Municipal Law.

Municipal Law is a rule of civil conduct prescribed by a superior power in a state commanding what is right & prohibiting what is wrong. 1836. 44.

The word law in its most comprehensive sense signifies "a rule of action" prescribed by some superior, & this is predicative of all kinds of actions. 1836. 44.

By "law of nations" is meant that law which nature prescribes to sovereign states or Nations. "Quo naturali epistola inter homines constitut." Jaffel, 1. 8. Pref.

But Municipal law of which I mean present purpose to treat, has been defined to be "a rule of civil conduct prescribed by a superior power of a state commanding what is right & prohibiting what is wrong."

This last part is superfluous & is different from what is called natural laws. which is a rule of moral conduct binding upon the whole human family. Wherein Municipal law regards its subjects as members of society or community, respecting only those rights which arise in society. "Sag civile est quaerere uniusque individui prescribendum. & hence the characteristic difference is, that Municipal law is a rule of civil, not natural conduct. 1836. 44.

This Rule, to correspond with definition before laid down must be permanent, universal & unchangeable. By "permanent" is not meant perpetual & immemorial, but that it be a constant rule & not an occasion.
iond one (i.e.) continuing either indefinitely or for a certain period of time.

By "universal" is meant that it is good in its operation so far as it extends. By "universal" is meant, that it shall be good within its own limits, for local usage of laws. It prevailed only within one part of the kingdom may constitute a part of municipal law. 1 Bl. 346.

The definition requires that this rule be promulgated, it shall not be "retroactive" by which is meant a law that affects transactions that took place before the law itself was enacted. Don't think of a material distinction between a "retroactive" or "retrospective" law, from those laws denominated "ex post facto".

A "retrospective" law is any law, relates to civil or criminal concerns, which has a retroactive operation. Whereas an "ex post facto" law is applicable only to penal laws. "Retrospective" is a genus, to which "ex post facto" is a species. The latter are always penal laws, the former, either penal or remedial. 3 Bl. 346. 350.

It often happens that both have a retroactive operation, the definition of municipal law virtually prohibits it.

The Constitution of the United States prohibits legislatures of several States passing any "ex post facto" laws by Art. 1. The subject is well explained in 2 Dall. 1386. 91. The rule must be prescribed by y. Supreme Power by which is meant y. Legislative or law making Power. This Power necessarily involves y. right of repealing. 13th, 390.

Blackstone has given rules in violation to interpret the law. 2 Bl. 29. 61.
Construction of Laws.

I. Words are to be understood gently according to their most popular signification. Terms of art, according to interpretation of time by learned in y'est art. 9th cons. 2 Thes. 3:6. 1 Thes. 5:21. 2 Cor. 3:17. 1 Pet. 4:12. 6 Mod. 144. 2 Roll. 225. 1 Dods. 144.

II. When words are ambiguous it is proper to consult context, & thus establish this meaning by these connexion & compare, the law with other laws relating to same subject. By this more 'words' in 0. Rul. may be often understood clear & intelligible. 1224a. 10. 1225. 55. 11. 1215. 8. 1228. 3. 3. 9. 123. 121a. 647. 646. 746.

III. Words are always to be understood with reference to apparent subject matter. 1 Pek. 6. 6.

IV. The effects & consequences of y diff. constructions are to be regarded. 1 Pek. 6. 6. 1 Pek. 6. 52. 1 Mod. 144.

V. The last 5 & 7. wh. is 'instructum' & to 1st. all y foregoing are subordinate to it. y spirit & reason of law is law itself. "cassius ratione legis rectum ipsius lex" is a maxim of y can. law, & with an exception, y penal law. Then 9th cons. conclusive in all questions of construction. The reason 8 spirit of y penal laws may be consulted to take a party out of them, but when he is within y law, letter he never can be brought within y spirit. 17 Th. 37. 37. 1 Pek. 222. 206. 19. 14. 12. 4. 4 Pek. 67. 1 a. 24. 4. 2. 3 a. 53. 1 a. 3.

From last great & cardinal rule, arises, what is called y 'rep. of y Law' & that no other construction can comply with y intention of y Law. 9th cons. self. 1st. y reason 8 spirit 9th cons. y meaning of y Law is not y meaning of y Law in y's common acceptance. 1 Pek. 6. 19.

Municipal Law is divided into two branches, i.e., scripta & lex non scripta. 1931 R. 63.

The unwritten law includes not only past customs properly so called in the common law, but also particular customs of certain parts of the realm, if likewise those particular laws are used by custom observed only in certain parts of the jurisdiction. 1931 R. 63.

The common law is sometimes used as synonymous with unwritten law & includes 3 branches, namely: the common law, local customs, & particular customs of laws.

The municipal law is a genus of the common law & is a species. It is so called because its original institution is not set down in writing like an act of Parliament, but derives its force from an authority existing. And a record or roll, but from immemorial usage "whence memory of man runneth not to the memory of man". 1931 R. 337, 74.

First. The first & most important branch of the unwritten law is the common law. In order to distinguish it from other laws, it is called a canon, or because it is common to the whole realm, & is referred to as a "rule of civil conduct" to be observed by all custom or extending throughout the whole realm or community. It is mentioned by Edward, by Edward, by Edward, 

Customs which are the foundation of the common law must be immemorial; if customs to be immemorial must extend back beyond the memory of legal memory. 3rd. in England, dated from the acceptance of Richard I in 1189. So that no custom has any effect unless it has existed without interruption for 30 years, but this positive rule recognizes the extent of the legal memory can it apply to us. 1931 R. 238, 239. 238, 239. 238, 239. 238, 239.

But if the common law be written, there is it, in any of its branches to be found. Sec. 238, note on answering any inquiry. That it
is to be sought for in ye records of ye acts of justice in books
of reports & judicial decisions & in ye Treasurers of ye learned
sages of ye Profession.

1817. 68. 41.

Those are not "precedent" in the strict sense of a law, as a rule of Parliament, as a State law, or if they were the law, it would be a written law & a judicial decision. No more be overruled on question than a Statute. But this is contradicted by daily experience of there is no impropriety in overruling them but they are "prima facie" evi. & that y laws is always has been. 1817. 68. 71.

These laws were expanded or uncertain by ye Judges of ye State in justice, for repetitions & necesity by law. 1817. 68. 71.

By y term "precedent" is meant a former judicial decision on a point in question & is only evi. of what y law is. It is a good rule, notwithstanding the precedent is to be followed unless plainly absurd, or flatly unjust, & not to be overruled merely because reasons of it are not dispone. It is authoritative & binding on those known to be absurd or unjust, & he who objects to a precedent or law of it, takes y "nulla prof. adi." on himself, & must show its fallacy, absurdity or injustice.

In this country we have right to overrule all determinations in y Eng. Law that are clearly unjust, but farther than this y is overthrow y whole system of juris-
precedence. This rule is so indispensable to y preservation of uniformity in y system, yl. Buller observes yt: "Stare decisis" is y most important maxim in y Law. 1837. 68. 70. 1 East. 493.

But how did y come into existence? Until point of fact it was built up by y successive judges of West-
Hull - They were in fact y Laws given.

This theory however may not appear to answer object ion naturally arising out of y definition viz. "That y law
reign, power is wanting.——But to answer to this is, yet, the supreme power, by good usage, sanction'd or depr't, for no number of States, however able they may be, can administer justice without y unenlighted law.

There are many doctrines in y common law in point of fact have originated since a accession of Rich. 1. gr. 7. 1719. as y doctrines of y equity describes the ones instituted in y reign of Eliz. & indeed the mercantile law was never fully understood till y time of Mr. Mansfield.

These received in new cases thair to not create but merely promulgate it (i.e. they are only regarded as edicts of equity) law unincorporally was y law have been declared to be, had y question originated be fore y time of Rich. 1.

The Winter case is itself merely, never can furnish a complete remedy, by most simple statute provision. N. B. it called upon to carry y law into effect, to make an unmention'd law "pro re mala" a deed of me. I will illustrate this by one example. Suppose y unmention'd law unknown, & a that made giving a person a remedy for an assault & battery, how a proceeding must be smiled to carry it into effect, there is no knowing how to render it to be recovered——Well— suppose y Stat. provides for a recovery by action. The question then presents itself. What is an action? It says for the matter. What y remedy? It defines it. How is to be found? My right.——What is a Stat? If there is any thing more provided by Stat. as pledges or fines——What are they & how to bid it? Ev'ry commencement of statute to y return of y final process, with an unmention'd law made or established as y proceed, the Stat. do never regularly admin.

Conformable to this view has effect been, that entire instances of cases have been brought into existence long since Rich. 1. is an immemorial, because they
are said of many innumerable rights of perfect objection now are & that they always have been.

II. Particular Customs, which constitute the branch of unwritten law, are local usage, not common through-out the whole realm or State, but confined to local limits. These in Eng. are probably the remains of those provincial customs, out of which comp. law was first collected by Ed. I. - 1228 p. 74, ch. 12, 26.

Whether there are any particular customs in W. J. is doubtful.

Particular customs are not regularly recognized in this Justice, as they are not presumed judicially to exist there, not being public or good rule.

When such is to be made a ground to claim a defence it must be specially pleaded i.e. it must be cited in declaration or plead. Into existence must be proved as a matter of fact by jury like other matters of fact, unless some has been before determined in some C. & record in that question again arises - in the case any further enquiry is precluded. Nixy. 355, 357, 2 Ed. 11, c. 265, 2 Ed. 74, 1 Ed. 75.

Particular customs of "Gavelkind" & "Borough Law" are exceptions to the last rule i.e. they need not be proved being notorious through-out the whole realm. They must be specially pleaded. - Co. Lit. 175, 216, 24, 19 Th. 75.

Particular custom under the deed, have a special note.

Particular custom under the deed of a particular custom, the in his first book he set so call it, appears to me remarkable. Particular proposition is certainly incorrect as it is not in any one sense, nor has it a single trait of that class of cases.

It is not confined to particular subjects & relates only to being. The truth is, that a law merchant, the governing particular transactions, is a customary law extending throughout the whole realm. It sufficiently shows off it is a branch of a general common law. It has not need not be specially pleaded. 23 Ed. 75, 3 Ed. 1435, 2 Ed. 359, 3 Ed. 74, 13 Ed. 38, 1 Ed. 28, 1 Ed. 109.
Moreover, if Law Merchant is not attended with evidence of particular customs for it need not be specially pleaded (Talk. 25) nor tried by a jury or proved by witnesses.

It is however Dr. yt. if new cases arise in which it is not tried, it may be proved by evidence. But this is not over. To be admissible to a jury to prove a matter of fact, the it has been ad yt. I think contrary to principle. But yt. may take evidence. of merchants as to what usage of merchants is. When they themselves are in doubt or as they dr consult a dictionary for the significance of doubtful words.

1778. 79. 2d. 4th. 7th. 9th. 10th. 17th. 18th. 19th. 20th. 21st. 22nd. 23rd. 632. These must however be new cases in of the law of doubtful. Ch. R. 24. 20. 21. Procr. 1206. 8. 22. 17. R. 20. 2d. sec. 22.

Blackstone says to make a particular, custom good following are necessary requisites viz. Immemorial usage. 2. It must have been continued 3. It must have been practicable or acquired in 4. It must be reasonable or not unreasonable 5. Certain 6. Compulsory when established 7. They must be consistent with each other. 1778. 76. 31. 60. 76.

Particular customs in recognition of common law, are to be construed strictly (i.e.) they cannot be extended by construction. 1778. 76. 31.

III. Certain particular laws, adopted by custom are used only by particular jurisdictions & constitute the branch of unwritten laws (i.e.) by civil & ecclesiastical law.

Particular customs are confined to local limits but particular laws are not. It is immaterial above
y cause of action arose. Provided it is, but in one of three
lots in 12. Those laws are adopted (i.e. 12 military
Maritime, Ecclesiastical & civil ) in Eng.,
which have adopted y civil & canon laws, i.e., an
ecclesiastical law of the Roman Empire. 1832. 15.

In this country there are no ecclesiastical lots. The Maritime
laws are adopted in our Cana lots, not only in its script.
ving, but by rule & custom.

I presume to say y civil & canon laws present an
original form in Eng., but have become a part of the
coun. law by adoption. viz. may be by immemorial
usages, where they form a part of y unwritten law in
above lots, or by a Legislative act, then they be-
come a part of y written law of y land.

1832. 79. 50. Pickers. 1832. 111. 29.

The coun. law of Eng. is the ancient law. are "forma
t facility" law of this country, but they derive their
force by a similar sanction (i.e.) by adoption
or legal prescription. For 1 suppose y.
Civil a common
law as such, are unknown in our country, the as far
as they are incorporated with public law a laws of
Nations, they may be here known, but as the laws of Eng.
they have no more inherent force, in this country, than
d a Roman code & have in Eng. They are binding
in no other sense than y coun. & St. Ed. Eng. are binding
viz. by adoption.

Previous States of the U.S. have adopted particular
branches of y written law of Eng. & therefore this is a
case, they are binding by force of the Legislative pro-
vision & not by any inherent authority they possessed.

They are thus made a part of y written law of y land as
by adoption, by usage & custom of lots. makes them a part
of y unwritten law. Don't still as this country was
originally settled by y Eng. they brought with them.
so much of their laws as they existed, as their birthright, St. laws.
formed of Basis on which superstructure of our case of laws has been built.

So that now a common law of Eng. is "prima facie" law of every state in a union, both because it was this inheritance, & because sanctioned by adoption & immemorial usage. And hence our laws can't respect it, unless plainly unjust or inapplicable to circumstances of our country, in either of the cases, it is manifest that our judges do not consider it binding.

Thus, there are entire branches of our laws drawn from the English form of our government, & applied to our own services which only exist in Monarchical Governments, as so of those precedents, is binding here if she has been much lamented by Eng. Judges on account of their manifest injustice.

Every country must have an Unwritten Law, with which there must be a failure of justice. A Court of justice can't administer justice in one single instance with it, so they must either destroy or create new re. muta. (Black 310. 29.)

A question formerly arose, whether it was possible consistently with the Union, that any State might have a common law distinct from that of Eng. This question has been so long & in so many instances affirmatively settled, that it is now more speculative theory.

I do not entertain a doubt but that each State might have a common law distinct in some respects. So only plausible objection to this demonstrable proposition is, that we can't have a custom old enough to be legally a custom, yet we live to a certain age of time, can't have, according to Eng. arbitrary rule. But that a custom must go back to Nicae, is a rule entirely inapplicable to our circum-
stances, as we were then not in existence.

The truth is, the objection lies in a circle. For, generally, we do not have a common law in any respect; if objection says no, because it is not in all, we reply that it is not, because it is not. That is no more than saying, "we can't," because we can't. But if a question is settled by every State, having some sanction or rule on this subject, that from y. Anl. Law of Eng.

2. The second branch of "Municipal Law" is, "written laws" or "lex scripta", consisting of Sts. St. is, only of Legislation. It has been made a question, how far the Eng. Sts. are binding in this country. It is pretty generally agreed, as in ancient Eng. Sts., that can bind in this country. The Sts. of Eng. in "Prima facie" is a reason assigned in Eng. books, why any St. that was binding on us, y. St. our ancestors brought over with them in colonization of this country, or much of that parent law as was in existence at y. time. They considered them as their birthright, as far as Eng. Jesuits with respect to all their colonies.

In analogy to this distinction, Professional men have determined, that those passed before our Revolution, at least before our colonization are binding, but those passed since our colonization are not. Prima facie obligations on us - The line of division is fixed in the reign of Hen. 8th. The Sts. passed during reign of 8th of y. letter, are not "Prima facie" law in this country. The whole law of estates derives from y. Pr. "De Funeri." All actions where sound in case are divided from West. 1st. The St. "De donis" giving an action to Excutive & Admin. in case of "Per" is adopted in most of y. States.

With respect to y. comm. law, a distinction between ancient & modern. Do. be a solecism. A modern decision in derogation of y. ancient rules are subject...
con. is not make a new law, but only declares
what is con. law originally was.

The y. jr. Bills are "prima facie" ends of con. 
and of yr. country, of reports of y. decisions of les.
ourfield of Newen are equally so, for they have
only declared what y. con. law immemorially has been,
or in other words made an application of an old prin-
ciple to a new set of facts. But y. distinction be-
tween ancient & modern is not perfectly intelli-
gible.

When I speak of ancient H. as being binding
I do not mean y. they are binding upon our legi-
siations. They could be can alter a relented thing
as they please — but I mean y. our Cls. are "prin-
ma facie" bound by them. To sum up, what y. 
ancient H. law of Eng. as such, is "prima facie"
our law, except so far as our legislatures have
altered it. But those Hs. th. have been enacted
since our colonisation is unquestionably since our
Revolution are not so even "prima facie" Such:
Bills, 106. 5. 38o. 4. 171, 1732. 55. & Co. 20. Pro. 32. 1773.
Laws, 411. 66. Tit. 33.

Sir, some of y. Cl. of Eng. State have been
adopted down to a certain period by y. legislatures,
as in N. York & Indiana.

Of the Diff. Kinds of Statutes:

I. Public Bills are either Public or Private [i.e., govt.
or special. 1831. 55.
A. Public, H. is one H. of all, regards y. whole community
at large.
A. Private, H. is one H. regards persons & private cus-
toms. The application of this distinction is not always
obvious, for apparently Plain. Most Public Hs. cor-
respond to concerns of y. whole State literally as y. H.
if "limitations. Grant," &c.
To sum a H. makes it no person shall go so or so, it is public. So H. prohibiting certain acts & inflicting certain penalties upon whomsoever offers or does them, is plainly public. In these cases distinction is self-evident. The H. being unlimited.

But there are cases in H. states relating to a particular class of men only are public, the 2 relations are immediate. The rule of distinction laid down by Law requires, if a class of persons to whom H. relates amount to a genus, if it is then public, but if a class be merely a species, H. is private. "Genera distinct a genus, et specia a specie".

If a class, to whom H. relates immediately, is divisible into species, or other classes, it is a public H. but if a class is divisible into species, or other classes only, it is private. If H. be divisible into species, one of which applies to a class 3d. other to a species, one part is public of the other private.

Acts are divided to be public acts, so 3 Judges will take notice of without being pleaded. Those 3D. the Judges will not take notice of without pleading are private acts. A H. rel. to all subjects in their own as a public act, the 3 ends of it are particular, yet if it be public, it is just. 7 H. is a public, 500 acres. 6 B. 121; 2 B. 75; a. b. 19.

2 Land. 156; 1 Lev. 85. 2 N. K. 123, 381.

At H. relating to all mechanics is Public, because they consist largely, but relating to all carpenters, it is Private, because they are one of 2 species, the constituent genus of Mechanics.

So a H. relating to all Officers capable of serving a process, is Public, but one relating to all Shippers is Private, for in all these cases, of species is not composed of subordinate classes, but only resolvable into
Every Act is regarded as a public one for every subject has an interest in it. For some reason every Act relating to the President of the United States, to the state governors, is a public Act. The reasoning to one man, because it relates to him in his official capacity. 5 Co. 28. 158. 4 Co. 77.


Hence an Act giving a forfeiture or penalty to the King or State or public because it affects all the concerns of revenue or public for those concerns of public. 12 Holt 240. 603.

4 Co. 77. 78. Holt 63.

It may be partly private and partly public 4 Co. 520.

It is not unusual for the Legislature to declare an Act public in its nature private by the principles of the common law private.

They doubtless have by reason of the take of public convenience often exercise it as it presents necessity of enacting upon & reciting the Act. Whatever action is to be upon it. For a private Act, must be specially pleaded & proved as a matter of fact whereas public is bound "ex officio" to take notice of a public Act without its being pleaded.

II. Another Division of Acts is that all the acts either declaring or as remunerative of some defect therein. 10th. 86.

An Act of declaration merely declares that the cause of it always has been & makes no new law. But a remedial Act introduces a new law, either
by abridging the superfluities or by supplying the deficiency of a commentary, as of St. of "Limitations" § 84. 13th Ed. 4 Dec. 1810.

To these may be added a distinct class of the not taken notice of by any of the books, being distinct given in any former & are called explanatory. Tho. 24th Jan. 84. B. 1c. 1h. explain a former § 3 & ch. are neither declaratory of or contain, nor remedial of such, but form a distinct class. They are however not less such than most sts. with an exception of Penal, it being remedial. 1 Prov. 11. 18. Ps. 7. 14. 1b. 114. 2. 15.

III. Another coordinate division is not of Penal & Beneficial, it is Penal & not Penal. This last is sometimes called remedial. Beneficial is here used by a. take as counterdistinction from Penal & I think properly as there will then be no distinction. "Remedial" being before used as opposed to declaratory.


A not inflicting a Penalty or a Punishment. If any kind is a Penal "h. if not inflicting such is "remedial."

I use "Penalty" in its most extensive sense of synonyms with "Punishment, but in its narrow sense or in common parlance, it means a punishment by necessary penalty.

A state giving higher damages than are required by reason of natural justice, or seem to be Penal, but they are not so treated in books, but in R.M. as remedial. 1b. 114. 14. 115. 123. 15. 16. 1c. 121. 12. 15. 1e.

All sts. giving costs are considered Penal if so constructed, for they are unknown to 2 & are, and of, 18. not created them, the first of 18. was Gloucester. 6 Feb. 1. To be considered the. Moreover they are given as a substitute for old common law amounting yet the nominally used in 13th. 12th. is substantially abolished. 12th. 17. 12. 14. 17. 1b. 4. 20. 10. 10. 1c. 12. 4. 1b. 12. 15. 1c. 12. 2. 10. 1b. 15. 1c. 12. 2. 10. 1b. 12. 15. 1c. 12. 2. 10. 1b. 15.
16. An action brought by an individual in his own right, to recover a penalty, is a civil action, the 1st. in law, it is, but be a penal one. This is given to the prosecutor to bring an action to recover its sum of civil, to the 7th St. 6th May. 8th "Due tenor" actions, reserve it. = sop, 183. 193. 16th 18th. 7th 183. 137. 4th 193.

That the determination of the character of an action is of form of process, if it commence by suit or declaration it is civil, but if by indictment or information by which process it is criminal, and this is of great practical importance as it regards trial of civil & criminal actions.

Civil actions are remedial, but criminal ones are local.

All 7th are "affirmative or negative". This must be determined by the phraseology & practical use, as of no importance, any more than to say, all 7th that are in red ink or block. 155 Th. 259. With all actions between party & party, are civil; though for the recovery of a penalty, it is as much so as an action for money had & received.

In Eng. every 7th commences its operation, from commencement of 1st. session of 1st. Legislature in the year enacted, unless some other time is described for its commencement, by 7th act itself. sub. 310. 320. 120. 371. This arises out of 7th legal fiction, of 7th respect continues but one day, as a 7th 5th & 7th. Don't this rule must often operate retroactively.

It has been held for two 7th enacted in 7th same
session will both be regulated with respect to repug
nancy. But there is a late opinion of the 3d. of the 3d. of
point of time, will respect y former. Peter, in
take to be y better opinion. B 2 pet. 297.

This last rule is generally adopted in ys. country, and it is
customary for Congress to fix a time when a new
it shall commence its operation.

Before entering upon construction of the laws, observe, with
regard to the character of the law, divisions of municipal laws, y that, law is a
more methodical collection of positive rules, to be
limited to meet a vast variety of cases by municipal law.
Contrary to my character of a concatenation of principles found in injustice, so extensive as to embrace
all of duties & rights of perfect obligation.

It may be 2d. to be a system of ethics, embracing
all duties & rights of perfect obligation.

Yr case of vast inferiority of the common law, so
highly deserving of superseding y common law, has been pronounced in its favour.

The construction of statutes, is yt. process by it.
Yr discovery will in intension of y Legislative. 1882. C. 370.

In y construction of the law especially remedial ones, there are
three points principally to be considered.
1st: Whet y old law was at y exact time.
2nd: The mischief or evil (in y) old law did not
proceed for. 3rd: The remedy applied to prevent a
cure y mischief. Hence y construction must always
suppose y mischief & so since the remedy. 3607. 6. 10713. 37.

The object of this rule then is to ascertain from y
old law, y mischief for 13. 9 remedy is intended
to provide - Thus by 13 3 3. Ld. 1st. made by
Bd. for more than 21 years are void.
To find out the meaning of this it is indeed of any other part is doubtful, a logical mind is led spontaneously be to enquire, What was this law? It enabled Bishops to make leases for an indefinite time. How, what was the mischief in this? The impoverishment of their successors. Such leases have been devised good leaving Bishops conclusion in his see of much material on his death or removal. The remedy then is intended to prevent this impoverishment. By long leases,

The too first are merely important as means of construction for if a remedy is ascertained by law as ascertained. It less is will by legislation in writing a convey law is nothing else than it's worn out by time. 1031K. 87.

The rules a minute interpretation (c.o. doctor in will. specially as well to it, as to can laws. 1331k. 79. 61."

Penal It. is must be construed strictly according to their literal import is so rigidly has this rule prohibiting and extending of construction as penal it has sometimes been carried to a

This is a string from a man stealing "horse". Stealing a horse is adjudged not within it. To stealing a bitch not

Laws, by stealing making "stealing" felony 1331K. 88. 15B. 75

This is merely from a simplicity of another

"Penal The are to be construed strictly, but when for irregularity, i.e. a person accused is not to be adjudged guilty of a penalty then within reason & must of it's law, unless also clearly within letter. But the he is strictly within letter it is not to be judged within penal, unless also
In quarto, any universality of expression in a penal statute will not include those unless they are specially named, who by reason of any incapacity or condition are exempt from such punishment. For any act not before forbidden, it cannot, in ch. 7, provide a corporal punishment. Does not extend to infants unless expressly named, as "whosoever resists a constable on a highway &c. shall be whipped." Infants are not within it unless named in words expressly — contra. Le. Ruyzan thinks it an arbitrary principle or rather distinction.

"Hack, Sec. 64, vis. 38.

It is not to be understood that the intention of the Legislature is to be disregarded in its construction by Penal St. as to a party decided to make any distinction appears in the nature of things. The truth of the intention of the Legislature when apparent ought always to govern, if they do not by a particular construction, as some have stated, but a just and legal interpretation. "(Rev. Sec. 3.) Where Le. Ruyzan strongly animadverts on the practice, 10a. 86.
This rule of strict construction has not however been uniformly acquiesced in; for there are cases, in the 3d. ed. have gone so far, as to bring a person not within 7 letter, within 7 spirit, as in ease of a 3d. She was made guilty of petit treason, for killing y master's wife, when y.

It only made it petit treason for killing of master, &c. y ground y will of y legislature, et. c. 2d. ed. be otherwise credited.

In conformity to this rule of strict construc-
tion, it has been settled, that if y exception
of an offence, increase augmented punishment.
For to if offence, by law he has before 7 commis-
sion of 2d. offence, been tried legally & convicted
by y 1st. form, the of otherwise see legal pro-
cess, (i.e.) no need of y 2d. & him 2d. ed. 7ly
must be in this case. Thos. 168. Hale 123. 1st.

2 Poulst. 159. - Bac. St. i. g.

Note: In these cases, if accused must be convicted
of 1st. form before 2d. is convicted, or he will not
be subjected to 7 increased punishment. 1 Hals. 168.
1. Hale 324, 370. 837. This is a strange instance
of the difficulty of construction of Penal Acts. The
first punishment, (say of a judge) was intended as a
Statutory discipline, if y offender ought not incur
the augmented punishment, till he has rested the
benefit of y 1st. form. Bac. 4th. St. i. g.

One may be indicted for several offen-
ces in y same indictment, or presentment. Rob. 1. 57.

It has been held in y City of London, y. where y
same penalty has been repeatedly incurred, by a con-continuance of y offence, of a negligence, neglect to prove a will be, only one penalty can
be sued for & recovered at the same time. Rob. 6th.
Proceeding upon ground of my prescience for that offence being a wrong to obtain from a repetition, he had not suffered a whole of year before he could be prosecuted for 7 years, 1 Preot. 36.

f. 70. contra. yt is certainly diff. from Eng. Rule.

There are some cases in civil, penal, etc. have been extended by construction, but they are clearly of doctrine from law.

The penal laws of every sovereign state are their local, whereas Remedial laws are transitory, so yt. y penal laws of one country can never be enforced or noticed in another, no as to affect the rights of citizens in another, no nation can punish faults committed out of its territories. This is a principle of Public Law, for there is no such thing as a community of criminal jurisdiction in separate states. 1 Pet. 3 1737. 3 Thess. 793.


The penal laws of every country extend to all aliens within yt. country, so if they commit crimes there, they must be tried by y laws, for they owe a temporary allegiance to them, as long as they reside within their jurisdiction. 1719. 18 1311.

As a man can't be punished corporally to any offence, attended with yt. punishment, in one State, in a diff. State from yt. wherein offence was committed, so neither can he be punished for anything an offence.

2 John. 12 477 79.

But one may enforce any right strictly civil, is not in its nature local, as well in one State as another where it has action may have arisen. Thus if A. live in B. a bond in Court, it may be recovered as well in B. as London as in B., and so to Handbook even.
In England, as far as regards civil remedy, & indeed any other cause of action, it is in its nature transitory.

It has however been determined in Court, & laid down that, if goods be stolen in one state & transported by sea to another, he may be tried & punished in either, upon the principle, that he represents a thief in every stage of his progress. This decision in 7 H. 7, 7 R. 116. 117. to say the least of it, is a very extraordinary one.

This point has however been settled in another way, in R. T. S. 89. by J. Patterson in 11 M. T. 42. in his case of 7 U. T. vs. Page. in 21 John 477. 478. It was decided, that a person apprehended in the State of N. Y. in possession of a horse, wch. he had stolen in N. H., & not been convicted in N. Y. This was the case of the People vs. Gardiner. & these authorities I conceive to be demonstrative of the Law.

It has been opposed on this principle in Eng. Practice, y. when a felony has been committed in one country, it may be tried & punished in either. But an analogy cannot be extended to a different separate government, governed by different laws, under different heads, like any 2 of the States. Nor in different countries if Eng. & some punit. are inflicted under some supreme jurisdiction.

Further, it is impossible to a Ct. to know judicially whether what we call a theft, is an offence at all in a neighboring State. The man might have come honestly by a good, & conveying them into a state it is certainly no offence in itself. However, that what we call larceny, might in some places, as it was in Sparta, under certain cir-
circumstances be no offence, & what is still worse, a trial & acquittal, or conviction, is no bar to an
imposition in another right.

Remedial or Beneficial Statutes.

Remedial or Beneficial Acts are to be construed
liberally or equitably to effect the intention of legis-
lation. Cases not within the letter have been deduc-
ted within the spirit & vice versa, for this rule oper-
sates both ways.
Ex. the St. of Colo. It gives a remedy
vs. exec. in certain cases but says not a word of
administration here: they have enlarged the Act determining
by. To any other hand the spirit may not restrain
the letter. Thus, St. 32. Hen. 8. enacts yt. "all per-
sons" may receive lands. Yet have determined
by. That all persons" did not include idiots;
men coorts. Infants, &c. &c. St. 33. Hen. 8. mentions
their decision. 3 Bfo. 7. 12 &. 122. 11 &. 71. 11 81st. 130.
by. 15. 07.

Under this general rule, clauses, sentences, single
words, are used in a St. are construed by that
in a strict sense from what they usually express;
this may be illustrated by a whole class of cases
involving notions of "void & voidable" of distin-
ction of primary importance, as no two words
of the Law, have occasioned a greater latitude
of discussion.
"Void" is a mere nullity - can't be corrected & is
as if it had never been, & P. persons may take
advantage of it. 154. 57. 3 Bfo. 57. 110. 10. 81st. 111
2 N. 110. 111. 10. 81st. 111. 110.
"voidable" stands good till avoided & no one can
take advantage of it, except the parties or their
representatives. The true distinction is, if an act
in a transaction is declared by Stat. to be "void," it is held to be strictly void, if a mischief intended to be prevented. So be let in by construing the act only "voidable"—but on the contrary, if a mischief not be let in. By construing the word "void" as "voidable" it may be of virtue to continue.

To exemplify this distinction. See H. 2 Y. Ch. 2 which there is a similar one in most of the states provided y. all conveyances by relations to repay bona fide creditors shall be absolutely void. Here y. constructive must be literally & strictly so, or y. it is a deed letter, for y. only possible way in ch. y. 7. § 9 if it could be answered, y. the fact y. conveyance as if it had never been. Where it continued as only "voidable" y. mischief so. be let in y. further as mereon 32 persons so. never take advantage of it.

Terms merely permissive in H. 3. are often construed as imperatives & it is a good rule, when a St. enacts a Ch. to do a matter of justice between parties, they are bound to do it, in all cases falling within y. St. § 7 enabling words have an imperative effect. Thus y. § 9 W. S. enacted y. Ch. may award costs to y. deth. in certain criminal cases. In such cases y. Ch. are bound to do so. 2. Penn. 1181. 3 Y. 588. 2 Hark. 493. Pac. It is.

When a St. directs y. doing of a thing for a sake of justice, y. public good y. words "may" is positive. But this rule does not extend to executive officers only. in relation to y. official acts, y. a St. enables them to do.

Yee and H. Plane of y. St. made a correct distinction. The constitution of y. state enacted y. of governor y. representation of both houses y. y. Legislature, may remove y. whole bench of judges, or any one of them.
When thus addressed he refused; the Legislature intended to convince him that 'may' in that act meant 'must,' but his answer was, 'it meant 'must;' then addressed to a Governor. 2 Stat. 263.

3745.

However, St. the "beneficial" taking away a common remedy is construed strictly; no such adjudications can bar rights of citizens or subjects. Thus it has been held at common law by the action of 'wrong'; when concurrent with trespass, it is not barred by it.

10 Vt. 282. Proc. ab. i. c.

There is however one class of these falling within yr. last restriction ch. are construed liberally, viz. of limitations, ch. tho. they take away ch. common remedy, are not so much in taking away right of one party as in granting a long undisturbed possession of another & ergo were aptly called yr. Stat. to reposes. 1 Salk. 471. 17 Vt. 295.

Running from item. 58.

Words of an "explanatory" ch. can never be extended by construction; they must be taken in their strict sense; for yr. office of an explanatory ch. is to give yr. meaning if a rule & to self an act of construction, keep yr. terms might be indefinitely extended. 1 Salk. 471. 17 Vt. 295.

Proc. St. i. c.

In Stat. yr. are partly penal & partly remedial; two rules of construction, have their respective application. Thus in yr. St. of frauds, conv't ch. has a double aspect, one part is to set aside yr. fraudulent act, c. they for "Penal" ch. d. receive a liberal construction, but ch. part ch. inflicts yr. penalty of "Penal" & must be construed strictly, as might all the acts acting yr. 7 offender. 103 Vt. 88.

1 Salk. 471. Proc. ab. St. i. c.

2 To. 82.
The words, parts of a Statute, are always to be construed, so that they may if possible take some effect—same in Contracts. Hence it is always objectionable that any part if rendered nugatory, to none it is possible to give an effect. Yet if one more of construction be made a word nugatory, is another 
give effect to it.

But where words are synonymous, either construction may sometimes be made, unless upon the only body of the Stat., for repealing is if possible to be reconciled, is if inconsiderable, yet latter part repeals former incapable of violence.

And a saying yt. annihilated y whole body of a Stat. is utterly void. Court will never with a part to destroy the whole, or charge y Legislative with such an absurdity, but y provisions of a Stat. may be qualified or restrained by a “saving.” 1 Thmb. 1. 38. 39.

But if a proviso in a Stat. is contrary to the provisions of a Stat. y proviso is good, y Stat. not perniciou because such speaks y latter of y Legislative.

The rules of construction of Stats. are y same in Eng. as at law. It is a very erroneous idea of English it will give a construction, differ from a Ct. of Law. In y they may differ in construction as well as two Cts. of Law. Two Cts. of Law may, but the principles are y same in both; for y Legislation can’t mean different in Eng. 8 8 of Law. The remedy may differ, y proceedings always differ, but y construction

Repeal of Laws.

All laws, whether State or Common, are repealable and this must necessarily be by case. The power of making a law necessarily involves the power of repealing it. But a Legislature of several States cannot repeal any constitutional provision.

Whenever two laws of Stat. differ, the Common law is abrogated or repealed by such, this is the intention of the Legislature, and not merely from its being higher authority as erroneously supposed; it is a Stat. if it course always considered as later date than unwritten laws.

If two Acts differ, the later is repealed if still further if two parts of the same Act are repugnant, the latter Act shall stand alone is repeal of other "pro tanto." Nis. 678, 681, "Stat. 6th. of Nov. 287, 1835. 88. to. 111. 15."

And as every Act is repealable, a clause in any Stat. yet, it shall not be repealed if void, then the Act remaining, yet, it shall be repealed only by a majority of two thirds or two fifths of the whole. By a majority can always repeal a former Act. Moreover such clauses are in derogation of authority of a subsequent Legislature, and a prior Legislative act binds a subsequent, one, except by compacts, when not properly legislative "acts" but "conventions." Hence it is a good rule yet all acts in derogation of power of a subsequent Legislative are void. 11 Co. 52.葩c. 4th. 1835. 138. 90.
This principle may be sought to have in some of the constitutions of these States, viz. a majority of the people always have a right to alter, divide, or destroy a statute, if it be contrary to the constitution of a State, in self-evident, for they can alter any legislative provision by a bare majority of those who compose the legislature.

But the constitution of the U.S. is a compact between distinct sovereign States, as if a matter of convention attainable only in a manner prescribed.

The law never gives a right of repeal of a former law by implication. Where 2 Acts are apparently at variance, it is the justice of the case to continue them both, may stand if possible, 8 if repeal may be clear, to repeal a former Act. Now it is to be presumed that if a legislature intended to repeal a former, they would have expressed it intention. 11 Co. 83. Bac. ab. Tit. a.

24. It is laid down in y books, that an affirmative Stat. does not repeal a Com. law. Co. Re. 1175.

This is not satisfactory by any means, y/ be as the same is a Stat. in affirmative terms, may not mean it is not.

If it is inconsistent with it, it repeals it, and it does not. This opinion is confirmed by many cases in y/ it is not absolutely repealed. The same may be said of negative Stat. 17 Sc. 39.

The above has arisen out of y/ highest division of y/ Supreme court no example, viz. to say the least of it is senseless.
Where it gives a remedy in any case in ch. 7, there was a subsisting remedy in y con. law, & does not abrogate y con. law expressly or implicitly, there will be two concurrent remedies, the latter being called "accumulative".

(7 Bower, 503.)

If a Stat. inflict a higher or lower penalty than is inflicted by an older Stat. the elder if repealed, for it is not to be presumed yt. y Legislature & intended to provide two distinct punishments for y same offence.

3 next to 7. 11 Bower, 202. 2 Ilchester v. Lewis.

If a Penal Stat. inflict a lower punishment than is inflicted by y con. law for a given offence, y con. law is repealed by y Stat. of the lower punishment, can only be inflicted; it is clear if y new Legislation inflicts a penalty, they mean to repeal a higher one.

But if a Stat. inflict a higher punishment than con. law does y same offence, y con. law is not abrogated, y Stat. punishment, being only "accumulative", y offence may be punished under either.

The Stat. of Ebor. furnishes an example of this, the punishment being more severe than y con. law, & yet y Prosecutor may elect either; - But it may be asked, if there not as high evidence to repeal y old law as in y last case as in y other? & if so, is y diversity of found penal laws & their benignity, with which penal laws are constructed - 7 B.R. 129. 10 Bower, 237. 2 B. & A. 76.

4 Nov. 2026. 4 B.R. 138.

Observe yf. y marked distinction between the inflicting a "higher" or "lower" penalty than was done by a former Stat. or by con. law, whether high or low, if y y former Stat. is repealed, but at con. law there is a choice, so yf. if y con. Penalty
if lower than that at common law, it repeals it, if higher it is not repealed.

25. It is here seen in some of 7 books it an affirmative that, does not repeal a prior affirmative it. This is unintelligible to me appeared an arbitrary & meaningless distinction. I have never seen satisfactorily explained. An explanation of attempted in 2 shoes. 30. ch. only confounds confusion.

The true criterion, whether one repeals the other or not is whether of latter is inconsistent with of former, so if it is inconsistent with it, latter repeals of former, the affirmative. Oth. 87.

But these Rules relating to repeals found in rev. 13. 31, 32. 33. 34. apply only to construction repeals & not to express clauses. For these there is an express repealing clause then can be no question. When y repealing it is itself repealed, the original it is "ipso facto" revived. On other hand, if y it sh. has been repealed, it is revived, the repealing it is void, so far as it is repugnant to y first "pro tanto." The repealing it became void by y re-establishment of y repealed. But by implication, for well then case of intention of y legislature is evident. 13. 31. 32. 33. 34. 35.

If one it is grafted on another to y better execution of y former, y repeal of y former virtually repeals y others.

So if a it be revived, the explanatory acts attendant upon it are revived with it - with all y its " pari materia" are to be taken together.
as if they had been in one law. So then an action founded on a former Stat. is given in a new case, everything annexed to that action is also given.

When one Stat. is expressly repealed by another, it makes diff. provisions on the same subject and a provision for its own continuance for a limited time, if former Stat. does not revive after its loss of that time, unless it was especially so by later. 

So if repeal was not to be limited to a description of other provisions.

When a Stat. has been repealed by a or any ab.
number of repealing Acts, if only 2 of them repealed, when Acts are repealed, if it containing any & repeals 2 original Stat. Bac. 30. It. "It. 4. Just. 10.

If a Stat. has been repealed is revived, if repealing act if merely a repealing one, becomes void "in toto", but if more, it is only void "in partes" for it is impossible that a repealing clause may remain in force. Bac. It. 10.

When a Stat. is repealed, all acts done under it, before repeal, are good & lawful; for repealing of laws merely make them cease from time of repeal, but it is laid down in some of the Eng. books, yt. if a Stat. is declared void, all acts done under it are absolutely null & void. I apprehend yt. this is wholly indefensible & will not bear a moment's investigation.

It is too restrictive of peace & policy of a Stat. to be tolerated - in fact it does, by pun
ishing an obedience to a laws, it null.

Julk. 235.
It is a genl. Rule yt. a St. neither can nor 
ought to have a "retroactive" operation, & in 
 deed such is Forbidden by 7. Rules of yu 
Municipal Laws — ye 7. Rule yt. forme a law is to 
be 1st prescribed. 18th. 36.

Hence if a Penal St. after having been viol. 
ated & before yrst. is given 7. 7. Offender, is 
repealed & a new St. is made on ysame sub-
ject, 7. Offender is not punishable Diminished 
under either, unless 7. Former is expressly con-
tinued in force, as to all acts & offences com-
mittted before it was repealed, by an express 
clause to yt. purpose. For 7. Offender can't be 
conceived under y. "first" — for by y supposi-
tion there is no such law in effect nor can th
latter St. affect him, for if it did not be-
in existence at yt. time 7. offence was com-
mittted, it wo. Operate ex Post Facto. &. is 
forbidden by 7. Constitution of 7. 7CU. I.
18th. 28th. 35th. 1 34th. 16th. 33th. 23th. 24th. 82.

There was a case in N. Y. where a dock in a 
public office, was indicted for frequently notting 7.
mail, but after 7. indictment & before 7. trial. There 
was a law passed altering it as it stood at yt. time, 
then 7. offence was committed & he thereby escaped 
punishment entirely.

This Rule is founded on y. broad Principles of 
criminal Law. Hence it has become common to insert 
in repealing Sts. 7. St. is repealed 7. Shall continue 
in force as to 7. all acts committed before 7. new one 
was enacted.

But a Stat. tho. not essentially "retroactive" in its 
provisions may become so indirectly, if it retro-
spact can't be Prevented. As if a court of made
to be an act, lawful at f time, but sh before the time of performance becomes unlawful by fl. t. the cont is annulled, for y covenantee can never be compelled to do an unlawful act, y this is per- fectly consistent with y retroactive prohibitions. Thus, if a cont. be made to import certain commodities & before f time of importation arrives, an embargo or a more non-importation act, or a declaration of war that con- tains y performance unlawful, y cont. do be an- nulled. It anti to y same as in a civil accident. 1 Stat. 193. 1 Dov. a Cont 166. 6 Ld. 217. 21. 1552. 9 Veh. 31. 174. 1 P. & R. 213. 1 Dov. 211. sec. cont 20. 163. 1

But here it is to be observed, yt. yt. y. in terms is prospective of a future illegal act, for y rule is not yt. y parties shall not be bound by y performance, when y act was lawful, but yt. y performance cant be com- pelled.

On y other hand, if one cont. not to do an act wh. a subseqt. act makes it his duty to do, the contract is annulled, as if one the cont. to serve another & not to depart with his permis- sion, is if by law required to enter y army. Here y law annuls y contract. And everyone must be made subject to yis tacit condition. 1 Stat. 193.

If however one cont. to do an unlawful act, a subseqt. It. making yt. act lawful, does not ann- uled y contract. For there is no inconsistency in obeying both.

If a cont. illegal by that. is made. While y it is in force, a subseqt. repeal if y. It. cant give validity to such prior cont. no can it make it good.
If complete performance of a lawful contract can be made illegal by a subsequent statute, it, yet if it can be performed in the same manner as before, the contract is not void. See 3 Bl. Com. 386.

This is what is sometimes called "compelled" - as near as may be. 2 H. Bl. 186, 187. See 3 Bl. Com. 386, 387. But it is also if a complete or literal performance is prevented by act of God, or by some other party, or by necessity, or by lightning, etc. This may be compelled to convey a house & lot by the owner, or even to accept it. E.g., at 18, 1 P. R. C. 298.

Art. 1, sec. 18, 27 20th Const. Of all Constitutions, State Legislatures making any law impairing obligations of contracts, i.e., "Ex post facto" law. And it has been a question whether a statute, making a contract void, conflicts with this section of the Constitution. I apprehend the article has no bearing on such.
if a statute to be an act afterwards made unlawful, nor not annulled, y consequence doth not indirectly, by contracting with foreigners might entail it on the Legislature. y intended is to make that this section applies to those acts of y. directly make void contracts between individuals & not to those whose annulment, prohibitory effect, is merely consequential. y act of y. nature, whose object is for public goods, if to be void merely because any individual may suffer is absurd.

That part of y. Constitution relative to "ex post facto" law has no concern with this, for they are penal retroactive laws. Under this head it may be observed, y. insolvent laws under our State Legislature may be made so far as to discharge y. person of y. debt, but any provision for discharging this future acquisition of property are void. This was determined in y. Lottery Ct. of y. N. Y.


It is laid down y. a. A. requiring that to be done. y. is impossible, is void. 1 33 N. Y. Like wise it has been Do. by Lord Coke, 2 Cl. & Co. 13th. y. a. A. contrary to reason, or divine law is void. 5 Co. 113. 3 He. 87. 5. But this I apprehend is indecipherable, as there is nothing in the men more widely differing, than in their opinions of the Divine Law.

If a legislation choose to make an unreasonable law, no judge can set it aside. y. is impossible. But I can't lay down y. rule thus. y. all collateral consequences are demonstrably unjust, y. too may avoid y. if they can by giving a reasonable construction to y. Rule, but if y. inter-
tion is plain, they must so administer a law.

And this is contrary to our Constitution of the land, and was void, so declared by all previous courts, and questions for some time, is a difficult question.

Cts. of Justice of all Cts. of Justice have a right to decide upon the constitutionality of cases.

The Sup. Ct. of the U.S. may declare cases void of contrary to the Constitution.

The Constitution is part of the municipal law of the land, & paramount to all legislative provisions, & as Ct. may declare a later Ct. to repeal a former repugnant one, so may they declare a Stat. void if repugnant to the Constitution. There is no more difficulty in one case than in another. Even a jury may decide upon it, under direction of the Cts.

This question has been repeatedly argued & decided in, & it being so. It is not a question of the Constitution may be carried. Federalist No. 71.

It has been questioned how far a Ct. authorizing a Ct. of Jurisdiction in a particular case a case, or by Jurisdiction if by anciently estabished Cts. of Gen. Jurisdiction? The answer of a Ct. make a new law concerning an old office  by appointment. Particular Ct. to execute it, by Jurisdiction if a Ct. of Genl. Criminal Jurisdiction is not excluded by it. but there is a concurrent jurisdiction of a Ct. of Genl. Jurisdiction can't be ousted by implication. The same may be observed of our State Cts. in this country. If a Ct. enacts st. all ancient
crimes of a particular nature shall be taken
conspicuous of by a newly established ct, this do,
not exclude y jurisdiction of or corresponding higher ct,
in that county. The ct. in these cases only provides
by, they shall be tried by a particular ct,
& does not say that no other ct, shall try them.

But if a ct. creates a new offense & establishes
a new jurisdiction for its trial, it is not perfect-
ly settled, whether y jurisdiction of 3 ct. is
ful. jurisdiction is excluded by it or not. The
latter opinion seems to be right. It is excluded in
3. last case; for since there is no ancient juris-
diction to be vested by implication. 1 Wh. 89. 114

1 Nod. 415. 2 Brow. 1042. 9 Cr. 118. Thack. 584.

This opinion is confirmed by all y books.

Coop. 94.

If a special authority is given to certain per-
sons, affecting y property or rights of individ-
uals; if authority must be strictly incurred,
& must appear on y face of y proceedings, or
y proceedings will be void, of y party acting
under it. 3 Dea. 130. 3 Hale 381. 3 Co. 139.

This, sec. 655.

If a ct. enable a certain body of men, not
incorporated, to do certain acts by a majority,
& constitutes a certain number of them a gre-
num, not amounting to a majority of y whole,
will not bind them. (Coop. 115)

The principle seems to be, that as these bod-
ies are mere creations of y ct. they have no
other powers than those especially given them, a
necessarily incident to them. This is not appli-
cable to corporations. (Coop. 116) 9 J.R. 579. 1 Dea. 810. 821.
10 Cr. 10. 2 Brow. 259. 3 Cr. 118.

Authority of a private nature conferred by y ct.
on 3 or 2 private individuals is joint & not several
unless otherwise expressed, is upon y death of one, it does not survive to y other. 1 Ed. 67. But if y authority be of a public nature, it is joint and several, so yt. y death of one y authority will survive to y other. Tho. 117. Co. Lit. 118.

This contemplates ministerial acts only, if not judicial, unless expressly nanted. Tho. 117. Co. Lit. 118.

If a power of a public nature is given to several, the act of a majority of y whole number, all being present, is y supreme power, y act of all. The majority however have no power to act without. But if 2 others are notified, their act will be binding, even if willful absence of one, might defeat any measure. 125 el. 592. 13st. 8. 1st. 239. Co. Lit. 181. Co. 23b. 11st. 1053. 23.

These Rules do not apply to bodies politic or corporations, in which a majority of all present and of whole, present there be nothing at all, at y character y incorporation & y meeting be legal, all being only summoned. The number present constitute "pro se nata" the corporation. Tho. If y meeting is regularly convened, it is rightful. 1st. 117.

13st. 8. 1st. 239. 23.

Note: The word "voix" in a st. is often construed "voiable" & often taken in its strict sense.

It has been dr. yt. "voix" with more might be construed "voiable". "Vox" of y "voix" is all intents" were added. This is not y criterion for "voix" to all intents has been construed "voiable".

Rule. If y subject of y that, is to be defeate by adjuring a act "voiable" any, it must be adjured. "Voix" hence, It may be adjured "voiable". 23st. 8.
Several ths. relating to the same subject, are all to be considered, unless continuing one.

Rules of construction of ths. are the same in Eq. as in laws, or mode of enforcing laws in this.

Of Pleading ths. in the mode of prosecuting them.

The Books on this subject are more confused than any other branch of Pleading. In some cases they are irreconcilable, arising in a great part from obscurity or inaccuracy of language, & from a circumstance in a phrase used. Pleading, 'account rendered,' 'accounting upon,' 'accounting' as to such are specifically & pt. & totally distinct.

Mercy Pleading a th. consists in nothing more than alleging facts, &c., being a case within it & for the purpose of it, need not be named or even referred to. Thus to plead a th. limitations in equity, if th. merely says 'No exempt. act in fraud of owner,' he to plead; th. says th. does not refer to it, but merely says that there is no statute or memorandum in writing signed by him, a not his act in writing. For 'wrong,' see 2 T. 127. 221.

Counting upon a th. consists in an express reference to it, e.g. words 'in virtue of this th., or 'by virtue of a th. & effect of the th.' in such cases. If he who pleads a th. also, sometimes counts upon it, without being required, for they are distinct acts, &c., &y. statements.

Reverting a th. differs from both, former is consists, as its name imports, in granting the
Not. on its contents. Since a St. is sometimes pleaded by reciting it, together with a connexion with its statement of facts, which brings them within it, but pleading a St. does not necessarily imply a reference to it, or recital of it.

It is a great rule, yet, that judges are bound "ex officio," to take notice of a public St. if they are not set out in "pleading." For if facts are sufficiently stated, the St. is taken judicial notice of. It will apply to them, if they come within it. And if a public St. is denounced, it need not be proved, since Judges are to know it judicially.

But if a private St., judges are not bound to take notice of it "ex officio," & can know nothing of them judicially, unless pleaded & recited, or if it is a new matter of fact, a private "memento," etc., if right, of St. judges are not bound officially to know, than of existence of a deed, note or any specially-granted. If course no advantage can be taken of it, unless specially pleaded, & such may be denied by St. Plead "nulli tali record," in the case & party must prove it, 1 Co. 76.

1 Co. 76. Ex. Eliz. 231. 3 Ed. 38.

To take advantage of a private St. it is necessary at comm. has to plead & recite it, & if an action is brought, or such, it must be set out in his pleading. It must be used upon as a specially, for if it is not set out, no cause & action appears in declaration.

1 Co. 37. 2, 3 Ed. 37. 2, 3 Ed. 38.

But a public St. then required, as it sometimes is, when used by way of defence, not otherwise be recited, then they are sometimes coupled upon. 2, 3 Ed. 38. 1 Co. 76. 2, 3 Ed. 37. 2, 3 Ed. 38.
The pleading containing y recital of a public H. is so unfavourable to y. St. that the Pleader more to halve a letter in such a case, it unnecessarily increases costs & lengths y records. It is often s. H. a public H. may be given in Ev. or in y. Gentle's Office. But this language is incorrect & a legal solecism.

Footnote: 125.

The misrecital of a public H. in some y books, is s. to be fatal in many cases, even after verdict, then it need not be rectified.

C. Al. 247, 253. Corp. 474.

St. R. 298. 211, 253. Corp. 474.

By some it is s. y. H. a misrecital is an immaterial part, of error by verdict.

211, 253. Corp. 474, 476, 522.

The true Rule in y above case as laid down by S. Holt, is s. y. H. a misrecital of a public H. is not fatal, unless y party try himself upon it; i.e. y. H. as recited & as by y. words according to a recital apost not. But if y. merely concludes with y words of any other than those, it is not fatal, the y. Judges will reject y misrecital as an unnecessary & est. office. Notice y. true H. St. R. 882. Corp. 256, 475, 476.

Aug. 10th. 211, 253. Corp. 474, 516.

The misrecital of a private H. is never fatal after verdict, nor Demurrer in common form; for in both these cases, y. St. having y. knowledge of a private H. ex officio, cannot know whether it is recited or not; it is indeed exactly the same as a note of hand, or a bond, or must be produced to make a comparison.

2d N. Y. 241. 1 Corp. 883.

2d N. Y. 517. 2d. Corp. 678. 2d. Ryn. Pagh. 255.
By therefore there is a mischievous, advan-
tage must be taken of it in either of 2 ways.

First. By "null and void" then; for, 3. 30.
not support of declaration.

Second. By claiming error & pleading it
in abatement.

Third. By evading & overthrow, reciting &
then removing to it, pleading specially in variance.

When a public title is to be urged by way of
defence, it is not greatly to be pleaded specially,
but where it is relied on to defeat a special-
ty, it must at can. be specially pleaded,
to take advantage of it: 1 Chit. 101. 30.

It is well to say it so highly of a specially, yt. it
must be specially pleaded. Thus to take on bad, up-
very must be specially pleaded. But if this
very reason, the fee. issue never do. be plead-
to on a specially.

The true reason is yt. expressly is inconsis-
tent with a plea "non est factum" 8. there-
fore if defence grown after by yt. It. is incon-
sistent with a general issue, it must be spe-
cially pleaded, as yt. 45. 46 Limitations.

Bac. 145. 36. 59 a. 57. 57. 57. 57. 39.

I have above stated yt. in declaring upon a
private It. it must always be recited, but
y. recital need not be literal, it is suffi-
cif it be substantially declared upon, see. 45. more
lawyer like.

1 Chit 32. 32. 32. 32. 32. 32. 32. 32. 32. 32.

In no case is it necessary to recite the
preamble of a It. such being no part of
It. but merely y. name & reason on th. it
is founded.


It was once better mind, yt. y. recital of y.
title of a public Stat. was not fatal in demurrer, but mere surplusage. It has since been determined, retroactive to the latter decision. I think at

They shall both be qualified by evidence to

When a Stat. is partly public, partly private, the latter must be recited. 1601. Pitt. 797.

In variance in any description of a Stat. or record is fatal. Coop. 376. Where j. recited of a Stat. is necessary, the plea must contain, or state by

Statute, there enacted, or it will be all in vain. Demurrer. 1 Hask. 241. Bac. 143. H. L. P.

coop. 377. 2 Cm. 211. 3 Cm. Can. 252.

"Knew he dined" can never be pleaded to a public Stat. as its existence of never made matter of fact. But if a private Stat. is mentioned, "knew he dined" may be pleaded, must prevail, for its existence is a question of fact. 1 Coop. 2 M'D. 34.

c. 14 R. Law. 164. 3 Cm. 90.

It is a good rule, yt. in Declaring or a public Stat. if plea read not count except it he need to no more State those facts, ch. being in case within it. 2 Bl. 584. 1 Coop. 170. 8 Beav. 347. Stat. 19. R. 90.

But there are three exceptions to a general rule. II. If there are two concurrent remedies, one at com. law & one by Stat. If

plea read Declare by Stat. he must also count

stat. sect. 19. Yet. I do not know that remedy is intended to pursue & nd. suppose he claimed of com. law remedy. 48 Beav. 18.
2. In an action on a penal St. y Plff. must always count upon y Stat. for a public Stat. extends not only to indictments & informations, but also to civil actions (trot to recover penalties) by St. 2 Black. Book 3. chap. 5. 15. 723.

The reason of this rule I know not, except it be found in y benevolence of the law to criminals, for there is applied to me no great distinction, between this & a civil action on a public Stat.

2 East. 277. 371. 384. 6. D. 126

Plod. 66. 104. 39. 204. 6. D. 126

Yale 12. 2 East. 257. 104. 39. 204. 6. D. 126

2. If a public Stat. gives a new action, known to y con. law, he who sues upon that, must count upon it as well as plead it. Some of the books say y party must recite it, thirty word "reciting," as they used as synonymous with "counting up." & if it appears y. See Ellenborough so understood it. 3 Bac. ab. 96. 124.

2 East. 277. 2 East. 257. 104. 39. 204.

This in a mixed action of waste upon y Stat. of Gloucester, to recover the place wasted, wh. was unknown at L. Law. Here y Plff. must count upon y Stat. to show on what his action is founded, such being unknown to y con. law.

2 East. 277.

But where y Stat. barely extends an old action to a new case. the old party will obtain yt. it is not necessary to count upon y Stat. Thus Stat. 4 Ed. 3. 24 re long testatoris. &r in certain cases in actions of trespasses for goods of the testator, taken away during his life time, wh. was unknown to the con. law. Yet it has been determined yt. y Exr. need not count upon y Stat. as it merely extends y old action of trespass to this new case. 4 Bac. Int. Stat. 24.

In an action on a public wrong, it is not necessary for the party to count upon the
wrong to be redressed at common law; it gives a new ground of suit to action.

Hence if a public wrong be not redressed a
right or duty is given damages for the violation of one or neglect of the other; he who seeks upo
right, the court must not count upon it, but construe

If a court, not being merely created a
right or duty, either giving a remedy or creating there is no merit of country upon it. For a
court, not being expressly given, or in a case above,

By one Act, prohibits an offence & another in
offence & penalty he, who prosecutes there must count on both, for a remedy is contained in
neither by itself. 3 Bl. 422. Col. 133. 4 B. &
2 East. 282. 125. 121. 505.

From this last it follows yt. if one Act pros-
butes a penalty for a given offence, is a sub-
sequent Act giving a right of yt penalty to any
one who, he, who prosecutes must count on both
Act; otherwise y prosecution will not be acted even
by verdict. 2 East. 233. 333. 334. 333. 334.

An offence may be laid in y same indict-
ant, as an offence of both common law & Act, but it must be in distinct counts to claim
penalty in one count &. to be a duplicity in the right to qualify y indictment.

If y prosecution is doubtful, to avoid fail-
ure, he may insert 2 counts, on extra forman
statute, as well as a misdeamenor. Read Co. 233.
If part of a trespass consisting of repetitive acts is vs. y con. law, & part of same trespass vs. St. if it is necessary to count upon St. in a pros. c., then if St. uses "cont. from. St" will refer to that part of offence prohib. by St. 1 Blk. 212. with cs. 382.

Thus entering by force on one's land is an offence at com. law, & hunting upon it is an offence by St. 1 Blk. 212. may be sued for in an action. 1 Blk. 212.

St. Holt says, ytt laying oft. Dept. hunted on s'this close off. suff. with "cont. from. St" 1 Blk. 233.

72. Ifa temporary public St. having expired, is revived by a subseq. St. counting upon same, it is suff. & proper to count upon first only, as if by complaint concluded with "cont. from. St. it will be referred to yf. first, in yf first contain. yf. law, & yf. latter merely conveys yf. operation, or removed yf. limitation annexed to yf. first. 2 Thos. 1666. 4 Blk. 183. 1 Blk. 183. 232.

If y words "cont. from. St." were inserted in an indictment for an offence know. only at com. law, they will be rejected as surplusage. The rule is thus laid down with any qualification in y. books - but it will be found in y. books yf. question has always arisen after verdict. Such an demurrer I conceive must be fatal, to there is always an in-formality sh. if always a good ground for demurrer. Any repugnancy is ill on Special Demurrer, however unimportant. But (note) th. never must be a Special Demurrer on indict. 2 Hagt. Ch. 23. 177. 6. 7 H. 158. 102. 12 H. 352. 2 Com. 32. 26. Com. v. cit. in St. c. 2.
When a St. gives a penalty for a new offence created by it, & directs how it shall be redressed, the offence can't be punished in any other way than yt. directed by y Stat. 6 & 7 Geo. 3. c. 54. 11 Geo. 3. c. 53.

A dept. The relief upon y Stat. of another St. must set at forth in his pleading. A general allegation is not suff. in such cases. 29 Geo. 2. c. 6. 1 East. 6. And since a St. directs that must be pleaded, the plea must be in the words of y Stat. 10 Mac. 2. 27.

Exceptions. In y enacting clause of a Stat. must always be negative of a declaratory, complaint or indirect, pointed upon them. The omission of y. requisite is so absolutely fatal, as not to be cured by verdict, but, exceptions, qualifications & provisions in subj. substantive clause of a St. are not requisite to be negative & no notice need be taken of them. 3 & 4 Geo. 3. c. 15. 6 & 7 Geo. 2. c. 58. 11 Geo. 3. c. 52. 1 East. 346.

This distinction may appear arbitrary upon first consideration, but it is not so in reality. The point of it is y. when in y former case y exception is in y enacting clause, it enters into y description. If y might create or y offence prohibited, y. to positively describe this, it is indispensable to negative y exception, whereas when y qualification is in a subj. substantive clause, it forms a smaller of offence & does not constitute a part of y offence, & may be described without mentioning it. 3 & 4 Geo. 3. c. 58. 1 East. 347. 6 & 7 Geo. 2. c. 54. 1 East. 346.

The same may be y. of covenants.

32 & 33 Geo. 3. c. 4. 13 Geo. 4. c. 1. 1 Geo. 3. 1 & Geo. 3. c. 18. 2 1 Geo. 3. c. 18. 1 Geo. 3. c. 18. 2 c. 1 Geo. 3. c. 18. 2 1 Geo. 3. c. 18. 2 1 Geo. 3. c. 18. 2 1 Geo. 3. c. 18. 2
Thus there is a cont. that. enacting yt. shall not do any secular business, except works of charity or necessity on y. sabbath, shall be f. 4. Then if complaint shall. merely state yt. except a person did secular business on y. sabbath, without negating y. exceptions, it do. not be sustained. For if exception is so interwoven with y. nature of y. offence, y. it can't be sustained within y. negative.

But suppose yt. first sec. By 6. 4. it now proceeds to declare that. secular business be executed are be in y. secular sect. not if. 4. st. it do. not be part of y. description then for no notice of it do. be taken. This same clauses contain a substantive clause, yt. all prosecutions under it must be within one month. This constitutes no part of y. description of y. offence & may be used as a defense if y. defect. seen cause.

In y. former case y. exception enters into y. description & by right or offence in y. latter it does not, but is mere matter of defence. May 65. Esp. 300. It has been before observed yt. where there are two subsidiary remedies, one at con. law is one by st. 4. latter of which is called cumulative & either may be pursued. But whether if y. 4. st. on prosecution elects to pursue y. 4. st. remedy & can't support his case under y. 4. st. reason of non-compliance with some y. requisites, he may in y. same suit resort to his con. law remedy & recover as at con. law, if he can make out his case at con. law, of y. costs can't form. St. will be rejected as surplusage. So there is a good declaration at con. law with it is
also a con. vice right of action. And it is now settled that this applies as well to criminal as to civil cases, tho' it was formerly thought otherwise.

2. 2 Brev. 599. 80. 809. 12th. 47. 2 Coxe. 848. 8 Book. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

2. 8 Hale 171. 7 P. R. 105. 1 Lea. 111.

3. 3 Brev. 599. 80. 809. 12th. 47. 2 Coxe. 848. 8 Book. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

There is a H. in law. wh. gives due damages for trespass in a night season. prems. com. law. only gives single damages. Here if y Plf. fail on y H. He may recover at com. law. This way so decided in Court, but it sup- poses y. distinct. -sufficient at com. law to warrant it. So in y case of a libel, wh. is punishable both at com. law & by H. yet y. party may be punished at com. law only, the y. H. Points out another & they are optional with y Plf. or prosecutor. 2 Brev. 809. 815. 7 P. R. 105. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

2 Brev. 809. 815. 7 P. R. 105. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

3. 12th. 47. 2 Coxe. 848. 8 Book. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

If that wh. was no offence at com. law is made illegal by H. is a particular more prescribed by H. To prosecute for it, that made it illegally so, must be pursued to & exclusion of all others. Thus if a H. create a new offence & provides y. it is to be prosecuted by in- formation, it is y. & no prosecution of any other red will lie. 2 Brev. 809. 815. 7 P. R. 105. 1 Lea. 111.

2 Brev. 809. 815. 7 P. R. 105. 1 Lea. 111. 2 Brev. 809. 815. 7 P. R. 105. 1 Lea. 111.

4 Brev. 809. 815. 7 P. R. 105. 1 Lea. 111.

A prosecution for recovery of costs as an example of y. rule, wh. is inapplicable, for recovery indefensible at com. law. 2 Brev. 848. 8 Book. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

Neither y. 10th or 11th of N.Y. are considered good authori- ties. 2 Hale 171. 7 P. R. 105. 1 Lea. 111.

The above rule as a gen. we must be qualified, if there are only two classes of cases to wh. it can apply, the there may compend a
majority of 1. may occur under it. — They are.

1. Where the particular mode of prosecuting is prescribed under a prohibitory or enacting clause. 2. Where there is no prohibitory clause properly so called, but 2. If it merely enacted that doing of an act, not before punishable, shall be punishable in future in such a particular manner — then it is necessary to provide such particular remedy.

The Rule holds in these 2 classes only.

2 Hask. 304. 1 Bunn. 343. 3 G.R. 204. 2 Bl. 501.

And the reason of 2 above is that, if offence & remedy are created together & so blended in that act, 2. they cannot be separated in prosecution. For if mode of prosecution being prescribed in & forming a part of the very clause in which it must be founded, it is founded to the intention of the Legislature, & thus more only that be punished.

But on the other hand if a particular mode of prosecuting is prescribed in a separate substantive paragraph, or clause, any new prosecution of 2. so adapted to that case may be properly in such a distinct substantive clause does not exist by new laws by mere implication.

1 T. 23. 204. 2 Hask. 501. — Ex. 2. That, exactly 2. it shall not be lawful to erect a private nuisance & any person the doing of shall be prosecuted by information — hence there being no distinct prohibitory clause, they can't be separated in prosecution but if it be in then enacted & 2. / offender may be prosecuted in any way.

And that if 2. if 2. way an offence at common law before, is prohibited by that, either the common law or that proceeding may be pursued.
to punish by statute. This is implied in every statute, yet not remediatory of cumulative.

Above there is a remedy independent of the debt, does not exist by supposition. This statute is to be observed, relating to a different class of offenses from the former, yet applicable to new offenses, whereas this prescribes a new remedy for an old offense. 2 Black, 402. 4 Term. 312. 203 infra. 807, p. 24.

If a statute creates a right in an offense & 46, prescribes no remedy or punishment, it will not be of any right to enforce the right or punish the offense as a misdemeanor.

Thus if a statute merely provides that no person shall do such an act & no more, he who violates this act is guilty of a misdemeanor at common law, for violating wholesome regulations of society, & hence it is neither proper in this case to count upon it, for common law will afford no protection. 2 Scam. 69. 16 Coke 75. 6 Mod. 20. 2 Co. 139. 567, 19 P. 229. 312. 8. 103 K. 249. 201 K. 249. Bex. 224. "A.

So to obstruct the execution of process granted by statute is an offense at common law, & an indictment for such obstruction must not be found at STAT. The indictment need not be found not to conclude "contra formam statum."

Ex. If it enacts commissioner to lay out highways. Here an individual resists such as guilty of an offense at common law & must be so prosecuted for it. It is proper to give it by common law to punish disobedience. Doug. 425.

If a civil remedy in such case is sought, it is to be by action on STAT, i.e. by right to be enforced of given by it. But recovery of punishment by common law. Doug. 318.
If an offence is to be punished, the offender is to be prosecuted by the State, or by some regulating statute of the State.

Who may prosecute upon Penal Statutes.

It is an elementary principle of common law that a public offence cannot be prosecuted by an individual in his own private right or capacity. Hence, the prosecution belongs to the party injured by the offence. If the party is entitled to the remedy of prosecution, it is his own personal right of action. Hence, the party injured by a public offence is entitled to prosecute it. 2 Bler. 235. 2 Ch. 290. 26 S. Sur. 295. 3 Eng. 3 Wm. 4 Bn. 11.

Notwithstanding this general rule of English practice, it is not customary to prosecute a public offence of the highest nature, even felons, unless the party injured is given to the prosecution. They prosecute themselves in most cases (it seems) for their costs, but this is surprising. The prosecution rests in the name of the party injured by crimes, in all monarchial governments. The individual is here considered as merely a "informer" by name not even appearing. 2 T. R. 236, 158. 205. 3 Leigh's 206. 247, 250, 257, 267.

The prosecution rests in the name of the party injured by crimes, as in all monarchial governments. The individual is here considered as merely an "informer" by name not even appearing. 2 T. R. 236, 158. 205. 3 Leigh's 206. 247, 250, 257, 267.

When it is so, yet a public offence is not to be
prosecuted by an individual, it is not meant that an action will not lie vs. an offender for private injury suffered; it only means that an individual has a right in his own name, to prosecute for an offence vs. a public, but unquestionably a party injured may sue for the civil injury. But there is a mixed species of prosecutions, partly public and partly private called *qui tam*, i.e. is commenced & carried on by individuals in their own names, both in W. & in E. i.e. Eng. It is a prosecution both partly in behalf of the state, & partly in behalf of the king in some cases. It derives its name from an original word of a complaint, viz. "qui tam pro domino regis quam sequitur". 4th. 33. Informs &c. 4 B. &c. 183. 168. 162. com. D. act in St. 5. 1. 1 B. &c. 37. 2 Hawk. 64. &c. 8th. 3d.

It is incorrect to say as is generally Dr. ejt. if the state is a party to a prosecution, for it is not in any sense strictly a party, that it may really benefit & prosecute. The individual prosecuting alone or if the only party, then he does it in behalf of the state as well as himself. This is practically important, the not generally attended to.

*Qui Tam* Prosecutions are either by action or information. This is another distinction not only attended to in most of the books, & certainly not in common parlance. A "qui tam" action is carried on by civil process, but a "qui tam" prosecution information by criminal process. This is a distinguishing criterion (i.e.) a "qui tam" commenced by original writ information is carried on by civil process, but a "qui tam" prosecution information by criminal process. The prosecution are as in all criminal cases. Where a "qui tam" complaint commenced
In action this is not by an individual in his own right or a Penal St. it is a civil action. The action itself does not decide its character, but of form of it. There an action not to recover just penalty for breaching of a civil action if a more action of debt. Coop. 362, 1 Will. 125, 7 V. 158, 4. 16, 756. 7 b. 257. Feb. 8th.

This distinction is not merely nominal but of great practical importance, the incidents of a "qui tenu" action and a "qui tem" prosecution being very different. In civil cases, a person is entitled to 12 days notice, a criminal prosecution is futile with no former he pleading by attorney in large "in propriam personam." In civil cases, judgment is recoverable by all the of Amendment, but not in criminal cases. In civil case in Eng. affirmation of a Quaker is admissable, not so in criminal.

From county city, no criminal case are appealed the many civil cases are.

Dee states of both kinds are guilty but upon general this to recover a penalty and feature of some kinds, & none other in penal St. Indeed as understood at present, they are treated as independent of creations of Penal St. 1 H. 112, 126. Dee Terms, strictly speaking are unknown to Gen. law. There was a procedur of a similar nature, if we may judge from it most used in it "Deo Pro Ternus quo nigra quam se," but so rare yet its nature is
handy at present known. When it gives a penalty to him, the will prosecute the same, it is called a "popular action." It is so called because it is given indiscriminately to any person at large. In some cases a whole penalty is given to him, the prosecutor for it, but not guilty. When it is a State.

169. 8 in. 201. 182. 13 228. 297. 38. 160. 206. 100. 283. 531. 29. 100.

If an individual is civilly injured by an offence prohibited by it, he may have his private remedy by a civil action on it.

The it, implies simply gives a remedy.

A "popular action" is not necessarily a "qui tam" action, the "treat of a non-lawsuit in that, they are much confused. A "popular action" may or may not be a "qui tam" as 9 sect. 507. Vices of whole penalty is given to the prosecutor, it certainly is not as he sits in his own name, but a "popular action." The form that it is called in some 160. 198. 372. 297. 38. 100. 206. 100. 283. 531. 29. 100.

I apprehend they are incorrect.

But when a penalty is to be recovered it is a "qui tam" action. On the other hand a "qui tam" is not necessarily a "popular action." In the remedy or right to recover may be limited to a party aggrieved by an offense, in the case it is not a "popular action" as heavy prosecutor or a party must sue "qui tam" as a penalty is divided. 97. 176. 128. 100.

Having promised this far by way of explanation of the nature of these acts. I shall proceed to inquire in what cases an individual may sue upon a bond. It, in his own name is in
any form. It is a rule well established that
violates or commands a thing for its advantage
of a defendant, so protection of private rights
an individual may have an action on it. In
an injury occasioned to him, by its violation &
that rule is the penalty, or the sum money, &c.
(The great negative) expressly gives individuals
remedy. The example given above in case of a
misdemeanour, will illustrate its rule.

It is an individual is civilly injured by an
offence prohibited by it. He may have his pri
icate remedy by civil action of above.
When a it inflicts a penalty on any one for depriving
another of his right or interest with maki
any appropropriation of it penalty, he who is
injured by a violation of it, is entitled to the pen
alty & may recover it by action & not by thing in
public. For as it legislatively inflicts a pen
alty with appropriating it, it is presumed
it was for him. It is thus be injured by
a transaction: 10 c. 75. comm. 1, 1, sec. 1.
Then an X, it provides a penalty for not
setting out tithe, &c. &c. It actually goes to its
Silent or to its tithes. So x was injured by this
not being set out. It has been said in this
case & others of the same nature, it is.
an act has been upon it, at common law to enforce a right affor
red by it. This literally implies an affirmative meaning of it.
It, it's penalty has a tendency supported by common law to en
force a right as well by it. Of this, I understand it.

2 bis. 186. sec. 12. 187. comm. 2. 8, sec. 12.

The next question it presents itself, of in what cases
an individual may prosecute one in a
penal. It is not merely where there is a remedy
the may have it?
It is a rule well if for an offence immediately
injuries are to y public only, a st. gives a pen-
alty in favor of y public or to him who shall prose-
cute for it, any individual may have a “qui
dam” or y st. who shall prosecute vs. y offender
for a penalty. Ex. st. vs. smuggling giving a pen-
alty to him who shall prosecute. 2 Wash. 377, 3
Co. 13, 40, 95, Cow. 1, 24, 40 St. Ed. 1.
The rule as st. drawing books is, when y whole
penalty is given to y individual &. But in
y st. case I apprehend it do. the st. a least unne-
sessary to prosecute “qui dam” vs. y individual does not sue
by himself “as well as &.” he may join with
y st. prosecute or y st.

If for an offence st. inflict a penalty in favor
of y public & allows a sum certain to him
who prosecutes with effect, any individual may
prosecute “qui dam” vs. For it makes no diff.
between a gross sum & a part of y penalty & in
both cases he who first commences his act has
an interest in y sum or penalty.

But when a st. forbids an act immediately injurious to
y public only, unless a penalty & is given to y st. & one no
individual can have an act upon it, nor an infor-
mation in y own name, for he has no inter-
est in y penalty & no right if y kind under
y st. Ex. penalty for smuggling, not given in his
name, part to any private prosecutor & no pro-
scription given him. 1 Wash. 377, 40 Co. 377, 1, 265.

But if a st. prohibits an offence immediately injurious to an individual as well as to the pub-
lic, & expressly gives the party injured a penalty a part
or damages for y injury; y party if it is
do. ought to sue “qui dam” vs. for y penalty,
especially if y public is entitled to y fine it sends
the no fine is given to y being to public. 4 Co. 13, 4
Wash. 377. 2 Co. 186, 181 12 Co. 124, 12 & 20.
Be it enacted by the King's most_exalted Majesty, and by the Commons of this Realm, assembled in Parliament assembled, and by the authority of the same, That all persons who shall be convicted of uttering a false rumour, shall be liable to a fine of one hundred pounds, and to imprisonment for a term not exceeding two years, and if the said rumour shall be proved to have been uttered with intent to cause a riot, the punishment shall be increased to two hundred pounds and imprisonment for six years.

And be it further enacted, That if any person shall utter a false rumour with intent to cause a riot, such person shall be liable to a fine of two hundred pounds, and to imprisonment for a term not exceeding six years, and if the said rumour shall be proved to have been uttered with intent to cause a riot, the punishment shall be increased to four hundred pounds and imprisonment for ten years.

And be it further enacted, That if any person shall utter a false rumour with intent to cause a riot, such person shall be liable to a fine of two hundred pounds, and to imprisonment for a term not exceeding six years, and if the said rumour shall be proved to have been uttered with intent to cause a riot, the punishment shall be increased to four hundred pounds and imprisonment for ten years.

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yet, such offense is a breach of the social compact. An action for libel or calumny was once supported to recover a penalty in any case of upkeep, but they don't be supported at present, at least it is a hazardous experiment by 3 Ed. 4.

Where a penalty is given by the state, a thing is partly to the prosecutor, if state may prosecute & recover the whole. The penalty is given partly to the prosecutor, merely as an instrument of him to prosecute & not for any claim he has on account of a public offense. Moreover, being state prosecutions, it may be so, to take the penalty if he keep, as state & prosecutor.

A "true bill" conviction or a "qui tam" complaint either by action or information is a bar to any subsequent prosecution, suit or even indictment for same offense, because penalty has been obtained by punishment inflicted. So on one hand, where state prosecuted, no individual can maintain an action by bar of rescript, so if it were true a penalty might be tried twice, convicted & punished for same offense. — 11 Co. 556.

2 Co. 595; 2 H. 42; 2 Black, 275.

So a penalty, if a "qui tam" action or information may be pleaded in abatement, if a subsequent information or indictment, it commenced for same offense.

Many is a book by among them that 4th. say, it may be pleaded in bar, but this incorrect, for Ed. Mansfield says it must be pleaded in abatement — see 7th. of prosecution shall be withdrawn & next day, if party do escape with impunity. 24th. 597; 2 Park. 174; 2 Black, 311; 1705; 10 Co. 61; 1 P. 47; 44 Gray.

Under a penalty, it gives a penalty on any...
sum of money to him who will prosecute an action for it, no individual has any right attached to him till action be lost by it, no person having any claim before, & he who first commences an action, attaches this right to himself by commencing an action as incident right is acquired, and is consummated by judgment. 

33. 33. 1823. 210. 143. 2 Hulck 381. 98 100. 171 183 236

The penalty before action must be like property universally possessed in a state of nature, it is analogous to y "hand of justice" of y civil law.

I speak now of y penalty given by popular action - gs. to y remedial actions rule of seque.

It is an essential Part of this rule yt. y penalty be given to any one who will prosecute is not to y party aggrieved.

When a penalty is given to any one who will prosecute for y same by it. y State acting may be a popular action by releasing the whole penalty, or granting a pardon before action lost. But if a "true" or "true" actin a prosecution is commenced, y State can release a man than its part of y penalty, for a right of recovery attached in y prosecutor by y commencement. If y suit of such prosecution cannot be defeated by a "null" or "penalty" except for y part of it belongs to y king or State; Do y right the indigent is restored. You can y State or king for charge a suit as to y other part of y right commanded. 2 Hulch s. actin.

It is said yt. Parliaments can release a whole penalty after action lost. It is hard to say that an Eng. Parliament, it being omniscient and so, but if not. Think this beyond their power.

* 33. 33. 115. 170 95 15. 6. 4. 3 324. 377.
with the repealing of it. It is certainly contrary to principle, if I apprehend no Legislature in its discretion to release it with repealing of it. For to repeal a vested right, the injustice of it is equally as extravagant, as to release recovery on a private note of hand. They cannot release a right vested in an individual.

But my other hand when a penalty a part of it is given to a party injured by his offence, the party has a vested right in his allotment before action has been. It is in the nature of a remedial action, that nothing but a repeal of it will sit aside.

2 Hooe, 297. 1 Hooe, 100. 2 Hooe, 311.

Even if a penalty is remedial in its own, it is still considered as remedial, so far at least as to preclude any interference if it be.

It seems at con. law, a prosecution in a popular action on a bond it might release his part of it by penalty after conviction. Which if be a bar to a subsequent prosecution by the same or any other party. For before such conviction, such release did not, if it would, avail, even at con. law as to securing impunity for an offence; for a prosecution right to a penalty is not consumed until after conviction of the same prosecution may be again.

2 Hooe, 176. fil. 171. 2 Rolle's Rep. 32.

But this right to release in a popular action by reason of a collection, practice, occasioned by it, if it be, is not. In other words, no recovery in a popular action shall be a bar to a subsequent action or prosecution, but by an individual for the same offence, & also if no release pending an action. If prosecution to Dept. shall prevail to restrain public justice, that was
to provide a claim. Prosecutions, &c. by one of those ancient states which is "prima facie" y Law of 120, Y. 2 H. 4, p. 37. 4, 38th 102.

Indeed, I am of opinion yt. yt. above it, is only in appearance of y com. law of respect to evin of fraud, so I think them of no reasonable doubt of a curious recovery of uncertainty of y com. law. Yet I think it does there is no transaction however solemn, ytt. frauds will not vacate - moreover ytt. question involves y authority of records.

13 May 1792. 7 Ch. 29.

Yet it is further provided by it. &c. Elie. yt. 3 prosecuto can not compound yt. action in any manner till after plea pleaded, no thin except leave of y Ct. on pain of solly & other punishment. If it is intentionary with 3 Ct. to grant or refuse leave, y Ct. leave to compound if given, yt. part of y penalty being. To y. public must always the 3 to be in Ct.

15th May 1793. 13 Ch. 17. 1381. 8th 107. 3d 108.

Yet if a rule of practice, yt. after conv. it. y Ct. will not give leave to compound except on proof of y severity of y theft.

18th May 1795. 10 Ch. 107. 1d 108. 3d 109.

Even a bona fide release of y prosecutor do not at com. law bar y right of yr. public, to 3. for the part of y penalty being.

Prosecution. But a bona fide release even with leave of y Ct. after conviction bi. bar an action for y same offence, but by any other individual & even after prosecution commenced, but they is now abrogated by it.

Suppose y prosecutor practises fraud to
defeat a public prosecution, as to delay, it is not the law.

But when any action is given to the party injured by a false & unseasonable public proceeding, or suffer a wrong, the state can proceed in prosecution, by a public prosecution to the state, no aid to its representatives. The State can become Co. to the prosecutor.

336th, 92. Nip. 100. 7 Haw. 92, 275. 1 W. 65. 390. 189.

If several persons are convicted on one prosecution & in some cases several penalties are inflicted, & in others only one penalty can be recovered &. Then all.

The distinction is perplexing & has enticed y. T. counsel & every other class of person.

Plead. Aspersons are in this nation several, each to several joint-offend, convicted on prosecution, civil or criminal, if to be a several penalty, if there is none of precise, y.

Precise sum up to be inflicted on each, how numerous y. convict.

Exception 1. Where y. penalty is given by way of satisfaction to y. party given by y. offense, in such there shall be no satisfaction. There is a controversy my books on y. subject.

1 W. 65. 3 Haw. 92. 285. 289. 1 W. 65. 189.

Exception 2. When from y. philosophy of y. it appears me joint penalty alone was contemplated, as thus - If a Y. "any person or persons committing such an act, they shall be put in it," but here if y. language had been "in a they shall be put," case 14. have been_extent. 1 W. 65. 3 Haw. 92.
Further, this rule requires an exception to the language #20; it shall seem only to contemplate a joint penalty, yet if y offence was punishable at com. law, this is sup. evid., pr. a sexual pen-
alty may contemplated by y legislature, notwithstanding y contrary Philosophy, for all pen-
alties are several at com. law, & y Stat. clearly is cumulative, y as joint offence are
severely punished at com. law, y same must be y case by y St. But in all cases whether within y genl. rule or either of y
exceptions, it is y intention of y legislature yt.
governs.

If Debt is Not for y recovery of a
penalty vs. joint offfendors, then can be but
one penalty recovered at any rate, in conse-
quence of y form of y action there is but one
entire debt & so y Ct. must consider it, as
but one judgment or one entire recovery.

When y St. requires that one penalty, debt
is y most common & proper form of action, 
so debt being only for y recovery of one penalty,
so where y penalties are several, debt will
not lie as decided.

1 T. Rep. 295. 2 East. 389.
4 N. Yog. 181.

and as too a more persons may join in
committing one offence, as on y other hand, there
are cases in wh. any member of continued act
may go to constitute one entire individual of-
ence, & if y offence is prohibited by a Penal
St. then can be but one penalty recovered, in
e all these conjointed acts, taken together, constitute
but one offence. I will illustrate this by a for-
mer example of y St. enjoining y perseverance of
If a man labor this yt. say he shall not incur a penalty for distinct party of yt. say, but only one penalty, 7 acts being in continuity. As it is in continuity 7 acts yt. constitute battery. (esp. 670).

In a popular action, 7 Acts by y En. law, are entitled to no costs unless expressly given by y Stat. or by some such. It giving 7 Acts costs in such cases. But where a penalty is given to 7 party injured by 7 offence, he is as much entitled to costs in this as in a civil action. If a penalty is given as a compensating for 7 injury sustained 7 costs shall go to satisfy 7 party for 7 default of 7 debtor in not satisfying 7 Damage to 7th action but as he had have done. 2 Rbl. 74. 10Bull. 574. Bull. 17. 17, 201-2 Hunt. 274. 46. Wk. 176. 1 Hen. 32. 10.

In Count. y prosecutor always receiving costs when Judge. is vs. debt. 7 pays costs of Judge. vs. himself.

Litchfield. 3d Aug. 20th.

B26.
The subject matter of Municipal law is divided into two great heads. Rights & Wrongs.
Its object is to guard & enforce former, & to prevent & redress the latter.
It is necessary, the rights be first understood, things being but penalties, or violations of justice or right.

Rights are of two kinds: 1st. Of Persons. 2d. Of Things.
Things are of two kinds: Private and Public.

Persons as contemplated by Municipal Laws are of two kinds: 1st. Natural. 2d. Artificial.

Natural are human beings considered in their natural capacities. Artificial are such as are created by a law & are called corporations or bodies politic. Ex. Cities, corporations, or societies of other incorporated companies.
These derive their existence from the act or charter of incorporation, created to maintain a perpetual succession for a purpose of maintaining certain particular rights & for perpetuating those rights.

The rights of persons considered in their natural capacities are of two kinds: 1st. Absolute. 2d. Relative.

1st. Absolute are such as belong to individuals considered as individuals. Such as belong to them even in a state of nature. These constitute what is called natural liberty. Bk. II. ch. 2.
These rights are so far as their enjoyment is consistent with the preservation & welfare of civil society.
are enforced by municipal laws.

It is obvious that absolute rights cannot appertain to artificial persons, since they derive even their existence and course all their rights from the institution of civil society.

The absolute rights of persons comprehend:

1. The right of personal security.
2. Personal liberty.
3. Of private property.

The absolute rights of persons are principles of laws which relate to them being, as it were, simple individuals; I shall treat of them very briefly, giving only an outline of the law on each subject referring Mr. 8 to the book "Tomes" for a more particular exposition of them.

1. The right of personal security consists in the right of enjoying life, limbs, body, health, and reputation.

2. Personal liberty as herein used consists in power of locomotion, with restraint except by one course of law.

3. The right of private property is right of using, enjoying, or disposing of any acquisition within control, except by laws of the land.

The right of private property is grounded in natural law; its modification as a tenure of subject to control is held by various methods of preservation and transferring it are derived from society.

II. As to relative rights of persons they are those which grow out of the relations of civil society, or such as belong to individuals considered as members of civil society. The civil rela-
tions from which those relative rights result are of the Public or Private.

1st. As to those relative rights the answers of Public relations. Ex. That of Governors & Governed, Magistrates & People.

2d. The private relations from which relative rights & duties result are 4 following, viz.


These are the Domestic Relations.
Husband and Wife.

Husband's right to the Wife's property.

In Roman Catholic countries marriage is regarded as a religious ceremony. By civil law, however, it is considered as a civil contract. (Bk. 473. 71.)

Husband & wife are on many purposes considered as one person only in law. (Bk. 722.)

The forms & requisites of a contract will be considered in conjunction with the mode of respecting it in the law of divorce.

Of the legal effects of marriage contracts, is joint of the consequences of marriage as it respects the husband's right to the wife's property.

The great principle by which this branch of the subject is regulated is founded on the husband's duty to maintain & protect the wife, & her estate & to share only that part of it's substenecory to enable him to perform this leading duty.

1. Of the Wife's personal chattels in possession.

These in general are absolutely vested in the husband by marriage, (for exception in case of "paraphernalia" of wife, vide Post. 2 Bk. 475.) he may dispose of them at pleasure & may even alienate them.

But he has no beneficial interest in personal property of his wife as such. He is merely administrator.

But he has no beneficial interest in personal property of his wife as such. He is merely administrator.
II. Of the wife's personal property in action, or chosen in action.

The husband may dispose of this at pleasure during their joint lives.

But reducing it into possession or some sort of ownership equivalent to it, is necessary during their joint lives, to give the husband the absolute title, issues it survives to her on his death. 257. 26. 8. 140.

The same to her representatives on her own death the surviving, last for her life. 25. 30. 26. 17.


He loses, it is said, all title of husband in this case.

This authority shows also that by 24. 31. Edw. 2. 8. 19. Can. St. he may take it as administrator.

For by 22. 21. Edw. 2. administration in case of intestacy was given in part to y next of kin, most careful friends, who in case of y wife dying was by some command to be here found. 26. 17. 111. 107. 151. 8. 122. 110.

The statute, as the 8th sect. of administration to be given to the widow or next of kin.

Others hold yt. he has a right to administer y such and 'jure' march' at com. law, not under any St. 10. 13. 121.

Of any estate he has a right by y express provisions of y St. of friends cc. Can. St.

For by this last St. a husband or administratrix is not bound to account with his representatives, nor is not liable to distribute her effects, 5
thing he may hold them as administrates not liable to
account.

As such it in Court is no such right in husk.
In Court administration goes to next of kin in first
instance, & there is no special provision
for intestacy of wife alone & none at all. Law & our
Stat. compels distribution with. except in husk's par
son.

Here can't however, within here a in Eng. be
precaute wife's chose in action, for a beguist is
not a requisition wh. takes effect in his life time.

Co. Litt. 354.

But then in Eng. he is not bound as corn to do
minister her chose in action, he is still liable as
administer to pay her debts out of them. Ex. debts
contacted for her while sole. These are assets in his

Pay y. Eng. how if y. husb. neglects to take
administration & another is appointed. y. husb.
in y. character of next if kin of entitle to these
assets. 3. Obr. thinks these judic is arbitrary.


It has been held in Eng. yt. this right if
husband is transmissible to his representations,
then they must be paid over to his representatives
& not to those of y. wife. 5. Wils. 281.

A third person is not to be appointed Adminis-
trator, but rather vis to his representation.

10. Wils. 341. 1 Wils. 163. 57. 116. 27.
At settled by my husband or my wife is to be an absolute purchase and her choice in action so if she were first can transmit them to her in lawes

Ps. xliii. 25. 26. 2 Ter. 50.

The rule is now, a settlement is not a purchase of her choice, or realip or express or implied agreement. Ps. xliii. 25. 26. 2 Ter. 50.

But if she settle, is made post marriage, it must be adequate, since it is no purchase of her choice in action. If it is inadequate it is at

a purchase even though so expressed, & others must say whether it is a purchase or whole a part of more at all a gth. 588.

The husband cannot by purchase choose in action if she during y life by y wife unless he has purchased the

Ps. xliii. 25. 26. 2 Ter. 50.

Y because if ye not own y wife are chosed in action & by y husband & if are not own to y wife alike she become absolute to the husband in marriage.

Ps. xliii. 25. 26. 2 Ter. 50.

This is merely a & rule for at c.t. they are a

a same footing as other choses in action.

Ps. xliii. 25. 26. 2 Ter. 50.

If a settle of y husband by sale of goods, & obtain

Ps. xliii. 25. 26. 2 Ter. 50.
This is after a judge, thus obtained, & either of them, &c. &c. &c., or that whole is survivor.

2 Mea. 1577, 52. 7. 8. 10.

By our law there is no survivorship, & there is not "concession" by a law of France.

In all cases of joint tenancy in ten, each one transmits his right to his representative.

But here as in Eng. a right of collection is in the husband, not the survivours.

The husband may assign his share, whereas it has not been assigned, with equal readiness, will be set aside by a Ct. of Eq.

2 All. 265. 266. 320. 12. 32. 10. 29.

3 P. 25. 427. 57. 320. 225. 257.

1 Br. 44. 57. 218. 9.

It has been held, that such a voluntary assignment, for no purpose of transferring an interest in an annuity, may be made by a decree by order, for it is not held of the 18th. 188. 188. 188.

But this is now reversed. 15th. 208.

Rob. 187. 188. 189. 189. 189.

But a husband may release his wife's choses in acc. by an act merely voluntary, as a release is valid at law, if a Ct. of Eq. can't set it aside. 2 All. 265. 12. 12. 12.

When a husband is, subject to consent to Eq. To obtain possession & wife's choses or, the court in point of interest in his favour, insist to make some equitable provision for wife, & interposition being satisfied. 126. 127. 180. 180. 180.
This rule presumes y. if husband not at t. and y. wife, these 8. & his personal by settlement.

Rev. 41, 42. 43. 44. 45. 46. 47. 48. 49.

By scheme assigns 8. for value, 8. assigns & held in 8. by same obligations as husband to make provision for wife.

The choses in 8. & wife are not liable for the debts of 8. husband. After his death, unless they have been purchased by a settlement.

(1st np) 1820, 1, ch. 151.

They are they liable to be taken in execution, during 8. life, & if choses in action cannot be taken, no execution. If for they are not strictly his effects. & 72? they must be given as effects.

These are of a fund. to be the effect of his death by assignment, 8. in her marriage absolutely unimpeached. & in the marriage for them alone.

Rev. 41. 42. 43. 44. 45. 46. 47. 48. 49.

What is, however, to be given to general, if it subsists, then 8. family has no right to retain 8. funds or her pleasure.

But if 8. funds at a time. are conveyed before marriage, they no not become 8. husband's, the right that in a 8. action, for the right at the time of marriage. he 8.رجي 8. in an action may.

3 27 Rep. 631.

It has been questioned whether, in a suit case (5. 8. of title to funds) the husband alone can maintain. By 8. wife, in case.

Rev. 41. 42. 43. 44. 45. 46. 47. 48. 49.
Every personal chattels of the wife must absolutely
be at her cost. By law a person is bound to the husband's
money by his wife, is subject to his control, and
they choose in action as her, to settle only authoritative
wife to receive such money. 3 East. 321. & 7 B. 571.

What are the husband's rights to the wife's chattels?

Chattels real are such as annum & yearly,
items for yrs. & land &c. mortgages &c. 2 B. R. 361.
The chattels real of the wife, being coextensive, are
tempt to her part of her debts, & may be taken
in execution for part of such debts, & she can
be taken in execution. 3o. Litt. 46. 35.

ch. 55. 1 Roll. 314. 41 B. 638.
Chattel has a more extensive right on chattel real purchased in action,
but he may not have same right to her chattel real as he has to her
purs. chattel in person.

If the chattel does not survive if the wife's chattel real surviving coext. they go to her
heirs or survivors. If they are joint tenants.

They are not to all intents joint tenants &c.

They have determined in text. If the wife,
get the money & husband's like, they go to her
representatives. If two unascertained heirs under law.

1. B. 101.

But by C. L. neither husband nor wife can
bevest these chattels real, for right of survivor
or claim & paramount to the right of devisee. 2 B. 468.
3d. 256. 1737. 52. 52. 516. 30. 37. 37. 75. 37. 1738. 259. 7th. 476. 275.
But, by an act, granting these joint lives of plant
may happen if there, the cox, in plain, even after
his death, you have a right of interest paper

But not liable to his debts if y wife survi
vues, in the right of prime & parent to the
husband deceased. Tit. sec. 286. b. 3. Tit. 184. 6.
1 Boc. 403. 10.

So by c. t. are they liable if y wife s debt
er is the first, for here a husband right of
survivorship excludes her right.

see "Joint Tenor" page 5.

Now in Eng. are they liable for y wife s debts if the die first.
1 Boc. 409. no. 101. 1st. Tit. 183. 6. "Husband" 79.
If a pens. sole being joint tenant, if chattel
mortgages & steps y whole goes to another tenant
for his debt by prior to the deceased.

* Husband s right of survivorship excludes her debt but must be dealt with, see 205.

But here y husband has y same power to recovery
a joint tenancy, as she had whole sole.

The husband may also, owing convention assign
his chattel real with consideration, & they will
be set aside by. 38. 107. 79. has nothing to
so with it, y interest of a chattel real
of a legal estate, not 32 if a choice in
action, for an assignment of this to be void y
boy. 21. set it aside. 1 Boc. 409. 15. (autore)

vs. 6. 1st. Tit. 183. 6. 153. 10. 79. 2 Boc.
Of the wife's Real estate and Inheritance.

By y wife's real estate y husband has y sole usufruit during coverture, but he can at any time alien it alone. This does not being necessary to regulate their concerns, & provide for y support of y family.

Proe. ab. 23. 87. 64. 81. &. The 11.

Res. 127. to Co. 37. c &. part. 110. part. 192.

Fur can y husband & wife alien her inheritance by a joint act, except by fine or recovery, if there are estoppels. 1 Bl. R. 144. Tet. 12c. 612. 760. 515. 13c. 13o. 8th. 6th.

Thus her inheritance may be aliened by a joint act of y husband & wife. 2d. part. 111. 5.

Bd. in law. if y husband makes a lease, & dies before y termination of y lease, such expiration is so factum.

Bd. by St. 12 B. 6th. 8th. y husband & wife are enabled to make a lease for her life simple interest for three lives or 21 years.

Proe. 94c. 133. &. c.

5 Co. 5. 2 Landa. 820. 8th.

Such leasing are therefore valid during y term, they husband a wife shall die before y expiration of it.

Co. 94c. 12. 578. 560. 9. 2 Landa. 110. 9th. Res. ab. 13. 723.

If y husband giving coverture grant a larger estate

yn for his life in his wifes land, there is no forfeiture, as in other cases of tenants for life.

Proe. 92c. 58. &. c. 115. 1717. 2 R. 273. 76. 110.

For y coverture enables her to claim y estate during y life, & if forfeited to her, y martial right doth immediately attach on it. But it will survive only as a grant during his life at most.
probably for life, as, if wife may die & he not be
entitled to reversion, Lord El. Art. 274. 275.

Suppose the very adverse circumstances should entitle him to reversion, can her heir on her death claim a reversion? If, suppose not, y grant being originally a reversion.

On his death during her life time, her real estate vests solely in her; on her death, y give vested solely in her heirs.

But y must, in case of a child born alive of y, & capable of inheriting, y's estate has an estate for life in y's whole of all she reseed in, by y's courtesy of buy.


He is entitled to courtesy in y's widow, by
of Redemption, in y's, the it is only an equitable intestate of y. there cannot be an actual seisin.


In Gavelkind Tenure, y must have courtesy with
having issue.

Our tenure of land by a charter of Bar. D.
y accordingly y. If gavelkind, but courtesy un-
der such circumstances has never been allowed
here, Co. Lit. 26. n 28th. 128.

There can be no courtesy in a remainder or re-
version, for y issue of y's wife don't die seized.

To entitle y's husband to courtesy, y seisin by wife
must be actual. Except in case of some incor-
porate hereditaments, of Equity of Redemption.

But it has been intermedes in Court. y's actual
seisin is not necessary & y's a right of possession.
is subject, 4 day, a. g.
To entitle y. husb. to custody, y. marriage must be legal, & must be born during y. life of y. mother.
& Co. 3d. 6th. 29. 30. 1st. 16.
1st. 657. 666.
By y. birth (in afo.) y. husb. is tenant by the
entirety. minitute, y. title is consummated by y. wife's
death.

At com. law, any realty, due to y. wife while sole, S. 3.
not survive to y. husb. on y. wife's death.

They do go to y. executor, being in y. nature of
choise of action, belonging to her while sole &
not required to begin by y. husb.
& Co. 3d. 657. 666. 3d. 54. 3d.
6th. 18. 2d. 30. 3d. 23. 3d. 77. 78. 3d. 79.
5th. 14. 3d. 30. 5th. 56. 3d.
6th. 17. 1st. 3d. 21. 2d. 3d. 30. 3d. 3d.
1st. 77. 3d. 3d. 3d. 79. 3d.
3d. 79. 3d. 77. 3d. 3d. 3d.
3d. 78. 3d. 78. 3d. 79. 3d.

But by St. 32 Hen. 8. they are given to the
husband, they vest in him on y. wife's death,
& go to his exec. on his death.
2d. 14. 3d. 30. 6th. 56. 3d.
6th. 17. 1st. 3d. 21. 2d. 3d. 30. 3d. 3d.
1st. 77. 3d. 3d. 3d. 79. 3d.

But where, no realty, due to y. wife's property
vesting, goes to y. survivor at C. L. being with.
the above St. 32 Hen. 8.
2d. 14. 3d. 30. 6th. 56. 3d.
6th. 17. 1st. 3d. 21. 2d. 3d. 30. 3d. 3d.
1st. 77. 3d. 3d. 3d. 79. 3d.

The wife can have no sole & separate property at com.
law, except, to some extent her personal estate.
1st. 79. 3d. 30. 2d. 3d. 3d. 30. 3d.
3d. 79. 3d. 3d. 78. 3d. 78. 3d.
2d. 14. 3d. 30. 6th. 56. 3d.
6th. 17. 1st. 3d. 21. 2d. 3d. 30. 3d. 3d.
1st. 77. 3d. 3d. 3d. 79. 3d.

The privity, thus vested in y. wife'shusb. has no
right to, by custody, or otherwise. But such
privity, the may exercise as absolute owner in
the, as if sole, unless y. she can't directly
dispose it of real, by St. 32 & 3d. Hen. 8th.
2d. 14. 3d. 30. 6th. 56. 3d.
6th. 17. 1st. 3d. 21. 2d. 3d. 30. 3d. 3d.
1st. 77. 3d. 3d. 3d. 79. 3d.

Work for, she may make a disposition by way of
trust or donor. see 1st. 3d. 3d. 30.
1st. 77. 3d. 3d. 3d. 79. 3d.
The trust vested by the present dearest gift to his wife & separate use of his wife, then he may have common purchases.


No. a Deed of trust. To her of Real Property. 6th. 336.

* 3. 18. 1833. Ten. Sig. 3. 25. 3. 18.

The may re vest her ordinary purchases, i.e. his own. The purchases.

* Neo. Let. 3. 336.

But after the death of the husband, the wife, in the event of her death, may vest gium or satisfy her purchased trust actually against her interest during execution, see ch. 1. 1826. 317. 1819. 3. 18. 319.

And, if the property given to her wife, is not expressly so vested, the devisee, or other, whether personal or real, must vest in the property.

Con. Sig. 318. 32. 3 & 4.

And in such case, if after acquisition of the devise, the wife does not make her election, she will vest in the devisee, or other, the same vesting as if the property had been a fee simple for life or for years.

If a husband, or other, is not expressly vested, or vested, during partition, they are vesting common goods.

Con. Sig. "B. 3 & 4" P. 3.

The wife and his estate by his estate is not construed as personal.

It has been held, if a devisee has been the subject of a "trust term" in separate use, his interest will vest "junior mate" in y trust.

To every other kind of property, the husband's interest, whether personal or real, is vested in the property.

Con. Sig. 318. 320. 20th. 20th. 501. 3. 29.

(Contra) 2. 320. 26th.

Voluntary conveyance by a woman before marriage, are sometimes regarded fraudulent & void in Eq. as such. But see in re is marriage the making a conveyance with her interest, his to partially.

Con. Sig. 318. 320. 20th. 20th. 501. 3. 29.

(See) "Tranau's" conveyance. 16. 35. 18.

A woman is made to provide for her children by a former marriage.
of the wife's right to her husband's estate.

1. In Eng. & Town. (under St. 16. of distributions, 28th Jan. 25.) if y husband die intestate leaving issue, the wife has 1/4 of y share. But by absolute

same time, there are 6 of y husband's being first 30.

23 Aug. 1575. 2 B. ac. s. 17.

11. Intestate, at C.L. y wife is entitled on y

husband's death to a life estate in y share

must be inheritable jointly. If not, she was said

at one time her entire interest, 8th any of

her issue or have inherited.

The husband cannot by any claim have the

act of his, nor this right of the wife. The

wife & husband may join & 80 it by give.

& 80 it by recovery.

In N.Y. 8. Massachusetts the may be her right by 80.

power by joining her husband in a cor. inst.

and he may by his sole act.

There are particular cases in which husband having

conveyed to possess his wife to join in a life & may be

compelled in Eng. specifically to perform. 5 H. 4. 155. 7 H. 34.

and 50. 2 B. 157. 189. and 453. P. 1. 74. 7 N. 187. 10 B. 189.

50. 59. 2 B. ac. 189. 2 B. ac. 217.

But if of Eng. may re this with prejudice to a right

ty wife.

But if any issue else, she might have had it not inherit issue. 5 L. ac. 59. 2. 18.

But to enable a woman to have the must

have been a true wife of y husband at his death.
In a divorce, "a vinculo matrimonii" can be set by right of law. But a divorce "a mensa et thoro" can be set by law. See Nov. 108.

In Co. 127. 13 B. 15d. 30 c. 21. Co. Lt. 128.

If a marriage, that which has been under your age of consent, may not be set, for it is not voidable. 13 B. 128.

But in this, if a man can, the court cannot undo, even by age.


But because she advanced when married, the woman is still entitled to dower, yet want of age might bar her right, the great age cannot.


It was formerly held as if the wife, if an order might be endorsed, the husband, if an edition, so not be tenant by the county. It is now settled that the court be. Co. Lt. 21. 138 H. 128. 3 21. 127.

For to entitle a wife to dower, the marriage must have been legal. 1 Lev. 21. 6. 138 H. 128.

The wife's right of dower is paramount to the claim of creditors, creditors, of even mortgagors where the mortgage is made after marriage.

The right to the property, subject to the claim of any husband, is the same to such claim.

208 H. 172. Co. Lt. 158.

10 Co. 19. 1 Lev. 176.

The ground of her preference to creditors is, to dower is yet, her title has relation to the marriage.
of y husb. was then seized in the commencement of such seizure at the obtaining of the marriage.

Whereas her claim to y pers. property relates only to his death.

Seized in law by y husb. as sufficient to entitle wife to power, co. tit. 39. The such seizure by y wife is not sufficient to entitle y husb. to cust. y husb. has no power to restore him to power when he is wrongfully seized, but he has, however, power to restore here in a similar case.

2 Will. 101.

In Comm. y wife is entitled to right of power only in y inheritable property of wh. y husb. died seized, or rather wh. he owned at his death.

1 Beat. 39.

The words "y state, left her power to y inher. y husb. died seized. It. tit. 146.

The word "possession" is in this case considered as "remunerating" with the word "owns". So the actual possession of seized by y husb. is not neces. in sec. 39.

She is entitled to comt. to 13 of that inher. property she owned at his death, wh. she died seized.

In court, y husb. may defeat her right by alienation in his life time, but not by alienation in contemplation of death. A provision for his family, for this is not anything but a testamentary disposition.

By our H. laws if a man die with issue, he leaves a widow unable to support herself, if she has no relation bound to her.
his property in his hands if his heirs & legateses is charged with his support during his widowhood. This is peculiar to Court.

In Eng., a wife is entitled to bequeath her Eq. of Redemption to a mortgage made by her husband in fee, before marriage. Because this is a mortage which goes to the husband in similar cases is entitled to courtesy. But in case of mortgage term, the is entitled to Dowry if a reversion is an estate of inheritance.

In Cont. & N.Y., the mortgagee of in fee, the may have Dowry in Eq. of Redemption

In England, the right in Court, as in Eng. is paramount to that of husbands and their co-wives.

3. The right of Dowry may be based in various ways. By an adulterous elopement, it may also by a divorce a vinculo matrimonii,

In England also a Dowry of right of Dowry of a citizen here who, having a foreign lady, she did not have issue under the special Act. Also naturalized the may.

By Eng. law Dowry is also justified by the treason of her husband, tho not by felony.

This is founded on a principle yet if done, if a convicted person is attainted, they are not considered heirs.

This rule cannot attain as to treason on United States.

By retaining till the death of inheritance from
the test of laws, in Eng. she is bound, until
she delivers them, if the party desires, & it is found when
she is barred forever. 2 Cor. 17, 18. Prov. 8, 11.

At least in Rome, judging her done, by allowing in free or for life of any other, by 1688 21st. 6th. 12. 187, 188
1 Pet. 250. 2 Pet. 10. 18, 72. 2 Pet. 16, 73.

She may also bar her right of done by accepting a jointure before marriage.

Ags. 158. 1931 153 170. 2 31st. 123B

From 292, 2 Pet. 140.

By complying with a fire in recovering her recovery,
the bars her right of done, if her own
attorney by way of stopped is her.
She is prevented from owning coverture. 10, 2 5, 8

2 Pet. 190 11.

In this state a legal divorce does not bar
her rights, unless it divorce arises from her
fault, or also she is entitled to alimony.

A married woman living absent from her
husband, with his consent & with just cause
is barred by 9 9, or rather is implied by un that.

Paraphernalia.
The wife is also entitled to certain articles called Paraphernalia, over & above
t src & consist of her apparel, ornaments, bedding, trinkets, jewels, &c.
As sometimes difficult to distinguish, as description of proper &c.
A wife may have to her sole & separate, arising from minute of many
facts an examination into it, & tend to perplex.
To properly to her whole & separate use, the husband
is an entire stranger, the law it to exclusion thereof
right in him, not so as to her Paraphernalia, except &ybar close.
Property to her issue is separate, must be so limited, but these words are not indispensable, if intention is apparent.

1 Sam. 19.

In some cases y intention is inferred not from y terms of y gift or transfer, but from y nature of y property. y circumstances with y which it was given. 1 Sam. 3.7 y diadem as plate given by y husband's father by y wife on marriage day, may be held held as her sep. property. A similar gift of clothes.

But if such property is begotten to her by her husband, if she has no other title, the title as her own merely, y it is not to her with sep. use, nor her paraphernalia, y is subject to her husband.

And property given to y wife as ornaments is not her sep. property in y above absolute sense, as in his estates. 1 Sam. 3.7 y but is held under certain qualifications to his use.

Paraphernalia is of 2 kinds.

1. Clasps of Paraphernalia. y 1. plate & bedding.

2. Ornament. Trinkets, jewels, insignia.

(Items present in their respective conditions) 1 Sam. 3.7. 2 Bk. 35.6.

During y husband's life paraphernalia, if y 2nd clasps are of his disfavour, & acc. to mid. rules cannot be used with them, much less those of y first clasps. 1 Sam. 3.7. 35. 2 Bk. 35. 6

Paraphernalia, if y 2nd kind cannot be taken by creditors, nor can the husband sell them.

1 Sam. 35. 9.

2 Bk. 35. 456.

She is entitled to such articles as are suitable for her rank in life, y to one bed at least. 1 Sam. 35. 9.
Paraphr. if ye clafs are appr'd in ye hands of ye husband, ye heir, execution for ye preat debts, but not until ye other assets are exhausted.

3d. 38th. 293. 12th. 374.

wife's claim is paramount to representation. 12th. 45th. 720.

and as lands in ye hands of ye heir at law is liable for specially debts it follows, ye if ye specially creditors take ye wife's paraphe.

if ye clafs, she will be considered in by ye heir, in so much as and as those creditors have taken of her paraphe.

12th. 772. 39th. 277. 19th. 280. 259. 97. 21st. 122.

Provided taken by simple end. creditors she take them, upon execution of appr'd, the wife will be considered as creditor in by ye heir.

2d. 4th. 1645.

as wife may, however be bound of her right of paraphe as the way to right of dean.

ex. inherit or position. this holding by debtor of paraphe. 2d. 22. 89. 39. 12th. 462.

It has been held yt. she has same right as ye devisee to clafs, as ye heir at law, for her claim is preparatory to ye of legatees or devisees.


6th. 12th. 772.

But as to devisees is doubtful: it is now good.

2d. 318. 383. 19th. 65.

If ye husb. pledges this clafs out of paraphe, ye wife, not ye executor has ye right of recompense, if there is a paraphe of pricks.

12th. 45th. after preat of debts she is entitled to it to redeem paraphe, even to ye exclusion of legatees.

2d. 395.
The wife's right to interdict or dispose of her husband's property is strictly personal. It is not transferable or transmissible. So if she does not claim them as Paraphernalia, her representatives cannot. If they hold the property in fee simple, if a man's wife holds them during her lifetime as trustees, not claiming them as Paraphernalia, she has power to dispose of them, not to her executors, but to her executors or executors. 2 Deed 240. 118th 111.

If she has been the sole executors, he claimed as Paraphernalia.

In common real as well as personal property is liable for all debts. If she is the executors, if she does take the Paraphernalia, the executors of debts to himself be immediately liable to reimburse his widow, if there were other objects.

Can he take them at all, if both are jointly exhaustive? If he can, his widow will be entitled to them if all of the estate of his deceased real or personal.

In addition to a widow or personal share under the will, if indivisibles, household goods are to be allotted her by the will, when the estate is insolvent. 23 Con. 175 6 80. This rule is extended in practice to other articles of monies. If it not also extended to insolvent estates?

Husbands liability on Wife's account.

The husband and wife are jointly liable. 1st for her debts. 2d for her tests.

For her expenses in some cases. They are jointly liable having control for her...
debt, contracted while sole, but if liability ceased on her death, unless judgment has been recovered vs. them before.

The legibility of it grows out of a relation in. he stands to her, easy with it. 12 Eliz. 104. 172a. 1775.

The decree if judgment has been laid vs. them; for judgment altering debt, by converting a original duty of debt into a joint duty of y debtors & wife.


If then she die first, no judgment having been recovered (or steps) y creditor loses y debt, unless what are left.

If he dies first, y debt surviving vs. her.

The her exec. is not liable.

The principle of y husbands liability is y wife by marriage loses part of her property & command of y rest, as well as y avails of her labour & things &c. deprived of the means of securing herself from want & confinement. 12 Eliz. 393. 17 Eliz. 195.

10 Will. 140. 1 Eliz. 440. 2 Eliz. 149. 16 Eliz. 67. 18 Eliz. 391.

She ought not to be personally liable to a suit sett on y trust.

This applies to y principle of debt liability with her debt & debts. 13 Eliz. 186. 1 Eliz. 131. 1 Eliz. 150. 16 Eliz. 265.

Since the cause in any civil action to take is held in alone as a mere person, for her debt or debts. She must be discharged in y case in common i.e. nominal bail. 13 Eliz. 986. 19 Eliz. 265.

22 Eliz. 133. 1 Nic. 514. 17 Eliz. 193. 2 Will. 726. 4th Eliz.

Except when action is hot vs. her when sole, pending y. the marriage, she then continues liable to be held alone in the suit by her own act except a proceeding vs. her. 13 Eliz. was originally regular. In the suit by her own act except a proceeding vs. her. She was originally regularly held to bail & the cause defeated y being her creditor.

13 Eliz. 329.
In this case execution goes to her alone & she is liable to be taken upon it alone.

In such cases (note 106) may be a "Dei. Faci."

obtain execution in her credit & herself with a Dei. Faci. whole proceeding as appear in

courts of not conform to her records. (sup.) 175

4 Qust 561. 38b. 111. 1 Sel. 74

If both are taken on same process, the is dis-

charged on con. bail of & he remains in custody till he validity in bail. For both. 4 3d R. 21. 182. 116

F is 174. 175. 176. 177. 178. 179.

It is not required in violation of these rules at all exempt, the may in general obtain a discharge in a summary way, by a motion to a T. Sec. mand y. Process. If necessary by habeas corpus. As they T. is not setting.

But the will not be discharged in summary ver-

as a motion when arrested alone as done in all

or known by a motion. Will lift up the

no imposition of a P. T. He continuing to be a person

T. at left & in such case to plead her arrest. E. 3 Bsk. 90. 762.

for an application by

motion of to a motion of the T. C.

in of her arrest be an action. If

out of y reach up process. 2 3d 122. 104. 105. 141.

4 2d R. 21. 239.

in such case as y can't be set, y T. will not upon application

to them in detention discharge her. The above

Rules all apply to Detention Process.

But if taken alone in final process as both,

the will be discharged, as there is a collision

between y T. & her credit to keep her in
The husband is liable jointly with his wife for crimes committed while sole. The case is the same if he alone, or with his direction, he or the husband commits a tort during cohabitation.

But in torts committed during cohabitation by his command or in his absence, or by his joint will, in his company, he is liable. 1375, 325. 1377, 357. 1378, 357. 1379, 357. 1380, 357. 1381, 357. 1382, 357. 1383, 357.

It is then proved his sole act, in whose case he is supposed to act from his own mind, post 70. This presumption cannot be rebutted. The husband and wife are jointly liable for her torts during cohabitation, she continuing so after his death. (Brom. 518, art. 6, 519) But when they are liable during cohabitation, not jointly, but one, she, is not guilty person, she liable with him, as said in previous cases. 1384, 357.

When he is liable alone during cohabitation, who nevertheless survives him, y tort, being considered in such cases as his sole act.

III. Husband's liability for wife's crimes.

In some cases, husband liable alone for the wife's crimes.
simple larceny, but that coercion is in its present
the alone is liable, y net is considered, his. Bab. 116.
130, 30. 1 Wals. 35. 17. 131. 28.
For y coercion, actual or presumed, excersby here.
This is founded in y law relating to Beneficence
men being entitled to it & men originally not. p. 33. 28.
The rule of D. to buy same as to necessary. 26. 20.
183. 37. 1 Meale 3. 48.
But y wife is liable as sole, if she committ y
offense voluntarily, as in y husband absence given
by y hire under his command. Such command falls
that of coercion. 131. 77. For crime re/missions com-
mitted by both, she is liable with y husband,
y must prosecute, coercion a command content-
ence here. Riving 31, 33. 28. 1 Wals. 3. 608. 10, 17, 105. 6, 508.
33. 27. 1 Wals. 3. 49.

Why not the excersd in a mere misdemeanor,
as in simple theft. Sh. is a higher offense?
Then y coercion of clergy applies, & seems to
cler. difficulty, y to indicate y. Hee exemption
by former case arises out of y. The doctrine. So take
y prayer. Men of y laws to be y. y coercion by hire
veas not excepted y wife. They alone distinction, etc.
4 Wals. 39. 71. supra. This distinction is found as reason
of h. exemption at 131. reconcile many inconsistencies & difficulties.

But in higher crimes as treason murder & as
some say robbery committed by both, both are
liable though y liable to the coercion.
For by reason of y coercion of y offense, y supposed
coercion is not allowed as an excuse. Because the offense are
instead of clergy 8 y committed by her alone she alone is liable.
1 Wals. 3. 4. Wals. 27. 1 Hals. 85.

16. If y wife violates a penal H. y husband alone
is bound to pay it, the commit y not alone
y wife, his property. The penalty is in nature
of a debt, see Manc. Law. 50. 54.
The act guilty as necessary in felony in merit. No. 2. 

... assisting her husb. after fact. This is founded on y c. e. 

... y has share to their relationship. Mask. 4, Pint. 106. 

... 43d 389, 2 Mask. 15. 

... all cases to which above exceptions must extend, y wife is liable for crimes, eve if sole. 

... 2572, 256 22, 22. 2522. 252. 252. 

... his power to bind the husb. by contracts during coverture. 

... his power to bind y husb. during coverture by her contracts, is 5. to be founded on his express or implied. Macc. 29, 1st. 105. Nott. 581. 

... 1st. 52, 359, 320, 5 Nov. 12. 

... husb. is often bound by her con- 

... and if he expressly refuses to be bound, 

... refuses or to provide necessaries, than as 

... wife she can bind him for nothing but necessaries. 

... 256 258, 256, 256, 256, 256, 256, 256. 

... 256, 256, 256, 256. 256. 

... 256, 256, 256, 256. 256. 

... husb. 1st. expressly refuse him, y wife 

... can bind him. 

... express liability in her courts. 8 husb. right will not in all cases 

... exonerate him, - for he is under obligation as husb. to pro- 

... with necessaries, i.e. food, apparel, medicine 

... such things as are suitable to her rank. 

... 22. 256, 256, 256, 256. 256. 

... husb. law 1st. express liability is not rebuttable. 

... husb. 2nd. 256, 256, 256, 256, 256, 256, 256, 256, 256. 

... husb. is under obligation as husb. to pro- 

... with necessaries, as he 2nd. be for his own. 

... husb. for being bound by y prayer with no necessity, these 3. are in- 

... husb. 2nd. are these four. 

... husb. 2nd. where there is
express agent by y husband from y contracted, 1263, 129.

12. When agent by y husband is expressly given after

1263, 1295, 1 Roll 306, 1 Sic 129.

13. Where y wife usually provided for family,
y husband pays for them, 1231, 306, 386, 1 Sic 129.

When there is an implied agent constructive of contracts by

same agent, the after wards marriage.

14. Where necessaries provided by y wife, come to

husband on family's use. There is an implied

agent constructive. (1231, 306, 3 Sic 129)

In y above cases the wife acts in this behalf as

servant, a partner for y husband, for if such had

made contract, they do be bound.

1354, 135, 1741, 1739, 1736.

1 Roll 351, 1 Sic 139, 360, 126.

A gift, not given to y wife, as in 3 cases of cases,
cannot be determined by any private prohibition, so

as to defeat y claim by those to after wards look

for on y husband's act, 1231, 306, 1 Sic 386, 1741, 363.

No credit given by one to another can be

withdrawn only by notice co-extensive with it.

1356, 135, 1741, 1739, 363.

If y wife not having a gift, overt, purchased cloth for husband knowledge spaces

them without having sworn them, y husband is not

liable, for there is no express agent constructive or subsequent. 1231, 306, 1 Sic 129

363, 393.

Depth had the sworn then y gift passed

them, for then having come to his use it, simply

an agent constructive. 1334, 306, 1 Sic 129.
Upon some grounds of distinction, if (with the lady's pri-

vacy) she put her clothing, before or after wear-

ing, in loose money to redeem them, he is not lia-

ble for the money - besides, borrowing money is not a contract for necessaries. So it seems to any other article. The rule that in last cases, nearest to.

her y'husb. had been guilty of no neglect, in furnishing necessaries for her.

If a husband turned away his wife, she is liable at all events for her necessaries, until the 21.

commit adultery. "Contracts." 8 T. R. 566-7; 11 St. 3. 1737.


Indemnity of a suitor, caused by only one act, will exonerate him from supplying necessaries in turning her away. If to y'husb. says it he is not liable.

But in y first case, (i.e. when she is not guilty of adul-
ter) no prohibition goes, or special will avail him.

She has capacity to live contracts for necessaries.

Talk. 118. 11a. 1214. or rather - his duty to sup-

port her, gives her a legal, ordain for necess-

aries. (Ex. 123.) y'husb. was made a promise to him to pay for them.

Talk. 118. 11a. 1214.

Ex. 127.

If a man seduces with a woman, & allows her to use his name as his wife, & appearing so to the public, he is liable for her necessaries, not named - Ex. 127. "not lawfully married" is a bad plea in an action for a debt contracted by her. - Bac. Dig. 13. 1. 16. 1. 224. 357.

Talk. 118. 11a. 1214. 1224. 123. 117.

To win a suit for a debt due to him y

Rule if y'same. As in action for torts, by y or

vs. husb. & wife. - Com. 6. 124. 125. 126. 127.

(End of cont.)
Let the On what principle? Can they join up
it? "Please" on no principle. If 3 rule to
true, can give a right to a man, by a breach of pol-
icy & good morals.

"Please" 39.

Such a place is good in an action for
appeal - To it of a good defence in an action
the criminal conversation - Dr. Mansfield says
marriage must be lawful to support the action,
because its charge is of a criminal nature. 1st Ns.
[missing text]
Lea. 345, 106. 3d. 115.

Such a separation if a revocation of 3 credit
the marriage gives her or 3 husband's account
Dr. Holt says 3. 3 husband must be presumed
to be given to 3 wife on her own account. But
whether is presumed or not, 3 husband's account
is not:

"Please" 39.

Whether known to 3 person trusting
in 3 place where trust is given, it is not ma-
ternal - It is enough of known jointly, where
he resides.

Eisp. 126, 112 106. 6 97. 3rd.
"Please" 39.

"Please" 39.

Whether 3 wife living separate, has no separate
maintenance, 3 husband is not discharged?

Eisp. 126, 112 106. 6 97. 3rd.

Whether 3 wife elopes & lives with an adulterer, he is not lia-
able, after 3 elopement is notorious. 1st Ns. 117.
Eisp. 123, 121, 121. 1st. 3 47, 1 3 8. is accounting to 3 current
of authorities, he is not liable at all, even if 3 elop-
ment is not notorious.

Eisp. 126, 1 3. 338. 1st Ns. 117.
To lay such an act, her rights as a wife are found unfilled. Hence, her husband is discharged, and, 1884:29, 1884. 9, if the husband is not bound to receive her again.

S.R. 5:03. He is the liable to her necessities, after refusing to receive her. 8:35.

Sec. The, after the husband has given her a credit with a public. She, if not in any way resolved, so far as regards her knowledge of that public, this is rather too much in favor of the husband. It seems hard that in her consent, till she is that, be exercised, till she is that have given notice.

But, it seems, to make no gift of her clothes, if any articles, whether it is adultery or not, she is not liable. The rule seems to be, yet the husband is not liable, the clothes, if not adultery.

1 St. 875. 10 M. 875. 96

If a wifeelope merely, or is not guilty of the offence, if she asks the husband to receive, by her husband refuses to admit her. He must support her.

Ep. 925. 875. 10 M. 875. 500.

(cited from St. 118. incit.)

If the a manelope, after to receive, a still prohibition, is not exempted from his liability, but a special prohibition to A. 88, 89. To exempt him. 1 G. 4. 109. 4 109. 417.

1 114. 10 M. 295. 89 KH.

If the husband leaves his wife in his absence, in his family & in his own house, not having provided her with necessaries, he is liable, also, she lives in incontinency.

8:35. 1884. 1884. 8:35. 8:35. 8:35. 8:35. 8:35.
But tho' y husband is not liable, going on elephant not adulterous, neither is y wife, for she is still a free covert, & y marital rights are enti-
the estate must exist him at his peril.

Section 255.295.7, 125. 125. 122. 124. 126. 122. 121. 122.

Obiter in extra judicial. Bos. V. P. 293.

(p. 29)

Where y husband, & wife separate by agreement, but
not exempting him from providing necessaries, goods
is y, she not be charged y order, only as furnished
him; but y special matter shall be shown on account
of action. So not to be identified, so as to be a bar. (Thirp. 227) & the former more according to legal effect? Do not agree with analogy y case is peculiar.

If y husband provide properly for y wife & family
he has an absolute right to go over y funds from endorsing y wife on his account.

1 Lev. 5. 1 Thes. 108.

And as y same he may terminate any credit
between Special & he has before given her

Thirp. 118.

Bos. V. P. 335. 1006.

But he can try no act, deprive her of necessaries, or exempt himself from his liability, if he
refuses the may proceed from his estate. (Thirp. 123.

If y husband turn y wife away with neglect, and
he is bound for necessaries, notwithstanding any
prohibitive goods in Special. 2 Th. 1215.

The husband is enjoined. 3 Lev. 17. 285. 118-15. 12 Md. 224.

For money lent to y wife, y husband is not liable
in any case, as actually expended in necessaries, & then only by equity.

In a bill of chancery y husband is liable
according to y use, y wife wants of it, & if y
necessaries she is then liable.

As an infant is liable to a value of necessaries bought.

To woman in Fairfield to such, but a bill
for woman in behalf of infant is supported by
received after the estate been fully reimbursed. 1 Th. 555. 2 Th. 5. 55.

Inability of his contract. 2 Th. 350. cannot dispute.
By her husband and wife separate by deed, her husband stipulating an allowance for her maintenance, by allowance being only put, she is liable on her contract for necessities. (2 N. & N., ante to Mansfield) In her great caution of his exemption from liability, it broken. No. by Mansfield, course, I think, other judges fairly demonstrated it.

Of a Women power to bind herself & Property by her consent.

The great rule is, that if a woman subject with her person to her property, her her existence is mingled with it, so yt. she has no will distinct from his, 10 to 42, 17 1/2, 23, 17 33 4.

It does not seem necessary to report to so technical a question, for y. true principle of y. rule is 1st, if y. law has in favour of y. husb. defended her of her property, or vised her to dispose of it, hence she is privileged to all personal liability.

2. The husb. has a right to y. person if y. wife is the husb. bind herself, yt. right might also be infringed.

3. If she the husb. affect a subject the person, his right to yt. might be defeated, ante 12.

To presume yt. in all cases the wife in her husband's co-operation, is seem to premised no part of true reason of y. rule. for yt. the wife into a act, unless if his will, it certainly D. has neither him a her.

The contracts at a. d. are not regularly voidable merely, but merely. 39 [date], 17 7, 17 7, 17 49. 10 29.

But a delivery of her and a bed after her husb.'s death, a s. is equivalent to it, will be her.

This being a reconquering virtually, so yt. in law, it is a new vis. In every case takes effect from validity, I.e. giving
date of last delivery. It is not valued at its but from delivery. 
B.C.S. 201. 4 Town. 1. 20.

As leases, however, are only voidable. This exception to a just rule is allowed for advancement of agriculture. B.C.S. 201. 4 Town. 20. 1. 20.

And if the going/or duty on or lease of her land, so long as more than 21 years, is excepted out after his death, the duty bound by his lease, if the thing affirms it. The husband can avoid the lease the same writing except. For it is void, once done. Be it no greater authority than lease itself.

In this case, however, after he becomes dis- vested, she may satisfy or annul it, or show the lease by alone.

It being as to her voidable. 1. Town. 183.

If she satisfies it, she becomes bound by the contract, for the satisfying it "all into".

If a lease be made to both husband & wife, & she agrees to it after his death, she is liable on such of the contracts as are done with land, the not upon such as are collateral. she charge the person.

If an obligation be given to Baron & Feme, she may refuse the benefit of it after his death, if after such seven it come to his representatives, as an obligation to him alone.

If a husband & wife are made tenants in com.
she may disannul the purchase or gift after his death. 3 Bl. Eqz. 2 Co. 26. 4 If when said, it will ensue as an estate originally conveyed to husb. - for by the law, it is voided as to her "ad astra." 3 Co. 1678. 1 Bl. 101.

But if y estate is a Freehold, a waiver by bond is not effectual; she must disannul in a dt. of recio. She's necessary by reason of y husb's seeming so highly of a Freehold.

On y other hand, the may support it by bond, or by her act, as entry & taking y prof.

If an estate is limited to husb. & wife, & a stranger to husb. & wife take but a moiety, then y husband & wife are regarded as co-owners. This is in consequence of their legal unity.

If real estate is conveyed to husb. & wife, by coos. ad. between strangers & creating a joint tenancy, they will take by entireties, not by moiety, & are called quasi joint-tenants, each taking a 1/2 in whole, it is subject in law. 3 Bl. 85. 2 Co. 367. 2 Co. 187 1/2 79.

do, y husb. cannot by his own act alienate a moiety or even even a joint-interest. He cannot dispose her, otherwise she chance if taking the whole by survivorship. They may dispose of it by joining in a true or cor. recovery. This rule stands on y same principle with the former. (see estates in joint tenancy, p. 8.)

The wife may convey lands limited to her own condition. If she do convey them to another, this is allowed to prevent forfeiture of her int.
The law does not allow her to convey away that the do. may retain, but that she do. not retain, & by y consequence of it. she do. not be injur'd.

br. 171. 123. 127. 145. 228 & 229. 231.

Since this, has allowed a free cott. to hold separate property. the money was by her sale, & y possess. their holder, & while being

with y rent. 12th. 901. 102. 1 Ven. 157. 6 D. 9. 13. 158. 139. 146. 196. 176. 208.

This an anomalous estate at c. 8. & may be profitably quoted, & cited. 2 Ir. 109.

But this court does not bind her at law. & of course nor person is not liable to arrest upon such contract, she is bound only in eq. not at law. 2 Ves. 170. 2 J. 343. 279. 103. 1 Ch. 16. 172. 18. 102. 146. 209. 144.

But eq. does not bind her in these cases by construing "in personam", it requires only "in rem".

And the property is held thencewise by construction the use. The may dispose of & property &th. the court. & that is a condition that they sha. join her in a suit. 12th. 103. 1 Ven. 157. 7 208.

The may convey because her equitable interest is independent of them.

If a husband is banished or adjudged a real claim is constituted of time only. for he is civilly absent, so, if he is transported, so is an alien enemy.


In these cases she may sue alone, she is a person sole in law. But then is no suit.
reason of treating her as a legal sole, is also, capacity to act for herself is necessary to keep her from suffering. Nothing more to be said.

The rule of y case is a given, a mercantile law.

1. R. 506. 2. Ed. 31. 587. 3. Ed. 27. 147.


The rule has been held, where y lady has been a long time a foreigner, but not now.

18. 8 R. 302. 20. 252.

11 East. 704. 20. 492. 80.

(Neill vs. agate.)

The case of Burrell vs. Burrell has gone fur.

that in a law in Subjecting y wife.

This case is now reversed 8 22. 355

5. 42. 655.

6. 1. R. 605. 520. 706.


123. 1. Ch. 777. 2 1. 900.

.Your case it Burrell vs. Brooks, y wife alone

was held liable to law for necessaries, & no fur

ther, but in y case above the de. bind her

self to y extent of her costs.

Cocks 1. 900. 249.

Another case, "Lady Lestrade's case," y birth

lived in Ireland, y wife in Eng. 4. 46. 46. by 36

had taken place, & a sept maintenance was

recovered. She was held liable in y present, yet

her husb. lived abroad & yt. the traded as a

dime sole. 1 Proby. 73. 25. 3. 23. 4. 23. 3. 23.

These cases have been overruled by the

highest authorities & are not considered law.

3. 203. 5 R. 577. 5 3. R. 540. 11 East. 401.

20. 8 R. 29. 29. 4 East. 376.

1. 3. 262.

On y sept. real property liable in Eng. by абстракт

for no separate maintenance not bind her.

1. 90. 134. 1. 16.
that is an agreement respecting a property itself, not to
live debt, or personal engagements. 1 Tis. 577. 2 Bov. 10
2 N.R. 183.

But here seps. 1st. In prop. & you will, & profiles of
the seps. real estate may be applied by a cl.
of sup. in discharge of the seps. engagements, as
in discharge of a hand. note &c. 13 N.R. 161. per 8.
derseveral ends vs. her. The seps. acts in persons, but to
her prop. only.

In these cases, in cl. 1st. If eys. is only cl.
in cl. these ends can be enforced.

P.Y. 527. 1 Prov. 113.

But a person estop. living seps. with, sec. by
law, were held liable on her contracts, either in
Law or ey's. the husband, bound to support her, & to pay
wife's bond, if to examine. 3 N.R. 683.
create a husband. 4 N.R. 768. 5 50. 509.

But as before, a mark woman living seps. for
her husband on account of adultery has been held
liable on her own contracts. 133. 8 2 383. sec. you want.
you in 1746, she can impair your marital law.

But of a quasi estop. alone levies a fine or
suits recovery, the & is bound by it that
the husband may reform it during her life
(as aft. 1st. text. by estoppel) by ending.

2 Vol. 68. 7 57. 1 33.
4 9th. 700. 7 2. 8
1 G. 9. 2 2. 1746. 9.

She is estopped by recovery, that some have run the
s. 5. bids himself. by recovery by. 2 Vol. 23.

1 Hob. 358. 3 91.

As aft. herself death. the
is bound by it. &e by any fine, in not hav-
ing reformed it. If the &. he binds wrongs con-
currence, 7 mensal rights. 50. to injunct to
1 Sec. 268. 1 2 N.R. 59.

If the husband joins in a fine or recovery, it is
being on both. ’ab initio’ 16 60. 2 13 3 5 130.
the estoppel by way of estoppel.
2 Roll. 352.
These cases are only conveyned by exec. in benefic.

cost. &c. being here in her dower at &c. but can now be executed a proud proe of a will.

First by executing a power over a will at law (2 H. 1, 62) as other at will as well as in fls.

And 2d. In fls. he clearly says, as also by a declar.

ation of trust, there is only an aperient, made be-

fore marriage, for settling y estate upon trustees, sub-

ject to y appoint. or declaration. The second mode

of can be enforced in fls. only. Prov. 11th 15. 1 Sam. 20th 35. 2 Kings 19th 40.

& 25. 1 Cor. 15th 10. 1 Thess. 21st 56. 2 Thess. 65.

In y former case, i.e. where there is an actual

settlement, made in trust, y trustees or persons, to

y estate was first conveyed, are compelled in fls.

to carry her appoint. or declaration into effect

by joining in y necessary conveyance for yt. purpose.

Phys. 130. 1 Alt. 500.

In y latter case other necessary parties, as y

husband or y wife - heir at law (as y case may require)

are compelled to do by same thing.

(2 H. 1, 62. 1 Cor. 15th 10. 1 Thess. 21st 56. 12 Cor. 15th 10. 24 H. 13th 57. 21th 175. 19th 510.)

If y wife, having separate estate, prevails to

receive y usu. y rents & profits, if it is real, or y

interest if it is personal, she is presumed in fls.

to have abandoned y rents & to him, 16th 69. 1 Prov. 15th 188. 2 Thess. 655. 1 Alt. 192.

Who to devising pr. should, see 2 Thess. 375.

(1 Cor. 27th 25th 30th 35th 32th 3 Cor. 20th 27th 16th 17th 19th 19th. 1 Prov. 13th 12th. 1 Thess. 123. 1 Cor. 15th 10. 24 H. 13th 57. 21th 175. 19th 510.)

A same coast, cannot devise real estate without y will.

This is a case of every person a person" in y Fl. 12th. 87th 54th

This way y male before y explanation, 12th Fl. 57.

And by fl. it, the is expressly disqualified. This

male seems indeed to be founded on y oppression

then yt. she acts by coercion of her hus. For he has no interest in her interest, inheritance, &c. Power of

revising it do. not subject her person, & of course do. not violate y marital right. 16th 69. 1 Prov. 15th 188. 2 Thess. 655. 1 Alt. 192. 24 H. 13th 57. 21th 175. 19th 510.)

(2d. rel. rel. to word executing will.)
The Wife's Power to Devise.

By our act of 16 Geo. 1, all persons of full age or above understanding, or otherwise legally incapacitated, shall have full power, to make their wills, testaments, & other alienations of their lands & other estates.

(1. text: "ability of persons")

yet to a meaning of y words "legally capable" not y construction given to the word "will" persons in 16 Geo. 1, 7 Geo. 3, (v. 1, i.e. persons capable of dis. prov. if real property by other modes of conveyance before them."

It was once decided in y Ct. of Ex. in 16 Geo. 1, yt. thewife devises real estate under y general authorizing devises. But it has been since deter. mined contra. 2 M. 193, 198. 1 Pl. 162. 10 Ex. in 14 Geo. 1, she if properly empowered to devise (what?) is in point; she can't make a will in beguare personal property. 2 M. 193, 198. 1 Pl. 151, 2 last 582. For it wo. violate his rights. 2 M. 193, 198. 1 Pl. 191, 192. 16 Geo. 1.

Inc. if goods wh. she holds, as executor's "principle estate" i.e. she makes an of them without her consent, but she can't even with her consent beguare them, making an execution on them, to move yo. executing a power over them. 2 M. 198. last 532. 16 Geo. 1, 16 Geo. 1, 16 Geo. 1.

In Ex. she may beguare her Perp. fair, helden to her sole & sep. rese. She is a tenant sole in Ex. "made her". The estate so thing at y. L. by y. L. knows nothing of property helden to her sole & sep. rese.

Not being capable as to y. by y. 16 Geo. 3.

It has been so. yet. she may beguare her perp. rese. 2 M. 198.
But she may bequeath any kind of per. jn. to be in her own right, in she. she has a beneficial interest, with his consent, but whether goods were originally his or hers, it is his & sheeh that gives y. consent, h-sp. lackt an. by his consent isy operating, be-

thing act. 1 Bk. 11. 197. 19b. 44. 3. 44b. 3. 85.

1 Re. 2. 2. 1. 11. 1. 107. 2 Pom. 32. 3. 316. 1 Vint. 235. 3. 20. 48.

That y. h-1's consent gives validity to the instrt. - see 132. 1. 398. 1 Mod. 2. 11.

But his apsect. If a bequeath of per. jn. to a woman to her after his death, will be

of no avail, tho. she survives him, for he has no power over her. The 1f they're void. East 552. This proves yt. it is y. apsect. If y. hush. yt. makes her will by per. jn. valid.

If a fem. solt. makes a will & afterward

marries a man before y. hush. it is revoked. In

it is essentially incident to a will to be revok-

ed by y. act of y. party a testator. But her

pov. to do yt. being suspended by marriage

(by if revocation during coverture &. br. void)

does revoke it for her. for y. law will not allow

an ambulatory instrument. to remain in force.

188. 2. 1. 62. 1. 106. 2 T. 2. 69. 282. 399.

But if she survives y. hush. how is y. will? The

opinions are contradictory. The weight seems to

be in favour of y. revosl. - I think it &. be

revosl.

132. 3. 398. 25. 2. 68. Nov. 331.

132. 3. 398.

But a will made a fem. execs. is not by

y. law. validated by y. hush. death. for if

not goods in its inception into. can be,

same rule as to all others. 2 East 552.

Collateral events can never give validity to yt.

2. was originally void.

132. 3. 398. 2 East 552.

399. 25. 2. 68. Nov. 331.

132. 3. 398. 2 East 552.
The may execute a naked authority, in her no interest if her interest can be affected as a bare power to sell another's property. (1) 4th, 12th, 18th 4th. 2nd, 12th, 18th. 4th. 3rd, 12th, 18th.

So also, if an interest is granted to her with the power provided to authority is collateral to interest of trust of the grantee. They are thus connected as if granted to right persons.

To devise to her of an interest in trust to convey to another on consideration of her conveyance there she is bond to convey of the conveying parties with no interest of her. She had a right to hold. 1st, 3rd, 12th, 18th. 6th, 12th, 18th.

But devise to her of an interest in trust to convey to another on consideration of her conveyance there she is bound to convey of the conveying parties with no interest of her. She had a right to hold. 1st, 3rd, 12th, 18th. 6th, 12th, 18th.

But devise to her of an interest in trust to convey to another on consideration of her conveyance there she is bound to convey of the conveying parties with no interest of her. She had a right to hold. 1st, 3rd, 12th, 18th. 6th, 12th, 18th.

But I conclude the may convey it in her to own property. Independent of her own. (1) 3rd, 12th, 18th.

4th. She may revoke a power a authority retained by herself to convey, or even virtually to devise her an estate, if an estate is settled on her by way of trust or use.

In 4th former case she may effect a obligation by declaring a trust, in 4th latter by executing a power over of use. If a trust of power to be created during contingency, it must be done, on creation it may be by deed.

As an estate of a woman conveyed to 4th use of her self for life, rem. to 4th use of person, as she by any
By way of trust she can dispose of her real property in a similar way, as an estate of a woman conveyed to trustees in trust for her separate use during her life, and in trust to such person as she may appoint. The promise trustees (in eq.) will be impelled to convey or carry it into effect. 129. 130. 3d Bk. 150. 172. 692.

And it seems she can't devise or execute a power by devise over her real property in one of these ways. In Eq. 134. 2d Bk. 150. 3d Bk. 135. 50. (See 2 2d Bk. 135. 50. 2d Bk. 160. 73.)

Yet O.T. she can't have 3 parts as I. 134. The agreement in this case makes it imp. prov.

But a power to convey by deed of property. She may execute with a wife. 2d Bk. 134. 3d Bk. 129. Sect. 113. 3. Sect. 239. That she can't execute a power over her own interest. 134. 89. 134. For if first case there is a mere agent for disposing of other interest.

124. 130. 139. 130. 130. 172. 692. 6d Bk. 136. 129. 50. Sect. 113. 3. Sect. 113. 9. 10. The may dispose of her real property by executing a power over a wife. Suppose a woman before marriage conveys her real estate to 4d. 134. 134. 134. to use of herself in life, rem. to 3 person in failing. She shall by any writing in 3 person of d. i. will be appointed. Here all the rest to 4d. 134. 134. to make a will in form appointing his children in any persons, y remainder men. The receives while sole, a power to convey to whom the clause.

When she makes 2 appointment, 3 appointments are in virt. d. i. convey, but the d. i. in form convey estate for 4d. 134. 134. 134. 134. 134. out of her. D. I. nominally being referred to herself only a life estate. As appointed to appoint any person in person to take y. use in remainder. She exercises a power over a mere simple ch. she conveyed away while sole.
Declaratory of trust. The main diff. between pt. 3. the former mode of conveyance, i.e. pt. 3. and "trust" is substituted for "safe." This is the term a woman by her marriage conveys her real estate in trust for herself & use during life & remainder, or trust to such persons, as the shall in her form of a will appoint. Then she may declare by will, in form of a will, she shall take, & these appointees as in former case, take under her original deed, i.e., she made them "sue & greet."
between these. Hence if my wife by death becomes an administrator to my Plf. y action is destroyed.

Y R. 107.

So if y Deft. in yr case had been taken in execution by y original Plf. he must be discharged. So his wife as executor has now become a creditor. But she cannot hold him in execution & besides y trust during coverture residing upon him, so yt. he himself has y legal right of creditor, at his conduit. But there are some exceptions to y said rule.

Contracts of Husb. & Wife during coverture.

Art 8. It. no contract between Husb. & Wife respecting users. props. is valid, for y reason before assigned & indeed art 26. It. must recognize a right in wife to hold props. properly independently of y husband.

17 R. 9. 156. 256. 25. 1 Nov. 85. Lord Acton 75.

and a deed of land from y husband to y wife strictly so. at a. it. according to y ancient rule of Eq. he void by reason. not of y husbands right to her props. of y control & enjoyment so. still be in him, but by reason also of y impossibility of any conveyance beyond than. For y law knows th no right with a remedy.

Besides y a. It. don't recognize yt separation rights & interests between ym. But a contract respecting props. implying. So. it. 3. 3. n. 1. 1. Nov. 85. 4. Co. 29.

But this now settled in Eq. yt husband may settle props. to y sole & sep. use of his wife during coverture with trustees. 11 Eastb. 96. 270

22 R. 270.

And here a Equity respecting yt. props. even with y husband & husband. So Eq. can act upon y contract of props. with inviding y done. relations rights.
of either party. 2 169, 23, ch. 16. 1667, 145, 170.
10. 169, 23, ch. 16. 1710, 9, 1, 1092. 2 169, 159.
20. 10, 110. 10, 221, 35. 6 1667, 158. 2 1667, 10, 146. 1767, 1695. 119, 111, 2111.

(169) ye. She can't hold property, prev. to live separate wife.
But it has since been Deed to wife by Ct. of Orens. Bos. Ch. 146.

It was formerly held, ye. Trustees were necessary.

A conveyance from you by husband, to be peri
tond to y. use of his wife is good, at ch. 2. The ben.
was regards only the legal title, of Eq. 2 Do. casy y

(169) since y. is good, because y legal title
west, in y "exist" y. us, to y, a conveyance for
use of y. wife, 90, be a conveyance to y. wife, ch. it
last can't be.

So if y. husb. to encourage y. industry of y. wife, en-
gages to allow her a part of y. assets, &c., 3 agree-
ment of good in Eq. 189. 110. 110, 110.

The may see y. husb. in those cases, by next fr.
121. 2111, 2111, 2111, 2111.

"Don't collo. maker" for husb. to wife is good
at law for it is testamentary. 169, 111, 111, 111.

If y. husb. covenants with y. wife, not to interfe-
re with her estate, she is estopped from doing it
is left to her contract, that the may obtain
an injunction to him in Eq. 1 169, 227. 227, 227.
2 169, ch. 277.

Articles of agreement between husb. & wife, to live
separate, and enforce both in this, is at Law.

Econ. 14 M. 357; 314. 1 Pre. 64. 92. 77. Man. 28. 86. Med. 144. 1 Turn. 316. 671.

If this in violation of y agreement, he compels him to live with him again, the may be discharged by a suit of Habecq corpus. 1 Vic. 478. 1 Parr. 542.

Em. 99. 11 Lex 168.

In another y portion or propriety, the y husband, if injurious by a "habecq corpus" no does it interfere with y marital right, if he has not relinquished, if is after he repeats y attempt, he is guilty of y contempt.

He is bound tener only to y extent of y agreement, upon any propriety, after coming to y wife, will be as much at his disposal, as if they had been no separation, unless contrary hath been expressly stipulated. 1 Bac. 38; 85, 85. 11 Vic. 388.

A voluntary settlement by husband on wife after coverture, is good in even voluntary purchasers, knowing y facts, as being fraudulent by it. 21 Eliz.

Re. Is this correct in principle? Knowing the fact, of being voluntary purchasers, how do they be introduced by y settlement, if established? "In Consequence."

Contract between Husband & Wife before coverture.

It is a regularly true fact, if y husband indebted to y wife before coverture, or vice versa, intermarriage extinguishes y obligation.

1024. 11 Eliz. 6 Car. 554.

If y husband, being indebted to y wife, by bond executed, ante-marriage, dies & leaves y debt unexecuted, y debt it seems, will not revive; En quiri-
nal contract, may suspended, if never extinguished or, in purs. of act, are suspended, is never extinguished.

131. 132. 133. 134. 135. 136. 137. 138. 139. 140.

If y’ oblige in a bond, being a woman, marrying any y’ co-obligors, y’ whole debt is discharged, & c. convers.

The Principle of this rule is, that a marriage is a discharge of all debts yet, might have been due from y’ obligation, the marries. But y’ whole debt might have been. Once from him, age y’ whole debt of discharged. Salk. 226. 1 Smth. 90.

Hob. 27. 1 Co. 2296. 1 Co. 34.

Under this rule, a distinction is taken between a contract yet, creates a duty running over time, & one creating duty after it has ceased. A contract or promise by y’ high, before marriage, to leave the intended wife a sum of money after his death, is allowed to be good at law, as well as in eq. Because there is no debt running over time, y’ contract is made before ever time & does not create an obligation till after 7. Have there is no difficulty about a remedy, or invasion of y’ mental rights.

Hob. 27. 240. It was opposed to this rule, but he was convinced by y’ other judges of y’ now well established.

940. 941. 942. 943. 944. 945. 946. 947. 948. 949.

To a bond executed by y’ man before contract, to leave y’ intended wife a sum of money after his death, there has been much dispute. Of opinion, whether it is not discharged at law by their subs. inter-marriage. The penalty being a present debt.

That such a bond is good in eqy. as Dr. Fry agrees. There has been no doubt. 2 Peck. 244. 1 Co. 30.
And such a case was held to reside in Sir. Holt's
time (Holt himself, contra, this overruled by the other

2 T. N. 17, 5 T. R. 83.

The great weight of Sir. Holt's opinion resides in the
rule extremely uncertain, till Sir. Bynoe's time. When it was unanimously set
that by all the judges.

By now good at Law. 5 T. R. 883.

A wife may by accepting a jointure before
marriage bar her right of Dowry, i.e. by law,
such an agreement was never considered as ex-
tinguished by subsequent intermarriage.

For an estate must take effect till after the
contingency is determined. And to enforce the
contract either in Law or Eq. requires no writ
between his wife and wife. 2 C. C. 36. 4 T. R. 182.

1 Bulst. 173. 2 3d. 1976.

The Eng. Law up to barring Dowry by Jointure is
regulated by 7 Nat. of Cases. 27. Hen. 8th.

Requisites to Jointure to Bar Dowry.

These are four.
First, it must take effect immediately upon her
husb. and death.
Second, it must be for his life of y wife, at least,
and not for after his.
Third, it must be settled expiring on her
self, and in trust for her.
Fourth, it must be expressed to be in satisfaction of her
whole Dowry. On this subject there is a contradic-
tion of opinion. But I think the weight of authority is
in favor of y rule. 6d. Dowry & yt. just may be avoided.

6 C. C. 36. 25. 4 T. R. 183. (Cant. 4. Geo. III. 8.)
It has been doubted whether a jointure in Count. may not consist of peys, props, &c. +

But an executory agreement, by wife before marriage, to accept pecs. props. or money in lieu of

There is no indication of the specific documents or cases mentioned. The text seems to be discussing legal issues related to jointures and estates.

A jointure in settling a wife, may be refused it & take down. In y settlment being made may not, not end her. But she can't have both, &c. 128. 30. 40. Brist. 157. Ap. 255. y&d. by bringing a suit

Where she has a devise, she takes devise & down both unless devise is expressd to be in bar of down, i.e. partly.

But if her husband has devise all his other props except ye. added to her, then it not expressd to be in bar of down. She can't take both. This is being proof upon y face of y instrument, & his intending y devise as a substitute for down.

Thus b's right & power over the person of his wife.

If y wife is injured in her person, and the husb. sustaining a consequential damage, he has a sole right of action vs. the wrong doer.

as by "Battering, False imprisonment, slander.

The action must be laid in case with a "per good servietum ou consationem amicti". Ch. Pl. 265.

1st. 126. 23 s. 5 01. 1ro. 1. 57. tall. 206.

Ch. Pl. 265.

1st. 140. Ch. Pl. 265.

So to "Crime. Con. with y wife, y husb. has his action.

4 Devo. 2057. A. 80 37. B. Doug. 132.

The precedents of this action are laid in Ticknofts.

2 Ch. Pl. 23. Fy however is effect, an action my case. 6 East 387. 9. Fy is clearly a departure from principle, a usage arising from inadvertence.

6 East 387. 9.

Proof of lawful & actual marriage, if necessary, in ye action, of marriage "de facto" gives the party no right of action, for there is no legal injury.

If y husb. consents to y act, he can't maintain action, "volenti non fit injuria." 72 R. 651. 180. 144.

Act of he himself, being in a state of open incontinency. 4 Esp. 18. 1 Selw. 18. 1 "Comp. Dict." 23. 12. 18.

Yet still mitigates damage. 1 Selw. 18.

This is now y settled rule & I think y true one.

4 Esp. 277. 1 019. 103. 19.

Selw. 15.
It has been held by some that a husband cannot maintain an action for adultery committed with his wife, after separation by agreement. 3 T.R. 537.

But this case seems to be doubted. In any event, after a long time, if prima facie" legit. inter se, if the matrimonial bond is not dissolved, it is of no policy to establish any rule that does not have their reconciliation. 6 East 244. (Feb. 16.

If his wife is allowed by his husband to live as a prostitute he can recover.

If his husband permits it, it greatly goes in mitigation of damages. 4th. p. iv. 27. Date: Rep. 27. (Feb. 18.

But he has more neglect or inattention as to his wife's conduct, goes only in mitigation of damages; for this does not amount to consent.

4 T.R. 651. (Feb. 18.

In aggravation, his may prove her rank; her character was before good; she and they lived together harmoniously. See any peculiar temptations in Selp's conduct. 1 Selc. 200. 3B. 47. Ep. 553.

In mitigation, his may prove their kindness - his having turned her away - having refused to maintain her; her bad character with y act - her previous elopement; her wanton manners - her having made y first advances to him incontinently even before marriage.


But he can give caus. If her misconduct after act.

According to ancient c. l. y husband might give y wife moderate expenses correction. 1 Dec. 133. 1 Selc. 112. 6 Relk. 102. 13 Dec. 344. 7. Wip was allowed on y ground of his liability
for her misbehaviour. But according even to old Law as well as y present rule; if he beat her violently or even threatened to do it, she d. bid him to cease by inquit, and if she & might obtain a divorce in a Spiritual Ct. 130, 115. 16.

No violence is allowed now. If a husb. beat his wife the may bid him to cease & "vice versa".

It seems to be agreed yt. she may restrain him of her liberty, for gross misdemeanors - as keeping bad company. 123. 428. 122. 585. 50. 115. 3 4. 377.

The husband is now by and with want stenographers in her by 1st. 20.

That he may restrain her for keeping bad company is destroying his property. See. 178. 20. 178. 178. 22.

But in case of unreasonable confinement. She may be released by "his goods corpus".

He may justify himself in defence of his wife and "vice versa". 133. 624. 123. 778.

Each may justify this as in self defence.

If he reconfine her unreasonably he will be guilty of a contempt.

It was held (after) by a late Eng. judge yt. y husb. might correct y wife with a stick as large as y thumb. Hence he obtained y name of the "thumb judge".

Of the mutual inability of the husb. & wife to testify for or against each other.

This a good. rule. Yt. y husb. & wife can't testify for
n w. each other. The reason assigned is yt. the husb. & wife are one person & no one is allowed to testify vs. himself or for himself. more properly. if he. The union of interest of policy of the laws. seem to be the true foundation of the rule. 4 T.R. 79. 1 P.R. 444.

This con. interest prevents them from testifying vs. each other. 1 H. & N. 162. 455. 1 P.R. 444.

1 H. & N. 162. 455. 1 P.R. 444. 1 P.R. 455.

The husb. can't testify vs. his wife if concerned con. vs. his own interest. as for by settled in his wife's sole & separate use was taken for his husb's debts. action vs. his wife. husb. excluded to prove, yt. it was to her sole & separate use.

Ph. 3d. 64. 4 T.R. 675. 2 P.R. 351.

As an action is lost by a vs. the husb. or by & vs. the husb. & wife jointly. then declaration can't be proved in court vs. him. & hence when a subsequent act was lost by husb. for wages earned by wife, he acknowledged. if, say it is no evidence.

Ph. 3d. 64. 4 T.R. 675.

2 P.R. 351. 1 P.R. 28.

So in D. & B. husb. & wife, & confession by the persons committed by herself can't be given in evidence. 1 T.R. 1874. 1 P.R. 1242.

An act with his wife. her letters to seft. are not evidence. husb. nor her confession by act vs. him, being under the presence of the matter & them can in any case give evidence, tending to criminate the other. as in settle cases. a thing, if marriage by 2 husb. vs. two joint on the ground of a former subsisting marriage of the husb. lawful wife, i.e. if first one, is not allowed to testify vs. former marriage, the 2nd husb. is not a party to the suit. For they vs. charge husb. with bigamy.


Eps. 2d. 720. 1 P.R. 171. 1 P.R. 165. 1 P.R. 262.
It has been held yet, if a husband has testified as to a fact she must have been known as to her own marriage, his wife cannot be called by some party to contradistinct him, as it might subject him to a charge of perjury. (they other party may) in 2 Thes. 3. 1 Phil. 6.1, (if it are think this law)

If a man or woman viewed 'a mat. mat. can't be a witness as to any thing respecting her husband. swore coverture. Bu it might tend to impair confidence of husband & wife swore coverture.


But she is a competent witness as to facts she took place seeing to science.

It's a good rule, yet a person may testify where self is with consent of opposite party or himself, and yet not to in case of kept & wife, may find she allows it, it will not permit fifty wife to testify for her husband, to the might testify to facts, as wives, &. 2. toتن. enumerate him. (this can) of married woman busy in action as pain, to the &. 2. to testify for him to prove he a true court. (i. 13. 14. 15. 16.) 2. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176.

Exceptions to the first gen. rule.

In a prosecution for high treason &c. it is. D. may testify as a witness to his husband. in the principle yet, such a case supersedes every fundate obligation. (P. 1. Gilb. cit. 119. 1 Hale 55. 46.)

P. 1. 2. 3. 4. 5. 6. 7. 8. 9. 10. 11. 12. 13. 14. 15. 16. 17. 18. 19. 20. 21. 22. 23. 24. 25. 26. 27. 28. 29. 30. 31. 32. 33. 34. 35. 36. 37. 38. 39. 40. 41. 42. 43. 44. 45. 46. 47. 48. 49. 50. 51. 52. 53. 54. 55. 56. 57. 58. 59. 60. 61. 62. 63. 64. 65. 66. 67. 68. 69. 70. 71. 72. 73. 74. 75. 76. 77. 78. 79. 80. 81. 82. 83. 84. 85. 86. 87. 88. 89. 90. 91. 92. 93. 94. 95. 96. 97. 98. 99. 100. 101. 102. 103. 104. 105. 106. 107. 108. 109. 110. 111. 112. 113. 114. 115. 116. 117. 118. 119. 120. 121. 122. 123. 124. 125. 126. 127. 128. 129. 130. 131. 132. 133. 134. 135. 136. 137. 138. 139. 140. 141. 142. 143. 144. 145. 146. 147. 148. 149. 150. 151. 152. 153. 154. 155. 156. 157. 158. 159. 160. 161. 162. 163. 164. 165. 166. 167. 168. 169. 170. 171. 172. 173. 174. 175. 176. 177. 178. 179. 180. 181. 182. 183. 184. 185. 186. 187. 188. 189. 190. 191. 192. 193. 194. 195. 196. 197. 198. 199. 200. 201. 202. 203. 204. 205. 206. 207.
5. When the husband is prosecuted by his public for abusing his wife personally.

Hutch. 115. 18th. Rev. 145. 72.


Peaks 172. 156. 357. n. 1 Phil. 1. 16. 117. I Phil. 188.

Part 106. C. 174. 84.


The weight of authority is in favor of y rule, yet is reasonable.

The act is heur, in case of co. gelab orModern, by
in an information of husband for attempting to take away y wife by force
after articles of separation. Syl. 247. 13owl. 93. 13owl. 68.

She can testify vs. y husband in case of co. gelab or Modern or in an information & alibi.

4. If woman freely carried away & married is a witness of y coercion. This act is a gelab.

107. Phil. 67. Hawk. 605. Phil. 185. Phil. 171.

St. gelab. 121. 149. 570. This case is not exact strictly
an exception to y gelab rule & y woman may testify for
him i.e. vs. repentant expan. & marriage was voluntary on her part.

Phil. 118. 1. No. 181. 11. Here is a strange exception.

5. If a man married, having a wife living, the second
wife may testify vs. him they first cannot. This is
to legal marriage. Syl. 247. Eps. 721. Phil. 185. 192. 68. 117.

It occurs for bigamy first being admitted by others
the wife may testify to her marriage.

6. In an action between other parties, the wife has been
admitted to testify as to y husband, i.e. S. 193. Charge him
as homicides, but not criminally, as in an action for
other clothing, vs. a man his wife. Phil. 13. 187.

mother was allowed to swear, that they Eps. 721. 1 Thet. 394.

one proceeded on behalf of her husband, yet her testimony is not
admitted vs. y husband.

Sec. 5. When the wife is prosecuted by the public for
abusing her husband.


Peaks 172. 156. 357. n. 1 Phil. 1. 16. 117. I Phil. 188.

Part 106. C. 174. 84.
The last testify when her cox. D. spate in any
her master's favour, ex-compassed by others
all requisited, one cannot be subjected.

2 Tim. 169. 1 Pat. 17.

7th: Declarations of a wife, in regard to transact-
ing in her wife's presence, have been admitted to
prove to be a charge of breach in a civil action.
As Declarations y. the husband to pay a certain sum
for nursing a child.

1 Tim. 54. 527.

This is somewhat anomalous, as a wife acts as agent
for her husband; her representatives are rev. vs. him as
those of any other agent.

9th. He thinks a rule clearly a departure from prin-
ciple. He also observes, th. y. Declarations of a
agent are not rev. wi. they are made at the time of the
act for - any made after are not admitted. This
rule admitting a wife, he considers a departure from
principles applicable to y. a whole. Lest of work.

Respecting agents.

*Ep. 92. 511. 29. 511 n.
19 Ph. 69.

8th. The Verge Declarations of a wife, are good evidence
of her husband, in an action, but the rules
are supposed to be under obligations equally solemn as those
of an oath. *Ep. 95. 657. 1 Phil. 68. 2 Tim. 389.

On that cases, husb. & wife shall join in
bringing actions, & in what cases husb.
may or must sue alone.

In some cases, when a cause of action relates to
the wife or her rights, y. husb. must join with her
as DEF. if others he may or may not as he pleases
in others he cannot.
It is difficult to reconcile all cases either to joint
pleas to each other. 1 Will. 443.

First genl. Rule. The wife must join as PL.
where y right of action do. survive to herself or
husb. death.

IR. 631. 18 B. 604.
1 Roll. 347. 19 B. st. 424.
1 B. st. 219.

Because if y husb. might sue alone, he do. commencing y action, attach a sole right of recovery,
but also because the ca. cannot constitute an Act. Be
sues as y mould do. might go vs. her. y marital right
might be violated.

By commencing y action, y husb. do. attach
a sole right of recovery in himself, & thus (as a
case may be) must y wife by her legal privi-
lege. i.e. her right of survivorship &c.

In actions real for wifis lands, they must
join, for y right of action do. survive to her.
The ca. sue alone, not only because of the husb.
righ to y avail of y recovery but as above.
1 Roll. 347. 1 B. st. 21.

So in ejectment to recover wifis lands (it seems) for
her term survivor to her.
1 B. st. 21. Co. 31. 159.

1 B. st. 149.

So in suits in y wifeis choses in action, wh. she
had before marriage. 1 Roll. 347. 55. Co. 3 377.
7 B. st. 440. 1 B. st. 209. 2 IR. 591. 19 B. st. 298. 127 B. st. 5.
7 B. st. 167. 11 B. st. 69. 1 Co. Rep. 52 f. 5. contra. wh. y husb.
may sue alone or join y wife (but this seems not clear)
Co. 3 188. 1 B. st. 440. 1 B. st. 595. 1 IR. 783. arg. 590. entra-
1 B. st. 396. 10 B. st. 378. 1 Co. 405. 52. 1 B. st. 752. 1 B. st.
2 B. st. 149.

The authorities do not
regard a suit by y husb. alone as reducing them
to ejectment or an appropriation of them to his own
use. If not they surely ought to be joined. The
principle being omitted, as it undoubtedly is, y't. y' wife's right of action for ch's in action will survive to her. I think y' principle clear y't. they must join. This question is not considered fruitful in Westminster Hall.

So to recover rent due to the wife while sole, they must join in action. 1 Will. 337. 8. 10 B.R. 206. 6 T. 338. 2 Dr. Since y' H. 22 H. &c. as y't. He. makes it y' hers absolutely.

As upon promise made to y' wife while sole.

For to take y' wife while sole she must make a Co. Pltf.

1 1st. R. 1937. 1 Hit. 887.

1 Will. 337. 8. 10 B.R. 206. 6 T. 338. 2 Dr. Since y' H. 22 H. &c. as y't. He. makes it y' hers absolutely.

So for injury to y' wife during co't. by husband assault & battery. 1 will. 629. 6 &c. 8 &c. 1st. R. 1937. 2 Will. 193.

So for waste committed on y' wife's land & for the same.

So in trespass for cutting wife's trees during co't.

Trees are a part of the inheritance & y' right of action survives to her. 1 Will. 1756. 2 Will. 193.

1st. R. 1937. 1 Hit. 887. 10 B.R. 206. 6 T. 338. 2 Dr.

Contrary: Yet y' husband may join y' wife to sue alone. Deo. authorities do not support y' position. The case in 1st. R. way for even & y't. in Ventice may have been if y' same kind.

Action for destroying cattles. on y' wife's land (as corn, garden vegetables) not recoverable by wife; but y' husband (at y') may sue alone or join y' wife. 1st. R. 175. 1st. R. 193. 2 Will. 193. 1st. R. An substantiate what principle can she be joined? L.J. thinks they can't join. Encl. as y' fruit
of annual labor.

So they may join in Process, on restoring wife's goods, or injuring it, on her inheriting giving overture. Whether not bound to join, as 1 acton 1st. survive to her? 1 Thess. 4:16. 2 Thess. 3:9.


The trover for wife's property, if conversion was before covenant, she must be joined. 2 P.R. 691.

For her right at 2 time of marriage is in action. I take this rule to bear upon 2 question whether a wife's wife must join in action on husband in action is to decide affirmatively.

1 P.R. 462. 3 P.R. 361.

Laud. 114. 115. 141. 261.

So in general, for injuries done to her person or property while issue.

2 P.R. 547. 1 Ross 257.

Cheese 22. 1 Dec. 206.

If no property of wife is bailed or found before covenant is converted after 2 husband's wife (Cecilia) may join in trover or they may sue alone. 1 Dec. 223.

1 Dek. 114. 1 Test. 112. 1 Ross. 157. 2 Test. 132.

(Court Mindful) by 2 judges - wife ought to hegister. What property can there be in joining 2 wife. the right at 2 time of marriage is not a right in action. See if constructively in possession.

1 Ross. 112. 1 Test. 211.

In trover by husb. 3 wife, 2 conversion shall be 1st. to husband's damage only.

In the 2d. class of cases husb. may sue alone, or join the wife at his election.

If 2 husb. for rent due to 2 wife while sole is a rescue is made, he may sue alone for a rescue or join 2 wife. He may consider the
rescue as a test to himself only, as a good dis-
tinction in his favor, so he may treat the pro-
cedure thus out as by means of enforcing her right
of action.

1 Cor. 14:19. Note 184, 184.

Is in debt a covenant ye rent securing out of
my wife's land during coverture. Pom. 107, 117. 121.
The rest is 50 to receive to her. 111, 112.
R. 72, 73. 124, 125. 111, 112. 118, 118. 120, 121.
The reason probably is, yet, as a claim accord-
ing cost, he is considered as having a right
to appeal to her interest in it, & to object &
that it as his own, yet, yes. Is this correct on
principle? Y. Y. thinks she ought to be joined.

If a test is given to husband & wife owing cost,
he may sue alone or join the wife. 2 Rex. 347.
1 25 Q. 268. 1 26 Q. 616. 1 26 Q. 629. 1 26 Q. 635.
3 26 Q. 676. 1 26 Q. 776. 1 26 Q. 796. 3 26 Q. 827.
1 26 Q. 827. 1 26 Q. 827. 3 26 Q. 827. 1 26 Q. 827.

In this case y above reason apparent
the property applies, i.e., y., he may condo-
actual right, as may appeal to her inter-
rest. If he died, not disagree to her interest, it
& so his death survive to her. But if the death
not appeal to her interest, y. whole rod. right in him
as no right do. survive to her.

Suppose y husband makes no election either way - y
right not survive to her. The taking is right in
it in any way.

The modern opinions are yet, when a test is
this given to husband & wife, the given Poiema feci
in husband alone. Y. if after his death, the claim
right as estoppel y. does not band & keep
you & me. 1 26 Q. 827. 3 26 Q. 827.
So if a lord a squire his he give to y wife alone dur-
ring coet. 1 Lev. 109. 1 Tern. 372. tom. 3. B. 89. 1 Tern. 476.
1 Roll 20. 82. Here y Master y husband has a right to
take y. biding some of any other pers. chattel given
to y wife during coet. as if a carriage be given
to her. it becox absolutely his by operation of law.
Yet y husband may give his appert to y wife's inter-
est may by deed it also be as his own. cited 2127.

Yet this bone survive to her. if he did. not disagree
to he interest in it? so tit. Hardwick expressly says:
2 Tit. 2167. if sannet 1 Ever. 508. 1 Tern. 268 yet. it was origi-
ally to y husband alone. as he appert to her taking an interest
in it. So thinks tit. Hard. saying. so y husband appert to y wife
taking interest.

If a legacy is given to y wife during coet. y re-
ly y same. 2 Tit. 113 X. 1 Tern. 872. 3 Tern. 349. 15th R. 318.
1 B. 172. 2 Roll 221. 176. (from B. 87 X. 2. 8.)

No leg. 1557.

That it may survive see 2 Tit. 676. contra 2 Tern. 266. 1 Ever. 4328.
5 Tern. 692. Hardw. 4. 1757.

To y question. If survivorship. y case will stand
they. if y husband not apperted to her taking an inter-
est in it, it will go to his representation. 4 B. R. 617.
If he has assigned to her interest, it will survive to
her.
As a distributive shall undergo his distributions.
1 Comm. 23. 504.
If y husband is obliged to resort to a Ct. of Eq. to recover
y legacy, or.Ct. (as may be) will not interpose
in his favour, no provision or condition of his making
a settlement or provision for her. Cdj. interposition being dis-
Reper 97. 323. 3 B. R. 672. 2 B. R. 38. 312. 7 Eq. Pl. 72. 290. 538.
2 B. R. Ch. 662. 2 Eq. 198. 368.

2d. Now, sh. sh. may maintain a bill in Eq. for
her husband's exec. to provide out of her Legacy. for which
sh. may make a provision out of her distributions ac-
coning to her under the distributions. 3 B. Ch. 307. 317.
2 B. H. 676. 10 B. 378. 2 Eq. 331. 19 B. Pl. 108.

3d. To wi. Court, except in case of a legacy in y hands
of a trustee, i.e. she can't have settlement. In action
for legacy dies at law. But sh. may also join the
wife as in 2 last case. 14 B. Pl. 108.

If y wife is 3 maintenance cause of action & an explicit
promise is made to her, she may join in y action tho-
3 cause of action first survives to her. as promise
consideration of her promise. 2 B. Eq. 72. 249. 4 B. Eq. 113.
4 B. Eq. 130. 2 Eq. 112. 7 Eq. 124. 9 B. Eq. 207. 641.
6 Eq. 282. 9 B. Eq. 221. 1 B. Eq. 125. 9 B. Eq. 861.

2d. husband may sue alone. i.e. in Eq. if it is y wife's cause
of action survives in this case to y wife. This is a more
sane course. in Eq. 1 B. 1 B. 1 B.

The true reason is, y wife, y husband affirms y promise to
wife by joining her. 2 B. R. 1239. J. G. this imp.
lictly by agreement, yt. wife may take benefit of.
Thus it is wife cant join assault with stating the
wife's interest 2. W. 12, 226. as in last cases, viz.
y service was done a promise was made to her.
Sorry not covert. But in pri. 55. 2 N.R. 415.
60. Fac. 619.
Where z wife if y supposing cause of action by
her. since she sustained a consequential damages, she
must be joined in y action, as in case of breasts of the
wife with special damages laid y trust. For no in-
terest if a wife is involved in y suit. The declara-
tion must always be laid with a true good servitude
amet.
60. Fac. 50. 365. 4. Rib. 317.
It was in case the assault is Brathy. If y wife "not good&d.

The latter has been partly called "strep aot are-
ning" ej. 619. But it is strictly case on principle.
2. N.R. 576. 1 Rib. 517.
1. F. 511. 91. 2. Rib. 319. 3. Rib. 167. 5 20. 361 18
It seems however yet y action by tyre of y appro-
ved remedy. This is in consequence A Sessions at
variance with principle. "23. 572" 376.

If Battery is committed on trust. y wife, they cannot
join for y whole injury. For y wife battery they
can & must - For y husbands, they cannot.
For y Batary to y husbands are injury to him only.
60. 1 Rib. 237.
But if in this case, separate damages are given,
for y battery of each, y husband may release as
to his battery & then 3rd being after judg's. he may
have pruent with y wife for her battery.
3. Rib. 150. Con. 33 3. 2. 197. 197.
It as to husband. y deft. is found not guilty. a
verdict vs. him proved y battery by y wife is good.
48. 29. Con. 33. 3. Rib. 166.
The husband must sue alone on promises (in consideration of forbearance) to pay a debt due to his wife while sole (1 Ten. 572, Cas. 110) or due to her as executrix Talk. 107, Earth. 492. Every right created by the promise is his, as his forbearance is his. Every right cannot legally act in this case. Talk. 117, Earth. 312, Cas. 100.

In adultery with a wife. In injury to a husband.

A declaration by husband alone, for breaking entering house & beating his wife, with a "pierced &c." is good. Beating wife is only aggravation.

On the other hand, a declaration by husband & wife for imprisoning a wife "pierce &c." his husband's business remained undone to their damage, if holder goods after verdict, "pierce &c." being then considered as only aggravation.

Upon Demurrer, it must be regarded as a misjoinder of a wife.

10 Barr. 119. 6 Neco. 127.

1930. 9660.

But regularly, if a husband sues alone, when he ought to join the wife, & join her when he ought to sue alone, mistake is not cured by verdict. Judgment may be arrested in error brought. 233 L. Rep. 1200.

Cas. 6, 130. 1 Fort. 248. Thad. 3, 130.

Suing in last case only, because of allegation stating a sole interest in husband is regarded as an aggravation.

But if a wife sue alone, then she ought to be joined to with her husband. Left can plead in abatement only. In objection is not to action, but to her.
real or void. Does not appear in y declaration.

But if her answer is not so pleaded, y judgt.
your my wife, y husb. may reverse it by out of
y writ, "coram visibus" in the name of both.

10Bac. 307. 450. 59. In his right might be affected.
by it.

If 3 husb. & wife join in an action, if y declara-
tion shows no interest in y wife, it's ill on spe-
cial demurrer. if, it seems, on genl. demurrer.

But it is not by verdict.

interest may be joint, y husb. having interest
does not appear, will after verdict presume.

contra. Co. j. 504. overruled.

In what cases the husb. must be sued
with, & in what without the wife.

First. Genl Rule. The wife is the one then joined
with the husb. as deft. When y action do. survive
her, recovers. The husb.'s representatives might be
injured. This rule is y corurse of the genl. rule, as
y to the forming of Plots.

207. 238. 100. 545. 400. 123. 28.

If y deft. do. rightfully commence an action in
y husb. alone, if he. that y liability of husb.'s
representatives & in continuance of thing the husb. do be
subjected contrary to rule of Law.

As in actions real, to recover lands held as
husb. As is in all real actions, the must be served.

con. 52. 32. 48.
To go into committed devise aventure. Co. L.t. 327. 151. 12.

Co. 127. 152. 12.

If no rent due from him while sole.
As to rent due to her. Co. 127. 151. 12.

To be joined with her. 52. 151. 12.

In said. all actions, to the 3. wife and heir with cost. she must be joined with heir and cost. 123. 151. 12.

As of tacts committed by her alone with her heir by jointly having cost. The 3. for only jointly for her
52. 151. 12.

As to cause of action. Dr. service vs. her, for her

Purchaser are only entitled by next. 52. 151. 12.


Co. 127. 327. 12.

If a lease is made to husb. & wife having cost.
The must by joint in an action for rent seeming during coventures - because rent follows by interest.

It attaches upon person having 3. interest. 52. 151. 12.

The interest will survive to her, for it shall. be recollected yet.

where a chattel real is given to 3. husb. & wife. They

are joint tenants - 3. by chattel goes to 3. survinor. The lease

is not voidable till coventure cesse. Co. 127. 327. 12.

Deced. It must regularly have 3. cause of action do.

not survive to 3. wife. The case be joined. as if

a demise sole being a type of marriage, 3. husb. must

be sued alone. for rent incurred during coventure.

For it survives vs. 3. husb. & wife. In case the

case isapse & lease after marriage. 3. husb. takes 3. whole ben-

efit of it during coventure. 12. 151. 12.

This rule might seem to contradict 3. rule in the last

space. But a lease is that case was made to 3. wife during

coventure. 52. 151. 12.

engagement 3. wife run. cost is binding other.

the she may void it after cost. ceased, but in 3. respect. residence is very diff. you have the enters in no coventure. coventure.

To keep joint on 3. promise of husb. & wife. i.e. it. prom-

ise is bad, in this case 3. husb. must be sued.
If a battery on either part is committed by husband & wife jointly by her alone, or by her alone in his company, they must be joined in action, but husband must be sued alone. For in all these cases, the act must be considered as his sole act.

1 Rob. 181. 2 R. 172. 6 & 2. Edw. 5. 515. 401. 182, 253.

If declaration alleged y. t. y. act was committed by husband & wife, y. declaration is false, incurably ill; even if the hurt is found not guilty.

71. In France w. Husb. & wife, conversion must be laid in the declaration as y. husband's use only. For judge must be corrected in error but, go conversion and in judge. If Law, he to y. wife if y. wife, as she can by b. L. to P. to P. & to that. In faculty if t. these D. be a conversion to her use, it D. ensue immediately to y. husband. 

C. S. 651. 2 Rob. 5. 122 ac. 207.

According to these authorities, a verdict for y. behalf, do not curb y. declaration. J. G. thinks y. a notorious mere allegation y. t. y. conversion was not y. wife's, not be thinks rendering declar. incurable. She then pays and (it is. must know) immediately went in y. husband.

If y. wife is joined with y. husband, when the ought not to be; y. action may be abated. So vice versa, & even if y. mistake is not placed in abatement, it is error of action to accept of goods, as action w. husband & wife charged to have benefited by husband only, in y. y. husband, alone for a debt b. wife while sole. 2 Rob. 166. 2 & 3 Edw. 258.

1 Rob. 317. 7 & 2. 338. 2 Rob. 227. 7 & 2. 901. 1 Edw. 215.

If a jury, court being sued alone, pleads cost. If money, the may have execution on costs. In his own sole name. In the is t. only Def. on record. 1 Edw. 215. 2 Rob. husband & the may have execution together.
The wife, unless she has her own proxy, or 72. can she appoint an attorney, if she has not an attorney, a person can be appointed an attorney. The wife must join. 1 Dep. 318. Ex. 729.

The reason the court appoint an attorney is the same, it is disabling her from making any other contract.

Suppose her mind alone. Then it is otherwise it seems (as it 99. having said her ap solv, must say her right to plead ap sole.

Of the celebration of a marriage.

Marriage is a civil contract at C. L. nor seems in Catholic countries. talk. Nov. 437. 186. 438.

89 to 99. mode of solemnizing marriage.
By our H., publication of necessity, either in some meeting or Sunday, where 7 Parties, or either of them report, or by a written notification posted up about 7 church. During 7 days.

In cases of minors, publication & consent of parents or guardian if necessary, is the 7th "publication.

If clergyman &c. celebrate marriage contrary to 7 provisions of 7 H. 7 marriage is good. 59. penalty is incurred by a magistrate, a clergyman.

If a marriage solemnized by a private person or by 7 parties themselves? It is guilty. deemed not so. If good, may 78. H. authorize 7 persons to solemnize it. 186. 429. 18. 438.

17 Nov. 186. 87. 75.
Of void & Voidable Marriages.

Impediments to marriage in Eng. are of two Kinds. 1. Canonical 2. Civil.

Canonical impediments viz. consanguinity, affinity, and impotency, are derived from y divine Law, viz. the three last mentioned impediments are expressible in Eng. by 30 Spiritual Clr. 1236. 223. 5.

Previous contract seems to be abolished by 32 Hen. 8. 23 Ch. 6. 35 & 36. Geo. 26th. Geo. 26th. Geo. 24th. Geo. 21st.

The three first being derived from y divine Law, are hence incorporated in y Ecclesiastical Law by y Roman Empire. They have been sanctioned by 32 Hen. 8. by become a part of y written Law. It is declared in ynt. It, yt nothing (God's Law except) shall prohibit marriage within y Levitical Degree.

The Levitical Degree are y standard as to consanguinity & affinity. Within wh marriage is lawful or not.

Getting (God's Law except) shall prohibit marriage within y Levitical Degree. This exception probably includes impotency, it being an impediment in the divine Law.

Canonical impediments rend y marriage void, & yt. yt not during y lives of both parties; separation being "the salute animarum."
To y real object of y proceeding was spiritual discipline, & spiritual proceeding being a sin, it must be laid at all -while both parties alive. Ex. 136. 137. 138. 30. 31. Pals. 32. 33. (or Roman Regis King's bench) will prohibit y ecclesiastical Q7. to declare y marriage void.

Salk. 548. 144. 513.

Rule. All persons lineally related by consanguinity or affinity, in y fourth or any higher degree, by y civil law of contemplation, are alloved to marry - as first cousins - (This is not alloved in Roman Catholic countries.)

3dly. illaterally, y most distant prohibited degree, is yt. if uncle of sister, or aunt of nephew. It makes no dif. whether ye. Be degree is by affinity or consanguinity.

Salk. 533. 513. 126. 127.

All within y 4th degree are prohibited - causing germani marriage.

In civil, by a late St, a man may marry a deceased brother's wife. H. Bomb. 178. 1. 1807.

Marrying y sister if one's deceased wife, has always been allowed here, though some deems to be illegal.

The degree of affinity is 3 second.

(Case. 29. to Lit. 225. Holt 1781.)

But this a marriage of within prohibited degree, yet if no divorce takes place during y live of y parties, y issue is in Eng law legitimate. The same is in such case a vinculo matrimonii.


In civil, y marriage of Scotland "null & void" 83 issue illegitimate - by y question of legitimacy may arise after y death of both parties. Ex. 1777. 53.

The parties are also subjected to sever punishment - to y inset - one of y most highly penal offenses known to our law. (except capital.)

In Eng, inset is Punishable only in y Spiritual Q7.

4 Bl. 67. 5 120. 121.
II. Civil Impediments.

First. Prior existing marriage.

Second. Want of age. 1st. if 14, 2d. if 13.

Third. Want of consent of Guardians or Parents.

Fourth. Want of reason. 1st. 85 Child.

These it is to render y marriage void ab initio. so yt. there is no need to divorce to set it aside. This rule is now altered, where y impediment is want of consent of y Parents, by Stat. 4 Geo. 3.

Want of age does not appear to make it void to all intents.

First. Prior marriage. Hence y 2d marriage is not only void but null to Divorce, wh. in Eng. is felony by 1st. James 1. 1st. 85. 47. 16.

2d. Want of age. In this case y marriage may be ratified on y parties attaining y age of consent with another marriage. As yt. intent y marriage seems only voidable. But they may also disagree & rescind it with divorce. In respect it seems void.

The age of consent in Females is 12. males 14. 1st. 85. 590.

3d. Cons. To marry in futuro, if on.

4th. Want of age. y 2d marriage is if y age is 21. y 3d, then not. y former may be made liable on failure of performance, but y other can’t be. This rule is y same, as all executory contracts between 8d. & 9th. Stat. 85. 590.
Third, Want of consent of parents or guardian, is no impediment at C. L. but is made so by St. Where no consent of the mother or guardian is required, see 1361. 337, 8, 22. Want of such abatement by a new St. of 4, 3 Geo. 4, 7th. 1826. 371, 8, 22.

Fourth. Want of reason, the marriage is an void, as he must that remain incapable of marriage. So of a lunatic—tho I conclude he might satisfy a marriage at a lucid interval, but I've never known a case of my own.

1231. 357. 1331. 313.

Our law's test on ye subject is very diff. from Eng, in several respects. Ex. list 4. A marriage being strictly, absolutely void, there is no necessity of vacating it, there also ye same before divorce is illegitimate.

Seco. want of consent of marriage parents, but render the marriage void here, but subjects the minister to a penalty. In Eng. it makes contract void, unless there is a publication of Banns.

1831. 437, 8.

Third. The impediments of previous contract were never known to our law.

So a marriage celebrated in another state below belonging to ye State, is who leave it for purpose of avoiding some (less) good here? Then should not being complied with, that marriage be according to ye law of ye other state? 271. 331. 192. 412.

Paca. 114, Co. 5. 79, 35, 80, 1. 21. r. 71n. 108.

This point is now settled by ye unanimity consent of profess in public w. affirmative. Nor do I not think there has been any decision determining it precisely. The frequent excur- sions to detection giving seem to nearly subject of all doubt.

1826. 437, 8.
Divorce.

Divorcee are of two kinds, 1st a "vinculo matrimonii" 2nd a "vinculo matrimonii:

The first is a total, the second is partial divorce.
The first is a complete dissolution of the contract. The
second does not abolish the relation of husband and wife but
merely separates them. 1336. 440.

In Eng. those of 1st kind can be obtained only for
some of 3 canonical impediments, before mentioned
as these existing before marriage (as it always a case in
consanguinity) a separation as m
upto indivisibility. 1336. 385. 6. 40. These causes of divorce are
recognizable in Eng. only in y Spiritual Ec

But there may be a supereminent impediment of y
description, as in yt case, there can be no divorce, as
divorce can't be obtained, unless y marriage is illegal.
Here I mean total divorce. 3y refers to 3 point. Case 4Eng.
& such divorces are due grantable by 3 Ec. of justice.
For a divorce "a vinculo divorce" is somewhere granted by
Parliament, & such private & special acts of Parll. may
be found in other causes of y canonical causes of
impediments. 26. sep.

When a total divorce is granted, y since y marriage is
illegitimate. For y divorce multiply y marriage "ab initio" 1336. 354. 40. this originally it was not law at 1336. 355. 235. 1370. 555. 60.

The causes of partial divorce in Eng. are adultery, cruelty, and
well grounded fear on one side of great bodily injury or y
other. These are granted in ecclesiastical Ec. 26. sep. 353. But Parll. of late, often grants total divorce for Adul
Teny.
In cases of partial divorce, the wife is generally entitled to alimony, to be settled in Eng. at 3 dissenting judges or 3 clergymen, if no party is not made, an action lies at Ch. Law. 1 Bl. 324. 1 Ed. 3d. to enforce it, to an ecclesiastical court, and if the decree, in its power, extend to possession of property, the power extends only to excommunication. But in case of desertion, absence, or living in adultery, alimony alike woman is not allowed.

3 Bl. 325.

After a partial divorce, issue born, is presumed to be legitimate. For as soon as separation is presumed to have been obeyed, but if presumption be rebutted, if no rebuttal, they have all rights of any issue. 3 Bl. 325.

3 Ed. 3d. 1 3d. 820. 2 Ed. 420. 4 3d.

In case of voluntary separation, separation is presumed to be legitimate. For as the parties are not required by law to live separate, no presumption, such as in former case, can arise. By it of course, divorce is ordinarily granted by supreme Ct. The causes are—3d. 823. 2 Ed. 423.

First. Fraudulent contract.

Second. Adultery.

Third. Three years willful absence or desertion, with total neglect, is means, I suppose, his neglecting to administer to her bodily wants by moving her away by violent abuse, is equivalent to desertion.

Fourth. Seven years absence unheared of. The laws may declare a party at home single.

Fifth. Where you absence on a voyage, usually
performed in three months or head of a head of
under such circumstances as to render his death
very probable. The Supr. Ct. may declare part
in single. St. Co. 236. 480.

What is meant by y first - pendant contract?
It has been subject to much speculation. It is
often held to refer to y last of y canonical
preliminary "corporeal in societ" it is surely a
great point.

In y two last cases, y distant party is presumed
to be. The same rule of presumption (as yt in the
4th case, is established by St. 1 Jac. 1. relative
Brigamy, 4 Oct. 164. 6 Bapt 53. 3 by y St. 19 Ten.
2. yts to be sure and upon ones, yt y conceive
of it ydt, after y appear, yt y party were also
as lease do not be determined. 4 Oct. 164. 6 test 85.

The absence of y Supr. Ct. in strictness is only de-
claratory of y fact, yt y party applying to
single.

In all y above cases, arising under our law y par-
ty yt by obtaining divorce, or by declared single is ex-
pressly authorized to marry again. The marriage
of y other party is also authorized by usage.

The y case of Nisbun vs. Nisbin, when yt
nature return of y former absent husband, y Leg-
islative gave y wife her choice between husband
and, & the chose y former.

The J. G. thinks y the marriage lawful, as it is
declared so by law.

The divorces authorized by St. are granted by y
Supr. Ct. are all total. Part y Legislative may
divorce "a vinculo &c. or" a mensa &c. at its election.
as the extreme remedy intolerable abuse. 1 Swift. 193.

Total divorce in court do not affect legitimacy of issue previously born. 1 Tlo. 193. Since they are granted only from subsequent causes, in case of a fraudulent contract, &c., it is either supposed impossibility of issue or want of divorce merely by way of relief to one party vs. 7 fraud of another.

It does not make marriage montriously. In case where there is a total divorce granted, if woman has no dower or alimentary granted, for as such divorce is never granted except in such insurmountable defects before marriage, it renders no contract void "ab initio." 2 Bl. 130, 57. 7 Tco. 70, 80, 98.

A partial divorce does deprive her of all night's

dower except in case of an illeterate deposition by 14 H. 6 Vint. 22. 6o. Lit. 92. 1 9 Tco. 19, 9o. 609.

Indeed by her elopement is not her divorce from her night in "pr. case." 6o. Lit. 92. 32 D. 136.

38. 3 T. 276.

In case of total divorce in court, if wife has
dower, all the legs of faulty party also part of her husband's estate, not exceeding 1/3 may be assigned her immediately in alimentary.

Personal property may be granted her as alimentary is adjudged by 76b. Lit. 85 affirmed by Ct. of Error.

So where marriage is within 7 Levallois degrees, 7 Lit. Ct. may assign to wife a reasonable share of husband's estate, not exceeding 1/3 the marriage is "ab initio" voids. This I think precede to our laws. 1 St. Tarrants. 479.

Finis Husb. & Wife.
Parent & Child.

An infant or minor is any person under age of 21
male or female.  4th sec. 104. 259. 19th sec. 97.

By 9 B.L. full age is completed, on day preceding
21st anniversary of one's birth, any first moment of day.
4th sec. 104. 259. 19th sec. 199. Par. 142. 658.

Privileges & Disabilities of Infants.

First - as to Crimes. No person under age of 7 yrs.
if punishable for any crime whatever.  4th sec. 104.
If 7 yrs of age 1 person may be punished capitally. 4th sec. 199.

These are some cases in which infants above 7 are privi-
eliged, with regard to misdemeanors & offenses not cap-
ital. These, however, are offenses only by omission. If in-
gent, infants are not liable for offenses of omission.

So an infant is presumed to want foreseeing & forethought.
By foreseeing, he has not by means of performing what he
ought to do, as he has neither time or property at his
disposal.  1 Wisk. 16. 4th sec. 237. 4th sec. 199. Par. 142.
19th sec. 178. 4th sec. 199.

But where an infant is prosecuted, it is a rule, yet he
is not to be convicted or confused without great caution,
by great perseverance in his part in his confusion. Particu-
larly in higher offenses.  19th sec. 161. Par. 142. Par. 142.
19th sec. 203. Par. 19, Par. 142. Sec. 203. 4th sec. 199.

If gent. if inflicting corporal punishment, sometimes
extends to Infants, 8 sometimes not, unless Infants are
expressly named. The distinction is, if a H. creates
such an offence, as is punishable at C. L. by cor-
poral infliction, Infants the not named are punisha-
ble.

If a H. prohibits an offence, or an act under penalty of ca-
1. Second. For if he be committed with force, Infants, or persons in a more criminal state, or any age liable to the corporal punishment, are not criminal.

2. For if he be committed with force, upon a more criminal state, if guilty he is guilty; if not guilty, if consent of two will have nothing to do with the crime. 2 Tho. 16; 1 Tho. 16; 1 Tho. 16.

3. What age is an Infant liable in slander?

4. It has been determined that 17. He is liable. W. T. thinks that he is not. "Viti capax." Slander requiring the concurrence of two will not necessarily make a malicious. When "viti capax," he is capable of committing what in law constitutes slander.

5. An Infant is liable to be punished as a common cheat, not under 14. For under 14, it is a question of "viti capax" does not arise, nor in cases of felony.

6. It is in, if an infant is not liable to a civil action for frauds. But if he is liable only for frauds, with some kind of force, but in case of slander is directly so. This question precedes, & Lols. Mansfield & Legon are opposed to the doctrine in Lebrin. 3 Dins. 182.

This doubt which is true rule to be that, viz. an Infant is liable to an action for frauds in deceit civil, it "viti capax," no subjecting him to a fraud & virtually subject him on a contract, not trusting.
upon him. This rule is insufferable from 3 following cases. 9. Bailed a horse to D. an infant. A contract at law. — an action 91, 93. for recovery: i.e. to a horse it was held yet, y action D. not tary for ye violence was merely a breach of ye contract of B. 1st. there's no violence. But where ye objection don't exist, he must be after 7 age of 17.

6. To prove it was once held yet, it a person So. represen himself to be of age. When he was not, yet, he So. 1st give color of his insanity. 

These are cases in ch. ch. well deserve per. prominence of a contract vs. an infant 7 parent grant. In cases coming within ye rule, y chancellic act as guardian to infant, 3 won't impair 3 interest of ye infant. But ye cannot the due even in ch. where y contract is absolute, void for ye So. be making a new contract for infant.

1st ch. 1st. 3, 1st. 9. 3, 9.

2d. ch. 9, 9, 9, 9, 9.

Contracts. 9. An infant can bind himself by a 9 contract (geny.) & their contracts are voidible, void or voidable.

1st ch. 9, 9, 9, 9, 9, 9, 9.

1st ch. 9, 9, 9, 9, 9, 9, 9.

If an infant & for't. join in a cont. y latter is voided, as y understanding 3 infant is abs. in all cases, if no consideration a 9. part of y debt is neither are bound. Arg. pro. 9, 9, 9, 9, 9. And y debt liable in an Action at law? the infant prevails in it, there being no variance in y case — suppose they join in a single bill or not (if is only voidable) 3 infant prevails in his place if Infant, ye authorities are, yf. y def. can't have 3 debt. W. 3 debt he must defend & begin it and owe 3 debt. 3 ch. 9, 9, 9, 9, 9, 9, 9, 9, 9.
But does it agreeable to principle? In
three of no variance. There is a joint contract iat
distinct of laid. by Puf., must have joined the. Infants.
I think the late Denuro says otherwise.
In 3 John 102 7. 11. 22. reasoning about authori-
ty of Jesus & I think improperly.

By an infant contract with an adult, the latter is bound
to perform it not. The privilege of the infant is thus
personal. 1 Pass. C 53. 1936. 2 No. 25. 3 No. 248. 2 No. 137.

The rule is the same in law & equity. A specific per-
formance can be secured vs. an Adult. Provided the
infant performs his part & not with 1 Pass. 0. 1990.

But this rule does not hold, if y contract granted
by infant is absolutely void, for there is no con-
sideration moving y. Adult - hence y. Adult is not bound, for y
Infant power of Attorney is

And if y infant has received his consideration & y
contract is void, as y contract, he is not bound to refund
or restore it. If y considered as a gift to him.
1 Bib. 129. 1 Tr. 189. 1 Bcl. 9 25. 913.

In. y contract being repudiated, do. not return the.
y demand of the. Debtor. Upon y post "implied"
ex delicto "as y case may be" as if y specific
property remain in y. hands?

Would not by. interfere, under considera-
tion to prevent guard? As yt. Bl. do. entire y. spo.
specifically, with impeaching or impairing y. own
proper estate. This a lot of law can't do. it age
of conscience he can't be liable at Law.

But for necessities, an infant under some circum-
stances, may bind himself by contract. They are thus
As for being instructed in a valuable trade. (Poth. 255, 1036. 166. b. 24. c. 2. 119. c. 2. 31. d. 171. c. 111.)

What thing contracted above must be necessary for an infant, at the time of contracting? (Ch. 2. 58. b. 2. 90.)

Poth. 151.

The question in these cases is necessary, to be left to the jury. As to its distinction between matter of fact and matter of law, it is as follows: What description of articles is necessary is a question of law, but what articles if any of these descriptions are necessary is a question of fact.

E.g., when the infant, by adjective description, is a pensioner, and necessary is good; generally. (Ch. 110. a. 3. b. 77. p. 2. 162. c. 2. 116. b. 13. a. 9. 110. a. 11. b. 10. c. 67.) Any matter replied, is matter of fact, not of law. What description of articles are necessary is a question of law, but what articles if any of these descriptions are necessary for an infant in any given case, is a question of fact.

Ch. 2. 583.

An infant may bind himself for his wife's necessities, as well as his own. For if he is able to bind himself in marriage, he must be able to bind himself to necessary contracts, even of his own marriage contract.

So may an infant bind himself for his children's necessities, for being bound by a principle contract, i.e., marriage, he must incur obligation incident to it.

So he is bound for all debts contracted before coverture.

Part an infant cannot bind himself even for necessary, if under care of parent, a guardian, or master, is duly provided for. This is only allowed to contract, yet he may not suffer.
As to the Reason of these Distinctions.

I. The reason why an infant is not bound by a Penal Bond, if B, to be, pt. 3. Penalty is to his Disadvantage.

II. The reason appears to be, pt. 3. consideration is not examinable. If any infant were bound at all by it, he might be liable for things not necessary for things beyond their value. 1 Psa. 116. 61. 1 Pet. 20. 2. 3.

And this principle of examination in all, & all above cases, seems to be, "if a consideration is examinable, he is bound, i.e., he may be, y cannot be unexaminable." - scap, if a nature if y contract or security excludes an inquiry into y consideration — as in case of y penal Bond.

II. Single Bonds. — In all, 3 consideration was formerly examinable. The not now.

I. If not now examinable in case of infancy? I apprehend it may be so. why is it not so? Case of Penal Bond? Like case. B. 12. 3. y. replied no examinable. y. 3. B. 12. 3. might haveg y. reparation.

III. & IV. If a negotiable note, negotiated, 3 consideration is not examinable. If a note not negotiable, or, if negotiable, not negotiated, 3 consideration is examinable. 10 Psa. 116. 61. 1 Pet. 20. 21 W. 11. 155 2 W. 11. 11. 1. 1. 155. 1 W. 11. 11. 155. 1 Psa. 116. 11. 11. 11. 1 Psa. 20. 20. 11. 11. 1.
In the case of a penal bond for necessity, is the infant liable on the original contract? This depends upon ye question. Does ye bond merge in the contract? If it seems not merged, if ye bond is void, the doctrine of merger is ground in ye case, yet it is clear obligation or remedy is smaller here by ye higher. But a note does create no obligation of remedy. So in Gray vs. Potter, 14 Sel. Ch. 462. hold yt a contract originally good is not affected by an ensuing obligation, and suppose th boistler vs. Blancton. 6 Sa. 1837, 6 Cow. 118. 10 Cow. 185, 15 Van. 218, 12 Van. 1878.

Is ye bond void? See 23, 24, post.

But a single bill does merge original contract, it vests yr interest in necessity. & if not its in order 6 Sel. 163. 2 Sel. 1839. 3 Sel. 1875. 6 Sel. 118. 12 Sel. 183.

In boistler, a note by an infant is not for necessity is only voidable. In 1809, declared by 3 & 4 & 5 common to be void.

In money lent an infant is never liable any way, either at law or in Eq. & it is actually laid out in purchasing necessaries. &t law he not bound, ni ye lender himself lays it out, & even the infant shall go it on, for yr contract is good & not void in name of lending. 1 Sel. 277. 366. 3 Sel. 267. 330, 768. 4 Sel. 97.

But if he lender lays it out, he recovers yr value of necessity, only the ye went, but that be greater to ye. he recovers as vendor of ye necessaries if not law for strictness then, ye infant seems liable at law, not as for money lent at all, but as for necessaries, purchased with it. (26.)

The infant is bound if ye money is laid out in necessaries, even by ye infant himself, ye lender is then in place of vendor as constituted in Eq. & recovers yr value of yr necessaries. 3 Sel. 262. 268. 2 Sel. 13515. 1 Sel. 37. 11 Sel. 1878.
But at Law, he can be considered only as a lessee in his case, & by course cannot recover at Law.

An infant is not bound by will or by articles to maintain his trade, they not being deemed necessaries.

1882. Co. 49. 3 Pet. 76. 1 B. & A. 27.
R. 749.

If an infant is an owner of a building, he is not bound to keep it in repair but his guardian.

3 Pet. 126. 3 B. & A. 51.

But if he takes a lease of a house he is liable in debt for rent.

B. & A. 69. 3 B. & A. 19.

It is land. But it is not as obvious as F. F.

5 H. 55.

The extent to which an infant may go in contracting for education is according to his rank & situation.

It has been determined by a court for instruction in Music & Dancing is not binding.

(footnote might be read) As it would to another who did not in strict at present day.

He is bound at Law for necessaries only.

But if an infant does voluntarily what he is compelled to do either in Law or in Equity he is bound by fact.

As if infant makes illegal partition with two tenant-days rent on a lease Devolving upon him 2 Pet. 669.

2 H. 18. 20. 2 B. & 175. 310. 2. 

If he incumbrance on estate subject to another owner, & he appoints appointment it of act is valid, at full age, he can have, in these cases, by act of majority, 1 B. C. 375. 9 Co. 85. 1 B. & A. 77. 2 Pet. 77. 1 B. & A. 1734.

4 Crust. 9. 13.

If an infant Mortgages, recovery on part of debt.

In court, his guardian may be ordered to make recov-
regard, by St. 39. 40. y Guardian or Mortise's Executo
or mortgage may or recovering a debt, release with
a decree in Eqo.

This then the see that he is compelled to do is y
only clait in who an Infant is bound at Law
or for necessary.

An Infant Deed, is bound by decree in Eqo, might
be allowed 6 months, after full age; to impact
at the failure error: 1 How. 34. 119. 2 How. 371.
1 Dern. 228. 9 Mod. 125. 2 Dery. 141.
1 SM. 152. 1 Furt. 77.

An Infant Deed, is as much bound in Eqo as an
Adult, if has one day after full age, to act
as in 3 scene, or fraud or gross neglect appears
in his "prosecute and" or guardian by whom suit
must be filed.

Any person may bring in Eqo a bill, or a suit at
law, but he must be admitted by y 6. as con-
venient, or y suit will fail, there is very little
danger of fraud or neglect. 5. if y guardian is not
guilty of fraud or neglect, he is liable to
y infant. 8. if y suit fail, he, not y infant is
liable for y costs, whether they come out of y infant's
estate at y trial settlement, depends upon his con-
sequent in y suit. 5. 99. 52 C. 1 Furt. 75.

Such acts by an Infant as do not affect his own
interest, but take effect from authority, St. he has
a right to exercise, as a binding - as an Infant
executor. Only pays & receiving titles & discharges them
or executes an office he may hold. 1 Dern. 242.

There is in Eqo, a very recent St. who prohibits them
to act until 21. - Which I take to be our Law.
A promise, after full age will bind, for promise to be made before, then it was not for necessity.
But not as 3 original contract was void. But only 3 contract originally was voidable.

And this he that have given while an infant a writing, in security, yet it is not absolutely void. Of promise, after full age will bind him; 3 original paper will being a right, consideration of a new promise. The original paper coint is not considered void, although security was.

Bul. n.s. 155, 30 Dec. 126

In 741 1529.

Thus, if 3 written security was only voidable, for these, 3 bond can't be being merged, do not remain as a consideration, for 3 last promise, but 3 new promise satisfies 3 security.

But in 3s case 3 action might be on 3 writing, if 3 new promise replied to 3 plea of infancy.

But where 3 person after full age, makes a new promise, in consideration of a oath made during infancy, he is bound no further to y promise.

Bul. 155, 30 Dec. 126

In 741 1529.

But in 7 last case, 3 new promises can hardly be considered, as a ratification if 3 original contract (as it varies from it) but rather a new substantial contract if 3, 3 original one is 3 consideration.

Bound to Count. Ct. of Errors, etc. 3 action on a note, given by an infant, is not supported by proof of a new promise.

But 3 Ct. consider 3 note void?

3 Dec. 131.
If money so paid may have been for necessaries.

If an adult, jointly interested with an infant in a lease, obtains a renewal of it, in his own name only, he shall be excused to have acted as Trustee only - if an infant may claim his share of it, if it prove beneficial - sec. 11.

1926. Beil. 442.

If an infant is arrested & sued on a cause of action to st. his inf. in any case of good defence he is not discharged on motion - as a fem. cot. but must plead his privilege or be held to bail.

183. & 2. P. 460.

In Eng., if age of choosing guardians is 20. to be 14. in both sexes. (cf. 283. C. Loves) 138. 462.

In fact, it is by St. 14. in males & 12. in females.

An infant may be an Executor at any age - even in writing so more - but can act till 17. the meantime administrator "guardian minoritate" must be appointed.

1888. Giff. 16th 202. Title. 676. 7.

St. P. 1205. 35th. 255.

As in Eng. by St. 28. & 31. P. 3. He can act till 21.

An infant can be administrator till 21. for an administrator must give bond. St. an Exo. in Eng. no. not - & ch. he can not be able to do till 21. a full age. (bath. 1167. Lom.'s 55. 2. 15. 41. & 22.)

In fact, also, one may act as Exo. it is St. by ch. at 17. for he may then make a will.

Ludm. 185. Title 115. 7.

By another it, every Exo. must give bond.

Sec. 10 the Exo. can act till full age - as admin. cannot in Eng.

174. said it was as a rule, yet in Comm. one can act as administer till 21. in consequence of his obligation to give bond. etc. he do. not till age as in case of administrator (543.)
I know not what is meant by Nothing - as it ant to Agreements. If not know. It appears, y. 9 female was entitled to Dover, 9 3 intended husband estate if she be over 9 yrs. she at his death. Pay 9 3 a female might be entitled at 9 - but now nothing is out of use. 

1st. sec. 26. 1st. 21.

Age of consent to marriage is 12 to 14. But if one party is of y. age of consent, 9 3 is then not the marriage after which is well as 9 latter.

1st. 5th. 55.

But in a contract to marry in future, of such parties is 17 yrs. 6th. 9 3 there not y. former may be subjected for a breach of contract than y. later can.

1st. 21.

The age for disposing of personal property at will, in Eng. is according to some opinions 14 in males & 12 in females - it proved to be 17 by which discretion - & agreeing to others 15, 17, 18. The latter seems most better opinion. For they agree with y. rules of Ecclesiastical Laws. 1st. in Eng. govern in such cases.

1st. 21. 2nd. 21.

Pay Rent. It, 42. 3 age at 17 in both sexes, i.e. everything but 21 is abolished.

What Contracts made by Infants are void, what voidable.

1st. contracts. For infants not for necessities are generally void or voidable.

2st. have lately inclined to construe y. contract of infancy as voidable only. 1st. 25. 1st. 26. 2nd. 27.

Then contracts in 1st. there is a benefit or semblance of benefit are voidable only, but those in 2nd. there is no apparent benefit, or semblance of benefit, are void - this is 3 Gent. rule. 21st. 6th. 21st. 7th. 21st. 21st.

This rule is in its nature vague, & as it is thus considered, may be found most.
The purchase of an infant was only voidable, as appears by
Co. Lit. 3. 5. 9. 7 Edw. 2. 202.
being for his benefit.
Co. 1. 355.
A power to act, made by an infant to accept a
infant in his behalf, is only voidable.
19 Reel. 770. 9 8 B. ac. 152.
(Zoed v. Parsons 3 B. & C. 178.)
In instances, it has been held, by an infant slave to receive his master as voidable only.
2 H. B. 311.
Written lease made by an infant not receiving adequate rent is void.
2 Am. v. 179. 112, 192. 193. 182. 1295.
10 2. 4. 19. 416. 160. 9 8 2. 1. 21. 9 8 21. 9 8 100.

With regard to trifles reserved, see their weighty opinions, with
Lib. 3. 151. 301. 50 2. 151. 50 2. 301. 50 1. 301. 50 1. 301.
In other cases leases by infants are void without any reference
Trot. 35. 138. This is said to be the opinion of some
principals. I do not say that an infant may make a lease to
try his title. It will not.

It is said it is agreed by all, if an infant make a lease
of infants by us, he can in no case avoid it, unless he acts
of his own infancy. This I think upon principles.

If an infant cannot in any above case plead non est factum
Co. Eliz. 587.
10 Co. Eliz. 587. 119.

If a bill or check is endorsed by an infant, he may recover it all by joint parties, the rest of the infant.
The endorsement is only voidable, so to, only by an infant.
Park. in v. 532.
It is so that a period ends by an infant if void as it cannot be for his benefit. 

6. 6th. 520. 
8. 8th. 106. 
10. 10th. 589.

There opinions are inconsistent with this practice. 
8. 8th. 119. 12. 12th. 113. 
16. 16th. 502. 3. 3rd. 1343.

7. 7th. an infant can't plea non est factum sec. 
10. 10th. 239. 6. 6th. 161. 5. 5th. 115.

note to a letter of Mr. 
20. 20th. 515. 8. 8th. 315. 8. 8th. 201.

But rule in Eq. 12. 12th. of an infant having from a period ends, on, 3 page. of the Debts obligations as 
6. 6th. of Eq. will one page. of the End. 

13. 13th. 74.

Better rule 9. 9th. thinks to be to consider fully void.

The first rule, branch relates chiefly to lands by Infants, & if limited to them in its application seems agreeable to principle i.e. it is not contradictory to any settled principle of steaded case, and there seems no reason opposed to it. The last branch embraces solely, conveyances and leases made 

8. 8th. 359. 5. 5th. 155.

But up to sales, conveyances leases & obligations by infants, 3 the rule of frustration seems to be 

9. 9th. All gifts, sales, grants, leases & obligations made by Infants & set. so not take effect by delivery are void. Those 3 do thus take of 

6. 6th. 259. 3. 3rd. 1056.

5. 5th. 12. 12th. 799. 3. 3rd. 16.
To effect a sale by an infant is voidable only. 3 Bla. 150, Co. L. 247, 2 Bl. 288, 1 Bl. 373, 1 Co. 113, 1 Plow. 429, 3 Bl. 307, 9 Ben. 312, 4 Plow. 575, 3 T. 47.

How can ye say ye sale is void, if not delivered it is void, by whom yer husband is in respect to taking him.

The words "fiction take effect by delivery" are in full force. Part by y will, also at to 20S, is made a difference between 20S. to convey an interest, & those who delegate a power to convey. The first are voidable, the latter void.

As infants leases, releases &c. by 20s are in full voidable only, they take effect by delivery, i.e. by delivery convey an interest. 3 Bl. 313, 327, 333, 1 T. 45, 6 T. 59.

Hence if an infant deliver a deed of conveyance, & after he attains full age, delivers it again, ye 20S. delivery is void (as a delivery) because it is void for same reason, 3 Bl. 318, 319, 1 T. 45, 2 T. 47, 57, 6 T. 59, 13 Bl. 37. 2 Bl. 31.

It will however satisfy ye Deed I conceive "ab initio".

Pass a power of Attorney by an infant is void—it never takes effect by delivery. 1 Bl. 210, 126, 110;

Thus if an infant give a power of Attorney to another to convey his estate, he may bid ye purchaser, under a power of a mortgage, go enterin in ye conveyance, accept of a power of Attorney, to accept same. It is voidable only, for it is introductory to a purchase.

Mr. Isaacs however discerns distinction between deeds conveying an interest & those delegating a power.
Upon the whole, it has often been applied to me, 

to be contained in a first branch to a first rule, 

which chiefly relates to purchase by infants, 

is a mistake. It relates to these grants, leases, 

obligations, 

The result seems to be that purchases by infants 

are voidable only; yet it is according to a first rule 

of a first rule. Their conveyances seals, &c. are void 

able only when they take effect by delivery, but voidable 

they do not. They take effect. This is another sec-

ond rule.

Perhaps it rule, as to contracts taking effect by 

transactions, that it furnishes a practical criterion, ought to be 

modified by a last branch of a first rule. Thus an 

invalid privilege is not the subject of voidability by 

construing it can be voidable when an interest passes 

by delivery, it will be void by way of exception; 

seeing it is only voidable. To says the Harf.

1132, 1167, 1161, 1167, 539.

As was the invalid agreeing to sell a tuncie of 

his blood, in the case 7 baron to obtain 5 a tuncie 

literally shaved 7 young ladies heads. In this 

case the last an act of assault & battery, it 

was allowed to be.

This is 7 only exception I know & probably 

will not occur again.

5 1167, 319.

Escheat contracts by infants are generally void 

able only, as a promissory note, 

1655, 155, 1555, 253, 253, 158, 158, 158, 158, 158, 158,

That a promise of an infant is void, & if of an 

adult & an infant jointly in a promise, a former 

may be sued alone. see ante. 

5 1167, 555.

As to personal bonds. see ante.
Basis of subscription to arbitration by an infant is to be only voidable.
In some cases, these distinctions are momentous in practice.

Differing effects of void and voidable contracts.

1. If a contract is void, 3° persons, or other adverse party may take advantage of its invalidity.
   for creditors may by a fraudulent conveyance

   If voidable only 3° party to whose benefit it
   is made, or his representatives may take advantage of it.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.

   Voidable contracts may be affirmed by an infant
   after he obtains full age, a continuance may be expres-
   sively or implicitly, as if a lease is made to an infant
   if he continues to pay after full age, if unoccupied
   confirms it and makes it good, he is liable for rent
   if he pays rent.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.

   So any act evincing an intent to waive privileges of infancy or to confirm a contract has some effect.
   3° to 42. 3. 162. 17 20. 503.
   3° to 42. 3. 162. 17 20. 503.
But a vol. extrait or act cannot be confin’d at being a nullity, as a power of attorn, by an infant to convey, or lease his lands, in presence of wh. a lease is made: then his act or declaration made after full age cannot satisfy the lease (as where an inf. lejes takes a new lease of him same inst. wherein in creating the term, no diminishing is vest’d, so sound lease is void, & can’t be ratified.) 7 T.R. 766. 3 Puc. 356.


The infant having conveyed by com. recovery, or by fine, may avoid the conveyance by suit if continuing his minority; but not afterwards, in his age only, can be tried by inspection, by & judges as acount: to be tried by 3 of H. of Shittins v. Reed.

1 Co. 389. 12 Co. 122. 7 Puc. 34. 125. 455.

12 Co. 115. 3 Mod. 29. 12 Mod. 127. 280.

It is no. yt. an infant’s conveyance, not by matter of res vitæ, by matter in præs. as by feoffor, is avoidable either during his minority or afterwards.


Co. L 158. 200. But pm. has been by tenor.

But it seems settled now, yt. an feoffor, by an inf. cannot be avoided, till after he attains full age; & his recovery is itself not bindings 8 a conveyance revocable, remains only voidable & may be confirmed at full age. Bye a stranger can void himself of a recovery by 3 inf. 5 Decr. 1796. 18. 89.


12 T.R. 186.

The same rule obtains if 3 conveyance is by lease & release void.

25 & if an infant make a lease in yrs. 28. 40. 160. (This case is apt to mistake; it means if an inf. is bound by his lease during minority.) 3 Puc. 137. 8. Do Helen.
by Rev. Mansfield of Dedoick & by Court of Kings
Bench, since Co. Lit. 350, 5 Bac. 146.

Sales of ens. Brap. by infants are voidable at
any time & suppose.

Exempt cases in Equity.

Marriage settlements, agreements made by infants, with
consent of Parent or Guardian are in most cases, bind-
ing in Equity; such agreements being but accept-
ting, the principal & original cont. 1 Porr. 6 S6.

3d Ed. 56, Proch. 1. 12.

In Eq. appoint a suit to determine, control our right. It
directs their conscience according to circumstances
of the case, and enforcing many cont. 1) at Law are
not binding. 2) Nov. 4, 8. 1, Porr. 14.

Thus, in fact, 4 a female infant, in a marriage action, has
been held to be bound by such agreements made be-
fore marriage. 2 Binn. 394. 3d Ed. 611. 1 Porr. 640.

3d Ed. 13, 4 63.

It makes no effort whatever if it is in
opposition to depends on a future contingency. 1st Porr.
3d Ed. 170, 1 Porr. 3, 3d Ed. 1 Porr. 7.

So it is well settled if a female infant may have her
right of possession, by accepting under such agreement, a
settlement by way of trust, if even it vest. in joint
estate, this can be done in Law.

Whether a male infant can bind his real estate (i.e.
in estate of inheritance) it if so is not prohibited.

42. It has been decided by a male infant, lease for two,
years bound by such an agreement, made with consent of
Parent, etc. 1 Porr. 606. 1st Ed. 3, 4 63. 1 Porr. 640. 2d Ed. 279.
but it has been held by Ld. Mansfield, &c, that a will, if a final
will, seized in fee, covenanting on marriage with consent of guardian
and in consideration of a competent settlement, to convey her
inheritance to her husband, wills will execute, &c, Wm. 255; 1 Bov. 6, 35. This says Ld. Hudnott is giving
a great way, yet there is cases where it will not
will, shall a settlement by a husband, in an adequat so settle
be wife leaves upon the. 5 Bov. 612-15. 4 Tim. Cap. 10.
1 Bov. 6, 50.

But by Ld. Thurlow, her real estate is not bound, 13.
for she has a settlement, &c, after her husb. death, takes
before if it &c, &c. not go into a competent settle-
ment, 2 Web. 13, 52. 1 Bov. 615. 510.
Ld. Thurlow then is an opinion, &c, a subsequent satisfaction af-
ter wife becom married of necessity, 1 Tim. 6, 518.

These last authorities are by rule &c, be seen by Lds. Man-
field & Hudnott. Wyman writes Ld. Mansfield's
opinion is much shaken if not overruled & there seems
no differ. on principle between two cases of an agreement
to settle an estate upon a husb. giving child, or wife's
life (to may be deemed necessity, by way of family pro-
vision) & of an agreement to vest him with 3 inherit-
cance, &c. can hardly be supposed necessity, in yr. pur-
pose.

At any rate, it seems agreed, &c, any contract by a
female infant to void her real estate if not binding
in making before marriage, 3 Bov. 6, 53. 2 Bov. 76, 518.
1 Tim. 70.
The good question is whether a male infant can bind
his estate by such an agreement, if so, not to be settled.
4 Tim. 519.

But it is clear if it on marriage with an adult to con-
venants, yet her real estate shall be settled to contain
her, he is bound by it, for his own original estate is
not effected, by 3 agreement, & she is of legal capac-
ity to settle hers. 2 Bov. 6, 519. 3 Bov. 70 & Tim. 519.
But no agreement made in marriage with an infant, by an infant, incapable of making a will, incapable of disposing of his estate, will be enforced, nor will be given any compensation.

If an infant capable of making a will, incapable of disposing of his estate, is to pay debts, his executors must in England pay them. If, by cap., 21st, 1769, 32 Geo. 3.

An infant's contracts may be ratified at law after full age (until 21.) as in England, made by a mother for an infant, may be ratified as well as by the infant himself as after full age, e.g. lease of land belonging to (children) to be paid by their mother, they having accepted rent after full age. The title of the established by lease. 1877, 54. 36 Geo. 3.

What powers an infant may execute.

An infant cannot execute a gift over real estate, nor a power under discretion, as a power to appoint such person or persons as he shall think proper.

But a naked special power an infant may execute, for here is a mere inst., having no interest in can be affected. In a naked power, it is a power with the interest but no distinction is necessary of a power to convey. 1762, 54. 24 Geo. 3. 70. 14

But an infant cannot execute a power on his own consideration, as it affects his own interest, nor a fully earned (at full age) may.

1762, 54. 24 Geo. 3.
The great rule seems to be, that an infant, not interdicted, may execute a power to pay to his principal to the extent of it, if it does not affect his personal estate.

And he may execute even a great power in part estate, if his own interest is affected by it, if he enough to bequeath it be will not devise it.

And this rule is confirmed by the 17th. Proving the great power to an infant, without power to dispose of part of his share, to whom he may think proper.

And then an infant, tenant for life with power to make a jointure, conveyed (in possession of a power) to settle a part of his land on his wife for life, and to hold the goods in the same person as they were at his death.

What offices an Infant may hold.

The great rule is, that an infant may hold a ministerial office, he requires only skill and diligence, but not a judicial one as he may be bailiff, steward, &c. The ministerial office is supposed to require y'gt. & execution, but not judicial.

When he is to be constable and is a common man.

The reason given why an infant may hold a ministerial office, is, that if he is incapable (as before attended yr. 12 discretion) it may be executed by a deputy.
Due, therefore, whilst he can hold any office he cannot be executed by Infancy.

Due, &c. To ye Laws of Tontine. Can he hold any civil office? I am not appointed yet he can.

An infant cannot be an Att'y. in he cannot be sworn as at office requires, besides judges are attended with responsibility. y Boc. 12, 57.

Nor can an infant be a Juror for same reason, & also I suppose because a Juror acts judicially.

An infant may be an Ex'or at any age, but cannot act as such till 17. - Rose 27 H. 39
Geo. 2, 2 He cannot till full age. - anti 7.

49. Regularly an inf't. Offer is bound by his official acts & liable for his neglect of duty. Ex. An inf't. garder is liable for an escape & liable in pret'ty of an escape if upon execution.

5 Co. 27. 3 H. 3.

(Plowd. 36. 38. 2 Ib. 119.

How far an inf't. is affected by the non-performance of conditions annexed to his office or estate.

Conditions are of two kinds express & implied.

1. By express conditions inf't. are bound as well as an adult, viz. If an inf't. hold an estate, to viz. an express condition, implying a forfeiture as annexed, in perfect estate by non-performance, as a same inf't. heir to same land has rescinded.

Rev. 51. 33. 35. 17. 21.
37. If a lease assigned or begraven in estates, the lease was bound under some condition to pay whole rent. The lessee & his representatives may be subjected to a penalty. But not in int

3. IMPLIED conditions as C. 3. are either form.

3D. An Skill & confidence in est. 16. & C. 54.

Pry's former of these an int. is bound as the

Inheritance is granted to say int. in fee, the

office by mismanagement. & Co. 44. 1 Bac. 82.

C. 3. 306.

Pry's latter int. not bound, as if an int.

lessee for life alone in fee, there is no forusion.

so is a Ten. end. & Co. 14. 1 P. 116. 581.

C. 1. 296.

Ints. are barred by l. of limitation in their

as a special saving in their favour.

l. of limitation are in nature of a condition

need to a right. & Co. 51. Br. in Co. 31.

L. 41. cap. 5. 44.

If an Exr. or decm. does not sue within the

time prescribed by l. of l. of limitation, there

such a trustee has a prior to sue if int. is

bound. 1 P. 208. 19.

This rule must relate to cases in th. y Exr. has

right to sue in his own name or a suit in

favour of y int. for the recovery of an

estate given to an executor &r. int. to an int. is not

same to esty. the must be lost in y int's name

in his own right, for it would appear y having in it.
In what manner infants are to be sued, &c. i.e. By whom to appear.

I have already treated of the rights of infants, &c. the rights may acquire, &c. if they may be known by their own acts &c. We are next to inquire if they mean of ascertaining those Rights by enforcing those acts.

First. How infants must sue.

The infant must sue by his guardian or proctor any. He can appear by atty. In suit appoint one &c. &c. if he is supposed incapable of conducting a suit himself.

By an infant, sue with his guardian, or proctor any, &c. may defeat a suit by pleading to his disability.

Secondly an infant, &c. do. appear by guardian only, &c. not by his next friend in any case. But a sect of proctor 1832 enable infants to sue by the next friends in certain cases i.e. in cases of necessity.

The cases in which an infant may sue by next friend are: 1. where an infant, has no Guardian. Matthew 18.

2. Where the infant is to a stranger, &c. Guardian will not appear for him. 16 & 18.

III. Where the infant has no Guardian. 20. & 18.

IV. When he is elaged, i.e. out of his care of a
In all y above cases, he is obliged to sue by next friend. In all other cases he must still sue by his guardian.

According to some opinions, an infant may sue in any case, by guardian or next friend, if not yet taking away y guardians control and authority.

Of husb. & wife sue, y wife being an inst. she need not appear by guardian, but both may appear by husb. name by y husb. he being Adult.

When an inst. suits by guardian, y latter is liable for y costs, & is compellable to give security for y same.

So either suit is by husb. next friend, y latter is liable to costs, & husb. are liable to an attachment for non-payment, i.e. guardian is next friend.

1 Phil. 46. 1 Will. 156. Tho. 50. 1526.

According to some opinion, if inst. is also liable for costs, & cannot pay proceed vs. either at his election.

Vide cas. 91. 2 P. W. 156.

This Rule laid down in P. W. was rested on a hearing by Mr. King in, who said there was no decision on inst. only was liable for costs in law. E.g. if husb. need not find pledge at C. L. 3800. 19th Mar. 43.


This seems to be y better opinion; for inst. is not in fault; the bringing y suit is not his act; it is not real in his name; by y guardian yse.

Is y question on y inst. estate shall be ultimately
changed, shall be reserved to a settlmt. 4. y Guardian's accounts.
If costs can't be given, it will be void, i.e. not an instant policy.
Ps. 12. 17. Proverbs 16. 128.

If theft. theft. if clearly liable for costs. For whenever he is subject thereto, he is deemed to be in fault, in withholding & justice rights.
Ps. 106. Proverbs 12. 17. 126. 158.

That y Guardian or recod of an inf. theft, if liable for costs. But if so he is holding in present instance: for when he does so one as theft. he is always in fault. This not trace & there is no authority to support it.
Ps. 106. 126. 158.

In Cq. both y Guardian & Buechener getting must be admitted to appear by y dt. or by written off y Guardian. y theft may not be enforced by act of an improper representative.
Ps. 106. 126. 158.

When suit is by Guardian, y county court I believe, never inquire into his qualifications; But if by next friend, he is admitted by the dt. Not a tacit admission. it has been si. is sufft. Dec. How?
Ps. 106. 158. 126. Rep. 384.

59. Any one may bring an action at next friend for an infra. 8 even without y letters consent, for he does it at his own hazards.
Ps. 106. 158.
Ps. 126. 164.

But for the commence's suit, he may be dismissed by y dt. Of an infra. an adult & between two, in an action but by you. He may appear by y atty. For y suit is in "ante Bell" 8 y atty may make an atty. For both attys. capac y action being in another's name, 3 infra. is liable for costs.
Ps. 126. 158. 126. 124.
Second. How Infants are to be sued. 60.

An infant must always appear by guardian, if not by Power of Attorney. To y st. 1911. 
Witit: do not extend to actions vs. Infants.

10. If an infant appears by another in his name, when he ought to appear by guardian, it is
erroneous. His attt is signed by y Guardian & pt. is that y meant, by pleading by Guar.

Note. By y Guardian, in pt. suit is meant not y Guardian if y infant, person or estate, but
one appointed for his suit in pt. by lett.

10. In an action vs. husband & wife - y wife being
and left. She must appear by Guardian.

61. If an infant, having no Guardian, is sued, the court must appoint one "for the infant" such as one of called " Guardian ad Litem." 5B.C. 155. 6B.C. 165. 7B.C. 116. 9B.C. 137. 10B.C. 151. If there be Guardian appointed, it is judged to be erroneous. The authority of a Guardian "ad litem" extends only to a suit in chancery. The case decided.

Port if J. has a Guardian y. The court appointed one to represent him, and a former is out of it. Much the process, he has mistaken himself.

9B.C. 130. 6B.C. 163. 7B.C. 116. Still 5B.C.

If there on infant, having a small guardian, is sued, latter does. The process must be refunded to him. The process however does not a date, if Guardian are summoned, that time is given to cite him to appear.

62. If an infant, then suing, appear by H.G. by judge of given up. Him, the erroneous, y. a. That of error " soon at bet" lies. 5B.C. 116. B.D. 165. 1B.C. 185. 2B.C. 213. 3B.C. 38.

So if his Guardian not cited y. Judge, you remain in regard this erroneous. 9B.C. 110.

So serve in an infant, H.G. appear by H.G.
final judgment is given at the House of the Inns. This

3rd day of the 26th day of June, 1842.

\[\text{Proc. 150. Roll 247.}
\text{Court. 178.}
\text{Lanc. 215.}

\text{St. John's, 215.}

If judgment be final, it is the weight of authority of the

\text{opinion in} \text{Bro. 22.}

This rule is more attended by \text{R. 501.} 1842. R. 22.

\text{of} \text{them. So if judgment passes by inst. upon verdict, the

other party cannot reverse it.} \text{Bac. 159. r. 138.}

\text{23d June. 1841.} \text{Bac. 78.} \text{r. 23d June. 1842.}

\text{il these} \text{the} \text{nothing} is \text{St. J. Demersex. it is as at} \text{C. L.}

\text{but notwithstanding these} \text{Il. his inquiry is still pleaded in abate

\text{the. 122.} \text{3d Court. R. 22.}

\text{of an inst. is made with others who are adult &

appear by atty.} \text{r. notice in St. Damages are given vs. him. If whole judgment is erroneous, the} \text{St.}

\text{cause abatement damages.} \text{Bac. 159. r. 23d.} \text{r. 23d}

\text{23d June. 1841.} \text{Bro. 78.} \text{r. 23d June. 1842.}

\text{of damages is severally assessed.} \text{Judge

is then recorded, generally inst. only in y. It is sub-

stantially y. same, as if there had been several

\text{distuse judgments.}

\text{3d June. 1841.} \text{Sta. 159. r. 23d.}

\text{3d June. 1842.} \text{Bro. 78.} \text{r. 23d June. 1842.}

\text{In Court, it has been determined, y. then the

court & judge are sued together, as Inspe-

ation (a guardian not being cited & all appearing

by atty.) the judge, vs. you, if erroneous, guided

\text{it. Only} \text{the y. damages were entire in the}

\text{23d June. 1842.}

\text{Due to the court is liable of the whole} \text{y. there is no con-

sideration, yet if y. dealt had been sued alone of right, y.

\text{real damages might have been made, inst. may be

reduced to the} \text{right. were sued alone at the Court.

y. Right must be made by guardian.} \text{Bac. 159.}

\text{Sta. 159.} \text{r. 23d June. 1842.}

\text{23d June. 1842.}
If an infant and adult join in a suit it may here
undoubtedly proceed in its
only 1 B. J. 179; Hob. 278.
and. 126. 2 H. 193. 611. 124. Because the
interests are distinct and it is in its nature to a
common annoyance or inconvenience.

Hence that the Law regards infancy in
"Tenure in More".

Infants in tenures as mere and non-benefactors regarded in the Time were more considered so in
many cases in which formerly were not.

1 Bl. 136.
The killing of an infant is the same act whether
induce a high misdemeanor or a mitigation.

3 B. 652; 3 H. 158. 2 H. 121.

But by the child having received a mortal wound
in the act he is more by born alive &
the right of rescuing within a year & day after
the injury done it is recovered & may be main
son. The child is regarded as if he was 76; but re
3 B. 177; 8. 2 H. 121.

1 H. 405.
The right in the suit as mere may take by devise of
73. 1 H. 357. 121. 55. p. 70. 3 B. 351.
3 B. 136. 3 H. 477. 6 B. 350. 2 D. 320. 34 B. 326.
2 B. 350. 5 B. 350. 5 B. 350. 5 B. 350. 5 B. 350.
1 B. 350. 1 B. 135. 1 B. 350. 1 B. 350.

So if a Legacy. 1 B. 350. 1 B. 350. 1 B. 350. 1 B. 350.

For distinction, see "Goodbye" 67. 32.

All by birth by procedure, the estate reverts to the head
of the descend or in favour of the posthumous devise.


The infant in the suit as mere may take under it.
if distribution. 70. 35 B. 350. 3 B. 350. 1 B. 350. 1 B. 350.
Of under a term for raising particular for such children as the shall have at his death, posthumous pro

Ventrer, &c. 12 Can. 2. an inst. in ventre de vivre may have a testamentary guardian, i.e., one appointed by

30th. 17 & 18. i.e., may be an Inst. but cannot act till 17 & if two are born, they shall be co

17 & 18. 17 & 18. 5 & 17. 18. 18.

But now by 22. &c. 2. not till full age, but, if we devise a bequest to


The inquiry under y. leads us to consider in distinction between legitimate & illegitimate or bastard children for y. rights & duties are different. Then refers to these two classes of children.

First then who are legitimate & bastard children? A legitimate child is defined to be one born in lawful wedlock or within a competent time after,

18 & 18. 12 & 17. 12 & 18. 18 & 18. i.e. no other than a child thus born can be legitimate. But it is not universally true "every child thus born is legitimate," the prima facie, he certainly is. 18 & 18.

69. An illegitimate child is defined to be, one begotten a time out of lawful wedlock; 19, 3, 30. In other words, not begotten a time during lawful wedlock. This definition I conceive is incomplete; for irrespective of conception, y' parents' intercourse y' 1st y' 2d y' 3d y' 4th etc. before birth y' child is illegitimate according to y' above definition of a legitimate child.

The true definition is, y' an illegitimate child is one begotten out of lawful wedlock, y' not born within y' time during lawful wedlock, y' within a competent time afterwards, y' either y' legitimacy y' born in lawful wedlock, y' within y' comp't time after.

70. The above definition of a legitimate child, entails, in G., y' child y' born during wedlock, without presumption y' legitimation y' p. is p. illegitimate. This presumption is very strong, hence anciently no other proof of illegitimacy was admitted in such a case, than such as rendered legitimacy impossible. By fact of illegitimacy, y' can be proved only in two ways—1st. By showing impossibility of conception to y' wife by y' husband.


Improbability, however strong, was not sufficient to prove y' fact. 184, 3, 30.

71. In other proof of non-conception was admitted formerly, than y' at. y' husband's absence "extra quaternom" from y' time of conception to y' birth. 184, 3, 30. 367, 333. 123, 320. 123, 335. 123, 305. 123, 300. 123, 340.

y' absence within y' realm was not legally probable. 123, 340. 123, 310. 123, 335. 123, 337.

Here, if y' husband had been absent for any length of time, y' his wife still have a child however soon after his return. y' child so. have been illegitimate, or y' husband was proved impotent.
As to y. husb. impotency. Formerly. Y. fact. 
Es. not be proved otherwise than by want of age,
1 Baco. 310. 1 Roll. 104. 142. 266.

According to some, y. age of impotency, if any age,
under 17, according to others, y. age if y. yrs. limit,
1 Baco. 310. 142. 266.

The evid. admisible oven these rules, is supposed
to prove y. impotency, if legitimized.
No rules similar to y. above have been adopted
in crown, &. then y. old rules are now abolished in
Eng.

1st. That acceptor may now be proved by other
evts. than y. &. she declare evidence. The
question is left to y. jury, upon y. special circum-
stances of y. case, or they may judge now accept. the y
husb. has been within y. realm, etc. Baco. 244.

5 Geo. 3049 &. 172. 255
that. 925. 456. 925.

2d. Impotency may always be proved by other evts.
than want of age &c., as by y. husb.'s state of health,
by any evts. in what y. end. continues to prove the fact.
Ex. 9. 480. 1 Baco 311.

These rules also seem to admit no other proof of
legitimacy than what cents. to an apparent in-
solvency &c. Ex. 9. 480. 142. 266.

It has been lately settled that y. husb. y. y.
y. non-accept is impotency is admisible to prove
illegitimacy, &c. Ex. 9. y. mother co. habited with
another, &c. y. child was rebaptized a bastard,
y. it was called by y. name of another, &c. y.
mother took y. name &c. Ex. 9. 574. 1 Baco. 380. 142. 98.
This case goes to prove improbability only of a child's legitimacy. It is not direct proof of non-existence or impotency.

(Pro. 7:26, 27. - Deut. 28:6. - 2 Cor. 1:21.)

The issue of a marriage is null "ab initio" if illegitimate - so in case of a total divorce before existing before marriage is rendering it unlawful.

(Prov. 7:26. - 14:8, 15.)

But in legality of a marriage not absolutely null & void, can be called in question by showing z bias of z parties for solvent animam. So in case with those marriages, z are made void by reason of some canonical impediment & z reason of others. Divorces are granted & marriages annulled in z spiritual Ct. The rule is that z can't be when one of God. This rule is confined to those marriages, z are unlawful by reason of some impediment, i.e. some divorces are necessary to prove z illegitimacy. & if necessary only in case of consent? impediment. 1281. 350.

In civil disabilities, legitimacy may be denied at any time. There some divorces over does can't be established by proof of illegitimacy of marriage after death of either of z parents. 1281. 350.

But a child may be proved actually illegitimate after death of its parents, by showing lack of interest, by other causes, as frequently done.

Yet, child begotten & born after divorce, by same is presumed to be illegitimate because z parties are presumed to have confirmed the divorce, i.e. not to live separate & z prohibited from cohabiting together. But then there is a voluntary separation of wife under articles of separation, if a child is born, it is presumed to be legitimate, because there is no presumption of illegitimacy.
mony to their own voluntary consent. But the presumption in both cases may be rebutted. 1 B. 327.

When a question is legitimately agitated upon the connubiality, if the wife is not amenable to prove non-connubiality, the rule is founded (says Sir. 1, Monson) in decency, morality, 3 policy. It is an essential policy of law, because it might give offence to 3 husband. It may be proved, however, by testimony of others. But it is admitted, is a good witness to prove non-connubiality with others. If it arises from necessity of the case, for the may be 3 only person acquainted with fact, notwithstanding the rule of decency & morality.

R. G. 1, 554. 7 R. 2, 535. 11 P. 1, 160. 12 Mcp. 1, 114.

Both the husband & wife are competent witnesses to prove the birth of a child, but - as they are competent witnesses to prove the time of marriage, 3 part of marriage.

So declarations of the father & mother as to the child being born before marriage may be proved after the marriage. This is not cast-ironuing one time marriage, nor does it impeach a marriage by parents.

As declared by either in 3 calple, is good evd. 7 B. 78.

So tradition, common representation, an entry in a family bible, inscription in a tomb stone, are good evd. of a child's birth, as they are upon questions of pedigree.

By 3 civil & canon law, a child born with marriage is legitimate by their marriage. Not so by 3 civil law. But by a usual course of generation.
they can be his issue, are bastards. They are born within a competent time after marriage.


What is a competent time meant in the definition? This can be with ascertainment i.e. within that time after the husband's death, a child must be born to be legitimate.

According to some opinions, 9 to 11 months & 10 days is the usual time of gestation i.e. allowing 10 days in 3 months, 280 days, or averaging 3 months of a year 285 days, according to other 40 weeks, 280 days, etc. Coke says 9 months or 40 weeks are 3 years. This subject within a few yrs. has been examined by eminent physicians. It is agreed that the usual time may be shortened by various causes, etc. L. 123. T. 181. 103 Bk. 456. Psalm. 9. T. 5 f. 571. 4 Roll. 386.

The rule is, if a child born within 3 months of gestation, computing from the death of the husband, is legitimate i.e. presumed to be so, as if born during wedlock.

A child born after 3 months is presumed illegitimate. But this presumption may be rebutted in both cases. 1 Bl. 518. Psalm. 9. T. 5 f. 571. Roll. 387. Perl. cap. 114. 103 Bk. 456.

But one born 9 months & 10 days after, has been held legitimate, mother having suffered much hardship.

So one born 9 months & 70 days after, under special circumstances.

If a woman marry immediately on her husband's death, if a child is born within such a time, it is legitimate in the usual course of gestation, it may be child of
But he said, I trust, it satisfactorily out of his true par- 
ente can be obtained. The rule supposed y absence 
of any other proof, une, or, is furnished by a party y 
supposed only statement.

It is also, one may not be bastardised, i.e. pro- 
ved to have been a bastard — after his own death — 
as "Pers. defects &c. with y Person." 7 b. 44. sunk. 200.
Co. Lit. 35. a. 255. 13 Ac. 396.

But y holds only up between a bastard "Fugax mul- 
lier prime" i.e. between a son born before mar- 
rriage of his parents, & y Lawful Dyne of y Mar- 
rriage. 3292. 613, 250. 3 Siz. 310.

Bastardising, by imprisoning a void a voidable 
marrige is a distinct thing.

If then a bastard beque, i.e. upon his father's 
estate, &ry de survived, his issue shall hold y 
exclusion of y mulier prime. 7 b. 44. sunk. 200.
Co. L. 35. a. 255. 13 Ac. 396.

But to exclude y mulier prime, there must 
have been an uninterupted poysn by y prime 
& a descent to his issue. Hence during his 
life, y legit. son or mulier prime may evict 
him.

And if y legit. son or legit. issue, y estate 
goes to y mulier prime or legit. son, even in 
exclusion of a posthumous child by y bapt- 
ised son. Because y poysn was not by y bast- 
ished posthumous child.
Of the Rights & Incapacities of
Bastards.

The rights of an illegitimate child are such only as he may acquire, for being "illegitimately born," only; he is not of kin, it is said, to anyone but his own parents, as it respects inheritance, &c. or can inherit nothing. 1530. 388.9.

But y maxim, that the "illegitimately born" does not hold up to all purposes, for it does not to a marriage within y prohibited degrees. The illegitimate child cannot marry his mother or daughter.


Com. 259. 200. 259. 319.

In every y maxim extends to cases, in which the regency y consent of y father or mother to a marriage of y child; how y law recognizes y relation of parent & child. In case y consent of y father of a minor illegitimate child is necessary to his marriage, when he is known - by being compelled to support it.

1397. 99. 100. 59. 199.

It is so, yt. a mother's consent is necessary, but yt. seems not to. The consent may often of itself have been held void; by Sir W. Scott, Judge of y Ct. of Request of London.

The civilians. 32. 32. 58. 58. 58. 33.

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of 4.31.  By which, I have gained a reflection of 4.32.

It is a bastard, as it seems, (Ex. 5.2.5.) because, I suppose, in the general sense, there is no heir of a child. This is not the heir in any sense. 4.3.6.

But a bastard can have a name by reputation, 4.3.7. and by time. 4.3.8.

But by time. 4.3.8.

Hence if a contingent remainder is limited to the eldest son, 4.3.9. (being a man at the time) whether legitimate or illegitimate, he is, as he is an illegitimate son, he cannot take, as he has only reputation of being a son if, at his birth, it is uncertain whether he can, well. If the contingency is so remote, 4.3.10. 4.3.11.

But it has been said, 4.3.12. such a limitation, i.e., contingent remainder limited to the eldest son, 4.3.13. will come to him bastard son after-born, because he has no uncertain, whether he can take. If a person is uncertain, 4.3.14. it seems to indicate in case of a limitation, as, 4.3.15.

If uncertainty is a person is, as it only objectionable. It seems it would be as case by a limitation to, 4.3.16. 4.3.17.

Yes it, 4.3.18. If it not limited or too, is too hard a contingency? allowing it, there is no uncertainty, is to a child. Then when, is not a future birth if a bastard, itself in this view? What if you have it? In Quebe's, 4.3.19. from his note, y. 4.3.20. opinion seems to be the 4.3.21. limitation.

If bastard can have no heir, but those of his own
body for all other children, must be traced to a common ancestor if he has none. 6th Ed. p. 6. 1236. 357.

In England, a bastard's settled is regularly in the Parish of the place of birth, he must retain a derivative settled, for yet is a species of inheritance. 6th Ed. p. 6. 357. 1859. p. 357.

If a child lives with its mother in another Parish, still its former Parish must support it.

85.

There is an exception to the last rule when a bastard is practiced in which Parish in which child is born. Ex. If a mother has rent, by reason of a justice to a Parish, to which she does not belong, & then parturient, a child is settled in a Parish from which mother was illegally removed. 6th Ed. p. 6. 1859. p. 357. 1236. 357.

If a mother goes to such a Parish & is apprenticed by vagrancy & has a child born there, it is settled in which Parish to which it belongs. 6th Ed. p. 357.

In general, it is against mother'ssettled, if yet. Ex. A child, 6th Ed. p. 357. 1236. 357.

85.

Of the Duty of Parents to their Bastard Children.

The duty of parents to such children consists chiefly in their obligation to maintain them. 6th Ed. p. 6. 1236. 357.

In every relation of parent & child, it is not regarded as to purposes of private civil, yet as to certain natural duties at 6th Ed. p. 357.

The Law on this subject is different in England, depending upon the age of the child. 6th Ed. p. 6. 1236. 357. 26 Geo. 3rd. 1236. 357.

In general, if in England, by positive, father or mother
The Mode of Proceeding.

On complaint made to a magistrate by a mother, sworn oath, he issues a warrant to apprehend person accused.

The is brought before a magistrate, who, according to the truth of the charge in his discretion, may have the boy or girl accused to the next county. If the child is born for trial, the county having penal jurisdiction of the case, he ought to be brought over, or of prosecution appear practically good.

On the inquiry, at the final trial, the mother is allowed to testify "ex necessitate rei" — "test. Kit. 84, 26. 269."

The process issued by the magistrate, is by way of

The process issued by the magistrate, is by way of

It may once only be supposed; if complaint must be made before, it is not new; it has been mentioned.

The mother's oath is not conclusive, but it is prima facie evit. If course the boy's burden of proof on his part. The infancy of police, if he shall, his oath, but he may contradict it, and invalidate it by other evid., as in other cases.

The petit also to a discovery of the truth in his time to his trial, 1 Port. 107 170, 84.

The omission of the last requisite can be supplied by no other evid.

Thus, when a select men of a town prosecute, the town or the be at the mercy of the mother, if by consequence the be a collision between father and mother. Cap. 278.

In the state select, men have the same points
prosecute, as y Parish in Eng. but it is more fre-
guent for y mother herself to complain.

The it requires yt. she continues constant in ac-
cupations, she must not change one before the
majority of another - before y county tow. "con-
stant" has been declared to be a free requisite.

It is necessary to be alleged in a complaint - it
is not mere ends. - it is absolutely necessary.
Is even y confession of y factory out of court is a
shift, because there is a presumption of truth
- sh. can't be rebutted - et. f. - f. Reeve. contra

90.

If y debt is found to be y summative factor, y
judgment, is yt. he find security for y part. of y dam-
age a judg. y also, if it be required, to save the
down fee from charge for its maintenance, when
y mother -seeps, is y be refuse to buy y. there is
y to stand committed - St. Cont. s. 4. - - when the
summa fees, he only indemnifying y seep - this judg-
it is called in Eng. an order to Felization. 3 S. R. 172.

As such security is ever required if a mother, be-
cause she is probably be required (obliged) to go to
child. - But it is order to stand commi-
nitted, has often been omitted in Cont. 8 y men-
mon was judg. no error. But in these cases, execu-
tions are issued quarterly. 1 Cont. 417.

The damages given according to y Cont. practice,
are usually given support if y child sell it is yrs.
not, together with y child-bed expenses. Rich. 268.

But, 67% to these expenses - 3 Map. R. 517. 296, 136.
But y period all, y damages are to cover are not
uniform -

91.

If y child die before y expiration of y time fixed, y
seep. executions are stayed.
On the other hand, if y expenses exceed y taking, y father is compelled to pay more & y entry, admitting will be inserted in y remaining executions on application to y county ct. etc. etc. complete.

If y child is not born before y coming of y court, etc. to sh. y def. is bound, y ct. will order a continuance & renewal of y bond. Ct. bond. 8d.

If y woman die or marry before delivery, or suffers an abortion, y def. is discharged. Ct. 555. vid. 1. 211. yt. if she marry before the recovery, y rash. cant join in y prosecution. did ye.

The bond or recognizance taken by y magistrate is to be void on deft. appearing & a reasonable fine. Rety. 2/17.

In this case, y security is not discharged, until y bond. St. if limited as to bail till a ye. has elapsed from y time fixed for y last quarterly payt. St. bond 46. r. 267.

If y mother does not prosecute, y select men of y town (in court) instructed in y support of child may prosecute in y town & oblige y father to give security to save y town free from charge & in voluntary keep it. In in y. case, prosecution etc. be unnecessary. The select men may make a special agreement with him &. St. 27. 55.

In court if the prosecution is fail to prosecute, y select men may prosecute same prosecution. Ct. St. 55.

If y putative father, after judgment, yr. him, does not find security to maintain y child (if so required) to save y town harm to & free from charge, he is committed also up as a criminal in court. The poor woman both is not allowed him.
What ye mother has sworn on her examination before ye magistrate is good and, after her death, in support of an order of publication - 5 H.E. 279.

But in cont. when ye county lt. (a person being 90 ye) admitted her deposition taken to the jury in his court, and also ye cd. of ye magistrate as to what she testified before him, ye judgement was reversed - Deo. was not ye cd. of ye magistrate repealed - 259.

Yes, whether on a prosecution by a select woman, ye mother is compellable to testify - She is torture? why not? The sp. is not to give false a crime or her part, but to be otherwise unknow, but to ascertain the way concern'd with her in it. Indecent by laws, etc. by tis. of error, etc. - yet, she is compellable. (Page. 273: 13 Sle. 325.)

She is not bound by ye Common Law, but by our Act. 1607 - In this, she is not compellable to testify till after a month from her deliverance. 18 Sle. 328.

In Sane. 3 Leaf. 70, renders 3 exception to 3 counties, etc. in which case, etc. was ye, etc. mother was not compellable in her own prosecution to answer questions relative to her intimacy with other men. (Page. 99)

Final of these prosecutions was originally by ye Act. only, etc. is still y practice.

Depositions are in such cases (in Act.) admitted as evidence, they are inadmissible in every purely criminal - thing of a mixed character, i.e. partly indict & criminal.

But in Act. 3 rule as to civil proceedings, the laws with respect to right of appeal - There was no appeal from ye county court to ye King's Court in criminal cases, so in prosecuting in ye, etc. etc. was ye 3rd rule - aft. appeals were allowed. But
This is not of course now; they are not allowed now.

Of the Rights & Duties of Parents in relation to their legitimate Children & vice versa.

1st. The duties of Parents towards such children, consist principally in those particulars: viz. Maintenance, Protection & Education. 

The duty of maintenance is founded in natural Law, those who have given life, ought to preserve it, as far as they are able, 1256. 196. 7. Rial. 500.

Maintenance consists in providing necessaries. This duty is reciprocal. 1256. 185.

The obligation of Parents to support their infant children is absolute & unconditional, except so far as they may be entitled to assistance from a Parish in Eng., or a town in Eng., by St. Law.

Infants in judgment of Law cannot support themselves. 1256. 499. 1176. 165. 990. 268. 307. 387.

This duty is enforced in Eng. by 1256. 196. 8. in 97.

lt. by a similar St. - 1176. 422. 422. 153. 551.

This obligation extends to Grand Parents as to Parents, so it does not cease with infancy of children, so far by these 2d. all persons who are poor, incompetent or unable, who want to understand, age, or infirmity) to support themselves, the law as I am, & unable to support themselves, (at 5th) 1256. 558. 9. N. 190.
99. Grand-Parent on liable, if a person has grand-Parent, who are able to support him, to the
grand-children not liable, if 3 children are able.
Suppose a Parent able, to affordly a partial support, are not 3 grand-children
bound to contribute. I think they are, to aport to 3 Law, 7 Dowm and liable, whether
cases where there are neither Parents nor grand-parents.

100. In Eng. a man and bound to support his
wife's children, by a former marriage, con-
inving cost-ture, & no question is made as to the
wife's ability at 3 time of marriage.
The 99. 72. 39. Oblig. extensting only to the natural rela-
tions, i.e. relations of consanguinity. 2 D. R. 1585
34. R. 174. 89. 180. 188. 39. 128. not relations by affinity. 3 D. R.

good maintenance by 3 second consideration for a
promise by 3 children, when they attain full age
to repay 3 expenses. 1 Ch. 78. 1 Feb. 277.
The 3rd consideration of 3 H. my subject up-
porary to me 3 correct one. But 24. whether well
found on 3 construction in relation to 3 particu-
lar case in question of 3? 3d not 3 time principle
101. that 3 husband is bound being of sufficient ability
of wife was of ability, as he takes her own more,
see 3 not 1 Com. 188. 1858.

The H. 3rds was not as I suppose subject - subejct. Inst. as extending
to him no step it immediately affect him at all. But it subject the mother being of ability, absolutely upon
principle the obligation seems of course to devolve upon him.

Clearly a man is not bound either in law, or by
law, to support his widows parents. The policy of 3 Legan
sheet it. 7th. 190. 2 March 235. Then, though not he party,
to be liable if she was bound?
To one is not bound to support his wife after a divorce
announced at

Support a pauper has parents & children able to sup
port him: who are liable? Parents or children or both?
Is not 7 children sufficient in such a case.

But this duty to support children does not disable any 102
one to maintain his children by will either him or
him in Eng. 1721. 319. 50.

Is t 7 mode of enforcing this reciprocal duty in Eng.
In Eng. 7 obligation is enforced by children & parents
of adult children, by application in person if a me
memorial to the county court in yr. county in which pauper lives. 2 Pet. 60. 200. 1683.
The action at F. L. (as a general) will not lie, for 7
duty is not absolute, but depends upon 7 necessity or
one or 7 ability any other.

But for necessaries furnished to minor chil
dren, an action at Law lies; for 7 duty is absolute.
3 July 37. 1 Pet. 1731. 13. 7th. 1800.

In Eng. that application to children & parents
of adult children may be made by any one
of such relating to a pauper we are within it, a
by 7 select men of 7 Town in 7th. He orders.

On this memorial (sup.) all 3 parties named male &
generate are cited before 7 et. & 7 expense of main.
The Duty of protecting children, is also found in natural law, but it is rather permitted than enjoined by municipal law. 136. 420.

Thus a parent may maintain & uphold a child in law suits with increasing guilt of maintaining
unmoral 133. 430.

So a parent may justify a battery in defense of his child. i.e. he may use same violence as his child might. 136. 420. 430. 431. 440. 441. 442. 443.

A child may maintain & uphold his parents in suit. & may justify a battery in his defense.

35. Parents are bound to give their children a suitable education. This is a natural duty.

There is no provision in any law to enforce this duty. except yet poor children may be bound apprentices by their masters to the justices. 35. Parents are forbidden (under penalty) to send children abroad to be educated in a foreign religion. 136. 420. 420. 430.

In both, all parents & masters are required to teach children under their care & according to their ability to read & write, to know their laws or civil duties, & to learn some religious catechism, & are subject to a fine for neglect.

In both, select men are authorized to take children from parents neglecting their education, so that they become
were, stubbornly, & to place them under so to bind them to masters or, they may be employed, grounded & mutually instructed, males till 21, females till 18.

The duties of children to parents consists in their obligations to obey & be subject to them, serving, waiting, to support them & to protect them (at age) when it is necessary. 1 Bl. 43.6.

324. to the Rights & Powers of Parents.

The parent has a right to correct his minor child even in a reasonable manner. This right is to be pointed out in parent duty. 1 Black, 136. 3 Bl. 337.

By 3 to the 3 father had for a time a power over his children's life.

But if the parent exceed, bounds of moderation, reason, & is influenced by malice, the child may have an action vs. him by Froeheim's case. But this authority being in a great measure discretionary, he is not liable to slightly exceeding limits prescribed by prudence, nor for a mere error of judgment, at the proper degree of correction.

It seems there must be unreasonable correction or malice, to subject 3 Parent. 1 Wash. 73. 4. Kilius 43.

This power of correction may be delegated by 3 further to a master, the latter of them as to his rights & duties in “boco, parentis” 138 Bl. 433.

The consent of a Parent to a marriage of his child under age is also required by Eng. law & ours, 18 Bl. 39.

With such consent, marriage is void in Eng. 373 P. C. 3, 3. However, marriage is good, but a clergyman or magistrate is punishable by fine.
39. A master has no power over his infant child, unless by virtue of a guardian, and is liable to account when a child attains full age; and as it may be before. 1 P. 56. 25.

110. A minor is entitled to all his property, he acquiring otherwise than by service, as by gift, grant, &c. But his father is entitled to whatever his infant child acquires by service; for he is servant to his father. 1 B. 553.

111. A parent is entitled to an action "per quod &c." for wounding or injuring his infant child, or occasioning a loss of service, and so on. 1 S. 113. 1 P. 355. 356. 676.

The parent is entitled to an action "per quod &c." for taking away his minor children. 1 B. 559. The if an infant has been beaten or injured he is entitled to damages for immediate personal injury.

8 W. 56. 25. 256. 656.

And if the parent has incurred any actual expense in consequence of an injury done to his child, as in case of a wound, he may recover it. Also in his action if specially laid, as a ground of damage.

112. No action lies for a parent st. any one who has induced his daughter "per quod &c." a servant, by service is a gift of an action. It certainly was original, of no note as nominal ground of action, i.e., is not; with the no action lies.

113. 1 B. 559. 1 P. 355. 356. 676. 8 W. 56. 255. 56. 676. 255. 356. 676.

114. To collect in Court by a Trustee, &c., in a suit by Guardian for taking away his wards.

s W. 56. 25. 255. 355.

The expense incurred by the parent during illness may also be recovered if specially laid.

But if of service is not a real loss in the
principal ground of damages. The real ground of damages is the wounded affection of y parent or y son occasioned to y family. 1 Wns. 19. Es. 56. 67.

To 1st. Evidence of y slightest service is sufficient.

It is not necessary, yet, y damage be in any measure proportioned to y loss of service. 2 Ns. 165.

And 2d. Kynng has lately held that the wid not be proved to have actually served y parent, i.e. actually laboured for him.

It is sufficient if she live in his family as a subordinate member of it, and seems to be content for she is then deemed his servt. being subject to his commands so yt. he has a right to her service.

Peck's Rep. 55. 265.
1 Roat 472.

2d. It lay the 3d child in a pecuniary view, is a burden to y parent & is no profit, as if a nobleman's daughter.

3d. The character of y daughter determines in a great measure y quantum of y damages & with y near intimacy with other men goes in mitigation.
1 Roat 472.

4th. Actions of this kind have failed in the standing laws of service, where there was no seduction or in case of a prostitute.

5th. In Engd. where the father has permitted the 3d. child, he being a married man to visit y daughter.

Parker's Rep. 25. 16.

But it has been held both in y older cases & in modern law that y action lies does not lie in any y daughter is in some way proved to have been a seduction to y parent.

1 Burn. 1875.


The age of y daughter is not material if she acted 114.
as first, to her parent when injury was done or lived with him as in the above, 2 T 18, 3 R 18, 13 W 7, 106.

There is one ex. of the age of 10. Man is a contract of service necessary, as much a case, for she is not considered as emancipated. 2 T 18, 3 R 18, 13 W 7.

2 T 18, 3 R 18, 13 W 7.

But if in care of her by another (St. 170, 171) to her property if course as I conceive in the survey another in the wages, or receiving them herself. 2 T 18, 13 W 7, 18.

St. 170, 171. It is St. in 2 T 18, 3 R 18, 13 W 7.

The daughter be resident in her father's house at the time of the injury done. The court in his support 2 T 18, 13 W 7.

In all cases support be an infant at a boarding school, or service in another's family for benefit of her parent. The rule is expressed. I think too generally. If an adult this (so what is constant. but) other another of her father's benefit might be sufficient to entitle her father to action. If and all this may perhaps be necessary, because she did not otherwise a tort. To say it case.

115.

It is St. 2 T 18, 3 R 18, 13 W 7, she must be a minor. The court not hold so, she is a minor.

115.

Eph. 6:4.

The action lies for one also standing in loco parentis as an agent for a master 2 T 18, 13 W 7, 18.

In these actions the daughter had if a competent witness, for she is not interested in event.

An action named for advancing the person and is substantially an action in her case 3 T 18, 13 W 7, 18.

116.

But in 2 T 18, 3 R 18, 13 W 7, an action as the expenses in the army 1 T 18, 13 W 7, 13 W 117, 2 T 18, 3 R 18, 13 W 7, 18.

But 18, seems incorrect on principle, nor supported by practice as precedent.

Eph. 6:4. 2 T 18, 3 R 18, 13 W 7, 18.
When a defendant has illegally entered a house, he may sue for breaking & entering & taking of the house, &c. as an aggravation, i.e., as a ground of consequential damages. 1 C. & R. 1022. a 8 R. 1675. 2 P. & R. 310.

W. & W. 200. 2 & 3 W. 355. 4 & 5 W. 272.

Here, the action is both in substance & form trespass, & yet, that being a unlawful breaking of the house, there is none is doubtly right in principle.

1 T. & R. 186.

But if trespass "vi et armis" is hot, a license to enter a house defeats it. Entering a house being a ground of action, is not in itself aggravation. 1 T. & R. 186.

In Eng., it must be pleaded, being a justification. Not so in Cont., where it is pleading,

422

According to some a license, if no defence, or if subject, may make theft a trespass, but in this opinion is clearly incorrect, a license not being given by Law. If it were given by Law, it will not be right as in case of taking a brisk, entering a tavern &c.

In, will an action lie for taking away one's child with alleging a a loss of service, or with special damages? or special damages, trespass &c. 41; 421

15. Some opinions it will, as a parent has an interest in the education of his child, as given for 49. Opinions are contradictory except a child is here at law to a 40th, i.e., case 3. Father by general law is entitled to the value of a child marriage, &c. He might lose by d. abstraction. 5 T. & R. 150. 6 T. & R. 170. 7 T. & R. 186.


There indeed all the children are being apparent, but no special reason never existed here.

The authority the 4th Parent ceases then a child at.
The mother of such is no authority, since her child, when the covert, she is supposed to do it with her father's consent or suppose.

How far a parent is made liable for acts of his children.

1st. She is liable for his torts (they being minors & under his care) to the same extent as a master is liable for his acts of his servant.

2d. She is liable as master.

(see Master's note)

3d. She is no otherwise liable on these contracts than as master are on those of their servants, except in case of contracts for necessaries, these parent must furnish one.

4th. By contract, she is certain cases a parent is subject to pay fines inflicted on his infant children. In case of willful breaking, omitting to work on highways, & in neglecting military duty.

Remark. There is generally a mistake here as to parent liability for his children, she is not liable for his child breaking neighbor's window, she supposes generally not only when no act of his child is of so same act committed by a servant.

Terms Parent & Child:

Litchfield,
Sept. 18th,
1826.
Of the Difft. Kinds of Guardians, & Their Rights & Duties.

A Guardian is a temporary Parent i.e. a person "in loco parentis" for certain purposes, during a child's minority. A child, under a Guardian, is called a Ward. 113 T. 466.

In Eng. a Guardian has 3 charge of 3 Person & estate of Ward, i.e. Both are under the care of one Guardian. But 3 estate may be under 3 care of one Guardian, by person, under 3 of another.

They are distinct offices under Roman Law, & persons exercising them, are called Factor & Curatores.

The Law of Guardianship, if I am not mistaken, is very understood, than any portion of Law. & it is difficult to be understood. If explaining different kinds, not because they have obtained in one country, but because it is important to understand them.

First: The difft. Kinds at Com.L. are four.

1. Guardian in Chivalry. They obtaining only the use of estate, held by knight service, is vested in an infant by descent. It continues over males till full age, & over females till 16, or marriage. It extended to a person 21, lands within 3 Guardianship & Leignory. The Guardian was not accountable for Profits. It was abolished with Military Service in Eng. at 3 Restoration in 1660. 12 Car. 2. Sec. 45, 95.
II. Guardian by nature. Some books mention the kind of guardianship, as if it was confined to the Father, some as if confined to Parents. 13th, c. 11. s. 5. c. 14. s. 9. c. 15. s. 12.

Best y Father, Mother, or any other y ancestor may be Guardian by nature at C. L. The Father's claim excludes all others. The Mother is the second. S. 3. Among more distant ancestors, if they have an equal claim as of a infant of heir apparent to his paternal or maternal grandfather) priority in y person of y person seems to decide y preference. 5 c. 24.

It extends only to y heir apparent by ancestor to y next to y children. Bequeathed in y, a daughter can be y subject of it, as she can be but heir presumptive. 5 c. 24. 12.

This kind of Guardianship extends only to the person & not to y estate, & continues until y birth is known. 5 c. 24. 12.

In Eng. all mis children are being apprehend by trust extends to both y person & y estate.

In Eng. y Father may suspend y claim of all y ancestors, by appointing a Testamentary Guardian by 5 c. 24. 12.

When y Father was natural Guardian, y person of y Father belongs to him, in exclusion of the rights of y Guardian in Chivalry. being that any other ancestor was natural Guardian.
In Eng. y Parents are styled natural Guardians of all their children. By yt is meant not yt. they are Natural Guardians at T. L. but such as y Laws of Nature Designate as proper Guardians & then there is none provided by positive Law, y Chancellor in his discretion settles y Guardianship on y Father & at his death on y Mother.

III. Guardian in Locaje. This springs springs 124. (like yt. in Chivalry) from nature, & takes place only, when an infant under 14 is seized of lands, tenures by descent & held by Locaje tenure.

2. 115. 175. 181. 131. 124.

It belongs to y nearest of y Spns to direct, to whom y land canst possibly descend. yt. there may be no temptation to an abuse of Trust. 183. 382.

Among clamt. there is no distinction betw. 1 male & 1 half blood. If two or more dist. (clamt.) are in equal dignity, y priority of y Recording the term them, except yt. among broth. & sisters (half blood supposed) y eldest is preferred & among 3 lineal ancestors, male is preferred.

Co. 1 & 2. 25. c. 13. 184. 185. 186. 187. 188. 189. 190.

The Guardian in Locaje may lease y other Estate till he is 14. & may maintain Gxmt. in his own name.

4. 115. 132. 133. 381.

Guardianship in Locaje extends to y Person, Locaje estates, to incorp. heredit. & (it seems) to personal property. The custody of y Person & drawing after it every species of property.

Co. 48. 8 c. 18.

The Trust is not assignable, like yt. in Chivalry.
for it is for infancy benefit. That is the baby is not for child's benefit.

yet 14 7 wards may enter 8 except 7 Guardian &
occupy 7 land. The Guardian is accountable for 7
profit & is allowed his reasonable expenses.

yet 7 Infant may choose a Guardian.

Guardians in sojourn may be superseded by 7
appoint 7 of a Testamentary Guardian

Sec. 28 n. 12.

These 7ift. kinds of Guardians have been establish-
ed. yet all kinds of children might have Guardi-
ans - e. children under 7ift. circumstances 7here
qualifications to 7 7ift. kinds of Guardianship.

IV. Guardianship for 7icture. This takes place
only where there is no other Guardian. It extends
to children who are not heirs apparent, but
to their persons only, & terminates at 7 age of 1.

It is exercisable only by 7 Father or mother, births
24th. 15. Can it ever take place as to heirs ap-
parent? It being not, for if ever there is a
parent, he or she is Natural Guardian in this
case till 21.

127. After 15, if there is no Guardian in 7ivery,
& there being none in sojourn, who is Guardian
to younger children? I suppose we appoin-
ted by 7. by 7 or chosen by 7 7ift.

These three last species of Guardianship may be
superseded by 7 appoint 7 of a Testamentary
Guardian. Guardianship in 7ivery was abolished
by 7 same 7. y7. abolished Testamentary Guardianship.
Can there be a Guardian for nurture in Law?

Second, By 7th. Pt. Cap. 2. a father, whether himself of age or not, may leg. will in I.D._until two thirds of his children, who are infants and unmarried, & cannot inherit in "ventre sa mère". The appointment, may be either in foro or testamentary. It may continue even till 21. or terminate before 21. age. His Guardianship extends to his person & all his estate, & all others.

1 Will 129. Ed. 69. m. 10. 1324-66.

Testamentary Guardianship is not assignable.

By 8th. Pt. Cap. 2. the same decl. test. & app. As to Guardianship by 5. Ed. 47. Ph. 89. It for feather under 16. see 5 Ed. 43. a.

Third. As to Guardianship by custom, see 6 Ed. 83. a.

Fourth. Guardianship not enumerated by the old C.Z. writers. 8 Ed. are now known to 7th. Leg, but as it of none. 1st. By Election of J. Sect. a power not known to ancient C.Z. & not existing in yrs country. This takes place only when there is no other appointed either by 7th. or by your appoint. if 7th. here. Ex. no lands held by knight service, or by scagia tenure, or if any 7th. being under no 7th. age of 16. not heir apparent, so no Natural Guardian is finally testamentary guardian.

This kind of Guardianship is of last resort, because it has been in use ever since succession (1600) & it seems before. The election is to frequently to be made before a Judge or a Circuit.

By 9th. There is no particular form of electing a Guardian. Ed. Baltimore when 18. named by guar-
tain by deed. Deo. Is a parcel election good?
I think 7. Chancellor has 7 power to agree a disagree to y. infinite choice. So I do not think y. law is inconsistent as to allow y. infinite to ap-
point one absolutely.

21st 1775.

The age for choosing is 8. or 14. in any. Yet it is also 70. y. choice may be either before a after y. time.

Indeed it is 50. by 50. before y. restoration. (Car 2.) y. practice of choosing guardians was not almost consti-
tuted to infirm. under 14. The C. L. seeming a guar-
dian at ye. age was a great measure unnecessary.

Stat. 3. 1742. 1736. 1532. 1740.

The Guardian by 7 appointment. As Chancellor. This
species is also by modern date it seems.

But 7. lot. To, they exercised y. power of ap-
pointment. ever since 7. ye. 1698. until 19th position.

22d 1875. 1876. 1877. 1878. 1879. 1880.

The Chancellor never exercises this power however
when 7. infant is otherwise provided for. The par-
dian. When he is not they provided for. y. power
of this is very extensive. Its authority is in a
great measure discretionary & extends as well
up to 7 appointment. To guardians.

22d 110. 1277. 220. 121. 18. 21. 29. 24. 16.

22d 110. 1277. 220. 121. 18. 21. 29. 24. 16.

The chancellor may remove even a testamentary
Guardian.

Any Chancellor may appoint a temporary Guar-
tion, may compel any Guardian to give security, or make his discretion any order, absolute as to the present infant, or any of his estates. But the Guardian has no such authority in a case but in neighboring states, where there are distinct acts. If they, it may exist, as in this Dec. 20, 1695. (ib. ante.)

2d Guardian by appointment of a Ecclesiastical act. The law at the time of this act to appoint is not well settled. It claims a right of appointing for a personal estate of a person also, there being no other. This right gives a person can always bind.

Lev. 19. 2 Sam. 14:90. 3 Will. 284. 2 Laws. 182. (ib. ante.)

This right has lately been denied as to a personal estate of a child, is hidden yet, such act, can appoint "so situate" only.

1st. If Guardian, so situate is a special Guardian appointed for a particular trust, then in the seat, the Guardian, is a Guardian. He may be appointed in any act, or to an estate by will.

Lev. 19. 2 Sam. 381. 927. 1st. 29. 16105.

The King may appoint a Guardian, so situate by the
act of the act, but is practice has been long out of
use.

Fitch. 27.

In Corn a Guardian so situate is never appointed. 133.

so an inst. 8th.

In Eng. few children having no C. L. Guardian,
et one at 16 (other guardianship for nurture only)
not being Father? or how are they provided for at C. L. The Father is suppose containing natural Guardian of
them all according to a impart of y term in Eq. 8 y
Chancellors settling y Guardianship upon him when necesy.

Also indeed y L. 72 lar 2 day given 7 Guardianship
in such capacity to y Father.

188. Under y law there is no Guardian in Chivalry, in Fecage, by Testament by custom, by appointment of Pope, or Ecclesiastical Act.

The Guardians known to From Law (Impress) are

1. y Father as a natural Guardian.

2. By appointment of Probate.


Guardianship for minor, except of think, exist in Bano. To y Father as natural Guardian to all his children, y Mother as as much Guardian to all as to any indeed all are being a parent.

Natural Guardianship to y Father continues in town till they attain 15 years as well to their property as to person.

On y Father's death, y Mother usually acts as Guardian, but another may be appointed for y male children. During her life, as a matter of course, with formely displacing her. Then it shall so happen y there shall be any minor who hath a mother. y Father, Guardian, or master &c. says Boeum, it's not a mentin being made of y Father. But even in ye case of iff, legally living with y Mother, but it appears the is not Guardian "De jane".

So is holden if y mother, y father being dead, is a natural Guardian, to her female children till a attain age for choosing. By what law is this distinction created between male & female?

But in court, (living y father) another Guardian can't be appointed, as y former is removed & they can be one only for special reasons, & not of course.
Those for fathers right are effectuated by appointment.

If a guardian, void. Cont'd. It, "guardian."
The mother, then, does not, by court law, seem to be of course or of right. Guardian to her male children. (If guardian may, none of the male, if male!) For of whatever age they may be, another may be appointed of course.
The if frequently of Person appointed, the father being dead.

If in form, if an infant, has no father, guardian, a chapter. It is a duty of the Ct. of Probate to appoint one. If an infant, if of age of choosing (10 to 14) y Ct. is to summon him to appear & make his election. But his choice, this to be regarded never control y Ct. the may appoint a different person. Cont. It. 276.

If he don't choose, y Ct. appoints one acc. to 276, its discretion.

It is small infant (not so with females) is under age of choosing & has no guardian, y Ct. of Probate may appoint, with summoning y infant to attend and he can't choose. But if not really minors (y mother living) and application is made to y Ct. for yr. purpose.

In Ct. y Ct. of Probate may displace either in suit or cause, as they may in Engt.

It seems y Ct. may appoint, as often as occasion requires. The P. paragraph enables the Ct. to appoint when parents dead.

Cont. It. 279. 3 Sect. 243.

In Ct. it was then resolved, yf y ward had a 139. right to live with his guardian, meant in removing.
In Court, it has been resolved, yt. y ward has a
right ye. To ye se note.

Section y. 3d yt. made relating to settlements, ac-
guared &
yt. one might
be removed without being chargeable, yt. mile & cie.
Correct, But in case yt. hay actually chargeable
with y town concerned have an interest in remov-
ing him, & the probate would seem expected to
point of bat. law, yt. really an inversion of town rights.

In Court, a Guardian appointed to an inf. under
age of choosing, continues in course till 21. yr. y
inf. choose another & y acceptence of y Ct.

Rev. 3d 2d 8d.

But, law requires y Ct. of Probate to take secur-
ity of all Guardians appointed for them, for y
faithful discharge of their duties, to oblige them
to account with y Ct. a ward, when he attains
full age, or sooner if y Ct. on complaint, also re-
quire it. The bond must be "with surety" if he
has estate.

But in Court, y Guardian thus appointed is not liable
to be sued, to account by y ward (while a minor)
if called upon by y Judge of y Ct. of Probate to
account, 1 Mort. 31, 2.

By y law also, all Guardians (except in Chivalry)
are compelled to account for y wards property
in their hades.

It is yt. Species of Guardianship being reabol-
ished, this rule extends to every Guardian of his
province.

Dee. 89. 29.
The usual remedy in Eng. is by Bill in Chy. this proceeding being more extensively remedial, than an action at law in compelling a disclosure under oath, production of papers &c. The 3rd action of account will also lie. Co. Lit. 85. 2 Bl. 463. 2 B. & C. 672. 87.

In Eng. it is not uncommon for Chy. to compel a Guardian to account annually, especially if the estate be large. 3 Bl. 463.

In Eq. the usual remedy is by action of account, & is nearly as remedial in Eq. state, as a Bill in Eng. is in Eq. In Eq. a Guardian is bound to produce papers. 30. 8 to 9 E. 3.

If the wards estate is in danger from a Guardian's insufficiency, the said parent, may be compelled to account at any time. 3 Myl. 177.

In case of misconduct by a Guardian, Chy. in Eq. may remove him, so far as there is reasonable ground to apprehend misconduct, & Eq. may order him to procure security, & on refusal to replace him. Ch. 73. Chancellor in such cases acts discretionally & makes such orders as he thinks proper. 1 Eq. 261. 2 P. W. 702. 8. 3 Myl. 177.

3 Bl. 463. 1 Talk. 44. 7 N. & C. 452. 1 Eq. 160.

No Guardian, except parent, is bound at their own expense to maintain their wards; but may apply to wards estate. But a parent when Guardian, is obliged to support the wards, & if less of ability, will not allow him to apply any of the wards estate to the parent's education & maintenance. 1 Bl. 207. 2 Atk. 329.

Secur if not of ability. The may then by leave
if 7 Chancellor apply 7 warden’s estate, but it must be a case of clear necessity, to warrant such permission of 7 Chancellor. Twel. 118
Yes. 16.

But a wife having married again, is not bound to support her children by a former marriage but she may apply to estate. Otherwise she
is she. So she virtually contracted with this sup-
port, she is a donee estate & had no property.

Ol. 11 39th 16. 117. 15. 12. 182 012. 272. 08. 6th. 60. 42. 26. 222.
It has been so. If for any more in ordinary &
necessary expense in maintaining a child, a par-
ent may apply to child’s estate; if it object is for
child’s benefit, is expense reasonable. Ex.
many advances to child’s apprenticeship to a
useful trade. Vict. 38. 39. 137. 393. 175. 1185.
183. 189. 6th. 60. 42. 26. 222.

The last rule has been denied by 7. Hardwick in case of apprenticeships, clerkships etc.
Under permission of 7. Chancellor, he may apply
a part to 7 child’s education; & I think 7. Hard-
wick’s denial subject to yes. qualification.

Yes. 11 39th 60. 42. 26. 222.


On. What not every case 7. hardwick stand on its
own bottom in circumstances? The Chancellor gives
permission 7. not in his discretion.

In 1st. there interest of an infant mortgage
of 7. demands to be reconveyed on a bill for relief.
Then, the Guardian is empowered by 7. to make a
reconveyance, & may be enjoined to do it under a
penalty, & if 7. infant has no guar. Guardian, 7 guar-
ian “to listen” appointed by 7 Ct. is authorized
to reconvey.

By 9th. law 7 guardian of infant being of a deceased
Joint Tenants. A joint tenancy is impossible with a peppercorn estate of such persons as ye let. if Probate shall appose, to make partition of ye land.

In tug, y Guardian or "prochae aum," (citij. B) may bid y wards by equal parts,Video

That y infit. may cost, see ante.

301. 11, 12. 2 Bar. 684.

2 Roll. 206,

If y wards creditors on a compromis, accepts from y Guardian, let ye infit. be itself. y wards is not y Guardian has y benefit of y windward.

2 Ch. 683. 2 Bar. 687.

The Guardian is considerd in law, as trustee to y ward, & if a stranger tortuously enter upon y Infants lands & takes y profits, he is compolable in law, to account as trustee. a Guardian & he is liable as a "freezager" at y elections of infit. But this can happen only in case of

Equity. 47. 183. 430.

The Guardian must allow interest, for y wards money in his hands, & he shou'd y. interest do. not be obtained for it.

220. 129.

It is a duty of y Guardian having personal prop. of y wards, to pay debts charged on y wards estate out of y. property, & not with his own. This rule is to prevent interest from accruing on y debt to y ward.

1 Ch. 140. 1561.

that if y wards estate is in mortgages, y Guardian ought to apply y profits of y estate to y interest. & if it shall remain that ye thing, y remainder y discharge by y principle.

281. 279.

The Guardian has no power to vest y wards money
in lands. But if he does it (taking a deed in y wards name) y better may at full age, take in to either of his election, tho' if he take y money, he is compelled in law to recover y land by
1 Vern. 425.5

But if in such case y ward die, tho' making his election, his execs. shall have y money for y right of election being personal, his heir can claim y land.
1 Vern. 428.328.

In y case of Guardian, in accounting for y wards money, y obliged to pay only principal & interest, But if y money was destined to be appropriated in a particular way (as in y goods) y guardian has appropriated it in another, as in a gainful trade, y ward may have at his election y interest on y account.
2 Vern. 629.

As to y marriage of wards, y Chancellor exerices an authority never claimed by any of our Acts. He forbids marriage without consent of y Guardian, & even if y Guardian doth consent to an irregular marriage, this direction is punished as for contempt. Those who assist in y marriage after y prohibition.
This does not (I. G. concludes)
regard wards under y Guardianship of Parents
Volk. 23. 29. 24. 111, 362.
1 Vern. 166.

So if there is only an apprehension of y wards being married to his disponee, the with Guardian's consent y Chancellor will prohibit it, & secure y person if y want of necessity can refboy. Guardian by y other party not to per. mit it.
24 May, 54. 23 IV 174.
1 Vern. 166.
Is go authority even exercised else either of the parents or guardian?

In cont. according to usage, guardians may bind the ward as apprentices.
The guardian is over his female ward, is to be determined by her marriage.

This is to her proper, i.e. he (as I understand it) of full age, in such case, he becomes virtually her guardian.

Not so of males, i.e. guake the proper of guardian ship continuing.

**Settlement of Infants.**

For in law respecting acquisition of original settlements by persons in their own right, re.

12. Under law, no foreigner, i.e. no person, not an inhabitant 16 yrs. or any of y. Ul. if can gain a settent, in any town in this state, by admitted by y. vote of y. town or by y. consent of y. civil authorities or select men, or, if he is appointed to y. execute some public office.

Since, he may be warned to depart under pen. actions described by y. Ul.

To an inhabitant of any other of y. Ul. if can gain one, or he has one of y. above qualifications, or by appointed, in his own right in the settling state, by courts in their continuance &c. &c. Real estate, to $100, &c. &c. Shall have owned estate &c. in y. town at least one yr. before y. years he may be warned as above, or transported into his own state.
3d. If in all cases if a child is born in another place, or in his own right is for real estate of $100 in a town for a year, he has supported himself there 6 yrs (under old law before 1792, periods was 1 yr) he paid all his taxes. But with in 1 yr period he can not be removed, as he had become chargeable to a town.

Other modes of acquiring settlement are
1. by birth. The place where a child is first known to be, it prima facie, the place of its settlement, i.e. deemed to be a place, till another is shown to be so.

This is only a place of a baptism settlement.

And in all cases if baptism children of neither father nor mother have a settlement in their county, if a child is settled in a place where it is born. 1557, 1613, 1618, 1750, 1772, 1832, 1836. But in case of legitimate children if (under/birth) illegitimate also, presumption may be rebutted.
The rule is as same in certain cases as to illegitimate children in Eng.

2. Settlement may be acquired by maintenance. The settlement of a father or maintaining parent being 71.

This last rule holds in Eng. really as to legitimate children only.
But in Cont. bastardos are settled with y mother, not with y putative father. 12 Eliz. 1588.

Settlements, acquired by parentage are called derivative.

The settlement of legitimate infant children (not emancipated) regularly follows pt. of y parent.

If y latter acquire a new one, it is immediately communicated to his inf. children.

After y father's death, it regularly follows with his children.

(1) In Eng. when a widow having children marries a second husband, she is not bound to support them, tho' under 7 they go with her for maintenance.

Just. 1577. 175. 176. 217. 228. 270. 358. 417. 528. 270. 358. 417.

The usage in Cont. is not to be otherwise. See grant of Elizabeth 2nd. 6 Ric. 2, 1522. 1524. 1525.

If lord a ward gains no settlement by living with his guardian, appointed by prebate, the he has a right to live with them.

By acquisition of a new settlement, y old one is lost, but in no other way, i.e. one cant actually hold two settlements at y same time. He may have y necessary qualifications to be a tenant in several. Ex. a freehold in two towns may reside in either.

Trem. set. 1524. 228. 358. 417.

1 Bl. 1523.

In inf. may reside some circumstances, gain a settlement of his own by consentry on the his derivative settlement is lost. Ex. an inf. apprentice in Eng.

Thus gaining a settlement, under his emancipation i.e. he is no longer a scut, to his father & may take his emancipation if he please, & he must be sup.
ported by a new settlement, as he is removed from
an old one.

In short, an apprentice does not gain a settlement
by living with his master. 1 Kit. 13 12.

After a child is emancipated i.e. after he ceases to be considered as being in
the same character as those in his parents' family, or being under his care &
government, he cannot take any benefit of a new settlement acquired
by y other, & y rule holds, even though he continues to live with y other.

5. The emancipation of an infant may be affected
1st. By full age.
2d. By marriage.
3d. By gaining a settlement of his own, as
apprentice.
4th. By contracting any relation inconsistent with
his remaining under y care &
government of his parent.

But, at full age is not an emancipation, if
y party continue a member of y parent's family,
i.e. continue as a serf, under y domestic
government. If y parent desert him, he would
be a guest with y father. In yb case, I think,
y should be considered as emancipated.

Settlement may be acquired by marriage.

On y death of marriage, y settlement is communicated
to y wife, y does not permitting separation of
husb. & wife. 1 Bk. 15 Bk. 28. 1 Bk. 19 Bk. 28. 1 Bk. 25 Bk. 28.
If then a woman settled in Litchfield marry a man settled in Hyde Park - Hyde Park is 3 yds of her settlement. If she (260) walks a third inland settlement. 11th, 360. 5, 28. 9.

And the seas, N. C. 127. 770.

But it has been decided, y. t. if her husband have no settlement, or if he is an alien, hers is suspended during her coverture, but is revived by her husband's death.

11th, 360. 5, 28. 9.

And if he be never married, 11th, 370.

But it seems more settled, y. t. if her husband (having no settlement) does not remain with and support her in her realm, or being in her realm, does not, her maiden settlement continues. Indeed y. t. the above mentioned conditionally, y. t. if he had no settlement, hers is not suspected.

11th, 360. 5, 28. 9.

And in y. t. last case, her children by y. t. marriage, are entitled with her to her maiden settlement.

11th, 360. 5, 28. 9.

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* woman having a settlement. a land that has from Royal settlement.

In the case of man with none.

The question was, if being under.

If not she will make one.

If going to remarry, she will make.

A marriage with.

---

Finis. "Innsbury Monast*
Litchfield 1826.
1826.
A servant is one who is subject to person
al authority of another. Not to a public or
official authority of another.

A master is one who exercises authority
The authority is专属的 - subject to civil
authority is not preserved.

The authority exercised by a master is
merely by virtue of contract with a free
Guardian, but not always.
No case of slaves it is not such as exists
at your will.

The kind of Servant in Cont. are 3. When
Slavery is not known, there are but three.
4. Day laborers. 5. Agents of any kind, as Factor
Bookkeeper, Accountant, Business, Servant, 
Volk. 66. Left 1 180. 1257. Med. 663.
The first of these kinds are unknown to 3 C. L. of
England.

First, Slaves. It is doubted by many whether
Slavery is legalized in Cont. As 3 C. L. it
is not, but it has been by Statute.
Such as
Lett. Resinite. Slavery itself is not well defined in
former law, the same law as in our own total change.

First. According to natural law, Slavery must be
the De of authority at all by a state of captivity in war,
y or natural i.e. by what is called a negative form of birth.
right of being born a slave.
I. By Capacity. It had been said that the captain had a right to kill his captive & therefore to enslave him. But by the law of nature, as explained by the best authorities, it is recognised by the homicide of the law. Civilities with this right to kill don't exist, unless in case of necessity of necessity per self defense & in the case of actual capture this necessity can't exist in favor of the captive.

II. By Contract. This cannot be a foundation of strict slavery, as implying an absolute right over the person & liberty of the slave.

At common law, no right to dispose of his son he can confer no such right on another.

He cannot make an absolute sale of his liberty, the thing does imply an obligation to obey unlawful commands & destroy his freedom, & as after such a contract he can have no right of property, there can be no consideration for such a sale. No just price: egno, contract would bind in principle of C.L.

But a contract to done another is good, if nothing but a sale of new labour.

III. By Birth. This supposes, no slavery of one's parents made in one by other last mentioned ways, & egno, justification of claim daily.

Second: The law don't recognise any species of private slavery, nor can a usual law of any country be enforced in Europe in favour of slavery.
Indeed, a foreign slave became free on landing in Eng. when the 1st 3 nights of personal liberty, personal security, & private property. (f. 9. s.n. c. 121 c. 118.) (L. f. 1.)

There were in Eng. under 3 feudal systems, that were called villians, but they were not absolute Slaves. (L. 115 c. 139 c. 226.) (L. 115.)

The Lord did not mean to kill them — This species of slavery arose from 3 feudal tenures of villianage.

But there were no feudal villians in Eng. now. For 3 tenants of villianage was virtually abolished by 3 11. 31. 16. 23. at 1st. time 27. 27. 27. 48. There were but two villians in Eng. 26. 26. 26. 26.

There were but 2 villians in Eng. 26. 26. 26. 26. 26. 26. (L. 115.) The character was hard to know in Eng. in 3 reign of Eliz. 3 reign.

Then, By our local laws, a qualified slavery is legalized. We have no statutes expressly authorizing or holding up slavery, but we have the common usage of existence of slavery is making provision exclusively for slavery — by & by a regular conduct of slaves — providing particular punishment for crimes committed by them, subjugating masters to maintain emancipated slaves, providing 1 rise of emancipation, to regulate a master.

Long acquiescence of 3 Legislation in this known practice of holding slaves furnishes also a strong argument in support of this opinion.

Besides our Virginia Ch. has several times manifest that an opinion of slavery is legalized here, & its doctrine is supported by judicial decisions.
Tho' it has been said by 3 Drup. Lb. gt. a master can't maintain power 4 his servant, it has also been determined yet a Slave may be sold or taken in execution.


The reason in 3 first case is yet a slave is not a subject in wh. an absolute property can exist any more than in a white or ap.

In a slave of 3 person or body of 3 slave if not 3 master's property, thus 3 servitude ve.

Hence, it follows, yet an action for taking away a Slave must be 3 same as for taking away 3 apprentice. (Of which see post.

Peb. 806, Mot. 806.

cont. 3: Peb. 385. 2 Tec. 205.

But strict absolute slavery never existed in Count. For 3 master they clearly never had any power over 3 slaves life. And it has
then settled yet. a slave may hold property & see for it by his next friend. He may see his master.

It may also been said by 3 Dep. Lb. et. 3d marriage of 3 slave with consent of 3 master is an Emancipation - because the thing contrary with 3 master's consent, a relation thought to be inconsistent with a State of slavery.

Nepa 3 same premises et. minors are em-

uncapulated in the last part as 'twas & thaf.

I doubt whether this to be considered law. It

was a rule if 3 Dr. Lb. et. a male or female vill.

ain wasn't emancipated by marrying another.

A female villain is called a mere.

If with however, is not emancipated by marrying villain.

but husband no cousin to 3 lad is supposed.
On the other hand a Wife is manacled during
incarceration of the marriage a free man - by giving
the marriage in bond.
Col. 123. a. 126. In 1756. Let. sec. pr. 1. Bl. 52. 1. 11. 34.
Wives an illegitimate child in a slave by Birth?
By law this is not may, for "cabinet register"
"Venture". In 5 cases if a Villager 3 condition
by a child followed 5 to 3 parties, 8 in has
an illegitimate child has no father. But
under 3 legal has an illegitimate to not be
a villain by birth. But a legitimate child
son to a slave or villain is a villain.
B. 155. Let. sec. 112-8.
In Contra. according to universal usage a will of
3 civil laws had prescribed.
The son of 3 mother is 3 owner of 3 child in our
country - slavery now is almost abolished in bond.
Importation of slavery is prohibited. If but.
3-8-5 all children born as slaves after March
15th. 1784, 18 before 3 1st the Aug. 1797. are free.
at 3 age 28 25 - Those born after Aug. 1-
1797, are free at 21.

Importation is now forbidden by U.S. It latter by 3 law of all 3 several
States.

It may be regarded only. Yet. Offenders may
be judiciously condemned to slavery for crimes.
By condiment be labour in that gate & other pen-
itentiary house. This is a qualified civil slav-
ery - a Slavery to z public.
II. Apprentices.

There are ye called from appre[ntices to learn] being ye bound for a term of yrs. to serve their masters pt. they may receive instruction. 132. 426.

Usually bound to a prof. of some mechanical art, but sometimes to husbandmen & others.

They must be bound by Ind. - De. 21. 2. 5. 2. or only by St. 5. 4. 6. 23.

Viz. if 3 yrs. it might have been for 3 yrs.

So De. 13. 2. 105. 3. 14. 1. 1.

A valid contract of apprenticeship is not binding.

We can a defective contract of apprenticeship be converted into a bond or another bond. as from ye. to ye. 8. 7. De. 342. Jasp. and 5. Rugg. 21. 2. 32. (See. 2. v. b. 21. 1802.) We have no such bond, of ye. of Edin. 1. but since Edin. have assented by same rule, a contract must be by De. 13. 2. 5.

It has also been for ye. of relation of master & apprentice can't be created, in the latter is expressly retained in 3 yrs. by 3 name of apprentice. 123. 5. 4. 5.

But they if desired to be leased. 8. 7. De. 342.

(Act 337) but it is a safer way to invent a void apprentice. Other persons may be retained by Pearl. 2. 33. 3. 31.

In Eng. if children of poor persons transported suppose may be apprentices out they company with 1 consent of the parents till 17 yrs. This is by virtue of several Acts. 132. 337. 3. those to whom they are offered are compelled to take them. 132. 337.
Yhe infant also it is provided yt z children of
poorest living daily depending on their time yr.
poor children living daily is exposed to want - any
childre not completly provided for is exposed to
want, z children given side stibbeen z namely
may be bound out as apprentices by z select
men with z advice of z next assistant in justice.
malez till 21, females till 18.

All servants except apprentices are entitled
to wages for their services. The wages of mino-
8s in stone. If all others also, are settled by
contract, three of servery in this band by z ther.
off or sessions in Eng. 1 38 b. 128.

Apprentices are regularly entitled
to no wages i.e. 8 law implied no contract for
3 Pratt, if them yet they may have wages
by express contract. 1 38 b. 428. 1 38 b. 579.

83. 8 Nat. 5 128. It is enacted yt minors
may bind themselves by indentures of appren-
ticeship. But as z parentage of infancy is not
expressly taken away by z Nat. i.e. not expres-
sively enacted yt z age shall be liable in z court.
It has been uniformly held that an infant is not
liable in z court. 8 38. 3 only effect by 3 8 Nat.
of 37. While z relation actually continues under
contract, 3 parties respectively enjoy 3 rights &
erm 3 duties resulting from yt relation. 8 38.
If minor if he served z full term, shall begin
to use his trade. 1 38 b. 128. 1 38 b. 128. 328. Doug 4 178.
8 38 b. 116. Mod. 128.

18 such 8 Nat. in stone.

But it 3 further a guardian join in z indenture
he is bound by his contract by z same law.
The is liable for non-performance if that is to be performed by a apprentice. 

1. The 2d H. R. 228. yet when a indenture of the common form, a Guardian is not bound by that indenture shall faithfully serve & not absent himself.

2. Laws of a Guardian expressly bids himself be expressly bind himself in his own name in the performance of all 3 costs. 1 H. R. 425.

The indentures in these cases, being entered on indentures made, might signify to not cost, if they act in no public they are not required to subject themselves to any personal liability.

3. 4 Ed. 52. and 5 Ed. 52.

4. Where i.e. any abuse is a good cause in an apprentice's leaving his master, 11 Ed. 10. 13 Ed. 26.

An apprentice can't be discharged otherwise than by such a indenture.

The obligation must be discharged "ex lice autque liceat". The party that the whole appears to the merely yet he is not discharged by any agreement, not executed with or to bind itself, to give course by a verbal license retroactive.

5. 1 Ed. 117. 26 Ed. 35. 3 N.B. 182.

But yet a relation may be dissolved by mutual consent on 9 Ed. 109. 10. They must suppose an actual abandonment of a relation in presence of a contract, yet as an agreement, not executed, it does not discharge a indenture.

Cancelling or delivering up a indenture must have a discharge of a apprentice; yet it did no longer exist as a deed.

17 Ed. 79. 18 Ed. 247. 24 Ed. 247. 25 Ed. 247. 26 Ed. 247. 27 Ed. 247. 28 Ed. 247.
And on shipps. Ct. hast holden yt. his master
having discharged his apprentice he should contribute
might not maintain an action wrt. his apprenticing
father. The master caused & authorized his dep-
orate & was guilty indeed of a wrong in marking
his agreement with his apprentice.

Bancroft says his master has been paid
to discharge his apprentice but this does not
of itself discharge the apprentice until it is said
discharge.

The may be discharged in Court by Court Ct.
for refusal of his master. At Court, 1294. &
his apprentice may be punished by the Ct. if
he is guilty of misbehavior.

The same thing is done in Eng. by 3 quarter
summing & in some cases by 3 justified in 1 tree on
appeal to 3 session. 1331. 3 260. 1950. 86. In the
indefatigable. master in apprentice. That thing is done
in Eng. only in cases in which binding was by an
attorney of 3 justices 1 cent 101.

If 3 apprentice marries without his master's con-
sent 3 latter may not for this cause throw him
away; he must take his remedy of 3 courts.

2 Kent. 348. 2 33500.

If master can't at C. L. assign his apprentice,
3 contract being quittance. His right are
founded on a personal trust not transferable.

Being by 3 custom of London.

1280. 129 Good. 553. 471. 155.
3 471. 5 3 553. 48.

If in submission to an arbitrator, then shall
be an accord at 3 apprentice shall be opened
3 issues of which wi'th it lie by custom or entitle.
... of 3 Apprentice. Act 1726, rec'd by 3 master of London. This assignent. of the 3 assignent. & chase in action.

But if, then, C. L. 3 assignent, if an assignent does not pay 3 master's right in 3 assignent, it is good as a cost. a assignent to bind 3 assignent. If these 3 words are only "grant & assign," etc., are words & grant merely, & no express cost, & if 3 apprentice serve under 3 assignent, he may gain a petition by it in Eng. But he is not compellable to serve, nor can 3 assignent maintain an action in 3 original indenture.

Hath, 8. Le. Rex, 1511, Deocr. 1512, Wills, 46. Even if 3 apprentice agree to serve him & then leave him.

If he do not serve according to 3 assignent, 3 master is liable on contract to 3 assignent.

Yet 3 master cannot assign his right in 3 apprentice, so he is bound to keep him under his own care. He may not send him abroad even to improve in by agreement, or in the nature of 3 business requires it.

2 Mo. 246 1713 or 116. Holt. 1215. The Exon. If 3 master cannot hold 3 apprentice. The master's right is not transmisable, 3 contract to serve & teach being absolute.

But it has been held, that 3 exor. is liable on 3 cost, when 3 cost. to teach is absolute. & if bound to perform him instruction.

This has been said, I think, justly.

12 Mo. 1771. 1 Proof, 216. 2 Mo. 1792.

Whether a master's son is bound by indenture to furnish board, clothing, &c. to an apprentice during 5 years, has been a question, according to recent authorities, he is liable, when 5 years absolute, to board, clothing &c. during 5 years.

Suppose a boy not named in 5 years.
This J. E. conceiving can make no iff. He is bound to all without naming.

These authorities it has been said, by some are hardly agreeable to principle; for if the necessities are to be furnished precisely in consideration of service &c. as 5 years have no right to 5 years service, he ought not perhaps in justice be liable for 5 years necessity. But if a master could unrestrainedly furnish them for a fixed period, how can such liability be avoided with impunity 5 years? It is like a contract to pay rent for a term of years & build houses for 5 years & build during 5 years. In this case he must unquestionably pay 5 rents.

If a premium is given, 5 years (as all agreed) ought to provide maintenance, or restore a pro-
portional part of the premium.

In Eng. this has in some cases induced a suit to the ruptor, on master dying soon after 5 years apprenticeship commenced, if has been deemed a large proportion to be restored when a small sum had been agreed upon between parties.

This is going very far, the master's death has been anticipated & provided for.
So a master or any other person may an apprentice have been sworn in by, to refund a part.

3 Dec. 55. 4 Feb. 54. 104 Th. 119.

He on 3 masters becoming a bankrupt & abandoning his profession, ante 14.

And when in any justices discharge an apprentice, they may own 3 masters to refund a part of 3 premiums, nor not expressly authorized by any (Stat.)


Whatever an apprentice's wages by any letter, shall apprentice ship continuing, belong to 3 masters for all his service on 3 masters. (Case) 9822.


And an apprenticeship "de facto" will support 3 claims, as then 3 contract of apprenticeship is good or not by Deed.

911. 68. (M. 89.)

Proper of any kind that earned by 3 apprentices may be recovered by 3 masters of his own in any proper action, as if 3 apprentices were collect at right; time report a watch it note in 3 masters. 8 M. 411. 116. 9822. Th. 116, 8 M. 59. 12 M. 411. Ec. 117. 145 Th. 116.

The last rule does not hold in the case of other servants, except slaves. In case of other servants, 3 masters cannot recover servants wages. But proper remedy of an action in the case for loss of service, if 3 employer times 3 former retainers. Post 63. 15. 9822. 104 Th. 119. 116. 8 M. 59. 12 M. 411. 145 Th. 116. (It suits 145 Th.)

The last rule does not hold in the case of other servants, except slaves. In case of other servants, 3 masters cannot recover servants wages. But proper remedy of an action in the case for loss of service, if 3 employer times 3 former retainers. Post 63. 15. 9822. 104 Th. 119. 116. 8 M. 59. 12 M. 411. 145 Th. 116. (It suits 145 Th.)
from ye master's service, an action lay to the
1946. and a journeyman is a servant, within
30 30 

I'm taking away my servant with force, and
keeping up. In retaking him away, "case" is on
principle 3 only remedy. 150. 157. 157. 157.
152. 153. 153.

But in court 3 is any way "enticing" 3
actions, if it be supported. In process will be for
merely enticing; but trespass on my case.

I tell ye entice 3 in Norconquetys 3

In Eng. apprentices gain settlement in the
parish in which they were 3 kept 40 days by Dr.

In court. Being under age they gain now
for an apprentice was not maintain himself
by our ft. requires to gain a settlement. By
vidence for 3 is not emancipated.

May our ft. apprentices & other minor
persons, abounding with suff. cause one to
able at full age for all 3 damage occasioned. This considered 3 contract binding.

III. Of Meenial Servts.

These are servants employed in the meenial Do-
30 30 30

one if service is not fixed by 3
contract, 3 hiring is in Eng. construed to be age:
usurp 3 equitable principles 3t one shall become
by 3 other maintain the 3 servant 313. 323. 325.
250. No such rule 31 30 30 30.

250.
In Eng. by 3. Car. 3d. a servt. in certain cases can't leave his master, no can masters dismiss their servants, either before or at 3 end of 25 years unless a quarterly notice is allowed by a justice.

123. 328, 6.

But if servant, it is in may be turned away for incencingly or any mean treachery. 127. 328, 7.

IV. Of Day Laborers.

There are no real rules applicable exclusively to these, except in Eng. by Stat. 3 & 4 Geo. 3.

They may be retained by any person, we have no similar Stat. 123. 328, 7.

These 38th provide, that all persons having no visible object may be compelled to labor: The justices at 3 sessions are to settle their cases. Penalties are inflicted on those who give in exact more than a certain sum.

In 6th. they have no Stat. of this kind.

V. Of Agents.

As potters, brickers, stoners, bricklayers, works, masters, attorneys &c. These are wrote in relation to such acts only as affect 3 agent of their employers. 123. 328, 6. 128. 328, 7. 126. 328, 7. 125. 227, 8.

As to 3 classes of persons falling under this denomination, see note 1.
The principal has not the same part, control or motion as a master has over a common steward. They are not subject to his domestic government, like other servants. Nor they are bound by laws to act in their according to their contracts.

As to rights & duties of this kind & vestiges of their employment it is difficult to lay down general rules. - 1 Mood. 469.

Every factor & broker &c. ought strictly to perform their commissions (or instructions) for his own security, as he is not then regularly liable for casual errors, seeing he is. - Mood. 469.

Comm. D.12. "Wright, B."

A factor & a commercial agent in a foreign country. A broker if one residing in the same country with a Reve.

A factor may retain goods of his principal in his hands, to satisfy a general balance of accounts in his favour. A factor's goods specially deposited with him for a particular purpose. 1 Conn. 258. 2 Int. 105, 120. This lien is not confined to goods in his hands, but extends to any with he may hold. But by giving up possession to the principal a lien of trust of the lien is, being founded on possession is thus abandoned. * 12 Conn. 431. 2 Mont. 114. 1 Rob. 168, 574.
1 Tamm. 435. 2 East 227. 4. 1 Bl. R. 105.
2 East 227. 574.

The has the same lien upon a policy of insurance effected by him on goods of his principal. Marshall 11 East 126.

The has the same lien on 3 goods of 3 goods in
24. What a factor keeps for his principal goods or they come to his actual possession, constructive possession (i.e., a right to demand possession) is not sufficient. 2 Feb. 117. 12 Br. 123. 3 Br. 119.

They do not become a pledge till actual delivery, possession being essential to a lien.

Frd. Brentn. 87.

The rules relating to a factor's lien, are found in 5. "Laws H.L.," &c. are revived from Gt. Lus. 72. 107, 125. "H.L.,"

A carpenter has no lien on a house he has built.

If a factor gives more in charge left than by commission warrants, his principal may disclaim the purchase. If he sells at a loss, he himself must bear 3 lots. 1 Feb. 510. Lond. Sib. H.L., 90. 27 Br. 100. If he purchase more he himself must return 3 surplus & there is no ground of disclaimer. The 3 goods are per.

ishable, maimed, decay, break, waste.

(cont. in Law. 399. 3288 P. 285. Phil. 1487. Lade.)

So if he sells on credit, he authorized to go to by his commission. 2 Feb. 100. 12 Br. 113. 741.


Phe. Whether a rule is not still law, i.e., contrary by usage, at 3 places of consignation.

Comm. 6, 22. c. John 67, i. 19 v. 288. 87. think of it.

By commission Phe. extends he may sell on credit, but must guarantee 3 sale. 1 Br. 116. 2 Br. 207. 95. Tomp.

The 3rd's fact has no right to have 3 goods of his principal as his own, for his own debts, &c. Deep. 3 principal may maintain Interest vs. 3 Prince (on tendering to 3 fact 3 balance due to him with any tender to 3 prince) The fact's lien being a personal right, which can't be transferred. - 3 T.R. 604, 611, 615, &c. 13th. 658. 7th. 296.

And it seems now settled no tender at all is necessary for 3rd meaning his tendering it is a breach of trust.

Dear Brother, I say no reason why he should not.

But if 3rd fact delivers them as one of his 25. principal's, then it becomes a debt of his own (within 3 act of his lien) with notice of his lien, the creditor (3rd fact's promise) may avail himself of the lien. It seems (7th. 296.) for if this case 3rd's promise is not tainting 8th. 256. 7th. 559, Berlin. 174. 179. 181. 189. 189. 276. 276. 42nd. 117. 9th. 127. 9th.

And it seems now settled no tender at all is necessary for 3rd meaning his tendering it is a breach of trust.

But he may sell 3 principal's goods, in much similar cases in buying & selling, 3 may in his own name sue 3 no one for 3 Trusts. 1st. 107, 204, 113. 3rd. 5. 201, 107. 256. 17th. 201. 276. 276. 7th. 559, Berlin. 174. 179. 181. 189. 189. 276. 276. 42nd. 117. 9th. 127. 9th.

To Payment of Policy, Benders may sue in their own names. No right captaining for freight. 1st. 107.
In all these cases however, the principal might sue. 
1 Bl. 557. 1 Bl. 81. 7 T. R. 353. 100 a.m.
I take it that the second 3 factor may sue in his own name if he does it in his own name. 1 K.B. 5
3 Bl. 394. As an auctioneer (this is a speech of 
Webster) may sue the goods sold by him, as 
auctioneer in his own name. If even that they
were known to belong to another. As like a 
factor, contract in his own name & has a com-
mmission. 1 T. R. 81. 2 R. 591 a.m.

But if 3 factor's principal (not being in-
sulted or 3 factor) gives notice to 3 pur-
chaser, to pay to himself & not to 3 factor, 3 purchaser is not jus-
tified in paying to 3 factor. 1 K.B. 190. 2 P.R. 289. 8 K.B. 1182.
he paid it at his peril.

* Add it if there be a balance due to 3 factor
from 3 principal. The factor in this case had a
claim on 3 principal & sale & goods in 3 name
of 3 vendee (facto) a sight items to 3. 3 detailed
this. 3 P.R. 215. Comp. 251. 5. 2 East. 337. 3 P.R. 135.
1 Combe 149.

18. In each of 3 preceding cases, however, vendee
may sue by 3 principal. 1 Bl. 5. 1 T. R. 51
3 Bl. 357. 368 a.m.
* Add 3 principal & factor both give notice to
3 vendee to pay to him, for his own safety,
3 vendee may bring both of them before equity

The auctioneer is not liable for selling goods to
3 highest bidder, then for a less sum than the
lower directed. In 3 sect of selling 3 goods or
sale at auction, unto to a contract with 3 who
sold, yet 3 highest bidder shall have them.
But he is bound, by instructions to set up goods in a first instance at a particular price. To. 360.

They for of commercial agents.

An attorney also has a "claim on a person who shal pay an estate as a claim to a particular person."

Ex. Co. a claim to "set off." 379, 380, 381. 126.


The rule does not hold of commercial agents upon a client.

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The rule does not hold of commercial agents upon a client.

Ex. Co. a claim to "set off." 379, 380, 381. 126.

On an agent who executes an instrument. In his principal's name, not in his own.

Ex. J. B. by his atty.


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An agent cannot bind his principal by deed with an authority given to purchase by deed.


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In no one can he estopped by any act to his own loss, unless by his own act. He cannot by any means lose, unless he himself is estopped by his own act of another.
The agent for a public, contracting as such, is not personally liable for his contracts. 11 R. 172, 174, 176. 12 R. 332. 9 R. 325. - Mr. Dixter's case as to real estate.

The remedy for the other party, is an application to the Government. 1st. The principal is the same as in private agencies. When he makes a written contract, it shall appear in it that he is acting as public agent.

"After no action can be brought against the Government, by my friend E."

Can there be action in a suit against the Government? None, none can.


When a master is bound by a can take adv. of his acts & of his servant.

General Principles. Those acts of a servant, all done by a master's command, express or implied, are in legal contemplation, acts of a master, and regularly all acts done by a servant in the course of his employment by a master, are deemed to be done by a master's command. "The scantling year shown from these."

138 L. 389. 7 T. B. 442.

20. Whatever a servant does, does all in a master's command. Whatever a master permits him to do in the course of his business, & whatever he does within the scope of such authority given by a master, are acts done by a master. For these acts are all done in the performance of business, in the service of a master employed by a master.
A contract made by y servt. of servt. (he being authorized to make it for his master) is made in illegal contemplation. By y master himself. Ex. of promise by or to a servt. on y master's account. 3 Dec. 599, 2 Dec. 411.

If a servt. is cheated of his master's property or goods y master may recover back by action vs. y master's servt. 1 Roll 98, by J. 213.
3 Dec. 599.

If a servt. is not bid by y master's servt. goods in y absence of y master, either master or servt. have an action vs. y master in Eng. for y regime. & shall be 500. 2 Hald. 179, 2 Mod. 289, 1 Pland. 303, 4 Hald. 11, 50, 54.

The master may sue because y goods are his

The servt. may sue it is & by reason of his own liability to y master.

In any to y reason, you se it is not liable, being spoken in case of sales.

The true reason is y servt. y goods are considered as y servt's as vs. all persons except y master in the "Rivend." 108, 10-12. & in an action in chancery as tho all goods were his own. 2 Pland. 379, 3 Mod. 289, 1 Hald. 610. Only may require it.

Ex. The master absent at a distance. - And a recovery by either lead y servt. an action & y judgment. If an action by the master than goodsisson. 1 Hald. 379.

When y servt. sue, he declares on a possession as if his own goods, go they are not as vs. all, except y master. 2 Pland. 379, 2 Mod. 289, 1 Hald. 610.
32. But if 3 court, is named in 3 presence of 3 master, 1 of 3 master's goods, 3 master only can sue, 1 Ch. 675. Const. 145. 1 Bost. 218, 142.

For in such case 3 taking up demand to be given 3 master to 3 master. 1 Bost. 138. But if 3 court, decides there is no necessity of allowing 3 court, to prosecute.

If 3 master's money is paid from 3 court, by an illegal contract, 3 master may recover, at least, fees, 1 of 3 court. defeaters of it, being no fraud in 3 other party, nor an illegal contract. Ex. If he remits it, in paying it on his own use, to a bond for receiver. 1 S. Ral. 589.) Here 3 party receiving it, being guilty of no fraud in some, 3 court, only.

3 court. The maxim here applying, if there are 2 of the present being must suffer by 3 act, in that, he must suffer, the and that, we are to the court, servant, 3 court. We, 3 master is bound to make restitution, the same & his expenses. 1 Bost. 380. 1 Bost. 2. 3 B. 80. Quer. 112. 34.

33. But if a court, if an inn, sells bad wine, to 3 man, if 3 health to 3 court, 3 master is liable to an action.

But 3 court, in this case is not liable, the he knows 3 wine to be unhealthful. The act of court.

And Bst. If 3 act, if unhealthful, 5 court, in 3 court, & it is a fault, rule 31. There any person has no right to be a given act, shown done it at this command, is a wrong done as well. 3 Bost. 320, 301. 3 Bost. 350. 350.

If 3 court, how an unhealthful act at 3 command of 3 master, both are liable.
For 3 sent. it is found only to obey such commands if 3 master as are honest & lawful.


But if a sent. in obedience to his own will, acts commanded becomes instrumental in a wrong by wb. he himself is ignorant, he is not liable - for he is but an involuntary inst. 

Ex. Master locks me in a room; & gives the key to his sent. Dick. Dick being ignorant if of fact (5 June, 1643) was not held liable.

But this rule can apply only to such acts as are in themselves harmful - as in 3 case just suprised. It can't hold in guilty of 3 act is in itself neutral or if it constitute a privilege in favor. For in 3 latter case, 3 law does not regard 3 intent, then a civil remedy is sought.

R. N. 592 et aliae.

A sense in battery. & in 3 former 3 person committing 3 act is liable civiliter for all it's consequences. As 3. 3 act falls a true 3 command of 3 master, thinking it 3 master's. He is still liable for 3 damage - he has a remedy vs. 3 master.

The acts of 3 sent. ch. are done with 3 master. 3

this commands are to or implicate, are not regarded con- 
dence as 3 acts of 3 master. ch. where 3 sent. acts with 3 direction of 3 master, is not in 3 discharge of any authority in business with wb. he was purely. or specially, intrusted 3 master. The master is not liable for injuries they committed at third persons, or even con- 
tacts they made. As at first, leaving his work in 3 field & commits an injury, or makes a contract

for the master ch. he has no authority to make.

3 Char. 253. & 2 R. 513. 134. 516.
If a servant, while employed in his master's service, acts with command with the express or implied authority, commits an injury, he is liable. (Pitman & Co. 776. 1 Ex. 139. 123. 140. 572. 1 Keet. 19, 191.)

Ex. Lord. Giving his master's carriage negligently against his neighbour's carriage. It is some if he has injured it with a stone or club.

But if a servant commits this negligence a servant of its, an act, injurious to a third person or master is liable. Ex. Driving a carriage negligently on anything. The master is liable of 30 to 50. Heret. 30. 2 Ex. 91. 92. 1 McNeely. 20. But the master is not an insurer against malicious injuries of a servant.

24. 51. 442. 1 East 100.

A servant's fault gives his employer vs. a tenant if such is lodged in, negligently, the master is liable. The same as above by negligence of the servant. But such much more real injury, master may hold liable. Hall. 41. 42. R. 139. 1 Nidd. 168.

If a horse's student injures a person through the want of skill, negligence, a servant or master is liable. Phil. 28. 526.

If a blacksmith's servant, in driving a horse around him, injures a person through the master is liable. 116. 50. Pit. 5. 50. 5.

The case was brought vs. the master for 50. Ex. Held.-4 year 1794. 3 T. R. 126. Case was brought vs. the master for 50. Held.-4 year 1794. 3 T. R. 126.

This instruction is to masters liability between useful & negligent service committed by servant, has been last lately settled on fully understood by history of the modern operations on this subject is as follows. 

#
III. 1795. 2 B. 136. 142. Trapper vs. 7 master for

III. 1800. 1 B. 160. Troop vs. 7 master for

These are 3 established rules.

9. Diff is liable, however, in "traps" for 3 possible

If a servant, employed in his master's business,

In this case the decision is correct, but in others doubt arises, when 7 master

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These decisions are all correct. In the 1st & 3rd cases, no action for the vs. 7 master 8 3. 3. 3. 3. 3.

In the 2nd, both 7 decision 8 3 reason given in it are correct, in neither doubt arises, when 7 master

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But in such case, no action by any immediate grantee of master is not liable for the intermediate servant's act, for he saw not commit the injury, nor saw the master do him the wrong. 5 T.R. 111.

In general, (as already stated, ante 35) if master does not liable for willful torts of his servant. 6 T.R. 215 note.

But if otherwise he conceive where willful wrong was to the violation of a contract between master and party injured. Ex. of service to a blacksmith willfully brand a horse in cloning him. 6 T.R. 215. They willfully spoils a permanent in making it so.

In these cases there is an implied promise by master, yet all necessary skill, care and fidelity shall be used in performing such work. 4 H. 135; 3 B. 158. Lord B. 135, 136. 22, 23, R. 910.

I do not however, consider this an exception to rule. It a master is not liable for willful torts of his servant, in such cases if master is not liable for such, but only on breach of an implied contract.

The master in such a case is liable on his contract; but he can't conceive, even in cases of this kind, he changed in trespasss - 3ante 85.) If so, he is not liable for result willful torts considered as torts, but for a breach of his own contract.

Suppose it abandoning of contract - since things trusts in common goods it can't recover, if trust.

Very he bring case ex veloctx - not alleging the contract.

411.

If he is liable as in this case - the contract is defective of its nature: if the master shirking execution of their office, etc., neglecting to execute legal process, etc.

Do an exinion of by mistake under a warrant, or 53rd. 56.
642. 601-10.

For positive acts, 3 under Whiff. is liable. Ex. Em. 112.

In those cases he is sued not as an officer, but as a man.

The Whiff. is also liable for even 3 wrongful acts of
his deputy, if they include breach of official duty.
Ex. Embracing an execution - for voluntary escape &c.

In latter, both are liable in all 4 above cases,
for 3 liability is done a known public officer, or
acts in his own name.

7 Postmaster is not liable for 3 defaults of
his subordinate officers. He is himself a public
agent. 39.9. 22. v. Light. 129. 30. v. 102. 223. 224.
Ex. 38. 69. 78. 79. 83. 84. 85. 86. 87. 88. 89. 90.

Postmaster is not liable to act in
judicious selection of subordinate agents, only to the
public.
And a master is liable on his own actual
infantry. So is a deputy-post-master for hire.

1 Will. 253, 30, 14, 62, 13, 16, 26, 10.

In such cases he is liable as any other in
sufficient office be for hire or service. See Bland's
grant of stocks after will be to him for money ille-
gally received to his own use.

The contract of master's having been made
him, by & servant, whenever either
in making a contract, acts within his scope of
an authority delegated to him by his master.
In ye case 3 act & 3 servant, if 3 act by
master. (ante 29, 20)

The authority may be general or special. ex-
ample a servant. — (29 Will. 253, 65, 3)

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in making a contract, acts within his scope of
an authority delegated to him by his master.
In ye case 3 act & 3 servant, if 3 act by
master. (ante 29, 20)
If 3 master has made it a practice to lend 12.
his credit, in necessity, or money, 8 has permitted 3
credit to trade for him, or no other way has 8
not liable for what 3 spent, may lay upon
trust. There is then no implied order to 3 seller
to trust 3 credit. 8 has implied authority to the
credit to purchase on trust. 13C. 240.

V. 3 master has usually 3 frequent-
ly permitted him to trade on trust. 13C. 240.
Since he has given 3 credit, credit with 3 seller
as 3 case might be, with 3 public.

And if 3 master has once paid 3 in what 3
credit, not brought for him on credit, with ex-
pressing his disapproval, he will be un-
answerable for 3 subsequent. Purchases made by 3
same credit, from 3 same tradesman, or vendor,
will he give 3 tradesman an express order to 3
entire. For 3 part, will be equivalent to a
satisfaction to trust 3 credit. in future. 13C. 240.

And if a trust, within any given authority 46.
and a special, large goods for 3 master. The
done to 3 master's use, he is liable, for he is bound
by his agent subsequent. 47. 21 Art. 233.

B. 248. 16. tomb. 450. 111. 685.

Suppose 3 in 3 last case 3 master had sent
3 credit with money, 48 yet 3 latter had kept 12.
credit on trust, then being no prior au-
thority or 3 credit, to trade on trust. 83 master
being ignorant of 3 purchase was made neither
so 3 master be liable, because 3 goods had come

B. 248. 16. tomb. 450. 111. 685.

Therefore is no agent implied subsequent. in this
case, 8 if so, 3 master I conclude 33 credit be liable
...in this case, no primary authority. - Book X, 3.

In this case, no secondary authority.

Part of 3 credit is obtained by 3 master's authority, & 3 servant's endorsement. If given him to pay 3 debt, 3 master must bear 3 debt. - 1 Cor. 6, 21.

In this case, 3 master is indebted on a contract made by his authority. If 3 servant is no party to 3 act, 3 is not 3's endorser. The master 3 is not 3's endorser.

But the 3 master has committed his servant to trade for him on trust, he may discharge himself in picture by predisposing 3 tradesmen to trust 3 servant, again on his account, but not be bound to himself 3's servant, only, nor for a time by a private resolution of his relation; 8 in all cases of this kind, 3's disposition or disposition that he is public, as 3's servant before given by 3 master to servant.

Ch. 8 Bls. 38, 47. Book X, 35, 115.

And if a servant in selling property, which he is authorized to sell by 3 master, make a warranty, 3 master is bound by it, or 3 authority was expressly restrained.

Book 32, 177. 3 Bls. 177. 10 Nov. 109.

And even when 3 servant acts without the excuse of good authority, even an express restriction not more public, & not known to 3's purchaser, will not exonerate 3 master. - Ev. Ch. 14.

But a servant, at a liberty table of a house, with warranty, from a good authority & credit, are given to 3 servant.

18. being 3's servant, were only a special agent, then 3's no good credit given him with 3 public
I urge to rely on my warranty to the full of my purchaser.

The above distinction between the effect of a general & special authority, appears to gel in all contracts made by the writer. 52 R. 760.

Seco Dec. ay to 3 cases of Southwells 1603. 525 166. 32 P. 596. 3 32. 560 (Cip. 629. 632. 2 Roll Reg.) For 3 cases, was not expressly restrained from warranting. 3 had historically concealed 3 defects, which laws of a warranty.

Dec. up to 3 fraudulent sale to an un- sound house by 3 cent. at a time, 2 master not having directed him to sell to any particular individual. In such case it has been held that no action lay vs. 2 master.

Roll. 2 P. Ph. 542. 2 Bae. 560. 289. 353.

For concord of 2 sound deeds vs. a warranty.

At same however agreed, vs. if 2 master directed 3 cent. to sell to 48. 2 3 sale way to him, 2 3 master is to be liable.

See 2 cases cited in text.

How can this vary 3 cases? Whether will direct 3 cent. to cheat 48. or any one whom he may meet.

According to 2 good rule (ante 14) if a merchant clerk sell goods for his master, 2 warrants them to be sound, 2 master if bound by the warranty. As in other similar cases.

32 R. 122. 32 Bae. 560. 32 CIP. 282. 5 4. 639. 32 25.

The cent. if regularly not liable on a contract, 2d. he makes for 2 master. 2nd he may subject himself personally even in transacting 2 master's business, by an express agreement on warranty in his own name. Ex. 42
to make a warranty on his own authority, 1836 p. 99.
3 Decr. 568.

And undoubtedly, if so point, made in her master's name, a contract wh. he has no authority to make, & by wh. his master is not bound, he must be personally liable. see 2 Pinc. 127.

Could he be subjected at law when no such contract involved? In reason of variance.

What if not be subject to, as in case might be, in an action of sedition, &c., or in any other action (adapted to case) what?

But n. wife, child, relation, or friend, acting for him under a general or special authority, of his own, within 3 rules 12. treating with 3 master own as 3 acts of 3 master) 1836. 590.

52. The master is not liable for expenses incurred by persons sick or other. 1836. P. 279. 533. 402.
6. 1834. 279. But the master may be bound by express contract.

This rule does not hold in Court. in the case of apprentices, or if not otherwise here with respect to them?

This rule was not held in Court, as to slaves. Y. Y. to be of trust when slavery is legalized.

In case of apprentices, however, 3 master usually covenant to bear such expenses.
How does a servant, is liable for his acts and default to strangers & to his master.

Genl. Rule. Those acts of a servant, which are not done by a master's command, express or implied, are not in law acts of a master, and (36.56) for these acts a servant is not a master's answerable.

In these cases he is not at all answerable.

And in last rule applying regularly to all cases in rt. acts of a servant, are not in 3 cases of discharge of any function on authority with all a master's duty to entrust him, as in 3 cases of wilful theft by a servant.

In some cases strangers injured by acts of a servant, may have their remedy either in the master or in servant. The genl. rule seems to be, if, if a servant, in performance of a master's function, does an injury to another, this negligence, ignorance, or want of skill by a servant himself (as well as master) is liable to 3 parties injured.

12. In 4. of a transaction in Sh. a servant was engaged by a master, was founded on contract between master & stranger (36.7) - Ex. Here, rag. directly or indirectly or any result of master's carriage up, another & making, or overthrowing persons, or servant, as well as the master of a servant, a master injured has a right to consider a servant, as only author of a wrongs to whom is not bound to inquire into private relation.

Action in 3d case, as to master "case" as to tenant, "fine case".

13. In 4. of a transaction in Sh. a servant was engaged by a master, which was founded on contract between master & stranger (36.7) - Ex. Here, rag. directly or indirectly, or any result of master's carriage up, another & making, or overthrowing persons, or servant, as well as the master of a servant, a master injured has a right to consider a servant, as only author of a wrongs to whom is not bound to inquire into private relation.

Action in 3d case, as to master "case" as to tenant, "fine case".
I conceive, if a transaction is founded on contract (ante 267.) in such case, the master only is liable, to the party injured, if he is liable to the contract. If his party injured, for his act of the servant being his act of the master in the performance of his business. So in the execution of his contract. Ex. Blacksmiths send, lend a horse in showing him, the negligence. A tailor's work, makes a garment miscellaneously. In both cases, the contract of bailment is violable in legal contemplation by the master. Indeed, the master only can in legal judgment violate his own contract. Coop. 400. 2 J. & 6. 530. 1 John. 153. 1821.

54. There is an exception, however to the last rule, for the master of a ship, as well as a owner, is liable to the damage occasioned by the negligence. The contract of bailment be made between owner & freighter, & because the master is & so of confederates or officers. But what then?

(215) 128. 2 R. & F. 220. 1 R. & T. 380. (2nd.) 38. 1 2nd. 112.

The rule I conceive is founded on convenience, by forming only an exception to a general rule. The owners are frequently unknown. Nobody is not held liable always subject to the master, &

But if any servant commit a wilful act that he is liable. I conceive in all cases, to the party injured, even the transaction was founded on contract (ante 267.) as in case of - another act, wilfully having a horse, for his act not in performance of thing contracted to be done; it is not in performance of the act, authority bent a distinct wrong. If a master himself had done it, a servant I think might raise a contract & sue him in tort, 2nd. 115.

55. A public agent contracting or acting as such, is not personally liable, as for instance,
Upon this principle Scob. 457. for money had and received not by an officer for revenue for an overpayment, made by mistake, because he acts for public in his exercise of his office: application must be made to government. Coop. 29.

That an action will lie not a public officer for money exacted or illegally received to his own use. — Lord 182. To that he acts for himself, if of a private wrong done.

If an officer, whereas if is being witness of a 56. release from 91. to 92. brings an action for 91. 123, he is not liable to 93. — The acts of a servant, 94. is not obliged to judge over his client.

But whereas if is 97. and 98. after a non- suit, intended judge. 99. 3 Sept. 91. He was held liable to 3 Sept. 180. 15th, 125. This is a wilful wrong of 97. 98.

The owner is liable to his master for all wilful wrong or all negligence by the 3 master's servants. Ex. Servant entrusted with 3 care of 3 master's cattle suffers them to die for want of care.

1 Moor. 88. 5 Dec. 86.

If a merchant sends land 3 master's goods before 3 parties are 93. 94. They become perfected in consequence of 3 act, 3 suit, is liable.

5 Dec. 86. 10 Nod. 168. Coop. 248.

If an action has 95. a servant. In a mere breach 96. of the master's orders, if no damage is sustained, correction of a defect remedy. Do for all manners.

But if 97. servant, if he does a neglects to perform any 98. lawful command of his master,
So when there is a neglect of duty, the no express command, an action lies of 3 servt. if 3 master sustains any damage in consequence thereof. Ex. Attty neglecting clients cause.

Wills. 325. 4 Brev. 2080. 3 C.V. 671.

58. The servt. undertakes, regularly, only for fidelity & diligence, is not for strength or skill. He is liable only in guilt. for such only of his occupation by want of diligence & fidelity.

Hence he is guilty, not liable for a loss of the masters goods by robbers. in ordinary care and fidelity cannot guard against it. 1 Brev. 138. pamphlet 109. 4 Co. 53, 4. Pl. 11. 109, 97.

And in guilt, 3 servt. is not liable for losses occasioned by those accidents, vs. ad. ordinary diligence & fidelity were not a sufficient guar.


But 3 servt. is liable over to 3 master when ever 3 master has been subjected to damage by injuring done to third persons. by 3 miscarriage or culpable negligence of 3 servt.


59. The last rule, however, requires 3 master not to have been actually a party to a wrong committed by 3 servt. If he was, he has no claim on 3 servt. for damages. Joint wrongs; every there is no contribution is no remedy of any kind.

Ex. The master commands 3 servt. to commit a trespass, 3 of mischief to it, 8 2 Brev. 186. 110, 186. view there. 6 Brev. 110.

Note 104.
Of a Master's authority over Servants.


Just this rule is not universal. See 2 Eliz. 5. c. 12.

But this correction must be reasonable, says 60. 3 master is not justified in 2 Eliz. 107. 8 Will. 2. c. 14. in the "Parents & Child" 160-7. He may be liable to a prosecution. The first rule, however, does not apply to all servants. Those of 7th age are generally not liable to correction.

And it appears to me, that this right of correction extends to no other persons. Thus such as belong to the Master's family. For 7th right is substantially the same as that of correcting one's children, & as I conceive, by force of 7th. to be under personal domestic government. 7 master. 1 Ed. 4. 21. 13 Eliz. 12.

The master undoubtedly has a right to say 61. fire his slave for a reasonable cause, & also his apprentices, if mine personal servants.

The master may correct a slave or apprentice of any age. But if he treat any other servant ill, and give him not just treatment, &c.
court. may be discharged by proper authority.

In the last case, if a man, by the beating of his master's wife,

A master cannot justify a wounding by force, i.e., he cannot justify it by virtue of his right of correction, as master, for he must chaste moderately, or reasonably, if at all.

If then, if a man, by assault and battery, does wounding — he can be justified as master, up to 3, 4, or 5, viz., 5, 6, 7, 8, 9, 10, 11, 12, but not guilty of to 3, wounding; to show some other overt cause, as necessary self defence. 2 N 189. 126, 2 188. D 187.

9 Co. 26 a

62. The master must state in his justification, 3 retainers, i.e., 3 contracts, 3 places, where 1 3, living in the house, being eligible material,

The master cannot delegate this right of correction, for his authority is personal. If indeed, a master puts his servant to school, a schoolmaster may correct him for a reasonable cause. But a schoolmaster's authority is not strictly delegated by the master. The schoolmaster's right arises from breach of duty to himself, or not to his master, 8 if enjoined by law. Lib. 1 62, 210, 176, 18, 185, 960, 764, 765, 766. 4 Stra. 495, 5 Inf. 576.

If a master, in correcting his servant, kills him, he is guilty of excusable homicide, manslaughter, or murder, according to the circumstances of the case. 2 N 3 70. 1 T 111. 111 Real. 65 2 Dec. 567. 1 F 243. 21 189. D 183. Thompson cr. tan 20.
Of the Master's Remedy to Strangers for Unjuries Done to Him in relation to his service.

An action beg in favour of 3 master vs. any one who witting away his servant. The action is bad with a que quodem. (ante 19. 29.)

If 3 servant, is taken way with force Propt. with a fuer gevo. If 3 servant form the action. His force, is action is annually caused. He propt. is lost in Ens. (ante 21. post 66.) Cap. 36.

So of a journeyman employed to work.

So if 3 master, without notice, leave 3 master with, licence or just cause & is retained by another y letter knowing 3 former retainer, an action for loss of service. He by y letter.


But an indenture will not be for entitling it to a private injury. Not. 360. 28. 191.

Lex. 116.

But by a Stat. of Cont. 3 prove, entrusting an apprentice, whether bound by indenture or otherwise, by equity to 3 master, by way of penalty, a sum not exceeding 100. They may not seek 3 master's right to recover damages for loss of service. 12 Cont. 13. 4. 118.

If a servant is beaten by a stranger, he alone may have an action for it. But if a loss of service is occasioned by it, 3 master may also have an action for 3 servant, if injured in his person, by 3 master by 3 loss of his labour. If recovery by one is no bar to 3 others action, for their rights & injuries are distinct. 11 Bass. 360. 9. 5. 113. 10 to 131.
65. The master in z last case must declare with a "pro quo" 
and is cast recover, if there hangs on
no tops of events. 1 Bov. 685. 2 Bov. 178. 1 Rol.
257. 3 Bov. 94. 4 Bov. 152. 5 Bov. 169.

"The if 3 every just of z action.

A minor child is a person within statue rule by an
adult which may be. 1 Cor. 3. 4. Where
3 child of ye Ele age has not been emancipated
Hence z action for recovering enemy daughter
with 3 same pro quo good. 14 - (See Bov. 2. ch. 110.)

If one beat another wrong to such a se-
gnire 3d in 3d. 3 master has in 3d, no com-
pany. The private injury of merged in 3 Bov.
Etc. 3 Bov. 305. 2 Bov. 89. 50. 2 Rol. 38. 58.

66. If a surgeon employed to cure a wound
unintentionally injure it by improper treatment.
So 3d if master loses his service, in consequence
of this treatment, an action lies by 3 master to
3 surgeon. 3 Bov. 307. 1 Rol. 82. 2 Bov. 332.

Suppose 3 injury due to this negligence or
want of skill, 50. 3 action lies for 3 master.
But 3 verdict, it certainly Dr. - 4 Bov. 90. 3 Bov. 241.
(2 Bov. 305. 712.)

"The Trepp. on 3 page 8."
What acts a master or servant may justify in their defence.

The master may maintain (i.e., act & speak) in an action vs. a stranger, & the jury on information, 113 C. 397, 2 Roll 113.

A servant may clearly justify an assault in defence of his master. It is a part of his duty. 1 Bac. 368, 116 C. 328, 2 Roll 340, Vahl, 40.

This right grows out of the relation of master & servant. & therefore he cannot justify an assault in defence of his master, even not being sent to him. 3 Bac. 368.

3. In defence of a master's goods,

3 Bac. 368.

4. If they were in service. No. [Note: (I think is this case he may justify force. J. G.)]

Whether a master can justify an assault in defence of his servant, is questioned, because he may have an action on his duty of service. 1 Bac. 368, 116 C. 328, Vahl, 40.


But the Law, Is this a just reason? The joining are contradictory. The master's interest being served, to justify him. & therefore it seems his duty to protect his servant. (I think by right received, J. G.)
9th sort. can't avoid a seat obtained from him by service of his master; the relation is not sufficiently intimate - 1 Thess. 687, Oct. 587.

But Eqp. might probably interpose in his favour as for fraud or unfairness... he can by service of himself.

(ante 58) For where one of two innocent persons must suffer, he who enabled y wrong over to 2d y wrong must bear it; hence y master must suffer for tempting him.)

Lichfield Oct. 807
1826.
Contracts.

A contract is defined as 2 clauses of an agreement between two or more parties upon sufficient consideration to bind or not to do a particular thing. 2 Bl. 442.

Pound defines it to be "a transaction in which each party comes under an obligation to the other by each acquiring a right to that which promised by the other." 3 Com. 682.

The term includes any well agreed, executed (e.g., presentation, gift, grant, lease, sale, etc.) or those in an executory form (e.g., contract, promise, etc.) there being in both a consent of 2 parties to an agreement respecting some property or right which is subject to a stipulation. 2 Com. 3.

The Requisites to a Contract are: 1st. consent. 2nd. Mutual consent to some stipulation. 3rd. An obligation to be created or fulfilled.

Of 2 parties to a contract that may bind themselves by their assent.

The assent of parties is evidence of every contract. In the absence of these, there can be no agreement, and, of course, no obligation created. 2 Bl. 398, 2152. Hence a person non compos mentis or an idiot or lunatic cannot regularly make a binding contract. He has no understanding or urge to legal-mindedness, no will.
In good. contrariwise not of record made by such persons are actually voided. The better subjoined he says if set from est faciunt may be pleaded to them. 

Note 72. 7 Co. 122. 6 Boc. 121. 7 Boc. 157.

They seem to be void at to some intents, but not at all.

They 32 numbered of a particular estate by a person not compos. 

They not deposing a contingent remainder de- 

juring as on but. 3 Pal. 256. 281. 1 Vart. 77c. 12 Yart. 

2 Leav. 284. 2 Lart. 119. 330. In the 32 word as to this 32 page. 

Em 20. 495. 577.

Vid the 20. Whether any est faciunt can be pleaded to such persons see.

Vid the 20. 1 20. 119. 20. 220.

The opinions are contradictory, but if not the 32 deed may still be void. 

Vid. 110. 3d. 32. 32. 1770.

5. But persons insane are competent to receive property by a derivative title. Ex. by gift, be- 

nife &c. as well as by descent, these being (it is done) a prepared agent to what if in common presumption beneficial to 3 party.

Would it not be more proper to say, that in such cases, 3 law dif-

ferences with 3 agent required in other persons?

Kind of 3 insane insane to there recovery his understanding 3 there agreed to 3 party.

Thus, this agent became title, but 5 in view of his inventory, or having received his under- 

standing, say it, the amount to it, by his heirs may void it. (1 Boc. 12. 1 Co. 22. 12 Vit. 200) 24 contain it. 371 contracts are absolutely void—his pur- 

chasess but voidable.
But as to contracts made by a person "non com-" to alter his property or to create any obli-
gation upon himself, there is no such power.

"An act of a legal agent is binding upon the one who
made it with authority."

(1.) Those fall within this part. rule,
that their contracts are void.

But to these however, it appears, 4.
to be a rule by 3. Com. L. 37. a person non com-
sent himself on recovering by understanding,
take advantage of his former incapacity. no
man of full age shall waive his own per-
9. 1 Geo. 12. 3. Dec. 17. 2. 109. 8
p. 76. 28. 1. to this extent they are not void.

The authority on this point are not settled. See Buch.
3.璪. 9. 12. 1. 110. 2. Part. 198.

This rule is founded on 3 supposed reason of policy, to prevent fraud, by pro-

Rule in brief, that one may allege his own
prior insanity. I say go by even at Com. L. 26.
3. death to such person, his being or excess might
void his contracts of this description. (5 Dec. 17.

There are also two noted rules, such contracts may 5.
be avoided during his life by 3. Com. L.
17. After death found (i.e. a verdict finding some
fact) upon 3. act "the right to engage a". 3. actu-
ation 
"no". The thing of parentage priority may by
some excuse during 3. parenting life time, avoid
all alienating gifts 8. and acts in favor (i.e.) not
of reed. If 3. birth during his incapacity. The of-
"office found has relation to 3. commencement. of the
1. Dec. 85.9. 8. things contract made before office found.
are avoided.

2d. Yet not the best in chancey of the
same purpose by 3 by 3 genl. or 3 commissi.
3 Party, by 3 more compe. plc. not the in Party.
(1 Boc. 267, 2 Boc. 551, 5 Boc. 110, 3 Boc. 170,
3 Boc. 551, 4 Boc. 279) for he may not publicly him
sell. for see 1 Boc. 279, 5 Boc. 110.

But if a seer in chancey of fort is to be
half by a lunatic, to compel performance
of a contract made with him while sane, he
ought to be made a party; for he must first
be publicly him, in to take advantage
of his incapacity; but to induce his claim;
3 committee if not his back off. 1 Boc. 285,
1 Cen. 158.

6. If a lunatic makes a contract during a
limited interval, his representatives are
bound by it. 1 Boc. 29, 3 Boc. 579, 4 Boc. 285.
6 Boc. 125, 2 Boc. 472, 4.

Lunatics & idiots are bound like other persons
by acts & contracts by record. Ex. finding a recovery
not assignable by this being or in any other way.
In no event can he admitted in 3 record.
(1 Boc. 267, 2 Boc. 551, 5 Boc. 110, 3 Boc. 170, 10 Boc. 51, 1 Boc. 285)

Note, the right is a natural birth, a
person who has had no understanding from nature.
1 Boc. 109, 1 Boc. 39. It is so that one is,
has any understanding; as one is can tell
his age; his personality, 3 cases of 3 make a count 20
is a person, 16 Boc. 216.

If lunatic it is one who has
any understanding, but lost it from some sub-
sequent cause. 1 Boc. 285, 2 Boc. 51, 3 Boc. 860,
6 Boc. 125.
Drunkards the operating as a temporary insanity, if not of itself, in Law on Equity, a ground on which one can avoid his contract. It is, by his own fault. The rule is founded in policy.


But if one party draws the other into a state of deep intoxication by then obtaining a contract from him, there will set it aside. (Bis. 10. 15. 12.) In how a contract is procured by fraud.

A party's being of weak understanding is not, in itself, a sufficient reason to avoid a contract. The law does not distinguish between subordinate degrees of condition, making many minds of men, only, distinction recognized 23. between minds prone & not prone.

Same rule in Eas. Bis. 15. 11. 10. R. 12. 12.

1. Lev. 6. 6. 12.

Thus, in Eas. if any grant or assignation is made, upon 3 person that circumstance, but there such a person is a party there are circumstances warranting a suspension of grant. This will only, release any ground of grant.

1. Bis. 16. 15. R. 12. 2. 10. 22. 28.

The contracts made by infants, except in case of necessity, are not binding. 1 Bis. 34. 28. for lack they have no intention.

The contract of a insane sort, is regularly void, on want of a moral capacity to enter.

1. Bis. 39. 72.

Their insolvency rests chiefly in want of property in control of property.
We may in some cases contract with others on themselves.

If the tenant in tail agree to make his lease valid by contract, and to the prejudice of the future freeholder, he will compel him to have a fine and convey accordingly to contract, for the detriment of his power and tenure in tail of net possession, it.

The tenant in tail may settle an estate for the benefit of

The tenant in tail may settle a certain sum, and agree to

This is to prevent fraud on the persons.

They have given purchase for equal parts, is the title at law.

It is a matter of law, yet where the law is equal on both sides, it will be declared in favour of the better.

The tenant in tail may convey a (former) estate to the


He is joint owner may settle to the principal representative of the

10. The contracts of the woman made before marriage, will be good, unless they be after marriage.

11. If the tenant in tail agrees to convey to another, his

12. But if he takes even more.

13. If not, in tail agrees to convey to another, his

14. The tenant in tail might have sold it still yet not having done it, his 

15. But if he takes even more.

16. And if he does not agree, the tenant in tail being unable to 

17. But if the tenant in tail might have sold it still yet not having done it, his 

18. If not, in tail agrees to convey to another, his

19. But if he takes even more.

20. And if he does not agree, the tenant in tail being unable to 

21. But if the tenant in tail might have sold it still yet not having done it, his 

22. If not, in tail agrees to convey to another, his

23. But if he takes even more.

24. And if he does not agree, the tenant in tail being unable to 

25. But if the tenant in tail might have sold it still yet not having done it, his 

26. If not, in tail agrees to convey to another, his

27. But if he takes even more.

28. And if he does not agree, the tenant in tail being unable to 

29. But if the tenant in tail might have sold it still yet not having done it, his 

30. If not, in tail agrees to convey to another, his

31. But if he takes even more.

32. And if he does not agree, the tenant in tail being unable to 

33. But if the tenant in tail might have sold it still yet not having done it, his 

34. If not, in tail agrees to convey to another, his

35. But if he takes even more.
and if the heir receive consideration for it, the ancestor agrees to convey. The former by this act accepts & takes benefit of the agreement. (16th. cor. 17, 1 Pov. 15.) & is safe bound in conscience to execute it on his part.

The agreement, if test. is to convey permanent products of 3 estate, cannot bind 3 heir, for this is part of 3 inheritance. Ex. apprent to sell timber theirs &c. 

1 Pov. 127.

And 3 persons representing are implied in himself even tho they are not named. 20. 23. 177, 1 Pov. 128.

Of Principal & Agent, see 10. 11. 177, 8, 12.

28th. 35 & 36th. 36. &c. cas. 31. 1 23. 27. 153.

If a joint tenant agrees to convey his part of 3 estate, it is not bound by it but will hold 3 whole.

2 Fez. 38, 69. 1 Pov. 129.

Declar'd on 35th. 35.

But if in Eq. it unit. to a severance of joint can 3 providing partner must be bound.

2 Fez. 38, 27. 39. 6.

John 6. 23, Rev. 35.

24. does not 3 agent always unit. to a severance in Eq.

Subject to a contract may be expressed or tacit, expressed, as by words agreed &c. &c. may be either.

That agreement may be inferred from one's silence or inaction, when he is in contradiction thereto then he has act.

1 Pov. 130, 132. 172. 

Pov. on 35th. 172. 6.

2 Fez. 38, 10, 11. 27. 1 Pov. 172. 

See of Montague 36.

Pov. 31. 170. 5.

Ex. this matter is present when 3 major is contending with a 3 minor for 3 some subject.
14. If a. E will refuse such an implied agreement even against an interest. 1 Pet. 1:3.

15. Not to raise such an implied agreement from another's silence, it is necessary that silence be voluntary, if then he is forced into silence, an implied agreement is implied against him. 1 Pet. 1:3.

The law will punish implied agreements. Also necessary to give effect to an express contract. 1 Pet. 1:3. Ex. 28: 30 Ps. 159.

Ex. right of way to land bought or sold.

According to some there is a tacit agreement to every contract, as if one fails to perform the contract, he is made liable.

16. When one unusually employs another to contract, it tacitly applies to contracts made by him. 1 Pet. 1:3. 1 Cor. 15:55. 1 Pet. 1:3.

That in every case of contract, grant, lease or lease sale there is an implied agreement until there is an actual agent.


So the cost of an heir at law to property descending to him is preserved. 1 Pet. 1:3.

If a husband turns away his wife with such cause, he is under obligation to pay her debt. This is tacitly implied.

1 Pet. 1:3.
Upon the sale of your chattels, there is an implied warranty as to part of them, viz. a vendor takes the risk upon himself exclusively.

What circumstances will invalidate an agent given.

There are many circumstances which may invalidate an agent given to a contract, even his express

an instance or error in some cases. 17 P. W. 19. 9.

If, a mistake occasioned by a fraud on the other party, it is not binding. 1 P. W. 229.

Hence where an heir at law was fraudulently induced to believe the will of his ancestor executed, joints with his right for small compensation, he is not bound.

If upon a doubtful point of right, two persons compromise, this compromise will be binding the

but if 3 parties really entitled is ignorant of extent if his right, says Powell (he must mean

of 3 quantities or value of 3 subject contesting about, i.e. under a mistake as to 3 matters of

the 3 parties means if informing himself, he seems not to be bound as 3 case may be.

Ex. case of a heaviest of daughter of $4,000 when herishment part was $400. The ac-

ceptors 3 former & released to latter.

Release set aside. 1 P. W. 143. 5. 1 P. W. 110. 7 P. W. 200.
... and in the case of Landown vs. Landown, with parties being absent by opinion of another as to a right in question, the contract was set aside by J.P.

This was the case of a Schoolmaster.

19 Nov. 1801.

In the case of Landown vs. Landown, it is clearly a ground for avoiding a contract.


Applying contracts by C. L. and in part. 

14 Nov. 1801.

In the case of Landown vs. Landown, it is not essential to a contract that all parties agree in it, for it is absolute and comprised in itself, contingent.

14 Nov. 1801.

A contract between two parties having the effect of a Deed.

14 Nov. 1801.

... all wrongs are made illegal by Contract. Case. 8. And.

3. Except gambling wrongs.

13. There are cases in which a person of an intended purchase is invalidated by erroneous representations. Ex. If a misrepresentation regards the quality of a subject which furnishes a principle in evidence. Ex. of a nullity. (17 Dec. 1800) have no value.

17 Dec. 1800.

Decs. of a misrepresentation related to that which did not furnish a consideration. To purchase he's bounds, and his relief had a right to consideration. Of the nature.

17 Dec. 1800.

Ex. A mistake in... rent given for land. In the action to assert this right. Ex. may injures contract.

If an agent agree, so a purchaser makes it an express contract. If the subject shall contain certain
qualities, non-performance of a condition which
appears

intention of the parties may be inferred from
considerations, & 3. cert. by express may be
inferred in the same way.

Ex. Sale of a female slave to a male of a male.

as case of a horse. 20. 150. 120. 130. 131. 132. 133. 134. 135. 136. 137.

There is an implied warranty of good title according to our reasoning. (Tent. Rep. 258. cont'd.) Note 107.

Subjects of Contracts.

Here it is necessary to observe 7 distinct
kinds of contracts executed & executory.

An executed contract is one by which a present interest arises together with a present possession (a right of property) to an indefinite interest of future duration.

An executory contract is a contract to perform something else at a future time.

As a properly executed contract,
no person can recover
if he has an actual or potential interest.

21. In time of a conveyance, a contract may
be valid.


28. If by C. then to D. & E., & another 1 C. because
that A. did not have "real benefit in tenements," & D. had nothing.

29. A. 30. 31. 32. 33. 34. 35. 36.

37. A. 38. 39. 40. 41. 42. 43. 44.

45. B. 46. 47. 48. 49. 50. 51. 52.
If it sells a horse to the within condition 3
per. that he be in 6 months. Then he did
del 3 horse until 3 expiration 1/3 time,
because 3 property of changed.

He can a resume grant 26. To 26. He has
only an equitable title to be respected

App. 221. Poc. 175. f 298. 235.

The main contingent interest are reasonable,
revocable, as in Eq. assignable, that not
grantable. — Ex. on Rem. 551. 551;
135. 25. 34. 14. 3. 40. 3. 7. 2. 82.
17. 21. 22. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2. 2.
Estate Rem. & Revis. 29.

22. But a thing if the one is potentially
owner. (a thing accessory to another, actual
ly vested in him at 3 times of 3 (again)
may be disposed of by a contract executed.

Ex. A purchase by one landlord in 3 yrs. to come.

Then under has a present interest, in thing, that not is free.

Rights not vested actually, a potentially
may be subjects of executory contracts,
these being no other than stipulations proces
tant & preparatory to an act by the 3 interest to
be converted. Ex. one can’t own what
he has not, he may oblige himself to
convey what he may acquire in future.

Ex. A contract to purchase 200 one & money to 23.

23. But a contract executed may bind a future
interest. By way of Esp. and is effect con
vey it. 2 Bl. 255. 20. 256. 20. 258.
...
But a suit is not void on account of improbability only; altogether impossible.

Q. If one suit to perform what is not in nature of things impossible, is being prevented to perform it by inevitable accident. Do I use, 1 Pet, 3: 11. The suit does not discharge him. I long ago told. That he is Court, to be at such a place at such a time provided by temper, convenience, health, means of suit to perform voyage within time within ship. Such voyages must be performed.

II. Lawful. The thing stipulated to done must be morally possible. If no one can be bound in law to perform what is lawfully prohibited. A suit is vs. law when an agreement is to do (1. Pet. 16: 5) some thing unlawful to or unlawful prohibition.

It suit to enslave goods is as void as a suit to convert them.

Court of 3 first days are those wh. are forbidden by law of nature. Corp. 19.


But one who is in entanglement by law of a municipal law.

Contracts may be opposed alike to municipal law, custom, law and public policy, of state of law.

2. Meas. 28. Corp. 28. 2 Th 2. 15. 2 Cor. 5: 17.

27. All contracts of object to law, is a restriction from pursuing any useful occupation or profession are vs. law as opposed to a religion of state or age. mid.


All suits wh. militate vs. national policy are void as being illegal.

171. 30 322.
A contract to restrict any useful trade can for a limited period be the void. 1321, 131.

1. 107, 11 1.135. 1.2. 1.2. 1.2.

Ex. If a husband agree not to till his land.

But an agreement not to exercise a trade or any particular place to be binding.

Palm. 179. 1.135. 1.2. 1.2.

But this, valid, it is not prima facie. It is not binding. No sufficient consideration.

For a presumption is or it arising from zealously to a less toward such entity.

If sufficient consideration it may be enforced.

1. 135. 1.135. 1.2. 1.2.

* But it must probandi visc it as sufficient, the only basis it left.

And it is not material. Nothing else. 28.

one course, not to exercise, if they trade a not.

1. 135. 1.2.

On its principle of it's being approved to pub. 107, 11 1.135. 1.2. 1.2.

te policy, a contract for maintenance is void. 1.135. 1.135.

by maintenance of merit's upholding of another's interests.

As a contract with an "alien enemy" is void, as being opposed to public welfare.

1. 135. 1.2. 1.2. 1.2.

2. 1.135. 1.135.

Determined in N. Y. (S. Tins) at a partnership existing between a great. If this country is a part of another, declaration of war between the countries for facts opening a partnership.

A breach of policy if duty. On 3.1.2. By. of an alien enemy is void. It promotes commerce by many. It gives our own citizens an interest in whatever ship commerce. 11, 10.135. 1.2. 1.2. 1.2.

2. 1.135. 1.135.
29. An ransom contract with an alien enemy is good by 3 Geo. public law & statutes.

31st Mar. 1793.


1798. R. 503. "Vis. 33. 32.

But an action will not lie, as a ransom bill, until there restoration of peace.

Marshall, in Febr. 31. 6 F. R. 30.

29. An ransom contract can only be implied in an admiralty, & not in by C. L.

Marshall, in June, 302. 620.

"Insurance," 33. 92.

Exception to 3 Geo. will rise where contracts in

Pl. with an alien enemy are made out of a state of hostility, & tend to mitigate the rigors of war are binding.

Dugl.

As treason, & cessation of arms, is also an agreement for an exchange of prisoners.

In Eq. ransom contracts are now prohibited by Stat. 2d. Geo. 111.

Marshall, in May, 299.

Upon some ground principle may indeed to make

Alliances, & truces contracts are

illegal, in bonds given for assistance in promoting mar-

riages,

1799. 375.

5 Geo. 411. App. 184. 1 Botett. 245. 1831. 19.

So as to promise & agree to by some kind.

29. Contracts agree may be unlawful as oppo-

sed to some maxim a principle of law,

hence if 3 consideration of a promise is a promise itself, or if thing stipulated to be done is the op-

pose to any principle of law a contract of unlawful

& void.

Boulbt. 1 Pol. 115.
Thus a promise in consideration of promise to give or lend, the exchange not made, his master was held to 7. Wall. 93.

Confirmation is opposed to principles of law, and so is, 26 Geo. 3, 80.

Do 17. iff. promise to suffer an escape.


Do of a third person who promises 1 iff. a sum of money to prevent an escape. The consideration is illegal.

Ifst. Gad.

To make a promise by any minister of justice to do an unlawful act especially illegal is void.

Esq. 20. R. 136.

But if in fact the makes 3 act unlawful, if it is unknown to 7 promise, a contract of indemnity may be binding. 20. Flint 7. 7th 77.

Gen. 43.

Ex. 10. The iff. is an excuse if in a fit, requests 7 iff. to take certain goods as a debt. There was no promise to indemnify him of someone’s goods. Ex. 4. brings his to a man, promise to horse’s indemnity. 42 Car. 27. 102 Geo. 7.

In keeping his promise. In a case of the 7 iff. 4. Ex. 10.

Obtain. All contracts, 7. militate 7. 13.

all morality and decency are void, on ground of illegality. Co. 543. 59. 725. 201.

2. J. R. 593. 256. 610. 102. 189. 229.

Ex. Maker as to 3 sold a bond for any corrupt purpose by a way of bribery is illegal & void, 7. if one makes a wager with a counsel a judge by way of baile, 11. 18. 19. J. R. 56.

(Toq 7. 87.)

So of a wager, if 7 baile for expence, is an illegal game, 241. 49.

18. 2. 2. 4. 2. Mon. 476. 7. 29. 3. 610. 1. J. R. 56.
But a wager between two parties upon a point not in point of fact is not void. 1 Co. 27. 16 E. 167.

A wager is at 2:1. 1st. Boar. 1646. Dr. 17. 2d. 20. 21. Malem. 196.

In debt, wages are void by statute.

No promise but knowingly at a time and place to game with

1 Co. 33. 270. 15. 156.

Another class of contracts are those made to defraud third persons; these are illegal and void. 1 Co. 433. 150. 12. Dr. 156. 12 R. 156. 14 B. 37. 23. Q. 154. 2 2 R. 1763. 123. P. 155. 286.

Ex. sprunt, letam too cutting to cheat a government.

In furnishing supplies for an army.

Contracts of this kind are void both in Eqs. 8
at law.

To a secret engagement. For a 8th part to a marriage to refund part of a marriage fee.

A contract may be enjoined to prevent a fraudulent contract from taking place.

3 Co. 250. 335. 188.

Ex. Thad gone to 600,000 or void. If no part granted, and if it

So contracts with brokers at auction, these are a fraud upon 50 persons骰 50 $ each.

94 wager between 65 803. 10. commit any immoral act is illegal act is void.

These passages marked their holding time.

III. 8. Contracts prohibited by 6th. law is void.

As supposed contracts are void.

Eqs. the relating to require 12th. Anne.

19 87. 76. 126.
contracts, are unlawful & void under 3. when some have been
some lawful acts. 2. having 1st be will not
produce in fact in certain parts of the land.

3. those to a 2. to a better to indem-
nity him for publishing a libel.—see 7. v. 1. o. b. 1912. 3. 1373. 7. 292, 378.
A secret agreement by a bencher with
another to pay money to a witness for giving a
certificate of vote by statute 5. Geo. 11.

Long. 696. 670. 1. 120189.

And if there have been 3. at 7. & fraudulent
or some other evil, it is money ought to be part of any others.

But this has sometimes been done so. 7. 580. 1. 120190.
A wager between two parties 1. of them in a
third person shall to any criminal act is void, it
is an intent to insanity. 1. 120195. 9.

A bond to save one harmless in commit-
ing a wrong is void.

Lev. 209. 120195.

Psa. 60. 10. 120100. 1. 1200. 3925.

There is a distinction between costs, bonds & se-
ance some of them only are lawful & some made void by 7. &
carry some are lawful & some void at 7. 7. 3925.
any former case & which instant is void.

2. 580. 7. 272. 1. 120199.
Inz 3 latter at 3 7. costs. 2. are lawful, 8 void as 7. costs.
21. & theretofore are unlawful 7. 6. 356.

When if an under 7. cost, not to serve 7. above a certain
and 7. also to save 7. lawful — cost. of 7. former cost is voidly
as to 3 latter good. the illegality of 7. former is by 7. 7.
But suppose a \\
\text{disposition.}

\text{The Court of} \text{common} \text{law,} \text{made void by law.} \text{v.} 237. \text{P. 331.}

\text{Proct. 260.}

This distinction in the conveyance can only arise from the difference in principle between the effect of a partial illegality created by law. \text{In} one instance the law, \text{may} or \text{may} not, \text{in} another, \text{result from a} \text{repudiation} \text{or construction of law. \text{In} such cases, the particular clause is void or security void, \text{or, according to} \text{construction} \text{given} \text{in} \text{words of} \text{whole} \text{clause} \text{or} \text{security.}

\text{If a} \text{contract} \text{merely declares a particular clause as a condition in an obligation void, the whole obligation is not the void.}

\text{But the} \text{an illegal act} \text{creates no right that can be enforced, yet, after} \text{it has been executed, it loses in some instances, carrying it to prevail, by refusing to act without liability in remediating} \text{it.}

1. \text{When an illegality is of such a kind that both parties are deemed criminal if the contract is executed, i.e., if unlawful act done. In this case, the law} \text{can recover each what he has paid.}

\text{In varia solutae hanc est condicio.} \text{Dugd. 431.} \text{v.} 48. \text{Bell. 131, 2. Wall. 22.}

\text{2. Dugd. 1012.} \text{5 Eng. 790.} \text{928, 555.} \text{1288, 9, 258.}

\text{Hence,} \text{while a contract remaining executory, or the act stipulative, is i.e., criminal action remains unperformed, either of the parties may recover back that he has paid. e.g., money paid to get a certain time to beat 12. If his binding is not committed, his money may be recovered back.}

\text{? 13.} \text{P. 121.} \text{Dugd. 445.} \text{18B. 209, 67.}

\text{Can. act to bind contract of a disposition on principle?} \text{Does it not then better to allow a recovery in both or in neither? Distinction disappeared by law.} \text{Wroth.} \text{v.} 275, 335. \text{Pep. 3.}
Hence decided ye, if money be deposited on an illegal wager $20, over with a lesser consent after 3 wager or decided, is not recoverable back.

Laws before 3 wager is decided. If money thus deposited has not been paid over either party it has been held then may recover from the stake holden what he has deposited. 1 N. J. 575. 23. 2 P 3. 298. Doug. 1357. 'Masters.' 1 N. J. 52. 538 Fulcher.

As to money deposited on wager, see 2 G. 9. 313. 18. 4.

Money obtained for 3 procuration, if an officer 38, may be recovered back before 3 officer has been procured, but not afterwards.

So too in a case of assurance illegally made.

Doug. 1768. 1 Prov. 2027 236. 2

But where a party, by bad money or an illegal contract is not himself the "participle of criminal" he may recover back, the contract has been executed by both parties.

My rule holds for protection of one party against another. 2 C. 24. 12. 571. 604.

Doug. 1669. 1 Prov. 2027 236. 564.

Ritter, N. T. 1829. 4 52. 564.

Diaries (1641), 1 72. 255. 1 718. 238. 1 Prov. 2027.

Being 6 every subject of 3 that 2 be exalted, & receive a more eminence.

This, however, is not to be more among gamblers for both are "participes criminalis" and must protect their own life.

so security given in consequence of a previous
contract or transaction forbidden by law, is not its course not. e.g. A & B. enter into a partnership for carrying on a smuggling trade. A pays all the expenses. B. costs, to 'pay, his proportion of cost. is good. 4 Harr. 209. 3 Harr. 448. 3 H. B. 279.

With "Partnership" 180. 1 Harr. 522. 6 Co. 87. 381.
2 B. & P. 472. 3. 7 Harr. 670.

It has been held in another suit, if A. pays all the expenses with B. jointly, if consent of party, y. law will cause a promise to pay.

2 Harr. 61. 4. 7 Harr. 620. 6 B. & P. 472. 3.

This rule has been much talked of, may now be considered as not law. 2 Harr. 679.
5 B. & P. 61. 45.

If to y. principal, if y. former decision it appears not to be law, there was no obligation on either party to pay the debt. 2 B. & P. 472. 3.

If a person makes a contract, B. making H. is made criminal by positive Law, be may be bound by it. (Fulk.) Than the D. not claim on it. e.g. by Stat. 21st Hen. 8. to it is offence in a landlord to trade, but if he trade, he shall be bound by his contract, as a trader (16th. 1762. ch. 19.) For 3 nature of a contract of not unlawful. his making it is not to do. The only way offending party, B. to object to the Law 4 months in the co-
student, not grant him an immunity, he can't take advantage of his own offence, or by 3 laws he has violated.

If he, at the time he was in smuggling only, he is liable to a trade to 3 Bankrupt Law, or 299.

If the object of a contract is unjustly useless, it is void. Ex. aggrandizement not to wash my hands without? no valuable end to the transaction. If no advantage to 3 party claiming it. 

If it not be eq. decency 8 morality & the void or qt ground? not to send? not to follow a fashion in dress? e. liz non eg red conum disabilities. 1 Boc. 281 2.

A contract is warrants affects a interest in peace of 3 person's void. Ex. (note 2)

a wager at a person committed a crime, or opt 

3 rd. person, void of a 3rd person.

1 Boc. 232. 5 Com. 329. 3 D.R. 469.

3d) Certain. (1 Boc. 180. 1 Vint. 270. Vint. 149. 182. 775.

Time if a promise to deliver goods in consideration of 3 is promise to pay money in a short time. If promise is pd. To be void (1 Boc. 180. 1 Bost. 927. La. Sac. 250.)

Because 3 is promise, the is 3 consist of it, if uncertain is void.

Part a promise to pay money with, a a 

pointing a time for payt. of good. It is 

present. Immediately (1 Boc. 180) for it creates a 

present debt (1 Boc. 123. 340.) if no future time 

is appointed in payment. No if no time is appointed, he has his 

whole life time to perform. Ex. To make a loan to delinquent.
But, if certain of such certain goods are left
and then if I promise to repay to D. whatever
he pays out in one or other of his certain,
(Poc. 18o. Bk. 197. Ch. 19o. 18 Decr. 2089.
(1 Bls. 569.)) so that the advances you make
may be expensed. (— at my own market price)

I, J., thinks I act right to be performed within a month.

On the nature & kinds of Contracts.

All contracts are executed or executory. (Poc. 28
Bk. 14o. — of contract of D. to be executed,
when parties transfer property together with im-
mediate possession, or (3) a present interest in
the right of future possession.

Ex. goods, &c. for &c.;(1) — on having land under
lease sells it to vest in possession, when leaseoter
mires, & receives price, here a whole agreement of execution
or both may.

* agreement to lease in consideration of an agreement to pay rent, executory in both

* Ed. ed. (End.)

Executory contracts are those by which one party
is placed in present but are prospective to some future act, or introductory to an actual
future transfer. Ex. an agreement to pay shall part
4t. in future.

4t. contract is executory when one performs im-
mediately & 2nd is destined. Ex. Loan of money
as a promise of present executory nature. * as
agreement all contracts are executory or implicit.
Mr.owell says express, constructive or im-
plied (18 Bls. 1996.) J. J. thinks express, implicit, embraces

42. 1st. (a) express contract as is in ch. 3 parts
stipulated in express tenancy; but (1 Decr. 44) I take
one or other. (Poc. 19. 19. Ch. 191. 568. 28. Ch. 120)
(whil at what rule of expiration contracts.)
De contracts. Constructive are such as are raised by construction out of instrument or express agents. Contracts, are diff. from what is instrument. Prima facie in. No. 2.

(see above page 37) and a contract. This is but a piece of land excepting a part of way to the cont. Part.

(see above) and to a cost.

To the reservation of rest in a lease.

(see above) and to a cost.

(see above) and to a cost.

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(see above) and to a cost.
be right to go on another land to cut trees brought
a way to a piece of land brought surrounded by persons.
In part time is implied. 1 Poc. 1267. 2 Bl. & Br. 1267. 1 Poc. 1267.
S. Leach 69. 2 B. & B. 266.

There is also a sort of implied cost. There
be breath in gear, holds over, to be con-
considered in case (as implied) as holding from
pr. to pr. time of a term agreement. 1 Poc. 1267. 2 B. & B.

There are some cases in Eq. of implied costs
distinct from those which arise in law.
Ex. Land held in trust for 3 women
by 3 widows until 3rd. Jan. 1 Poc. 1267. 2 B. & B.

Contracts are absolute or conditional.

All contracts are either absolute or con-

45. An absolute cost. if one in Eq. a for-
en binds himself to do for. absolutely
unconditionally. Ex. st. in consideration of a land
cost to pay rent.

46. A conditional cost. if one in Eq. 3 oblige
to do together either in whole or in part
depending upon some uncertain event approaching,
it is to take effect, to be defeated, to be longed to abo-

1 Poc. 1267. 2 B. & B. 1267. 2 B. & B. 1267.
Ex. if promise to pay $100 on condition at the mercy of
by such a day, a for the convey land by such a time.
1 Poc. 1267. 2 B. & B. 1267.

If 45. sells 3 acres to 2B. yet the shall
pay $10 for it in one event of $55 in another,
3 cost if conditional grand 3 cost. to be $5.
The distinction between absolute & conditional contracts leads necessarily to the unlawful condition. The effect of unlawful conditions vary according to their nature & extent.

1st. If an unlawful condition is annexed to an executory contract, the contract is void. If we are bound in an obligation to do an unlawful act, the obligation is void. 123. 312. 270, 313. 315, 316. 317, 318.

2d. If the condition militates against public policy, it is void. In restraint of trade see 1 313. 315, 316, 317, 318.

3d. The contract is not subject to rescission for insufficiency.

The rule is the same where the condition is for omission of any legal duty.


5th. In such cases, the party’s obligation from the bond, etc., lost he (in one class of cases, i.e., cases in which unlawful act is to be done by him) she, under a temptation to commit a crime. (123. 312) & relying on the benefit from it, lost he & she under a similar temptation (in another class of cases, viz., in the act of to be done by him.)
28. If an unlawful condition is annexed to an executory contract, it is void, only if void (generally).

Ex. If one make a conveyance of land with condition to be void, the conveyance is good, but if a contract executed.

Hence it add of the Law is not necessary to enforce a contract of conveyance, if being executed by parties.

Thus, if one makes a conveyance in grant, with condition yt. person shall do an unlawful act, consideration only is void. The conveyance is good in its estate unless absolute (101 Cas. 261. 12 Rob. 173.

Co. Litt. 205 b.) Hence yt yt person may be under no temptation (yet sup.) 3 Law secures 3 estate with the bargaining 3 condition.

26 Cas. 261. 2.

48. But the 3 effect of 3 condition in these two cases is slight, 3 principle is same in both.

In 3 former class 2 cases, i.e. when 3 contract of executory, 3 condition unlawful, 3 law will not enforce it. For 3 latter, i.e. when 3 contract is executed, 3 both parties are criminal, 3 law will not add 3 forfeit. As to 3 fact it is difficult in latter case 3 law leaves 3 parties to it.

But this latter rule holds only when 3 parties are in "hate solice" or both criminal, if it is otherwise when 3 forfeit is not "parties as criminal", as if a mortgage is made to secure money,
(wsh 15) in such cases 3 currence is void, 3 they 3 innocent party is protected.

No bonds in restraint of marriage are void.
The condition being unlawful. Esb. 153. 4. 3 Doc. 2735.

No bonds for withholdingewed. (Esb. 153. 2. 3 Pet. 159, 2 Milt. 333) No bonds to secure a reward for prevention of given before-hand, seeing as given afterward. 3 Nov. 1568. 1 Milt. P. 577, 3 Milt. 339.
2 P.M. 4. 32. in 3 former case they are an innocent, no immorality in 3 latter not.

All conditions repugnant to 3 nature of 3 contract are void. Es. 3 forfeit, i.e. fee a condition yet forfeit shall not abide, it shall not take 3 forfeit. The condition of 3 as. law & the estate of absolute. 1 Boc. 263. Es. 3, 9. 396. 2 Boc. 337.

But a bond on contract by forfeit ye will not, not abide, or yet he will not take 3 forfeit of good. For this does not disable him to abide 3. but merely subject him to his bond so if he does 3 (No.) Ex. bond yet forfeit shall have 3 forfeit. It makes forfeit a trustee to forfeit.

Conditions may be possible or impossible. Possible require no exposition (see 1 Boc. 263. 4.) Impossible are,

1st. Such as are so at 3 time of 3 contract being made, or 2nd. Such as become so afterward. 1 Boc. 264.

1st. If a condition possible at 3 time of making it, but afterward becoming impossible.
act of God, or if 3 Laws or if 3 parties claiming is amended to a contract executed, 3 contract is not avoided by non-performance. (Co. Lit. 206 b. 1 Daw. 264; 4 Th. 144 b.)

But if same if 3 condition become impossible by 3 act of 3 party granting 3 interest. then if it becomes impossible by 3 act of 3 parties to whom grant is made. In this case 3 grant is defeated a becoming void. (7 Daws. 420. Co. Lit. 210; 1 Jac. 155)

Ex. Jevon, grant, &c. - conditioned 3 Jevon shall within 6 months go to London on Jeffrey's business, Jevon may within 3 time, the Jevon becomes absolute. 1790. 20, 97, 107. 1791. 20, 97. (1802; 1805; 1811)

For 3 estate is executed & can't be devest by default of Jevon's non-compliance. In other words 3 law will not deprive him of an interest already vested, he has been guilty of some default.

50.

Do of Jevon, on condition 3 Jevon to perform a certain voyage to Jevon's. The voyage is then prohibited by state.

It becomes impossible by act of Laws, or by legal consequence of time intervening. 2 P. W. 221; 13th 195.

53, 63. 72, 63. 12, 12. 15. 1879.

7m. makes a grant to 3, with condition that he may go within six months, if party within 3 joint's money another non-performance becomes impossible by 3 party's grant, his money absolute is granted. But if such a condition is amended to a contract executed, it becomes impossible by 3 act of 3 3. 8 c. it is amended.
Having a contract being executed, no advantage can be taken of an omission, for non-performance till there is a default in him.

If the devisor himself incurs it, by his own act, he is culpable of it, and can not take advantage of it. 5 Co. 21. 2 Co. 22. 8 Co. 110. 17 Co. 210. 12 Co. 210. 5 Co. 21. 5 Co. 21.

Upon a bond with condition, if the bond shall appear at any time, the obligation is discharged. 6 Co. 92. 6 Co. 70. 6 Co. 70. 6 Co. 92. 2 R. 23. 1 P. 41. 420. 5 P. 41. 417. 12 Co. 210. 10 Co. 210.

Again, if it gives a bond, yet he shall many obligations within such a case.

If ass. 5 Co. 210. 5 Co. 230. 5 Co. 520.
6 Co. 260. 6 Co. 260. 6 Co. 260. 6 Co. 260. 6 Co. 260. 6 Co. 260. 6 Co. 260. 6 Co. 260.

If ass. gives a bond to B., conditioned to expect evidence to him by such way as the law permits, to prevent such a contract from being discharged, it will not.

If he obliges another for every non-performance, he cannot claim any penalties. 17 R. 638. 12 R. 583.

For 203 Art., 12 Co. 273. R. 582. 1 P. 419. 2 P. 590. 7 R. 383.

If 3 act and a stranger is by his terms 32.
If 3 condition is made necessary, as end.
If performance of 3 condition, 3 stranger arbitrarily refuse to furnish this evidence, 3 obligee is liable for non-performance, even after he has performed.

Note: case of evidence vs. blow. Sec 2 471. 836. 5 Co. 271. 5 R. 710. but yet was not case of condition precedent (52). 721. 836. 836. 5 Co. 271. 5 Co. 271. 5 Co. 271. 5 Co. 271.

Suppose 3 condition, subject.
If a condition of a land becomes practically impossible, by act of God, etc. The obligor is bound to perform that is possible of 3 conditions or nearer to it. "accord." Com. Pt. 2, Ch. 12, Sec. 21, 232, 244, 246, 248, 250.

Example in a case of 50 yrs. in which it is prohibited (Platonic Law) 28, longer than 10 years in 20 yrs. Oblig. must cease for 20 yrs.

If a contract contains a clause making it certain whether a condition or performance is not, yet clause is void. 2 Enc. 557.

A man can breach in his own case. True for 21st. In 1818 in property breach, resolved it in an agreement to sell goods in according notes, woman can refuse such as the clarity goods.

The jury are to decide the question, independent of any other opinion — it is a question of fact.

Where a condition is impossible at the time of making the contract or operation depending upon its being impossible or precedent.

A condition precedent to one who must be performed before no duty is incumbent on depending when it can be done at all.
Rule.
To a precedent condition is assignable at the time of making a contract, of want or not wanting upon it of all results or effect.

Co. L. 206. 2 B.Bl. 206. 
2 Dowl. 206.

For no right to upset a contract till a condition is perfect.

If a precedent condition is assignable at time of making a contract, but becomes impossible afterwards, yet no right can be upset. (I.e. presumes they a clear case that he finds no authority in 3 books.)

But if a precedent condition is unassignable, no right can be acquired by performing an unassignable act. 2 B.Bl. 159.

Ex. lease to A. to take effect in a future day, if before that time he shall so a certain illegal act.

If no subject condition is assignable at a time of contracting, it may no effect which.

Co. L. 206. 2 B.Bl. 206.

Ex. a contract made in 13, yet to be fulfilled in 18. it is impossible.

Ex. a contract made in 13, yet to be fulfilled in 18. it is a legal moment.

For in 3 cases of a precedent. estate is vested. in a 3 clause of 7 kind. 3 penalty is "determination in present," 8 a void condition can be upset either. 2 B.Bl. 157. 257. (rule 326.)
34. In the case of executory contracts if the present impossible condition is incorporated with the body of the obligation, instead of being unexecuted or unexecuted in form, it is a delict, the (D. 24. 1721, 2, 2026) whole obligation is void.

So in France there is no distinct contract, no distinct final act, creating a present debt, it is rather nature of a contract, since it is not must be so in effect, as per the words in every case of this kind. The C. L. distinction between special & simple contracts is post.

35. There is a distinction between written & unwritten contracts. introduced in certain cases by 7th s. of 3d of效力 &尊严, 13th 221, 2, 2026, 11th 221, 2, 2026.

But that no same subject was enacted in 1771 & 1813, as far as it extended to a same subject, substantially, a transcript of the English. 1st Comm. 552.

Under 7 of the of freedom & dignity, the following 2 following contracts a agreeable will not support an action at law or in ch., in some agreeable on some note or memorandum, as it is in writing, signed by the parties to be charged or by some other person by him authorized.

36. 1st A promise by an Executor in administration to answer out of his own estate for any debt or duty of the testator so such a promise not in writing does not bind him.

2nd A promise on one person to answer on the debt supposed a memorandum of another.
3rd A promise in consideration of marriage.
The object of a Stat. is to prevent a person of contracts of the description of, and in other cases, it being impossible to them by reason of goods, when in giving it.

It has been 56. 46 or 4. because these ought not be a real promise. The statute of 37. 142, as to quia empto, constitute a consideration advantageous to himself, & to a transaction acting personally. In no authority in this case. 108. 175. 1 Rob. 206. 7. 19 R. 280.

The Stat. does not proceed upon a distinction between agreements with consideration. The Statute by itself, but a promise as made with consideration, and have been void before they were made, is of every good promise upon consideration, goods, since it. Stat. pronounced a void letter. (I) (not st. 9)

It intimated: proof of assets will clearly not raise an implied promise to change 3 exec. personally. 35 R. 690. 58th of 464. One held to estates by the signature. 207. 35 R. 313.
59. Although an admission of a claim to a settlement, or an alleged obstruction, to an admission of offset.

(1896, c.42.) This is overruled. 8 N.R. 632. 7 N.R. 450. Dall. 602.

In an administration, may be copies of accounting, or receipt, and, besides knowing whether he has offsets.

But if no such subscription, or the account, or administration shall pay a certain sum, he can not afterwards deny offsets to the aforesaid, or to the other party. It is equivalent to a finding of offsets to that amount. 7 N.R. 483. Dall. 426.

Same rule holds as to Ex parte “Concern.”

But acceptance of a bill of exchange by a drawer, or an admission of offset, for a payment, by an officer or notary, shall be admitted. 1472, 21 Ed. 2. 1662, 3 W. 12. 1663, 2 Eliz. 12 (1744, 12 Ed. 20, 1745, 13 Ed. 25, 18 Ed. 2) sec. 25. Persons might be represented. Besides, as act plainly, imposing offset. 16 Ed. 2, a transfer by blank, Ex. 14 Ed. 2, 15 Ed. 12, 16 Ed. 12, 16 Ed. 49.

So if the excess of a holder of a bill endorse it over it himself.

50. 17 Ed. 2, 17 Ed. 20. It is no admission of the payment of offsets.

But the promise he in writing, he is still not bound, and a sufficient complaint, as shown, as exists in his hands.

That 2 persons were indentured it not support.


It is a simple contract only.
The object of 3 Nat. is not to make z Coven.

1st to make z Coven. Personally liable on

2nd to make z Coven. Personally liable on

3rd. But in fact, if every writing of

The contract must appear in a writing, when not in clause 1st. 3 East 18 330 187.

But 2nd, to be a specifie act. 8th. Gu. 292.

To take advantage of this clause 2nd must have been done for that he made z promise.

3rd. Promise by one in consideration of being,

5th. Not necessary to and salary in an action: no promise, for debt is subject and at all "to bring to trial." 61.

2d. To recover for z debt. Default or miscar-

62.
be a promise to answer a debt of another, in 3 persons it is not.

Note. The words "original" or "collateral" are not used in it. The original promise is not one to pay another's debt, but one own collateral is to pay another's.

If promise is to be original.

When 3 2 persons in whose hands it is made is not liable at all (for some other duty) to a promise to ye. There is no

3. When the liability (that before existing is not extinguished by a promise being made)

4. When there is a mere consideration arising out of a new & distinct transaction a new debt moving to promise.

5. To a promise of a debt or other measure of what is to be paid for another object.

For which case answers either of the above descriptions, the promise is not in construction of debt, in effect to answer for a debt of another.

6. But when a promise is merely in aid of a subsisting containing liability on the subject part of such as person, or to procure consent for him (i.e. to procure any personal additional security or instrument in collateral to be within, but not a new transaction) as 185, & 38, pl. 2, B. 12, 12, 12, 12, 12, 12, 12, 12, 12, 12.
Did not to answer for another debt, but by own.

But of A. had B. deliver to J. D., or if he does not pay, will it be collateral? Coop. 227. There's intent to get charge, that he may prevent instance vs. J. D., receiver.

He is exig for original Debtor, & his promise of course collateral of 17 C. B. 122. 2 C. R. 1086.

Val. 48. (to 102.) Is it exig a promise by J. D. to pay J. D. Debtor, in aid of his liability, & to procure credit for him. Rob. 229, 230, 231, 181.

So to supply my another in Law with lands he will see you judge, holden collateral in such according to latest opinion, prior, or else, because of my presumed intent as in last case. (to the R. & 50.) Rob. 229. L. R. 229. 123, 181, 118.

Val. 58. relating 3 debts.

Laf. Mansfield yet such a promise depon, delivery of 3 paper, way original, then being no liability on my person. (Laf. 238, 231) and confirmed. 2 B. R. 11. Rob. 205, 10, 18, 205, 10. So that, better the L. Mansfield's construction of 3 promise is not correct in the words, whether my intention is not yet promise shall be made 3 Debtor; in 1st instance, it is my hold, yet being promise, he is in this form of court, in collecting 3 intention, are at liberty to consider all circumstances of case & situation of 3 parties. 123, 181, 181, Rob. 227. 46. 223.
65. "Sugar such a seaman bound to Carter with necessary for 3 voyage & at y end if I
money I will see you edw." — This I will
think original of owning an understanding
it 3 necessary were to be charged in VIsi-
tance to 3 promisum.

"If you do not hear d. you know &
I will see you P.D. " holden collateral a.
to be first charged (c 3. 40. P. 90. leg. 10. 10.
Rook. 8. 20. 27. 24. 13.) such 36 3 evidetl collenal.

(1. 2. to procure need e. a. above)

Again a promisum by me to 3 owner of a horn
yf. if he will let him to P.D. I will see him
holden collateral. Rook. 217. 212.
Leg. Rook. 10. 8. 6. 1. 23. 25. 27. 27. 24. 14.

who it is a guet. Rule, yet a promisum by
one person to anyone in 3 act of another
as collateral. Leg. Rook. 10. 85.

65. If P.D. promise 13. yf. C. shall pay mo-
oney & if not, P.D. will pay it. C.
being no party is letting to it, it is in
substance original the Thir own collateral.

7. Let me your house if I
shall pay you if he rep not & will,
Rook. 120. 17. 8. 3. 8. 23.

To of an agent buys goods at auction
he pays not name his principal to agent
is bound with same. (Dec. 40, Rook.
27. Rook. 19. 75. 21.) for he contract as for him-
sell.

To make 3 contract collateral at y end me
every 2d party to whose benefit it is
not only be liable upon 3 same consideration,
but here he is a become liable at 2 same
time when 3 others promise of make.
Ex. R. 1037. 2 Rob. 279, ex. n. 292.

And upon 2 same contract 2d party
promises makes a payment, in the last case:
If after goods are delivered to 2d
party, at 3rd party is not to pay for them,
then he is liable to contract to pay for them
and promise is still original — he was not
liable when promise 2d. Ex. Rob. 1037, Rob. 472.

If 2d promise to 1st party to several persons already
liable at 2d original & not within 3 that, for it is
not to pay 2d debt of another. E.g. promise
to pay costs by one of two debts. 5 M. & R. 268.
Rob. 279, lard. 362. 2 Camp & 212. 3 M. & R.

When according to 2d distinction under this class
of cases 2d promise is original, 2d common action of
debtorship against not stating of special agreement
is proper. In 2d promise is 2d original debtor.

Leaves when 2d promise is collateral. There a
special case, if necessary, as upon a written collat-
eral promise. 2 How. 573. 1 Lec. 562. 2 R. & R. 108.

2d. If promise in consideration that 2d promise
will extinguish a debt 3, a third person 2 original,
& it is not in 2d of a continuing liability to
2d person or to obtain credit for him. Ex.
R. & R. 107. Ex. 2d parties 2 shall pay 3 debt. The
promise 2d is 2d of 2d is only a measure of 2d with it to be
paid as a rule of construction see 1 1, R. 106. R. & R. 111.

2d. 2d promise in agreement, that 2d promise
will extinguish a debt 3, a third person 2 original,
& it is not in 2d of a continuing liability to
2d person or to obtain credit for him. Ex.
R. & R. 107. Ex. 2d parties 2 shall pay 3 debt. The
promise 2d is 2d of 2d is only a measure of 2d with it to be
paid as a rule of construction see 1 1, R. 106. R. & R. 111.

This is not a promise to pay a debt of another, but to pay a debt of another, who has transferred it. Ex. Transfer to me to A. Or, I will pay you a debt of it. It is not a promise to pay any chattel.

Where there is a new consideration arising out of a new & distinct transaction, & moving to a promise (i.e., according to the benefit of the promise original.

A. sold Ex. Williams in London, & at 3 Landlord came upon 3 Landlord to支付 3 goods for rent - I, to whom they had been sub- 3 rent of 3 Landlord, 3 not estatic 3 goods, (the goods remained edible.

67.

The consideration arises in a debt case. If, under a distinct transaction & moving to a promise of abandonment of lien (or was a valuable interest) in this favour - 3 Bever. 1026, 3 East. 212, 212. 3 Bever. 1026, 3 East. 212.

It was in consequence of 3 goods being produced in favour, the debt was only a measurement 3 goods to, & the payment of 3 goods to another on 3 promisc. (as promis. above to) see 3 East.
Miscellaneous Rules.

Applicable to all judicial cases.

1. A promise to pay a certain sum in consideration of promisee's withdrawing a suit or application for a debt or debt bill has been held binding; for there was no debt due from him. If it did not appear at the time, it was held to be insufficient. 2 Day 157. 1 Will. 305.

2. The promise was not for performance of some duty. 1 Ch. 33. was never liable to pay the particular sum promised, as to some particular duty. The promise was intended to settle.

3. There must exist a debt. A promise a debt or duty is contained at the time of the promise to bring the promise within that. It is capable of being ascertained. ante 15.

But a promise to pay a certain sum in consideration of promisee's withdrawing a suit or debt or debt bill has been held binding. The debt must exist. If it does not exist or interest is not being abandoned as in other cases by promisee. 2 Day 152.

And a promise yet in consideration of promisee abandoning an action if co-owners 1 Ch 33. promise in 28. pay 3 damages - if collateral & within 3 days.
same duty - it is to pay 3 pence sum due.

it is liable to pay, i.e. value of 3 pence.

Suppose 3 pence to be in consideration of promise withdrawing it not be good in Eng. at 2. 26. 2.

To bring another suit - to get if it is liable.

It is extinguished.

A promise to pay 1. 1. debts of debt.

To release it. 1. taken in meuse process if collateral (if 1. think) for 3 debt continuing.

it may be arrested again.

remarks (2. 1.) if it had been taken a final process, it was thus released, in releasing him it. discharge 3 debt.

57. Have supposed pt. when there arises a new consideration a plain promise to answer for 3 debt, &c. if another is good whether 3 consideration moves to 3 promise not of a mutual transaction is not of whether 3 debt is discharged not a not - ap. In baran of it a suit, 2 Whipp. debt. 3rd. 1. Bull 281. 2. 7. 2. 2. 2.

utra. 87. 2. May 137.

But this is not less. The suit. to be maintained by 3 mile unless it is same as the suit. to be said on it. for 3 plain promise of not be good at 6. 3. with a condition, if not now good whenever there is a court.

It have no effect, if the 3 promise is in writing it is not good without condition.

1887. 2. 6. 330.

70. A written promise to pay 3 debts to another if this does not, is discharged by promiss
granting observance to his debts. There is no
direct understanding yet his creditor is to collect
of his debts if he can. Nov. 397.

At judicial confusion of debt, excluding
necessary by proof will prevent the opera-
tion of 3 Stat. 46. ex. tenor placed
in money part into C.p. in 3 part
promise if not made void as a promise.
The Stat. merely excludes judicial evi-

t to establish it. 3 Run. 4. 5. 30. 16. 228.

When accord to 7 above rules the
promise must be in writing to be binding,
it is not necessary in declaring it will
gt it is written. It is sufficient if it ap-
pear in writing. 3 Stat. introduces a new
rule if evi. & 10 10 1892.

3 Ch. 11. 6. 1890. 202. 12. 1892. 1896. 1 Kenn. 9. v. u. 1.

This rule holds as to all contracts con-
templated by Stat. 17. 29. 12. 1890.
3 3 3 5. 3 16.

Ego, summarizing to 7 seen expressed a pro-
mise, in no, perhaps it cannot be objec-
ted under 2 sum. 7 3 promise is not in
writing. 7 3 1890. 16. 228. 0 in them
then can be no evi. of 3 fact.

Decay of such a contract is pleaded in
chin to another action, greater strictness is re-
quired in a case than in a decree. 2 Will. 19.
But it is necessary, in declaring as well as
in pleading, it has to show a consideration.

A promissory note to pay the debt of
another is also no more of another than thing, (as to de-

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But it is necessary, in declaring as well as
in pleading, it has to show a consideration. 
The writing is not required to be in any particular form. 1 Pet. 310. 1 Tim. 6. 79. Prov. 300.
1 Cor. 12. 8. 30 Th. 8. 01. 30 Th. 8. 105.
A letter is quitt.

But it must appear yt 3 other parties
receiving letters is accepted yt terms
secure no agreement.

Hence since further if an intended wife
wrote a letter (containing) to her suitor sh.
was not shown to her intended husband before marriage.
9 Th. 13. 18. 21. 7. 1874. 3. 38. 65. 1 Pet. 3. 173. 173.
You may no agreement.

But a letter written to one agent stating
trust to an agent made by both, is
duly quitt. memorandum of yt agreed.
Rev. 3. 29. 22 Th. 8. 01. 30 Th. 121.

And since an agreement is contained in
a letter, it must particularly show
1 Th. 12. 1 Pet. 177. 2 P. 13. 66. 02. 11 Th. 326.
Gen. 29. 20. 30 Th. 106. 191.

3. The law - the Contracts of land & tenements.

the certificates, or ye any interest in or concerning them.

Unlessthis is, it is hild, yt where an 15.
article (not) annexed to a freehold, is sold
it is not within. I howe not in contemplation
of Severance.
Lev. 182. 5. 30 Th. 687. 30 Th. 862.
Lev. 65. 30 Th. 93. 214. 30 Th. 162. 1 Com. 2850
of tripp, growing only.
Russell. 280. 18. 30 3. 297. 3 Day. 6.
Potatoes are considered annexed but they not.
how to take them out & whether 3 freehold 3
so as to take 3 meaning piece of a mill.
of hand agreement with y owner of lands
to divide y crop of corn is considered good.
103 & 104 Car. 1797.

See 1 Knox. 151, 155. 1 Eg. cas. 119, 1 Doe. 279, 280.
formity held
1 P. 76, 770. 1 Knox. 221.
23. 30. 2 Doe. Ch. 54
565. 6 Doe. Par. 50. 1 Doe. 281, 3. 100. 157.

In land, a hand promise to pay for land has been held good.
1 Root 555, 575.

There are some cases where hand agreement under special circumstances, may be enquired of, the agreement is provable contrary with i spirit of i 3 Stat.

For when there is no danger if fraud, it has no precedency.

Hence a a bill in Egr. for the specific performance of a hand agreement. i depts. confessed of 3 agreement, he is bound by it, because here there is no danger of fraud, no necessity of proof.
1 Rev. 111, 131. 3d. 207,
91. 58. 203. 28. 68. 1831. 180. 106. 105.

If 3 depts. in his answer confessed 3 agreement, & say not plead 3 Stat. it can be enforced.

But then he confesses, if sect pays 3 Stat. it can. be enforced.

100. 55. 181. 100. cod. 215. 4 100, 180.
the Hardwicke says 2 Chit. 155, that when the dept. confes-
ceeded, then he said, plead the Stat. 3 Count., or, enclose contracts.

2. 3 Rad. 3 Br. Ch. 208, 319, and where dept. confessed and 9 12, 8.
then pleaded 3 Stat., the contract was still exposed.

2 Rad. Ch. 308, 2. Mansfield says 1 St. 36, 36, 650, that a smart agreement, as he dept. is out of the Stat.

2. 3 Rad. Thurlow thought, 1 Br. Ch. 289, he thinks
by only effect of the Stat. is to prevent partly from recover-
ing the agreement, relinse 1 Br. 170. Rob. 167.

On the other hand in 2 Ten. 36, 63, it was held by 2. Loughborough, that if the dept. confessed
the agreement, 9 then pleaded the Stat., it did, not expose him. 2d. Roland & Parson, Lyde held the same
opinion 1. 3 Ves. fr. 23, 5 30, 533. 2. Br. Ch. 513, 4.

It still remains question velox. 19.

The later opinions are that a contract can't be exposed
where dept. confesses & the Stat. is still.

1 Br. 170. 1. 3 Ves. fr. 23, 5 30, 533. 2. Br. Ch. 513, 4.

He thinks, 3 Dept. confesses, there is no payable
claims a remedy on the agreement. The rule itself, 3
confession takes 9 out of 3 Stat., seems arbitrary.
2 Br. Ch. 513. And if the Stat., knowing the agreement, to be by fraud, can enforce in one
case why not in any other — as little danger of perjury in one case as in another.

It is also a question unsettled whether a dept. in
the same bill for a specific performance of a
past agreement, for the sale of lands & c. is
bound to make answer either confessing or de-

2. 3 Rad. Mansfield that he is bound
contra Dell. 157, 2 99. 155.

2. 3 Rad. Thurlow is of the same opinion, is that the only ef-
fect of the Stat. is to prevent the dept. from proving the
agreement. 2 Br. ch. 75, 207. 17th p. 557.

The Massachusetts Rec. 2d p. 70, 75. 8th p. 750. 9th p. 175. The
plaintiffs were bound to answer, & that his confession
taken it out of the statute.

Lord Mansfield, in the case of 19th of November 2d p. 70, 75. Because compelling the defendant to
answer a partial agreement, keeps him under temptation to commit a perjury. What then? This ob-
jection holds equally in every case in which a defendant
is bound to answer. Whereas the statute intended to prevent, it was to prevent folly,
from swearing partial agreement, or out of the statute.
besides the objection might be excepted to, compelling an answer
of the agreement, or written in the case in which the defendant is clearly
compelled to answer. This question whether the
defendant is bound to answer depends on the question
whether his answer will bind him or not,
whether his confession will take the case out of the
statute or not. If his confession does not take the
case out of the statute, or his insisting on the statute,
will avail him "non pro" compel him to confess, or the statute, or the
negotiation & indeed would than
negotiate to compel him to answer. 20th, 175.

It has been held in cases, that a party to a partial agreement, for sale of land &c. has he denying it by an-
swer shall be bound by it if there is a previous
confession out of court. 20th p. 275. 17th p. 293. 17th p. 293.
This cant be law.

Upon the same principle except there is no danger oppor-
tunity to perjury in the proof, a partial contract for pur-
chase of goods at a vendue sale, before a master in
con, or even of the latter, of binding, so the latter, would in high on evi-
dence of the character of the Officers, that they think there is

8th
no danger if their committing any injury. 1 Brev. 414. 44b. 218. 220. 1 M. B. 229. 1 Brev. 418. 484. N. B. 229.

As a formal contract between two individuals in the form of a lease mortgage and mortgage was secured for some reason. 3 Brev. 453. 416. 104.

There are many respectable authorities yet a formal contract respecting an interest in land may be created independent of circumstances within the meaning of that. Ex. Rule by land by absolute gift, joint vendor to joint execution giving an obligation to joint vendor to joint suit. If a condition remains in suit. Pays taxes, does not account for profit, pays no rent, pays interest on its obligations. (4) 1 M. B. 429. 2 Vern. 96. 129. 62.

Pleas. Ch. 526. L. 60. 51. 624. 587. 127. 515.

For another case, on its principle yet a still more to prevent fraud, ought to receive such a construction as will protect or encourage it.

In any act of to be liberally construed.

1 Ta. 414. 6 2 Brev. 414. 5. 112. 1. 102. 600.

Hence a personal agreement partly performed on one side at 3 request in with 3 consent of 3 other party, will bind other. 88.

Ex. agreement by bond to undelete.


2 Brev. 372, 561, 561, 5 482, 124, 5 125, 124, 277.


Therefore it might take advantage of his own fraud in his exceeding or permitting personal performance by not intending to perform himself, it in itself a fraud.

3 Brev. 57, 5. 4 Brev. 501. 1 482. 482. 5 Brev. 597.

Indeed in such cases the agreement has been often paid to the terms that are not precisely settled by the parties. 1 Brev. 447. 4 Brev. 48. 17. 5 Brev. 621.
Delivering person of land in consideration of
money, and present with the requisite performance
in want of words.


The consideration signed in for that purchase money
by a vendor does not take any case out of 2. 100.

Madison Ch. 202, 245, 280, 275, 280, 292, 270.

6. 202, 275, 280, 292, 270, 280, 292, 270. Because the money may be re-
covered back to 2. 100. When vendor is placed in state of free.

There is no need of enjoining performance for
money to prevent fraud.


Must part of earnest is by all the preceding not a

This is not in any sense in part performance not sub-
sequent to 2. 100 in performance of 2. 100. 2. 100 cannot be made the contract — a form in
consideration.

Here, Good says that if earnest money may be
then 2. 100 does not in part performance not sub-
sequent to 2. 100. 2. 100. This is
inconsiderable as not conscious. The earnest money
may never be recovered back. 2. 100.
...a real, agreement. It must be performed by evidences in such a way as to bind vendor, will be valued by heir. 1 Pet 3. 11. v. XIII. 2. 11. 11. 11.

It is to take the form of an interest on the ground of past performance. The act done must not be such as would prejudice the party claiming performance, unless the agreement were enforced.

Since past performance is one of the conditions will not entitle it to a decree.

1 Pet 3. 11. v. XIII. 2. 11. 11. 11.
1 Pet 3. 11. v. XIII. 2. 11. 11. 11.

And the act claimed to have been done in past performance must not be taken as such as in the opinion of the St. B. not have been done but with a view to perform the agreement, otherwise it is not now considered as past performance. Ex. licensee agreed to take a new lease is continued in operation.

This was not mere a part exempt or to take the view out of the flat. Thus only remained of the vessel.

1 Pet 3. 11. v. XIII. 2. 11. 11. 11.
1 Pet 3. 11. v. XIII. 2. 11. 11. 11.

Vessels preparatory to the conveyance or part of the contract are not affects — all giving directions for conveyance. Being to take the estate as the vessel is employing a servicer. These are merely introductory in auxiliary to a conveyance.

1 Pet 3. 11. v. XIII. 2. 11. 11. 11.
Marriage by itself is not considered a part of performance of a valid agreement in consideration of marriage, but by the terms of such contracts they are not to have effect unless the marriage takes place. To consider marriage the only performance, depending on written evidence, in every case is the chief and palpable defect, and leave the contract as at law. 1 Q.B. 770.

But it is said that a valid contract in consideration of marriage is a valid reason of a father to one of the parties if taken out of the state of marriage of it to keep place with his consent being a grand 2. be affected on the parties to the marriage. 2 Durr 259.

So cutting down timber in consideration of a marriage agreement was held to subject part performance to bind the other party. 1 B.R. 133. 7 Ex. 1724. art. 25.

Upon the same principle i.e. to prevent fraud as a written contract respecting an instrument in land or any other subject may be contradicted by proving the invalid agreement of there was a grant in the execution of the instrument.

The grantee having obtained a deed refused to execute a satisfaction according to the grant.
The case of a marksman is at the 357. Second
up to the contents of a deed, — that of
the verbal agreement being the necessary means
of proving the fraud.

So a verbal contract of any kind may be
proved here if only inducement is an ac-
tion for fraud; or the action is not
on the contract. 2 Dea. 521.

And the agreement is but an instru-
ment or means by which the fraud is effec-
tual.

So that proving the agreement is only show-
ing the manner in which the fraud was effect-
ued, so they in effect proving merely the
fraud itself.

Ex. Action on a conspiracy to do
fraud 527. 6 292. 6 271. 6 271. 5 15634.

The same may be done in case
of a mistake in execution.

1 Ex. 158. 173. 1 Poo. 157.
2 172. 200. 1 Poo. 438. 1 172. 200.
2 Ex. 356. 6 292. 6 271. 6 271. 5 15634.
When a written agreement may be construed by a parol one (you may see Powers of Attorney).

It may be construed by a parol, agreement, by a parol agreement, to rebut an entry.

Ex. of written agreement, afterwards discharged by parol.

2 Rel. 293. 3 Rel. 295. 1 Bos. 259.

This rule is peculiar to English.

In England by Nat. 11th Geo. 3d. "intentional" (s. 27) dies in a parol deed "as the agreement, up to rent may be given in evidence to ascertain the damage.

13th. 27. 26. 20. 66. & 26. 527.
2 Rel. Rep. 127. 1. 324. 3 1. 141.
2 Rel. 114. 1. 21. 355.

If in bond. This instrument is not the contract; the "debt" is, "suff. being considered as the higher interest.

26. 20. 44. 20. 26. 36. 254.
1 Chit. 25. 1. Coll. 5. 6. 16. 258.
415. 26. 24. 3 1. 15. 1. 1. 257.
5th. The Contracts not to be performed within one year, &c.

Contra. to be an act of 9th.

6th. 6th. They clause very not extend to any agreements concerning goods &c. (1 Bosc. 276, 1 Term. 183, 8 Term. 327.)

because (if it may, &c.

The preceding clause has made all such provisions intended to be made of that kind.

If they be contracts not to be performed within 3 years, they do not be binding.

When they performance is to take effect in a contingent event, the may or may not happen within a yr. 3 cont. or (within 5 or 6) not be in writing. Ex. On return of a ship, or any shipping.


This a promise to leave or sum of money to promises by will, as is not within 5 yr. because not to be performed at a distance greater than 1 yr.

In terms of it.

Brul. 280. 3 Brul. 1278. Law. 318. 17.

Not to make it not. binding there is no need by contingency it actually happening within a year.

And even as to their asholding held in Comm. 891.

In some respects (See Post 87.)

The clause then extends only to contracts the according to their express terms are not to be performed within a yr.


6th. The 6th clause of contracts are contracts of goods &c. merchandise of a value of £10 &c. 1815, have in debt. It seems not require a distinct consideration except get 3 consideration need not be bear in writing, 3 bargain only being regarded be written. (East) 307.
The terms of an agreement, in a memorandum not being sufficient, definite may be made so by reference to some other writing, or extrinsic facts.

Ex. A agrees to purchase of B at a same price y t. to pove.

30th. 21. 30th. 22. 5th. 18.

It must also appear to the other party accepted 3 time 8 acted upon 3 offer, since no agreement.

But when 3 writing refers to something extrinsic, if 3 thing referred to is not sufficient, to designate 8 make 3 contract contain no other word, if capable to make it more 40.

In 3 thing referred to becomes part of 3 agreement.

17th. 2. 22. 50th. 108. 4.

But 3 term "writing" is used in it's most extensive sense, as printing or engraving language.

For an advertisement, written or printed in binding.

103th. 189. 1731. 1921.
An instrument intended as a deed, but intended to operate as such from some mistake, a change in the relative position of its parties may be evidence of an agreement. In e.g., the case example:

Ex. The omission of suffrage is an deed.

Ex. To give to wife by husband, before marriage,

But no writing a memorandum can be an agreement. see St. (privilege 57) about the parties.

Ex. Ruster & Whittard,

1st P. 97. 2nd P. 109.

But this agreement. see must also be signed by the party.

But the meaning of put signed is to be noted.

Of signing:

Not only a subscription a signature at the foot of the instrument, as usual of a signing, but it is required of the party's name be inserted in any part of the body of the instrument. It is to signify authenticity.

Ex. 167. 3d P. 169. Viz. 2 P. 115.

Ex. Limit. between A. & B. in deed.

Name must as to devises. Devise 17.

Ex. 186. 9th P. 235.

183. 8th P. 238. 9th P. 190.

But where a name appearing in a body of writings is not intended to give authenticity to it, it is not a signature.

Ex. of writing containing a name with instructions.
It was once held that if any intersections were made it was insufficient; it was a signature.

The signature of one of the parties would be taken as evidence of their writing, as a subscribing witness of binding.

The signing must be by one party to be binding on the other party to the extent.

It is such a party as whose consent is binding, and, if he is engaged in that name, as if a name were added to his name.

There are some doubts as to the legal rule.

Yet she sees no ground in want of mutuality.

Yet if a party is to be bound if he authorizes B to sign, it has been held so if A procures B to sign or induces him to sign.

But if A party not signing leaves a bill, B party signing, it is held that B does not receive for A party, and he is bound to perform under contract.
It has also been held not an authentication subscribing the highest bidder, name in writing of sale is a sufficient signing, for this reason a

suff. signing for both. 100 N.B. 99, 1 Br. 132, 250.

2 B. W. 1921.

But this rule is now confined to 5 on. 10th.

of contracts, & no others.

1 103 H. 266, 1 102, 107, 103, 88, 298.

2 B. M. 256.

(See 5 267, & 102, 115, manuscript.)

But if an interest is large, it seems to be

not sufficient. 100 N.B. 125, by subject matter

6, stocks and shares; or after sale a money (Yankee).

But it has been doubted whether sales at

auction of any kind, are in any case within

3 Stat. 1 because, an auction is a public

transaction & therefore little danger of

falsifying. 100 N.B. 203, 2 Br. 183, 3 Br. 1921.

2 B. M. 250.

But if this there is judicial decision, no

court authority.

The Stat. does speak the contrary.

A printed name on one engrossed may

be as good a signature as one written.

For bills of lading made in cities

large towns. 1 Br. 120, 88, 298, 126.

It is not necessary, 100 N.B. 123 authority is an

agent signing for his principal. 100 N.B. 123

writing, & a verbal or partial authority

at sight, is a simple cont. but notice

very best in 2 authority is 8 sec. 100 N.B.

230.

1 209, 8, 205, 281.
It is not indispensable that an identical instrument, itself signed, not itself being itself acknowledged by some other writing, shall be signed. Ex. a letter written & signed, & say: 1. 4th 3. 30. 40310. Ch. 715. Robt. 121.

The same writing of an agreement by 3 hands of one 3 parties was not in its essence with 3 necessity of signing. 10. M. 779. Robt. 121.

100. Ch. 3 Consideration necessary to support a contract.

According to a definition of a contract, a consideration is a price of every contract. This is universally true of every contract, and every contract is a contract.

A contract, a contract, consideration, is called medium contract. 23. Ch. 381. 3. Robt. 280.

The consideration of a material cause of a promise is a cause of a consideration.

Considerations are two kinds.

1. Good. Good in consideration of a material natural effect of the contracting.

2. Bad. Bad in consideration of a material natural effect of the contracting.

Such contracts (in. mere good contract) do not exist in a contract executed in the manner specified. Because every contract be just before his generation. 7 Bkt. 297.
A special contract is one entered into & proved by specially, i.e. written & sealed.
Co. L. 171. 2034. 293. 365.

A simple contract is a verbal or verbal contract or a contract written but not sealed.

By C. L. a verbal contract is one reduced to writing & not sealed, if by same.

If writing (in strictness) but not sealed is merely evi. of a verbal contract.

Hence a plural point counts upon writing but upon verbal contract.

It has been in almost if a written contract
not sealed containing an express promise and an
in pari materia as judicially and equity law relating to specialty it is
is clear that an executory promise contract
with consideration is not binding. ex nudo pacto
new contract.

203. If the promise to make B. a present of
$100.

Judge Wilmont is not bound i.e. in one case if
a written contract not sealed with consideration is good.
the rule is too broad. S. v. J. 11 Beav. 1670. 2 2B. 336,
But as a general rule direct reverse it is true, from all authority.

Wilmont & Blankstone pp 307 of contract of negotiation
20 R. 584 n. 121 extg. 314,
Rev. n. 318. 1 220. 541. Ch. n. 281. 1 220. 729.
20. R. 521. 737. 1 Baruth. 518. 2 294. 71.

Now reducing a contract to writing does not suspend necessity of consideration.

in strict legal theory a consideration is necessary even in a specialty.

The consideration must not be fraud.

104. For it is * implied.

And if both court and law, the want of consideration, is it is presumed from solemnity of a specialty

In 72 79 328 (Rev. 328), 2 294. 71. 518. 281. 1 336.

1 220. 541. Ch. 281. 1 220. 729. 1 220. 737.

20. R. 521. 737. 1 Baruth. 518. 2 294. 71.

(1st. 518. 1 220. 328. 2 294. 71.) * 2 294. 520. 1 220. 518. 281. 1 336.
In short a deput is stopped from alleging want of consideration, because it is stated.

"Deed." 20 Dec. 1812.

But if want of consideration appeared upon the face of it, binding? I say, that it is not binding.

In authorities yet there is upon this point see

2 T.R. 377. 3 Brow. 1038. 6 Sept. 2072.
7 Co. 40. 7 T.R. 377. 9 Co. 2 58. 108. 268.

These authorities apply to 3 Gen. doctrine rather than to 38 particular pt.

The rule yet a consideration is necessary to every contract absolutely to executing, 106. contracts only.

In 3 law will not receive a contract voluntarily made ex post facto. 12 Doug. 261. 11 Decr. 778.

Other 355. Esp. 377.

It has often been shewn that a consideration may arise only in two ways.

1st: From something advantageous to the promisor.

2nd: From something disadvantageous to him to whom promise is made. 1 Rom. 1 Pet. 376.

But this rule is too broad one now.

To be 290. 4.

A sufficient considerate may arise given either of these two modes, or both.

But it may arise.

1. Delivery of goods to its destination is proving

the quantum of immaterial, or of any value whatever, even a peppercorn.

The law in this instance, not good in practice. 2 Stann. 215. 2 Don. 512.

1763. 20. 2 Fed. 515.
of consideration, able to be insignificant, will 
not support a promise — Ex. not torink in a 
single hour. 1 Tro. 35. Ch. 3. 30.
be no consideration at all. 2 Will 23.

But any act, however trifling, to be 
done by them to whom a promise is made 
of sufficient consideration. Ex. To pay a rent of £ 50, will show him 3 cases, in strong y 
and 3 more. 1 Tro. 35. Ch. 70. 20. 30. Ch. 70. 70.
and 5 108. 5 37.

And a supt. consideration to support a pro 
mise from one to 3 other.
Ex. Declaration stating 3 debts to be paid. 37.

But a supt. cause may accrue from 
something made in consequence to the person 
to whom a promise is made.
Ex. He having a tent to B, delivered it up to be 
cancelled on B's promising to pay 3 content.
2 Tro. 35. Ch. 3. 20. 30. Ch. 70. 70.

It cannot be upon a considering whether the 
executed is not binding.
Ex. In case of having caused my servant.

If it has discharged B. hence to have a trust 
& B. a consequence of that release, after 
waived promise to pay him. Thus promise is 
not binding. See case of signature, take 
2 Will 35. 55. 60. Ch. 55. 70. 70. 2 Will 11.
But where a part of the property is executed and the rest undisturbed, it is good.

1 Buhl. 71. Cro. C. 96.

Because the remaining is a gift, consideration may arise from neither of these two former ways, i.e., from some- thing given from them. Also, unless such a gift will not support as continues somewhat, e.g., Prov. 13:6. Titus 2:12.
1 Buhl. 167. 2.

No contract is from a coahon solely made of gift, if there is a previous legal duty to be performed in part of the

120. There was been at 2 expense of burying of son of 13.

In every it is made a legal duty for every father to bury his son.

120. 250. 1. 1 Lit. 125. Raff. 260.
Bro. 188. 1 Buhl. 16712.

If there was a personal obligation in the promise, it is binding. Ex. of promise to a just debt.

Barred by Stat. limitations.

If there was a promise to pay a sum for medicine previously promised to a passenger.
120. 251. Raff. 1929. 255. 1 Buhl. 135.
20th. 435. 1 Lit. 290. 1.

The putative father of a natural child makes a promise.
Consider that in support of a contract of 3 cons.
duration accounts at 3 request of 3 promisor,
18th 158. 18th 45. 18th 168. 18th 90. 18th
16th 41. 16th 57. 16th 50. 18th 18. 16th 16
in the court. The subject completes itself with 3 promises request
of 3 promises act made at 3 time of request.
It has been held yet another strange to a more
ordinary act. One by another person, can't sup
port an asm kins act in his own name on a contract
found on it.

First if 3. in condition yet 3. will rel.
the law of a true kins act to pay C. in sum of money
but i 3. act sure when 3 promise. 8 2. 17. 9. 2. 7.
28th 21. 28th 16. 28th 16. 28th 22. 28th 22.
The rule is now held to hold only as to debt

"inter partes."
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2. It must be an action in which a person or person claimed to be liable is chargeable; or in the at least, there is actionable liability in his favor.

3. 20 Ed. 9 Sec. 15, 12 Ed. 555.

4. 2nd. First, viz., promise to pay a debt in consideration of which is not, unless forborne not being expressed to be suspensory, is not good. The promise might be made next day. 12 Ed. 232.

5. 24 Ed. 19, 155.

But a promise to forbear a yr. or a reasonable time if a good consideration. Let one to judge what is a reasonable consideration. And.


7. Second. Promise by another to pay a debt given her name who says she will do it. If he does not, she may not be liable. There is no consideration, she may not be liable. Forbearance of no favor to her, no disadvantage to promisee. If there is no moral obligation to pay.

8. 12 Ed. 90. 12 Ed. 334. 7 Hard. 53.

9. To the promise to PAY the debt of another in consideration of his release promises to pay the in, if not found, there is no consideration. The release is only from false imprisonment.

10. 12 Ed. 335. 7 Ed. 94. 7 Hard. 73.

11. To a promise to PAY a debt to an creditor will accept 40, if the payman, tor 12 will forbear to sue 20, for 6 months, is not good even at 12 Ed. 7, he might sue 12 immediately. Since no prejudice to 12 creditor. 20 Ed. 130. 7 Hard. 73.
But a promise in consideration of payment of a sum of good gold, if there is a good colorable ground for a suit, E. G. Urgent, having brought suit & verdict, 250$ No ext in consideration of promise is promised to pay.

This is good at E. G. In here was colour for a suit the being ext.

Ex. 272. 7 Psa. 136, 176. Mark 142.

Where a promise in consideration of performance of a suit originally occurring vs. promise himself, the moral cause or action is not to be signed into. It is achieved by 2 promise 1 Psa. 117.

But 3 rule case & 2d. I trust if it will appear in 2nd. yet 3 case in none way for this. 1 Psa. 338.

The rule I think must be confined to cases in which it ought there of party or the terms of 3 case, there may have been a good cause of action.

The more act of interesting 2157, with another or by undertaking to do something respecting it is a suit to consideration.

E. G. delivery of money to be delivered over to another with receipt, 22 And. 909, 10. 20.

1 Psa. 363. Gen. R. 153. 8 Col. 11

The preservation of 2 house of peace if a family has been holden a suit to consideration in John 3 G. plaintiff, between father & son or a natural child to prevent family disruption.

1 Psa. 562. 7 9 Psa. 1.
The compromise of a doubtful right has been declined inGlyph. 1 Prov. 103. 1 2 Tim. 10.
but 17. 1 Tim. 8, 2 Tim. 285. 2 Tim.

What remedy in courts, or z consideration if expressed in direct terms as a consideration.
If the it can be collected out of the said agreement. 1 Prov. 1038. 1 Tim. 100.

The agreement to settle boundary between Mr. Penn & Ed. Baltimore, held good by Ed. Hardwicke.

But if an express consideration appears upon its face, if it, no better opinion seems to be, or no other can be implied.

"Expeccum fact orae tacitum" 2d 2d
Nic. 10. 1 Prov. 103.

Contracts then distinguished with reference to z form & z consideration may be

1st. Where that z. is stipulated on one side is in consideration of performance by
z. is stipulated on the other.

those z considerations are termed mututal.

E. g. A. agrees to pay B. for doing a certain act, then z doing the act &
d. is a condition precedent to his right to z pay.
1 Prov. 1037. 1 Tim. 177. 17.
2 Walk. 95. 3d. 10 12. 1 H. 450.
1 Jer. 3. 141. 1 14. 136. 27. 149.
14. 16. 19.

2d. Where in z price he must ever perform, 2 Prov. 130. or z. is equivalent a

"2dly. z. 20" Tender.
On any case may be that he was at the
place ready to perform or deft. absent, & the
way thus prevented from performing.
20 R. 248. 7 B. 203. 8. 619. 7. 7. 125. 15. 4. 538.

2 When performance on both sides is
to be concurrent, then neither can con-
pel the other to perform till he has per-
formed his part in time. Which is equivalent
to absent &c. or if at a place appointed,
ready 3 others being absent. E. G. if
promised to deliver 13. a load of wheat on
such a day for such a price. 2. 11. 125.
1 11. 25. 5 Con. 50. 1 B. 203. 619. 629.
3 7. 125. 7 B. 171. 172. 3. Doug. 674. 67. 6.
4 7. 761. 74. 7. 7. 366. 2. 15. 538.

If a place is appointed for performance
it is absent, if. Where is always ready is deft.
absent. No person is necessary in such case
to entitle 12. deft. to recover. 7 B. 203. 8.
3 7. 125. 15. 4. 538. 7 B. 171. 172. 3. Doug. 674. 67. 6.
4 7. 761. 74. 7. 7. 366. 2. 15. 538.

If deft. was to perform on request it is
absent. if. deft. was ready & requested, deft.
refused. 7 B. 203.

If there is agreement, was. if. one shall to an
act. in doing. Sh. 3. then shall own, doing
is a condition precedent. But if according
to terms of the contract 3. money is to be paid
in Sh. if. to arrive or may before 3. act can be
performed, 3 owning if. 3 act is not a condition
precedent.

175.
6. promise to pay such a sum for a year of
labour or for building a ship. The money contract
had to be paid in 10 days. 1 Jacob 320, a. 1
24. 32. 66. 2 March 21a. 1 Eliz 381 29 Nov 112.
1930 283. 6 Mar 171 7 Go 166 6 Oct 19.
24. 32. 381. 67 R 372 7 Nov 189.
So if in 2 last case, i.e. where a day is
fixed for payt, no time is fixed for perfor-
mane on 2 other side. 1 Jacob 320, 29 Feb 233.
In both cases if 2 side is not paid at the
time appointed for payt, 1 party promising
it is liable whether 2 other has perfor-
med or not.

But if 2 last appointed for payt is to
arrive after 2 time fixed for doing the act,
performance be 2 act if a condition precedent,
5 must be averred in an action for 3 money
193. 283. 6 Mar 171 80 91. 6 Mar 117 118. contra
1 Jacob 320 2 March 30 6 12 20 12 Mod 1 02. 1 16 111.

18. But where 2 promises are mutual 116.
on independent i.e. where 2 promise on
each side, if 2 consideration of 2 promise
on 2 other, performance is not a condition
 precedent on either side, either may sue
without avowing performance. 1 Hos 5 13 4 Aug 63.
193 171 174 175 8 58 5 Bright 187 193 182.
9 Mar 24 9 9 17 17 14 2.

These in Rep. then 2 Plaintf. must aver
performance tho 2 cost are mutual oth-
erwise Rep. will not interpose, its interposi-
tion being discretionary. 1 Tho 6 13 7 6 20 8 18 5.
193 17 1 17 18 18.
of 2 or more persons. To be of force all parties must agree. If they agree in this form: I promise to pay $100. You transferring stock to me &c. The promises are not mutual & neither can compel performance, till he has performed. 2 P.R. 564. 3 Hen. 7, 1681.

22. Nov. 563. 1 W. & B. 270. 7 P.R. 767.


When 2 parties agree to only 1 part of 2 contracts on both sides & breach of one may be 150. To in damages, it is independent. 1 P.R. 320. 2.

When will the act be void? Has been formed in fact? 1 P.R. 320. 3. 6. 5 P.R. 570. 1 W. & B. 270. 7 P.R. 240. 2.

117. The question whether promises are mutual or independent is to be determined by the meaning & understanding of 2 parties to be collected from 2 points of 3 agreement. If 3 nature of 4 counts, i.e. from the intent requires performance. 3 D. 853. 12. R. 645. 7 P.R. 120. 2 P.R. 240.

When 3 promises are mutual i.e. independent it is no bar to 3 action for 3 parties has not performed his part. Each may have a cause of action vs. 3 others at 3 same time. 3 D. 853. 2 B. & S. 1812. 1 Bank. 342. 3 D. 41. 193. 16. Long. 34.

The Long. Ct. have leaned of late vs. considering promises independent. 3 P.R. 761. 12. 17. 193. 22. 31. 31. 39. 193. 496. 1 Bank. 619. 1 P.R. 761.
Mutual promises must both be binding on both parties, i.e., 3 contracts must be of such a nature as in such terms as will bind both sides. 3 contracts must be made at the same time, or they are void as a pacta.

1 Bosc. 560, 1 Bl. 24, 3 B. 88.

Are not 3 terms of 3 rules too strong for a voidable agreement, by an inexact mill? the act may be avoided?

I say, that such a nature as both.

It is L. 3 grand in 3 consideration, to avoid.

Fact by specialty does not in itself vitiate it, as in 3 quantity or value of the consideration. E.C. Board on 3. Since 3 an uncompound horse. The grand in 3 exception.

agent wanted in 3 second case not in the first. E.C. Deed falsely read, wrong instrum. substituted by artifice.

case of 'marksmans' barge 58. 2 Bl. 304, 260. 9.

1 Lev. 127, 2 Bov. 122, 2 Bov. 140, 2 B. M. 203, 3 B. 250.

And yet it is L. yet grand.

avoids every kind of act. Bov. 78, 4 10, 225.

5 10, 2259. Matt. 4 286. 3 Bov. 77.

This is this to be understood.

But they will relieve vs. contracts of any kind for 3 grand in 3 consideration, because they adopt 3 relief to 3 circumstances of case. 2 B. a 1 L. 3 Law cannot do.

If L in 3 party defrauded must rest to his special action for 3 grand, 3 such oppose to have been 3 genl. rule in relation to contracts executed with the deed as in
sales of goods under false representation if

But in the last case it merely relied on late decisions. See Trusts on case 17. Fraud may be proved by mitigation of damages. 1 Law 29. 1904.


4 Esg. R. 95.

Does it now hold at all in any case of simple contract? It does not (Judge Gouge). It is confined to special cases.

In one case however the Court of P.C. seems to have considered fraud in the case of a cause of action as a good defence. The circumstances of that case were peculiar. Perhaps others jointly influenced the decision. 8 J.B.C. 438.

But our law have held it a total fraud in the case of a note or bond. i.e. when a promise has received goods to receive nothing is a good defence. E.g. Georgia Land Grant 30 cases that in such cases relief cannot be had in equs. if is instead of in equity at L. 1 Mich. 35. 965.

124. Hence where 2 fraud is partial. Here 2 relief is in equs. In lots. of L. must give judgment do whole and. a defendant. They cannot apportion.

But according to our rule the 2 fraud is totally yet if 2 obligation is not in suit as if all 2 obligations are not in suit relief may be had in equs. Jonas company. 2 remain on suit that till 2 promise be giving a suit at law.
Interpretation of Contracts. 122.

The object of construing contracts is to ascertain the intent of the parties. If a contract however express or implied is not carried beyond that intention.

Pro. 376.

Thus if A. grant to B. to pay £300 for ann. B. may assign the same or give it to C. for a manor, a rent of £300 will not be due at because there is no grant in an annuity in rent. 120. 371. Co. Litt. 1467.

But if it is a good rent charge for B. B. may assign it to C., for 3 manors is charged for 3 sections. 120. 371. Co. Litt. 1467. 2 Roll. 128.

Contracts are to be carried to their full extent intended, if words can be so construed as to effect it. Thus a trust created to raise money out of profit of an estate, carrying a right to sell if the sum cannot otherwise be raised within 3 years. D. 322.

Words are to be understood according to their ordinary and best known signification, unless there are decisive reasons to the contrary. See "Minute Law."

Thus if A. agree for 20 yrs. to B. he is not to keep the house of the 3rd. who is not to enlarge the house to the expectation. D. 53. 66 Co. Litt. 186. 2 N. 177. 355. 322.

Vesting of an agreement for a term of time -- vendor has the right, if such as 3 and understanding of 3 years such as 3 yeare. 66 Co. Litt. 186. 322.

A lease for 12 months is for 48 weeks only i.e. 12 lunar months. But a lease for a 12 month is for an entire year. So understood by 3 parties. 2 N. 177. 66 Co. Litt. 186. 322.
That if money is made payable be sent at a place named its denomination is to be understood according to their import when it is made payable.

E.g. sent. in London to pay £100 in Dublin. The sum to be paid in Irish currency. 2 P.W. 38. 60. 1 P.W. 40.

If a language is ambiguous its intention may be inferred from its subject and effect and its circumstances.

P.W. 3760.

1st from its subject.

E.g. rent for quiet enjoyment. extend not to tithes or rents; for its intention is inseparable from its subject of merely to guarantee a regular title—guarantee's being a right to quiet possession.

2nd. 212. 52. 3rd. 225. 1st. 50.

3rd. 7377. 1st. 3rd. 537. 2nd. 537. 3rd. 517. 4th. 50.

4th. 50. 6th. 50. 7th. 50.

5th. 50. 6th. 50.

6th. 50. 6th. 50.

7th. 50. 6th. 50.

8th. 50. 6th. 50.

9th. 50. 6th. 50.

10th. 50. 6th. 50.

11th. 50. 6th. 50.

12th. 50.

Grant of common out of all my manor.

Grant to my common only in my commonable places not in my garden etc.
The grant of all trees growing on my farm does not include fruit trees growing in my garden, or other trees growing on my lands. Deut. 27:25.

So from necessity, "it was strange" an instrument may be construed to take effect at first in some & structure an instrument of a gift. 1 Cor. 15:22. To grant by its tenant to his composition & property of a release, a writ serves to sue a debtor & grants or an acquittance. Acts 19:8. Acts 15:13.


Jas. 5:5, 1 Peter 1:10. 1 Thess. 5:8.

From the effect.

That it containing a cost according to the ordinary meaning of $ words will ren, but not subsequent or according a gift sense may be put upon them. 1 Cor. 15:21. 1 Peter. 1:10. 1 Peter. 2:10. 1 Thess. 5:13. 1 Thess. 2:12. Acts 13:14.

For where words of condition are used in limitation of estate. Acts 1:18.

So if an annuity is granted, for instance. 125. they must give a service to become the grant of conditional, the not so expressed, for otherwise a grant to do the writ the remedy. 1 Pisc. 315.
The circumstances attending a transaction may be considered to explain a contract if it is otherwise doubtful or be construed to intention of the parties.

Thus if A grants an annuity to B, it is not intended to mean 12s. 6d. per annum, but it is a lawyer.

If A having goods in his own right and also as exec. grants all his goods to grantee on condition to include his own goods in it.


12th. In this there is a recital of a particular claim in a release followed by good words. If release agree with terms are qualified or restrained by former estate. If 1st estate.

E.g. A gave to B 2,000. B gave to C a legacy of 2,000. D, in receiving 2,000 executed to B, by exercise a release acknowledging a receipt by 3 letters without words of release invalid. All demands on this are not discharged.

2 Edw. 74. 3 Ind. 275. Le. Po. 665. 7 Edw. 74. 170. 5 Edw. 74. 245. Bro. 970. Barth. 770. Le. R. 271.

This applies only to release as it allows because "all tenants" have become matter of form - not used in connection.

Using where recital of a particular sum is acknowledged is no particular claim executed.

E.g. 2,000 in full of all remainder.

1 Edw. 139. Barth. 119. 3 Edw. 277.
Of the doctrine under pretence remaining behind 128.

So contract of be construed most strongly of 3

party bound. E.g. Grantor, covenants, by the

in his, he shall have explained himself 3 cts. 7, 6, 4to.L. 197, 20th,

190, 50th, 140, 18, 17th, 28th.

But there is an exception to this rule where
there is an ambiguity in the condition of a gen-
eral bond, here construction is in favour of

benefit. (If 3 condition is intended for his

22, 66.)

190, 297.

For if one is bound in a penal bond
to pay money at a certain day or term

there are two parts: viz., 1st, name of money
is payable at 3 days, not at 3 first.

Exception also where 3 application of the

pen. rule do to injured to a 3rd person.

This is, that it shall make a letter 23, 190, 6.

his [not express for these 22: 66, 190, 480,]

by that it shall do. It shall be expressed.

Subject to these rules 3 terms of a con-

are to be construed in their most construc-

tive sense. E.g. Claims to "all men" claims of all men;

an indefinite expression is construed only as an universal one. 130.

When legal language is used it is to be
taken according to the legal acceptation.

E.g. limitation to his heir as long as he lives; such an

animal can extend to all his heirs successively.

"Manus, leges.

So too a cost. to satisfy after a request

of one proof, all money in a mortgage, no

of property, apprentices - judicial proof is intended. i.e. proof

made in an active as apprentices. 1st. 217. 190, 465.

Contracts are to be construed according 131.
to 3 great intent upon 3 face of them, rather

than according to any particular intent in

consistent with 3 great intent. 190, 465, 533.
When "a thing stipulated to be delivered is not, a negative to, a thing at a time fixed to be performed is f a rule to damages."

2. Term. 1010. 1 Id. 486.

Exception. If a thing to be delivered has advances, often a time to be delivered, in re the value at a time of trial is a rule. 2 East. 211. 2 Term. 393. 1 Bos. 399.

But if an article one. Decline in price if not to be affected by this decline, then...
But an offer on one side accepted on the other becomes a contract, (as the moment,) so that either by tendering or performing according to terms of the agreement, each binds the other. 203. 557. 72st. 41.

Thus if B. offers A. £20 for a horse &c.,

Do if, on an offer accepted, earnest is paid, or if a future time is fixed for performance, contract is complete & by proper bonds.

Do too if an offer accepted, a future time for performance is given, as case in same.

12 P. 209. 12. 13. 15. 231. 257. 257. 257. 257. 22. 42. 7 P.A. 64.

But if an offer made & accepted nothing more is done, & parties deliberate, with appointing a future time to perform, contract is voided by both parties.

But if not received if earnest is paid. future time appointed &c.


So if A. agrees to sell certain goods to B. 124. provides B. within a certain fixed time elect to take them, & B. does not so elect, still A. is not bound; for there was no contract at first, the agent must bind, but not the other. J.R. 633. (1 P. 201 cont. not been 55)

These rules apply to completion of a contract.

But a contract already perfected but not executed.
Page 135

135

Thus up to 3 acceptance of a bill of exchange.

This seems to be a positive rule of law. 23 Wendt. 141, 3221. 33 Wendt. 217.

But no agreement may be made to waive a breach of warranty or to enlarge the course of action. 23 Wendt. 141.
So where there was an agreement between hus.
& wife, yt he shal have been for" yt to her
separate use & the permitted yt he did, during
y whole coverture to take 3. avails to himselfe,
shew was prepost to have charged y
agreement. 136.

But this presumption may be rebutted by
proof yt she was in satisfaction during coverture
| yt that yt husb. took 3 avails under an engage-
| ment. to fullfill y agreement. 136.

Yet a cont. consummated & executed may
be rescinded even by one of y parties only
when there is a proviso to that effect in
original cont. itself. E.G. A. sells a horse to B.,
but on an agreement yt B. may in a certain
event return him. On yt event happening
A. may rescind & recover yt money for, agree-
mint not y receivt. This is a safeable
contract. 136.

But acc. to Plead of cont. contracts with B.
for prov. if such a provis is Z. Y. shall name
3 parties & annul it because they have em-
powered a 3d person to perfect it. 136.

But a cont. can be released after as well
as before action occurring.

A release may be express or tacit. The for-
mere is a regular acquittal by deed. The latter
by destroying or cancelling y instrument. 136.
If he who is to be benefitted by a promissory note, prevents its being executed, it is discharged in favor of any other party interested, but the party preventing it is still bound to perform his part.

And in such cases the party who seeks to perform it is unable to do so, if he had actually performed. E.g. A contract to build a house for B. For £100. B. performs none. A. building. A. may recover £100.

138.

If A. makes a deposit to B. on condition at it shall be void on B's doing £100 to D. in a certain case, & on that day B. 3 die, the deposit of £100 value, so that A. can't take it. See gr. may recover as if 3 more had been paid. (Cas. 877. 817. 160. 579.)

139. 20th Feb. 1824. 1 Decr. 24th. Will not neg. condition 3. on trustee £3 moneys to B. ?

If a contract may be annulled by a new contract of a higher nature for the same thing, viz., mercy.
E.g. A. promises A. money in a bond. Then a judge. is an object of not to furnish a tender remedy but he substitute a higher one.

When it is or, if 3 and is given by a tran.

ger. set up my additional security not a substitute.

1 Pse. 423. in the margin. Pse. 232. 6.
And a new by a given degree can't be extinguished by a new one of the same degree, i.e., if the first is extinguished, the second is, and the former is now to an action on the former. 192, 193. 547, 571, 572, 573.

But when released by a deed of satisfaction, it first may be barred. 178.

192, 193. 547, 571, 572. 211, 212.

But in this way it may discharge the original contract and the satisfaction defeats the new contract.

But a contract of a lesser nature is extinguished in one of a higher merely by way of reversion, or the concomitance it of enlargement remitted. B.C., the building goods by beds i.e., takes a deed as evid. as a contract of bastardy. Difference here no action on the goods. 192, 193. 547, 571, 572.

Here a simple contract is not intended to be twined into a specially.

The latter is designed only as additional security, not as a substituted one & may be used as evid. in an action on the former.

Hampden, 192, 193.

Contracts by deed can't be annulled or discharged by fraud evinced, but by writing evidential to the instrument, to be cancelled to the obligee, for the obligee again assigns.
Even present or actual & satisfaction of a bond
of not a discharge, then it is, if it is money
one upon it is not.

16 Nov. 145. 20 Nov. 225. 420. 176. 10 Nov. 110.
This distinction appears to relate only to 3
forms of discharging (G.

No record & satisfaction of any damages incurred on a contract is a good discharge of the same
age. 3 Cr. 54. 3 Cr. 77. 3 Cr. 105. 18 Nov. 147. 15 Nov. 16.

141. When 2 parties & obligations created by a con-
tact unite in same person 2 contracts of
obligation at 2.

8 Cr. 110. 8 Cr. 110. 8 Cr. 110. 8 Cr. 110.

8 Nov. 62. 10 Nov. 82.

If 2 obligations marry 3 obligations 3 cost.
If only annulled for legal remedy 3 remain-
ing. The "Heirs & Wife."

8 Cr. 110. 8 Cr. 110.

Decree if a bond made in contemplation of marriage to be executed or performed
after 3 Determination to 3 coverture. 8 Cr. 110. 8 Cr. 110.

8 Cr. 110. 8 Cr. 110. 8 Cr. 110. 8 Cr. 110.

8 Cr. 110. 8 Cr. 110. 8 Cr. 110.

Contracts may also be discharged by acts of
3 Legislature. E.g. a court to be an act alter-

8 Nov. 61. 28. 9. 28. 9.
To by 3 act of 16th, & 31. days, & to have 192.
all 3 timber trees growing 8 30 8 8 8 8 8.

As 3 lumber trees growing 8 30 8 8 8 8 8.

To of 31. days, a horse to 31. to be returned.

No horse may be released within 31. default.

Pride is excused. By cont. of repercussion.

Psalm 54. 13; Pro. 44. 8.

To of 31. contracts to serve 31. a year for a
sum to be paid in 31. prepayment, & 31.
ship after 31. first installment, & before 31. last.
31. excess is not liable for 31. last.

But a cont. becoming partly illegible
must be performed "by force" "compell.

To of one is bound in a bond conditioned as
conveyed land by a certain day & before 31.
7 days. The penalty is saved, the 31. will
receive a conveyance vs. 31. heir.

But 3 act of a 31, person cannot regularly 143.
very a cont. & by 31. to 31. condition &
31. shall appear in an action in 30
31. notice & judgment, if 31. him - 31. if not
bound to satisfy it. Pro. 44. 8.

The other 3 act, is by 3 term & if it to take
effect, or to be annulled or voided by 3 act
of a 31. person, his act will operate upon it
as provided for in 3 agreement. 31. contract.
to buy property at such a price as J. C. shall name. If both parties are bound by this decision & he refuses to set a price, same becomes void.

1 Novr. 715. Ca.

John Smith

Signed "Concluded"

Pleasantville,

1 Novr. 20°

1824 Ca.
A bailment is defined to be a delivery of goods by one person to another upon a contract express or implied, yet they shall be returned to the bailor or disposed of according to his direction when they purpose for which they were bailed is answered. Dec. & St. 129.

Yobb. 172. 7 P.R. 392. 7. 3. Jones. 3. 78.


If a bailee is in Sec. 492. 4. 9. in Southwester cases takes a wrong direction. 4. 9. Yobb. 172.

The party delivering goods is called the baior. The person to whom goods are delivered is denominated a bailee. & the transaction is called a bailment.

On the delivery of goods by one party to another in the manner, the bailee preserves a contract, viz. that the bailee shall restore them to the bailor whenever the bailor shall demand them, or that he shall answer with goods upon terms of the contract. 2. Comm. 466. Jones. 3. 78.
Bailment, therefore a special & contract has, from.
A great many of peculiarities which attended.
the law respecting it been considered as a dis-
Trict Head in most of 3 Digests 13 Law.
It has been st. if a bailee
It be different from a bailee since he had
a special power in 3 thing favored, he
in truth there is no distinction.
4 Co. 85. Co. Lit. 89.a.

Indeed upon this title there is been more
superiority of opinion than upon any other in
3 last of its limited extent.

It is an universal rule that every bail-
ments a qualified person or 3 bailee for a
more lawful possession giving a special power
& implies a right of possession. Jones 1112,
Yule 1712. 37 Eliz. 392. 1 Stan. 303. 2 Hel. (what
on) 1051b 6. Rains. 302.

2.
In Southester case (4 Co. 85. Co. Lit. 89.a
& 3 97 R. 40.) there was a distinction made be-
tween bailee & possession, but since then there
is held to be no difference. The nature
of 3 interest vested is in most cases the
same. The only shade of diff. is in 3 degree
of interest vested, 3 possession, having a high
in interest & a stronger than 3 goods
17 R. 389.

It appears from yeul. principles as well
as from authorities, if 3 bailment. vests a
special power in 3 bailee, on every lawful
possession vests a qualified Jarvis in the possessor. Even a finding of property vests a special Jarvis in a finder, so that he may maintain trespass on treasure vs. any one he unlawfully appropriates from him for his profit.

11 H. 2. 307. 6. 11 C. L. 509.

It is a general rule that a bailee from his obligation to restore reposes must keep the property according to his tenancy. He cannot be answerable to the bailee for any loss or damage. He may sustain while in his keeping.

But to this going, there are some exceptions, as where the loss or damage was sustained with the neglect or misconduct of the bailee.

In determining whether a bailee has been guilty of any misconduct, the quality of the goods bailed, the nature of the bailee, and the character of the society in which the bailee lives. The conduct must all be taken into consideration. Indeed, it is a determination of this question, which presents the greatest difficulty in this title. Gold requires more care than jewels.

In such cases, a bailee is bound to use a degree of care proportionate to the nature of the bailee. Where it is under a general acceptance. In some cases, ordinary care is required, in others more. 1 Bac. 255. Jones 6.
Ordinary care is that of reasonable prudent men in like cases in conducting their affairs.

Jones 9. 10.

The degree of care on either side of this standard have not a distinct appellation.

Whatever exceeds is called more than ordinary care, and whatever falls short is called less than ordinary care. — Jones 9. 10. 11. 12. 13.

The same degree of care there is a corresponding degree of neglect. The degree of neglect approaches to ordinary care, if called ordinary neglect. The degree of greater than ordinary care is called less than ordinary neglect, &c. so on in inverse ratios.

Neglect greater than ordinary is stifling neglect & is prima facie void of fraud.

This is not in all cases conclusive; for if z bailor is negligent of z own affairs at z same time, z neglect is not considered fraudulent.

Jones 11. 12. 13. 64. 8. 46. 69. 97.

6.

Genl. Acceptance.

A genl. acceptance is where there is no express agreement as to the degree of care or diligence to be used by z bailee. But where there is an agreement, z maxim "expressum facit reatum tacitum" applies.
It has been laid down as a general rule that every bailee under a good: acceptance is bound to exercise a degree of care proportionate to the value of the bailees. Jones & Shreeves's.

There are two distinct species of bailment, requiring distinct degrees of care in each part of the bailment. These are taken principally from L. Holt in his case of Coggeshall v. Barnard.

These distinctions are more greatly of blood than classification by Jones in his treatise on Bailments. See. R. 915.

Rules.

1. When a bailment is for the benefit of a bailee only, nothing more is necessary for a bailee than good faith. He is liable only for gross neglect, if goods were lost or destroyed. See. R. 915.

2. (4th. 52 b.) 1 Pow. 56, 2807.

(Statute of use contra viator.)

This rule is founded upon 5th. a supposed case, 5th. perhaps a more equitable rule & 5th. not be established. 34th. bailee receiving no benefit from the contract. 5th. bailment is advantageous to 5th. bailor alone. All it ought to be expected of him is 5th. he shall observe good faith. 5th. not practice any fraud upon 5th. party to whom goods belong.
In 7 Co. 43 h. it is held en 2d b. b. the bails man by
2 goods thus blanked s. s. at her peril, but
this is not in law.

The bailie may, however in these cases by spe-
cial agreement extend his liability beyond the
gal. rule. He may bind himself to observe any
degree of care as in what he may make himself
self an insurer vs. all casualties at all ev-

II. When 3 baillee alone is benefited by
bailment he is liable for slight neglect?
This rule is founded upon the maxim "qui sen-
dit commendum sentire debet suum". Janp. 18. 5.
25. 35. 2. 106.

III. When 3 bailment is for 3 mutual benefit
of both parties 3 bailie is not liable for ordi-
inary neglect, being bound to use ordinary care.
Jomp. 19. 22. 3. 101. 3.

These rules are intended to apply to those
cases only where 3 contract is implied or a
acceptance is given. There may be express
contracts between 3 parties by which 3 bailie
will not be liable in any case or he
may make himself liable at all events.

When there is only an implied contract 3
bailment is a good. acceptance; but where there
is a special agreement it is denominated a
special acceptance.
Depositum (i.e.) Deposit.

Depositum is a delivery of goods by bailor to be kept by baillee with record or hire. This species of (goods) bailment is sometimes called a naked bailment, or a naked bailor and baillee, also depository. Hence as a bailor of 1 for 2 sole benefit of 3 bailor 3 baillee has nothing required of him but good faith & is liable only for gross neglect.

Bull 72. Ep. 918.

II. Commodityum or Lending.

Commodityum is a gratuitous loan of goods orExercise ob. are to be used by 3 baillee for his benefit with the hire of 2 to be specifically returned to 3 bailor. This is strictly reverse of the former case. This bailment is for 3 sole benefit of 2 bailor & he is liable for slight neglect. The bailor is called 2 lessor, 3 bailor 3 borrower. This kind of bailment is often expressed by 3 words “loan for use”.


There is a material distinction between 9.

This loan for use is a mere use as a loan of money or a loan for consumption. The latter
not to be specifically returned but to be returned in kind - as a bushel of wheat for a bushel of wheat &c. Where 3 bales have not a special time an absolute pension or thing
beared 1/3 if it is destroyed immediately after
bailment 3 bales must suffer 1/3 short 1/3 A mention of was no bailment.

Long 1890. 23. F. 129. 1 Dec. 241.

III. Locatio et Condonatio (i.e.) Letting

3 4'Giring.

Letting is hiring if 3 delivering of goods to be
used by 3 bale to hire or recend to be made
to 3 bale. Ex. Dec. 918. 1 Dec. 917.


In this species of bailment. Baela et condona
to locato et condonta are synonymous with bale &
baile.

Mr Jones clasifies this
species of bailment under his 3rd division wh. he
calls locatom. But I think his clasification is
of very unnecessary. For in 3 4th class 3 goods are
to be used in a measure on 3 benefit of 3 bale.

IV. Medium (i.e.) Peace.

Peace or Peace if 3 deliver 3 goods by
3 bale to 3 bale at security for 3 payment.
1/3 debt from 3 former to 3 latter.

Where 3 bale is called 3 fiduso 3 bale
V. Offrs.

The fifth class of bailment of these goods is delivered to 3 bailie to be carried or to have something done to them by 3 bailies in a reward to be paid by 3 bailors.

Laud. 273. L. 38 G. 2. (Sold 22. Feb. 1722)
1 Cor. v. 6. 251. 2. (see Lat. 205. Exs. 62 ff.)

This class of bailment includes 3 deliver 11.

This class of bailment includes also a discharge of goods to factors, renters, trustees, etc.

VI. Mandatum.

A delivery of goods of any last case with only this diff. 3 3 bailie receives no reward for his services & is liable only for profit, neglect.

This is called a mandaturn, & 3 bailor, 3 mandaturn. The bailie is called a mandating.


I. A deposition or a delivery of goods to the bailie to keep for his use if 3 bailor withit. any reward. Some of 3 deposit is made entirely upon
benefit to the bailor, nothing more is required to
bailee than good faith. If he is liable only for
gross neglect. 1 Sum. 99, 395. 1 B. & P. 32, 12.
4 B. & C. 105. 10 B. & C. 477. 5 B. & C. 102,
4 B. & C. 246. 4 B. & C. 102. 4 B. & C. 246.
4 B. & C. 102. 4 B. & C. 246.
J. G. thinks Powell incorrect when he states it.
bailee is liable for less than gross neglect.
He is indeed answerable for gross neglect but
not on grounds of neglect but on grounds of
fraud if the gross neglect of the bailee be con-
13. cluded by proving that the bailee is equally
negligent in his own business. 2 Vent. 252. 1 B. & C.

In this species of bailment, no contract is implied
by law, as acceptance is proof. For Mr. J. G. has
advocated the idea (but unsupported by au-
t hority) that where a bailee gets possession of
a good, by improvidence he ought to be liable
for a less degree of neglect, in which case the
bailment is procured at 3 solicitation of the bailee.
5 B. & C. 547. 5 B. & C. 547. 5 B. & C. 547.

14. It was advanced in Southcoates case that
a good acceptance rendered the bailee liable at
15. 4 B. & C. 246. 1 B. & C. 246. 4 B. & C. 246.

Note — The decision in Southcoates case was cor-
rect but the reasoning was wrong.

15. This has since been decided by writing gen-

15. 4 B. & C. 246. 1 B. & C. 246. 4 B. & C. 246.
A distinction has been taken between the liability of a depositary making a special agreement for a valuable consideration & in making such an agreement, with consideration. But this distinction is now done away. Indeed a depositary can't in strictly make such a contract upon valuable consideration, for as soon as he receives, in his to receive a valuable consideration in excess of a trust, he ceases to be a depositary & becomes a bailee of a fifth clap.

But not relying on an article of accuracy, it is held that mere delivery of goods is a sufficient valuable consideration. 2 B. & C. 226. 12 East. 2d. 129. 12 B. & C. 413. 1421, 30 Eng. 253. 323. 4. 374. (D'ville. Conti. 113.)

It is held in Southcott's case 3. 3. bailee delivery goods to a depositary in a locked chest & retaining the key, a depositary is not liable for goods, but for chest only. 12 B. & C. 387. 36th. 79. 14 B. & C. 338. 24 a. 1 Dea. 2d. 59 a. 6.

When Le. take cove. in doctrine by Blackett, was not understood.

This doctrine is denied by Le. Holt in the 16. case of Coote v. Pearson, for two reasons,

1st. Because if s. bailee had s. key, it d. he if no use to him, & 2d. What it he s. no less able to defend s. goods from robbery, & theft. 12 B. & C. 914.

It thinks that neither opinion is on s. ground or ought materially if not entirely to govern in this case. (viz.) The knowledge or ignorance of s. bailee with regard to s. contents of s. chest, for s. bailee's
responsibility or rather his care ought to be proportioned to the value of goods or a temptation which they offer to resistive or theft. Money or goods ought to be kept with greater care than coarse clothes or wares. Yet a box containing money &c. might he not place it with culpable neglect where he put a box containing things of inferior value.


A depositor may make himself liable at all events (i.e.) he may insure vs. all risks. But even here he did not make himself liable for loss or damage occasioned by acts of prudence, acts of violence, no constitutional force. Jones 52. 5. Nov. 34.

Cor. 15. Le. R.P. 910. Dec. 18. 180. 1 Poc. 248. 9. 1 Co. 86.

But in such cases he did be liable for losses by mere theft. This is analogous to a case of a warranty in a lease by which lessor contracts for an understood covenant in his premises that a warrant is not confirmed or extending to wrongful deed. 1 Poc. 248.

The term wrong doing is used in a loose sense in most of 3 Books. Title Cont. 131. 

"Cost. 30. St. 42.

A depositor may, however, by such special warrant make himself liable for theft by theft. Cost. 46. That is what he did have guardian not by care of prudence. But vs. Prudential since no contract of a bailie can be a security, for a man cannot bind himself to do that which the nature of things he cannot perform.
If a special contract will not render the
depository liable for theft, or that is easily
quarrelled as. 1 Co. 28. 34. 1 R. 45. 3 B. 20.

If a depository retaining goods after they
are demanded by 3 bailor, he is liable in


II. Commodatum or gratuitous loan.

Here as 3 bailor is alone benefited by 3 bail-
ment he is according to 3 English rule liable for
a slight neglect (wherely a leg express). For
a maxim "qui bene comodatum servit jure suo" ap-

The requisite degree of care must be var-
ing in 3 diffr. cases. Each case must be de-
termined by its own particular circumstances.
An example has been given viz. If 3
borrow a horse & but it in a stable in the
looking 3 door, he is liable if 3 horse is stolen.
But he is not if 3 door were shut &
locked. 1 L. R. 915. 15. 1 Post. 218. 1 B. 114.
1 Roll 92. 1 B. 114. June 91. 14.

This example might be good in some cases
but certainly not in all. As in case of 3
violence viz. he do not resist.

As 3 he use as much care as usual do.
he is liable? (at. G. trusts not.)
19. But on the contrary, a borrower is not guilty liable for a loss occasioned by force of co., not resist. Hence a borrower is not, by this, made liable for robbery. To make the bailee liable in such cases, the bailee must consent to the property being mentally exposed, or if the bailee has a travel in which might in a word, be granted by robbery, &c., was guilty, considering it unsafe. 1 Cor. 6: 28. 2. L. R. 916.

Jones 61. 28. m. 93.

A borrower is not in great liability for those acts, &c., are inevitable; as lightning, earthquakes, &c. Yet even in these cases he is liable if he wantonly expose property to such danger, &c., by putting a horse in water, if boat in time of a tempest. 2. L. R. 915.

1 Cor. 6: 28. 2. L. 219. 3d. Jones 61.

20. A borrower may render himself liable for a loss occasioned in whatever way as a bailee of the trust. For from that moment he becomes a bailee of the paper, & c. entitled to none of its immunities of a bailee. Thus a. borrower of a horse to 03. to ride to 04. L. 918, is directed to move toward Preston, 03. horse, &c., hekill'd in lightning he 04. is liable. Jones 751.

If to any one borrow a horse or any other chattel for a limited time as for 04. hours, & do not return it within 3 days limited, he is liable to any loss the man may, even after the time has expired, & he may be sued for 3 days. 2. L. R. 918. 17. Jones 336.

1 Cor. 6: 26. 2. L. 219. 3d. Jones 216.
And the rules or to breaches of trust, holes or to every species of Bailment. Lea. R. 917. 10 Bac. 278. Co. 24. 10 Ves. C. 235.

III. Location or Concedendo or letting, &c. 21.

This is a loan of property to be used by the bailee for his benefit or use in consideration of a reward or hire. 1 & 2 Hal. 35. By this contract, the bailee gains a qualified久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久久
As there is no special case where more than
ordinary case has been required, it is no
answer to case requiring more than
ordinary care in case of robbery, since it is
affected in any question if he had wantedly
expected, or goods.

Jays 126, 140, 1.

It was formerly (bailor) a question, whether a
bailor was bound to repair an instrument or
other article lent to him. But it is now
settled that if a bailor vends out a thing bailed
he must repair it himself.


25. **IV. Vindemia. Pawn or Pledge.**

Ponion of delivery of goods as pledge for
bailor to a bailiff, as security for a debt due
from a bailor to a bailiff.

Jays 123, 25.

S. R. 978. 16. Le. v. 228.

This definition is not sufficiently comprehensive
for pledge may be pledged where there is
no existing debt.

On this subject it may be material to
observe, that in analogy to law, the mortgage
of goods are delivered to secure a debt due
from a bailor to a bailiff accompanied with
a right of redemption whatever may be the form
of contract in its terms is still a pawn.

P. 124, 125. 114. Le. v. 978.

20. This kind of contract being advantageous to both
parties (i.e. in securing a borrowed debt by preserving
retention to the creditor) 3. because it is not
liable to case or to be liable for less than ordinary care.

IV. Vindemia. Pawn or Pledge.
But in the latter case he. Coke says that a bailee is liable to keep goods as his own if he is liable only for gross neglect as a seller, but if reason assigned is he is liable but a profit, in 3 goods. 1 Cr. 25, 6. 6 Bro. 294.

But every bailee has a personal thing bailee so that there is no ground for this distinction, as a rule founded on it is not true. 2 Aple. 121. 3 Bro. 83. 6. 6 Yo. 172.

1 B. 211. Jonas 139. 113. 1 Jas. 89. 1.

It follows then that where loss is occasioned by robbery a bailee is not prima facie liable, but he may subject himself to any loss by a breach of trust or wanton exposure of 3 goods when 3 degree of care required of 3 bailee was not exceeded ordinary care by loss from robbery distinguished from theft. 6 Yo. 482.

1 L. R. 416, 17. Jonas 103. 1 Bro. 29. 6 Yo. 71. 107.

105. 11. 1 R. 152.

In the latter case it is hard down 3 goods if 3 bailee is not liable for 3 goods occasioned by 3 theft 3 reason assigned if 3 same as 3 goods above. 3 Bro. 25, 6. 6 Bro. 294. 6. 6 Yo. 172. 6. 6 Bro. 294.
Gerry holds unconditionally that a person is liable for the loss occasioned by theft. This reason is the same assigned by Dr. Locke in his case. He says a person can't be supposed to have used ordinary care, if he permits goods to be stolen from him.

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But his clearly contradicts himself as well as any analogues of the law. (June 27, 28, 1810, 1818)

But if not true, ordinary care will afford protection vs. theft. If it is contrary to good experience to expect all men of common prudence do not suffer by theft.

If a question of fact shall or ordinary care was used or not, & this must determine a person's liability. It is not a conclusion of law.

Law: Wall places this liability on, or theft, vs. same footing with that of a factor who is excepted of the usual reasonable (or) ordinary care.


Indeed Jones himself says that in a commonality, a borrower is liable for loss occasioned by theft, if he used ordinary care.


June 92, 109, 18, 18, 18: 21: see: 52.

The person, like all others, being a qualified person, in a thing bailed. That this interest is defeasible of his goods on 3 day, unless this title at law. He is also a person liable

Wh. for any purpose of devoting & possession of a person is equivalent to a person. 1825, 1877: Bull 73

If after tender is a demand of 3 pence, 29.

or if after part, a 3 pence appointed 3 pence refusal to restore it, he is guilty of a breach of trust if it is of course liable for any damage or loss that may be sustained by 3 pence.

While in his hand on 3 pence, however, it may be occasioned as by lightning &c.

Matt. 22. 3. 1 Cor. 3. 17. 1 Tim. 23. 2 Th. 27.

And on 3 pence refusal to redeliver 3 pence after part &c. 3 pence may immediately commence an action of 3 pence for

"Debt" or 3 pence for 3 pence.

The p ponder in case of a breach of trust is not only liable for all damages sustained, occasioned to 3 pence, but is immediately liable to 3 pence for trust.

The rule is 3 pence if 3 pence refusal is made by 3 pence's clerk, agent &c. acting regularly in 3 pence's ordinary course of business, for that is equivalent to a refusal by 3 pence himself in 3 pence's name, "qui facit pro alio, facit pro se."

But if 3 pence refusal if 3 pence for 3 pence, but if 3 pence regular course of 3 pence's business, 3 pence is not liable. 24. 1 Ch. 243.


"Debt" or 3 pence for 3 pence, 25. 1 Cor. 25. 1 Th. 19. 74.

In this case, however, 3 pence may have his election of three actions: "Debt" or 3 pence for 3 pence, or "Debt". The breach of trust is a foundation for an action of 3 pence, 3 pence breach of an express or implied (warranty) contract, 3 pence.
But 2. Plaintiff can have neither of those actions until the debt or tender, as all of due, is paid. Principal & legal interest, even where 3. Plaintiff was favored as security for repayment, on those actions, my case are founded on equitable principles & the grant of land by Eqy, must do it. 708, 244.

*This rule does not apply, if

All or an action were lost, yet being an action stricti juris.

If refusal to deliver is for or after part or tender of the debt, if not, or of an indivisible offence at Eqy.

This rule is not good, as to mere breaches of trust, they being considered only as civil injuries & not offences.

On this subject, there was a diversity of opinion, but it seems could be settled. [Citations]

This is a mere rule of policy, for it is clear that a breach of trust in this case is no more culpable than in any other.

The object of this rule is to protect 2. Plaintiff from oppression. Its danger is greater in this than in almost any other species of bailment, as its transaction is generally private, so that.
The balance has in some instances a right to use a person's pound. This right may exist or not, in such cases. If a person is likely to be injured, it will be affected at all by his use. Jones 112.

Prov. 37. 2 Ch. 34. 39. 2 Pet. 72. 70 Roll 338. 679.

And it seems yet when such things happen 52.

Yet the cause of him who is not to be inclined
in such a nature as not to be injured
by such cases, that person has a right to injure,
but it is at his own peril, for such is
for his own benefit, and he is liable at
all events as if he had been robbed.
The examples given are truly so.

But the above things will never set, yet
wrong done to them by careful usage is so
despicable, yet so slow not regard it.

Ch. 34. 2Pair. 22. 2 Pet. 72. 70 Roll 338.

It seems to be a mere indulgence at 3

3 pound is enabled to conceal 3 fact. Further,
pounds are usually made by necessary persons, and those who are embroiled. 
Where your service is at expense in keeping your house, you may reimburse yourself by using it as these living animals are pleased. This J.G. thinks does not arise from any consent to be done but of necessity by law as a consequence of his principles of justice demand.


I have not seen J.G. discovered from my books yet. Y. is a man of able and wise uge (i.e.) profert. He was by 3 Roman laws this was set in opposition to y expense of keeping y Jones 115.

But where y pledge will be injured by the use, & y keeping of it necessa no expense, y service has no right to use y pledge. The cause was so that there is no consent implicit in y part to y Jones.

But J.G. thinks y law does not refer to this cause. For y duty of y service is to keep & restore y goods safely when y debt is paid & as there is no expense incurred in keeping y usage, there is no principle of justice will warrant y service in using.


And as y service has no right to use y pledge if he does use it. J.G. thinks the whole question guilt of a conversion is liable to an action of converted by 3 Roman laws in this act. in this action, as lawful as for to a conversion. (Bac. 268, 257. Jones)
The law is, even per Dr. Black, with rec. 34, 
not to a finder of goods. The liability in goods 
not liable in "restitutio", for there is no con-
tact between the parties. The 3rd party must be 
liable "ex收割" if not in "apotropoia".

The finder has no lien upon his goods 
or his promise has, to the same degree of 
care as required by him. Demol says that 
the finder is bound to ordinary care in pre-
serving the goods for the true owner.

LeClerc, 911, 1 Dict. 645.

There is a case in Bro. 8, 219 in which it is 
not the finder is not bound to keep the 
property in safety, so that he is not lia-
able for neglect in keeping. It is a mere 
fiction of law. G. Scott thinks it not supported 
on any principle. The determination of the 
cause was correct, the reasoning is erroneous.

Esp. 219, 2 Knight 214, 1 Coe. 143.

12 Vare. 262. 12 Lord 151. 1 Peter 27. 
5 Vare. 281, 16 Vare, 261, 3 to 446.

So it 1st seems on 1st impression 
that the finder shall be subjected to nothing 
but gross neglect, for 3rd party benefit acco-
ments to 3rd owner, & 3rd party cannot compel 
him to pay anything for his trouble, the 
finder being in the situation of a depo-
sitory.

But in 3rd case of a depositary, 3rd party 
shall deliver goods, as not, as he pleases, 3rd 
party's discretion if his depositary. This is 
not a case with goods found under strictness
can't be sure to be baillee, & it does seem pl. to finder that true ordinary care, or leave
of goods to be taken by some one who is not enough to use such care.

35.

The St. L. of Court. enables the finder to receive a remuneration for his expense and trouble. Here then if finding is clearly advantageous to both parties, & the finder is bound to use ordinary care upon same principles & bailiff. St. Case. 1791, 6.

J. G. thinks yr. C. L. rule is same ther. reasoning yr. vs. it is Sec. 2, 219, that however, was an action of 'trover'. yr. finder of goods sh. not spoil them while in possession of yr. finder. This his negligence, as all said. In yr. Demurrer, it was held yr. the action sh. not lie. Now yr. Decision yr. case was perfectly correct, for it is clear that trover will not lie for a mere non-observation. The action sh. have been in special action on yr. case. See 146. Robt. 219. But yr. dicta of yr. 67, in this case are not clear. 299, 118. 6. 28, 2827. 4 Walker. 633.

36.

It is well settled yr. at C. L. 31. yr. finder has no lien upon goods by his trouble of expense, but upon demand made by true owner with proof of ownership, he is bound to deliver goods or, & there he refuses to deliver it, is guilty of a conversion & liable in 'trover'. 2-63. 234, 1 281, 211, 117. 700. 1834, "Brown", 31.
But in case of salvage is given, for sheaves are wrecked & abandoned at sea, & finder is rewarded, initive at sea 
& to a reward.

This is a punishable by public law of clauses, not by T. L. 2 R. Bl. 144.
5 Bl. 170 "Trau".

But the it has been agreed by all that finder has no lien upon goods, it thus been a mooted question whether at T. L. be due any case recover a reward. If he can recover at all, it must be "inherent gift" in work done good, founded on implication of request & promise. The act of the finder is a mere act of courtesy, not voluntary courtesy will not support an action at T. L.

Hale 104. S. 125. 21 D. 183. 3 B. & P. 87. 98. Holt 16.
I do not, see any, any ground of recovery.

But a refusal by finder to deliver goods to party claiming ownership of goods on demand is not necessarily a conversion, & party claiming them offers 
& ownership. The finder is then made judge, whether, is end, is ownership is (party) correct. & his decision of to be determined by a judge in an action of "torture." That, finder refuses to deliver them after end, refused, it will be a conversion. 2 P. 112. 170. 890.

But there is one case not decided in: book 87, my knowledge (E. L. 98. finder goods, he actually belong to B. C. demanded them, & on his refusal to deliver them, he brings an action
of trover, & to give testimony recovering the full value. 99. See an 13. 1 time since being another action vs. 99. to recover z. value against it was decided in utmost, that he might recover vs. 99. 118. 2 Oct 445.

But J. J. admits z. correcting of z. decision on z. ground 97. when every law compels a person to pay a sum of money for a given cause or consideration it will not compel him to pay it again. Thus when a debtor has been compelled by an action to pay a debt to a before as 99. law will not compel him to pay the same debt over again to z. rightful exist.

For in support of z. rule, principle. 572. 123. 8. 13. ac. 11. Doug. 141. 167. 117. 29. 449. 656. 2 Dr. 408. Doug. 601.

Sec. read between two parties 97. if not read between 2 parties 11. 8. 192. (i.e.) if z. principle be determined at law it did not serve at z. right to press vs. way in 97. but it is only at z. right, has been had by 97. 99. 99.

"Evid. ("book of Bankruptcy law 99."")

But to z. subject of demands, if after a tender of payment, by z. assignee, & a refusal to deliver z. goods by z. assignee, z. assignee recovering in an action of trover, z. assignee may still recover his debt, notwithstanding his breach of trust. He must, however, make demand of z. money tendered. 173. 2d. 198. 173. 198. in order to recover costs.

If perishable goods are found, & decay in z. hands of z. assignee, he does not recovering th-
It appears to me however, yet this night of redemption can be exercised only when the 3d day, remaining specifically in 3 months by 3 s, has been a pledger by himself as a
pledge, for by no debts not being paid at 3 days, if payable, in pledge of absolutely vested
in 3 persons in law, y if paid lawfully sell it.

See Vol. Christian Observer: 118,
where it is 3d. 3d. persons if sold to pay
back 3 debts to 3 persons. And also in the case 3d. if not paid within 12 months 3rd day
3 persons may sell, y if he receive any sum of 3 debts is expense, they must be re-
turned to persons.

J.J. thinks 3d where no time is
appointed, 3 law appoints this time. It would
appear from 3 report be seen.

A distinction is to be observed between a
mortage & a pawn of personal property. The
mortage has a full, pledge, in 3 thing mort-
gaged, & there is no 2d. of redemption at
2d after 3 days the 3d. y the 3d. days. The
mortage does not create a money lien, as a
pledge does. 

Jews 8. 9. of. 1. 5. 275.

Jews 1. 2. 391. 3. 259. 3. 200. 2 295. 2 259. 2 295.

But in 3 case of pawning property, properly
do, called, this night of redemption exist
after forfeiture even then it was agreed at
3 time of making 3 contract, y if 3 property was
not redeemed at 3 time so stated, it shall
be considered as a sale. This is in analogy
to Mortgages. Once a Mortgage always a Mortgage.
This maxim applies equally to persons. But one precisely expresses its meaning, viz. that if property is once conveyed as a security with a right of redemption, no collateral agreement made at any time shall extinguish the right of redemption. This rule is intended to protect poor, defenseless debtors from oppression & extortion. 2 T.C. 598.
1 T.B. 588. 1 Dec. 38. 29 Ser. 143. 2 Ten. 698.

A factor cannot have 3 goods of his principal so as to give 3 become a lien upon them as if his principal. 7 T. N. 249. 1 En. 366. Otta. 178. "Master & servant" 25.

The reason appears to be that a factor has only a lien himself, 2 that is a personal right which cannot be transferred. The court, being fiduciary, prohibiting a lien. F. C. thinks 2 is in any case be transferred 2 certainly not in this.

The principal is willing to trust a factor & to give him a lien on 3 property until their accounts are settled, but he does not give him power to appoint a new director. 1 T.B. 178. 4 Ten. 219.

It is now settled if a factor pledges 3 goods of his principal to secure a debt due from himself, 2 principal may maintain trover, after demand 8 until tenor 14 3 and 9 etc. 2 3 goods. The act of pledging is a breach of trust, by which he forfeits his lien. 7 Ten. 1178. 11 T.C. 344. 1 H. 33. 382.
7 T. C. 3.
The question of this point one way or other is very important. In a case of assignment, if 3 party be not legal, it follows that 3 party need not tender pay. To 3 party, but immediately claim of 3 party be not, and 8 if he refuses he is also facto guilty of conversion.

It appears contrary to analogy if law on a pledge shall be assignable.

But it is clear a pledge cannot be assigned to 3 party by 3 act of 3 person, as by treason, felony, etc. 135 248 249, 248, 249.

But a person may assign goods that he is capable of assigning in his own right, i.e., what he can convey by own. 1 Inst. 8, 9, 12. 26 12, 12 Inst. 12 Inst. 12 Inst. 2 Inst. 2 Inst. 2 Inst. 2 Inst. 2 Inst.
It is also settled that a pledge cannot be taken on an
inventory because, in the event of it being
of such a nature as to render it dangerous
to be purchased, it becomes

It is also true that, although a pledge cannot be
alienated, evidently, meaning that it cannot be
assigned. (Dec. 157, 183. Dec. 205)

I think it appears from authority, analogy,
and principle, that a pledge cannot be assigned
before the debt is paid.

A pledge is an interest of a personal trust
subject to the assigned person, who, in a
dangerous situation, if he becomes insolvent,
cannot pass to an assignee.

This is a principle to the point, viz., as relating to
real property—as lands. They cannot
be converted in emblements. Nor can a
creditor be insurable on insolvency, or knowing a person, a redemption.

And a chattel may be taken away with,
emblement on emblements.

There is a case in 2 Black, 375, where it seems to show
that a pledge may be assigned after the debt is discharged.

[...other content...]
action at L. 8 not in Eq. 8 doing g. g. and the
interest of z assignee was precisely what it had
been, had z assignee been made after the
forenot.

To have raised 8 question for discussion it can
have appeared yet there had been a number of
facts. the 8 evidence of z action that have been
proven & brought at L.

The point is not yet settled. 8 Bren. 696 & 8 D. 803
Dec. 26, 1796.

But & assignee may object his interest to pledge
by treason felony &. 8. 8. 8. Day or pledge
may not take g. pledge with. having z debt due
from z person, for his interest, purported by person
of only an Eq. art. Redemption 1780. 1780
12 B. 26, 1796.

According to J. G. 8 sale construction is
that & assignee must assign before the pledge &
assignee were to assign to assignee he did, be immediately
by subject to an action in Securis.

The assignee is also liable, the mast above

It was formerly held essential to assign
get it and be delivered as well after as at a
time when z debt occurred it. it was intended to
secure, if get if it was delivered afterwrd, it was
not a pledge but a license to receive a thing
in taking it to be returned during z assignee
pleasure.

But this is not so now. If it is now settled, z
pledge may be delivered as well after as at a
time of contracting z debt. 47 575. 2 Lea. 30.
269, 1796. 7 B. 238. 8. 1797. 8 B. 238. 12 1816.
V.

Bailment of goods by a deliverer to a person to be carried or to have some use made of them, if a bailie for a reward fails to return them, Jan. 30, 1278, 1278. 2d. 19, 23.

This case includes a delivery to a common carrier, &c., &c., 34. 11. 6.

The two different classes of bailies, &c., 34. 11. 18, 19.

I. Private Bailors

A delivery to a person includes a delivery to a private person, &c., &c., 34. 11. 18, 19, 20.

This bailment being advantageous to both parties, if the bailie, or in case of the bailor's failure to return, if the bailor is liable, &c., 2d. 19, 23.

A bailie of this class if prima facie excusable (by some of his third class) in case of robbery, as other bailies before mentioned. 2d. 19, 23, 28.
In case of a mere loss by theft, a bailee is liable or not, as it appears, yet he used ordinary care or not. June 1832. 1 Pet. 412, 2 Pet. 918.

25th Dec. 2205. 7 Lev. 5. 1 P. 3.

The thing baileed is sustained by bailee's landlord, you rent (as it may be), bailee is liable it seems for permitting it to be his bailee upon instead of his own goods. He must be liable at least for ordinary neglect. June 14th, Dec. 2315. 7 Rev. 8. 3/4 of 1 Th. 1993.

It does seem yet he is liable independent 4/9.

General or all neglect, for as a bailee's property, had been asked to say his debt, he than is liable to his bailee as his money laid out is expended for his own use. Bore he is no closer, you he pays only for a benefit reed.

According to Jones if metal is delivered to a smith to be smelted into an extempel, the smith is not liable as bailee.

Such a delivery he maintains partly the property absolutely in 3 smith as a mutual 35. 45. If an loss happens, he must at all events be liable. June 11. 89. 20th.

The reason of 3 to metal when wrought must be identified. 2 Pet. 403. Rev. 38. 4th stone made into bread, grapes into wine.


This seems to be incorrect, the it is true yet 3 owner can't identify, even 3 metal, yet 3 fact can be proved, yet it is 3 same if it
can be identified, in point of fact, 3, 2, 1, and 2, specific defects. If, 2, 3, Smith was guilty, of no neglect, ought he to be liable?

The hardship of case is another material objection to its doctrine. If 3 metal were destroyed even by an act of God, before any alteration made, 3 Smith would be liable according to Jones doctrine.

In case of a mutual, the articles, by reason of contract, are not to be returned to party delivering, specifically (but only on equivalent) in any shape or form.

But here a material question is to be returned, brought into the case, if you please, or whatever reason may be.

In case of a mutual, 3 has the right, after returning the goods or delivering to a return of the goods or the equivalent thereof. If goods are sold as a mutual, if the case is Smith to be a purchaser. But it is not strictly a mutual.

In case of a mutual, 3 rule 3. He undoubtedly hold, as where what is loaned is consumed or destroyed. Hence 3, Smith is virtually a purchaser, 4 is liable at all events. 3 B. R. 105. 139. 25. Moore 30.

The 3 3. 20. 38. 38. have rejected this rule. 19 John. 44.
Whereupon, if delivered to a bailee who is to perform some act by skill upon about it in his professional character.

There it was proving a two-fold contract on his part. It not only implied a contract yet he will redeliver it unless its purpose by bailement is answer'd, but also if his work shall be performed in a workmanlike manner, e.g., bailee by exercising his trade himself not to do work as one skilled in that profession.

17 Geo. 3, c. 1, 2 Bl. 165, C. 61. 1 Blant. 821. 
Esp. 301. Dorn 120. 12. 87. 80. 1 Wilt. 181.

But if its act to be performed is not in sine of bailee's profession or common avocation has implied no contract on his part, yet its work shall be skillfully done, e.g., every bailee cannot be liable, ni he made an express agreement that it should be so done. 2 Bl. 166 Esp. 301.

Dorn 133. 50. 14. 5th B. 155. Retr. my case.

It is goods if they be delivered to a bailee & are kept in deposit, for want of care it is required if him. By law he is not entitled to wages for their labor previously bestowed upon them. This is principle seeming to be of rule, then there is little said on the subject in books. 3 Dorn. 1535. 1 Esp. 85.

But if goods, who, be lost after labour had been bestowed, & with the bailee's fault not to seen at, he or be entitled to wages. 3 Dorn. 1595. 1 Esp. 85.
Heeres if lost by bailee's fault,
Common carriers have become of frequent note & it was considered them as very important.

A com. carrier is any one in public who makes it his business to carry goods of another for hire, as a wagoner, a shipper, a factor, &c. and is master of a ship employed in carrying freight. Le. R. 918. John 149, 150 & Lev. 14.


It seems properly to have been doubted whether any ship or a carrier by land came within the description of a com. carrier. The Law or subject was first extended in the reign of King II. to com. hoy-men & to ships masters in st. Nov. 18. John 148, 152. & Gen. 17.

Ex. 19. 8. Le. R. 918. & Deo. 130, 238.

12 Pet. 4, 7. 2. Deo. 79. & May. 20.

53. There is now no doubt of the liability of carrying on y. water. 1 Levo. 8, 13. 11.

The masters of ships carrying goods for other persons were com. carrier's, & in case of a loss, y. action may be brought either on y. owner or y. master. In particular, y. owner alone, at &c. Le. 50. &c. liable, as y. master is &c. strict.

But there are many reversals wh. render it just & necessary, if t. y. master &c.

The unjust tow often know nothing of y. owner.

Nute. 3. 19. 2. Deo. 138. 17. 2. 18. 78. Est. 22.
By 3 Eng. 2. tot. 3 Geo. 11. & 4 Geo. 3. it is proscribed yet when a loss has happened by a misadventure of a master or mariner, a two vessels shall be subjected to the value of 3 ships & freight, the master &c. be liable for 2 ships.

1 D. 12. 1728. Marsh. 160. 114. (120. 10.)

If a com. carrier, having consigned to carry goods of another, is having them tendered him, refuses to carry them, he is liable to an action on his case for by assuming this public character, he must of necessity hold out an offer to carry for any one applying to him. Besides there is an implied contract to carry them.

Bull. 70. 10 Dec. 156. 1. 85. (120. 160.)
Hard. 163. 5 Bl. 166. 108. 143.

But this a com. carrier is bound to receive by law as mentioned in my last rule yet he has liberty to make a special or conditional acceptance. The law allows him to say that he will not be responsible for a package if he is told what value it contains, & is promised yet a reward proportionate to the risk shall be given him, & he may demand it before hand. 1 D. 13. 1270. "Supra." 622.

The law not being advantageous to both parties, it did follow if there were no circumstances to impress an application of 3 &c. unanswerable, that 3 com. carrier &c. be liable in nothing less than ordinary negligence in this very case of late as "Supra." 85.
but all according to the law: 10th, 17th, 20th, 22d, 23d.

If a servant is considered as an improver, except in his case, the act is God's, else in other cases he is liable.

If the yonder are lost by any cause where there is no fault, he is excused. 21st, 22d, 23d, 24th.

This is i.e. Mansfield, and if a act of God.

and it has been done and 3'd at a price to no excuse to a com. carrier — as in London in 1660. 21st, 22d, 23d, 24th. 23d.

If by lightning it is an excuse, but not if by accident or in injury.

[Text continues with various historical references and discussions about carriers and their liabilities, concluded with a section on a tent's act at sea and a discussion on probability and causality.

If a tent at sea makes it necessary to

throw goods overboard, 3 may

then be excused. 3 act is immediate act, inst

act of God. 3 merely was regarded by 3 act of God.

[Further text on legal precedents and principles, concluding with a note on the decision must have two factors: necessity, and no fault.
When goods are ill-sealed or leaky, it is proposed to leave
this, and the claim is averaged among owners, masters, and other
persons, but not passengers.

1. Marsh's R. 48, 571, 572

2. Lake Michigan, in Maritime Law, it was said, 

Passengers are not liable for cargo damage,
but are, if it is proved, that the ship was 
not within her right.

1 Ch. 7th R. 48, 482.

But if a carrier is ordered to pack it, 
not to be done by him, he is not excepted, but is 
liable, if it is found, to pay the costs.

1 Ch. 7th R. 48, 428.

But if a carrier is excused, where the loss 
was occasioned by an act of the carrier himself,
the packer or mover must pay for the 
ware when he has packed it on board a vessel.

1 Ch. 7th R. 48, 428.

59. And if a carrier's vessel has already left the port, 
the carrier is not liable for goods when the 
carrier is excused, if it is shown that the goods are 
lost. 1 Ch. 7th R. 48, 428, 429, 413, 188, 189.

So in case of imprudence, blame is placed 
since goods are lost.

But if goods must have been left while 
the ship was in port, in order to subject 3 carrier
80.

So it has been determined at where
a carrier's vessel was left, or carrier's ship
was not with his vessel. To take charge of them, a carrier
is not liable if the ship may happen, when a carrier's ship
is whiz charged, 1 Ch. 7th R. 48, 428, 429, 188, 189.

But this means, yet he is not liable to the
extent of 3 goods, that is, his part of the goods.
It is to be a common carrier the sign and 50.

of 5 contents of a box, &c. if liable, may be discharged himself by a special acceptance.

Heirs in case of a repository. Bull. 70. 227. 112.


Journ. 148.

and accordingly if the person who takes the contents by a common carrier not liable, if he accepts them specially. In some cases, he may take the carrier of the box contained vehicles of small value, when in fact it was money, but still, carrier was liable to liable. Ally. 98. 112. 238. 113. 338. 112. 79. 112. Journ. 148.

In other cases, where a box had a book, 61.

some tobacco, when it contained 70. 100. 100. 70. 112., 112. 112.

with these appear of bonds in many places, and cases of justice. The books may not be it is supposed to 112. principle, if justified, may discharge himself by a special acceptance or in case of a repository, I will not take your word, if a box contained any book.

2d. Shewsbury has expressed his dissatisfaction with the rule, 8. 10. 10. and, by opinion of Lord King & Tingen, &c. also opposed to it. 2d. 112. 238. x 112.

Journ. 148.

These cases, 112. thanks not lose - Journ. 148.

If of B. delivering B. a box containing 2,000 telling him if it contained 1,000, there is a fraud practiced upon 2.

The act is concluded in order to diminish Brexit. The carrier has no objection to knowing 3.

and 7, certainly can't be considered a bailiff for 7. 100. The
is liable for £ 700. So far as he is informed, so far he ought to be liable. The nature of an insurer or

In a purpose to make the trustee of the society, and in the manner in which the trustees, in the manner in which the
society must be qualified.

The advertisement, in a public newspaper may be
accepted to constitute a qualified acceptance.

But whether it is so or not depends upon whether
the owner had notice of the advertisement, or not,
and this must be left to the jury. Bull. 71.

62. Under a general acceptance except in case of
a special carrier is liable for what he receives,
but under a special acceptance he is liable
for as much only as he agrees to carry.

In this case the owner's rights extend to no
more than is included in a special acceptance.

In any case, if the rights do not extend, he is not a carrier, and consequently
is not liable at all. Epb. 621. Smith 385,
Bull 701. 4 H. Bl. 298. 7 East 107. 4 Cow. 278.

63. The case is not. Bull. 701. The owner having con-
considered his value, a special carrier may be not to be
liable at all, but in that case there was a
special acceptance, by terms of which he was not
liable. Smith 425. Epb. 620. 4 7 East 371. 6

63. The carrier did he? be liable for no part of
informed of that whole, as this being reasonable condition 3 Ct. allows it. 

A master of a stage coach who receives goods for passengers only is not for goods, is not liable, as a con. carrier, tho' if they are lost by his fault he is liable, or if he receives a receipt for goods. Gen. 32. 25. 12 Dec. 1834.

Bell. 26. Esp. 022. 3. 2 Nov. 128. B. 3th. 282.

For a con. carrier is not liable for more 64.

than his reward extends to, yet he is liable with the actual part made before hand on title any respectable promise of pay, because, he may recover his hire when a "quantum meruit." He is not bound however to receive goods with payment. 1 B. n. 352. 18 Oct. 3rd.

2 Nov. 81. 129. 8th. 5. 262.

I suppose he is not liable, limiting his liability put the in a conspicuous place in his office disponder with necessity by personal communication with a bailee - & will give a just reason to presume that a bailee understands the terms.

To change a carrier it is not necessary that goods may be lost in transit, or if they are lost at 3 pm before delivery, he is clearly liable, as if goods are not delivered & are lost he is liable, & he can recover 3 Ct. established custom is not to deliver but to deposit at 3 pm.

If the goods lie on him, he is liable of course until delivery, as he can prove yet he was not
bound to deliver. 2 B. B. R. 967. 6 Wilk. 789. Esp. 875.
Proc. 485. 5 H. 37. 7 Hay 266. 5 Inst. 13.

If 3 goods are directed to 3d, they are to be delivered, & 3 carrier is liable till such delivery, (i.e.) he is liable prima facie.

65. When 3 (direction) custom is for 3 carrier not to deliver 3 goods to 3 consignee, but to keep them in store for him, he is not liable as a common carrier after they are deposited in 3 store. 4 J. R. 581. Esp. 823. 2 Johnson 721.

But if he keeps them up as a depository without a regard for storage, he will be liable at such.

If he keeps them for a regard for storage, he will be liable as a hiring, & liable for want of ordinary care. 39 R. 578.

21c. Does not 3 know if carrying includes 3 custody? & if so, he d. be liable as a bailee.

off delivering goods on a dock. Sec 1. Feb. 1901.
15 John. 25. 17. 1901. 2 B. B. R. 52. 2 Board 914. 5 H. 376. 2 Gem. 272. 80.

If 3 consignee of goods directs by what carrier they shall be sent, he is not the consignor will be entitled to 3 action for his 3 bailee. 8 H. 36. 310. Esp. 390. B. B. R. 35.
1 Cas. 576. 4 Cas. 293. 1 R. 535. 33.

If consignor selects he brings 3 action.
Whenever a consignee makes himself liable for padding a consignment, as to take upon himself the risk of loss, the consignee becomes a carrier. 3 D. N. 353. 1 Porter 328, 61. BUII. 26.

5 D. N. 2630. 1 P.B. 604. 1 Pallas. 11 V. 212.

The consignor being within of the act of conveying a price and in no case of a balance.

If one sends an order for goods in the name of a carrier, if a vendor delivers them to a carrier they are at the risk of the vendor. 5 S. N. 225.

S. N. 328. 1 Davis. 385. 2 V. D. 46.


The reason is that a consignor becomes a agent of a consignee himself.

When an action is brought in the name of a carrier, it has been held that they must be joined, it must be hot or all else it is sufficient only to join the contractors. 1 N. C. 19. 25. 5. 52.

2 D. N. 264. 1 P.B. 67. S. N. 12. 2 B. 47.

1 Pallas. 15. If nonjoinder is misjoinder if the wrong see 5 D. N. 241. 240. 127. 29. 291. 11. 21.

"Kings by such sources in contract they must be joined but if it comes to fut they need not be so joined.

By 2 C. L. a postmaster may deal as a common carrier for letters, money etc., intended to be mail, or by 2 C. L. be was acting in a private capacity. 23. But since establishment of a post office by Stat. 12. Can. 21. 3 postmaster has ceased to be considered a common carrier. The entry into no contract with private individuals. 1 T. 17. 2. 2. 56.

C. 54. 54. 3. 251. 1. 25. 29. 13.

Action on case 15. Martin & Son 42.
It is indeed to the character of a common carrier, that he should receive nine from an individual who employs him. But a post receiving department, or agent for post is not in their case, besides no one would require the great responsibility of post masters in the same way liable as common carriers.

From a nature of his character he is not liable in an individual for the default of his servants. They are officers of post. He is liable to an individual under for his own neglect, is to cause his subordinate officers, but no further. 1 Wall. 453. 6 Cr. 763. 3 Meas.

Common carriers are free in their books to be liable upon custom, if their realm but this is not expressly given in custom, being universal, it is part of the law. The custom of their realm is known to the judges ex officio.

1 Ed. 245. 7 Boc. 253. 9 Wall. 18. 12 H. 38.

The usual mode of declaring it in >A v. F.

Fins. 514. 5 East 62. 4 T. & J. 840.

When property is stolen from a common carrier or otherwise lost, so as to subject him, he being guilty of no misconduct, is only remedy of him is a special action on his case. He is liable on 3 grounds if neglect only.
'Prover' will not be for there is no mis-

sense, that if the mere guilty of an act of 


S. Co. 146. 24th. 1831. S. Burns 1827. 

S. B. 287. 23d. 58th. 90.

We may make himself liable to both 


1st Term. Carrier that a lien upon goods

etc. 2d. 252. 5th. 5th. 2d. 1823. 2d. 4th. 59.

1st. 4th. 1st. 2d. 717. 1071. 11. 2d. 195.

The genl. L. as to from Keepers will be con-

sidered hereafter, but if necessary time 

to treat of their liability as bailiffs of their 

guest goods.

A delivery of goods to an agent of an 

inn Keeper seems to fall under 3d. 2d. genl. 

division of 3d. 5th. class of bailments.

A delivery of goods in this way is a bail-

ment to a person exercising a public employ-

ment in a record.

Opinable classes a delivery to an Inn-

Keeper as an accommodation or lending graty.

But 3d. two kinds of delivery do not resem-

ble each other in any other respect than at 

they are both bailments.

A lending graty is a lending for use by 

bailee only. A borrower considered as such 

is always a private bailee. § 152. 625.

Justice Butler classes this 

incident under 3d. last division. (i.e.) a mandatum.
A mandatory as such is always a private bailee. He receives goods to take care of them greatly.
But an Inn-keeper is always recommended for care, i.e. he receives directly a place for keeping, and even for inanimate things, he is regarded by another palpable contract, he is bound to entertain his guests. The way for a room or chamber has reference to storage. Bul. 33. Jones 180. 2. 4.

The bailment in this case being advantageous to both parties, an Inn-keeper is according to a gent. Conpicable he liable to ordinary neglect only. But a policy of law has extended his liability somewhat farther. It seems to be a prevailing opinion that an Inn-keeper's liability is co-extensive with that of a com. carrier.

But I know of no express authority to that effect. He is clearly liable for any loss occasioned by agents, in any way. The law on this subject is intended for the benefit of travellers, they being in gen. strangers to him & ergo exposed to danger in losing their goods, ni he were liable to them.

& co. 52. V. PItt. 75. 1 Bl. 430.
Jones 133. 3. 5. a. t. Co. 3. 646.

According to a gent. rule he is also liable if goods have been stolen by a stranger, whether there has been neglect or not. He is not excepted here by ordinary law as he is by a gent. principle.
Jones 133. Co. 7. 139. 2 Bl. 3 Co. 3. 5 2 Bl. 226.
E. G. thinks at a policy of a law requires that
he the, be liable as con. carrier, that he finds nothing to this point.

This rule does not hold if 3 goods have been stolen by 3 persons own servt. or by his travelling companion or by any other. The lodger in room with him by his own request see.


Yet seems yet sum. keepers are liable for loss occasioned by con. robbery, this on this subject there is not seem to be any authorities yet are conclusive. In Bled. & it is dr.

yet if 3 have been broken 3 goods taken by 3 kings enemies 3 keeper if escaped. In assuming a reason for this rule it is St. to be that such fine is supposed to be irresistible. Jones 355 a. 10 says yet he shall be excepted if 3 fine be truly irresistible. See this seems to imply yet he do. be liable for any other robbery.

The conclusion from 3 authorities it do.

seen must be yet for a robbery committed by a small party he do. be liable, but if it were by a large party as by mob or insurre.

3t. he do. be excepted.

Hence it appears yet he is not liable to 73.

extent of a con. carrier - the 3 authorities are not conclusive. & Co. 52. a. & Co. 182.

Esp. 6267. Luc. 3. 3. June 1.

By 7. Roman law nothing less than inevitable accident excused him & own law is very like it being reduced from it, almost word for word. Yet v. 162 a. 2.
It do seem yt 2 fin kepere is not liable in there is some default in himself or his serot. But this is not Law if it is expressly denido by J. Bullee. 8 Co. 22. Ch. 62. 7th. 8 Co. 276.

The fin kepere is liable only in such goods as are under hospitium. But this includeth his outwours as stables. 8 Co. 316.

Ch. 62. 7th. 4. Noble 7th. 8 Co. 316.

If 2 poore sy a quest are removed from a fin by his own direction is lost, 3 fin kepere is regularly not liable -- as if a quest owed his horse to be sent to a pasture where 2 horse is stolen 3 fin kepere is not liable. 8 Co. 316. 7th. 4. Bullee 7th.

But if 2 fin kepere put him in with consent of a quest 2 horse is stolen he is liable for it is his own fault. 8 Co. 316. 7th. 4. Bullee 7th. 8 Co. 316.

It may be obserued yt if a quest rides his horse to be put into a pasture 8 he escapes 8 it is lost for want of a quest. Since 3 fin kepere for 2 be liable on 2 grounds of ordinary neglect. His not by 2 mile found in fasting. 1st. 18. 13. 8th.

If damage is done by 2 bullee 2 neglect, 2 unita may sue him in trespass on 2 agreed either express or impleaded or in tort for the neglect. 8 Co. 62. 8 Co. 282. 8 Co. 319.
But in this case neither "Detinue" nor "Bovver" will lie for there is no un lawful detinue or actual my fragrance.

VI. Clues of Breachment. Mandatum.

Mandatum or mandate is a delivery of powers to be carried, or some other act to be done to them without a reward. This species of breachment is something called acting upon commission. But I expression is properly in proper & I proper name of mandate. Ld. Rul. 918. Bull. 173.

As carrying &c. is gratuitous, I only diff. between this & a Deposition is that one is to do some act & 2 others is to keep some article. Bull. 173. 1 bowed 6 254.

A Breachment of this kind being so vantagious to 1 bailie only & bailie is liable according to 3 point. Principle is nothing less than gross neglect. 8 such of 3 laws.

1 bowed 6 255. 4 (There are some qualifications)

But where there is an express agreement by 3 bailie to use more care than is required by 3 gent. Principle, & 3 left hopes by 3 opinion of that care & he agreed to exercise, he is clearly liable.

But this is on account of his express agreement. In deserving he is or liable for gross neglect only. 6 7th June 25. 1 bowed 6 255.

Such an agreement to use all necessary care & skill may in certain cases be implied, but under what circumstances will be considered hereafter.

An agreement, then, if this sort will subject 3 parties to comply with the stipulated care will be considered as good neglect.


Indeed 2 parties altogether to go to confound all distinctions of care & of such doctrines he cannot all 3 rules to be observed. This seems to be the opinion of 2d. 174. B. 158. 195 3d. Red. 255.

Joseph 85. 165. Red. 919.

If 2 parties cannot be bound to accord to this doctrine.

An agreement, if so mandatory to use all care & skill is not implied in this agreement, unless 2 not to be done in any time of his professional business. 174. B. 158. 165. Red. 89.

This seems to be a true rule. But Jones says it is not this but from not calling to any particular this agreement, but if not supported by authority. 174. B. 158. 165. Red. 89.

Joseph 34:5. 10 East 78. 116 3d. 144 3d. 727. 6 3d.

And maintaining a distinction between 3 & 7 only of a bailor, where it is mere negligence (i.e. performing some act & 3 time it lies in keeping & carrying on only. By negligence he means labour.
He says that where a bailee carries goods in a vessel he does not implicitly promise to use all care & skill June 61. 20. 3. 5.

Foster, all Principals & assign. 8 1781. 1783. 1788. 1793. 1798. 1799.
June 8 4. 5.

He says that where a bailee undertakes to do any other act, as to unload a ship, he implicitly engages to use all necessary skill & care. June 8 2. 5.

But where there is an agent, expressly or implicitly, to use all care & skill, a bailee is liable for gross neglect only.

June 8 1. 5. 6. 7. 8. 9. 10.

A merchant engaged to enter at 3 captain house goods & goods with his own & to do it gratuitously, the ship did not make a long voyage in consequence of which they were perished. It was held not liable because his own goods were lost. June 8 1. 18. 19. 20. 21. 22.

It did not engage to use all necessary skill or to possess all necessary knowledge.

June agrees that a caret. to carry goods does not imply a promise to use all necessary care & skill. June 72. 87.

It has been observed that law implies an agent, to use all necessary care & skill in part of his mandatory, where's not to be done in his professional business, but this implied agent, extends only to 3 reasons
or doing 3 act & no farther.

There is no implied agreement to use all care & skill in keeping &c. of if 3 goods are lost 3 mandatory is liable only for gross neglect. Thus, if a tailor engages to make 3 garment gratis 3 has implied an agreement to do 3 work skillfully, but not for

Le. Ra. 718. Bull. 73. 3 Rev. 235.

50. Even an express agreement by a mandatory to use all necessary care & skill will not subject him for losses occasioned by 3 act of God or public enemies or if 3 fail

Le. Ra. 718. 40 S. Jones 62.

But if it were deemed on principle 3 bailie can’t even by express agreement exempt himself for losses occasioned by his own gross neglect. It is contra bonos mores ex2 vs. Lar Jones 66. 75.

It has been observed, that according to some authorities, an omission of stipulated care is gross neglect. This was supra.

But whether it be true or not on relying to 3 bailie 3 deliver, binds him as a cont to that after 3 goods are delivered to a mandatory 3 engagement, on his part express or implied binds him as a cont. But he not bound before delivery.

If I promise to build a house for a man & at the same time refuse to do it he can’t compel me on it is medium fraction

He if of promise to carry goods for 3M. is at 3 time refuse to take them if am not hindered not after
having taken I shall certainly be bound to carry
them. [Ld. Rep. 920. 5 Eliz. 149. 6 Eliz. 207. Dan. 129.
20a. 164. 1 Rob. 989. 10. 12. 1 Rob. 187. 8 Eliz. 1188.
Crawshay. 267. 1 Ex. 7c 4. 4B. m. co. 1. 2 Rich. 26.

The opinions are not all coincident on this
point. But besides what above authority, there
is a case directly in point viz. 9th. received
money by B. at 12. B. promised to deliver it over
to C. & B. failed to deliver it over to C. & B.
recovered of B. in Ipp. suit.
Feb. 12B. 69. 3 B. 662. 3. 19 N. D.

Some say's the liability of B. failure is founded
on his gross neglect & not on his promise.
[Ld. Rep. 910. 5 Eliz. 6 B. 531. 459.
Some (1050.) says that where special
damages accrue on account of 2 parties not to
keep their word according to agreement, an action
will lie without being prompt. The dam-
age must accrue first at all on 2 breach of 2 contract.
But this is the "damnum alquae injuria". The ques-
tion of damage must arise until 2 question of cont.
has been settled. It shall be beginning at the
end of 1st. 2 party's right to damages, before it is ascertained whether
action will lie.
Besides 2 case the Jury supposes will not sup-
port damages even if 2 action 25. lie. It is not be-
2 John. 81.

On the other hand since 2 goods have been deliv.
2 special damages are not necessary to support
an action.
The law presumes damages from 2 breach of 2 cont.

81.
It is at first action in a mandatorv (i.e., not taking being gratuitous) is founded upon his neglect & not upon the promise expressed in it. June 16. 1821. Roll 10.

If this is a case then can an express promise extend this liability.

He may certainly make himself an intercessor all risks, but if his express promise extends itself to him, as such, how can he become liable there with one?

There is no foundation for this opinion. Jones v. Zoll, &c. 1st 17th. Whether he supports his position, it seems to be 3 spirit of all 3 authorities if the & 3d liable, or if it be a promise (I sug 3d contra) 2d. N. 30 5th 19.

Genl. Rules.

A lien is understood to be a direct claim to or incumbrance upon some specific property of another as security for some debt or duty accompanied with possession. 19th 4th.

If this definition is correct it &c. seem to be a lien except only in favour to limited if it is a lien except if not all of 3 d. 19th 4th.

85. It is true if a miner has a right to certain goods, but this is not a lien, it is a specific property, not an incumbrance to secure a debt. 19th 40.

In the case of a depositary & mandatorv there can obviously be no lien. The latter may counters
mand & delivery when he pleases. 2 S. 584.

9th. Bailies of & is the kind always has a lien. 2 p. 247. 1 p. 142. 2 p. 142. 1 p. 142. 2 p. 142. 1 p. 142.

Abst. to bailies of & the kind have also a lien, i.e. a right to hold y. goods entrusted to them for their hire or reward. But this is not y. case with all bailies of this class. 1 Rec. 19. 226. 439. This lien is created by a condition in law.

A person who obtains possession of y. goods wrongfully from y. bailie has no claim to the kind. 3 & 4 W. 585. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141.

9th. Common carrier has a lien until his hire is paid. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141.

And it is laid down by 2 & 3 & 141. that if goods are stolen & delivered to a common carrier, y. latter may retain them even y. owner until his reward for y. carriage of them is paid, for as a common carrier he is bound to receive them. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141. 2 & 3 & 141.

In the像是 may obtain y. person of his good for y. part of his bill (i.e. his & y. kind, & is to receive from 5 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141. 2 & 6 & 141.
He may also detain 8 horse if by guilt until his keeping is paid for. But if horse cannot be retained for 8 days, 8 must be entertained. The same however may be retained until the whole is paid. 8 Bac. 237. 8 Le. R. 958. 8 Ser. 192. 8 Dec. 135. 8 Halk. 47. 8 Le. 141. 8 Halk. 483. 8 C. 508.

Now an inn keeper may retain 8 horse even that of a person not 8 house man 8 may retain 8 horse even until his keeping is paid for. It is not his business to know 8 horse more of a guest, if 8 horse has been kept on his provisions. 8 Le. 95. 8 Bac. 293. 8 Le. 141. 8 Halk. 47.

But 8 inn keeper may detain by voluntarily permitting the horse to go out of his possession. Indeed this is a rule with regard to all things upon personal property. 8 Poper 56 is essential to all public libraries. Yet there is a right to detain, & necessity refers to that only of the public in possession. 8 Poper 552. 8 Le. 95. 8 Ser. 474. 1 Brum. 195.

Deeds in Real Property (reason 117). (Excerpt 2) of the nature.

Most private baildeal 8 the class have also a lien. 8 tailor or other mechanic to whom goods are delivered has a lien till 8 piece for rendering is paid. If it is true yet he is not housed to receive goods 8 his lien may cost in goods. So in the Principle. 8 Le. 147. 8 Halk. 472. 8 Le. 95. 8 Ser. 474. 8 Le. 147. 8 Halk. 472. 8 Le. 95. 8 Ser. 474.

It is said to exist for the promotion of trade. If however 8 tailor of any habit of trusting 8 baildeal he might not be retain with giving notice for he is presumed to have done 8 work 8 personal credit of 8 tailor. 8 Bac. 296.
On the other hand, an aggrieved farmer cannot turn to jury, committed to him until paid. The reason is that he is not bound to receive them till. The interest of trade is commerce is not affected by it. S. 3 55. Bull. 15.

The Capt. of a ship has no lien upon her for his wages & stores, for he is bound to trust to his personal credit of 3 months. If he had a lien he might make a very improper use of it to his great injury. If the owner, for instance, he might keep her in a foreign country to enforce his lien until the become useless.

Hath 33. Ang. 3d. 6a. 62. 376.

12 32. 140. 40. 1. Dall. 49.

The mariners, however, have a lien upon her for they are supposed to contract upon 3 months if they have no damage to 3 ships to be apprehended from them, for that they labor not in a foreign lot. If there shall be any damage to 3 ships, they wages, 3 months have generally to pay them. He is a person to whom they can to look for 1st. VI. 73.

In all cases, when there is a special or express agreement, as in 3 bailee relief for his goods he has no lien.

It is alleged in case if a forrier who claimed a right to retain a horse until 3d. 5th. 5th., that an express promise on 3d day of 3 owner, to pay a certain sum for the same horse, 3 forrier on his right to retain his cause 42 3d 5th. 3d forrier relied on express agreement, it being with the maxim "expression good
express action. 2. Acl. 349. 2. Dec. 271. 2 Roll. 92.
rep. p. 8. 6. Not less this agreement regarded only
of some to be paid. Had it gone to such as these
choice 5 then being no negative 5 right to retain 3
these 5 as have been. Copt. 59.

Deere. (What have 10? Rent.)

§ 8. Great has a lien upon 3 goods in 3 by
profession. 3 T.R. 119. Conn. 316kt. 3.

96. With regard to any other dealings than those of the
2nd § 3 the clays, they all have a special
interest some higher some lower, yet none of them
have a lien. Where 5 nothing to be secured
for they are entitled to nothing. They have a right
to retain only according to agreement. 1 Roll. 1133.
1 Dec. 240. 3 Dec. 172. not a duty to be collected
separately.

If one man had 3 goods. If another it is 3.
If 3 baker must deliver 3 to the baker,
according to 3 times of 3 contract. Because 3 is it 3.
If 3 baker must have 5 contract. 5 that perform
his contract. 5 Dec. 207. 1 Roll. 600. 17. 1 Dec. 142.

The man is 3 to sell 3 to 3 baker 3 goods of
3 to 3. If 3 baker is obliged to deliver 3 goods back
to 3. But it cannot be accounted that he shall.
be liable to 3 baker if he deliver 3 goods to the
true owner. And 3 rule appears to mean 3 the
baker will be justified in delivering 3 goods
back to 3 baker. The rule that 3 see is.

Note that: he "may" implied of "must." 1 Roll. 600.
That such as 3 deel all goods of a
rule given. Afterwards, viz. if 3 bailie re-
delivery 3 goods to 3 bailor, pending an actio
be bailied. The 3 owner, such re-delivery will be
3 action. It is evident from this that he
will be justified in delivery to 3 bailor, 3
not yet he must deliver it to 3 bailor.

The true owner may claim 3 goods he
he may give them, except, in哈示 历vert.

Bac. 237

This explanation seems to be justified by
rule yet if a thief gives goods to a com. car-
rier, 3 latter is not bound to deliver them
until his record is paid. But he must
give them up to 3 true owner on tender of 3
finance. If then a bailie must give up to
3 true owner, a portion, a private one must.
ct. Bac. 567. 1 Bac. 227. 1 Boll 657.

It seems yet in such case if 3 bailie
rep 3 exec. comes into possession of 3 goods,
he must deliver them to 3 true owner at
his peril. He can't discharge himself by
a delivery to 3 bailor, who is not 3 owner.

The reason given is yet, 3 exec. having come
into possession by act of law, is entitled to
3 goods. 3 exec. not being bound to
personal trust of 3 testator: 1 Boll 657
Bac. 237

This reason is very technical. If I doubt
very much whether he did or not be justified if
he delivered them to 3 bailor.

I think 3 bailor's trust of 3 testator is 3 duty
they resolve upon him. 

91.
In pursuing this subject of how far the rights of strangers are affected it is necessary to consider the rights of debtors; creditors who have upon property supposed it to be his if purchasers who purchased under some circumstances were the important part of the title.

The law on this subject is in a great measure regulated by the Stat. 21 Geo. 1 st. in appearance of the Stat.

By that Stat. 1 it is provided that where a person becomes a bankrupt if he has in his possession any goods of another with intent to sell, those goods are liable to be taken for his debts by any of his creditors. Thus 2d 3d purchaser of a stock of goods buys them into present of B. to trade with as his own. B. becomes a bankrupt those goods are liable to his debts.

It gives judgment on tailor's a false credit.

8 T. R. 52. 3 Ed. 1st 1338 R. 82.

Some rule as to fraudulent as to. & in this country generally referred to.

This provision of the Stat. is founded on the apprehension of false credit with the public. It is thought more reasonable by 3 tailors who have enabled 3 tradesmen to receive 3 3/4 that others than those who trusted to 3 credit which 3 tailors had created 2 T. R. 76. 3 Ed. 347 370. 2 Ed. 89.

The Stat. relates however only to case of bankrupt tailors. With regard to solvent
It extends to all cases where goods find themselves in the possession of one person in the aggregate with another's consent. If it extends to goods with 3rd party, it is well to observe that as to goods originally belonging to 2 bailees, but permitted by 3rd person to remain in his possession, 3rd party must have some title. If it is not, that a seizure for goods may be fraudulent as well as goods, and consequently void by 3rd party, in the same manner as by 1st party. The law is that if goods are allowed to come on to goods in his possession not strictly on the ground of fraud, but on the ground of some act or omission. The seizure of goods by 3rd party, as to goods is unnecessary. The question is whether there has been a false credit raised by 3rd party on his contract. If there has been the of fiduciary.
But the Stat. does not extend to goods held by a bankrupt in the night of another as if an agent. And, become a bankrupt, being in possession of goods, the burden of proof is not upon him. It is not sufficient the representative of the holder to prove the holding of goods by law. They must be proved at law. 1 H. 6. 206. 210. 1 Am. 129. 15 P. Wm. 526. 294 T. 668. 296. 720. 100 T. 135. 137. 260. Exp. 566.

33. The Stat. extends however so well to mortgage, an act of security, where the vendor remaining in possession. And it may be asked why are not mortgaged lands the subject of the reason of the law does not hold a copy of land to be proof of ownership. If the owner of land can always be proved by title deeds. But there can be no such proof in a vendor. When the personal remedy, possession of the vendor especially with notice & possession of it is the best evidence of title. 1 Rob. 103. 1 Mees. 328. 1 Vent. 260. 2 Rob. 129. 90. 2 Chit. 529. 57.

The Stat. does not extend to the sale of a ship at sea by an owner or less. Where immediate possession can be given to the vendee. It is not a part of either party. It is for remaining in the hand of the vendee. 3 Rob. 118. 128. 2 Rob. 323. 51. 1 Rob. 302. 6. Exp. 566.

But in this case the vendee of a ship must take possession of her in the return as soon as may be. 1 Rob. 323. 128. 2 Rob. 323. 51. Exp. 566. 80. 107.
To bring a case within aStmt. 3 good must
be esponed by a bankrupt bailee if same or
his own goods are as this with 3 content of the
same. (Cost 10.)

They must not only be left in his posses but
also in his order of disposition. Hence before
is not unjust.

If B., a horse to go a Journey, B.,
as a bankrupt, 3 horse is not liable to bankrupt's
debt, i.e. 3 horse cannot be taken
for his debts. There is not unjust, even
of ownership according to common experience. As
it is very common for men to use other than
their own horses. It will be otherwise if he
kept 3 horse for one or two years. Corp. 250.
1 Tho. 47. 1 Tho. 510. Corp. 507,70, 7 368. 252.

For 3 same reason a temporary steep
on a particular & necessary purpose to be
accepted for 3 baila will not make 3 good
liable, if 3 baila becomes a bankrupt
such a case is not within either of 2 Stats.
un to bring a case within either, 3 bankrupt
bailee must appear to be in all respects
3 true owner. 1 Tho. 157. 220. 197th 183.
Corp. 5 6778.

If from 3 nature of this business, 3 presump-
tion of this ownership is excluded, 3 true owner
shall hold 3 goods in preference to 3 end-
sors. Thus if a factor known to be such
becomes bankrupt 3 goods to this principle are
not liable for his debts, he being known to
be a factor. The approp. 3 goods goes
no to the credit to him. 1 Tho. 558.
Corp. 258. Tho. 125. Corp. 520. Go to Goldsmiths.
Private Bankers in Eng.
These two rules are intended for the benefit of the bailee and to prevent any purchaser from committing fraud upon the true owner. If the bailee, as a substitute, bailee or an owner, who takes the goods as being his bailee, except in a single case, if a sale in a market, grant to another bailee, for all these reasons "caveat emptor" applies.

1787, 8, Race v. Bank of a leading case.
1787, 7, Wm. H. Clarke, 72 B. C. 10, 33.
5 Race, 260, 6, 2 D. R. 576, 4, 63, 35.

The rule is the same as to a bailee as if a bailee had been taken from him wrongfully.

But there is an exception to the rule where, if goods, bailee or money on Bank bills or any circulating medium transferable by delivery, then a bona fide transferee of these goods or a bona fide receiver will hold as the owner.

To the rule that money be taken wrongfully, & can sue - Dent t. v. X. This rule was founded in commercial practice. Dall. 126.
1 Bn. 442, 8, 1516, 1831, 10, 181, 4, 59, 580
"Procter" 62, Miller v. Race.

Under 3 D. L. a creditor of a bailee is not entitled to any process as his estate held as his bailee in any case in a bailee of a bankrupt.
It is to be noted, also, strong decency of appearance of ownership may have been, first, if bailor be solvent, his creditors may have his remedy also, if a purchaser, for he do have his remedy vs. 3 bailors, on his implied warranty of title.

It has been observed, that if 3 bailors be insolvent, his creditors will not hold ni 3 bailors. Suppose it may such as gave him a false credit. And it may be added, yet, 3 bailing must also be in his order & disposition. And the 3 bailors are insolvent, with all 3 appearance of ownership, 3 creditors cannot hold vs. 3 bailors in the time of 3 bailors, made 3 bailors to hold & appear as 3 true owners.

This was settled in 3 following cases.

1. Deposited as a pledge with a pawnbroker, a sealed bag of jewels 3 he being insolvent disposed of them to 3 persons. The pawnbroker had no right by the terms $89, of 3 bailment, to treat those goods as his own.

The breaking of 3 seals was clearly a violation of his trust. 134 R. 185. 870, 47, 100. 80. 82. 83. 648. Doug. 806. 120 R. 67, 227. 870, 120, 870, 870. Doug. 806. 120. 870, 870, 870.

This case will illustrate 3 rule, 3 bailment must not only have 3 appearance of ownership, but that he must, with consent of 3 owner, have 3 order & disposition.

If these goods are left with a depositary, & he becomes insolvent & sells them, 3 purchaser cannot hold them, nor can 3 creditors of 3
bailie hold vs. 7 bails. 3.94. 11. Doug. 605.
  6. 94. 44. 11. Doug. 674.

he also, if left by a purchaser for a vendor, and redeems, becomes insolvent, neither ceding nor purchaser can hold vs. 7 owners.

Brown vs. Funderon. 112.

It has also been determined in Cont. that when one person lets a cow to another, if 7 bailies becomes insolvent 7 creditors or purchasers can't hold vs. 7 bailie; for it being a very customary thing, it is not suf. for proof of ownership. 8. 7 rule of tenant, tenant does not desire this, for secure this species of bailment. D. be employed. 8. 7 is a very useful one.

102.

A purchaser of beef cattle in 1 State of NY, committed them to a certain driver to drive them to NY, & a driver brought them to his own town & sold them. It was held 7. purchaser D. not hold them, for 7 mere fact of driving them is very slight, or no proof at all, of ownership.

It seems to be a question, not precisely settled in my books, whether if goods are bailed for hire to be used by 7 bailee, for a certain time, 7 creditor upon his becoming insolvent can take 7 up to them for 7 term of 7 bailment.

The better opinion seems to be that a purchaser can't hold, & that it can't be taken in due process. The principle on which this is founded, is, if it is a personal trust in 7 bailie, & he
cannot himself assign it during 3 terms. The gen.
principles relating to an assignment of a promissi-
omy equally well here. 3 T.R. 604, 3 Exch. 6.
19 Nov. 20, 6 Exch. 2257. (7 T.R. 11, 12, says
he can not this is not 3 better opinion.)
Upon reading this case in 7 T.R. it is apparent
yet this opinion of the Rensselaer was in favour of
impounding such a bailiff to be taken, but
when considered with regard to the subject-mat-
ter, his opinion D. seems to be otherwise.
In Ex. 61; Wood. 404; 11 Nov. 7; Exch. 1951.
973, 15, 16.

Remedy of each other & 16. 1st telegram.

It is a good rule yet 3 bailiff having a good
possession, may maintain trespass; trespass on any
bailiff action to any person who takes away or
injures 3 goods in 3 possession of 3 bailiff.
3 Rob. 1st 260; 1 Dall. 7, 31; 2 Dall. 2, 14, 3 How. 27, 182.
2 Red. 7, 268; 2 3 How. 31.

And 3 rule will hold even tho' 3 bailiff never 108.
but 3 actual possession. Provided he has con-
structive possession, yet 3 right of present
possession. The phrases "constructive pos-
session" & "possession in law" are synonymous.
It mean 3 right of present possession.

Thus if it makes a bill of sale of goods
of 38 & 82, having 3 in 3 possession of 3, & a stran-
ger takes them away, 3 may recover them from
stranger, & 3 bill of sale gives him's property
3 constructive possession. 2 Dall. 569, 2 Dall. 726.

So if 3 rule of law yet he who has 3 interest in
things personal, has of course 3 constructive
But when goods are bailed for hire to be used for a certain time or are placed to maintain any action or a monopsony for taking or injuring the goods for a time, you are to maintain a cause or recover the goods, to the same extent as at the time when the cause was done. But here we have neither.

P. 113. 120. 380. 480. 430. 3 John. 322.
P. 333. 370. 4 Paul. 63:

What then is the remedy of the bailed? If answer that after the term of bailment is expired he may bring his action or was done but it must be for the seizure, detention. If he could have lost it during the term, he must have had a right of possession in having that. He also have a right of recollection, during the term. Is there, as inconsistent with the right of the bailed.

During the time the bailed has the right of action, but for the detainer after the term the bailed has the right of action.

As power is grounded in possession. He may not have an action? Because he has not the thing, or the time being.
But it is said that he may maintain a special action on the case for the injury to the property.

1 Cor. 13th. 2 Is. 13th. 11 1 Th. 13th. 12
1 John. 23rd. 11 Ex. 13th. 5 Lev. 13th. 11

If the goods be actually destroyed by the wrong done during the time the bailee may sue the wrong-doer to satisfy the bailor but if he refuse to sue or lend his name to the bailor in order he may sue a 3rd. of them will compel him to lend it.

If goods belong in to B. are in the possession of A. & J. D. gives them to B. by parcel with delivery. If a stranger takes them away or injures them while in A. & J. D.'s possession. B. can't have an action on. No more. B. has neither actual nor constructive possession. For a parcel gift with delivery does not convey a right of possession.

N. Bav. 13th. 3 Pen. 14th. 11 11

But a Deliverer to doney's caveat as to any one appointed to receive them by the doney for the instruction of his law is a Deliverer to himself.

Cod. 23rd. 8, 12 6 14

& if another delivers over the goods to a stranger the bailor can't maintain the Action. A stranger for receiving the goods, nor if first instance. Hevers but upon demand by a bailor, with proof of ownership & delivery a bailee may have truer in him.

5 Bav. 14th. 11 16 24th. 23th. 13th. 21
7 Bav. 13th. 11 17 th. 127
On the other hand, most bailors, & it is seen to
be true that the bailor may maintain an action
for the full value of any injury done by taking the goods from
him or injuring them, while in his possession.
Yet to bailors of all classes, except the first, this
is no doubt in any of the books respecting this
right.
1 Hl. 31. C. P. 277. ("Proor" 58.) Art. 1.

If a principal may recover vs. a stranger who
takes
the goods away wrongfully or injures them in his pos-
session go except vs. the true owner he has the
right of possession. A person a defendant may,

The ground of the bailor's right to sue a stran-
gers is to the loss or the liability of the bailee.
It has therefore been doubted whether a depos-
tary under a bill of lading can ever maintain an
action vs. a wrong doer, because it is said
that he is liable only for his own goods to the
bailor. 5 Dec. 184. 532. 19 Inst. 91. 1 Inst. 248.
438. 13 Geo. 6. 42. ("Proro") Art. 4 to Art. 11.

This conclusion seems to be partly unsup-
pported. 125. Because a bailee is liable to a bill of lading
if, of course, if the bill of lading is the right of action & 29. Because
if it was his bill, he will have his right of action.
Yet, it does seem that on the ground of
the having a special position, he has this right.
It admits at no doubt that he has the special
right. He has right of possessoin vs. all persons
except the owner. 1 Inst. 252. 82. 5. Dec. 176. 61. 575.
5 Inst. 581. 8 Inst. 452. 106. 237. "Proor" 65. 5 Dec. 16. 5 Inst. 67.
It is obvious to say that in laying the rights of life given with a reservation, we should not part with the reservation.

It is well established that a tenant has a right to action in a wrong done by his tenant. If then he proceeds to sell to the action, which he may proceed with the tenant's consent, or a plaintiff by procuring of the tenant to proceed with not consent. Whether it can be said that the ground of the plaintiff's right to action was his/her ability over to the owner.

Tux. 305. 5 Dec. 282. Term 1. 201.

It will strengthen the analogy, if that is the case, instead of his reserving under the mast over since may maintain an action on the hundred o the state of Missouri. But it is unknown as yet agreed that he is not liable to his master.

The ground of right of action by landlord, reservation. He may. 1 Coh. 160; Term 1. 627.


So of a hand shot down who maintain. Forever so one who to love away the timber. And the timber is not kept out the right of possession. But he has the right of possession. March 22.

One nondischarge bankrupt having assigned all his lands may have timber as a use with.

One will pretend that the right of action arises from and the ability given to the assignor. Whether it is mere accessories or the proper for the assignee.

To corp. 445. 1805.

Is the action of a tenant in a wrong done the right as I relativity over to the tenant with a right. Some
no such thing as legally two actions. It may be conceived that a judgment in one of them is not liable to be set aside for want of a ground of law. If a court in a case of this kind, which was decided upon, on appeal, was to give a right of action, it is a wrong door. 7 T.R. 335.

Every defendant liable to the suit in such a case has a ground of claim as a wrong door. It is the duty of the court to give a right of action. If a court is a wrong door, it cannot be closed in an action.

The time is no distinction between a primary and secondary act in the right of action. Any person owed, which is claimed by anyone, is entitled to the action. It cannot be known whether the act is liable or not, before time. If it is not, it cannot be held in an action.
If a case of a return of escape is brought on the process may the receiver be re-shipped or seized in the usual way. See 25 U.S.C. § 1605.

If a master may grant an absolute order to mate himself liable at all events to the laborer. There are no authorities in support of this rule. It is evident on principle that it is not true that the master is responsible an action with an order against the master for recovery. See 25 U.S.C. § 1605. (Rule 56.)

If the laborer takes a process among goods he gives his special interest through a determination. The laborer may maintain a special action in such case as he may in such case as a master is a wrong done. The laborer may recover for general action. 25 U.S.C. § 160, 532. (Rule 56.)

But unless the master in this case can maintain within the limits of a very special suit involving all the conditions of the goods or between the goods. The goods are internal to the suit, as with the expenses of the case, only a special suit in the manner 25 U.S.C. §§ 160, 521. (Rule 56.)
In the case of a damage to premises, the owner of the premises may be entitled to recover the difference in value between the premises in their original character and condition and their value in that character and condition after the premises shall be in a mitigation of damages as to Sec. 69.

In the case where damages are merely in quality, the owner has a right to recover the value of the premises. But if the premises have not been damaged in their original character and condition, the owner has not been damaged in a right to the whole value.

Besides the value of the premises, if no relief of damages whatever is the case in the house, it does seem that the owner cannot have any action for the value of the structure as to the whole value.

If the damages sustained to the premises are greater than the whole value of the premises, treated, can the damages be aggravated? The damages sustained may be much greater than the value of the premises had they not been damaged. If such damages of the premises do not exist, and are not as considerable as the value of the premises or may conclude, that a special species of case as to the amount of damages in that case.

If the value between the goods to another, on case of the goods involved, is decided by proof to quality of a conversion. But where more main came there ought a Demand. By 1800, 75, 1800.
to the party of action who sail, was impleaded, or if the
motion or libel, not of that the party
maintain no other action than settles on
some other action on the case.

court upon implied, promise to return
or answer, not according to the nature of the case.

Bell 10. 20th Dec. 1818. 200 L. 247. 100 L. 334.

then a claim of right of a neglect or the
delay of former was the other in the present up
not court express or implied nor that on
the request. 1 Campb. 62. Rolls 9th. 30th. 417.

The note. Rule 3th 5th, that those pays will
not the policy sailed in favour of 3 sail, nor
cause his suppression of course, if he had been
generally to no unlawful taking. 6 Trin. 380. 30.

there is an exception to a sale where a bailee
with their instance to good, for this not exis
tently the balance is the buyer in character of bailee. 17th. 17th. 17th. Thorne
more breach will be.

The destitution to ground the motion of bankruptcy
one must be voluntary or the grant of the baili
for the goods are except you accident or not
since, if one was well not the.

said, "Admitment."

Litchfield.
Inns & Innkeepers.

1781. Any person might establish an inn unless they were so numerous that by establishing another, it did make a public nuisance of them. A license is necessary.

1793. 3. Nov. 1784. 1 Roll 54. Co. 1. 597.

And in assuming the character of a person. The Tol. so. 120. er. G. 500. 178. 98. Tol. 174.

A disorderly inn may become a public nuisance, & the keeper & it may be indicted. 19. 128. 11. Dec. 129. 4. Tol. 128. 2. Tol. 128.

Part in Aug. & in Dec. no man can become a keeper & the license. This is now the rule in New York & in all the other states.

The establishment of an inn without a license is now an inevitable offence, & an offense since to the laws regulating hence the license may be taken away or suspended for a time in court.

 Duties of an Inn-keeper.

The duties of an inn-keeper in general extend so far beyond the entertaining of travelers & to the keeping of his goods & horses. 1793. 3. Nov. 1782. 8. Tol. 128. That as an inn-keeper is not bound to protect the person of his guest from death. &c.
A man keeper, when, to entertain or serve to entertain a traveler, or some other with reasonable causes to be visible to him, is not, as well as to a civil action, not held bound only to entertain the traveler, 4 P.N. 168. 15th. 26th. 

But there are causes which will excuse an innkeeper from entertaining traveler, as sickness or the family, pulling up his house, contagious disease of the traveler, 3 30d. 131. 17th. 18th. 

But if he receive them into his house, his absence sickness, or even insanity will not excuse him from his liability to an innkeeper, this strictness is grounded in policy, 2 6d. 29. 8 5th. 184. 

But an infant innkeeper is not as such liable; so his liability is an innkeeper is bound as on contract, 1 20d. 5 30th. 184. 

When an innkeeper leaves his guest, if the guest goes to take a guest, or the guest himself, he is not liable as an innkeeper for loss or injury to goods, in analogy to a common carrier, 3 10th. 184. 22d. 15th. 184. 

If a host require his guest to lock his apartment, & he refuses, he is liable unless he does, & guest refuses or neglects to do so, & the guest leaves his goods, it is likely that the innkeeper in case of loss is not to be subjected, 3 10th. 184. 22d. 15th. 184.
If a publichouse keeper delivers the key to the guest, he will not excuse the loss happening to persons or goods, and he must actually ask the guest to lock the door. 8 Ezra 32, 3 Bar. 283, 3 Pek. 273.

The host is liable that he is responsible if the kind & value of the goods of the guest. Unless perhaps the host was unwillingly deceived. 5 Ez. 53, 3 Bar. 283, 3 Pek. 273.

The inn-keeper is liable to the same extent as in case of travellers for the goods of those who remain with him for a long time at the price given by travellers; but he is not liable for goods of others who have only reserved of accommodation. 5 Ezra 53, 3 Bar. 372, Deut. 17:9.

He is not answerable for goods kept for and goods in the absence of the owner, for which he receives no price. He is liable only of secondary loss. 3 Bar. 283, 3 Ezra 53, 3 Pek. 273, Dan. 17:9, Ezek. 17:9.

But this rule applies where an absence lasts a year or 3. Not to be considered a guest.

But for property on the keeping of which he does receive a profit the Inn-keeper is liable as such. And the owner is not a guest. 12 Will 7:16, Ezra 18:30, 1 Pek. 28:5, Ezek. 39:8.
of a vessel, if robb'd of his masthead power at
one time, the Innkeeper is liable over to the

The Innkeeper has the same actions as any
guest which any other person in such case
might have; but he has also a lien on
the person of his guest until the whole bill
of the person that bears his name is paid.
R. & C. 388. 3 & R. 307. 29 & R. 368. He
can only retain his horse for the expense of
his keeping, not for payment of his bill.

And if the guest shall, before 3 Inns in the
commission 6 weeks, pay off his bill, the Inn-
keeper may pursue, retain, &c. &c. if it shall
be paid. 1 & R. 158. 1 & R. 186.

But if the guest pay the non-payment of
the landlord issue the notice, he can never
fore retain.

When he retains the house of his guest, he
cannot use him, but he may add the price
of his keeping, during the detention, to the
original bill. 1 & R. 372. 6 & R. 530. 3 & R. 108.

If a stranger by a stranger to bind the bill,
of the person that bears will &c. charge the person
of his servant, or his horse, of binding, &c. is
not given, 3 & C. 186. 9 & R. 389. 3 & R. 146.


Fins & Sons, Ipswich
Litchfield, Dec.
1826.