

by a fine of twenty-five *asses*, or pounds of brass. But if the injury was more atrocious, as, for instance, if any one deprived another of the use of a limb, (*si membrum rupsit*, i. e. *ruperit*,) he was punished by retaliation, (*talione*,) if the person injured would not accept of any other satisfaction. If he only dislocated or broke a bone, he paid three hundred *asses*, if the sufferer was a freeman; and one hundred and fifty, if a slave. *Gell. xx.* If any one slandered another by defamatory verses, (*si quis aliquem publicè diffamasset, eique adversus bonos mores convicium fecisset*—i. e. "if any one defamed another, or cast reproach on him contrary to good manners or morality;" affronted him (*vel carmen famosum in eum condidisset*)—i. e. "made an infamous libel upon him," he was beaten with a club, *vid. Hor. Sat. ii.* which alludes to the law for this species of libel.

But these laws gradually fell into disuse, *Gell. xx.*; and by the edicts of the *Prætor*, an action was granted on account of *all* personal injuries and affronts only, for a *fine*, which was proportioned according to the dignity of the person, and the nature of the injury. This, however, being found insufficient to check licentiousness and insolence, *Sulla* made a new law concerning injuries, by which, not only a *civil* action, but also a criminal prosecution, was appointed for certain offences, with the punishment of exile, or working in the mines. *Tiberius* ordered one, who had written defamatory verses against him, to be thrown from the *Tarpeian Rock*. *Dio. lvii. 22.* An action might also be instituted against a person for an injury done by those under his control, which was called "*actio noxalis*," as if a slave committed theft, or did any damage without the master's knowledge, he was to be given up to the injured person. And so, if a beast did any damage, the owner was obliged to offer a compensation, or give up the beast. There was no action for ingratitude, (*actio ingrati*,) as among the *Macedonians*, or rather *Persians*; because, says *Seneca*, "*all the courts at Rome would scarcely have been sufficient for trying it.*" These are some few of the remedies given by the *Roman laws* for injuries, &c.; by the spirit of these the reader will judge how far that powerful nation was advanced in jurisprudence.

F.

FACERE cum aliquo.—To be on this side.

FACIAS habere rationabilem dotem.—That you cause (her) to have a reasonable dower.

FACIET jurare duodecim legales homines de viceneto, seu de villa, quod inde veritatem secundum conscientiam suam manifestabant.—That he should cause to swear twelve lawful men of the neighborhood, or vill, whereby they may show the truth, according to their conscience.

FACIO, ut des.—I perform, that you may give.

FACIO, ut facias.—I perform, in order that you may.

FAC ita esse.—Suppose it to be so.

FACTA armorum.—Tournaments: Feats of arms

FACTA potentissima.—Facts (or deeds) are most powerful.

FACTOR armorum regalium.—The king's armorer
Vide note.

FACTUM præclarum, atque divinum.—A noble and divine act.

FACULTAS ejus quod cuique facere libet, nisi quid vi, aut jure prohibetur.—The power of doing what every one pleases, unless what is forbidden by authority, or by law.

FACULTAS secreta certis in rebus.—There is a secret efficacy in certain things.

FACULTATES in plurali.—Wealth: means: abilities.

FADERFIUM.—Sax. A gift made to a woman by her father or brother upon her marriage.

FAIDA.—Malice: deadly feud.

FAITE enrolle.—A deed of bargain and sale.

FAITOURS.—In *Stat. 7, Rich. 2d, c. 5*, this word is used for "*evil doers*;" and may be interpreted, "*idle livers*," from "*faitardise*"—which signifies a kind of sleepy disease.

FALCATURA.—"A day's mowing of grass." Formerly one of the feudal services performed for the superior lord of the fee.

FALLONIA.—Felony.

FALDA.—A sheepfold. **FALDATA.**—A flock of sheep.

FALDÆCURSUS.—A fold course.

FALDFEY.—Sax. The fee paid by a tenant for leave to fold his sheep on his own ground.

FALERIÆ.—The furniture and tackle of a cart.

FALSA demonstratio non nocet.—A false description does not vitiate (the deed).

FALSA fit pœnitentia laici, cum penitus ab officio curiali vel negotiali non recedit, quæ sine peccatis agi ulla ratione non prævalet.—"The repentance of a layman will be inefficacious, unless he withdraw entirely from professional and mercantile pursuits, which cannot, on any account, be

transacted without (committing) sin." The false logic of Monkish superstition. *Vide note to "Homo mercator."*

FALSARE curiam.—To deceive the court.

FALSE, fraudulente et maliciose.—Falsely, fraudulently and maliciously.

FALSONARIOUS.—A counterfeiter.

FALSO retorno brevium.—A writ which might have been sued out against a sheriff for returning writs falsely.

FALSUS in uno, falsus in omnibus.—False in one matter, deceitful in everything.

FAMÆ damna majora quam quæ possint æstimari.—The injury done to character is so great that it cannot be estimated.

FAMA tantum modo publico accusat.—Public opinion only accuses him.

FAMOSI libelli.—Infamous books, or writings.

FAMOSIS libellis si quis scripserit quod pertineat ad injuriam alterius, de quo est publica accusatio pœnæ capitalis; non tantum in auctorem famosi libelli, sed etiam eum qui invenit, nec combussit, sed evulgavit; quia iste auctor præsumitur esse libelli, qui eum sparsit in vulgos, non prodito auctore.—If any person has written notorious libels, which may tend to the injury of another, who is publicly accused of meriting a capital punishment, not only the author of such libel, but he also who has found it, and has not burnt it, but given it publicity, is to be considered the author, because he hath published it among the common people, without having produced the author.

FAMOSOS latrones in his locis ubi grassati sunt, furca figendos placuit, ut conspectu detereantur alii, et sit consolatio cognatis, ut eodem loco pœna redditur, in quo latrones homicidia fecissent.—It pleased him that infamous robbers should be fixed on a gibbet in the same place where they committed their crimes, that others might be deterred by the sight, inasmuch as the punishment being inflicted in the same place where the robbers committed the mur-

ders, it might be some consolation to the relations (of those who were killed).

FANG, fangen.—Sax. To take.

FARANDMAN.—Scotch.—A merchant traveller, or stranger.

FARDEL.—A fourth part.

FARDINGDEAL.—The fourth part of an acre.

FARINARIUM.—A mill.

FARISTEL.—Sax. Stopping of way.

FARRAGO legum nauticarum.—The absurd collection of maritime laws.

FAS.—Right.

FASTERMANS.—Sax. Bondsmen.

FASTL.—Lawful.

FATETUR facinus is qui iudicium fugit.—He confesses his guilt who flies from trial.

FATUUS.—An idiot.

FAUCES terræ.—“The mouth or chops of a channel;” (where a person may see from land to land.)

FAUSENERIE.—Forgery.

FEARME.—Food; a feast.

FEE.—The land or estate held of a superior by service.

FEFELLIT.—He has deceived, or betrayed.

FELAGUS.—Among the Saxons, a friend bound for another's good behavior.

“FELICES ter, et amplius

Quos irrupta tenet copula; nec malis

Divulsis querimoniis,

Suprema citius solvet amor die.”

“Happy, thrice happy they, whose friendships prove

One constant scene of unmolested love;

Whose hearts, right tempered, feel no various turns,

No coolness chills them, and no madness burns;

But, free from anger, doubts, and jealous fear,

Die as they live, united and sincere.—*Orrery*.

FELO de se.—A suicide; a self-murderer.

FELONIA.—Felony. *Vide note.*

FELONIA per quam vassallus amitteret feudum.—A felony by which a vassal would lose his fee.

FELONICE cepit, et asportavit.—He feloniously took, and carried away.

FEME covert.—A married woman.

FEME sole.—An unmarried woman.

FEME sole sub modo.—A single woman to a certain extent.

FEODA propria, et impropria.—Proper and improper feuds or fees.

FEODUM.—An estate in fee. *Feodum* appears to be compounded of “OD,” possession, and “FEO,” wages, or pay; intimating that it was stipendiary, and granted as a recompense for services. *Vide Wachter voce “Feodum.”*

FEODUM est quod quis tenet sibi et hæredibus suis, sive tenementum sit, sive redditus, &c.—A fee is that which a person holds to himself and his heirs, whether it be a tenement, or a rent, &c.

FEODUM laicum.—A lay fee. *Vide note.*

FEODUM militare.—A Knight’s fee. *Vide note.*

FEODUM militare, or Feodum militis.—A Knight’s fee. *Vide note to Feodum.*

FEODUM novum, ut antiquum.—A new fee (given or granted), as an ancient fee.

FEODUM restituit ejusdem estimationis quod erat tempore rei judicatæ.—“He restored a fee of the same value as it was at the time of the judgment.” That is, that the lord give or grant to the tenant, or feoffee, when he shall be ejected, land of the same value.

FEODUM simplex.—A fee simple: an unconditional fee.

FEODUM, sine investitura, nullo modo constitui potest.—“A fee cannot, in any way, be made without an investiture.” This was the ancient law relating to freeholds.

FEODUM talliatum.—An entailed estate.

FEOFFAMENTUM.—A feoffment: the donation of a fee; or a feoffment giving possession by livery of seizin. *Vide note.*

FEOFFARE.—To enfeoff: or grant in fee.

FEOFFAVIT et demisit.—He enfeoffed and demised.

FEORME.—A farm: a provision: rent.

FERÆ.—Wild beasts.

FERÆ campestris.—“Beasts of chase.” These are five; the buck, doe, fox, martin and roe.

FERÆ igitur bestię, et volucres et omnia animalia, quę mari, cęlo, et terra nascuntur, simul atque ab aliquo captę fuerint, jure gentium statim illius esse incipiunt.—Quod enim nullius est, id naturali ratione occupanti conceditur.—Therefore, wild beasts, and birds, and all animals which are produced in the sea, air, or earth, as soon as they are taken by any one, immediately, by the law of nations, begin to be his property. For that which is not the property of any person, by natural reason is conceded to be the property of the possessor.

FERÆ igitur bestię, simul atque ab aliquo captę fuerint jure gentium statim illius esse incipiunt.—Therefore, wild beasts, as soon as they are taken by another, become the property of the captor by the law of nations.

FERÆ naturę.—Of a wild nature.

FERÆ naturę, et nullius in bonis.—Beasts of a wild nature, and not belonging to any (particular) person.

FERÆ naturę per industriam hominis.—Animals of a wild nature (tamed by man's industry).

FERÆ naturę propter privilegium.—Animals of a wild nature on account of privilege.

FERÆ naturę ratione impotentię.—Animals of a wild nature for want of power.

FERÆ sylvestres.—“Beasts of the forest.” Frequently called beasts of venary. These are the hart, hind, boar and wolf: the beasts and fowl of the Warren, are the hare,

coney, partridge and the pheasant. A reward was anciently given for the destruction of wolves in England; they have all long since been destroyed.

FERITA.—A wound.

FERLINGUS.—A furlong.

FERNIGO.—Where fern grows.

FERLÆ.—Certain days on which marriage could not formerly be performed, and celebrated; which were from Advent to the Epiphany; from Septuagessima to the Octave of Easter; and from the first Rogation day to the Octave of Pentecost.

FERLÆ Nundinæ.—Holidays, Fairs, or great markets. These are frequently held on some holiday of the Roman Church.

FERRA electio: destre whipt, ou de paier costs.—A hard choice; he shall be whipt, or pay costs. *Vide note.*

FERRAMENTUM.—The iron instruments about a mill.

FERRIFODINA.—An iron mine.

FESTINUM remedium.—A speedy remedy.

FESTIS diebus omnibus et legitimis jejuniis, ordalium nullus ingreditor, neve ad jusjurandum addicitor.—That upon holidays and the regular fasts, no man should be subjected to the ordeal, or called to judgment.

FEUDIS antiquis.—By fees of ancestry.

FEUDORUM libri.—A book of feudal law.

FEUDUM.—A fee: land held in fee simple. *Vide note.*

FEUDUM apertum.—An open fee.

FEUDUM avitum.—A fee derived from the grandfather.

FEUDUM ligeum.—A fee held by fealty.

FEUDUM maternum.—A fee descended from the mother.

FEUDUM novum.—A new (or acquired) fee.

FEUDUM paternum.—A fee, or inheritance acquired from the father.

FEY.—Faith; a deed.

FEYN.—A fine.

FEYRE.—A fair.

FIAT nisi prius per proviso si querens fecet defaultam.
—Let it be done, unless first (performed) by proviso, if the defendant has made default.

FICTIO cedit veritati.—Fiction yields to truth.

FIDEI commissa.—Trusted in confidence: trust settlements. *Vide note.*

FIDEI commissarius.—A trustee: a factor.

FIDEI jussores.—Persons who appeared as sureties for others among the ancient *Romans*.

FIDELITAS.—Fealty.

FIDEM adhibens.—Showing confidence.

FIDES nuptialis contractus.—A promise (or obligation) of a marriage contract.

FIDES semper servanda est.—Integrity is always to be kept.

FIDES servanda est; simplicitas juris gentium prævalet.
—Faith must be kept; the honesty of the law of nations must prevail.

FIEF.—“A fee.” What we call a fee is, in other countries, the contrary to *chattels*. In *Germany*, certain districts or territories are called “*Fiefs*,” where there are *Fiefs* of the Empire.

FIEF d'haubert.—A tenure by knight's service.

FIERI facias.—That you cause to be made, or done; or levied. A writ of execution so called.

FIERI facias ad valentiam.—That you cause (a levy) to be made to the value.

FIERI facias de bonis ecclesiasticis.—“That you cause to be levied of the ecclesiastical goods.” A judicial writ to the sheriff to levy damages and costs.

FIERI facias de bonis propriis.—That you cause to be levied of his (or her) own goods.

FIERI facias de bonis testatoris si, &c., et si non, de bonis propriis.—That you cause to be levied of the testator's

goods, if, &c., and if he has none of those, then of his own goods.

FIERI feci.—I have caused to be made, or levied.

FIERI feci sequestrari.—I have caused sequestration to be made.

FIERI non debet, sed factum, valet.—It ought not to be done; but being done, it is valid.

FI: fa: de bonis testatoris, &c., et si constare poterit quod devastavit, tunc de bonis propriis.—That you cause to be levied of the testator's goods, &c., and if it can be shown that he wasted them, then of his own proper goods.

FIGHTWITE.—Sax. A fine put upon one who fights or quarrels to the disturbance of the peace.

FILARE.—To file.

FILAZER, Filacer, or Filizer.—An officer of the Court of Common Pleas, who issues writs.

FILCTALE.—In ancient times, an entertainment given by bailiffs of hundreds, at which they extorted money from the guests.

FILII nobilium.—Noblemen's sons.

FILIUS hæres legitimus est.—A son is the legitimate heir.

FILIUS hæres legitimus est quem nuptiæ demonstrant.—He is the lawful heir whom marriage designates.

FILIUS mulieratus.—The eldest son of a woman, born before the father married her.

FILIUS nullius.—No person's son; a bastard; who at common law cannot succeed to an inheritance.

FILIUS populi.—A son of the people; a bastard.

FILUM aquæ.—The middle of the water (or stream).

FILUM forestæ.—The line, or boundary of the forest.

FINALIS concordia.—The final agreement.

FINIS, fructus, exitus et effectus legis.—A fine (levied of lands) is the profit, the end and effect of the law.

FINIUM regundorum actio.—Action for regulating boundaries.

FIRDFARE.—Sax. A going forth to a military expedition.

FIRDSOCNE —Sax. Exemption from military duty.

FIRDWITE.—A fine for refusing to do military service.

FIREBARE.—Sax. A seaside tower or beacon with lights for the guidance of mariners.

FIREBOTE.—An allowance of fuel.

FIRMA.—From the *Sax.* “*Feorme*,” *i. e.* food (there is also a word “*feorman*,” to feed, or yield victuals). Also a message and land taken by lease under a certain rent—from “*Firma*” comes the word “*Farm*.” *Vide note.*

FIRMA ipsius quærentis.—The plaintiff’s farm.

FIRMARIUM.—A word used in old records for infirmary.

FIRMARIUS, vel Proprietarius.—The farmer, or proprietor.

FIRMITAS.—An assurance of some privilege by deed or charter.

FISC.—The treasury of a prince or state.

FISK.—The right of the King, in Scotch law, to the moveable estate of a rebel.

FISTUCA.—A staff or waud which, anciently, was delivered when any property was transferred.

FIT autem disseisina, non solum cum quis præsens, vel procurator vel familia, qui nomine suo fuerit in seisina violenter, injuste, et sine iudicio, ex libero tenemento suo, qualicunque ejecti fuerunt—verum erit disseisina, cum quis ad nundinas, vel peregre profectus fuerit, nemine in domo relicto, vel possessione, alius in possessionem ingrediatur, et ipsum reversum non admittat, vel eum ingredi voluerit, per se vel assumptis viribus, violenter repellat. Item non solum fit disseisina, secundum quod prædictum est, sed etiam si quis præpotens uti voluerit in alterum tenementum, contra ipsius tenentis voluntatem, arando, falcando, asportando, et contrahendo, tenementum esse suum, quod est alterius, si autem nihil clamaverit in tenemento aliud erit,

quæ tunc erit transgressio, non disseisina, in libero tenemento.—But it becomes a disseisin, not only when any one being present, or his agent, or family, who, in his name, were in possession, have been violently, unjustly, and without any judgment, in any manner ejected from the freehold—but it will be a disseisin when any person shall be gone to a market (or a fair) or shall have gone from home, and no one being left in the house or in possession, another shall take possession, and not admit the owner to enter on his return: or when he would enter repels him, either by himself, or with the assistance of others. And it not only becomes a disseisin, according to what has been said, but also if any powerful person insists upon using the land of another, contrary to the tenant's will, by ploughing, digging, cutting up, carrying away, and wasting the same, as though it were his own, which is another's property; but if he claim no interest in the land, it will be otherwise, for then there will be a trespass, not a disseisin, in the free tenement.

FIT juris, et seisinæ conjunctio.—It becomes a joinder of right and possession.

FLAGELLIS et fustibus acriter verberare uxorem.—Severely to beat his wife with whips and clubs.

FLAGRANTE bello.—Whilst the war rages.

FLAGRANTE delicto.—In the commission of the crime.

FLEM.—Sax. A fugitive.

FLEMENESFIRINTE, or Flemenfirma.—The sustenance and relieving of fugitives or outlaws.

FLEMENESWITE, or Flemeswite.—A fine imposed upon a fugitive.

FLETA.—In old English law, an estuary.

FLETA.—This is the title of an excellent law book, supposed to have been written by a Judge, confined in the *Fleet* prison, *temp. Edward 1st.*

FLETH.—Sax. Land (given by some authorities), a house (by others).

FLIEDWITE, or Flightwite, from *Sax.* "*Flyth.*" *i. e.* fuga and, "*wite,*" mulcta.—This word, in ancient law, signifies the discharge of a person from amerciaments, where, having been a *fugitive*, he comes to the king's peace of his own accord, or with license.

FLODEMARK.—High-water mark.

FLOTSAM.—Goods floating on the sea.

FLUMINA autem omnia et portus publica sunt, ideoque jus piscandi omnibus commune est, in portu, fluminibusque.—Also all rivers and harbors are common, together with the right of fishing in all rivers and in port.

FOCALE.—Firewood.

FOELLAN.—To offend.

FOELNISSE.—An offence; felony.

FÆMINA presenti marito feloniam agens, non rea est constructione legis, quia per ejus coercionem instigari cogitur.—A married woman, committing felony in her husband's presence, is not guilty in the eye of the law, she being supposed to have been instigated to the commission of the act by the coercion of her husband.

FÆMINA viro coöperta.—A married woman.

FOENUS nauticum.—Nautical usury.

FOLC-LANDS.—*Sax.* Copyhold lands, so called in the time of the *Saxons*: as charter lands are called *Book-lands*—vide *Kitchen*, 174. Folc-land was *terra vulgi*, or *popularis*, the land of the common people who had no *certain* estate therein, but held the same under the rents and services accustomed or agreed; and was therefore not put into writing, but accounted "*prædum rusticum et ignobile.*" Vide *Spelm. on Feuds*.

FOLC-MOTE.—*Sax.* A general Council, or Assembly. Vide *note*.

FOLGARE.—From Saxon *folgan*, to follow or serve.

FOLGARI, **FOLGHERES.**—Followers or servants.

FORANEUS.—A foreigner.

FORATHE.—*Sax.* One who could swear for another.

FORBALCA.—A piece of unploughed land lying next the highway.

FORBANNITUS.—Banished. (*Old Europ. law.*)

FORBATUDO.—He who struck the first blow. (*Old Europ. law.*)

FORCELET.—A fortress.

FORCERIUM.—A strong box for the safe-keeping of papers.

FORCLORRER.—To foreclose; to shut out.

FORDANNO.—The first assailant in a fight. (*Old Europ. law.*)

FORDIKA.—The grass growing on the banks of ditches.

FORECHEAPUM.—Pre-emption.

FORERA.—Foreland.

FORESCHOKE.—Forsaken.

FORESTALLAN.—Forestalling.

FORFANG, FORFENG.—Sax. A previous taking.

FORFEITURE de terre.—A forfeiture of the land.

FORGABULUM.—A quit rent.

FORGAVEL.—Sax. A small reserved rent in money.

FORI disputationes.—Arguments in the Law Courts.

FORISFACERE.—To outlaw.

FORISFACTURA.—Forfeiture.

FORMA essentialis.—A substantial form.

FORMA et figura judicii.—The form and manner of the judgment.

FORMEDON. (*Breve de forma donationis.*)—"The form, or manner of a gift." A writ formerly issued to recover entailed property.

FORMEDON in descender.—Formedon in descent. *Vide note.*

FORMEDON in remainder.—Formedon in the remainder.

FORMEDON in reverter.—Formedon in the reversion.

FORO domestico.—"In the court at home." Perhaps the Lord's Court of the Manor.

FORO ecclesiæ.—In the Spiritual Court.

FORPRISE.—Taken beforehand. An exception.

FORSCHET.—The forepart of a furlong, that which skirts the highway.

FORSPRISE.—Except.

FORSQUE.—But; only.

FORTIOR et potentior est dispositio legis quam hominis.—The disposition of the law is stronger and more powerful than that (effected) by man.

FORTUITUS casus providendus.—A chance case is to be regarded.

FORUM domesticum.—A Court held at home, or in the vicinity.

FORUM plebiæ justitiæ, et theatrum comitivæ potestatis.—The court of justice for the common people, and public place of meeting for the power of the county.

FORUM rei.—The Court held where the defendant resides.

FOSSA.—A ditch full of water where formerly women convicted of felony were drowned. FOSSE.—A dyke or ditch.

FOURCHER.—To divide or *fork*. A term used respecting an old practice of casting essoins or excuses by two tenants *alternately*, in order to delay the proceedings. See *Reeves' Hist. Eng. Law*.

FOVEA.—A grave.

FRANC-ALEU or ALLEU.—Allodial land.

FRANCHIARE.—To enfranchise.

FRANCHILANUS.—A freeman.

FRANCHISE.—A privilege, or exemption. *Vide note*.

FRANCIGENA.—A Frenchman.

FRANCLAIN, FRANCLEIN, FRANKLEYNE.—A freeholder or gentleman; a freeman.

FRANCUS.—Free.

FRANCUS bancus.—*Free-bench*—*Sedes libera*. That estate in copyhold lands, which the wife acquires on the

death of her husband, for her dower, according to the custom of the manor. Freebench also means the widow's estate in such lands as her husband died seized of: there is a distinction between *freebench* and *dower*; which last is the estate of the widow in *all* lands of which her husband was seized during the coverture. The custom of freebench prevails in the manor of *East and West Enborne*, and *Chaddleworth*, in the county of *Berks*; at *Torr*, in Devonshire, and other places in the West of England. There is a curious custom in the manor of West and East Enborne, to be found in the "*Spectator*," No. 623, Nov. 22, 1714.

FRANCUS plegiws.—A frank or free pledge; a tithing decennary or friborg, so called because every freeman belonging to it was a *pledge* for the good conduct of the others; the chief of whom was called *friborgesheofod* or *freoborhesheofod*.

FRANK-ALMOIGN.—A free gift. *Vide note*.

FRANK-FEE.—Freehold lands, held exempt from all services, except the homage.

FRASSETUM.—Woody ground.

FRATER consanguineus.—A half-brother by the father's side.

FRATER fratri sine legitimo hærede defuncto in beneficio, quod eorum patris fuit succedat; sin autem unus e fratribus a domino feudum acceperit, eo defuncto sine legitimo hærede, frater ejus in feudum non succedit.—One brother may succeed to another brother, dying without a lawful heir, in respect to the estate which was their father's; but if one of them receive his fee from the lord, and die without a lawful heir, the other brother shall not succeed thereto.

FRATER fratri uterino non succedit in hæreditate paterna.—A brother does not succeed to a maternal brother in a paternal inheritance.

FRATER uterinus.—A brother by the mother's side.

FRAUDEM facere legi.—To commit a fraud in the law.

FRAUNKE-FERME.—Free-farm.

FRAUS, dolus, qui fit in contractibus et venditionibus.
—Fraud, deceit, which is made in contracts and sales.

FRAUS dolus vel deceptio.—A fraud, trick or deception.

FRAXINETUM.—From *fraxinus*, an ash. A place where ashes grow.

FREA.—A female ward.

FREDUM.—A sum paid to the magistrate by a person who had injured another in order to secure his protection. It was usually about one-third as much as he had previously paid to the injured party for a satisfaction.

FREDWITE.—Frithwite. Sax. See FREDUM.

FRENDLESMAN.—Sax. An outlaw ; to whom all persons were forbidden to give food or shelter.

FRENDWITE.—Sax. A fine imposed upon one who protected or assisted an outlawed friend.

FRENTIKE.—Frantic.

FREOBORGH.—A free pledge. Sometimes Friborgh.

FREOBORHESHEOFED.—In Saxon law, a chief pledge. The title of the chief of a friborgh or decennary. See FRANCUS PLEGIUS.

FRIDHBURGUS.—A species of frank pledge by which the lords or chiefs bound themselves for the good behavior of their dependents.

FRIDSTOLL.—A chair of peace.

FRILAZIN.—One freed from bondage.

FRISCA disseisina.—“Fresh disseisin”—from Fr. “*fresche*,” late, and “*disseiser*,” to eject. That disseisin which a man might formerly seek to defeat of himself, and by his own power, without resorting to the king, or the law : as where it was not above fifteen days old, or of some other short continuance. Vide *Britton*, c. 5.

FRITHBOTE.—A fine for breach of the peace.

FRITHSOKE.—Frithsoken : from Sax. “Frith,” *pax* and “socne,” *libertas*.—“Surety of defence :” a jurisdiction

for the purpose of preserving the peace. According to Fleta, "*libertas habendi franci plegii, seu immunitas loci*," (the liberty of frank pledge, or the immunity of the place.) Vide *Cowell. Blount.*

FRUCTUS industriales.—Profits, or fruits of industry: as corn growing, fixtures, &c.

FRUMGYLD.—Sax. The first payment made to the kindred of a person slain, towards the recompense for his murder. Vide *Ll. Edmund.*

FRUMSTOLL.—A chief seat or residence.

FRUSTRA fit per plura, quod fieri potest per pauciora.—It is useless to do that by many things, which may be accomplished by few.

FRUSTRA legis auxilium invocat, qui in legem committit.—"He seeks the aid of the law in vain, who offends against it." He must come into court with clean hands.

FRYDERINGA, *Frithing, Fridung, and Friderung*, i. e. expeditionis apparatus.—"The fitting out of an expedition:" "Going out to war:" or a military expedition at the king's command: the refusal to do which was punished by fine at his pleasure. Vide *Leg. Hen. 1, c. 10.*

FRYMTH.—The receiving a person into one's dwelling and harboring him. Sax.

FUAGE.—In the reign of *Edward, the Third*, the *Black Prince* having *Acquitain* granted to him, laid an imposition of "*fuage*" upon the subjects of that dukedom, i. e. twelve pence for every fire. *Rot. Par. 25 Edw. 3.* It is not improbable that the *hearth-money* imposed (16 *Car. 2*) took its rise from hence.

FUER.—Fr. *fuir*—Lat. *fugere*. "Flight"; is used substantively, though it be a verb; and is two-fold, *fuer in "fait,"* and *fuer in "ley," lege:* when being called to the court he appeareth not, which is flight in law. *Staunf. Pl. Cor., lib. 3, c. 22.*

FUERUNT in conquestu liberi homines, qui libere tenebant tenementa sua per libera servitia, vel per liberam con-

suetudines.—There were freemen at the Conquest, who held their tenures by free services, or free customs.

FUGACIO.—The chase or hunting of wild animals.

FUGAM fecit.—“He made flight.” Used when it is found, by inquisition, that a person has fled, for felony, &c.

FUIT resolve per totam, curiam que action sur le case.—It was resolved by the whole court that it was an action on the case.

FULFREA.—Entirely free.

FULLUM aquæ.—A stream of water.

FUNCTUS officio.—Having discharged the office: or *officially* dead.

FUNDAMUS.—We found (or establish); often used in charters for establishing colleges.

FUNDATOR perficiens.—The endower (or founder).

FUNDI patrimoniales.—Lands of inheritance.

FURCA et flagellum.—This was the meanest of all servile tenures, where the bondman was at the disposal of his lord for life or limb. *Plac. Term. Mich. 2 John, Rot. 7.*

FUR.—A thief. FUR MANIFESTUS.—A thief caught in the act of stealing.

FURCHE.—A gallows.

FUREM, si aliter capi non potest, occidere permittunt.—They suffer a thief to be killed if he cannot otherwise be taken.

FURIGELDUM.—A fine paid for theft.

FURIOSUS solo furore punitur.—“A madman is punished by his own insanity.” The law considers that a madman suffers sufficiently by his dreadful malady, without inflicting punishment for those acts committed when deprived of his reasoning powers.

FURTUM lege naturali prohibitum est.—Theft is forbidden by the law of nature.

FURTUM non est casus fortuitus.—Theft is not a chance case, (accidental or unpremeditated.)

FURTUM non manifestum.—“The theft does not appear.” It is not discovered.

FUTUROS casus providendos.—That future causes be provided for.

FUTYF.—A fugitive from justice.

FYRD.—An army.

NOTES TO F.

FACTOR ARMORUM REGALIUM.—One of the *English* Historians observes, that immediately preceding the Conquest, the art of working in iron and steel had arrived at such a state of improvement, that even the horses of some of the Chief Knights and Barons were covered with steel and iron armor. Artificers, who wrought in iron, were so highly regarded, in those warlike times, that every officer had his *Smith*, who constantly attended his person to keep armor in order. The Chief Smith was, it is said, an officer of considerable dignity in the court of the *Anglo-Saxon* and *Welch Kings*, where he enjoyed many privileges; and his *Waregild* or *Weregild*, i. e. a fine payable by any person who murdered him, was much higher than that of any other artificer. In the *Welch* court the King's *Smith* sat next to the Domestic Chaplain, and was entitled to a draught of every kind of liquor which was brought into the Hall—a privilege which many of our artificers of the present day would not think lightly of. Vide *Lardner's Encyclopædia*. See, also, note to “*Hindeni Homines*.”

FELONIA.—A Law Term, including generally all capital crimes below that of treason. Vide 4 *Comm.* 98. This word appears to be of *Feudal* origin; but authors differ as to its derivation; some derive it, fancifully enough, from “*felos*,” Gr., an impostor; from *fallo*, Lat., to deceive; and *Coke* says it is *crimen felleo animo perpetratum*, a crime done with a malicious intent. All, however, agree, that it is such a crime as occasions a forfeiture of the offender's lands or goods: this, therefore, gives great probability to *Spelman's* derivation from the *Teutonic*, or German, “*Fee*,” that is, a *feud*, or *fief*, and “*lon*,” price, or value.

FEOFFAMENTUM.—Among the Romans, if the question was about a farm, a house, or the like, the *Prætor* anciently went with the parties (*cum litigantibus*) to the place, and gave possession to which he thought proper. But, from the increase of business, this soon became impracticable; and then the parties called one another from court (*ex jure*) to the spot, (*in locum, vel rem presentem*), to a farm for instance, and brought from thence a turf, (*glebam*), vide *Festus*; and contested about that, as though it were the whole farm. It was delivered to the person to whom the *Prætor* adjudged the possession.

But this custom was also dropped, and the lawyers devised a new form of process for suing for possession, which *Cicero* pleasantly ridicules. Vide *Cic. pro Mur.* 12. The plaintiff thus addressed the defendant, “*Fundus qui est in agro, qui Sabinus vocatur, eum ego ex jure Quiritium meum esse aio, inde ego te ex jure manu consortum*,” i. e. “the land situated in the country, called *Sabinus*, that, I affirm, belongs to me by the *Roman* laws; for this reason, therefore, I contest the matter according to law.” If the defendant

yielded, the *Prætor* adjudged possession to the plaintiff. If not, the defendant thus answered the plaintiff, "*Unde tu me ex jure manum concertum vocasti, inde ibi te revoco.*" "Why do you call me into law; from this situation and place I refer the matter." Then the *Prætor* repeated his set form, "*Utriusque superstilibus præsentibus,*" (i. e. *testibus præsentibus,*) i. e. "the witnesses on both sides being present." "*Istam viam dico; Inite viam.*" "I say this way. Go your way." Immediately they both set out, as if to go to the farm to fetch a turf, accompanied by a lawyer to direct them. Then the *Prætor* said, "*Reddite viam,*" Return; upon which they returned. If it appeared that one of the parties had been dispossessed by the other through force, the *Prætor* thus decreed, "*Unde tu illum dejecisti, cum nec vi, nec clam, nec præcario possideret eo illum. Restituas jubeo,*" i. e. "why have you ejected him; for he has not possessed the estate by force nor fraud, nor by petition. I ordain that you restore it." If not, he thus decreed, "*Ut nunc possidetis, &c.,*" i. e. retain (the possession) as you now enjoy, &c. The possessor being thus ascertained, the action about the right of property (*de jure domini*) commenced. The person ousted first asked the defendant if he were the lawful possessor. Then he claimed his right, and in the meantime required that the possessor should give security not to do any damage to the subject in question (*ne nihil deterius in possessione facturum*) by cutting down trees, demolishing houses, &c.

Thus the student will perceive that the practice of livery and seisin clearly appears to be a relic of *Roman* jurisprudence. Vide 2 *Black. Comm.* 315, 316.

The giving of a glove was, in the middle ages, one of the tokens of investiture in bestowing lands and dignities. In A. D. 1002, two Bishops were put in possession of their sees, each by receiving a glove. So in England, in the reign of *Edward* the Second, the deprivation of gloves was a ceremony of degradation. With regard to the shoe, as a token of investiture, *Castell. Lex. Polyg., col.* 2342, mentions that the Emperor of the *Abyssinians* used the casting of a shoe as a sign of dominion; see, also, *Psalms* 60. To these instances the following may be added: *Childebert* the Second, was fifteen years old when his uncle declared he was of age, and capable of governing himself. "I have put," says he, "a Javelin in thy hand, as a token that I have given thee my kingdom," and then, turning towards the assembly, added, "You see that my son *Childebert* has become a man. Obey him." Vide *Montesquieu's Spirit of the Laws, vol.* i. 361.

FERRA ELECTION.—This is still the law in *England*, where a person sues "*in forma pauperis;*" but the last time it was requested to be put in execution by a defendant, or his counsel, the Judge who tried the cause very humanely, but laconically, replied, "*I have no officer to do the duty.*"

FEUDUM.—Feuds, or Fees, were enjoyed in *England* by the followers of the Conqueror; but as these new proprietors were in danger of being disturbed by the remainder of the ancient inhabitants, and in still greater danger of being attacked by other invaders, or petty Lords, they saw the necessity of coming under strong obligations to protect the community, for their mutual preservation. We can trace back this obligation on the proprietors of land to a very early period in the history of the *Franks*. *Childebert*, who began his reign A. D. 562, exacted a Fine, "*bannos jussit ezegi,*" (i. e. he ordered fines to be levied,) from certain persons who had refused to accompany him in an expedition. Vide *Gregor. Turon. lib.* 5, c. 26, p. 211. *Childebert*, who began his reign A. D. 576, proceeded in the same manner against others, who had been guilty of a like offence. *Ibid., lib.* 7, c. 42, p. 342. Such a fine would not have been exacted whilst property remained in its first state, or as *allodial* property, when military service was entirely volun-

tary. Notwithstanding the almost general prevalence of these *Feuds*, no doubt many estates were *allodial* in every respect.—The clearest proof of the distinction between *allodial* and *beneficiary* possessions is contained in two charters published by *Muratori*, by which it appears that a person might possess *one* part of his estate as *allodial*, which he could dispose of at pleasure; and the other as a *beneficiary*, or a *feud*, of which he had only the *usufruct*; the property returning to his superior lord on his demise. *Vice Antiq. Ital. mediæ ævi*, vol. i. p. 559, 565. The same distinction is pointed out in a *Capitulaire* of *Charlemagne*, A. D. 812. *Edit. Bal.*, vol. i. p. 491. Count *Everard*, who married a daughter of *Louis le Debonaire*, in the will, by which he disposes of his vast estates among his children, distinguishes between what he called "*proprietary*," or *allodial*, and what he held "*beneficio*," or as a *feud*; and it appears, that the greater part was *allodial*. A. D. 837. *Vide Aut. Miræi opera Diplomatica, Lovan.* 1723, vol. 1, p. 19.

When *allodial* possessions were *first* rendered *feudal*, they were not at *once* subjected to all the *feudal* services. The transition here, as in all other things of importance, was *gradual*, as the great object of a *feudal* vassal was to obtain protection. When *allodial* proprietors first consented to become vassals of any powerful leader, they continued to retain so much of their ancient independence as was consistent with that new relation. The homage they did to the superior of whom they chose to hold, was called "*Homagium planum*," (*Simple Homage*), and bound them to nothing more than Fidelity, but without any obligation either of military service, or attendance in the courts of their superior. Of this "*Homagium planum*," some traces, though obscure, may still be discovered. *Brussel*, tom. 1, p. 97. Among the ancient writs, published by *D. D. De Vie*, and *Vaisette*, *Hist. de Langued.* are a great many which they call "*Homaga*." They seem to be an intermediate step between the "*Homagium planum*," mentioned by *Brussel*, and the engagement to perform certain *feudal* services. The one party promises protection, and grants certain lands; the other engages to defend the person of the grantor, and to assist him likewise in defending his property, as often as he shall be summoned to do so. But these engagements were accompanied with none of the *feudal* formalities; and no mention is made of any of the other *feudal* services. They appear rather to possess the nature of a *mutual* contract between equals, than the agreement of a vassal to perform services to his superior lord. *Vide Preuves de l'Hist. de Long.*, tom. 2, 173, *et passim*. As soon as men became, *by degrees*, accustomed to these, the other *feudal* services were (perhaps gradually) introduced. We may, from the whole, therefore conclude, that as *allodial* property often subjected those who possessed it to serve the *community*, so *Feuds*, *Fiefs*, or *Beneficia*, subjected such as held them to *personal* services and fidelity to *him* from whom they received their land, or from whom they held it, to be *protected* as before mentioned.

FIDEI COMMISSA.—Sometimes, among the *Romans*, a man left his property in trust (*fidei committēbat*) to a friend, on certain conditions; particularly, that he should give it up (*ut restitueret, vel redderet*) to some person or persons. Whatever was left in this manner, whether the whole estate, or any one thing, as a farm, &c., was called *fidei commissum* (like a trust estate with us); and a person to whom it was left was called *Hæres fiduciarius*, who might either be a citizen or a foreigner.

It is probable that from this custom originated the devising of estates in Trust, and upon Uses, which has been so *minutely* described, in volume upon volume, by some of the *English* conveyancers. *Vide Preston, Sugden, Fearn, &c., &c.* The *minutiae* of uses, trusts, contingent remainders and executory devises, necessary to be learned by the *English* conveyancers, appear, on the first view, to require abilities of no ordinary description to comprehend them.

A testament of the kind above referred to, was in the form of request or entreaty (*verbis precativis*); thus *Rogo, Peto, Volo, Mando, Fidei tuo committo*, Ter. And. ii. 5, and not by way of command, as other testaments usually were (*verbis imperativis*). These kind of testaments, it is said, might be written in any language.

FIRMA.—About the time of *William the Conqueror*, Rents for Lands were reserved to the lords, or great landed proprietors, in victuals, and other necessaries for their use; but afterwards, (perhaps about the reign of *Henry the First*,) these Rents were generally altered, and commuted to monied payments.

FÆDUM LAICUM.—A Lay-Fee. Lands held in fee of a *Lay Lord*, as distinguished from the *Ecclesiastical* holding in *Frank-almoign*. Vide *Kennel's Gloss*.

FÆDUM MILITARE.—A Knight's Fee.—This is said to have been so much inheritance as was enough to maintain a *Knight*, with sufficient retinue: which in *Henry the Third's* day was fifteen pounds sterling. *Stowe*, in his *Annals*, says, there were found in *England*, in the time of the *Conqueror*, 60,211 *Knights' fees*, whereof the *Religious* houses, before their suppression, possessed 28,015.

FOLCMOTE, or FOLKMOTE.—*Spelman* says the *Folkmete* was a sort of annual parliament, or convention of the *Bishops, Thanes, Aldermen, and Freemen*, upon every *May Day* yearly. But *Doctor Brady* infers from the laws of the *Saxon Kings*, that it was an inferior Court, held before the *King's Reeve* or *Steward*, every month, to do "*Folk-right*," or compose smaller differences, from whence there lay an appeal to the superior courts. Vide *Brady's Gloss*. 48. *Squire* seems to think the *Folkmete* not distinct from the *Shiremete*, or common general meeting of the county. According to *Kennel*, the *Folkmete* was a Common Council of all the inhabitants of a city, town or borough, convened often by sound of bell to the *Mote-Hall*, or house; or it was applied to a large congress of all the freemen, within a county, where, formerly, all Knights and military Tenants did *Faalty* to the King, and elected the annual Sheriff on October the first. After which the City *Folkmete* was swallowed up by the Select Committee, or Common Council; and the County *Folkmete*, in the *Sheriff's Tourn* and *Assizes*.

FORMEDON in the *Descender*; **Formedon** in the *Remainder*; and **Formedon** in the *Reverter*.—These are three species of writs, frequently mentioned in the law books. 1st. **Formedon** in the *descender* lies, where a gift in tail is made, and the tenant in tail aliens the lands entailed; or is disseised of them and dies; in this case the heir in tail shall have his writ of "*Formedon in the descender*," to recover the lands so given in tail, against him who is then the actual tenant of the freehold. 2d. A *formedon in remainder* lies, where a man gives lands to another for life, or in tail, with remainder to a third person in tail, or in fee; and he who hath the particular estate, dieth without issue inheritable, and a stranger intrudes upon him in remainder, and keeps him out of possession: in this case the remainder man shall have his writ of "*Formedon in the remainder*," wherein the whole form of the gift is stated, and the happening of the event upon which the remainder depended. This writ is not given in express words by the statute *De donis*; but is founded upon the equity of the statute, and upon this maxim in law, "that if any one hath a right to land, he ought also to have an action to recover it." Vide *Fitz. N. B.* 217. 3d. A "*Formedon in the reverter*" lies, where there is a gift in tail, and afterwards, by the death of the donee, or his heirs, without issue of his body, the reversion falls in upon the

donor, his heirs or assigns; in such case the reversioner shall have this writ to recover the lands, wherein he shall suggest this gift, his own title to the reversion minutely derived from the donor, and the failure of issue upon which his reversion takes place. Vide *Fitz. N. B.* 219. 8 *Rep.* 88.

FRANCHISE.—This means a privilege or exemption from ordinary jurisdiction, as for a corporation to hold pleas, &c., &c. And sometimes it is an immunity from tribute: it is either *personal* or *real*, i. e. belonging to the person *immediately*, or by means of *this* or *that* place. Franchises are a species of incorporeal hereditaments. Franchise, and Liberty, are frequently used as *synonymous* terms.

FRANK-ALMOIGN—or Free Gift. This often means a tenure by a Spiritual service, where an ecclesiastical corporation, sole or aggregate, holds lands to them, and their heirs in free and perpetual alms; and *perpetual*, supposes to be a *fee simple*; though it may pass without the word successors. Vide *Litt.* § 133. *Co. Litt.* 94.

G.

GABELLA.—A tax on merchandise or personal property.

GAFOL, GAFEL.—Rent; tax; interest.

GAIGNONT son terre.—Tilling his land.

GAINAGE or GAIGNAGE.—Implements of husbandry; also profits from land.

GAINOR.—One who cultivated arable lands.

GAJUM.—A dense wood.

GALES.—Wales.

GALLIA caudicibus docuit facunda Britannos.—France, elegant in its oratory, taught the British lawyers.

GAMACTA.—A stroke.

GARANDIA, GARANTIA, GARANTUM.—A warranty.

GARATHINX.—An absolute gift.

GARRENA.—A warren.

GARSUMME.—A fine.

GARTH.—A yard; a small homestead.

GASACHIO.—An adversary.

GASINDUS.—A house servant.

GASTALDUS.—A steward.

GAUDENS hæreditate sua.—Rejoicing in his inheritance.

GAVELKIND.—A peculiar tenure of land. *Vide note.*

GAVELET.—A process to recover rent or service.

GEBOCIAN.—A written conveyance. Sax.

GEBURUS.—A neighbor; one who dwelt in a *geburscip* or village.

GELD, GILD.—A fine; payment; the value.

GEMOTE.—An assembly.

GENERALIA comitatum placita certis locis et vicibus teneantur. Intersunt autem Episcopi, Comites, &c., et agantur primo debita veræ Christianitatis jura: secundo, Regis placita: postremo, causæ singulorum dignis satisfactionibus explantur.—That the general pleas (or suits) of the counties, be held in certain places, and courses. Also that the Bishops, Earls, &c., be present, and that in the first place, the just rights of the true Christian religion be determined; secondly, the pleas (or suits) of the king; and lastly, that the causes of all persons be determined with due satisfaction. *Vide note.*

GENERALIS clausula non porrigitur ad ea quæ ante specialiter sunt comprehensa.—A general clause does not extend to those matters which have been before specially provided for.

GENEROSUS.—A gentleman. *Vide note.*

GENUS generalissimum.—The most general kind.

GEREFA, or REEVE.—A public officer. Sax. This title was attached to various grades of officers. Sheriff or shire-reeve comes from it.

GERERE bellum.—To wage war.

GERMANUS.—Descended from the same ancestors.

GERONTOCOMI.—The name of officers (in Roman law) who managed hospitals for the indigent and infirm.

GERSUMA.—A price for a thing.

GESTIO pro hærede.—Acting as heir. *Pro hærede*

gerere est pro domino gerere.—To act as heir is to act as owner.

GETTER.—To cast.

GEWINEDA.—Sax. The public convention of the people to decide a cause—“*Et pax quam aldermanus regis in quinque burgorum ‘Gewineda’ dabit emendatur 12 libras.*” *El. Etheldred, cap. 1.*

GEWITNESSA.—Sax. The giving of evidence.

GIFTOMAN.—The person who has a right to dispose of a woman in marriage. *Swedish Law.*

GILDA mercatoria.—“A guild of merchants.” A mercantile meeting, or assembly; hence the word “*Guild.*”

GILOUR.—One who cheats in merchandise.

GISARMES.—An axe.

GIST of action.—From Fr. *gist*. The cause for which the action is brought: the *very* point in question, without which the action is not maintainable. *Vide 5 Mod. 305.*

GIT.—The foundation, or ground: the point.

GLADIIS, baculis et cultellis.—With swords, staves, and knives.

GLEANING.—*Leasing*, or *Lesing*, from “*glanier*,” i. e. gathering loose corn in the fields after reaping. *Vide note.*

GLEBA.—“Church lands.” Generally taken for the lands belonging to the parish church.

GLYN.—A valley.

GODBOTE.—A fine for a religious offence. *Sax.*

GOOLE.—A breakage in a sea wall.

GORS.—A place where fish are kept.

GRADUS habitudo distantium personarum, qua propinquitates distantia inter personas duas vel diversas discernitur.—The state, or degree of different persons, by which is distinguished the affinity between two or more.

GRÆCA leguntur in omnibus fere gentibus; Latina suis finibus sane continetur.—The Greek language is read in almost all nations. The Latin, indeed, is confined within their own territories.

GRAFIO.—Used in European law as *gerefa* in Anglo Saxon, and supposed to have a similar signification; viz., a chief magistrate; one who collected public dues.

GRAFFER or GREFFIER.—A clerk or notary.

GRAND cape.—A writ whereby the king takes possession of land by the tenant's default. *Vide Cape.*

GRAND Serjeanty per magnum servitium.—“Grand Serjeanty by a superior service.” One of the ancient tenures of land.

GRANGIA.—A farm house: a farm. *Vide note.*

GRASS-HEARTH.—A service of one day's ploughing done by inferior tenants.

GRATA superveniet quæ non sperabitur hora.—That hour will prove the most pleasing, which is not anticipated.

GRATIS dictum.—A free saying: a transitory observation.

GRATIS litigans.—Suing as a pauper.

GRAVA.—A small grove.

GRAVIUS.—Chief magistrate.

GRAVIORIS injuriæ species est quæ scripta fit quia diutius in conspectu hominum perseverat. Vocis enim facile obliviscimur, at litera scripta manet; et per manus multorum longe, lateque vagatur.—Writing is a species of more serious injury, because it remains longer in public sight, for we easily forget words; but what is written remains, and passes through the hands of many, far and near.

GRITHBRECH.—Sax. Breach of the peace.

GRITHTOLE. A chair of peace; a sanctuary.

GROSSE bois.—“Great wood.” Such wood, as by the common law, or custom, is reputed timber. *2 Inst.* 642.

GUADAGIUM.—The price given for safe conduct through another person's province or lands.

GUARDIAN ad litem.—A guardian in the suit.

GUBERNATOR.—A pilot or steersman of a ship.

GUILD.—From *Sax.* “gildan,” to pay. A fraternity, or company, each of whom was “*gildare*,” to pay something. *Vide note.*

GULE OF AUGUST.—The first of August.

GWALSTOW.—*Sax.* A place of execution. “*Omnia gwalstowa, i. e. occidendorum loca, totaliter Regis sunt in soca sua.*”—i. e. all the places where murderers are executed wholly belong to the king in soccage. *Leg. Hen. 1, c. 11.*

GYLTWITE.—*Sax.* A compensation, or amends for trespass, “*mulcta pro transgressione.*” *Ll. Edgari Regis anno, 964.*

GYVN.—A Jew.

NOTES TO G

GAVELKIND.—This is a common tenure of landed property in *Kent*, in *England*, whereby the estate of the father is equally divided at his decease among all his sons; or the land of the brother among all his brethren, if he has no issue of his own.

It is said that all the lands of *England* were of a *Gavelkind* nature before the Conquest (A. D. 1066), and descended to all the issue equally; but that after the Conquest, when Knight's Service was introduced, the descent was restrained to the eldest son for the preservation of the tenure (*vide Lamb. 167, 3 Salk. 129*), except in *Kent*; for the supposed reason of which see *Blount*, in v. “*Gavelkind*,” who relates the story of the *Kentish* men surrounding *William* the First, with a moving wood of boughs, and thus obtaining a confirmation of their ancient rights. It has been said, that in the reign of *Henry* the Sixth, there was not above thirty or forty persons in all *Kent* that held by any other tenure than that of *Gavelkind*. It appears that the tenure of a considerable part of the lands of that county was altered by the petition of diverse *Kentish* gentlemen, so as to descend to the eldest son, according to the course of the common law. *Vide Hen. viii., c. 3.*

Blackstone relies on the nature of the tenure in *Gavelkind* as a pregnant proof that tenure in free *Soccage* was a remnant of *Saxon* liberty. It is well known what struggles the sturdy *Kentish* men made to preserve their ancient liberties, and the success with which they were attended. And it is principally here that we meet with this good and equitable custom, (at least in preference to the unreasonable, if not unjust law of primogeniture,) and we may reasonably conclude that this was a part of those liberties, agreeably to the opinion of *Selden*, who considered that *Gavelkind*, before the *Norman* Conquest, was the general custom of *England*.

GENERALIA COMITATUM, &c.—There is good reason to believe that the powerful leaders, who seized by force, or who obtained for their services from the Conquerors of the *Roman* Empire different districts of the countries which they acquired, kept possession of them, with all the rights of criminal and civil jurisdiction. The privilege of judging his own vassals appears to

have been a right inherent in every Baron, who had a *Fief*, and no doubt was often used as a privilege for the most oppressive cruelty. As far back as the *Archives* of the Northern nations can conduct us with any certainty, the *Jurisdiction* and *Fief* were united. One of the earliest charters is that of *Ludovicus Pius*, A. D. 814, and it contains the right of territorial jurisdiction in the most express and extensive terms. Vide *Capitul.*, vol. ii. 1405. It appears from a charter in the thirteenth century, that the Barons, who had the right of holding Courts of Justice, received the *fifth* part of the value of the thing sued for, from every subject whose property was the cause of a trial determined in their courts. If, after the commencement of a lawsuit, the parties terminated it in an amicable manner, or by arbitration, they were (it seems) nevertheless bound to pay the *fifth* part of the subject contested for to the court before which the action had been brought. Vide *Historie de Dauphine*, Geneve, 1722, tom. 1, p. 22. What was the extent of the jurisdiction which those who held *Fiefs* originally possessed, we cannot now determine with certainty. It is evident that during the disorders, which in the middle ages prevailed in every kingdom of *Europe*, the great Barons took the advantage of the feebleness of the monarchs, and greatly enlarged their criminal, as well as civil jurisdictions. As early as the tenth century, the more powerful Barons had usurped the right of deciding all causes, civil or criminal, "*The High Justice*," as well as "*The Low*." Vide *Establ. de St. Louis*, lib. 1, c. 24, 25. Their sentences were final; and there lay no appeal from them to a superior court. Not satisfied with this, the more powerful Barons procured their territories to be erected into *Regalities*, with almost every royal prerogative and jurisdiction.

GENEROUS.—Gentleman. From the Fr. "*Gentil*," i. e. *honestus*, *vel honesto loco natus*,—i. e. honorable, or born of an honorable family; and the Sax. *Mon*, a man, thus meaning a *man well born*. The *Italians* call those "*Gentil homini*," whom we style "*Gentlemen*." The *French*, under their ancient monarchy, distinguished such by the name of "*Gentil homme*;" and the *Spaniards* adhere to the meaning, by using the word "*Hidalgo*," or "*Hijo d'alga*," who is the son of a man of account.

According to some, under the denomination of "*Gentlemen*," are comprised all above *Yeomen*. Vide *Smith de Rep. Ang.*, lib. 1, c. 20, 21. A Gentleman has been defined to be one who, without any title, "*bears a coat of arms*," or whose ancestors have been freemen; and "by the coat of arms which a Gentleman giveth, he is known to be, or not to be, descended from those of his name that lived many hundred years since." There are also said to be "*Gentlemen*" by office and reputation, as well as those which are born such. Vide 2 *Inst.* 668; and we read that *Kingston* was made a "*Gentleman*" by King *Richard* the Second. *Pat.* 13, *Richd.* 2d, par. 1. "*Gentilis Homo*," when the law proceedings were in Latin, was adjudged a good addition. *Hil.* 27, *Edw.* 3d. But the addition of "*Esquire*," or "*Gentleman*," was rare before the 1st Hen. the Fifth, though that of "*Knight*" is very ancient. 2 *Inst.* 595, 667. Some suppose the word "*Gentleman*" is derived from "*gentle*" man, in opposition to fierce, rude, brutal, &c., but this does not appear to have been the case, for we find the word "*gentle*" in the meaning we now generally use it, to have very materially changed its ancient signification: formerly the word "*gentle*" seems to have been synonymous with *spirited*, *high-bred*, *courageous*, &c. Thus one of the old poets says:

"A GENTLE Knight came pricking o'er the plain,
Who nought did fear, nor ever was ydrad."

And again:

"He is gentle, and not simple."

GLEANING, LEASING, OR LESING—(from *Glainer*.) Gathering loose corn in

the fields. It has been often said, that by the Common Law and Custom of *England* the poor are allowed to enter and *glean* upon another's ground after the harvest without being guilty of trespass, which humane provision appears borrowed from the *Mosaic* Law. Vide also *trials per Pais*. c. 15, pp. 438, 534. But it now appears to have been settled, by a solemn judgment, that a *right* to glean in the harvest field cannot be legally claimed by any person at Common Law. Vide 1 *H. Black. Rep.* 51, 63. *Burr. Rep. Rex v. Price*, 1926.

GRANGIA.—A house, or farm, where corn is laid up in barns, *granaries*, &c., and provided with stables for horses, stalls for oxen, and other things necessary for husbandry. This definition is agreeable to *Spelman*. According to *Wharton*, "*Grange*" is strictly, and properly, the farm of a monastery where the religious deposited their corn. Dr. *Johnson* derives the word from *Grange, Fr.*, and defines it to be a farm, generally—a farm, with a house, distant from neighbors. In *Lincolnshire*, and in other northern counties of *England*, a lone house, or farm, is called a "*Grange*." Vide *Stevens's Shakespeare*.

GUILD.—The original of the *Guilds* is said to be from the old *Saxon* law, by which neighbors entered into an *association*, and became bound to each other, to bring forth any person who committed a crime, or make satisfaction to the party injured; for which purpose they raised a sum of money themselves, and put it in a *common* stock, whereout a pecuniary compensation was made, according to the nature of the offence committed. In those rude times, this obligation was of great service to the community, as it excited the householder to be watchful of the conduct of every new sojourner in his vicinity.

H.

HABEAS corpora.—That you have the bodies.

HABEAS corpora juratorum.—"That you have the bodies of the jurors." A writ so called.

HABEAS corpora quatuor militum.—That you have the bodies of four knights.

HABEAS corpora recognitorum.—That you have the bodies of the recognitors.

HABEAS corpus.—"That you have the body." The great writ of the people's liberty.

HABEAS corpus ad recipiendum.—That you have the body to receive.

HABEAS corpus ad respondendum.—That you have the body to answer.

HABEAS corpus ad satisfaciendum.—That you have the body to make satisfaction.

HABEAS corpus ad satisfaciendum, et ad recipiendum. — That you have the body to satisfy, and to receive.

HABEAS corpus ad subjiciendum.—That you have the body to submit (or answer).

HABEAS corpus ad testificandum.—That you have the body to give evidence.

HABEAS corpus cum causa.—That you have the body with the cause (why he is arrested).

HABEAS corpus cum causa, ad faciendum, et recipiendum.—That you have the body, with the cause (of the arrest) to do, and to receive.

HABEAT et habeat tam plenam potestatem, &c.—He may have and shall enjoy as full power (or authority) &c.

HABENDUM et tenendum sibi et hæredibus.—To have and to hold to him and his heirs.

HABENDUM per liberum servitium.—To hold by free service.

HABENTEM hæreditatem in maritaggio—vel aliquam terram ex causa donationis.—Having an inheritance in marriage, or some other gift of land.

HABENTIA.—“Riches.” In some ancient charters, the term “*habentes homines*,” is taken for rich men.

HABENT legibus sancitum, si quis quid de republica, sinistris, rumore, aut fama acceperit, ut ad magistratum deferat neve cum alio communicet; quod sæpe homines temerarios atque imperitos falsis rumoribus terreri, et ad facinus impelli, et de summis rebus consilium capere cognitum est.—They have it ordained by law, that if a person hear anything affecting the republic, by omens, rumor, or report, that he lay it before the magistrate, and not communicate with any other person; because it is known that thoughtless and illiterate men are frequently frightened by false rumors, and driven to commit crimes, and

conceive (bad) intentions in affairs of the greatest importance.

HABENT recognitiones.—They have their recognizances.

HABERE.—To have.

HABERE cognitionem placitorum.—To hold cognizance of pleas.

HABERE facias possessionem.—That you cause to take possession.

HABERE facias seisinam.—That you cause to have the possession.

HABERE facias visum.—“That you cause a view to be taken.” Also a writ which lay in divers cases, in real actions, as in *formedon*, &c., where a view was required to be taken of the lands in controversy. Vide *Fitz. N. B.*

HABERE in procinctu.—To have in a state of readiness.

HABERE non debet.—He ought not to have.

HABERET, occuparet et gauderet.—He might have, held and enjoyed.

HABET aliquid ex iniquo omne magnum exemplum, quod contra singulos, utilitate publica rependitur.—Every great example of punishment has in it something of injustice; but the sufferings of individuals are compensated by the service rendered to the public.

HABET nulla bona.—He has no goods.

HABETO tibi res tuas.—Have your goods to yourself.

HABET Rex plures curias in quibus diversæ actiones terminantur, et illarum curiam habet unam propriam, sicut aulam regiam, et iudices capitales, qui proprias causas regis terminant, et aliorum omnium per querulam, vel per privilegium, seu libertatem.—The King holds more courts in which various actions are terminated, and among these he has one proper court, as a Royal Hall, and Chief Justices, who decide the king's own causes, and those of all others (brought) by complaint, privilege or license.

HABILES ad matrimonium.—Fit for marriage.

HABILIS et inhabilis diversis temporibus.—Capable and incapable, at different times.

HABITATIO dicitur ab habendo.—A dwelling house is (so) called from holding (or possessing).

HABITUM et tonsuram clericalem.—A clerical gown, and shaving of the head.

HÆC falsa, ficta, malitiosa verba.—These false, feigned and malicious words.

HÆC est finalis concordia.—This is the last agreement.

HÆC in fœdera non venimus.—We have not entered into these agreements.

HÆC quæ nullius in bonis sunt, et olim fuerunt inventoris, de jure naturali, jam efficiuntur principis de jure gentium.—Those things which have no owner, and heretofore were the property of the finder, are now made the right of the sovereign by the law of nations.

HÆC sunt institutæ quæ *Edgarus* Rex, consilio sapientium suorum, instituit.—These are the institutes which King *Edgar* enacted, by the advice of his learned counsellors.

HÆC sunt institutiones quæ Rex *Edmundus* et Episcopi sui, cum sapientibus suis instituerunt.—These are the ordinances which King *Edmund* and his Bishops, with their council, enacted.

HÆC sunt judicia quæ sapientes in rebus arduis instituerunt.—These are the rules enacted, by the learned in difficult matters.

HÆ nugæ in seria mala ducunt.—These trifles lead to serious mischiefs.

HÆREDA de omnibus quidem cognoscit, non tamen de omnibus judicat.—The Court Leet, indeed, takes cognizance of all things, but does not give judgment in all.

HÆREDEM deus facit, non homo.—God makes the heir, not man.

HEREDES extranei.—Extraneous heirs, such as were not within the power of the testator.

HEREDES maritentur absque disparagatione.—That heiresses be not improperly married, (meaning not married to persons of low estate.)

HEREDES proximi.—Children of the deceased.

HEREDES successorum sui cuique liberi, et nullum testamentum—si liberi non sunt, proximus gradus, in possessione, fratres, patrii, avunculi.—The children of every man are his heirs and successors, if there be no will—if there be no children, the next of kin, as brothers, paternal or maternal uncles succeed to the possession. *Vide note.*

HEREDI facti.—Heirs made (by will or testament).

HEREDIPETA.—One who seeks to become heir to another.

HEREDITAS jacens.—An estate lying vacant between the demise of the last occupant and the entry of the successor.

HEREDITAS luctuosa.—An inheritance opposed to the natural order of humanity,—such as a parent to succeed to the estate of a child.

HEREDITAS naturaliter decendit, nunquam naturaliter ascendit.—An inheritance naturally descends, never naturally ascends.

HEREDITAS nunquam ascendit.—An inheritance never ascends.

HEREDITATEM augendo.—By increasing the inheritance.

HERES astrarius.—The heir in actual possession of the estate he is to inherit.

HERES est nomen juris; filius est nomen naturæ.—Heir is a term of law; son, a term of nature.

HERES factus.—A person who becomes the heir by gift or devise.

HERES fideicommissarius.—The person for whose benefit the estate was given in trust to another.

HÆRES fiduciarius.—An heir to whom the estate is given in trust for another person.

HÆRES jure representationis.—The heir by right of representation.

HÆRES legitimus est quem nuptiæ demonstrant.—He is the lawful heir whom the marriage shows to be so.

HÆRES natus.—“A person born the heir:” in opposition to *hæres factus* (a person made heir by will).

HÆRES non redimet terram suam sicut faciebat tempore fratris mei, sed legitima et justa revelatione relevabit eam.—The heir shall not redeem his land as he did in the time (or reign) of my brother; but by a lawful and just fine he shall relieve it.

HÆRETICO comburendo.—By burning the heretic. *Vide note.*

HÆRETICUS est qui dubitat de fide Catholica; et qui negligit servare ea quæ *Romana* Ecclesia statuit.—A heretic is one who doubts the Catholic faith; and neglects to observe those things which the *Roman* church has ordained.

HAFNE courts.—Courts held in certain havens or ports in ancient times.

HAGA.—An enclosure or hedge.

HALFKINEG.—The title given to the aldermen of England.

HALIGEMOT.—A Saxon word. A meeting of citizens in their public hall, or tenants in the hall of their baron.

HALLAGE.—(In old English law.) A fee due for such commodities as were sold in the public hall of the town.

HALLYWERCFOBK.—Persons among the Saxons who had charge of land for the benefit of the church, or to repair or defend sepulchres.

HAMALLARE.—To summon.

HAMESECKEN.—Robbery from a dwelling: burglary.

HAMSOCA.—From *ham*, Sax., and *scone*, liberty. *Vide note.*

HANAPER.—A large bag or basket used in the English chancery court for keeping the fees or money received.

HANC veniam damus, petimusque vicissim.—We give and ask leave in return.

HANDGRITH.—Protection given by the king with his own hand.

HANDBABEND.—Having in hand.

HANSALE.—Anciently it was the custom among northern nations to confirm a sale by the parties shaking hands.

HANTELOD.—(From the German.) An attachment.

HARMISCARA, harniscara.—A species of fine.

HARO.—Hue and cry.

HARTH penny.—In ancient law a tax laid upon every hearth—similar to Peter-pence.

HAUBER.—A great lord.

HAUD inscia, et non incauta futuri.—Neither ignorant, nor careless, with respect to the future.

HEALFANG, or Halsfang, from *Sax.* "Hals," *collum*, and "fang," *capere*.—That punishment "qua alicui collum stringatur," i. e. Collistrigium, the Pillory. Sometimes the word means, "a pecuniary mulct," to commute for standing in the pillory. *Leg. Hen.* 1, c. 11.

HEDAGIUM.—The toll paid at a wharf for landing goods.

HENCHMAN, from the Ger. "*Hengst*," a war horse.—It signifies one who runs on foot, attending upon a person of honor. *Vide Stat.* 3, *Edw.* 4.

HE ne es othes worthes that es enes gyilty of oth broken.—This was the old English proverb, spoken of a person who had been convicted of perjury.

HERBAGIUM anterius.—The first crop of grass or hay, in opposition to the aftermath. *Vide Paroch. Antiq.* 459.

HERBAGIUM terræ.—The herbage of the Land: the crop.

HERBERGARE.—To harbor—from "heribergum,"

"heriberga;" *Sax.* "hæreberg," a house of entertainment.

HERCISCERE.—To divide. The word *Erciscere* is frequently used instead.

HEREDITAMENT.—Anything whatever capable of being inherited, be it real, personal or mixed property.

HEREGELD.—*Sax.* A tribute or tax for the maintenance of an army: "*Heregeld*" or "*Herezeld*" is also sometimes synonymous with *Heriot*.

HERETOCHIE.—From *Sax.* "*here*," army, and "*togen*," to lead. The General of an army. *Leg. Edw. Confess.* Ducange says the "*Heretochii*" were the Barons of the realm.

HERETOCHII.—Dukes: Generals: Leaders.

HERI.—Landholders, or proprietors.

HERIREITA.—From *Sax.* "*here*," army, and "*ryt*," a band, a military band.

HERRIETTUM.—A "*Herriot*." The giving of the best beast, or second best to the Lord of the soil, upon the death of the tenant.

HERUS dat, ut servus faciat.—The master pays, that the servant may do his work.

HERISCHILD.—Army service, or knight's fee.

HETAERIA.—Fraternity, brotherhood.

HEYLODE.—A tax upon the lower tenants, to mend or repair hedges.

HIATUS maxime deplendus.—A chasm greatly to be deplored.

HIC contractus (scilicet feudalis) proprius est *Germanicarum Gentium*; neque usquam invenitur nisi ubi *Germani* sedes posuerunt.—This contract (to wit the feudal one) is peculiar to the *German* nations, nor is it found any where else, except where the *Germans* were located.

"Hic est qui leges regni cancellat iniquas,

Et mandata pii principis æquua facit."

"It is he who expunges the unjust laws of the realm:

and performs the equitable commands of a pious King." The words of *Johannis Sarisburiens*, speaking of the office of Chancellor—he died in the 12th century.

HIC finis fandi.—Here was an end of the discourse.

HIDARE.—(In old English law.) A tax upon land payable by hides.

HIJS testibus, *Johanne Moore, Jacobo Smith, et aliis, ad hanc rem convocatis*.—"These witnesses *John Moore, James Smith*, and others, being called together for the purpose."

[When lands, during the middle ages, were transferred by writings, the scribe usually wrote the *names* of the witnesses himself. Vide note to "*In cujus rei testimonium*."]]

HINC petenda ratio, cur posthumo præterito placeat testamentum ab initio valere; nimirum quia fieri potest, ut non nascatur abortum muliere, ex qua sperabatur, atque hæc nus ergo nec pro nata habetur; frustra que objicitur eum qui in utero est, quoties de commodo ejus agitur, pro eo qui in rebus humanis sit, non haberi. Nullum enim hic incommodum sentit, cum statim ut editus est testamentum rumpat; et regula ista sic temporanda est, si modo postea nascatur, tunc enim fictione juris nativitas retro trahitur.—On this account the reason is to be demanded, why a will may, from its commencement, be efficient in benefiting a posthumous child; certainly it is because it may so happen that it may be born alive by the expecting parent, but as hitherto it cannot be considered *in esse*; and it is unreasonably objected that an unborn child, as often as a thing is done for its benefit, is not to be esteemed as already in existence. For he is sensible of (doing) no injury who destroys the will (itself) as soon as he is born; and in this manner the rule is regulated, that if a child be afterwards born, then, by a fiction of law, the birth has a retrospective application.

HINDENI homines.—From Sax. "*hindene*," i. e. *societas*. A society of men. Vide note.

HINE.—A servant. *Vide note.*

HIS damnare reos, illis absolvere culpa.—By these the guilty are condemned, by those the innocent are acquitted. *Vide note.*

HIS perfectis, jurabant in leges iudices, ut obstricti religione judicarent.—This being accomplished, the judges swore upon the laws, that they would judge under the obligation of their religion.

HOC audi, homo, quem per manum teneo, &c.—Hear this, O man, whom I hold by the hand, &c.

HOC facias alteri, quod tibi vis fieri.—Do to another, as you would he should do to you.

HOC paratus est verificare per recordum.—This he is ready to verify by the record.

HOC quidem perquam durum est, sed *ita* lex scripta est.—This truly is somewhat severe, but *so* the law is written.

HOC te uno, quo possum, modo, filia, in libertatem vindico.—My daughter, I set you at liberty, by the only method of which I am capable.

HOC vobis ostendit.—This shows to you.

HOC volo, sic jubeo : stet pro ratione voluntas.—This I will ; this I command : let my will stand in the place of reason.

HOKETIDE, Hockday or Hocketide (*Cædes*) diem observatum tradunt in memoriam omnium Danorum, ea die clanculo et simul a mulieribus fere occisum : *Hoketide*.—(The day of slaughter). They hand down this transaction as one to be observed in memory of the *Danes*, who were almost totally and secretly murdered on that day by the women. *Vide Spelm. Gloss. verb. "Hoc Day."*

HOLOGRAPH.—A will in the testator's own hand-writing

HOMAGE ancestral.—Homage by ancestry.

HOMAGIUM.—Homage.

HOMESOKEN, Homsoken, or Hamsoken, or Hamsoca.—From "*Ham*," Sax. a house, and "*scone*," liberty.

HOMICIDIA vulgaria, quæ aut casu, aut etiam sponte

committuntur; sed in subitaneo quodam iracundiæ colore et impetu.—Common homicides, which are committed by chance, or even by design; but in some sudden heat and violence of passion.

HOMICIDIUM quod nullo vidente, nullo sciente, clam perpetratur.—Homicide, which, no one seeing or knowing, is done privately.

HOMINE replegiando.—“By replevyng (or redeeming) a person.” A writ so called.

HOMINES liberi.—Lawful men: liege men. *Vide note.*

HOMINES ligii, Homines de fief, Hommes feodaux.—Feudal tenants.

HOMO alta mente præditus.—A man endowed with a lofty mind.

HOMO casutus.—One who served within a house.

HOMO chartularius.—A slave freed by charter.

HOMO commendatus.—One who delivered himself into the power of another for protection or maintenance.

HOMO consiliarius.—A counsellor.

HOMOLOGARE.—To confirm or approve.

HOMO mercator vix aut nunquam potest Deo placere, et ideonullus christianus debet esse mercator; aut si voluerit esse, projiciatur de ecclesiæ Dei.—A merchant can scarcely, if at all, please God, and therefore no Christian should be a merchant; and if he wishes to be one, let him be expelled the church of God. *Vide note.*

HONESTE vivere; alterum non lædere; suum cuique tribuere.—To live honorably, not to injure another, and to give to every one his own.

HONORUM luce conspicuos et patrimonii ditioris.—Conspicuous from the splendor of rank, and richer from (the inheritance of) patrimony.

HORAL juridicæ.—Hours during which judges preside in court.

HORS de son fee.—Out of his fee.

HOSPITIA curiæ.—Inns of court.

HOSPITALARI.—Hospitallers: or Knights of a religious order. *Vide note.*

HOSTELAGIUM.—A right reserved in ancient times by lords to receive lodging and entertainment in the houses of their tenants.

HOSTEM adjuvat.—He abets the enemy.

HOSTES hi sunt qui nobis, aut quibus nos publice bellum decrevimus; cæteri latrones, aut prædones sunt.—They are enemies against whom we have publicly declared war; others (are considered) as spoilers and robbers.

HOSTIS humani generis.—An enemy of the human race: a Pirate.

HOTCHPOT.—This word alludes to a custom that the property given to a child in the father's life-time shall, upon his decease, be reckoned with the remainder of the effects of the person dying; and then a division be *equally* made. *Vide note.*

H. P. captus per querimoniam mercatorum Flandriæ, et imprisonatus offert domino regi *hus et haut* in plegio ad standum recto, et ad respondendum prædictis mercatoribus et omnibus aliis qui versus eum loqui voluerint, &c.—**H. P.**, arrested on complaint of the merchants of *Flanders* and imprisoned, offers to the King an elder-tree, and a halbert's staff, as a pledge, to stand (or appear in court) and to answer to the said merchants and to all others who shall be desirous to allege anything against him.

HUNDRED.—(In English law.) A subdivision of a county, so named because originally composed of ten tilings, or consisting of one hundred freemen. It is said that Alfred instituted this territorial division.

HUSSIER.—Doorkeeper.

HUTESIUM et Clamor.—Hue and cry. *Vide note.*

HYDE Lands.—From "*hyden*" Sax., to *cover*. A plough land. *Vide note.*

HYPOTHECA.—A Gage or Mortgage. *Vide note to Mortgagium.*

NOTES TO H.

HEREDES, SUCCESSORESQUE, &c.—That estates should descend to the heirs of the body, and, in case of the default of such representatives, to the next in proximity of blood, if not a law of nature, seems to correspond with its dictates. History hardly carries us back to a time, when the admission of this claim did not prevail among mankind. This appears to have been the universal rule of transmission of property, and to have been established in communities *widely* separated by time and place. Thus, the representation in the channel of blood and proximity, seems to have had its foundation, higher than any *positive* institutions, though to *positive* institutions we must, of course, refer the *modifications* of this rule of succession, which, indeed, has been so variously ordered, that perhaps no two nations *exactly* resemble each other in their institutions regarding it.

That the right of controlling this succession by the private will of the possessor, was an *improved* age of legislation, there is much concurrent testimony to show. Until the legislation of *Solon*, the *Athenians* did not possess this privilege; as it appears from many authors, particularly from *Plutarch*, in his life of *Solon*; nor, according to *Selden* "*de success. de bonis Hebr.*," c. 24, did it exist among the ancient *Jews*; nor, as we learn from *Tacit. de mor. Ger.*, c. 20, among the *Germans* in his day.

The tenderness which continued to prevail among the ancient *Romans* for the legal heir, is strongly displayed in their provisions by the laws, *Furia*, *Vocantia*, and *Falcidia*; and more pointedly, perhaps, by their remedy of "*Querula inofficiosi testamenti*"—i. e. "the complaint or suit as to a disinheriting will." This suit often, or perhaps generally, arose, whenever a will was made against the order of *natural* affection, without *reasonable* cause.

With respect to the question, how far the *right* of disposition by will existed among the *Romans*, before the law of the Twelve Tables, there seems to be much variety of opinion. *Justinian* proposed the order in which the form of the "*testamenti factio*"—i. e. "the making of a testament," proceeded, which the student will consult with much satisfaction, in the commentary of *Vinnius*, edited with notes by *Heineccius*, in the title "*De testamentis ordinandis*." It appears that the most ancient mode of making a testament among the *Romans*, was by converting a man's *private* will into a public law; for such seems to have been the object and intention of the promulgation of a testament "*in calatis comitis*," i. e. "in the presence of the *Roman* people," summoned before the sacerdotal college, "*per curias*." And, according to *Heineccius*, these assemblies were not convened specially for the giving sanction to wills, *sed legum ferendarum magistratum, qui creatorum causa immo, et ob alia negotia publica bellum, pacem, judicia,*" &c.—i. e. "but rather for the making magisterial laws, for those about to be created, and for other public affairs, such as war, peace, judgments," &c.

Thus, was the *private* disposition by testament of the property of an individual promulgated and ratified, in the same manner as a *public* law; and for this reason, the "*testamenti factio*" has, in the text of the imperial law, been said to be *non privati, sed publici juris*—i. e. "not of private, but of public right." And again, by *Ulpian*, it is said, "*legatum est, quod legis modo testamento relinquitur*." *Ulp.*, tit. 24, § 1—i. e. "it is appointed, that, in this form of a will, he gives up what is required by the law."

Another form of testament which existed antecedently to the law of the Twelve Tables, was that called "*testamentum procinctum*," which was the privilege of those who were on the *eve of going to battle*, or "*girt*" for war, with the uncertainty on their minds of their ever returning; and was among the *immunities*, in regard to property, conferred by the *Romans* on the defenders of their country.

But as the *Comitia* was held but twice a year, and as a man might be surprised by sickness, without having the opportunity of thus solemnizing his last will; and the attendance upon their public assemblies was often difficult, or impossible to the aged and infirm; and, furthermore, as women were, by their forms, precluded from making any testament, as not having any communion with these "*Comitia*," (according to *Gellius*, *lib. 5. c. 19.*) a third method was struck out, which might facilitate the ultimate disposal of private property to all descriptions of persons; and this last method was called the "*testamentum per æs et libram*—i. e. "the testament made by money and balance," which was a *fictitious* purchase of the family inheritance, or heirship, by money weighed in a balance, and tendered to the intended inheritor of the testator, before witnesses. [The weighing of the purchase money appears to be very ancient. Vide *Gen. xxiii. 16.*]

Thus, it is said to be "*Imago vetusti moris in venditione atque alienatione rerum mancipi, quæ uno verbo, mancipatio dicitur, nimirum ut is in quem hæc res transferebantur, eas emeret domino ære et libro appenso ei numma uno*"—i. e. "the form of ancient usage in the sale and alienation of disposable property, which is termed in one word 'conveyancing,' to wit, that he to whom the property is transferred, should buy the same from the owner by brass, weighed out for him by balance, in moneys only." And, it seems, that this fictitious proceeding was still retained after the promulgation of the law of the Twelve Tables had authorized the making of wills by the clause of "*Paterfam, uti legasset, &c., ita jus esto*"—i. e. "as the master of the family chooses to do, &c., let that be the law;" for it was still considered as necessary to raise the will of a private man to a level with the laws of the state, that it should take the shape of a strict legal transaction "*inter vivos*;" for *testandi de pecunia sua legibus certis facultas est permessa, non autem juris dictionis mutare formam, vel juri publico derogare cuiquam permittum est*;" c. 6. 23, 13—i. e. "the power of disposing of his property is permitted by certain laws, not, however, to alter the form of the language of the law, nor is it permitted to subtract anything from a public right (or law.*)" The two former methods were thrown into total disuse by the "*testamentum per æs et libram*;" but this last mode of *willing*, again made way for others of a more convenient description.

The methods above mentioned were referable to the "*Jus Civile*," or, as we express it, the law of the land; but, from the edict of the *Prætor*, other forms, at length, were brought into practice, by virtue of which "*jus honorarium*," the "*mancipatio*," and the weighing and delivering of money was dispensed with; and, in their stead, the solemnity of *signing by seven witnesses*, was introduced, the *presence* only, and not the signature of the witnesses, being necessary by the "*Jus Civile*."

At length, however, by gradual use, and progressive alterations, as the text of *Justinian* informs us, the "*Lex Prætoria*," and the "*Jus Civile*," were, in some degree, incorporated; and a compounded regulation took place, whereby it became requisite to the valid constitution of a will, that the witnesses should be *present* (the presence of witnesses being the rule of the "*Jus Civile*,") that *they*, and also the *testator*, should *sign*, according to the superadded institutions of positive law; and, lastly, that in virtue of the *Prætorian* edict, their *seals* should be affixed; and that the number of witnesses should be *seven*. Afterwards, the further ceremony of *naming* the heir in the testament was added by *Justinian*, and again taken away by the same Emperor, and, at length, the excess of testimony was corrected by the *Canon* law, in the *Pontificate* of *Alexander* the Third, by which it was declared sufficient to prove a testament by *two or three* witnesses, the parochial minister being added, "*improbata constitutione juris civilis de septem testibus adhibendis et nimis longe recedente ab eo quod scriptum est, in ore duorum vel trium testium stet omne verbum*." Vide *Swinb. 64. Duet. c. 18, Mott. c. 18*—i. e. "that is very far removed from the constitution of the civil law as to

the producing of several witnesses according to that which is written, in the mouth of two or three witnesses every word shall be established," which information obtained the sanction of general usage. *Swinburn* says that "this institution had also been reformed by the general custom of the realm, which distinctly required no more than two witnesses, so they were free from any just cause of exception," which observation he repeats in several places of his treatise on wills. *Bracton* has also the following passage—"Fieri autem debet testamentum liberi hominis ad minus coram duobus vel pluribus viris legalibus et honestis, clericis vel laicis ad hoc specialiter convocatis, ad probandum testamentum defuncti si opus fuerit, si de testamento dubitatus." *Bracton*, lib. 32, fol. 61,—i. e. "the testament of every freeman should, at least, be made before two or three good and honorable men, assembling with them, for this special purpose, some of the clergy and laity, to prove, if there be necessity, the will of the deceased, if there be any doubt relating thereto." But these words import a recommendation, and not an imperative rule. Until of late years, however, wills of personalty were made without the requisites anciently observed. Students, who require particular information on this point, may consult the valuable works of *Roper*, *Swinburn*, *Roberts*, and *Powell*.

HERETICO COMBURENDO.—This writ formerly lay against a *Heretic*, who had been convicted of *Heresy*, by the *Bishop*, and afterwards abjured it, fell into the same again, or some other heresy; and was thereupon delivered over to the *Secular* power. Vide *Fitz. N. B.* 79. By this writ, grantable out of Chancery, *Heretics* were burnt; and so were, likewise, witches, sorcerers, &c. Thanks to the general intelligence of the present day, this writ "*heretico comburendo*," is only known in name. We can only say "such things were." However, it now appears to us a matter of astonishment, that human reason could ever have been so far degraded, especially under the mild precepts of Christianity.

HAMSOCA, &c.—This means the privilege or liberty which every one has in his own house; and he who *invades* it is properly said to commit "*Home-coken*." This we take to be what is now called *Burglary*. Vide *Bract*, lib. 3, *Du Cange Leg. Canuti*, c. 39. It is also sometimes taken for an impunity to those who commit burglary. Vide *W. Thorn.*, p. 2030. In the *Scotch* law, "*Haimsucken*" is defined to be the crime of beating or assaulting a person in his own house, and was anciently punished with death. Vide *Bel's Scotch Law Dict.*

HINDENI HOMINES.—In the time of the *Saxons* all men (among them) were ranked into three classes, and valued as to satisfaction for injuries, &c., according to the class they were in: the highest class were valued at twelve hundred shillings, and were called *Twelfth hind*; the middle class were valued at six hundred shillings, and were called *Six hind men*; and the lowest at two hundred shillings, and called *Two hind men*; their wives were termed *Hindas*. Vide *Brompt. Leg. Alf.*, cap. 12, 30, 31.

HINE—or, rather, perhaps, "*HIND*." A servant, or one of the family; but is properly a term for a servant in *husbandry*; and he that oversees the rest was called the "*Master Hine*."

HIS DAMNARI REOS, &c.—It was anciently the custom with the *Romans* to use white and black pebbles (*lapilli*, vel *calculi*), in voting at trials, "*mos erat antiquis niveis atrisque lapillis*"—i. e. "it was a custom (to vote) with white and black pebbles." "*His damnare reos, illis absolere culpa*"—i. e. "by these the accused are condemned, by these they are acquitted." *Ov. Met.* xv 41. Hence the expression, "*Causa paucorum calculorum*," a cause of small

importance; where there were few judges to vote. *Quinct.* viii. 3, 14. "*Omnis calculus immittitur ater in urnam,*" meaning "he is condemned by all the judges." *Ov. Met.* xv. 44. "*Reportare calculum deteriozem,*" to be condemned; "*meliozem,*" to be acquitted. *Corp. Juris*—"Errori album calculum adicere," meaning to pardon or excuse. *Vide Plin. Ep.* i. 2. To this *Horace* is thought to allude. *Sat.* ii. 3, 246. "*Cretâ an carbone notandi?*" i. e. "are they to be acquitted, or condemned?" and *Pers. Sat.* v. 108; but more probably to the Roman custom of marking in their calendar unlucky days with black (*carbone*), with charcoal, whence "*dies atrî,*" for "*infausti,*" i. e. unlucky days, and lucky days, marked with white (*cretâ vel cressâ notâ*), with chalk. Hence, "*notare, vel signare diem lacteâ gemmâ vel albâ melioribus lapillis; vel albis calculis,*" meaning to mark a day as fortunate. *Mart.* viii. 45, ix. 53, xi. 37. This custom is said to have been borrowed from the *Thracians*, or *Scythians*, who, every evening before they slept, threw into an urn, or quiver, a white pebble if the day had passed agreeably; but if not, a black one: and at their death, by counting the pebbles, their lives were judged to have been happy, or otherwise. *Vide Plin.* vii. 40. To this *Martial* beautifully alludes, xii. 34. The *Athenians*, in voting about the banishment of a citizen who was suspected to be too powerful, used shells, on which those who were for banishing him wrote his name; and threw each his shell into an urn. This was done in a popular assembly; and if the number of shells amounted to six thousand, he was banished for ten years by an *Ostracism*. *Nep. in Themist.* 8, *Arriat.* *Diodorus* says the banishment was for five years only, xi. 55. When the number of judges who condemned and those who acquitted were equal, the criminal was discharged, (*vide Cic. Cluent.* 27. *Plut. in mario*) *calculo Minerva*; by the vote of *Minerva*, as it was called; because when *Orestes* was tried before the *Areopagus* at *Athens* for the murder of his mother, he was acquitted by the determination (*sententiâ*) of that goddess. *Vide Cic. pro Mil.* 3, &c. In allusion to this, a privilege was granted to *Augustus*, if the number of the *judices* was but one more than those who acquitted, of adding his vote to make an equality; and thus of acquitting the criminal. *Vide Dio.* li. 19. While the *judices* were putting the ballots in the urn, the criminal and his friends threw themselves at their feet, and used every method to move their compassion; and very frequently the greater the degree of turpitude with which the criminal was tainted, the more *abject* and earnest were his supplications; while the man of stern inflexibility scorned to act so meanly: and was, on that account, the more liable to condemnation by his undiscerning judges.

When there was any obscurity in the case, and the *judices* were uncertain whether to condemn or acquit the criminal, they expressed this by giving in tablets, on which the letters N. L. were written, and the *Prætor*, by pronouncing "*Amplius,*"—i. e. "a longer time," the cause was then deferred to any other day the *Prætor* chose to name. This was called "*Ampliatio,*"—i. e. "an adjournment," and the criminal, or cause, was said "*ampliari*"—i. e. "adjourned," which sometimes was done several times, and the cause pleaded each time anew. *Cic. Brut.* 22. "*Bis ampliatus, tertia, absolutus est reus.*" *Iiv. xliii.* 2.—i. e. "Twice and thrice adjourned, the accused is discharged." *Causa L. Cotta, septies ampliata, et ad ultimum octavo judicio absoluta est* *Val. Max.* viii.—i. e. "The cause of L. Cotta was adjourned seven times, and at length, on the eighth verdict, he was discharged." Sometimes the *Prætor*, to gratify the criminal, or his friends, put off the trial, till he should resign his office; and thus not have it in his power to pass sentence against him. *Liv.* xli. 22. If the criminal was acquitted, he went home and resumed his usual dress (*sordido habituposito, albam togam resumebat*)—i. e. "throwing off his mean garb, he put on the white gown or robe." If there was ground for it, he might bring his accuser to a trial for false accusation (*calumniæ*), i. e. for detraction, or for what was called "*prevaricatio,*" i. e. betraying the cause of

one's client, and by neglect or collusion in assisting his opponent, (*Cic. Topic*, 36. *Plin. Ep.* i. 20, iii. 9, *Quinctil.* ix. 2,) which were considered among the Romans most odious crimes; but to the immortal honor of that nation, the offence was not even mentioned to have arisen for several hundreds of years!

HOMINES LIBERI.—These were persons employed, it is said, chiefly in agriculture, and were distinguished by various names among the writers of the middle ages. *Arimanni*; *Conditionales*; *Originarii*; *Tributales*, &c. These seemed to have been persons who possessed some small *allodial* property of their own; and besides that, frequently cultivated some farm belonging to their more wealthy neighbors, for which they paid a fixed rent, and likewise bound themselves to perform several small services "*in prato, vel in messe, in aratura, vel in vinea,*" such as ploughing a certain quantity of their lord's ground, assisting him in the harvest, and vintage work, &c. The clearest proof of this may be found in *Murat.* vol. i. p. 712, and in *Du Cange*, under the respective words above mentioned. Whether these *Arimanni*, &c., were removable at pleasure, or held their lands by way of lease for a certain number of years, it is difficult to ascertain; the former, if we may judge from the genius and maxims of the age, seems to be the most probable. These persons were, however, considered as "*homines liberi*," or freemen, in the most honorable sense of the word: they enjoyed all the privileges of that condition; and were even called to serve in war, an honor to which no slave was admitted. Vide *Murat. Antiq.* vol. i. 743, et vol. ii. 446. This account of the condition of these different classes of persons will enable the student to comprehend the wretched state of the majority of the people in the middle ages. Notwithstanding the immense difference between the "*Servi*," or slaves, and these *Arimanni*, &c., such was the spirit of tyranny which prevailed among the great proprietors of land, and so various their opportunities of oppressing with impunity those who were settled on their estates, and of rendering their condition almost intolerable, that many *freemen* in despair renounced their liberty, and *voluntarily* surrendered themselves as slaves to their powerful masters. This they did in order that these masters might become, in those warlike times, more immediately interested to afford them *protection*, together with the means of subsistence for themselves and their families. The forms of such a surrender (or "*Obnoxio*," as it was then called) are preserved by *Marculphus*, lib. ii., c. 28; and in the collection of *Formulae* compiled by him, c. 16. The reason given for the "*Obnoxio*," is the wretched and indigent condition of the person who gave up his liberty. It was still more common for freemen to surrender their liberty to *Bishops* and *Abbots*, that they might partake of that security which the vassals and slaves of churches and monasteries enjoyed, in consequence of the superstitious veneration paid to the Saint, under whose immediate protection they were supposed to be taken. Vide *Du Cange*, voc. "*Oblatus*," vol. iv. 1286. That condition must have been miserable, indeed, which could have induced a Freeman *voluntarily* to renounce his liberty, and give up himself as a *slave* to the disposal of another. The number of slaves in every nation of *Europe* was immense. The greater part of the inferior class of the people in *England*, and also in *France*, was at one time reduced to this state. Vide *Brady's Preface to Gen. Hist.*; also *L'Espr. des loix*, liv. 30, c. 11.

HOMO MERCATOR, &c.—The *odium* with which the Monkish Clergy looked upon those engaged in traffic was the cause of this illiberal sentence. Ignorant of almost all the social and endearing duties of life, and interpreting the greater part of the scriptures by their own narrow prejudices, and frequently from isolated passages, they condemned mercantile pursuits *altogether*; and considered it *impossible* that any one could be honest, who was so engaged; and much is it to be regretted that the least *spark* of this *odium* should, even at the present day, exist among many

of those whose only merit consists in their primogeniture to great landed proprietors, or the accidental circumstance of being born of opulent parents.

HOSPITALARIUM—HOSPITALLERS.—These were Knights of a Religious order, so called, because they built an Hospital at *Jerusalem*, wherein pilgrims were received. To these Pope *Clement* transported the *Templars*; which order he afterwards repressed for their many great offences. The institution of this order was first allowed by *Gelasus* the Second, Anno 1118. Their chief abode was afterwards in *Malta*, an Island given them by the Emperor *Charles* the Fifth, after they were driven from *Rhodes* by *Solyman* the Magnificent, Emperor of the *Turks*; and for that they were called "*Knights of Malta*." Vide *Mon. Ang.*, 2 par. 489, et *Stowe's Ann.*

HOTCHPOT.—This word comes from the Fr. "*Hotchepot*," used for a confused mingling of divers things, and, among the *Dutch*, it seems flesh cut into pieces, and sodden with herbs and roots; but, by a metaphor, it is a blending, or mixing of lands given in marriage with other lands in fee, falling by descent; as if a man seised of thirty acres of land in fee, hath issue only two daughters, and he gives with one of them ten acres in marriage, and dies seised of the other twenty acres: now she that is thus married, to gain her share of the rest of the land, must put her part given in marriage into *Hotchpot*, i. e. she must refuse to take the sole profits thereof, and cause her land to be mingled with the other, so that an equal division may be made of the whole between her and her sister, as if none had been given to her; and thus, for her ten acres, she will have fifteen; otherwise the sister will have the twenty acres of which her father died seised. Vide *Co. Litt.* 3, cap. 12.

HUTESIUM ET CLAMOR.—Hue and Cry. Shouting aloud. The *Normans* had such a pursuit, with a *Cry* after offenders, which was called "*Clamor de haro*." Vide *Grand Customary*, c. 54. But the *Clamor de haro* seems not to have been a pursuit after offenders, but rather a challenge by a person of anything to be his own; after this manner, viz.: he who demanded the thing, did, "*with a loud voice*," before many witnesses, affirm it to be his property, and demanded restitution. This the *Scots* called "*Hutesium*," and *Skene* says it is deduced from the French "*Oyer*," i. e. *Audire*, to hear, (or rather *Oyez*;) being a cry used before a proclamation. The manner of their *Hue and Cry* he thus describes: "If a robbery be committed, a horn is blown, and an outcry made; after which, if the party flee away, and doth not yield himself to the King's *Bailiff*, he may be lawfully slain, and hanged upon the next gallows. Vide *Skene in verb.* "*Hutesium*." In *Rot. Claus.* 30, Hen. 3, 5, we find a command to the King's Treasurer to take the City of *London* into his own hands, because the Citizens did not, *secundum legem et consuetudinem regni*," according to the law and custom of the realm, raise the "*Hue and Cry*" for the death of *Guido de Aretto*, and others who were slain. *Hue and Cry* is likewise defined to be the pursuit of an offender from town to town, without any delay, until he be arrested.

HYDE LANDS.—The Hyde of Land is often used in ancient MSS.; and in one old MS. it is said to be one hundred and twenty acres. *Bede* calls it "*Familiam*," and says it is as much as will maintain a *Family*. Others call it *Mansum*, *Causatam*, *Carucallam*, *Sullingham*, &c. *Crompton*, in his *Jurisdiction*, says a *Hyde* of land contains one hundred acres; and eight hides make a *Knight's Fee*. But *Sir Edward Coke* holds that a *Knight's fee*, a hide, or plough land, a y^od land, or an ox-gang of land, do not contain any certain number of acres. *Co. Litt.*, fo. 69. The distribution of *England* by *Hides* of land is very ancient, for there is mention of them in the *Laws of King Ina*.

I.

IBI esse pœna, ubi et noxia est.—Where the offence exists, let there be the punishment.

ICTUM avertere.—To ward off the blow.

ICTUS fulminis.—A stroke of lightning.

ID certum est, quod certum reddi potest.—“That is certain which can be rendered so.”—Thus, where a man borrows the cash which a certain quantity of stock realizes on the day he receives the money; and covenants to replace the same quantity of stock on a defined future day—this is a contract *certain*; because it can be ascertained to a demonstration on the day the money becomes payable.

IDEO allegatur per iudicium coronatorum.—Therefore it is alleged by the coroner’s inquest.

IDEO committitur.—Therefore he is committed.

IDEO consideratum est quod computet; et defendens in misericordia, &c.—Therefore it is considered that he account; and that the defendant be in mercy, &c.

IDEO consideratum est quod convictus sit.—Therefore it is considered that he be convicted.

IDEO consideratum est quod in manu sua læva cauterizetur.—Therefore it is considered that he be burnt in his left hand.

IDEO consideratum est quod prædict’ quæren’ et pleg’ sui de prosequend’ sint inde in misericordia.—Therefore it is considered that the said plaintiff and his pledges to prosecute be from thenceforth in mercy.

IDEO consideratum est quod prædictus *W. G.* de utlagaria prædicta exoneretur, et ea occasione non molestatur in aliquo, nec gravetur; sed sit et eat quietus.—Therefore it is considered that the aforesaid *W. G.* be exonerated from the said outlawry; and on that account that he be

not in any manner molested nor aggrieved, but that therefore he be and go discharged.

IDEO immediaté veniat inde jurata.—Upon which therefore the jury may immediately come.

IDEO mihi restat dubitandum.—Therefore I must remain in doubt.

IDEO præceptum est vic' quod per probos homines, &c., sc. fa. quod sit hic, &c.—Therefore it is commanded that the sheriff, by good (or lawful) men, &c., make known that he be here, &c.

IDEO præceptum fuit Vicecomiti quod exegi faciat eundem *T. G.* de comitatu in comitatum, &c.—Therefore the sheriff was commanded that he cause the same *T. G.* to be exacted (or demanded) from county to county.

IDEOQUE si mulier, ex qua posthumus, aut posthuma sperabatur, abortum fecerit, nihil impedimentum est scriptis hæredibus ad hæreditatem adeundam.—Therefore if the woman from whom a posthumous son or daughter was expected, produce an abortion, that is no impediment to the heirs (appointed) in writing from succeeding to the inheritance.

IDEOTA a casu, et infirmitate.—An idiot from chance and infirmity.

IDEO utlagatur.—Therefore he may be outlawed.

IDONEI atque integri homines.—Substantial and honest men.

IDONEUS testis.—A good (or sufficient) witness.

ID quod nostrum est, sine nostro facto, ad alterum transferri non potest. Facti, autem nominis, vel consensus, vel etiam delicti intelligitur.—That which is our own property cannot be transferred to another except by our own act. But it is considered this may be done by deed title, consent, or even by (the commission of) a crime.

ID tenementum dici potest "Socagium."—That tenure may be called "Socage."

IGNITEGIUM.—The curfew bell.

IGNORAMUS.—“We are ignorant.” A word written on a bill of indictment when the evidence is insufficient to put the accused on his trial.

IGNORANTIA facti excusat.—“Ignorance of the fact excuses.” As if an illiterate man sign a deed which is read to him falsely, the same shall be void.

IGNORANTIA juris non excusat.—Ignorance of the law excuses no person.

IGNORANTIA juris, quod quisque tenetur scire, neminem excusat.—Ignorance of the law, which every one is bound to know, excuseth no one.

IGNORANTIA legis non excusat.—Ignorance of the law does not excuse.

IGNORANTI assecuratore.—The assurer being ignorant.

IGNOSCITUR ei qui sanguinem suum qualiter redemptum voluit.—“He is pardoned who would in such a manner ransom his own blood,”—*i. e.* That person who kills another in defence of his *own* life shall be acquitted.

IGNOTUM per ignotius.—A thing unknown by something more unknown.

IGNOTUM tibi tu noli præponere notis.—Do not give the preference to what is unknown to you, to that which you are satisfied of.

IL conviendrait quil fust non mouable, et de durie a toujours.—It was proper that it should be immovable, and of long duration.

Il' covint aver' avec luy xi maynz de jurer avec luy, se' que ils entendre en lour conciens que il disoyt voier.—It was necessary to have with him eleven compurgators, to swear with him that they conscientiously believed he spoke the truth. *Vide note to Compurgatores.*

IL est impossible de concevoir un contrat sans le consentement de toutes les parties. Mais il n'est pas nécessaire que les volentés des parties concurrent dans le même instant ; pourou que le volenté soit déclarée avant que l'autre ait révoqué la sienne, la convention est valablement for-

mée.—It is impossible to conceive of a contract without the consent of all the parties. But it is not necessary that the consent of the parties should be simultaneous; provided that the consent be declared before the other party has made his revocation, the agreement is valid.

IL fuit juge par le parlement de *Paris*, que l'ordonnance n'avoit point liens d'autant qu'elle ou ad litis decisionem. —It was decided by the parliament of *Paris*, that an ordinance should be of no effect, unless it tended to the decision of the suit.

ILLA sit, ut difficilis sit ejus prosecutio.—That may be, as its prosecution may be difficult.

ILLE honore dignus est, qui se, suæ legibus patriæ, et non sine magno labore et industria, reddidit versatum.—He deserves reverence, who with much labor and industry has rendered himself conversant with the laws of his country.

ILLE qui tenet in villenagio, faciet quicquid ei præceptum fuerit, nec scire debet sero quid facere debet in crastino; et semper tenebitur ad incerta.—He who holds in villenage shall perform what he shall be commanded; nor is it necessary that he should know in the evening what he should perform on the morrow; and he shall be always held (to perform) uncertain services.

ILLICITE, diabolice, nequiter, et malitiose conspiraverunt.—They conspired devilishly, wickedly and maliciously.

ILLICKES.—There. ILLONQUES.—There.

ILLIS autem qui communiam tantum habent in fundo alicujus, aliud remedium non competet, nisi admeasurement.—No other remedy is proper, but an admeasurement for those who have a commonalty in the land of another person.

ILLUD dici poterit foedum militare.—That may be called a Knight's fee.

ILLUD enim nimix libertatis indicium, concessa toties impunitas non parendi; nec enim trinis judicii consessibus

poenam perditæ causæ contumax meruit.—For it is a sign of too much liberty, when disobedience to appear (in court) so frequently passes with impunity; nor did the contumacious party deserve the penalty (only) of a lost cause, three days for judgment being allowed.

ILLUD ex libertate vitium, quod non simul nec jussi conveniunt, sed et alter, et tertius dies cunctatione coeuntium absumitur.—That vice arising from liberty, because they do not meet together when commanded; for both the second and the third day is consumed by the delay of the members.

ILLUMINARE.—To illuminate. To draw in gold and silver the initial letters and the occasional pictures in MSS. Vid. *Brompton sub Anno*. 1076. Those persons who practiced this art were called "*Illuminatores*," whence our word "*Limners*." Vide note to "*Alluminor*."

IL n' pas permis decouferer, ou de negocier avec les enemis del etat.—It is not permitted to disclose (secrets) or to negotiate with the enemies of the state.

IL peut cependant être laissè d' l'arbitrage d'untiers, si le tiers ne veut ou ne peut fair l'estimation il n'y a point de vente.—It may, however, be left to the arbitration of a third person; but if the third person will not, or cannot, make the valuation, it is no sale.

IMBLADER.—To sow grain.

IMMENSUS aliarum super alias acerbatarum legum cumulus.—A huge pile of severe laws upon laws heaped one upon another.

IMMISCERE.—To mingle or meddle with a thing.

IMMODERATE suo jure utatur, tunc reus homicidii sit.—He who excessively uses his own right may be guilty of homicide.

IMPARCARE.—To shut up.

IMPARLANCE.—A time granted by the court for the defendant to plead.

IMPARLANCE est quando ipse defendens petit licentiam

interloquendi, sc. quant le defendant desir le cour de douer à luy temps de pleader al suit ou action que est commence vers luy.—*Impar lance* is when the defendant asks leave for interlocution, that is to say, when the defendant requests the court to grant him time to plead to the suit or action which is commenced against him. *Vide note.*

IMPARSONEE.—He who is inducted into a benefice.

IMPEDIENS.—A defendant, or deforciant.

IMPENSÆ.—Expenses.

IMPERATOR solus et conditor et interpres legis existimatur.—The Emperor alone is considered the founder and interpreter of the law.

IMPERIUM in imperio.—“One government within another ;” which has been wittily expressed, “A power behind the throne.” Some power acting irresponsibly within the government, but not always discernible.

IMPETERE.—To impeach—to sue—to attach.

IMPIERMENT.—Injuring or prejudicing.

IMPLACITASSET quendam, &c.—He should have impleaded a certain, &c.

IMPONERE.—To impose.

IMPOTENTIA excusat legem.—Inability avoids the law.

IMPRIMATUR.—(Let it be printed.) A permission to print a book which it was necessary at one period to obtain.

IMPRIMIS autem debet quilibet, qui testamentum fecerit, dominum suum de meliori re quam habuerit recognoscere; et postea ecclesiam de alia meliori.—For, in the first place, each person in making his will should acknowledge his lord entitled to the best chattel which he had; and the church to the next best. *Vide Herriettum.*

IMPRUIAMENTUM.—The improvement of land.

IMPURIS manibus nemo accedat curiam.—Let no one come to court with unclean hands.

IN adjudicatione executionis.—In adjudging of the execution.

IN adjudicatione executionis judicii.—In the adjudging execution of the judgment (or decree).

IN adjudicatione executionis super recognitionem.—In adjudging execution upon the recognizance.

IN æquali jure, vel injuria, potior est conditio defendentis.—In equal right, or wrong, the defendant's situation is preferable.

IN æquilibrio.—In equal balance: of equal weight or importance.

IN alieno solo.—In the land of another.

IN antea.—Henceforward.

IN aperta luce.—In open day.

IN arcta et salva custodia.—In close and safe custody.

IN articulo mortis.—At the point of death.

IN autre droit.—In right of another.

IN banco Regis.—In the King's Bench.

IN bonis, in terris, vel persona.—In goods, lands, or body.

IN Britannia tertia pars bonorum decedentium ab intestato in opus ecclesiæ, et pauperum dispensanda est.—In *England*, a third part of the goods of persons dying intestate shall be applied for the use of the church and poor.

IN capita, propter honoris respectum; defectum: propter affectum; vel propter delictum.—Challenges to the polls of a jury, either on account of respect (as to a nobleman), or from a defect of birth (as an alien, &c.), or from partiality, or on account of crime.

IN capite.—In chief. Lands held "*in capite*" are those held of the chief lord of the fee.

IN casu proviso.—In the case provided.

IN causa honesta et necessaria.—In a just and necessary cause.

INCENDIT et combussit.—He sat on fire and burnt up

INCERTAM et caducam hæreditatem relevebat.—He raised up an uncertain and falling inheritance.

INCESTUS, Uxorcidium, Raptus, Susceptio proprii filii de

fonte, Presbytericidium, pœnitentia solennis.—“Incest, murder of the wife, rape, the taking his own child from the (baptismal) font, murder of a Presbyter, annual penance.” Either of these was formerly considered an impediment to marriage.

INCHOATE.—Begun.

INCIPIENTIBUS nobis exponere jura populi Romani, ita videntur tradi posse commodissime, si primo levi ac simplici via singula tradantur; alioqui, si statim ab initio rudem adhuc et infirmum animum studiosi multitudine ac varietate rerum oneravimus, duorum alterum, aut desertorem studiorum efficiemus, aut cum magno labore, sæpe etiam cum diffidentia, quæ plerumque juvenes avertit, serius ad id perducemus ad quod, leviori via ductus, sine magno labore, et sine ulla diffidentia maturius perducere potuisset.—To expound to us scholars the Roman Laws, it appears therefore that they may be most easily taught us if they are treated of in a light and simple manner at first—but it is otherwise, if directly from the beginning, we students have loaded our minds, as yet unskilled and weak, with a great store and variety of matter; (then) we do one of these two things, either desert our studies, or, with greater labor, oftentimes with diffidence, which chiefly impedes young students, arrive at that knowledge later, which, if conducted by a more simple method, would have been acquired in less time, without any great labor and without discouragement. *Vide note.*

INCIPITUR.—It is begun.

INCLAMARE.—To cry out, or proclaim, as in court.

IN clientelam recipere.—To receive under protection.

INCLUSIO unius est exclusio alterius.—The name of one person being included, is a (tacit) exclusion of the other.

INCOLA.—A resident in a place, not a native of it.

IN colloquio.—In a discourse.

IN communibus placitis.—In the Common Pleas.

IN consimili casu.—In a like case.

IN constantem virum.—Upon a courageous man.

IN continuando flagrante disseizina, et maleficio.—By persevering in a wicked and malicious dispossession.

IN contractibus veniunt ea quæ sunt moris et consuetudinis in regione in qua contrahitur.—These things occur in agreements which are of usage and custom in that place where the contract is made.

IN conventionibus.—In agreements: or covenants.

IN conventionibus contrahentium voluntas potius quam verba.—In the agreements of contracting parties, the intention (is to be regarded) rather than the words.

IN crastino animarum.—On the morrow of all souls.

INCREMENTUM.—Increase: improvement.

INCROCARE.—To hang from a hook.

IN cuius rei testimonium apposui sigillum meum, &c.—In testimony whereof, I have set my seal, &c. *Vide note.*

IN curia domini regis ipse in propria persona jura discernit.—“In the Court of our Lord, the King, he personally considers the law.” *Vide note.*

IN curia wardorum.—In the court of wards.

INDEBITATUS assumpsit.—Indebted, he undertook.

IN delicto.—In an offence: or in default.

INDEPENDENTER se habet assecuratio a viagio navis.—The insurance clears itself by the voyage of the ship.

INDE producit sectam.—“Therefore he brings suit.” Formerly the plaintiff was obliged to bring pledges, (called *suit*,) that he would prosecute his claim. John Doe and Richard Roe are now generally used as the persons on whom this obligation devolves.

INDICAVIT.—He proclaimed.

INDICIUM.—A hint: a sign: a mark.

INDICTARE.—To indict.

IN descender.—In descent.

IN dominicis terris.—In the lord's lands.

IN dominico suo ut de feodo.—In his demesne, as of fee

IN dominico suo ut de feodo et de jure ad voluntatem domini, secundum consuetudinem manerii.—In his demesne, as of fee, and of right, at the will of the lord, according to the custom of the manor.

IN dominico suo ut de feodo talliato.—In his demesne, as of fee tail.

IN dominio suo.—In his demesne; or lordship.

IN domo procerum.—In the House of Lords.

IN dorso.—On the back.

INDOSSANS.—An indorser.

INDOSSATARIUS.—An indorsee.

IN dubiis.—In doubtful cases.

INDUCIÆ.—A stopping or suspension of proceedings.

IN Eire.—This means in the ancient court of the judges in "*Eyre*," who went the circuit of England.

IN ejus unius persona veteris reipublicæ vis atque majestas per cumulatas magistratum potestates exprimebatur.—The power and dignity of the ancient Republic was represented in his person alone by the authority of the magistrates collected together.

IN equilibrio.—In even balance. Equal.

IN esse.—In being.

IN eum statum qui providentia humana reparari non potest.—In that situation which in all human foresight cannot be restored.

IN eventu.—In the end, or event.

IN executione sententiæ, alibi latæ, servare jus loci in quo fit executio; non ubi res judicata.—In the execution of a judgment, otherwise extensive, the law of the place shall prevail where the execution takes effect; not where the matter was adjudged.

IN extenso.—At large: to the extent.

IN extremis.—In the last moments: near death.

IN facie ecclesiæ.—In the presence of the church.
Vide note to "Assignetur."

IN facie ecclesiæ, et ad ostium ecclesiæ, non enim valent

facta in lecto mortali, nec in camera, aut alibi ubi clandestina fuere conjugia.—In the presence and at the door of the church, for marriages are of no validity when performed in a man's bed, nor in his chamber, nor elsewhere where they were secretly made.

INFANGTHIEF.—A thief taken with a Lord's fee.

INFANTLÆ proxima.—Next to infancy.

IN favorem prolis.—In favor of the issue.

IN favorem vitæ, et privilegii clericalis.—In favor of life, and of benefit of clergy.

INFECTUM reddere.—To render void or defective.

IN felicitate viri.—For the husband's happiness.

INFEUDARE.—To enfeoff: grant in fee.

IN feudis antiquis.—In ancient fees.

IN feudis novis.—In fees newly acquired.

IN feudis vere antiquis.—In fees truly ancient.

IN fictione semper subsistit æquitas.—In fiction of law equity always subsists.

IN flagranti delicto.—In the commission of crime.

IN forma pauperis.—"In the form of (suing) as a pauper."

[By a statute of Hen. VIII., any one not able to pay the costs of a suit at law or in equity, making affidavit that he is not worth more than five pounds, after payment of all his debts, sues "*in forma pauperis*," and pays no Counsel or Attorney's fees.]

IN foro conscientiæ.—Conscientiously: in the court of conscience: in a man's own conviction of what is equitable.

IN foro seculari.—In a lay court.

INFRA ætatem.—Within age.

INFRA annum luctus.—Within the year of mourning: the "widow's year." *Vide note.*

INFRA corpus comitatus.—Within the body of a county.

INFRA hospitium.—Within an inn.

INFRA dignitatem curiæ.—Below the dignity of the court.

INFRA intention' sepeal' statut' contra decoctor' edit' et provis'.—Within the meaning of the several statutes made and provided against Bankrupts.

INFRA præsidia.—Under the garrison, guard or convoy.

INFRA præsidia hostium.—Under the enemy's protection.

INFRA quatuor maria.—Within the four seas: (meaning within the realm of *England*.)

INFRA sex annos.—Within six years.

INFRA summonitium Justiciorum.—Within the summons of the Justices.

INFRA tempus semestre.—Within half a year.

IN fraudem legis.—Contrary to law.

INFREGIT conventionem.—He broke the agreement.

IN furto, vel latrocinio.—In theft or larceny.

IN hac parte.—In this behalf.

IN his, quæ respiciunt litis decisionem, servanda est consuetudo loci contracti. At in his quæ respiciunt litis ordinationem, attenditur consuetudo loci ubi causa agitur.—In these matters, affecting the decision of a controversy, the custom of the place where the contract is made is to be observed. But in those which concern the form of the process, the custom of the place where the cause is tried is to be attended to.

IN iisdem terminis.—In the same bounds.

IN infinitum.—To infinity—time without end.

IN initio.—In the beginning.

IN invitum.—Unwillingly.

IN ipso concilio, vel principium aliquis, vel pater, vel propinquus scuto, frameaque, juvenem ornant. Hæc apud illos ut toga, hic primus juventæ honos: ante hoc domus pars videtur; mox reipublicæ.—In the council itself, some one of the chiefs, or the father, or a near relation,

adorns the youth with a shield and a short spear. These are (prized) as much as the robe, being the first honor conferred on youth; before this time he is considered one of the family; afterwards of the republic.

INIQUUM.—Unequal.

INITIA magistratuum nostrorum meliora firma; finis inclinat.—Our public offices are more vigorous at their commencement; they weaken at their conclusion.

IN IUDICIUM ADESTO.—Come to hear judgment.

IN JUS VOCANDO.—In calling to the court: suing another at law.

[These were phrases used by the ancient *Romans*.]

INJURIA illata in corpus non potest remitti.—Personal injuries cannot be remitted.

INJURIAM sibi illatam probis hominibus ostendere et sanguinem, si quis fecerit, et vestium scissiones.—“To show her ostensible injury to men of probity; and also the blood, if any, which she shed; and the laceration of her clothes.” Requisites formerly shown by those who complained of rape.

INLAGATION.—Sax. “*in lagian*.” A restitution of one outlawed to the protection of the laws; and benefit of a subject.

INLEGIARE.—This word was used where a delinquent satisfied the law, and is again “*rectus in curia*,” untainted in court.

IN LIBERA ELEEMOSYNA.—Frankalmoign: or in free alms.

IN LIBERAM PURAM ET PERPETUAM ELEEMOSYNAM.—In (or as of) free, pure and perpetual alms.

IN LIBERO MARITAGIO.—In free marriage.

IN LIMINE.—In, or at the beginning: at the threshold.

IN LOCO HÆREDIS.—In the place of the heir.

IN LOCO PARENTIS ET LIBERORUM.—In the place of the parent and children.

IN MAJORAM CAUTELAM.—In or for greater safety.

IN MALEFICIO.—In wickedness.

IN manu.—In possession.

IN misericordia domini regis pro falso clamore.—In the mercy of the King for (making) a false claim (or suit).

IN mitiori sensu.—In the milder sense : in a more kind manner.

IN modum juratæ, et non in modum assizæ.—After the manner of a (common) jury (or inquest), and not by way of an assize.

IN mortua manu.—In mortmain : in a dead hand or possession.

IN naufragorum miseria et calamitate tanquam vultures ad prædam currere.—In the misery and misfortune of the shipwrecked they run like vultures to their prey.

IN nomine dei, amen.—In the name of God, Amen.

IN non decimando.—Not being titheable.

IN nostra lege una comma evertit totum placitum.—In our law, one comma upsets the whole plea. *Vide note to "En cest court, &c."*

INNOTESCIMUS.—(We make known.) A title formerly given to letters-patent.

IN nubibus, in mare, in terra, vel in custodia legis.—In the air, earth and sea, or in the custody of the law.

INNUENDO.—"By signifying : thereby intimating" A word much used in declarations for slander and libel, to ascertain the application to a person or thing previously named. An oblique hint.

IN nullo est erratum.—It is in no respect erroneous.

IN numero impiorum ac sceleratorum habentur. Ab iis omnes decedunt, additum eorum sermonemque defugiunt, ne quid ex contagione, incommodi accipiant ; neque iis petentibus jus redditur ; neque honos ullus communicatur. —They are reckoned in the class of impious and wicked men. All persons shun them, and fly from their approach, and discourse ; lest they receive an injury from contagion ; neither is any law afforded them when seeking it ; nor is any honor conferred upon them.

IN obsequio domini regis, vel alicujus episcopi.—In the service of the King, or of some Bishop.

IN odium spoliatoris.—In hatred towards the despoiler.

INOFFICIOSUM testamentum.—An unkind will. *Vide note.*

IN omnibus contractibus, sive nominatis, sive innominatis, permutatio continetur.—In all agreements, whether it is named or not, an exchange is comprised.

IN omnibus fere minori ætati succurritur.—In almost all cases relief is given to minors.

IN omnibus imperatoris excipitur fortuna, cui ipsas leges Deus subjecit.—In all things the fortune (or lot) of the Emperor is excepted, to whom God has subjected those laws.

IN omnibus placitis de feloniam, solet accusatio per plegios dimitti, præterquam in placito de homicidio, ubi ad terrorem aliter statutum est.—In all charges of felony, the accused has been accustomed to be dismissed, on giving sureties, except when charged with homicide, where it is otherwise appointed by way of terror.

IN omnibus quidem, maxime tamen in jure, æquitas est.—There is equity in all things, but particularly in the law.

IN omni scientia, et de qualibet arte.—In every science, and of every art.

IN omni transgressione quæ fit contra pacem.—In every trespass which is done against the peace.

INOPS consilii.—Devoid of counsel: wanting advice.

IN pais.—In the country.

IN pari delicto.—In a like offence (or crime).

IN pari delicto, melior est conditio possidentis.—In equal fault the possessor's case is the better.

IN pari materia.—In a like matter: similarly.

IN perpetuum rei testimonium.—In perpetual testimony of the fact.

IN personam.—To, or against, the person.

IN pios usus.—For pious purposes.

IN pleno comitatu.—In full assembly of the county: in full county court.

IN potentia viri.—In the husband's power.

IN potestate hostium.—In the enemy's possession.

IN potestate parentis.—In the power of the parent.

IN potestate viri.—In the husband's power.

IN propria persona accedat ad tenementum, et coram eos per primos juratores, et alios legales homines, faciat inquisitionem.—He should go personally to the tenement and before them by the first jury, and other lawful men, make an inquisition.

IN propria persona sedente curia.—In his own person while the court is sitting.

IN proprio jure.—In his own right.

IN puram et perpetuam eleemosynam.—"In pure and perpetual charity."

[Part of the language on the endowment of charitable foundations.]

IN juris naturalibus.—In a state of nature.

IN quibusdam locis habet ecclesia melius animal de consuetudine; in quibusdam secundum, vel tertium melius; et in quibusdam nihil; et ideo consideranda est consuetudo loci.—In some places the church hath the best beast by custom; in some the second, or third best; and in some nothing; and in this manner the custom of the place is to be regarded.

INQUIRATUR super possessionem et usum.—Let inquiry be made respecting the tenure and the custom.

INQUISITIO post mortem.—An inquisition (or inquest) after death.

IN quodam loco vocat'.—In a certain place called.

IN rebus.—In things, matters, or cases.

IN rei exemplum.—By way of example.

IN rei exemplum et infamam.—By way of example and disgrace.

IN rem.—To, or against, the property. To the point.

IN rem et personam.—Against the body and goods.

IN rem judicatam.—In the matter adjudged.

IN remuneratione servi.—In rewarding the servant.

IN re pari potio^rem causam esse præbentis constat.—

In a similar matter the person offering (or showing) his complaint (or action) has the more preferable side.

IN re potio^rem causam esse prohibentis constare.—A better cause in the matter is found to exist on the part of the person defending.

IN rerum naturâ.—In the nature (or order) of things.

IN re submissa agere cautus.—To act with caution in the business submitted.

IN retallia.—In or by retail.

IN rigore juris.—In strictness of law.

IN salva et arcta custodia.—In safe and close keeping.

IN scaccario.—In the exchequer.

INSETENA.—A ditch dug within another for the greater protection.

INSIDIATIO viarum.—Infesting, or laying in wait on the highways.

INSIDIATORES viarum.—Way-layers: highway robbers.

INSILIARIUS.—An evil adviser.

INSIMUL computassent.—They accounted together.

IN solido.—In coin: in substance.

INSTAR dentium.—“Like teeth”—similar to the top of an ancient *Indenture*, that word being, as supposed, derived from “*instar dentium*.”

INSTAR omnium.—One example may suffice for all.

IN statu quo ante bellum.—In the state it was before the war.

INSTAURUM.—The whole stock of a farm, including cattle and implements.

INSTIRPARE.—To plant, or establish.

IN stirpes.—To the stock or lineage.

INSTITUTION au droit François.—An institution of French right.

IN stricto jure.—In strict right.

INSTRUMENTA domestica seu adnotatio, si non aliis quoque adminiculis adjuventur, ad probationem sola non sufficiunt.—Private, or family documents, or a memorandum, if not supported by other evidence, are not of themselves sufficient proof.

IN subsidio.—In aid of subsidy.

—————"INSULA portum

Efficit objectu laterum, quibus omnis ab alto
Frangitur inque sinus, scindit sese unda redactos
Deportibus maris."

"Within a long recess there lies a bay,
An island shades it from the rolling sea,
And forms a port secure for ships to ride,
Broke by the jetting land on either side:
In double stream the briny waters glide." }

INSULTUS.—An assault.

IN summo jure.—In the rigor of the law.

IN suo jure.—In his own right.

IN tam amplo modo.—In such an ample manner (or form).

IN tam amplo modo habere non potuit, sed proficuum suum inde per totum tempus amisit, &c.—He had not been able to enjoy (the land, &c.,) in so ample a manner, but, on that account, lost his profit for the whole time, &c.

INTENDERE.—To claim in an action; also to apply one's self earnestly to any duty.

INTENTARE.—To prosecute.

INTENTIO caeca.—A secret purpose.

INTENTIO mutita, nec manca. The intention being changed, not becoming impotent.

INTER.—Among.

INTER alia promisit.—He promised among other things.

INTER alios acta.—Things done between other parties.

INTER amicos.—Among friends.

Inter apices juris.—Among the extremes or (hardships) of the law.

INTER arma leges silent.—The laws are silent (or disregarded) in the heat of hostility.

INTER canem et lupum.—“Twilight.” Words formerly used to signify an act done between night and day—or betwixt the time the dog slept and the wolf roamed.

INTERESSE damni.—To participate in the loss (or damage).

INTERESSE lucri.—To participate in the profit.

INTERESSE termino, vel terminis.—To be interested for a term or terms of years (in an estate).

INTEREST reipublicæ quod carcere sint in tuto.—It concerns the commonwealth that they be safely (kept) in prison.

INTEREST reipublicæ ut sit finis litium.—The commonwealth is interested, that there be an end of contention.

INTER hæredes masculos.—Among the heirs male.

INTER leges *Gulielmi Primi*.—Among the laws of *William the First*.

INTERLOCUTIO.—Impar lance, *vel licentia inter loquendi*. From Fr. “*parler*,” to speak. In the common law this word was taken for a petition in court of a day to consider, or advise what answer the defendant should make to the plaintiff’s action, being a continuance of the cause till another day, or longer time given by the court. But now the more common signification of impar lance is *time to plead*.

INTER minora crimina.—Amongst lesser crimes (or misdemeanors).

INTER mœnia.—Within the walls: within the domicile.

INTER nubilia caput.—The origin (of this) is among the clouds (or unknown).

INTER pares non est potestas.—Among equals their power is alike.

INTER præsidia.—Within the fortifications: or in safe shelter.

INTERREGNUM.—A space between two reigns.

INTERREGNUM quare clausum fregit?—In the meantime why did he break the close?

IN terrorem.—By way of terror (or warning).

INTER SESE.—Among themselves.

INTERTIARE.—To sequester.

INTERVENIRE.—To come between.

INTER veteres satis abunde hoc dubitatur, constaret ne venditio, aut non.—It is more fully doubted among the ancients whether the sale should stand or not.

INTER vivos, ante nuptias, et post nuptias.—Among those living before and after the marriage.

INTOL and UTTOL.—Custom on things imported and exported.

IN totidem verbis.—In so many words.

IN toto regno ante ducis adventum, frequens et usitata fuit; postea cæteris adempta; sed privatis quorundam locorum consuetudinibus alibi postea regerminans: *Cantianis* solum integra et inviolata remansit.—This (custom) was frequent and usual, throughout the kingdom, before the arrival of the Duke (called the Conqueror); afterwards it was abolished; but among the private customs of some other places, it was again springing up: it remained whole and uncorrupted among the *Kentish* people only. *Vide note.*

IN toto se attingunt.—They agree all together: it is all in point.

INTRA mænia.—A term given to domestic servants because they are *within the walls*.

IN transitu.—“In the passage.” Merchandise is said to be “*in transitu*,” while on its way to the consignee.

INTRA parietes.—Between friends.

INTRARE.—To enter.

INTROMISSION.—(In Scotch law.) The taking possession of property belonging to an heir, either with or without authority.

INTROMITTERE.—To intermeddle with.

INTRUSIO dicitur *nuda* eo quod non vallatur aliquo vestimento, et minimum habet possessionem; et omnino nihil juris, et in parte habet naturam cum disseisina, et in quibusdam sunt dissimiles, quia ubicunque est disseisina ibi quodammodo est intrusio, quantam ad dissertorem; sed non a contrario, quia ubicunque est intrusio ibi non est disseisina, propter vacuum possessionem; et in utroque casu possessio est nuda donec ex tempore et seisina pacifica acquiratur vestimentum.—Intrusion is called *naked*, because it is not clothed with any investiture, and has the least possession, and altogether no right, and has in part the nature of a disseisin, and in certain respects they are dissimilar; because wherever there is a disseisin there is, in a certain manner, an intrusion to that extent against the disseisor. But not on the contrary, because wherever there is an intrusion, there is not a disseisin, on account of the empty possession; and in either case the possession is naked, until by time and a peaceable possession an investiture be acquired.

IN ultima voluntate.—In the last will.

IN uno quorum continetur inter alia juxta tenorem.—In one of which is contained among other things nearly to the effect following, &c.

IN urnam sortito mittuntur, ut de pluribus necessarius numerus confici posset.—They are thrown casually into an urn, that from many (names) the requisite number may be completed.

IN vacuum venire.—To enter on an empty possession.

INVADIARE.—In feudal law, to pledge or mortgage lands. Sometimes written *invadiare*.

INVENIENDO.—Finding. INVENTUS.—Found.

IN ventre sa mere.—In the mother's womb.

INVERSO ordine.—By an inverted order.

INVESTITURA propria dicatur possessio.—A proper investiture may be called a seisin.

IN via re uti pace.—“Settle the matter amicably by the way.”

[The plaintiff and defendant, among the *Romans*, generally went to the *Prætor* together. Vide note to “*Vocatio in jus*.”]

IN villis, et territoriis.—In the vills and territories (or adjacent lands).

IN vita testatoris.—In the testator’s lifetime.

INVITO domino.—Without the owner’s consent.

IPSE advocatus cum tot libros perlegere et vincere non possit, compendia sectatur.—The lawyer, when he is unable to peruse and digest so many books, has recourse to abridgments.

IPSE illorum stipendia resarcienda curabit.—He shall be careful to make good their salaries.

IPSE tamen Feoffator in vita sua, ratione proprii doni sui, tenetur warrantizare.—Nevertheless, the Feoffor himself, in his lifetime, on account of its being a proper gift (or grant) of his own, is bound to warranty.

IPSI regali institutioni eleganter inserta.—Elegantly introduced for that royal institution.

IPSIVS patris bene placito.—By the favor of his father.

IPSO facto, et ab initio.—By the deed itself, and from the beginning.

IPSO facto, et constructione legis.—By the fact itself, and in construction of law.

IPSO facto, et eo instanti.—In fact, and immediately.

IPSO jure.—By the law itself—or by that right.

IRE ad largum.—To go at large.

IRREPLEGIABILIS.—Cannot be bailed.

ITER facere.—To travel or journey.

IRRITUS.—Invalid.

IRROTULARE.—To enrol.

Is cui cognoscitur.—He to whom it is acknowledged
—the Cognizee in a fine : the recognizee.

ISH.—Scotch. The period of the ending of a lease.

Is ordo vitio careto cæteris specimen esto.—Let that
rank be immaculate ; and an example to others. *Vide*
note.

Is qui cognoscit.—“He who acknowledges.” The
Cognizor in a fine : the Recognizor.

ISSINT.—So : thus. *Norman French.*

ISTÆ conditiones sunt plenæ tristissimi eventus, et pos-
sunt invitare ad delinquendum.—These stipulations are
pregnant with sorrowful consequences, and may instigate
to some offence (or failure of duty).

ISTA ratio nullius pretii, nam et alieno signare licet.—
That reason is of no avail, for it is lawful for any other
person to sign.

ISTE secundus assecurator tenetur ad solvendum omne
totum quod primus assecurator solverit.—The second as-
surer is bound to pay everything which the first assurer
should have paid.

ISTI vero viri eliguntur per commune concilium, pro
communi utilitati regni, per provincias, et patrias universas,
et per singulos comitatus in pleno *Folk-mote*, sicut et vice-
comites provinciarum, et comitatum eligi debent.—These
men are elected by the general council for the common
benefit of the kingdom, through the provinces, and the
whole country, and by all the counties in full *Folk-mote* (or
general assembly of the people), as the sheriffs of the
provinces and counties should be elected.

ISTUD homicidium, si fit ex livore, vel delectatione effun-
dendi humanum sanguinem, licet juste occidatur iste,
tamen occisor peccat mortaliter, propter intentionem cor-
ruptam.—That is homicide, if it be done from malice,
or a delight in shedding human blood, (and) although he
be killed lawfully, yet the person who killed him commits
a mortal sin on account of his depraved intention.

ITA lex scripta.—So the law is written.

ITA maritentur, ne disparagentur, et per consilium propinquorum de consanguinitate sua.—So that they be married without disparagement, and with the advice of their nearest relations.

ITA quod hospitalibus nullum eveniet damnum.—So that no injury may happen to the guests.

ITA te Deus adjuvet.—So help you God.

ITE, et inter vos causas vestras discutite, quia dignum non est ut nos judicemus Deos.—Go, and discuss your affairs among yourselves, for it is improper that we should judge the Gods.

ITEM, declara, quod si dominus, seu magister navis solverit mercatori pretium deperditarum, tunc tenetur mercator ad solutionem nauli, quia merces habenter ac si salvatæ fuissent.—Also state, that if the owner or master of the vessel pay the merchant the price of the lost merchandise, then the merchant is bound to pay the freight, because the goods are then considered as though they had not been lost.

ITEM facit disseysinam, cum quis in seysina fuerit ut de libero tenemento, et ad vitam vel ad terminum annorum, vel nomine custodia, vel aliquo alio modo, alium feoffaverit in præjudicium veri domini; et fecerit alteri liberum tenementum, cum *duo* simul et semel, de eodem tenemento et in solidum, esse non possunt in seizina.—This also causes a disseisin, where any one shall be in possession, as of a freehold or for life, or for a term of years, or being in nominal possession, or in (possession) in any other manner, (and) enfeoff another to the injury of the rightful owner; and make it the freehold of another, because *both* at the same time cannot be substantially seised of the same tenement.

ITEM justiciariorum quidam sunt capitales, generales, perpetui, et majores, a latere regis residentes, qui omnium aliorum corrigere tenentur injurias et errores.—So some

of the judges are chief, general, permanent and important, abiding with the king, and who are obliged to correct the wrongs and errors of all the other (judges).

ITEM non solum fit disseisina secundum quod prædictum est, sed etiam si quis præpotens uti voluerit in alterius tenemento, contra ipsius tenentis voluntatem, arando, fodiendo, falcando, et asportando, contrahendo, tenementum esse suum quod est alterius; si autem nihil clamaverit in tenemento aliud erit, quia tunc erit transgressio, et non disseisina de libero tenemento.—Also it not only becomes a disseisin, according to what has been stated; but also if any very powerful person shall use the lands of another contrary to the tenant's will, by ploughing, digging, cutting up and taking away the tenement as his own, which is the property of another. But if he do not claim anything in the tenement, it will be otherwise, for then there will be a trespass and no disseisin of the freehold.

ITEM possessiones, alia nuda, alia vestita; nuda, ubi quis nil juris habet in re, nec aliquis juris scintillam, sed tantam nudam pedis possessionem; vestita, jure, titulo vel tempore.—So respecting possessions, some are naked, others are clothed; naked, is where a person has no right to the land, nor even a shadow of right; but only a naked foothold (as a squatter): a clothed possession is where there is right, title or time.

ITEM potuerit quis communiam cum alio, et jus fodiendi sicut jus pascendi, et jus venandi, piscandi, potandi, hauriendi, et alia plura quæ infinita sunt facienda, cum libero accessu et recessu, secundum quod ad dictam communiam pasturæ pertinent.—Also any person may have right of common with another, and the right of digging, as well as the right of depasturing, and the right of hunting, fishing, drinking, drawing water, and of using many other privileges which are unlimited, with free access and recess, according to that which belongs to the said common of pasture.

ITEM quæ ex hostibus capiuntur, jure gentium statim captivorum fuere.—Also those things which are taken from the enemy become immediately, by the law of nations, the property of the captors.

ITEM quand il arrive qu' aucun maladie attaque un des mariners de la nef, en rendant service en la dite nef, le maitre le doit mettre hors de la dite nef, et luy doit trouver legis, &c. ; et si la nef estoit preste a fair voyage, elle ne doit point demourer pour luy ; et s'il querit, il doit avoir sou loyer, tout comptant, en rabutant les frais, si le maitre luy en a fait. Et s'il meurt sa femme et se prochains le doivent avoir pour luy.—Also, whenever it happens that any sickness attacks one of the seamen of the vessel, doing duty therein, the master should cause him to be removed from the said vessel, and should procure him lodgings, &c. ; and if the vessel be ready to make her voyage, she ought not to remain for him ; and if demanded, he should have his wages entirely paid, deducting the expenses, if the master has incurred any. And if he die, his wife and his nearest relations should receive his wages for him.

NOTES TO I.

IMPARLANCE.—It appears that the doctrine of *Imparlanes* arose in the early ages, from a desire that the parties might adjust their differences, without proceedings at law; and arose from the mild practice of the civil law, sanctioned by that precept of the Gospel, "*Agree with thine adversary by the way.*" It appears to have been the custom with the *Romans*, and probably with the *Jews*, for the plaintiff to take the defendant with him before the *Prætor* or Magistrate. Vide note to "*Vocatio in jus.*"

INCIPIENTIBUS, &c.—The Civil Laws were, at one time, such a *Novelty*, and, no doubt, loaded with such innumerable comments, that young students found them extremely difficult. The *feudal* laws were comparatively few; and had no very nice distinction of right and wrong.

IN CUJUS REI TESTIMONIUM, &c.—This is the last clause generally found in ancient deeds of Feoffment of lands. Sealing has been for many ages essentially requisite to the perfection thereof, because it deliberately and clearly shows the Feoffor's consent and approbation of what the deed contains, and particularly so, as being sealed with the Grantor's own seal, at

least by the heads of ancient families. Some authors inform us, that the *Saxons*, in their time, (before the Conquest,) subscribed their names to their deeds, adding the sign of the cross; and setting down in the end, the names of certain witnesses, without any kind of sealing at all. But, when the *Normans* obtained a footing in *England*, they (loving their own country customs) changed that mode, with many others which they found in *England*. And *Ingulphus*, who was made Abbot of *Croyland*, A. D. 1075, appears to confirm this opinion in these words, "*Normanni chirographorum confectionem cum crucibus aureis, et aliis signaculis sacris in Anglia firmari solitam, in cera impressa mutant*"—i. e. "The *Normans* change the making up of chirographs (or deeds) with golden crosses or other sacred marks or signs, which were formerly established in *England*, into a wax impression." Yet we read of a sealed charter in *England* before the Conquest, viz., of *St. Ed.* made to the Abbey of *Westminster*, yet this does not impugn what is before stated; for we find in *Fabian's Chronicle*, and elsewhere, that *St. Ed.* was educated in *Normandy*, and it is very probable that he might, in some cases, incline to the fashion of that country. The *French* have a proverb, "*Rome n'a este bastie tout un jour*," and we use the same, "*Rome was not built in a day*;" so that it cannot be conceived that the *Normans* suddenly altered the *Saxon* custom wholly, in this particular, but that it changed by degrees; and, perhaps, at the first, the King had some about his person, who first used the impression of a seal to deeds, which is probable, from a story concerning *Richard de Lucy*, Chief Justice of *England*, who, in the time of *Henry* the Second, is said to have chidden a person because he had sealed a deed with a private seal, "*quant ceo pertain al Roy et Nobillite solement*."

However, in the time of *Edward* the Third, sealing and seals were very common; which appears from many deeds now extant. But *Sir Edward Coke*, in the first part of his *Institutes*, seems to overthrow the former opinions about the first using of seals in *England*: "the sealing of charters and deeds," he observes, "is much more ancient than some have imagined; for the Charter of King *Edwin*, brother of King *Edgar*, dated A. D. 956, made of some land in the Isle of *Ely*, was sealed with his own seal, (which appears by these words,) "*Ego Edwindus gratiâ Dei totius Britannicæ telluris Rex meum donum proprio sigillo confirmavi*"—i. e. "I, *Edwin*, by the grace of God, King of the whole land of *Britain*, have confirmed my gift (or grant) with my own seal." And the Charter of King *Offa*, whereby he gave the *Peter pence*, was under seal. Either of which two charters are much more ancient than that of *St. Ed.* before mentioned.

IN CURIA DOMINI, &c.—After the dissolution of the *Aula Regis*, the *English* kings frequently sat in the Court of King's Bench. Vide 2 *Burr.* 851, &c. And, in later times, *James* the First is said to have sat there in person, but was informed by the Judge that he could not deliver any opinion. The first time the King sat in Court, after the plaintiff's counsel had finished his address to the jury, the King remarked (privately) to the Judge, that the plaintiff ought certainly to obtain a verdict—but, on hearing a very eloquent reply from the defendant's counsel, he became so extremely puzzled, that he declared it was impossible he could say which of the contending parties was right.

INFRA ANNUM, &c.—The civil law ordained that no widow should marry "*infra annum luctus*," a rule which obtained so early as the reign of *Augustus*, if not of *Romulus*; and the same constitution was probably handed down to our early ancestors from the *Romans*; for we find it established under the *Saxon* and *Danish* governments. In the reign of *Augustus*, however, the year was only ten months. Vide *Ov. Fast.* l. 27.

INOFFICIOSUM TESTAMENTUM.—Among the *Romans*, (at least at one time

of the Republic,) a man might disinherit his own children, and appoint what other persons he pleased, to be his heirs: he was then said to have made "*inofficiosum testamentum*." Thus, "*Titius filius meus exheres esto*"—i. e. "Titius, my son, be thou disinherited." Vide *Plin., Ep. v.* Hence, *Juvenal, Sat. 10.* "*Codice saxo heredes vetat esse suos*"—i. e. "By a severe will he forbade them to be his heirs." When children brought an action (which was frequently the case) for rescinding such a will as this, it was said to be done, "*per querulam inofficiosi*."

IN TOTO REGNO, &c.—This Saxon custom, so completely opposed to the Feudal law, still remains in the county of *Kent*, in *England*, where, to a considerable part of the lands in that county, on the death of a person seised of a freehold estate, all the sons inherit alike. This is called *Gavelkind*. Among other private customs referred to in the text, is the law, or rather custom, of *Borough English*, where the youngest son inherits the freehold. *Blackstone* gives a very curious reason for this custom: it is not improbable, however, that it might have originated from a desire that the youngest son (who may be supposed to be left most destitute on his father's decease) should have some provision for his maintenance.

IS ORDO VITIO CARETO, &c.—*Augustus*, when he became master of the Roman Empire, retained the forms of the ancient Republic, and the names of the magistrates, but left very little of the ancient virtue (*prisci et integri mores*. *Tacit. Ann. i. 3.*) While he pretended always to act by the authority of the Senate, he artfully drew everything to himself. *Tiberius* apparently increased the power of the Senate, by transferring the power of creating magistrates and enacting laws from the *Comitia* to the Senate. In consequence of which, the decrees of the Senate obtained the force of laws; and were more frequently published. But this was only "a shadow of power," for the Senators, in giving their opinions, depended entirely on the will of the Prince; and it was necessary that their decrees should be confirmed by him. An oration of the Emperor was usually prefixed to them, which was not always delivered by himself, but generally read by one of the *Questors*, who were called "*Candidati*." Vide *Suet., Tit. 6, Aug. 65.* Hence, what was appointed by the decrees of the Senate, was said to be "*oratione principis cautum*"—i. e. "provided for by the declaration of the Emperor;" and these orations are sometimes put for the "*Decrees*" of the Senate. To such a height did the flattery of these Senators proceed, that they used to receive these speeches with loud acclamation. Vide *Plin. Paneg. 75*, and never failed to assent to them, which they did, crying out "*Omnes! Omnes!*" all! all! Vide *Vopisc. in Tacit. 7.*

The messages of the Emperors to the Senate were called "*Epistole*," or "*Libelli*;" because they were folded in the form of a letter, or little book. *Julius Cæsar* is said to have first invented these "*Libelli*," which afterwards came to be used almost on every occasion. After this, the Emperors gradually began to order what they thought proper, without consulting the Senate; to abrogate old laws, and introduce new ones; and, in short, to determine everything according to their own pleasure; by their answers to the supplications or petitions presented to them, (*per rescripta ad libellos*), by their mandates and laws, (*per edicta et constitutiones*), &c. *Vespasian* appears to have been the first who made use of these rescripts and edicts. They became more frequent under *Hadrian*, from which time the decrees of the Senate concerning private right began to be more rare; and, at length, under *Caracalla*, were entirely discontinued.

The various laws and decrees of the Senate, whereby supreme power was conferred on *Augustus*, used to be repeated to succeeding Emperors, upon their succession to the throne. "*Tum Senatus omnia, principibus solita, Vespasiano decrevit*"—i. e. "Then the Senate decreed to

Vespasian all things usual to Emperors." *Tacit. Hist.* iv. 3. When taken together are called the Royal Law, (" *Lex regia, vel Lex imperii, et Augusti privilegium,*")—i. e. "The Royal Law, or law of the Empire, and privilege of the Emperor," probably in allusion to the law by which supreme power was granted to *Romulus*. *Liv.* xxiv. 5.

J.

JACERE.—To lie ; to be prostrate.

JACTITARE.—To boast ; to throw out.

JACTITATIO matrimonii.—Where a party gives out that either he or she is married to another, from which an impression may arise in the world that they are married.

JACTURA, JACTUS.—See **JETTISON**.

JADEMANS.—Nevertheless.

JALEMEINS.—Always ; still ; yet.

JAM illis promissis non esse standum, quis non videt, quæ coactus quis metu et deceptus dolo promisserit ? Quæ quidem plerumque jure prætorio liberantur, nonnulla legibus.—Now these promises cannot be supported, for who is there that does not perceive what a man, when compelled by fear, or deceived by stratagem, may have promised ? These promises are, for the most part, discharged by the *Prætorian* law, and some by (other) laws.

JAMUNLINGUS.—One who put himself and his property under the protection of a powerful neighbor in order to avoid military service, and other state burdens.

JANUIS clausis.—With closed doors.

JATARDE.—Lately.

JEO doy.—I ought.

JEO done.—I give.

JEOFAILE.—"I have failed, or erred." This is the name of a statute to correct errors. The word is often used when an oversight has been made in the pleadings, or other law proceedings.

JE riens ne celari, ne sufferai estre celé, ne murdré.—
I will not conceal anything, nor suffer it to be concealed,
nor stifled.

JE suis prêt.—I am ready.

JETTISON, JETSAM.—The throwing overboard part of
the goods or lading of a vessel, when it is in danger of
wreck; such goods sinking to the bottom of the sea.

JE vous dirai un fable. En ascun temps fuit un Pape,
et avoit fait un grand offence, et le Cardinals, vindrent a
luy et disoyent a luy "*peccasti*," et il dit, "*judica me*," et ils
disoyent "*non possumus quia caput es Ecclesie—judica te
ipsum*;" et l'apostol dit "*judico me cremari*;" et fuit com-
bustus, et apres fuit un saint. Et in ceo cas il fuit son
juge dememe, et issint n'est pas inconvenient que un home
soit juge dememe.—I will tell you a story. Some time
ago a Pope had committed a great offence, and the Cardi-
nals came and said to him, "*thou hast sinned*," and he re-
plied, "*judge me*," and they answered, "*we cannot judge
thee, because thou art the head of the church; judge thyself*;"
and the apostle said, "*I adjudge myself to be burnt*;" and he
was burnt, and afterwards became a Saint. And in this
case he was his own judge; therefore on such occasions it
is not improper that a man should be his own judge.

JOCALÉ, JOCALIA, JOIALX.—Jewels.

JOCARIUS.—"A Jester." In an ancient deed of *Rich-
ard* Abbot of *Bernay*, to *Henry Lovet*, among the witnesses
to it was *Willielmo tunc* *Jocario* "*Domini Abbati*," i. e. *Wil-
liam* then the Lord Abbot's *Jester*. And in *Domesday*, it is
said that one *Berdic* was "*Joculator regis*," the King's *Jester*.

JOCUS.—A game of chance.

JOCUS partitus.—It was so called when two proposals
were made, and a man had liberty to choose which he
pleased. *Bract*.

JONCARIA.—Where rushes grow.

JORNALE.—The land which might be ploughed in a
day.

JOURNAUNTE.—Break of day.

JUBEMUS honesta ; prohibens contraria.—Commanding what is honorable (or just), and forbidding the contrary.

JUCHUS.—As much land as might be ploughed in one day by a yoke of oxen.

JUDEX a quo.—An inferior judge.

JUDEX ad quem.—A superior judge.

JUDEX de ea re cognoscet.—The judge will take cognizance of the matter.

JUDEX de pace civium constituitur.—A judge is appointed for the peace of the citizens.

JUDEX non potest esse testis in propria causa.—A judge cannot be a witness in his own cause.

JUDEX non reddat plus quam quod petens ipse requirat.—The judge does not allow more than the plaintiff demands.

JUDEX qui injustum judicium judicabit alicui, det regi cxx s., nisi jurare audeat, quod rectum judicare nescivit. *Leg. Edgar.*—The judge who shall render an unjust sentence against a person, shall pay the king one hundred and twenty shillings, unless he be bold enough to swear that he knew not how to judge correctly. *Laws of King Edgar.*

JUDICANDUM est legibus, non exemplis.—It is to be adjudged by the laws, not by precedents.

JUDICATUM solvere.—To pay what is adjudged.

JUDICES delegati.—Chosen Judges: a court of delegates.

JUDICES Quiritium.—The Roman Judges. *Vide note.*

JUDICIA ad populum.—Trials before the people. *Vide note.*

JUDICIA odiosa.—Abominable decrees (or judgments).

JUDICIA perverterunt ; et in aliis erraverunt.—(In some cases) they have perverted the judgments ; and have erred in others.

JUDICIUM a non suo iudice dictum, nullius est molienti.
—Judgment, if not pronounced by the proper judge, is of no effect.

JUDICIUM Dei.—“The judgment of God.” The ordeal of our *Saxon* ancestors, walking blindfold over (or rather among) red-hot plough shares. Vide note to “*Tenetur se purgare.*”

JUDICIUM ferri, aquæ et ignis.—The ordeal of fire, iron and water. Vide note to “*Tenetur se purgare,*” &c.

JUDICIUM intrare.—To enter into judgment.

JUDICIUM parium, aut lege terræ.—“The judgment of the peers (or equals), or by the law of the land.” It is only by these, according to *Magna Charta*, that an Englishman can be condemned. Vide note.

JUDICIUM redditur in invitum.—Judgment is given against an unwilling person.

JUGULATOR.—A cut-throat: a murderer.

JUGUM terræ.—A yoke of land. Vide “*Domesday.*”

JUNCARE.—“To strew with rushes.” This was an ancient custom for accommodating the parochial churches; and even the bedchambers of princes. Vide *Pat.* 14, *Edwd.* 1st—also note to “*Litera.*”

JURA.—“Laws: rights: privileges.” Often used for laws in general thus “*Nova jura condere.*” Liv. iii. 33.

JURABIT duodecima manu.—He shall swear by twelve compurgators. Vide note to “*Compurgatores.*”

JURA cognationis.—The laws (or rights) of relationship.

JURA enim nostra dolum præsumunt si una non pereant.
—For our laws presume it to be a fraud unless (the goods) of both are lost.

JURA fiscalia.—“Fiscal rights.” Those of the Exchequer or Revenue.

JURA in re.—Rights in the matter, or thing.

JURAMENTUM calumniæ.—“The oath of calumny.” By which parties swore that the cause was commenced, or defended for the *sake of justice.*

JURAMENTUM fidelitatis.—The oath of fealty.

JURA naturæ sunt immutabilia.—“Nature’s laws are unchangeable.” Chief Justice *Hobart* says, “an act of parliament made against natural justice is void.”

JURA personarum.—The rights of persons.

JURA regalia.—Royal or crown rights (or privileges).

JURA rerum.—The rights of things.

JURA sanguinis.—The rights (or laws) of consanguinity.

JURA summi imperii.—The rights of supreme empire (or dominion).

JURATA.—A jury.

JURATORES.—“The jury.” The persons impannelled to try a cause, civil or criminal.

JURE belli.—By the law of war.

JURE civili.—By the civil law.

JURE coronæ.—By the right of the crown.

JURE devolutionis.—By right of descent.

JURE divino et jure humano.—By divine and human right. *Vide note.*

JURE ecclesiæ.—In right of the church.

JURE et legibus.—By common and statute law—*vide Cic. Verr. i, 42, 44.* So Horace “*Vir bonus est quis? Qui consulta patrum, qui leges, juraque servat, &c.*” *Vide Ep. i. xvi. 40.* So Virg. *Æn. i. 508,* who says “*Jura dabat legesque viris.*”

JURE gentium.—By the law of nations.

JURE hæreditario.—By hereditary right.

JURE humano.—By human law (or right).

JURE mariti.—In right of the husband.

JURE naturæ.—By the law of nature.

JURE naturæ æquum est, neminem cum alterius detrimento et injuria fieri locupletiozem.—By the law of nature it is equitable, since no one can be made richer to the damage and wrong of another person.

JURE patronatus.—By the right of patronage.

JURE representationis. —By right of representation
Vide note.

JURE uxoris. —In right of the wife.

JURE vetusto obtinuit, quievisse omnia inferiora judicia, dicente jure rege. —He showed by ancient authority, that all inferior judgments ceased when the king declared the law.

JURIS disciplina. —The knowledge of law. *Vide Cic. Legg. i. 5.*

JURIS, et de jure. —Of right, and by law.

JURIS et seisinæ conjunctio. —The joinder of right and possession.

JURIS naturalis, aut divini. —Of natural or divine law (or right).

JURIS positivi. —Of positive law (or absolute right).

JURIS præcepta sunt hæc, honeste vivere, alterum non lædere, suum cuique tribuere. —These are the rules of law: to live honestly: not to injure another: and to render to every man his due.

JURIS privati. —Of private right or law.

JURIS procuratio omnibus prodest. —The administration of the law benefits every one.

JURISPRUDENCE des arrêts. —The law of arrests.

JURISPRUDENTIA est divinarum atque humanarum rerum notitia. —Jurisprudence is the knowledge of things divine and human.

JURIS publici. —Of the public or people's right.

JURIS utrum. —Whether of right.

JURNEDUM. —A journey, or one day's travelling. *Vide Cowell.*

JUS. —“Law: Right.” It is frequently, with the *Roman* writers, also put for the *place* where justice is administered; thus—“*In jus eamus*,” i. e. “*ad prætoris sellam*,” (to the prætor's chair.) *Vide Donat. in Ter. Phorm. v. 7, 43 et 88.*

JUS accrescendi. —The right of accruer: benefit of survivorship.

JUS accrescendi inter mercatores.—The right of accruership among merchants.

JUS accrescendi inter mercatores pro beneficio commercii locum non habet.—For the advantage of commerce, there is no right of accruership among merchants.

JUS accrescendi præfertur ultimæ voluntati.—The right of accruership is preferred to the last will and testament.

JUS ad rem.—A right to the property.

JUS albinatus.—Right of escheat in the property of an alien.

JUS alluvionis.—“The right of the wash:” or to the lands thrown up by the sea or rivers.

JUS bellicum vel belli.—“The law of war.” That which may be justly done to a state at war with us, and which may be done to the conquered. *Vide Cæs. de bell. G. i. 27, et Cic. Off. i. 11, iii. 29.*

JUS canonicum.—The canon law.

JUS civile.—The civil (or municipal law).

JUS civile est quod quisque sibi populus constituit.—Civil law is what each nation has established for itself. *Vide note.*

JUS civitatis.—The law of the state.

JUS civium vel civile.—The law of the citizens, or the civil law.

JUS commune, et quasi gentium.—The common law, and, as it were, the law of nations.

JUS consuetudinis.—“The law of custom.” That which hath been long established: opposed to “*lege jus*,” or “*jus scriptum*.” *Vide Cic. de Invent. ii. 22, 54.*

JUS descendit ad primogenitum.—The right descends to the first born.

JUS dicere.—“To declare the law.” To administer justice.

JUS dicere, et non dare.—To expound, not give the law.

- JUS disponendi.**—The right of disposal.
- JUS domesticæ emendationis.**—The law (or right) or domestic amendment.
- JUS duplicatum.**—A twofold, or double right.
- JUS et æquitas.**—Law and equity. *Vide note.*
- JUS et fraus nunquam cohabitant.**—Right and fraud never dwell together.
- JUS et lex.**—The right and the law. *Vide note.*
- JUS et norma loquendi.**—The right and form (or order) of speaking.
- JUS et seisinæ conjunctio.**—The right and conjunction of possession.
- JUS feciale.**—The law of arms or heraldry, *vide Cic. Off. i. 11*; or the form of proclaiming war; *vide also Liv. i. 32.*
- JUS fiduciarum.**—A right held in trust.
- JUS fodiendi.**—The right of digging.
- JUS gentium.**—The law (or right) of nations.
- JUS gladii.**—“The right of the Sword—Sword Law:” the arbitrary power of governing. *Vide note.*
- JUS Hanseaticum maritimum.**—The Hanseatic maritime law.
- JUS hæreditarium, et dominicum.**—Hereditary right and dominion.
- JUS honorarium.**—The honorary law. *Vide note.*
- JUS humanum et divinum.**—What is right with respect to things divine and human. *Vide Liv. i. 18, 16.* Hence “*fas et jura sinunt,*” *vide Virg. G. i. 269.*
- JUS imaginum.**—The right of ancestry. *Vide note.*
- JUS in re.**—The right in the property.
- JUS in res inferioris naturæ Deus humano generi indivisum contulit, hinc factum, quod quisque hominum ad suos usus arripere posset, quod vellet; et quæ consumi poterant, consumere.**—God has conferred upon each individual of the human race the right to things of an inferior nature (or quality) for this reason, that every one may

take for his own use what he pleases, and consume those things which may be eaten.

JUS JUDICIUM.—A judicial right.

JUS JURANDUM.—An oath.

JUS LEGITIMUM.—“A legal right.” The common or ordinary law; the same with “*Jus civile*.” Vid. *Cic. pro Dom.* 13, 14. Thus “*jus legitimum exigere*,” to demand one’s legal right, or what is legally due. Vid. *Fam.* viii. 6.

JUS LIBERTATIS.—The right of liberty. *Vide note.*

JUS MATRIMONII.—The right or law of marriage.

JUS MUNICIPALE.—A municipal (or civil) right.

JUS NATURÆ.—The right (or law) of nature.

JUS NATURÆ PROPRIÈ EST DICTAMEN RECTÆ RATIONIS, QUO SCIMUS QUID TURPE, QUID HONESTUM, QUID FACIENDUM, QUID FUGIENDUM.—The law of nature is properly the dictate of right reason, by which we know what is dishonorable and what is honorable; what should be done, and what should be avoided.

JUS NATURÆ, VEL NATURALE.—These words mean that law which nature or right reason teaches to be right; and “*jus gentium*,” what all nations esteem to be right. Vid. *Cic. Sext.* 42, *Harusp. resp.* 14.

JUS NECESSITUDINIS.—The law of necessity. *Suet Calig.* 26.

JUS NON SCRIPTUM TACITO ET ILLITERATO HOMINUM CONSENSU, ET MORIBUS EXPRESSUM.—The unwritten law declared by the tacit and unlearned consent and customs of the people.

JUS PASCENDI.—The right of grazing.

JUS PATRIS.—The father’s right. *Vide note.*

JUS PATRONATUS.—The right of patronage: the right of advowson.

JUS PONTIFICUM, VEL SACRUM.—“The Pontifical, or sacred law.” That which is right with regard to religion and sacred things; much the same with what was after-

wards called "*Ecclesiastical Laws.*" Vide *Cic. pro Dom.* 12, 13, 14; *de legibus*, ii. 18, &c.

JUS positivum.—An absolute law (or right).

JUS postliminii.—The right of reprisal.

JUS possessionis.—The right of possession (or occupancy).

JUS prædicti *S.* et seisinam ipsius.—The right of the said *S.* and his possession.

JUS Prætorium.—"The law (or discretion) of the *Prætor.*"—This was *distinct* from the "*Leges,*" or standing laws. Vide note to *Prætor.*

JUS primogenituræ.—The right of primogeniture.

JUS projiciendi.—The right which a builder has to project a part of his building towards an adjoining one.

JUS proprietatis et possessionis.—The right of property and possession.

JUS prosequendi in judicio, quod alicui debetur.—The right of proceeding to judgment for what is due to any one.

JUS protegendi. The right to extend the tilling of one house over the adjoining one.

JUS publicum.—A public right or law.

JUS publicum et privatum.—A public and private right or law. Vide note.

JUS quæsitum.—A right to recover.

JUS Quiritium.—The right of *Roman* citizens. Vide note.

JUS regni.—The right of the crown.

JUS relictæ.—The right of a relict or widow.

JUS sanguinis.—The right of blood (or of kindred).

JUS sanguinis, quod in legitimis successionibus spectatur, ipso nativitatis tempore quæsitum est.—The right of blood, which is regarded in all lawful inheritances, is sought after in the very time (of our) nativity.

JUS scriptum aut non scriptam.—The written or the unwritten law. Vide note.

JUSSU Cancellarii.—By the Chancellor's order.

JUSSU Cancellarii, cum assensu majoris partis præfe-
torum collegiorum.—By the command of the Chancel-
lor, with the consent of the majority of the governors of
the colleges.

JUS summum sæpe summa est malitia.—“Strict law
is often the greatest mischief:” or “Right too rigid hard-
ens into wrong.”

JUS suum.—His own right.

JUSTA libertas.—A term anciently used on the eman-
cipation of a slave. *Vide note.*

JUSTE rem judicato.—Weigh the matter correctly.

JUSTICIARII ad custodian *Judæorum* assignati.—Jus-
tices appointed to take cognizance of the *Jews*. *Vide
note.*

JUSTICIARII ad omnia placita.—Judges of all pleas.

JUSTICIARII domini regis faciant fieri recognitionem de
disseisinis factis super assizam, a tempore quo Dominus
Rex venit in *Angliam* proxime post pacem factam inter ip-
sum et regem filium suum.—That the judges of our lord
the King cause recognition to be made concerning the
disseisins done upon the assize from the time when our
lord the King arrived in *England*, next after the peace
concluded between him and the King his son.

JUSTICIARII in itinere.—“Judges in Eyre:” those who
went the circuit.

JUSTICIARII itinerantes venerunt apud *Virgorniam* in
octavis *S. Johannis Baptistæ*; et totius comitatus eos ad-
mittere recusavit; quod septem anni nondum erant elapsi
postquam justiciarii ibidem ultimo sederunt.—The
judges in Eyre came to *Worcester* on the octave of *Saint
John the Baptist*; and the whole county refused to admit
them, because seven years had not elapsed since the judges
had sat in the same place. *Vide note.*

JUSTITIA nemini neganda est.—Justice is to be denied
to none.

JUSTITIA non est neganda, non differenda.—Justice is not to be denied nor delayed.

JUSTITIAR, vel Justicier.—“A Judge, or Justice;” or as he was sometimes termed, *Justiciary*. *Shakspeare* uses the term “*Justicier*.”

JUSTITIA virtutum regina.—Justice is the Queen of the virtues.

JUSTITIUM.—A suspension in judicial proceedings; a vacation of the courts.

JUS trium liberorum.—The right belonging to him who had three children. *Vide note*.

JUS utendi et fruendi.—The right of using and enjoying.

JUS venandi et piscandi.—The right of hunting and fishing.

JUVENES.—Chancery clerks of an inferior degree.

JUXTA formam statuti.—According to the form of the statute.

JUXTA tenorem sequentum.—According to the tenor following.

NOTES TO J.

JUDICES QUIRITIUM.—The student will be gratified to learn the manner of conducting a trial among the ancient *Romans*. When the day appointed came, the trial proceeded, unless the Judge, or some of the parties, were absent from a necessary cause, (*ex morbo, vel causa sontica*. *Fest.*)—i. e. “from disease, or some just impediment;” in which case the day was put off (*diffusus est, i. e. prolatus*). *Gell.* xiv. 2.

If the judge were present, he first took an oath, according to the best of his judgment, (*ex animi sententiâ*), vide *Cic. Acad.*, Q. 47, at the altar, (*aram tenens*), i. e. holding the altar, (*Cic. Flacc.* 36,) called “*Puteal Libonis*,” or “*Scribonianum*,” because that place being struck with thunder (*fulmine attactus*) had been expiated by *Scribonius Libo*, who raised over it a stone covering, (*suggestum lapideum cavum*), open at the top, in the *Forum*; near which the tribunal of the *Prætor* used to be. Vide *Hor.*, *Sat.* ii. 6, v. 35, *Ep.* i. 19, 8, and where the usurers met. Vide *Cic. Sext.* 8. *Ovid. de Rem. Am.* 561. The *Romans*, in their solemn oaths, used to hold a flint stone in their right hand, saying, “*Si sciens fallo, tum me Diespiter (salva urbe arce-que) bonis ejiciat, ut ego hunc lapidem*”—i. e. “If knowingly I use deceit, then may Jupiter, (saving the City and Capitol) cast me out from good men, as I cast this stone.” Vide *Fest. in lapis*. Hence the term, “*Jovem lap idem*

jurure," for "*per Jovem et lapidem*,"—i. e. "by Jupiter and the stone." Vide *Cic. Fam.* vii. 1, 12. *Liv.* xxi. 45, xxii. 53. *Gell.* i. 21.

The author understands there is a mode of swearing, something similar to this, in use among the *Chinese*. The witness takes into his hand some vessel that will readily break, and throws it up with the imprecation, "*May God so dash me to pieces, if I swear not the truth*." The present mode of swearing among the *Mahometan Arabs*, that live in tents, as the Patriarchs did, according to *De La Roque*, (*Voy. dans la Pal.*, p. 152,) is by laying their hands on the *Koran*. They cause those who swear to wash their hands, before they give them the book; they then put their left hand underneath, and their right over it. Whether, among the Patriarchs, one hand was under, and the other upon the thigh, is not certain: possibly *Abraham's* servant might swear with one hand upon his master's thigh, and the other stretched out to Heaven. As the posterity of the Patriarchs are described as coming out of the thigh, it has been supposed this ceremony had some relation to their believing the promise of God, to bless all the nations of the earth, by means of one that was to descend from Abraham. Vide *Burder's notes to Josephus*.

The formula, among the *Romans*, of taking an oath, we have in *Plaut. Rud.* v. 2, 45, &c., and an account of different forms. *Cic. Acad.* iv. 47. The most solemn oath among the *Romans*, was by *faith* or *honor*. Vide *Dionys.* ix. 8, 10, 48, xi. 54.

The *judex* or *judices*, after having sworn, took their seats (in the *subsellia quasi ad pedes Pratoris*)—i. e. "seats nearly at the Prator's feet;" whence they were called, "*Judices pedanei*"—i. e. inferior judges, and "*sedere*," (to sit,) is often put for *cognoscere*—to examine, or to judge. Vide *Plin.*, *Ep.* v. *Sedere* is also applied to an advocate, while not pleading. *Plin.*, *Ep.* iii. 9. The *judex*, especially if there were but one, assumed some lawyers to assist him with their counsel, (*sibi advocavit, ut in concilio adessent*.) Vide *Cic. Quinct.* 2, (*in consilium rogavit*.)—i. e. desired his advice. Vide *Gell.* xiv. 2,) whence they were called "*Consiliarii*." Vide *Suet. Tib.* 33. *Claud.* 12.

If any one of the parties were absent without a just excuse, he was summoned by an edict, or lost his cause. Vide *Cic. Quinct.* 6. If the *Prator* pronounced an unjust decree, in the absence of any one, the assistance of the *Tribunes* might be implored. *Ibid.* 20.

If both parties were present, they were obliged to swear that they did not carry on the lawsuit from a desire of litigation, (*calumniam jurare, vel de calumnia*. Vide *Liv.* xxx. 49. *Cic. Fam.* viii. 8.) If this were the case at the present day, causes for trifling matters would probably be less numerous. By one of the *Roman* laws, called *Lex Memnia vel Remnia*, it was ordained that if any one was convicted of false accusation (*calumnia*) he should be branded on the forehead with a letter, vide *Cic. pro Rosc. Am.* 19, 20, probably with the letter K, as *anciently* the name of this odious and cowardly crime, was written *Kalumniæ*.

Then the advocates were ordered to plead, which they did *twice*, one after another, in two different methods. Vide *Appian. de Bell. Civ.* i. p. 663, first, *briefly*, which was called "*causæ conjectio*,"—conjecturing, or *briefly* considering of the case; and then in a *formal oration* (*justa oratione perorabant*) i. e. arguing in a complete speech. Vide *Gell.* xvii. 2. They explained the state of the case, and proved their own charge, or defence, *testibus et tabulis* (i. e. by witnesses and writings), and by arguments drawn from the case itself (*ex ipsa re deductis*). Vide *Cic. pro P. Quinct. et Rosc. Orat.* ii. 42, 43, 44, 79, 82. To prevent them, however, from being too tedious, (*ne in immensum evagarentur*—i. e. lest they should greatly wander from the case,) it was ordained by the *Pompeian* law, in imitation of the *Greeks*, that they speak by an hour-glass (*ut ad Clepsydran dicerent*, i. e. *vas vitreum gracilliter fistulatum, in fundo ejus erat foramen, unde aqua guttatim esslueret, atque ita tempus me-*

tirtur"—i. e. "that they should argue by the hour-glass, viz., a glass vase which had a small neck, in the bottom of which was a hole, from which the water trickled out, and in this manner the time was measured." [This water glass appears to have been something like our sand glasses formerly in use.] Vide *Cic. de Orat.* iii. 34. How many hours were allowed to each advocate was left to the *Judices* to determine. Vide *Cic. Quinct.* 9; *Plin. Ep.* i. 20, iv. 9. Hence "*dare, vel petere pluras clepsydras*"—i. e. to ask more time to speak. "*Quoties judico, quantum quis plurimum postulat aqua do*"—i. e. "I give the advocates as much time as they request." Vide *Plin. Ep.* vi. ii. The "*Clepsydræ*" were of different lengths—sometimes three of them in an hour. Vide *Plin. Ep.* ii.

The advocate sometimes had a person with him to suggest (*qui subiceret*) what he should say, who was called "*Ministrator*." Vide *Cic. de Orat.* ii. 75. *Flacc.* 22. A forward, noisy speaker was called "*Rabula*" (a *rabie, quasi Latrator*) vel "*Proclamator*," a brawler, a wrangler. *Cic. de Orat.* i. 46. The *Romans*, it appears, considered noisy lawyers as men of inferior abilities. In many cases, these "*Clepsydræ*" would not be altogether useless at the present day.

Under the Emperors, advocates used to keep persons *in pay*, to procure for them an audience, or to collect hearers who attended them from court to court (*ex judicio in judicium*), and applauded them while they were pleading, as a man, who stood in the middle of them, gave the word or sign (*quam dedit signum*). Each of them for his services received his dole (*sportula*), or a certain hire (*par merces*), usually three *denarii*, hence they were called "*Laudicæni*," i. e. *qui ob cænam laudabant*—i. e. "who applauded for their supper." This custom was introduced by one *Largius Licinius*, who flourished under *Nero* and *Vespasian*, and is greatly ridiculed by *Pliny*. Vide *Ep.* 214: see also vi. 2. When a client gained his cause, he used to fix a garland of green palm (*viridis palmæ*) at his lawyer's door. Vide *Juv.* vii. 118.

When the judges heard the parties, they were said "*is operam dare*"—i. e. to give them their attention. How inattentive, however, they sometimes were, we learn from *Macrobius, Saturnal.* ii. 12.

JUDICIA AD POPULUM.—Trials before the *Roman* people were called "*Judicia ad populum*," and were first held in the *Comitia Curiata*. Vide *Cic. pro Mil.* 3. Of this, however, we have only the example of *Horatius*. *Ibid.* After the institution of the *Comitia Centuriata*, and *Tributa*, all trials before the people were held in them; capital trials in the *Comitia Centuriata*, and concerning a fine, in the *Tributa*. Those trials were called "*capital*" which respected the life or *liberty* of a *Roman* citizen. There was one trial of this kind, held in the *Comitia* by tribes, namely that of *Coriolanus*. Vide *Liv.* ii. 35, but that appears to have been irregular, and conducted with violence. Vide *Dionys.* vii. 38, &c. Sometimes a person was said to undergo a *capital* trial, "*periculum capitis adire; causam capitis; vel pro capite dicere*"—i. e. to undergo a suit relating to his life; or to plead for life,—in a *civil* cause, when, besides his loss of fortune, his *character* was at stake "*cum judicium esset de fama, fortunisque*"—i. e. "when the sentence affected his character and fortune." Vide *Cic. pro. Quinct.* 9, 13, 15. *Off.* i. 12. The method of proceeding in both *Comitia* was the same; and it was requisite that some *magistrate* should be the accuser. In the *Comitia Tributa*, the inferior magistrates were generally the accusers; as the *Tribunes*, or *Ædiles*. Vide *Liv.* iii. 55, iv. 21, &c. In the *Comitia Centuriata*, the superior magistrates, as the *Consuls*, or *Prætors*; sometimes also the inferior, as the *Questors*, or *Tribunes*. Vide *Liv.* ii. 41, iii. 24, 25, vi. 20. But they are supposed to have acted by the authority of the *Consuls*. No person could be brought to a trial, unless he was in a *private* station. But sometimes this rule was violated. Vide *Cic. pro. Flacc.* 3, *Liv.* xliii. 16.

The magistrate who was to accuse any one, having called an assembly, and mounted the *Rostra*, declared that he would, against a certain day, accuse a particular person of a certain crime; and ordered that the person accused (*reus*) should then be present. This was called *dicere diem sc. accusationis* vel *diei dictio*—i. e. "to state the day, or declaring the day of accusation." In the meantime the accused was kept in custody, unless he found persons to give security for his appearance (*sponsores eum in iudicio ad diem dictam, sistendi aut multum, qua damnatus esset, solvendi*)—i. e. "Sureties that he should be forthcoming at the day appointed, or pay the fine for which he should be condemned," who, in a capital trial were called "*vades*," i. e. "sureties." *Liv.* iii. 13. xxv. 4; and for a fine "*prædes*," (perhaps freeholders.) *Gell.* vii. 19.

When the day arrived, the magistrate ordered the accused to be cited from the *Rostra* by a herald. *Vide Liv.* xxxviii. 51. If the criminal was absent, without a valid reason (*sine causa sententia*), he was condemned. If he was detained by indisposition, or any other necessary cause, he was said to be excused; and the day of trial was put off. An equal, or superior magistrate, might, by his negative, hinder the trial from proceeding. *Vide Liv.* xxxviii. 52. If the criminal appeared and no magistrate interceded, the accused entered upon his charge, which was repeated three times, with the intervention of a day between each, and supported his cause by witnesses, writings and other proofs. In each charge the punishment, or fine, was annexed, which was called "*anquisitio*." Sometimes the punishment first proposed was afterwards mitigated, or increased. The accused usually stood under the *Rostra*, in a mean garb, where he was frequently subject to the scoffs and raileries (*probis et conviciis*) of the people. This appears strange, if we consider the excellent method of the *Roman* people generally adopted in other parts of their jurisprudence. After the accusation of the third day was finished a bill (*Rogatio*) was published for three market days, concerning the law, in which the crime, and the proposed punishment, or fine, was expressed. This was called "*multæ, pænæve, irrogatio*;" and the judgment of the people concerning it, "*multæ, pænæve, certatio*," *vide Cic. de leg.* iii. 3; for it was ordained that capital punishment and a fine should never be joined together, (*ne pæna capitis cum pecunia conjungeretur.*) On the third market day, the accuser again repeated his charge, and the accused, or an advocate (*patronus*) for him, was permitted to make his defence, in which everything was introduced which could serve to gain the favor of the people, or move their compassion. *Vide Cic. pro Rabir.*, *liv.* iii. 12. 58. Then the *Comitia* were summoned against a certain day, in which the people, by their suffrages, should determine the fate of the accused. If the punishment proposed was only a fine, and a *Tribune* the accuser, he could summon the *Comitia Tributa* himself; but if the trial was capital, he asked a day for the *Comitia Centuriata* from the Consul, or in his absence from the *Prætor*. *Vide Liv.* xxxvi. 3. xliii. 16. In a capital trial, the people were called to the *Comitia* by a trumpet.

JUDICIUM PARIUM.—Among the *Romans*, the *Judices*, or Jury, were at first chosen only from the Senators; then by the *Sempronian* law of *C. Gracchus*, only from the *Equites*; afterwards, by the *Servilian* law of *Cæpio*, from both orders; then by the *Glaucian* law, only from the *Equites*; and by the *Livinian* law of *Drusus*, from the Senators and *Equites*. But the laws of the *Drusus* being afterwards set aside by a decree of the Senate, the right of judging was again restored to the *Equites*, alone. Then by the *Plautian* law of *Silvanus*, the *Judices* were chosen from the Senators and *Equites*; and some of them also from the *Plebeians*; then by the *Cornelian* law of *Sylla*, only from the Senators; by the *Aurelian* law of *Cotta* from the Senators, the *Equites*, and *Tribunes ærarii*; by the *Julian* law of *Cæsar*, only from the Senators and *Equites*; and by the law of *Antony*, also from the officers of the

army. Vide *Manutius de leg.* The number of these *Judices* were different at different times. By the law of *Gracchus*, 300; of *Servilius*, 450; of *Drusus*, 650; of *Plautius*, 525; of *Sylla* and *Cotta*, 300, (as it is thought,) from *Cic. Fam.* viii. 8; of *Pompey*, 360, *Paterc.* ii. 76. Under the Emperors, the number of the *Judices* was greatly increased. *Plin.* By the *Servilian* law, the age of the *Judices* must be above thirty, and below sixty years. By other laws it was required, that they should be at least twenty-five; but *Augustus* ordered that *Judices* might be chosen from the age of twenty. *Suet. Aug.* 32; as the best commentators read the passage. Certain persons could not be chosen *Judices*, either from some natural defect, as the deaf, dumb, &c., or by custom, as women and slaves; or by law, as those condemned upon trial of some infamous crime, (*turpi et famoso judicio*, e. g. *calumnix, prævencionis, furti, vi bonorum raptorum; injuriam, de dolo malo, pro socio, mandati, tutelæ, depositi, &c.*)—i. e. adjudged in a base and infamous judgment, e. g. for calumny, prævencion (or injuring his client by bribery, &c.), robbery of goods with violence; injuries of deceit, partnership, commission, guardianship and deposit, (or bailment,) &c. And by the *Julian* law, those degraded from being Senators; which was not the case formerly. *Cic. Cluent.* 43. By the *Pompeian* law, the *Judices* were chosen from persons of the highest fortune. *Judices* were annually chosen by the *Prætor Urbanus*, or *Peregrinus*: according to *Dio. Cassius*, by the *Questors*, xxxix. 7; and their names written down in a list (*in album relata, vel albo descripta*,) *Suet. Tib.* 51. *Claud.* 16, &c. They swore to the laws; and that they would judge uprightly, according to the best of their knowledge, (*de animi sententia*.) The *Judices* were prohibited by *Augustus* from entering the house of any one. *Dio.* liv. 18. That they sat by the *Prætor* on benches; whence they were sometimes called his *Assessors* or "*Consilium*." The office of a *Judex* was attended with trouble, *Cic. in Verr.* i. 8; and, therefore, in the time of *Augustus* people declined it; but not so afterwards, when the number was greatly increased. *Suet. et Plin.*

JURE DIVINO, ET JURE HUMANO.—Among the *Romans*, things with respect to property were divided. Some things were said to be of "*divine right*"—others of "*human right*"—the former were called "*sacred*" (*res sacræ*) as altars, temples, or anything publicly consecrated to the Gods, by the authority of the Pontiffs—or "*religious*," (*religiøsæ*) as sepulchres, &c. or inviolable "*sanctæ*," i. e. *aliqua sanctione munitæ*—i. e. defended by some sanction, as the walls and gates of a city. *Macrob. Sat.* iii. 3

These things were subject to the law of the Pontiffs; and the property of them could not be transferred. Temples were rendered sacred by inauguration, or dedication, that is, by being consecrated by the Augurs, (*consecrata inaugurataque*). Whatever was legally consecrated, was ever afterwards inapplicable to profane uses. Vide *Plin. Ep.* ix. 39, &c. Temples were supposed to belong to the Gods; and could not be the property of a private person. Things ceased to be sacred, by being unhallowed (*exauguratione*). Vide *Liv.* i. 55. Any place became religious by interring a dead body in it. Sepulchres were held religious, because they were dedicated to the infernal Gods.

Things of *human right* were called profane, (*res profanæ*), and were either public and common; as the air, running water, the sea and its shores, &c. *Virg. Æneid.* vii. 229, or private, which might be the property of individuals.

Things which properly belonged to nobody, were called "*res nullius*," (i. e. the property of no one,) as parts of the world not discovered; animals not claimed, &c. To this class was referred "*hereditas jacens*," or an estate in the interval of time betwixt the demise of the last occupier, and the entry of the successor.

Things were either movable, or immovable. The movable things of a

farm were "*ruta cæsa*," (i. e. things dug, or thrown down) as sand, coals, stones, &c., which were commonly excepted "*recepta*" (or retained) by the seller. Vide *Cic. Top.* 26. *Orat.* ii. 55.

Things were also divided into corporeal and incorporeal, (such as rights, servitudes, &c.) The former *Cicero* calls "*res quæ sunt*," (things which are.) The latter "*res quæ intelliguntur*," (things which are understood.) Vide *Topic.* 5. But others, perhaps more properly, call the former "*Res*," (things,) and the latter "*Jura*," (rights.) Vide *Quinct.* v. 10, 116. The division of this, *Horace* briefly divides thus:

— "*Fuit hæc sapientia quondam,
Publica privatis secernere, sacra profanis.*" de Art. Poet. 396.

i. e. "This was the (rule of) wisdom, in ancient times, to draw a line of discrimination between public and private rights; between what was sacred and profane (or common)."

JURE REPRESENTATIONIS.—A question arose in the tenth century respecting the right of representation, which was not then fixed, though now universally established in *Europe* and *America*. "It was a matter of dispute," (saith the historian,) "whether the sons of a son ought to be reckoned among the children of the family, and succeed equally with their uncles, if their father happened to die while their grand-father was alive. An assembly was called to deliberate on the point, and it was the general opinion that it ought to be remitted to the examination and decision of the judges. But the Emperor, following a better course, and desirous of dealing honorably with his people and nobles, appointed the matter to be decided by battle between two champions. He who appeared in behalf of the right of the children to represent their deceased father, was victorious; and it was established by a perpetual decree, that they should thereafter share in the inheritance together with their uncles." Vide *Wittikundus Corbiensis lib. Annal. ap. M. de Lauriere, Pref. Ordon*, vol. i. p. 33. If we can suppose the caprice of folly to lead men to any action more extravagant than this (of settling a point in law by combat) it must be that of referring the truth or falsehood of a *religious* opinion to be decided in the same manner. To the disgrace of human reason it has been capable *even* of this extravagance. A question was agitated in *Spain* in the eleventh century, whether the *Musarabic* Liturgy and Ritual, which had been used in the churches of *Spain*, or that approved of by the See of *Rome*, which differed in many particulars from the other, contained the form of worship most acceptable by the Deity. The *Spaniards* contended most zealously for the Ritual of their ancestors. The *Popes* urged them to receive that to which *they* had given their sanction. A violent contest arose. The nobles proposed to decide the controversy by the sword. The King approved of this mode of decision. Two Knights, in complete armor, entered the list. *John Ruys de Mantanca*, the champion of the *Musarabic* Liturgy, was victorious. But the Queen and the Archbishop of *Toledo*, who favored the other form, insisted on having the matter submitted to *another* trial; and had interest enough to prevail in this request, inconsistent with the laws of Combat, which ought to have been acquiesced in as final. A great fire was kindled, and a copy of each Liturgy was cast into the flames. It was agreed that the book, which stood this proof and remained untouched, should be received in all the churches of *Spain*. The *Musarabic* Liturgy triumphed also in that trial; and if we may believe *Roderigo de Toledo*, remained unhurt by the fire, when the other was reduced to ashes.

JUS CIVILE, &c.—Among the calamities which the devastation of the Barbarians, who broke into the *Roman* Empire, brought upon mankind, one of the greatest was their overturning the system of *Roman* jurisprudence, the noblest monument of the wisdom of that great people, formed to subdue and govern the world. But the laws and regulations of a civilized community

were altogether repugnant to the manners and ideas of the fierce northern invaders. The Romans had respect to objects of which a rude people had no conception; and their laws were adapted to a state of society, with which they (the invaders) were totally unacquainted. For this reason, wherever the northern conquerors settled, the Roman jurisprudence soon sank into oblivion; and lay buried for some centuries under the load of those institutions, which the inhabitants of Europe dignified with the name of "Laws." About the middle of the twelfth century, a copy of Justinian's *Pandects* was accidentally discovered in Italy; and at that time the state of society was so far advanced, and the ideas of men so much enlarged and improved, by the occurrences of several centuries, that they were struck with admiration of a system which their ancestors could not comprehend. Men of letters studied this new body of laws with eagerness; and within a few years after the discovery of the *Pandects*, professors of the Civil Law were appointed, who taught it publicly in most countries of Europe.

JUS ET ÆQUITAS, are distinguished, *Cic. Off.* iii. 16. *Virg.* ii. 426; *jus et justitia*; i. e. right and justice—*jus civile*; the civil law—*et leges*; and the laws. *Phil.* ix. 5. So *æquum et bonum*, i. e. just and good—is opposed to *callidum versutumque jus*, i. e. an artful interpretation of a (written) law. *Cæcin.* 23. *Summum jus*, (the rigor of the law,) *summa injuria*, (the greatest injury.) *Off.* i. 11. *Summo jure agere*; *contendere*; *experiri*; &c., i. e. to try to the utmost stretch of the law. It would appear from these words, and other sentences found in the ancient classics, and law writers, that as unmerciful and oppressive a spirit, or love of litigation, possessed some persons' minds in ancient times, as is found in many litigating parties of the present day, who are really a bane to society.

JUS ET LEX—Right and Law. The words "*Jus*," and "*Lex*," are used in various senses, though sometimes confounded. They are both expressed by the English word "LAW." *Jus* seems to imply what is just, and right in itself; or what from any cause is binding on us. Vide *Cic. de Offic.* iii. 21. *Lex* is a written statute, or ordinance, (*lex quæ scripto sancit quod vult, aut jubendo aut vetando.* *Cic. de leg.* 1, 6.—i. e. a law established by writing, which is efficacious, either in commanding or forbidding. "A *legendo, quod legi solet, ut innotescat*"—i. e. "from reading, because it is wont to be read, that it might be notorious." *Varr. de Lat. ling.* v. 7, a *justo et jure legendo*, i. e. *eligendo*, "from a just and select law," *Cic. de Leg.* ii. 5, *justorum injustorum quæ distinctio.* *ibid.*—i. e. "the law, which distinguishes the just and unjust."

Jus is properly what the law ordains, or the obligation which it imposes; (*est enim Jus quod Lex constituit*)—i. e. that is right; (or that is binding) which the law ordains. *Cic. de Leg.* i. 15, *ad Herenn.* ii. 13—or according to the Twelve Tables, "*Quodcumque populus jussit, id jus esto*"—i. e. whatever the people ordain, that is the law. *Liv.* vii. 17, ix. 33. *Quod major pars judicavit, id jus ratumque esto.* *Cic.*—i. e. that what the major part shall adjudge, let that be the law."

But *Jus* and *Lex* have a different meaning, according to the words with which they are joined—thus *jus natura, vel naturale*—i. e. "the law of nature, or natural law," is what nature, or right reason teacheth to be right; and *jus gentium*, i. e., "the law of nations," what all nations esteem to be right: both commonly reckoned the same. *Cic. Sext.* 42. *Harusp. resp.* 14. *Jus civium, vel civile*, i. e. "the law of citizens, or the civil law," is what the inhabitants of a particular country esteem to be right, either by nature, custom, or statute. *Cic. Top.* 5, *Off.* iii. 16, 17. *De Orat.* i. 48. Hence *constituere jus quo omnes retantur (pro Dom)*—i. e. "to establish the law in which all are conversant." *Qui subjecti sint (pro Cæcin)*—i. e. "to which all are subject." So *jus Romanorum, Anglicum, &c.* When no word is added to restrict it, *Jus Civile* is put for the civil law of the Romans. *Cicero* some-

times opposes *Jus Civile* to *Jus naturale*. *Sect.* 42; and sometimes to what we call *criminal law*, (*Jus publicum*)—i. e. public law. *Verr.* i. 42, &c. *Jus commune*, i. e. the common law, what is held to be right among men in general, or among the inhabitants of any country, (*Cic. Cæcîn.*) *Jus publicum, et privatum*—i. e. "the public and private law;" what is right with respect to the people (*quasi jus publicum*), or the public at large; and with respect to individuals, political and civil law. *Liv.* iii. 34, &c. But *Jus publicum* is also put for the *right*, which the citizens in common enjoyed. (*Jus commune.*) *Jus divinum et humanam*—i. e. "the divine and human law;" what is right with respect to things divine and human. *Liv.* i. 18, xxxix. 16. Hence, *fas et jura sinunt* (i. e. laws divine and human permit). *Virg. G.* i. 269. *Contra jus, fasque*—i. e. against law and justice. *Sall. Cat.* 15. *Jus fasque exire*—i. e. "to depart from law and justice." *Tacit. Hist.* iii. 5.

JUS GLADIUM.—Sword law is mentioned by our *Latin* authors, and by the *Norman* laws, and means *Supreme Jurisdiction*, or that kept by force of arms. *Vide Camden*. And it is said, that from hence, at the creation of an Earl, he is "*gladio accinctus*"—i. e. "girt with a sword," to signify that he has jurisdiction over the county of which he is made an Earl.

JUS HONORARIUM.—By order of the Emperor *Hadrian*, the various Edicts of the *Prætors* were collected into one, and properly arranged by the Lawyer, *Salvius Julian*, the great-grand-father of the Emperor *Didius Julian*; which was afterwards called *Edictum perpetuum*, or *Jus honorarium*, and no doubt was of the greatest service in forming that famous code of the *Roman* laws called *CORPUS JURIS*, compiled by order of the Emperor *Justinian*.

JUS IMAGINUM.—Among the *Romans*, those whose ancestors or themselves had borne any *Curule* magistracy, that is, had been *Consul*, *Prætor*, *Censor*, or *Curule, Ædile*, were called *NOBILES*; and had the right of making images of themselves (*JUS IMAGINUM*), which were kept with great care by their posterity, and carried before them at funerals. *Vide Plin.* xxxv. 2.

These images were nothing else but the busts or the *effigies* of persons down to the shoulders, made of wax, and painted; which they used to place in the courts of their houses (*atria*), inclosed in wooden cases; and which they seem not to have brought out except on solemn occasions. *Vide Polyb.* vi. 51. There were titles or inscriptions written below them, pointing out the honors they had enjoyed, and the exploits they had performed. *Juv. Sat.* viii. 69. *Plin.* xxxv. 2. Hence *Imagines* is often put for *Nobilitas*. *Vide Sallust. Jug.* 85, *Liv.* iii. 58; and *Cera* for *Imagines*. *Vide Ov. Amor.* i. 8, 65. Anciently, the right of images was peculiar to the *Patricians*; but afterwards the *Plebeians* also acquired it when admitted to *Cerule* offices.

Those who were the *first* of their family that had raised themselves to any *Cerule* office were called *HOMINES NOVI*, new men or upstarts. Hence, *Cicero* honestly calls himself "*Homo per se cognitus*," i. e. a person reported by himself (or indebted to his own abilities only). *Cic. in Cat.* i. 11.

Those who had no images of their own, or of their ancestors, were called *Ignobiles*, i. e. (lowly born, meanly descended).

JUS LIBERTATIS.—The right of liberty. This, among the *Romans*, comprehended freedom, not only from the power of the masters (*dominorum*), but also from the dominion of tyrants, the severity of magistrates, the cruelty of creditors, and the insolence of the more powerful citizens.

After the expulsion of *Turquin*, a law was made by *Brutus* that no one should be King at *Rome*; and that whoever should form a design of making himself King, might be slain with impunity. At the same time, the people were bound by an oath that they would never suffer a King to be created.

Roman Citizens were secured against the tyrannical treatment of magis-

trates; first, by the right of appealing from them to the people, and that the person so appealing should in no manner be punished till the people decided the matter; but chiefly by the assistance of the *Tribunes*.

None but the whole *Roman* people in the *Comitia Centuriata* could pass sentence on the life of a *Roman* citizen. No magistrate was allowed to punish him by stripes, or capitally. The single expression, "SUM ROMANUS CIVIS"—i. e. "I AM A ROMAN CITIZEN," checked their severest decrees, and stayed the Lictor's hand. *Cic. in Verr.* v. 54, and 57, &c. Hence, "*Quiritare dicitur*," *qui Quiritium fidem clamans implorat*"—i. e. one who implored the *Roman* protection. Vide *Varro de Lat. Ling.* v. 7. *Cic. ad Fam.* x. 32. *Liv.* xxix. *Acts Apost.* xxii. 25.

JUS PATRIS.—The right of the father. A father among the *Romans* had the power of life and death over his children. He could not only expose them when infants; which cruel custom prevailed at *Rome* for many ages, as among other nations. *Cic. de Leg.* iii. 8, &c., and a *new* born infant was not held *legitimate*, unless the father, or in his absence, some person for him lifted it from the ground (*terra levasset*), and placed it on his bosom; hence called "*tollere filium*," i. e. "to raise or educate; "*non tollere*," "to expose;" but even when his children were grown up, he had the right to imprison, scourge, send them bound to work in the country; and also put them to death, by any punishment he pleased, if they deserved it. Vide *Sall. Cat.* 39. *Liv.* ii. 41, &c. Hence a father is called a "*domestic Judge*," or magistrate, by *Seneca*; and a *Censor* of his own son, by *Sueton. Claud.* 16. *Romulus*, however, at first, permitted this right only in certain cases. A son could acquire no property but with his father's consent, and what he *did* thus acquire was called his "*Peculium*," i. e. "his private property," as that of a slave. Vide *Liv.* ii. 41. If he acquired it in *war*, it was called "*peculium castrense*." The condition of a son was in some respects harder than that of a slave: a slave when sold *once* became free from that master who sold him, but a son not so, until sold *three* times. The power of the father was suspended, when the son was promoted to any *public* office, but not extinguished. Vide *Liv. ibid.*, for it continued not only during the life of the children, but likewise extended to grandchildren, and great grandchildren. None of them became their own masters (*sui juris*) until the death of their father and grandfather. A daughter, however, by *marriage*, passed from the power of the father to that of her husband. And although the *Roman* laws in respect of children have been branded as very cruel and oppressive, yet, taking it in *all its bearings*, as a system of *patriarchal* authority, it has been a question whether it was not in the *aggregate* productive of *general* good to the Republic. It is but seldom that any *father* is cruel—and disobedience to parents was in the earlier stages of the world a crime, only to be atoned for by *death*, particularly by the *Mosaic* law.

JUS PUBLICUM ET PRIVATUM.—These words meant among the *Romans*, what is right with respect to the people (*quasi jus populi*), as if popular law, with the public at large; and, in respect to individuals, political and civil law. Vide *Liv.* iii. 34. But *jus publicum* is also put for the right which the citizens in common enjoyed. Vide *Terent. Phorn.* ii. 2, 65.

JUS QUIRITUM.—The right of *Roman* Citizens. These words were used abstractedly, and comprehended *all their rights*, which were different at different times. These rights were either private or public: the former were, perhaps, more properly called "*Jus Quiritium*," i. e. the right of citizens; and the latter "*Jus Civitatis*," i. e. the right of the state. *Plin. Ep.* x. 4, 6, 22; as there is a distinction between denization and naturalization. Those who did not enjoy the rights of citizens were anciently called "*Hostes*," but afterwards "*Peregrini*." Vide *Cic. Off.* i. 12. After *Rome* had extended

her empire, first over *Latium*, then over *Italy*, and afterwards over the greatest part of the then known world, the rights which the subjects of that Empire enjoyed came to be divided into four kinds, which may be called *Jus Quiritium*; *Jus Latii*; *Jus Italicum*; and *Jus Provinciarum*, vel *Provinciale*.

JUS SCRIPTUM, &c.—The *Roman* law (as with us) was either written, or unwritten (*jus scriptum, aut non scriptum*). The several species which constituted the *jus scriptum*, were laws, properly so called, the decrees of the Senate, the edicts or decisions of magistrates, and the opinions or writings of eminent lawyers. Unwritten law (*jus non scriptum*) comprehended natural equity and custom. Though, it is said, anciently, *jus scriptum* only comprehended laws properly so called. Vide *Digest de orig. jur.* All these the studious reader may find frequently enumerated, or at least alluded to by *Cicero*, who calls them *Fontes equitatis*—i. e. the fountains of equity. Vide *Topic. 5, &c., ad Herenn. ii. 13.*

JUSTA LIBERTAS.—In the latter times of the *Roman* Empire, slaves used to be freed in various ways, as well as those which had been customary, which was called "*Justa libertas*," and included their being emancipated. 1st. "*Per Censum*;" 2d. "*Per vindictam*;" and 3d. "*Per testamentum*." In addition to these modes, they were also freed by letter (*per Epistolam*); among friends (*inter amicos*); or by table (*per mensam*); if a master bid his slave eat at his table. Vide *Plin. Ep. vii. 16*; for it was thought disgraceful to eat with slaves, or mean persons, and benches (*subsellia*) were assigned them, not couches, as generally used by the *Romans*; at least those of the more wealthy sort, at their meals. Hence, *imi subselli*, viz. "a person of the lowest rank." *Plaut.* Slaves made free, used to shave their heads in the temple of *Feronia*; and received a cap or hat as a badge of liberty. Hence, "*ad pileum servum vocare*"—i. e. "to call the slave to the cap," for, *ad libertatem* (to liberty). Vide *Liv. xix. 44*. They were also presented with a white robe, and a ring by their master. They then assumed a *prænomen*, and prefixed the name of their patron to their own. Thus, *Marcus Tullius Tiro*, (the freedman of *Cicero*.)

JUSTICIARIJ AD CUSTODIAM JUDÆORUM ASSIGNATI.—Called "Justices of the *Jews*." King *Richard*, after his return from the *Crusades*, A. D. 1194, appointed particular justices, laws and orders, for preventing the frauds, and regulating the contracts and usury of the *Jews*.

JUSTICIARIJ ITINERANTES, &c.—Justice in *Eyre*—so termed from the old *Fr.* word "*erre*." These were Justices, who were, in ancient times, sent into divers counties to hear causes, especially such as were termed "*Pleas of the Crown*." These Justices, according to *Gwin*, were sent but *once* in *seven* years; but this may be doubtful. Vide *Hoveden*.

JUS TRIUM LIBERORUM.—This law is frequently mentioned by *Pliny*, *Mar- tial*, &c. It was granted sometimes to women. Vide *Dio. iv. 2*. The privileges of having *three* children were an exemption from the trouble of guardianship, a priority in bearing offices (*Plin. Ep. viii. 16*), and a treble proportion of corn. Those who lived in celibacy could not succeed to an inheritance, except of their nearest relation, unless they married within one hundred days after the death of the testator; nor receive an entire legacy (*legatum omne, vel solidum capere*), to take all, or the entire legacy, and what they were thus deprived of, in certain cases, fell as an escheat (*caducum*) into the *Exchequer* (*fiscus*), or prince's private purse. Vide *Juvenal, ix. 88*.

K.

ΚΑΙΑ.—A key, or wharf: a place to land and take in merchandise.

ΚΑΛΕΝΔΑ.—The calends of a month.

Καλλε και δεσμοισυρες δογματα νομου.—The decisions of the law are those of equity and justice.

ΚΑΡΑΧΑΡΕ.—To make characters; to mark.

ΚΑΡΛΕ.—“A mæn.” The *Saxons* called a domestic servant a *huskarle*; from whence, perhaps, the modern word *churl*.

ΚΑΡΡΑΤΑ.—A cart-load.

ΚΕΡΧΕ, Kirche, Kerchia, Kurk.—A Church.

ΚΕΡΝΕΛΛΑΡΕ.—To fortify.

ΚΙΔΔΛΕ.—A dam in a river with a cut in it arranged to catch fish.

ΚΙΛΛΙΑΓΙΟΝ, Keelage.—A privilege to demand money for the bottom of ships resting in a port or harbor.

ΚΙΝΣΒΟΤΕ.—The fine or satisfaction paid for killing a kinsman.

ΚΝΙΓΤΕΝ-ΓΥΛΔ.—An ancient corporation in London, consisting of nineteen knights.

Κοινο;—Common: public.

Κομπρομισσον.—A bond or engagement.

L.

LABEFACERE fidem suam.—To destroy his credit.

LACERTA.—A fathom.

LACHES.—Neglect: supineness.

LÆSIWERP.—To surrender; deliver up.

LÆSTUM.—See LATHE.

LAFORDSWIE.—Sax. Treachery against a lord or master.

LACTA.—“A defect in the weight of money”; whence probably comes the word “*Lack*.”

LA chose recoit encore mains de difficulté si le capitaine parvenu au lieu destiné, dissipé la pacotille chargé à sa consignation l'est alors un risque de terre, dont le assureurs ne respond en aucune maniere.—The matter is attended with still less difficulty, if the captain, after having arrived at his destination, injures or damages the vessel committed to his care; it is then a land risk for which the insurers are in no manner responsible.

LÆSÆ majestatis crimen.—High treason.

LAGA.—“Law.” Hence we derive the *Saxon lage*, *Mercen-lage*, *Dane-lage*, &c.

LAGAN.—Sax. Goods found in the sea.

LAGE-DAY. A law-day.

LAGEMAN.—*Homo habens legem* i. e. *homo legalis*: such as we now call a good man of the jury.

LAHMAN.—A lawyer.

LAHSLIT.—Saxon or Danish. A breaking of the law.

LAICOS privilegio universitatis gaudentes.—“Laymen enjoying the privilege of the university:” matriculated laymen.

LAIEL.—French. Lawful. LAI.—Law.

LAIRWITE—Lecherwite, Legergeldum.—Sax. “*legan*,” i. e. to lie with; and “*wite*,” a fine; “*Pœna vel mulcta offendentium in adulterio, et fornicatione*.” The punishment or fine (inflicted) on those caught in adultery and fornication. *Vide note*.

LA loi de *Mahomet* confonde l'usage avec le pret à interest. L'usure augmente dans les pais *Mahometans* a proportion de la severite de la defence: le pretuer s'indemnise du peril de la contravention.—The law of *Mahomet* confounds usage with the loan at interest. Usury increases in the *Mahometan* countries in proportion to the severity

of its prohibition. The lender indemnifies himself against the danger of the risk.

LA mandant qui ne respond point la lettre per la quil seo commissionaries luy expliquent qu'ils on fait, est censi approuver leur conducte quoiqu'ils agents excédé le mandat, cette reception de la lettre, non contradite, est, parmi les negocians un acte positif d'approbation.—The consignor who returns no answer to a letter from his consignees, explaining the transaction, is held to have approved their conduct, although they may have exceeded their commission (or instructions): the receipt of such a letter, not being denied, is considered among merchants as a conclusive act of approval.

LANCETA.—A kind of farming tenant. (Old English Law.)

LANDBOC.—A Saxon deed for land or house.

LANDEA.—A trench for draining lands.

LANDEGANDMAN.—An inferior tenant.

LANDGABLE.—Land rent.

LANDIMER.—Land boundary.

LANDSLAGH.—A Swedish compilation of *common* law.

LANGEMANNI.—Lords of estates.

LANGUEBAT usque ad decimum nonum diem mensis Decembris anno 1628, quo quidem decimo nono die, &c., obiit, &c.—He languished until the nineteenth day of the month of December in the year 1628, on whic hnineteenth day of, &c., he died, &c.

LANGUIDUS in priona.—He is sick in prison: an ancient return to a writ.

LANGUIDUS vel mortuus est.—He is sick or dead.

LANO NIGER.—An inferior coin.

LA propriete des choses mobiliars est acquisi â l'enemi, moment qu'elles sont en puissance: et si il leo vend chez nation neutres, le premisre proprietater n'est point endroit de les re prendre.—Property in things personal is ac-

quired by the enemy at the moment they are in his power, and if he sell them among neutrals, then the first proprietor has no right to retake them.

LARON.—A thief.

LAS partidas.—A code of Spanish laws.

LASIER.—To leave out.

LATA culpa dolo æquiparatur.—A concealed fault is equal to a deceit.

LATHE.—A division of a county, including sometimes two or three *hundreds* or more.

LATHEREVE.—He who exercised authority over a *lathe*.

LATITAT.—“He lies hid.” The name of a writ.

LATITAT et discurrit.—He lurks, and runs about.

LATROCINIUM.—Larceny. *Vide note.*

LATRONI cum similem habuit, qui furtum celare vellet, et occulte sine judice compositionem ejus admittere.—(The law) accounted that person as bad as the thief, who endeavored to conceal the larceny, and privately to receive a composition, without bringing the offender to justice.

LAUGHLESMAN.—Sax. An outlaw.

LE défaut de transcription ne pourraê etre suppléé ni regardé, comme convert par lar connaissance que les creanciers ou les tiers aquereurs pourraient avoir eue de la disposition par d' autres voies que celle de la transcription.—A fault in the translation cannot be supplied, nor even regarded as truth, by the belief or testimony of those concerned (in the disposition); it must be decided by the other words of the translation.

LE defendant malitiose dit, que ceo fuit false affidavit; et que 40 voilent jure al contrarie.—The defendant maliciously says, that it is a false affidavit; and that he can produce forty witnesses who will swear to the contrary.

LEDO—Ledona.—The rising water, or increase of the sea.

LE don fuit bon et leal.—The present was good and lawful.

LE droit escrit.—Statute right.

LEGABILIS.—Signifies what is not entailed, as hereditary; but may be bequeathed by a will or testament.

LEGATUM.—A legacy: bequest, or gift of goods or money, by will.

LEGATUS.—A legate. *Vide note.*

LEGEM facere.—To make law.

LEGEM promulgare.—To publish the law.

LEGES autem *Anglicanas*, licet non scriptas leges appellari non est absurdum, cum hoc ipsum lex sit, quod principi placet, et legis habet vigorem, eas scilicet, quas super dubiis in consilio, diffidendis, procerum quidem consilio, et principis auctoritate accordante vel antecedente constat esse promulgatas, si enim ob solum scripturæ defectum leges minime conferenter, majoris proculdubio auctoritatis robur ipsis legibus videretur accommodare scripturâ, quam iudices æquitate, aut ratione statuentis.—It is not, however, improper to bestow the name of *laws* upon the *English* laws, though they may not be written, inasmuch as that very thing may be *law*, which pleaseth the king, and hath the force of law; that is to say, those (laws) which are known to have been promulgated for the resolving of difficult questions, by the advice of the great men of the kingdom, upon the previous motion, or with the subsequent assent of the king; for if they were not to be holden for laws, by reason of their not being reduced into writing, it would seem that the law derived its weight and authority rather from the (bare) writing, than from the discretion of the judge, or the reasons which moved the lawgiver (for its enactment).

LEGES et constitutiones futuris certum est dare formam negotiis, non ad facta præterita revocari, nisi nominatim, et de præterito tempore, adhuc pendentibus negotiis cautum est.—It is certain that the laws and constitutions are to prescribe a form to future transactions, and not to be referred to matters already finished, unless specially named,

and (as) of a preceding time, as a caution to those which are yet pending.

LEGES figendi et refigendi consuetudo est periculosissima.—The practice of making and re-making the laws is most dangerous.

LEGES non scriptæ.—The unwritten, traditional, or common law.—*Vide note to "Traditione," &c.*

LEGES posteriores priores contrarias abrogant.—Subsequent laws repeal those before enacted to the contrary.

LEGES quæ retrospectivæ raro, et magna cum cautione sunt adhibendæ; neque enim *Janus* locaretur in legibus.—Laws which are retrospective are rare, and to be received with great caution, for *Janus* should have no situation among the laws. *Vide note.*

LEGES Quiritium.—The Roman Laws. *Vide note.*

LEGES Salicæ.—The Salic Laws. *Vide note.*

LEGES scriptæ.—The statute, or written law.

LEGES solâ memoriâ et usû retinebant.—“They retained their laws solely by memory and usage.” This is what is called the Common law—the “*Leges non scriptæ*,” unwritten laws. *Vide note to Traditione, &c.*

LEGES sub graviore lege.—Laws subordinate to a superior law.

LEGES tabellariæ.—Laws respecting the vote by ballot.

LEGES vigilantibus, non dormientibus subveniunt.—The laws relieve the vigilant, not those who sleep (over their rights).

LEGIBUS patriæ optime instituti.—Those best instructed in the laws of the country.

LEGIBUS solutus.—Freed from the laws.

LEGIS actiones.—Law suits.

LEGIS constructio non facit injuriam.—The construction of law does no injury.

LEGITIMA mariti et uxoris separatio apud competentem judicem cum causæ cognitione, et sufficiente ejus probatione

factæ.—“A lawful separation of husband and wife, by a competent judge, with knowledge of the cause, and sufficient proof of the fact.” This was the definition of a divorce by the ancient Canon law.

LEGITIME acquiatus.—Legally discharged or acquitted

LEGITIMI.—The issue of a lawful marriage. *Vide note.*

LEGITIMO maritagio.—By a lawful marriage.

LEGITIMO matrimonio copulati.—Joined in lawful wedlock.

LEGITIMUM maritagium, et non ratum.—“A lawful marriage, and not confirmed.” This applied to marriages formerly solemnized between *Jews*, or others, not professing Christianity.

LEGITIMUM maritagium ratum.—“A lawful, confirmed marriage.” This was said of a marriage attended with due canonical solemnization.

LEGIT vel non?—Reads he or not? LEGIT ut clericus.—He reads like a clerk. This was the question and answer where the person on trial claimed the benefit of clergy.

LEGULEIUS quidam cautus et acutus præco actionum, cantor fabularum, auceps syllabarum.—A certain lawyer, wary and keen in declamation, a chatterer of idle stories, a captious (or pettifogging) fellow.

LEGUM Anglicanarum Conditor.—The founder of the *English* laws.

LEGUM Anglicanarum Restitutor.—The restorer of the *English* laws.

LEGUM denique idcirco omnes servi sumus, ut liberi esse possumus.—Wherefore, finally, we are slaves to the laws, that we may become free.

LEIPA.—“A departure from service.” “*Si quis a domino suo sine licentia discedat ut “Leipa” emendatur, et redire cognatur.*” If any person leave his master without his consent, he shall be punished for such departure and compelled to return. *Vide Leg. Hen. 1, c. 43. Blount.*

LE loix extremes dans le bien font moitifs le mal extremes.
—Rigid laws, although made from good motives, produce bad effects.

LE reason est, quia le keeping del cheval est un charge, quia il mange; mes le keeping del apparel n'est aucun charge. The reason is, because the keeping a horse is an expense, because he eats; but there is no expense in keeping of clothes.

LE Roy le veut.—The king wills it.

LE Roy remercie ses loyal sujets, accepte leur benevolence, et aussi le veut.—The King thanks his loyal subjects, accepts their benevolence, and wills it to be so.

LE Roy s'avisera.—The king will consider. *Vide note.*

LES assureurs, qui se sont renders garans de la barraterie du patron (ils) sont responsable de la perte de la pacotille assureé, si cette perte arrivè par la faute du capitaine, charge de la commission.—The insurers, who have insured against the barratry of the commander, are responsible for the loss of the vessel insured, if this loss be occasioned by the fault of the captain charged with the care of it.

LESCHEIVES.—Trees fallen by chance.

LES juges sont sages personnes et autentiques si comme les archevesques, evesques, les chanoines des eglises cathedraux et les autres personnes qui ont dignitez in sainte eglise; les abbes, les prieurs conventraux, et les Gouverneurs des eglises, &c.—The Judges are wise persons, and of high authority, such as the Archbishops, Bishops, the Monks of the Cathedral Churches, and the other persons who hold dignities in the Holy Church; the Abbots, Priors of Convents, and the Governors of Churches, &c. *Vide note.*

LES loix extremes dans le bien font naitre le mal extreme; il falut payer pour la pret de l'argent et pour le danger despeines de la loi.—Laws extremely good produce the greatest evil. We must pay for the loan of money, and for the danger of the penalties of the law.

LESPEGEND.—Sax. An inferior thane.

LES prelats seigneurs, et communs en ce present parliament assembleés au nom de tous autres sujets, remercient tres humblement votre Majeste, et prient à Dieu vous donner en santé bonne vie et longue.—“The Prelates, Lords, and Commons, in this present parliament assembled, in the name of all your other subjects, most humbly thank your Majesty, and pray to God to grant you good health and a long life.”

[This was an ancient address of the *British* Parliament to the King.]

LESQUE l'changer a chez novo luis de la declaration du guerre subsistent ou leur entier. S'il est forcè de si retirer, il lui est eviseable de laisser sa procuracion a un ami pour exiger ce qui lui est du, et pour actioner ceo debitinero en justice.—Those who, on a declaration of war, are obliged to change their place of residence, must dwell in the latter entirely; and if a person be compelled to retire, it is proper that he should authorize a friend to receive what is due to him, and to prosecute those who are justly indebted.

LE subpœna ne serroit cy souventement usé come il est ore, si nous attendemus tiels actions sur les cases, et maintenans le jurisdiction de ces court, et d'autre courts.—The subpœna would not be so often used as it is, if we bring such actions upon the case and maintain the jurisdiction of this and of the other courts.

LES usages et coutumes de la mer.—Marine usages and customs.

LESWES.—Pasture lands.

LE tien et le mein.—Of thine and mine.

LETTEREURE.—Learning.

LEUCA, LEUGA.—A league.

LEUDIS.—A feudal tenant.

LEVANDÆ navis causa.—In order to lighten the vessel.

LEVANT et couchant.—Lying down and resting.

LEVANTES et cubantes.—Easing themselves ; rising up and lying down.

LEVARI facias.—That you cause to be levied.

LEVARI facias de bonis.—That you cause to be levied of the goods.

LEVARI facias de bonis ecclesiasticis.—That you cause to be levied of the church goods.

LEVIS culpa.—Slight fault.

LEX.—“The Law.” This word, among the ancient *Romans*, was often taken in the same general sense as *Jus* (Right). When we find *Lex* put *absolutely*, the law of the Twelve Tables is meant. Vide *Cic. Verr.* i. 45.

LEX agraria.—The Agrarian law for distributing lands. Vide *note*.

LEX amissa: or *legem amittere*.—One who is an infamous, perjured, or outlawed person. *Bract*.

LEX anglie nunquam sine parlamento mutari potest.—The law of England can never be changed without parliament.

LEX apparens.—A term applied in English and Norman law to the trial by duel and the trial by ordeal.

LEX apostata: or *legem apostare*.—To do anything contrary to the law.

LEX aquilia.—The Roman law concerning the compensation to be paid for injuring or killing another's slave or beast.

LEX atilia.—A law concerning guardianships.

LEX atinia.—A law respecting things stolen.

LEX Bainvariorum.—The law of the Bavarians.

LEX Barbara.—A term given by the Romans to the law of those nations not subject to their empire.

LEX Brehona.—The early law of Ireland before its conquest by Henry II.

LEX Burgundionum.—The Burgundian law.

LEX canonica.—The Canon law. Vide *note*.

LEX comitatus.—The county law.

LEX communis.—The common law, as opposed to statute law. *Vide note.*

LEX citius tolerare vult privatum damnum quam publicum malum.—The law will rather permit a private loss (or damage) than a public evil.

LEX Cornelia de sicariis.—The Cornelian law concerning assassins.

LEX Danorum.—The law of Denmark.

LEX deficere non debet in justitia exhibenda.—The law ought not to fail in showing justice.

LEX deraisina.—An ancient Norman law, by which the party sued denies that he committed the act with which he is charged.

LEX de maritandis ordinibus.—The law of marriage rites. *Vide note.*

LEX domicilii.—The law of domicile.

LEX est ab æterno.—Law is from everlasting.

LEX est sanctio sancta, jubens honestu et prohibens contraria.—Law is a sacred sanction commanding the right, and forbidding the wrong action.

LEX et consuetudo parliamenti ab omnibus quærenda; a multis ignota; a paucis cognita.—The law and custom of parliament, sought after by all, unknown by many, and understood by few.

LEX fori.—The law of the court.

LEX Falcidia.—A Roman law respecting a testator's disposal of his property.

LEX Francorum.—The law of the Franks.

LEX Frisionum.—The law of the Frisians.

LEX Fusia Canina.—Roman law respecting the manumission of slaves.

LEX Hostilia de furtis.—The *Hostilian* law concerning thefts.

LEX judicat de rebus necessario faciendis, quasi re ipsa factis.—The law judges of things that must of necessity be done, as if they were actually done.

LEX Julia magistratis.—The *Julian* law as to treason.

LEX loci contracti.—The law of the place where the agreement was made.

LEX Longobardorum.—The law of the Lombards; they were of Saxon origin, so that their laws are analogous to the English.

LEX mercatoria.—The law merchant; mercantile law.

LEX mercatoria est lex terræ.—The mercantile law is the law of the land.

LEX necessitatis est lex temporis.—The law of necessity is the law of the time or present moment.

LEX neminem cogit ad vana seu impossibilia.—The law compels no one to (perform things) vain or impossible.

LEX nemini facit injuriam.—The law does no injury.

LEX nil frustra facit.—The law does nothing in vain.

LEX non cogit ad impossibilia.—The law does not oblige (a person) to do impossibilities.

LEX non curat de minimis.—The law does not regard trifles.

LEX non exacte definit, sed arbitrio boni viri permittit.—The law does not exactly define (this), but leaves it to the judgment of an honest man.

LEX non requirit verificari quod apparet curiæ.—The law does not require to be proved what is apparent to the court.

LEX non scripta.—The unwritten, or common law that which has been received from time immemorial by tradition. *Vide note to "Traditiones," &c.*

LEX plus laudatur, quando ratione probatur.—Law is most commendable when approved by reason.

LEX Prætoriana.—The Prætorian law.

LEX pure pœnalis, obligat tantum ad pœnam, non item ad culpam; lex pœnalis mixta, et ad culpam obligat, et ad pœnam.—The law, merely penal, binds only as to penalty, not as to fault; the mixed penal law binds both to fault and penalty.

LEX Salica.—“The *Salique* Law.” A law by which males only are allowed to inherit. It was an ancient law made by *Plaromond*, King of the *Franks*. It is somewhat singular that a nation like the French, which prides itself on its gallantry, should be almost the only one to exclude females from the throne.

LEX scripta.—The written or statute law.

LEX talionis.—The law of requital in kind: “An eye for an eye,” &c., as in the Mosaic law. *Vide note*.

LEX terræ.—The law of the land: generally taken in contradistinction to the civil law, or code of *Justinian*.

LEX Wallensica.—The law of Wales.

LEX Wisigothorum.—The law of the Western Goths who settled in Spain.

LEZ —Lands.

LIBELLI famosi.—Libels: infamous writings.

LIBELLUS sine scriptis.—A unwritten libel.

LIBERA a prisona.—Discharge out of prison.

LIBERA batëlla.—A free boat.

LIBERA eleemosyna.—Free alms: charity.

LIBERA et pura donatio.—A free and pure gift (not clogged with conditions).

LIBERA lex.—Frank or free law.

LIBERA piscaria.—A free fishery.

LIBER Assisarum.—The Book of Assizes.

LIBER et legalis homo.—A free and lawful man.

LIBER homo.—A free man. *Vide note*.

LIBER homo non amercietur pro parvo delicto, nisi secundum modum ipsius delicti; et pro magno delicto, secundum magnitudinem delicti, salvo contenemento suo; mercator eodem modo, salva merchandiza sua; et villanus eodem modo amercietur, salvo wainageo suo.—“That a free man be not fined for a trifling offence, but according to the extent of his crime; and for a great offence according to the magnitude thereof, saving his freehold; and the merchant, in the same manner, his merchandise being pre-

served; and the farmer in like manner, his wainage also being preserved." [Part of "*Magna Charta.*"]

LIBERI et legales homines de vicineto.—Free and lawful men (freeholders) of the vicinage, or neighborhood. Vide note to "*Non Numero,*" &c.

LIBERI sokemanni.—Tenants in free soccage.

LIBER judicialis.—The "*Dom-ber,*" or "*Dome-book,*" compiled soon after conquest of *England* by the *Normans.* Vide *Dom-ber* and note.

LIBER nigir scaccarii.—Black Book of the Exchequer.

LIBER ruber scaccarii.—Red Book of the Exchequer.

LIBEROS et legales homines juratos.—Free and lawful men sworn.

LIBERTAS est potestas faciendi id quod jure liceat.—Liberty is the power of doing what is sanctioned by law.

LIBERTAS loquendi.—The liberty or freedom of speech. Vide note.

LIBERUM animum testandi.—A free (or uncontrolled) intention of bequeathing.

LIBERUM corpus æstimationem non recipit.—The life of a freeman is above all computation.

LIBERUM est cuique apud se explorare; aut expediat sibi consilium.—It is free for every one to weigh the matter in his own mind; or to have resort to counsel.

LIBERUM et commune soccagium.—Free and common soccage.

LIBERUM maritagium.—A free marriage. Vide note.

LIBERUM soccagium.—Free soccage.

LIBERUM tenementum.—"Frank tenure or freehold." Anciently an estate held by a freeman, independently of the mere will and caprice of the feudal lord.

LIBRÆ arsæ, et pensatæ, et ad numerum.—Money burnt and weighed, and counted. Vide note.

LIBRIPENS.—In Roman Law, the person who weighed or held the balances.

LICEAT eos exhæredare quos occidere licebat.—It may be lawful to disinherit those whom it is lawful to deprive of life.

LICEBAT palam excipere, et semper ex probabili causa tres repudiari; etiam plures ex causa pregnantibus et manifesta.—It was lawful openly to except, and three for a probable cause were always rejected; and even more for a cause which was important and clear.

LICENTIA concordandi.—Leave to settle (a suit).

LICENTIA loquendi.—Liberty of speech.

LICENTIA surgendi.—Leave to arise.

LICET apud consilium accusare; quoque et discrimen capituli intendere.—It is likewise lawful to impeach at the (general) council; and to try capital offences.

LICET in ambiguis capere consilium.—He has liberty to have counsel in doubtful cases.

LICET meretrix fuerit antea, certe tunc temporis non fuit, cum reclamando nequitie ejus consentire noluit.—Although she were a harlot before, she certainly was not so at that time, when, crying aloud, she would not consent to his lust.

LICET sæpe requisitus.—Although often requested.

LICITARE.—To bid at a sale.

LIEGE.—In feudal law, to bind; the subject thus bound in fealty to his lord was called *liege-man*, and the superior, *liege-lord*. It also signifies full; perfect; pure.

LIEGE-POUSTIE.—Scotch law. Lawful power.

LIEU eonus.—Known place.

LIGAN, or Lagan.—Goods sunk under water, fastened to a buoy, to prevent their being lost.

LIGEANCE—Ligiantia.—Old Norman, English and Scotch law. Allegiance.

LIGNAGIUM.—“The right of cutting fuel in woods.” Sometimes it is taken for a tribute or payment due for the same.

LIGULA.—Old Eng. law. A copy or transcript of a deed or court paper.

LI. LO.—Abbreviated from *licentia loquendi*.

LINARIUM.—Where flax is grown.

LINEA collectio personarum ab eodem stipite descendenti.—The collected line of persons descending from the same stock.

LINGUA peregrina.—A foreign language. *Vide note.*

LIQUET.—It appears.

LIS mota.—A suit moved in court.

LIS pendens.—A suit depending.

LITE dijudicata.—A term used by the *Roman* lawyers when a law suit was determined. *Vide note.*

LITEM lite resolvere.—To remove one difficulty by introducing another.

LITEM suam facere.—To favor one of the contending parties. *Vide note.*

LITERA.—Litter: Straw. *Vide note.*

LITERÆ.—Letters. Writings. *Vide note.*

LITERA cambii.—A letter of Exchange.

LITERÆ absolutoriæ.—“Letters of absolution.” Letters of absolution were given in former times, when an *Abbot* released any of his brethren “*ab omni subjectione, et obedientia*” (from all subjection and obedience), and this made them capable of entering into some other order of religion.

LITERÆ clausæ.—“Writs close.” Those which are recorded in the *close* rolls.

LITERÆ patentés.—Letters patent, so called because they are not sealed up, but exposed to open view, with the Great Seal thereto pendant.

LITERÆ procuratoriæ.—A letter of attorney.

LITERÆ recognitionis.—A bill of lading.

LITERA scripta manet.—“The writing endures.” This is often quoted in opposition to verbal slander. One endures perhaps for years or ages; the other is evanescent.

LITIS contestatio.—The trial of the cause.

- LITTUS maris.—The sea shore.
- LIVERER.—To deliver.
- LIVORARE.—To beat.
- LOBIUM.—A parlor.
- LOCARIUM.—The price paid for the hire of a thing.
- LOCATIO operis.—The hire to do the work.
- LOCATIO operis faciendi.—The hire of performing the work.
- LOCATIO operis mercium vehendarum.—A bargain for the transportation of merchandise.
- LOCATIO rei.—The hire of the thing.
- LOCO hæredis.—In place of the heir.
- LOCO parentis.—In the place of the parent.
- LOCUM tenens.—A Lieutenant Governor, or Deputy.
- LOCUM tenens vicecomitis.—A Deputy Sheriff.
- LOCUS delicti.—The place where the offence was committed.
- LOCUS in quo.—The place in which.
- LOCUS partitus.—A division made between two towns, or counties, to make trial where the land or place in question lies. *Fleta, lib. 4.*
- LOCUS pœnitentiæ.—The place (or opportunity) for repentance (or of retracting).
- LOCUS rei sitæ.—The place where a thing is situated.
- LOCUS sigilli.—The place of the seal.
- LOCUS vastatus.—The place laid waste.
- LODEMANAGE.—A pilot's wages for guiding a vessel from one place to another.
- LOIAL.—Lawful.
- LOIER.—Fee; recompense.
- LONGTEYNE.—Distant.
- LOQUENDUM ut vulgus, sentiendum ut docti.—Speak as the common people, think as the learned.
- LOWER.—Reward: a bribe.
- LUAT in corpore si non habet in loculo.—If he has no cash in his purse, he must suffer in his person.

LUCRI causa.—For the sake of profit or gain.

LUCTUOSA hæreditas, vel tristic successio.—A mournful inheritance, or sad succession.

LUITUR homicidium certo armentorum ac pecorum numero, recivitque satisfactionem universa domus.—Homicide is atoned for by a certain number of herds and flocks, and the whole family accept such satisfaction. Vide note to "*Capitis æstimatio*."

LUNDRESS.—An ancient London silver penny.

LUPULICETUM.—Old English law. A hop-yard.

LUPUM caput gerere.—"To bear a *wolf's* head." It signifies to be outlawed; and have one's head exposed like a *wolf's*, with a reward to him who should bring it in. *Plac. Cor. 4, Johan. Rot. 2.*

LUSHBOROW.—Inferior foreign coin; an imitation of the English.

LUXURIA.—Luxury: voluptuousness. *Vide note.*

LYEF-YELD.—Leave-money.

NOTES TO L.

LAIRWITE, &c.—This was the term for the punishment and fine of offenders committing adultery and fornication. The privilege of punishing these offences, anciently, belonged to the lords of manors in respect to their own tenants. *Vide Fleta, lib. 1, c. 47.*

LATROCINIUM.—A theft, or robbery of another's goods in his absence. It is divided into *Grand Larceny* and *Petit Larceny*. The ancient *Saxon* laws punished theft with death, if above the value of *twelve pence*; but the criminal was permitted to redeem his life by a pecuniary ransom.

LEGATUS.—A Legate. An ambassador, or *Pope's nuncio*. There are two sorts of Legates;—a Legate, *a latere*, and *Legatus natus*—the difference between which is this; *Legatus a latere* was usually one of the Pope's family, vested with the greatest authority, in all ecclesiastical affairs, over the whole family where he was sent; and, during the time of his legislation, he might determine even those appeals which had been moved from thence to Rome. *Legatus natus* had a more limited jurisdiction, but was exempted from the authority of the *Legate a latere*; and he could exercise his jurisdiction in his own province. The popes of *Rome* had formerly in *England* the Archbishop of *Canterbury* their "*Legatus natus*;" and upon extraordinary occasions they sent over a "*Legatus a latere*."

LEGES QUÆ, &c.—The temple of Janus was built by *Numa* (*index belli et*

pacis), with two brazen gates, one on each side, to be open in war; and shut in time of peace. Vide *Liv.* i. 19. *Vel.* ii. 38. It was shut only once during the Republic, at the end of the first Punic war, A. U. 529; thrice by *Augustus*; first, after the battle of *Actium*, and the death of *Antony* and *Cleopatra*, A. U. 725. *Dio.* li. 20: a second time after the *Cantabrian* war, A. U. 729. *Dio.* liii. 26: about the third time, authors are not agreed. Some suppose this temple to have been built by *Romulus*, and only enlarged by *Numa*; hence they take *Janus Quirini* for the temple of *Janus*, built by *Romulus*. Vide *Macrob. Sat.* i. 9.

LEGES QUIRITIUM.—The great foundation of *Roman* law or jurisprudence (*Romani juris*) was that collection of laws called the Law, (*Liv.* xxxiv. 6.) or Laws of the Twelve Tables, compiled by the *Decemviri*, and ratified by the people: a work, in the opinion of *Cicero*, superior to all the libraries of philosophers, "*omnibus omnium philosophorum bibliothecis anteponendum*," "a work to be valued more than all the books of every philosopher." Vide *Cic. de Orat.* 1, 44. Nothing now remains of these laws but scattered fragments.

The unsettled state of the *Roman* government; the extension of the empire; the increase of riches and luxury, and, consequently, of the number of crimes, with various other circumstances, gave occasion to many new laws (*corruptissimæ republicæ, plurimæ leges*), i. e. "the more corrupt the republic, the more the laws." *Tacit Annal.* iii. 27.

At first, those ordinances only obtained the name of laws which were made by the *Comitia Centuriata* (*Populiscita*), (i. e. made where the people were summoned to enact them.) *Tacit Annal.* iii. 58; but afterwards, those also which were made by the *Comitia Tributa* (*Plebiscita*), when they were made binding on the whole *Roman* people; first, by the *Horatian* law (*ut quod tributum plebes jussisset, populum teneret*). *Liv.* iii. 55, i. e. "that which they voted by tribes should bind the people;" and afterwards more precisely by the *Publian* and *Hortensian* laws (*ut plebiscita omnes Quirites tenerent*), i. e. "the Plebeian laws should bind all the Romans." Vide *Liv.* viii. 12. *Epit.* xi. *Plin.* xvi. 10, s. 15.

Any order of the people was called "*Lex*," whether it respected the public (*jus publicum vel sacrum*), the right of private persons (*jus privatum vel civile*), or the particular interest of an individual. But this last was properly called "*PRIVILEGIUM*." Vide *Gell.* x. 20.

The laws proposed by a Consul were called "*Consulares*." *Cic. Sext.* 64. By a Tribune, *Tribuniticæ*, *Cic.* in *Rull.* ii. 8. By the "*Decemviri*," *Decemvirales*. *Liv.* iii. 55, 56, 57.

LEGES SALICÆ.—The *Leges Burgundiorum*, i. e. "The Laws of Burgundy," and other codes, published by the several tribes which settled in *Gaul*, were general laws extending to every person, province and district, where the authority of those tribes was acknowledged. But they seem to have become obsolete; and the reason of their falling into disuse is very obvious. Almost the whole property of the nation was *allodial* when those laws were framed. But when the *feudal* institutions became general, and gave rise to an infinite variety of questions, peculiar to that species of tenure, the ancient codes were of no use in deciding with regard to them, because they could not contain regulations applicable to cases which did not exist at the time they were compiled.

LEGITIMI.—The children of a lawful marriage were called by the Romans "*Legitimi*;" all others "*Illegitimi*;" of the latter there were four kinds: *Naturales, ex concubina; Spurii, ex meretrice, vel scorto, et incerto patre; (Plutarch Q. Rome, 101.) Adulterini et incestuosi*—i. e. "natural born from concubinage; basely born from a harlot, or a lewd woman, by an unknown

father; adulterous and incestuous." There were certain degrees of consanguinity within which marriages were prohibited, as between a brother and sister, an uncle and niece, &c. Such connection was called "*Incestus*." (Suet. Ct. 26;) or with a vestal virgin. Vide *Suet. Domit* 8. These degrees were more or less extended or contracted at different times. *Plut. Quæst. Rom.* 6. *Tacit. Ann.* xii. 6, 7, &c.

LE ROY S'AVISERA.—This is a phrase, derived from the ancient *Normans*, by which the Kings of *England* were accustomed to dissent to bills which had passed the Legislature. By this mode of expression, the indelicacy of a *positive* refusal to give assent was avoided.

LES JUGES.—When the *English* laws were first dispensed according to the present mode of practice in the higher courts, the Judges in the Courts of Law and Equity were generally (or, perhaps, altogether) selected from the order of clergy mentioned in the text—they engrossed the greatest part of the learning of those days; and were considered the most proper persons for the offices of Judges and Chancellors. They, by degrees, softened the rigor of the Feudal and Common law, by introducing great part of the milder jurisprudence of the *Roman* code.

LEX AGRARIA.—The *Agrarian* law (among the *Romans*) for distributing the lands of *Campania* and *Stella* to twenty thousand poor citizens who had each three or more children. Vide *Cic. pro Planc.* 5, *Att.* ii. 16, &c. When *Bibulus*, *Cæsar's* colleague, gave his negative to this law, he was driven from the *Forum* by force. And next day, having complained in the Senate, but not being supported, he was so discouraged, that, during his continuance in office for eight months, he shut himself up at home, without doing anything but interposing by his edicts, vide *Suet. Jul.* 20; by which means, while he wished to injure his colleague, he increased his power.

LEX CANONICA.—The forms and maxims of the *Canon Law* had become respectable from their authority, and contributed not a little towards the improvement of jurisprudence. If the Canon Law be considered *politically*, and viewed either as a system to assist the clergy in usurping power and jurisdiction, no less repugnant to the nature of their function than inconsistent with the order of government; or as a chief instrument in establishing the dominion of the Popes, which shook the thrones and endangered the liberties of every kingdom of *Europe*, we must pronounce it one of the *most formidable* engines ever used against the happiness of civil society. But, if we contemplate it *merely* as a code of laws, touching the rights and properties of *individuals*, and attend only to the *civil* effect of its decisions concerning them, it will appear in a different and more favorable light. The code of the *Canon* law began to be completed early in the *ninth* century. It was more than two centuries after that before any collection was made of those customs which were the rule of judgments in the Courts of the Barons. Spiritual judges decided, of course, according to written and known laws. Lay judges, left without any *fixed* guide, were directed by loose traditionary customs. But besides this general advantage of the Canon law, its forms and principles were more consonant to reason, and more favorable to the equitable decision of every point in controversy, than those which prevailed in the Lay Courts. The whole spirit of ecclesiastical jurisprudence was adverse to those sanguinary customs which were destructive of justice; and the whole force of ecclesiastical authority was exerted to abolish them, and to substitute trials by law and evidence in their stead. Almost all the forms in Lay Courts, which contribute to establish, and continue to preserve *order* in judicial proceedings, are borrowed from the Canon Law. Vide *Fleury's Instit. de droit Canon, part* iii. c. 6, p. 52.

St. Louis confirmed many of his new regulations respecting property, and the administration of justice, by the authority of the Canon Law, from which he borrowed them. Thus, for instance, the first hint for attaching movables for the recovery of a debt was taken from the Canon Law. Vide *Estab. liv. ii. c. 21 and 40*. And likewise the *Cessio bonorum*, by a person who was insolvent. *Ibid.* In like manner he established new regulations with respect to persons dying intestate. *Liv. i. c. 89*. These, and many other salutary regulations, the Canonists had borrowed from the Roman Law. Many other examples might be produced of more perfect jurisprudence in the Canon Law than were known in Lay Courts. For that reason, it was deemed a high privilege to be subject to ecclesiastical jurisdiction. Among the many immunities by which men were allured to engage in the dangerous expedition for the recovery of the Holy Land, one of the most considerable was the declaring such as took the *Cross* to be subject only to the spiritual courts, and to the rules of decision observed in them.

LEX COMMUNIS.—THE COMMON LAW. The law which is used by general consent, and has been so from time immemorial—that which we enjoy as *Heir-looms*,” and which is the law before any act of Parliament alters the same. This is the law almost in every constitution, grounded on long immemorial custom, reason, and general usage; and includes in it the LAW OF NATURE, the LAW OF GOD, and the PRINCIPLES and AXIOMS OF SOUND RATIONATION. It is founded upon reason, and said to be the PERFECTION of reason, acquired by long study, observation and experience; and refined by wise and learned men in all ages. And it is also the COMMON BIRTH-RIGHT that every person hath for the safeguard and defence, not only of his lands and goods, but of his wife and children, body, fame and life. Vide *Co. Litt. 97, 142*. As to the rise of the *Common Law*, this account is given by some ancient writers. After the decay of the Roman Empire, three sorts of the German people invaded the Britons; and having had different customs, they inclined to the different laws by which their respective ancestors were governed; but the customs of the *West Saxons*, and *Mercians*, who dwelt on the midland counties, being preferred before the rest, were, for that reason, called “*Jus Anglorum*,” and, by these laws, those people were governed for many ages; but the *East Saxons*, having afterwards been subdued by the *Danes*, their customs were introduced, and other laws were substituted, called “*Dane-Lage*,” as the other was then styled “*West Saxon-Lage*.” At length the *Danes* being overcome by the *Normans*, William the Conqueror, upon a consideration of all those laws and customs, abrogated some, and established others, to which he added some of his own country laws, which he considered most conducive to the preservation of the peace, and this is what is generally called “THE COMMON LAW.”

But, though we usually date our *Common Law* from hence, this was not its origin; for it is said that *Ethelbert*, the first Christian King of *England*, made the first *Saxon* laws, which were published by the advice of some wise men of his council. And King *Alfred*, who lived three hundred years afterwards, collected all the old *Saxon* laws into one book; and commanded them to be observed throughout the whole of *England*; which before only affected certain parts thereof; and it was, therefore, properly called the *Common Law*; because it was common to the whole nation; and soon after it was called in *Saxon* “THE FOLC RIGHT,” i. e. the people’s right. *Alfred* was styled “*Anglicarum legum conditor*,” (the founder of the English laws;) and when the *Danes*, on the conquest of the kingdom, had introduced their laws, they were afterwards destroyed; and *Edward* the Confessor, out of the former laws, composed a body of the *Common Law*; wherefore he is called by historians “*Anglicarum legum restitutor*,” (the restorer of the English laws.) Vide *Blount*.

In the reign of *Edward* the First, *Britton* wrote his learned book of the

Common Law of *England*, which was done by the King's command, and runs in his name, answerable to the Institutions of the *Civil Law*, which *Justinian* assumed to himself, though made by others. Vide *Stauudf. Prerog.* 6, 21. But *Justinian*, perhaps, ought to be entitled to the honor, as the Institutes were compiled by his direction. This *Britton* is mentioned by *Gwyn* to have been Bishop of *Hereford*. In those days ecclesiastical persons were the most learned, and had the highest offices in the law.

Bracton was a great lawyer in the time of *Henry* the Third; and wrote a learned treatise on the Common Law of *England*, held in high and deserved estimation; he is said to have been Lord Chief Justice of the Kingdom.

Also the famous and learned *Glanville*, Lord Chief Justice, in the reign of *Henry* the Second, wrote a book of the Common Law, which is said to be the most ancient composition on that subject extant. Besides those, in the reign of *Edward* the Fourth, the renowned lawyer, *Littleton*, wrote his excellent book of *English tenures*.

In the reign of King *James* the First, that great oracle of the Law, Sir *Edward Coke*, published his learned and laborious Institute of the *English* laws and Commentary on *Littleton*. About the same time, likewise, Doctor *Cowel*, a Civilian, wrote a short Institute on the *English* laws. In the reign of *George* the First, Doctor *Thomas Wood*, a Civilian, and common Lawyer, and at last a Divine, wrote an Institute of the Laws of *England*, which is something after the manner of the Institutes of the Civil Law.

To conclude the whole on this head, the learned and systematic *Blackstone*, published his well-known Commentaries on the laws of *England*, probably the best analectic and methodic system of the *English* Laws which ever was published; his work abounds with numerous maxims, quotations and sentences, chiefly extracted from the dead languages; all of which, or nearly so, are translated in this Glossary. The Commentaries of *Blackstone* are equally adapted for the use of the Student, and for those Gentlemen who wish to acquire that general knowledge of the Laws, which it is almost essentially necessary every person should be acquainted with. There is scarcely a doubt but that these Commentaries have been of more utility than any other law book ever published. The excellent Commentaries of Chancellor *Kent* have obtained high estimation

LEX DE MARITANDIS ORDINIBUS.—This was a *Roman* law, proposed by the Consuls, *Pappius* and *Popæus*, at the desire of *Augustus*, A. U. 762, enforcing and enlarging the *Julian* Law. *Tacit. Ann.* iii. 25, 28. The intent of it was to promote population, and repair the desolation occasioned by the civil wars. It met with great opposition from the nobility; and consisted of several distinct particulars, (*Lex saturna*.) It proposed certain rewards to marriage; and penalties against celibacy, which had been always (and justly so) much discouraged in the *Roman* state, vid. *Val. Max.* ii. 9. *Liv.* xiv. 15 and, strange to say, still it greatly prevailed, for reasons enumerated. Vide *Plaut. Mil.* iii. 185, 111, &c. Whoever in the city had three children, in the other parts of *Italy*, four, and in the provinces five, became entitled to certain immunities. Hence the famous "JUS TRIUM LIBERORUM," so often mentioned by *Plin. Mart. &c.* Vide note to "*Jus trium liberorum*."

LEX TALIONIS.—In the laws of King *Æthelbert*, we find the following laws. "Gif on Earl's tune man mannan of sleath xii. scill. gebete," i. e. If one man slay another in an Earl's town, let him pay 12s. as a compensation. "Gif in Cyninges tune man manna of sleagh L. scill. gebete," i. e. If one man slay another in the King's town, let him pay 50s. as a compensation. "Gif man thone man of sleath xx. scill. gebete," i. e. If any man slay another let him compensate with twenty shillings. If the thumb should be cut off twenty shillings was to be paid. If the thumb nail should be cut off three shillings should be paid as a compensation. If any one cut off another's fore finger,

he was to pay eight shillings: for the middle finger four shillings: for the gold finger (where the ring was worn) six shillings: for the little finger eleven shillings. There appears to have been considerable caprice in the apportionment of these penalties; and every murder appears to have been commutable for money in the time of our Saxon ancestors!!

LIBER HOMO.—These words are commonly opposed to “VASSUS,” or “VASSALUS.” *Liber homo* generally denotes an ALLODIAL proprietor. *Vassus* one who holds of a *superior*. The words “*Liber Homo*,” in process of time, it is believed, meant those who were under no vassalage, servitude or bondage, although they might *not* own allodial lands. These freemen were bound to serve the state; and this duty was considered as so sacred, that freemen were prevented from entering into Holy Orders, unless they had obtained the consent of the sovereign. The reason given for this in the statute, or ordinance, is remarkable, viz.: “For we are informed that some do so, not so much out of devotion, as in order to avoid that military service they are bound to perform.” Vide *Capitul. lib. 1, § 114*. If, upon being summoned into the field, any person refused to obey, a full “*Herebannum*,” i. e. a fine of sixty crowns, was to be exacted from him according to the law of the *Franks*. This expression, agreeably to the law, seems to imply that both the *obligation* to serve, and the *penalty* on those who disregarded it, were coeval with the laws made by the *Franks*, at their first settlement in *Gaul*. This fine was levied with such rigor, “that if any person convicted of this crime was insolvent, he was reduced to servitude, and continued in that state, until such time as his labor should amount to the value of the *Herebannum*.” Vide *Capit. Car. Magn. ap. Leg. Longob. lib. 1*. The Emperor, *Lotharius*, rendered the penalty still more severe; and if any person, possessing such an extent of property, as made it incumbent on him to take the field in person, refused to obey the summons, all his goods were declared to be forfeited, and he, himself, might be punished with banishment. Vide *Murat. Script. Ital. vol. 1, pars 2, p. 153*.

LIBERTAS LOQUENDI.—Among the *Romans*, the speeches of the senators were sometimes received with shouts of applause; thus “*Consurgenti ad censendum acclamatum est, quod solet residentibus.*” *Plin. Ep. iv. 9, l. e.* “Applause was given to the person who arose to give his opinion as well as to those sitting down.” And sometimes the most extravagant expressions of approbation were bestowed on the speakers; “*non fere quisquam in senatu fuit, qui non me complecteretur, exoscularetur, certatimque laude cumlaret.*” *Idem ix. 13, l. e.* “there was scarcely a person in the senate who did not embrace, kiss, and eagerly applaud me.” When *Cato* one day, to prevent a decree from being passed, attempted to waste the whole day in speaking, *Cesar*, then Consul, ordered him to be led to prison; whereupon the house rose to follow him, which made *Cesar* recall his order. Vide *Gell. iv. 10*.

When different opinions were delivered, the senators expressed their assent, some to one, and some to another, variously, by their looks, by nodding with their heads, by stretching out their hands, &c. Vide *Tacit. Hist. iv. 4*.

LIBERUM MARITAGIUM.—Frank marriage. A Tenure in tail special; where a man seized of land in fee-simple, gives it to another with his daughter, sister, &c., in marriage, to hold to them, and their heirs. This tenure groweth from the words in the gift, “*Sciant me A. B. dedisse, concessisse, &c., L. M. filio meo, et Annæ uxori ejus, filie, &c., in liberum maritagium unum messuagium, &c.*” *Litt. § 17, l. e.* “Know all men that I, A. B., have given and granted, &c., unto L. M., my son, and Anne his wife, daughter of, &c., in Frank-marriage one messuage, &c.” The effect of which words is, that they shall have the land to them, and the heirs of their bodies; and shall do no service to the donor, except fealty, until the fourth degree. Vide *Glanville*,

lib. 7, c. 18; and *Fleta* gives the reason *why* the heirs do no service till the fourth degree, "*ne donatores, vel eorum hæredes per homagii receptionem a reversione repellantur,*" i. e. "lest the donors or their heirs should be expelled from the reversion by acceptance of the homage;" and *why*, in the fourth degree, and downwards, they shall do services to the donor, "*quia in quarto gradu vehementer præsumitur quod terra est pro defectu hæredum donatorum reversura,*" i. e. "because in the fourth degree it is very strongly presumed that the land is come back for want of heirs of the donors." *Fleta, lib. 3, c. 11.* Vid. *Bract. lib. 2, c. 7.*

LIBRÆ, ARSÆ, ET PENSATÆ; ET AD NUMERUM.—A phrase often occurring in *Domesday's Register*, and some other memorials of that and the next age, as "*Ailesbury, in Buckinghamshire, the King's manor. In totis valentiis reddid lvi. lib. arsas et pensatas, et de thelonio x. lib. ad numerum,*" i. e. "In the whole value it pays fifty-six pounds, burnt and weighed; and ten pounds by tale." For they sometimes took their money *ad numerum*, by tale, in the current coin, by *consent*; but sometimes they rejected the common coin by *tale*; and money coined elsewhere than at the King's mint, by Bishops, Cities, and Noblemen, who had mints, as of too great alloy; and would therefore melt it down to take it *by weight*, when purified from the dross, for which purpose they had, in those days, always a fire ready at the *Exchequer* to burn the money, and then weigh it. Vide *Cowell.*

LIGEUS—Is used for "*liege*" lord, sometimes for "*liege*" man; the word is often used in the ancient law. The feudal system, however violent and fierce, in many of its features, yet was, (perhaps more than is generally supposed at the present day,) a kind and enduring tie between the superior lord, and the tenant or liege man, especially when the former was brave and generous, and the latter faithful and courageous. *Liege* lord is he that acknowledges no superior; and *liege* man is he that oweth obedience to his *liege* lord; and though we continually read of the tyrannical bearing of the feudal Barons, towards their *Vassals*, yet in those rude times, many acts of private benevolence, and noble conduct, no doubt, characterized those chivalrous and large proprietors of land; their houses were constantly open to the stranger and the distressed; and thousands found an *Asylum*, who in these days of refinement, wealth and commercial prosperity, would be left destitute. *Shene* says that the word *liege* is derived from the Italian *Ugan*, a bond, a *leaguer*; others derive it from *litis*, or one who is wholly at the command of the Lord, Vide *Blount in loco.* It is probable that *Shakspeare* had in his mind this bond of allegiance, subsisting between the lord and his vassal, when he said,

"Though perils did
Abound, as thick as thought could make them, and
Appear in forms more horrid; yet my duty,
As doth a rock against the chiding flood,
Should the approach of this wild river break,
And stand unshaken yours." King Henry VIII.

LINGUA PEREGRINA.—When the pleadings and judgments of the courts, and many of the law treatises were in *Norman French*, and the most barbarous *Latin* imaginable, the difficulty of the study of the law, in order to arrive at any eminence in it, was considerably greater than at the present day. We find a student making an almost inconsolable and whining complaint in these words: "*Emisit me mater Londinum, juris nostri capessendi gratia; cujus cum vestibulum salutassem, reperissemque linguam peregrinam, dialectum barbarum, methodum inconcinnum, molem non ingentem solum, sed perpetuis humeris sustinendam, excidit mihi fateor animus,*" &c., i. e. "My mother sent

me to London, for the purpose of entering upon the study of our law; when I had even entered its threshold, I discovered a foreign language, a barbarous dialect, an unhandsome method, an encumbrance not only prodigious, but to be perpetually supported on my shoulders, I confess my mind shuddered," &c.

LITE DIJUDICATA.—Among the *Romans*, after Judgment was given, and the lawsuit determined, (*lite dijudicata*,) the conquered party was obliged to do or pay what was decreed, (*judicatum facere*, vel *solvere*;) and if he failed, or did not find securities, (*sponsores vel vindices*,) within thirty days, he was given up (*Judicatus*, i. e. *damnatus et addictus est*) by the *Prætor* to his adversary, (to which custom *Hor.* alludes, *Ode* iii. 3, 23,) and led away by him to servitude. *Cic. Flacc.* 19, *Liv.* vi. 14, 34. These thirty days are called the Twelve Tables, "*dies justæ*," i. e. Days of grace: "*rebus jure judicatis*, xxx. *dies justæ sunt, post deinde manus injectio esto, in jus ducito*," i. e. "the lawsuit being finished, thirty days' grace are given, after which let him be taken and brought before the court." After sentence was passed the matter could not be altered; hence the term "*agere actum*," to labor in vain. *Vid. Cic. Amic.* 22, *Attic.* ix. 18. *Actum est—acta est res—perii*—i. e. "all is over—I am undone." *Vid. Ter. Andr.* iii. 1, 7. *Adelph.* iii. 2, 7. In certain cases, however, when any mistake or fraud had been committed, the *Prætor* reversed the sentence of the Judges, *rem judicatum rescidit*, (i. e. he annulled the sentence,) in which case he was said, "*damnatos in integrum restituere*," (i. e. he entirely restored the condemned.) *Cic. Verr.* v. 6; or "*Judicia restituere*," ("to restore the decree.") After the cause was decided, the defendant, when acquitted, might bring an action against the plaintiff for a false accusation (*actionem calumniæ postulare*). *Vide Cic. Pro. Cluent.* 31. Hence, "*calumniæ litium*," i. e. *lites per calumniam intentæ*, or unjust lawsuits. *Vid. Cic. Mil.* 27.

LITEM SUAM FACERE.—If a Judge, among the *Romans*, either from partiality or enmity (*gratiâ vel inimicitia*), evidently favored either of the parties, he was said, "*litem suam facere*," to make it his own suit. *Vid. Ulpian Gell.* x. 1. *Cicero* applies this phrase to an advocate too keenly interested for his client, *de Orat.* ii. 75. If *Cicero* meant this in a disgraceful sense, it would appear to have done him no credit, for the most worthy men in all ages accounted it their greatest honor and consolation to use every honest exertion and fair means for the service of those who, perhaps, have placed their lives and fortunes in the hands of their advocates; their duties are extremely responsible; and frequently everything dear to man is in their power. By the *Roman* law, if a Judge was suspected of having taken money from either of the parties, or to have wilfully given a wrong judgment, an action lay against him. By the Law of the Twelve Tables, corruption in a Judge was punished with death; but afterwards, as a crime of extortion. In the time of King *Alfred*, corrupt administration was a cause of capital punishment. It is reported that this King hanged forty-four unjust Judges in one year. *Vide Mirror des Justices*, c. 2.

LITERA.—From the *Fr.* "*litiere*"—*Lat.* "*lectum*." Litter. This word was anciently used for straw for a bed; even the "King's bed." In our law books this word is often used for the article called litter, now used in stables among horses, &c. Rushes and straw generally composed the material for the sleeping places of our martial ancestors, and occupied the place where feathers and down are now substituted; and many allusions to the flag and rush are to be found scattered in the ancient writings. It appears that the practice of sleeping on rushes was customary so late as the time of *Henry IV.*, as *Shakspeare*, speaking of a husband, sung to sleep by his wife, says:

"She bids you
Upon the wanton *rushes* lay you down,
And rest your gentle head upon her lap,
And she will sing the song that pleaseth you."

King *Henry IV.*

Rushes composed the beds upon which the chivalrous sons and fair damsels of the *feudal* ages reposed. The word *litera*, however, seems to have been generally used in *Law Books* for what is now usually called *litter*, for horses, &c., for we read "*tres carectatas literæ.*" Vide *Mon. Ang.*, tom. 2.

LITERÆ.—This word often occurs in ancient authors: it not only meant "*Letters*," but all kinds of writings were called "*Literæ.*" Cic. *passim*. Hence, "*quam vellem nescire literas.*" I wish I could not write. Vide *Suet. Ner. 10. Senec. Clem.*—but *literæ* is most frequently applied to *epistolary* writings (*Epistolæ vel chartæ epistolares.*) Cic. *Epistolæ* were always sent to those who were absent. (Cic.) *Codicilli* were given to those present. (*Tacit.*) The *Romans*, at least in the time of *Cicero*, divided their letters, if long, into pages, and folded them in the form of a little book; and tied them around with a thread (*lino obligabant*), the knot was covered with wax, or with a kind of chalk, and then sealed, generally with a ring, or some impression thereon. If any small postscript remained, after the page was completed, it was written crosswise (*transversim*) on the margin. Vid. *Cic. Att. v. 1.*

In writing letters, the *Romans* always put their own name *first*; and then that of the person to whom they wrote, *Auson. Ep. 20*: sometimes with the addition of "*Suo*," as a mark of familiarity or kindness. If he was invested with an office, *that* likewise was added, but no epithets, (as among us,) unless to particular friends, whom they sometimes called "*Humanissimi*;" "*Optimi*;" "*Dulcissimi*;" "*Animæ suæ*," &c. Vide *Cic. et Plin. passim*. They always annexed the letter S for "*Salutem*," sc. "*wishes health.*" Hence, "*salutem alicui mittere*," "to send health to any one." Vid. *Plaut.*

They used anciently to begin "*Si vales, bene est*," i. e. if you are in health, it is well: "*vel, gaudeo*;" "*ego valeo*." "I am glad;" "I am well." Vide *Senec. Ep. i. 15, &c.* They ended with "*Vale*," "*Farewell.*" *Ov. Trist. y. 13, 33.* Sometimes they wrote "*Ave*," "*Adieu*;" or "*Salve*," "*Save you*," to a near relation, with this addition, "*Mi anime*," "*My soul*;" "*Mi suavissime*," "*My dearest*," &c. They never subscribed their names as we do; but sometimes added a prayer for the prosperity of the person to whom they wrote, as "*Deos obsecro ut te conservent*," "I pray the Gods save you." *Suet. Tib. 21*; which was always done to the Emperors. Letters were sent by a messenger, commonly a slave, called "*Tabellarius*," for the *Romans* had no established post. There sometimes was an inscription on the outside of a Letter: sometimes not. When *Decimus Brutus* was besieged by *Antony*, at *Mutina*, *Hirtius* and *Octavius* wrote letters on thin plates of lead, which, it is said, they sent to him by means of divers (*urinatores*), and so received his answers. Vid. *Dio. xlvi. Frontin. iii. 13, 7.* *Appian* describes letters on leaden bullets, and thrown by a *sling* into a besieged city, or camp.

Julius Cæsar, when he wrote to any one what he wished to keep secret, always made use of the fourth letter *after* that which he ought to have used, as D for A, &c. Vide *Suet. Cæs. 56.* Augustus used the letter *following*, as B for A. The *Romans* had slaves, or freedmen, who wrote their letters (called "*ab epistolis*;"") persons who transcribed their books were called "*librarii*;" these who glued them, "*glutinatores*;" some polished them with pumice stone, and anointed them with the juice of cedar, to preserve them from the moths and rottenness. Hence we read of "*carmina cedro linenda*," "*worthy of immortality.*" *Hor. Art. p. 232.* The titles and *indices* were often marked with vermilion, purple, red earth, or red ochre.

LUXURIA.—There were many laws formerly made to restrain excess in *apparel*; but they are repealed by *stat. 1, Jac. 1, c. 25*. But as to excess in *diet*, there *still* remains one ancient statute unrepealed, viz.: *10 Edw. 3d stat. 3*, which ordains “that no man shall be served at dinner with more than *two* courses, except in some great holiday, therein specified, on which he may be served with *three*.” *Black. Com. 170, 171*.

M.

MACEGRIEFS.—Persons who dealt in stolen flesh.

MACHINANS absque probabili causa.—Plotting without a probable cause.

MACHOLUM.—A granary without roof.

MACREMUM.—Ship or house timber.

MAGBOTE, or MÆGBOTE.—From the Sax. “*Mæg*.” i. e. a kinsman, and “*bote*,” a compensation. This means compensation for murdering one’s kinsman in ancient times, when corporeal punishments for murder were often commuted into pecuniary fines, if the friends or relatives of the party killed were so satisfied. *Vide Leg. Canuti, c. 2*.

MAGIS proprie dici poterit *wrectum*, si navis frangatur, &c., nisi ita sit quod verus dominus aliunde veniens, per certa indicia et signa docuerit res ipse suas; ut si canis vivus inveniatur, &c., et eodem modo, si certa signa apposita fuerint mercibus et aliis rebus.—It may therefore more properly be called a *wreck*, if the vessel be broken to pieces, &c., unless it happen, that the true owner appearing, learn, by certain marks and signs, that the goods are his, as if a live dog be found, &c., and, in the same manner, if certain marks were placed on the wares and other things.

MAGISTRALIA brevia.—Magisterial writs.

MAGNA assisa.—“The great assize.” The assize in which the jurors were knights

MAGNA Charta.—The great Charter; the bulwark of *English* liberty. *Vide note*.

MAGNA componere parvis.—To compare great things with small.

MAGNA precaria.—A general reaping day.

MAGNATES graves ultiones fecerunt, et distractiones quosque redemptiones reciperunt ad voluntatem suam.—The nobles committed grievous injuries and took arbitrary distresses until they were redeemed.

MAGNATES regni.—The great men of the realm: the nobles.

MAGNITUDE laborant sua.—They totter under their own weight.

MAGNOPERE providendum est.—Great care must be taken.

MAGNUM Cape ad valentiam.—“The great *Cape* to the value.” *Cape* is a judicial writ touching a plea of lands or tenements, and is divisible into *Cape magnum*, and *Cape parvum*.

MAGNUM Consilium.—The great Council.

MAHEME.—See MAIHEM.

MAHLBRIEF.—The name of the contract between the builder and owner of a vessel, in which the size and class of the vessel is specified, as also the time of building her, and the terms of payment. *Maritime law*.

MAIHEM, MAYHEM, MAIM.—In law, the depriving another of his limbs or eyes by violence; thus weakening him for self-defence. *Vide note*.

MAILLE.—A half-penny; a tribute.

MAINBOUR.—A surety.

MAINOUR, or MANOUR, or MEINOUR.—From the Fr. “*Manier*,” i. e. “*manu tractare*.” In a legal sense this denotes the thing taken away, found in the *hand* of the thief who stole it. Thus, to be taken with the “*mainour*,” is to be taken with the thing stolen about him. Formerly, in these cases there appears to have been one mode of prosecution by the common law, (without any previous finding by a jury,) as when a thief was taken with the *mainour*,

“*in manu*,” he might, when so detected, “*flagrante delicto*,” be brought into court, arraigned, and tried *without* indictment.

MAINOVRE.—Hand labor.

MAINPERNABLE.—That may be admitted to bail.

MAINPERNORS.—“Manucaptors,” are those persons to whom a man is delivered out of custody or prison, on their becoming bound for his appearance; because they do, as it were, “*manu capere*,” *et ducere captivum, é custodia*, i. e. “take by the hand,” and lead the prisoner out of custody.

MAINPRIZE—*Manucaptio*.—From the Fr. “*main*,” i. e. a hand, and “*pris*,” taken. The taking, or receiving a person into friendly custody, who otherwise might be committed to prison, upon security given that he shall be forthcoming at a time and place assigned.

MAINSWORN.—Perjured.

MAINTIEN le droit.—Maintain the right.

MAIS il faut que ces choses la soient veritablement au pouvoir de l'enemie, et conduites en lieu du sureté.—But it is necessary that these things should be really in the power of the enemy, and conveyed to a place of safety.

MAJOR annus.—The bissextile year, or 366 days.

MAJORA regalia.—The greater rights of the crown.

MAJORA regalia imperii præeminentiam spectant, minora vero ad commodum pecuniarum immediate attinent, et hæc proprie, fiscalia sunt, et ad jus fisci pertinent.—The greater rights of the crown regard the regal præe minence, but the lesser directly pertain to pecuniary emolument, and these are properly of the Exchequer, and belong to revenue rights.

MAJORI summæ minor inest.—The lesser goes with the greater.

MAJUS jus.—The greater right.

MALA fide possessio.—An occupation (or holding) in bad faith (or illegally).

MALA grammatica non vitiat chartam.—Bad grammar does not invalidate the deed.

MALA-IN-SE.—Wrong in itself.

MALAM cerevisiam faciens in cathedra ponebatur stercoris.—He who made bad ale was placed in a cart of dung.

MALA-PRAXIS.—Mal-practice.

MALA prohibita.—Wrongs forbidden (by common law).

MALEDICTA expositio quæ corrumpit textum.—A vicious interpretation which spoils the text.

MALETOLT.—An overcharged tax or toll.

MALFEAZANCE.—Doing wrong: a bad act.

MALITIA præcognita.—Malice aforethought or pre-pense.

MALITIA supplet ætatem.—Malice supplies the want of age.

MALLOBERGIUM.—A public meeting.

MALLUM.—A superior court: an assembly.

MALO animo.—With a bad intent.

MALGRATO.—“In spite: unwillingly.” Hence, probably, the Fr. “*malgre*,” and the old English word “*maugre*.”

MALUM animus.—An evil intent.

MALUM in se.—Bad in itself: wrong in its own nature.

MALUM prohibitum.—A prohibited offence.

MALUM veniendi.—Mishap or sickness in coming.

MALUS usus abolendus est.—A bad custom should be abolished.

MALVELLES.—Offences.

MALVERSATION.—Misconduct.

MANAGIUM.—A dwelling.

MANBOTE.—The Saxon fine paid to a lord for killing his vassal.

MANCEPS.—A buyer who took in his *hand* the purchased article.

MANCIPIATIO, or mancipium.—This was one of the

modes of transferring property among the *Romans*. Vide *Cic. Off.* iii. 16, *de Orat.* i. 30.

MANCIPII, quasi manu capti.—Slaves, as if taken by the hand (or made captives in war): a slave. *Vide note.*

MANCIPIUM.—Property: right of perpetual possession.

MANCUS.—A Saxon coin of thirty pence.

MANDAVI balivo.—I have commanded the bailiff.

MANDAVI balivo, qui nullum dedit responsum.—I have commanded the bailiff, who has made no return (or answer).

MANENS.—One class of tenants.

MANENT pro defectu emptorum.—“(The goods) remain for want of buyers.” A return to a writ of execution.

MANERIUM.—“(A manendo,” from residing): a manor (or royalty).

MANIFESTA disseizina.—An open disseizin.

MANSE.—A parsonage. MANSELLUM.—A small manse.

MANSUETÆ naturæ.—Of a tame kind, or nature.

MANSUETÆ, quasi manui assuetæ.—Tamed, as though used to the hand: domesticated.

MANSUM capitale.—The manor house, or manse: or court of the lord. *Kennel's Antiq.*

MANTHEOF.—From the Latin “*mannus*,” a nag, and “*theoff*,” a thief—a horse stealer. *Ll. Alfred.*

MANU brevi.—Shortly.

MANUCAPTIO.—Mainprize.

MANU forti.—With a strong hand: by violence.

MANU longa.—Indirectly.

MANUMISSIO.—Manumission: setting slaves at liberty. *Vide note.*

MANUOPERA.—Things stolen found upon the thief. Vide MAINOUR.

MANUPASTUS.—A family.

MANUPES.—A foot of measurement.

MANUS.—Anciently used for the person taking an oath. *Vide note.*

MANUS mortua.—Mortmain.

MANU tenere.—To hold in hand: to occupy.

MARA, maras.—Moor: bog.

MARASTRE.—A step-mother.

MARCA.—Sax. "*Mearc*." A Mark of silver: it was, when in use, thirteen shillings and four pence sterling; though in the reign of *Henry* the First, it was only six shillings and a penny in weight: some were coined, and some only cut in small pieces; but those that were coined were worth something more than the others. In former times, money was paid, and things often valued, and fines assessed, by the *Mark*. Vide *Stow. Ann.* 32.

MARE apertum.—The open (or high) sea.

MARESCALLUS.—"A Marshal." It would appear to signify as much as "*Tribunis militum*" with the ancient *Romans*. It has been derived from the *German*, "*Marschalk*," i. e. "*Equitum Magister*," which "*Hotoman*, in his feuds *sub verb.* "*Marschalcus*," derives from the old word "*March*," which signifies a horse: others make it of the Saxon, "*Mar*," i. e. a horse, and "*Sealch*," a master.

MARESHANCIE.—The jurisdiction of a marshal.

MARETTUM.—A piece of land which is at times overflowed by the sea.

MARISCUS.—A marsh.

MARITAGIUM.—That portion which is given a daughter in marriage. Vide *Glanville, lib. 2, c. 18*. As a fruit of tenure, under which "*Maritagium*" is strictly taken, is that right which the lord of the fee formerly had to dispose of the daughters of his vassals in marriage.

MARITAGIUM debet esse liberum.—Marriage ought to be free.

MARITARE.—To marry; to provide a husband.

MARITIMA Angliæ.—The ancient revenues from the sea.

MARITIMA incrementa.—Increase of land by the retreating of the sea.

MARKET zeld.—The ancient toll for a market.

MARQUE de division de Partage de terres: ce mot vient du Latin *dividere*.—Notice the division of the allotment of the lands; this word is derived from the Latin *dividere*.

MARTE suo decurrere.—To run by its own force.

MATERIA non est corpus, neque per formam corporalitatis, neque per simplicem essentiam, est tamen ens et quidem substantia, licet incompleta; habetque actum ex se entitativum, et simul est potentia subjectiva.—The first material is not a body, neither by its shape nor by its simple essence; it is, however, a being, and, indeed, a substance, although incomplete; and it has a living action, derived from itself, although it be, at the same time, a subjective power.

MATERIA prima.—The first matter.

MATERTERA.—An aunt by the mother's side.

MAXIMA illecebra est peccandi impunitatis spes.—The greatest incitement to guilt is the hope of sinning with impunity.

MEDFEE.—A reward.

MEDIANTE patre.—With the father's acquiescence.

MEDIETAS.—The moiety. Fr. "*Moitie*," i. e. *cæqua media pars*. The half of any thing; and to hold *by moieties* is often used in the law books in cases of joint tenants. Vide *Litt.* 125.

MEDIETAS linguæ.—"Half tongue." Used where a jury is composed half of aliens and half of natives. Vide *note*.

MEDIETAS terræ.—A moiety of the land.

MEDIOLANI non obtinet.—It did not prevail at *Milan*.

MEDIUM hæreditatis.—Common heirship.

MEEN.—Mesne.

MEINDRE age.—Minority.

MELDFEOH.—Sax. The recompense due and given to him who made discovery of any breach of the penal laws.

MELIOR est conditio defendentis.—The defendant's condition is preferable.

MELIOR est conditio possidentis.—The condition of the possessor is the better one.

MELIUS et tutius, si non festines.—Better and safer, if you do not hurry.

MELIUS inquirendum.—To make a better search ; to inquire further.

MEMBRA dividenda.—Parts which are divisible.

MEMBRUM pro membro.—“Limb for Limb.” The law of retaliation.

MENDACIUM sibi ipsi imponere.—To take back the lie upon himself.

MENSURA domini regis.—The royal measure.

MENSURA juris vis erat.—And power was the (only) measure of right.

MEPRIS.—Neglect : contempt.

MERCATOR.—Trader ; a buyer.

MERCEN-LEGE.—The *Mercian* law under the Heptarchy.

MERCES.—The wages for labor.

MERCIMONIA.—The wares of a *mercator*.

MERCIMONIATUS Angliæ.—Ancient English tax upon merchandise.

MERE.—Mother.

MERENNium, Merisme.—Timber.

MERGER—Is where a greater and less estate coincide, and meet in one person, without any *intermediate* estate ; in which case, the lesser estate is immediately *annihilated* ; or in the law phrase *merged*, that is *sunk* or *drowned* in the greater ; as if the *fee* come to tenant for life, or years, these particular estates are merged in the fee. Vide 2 *Rep.* 60, 61. 3 *Lev.* 437. 2 *Plowd.* 418. *Cro. Car.* 275. *Co. Litt.* 338.

MER, or Mere.—Words applicable to location, which *begin or end* with either of these syllables, generally denote *fenny*, or watery places. *Cowell*.

MERX est quicquid vendi potest.—Merchandise is whatever can be sold.

MESAVENTURE.—An accident.

MESNE.—“Middle: intervening.” The middle between two extremes, and that either in time, or dignity.

MESNE lord.—A middle lord; one between the chief lord and his tenant.

MESPREDRE.—To behave amiss.

MESS Brief.—A ship's certificate of admeasurement granted by authority. *Danish Sea Law.*

MES semble que tiel legal notice n'est sufficient a faire un criminal, coment soit sufficient a rendre luy responsible in matter civil: coment est doubt in ceo: il n'est accessory sans actual notice.—But it appears that a like legal notice is not sufficient to make him criminal; but it may be sufficient to make him responsible in a civil affair: although there is doubt in this: he is not accessory without actual notice.

MES, si la pleynnt soit faite de fême, qu'avera tolle a home ses membres, en tiel case perdra la fême l'une meyn par jugement, come le membre dont elle avera trespasse.—But if the plaint be made of a woman, who has deprived a man of his limbs, in such case the woman shall be adjudged to lose one hand, as the member with which she offended.

MESSOINGER.—Falsehoods.

MESSUAGIUM sive tenementum.—A message or tenement.

MESTIER.—Affairs; business.

META.—Limit, or bounds: the goal of an ancient race-course.

METALLUM.—A Roman punishment for criminals, which sentenced them to labor in the mines.

METTRE a large.—Is, generally, “to set or put at liberty.” And there is *Mettre le estats*, and *Mettre le droit*, mentioned by *Littleton* in cases of releases of lands by joint

tenants, &c., which may sometimes pass a fee without words of inheritance, 1 *Inst.*, 273, 4.

METUS in constantem virum, vel foeminam potest cadere. —“That fear which may fall on a firm (or courageous) man or woman.” By the Canon law, a marriage contracted under such a fear was void.

MEU.—Moved. MEULX.—Better.

MEYN.—Hand.

MEYNOVERER.—The occupying: to manure.

MEYNPAST.—A household.

MEYNPERNOUR.—A surety, or bail for a prisoner.

MEYNS sachants.—Unlearned.

MICHEL Gemote, or Micel Gemote, or Micel Synod.—The great meeting. The great councils, in the *Saxon* times, of king and nobles were called “*Wittena Gemotes*,” afterwards “*Micel Synods*,” or “*Michel Synoth*,” and “*Micel Gemotes*.” Vide note to “*Wittenagemote*.”

MIELS.—Best.

MILES.—A knight: a soldier. *Vide note*.

MILES justitiæ.—A knight of justice. *Vide note*.

MILLENA.—A thousand.

MINISTRO curiæ.—By an officer of the court.

MINORA crimina.—Lesser crimes: misdemeanors.

MINORA regalia.—The lesser rights of the crown.

MINUS sufficiens in literatura.—Deficient in literature.

MINUTE.—From *mi*, middle, and *nuyt*, night. Mid-night.

MISE, *Fr.*—Lat. *Missum*—Misa.—Costs or charges. *Vide note*.

MISERA est servitus, ubi jus est vagum, aut incognitum. —That servitude is miserable, where the law is either uncertain or unknown.

MISERERE.—Have mercy.

MISERICORDIA.—“Mercy.” Sometimes is used for an arbitrary or discretionary amerciament.

MISFEAZANCE.—A misdeed.

MISHERSING.—Being free of fines in any court for complaints irregularly made.

MISKENNING.—Irregular in a summons or action.

MISLIER.—To mislead.

MISPRISIO.—Fr. "*Mepris.*" A contempt. *Vide note.*

MISSATICUM.—A message.

MISSUS.—A messenger.

MISSUS dominicus.—A king's justice.

MISSUS regalis.—The legate, or commissioner of the crown.

MISTERIUM.—Something hidden.

MISUSER.—"In abuse of any liberty," or benefit; as "he shall make a fine for his *misuser.*" *Vide Old Nat. Brev.*, 149. By *misuser*, the charter of a corporation, &c., may be forfeited; as also an office.

MITIORI sensu.—In a milder sense: by a more favorable exposition.

MITTERE in confusam.—To put in hotchpot.

MITTERE in confusam cum sororibus quantum pater aut frater ei dederit, quando ambulaverit ad maritum.—To cast into a mixed fund with her sisters whatever her father or brother gave her on her marriage.

MITTER le droit.—To pass the right.

MITTER le estate.—To pass the estate.

MITTIMUS.—"We send." The name of a commitment to prison.

MITTITUR adversarius in possessionem bonorum ejus.—The opponent is put into the possession of his effects.

MITTOMUS.—Suppose now.

MOBILIA personam sequuntur; immobilia situm.—Things movable go with the person; immovables belong to the place.

MODIUS.—An ancient measure.

MODO et forma.—In manner and form. *Vide note.*

MODUM castigationem adhibere.—To chastise with moderation.

MODUS decimandi.—A Modus, or composition in lieu of tithes.

MODUS de non decimando non prævalet.—A custom of being tithes free does not avail.

MODUS et conventus vincunt legem.—The custom and agreements supersede the law.

MODUS faciendum homagium et fidelitatem.—The manner of doing homage and fealty.

MODUS legem dat donationi.—Custom gives law to the gift (or grant).

MODUS levandi fines.—The manner of levying fines.

MOERDA.—Sax. Murder.

MOERYER.—To die.

MOHATRA.—A kind of usurious contract.

MOLENDINUM.—A mill.

MOLITURA.—A toll at a mill; a multure.

MOLLITER manus imposuit.—“He gently laid hands on him.” This phrase is used in a defence set up against an action or indictment for an assault. He but “gently laid hands” on the plaintiff or prosecutor for the purpose of expelling him out of his (defendant’s) house, &c.

MOLUTUS.—Ground, as weapons sharpened by grinding.

MOLYN ventresse.—

MONATH.—Sax. A month.

MONEIA.—Old English form of spelling money.

MONIALA.—A nun.

MONIER, moneyer.—One who coined money.

MONOMACHIA.—Single combat.

MONS sacer.—“The sacred mount.” A place of appearance for litigating persons among the *Romans*.

MONSTRANS de compoto.—Showing the account.

MONSTRANS de droit.—Showing the right.

MONSTRANS de droits, ou records.—Showing the deeds, or records.

MONSTRANS de faits, ou records.—“The showing the

deeds or records." The difference between *monstrans de faits*" and "*oyer de faits*," is this; he that pleads the deed or record, or declares upon it, ought to show the same; and the other, against whom such deed or record is pleaded, may demand "*oyer*." *Cowell*.

MONSTRAVIT.—He hath showed.

MOOT.—Doubtful: a term anciently much used in the Inns of Court.

MOOT, or MUTE HILL.—Anciently, a hill or elevation where public meetings were held in Great Britain.

MORGANGIVA.—The wedding gift. *Vide note*.

MORS.—"Death." There is in law a civil and also a natural death. *Vide note*.

MORT d'ancestor.—"The ancestor's decease." The name of a writ. *Vide note*.

MORTGAGIUM.—A dead pledge. *Vide note*.

MORTMAIN—*Manus mortua*.—A dead hand, or an unchangeable possession. *Vide note*.

MORTUARY.—A gift to the church on the decease of a parishoner. *Vide note*.

MORTUUM vadium.—A dead pledge, or mortgage. *Vide note* to "*Mortgagium*."

Mos pro lege.—"Custom for law." Long-established usage in many cases, as in case of a fixed *modus* for tithes, &c., &c. shall stand in the place of law.

MOTS d'usage.—"Words of usage." Phrases in common use.

MULIER.—"A woman." Generally applied to married women. *Vide note*.

MULIER nunquam cum masculo partem capit in aliqua hæreditate.—"A woman never takes part in an inheritance with a man." This refers to the feudal law of descents.

MULIER puisne.—The eldest illegitimate son of a woman, who, before her marriage, was illicitly connected with the father.

MULTA Episcopi.—A fine paid by a bishop to the king for certain legal privileges.

MULTO fortiori, or "*a minori ad majus.*"—Is an argument often used by *Littleton*, and is framed thus: "If it be so in a feoffment passing a *new* right, much *more* it is for the restitution of an *ancient* right." Vide *Co. Litt.* 253, &c. 260, *a.*

MULTUM depreciati, et deteriorati devenerunt pro defectu emptorum, ex causa prædicta, sic impeditorum.—"(The goods) being much depreciated and injured, were reduced in value for want of buyers, who, for that reason, were prevented from purchasing." This was the return of the sheriff, in some cases, to a writ of execution.

MULTUM possessionis, et multum juris.—Much possession, and much right.

MULTUM possessionis, sed nihil juris.—Much possession, but no right.

MULTURE.—A toll for grinding at a mill; also a fine for going to another's mill instead of that upon the barony. Vide note to *Astrict*.

MUNDBRICE.—Sax. Violation or breach of the king's protection.

MUNDEBURDE.—From *mund*, protection; and *bord*, a pledge.

MUNICIPIUM.—A free city or town.

MURDRAVIT.—"He murdered." Sometimes this word means "*he concealed.*"

MURDRUM.—"Murder": concealment: also a fine paid by the hundred wherein the crime was committed. *Murdre*, in the old statutes, signified any kind of concealment, or stifling.

MUTARI viagium tunc dicitur, quando primum principalem destinationem magister navis non sequitur, ut pote, quod navis cum onere, et cum primis vecturis, ad locum destinatum amplius non ire, nec eat.—The voyage is said to be changed, when the master of a ship does not follow

the first destination; as, for example, when a vessel, loaded with its first freight, does not proceed further towards its appointed place, and (in fact) does not go.

MUTATO nomine de te fabula narratur.—Changing the name, the fable concerns yourself.

MUTUATUS.—“Borrowed.” A phrase sometimes inserted in warrants of attorney to confess judgment.

NOTES TO M.

MAGNA CHARTA.—The great *Palladium* of English liberty. A copy was sent to different Cathedrals in England. One is to be seen, in most excellent preservation, in the *British Museum*. It is beautifully written in *Latin* in the old court-hand, then in use. Dr. *Goldsmith*, in his abridgment of the *History of England*, says, “The Barons had long been forming a confederacy against King *John*; but their union was broken, or their aims disappointed, by various and unforeseen accidents. At length, however, they assembled a large body of men at *Stamford*, and from thence, elated with their power, they marched to *Brackley*, about fifteen miles from *Oxford*, the place where the court then resided. *John*, hearing of their approach, sent the Archbishop of *Canterbury*, the Earl of *Pembroke*, and others of the Council, to know the particulars of their request; and what those liberties were, which they so earnestly importuned him to grant. The Barons delivered a schedule containing the chief articles of their demands; and of which the former Charters of *Henry* and *Edward* formed the ground-work. No sooner were these shown to the King, than he burst into a furious passion, and asked why the Barons did not also demand his kingdom; swearing that he *never* would comply with such exorbitant demands! But the confederacy was now too strong to fear much from the consequences of his resentment. They chose *Robert Fitzwalter* for their General, whom they dignified with the title of “MARESCHAL of the army of God, and of the Holy Church,” and proceeded without further ceremony to make war upon the King. They besieged *Northampton*; they took *Bedford*, and were joyfully received in *London*. They wrote circular letters to all the Nobility and Gentlemen, who had not yet declared in their favor, and menaced their estates with devastation, in case of refusal or delay.

John, struck with terror, first offered to refer all differences to the Pope alone, or to eight Barons, four to be chosen by himself, and four by the confederates. This the Barons scornfully rejected. He then assured them that he would submit at discretion; and that it was his supreme pleasure to grant all their demands; a conference was accordingly appointed, and all things adjusted for this most important treaty.

The ground, where the King's commissioners met the Barons, was between *Staines* and *Windsor*, at a place called *Ruaimede*, still held in reverence by posterity, as the spot where the standard of freedom was first erected in *England*. Fathers even now exultingly show this spot to their children; and the very sight of it warms the heart of every *Englishman*, who has one drop of blood which revolts against *tyranny*, and *oppression*! “There the Barons appeared with a vast number of knights and warriors, on the fifteenth day of June, while those on the King's part came a day or two after.

Both sides encamped apart like open enemies. The debates between power and precedence are generally but of short continuance. The Barons, on carrying their arms, would admit of few abatements; and the King's agents, being, for the most part, in their interests, few debates ensued. After some days, the King, with a facility that was somewhat suspicious, signed and sealed the Charter required of him; a Charter which continues in force to this day, and is the famous BULWARK OF ENGLISH LIBERTY, which now goes by the name of MAGNA CHARTA. This famous deed either granted or secured freedom to those orders of the kingdom that were already possessed of freedom, namely, to the Clergy, the Barons and the Gentlemen; as for the inferior, and the greatest part of the people, they were as yet held as slaves; and it was long before they could come to a participation of legal protection."

MANCIPII—(*quasi manu capti*).—Men became slaves, among the Romans, by being taken in war; by sale; by way of punishment; or by being born in a state of servitude; and it may not be improper to mention some particulars of these Roman slaves to show how far their condition was similar to the slaves, and ADSCRIPTI GLEBE, under the English and other European feudal laws. Enemies, who voluntarily laid down their arms, and surrendered themselves, retained their rights of freedom; and were called "DEDITUM." *Liv.* vii. 31. But those taken in the field, or in the storming of cities, were sold by auction ("SUB CORONA") as it was termed, (*Liv.* v. 22, &c.) because they wore a crown when sold; or ("SUB HASTA") because a spear was set up where the crier, or auctioneer stood.

There was a continual market for slaves at Rome. Those who were in that trade, brought them there from various countries. The seller was bound to promise for the soundness of the slave; and not to conceal his faults. Vide *Ilor. Sat.* ii. 3. 285. Hence, they were usually exposed to sale naked; and they carried a scroll (*titulus vel inscriptio*) hanging at their necks, on which their good and bad qualities were specified. Vide *Gell.* iv. 2. If the seller gave a false account, he was bound to make up the loss, vide *Cic. Off.* iii. 16 and 17; or in some cases to take back the slave. *Ibid.* 23. Those whom the seller would not warrant, were sold with a kind of cap on their heads, (*pileati*). Vide *Gell.* vii. 4.

It was unlawful for free born citizens among the Romans, as among other nations, to sell themselves for slaves. Much less was it allowed any other person to sell a Freeman. But as this gave occasion to certain frauds, it was ordained by a decree of the Senate, that those who allowed themselves to be sold, for the sake of sharing the price, should remain in slavery. Fathers might, indeed, sell their children for slaves; but these did not, on that account, entirely lose the rights of citizens; for, when freed from their slavery, they were held as "Ingenui," not "Libertini." The same appears to have been the case with insolvent debtors, who were given up as slaves to their creditors, ("in servitute creditoribus addicti," i. e. bound in servitude to their creditors.) Vide *Quinct.* vi. 3, 26, v. 10, 60.

Criminals were often reduced to slavery, by way of punishment. Thus, those who had neglected to get themselves enrolled in the Censor's books; or who refused to enlist, had their goods confiscated; and, after being scourged, were sent beyond the Tiber. Vide *Cic. pro Cæcin.* 24. Those condemned to the mines or to fight with wild beasts, or to any extreme punishment, were first deprived of liberty, and, by a fiction of law, termed "slaves of punishment," (*servi pænæ fingebantur*.)

The children of any female slave, became the slaves of her master. There appears to have been no regular marriage among slaves; but their connection was called "Contubernium," and themselves "Contubernales." Those slaves, who were born in the house of their master, were called "Verna," or "Vernaculi," hence the expression, "*lingua vernacula*," (one's mother-tongue.)

These slaves were more petulant than others, because they were more indulged. Vide *Hor. Sat.* ii. 6, 66. Slaves not only did all domestic services, but were likewise employed in various trades and manufactures. Such as had a genius for it were sometimes instructed in literature, and the liberal arts; *artibus ingeniis, liberalibus, vel honestis*—i. e. "in ingenious, liberal, and honorable science." Vide *Cic.* Some of these were sold at a great price. Vide *Plin.* vii. 39. s. 40. Hence arose a principal part of the immense wealth of *Crassus*. Vide *Plutarch* "in vita ejus." Slaves were frequently promoted, according to their behavior, as from being a drudge, or mean slave in town, to be an overseer in the country. Vide *Hor. Ep.*

The country farms of the wealthy *Romans*, in latter times, were cultivated chiefly by slaves. Vide *Plin.* xviii. 3. But there were also free men who wrought for hire, as with us.

Among the *Romans*, masters had, at one time, an *absolute* power over their slaves; they might scourge or put them to death at pleasure. Vide *Juv. Sat.* vi. 219. This right was sometimes exercised with so great cruelty, that, especially in the corrupt ages of the republic, laws were made at different times to restrain it. The assertion of *Juvenal* proves that, even where great civilization and refinement reign, and even where men are far removed from a state of nature, they may become tyrants. These facts also teach Legislatures that as little *arbitrary* power as possible should be left in the discretion (as it is foolishly termed) of any weak and fallible individual.

The *lash* was the common punishment of slaves; but for certain crimes they were branded in the forehead, and sometimes forced to carry a piece of wood wherever they went, which was called "*Furca*;" and whoever had been subjected to this punishment was ever afterwards called "*Furcifer*." Slaves, also, by way of punishment, were often shut up in a house or bride-well, where they were obliged to turn a mill for grinding corn. Vide *Plaut. et Ter. passim*. When slaves were beaten, they used to be suspended with a weight tied to their feet, that they might not move them. Vide *Plaut. Asin.* ii. 2, 34, &c. To deter slaves from offending, a thong (*HABENA*) or a lash was commonly hung on the staircase, (*in scalis*.) Vide *Hor. Ep.* ii. 2, 15; but this was, it is said, generally applied to younger slaves, "*Impuberes habenâ vel ferulâ plectebantur*," i. e. "The youngsters were flogged with a whip or rod." Vide *Ulpian*. Slaves, when punished capitally, were commonly crucified. Vide *Juv.* vi. 219. *Cic. in Verr.* v. 3, 64, &c.; but this punishment (which was a most horrible one, leaving the criminal sometimes for days in extreme agony) was prohibited under *Constantine*. If a master of a family was slain at his own house, and the murderer not discovered, *all* his domestic slaves were liable to be put to death. Hence, we find no less than *four hundred* in one family put to death on this account. Vide *Tacit. Ann.* xiv. 43. How far tyranny and revenge will go when left to the passions of the injured parties!

Slaves were not esteemed as *persons*, but as *chattels*; and might be transferred from one to another like any other effects. Slaves could not testify in a court of justice. Vide *Ter. Phorm.* ii. 1, 62; nor make a will. *Plin. Ep.* viii. 16; nor inherit anything, *idem.* iv. 11; but gentle masters allowed them to make a kind of a will (*quasi testamentum facere*). Vide *Plin. Ep.* viii. 16; nor could slaves serve as soldiers, *Id.* x. 39, unless first made free, except in the time of *Hannibal*, when, after the battle of *Cannæ*, eight thousand slaves were armed without being freed. Vide *Liv.* xxii. 57. These were called "*Volones*," because they enlisted voluntarily. Vide *Festus*: these afterwards obtained their freedom for their bravery. (*Liv.* xxiv. 16.) Slaves sometimes saved money out of their allowances, which, with their masters' permission, they laid out at interest, or purchased with it a slave for themselves, from whose labors they might make profit. *Cicero* says that sober and industrious slaves, at least such as became slaves from being captives in war, seldom remained in servitude above six years. (*Phill.* viii. 11.) At certain times

slaves were obliged to make presents to their masters out of their poor savings—"ex eo quod de dimenso suo unciatim comparserint,"—i. e. "out of that which they saved by little and little from their allowance." Vide *Terent*. There was sometimes an agreement between master and slave, that, when the latter should pay a certain sum, the master should be obliged to give him his liberty. Vide *Plaut. Aul.* v. 3, &c., *Cæsin.* ii. 5, 6. Although the state of slaves, in point of right, was the same, yet their condition in families was very different, according to the caprice and pleasure of their masters, and their various employments; some served in chains, as *Janitors*, and door-keepers; and some in the country, "*catenati cultores*," i. e. "chained husbandmen." Vide *Flor.* iii. 19. "*Vincti fossores*" (chained ditchers or diggers). Vide *Luc.* vii. 402; others were confined in work-houses, below ground (*in ergastulis subterraneis*). So *Pliny*, "*Vincti pedes, damnatæ manus, inscriptique vultus, arva exercent*," xviii. 3.—i. e. "with chained feet, manacled hands, and branded countenance, they cultivate the fields."

MANUMISSIO.—As the inhabitants of many towns, during the long continuance of the Feudal system, had gained their freedom and independence by charters of communities being granted them, the enfranchisement of bondmen or slaves became gradually more frequent; and when "Charters of liberty," or "Manumission," were granted to such persons, they contained four concessions, corresponding to the four capital grievances to which men in a state of servitude were subject. 1st. The right of disposing of their persons by sale, or grant, was relinquished. 2. Power was given them of bequeathing, or conveying their property or effects, by will, or any other legal deed; or if they happened to die intestate, it was provided that their effects should go to their lawful heirs in the manner as the property of other persons. 3d. The services and taxes which they owed to their superior, or liege lord, which were formerly *arbitrary*, were *precisely* ascertained. 4th. They were allowed the liberty of marrying according to their own inclinations; formerly they could contract no marriage without their lord's permission; and, it is said, with no person but with one of his slaves. All these circumstances are found in the Charter granted *Habitatoribus Montis Britonis*, A. D. 1376. Many circumstances concurred which produced deliverance from this wretched state. The gentle spirit of the Christian religion; the doctrines which it teaches concerning the equality of man, and the mutual charity or good will we should bear to *all mankind*; its tenets with respect to the Divine Government; and the impartial eye with which the Almighty regards men of *every* condition, and admits them to a participation of his benefits, "without respect of persons," are all inconsistent with, and militate against servitude. The benign doctrines of Christianity struggled *long* but steadily with worldly interest; and, establishing generous and equitable maxims, contributed more than *every* other circumstance to introduce the practice of "*Manumission*." When Pope *Gregory* the Great, who flourished towards the end of the sixth century, granted liberty to one of his slaves, he gives this reason for it: "*Cum Redemptor noster, totius Conditor nature, ad hoc propitius humanam carnem voluerit assumere, ut divinitatis suæ gratia, dirempto (quo tenebamur captivi) vinculo, pristinæ nos, restituerit libertati; salubriter agitur, si homines, quos ab initio liberos natura protulit, et jus gentium jugo substituit servitutis, in ea qua nati fuerant, manumittentis, beneficio, libertate reddantur*"—i. e. "Seeing that our Redeemer, the Creator of all things, as a propitiation, assumed a human body, that, by the merit of his divinity, the chain being broken (by which we were enthralled), he might restore us to liberty. So we act properly, if by the kindness of our manumission, those whom nature ordained free from the first, but whom the law of nations hath subjected to slavery, are restored by us to their birth-right of freedom." And a great part of the charters of "*Manumission*," previously to the reign of *Louis* the Tenth, are granted "*pro amore Dei*," "*pro remedio animæ*," et "*pro mercede animæ*."

L. e. "for the love of God," "for the cure of the soul," and "for the welfare of the soul." Vide *Du Cange, voc. "Manumissio."* The formality of Manumission was performed in a church, with great solemnity as a religious ceremony; the person to be manumitted was led round the great altar, with a torch in his hand; he took hold of the horns of the altar, and there the solemn words conferring liberty were pronounced. *Ibid.* vol. iv. 467. Manumission was also frequently granted on a death-bed; or by will. Another mode of obtaining Manumission was by entering into Holy Orders; but so many slaves escaped by this mode out of the hands of their masters, that the practice was at last prohibited by almost all the nations of *Europe*.

The genius of the *English* constitution seems early to have favored Manumission generally; yet, in some parts of *England*, personal service continued to a late period. In the year 1514, we find a charter of *Henry* the Eighth, enfranchising two slaves belonging to one of his manors; and so late as the year 1574, there is a commission from Queen *Elizabeth*, with respect to the Manumission of certain bondmen, belonging to her.

Manumission was formerly performed several ways. Some were manumitted by delivery to the sheriff, and proclamation in the county, &c.: others by charter. One way of manumission was, for the lord to take the bondman by the head, and say, "I will that this man may be free"—and then shoving him forward, "out of his hand," (*é manu suo.*) There was also a Manumission implied, when the lord made an obligation for payment of money to the bondman—or sued him where he might enter without suit, &c. The form of manumitting in the time of *William* the Conqueror is thus recorded: "*Si quis servum suum liberum facere, tradat eum vicecomiti per manum dextram, in plenu comitatu, et quietum illum clamare debet a jugo servitutis sue per Manumissionem, et ostendat ei liberam portas; et tradat ei libera arma, scilicet, lanceam et gladium; et inde LIBER HOMO efficitur.*" Vide *Lamb Archæ.* 126—i. e. "If any person desires to make his slave free, he may deliver him to the sheriff, by the right hand, in full County Court, and he should declare that he was discharged by Manumission, from his servitude, and show him the opened doors, and deliver to him free arms, viz., a lance and sword, and thenceforth he becomes a FREEMAN."

MANUS.—In ancient records, this word is frequently used for the person taking an oath. "*Tertia, quarta, &c., manu jurare*"—i. e. "the party was to bring so many to swear with him, that they believed what he vouched was true." And in case of a woman accused of adultery, "*mulieri hoc neganti purgatio sexta manu extitit indicta*"—i. e. "she was to vindicate her reputation upon the testimony of six Compurgators." Vide *Reg. Eccl. Christ. Cant.* The use of the word, in the sense here alluded to, probably came from laying the hand on the Scriptures when the oath was taken.

MAYHEM—or *Maihem*.—Those words mean a wound, or corporal hurt, by which a man loses the use of any member, proper for his defence or fight: as if a man's skull be broke; or any other bone broken, in any other part of the body; a foot, hand, finger, or joint of a foot; or any member be cut off; if by any wound the sinews be made to shrink; or where any one is castrated; or if an eye be put out, or any foretooth broke, &c. But the cutting off an ear, or nose, the breaking of the hinder teeth, and such like, was held by the Common Law to be *no Mayhem*; as they were not weakening the person's strength, but only a disfiguring, or deforming the body. Vide *Gland.* lib. 4, c. 7. *Bract.* lib. 3, tract 2. At one time, by the ancient law of *England*, he that maimed any one, whereby he lost any part of his body, was sentenced to lose the like part, "*membrum pro membro,*" (limb for limb.) Vide 3 *Inst.* 118.

MEDIETAS LINGUÆ.—In petit treason, murder and felony, "*medietas*

linguae," is allowed by the English law. But in high treason it is otherwise; and we read that *Solomon de Standford*, a Jew, had a cause tried before the Sheriff of *Norwich*, by a jury, who were "*sex probos et legales homines; et sex legales Judæos excivitate Norwici*," &c.—i. e. "six good and lawful men, and six Jews of the same description, (taken) from the city of *Norwich*."

MILES, among the *Latins*, signified a Soldier; but in law books it generally signifies a *Knight*; which *Camden* says is derived from the Saxon, *Gnite*, or *Cnight*. The Heralds inform us of several orders of Knights. A Knight, at this day, is, and anciently hath been, reputed and taken for one who, by his valor and prowess, or other services performed for the benefit of the commonwealth, has, by the King, or his sufficient deputy, been advanced above, or separated from the common sort of gentlemen. The *Romans* called Knights, *Celeres*, and sometimes *Equites*, from the performance of those services upon horseback; and among them, there was an order called "*Ordo Equestris*," but distinguished from those called *Celeres*. The *Spaniards* called them *Cavalleros*, the *French*, *Chevaliers*, and the *Germans*, *Rieters*: all which appellations evidently appear to proceed from the *Horse*, which is a great proof of the manner of the execution of their warlike exercises.

MILES JUSTICIÆ.—As soon as the science of law (by the introduction of the *Roman Civil Code*, &c.) became a laborious study, and the practice of it a separate profession, such persons as rose to eminence in it obtained honors, which had been theretofore appropriated to *soldiers*. Knighthood was the most remarkable distinction during several ages, and conferred privileges, to which rank and birth alone were not entitled. To this high dignity, persons eminent for their knowledge in the law were advanced; and thereby placed on a level with those whom their military talents had rendered conspicuous. *Matthew Paris* mentions such Knights as early as A. D. 1251. If a Judge obtained a certain rank in the courts of justice, that alone gave him the right to the honor of Knighthood; and "*Miles Justiciæ*," and "*Miles Literatus*," became common titles. Vide *Pasquier Reserches*, liv. 11, c. 16, p. 130. A profession which led to offices, and ennobled the persons who held them, grew into credit; and the people of *Europe* became accustomed to see men rise to eminence, by *civil*, as well as *military* talents and bravery.

MISE.—This is a law term signifying *expenses*; and was formerly used in the entries of judgments, in personal actions; as where the plaintiff recovers, the judgment is "*quod recuperet damna sua*," (i. e. that he recover his damages) to such a value, and "*pro misis et custagiis*," (for costs and charges) so much, &c. This word has also another signification in law, which is, where it is taken for a word of *art*, appropriated to a writ of *Right*, so called because both parties have put themselves upon the *mere right*: so that what, in other actions, is called an *issue*, in a writ of *Right* is called a "*Mise*;" but if, in a writ of *Right*, a *collateral* point be tried, that is called an *issue*. Vide *1st Inst.* 294, and *37 Edward 3d*, c. 16.

MISPRISIO.—A neglect, oversight, or contempt. As, for example, *Misprision* of treason, is a negligence in not revealing treason, where a person knows it to have been committed—so of felony. In a larger sense, *Misprision* is taken for many great offences, which are neither treason nor felony, nor capital, but *very near* them; and, it is said, that every great misdemeanor which hath no certain name appointed by the law, is generally called *Misprision*. Vide *3 Inst.* 36. *H. P. C.* 127. *Wood*, 406, 408.

MODO ET FORMA.—Words of art in law pleadings, &c.; and particularly used in the answer of a defendant, whereby he denies the thing laid to his charge, (*moda et forma declarata*) "in manner and form as laid" by the plaintiff. Vide *Kitch.* 232.

MORGANGINA—or *Morgangina*, from the *Sax.* "*morgen*," the morning, and "*giftan*," to give. These words signify the wedding-day's gift—*dower*, or rather *dowry*, "*Si sponsio virum suum supervixerit, dotem et maritacionem suam, cartarum instrumentis, vel testium exhibitionibus et traditam perpetualiter habeat, et morganginam suam*," *L. L. Hen.* 1. c. 11.—i. e. "If the wife survive her husband, she shall have her dower and marriage portion, always delivered (or assigned) to her by deeds, or the producing of witnesses, and also the *wedding-morning's gift*." Vide, also, *Du Cange, in verb.* "*Morgangiba*." There is a custom at present in *Wales*, for the friends and neighbors of a new married couple to make them presents on their wedding day.

MORT D'ANCESTOR.—This is a writ which lay where a man's father, mother, brother, sister, uncle, aunt, &c., died seized of lands, tenements, rents, &c. that were held in fee, and after their death, a stranger abated. Vide *Reg. Orig.* 223. It is good as well against the abator, as any other in possession of the land; but it lies not against the brothers or sisters, &c., where there is a privy of blood between the person prosecuting, and them. *Co. Litt.* 242. And it must be brought within the time limited by the statute of limitations. (3 *Comm.* 189). If tenant by the curtesy, alien his wife's inheritance and die, the heir of the wife may have an *assize of mort d'ancestor*, if he have not assets by descent from the tenant by the curtesy; and the same shall be as well where the wife was not seized of land the day of her death, as where she was seized thereof. *New Nat. Br.* 489.

MORS—Death. By the *Roman* laws, (affecting freemen,) only the most heinous crimes were punished by a violent death. In ancient times it seems to have been not unusual to hang the malefactors, "*infelici arbore suspendere*," (i. e. to hang them on an accursed tree). Vide *Liv.* i. 26. Afterwards, to scourge (*virgis cedere*), and behead them (*securi percutere*). Vide *Liv.* iii. 5. vii. 19. xxvi. 15. To throw from the *Tarpeian Rock*, (*de saxo Tarpeio de-jicere*;) *Ib.* vi. 20. or from that place in the prison called *Robur*. Vide *Festus Vil. Max.* vi. 31. Also to strangle them, (*lacqueo gulam, guttur, vel cervicem*, i. e. "to break the wind-pipe, the throat, or the neck with a rope,") in prison. *Id.* v. 4, 7. Vide *Sallust, Cat.* 55, &c. The bodies of criminals, when executed, were not burnt, or buried; but exposed before the prison, (usually a certain stairs called *Gemonia*,) and thence dragged with a hook, and thrown into the *Tiber*. Vide *Suet. Tib.* 53; and *Juv.* x. 66. Sometimes, however, their friends purchased the right of burying them. Under the Emperors, several new and more severe punishments were contrived: as, exposure to wild beasts, (*ad bestias damnatio*;) burning alive, (*vivicomburium*,) &c. When criminals were burnt, they were dressed in a tunic, besmeared with pitch, and other combustible matter, called "*tunica molesta*." Vide *Senec. Ep.* 14. *Juv.* viii. 235. Pitch is mentioned among the instruments of torture in more ancient times. *Plaut. Capt.* iii. 4, 65. Sometimes persons were condemned to the public works; to engage with wild beasts; or fight as Gladiators. Vide *Plin. Ep.* x. 40; or were employed as slaves, in attending on the public baths; in cleansing common sewers; or repairing the streets and highways. *Id.* Slaves, after being scourged, were crucified, usually with a label, or inscription on their breasts, intimating their crime, or the cause of their punishment, *Dio.* liv. 3, as was commonly done to other criminals, when executed. *Suet. Cal.* 32. *Dom.* 10. Thus *Pilate* put a title or superscription on the cross of our Saviour. Vide *Matt.* xxvii. 37. The form of the cross is described by *Dionysius*, vii. 69. *Vedius Polio*, one of the friends of *Augustus*, devised a new species of cruelty to slaves, throwing them into a fish-pond to be devoured by lampreys. Vide *Plin.* ix. 23. s. 39. *Dio.* liv. 23. A person guilty of parricide, or even murdering a near relation, after being severely scourged, was sewed up in a sack, (*culeo insatus*), with a dog, a cock, a viper, and an ape, and then thrown into the sea, or a deep river. *Cic. pro Rosc. Amer.* ii. 25 26 *Senec. Clem.* i. 23

MORTUAGIUM, *vel mortuum vadium*, from "mort," *mortuus*, and "gage," a pledge. Generally meaning a pledge of lands or tenements. We read of Mortgage in the *Grand Customary of Normandy*, c. 313. Glanville (*lib. 1. c. 13*) defines it thus, "*Mortuum vadium dicitur illud, cujus fructus, vel redditus, interim percepti in nullo se acquiescant*"—i. e. "That is called a dead pledge, whose profit or income does in no way, in the meantime, defray the debt." So that it is called a "dead gage," because whatever profit it yieldeth, yet it redeemeth not itself by yielding such profit, except the whole sum borrowed be paid at that day.

The notion of mortgaging and redemption appears to be of *Jewish* extraction; and most probably from them it descended to the *Greeks* and *Romans*. The plan of the *Mosaic* law constitutes a just and equal *Agrarian* law, that the lands might continue in the same tribes and families; therefore, whoever was compelled by poverty to sell, could transfer no estate in the lands, further than to the then *next general Jubilee*, which returned once in every *fifty* years; therefore it was computed by the purchaser, that he could only hold *till* that Jubilee arrived. Vide *Levit. xxv, 13 et seq.*; but it has been said that the vendor had power at *any time* to redeem, paying the value of the lands to the *next Jubilee*; but though he did not redeem them, yet at the Jubilee, the lands came back free to the vendor, or his heirs.

MORTMAIN—*manus mortua*, from the Fr. "mort," mors; and "maine," manus. This word means an alienation of lands to any corporation, guild, or fraternity, and their successors: as bishops, parsons, vicars, &c. The reason of the name "*Mortmain*," may probably be derived from hence, because the services, and other profits of the land, as *Escheats*, &c., should not come into a *dead hand*, or into such a hand as might be called *dead to the world*, so as to be abstractedly different from other lands, &c., and never could, by any defect of the heirs of the donee, &c., return to the donor; or to any *temporal* or common use. *Polydore Virgil* in the seventh book of the *Chronicles* mentions this law, and gives the reason of the name, "*Et legem hanc manum mortuorum vocarunt, quod res semel datae collegiis sacerdotum, non utique rursus venderentur, velut mortuæ, hoc est, usui aliorum mortalium in perpetuum adeptæ essent. Lex diligenter servatur, sic, ut nihil possessionum ordinis sacerdotali a quoquam detur, nisi regis permissu*"—i. e. "And this law they called *Mortmain*, because estates once given to societies of priests, could not afterwards be sold (they might be accounted) as things without life; that is, they were obtained for the use of other persons, in *perpetuity*. The laws thus carefully observed that nothing be given to the sacerdotal order by any person, without the King's consent." *William* the Conqueror demanded the cause why he conquered *England* in *one* battle, which the *Danes* could not do by *many*. *Frederick*, the then Abbot of *St. Albans*, answered, that the reason was, because the land, which was the maintenance of *martial* men, had been given and consecrated to pious purposes; and for the maintenance of holy votaries. To this the Conqueror said, that if the clergy were so *strong*, that the realm was *enfeebled* of men of war, and subject by it to foreign invasion, he would assist it, and thereupon he took away many of the revenues of the Abbot, and of others also. Vide *Speed*. 418.

MORTUARY.—A gift, or payment to the church on a person's demise. *Selden* says that the usage was to bring the *Mortuary* along with the corpse, when it came to be buried; and to offer it to the church, as a satisfaction for the supposed negligence and omissions the deceased had been guilty of, in not paying his *personal* tithes: from thence it was called "*a corse present*."

MULIER.—It has been said that this word, used in the *law*, seems to be a word corrupted from *melior*, or the Fr. *meilleur*, and signifies the lawful issue born *in* wedlock, preferred before an elder brother, born *out* of matrimony.

Vide *Stat. 6, Hen. 6, c. 11*. But by *Glanville*, lawful issue are said to be *mulier*, not from *melior*, but because begotten "*é muliere*," and not "*ex concubina*:" for he calls such issue "*filios mulieratos*," opposing them to Bastards. Vide *Glanv., lib 7, c. 1*. It appears to be thus used in *Scotland* also. *Skene* says "*mulieratus filius*, is a lawful son born of a lawful wite." It, however, is often used in the sense we usually apply to it. Women have held in *Englana* various offices. *Ann*, Countess of *Pembroke, Dorset*, and *Montgomery*, held the office of Hereditary Sheriff of *Westmoreland*, and exercised it in person; at the Assizes at *Appleby*, she sat with the judges on the bench. Vide *Harg. n. Co. Litt. 326, a*. A woman may also be a Marshal, Great Chamberlain, and Constable of *England*, the Champion of *England*, Commissioner of Sewers, Governor of a Work-house, Sexton, Keeper of the Prison of the Gate-house of the Dean and Chapter of *Westminster*, Returning Officer of Members of Parliament, and Constable. Vide *Rex v. Stubbs, 2 Burr Rep.*

N.

NAIF.—A slave by birth.

NAM adipiscimur possessionem corpore et animo: neque per se corpore, neque per se animo. Non autem ita accipiendum est, ut qui fundum possidere, velit *omnes* glebas circumambulet; sed sufficit quamlibet partem ejus fundi introire.—For we obtain possession by body and intent, not by body alone, nor by intent alone. For it is not to be understood that he who is about to take possession of a farm should walk over the *whole* of the land; but it is sufficient that he enter into what part of the farm he pleases.

NAMARE.—To distrain.

NAM cum navis divertat ad extraneos actus, dicitur mutasse iter, et plura viagia fecisse, et primum dicitur mutatum et amplior rata hoc procedere, etiamsi fuit cæpitum secundum viagium, licet non completum; nam cum fuerit devenitum ad actum proximum, destinatio habetur pro profecto; cum potentia proquinqua actui habeatur pro actu, limita tamen si mutetur ex justa causa, &c.—For when a ship alters her course to transact business foreign to the voyage, she is said to have changed her course, and to have made more voyages, and the first voyage is said to be altered,

and a higher rate is taken for this, although the second voyage was begun, but not completed: for when the vessel had performed its first business, its destination shall be considered as completed; for the immediate power of acting shall be accounted for the act itself; but if it change its destination for a just cause, &c.

NAM de minimis non curat lex.—For the law takes no notice of mere trifles.

NAM et commodum ejus esse debet, cujus periculum est.—For he who is liable to the risk should have the advantage.

NAM ex antecedentibus, et consequentibus, fit optima interpretatio.—Because the best meaning consists in that which precedes, and follows.

NAM exemplo perniciosum est, ut ei scripturæ credatur qua unusquisque sibi adnotatione propria debitorem constituit.—For it is a very injurious rule that a writing should have that credit, in which any person, by his own memorandum, may constitute another his debtor.

NAM feudum sine investitura nullo modo constitui potuit.—For a fee cannot in any manner be made without (giving) possession.

NAMIUM.—A taking of goods or chattels by way of distress.

NAM leges vigilantibus, non dormientibus subveniunt.—For the laws assist the watchful, (but) not the slothful.

NAM nemo est hæres viventis.—For no one is the heir of a living person.

NAM omne crimen ebrietas, et incendit, et detegit.—For drunkenness aggravates, and also discovers every crime.

NAM omne testamentum morte consummatum est, et voluntas testatoris est ambulatoria usque ad mortem.—For every will is consummated (or perfected) by death; and, until that event, the testator's will is *ambulatory* (or liable to be altered).

NAM qui facit per alium, facit per se.—For he who acts by another acts by himself. *Vide note.*

NAM qui hæret in litera, hæret in cortice.—“For he who adheres to the (very) letter sticks (only) in the bark;” [he does not reach the substance.]

NAM quilibet potest renunciare juri pro se introducto.—“For any one may renounce a law (or right) brought in for himself,” (i. e. which is raised for his own advantage).

NAM qui non prohibet, cum prohibere possit, jubet.—For he who forbids not, when he may, orders (the thing to be done). *Vide note.*

NAM quod remedio destituitur, ipsa re valet, si culpa absit.—For that which is without remedy, assists the thing itself, if no fault exists.

NAM quod semel meum est, amplius meum esse non potest.—For that which is once my own, cannot be more strongly (or fully) mine.

NAM si cum gente aliqua neque amicitiam, neque hospitium, neque fœdus amicitiae causa factum habemus, hi hostes non sunt. Quod autem e nostro ad eos pervenit, illorum fit; et liber homo noster ab eis captus, servus fit, et eorum idemque si ab illis ad nos aliquid perveniat.—For although with any nation we have no league, nor friendship, nor alliance made, yet they are not enemies. Nevertheless, what effects of ours may chance to come into their possession become their property; and our free subject captured by them becomes their slave; and so of their property, if it come to our hands.

NAM silent leges inter arma.—For during (the rage of) war, laws are disregarded.

NAM verba debent intelligi cum effectu, ut res magis valeat quam pereat.—For language should be understood with that intent, that the matter may rather be effected than rendered nugatory.

NASTRE.—Born.

NATIVA.—A female slave.

NATURALIS affectio.—Natural affection. *Vide note.*

NATUS ante maritagium.—Born before wedlock.

NAUCLERUS.—The master of a merchant ship.

NAUFRAGE.—Shipwreck.

NAUFRAGIO facto, exercitor nauula restituit, quæ ad manum præceperat, ut qui non trajecerit.—In case of shipwreck, the master restores the freight which comes to his possession, inasmuch as he has not thrown it overboard.

NAULUM.—The passage or freight money on a vessel.

NAUTÆ, Caupones, Stabularii, ut recepta restituerunt —Mariners, Innkeepers, Ostlers (are bound) to return things as left in their charge.

NAUTÆ pro damno conferre.—The sailors ought to contribute to the loss.

NAUTICO fœnore.—By nautical interest: by bottomry.

NAVARCHUS.—The captain or commander of a vessel.

NAVIS bona.—A good ship.

NE admittas.—A writ for non-admittance of some party during the progress of a suit.

NE ætas quidem distinguebatur, quum prima iuventa consulata ac dictaturas inirent.—For the age was not nicely distinguished when the principal youth entered on the consul or dictatorship.

NE aliquid de suo honorabili contenemento amittat.—Lest he lose any part of his respectable appearance.

NE aliquis scholas regens de legibus in eadem civitate, de cætero ibidem leges doceat.—That no person keeping schools in the same city (for the study) of the laws should from thenceforth teach such laws there.

NE baila pas.—A plea made by a defendant in the action of detinue, in which he denied that the thing sued for was delivered.

NEC erit alia lex *Romæ*, alia *Athænis*; alia nunc, alia posthæc; sed et omnes gentes, et omni tempore una lex, et sempiterna, et immortalis, continebit.—Neither shall there be one law at *Rome*, another at *Athens*; one now, another in future; but to all nations and all times one perpetual and fixed rule shall remain.

NECESSITAS culpabilis.—“A blamable necessity:” such a necessity which, though deserving reprobation, yet could not have been avoided.

NECESSITAS inducit privilegium quoad jura privata.—Necessity gives a privilege like private rights.

NECESSITAS non habet legem.—Necessity has no law.

NEC in papyris, nec in verbis.—Neither written, nor oral. *Vide note.*

NEC in sacerdotis, nec in sacris. Neither in the priesthood nor in holy matters.

NEC fuit electus major.—He was not elected mayor.

NEC magis est contra naturam morbus, egestas, aut aliquid hujusmodi quam appetitio vel detractio alieni.—Nor is disease, poverty, or anything of this kind, more against nature than avarice, or the taking away another's property.

NEC præsidens, nec aliquis de collegio prædicto medicorum, nec successores sui, nec eorum aliquis exercet facultatem illam.—That neither the president, nor any other person of the said college of physicians, nor his successors, nor either of them, exercise that profession.

NEC regibus infinita, aut libera potestas.—Nor is power which is given to kings, either unbounded or at will.

NEC tali auxilio nec defensoribus istis tempus eget.—The time requires no such aid; no such defenders.

NEC vero me fugit quam sit acerbum, parentum scelera filiorum pœnis luunter: sed hoc preclare legibus comparatum est, ut caritas liberorum amiciores parentes reipublicæ redderet.—Nor, indeed, have I been unconcious how severe it must be that the crimes of the parents should be expiated by the punishment of the children; but this has

been clearly ordained by the laws, that love for the children might render parents more friendly towards the republic.

NEC videtur incongruum mulieres habere peritiam juris. Legitur enim de uxore *Johannis Andrice* glossatoris, quod tantam peritiam in utroque jure habuit, ut publice in scholis legere ausa fit.—Nor does it seem inconsistent that women should be skilful in the law. For it is written that the wife of *John Andrea*, the Interpreter, was so learned in both laws, (i. e. the civil and common law,) that she had enterprise sufficient to lecture publicly in the schools.

NE deficiat justitia.—Lest justice be defeated.

NE disseizé pas.—Not ejected.

NE done pas.—No gift at all.

NE episcopi sæcularium placitorum officium suscipiant.—That the Bishops do not usurp the office of secular pleas.

NE exeat.—That he depart not.

NE exeat Regno.—That he leave not the realm.

NE faciat vastum, vel estrepementum pendente placito dicto indiscusso.—That he commit no waste, or spoil, whilst the said plea (or suit) is pending.

NEGARE.—To deny.

NEGOTIORUM gestor. —A person who voluntarily assumes the care of another's affairs during the absence of the latter, and without his authority.

NE injuste vexes —“That you do not unjustly oppress (or harass).” There was formerly a writ so called.

NEMBDA.—Sax. A jury.

NEMINE contradicente.—No one opposing.

NEMINEM voluerunt majores nostri, non modo de existimatione cujusquam, sed ne pecuniaria quidem de re minima, esse judicem: nec nisi qui inter adversarios convenisset.—Our ancestors required that no one, even if influenced by the opinion of any person, or by the most trifling sum of money, should be a judge; nor unless he would (impartially) decide between the parties in dispute.

NEMO ad Regem appellat pro aliqua lite nisi jus dom. consequi non possit. Si jus ininis severum sit, allevatio deinde quærat apud regem. That no person appeal to the King on any suit, unless he cannot proceed at law at home. If the law be too severe, then his Majesty may be applied to for relief. *Vide note.*

NEMO allegans suam turpitudinem audiendus est.—No man setting forth his own depravity is to be heard.

NEMO beneficium suum perdat, nisi secundum consuetudinem antecessorum nostrorum, et per judicium parium suorum.—That no man lose his benefice, unless according to the custom of our ancestors; and by the judgment of his peers, (or equals.) *Vide note to "Beneficia."*

NEMO bis punitur pro eodem delicto.—No one is punished twice for the same offence, (or crime.)

NEMO debet bis vexari pro eadem causa.—No one ought to be twice harassed for the same cause.

NEMO debet locupletari aliena jactura.—No one ought to grow rich by the misfortune of another.

NEMO est hæres viventis.—No one is the heir of a living person.

NEMO ex consilio obligatur.—No one is bound by counsel.

NEMO ex proprio dolo consequitur actionem.—No one can bring an action arising from his own deceit.

NEMO in propria causa testis esse debet.—No one should be a witness in his own cause.

NEMO invitus compellitur ad communionem.—No person, against his will, is forced into a copartnership.

NEMO miles adimatur de possessione sui beneficii, nisi convictâ culpâ, quæ sit laudanda per judicium parium suorum.—That no Knight be deprived of the possession of his benefice, unless convicted of a crime, which (conviction) has been approved by the judgment of his peers (or equals) *Vide note to "Beneficia."*

NEMO patriam in qua natus est exuere, nec ligeantiam

debitam ejurare possit.—No person can leave the country in which he was born, nor forswear the allegiance which is due.

NEMO plus juris in alium transferre potest quam ipse habet.—No person can transfer to another a greater power than he himself possesses.

NEMO potest esse hæres et dominus.—No one (at the same time) can be both heir and lord.

NEMO potest facere per alium quod per se non potest.—No one can do an act by deputy which he cannot do of himself.

NEMO punitur pro alieno delicto.—No one is punishable for another's crime (or offence).

NEMO punitur sine injuria, facto seu defalta.—No man is punished except for some offence, wrong or default.

NEMO remotâ causâ, sed proximâ spectetur.—No one is concerned in a remote, but in an immediate cause.

NEMO reus nisi mens sit rea.—No one is guilty, unless he has a guilty intention.

NEMO tenebatur prodere se ipsum.—No man is bound to criminate himself.

NEMO tenetur informare qui nescit, sed quisquis scire quod informat.—No one is expected to instruct others upon a subject about which he is ignorant, but every one is supposed to be conversant with what he undertakes to explain.

NE nulle autres engynnes pur prendre ou destruire savaquire, leveres, ne conilles, nautre desduit des gentils, sur peine d'emprisonment d' un an.—No other engines, to take or destroy deer, hares, or rabbits, which nature has given to gentlemen (for the purpose of sport), under pain of a year's imprisonment.

NE per scripturam aliqua fiat in posterum dubitatio, jubemus non per signorum captiones et compendiosa enigmata ejusdem codicis textum conscribi; sed per literarum consequentiam explanari concedimus.—That no doubt may hereafter arise as to writing, we command that the

text (or colaposition) of any such book be not written by cavilling notes, and condensed enigmas; but we permit them to be explained by the sequel (order or course) of the letters. *Vide note.*

NEQUE quid, neque quantum, neque quale, neque aliquid eorum quibus ens determinatur.—Neither what, nor how much, nor what kind, nor any of those things by which being is defined.

NEQUE quisquam agri modum certum, aut fines proprios habet; sed magistratus et principes, in annos singulos, gentibus, et cognationibus hominum qui una coierunt, quantum eis et quo loco visum est attribuunt agri, atque anno post alium transire cogunt.—Nor has any person a certain quantity of land, or any particular boundaries; but the magistrates and chiefs annually apportion such a quantity of land, and in such a situation, as they shall see fit, to the people, and kindred of those men, who have assembled together; and then oblige them to depart the year following.

NEQUE societas, neque collegium, neque hujusmodi corpus passim omnibus habere conceditur; nam et legibus et senatus consultis, et principalibus constitutionibus, ea res coeretur.—Nor is a society, or college, (or convention,) nor a body (or corporation) of this kind, allowed every where to meet on all occasions, for that matter is restrained both by the laws and decrees of the Senate, and the ordinances of the governors.

NEQUE testamentum recte factum, neque ullum aliud negotium recte gestum, postea furor interveniens perimit.—And lunacy subsequently recurring, does not break the will that was duly made; nor dissolve any proper previous contract.

NE quid detrimenti Respublica capiat.—“Lest the commonwealth receive an injury.” This was the injunction given by the *Romans*, on investing the Dictator with supreme power.

NE quis invitus civitate mutetur, neve in civitate maneat invitus. Hæc sunt enim fundamenta firmissima nostræ libertatis, sui quemque juris et retinendi et dimittendi esse dominum.—Let no man against his will change his state (or country), nor let him, contrary to inclination, remain in the same. These are the most stable foundations of our liberty, that every one is lord in his own right of retaining, or renouncing his privilege (of citizenship).

NE quis plus donasse presumatur quam in donatione expresserit.—Lest any one be presumed to have given more than he expressed in the gift (or grant).

NE recipiatur.—“That it be not received.” Words of caution given to a Law officer, not to receive the next proceeding of an opponent.

NE relessé pas.—Not released.

NE se volent acquitter.—They are unwilling to discharge.

NE te ipsum præcipites in discriminem.—Judge not too hastily.

NE unques accouplé.—Never married.

NE unques accouplé in loyal matrimonie.—He was not united in lawful wedlock.

NE unques executor.—He was not an executor.

NE unques receiver.—He was not a receiver.

NE unques seise que dower.—Never seised (or possessed) of dower.

NE unques seisie.—Never seised.

NEXI, obæراتi, et addicti.—Bound, overwhelmed in debt, and condemned. *Vide note.*

NIEFE.—A bondwoman. *Vide note to “Manumission.”*

NIENT cul'.—Not guilty.

NIENT culpable.—Not guilty.

NIENT de dire.—He says nothing (or makes default)

NIHIL ad rem accrevit.—He added nothing to the matter.

NIHIL aliud quam jus prosequendi in iudicio quod sibi debetur.—Nothing further than the right of suing at law for what is due to him.

NIHIL debet.—He is not indebted.

NIHIL de fine quia pardonatur.—Nothing for a fine, because he is pardoned.

NIHIL de fine, quia remittitur per statutum.—Nothing on account of a fine, because it is remitted by statute.

NIHIL de jure facere potest quis quod vertat ad exhæredationem domini sui.—A person cannot legally do anything which may tend to the disinheriting his lord.

NIHIL de re accrescit ei, qui nihil in re quando jus accresceret habet.—No advantage accrues to him who has no interest in the estate, when the right increased.

NIHIL dicit.—He says nothing.

NIHIL dicit ad rem.—He says nothing to the matter.

NIHIL habes in tenementis.—You have no interest in the tenements (or estates). *Vide note.*

NIHIL habes in terra.—You have no interest in the estate.

NIHIL habes in terra petita, quia bastardus.—You have no interest in the land sought after, because you are illegitimate.

NIHIL magis consentaneum est, quam ut iisdem modis res dissolvatur, quibus constituitur.—Nothing is more reasonable than that a thing should be dissolved by the same means by which it was framed.

NIHIL operantur quæ tacite insunt.—Those things therein tacitly comprised, are inefficacious.

NIHIL possumus contra veritatem.—We can do nothing against truth.

NIHIL præscribitur, nisi quod possidetur.—Nothing is prescribed but what is possessed.

NIHIL profuerint signasse tabulas si mentem matrimonii non fuisse constabit. Nuptias, non concubitus, sed consensus, facit.—It was of no advantage to sign the cou-

tract, if it appear that the intent of marriage was wanting. Not cohabitation, but consent, ratifies the marriage.

NIHIL sanctius, nihil antiquius fuit; perinde ac si in ipso hoc numero, secreta quædam esset religio.—“Nothing (was considered) more sacred; nothing more venerable, as though some secret religion was (comprised) in this number.” This is supposed to mean the number *Twelve*. *Vide note*.

NIHIL simile est idem.—Nothing which is like, is the same thing; similarity is not identity.

NIHIL simul inventum est et perfectum.—Nothing is at the same time invented, and also (made) perfect.

NIHIL tam conveniens est naturali æquitati unum quodque dissolvi eo ligamine, quo ligatum.—Nothing is so agreeable to natural justice, as that everything should be dissolved (or released) by the same tie by which it was bound.

NIHIL tam naturale quam quidlibet dissolvi eo modo quo ligatur.—Nothing is more natural than this, that anything may be dissolved in the same manner as the obligation is imposed.

NIL capiat per breve.—That he take nothing by the writ.

NIL debet.—“He owes nothing.” The usual plea in an action of debt.

NIL debet in assumpsit.—He is not indebted in (the action of) assumpsit.

✓ NIL dicit.—He says nothing.

NIL facit error nominis, cum de corpore constat.—An error in the name is of no consequence when it is consistent with the substance.

NIL habet in ballivia mea per quod summoneri potest.—He possesses no property in my bailiwick by which he can be summoned.

NIL habuit in tenementis.—He had no (interest) in the tenements.

NISI ad hoc admissus sit.—Unless he be admitted to this.

NISI captus est per speciale preceptum nostrum, vel capitalis judiciarii nostri, vel pro morte hominis, vel pro foresta nostra, vel pro aliquo crimine, quare secundum consuetudinem Angliæ non sit replegiabilis.—Unless he be taken by our special order, or that of our chief justice: or for the death of a man; or trespassing on our forest, or for some other crime, which, according to the custom of *England*, is notailable.—*Vide note.*

NISI convenissent in manum viri.—Except they come into the husband's possession.

NISI indictatus, vel appellatus fuit coram justiciariis, ultimis itinerantibus.—Unless he were indicted, or appealed before our Justices at their last circuit.

NISI per legale iudicium parium suorum vel per legem terræ.—Unless by the lawful judgment of his peers (or equals), or by the law of the land.

NISI prius.—“Unless before.” These words generally designate the proceedings before a Judge and Jury in a suit at law, either at, or after the sittings of a term, or upon the circuit. *Vide note.*

NISI si quid damno fatali contingit, vel vis major contingerit.—Unless if something occur by an utter loss, or by a greater force (destroying it).

NISI sub scriptura, aut specificatione trium testium quod actionem vellet persequi.—Unless (given) under the writing, or attestation of three witnesses, that he be willing to proceed in the action.

NOBILIORES natalibus, et honorum luce conspicuos, et patrimonio ditiores, perniciosum urbibus mercimonium exercere prohibemus.—We forbid those more noble by birth, and conspicuous by the lustre of their honors, and richer in estates, to exercise destructive traffic in cities. *Vide note.*

NOCEM sibi consciscere.—To do injury to himself.

NOCIVUS.—Injurious: hurtful.

NOCTES et noctem de firma.—*Vide note.*

NOCTURNA diruptio alicujus habitaculi, vel ecclesiæ, etiam murorum portarumve burgi, ad feloniam perpetrandum.—The nightly breaking open of any dwelling or church, also of the walls or gates of a castle, for the purpose of committing a felony.

NOCUMENTORUM aliud, injuriosum et damnosum, et aliud damnosum, et non injuriosum.—One treats of nuisances which are injurious and destructive; the other of those destructive, but not injurious.

NOLLE prosequi.—“To be unwilling to proceed.” Used in criminal cases when further proceedings are discontinued. *Vide note.*

NOLLE prosequi ultra.—To be unwilling to proceed further.

NOLO eundem populum Imperatorem et portitorem esse terrarum.—I do not wish the same people to be (both) lords and servants of the lands.

NOMEN collectivum.—A collective name.

NOMEN generalissimum.—The most general name (or term).

NOMEN hæredis, in prima investitura expressum, tantum ad descendentes ex corpore primi vassalli extenditur, et non ad collateres, nisi ex corpore primi vassalli, sive stipitis descendant.—The name of the heir mentioned in the first investiture extends only to the descendants from the body of the first vassal, and not the collateral kindred, unless they are the issue from the body of the first vassal, or from his stock or lineage.

NOMINA sunt symbola rerum.—Names are the symbols of things.

NOMINATIM vel innominatim.—Named or unnamed.

NOMINE districtionis.—In name (or in the manner) of a distress.

NOMINE pœnæ.—By way of penalty (or punishment).

NOMOTHEA.—One who gave laws to a nation.

NON accrevit infra sex annos.—It did not accrue within six years.

NONÆ.—Nones. *Vide note.*

NON alienavit modo et forma.—He has not alienated in manner and form.

NON assumpsit infra sex annos.—He hath not undertaken within six years.

NON assumpsit infra sex annos ante diem exitus brevis.—He did not undertake within six years before the day of issuing the writ.

NON assumpsit simul cum.—He did not undertake with another (person).

NON autem deperditæ dicuntur, si postea recuperantur.—But they cannot be said to be lost, if they are afterwards recovered.

NON cepit modo et forma, &c.—He did not take in manner and form, &c.

NON compos mentis.—Not of sound mind; in a state of lunacy.

NON compotes.—Idiots: madmen.

NON concubitus, sed consensus facit matrimonium.—Not the consummation, but the consent, ratifies the marriage.

NON constat.—It does not appear; it does not follow.

NON culpabilis.—Not guilty; (frequently abbreviated, as "*non culp'*").

NON culpavit.—He has not offended; he is not guilty.

NON culp' infra sex annos.—Not guilty within six years.

NON damnificatus.—Not damnified; not injured.

NON dat, quod non habet.—He does not give that which he does not possess.

NON debent reparare.—They ought not to repair.

NON debet fieri; sed factum valet.—It ought not to have been done; but (being done) it is efficacious.

NON decimando.—Not titheable.

NON decipitur qui scit se decipi.—A man is not deceived when he knows himself to be deceived.

NON defuit illis operæ et laboris pretium ; semper enim ab ejusmodi judicio aliquid lucri sacerdotibus obveniebat. —Nor was there wanting a recompense for their work and labor, as some profit always came to the priests at an ordeal of this kind. *Vide note.*

NON demisit.—He hath not demised or leased.

NON detinet.—He does not retain.

NON diutius remanebit in officio, &c., quam infra burgum prædictum, vel libertatem, et franchises inde cum tota familia inhabitabit, &c.—He shall not remain longer in office or enjoy its liberties and franchises than during the time he shall live in the said borough, with his whole family.

NON enim sufficit simpliciter proponere intentionem suam (by which word the count is meant) sic dicendo, “Peto tantam terram ut *jus meum*,” nisi sic illam fundaverit, quod doceat ad ipsum *jus* pertinere, et *per quam viam*, et per quos gradus *jus* ad ipsum debeat descendere. Item cum agat per breve de recto ad utrumque *jus* consequendum (s. s.) tam *jus* possessionis quam proprietatis de seisinâ talis antecessoris : non sufficit, si dicat, quod talis antecessor suus fuit seisitus in dominico suo ut de libero tenemento tantum, “*vel in dominico suo ut de feodo tantum*” nisi doceat quod in dominico suo ut de feodo, quod sub se continet liberum tenementum, et totum *jus* possessionis ; dicat, et adjiciat *et jure*, quod sub se continet *jus proprietatis*.—For it is not enough merely to set forth his charge (by which word the count is meant) by declaring, “I sue for so much land as *my right*,” unless he shall have so laid it (the count), that he can show that the *right* belongs to him, and by *what way*, and by what gradation the same ought to descend to him. Also when he sues by writ of right, making use of either title (to wit), as well the right of possession, as the

right of seisin of such an ancestor; it is not sufficient if he declare that such an ancestor was seised in his demesne as of a free tenement only, "*or only in his own demesne,*" as of fee, unless he show (or prove) that it is in his own demesne as of fee, which in itself comprises a free tenement and the whole right of possession; he should (also) say, and add thereto, *and by right*, which in itself comprises the right of property.

NON enim tam auctoritatis in disputando, rationis momenta quærenda sunt.—In every argument we should have respect more to the weight of reason, than of authority.

NON erit onerabilis et taxabilis pro pecuniis, *Anglicè* stock: et quod artifex (*Anglicè, a tradesman*) est onerabilis, et taxabilis pro pecuniis (*Anglicè, stock*) in arte.—He shall not be charged and taxable for his cattle, in *English* (his) stock; but an artificer (*in English, a tradesman*) is chargeable and rateable for his effects (*in English, his stock*) in trade.

NON est factum.—It is not his deed.

NON est inventus.—"He is not found." The return made by a sheriff when the defendant is not found in his county.

NON facias malum, ut inde fiat bonum.—We are not to do evil, in order that good may come from it.

NON-FEAZANCE.—Non-performance.

NON fecit vastum contra prohibitionem.—He did not commit waste contrary to the prohibition.

NON fuit culpabilis.—He was not guilty.

NON fuit electus major.—He was not elected mayor.

NON habeat potestatem alienandi tenementa.—He cannot possess the power of transferring the estates.

NON habuit ingressum nisi per *Gulielmum*, qui se in illud intravit, et illud tenenti dimisit.—He had no entry except by *William*, who intruded therein himself, and demised it to the tenant.

NON habuit ingressum, nisi per intrusionem quam ipse fecit.—He had no entry, but by the intrusion which he (himself) made.

NON habuit ingressum, nisi post intrusionem quam *Gulielmus* in illud fecit.—He had no entry, except after the intrusion which *William* made therein.

NON hæc in fœdera veni.—I have not consented to these obligations.

NON inde est culpabilis, et pro bono et malo ponit se super patriam.—Therefore he is not guilty, and, whether to gain or lose, he puts himself upon the country.

NON infregit conventionem.—He has not broken the covenant (or agreement).

NON injuria sua propria absque tali causa.—Not by his own injury without a like cause.

NON in regno *Angliæ* providetur, vel est aliqua securitas major vel solemnior, per quam aliquis statum certiozem habere possit; neque ad statum suum verificandum aliquod solemnius testimonium producere, quam finem in curia domini regis levatum; qui quidem finis sic vocatur, eo quod finis et consummatio omnium placitorum esse debet; et hac de causa providebatur.—There is not in the realm of *England*, nor is there a greater or more solemn security provided by which any one can have a more certain estate; nor can he produce any evidence more solemn to verify his case, than a fine levied in the King's court: it is indeed called a *fine*, because it should be the end and consummation of all suits; and was provided for this purpose. *Vide note.*

NON jus, sed seisinâ facit stirpem.—It is not the right but seisin (or possession) that makes the stock (or root).

NON licet alicui de cætero, dare terram suam, alicui domui religiosæ, ita quod illam resumat tenendam de eadem domo; nec liceat alicui domui religiosæ terram alicujus sic accipere, quod tradat illam ei a quo ipsam recepit, tenendum. Si qui autem de cætero terram suam domui re-

ligiosæ sic dederit, ut super hoc convincatur, donum suum penitus cassetur, ut terra illo domino suo illius feodi incuratur.—It is not lawful that any one, from henceforth, give his estate to any religious house, so that he may resume the same, to hold of such house; nor is it lawful for any religious house so to receive the estate from any one, in order to redeliver it to the person from whom it was received, to be holden (of them). Also, if any person hereafter give his estate to a religious house, and he be thereof convicted, his gift shall be entirely void; and the estate be restored to the lord of the fee. *Vide note.*

NON liquet.—An answer made by the judges among the Romans when they were at a loss how to decide a cause. It signifies, “not clear.”

NON misit breve.—He has not sent the writ.

NON nostrum tantas componere lites.—It is not our business to settle such disputes.

NON numero hæc judicantur, sed pondere.—These matters are not judged of by their number, but by their credit. *Vide note.*

NON nunc agitur de vectigalibus, non de sociorum injuriis: libertas, et anima nostra in dubio est.—The question is not at present as to our revenues, or the injuries done to our companions; our very life and liberty are at stake.

NON obstante aliquo statuto in contrarium.—Notwithstanding any statute to the contrary.

NON obstante veredicto.—Notwithstanding the verdict.

NON omittas.—“That you omit not.” The name of a writ.

NON omittas capias ad respondendum.—That you omit not to take (the person) to answer.

NON omittas Ca. Sa.—That you fail not (to arrest the defendant) to make satisfaction

NON omittas propter aliquam libertatem.—That you omit not on account of any liberty (or privilege).

NON omnium, quæ a majoribus nostris constituta sunt, ratio reddi potest; et ideo rationes earum, quæ constituuntur, inquiri non oportet: alioquin multa ex his, quæ certa sunt, subvertuntur.—A reason cannot be given for all those laws which have been made by our ancestors; and therefore the reasons for those (laws) which are in force ought not to be demanded, otherwise many of those which are established would be overthrown.

NON poterit Rex gratiam facere cum injuria et damno aliorum; quod enim alienum est dare non potest per suam gratiam.—The King cannot be bountiful to the injury and damage of other persons; for he cannot grant favors with what is not his own.

NON potest facere per se, sed potest per alium; non per directum, sed per obliquum. He is incapable to do this by himself, but may do it by another; not directly, but indirectly.

NON probe petat aliquid.—He seeks for nothing honestly.

NON pros'.—He will not prosecute. *Vide note.*

NON prosequitur breve, vel sectam.—He does not proceed with his writ or suit.

NON quo, sed quomodo.—Not by whom, but in what manner.

NON quod dictum est, sed quod factum est inspicitur.—It is not what is said that is regarded, but what is done.

NON sequitur.—It does not follow: it is not a matter of course: it is an unwarrantable conclusion.

NON sequitur clamorem suum.—He does not pursue his claim (or suit).

NON sine magna juris consultorum perturbatione.—Not without a great confusion among the lawyers.

NON sum informatus.—I am not informed: I am ignorant.

NON suspicio cujuslibet vani et meticulōsi hominis; sed talis quæ possit cadere in virum constantem; talis enim debet esse metus, qui in se contineat vitæ periculum, aut corporis cruciatum.—Not a suspicion sufficient to affright a foolish and timid man, but such as might fall upon one who is resolute; for the fear should be of that description which carries in itself the loss of life or maim of body.

NON tenent insimul.—They do not jointly occupy.

NON tenuit.—He did not occupy (or hold).

NON ullam habebant episcopi auctoritatem præterea quam a rege acceptam referebant. Jus testamenti probandi non habebant; administrationis potestatem cuique delegare non poterant.—The Bishops had no authority except that which they derived (as) received from the King. They had not the power of proving a will; nor could they delegate the right of administration to any person.

NON usurpavit libertates, nec earum aliquam prædictam.—He did not seize the said liberties, nor any of them.

NON videtur concessum retinuisse, si quis ex præscripto minantis aliquid immutavit.—If a man changes any contract by an order enforced by threats, he does not appear to have retained the right which had been granted him.

NORMANNI chirographorum confectionem, cum crucibus aureis, aliisque signaculis sacris, in *Anglia* firmari solitam in ceram impressam mutant: modumque scribendi anglicum rejiciunt.—The *Normans* change the making up (or finishing) deeds with golden crosses, and other sacred marks (or signs), which was formerly the established custom in *England*, into a wax impression; and they reject the *English* manner of writing

Nos *A. B.*, &c., debitam et festinam justitiam in hac parte fieri volumus, ut est justum.—We, *A. B.*, &c., are willing

to do right and speedy justice in this matter, as it is equitable.

NOSAUNCE.—A nuisance.

NOSCITUR a sociis.—He is known by his companions : it is discoverable by what precedes and follows.

NOS divini juris rigorem moderantes.—We, moderating the rigor of the divine law.

NOSME.—A name.

NOTA est sponsio judicialis. “Spondesne quingentos, si meum sit?” “Spondeo, si tuum sit:” “Et tu quoque spondesne quingentos, ni tuum sit?” “Spondeo, ni meum sit.”—The legal undertaking is marked down. “Are you not responsible for five hundred if it be mine?” “I am if it be yours.” “And are you not also responsible for five hundred, unless it be yours?” “I am so unless it be mine.” *Vide note.*

NOTHUS.—An illegitimate child.

NOTITIA.—Notice.

NOVA constitutio futuris formam debet imponere, non præteritis.—The new constitution should enjoin a form in law for future transactions, but not for those already finished.

NOVÆ narrationes.—New counts.

NOVALE.—New land under cultivation.

NOVA promissio.—“A new promise.” One sufficient to take the case out of the statute of limitations.

NOVEL assignment.—“A new assignment:” used in actions of trespass.

NOVEL disseisin.—Recent disseisin: a new entry and ouster.

NOVERINT universi per præsentis, &c., me remisise, relaxasse, et omnino de me, et hæredibus meis quietum clammasse totum jus, titulum, et clameum, quæ habui, et habeo, &c.—“Know all men by these presents, &c., that I have remised, released, and altogether quitted claim, from myself and my heirs, all my right, title and demand which I

have had, and now have, &c." These words often occur in ancient releases of lands.

NOVIGILD.—The Saxon fine for an injury committed being of nine times the value of the article for which it compensates.

NOVI operis nunciatio.—To protest against a new work, as a building which might injure another's right.

NOVIS injuriis emersis nova constituere remedia.—To enact new remedies for offences recently arisen.

NOVISSIMA recopilacion.—A collection of Spanish law.

NOVITAS incognita disciplinæ, ut solita armis discerni jure terminarentur.—It was considered a strange innovation of manners, that those matters which were usually decided by arms should be determined by the law. *Vide note to "Jus Civile," &c.*

NOVITER ad notitiam perventa.—It is newly come to notice.

NOVUM opus.—A new work.

NOXALIS actio.—An action brought against the owner of a slave, when the latter has committed some offence, or in any way damaged another.

NUCES colligere.—"To gather nuts." This was formerly one of the *base services* imposed by lords upon their inferior tenants during the feudal system. *Vide Paroch. Antiq.*

NUDA et firmata.—"Open and determined (or fixed)." These words were applied where some *earnest* or pledge was given, as a ring, &c.; or an oath taken.

NUDA et simplicia.—"Open and sincere." The Civilians applied these words, where a *promise* of espousals was formally made.

NUDA possessio.—"A naked possession:" a bare tenure without a shade of title: as that of a *squatter* (as generally termed) on the wild lands of America.

NUDA promissio.—A naked (or void) promise: one made without any consideration.

NUDUM pactum.—A bare (or naked) contract: one not binding in law.

NUDUM pactum ex quo non oritur actio.—A bare agreement (only), from which no action arises.

NUDUS executor.—A bare executor: one who has no interest in the goods.

NUL agard.—No award.

NUL assets ultra.—No further effects.

NUL autre verbe in nostre ley.—No other word in our law.

NUL disseisin.—A plea in *real* actions, that there was no disseisin; and is a species of the general issue.

NULLA bona habet.—He (or she) has no effects.

NULLA bona testatoris, nec propria.—(That he has) none of the testator's goods, nor of his own.

NULLA bona, ultra, &c.—No goods, besides, &c.

NULLA bona, vel catalla ad valorem, &c.—No goods, or chattels, to the value of, &c.

NULLA electio prælatorum (“sunt verba *Ingulphi*”) erat merè libera, et canonica; sed omnes dignitates, tam episcoporum, quam abbatum, per *annulum* et *baculum*, regis curia, pro sua complacentia conferebat. Penes clericos, et monachos fuit electio, sed electum a rege postulabant.—No election of the prelates was purely free, and canonical, (“are the words of *Ingulphus*;”) but the King's court, in its benevolence, conferred all the dignities (or offices), as well those of the Bishops as the Abbots, by the *ring* and *crossier*. The election was in the power of the clergy and monks, but they required the person elected to be approved of by the King.

NULLÆ ripariæ defendantur de cætero, nisi illæ quæ fuerunt in defenso tempore *Henrici* Regis, avi nostri, et per eadem loca, et eosdem terminos, sicut esse consueverunt tempore suo. *Mag. Ch.*—No rivers shall henceforth be enclosed but such as were so in the time of King *Henry*, our ancestor, (and then) at such places, and by the like bounds, as they were accustomed to be in his time.

NULLA falsa doctrina est quæ non permisceat aliquid veritatis.—“No doctrine is so false, but it may be mixed up with some truth.” Thus, the person who commits perjury may in *some* parts relate facts, which make his evidence the more dangerous.

NULLAM habeo talem personam in custodia mea, nec habui die impetrationis hujus brevis, vel unquam postea.—I have not had any such person in my custody, nor had when the writ issued, nor at any time since.

NULLAM veritatem celabo, nec celari permittam, nec murdrari.—I will not conceal the truth, nor permit it to be concealed nor stifled.

NULLA prædictarum misericordiarum ponatur, nisi per sacramenta proborum et legalium hominum de vicineto. Comites autem et barones non amercentur, nisi per pares suos; et non nisi modum delicti.—Nothing shall be subject to such fines unless imposed by the oath of good and lawful men of the neighborhood. The Earls and Barons shall not be fined, except by their own peers or equals; and (then) only according to the nature of the offence.

NULLA tenementa manerii erunt partabilia, nec inter hæredes masculos nec femellas.—No manorial tenures shall be divisible, neither among the male or female heirs.

NULLA villa, nec liber homo distringatur facere pontes.—That no vill, or any freeman be distrained to erect bridges.

NULLI liceat feudum vendere vel pignorarè sine permissione illius domini.—It cannot be lawful for any one to sell or mortgage (his) fee (or estate) without the permission of his lord.

NULLI negabimus, nulli differemus justitiam.—We will not refuse or delay (to do) justice to any person.
Mag. Ch.

NULLIS in bonis.—No property in the goods.

NULLIUS filius.—An illegitimate son.

NULLI vendemus, nulli negabimus, aut differemus rec-

tum vel justitiam. *Mag. Ch.*—We neither sell, nor deny, nor delay to any person, equity or justice.

NULLUM arbitramentum.—“No award.” A plea used by a defendant sued on an arbitration bond for not abiding by an award, “that there is no such award.”

NULLUM commodum capere potest de injuria sua propria.—No man can take advantage of his own wrong.

NULLUM iniquum in jure præsumendum est.—Nothing unjust is to be presumed in the law.

NULLUM scutagium ponatur in regno nostro nisi per commune consilium regni nostri.—That no escuage (a fine paid to be excused performing Knights’ service) be imposed in our realm, unless by the common council of the nation.

NULLUM simile est idem.—Nothing which is like is the same thing: similarity is not identity.

NULLUM tempus occurit regi.—“No time runs against (the claim of) the King.” In the case of a prosecution for murder, theft, &c., no time prevents putting the criminal on his trial.

NULLUS bailivus de cætero ponat aliquem ad legem manifestam, nec ad juramentum simplice loquela sua, sine testibus fidelibus ad hoc inductis.—That no bailiff shall in future put a person upon his wager of battle, nor to his wager of law, on his own single complaint, without producing credible witnesses in support of the same. Vide *note*, and also note to “*Compurgatores.*”

NULLUS clericus, nisi causidicus.—“No clerk unless he be a lawyer.” Most of the persons in the high offices of the law were formerly in holy orders.

NULLUS dicitur felo principalis, nisi actor, aut qui præsens est “*abettans,*” aut auxilians actorem ad feloniam facere eandem.—No one is said to be the principal felon except he who actually commits the deed, or the person who is present, “*abetting,*” or assisting the actor to perpetrate the felony.

NULLUS episcopus vel archidiaconus de legibus episcopilibus amplius in hundredo placita teneant, nec causam quæ ad regimen animarum pertinet, ad iudicium secularium hominum adducat; sed quicumque secundum episcopales leges, de quacunque causa vel culpa interpellatus fuerit, ad locum quem adhoc episcopus elegerit et nominaverit, veniat; ibique de causa sua respondeat; et non secundum hundredet, sed secundum canones et episcopales leges, rectum Deo et episcopo suo faciat.—That no Bishop or Archdeacon, on account of his legal spiritualities, shall any longer hold pleas in the Hundred Court, nor hold any plea concerning the welfare of souls, which may lead to a judgment or sentence against laymen; but whosoever shall be summoned agreeably to the spiritual laws respecting any cause or offence, shall come to the place which the Bishop has nominated or appointed; where he shall answer to the complaint, not according to the laws of the Hundred Court, but according to the Canon and Episcopal laws, doing what is just in respect to God and to the Bishop.

NULLUS idoneus testis in re sua intelligitur.—No person is understood to testify properly in his own cause.

NULLUS iusticiarius vel minister regis ingredi potest ad aliquod officium exercendum.—No justice or minister of the King can enter to exercise any official duty.

NULLUS liber homo, &c., disseiseitur de libero tenemento vel libertatibus, vel liberis consuetudinibus suis, &c.—That no freeman be dispossessed of his freehold, or free customs, &c. Vide *Magna Charta*.

NULLUS liber homo aliquo modo destruat nisi per legale iudicium parium suorum, aut per legem terræ.—That no freeman be in manner destroyed, unless by the lawful judgment of his equals, or by the law of the land. Vide *Magna Charta*.

NULLUS liber homo capiatur, vel imprisonetur, aut disseisietur de libero tenemento suo, vel libertatibus, vel liberis consuetudinibus suis, &c., nisi per legale iudicium

parium suorum, vel per legem terræ.—That no freeman shall be arrested or imprisoned, or turned out of his freehold, or lose his free customs, &c., unless by the legal judgment of his peers (or equals), or by the law of the land. Vide *Magna Charta*.

NULLUS liber homo capiatur, vel imprisonetur, aut exulet, aut aliquo alio modo destruatur, nisi per legale iudicium parium suorum, vel per legem terræ.—That no freeman be taken, or imprisoned, or exiled, or in any other manner destroyed, unless by the lawful judgment of his peers (or equals), or by the law of the land. Vide *Magna Charta*.

NULLUS liber homo disseisietur de libero tenemento suo, nisi per legale iudicium parium suorum, vel per legem terræ.—That no freeman shall be dispossessed of his freehold, unless by the lawful judgment of his peers (or equals), or by the law of the land.

NULLUS venit ex parte defendentis ad ostendum bona et catella.—No person comes, on the part of the defendant, to show the goods and chattels.

NUL tiel corporation.—No such corporation.

NUL tiel record.—“No such record.” This is part of the plaintiff’s rejoinder, that there is no such record, where the defendant alleges matter of record in bar of the plaintiff’s action.

NUL tort.—“No wrong.” A plea in a real action, that *no wrong* was done, and is a species of the general issue.

NUL tort; nul disseisin.—No wrong; no dispossession.

NUMERATE pecunia.—Counted money.

NUMERUM liberorum finire, aut quidam ex agnatis necare, flagitium habetur: plusque ibi boni mores valent, quam alibi bonæ leges.—It was accounted an aggravated crime to limit the number of children, or kill any of their kindred. So that good morals were more prevalent there than good laws elsewhere.

NUMERUS certus pro incerto ponitur.—A certain number is used for one which is uncertain.

NUMMULARIUS.—A dealer in money; a banker.

NUNCIUS.—"A nuncio." A messenger or servant. The Pope's nuncio was termed "*Legatus Pontificis*," a Legate of the Pontiff.

NUNC pro tunc.—"Now for that time." These words are frequently used in legal or equitable proceedings, where something is permitted to be done "*eo instanti*," which should have been performed some time before.

NUNCUPARE.—Words spoken.

NUNDINÆ.—An English fair.

NUNNA.—"A Nun." A consecrated virgin, or woman, who, by vow, hath bound herself to a chaste life, in some place or company of other women devoted to the service of God by prayer, fasting, and such exercises. Saint *Jerome* says it is an *Egyptian* word.

NUNQ' seisie de dower, et de hoc, &c.—Never seised of dower, and of this, &c.

NUNQUAM custodia alicujus de jure alicui remanet, de quo habeatur suspicio, quod possit, vel velit aliquod jus in ipsa hæreditate clamare.—The custody (of a ward) never legally continues with a person, of whom there is entertained any suspicion that he could, or would, claim any right in the inheritance.

NUNQUAM indebitatus.—Never indebted.

NUPER obiit.—"She lately died." The name of a writ which lies for a sister co-heir, dispossessed by her co-parcener of lands, whereof their father, brother, or any common ancestor died seized in fee.

NUPTIÆ secundæ.—"Second nuptials." This was formerly sufficient ground to deprive a man from receiving holy orders. Nor could any benediction be pronounced, or any priest be present at such marriages.

NOTES TO N.

NAM QUI FACIT, &c.—As if a man gives another a power of attorney, or appoints him, verbally, to buy or sell goods, the act of such agent, within the authority given, is as valid as if done by the principal himself.

NAM QUI NON PROHIBET, &c.—If a man consciously, although silently, permits his servant in his business to act injuriously to the property of another, and he (the master) does not prevent it, the law will intend that the master commanded the thing to be done, and he will be answerable.

NATURALIS AFFECTIO.—Natural affection. This is a good consideration in a deed; and if a person, without expressing any consideration, covenants to stand seized to the use of his wife, child, brother, &c., here the *naming* of them to be of kin implies the consideration of natural affection, whereupon such a use will arise. Vide *Cart.* 138.

NEC IN PAPIRIS, &c.—History informs us that the first manufactured paper, of which we have any record, is the celebrated *Papyrus*, made of a species of reed, growing in Egypt, on the banks of the Nile, (*Papyrus nascitur in palustribus Egyptii, aut quiescentibus Nili aquis.* Vide *Plin.*) According to a passage in *Lucan*, which is likewise corroborated by other authorities, this paper was first manufactured at *Memphis*, but it has been a matter of much controversy to fix the precise period of its invention. The *Papyrus* formed, without doubt, at an early period, an important branch of commerce to the *Egyptians*, and was one of the manufactures carried on by that people at *Alexandria*. It obtained an increasing importance among the *Romans*, as literature became more valued and diffused; and in the *Augustan* age, it grew into very extensive demand. We are told in the reign of *Tiberius*, of a popular commotion, which arose in consequence of a scarcity of this valuable material. The commerce in *Papyrus* continued to flourish during a long period, the supply being generally less than the demand. It is said that its value was so great towards the end of the third century, that when *Firmus*, a rich and ambitious merchant, striving at empire, conquered for a brief period the city of *Alexandria*, he boasted that he had seized as much paper and size as would support his whole army.

Papyrus was much used in the time of *St. Jerome*, who wrote at the latter end of the fourth century. An article of so much importance in commerce, contributed largely to the revenues of the *Roman Empire*; and fresh imposts were laid on it under successive rulers, until the duty on its importation at length became oppressive. This was abolished by *Theodoric*, the first King of the *Goths*, in *Italy*, at the end of the fifth, or beginning of the sixth century. *Cassidorus* records the gracious act in the thirty-eighth letter of his eleventh book, in which he takes occasion to congratulate "the whole world on the repeal of an impost upon an article so essentially necessary to the human race," the general use of which, as *Pliny* remarks, "polishes and immortalizes man." The roots of the *Papyrus* are tortuous, the stem triangular, rising to the height of twenty feet, tapering gradually towards the extremity, which is surmounted by a flowering plume. It has been stated, in a note to "*Charta*," &c., that "the membranes of the *Papyrus*, being moistened with the muddy waters of the Nile, served instead of glue;" but *Bruce*, the celebrated traveller, affirms that there was no foundation for this supposition; and that the turbid fluid of the Nile has, in reality, no adhesive quality. This traveller made several pieces of *Papyrus* paper, both in *Abysinia* and in *Egypt*, and fully ascertained that the saccharine juice, with which the plant is replete, causes the adhesion of the parts together; the water being only of use to promote the solution of the juice, and its equal

diffusion over the whole. Sufficient evidence of the abundant use of the *Papyrus* is to be found in the fact that nearly eighteen hundred manuscripts, written on paper of this description, have been found in the ruins of *Herculaneum*.

Paper made of cotton entirely superseded the *Papyrus*, in the course of time, as being much more durable, and better calculated for all the purposes to which paper is ordinarily applied. This new substance was called *Charta bombycina*. It cannot, perhaps, be exactly ascertained when this manufacture was first introduced. *Montfaucon* fixes the time as being the end of the ninth, or beginning of the tenth century, a period when the scarcity of parchment, and the failure in the supply of *Papyrus*, called forth the powers of invention, to supply some adequate substitute. It was about this time that the dearth of writing materials caused the almost sacrilegious practice of erasing many valuable writings of ancient authors, that the parchment on which they were written might be again used. This is much to be deplored.

The paper produced from cotton is not so well adapted for writing upon, nor so durable, as that made from linen. It was probably not very long after the general use of cotton for paper, that linen rags were discovered to be a still better material.

NEMO AD REGEM, &c.—The Barons, at one time, under the Feudal system, engrossed to themselves the trials of all suits, and all offenders; and, no doubt, considerable injustice was often committed by them with impunity; to say nothing of the money which each suitor paid for the trial of his cause. Various expedients were, at different times, resorted to, in order to limit their jurisdiction. At first, the Sovereign endeavored to circumscribe the jurisdiction of the Barons, by contending that they ought to take cognizance only of small offences, reserving those of greater moment, under the appellation of "*Pleas of the Crown, and Royal Causes,*" to be tried in the King's Courts. This, however, affected only the Barons of inferior note; the more powerful nobles scorned such a distinction; and not only claimed unlimited jurisdiction, but many of them obliged their Sovereigns to grant them "*Charters,*" conveying, or recognizing this privilege, in the most ample form. The attempt was, however, productive of some good consequences, and paved the way for more. It turned the attention of the people to a jurisdiction distinct from that of the Barons, whose vassals they were; it gave them a clear idea of the superiority which the Crown claimed over territorial Judges; and taught them, when oppressed by their own superior lord, to look up to the Sovereign as their protector. This facilitated the introduction of appeals from the Barons' judgments; and brought them under the review of the Royal Judges, and sometimes of the King himself, who sat with them, when he thought proper.

NEXI OBERATI ET ADDICTI.—By the law of the Twelve Tables, it was ordained, that insolvent debtors should be given (*addicerentur*) to their creditors, to be bound in fetters and cords (*compedibus et nervis*), whence such debtors were called "*Nexi oberati, et addicti.*" Debtors were often treated with great severity, though they did not entirely lose the rights of Free-men.

NIHIL HABES IN TENEMENTIS.—This was formerly a plea, pleaded in an action of debt, brought by a lessor against a lessee for years, or at will, without deed. Vide 2 *Lil. Abr.* 214. In debt for rent, upon an indenture of lease, *nil habuit in tenementis*, might not be pleaded, because it is an *estoppel*; and a general demurrer will serve.

NIHIL SANCTIUS.—The ancients were very superstitious about certain numbers:

"*Terna tibi hæc primum triplici diversa colore
Licia circumdo; terque hæc altaria circum
Effigiem duco: numero Deus impare gaudet.*"

Virg. *Eclog.* viii. 73.

"Around his waxen image first I wind
Three woollen fillets, of three colors joined;
Thrice bind around his thrice-devoted head,
Which round the sacred altar thrice is led:
Unequal numbers please the Gods."

Dryd.

NISI CAPTUS, &c.—The *Norman* Kings, and their followers, were passionately fond of hunting; and, soon after the Conquest, they appropriated considerable tracts of land for the preservation of deer, hares, and other game; and enacted very severe and barbarous laws for their protection; and the infringement of the forest laws was, at one time, considered so heinous an offence, that no bail could be taken for it. Some idea may be formed, from various authors, of the mode of hunting adopted by the polished, or civilized nations of antiquity; but we look in vain for any record of the manner in which the inhabitants of *Britain*, at the period of *Julius Cæsar's* invasion, followed the chase. However, the following note, as to the savage laws which were anciently made respecting the game, and the manners of our ancestors relating to the sports of the field, may not be unacceptable.

In the time of the *Saxons*, there is every reason to believe that the pursuit of the stag, the wild boar, the wolf, &c., constituted the whole, or nearly so, of the field diversions of that period. When *William* the Conqueror gained the battle of *Hastings*, and became the iron-hearted ruler of the country, he introduced, among a number of despotic regulations, laws for the protection of beasts of the chase; some of which are amusing enough to us at this period. It is true, the *Anglo-Saxons* enacted laws for the regulation of the chase, but these were of a milder description than those which followed. *Canute*, the Dane, appears to have been the first that instituted the Forest Laws, which were not only confirmed by *William* the *Norman*, but rendered by him intolerably oppressive. This monarch is accused of having devastated the southern part of *Hampshire*, and driving away the poor peasantry, in order to accommodate those animals which constituted the object of the chase, to which *William* and his nobility were so passionately attached.

The game laws of this period were in strict unison with the tempers of the framers, and characterized by all that overbearing ferocity of disposition, which, it is said, so conspicuously distinguished *William* the First, and his immediate successors; and offer to our contemplation nothing in the shape of humanity, or which could in any way harmonize with the better sense, and better feelings of modern times. For instance, if a poor cottager happened to be pestered with a wild boar, which, after ravaging, had made its lair in his garden, he was at liberty to drive it away; yet, in so doing, he must be careful not only to inflict no wound upon the animal, but, in ridding himself of so unwelcome a visitor, the laws forbade his using any degree of violence. Moreover, if, by any accident, a peasant happened to lame a stag, or a boar, he was punished; if he was unfortunate enough to kill one of these animals, though by mere accident, he was liable to have one of his eyes put out; or he was otherwise miserably mutilated. In case a man killed one of these beasts of chase, wilfully, he was liable to suffer death, by one of the laws of King *Rufus*, made by his own authority. Under this law he seized many great and noble personages, and confined them for years, without bringing them to trial, until he forced them to give up the greater part of their estates.

William was usually accompanied by a large train of nobility and hunts-

men, most of whom appeared to be equally attached to the chase; and on many of whom he lavished, with an unsparing hand, the most princely donations. To *Waleran*, his huntsman, he gave no less than fifteen manors in *Wiltshire*, eight in *Dorsetshire*, and several in *Hampshire*; and his name appears in the list of tenants *in capite* (in Domesday-book) in other counties. In the same book may also be found records of the extensive possessions of other huntsmen of *Groc*, *Godwin*, &c.

The following remarks may be found in an ancient writer: "In these days our nobility esteem the sports of hunting and hawking as the most honorable employments; the most exalted virtues; and these amusements they account the summit of human happiness. They prepare for a hunt with more trouble, anxiety and cost, than they would for a battle; and follow the beasts of the forest with more fury than they pursue their enemies; by being constantly engaged in this savage sport, they contract habits of barbarity; lose, in a great measure, their feelings of humanity; and become nearly as ferocious as the beasts they pursue. The husbandman is driven, together with his innocent flocks and herds, from his fertile fields, his meadows and pastures, that beasts may roam there in their stead. Should one of these potent and merciless sportsmen pass your door, place before him, in a moment, *all the refreshments* your habitation affords, or that can be *purchased or borrowed* in your neighborhood, that you may not be utterly ruined, or perchance, *accused of treason.*"

The *Clergy*, at this period, were the most *ardent* of those who followed the chase; and even *Ladies* caught the predominant passion, and eagerly partook of the sports of the field. The superior clergy, in the olden time, might be said to stand pre-eminent in respect to hunting and field sports: for we find that *Walterus*, Archbishop of *Canterbury*, (who was promoted to the See of *Rochester*, 1447,) neglected the duties of his sacred profession, and devoted himself entirely to field sports. At the age of *eighty*, he followed the chase with the alacrity of youth, and died at a much more advanced period. *Reginald Brian*, Bishop of *Worcester*, in 1352, was distinguished for his attachment to field sports; and in an epistle to the Bishop of *Saint David's*, he reminds him of a promise to send him "*six couples of hounds.*" After declaring that "his heart languishes for their arrival," he adds, "Let them come, oh! reverend father! without delay; let my woods re-echo with the *music* of their cry, and the cheerful notes of the horn; and let the walls of my palace be decorated with the trophies of the chase." The cowl was frequently laid aside for the pleasures of the chase: and the monasteries produced some men remarkable at once for their *piety* and for their skill in the field. *William de Clowne*, who is celebrated as one of the most amiable Ecclesiastics of his time, and who filled the Abbacy of *St. Mary*, in *Leicestershire*, was equally distinguished for his excellent qualities as a *huntsman*; and, that his kennel might be well supplied with hounds, the King granted him the privilege of "holding a market for the *sole* purpose of dealing in dogs." There is every reason to believe that the *Anglo-Saxons* pursued the wolf, and wild boar, &c., *on foot*: horses, however, were used by the *Normans*, who appear to have surpassed their predecessors in the knowledge of the chase. They directed their attention, for the most part, to the pursuit of the stag, the roe-buck, fox, hare, &c., and did not depend altogether on their hounds, as they are said to have been excellent marksmen, and the object of the chase was frequently killed by an arrow.

In the laws of King *Edgar* is the following prohibition against *priests* following the chase: "*We lerath that preost ne bestes huntre ne hafecere ne toflere ac plegge on his bocum swa his hade gebirath*"—i. e. "We order that a *priest* be not a hunter, nor a hawker, nor gamester; but that he attend to his books, as becometh his order."

NISI PRIUS, &c.—Upon the trial of causes, especially in *London* and *West*

minster, if new points arise, they are generally reported and published in books, called "*Nisi Prius Reports*;" but, as many of the verdicts given at those trials are set aside, either from the misdirection of the judges to the jury, on points of law; or where verdicts are obtained by surprise, or contrary to the weight of evidence; and from other causes, (as where the judges are dissatisfied with the verdict, &c.) these *Nisi Prius Reports* are, by the *experienced lawyer*, held in as little estimation as they deserve. It is a question whether the student should even read such Reports, because he sometimes treasures up points of law which are very frequently overturned, or much shaken, when they are argued in a higher tribunal, where the judges have more time to examine the law of the cases, than they have in the hurry of a *Nisi Prius* trial.

NOBILIORES, NATALIBUS, &c.—The cities of *Italy* were the first who shook off the yoke of the insolent Barons; and established among themselves such a free and easy government, as would render property secure, and industry flourishing. About the beginning of the eleventh century, some of the *Italian* cities began to assume new privileges, and to unite themselves more closely. The great increase of wealth, which the *Crusades* to the Holy Wars brought into *Italy*, (which was a kind of rendezvous for the soldiers of the Cross,) caused a new fermentation and activity in the minds of the public; and, before the conclusion of the last Crusade, all the considerable cities in that country had either purchased, or extorted, large immunities from their Sovereigns. Vide *Murat. Antiq. Ital.* vol. 4. The great Barons in *England*, as well as throughout all *Europe*, many of whom had wasted large sums of money in the Holy Land, were eager to lay hold of a new expedient to raise money by the sale of "*Charters of Liberty*;" and, though the institutions of communities were as repugnant to their maxims of policy, as it was adverse to their power, they disregarded *remote* consequences, in order to obtain *present* relief. Notwithstanding the immense fortunes which were made, and the many honorable men who embarked in trade, many ages elapsed, after granting these Charters of Liberty, and Enfranchisements, before the deep-rooted prejudices against traffic subsided among the Baronial Landholders, (and it is far from being eradicated even at this present day;) nor could they be brought to consider the condition of a *merchant* to be respectable. If nothing else were wanting to convince us of this, the words of the text show with what contempt, men, who prided themselves on birth and dignity, considered those who followed commercial pursuits.

NOCTES, ET NOCTEM DE FIRMA.—In *Domesday* we often find with "*Tot noctes de firma*, or *firma toi noctium*," which is understood of entertainment of meat and drink for as many nights: for, in the time of the *English Saxons*, time was computed not by *days*, but *nights*; and so it continued until the time of *Henry the First*, as appears by his laws; and hence it is usual, especially in *England*, to say "*a seven night*," i. e. *septem noctes*, for a week.

NOLLE PROSEQUI.—This is an acknowledgment, or agreement, by the plaintiff, that he will *not further prosecute* his suit, as to the whole or a part of the cause of action; or where there are several defendants, against some or one of them; and it is in the nature of a *Retraxit*, operating as a release, or perpetual bar. Vide *Tidd's Pract. K. B.*, who cites *Cro. Car.* 239, 243. 2 *Roll's Abr.* 100. 8 *Co.* 58. *Cro. Jac.* 21, sed vide *Raym.* 559, where they may be *other* defendants.

NONÆ.—Nones, so called from their beginning the *ninth* day before the *Ides*; the seventh days of March, May, July, and October, and the fifth of all the other months. By the *Roman* account, the Nones in the aforesaid months are the six days next following the first day, or the Calends; and of others, the four days next after the first, according to these verses.

"*Sex nonas, Mavis, October, Julius et Mars,
Quatuor at reliqui,*" &c.

i. e. May, October, July and March have six nones, the others four.

Though the last of these days is properly called *Nones*, for the remainder is reckoned backwards, as distant from them, and accounted the third, fourth or fifth *None*.

NON DEFIUIT, &c.—At the ordeal by the "CORSED," and probably at other kinds of ordeal, money was paid to the priests for their attendance and services.

NON IN REGNO, &c.—The levying of fines, and suffering recoveries, to enable landholders to alienate their estates, were encouraged by some of the *English Kings*, as having a tendency to check the overgrown power of the Barons; and has been considered one of the reasons why the *English*, at an early period, obtained considerable commerce. It also tended to weaken the unnatural and unjust law of primogeniture; as many landholders sold or mortgaged their estates, the produce of which was generally divided in an equitable manner.

NON LICET, &c.—Many persons, during the middle ages, had been in the habit of transferring their estates to Religious Houses, with the *understanding* of receiving them again, and holding them of such houses; by which means the services of the lords of the fee became impaired.

NON NUMERO, &c.—Evidence is not to be considered as the strongest on account of the *number* of the witnesses for either of the contending parties; but from their credibility, judging from all the circumstances of the case. The *Romans* understood this matter extremely well; and there are expressions to be found in their writings which are forcible, and very pertinent on this point. There is every reason to believe that our ancestors required the *jury* to come (*de viceneto*) from the neighborhood, in order that they might the better judge of the *credibility* of the witnesses produced by the litigating parties, and it was a great mark of their sagacity. In many instances, witnesses have been well clothed by one of the contending parties, in order to appear respectable before a court and jury, whose oath in their *own* neighborhood would not be credited on the most trifling occasion.

NON PROS'.—When a plaintiff on a trial at common law has not produced sufficient evidence to enable him to go to the jury; or where he has mistaken his proper form of action; or where he has no count in his declaration applicable to his case. In these instances the plaintiff usually elects to be "non-prossed;" as in that case he can begin *de novo* (or anew).

NOTA EST SPONSIO, &c.—Agreements of any magnitude were generally, in the Feudal ages, taken down by a third person, or notary. The *Romans* generally adopted the same course; but this extract very probably refers to the language of persons who were about to enter into a suit at law. Vide "*Sacramentum,*" and *note*.

NULLUS BAILIVUS.—When wager of law became prevalent, unprincipled debtors took advantage of *this mode* of paying their debts; but at length it became so *common*, that no wager of law was permitted to any one, unless he brought credible persons to vouch that they believed what was sworn to to be the fact. Vide note to "*Compurgatores.*"

O.

OB aliquam sui corporis turpitudinem.—“On account of some bodily uncleanness (or loathsome disease).” When a woman was separated from her husband on this account, she could not formerly claim her dower.

OB causam aliquam a re maritima ortam.—On account of some maritime business.

OB continentiam delicti.—On account of the moderation of the offence.

OBERATUS.—One indebted to another, and obliged to serve him till the debt is discharged.

OBIIT nuper.—He lately died.

OBITER.—By the way : loosely : unauthoritatively.

OBITER dicta.—Loose sayings : words spoken by the bye, or on the spur of the occasion.

OB jus quod in eos habet princeps, vel civitas.—On account of the right which the Emperor, or the State has therein.

OBLATI.—In feudal law, persons who placed themselves voluntarily under the authority of ecclesiastical institutions.

OBOLATA terræ.—A measure of land.

OBREPERE.—To creep upon.

OBRUAT illud male partum, male retentum, male gestum imperium.—Perish that thing which is wickedly acquired, disgracefully retained, and improperly used.

OBSTA principiiis.—Oppose (adverse) beginnings.

OBTEMPER.—To obey.

OBTULIT se in propria persona.—He appeared in his own person.

OCCASIONE damnorum.—By reason of the damages.

OCCASIONE detentionis debiti.—By reason of detaining the debt.

OCCISION.—Killing. OCCYS.—Killed.

OCCUPAVIT.—An ancient writ of ejectment.

OCTO tales.—The name of an ancient writ which required the sheriff to make up a deficiency of jurors by summoning “eight such” as had been upon the first panel.

OEPS.—Use.

OFFA execrata.—“The execrable (or accursed) mouthful.” A method of trial among the *Saxons* by swallowing, or endeavoring to swallow, a mouthful of bread. *Vide* note to “*Tenetur se purgare*,” &c.

OFFICINA brevium.—The depository for writs.

OFFICINA gentium.—The storehouse of the nations. *Vide* note.

OLERON, laws of.—An ancient collection of maritime laws.

OLIM a prælatis, cum approbatione regis, et baronum, dicitur emanasse.—It is said to have formerly issued from the Prelates, with the consent of the King and the Barons.

OLIM in vita sua contradicere non potest.—Formerly in her lifetime, which cannot be disproved.

OLYMPIAS.—An Olympiad. *Vide* note.

OMISSIS omnibus aliis negotiis.—All other matters being omitted: all other proceedings being laid aside.

OMISSUS casus.—An omitted case: one unprovided for.

OMNE actum ab agentis intentione est judicandum.—Every act is to be judged by the agent's intention.

OMNE æs alienum quod manente societate contractum est, de communi solvendum est, licet posteaquam societas distracta solutum sit: sed nec æs alienum, nisi quod ex quaestu pendebit veniet in rationem societatis. *Jure societatis, per socium ære alieno, socius non obligatur; nisi in communem arcam pecuniæ versæ sunt.*—Every debt which has been contracted during the continuance of a

copartnership, must be paid off by the firm generally, notwithstanding it be afterwards dissolved; but no debt, except that which depends upon profit, shall come to the account of the firm. One partner is not bound by the law of copartnership for the debt of the other, unless the cash be appropriated to the common stock.

OMNE majus in se minus complectitur.—Every greater embraces in itself a lesser.

OMNE principale trahit ad se accessorium.—Every principal draws to itself its accessory.

OMNE privilegio clericali nudati, et coercioni fori secularis addicti.—Stripped of all benefit of clergy, and condemned to the coercion of a lay jurisdiction. *Vide note.*

OMNES comites, et barones, et milites, et servientes, et universi liberi homines totius regni nostri prædicti, habeant et teneant se semper bene in armis, et in equis, ut decet et oportet, et sint semper prompti et bene parati ad servitium suum integrum, nobis explendum, et peragendum, cum opus fuerit; secundum quod nobis debent de feodis et tenentibus suis de jure facere, et sicut illis statuimus per commune concilium totius regni nostri prædicti.—That all Earls, and Barons, and Knights, and Freeman, and Tenants of our said realm, have and hold themselves well equipped in arms and horses, as it becomes and behooves them; and that they be always ready and well prepared to perform and fulfil their entire services to us, as occasion requires, according to what they owe us in respect of their fees (or lands) and tenements, and as we have appointed to them at the general council of the whole of our said realm.

OMNES Comites et Barones, una voce responderunt, "QUOD NOLUNT LEGES ANGLIÆ MUTARI, QUÆ SECUSQUE, USITATÆ SUNT ET APPROBATÆ."—All the Earls and Barons unanimously answered, "THAT THEY WOULD NOT CHANGE THE ENGLISH LAWS, WHICH HAVE HITHERTO BEEN USED AND APPROVED."

OMNES homines ejusdem facultatis.—All persons of the same profession.

OMNES longo post se intervallo reliquerit.—He left them all at a great distance behind.

OMNES occupatores.—All the tenants.

OMNES prædia tenentes quotquot essent notæ melioris per totam *Angliam*, ejus homines facti sunt; et omnes se illi subdidere, ejusque facti sunt vassalli; ac ei fidelitatis juramenta præstiterunt se contra alios quoscumque illi fidos futuros.—All those holding farms of the better sort, throughout all *England*, became his subjects; and submitted themselves to him, and became his vassals; and took the oath of allegiance to him to be faithful to him against all other persons whomsoever.

OMNES res suas liberas et quietas haberet.—That he should have all his effects free and unmolested.

OMNIA bona et catalla, tam viva, quam mortua.—All his goods and chattels, as well animate as inanimate.

OMNIA catalla cedant defuncti; salvis uxori ipsius et pueris suis rationabilibus partibus suis.—They deliver up all the effects of the deceased, saving to his wife and children their just and reasonable proportions.

OMNIA libere et legaliter facienda.—All things should be done freely and legally.

OMNIA præsumuntur in odium spoliatoris.—Every thing is presumed against the despoiler.

OMNIA præsumuntur solemniter esse pacta.—All things are presumed to be solemnly done.

OMNIA quæ movent ad mortem sunt Deodanda.—All things which cause death while they are in motion become Deodands.

OMNIA quæ nunc vetustissima creduntur, nova fuere; et quod hodie exemplis tuemur, inter exempla erit.—All that we now imagine to be ancient, was at one time new; and what we respect as examples to-day, will, at some future time, be considered as precedents.

OMNIBUS ad quos præsentēs literæ pervenerint, salutem.
 —To all to whom the present letters shall come, greeting.

OMNIBUS privilegiis militaribus gaudet.—He delights in all military privileges.

OMNIBUS qui reipublicæ præsumunt etiam, atque etiam, mando, ut omnibus æquos se prebeant iudices, perinde ac in iudicali libro, *Saxonice* DOMBEC, scriptum habetur; nec quicquam formident, quin jus commune, *Saxonice* FOLCRIGHTE, audacter libereque dicant.—Again, and again, I command, all who hold authority in the commonwealth, that they prove themselves upright Judges to all, like as it is written in the judicial book, called in *Saxon* DOMBEC; nor shall they fear anything; but boldly and freely declare the common law, called in *Saxon* FOLK-RIGHT.

OMNI exceptione majores.—Above all exception.

OMNI quoque corporali cruciatu semoto, inhumanum erat spoliatum fortunis suis in solidum damnare.—All corporeal torture being likewise removed, it was cruel to fine a person who was deprived of all his property.

OMNIS corporalis pœna, quamvis minima major est omni pœna pecuniari quamvis maxima.—Every bodily punishment, although ever so trifling, is heavier than the greatest pecuniary penalty.

OMNIS disseizina est transgressio; sed omnis transgressio non est disseizina.—Every disseisin is a trespass; but every trespass is not a disseisin.

OMNIS innovatio plus novitate perturbat quam utilitate prodest.—Every innovation injures more by its novelty than benefits by its utility.

OMNIS privatio præsupponit habitam.—Every privation is founded upon the supposition of previous enjoyment.

OMNIS prohibitio mandato equiparatur.—Every prohibition is equal to a command.

OMNIUM gravissima censetur vis facta ab incolis in patri-

am; subditis in regem; liberis in parentes; maritis in uxores; (et vice versa), servis in dominos; aut etiam ab homine in semet ipsum.—Of all others, *that* is considered the most grievous violence, which is committed by inhabitants against their own country; subjects against their king; children against their parents; and husbands against their wives: and so, on the other hand, by vassals against their lords; and even by man against himself.

OMNIUM rerum immunitas.—A privilege (or community) of everything.

ONERA emergentia et contingentia.—Growing and contingent charges.

ONERANDO pro rata proportionis.—“By charging according to the proportion (or quantity).” A writ that lies for a joint tenant, or tenant in common, who has been distrained upon for more rent than his proportion of the land amounts to. Vid. *Reg. Org.* 182.

ONERARI non debet.—He ought not to be charged.

ONUS probandi.—The obligation of proving.

OPORTET.—It is necessary.

OPTIMA evidētia rei prævalebit.—The best evidence of the matter will prevail (*or* be more efficacious).

OPTIMUS interpres rerum usus.—Custom (or use) is the best interpreter.

OPUSCULUM de jure occidendi, vendendi, et exponendi liberos apud veteres *Romanos*.—The small treatise, concerning the law of killing, selling and exposing children among the ancient *Romans*.

ORA.—A Saxon coin worth 16d.

ORARE.—To petition. ORATOR.—Petitioner.

ORDO excipiendi.—The order of pleading.

ORE tenus, et non aliter.—Verbally, and in no other manner.

ORFGILD.—Saxon payment for a beast.

ORFEURE.—A worker in gold.

ORIGO familiarum.—The genealogy of families.

OSTENSUR' Quare conspiratione inter eos præhabita, præfat *A* de, &c., indictari, et ipsum, ea occasione, capi, &c., falso et maliciose procuraverunt ad &c., et contra, &c.—It is to be shown why in the previous conspiracy between them, the said *A* of, &c., was indicted, and why, on that occasion, they falsely and maliciously caused him to be arrested, &c., to, &c., and against, &c.

OUSTER.—A dispossession.

OUSTERLEMAIN.—To remove the hand: liberty for an adult to demand his property from his guardian, &c.

OUTFANG-THIEF.—A thief caught beyond the bounds of the manor, and taken for trial to the lord's court.

OVERHERNISSA.—Sax. Contempt.

OVERSMAN.—Scotch for a mediator or umpire.

OVERT.—Open: public.

OWEL.—Equal.

OYER de records et de faits.—To hear the records and deeds.

OYER et terminer.—To hear and determine.

NOTES TO O.

OFFICINA GENTIUM.—This alludes to the prodigious swarms of Barbarians, which, from the beginning of the fourth, to the final extinction of the Roman power, poured into the Roman empire; these words, "*Officina gentium*," gave rise to the opinion, that the countries whence they issued were crowded with inhabitants; and various theories have been formed by different authors to account for such an extraordinary degree of population among the wild forests of northern Europe. But if we consider, that although the countries possessed by the people who invaded the Empire were of vast extent, yet that the most considerable of the barbarous nations subsisted entirely by hunting or pasturage; in which state of society large tracts of land are required for maintaining a few inhabitants; and that all of them were strangers to the arts of industry, without which population cannot extend to any great degree, we must conclude that the countries could not be so populous in ancient times as they are at present.

OLYMPIAS.—An account of time among the Greeks, consisting of four complete years, having its name from the Olympic games, which were kept there in honor of *Jupiter Olympius*, near the city of *Olympia*, when they entered the names of the conquerors upon public records. The first *Olympias* began in the year 3938 of the *Julian period*; about fifty years after the taking of *Troy*; 776 years before the birth of *Christ*; and twenty-four years before

the founding of *Rome*. Ethelred, the *English Saxon* King, computed his reign by *Olympiads*.

OMNE PRIVILEGIO, &c.—The time cannot easily be fixed in which Ecclesiastics first began to claim exemption from the civil jurisdiction. It is certain that during the early and purest ages of the church they pretended to no such immunity. The authority of the civil magistrate extended to all persons, and to all causes. This fact has not only been established by *Protestant* authors, but is admitted by many *Roman Catholics* of eminence, and particularly by the writers in defence of the *Gallican* church. There are several original papers, published by *Muratori*, which show that in the ninth and tenth centuries causes of the greatest importance relating to Ecclesiastics were still determined by the civil judges. Vide *Antiq. Ital.* vol. v. *Dissert.* lxx. Ecclesiastics did not shake off all at once their subjection to the civil courts. The privilege was acquired slowly, and step by step. This exemption seems at first to have been merely an act of complaisance, flowing from veneration for their character. Thus, from a charter of *Charlemagne* in favor of the church of *Mons*, A. D. 796, that monarch directs his judges, if any differences should arise between the administrators of the revenues of the church, and any person whatever, not to summon the administrators to appear “*in mallo publico*,” but first of all to meet with them, and to endeavor to accommodate the difference in an amicable manner. This indulgence was in process of time improved into a legal exemption, which was founded on the same respect of the Laity for the clerical character and function. A remarkable instance of this occurs in a charter of *Frederic Barbarossa*, A. D. 1172, to the monastery of *Altenburg*. He grants them “*Judicium non tantum sanguinolenta plage, sed vite et mortis*”—i. e. “Not only jurisdiction (to inflict) bloody wounds, but (also) of life and death.” He prohibits any of the royal judges from disturbing their jurisdiction; and the reason which he gives for this ample concession is, “*Nam quorum Dei ex gratia, ratione divini ministerii onus leve est, et jugum suave, nos penitus nolumus illos oppressionis contumelia vel in manu laica fatigari*”—i. e. “For we wish that the burthen of those who, by God’s grace, and by his divine purpose, minister to us should be light, and their yoke pleasant, and we particularly desire that they should not be vexed with the haughty language of oppression, or harassed by the hand of the Laity.” Vide *Mencken Script. Rer. Germ.* vol. iii. p. 1067.

P.

PACTA conventa.—Covenants (or conditions) agreed upon.

PACTUM est quod inter aliquos convenit.—That becomes an agreement between those who assented to it.

PAIS.—The country.

PALAM populo.—In presence of the people.

PALATIUM.—A Roman name for palace.

PALICEA.—Anciently, a paled fence.