



DENNIS & CO., INC.
Law Book Publishers
255 MAIN STREET
JERSEY CITY, N. J.

THE
LAW GLOSSARY:

BEING A SELECTION OF THE

GREEK, LATIN, SAXON, FRENCH, NORMAN AND ITALIAN
SENTENCES, PHRASES, AND MAXIMS,

FOUND IN THE LEADING

ENGLISH AND AMERICAN REPORTS, AND ELEMENTARY WORKS

WITH HISTORICAL AND EXPLANATORY NOTES.

ALPHABETICALLY ARRANGED, AND TRANSLATED INTO ENGLISH, FOR THE USE
OF THE MEMBERS OF THE LEGAL PROFESSION, LAW STUDENTS,
SHERIFFS, JUSTICES OF THE PEACE, ETC. ETC.

DEDICATED, (BY PERMISSION,)

TO THE HONORABLE JOHN SAVAGE,
LATE CHIEF JUSTICE OF THE SUPREME COURT OF THE STATE OF NEW YORK.

BY THOMAS TAYLER,

AUTHOR OF "PRECEDENTS OF WILLS, DRAWN CONFORMABLY TO THE
REVISED STATUTES OF THE STATE OF NEW YORK."

NINTH EDITION, REVISED, CORRECTED AND ENLARGED.

BY A MEMBER OF THE NEW YORK BAR.

NEW YORK:
BAKER, VOORHIS & CO., PUBLISHERS,
66 NASSAU STREET.
1880.

58038

8/2/75

KF
156
'T3
1880

Northern District of New York, ss.

BE IT REMEMBERED, That on the second day of November, in the fifty-eighth
[L. S.] year of the Independence of the United States of America, A. D. 1833, JAMES
HUNTER, of the said district, hath deposited in this Office, the title of a Book,
the right whereof he claims as Proprietor, in the words following, to wit:

"The Law Glossary: being a Selection of the Greek, Latin, Saxon, French, Norman and
Italian Sentences, Phrases and Maxims, found in the works of Lord Coke, Snower,
Peere Williams, Sir William Blackstone, Sir Francis Buller, Vezey, Chancellor Kent,
Reeves, Durnford and East, Taunton, Sellon, Johnson, Cowen, Sugden, Preston, Bo-
sanquet, Starkie, Tidd, Phillips, Chitty, Moore, Wendell, and numerous other Law
Writers: with Historical and Explanatory Notes: alphabetically arranged and trans-
lated into English, for the use of the members of the Legal Profession, Law Students,
Sheriffs, Justices of the Peace, &c., &c. Dedicated (by permission) to the Honorable
John Savage, Chief Justice of the Supreme Court of the State of New York."

The right whereof he claims as Proprietor, in conformity with an Act of Congress, en-
titled An Act to amend the several Acts respecting Copyrights.

RUTGER B. MILLER,
Clerk of the Northern District of New York.

Entered according to Act of Congress, in the year 1845, by JAMES J. STEWART, in the
Clerk's office of the District Court of the United States, for the Southern Dis-
trict of New York.

Entered according to Act of Congress, in the year One thousand eight hundred and
fifty-five,

BY LEWIS & BLOOD,

In the Clerk's office of the District Court of the United States, for the Southern
District of New York.

P R E F A C E

WHETHER or not it is to be regretted that almost all our Law publications abound with Sentences, Quotations, and Maxims chiefly extracted from the dead languages, it is not the author's purpose to inquire. He has been led to examine the propriety of presenting this compilation, from observing that the student, although well educated, frequently becomes disgusted with his labors, by finding innumerable uncouth and many abbreviated passages from the barbarous Latin and Norman-French of the Middle Ages, so constantly interspersed through our valuable Law Treatises and books of Reports.

The author, in this undertaking, has endeavored, to the best of his ability, to meet the difficulty alluded to; and although, in so great a number as nearly five thousand translations, he may not have come up, in many instances, to the critical interpretation of the original, yet he hopes, from the labor he has for years bestowed on this work, and the assistance he has received, that not many errors have been made, affecting the sense or spirit of the passages.

Many of our judicial decisions have reference to analogous cases adjudged in the English courts, and innumerable Sentences, Quotations and Maxims from the ancient Law volumes are *necessarily* used and interspersed through all our reports, treatises, and books of practice,—thus rendering very obscure some of the most important passages with which the student should be intimately acquainted.

The Law Maxims have been, as it were, handed down to us like heirlooms, through a succession of ages, many of them as fundamental and unalterable principles of the Common Law, as the *Lex non scripta* of our ancestors, founded on the traditional consent of many successive ages. Lord *Coke* remarks “that the Maxims of the Common Law are as eternal as nature's rights, control acts of parliament, and adjudge them void, when made against common right and reason;” but it is well known that their very essence is enveloped in foreign languages, sometimes difficult to translate in the spirit of the original.

Where it has been possible, the author has given a literal translation; but in very many instances he has been obliged to deviate in this respect, in order to make the sense intelligible, and has frequently, after the primary or literal translation, introduced some words by way of further explanation.

It should be here particularly observed, that taking many of the quotations in an *isolated* manner, or *per se*, (*being parts of sentences*.) no precise idea can be formed of them; and it is only by a perusal

of their contexts that their application can be fully discerned. It is considered proper to make this observation, as several extracts, which appear at first sight superfluously inserted, are, in fact, absolutely necessary, inasmuch, as by referring to their contexts, passages of considerable importance will often be found attached to them.

Sentences and Maxims also frequently occur, wherein the language is *very ungrammatical*; but it was thought proper, for the reason above alluded to, to give such translations as the cases afforded, rather than to omit them altogether. On perusing some of these we are surprised at the language in which they are couched; but when we reflect on the state of literature in the Middle Ages, we cease to wonder at their barbarous composition.

A considerable number of the Maxims of the Common Law originated with the Feudal system, which continued for several successive centuries, when the deeply-rooted customs and habits of the northern nations were in full vigor, and many vestiges thereof are yet remaining, and are discernible in our codes of jurisprudence. After the work was far advanced, it was thought advisable to add some Notes, particularly from Roman authors, for the illustration of the most prominent part of the quotations found in the esteemed Commentaries of Sir *William Blackstone*, and of other extracts found in different law writers, especially as very many of our judicial decisions respecting personal property and testamentary dispositions are derived from the Roman Law.

As there is no well-educated lawyer but must have observed how much the decisions of the Law Courts, since the time of Lord *Mansfield*, have approximated to the equitable character of the Roman jurisprudence, the author believes these Notes may not be unacceptable, but, in some cases, enable the student more fully to comprehend some of the reasons upon which a considerable part of our Common Law is founded; at what time many of its Maxims and Principles originated; and how far they are interwoven with the Feudal System. Thus he will often discriminate what part remains to us of Feudal origin, and what part we possess of the milder jurisprudence of the Roman Code.

In these Notes will be found some account of the state of society in Europe during the dark ages; and the contrast between the Feudal and the Roman Law will be frequently observable; for, as a learned author justly remarks, "various are the reasons drawn from the splendid monuments of *Justinian*, and from the castellated remains of Feudal grandeur, 'rich with the spoils of time,' instructive as well as amusing to the student."

PREFACE TO THE FOURTH EDITION.

THE great utility of the following work, and its appreciation by a discerning public, are shown by the rapid exhaustion of three large editions, and the demand for a fourth. It is, indeed, extremely popular with the profession, and has become an almost indispensable adjunct of every law-library. Nor is its practical value confined to lawyers, for whom it was originally prepared and mainly designed. The intelligent of both sexes, and among all classes of our citizens, no less than the members of the other learned professions, cannot fail to derive profitable instruction from its pages. Its matter has been carefully gathered, with judgment and great good taste, from the ancient oracles and standard authorities of the law. It contains many phrases of classical beauty, and much curious learning, expressed in the rich, though quaint language, of the olden time. Nowhere else within the same compass, can be found such stores of rare and useful information.

Thus much have we felt at liberty to say in commendation of this work. All who are familiar with it will bear us witness that we have not over-estimated it, nor can we, as humble editors of the distinguished labors of another (now no more), be charged with egotism in thus frankly expressing our admiration of this his legacy to the generations to come after him.

A single word will dispose of what we have done. The work has been thoroughly revised with a view to its entire accuracy, and it is now placed in a permanent form. To the present edition have been added over one hundred pages of new matter, comprising upwards of eighteen hundred phrases, besides several notes. It is now complete in all respects, and we confidently look for a continuance of the patronage and favor it has hitherto received.

J. W. TAYLOR

LAW GLOSSARY.

A AVER ET TENER.—To have and to hold

AB ACTIS.—A person who has charge of *acta*, public records, registers, or journals; a notary or clerk. Chancellors also bore this title in the early history of that office.

ABACTOR.—Among the Romans, a stealer or driver away of cattle.

ABALIENATIO vel translatio domini vel proprietatis.—The alienation or transfer of the domain or property. *Vide note.*

AB aratro abductus est.—He was taken from the plough.

AB ardendo.—"By burning." Whence "arson."

ABAMITA.—The sister of one's great great grandfather.

ABARNARE, from *Sax. Abarian*.—To disclose to a magistrate any secret crime.

ABATAMENTUM.—An entry by intrusion.

ABBAS.—An Abbot. *Vide note.*

ABBATIS.—A steward of the stables; an ostler.

ABBATISSA.—An abbess.

ABBATTRE maison.—To ruin or throw down a house.

ABBETTAVIT, incitavit, et procuravit, &c.—He abetted, incited, and procured, &c.

ABBROCAMENTUM.—The forestalling of a market or fair.

ABBUTTALS.—Properly, the limits or boundary lines

of lands on the *ends*, as distinguished from those of the sides. *Vide note.*

ABCARIARE.—To take or carry away.

ABDITE latet.—He lurks privily.

ABDITORIUM.—An abditory or hiding place to conceal plate, goods, and money. It is also sometimes used for a place in which relics are preserved.

ABDUCERE.—To abduct, to take away by force.

ABEARANCE.—Deportment, bearing, or behavior

ABEGIT pecora.—He drove away the cattle.

ABEREMURDER.—Plain or manifest murder, as distinguished from the offence of manslaughter and chance-medley. The *Saxon* word for open, or manifest, is "*æbere*," and "*morth*," murder.

ABEYANCE.—Suspense, expectation. An estate is said to be *in abeyance*, that is, in expectation, where there is no person existing in whom it can be vested; the law considering it as always existing, and ready to vest when a proper owner appears.

ABIATICUS.—A grandson.

ABIGEATOR.—*See Abactor.*

ABIGEI.—Persons who stole cattle.

AB inconvenienti.—From the inconvenience.

AB ingressu ecclesiæ.—"From entering the church." These words composed part of the writ of excommunication.

AB initio.—From the beginning.

AB intestato.—From (or by) the intestate.

ABJECTIRE.—To lose a cause by default or neglect to prosecute.

ABJUDICARE.—To deprive of a thing by the decision of a court.

ABJURARE.—To forswear; to renounce or abandon upon oath.

ABMATERTERA.—A great great grandmother's sister.

ABNEPOS.—A great great grandson. ABNEPTIS a great great grand-daughter.

AB officio et beneficio.—From the office and benefice.

AB olim ordinatum.—Formerly constituted.

AB olim consensu.—By ancient consent.

ABPATRUUS.—A great great grandfather's brother

ABRASIO.—An erasure.

ABROCEUR.—A broker.

ABROGATE.—To repeal.

ABSOILE.—To absolve, to pardon.

ABSOLUTE CONVEYANCE.—Conveying the right or property in a thing free from any condition or qualification.

ABSOLUTE RIGHTS.—The rights which belong to persons as individuals, viz., the right of personal security, personal liberty, and the right to acquire, hold, and dispose of property.

ABSOLUTE WARRANTICE.—A warranty against all incumbrances.

ABSOLUTUM dominium in omnibus licitis.—Absolute power in all things lawful.

ABSOLUTUM et directum dominium.—The absolute and direct ownership, (or fee simple.)

ABSONIARE.—To detest and shun.

ABSQUE abstractione, amissione, seu spoliatione, portare tenentur, ita quo pro defectu dictorum communium portatorum seu servientium suorum, hujusmodi bona et catalla eis sic ut prefertur deliberata, non sunt perdita, amissa, vel spoliata.—They are bound to carry the goods without abstraction, loss, or injury, for notwithstanding the neglect of the said common carriers or their servants, goods and chattels of this sort are to be delivered to them in the same manner as stated, not being injured, lost, or damaged.

ABSQUE aliqua probabili causa prosecutus fuit quoddam breve de privilegio.—Without any other probable cause he was sued by a certain writ of privilege.

ABSQUE aliquo inde reddendo.—Without yielding anything therefrom.

ABSQUE consensu majoris partis præfectorum collegiorum.—Without the consent of the major part of the prefects of the colleges.

ABSQUE generali senatu, et populi conventu et edicto.—Without the general convention and order of the senate and people. *Vide note to "Is ordo."*

ABSQUE hoc, quod feoffavit in forma, &c.—Without this, that he enfeoffed in form, &c.

ABSQUE impetitione vasti.—Without impeachment of waste.

ABSQUE probabili causa.—Without a probable cause

ABSQUE purgatione facienda.—"Without purgation being made." Without clearing himself by oath. *Vide note to "Compurgatores."*

ABSURDUM etenim clericis est, imo etiam opprobriosum, si peritos se velint ostendere disceptationum esse forensium.—For it is absurd, nay, even disgraceful, if the clergy should boast of showing their skill in legal disputes.

ABUNDANS cautela non nocet.—Abundant caution does no injury.

ABUT.—To limit or bound.

ACATE, or ACHATE.—A purchase, contract, or bargain.

ACCAPITUM.—The money paid to the chief lord by a vassal upon his admission to the feud.

ACCEDAS ad curiam.—That you go to court.

ACCEDAS ad vice comitem.—That you go to the sheriff.

ACCEPTANCE au besoin.—To accept in case of need.

ACCEPTANCE supra protest.—An acceptance of a bill after protest. Such acceptance made by a third party for the honor of the drawer, or some particular endorser.

ACCEPTILATIO.—It is a mode of releasing a person from an obligation without payment, called an imaginary

payment. But only verbal contracts could thus be dissolved, the form being verbal by question and answer.

ACCESSARY.—One who participates in the commission of an offence, either by advice, command, instigation, or concealment, before or after the offence is committed, though not present at the committal.

ACCESSORIUM non ducit, sed sequitur suum principalem.—An accessory does not lead, but follows his principal.

ACCESSORIUS sequitur naturam sui principalis.—An accessory follows the nature of his principal.

ACCIDENS quod per custodiam, curam et diligentiam mentis humanæ evitari non potest.—An accident which cannot be prevented by the watchfulness, care, and diligence of the human mind.

ACCION sur le case.—An action on the case.

ACCO.—Abbreviated from *Actio*, an action.

ACCOLA.—A husbandman.

ACCOLADE. From the Fr. "*accoler*," "*collum amplecti*."—A ceremony used in making a knight, the king putting his hand about the knight's neck.

ACCOMPLICE.—One who unites with others in the commission of a felony.

ACCREDULITARE.—To purge one's self of an offence by oath.

ACCRESkere.—To grow to; to accrue.

ACCUSARE debet nemo se ipsum.—No person should accuse himself.

AC etiam billæ.—And also to the bill, (or writ.)

ACQUIETATUS inde.—Therefore he is discharged (or acquitted).

ACQUIETATUS inde de præmissis.—Therefore he is acquitted of the matters.

ACTA exteriora indicant interiora secreta.—The outward acts show the secret intentions.

ACTIO accrevit.—An action has accrued.

ACTIO bonæ fidei.—Action of good faith.

ACTIO commodati directa.—An action brought to recover a thing loaned, and not returned.

ACTIO commodati contraria.—Action brought to compel the execution of a contract.

ACTIO de dolo malo.—Action of fraud.

ACTIO ex empto.—An action of purchase; brought by the buyer to obtain possession of the thing sold.

ACTIO ex vendito.—An action of sale; brought by the seller to recover the price of the article sold and delivered.

ACTIO furti.—Action of theft.

ACTIO finium regundorum.—An action to determine boundaries between adjoining lands.

ACTIO in rem.—An action to recover a thing belonging to us in the possession of another.

ACTIO in simplum.—An action for the single value of a thing.

ACTIO legis aquiliæ.—An action to recover damages for maliciously injuring, killing or wounding anything belonging to another.

ACTIO quod jussu.—Action brought against a master for business transacted by his slave, under his *order*.

ACTIO or interdictum quod vi aut clam.—An action against one who has clandestinely erected or destroyed a building, either on another's ground or his own, which has thereby unlawfully injured him.

ACTIO redhibitoria.—To compel a seller to receive back the thing sold and to return the price.

ACTIO quod metus causa.—An action granted to a person who had been compelled unlawfully, either by force or just fear to sell, promise or deliver a thing to another.

ACTIO, or interdictum unde vi.—To recover possession of land taken by force; similar to the modern action of ejectment.

ACTIO vi bonorum raptorum.—An action for goods

forcibly taken, and to recover a penalty of triple their value.

ACTIONARE.—i. e. *in jus vocare*.—To prosecute one in a suit at law.

ACTIONEM præcludere debet.—He ought to bar the action.

ACTIONES compositæ sunt, quibus inter se homines disceptarent; quas actiones ne populus prout vellet institueret, certas solennesque esse voluerunt.—Actions are so prepared (or adjusted) in which men litigate with each other, that they are made definite and established (or customary) lest the people proceed as each may think proper (in his own case). *Vide note.*

ACTIONES in personam, quæ adversus eum intenduntur, qui ex contractu, vel delicto, obligatus est aliquid dare, vel concedere.—Personal actions which are brought against him, who, either from contract or injury, is obliged to give, or allow something. *Vide note.*

ACTIONES legis.—Law suits. *Vide note.*

ACTIO non accrevit infra sex annos.—The action has not accrued within six years.

ACTIONEM non habere debet.—He ought not to have an action.

ACTIO personalis moritur cum persona.—A personal action dies with the person.

ACTIO sequitur.—“An action lies,” (or is sustainable.)

ACTOR.—A plaintiff.

ACTOR sequitur formam rei.—“A plaintiff follows the course of proceeding”—i. e. according to the nature of the property to be recovered.

ACTUM agere.—“To labor in vain,” alluding to a Roman judgment once pronounced which was in general irrevocable. *Vide Cic. Amic. 22.*

ACTUS curiæ neminem gravabit.—An act of the court shall prejudice no one. As where a delay in an action is the act of the court, neither party shall suffer for it.

ACTUS legitimi non recipiunt modum.—Acts required by law admit of no qualification.

ACTUS Dei nemini facit injuriam.—The act of God injures no one.

ACTUS legis nemini facit injuriam.—The act (or proceeding) of the law injures no person. *Vide note.*

ACTUS me invito factus, non est meus factus.—“An act done involuntarily is not my deed:” as where a lighted squib was thrown, and warded off by another person, the injury arising therefrom is not the act of the latter person.

ACTUS non reum facit, nisi mens sit rea.—“An act does not make the person guilty, unless the intention be also guilty.” There is not a maxim more true, nor one which should be more seriously considered than this; for by the various degrees of criminality in the offender, the punishment should be inflicted. There are more gradations in crime, even where attached to the *same* offence, than “colors in the bow.”

AD admittendum clericum.—To admit a clerk (to holy office). A writ so called.

AD aliud examen.—To another trial (for jurisdiction)

AD annum vigessimum primum, et eousque juvenes sub tutela reponent.—To the twenty-first year, and until that period, they place youth under guardianship.

AD arma militare suscipienda.—Taking the arms from the knights.

AD assizam primam.—To the first assize.

AD assizas capiendas.—To hold the assizes.

AD audiendum, et faciendum, et consentiendum.—To hear, perform, and consent.

AD audiendum errores.—To hear errors.

AD colligendum defuncti.—To collect (the goods) of the deceased.

AD communem legem.—At common law.

AD commune nocumentum.—To the common nuisance (or grievance).

Ad compotem.—To account.

Ad consulendam.—To counsel.

Ad curiam.—At a court.

Ad custagia.—Expenses of judicial proceedings.

Ad custodiend' sub certis conditionibus, et quod ipse paratus est ad deliberand' cui vel quibus cur' consideravit, &c. Sed utrum conditiones illæ ex parte prædicti quærentis adimpletæ sunt ipse omnino ignorat et petit quod idem J. S. premuniatur.—For safe keeping under certain conditions, and which he is ready to deliver to him, or to those persons the court shall see fit, &c. But whether the conditions on the part of the said plaintiff are fulfilled he is altogether ignorant of, and he demands (or requires) that the said J. S. may be secured.

Ad damnum ipsorum.—To their loss.

Ad delinquendum.—In default.

Ad ecclesiam, et ad amicos, pertinebit executio bonorum.—The administration of the goods will belong to the church and to the friends (of the intestate).

Ad effectum sequentem.—To the effect following.

Adeo recepta hodie sententia est, ut nemo ausit contra dicere.—The decree (or decision) was this day so received that no one dared to dispute it.

Ad eversionem juris nostri.—To the overthrow of our right.

Ad excambium.—To recompense.

Adeprimes.—For the first time.

Aderere.—Behind.

Adesouth.—Beneath.

Ad executionem decretorum judicii; ad estimationem pretii; damni; lucri, &c.—For the execution of the award of judgment; to the value of the price, loss, profit, &c.

Ad exhæreditatem domini sui, vel dedecus corpori suo.—To the disinheriting his lord, or the disgrace of his personal appearance.

AD exhæreditationem episcopi, vel ecclesiæ.—To the disinheriting the bishop or the church.

AD faciendum attornatum.—To appoint an attorney.

AD faciendum, subjiciendum, et recipiendum.—To do, submit and receive.

AD fidem bonam statuit pertinere notum esse emptori vitium quod noscet venditor. Ratio postulat ne quid insidiose, ne quid simulate.—It is a matter of good faith (in trade) that the buyer be made acquainted with the default (if any) which the seller knows. Reason demands that nothing be done treacherously, nor in a concealed manner.

AD fidem utriusque regis.—To the fealty of either king.

AD filum aquæ.—To the middle of the water (or stream,

AD filum medium aquæ.—To the middle line of the stream.

AD firman.—To farm.

AD finem litis.—To the conclusion of the suit.

AD gaolas deliberandas.—At the goal delivery.

AD hoc autem creatus est, et electus, ut justitiam faciat universis.—For he was made and chosen for this (office), that he may render justice to all.

AD hominem.—“To the person.” This is used as meaning an argument touching the prejudice or qualities of the person addressed.

ADHUC existit.—It still remains.

ADHUC remanet quædam scintilla juris et tituli, quasi medium quid, inter utrosque status, scilicet illa possibilitas futuri usus emergentis, et sic interesse et titulus, et non tantum nuda auctoritas seu potestas remanet.—Hitherto there remains some spark of right and title, like some medium between both positions, to wit, the possibility of a future springing use, and this becomes an interest and a title, and not remains only as a naked authority or power.

ADHUC sub iudice lis est.—As yet the dispute is before the judge.

AD idem.—“To the same.” To the like intent.

AD illud.—Thereunto.

AD imitationem pristini familiæ emptoris : quia hoc totum negotium testamenti ordinandi gratia, creditur hodie inter testatorem et hæredem agi.—Agreeably to the ancient law of family purchase, for the whole business of managing the will is at this day entrusted to the testator and the heir. See note to “*Hæredes Successoresque*.”

AD infinitum.—To the utmost.

AD informandum conscientiam.—To inform the mind, (to forewarn a person).

AD inquirendum.—To make inquiry.

AD inquirendum tam per sacrum proborum et legalium hominum com' n'ri *South'ton* quam per depositiones quorumcunque testium, ac omnibus aliis viis mediis quibuscunque, “Si Prior aut Prioratus S'ci *Swithini Winton*, in jure domus, sive Prioratus, fuit seisisus in quibusdam terris vocat' *Woodcrofts*, &c. ut parcell' de manerio de *Hinton-Daubney*: Necnon “*Si Henricus* pater noster (in ejus vita) *Dominus Edwardus Sextus* Regina Maria, aut nos ipsi, a tempore dissolutionis Prioratus S'ci *Swithini*,” &c.—To inquire as well by the oath of good and lawful men of our county of Southampton, as well as by the depositions of all the witnesses, and by all manner of other means whatsoever, “Whether the Prior or Priory of *Saint Swithin* at *Winchester*, in right of the house (or monastery) or priory was seized of certain lands called *Woodcrofts*, &c., as parcel of the manor of *Hinton-Daubney*: or if Henry our Father (in his lifetime) our Lord Edward the Sixth, Queen Mary, or we ourselves (were seized) from the time of the dissolution of *Saint Swithin's* Priory,” &c.

AD instructiones reparationesque itinerum, et pontium, nullum genus hominum nulliusque dignitatis ac venerationis meritis, cessare oportet.—That no description of

persons, of whatever dignity and consequence, should refuse assistance in the making and repairing roads and bridges.

ADIRATUS.—Strayed, lost.

ADITUS.—Public road.

ADJUDICABITUR reus ad legem suam duodecima manu.
—A defendant (or an accused person) shall be adjudged (to wage) his law by the hands of twelve compurgators. *Vide note to "Compurgatores."*

ADJUDICATIO.—"An adjudgment." One of the legal modes of obtaining property among the ancient Romans. *Vide note.*

AD jungendum auxilium.—To join in aid

AD jura legis.—A writ sued out by the king's clerk presented to a living, against those who endeavor to eject him to the prejudice of the king's title.

ADJUVAT hostem.—He assists the enemy.

AD Kalendas Græcas.—"At the *Greek* calends." The calends were a division of time among the *Romans*, but not so with the *Greeks*—consequently the phrase "*Ad Kalendas Græcas*," was synonymous to stating what was impossible to happen. Thus we say of an unprincipled debtor, "he will pay *ad Kalendas Græcas*."

ADLEGIARE—or *aleir*, Fr.—To purge himself of crime by oath.

AD legem Falcidiam.—According to the *Falcidian* law.

AD libitum.—At pleasure: at will.

AD litem.—To (or in) the suit or (controversy).

AD majus.—At the most.

ADMALLARE.—To sue.

AD matrimonium colendum.—To contract matrimony.

AD medium filum aquæ.—To the middle line of the water.

AD medium filum viæ.—To the middle line of the road.

ADMINICLE.—To aid or support.

ADMINICULATOR.—An official in the church of Rome,

who administers to the necessities of the indigent and infirm.

ADMINISTRATION cum testamento annexo.—This is granted when a testator has made a will without naming executors, or where those named fail to serve, either from refusing to act, incompetency to do so, or from death.

ADMINISTRATOR de son tort.—Administrator in his own wrong.

ADMINISTRATOR de bonis non.—When a part of an estate is left by the death of an executor, unadministered, the administrator appointed to carry into effect the will, is called by this name.

ADMINISTRATOR durante absentia.—One who administers to an estate during the absence of the executors.

ADMINISTRATOR durante minore ætate.—One who serves as administrator until the executor is of lawful age to act.

ADMINISTRATOR pendente lite.—One who serves as an administrator while a suit is pending to test the validity of the will.

AD nocumentum liberi tenementi sui.—To the damage of his free tenement or freehold.

AD omnes eorum violatores puniendos.—For the punishment of all such wrong doers.

AD omnia placita.—To all the pleas.

ADONQUES, Adonque, Adunque, Adoun.—Then.

AD ostium ecclesiæ.—“At the church door.” Dower was formerly assigned at the door of the church. *Vide note to “Assignetur.”*

AD perpetuam rei memoriam.—As a perpetual remembrance of the matter.

AD pios usus.—For pious purposes.

AD pios usus, causas, et personis descendentium, consanguineis, servitoribus, et propinquis, seu aliis pro defunctarum animarum salute.—For pious uses and purposes, and to the persons and relations of the deceased; to servitors and

neighbors, or to others for the welfare of the souls of the departed.

AD poenam, et restituendam.—For punishment and restitution.

AD ponendam loquelam coram justiciariis.—To lay the complaint before the judges.

AD prosequendum, testificandum, deliberandum.—To prosecute, give evidence, to advise.

AD proximum antecedentem fiat ratio, nisi impediatur sententia.—The relative may be reckoned next to the antecedent, unless the sentence restrains (or prevents such a construction.)

AD quædam specialia.—To certain special matters.

AD quæstionem juris respondent iudices; ad quæstionem facti respondent juratores.—The judges answer as to the question of law; the jurors to the matter of fact.

AD quæstiones facti non respondent iudices; ad quæstiones legis non respondent juratores.—The judges do not answer as to the fact; nor the jurors as to the questions of law.

AD quem diem (ss.) ad sessionem pais tent' apud U. die Jovis, &c. coram, &c. idem Vicecomes retornavit quod prædictus T. S. non fuit inventus in balliva sua, ideo præceptur fuit eidem Vicecomiti quod exigi faciat, &c.—At which day (to wit) at the sessions of the peace held at U. on Thursday, &c., before, &c., the same Sheriff returned that the aforesaid T. S. was not found in his bailiwick, therefore a writ was (directed) to such Sheriff that he should cause him to be summoned.

AD quod damnum —To that injury.

AD rationem ponere.—To place to account.

ADRAHMARE.—To pledge solemnly.

ADRECTARE.—To make amends.

AD reparationem et sustentationem.—For the repairing and maintenance.

AD requisitionem defendentis.—At the defendant's request.

AD reson.—To call to account.

ADSALLIRE.—To assail

ADSCRIPTUS glebæ.—Attached to the soil. *Vide note.*

AD sectam.—At the suit of.

AD studendum et orandum.—“To study and pray.” The students of the several inns of court were particularly enjoined to perform *both* these duties.

AD synodos venientibus, sive summoniti sint, sive per se quid agendum habuerint, sit summa pax.—That the most peaceful conduct be observed toward those coming to the synods (or general councils) to transact their business, whether they be summoned, or attend voluntarily.

AD terminum annorum.—For a term of years.

AD terminum qui præteriit.—For an expired term.

AD tractandum et consilium impendendum.—To exercise and weigh advice.

ADTRACTUS.—A purchase.

AD tristem partem strenua est suspicio.—Suspicion strongly rests on the unfortunate side.

AD tunc et ibidem.—“Then and there being found.”

AD tunc existens generosus et ultra ætatem sex decem annorum.—Then being a gentleman and more than sixteen years of age.

AD unguem.—(Accomplished) to a tittle. Finished.

AD usum et commodum.—For the use and benefit.

AD usum et commodum infantis.—For the use and benefit of the infant.

AD valorem.—According to the value.

AD veniendum coram iudiciariis ad compotum suum reddendum.—To come before the judges to render his account.

ADVERSUS profugium ac solatium præbent; delectant domi; non impediunt foris; pernoctant nobiscum, peregrinantur, rusticantur.—They afford a refuge and a solace in adversity; cheer our fire-sides; obstruct not our busi-

ness; pass the night with us; go abroad, and accompany us in our rural walks.

AD vigessimum primum, et eousque juvenes sub tutelam reponunt.—To the twenty-first year, until which time they place the youth under guardianship.

AD vitam aut culpam.—An office so held as to determine only by the death or delinquency of the possessor.

ADVOCATI fisci.—Fiscal advocates. Advocates of the revenue.

ADVOCATIO.—An advowson. A right of presentation to a church living.

AD voluntatem domini.—At the will of the lord.

AD voluntatem domini secundum consuetudinem, &c.—At the will of the lord according to the custom, &c.

ADVOWSON.—A right of presentation to a church or benefice. *Vide note.*

ÆDIFICARE in tuo proprio solo non licet quod alternoceat.—It is unlawful to build on thy own land, what may injure another.

ÆQUE bonis adnumerabitur etiam, si quid est in actionibus, petitionibus, persecutionibus; nam et hæc in bonis esse videntur.—Also if there be anything (left) in actions, petitions, or suits, they shall be accounted as chattels. For these seem also to be considered as the property (of the deceased).

ÆQUE pauperibus prodest, locupletibus æque.—Equally profitable to rich and poor.

ÆQUITAS sequitur legem.—Equity follows the law.

ÆRIE; aëria accipitrum.—“An airy of goshawks.” Airy is the proper term for that, which of other birds we call a *nest*. This word is generally said to come from the *Fr. aire*, a hawk’s nest. *Spelman* derives it from the *Sax. eghe*, an egg, softened into *eye*, (used to express a brood of pheasants,) and thence *eyrie*, or *aerie*, a repository for eggs.

Æs debitorem leve; graviorem inimicum tacit.—A slight sum makes a debtor; a large one an enemy.

ÆSTIMATIO capitis.—The value of a man's head. Among the early Saxons the life of every man, including even the king himself, was valued at a certain price, which was called the *æstimatio capitis*.

ÆTAS infantiae proxima.—The age next to infancy.

ÆTAS pubertati proxima.—The age next to manhood.

ÆTATE probanda.—A writ which lay to inquire whether the king's tenant, holding *in chief by chivalry*, was of full age to receive his lands into his own hands.

AFFEERE.—To assess an amercement.

AFFEERERS.—Those who in courts leet, upon oath, moderated and settled the fines and amercements.

AFFERUNT domino tres palfridos, et sex asterias narenses ad inquisitionem habendam per legales, &c.—They bring to the lord three state horses and six herons (or egrets), for (the privilege of) holding trial by legal men (or freemen), &c. *Vide note.*

AFFIDARE.—To plight one's faith, or give, or swear fealty, *i. e.* fidelity.

AFFIDATIO dominorum.—The oath taken by a lord in parliament.

AFFILARE.—To file.

AFFINES.—Connexions by marriage. *Kindred* are relations by blood; but *affinity* is the tie which exists between one of the married parties with the kindred of the other. The term affinity is, therefore, used in contradistinction to *consanguinity* or kindred.

AFFLICTIONEM afflictis addere.—To distress the distressed.

AFFORCIARE.—To add, to make stronger or increase.

AFFRAYER.—To terrify.

AFFRI.—Beasts of the plough.

A FORTIORI.—By so much the stronger; by a more powerful reason.

AGALMA.—The impression, or image on a seal.

AGARD.—An award.

AGENFRIDA.—The true owner.

AGENHINE.—A domestic; the name given by the Saxons to one belonging to the household.

AGENTES et consentientes pari pœna plectantur.—That the agents and abettors be punished alike.

AGE-prier: ætatem precare; or, ætatis precatio.—“Aid-prayer.” Is when an action being brought against a person under age, for lands which he hath by descent, he, by petition, or motion, shows the facts to the court, and prays that the action may stay until full age.

AGGREGATIO mentium.—A mutual agreement.

AGILD.—Free from the usual penalty for an offence.

AGILLER. From the *Sax. a gillt* (without fault).—An observer, an informer.

AGISTER.—A person who takes other men's cattle to feed upon his grounds at a certain compensation.

AGNATI.—Relations by the father's side.

AGNOMEN.—A surname.

AGNUS Dei.—A piece of white wax in a flat oval form, like a small cake, stamped with the figure of a lamb, and consecrated by the Pope.

A GRATIA.—From (or by) favor.

AGRI ab universis per vices occupantur; arva per annos mutant.—Fields are occupied by all in turn; arable lands change yearly.

AIEUL.—A grandfather.

AISNE.—Eldest or first born.

A LATERE.—By the side, or in attendance.

ALBA firma.—When quit rents, payable to the crown by freeholders of manors, &c., were reserved in silver or white money, they were anciently called white rents, “*redditus albi*,” in contradistinction to rents reserved in work, grain, &c., which were called “*redditus nigri*,” or black mail.

ALBANUS.—An Alien.

ALBUM breve.—A white, or blank precept. *Vide Hob. 130.*

AL comon ley, avant le stat. de *West.* 1, c. 12, si ascun ust estre appeal, et ust estre mute, il serra convict de felony.
 —At common law before the statute of *Westminster*, 1, c. 12, if any one was charged with an offence, and remained mute, he was convicted of felony.

A *LEGE suæ dignitatis*.—By right of his own dignity.

ALIA enormia.—Other great offences.

ALIA lex Romæ; alia Athenis.—There is one law at Rome; another at Athens.

ALIAS ca. sa.—Another writ to take (the person) to make satisfaction.

ALIAS dictus.—Otherwise called (or named).

ALIAS scire facias.—"That you again cause to be informed." A second writ of *scire facias*.

ALIA tentanda via.—Another way must be tried.

ALIBI.—"In another place." This is very frequently the excuse made use of by hardened offenders who endeavor to prove they were in different places from those where crimes had been committed; and though this is a defence too common, yet prejudice should not prevent our giving it its due estimation.

ALIBI natus.—Born in another place.

ALICUI rei impedimentum offerre.—To oppose an impediment to another's business.

ALIENI appetens; sui profusus.—Greedy of another's property; wasting his own.

ALIENI generis.—Of a different sort or kind.

ALIENI juris.—Applied to persons subject to the authority of others. As an infant under father or guardian's authority, and a wife under her husband's control.

ALIENI solo.—In another's soil.

A l'impossible nul est tenu.—What is impossible no one is bound to perform.

ALIO intuitu.—On another (or different) view.

ALIQUBUS de societate.—With others of the society.

ALIQUID possessionis et nihil juris.—Somewhat of possession and nothing of right.

ALIQUIS non debet esse iudex in propria causa.—No one should be a judge in his own cause.

ALIQUO modo destruat. —By any other manner destroyed. *Mag. Ch.*

ALITER non.—Otherwise not.

ALITER quam ad virum, ex causa regiminis et castigationis uxoris suæ, licite et rationabiliter pertinet.—Otherwise than what legally and reasonably belongs to the husband, on account of governing and chastising his wife. *Vide note.*

ALITER, vel in alio modo.—Otherwise, or in another way.

ALIUD est celare, aliud tacere; neque enim id est celare quicquid retineas; sed cum quod tu scias, id ignorare emolumenti tui causa velis eos, quorum interest id scire.—It is one thing to conceal, and a different thing to be silent; there is no concealment in withholding a matter, unless it be from those who ought to know it, and it be done purposely for your own advancement.

ALIUDVE quid simile si admitterint.—Or if they have admitted anything of a like sort.

ALIUNDE.—From another place, or from some other person.

ALLEGATA.—Matters alleged.

ALLEGATIO contra factum non est admittenda.—An allegation contrary to the deed is not to be admitted (as evidence).

ALLEGATIO contra interpretationem verborum.—An allegation against the meaning of the words.

ALLEGIARE.—To defend, or judge in due form of law.

ALLER sans jour.—“To go without day.” To be finally dismissed the court.

ALLOCATUR.—It is allowed.

ALLODIUM est proprietas quæ a nullo recognoscitur.—

Allodium is that (kind of) property which is acknowledged (recognized or understood) by no person.

ALLODUM, or **allodium**, or **allode**.—Lands held in absolute dominion. *Vide note.*

ALLONGE.—When a bill of exchange or note is too small to receive the endorsements to be made on it, a piece of paper is annexed to it which is called *allonge*.

ALLUMINOR.—A painter; an illuminator. *Vide note.*

ALMESFESH.—A *Saxon* word for alms-money. It was also called *rome's-fesh*, *romescot*, and *hearth-money*. *Vide Seld. Hist. Tithes*, 217.

ALNAGE.—Ell measure. An *alnager* was a sworn public officer in England, required to look to measure of woollen cloths manufactured there, and put a special seal upon them.

A loco et domo.—From the place and habitation.

ALTA proditio.—"High Treason;" the crime against the state government.

ALTA via.—A highway.

ALTERUM non lædere.—Not to injure another.

ALTIUS non tollendi.—Where the owner of a house is restrained from building beyond a particular height, the servitude due by him is thus called.

ALTUM mare.—The high sea.

A ma intent vous purres aver demurre sur luy que le obligation est void, ou que le condition est encountre common ley, et *per Dieu* si le plaintiff fuit icy, il irra al prison tanq; il ust fait fine au Roy.—On my action you could claim a demurrer, on the plea that the obligation is void, or that the contract is contrary to common law, and on *oath*, if the plaintiff were present, he would be put in close confinement, and must pay a fine to the king.

AMBIGUITAS latens.—A latent ambiguity; concealed doubt or uncertainty.

AMBIGUITAS patens.—A manifest ambiguity or uncertainty; that kind of uncertainty of which there can be

no reasonable doubt. These last two extracts are frequently applied to clauses in deeds or wills; but the inferences drawn from them are distinct in their principles.

AMBIGUITAS verborum latens verificatione suppletur; quam quod ex facto oritur ambiguum, verificatione facti tollitur.—A latent ambiguity of words is supplied by the verification (or plea); for that uncertainty which arises by the deed is removed by the truth of the fact itself.

AMBIGUUM pactum contra venditorem interpretandum est.—An ambiguous covenant (or contract) is to be expounded against the vendor.

AMBIGUUM placitum.—“An ambiguous (or doubtful) plea.” A plea for delay.

AMBULATORIA voluntas.—As long as a man lives he has the power to alter his will or testament.

A MENSA et thoro.—“From bed and board.” A divorce between husband and wife, which does not make the marriage void, *ab initio*, or from the beginning. *Vide note.*

AMERCEMENT.—A light or merciful penalty imposed by the court upon the officers of the court, sheriffs, coroners, &c., for trivial offences or neglect in the discharge of their official duties.

AMICI consilia credenda.—A friend's advice should be regarded.

AMICUS curiæ.—A friend of the court. *Vide note.*

AMITTERE legem terræ, or liberam legem.—To lose, or be deprived of the liberty of swearing in any court. To become infamous.

AMORTIZATIO—amortization—amortizement, Fr.—An alienation of lands or tenements in *mortmain*, viz., to any corporation or fraternity, and their successors, &c.

AMOVEAS manus.—That you remove your hands: give up the possession.

AMPLIARE jurisdictionem.—To increase the jurisdiction.

AMPLIARE justitiam.—To enlarge (or extend) the right.

ANATOCISM.—Compound interest.

ANCIENT demesne, or demain.—An ancient inheritance.—“*Vetus patrimonium domini.*” *Vide note.*

ANFELDTYHDE, Sax.—A simple accusation. *Vide note.*

ANGARIA.—The compulsory service required by a feudal lord from his tenant.

ANIMALIA feræ naturæ.—Animals of a wild nature.

ANIMO custodiendi.—With an intention of guarding (or watching).

ANIMO furandi.—With an intent to steal.

ANIMO possidendi.—With intent to possess.

ANIMO revertendi.—With intent to return.

ANIMO testandi.—With an intent to make a will.

ANIMO revocandi.—With an intention to revoke.

ANIMUS cancellandi.—The intention of cancelling.

ANIMUS furandi.—An intention of stealing.

ANIMUS manendi.—A determination of settling or remaining.

ANIMUS morandi.—A purpose of delaying, (hindering, or disturbing.)

ANIMUS non deponendus ob iniquum judicium.—The mind is not to be cast down because of an unjust judgment.

ANIMUS revertendi.—An intent to return.

ANNATES.—First fruits.

ANNI nubile.—The age at which a woman becomes marriageable by law, viz., twelve years.

ANNOTATIONE principis.—By the emperor's sign manual.

ANNUS et dies.—A year and a day.

ANNUS luctus.—“The year of mourning.” The widow's year of lamentation for her deceased husband.

A NOTIORIBUS.—By (or from) those more known.

ANTE exhibitionem billæ.—Before the commencement of the bill, (or suit.)

ANTE litem contestatam.—Before the suit be contested

ANTENATI.—Born before.

ANTE occasum solis.—Before sunset.

ANTICHRESIS.—A contract or mortgage by which the creditor receives the fruit or revenues of the thing pledged, instead of interest. It is recognized by the Louisiana Code, and the modern Welsh mortgage resembles it; but in general it is obsolete.

ANTIQUUM mollendinum.—An ancient mill.

ANTISTITIUM.—A monastery.

ANTITHETARIUS.—A term given to an accused person, who charges upon his accuser the crime of which he is accused, in order to discharge himself.

APANAGE.—In French law, the provision made for the support of the younger members of a royal family from the public revenues.

APERTA, vel patentis brevia.—Open writs.

APERTUM factum.—An overt act.

APEX juris.—Subtle point of law.

APICES juris non sunt jus.—“The utmost extremity of the law, is injustice.” Straining the cords of the law in *some* cases to their greatest length, will produce as much oppression as if there were no law at all.

A PIRATIS et latronibus capta, dominium non mutant.—Being taken by pirates and robbers, they do not change their ownership.

A POSTERIORI.—“From the latter.” Words often referring to a mode of argument.

APPELLATIONE “fundi,” omne ædificium et omnis ager continetur.—By the name of “land” (“fundum” among the ancient *Romans*) every field and building is comprised.

APPRENDRE.—To learn—from whence the word “apprentice.”

APPUYE.—The point to lean on: the defence.

APRES ce, est tend le querelle a respondre; et aura congie, de soy conseiller, s’il le demande; et quan il sera conseille, il peut nyer le fait dont il est accuse.—After

that, he is bound to answer the complaint; and shall have leave to imparle, if he require it; and when he has imparled, he may deny the act of which he is accused.

A PRIORI.—From the former. *Vide* "*A posteriori*."

APTUS et idoneus moribus et scientiis.—"Proper and sufficient in morality and learning." Words inserted in college certificates, on a student passing his examination

AQUA cedit solo.—"The water yields to (or accompanies) the land." The grant of the land conveys the water.

AQUA currit et debet currere.—Water runs, and ought to run.

AQUAGIUM.—A ditch to draw off water.

AQUÆ haustus.—The right to draw water from the well or spring of another.

A QUA non deliberentur, sine speciali præcepto domini regis.—From which they cannot be delivered without the special writ (or license) of the king.

AQUITALIA alia sunt regalia; alia communia.—Some waterfowl are royal; some are common.

ARACE.—"To rase, or erase," from the Fr. *arracher*.

ARARE.—To plough. *Arotor*, ploughman.

ARALIA—mis-spelled *arnalia* and *aratia*.—Arable lands.

ARATIA.—Arable lands.

ARATRUM terræ.—As much land as can be tilled with one plough.

ARATURA terræ.—This was an ancient service which the tenant performed for his lord by ploughing his lands.

ARBITER.—An arbitrator. *Vide note*.

ARBITRIO boni viri.—By the judgment of an honest man.

ARCA cyrographica, sive cyrographorum Judæorum.—This was a common chest, with three locks and keys, kept by certain *Christians* and *Jews*, wherein by order of *Richard*

the First, all the contracts, mortgages and obligations belonging to the *Jews*, were kept to prevent fraud.

ARCANA imperii.—The secrets of the empire.

ARCTA et salva custodia.—In close and safe custody.

ARCVI meo non confido.—“I do not depend on my own bow.” I have taken a better opinion than mine own.

ARDENTIA verba, sed non vera.—Words of energy, but destitute of fact.

ARENTARE.—“To rent out.” To let at a rent certain.

ARGENTIFODINA.—A silver mine.

ARGENTUM album.—Silver coin.

ARGUMENTUM ad crumenam.—An argument, or appeal to the purse.

ARGUMENTUM ad hominem.—An argument (or appeal) to the person: a personal application.

ARGUMENTUM ad ignorantiam.—Argument founded on ignorance of the fact, (as shown by an opponent.)

ARGUMENTUM ad verecundiam.—An argument (or appeal) to the modesty (of an opponent).

ARIERISMENT.—“Surprise—affright.” To the great “*arierisment*” and “*estenysment*” of the common law. *Vid. Rot. Parl. 21 Edw. 3d.*

ARIMNANNI.—The title of a class of freemen in the middle ages, who possessed some independent property of their own, employing themselves in agriculture. They rented lands, also, from the neighboring lords, paying beside the stipulated rent, certain services of labor for their landlord, as at harvesting, or ploughing. *See Robertson's Charles 5., Appendix.*

ARMA dare.—“To present with arms—to make a knight.” *Arma capere*, or *suscipere* to be made a knight. *Vide Kennet's Paroch. Antiq. 288, and Walsingham, p. 507.* The word “*arma*” in these places signifies only a *sword*; but sometimes a knight was made, by giving him the whole *armour*.

ARMA libera.—“Free arms.” A sword and lance.

These were usually given to a servant when made free. Vide *Leg. Will. cap. 65.*

ARMA moluta.—Sharp weapons that *cut*, opposed to those which were *blunt*, which only break or bruise. Vide *Bract. lib. 3.*

ARMA reversata.—A punishment which took place when a knight was convicted of treason or felony. Thus the historian *Knighton* speaking of *Hugh Spencer* tells us, "*Primo vestierunt eum uno vestimento, cum armis suis reversatis.*" First they arrayed him in a robe with his arms reversed.

ARMIGER—"Esquire."—One who bears arms. A title of dignity belonging to such gentlemen as "bear arms," and these either by courtesy, as sons of noblemen, eldest sons of knights, &c., or by creation. The word "*Armiger*" was also formerly applied to the higher servants in convents. Vide *Paroch. Antiq. 576.* Ancient writers and chronologers make mention of some who were called *Armigeri*, whose office was to carry the shield of some nobleman. *Camden* calls them *Scutiferi* (which seems to import as much), and *homines ad arma dicti*. These are accounted next in order to knights.

ARMISCARIA.—This was anciently a punishment decreed, or imposed on an offender by the judge. Vide *Malmesb. lib. 3, 97. Walsingham, 340.* At first it was to carry a saddle on his back in token of subjection. *Brampton* says that in the year 1176, the king of the *Scots* promised *Henry the Second*—"Lanceam et sellam suam super altare Sancti Petri ad perpetuam hujus subjectionis memoriam offerre—to offer up his lance and saddle upon the altar of St. Peter, in perpetual token of his subjection. Vide *Spelm.* It may not, however, be improper to observe, that these loose *dicta* should be taken very cautiously.

ARPEN, or ARPENT.—An acre or furlong of ground; and according to the old *Fr.* account in *Domesday Book*, one hundred perches make one "*arpent.*"

ARRAMEUR.—Title given by the Normans to officers employed to load vessels.

ARRENTARE.—To rent.

ARRESTER.—To stay: to arrest.

ARRHA.—A proof of a purchase and sale. Earnest money.

ARRIERBAN.—The proclamation which the sovereign issued in feudal times to his vassals, to summon them to military service.

ARSÆ et pensatæ.—“Burnt and weighed.” Applied to the melting of coin to test the purity.

ARTICULI super chartas.—“Articles (made) upon the charters;” *i. e.* upon the great charter, and charter of the forest, &c.

ASPORTARE.—To carry away.

ASSARTUM.—Land cleared and cultivated.

ASSECURATOR, qui jam solvit æstimationem mercium deperditarum, si postea dictæ sint, an possit cogere dominum accipiendas illas, et ad reddendam sibi æstimationem quam dedit? Distingue! Aut merces, vel aliqua pars ipsarum appareant, et restitui possint, ante solutionem æstimationis; et tunc tenetur dominus mercium illas recipere, et pro illa parte mercium apparentium liberabitur assecurator; nam qui tenetur ad certam quantitatem respectu certæ speciei dando illum, liberatur; ut ubi probatur. Et etiam quia contractus assecurationis est conditionalis, scilicet si merces deperdantur; non autem dicuntur perditæ, si postea recuperantur. Verum si merces non appareant in illa pristina bonitate, aliter fit æstimatio; non in tantum, sed prout hic valent. Aut vero post solutam æstimationem ab assecuratore, compareant merces; et hinc est in electione mercium assecurati, vel recipere merces, vel retinere pretium.—Can the assurer who has already paid the value of the lost merchandise, if afterwards they should become visible and be recovered, oblige the owner to receive them, and return him the value which he has paid? Mark!

Either the merchandise or some part thereof should be visible and restored before payment of the valuation, and then the owner of the goods is bound to receive them, and for that which is forthcoming the assurer shall be discharged; for he who is bound to a certain quantity in respect of a particular thing given, shall be exonerated; as is everywhere proved. And therefore because the assurer's contract is conditional, to wit, if the goods are lost; but they do not consider them destroyed when they are afterwards recovered. But if the merchandise be not forthcoming in its original value, there is another valuation made, not at so high a rate, but for what they are now worth. But if the goods shall be seen after the payment of the valuation by the assurer, it is in that case at the election of the insurer of the goods either to receive them, or to retain the price.

ASSEDATION.—A Scotch name for lease.

ASSEZ.—Enough.

ASSIDERE, or ASSEDARE.—To tax.

ASSIGNETUR autem ei pro dote sua, tertia pars totius terræ mariti sui, quæ sua fuit in vita sua, nisi de minori dotata fuerit ad ostium ecclesiæ.—But there may be assigned to her for her dower the third part of the whole land which belonged to the husband in his life-time, unless she were endowed of a less quantity at the church door.

Vide note.

ASSIZE.—A species of jury or inquest; a certain number of persons summoned to try a cause, and who sat together for that purpose. This term was applied to a species of writ, or real action. It also signified a court;—an ordinance, statute;—a *fixed* time, number, quantity, weight, measure.

ASSIZORS.—Sunt qui assizas condunt, aut taxationes imponunt.—“Those who hold the assizes, or lay on the taxes.” In *Scotland* (according to *Skene*), they were the same with jurors, and their oath is this:

“ We shall leil suith say,
 And *na suith* conceal for *nothing* we may,
 As far as we are charged upon the *assize*,
 Be (by) God himself, and be (by) our own paradise.
 As we will answer to God upon the dreadful day of
 Dome.”

ASSISTERE, maintainare et consolare, et e converso, et sic de similibus, in quibus est professio legis, et naturæ.—To assist, maintain, and comfort (the father), and do the same (for the son); and so in similar cases, for this is nature's law and profession.

ASSIZA et recognitio.—The assize and recognizance.

A SOCIETATE nomen sumpserunt, reges enim tales sibi associant.—They take the name from a society, for kings attach such persons to themselves.

ASSOILE.—“To absolve.” “To deliver from excommunication.” In one of the *English* statutes mention being made of *Edward* the First, it is said, “whom God *assoile*.”

ASSUMPSERUNT super se.—They took upon themselves.

ASSUMPSIT.—He undertook (or promised).

ASSUMPSIT pro rata.—He undertook agreeably to the proportion.

ASSYTHEMENT.—The indemnification which in Scotch law a person is bound to make for killing or injuring another.

ASTRICT.—To bind. *Vide note*.

AT si intestatus moritur cui suus hæres nec extabit, agnatus proximus familiam habeto.—But if a person die intestate leaving no heir, then let the next of kin possess the property.

AS usuarius.—A pound lent upon usury (or interest).

ATAVUS.—The male ancestor in the fifth degree.

A TEMPORE cujus.—“From the time of which.” Where these words appear, they frequently intimate “from

the time of which the memory of man is not to the contrary," which extends as far back (in the *legal* acceptation of the words) as the Crusades.

ATRIUM.—A court before a house; and sometimes a church yard.

ATTACAR.—To tie or bind.

ATTACHIAMENTA bonorum.—A distress taken upon goods, where a man is sued for personal estate, or debt.

ATTINCTUS.—"Attainted." A person is said to be attainted, when convicted of murder, treason, &c.

ATTORNARE.—To transfèr.

AU bout de compte.—At the end of the account; after all.

AUDI alteram partem.—Hear the other side.

AUDITA querelâ.—The complaint having been heard.

AUDITOR comptotæ.—The auditor of the account.

AUGUSTA legibus soluta non est. The queen is not freed from the laws.

AULA regis.—The king's hall (of justice).

AUSIS talibus istis non jura subserviunt.—The laws will not assist in such daring purposes.

AUT re, aut nomine.—Either really or nominally.

AUTRE action pendante.—Another action pending.

AUTRE droit.—Another's right.

AUTREFOIS acquit.—Formerly acquitted.

AUTREFOIS convict.—Formerly convicted.

AUTREFOIS attainé.—Formerly attained.

AUTREFOIS *or* autrefois acquit.—"Formerly acquitted." The name of a plea used by a prisoner, who had been tried and acquitted of the offence for which he was a second time indicted.

AUXILIA fiunt de gratia, et non de jure; cum dependant ex gratia tenentium, et non ad voluntatem dominorum.—Aids are made of favor, and not of right; as they depend on the affection of the tenants, and not upon the will of the lords (of the fee). *Vide note.*

AUXILIOR vassallum in lege.—“I assist my vassal in his suit.” Something as the *Patron* did his *Client* under the *Roman* law.

A VERBIS legis non est recedendum.—“There is no deviating from the words of the law.” No interpretation can be made contrary to the express words of a statute.

AVERIÆ carucæ.—Beasts of the plough.

AVERIA elongata.—Cattle eloiigned.

AVERSIO periculi.—The fear of danger.

A VINCULO matrimonii.—From the bond of marriage.
Vide note.

AVUNCULUS.—An uncle by the mother's side.

AVUS.—A grandfather.

AXIS.—A board or table such as *Solon's* laws were written upon at Athens.

NOTES TO A.

ABALIENATIO, VEL TRANSLATIO DOMINII, &c.—The transferring of the property of the *res Mancipi* among the ancient *Romans*, was made by a certain act, called *Mancipatio* or *Mancipium*, vid. *Cic. Off.* iii. 16, de *Orat.* i. 39, in which the same formalities were observed as in emancipating a son, only that it was done but *once*. This *Cicero* calls “*translatio alteri nexu*,” i. e. a transfer into another connection (or possession). *Topic.* 5, s. 28. Thus, *Dare Mancipio*, i. e. *ex forma vel lege Mancipii*, to convey the property of a thing in that manner; “*accipere*,” to receive it. *Plaut. Curc.* iv. 2, 8. *Trin.* ii. 419. *Pont.* iv. 5, 39. *Sui Mancipii esse*, to be one's own master; to be subject to the dominion of no one. *Cic. ad Brut.* 16. So, *Mancipare agrum alicui*, to sell an estate to any one. *Plin.* Ep. vii. 18. *Emancipare fundos*, to divest one self of the estate, and convey it to another. *Id.* x. 3.

Cicero commonly uses *Mancipium*, and *nexum* or *nexus*, as of the same import, *pro Muren.* 2—*pro Flacc.* 32. *Cæcin.* 16, but sometimes he distinguishes them, as de *Harusp.* 7, where *Mancipium* implies complete property, and *nexus* only the right of obligation, as when a person receives anything by way of a pledge. Thus a creditor had his insolvent debtor, *jure nexi*; but not *jure Mancipii*, as he possessed his slave.

There were various other modes of acquiring legal property, as *jure cessio*, or *cessio in jure*, i. e. a giving up by law or in law. *Cic. Top.* 5. This was the case when a person gave up his effects to any one before the *Prætor*, or President of a province, who adjudged them to the person who made good his claim legally (*vindicanti adlicebat*), which chiefly took place in the case of debtors, who, when they were insolvent, gave up their goods (*bona cedant*) to their creditors. Another method of acquiring property among the *Romans*, was by *Usucaptio*, when a person obtained the property of a thing by possessing it for a certain time, without interrup-

tion,—*Emptio sub corona*, i. e. purchasing captives in war; who were a crown when sold. *Auctio*, where things were exposed to sale, a spear being set up, and a public crier calling out the price; *Adjudicatio*, *Donatio*, &c. These will be mentioned in subsequent notes.

ABBAS.—It appears that monasteries were originally founded in retired places, and the religious had little or no concern with secular affairs, being entirely subject to the prelates. But the abbots possessing most of the learning, in ages of ignorance, were called from their seclusion to aid the churches in opposing heresies. Monasteries were subsequently founded in the vicinity of cities: the abbots became ambitious, and set themselves to acquire wealth and honors; some of them assumed the mitre; threw off their dependence on the bishops, and obtained seats in Parliament. For many centuries, princes and noblemen bore the title of abbots. At present, in Catholic countries, abbots are *regular*, or such as take the vow, and wear the habit of the order; and *commendatory*, such as are secular, but obliged, when of suitable age, to take orders. The title is borne, also, by some persons who have not the government of a monastery: as bishops, whose sees were formerly abbeys. *Encyc.*

ACTIONES COMPOSITE SUNT, &c.—Amongst the *Romans*, if the parties could make no private agreement, they both went before the *Prætor*. Then the plaintiff proposed the action which he intended to bring against the defendant, and demanded a writ (*actionem postulabat*), from the *Prætor* for that purpose. For there were certain forms (*formule*), or set words (*verba concepta*) necessary to be used in every cause—(*Formule de omnibus rebus constituta*. *Cic. Rosc. Com.* 8)—i. e. forms (of writs) were settled for all things. At the same time the defendant requested that an advocate or lawyer should assist with his counsel. There were several actions for the same thing. The prosecutor chose which he pleased, and the *Prætor* usually granted it, (*actionem vel iudicium dabat vel reddebat*), i. e. giving or rendering him a suit or judgment. *Cic. pro Cæcin*, &c.; but he might also refuse it. The plaintiff, having obtained his writ, offered it to the defendant, or dictated to him the words. This writ it was unlawful to change, (*mutare formulam non licebat*), i. e. it was unlawful to change its form. *Senec. de Ep.* 117. The greatest caution was necessary in drawing up the writ (*in actione vel formula concipienda*), i. e. in devising the form of the writ or action; for if there was a mistake in one word, the whole cause was lost. (*Cic. de invent.* ii. 19., &c.) A person skilled only in the framing of writs, and the like, is called by Cicero, "*Leguleius*:" he attended on the advocates to suggest to them the laws and forms; as those called "*Pragmatici*" did among the *Greeks*.

ACTIONES IN PERSONAM, &c.—Personal actions among the *Romans* were very numerous. They arose from some contract, or injury done; and required that a person should do, or give certain things, or suffer a certain punishment. Actions from contracts or obligations, were about buying and selling (*de emptione et venditione*); about letting and hiring; about commissions, partnerships, deposits, loans, pledges, dowries and stipulations, which took place almost in all bargains, and was made in this form,—" *An spondes?*"—"Do you promise?" "*Spondeo*,"—"I do promise." "*An dabis?*"—"Will you give?" "*Dabo*,"—"I will give." "*An promittis?*"—"Do you promise?" "*Promitto, vel repromitto*,"—"I do promise or engage."

ACTIONES LEGIS.—Certain rites and forms necessary to be observed in prosecuting suits under the *Roman* laws, were composed from the Twelve Tables called "*actiones legis*," (*quibus inter se homines disceptarent*), con-

cerning which persons could litigate (or dispute). The forms used in making bargains, in transferring property, &c., were called "*actus legitimi*." There were also certain days on which a law suit could be instituted, or justice lawfully administered—these were called "*dies fasti*," lucky days, and others, on which that could not be done, called "*nefasti*," unlucky days—and some on which it could be done for some part of the day, and not for another part; (*intercisi*.) The knowledge of all these things appears to have been confined to the *Patricians*, and chiefly to the *Pontifices* for many years, until one *Cn. Flavius*, the son of a freedman, the scribe or clerk of *Appius Claudius Cæcus*, a lawyer, who had arranged these actions and days, stole (or perhaps more probably copied) the book which *Appius* had composed; and published it A. U. 440. (*Fastos publicavit, et actiones primum edidit*); he first published the law days and showed the nature of actions. In return for which favor he was made *Curule Ædile* by the people, and afterwards *Prætor*. From him the book was called, "*Jus civile Flavianum*," vide Liv. ix. 46. Cic. de Orat. i. 41, &c.

ACTUS LEGIS, &c.—If land, &c., out of which a rent charge, or annuity be granted, is recovered by an elder title, the grantee shall have a writ of annuity, because the rent charge is become void by course of law.

ADJUDICATIO.—This mode of acquiring legal property took place, as it appears, only in three cases, i. e. *hæreditate dividenda*, in dividing an inheritance among co-heirs, vid. Cic. Orat. i. 58. Cæcin. 3. *In communi dividendo*, in dividing joint stock among partners, vid. Cic. Ep. vii. 12. Or in settling boundaries among neighbors, vid. Cic. Legg. i. 21; when the judge determined anything to any of the heirs, partners or neighbors, of which they got immediate property; but *arbiters* were commonly appointed in settling bounds.

ADSCRIPTUS GLEBÆ.—Slaves passed in the feudal ages on the transfer of the soil, the same as any other appendant or appurtenant.

ADVOWSON.—This is the name given in English ecclesiastical law to the right of presentation to a vacant church or benefice. Sometimes this right is vested in the bishop of the diocese, sometimes in the manor to which the church belongs. The person possessing this right is called Patron or Advocate, or Advowee, and has the privilege, whenever the benefice becomes vacant by the death of the incumbent, to select and present a suitable candidate for the vacancy, to the bishop by whom he is instituted. When the bishop himself is the patron, he does by the act of *collation*, or conferring the benefice, what is otherwise done by the separate acts of *presentation* and *institution*. The right is called an *advowson*, because the patron is bound to protect and advocate the rights of the church and its incumbent.

AFFERUNT DOMINO, &c.—Fines payable to the King, on suing by special original writ, were formerly of several sorts; some in nature of an exaction by the King, on giving leave to a subject to prosecute a writ in his superior courts; others, in nature of a penalty, set upon offenders after conviction; and on plaintiffs failing in their suits; or parties making false claims; or for fraud and deceit to the court; for vexation under color of law; for contempt of the King's writs or statutes; others, again, in nature of an imposition set by the court on the suitors, with a view to enforce plainness and perspicuity in pleading. The latter were imposed, even in the superior courts, till the statute of *Marlbridge* provided "that neither in the circuit of justices, nor in counties, hundreds, and courts baron, any fines should be taken of any man *pro pulchre placitando*, or beau-pleading."

which statute was further enforced; and made to extend to the superior courts by stat. *Westminster*, the first 3d Edward 1. c. 8. But the former species of fines were suffered to continue; and they were formerly of money, or other things, as money was scarce.

ALTER.—The ancient common law of England justified a proper chastisement of the wife by the husband; and about sixty years since, a judge at the assizes at Gloucester stated on the trial of a cause that this was still the law, provided the husband used a cane no larger than his little finger. It is said that the ladies of the city sent to the judge on the next morning, the following note: “The ladies of Gloucester present their compliments to Mr. Justice—and request to have the exact admeasurement of his little finger, in order that they may know whether their husbands chastise them *legally* or not.”

ALLODUM.—The history of the establishment, and progress of the feudal system, is an interesting subject to the historian, and particularly to the lawyer. In some countries the jurisprudence and laws are even now in a great measure *feudal*. In others, where the feudal system has long since been abolished (as in England), many forms and practices established by custom, or founded on statutes, take their rise from the feudal laws; and for this reason, the student cannot well understand some of the present laws, customs and forms, without attending to the ideas peculiarly attaching themselves to the feudal system. Several of the Notes interspersed throughout this Glossary, it is hoped may be, in this respect, not only serviceable, but entertaining. *Allodum* is the free and entire right of property and dominion in the land. However, to understand more clearly the difference between land held *allodially*, and that held “*ut feudan*,” it will be first necessary to state a few particulars. Property in land seems to have gone through four successive changes, among the barbarous nations who settled upon the extensive possessions of the *Roman* empire, and who brought with them manners and customs, and used those tenures unknown to those they conquered.

1st. While the barbarous nations remained in their original countries, their possession of land was generally *temporary*, and seldom had any distinct limits: but they were not, in consequence of this imperfect species of tenure, brought under any positive or formal obligation to serve the community. After tending their flocks in *one* great district, they removed with them, their wives and families, into *another*. Every individual was at liberty to choose how far he would contribute to carry on any military enterprise. If he followed a leader in any expedition, it was from attachment, or with a view to obtain a more prolific soil, or plunder; and not from any sense of obligation. The state of society among them was of a very rude, and simple form: they subsisted entirely by hunting, or by pasturage. *Cæs. lib. vi. c. 21.* They neglected (and perhaps despised) agriculture; and lived chiefly on milk, cheese, and such animal food as they caught in hunting. *Ibid. c. 22.* Tacitus agrees with Cæsar in most of these particulars. *Vide Tacit. de moribus Germ. c. 14, 15, 23.* The *Goths* were equally negligent of agriculture. *Prisc. Rhet. ap. Byz. scrip. vol. i. p. 31. B.* Society was in the same state among the *Huns*, who disdained to cultivate the earth, or to touch a plough. *Amm. Marcel. lib. xxxi. p. 475.* The same manners subsisted among the *Alans*, *ib. 477.* Whilst property continued in this state, we can discover nothing that can bear any resemblance to a *feudal tenure*; or to the subordination and military services, with the long train of grievances, which so heavily oppressed the tenure of lands for so many ages afterwards, upon the introduction of the feudal system.

2d. Upon settling in the countries which they had subdued, the vic-

torious troops divided the conquered lands. Whatever portion of them fell to a soldier, he seized as the recompense due to his valor; as a settlement acquired by his *own* sword. He took possession of it as a freeman, in *full property*. He enjoyed it during his own life, and could dispose of it at pleasure, or transmit it, as an inheritance to his children. Thus property in land became fixed: it was at the same time *allodial*, i. e. the possessor had the *entire right* of property and dominion: he held of no sovereign, or superior lord, to whom he was bound to do homage, or perform service. It was, it would appear, the reward of service *done*; not duties *to be performed*; a tenure retrospective, not prospective, in its nature.

3d. When property in land became fixed, and subject to military service, another change was introduced, though slowly, and step by step. We learn from *Tacitus*, that the chief men among the *Germans* endeavored to attach to their ranks certain adherents whom he calls *Comites*. These fought under their standards, and followed them in all their enterprises. The same custom continued among them in their new settlements, and those attached or devoted followers were called *Fideles*, *Antrustiones homines in truste Dominica*; *Leudes*. Tacitus informs us that the rank of a *Comes* was deemed honorable. *De morb. Germ. c. 13*. The composition, which is the standard by which we must judge of the rank and condition of persons in the middle ages, paid for the murder of one in *truste Dominica*, was triple to that paid for the murder of a freeman. *Vid. Leg. tit. 44, § 1 & 2*.

While the *Germans* remained in their country, they courted the favor of these *Comites* by presents of arms, and horses, and by hospitality. As long as they had no fixed property in land, they were the only gifts that they could bestow; and the only rewards which their followers desired; but on settling in the countries which they conquered, they bestowed on these *Comites* a more substantial recompense in land. What were the services originally exacted in return for these *beneficia* cannot be determined with absolute precision. *M. de Montesquieu* considers these *beneficia* as fiefs, which originally subjected those who held them to military service. *L'Esprit des Loix, l. xxx. c. 3. and 16*. *M. l'Abbe de Mably* contends that such as held these were, at first, subjected to no other service, than what was incumbent on every freeman. But comparing proofs and reasonings and conjectures, it seems to be evident, that as every freeman, in consequence of his *allodial property*, was bound to serve the community under a severe penalty, no good reason can be assigned for conferring these *beneficia*, if they did not subject such as received them to some new obligation. Why should a king have stripped himself of his domain, if he had not expected that by parceling it out, he might acquire a right to services, to which he had formerly no title?

We may then warrantably conclude, that as *ALLODIAL* property subjected those who possessed it to serve the *community*, so *beneficia* subjected those who held them to personal service and fidelity to him, from whom they received these lands.

4th. But the possession of benefices did not continue long in this state. A precarious tenure during pleasure, was not sufficient to satisfy such as held lands, and by various means they gradually obtained a confirmation of their benefices during life. *Du Cange* produces several quotations from ancient charters and chronicles in proof of this. *Gloss. voc. beneficium*. After this it was very easy to obtain or extort charters, rendering *beneficia* hereditary, first in the direct line, then in the collateral, and at last in the female line. *Leg. Longob. lib. iii. tit. 8. Du Cange voc. beneficium*.

It is no easy matter to fix the precise time when each of these changes took place. *M. l'Ab. Mably* conjectures, with some probability, that

Charles Martel introduced the practice of granting *beneficia* for life; *Observat. tom. i. p. 103, 160*; and it is said, that *Louis le Debonnaire* was among the first who rendered them hereditary, from the authority to which he refers; *ib. 429*. *Mabillon*, however, has published a *Placitum* of *Louis le Debonnaire*, by which it appears that he still continued to grant some *beneficia* only during life. *De Re Diplomatica lib. vi. p. 358*. In the year 889, *Odo*, king of *France*, granted lands to *Ricabodo fidei suo*, *jure beneficiario et fructuario*: i. e. to *Ricabodo*, his faithful (friend) the right, benefit and enjoyment for life, and if he should die, and a son were born to him, that right was to continue during the life of his son. *Mabillon, 556*. This was an intermediate step between fiefs merely during life, and fiefs hereditary, in perpetuity. While *beneficia* continued under their first form, and were held only during pleasure, he who granted them not only exercised the *dominium* or prerogative of superior lord, but he retained the property, giving his vassal only the *usufruct*. But under the latter form, when they became hereditary, although feudal lawyers continued to define a *beneficium* agreeably to its original nature, the property was, in effect, taken out of the hands of the superior lords, and lodged in those of the vassal. As soon as the reciprocal advantages of the feudal mode of tenure came to be understood by superiors as well as vassals, that species of holding became agreeable to both, that not only lands, but casual rents, such as the profits of a toll, the fare paid at ferries, &c., the salaries or perquisites of offices, and even pensions themselves, were, it is said, granted, and held as fiefs; and military service was promised and exacted on account of these. *Vide Hist. Bretagne tom. ii. 78. 690*. How absurd soever it may seem to grant or to hold such precarious property as a *fief*, it was properly an ecclesiastical revenue, belonging to the clergy of the church, or monastery, who performed that duty; but these were sometimes seized by the powerful barons. In order to ascertain their right to them, they held as fiefs of the church, and parcelled them out in the same manner as other property to their sub-vassals. *Boquet recueil des Hist. vol. x. 238, 480*. The same spirit of encroachment which rendered *fiefs* hereditary, led the nobles to extort from their sovereigns hereditary grants of office.

ALLUMINOR—A person so called who anciently illuminated, or painted upon paper or parchment, particularly the latter, the initial letters of charters and deeds—the initial letters of the chapters of the Bible were formerly often beautifully gilt and colored; and at this day we sometimes see old MSS. exhibited for sale in the windows of large cities, with the initial letters elegantly illuminated, and many are to be found in the different *Museums* of Europe.

A MENSA ET THORO—A divorce from bed and board does not dissolve the marriage; for the cause of it is subsequent to the marriage, and supposes the marriage to have been lawful—this divorce may be by reason of adultery in either of the parties; for cruelty of the husband; and for other reasons. And as a divorce *a mensa et thoro* does not dissolve the marriage, so it doth not debar the woman of her dower; or bastardize the issue; or make void any estate for the life of the husband and wife. *Vide Co. Litt. 235. 3. Inst. 89. 7. Rep. 43*.

AMICUS CURLE—If a judge be doubtful, or mistaken in a matter of law a stander-by may inform the court as "*amicus curia*," i. e. a friend of the court, *Co. Inst. 178*. In some cases a thing is to be made apparent by suggestion on the roll, by motion; and sometimes by pleading; and sometimes as "*amicus curia*." *Vide 2 Keb. 548*. Any one as "*amicus curia*," may move to quash a vicious indictment, for in such case, if there

were a trial, and verdict, judgment must be arrested. *Comb. 13.* In 9 *Show. Rep.*, a counsel urged that he might, as "*amicus curiæ*," inform the court of an error in proceedings, to prevent giving false judgment: but this was denied, unless the party was *present*. There does not seem to be any good reason for this distinction.

AMITTERE LIBEREM LEGEM—That is, that he should "*lose his protection in law*," as "*liber homo*," or a freeman; and be subject to the same laws as the "*servi*," or "*adscriptitii glebæ*." See notes to both.

ANCIENT DEMESNE—These words are frequently found in the *English law books*. It means a tenure, whereby all the manors belonging to the crown in the days of Saint *Edward* and *William* the Conqueror were held. The number and names of all the manors were, after the great survey made in the last-mentioned king's reign, written in the book of *Domesday*: and those which by that book appear, at that time, to have belonged to the crown, and are contained in the title "*Terra Regis*," are called "*ancient demesne*." *Vide Kitch. 98.* It appears that those lands only are "*ancient demesne*" at this day, which are written down in the book of *Domesday*—and whether they are "*ancient demesne*" or not, is to be tried only by that book. *Vide i. Salk 57. 4 Inst. 269. Hob. 188.*

ANFELDTYDE—A simple accusation. The *Saxons* had two sorts of accusations, viz. *simplex* and *triplex*: that was called *single*, when the oath of the criminal, and two men were sufficient to discharge him—but his own oath, and the oaths of *five* persons were required to free him "*a triplici accusatione*," (from a triple accusation.) *Blount. Vide leg. Adelsiani.*

ARBITER—An arbitrator was frequently made use of among the *Romans*: this "*arbiter*" judged in those cases which were called "*bonæ fidei*," and arbitrary, and was not restricted by any law or form; (*totius rei arbitrium habuit et potestatem*;) i. e. he had the arbitrament and power over the whole cause; he determined what seemed equitably in a thing not sufficiently defined by law. *Festus. Vid. Cic. pro. Rosc. Com. 4. 5. Off. iii. 16. Topic 10. Senec. de Benef. iii. 3. 7.* Hence he is called "*Honorarius*." *Cic. Tusc. v. 41. de Fato 17. Ad arbitrium vel judicem ire, idire, confugere*; i. e. to come, to go, to hasten to arbitrament, or judgment. *Cic. pro Rosc. Com. 4. Arbitrium sumere, capere*; i. e. to receive or take an award. *Arbitrium adigere*; i. e. *ad arbitrium agere, vel cogere*; i. e. to force one to submit to an arbitration. *Cic. Off. iii. 16. Top. 10.—Ad arbitrium vocare, vel appellare*; to call one, or compel him to arbitrate. *Plaut. Rud. iv. 3. 99, 104.—Ad, vel apud judicem, agere, experiri, litigare, ptere*; to require, to seek, to try, to sue, and request judgment. But *arbiter*, and *judex arbitrium, and judicium*, are sometimes confounded *Vide Cic. Rosc. Com. 4. 9, Am. 39. Mur. 12. Quint. 3.* *Arbiter* is also sometimes put for *testis*. *Vide Flacc. 36. Sallust. Cat. 20. Liv. ii. 4.* *Horace* used the word as the master, or director of the feast. *Vid. Od. ii. 7. 23.—(Arbiter bibendæ)*—A person chosen by two parties by compromise (*ex compromisso*), to determine a difference, without the appointment of the *Prætor*, was also called "*arbiter*," but more properly "*compromissarius*."

ASSIGNETUR, &c.—No doubt marriages were, for some considerable time, formerly celebrated at the door of the church, where, it appears, verbal settlements were made by way of dower, out of the husband's lands, in the presence of sufficient witnesses.

ASTRICT—In old Scotch law, the cultivators of the land in each barony

whether temporal or spiritual, were bound to bring their corn or other grain to be ground at the particular mill of the territory. This service was a very vexatious one, for they were charged a heavy duty or toll upon their grain. This duty was termed a *multure*, and those lands which required this service were said to be *astricted*. If they evaded this service or *thirlage*, as it was called, and carried their grain to another mill, they were liable to a fine or dry *multure*. See Sir W. Scott's note to the Monastery.

AUXILLA FIUNT, &c.—The feudal landlords were sometimes called upon to assist the chief lord of the fee, on the marriage of his eldest daughter, and for other purposes, when required. As these aids were *voluntary*, the sums obtained depended on the good will the tenants retained towards their lords.

A VINCULO MATRIMONII.—A divorce of this kind absolutely *dissolves* the marriage, and makes it *void* from the *beginning*, the cause or causes of it being *precedent* to the marriage. On *this* divorce dower is gone. But it is said, the wife shall receive all again that she brought with her, because the nullity of the marriage arises through some impediment *prior* to the marriage; and the goods of the wife were given for *her* advancement in marriage, which now ceaseth; but this is mentioned to be the case, where the goods are not *spent*; but if the husband give them away, during the coverture, without any collusion, it shall bind her. If she *knows* her goods which are unspent, she may, it is said, bring an action of *detinue* for them; and as for money, &c., which cannot be identified, she would probably obtain relief in a court of equity. *Vide Dyer*. 62. *Nels. Abr.* 575. This divorce enables the party to marry again. Where lands were formerly given to the husband and wife, and the heirs of their bodies in *frank marriage*, if they were afterwards divorced the wife was to have her whole lands. After a sentence of divorce in the spiritual court of England (*causa præcontractus*), the issue of that marriage shall be bastards, so long as the sentence stands unrepealed; and no proof shall be admitted at common law to the contrary. *Vid. Co. Lit.* 235. 1 *Nels.* 674. In such case, the issue of a second marriage may inherit, until the sentence be repealed. 2 *Leon.* 207. A divorce for adultery was anciently a *vinculo matrimonii*; and therefore in the reign of *Queen Eliz.* the opinion of the church of *England* was, that after a divorce for adultery, the parties might marry again; but in *Foliambe's* case, 44 *Eliz.* that opinion was changed, and Archbishop *Bancroft*, by advice of the divines, held that adultery was *only* a cause of divorce, "*a mensa et thoro.*" *Vide 3 Salk.* 138.

B.

BACBEREND.—Applied to a thief caught with the stolen article on his back.

BACULO et annulo.—“With staff and ring.” The *insignia* of the *Roman Catholic* bishops.

BACULUS nunciatorius.—“The proclaiming wand or staff.” Also a rod frequently used by the criers of courts.

BAILIWICK.—The jurisdiction of a bailiff.

BAILLER.—“To deliver” over to bail.

BALNEARI fures.—These were idle thieves, who frequently visited the public baths at Rome, and stole the clothes of the persons who bathed there. *Vide note.*

BANCO.—“In Bench.” As “*dies in banco*,” or days in which the court sits.

BANCUS regis.—The king’s bench.

BANCUS ruptus.—“A broken bank.” From which the word “Bankrupt.”

BANLEUCA.—A space or district surrounding certain towns, cities, or religious houses protected by peculiar privileges.

BARCARIA.—A house or shed to keep bark for tanning purposes.

BARON et feme.—The husband and wife.

BARRATTA.—A contention; a quarrel.

BARRATRY.—It appears that the etymology of this word is doubtful. It is probably from the Italian *bartrare*, to cheat; it appears to be any act of the master or mariners of a criminal nature, or which is grossly negligent, tending to their own benefit, to the prejudice of the owners of the ship, and without their privity or consent. *Vide 1 Stra.* 581, *2 Stra.* 1173, *Cowp.* 143, *1 Term Rep.* 323.

BASILEUS.—A king; a governor.

BASTARD eigne.—The eldest son born in concubinage, where the father and mother afterwards married.

BASTARDUS nullius est filius; aut filius populi. —“A bastard is no man’s son; or the son of the people.” He is *legally* no man’s issue.

BASTART.—One born out of lawful wedlock.

BATTEL or bataille.—Single combat.

BATTELLUS.—A small boat or skiff.

BEATUS qui leges, juraque servat.—That man is blessed who keeps the laws and ordinances.

BEAUPLEADER.—Fair pleading.

BEDEFORDSHIRE Maner. Lestone redd' per annum XXII lib., &c.; ad opus reginæ ii uncias auri.—Bedfordshire Maner. That *Leyton* pay annually twenty-two pounds, &c.; and two ounces of gold for the queen's use.

BELLO parta, cedunt reipublicæ.—Being obtained in war, they are given up to the state.

BELLUINAS atque ferinas immanesque Longobardorum leges accipit.—(Italy) received the savage, wild, and monstrous laws of the Lombards. *Vide note.*

BELLUM intestinum.—A civil war.

BENE advocat captionem.—He rightly advises the taking.

BENE cognovit actionem.—He fairly confessed the action.

BENE cognovit captionem.—He rightly acknowledges the taking.

BENEFICIA.—Benefices: Gifts: also church livings. *Vide note to Alلودum.*

BENEFICIUM competentiæ.—In Roman law, the right which an insolvent debtor had, when he made over his property for the benefit of his creditors, to keep what was honestly requisite for him to live according to his condition.

BENEFICIUM non datur nisi propter officium.—A benefice is not bestowed unless it be because of some service or duty.

BENEPLACITUM.—Good pleasure.

BENIGNÆ faciendæ sunt interpretationes chartarum, ut magis valeat, quam pereat.—The interpretation of writings (or deeds) are construed favorably in order that more may prevail than be lost.

BENIGNE interpretamur chartas, propter simplicitatem laicorum.—We explain deeds favorably because of the simplicity (or ignorance) of laymen.

BEREAFODON.—They bereaved.

BEREWICA.—A village belonging to some town or manor.

BESAYEL.—Great grandfather.

BESTES.—“Beasts;” often meaning in the law books, “game.”

BIBLIOTHECA.—A library. *Vide note.*

BIELBRIEF.—In maritime law a statement furnished by the builder of a vessel of her length, breadth, and dimensions in every part. Sometimes the terms of the bargain between the builder and owner are included in this document. It corresponds with the English, French, and American *register*, and is equally necessary to the lawful ownership of a vessel.

BIENS.—Goods : chattels : wealth.

BIENS meubles et immeubles.—Goods moveable and immoveable.

BIGAMUS.—One guilty of bigamy.

BILLA cassetur.—That the bill be quashed.

BILLA excambii.—A bill of exchange.

BILLA vera.—The indorsement made by a grand jury in old times upon a bill of indictment, if they found evidence sufficient to sustain it.

BILLÆ nundinales.—Fair (or market) bills.

BINOS, trinos, vel etiam senos, ex singulis territorii quadrantibus.—(They were summoned) by two, three, and even by six, from every part of the district (or country.)

BIRAUBAN.—To rob.

BIRAUBODEDUN.—They robbed.

BIS petitum.—Twice asked.

BLADA crescentia.—The growing grass (or grain.)

BONA.—Goods : personal estate. Lord *Coke* says this word includes all chattels, as well real as personal. *Co. Lit.* 118, 6. It is however generally used to designate moveable property.

BONA civium.—The citizens' goods.

BONA felonum, &c. ideo plene prout abbas habuit. The chattles of felons, &c. and that as fully as the abbot enjoyed.

BONA fide asportavit. He carried off (the chattels) in good faith (or with a good intent).

BONA fide ; et clausula inconsuet' semper inducunt suspicionem.—In good faith ; and unusual clauses always create suspicion.

BONÆ fidei venditorem, nec commodorum spem augere nec incommodorum conditionem obscurare oportet.—It behoves a vendor of integrity neither to increase the expectation of profits, nor conceal the state of the disadvantages.

BONA gestura.—Good behavior.

BONA gratia matrimonium dissolvitur.—Mutual agreement dissolves the marriage.

BONA immobilia.—Immoveable effects ; as lands, houses, &c.

BONA mobilia.—Moveable things ; as mortgages, bonds, &c.

BONA notabilia.—“Extraordinary (or notable) goods ;” as bonds, mortgages, specialties, bills of exchange, &c.

BONA paraphernalia.—Goods which the wife has for her own separate use ; as rings for her fingers, ear-rings, &c.

BONA patria.—“An assize of countrymen, or good neighbors ;” sometimes called “*assiza bona patriæ*,” otherwise “*juratores*.”

BONA peritura.—Perishable goods.

BONA vacantia.—“Goods left (or having no owner :) goods lost ;” those liable to be taken by the first finder.

BONA waiviata.—“Goods waived.” Goods which had been stolen, and thrown away, or relinquished.

BON brevato.—A happy suggestion : a good hint.

BONES gents.—Good men.

BONI et legales homines.—Good and lawful men.

BONI iudicis est ampliare jurisdictionem.—It is the province of a good judge to increase the jurisdiction (or power).

BONIS non amovendis.—“That the goods be not taken away.” A precept issued where a writ of error has been brought, in order that the goods be not removed until the error be tried, or determined.

BONITAS tota æstimabitur cum pars evincitur.—The goodness (or value) of the whole may be estimated when a part is proved.

BONO et malo.—“For good and evil.” The name of a special writ of gaol delivery.

BONUS.—A consideration given for what is received: a premium paid to a grantor or vendor.

BORDLANDS.—The lands which the old lords particularly reserved to furnish food for their table or board.

BORGE.—A pledge.

BOSPAGE.—That food which trees yield for cattle.

BOTES.—Wood cut off a farm by the tenant for the purpose of repairing dwelling-houses, barns, fencing, &c., which the common law allows him, without any prior agreement made for that purpose.

BOVATA terræ.—An ancient measure of land; as much as one ox can plough.

BRACHIUM maris, in quo unusquisque subjectus domini regis habet, et habere debet liberam piscariam.—An arm of the sea, in which every subject of the lord the king, hath, and ought to have, free fishery.

BREPHOTROPHI.—Persons charged with the care of houses for foundlings.

BREVE de extento.—A writ of extent.

BREVE de recto.—A writ of right.

BREVIA domini regis non currunt.—The king's writs do not run; (are inoperative).

BREVIA formata.—"Special writs." Writs made to suit particular cases.

BREVIA formata super certis casibus de cursu, et de comune consilio totius regni concessa et approbata.—Writs usually framed on special cases, and allowed, and approved of by the general advice of the whole kingdom.

BREVIA judicialia.—Judicial writs.

BREVIA magistralia.—Magisterial writs.

BREVIA originales.—Original writs.

BREVIA testata.—Attested writs.

BREVIARIUM.—The name of a code of laws, compiled under the direction of Alaric II. king of the Visigoths, for the use of his Roman subjects.

BREVIBUS et rotulis liberandis.—A writ or mandate to the sheriff to deliver to his successor, the county, and the appurtenances; with the rolls, briefs, remembrances, and all other things belonging to the office of sheriff.

BRIEFE de recto clauso.—Writ of right close.

BRUTUM fulmen.—A harmless thunderbolt; a noisy but ineffectual menace: a law neither respected nor obeyed.

BURGA - —House-breaking.

BURGI latrocinium.—Burglary: the robbery from a castle or mansion-house.

BURSA.—A purse.

BUTTS.—The short pieces of land at the *ends* of fields which are necessarily left unploughed when the plough is turned around. They are sometimes termed *headlands*, and the same pieces on the sides, *sidelings*.

BUTTS and BOUNDS.—Words used in describing the boundaries of land. Properly speaking, *butts* are the lines at the *ends*, and *bounds* are these on the sides if the land is of rectangular shape. But in irregular shaped land, *butts* are the points or corners, where the boundary lines change their direction.

NOTES TO B.

BALNEARI FURES.—As the public baths of the *Romans* are so frequently noticed in the Classics, it may not be improper to say a few words concerning them. In later times of the *Roman* empire, the *Romans* before supper, used always to bathe, (for using little or no linen, this custom was very necessary.) Vide *Plaut. Stich.* v. 2. 19. The wealthy had their baths for the family, both cold and hot, (at their own houses.) *Cic. de Orat.* ii. 55. There were also public baths for the use of the citizens at large (*Hor. Ep.* i.), where there were several apartments for men and women. These *balneari fures* used to steal the clothes, leaving the bathers in no very agreeable situation, when they wished to return home. Each bather paid to the keeper (or overseer) of the bath a small coin (*quadrans*). *Hor. Sat.* i. 3. 137. The usual time for bathing was two o'clock (*octava hora*) in summer; and three in winter. The *Romans*, before bathing took various kinds of exercise (*exercitationes campestris, post decisa negotia, campo*),—i. e. field exercises in the camp after business was ended; as the ball or tennis, throwing the javelin, or *discus*, quoit, &c., (vide *Hor. Od.* i. 8. 11,) riding, running, leaping, &c.; from this it appears that the *Romans* bathed when warm with exercise.

BELLUINAS, &c.—Italy, it is true, accepted, or was rather *compelled* to accept, laws of the Barbarians, who laid her waste; and the state in which she appears to have been for several ages, after the barbarous nations settled there, is the most decisive proof of their cruelty, as well as the extent of their depredations. Vide *Muratori Antiquitates Italicae medii aevi, dissert.* 21. v. 2. p. 149. *et sub.* The state of desolation in other countries of *Europe* was very similar. In some of the most early charters now extant, the lands granted to the monasteries, or to private persons, are distinguished by such as were cultivated, or inhabited, and such as were "*eremi*," desolate. In many instances, lands were granted to persons, *because* they had taken them from the desert (*ab eremo*), and had cultivated and planted them with inhabitants. *Muratori* adds that during the eighth and ninth centuries *Italy* was greatly infested with wolves, and other wild beasts; another mark of want of population. Thus *Italy*, once the pride of the ancient world, for its learning, science, prowess, fertility, and cultivation, was reduced to the state of a country, *newly* peopled, and lately rendered habitable, leaving an *awful* example and warning to avoid the luxury, effeminacy, pride, cruelty, and oppression of the inhabitants of that once imperial country.

BIBLIOTHECA.—A Library. *Festus.*—A great number of books, or the place where they were kept, was by the *Romans* called "*Bibliotheca*." The first famous library was collected by *Ptolemy Philadelphus*, at *Alexandria* in *Egypt*, B. C. 284; and contained, it is said, 700,000 volumes. Vide *Gell.* vi. 17. The next by *Attalus* or *Eumenes*, king of *Pergamus*. *Plin.* xiii. 12. Adjoining the *Alexandrian* library was a building called "*Museum*," vide *Plin. Ep.* i. 9., for the accommodation of a college or society of learned men, who were supported there at the public expense, with a covered walk and seats, where they might dispute. *Strab.* 17.—but the word *Museum* is used by us as meaning a repository of curiosities; as it also seems to be by *Pliny* xxvii. 2. s. b. A great part of the *Alexandrian* library was burnt by the flames of *Cesar's* fleet. Vide *Plutarch in Ces.* and *Dio.* 43. 38. It was again restored by *Cleopatra*, who, for that purpose, received from *Antony*, the library of *Pergamus*, then consisting, it is said, of 200,000 volumes. *Plutarch in Anton.* It was totally destroyed by the *Saracens*, A. D. 642. The first public library at *Rome*, and in the world, as *Pliny* observes, was erected by *Asinius Pollio*, (*Plin.* vii. 30. &c.) in the *Atrium*, or Temple of Liberty (*Ovid. Trist.*), on Mount *Aventine*, *Mart.* xii. 3. 5. Many private persons had good libraries. *Cic.* Libraries were adorned with statues and pictures, particularly of ingenious and learned men. The books were put in presses, or cases, along the walls, which were sometimes numbered.

C.

CABELLERIA. — Spanish measure for a lot of land one hundred feet front, and two hundred deep.

CADERI. — To fall or come to an end.

CADIT assiza, et vertitur in juratum. — The assize ceases, and it is turned into a jury.

CADIT in perambulationem. — It falls by the way.

CADIT quaestio. — “The question falls”: i. e. if matters are as represented, “*quaestio cadit*,” the point at issue admits of no farther discussion.

CADUCARY. — Relates to forfeiture or confiscation.

CÆTERA desunt. — The rest is wanting.

CALENDAS. — The first day of the month in the Roman calendar.

CAMERA scaccarii. — The chamber of the exchequer.

CAMERA stellata. — “The Star Chamber.” An odious court once held in England, but many years since abolished.

CAMPANA. — A bell.

CAMPI partitio. — “Champerty—a division of the land.” This is an offence mentioned in the law books—it is the purchasing a right, or pretended right to property, under a condition, that part when obtained by suit shall belong to the purchaser. *Vide note.*

CAMPUM partire. — To divide the field.

CANCELLARIA. — The court of chancery.

CANCELLARIUS. — The chancellor.

CANDIDATI. — “Candidates.” Those who sought for office under the Roman government. *Vide note.*

CANTRED. The Welsh counties were divided into districts called *cantreds*, as in England into *hundreds*. See *Hundred*.

CAPAX doli. — “Capable of committing crime:” of sufficient understanding to be liable to punishment for an offence.

CAPE.—A judicial writ touching a plea of lands or tenements. This writ is divided into "*cape magnum*" (great), and "*cape parvum*" (little).

CAPE ad valentiam.—Take to the value.

CAPE de terra in bailiva sua tantæ terræ, quod B clamat ut jus suum.—Take of the land in your bailiwick to (the value) of so much land which B. claims as his right.

CAPELLA.—A chapel.

CAPERE, et habere potuisset.—He ought to take, and to hold.

CAPIAS.—"You may take." A writ authorizing the defendant's arrest. *Vide note.*

CAPIAS ad audiendum judicium.—A writ to summon a defendant found guilty of a misdemeanor, but who is not then present, although he has previously appeared. The writ is to bring him to receive his judgment.

CAPIAS ad computandum.—That you take (defendant), to make account.

CAPIAS ad respondendum.—That you take (defendant) to make answer.

CAPIAS ad satisfaciendum.—That you take (defendant) to make satisfaction.

CAPIAS ad satisfaciendum, ita quod habeas corpus ejus, &c.—That you take (defendant) to satisfy, so that you may have his body, &c. *Vide note.*

CAPIAS ad valentiam.—That you take to the value.

CAPIAS in withernam.—That you take a reprisal. *Vide "Withernam."*

CAPIAS qui capere possit.—Let him catch who can.

CAPIAS si laicus.—That you take (defendant) if he be a layman.

CAPIAS utlagatum.—That you take the outlaw.

CAPIATUR pro fine.—A writ to levy a fine due to the king.

CAPITA distributio, *i. e.*—To every person an equal

share, when all the parties claim in their own right, and not "*jure representationis*," by right of representation.

CAPITALES, generales, perpetui, et majores; a latere regis residentes, qui omnium aliorum corrigere tenentur injurias et errores.—They (the judges of the king's bench) are principal, general, perpetual, and superior, sitting with the king, who are bound to correct the wrongs and errors of all others.

CAPITALES inimicitiae.—Deadly hatred. This was formerly held sufficient to dissolve the *espousals* of marriage.

CAPITALIS baro.—Chief baron.

CAPITALIS justiciarius in itinere.—The chief judge in eyre; or itinerant judge.

CAPITALIS justiciarius totius Angliæ.—The chief justice of all *England*.

CAPITALIS plegius.—The principal pledge.

CAPITANEUS.—In feudal law, a chief lord or baron of the king; a leader, a captain.

CAPITARE.—In surveying, to *head* or *abut*.

CAPITILITIUM.—Poll money.

CAPITIS æstimatio.—A fine paid by the *Saxons* for murder, &c. *Vide note*.

CAPITIS diminutio.—The loss of civil qualification.

CAPITULA.—A collection of laws or regulations arranged under particular heads or divisions.

CAPITULA de Judæis.—The chapters (or heads) of an ancient book or register for the starrs, or mortgages, made to the *Hebrews*.

CAPITULA itineris.—Articles or heads of inquiry upon all the various crimes or misdemeanors, which, in old practice, the itinerant justices delivered to the juries from the various hundreds at the opening of their *eyre* or court.

CAPITULARIA.—Collection of laws promulgated by the early French kings.

CAPTIO.—Taking or seizing of a person or thing.

CAPTURAM avium per totam Angliam interdixit.—He forbade the catching of birds throughout all England.

CAPUT lupinum.—Anciently an outlawed felon was said to have "*caput lupinum* ; that is, he was proscribed as the wolf of the forest.

CAPUT, principium, et finis.—The principal, the beginning, and the end.

CAPUTIUM.—A headland

CARCANNUM.—A prison or a workhouse.

CARCERE mancipenter in ferris.—That they be kept in prison in irons.

CARECTA.—A cart. *Carreta*.—A carriage or cart-load.

CARENA.—Forty days; quarantine.

CARNALIS copula.—This was formerly considered a lawful impediment to marriage; for if any one, during the life of his wife, contracted matrimony or espousals with another, and a "*carnalis copula*" (carnal knowledge) ensued, and the woman knew the man had another wife, such marriage could not afterwards be established: but if she were ignorant of that fact, and no *carnalis copula* had taken place, the marriage might be solemnized *after* the death of the first wife.

CARET periculo, qui etiam tutus, cavit.—He is most free from danger who, even when safe, is on his guard.

CAR tel est notre plaisir.—"For such is our pleasure." This was a form of a regal ordinance under the *Norman* line. It is now, happily, used only ironically, to note some arbitrary act.

CARRUM.—A four-wheeled vehicle

CARUA, or Caruca.—A plough. The tax which was formerly imposed upon every plough was called *carucage*, or *carvage*.

CASA.—A house. When land was added to it sufficient for one family's support, it was called *Casata*.

CASSETUR billa.—That the bill be quashed.

CASSETUR processus.—That the process be quashed (or abated).

CASTELLANUS.—A castellan; keeper of a castle.

CASTELLORUM operatio.—Castle work.

CASTER, CHESTER, CESTER.—Signify *fort* or camp.

CASTRUM.—A castle.

CASUS.—A casualty.

CASUALITER, et per infortunium, contra voluntatem suam.—Casually, and by misfortune, against his will.

CASUS Fœderis.—The matter of the treaty.

CASUS fortuitus.—An accidental case.

CASUS fortuitus; magis est improvisus proveniens ex alterius culpa, quam fortuitus.—A chance case; this is the more unexpected as arising from the fault of another person, than as happening accidentally.

CASUS omissus.—An omitted case; an opportunity neglected.

CATALLA.—“Chattels: things moveable.” It primarily signified beasts of husbandry.

CATALLA otiosa.—Cattle which are not worked; as sheep, swine, &c.

CATANEUS.—A chief tenant or Captain.

CATCHPOLE.—An officer who made arrests.

CATEUX sont meubles et immeubles; si comme vrais meubles sont qui transporter se peuvent, et ensuivre le corps; immeubles sont choses qui ne peuvent ensuivre le corps, niester transportees, et tout ce qui n'est point en heritage.—Chattels are moveable and immoveable; if they are really moveable chattels they are those which may be taken away and follow the person; immoveable (chattels) are those things which cannot follow the person, nor be carried away; and all that is not in heritage.

CAULCEIS.—Causeways.

CAUPO.—An inn-keeper.

CAURSINES.—Money lenders from Italy, who came into England in Henry 3d's reign.

CAUSA adulterii.—On account of adultery.

CAUSA impotentiae.—On account of incapacity.

CAUSA latet, vis est notissima.—The cause is unknown, but the effect is most evident.

CAUSA matrimonii prælocuti.—By reason of the said marriage.

CAUSA mortis.—On account of death : In prospect of death.

CAUSA præcontractus, causa metus, causa impotentiae seu frigidity, causa affinitatis, causa consanguinitatis.—On account of precontract, fear, impotence or frigidity, affinity or consanguinity.

CAUSA proxima, et non remota, spectatur.—The near est cause, and not a remote one should be attended to.

CAUSATOR.—One who litigates another's cause.

CAUSA venationis.—For the sake of hunting.

CAUSA venditionis.—On account of a sale.

CAUSE de remover plea.—Cause to remove a plea.

CAUSIDICUS.—A pleader.

CAVEAT actor.—“Let the actor be cautious.” Let him beware of his own conduct.

CAVEAT emptor.—“Let the purchaser take heed.” Let the person buying see that the title be good.

CAVEAT vicecomes.—Let the sheriff beware.

CAVENDUM tamen est ne convellantur res judicatæ, ubi leges cum justitia retrospicieri possint.—It is however to be guarded against that adjudged cases be not reversed, where the laws on a review appear to have had respect to justice.

CAYA.—A quay.

CAYAGIUM.—The duty paid on goods landed at a quay.

CEAPGELD.—The forfeiture of a beast.

CE beau contrat est le noble produit du génie de l'homme, et le premier garant du commerce maritime. Il a consulté les saisons ; il a porté ses regards sur la mer ; il a interrogé ce terrible élément ; il en a jugé l'inconstance ; il

en a presenti les orages ; il a épié la politique ; il a reconnu les portes et les côtes des deux mondes ; il a tout soumis à des calculs savans, à des theories approximatives, et il a dit au commerçant habile ; au navigateur intrepide ; certes il y a des desastres sur lesquels l'humanité ne peut que gemir ; mais quant à votre fortune, allez francissez les mers, déployez votre activité et votre industrié, je moi charge de vos risques.—This excellent contract is the able production of the genius of man, and is the first security to naval commerce. He has consulted the seasons ; he has made his observations on the sea, and has, as it were, interrogated this formidable element ; he is a judge of its inconstancy ; he personally experienced the effects of storms ; he possesses the political acumen ; he, in fine, possesses a knowledge of the harbors and coasts of the two worlds ; he is in possession of the most difficult researches of the learned, and of their parallel theories ; and he is acknowledged to be well skilled in commercial affairs ; he is also a most intrepid navigator—that is to say, one well experienced in those dangers at which humanity shudders ; but when your fortunes, your activity, and industry are employed on the sea, I become responsible for the results.

CEDENT.—One who transfers or assigns.

CELDRA.—A chaldron, a measure.

CELEBERRIMO huic conventu episcopus, aldermanus inter sunt ; quorum alter jura divina : alter humana populum edoceto.—At this renowned assembly, let a bishop and an alderman be present ; let one instruct the people in divine, the other in human laws.

CELERARIUS.—The steward of a monastic institution.

CELLES que ne reconnoissent superieure en Feidalité.—Those who acknowledge no superior in fidelity.

CELLES que trusts.—Those persons entitled to the purchase money, or the residue of any other property, after discharging debts, &c.

CELTE.—A brave and warlike nation, or tribe, who formerly possessed old *Gaul*; and afterwards the whole, or a considerable part of *Scotland*. *Vide note*.

CELU dont cette eau l'heritage, peut meme est user dans l'intervalle qu'elle y parevent, mais a la charge de la rendre a la sortee, de des sords a son course ordinaire.—He who owns waters can use them along all the course or space through which they run, with the obligation of reducing them again within their ordinary banks.

CELU dont la pur priett bord un eau courante autre que celle qui est declarée dependance du domaine publique par l'article, &c.—peut a en saver a son passage pour l'irrigation de ses propriettes.—He whose property is bounded on a stream of water which is not by the deed, &c., declared to belong to the domain for public use, may yet use sufficient to irrigate his lands.

CELU qui a parte dans une fonds peut an user a sa volante, sauffle droit que la proprietaire du fonds superieur pourrait avoir acquis, par litre, ou par prescription.—He who has a part in a freehold property, can dispose of it at his own will and pleasure, saving the right which the principal proprietor thereof might have acquired, by virtue of contract, or of prescription.

CENEGILD.—Among the Saxons the *fine* which was paid by a *murderer* to the relatives of the deceased, by way of compensation or expiation.

CENELLE.—Acorns.

CENNINGA.—Where one party purchases an article of another, and afterwards the thing sold is claimed by a third party, the buyer gives notice or *cenninga* to the seller, that he may appear and justify the sale. *Saxon law*.

CENSARIL.—Farmers subject to a tax.

CENSUALES.—Persons who subjected themselves voluntarily to a church or monastery, in order to procure protection.

CENSUMORTHIDUS.—A dead rent.

CENSUS regalis.—The ancient royal revenue.

CENTENA.—A hundred weight.

CENTENARIUS.—A petty judge under the sheriff (and deputy to the principal governor of the county), who had rule of a hundred; and was a judge in small concerns among the inhabitants of the hundred.

CENTENI.—The hundred men from each district among the old Germans, who were enrolled for military service.

CENTENI ex singulis pagis sunt, idque ipsum inter suos vocantur; et quod primo numeris fuit, jam nomen et honor est.—The hundredors are (electors) from the several counties, and are so called among themselves; and that which was at first a number, is now a name and honor.

CENTESSIME.—Interest at twelve per cent. per annum.

CENTUMVIRI.—Judges among the Romans. *Vide note.*

CEO est le serement que le roy jurre a soun coronement: Que il gardera et meintenera lez droitez et lez franchisez de seynt esglisé grauntez auncienment des droitez roys christiens d'Engleterre, et quil gardera toruez sez terrez, honoures et dignitez droiturelx et franks del coron du roilme d'Engleterre, en tout maner dentierte sanz null maner damenusement, et lez droitez dispergez dilapidez ou perdez de la corone a soun poair, reappeller en l'auncien estate, et quil gardera le peas de seynt esglise, et al clergie, et al peuple de bon accorde, et quil face faire entontez sez judgementez owel et droit justice, ouë discrecion et misericorde, et quil grantera a tenure lez leyes et custmez du roialme, et a soun poair lez face garder et affirmer, que lez gentez du people avont faitez et esliez, et les malveys leyz et custumes de tout oustera, et ferme peas et establie al people de soun realme, en ceo garde esgardera a son poair; come Dieu luy aide.—This is the oath which the King swears at his coronation: That he will keep and maintain the rights and franchises of the holy church, formerly granted by the rightful christian kings of England; and

that he will keep all his lands, honors and dignities of royal and free right, pertaining to the crown of the kingdom of England, in all manner without diminution; and that the rights of the crown, scattered, dilapidated or lost, he shall recall to the best of his power, to their ancient estate; and that he will keep the peace of the holy church, both to the clergy and the people with good accord: and that he will dispense in all his judgments, equal and impartial justice, with discretion and mercy: and that he will adhere to the laws and customs of the kingdom: and to the best of his power cause them to be kept, and maintained, which the people have made and agreed to: and that he will abolish the bad laws and customs altogether; and preserve firm and lasting peace to the subjects of his kingdom, in this regard he will keep to the utmost of his power. So help him God.

CEORL, CARL, CHURL.—A Saxon name for a freeman employed in husbandry.

CEO n'est que un restitution en lour ley pur que a ceo n'avemus regard, &c.—This is but a restitution in their law, to which we pay no attention, &c.

CEPI corpus, et est in custodia.—I have taken the body, and it is in custody.

CEPI corpus, et est languidus.—I have taken the body, and it is sick.

CEPI corpus et paratum habeo.—I have taken the body, and have it ready.

CEPI corpus in custodia.—“I have taken the body in custody.”

These were several returns to writs, formerly made when the proceedings were in Latin.

CEPIT et asportavit.—He took and carried away.

CEPIT et asportavit centum cuniculos.—He took and carried away a hundred rabbits.

CEPIT et asportavit captivum et ipsum in salva sua custodia ad tunc et ibidem habuit et custodivit, quosque

defensores ipsum e custod' prædict' felonice ceperunt et recusser', &c.—He took and carried away the prisoner, and then and there held and kept him in safe custody, until the defendants feloniously took him out of his said custody, and refused, &c.

CEPIT in alio loco.—He took in another place.

“*Ce qui manque aux orateurs en profondeur,*

Ils vous la donne en longueur.”

—What orators want in depth, they give you in length.

CEREVISIA.—Ale or beer.

CERTA et utilia agendo.—By doing things sure and useful.

CERTE, altero huic seculo, nominatissimus in patriâ juris consultus, ætate provector, etiam munere gaudens publico et prædiis amplissimis, generosi titulo bene se habuit; forte quod togatæ genti magis tunc conveniret civilis illa appellatio, quam castrens altera.—Certainly in the last age the most eminent counsellor in the country, advanced in life, who enjoyed a public gift (or pension) and most ample estates, and was well (satisfied) that he obtained the title of a gentleman; perhaps, because this civil term, better suited a gowmsman at that period, than a military title.

CERTIFICATIO assisæ novæ disseisinæ.—A writ formerly granted for the review of any matter passed by assize, where some points had been overlooked or neglected.

CERTIORARI.—“To be certified of: to be informed of.” A writ directing the proceedings, or record of a cause, to be brought before a superior court.

CERTIORARI, ad informandum conscientiam.—To certify, to inform the conscience.

CERTIORARI ex debito justitiæ.—To be informed of a debt (or what is due) on account of justice.

CERTIORARI quare executionem non.—To certify why execution (has not been issued).

CERTIORARI quare improvide emanavit.—To be certified wherefore it improperly issued.

CERTMONEY.—Head money or fine.

CERTUM est quod certum reddi potest.—“That is fixed or determined which can be reduced to a certainty;” as where a person covenants to pay as much money as a given quantity of a particular stock will be worth on a certain day; this can be reduced to a certainty by a calculation, and is therefore a sum *certain* for which an action lies.

CERVISARIUM.—Those tenants who were obliged to provide *ale* or *cervisia* for the lord or his steward.

CERVISIARIUS.—A brewer.

CE sont des choses que faut penser.—These are things which must be considered.

CESSANTE causa, cesset effectus.—“Remove the cause, and the effect will cease.”

CESSANTE ratione, cessat et ipsa lex.—“The reason ceasing, that law is (then) superseded.” Many statutes have been made on pressing occasions to meet the exigencies of the moment; as where some crime is peculiarly predominant, and nothing can check it but a most sanguinary law; yet when that vice is at an end, it would be cruelty to give those laws a permanent duration.

CESSANTE statu primitivo cessat derivativus.—The original or first condition ceasing, that which is derived from it also ceases.

CESSAT executio.—“The execution ceases.” These words are often applied in case trespass be brought against two or more persons, and if it be tried, and found against one only, and the plaintiff take execution against him, the writ will abate as to the others: then there ought to be a “*cessat executio*” till it be tried against the other defendants.

CESSAVIT.—An obsolete writ which could formerly be sued out when a tenant had *ceased* for two years to pay his rent and services, and had not sufficient goods upon the premises to be distrained.

CESSE.—An assessment.

CESSIO bonorum.—“A surrender of effects.” This was in use among the *Romans* where a debtor became insolvent. It is also a process in the law of *Scotland*, very similar to that under the statutes relating to bankruptcy in *England*.

CESSIT processus.—The proceeding has ceased.

CESSOR.—One who is liable to have a writ of *cessavit* served against him for the long neglect of some duty devolving upon him.

CESSURE.—A bailiff.

C'EST une autre chose.—“It is another thing.” The proof is at variance with the statement of the case.

C'EST le crime qui faite la honte, et non pas l'échafaud.—It is the guilt, not the scaffold, makes the crime.

CESTUY que trust.—A person for whose use another is seized of lands, &c.

CESTUY que use.—A person for whose use land, &c., be given or granted.

CESTUY que doit enheriter al pere, doit enheriter al fils.—He who should inherit to the father, should inherit to the son.

C'EST un beau spectacle que celui des lois feodales; un chêne antique s'éleve il faut percer la terre pour les racines trouver.—Feudal laws are an excellent subject for observation: in order to ascertain the growth of an ancient oak, we must penetrate the earth to find its roots.

CESTUY que vie.—One for whose life a gift or grant is made.

C'EST une espece de jeu, qui exige beaucoup de prudence de la part de ceux qui s'y addonent. Il faut faire l'analyse des hazards, et possider la science du calcul des probabilités; prévoir les ecueils de la mer, et seu de la marivaise foi; ne pas perdre de vue les cas insolites et extraordinaires; combiner le tout, le comparer avec le taux des

primes, et juger quel sera le resultat de l'ensemble.—This is a species of game which requires much prudence on the part of those who engage therein; persons must examine with scrutiny all its hazards, and possess the science of calculating probabilities; they must previously know the effects of sea storms; nor are they to lose sight of isolated or rare occurrences: those must be well combined and compared together: nor let the result of the whole be considered despicable or unworthy of notice.

CETTE interdiction de commerce avec les ennemis comprend aussi de plein droit, le defense d'assurer les effets, qui leur appartient, qu'ils soient chargés sur leur propres vaisseaux, ou sur des navires amis, allies, ou neutres, &c. —This interdict on commerce with the enemy, comprehends, of course, the prohibition to insure the effects which belong to them, whether (loaded) in their own vessels, those of their friends, allies or neutrals.

CHAFEWAX.—An officer in English chancery who melts or fits the wax used in sealing writs, commissions, etc.

CHAFFERS.—Wares, merchandise.

CHALUNGE.—A claim.

CHAMBIUM.—Change or exchange.

CHAMPART.—Champarty. Vide "*Campi partitio*."

CHARGEANT.—Weighty; heavy.

CHARGE des affaires.—A person in charge of the embassy.

CHARE.—A plough. CHARETTE.—A cart.

CHARTA cyrographata.—A written charter which is executed in two parts, and cut through the middle.

CHARTA de foresta.—The charter of the forest.

CHARTÆ, folia, vel plagulæ, liber.—Papers or writings, leaves, sheets (of paper) a book. Vide note.

CHARTA libertatum regni.—The charta of the nation's liberties usually called "*Magna Charta*" (the great charter).

CHARTA per legem terræ.—The charter by the law of the land.

CHARTA sua manifeste expressa.—Clearly expressed by her deed (or writing).

CHARTEL.—A letter of challenge to single combat.

CHARTIS reddendis.—Writ for re-delivering a charter.

CHASEA.—A chase.

CHASTELL.—A castle.

CHATEAUX.—Chattels.

CHAUD-MEDLEY.—Chance-medley: death by accident.

CHAUX.—Those.

CHAYE.—Fallen.

CHEAUNCE.—An accident.

CHEF de la societe.—The chief (or president) of the company (or firm).

CHEIR, Checir.—To fall; to abate.

CHESEUN.—Every one.

CHEVAGE.—A tribute formerly paid by bondmen to their lord.

CHEVANCE.—Goods; money.

CHEVERES.—Goats.

CHEVISANCE.—Signifies, in the French language, agreement, compact. Legally, it means an unlawful bargain or contract.

CHEVITLÆ.—The *heads* at the end of ploughed lands.

CHI apres.—Hereinafter.

CHIPPINGAVEL.—A tax upon wares or merchandise brought to a place to be sold.

CHIRGEMOT.—An ecclesiastical assembly or court.

CHIROGRAPHIA.—Writings under hand.

CHOSE in action.—A thing in action.

CHRISTIANI-JUDAIZANTES.—“Judaizing-Christians.” Jews converted to Christianity, but retaining a regard for the Mosaic ceremonies.

CHURCHESSET.—An ancient annual tribute paid to the church in grain on St. Martin's day.

CHURCH reeve.—Church warden.

CIBATUS.—Victualled.

CINQUE ports.—Formerly five, but now seven ports on the southeast coast of England.

CIPPI.—The stocks.

CIRCA ardua regni.—Concerning the weighty affairs of the realm.

CIRCADA.—An ancient tribute paid to the bishop or archdeacon upon visiting the churches.

CIRCUMSPECTE agatis.—“That you act cautiously.” The title of an act of 13th of *Edward* the First, (or rather 9th *Edward* Second) prescribing certain cases to the judges concerning which the king's prohibition was of no avail.

CIVILITER mortuus.—“Dead civilly—or dead in law.” Thus if a man be sentenced to die—he is said to be “*civiliter mortuus*,” or dead in the eye of the law.

CIVITAS ea autem in libertate est posita, quæ suis stat viribus non ex alieno arbitrio pendet.—That state is free, which depends upon its own strength, and not upon the arbitrary will of another.

CLAIA.—A hurdle.

CLAMANTEM et auditum infra quatuor parietes.—“Crying and being heard within the four walls.” This was applied to cases where a man married a woman, seized in fee, and a child was born, which *had been heard to cry*, the husband was then called tenant by the curtesy. Vide “*Tamen clamorem*.”

CLANDESTINO copulati fuerunt.—“They were united by stealth”: the marriage was solemnized secretly.

CLARE constat.—A precept to give possession of lands to an heir.

CLAUSE ROLLS or CLOSE ROLLS.—Rolls containing the records of writs, close and other documents, which are preserved in the English public records.

CLAUSTURA.—An enclosure.

CLAUSUM fregit.—He broke the close, or field.

CLAUSUM paschæ.—The eighth day after Easter, or the close of that feast.

CLAVES insulæ.—The title of twelve persons in the Isle of Man, to whom all doubtful cases were referred. Literally, the keys of the island.

CLAVIA.—A club.

CLEMENTIA principis, de consilio procerum indulta.—The indulgence of the prince, allowed from the council of nobles.

CLERICI de cancellaria.—Clerks of the Chancery.

CLERICI prænotarii.—The six clerks in Chancery.

CLERICO capto per statutum mercatorum.—Writ to deliver a clerk out of prison, who had been arrested upon the breach of a statute merchant.

CLERICUS mercati.—Clerk of the market.

CLERIMONIA.—Privilege of clergy.

CLERONIMUS.—An heir.

CLITO—*Sax.*—The son of a king.

CNAFA—*Sax.*—A knave. *Vide note.*

CNYT—*Sax.*—A knight. *Lat. Miles; and Eques auratus. Vide note.*

COCKET.—A custom-house seal.

CODEX Justinianus.—Justinian's code of laws. *Vide note.*

CODICILLUS.—A little book: a codicil to a will. *Vide note.*

COEMPTIO.—A mutual purchase. *Vide note.*

COGNATI.—Cousins; kinsmen.

COGNATIO legalis; est personarum proximitas ex adoptione vel arrogatione, solemnî ritu facta perveniens.—“A legal relationship is a proximity (or near degree of affinity) of persons, either from adoption or assumption (as belonging to the family) established by a solemn act.” This was formerly by the canon law an impediment to marriage.

COGNITIO.—Roman law. The judicial hearing of a cause.

COGNOSCIT.—He confesses; he acknowledges.

COGNOVIT actionem.—“He has acknowledged the action.” After suit brought, the defendant frequently confesses the action; judgment is then entered on the record without trial: or the defendant signs an instrument called a *cognovit*.

COGNOVIT actionem, relicta verificatione.—He confessed the action, having abandoned his plea.

COLLATIO bonorum.—An assessment of goods: also an assessment or impost upon the people.

COLLECTUM ex senibus desperatis, ex agresti luxuria, ex rusticis decoctoribus, ex iis, qui vadimonia deserere quam illum exercitum maluerunt.—A mob collected from desperate veterans, and rustic spendthrifts, in servile (or clownish) luxury, and from those who would rather desert their bail than that army.

COLLEGIUM si nullo speciali privilegio subnixum sit hereditatem capere non posse, dubium non est.—If a corporation be erected without any special privilege (or grant) it is certain it cannot take an inheritance.

COLLISTRIGIUM.—“A pillory.” This was formerly used in *England* to punish many offences. *Vide note*.

COLLOBRIUM.—A covering worn by sergeants-at-law upon their shoulders, with the *coif* upon the head.

COLLOQUIUM.—“A discourse: a conference.” A talking together, or affirming a thing laid in a declaration for words in an action for slander.

COLORE officii.—Under color (or pretence) of office (or duty).

COLNE.—A calculation.

COLPARE.—To lop off—as to cut off the tops or boughs of trees.

COLPICIUM.—The Latin form for *coppyce* or young wood closely cut or lopped.

COLUNT discreti et diversi, ut fons, ut campus, ut nemus placuit.—Their habitations were severed and distinct, as a fountain, a field, or a grove pleased them.

COMBE.—A valley.

COMBUSTIO domorum.—The burning of houses: arson.

COME ceux qui refusent etre a la commune loy de la terre.—Those who refuse to abide by the common law of the land.

COMES.—An earl: the governor of a county.

COME semble.—As it appears.

COMITAS inter gentes.—Courtesy between nations.

COMITATUS.—A county.

COMITIA centuriata.—These were courts held by the *Romans*, where the people voted by Centuries.

COMITIA majora, et comitia minora.—The greater and lesser courts among the *Romans*.

COMITIA tributa.—In the *Comitia tributa* the *Romans* voted, divided into tribes according to their regions or wards, (ex regionibus et locis.) Vide *A. Gell.* xv. 27. Vide note.

COMITISSA.—A countess.

COMMENDA.—A commendam.—A recommendation to elect a bishop.

COMMERCIA belli.—War contracts.

COMMITTITUR piece.—A written instrument by which a defendant already in custody, is charged in execution at the suit of the person who arrested him.

COMMORANCY.—The staying or living in a place as an inhabitant.

COMMODATUM.—A loan: a thing trusted to a bailee.

COMMON pur cause de vicinage.—Common by reason of neighborhood.

COMMOTE.—Half of a cantred in Wales, numbering fifty villages.

COMMUNE concilium regni, magnum concilium regis curia, magna conventus magnatum, vel procerum, assiza

generalis.—The general council of the realm, the king's great council, the great court, the assembly of the great men or nobles, the general assize (or array).

COMMUNE piscarium.—Common fishery; a right of fishing without restriction.

COMMUNE vinculum.—The common bond: the common stock (of consanguinity).

COMMUNIA pasturæ.—“Common of pasture.” The major part of the farms in *England* have a right of feeding certain cattle at different seasons of the year, as an appurtenant; which right passes on sale or lease of the land; and when an act is passed for inclosing the commonable lands in the parish, &c., where the farm is situate, the commonable lands are then generally divided between the persons entitled to the tithes, and the freeholders, in proportion to their respective interests in the land, in the parish, &c.

COMMUNIA piscariæ.—The right or liberty of fishing in another man's water.

COMMUNIA placita non sequantur curiam regis, sed teaneantur in aliquo loco certo.—“The Common Pleas cannot follow the king's court (or household) but be held in some certain (or fixed) place. Formerly, the Common Pleas court was held at the place where the king resided; but that being found inconvenient, it has been for many years disused, and for ages held at *Westminster Hall*. *Vide note*.

COMMUNIA turbariæ.—The liberty of digging turf on another man's ground.

COMMUNIBUS annis.—In ordinary years: one year with another.

COMMUNIS error facit jus.—“Common error (or wrong) gives a law or right.” This may be sometimes the case, as what was illegal at *first*, may in the course of years become an incontrovertible right. Lord *Kenyon*, in the case of *Rex v. The inhabitants of Eriswell, Durnf. & East's Rep.* said,

“I perfectly well recollect Mr. Justice *Foster* say, that he had heard that ‘*communis error facit jus*,’ but I hope I shall never hear that rule insisted on, setting up a *misconstruction* of the law, a *destruction* of the law.”

COMMUNIS rixatrix.—“A common female brawler or scold.” Formerly, a woman guilty of this offence, was liable to be immersed in a pool of water.

COMMUNIS strata via.—The common paved way.

COMMUNITAS regni Angliæ.—An ancient name for the English parliament.

COMMUNITER usitata et approbata.—Generally used and approved.

COMPASCUUM.—Belongs to commonage.

COMPELLATIVUM.—An adversary.

COMPENSATIO criminis.—A compensation for crime.

COMPENSATIO necessaria est, quia interest nostra potius non solvere, quam solvere.—Compensation is necessary, because it is rather for our benefit not to pay, than to pay.

COMPERTORIUM.—A judicial inquest to find out the truth of a cause.

COMPERUIT ad diem.—He appeared at the day.

COMPESTER.—To manure.

COMPONERE lites.—To settle disputes.

COMPOSITIO mensarum.—The composition of measures.

COMPOS mentis.—“Of sound mind.” A man in such a state of mind as to be qualified legally to sign a will, or deed, &c.

COMPURGATORES.—Compurgators. *Vide note.*

CONCESSIMUS etiam pro nobis et hæredibus nostris ex certa scientia nostra et de assensu prædicto eidem majori, ballivis, et burgensibus ac eorum hæredibus, et successoribus quod ipsi se appropriare et commodum suum facere possint de omnibus purpresturis, tam in terris, quam in aquis, factis vel faciendis, et de omnibus vastis ipsa limites et bundas villæ prædictæ in supportationem onerum infra

villam prædictam in dies emergentium.—Also we grant for ourselves and our heirs, by reason of our certain knowledge, and by the aforesaid consent to the same mayor, bailiffs and burgesses, and to their heirs and successors, that they appropriate and take (money) for their own benefit, on account of all the purprestures (or obstructions) as well in the lands as in the waters, made or to be made, and from all the wastes, the limits and bounds of the aforesaid village to support the charges within the said village for the time to come. Vide *Dicitur purprestura*.

CONCESSIONES.—Grants.

CONCESSISSE.—To have granted or yielded up.

CONCESSIT, et demisit.—He has granted, and demised.

CONCESSIT secundum consuetudinem manerii.—He granted (or demised) according to the custom of the manor.

CONCILIABULUM.—A council-house.

CONCORDIA discordantium canonum.—“The agreement of the undigested (or jarring) church laws.” Generally known by the name of “*Decretum Gratiani*.” One *Gratian*, an *Italian* monk, about the year 1150, reduced the ecclesiastical constitutions into some method in three books, which are called “*Concordantia discordantia decretum*.”

CONCUBITU prohibere vago.—To forbid an indiscriminate connection.

CONCULCARE.—To trample upon.

CONCURRENTIBUS iis quidem jure requiruntur.—By the concurrence of those things which the law requires.

CONDITIO est melior possidentis.—The condition of the possessor is preferable.

CONDITIONEM testium tunc inspicere debemus cum signarent, non mortis tempore.—We ought to consider the condition (or respectability) of witnesses *when* they sign, not *when* they die.

CONDITIO scripti obligatorii prædicti.—The condition of the said writing obligatory.

CONDITIO testium.—The condition (or appearance) of the witnesses.

CONDONATIO injuriæ.—A remitting of injury.

CONDUCTIO.—A hiring.

CONDUXISTI vehenda mancipia : mancipium unum in navi mortuum est ; quæritur num vectura debeatur ? Si de mancipiis vehendis inita conventus est non debetur, si de mancipiis tantum navi imponendo debetur.—You have bargained to carry slaves : one died on board the ship, it was asked if any thing be due for the carriage. If the agreement was for carrying the slaves, it is not due, but if only for those put on board the ship, it is payable.

CONE and KEY.—An old English phrase used for *accounts* and *keys* which were put in a woman's possession when she commenced housekeeping.

CONFECION.—The making a charter, deed or other instrument in writing.

CONFIRMATIO chartarum.—“The confirmation of the charters.” After *Magna Charta* was signed by king *Johu* in *Runnymede* meadow, near *Windsor* ; and after the signing of *Charta foresta*, the barons frequently required subsequent kings to confirm these charters ; this was called “*Confirmatio chartarum.*”

CONFLICTUS legum.—A contradiction of laws.

CONGEABLE.—Lawful.

CONGE d' elire.—“Leave to elect.”—The king's permission to a dean and chapter to elect a bishop.

CONGIUS.—A measure containing a gallon and a pint

CONJUDEX.—An associate judge.

CONJUNCTIM, aut separatim.—Jointly or severally.

CONJURATION.—A sworn plot formed by persons to do any public harm. (*Old English law*).

CONNOISSEMENT.—A bill of lading.

CONNUBIUM.—Matrimony between citizens. *Vide note.*

CONQUAESTOR.—Conqueror

CONQUISITIO.—Acquisition.

CONSANGUINEI.—Relations.

CONSCIENTIA boni viri.—The conscience of an honest man.

CONSENSUS facit legem.—“Consent makes the law.” Where persons of sane mind enter into contract with each other, and their consent to the bargain be obtained without deceit, there must be a considerable inadequacy in the value given or received to rescind the contract.

CONSENSUS, non concubitus facit nuptias.—Consent, not consummation, makes the marriage (valid).

CONSENSUS tollit errorem.—Consent removes the error.

CONSENTIO modum dat donationi.—Consent gives the form to the gift.

CONSENTIRE videtur, qui tacet.—“He appears to consent, who remains silent;” or, as the old adage expresses it, “silence gives consent.”

CONSERVATORES pacis.—Keepers of the peace.

CONSIDERATUM est per curiam.—It is considered by the court.

CONSILIARIUS.—A counsellor.

CONSILIARIUS natus.—Sometimes said of a nobleman: one who sits by hereditary right in the house of peers.

CONSILII fraudulentum nulla obligatio est, cæterum si dolus et caliditas intercessit, de dolo actio competit.—We are not bound by dishonest counsel; but it is otherwise, if deceit and craft have been used (*there*) the action lies because of the deceit.

CONSIMILI casu. In a like case.

CONSISTATORIO et collegio suo perpetuo excludatur, et universitate exulabit.—That he may be forever excluded from the consistory, and from his college, and exiled from the university.

CONSISTORY.—A council of ecclesiastics

CONSOBRINI.—Cousin Germans.

CONSOLATO del mare.—The title of the most ancient collection of European sea laws extant.

CONSTAT feudorum originem a septentrionalibus gentibus fluxisse.—It is agreed that the origin of feuds descended from the northern nations.

CONSTRUCTIO generalis.—A general construction.

CONSUEUDINARIUS.—An old book, containing the customs of abbies and monasteries.

CONSUEUDINES.—Customs; usages.

CONSUEUDO est altera lex.—Custom is another law; custom is equivalent to law.

CONSUEUDO et lex Angliæ.—The custom and law of *England*.

CONSUEUDO loci observanda est.—The custom of the place is to be observed.

CONSUEUDO manerii et loci est observanda.—The custom of the manor and place is to be considered.

CONSUEUDO pro lege servatur.—Custom is to be held as law.

CONSULES, (a consulando;) reges enim tales sibi associant ad consulendum.—Consuls (deriving their name from consulting), for kings associate with such persons to be advised.

CONTEMPORANEA consuetudo optimus interpres.—Contemporary custom is the best interpreter.

CONTEMPORANEA expositio est fortissima in lege.—A contemporaneous interpretation (exposition or declaration) is strongest in the law.

CONSULTI periti.—Lawyers. *Cic.*

CONTENEMENTUM, est æstimatio et conditionis forma, qua quis in republica subsistit.—Contenement, (countenance or credit,) is that estimation and manner of rank or value which any persons sustains in the commonwealth.

CONTESTATIO litis.—The contesting a suit.

CONTINETUR ad tenorem, et ad effectum sequentem.—It comprised to the tenor and effect following.

CONTINUANDO prædictam transgressionem.—By continuing the said trespass.

CONTINUO voce.—With a continual cry (or claim).

CONTRA bonos mores. Against good morals.

CONTRAFACERE.—To counterfeit.

CONTRA fictionem non admittitur probatio; quid enim efficeret probatio veritatis, ubi fictio adversus veritatem fingit? Nam fictio nihil aliud est, quam legis adversus veritatem in re possibili ex justa causa dispositio.—Proof is not admitted against fiction, for what could the evidence of truth effect, where fiction supposes against truth? For fiction is no other than an arrangement of the law against truth, in a possible matter, arising from a just cause.

CONTRA jus belli.—Against the law of war.

CONTRAMANDARE.—To countermand.

CONTRA morem et statuta.—Against the custom and the statutes.

CONTRA officii sui debitum.—Contrary to the duty of his office.

CONTRA omnes homines fidelitatem fecit.—He performed fealty (or homage) in opposition to all men.

CONTRA pacem. Against the peace. *Vide note.*

CONTRA pacem bailivorum.—Against the peace of the bailiffs.

CONTRA pacem domini regis.—Against the king's peace.

CONTRA pacem domini regis et contra formam statut' in hoc casu nuper edit' et provis'.—Against the king's peace, and contrary to the form of the statute in this case lately enacted and provided.

CONTRAPLACITUM.—A counterplea.

CONTRA proferentem.—Against him who offers (or produces).

CONTRAROTULATOR.—A controller.

CONTRAROTULUS.—A counter roll.

CONTRA vadium et plegium.—Against gage and pledge.

CONTRAXISSE unusquisque in eo loco intelligitur, in que

solveret se obligavit.—Every one is understood to have contracted in that place where he has bound himself to pay.

CONTROVER.—A false newsmonger.

CONTUBERNIUM.—The cohabitation of slaves among the *Romans* was so called. *Vide note.*

CONUSANCI.—Cognizance.

CONVENIRE.—To covenant.

CONVENTIO vincit legem.—A covenant governs (or rules) the law.

CONVENTIO vincit et dat legem.—The agreement prevails and gives the law.

CONVENTIO vincit et dat modum donationi.—The agreement prevails and establishes the manner of the gift (or grant).

CONVENTUS privatorum non potest publico juri derogare.—The agreement of individuals cannot abridge the public right.

CONVICTUS est, et satisfaciet juxta formam statuti.—He is convicted, and should make satisfaction according to the form of the statute.

COOPERTIO.—An outer coat or covering, as the bark of a tree.

COOPERTUM.—A covert; a hiding place or shelter for beasts in a forest.

COPE.—A hill.

CORAAGIUM.—A tribute of a certain measure of corn.

CORAM Domino Rege, &c., ad respondendum *Asley* de placito transgressionis.—Before the lord the king to answer *Asley* of a plea of trespass.

CORAM Domino Rege ubicunque tunc fuerit Angliæ.—Before the lord the king wheresoever he shall then be in *England*.

CORAM justiciariis ad hoc specialiter assignatis.—Before justices specially assigned for this purpose.

CORAM me vel justiciariis meis.—Before me or my justices.

CORAM nobis ubicunque fuerimus in Angliæ.—Before us wheresoever we shall be in *England*.

CORAM non iudice.—Not before a judge: at an improper tribunal.

CORAM non iudice, quod omnes concesserunt.—All have agreed that there is no jurisdiction.

CORAM paribus.—In presence of (his) peers (or equals).

CORAM paribus curiæ.—In presence of (his) peers (or equals) of the court.

CORAM paribus de viceneto.—In presence of (his) peers (or equals) of the neighborhood.

CORAM vobis.—A writ of error, on judgments of the court of Common Pleas or other courts than the King's or Queen's Bench; the writs to correct the judgments of this latter court are styled **CORAM NOBIS**.

CORNAGE.—A tenure, the service of which was to *blow a horn* in case the enemy was perceived.

CORODY.—A right of sustenance.

CORPORA cepi.—I have taken the bodies.

CORPORA corporata.—Bodies corporate.

CORPORE nullis contagiosis, aut incurabilibus morbis viti oso, aliasve deformi aut mutilo.—“Not having a diseased body, afflicted with any contagious or incurable disease, or deformed or mutilated.” These were objections to fellowships in some colleges.

CORPUS delicti.—“The body of the offence;” or the very nature and essence thereof.

CORPUS humanum non recipit æstimationem.—The human body is above all price.

CORPUS juris canonici.—The body of the canon law.

CORPUS juris civilis.—The body of the civil law.

CORSEPRESENT.—The present given to the minister of a parish upon the death of a parishioner, was anciently thus called, because it was brought to the church at the time of the burial along with the corpse.

CORSNED.—“The mouthful of execration.” The piece

of bread by which some suspected criminals were tried under the *Saxon* laws.

CORT.—Short.

CORTULARIUM.—A yard adjoining a farm.

COSENING.—An offence mentioned in old English law, where deceit is practised.

COSHERING.—A feudal practice for lords to entertain themselves at their tenants' houses.

COSINAGE de consanguineo.—Relationship concerning kindred.

COSTAGES.—Costs.

COSTS de incremento.—Costs of increase.

COTA, cotagium.—A cottage.

COTARIUS, cotarellus.—A cottager.

COTEMPORANEA expositio.—A cotemporaneous interpretation.

COTLAND, cotselkland.—Land held by a cottager.

COTURE.—An enclosure.

COUCHANT.—Lying down.

COUNTER-ROLL.—In old practice, a roll kept by one officer as a check upon another's roll.

COUPE.—Fault.

COURT of Star Chamber.—A court of very ancient origin in England having jurisdiction over riots, and other notorious misdemeanors, without any jury. In the progress of time, its powers were much abused, so that it was abolished in the reign of Charles I.

COUSTUMIER.—A book of customs and usages in the old law of France.

COVERT.—Married.

COVERT Baron.—Under the protection of a husband.

COVINOUS.—Fraudulent.

CRASSA negligentia.—“Gross negligence.” Sometimes applied to professional persons and others who have managed matters, for which they were retained, in a very careless manner, or with “gross negligence;” such persons are

liable to actions on the case at the suit of the party injured.

CRASTINUM animarum.—“The morrow of all Souls.” One of the ancient returns of original writs.

CREAMUS, erigimus, fundamus, incorporamus.—“We create, erect, found and incorporate.” Words used on incorporating a college.

CREANCI.—Belief, faith.

CREMENTUM comitas.—The increase of the county.

CREPARE oculum.—To put out an eye.

CREPUSCULUM.—Twilight.

CRIEZ la peeZ.—Rehearse the concord or peace.

CRIMEN animo felleo perpretratum.—A crime committed with an evil intent.

CRIMEN falsi.—Forgery.

CRIMEN imponere.—To impute a crime or offence.

CRIMEN incendii.—Arson.

CRIMEN læsæ majestatis.—High Treason.

CRIMEN Raptus.—Rape.

CROCKARDS.—An ancient foreign coin prohibited in England in Edward 1st reign.

CROFT.—A small piece of land adjoining a dwelling, and enclosed for cultivation.

CROISES.—Pilgrims.

CRUCE judicium.—The trial of the cross.

CRUCE signati.—Signed or marked with the cross.

CRY de pais.—A cry of the country.

CUI ante divortium.—To whom, before a divorce.

CUI bono?—“To what end?” For what good purpose?

CUICUMQUE aliquis quid concedit, concedere videtur et id sine quo res ipsa esse non potest.—“To whomsoever any person grants a thing, he appears to grant that without which it cannot be enjoyed.” Thus, if a man grant the trees standing in his field, a right of way is also tacitly granted for the purpose of felling and carrying them away.

CUI de jure pertinet.—To whom by right it belonged.

CUI in vita sua, vel cui ante divortium, ipsa contradicere non potuit.—What in her lifetime, or previous to divorce, she could not contradict.

CUILIBET in arte sua credendum est.—“Every person should be believed in his own art or mystery.” Persons skilled in any particular science are entitled to have credit given them as to those matters which they have made their peculiar study, especially when on oath.

CUI licet quod majoris, non debet quod minus est non licere.—He to whom the greater thing is lawful, has certainly a right to do the less thing.

CUI malo?—To what evil? What injury will result from the act proposed?

CUIQUE enim in proprio fundo quamlibet feram quoque modo venari permissum.—For it is permitted to every person to hunt a wild beast on his own land, in any manner he pleases.

CUJUS commodum ejus debet esse incommodum.—He who has the benefit should also bear the disadvantage.

CUJUS est dare ejus est disponere.—He who has the power to give has the right to designate the mode of its application.

CUJUS est divisio, alterius est electio.—“Who makes the division, the other has the election.” Thus, where a division of an estate is made, if one party apportion, the other shall take which share he pleases.

CUJUS est solum ejus est usque ad cœlum, et ad inferos.—He who owns the soil, has it even to the sky, and to the lowest depths.

CUJUSQUE rei potissima pars et principium.—The most important of every thing is the beginning.

CUJUS quidem tenor.—Also of this purport.

CUJUS regis temporibus hoc ordinatum sit, non reperio.—I do not find in what king's reign this was ordained.

CUJUS tenor sequitur.—Whose import follows.

CUL'.—This is an abbreviation of "*culpabilis*," guilty.

CULPÆ adnumerantæ: veluti si medicus curationem derelinquerit, male quempiam secuerit, aut puerperam ei medicamentum dederit.—These are reckoned offences: if a Physician has neglected a cure; performed an operation improperly on any person, or given a woman in childbirth medicine unskilfully.

CULPA lata æquiparatur dolo.—"A concealed fault is equal to deceit." Morally speaking this maxim is true, but a purchaser should have the words "*caveat emptor*," (let the purchaser beware,) continually in his mind.

CULVERTAGE.—Confiscation.

CUM acciderit.—When it may happen.

CUM assensu præfectorum ædium.—With the consent of the governors of the houses (or colleges).

CUM autem emptio et venditio contracta sit, periculum rei venditæ statim ad emptorem pertinet, tametsi adhuc ea res emptori radita non sit. Itaque si, aut ædes totæ, vel aliqua ex parte incendio consumptæ fuerint, emptoris damnum est, cui necesse est, licet rem non fuerit nactus pretium solvere.—For when a purchase and sale be made, the risk of the thing sold immediately belongs to the purchaser, although the property be not as yet delivered to him. Therefore, if either a whole house, or any part of it be destroyed by fire the loss is the purchaser's, who must pay the price, although he has not obtained the property.

CUM capitemus, retento semper primo proposito, et destinatione, in accessoriis totaliter illam non sequitur, mutando viam de recta, in indirectam; vel plures scalas, plures portus attingendo, animo tamen et intentione prosequendi viagium ad metam destinationem.—When a captain, continually bearing in mind his first purpose and destination, does not entirely follow it with the insurers, by changing his direct course for an indirect one; or touching at more landing places or harbors, but still with the intent of proceeding on his voyage to the intended destination.

CUM domorum subversione, et arborum extirpatione.—
“By pulling down the houses and rooting up the trees.”
This was formerly the punishment inflicted on the jury for giving a corrupt verdict.

CUM in partes illas venerint.—When they come into those parts.

CUM in tali casu possit, eadem res pluribus aliis creditoribus, tum prius, tum posterius, invadari.—As in such case the same property may be pledged to many other creditors, as well before as afterwards.

CUM lex abrogatur, illud ipsum abrogatur, quo non eam abrogari oporteat.—“When a law is repealed that (clause) is abolished by which (it declares) that it should not be repealed.” Laws have been made containing clauses against their repeal, but these cannot prevent a subsequent, or even the then present legislature from exercising their right to repeal at any time.

CUM licet fugere, ne quære litem.—“Enter not into law, if you can avoid it.”

CUM lites potius restringendæ sunt quam laxandæ.—That law-suits may rather be restrained than increased.

CUM litore maris eidem adjacente.—With the sea shore adjoining the same.

CUM multis aliis illicite, et rioteose assemblaverunt, &c.—With many others, lawlessly and riotously, they assembled.

CUM multis aliis, quæ nunc præscribere longum est.—With many other matters which it would now be tedious to enumerate.

CUM olim in usu fuisset, alterius nomine agi non posse, sed quia hoc non minimam incommodatem habebat, cœperunt homines per procuraciones litigare.—As formerly it was a custom not to transact business in the name of another, but because this was inconvenient, men began to sue by their proctors (or attorneys).

CUM onere.—With the charge (or burthen.)

CUM pertinentiis.—With the appurtenances.

CUM quod ago non valet ut ago, valeat quantum valere potest.—When that which I do is not efficacious in the way I perform it, (still) let it avail as far as it can.

CUM sit contra præceptum Domini, “Non tentabis Dominum Deum tuum.”—As it is against the command of the Lord, “Thou shalt not tempt the Lord thy God.”

CUM tali filia mea, &c. tenendum sibi, et hæredibus suis de carne talis uxoris.—“With this my daughter, &c. to hold to him and the heirs of the body of such wife.” Words often found in ancient settlements of land.

CUM testamento annexo.—With the will annexed.

CUNA.—Coin. CUNEARE.—To coin.

CUNCTANDO restituit rem.—He restored his cause by delay.

CUNCTAS nationes, et urbes populus, aut primores, aut singuli regunt: delecta ex his et constituta republicæ forma laudari facilius quam eveniri, vel, si evenit, haud diuturna esse potest.—The people, or chiefs, or individuals, govern all nations and cities; and the constituted form of a commonwealth chosen from them is more easily praised than practised; or if it be so (constituted) it cannot long exist.

CURA animarum.—Care of souls.

CURATOR ad hoc.—A special guardian.

CURATORES viarum.—Surveyors or guardians of the public roads.

CURFEW.—A bell which was rung by law at eight o'clock in the evening in England, from the time of the Norman conquest till the reign of Henry First. When this bell rang every householder was compelled to *cover* his fire and put out his light. The object of this practice originally was to prevent the Saxons or any other persons from meeting together in parties by night for seditious purposes or to plot against their conquerors.

CURIA advisare vult.—The court will consider (the matter).

CURIA advisare vult post, &c.—The court will advise afterwards, &c.

CURIA comitatus.—The county court. *Vide note.*

CURLE christianitates.—Ecclesiastical courts. *Vide note.*

CURLE speciales.—Special courts. *Vide note.*

CURIALITAS.—The tenure by courtesy.

CURIA palatii.—The palace court.

CURIA publica.—A public court (of law). *Vide note.*

CURIA regis.—The court of the king.

CURIARUM: habet unam propriam, sicut aulam regiam, et justiciarius capitalis, qui proprias causas adjudicat, &c. —Of courts: he has one peculiar court, as a royal court; a chief justice who tries the proper actions, &c.

CUR omnium fit culpa, paucorum scelus?—Why should the iniquity of a few, be laid to the account of all?

CURRIT quatuor pedibus.—“It runs upon four feet.”

CURRUS.—A chariot.

CURSITOR.—A clerk belonging to the English Court of Chancery, whose office is to make out original writs.

CURSUS.—A course or practice.

CURTILES terræ.—Court lands.

CUSTODES pacis.—Justices of the peace.

CUSTODES placitorum in plenu comitatu.—The keepers of pleas in full county court.

CUSTODES poenam sibi commissorum non augeant, nec eos torqueant; sed omni sævitia remota, pietatique adhibita judicia debite exequantur.—That the keepers do not increase the punishment of those prisoners committed to their custody; nor torture them; but all cruelty being removed, and compassion adhered to, that they duly execute the judgments.

CUSTODIA, Lat.—*Garde*, Fr.—“A custody; or care of defence.” Sometimes used for such as have the care and guardianship of infants; sometimes for a writ to sue by wardship, as *droit de garde*, right of wardship; *ejectione de*

garde, ejection of ward: and *ravishment de garde*. Vide *Fitz. Nat. Br.* 139.

CUSTODIA legis.—Legal custody.

CUSTOS brevium.—The keeper of the writs.

CUSTOS ferarum.—A game keeper.

CUSTOS horrei regii.—Keeper of the royal granary.

CUSTOS Rotulorum.—The keeper of the Rolls, one of whom is appointed in each of the *English* counties.

CUSTOS spiritualium.—A keeper of spiritual or Ecclesiastical matters.

CUSTOS temporalium.—In ecclesiastical law the person who was appointed by the king to the custody of a vacant see or abbey, and who, acting as the steward of its revenues, rendered his account of the same to the escheator.

CUSTUMA.—Customs: duties.

CUSTUMA antiqua, et magna.—The ancient and great customs (or duties).

CUSTUMA parva et nova.—The small and new customs (or duties).

CUTH.—*Sax.* Known. UNCUTH.—Unknown.

CY.—Here.

CY apres.—Hereafter. CY pres.—so near; as near.

CYMETER.—A burial place.

CYNEBOTE.—See *Cenegild*.

CYNSOUR de burse.—A pickpocket.

CYRIC.—A church. (*Saxon*).

CYRICBRYCE.—Saxon name for breaking into a church.

CYRICSCEAT.—A tribute due to the church.

CYROGRAFFE.—A chirograph.

CYROGRAPHUM.—*Vide note*.

NOTES TO C.

CAMPI PARTITIO.—Champerty. Before the passing of the statute to prevent this, men in power and affluence, frequently made such bargains with persons (who were unable to maintain a protracted suit) to recover possess-

ion of their estates. Many landholders died in the crusades, and persons had wrongfully taken possession of lands, and assumed the ownership, to the injury of the heirs of the deceased.

CANDIDATI.—When men sought for office or preferment among the Romans, they were called "*Candidati*," from a white robe (*toga*) worn by them, which was rendered shining, (*cadens vel candida*) by the art of the fuller; for all the wealthy Romans wore a gown naturally white (*toga alba*). This was, however, anciently forbidden by law (*ne cui album, i. e. cretam in vestimentum addere, petitionis causa licet*). Liv. iv. 25. These candidates did not wear tunics or waistcoats, either that they might appear more humble; or might the more easily show the scars they had received on the breast, or forepart of the body. In the latter ages of the republic, no one could stand candidate, who was not *present*, and did not declare himself within the *legal days*, i. e. before the *comitia* were summoned, and whose name was not received by the magistrates: for it seems they might refuse to admit any one they pleased, but not without assigning a just cause. Vide Liv. viii. 15, xxiv. 7, 8. Val. Max. iii. 8 3. Vell. ii. 92. The opinion of the *Consuls*, however, might be overruled by the Senate, Liv. iii. 21.

For a long time before the election, the *candidati* endeavored to gain the favor of the people by every popular art; *Cic. Attic. i.*; by going round their houses (*ambiendo*); by shaking hands with those they met; by addressing them in a kindly manner, and naming them, &c., on which account they commonly had with them a *monitor*, or *nomenclator*, who whispered in their ears every person's name. Vide *Hor. Ep. i. 6, 50*. Hence *Cicero* calls candidates "*natio officiosissima*," i. e. an over officious class. On the market days, they used anciently to come into the assembly of the people, and take their station on a rising ground (*in colle consistere*), i. e. to stand upon a hill, where they might be seen by all. *Macrob. Sat. i. 16*. When they went down to the *Campus Martius*, at certain times, they were attended by their friends and dependents. They had likewise friends to divide money among the people (*divisores*). *Cic. Att. i. 17*. For this, although forbidden by law, was often done openly, and once it is said, against *Cesar*, even with the approbation of *Cato*. Vide *Suet. Jul. 19*. There were also persons to bargain with the people for their votes called "*Interpretes*"; and others in whose hands the money promised was deposited. Vide *Cic. Att. in Verr. i. 8, 12*. Sometimes the candidates formed combinations (*coitiones*) to disappoint (*ut dejeccerent*), i. e. that they might prostrate the other competitors. *Cic. Att. ii. Liv. iii. 35*. So that it would appear, that even these ancient and stern republicans understood *management* in this respect, as well as they do at the present day.

CAPIAS.—Formerly, when a defendant was arrested, and brought into court upon the process, it was the duty of the plaintiff to deliver in his charge, to which the defendant answered; and the plaintiff replied *viva voce* in person, in open court. The pleadings were then carried on by word of mouth, and the parties obliged personally to attend. But the stat. 13. *Edw.* the First, authorised the appointment of *attorneys*, who had full power in all pleas moved during the circuit, until the same were determined, or such attorney was removed. After that time, it appears that the personal attendance of parties being dispensed with, they carried on the pleadings in the court by their attorneys; still, however, there were *parol* pleadings delivered *viva voce*; and it has been said, that these *viva voce* proceedings continued till after the Reformation; though others think they were reduced to writing at a much earlier period. It is said, by some, so early as the reign of *Edward the Third*, and there is good reason to conclude, from the alterations

in the pleadings about that time, that they were not hastily spoken, but rather deliberately penned. It is clear, however, that the practice of delivering pleading, *ore tenus*, continued longer in the Common Pleas, than in the Court of King's Bench. When the mode of pleading was discontinued in the King's Bench, the practice was, that if the defendant appeared personally at the return of the writ, the plaintiff was to declare within three days. If he appeared by attorney, he was to declare within the term.

CAPIAS AD SATISFACIENDUM, &c.—Whilst society remained in its rudest and most simple form, debt seems to have been considered as an obligation merely *personal*. Men had made some progress towards refinement before creditors acquired the right of seizing the property of the debtors in order to recover payment. The expedients for this purpose were all introduced originally into communities; and we can trace their gradual progress. First, the simplest, and most obvious security was, that the person who sold any commodity, should receive a pledge from him who bought it, which he restored upon making payment. Of this custom, there are vestiges in several charters of community. *D'Ach. ix. 185. xi. 377.* Secondly, when a pledge was given, and the debtor became refractory or insolvent, the creditor was allowed to seize his effects, with a strong hand, and by his private authority. The citizens of *Paris* are warranted by the royal mandate "*et ubicumque, et quocumque modo poterunt tantum plenarie habeant, et inde sibi invicem adiutores existant.*" *Ordon. &c. tom. i. p. 6.*

This rude practice, suitable only to the violence of that which has been called a state of nature, was tolerated longer than one can reasonably conceive to be possible in any society where laws and order were at all known. The ordinance authorizing it was issued A. D. 1134, and that which corrected the law, and prohibits creditors from seizing the effects of their debtors, unless by a warrant from a magistrate, and under his inspection, was not published till 1351. Thirdly. As soon as the interposition of a magistrate became requisite, regular provision was made for attaching or distraining the movable effects of a debtor: and if his movables were insufficient to discharge the debt, his immovable property or estate in land, was liable to the same distress, and was sold for the benefit of the creditor. *D'Ach. ix. p. 184, 185. xi. p. 348, 380.* As this regulation afforded the most complete security to the creditor, it was considered as so severe, that humanity pointed out several limitations in the execution of it. Creditors were prohibited from seizing the wearing apparel of their debtors, the beds, the door of their house, their instruments of husbandry, &c. *D'Ach. ix. 184, xi. 377.* Upon the same principle, when the power of distraining effects became more general, the horse and arms of a gentleman could not be seized. *ib. ix. 185.* And as hunting was the favorite amusement of martial nobles, the Emperor *Ludovicus Pius*, prohibited the seizing of a hawk, on account of any debt: but if the debtor had no other moveables, even these privileged articles might be seized.

CAPITIS ESTIMATIO.—This means the payment of a *fine*, by the way of satisfaction to the person or family injured; and was one of the first devices of a rude people, to check the career of private resentment, and to extinguish those deadly feuds which were prosecuted among them with the utmost violence. This custom may be traced back to the ancient Germans. *Vide Tac. de mor. Ger. c. 21;* and prevailed among other civilized nations. Many examples of this are collected by the ingenious and learned author of *Historical Law Tracts*, vol. i. p. 41. These fines were ascertained and levied in three different manners. At first they were settled by voluntary agreement between the parties at variance. When their rage began to subside, and they felt the bad effects of their continuing enmity, they came generally to terms of concord, and the satis-

faction made was called "*a composition*," implying that it was fixed by mutual consent. Vide *De l'Esprit des lois*, lib. xxx. c. 19. It is apparent from some of the more ancient code of laws, that at the time these were compiled, matters still remained in that simple state. In certain cases, the person who had committed an offence was left to the resentment of those whom he had injured, until he should recover their favor, "*quoque modo potuerit*," (in what way he could.) *Lex. Frision* tit. 11, sec. 1. The next mode of levying this fine was by the sentence of *arbiters*—an *arbiter* was called in the *Regiam Majestatem*, "*amicabilis compositor*," *Liv. xi. c. 4.*; i. e. a friendly adjuster or arbitrator. He could estimate the degree of offence with more impartiality than the parties interested; and determine with greater equity what satisfaction ought to be demanded. It is difficult to bring an authentic proof of this custom previous to the law records of the fierce northern nations of *Europe*. But one of the *Formulae Andevagenses*, compiled in the sixth century, seems to allude to a transaction carried on, not by the authority of the judge, but by the mediation of *arbiters* chosen by mutual consent. Vide *Bouquet Recueil des Histor. tom. 4, p. 566*. But an *arbiter* wanted authority to enforce his decisions, judges were appointed with compulsive powers of authority to oblige both parties to acquiesce in their decisions. Previously to this last act, the expedient of paying compositions was an imperfect remedy against the pernicious effects of private resentment. So soon, however, as this important change was introduced, the magistrate, putting himself in the place of the party injured, ascertained the *composition*, with which he ought to remain satisfied. Every possible injury that could occur in the intercourse of civil society was considered and estimated, and the compositions due to the persons aggrieved, were fixed with such minute attention, as to discover in most cases, amazing discernment and delicacy; but in some instances unaccountable caprice. Besides the *composition*, payable to the private party, a certain sum called "*Fredum*," was paid to the king or state, (as *Tacitus* expresses it,) or to the "*Fiscus*," in the language of the barbarous laws. Some authors, blending the ideas of modern policy with their reasonings concerning ancient transactions, have imagined that the "*Fredum*," was a compensation due to the community, on account of the violations of the public peace; but it would appear to be manifestly nothing more than the *price* paid to the magistrate for the *protection* which he afforded against the violence of resentment; the enacting of which was a considerable step, in those rude ages, towards improvement in criminal jurisprudence. In some of the more ancient codes of laws, the "*freda*" are altogether omitted, or so seldom mentioned, that it is evident they were but little known. In the latter codes the "*fredum*" was as *precisely* specified, as the *composition*. In common cases it was equal to the *third* part of the *composition*. Vide *Capitul. vol. i. p. 52*. In some extraordinary cases, where it was difficult to protect the person, who had committed violence, the "*fredum*" was augmented. *Idem. vol. i. p. 515*. These "*freda*" made a considerable branch in the revenue of the barons; and in whatever district territorial jurisdiction was granted, the royal judges were prohibited from levying any "*freda*." In explaining the nature of the "*fredum*," the opinion of *M. de Montesquieu* is followed in a great measure; though several learned antiquarians have taken the word in a different sense. Vide *De l'Esprit des Loix*, lib. xxx. c. 20, &c. The great object of the judges was to *compel* the party to *give*, and the other to *accept*, the satisfaction prescribed. They multiplied regulations for this purpose, and enforced them by grievous penalties. *Leg. Longob. lib. i. tit. 9. sec. 34. Ibid. tit. 37. sec. 1, 2. Capitul. vol. i. p. 371, § 22*. The person who received a *composition* was obliged to cease from all further hostility; and confirm his reconciliation to the adverse party by an oath. *Leg. Longob. lib. i. tit. 9, sec. 8*. As an additional, and more perfect evidence of reconciliation, he was required to give a bond of security to the person from whom he received the *composition*,

absolving him from all further prosecution. *Marcellus*, and other writers of ancient writs, have presented several forms of such bonds, vide *Marc. lib. ix. sec. 18. Append. 23. Form. Surmondica* § 39. The *Letters of Stanes*, known in the laws of *Scotland*, are similar to these bonds of security. By the *Letters of Stanes*, the heirs and relations of a person who had been murdered, bound themselves in consideration of "an assythment," or compensation paid to them, "to forgive, pass over, and forever forget, and in oblivion inter all rancour, malice, revenge, grudge and resentment, that they have, or may conceive against the aggressor or his posterity, for the crime which he had committed, and discharge him from all actions civil or criminal, against him or his estate, for now and ever." Vide *System of Stiles by Dallas of St. Martins*, p. 862. In the ancient form of *Letters of Stanes*, the private party not only "forgives and forgets," but "pardons and grants remission of the crime." This practice, *Dallas*, reasoning according to the principles of his own age, considers as an encroachment on the rights of sovereignty; as none he says could pardon a criminal but the king. *ibid.* But it appears that in early times, the prosecution, the punishment and the pardon of criminals, were all deeds of the private person who was injured. *Madox* has published two writs, one in the time of *Edward the First*; the other in the time of *Edward the Third*, by which private persons grant a release, or pardon of all trespasses, felonies, robberies and murders committed. *Promul. Anglican. nos. 702, 705.* In the last, however, of these instruments, some regard seems to be paid to the rights of the sovereign, for the principal is pardoned, "en quant que in nous est," (in as much as in us lies). Even after the authority of the magistrate was interposed in preventing crimes, the punishment of criminals was long considered chiefly as a gratification to the resentment of the persons who had been injured. It is remarkable how similar this is to the *aborigines* of *North America*; and perhaps to the custom of all nations in a rude state of society. In *Persia*, a murderer is still delivered to the relations of a person whom he has slain, who often put him to death with their own hands. If they refuse to accept a sum of money as a compensation, the sovereign, absolute as he is, cannot, it is said, pardon the murderer. Vide *Voyages de Chardin*, iii. p. 417, edit. 1735, 4to. also *Voyages de Travenier*, liv. v. c. 5, 10. Among the *Arabians*, the same custom still subsists. Vide *Description De l'Arabie par M. Niebuhr*, p. 28. By a law of the kingdom of *Aragon*, as late as the year 1564, the punishment of one condemned to death cannot be mitigated, but by the consent of the parties who have been injured. *Fueros. and Observancias del Reyno de Aragon*, p. 204, 6. *Lady Montague* in her letters says that "murder is never prosecuted by the officers of government. It is the business of the next relations, and these only to revenge the murder of their kinsman, and if they rather choose, as they generally do, to compound the matter for money, nothing more is said about it."

CELTE.—Of all the *Celtic* nations, that which possessed old *Gaul* is perhaps the most renowned; not, probably, on account of worth superior to the others, but from the circumstance of warring with a people, who had historians to transmit the fame of occurring events to posterity. *Britain* was peopled with them, according to the testimony of respectable authors. Vide *Cæs. lib. i. Tac. Agric. c. 2.* Its situation, with respect to *Gaul*, makes the opinion probable; but that which apparently puts it beyond dispute, is, that the same customs and languages prevailed among the inhabitants of both in the time of *Julius Cæsar*. Vide *Cæs. Pomp. Nel. Tacit.* That the ancient *Scots* were of *Celtic* original, is past all doubt. Their conformity with the *Celtic* nations, in language, manners and religion, proves it to a full demonstration. The *Celte* were a great and mighty people, altogether distinct from the *Goths* and *Teutones*, and they at once extended their dominion over all or greatest part of the west of Europe, but they

seem to have had their most full and complete establishment in *Gaul*. Wherever the *Celtæ* or *Gauls* are mentioned by ancient writers, we seldom fail to hear of their *Druids* and their *Bards*; the institution of which two orders was the capital distinction of their manners and policy. The *Druids* were their philosophers and priests; the *Bards*, their poets and recorders of heroic actions: and both these orders of men seem to have subsisted among them, as chief members of the state from time immemorial. We must not, therefore, imagine the *Celtæ* to have been altogether a gross and rude nation. They possessed, from very remote ages, a formed system of discipline and manners, which appear to have had a lasting influence, and although the antiquarian has scarcely, if ever, informed us, that many of their principles and maxims became incorporated, and made part and still continue to be the common law of *England*, yet it is more than *probable* that such was the case, and that tradition has handed down some of the wise maxims and doctrines of their jurisprudence between man and man, as established by their *Druids* and *Philosophers*. Ammianus Marcellinus gives them this express testimony, that there flourished among them the most laudable arts, introduced by the *Pythagorean* manner, and philosophizing upon the highest subjects, asserted the immortality of the soul. "*Per hæc loca,*" (speaking of *Gaul*;) "*hominibus paulatim excolitis viguere studia laudabilium doctrinarum; inchoata per Bardos et Euhages et Druidas. Et Bardis quidem fortia virorum illustrium facta heroicis composita versibus cum dulcibus lyrae modulis cantabantur. Euhages vero scrutantes serium et sublimia naturæ pandere conabantur. Inter hos, Druidæ ingenio celsiores, ut auctoritas Pythagoræ decrevit, sodalitiis adstricti consortiis, questionibus altarum occultarumque rerum erecti sunt; et despectos humana pronuntiabant animas immortales.*" Amm. Marc. lib. xv. c. 9. "In these parts, the study of commendable science flourished by easy degrees among the educated men; these things originated with the *Bards*, *Orators* and *Druids*. The *Bards* also sung suitable songs respecting the illustrious deeds of their heroes, accompanied with the delightful notes of the lyre. And the *Orators* endeavored to show the secrets of creation, and the sublime things of nature. Among those the *Druids* were the most eminent in literature (or science) according to the authority of *Pythagoras*, and were bound by mutual sympathies closely with each other—they encouraged the knowledge of high science, and despising human things, asserted the immortality of the soul." Though *Julius Cæsar*, in his account of *Gaul*, does not expressly mention the *Bards*, yet it is tolerably plain that under the title of *Druids* he comprehended that whole order; of which the *Bards*, who, it is probable, were the disciples of the *Druids*, undoubtedly made a part. According to his account, the *Druidical* institution first took its rise in *Britain*. He adds, too, that such as were to be initiated among the *Druids* were obliged to commit to their *memory* a great number of verses, inasmuch that some employed *twenty* years in this course of education; and that they did not think it lawful to *record* their poems in writing, but sacredly handed them down by *tradition* from race to race. Vide *Cæsar de bello Gall. lib. vi*. It is not too much, therefore, to suppose that many maxims and principles now composing part of the common law of *England* owe their origin to the *Celtæ*. The *Bards* were held in high estimation by this warlike nation; and it may not even here be unentertaining to mention a circumstance related by *Priscus*, in his history of the embassy to *Attila*, King of the *Huns*, which gives a striking view of the enthusiastic passion for war, which prevailed among the fierce barbarians of the north, who swept away as it were with "the besom of destruction" the *Roman* nation, their laws, religion and institutions. When the entertainment, to which that brave conqueror admitted the *Roman* ambassador, was ended, two *Scythians* advanced towards *Attila*, and recited a poem, in which they celebrated his victories and military virtues. "All the *Huns* fixed their eyes with attention on the *Bards*;

some seemed to be delighted with the verses thus remembering their own battle exploits, exulted with joy; while such who were become feeble through age, burst out into tears, bewailing the decay of their vigor, and the state of mortality to which they were rapidly hastening." *Excerpta ex His. Prisci*. It is supposed that among the ancient inhabitants of *Scotland* and *Ireland*, not only the Kings, but every petty chief had their *Bards*: attending them in the field. *Ossian*, in his epic poem, entitled "*Temora*," says, "Like waves, blown back by sudden winds, *Erin* retired at the voice of the King. Deep-rolled into the field of night, they spread their humming tribes. Beneath his own tree at intervals each *Bard* sat down with his harp. They raised the song, and touched the string each to the chief he loved." These *Bards* in proportion to the power of the chiefs who retained them, had a number of inferior *Bards* in their train. Upon solemn occasions all the *Bards* in the army would join in *one chorus*; either when they celebrated their victories, or lamented the death of a person, worthy and renowned, slain in the war. The words were of the composition of the *Arch-Bard*, retained by the King himself, who generally attained that high office on account of his superior genius for poetry.

CENTUMVIRI.—These were judges among the *Romans*, chosen from the thirty-five tribes, three from each tribe, so that properly there were *one hundred and five*; but they were always named by a round number *one hundred* ("centumviri.") Vide *Festus*. The causes which came before them, (*causæ centumvirales*) are enumerated by Cicero de Orat. i. 38. They seem to have been first instituted soon after the creation of the *Prætor*, *Peregrinus*. They judged chiefly concerning testaments and inheritances. *Cic. ibid. pro Cæcin.* 18. *Val. Max.* vii. 7. After the time of *Augustus*, they formed the council of the *Prætor*, and judged in the most important causes, *Tac. de Orat.* 38; whence trials before them (*judicia centumvirilia*) are sometimes distinguished from private trials. *Plin. Ep.* i. 18, vi. 4, 33—*Quintil.* iv. 1, v. 10; but these were not criminal trials, as some have thought, vide *Suet. Vesp.* 10; for in a certain sense all trials were public (*judicia publica*). *Cic. pro Arch.* 2. The number of the *Centumviri* was increased to one hundred and eighty; and they were divided into four councils. *Plin. Ep.* i. 18, iv. 24, vi. 33, *Quintil.* xii. 5. Hence, where we find the words "*quadruplex judicium*," they mean the same as "*centumvirale*." *Ibid.* Sometimes they were only divided into two. *Quinct.* v. 2, xi. 1; and sometimes in important cases they judged altogether. *Val. Max.* viii. 8. A cause before the *Centumviri* could not be adjourned. *Plin. Ep.* i. 18. Ten men called "*Decemviri*" were appointed; *five* senators, and *five* equites, to assemble these counsels, and preside in them, in the absence of the *Prætor*, *Suet. Aug.* 36.

Trials before the *Centumviri* were usually held in the *Basilica Julia*. *Plin. Ep.* ii. 24; but sometimes in the *Forum*. They had a spear set upright before them. *Quinct.* v. 2. Hence the term we sometimes find of "*judicium hasta*," i. e. the judgment of the spear, for "*centumvirale*." *Val. Max.* vii. 8, 4. "*Centumviralem hastam cogere*," i. e. to assemble the courts of the *Centumviri*, and preside in them. *Suet. Aug.* 36. So "*centum gravis hasta viro- rum*," i. e. the solemn sentence of the *Centumviri*. *Mart. Ep.* vii. 62. "*Cessat centeni moderatrix judicis hasta*," the spear government of the *Centumviri* ceases. *Stat. Salv.* iv. 4, 43. The *Centumviri* continued to act as judges for a whole year. The *Decemviri* also judged in certain cases, *Cic. Cæcin.* 33; and it is thought that, in particular cases, they previously took cognizance of the causes which were to come before the *Centumviri*; and their decisions were called "*præjudicia*." Vide *Signonius de Judic.*

CHARTÆ-FOLIA, VEL PLAGULÆ.—When in the writings of various authors we find either of these words, we are apt to consider the *substance* of the

matter somewhat similar to the *paper* now in use; but if we take the trouble to trace the *progress of writing*, and the *materials* used, in the different ages of the world, we shall obtain some curious and entertaining information, as well in respect of the *writing*, as of the *matter* upon which, from time to time, letters have been made. It has been well observed that the knowledge of writing is a constant mark of civilization. Before the invention of this art, men employed various methods to preserve the memory of important events; and to communicate their thoughts to those from whom they were separated. The memory of important events was probably, in the *first ages* of the world, preserved by raising altars, or heaps of stones, vide *Genesis*, c. xxviii. v. 18, and iv. *Joshua* from 3 to 9; planting groves, and instituting names and festivals; and was afterwards more universally transmitted to posterity by historical songs (*Ex.* c. xv.), &c., as was also the custom of the *Druids*. Vide *Tacit. de mor. Germ.*, and see note to *Celte*. One of the first attempts towards the representation of thought was the painting of objects: Thus to represent a murder, the figure of one man was drawn, stretched on the ground, and another with a deadly weapon standing over him. When the *Spaniards* first arrived in *Mexico*, it is said that the inhabitants gave notice of it to their Emperor, *Montezuma*, by sending him a large cloth, on which was *painted* what they had just seen. The *Egyptians* contrived certain signs, or symbols, called *Hieroglyphics*, whereby they represented several things by one figure; and two or three gentlemen of curiosity and learning, it is reported, have lately been, to some extent, successful with a few of these Hieroglyphics, in establishing their true meaning; and perhaps it is not too much to hope, that the time is not very distant, when many material facts will be illustrated by a farther acquaintance with them, which must tend very much to assist our knowledge of some ancient authors; and be a great *desideratum*, particularly to the biblical critic. The *Egyptians* and *Phœnicians* both contended about the honor of having invented letters. *Tac. Ann.* xi. 14. *Plin.* vii. 56. *Luan.* iii. 220. Cadmus, the *Phœnician*, first introduced letters into *Greece*, nearly fifteen hundred years before Christ. Vide *Herodot.* v. 58. They were then only sixteen in number. To these, four were added by *Palamedes*, in the time of the *Trojan* war; and four afterwards by *Simonides*. Vide *Plin.* vii. 56, s. 57. *Hygin. fab.* 277. Letters were brought into *Latium*, by *Evander*, from *Greece*. *Ibid. et Liv.* i. 7. The Latin letters, at first, were nearly of the same form with the Greek. *Tacit. Plin.* vii. 58. Some nations ranged their letters perpendicularly from the top to the bottom of the page; but most of them horizontally. Some from the right to the left, as the *Hebrews* and *Assyrians*. Some from right to left and *vice versâ*, alternately, like cattle ploughing; as the ancient *Greeks*. But most adopt the form we use, from left to right.

The most ancient materials for writing were stones, and bricks. Vide *Josephus' Antiq. Jud. Tac. Ann.* ii. 60. *Lucan.* iii. 223. Thus the decalogue, vide *Exod.* xxiv. v. 12, and the laws of *Moses*, in all probability. Vide also *Deut.* xxvii. v. 2, where the people were commanded to set up great stones, and plaster them with *plaster*, and write upon them all the words of the law. Then plates of brass were used. Vide *Liv.* iii. 57. *Tacit. Ann.* iv. 43; or of lead; vide *Plin.* xiii. 11, s. 21, also *Job.* xix. 24; and wooden tables. Vide *Isaiah*, xxx. 8. *Hor. Art. Poet. Gell.* ii. 12. On these, public acts and monuments were preserved. Vide *Cic. Font.* 14. *Liv.* vii. 20. As the art of writing was little known, and rarely practiced, it behoved that the materials should be durable. Capital letters only were used, as appears from ancient marbles and coins. The materials first used in common for writing, were the leaves or inner bark (*liber*) of trees, whence leaves of paper (*chartæ, folia, vel plagulæ*), and LIBER, a book. The leaves of trees are still used for writing by several nations of *India*; and bark may be obtained of that size and quality in *America*, well adapted for writing upon. Afterwards, *linen*, vide *Liv.* iv. 7, 13, 20; and tables covered with wax were used. About

the time of *Alexander* the Great, *paper* first began to be manufactured from an *Egyptian* plant, or reed, called *papyrus*, whence our word *paper*. The *papyrus* was about 10 cubits high; and had several coats or skins above one another, like an onion, which were separated with a needle, or some such instrument. One of these membranes was spread on a table lengthwise, and another placed above it *across*. The one was called a *stamen*; and the other *substamen*, as the warp and the woof in a web. Being moistened with the muddy waters of the *Nile*, which served instead of glue, they were put into a press, and afterwards dried in the sun. Then these sheets (*plagula* or *sheda*) thus prepared were joined together end to end; but (it is said) never more than twenty in what was called one *scapus*, or roll. Vide *Plin.* xiii. 11. s. 21. The sheets were of different sizes and quality.

Paper was smoothed with a shell, or the tooth of a boar, or some other wild animal. Hence we read of *charta dentata*, i. e. smoothed or polished. Vide *Cic. Q. fr.* ii. 15. The finest paper was called at *Rome* after *Augustus*, "*Augusta regia*;" the next *Livinia*; the third *Hieratica*, which used anciently to be the name of the finest kind, being appropriated to the sacred volumes. The Emperor *Claudius* introduced some alteration, so that the finest paper after him was called *Claudia*. The inferior kinds were called *Amphitheatica*, *Saitica Lencolica*, from places in *Egypt*, where paper was made; and *Fanniana*, from *Fannius*, who had a noted manufactory for dressing *Egyptian* paper at *Rome*. Vide *Plin.* Papers which served only for wrappers was called *Emporetica*, because chiefly used by merchants for packing goods. Fine paper of the largest size, was called *Macrocolla* (as we call some paper imperial or royal paper), and anything written on it, *Macrocollum*.

The exportation of paper having been prohibited by one of the *Ptolemies*, out of envy against *Eumenes*, King of *Pergamus*, who endeavored to rival him in the magnificence of his library, the use of parchment, or the art of preparing *skins* for writing, was discovered at *Pergamus*, hence called *Pergamenta*, sc. *Charta* vel *Membrana* parchment. Hence, also, *Cæsar* calls his four books of *Academics*, "*quatuor libri e membranis facti*," i. e. the four books made out of skins. *Att.* xiii. 24. *Diphthera Jovis* is the register book of *Jupiter*, made of the skin of the goat *Amalthea*, (by whose milk he was nursed,) on which he is supposed by the poets to have written down the actions of men; whence the proverb, "*Diphtheram sero Jupiter inspicit*," i. e. *Jupiter* too late looked into the register. And "*Antiquiora diphthera*," i. e. more ancient registers. *Erasm. in Chiliad.* vide *Polituc.* vii. 15. *Aelian* ix. 3. To this *Plautus* beautifully alludes, *Rud. prol.* 21. The skins of sheep are properly called *parchment*; of calves, *vellum*. Most of the ancient MSS. which have escaped the ravages of time are written on parchment—few on papyrus. It is said that lately an ingenious method has been discovered of unfolding the rolls.

Egypt having fallen under the dominion of the *Arabs*, in the seventh century, and its commerce with *Europe*, and the *Constantinopolitan* empire being stopped, the manufacture of paper from the *papyrus* ceased. The art of making paper from cotton, or silk, was invented in the East about the beginning of the tenth century; and in imitation of it, from *linen* rags in the fourteenth century.

The instrument used for writing on waxen tables, the bark of trees, plates of brass or lead, &c., was an iron pencil, with a sharp point, called *stylus*, or *graphum*. Hence "*stylo abstinco*," i. e. I forbear writing. *Plin. Ep.* vii. 21. On paper or parchment, a reed sharpened and split in the point like our pens, called *calamus*, *arundo*, *fistula*, vel *canna*, which they dip in ink, (*atramento intingebant*;) as we do our pens. *Cic. Att.* vi. 8, &c.

Sepia, the cuttle fish, is sometimes put for ink, (*Pers.*) because when afraid of being caught it emits a black matter to conceal itself, which, it is said, the *Romans* used for ink. *Cic. de nat. D.* ii. 20.

The ordinary writing materials of the *Romans* were tablets covered with

wax, paper and parchment. Their *stylus* was broad at one end; so that when they wished to correct anything, they turned the *stylus*, and smoothed the wax with the broad end, that they might write on it anew. Hence "*sæpe stilum vertas*," i. e. to make frequent corrections, or change the manner of composition. *Vid. Hor. Sat. i. 10, 72.*

An author while composing, usually wrote first on these tablets for the convenience of making alterations; and when anything appeared sufficiently correct, it was generally transcribed on paper, or parchment, and published. *Vid. Hor. Sat. ii. 3, 2.* It seems one could write more quickly on waxen tablets than on paper, where the hand was retarded by frequently dipping the reed in ink. *Quinct. x. 3, 30.*

The labor of correcting was compared to that of working with a file, (*lima labor*;) hence "*opus limare*," to polish. (*Cic. Orat. i. 25*;) "*limare de aliquo*," to lop off redundancies. *Ibid. iii. 9.* "*Supremam limam operiri*," i. e. to wait the last polish. *Plin. Ep. viii. 5.* "*Lima mordacius uti*," to correct more carefully. *Ov. Pont. i. 5, 19.* "*Liber rarus lima amici*," polished by the correction of a friend. *Ib. ii. 4, 17.* "*Ultima lima defuit meis scriptis*." *Ov. Trist. i. 6, 30*, i. e. *summa manus operi defuit, vel non imposita est*; i. e. the last polish was not put to the work—it was not finished.

The Romans also used a kind of blotting, or coarse paper, or parchment, (*charta deletitia*;) i. e. blotting paper called *palesestos*, on which they might easily erase what was written and write it anew. *Mart. xiv. 7.* But it seems this might have been done on any parchment. *Vid. Hor. Art. p. 389.*

Very many of the writings of the classic age were, in the former centuries of the Christian era, erased to make room for the rude, undigested and often ridiculous composition of the Monkish clergy. The Romans commonly wrote on one side only of the paper or parchment, and joined ("*agglutinebant*," i. e. glued one sheet (*Scheda*) to the end of another, till they finished what they had to write; and then rolled it up on a cylinder or staff; (hence *volumen*—a volume or scroll.) *Vid. Isaiah, xxix. 11.* An author generally included one *book* in a volume, so that generally in a work there was usually the same number of volumes as of books. Thus Ovid calls his fifteen books of *Metamorphoses* "*mutate ter quinque volumina formæ*." When a book was long, it was sometimes divided into two volumes. When a book, or volume was finished, a ball, or boss of wood, bone, horn, or the like was affixed to it, on the outside, for ornament and security, called "*umbilicus*"—hence the expression "*ad umbilicum adducere*," to finish. The Romans, it is said, frequently carried with them wherever they went small writing tables, called "*pugillares*," on which they marked down anything that occurred. (*Plin. Ep. i. 6*;) either with their own hands, or by means of a slave, called from his office "*Notarius*," or *Tabullarius*. These *pugillares* were of an oblong form, made of citron, box-wood, or ivory; also of parchment, covered with colored or white wax. (*Ov. Am. i. 12, 7*;) containing two leaves, three, four, five, or more, (*Mart.*) with a small margin, raised all round, as may be seen in the models of them which still remain. They wrote on them with a *stilus*, hence "*ceris et stylo incumbere*," (to apply with wax and stile,) for *in pugillaribus scribere*, (to write on the note books or tables.) *Vid. Plin. Ep. vii. 27.* "*Remittere stilum*," i. e. to give over writing. *Ib.*

As the Romans never wore a sword or dagger in the city, (*Plin. xxxiv. 14. s. 39*;) they often upon a sudden provocation used the *graphum*, or *stilus*, as a weapon, (*Suet. Cas. C. 28, &c.*;) which they carried in a case. Hence probably the *stiletto* of the modern *Italians*.

When a book was sent anywhere the roll was tied with a thread, and was placed on the knot and sealed; hence "*signata volumina*," i. e. sealed volumes. *Vid. Hor. Ep. i. 13.* So letters, *Cic. Cat. iii. 5.* The roll was usually wrapt around with a coarse paper or parchment, *Plin. xiii.;* or

with part of an old book, to which *Hor.* is supposed to allude, *vid. Ep. i. 20.*

Julius Cæsar, in his letters to the senate, introduced the custom of dividing them into pages, (*pagina*.) and folding them into the form of a pocket book, or account book, with distinct pages, like our books, whereas formerly Consuls and Generals when they wrote to the senate used to continue the line quite across the sheet, (*transverâ chartâ*.) i. e. athwart the paper, without any distinction of pages, and roll them up in a volume. *Suet. Cæs. 56.* Hence, after this, all applications and requests to the Emperors, and messages from them to the senate, or public orders to the people, used to be written, and folded in this form, and were called "Libelli." *Surt. Aug. Mart. &c.*

CHIROGRAPHUM.—*Cirographum*, Cyrographum. This word signifies *hand writing*, or writing with one's own hand. It is of Greek origin, in use among the Romans to denote a bond or obligation, written or subscribed with a person's own hand. The Saxons borrowed it of the Latins, to apply to public instruments of gift or conveyance, attested by the signatures and crosses of the witnesses present.

The Normans altered the form of executing these instruments and their name also; which they termed *charta*. But in time a practice arose of executing these charters or deeds in *two parts*; that is a part and a counterpart. They wrote the whole of the instrument *twice* on the same sheet of paper, or skin of parchment, leaving a space in the middle between the parts where the word **CHIROGRAPHUM** was written in capital letters. Then the parchment was divided by cutting it across through these letters, so that when the two parts were separated, one would exhibit one half of the capital letters, and one the other half; thus, when joined, the words would appear entire. At first this cut was made in a straight line. Afterwards they cut through the word in acute angles, passing between the letters alternately like the teeth of a saw, which gave these deeds the name of *indentures*. See Reeves *Hist. Eng. Law.*

CNAFA.—*Sax.* A knave.—This old Saxon word had at first a sense of *simplicity and innocence*, for it signified "a boy." The *Sax.* ("Cnafa") distinguished a boy from a girl, in several ancient writers. Thus, the poet says, "a *knave* child between them two they gate." *Gower's Poem.* And *Wickliffe*, in his old translation, *Ezod. i. 16*, says, "if it be a *knave* child," alluding to *Pharaoh* and the *Hebrew* children, *vid. Ezod. i. v. 16.* Afterwards the word was taken for a *servant boy*. At length, however, it was applied for any servant man; also to a member or officer who bore the weapon, or shield of his superiors, as "*scild knapa*," whom the Latins call "*armiger*," and the French "*escuyer*," whence the English word "*esquire*,"—we find at games with cards that the one immediately inferior to the *queen* in each suit is called "the *knave*;" a word, probably, at the time cards were first introduced into England, signifying an officer or servant who bore the shield of, or waited upon his superior. It was sometimes of old made use of as a titular additor, as "*Johannes C. filius Willicelmi C. de Derby*, knave, i. e. John C. the son of William C. of Derby, a *knave*. In the vision of *Piers Plowman* are these words, "*Cokes, and thierre knaves cryden hotes pyes*," i. e. "Cooks, and their boys cried hot pies." This word *knave*, however, with many others in the English language, has now another and a different signification. The reader will, perhaps, pardon one digression, elucidatory *how a living language* can not only vary its signification, but how some words in process of time completely alter in their signification. In *Psalms xxi. v. 3*, are these words, "For thou *prevenest* him with the blessings of goodness." At the present day this is mystery to many readers, but if we revert to the original meaning of the word "*prevent*," derived from the Latin "*prævenio*" to go before, the sense is very obvious. So the words of

the collect, "prevent us, O Lord, in all our doings with thy most gracious favor," &c. A curious instance of the old use of this word occurs in *Weller's* "Angler," where one of the characters says, "I mean to be up early to-morrow morning to prevent the sun rising," that is, to be up before the sun. Numerous other instances might be added to prove, if necessary, that words are continually and gradually changing their original significations; and some have obtained totally different ones—this proves how very cautious authors should be to adhere to the strict etymology of words.

NYT.—Sax. *knight*—Lat. *miles*, and *equus auratus*, from the gilt spurs he usually wore.—*Blackstone* remarks that it is observable that almost all nations call their knights by some appellation derived from a horse. Mr. Christian, however, in his notes on *Blackstone*, says that it does not appear that the English word *knight* has any reference to a horse, for *cnicht*, in the Saxon, signified *puer*, *servus*, or attendant, vide also *Spelm. in v. v. knight, miles*. There is now probably only one instance where it is taken in that sense, and that is "*knight of the shire*," who properly serves in parliament for a county; but in all other instances it is supposed to signify one who "bears arms," who for his virtue and natural prowess is exalted to the rank of knighthood. *Camden*, in his *Britannia*, thus shortly expresses the manner of making a knight: "*Nostris vero temporibus, qui equestrem dignitatem suscipit, flexis genibus, leviter in humero percultitur, princeps his verbis gallice affatur*," i. e. in our time he who would receive knighthood being on his bended knees, is gently touched on the shoulder, the prince speaking to him in these words, "Arise, or be thou a knight, in the name of God." "*Soyez vel sois, Chevalier, au nom de Dieu*." This is meant of *Knights Bachelors*, the lowest, but a very ancient degree of knighthood in *England*, for we have an instance of king *Alfred* conferring this order on his son *Athelstan*. *Knights, Blackstone* says, were called "*Milites*," because they formed part of the royal army in virtue of their tenures under the feudal system.

COMITIA TRIBUTA.—The names of *tribes* was probably derived either from their original number three (*a numero ternario*), or from paying tribute, *vids Liv. i. 43*.

The first tribe was named from *Romulus*, and included the *Roman* citizens who occupied the *Palatine* hill; the second from *Titus Tatius*, and included the *Sabines*, who possessed the *Capitoline* hill; and the third from one *Lucumo*, a *Tuscan*, or rather from the grove (*a luco*), which *Romulus* turned into a sanctuary, *vid. Virg. Æn. viii. 342*, and included all foreigners, except the *Sabines*. Each of these tribes had at first its own tribune or commander (*tribunus vel prefectus*), *vid. Dionys. iv.* and its own *Augur*, *vid. Liv. x. 6*.

Tarquinius Priscus doubled the number of tribes, retaining the same names, so that they were called *Ramnenses primi, et Ramnenses secundi*, or *posteriores, &c.*

But as the *Luceres* in a short time greatly exceeded the rest in number, *Servius Tullius* introduced a new arrangement; and distributed the citizens into tribes, not according to their extraction, but from their local situation.

He divided the city into four regions or wards, the inhabitants of which constituted as many tribes, and had their names from the wards which they inhabited. No one was permitted to remove from one ward to another, that the tribes might not be confounded, *vid. Dionys. iv. 14*; on which account certain persons were appointed to take an account where every one dwelt; also of their age, fortune, &c. These were called city tribes, and their number always remained the same.

Servius at the same time divided the *Roman* territory into fifteen parts, (some say sixteen, others seventeen,) which were called country tribes (*Tribus Rusticæ*) *Vid. Dionys. iv. 15*.

In the year of the city 258, the number of tribes was made twenty-one, *Vid. Liv. ii. 21.* Here, for the first time, *Livy* directly takes notice of the number of tribes; although he alludes to the original institution of three tribes. *Vide x. 6.* *Dyonysius* says that *Servius* instituted thirty-one tribes. *Vide iv. 15.* But in the trial of *Coriolanus*, he only mentions twenty-one as having voted. *Vid. vii. 64.*

The number of tribes was afterwards increased, on account of the addition of new citizens at different times, (*Liv. vi. 5, &c.*) to thirty-five, (*Liv. xxiii. 13*), which number continued to the end of the republic. (*Liv. i. 43.*)

After the admission of the *Italian* states to the freedom of the city, eight or ten new tribes are said to have been added; but this appears but to have been of short continuance; for they were soon all distributed among the thirty-five old tribes.

The *Comitia Tributa* were held to create magistrates, to elect certain priests, to make laws, and to hold trials. At the *Comitia Tributa* were created all the inferior city magistrates, as *Ædiles*, both *Curale* and *Plebeian*; the tribunes of the commons; questors, &c., all the provincial magistrates; as the proconsuls, prætors, &c.; also commissioners for settling colonies, &c.; the *Pontifex Maximus*; and after the year 650 the other *Pontifices*, *Augures faciales*, &c.

The laws passed at these *Comitia*, were called *Plebiscita*, which at first only bound the *Plebeians*; but after the year 306 the whole *Roman* people. *Vide Liv. iii. 55.*

These *Plebiscita* were made about various things; as about making peace, *Liv. xxxiii. 10*; about granting the freedom of the city; about ordering a triumph when it was refused by the Senate, *Liv. iii. 63*; about bestowing commands on Generals on the day of their triumph, *Liv. xxvi. 21*; about absolving him from the laws, which in latter times the Senate assumed as its prerogative.

There were no capital trials at the *Comitia Tributa*; these were only held at the *Centuriata*; but about imposing a fine, *Liv. iv. 41*; and if any one accused of a capital crime did not appear on the day of trial, the *Comitia Tributa* were sufficient to decree banishment against him. *Liv. xxvi. 3.—xxv. 6.* In the *Forum*, there were separate places for each tribe marked out with ropes. *Vide Dionys. vii. 59.* In the *Campus Martius*, *Cicero* proposed building in *Cæsar's* name, marble enclosures for holding the *Comitia Tributa*, *Cic. Att. iv. 16*, which work was prevented by various causes; and at last entirely dropped upon the breaking out of the civil wars; but it was afterwards executed by *Agrippa*. If there had been thunder or lightning, (*si tonuisset aut fulgurasset*), the *Comitia Tributa* could not be held on that day. For it was a constant rule from the beginning of the republic, *Jove fulgente, cum populo aji nefas esse*, i. e. when it lightened it was unlawful to transact public affairs.

CODEX JUSTINIANUS.—*Justinian* first published a collection of the imperial constitutions, A. D. 529, called "*Codex Justinianus*." This was the Emperor who first reduced the *Roman* law into certain order. For this purpose he employed the assistance of the most eminent lawyers in the empire, at the head of whom was *Tribonian*. He ordered a collection to be made of everything that was useful in the writings of the lawyers before his time, which are said to have amounted to two thousand volumes. This work was executed by *Tribonian*, and sixteen associates, in three years, although they had been allowed ten years to finish it. It was published A. D. 533, under the title of "*Digest*," or "*Pandects*" (*Pandecte vel Digesta*). It is sometimes called in the singular "*The Digest*," or "*Pandect*."

The same year were published the *Elements*, or first principles of the *Roman* Law, composed by three persons, *Tribonian*, *Theophilus* and *Dorotheus*,

and called "The Institutes" (*Instituta*). This book was published before the *Pandects*, although it was composed after them. As the first code did not appear sufficiently complete, and contained several things inconsistent with the *Pandects*, *Tribonian* and four other men were employed to correct it. A new code, therefore, was published A. D. 529, called "*Codex repetitæ prælectionis*," i. e. the book of a renewed Lecture, and the former code declared to be of no further authority. Thus in six years was completed what is called "*Corpus juris*"—the body of (*Roman*) law, to which we are indebted for much of our civil jurisprudence.

But when new questions arose, not contained in any of the above-mentioned books, new decisions became necessary to supply what was wanting, or correct what was erroneous. These were afterwards published, under the title of "Novels," (*Novellæ*) sc. *Constitutiones*, not only by *Justinian*, but also by some of the succeeding Emperors. So that the "*Corpus juris Romani civilis*," i. e. the body of the Roman civil law, is made up of these books, the *Institutes*, *Pandects*, or *Digests*, *Code* and *Novels*.

The *Pandects* are divided into fifty books, each book into several titles; each title into several laws, which are distinguished by numbers, and sometimes one law into beginning (*princ. for principium*) and paragraphs thus, *D. 1, 1, 5*, i. e. *Digest, first book, first title, fifth law*. If the law be divided into paragraphs, a fourth number will be added thus, *D. 48, 5, 13, pr.* or *48, 5, 13, 1*. Sometimes the first word of the law, not the number, is cited. The *Pandects* are often marked by a double *f*, thus *ff*. The code is cited in the same manner as the *Pandects*, by book, title and law. The *Novels* by their number, the chapters of that number, and the paragraphs, if any, as *Nov. 115, c. 6*.

The *Institutes* are divided into four books, each book into several titles or chapters, and each title into paragraphs, of which the *first* is not numbered, thus *Inst. lib. 1, tit. 10, princ.*, or more shortly, *Inst. lib. 1, 10, pr.*, so *Inst. l. 1, 10, 2*. The student will notice this.

The *Justinian* code of law was universally received through the *Roman* world. It flourished in the East, until the taking of *Constantinople* by the *Turks*, A. D. 1453. In the West it was, in a great measure, suppressed by the irruptions of the barbarous northern nations, till it was revived in *Italy*, in the twelfth century, by *Irnerius*, who had studied at *Constantinople*, and opened a school at *Bologna*, under the auspices of *Frederick* the First, Emperor of Germany. He was attended by an innumerable number of students from all parts, who propagated the knowledge of the "*Roman Civil Law*" through most countries of Europe, where in a great measure it still continues, and will continue for ages, to be of great authority in courts of judicature, and seems to promise, at least in point of legislation, the fulfilment of the famous prediction of the ancient Romans concerning the "ETERNITY OF THEIR EMPIRE."

CODICILLUS.—When additions were made by the Romans to a will, they were called *Codicilli*, and were, it is said, expressed in the form of a Letter, addressed to the heirs; sometimes also to the trustees, (*ad fide commissarios*.) After the testator's death, his will was opened, vide *Hor. Ep. i. 7*, in the presence of the witnesses who had sealed it, or a majority of them. Vide *Suet. Tib. 23*. And if they were absent or dead, a copy of the will was taken in the presence of other respectable persons; and the authentic testament was laid up in the public archives, that if the copy were lost, another might be taken from it. Horace ridiculed a miser who ordered his heirs to inscribe on his tomb the sum he left. Vide *Sat. ii. 3. 84*. It was esteemed honorable to be named in the testament of a friend or relation; and considered as a mark of disrespect to be passed over.

COEMPTIO.—This word signified, among the Romans, a kind of mutual

purchase (*emptio; venditio*) when a man and woman were married, by delivering to one another a small piece of money, and repeating certain words. Vide *Cic. Orat.* i. 57. The man asked the woman "*an sibi mater familias esse vellet*"—whether she would be the mother of the family; she answered "*se vellet*," i. e. that she was willing. In the same manner the woman asked the man, and he made a similar answer. *Boeth. in Cic. Topic.* 3. The woman was to the husband in the place of a daughter, and he to her as a father. *Serv. in Virg. G.* She assumed his name, together with her own, as *Antonia Drusi, Domitia Bibuli*, &c. She resigned to him all her goods. *Ter. Andr.* i. 5. 61: and acknowledged him as her lord and master. (*Dominus*.) Vide *Virg. En.* iv. 103, 214. The goods which a woman brought to her husband, besides her portion, were called "*Parapherna*." In the first days of the republic, dowries were very small—that given by the Senate to the daughter of Scipio, was only eleven thousand *asses* of brass, £35 10s. 5d. and one *Megullia* was surnamed "*Dotata*," or the great fortune, who had fifty thousand *asses*, i. e. £161 7s. 6d. sterling. Vide *Val. Max.* iv. 10. But afterwards, upon the increase of wealth, the marriage portions of some women became greater, *Decies centena* sc. *sestercia*, £8072 18s. 4d. sterling. *Mart.* ii. 65. *Juv.* vi. 136. The usual portion of a lady of a Senatorian rank. *Juv.* x. 355.

Sometimes the wife reserved to herself part of the money, and a slave, who was not subject to the power of the husband. Some think that "*coemptio*" was used as an accessory rite to "*consecratio*," and retained when the primary rite was dropped, from *Cic. Flacc.* 34.

The right of purchase in marriage was not peculiar to the *Romans*, but prevailed also among other nations; as the Hebrews, *Genesis*, xxix. 18, 1 *Samuel*, xviii. 25, the *Thracians*. *Xenoph. Anab.* vii. &c., &c. So in the days of Homer. Vide *Odyss.* viii. 317, to which Virgil alludes. *G.* i. 31.

Some say a yoke used anciently to be put on a man and woman about to be married, whence they were called "*Conjuges*,"—others think this expression merely metaphorical. Vid. *Hor. Od.* ii. 5.

COLLISTRIGIUM.—A pillory. *Collum stringens; Pilloria*, Fr. *Pilleur*. This was an engine made of wood to punish offenders by exposing them to public view, and rendering them infamous. By 51 *Hen.* 3, *stat.* 6, it is appointed for bakers, forestallers, and those who use false weights, perjury, forgery, &c. Vide 3 *Inst.* 219. Lords of leets are to have a pillory and tumbrel, or, it is said, it will be a cause of forfeiture of their leet, and a vill may be bound by prescription to provide a pillory, &c. 2 *Hawk. P. C. c.* 11, § 5.

CUMMUNIA PLACITA.—It was the ancient custom for the feudal monarchs to preside themselves in their courts, and to administer justice in person. Vide *Marculf, lib.* i. § 25. *Murat. Dissert.* xxxi. Charlemagne, whilst he was dressing, used to call parties into his presence; and having heard and considered the subject of litigation gave judgment concerning it. Vide *Eginhartus Vita Carolomagni*, cited by *Madox*, *Hist. Excheqr.* vol. i. p. 91. The trial and decision of causes by the sovereigns themselves, could not fail of rendering their courts respectable. *St. Louis*, who encouraged the practice of appeals, revived the ancient custom, and administered justice in person, with all the ancient simplicity: "I have often seen the Saint," says *Joinville*, "sit under the shade of an oak, in the wood of *Vincennes*, when all who had any complaint freely approached him. At other times he gave orders to spread a carpet in a garden, and seating himself upon it, heard the causes which were brought before him." Vide *Hist. de St. Louis*, p. 13. *Edit.* 1761. Princes of inferior rank, who possessed the right of sitting in judgment, dispensed it in person, and presided in their tribunals. Two instances

of this occur with respect to the *Dauphines of Vienne*. Vide *Hist. de Dauphine*, tom. i. p. 18, tom. ii. 257. It appears, however, probable, that prior to the law or regulation contained in the text, the courts of justice of all the feudal monarchs, were originally ambulatory, and followed their persons, and were held during some of the great festivals. *Philip Augustus*, A. D. 1305, rendered it stationary at Paris, and continued its terms during the greater part of the year. William, the Conqueror, established a constant court in the hall of his palace, from which the four courts now intrusted with the administration of justice in England, took their rise; and as the king used to sit in ancient times upon the bench, it is a probable reason why a blow given in the Court of *King's Bench* upon any provocation whatever, was punished with the loss of the offender's hand, as it was done in the king's presence. Henry the Second divided his kingdom into six circuits, and sent itinerant judges to hold their seats in them, at stated seasons. Justices of the peace were appointed in every county by subsequent monarchs, to whose jurisdiction the people had recourse in very many cases.

COMPURGATORES.—Formerly, in most cases, where the notoriety of the fact did not furnish the most clear and direct evidence, the person accused, or he against whom an action was brought, was called upon legally, or voluntarily offered to purge himself *by oath*; and upon his thus supporting his evidence, he was immediately acquitted. The pernicious effects of this mode of trial were sensibly felt; and in order to guard against them, the laws ordained that the oath should be administered with the greatest solemnity; and accompanied with every circumstance which could inspire religious reverence, or superstitious terror. Vide *Du Cange Gloss. voc. "Juramentum."* This, however, after a time, proved but a feeble remedy; the rites and ceremonies became *familiar*; and when men found "that sentence against a perjurer was not executed speedily," the impression on the imagination gradually diminished. Men who could venture to disregard truth, were not startled at the *solemnities* of an oath, nor the "pomp and circumstance" with which it was taken. This put the legislators upon devising a new expedient for rendering the purgation by oath more safe and satisfactory. They required the person accused to appear with a certain number of *freemen*, his neighbors, or relations, who *corroborated* the oath which he took, by swearing that *they believed* all that he uttered to be *true*. These persons produced were called "*Compurgatores*," and their number varied according to the importance of the subject in dispute; or the nature of the case with which a person was charged. In some important cases, it is said, that no less than the concurrence of *three hundred* witnesses was necessary to acquit the person accused. Vide *Spelman's Gloss. voc. "Assarth."*

CONNUBIUM.—This word is often found in the Roman law. No Roman citizen was permitted to marry a slave, a barbarian, or a foreigner, unless by permission of the people. Vid. *Livy*, xxxviii. 36. By the laws of the *Decemviri*, intermarriages between the Patricians and Plebeians were prohibited. But this restriction was abolished. Vid. *Liv.* iv. 6. Afterwards, however, when a Patrician lady married a Plebeian she was excluded from the rights of Patrician ladies. Vide *Liv.* x. 23. When any woman married out of her own tribe it was called *Enuptio Gentis*, which likewise seems anciently to have been forbidden. Vide *Liv.* xxxix. 19.

CONTRA PACEM.—At several times during the year, the church formerly imposed an interdiction on the Barons against all private wars; the Sovereign also insisted upon this *when* the Barons were required for the defence of the kingdom, and on other occasions; the offence of waging *private wars* at those times was considered highly criminal, and was said to be committed

"*contra pacem Domini Regis*," i. e. against the king's peace from this circumstance it is probable the custom arose of inserting the words "*contra pacem*" in indictments for offences at the Common Law.

CONTUBERNIUM.—With the ancient *Romans* there was no regular marriage among slaves, but their connection was called *Contubernium*, and themselves *Contubernaes*. The whole company of slaves in one house was called *familia*, (hence our word *family*,) and the slaves *Familiares*.

The proprietor of slaves was called *Dominus*. *Terent. Eun.* iii. 2, 23, whence the word was put for tyrant. *Liv.* ii. 60. On this account, *it is said*, Augustus refused the name. *Suet. Aug.* 53.

Slaves employed to accompany boys to and from school were called *Pædagogæ*; and the part of the house where these young slaves staid, who were instructed in literature (*literæ serviles*), was called *Pædagogium*. *Vid. Plin. Ep.* vii. 27.

CURIA CHRISTIANITATES.—Du Cange, in his Glossary, *voc. Curia Christianitates*, has collected most of the causes with respect to which the clergy arrogated an exclusive jurisdiction. *Giannone*, in his civil history of *Naples*, has ranged these under proper heads. *M. Fleury* observes that the clergy multiplied the pretexts for extending the authority of the spiritual courts with so much boldness that it was soon in their power to withdraw almost every person and every cause from the jurisdiction of the civil magistrate. *Hist. Eccl. tom.* xix. It has been said that the origin of Ecclesiastical jurisdiction had its source in that advice of St. Paul, who reproves the scandalizing of Christianity, by carrying on law suits against others before heathen judges, and recommends the leaving all matters in dispute between Christians to the church, or the congregation of the faithful. *1 Cor.* vi. 1, 8.

CURIA COMITATUS.—Anciently the principal causes came into the Great County Court held by the sheriff, who was assisted by the bishop and earl. This court had cognizance of offences against religion; of temporal offences which concerned the public, as felonies, breaches of the peace, nuisances, and the like; of civil actions, as titles to land, and suits upon debt or contract: it also held the view of *frankpledge*, which was an inquest impanelled by the sheriff to see that every male above the age of twelve years had entered into some tything, and taken the oath of allegiance. From the time of king *Edgar*, the Great County Court was divided into two; the one a *Criminal*, the other a *Civil* Court. The Criminal was called the sheriff's *Tourn*, and was held by the sheriff and bishop twice in the year, viz.: in the months following *Easter* and *Michaelmas*, for the purpose of trying all criminal matters whatever: from this, it is said, was derived the *Court Leet*. The Civil Court retained the name of the County Court (from which came the *Court Baron*), and in it all the civil pleas of consequence arising in the county were tried. In the *Criminal* Court offences were punished according to the superstition of the times, if they did not purge themselves of the matter wherewith they were charged by the *ordeal*, by the *corsned* or morsel of execration, or by wager of law with Compurgators. In the *Civil* Court, parties complained against might purge themselves by their sureties, by wager of law. Trials by jury were also frequently used; for that mode of trial is generally considered to have been of *Saxon* origin; though whether that jury was composed of twelve men, or whether they were bound to a strict unanimity, does not appear to be precisely known at this period of time.

CURIA PUBLICA.—A public (or open court) more generally with some particular word, or addition to the word "*Curia*," to denote whether of the King's Bench, Common Pleas, or Exchequer, &c. There have also been from a very early period a multiplicity of inferior courts, many of them es-

established in the feudal times, whose services are extremely peculiar, nay, sometimes to us, ludicrous; and the tenures by which estates are held in several of them, are very remarkable, and denote the simplicity and rude customs of our ancestors. There is a court held on *King's Hill, Rochford*, in *Essex*, called "*Lawless Court*," on the Wednesday morning next after *Michaelmas* day, yearly, at *cock-crowing*; at which court they *whisper*, and have *no candle*, nor *other light*, nor have they any pen and ink; but only a piece of charcoal, and he that owes suit or service, and does not appear, forfeits *double* his rent. This court is mentioned by *Camden*, who informs us that this *servile* attendance was imposed on the tenants for conspiring, at the like unseasonable time, to raise a commotion. Vide *CAMDEN'S BRITAN.* The title is in rhyme, and as it may be amusing to the reader, it is inserted. The Court roll runs thus:

"*King's Hill in* }
Rochford. }

Curia de domino rege,
 Dicta sine lege,
 Tenta est ibidem,
 Per ejus consuetudinem
 Ante ortum solis,
 Luceat nisi polus,
 Senescallus solus
 Nil scribit nisi colis,
 Toties voluerit.
 Gallus ut cantaverit,
 Per cujus soli sonitus,
 Curia est summonitus;
 Clamat clam pro rege,
 In curia sine lege.
 Et nisi cito venerint,
 Citius pæniterint,
 Et nisi clam accedant,
 Curia non attendat;

Qui venerit cum lumine, erat in regimine,
 Et dum sunt sine lumine, capti sunt in crimine;
 Curia sine cura,
 Jurata de injuria;

Tenta ibidem die Mercurii (ante diem) proxime, post festum Sancti Michaelis, anno, &c., &c.

"The Court of our Lord the King, held without law, is kept there by custom before the rising of the sun, unless the north pole may emit a glimmering light. The steward himself, when decrees are to be entered, writes the same with charcoal. At the crowing of the cock, by whose clarion the court is summoned, the steward proclaims the opening of this lawless court in the King's name; and that unless they forthwith come, they shall quickly repent, and unless in secrecy they attend, the court will not give audience to their business, and he who shall come with light is under a penalty, for whilst they associated in darkness, they were caught in crime. This lawless court was sworn to try offences, and held on Wednesday, next after Michaelmas day (before daylight), in the year, &c., &c."

Another singular ceremony is performed as an ancient tenure for lands, held in the parish of *Broughton*. On Palm Sunday, a person from *Broughton*, brings a very large whip, which is called a *gad*, into the church at *Caister*, the stock of which whip is made of wood, tapering towards the top, having a large thong of white leather, and being wrapped towards the top with the same. He comes towards the north porch about the conclusion of the first lesson, and cracks the whip as loud as possible three times, the thong reach

ing within the porch; after which he wraps the thong round the stock, having four twigs of mountain ash placed within the same. He then ties the whole together with whip cord, and suspends a leathern bag to the top of the stock, with two shillings in it, (originally twenty-four silver pennies;) he then takes the whole on his shoulder, marches into the church, and stands till the commencement of the second lesson. He next goes to the reading desk, and kneeling down upon a cushion, holds the purse suspended over the priest's head till the end of the lesson. He then retires into the choir, and, after the service is concluded, carries all to the manor house of *Hundon*, where they are left.

D.

DA.—Yes.

DA gratiam loquendi.—Give the liberty of speech.

DAMAGE feasant.—Doing damage.

DAMAIOUSE.—Causing damage.

DAMNANDA res.—A condemned estate, or thing.

DAMNI injuriæ actio.—An action given against a person who has intentionally injured the property of another.

DAMNOSA hæreditas.—A disadvantageous inheritance.

DAMNUM absque injuria.—“A loss without injury.” A loss for which no recompense can be obtained.

DAMNUM fatale.—Damages arising from inevitable events, such as loss by shipwreck, lightning, &c.

DAMNUM sine injuria.—A loss without injury.

DANE-LAGE.—“Danish custom, or law.” The *Danish* laws were at one time in force in particular parts of *England* which the *Danes* had taken from the *Saxons*.

DANGER de la terre.—Land-risk.

DANS un pays libre, on crie beaucoup, quiqu'on souffre peu; dans un pays de tyrannie, on se plaint peu quoiqu'on souffre beaucoup.—In a free country there is much clamor, with little suffering; in a despotic state, there is little complaint but much grievance.

DARE aliquam evidentiam.—“To give some evidence.” Thus it may be necessary to give *some* evidence in the county to which the venue is changed.

DARE autem non possunt tenementa sua, nec ex causa donationis ad alios transferre, non magis quam villani puri et unde si transferre debeant, restituunt domino vel bailivo; et ipsi ea tradunt aliis in villenagium tenenda.— But they cannot give away their tenements nor transfer them to others on account (of the mode) of the donation, no more than as though they were simple villains; and therefore, if they are to be transferred, they render them back to the lord or his bailiff; and they deliver them to others to be held in villainage.

DARE iudicium.—To give judgment; to decide the cause. *Vide note.*

DARIEN presentment.—The last presentation.

DATA.—"Things granted." We must proceed on certain "*data*," that is, on matters previously admitted to be correct.

DATIO tutoris.—The appointment of a guardian or tutor by a magistrate, where the will had not provided one.

DATUM.—A thing granted: a point fixed upon: a first principle.

DAYSMAN.—An arbitrator.

DE acquirenda possessione.—Of obtaining possession.

DE admensuratione dotis.—A writ which lies where the heir or guardian assigns to the widow more land than rightly belongs to her.

DE admensuratione pasturæ.—"Of the admeasurement of pasture." A writ so called.

DE advisamente consilii nostri.—By the advice of our council. An expression used in the old writs of summons to parliament.

DE æquitate et lege conjuncta.—Of equity and law conjoined.

DE ætate probanda.—A writ to summon a jury to inquire whether the heir to an estate is of age or not.

DE aliquibus tenuris intrinsecis et transgressionibus, aut

contractibus, intra eundem burgum factis.—Concerning other domestic tenures, and trespasses, or contracts, performed within the same borough.

DE allocatione faciendo.—A writ for making an allowance.

DE alto et basso.—An expression used in ancient times to signify the absolute submission of all differences to arbitration.

DE ambiguis et obscuris interpretandis.—As to doubtful and obscure translations.

DE ambitu.—The *Romans* had a law (*de ambitu*) against bribery and corruption in elections, with the infliction of new, severer, and, perhaps, just punishments for this offence, which strikes at the root of all good government. *Vid. Dio. xxxix., 37.* They had also a law (*de ambitu*), *Suet. 34*, against forestalling the market; also another called *de ambitu*, limiting the pleadings in criminal cases to one day's duration, allowing two hours to the prosecutor, and three to the accused.

DE ampliori gratia.—Of more abundant or special grace.

DE anno bissextili.—Of the bissextile or leap year.

DE annua pensione.—Writ of annual pension.

DE annua redditu.—A writ for recovering an annuity, payable either in money or goods.

DE apibus. *Apium quoque fera natura est; itaque apes quæ in arbore tua constituerunt, antequam a te alveo includantur, non magis tuæ intelliguntur esse, quam volucres quæ in arbore tuo nidum fecerint; adeoque si alias eas incluserit, is earum dominus erit.*—Of Bees. The nature of bees is also wild; therefore, bees which have swarmed in your tree, before they are inclosed by you in the hive, are not understood to be yours, any more than birds which have made their nest in your tree; and therefore, if any other person has inclosed them he shall be their owner.

DE apostata capendo.—Writ for taking an apostate.

DE arrestandis bonis ne dissipentur.—A writ to seize goods to prevent their being made way with during the pending of a suit.

DE arrestando ipsum qui pecuniam recepit.—A writ to seize one who had taken the king's *prest money* to serve in war, and secreted himself when the time came for him to go.

DE asportatis religiosorum.—Of taking away of (the property) of religious persons.

DE assiza novæ disseysinæ.—Of the assize of novel disseisin.

DE assiza proroganda.—Writ for proroguing an assize.

DE attornato recipiendo.—Writ to receive an attorney.

DE audiendo et terminando.—A writ for hearing and determining.

DE averagiis mercium é navibus projectarum, distribuendis, vetus habetur non impressum, cujus exemplar apud me extat.—With respect to the average of merchandise thrown from vessels, and to be divided, there is an ancient statute, not in print, of which I have a remembrance.

DE averiis captis in withernamium.—Writ for taking cattle or goods in withernam.

DE averiis replegiandis.—Writ for replevyng beasts.

DE averiis retornandis.—Writ for returning the cattle.

DE avo.—Writ of ayle.

DE banco.—Of the bench.

DE bene esse.—Conditionally.

DEBET esse facta bona fide, et tempestative.—The thing should be done fairly, and seasonably.

DEBET et detinet.—He owes and detains.

DEBET sui cuique domus esse perfugium tutissimum —
“Every person's house should be his most safe refuge.”
Every man's house is his castle.

DE bien et de mal.—For good and evil.

DEBITA fundi.—Debts secured upon land.

DEBITA laicorum.—Debts of the laity.

DEBITO aut legitimo modo.—In a due or legal form.

DEBITO justitiæ.—By a debt of justice: by a claim justly established.

DEBITO modo electus.—Elected in a legal manner.

DEBITOR non præsumitur donare.—A debtor is not presumed to make a gift (to his creditor by will).

DEBITUM et contractus sunt nullius loci.—Debt and contract have no locality.

DEBITUM in præsentî.—A debt due at the present time.

DEBITUM in præsentî, solvendum in futuro.—A debt contracted (or due) at present, payable at a future day.

DEBITUM recuperatum.—A debt recovered.

DE bone memoriæ.—Of good memory.

DE bonis asportatis.—Of goods carried away.

DE bonis defuncti primo deducenda sunt ea quæ sunt necessitatis; et postea, quæ sunt utilitatis; et ultimo, quæ sunt voluntatis.—From the goods of a deceased person, those which are of necessity are first to be deducted; and afterwards those of utility, and lastly, those of bequest.

DE bonis ecclesiasticis levâri.—To be levied from the goods of the church.

DE bonis et catallis debitoris.—Of (or concerning) the debtor's goods and chattels.

DE bonis et catallis testatoris, et quæ ad manus testatoris devenirent administrand'.—Of the goods and chattels of the testator; and whatsoever came to the testator's hands to be administered.

DE bonis intestatoris.—Concerning the goods of an intestate.

DE bonis non.—Of goods not (administered).

DE bonis non administrandis.—Of goods unadministered.

DE bonis non amovendis.—A writ to prevent the removing of goods.

DE bonis propriis.—Of his own goods.

DE bonis propriis, si non, de bonis testatoris.—Of his own goods, (if he have any,) if not, of the goods of the testator.

DE bonis testatoris.—Of the goods of the testator.

DE bonis testatoris cum acciderint.—Of the testator's effects, when they come to hand.

DE bonis testatoris si, &c., et si non, tunc de bonis, propriis.—Of the testator's goods if, &c., and if not, then of his own proper goods.

DE bonis testatoris, si tantum in manibus habeant unadministrand'.—Of the goods of the testator, if they have so much in their hands unadministered.

DE bono gestu.—For his good behavior.

DEBIT reparare.—He ought to repair.

DE cætero non recedant quærentes à curia domino regis, pro eo quod tenementum transfertur de uno in alium.—From henceforth that plaintiffs do not withdraw from the court of the lord the king, because the tenement is transferred from one to another.

DE calceto reparando.—Writ for repairing a causeway.

DE capitalibus dominis feodi.—Of the chief lords of the fee.

DE capitalibus feodis.—Of the chief fees.

DE castro, villa et terris.—Concerning a castle, vill, and lands.

DE catallis reddendis.—Writ for rendering goods.

DE cartis reddendis.—Writ for re-delivering charters or deeds.

DE causis criminalibus, vel capitalibus, nemo quærat consilium quin implacitatus statim pernegat, sine omne petitione consilii. In aliis omnibus, potest, et debet uti consilio.—In criminal or capital cases that no one obtain traverse; but if arraigned, that he plead immediately, without any request for a traverse. In all other cases he may and ought to have traverse.

DE cautione admittenda.—Writ to take caution or security.

DECENVIRI.—“Ten men.” They were appointed to compose the twelve tables of the laws for the *Roman* people. *Vide note.*

DECENNARIES.—The division of persons by tens. *Vide note.*

DE certificando.—A writ for certifying.

DECET tamen principem servare leges, quibus ipse salutus est.—For it becomes the prince to keep the laws, by which he himself is preserved in security.

DE champertia.—The unlawful purchase of an interest in a thing in dispute with the object of maintaining the litigation.

DE chimino.—A writ to enforce a right of way.

DECIMÆ.—Tithes—or Tenths. *Vide note.*

DECLARA hoc dictum, “Ubi nauta munere vehendi in parte sit functus, quia tunc pro parte itineris quo merces inventæ sint vecturam deberi æquitas suadet, et pro ea rata mercedis solutio fieri debet.”—Show forth this, “That where the mariner having partly discharged his business of transporting the goods, consequently for that part of the voyage to which the merchandise has arrived, equity recommends that the freight should be paid, and for that part of the merchandise, payment ought to be made.”

DE clerico admittendo.—Writ directed to the bishop, commanding him to admit the plaintiff’s clerk.

DE clerico capto per statutum mercatorium deliberando.—Writ for delivering a clerk arrested on a statute merchant.

DE clerico infra sacros ordines constituto non eligendo in officium.—Writ directed to a bailiff, commanding him to release a person in holy orders who has been compelled to accept the office of bailiff or beadle.

DE clero.—Concerning the clergy.

DE coctoribus.—“Concerning spendthrifts.” By the *Roman* law, a certain place in the theatre was allotted to *spendthrifts*; vide *Cic. Phil.* ii. 18. The passing of this law occasioned considerable tumult, which was allayed by the eloquence of *Cicero*, the Consul; vide *Cic. Att.* ii. To this it is probable *Virgil* alludes: vide *Æn.* i. 125.

DE comitibus legatorum.—Of the courts of bequests.

DE communi consilio super negotiis quibusdam, arduis et urgentibus regem, statum, defensionem regni Angliæ, ecclesiæ Anglicanæ concernentibus.—Of the general council upon certain important and urgent concerns, relating to the king, the state, defence of the kingdom of *England* and the church of *England*.

DE comon droit.—Of common right.

DE compoto.—Of accounting.

DE concionibus.—Relating to the assemblies (or public orations).

DE confes.—Canon law in France. Such persons who died without confession were so called in former times.

DE conflictu legum.—Of the contradiction of the laws.

DE conjecturis ultimarum voluntatum.—Concerning the interpretation (or meaning) of last wills (or testaments).

DE conjunctim feoffatis.—Concerning individuals jointly seized.

DE consanguinitate.—Concerning relationship by blood.

DE consilio curiæ.—By the direction of the court.

DE consuetudine Angliæ, et super consensu regis et suorum procerum in talibus ab antiquo concessio.—According to the custom of *England*, and by the assent of the king and his nobles anciently conceded in like matters.

DE consuetudinibus et servitiis.—Concerning customs and services.

DE continuando assisam.—Writ to continue an assize.

DE contributione facienda.—Writ for making contribution.

DE contumace capiendo.—Writ for the arrest of certain vicious persons.

DE copia libelli deliberando.—A writ for delivering the copy of a libel.

DE cornes et de bouche.—“With horns and with mouth or voice.”

DE coronatore eligendo.—Concerning the election of a coroner.

DE coronatore exonerando.—Of discharging a coroner.

DE corpore comitatus.—From the body of the county.

DE corpore delicti constare oportebat ; id est, non tam fuisse aliquem in territorio isto mortuum, inventum, quam vulneratum et cæsum. Potest enim homo etiam ex alia causa subito mori.—The substantial part of the offence should be manifest; that is, not only that a person was found dead in that district, but (whether) wounded and slain. For a man may also die suddenly from some other cause.

DE corpore suo.—Of his own body.

DE corrodio habendo.—Writ to exact from a religious house a corody.

DE credulitate.—From belief.

DECRETA juris, justitia, veritate quæ funduntur.—The decisions of the law, which are founded in justice and truth.

DE cursu.—Of course.

DE custode amovendo.—Writ for removing a guardian.

DE custodia terræ, et hæredis.—Of the custody of the land, and the heir.

DE cy en avant.—From now henceforth.

DE damnis.—Concerning damages.

DE défaut de droit.—Of a defect of right. *Vide note.*

DE defensione juris.—Of defending the right.

DE defensione ripariæ.—Concerning the defence of the banks of rivers.

DE die in diem.—From day to day.

DEDI et concessi.—I have given and granted.

DEDIMUS potestatem.—We have given authority.

DE disseisina super disseisinam.—Of disseisin (or intrusion) upon intrusion ; or one intrusion upon another.

DEDITIO.—A surrender : a giving up.

De dolo malo.—Of, or founded upon fraud.

DE domo reprimando.—Writ to compel a man to repair his house when it was in danger of injuring the property of another.

De donis.—“Concerning gifts, or grants.” A statute so called.

DE donis conditionalibus.—Concerning conditional gifts.

DE dote assignanda.—Writ for assigning dower.

DE dote, unde nihil habet.—Concerning dower, in relation to which she has no interest.

DE ejectione firmæ.—Of ejection of the farm.

DE eo, quod quis post mortem fieri velit.—Concerning what which any one desired to be performed after his decease.

DE escæta.—A writ to recover land from a tenant who has died without an heir.

DE escambio monetæ.—Anciently a writ authorizing a merchant to make a bill of exchange.

DE esse in peregrinatione.—Of being on a journey.

DE essendo quietum de theolonio.—A writ of being quit of toll.

DE estoveriis habendis.—Of having estovers.

DE estrepamento.—An ancient writ to stop or prevent a waste in lands by a tenant, while a suit was pending against him to recover them.

DE et super præmissis.—Of and upon the premises.

DE excommunicate capiendo.—Of arresting an excommunicated person.

DE excommunicato deliberando.—Of discharging an excommunicated person.

DE excommunicato recipiendo.—Writ for retaking

an **excommunicated** person who had recovered his liberty without giving security to the church.

DE executione judicii.—Concerning execution of the judgment.

DE exitibus terræ.—Of the rents (or issues) of the land.

DE exoneratione sectæ.—Writ for exoneration of suit.

DE expensis militum.—“Of the expenses of knights.” The name of a writ commanding the sheriff to levy the expenses of a knight of a shire, for attendance in Parliament. His allowance was four shillings per day by statute. And there is also a similar writ called “*De expensis civium et burgensium*,” or for the expenses of the citizens and burghesses, to levy for each of these two shillings *per diem*.

DE exportatis bonis.—Concerning exported goods.

DE facto jus oritur.—The law arises from the fact.

DE falso moneta.—The name of an ancient statute ordaining that persons importing false coins should forfeit their lives and goods.

DEFEAZANCE.—A conditional undertaking to annul the effect of a bond, &c.

DEFECTUS jurisdictionis.—A want of jurisdiction.

DEFENDENS tam negligenter et improvide custodivit, et carriavit.—The defendant so negligently and carelessly kept and carried (the goods).

DE feodo.—Of fee.

DE fide et officio.—Of (his) faith (or integrity) and his office.

DE fide et officio judicis non recipitur quæstio.—“No question can be entertained as to the duty and integrity of a judge.” No presumption can be entertained against him, in the first instance; there must be strong and full proof of malversation.

DE fidei læsione.—Of breaking his faith (or fealty).

DE fidelitate.—Concerning fealty.

DE fide privata bello.—“Of private faith in war.” In case one of the hostile parties send a flag of truce to the

other, or sailors are shipwrecked; in these cases *private* faith or the law of nature must be observed.

DE fine capiendo pro terris.—Writ for a juror who had been convicted of giving a false verdict, to obtain the release of his person and property on paying to the crown a fine.

DE fine non capiendo pro pulchre placitando.—Writ forbidding the taking of fines for beau pleader.

DE fine pro redisseisina capiendo.—Writ for the release of one in prison for a re-disseisin, on paying a reasonable fine.

DE formulis et impetrationibus actionis sublatis.—As to producing the forms and petitions of the suit.

DE foro legatorum.—Of the court of bequests.

DE frangentibus prisonam.—Of those breaking prison.

DE furto.—Of theft. A criminal appeal formerly made use of in England.

DE gestu et fama.—Of behavior and reputation.

DE gratia justiciorum.—By favor of the judges.

DE hærede deliberando illi qui habet custodiam terræ.—Writ for delivering an heir to him who has wardship of the land.

DE hæretico comburendo.—Concerning the burning of a heretic.

DE homine replegiando.—Of replevying a man (out of custody).

DEHORS.—Out of: abroad.

DE hujusmodi malifactoribus, qui hujusmodi inquisitionibus sigilla sua apponant, et sicut dictum est de vicecomitibus, observetur de quolibet bailivo libertatis.—And it is also commanded the sheriffs to warn each bailiff of the liberty of those wicked persons who set their seals to such inquisitions.

DE idemplitate nominis.—Writ relating to identity of name.

DE idiota inquirendo.—Of making inquisition as to an idiot.

DEI, et sanctæ ecclesiæ.—Of God and the Holy Church.

DE iis qui ponendi sunt in assisis.—Of those who are to be put on assises.

DE incendio, ruina, naufragio, rate, (nave expugnata.)
—For the burning, loss, damage by shipwreck, for the vessel (the ship being taken by force).

DE incremento.—Of increase.

DE ingressu.—Of entry.

DE injuria sua.—Of his own wrong.

DE injuria sua propria, absque residua causa.—Of his own wrong (or injury) without any other cause.

DE injuria, vel de son tort demesne.—Of his own injury or first wrong.

DE inofficioso testamento.—Concerning an inofficious will, *i. e.* one made contrary to natural duty.

DE jactis in mare levandæ navis causa.—Concerning goods thrown into the ocean, for the object of lightening a vessel.

DE judaismo.—A statute prohibiting usury.

DE judicio sisti.—For appearance in court.

DE jure belli et pacis.—Of the law of war and peace.

DE jure communi.—Of common right.

DE jure—de facto.—“From the law : from the fact.” Sometimes an offender is guilty the moment the wrong is committed—then he may be said to be guilty “*de facto*.” In other cases he is not guilty until he be convicted *by law*, then he is guilty “*de jure*.”

DE jure et judicio feicali.—Concerning the law (or right) and trial by heraldry.

DE jure maris.—Of the maritime law.

DE jure maris, et brachiorum ejusdem.—Of the law of the sea, and its branches (arms or rivers).

DE jure naturæ cogitare per nos, atque dicere debemus. de jure populi *Romani*, quæ relicta sunt et tradita.—By the law of nature, we ought to consider and pronounce of

ourselves: by the law of the *Roman* people we should (think) of what has been left and handed down to us.

DE jure principis circa commerciorum libertatem tuendam.—Of the right of the prince as to defending the freedom of commerce.

DE la pluis beale (or belle).—An old term applied to a species of dower which was given out of the best of the husband's property.

DEL credere.—Of trust.

DELEGATA potestas non potest delegari.—A power given cannot be transferred (or assigned).

DELEGATUS non potest delegare.—A deputy cannot transfer his trust.

DE lege Rhodia de jactu.—In respect to the *Rhodian* law as to jettison (or throwing goods overboard).

DE legitimo mercatu suo.—Concerning his lawful merchandise.

DE leproso amovendo.—“As to removing a leper.” An ancient writ so called.

DE levi culpa.—As to a trifling offence (or fault).

DE libera falda.—Writ of freehold.

DELIBERANDUM est diu, quod statuendum semel.—That should be maturely considered, which can be decided but once.

DE libero tenemento.—Concerning a free tenement, or (tenure).

DE libertate probanda.—Of proving (their) freedom.

DE libertatibus allocandis.—Writ for allowing liberties.

DE licentia transfretandi.—Writ directed to the warden of a seaport, authorizing him to permit the person named in the writ to leave that port, and cross the sea upon certain conditions.

DELICTUM.—A fault, offence, or crime.

DELICTUS pro modo pœnarum, equorum, pecorumque, numero convicti mulctantur. Pars mulctæ regi, vel civi-

tati; pars ipsi qui vindicatur, vel propinquis ejus, exsolvitur.—By way of punishment for their offences, those persons who are convicted are fined in a number of horses, and other cattle. Part (of the fine) is paid to the king, or to the state, part to him who is injured, or to his relations.

Vide note to Weregild.

DE lunatico inquirendo.—A commission for inquiring whether a party be a lunatic or not.

DE magna assiza eligenda.—Of appointing the grand assize.

DE malo lecto.—Of being sick in bed.

DE malo veniendi.—Of being sick on his way.

DE malo villæ.—Of being ill in the town.

DE manucaptione.—Writ of mainprise.

[These were returns formerly made to writs when such cases occurred.]

DE mediatate.—Of a moiety.

DE mediatate linguæ.—“As to a moiety of the language.” If an alien be tried on a criminal charge, the jury are to be “*de mediatate linguæ*,” one half foreigners.

DE medio.—Writ of mesne.

DE melioribus damnis.—Of better (or greater) damages.

DEMENTIA naturalis.—Idiocy: permanent, or natural madness.

DE mercatoribus.—Relating to merchants.

DE militibus.—“Concerning knights.” A statute so called.

DE minimis non curat lex.—The law regards not mere trifles.

DE minis.—Writ to compel an offender to keep the peace, where he had threatened another with either personal violence or destruction to his property.

DE minoribus rebus principes consultant; de majoribus omnes.—Concerning minor affairs, the princes (or chieftains) consult; on important matters, all deliberate. *Vide note*

DEMISI.—I have demised (or granted).

DEMISSIO regis, vel coronæ.—The demise of the king, or the crown.

DE modo decimandi.—Of the manner of taking tithes.

DE modo procedendi contra magistrum.—As to proceeding against the master (or principal).

DE modo procedendi contra socios, scholares et discipulos, in majoribus criminibus.—As to the manner of proceeding against the fellows, scholars and learners in respect to higher offences.

DE monticollis Walliæ, duodeni legales homines, quorum sex Walli, sex Angli erunt, Anglis et Wallis jus dicunto.—Concerning the Welch inhabitants, let there be twelve lawful men (appointed) six of whom shall be Welchmen, and six Englishmen, and let them expound the law in English and Welch.

DEMORARI.—To demur.

DEMORATUR.—“He demurs: he abides.” A demurrer, whilst the law proceedings were in Latin was synonymous to a *resting place*.

DE morte antecessoris.—Of the death of the ancestor.

DE morte hominis.—Of the death of a man.

DE morum honestate servanda, et dissentionibus sedandis.—Of preserving probity of morals, and appeasing disputes.

DE mot en mot.—From word to word.

DE muliere abducta cum bonis viri.—Concerning a woman taken away with her husband's goods.

DE nativo habendo.—Writ to apprehend a fugitive villain, and restore him with all his goods to his lord.

DE nautico fœnore.—Of nautical interest, usury or bottomry.

DENIQUE, cum lex *Mosaica*, quanquam inclemens et aspera, tamen pecunia furtum, haud morte mulctavit, ne putemus Deum, in nova lege clementiæ, quâ pater imperat

filiis, majorem induisse nobis invicem sæviendi licentiam. Hæc sunt cur non licere putem, quam vero sit absurdum, atque etiam perniciosum reipublicæ furem, atque homicidam, ex æquo puniri, nemo est (opinor) qui nesciat.—Lastly, seeing that the *Mosaic* law, although rigorous and severe, punished theft, not by death, but only by a pecuniary penalty, we cannot suppose that God, in the new law of mercy, by which as a father he governs his children, has given us a greater license of severity against one another. These are (the reasons) why I do not consider it to be lawful—no man (I think) exists who does not know how truly absurd, and even injurious to the public (it must be) that a *thief* and a *murderer* should be punished in the *same* manner.

[This was the opinion of a philanthropist, expressed in very forcible language. For ages past penal laws have become less sanguinary; and to the honor of the United States, crimes only of the greatest turpitude are punished with death.]

DE non apparentibus, et non existentibus eadem est ratio.—The reason is the same respecting things which do not appear, as to those which do not exist.

[This rule is applicable, as well to the arguments of counsel, as to a jury deliberating on their verdict; and although there *may* be a very strong probability that many circumstances exist, which, if proved, would give a different complexion to the case, yet, if they are not in evidence, agreeably to the rules of testimony, it would be too much for a jury to say that they were *facts*.]

DE non capiendo.—Of not taking (or arresting).

DE non decimando.—Of not being subject to tithes.

DE non ponendis in assisis, et juratis.—Of not being liable to serve on the jury, and at the assizes.

DE notitia nummi.—Of the knowledge of pecuniary affairs.

DE novo.—Anew: afresh.

DENTER omnes decimæ primariæ ecclesiæ, ad quam

parochia pertinet.—That all tithes be given to the Mother Church, to which the parish belongs. *Vide note.*

DENT operam consules, ne quid respublica detrimenti capiat.—That the Consuls use their exertions, lest the commonwealth should be injured.

DE occupatione ferarum. Feræ igitur bestię, et volucres, et pisces, et omnia animalia, quæ mari, cœlo, et terra nascuntur simul atque ab alio capta fuerint, jure gentium statim illius esse incipiunt: quod enim ante nullius est, id naturali ratione occupanti conceditur; nec interest, feras bestias, et volucres utrum in suo fundo quis capiat, an in alieno. Plane qui alienum fundum ingreditur venandi, aut aucupandi gratia, potest a domino, si præviderit, prohiberi ne ingrediatur.—Concerning the possession of wild animals. Therefore wild beasts, and birds, and fish, and all animals existing in the sea, the air, and on the land, when they are taken by any person, become immediately, by the law of nations, his property; for that which by natural reason was no person's property, is allowed to him who first obtains it; nor is it material whether a person take wild beasts and birds on his own soil, or on that of another. It is evident that he who enters into another's land, for the purpose of hunting, or fowling, may be prevented from doing so by the owner, if he has foreseen (his intention).

DEODANDUM.—“A gift of God.” It is also a forfeiture to the king or the lord of a manor of that beast or chattel which is the cause of a person's death; and appears formerly to have been applied to pious uses and distributed in alms by the High-Almoner. *Vide 1. H. P. C. 419. Fleta, lib. 1 c. 25. Vide note.*

DE odio et atia.—Of hatred and malice.

DE officio coronatoris.—Concerning the office of the coroner.

DE omnibus oneribus ordinariis et extraordinariis necessitate rei.—Concerning all ordinary and extraordinary

burthens or expenses (arising out) of the necessity of the case.

DE omnibus quidem cognoscit, non tamen de omnibus judicat.—It certainly takes cognizance, but does not judge of all actions.

DE pace, de plagis, et roberia.—Of (breaking) the peace, injuries and robbery. *Vide note.*

DE pace, et imprisonmentis.—As to (breaking) the peace, and imprisonments.

DE pace, et legalitate tuenda.—Of keeping the peace and for good behavior.

DE pace infracta.—Of breaking the peace.

DE pannagio.—“Of food for swine;” the mast. Sometimes it means the sum paid for the mast of the forest.

DE parco fracto.—Concerning pound breach.

DE parendo mandatis ecclesiæ, in forma juris.—Of obeying the decrees (or orders) of the church in form of law.

DE parte domus.—Of part of the house.

DE parte sororum.—Of the sisters' share.

DE partitione facienda.—“Of making a division.” The name of an ancient writ directing the sheriff to make a partition of the lands.

DE pertinentiis.—Of the appurtenances.

DE pignore surrepto furti actio.—An action to recover a pledge stolen.

DE placito transgressionis.—Of a plea of trespass.

DE placito transgressionis et contemptus, contra formam statuti.—Of a plea of trespass and contempt against the form of the statute.

DE plagis et mahemio.—“Of wounds and maihems.” Maihem is the injuring a limb, or other member of the body, which would incapacitate a person in fight; and a greater punishment than for a common wound, was inflicted, by the old law, for this offence.

DE pleine age.—Of full age.

DE ponendo sigillum ad exceptionem.—Writ for putting a seal to an exception.

DE ponte reparando.—Of repairing a bridge.

DEPOPULATIO agrorum.—The depopulating (or laying waste) of fields.

DE portibus maris.—Concerning seaports.

DEPOSITUM.—“A deposit.” A thing laid down: part of the price paid by way of earnest: a simple bailment.

DE præfato Qu. hæc verba dixit.—He spoke these words concerning the said plaintiff.

DE præfato querente existente fratre suo naturali.—Of the said plaintiff being his natural brother.

DE præsentī.—Of the present time.

DE probioribus, et potentioribus comitatus sui custodes pacis.—Concerning the more worthy, and capable persons of his county (to be) keepers of the peace.

DE probioribus juratoribus.—Of a better jury.

DE proprietate probanda.—Of proving the right (to the property).

DE quadam portione decimarum.—Of a certain portion of the tithes.

DE ques en ca.—From which time until now.

DE questo suo.—Of his own acquiring.

DE quodam ignoto.—Of a certain person unknown.

DE quo jure?—By what right?

DE quo, vel quibus, tenementa prædicta tenentur ignorant.—They know not by what, or by whom the said tenements are held.

DE rationabile parte bonorem.—Of a reasonable part of the goods.

DE rationabilibus divisīs.—Writ for settling reasonable boundaries between lands belonging to individuals of different townships, where a complaint of encroachment by one of the parties had been against the other.

DE receptamento.—Of harboring.

DE recordo et processu mittendis.—Writ of *ερεορ*.

DE re coronatore.—Of the coroner's business.

DE re corporali, in personam, de propria manu, vel aliena, in alterius manum gratuita translatio.—“A free transfer of a corporeal thing, from person to person, by his own hand, or that of his attorney, into the hand (or possession) of another.”

[Alluding to the granting lands by feoffment, which was at one time the general mode of transferring real estate; and this has its peculiar advantages. In *some* cases, by the *English* law, it bars an entail.] Vide *Preston, &c.*

DE recto clauso.—Concerning (a writ) of right close.

DE recto de advocacione.—Writ of right of advowson.

DE recto de dote.—Writ of right of dower.

DE recto deficiente.—To be defective in right.

DE religiosis.—“Of religious persons.” The name of an ancient statute.

DE reparatione facienda.—Of making reparation.

DE rescussu.—A writ which lay where persons or cattle having been arrested or distrained, were recovered from those who took them.

DE retorno habendo.—Of having a return (of cattle, &c., taken in distress.)

DERIVATIVA potestas non potest esse major primitivâ.—“A delegated (or derived power) cannot be greater than the original one.” Thus, a person acting under a power of attorney, can exercise no further authority than his principal could have done had he been present.

DE salva gardia.—Writ of safe guard.

DE sa vie.—Of his or her life.

DE scaccario.—Relating to the exchequer.

DE scandalis magnatum.—“Of the defamation of great men.”

[An ancient statute so called, which enacted severe punishment on the offenders.]

DESCENDIT itaque jus, quasi ponderosum, quid cadens deorsum recta linea, et nunquam reascendit.—Therefore

a right (or title) descends, like a heavy weight, falling downwards in a direct line, and never reascends.

[This alludes to a man's dying intestate, whose grandfather or father could not succeed to the inheritance.]

DESCENDIT itaque jus quasi ponderosum quid cadens deorsum recta linea vel transversali, et nunquam reascendit ea via qua descendit: a latere tamen ascendit alicui propter defectum hæredum provenientium.—Therefore a right (or title) descends like a heavy weight falling downwards in a direct or transverse line, and never reascends in a like manner; yet collaterally it ascends to a person for want of succeeding heirs.

DESCRIPTIO personarum.—A description of persons.

DE se bene gerendo.—For his good behavior.

DE secta ad furnam, ad torale, et ad omnia alia hujusmodi.—“Concerning suit to the oven (or bake-house); to the malt-house; and to all other matters of this kind.”

[These were services often obliged to be made by certain tenants of lords of the fee, in order that the profits might augment their rents.]

DE secta et ad molendinam, quam ad illam facere debet et solet.—Concerning suit (or service) to the mill, which he owed, and was accustomed to perform there.

DE secunda superoneratione.—Concerning surcharging a second time.

DE seisina super disseisinam.—“Of a seisin upon a disseisin, (or intrusion upon intrusion.)”

[This is when a person intrudes upon land, where the tenant *himself* was trespasser.]

DE servitiis et consuetudinibus.—Of services and customs.

DE servitio regis.—Concerning the king's service.

DE scutagio habendo.—An old writ which lay against tenants to compel them to serve in the king's army, or furnish a substitute, or pay escuage, that is money.

DESIGNATIO personæ vel personarum.—A description of the person or persons.

DESIGNATIO unius personæ est exclusio alterius.—The nomination (or appointment) of one person is an exclusion of another.

DESIIT esse miles seculi, qui factus est miles Christi ; nec beneficium pertinet ad eum qui non debet gerere officium.—He ceased to be a knight (or a soldier) of this world, who was made a soldier of Christ ; nor does any benefit belong to him who was not obliged to perform a duty. *Vide note.*

DE similibus idem est judicandum.—“Of like things, (in like cases) the judgment is to be the same.”

DE sociorum qualitatibus.—Of the qualifications of the Fellows.

DE son don.—Of his gift.

DE son tort.—“Of his own wrong.” This was part of a plea very similar to *son assault demesne*.

DE son tort demesne, sans telle cause.—Of his own wrong, without such cause.

DE sormes.—From henceforth.

DESOUBS, dessous.—Under.

DESOUTH le petit seale ; ne issera desormes nul briefe que touch le comon ley.—Respecting the petit seal ; no writ or process shall henceforward be issued which concerns the common law.

DE speciali gratia.—Of special favor.

DE sturgione observetur, quod Rex illum habebit integrum : de balæna vero sufficit si Rex habeat caput, et regina caudam.—“As to the sturgeon, it may be observed that the king shall have it whole ; but of the whale it is sufficient, if the king have the head and the queen the tail.”

[The sturgeon, when chanced to be caught in the *English* rivers, belongs to the king, who gives the fisherman a fee for his trouble, often more than its value.]

DE successione apud Hebræos.—Concerning the right of succession among the Jews.

DE superonoratione forestariorum, et aliorum ministrorum forestæ; et de eorum oppressionibus populo regis illatis.—Concerning the overburthening the foresters, and other servants of the forest, and of their oppressions brought on the king's subjects.

DE sylva cædua.—“Of cuttable underwood.” *Sylva cædua*, means underwood, or wood cut at certain short periods of years; and therefore subject to tithe.

DE tallagio non concedendo.—Of refusing a talliage (or subsidy).

DE tempore cujus contrarium memoria hominum non existit.—“From time whereof the memory of man does not exist to the contrary.”

DE tempore in tempus.—From time to time.

DE termino Hilarii.—Of Hilary term.

DE termino Sancti Michaelis.—Of Michaelmas term.

DE termino Trinitatis.—Of Trinity term.

DE terra sancta.—Of the Holy land.

DE terris acquisitis, et acquirendis.—Of lands acquired, and to be acquired.

DE terris mensurandis.—Of lands to be admeasured.

DE theolonio.—Writ of toll.

DETINET.—He keeps; he detains.

DETINUIT.—He has detained.

DE transverso.—On the other side.

DETRIMENTUM quod vehendis mercibus accidit, ut fluxus vini, frumenti corruptio, mercium in tempestatibus ejectio; quia adduntur vecturæ sumptus, et necessariæ aliæ impensæ.—Which is an injury happening to the carrying of merchandise, as the leakage of wine, the spoilage of grain, or throwing out goods in a storm; because these things increase the expense of the carriage, and other necessary charges.

DE trois puissances, dont nous avons parlé, celle des

judges est en quelque facon mille.—Of the three powers of which we have spoken, that of the judiciary is in some respects the greatest.

DE ulterioribus damnis.—Of further damages.

DE ultima presentatione.—Of the last presentation (to a Church Living).

DE ultra mare.—Of (the matter) beyond sea.

DE una domo, et de uno pomario.—Of one house and one orchard.

DE una mediatate.—Of one moiety.

DE uno messuagio, sive tenemento.—Of one messuage or tenement.

DE uxore abducta, cum bonis viri.—Of the wife taken away, with the husband's property.

DEVASTAVIT.—He wasted.

DEVASTAVIT, nolens volens.—He wantonly committed waste.

DE vasto facto.—Of waste committed.

DE vasto facto, et quod vastum prædict' A. fecit.—Of waste committed, and which was done by the said A.

DE verbo in verbum.—Word for word.

DEVENIO vester homo.—“I become your man.” Part of the ancient homage.

DE ventre inspiciendo.—“Of examining the abdomen.”

[This is the name of a writ sometimes issued by the presumptive heir at law, requiring the sheriff to summon a jury of matrons, and a jury of men (twelve of each) to inquire if the widow is pregnant or not. The matrons examine the widow, and report to the male part of the jury—the inquisition is then signed by the sheriff and the twelve male jurors, and returned to the Court of Chancery.] Vide “*Ventre inspiciendo.*”

DE veritate ponunt se super patriam pro defectu sectæ, vel alterius probationis quam ad manum non habuerint.—“Of the truth of which they put themselves upon

the country for want of suit, or other proof, which they have not at hand." The words of *Bracton* when *neither* party had proof in the suit.

DE vicineto.—From the neighborhood.

DE viridi et venatione.—"Of vert and hunting." Or of the green herbage or foliage, and of hunting (deer).

DEVISAVIT vel non.—Whether he devised or not.

DE vita hominis nulla cunctatio longa est.—No delay is too long when a man's life is in jeopardy.

DE warrantia chartæ.—"Concerning the warranty of the deed (or grant)." There was formerly a writ so called.

DE advocare.—To abandon the advocacy of a cause.

DE afforest.—To discharge from the forest law.

DEALBARE.—To whiten. A term used in old English law to express the converting of base money in which rents were paid into silver (while-money).

DEBASSA.—Downwards.

DECA, decea, decha.—On this side.

DECANATUS.—A deanery.

DECANUS.—A dean. An officer having charge over ten. A term applied to civil and military officers as well as to ecclesiastical.

DECANUS friborgi.—An officer among the Saxons having supervision over a friborg or association of ten inhabitants.

DECANUS in majori ecclesiæ.—Dean of a cathedral church.

DECIES tantum.—Ten times as much.

DECOCTOR.—A term in Roman law for bankrupt, spendthrift.

DECRET absolvitor.—In Scotch law. The decree acquitting a defendant.

DECRET arbitral.—In Scotch law. The award of arbitrators.

DECURIA, or decenna.—In Saxon law. A tithing: consisting of ten freeholders and their families.

DECURIAE.—In old European law. Marks made upon trees to designate the boundary lines.

DECURIO.—A provincial senator.

DEDI et concessi.—I have given and granted. Words of conveyance made use of in old charters and deeds of grant.

DEEMSTER.—An officer in the Isle of Man who acted as judge.

DEFENSA.—In old English law. A place fenced in for deer, and defended for that peculiar use.

DESFONTAINES.—The name of the oldest law writer in France. Pierre Desfontaines published, in 1253, his work on the French law of custom.

DEFORCE.—To keep from another, unlawfully, his freehold.

DEFUER.—To run away.

DEFUSTARE.—To beat with a club.

DEGUERPYS.—Abandoned.

DEI judicium.—The judgment of God.

DEINS.—Within.

DELICT.—A misdemeanor.

DEMENS.—One who has lost his mind.

DEMESNE.—Lands which a man held of himself, and had immediate control of, as distinguished from that held of a superior lord.

DEMI-MARK.—An old English coin of the value of six shillings and eightpence.

DEMI-VILL.—One of the smallest of the ancient divisions of England, comprising only five freemen, with their families.

DEMOLLIRE.—To demolish.

DENARI.—Any kind of ready money.

DENARIUS dei.—(In old English law) God's penny. A small coin given by parties to bind a contract between them; and so called, because it was *given* to God, that is, to the church.

DENARIUS tertius comitatus.—The third part of the fines of the county courts, and which belonged to the earl as his official due.

DERCHIEF, derechief, derichefs.—Again, moreover.

DESBLEMY.—Unblemished.

DESTRUERE.—To destroy.

DETAINER.—The withholding from another the possession of his lands or goods.

DEVISAVIT vel non?—Did he devise or not?

DEXTRAM dare.—“To give the right hand:” to close a bargain.

DICA.—In old English law. Marks or notches for accounts.

DICEBATUR fregisse juramentum regis juratum.—He was said to have broken the king’s oath, (or the oath which the king had sworn to.)

DICITUR purprestura quando aliquid super dominum regem injuste occupatur ut, &c., vel viis publicis obstructis.—“It is called a purpresture when anything is unjustly held against the king, as, &c., or by obstructions in the highways.”

[The word purpresture is derived from the Fr. *pourpris*, and means anything done to the injury of the king’s demesne, or the highways, &c., by inclosures or buildings, by endeavoring to make that *private* which ought to be *public*.] Vide *Glanv., lib. 9. c. 11, i. Inst. 38. 272.*

DICOLONNA.—A term used in Italian law. It is a contract made between the owner of a vessel and the captain and sailors, that the voyage shall be for their mutual benefit. The whaling ships of New England are regulated by this species of contract.

DICUNTUR liberi.—They are called freemen.

DIE intromissionis de collectione et levatione.—On the day of entry, collection and levying.

DIEM clausit extremum.—“He closed the last day”

The name of a writ which precluded the defendant from redeeming his property.

DIES amoris.—The days of grace: the Essoin days.

DIES communis in banco.—The common (or usual) day in bank.

DIES consilii.—“The day of Imparlance;” also a day appointed to argue a demurrer.

DIES datus.—“The given day.” The day or time for the defendant or tenant’s answer.

DIES datus prece partium.—A day given at the request of the parties.

DIES Dominicus non est dies juridicus.—The Lord’s Day is not a day for legal proceedings. *Vide note.*

DIES fasti et nefasti.—“Lucky and unlucky days.”

[The *Romans* accounted certain days inauspicious, wherein no law matters were heard, nor any assemblies of the people held.] *Vide note.*

DIES fasti, in quibus licebat *Prætori* fari tria verba, “DO, DICO, ADDICO.”—Lucky (or propitious) days, in which it was lawful for the *Prætor* to speak three words, “I GIVE JUDGMENT, I PRONOUNCE THE LAW, I CONDEMN.”

DIES in banco.—“Days in bank.” Days on which the courts sit to hear motions in arrest of judgment; for new trials, &c.

DIES juridicus.—A Court Day.

DIES marchiæ.—In old English law. A day appointed by the English and Scotch to meet on the *marches* or borders to settle all disagreements and to preserve the contract of peace.

DIES non juridicus.—“Not a Court Day.” Sometimes meaning a day on which business is transacted by the Judges at Chambers.

DIETA.—A day’s journey. A day’s work.

DIEU son acte.—God’s act.

DIGNITATEM istam nacta sunt ut villis sylvis et ædibus

aliisque prædiis comparentur; quod solidiora mobilia ipsis ædibus ex destinatione patrisfamilias cohærere videantur, ex pro parte ipsarum ædium æstimentur.—They have obtained that dignity which may be imparted to villages, woods, and houses, and to other estates; but the more solid movables seem to belong to the house itself, according to the determination of the householder, and are considered as **part** of the edifice.

DILATIONES in lege sunt odiosæ.—Delays in law are odious.

DIMIDIETAS.—In old English law. One half.

DIMISI, concessi, et ad firmam tradidi.—I have demised, granted, and to farm let.

DIPTYCHA.—Tablets of metal, wood or other substances, in use among the Romans for writing purposes, and folded like a book of two leaves. They were more particularly used for public and church registers.

DISBOCATIO.—Anciently a conversion of wood lands into pastures.

DISCONTINUANCE nihil aliud quam intermittere, desenescere, interrumpere.—Discontinuance is nothing else than to intermit, to abate, to interrupt.

DISCOOPERTA.—Uncovered.

DISGAVEL.—(See *Gavelkind*.)

DISMES.—Another name for tithes.

DISPARATA non debent jungi.—Things unlike ought not to be joined.

DISPUTARE de principali iudicio non oportet; sacrilegii enim instar est, dubitare an is dignus sit quem elegerit Imperator.—It is improper to dispute the chief judgment; for it is like sacrilege to doubt his capability, whom the Emperor has chosen.

DISRATIONARE.—To prove; to establish a charge.

[Bracton employs it in this sense. Example: et quod fecit hoc—offert se disrationare versus eum;—and that he did this—he offers himself to deraign (or prove) against him.]

DISSEIZIN.—The ouster of a tenant from possession.

DISSEIZOR.—A Disseizor : an Intruder or Trespasser : one who turns the tenant out of possession.

DISTINGUE; aut merces fuerunt æstimatæ pro certa quantitate tempore contractus assecurationis, et tunc non sumus in dubio, quia dicta quantitas æstimata solvenda est; aut assecuratio fuit facta pro asportandis mercibus salvis *Roman*, et tunc æstimatio inspicienda est *Romæ*. Aut assecuratio fuit facta *simpliciter*, de solvendo æstimationem seu valorum mercium, in casu periculi, si navis perierit, et tunc inspici debet tempus obligationis; et prout tunc valebant, debet fieri æstimatio, et *sic damnum* quod assecuratus patitur in amissione rei, non *lucrum* faciendum consideratur; *lucrum* non spectatur.—Mark; either the goods were estimated at a certain quantity at the time of the assurer's contract, and in such case we are in no doubt, because the said estimated quantity is to be paid for; either the insurance was made for the carriage of goods safely to *Rome*, and then the valuation should be inquired into at *Rome*; or the assurance was made *simply* as to payment of the valuation or worth of the goods, in case of danger, if the vessel be lost, and then the time of the obligation (or contract) is to be inquired into; and as the goods may be *then* valued, the estimation should be made, and *thus the injury* which the assured suffers for the loss of the commodity, not the profit which is made, should be considered, nor regard had to the advantage (which arises).

DISTRAIN.—To bind or coerce.

DISTRICTIO.—A distress : a distraint.

DISTRINGAS.—That you distrain.

DISTRINGAS ad infinitum.—That you distrain without limit.

DISTRINGAS juratorum corpora.—That you distrain the bodies of the jurors.

DISTRINGAS nuper vice comitem.—That you distrain the late sheriff.

DISTRINGAS per acras et catalla.—That you distrain by his acres (or lands) and cattle.

DISTRINGAS tenere curiam.—That you distrain to hold the court.

DISTRINXERUNT abbatum et homines suos, &c.—They bound the Abbot and his servants (by recognizance).

DIU amisimus vera vocabula rerum.—We have a long time lost the true names of things.

DIVERSA bona et catalla ipsius querentis ibidem inventæ.—Divers goods and chattels of the plaintiff there found.

DIVERSIBILIS in semper divisibilia.—A thing divisible may be forever divided.

DIVERSIE des courtes.—The difference of the courts.

DIVERSIS diebus ac vicibus.—On several days and times.

DIVERSO intuitu.—By a retrospective view.

DIVINA providentia, Terram *Walliæ*, prius nobis jure feodali subjectam, jam in proprietatis nostræ dominium convertit, et coronam Regni Angliæ, tanquam partem corporis ejusdem, annexuit et univit.—At this period by Divine permission, he appropriated *Wales*, which before was subject to us by the law of fealty, into a seigniorship belonging to us, and as a part of our possession, and annexed it to the crown of the King of *England*.

DIVISIORES.—Persons among the *Romans*, who divided money among the people at elections, were called "*Divisiores*."

DIVISUM imperium.—A divided empire: an alternate jurisdiction.

DIVORTIUM sine causa, vel sine ulla querela.—A divorce without cause, or any complaint.

DIVUS Hardrianus rescripsit eum, qui stuprum sibi, vel suis inferentem, occidit, dimittendum.—The divine *Hadrian* discharged him who killed a person attempting to violate the chastity of himself, or any of his family.

DOARIUM.—In the early law of France signifies dower, or a widow's portion of her husband's property.

DOCTOR legum mox a doctoratu dabit operam legibus *Angliæ*; ut non sit imperitus earum legum quas habet sua patria; et differentias exteri patrique juris noscat. —A Doctor of Laws, after his degree, shall apply himself to the laws of *England*; that he be skilled in those laws, which appertain to his own country; and may know the distinction between the foreign and the national law.

DOG-DRAW.—Pursuing or *drawing* after a deer with a dog.

DOIGNE.—I give.

DOITKIN, DOTKIN, DODKIN.—A foreign coin of small value.

DOLI capax.—“Capable of mischief.” Having knowledge of right and wrong.

DOLI incapax.—Incapable of fraud.

DOLIUM.—A tun, or ton.

DOLUS.—A trick used to deceive some one.

DOLUS versatus in generalibus.—Fraud lurks in loose generalities.

DOMBEC—or Domebec.—A book of local *English* customs, &c. *Vide note.*

DOMESCHE.—Domestic.

DOMESDAY—or Domesday Book.—A Book, showing the tenures, &c., of most of the lands in *England*, in the time of *William* the Conqueror. *Vide note.*

DOMESMEN.—Persons appointed to *doom*, to pronounce judgment in differences.

DOMINA.—A lady.

DOMINICUM.—The demesne: the absolute ownership or inheritance. *Vide Allodum.*

DOMINIUM a possessione cepisse dicitur.—Right is said to have its beginning from possession.

DOMINIUM directum et absolutum.—“The direct and

absolute dominion." The Seigniorship or Lordship in the land. *Vide note to Allodium.*

DOMINIUM utile.—The beneficial ownership, or property in the land.

DOMINUS capitalis feodi, loco hæredis habetur, quoties per defectum vel delictum extinguitur sanguis tenentis.—The Chief Lord of the fee stands in the place of the heir, when the blood of the tenant becomes extinct by death or offence.

DOMINUS ligius.—Liege lord.

DOMINUS non concessit.—The Lord did not grant, or demise.

DOMINUS pro tempore.—The temporary owner.

DOMINUS rerum non apparet.—The owner of the goods does not appear.

DOMITÆ naturæ.—Of a tame nature.

DOM.' proc.'—An abbreviation of Domo Procerum. "In the House of Lords."

DOMUS conversorum.—Anciently, a house established by Henry 3d., for the benefit of converted Jews.

DOMUS mansionalis Dei.—The mansion-house of God.

DONA clandestina sunt semper suspiciosa.—"Clandestine (or private) gifts are always suspicious."

"*Timeo Danaos et dona ferentes.*"

I fear the *Greeks* with presents in their hands.

DONATIO.—A gift; a donation. *Vide note.*

DONATIO feudi.—The donation (or grant) of a fee.

DONATIO inter vivos.—A gift among living persons.

DONATIO mortis causa.—A gift in prospect of death.

DONATIONES sint stricti juris, ne quis plus donasse presumatur, quam in donatione expresserit.—"Donations are of strict right, that no one be presumed to have given more than he expressed in the gift." With respect to grants the case is different.

DONATIO perficitur possessione accipientis.—A gift is rendered complete by the possession of the receiver.

DONATIO stricta.—“A precise or peculiar gift.” One which passes no more than is plainly expressed.

DONATIO stricta et coarctata, sicut certis hæredibus, quibusdam a successione exclusis.—A donation exact and restrained respecting certain heirs, some being excluded from succession.

DONEC terræ fuerint commune.—Whilst lands were in common.

DONI rationabilis.—Of a reasonable gift.

DONUM gratuitum.—A free gift.

DORMIT aliquando jus moritur nunquam.—A right sometimes sleeps, but never dies.

DOS.—Dower: Money or other property given or settled on a marriage. *Vide note.*

Dos de dote peti non debet.—Dower ought not to be sought for out of dower.

Dos rationabilis.—A reasonable (fair) dower.

Do tali tantam terram in villâ tali, pro homagio, et servitio suo, habendum et tenendum eidem tali et hæredibus suis, de me et hæredibus meis, tantum, pro omni servitio, et consuetudine seculari, et demanda; et ego, et hæredes mei warrantizabimus, acquietabimus, et defendemus in perpetuam predictam, tali, et hæredes suos versus omnes gentes per prædictum servitium, &c.—I give to such a person so much land, in such a village, for his homage and service, to have and to hold to him and his heirs, of me and my heirs, only, for all service, worldly custom and demands; and I and my heirs will warrant, acquit, and forever defend the same estate to him and his heirs against all persons for the aforesaid service, &c.

[These were part of the words used in deeds made during the feudal system.]

DOTALITII; et trientis ex bonis mobilibus viri.—Of dower; and a third part of the husband's goods.

DOTEM non uxor marito, sed uxori maritus affert: intersunt parentes et propinqui, et munera probant.—“A wife

does not bring dower to the husband; but the husband to the wife: the parents and relations are present and approve the gifts."

[Sir *Martin Wright* informs us that "dower was probably introduced into *England* by the *Normans* as a branch of their doctrines of fiefs or tenures;" but how dower could assist the feudal system of tenures of land is a little mysterious.]

DOTEM unde nihil habet.—From which she has no dower.

Do tibi terram si *Titius* voluerit: si navis venerit ex *Asia*: si *Titius* venerit ex *Jerusalem*: si mihi decem aureos dederit: si coelum digito tetigeris.—"I give you the land if *Titius* please: if the ship arrive from *Asia*: if *Titius* come from *Jerusalem*: if he give me ten pieces of gold: if you touch the sky with your finger."

[Such words as these constituted what were called *conditional* grants: wherein the fee was in abeyance till the event happened.]

DOTISSA.—A dowager.

DOUNT.—From whence.

Do ut des, do ut facias, facio ut des, facio ut facias.—I give that you may give—I give that you may perform—I perform that you may give—I do that you may perform.

DOWER ad ostium ecclesiæ.—Anciently, a species of dower, where a man, after being affianced to his wife, endowed her with the whole or part of his lands.

DOWRY.—The property a wife brings her husband in marriage.

DOZ., dozime, dozine.—Twelve.

DRAWLATCHES.—Anciently, thieves.

DRIFT-WAY.—Path used for driving cattle.

DRINCLEAN.—Saxon word. Offerings from the tenants to provide ale, etc., for the entertainment of the lord or his steward.

DROFDENE.—From the Saxon. A grove in which cattle were kept.

DROIT d' aubaine.—The King's right of escheat of an alien's property. *Vide note.*

DROIT de bris.—In ancient times. A right which the lords living on the coast of France claimed to persons and property shipwrecked, and which were confiscated to their benefit.

DROIT des gens.—The law of nations.

DROIT—droit.—A twofold, or double right.

DROIT patent.—A patent right.

DROITURE.—Justice.

DRUNGARIUS.—A military commander.

DRY exchange.—An expression formerly in use in English law intended to conceal the act of usury.

DRY multures.—In Scotch law. A supply of corn paid to a mill, no matter whether the one who pays grind or not.

DUAS uxores eadem tempore habere non licet.—It is not lawful to have two wives at the same time.

DUCES ex virtute sumunt.—Dukes (or leaders) receive (their honors) from their virtue (or renown).

DUCES tecum.—"That you bring with you."

[A subpoena so called when the person is commanded to produce books, papers, &c., to the court and jury.]

DUCES tecum languidum.—That you bring the sick person with you.

"DULCIA defectâ modulatur carmina lingâ,
Cantator cygnus, funeris ipse sui."

"The dying swan will with his latest breath,
Chaunt sweetest strains, and sing himself to death."

DUM bene se gesserit.—As long as he conducted himself well.

DUM deliberamus quando incipiendum, incipere jam serum fit.—Whilst we consider when to begin, it is too late to act.

DUM fervet opus.—While the business is in agitation.

DUM fuit infra ætatem.—Whilst (he or she) was under age.

DUM fuit in prisona.—“While he was in prison.”

DUM fuit non compus mentis.—Whilst he (or she) was of unsound mind.

DUMMODA.—A term in ancient conveyances signifying limitation.

DUM recens fuit maleficium.—Whilst the injury was fresh.

DUM sola et casta.—Whilst she was single and chaste.

DUM sola et casta vixerit.—Whilst she may have lived chaste and unmarried.

DUM tacet, clamat.—He claims though he be silent.

DUN.—A small hill.

DUODENI legales homines, quorum, sex *Walli*, et sex *Angli* erunt; *Anglis* et *Wallis* jus dicunto.—Let twelve lawful men, of whom six shall be *Welch*, and six *English*, declare the law to the *English* and *Welch*.

DUO pene millia liborum esse conscripta, et plus quam tricentena decem millia versuum a veteribus effusa.—“It was written in nearly two thousand volumes, and diffused in more than three millions of ancient fragments.”

[*Tribonian* complained to *Justinian* of the multiplicity of law books, when directed to compose his great work on *Roman* jurisprudence, and it would appear from this extract that he had good reason.]

DUPLEX querula.—A double plea or plaint.

DUPLICEM valorem maritagii.—Double the value of the marriage. Vide *Maritagium*.

DUPONDIUS.—Two pounds.

DURANTE absentia. During absence.

DURANTE bene placito.—“During our good pleasure.

[By this tenure the *English* judges once held their seats, at the will of the Sovereign—they now hold them “*Quamdiu bene se gesserint*.”

DURANTE itinere.—During the voyage, or journey.

DURANTE minori ætate.—During minority.

DURANTE viduitate.—During widowhood.

DURANTE vita.—During life.

DURESS per minas.—Imprisonment (or compulsion) by threats.

DURSLEGI.—In ancient European law. Blows without any blood or wounds, otherwise called *dry blows*.

DUSCENS.—From the French. Two hundred.

DUSKES a chou qe.—Until that.

DUZ.—One who leads.

DY.—Just.

DYENT.—They say.

DYSNOMY.—The making of bad laws.

NOTES TO D.

DARE JUDICIUM.—The manner and circumstances of giving judgment among the Romans were peculiar. The pleadings being ended, (*causa utrinque perorata*,) judgment was given after mid-day, according to the law of the Twelve Tables, although only one of the parties might be in court. Vide *Gell.* xvii. 2. If there were any difficulty in the case the judge sometimes took time to consider it, *diem diffindi*, i. e. *differrî jussit, ut amplius deliberaret*, i. e. he commanded it to be postponed, that he might more particularly deliberate. If, after all, he remained uncertain, he said (*dixit v. juravit*, i. e. he said or swore) "*Mihi non liquet*," i. e. I am not clear. Vide *Gell.* xiv. 2. And thus the affair was either left undetermined, (*injudicata*,) or the cause was again resumed, (*secunda actio instituta est*,) i. e. a second action was commenced. *Cic. Cæcin.* 2. If there were several judges, judgment was given according to the opinion of the majority; but it is said to have been necessary that they should be all present. If their opinions were equal, it was left to the *Prætor* to determine. The judge commonly retired, (*cessit*,) with his assessors, to deliberate on the case, and pronounced judgment according to their opinion, *ex consilii sententia*, i. e. by sentence agreeably to the opinion. *Plin. Ep.* v. et vi.

The sentence was variously expressed: in an action for freedom thus, "*videri hunc hominem liberum*," i. e. it appears to me that this man is free: in an action for injuries, "*videri jure fecisse, vel non fecisse*," i. e. it appears to have been done lawfully, or unlawfully: in an action of contract, if the cause was given in the plaintiff's favor, "*Titium Seio centum CONDEMNO*," i. e. I adjudge *Titius* (to pay) one hundred (asses) to *Seius*; if in favor of the defendant, "*Secundum illum litem DO*," i. e. I pronounce for the defendant. *Val. Max.* ii. 8, 2.

DECEMVIRI.—The laws of *Rome*, as of all other ancient nations, were, at first, very few and simple. Vide *Tac. Ann.* iii. 26. As luxury and wealth increased, penal laws multiplied. It has been remarked that among the

citizens of a refined community, penal laws which are in the hands of the rich, are too apt to be laid on the poor; and as nations grow in years, they seem to acquire the moroseness of old age. The depraved will continually discover new modes of evading every law, and thus the multiplication of laws produces new vices, and new vices call for fresh restraints: it were to be wished, that instead of contriving new laws to punish vice; instead of drawing hard the cords of society till a convulsion comes to burst them; instead of converting correction into vengeance, that legislators would always endeavor to make laws the protector, and not the tyrant of the people. By the extension of education and morality, we should then find that many thousands of miserable souls, at present the subject of the law's vengeance, only wanted the hands of the refiner, and that many a youth, cut off in the spring of life, might, by the laws of prevention, have become a useful member of society. Experience has incontestably proved that early morals and education prevent more crimes than the ingenuity of man can devise. These reflections may not appear misplaced if we consider the many oppressions exercised by the Roman magistrates under the sanction of multiplied penal laws, which, in fact, are getting into fashion with us, and some of them restrict the amusements of the community, often when they are harmless and inoffensive; and youth being deprived of these, are led into secret vices and follies.

It is supposed that there was not for some time at Rome any written law, (*nihil scripti juris*;) differences were determined by the pleasure of the kings, (*regum arbitrio*;) according to the principles of natural equity, (*ex æquo et bono*;) i. e. agreeably to what is right and just. *Senec. Ep. 90.* And their decisions were held as laws. *Dion. x.* The kings used to publish their commands either by placing them up in public, or on a white wall or tablet, (*in album relata proponere in publico*;) i. e. placed in a public situation and reported on a tablet or white wall, *Liv. i. 32*, or by a herald. *Ib. 44.* Hence, they were said *omnia manu gubernare*, i. e. to govern all things at their pleasure. *Pompon. lib. 2, § 3, &c.* The king, however, in everything of importance, consulted the senate, and likewise the people. Hence we read of the "*Leges curiatae*," i. e. the court laws, of Romulus and of the other kings, which were also called "*Leges regia*," i. e. royal laws. *Liv. vi.* But the chief legislator was *Servius Tullius*, *Tac. Ann. iii. 26*, all of whose laws, however, were abolished at once, (*uno edicto sublatae*;) i. e. removed by one act, by *Tarquinius Superbus*. Vide *Dionys. iv. 43.* After the expulsion of *Tarquin*, the institutions of the kings were observed, not as written laws, but as customs, (*tangquam mores majorum*;) i. e. according to the customs of their ancestors; and the *Consuls* determined most causes, as the kings had done, according to their pleasure. But justice being thus extremely uncertain, as depending upon the will of an individual, (*in unius voluntate positum*;) i. e. placed in the power of a single person, *Cic. Fam. xi. 26.* *C. Trementius Arsa*, a tribune of the Commons, proposed to the people that a body of laws should be drawn up, to which all should be obliged to conform, (*quo omnes uti deberent*;) i. e. which all should use. But this was violently opposed by the *Patricians*, in whom the whole judiciary power was vested; and to whom the knowledge of the few laws which then existed were confined. *Liv. iii. 9.* At last, however, it was determined, *A. U. 299*, by a decree of the senate, and by the order of the people, that three ambassadors should be sent to *Athens* to copy the famous laws of *Solon*; and to examine the customs, institutions and laws of the other states of Greece. *Liv. iii. 31.* *Plin. Ep. viii. 24.* Upon their return, ten men (*Decemviri*) were created from the *Patricians*, with supreme power, and without the liberty of appeal, to draw up a body of laws, (*legibus scribendis*;) all the other magistrates having first abdicated their office. *Liv. iii. 32, 33.* The *Decemviri* at first behaved with great moderation. They administered justice to the people, each, every tenth day. The twelve fasces were carried

before him who was to preside; and his nine colleagues were attended by a single officer called "*Accensus*," *Liv.* iii. 33. They proposed ten tables of the laws, which were ratified by the people at the *Comitia Centuriata*. In composing them they are said to have used the assistance of one *Hermodorus*, an *Ephesian* exile, who served them as an interpreter. *Cic. Tusc.* v. 36. As two other tables seemed to be wanting, the *Decemviri* were again created for another year, to make them. But these new magistrates acting tyrannically, and wishing to retain their command beyond the legal time, were at last forced to resign, chiefly on account of the base passion of *Appius Claudius*, one of their number, for *Virginia*, a virgin of Plebeian rank, who was slain by her father to prevent her falling into the *Decemvir's* hands. A most affecting tragedy has been written on this subject. The *Decemviri* all perished, either in prison, or in banishment.

The Law of the Twelve Tables (called *leges duodecim tabularum*) continued ever after to be the rule and foundation of public and private right, through the Roman world. "*Fons universi publici privatiq; juris*," i. e. the fountain of general, public, and private right. *Finis æqui juris*, i. e. the end of equal right (or law). *Tac. Ann.* They were engraven on brass, and fixed up in public, (*Leges decemvirales quibus talibus duodecim est nomen, in æs incisas in publico proposuerunt, sc. consules*;) i. e. the decemviral laws, such as are called the Twelve Tables, are engraven on brass and placed in public like counsellors. *Liv.* iii. 57. And even in the time of *Cicero*, the noble youth who used to apply to the study of jurisprudence, were obliged to get them by heart, as a necessary rhyme, (*tanquam carmen necessarium*;) *vid. Cic. de leg.* ii. 23—not that they were written in verse, as some have thought: for any set form of words, even in prose, was called "*Carmen*." *Liv.* i. 24, or "*Carmen compositum*."

It may not be irrelevant here to mention a few of the laws of the Twelve Tables: those students who wish further information are referred to the invaluable Commentaries of Chancellor *Kent*.

By the Twelve Tables the husband was allowed, with the consent of his wife's relations, to put her to death when taken in adultery or drunkenness. A pecuniary fine of three hundred pounds of brass was the punishment for dislocating a bone; and twenty-five asses of brass for a common blow with the fist. One *Lucius Neratius*, when *Rome* became rich, amused himself by striking persons in the street, and then ordering his servant who followed him with a bag of money, to pay the person assaulted.

It was declared that slanderers by words or verses should be beaten with a club. *Horace* wittily alludes to this law somewhere in his admirable poems.

The *Prætor* was to decide cases promptly by *day light*; and, if the accuser wanted witnesses, he was allowed to go before his adversary's house, and repeat his demand for *three days* together by loud out-cry.

The *Romans* had power of life and death over their children; and the right to kill a child immediately, who was born deformed; but if the father neglected to teach his son a trade, he was not obliged to maintain his father—nor was an illegitimate child bound to support the father.

Guardians and Patrons who acted fraudulently in their trusts were fined and held odious. *Fragments* of the Twelve Tables have been collected from various authors, many of them from *Cicero*, and, as they are frequently referred to by *Roman* authors, it is thought proper to subjoin some of them. They were very briefly expressed: thus,

SI IN JUS VOCET, ATQUE, (i. e. *statim*) EAT. If he summon you to court, go immediately.

SI MEMBRUM RUPSIT (*ruperit*) NI CUM EO PACIT (*paciatur*) TALIO ESTO. If a person break a limb, unless he make satisfaction, let there be a retaliation (i. e. limb for limb).

SI FALSUM TESTIMONIUM DICASSIT (*dixerit*) SAXO DEJICITOR. If a person

give false testimony, let him be thrown from the Rock. (Meaning the Tarpeian Rock.)

PRIVILEGIA NE IRROGANTO (*sc. magistratus*). Do not arrogate to yourself the rights of magistracy.

DE CAPITIS (*de vitâ libertate, et jure*) CIVIS ROMANI, NISI PER MAXIMUM CENTURIATUM (*per comitia centuriata*) NE FERUNT. Concerning things capital (of life, liberty and law) of a Roman citizen, nothing shall be done except by the great assembly of the Comitia Centuriata.

QUOD POSTREMUM POPULUS JUSSIT, ID JUS RATUM ESTO. That which the people enacted last, let that be accounted the law.

HOMINEM MORTUUM IN URBE NE SEPELITO, NEVE URITO. Do not bury nor burn a dead body in the city.

AD DIVOS ADEUNTO CASTE: PIETATEM ADHIBENTO, OPES AMOVENTO. QUI SECUS FAXIT, DEUS IPSE VINDEXT ERIT. Go before the Gods devoutly (or with purity), not considering thy riches. He who acts contrary, God himself will be the avenger.

FERIIS JURGIA AMOVENTO. EX PATRIIS RITIBUS OPTIMA COLUNTO. Refrain from lawsuits on the holidays. Let them follow the most excellent examples (found) in the customs of their country.

PERJURII PENA DIVINA, EXITIUM; HUMANA, DEDECUS. The divine punishment of perjury is destruction; the human punishment is disgrace.

IMPIUS, NE AUDETO PLACARE DONIS IRAM DEORUM. Let not the impious man dare to appease the wrath of the Gods with offerings.

Several authors have endeavored to collect and arrange the fragments of the Twelve Tables. Of these the most eminent is *Jacobus Gothofredus*. According to his account, the first table is supposed to have treated of *lawsuits*. The second of *thefts and robberies*. The third of *loans* and the right of *creditors* over their *debtors*. The fourth of the right of *fathers of families*. The fifth of *inheritance and guardianship*. The sixth of *property and possession*. The seventh of *trespasses and damages*. The eighth of *estates in the country*. The ninth of the *common rights of the people*. The tenth of *funerals*, and *all ceremonies* relating to the dead. The eleventh of the worship of the Gods, and of *religion*. The twelfth of *marriages* and the rights of *husbands*.

Several ancient lawyers are said to have commented on these laws, vide *Cic. de legg. ii. 23.*—*Plin. xiv. 13.* but their works are lost.

After the publication of the Twelve Tables, every one understood what was his right, but did not know the way to obtain it; for this they depended on the assistance of their *patrons*. The origin of lawyers at *Rome* was derived from the institution of patronage; it was one of the offices of a *patron* to explain the law to his clients, and to manage their lawsuits. Hence, a wealthy and generous *Roman* took on himself a very considerable trouble, and was often waited upon by his clients at unreasonable times. *Horace* alludes to this in one of his elegant compositions.

See Sat i. on this subject, part of which *Francis* has translated as follows:

When early clients thunder at the gate,
The barrister applauds the rustic's fate;
While, by subpoenas dragged from home, the clown
Thinks the supremely happy dwell in town.

DECENNARIES.—In the reign of *Alfred*, the constitution of England appears to have undergone a considerable change; the kingdom being reduced into one regular and gradual subordination of government: one man was answerable to his immediate superior, not only for his own conduct, but for that of his neighbors: the people were classed in *Decennaries*, who were reciprocally the pledges and conservators of each other. What was called a *Hundred* appears to have consisted of ten of these *Decennaries*, and a county composed an indefinite number of these *Hundreds*. Such a legislation was a wise step for the prevention of crime.

DECIMÆ.—Tithes: from the *Sax.* "Toetha," i. e. *Tenth*.—Some law books define tithes to be an ecclesiastical inheritance, or property of the church, collateral to the estate of the lands thereof. But in others, they are more fully defined to be a certain part of the fruit of the lawful increase of the earth, beast and man's labor, which, by law, hath been given to ministers of the gospel in recompense of their attending their office. Vide 11 *Rep.* 13.—*Dyer*, 84.

Bishop *Barlow*, *Selden*, *Father Paul*, and others, have observed that neither tithes nor ecclesiastical benefices were ever heard of for many ages in the Christian Church, or pretended to be due to the Christian priesthood; and as that bishop affirms, no mention is made of tithes in the Grand Code of Canons (ending in the year 451), which is reputed to be a most authentic work; and that it thereby appears that during all that time both churches and churchmen were maintained by free gifts and oblations only. Vide *Barlow's Remains*, 169. *Selden on Tithes*, 82; and *Watson's complete Incumbent*.

Selden contends that tithes were not introduced into *England* till towards the end of the eighth century, i. e. about the year 786, when parishes and ecclesiastical benefices came to be settled; for it is said that tithes and ecclesiastical benefices being correlative, the one could not exist without the other; for when an ecclesiastical person had any tithes granted out of certain lands, this naturally constituted the benefice: the granting of the tithes of such a manor, or parish, being, in fact, a grant of the benefice, as the grant of the benefice did imply a grant of the tithes; and thus the relation between patrons and incumbents was nearly analagous to that of lord and tenant by the feudal law.

About the year 794, *Offa*, king of *Mercia*, (the most potent of all the *Saxon* kings then in *Britain*;) made a law whereby he gave unto the church the tithes of all his kingdom; which the historians tell us was done as an expiation for the death of *Ethelbert*, king of the *East Angles*, whom, in the year preceding, he had basely caused to be murdered. But that tithes were before paid in *England* by way of offerings, according to the ancient usage and decrees of the church, appear from the canons of *Egbert*, Archbishop of *York*, about the year 750, and from an epistle of *Boniface*, Archbishop of *Metz*, which he wrote to *Cuthbert*, Archbishop of *Canterbury*, about the same time; and from the seventeenth Canon of the General Council, held for the whole kingdom, at *Chalcuth*, in the year 787. But this law of *Offa* was that which first gave the church a civil right to the tithes in *England*, by way of property and inheritance; and enabled the clergy to gather and receive them as their legal dues by the coercion of the civil power: yet this establishment of *Offa* reached no farther than the kingdoms of *Mercia* (over which *Offa* reigned), and *Northumberland*, until *Ethelwolf*, about sixty years after, enlarged it for the whole kingdom of *England*. Vide *Prideaux on Tithes*, 166, 167. The reader will observe that those persons entitled to benefices and tithes, insist that they claim by a title as ancient as almost any of the Nobles' or Commoners' title to their estates. And they contend that it is as independently good and valid—that very many laymen have purchased tithes and advowsons in "market overt" as they would any other property at sale, and paid, perhaps, twenty-five or thirty years' purchase for them; and that, consequently, any statute, tending to injure their rights, would be most iniquitous and arbitrary. They further allege that tithes bear not so heavily on the public, as most persons on first consideration are apt to imagine; because lands which have formerly been exonerated from tithes (having been purchased from religious houses or monasteries), cannot be now purchased except for a much larger sum than is paid for those estates which are titheable; they further contend that if tithes were altogether abolished, and some other provision made for the clergy, and to compensate those who have bona fide laid out their money in the purchase of advowsons, &c., that the

public, *in general*, would not be materially benefited, as the great landed proprietors would *then* lay on additional rents for their lands, and the commercial and manufacturing part of the community would be unfairly taxed to pay a remuneration to the tithe proprietors.

DE DEFAUTE DE DROIT.—This was the name of an ancient appeal brought on account of the refusal of justice. According to the maxim of the feudal law, if a baron had not as many vassals as enabled him to try by his peers, the parties who offered to plead in his court; or if he delayed, or refused to proceed in the trial, the cause might be carried by appeal to the court of the superior lord of whom the baron held, and tried there. Vide *De l'Esprit des Loix*, liv. xxviii. c. 28. *Du Cange* voc. *Defectus Justitiæ*. The number of peers or assessors in the courts of barons was frequently very considerable. It appears from a criminal trial in the Court of the *Viscount de Lautree*, A. D. 1299, that upwards of two hundred persons were present, and assisted at the trial, and voted in passing judgment. *Hist. de Langued.*, par D. D. de Vic. et Vaisette, tom. iv. *Preuves*, p. 114. But as the right of jurisdiction had been usurped by many inconsiderable barons, they were often unable to hold courts. Hence arose one of the reasons for the appeal, *De defaute de droit*.

DE MINORIBUS REBUS, &c.—If we consider that the ancient tribes who overran the Roman Empire lived in an abject state, under their chiefs, we are much mistaken. It is not improbable that when the honor of a tribe was concerned, the commands of a chief were willingly obeyed—but when an expedition of any magnitude was proposed, or law about to be made, a general council was held, in which they all deliberated; the vestige of this may be seen in the *Wittenagemot* of the ancient Saxons—and there was, probably, among those nations, whom we are too apt to call “Barbarians,” a greater degree of liberty than it is reasonable to suppose could have existed among nations almost totally destitute of literary acquirements.

DENTUR OMNES, &c.—It appears that when the Popish clergy had such an unbounded power in *England*, Laymen sometimes paid their tithes to churches *out* of the jurisdiction in which they resided; sometimes that a greater number of masses might be sung for their souls; at other times from private favor. This practice some of the principal prelates endeavored to abolish; and ordained that tithes, tenths and offerings should be paid to a church *near* the residence of the person paying them.

DEODANDUM.—The Deodand seems to have been *originally* designed as an expiation for the sins of such as were snatched away by *sudden* death; and for that purpose, it is probable was intended to have been given to “*Holy Church*,” in the same manner as the apparel of a stranger, who was formerly found dead, was applied to purchase masses, *pro anima salute*, for the welfare of his soul. And this may account for that rule of law that no Deodand is due where an *infant*, under age of discretion, is killed by a fall from a cart, horse or the like, *not being in motion*, whereas if an adult person fall from thence, and be killed, the thing is certainly forfeited, (vide 3 *Inst.* 57, 1 *H. P. Cor.* 422,) such infant being presumed incapable of actual sin, and therefore not needing a Deodand to purchase propitiatory masses, 1 *Comm.* 300. But if an ox, horse, or other animal, of his *own* motion, kill an infant, or an adult, or a cart run over him, they shall be forfeited as a Deodand; which is grounded upon this additional reason, that such misfortunes are, in fact, to be attributed to the *negligence* of the owners, and therefore they are properly punished by the forfeiture. *Bract.*, lib. 3, c. 5. Where a thing not in motion is the occasion of a person's death, *that part* only which is the *immediate* cause is forfeited: as if a man be climbing up the wheel of a cart,

and is killed by falling from it, the *wheel alone* is a Deodand. 1 *H. P. c.* 422. But where the thing is in motion, *all things* which move with it, and tend to make the wound more dangerous, are forfeited. *Hawk. P. C. c.* 26. No Deodands, however, are to be paid for accidents arising on the *high seas*; but if a person fall from a ship, or boat in *fresh water*, and be drowned, it hath been said that the vessel and cargo shall be *Deodands*. Vide 3 *Inst.* 58. 1 *H. P. C. c.* 423. Juries, however, *greatly* mitigate these oppressive forfeitures under the old law; and usually find some trifling thing, as *part* of the entire thing, the cause of the death.

DE PACE, DE PLAGIS, ET DE ROBERIA.—Mention is frequently made by historians of the Robberies and Murders committed in the middle ages. It appears from a letter of *Lupus*, abbot of *Ferrieres*, in the ninth century, that it was necessary for travellers to form themselves into companies, or caravans, that they might be safe from the assaults of robbers. Vide *Bouquet Recueil des Hist.*, vol. vii. p. 515. The numerous regulations, published by *Charles the Bald*, in the same century, discover the frequency of these disorders; and such acts of violence were become so *common*, that by many they were scarcely considered criminal; for this reason the inferior judges, called *Centenarii*, were required to take an oath, that they would not commit any robbery *themselves*, nor protect such as were guilty of that crime. Vide *Capitul. Edit. Baluz.*, vol. ii. p. 63, 68. The historians of the ninth and tenth centuries give pathetic descriptions of these disorders. Some remarkable passages are collected by *Matt. Jo. Becho Rer Meceleb.*, lib. 8, 603. Indeed, they became so frequent and audacious, that the civil magistrate was unable to suppress them. The ecclesiastical jurisdiction was called in to assist. Councils were held with great solemnity; the bodies of the Saints were brought thither, and in the presence of their sacred reliques, *Anathemas* were denounced against *Robbers* and other violators of the public peace. One of these forms of excommunication, issued A. D. 988, is still preserved. After the usual introduction, and mentioning the outrage which gave occasion to the *Anathema*, it runs thus. "*Obtenebrescant oculi vestri; arescant manus, quæ rapuerunt; debilitentur omnia membra, quæ adjuverunt. Semper laboretis, nec requiem inveniatis fructuque vestri laboris privemini. Formidetis et paveatis, a facie persequentis, et non persequentis hostis, ut tabescendo deficiatis. Sit portio vestra cum Juda traditore Domini, in terra mortis, et tenebrarum; donec corda vestra ad satisfactionem plenam convertantur. Ne cessant a vobis hæc maledictiones, scelerum vestrorum persecutrices, quamdiu permanebitis in peccato pervasionis. Amen. Fiat. Fiat.*" Vide *Bouquet Recueil des Hist.*, tom. 10, p. 517, *i. e.* "May your eyes be blinded, your hands withered, which committed the plunder: may all your members which assisted you become enfeebled: may you always labor and find no rest, and may you be despoiled of the fruit of your toil. May you fear and be in dismay before the face of the pursuing foe, and when no man hunteth after you; so that wasting may consume you. Let your portion be with *Judas*, the betrayer of our Lord, in the land of death and darkness, until your hearts be converted to make a full restitution. May these curses never depart from you, but follow as avengers of your crimes as long as you shall remain in the commission of your sins. Amen. So be it. So be it."

DESIT ESSE MILES SECVLI, &c.—When so many Barons and great Proprietors of Estates entered upon the Crusades, or Holy War, as it was termed, they enjoyed several immunities on that account. 1st. They were exempted from prosecution on account of *Debts*, during the time they were engaged in the holy service. Vide *Du Cange voc.* "*Crucis privilegium.*" 2dly. They were exempted from paying *Interest* for the money which they had borrowed, in order to fit them out for the sacred warfare. *Ibid.* 3dly.

They were exempted, either entirely, or during a certain time, from the payment of their *Taxes*. 4thly. They might alienate their *Lands*, without the consent of the superior Lord from whom they held. 5thly. Their *persons and effects* were taken under the protection of *St. Peter*, and Anathemas of the Church were denounced against all who should molest them, or carry on any quarrel, or hostility against them, during their absence, on account of the holy war. They enjoyed all the *Privileges* of Ecclesiastics, (being considered "*Milites Christi*," or soldiers of Christ;) and were not bound to plead in any *civil court*; but were declared subject to the *spiritual jurisdiction* alone. Vide *Du Cange—Ordon. des rois, tom. 1, pp. 34, 174, 7*. They also obtained a *plenary remission* of all their sins; and the gates of heaven were set open to them, without requiring any other proof of their penitence than by their engaging in this expedition. When we read this, we cannot refrain from deploring how far it is possible for superstition and fanaticism to triumph over reason and justice.

DIES DOMINICUS, &c.—It appears that, anciently, courts of justice sat on *Sundays*. Vide *Burrows, 3d vol. and Tidd, 44*. Sir *Henry Spelman* says "The Christians, at first, used all days alike for hearing of causes, not sparing, as it seemeth, *Sunday* itself." Possibly they had, at that time, two reasons for it, one was in opposition to the *Jews and Heathen*, who were superstitious about observing days and times, conceiving some to be ominous and unlucky, and others to be fortunate; and therefore *it is said* that the early Christians were more remiss in the observance of *Sunday* than is commonly supposed. A second reason probably was, that by keeping their own courts *always open*, to prevent Christian Suitors resorting to Heathen Courts of Judicature.

But in the year 517 a Canon was made. "*Quod nullus Episcopus, vel infra positus, die Dominico causas judicare presumat,*" i. e. that no bishop or any under him should presume to try causes on the Lord's Day. And the canon for exempting *Sundays* was ratified in the time of *Theodosius*, who fortified it with an imperial constitution. "*Solis Die (quem dominicum recte dixerunt majores) omnium omnino litium et negotiorum quiescat intentio,*" i. e. that on the Lord's Day, (which the Elders rightly call Sunday,) it was his wish that all law suits and business should entirely cease. Vid. *Capit. Car. et Ludov.*

There are likewise several other canons taken notice of in *Spelman's* origin of terms. One of them was in the council of *Tilbury* about the year 895. "*Nullus comes, nullusque omnino secularis, diebus dominicis, vel sanctorum in festis, seu quadragessimæ aut jejuniarum, placitum habere, sed nec populum illo presunal coercere,*" i. e. that no Earl or other secular person shall presume on Sundays or on the feast days of Saints, or on the *Quadragessima* days, or on fast days, to hold pleas, nor to force persons for that purpose to come to him. Another of them was made in the council of *Erfurd*, in the year 932, and afterwards became general, upon being taken into the body of the canon law, by *Gratian*. "*Placita secularia dominices vel alijis festis diebus, seu etiam in quibus legitima jejunia celebrantur secundum canonicam institutionem minime fieri volumus,*" i. e. we ordain that, on no account, any secular pleas be held on the Lord's Days, or on any other days, in which the lawful fasts be celebrated agreeably to canonical institution. It goes on and appoints vacations; but these were enlarged by the council of *St. Medard*. "*Decrevit sancta synodus, ut a quadragessima usque ad octavam Epiphaniæ, necnon in jejuniis quatuor temporum, et in litiis majoribus, et in diebus Dominicis et in diebus rogationum (nisi de concordia et pacificatione) nullus supra sacra Evangelia jurare presumat,*" i. e. "The Holy Synod has decreed that from *Quadragessima* to the octave of the *Epiphany*, and also in the four times of the fasts, and in the greater *Litanies*, and on the Lord's days, and on *Rogation* days, (unless of consent and concord,) no one

presume to swear upon the Holy Evangelists." By which expression is meant, that no causes should be tried or pleas holden on these days. These Canons were received and adopted by the *Saxon* Kings.

DIES FASTI ET NEFASTI.—The *Pontifex Maximus* and his college had the care of regulating the year, and the public calendars (*Suet. Jul. 40, &c.*) called "*Fasti kalendares*," because the days of each month, from kalends to kalends, or from the beginning to the end, were marked in them through the whole year, and what days were "*fasti*," and what "*nefasti*," &c., vid. *Festus*. The knowledge of which was confined to the *Pontifices* and *Patricians*, *Liv. iv. 3*, till *C. Flavius* divulged them (*fastos circa forum in albo proposuit*.) *Liv. ix. 46*. In the *fasti* of each year were also marked the names of all the magistrates, particularly of the *Consuls*. A list of the *Consuls* engraved on marble, in the time of *Constantius*, son of *Constantine* (as it is thought), and found accidentally by some person digging in the *Forum* in 1545, is called "*Fasti consulares*," or the "*Capitoline Marbles*," because beautified, and placed in the *Capitol* by Cardinal *Alexander Farnese*. In later times it became customary to add, on particular days, after the name of the Festival, some remarkable occurrence. Thus, on the "*Lupercalia*," it was marked (*adscriptum est*) that "*Antony* had offered the crown to *Cæsar*." To have one's name thus marked in the "*Fasti*," was reckoned the highest honor. *Cic. Ep. ad Brut. 15. Ovid. Fast. i. 9*, (whence, probably, the origin of canonization in the Church of *Rome*; and possibly of inserting the names of eminent men in the *Almanacs*.) It was the greatest disgrace to have one's name erased from the *Fasti*—*Cic. Sext. 14, &c.*

DOM-BEC, or DOME-BOOK. *Liber judicialis*.—This was a book composed under the direction of *Alfred*, for the general use of the whole kingdom of *England*, containing the local customs of the provinces of the kingdom. This book is said to have been extant so late as the reign of *Edward* the Fourth; but is now lost. It probably contained the principal maxims of the common law; the penalties for misdemeanors; and the forms of judicial proceedings. This much, at least, may be said from the injunction to preserve it in the laws of *Edward* the Elder son of *Alfred*, c. 1.

DOMESDAY, or DOMESDAY BOOK.—This is a most ancient record, frequently referred to in the law books, made in the time of *William* the First, called the Conqueror, and now, or lately, remaining in the *Chapter House*, at *Westminster*, where it may be consulted; it is fair and legible, consisting of two volumes, a greater and a lesser; the greater containing a survey of all the lands in *England*, except the counties of *Northumberland*, *Cumberland*, *Westmoreland*, *Durham*, and part of *Lancashire*, which are said to have been never surveyed, and excepting *Essex*, *Suffolk*, and *Norfolk*, which three last are comprehended in the lesser volume. There is also a *third* book, which differs from the others in form, more than matter, made by command of the same King; the design of these books was to serve as a *register*, by which sentence might be given in the tenure of estates; and from which the noted question whether lands are held in *ancient demesne* or not, is still decided. It was begun in the year 1081, but not completed till 1087. For the execution of this great survey, some of the *King's Barons* were sent as *Commissioners* into the country; and juries summoned in the hundreds where the lands were situated, out of all orders of freemen, from *Barons* down to the lowest *Farmers*, who were sworn to inform the *Commissioners* what was the *name* of each manor; who held it in the time of *Edward* the Confessor; and who held it then; how many *hides* of land; how much *wood*; and how much *pasture land* it contained; how many *ploughs* were in the *demesne* part of it; and how many in the *tenanted* part; how many *mills*; how many *fish-ponds*, or *fisheries* belonged to it; what had been add-

ed to it, or taken away from it; what was the value of the whole together in the time of King *Edward*, and when granted by *William*; what at the time of the survey; and whether it might be improved or advanced in its value. They were likewise required to mention the *tenants of every degree*; and how much of them each *held*, at that time, and what was the number of the slaves. Nay, they were even required to return a particular account of the *live stock* on each manor. These inquisitions, or verdicts, were first methodized in the country, and afterwards sent up into the King's Exchequer. The lesser *Domesday Book*, containing the originals so returned from the counties of *Essex*, *Norfolk* and *Suffolk*, includes the *live stock*. The greater book was compiled by the officers of the Exchequer, from the other returns, with more brevity, and a total omission of this article, which gave much offence to the people; probably, because they apprehended that the *designs* of the King in requiring such an account, was to make it a foundation for some new imposition; and the apprehension seems to have extended itself to the *whole* survey at that time. But whatever jealousy it might have excited it certainly was a work of very great labor and was of considerable benefit to the public; the knowledge that it imparted to the government of the state of the kingdom, being a most necessary ground work for the many improvements in relation to agriculture, trade, and the increase of the population in different parts of the country; as well as a rule to proceed by in the levying of taxes. It was also of no small utility for the ascertaining of the right to property; and for the speedy decision, and prevention of law suits. In this light it is considered by the author of the dialogue "*De Scaccario*," as the perfection of good policy, and royal care for the advantage of the realm, and done to the intent that every man should be satisfied with his own right, and not usurp with impunity what belonged to another. He likewise adds that it was called, "*Domesday Book*," by the *English*, because a sentence arising from the evidence therein contained, could no more be appealed from, or eluded, than the final *Doom* of the Day of Judgment. This book was formerly kept under three different locks and keys; one in the custody of the *Treasurer*, and the others in the keeping of the two *Chamberlains* of the *Exchequer*. Sir *Henry Spelman* calls this book, "if not the most ancient, yet, without controversy, the most valuable monument of literature in *Great Britain*." Reference is made so frequently to this book, by the ancient law writers, that it is considered that a particular description of it would not only be entertaining but instructive. Vide *Spelman in verb. "Domesdei," et Ree's Encyclopædia*, vol. 12. A fine copy is in the State Library, at Albany, N. Y., and may be inspected on applying to John Tillinghast, Esq., the polite Librarian at the Capitol.

DONATIO.—Donations among the *Romans*, which were made for some cause, were called "*Munera*," as from some client, or freedman to his patron, on occasion of a birth or marriage, *Ter. Phorm. i.* Things given *without* any obligation were called "*Dona*;" but it seems these words are often confounded. At first, presents were rarely given among the *Romans*; but afterwards, upon the increase of luxury, they became more frequent and costly. Clients and freedmen sent presents to their patrons; (*Plin. Ep. v. 14*;) slaves to their masters; citizens to the Emperors and magistrates; friends and relations to one another; and that on various occasions, particularly on the *Kalends of January*, called *Strenæ*; at the feasts of *Saturn*; and at public entertainments, (*Apothoreta*;) to guests, (*Xenia*;) on birth days, at marriages, &c. *Plin. et Mart. passim.*

DOS.—Some idea may be had of the wealth of the *Flemish* and *Italian* commercial states in the middle ages. The Duke of *Brabant* contracted his daughter to the Black Prince, son of *Edward* the Third, A. D. 1339, and gave her a portion, which we may reckon of the value of three hundred

thousand pounds sterling. Vide *Rymer's Fœdera*, vol. v. 113. John Galeazzo Visconte, Duke of Milan, concluded a treaty of marriage between his daughter and *Lionel*, Duke of *Clarence*, Edward's third son, A. D. 1367, and granted him a portion, now equal to two hundred thousand pounds sterling.

DROIT DE AUBAINE.—In many places, during the middle ages, a stranger dying, could not dispose of his effects by will; and all his real as well as personal estate fell to the King, or to the Lord of the Barony, to the exclusion of his natural heirs.

This practice of confiscating the effects of strangers upon their death, was very ancient. It is mentioned, though very obscurely, in a law of *Charlemagne*, A. D. 813. Not only persons, who were born in a foreign country, were subject to the *Droit de Aubaine*, but in some other countries, such as removed from *one* diocese to *another*, or from the lands of one Baron to those of another. Vide *Brussel* vol. ii. p. 947, 949. It is hardly possible to conceive any law more unfavorable to the intercourse between nations. Something similar, however, may be found in the ancient laws of every kingdom in *Europe*. As nations advanced in improvement, this cruel practice was gradually abolished.

E.

EADEM auctoritate.—By the same authority.

EADEM curia apud Westmonasterium adtuncta tentata existente.—At the same court then holden and being at *Westminster*.

EADEM persona cum defuncto.—The same person as the deceased.

EA est in re prava pervicacia, ipsi fidem vocant.—That which is obstinacy in a depraved matter, they call honor.

EALDERMANN.—Elder man. Sax.

EANE.—Water.

EA sunt animadvertenda peccata maxime, quæ difficilime præcaventur.—Those crimes are to be particularly punished, which are with difficulty guarded against.

EAT inde quietus.—“That he go thence discharged.”

EAT inde sine die.—“That he go thence without day:”
i. e. that he be discharged:

EAT sine die.—Let him go without day (or be discharged).

EBEREMORD.—Sax. Manifest murder.

ECCE modo mirum, quod fœmina fert breve regis, non nominando virum conjunctim robore legis.—What new thing is this, that a woman brings the King's writ, without her husband being joined (therein) according to law!

ECCLESIA decimas non solvit eeclesiæ.—“The church does not pay tithes to herself.” Thus, where lands have been granted by religious houses to laymen, tithes are not payable. These lands are called “*tithe free.*”

ECCLESIE de feudo domini regis non possunt in perpetuum dari, absque assensu, et consensione ejus.—The churches which belong to the King in fee, cannot be disposed of in perpetuity, without his assent and concurrence

ECCLESIA non moritur.—The church does not die.

ECDICUS.—Gr. The attorney of a corporation.

E CONSENSU patris.—By the father's consent.

E CONVERSO.—On the other hand; on the contrary.

E CONTRARIO parte.—On the other hand.

E DEBITO justitiæ.—By a debt of justice.

E DELICTO.—From (or by) the crime, or offence.

EDICTA magistratum, constitutio principis.—The ordinance of the magistracy (or civil government) is the constitution (or decree) of the Emperor.

EES.—Bees.

EFFORCER.—To aid or assist.

EFFRACTORES.—Burglars.

EFFUSIO sanguinus.—The shedding of blood.

EGO, *Stephanus Dei gratia, assensu cleri et populi, in regem Anglorum electus, &c.*—I, *Stephen*, by the grace of God, and by the consent of the clergy and people, elected to the realm of *England*.

EGREDIENS et exeuns.—Going out of the land.

EIA or EY.—Sax. An island.

EIGNE.—The first born. Sometimes *Eisne* or *Aisne*.

EI incumbit probatio qui dicit, non qui negat; cum per rerum naturam factum negantis probatio nulla sit.—The proof lies upon him who accuses, not on him who denies,

as in the nature of things. the fact of the denial is no proof.

EIK.—-Scotch. An addition.

Ei legitur in hæc verba.—And it is read in these words.

EINECIA. Esnecia.—The right of the first born.

EINS ces que.—Inasmuch as.

EIRE, Eyre, Eyer.—The journey which the justices itinerant anciently made from one place to another to administer justice.

EJECTIONE de gardino.—In ejectment for a garden.

EJECTIONE firmæ.—“In trespass for a farm:” trespass in ejectment.

EJECTIONE firmæ n'est que un action de trespass en sa nature, et le pleyntife ne recouvrera son terme que est à venir, nient plus que en trespass l'homme recouvrera les dommages pur trespass nient fait, mes a fesser; mes il convient a suer par action de covenant al comon ley a recouvrer son terme; quod tota curia concessit. Et per *Belknap*, la comon ley est lou homme est ouste de son terme par estranger il avera ejectione firmæ versus cestuy que luy ouste; et sil soit ouste par son lessor, brieve de covenant; et sil par lessee ou grantée de reversion brieve de covenant versus son lessor, et countera especial count, &c.—Ejectment of farm is only an action of trespass in its nature; and the plaintiff shall not recover his term, which is to come, any more than in trespass a man shall recover damages for a trespass not committed, but to be committed; but then he must sue by action of covenant at the common law to recover his term: which the whole court agreed to. And according to *Belknap*, the common law is, that where a man is ejected of his term by a stranger, he shall have ejectment of farm (or an action of trespass) against him who ejected him; and if he be ousted by his lessor, (he shall have) a writ of covenant; and if by the lessee or grantee of the reversion, (he shall have) his writ of cove-

nant against his lessor; and he shall count a special count, &c.

EJECTMENT de garde.—Ejectment of ward.

EJURARE.—To abjure.

EJUSDEM generis.—Of the same kind (or nature).

ELEEMOSYNARIUM.—An almoner.

ELEGIT.—“He has chosen.” A judicial writ directed to the sheriff, empowering him to seize one moiety of the defendant’s lands for damages recovered.

ELEMENTA juris civili.—The elements of the civil law.

ELEMENTA juris privata *Germanici*.—The private elements of the *German* law.

ELIDERE.—To defeat the pleading of an opponent.

ELIGENDI, nominandi et appunctuandi.—Elected, nominated, and appointed.

ELIGUNTUR in conciliis et principes, qui jura per pagos, vicosque reddunt: centeni singuli, ex plebe comites, consilium simul et auctoritas adsunt.—And the principal persons (or chiefs) who declare the law in the districts and villages, are chosen in the councils: the hundredors are present at these (meetings) as Counts for the people, to advise, and also to authorize.

ELISORS.—“Chosen persons.” Those appointed by the court to try a challenge.

ELOIGNED.—To remove afar off.

ELONGAVIT.—He has eloigned.

EMANARE.—To issue.

EMANCIPATIO et adoptio.—Emancipation and adoption.

Vide note.

EMBRACERY.—The attempting to corrupt a jury.

EMENDALS.—An old word used in accounts to signify so much in bank; to supply emergencies.

EMENDATIO.—The correction of an error. *Vide note*

EMENDATIO panis et cerevisiæ.—The assizing of bread and beer.

E MERA gratia.—From mere favor.

EMPHYTEUSIS.—A lease by which houses or lands are given to be possessed for a long period, upon condition that the land shall be *improved*, and a small yearly rent paid to the proprietor.

EMPTIONES, vel acquisitiones suas, det cui magis velit. Terram autem quam ei parentes dederunt non mittat extra cognationem suam.—A person may give his purchased or acquired property to whom he please. But the land given him by his parents, he cannot dispose of that to the exclusion of his kindred.

[This was the law of *England* for many years, until commerce and the general diffusion of learning made way for an alteration in this respect.]

EMPTIONIS, venditionis contractæ argumentum.—The proof of a purchase and sale being made.

EMPTIO sub corona.—A purchase made under a crown (chaplet or garland). *Vide note.*

EMPTOR emit quam minimo potest; venditor vendit quam maximo potest.—A purchaser buys as low as he can; a vender sells for as much as he is able.

EN affrayer de la pees.—A breach of the peace.

EN autre droit.—In another's right.

EN ce cas le ley entend le propreté de bestes en moy.—In this case the law intends the ownership of the game to be in me.

EN cest court de Chauncerie, home ne serra prejudice par son mispleading ou per default de forme, mes solonque le veryte del mater; car il droit agarder solonque consciens, et nemi ex rigore juris.—In this Court of Chancery no man shall be prejudiced for his mispleading, or for default of form; but according to the truth of the matter; for it ought to be decided by conscience, and not by the rigor of the law. *Vide note.*

ENCHESON.—Cause; reason.

ENDITER.—To indict.

EN especes au cours de se jour.—In the coin or currency of the present day.

ENFEOFF.—To give or convey a fee or fief.

ENGETTER.—To eject.

ENGLECERY.—The fact of being an Englishman.

ENGYN.—Fraud; deceit.

ENTIA pars.—The part of the eldest

ENKE.—Ink.

EN la defence sont iij choses entendantz: pertant quil defende tort et force, home doyt entendre quil se excuse de tort luy surmys per counte; et fait se partie al ple; et per tant quil defende les dommages, il affirm le parte able destre respondu; et per tant quil defende ou et quant il devera, il accepte la poiar de court de counustre, ou trier lour ple.—In a defence, these three things are understood: if he defends the injury and force, a man ought to consider that he excuses himself of the wrongs imputed to him by the count, and makes himself a party to the plea; and if he defends the damages, he admits that the party is able to answer; and if he defends when and where he ought, he acknowledges the power of the court to acknowledge, or try the plea.

ENLARGER l' estate.—To enlarge the estate, or interest.

EN le per.—In the post.

EN pleyn vie.—In full life.

EN poigne.—In hand.

EN primes.—In the first place.

ENPROUER.—To improve.

ENS.—Existence.

ENSEMENT.—Likewise.

ENSENSES.—Instructed.

ENSIENT per A.—Pregnant by A.

ENSY, ensi.—Thus; so.

ENTENCION.—A plaintiff's declaration.

ENTERLESSE.—Omitted

ENTRE.—Entrv.

ENTREBAT.—An interloper.

ENTRELIGNURE.—Interlining.

ENURE.—To take effect.

ENVEER.—To send.

EN ventre sa mere.—In the womb.

Eo instanti.—At this instant; immediately.

Eo intuito.—With that view (or intent).

Eo ligamine quo ligatur.—By that tie by which he (or it) is bound.

Eo maxime præstandum est, ne dubium reddatur jus domini, et vetustate temporis obscuretur.—That is principally to appear, lest the right of the lord be rendered doubtful and obscured by the antiquity of time.

Eo nomine et numero.—Under that name and number (or amount).

Eo quod desiit esse miles seculi qui factus est miles Christi: nec beneficium pertinet ad eum qui non debet gerere officium.—Because he declined to be a soldier of this world who was made a champion of Christ; nor should he receive any advantage who ought not to do the duty.

Eo quod tenens in faciendis servitiis per biennium jam cessavit.—Because the tenant has ceased to perform service for two years.

EORUM enim merces non possunt videri servandæ, navi jactæ esse, quæ periit.—For their goods cannot be understood to be preserved, which were thrown out of the vessel, which was lost.

Eos qui negligenter ignem apud se habuerint, fustibus, vel flagellis cædi.—That those who negligently carry fire with them, be beaten with clubs or sticks.

Eos qui opibus valebant multos habuisse devotos quos secum ducerunt in bello, soldurios sua lingua nuncupatos, quorum hæc est conditio, ut omnibus invita commodis una cum his fruantur, quorum se amicitiae dederint, si quid iis per vim accedat, aut eundem casum, una ferant, aut sibi

mortem consiscant.—That those who were rich had many devoted to them, whom they took with them to the war, called in their own language, soldiers, whose condition was such, that they could enjoy all advantages in life, in company with those to whom they had pledged their friendship; and that if anything happened to them from violence, or any other cause, that they might suffer together, even if it led to their death.

EOTH.—The *Saxon* word for an oath.

EPISCOPI, sicut cæteri barones, debent interesse judiciis cum baronibus, quosque præveniantur ad diminutionem membrorum vel ad mortem.—The Bishops, as well as the other barons, ought to be present at judgment with the Lords, unless prevented on account of loss of limb or death. *Vide note.*

EQUES.—A Knight. *Vide note.*

EQUITAS sequitur legem.—Equity follows the law.

EQUITES aurati.—Knights with gilt spurs.

EQUITES Garterii.—Knights of the order of the Garter. *Vide note.*

ERANT in Angliæ quodammodo tot reges, vel potius tyranni, quot domini castellorum.—There were in *England*, in a certain degree, as many kings or rather tyrants, as lords of castles. *Vide note.*

ERANT omnia communia, et indivisa omnibus, veluti unum cunctis patrimonium esset.—All things were common and undivided to all, as if it were one inheritance for the whole.

ERAT autem hæc inter utrosque officiorum vicissitudo, ut clientes ad colocandas senatorum filias de suo conferrent; in æris alieni dissolutionem gratuitam pecuniam darent; et ab hostibus in bella captos redimerent.—For there was this interchange of (good) offices between them, that the clients should contribute from their property, to portion the daughters of the senators: that they would give a voluntary sum for the payment of their debts: and

redeem captives from the enemy when taken in war. *Vide note.*

ERCISCERE.—To divide.

E RE nata.—Arising from that business.

ERGO ita existimo hanc rem manifeste pertinere ad eversionem juris nostri, ac ideo non esse magistratus hæc obligatos é jure gentium ejusmodi nuptias agnoscere, et ratas habere. Multoque magis statuendum est eos contra jus gentium facere videri, qui civibus alieni imperii sua facilitate jus patriis legibus contrarium scienter violenter imperiunt.—Therefore I consider that this thing clearly tends to the overthrow of our law, and on that account the magistrates are not to acknowledge by the law of nations the obligations of such marriages, and to confirm them. And much more is it to be resolved, that those who appear to do these things, act contrary to the law of nations, as knowingly and rashly bestowing (marriage ceremonies) with such facility on the citizens of another dominion, contrary to the laws of their own country.

ERIACH.—In Irish law, the pecuniary satisfaction which a murderer was obliged to make to the friends of the murdered.

ERIGIMUS.—We erect.

ERROR fucatus nuda veritate in multis est probabilior; et sæpenumero rationibus vincit veritatem error.—Error artfully disguised is, in many cases, more probable than naked truth; and frequently error overwhelms truth by its show of reasons.

ERROR qui non resistitur approbatur.—An error which is not resisted, is approved.

ERUDITUS in lege.—“Learned in the law.” A counsel.

ESBRANCATURA.—A cutting off the branches of trees.

ESCÆTA.—An escheat.

ESCAMBIUM.—Exchange.

ESCHAPER.—To escape.

ESCHEAT.—The reverting of lands to the state upon the death of the owner without heirs. *American law. Kent's Commentaries.*

ESCHIER.—To fall to.

ESCHUER.—To eschew.

ESCOTER.—To pay.

ESCRIE.—Notorious.

ESCROW.—A deed or writing left with another, to be delivered on the performance of something specified.

ESCU.—A shield or buckler.

ESCUAGE.—“Scutage—Knight’s service.” One of the ancient tenures of land.

ESKIPPAMENTUM.—In old English law, tackle of ships.

ESKIPPER.—To ship.

ESLISOR.—Elector.

ESPLEES.—Full profits of land.

ESSART.—Woodland turned to tillage.

ESSE optime constitutam rempublicam, quæ ex tribus generibus illis, regali, optimo, et populari, sit modice confusa.

—That government is best constituted, which is moderately blended with these three general things, the regal, aristocratic, and the democratic (orders).

ESSENDI quietum de theolonio.—A writ of exemption from toll.

ESSOINER.—To excuse.

ESSOINDAY.—The first general day of the term when the courts anciently sat to receive *essoins* or excuses, for parties not present, who had been summoned to appear.

EST autem magna assiza regale quoddam beneficium, clementia principis, de concilio procerum, populis indultum; quo vitæ hominum, et status integritatis tam salubriter consulitur, ut, retinendo quod quis possidet in libero tenemento suo, duelli casum declinare possint homines ambiguum. Ac per hoc continget, insperatæ et prematuræ mortis ultimum evadere supplicium, vel saltem perennis infamiae opprobrium illius infesti et inverecundi *verbi*, quod

in ore victi turpiter sonat consecutivum. Ex equitate item maxima prodita est legalis ista institutio. Jus enim, quod post multas et longas dilationes vix evincitur per duellum, per beneficium istius constitutionis commodius et acceleratius expeditur.—“For the great assize is a certain royal benefit granted to the people by the clemency of the prince, with the advice of the great men; by which the lives of persons, and the state of their condition, are so wholesomely consulted, that, retaining what each possesses in his own freehold, men may decline the doubtful chance of single combat. And in this manner it happens that they may avoid the ultimate punishment of an unexpected and premature death; or, at least, the disgrace of the enduring reproach of that odious and shameful *word*, which sounds dishonorably upon the lips of the vanquished. Therefore, from the greatest equity was that legal institution framed. For the right, which, after many long delays, could scarcely be shown by single combat, by the benefit of this institution, is more advantageously and speedily decided.”

[The author of this extract is here speaking of the horrible trial of the right to land, by *Single Combat*, the particulars of which are found in *Black. Comm.* The odious word above referred to, which the vanquished uttered, was “*Craven*,” upon which it was decided that he had lost his cause. The word *Craven* is even now used in many parts of *England*, and means “*a Coward*.”] *Vide note.*

EST boni judicis ampliare jurisdictionem.—It is the part of a good judge to extend the jurisdiction.

EST enim ad vindicanda furta nimis atrox, nec tamen ad refrenanda sufficiens; quippe neque furtum simplex tam ingens facinus est, ut capite debeat plecti; neque ulla pœna est tanta, ut ab latrociniiis cohibeat eos qui nullam aliam artem quærendi victus habent.—(The law) is certainly too severe in punishing thefts, nor yet is it sufficient to restrain them, for surely a simple theft is not so heinous an

offence as to merit a capital punishment ; nor is any punishment so great that it can restrain those persons from committing robberies, who have no other mode of seeking a livelihood.

ESTENDRE.—To extend.

ESTENTE.—Extent.

ESTERLING, STERLING.—English silver penny.

ESTOPPEL.—“ A stop :” a preventive plea.

ESTOVERIA ædificandi, ardendi, arandi, et claudendi.—Estovers for building, burning, ploughing, and for inclosing.

ESTOVERS.—Wood cut from a farm by the tenant, which by the common law he has a right to use on the estate for necessary purposes.

EST quidem alia præstatio, quæ nominatur *Herietum* ; ubi tenens, liber, vel servus, in morte sua, dominum suum, de quo tenuerit respicit, de meliori averio suo, vel de secundo meliori, secundem diversum locorum consuetudinem. Magis fit de gratia, quam de jure.—“ There is, however, another service, called *Herriot* service, where the tenant (whether) a freeman or vassal, considers that on his decease, the lord of whom he holds is entitled to the best beast, or the second best, according to the custom of different places. It is done more out of favor than of right.”

[These Herriots are due, in many places in *England*, and are now generally compounded for by a pecuniary fine.]

ESTREITE.—Straitened.

ESTREPAMENTUM.—Injury done by a tenant for life upon lands or woods.

EST senatori necessarium novi rempublicam ; isque late patet ; genus hoc omne scientiæ, diligentiæ, memoriæ est : sine quo paratus esse senator nullo pacto potest.—It is necessary for a senator to be acquainted with the constitution ; and this is a knowledge of an extensive nature ; one of science, diligence and reflection, without which a senator cannot possibly be fit for his office. *Vide note.*

ET ad ea quæ frequentius occurrunt.—And respecting those things which more frequently happen.

ET adhuc detinet.—And he still retains.

ET ad omnia al' statut' contra decoctor' edit, et sic idem *Johannes et Eleanora*, vigore stat' prædict' parliament' diet' dom' Reginæ nunc edit', dicunt quod causa action' prædict' accrevit præfat' *Miles*, antequam idem *Johannes Williams* devenit decoctor'; et hoc parat' sunt verificare; unde pet' jud' si prædict' *Miles* action', &c.—And against all the other statutes made against bankrupts, and therefore the same *John* and *Eleanor* by force of the aforesaid statutes now passed in the said Parliament of our said lady the Queen, say that the cause of the said action accrued to the aforesaid *Miles*, before the said *John Williams* became a bankrupt; and this they are ready to prove, wherefore they pray judgment of the said *Miles* (should maintain) his action, &c.

ET alii non venerunt, ideo respectuentur.—And the others do not appear, therefore they are respited.

ET cum duo jura in una persona concurr', æquam est ac si essent in diversis.—And when two rights blend together in one person, this is equitable, although they were (derived) from several sources.

ET curia consentiente.—And the court agreeing.

ET damna, et quicquid quod ipse defendere debet, et dicit, &c.—And the damages, and whatever he should defend, and says, &c.

ET de hoc ponit se super patriam.—And of this he puts himself upon the country.

ET de jure hospitalis.—And concerning the law of the hospital.

ET dona claud' sunt semp' suspiciosa.—And private gifts are always suspicious.

ET ego, et hæredes mei, &c., warrantizabimus.—And I, and my heirs, &c., will warrant. *Vide note.*

ET ejectione firmæ.—And in ejectment of farm.

ET fuit dit que le contraire avait estre fait devant ces heures.—And it was said that the contrary had been done in former times.

ET gist tous temps deins l'an et jour.—And it always lies within a year and a day.

ET hæredibus de carne sua.—And to the heirs of her body.

ET hæredibus eorum communibus (vel) hæredibus ipsius uxoris tantum.—And to their general heirs (or) to the heirs of the wife only.

ET hoc paratus est verificare per recordum.—“And this he is ready to verify by the record.”

[This was part of an ancient plea, where in support thereof the defendant appealed to the record.]

ET hoc petit quod inquiratur per patriam.—And this he prays may be inquired of by the country.

ET hoc sequitur.—And this follows.

ETIAM consentientibus.—Likewise to those who agree.

ETIAMSI ad illa, personæ consueverint, et debuerint per electionem, aut quem vis alium modum, assumi.—Although as to those matters, persons had been used, and ought to take them by election, or (by) some other mode.

ET ideo dicuntur liberi.—And therefore they are called (or declared to be) freemen.

ET impotentia excusat legem.—“And inability excuses (or avoids) the law.”

[Thus, if a man enter into a bond that a ship shall sail to the *East Indies* on a specified day, and the ship be destroyed before that day by lightning, &c., the bond is void; *et sic de similibus.*]

ET inde producit sectam.—And thereupon he produces suit.

ET in majore summa continetur minus.—And in the greater sum the less is included.

ET issint.—And so.

ET legitimo modo acquietatus.—And in a legal manner discharged.

ET lex plus laudatur, quando ratione probatur.—And law is the more praiseworthy when it is approved by reason.

ET modo ad hunc diem venit.—And in this manner he came to the day (or to the end).

ET non alibi.—And in no other place.

ET omnes comites et barones *una voce* responderunt “Quod nolunt leges *Angliæ* mutare, quæ hucusque usitatæ sunt et approbatæ.”—And all the Earls and Barons *unanimously* shouted “That they would not change the laws of *England*, which heretofore have been used and approved.”

ET personaliter, libere, et debito modo resignavit.—And he resigned in person, freely, and in due manner (or form).

ET petit iudicium de narratione illa et quod narratio illa cassetur.—And he prays judgment of that declaration (or count), and that the same may be quashed.

ET petunt iudicium de breve, et quod breve illud cassetur.—And they crave judgment concerning the writ, and that the same may be quashed.

ET prædictos cives a tempore prædicti mandati Regis eis directi majoribus districtionibus graverunt, &c.—From the time of the said command of the King to them directed, they burthened the said citizens with heavy fines (or distresses).

ET prædictus *A. B.* similiter.—“And the said *A. B.* (doth) the like.

ET prædictus quærens in propria persona sua, venit, et dicit, quod ipse placitum suum præd' versus præd' defenden, ulterius prosequi non vult; sed ab inde omnino se retrahit.—And the said plaintiff in his proper person comes and says, that he will not farther prosecute his said suit

against the said defendant; but from thence has altogether withdrawn himself.

ET probat *Johannes de Evia*, &c., quod hoc extendet in casu, quo merces fuerint deperditæ, una cum navi, et certa pars ipsarum mercium postea salvata et recuperata; tunc naulum deberi pro rata mercium, recuperatarum, et pro rata itineris usque ad locum, in quo casus adversus acciderat, fundat, &c.—And *John of Evia* proves that this extends to a case in which the goods were lost, together with the vessel, and that a certain part of these goods were subsequently recovered and saved; then he proves that the freight is due, according to the proportion of the goods recovered, and the proportion of the journey (made) towards the place where the accident happened, &c.

ET quia, per veredictum juratorum, invenitur quod prædictus *Robertus* non habuit accessum ad prædictam *Beretricem* per unam mensem ante mortem suam, per quod *magis* præsumitur contra prædictum *Henricum*.—And because, by the verdict of the jury it is found that the said *Robert* had no access to the said *Beretrice* for one month prior to her death, by which it is the *more* fully presumed against the said *Henry*.

ET quia prædictus *Johannes* cognoscit dictam literam per se scriptam *Roberto de Ferrers*, &c.—And because the said *John* knows that the said letter written by him to *Roberto de Ferrers*, &c.

ET quod hujusmodi deputatus, &c.—And for which purpose he was deputed, &c.

ET quod non habet principium, non habet finem.—And what hath not a beginning, hath no end.

ET regali dignitate coronæ regni *Angliæ* perpetuis temporibus annexa, unita, et incorporata.—And by the royal dignity, at all times, annexed to the crown, and the kingdom of *England*, sole and incorporate.

ET respondere debet quousque, &c.—And that he should answer until, &c.

ET sciendum quod possessionum, quædam nuda pedum positio, quæ dicitur intrusio, et dicitur nuda, eo quod non vallatur aliquo vestimento, et minimum habet possessionis, et omnino nihil juris, et in parte habet naturam disseisinæ, et in quibusdam sunt dissimiles; quia ubicunque est disseisina ibi quodammoda est intrusio, quantum ad dissertorem, sed non e 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.—And be it known, that as to possessions, some being a (mere) naked foothold, which is called an intrusion, and said to be naked, because it is not clothed with any investiture, and has the least (kind) of possession, and altogether devoid of right, and has in part the nature of a disseisin, though in certain respects, dissimilar; because wherever there is a disseisin, there is, after a certain manner, an intrusion, so far as relates to the disseisor; but not on the contrary, for wherever there is an intrusion, there is no disseisin, on account of the vacant possession. And in either case, the possession is naked, until, by time, and a peaceable possession, an investiture be acquired.

ET scire feci *W. H.* filio hæredi predict' *M.* le Cognizor. —And I have warned *W. H.* the son and heir of the aforesaid *M.* the Cognizor.

ET semble.—And it seems.

ET sequitur aliquando pœna capitalis; aliquando perpetuum exilium, cum omnium bonorum ademptione.—And sometimes a capital punishment follows; sometimes perpetual exile, with confiscation of all the goods.

ET sic de similibus.—And so of the like (matters).

ET sic ultra.—And so on the other part: or on the contrary.

ET sic vide que livery dun fait dun enfant nest simple al livery de terre ou biens per luy.—And thus see that the delivery, which a person makes on the part of an in-

fant, is not a simple delivery of lands or goods made by himself.

Et si forte exceperint, quod non tenentur, sine brevi originali, responderere.—And if by chance they be taken, that they are not bound to answer without an original writ.

Et si homo prist certain aubres, et puis el fait boards de eux, uncore le owner port eux reprendre; quia major pars substantiæ remanet.—And if a man takes certain trees, and converts them into boards, the owner may take them again, because the principal part of the substance remains.

Et si la nef etoit preste au fair voyage, elle ne doit pout demeurrer pour ley; et s'il querit, il doit avoir son 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.—And if the vessel be ready to proceed on the voyage, she should not wait for him; and if he require he should have all his wages paid him, after deducting the expenses, if the master has been put to any; and if he die, his wife and children should receive them instead of him.

Et si navis in causa prædicta mutaverit iter, vel cepit secundum viagium; vel convenit asportare alias merces in alium locum; vel alias assecurationes fecerit pro dicto secundo viagio, tunc in casibus prædictis assecutores pro primo viagio amplius non tenentur. Ita probat.—And if a ship, in the case before mentioned, shall have changed her voyage; or taken a second voyage; or agreed to carry other goods to another place; or made other insurances for the said second voyage, then, in the cases aforesaid, the assurers for the first voyage are no longer bound.—So it is proved.

ETSI non prosunt singula, juncta juvant.—Although individually the effect is wanting, yet collectively it is powerful.

ET si super totum, &c.—And if upon the whole, &c.

ET stet nomen universitatis.—And the name of the corporation may stand.

ET suis, post ipsum, jure hæreditario perpetue possidendum.—And to them, after his decease, to be forever possessed by hereditary right.

ET, traditio libro, legit ut clericus.—“The book being delivered him, he reads like a clerk (or clergyman).”

[This was a test formerly used when a criminal claimed the benefit of clergy, the book was delivered him, and if he could read in it, he was entitled to the privilege of clergy.]

ET ubi eadem est ratio, idem est jus.—And where the same is reason it is also law.

EUANGELIES.—The evangelists.

EUM qui noscentum infamat, non est æquum et bonum ob eam rem condemnari; delicta enim nocentium nota esse oportet et expedit.—It is not just and right, on that account, to condemn him who slanders a bad man; for it is proper and expedient that the delinquencies of wicked men should be exposed.

EUNDO, redeundo, et morando.—In going, returning, and staying.

EVERWYK.—York.

EVESCHE.—Diocese. EVESQUE.—A bishop.

EVICTUM perpetuum.—A perpetual eviction; or ouster of possession.

EVIDENTISSIMIS probationibus ostenditur testatorem multiplicasse legatum voluisse.—By the most evident proofs it was shown that the testator was desirous to increase the legacy.

EW.—Marriage. EWBRICE.—Marriage breach. *Sax.*

EWA.—Law. Old German and Saxon law.

EWAGE.—Toll paid for water passage.

EWE.—Water.

EX abundantia cautela.—From great (or abundant) caution.

EX abusu non arguitur ad usum.—No argument can be drawn from the abuse (of a thing) against its use.

EXADONIARE.—To manumit.

EX æquo et bono.—In justice and honesty.

EX antecedentibus et consequentibus fit optima interpretatio.—By what precedes and follows the surest interpretation is obtained.

EX arbitrio judicis.—At the will of the judge.

EX assensu omnium tenentium.—By the consent of all the tenants.

EX assensu patris.—With the father's consent.

EX assensu suo.—Of his own accord (or assent).

EXCADENTLÆ.—Escheats.

EX causa furtiva.—From a secret cause.

EX causa metus.—On account of fear.

EXCEPTA dignitate regali.—Saving the royal dignity.

EXCEPTIO ad breve prosternendum.—A plea in abatement.

EXCEPTIO doli mali.—A plea of fraud.

EXCEPTIO ejusdem rei cujus petitur dissolutio.—An exception of the same thing which is sought to be dissolved.

EXCEPTIO jurisjurandi.—An exception, or plea of oath.

EXCEPTIO probat regulam.—The exception proves the rule.

EXCEPTIO rei adjudicatæ.—An exception to the matter adjudged.

EXCEPTIO rei venditæ et traditæ.—A plea that the article claimed was sold and delivered to the defendant.

EXCEPTIO semper ultima ponenda est.—The exception is always to be placed the last.

EXCEPTIO pecuniæ non numeratæ.—An exception of money not paid.

EXCEPTIS viris religiosis.—Clergymen excepted.

EXCEPTO eo solo quod damno fatali, aut vi majore,

veluti naufragio, aut piratarum injuria perisse constat.—That only excepted, which by an irremediable loss, or by a greater fury, as by shipwreck, or injury received from pirates, is destroyed.

EX certa scientia, et mero motu.—From positive knowledge (or information), and from mere will (or pleasure).

EXCESSUS in jure reprobatur.—Excess in the law is condemned.

EXCLUSA.—A sluice for carrying off water.

EXCOMMUNICATO capiendo.—“Of arresting an excommunicated person:” a writ so called.

EX concessis.—From matters conceded.

EX contractu, multis modis; sicut ex conventionē, &c.; sicut sunt pacta conventa quæ nuda sunt aliquando, aliquando vestitæ, &c.—In several modes, by way of contract; as well as by agreement; as also by way of covenants agreed upon, which are sometimes without, and sometimes with a consideration, &c.

EX contractu, vel ex delicto.—From, or by, a contract, or from an injury (or offence).

EX debito justitiæ.—By (or on account of) a debt to justice.

EX debito vel merito justitiæ, vel ex gratia.—From a debt or reward of justice, or from favor.

EX delicto, quasi ex contractu.—From (or by) an offence (or crime) as though it were by way of contract.

EX demissione.—From, or on the demise.

EX dicto majori.—From (or by) the more important expression.

EX dicto majoris partis juratorum.—By the verdict of the major part of the jury.

[In ancient times, if the jury (in civil causes) were not unanimous, the majority might give a verdict, and judgment was given *Ex dicto majoris partis juratorum*; nay, jurors might even bring in a verdict upon their *belief* only. Vide *Reeve's Hist.*, ii. 268.]

EX directo.—By a direct course.

EX dolo malo non oritur actio.—No action can be founded on a deceit.

EX donatione regis.—By the king's gift.

EX donationibus, servitia militaria vel magnæ serjentia non continentibus, oritur nobis quoddam nomen generale, quod est "Soccagium."—From grants, not containing Knight's services, or grand Serjeantries, a certain general name arises for us, which is "Socage."

[This was the name of a certain tenure of land in the feudal times, now extinct, or nearly so.]

EX eadem lege descendit, quod dominus sine voluntate vassalli feudum alienare non potest.—It follows that by the same law, the lord cannot alienate the fee without the vassal's consent.

EXEANT seniores duodecim thani, et præfectus cum eis, et jurent super sanctuarium quod eis in manus datur, quod nolint ullum innocentem accusare, nec aliquem noxium celare.—That twelve chief landholders (or thanes) and the sheriff with them, go and swear upon the holy testament, which is delivered into their hands, that they will not accuse any innocent person, nor screen the guilty.

EXEAT aula qui vult esse pius.—Let him who would be a good man retire from court.

EXECRABILE illud statutum.—That abominable statute.

EXECUTIO est fructus, finis et effectus legis.—Execution is the fruit, the end and effect of the law.

EXECUTIO juris non habet injuriam.—The execution of the law does no injury.

EXECUTOR de son tort.—"An executor of his own wrong:" one who acts illegally under a will.

EX empto.—Founded on purchase.

"**EXEGI monumentum, ære perennius,**

Regalique situ pyramidum altius :

Non omnis moriar ; multaque pars mei

Vitabit libitinam."

“To my own name this monument I raise,
 High as the Pyramids, and strong as brass,
 Which neither storms, nor tempests shall deface;
 This shall remain whilst time glides nimbly by,
 And the swift years in measured stages fly;
 For I'll not perish; not entirely die.”

Oldsworth.

EX FACTO.—From (or by) the deed.

EX FACTO ORITUR JUS.—The law arises from the fact.

EX FRUCTIBUS PRÆDIORUM, UT BLADA, FŒNUM, &c., SEU EX FRUCTIBUS ARBORUM, UT POMA, PYRA, &c.—From the profits of the estates, as the grass, hay, &c., or from the fruits of the trees, as apples, pears, &c.

EX FURTO, RAPINA, DAMNA, INJURIA.—By theft, robbery, damage, and (personal) violence. *Vide note.*

EX GRATIA CURIÆ.—By favor of the court.

EX GRAVI QUERELA.—From or on the grievous complaint.

EX HÆREDITATE.—From the inheritance.

EX HOC JURE GENTIUM, OMNES PENE CONTRACTUS INTRODUCTI SUNT.—According to this law of nations, almost all contracts are introduced.

EX HYPOTHESI.—By way of supposition (or argument).

EXIGENT.—A writ preceding excommunication.

EXIGI FACIAS.—That you cause to be exacted (or demanded).

EX INDUSTRIA.—On purpose.

EX INSTITUTIONE LEGIS.—By the institution of the law.

EX INTEGRO.—Anew.

EXISTENS.—Being: remaining.

EX JUSTA CAUSA.—For a good reason (or cause).

EX LEGIBUS.—According to the laws.

EXLEX.—An out-law.

EX LOCATO.—From situation.

EX MALEFICIO NON ORITUR CONTRACTUS; ET, IN PARITER DELICTO, POTIOR EST CONDITIO DEFENDENTIS.—From turpitude no contract arises; and, when both are alike depraved, the defendant is in the better situation.

EX maleficio.—By malice (by fraudulent intent).

EX mandato.—By command.

EX mensa et thoro.—“From bed and board.”

[A term applied to divorce, where parties are divorced not from any sufficient cause to invalidate the marriage, *ab initio*; where *that* is the case the parties are frequently divorced “*a vinculo matrimonii*,” or from the bonds of marriage altogether, in which case *no* relation of husband and wife subsists. Vide notes to “*A mensa et thoro*,” and “*A vinculo matrimonii*.”]

EX mero motu.—“From mere motion.” From a person’s own will, without any suggestion or restraint.

EX natura rei.—From the nature of the thing.

EX necessitate legis.—From the necessity of the law.

EX necessitate rei.—“From the necessity of the matter.” Arising from the urgency of the circumstances.

EX nudo pacto non oritur actio.—“No action arises from a bare, or naked agreement.” There must be some consideration expressed, or implied.

EX officio.—Officially: by virtue of the office.

EX officio, et debito justitiæ.—Officially, and as in justice due.

EX officio judicis.—By the office of the judge.

EXONERETUR.—That he, she, or it, be discharged.

EXONERETUR nunc pro tunc.—Let him (or it) be now discharged, instead of at some past time.

EXONIER.—“To excuse.” The word *Essoin* is probably derived from this word. An *Essoin* was an excuse allowed by law, in order that no person might be surprised or prejudiced by his absence from court, provided he had a just cause to be excused, by anything that was not owing to his own default. It is not improbable but that it was originally allowed to give opportunity to the litigating parties to settle their disputes, in conformity to the precept “Agree with thine adversary quickly.” *Essoins*,

however, were anciently divided into five kinds. 1st. *De servitio Regis*—being in the king's service. 2d. *In terram sanctam*—being absent in the Crusades. 3d. *Ultra mare*—being beyond sea. 4th. *De malo lecti*—being sick in bed. 5th. *De malo veniendi*—being seized with sickness on the way.

EX parte materna.—On the part of the mother.

EX parte paterna.—On the part of the father.

EX parte quærentis.—On the part of the plaintiff.

EX parte talis.—The name of a writ in old English practice. It signifies "on the behalf of such an one."

EX paucis.—From a few things or words.

EXPEDITIO contra hostem; arcium constructio; et pontium reparatio.—An expedition against the enemy; the building of forts, and repairing of bridges.

EXPENSA vero totius operis.—Certainly the cost of the whole work.

EXPERTO crede.—Give credit to an experienced person

EX post facto.—From (or by) an after act.

EX præcogitata malicia.—Of malice aforethought.

EXPRESSIO eorum quæ tacite insunt.—"The expression of those things which are therein tacitly comprised;" (*i. e.* those things which are implied.)

EXPRESSIO eorum quæ tacite insunt nihil operatur.—The expression of those things which are therein implied has no force.

EXPRESSIO unius est exclusio alterius.—The naming of one person is an exclusion of the other.

EXPRESSUM facit cessare tacitum.—The meaning of this law phrase is, that a thing which is expressed invalidates that which otherwise might have been implied by intendment of law.

EX principiis nascitur probabilitas; ex factis vero veritas.—Probability arises from principles; but certainly is obtained (only) from facts.

EX proprio vigore.—By their own force.

EX provisione hominis.—By a provision of the person.

EX provisione legis.—By a provision of the law.

EX provisione mariti.—By a provision of the husband.

EX quasi contractu.—As of agreement.

EX relatione.—“By, or from, relation.” Sometimes the words mean “*by the information.*”

EX rigore juris.—In strictness (or severity) of law.

EX scriptis olim visis.—From writings formerly seen.

EX speciali gratia, certa scientia, et mero motu regis.—By special favor, positive knowledge, and the mere will of the king.

EX suo moto.—By his own will.

EX tempore.—Out of hand (without delay or premeditation).

EXTENDI ad valentiam.—To be extended to the value.

EXTENDI facias.—That you cause to be extended.

EXTENDITUR hæc pax et securitas ad quatuordecim dies, convocato regni senatu.—This peace and security is extended to fourteen days, the Parliament of the realm being assembled.

EXTENSORES.—Appraisers. (Old English law).

EXTRAHURA.—A stray animal.

EXTRA quatuor maria.—“Beyond the four seas:” out of the realm.

EXTRA territorium.—Without the territory.

EXTRA viam.—Beyond (or out of) the way.

EXTRA villenagium.—Out of villenage: or servitude

EXTUMÆ.—Reliques.

EX turpi causa non oritur actio.—No action arises out of a wicked cause.

EX turpi contractu non oritur actio.—No action arises from an immoral contract.

EXULARE.—To banish.

EX visceribus testamenti.—From the body of the will.

EX visitatione Dei.—By the visitation of God.

EX vi termini.—By force (or virtue) of the term.

Vide *Rex. v. Shepherds & Agnew—East. Rep. 44, Geo. 3.*

EYDE.—Aid; help.

EYRE.—Scotch *Ayre*. The court of the justices itinerant.

NOTES TO E.

EMANCIPATIO ET ADOPTIO.—It was the custom among the *Romans*, when a father wished to free his son from his authority, (*emancipare*,) to bring him before the *Prætor*, or some magistrate, (*apud quem actio erat*,)—i. e. who had authority in the case—and there sell him *three* times, *per æs et libram*, i. e. by money and balance, (as it was termed,) to some friend, who was called *Pater Fiduciarius*, (a kind of trustee,) because he was bound after the third sale to sell him back (*remancipare*) to the natural father. There were present, besides a *Libripens*, who held a *brazen* balance, five witnesses. *Roman* citizens, past the age of puberty, and an *Antetestatus*, who is supposed to be so named, because he summoned the witnesses, by touching the tip of their ears. Vide *Hor. Sat. i. 9. 76*. In the presence of these, the natural father gave over *mancipabat* (i. e. *manu tradebat*)—i. e. delivered out of his hand his son to the purchaser, adding these words, "MANCIPO TIBI HUNC FILIUM, QUI MEUS EST," i. e. I deliver you this son, who is my property. Then the person holding a *brazen* coin (*Sestertius*) said, "HUNC EGO HOMINEM EX JURE QUIRITUM MEUM ESSE AIO, ISQUE MIHI EMPTUS EST HOC ÆRE ANEAQUE LIBRA," i. e. "I affirm that this man is mine by the law of the *Romans*, and is purchased by me with this money and by the *brazen* balance:" and having struck the balance with the coin, gave it to the natural father by way of price. Then he *manumitted* his son in the usual form. But, as by the principles of the *Roman* law, a son, after being *manumitted* once and again, fell back into the power of his father, this imaginary (or at least fictitious) sale was *thrice* to be repeated, either on the same day, and before the same witnesses, or on different days, and before different witnesses; and then the purchaser (or friend) instead of *manumitting* him, which would have conferred a *Jus patronatûs* on himself, sold him back to the natural father, who immediately *manumitted* him, by the same formalities as those used on the emancipation of a slave, (*Librâ et ære libera emittebat*, i. e. "he discharged him by free money and balance.") *Liv. vi. 14*. Thus the son became his own master, (*sui juris factus est*.) *Liv. vi. 16*. The student frequently reads of the ceremony of making wills among the *Romans*, at one time *per æs, vel assem et libram*. Vide note to "*Hæredes successoresque, &c.*"

The custom of selling *per æs et libram* took its rise from this: that the ancient *Romans*, when they had no coined money, (*Liv. iv. 60*,) and afterwards, when they had *asses* of a pound weight, weighed their money, and did not count it. The same custom of weighing money is mentioned in

Genesis, c. xxiii. 15, 16. "My Lord, Hearken unto me, the land is worth four hundred shekels of silver, what is that betwixt thee and me? Bury therefore thy dead. And Abraham hearkened unto Ephron, and Abraham weighed unto Ephron the silver which he had named in the audience of the Sons of Heth, four hundred shekels of silver current money with the merchant."

In emancipating a daughter or grand children, the same formalities were used, but only once, (*unica emancipatio sufficiebat*), i. e. "one sale was sufficient." But these formalities, in process of time, began to be thought troublesome. *Athanasius*, therefore, and *Justinian*, invented new modes of emancipation. *Athanasius* appointed, that it should be sufficient, if a father showed to a judge the Rescript of the Emperor for emancipating his son; and *Justinian*, that a father should go to any magistrate competent, and before him, with the consent of his son, signify that he freed his son from his power, by saying "HUNC SUI JURIS ESSE PATIOR, MEAQUE MANU MITTO," i. e. "I permit him to become his own master, and discharge him from my control."

When a man had no children of his own, lest his sacred name and rites should be lost, he might assume strangers (*extraneos*) as his children by ADOPTION.

If the person adopted was his own master, (*sui juris*), it was called ARROGATIO, because it was made at the *Comitia Curiata*, by proposing a Bill to the people, (*per populi rogationem*), i. e. "by request of the people." *Gell.* v. 19. If he was the son of another, it was properly called "Adoptio," and was performed before the *Prætor*, or President of a Province, or any other magistrate, (*apud quem legis actio erat*), i. e. "who in such case had authority." The same formalities were used as in emancipation. It might be done in any place. *Suet. Aug.* 64. The adopted passed into the family and name, and assumed the sacred rites of the adopted, and also frequently succeeded to his fortune. *Cicero* makes no distinction between these two forms of adoption, but calls both by the general name of "Adoptio."

EMENDATIO.—The correction of an error committed in any process, which might be amended after judgment; but if there were any error in giving the judgment, the party was driven to his writ of error; though where the fault appeared to be in the *Clerk* who wrote the record, it might be amended. At *Common Law*, there was anciently but little room for amendments, which appears by the several statutes of *amendment* and *jeofails*, and likewise by the constitution of the courts; for, says *Bracton*, "the judges are to record the *parols* (or pleas) deduced before them in judgment." Also, he says, "*Edward* the First granted to the Justices to record the pleas pleaded before them; but they are not to *erase* the records, nor amend them: nor record against their enrolment." This ordinance of *Edward* the First was so rigidly observed, that when Justice *Hengham*, in his reign, (moved with compassion for the circumstances of a poor man, who was fined thirteen shillings and fourpence,) *erased* the record, and made it six shillings and eight pence, he was fined eight hundred marks; with which, *it is said*, a Clock-house at *Westminster* was built, and furnished with a clock—*sed quæ de hoc?* for it does not appear that clocks were then in use; but it is probable the fine was inflicted on the Judge, "*gratia exempli*."

EMPTIO SUB CORONA.—Those prisoners made captives in war by the *Romans*, either in the field, or in the storming of cities, were sometimes *seized* by auction *sub corona*, (*vide Liv.* v. 22, &c.,) because they wore a *crown* when sold. There was also a sale of slaves, *sub hasta*, because a *spear* was set up where the crier or auctioneer stood.

EN CEST COURT, &c.—At the present time, it is astonishing to reflect

what nicety was formerly required in the pleadings and entries of the Courts of Law. Those who have made a point of investigating this subject, have noticed how extremely difficult the practice of the common law must have been in those days—not only *every word*, but *every letter* was examined with the greatest caution—the burthen of this became at length absolutely *insupportable*. Many statutes were made, and enlightened judges did *all they could* to render justice to the suitors; and they succeeded to a very considerable extent: the Student will, however, perceive, that too many of the *vestiges* now remain, which it is hoped a few succeeding years will clear away—vestiges as ridiculous as they are derogatory to the human intellect. The ancient records, kept in the Tower of London, and in some of the Courts of *Westminster*, present astonishing pieces of penmanship, not only remarkable for their extreme correctness, (which the law rendered *absolutely necessary*;) but for the beauty of the engrossing. Indeed, the writing was of such a superior quality, when *Magna Charta* was obtained, that it surprises us, if we take into consideration the time it was penned. A fine copy is to be seen *gratis* in the *British Museum*.

EPISCOPI SICUT CÆTERI BARONES, &c.—When the Barbarians, who overran the *Roman* empire, first embraced the Christian faith, they found the Clergy possessed of considerable power; and they naturally transferred to these new guides that profound submission and reverence which they were accustomed to yield to the priests of that religion which they had forsaken. They deemed their persons to be equally sacred with their function; and would have considered it as impious to subject them to the profane jurisdiction of the Laity. The Clergy were not blind to these advantages, and established courts, in which every question relating to their own character, their functions, or their property, was tried; and were generally present with the Barons, at the trials, or at the judgments given, in other cases. They pleaded, and almost obtained, a total exemption from the authority of the *Civil Judges*. Upon different pretences, and by a multiplicity of artifices, they communicated these privileges to so many persons, and extended their jurisdiction to such a variety of cases, that a considerable, if not the greater part of those offences, which gave rise to contest and litigation, were, at one period, drawn under the cognizance of *spiritual Judges*. Vide *Du Gange Gloss.*, voc. "*Curia Christianitatis*."

It appears that Ecclesiastics scarcely, if ever, submitted, during any period of the middle ages, to the laws contained in the codes of the barbarous nations, but were governed by the *Roman Law*. They regulated all their transactions by such of its maxims as were preserved by tradition; or were contained in the *Theodosian code*, and other books then extant among them. This we learn from a custom, which prevailed universally in those ages. Every person was permitted to choose among the various Codes of Law then in force, that to which he was willing to conform. In any transaction of importance, it was usual for the person contracting to mention the law to which he submitted, that it might be known how any dispute, that might arise between them, was to be decided. Innumerable proofs of this occur in the Charters of the middle ages. But the clergy considered it such a valuable privilege of their order to be governed by the *Roman law*, that when any person entered into Holy Orders, it was usual for him to renounce the Code of Laws to which he had been formerly subject, and to declare that he now submitted to the *Roman law*. Vide *Houard, Anciennes Loix des Francois, &c.*, vol. i, p. 203.

EQUES.—The *Equites*, among the ancient *Romans*, did not, at first, form a distinct order in the State. When *Romulus* divided the people into three tribes, he chose from each tribe one hundred young men, the most distinguished for their rank, wealth, and other accomplishments, who should

serve on horse-back, and whose assistance he might use for guarding his person. These three hundred horsemen were called *Celeres*, and were divided into three companies. The number was, at several times afterwards, increased.

Servius Tullius made eighteen centuries of *Equites*; he chose twelve new centuries from the chief men of the State, and made six others out of the three instituted by *Romulus*. Ten thousand pounds of brass were given to each of them to purchase horses; and a tax was laid on widows, who were exempt from other contributions, for maintaining their horses. Vide *Liv.* i. 43. Hence the origin of the Equestrian order, which was of the greatest utility in the State, as an intermediate bond between the Patricians and Plebeians.

The *Equites* were chosen promiscuously from the Patricians and Plebeians. Those descended from ancient families were called *Illustres*, *Speciosi*, and *Splendidi*. The age requisite was about eighteen years, and the fortune, at least towards the end of the republic, and under the Emperors, was four hundred *sestertia*, that is, something more than fifteen thousand dollars. Vide *Hor. Ep.* i., *Plin. Ep.* i. 19.

The badges of the *Equites* were, 1st. A horse given them by the public; hence called *Legitimus*. Vide *Ovid. Fast.* iii. 130. 2d. A golden ring, whence "*Annulo aureo donari*," for *inter Equites legi*. 3d. *Augustus Clavus*. 4th. A separate place at the public spectacles. Vide *Dio. xxxvi.* 25. *Juv.* iii. 159.

If any *Eques* was corrupt in his morals, or had diminished his fortune, or even had not taken proper care of his horse, (*Gell.* iv. 20.) the Censor ordered him to sell the horse, vide *Liv.* xxix. 37, and thus he was reckoned to be removed from the Equestrian order.

EQUITES GARTERII.—"Knights of the Garter." This order was founded by *Edward* the Third, who (after obtaining many splendid victories), for furnishing this order, made choice in his own realm, and in all *Europe*, of *twenty-five* excellent and renowned persons for virtue and honor, and ordained himself and his successors to be the *Sovereign* thereof, and the rest to be *Fellows* and *Brethren*, bestowing this dignity on them, and giving them a *Blue Garter*, ornamented with gold, pearl, and precious stones, and a buckle of gold to wear on the left leg only; a kirtle, crown, cloak, chaperon, a collar, and other magnificent apparel. *Camden*, and others, inform us, that this order was instituted by *Edward* the Third, upon his having obtained great success in a battle, wherein the King's *Garter* was used as a token.

But *Polydore Virgil* gives it another original, and says that this King, in the height of his glory, (the Kings of *France* and *Scotland* being both prisoners in the Tower of *London* at one time,) first erected this order of the Garter, A. D. 1350, from the circumstance of the Countess of *Salisbury* having dropped her garter in a dance before the King, which he took up, and seeing some of his Nobles smile, he said, "*Honi soit qui mal y pense*," i. e. "Evil (or shame) be to him that evil thinks," (which has ever since been the motto of the order of the Garter, and indeed is now the motto of the Royal Arms of England,) declaring that such veneration should *thereafter* be done to that silken tie, that the best of them should be proud of enjoying its honors.

ERANT IN ANGLE.—The feudal policy, which seemed for so many successive ages, to be so admirably calculated against the assaults of any foreign power, yet its provisions for the interior order and tranquillity of society was extremely defective, and led to anarchy, confusion, tyranny and bloodshed. The principles of disorder and corruption are discernible in that constitution, under its best and most perfect form. They soon unfolded themselves, and, spreading with rapidity through every part of the system,

produced the most baneful effects upon society. The fierce and powerful vassals of the Crown soon extorted a confirmation *for life* of those grants of land, which being at first purely gratuitous, had been bestowed during pleasure. They also obtained the power of supreme jurisdiction, both civil and military, within their own territories; the right of coining money; together with the privilege of carrying on war against their own *private* enemies. Such a state of society must have been terrible. A thousand causes of jealousy and discord subsisted among them, which gave rise to numerous petty wars, and cruel resentments. Sudden, unexpected and indiscriminate slaughter often followed the transmission of property. The Nobles were superior to restraint, and harassed each other with every oppression. Incursions were made with ferocity, on slight, or supposed provocations; their respective vassals were dragged into the field to fight against their own countrymen, often their immediate friends and neighbors; and their lands seized and desolated by the victorious party. Well, indeed, might it be said, in the language of the text, "*Erant in Anglia, quodammodo tot reges, vel potius tyranni, quot domini castellarum.*" What a horrid picture of society! and how happy should we feel that property is protected by good laws, and that we have a general diffusion of the benign doctrines of Christianity and education; for the extension of the latter blessing, in particular, the *American* nation deserves the thanks of the civilized world.

ERAT AUTEM HEC, &c.—That the *Patricians* and *Plebeians* might be connected together by the strongest ties, *Romulus* ordained that every *Plebeian* should choose from the *Patricians* any one, as his *Patron*, or protector, whose *Client* he was (*quod eum colebat*). It was the part of the *Patron* to advise and defend his *Client*, to assist him with his interest and substance; and serve him with his life and fortune in any extremity. Vide *Dionys.* ii. 10. It was unlawful for *Patrons* and *Clients* to accuse, or bear witness against each other, and whoever was found to offend in this respect, might be slain by any one with impunity, as a victim devoted to Pluto, and the infernal Gods. Hence both *Patrons* and *Clients* vied with each other in fidelity; and for more than *six hundred years*, we find no dissensions between them. *Ibid.* It was esteemed highly honorable for a *Patrician* to have numerous *Clients*, both hereditary and acquired by his own merit. Vide *Hor. Ep.* ii., *Juv.* x. 44.

EST AUTEM MAGNA, &c.—Whilst the trial by *Judicial Combat* subsisted, proofs by charters, contracts, or other deeds, were rendered nearly ineffectual. When a charter, or other evidence was produced by one of the parties, his opponent might challenge it, and affirm that it was *false*, or *forged*, and offer to *prove* this by *Combat*. Vide *Leg. Longob.*, lib. 2, sec. 34. It is true, that among the reasons enumerated by *Beaumont*, on account of which judges might *refuse* to permit a trial by combat, one is, "If the point in contest could be *clearly* proved, or ascertained by *other* evidence." But this regulation only removed the evil a single step. For, if the party *suspected* that a witness was about to depose in a manner unfavorably to his cause, he might accuse him of being *suborned*; give him the *lie*; and challenge him to *Single Combat*; if the witness was vanquished in battle, no other evidence could be admitted, and the party, by whom he was summoned to appear, lost his cause. Vide *Leg. Baivar.*, tit. 16, sec. 2. *Leg. Burgund.*, tit. 45. *Beaumont.*, c. 61, 315. The reason given for obliging a witness to accept of a defiance, and to defend himself by *Combat*, is remarkable, and contains the *same* idea, which is *still* the foundation of what is called "*the point of honor*," "for it is just, that if any one affirms that he publicly knows the truth of anything, and offers to give oath upon it, he should not hesitate to *maintain* the veracity of his affirmation in *Combat*." Vide *Leg. Burg.*, tit. 45. That the trial by judicial combat was established in every country of *Europe*,

is a fact well known, and requires no proof. That this mode of decision was frequent, appears not only from the Codes of ancient laws, which established it, but from the earliest writers concerning the practice of the law in the different nations of Europe. It appears from *Madox* that trials by Single Combat, were so frequent in England, that the fines paid on these occasions, made no inconsiderable branch of the king's revenue. *Hist. of the Excheq.* vol. i. p. 349. A very curious account of a Judicial Combat between *Mesire Robert de Beaumonoir* and *Mesire Pierre Tournemine*, in the presence of the Duke of Burgundy, A. D. 1383, is published by *Maurice*, *Mem. pour servir de preuves, a la Hist. de Bretagne*, tom. 2, p. 498. All the formalities observed in these extraordinary proceedings are there minutely described. *Tournemine* was accused by *Beaumonoir* of having murdered his brother. The former was vanquished; but was saved from being hanged, on the spot, by the generous intercession of his antagonist. This mode of trial was at one time so acceptable, that Ecclesiastics, notwithstanding the prohibitions of the Church, were constrained not only to connive at the practice, but to authorize it. A remarkable instance of this is found in *Pasquier's Recherches*, lib. 4, cap. 1, p. 350. The Abbot *Witikingus* considered the determination of a point of law by combat, as the best, and most honorable, mode of decision. In the year 978, a Judicial Combat was fought in the presence of the Emperor. The Archbishop of Aldebert advised him to terminate a contest, which had arisen between two noblemen of his court, by this mode of decision. The vanquished combatant, though a person of high rank, was beheaded on the spot. Vide *Chronic. Dilmari, Episc. Mersb. des Hist.*, tom. 9, 729, and 612, &c. The Emperor Henry the First declares that this law authorizing the practice of Judicial Combats was enacted with the consent and applause of many faithful Bishops. *Ib.*, p. 231. "So remarkably did the martial ideas of those ages prevail over the genius and maxims of the Canon Law, which, in other instances, was of the highest credit and authority with Ecclesiastics." The author would here suggest that it might probably be adduced as a better reason, that the prevailing superstition of those ages consisted in the idea of a particular prevailing Providence, watching over the rights of the individual accused; and rescuing him from the consequences of an unjust sentence by the signal interposition of Heaven itself. Such an idea was common to both Christian and Heathen philosophy, and is not (with many persons) foreign to the refined theories of the present day. To suppose it a general rule, is an unwarrantable assumption, that the moral exemplified government of nature does not justify, nor the just and revered estimation of an Omniscient Being, warrant; but, notwithstanding this, the idea appears to have been implanted in the mind of man, in every age, from the most reflecting philosopher to the rudest savage; nor has it been implanted in vain, nor failed of its innumerable and incalculable advantages. A Judicial Combat was appointed in Spain by Charles the Fifth, A. D. 1522. The combatants fought in the Emperor's presence; and the battle was conducted with all the rights prescribed by the ancient laws of Chivalry. The whole transaction is described at great length by *Pontus Heuterus Rer. Austriac.*, lib. 8, c. 17, 205. A trial by combat was appointed in England, A. D. 1571, under the inspection of the Judges of the Common Pleas; and, although it was not carried to that extremity with the former, (Queen Elizabeth having interposed her authority, and enjoined the persons to compound the matter,) yet, in order to preserve their honor, the lists were marked out, and all forms previous to the combat, were observed with much ceremony. Vide *Spelm Gloss.*, voc. "Campus," 103. And even so late as the year 1631, a Judicial Combat was appointed between *Donald, Lord Rea*, and *David Ramsey*, Esquire, by authority of the Lord High Constable and Earl Marshal of England; but that quarrel likewise terminated without bloodshed, being accommodated by King Charles the First. Another instance also occurs seven years later. Vide *Rushworth's Observ. on Statutes*, 266.

EST SENATORI, &c.—The Senate was instituted by *Romulus* to be “the perpetual Council of the Republic.” (*Concilium Reipublicæ sempiternum*. Vide *Cic. pro. Sextio*, 65.) It consisted, at first, of only one hundred; they were chosen from among the *Patricians*. The *Senators* were called “PATRES,” either on account of their age, or out of their *paternal* care of the state; and their offspring, “PATRICII.” After the *Sabines* were taken into the city, another hundred were chosen from them by the suffrages of the *Curia*. Vide *Dionys*, ii. 47. But, according to *Livy*, there were only one hundred senators at the death of *Romulus*; and their number was increased by *Tullius Hostilius*, after the destruction of *Alba*. *Tarquinius Priscus*, the fifth king of Rome, added one hundred more, who were called “PATRES MINORUM GENTIUM,” i. e. Senators of the lower tribes. Those created by *Romulus* were called “PATRES MAJORUM GENTIUM,” i. e. Senators of the higher tribes. This number of three hundred continued, with small variation, to the time of *Sylla*, who increased it; but how many he added is uncertain. It appears there were, at least, above four hundred. In the time of *Julius Caesar*, the number of senators were increased to *nine hundred*; and after his death, to a *thousand*; but many worthless persons having been admitted into the senate, during the civil wars, one of them is called by *Cicero*, “*lectus ipse a se*,” (elected by himself;) *Augustus* reduced the number to *six hundred*. *Suet. Aug.* 35. The powers and duties of the Senate were as follows:

1st. They assumed to themselves the guardianship of the public religion; so that no *new God* could be introduced, nor altar erected, nor the *Sybilline* books consulted, without their order. *Liv.* ix. 45.

2d. The senate had the direction of the treasury, and distributed the public money at pleasure. *Cic. in Vat.* 15, &c. They appointed stipends to their generals and officers; and provisions and clothing to their armies. *Polyb.* vi. 11.

3d. They settled the provinces which were annually assigned to the *Consuls* and *Prætors*; and, when it seemed fit, they prolonged their command. *Cic. pro. Dom.* 9.

4th. They nominated, out of their own body, all ambassadors sent from Rome, (*Liv.* ii. 15, &c.,) and gave to foreign ambassadors what answers they thought proper. *Cic. in Vat.* 15, &c.

5th. They decreed all public thanksgivings for victories obtained; and conferred the honor of an *ovation* or triumph, with the title of “IMPERATOR,” on their victorious generals. *Cic. Phil.* xiv. 4, 5, &c.

6th. They could decree the title of a king to any prince whom they pleased; and declare any one to be an enemy by a vote. *Cæs. Liv. et Cic. passim*.

7th. They inquired into public crimes, or treasons, either in *Rome* or the other parts of *Italy*, *Liv.* xxx. 2f, and heard and determined all disputes among the allied and dependent cities. *Cic. Off.* i. 10, &c.

8th. They exercised a power, not only of interpreting the laws, but of *absolving* men from the obligation of them; and even of abrogating them. *Cic. pro. dom.* 16, 27, *pro lege Manil.* 21, *de Legg.* ii. 6, &c.

9th. They could postpone the assemblies of the people, *Cic. pro. Mur.* 25. *Att.* iv. 16; and prescribe a charge of habit to the city, in case of any imminent danger or calamity. *Cic. pro. Sext.* 12. But the power of the Senate was chiefly conspicuous in *civil* dissensions, or dangerous tumults within the city, in which that solemn decree used to be passed, “UT CONSULES DARENT OPERAM NE QUID DETRIMENTI RESPUBLICA CAPERET.” That the *Consuls* should make it their study (or toil) that the republic receive no injury; by which decree an absolute power was granted to the *Consuls* to punish, and put to death, whom they pleased, without a trial; to raise forces; and carry on war without the order of the people. *Sallust de bello Cat.* 29.

ET EGO ET HEREDES MEI, &c.—The verb *warrantizo*, used in the law, is only appropriated to make a *warranty*. Littleton, in his chapter of *Warranty*, saith that this word *warrantizo* maketh the *warranty*, and is the cause of *warranty*, and no other word in our law; and the argument to prove his assertion is produced from the form and words used in a fine; as if he had said, because the word *defendo* is not contained in fines to create a *warranty*, but the word *warrantizo* only; *ergo, &c.*, which argument deduced and drawn, *à majore ad minus*, is very forcible. But it appears that *Littleton* is to be understood only of an express *warranty* in deed, and of a *warranty* annexed to lands; for there may be, and are, other words which will extend and enure sufficiently to warrant chattels, &c., and which imply a *warranty* in law, as *dedi, &c.*

EX FURTO, RAPINA, &c.—The different punishments of thefts among the *Romans* were borrowed from the *Athenians*. By the laws of the Twelve Tables, a thief in the *night* time might be put to death, "*Si nox (noctu) furtum facit, sin (si eum) aliquis occidit (occiderit) jure cæsus esto,*" i. e. "If a theft be committed in the *night*, and a person kill him, (the thief,) let him be (accounted) slain by the law;" and also in the *day* time, if he defended himself with a weapon, but not without having first called out for assistance. The punishment of slaves was severe; they were scourged, and thrown from the *Turpeian Rock*. Slaves, it is said, were so addicted to the crime of theft, that they were anciently called "*Fures.*" "*Quid domini faciant, audent cum talia fures!*" See *Virg. Eccl. iii. 16*, and *Hor. Ep. i. 46*. But afterwards, those punishments were mitigated by various laws, and by the edicts of the *Prætors*. One caught in manifest theft (*in furto manifesto*) was obliged to restore four-fold, besides the thing stolen. If a person was not caught in the fact, but so evidently guilty that he could not deny it, he was called "*Fur nec manifestus,*" and was punished by restoring double. *Gell. xi. 18*. When a thing stolen was, after much search, found in the possession of any person, it was called "*furtum conceptum,*" a discovered theft; and by the law of the Twelve Tables was punished as manifest theft, *Gell. ibid.*, but afterwards as *furtum nec manifestum*. If a thief, to avoid detection, offered things stolen (*res furtivas vel furto ablatas*) to any one to keep, and they were found in his possession, he had an action, called *actio furti oblata*, i. e. an action of manifest theft, against the person who gave him the things, whether he were the thief or another, for the triple of the value. *Ibid.* If any one hindered a person to search for stolen goods or did not exhibit them when found, actions were granted by the *Prætor*. And in whatever manner theft was punished, it was always with infamy.

Robbery (*Rapina*) took place only in movable things, (*in rebus mobilibus*.) Immovable things were said to be *invaded*, and the possession of them was recovered by an interdict of the *Prætor*. Although the crime of robbery (*crimen raptus*) was much more pernicious than that of theft, it was, however, less severely punished. An action (*actio vi bonorum raptorum*) was granted by the *Prætor* against the robber only for four-fold, including what he had robbed.

If any one slew the beast of another it was called "*damnum injuria datum,*" i. e. *dolo vel culpa nocentis admissum*—i. e. "a loss given for the injury (or wrong) admitted to have arisen from the guile or negligence of the wrong doer;" whence *actio vel judicium damni injuria, sc. data*; (*Cic. Rose.*) i. e. he had an action or judgment for the loss and injury, whereby he was obliged to repair the damages by the *Aquillian* law.

Personal injuries or affronts (*injuria*) respected either the body, the dignity or character of individuals. They were variously punished at different periods of the republic.

By the Twelve Tables, smaller injuries, (*injuriæ leviores,*) were punished

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 rapsit*, 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