sought to bring before it.

A writ for the accomplishment of this purpose. This is the more common sense of the word.

Of Persons. A writ issued by a court of record, commanding the sheriff to bring before it a person who has been guilty of contempt of court, either in neglect or abuse of its process or of subordinate powers; 3 Bla. Com. 280; 4 *id.* 283; or disregard of its

authority in refusing to do what is enjoined; 1 Term, 266; Comp. 394; or by openly insulting the court; Saunders, Pl. Cr. 73 b; 4 Bla. Com. 283; 3 *id.* 17. It is to some extent in the nature of a criminal process; Stra. 441. See 5 Halst. 63; 1 Cow. 121, n.; 1 Term, 266; Cowp. 594; Willes, 292.

Of Property. A writ issued at the institution or during the progress of an action, commanding the sheriff or other proper officer to attach the property, rights, credits, or effects of the defendant to satisfy the demands of the plaintiff.

In General.

The original design of this writ was to secure the appearance of one who had disregarded the original summons, by taking possession of his property as a pledge. 3 Bla. Com. 280.

By an extension of this principle, in the New England states, property attached remains in the custody of the law after an appearance, until final judgment in the suit. See 7 Mass. 127.

In some states attachments are distinguished as foreign and domestic,—the former issued against a non-resident of the state, the latter against a resident. Where this distinction is preserved, the foreign attachment enures solely to the benefit of the party suing it out; while the avails of the domestic attachment may be shared by other creditors, who come into court and present their claims for that purpose.

It is a distinct characteristic of the whole system of remedy by attachment, that it is—except in some states where it is authorized in chancery—a special remedy *at law*, belonging exclusively to a court of law, and to be resorted to and pursued in conformity with the terms of the law conferring it; and where from any cause the remedy by attachment is not full and complete, a court of equity has no power to pass any order to aid or perfect it; Drake, Att. § 4.

In the New England states the attachment of the defendant's property, rights, and credits is an incident of the summons in all actions *ex contractu*. Elsewhere throughout the country the writ issues only upon cause shown by affidavit. And in most of the states its issue must be preceded by the execution by or on behalf of the plaintiff of a cautionary bond to pay the defendant all damage he may sustain by reason of the attachment. The grounds upon which the writ may be obtained vary in the different states. Wherever an affidavit is required as the basis of the attachment, it must verify the plaintiff's cause of action, and also the existence of some one or more of the grounds of attachment prescribed by the local statute as authorizing the issue of the writ.

The remedy by attachment is allowed in general only to a *creditor*. In some states, under special statutory provisions, damages arising *ex delicto* may be sued for by attachment; but the almost universal rule is otherwise. The claim of an attaching creditor, however, need not be so certain as to fall within the technical definition of a debt, or as to be susceptible of liquidation without the intervention of a jury. It is sufficient if the demand arise on contract, and that the con-

tract furnish a standard by which the amount due could be so clearly ascertained as to enable the plaintiff to aver it in his affidavit, or the jury by their verdict to find it; 3 Caines, 323; 2 Wash. C. C. 382; 8 Gill, 192; 1 Leigh, 285; 11 Ala. 941; 4 Mart. La. 517; 2 Ark. 415; 3 Ind. 374; 3 Mich. 277.

In some states an attachment may, under peculiar circumstances, issue upon a debt not yet due and payable; but in such cases the debt must possess an actual character to become due *in futuro*, and not be merely possible and dependent on a contingency, which may never happen; 15 Ala. 455; 13 La. 62.

Corporations, like natural persons, may be proceeded against by attachment; 9 N. H. 394; 15 S. & R. 173; 1 Rob. Va. 573; 5 Ga. 531; 14 La. 415; 4 Humphr. 369; 9 Mo. 421.

Representative persons, such as heirs, executors, administrators, trustees, and others, claiming merely by right of representation, are not liable to be proceeded against, as such, by attachment; 1 Johns. Cas. 372; 9 Wend. 465; 4 Day, 87; 3 Halst. 179; 3 Green, N. J. 183; 2 Dall. 73, 97; 1 Harp. 125; 23 Ala. 369; 1 Mart. La. 202, 380; 1 Cra. 352, 469.

The levy of an attachment does not change the estate of the defendant in the property attached; 1 Pick. 485; 3 McLean, 354; 1 Rob. La. 443; 32 Me. 233; 6 Humphr. 151; 1 Swan, 208; 3 B. Monr. 579. Nor does the attaching plaintiff acquire any property thereby; 1 Pick. 485; 3 Brev. So. C. 23; 2 S. & R. 221; 2 Harr. & J. 96; 9 N. H. 488; 2 Penning. 997. Nor can he acquire through his attachment any higher or better rights to the property attached than the defendant had when the attachment was levied, unless he can show some fraud or collusion by which his rights are impaired; 31 Me. 177.

The levy of an attachment constitutes a lien on the property or credits attached; 1 M'Cord, 480; 8 Miss. 658; 18 *id.* 348; 16 Pick. 264; 10 Metc. Mass. 320; 10 Johns. 129; 3 Ark. 509; 17 Conn. 278; 14 Penn. 326; 12 Leigh, 406; 10 Gratt. 284; 12 Ala. 433; 2 La. Ann. 311; 11 Humphr. 569; Cooke, Tenn. 254; 1 Swan, 208; 1 Ind. 296; 7 Ill. 468; 23 Me. 60; 14 N. H. 509; 1 Zab. 214; 21 Vt. 599, 620; 1 Day, 117. But, as the whole office of an attachment is to seize and hold property until it can be subjected to execution, this lien is of no value unless the plaintiff obtain judgment against the defendant and proceed to subject the property to execution.

Where two or more separate attachments are levied simultaneously on the same property, they will be entitled each to an aliquot part of the proceeds of the property; 13 Mass. 529; 19 Pick. 544; 2 Cush. 111; 1 Cow. 215; 3 Monr. 201. Where several attachments are levied successively on the same property, a junior attaching creditor may impeach a senior attachment, or judgment thereon, for fraud; 7 N. H. 594; 24 *id.* 384; 4 Rich-

So. C. 561; 6 Gratt. 96; 3 Ga. 140; 4 Abb. Pr. 393; 3 Mich. 531; but not on account of irregularities; 3 M'Cord, 201, 345; 4 Rich. So. C. 561; 2 Bail. 209; 9 Mo. 393; 5 Pick. 503; 13 Barb. 412; 9 La. An. 8.

By the levy of an attachment upon personalty the officer acquires a special property therein, which continues so long as he remains liable therefor, either to have it forthcoming to satisfy the plaintiff's demand, or to return it to the owner upon the attachment being dissolved, but no longer; 6 Johns. 195; 12 *id.* 403; 15 Mass. 310; 1 N. H. 289; 36 Me. 322; 28 Vt. 546. For any violation of his possession, while his liability for the property continues, he may maintain trover, trespass, and replevin; 9 Mass. 104; 16 *id.* 465; 1 Pick. 232, 389; 5 Vt. 181; 10 *id.* 165; 23 N. H. 46; 2 Me. 270.

As it would often subject an officer to great inconvenience and trouble to keep attached property in his possession, he is allowed in the New England states to deliver it over, during the pendency of the suit, to some responsible person, who will give an accountable receipt for it, and who is usually styled a receiptor or bailee, and whose possession is regarded as that of the officer, and, therefore, as not discharging the lien of the attachment. This practice is not authorized by statute, but has been so long in vogue in the states where it prevails as to have become a part of their systems, and to have given rise to a large mass of judicial decisions; Drake on Att. § 344.

In many states provisions exist, authorizing the defendant to retain possession of the attached property by executing a bond with sureties for the delivery thereof, either to satisfy the execution which the plaintiff may obtain in the cause, or when and where the court may direct. This bond, like the bailment of attached property, does not discharge the lien of the attachment; 20 Miss. 622; 12 Ala. 138; 6 Ala. n. s. 45; 7 Mo. 411; 7 Ill. 468; 10 Pet. 400; 10 Humphr. 434. Property thus bonded cannot be seized under another attachment, or under a junior execution; 6 Ala. n. s. 45; 7 B. Monr. 651; 4 La. 304.

Provisions also exist in many states for the dissolution of an attachment by the defendant's giving bond and security for the payment of such judgment as the plaintiff may recover. This is, in effect, merely Special Bail. From the time it is given, the cause ceases to be one of attachment, and proceeds as if it had been instituted by summons; 2 Bibb, 221; 7 Ill. 468; 3 M'Cord, 347; 19 Ga. 436.

An attachment is dissolved by a final judgment for the defendant; 4 Mass. 99; 23 Pick. 465; 2 Aik. 299. It may be dissolved, on motion, on account of defects in the plaintiff's proceedings, apparent on their face; but not for defects which are not so apparent; 17 Miss. 516. Every such motion must precede a plea to the merits; 2 Dev. & B. 502;

Harp. 38, 156; 7 Mart. La. 368; 4 Jones, No. C. 241; 26 Ala. n. s. 670. The death of the defendant *pendente lite* is held in some states to dissolve the attachment; 10 Metc. Mass. 320; 4 S. & R. 557; 7 Mo. 421; 5 Cranch, 507. And so the civil death of a corporation; 8 W. & S. 207; 11 Ala. n. s. 472. Not so, however, the bankruptcy of the defendant; 21 Vt. 599; 23 Me. 60; 14 N. H. 509; 10 Metc. Mass. 320; 1 Zab. 214; 18 Miss. 348.

In those states where under a summons property may be attached if the plaintiff so directs, the defendant has no means of defeating the attachment except by defeating the action; but in some states, where an attachment does not issue except upon stated grounds, provision is made for the defendant's contesting the validity of the alleged grounds; while in other states it is held that he may do so, as a matter of right, without statutory authority; 3 Caines, 257; 7 Barb. N. Y. 656; 12 *id.* 265; 1 Dall. 165; 1 Yeates, 277; 1 Green, N. J. 131, 250; 3 Harr. N. J. 287; 3 Harr. & M'H. 535; 2 Nott & M'C. 130; 3 Sneed, 536; Hard. 65; 6 Blackf. 232; 1 Ill. App. 25.

As by custom of London.

This writ reached the effects of the defendant in the hands of third persons. Its effect is simply to arrest the payment of a debt due the defendant, to him, and to compel its payment to the plaintiff, or else to reach personal property in the hands of a third person. It is known in England and in most of the states of the United States as *garnishment*, or the garnishee process; but in some, as the trustee process and factorizing, with the same characteristics. As affects the garnishees, it is in reality a suit by the defendant in the plaintiff's name; 22 Ala. n. s. 831; Hempst. 662.

Garnishment is an effectual attachment of the defendant's effects in the garnishee's hands; 6 Cranch. 187; 8 Mass. 436; 14 N. H. 129; Busb. 3; 5 Ala. n. s. 514; 21 Miss. 284; 6 Ark. 391; 4 McLean, 535. It is essentially a legal remedy; and through it equities cannot be settled between the defendant and the garnishee; 5 Ala. n. s. 442; 19 *id.* 135; 13 Vt. 129; 15 Ill. 89. The plaintiff, through it, acquires no greater rights against the garnishee than the defendant has, except in cases of fraud; and he can hold the garnishee only so long as he has, in the attachment suit, a right to enforce his claim against the defendant; 3 Ala. 132; 1 Litt. 274. No judgment can be rendered against the garnishee until judgment against the defendant shall have been recovered; 3 Ala. n. s. 114; 5 Mart. n. s. La. 307.

The basis of a garnishee's liability is either an indebtedness to the defendant, or the possession of personal property of the defendant capable of being seized and sold under execution; 7 Mass. 438; 3 Me. 47; 2 N. H. 93; 9 Vt. 295; 11 Ala. n. s. 273. The existence of such indebtedness, or the possession of such property, must be shown affirmatively, either

by the garnishee's answer or by evidence *aliunde*; 9 Cush. 530; 1 Dutch. 625; 2 Iowa, 154; 9 Ind. 537; 21 Mo. 30. The demand of the defendant against the garnishee, which will justify a judgment in favor of the plaintiff against the garnishee, must be such as would sustain an action of debt, or *indebitatus assumpsit*; 27 Ala. n. s. 414.

A non-resident of the state in which the attachment is obtained cannot be held as garnishee, unless he have in that state property of the defendant's in his hands, or be bound to pay the defendant money, or to deliver him goods, at some particular place in that state; 10 Mass. 343; 21 Pick. 263; 6 N. H. 497; 6 Vt. 614; 4 Abb. Pract. 72; 2 Cranch. 622.

No person deriving his authority from the law, and obliged to execute it according to the rules of the law, can be charged as garnishee in respect of any money or property held by him in virtue of that authority; 8 Mass. 246. Hence it has been held that an administrator cannot, in respect of moneys in his hand as such, be charged as garnishee of a creditor of his intestate; 11 Me. 185; 2 Harr. Del. 349; 5 Ark. 55, 188; unless he have been, by a proper tribunal, adjudged and ordered to pay a certain sum to such creditor; 5 N. H. 374; 3 Harr. Del. 267; 10 Mo. 374. Nor is an executor chargeable as garnishee in respect of a legacy bequeathed by his testator; 7 Mass. 271; 1 Conn. 385; 3 N. H. 67; 2 Whart. 332; 4 Mass. 443. Nor is a guardian; 4 Metc. Mass. 486; 6 N. H. 399. Nor is a sheriff, in respect of money collected by him under process; 3 Mass. 289; 7 Gill and J. 421; 1 Bland, Ch. 443; 1 Murph. 47; 2 Speers, 34, 378; 2 Ala. n. s. 253; 1 Swan, 208; 9 Mo. 378; 3 Cal. 363; 4 Me. 532. Nor is a clerk of a court, in respect of money in his hands officially; 1 Dall. 354; 2 Hayw. 171; 3 Fred. 365; 7 Humphr. 132; 7 Gill & J. 421; 3 Hill, So. C. 12; Bail. Eq. 360. Nor is a trustee of an insolvent, or an assignee of a bankrupt; 5 Mass. 183; 7 Gill & J. 421. Nor is a government disbursing officer; 7 Mass. 259; 3 Penn. 368; 7 T. B. Monr. 439; 3 Sneed, 379; 4 How. 20.

A debt not due may be attached in the hands of the garnishee, but he cannot be required to pay the same until it becomes due; 6 Me. 263; 1 Yeates, 255; 4 Mass. 235; 1 Harr. & J. 536; 3 Murph. 256; 1 Ala. n. s. 396; 17 Ark. 492.

In most of the states, the garnishee responds to the proceedings against him by a sworn answer to interrogatories propounded to him; which in some states is held to be conclusive as to his liability, but generally may be controverted and disproved, though in the absence of contradictory evidence always taken to be true. In order to charge the garnishee upon his answer alone, there must be in it a clear admission of a debt due to, or the possession of money or other attachable property of, the defendant; 2 Miles, 243; 22 Ga. 52;

2 Al. 9; 6 La. An. 122; 19 Miss. 348; 7 Humphr. 112; 3 Wisc. 300; 2 Greene, 125; 12 Ill. 358; 2 Cranch, 543; 9 Cush. 530; 1 Dutch. 625; 9 Ind. 537; 21 Mo. 30.

Whatever defence the garnishee could set up against an action by the defendant for the debt in respect of which it is sought to charge the garnishee, he may set up in bar of a judgment against him as a garnishee. If his debt to the defendant be barred by the statute of limitation, he may take advantage of the statute; 2 Humphr. 137; 10 Mo. 557; 9 Pick. 144. He may set up a failure of consideration; Wright, 724; 2 Cons. So. C. 456; 1 Murph. 468; 7 Watts, 12; and may plead a set-off against the defendant; 7 Pick. 166; 25 N. H. 369; 19 Vt. 644.

If by a court having jurisdiction a judgment be rendered against a garnishee, and he satisfy the same under execution, it is a full defence to an action by the defendant against him for the property or debt in respect of which he was charged as garnishee; though the judgment may have been irregular, and reversible on error; 3 B. Monr. 502; 4 Zabr. 674; 12 Ill. 358; 1 Iowa, 86; 2 Ala. 180.

An attachment plaintiff may be sued for a malicious attachment; and the action will be governed by the principles of the common law applicable to actions for malicious prosecution; 3 Call, 446; 17 Mass. 190; 9 Conn. 309; 1 Penning. 631; 4 W. & S. 201; 9 Ohio, 103; 4 Humphr. 169; 3 Hawks, 545; 9 Rob. La. 418; 14 Tex. 662.

See Drake, Attachm.

ATTACHMENT OF PRIVILEGE. In English Law. A process by which a man, by virtue of his privilege, calls another to litigate in that court to which he himself belongs, and who has the privilege to answer there.

A writ issued to apprehend a person in a privileged place. *Termes de la Ley*.

ATTAINDER. That extinction of civil rights and capacities which takes place whenever a person who has committed treason or felony receives sentence of death for his crime. 1 Stephen, Com. 408; 1 Bishop, Cr. L. § 641.

Attainder by confession is either by pleading guilty at the bar before the judges, and not putting one's self on one's trial by a jury, or before the coroner in sanctuary, when, in ancient times, the offender was obliged to abjure the realm.

Attainder by verdict is when the prisoner at the bar pleads not guilty to the indictment, and is pronounced guilty by the verdict of the jury.

Attainder by process or *outlawry* is when the party flies, and is subsequently outlawed. Coke, Litt. 391.

The effect of attainder upon a felon is, in general terms, that all his estate, real and personal, is forfeited; that his blood is corrupted, and so nothing passes by inheritance to, from, or through him; 1 Wms. Saund. 361, n.; 6 Coke, 63 a, 68 b; 2 Rob. Eccl. 547; 22 Eng. L. & Eq. 598; that he cannot sue in a

court of justice; Coke, Litt. 130 a. See 2 Gabbett, Cr. Law; 1 Bishop, Cr. Law, § 641.

In England, by statute 33 & 34 Vict. c. 23, attainer upon conviction, with consequent corruption of blood, forfeiture, or escheat, is abolished.

In the United States, the doctrine of attainer is now scarcely known, although during and shortly after the Revolution acts of attainer were passed by several of the states. The passage of such bills is expressly forbidden by the constitution.

As to the Confiscation Act of July 17, 1862, which imposed the penalty of confiscation of property as a punishment for treason and rebellion, see 9 Wall. 339.

ATTAINT. Attainted, stained, or blackened.

A writ which lies to inquire whether a jury of twelve men gave a false verdict. Bracton, l. 4, tr. 1, c. 134; Fleta, l. 5, c. 22, § 8.

This latter was a trial by jury of twenty-four men empanelled to try the goodness of a former verdict. 3 Bla. Com. 351; 3 Gilbert, Ev. Lofft. ed. 1146. See ASSIZE.

ATTEMPT (Lat. *ad, to, tentare*, to strive, to stretch).

In Criminal Law. An endeavor to accomplish a crime carried beyond mere preparation, but falling short of execution of the ultimate design in any part of it. 5 Cush. 367.

An intent to do a particular criminal thing combined with an act which falls short of the thing intended. 1 Bishop, Cr. Law, § 728; 14 Ga. 55; 14 Ala. n. s. 411; 56 Barb. 126; 49 Miss. 685.

To constitute an attempt, there must be an intent to commit some act which would be indictable, if done, either from its own character or that of its natural and probable consequences; 3 Harr. Del. 571; 18 Ala. n. s. 532; 1 Park. Cr. Cas. 327; 9 Humphr. 455; 9 C. & P. 518; 8 *id.* 541; 1 Crawf. & D. 156, 186; 1 Bishop, Cr. Law, § 731; an act apparently adapted to produce the result intended; Whart. Cr. L. § 182; 11 Ala. 57; 12 Pick. 173; 5 Cush. 365; 18 Ohio, 32; 65 N. C. 334; 32 Ind. 220; 4 Wash. C. C. 733; 2 Va. Cas. 356; 6 C. & P. 403; 9 *id.* 79, 483; 1 Leach, 19 (though some cases require a complete adaptation; 1 Bishop, Cr. L. 749); an act immediately and directly tending to the execution of the principal crime, and committed by the prisoner under such circumstances that he has the power of carrying his intention into execution; 1 F. & F. 511; including solicitations of another; 2 East, 5; 4 Hill, N. Y. 133; 7 Conn. 216, 266; 3 Pick. 26; 2 Dall. 384; but mere solicitation, not directed to the procurement of some specific crime, is not an attempt; Whart. Cr. L. 179; and the crime intended must be at least a misdemeanor; 1 Crawf. & D. 149; 1 C. & M. 661, n.; 1 Dall. 39. An abandoned attempt, there being no outside cause prompting the abandonment, is not indictable; Whart. Cr. L. § 137.

In England an indictment has been upheld upon a criminal intent coupled with an act (procuring dies for counterfeiting) which fell short of an attempt under their statute; 33 E. L. & E. 533. See 1 Bishop, Cr. L. § 724.

ATTENDANT. One who owes a duty or service to another, or in some sort depends upon him. Termes de la Ley.

ATTENDANT TERMS. Long leases or mortgages so arranged as to protect the title of the owner.

Thus, to raise a portion for younger children, it was quite common to make a mortgage to trustees. The powers of these trustees were generally to take possession of the estate, or to sell a part of the term if the portions were not duly paid. If the deed did not become *ipso facto* void, upon payment of the portion, a release was necessary from the trustees to discharge the mortgage. If this was not given, the term became an outstanding satisfied term. The purchaser from the heir then procured an assignment of the term to trustees for his benefit, which then became a satisfied term to attend the inheritance, or an attendant term. These terms were held attendant by the courts, also, without any assignment, and operated to defeat intermediate alienations to some extent. There were other ways of creating outstanding terms besides the method by mortgage; but the effect and general operation of all these were essentially the same. By reason of the want of notice, by means of registration, of the making of charges, mortgages, and conveyances of lands, this mode of protecting an innocent purchaser by means of an outstanding term to attend the inheritance came to be very general prior to the 8 & 9 Vict. c. 112, § 2, which abolished all such terms as soon as satisfied. 1 Washb. R. P. 311; 4 Kent, 86-93.

ATTENTAT. Any thing whatsoever wrongfully innovated or attempted in the suit by the judge *a quo*, pending an appeal. Used in the civil and canon law; 1 Add. Eccl. 22, note; Ayliffe, Parerg. 100.

ATTERMINARE (Lat.). To put off to a succeeding term; to prolong the time of payment of a debt. Stat. Westm. 2, c. 4; Cowel; Blount.

ATTERMINING. The granting a time or term for the payment of a debt.

ATTERMOIEMENT. In Canon Law. A making terms; a composition, as with creditors; 7 Low. C. 272, 306.

ATTESTATION (Lat. *ad, to, testari, to witness*).

The act of witnessing an instrument in writing, at the request of the party making the same, and subscribing it as a witness; 3 P. Will. 254; 2 Ves. Ch. 454; 1 Ves. & B. 362; 3 A. K. Marsh. 146; 17 Pick. 373.

Deeds, at common law, do not require attestation in order to be valid; 1 Wood, Conv. 239; 2 Bla. Com. 307; 3 Dane, Abr. 354; Cheves, 273; 12 Metc. 157; and there are several states where it is not necessary; 1 S. & R. 73; 1 Hayw. 205; 13 Ala. 321; 12 Metc. 157. In Alabama, Arkansas, Illinois, Indiana, New Jersey, and New York, attestation or acknowledgment before a proper officer is required. Where there are statu-

tory regulations on the subject, they must be complied with. In Mississippi and Maryland one witness is sufficient; 17 Miss. 325; in Alabama, Arkansas, Connecticut, Delaware, Georgia, Illinois, Indiana, Kentucky, Michigan, Minnesota, New Hampshire, Ohio, South Carolina, Tennessee, and Vermont, two are required; 8 Conn. 289; 2 A. K. Marsh. 429; 13 N. H. 38; 6 Wheat. 527; 1 McLean, 520; 5 Ohio, 119; M'Mull. 373; 8 Minn. 525; 11 Minn. 443; 2 Greenl. Ev. § 275, n.; 4 Kent, 457. The requisites are not the same in all cases as against the grantor and as against purchasers: 2 A. K. Marsh. 529. See 3 N. H. 38; 13 *id.* 38.

The attesting witness need not see the grantor write his name: if he sign in the presence of the grantor, and at his request, it is sufficient; 2 B. & P. 217. *Wills* must be attested by *competent or credible* witnesses; 2 Greenl. Ev. § 691; 9 Pick. 350; 1 Burr. 414; 4 Burn. Eccl. Law, 116; who must subscribe their names attesting in the presence of the testator; 7 Harr. & J. 61; 3 Harr. & M'H. 457; 1 Leigh, 6; 1 Maule & S. 294; 2 Curt. Eccl. 320; 3 *id.* 118; Carth. 79; 2 Greenl. Ev. § 678. And see 13 Gray, 103; 12 Cush. 342; 1 Ves. Ch. 11; 2 Washb. R. P. 682. In the attestation of wills conveying land, *three* witnesses are requisite in Connecticut, District of Columbia, Florida, Georgia, Maine, Maryland, Massachusetts, New Hampshire, New Mexico, South Carolina, and Vermont; *two* are sufficient in Alabama, Arkansas, Rhode Island, California, Colorado, Delaware, Illinois, Indiana, Iowa, Kansas, Kentucky, Michigan, Minnesota, Mississippi, Missouri, New Jersey, Nebraska, Nevada, New York, North Carolina, Ohio, Oregon, Tennessee, Texas, Virginia, West Virginia, Wisconsin, Arizona, Dakota, Idaho, Montana, Utah, and Washington. No subscribing witnesses are required in Pennsylvania, except in the case of wills making a gift to a charity.

ATTESTATION CLAUSE. That clause wherein the witnesses certify that the instrument has been executed before them, and the manner of the execution of the same.

The usual attestation clause to a will is in the following formula, to wit: "Signed, sealed, published, and declared by the above-named A B, as and for his last will and testament, in the presence of us, who have hereunto subscribed our names as the witnesses thereto, in the presence of the said testator and of each other." That of deeds is generally in these words: "Sealed and delivered in the presence of us."

ATTESTING WITNESS. One who, upon being required by the parties to an instrument, signs his name to it to prove it, and for the purpose of identification; 3 Campb. 232; 115 Mass. 599.

ATTORN. To turn over; to transfer to another money or goods; to assign to some particular use or service. Kennet, Paroch. Antiq. 283.

Used of a lord's transferring the homage and

service of his tenant to a new lord. Bract. 81, 82; 1 Sullivan, Lect. 227.

To transfer services or homage.

Used of the part taken by the tenant in a transfer of lands; 2 Bla. Com. 288; Littleton, § 551. Now used of assent to such a transfer; 1 Washb. R. P. 28. The lord could not alien his land without the consent of the tenant, nor could the tenant assign without the consent of his lord; 2 Bla. Com. 27; 1 Spence, Eq. Jur. 137; 1 Washb. R. P. 28, n. Attornment is abolished by various statutes; 1 Washb. R. P. 336.

ATTORNEY. One put in the place, turn, or stead of another, to manage his affairs; one who manages the affairs of another by direction of his principal. Spelman, Gloss.; Termes de la Ley.

One who acts for another by virtue of an appointment by the latter. Attorneys are of various kinds.

Attorney in fact. A person to whom the authority of another, who is called the constituent, is by him lawfully delegated.

This term is employed to designate persons who act under a special agency, or a special letter of attorney, so that they are appointed *in factum*, for the deed, or special act to be performed; but in a more extended sense it includes all other agents employed in any business, or to do any act or acts *in pais* for another. Bacon, Abr. *Attorney*; Story, Ag. § 25.

All persons who are capable of acting for themselves, and even those who are disqualified from acting in their own capacity, if they have sufficient understanding, as infants of a proper age, and femes covert, may act as attorneys of others; Coke, Litt. 52 a; 1 Esp. 142; 2 *id.* 511.

Attorney-at-law. An officer in a court of justice, who is employed by a party in a cause to manage the same for him.

Appearance by an attorney has been allowed in England from the time of the earliest records of the courts of that country. They are mentioned in Glanville, Bracton, Fleta, and Britton; and a case turning upon the party's right to appear by attorney is reported; Y. B. 17 Edw. III., p. 8, case 23. In France such appearances were first allowed by letters patent of Philip le Bel, A. D. 1290; 1 Fournel, *Hist. des avocats*, 42, 43, 92, 93; 2 Loizel. *Coutumes*, 14, 15. It results from the nature of their functions, and of their duties, as well to the court as to the client, that no one can, even by consent, be the attorney of both the litigating parties in the same controversy; Farr. 47. The name of attorney is given to those officers who practise in courts of common law; solicitors, in courts of equity; and proctors, in courts of admiralty and in the English ecclesiastical courts.

As a general rule the eligibility of persons to hold the position of attorney-at-law is settled by local legislation or by rule of court. Excepting where permitted by special statute, women cannot act as attorneys-at-law in the various states; 55 Ill. 535; 16 Wall. 130; but any woman of good standing at the bar of the supreme court of any state or territory or of the Dist. of C. for three years, and of good moral character, may become a member of the bar of the supreme court of the U. S.; Act Feb. 15, 1879. In North Carolina, un-

naturalized foreigners cannot be licensed as attorneys; 3 Hawks, 355; Weeks, Att. at Law, 79, note. The business of attorneys is to carry on the practical and formal parts of the suit; 1 Kent, 307. See, as to their powers, 2 Supp. to Ves. Jr. 241, 254; 3 Chitty, Bla. Com. 23, 338; Bacon, Abr. *Attorney*; 3 Penn. 74; 3 Wils. 374; 16 S. & R. 368; 14 *id.* 307; 7 Cranch, 452; 1 Penn. 264. In general, the agreement of an attorney-at-law, within the scope of his employment, binds his client; 1 Salk. 86; as, to amend the record, 1 Binn. 75; to refer a cause, 1 Dall. 164; 6 Binn. 101; 7 Cranch, 436; 3 Taunt. 486; not to sue out a writ of error, 1 H. Blackst. 21, 23; 2 Saund. 71 *a, b*; 1 Term, 388; to strike off a *non pros.*, 1 Binn. 469; to waive a judgment by default, 1 Archb. Pr. 26. But the act must be within the scope of his authority. He cannot, for example, without special authority, purchase lands for the client at sheriff's sale; 2 S. & R. 21; 11 Johns. 464.

In the absence of fraud, the client is concluded by the acts, and even by the omissions, of his attorney; 23 Tex. 109; 14 Minn. 333; 22 Cal. 200; Weeks, Att. at Law, 375.

In general, he has all the powers exercised by the forms and usages of the court in which the suit is pending; Weeks, Att. at Law, 374.

The principal duties of an attorney are—to be true to the court and to his client; to manage the business of his client with care, skill, and integrity; 4 Burr. 2061; 1 B. & Ald. 202; 2 Wils. 325; 1 Bingham, 347; to keep his client informed as to the state of his business; to keep his secrets confided to him as such.

And he is privileged from disclosing such secrets when called as a witness; 29 Vt. 701; 4 Mich. 414; 16 N. Y. 180; 21 Ga. 201; 40 E. L. & Eq. 353; 38 Me. 581. See CLIENT; CONFIDENTIAL COMMUNICATION. For a violation of his duties an action will, in general, lie; 3 Cal. 308; 2 Greenl. Ev. §§ 145, 146; and in some cases he may be punished by attachment. Official misconduct may be inquired into in a summary manner, and the name of the offender stricken from the roll; 18 B. Monr. 472; 13 Wall. 333; 17 Am. Dec. 194. Consult 4 Wall. 333.

ATTORNEY'S CERTIFICATE. In English Law. A certificate of the commissioners of stamps that the attorney therein named has paid the annual duty. This must be renewed yearly; and the penalty for practising without such certificate is fifty pounds; Stat. 37 Geo. III. c. 90, §§ 26, 28, 30. See also 7 & 8 Vict. c. 73, §§ 21–26; 16 & 17 Vict. c. 63.

ATTORNEY-GENERAL. In English Law. A great officer, under the king, made by letters patent, whose office is to exhibit informations and prosecute for the crown in matters criminal; to file bills in the exchequer in any matter concerning the king's

revenue. Others may bring bills against the king's attorney; 3 Bla. Comm. 27; *Termes de la Ley*.

In American Law. In each state there is an attorney-general, or similar officer, who appears for the people, as in England the attorney-general appears for the crown.

ATTORNEY-GENERAL OF THE UNITED STATES. An officer appointed by the president.

His duties are to prosecute and conduct all suits in the supreme court in which the United States shall be concerned, and give his advice upon questions of law when required by the president, or when requested by the heads of any of the departments, touching matters that concern their departments; Act of 24th Sept. 1789.

ATTORNMENT. See ATTORN.

AU BESOIN (Fr. in case of need. "*Au besoin chez Messieurs — à —.*" "In case of need, apply to Messrs. — at —").

A phrase used in the direction of a bill of exchange, pointing out the person to whom application may be made for payment in case of failure or refusal of the drawee to pay; Story, Bills, § 65.

AUBAINE. See DROIT D'AUBAINE.

AUCTION. A public sale of property to the highest bidder.

The manner of conducting an auction is immaterial, whether it be by public outcry or by any other manner. The essential part is the selection of a purchaser from a number of bidders. In a case where a woman continued silent during the whole time of the sale, but when any one bid she gave him a glass of brandy, and, when the sale broke up, the person who received the last glass of brandy was taken into a private room and he was declared to be the purchaser, this was adjudged to be an auction; 1 Dowl. Bailm. 115.

Auctions are generally conducted by a person licensed for that purpose. Bidders may be employed by the owner, if it be done *bonâ fide* and to prevent a sacrifice of the property under a given price; 1 Hall, 655; 11 Paige, Ch. 431; 3 Stor. 622; but where bidding is fictitious, and by combination with the owner to mislead the judgment and inflame the zeal of others, it would be a fraudulent and void sale; 8 How. 134; 3 Stor. 611; 11 Ill. 254; 2 Dev. 126; 3 Metc. Mass. 384; 3 Gilm. 529. And see 6 J. B. Moore, 316; 3 B. & B. 116; 3 Bingham, 368; 15 M. & W. 367; 13 La. 287; 23 N. H. 360; Ired. Eq. 278, 430; 14 Penn. 446. Unfair conduct on the part of the purchaser will avoid the sale; 6 J. B. Moore, 216; 3 B. & B. 116; 3 Stor. 623; 20 Mo. 290; 2 Dev. 126. See 3 Gilm. 529; 11 Paige, Ch. 431; 7 Ala. n. s. 189. Error in description of real estate sold will avoid the sale if it be material; 4 Bingham, n. c. 463; 8 C. & P. 469; 1 Y. & C. 658; 3 Jones & L. 506; but an immaterial variation merely gives a case for deduction from the amount of purchase-money; 2 Kent, 437; 6 Johns. 38; 11 *id.* 525; 2 Bay, 11; 3 Cranch, 270. A

bid may be retracted before acceptance has been signified; 3 Term, 148; 4 Bingh. 653. See 13 Price, Exch. 103. Sales at auction are within the Statute of Frauds; 2 B. & C. 945; 7 East, 558; Hilliard, Sales, 479. Consult 2 Kent, 536; 1 Parsons, Contr. 415; 1 Bouvier, Inst. n. 976; 18 Hun, 470.

AUCTIONARIUS (Lat.). A seller; a regrator; a retailer; one who bought and sold; an auctioneer, in the modern sense. Spelman, Gloss. One who buys poor, old, worn-out things to sell again at a greater price. Du Cange.

AUCTIONEER. A person authorized by law to sell the goods of others at public sale; one who conducts a public sale or auction; 5 Mass. 505; 19 Pick. 482. He is the agent of the seller; 3 Term, 148; 2 Rich. 464; 1 Parsons, Contr. 418; and of the buyer, for some purposes at least; 4 Ad. & E. 792; 7 East, 558; 2 Taunt. 38; 3 Ves. & B. 57; 4 Johns. Ch. 659; 16 Wend. 28; 4 Me. 1, 258; 6 Leigh, 16; 2 Kent, 539. He has a special property in the goods, and may bring an action for the price; 1 H. Blackst. 81; 7 Taunt. 237; 19 Ark. 566; 5 S. & R. 19; 1 Ril. So. C. 287; 16 Johns. 1; 1 E. D. Sm. 590; see 5 M. & W. 645; 3 C. & P. 352; 5 B. & Ad. 568; and has a lien upon them for the charges of the sale, his commission, and the auction-duty; 15 Mo. 184; 2 Kent, 536. He must obtain the best price he fairly can, and is responsible for damages arising from a failure to pursue the regular course of business, or from a want of skill; 3 B. & Ald. 616; Cowp. 395; 2 Wils. 325; and where he sells goods as the property of one not the owner, is liable for their value to the real owner; 7 Taunt. 237; 5 Esp. 103; 20 Wend. 21; 22 *id.* 235; 5 Mo. 323. And see 2 Harr. Del. 179.

AUCTOR. In Roman Law. An auctioneer.

In auction sales, a spear was fixed upright in the forum, beside which the seller took his stand; hence goods thus sold were said to be sold *sub hasta* (under the spear). The catalogue of goods was on tablets called *auktionariae*.

AUDIENCE (Lat. *audire*, to hear). A hearing.

It is usual for the executive of a country to whom a minister has been sent, to give such minister an audience. And after a minister has been recalled, an *audience of leave* usually takes place.

AUDIENCE COURT. In English Law. A court belonging to the archbishop of Canterbury, and held by him in his palace for the transaction of matters of form only, as the confirmation of bishops, elections, consecrations, and the like. This court has the same authority with the court of arches, but is of inferior dignity and antiquity. The dean of the arches is the official auditor of the audience. The archbishop of York has also his audience court. Termes de la Ley.

AUDITA QUERELA (Lat.).

In Practice. A form of action which lies

for a defendant to recall or prevent an execution, on account of some matter occurring after judgment amounting to a discharge, and which could not have been, and cannot be, taken advantage of otherwise. 12 Mass. 268.

It is a regular suit, in which the parties appear and plead; 17 Johns. 484; 12 Vt. 56, 435; 30 *id.* 420; 8 Miss. 103; 12 Wall. 305; and in which damages may be recovered if execution was issued improperly; Brooke, Abr. *Damages*, 38; but the writ must be allowed in open court, and is not of itself a *supersedeas*; 2 Johns. 227; 9 Phila. 125.

It is a remedial process, equitable in its nature, based upon facts, and not upon the erroneous judgments or acts of the court; 2 Wms. Saund. 148, n.; 10 Mass. 103; 14 *id.* 448; 17 *id.* 159; 1 Aik. 363; 24 Vt. 211; 2 Johns. Cas. 227; 1 Overt. T. 425. And see 7 Gray, 206.

It lies where an execution against A has been taken out on a judgment acknowledged by B without authority, in A's name; Fitzh. Nat. Brev. 233; and see Cro. Eliz. 233; and generally for any matters which work a discharge occurring after judgment entered; Cro. Car. 443; 2 Root, 178; 10 Pick. 439; 25 Me. 304; see 5 Coke, 86 *b*; and for matters occurring before judgment which the defendant could not plead through want of notice or through collusion or fraud of the plaintiff; 4 Mass. 485; 5 Rand. 639; 2 Johns. Cas. 258; 1 W. N. C. 304.

It may be brought after the day on which judgment might have been entered, although it has not been; 1 Rolle, Abr. 306, 431, pl. 10; 1 Mod. 111; either before or after execution has issued; Kirb. 187.

It does not lie for matter which might have been, or which may be, taken advantage of by a writ of error; 1 Vt. 433; in answer to a *scire facias* of the plaintiff; 1 Salk. 264; nor where there is or has been a remedy by plea or otherwise; T. Raym. 89; 12 Mass. 270; 13 *id.* 453; 11 Cush. 35; 6 Vt. 243; 12 Wall. 305; see 17 Mass. 158; nor where there has been an agreement to accept a smaller sum in payment of a larger debt, while any part of the agreement continues executory; 48 Penn. 477; nor to show that a confessed judgment was to be collateral security only; 9 Phila. 125; nor against the commonwealth; 8 Phila. 237.

In modern practice it is usual to grant the same relief upon motion which might be obtained by *audita querela*; 4 Johns. 191; 11 S. & R. 274; and in some of the states the remedy by motion has entirely superseded the ancient remedy; 5 Rand. 639; 2 Hill, So. C. 298; 6 Humphr. 210; 18 Ala. 778; 13 B. Monr. 256; 3 Mo. 129; while in others *audita querela* is of frequent use as a remedy recognized by statute; 17 Vt. 118; 7 Gray, 206; 9 Allen, 572.

AUDITOR (Lat. *audire*, to hear). An officer of the government, whose duty it is to examine the accounts of officers who have received and disbursed public moneys by lawful

authority. Acts of Congress, April 3, 1817, Feb. 24, 1819; Mar. 3, 1849; June 30, 1864; July 20, 1868; June 8, 1872; June 16, 1874; U. S. Rev. Stat. § 276; Coke, 4th Inst. 107; 46 Geo. III. c. 1.

In Practice. An officer (or officers) of the court, assigned to state the items of debit and credit between the parties in a suit where accounts are in question, and exhibit the balance; 1 Metc. 218.

They may be appointed by courts either of law or equity. They are appointed at common law in actions of account, Bacon, Abr. *Accompt*, F, and in many of the states in other actions, under statute regulations; 6 Pick. 193; 14 N. H. 427; 3 R. I. 60.

They have authority to hear testimony; 4 Pick. 283; 5 Metc. Mass. 373; 5 Vt. 363; 2 Bland, Ch. 45; 17 Conn. 1; in their discretion, 27 N. H. 244, in some states, to examine witnesses under oath; 6 N. H. 508; 11 *id.* 501; 1 Bland, Ch. 463; to examine books; 19 Pick. 81; 17 Conn. 1; see 14 Vt. 214; and other vouchers of accounts; 11 Metc. Mass. 297.

The auditor's report must state a special account; 4 Yeates, 514; 2 Root, 12; 4 Wash. C. C. 42; giving items allowed and disallowed; 5 Vt. 70; 1 Ark. 355; 15 Tex. 7; but it is sufficient if it refer to the account; 2 South. 791; but see 27 Vt. 673; and are to report exceptions to their decision of questions taken before them to the court; 2 South, 791; 5 Vt. 546; 5 Binn. 433; and exceptions must be taken before them; 4 Cranch, 308; 5 Vt. 546; 7 Pet. 625; 1 Miss. 43; 15 Tex. 7; 22 Barb. 39; unless apparent on the face of the report; 5 Cranch, 313. See 19 Penn. 221.

In some jurisdictions, the report of auditors is final as to facts; Kirb. 353; 2 Vt. 369; 1 Miss. 43; 13 Penn. 188; 5 R. I. 338; 15 Tex. 7; 40 Me. 337; unless impeached for fraud, misconduct, or very evident error; 5 Penn. 413; 71 *id.* 25; 40 Me. 337; but subject to any examination of the principles of law in which they proceeded; 2 Day, 116. In others it is held *prima facie* correct; 12 Mass. 412; 6 Gray, 376; 1 La. Ann. 380; 14 N. H. 427; 21 *id.* 188; and evidence may be introduced to show its incorrectness; 1 La. Ann. 380; 24 Miss. 83; 13 Ark. 609; and in others it is held to be of no effect till sanctioned by the court; 1 Bland, Ch. 463; 12 Ill. 111.

When the auditor's report is set aside in whole or in part, it may be referred back; 4 B. Monr. 71; 4 Pick. 283; 5 Vt. 363; 26 *id.* 722; 1 Litt. 124; 12 Ill. 111; 24 N. H. 198; or may be rectified by the court; 1 Smedes & M. 543; or accepted if the party in favor of whom the wrong decision was made remits the item.

Where the report is referred back to the auditor, the whole case is reopened, and all parties are bound to take notice; 76 Penn. 30.

Where two or more are appointed, all must

act; 20 Conn. 331; unless the parties consent that a part act for all; 1 Tyl. 407.

AUGMENTATION. The increase arising to the crown's revenues from the suppression of monasteries and religious houses and the appropriation of their lands and revenues.

A court erected by Henry VIII., which was invested with the power of determining suits and controversies relating to monasteries and abbey lands.

The court was dissolved in the reign of Mary; but the office of augmentations remained long after. Cowel.

A share of the great tithes temporarily granted to the vicars by the appropriators, and made perpetual by statute 29 Car. II. c. 8.

The word is used in a similar sense in the Canadian law.

AULA REGIA (called frequently *Aula Regis*). The king's hall or palace.

In English Law. A court established in England by William the Conqueror in his own hall.

It was the "great universal" court of the kingdom; from the dismemberment of which are derived the present four *superior courts* in England, viz.: the High Court of Chancery, and the three *superior courts of common law*, to wit, the Queen's Bench, Common Pleas, and Exchequer. It was composed of the king's great officers of state resident in his palace and usually attendant on his person; such as the lord high constable and lord marechal (who chiefly presided in matters of honor and of arms), the lord high steward and lord great chamberlain, the steward of the household, the lord chancellor (whose peculiar duty it was to keep the king's seal, and examine all such writs, grants, and letters as were to pass under that authority), and the lord high treasurer, who was the principal adviser in all matters relating to the revenue. These high officers were assisted by certain persons learned in the laws, who were called the king's justiciars or justices, and by the greater barons of parliament, all of whom had a seat in the *aula regia*, and formed a kind of court of appeal, or rather of advice in matters of great moment and difficulty. These, in their several departments, transacted all secular business, both civil and criminal, and all matters of the revenue; and over all presided one special magistrate, called the chief justiciar, or *capitulis justiciarius totius Anglie*, who was also the principal minister of state, the second man in the kingdom, and, by virtue of his office, guardian of the realm in the king's absence. This court was bound to follow the king's household in all his expeditions; on which account the trial of common causes in it was found very burdensome to the people, and accordingly the 11th chapter of *Magna Charta* enacted that "*communia placita non sequantur curiam regis, sed teneantur in aliquo certo loco*," which certain place was established in Westminster Hall (where the *aula regis* originally sat, when the king resided in that city), and there it has ever since continued, under the name of Court of Common Pleas, or Common Bench. It was under the reign of Edward I. that the other several officers of the chief justiciar were subdivided and broken into distinct courts of judicature. A court of chivalry, to regulate the king's domestic servants, and an august tribunal for the trial of delinquent

peers, were erected; while the barons reserved to themselves in parliament the right of reviewing the sentences of the other courts in the last resort; but the distribution of common justice between man and man was arranged by giving to the court of chancery jurisdiction to issue all original writs under the great seal to other courts; the exchequer to manage the king's revenue, the common pleas to determine all causes between private subjects, and the court of king's bench retaining all the jurisdiction not cantoned out to the other courts, and particularly the sole cognizance of pleas of the crown, or criminal causes. 3 Steph. Com. 397-400, 405; 3 Bla. Com. 38-40; Bracton, 1. 3. tr. 1, c. 7; Fleta, Abr. 2, cc. 2, 3; Gilbert, Hist. C. Pleas, Introd. 18; 1 Reeve, Hist. Eng. Law, 48.

AUNCLE WEIGHT. An ancient manner of weighing by means of a beam held in the hand. Termes de la Ley; Cowel.

AUNT. The sister of one's father or mother: she is a relation in the third degree. See 2 Comyn, Dig. 474; Dane, Abr. c. 126, a. 3, § 4.

AUTER. Another. See **AUTER ACTION PENDANT.**

AUTER ACTION PENDANT. See *infra*, p. 212.

AUTHENTIC ACT. In Civil Law. An act which has been executed before a notary or other public officer authorized to execute such functions, or which is testified by a public seal, or has been rendered public by the authority of a competent magistrate, or which is certified as being a copy of a public register. Nov. 73, c. 2: Cod. 7. 52, 6. 4. 21; Dig. 22. 4.

An act which has been executed before a notary public or other officer authorized to execute such functions, in presence of two witnesses, free, male, and aged at least fourteen years; or of three witnesses, if the party be blind. La. Civ. Code, art. 2231. If the party does not know how to sign, the notary must cause him to affix his mark to the instrument. La. Civ. Code, art. 2231. The authentic act is full proof of the agreement contained in it, against the contracting parties and their heirs or assigns, unless it be declared and proved to be a forgery. *Id.* art. 2233. See Merlin, *Répert.*

AUTHENTICATION. In Practice.

A proper or legal attestation.

Acts done with a view of causing an instrument to be known and identified.

Under the constitution of the United States, congress has power to provide a method of authenticating copies of the records of a state with a view to their production as evidence in other states. For the various statutes on the subject, see **FOREIGN JUDGMENT; RECORDS.**

AUTHENTICS. A collection of the Novels of Justinian, made by an unknown person.

They are *entire*, and are distinguished by their name from the epitome made by Julian. See 1 Mackeldey, Civ. Law, § 72.

A collection of extracts made from the

Novels by a lawyer named Irnier, and which he inserted in the code at the places to which they refer. These extracts have the reputation of not being correct. Merlin, *Répert. Authentique.*

AUTHOR (Lat. *auctor*, from *augere*, to increase, to produce).

One who produces, by his own intellectual labor applied to the materials of his composition, an arrangement or compilation new in itself; 2 Blatchf. 39.

When a person has conceived the design of a work, and has employed others to execute it, the creation of the work may be so far due to his mind as to make him the author; 7 C. B. N. S. 268; but he is not an author who merely suggests the subject, and has no share in the design or execution of the work; 17 C. B. 432; Drone, Copyright, 236. See **COPYRIGHT.**

AUTHORITIES. Enactments and opinions relied upon as establishing or declaring the rule of law which is to be applied in any case.

The opinion of a court, or of counsel, or of a text-writer upon any question, is usually fortified by a citation of authorities. In respect to their general relative weight, authorities are entitled to precedence in the order in which they are here treated.

The authority of the constitution and of the statutes and municipal ordinances are paramount; and if there is any conflict among these the constitution controls, and courts declare a statute or ordinance which conflicts with the former to be so far forth of no authority. See **CONSTITUTIONAL LAW; STATUTES.**

The decisions of courts of justice upon similar cases are the authorities to which most frequent resort is to be had; and although in theory these are subordinate to the first class, in practice they do continually explain, enlarge, or limit the provisions of enactments, and thus in effect largely modify them. The word authorities is frequently used in a restricted sense to designate citations of this class.

An authority may be of any degree of weight, from that of absolute conclusiveness down to the faintest presumption. As to the considerations which affect the weight of an adjudged case as an authority, see **PRECEDENT; OPINION.**

The opinions of legal writers. Of the vast number of treatises and commentaries which we have, comparatively few are esteemed as authorities. A very large number are in reality but little more than digests of the adjudged cases arranged in treatise form, and find their chief utility as manuals of reference. Hence it has been remarked that when we find an opinion in a text-writer upon any particular point, we must consider it not merely as the opinion of the author, but as the supposed result of the authorities to which he refers; and if on examination of those authorities they are found not to establish it, his opinion is disregarded; 3 B. & P. 301. Where, however, the writer declares his own

opinion as founded upon principle, the learning and ability of the writer, together with the extent to which the reasons he assigns, commend themselves to the reader, determine the weight of his opinion. A distinction has been made between writers who have and who have not held judicial station; Ram, Judgments, 93. But this, though it may be borne in mind in estimating the learning and ability of an author, is not a just test of his authority. See 3 Term, 64, 241.

The opinions of writers on moral science, and the codes and laws of ancient and foreign nations, are resorted to in the absence of more immediate authority, by way of ascertaining those principles which have commended themselves to legislators and philosophers in all ages. See CODE. Lord Coke's saying that common opinion is good authority in law, Coke, Litt. 186 a, is not understood as referring to a mere speculative opinion in the community as to what the law upon a particular subject is; but to an opinion which has been frequently acted upon, and for a great length of time, by those whose duty it is to administer the law, and upon which course of action important individual rights have been acquired or depend; 3 Barb. Ch. 528, 577. As to the mode of citing authorities, see ABBREVIATIONS.

AUTHORITY. In Contracts. The lawful delegation of power by one person to another.

Authority coupled with an interest is an authority given to an agent for a valuable consideration, or which forms part of a security.

Express authority is that given explicitly, either in writing or verbally.

General authority is that which authorizes the agent to do every thing connected with a particular business. Story, Ag. § 17.

It empowers him to bind his employer by all acts within the scope of his employment; and it cannot be limited by any private order or direction not known to the party dealing with him. Paley, Ag. 199, 200, 201.

Limited authority is that where the agent is bound by precise instructions.

Special authority is that which is confined to an individual transaction; Story, Ag. § 19; 15 East, 400, 408; 6 Cow. 354.

Such an authority does not bind the employer, unless it is strictly pursued; for it is the business of the party dealing with the agent to examine his authority; and therefore, if there be any qualification or express restriction annexed to it, it must be observed; otherwise, the principal is discharged. Paley, Ag. 202.

Naked authority is that where the principal delegates the power to the agent wholly for the benefit of the former.

A naked authority may be revoked; an authority coupled with an interest is irrevocable.

Unlimited authority is that where the agent is left to pursue his own discretion.

Delegation of. An authority may be delegated by deed for any purpose whatever; for whenever an authority by parol would be

sufficient, one by deed will be equally so. When the authority is to do something which must be performed through the medium of a deed, then the authority must also be by deed, and executed with all the forms necessary to render the instrument perfect; unless, indeed, the principal be present, and verbally or impliedly authorize the agent to fix his name to the deed; as, if a man be authorized to convey a tract of land, the letter of attorney must be by deed; Whart. Ag. § 48; Paley, Ag. Lloyd ed. 157; Story, Ag. §§ 48, 51; 65 N. C. 688; 5 Binn. 613; 14 S. & R. 331; 2 Pick. 345; 5 Mass. 11; 1 Wend. 424; 12 *id.* 525; 67 Ill. 161; 11 Ohio, 223. But a written authority is not required to authorize an agent to sign an unsealed paper, or a contract in writing not under seal, even where a statute makes it necessary that the contract, in order to bind the party, shall be in writing, unless the statute positively requires that the authority shall also be in writing; Paley, Ag. Lloyd ed. 161; 2 Kent, 613, 614; Story, Ag. § 50; 1 Chitty, Com. Law, 213; 6 Ves. Ch. 250; 8 Ired. 74.

For most purposes, the authority may be either in writing not under seal, or verbally, or by the mere employment of the agent; or it may be implied from the conduct of the employer in sanctioning the credit given to a person acting in his name; Paley, Ag. 2, 161. The exigencies of commercial affairs render such an appointment indispensable; Story, Ag. § 47; Dig. 3. 3. 1. 1; Pothier, *Pand.* 3. n. 3; Domat, 1. 15, § 1. art. 5; 3 Chitty, Com. Law, 5, 194, 195; 7 Term, 350. The authority given must have been possessed by the person who delegates it, or it will be void; and it must be of a thing lawful, and be otherwise capable of being delegated, or it will not justify the person to whom it is given; Dig. 102; Keilw. 83; 5 Coke, 80.

An authority is to be so construed as to include not only all the necessary and proper means of executing it with effect, but also all the various means which are justified or allowed by the usages of trade; Story, Ag. §§ 58, 60; 6 S. & R. 146; 10 Wend. 218; 11 Ill. 177.

Exercise of. An agent who has bare power or authority from another to do an act must execute it himself, and cannot delegate his authority to a sub-agent; for the confidence being personal, it cannot be assigned to a stranger; Story, Ag. § 13; 2 Kent, 633. But the principal may, in direct terms, authorize his agent to delegate the whole or any portion of his authority to another. Or the power to appoint a sub-agent may be implied, either from the terms of the original authority, from the ordinary custom of trade, or from the fact that it is indispensable in order to accomplish the end; Paley, Ag. Dunlop ed. 175; Story, Ag. § 14; 9 Ves. Ch. 234, 251, 252. See DELEGATION.

When the authority is particular, it must, in general, be strictly pursued, or it will be void, unless the variance be merely circum-

stantial; Coke, Litt. 49 *b*, 181 *b*, 303 *b*; 6 Term, 591; 2 H. Blackst. 623. As if it be to do an act upon condition, and the agent does it absolutely, it is void; and *vice versa*. If a person do less than the authority committed to him, the act is void; but if he does that which he is authorized, and more, it is good for that which is warranted, and void for the rest. Both of these rules, however, may have many exceptions and limitations; Paley, Ag. 178, 179. An authority given by the act of the principal to two or more persons cannot be executed by one, though one die or refuse; Paley, Ag. 177; Coke, Litt. 112 *b*, 181 *b*; it being in such case construed strictly, and understood to be joint and not several; Story, Ag. § 42; 3 Pick. 232; 2 *id.* 345; 6 *id.* 198; 12 Mass. 185; 6 Johns. 39; 23 Wend. 324; 10 Vt. 532; 12 N. H. 226; 9 W. & S. 56. And an authority given to three *jointly and severally* is not, in general, well executed by two; but it must be done by one, or by all; Coke, Litt. 181 *b*; Bacon, Abr. Authority, C; 1 B. & P. 229, 234; 3 Term, 592. These rules apply to an authority of a private nature, saving in commercial transactions, which form an exception. Where, however, the authority is of a public nature, it may be executed by a majority; 24 Pick. 13; 9 Watts, 466; 9 S. & R. 99.

As to the form to be observed in the execution of an authority, where an agent is authorized to make a contract for his principal in writing, it must, in general, be personally signed by him; Story, Ag. § 146; 1 Y. & J. 387; 9 Mer. 235, 251, 252. It is a rule that an act done under a power of attorney must be done in the name of the person who gives the power, and not merely in the attorney's name, though the latter be described as attorney in the instrument; Story, Ag. § 147; 11 Mass. 27, 29; 12 *id.* 173, 175; 16 Pick. 347, 350; 22 *id.* 158, 161; 8 Metc. 442; 7 Wend. 68; 10 *id.* 87, 271; 9 N. H. 263, 269, 270. But it matters not in what words this is done, if it sufficiently appear to be in the name of the principal. "For A B" (the principal), "C D" (the attorney), has been held to be sufficient; Story, Ag. § 153; 6 B. Monr. 612; 3 Blackf. 55; 7 Cush. 215. The strict rule of law in this respect applies, however, only to sealed instruments; and the rule is further modified, even in such cases, where the seal is not essential to the validity of the instrument; Story, Ag. §§ 148, 154; 8 Pick. 56; 17 Pet. 161. An authority must be executed within the period to which it is limited; 4 Campb. 279; Russell, Fact. & Brok. 315.

Destruction of. In general, an authority is revocable from its nature, unless it is given for a valuable consideration, or is part of a security, or coupled with an interest; Story, Ag. §§ 476, 477; 2 Kent, 643; 2 Mas. 244, 342. It may generally be revoked at any moment before the actual exercise of it; 3 Chitty, Com. Law, 223; Story, Ag. §§ 463, 465; and although the agent is appointed under seal, it has been held that his authority

may be revoked by parol; Story, Ag. § 463. The revocation may be express, as by the direct countermand of the principal, or it may be implied. See AGENCY.

The authority may be renounced by the agent before any part of it is executed, or when it is in part executed; but in either case, if the agency is founded on a valuable consideration, the agent, by renouncing it, makes himself liable for the damages which his principal may sustain thereby; Story, Ag. § 478; Story, Bailm. § 202. If by the express terms of the commission the authority of the agent be limited to a certain period, it will manifestly cease so soon as that period has expired. The authority of the agent is *ipso facto* determined by the completion of the purpose for which it was given.

See, generally, 3 Viner, Abr. 416; Bacon, Abr.; 1 Salk. 95; Comyns, Dig. this title and the titles there referred to; 1 Rolle, Abr. 330; 2 *id.* 9; Bouvier, Inst. Index; Wharton, Agency, and the articles on ATTORNEY, AGENCY, AGENT, PRINCIPAL.

In Governmental Law. The right and power which an officer has, in the exercise of a public function, to compel obedience to his lawful commands. A judge, for example, has authority to enforce obedience to his lawful orders.

AUTOCRACY. A government where the power of the monarch is unlimited by law.

AUTONOMY (Greek, *αὐτονομία*). The state of independence.

The *autonomos* was he who lived according to his own laws,—who was free. The term was chiefly used of communities or states, and meant those which were independent of others. It was introduced into the English language by the divines of the seventeenth century, when it and its translation—self-government—were chiefly used in a theological sense. Gradually its translation received a political meaning, in which it is now employed almost exclusively. Of late the word autonomy has been revived in diplomatic language in Europe, meaning independence, the negation of a state of political influence from without or foreign powers. See Lieber, Civ. Lib.

AUTER ACTION PENDANT (L. Fr. another action pending).

In Pleading. A plea that another action is already pending.

This plea may be made either at law or in equity; 1 Chitty, Pl. 393; Story, Eq. Pl. § 736.

The second suit must be for the same cause; 2 Dick. 611; 5 Cal. 48; 8 *id.* 207; 2 Dutch. 461; 18 Ga. 604; 25 Penn. 314; 26 Vt. 673; 4 Blackf. 156; but a writ of error may abate a suit on the judgment; 2 Johns. Cas. 312; and if in equity, for the same purpose; 2 M. & C. Ch. 602; see 1 Conn. 154; and in the same right; Story, Ex. Pl. § 739. The criterion by which to decide whether two suits are for the same cause of action is, whether the evidence, properly admissible in

the one, will support the other; 5 Cr. C. C. 393. See 13 Wall. 679.

The suits must be such that the same judgment may be rendered in both; 17 Pick. 510; 19 *id.* 523. They must be between the same parties; 26 Ala. n. s. 720; 13 B. Monr. 197; 18 Vt. 138; in person or interest; 21 N. H. 570; 1 Grant, Cas. 359; 2 Bu. 362; 2 J. J. Marsh. 281. The parties need not be precisely the same; 5 Wisc. 151.

A suit for labor is not abated by a subsequent proceeding *in rem* to enforce a lien; 4 Ill. 201. See 1 B. Monr. 257. A suit in trespass is temporarily barred by a previous proceeding *in rem* to enforce a forfeiture under laws of U. S.; 3 Wheat. 314.

The prior action must have been in a domestic court; 3 Atk. 589; 4 Ves. Ch. 357; 1 S. & S. 491; 9 Johns. 221; 12 *id.* 9; 2 Curt. C. C. 559; 22 Conn. 485; 8 Tex. 351; 13 Ill. 486; see 10 Pick. 470; 3 M'Cord, 338; 44 Penn. 326; 9 Dana, 422; but a foreign attachment against the same subject-matter may be shown; 5 Johns. 101; 9 *id.* 221; 7 Ala. n. s. 151; 1 Penn. 442; 5 Litt. 349; see 8 Mass. 456; 7 Vt. 124; 1 Hall, 137; and of the same character; 22 Eng. L. & Eq. 62; 10 Ala. n. s. 887; Story, Eq. Pl. 736; thus a suit at law is no bar to one in equity; 8 B. Monr. Ky. 428; unless there be concurrent jurisdiction; 22 Law Rep. 74; but the plaintiff may elect, and equity will enjoin him from proceeding at law if he elect to proceed in equity; Story, Eq. Pl. § 742; but he will not be required to elect in such case, unless the suit at law is for the same cause, and the remedy at law is co-extensive, and equally beneficial with the remedy in equity; 22 N. H. 29. A suit in the circuit court having jurisdiction will abate a suit in the state court, if in the same state; 12 Johns. 99; and so will a suit in a state court abate one in a U. S. circuit court; 4 McLean, 233; but not unless jurisdiction is shown; 1 Curt. C. C. 494; 3 McLean, 221; 3 Sumn. 165; and not unless the suit is pending for the same cause, and between the same parties, in the same state in which the circuit court is sitting; 93 U. S. 548; 4 Dill. 524.

The pendency of another suit for the same equitable relief, in another court of co-ordinate jurisdiction, is a bar to a motion for an injunction; 27 Penn. 380; and such pendency may be pleaded in abatement of an action at common law for the same cause; 76 Penn. 481.

In general, the plea must be in abatement; 1 Grant, Cas. 359; 20 Ill. 637; 5 Wisc. 151; 3 McLean, 221; but in a penal action at the suit of a common informer, the priority of a former suit for the same penalty in the name of a third person may be pleaded in bar, because the party who first sued is entitled to the penalty; 1 Chitty, Pl. 443; 1 Penn. 442; 2 J. J. Marsh. 281.

It must be pleaded in abatement of the subsequent action in order of time; 1 Wheat. 215; 20 Ill. 637; 5 Wisc. 151; 1 Hempst.

708; 3 Gilm. 498; 17 Pick. 510; 19 *id.* 13; 21 Wend. 339.

It must show an action pending or judgment obtained at the time of the plea; 2 Dutch. 461; 11 Tex. 259; 1 Mich. 254; but it is sufficient to show it pending when the second suit was commenced; 5 Mass. 79; 1 *id.* 495; 2 N. H. 36; 3 Rawle, 320; for the rule where both suits are commenced at the same time, see 9 N. H. 545; 8 Conn. 71; 3 Wend. 258; 4 Halst. 58; 7 Vt. 124; and the plaintiff cannot avoid such a plea by discontinuing the first action subsequently to the plea; 1 Salk. 329; 2 Ld. Raym. 1014; 5 Mass. 174; 3 Dana, 157; *contra*; 1 Johns. Cas. 397; 26 Vt. 673; 15 Ga. 270; 62 Penn. 112. And a prior suit discontinued before plea pleaded in the subsequent one will not abate such suit; 13 B. Monr. 197; 7 Ala. n. s. 601. It may be pleaded in abatement of the action in the inferior court, and must aver appearance, or at least service of process; 1 Vern. 318. Suing out a writ is said to be sufficient at common law; 1 Hempst. 218; 7 Ala. n. s. 601. See LIS PENDENS.

It must be shown that the court entertaining the first suit has jurisdiction; 17 Ala. n. s. 430; 22 N. H. 21; 1 Curt. C. C. 494.

It must be proved by the defendant by record evidence; 1 Hempst. 213; 22 N. H. 21; 2 *id.* 361; 17 Ala. 469; 5 Mass. 174; 1 Cr. C. C. 288. It is said that if the first suit be so defective that no recovery can be had, it will not abate the second; 15 Ga. 270; 5 Tex. 127; 20 Conn. 510; 1 Root, Conn. 353; 21 Vt. 362; 3 Penn. 434; 8 Mass. 456. See 5 Blackf. 84.

A prior indictment pending does not abate a second for the same offence; 5 Ind. 533; 3 Cush. 279; Thach. Cr. Cas. 513. See 1 Hawks, 78.

When a defendant is arrested pending a former suit or action in which he was held to bail, he will not, in general, be held to bail if the second suit be for the same cause of action; Graham, Pr. 98; Troubat & H. Pr. 44; 4 Yeates, 206. Pendency of one attachment will abate a second in the same county; 15 Miss. 333.

But under special circumstances, in the discretion of the court, a second arrest will be allowed; 2 Miles, 99, 100, 141; 14 Johns. 347.

See, generally, Gould, Stephen, and Chitty on Pleading; Story, Mitford, and Beames on Equity Pleading; Bacon, Abr. *Abatement, Bail in Civil Cases.*

AUTREFOIS ACQUIT (Fr. formerly acquitted.)

In Criminal Pleading. A plea made by a defendant indicted for a crime or misdemeanor, that he has formerly been tried and acquitted of the same offence.

To be a bar, the acquittal must have been on trial; 5 Rand. 669; 11 N. H. 156; 4 Blackf. 156; 6 Mo. 645; 5 Harr. Del. 488; 14 Tex. 260; see 1 Hayw. 241; 14 Ohio,

295; and by verdict of a jury on a valid indictment; 4 Bla. Com. 335; 1 Johns. 66; 1 Va. Cas. 312; 6 Ala. 341; 4 Mo. 376; 26 Penn. 513; 6 Md. 400. In Pennsylvania and some other states, the discharge of a jury, even in a capital case, before verdict, except in case of absolute necessity, will support the plea; 3 Rawle, 498; 80 No. C. 377; but the prisoner's consent to the discharge of a previous jury is a sufficient answer; 15 Penn. 468. In the United States courts and in many states, the separation of the jury when it takes place in the exercise of a sound discretion is no bar to a second trial; Whart. Cr. Pl. § 499.

There must be an acquittal of the offence charged in law and in fact; 1 Va. Cas. 188, 288; 5 Rand. 669; 13 Mass. 457; 2 *id.* 172; 29 Penn. 323; 6 Cal. 543; but an acquittal is conclusive; 6 Humphr. 410; 3 Cush. 212; 16 Conn. 54; 7 Ga. 422; 8 Blackf. 533; 3 Brev. 421; 6 Mo. 644; 7 Ark. 169; 1 Bail. 651; 2 Halst. 172; 11 Miss. 751; 3 Tex. 118; 1 Denio, 207. See 1 N. H. 257.

The court, however, must have been competent, having jurisdiction and the proceedings regular; Whart. Cr. Pl. § 438.

The constitution of the United States, Amend. art. 5, provides that no person shall be subject for the same offence to be put twice in jeopardy of life or limb. As to whether this means more than the common-law provision, see 5 How. 410; 9 Wheat. 579; 2 Gall. 364; 2 Sumn. 19; 2 McLean, 114; 4 Wash. C. C. 408; 9 Mass. 494; 2 Pick. 521; 2 Johns. Cas. 301; 18 Johns. 187; 5 Litt. 240; 1 Miss. 184; 4 Halst. 256. See 6 S. & R. 577; 1 Hayw. 241; 13 Yerg. 532; 16 Ala. 188; Whart. Crim. Pl. § 490.

Proceedings by state tribunals are no bar to court-martial instituted by the military authorities of the United States; 3 Opin. Atty.-Genl. 750; 6 *id.* 413; but a judgment of conviction by a military court, established by law in an insurgent state, is a bar to a subsequent prosecution by a state court for the same offence; 97 U. S. 509.

The plea must set out the former record, and show the identity of the offence and of the person by proper averments; Hawk. Pl. Cr. b. 2, c. 36; 1 Chitty, Cr. L. 462; 16 Ark. 568; 24 Conn. 57; 6 Dana, 295; 5 Rand. 669; 17 Pick. 400.

The true test by which the question, whether a plea of *autrefois acquit* or *autrefois convict* is a sufficient bar in any particular case, may be tried is, whether the evidence necessary to support the second indictment would have been sufficient to procure a legal conviction upon the first; 2 Leach, 708; 1 B. & B. 473; 3 B. & C. 502; 2 Conn. 54; 12 Pick. 504; 13 La. Ann. 243. Thus, if a prisoner indicted for burglariously breaking and entering a house and stealing therein certain goods of A is acquitted, he cannot plead this acquittal in bar of a subsequent indictment for burglariously breaking and entering the same house

and stealing other goods of B. Per Buller, J., 2 Leach, 718, 719.

The plea in the celebrated case of *Regina v. Bird*, 5 Cox, Cr. Cas. 12; *Templ. & M.* 438; 2 Den. Cr. Cas. 224; is of peculiar value as a precedent. See *Train & H. Prec. Ind.* 481.

AUTREFOIS ATTAINT (Fr. formerly attainted). In *Criminal Pleading*. A plea that the defendant has been attainted for one felony, and cannot, therefore, be criminally prosecuted for another; 4 Bla. Com. 336; 12 Mod. 109; R. & E. 268. This is not a good plea in bar in the United States, or in England in modern law; 1 Bishop, Cr. L. § 692; 3 Chitty, Cr. L. 464; Stat. 7 & 8 Geo. IV. c. 28, § 4. See *Mart. & Y.* 122; 10 Ala. 475; 1 Bay, 334.

AUTREFOIS CONVICT (Fr. formerly convicted). In *Criminal Pleading*. A plea made by a defendant indicted for a crime or misdemeanor, that he has formerly been tried and convicted of the same.

This plea is substantially the same in form as the plea of *autrefois acquit*, and is grounded on the same principle, viz.: that no man's life or liberty shall be twice put in jeopardy for the same offence; Whart. Cr. Pl. § 435; 1 Bishop, Cr. Law, §§ 651-680; 1 Green, N. J. 362; 1 McLean, 429; 7 Ala. 610; 2 Swan, 493; 43 *Wisc.* 395.

A plea of *autrefois convict*, which shows that the judgment on the former indictment has been reversed for error in the judgment, is not a good bar to another indictment for the same offence; *Cooley's Const. Lim.* 326-328; otherwise, if the reversal were not for insufficiency in the indictment nor for error at the trial, but for matter subsequent, and *dehors* both the conviction and the judgment; 25 N. Y. 407; 26 *id.* 167. A prior conviction by judgment before a justice of the peace, and a performance of the sentence pursuant to the judgment, constitute a bar to an indictment for the same offence, although the complaint on which the justice proceeded was so defective, that his judgment might have been reversed for error; 3 *Metc. Mass.* 328; 8 *id.* 532. See **AUTREFOIS ACQUIT**.

AUXILIUM (Lat.). An aid; tribute or services paid by the tenant to his lord. *Auxilium ad filium militem faciendum, vel ad filiam maritandam*. (An aid for making the lord's son a knight, or for marrying his daughter.) *Fitzh. Nat. Brev.* 62.

AUXILIUM CURIÆ. An order of the court summoning one party, at the suit and request of another, to appear and warrant something. *Kennett, Par. Ant.* 477.

AUXILIUM REGIS. A subsidy paid to the king. *Spelman*.

AUXILIUM VICE COMITI. An ancient duty paid to sheriffs. *Cowel; Whishaw*.

AVAIL OF MARRIAGE. In *Scotch Law*. A certain sum due by the heir of a

deceased ward vassal, when the heir became of marriageable age. Erskine, Inst. l. 2, t. 5, § 18.

AVAL. In Canadian Law. An act of suretyship or guarantee on a promissory note. 1 Low. C. 221; 9 *id.* 360.

AVARIA, AVARIE. Average; the loss and damage suffered in the course of a navigation. Pothier, Marit. Louage, 105.

AVENTURE. A mischance causing the death of a man, as by drowning, or being killed suddenly without felony. Coke, Litt. 391; Whishaw.

AVER. To assert. See **AVERMENT.**

To make or prove true; to verify.

The defendant will offer to *aver*. Cowel; Coke, Litt. 362 *b*.

Cattle of any kind. Cowel, *Averia*; Kelham.

Aver et tenir. To have and to hold.

Aver corn. A rent reserved to religious houses, to be paid in corn. Corn drawn by the tenant's cattle. Cowel.

Aver-land. Land ploughed by the tenant for the proper use of the lord of the soil. Blount.

Aver-penny. Money paid to the king's averages to be free therefrom. Termes de la Ley.

Aver-silver. A rent formerly so called. Cowel.

AVERAGE. In Insurance. Is general, particular, or petty.

GENERAL AVERAGE (also called gross) consists of expense purposely incurred, sacrifice made, or damage sustained for the common safety of the vessel, freight, and cargo, or the two of them, at risk, and is to be contributed for by the several interests in the proportion of their respective values exposed to the common danger, and ultimately surviving; including the amount of expense, sacrifice, or damage so incurred in the contributory value; 2 Phillips, Ins. § 1269 *et seq.*; and see *Code de Com.* tit. xi.; Aluzet, Trait. des Av. cxx.; 2 Curt. C. C. 59; 9 Cush. 415; 73 Penn. 98; 9 Wall. 203; Bailey, Gen. Av.; 2 Parsons, Mar. Law, ch. xi.; Stevens, Av.; Benecke, Av.; Pothier, Av.; Lex Rhodia, Dig. 14. 2. 1.

Indemnity for general average loss is usually stipulated for in policies against the risks in navigation, subject, however, to divers modifications and conditions; 2 Phillips, Ins. §§ 1275, 1279, 1408, 1409. Under maritime policies in the ordinary form, underwriters are liable for the contributions made by the insured subject for loss by jettison of cargo, sacrifice of cables, anchors, sails, spars, and boats, expense of temporary repairs, voluntary stranding, compromise with pirates, delay for the purpose of refitting; 2 Phillips, Ins. c. xv. sect. ii.; 1 Pars. Ship. & Adm. 351.

Average particular (also called partial loss) is a loss on the ship, cargo, or freight, to be borne by the owner of the subject on which it happens, and is so called in distinction from general average; and, if not total, it is also called a partial loss; 2 Phillips, Ins. c. xvi.; Stevens, pt. 1, c. 2; Arnould, Mar. Ins. 953; *Code de Com.* l. 2, t. 11, a. 403;

Pothier, Ass. 115; Benecke & S. Av. Phill. ed. 341.

It is insured against in marine policies in the usual forms on ship, cargo, or freight, when the action of peril is extraordinary, and the damage is not mere wear or tear; and, on the ship, covers loss by sails split or blown away, masts sprung, cables parted, spars carried away, planks started, change of shape by strain, loss of boat, breaking of sheathing or upper works or timbers, damage by lightning or fire, by collision or stranding, or in defence against pirates or enemies, or by hostile or piratical plunder; 2 Phillips, Ins. c. xvi.; 21 Pick. 456; 11 *id.* 90; 7 *id.* 159; 7 C. & P. 597; 3 *id.* 323; 1 Conn. 239; 9 Mart. 276; 18 La. 77; 5 Ohio, 306; 6 *id.* 70, 456; 3 Cranch, 218; 1 Cow. 265; 4 *id.* 222; 5 *id.* 63; 4 Wend. 255; 11 Johns. 315.

Particular average on freight may be by loss of the ship, or the cargo, so that full freight cannot be earned; but not if the goods, though damaged, could have been carried on to the port of destination; 2 Phillips, Ins. c. xvi. sect. iii.; 9 *id.* 21; 15 Mass. 341; 23 Pick. 405; 2 McLean, 423; 1 Story, 342; 2 Gill, 410; 12 Johns. 107; 18 *id.* 205, 208; 1 Binn. 547.

Particular average on goods is usually adjusted at the port of delivery on the basis of the value at which they are insured, viz.: the value at the place of shipment, unless it is otherwise stipulated in the policy; 2 Phillips, Ins. §§ 145, 146; 2 Wash. C. C. 136; 2 Burr. 1167; 2 East, 58; 12 *id.* 639; 3 B. & P. 308; 3 Johns. Ch. 217; 4 Wend. 45; 1 Caines, 543; 1 Hall, 619; 20 Penn. 312; 36 E. L. & Eq. 198. See **SALVAGE**; **LOSS**.

A particular average on profits is, by the English custom, adjusted upon the basis of the profits which would have been realized at the port of destination. In the United States the adjustment is usually at the same rate as on the goods the profits on which are the subject of the insurance; 2 Phillips, Ins. §§ 1773, 1774; 2 Johns. Cas. 36; 3 Day, 108; 1 Johns. 433; 3 Pct. 222; 1 Sumn. 451; 8 Miss. 63; 1 S. & R. 115; 6 R. I. 47.

PETTY AVERAGE consists of small charges which were formerly assessed upon the cargo, viz.: pilotage, towage, light-money, beaconage, anchorage, bridge-toll, quarantine, pier-money. Le Guidon, c. 5, a. 13; Weyt, de A. 3, 4; Weskett, art. Petty Av.; 2 Phillips, Ins. § 1269, n. 1.

AVERIA (Lat.). Cattle; working cattle.

Averia caruæ (draft-cattle) are exempt from distress; 3 Bla. Com. 9; 4 Term, 566.

AVERIIS CAPTIS IN WITHER-

NAM. In English Law. A writ which lies in favor of a man whose cattle have been unlawfully taken by another, and driven out of the country where they were taken, so that they cannot be replevied.

It issues against the wrong-doer to take his cattle for the plaintiff's use. *Reg. Brev.* 82.

AVERMENT. In Pleading. A positive

statement of facts, as opposed to an argumentative or inferential one. Cowp. 683; Bacon, Abr. *Pleas*, B.

Averments were formerly said to be general and particular; but only particular averments are found in modern pleading. 1 Chitty, Pl. 277.

Particular averments are the assertions of particular facts.

There must be an averment of every substantive material fact on which the party relies, so that it may be replied to by the opposite party.

Negative averments are those in which a negative is asserted.

Generally, under the rules of pleading, the party asserting the affirmative must prove it; but an averment of illegitimacy, 2 Selwyn, Nisi P. 709, or criminal neglect of duty, must be proven; 2 Gall. 498; 19 Johns. 345; 1 Mass. 54; 10 East, 211; 3 Campb. 10; 3 B. & P. 303; 1 Greenl. Ev. § 80; 8 Bouvier, Inst. n. 3089.

Immaterial and impertinent averments (which are synonymous, 5 D. and R. 209) are those which need not be made, and, if made, need not be proved. The allegation of deceit in the seller of goods in action on the warranty is such an averment; 2 East, 446; 17 Johns. 92.

Unnecessary averments are statements of matters which need not be alleged, but which, if alleged, must be proved. Carth. 200.

Averments must contain not only matter, but form. General averments are always of the same form. The most common form of making particular averments is in express and direct words, for example: And the party *avers*, or *in fact saith*, or *although*, or *because*, or *with this that*, or *being*, etc. But they need not be in these words; for any words which necessarily imply the matter intended to be averred are sufficient.

See, in general, 3 Viner, Abr. 357; Bacon, Abr. *Pleas*, B, 4; Comyns, Dig. *Pleader*, C, 50, C, 67, 68, 69, 70; 1 Wms. Saund. 235 a, n. 8; 3 *id.* 352, n. 3; 1 Chitty, Pl. 308; Archbold, Civ. Pl. 163; 3 Bouvier, Inst. n. 2835-40.

AVERSIO (Lat.). An averting; a turning away. A sale in gross or in bulk.

Letting a house altogether, instead of in chambers; 4 Kent, 517.

Aversio periculi. A turning away of peril. Used of a contract of insurance; 3 Kent, 263.

AVERUM (Lat.). Goods; property. A beast of burden. Spelman, Gloss.

AVET. In Scotch Law. To abet or assist. Tomlin, Dict.

AVIATICUS (Lat.). In Civil Law. A grandson.

AVIZANDUM. In Scotch Law. To make *avizandum* with a process is to take it from the public court to the private consideration of the judge. Bell, Dict.

AVOIDANCE. A making void, useless, or empty.

In Ecclesiastical Law. It exists when a

benefice becomes vacant for want of an incumbent.

In Pleading. Repelling or excluding the conclusions or implications arising from the admission of the truth of the allegations of the opposite party. See CONFESSION and AVOIDANCE.

AVOIRDUPOIS. The name of a weight.

This kind of weight is so named in distinction from the Troy weight. One pound avoirdupois contains seven thousand grains Troy; that is, fourteen ounces, eleven pennyweights, and sixteen grains Troy; a pound avoirdupois contains sixteen ounces; and an ounce sixteen drachms. Thirty-two cubic feet of pure spring-water, at the temperature of fifty-six degrees of Fahrenheit's thermometer, make a ton of two thousand pounds avoirdupois, or two thousand two hundred and forty pounds net weight. Dane, Abr. c. 211, art. 12, § 6. The avoirdupois ounce is less than the Troy ounce in the proportion of 72 to 79; though the pound is greater. Encyc. Amer. *Avoirdupois*. For the derivation of this phrase, see Barrington, Stat. 206. See the Report of Secretary of State of the United States to the Senate, February 22, 1821, pp. 44, 72, 76, 79, 81, 87, for a learned exposition of the whole subject.

AVOUCHER. See VOUCHER.

AVOW. In Practice. To acknowledge the commission of an act and claim that it was done with right; 3 Bla. Com. 150.

To make an avowry. For example, when replevin is brought for a thing distrained, and the party taking claims that he had a right to make the distress, he is said to avow. See Fleta, l. 1, c. 4, § 4; Cunningham, Dict.; AVOWRY; JUSTIFICATION.

AVOWANT. One who makes an avowry.

AVOWEE. In Ecclesiastical Law. An advocate of a church benefice.

AVOWRY. In Pleading. The answer of the defendant in an action of replevin brought to recover property taken in distress, in which he acknowledges the taking, and, setting forth the cause thereof, claims a right in himself or his wife to do so. Lawes, Pl. 35; 4 Bouvier, Inst. n. 3571.

A justification is made where the defendant shows that the plaintiff had no property by showing either that it was the defendant's or some third person's, or where he shows that he took it by a right which was sufficient at the time of taking though not subsisting at the time of answer. The avowry admits the property to have been the plaintiff's, and shows a right which had then accrued, and still subsists, to make such caption. See Gilbert, Distr. 176-178; 2 W. Jones, 25.

An avowry is sometimes said to be in the nature of an action or of a declaration, so that privity of estate is necessary; Coke, Litt. 320 a; 1 S. & R. 170. There is no general issue upon an avowry; and it cannot be traversed cumulatively; 5 S. & R. 377. Alienation cannot be replied to it without notice; for the tenure is deemed to exist for the purposes of an avowry till notice be given of the alienation; Hamm. Part. 131.

The object of an avowry is to secure the return of the property, that it may remain as

a pledge; see 2 W. Jones, 25; and to this extent it makes the defendant a plaintiff. It may be made for rents, services, tolls; 3 Dev. 478; for cattle taken, damage feasant, and for heriots, and for such rights wherever they exist. See Gilbert, Distr. 176 *et seq.*; 1 Chitty, Plead. 436; Comyns, Dig. *Pleader*, 3 K.

AVOWTERER. In English Law. An adulterer with whom a married woman continues in adultery. Termes de la Ley.

AVOWTRY. In English Law. The crime of adultery.

AVULSION (Lat. *avellere*, to tear away). The removal of a considerable quantity of soil from the land of one man, and its deposit upon or annexation to the land of another, suddenly and by the perceptible action of water; 2 Washb. R. P. 452.

In such case the property belongs to the first owner. Bracton, 221; Hargrave, Tract. *de jure mar.*; Schultes, Aq. Rights, 115-138.

AVUNCULUS. In Civil Law. A mother's brother; 2 Bla. Com. 230.

AWAIT. To lay in wait; to waylay.

AWARD (Law Latin, *awarda*, *awardum*, Old French, *agarda*, from *à garder*, to keep, preserve, to be guarded, or kept: so called because it is imposed on the parties to be observed or kept by them. Spelman, Gloss.).

The judgment or decision of arbitrators, or referees, on a matter submitted to them.

The writing containing such judgment; Cowel; Termes de la Ley; Jenk. Cent. Cas. 137; Billings, Aw. 119; Watson, Arb. 174; Russell, Arb. 234; 3 Bouvier, Inst. n. 2402 *et seq.*

Requisites of. To be conclusive, the award should be consonant with and follow the submission, and affect only the parties to the submission; otherwise, it is an assumption of power, and not binding; Lutw. 530 (*Onyons v. Cheese*); Strange, 903; 1 Ch. Cas. 186; Rep. *temp.* Finch, 141; 24 E. L. & Eq. 346; 8 Beav. 361; 5 B. & Ad. 295; 13 Johns. 27, 268; 11 *id.* 133; 17 Vt. 9; 3 N. H. 82; 13 Mass. 396; 11 *id.* 447; 22 Pick. 144; 11 Cush. 37; 18 Me. 251; 40 *id.* 194; 25 Conn. 71; 3 Harr. Del. 22; 1 Binn. 109; 5 Penn. 274; 12 Gill & J. 156, 456; Litt. 83; 13 Miss. 172; 25 Ala. 351; 7 Cranch, 599. See 7 Sim. 1; 2 Q. B. 256; 11 Johns. 61; 1 Call, 500; 7 Penn. 134.

It must be final and certain; 1 Burr. 275; 5 Ad. & E. 147; 2 S. & S. 130; 2 Vern. 514; 2 Bulstr. 260; 3 S. & R. 340; 2 Penn. 206; 1 *id.* 395; 9 Johns. 43; 13 *id.* 187; 22 Wend. 125; 23 Barb. 187; 4 Cush. 317, 396; 1 Gray, 418; 13 Vt. 53; 40 Me. 194; 2 Green, N. J. 333; 2 Halst. 90; 1 Dutch. 281; 2 *id.* 175; 3 Har. & J. 383; 2 Harr. & G. 67; 4 Md. Ch. Dec. 199; 1 Gilm. 92; 2 Patt. & H. 442; 3 Ohio, 266; 5 Blackf. 128; 4 *id.* 489; 1 Ired. 466; Busb. 173; 3 Cal. 431; 1 Ark. 206; 4 Ill. 428; 2 Fla. 157; 13 Miss. 712; Charlt. 289; 2 M'Cord, 279; 5 Wheat. 394;

11 *id.* 446; 12 *id.* 377; and see 4 Conn. 50; 6 Johns. 39; 6 Mass. 46; conclusively adjudicating *all* the matters submitted; 6 Md. 135; 1 M'Mull. 302; 2 Cal. 299; 5 Wall. 419; and stating the decision in such language as to leave no doubt of the arbitrator's intention, or the nature and extent of the duties imposed by it on the parties; 2 Cal. 299, and cases above. An award reserving the determination of future disputes; 6 Md. 135; an award directing a bond without naming a penalty; 5 Coke, 77; Rolle, Abr. *Arbitration*, 2, 4; an award that one shall give security for the performance of some act or payment of money, without specifying the kind of security, are invalid; Viner, Abr. *Arbit.* 2, 12; Bacon, Abr. *Arbit.* E, 11; and cases above.

It must be possible to be performed, and must not direct any thing to be done which is contrary to law; 1 Ch. Cas. 87; 5 Taunt. 454; 12 Mod. 585; 2 B. & Ald. 528; Kirb. 253; 1 Dall. 364; 4 *id.* 298; 4 Gill & J. 298. It will be void if it direct a party to pay a sum of money at a day past, or direct him to commit a trespass, felony, or an act which would subject him to an action; 2 Chitt. 594; 1 M. & W. 572; or if it be of things nugatory and offering no advantage to either of the parties; 6 J. B. Moore, 713.

It must be without palpable or apparent mistake; 2 Gall. 61; 3 B. & P. 371; 1 Dall. 487; 6 Metc. 131. For if the arbitrator acknowledges that he made a mistake, or if an error (in computation, for instance) is apparent on the face of the award, it will not be good; 4 Zab. 647; 2 Stockt. 45; 2 Dutch. 130; 32 N. H. 289; 11 Cush. 549; 18 Barb. 344; 2 Johns. Ch. 399; 27 Vt. 241; 8 Md. 208; 4 Cal. 345; 5 *id.* 430; for, although an arbitrator may decide contrary to law, yet if the award attempts to follow the law, but fails to do so from the mistake of the arbitrator, it will be void; 3 Md. 353; 15 Ill. 421; 26 Vt. 416, 630; 4 N. J. 647; 17 How. 344.

An award may be in part good and in part void, in which case it will be enforced so far as valid, if the good part is separable from the bad; 10 Mod. 204; 12 *id.* 587; Cro. Jac. 664; 2 Leon. 304; 3 Lev. 413; Godb. 164; 8 Taunt. 697; 1 Wend. 326; 5 Cow. 197; 13 Johns. 264; 2 Caines, 235; 1 Me. 300; 13 *id.* 173; 18 *id.* 255; 42 *id.* 83; 7 Mass. 399; 19 Pick. 300; 11 Cush. 37; 6 Green, N. J. 247; 1 Dutch. 281; 1 Rand. 449; 1 Hen. & M. 67; Hard. 318; 5 Dana, 492; 26 Vt. 345; 2 Swan, 213; 2 Cal. 74; 4 Ind. 248; 6 Harr. & J. 10; 5 Wheat. 394.

As to *form*, the award should, in general, follow the terms of the submission, which frequently provides the time and manner of making and publishing the award. It may be by parol (oral or written), or by deed; 3 Bulstr. 311; 20 Vt. 189. It should be signed by *all* the arbitrators in the presence of each other. See ARBITRATOR.

An award will be sustained by a liberal

construction, *ut res magis valeat quam pereat*; 2 N. H. 126; 2 Pick. 534; 4 Wisc. 181; 8 Md. 208; 8 Ind. 310; 17 Ill. 477; 29 Penn. 251; Reed, Aw. 170.

Effect of. An award is a final and conclusive judgment between the parties on all the matters referred by the submission. It transfers property as much as the verdict of a jury, and will prevent the operation of the statute of limitations; 3 Bla. Com. 16; 1 Freem. Ch. 410; 4 Ohio, 310; 5 Cow. 383; 15 S. & R. 166; 1 Cam. & N. 93. A parol award following a parol submission will have the same effect as an agreement of the same form directly between the parties; 37 Me. 72; 15 Wend. 90; 27 Vt. 241; 16 Ill. 34; 5 Ind. 220; 1 Ala. 278; 6 Litt. 264; 2 Coxe, 369; 7 Cranch, 171.

The right of real property cannot thus pass by mere award; but no doubt an arbitrator may award a conveyance or release of land and require deeds, and it will be a breach of agreement and arbitration bond to refuse compliance; and a court of equity will sometimes enforce this specifically; 1 Ld. Raym. 115; 3 East, 15; 6 Pick. 148; 4 Dall. 120; 16 Vt. 450, 592; 15 Johns. 197; 5 Wend. 268; 2 Caines, 320; 4 Rawle, 411, 430; 7 Watts, 311; 11 Conn. 240; 18 Me. 251; 28 Ala. n. s. 475.

Arbitration and award may be regularly pleaded at common law or equity to an action concerning the same subject-matter, and will bar the action; Watson, Arb. 256; 12 N. Y. 9; 41 Me. 355. To an action on the award at common law, in general, nothing can be pleaded dehors the award; not even fraud; 23 Barb. 187; 28 Vt. 81, 776; *contra*, 9 Cush. 560. Where an action has been referred under rule of court and the reference fails, the action proceeds.

Enforcement of. An award may be enforced by an action at law, which is the only remedy for disobedience when the submission is not made a rule of court, and no statute provides a special mode of enforcement; 6 Ves. 815; 17 *id.* 232; 19 *id.* 431; 1 Swanst. 40; 2 Chitt. 316; 5 East, 266; 5 B. & Ald. 507; 4 B. & C. 103; 1 D. & R. 106; 3 C. B. 745. Assumpsit lies when the submission is not under seal; 33 N. H. 27; and *debt* on an award of money and on an arbitration bond; 18 Ill. 437; *covenant* where the submission is by deed for breach of any part of the award, and *case* for the non-performance of the duty awarded. *Equity* will enforce specific performance when all remedy fails at common law; Comyns, Dig. *Chancery*, 2 K; Story, Eq. Jur. § 1458; 2 Hare, 198; 4 Johns. Ch. 405; 9 *id.* 405; 4 Ill. 453; 3 P. Wms. 137; 1 Atk. 62; 2 Vern. 24; 1 Brown, P. C. 411. But see 1 T. & R. 187; 5 Ves. 846.

An award under a rule of court may be

enforced by the court issuing execution upon it as if it were a verdict of a jury, or by attachment for contempt; 7 East, 607; 1 Stra. 593. By the various state statutes regulating arbitrations, awards, where submission is made before a magistrate, may be enforced and judgment rendered thereon.

Amendment and setting aside. A court has no power to alter or amend an award; 1 Dutch. 130; 5 Cal. 179; 12 N. Y. 9; 41 Me. 355; but may recommit to the referee in some cases; 11 Tex. 18; 39 Me. 105; 26 Vt. 361. See the statutes of the different states, and stat. 1 & 2 Vict. c. 110; 9 & 10 Vict. c. 95, § 77; 17 & 18 Vict. c. 125.

An award will not be disturbed except for very cogent reasons. It will be set aside for *misconduct*, corruption, or irregularity of the arbitrator, which has or may have injured one of the parties; 2 Eng. L. & Eq. 184; 5 B. & Ad. 488; 1 Hill & D. 103; 13 Gratt. 535; 14 Tex. 56; 28 Penn. 514; 29 Vt. 72; for *error* in fact, or in attempting to follow the law, apparent on the face of the award; see *supra*; ARBITRATOR; for *uncertainty* or inconsistency; for an *exceeding* his authority by the arbitrator; 22 Pick. 417; 4 Denio, 191; when it is *not final* and conclusive, without reserve; when it is a *nullity*; when a party or witness has *been at fault*, or has made a mistake; or when the arbitrator acknowledges that he has made a mistake or error in his decision.

Equity has jurisdiction to set aside an award, on any of the enumerated grounds, when the submission cannot be made a rule of a common-law court.

In general, in awards under statutory provisions, as well as in those under rules of court, questions of law may be reserved for the opinion of the court, and facts and evidence reported for their opinion and decision.

AWAY-GOING CROP. A crop sown before the expiration of a tenancy, which cannot ripen until after its expiration, to which, however, the tenant is entitled. Broom, Max. 306. See EMBLEMENTS.

AWM. An ancient measure used in measuring Rhenish wines. *Termes de la Ley*. Its value varied in the different cities. Spelled also *Aume*. Cowel.

AYANT CAUSE. In French Law. This term, which is used in Louisiana, signifies one to whom a right has been assigned, either by will, gift, sale, exchange, or the like; an assignee. An *ayant cause* differs from an heir who acquires the right by inheritance. 8 Toullier, n. 245.

AYUNTAMIENTO. In Spanish Law. A congress of persons; the municipal council of a city or town. 1 White, Coll. 416; 12 Pet. 442, notes.